MINUTES

OF THE ORDINARY MEETING OF COUNCIL
HELD ON
WEDNESDAY 12 JUNE 2019
AT 6.30 PM IN THE
COUNCIL CHAMBER,
MOUNT ALEXANDER SHIRE CIVIC CENTRE
CORNER LYTTLETON AND LLOYD STREETS, CASTLEMAINE.
# TABLE OF CONTENTS

1. **PRESENT**  
2. **APOLOGIES**  
3. **DECLARATIONS OF INTEREST/CONFLICTS OF INTEREST**  
4. **MINUTES**  
   4.1. **SPECIAL AND ORDINARY MEETINGS OF COUNCIL – 21 MAY 2019**  
5. **VALE DAVID STRATTON**  
6. **PUBLIC QUESTION TIME**  
7. **PETITIONS AND JOINT LETTERS**  
8. **COMMITTEE REPORTS**  
   8.1. **GOLDFIELDS LIBRARY CORPORATION**  
9. **ASSEMBLIES OF COUNCILLORS**  
10. **OFFICER REPORTS**  
   10.1. **OUR PEOPLE (PEO)**  
   10.2. **OUR PLACE (PLA)**  
   10.3. **OUR ECONOMY (ECO)**  
      ECO 17  **PLANNING PERMIT APPLICATION 234/2018 – USE AND DEVELOPMENT OF THE LAND FOR AN ANIMAL BOARDING FACILITY (DOG HOTEL/KENNELS) AT 9 EAST METCALFE-LANGLEY ROAD, LANGLEY**  
      ECO 18  **PLANNING PERMIT APPLICATION 293/2003 AT 34 JOHNSTONE STREET, CASTLEMAINE - FOR THE USE AND THE DEVELOPMENT OF SEVEN RESIDENTIAL UNITS AND CAR PARK AREA – EXTENSION OF TIME REQUEST**  
      ECO 19  **PLANNING PERMIT APPLICATION 002/2019 – USE AND DEVELOPMENT OF TWO DWELLINGS AND ROAD OPENING, 190 MAIN ROAD, CHEWTON**  
      ECO 20  **PLANNING PERMIT APPLICATION 227/2018 FOR THE USE AND DEVELOPMENT OF A DWELLING AT 154 MIA MIA TRACK NEWSTEAD**  
      ECO 21  **ADOPTION OF ANNUAL BUDGET 2019/2020**  
      ECO 22  **BUDGET 2019/2020 - PROPOSED FEES AND CHARGES SCHEDULE**  
      ECO 23  **FINANCIAL MANAGEMENT REPORT TO 31 MARCH 2019 - QUARTER 3**  
      ECO 24  **PROCUREMENT POLICY UPDATE 2019**  
      ECO 25  **AUDIT AND RISK ADVISORY COMMITTEE MEETING – MARCH 2019**
11. **DELEGATES REPORTS**

12. **NOTICE OF MOTION**

13. **URGENT SPECIAL BUSINESS**

14. **MEETING CLOSE**

**SEPARATE ATTACHMENTS:**

- Separate Attachment ECO 17B: PA234 2018 Final Plans submitted with application.
ACKNOWLEDGEMENT OF COUNTRY

To start the official proceedings
I would like to acknowledge that we are meeting on Jaara country
of which the members and elders of the Jaara Jaara community and their
forebears have been custodians for many centuries
and have performed age old ceremonies of celebration, initiation and renewal.
We acknowledge their living culture and their unique role in the life of this region.

Council meetings are audio and video recorded and
are made available to the public via electronic media including YouTube.

1. PRESENT

Councillors: Tony Cordy, Stephen Gardner, Christine Henderson, Max Lesser, Bronwen
Machin, John Nieman and Dave Petrusma.

Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and
Community Services (Lisa Knight), Director Infrastructure and
Development (Phil Josipovic) and Governance Support Officer (Augustine
Sheppard).

2. APOLOGIES

Nil.

3. DECLARATIONS OF INTEREST/CONFLICTS OF INTEREST

Nil.

4. MINUTES

4.1. SPECIAL AND ORDINARY MEETINGS OF COUNCIL – 21 MAY 2019

The unconfirmed minutes of the Special Meeting of the Mount Alexander Shire Council
held at 5.00 pm on 21 May 2019 at the Mount Alexander Shire Civic Centre have been
circulated to Councillors.

The unconfirmed minutes of the Ordinary Meeting of the Mount Alexander Shire Council
held at 6.30 pm on 21 May 2019 at the Mount Alexander Shire Civic Centre have been
circulated to Councillors.

The unconfirmed minutes have also been posted on the Mount Alexander Shire Council
website, pending confirmation at this meeting.
RECOMMENDATION

That the Minutes of the Special and Ordinary Meetings of the Mount Alexander Shire Council held on 21 May 2019 be confirmed.

MOVED COUNCILLOR LESSER

That the recommendation be adopted.

SECONDED COUNCILLOR PETRUSMA

CARRIED.

5. VALE DAVID STRATTON

The Mayor acknowledged the recent passing of David Stratton and noted he was instrumental in a lot of work throughout the Shire for disability access and inclusion. She stated that he was a very good friend to many and that his passing was very sad news.
6. PUBLIC QUESTION TIME

MOVED COUNCILLOR NIEMAN

That standing orders be suspended at 6.31 pm.

SECONDED COUNCILLOR PETRUSMA

CARRIED.

a. Mr Chris Banon, Banon Consultants on behalf of M. and L Bond.

Mr Bannon spoke in relation to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda). Mr Banon stated that he felt the Planning Permit Application was short on detail and there were deficiencies in the conditions. He spoke of EPA Noise Guidelines, Council’s Planning Scheme and noted that there are VCAT cases that support his view.

b. Ms Lyn Bond, neighbour and objector to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Ms Bond advised that she had obtained an independent acoustic report in relation to the Planning Permit Application and stated that the noise exceeded the EPA Guidelines by 150%. She advised Councillors on her business, a boutique Equestrian Centre and noted that dogs and horses don’t work. She stated that she believes that the economic activity that she brings to the Shire is being ignored.

c. Mr Mark Bond, neighbour and objector to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Mr Bond raised concerns around groundwater on the proposed development and a possible bore that would need a permit and a water right, as well as minimum setbacks. He noted that he had been in the construction industry for over 30 years and he felt that the proposed kennels does not comply the EPA Guidelines.

d. Mr Thomas Bond, neighbour and objector to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda). Also advised that he was speaking on behalf of Ingo and Romney Tschuck.

Mr Bond noted that he lived approximately 200 metres from the proposed development. He raised concerns around present and future acoustic assessments, noting that it was not best practice, particularly if the assessment occurred when the kennels were not full. He also raised concerns if the property was sold in the future.

Mr Bond stated that the land zoning differed on the planning permit application, which stated it was in the farming zone and that of local residents’ rates notices, which state rural residential / rural lifestyle.

- Councillor asked the Director Infrastructure and Development (DID) in regard to the rates notice issue.
- The DID advised that he would take the question on notice.
e. Mr Stephen McKinley, objector to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Mr McKinley advised that he lived approximately 800 metres from the proposed development. He stated that he was concerned about potential noise due to the area's topography, its impact on property values and potential loss of amenity. He noted that the area is rural residential / rural lifestyle and was relaxing to live in.

f. Mr Jeff Darmanin, objector to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Mr Darmanin advised that he also lived approximately 800 metres to the proposed development and iterated his concerns about constant noise and the loss of amenity. He stated that the kennel placement and exercise yards and conditions around exercising the dogs could potentially lead to dogs barking up to seven hours a day, which is not a traditional farming / agricultural noise. He asked what remedial action would be taken if the EPA Noise Guidelines were exceeded. He recommended that the entire exercise yards be enclosed, including a roof.

g. Ms Jan Jones, objector to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Ms Jones advised that she had moved to the areas over 29 years ago and at that time her property was zoned rural residential. She noted that it was a quiet rural location and that noise travels. She noted that the noise assessment was based on eight dogs not 36. She asked Council to consider the amenity of the rural hamlet in the middle of a farming zone.

h. Mr Enzo Porrello, objector to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Mr Porrello noted that he and his wife who is a vet, moved to the area a year ago and enjoyed the quiet, rural lifestyle. He raised concerns about noise amenity and felt that there should be a 500 metre buffer zone. He advised that he was also concerned about the impact on neighbouring businesses and the potential distress that could be caused to both horses and riders.

i. Mr Adam Cusack, objector to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Mr Cusack advised that his bedroom was approximately 260 metres from the proposed development. He advised that reopening of a nearby quarry had already increased road noise and effected animals. He noted that he used a bore for drinking water and that he was also concerned around bio-security and the fact that animals travelling from one property to another could potentially carry infectious diseases.

j. Mr Jake Bond, objector to Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Mr Bond advised that he lived on a 20 acre block and queried the farm zoning. He quoted the Local Government Act 1989 and Council’s requirement to improve the quality of life of the community. He advised that the planning permit Application contradicted this.
MOVED COUNCILLOR NIEMAN

That Public Question Time be extended by another 30 minutes (Current Time 7.05 pm).

SECONDED COUNCILLOR PETRUSMA

CARRIED.

k. Mr Ian Brownlee, applicant for Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Mr Brownlee, spoke to his application, advising that his property conducted low scale farming, such as raising alpacas and hay. He noted that under Council’s Planning Scheme, animal boarding was classed as an agricultural activity. Mr Brownlee advised that the dog boarding kennels would be catering to the top end of the market and would be 5 star accommodation for pets, creating an acoustically rated, home environment for the animals. He noted that any noise issues would be dealt with.

l. Ms Janet Brownlee, applicant for Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Ms Brownlee advised of her and husband’s previous occupations and advised that the proposed development would be creating employment in a growing employment sector and that they would undertake staff training and career development for their staff which would benefit the Shire.

m. Ms Julie Lancashire, Urban Design and Management, on behalf of applicants for Planning Permit Application 234/2018 (Item ECO 17 of the Agenda).

Ms Lancashire noted the applicants had taken the planning process very seriously and worked with Council on the application. She noted that this kind of activity is allowed in the farming zone and the ‘dog hotel’ would bring more income to the region’s agricultural income. She noted that the application was compliant with EPA1254 noise guidelines and the nearest residential area was over 10 kilometres away. Ms Lancashire also advise that the vegetation, built form and noise levels were compliant with the Planning Permit conditions.

n. Mr George Ryan, solicitor for applicant of Planning Permit Application 293/2003 (Item ECO 18 of this Agenda).

Mr Ryan outlined the difficulties that the applicant has had over time and stated that the development had only begun 10 years ago. He advised that the applicant now has a building contractor and disputed that nothing had occurred to the development since 2013 and that the applicant has been purchasing materials. Mr Ryan provided Councillors with documentation and photographs pertaining to the application.

- Councillor Gardner asked if trenching that had been undertaken approximately four to five years ago would constitute as commencement of the project.
- The DID clarified the rules around commencement and end dates for planning permit.
o. Mr Mark Heydon, applicant for Planning Permit Application 002/2019, (Item ECO 19 of this Agenda).

Mr Heydon explained the design process around his proposal. He provided to Councillors documentation and photographs of properties in the surrounding area. He noted that there is one objection to the proposal and as yet he had not received a copy of the objection. He noted that with the publishing of the Agenda, he had only one business day to complete his response.

p. Mr Brian Heydon, Father of applicant for Planning Permit Application 002/2019, (Item ECO 19 of this Agenda).

My Heydon advised that he had been involved with the Shire for 50 years. He noted that the development was designed to provide low cost rental accommodation at a high quality standard and was compliant with the State Government policy of infilling. In regard to the designs aesthetic, Mr Heydon asked “What is Chewton?”

q. Mr George Ryan, Solicitor for applicant of Planning Permit Application 227/2018, (Item ECO 20 of this Agenda).

Mr Ryan that this was a development that was in the farm zone and was making use of the farm zone. He noted the Bushfire Management Overlay requirement and raised questions around defendable space and the meeting of the Bushfire Attack Level (BAL). He provided photographs to the Councillors to show that the defendable space is being maintained and advised that construction standards would get up to BAL 29.

MOVED COUNCILLOR PETRUSMA

That Public Question Time be extended by another 30 minutes (Time 7.32 pm).

SECONDED COUNCILLOR HENDERSON

CARRIED.

r. Ms Joyce Sanders.

Ms Sanders asked about the Phee Broadway Theatre program and advised that some productions were being refused over local productions and their use of the theatre. Ms Sander’s examples when travel had been required to see live theatre and advised that she would like to see the Phee to be the home of the Castlemaine Theatre Company. She advised that excluding productions did not make sense culturally or economically.

- The Chief Executive Officer (CEO) advised that Council had adopted a new policy approximately 18 months ago to increase the usage of the Phee Broadway Theatre. He advised that he would contact Ms Sanders in relation to the current booking levels.

s. Ms Claire Reynolds, resident of Butterworth Street, Castlemaine.

Ms Reynolds presented Councillors with petition containing 35 signatories opposing the potential sealing of Butterworth Street, Castlemaine. She outlined her concerns which included loss of amenity and damage to indigenous flora on the roadside.
t. Ms Margaret Panter, opposed to the sealing of Butterworth Street.

Ms Panter advised that she believed that the potential sealing was being proposed due to the safety around maintaining a gravel road in an urban area; however she asked Council to find an alternative.

- The Mayor advised that the sealing of Butterworth Street, Castlemaine was not in the proposed 2019/2020 Budget.

u. Mr Hans Paas, rate payer and resident.

Ms Paas asked about risk management around the use of Roundup (glyphosate) in the Shire. He asked if Council had sought legal advice before deciding on its continued use and had Council advised its insurer that it continues to use Roundup.

- The Director Infrastructure and Development (DID) advised that Council had not sought legal advice as Roundup is still a legal product; however, Council is watching current legal cases and does have an internal working group around the safe use of glyphosate. The DID advised that he would take the question regarding Council’s insurer on notice and contact Mr Paas directly.

MOVED COUNCILLOR HENDERSON

That standing orders be resumed at 7.50 pm.

SECONDED COUNCILLOR PETRUSMA

CARRIED.
7. PETITIONS AND JOINT LETTERS

Nil.

8. COMMITTEE REPORTS

8.1. GOLDFIELDS LIBRARY CORPORATION

The unconfirmed Minutes of the Goldfields Library Corporation meeting held on 29 March 2019 are at Attachment 7.1A.

RECOMMENDATION

That the unconfirmed Minutes of the Goldfields Library Corporation meeting be noted.

Councillor Henderson noted that Item 5.5 of the Minutes states that the Goldfields Library Corporation Board resolved to increase expenditure to improve IT infrastructure at the Castlemaine Library.

The Director Corporate and Community Services explained that Castlemaine Library’s Wi-Fi usage had exceeded expectations, as the library and its services are so well used by the community.

Councillor Nieman advised that he would like the staff of the Castlemaine Library to be acknowledged for their excellent customer service.

Councillor Petrusma noted that the library was very well used, particularly during inclement weather.

MOVED COUNCILLOR HENDERSON

That the recommendation be adopted.

SECONDED COUNCILLOR CORDY

CARRIED.
Ordinary Board Meeting
Friday March 29, 2019 at 2.00 p.m.
Meeting Venue: Bendigo Library, Meeting Room 1.

Minutes

PRESENT:

City of Greater Bendigo
Steven Abbot

Loddon Shire Council
Cr Cheryl McKinnon (Chair)
Phil Pinyon

Macedon Ranges Shire Council
Cr Bill West
Karen Stevens

Mount Alexander Shire Council
Cr Bronwen Machin
Lisa Knight

Chief Executive Officer
Mark Hands

Also in attendance:
Elise Wright (Minutes – Goldfields Library Corporation)

1. APOLOGETES
Vicky Mason
Cr Rod Fyffe

2. DECLARATION OF CONFLICT OF INTEREST
None to declare.

3. CONFIRMATION OF MINUTES FROM PREVIOUS ORDINARY MEETING: 7 December 2018
Moved: Lisa Knight
Seconded: Karen Stevens  carried
4. MATTERS ARISING FROM PREVIOUS MINUTES

Nothing raised

5. ITEMS FOR DECISION

5.1 Draft 2019-20 Budget for public exhibition

Achieved a balanced and sustainable budget based on rate cap.

Budget takes into account proposed change-over of vehicles and replacement of RFID equipment over the next two years.

Mark to seek further information from Nathan CoGB – Finance sub-committee re. future borrowing for defined benefits, investigate what are other library services are doing.

Mark – Contact CEO Network advocate to state government re. funding
(This has been undertaken and is part of a multi-pronged advocacy project being coordinated through Public Libraries Victoria.)

Proposed changes to Draft 2019-20 Budget:

Actual budget report – second page Submission date changed to 2019 and reference to local government act to include 1989.

Do we need actual dates for 1st April 2018 to (rather than 28 days)

Changes made to draft budget document prior to exhibition.

Motion:

That the Board:
Approve the 2019-20 draft budget for advertising and public exhibition for a period of 28 days.

Moved: Steven Abbot
Seconded: Cr Bronwen Machin carried

5.2 Long Term Financial Plan Summary: Ten Year Financial Forecast.

Discussion around liquidity levels gradually decreasing over the ten year forecast, how can we realistically increase income.

Potential to explore how we can do donations/bequests better, engage with community.

Mark to draft letter from board to the minister and also contact CEO network. (undertaken as part of the coordinated Libraries Change Lives Advocacy program through PLV)

Motion:

That the Board:

Note the 10-year financial forecast with the intent of remaining focused on increasing State Government contributions and investigating alternative funding sources.

Individual board members encourage to advocate on behalf of the library board for increased funding

Moved: CR Bronwen Machin
Seconded: Karen Stevens carried
5.3 Actual v Budget Financial Progress Report for July 1, 2018 to February 28, 2019

Employee labour costs under control, however will still be over budget at EFY. Allowances expected to be over due to increase in Outreach services and the use of staff personal vehicles. Overall budget looking healthy, maintain scrutiny of labour costs.

Motion: That the Financial Report to February 28, 2018 be noted.

Moved: Lisa Knight
Seconded: Cr Bronwen Machin carried

5.4 Fees and Charges for Draft Budget

No changes to fees and charges are recommended, based on our positioning as the ninth highest raiser of funds through charges in Victorian library services. Fee increases will be considered for the 2020-21 financial year.

Discussion around moving towards waiving fees for children’s book in future.

Motion: That the Board approve the fees and charges schedule for the draft budget.

Moved: Phil Pinyon
Seconded: Cr Bill West carried

5.5 Service Levels – IT Infrastructure

Discussion around how Castlemaine has increased community engagement, services and programs resulting in increased visitation and usage. Library staff making a real difference.

Discussion around training for staff to provide IT support and exploring available training options.

Motion: That the Board:
Mark to undertake further research and provide detailed draft business plan to the board for the potential roll out of Fibre internet service to branches.
That the Board note the report and proposed shifts and increases in expenditure (within budget) to improve services to Castlemaine Library.
That the board consider how best to approach the delivery of IT infrastructure and services as we progress planning on the next Library Plan (2020-2024).

Moved: Cr Bronwen Machin carried
Seconded: Steve Abbot

5.6 Service Levels – Collection size and investment in eLibrary

Discussion around service levels with eLibrary, higher usage resulting in higher cost to library which is an issue.

Discussion around Kanopy streaming services for movies and possibility of charging for usage or limiting how often users can access service per month.
Focus on what the libraries priorities are, rather than charging for services which are not a priority

Motion: That the Board:
That the board consider how best to approach the delivery of subscription style eLibrary resources as we progress planning on the next Library Plan (2020-2024).
6. ITEMS FOR DISCUSSION

None

7. ITEMS FOR INFORMATION

7.1 Library Branch Quarterly Reports- commended and noted

7.2 Library Plan Results July 2018 – February 2019
Tracking as expected – physical loans slightly lower, reference enquiries are lower however taking longer, due to increase in IT related enquiries.
Programs focus on EY and STEAM, number of programs and attendance has increased
Action Plan – website review other websites from other libraries and make recommendations for improving our website
Staff training & development plan – managers have discretionary budget
New EBA – negotiations progressing well, presenting options on quantum between either percentage of rate cap or a flat rate.
Discussion around payroll issues/queries and follow-up with CoGB

7.3 OH&S Update
Focus around work place inspections, becoming part of managers’ routine, and ensuring risks/issues are being followed up. Skill development, understanding the value.

7.4 CEO report
- Program promotion plan looking at benefit of promoting programs and how we do this. Recently shifted focus on using Facebook for program promotion.
- Discussion around user gender breakdown with majority of library users being women and how to engage more males in libraries and programs.
- Contours book launch – writing workshop with older adults, stories were published in a book

Moved: Cr Bronwen Machin
Seconded: Steve Abbot carried

9. GENERAL BUSINESS
- Pop-up library in Castlemaine visitor information centre.
- Letter from Kooyoola Womens Network, request for library agency at Bridgewater, discussion around not being feasible due to close proximity to Inglewood agency – Mark to respond to letter
- New contract for library system– Swift consortium share same library system, from our perspective the system is not adequate or user friendly. We use Spydus – we believe this is the best patron interface available and the Swift interface would be a less sophisticated and customer experience focussed system.

10. NEXT MEETING DATE AND TIME: 24 May 2019 at 3.00 p.m. in Bendigo
Meeting closed 4.07pm
9. ASSEMBLIES OF COUNCILLORS

Responsible Director: Chief Executive Officer
Responsible Officer: Principal Governance Officer

Executive Summary

The purpose of this report is to provide the record of any assemblies of Councillors, held since the last Council Meeting, so they may be incorporated into the Minutes as required under the Local Government Act 1989 (the Act).

The Act defines an assembly of councillors as a meeting of an advisory committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers matters that are intended or likely to be:

- The subject of a decision of the Council; or
- Subject to the exercise of a function, duty or power of the Council that has been delegated to a person or committee.

The definition does not include a meeting of the Council, a special committee of the Council, an audit committee established under section 139, a club, association, peak body, political party or other organisation.

The Act requires that the CEO must ensure that a written record of an assembly of councillors is kept and that it include:

1. The names of all Councillors and members of Council staff attending;
2. The matters considered;
3. Any conflict of interest disclosures made by a Councillor attending; and
4. Whether a Councillor who has disclosed a conflict of interest leaves the assembly.

The Chief Executive Officer must ensure that the written record of an assembly of Councillors is, as soon as practicable:

1. Reported at an ordinary meeting of the Council; and
2. Incorporated in the minutes of that Council meeting.

RECOMMENDATION

That Council notes the records for the Assemblies of Councillors, as required under the Local Government Act 1989.

MOVED COUNCILLOR GARDNER

That the recommendation be adopted.

SECONDED COUNCILLOR PETRUSMA

CARRIED.
ASSEMBLY OF COUNCILLORS RECORD
COUNCILLOR BRIEFING SESSION

ASSEMBLY DETAILS
Date: 7 May 2019
Time 2.00 pm to 5.30 pm
Location Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine

ATTENDANCE
Councillors: Tony Cordy, Stephen Gardner (arrived 2.09pm) (left meeting at 2.20pm and returned at 2.26pm), Christine Henderson, Max Lesser, Bronwen Machin, and Dave Petrusma.

Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight), Director Infrastructure and Development (Phil Josipovic), Principal Governance Officer (John Taylor), Manager Development Services (Shannon Meadows, Items 5.1 – 5.4), Coordinator Statutory Planning Louise Johnston (Items 5.1 – 5.4), Acting Manager Community Spaces and Places (Karen Evenett, Item 5.5), Active Communities Team Leader (Jacqui Phiddian, Item 5.5), Building Projects Manager (Elizabeth Atkin, Item 5.5) and Acting Executive Manager Business Performance (Carolyn Ross, Item 5.6).

Visitors: N/A

Apologies: Councillor John Nieman.

MATTERS DISCUSSED
1. Greenlight training session (oral presentation).
3. Planning Permit Application 353/2018 for the use and development of a dwelling at 10 Dr Barkers Lane, Harcourt North.
7. Resources.
8. Acting Living Census.
9. Director Corporate and Community Services – Community Grants.
11. VCAT Decision Regarding Signage.
13. Revised Planning Scheme.
15. Develop Design Overlays.
16. Footpath Works.
18. Section 86 Committees.
19. Fryers Forest Planning.
20. Itinerate Trader Policy.
21. Director Corporate and Community Services – various issues.
22. Director Infrastructure and Development – various issues.
23. CEO – Harcourt Preschool.
24. CEO - Etty Street and Workspace.

CONFLICT OF INTEREST DISCLOSURES

<table>
<thead>
<tr>
<th>Matter No.</th>
<th>Councillor / Officer name and description of interest</th>
<th>Councillor / Officer left the meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

ASSEMBLY OF COUNCILLORS RECORD

CEO AND COUNCILLORS ONLY

ASSEMBLY DETAILS

Date: 07 May 2019
Time 5.30 pm to 5.45 pm
Location Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine

ATTENDANCE

Councillors: Tony Cordy, Stephen Gardner, Christine Henderson, Max Lesser, Bronwen Machin, John Nieman, Dave Petrusma.
Officers: Chief Executive Officer (Darren Fuzzard)
Visitors: N/A
Apologies: N/A

MATTERS DISCUSSED

1. Culture Framework.
2. CDCH Funding.
3. Councillor Update.

CONFLICT OF INTEREST DISCLOSURES
MATTERS DISCUSSED
4. Resourcing Recreation Reserves.
6. Director Corporate and Community Services - Vic Public Health and Wellbeing Plan.
7. Director Infrastructure and Development - Petitions on use of Glyphosate and Speed Reduction in Lowther Street, Maldon.
8. Director Infrastructure and Development - Planning Proposal Dr Barkers Lane, Harcourt.
10. CEO - Meeting of Council CEO’s and DELWP.
11. Director Infrastructure and Development - Recent Case involving Demolition of a Heritage building in Melbourne
## CONFLICT OF INTEREST DISCLOSURES

<table>
<thead>
<tr>
<th>Matter No.</th>
<th>Councillor / Officer name and description of interest</th>
<th>Councillor / Officer left the meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

## ASSEMBLY OF COUNCILLORS RECORD

### BUDGET BRIEFING

### ASSEMBLY DETAILS

**Date:** 21 May 2019  
**Time:** 2.05 pm to 3.30 pm  
**Location:** Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine

### ATTENDANCE

**Councillors:** Stephen Gardner, Christine Henderson, Max Lesser, Bronwen Machin, John Nieman, Dave Petrusma.  
**Officers:** Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight), Director Infrastructure and Development (Phil Josipovic), Acting Executive Manager Business Performance (Carolyn Ross).  
**Visitors:** N/A  
**Apologies:** N/A

### MATTERS DISCUSSED

1. Public Budget Submissions and Officer Responses in Relation to the 2019/2020 Budget.

## CONFLICT OF INTEREST DISCLOSURES

<table>
<thead>
<tr>
<th>Matter No.</th>
<th>Councillor / Officer name and description of interest</th>
<th>Councillor / Officer left the meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Date: 21 May 2019
Time: 3.45 pm to 4.45 pm
Location: Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine.

ATTENDANCE
Councillors: Tony Cordy, Stephen Gardner, Christine Henderson, Max Lesser, Bronwen Machin, Dave Petrusma and John Nieman.
Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight), Director Infrastructure and Development (Phil Josipovic) and Principal Governance Officer (John Taylor).
Visitors: N/A
Apologies: N/A

MATTERS DISCUSSED
4. Response to Petition – Request to Phase Out Glyphosate and Other Chemical Herbicides in Parks, Childcare Centres, Schools, Playgrounds, etc. in the Mount Alexander Shire Council Area.
6. Planning Permit Application 353/2018 for the Use and Development of a Dwelling at 10 Dr Barkers Lane, Harcourt North.
8. Planning Permit Application 160/2018 – Use and Development of a Dwelling and Removal of Native Vegetation at 146 Colles Road, Moonlight Flat.
9. Adoption of New Policies on Complaints and Privacy.

CONFLICT OF INTEREST DISCLOSURES

<table>
<thead>
<tr>
<th>Matter No.</th>
<th>Councillor / Officer name and description of interest</th>
<th>Councillor / Officer left the meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Councillor Gardner declared an indirect conflict of interest by close association with Item 18/19058 in Confidential Attachment PEO 03B – Community Grants Program 2018/2019 – Summary of Recommendations.</td>
<td>Yes 7.24 pm - 7.25 pm</td>
</tr>
<tr>
<td>1</td>
<td>Councillor Henderson declared an indirect conflict of interest by close association with Item 18/19062 in Confidential Attachment PEO 03B – Community Grants Program 2018/2019 – Summary of Recommendations.</td>
<td>Yes 7.28 pm - 7.29 pm</td>
</tr>
</tbody>
</table>
10. OFFICER REPORTS

10.1. OUR PEOPLE (PEO)

NO REPORTS
10.2. OUR PLACE (PLA)

PLA 04 RESOURCING RECREATION – DRAFT FINAL PLAN

Responsible Director: Director Infrastructure Development  
Responsible Officer: Active Communities Team Leader  
Original Document: DOC/19/21688

Executive Summary

Council has a number of recreation strategic documents, including Investing in Sport, major reserve master plans, the Local Reserves Strategy, the Open Space Strategy, the Walking and Cycling Strategy, and Investing in Play. Each of these identify many priority actions for delivery, however there existed no clear decision making framework for implementation of these actions as a coordinated Active Communities program.

In 2017, officers engaged the services of recreation planning consultant Richard Simon (Simon Leisure) to assist in developing an overarching Recreation Services and Infrastructure Plan (RSIP) to guide Council’s strategic planning and investment in the delivery of recreation services and facilities throughout the shire. The aim of the RSIP is to provide a framework for future planning, provision, development and management of Council owned and/or managed sports and recreation facilities.

Through work undertaken in 2017-2018, the RSIP produced an Issues and Opportunities Paper, which drew on extensive consultation and research to identify priorities for Council consideration regarding future development in recreation services and facilities throughout Mount Alexander Shire. A further important aim of the RSIP was to identify planning principles and a planning framework to assist Council to make decisions about allocating resources in this important service area.

The final output from this planning exercise is Resourcing Recreation – A strategic framework guiding investment in sport and recreation in Mount Alexander Shire. This document outlines the Council endorsed investment principles, and provides an overview of significant findings regarding sport and recreation participation, and facility provision and management within the shire. Once endorsed it will be distributed to the public via Council’s website and other outlets.

RECOMMENDATION

That Council adopts Resourcing Recreation – A Strategic framework for sport and recreation investment in Mount Alexander Shire

MOVED COUNCILLOR LESSER

That the recommendation be adopted.

SECONDED COUNCILLOR PETRUSMA

CARRIED.
Context

Council received external funding from Sport and Recreation Victoria to develop a plan to provide an overarching framework for future planning, provision, development and management of Council owned and/or managed sporting and recreation facilities. Officers have worked with recreation planning consultant Richard Simon (Simon Leisure) to undertake necessary research and consultation to inform the development of the Recreation and Infrastructure Services Plan (RSIP).

The RSIP incorporates a background document providing detailed information, key directions and recommendations arising from the research and consultation activities. Councillors have been extensively briefed on the findings in the Issues and Opportunities Paper (February 2018) and have reviewed, finalised and endorsed the planning principles of the framework via two Councillor workshops in July and November 2018.

The RSIP also identifies investment planning principles to assist Council to make decisions regarding priority actions. These principles form a key part of the decision making framework for Council in this service area, and therefore public distribution of the principles is an important step to enable broader understanding in the community of how resources are allocated.

The attached document, *Resourcing Recreation – A strategic framework for sport and recreation in Mount Alexander Shire* synthesizes key findings from the RSIP into an accessible document for distribution to the broader community. It brings together a range of complex background information arising from the research, and outlines the investment principles endorsed by Councillors on which resource allocation decisions will be made.

*Resourcing Recreation* will be a key form of communication with the community regarding Council’s overarching approach to resourcing recreation facilities and services in the shire.

Refer to:


Policy and Statutory Implications

Relevant policies, strategies and plans

The completion of Resourcing Recreation delivers on the strategic objective, *Well managed assets for now and into the future* identified in the Council Plan 2017-2021. Specifically this objective outlines an action to review the Investing in Sport Strategy, and this is fulfilled by the delivery of *Resourcing Recreation*.

*Resourcing Recreation* builds on and refines concepts and directions of Council’s Investing in Sport strategy. It has been developed to complement and refine directions from the Major Reserves Master Plans, the Walking and Cycling Strategy, and the Investing in Play strategy.

Issues

*Resourcing Recreation* forms the final piece of the RSIP. As noted the aim of RSIP is to provide Mount Alexander Shire with a well-researched body of work that provides a framework for future planning, provision, development and management of Council owned and/or managed sporting and recreation facilities.
Resourcing Recreation represents a summary of information from the Issues and Opportunities paper, and outlines the framework for decision making for Council in allocating resources to continue to support sport and recreation activities in the shire.

Completion of Resourcing Recreation and the associated Issues and Opportunities Paper will fulfil the requirements of the externally funded project from Sport and Recreation Victoria awarded in 2014. Given the funding was awarded several years ago it is important for Council’s reputation and ongoing relationship with Sport and Recreation Victoria for this project to be finalised and acquitted by 30 June 2019.

Risk Analysis

The following risks have been identified relating to the delivery and finalisation of Resourcing Recreation.

Council’s reputation

It is a condition of our funding agreement with Sport and Recreation Victoria that a final plan for Resourcing Recreation is delivered. Should the delivery of the final plan be delayed beyond June 2019 we may risk the ability to secure further funds for recreation planning projects. The funding body have been understanding to date, however given we were awarded the funds in 2014, they have stressed the importance of delivering the project within scope by 30 June 2019.

Social impacts, including community impact and possible community response

Sporting clubs and associations, recreation reserve committees of management and the general public have provided invaluable input into the Issues and Opportunities discussion paper which has informed the final plan. Consequently an obligation to these groups and individuals exists to make the plan public and for it to be a document that is easy to understand whilst being useful for external stakeholders to seek funding and support for their recreation projects. The plan has been developed with this audience in mind and it is therefore important to clearly convey the importance of the framework as a tool for Council’s recreation decision making. There is a risk for negative feedback from the community if the messaging around the publication is not handled in a sensitive and timely fashion. The Active Communities Team Leader has developed a Communications Plan to mitigate this risk.

Impact upon operations

Council experiences a high level of pressure regarding various community expectations of recreation investment, including upgrades at various recreation reserves. Future planning and delivery will be improved and more transparent to the community with this adopted framework in place.

Resourcing Recreation will help create a shared understanding of Council’s approach to prioritising investment in recreation facilities.

Alternate Options

The identified alternate option is to not adopt and publish Resourcing Recreation. This would mean not meeting the funding agreement requirements and would not assist in demonstrating transparent investment decision for recreation activities and facilities to the community. This option is not recommended.

Financial and Resource Implications

Resourcing Recreation is currently forecast to be completed on budget.
Consultation

A range of consultation activities have been undertaken in the preparation of the activities and outputs that form the RSIP, including the Issues and Opportunities Paper (February 2018) and the Resourcing Recreation Framework. Most of these activities were completed by the end of 2017. The consultation activities and key stakeholders are detailed below:

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Consultation activity</th>
<th>Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sports clubs and recreation groups in Mount Alexander Shire</td>
<td>Surveys, Workshops (sport specific), One-on-one meetings with interested groups, Phone calls</td>
<td>Completed</td>
</tr>
<tr>
<td>Reserve committees of management</td>
<td>Surveys, Meetings</td>
<td>Completed</td>
</tr>
<tr>
<td>Council staff members from relevant departments</td>
<td>Meetings</td>
<td>Completed</td>
</tr>
<tr>
<td>Local sporting associations, peak bodies and agencies</td>
<td>Meetings</td>
<td>Completed</td>
</tr>
<tr>
<td>Community</td>
<td>Surveys</td>
<td>Completed</td>
</tr>
</tbody>
</table>

It is proposed that Resourcing Recreation, as the key public document from the planning exercise, is distributed broadly to the community via Council’s website and media activities. Targeted distribution of the framework will be carried out with all sports clubs, recreation reserve committees of management and with respondents to the Community Recreation Survey who nominated an interest in being informed. Clubs and committees who contributed to the development of the plan will be given the opportunity to discuss any specific actions or issues they have previously raised with a member of the Active Communities Team.

*Resourcing Recreation* will be distributed publically following adoption by Council at the June 2019 Council meeting.
10.3. OUR ECONOMY (ECO)

ECO 17 PLANNING PERMIT APPLICATION 234/2018 – USE AND DEVELOPMENT OF THE LAND FOR AN ANIMAL BOARDING FACILITY (DOG HOTEL/KENNELS) AT 9 EAST METCALFE-LANGLEY ROAD, LANGLEY

Responsible Director: Director Infrastructure and Development
Responsible Officer: Manager Development Services
Original Document: DOC/19/20554

Executive Summary

Council has received a Planning Permit application for the use and development of land at 9 East Metcalfe-Langley Road, Langley (Lot 1 on Title Plan 529584H) for an animal boarding facility (dog hotel/kennels). The proposal is for an animal boarding facility comprising 12 individual sleeping quarters, attached patio areas, utility areas, a reception/office area, extension to an existing shed, car parking, and fully-fenced, escape-proof dog exercise areas. The applicant has requested a maximum of 36 dogs to be present at any one time.

Forty-one objections have been received, and they identify issues relating to noise, the facility being within 500 metres of existing dwellings, waste disposal, number of dogs to be boarded, and whether the proposed use is an appropriate use in the Farming Zone.

The proposal has been assessed against the relevant provisions of the Mount Alexander Planning Scheme and is considered to be an appropriate use and development, having regard to the zoning of the land, the location of the proposed use and development on the land and its impact on the amenity of the area including noise, odour and landscape and environmental impacts.

It is recommended that a Notice of Decision to Grant a Planning Permit be issued.

RECOMMENDATION

That Council issue a Notice of Decision to Grant a Planning Permit for the use and development of the land for an animal boarding facility (dog hotel/kennels) at 9 East Metcalfe-Langley Road, Langley (Lot 1 on Title Plan 529584H) subject to the following conditions:

1. AMENDED PLANS

Before the use and developments starts, amended plans and documents to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved and endorsed, these plans and documents will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with plans submitted with the application but modified to show:

a) Fully dimensioned plans of all proposed buildings and works including the exercise yard.

b) Amended site plans showing the dimensions of car parking spaces and vehicle access.

c) Demonstration of compliance with the recommendations of the Audiometric & Acoustic Services Report, prepared by Hear Date Pty Ltd, dated 3 November 2018 – Part 7- ‘Comments on Construction and Operation’.
d) Full schedule of building materials and colours which are muted tones and of low reflectivity that complement the surrounding rural landscape.

e) A landscape plan prepared by a suitably qualified person/firm including but not limited to:

   i. A survey of all existing vegetation and natural features, including a notation identifying all vegetation to be removed and retained.

   ii. The area or areas set aside for landscaping.

   iii. A schedule of all proposed trees, shrubs and ground cover, including the location and size at maturity of all plants, the botanical names of such plants and location of all areas to be covered by grass, lawn, paving or other surface materials.

   iv. Planting around the proposed buildings and access ways generally in accordance with the submitted plans.

   v. All trees species selection to the satisfaction of the Responsible Authority.

2. LAYOUT

   The layout and use of the land, the size and type of the proposed buildings and works, including the materials of construction must not be altered or modified without the consent of the Responsible Authority.

3. MATERIALS

   The materials and colour of the exterior finish of the buildings must be in accordance with the endorsed plans unless with the further permission of the Responsible Authority.

4. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

   Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) must be prepared and submitted to the Responsible Authority for approval. Once approved the CEMP will be endorsed and form part of the planning permit. The development must be carried out in accordance with the CEMP at all times and to the satisfaction of the Responsible Authority. The CEMP must include but not be limited to:

   f) Details of how the excavated topsoil from the approved works site will be stockpiled and spread to minimise disturbance to the natural soil profile.

   g) Weed management to ensure stockpiling and spread excavated topsoil material is kept clean of weed material.

   h) The location of temporary fencing to be installed during the construction phase.

   i) Details of how existing vegetation adjacent to the construction site will be protected during construction.

   j) Confirmation that no machinery, vehicles, storage of materials and site buildings will be located near or amongst existing vegetation.
5. OPERATIONAL AND MANAGEMENT MANUAL

Prior to the commencement of the use authorised by this permit, an Operational and Management Manual must be prepared and submitted to the Responsible Authority for approval. When approved the Operational and Management Manual will be endorsed and form part of this permit. The premises must be operated and managed at all times to the satisfaction of the Responsible Authority in accordance with the endorsed Operational and Management Manual. The Operational and Management Manual must include but not limited to the following:

a) The name and contact details for the person responsible for the management and control of the facility.

b) A complaint handling process to effectively manage any complaints received from neighbours. This must include a telephone number with 24 hour access to the onsite manager, which must be made available to neighbouring properties; and details of a Complaints Register to be kept at the premises that must include details of the complaint received, any action taken and the response provided to the complainant. This Complaints Register shall be maintained by the permit holder and available for inspection by the Responsible Authority at all times.

c) The number of staff and responsibilities of each employee.

d) Details of how the management regime recommendations of the Audiometric & Acoustic Services Report, prepared by Hear Date Pty Ltd, dated 3 November 2018 – part 7- Comments on Construction and Operation have been implemented.

e) Restricting access to the kennels solely to staff.

f) Management of the exercising of dog(s) so as to prevent dog(s) from being exercised adjacent to occupied kennels in order to reduce visual stimuli to these dogs.

g) No dog(s) shall be permitted in the exercise yards without an attendant being present at all times.

h) All external doors to the kennel buildings will be kept closed at all times, except when accessing the building.

i) The maximum number of dogs in the external yards must not exceed five dogs at any given time.

j) Feeding of the dogs shall be restricted to between the hours of 7:00 a.m. and 6:00 p.m. other than for snack feeds.

k) Animals may only be delivered to and collected from the site between the hours of:

- 8:30 a.m. – 6:00 p.m. Monday to Friday;
- 9:00 a.m. – 12:00 p.m. on Saturday; and
- 11:00 a.m. to 6:00 p.m on Sunday.

l) Outside exercise of the dogs may be performed only between the hours of 9:00 a.m. and 5:00 p.m.

m) Measures that will be undertaken to control odour and noise and to provide proper waste management.

n) Dogs shall only be exercised in the fenced exercise yards in the vicinity of the kennels as approved in the Endorsed Plans and shall not wander at large on the subject land.
6. WASTE

Prior to the commencement of any development, full details of the proposed solid waste collection and waste water/effluent disposal system must be submitted to and approved by the Responsible Authority.

7. KENNELS

7.1. All kennels (excluding exercise yards) where the dogs are to be kept must have impervious floors graded to a drainage system and must be capable of being washed down with pressurised water, to the satisfaction of the Responsible Authority.

7.2. The kennels and exercise yards must be kept clean at all times and regularly disinfected to prevent the spread of disease and shall not cause nuisance by reason of odour or otherwise to the satisfaction of the Responsible Authority.

7.3. All food for consumption by dogs must be kept in rat and fly-proof receptacles and all meat must be refrigerated and kept in a place approved by the Responsible Authority.

8. NUMBERS OF DOGS

Except with a further planning permit:

a) The number of dogs kept on site at any one time shall not exceed thirty-six (36) dogs.

The above does not include domestic dogs kept as pets and owned by the landowner otherwise in conformity with any applicable Local Law.

9. OWNER TO BE ONSITE

Unless with the written consent of the Responsible Authority, a resident owner of the property or a person responsible for the management and control of the facility must be present on the site at all times while the facility is in use.

10. COMPLIANCE WITH CODE OF PRACTICE

The construction and operation of the boarding kennels shall be in accordance with the recommendations contained in the Code of Practice for the operation of Boarding Establishments prepared by the Department of Primary Industries, State of Victoria October 2004 and any requirements under the Domestic (Feral and Nuisance) Animals Act 1994.

11. ENGINEERING CONDITIONS

11.1. Drainage

The whole of the subject land, including landscaped and paved areas, must be graded and drained to the satisfaction of the council as the responsible drainage authority so as to prevent the discharge of water from the subject land across any road or onto any adjoining land.

Prior to the design of any internal drainage system the owner/applicant must submit a Property Information Request and be issued a Legal Point of Discharge Permit to discharge stormwater.

11.2. Vehicle crossovers / Internal Driveway.

If the existing vehicle crossing does not meet current Council standards then it must be upgraded to the satisfaction and requirement of Council. No impending or redirection of existing surface flow is allowed to occur as a result of these works.
11.3. Sediment pollution Control

The developer must restrict sediment discharges from any construction sites within the land in accordance with Construction Techniques for Sediment Pollution Control (EPA 1991) and Environmental Guidelines for Major Construction Sites (EPA 1995).

11.4. Consent for constructions

Prior to the commencement of any works on the road reserve the owner/applicant must submit a Minor Works in a Road Reserve application and be issued a permit to occupy the road for works.

12. PARKING

12.1. The parking areas and vehicular access ways and drainage approved by this permit must be maintained to the satisfaction of the Responsible Authority.

12.2. The area set aside for car parking, as shown on the Endorsed Plan, must be used for the parking of vehicles and for no other purpose to the satisfaction of the Responsible Authority.

13. WORKS TO BE UNDERTAKEN

The use of the permitted animal boarding shall not commence until:

a) The facility is connected to the waste water disposal system approved by the Responsible Authority.

b) Drainage of the facility has been provided in accordance with standards approved to the satisfaction of the Responsible Authority.

c) All fencing has been completed to the satisfaction of the Responsible Authority.

14. LANDSCAPING COMPLETION

Within three months of the completion of the development, the landscaping works must be completed and then maintained in a healthy condition, to the satisfaction of the Responsible Authority. Any dead or diseased trees or shrubs must be replaced as soon as possible. The area set aside for landscaping must be used for no other purpose.

15. NOISE LEVELS

Noise levels from the site from barking or any mechanical equipment must not exceed the noise limits in accordance with Noise from Industry in Regional Victoria (NIRV EPA Publication 1411, 2011) to the satisfaction of the Responsible Authority.

16. NOISE MONITORING

Within twelve (12) months of the use commencing and at a time when the animal boarding use is fully or close to fully operating, Council reserves the right to require testing of the noise levels emanating from the premises over a one-week period, at the permit holders’ expense, by a professional acoustic consultant to determine the extent of compliance with Environment Protection Authority legislation. A copy of the consultant’s report must be submitted to the Responsible Authority. If the Environment Protection Authority legislation is being exceeded, then the permit holder must carry out such structural alterations and/or management measures to achieve compliance and demonstrate that compliance has been achieved in additional testing to the satisfaction of the Responsible Authority.

17. SOUND LIMITS
No external sound amplification equipment, horns, hooters, telephone warnings or loudspeakers shall be used for the purpose of announcements broadcasts, playing of music or similar purpose.

18. GENERAL AMENITY
The use or development hereby permitted must not cause any unreasonable nuisance or injury to, or prejudicially affect the amenity of the locality, by reason of the appearance of any building works or materials on the land, the emission of noise, light, smell, dust, waste products, the presence of vermin or otherwise to the satisfaction of the Responsible Authority.

19. ENVIRONMENTAL PROTECTION AGENCY CONDITIONS
19.1. Offensive odours must not be discharged beyond the boundaries of the premises.
19.2. Nuisance dust and/or airborne particles must not be discharged beyond the boundaries of the premises.
19.3. Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.
19.4. Stormwater contaminated with waste must not be discharged beyond the boundary of the premises.
19.5. Deposit of animal or organic wastes to land must not adversely affect the land.

20. GOULBURN MURRAY WATER
20.1. All construction and ongoing activities must be in accordance with sediment control principles outlined in ‘Construction Techniques for Sediment Pollution Control’ (EPA, 1991).
20.2. Dog pens/kennels must be located at least 30m from all waterways and dams on waterways.
20.3. No faecal waste material from the dogs or stormwater containing faecal matter is to be discharged to any waterways or dams on waterways.
20.4. Solid faecal waste must be collected from the pens/kennels and managed to the satisfaction of council’s Environmental Health Department.
20.5. Any on-site treatment and disposal system for wastewater or faecal waste material from the pens/kennels must be located at least 100m from the nearest waterway or dam on a waterway.

21. ENVIRONMENTAL HEALTH
21.1. Prior to development the owner/applicant will be required to apply for a permit to install an on-site wastewater treatment system in accordance with Part IXB of the Environment Protection Act 1970.
21.2. The proposed on-site wastewater treatment system must be an Environment Protection Authority approved system installed, operated and maintained in accordance with the Environment Protection Authority’s current edition of the Code of Practice – Onsite wastewater management and the Australia New Zealand Standard AS/NZS 1547:2012 – On-site wastewater management and must be capable of treating and retaining all wastewater from the facility on-site.
21.3. All solid animal faecal material must be collected and stored in a manner that does not cause odour or offence until it is removed from the site, or managed to the satisfaction of Council’s Environmental Health Officer.
22. EXPIRY

This permit will expire if the permitted development is not started within two years of the date of this permit, or is not completed within four years of that date, or the permitted use is not started within two years of the completion of the development, or is discontinued for a period of two years.

The Responsible Authority may extend these periods if a request is made in writing before the permit expires, or:

- Within six months afterwards if the development has not been started, or the development is complete but the use has not started, or the use has been discontinued for a period of two years.
- Within twelve months afterwards if the development started lawfully before the permit expired.

MOVED COUNCILLOR CORDY

That Council issue a Notice Of Decision to Refuse a Planning Permit for the use and development of the land for an animal boarding facility (dog hotel/kennels) at 9 East Metcalfe-Langley Road, Langley (Lot 1 on Title Plan 529584H) subject to the following grounds:

1. The proposal has not sufficiently demonstrated that the use would achieve compliance with the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.

2. The proposal is contrary to State Planning Policy Noise Abatement at Clause 13.05S and land use compatibility at Clause 13.07-1S and protection of agricultural land at Clause 14.01-1S.

3. The proposal has not sufficiently demonstrated how the amenity of the surrounding area will be protected from noise from barking dogs.

4. The proposal is contrary to Clause 22.06 - Animal Keeping and Racing Dog Training and the EPA Noise Control Guideline that both recommend that dog boarding facilities be located at least 500 metres from residential areas.

SECONDED COUNCILLOR HENDERSON

CARRIED.

COUNCILLOR PETRUSMA CALLED FOR A DIVISION

Councillors who voted for the Motion:

- Councillors Cordy, Gardner, Henderson, Nieman and Petrusma.

Councillors who voted against the motion:

- Councillor Lesser and Machin.
Context

The purpose of this report is to enable Council to make a determination on permit application PA234/2018 for the use and development of the land for an animal boarding facility (dog hotel/kennels) at 9 East Metcalfe-Langley Road, Langley.

The application has been referred to Council for a decision because there are forty-one (41) outstanding objections to the application.

Refer to:

Attachment ECO 17A: PA234/2018 Context and site aerial.
Separate Attachment ECO 17B: PA234/2018 Final plans submitted with application.

The application was lodged on 14 August 2018 and proposes the use and development of the land at 9 East Metcalfe-Langley Road, Langley for an animal boarding facility (dog hotel/kennels) for up to 36 dogs.

The application includes construction of a purpose built building for housing the dogs including 12 separate kennels, dog runs attached to each of the kennels, a food supplies kitchen area in the middle of the building and entrance area and office at the western end of the building. Three separate exercise yards are proposed adjoining the proposed building, to the north and west.

An extension to an existing shed is proposed to accommodate a grooming room and laundry, in an area of 20sqm. A covered walkway is proposed between this existing shed and the new shed to the south.

The facility has been purposely designed to be in keeping with the existing residence incorporating traditional design elements including a pitched roof form, verandahs and use of timber wall cladding and being sited behind an existing cypress hedge and native trees. The facility would be located 44.8 metres south of the existing residence, 52.2 metres from the Kyneton-Heathcote Road, 121.3 metres to the south boundary and 181 metres to the west boundary.

Site and surrounds

The subject site is currently used for both rural and residential purposes supporting an existing single storey dwelling with associated outbuildings. The property is also actively used for agricultural purposes and produces some 650 bales of hay per year and wool from 20 Alpacas which produces wool for up to 150 jumpers.

Vehicle access is from East Metcalfe-Langley Road which is constructed to a gravel standard. There are several trees and hedges which will be retained as part of the proposal.

The site is irregular in shape with site frontage to East Metcalfe-Langley Road of approximately 350m and approximately 308m to Heathcote-Kyneton Road (RDZ1). The land comprises one (1) title of 19.51 acres (7.89 hectares).

The subject land is located in a Farming Zone with established farming uses and rural/residential uses similar to the subject land surrounding the subject property. No Overlays apply.

The adjoining and nearby properties are described as follow:
• North – The site adjoins the East Metcalfe-Langley Road to the north. Open Farmland extends further to the north with no dwellings in the vicinity. The land would be used for used for both cropping and grazing.
• East - There are two residence to the east (over Heathcote-Kyneton Road) approximately 330 metres from the proposal. Another dwelling is located approximately 460 metres from the proposal which was not considered by the applicant's acoustic report.
• South - One residence at 280 metres from the nearest side of the proposed facility.
• West – One residence at 240metres from the nearest side of the proposed facility.

Note: The distances from the facility to residences above was derived from Part 4.1 of the acoustic assessment prepared by Audiometric & Acoustic Services (3 November 2018).

Policy and Statutory Implications

Planning Policy Framework (PPF)

Clause 11 Settlement

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Planning is to recognise the need for, and as far as practicable contribute towards:

• Prevention of pollution to land, water and air.
• Protection of environmentally sensitive areas and natural resources.

Planning is to prevent environmental and amenity problems created by siting incompatible land uses close together.

Clause 13.05-1S Noise abatement

The objective of this clause is to assist the control of noise effects on sensitive land uses and the strategy is to ensure that development is not prejudiced and community amenity is not reduced by noise emissions; using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Clause 13.07-1S Land use compatibility

The objective of this clause is to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects. The key strategy is to ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by:

• Directing land uses to appropriate locations.
• Using a range of building design, urban design, operational and land use separation measures.

Clause 14.01-1S Protection of agricultural land

The objective of this clause is to protect the state’s agricultural base by preserving productive farmland. The key strategy of this Clause is to avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors. In considering a proposal to use land for a purpose, Council should consider the compatibility between the proposed or likely development and the existing use of the
surrounding land and balance the potential off-site effects of a use or development proposal against the benefits of the proposal.

Clause 15.01-6S- Design for rural areas.
The objective of this clause seeks to ensure development respects valued areas of rural character.

Strategies include:

- Ensure that the siting, scale and appearance of development protects and enhances rural character.
- Protect the visual amenity of valued rural landscapes and character areas along township approaches and sensitive tourist routes by ensuring new development is sympathetically located.
- Site and design development to minimise visual impacts on surrounding natural scenery and landscape features including ridgelines, hill tops, waterways, lakes and wetlands.

Clause 17.01-1S- Diversified economy
This policy seeks to strengthen and diversify the economy. Strategies to achieve this include:

- Facilitate regional, cross-border and inter-regional relationships to harness emerging economic opportunities.
- Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.
- Improve access to jobs closer to where people live.
- Support rural economies to grow and diversify.

Local Planning Policy Framework (LPPF) – Municipal Strategic Statement

Clause 21.05-4 Noise and air
An objective is provided to ensure that noise and air emissions do not affect the amenity of sensitive uses. Strategy 1.2 is to ensure that animal keeping and racing dog training is sited and designed to protect the amenity of residential areas. The Policy Guidelines state that Council’s local policy Clause 22.06 (Animal Keeping and Greyhound Training) will be applied when considering applications for animal keeping.

The proposal in its design, siting and management will ensure the amenity of the area is not unreasonably impacted by the facility located at this location. In particular, noise will be managed in accordance with the Noise from Industry in Regional Victoria (NIRV, EPA Publication 1411, 2011).

Clause 21.06-1 Protection of agricultural land
Agriculture is the main rural land occurring across the Shire, and the most prevalent agricultural use is broad acre grazing of cattle and sheep.

Objective 1 of this Clause is to protect the land and water resources relied upon by agriculture. Strategy 1.1 seeks to promote agriculture and horticulture as the primary land uses in the Shire unless other land uses are strategically justified.
Clause 21.06-2 Sustainable agricultural land use

Agriculture is an important industry within the Mount Alexander Shire, although many traditional farming practices are now associated with continuing loss of environmental quality and unsustainable land management practices.

A key issue is to manage land use conflicts in rural areas between rural living/lifestyle uses versus the ‘right to farm’.

The subject site currently supports an existing single storey dwelling with associated outbuildings. It is also actively used for agricultural purposes and produces some 650 bales of hay per year and enough wool from 20 alpacas to produce over 50 jumpers per year, on land that is 7.8 hectares. The proposal to include animal keeping to the land is considered to further complement the existing agricultural uses and would not produce an unreasonable impact on the amenity of the surrounding land. Importantly, the new land use will align with the purpose and objective of the Farming Zone.

Local Planning Policy Framework (LPPF) – Local Planning Policies

Clause 22.06 Animal keeping and racing dog training

This policy applies to the use and development of land for animal keeping and racing dog training.

Policy Basis

Many animal keeping facilities are located in the Mount Alexander Shire, and they are an important local industry. The proper siting and design of this form of use and development is needed to ensure residential amenity and environmental quality is protected.

This policy builds upon the Municipal Strategic Statement objective in Clause 21.06 to minimise potential amenity impacts between agricultural uses and rural lifestyle or other sensitive uses.

The objectives of this Policy are:

- To ensure the use and development of land for animal keeping (animal boarding, dog breeding and racing dog keeping) and racing dog training does not impact on the environment.
- To maintain and protect residential amenity in residential zones.
- To ensure quality design and appropriate siting of animal keeping and racing dog training developments.

Policy

It is policy to discourage the use and development of land for animal keeping unless the performance criteria below are met.

Location and siting criteria

- The site should be located 500 metres from a dwelling on another lot that is in a residential zone.
- The site should have an area of not less than 2 hectares.
- The maximum density of animals kept on the site should not exceed the ratio of 10 animals per hectare (not including animals less than 6 months old).
- Not more than 10 per cent of the area of the site should be occupied by animal keeping facilities (kennels, associated buildings, dog runs and the like).
• Animal keeping facilities (kennels, associated buildings, dog runs and the like) should be setback a minimum of 30 metres from any road (whether or not such road forms the frontage) and setback a minimum distance of 10 metres from any dwelling on the land.

The application before Council complies with the above criteria as follows:

• The land and surrounding land are located within the Farming Zone, not a residential zone.
• The land has an area of 7.8 hectares, which exceeds the minimum area set in the policy.
• Based on the maximum density of animals per hectare and the land size (associated with the animal boarding facility), the maximum number of dogs that could be kept on this property is 78. This application is seeking a maximum of 36 dogs.
• The facility would occupy 3% of the site, below the 10% threshold.
• Kennels and associated buildings, dog runs and other buildings are all located in excess of 30 metres from any road and 44.8 metres from the dwelling on the land.

The Local Policy includes the following ‘Design and management criteria’:

• Landscaping and screening of the site should be undertaken to the satisfaction of the responsible authority.
• All animal keeping facilities should be constructed of such materials and/or components as are necessary to prevent noise disturbance to adjoining or nearby properties by animals kept in the facilities.
• No untreated animal waste should be stored on the land and all animal keeping facilities should be regularly washed-down and maintained in a clean and hygienic manner to the satisfaction of the responsible authority.
• All animal waste, manure and wash-down water should be treated and disposed of either within the boundaries of the site or in an alternative manner approved by the responsible authority.
• All feed rooms and treatment rooms should be constructed to have impervious walls and floors.
• All dog food should be stored in vermin proof containers. An area should be set aside on the site for parking visitors’ cars, and such area should be drained, treated and maintained to the satisfaction of the responsible authority to minimise the emission of dust.
• The use, including the times and methods of exercising, feeding and kennelling should at all times be conducted to the satisfaction of the responsible authority so as to prevent nuisance or disturbance to nearby properties by reason of noise, smell or otherwise.
• The land should not be used for displays or exhibitions attended by members of the public, or for meetings or exhibitions organised by a dog club or kennel club or the like, except with the consent of the responsible authority.

The application, if approved, would need to comply with the above criteria; these requirements can be included in any permit issued by Council.

Furthermore, the overall management of the facility would need to achieve ongoing compliance with the EPA Publication 1254 Noise Control Guidelines and the Code of Practice for the Operation of Breeding and Rearing Establishments, which are both discussed in detail further in the report.
Zoning

Clause 35.07 Farming Zone

Animal boarding is a Section 2 – Permit required use at the Table to Clause 35.07-1 of the Zone.

In accordance with Clause 35.07-4, a permit is required for buildings and works associated with a Section 2 use.

The Purpose of the Farming Zones is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, the responsible authority must consider a range of decision guidelines (under the following sub-headings) as appropriate:

- General Issues
- Agricultural issues and the impacts from non-agricultural uses
- Dwelling issues
- Environmental issues
- Design and siting issues.

Overlays

Environmental Significance Overlay – Schedule 1 (Lake Eppalock Catchment)

The ESO1 contains the following statement of environmental significance:

“Statement of Environmental Significance

Lake Eppalock is a major water storage and recreational facility located within the Campaspe River catchment. It is a major source of water for irrigation, stock and domestic and urban water supplies for towns located along the Campaspe River. It also supplies 15% of Bendigo’s water supply. The water quality of Lake Eppalock and the Campaspe River catchment is affected by salinity and erosion.

Environmental Objective to be Achieved

To ensure the protection and maintenance of water quality and water yield within the Eppalock Water Supply Catchment Area as listed under Section 5 of the Catchment and Land Protection Act 1994.”

A permit is required in accordance with Clause 42.01-2 of the ESO1 to construct a building or construct or carry out works. Schedule 1 to the Overlay does not exempt this proposal from a permit requirement.
In accordance with Part 3.0 of the Schedule to the Overlay, a development that is listed in Part 3.0 of the Schedule must be referred in accordance with Section 55 of the Act to Goulburn Murray Water as specified in Clause 66.04 of the Scheme.

Planning Scheme – Particular Provisions

Clause 52.06 Car parking

Clause 52.06 (Car Parking) of the Mount Alexander Planning Scheme sets out planning controls with respect to car parking. Table 1 to Clause 52.06-5 specifies parking provision rates for various land uses. As the proposed use is not found within Table 1 to Clause 52.06-5, car parking must be provided to the satisfaction of the Responsible Authority as per Clause 52.06-6.

A total of five (5) car parking spaces are proposed abutting the proposed buildings and works. The application submission states that allowance has been made for parking for one staff member plus four client vehicles. All animals will be dropped off and picked up by pre-arrangement, and staged to reduce traffic loads.

It is considered that the proposed level of car parking is sufficient for this type of operation in this location, and the application achieves compliance with Clause 52.06.

Planning Scheme – General Provisions

Clause 65 Decision Guidelines

Clause 65 of the Mount Alexander Planning Scheme includes the decision guidelines to be considered by the Responsible Authority when making decisions on applications. Some of these include:

- The matters set out in Section 60 of the Act.
- The SPPF, LPPF and the MSS
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.

The proposal has been assessed against the above and is considered to accord with the decision guidelines of Clause 65 of the Mount Alexander Planning Scheme.

Issues

The key issues raised by this application include:

- Whether the proposal is consistent with the Farming Zone and ESO1 controls.
- Whether the proposal is consistent with applicable State and Local Planning Policy.
- Compliance with the Code of Practice for the Operation of Breeding and Rearing Establishments.
- Whether waste will be appropriately managed.
- The specific issues raised by objectors.

Whether the proposal consistent with the Farming Zone and ESO1 controls

Farming Zone

The Farming Zone contemplates non-agricultural uses and anticipates that farming land can, in principle, be used for activities that are not related to farming. As Animal Boarding is nested in the Agricultural Group in the land use terms of the Planning
Scheme (Clause 73.04-2), it is considered a form of agriculture; therefore, animal boarding is, in principle, a land use that can be considered in a Farming Zone.

In this instance, use of the land for Animal Boarding requires a Planning Permit as it is a Section 2 Use in the Farming Zone.

In accordance with Clause 71.03-2 of the Mount Alexander Planning Scheme, simply because a use is in Section 2 does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the Municipal Planning Strategy, the Planning Policy Framework, the purpose and decision guidelines of the zone and any of the other decision guidelines in Clause 65.

The objectives of the Farming Zone are focused towards using the land primarily for agricultural purposes. The Zone contemplates other uses being permitted only where there is no adverse impact on the use of the land for agricultural purposes.

It is acknowledged that the land is in a Farming Zone and that people who choose to live in these areas should expect to be subjected to the noise or influence of farming and other rural activities. However, the critical factor in determining the suitability of this proposal is about site context issues. The decision guidelines of the Farming Zone deal with a number of matters including the need to consider, ‘Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land use’. When forming a view on whether the proposal is appropriate, the context of the site needs to be considered including the size, location, the number of animals to be kept and the location of nearby houses.

Surrounding land to the east, west and south are all similar sized parcels to the subject site and all developed with dwellings, having small scale grazing including a horse manège (an enclosed area where horses are trained) to the west.

As the proposal is the boarding of domestic dogs that are to be housed in a purpose-built, acoustically treated facility that has been designed and sited to minimise its impact on the surrounding area, it is considered to be a suitable use and development at this location. The Officer’s view is it would not have any adverse impacts on the existing agricultural enterprises on nearby adjacent land.

In addition, the use of the site for animal boarding and its associated buildings and works would occupy less than 3% of the site, being sited with sufficient setbacks to all boundaries, in buildings that have been purposely sited and designed to minimise any adverse impacts to surrounding sites. The setbacks proposed together with the relatively flat topography and existing vegetation would limit views of the buildings outside the site.

Due to the proximity of dwellings that surround the subject site and current noise levels, objectors have stated that the proposal will negatively impact on the amenity due to noise. In response, the acoustic treatment of the buildings, their location and orientation on the land, restrictions to the number of dogs permitted in the exercise yards during the day and the operation and management of the facility would ensure the noise impacts from the proposal would be managed in accordance with Noise from Industry in Regional Victoria (NIRV, EPA Publication 1411, 2011)
**ESO1**

As required by the ESO1, the application was referred to Goulburn Murray Water under Section 55 of the Planning and Environment Act 1987. Goulburn Murray Water provided consent to the application subject to the following conditions:

1. All construction and ongoing activities must be in accordance with sediment control principles outlined in ‘Construction Techniques for Sediment Pollution Control’ (EPA 1991).
2. Dog pens/kennels must be located at least 30m from all waterways and dams on waterways.
3. No faecal waste material from the dogs or stormwater containing faecal matter is to be discharged to any waterways or dams on waterways.
4. Solid faecal waste must be collected from the pens/kennels and managed to the satisfaction of Council’s Environmental Health Department.
5. Any on-site treatment and disposal system for wastewater or faecal waste material from the pens/kennels must be locate at least 100m from the nearest waterway or dam on a waterway.

In light of GMW’s consent, it is considered the proposal complies with the ESO1.

**Whether the proposal is consistent with State and Local Planning Policy**

State and local polices seek to protect agricultural land from inappropriate development, encourage sustainable and productive rural land uses, protect environmental values, and protect rural areas and main roads from inappropriate commercial uses that may limit legitimate rural activities and detract from the landscape values.

The proposal is considered compatible with these polices and can be managed in a manner that minimises its impact on the surrounding area.

Clause 13.05-1S deals with noise abatement and provides objectives to assist the control of noise effects on sensitive land uses. The strategies at this Clause are devised to ensure that development is not prejudiced, and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area. In addition, Clause 21.05-4 seeks to ensure that animal keeping is sited and designed to protect the amenity of residential areas.

In response, the acoustic treatment of the buildings, their location and orientation on the land, restrictions to the number of dogs permitted in the exercise yards during the day and the operation and management of the facility would ensure the noise impacts from the proposal would be managed in accordance with Noise from Industry in Regional Victoria (NIRV, EPA Publication 1411, 2011).

The local policy at Clause 22.06 deals specifically with Animal keeping and racing dog training. The policy refers to the desire for sites to be located 500m from a dwelling on another lot that is in a residential zone. The EPA Publication 1254 Noise Control Guidelines provides for the assessment of a number of activities including dog kennels and also refers to a preferred 500m separation.
The EPA guidelines state:

“The problems caused by the perpetual barking of dogs has been known to exist at distances as far as 500 metres from the actual source. The following criteria for dog kennels have therefore been assembled to limit both the physical stimuli to the dogs and the outbreak of noise from the kennels.”

- The kennels should be located at least 500 metres from residential areas.

Additional criteria which is outlined in the EPA guideline, and which must be considered, includes:

- Some fully enclosed or acoustically baffled kennels should be available to house particularly noisy animals, at a ratio of 1:15.
- Electronic masking noise devices should be provided to reduce audible stimuli to the dogs.
- Kennels should be constructed to visually screen stimuli such as other dogs, animals, traffic or passers-by.
- Access to kennels should be restricted solely to staff.
- Feeding of the dogs should be restricted to the daytime hours of 7 am and 6 pm.
- Exercise of the dogs may only be performed between the hours of 9 am and 5 pm.
- A responsible person must be available on site 24 hours per day.
- Kennels should be constructed of such a material so as to provide an appropriate reduction in the emission of noise. Materials such as masonry and cement sheeting would provide a suitable structural basis.
- The kennels should be positioned so as to utilise the ability of the topography to reduce noise.

The proposal would be able to comply with all of the above criteria as follows:

- All kennels would be fully enclosed being acoustically insulated.
- The layout of the kennels will provide visual screening to other dogs and external stimuli.
- Access to kennels will be restricted to staff.
- Feeding times will be confined to between 7.00 am and 6.00 pm
- Exercise of dogs will be restricted to between 9.00 am and 5.00 pm.
- A manager will be onsite 24 hours per day.
- The construction of the kennels will include acoustic treatment as shown on plans and recommended in the acoustic.
- The building has been sited and orientated to reduce noise.

There are four dwellings within 500 metres of the facility:

- East: There are two residence to the east (over Heathcote-Kyneton Road), approximately 330 metres from the development site. Another dwelling is located approximately 460 metres away
- South: One residence at 280 metres from the nearest side of the proposed facility.
- West: One residence at 240 metres from the nearest side of the proposed facility.

It is the officer’s view that the criteria in the EPA Guidelines stating that “kennels should be located at least 500 metres from residential areas” is not intended to include dwellings in a Farming Zone, but is intended for dwellings within a residential context where the protection of residential amenity would be expected. This view is supported by the Farming Zone provisions and policies relating to agriculture: these contemplate activities occurring in the Farming Zone that generate amenity impacts. Importantly, animal boarding is considered to be an agricultural use in the Planning Scheme;
therefore, it can be reasonably argued that the 500m threshold cannot practically apply in the FZ as animal boarding is contemplated in that zone.

The above notwithstanding, an acoustic assessment prepared by Audiometric & Acoustic Services (3 November 2018) was submitted to Council for consideration. The report provided recommendations on noise attenuation measures for the proposal, including:

- Construction using materials with acoustic qualities.
- The installation of an attenuator to any ventilation system which exceeds 0.13m²
- Other measures outlined at Part 7.0 of the report (page 9) which include further comments around construction, materials, the use of an intercom and PA system, limiting the personnel at the facility and restrictions around feeding times.

Based on the recommendations of the acoustic report submitted with the application, the dwellings located within this 500 metre buffer would experience noise levels both during the day and night, below the recommended maximum noise level applicable under the EPA Noise from Industry in Regional Victoria (NIRV).

Officers are satisfied that the noise levels from the facility as determined in the Acoustic Report (both day and night levels) will comply with the NIRV Guidelines and represents an acceptable outcome in terms of noise generation.

An objector commissioned a peer review of the applicant’s acoustic report and submitted it to Council. That report, by Arup Australia Pty Ltd, claims that:

- The background noise levels were determined not reflecting existing background noise levels, and the report does not detail ambient noise sources.
- Noise levels not being considered when the dogs are located in the exercise yard.
- Calculations are based on a maximum of eight (8) dogs to the external area (however the applicant seeks to house 36 dogs). From this it is unclear how dog noise will be limited to 8 dogs.
- The dog noise date presented in the acoustic report is inconsistent with the dog noise date previously considered by VCAT.
- The noise assessment does not consider the character of the noise.
- Since the business is 24 hour, seven days a week, it is recommended to undertake a sleep disturbance assessment.

The applicant provided a response to the Arup report, from Audiometric & Acoustic Services, which can be summarised as follows:

- In this case we have used the minimum levels provided under NIRV. We have correctly applied the NIRV procedure.
- Operation requirements, limits of dogs being exercised in the yards and reduced visible stimuli will all contribute to a reduction in noise to achieve compliance.
- At night, the dogs are in attenuated kennels and the recommendation includes that the dogs be kept under voice control from the house anyway.

Officers are satisfied that the noise levels from the facility as determined in the Acoustic Report, both day and night levels, will comply with the NIRV Guidelines and is an acceptable outcome with respect to the noise generation policy.
Compliance with the Code of Practice for the Operation of Breeding and Rearing Establishments.

The Code is subordinate legislation made by the Minister under section 59 of the Domestic Animals Act 1994. It was published by the Department of Primary Industries and was last updated in 2009.

The purpose of the Breeding Code is to set ‘minimum standards of accommodation, management and care which are appropriate to the physical and behavioural needs of dogs housed in boarding establishments and must be observed by owners and operators of a domestic animal businesses.

The application includes a detailed assessment of the proposal against the Code, and indicates the proposal meets each of the required standards.

To ensure ongoing compliance, a condition would be included on any permit issued that would require the construction and operation of the boarding kennels to be in accordance with the recommendations contained in the Code of Practice and any other requirements under the Domestic (Feral and Nuisance) Animals Act 1994.

Whether waste be appropriately managed

The application was referred internally to Council's Environmental Health Unit to determine whether waste water can be appropriately managed on the site. Council’s EH unit provided conditional consent and made the following comments:

- Owner/applicant must apply for a permit to install a waste water treatment system.
- The waste water system must be an EPA approved system and capable of treating all the waste water from the facility.
- All solid animal faecal material must be collected and stored in a manner that does not cause odour or offence until it is removed from the site, or managed to the satisfaction of Council’s Environmental Health Officer.

The specific issues raised by objectors

Following advertisement of the application in accordance with Sections 52(1)(a) and 52(1)(d) of the Planning and Environment Act 1987, forty-one objections were received.

Of the 41 objections, 8 were made by residents/landowners in Langley and within close proximity of the subject site. The balance of the objections were received from residents from Woodend, Kyneton, Wallan, Gisborne Taradale, Maldon, Carlsruhe and Taradale.

The objections raised the following planning matters:

Noise from barking dogs

The acoustic treatment of the buildings, their location and orientation on the land, restrictions to the number of dogs permitted in the exercise yards during the day and the operation and management of the facility would ensure the noise impacts from the proposal would be managed in accordance with Noise from Industry in Regional Victoria (NIRV, EPA Publication 1411, 2011). The report also recommends limits to the number of dogs (5) within the exercise yards at any given time during the day.

All of the recommendations from the acoustic report would be required to be implemented and met if a permit was to issue. A condition would also be included if a permit was issued to require at the Applicant’s expense, noise testing of the facility to ensure compliance with EPA legislation.
The application material is inadequate, insufficient and lacks detail in relation to the requirements of the Code of Practice, trained staff, waste disposal, and cleaning requirements. These deficiencies are major and significant to the extent that the application is beyond redemption.

The application includes a detailed assessment of the proposal against the Code and is shown to be compliant. The deficiencies as mentioned above do not prevent the application being assessed, and if a permit was to issue, conditions would ensure compliance of the Code is achieved. This view was reinforced in Attard v Moorabool VCAT 1324, where objectors had raised the same issue that the application lacked detail and was deficient when considered against the Code. Member David stated:

“The purpose of the Breeding Code is to set ‘minimum standards of accommodation, management and care which are appropriate to the physical and behavioural needs of dogs housed in breeding establishments’ and must be observed by owners and operators of a domestic animal business

The Code is a relevant consideration when assessing an application for dog boarding, however, failure to provide information in a permit application that prevents the Council from finding that a proposal fully complies with the Breeding Code is not fatal to the determination of the application.”

Officers agree with this view and have included conditions if a permit was to issue to ensure compliance with the Code.

Odour from the premises would be detrimental to amenity.

The primary source of odour is the waste water effluent disposal. Both Council’s EHO and GMW have provided conditional consent to the proposal requiring waste water treatment system to be approved by Council and operated in accordance with the EPA Code of Practice, and for ongoing maintenance to the satisfaction of the Council. In addition to this requirement, the proposed management practices (also referred to in permit conditions) will avoid emission of unacceptable odours.

The area is located in a bushfire prone area and bush fires are common in the area.

The site is not covered by a Bushfire Management Overlay. The application did include appropriate measures that would be implemented to ensure the safety of people, animals and property. These measures will be developed and implemented in conjunction with professional advice on the site, structures and procedures of the proposed development. The proposed development site is surrounded by pasture which is kept short and grazed during dry periods.

The proposal is contrary to the provisions of the planning scheme.

As demonstrated in this report, the application is considered to achieve the outcomes and objectives of the Planning Scheme.

There are four dwellings located within the 500 metre separation distance as recommended by the EPA guideline.

As stated in the report, the EPA guideline is a ‘recommended buffer distance’ that can be varied depending on the context of the site, including the size, location, the number of animals to be kept and how the facility is designed and managed to reduce the impacts of the use and development of dwellings within the 500-metre buffer.

Officers are satisfied that the noise levels from the facility as determined in the Acoustic Report, both day and night levels, will comply with the NIRV Guidelines and represents an acceptable outcome in terms of noise generation.
The land is subject to flooding and is not appropriate to have the proposed use and development at this location.

Council do not have any records or know of this area being subject to flooding. The subject site is not located in a designated flood plain or overlay. Langley does not feature in Clause 21.05-2 which refers to Floodplains and recognises that a number of areas in the Shire are susceptible to flooding that are not identified by overlay provisions. Any proposed buildings would need to comply with current building regulations.

Trees planted on the boundaries and within the site have been planted for noise abatement purposes.

Tree planting on private property does not require any permissions from Council. The applicant has advised that trees planted on the boundaries of the property were planted in conjunction with the North Central Catchment Management Kyneton Authority Woodlands Project for environmental purposes, primarily the development of wildlife corridors. This is a ten year project which commenced in 2014. The areas that have been planted along the boundaries of the site, including the western boundary, have been fenced to ensure trees are protected from grazing animals.

The proposal fits within the definition of ‘Intensive animal husbandry’ and is not an appropriate use at this location.

The proposed use falls within the definition of ‘Animal Boarding’ which is land used to board domestic pets such as kennels. Animal boarding is not a form of intensive animal husbandry: As stated in this report, Animal keeping falls within the nesting of uses under the general heading of Agriculture.

The proposal will impact the operation and use of the adjoining property to the west for horse activities including the horse ménage used by the owners and others for riding lessons, dressage work and training.

The proposal, if approved, would retain the dogs within the facility or within the secured exercise yards, being located some distance from the adjoining property to the west. The owners currently have six dogs of their own that are free to roam the property, not constrained or restricted and have advised other adjoining property owners also have dogs unrestricted on adjacent land, all while the horse activities are being undertaken on the adjoining property.

The proposal includes acoustically insulated facilities which deal with visual and acoustic control and, as stated elsewhere as part of the proposal, exercising of the dogs of the new facility will be supervised and a maximum of five dogs will be allowed out at one time. Given the level of control and management of the dogs if a permit was to issue, it is difficult to ascertain as to how the adjoining activities would be impacted.

Alternative Options

Council could refuse the application. This would give the applicant an option to seek a review of Council’s decision at the Victorian Civil and Administrative Tribunal (VCAT).

Financial and Resource Implications

Cost of potential appeal to the Victorian Civil and Administrative Tribunal.

Consultation

Public Notification

The application is not exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.
Pursuant to Section 52 of the Planning and Environment Act 1987, the following forms of advertising were undertaken:

- Notices were sent to owners and occupiers of adjoining land (including opposite).
- A3 sign(s) were placed on the land.

Advertising commenced on 14 November 2018 and concluded on 5 December 2018.

Objections

A total of forty-one (41) objections were received as a result of advertising the application to surrounding land owners/occupiers.

Objector meeting

An applicant-objector meeting was not undertaken. It was decided that a consultation meeting would not benefit any party in this matter given the issues raised and the large number of objections.

External Referrals

Environment Protection Authority Victoria (EPA)

The EPA provided two (2) responses to the application under Section 52 of the Planning & Environment Act 1987. The first EPA referral response dated 3 October 2018 commented on EPA Publication 1254 Noise Control Guidelines and advised that:

‘Noise can be a concern for residents within 500 metres of boarding kennels. EPA recommends that any dog kennels should be located at least 500 metres away from residential areas. Considering the closest house is approximately 250 metres away, noise amenity issues are highly likely.’

Following the receipt of the applicant’s acoustic report, the application was again referred to the EPA. In the second referral response from the EPA, dated 14 January 2019, it noted it has not undertaken a technical assessment of the acoustic report. The EPA referral response simply relied on the conclusions of the applicant’s acoustic report and made the following observations:

‘Based on the conclusions of the report and the noise mitigation measures recommended, we are comfortable that noise impacts from the proposal can be managed in accordance with Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011). Council should consider implementing the recommendations of the report as noted in 7.0 Comments on Construction and Operation as conditions on the planning permit or request amended plans that demonstrate the noise attenuation measures recommended.’

Goulburn-Murray Water (GWM)

GWM provided conditional consent subject to five (5) conditions relating to construction and ongoing activities to meet EPA guidelines, dog pens/kennels must be 30m from waterways and dams, no faecal matter into waterways or dams, solid faecal waste to be collected to satisfaction of Council, and any onsite treatment and disposal system for wastewater or faecal matter waste material must be located at least 100m from nearest water or dam.

Coliban Water

No objection and no conditions.
**Internal Referrals**

**Environmental Health Unit**

Council’s Environmental Health Unit provided two responses to the application. The first response received on 08 November 2018 recommended the following:

In order for the application to be assessed the following information should be provided by the applicant:

a. Details of how the recommendations of the acoustic report will be incorporated into the design and operation of the facility.

b. Details of how waste generated by the facility will be disposed of.

c. Details of how additional waste water generated as a result of operating the facility will be treated and disposed of on-site.

In addition to the recommendations, the Unit further advised that EPA have two main guidelines to assist with planning for these type of facilities, being the NIRV and the Noise Control Guidelines.

The second Environmental Health response, dated 18 March 2019, confirmed that the Unit does not object to the granting of a permit subject to the following conditions:

- Owner/applicant must apply for a permit to install a waste water treatment system.
- The waste water system must be an EPA approved system and capable of treating all the waste water from the facility.
- All solid animal faecal material must be collected and stored in a manner that does not cause odour or offence until it is removed from the site, or managed to the satisfaction of Council’s Environmental Health Officer.

The noise matters were considered by the Environmental Health Unit but have relied on the EPA advice and proposed conditions should a permit be granted by Council.

**Infrastructure Unit**

Conditional consent subject to the following conditions:

**Drainage**

- The whole of the subject land, including landscaped and paved areas, must be graded and drained to the satisfaction of the council as the responsible drainage authority so as to prevent the discharge of water from the subject land across any road or onto any adjoining land.
- Prior to the design of any internal drainage system the owner/applicant must submit a Property Information Request and be issued a Legal Point of Discharge Permit to discharge stormwater.

**Vehicle Crossovers / Internal Driveway**

- If the existing vehicle crossing does not meet current Council standards then it will need to be upgraded to the satisfaction and requirement of Council. No impending or redirection of existing surface flow is allowed to occur as a result of these works.

**Sediment Pollution Control**

- The developer must restrict sediment discharges from any construction sites within the land in accordance with Construction Techniques for Sediment Pollution Control (EPA 1991) and Environmental Guidelines for Major Construction Sites (EPA 1995).
Consent for Constructions

Prior to the commencement of any works on the road reserve the owner/applicant must submit a Minor Works in a Road Reserve application and be issued a permit to occupy the road for works.
ECO 18  PLANNING PERMIT APPLICATION 293/2003 AT 34 JOHNSTONE STREET, CASTLEMAINE - FOR THE USE AND THE DEVELOPMENT OF SEVEN RESIDENTIAL UNITS AND CAR PARK AREA – EXTENSION OF TIME REQUEST

Responsible Director:  Director Infrastructure and Development
Responsible Officer:  Manager Development Services
Original Document:  DOC/18/27115

Executive Summary

Council has received an application to extend Planning Permit PA293/2003 pursuant to Section 69 of the Planning and Environment Act 1987.

The development allowed by PA293/2003 is the use and development of seven residential units within the Commercial 1 Zone. The extension request is made due to the Planning Permit expiring on 21 April 2018. The application to extend the permit was made within the specified time frame of Section 69(1a) of the Act.

The application has been assessed under the relevant VCAT test for extensions of time, established in Kantor v Shire of Murrindindi (1997). A key issue that emerges from the Kantor test is that if the same application was made today, the permit would not be supported as no legal vehicle access or permanent carpark is available to the site in its current form. The balance of the test also does not favour approval of the extension of time.

It is recommended that Council refuse the application for extension of time.

RECOMMENDATION

That Council refuse to grant an extension of time to Planning Permit PA293/2003 under the provisions of the Mount Alexander Planning Scheme for land known and described as CA 1 & 2, Sec A, 34 Johnstone St, Castlemaine.

MOVED COUNCILLOR PETRUSMA

That the matter be deferred to the next Ordinary Meeting of Council.

SECONDED COUNCILLOR LESSER

NOT CARRIED.

MOVED COUNCILLOR GARDNER

That Council refuse to grant an extension of time to Planning Permit PA293/2003 under the provisions of the Mount Alexander Planning Scheme for land known and described as CA 1 & 2, Sec A, 34 Johnstone St, Castlemaine.

SECONDED COUNCILLOR CORDY

CARRIED.
Context

The purpose of this report is to enable Council to make a determination on an application to extend Planning Permit PA293/2003 for the use and the development of seven residential units at CA 1 & 2, Sec A, 34 Johnstone St, Castlemaine.

The application has been referred to Council for a decision as officers are recommending refusal.

Refer to:
Attachment ECO 18A: Site Context Plan.
Attachment ECO 18B: Letter from DELWP.
Attachment ECO 18C: Endorsed planning permit.
Attachment ECO 18D: Site inspection photograph 2018.
Attachment ECO 18E: Applicant legal Letter.

The applicant lodged an extension of time to PA293/2003 on 17 April 2018, and is seeking an extension of time to complete the development. The application form explains the applicant has experienced a number of setbacks; including not meeting the requirements from Coliban Water, difficulties attaining a power connection with Powercor, and financial issues. While the applicant states an intention to complete the development, it is the officer’s view that the original permit provided sufficient time to complete the development. Furthermore; this is the sixth extension of time application, and no sufficient attempts have been made to complete the development in the required timeframe.

Background

Planning Permit PA293/2003 was issued on 21 April 2003 for the use and the development of seven residential units and the provision of a car park area.

The permit has been extended on six previous occasions, for 1, 2 and 3 year extensions, as follows:

- 21 April 2006 for a further 2 years.
- 21 April 2008 for a further 3 years.
- 10 August 2011 for a further 2 years – advice given that no further extension will be granted.
- 4 June 2013 for a further 2 years.
- 29 April 2015 for a further 2 years.
- 20 April 2017 for further 1 year – advice given that no further extension will be granted.

The applicant has applied within the specified time frame of Section 69(1a) of the Act and requested for an extension for as long as possible.

The permit had a standard condition of two years to complete the development.

Policy and Statutory Implications

Zoning

Clause 34.01 – Commercial 1 Zone

Objectives of the zone include creating vibrant mixed use commercial centres for retail, office, business, entertainment and community uses, and to provide for residential uses at densities complementary to the role and scale of the commercial centre. Any new use in the Commercial 1 Zone requires consideration of the likely effects of traffic on adjoining land.
Particular Provisions

Clause 52.06 – Car Parking

Objectives include:

- To ensure that car parking is provided in accordance with the State Planning Policy Framework and Local Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces, having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Issues

The permit was first issued in 2003 and has since been extended an additional six times. During the last 15 years, the applicant has failed to complete the development. The site no longer holds a current Building Permit, it having expired on 30 July 2013. Furthermore, no work has been undertaken on the site towards completing the development since 2013. Investigation has shown no building inspections have occurred on the site since 2009.

This extension of time application was referred to the Department of Environment, Land, Water and Planning (DELWP) for advice regarding the state of the development, in particular access and car parking.

Currently the site’s owner holds a license issued from DELWP for the approved carpark area, which was contemplated in the original permit. The license was issued for the purpose of a ‘car park for a motel’ and expires in November 2024. DELWP determines whether the license can be re-issued in the future. The response from DELWP noted the maximum term that this type of licence could be re-issued for is 10 years; however, the licence can be cancelled at any time, if required. As with the original referral in 2003 for the application, DELWP cannot guarantee a perpetual arrangement for car parking, particularly if the units are sold to separate entities.

The assessment for the extension of time has shown the development cannot secure (and guarantee) a legal point of access to the site or a permanent carpark arrangement for the site. It is not appropriate to allow development to proceed without permanent legal access and car parking, and in this instance, what was permissible in 2003 is no longer a viable or a practical development option.

Kantor assessment

As set out in Supreme Court Decision by His Honour Mr. Justice Ashley in Kantor v Shire of Murrindindi (1997), the relevant matters should be considered and become the general test for deciding on an application for an extension of time.

- Have there been any significant changes in planning policy since the permit was issued?

There have been important changes to the Planning Scheme and planning practice since the permit was issued in 2003.

On 5 June 2012, new car parking provisions were introduced at Clause 52.06 in the Victorian Planning Provisions and into all planning schemes through Amendment VC90.
Clause 52.06 ensures access is provided in accordance with forecast demand and car parking areas are designed and managed to achieve a high standard of urban design, protect the role and function of nearby roads, and protect the amenity of neighbouring residential areas.

In relation to this application, the applicant is required to provide one (1) carpark per dwelling and one (1) visitor space per five (5) dwellings. The current situation does not provide permanent car parks to each dwelling. Clause 52.06-2 clearly states that before a new use commences, car parking must be provided to the satisfaction of the Responsible Authority. The application relies on parking on the adjoining Crown land, which is subject to a lease from DELWP and can be revoked at any time.

The other key change is the way DELWP provides consent (or not) for developments that utilise Crown land for access and/or parking. The original permit contemplate such an arrangement, and it was consented by DELWP; since that time, DELWP’s approach has changed, and an assessment of the current extension of time indicated the development cannot guarantee a legal point of access to the site or a permanent carpark arrangement for the site. Contemporary planning practice discourages developments that cannot provide permanent legal access and car parking.

Both of these changes are consequential to the request for an extension of time.

- Are the reasons given to justify the extension reasonable?

The reasons given to justify the sixth extension of time include failed business decisions leading to a lack of funds to complete the development, and issues with negotiating water and power to be connected to the site. The permit holder has had 15 years to resolve these issues and finalise the development; the justification given for an extension is not considered reasonable.

- Are the conditions of the permit still relevant or applicable?

The conditions of the permit are no longer relevant.

Condition 6 of the permit states that the use of seven residential units must cease if the lease of the car parking area lapses or is revoked, as the use on the subject land relies on the adjoining license from DELWP. The recent response from DELWP noted the maximum term that this type of licence could be re-issued for is 10 years; however, the licence can be cancelled at any time, if required. As with the original referral in 2003 for the application, DELWP cannot guarantee a perpetual arrangement for car parking, particularly if the units are sold to differing individuals. As such, if the application was made now, it would likely be refused due to the inability to provide a legal point of access and permanent car parking as a requirement of clause 56.06-5 for the use of a dwelling(s).

- Whether the time limit originally imposed was adequate.

The time limit imposed on the original permit is consistent with all other permits for use and development of dwellings and is considered adequate.

- Number of time the permit has been extended.

Five previous extensions have been granted, including extensions in 2011 and 2017 when the applicant was advised that no further extensions would be granted. The current application is the sixth time extension request.
• Whether the permit would be issued should a fresh application be made.

If a fresh application was made today, it is unlikely a permit would issue in its current form. As noted, the current configuration of the development does not provide the seven units with a legal point of access or permeant car parking provisions. Alternative arrangements would need to be identified for car parking that does not involve Crown land.

Council officers have offered the applicant the opportunity a number of times to amend the plans, to achieve a favourable outcome to complete the development. The applicant has not sought to amend the plans, but has instead sought to extend the time to complete the current development.

• Whether the landowner is seeking to warehouse the permit.

The applicant has stated an intention to complete the development at a later date, as stated in a letter submitted to Council. That notwithstanding, no works have been undertaken on the land since 2009, and it appears the current situation meets the definition of warehousing.

As noted in A Genser & Associates Pty Ltd V Yarra CC [VCAT 2640], Member Byard made the following comments in relation to ‘Warehousing’:

“I think it is clear that warehousing is not demonstrated by a mere passage of time, or the passage of a considerable amount of time from the granting of a permit, without the commencement of development. The passage of a lot of time, without anything happening on site, is consistent with warehousing, and may be indicative of it, but the mere passage of time is not sufficient itself.”

As stated earlier in the report, during the last 15 years the applicant has failed to complete the development. The site no longer holds a current Building Permit, it having expired on 30 July 2013. Furthermore, investigations indicate no building inspections have occurred on the site since 2009.

The planning system strongly discourages the warehousing of permits, and it is the Officer’s view that the landowner is warehousing this permit.

Alternative Options

Council could approve this sixth extension of time request; however, if no progress is made towards completing the development, and if the access and parking issues mentioned above are not resolved, it is highly likely that a seventh extension of time request will be made to Council in the coming years.

All planning permits include a lapse date, and the lapse date is included with the intention that permits will lapse if developments are not completed. Provision can be made to extend a permit under the Act, and in those instances, the Kantor test is applied. This request fails the Kantor test, so approval of a sixth extension is not recommended.

Financial and Resource Implications

Cost of potential appeal to the Victorian Civil and Administrative Tribunal.

Consultation

Advertising

Notice is not required for an application to extend a planning permit.
Referrals
The application was referred to DELWP for its advice; it expressed concerns with access and parking arrangements and noted that the existing lease cannot be secured indefinitely.
Ref: SP464337 / L6-10281.53 (20180621 cn)

Ms Rebecca Stockfield
Manager - Development Services
Mount Alexander Shire
PO Box 185
Castlemaine Vic 3450

Attention: Daniel Spark

Dear Ms Stockfield

PLANNING PERMIT APPLICATION PA293/2003-1
SPICER : FOR THE USE AND THE DEVELOPMENT OF SEVEN RESIDENTIAL UNITS AND CAR
PARK AREA
34 JOHNSTONE STREET CASTLEMAYNE

Thank you for your letter dated and received on 4 June 2018 about the above application.
The application is for the development of seven residential units and car park area. The subject land
is zoned Commercial 1 Zone and is not affected by any overlays the Mount Alexander Planning
Scheme.

Notice of this application was sent to the department for consideration and advice pursuant to Section
52 of the Planning and Environment Act 1987.

I provide this response under delegation from the Minister of Energy, Environment and Climate
Change, as the 'owner' of the adjoining land.

Comments

Crown Land Licence

A licence currently exists over part of Crown Allotment 7, Section A, Township of Castlemaine. The
licence is issued to the applicant for 10 years, commencing 1 November 2014, for the purpose of "car
park for a motel". When the licence expires in 2024, the department will determine whether it is
appropriate to be re-issued. The maximum term that this type of licence could be re-issued for is 10
years; however, the licence can be cancelled at any time, if required, once the required notice is
given to the licensee.

As advised in the department's letter dated 23 December 2003, "The Crown land which is subject to
this planning permit application has been assessed as Public Land (ie not surplus to the Department's
requirements) and as such, the Department cannot guarantee a perpetual arrangement for car
parking, particularly if the units are sold to differing individuals. Council should note that alternative
arrangements will need to be identified for car parking that does not involve Crown land if
designated parking space is crucial to the development being approved." The need for alternative arrangements
may be especially relevant if subdivision is required, as noted in the applicant's letter dated 16 April 2018.

Please also note that a licence is for non-exclusive use of the land.

Works on Crown Land

The plan provided identifies part of Crown Allotment 7, Section A, Township of Castlemaine as "Existing Parking and Access". While a licence exists for the purpose of "car park for a motel", no consent has been given to improve or develop the land in association with the use of parking or access. This response addresses the proposal on the adjoining freehold only and a separate application will need to be made to the department if works associated with the subject development are proposed on the Crown land.

Response

As an adjoining owner, the Department of Environment, Land, Water and Planning does not object to the permit being granted, but requests that the following conditions be included on the permit:

Works on Crown Land

1. No earthworks are to be undertaken and no hard paving surfaces or fencing are to be installed on the Crown land adjoining Crown Allotments 1 and 2, Section A, Parish of Castlemaine without the written consent of the Department of Environment, Land, Water and Planning.

2. To prevent impacts on Crown land, all works associated with the subject planning permit are to be contained within the freehold land without the written consent of the Department of Environment, Land, Water and Planning

Runoff

3. No polluted and/or sediment laden run-off or other concentrated flow of water is to be discharged directly or indirectly into the adjoining creek.

Permit Notes:

If a planning permit is granted, would you please include the following permit note:

- The subject land is located within the area of the Dja Dja Wurrung Land Use Activity Agreement (LUAA) which is an agreement between the State of Victoria and the Dja Dja Wurrung Clans Aboriginal Corporation (DDWAC) that came into effect on 25 October 2013. Any actions undertaken on the Crown land will require validation under the LUAA. Please contact Sarah O’Bee, Native Title Co-ordinator, on telephone 5430 4705 for assistance with this matter.
Please forward a copy of Council’s decision on this application.

If you have any questions regarding this matter, please contact Chris Naylor on telephone (03) 5430 4634.

Yours sincerely,

[Signature]

Peter Shadwick
Planning and Approvals Program Officer
Planning and Approvals
22/06/2018
PLANNING PERMIT
Permit No: PA293/2003-1

Mount Alexander Planning Scheme
Responsible Authority: Mount Alexander Shire Council

ADDRESS OF THE LAND: CA 1 & 2, Sec A, 34 Johnstone St., CASTLEMAINE
THIS PERMIT ALLOWS: For the use and the development of seven residential units and car park area

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. NO LAYOUT ALTERATION The development allowed by this permit as shown on the endorsed plan(s) and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the Responsible Authority.

2. SEALED CAR PARK Areas set aside for the parking of vehicles together with the aisle and drives must be properly formed to such levels that they can be utilised in accordance with the endorsed plan and must be drained and provided with an impervious all-weather seal coat. The area must be constructed, drained and maintained in a continuously useable condition to the satisfaction of the Responsible Authority. (Note: these works will also require the written consent of the Department of Sustainability and Environment)

3. PARKING Areas set aside for parking and movement of vehicles as shown on the endorsed plan(s) must be made available for such use and must not be used for any other purpose.

4. CAR PARKING TO BE CLEARLY INDICATED The boundaries of all car spaces, access and egress lanes and the direction in which vehicles should proceed along the lanes must at all times be clearly indicated on the ground to the satisfaction of the Responsible Authority.

5. VEHICLE ACCESS Vehicle access to the carpark from Gaulton Street to the property must be constructed to the satisfaction of the Responsible Authority.

6. LEASE OF CAR PARKING AREA The use of seven (7) residential units must cease if the lease of the car parking area (Pt CA 7, Section A) lapses or is revoked.

7. CAR PARKING SPACE A car parking space must be identified and set aside for the sole use of each residential unit to the satisfaction of the Responsible Authority.

8. PROPERTY APPEARANCE The appearance of the subject land must not, in the opinion of the Responsible Authority, adversely affect the amenity of the locality.


Date Issued: 21 April 2004
Signature for the Responsible Authority: Delegated Authority

PA293/2003-1

Page 1 of 4
10. GENERAL DRAINAGE
The whole of the subject land, including landscaped and paved areas, must be graded and drained to the satisfaction of the Council, as the Responsible Drainage Authority so as to prevent the discharge of water from the subject land across any road or footpath or onto adjoining land.

11. DESIGN FOR INTERNAL DRAINAGE
Prior to the commencement of any buildings or works, engineering plans showing a properly prepared design with the computations for the internal drainage and method of disposal of stormwater from all roofed areas and car park areas must be submitted to and approved by the Responsible Authority. This requirement is separate to building approval.

12. SATISFACTORY CONTINUATION
Once commenced the development permitted by this permit must be continued and completed to the satisfaction of the Responsible Authority.

13. ENGINEERING REQUIREMENTS

14. The kerb and channel in Gaulton Street is to be extended to the property line entering the DSE Licensed area to the north of the development site as to create a left turn lane into the carpark area.

15. Gaulton Street is to be widened from the edge of the existing seal to the above kerb and channel to the following specifications: - - A minimum of 225mm fine crushed rock pavement plus 25mm asphalt OR a minimum of 250mm fine crushed rock pavement plus a 2 coat spray seal; - All shall be constructed to the requirements of the Responsible Authority.

16. DEPARTMENT OF SUSTAINABILITY & ENVIRONMENT REQUIREMENTS

17. Access

18. Access to the site must only be at the nominated point shown on the submitted plan. The crossing, drainage and road pavement works are to be constructed and maintained to the satisfaction of the Responsible Authority.

19. Works on crown land

20. No fencing is to be erected on the crown land adjoining Crown Allotments 1 & 2, Section A, Parish of Castlemaine.

21. No earthworks are to be undertaken and no hard paving surfaces are to be installed on the crown land without the written consent of the Department of Sustainability & Environment.

22. Erosion

23. Any earthworks on the freehold land are to be undertaken in a manner to not cause erosion and possible siltation problems in the adjacent creek.

24. COMPLETION OF DEVELOPMENT (TWO YEARS)
This permit will expire if the works permitted by this permit are not completed within two years from the date hereof. The time within which the works must be completed may on written request made before or within three months after the expiry of this permit be extended by the Responsible Authority.

Date Issued: 21 April 2004
Signature for the Responsible Authority: [Signature]
Delegated Authority: [Signature]
THIS PERMIT HAS BEEN EXTENDED AS FOLLOWS:

Date of Extension: 21 April 2006
Responsible Authority: Mount Alexander Shire Council
  • Please note: this permit was extended in 2006 for two years and will now expire on 21 April 2008 if the development is not completed.

Date of Extension: 21 April 2008
Responsible Authority: Mount Alexander Shire Council
  • Please note: this permit was extended in 2008 for three years and will expire on 21 April 2011 if the development is not completed.

Date of Extension: 10 August 2011
Responsible Authority: Mount Alexander Shire Council
  • Please note: this permit was extended on 10 August, 2011 for a further two years and will now expire on 21 April 2013 if the development is not completed.

This is the fourth extension. No further extensions will be granted following this extension.

Date of Extension: 4 June 2013
Responsible Authority: Mount Alexander Shire Council
  • Please note: this permit was extended on 4 June, 2013 for a period of TWO (2 years and will now expire on 21 April, 2015 if the development is not completed.

Date of Extension: 29 April 2015
Responsible Authority: Mount Alexander Shire Council
  • Your request for an extension of time to planning permit No. PA293/2003 has been considered.

An extension of time has been granted and the permit will now expire if the development is not completed by 21 April 2017.

Date of Extension: 20 April 2017
Responsible Authority: Mount Alexander Shire Council
  • This permit will expire if the development is not completed by 21 April 2018.

Date Issued: 21 April 2004
Signature for the Responsible Authority: PA293/2003-1
Delegated Authority: [Signature]
**IMPORTANT INFORMATION ABOUT THIS NOTICE**

**WHAT HAS BEEN DECIDED?**

The responsible authority has issued a permit.

Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987.

**CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?**

The responsible authority may amend this permit under Division 1A of Part 4 of the Planning and Environment Act 1987.

**WHEN DOES A PERMIT BEGIN?**

A permit operates:
- from the date specified in the permit; or
- if no date is specified, from:
  1. the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
  2. the date on which it was issued, in any other case.

**WHEN DOES A PERMIT EXPIRE?**

1. A permit for the development of land expires if:
   - the development or any stage of it does not start within the time specified in the permit; or
   - the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
   - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if:
   - the use does not start within the time specified in the permit, or if no time is specified, within two years of the issue of the permit; or
   - the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if:
   - the development or any stage of it does not start within the time specified in the permit; or
   - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   - the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 5A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision:
   - the use of development of any stage is to be taken to have started when the plan is certified; and
   - the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

**WHAT ABOUT REVIEWS?**

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on the relevant form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- A copy of an application for review must also be served on the responsible authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Date Issued: 21 April 2004
Signature for the Responsible Authority: 
Delegated Authority

Page 4 of 4
PA293/2003 – Site Inspection photograph 2018

Attachment ECO 18D
GEORGE W. RYAN Ph.D., B.Sc., LL.B.
SOLICITOR
130 POUND LANE
NEWSTEAD 3462
P.O. Box 147, Newstead 3462
Tel. 0354762710.

10 April 2019.

The Chief Planning Officer,
Planning Department,
Mount Alexander Shire Council,
25 Lyttleton Street,
CASTLEMAINE 3450

Attention: Mr Daniel Spark,

Dear Sir,

Re: Mr Glenn Spicer and Planning Permit PA293/2003.
Land: 34 Johnstone Street, Castlemaine 3450.

I am writing on behalf of Mr Spicer who holds the above permit to use and develop seven
residential apartments at 34 Johnstone Street Castlemaine.

The permit holder has requested an extension of the permit, and after a meeting with Mr
Spicer and Council officers on 8 October 2018 I was invited to address what the Council
considered were concerns in DELWP’s letter to Council dated 22 June 2018.

It appears that that letter was written as if the permit holder’s request under s.69 of the
Planning & Environment Act was in fact an application for a new permit. I have sought
and obtained a copy of DELWP’s original response dated 23 December 2003 to Mr
Spicer’s permit application in 2003. I have also spoken to Ms Lara Edwards at DELWP
and she confirms that DELWP’s 2018 letter does little more than repeat the original
advice in its letter of 2003. DELWP’s letter indicates that there has been no change in
the land in question being available for public use. Indeed the one change that is evident
since 2003 is the Department’s willingness to offer 10 year licences. Mr Spicer currently
holds such a licence.

It is evident that DELWP does not seek cancellation of the permit. Nor does it seek
anything different in the permit conditions. It offers the same 2003 advice that if Mr
Spicer was to seek a permit that would allow the sale of individual units, the car parking
possible on Crown land may not be adequate.

But Mr Spicer is not seeking to subdivide the land, only to continue work under the
existing permit for multiple dwellings. When his father died in 1996, he inherited a
partly built motel, and a $101,000 debt. After discussions with Council at that time he
amended the proposed development to seven self contained apartments as reflected in the
current permit. Since 2003 he has spent over $60,000 on building works and various
other permits. While he originally commenced works on the site as an owner-builder,
changes in building law and the Regulations put halts on work as he had to first engage a registered builder, then deal with the need for that builder to be registered for a commercial development. There have also been difficulties with Coliban Water and Powercor regarding connecting their services to the development.

A second cause for delay in completing the apartments has been the permit holder’s undertakings on the opposite side of Johnstone Street, where he has saved the historic stable building that was once part of the old Johnstone street bakery. The two lot subdivisions at 27 Johnstone Street and 2-4 Stewart Street have also provided Mr Spicer with the opportunity to build a house for himself and temporary space to store building materials and equipment needed to complete works on the old bakery buildings. However, unexpected delays and complications in obtaining all the necessary planning approvals to complete the Stewart Street subdivision has eaten into his working capital.

In these circumstances I would ask Council to look favourably on Mr Spicer’s request for a further extension of time to complete the Johnstone Street apartments. A study of VCAT cases involving requests under section 69 of the Planning and Environment Act indicate that many permits have multiple extensions, and that this is not a relevant factor in denying an extension.

Yours faithfully,

[Signature]
George Ryan
Executive Summary

Council has received an application for a dwelling on each of the two existing lots at 190 Main Road, Chewton (CA 178 and 179). The land is located within the Township Zone (TZ) and is affected by Bushfire Management Overlay (BMO) and Design and Development Overlay – Schedule 11 (DDO11). A planning permit is required under the Overlays affecting the land, and because Lot 178 is less than 300sqm, a planning permit is triggered to construct a dwelling in the Township Zone.

The design of the two dwellings fails to achieve the objectives and outcomes of the DDO11, particularly in respect of their height, scale, form and siting on the lots; the location of car parking; access dominating the front setback area; and lack of landscaping. One objection has been received to the application.

It is recommended that the application be refused.

RECOMMENDATION

That Council issue a Notice of Decision to Refuse a Planning Permit for the development of a dwelling and new road opening on both Crown Allotment 178 and 179 at 190 Main Road, Chewton for the following reasons:

1. The proposed development is contrary to State and Local Planning Policy as the development does not respect the existing and preferred neighbourhood character.
2. The proposal is contrary to the objectives and outcomes of the Design and Development Overlay – Schedule 11.
3. The design and location of the parking on the land would adversely affect the amenity of the area.

MOVED COUNCILLOR HENDERSON

That the recommendation be adopted.

SECONDED COUNCILLOR NIEMAN

CARRIED.
Context

The purpose of this report is to enable Council to make a determination on an application for the development of dwellings and a new road opening at Crown Allotments 178 and 179, 190 Main Road Chewton. The application has been referred to Council for a decision because officers are recommending refusal of the application.

Refer to:

Attachment ECO 19A: PA002/2019 Context and site aerial.
Attachment ECO 19B: PA002/2019 Final plans submitted with application.

The application was lodged on 4 January 2019 and proposes to develop a dwelling on each of the two lots at 190 Main Road, Chewton. The proposed dwellings are the same design but mirrored on each lot, with central front entrances separated by a dividing wall and sharing a pitched roof form across both dwellings.

Both dwellings are double storey. Each dwelling contains open plan family, kitchen and dining areas and separate lounge room at ground level, and two bedrooms (one with an ensuite), separate bathroom and lounge on the first floor level. Both dwellings would have a 3 metre timber deck at the rear at ground level and an entry porch on the front elevation. The overall height of the dwellings to the top of the roof pitch is 8.7 metres. The dwellings would be setback as follows:

- 6 metres from Main Road (front setback).
- 5 metres from the rear boundary (north boundary).
- 3.7 metres from the western boundary.
- 1.7 metres from the eastern boundary.

Materials and finishes include zincalume roof sheeting, hardiplank wall sheeting in a mid-grey colour and white aluminium window frames.

The site comprises two Crown Allotments, CA 178 and 179 Section E, Parish of Chewton, known as 190 Main Road, Chewton. Crown Allotment 178 has an 8 metre frontage and 30.1 metre lengths along its eastern and western boundaries, and a total area of 244m². Crown Allotment 179 has a 10.1 metre frontage and 30.1 metre lengths along its western and eastern boundaries, and a total area of 305m². Both lots are vacant land. The land is generally flat and slopes away from the road frontage.

The subject land forms part of several vacant Crown Allotments located on the north side of Main Road within the Chewton Township. A pine plantation was removed from the Crown land at the rear of the site in 2016, opening the site to the rear Crown land and the Castlemaine Diggings National Park and Forest Creek. There are existing dwellings opposite the subject site. The immediate adjoining parcels of land to the west and east are partly vegetated Crown land.

Policy and Statutory Implications

State Planning Policy Framework

Clause 11.01-1S Settlement

This policy seeks to promote sustainable growth and development through a network of settlements. The policy encourages development in accordance with the relevant regional growth plan and seeks to limit urban sprawl and direct growth into existing settlements. The subject site is located within the existing Chewton township and zoned to accommodate residential development.
Clause 11.01-1 Loddon Mallee South regional growth
This policy outlines broad objectives for land use and development within the Loddon Mallee South region. The plan includes objectives of strengthening communities especially by supporting the ongoing role and contribution of the region’s small towns.

Clause 12.05-2S Landscapes
This policy seeks to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments. The Castlemaine Diggings Park abuts the subject site to the north, and includes Forest Creek. The design, layout and scale of the dwellings on the land would detract from the natural qualities of the valued landscape areas adjoining the subject site.

Clause 13.02-1S Bushfire
This clause aims to assist in strengthening community resilience to bushfire. Strategies outline measures to assess bushfire risk and apply appropriate development control mechanisms. Strategies include to give priority to the protection of human life by:

- Prioritising the protection of human life over all other policy considerations.
- Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.
- Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision-making at all stages of the planning process.

The dwellings would achieve compliance with bushfire measures.

Clause 15.01-1S Urban design
Policy in this clause seeks to create urban environments that are safe, healthy, and functional and which contribute to a sense of place and cultural identity. Relevant policy aims to ensure development responds to its context in terms of character, cultural identity, and natural features and surrounding landscape, ensuring development provides landscaping and promotes good urban design.

The design, layout and scale of the dwellings on the land does not respond to its context, provides no landscaping and would detract from the natural qualities of the landscape areas adjoining the subject site.

Clause 15.01-2S Building Design
Policy in this clause seeks to achieve building design outcomes that contribute positively to the local context and enhance the public realm. Strategies to achieve this outcome include:

- Ensure the site analysis provides the basis for the consideration of height, scale and massing of new development.
- Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment
- Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.
- Ensure development is designed to protect and enhance valued landmarks, views and vistas.
- Ensure development provides landscaping that responds to its site context, enhances the built form and creates safe and attractive spaces.

As above, the design, layout and scale of the dwellings on the land does not respond to its context, presenting as one large double storey dwelling, having minimal setbacks.
from both the front and side boundaries, and having no provision (and limited scope) for landscaping within the front set back area where vehicles are proposed to be located. The dominate streetscape feature of the development is the proposed 8 metre wall height of the façade and vehicle parking within this limited front set back area, and this is distinctly different to the prevailing character of buildings in the streetscape and contrary to the design outcomes of this policy.

15.01-5S Neighbourhood character

This policy objective includes to recognise, support and protect neighbourhood character, cultural identity, and sense of place. Strategies to achieve the objective is to ensure development responds to cultural identity and contributes to existing or preferred neighbourhood character

Clause 16.01-3S Housing Diversity

This policy includes broad support for diversified provision of housing. Housing should be well located, close to services and other community and physical infrastructure.

Provision of housing should widen housing choice to meet increasingly diverse needs and make better use of existing infrastructure. Housing development should also respect neighbourhood character.

Local Planning Policy Framework (LPPF)

Clause 21.02 Vision and framework plan

This clause contains some of the guiding policy linking the municipal vision, derived from Mount Alexander Shire Council Plan, to the land use and development planning vision for the Shire.

This policy identifies the unique and identifiable role and identity of the Shire’s townships through a settlement hierarchy. The Mount Alexander Strategic Framework Plan identifies broad strategic issues and directions for the municipality.

Chewton is identified as a local community centre providing local convenience shopping and community facilities. Identity is derived from historic buildings, setting close to historic mine sites and the Castlemaine Diggings National Heritage Park, and the distinctive meandering route of the Pyrenees Highway acts as a gateway to Castlemaine.

Clause 21.03-1 Urban growth

This clause offers an overview of the Shire’s urban growth. The preferred settlement pattern identifies limited growth of smaller towns into existing urban areas/township boundaries that are serviced, and bushfire risks can be managed.

Clause 21.03-2 Urban consolidation

This policy recognises the social, economic and environmental outcomes that can be realised from encouraging a more compact urban form. This supports the policy outlined for small towns in Clause 21.03-1 which aims to provide additional housing within the existing urban boundaries.

Clause 21.08-1 Housing location and diversity

This clause recognises the need for greater need for housing diversity within the Shire and the close connection this has to wellbeing of a changing community. The policy recognises the aging population of the Shire, being older than the State as a whole, and a greater number of lone and single person households.
Strategies aim to promote development of smaller dwellings, preferably within infill locations.

Clause 21.11 Infrastructure

The Shire’s considerable infrastructure assets are outlined in this policy. Chewton is identified as having enough capacity in the sewer network to accommodate forecast population growth. Upgrading old stormwater infrastructure to accommodate new growth is identified as a key issue.

Zoning

The land is within the Township Zone (TZ) and a permit is required to construct a dwelling on land less than 300m² pursuant to Clause 32.05-6. Lot 178 has a total area of 244m². The purpose of the TZ includes:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage development that respects the neighbourhood character of the area.

As the design of the dwellings are not site responsive and would not achieve the preferred neighbour character for the Chewton area as demonstrated in this report, the application is contrary to the purpose of the TZ as it relates to neighbourhood character.

Overlays

Design and Development Overlay – Schedule 11 (Pyrenees Highway, Chewton)

The land is affected by the Design and Development Overlay – Schedule 11 which applies to Pyrenees Highway, Chewton. The design objectives of DDO11 include:

- To ensure that new development has proper regard for the established character, streetscape, topography and development pattern of Chewton in terms of building height, scale, form, siting, building materials, colours, signs, and landscaping.
- To promote development that properly addresses the Pyrenees Highway.
- To ensure that development is in keeping with and contributes to Council’s vision for high standards of development as set out in the Municipal Strategic Statement.
- To ensure that the scale and form of new buildings is in proportion to the site and does not overwhelm the streetscape and surrounding buildings.
- To ensure that front and side setbacks of new development is harmonious with existing development.
- To encourage the use of high-quality building materials for new buildings that are harmonious with the surrounding buildings.
- To ensure that fencing, ancillary fixtures and vehicle accommodation areas does not detract from the appearance of the streetscape.
- To ensure that car parking, garages, carports and vehicle access ways do not dominate the front setback.
- To minimise visual clutter and discourage signage that is obtrusive.
- To ensure that existing historic buildings continue to be a major feature of the streetscape and that future development on adjacent land is consistent with retaining and enhancing the dominant urban design characteristics of the Chewton’s heritage architecture.
- To strengthen pedestrian connections in Chewton, particularly in the commercial areas fronting the Pyrenees Highway.
- To retain key vistas, particularly to historic buildings and sites.
- To retain significant vegetation on site.

A permit is required for buildings and works under Clause 2 of the Schedule.
The dwellings as proposed are considered not to be an appropriate design in respect of their scale, form, siting, materials and landscaping. The design of the two dwellings, presenting as one large double storey dwelling, would overwhelm the streetscape due to the height and layout, and would not be reflective of the predominate scale and existing built form in this area of Main Road, Chewton.

The layout of the dwellings on the lots would not allow views beyond the site to the rear Crown land, and would instead be dominated by the parking of vehicles within the front set back. The overall design also limits opportunities for landscaping given the presence of vehicles and built form within the 6 metre set back from Main Road.

Bushfire Management Overlay

A permit is required for accommodation under Clause 44.06-2 of the BMO. An application must meet the application requirements of Clause 44.06-3 and the requirements of Clause 53.02.

The purpose of the Bushfire Management Overlay includes:

- 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.

The application has provided a detail Bushfire Management Statement that addressed and achieved the requirements of Clause 44.06-3 and Clause 53.02 in relation to defendable space, vegetation management, access and water to the satisfaction of the CFA.

Particular Provisions

Clause 52.06 Car Parking

The purpose of Clause is:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The table at Clause 52.06-5 specifies the number of car spaces to be provided for different types of land uses. It states that for each three or more bedroom dwelling, two car spaces must be provided. One space would be required for each two bedroom dwelling. One space has been provided to each dwelling.

Each dwelling in this development has two bedrooms with a separate room nominated on the ground level as a ‘lounge room’, which owing to its design, could be used as a bedroom.

Given the limited space within the front set back area of the dwellings fronting Main Road where the vehicles are proposed to be located, the proposal is considered to be contrary to the purpose of the car parking provision as the location of car parking would adversely affect the amenity of the locality by being the dominant element in this streetscape and not being of a high standard.
Clause 52.29 – Land adjacent to a Road Zone Category 1

Under Clause 52.29-2, a permit is required to create or alter an access to a road in a Road Zone, Category 1. Main Road, Chewton is a Road Zone Category 1, and the development directly abuts the roadway; the application was therefore referred to VicRoads under s55 of the Act.

VicRoads have consented to the development subject to:

- All access to the subject land must be a joint access to both parcels of land (CA 178 & CA 179) at the common boundary of these parcels to the Pyrenees Highway (Main Road) and no additional vehicular access from the subject land to the Pyrenees Highway (Main Road) will be permitted.
- Vehicular driveway arrangement within the property must be designed so that all vehicles can be driven in a forward direction when entering and leaving the Pyrenees Highway (Main Road).
- This access must be sealed and designed to permit two-way traffic between the subject land and the pavement of the declared road to allow vehicles to enter and leave the property without queuing on the Pyrenees Highway (Main Road).
- Access works must be completed to the satisfaction and at no cost to Regional Roads Victoria (RRV) prior to the development coming into use.

The requirement of VicRoads to create a single joint access for both lots will require the access to be located in the middle of the combined site. In addition, the requirement for all vehicles to enter and exit in a forward direction would result in the front setback area of the dwellings becoming a parking and vehicular turnaround area, which is a design outcome not supported by the objectives and requirements of DDO11.

Clause 54 - One dwelling on a lot

Under Clause 32.05-6 of the Township Zone, and application to construct a dwelling on land under 300m² must meet the requirements of Clause 54.

The purpose of Clause 54 includes:

- To achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character.
- To encourage residential development that provides reasonable standards of amenity for existing and new residents.
- To encourage residential development that is responsive to the site and the neighbourhood.

A development must meet all the objectives of this clause and should meet all the standards of this clause.

The dwelling’s design fails by not respecting the existing neighbourhood character in this section of Chewton.

The dwelling does not reinforce the scale and character of Chewton township as the building presents as one large double storey structure that is out of proportion to the land and overwhelming in the streetscape. The layout of the dwelling does not allow for sufficient front and side setbacks that would harmonise with existing development, and the site coverage does not allow landscaping of these areas.
### Officer assessment – Clause 54 standards

<table>
<thead>
<tr>
<th>54.02-1 Neighbourhood character objectives</th>
<th>Not achieved</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character.</td>
<td></td>
</tr>
<tr>
<td>To ensure that development responds to the features of the site and the surrounding area.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.02-5 Integration with the street objective</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>To integrate the layout of development with the street. <strong>Standard A2</strong></td>
<td></td>
</tr>
<tr>
<td>Dwellings should be oriented to front existing and proposed streets.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.03-1 Street setback objective</th>
<th>Complies - 6 metres from a Road Zone 1 if there are no existing building on the abutting allotments</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.03-2 Building height objective</th>
<th>The height to the top of the pitched roof form would be 8.6 metres, complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that the height of buildings respects the existing or preferred neighbourhood character. <strong>Standard A4</strong></td>
<td></td>
</tr>
<tr>
<td>The maximum building height should not exceed the maximum height specified in the zone, schedule to the zone or an overlay that applies to the land. If no maximum height is specified in the zone, schedule to the zone or an overlay, the maximum building height should not exceed 9 metres.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.03-3 Site coverage objective</th>
<th>56% site coverage, complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site. <strong>Standard A5</strong></td>
<td></td>
</tr>
<tr>
<td>The site area covered by buildings should not exceed 60 per cent.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.03-4 Permeability objectives</th>
<th>At least 20% of the site would be pervious</th>
</tr>
</thead>
<tbody>
<tr>
<td>To reduce the impact of increased stormwater run-off on the drainage system. To facilitate on-site stormwater infiltration. <strong>Standard A6</strong></td>
<td></td>
</tr>
<tr>
<td>At least 20 per cent of the site should not be covered by impervious surfaces.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.03-5 Energy efficiency objectives</th>
<th>The dwelling is orientated to maximize solar access, particularly to its living areas at ground level.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To achieve and protect energy efficient dwellings To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy. <strong>Standard A7</strong></td>
<td></td>
</tr>
<tr>
<td>Buildings should be:</td>
<td></td>
</tr>
<tr>
<td>❑ Oriented to make appropriate use of solar energy.</td>
<td></td>
</tr>
<tr>
<td>❑ Sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.04-1 Side and rear setbacks objective</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

**Standard A10**
A new building not on or within 150mm of a boundary should be set back from side or rear boundaries:
If no distance is specified in the schedule to the zone, 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres. Sunblinds, verandahs, porches.

<table>
<thead>
<tr>
<th>54.04-2 Walls on boundaries objective (sA11)</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
</tr>
<tr>
<td>No new walls proposed</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.04-3 Daylight to existing windows objective (sA12)</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into existing habitable room windows.</td>
</tr>
<tr>
<td>Complies</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.04-5 Overshadowing open space objective (sA14)</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure buildings do not significantly overshadow existing secluded private open space.</td>
</tr>
<tr>
<td>Complies, No secluded private open space would be affected by the proposal</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.04-6 Overlooking objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>To limit views into existing secluded private open space and habitable room windows.</td>
</tr>
<tr>
<td>Complies</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.05-2 Private open space objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide adequate private open space for the reasonable recreation and service needs of residents.</td>
</tr>
<tr>
<td>Complies, the dwelling would have 40m²</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.05-5 Solar access to open space objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow solar access into the secluded private open space of new dwellings</td>
</tr>
<tr>
<td>Complies</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.06 –Detailed design objective (sA19)</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage design detail that respects the existing or preferred neighbourhood character</td>
</tr>
<tr>
<td>Not achieve, as the design is visually dominate in this streetscape and does not reflect the existing built form in this section of Chewton</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.05-5 Solar access to open space objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow solar access into the secluded private open space of new dwellings</td>
</tr>
<tr>
<td>Complies</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>54.06 –Detailed design objective (sA19)</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage design detail that respects the existing or preferred neighbourhood character</td>
</tr>
<tr>
<td>Not achieve, as the design is visually dominate in this streetscape and does not reflect the existing built form in this section of Chewton</td>
</tr>
</tbody>
</table>
Whilst the dwelling achieves compliance with parts of Clause 54 as demonstrated above, the dwellings design essentially fails to respect the existing neighbourhood character in this section of Chewton and has ignored the design objectives of the DDO11.

Issues

Design and Development Overlay

As noted, the design of the dwelling is not considered to achieve the objectives and outcomes of the Overlay.

Neighbourhood character is essentially a combination of design considerations across the public and private realms. Every property, public place or piece of infrastructure contributes in some way to neighbourhood character. It is the cumulative impact of all these contributions that establishes neighbourhood character. The key to understanding character is being able to describe how the features of an area come together to give that area its own character, but the fact that an element or characteristic does not exist does not mean a modern design cannot include new elements that will form part of the future or preferred character.

The character of the immediate area of the site comprises open views to the Castlemaine Diggings National Park to the north, established residential dwellings to the south, including a mix of architectural designs, all being set back from the Main Road and having some garden/vegetation in this setback area, not a car parking and turnaround area.

Beyond the immediate locality, particularly to the west of the subject site, the area comprises a more densely built form including several buildings located within the Heritage Overlay, buildings having a zero setback to the Main Road and several verandahs over the road reserve, having more of a commercial appearance. To the east, the low scale residential development continues along the meandering Main Road.

The Design and Development Overlay includes objectives to reinforce the scale and character of Chewton through good design which reflects the existing elements of the setting. The style, scale and layout of the proposed dwellings is distinctly different to the prevailing and existing character of the buildings in this area and has completely ignored the preferred design objectives outlined in the DDO11. The form of the proposed dwellings aligns with a desire by the applicant to utilise the existing titles, resulting in a ‘duplex’ or side by side arrangement of the dwellings.

The dwellings do not reinforce the scale and character of Chewton Village; having a building that presents as one large double storey building being out of proportion to the land will overwhelm the streetscape. The layout of the dwellings on the land does not allow for sufficient front and side setbacks that would be harmonious with existing development, and site coverage and design does not allow landscaping of these areas. The set back and foot print of the building on the two lots would limit views beyond the site to the rear Castlemaine Diggings Heritage Park, and given its overall height to 8.6 metres, would detrimentally affect the significance and cultural heritage values, contrary to existing development.

The design of the buildings relies on the parking of vehicles (and turnaround area) within the front set back of the dwellings, ensuring that vehicles and access would dominate this design. The use of zincalume on the roof material is contrary to the materials being in muted tones.
The key issue is that the proposed development does not respect the existing and prevailing character of the Chewton Township and contrary to the design outcomes of the DDO11.

State Planning Policy – Neighbour Character

State Planning Policy relating to neighbour character seeks to achieve building design outcomes that contribute positively to the local context and ensure new development contributes to existing or preferred neighbourhood character.

The proposed development does not enhance the form, scale and appearance of the existing built form and would not contribute to the preferred or existing character of the Chewton township.

As noted, the design, layout and scale of the dwellings on the land does not respond to its context, presenting as one large double storey dwelling, having minimal setbacks from both the front and side boundaries, having no provision and limited scope for landscaping within the front set back area where vehicles are proposed to be located. The dominate streetscape features of the development is the proposed 5.7 metre solid wall facade extending up to a 8.6 metre high roof pitch, and vehicle parking within this limited front set back area. These design elements are distinctly different to the prevailing character of buildings in the streetscape and contrary to the design outcomes of this policy.

Outstanding objections to the application

The application was advertised in accordance with Sections 52(1)(a) and 52(1)(d) of the Planning and Environment Act 1987 to the owners and occupiers of adjoining land. A sign was also placed on the site. One objection was received, stating:

The design of the dwelling is not sympathetic to the Chewton Village streetscape.

Officers agree with this concern. As expressed in this report, the design, scale, siting, materials and lack of landscaping of the dwellings are not considered to be an appropriate design response in this location, and the recommendation is to refuse the application.

The dwelling would not achieve the objectives and outcomes of the DDO11.

Officers agree with this concern. The design of the dwelling does not achieve the objectives and outcomes of the DDO11.

The location of the land on a main road will create a high risk of collision

Officers do not agree with this concern. VicRoads have provided conditional consent to the application, requiring all vehicles to enter and exit in a forward motion, if a permit was to issue. The occupants of the dwelling would be required to comply with these conditions and obey the road rules.

That notwithstanding, changes to the design to meet VicRoads requirements would create further conflicts with policy and the DDO11.

Alternative Options

Council could approve the application, however the application does not comply with the Planning Scheme as demonstrated in this report.

Financial and Resource Implications

Cost of potential appeal to the Victorian Civil and Administrative Tribunal.
Consultation

Advertising

Notice of the application was given in accordance with Sections 52(1)(a) and 52(1)(d) of the Planning and Environment Act 1987 to owners and occupiers of adjoining land and. A sign was also placed on the site.

No applicant-objector meeting was undertaken as the applicant was not willing to amend the application in response to Officer or objector concerns.

External Referrals

• CFA – conditional consent.
• Vic Roads – conditional consent.

Internal Referrals

• Council’s Infrastructure Unit – conditional consent.
ECO 20  PLANNING PERMIT APPLICATION 227/2018 FOR THE USE AND
DEVELOPMENT OF A DWELLING AT 154 MIA MIA TRACK NEWSTEAD

Responsible Director:  Director Infrastructure and Development
Responsible Officer:  Manager Development Services
Original Document:  DOC/19/19126

Executive Summary

Council has received an application for the use and development of a dwelling at 154 Mia Mia Track, Newstead. The site is located within the Farming Zone and is covered by the Bushfire Management Overlay. The triggers for the planning permit are the Farming Zone, as the land is less than 40 hectares in size (8.094 hectares), and the Bushfire Management Overlay for buildings and works associated with the use of accommodation.

The application does not achieve the outcomes and objectives of the Farming Zone and the provisions of the Planning Scheme seeking the protection of agricultural land from non-agricultural uses.

The site is located in a significant bushfire risk landscape and CFA are not satisfied that the siting of the proposed dwelling can achieve the appropriate Bushfire Attack Level (BAL) rating. The Bushfire Management Statement relies on the use of Crown Land to achieve the required BAL rating of BAL-29, and DELWP have not consented to that approach. DELWP will not provide consent to use Crown Land for the purpose of providing defendable space.

The proposed dwelling cannot meet the appropriate setbacks and cannot contain its defendable space on the property. It is therefore not suitable to covert this building into a dwelling.

It is therefore recommended that the application be refused.
**RECOMMENDATION**

That Council issue a Notice of Decision to Refuse a Planning Permit for the use and development of a dwelling at 154 Mia Mia Track, Newstead on the following grounds:

1. The proposal is contrary to the State and Local Planning Policy Framework as they relate to the protection of agricultural land.
2. The use and development of a dwelling on a site less than 40 hectares is contrary to the purpose and decision guidelines of the Farming Zone.
3. The proposal would not support and enhance agricultural production.
4. The proposal does not meet the siting, defendable space and construction objectives of the Bushfire Management Overlay.
5. The proposal does not meet the objectives of Clause 53.02-4 (Bushfire Planning).

**MOVED COUNCILLOR NIEMAN**

That the matter be deferred to a future Ordinary Meeting of Council in order to seek more information.

**SECONDED COUNCILLOR PETRUSMA**

**NOT CARRIED.**

**MOVED COUNCILLOR GARDNER**

That Council issue a Notice of Decision to Refuse a Planning Permit for the use and development of a dwelling at 154 Mia Mia Track, Newstead on the following grounds:

1. The proposal is contrary to the State and Local Planning Policy Framework as they relate to the protection of agricultural land.
2. The use and development of a dwelling on a site less than 40 hectares is contrary to the purpose and decision guidelines of the Farming Zone.
3. The proposal would not support and enhance agricultural production.
4. The proposal does not meet the siting, defendable space and construction objectives of the Bushfire Management Overlay.
5. The proposal does not meet the objectives of Clause 53.02-4 (Bushfire Planning).

**SECONDED COUNCILLOR CORDY**

**CARRIED.**
Context

The purpose of this report is to enable Council to make a determination on an application for the use and development of a dwelling at 154 Mia Mia Track, Newstead. The application has been referred to Council for a decision because Council officers are recommending the application be refused.

Refer to:
Attachment ECO 20A: PA227/2018 – Site context and aerial.
Attachment ECO 20B: PA227/2018 – Final plans submitted with application.

The application was lodged on 8 August 2018 for the use and development of a dwelling at 154 Mia Mia Track, Newstead. The land is located within the Farming Zone and is covered by the Bushfire Management Overlay.

The proposal is to convert an existing shed into a dwelling. The dwelling would be located 60 metres from Mia Mia Track and approximately 25 metres to the southern boundary.

The dwelling includes an open plan living, dining area and a separate kitchen area, two bedrooms and two bathrooms. Access to the dwelling would be via the existing access off Mia Mia Track. The dwelling would not be associated with an agricultural use and the applicant has stated they will use the land to grow and harvest foliage for flower arrangements.

The land is located approximately three kilometres to Newstead and apart from the northern boundary which is a similar sized farming block the surrounding land is crown land.

The land contains a number of buildings and is heavily vegetated with eucalypts and wattle trees and three small dams located in the northern portion of the site. The land has a 402 metre frontage to Mia Mia Track and has a width of 201 metres, having a total area of 8.094 hectares. Adjoining land to the north contains a shed and to the south and west is Crown land. Land across the road is also Crown land.

In 2018 Council requested the applicant provide further information that clarified the legal status of access into the property, particularly with respect to Crown Land and an adjoining road reserve. The applicant contested Council’s request at VCAT in January 2019; however, the issue of access was resolved without VCAT making an Order, and the application can proceed for determination by Council.

Policy and Statutory Implications

Planning Policy Framework (PPF)

Clause 13.02-1S Bushfire Planning

The objective of this clause is to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

Strategies include:

- Prioritising the protection of human life over all other policy considerations.
- Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.
• Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process.

Clause 14.01-1 Protection of Agricultural Land
This clause aims to protect productive farmland which is of significance in the local or regional context and also protect unplanned loss of agricultural land due to permanent changes in land use. Strategies include:

Limit new housing development in rural areas by:

• Directing housing growth into existing settlements.
• Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
• Encouraging consolidation of existing isolated small lots in rural zones.

Clause 14.02-1 Catchment Planning and Management
The objective of this clause is to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.

Clause 14.02 -2 Water Quality
The objective of this clause is to protect water quality.

Clause 16.01-5S-1 Rural Residential Development
Planning should manage development in rural areas to protect agriculture and avoid inappropriate rural residential development. Strategies include:

• Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.
• Discourage development of small lots in rural zones for residential use or other incompatible uses.

Local Planning Policy Framework (LPPF)

Clause 21.02 Vision and framework plan
This clause contains some of the guiding policy linking the municipal vision, derived from Mount Alexander Shire Council Plan, to the land use and development planning vision for the Shire. This policy identifies the unique and identifiable character of the Shire’s townships and rural environs and the need to manage and sensitively develop the built and natural resources of the Shire in ways which are ecologically sustainable and secure an improved economic future, enhances lifestyle quality and maintains heritage character.

Clause 21.03-3 Rural Living
This clause recognizes that rural living has been a part of the rural landscape in the Mount Alexander area for many years. The desire to live in a rural environment is a key element of the Shire’s attraction for many new residents.

Clause 21.04-3 Rural and landscape character
This policy recognises the importance and appeal to both residents and visitors of the rural appearance and character of the Shire. When deciding on an application for development of land in rural zones, Council should consider, where appropriate, issues such as the effect on views and the natural landscape, setbacks of nearby development and consideration of topographical features in the siting of the development.
Clause 21.06-1 Protection of agricultural land
Policy within this clause recognises the prominent role that agriculture plays in the Shire. General mapping of agricultural land quality units and water resources are mapped in this clause. Objectives aim to protect land and water resources relied upon by agriculture, particularly land of local and regional strategic significance.

Strategies to implement the objectives of this clause include:

- Promote agriculture and horticulture as the primary land uses in the Shire unless other land uses are strategically justified.

This clause identifies agriculture as the predominant land use in the Shire. Productive capacities of various areas of the Shire are outlined based on land quality. The site is located within an area of low agricultural quality, while moderate is the highest rating available within the Shire.

Clause 21.06-3 Water
This clause aims to protect and improve water quality and quantity in the Shire. Policy recognises the poor condition of water catchments, including open potable water catchment areas, which cover much of the Shire and outline strategies to address identified issues.

Opportunities to provide for new rural living development in the Shire are limited. The Rural Land Study (2014) found that agriculture should be the primary land use in the Shire’s rural areas. The key issue identified in that Study is protecting productive agricultural land from rural living development.

Clause 22.04 Use and development of land in the Farming Zone and Rural Living Zone
The policy basis for this clause builds on other Municipal Strategic Statement objectives of:

- Clause 21.03 - provide for rural living development in identified areas.
- Clause 21.03 - ensure that rural living development is economically sustainable.
- Clause 21.06 - protect the land resources relied upon by agriculture.

The policy basis acknowledges that the fragmentation of productive agricultural land is to be avoided to ensure the productive capacity of the land is maintained. Objectives include that use and development of land for a dwelling is required to support the rural use of land, ensuring that dwellings do not adversely impact on agricultural activities on adjacent site and that a proposed dwelling will not result in the loss or fragmentation of productive agricultural land.

Zoning
The land is within the Farming Zone. The purpose of the Farming Zone includes:

- To implement the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
Under Clause 35.07-1 a permit is required for dwelling on land less than 40 hectares. Building and works associated with a Section 2 Use also require a permit under Clause 35.07-4 of the Farming Zone.

Overlays

Clause 44.06 Bushfire Management Overlay

Pursuant to Clause 44.06-1 a planning permit is required for construction of a dwelling and associated outbuildings, and such proposals must meet the requirements of Clause 53.02.

Issues

Farming Zone

The State Planning Policy Framework and Local Planning Policy Framework place a strong emphasis on protecting agricultural land for on-going agricultural use, and avoiding dwellings adversely affecting this preferred outcome.

There is a clear direction throughout State and Local Planning Policies, particularly Clauses 14.01-1, 16.01-5S, 21.02, 21.03-3, 21.04-3, 21.06-1, and 22.04, to focus rural living into areas zoned for that purpose; to discourage development of small lots throughout the Shire; and to discourage the use of existing old Crown allotments in the Farming Zone for rural living purposes.

The following reasons have been provided by the applicant to justify why a dwelling on the land would support the ongoing use of the land for agriculture:

The application states that minor horticultural activities would take place including growing and harvesting foliage for flower arrangements.

In this instance, the use and development of a dwelling would not enhance or support agricultural production on the subject site. Information submitted with the application provides insufficient justification to demonstrate how the proposed use and development would enhance agricultural productivity on the land, at a scale which is consistent with the use of the land for a dwelling. The proposed horticultural activities can be undertaken in the absence of a dwelling on the land.

The construction of a dwelling on the lot is not a prerequisite for the establishment of a horticultural use. The predominant land use will be primarily residential rather than agriculture or horticulture, an outcome which is not supported by policy.

The issue of whether the proposed use and development of a dwelling would result in an acceptable planning outcome when having regard to the purposes of the Farming Zone and the relevant planning policy that deals with use and development on agricultural land has been subject to a number of VCAT decisions.

In P1299/2016, Russell Smith Town Planning Vs Mount Alexander, 11 January 2018, an application for a dwelling on 8385m² of land at 68 Sargeants Road, Taradale, and a permit was not granted based on the following conclusions from Member Potts:

- The proposal for a dwelling on this lot has made no pretence to be anything other than a use and development of the land for rural living. Such a proposal is however contrary to the purposes of the zone and the objectives of a raft of planning policies.
- I reject the notion that a small lot in an area of other small lots has lost its potential for productive agricultural use. The subject land is capable of being incorporated
into and supporting a smaller scale agricultural enterprise. The use of the land for a
dwelling however would remove this potential.

- The reasons of Member Bennett in Tarenidis & Anor v Greater Bendigo City Council
tabled by the Council are on point here. Member Bennett stated that:
- The size of a rural lot does not determine whether it is productive agricultural land
although the term productive often seems to mean viable, and unproductive to mean
unviable.
- I agree and to expand this theme, often some interpret productive to mean
commercially viable or supporting a profitable agricultural enterprise. Such
interpretations misconceive the use of the term ‘productive agricultural use’. It is
apparent from the scheme that the term is being used in the broader sense to mean
agricultural enterprises that result in produce. Indeed it is fair to say that many small
scale farmers require off-farm income to support themselves, however this does not
make their agricultural activity any the less relevant in the wider context of land use
planning.
- Thus I do not accept that the more intensely settled nature of this area and the
smaller lot sizes around the subject land means it has become a de-facto rural living
area with no agricultural production capacity or potential.
- From a policy perspective, the application of the FZ to the subject land and its
surrounds indicates its suitability for agriculture. A proposal to use this land for a
non-agricultural use, such as a rural living dwelling that is the subject of the proposal
before me, is counter to these policies.

In P2595/2017, Coloretti Vs Mount Alexander, 22 June 2018, VCAT upheld a decision to
refuse a dwelling at 367 Werona- Kingston Road, Werona on a 16.4 hectare parcel in
the Farming Zone, based on the following conclusions from Member Nelthorpe:

- Local policy at Clause 22.04 provides specific policy linking the use of the dwelling
to supporting the rural use of land, protection of agriculture on adjoining land and
avoiding the loss or fragmentation of productive agricultural land. The policy seeks
to discourage new dwellings on small lots in the Farming Zone, particularly if they
have been created prior to the current planning controls and would inhibit the
operation of existing farming operations.
- The above planning policy framework is clear and contains a strong desire to ensure
new dwellings on small lots (in this case, lots less than 40 hectares where permits
are triggered for use) do not result in the loss or fragmentation of farming land and
activity or are to be discouraged from locations that are isolated or remote from
settlements and services. This policy framework sets a high benchmark to be
satisfied for any application for a new dwelling.
- The purposes of the Farming Zone seek to implement planning policy and to provide
for the use for agriculture. They do not encourage dwellings on farming land. State
and local policy seeks to protect the State’s agricultural base and discourages
houses on small rural lots. Instead, it encourages the consolidation of such lots in
farming areas. The Zone’s provisions, which are intended to promote its purposes,
allow land parcels of 40 hectare or more to be used for a dwelling without requiring a
planning permit. It is reasonable to say that this indicates the planning scheme’s
aspirations.

These decisions affirm that dwellings on small lots in the Farming Zone are not an
acceptable planning outcome when considered against the relevant provisions of the
Planning Scheme.

Bushfire Management Overlay, DELWP and CFA Issues

The application initially included a Bushfire Management Statement (BMS) that indicated
the existing shed was built to a BAL 19. The application was referred to CFA and it
requested further information to demonstrate the development could meet the required BAL rating of a BAL 29.

The applicant provided an updated BMS which indicated it could not meet the approved measures in Clause 53.02. The applicant relied on an alternative measure which met the BAL-29, but it relied on the use of the Crown Land to the south for the defendable space.

DELWP advised that the adjoining Crown Land (Muckleford State Forest) must not be included in the defendable space. The Minister of Energy, Environment and Climate Change as the ‘owner’ of the Crown land, for the purposes of the Planning and Environment Act 1987, has not allowed, and remains opposed to, the use of the Crown Land for the purpose of the provision of fire protection measures, or otherwise, to facilitate development under the planning provisions.

Further, DELWP cannot guarantee that fuel level on the adjoining Crown Land would be maintained at a particular level in perpetuity, therefore Alternative Measure 3.3 under Clause 53.02 cannot apply.

In P344/2015, Spreitzer v Hepburn SC, 21 October 2015, VCAT made a decision to refuse a dwelling at 59a Hepburn Road, Daylesford which relied on Crown Land to form part of the defendable space, based on the following conclusions from Member Taranto:

- The reliance upon third parties including a public agency which has unambiguously expressed its position of non-support for the use of its land for dependable space in the first instance and its on-going management thereafter to required standards leaves me with no comfort that this proposal would be an acceptable one from a bushfire risk perspective. Put simply, there is too much uncertainty about the ability for dependable space to be maintained in perpetuity in the way that is necessary to address the specific risk management needs arising from this particular proposal. The issue has a sharper focus given that the Regional Park presents the greatest hazard to the site.
- In the particular circumstances here, the reliance upon neighbouring land to achieve a planning outcome that addresses a known environmental risk also leads me to question the acceptability of this approach from an orderly planning perspective.
- In this case, I have reached the conclusion that on balance, the proposal would not be an acceptable one. My reasons for this conclusion are based on the proposed design, height and siting of buildings which I consider are not site responsive and would result in unacceptable visual impacts in relation to neighbouring residential properties. I am also not persuaded that the defendable space required to manage fire risk can be established and maintained in a way which can be guaranteed.

CFA is not satisfied with the application as it does not meet the siting, defendable space and construction objections of the BMO. To achieve a BAL rating of BAL 29, the proposed dwelling would need defendable space of 32 metres which cannot be contained within the property boundary. CFA states the current proposal results in people being placed in a high bushfire risk environment and does not currently achieve the State’s bushfire planning objectives by prioritising life.

CFA has not formally objected to the application; however it is advising Council that the application should not be supported as it does not meet the requirements of the Bushfire Management Overlay. It is advisable that Council notes the CFA concerns, and the VCAT decision in the Spreitzer matter, given the subject site’s high exposure to bushfire risk and risk to human life.
Alternative Options

Council could approve the application, however the proposal is contrary to the relevant provisions and inconsistent with VCAT decisions on similar types of developments in the Shire. Furthermore, approval of the use and development would go against DELWP’s concerns relating to the use of Crown land for defendable space, and CFA advice relating to management of bushfire risk.

Financial and Resource Implications

Cost of potential appeal to the Victorian Civil and Administrative Tribunal.

Consultation

Advertising

Notice of the application was given in accordance with Sections 52(1)(a) and 52(1)(d) of the Planning and Environment Act 1987 to owners and occupiers of adjoining land.

Notice was sent to DELWP as the adjoining land manager of the Muckleford State Forest. DELWP have raised concerns with the BMS and will not consent to the Crown Land being used for the purpose of providing for defendable space.

Referrals

The application was referred under section 55 of the Planning and Environment Act 1987 to GMW and CFA. GMW provided conditional consent, while CFA raised significant concerns.

The application was referred internally to Council’s Infrastructure unit, which provided conditional consent.
PROPOSED DWELLING AT 154 MIA MIA TRACK, NEWSTEAD

SCALE 1:2000
DWELLING AT 154 MIA MIA TRACK, NEWSTEAD
WEST ELEVATION

SCALE 1:100
ECO 21 ADOPTION OF ANNUAL BUDGET 2019/2020

Responsible Director: Director Corporate and Community Services
Responsible Officer: Acting Executive Manager Business Performance
Original Document: DOC/19/18446

Executive Summary

Having prepared and publicly displayed the Proposed Budget 2019/2020, and having received and heard from submitters and considered all submissions received, Council is now able to consider the formal adoption of the Budget 2019/2020.

RECOMMENDATION

That Council:

1. Adopt the Budget 2019/2020, being the Budget prepared for the 2019/2020 financial year for the purposes of Section 127 of the Local Government Act 1989, including the adjustments listed in the Issues section of the paper;

2. Give public notice of this decision to adopt the Budget 2019/2020, in accordance with Section 130(2) of the Local Government Act 1989;

3. Having received and considered public submissions in accordance with Section 223 of the Local Government Act 1989, and having publicly heard from a number of these submitters, acknowledge the contribution of submitters to the budget process, and thank them for their contribution;

4. Note that $23,926,732 is to be raised by the application of rates and charges declared under Section 158 and Section 162 of the Local Government Act 1989;

5. Formally declare the Rates, Levies and Annual Service Charges for the 2019/2020 rating year as follows:

   i. In accordance with Section 158 and Section 162 of the Local Government Act 1989, the following rates and charges are declared for the rating year commencing 1 July 2019 and ending 30 June 2020

   ii. An amount of $23,928,593 (or such other amount as is lawfully raised as a consequence of this resolution) be declared as the amount which Council intends to raise by general rates and service charges; the amount is calculated as follows:

      • General Rates $19,479,927
      • Service Charges $4,416,805
      • Supplementary Rates $30,000
      • Total $23,926,732

6. Declare that General Rates be raised by the application of Differential Rates;
7. Furthermore, in declaring a Differential Rate for rateable land, the respective characteristics specified below will form the criteria for each differential rate so declared:

- **General Rate**
  The general rate applies to all rateable land except that which is classified under another differential rate

- **Farm Rate**
  All rateable land that is used solely for the purpose of farming as defined in Section 2(1) of the *Valuation of Land Act 1960*, except for properties which have an area of 2 hectares or less (excluding properties which qualify as a single farm enterprise)

- **Land Management Rate**
  All rateable land which satisfies Council’s Farm Rate criteria, are over 20 hectares in size and/or are a registered farm business and have satisfied Council’s guidelines for land management activities over the Land Management Rate Program cycle

- **Vacant Land Rate**
  All vacant rateable residential land that does not have a dwelling

- **Commercial Rate**
  All commercial rateable land, being land that is occupied for the principal purpose of carrying out the manufacture or production of, or trade in, goods or services

- **Recreational Rate**
  All rateable land upon which sporting, recreational or cultural activities are conducted and including buildings which may be ancillary to such activities. These properties have a rate of zero set in accordance with the *Cultural and Recreational Lands Act 1963*

8. Declare that a Trust for Nature Covenant rebate of 100% applies to the site value of the portion of land that is covered by the covenant.

9. Determine each differential rate by multiplying the General Rate by the relevant differential percentage as indicated in the following table:

<table>
<thead>
<tr>
<th>Differential Rate</th>
<th>Differential %</th>
<th>2019/2020 rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Rate</td>
<td></td>
<td>0.0035440</td>
</tr>
<tr>
<td>Farm Rate</td>
<td>100%</td>
<td>0.0035440</td>
</tr>
<tr>
<td>Commercial</td>
<td>130%</td>
<td>0.0046072</td>
</tr>
<tr>
<td>Land Management</td>
<td>80%</td>
<td>0.0028352</td>
</tr>
<tr>
<td>Vacant Land</td>
<td>200%</td>
<td>0.0070880</td>
</tr>
<tr>
<td>Recreational</td>
<td>0%</td>
<td>0.0000000</td>
</tr>
</tbody>
</table>
10. Record that it considers that each differential rate will contribute to the equitable and efficient carrying out of Council functions;

11. Confirm that no amount is fixed as the minimum amount payable by way of General Rate in respect of each rateable land within the municipal district;

12. Declare an Annual Service Charge, for the collection and disposal of refuse, in respect of the 2019/2020 Financial Year;

The annual service charges be the sum of, and based on the criteria, set out below:

- The Annual Service Charge (140 litre garbage bin and recycling bin) of $628 will apply to properties where a garbage collection service is provided and the capacity of their refuse bin is 140 litres; and

- The Annual Service Charge (80 litre garbage bin and recycling bin) of $433 will apply to properties where a garbage collection service is provided and the capacity of their refuse bin is 80 litres.

13. Adopt the following arrangements for interest on rates and charges:

- Declare that interest is to be charged in accordance with Section 172 of the Local Government Act 1989, on any amounts of rates and charges which have not yet been paid by the date fixed by the Minister in accordance with Section 167(2) of the Local Government Act 1989; and

- That the interest to be charged is at the rate, fixed under Section 2 of the Penalty Interest Rates Act 1983, that applied on the first day of July immediately before the due date for payment calculated from the date on which the instalment was due; and

14. Authorise the Director Corporate and Community Services to levy and recover general rates and charges and the annual service charges described earlier in this resolution, in accordance with the Local Government Act 1989.

MOVED COUNCILLOR LESSER

That the recommendation be adopted.

SECONDED COUNCILLOR NIEMAN

CARRIED.
Context

The purpose of this report is for Council, having considered submissions made on the Proposed Budget 2019/2020, adopt the Budget 2019/2020 and declare the differential rates for the 2019/2020 financial year in the Budget and give public notice of that decision in accordance with the *Local Government Act 1989* (the Act).

Refer to:


The Budget has been prepared having considered Council priorities and commitments as outlined in the Council Plan 2017–2021 and Council’s Long Term Financial Plan.

At the Ordinary Meeting of Council held on 16 April 2019, Council resolved to give public notice in accordance with Section 129(1) of the Act that it had prepared a budget for 2019/2020.

Public notice was given in the Castlemaine Mail and Midland Express and the Proposed Budget 2019/2020 was made available for inspection at the Civic Centre and on Council’s website with submissions in writing being received up until 5.00 pm on Wednesday 15 May 2019.

Twelve submissions were received and a Special Meeting of Council was held on 21 May 2019 to hear submitters who wished to speak to their submissions. Five individuals or organisations spoke about their six submissions at this Special Meeting.

Policy and Statutory Implications

Section 127 of the Act states that Council must prepare a budget for each financial year.

Section 129 of the Act states that Council must give public notice that a budget has been prepared and that a person has a right to make a submission under Section 223 of the Act.

Section 130 of the Act states that Council must adopt the budget by 30 June each year and must submit a copy of the budget to the Minister for Local Government within 28 days of adopting the budget.

Council must comply with Part 8 of the Act when setting rates and charges on rateable land. The valuation of properties is conducted in accordance with Part II of the *Valuation of Land Act 1960*.

Issues

Consideration of Submissions

The separate attachment details a summary of the public submissions made, and response to each submission. The following issues and requests were raised in the submissions received:

- Rating arrangements, sustainability of rates and the impact of rates on farms.
- Reconstruction of levees.
• Request for road works.
• Street trees, streetscapes, cycleways and Victory Park play space.
• Hard rubbish collection service.
• Upgrades to Memorial Park Newstead.
• Funding to deliver a LGBTIQ+ / SSAGD specific space for young people.
• Economic development.
• Preservation of heritage in Castlemaine.
• Prevention of family violence.
• Site of Shire Library.
• Disposal of excess Council land and buildings.
• Employment of trades people.
• Monetary contribution to the Castlemaine State Festival.
• Clean up of the Forest Creek Channel.
• Campbells Creek Trail and implementation of the Flood Management Plan.
• Support for the Mount Alexander Seniors Festival.
• Review of the Walking and Cycling Strategy and cycling infrastructure.

Proposed Changes
Changes and additional items during the public advertising period:

<table>
<thead>
<tr>
<th>Description</th>
<th>$'000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating grants - original draft budget</td>
<td>7,127</td>
</tr>
<tr>
<td>Increase in grant funding for Commonwealth Home Support Packages</td>
<td>64</td>
</tr>
<tr>
<td><strong>Adjusted operating grants - budget proposed for adoption</strong></td>
<td>7,191</td>
</tr>
<tr>
<td>Fees and fines and user fees - original draft budget</td>
<td>2,129</td>
</tr>
<tr>
<td>Increase in subdivision plan checking fees</td>
<td>15</td>
</tr>
<tr>
<td>Increase in legal point of discharge fees</td>
<td>18</td>
</tr>
<tr>
<td>Increase in building certificate fees</td>
<td>4</td>
</tr>
<tr>
<td><strong>Adjusted fees and fines and user fees - budget proposed for adoption</strong></td>
<td>2,153</td>
</tr>
</tbody>
</table>
## Rates and charges - original draft budget

<table>
<thead>
<tr>
<th>$’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>23,961</td>
</tr>
</tbody>
</table>

## Changes as a result of the rates cap calculation (based on finalised supplementary valuations and the return of the 2019 general revaluation)

<table>
<thead>
<tr>
<th>$’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>-34</td>
</tr>
</tbody>
</table>

## Adjusted rates and charges - budget proposed for adoption

<table>
<thead>
<tr>
<th>$’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>23,927</td>
</tr>
</tbody>
</table>

### Risk Analysis

Failure to adopt the budget by the required statutory date may pose a reputational risk to Council in terms of expectations of ratepayers and our relationship with the State Government. It also presents a challenge to staff who require the budget to be adopted so they can plan and manage the delivery of their works, services and projects at the commencement of the financial year.

### Declarations of Conflicts Of Interest

Under section 80C of the Act, officers providing advice to Council must disclose any interests, including the type of interest. The Responsible Officer reviewing this report, having made enquiries with the relevant members of staff, reports that:

- No disclosable interests have been raised in relation to this report.

### Alternate Options

Council must adopt a budget; there are no alternate options. However Council can amend the projects and services included in the adopted budget.

### Financial and Resource Implications

The budget document details both the operating and capital incomes and expenditure for Council for the 2019/2020 financial year. The budget includes detailed information on the operating result, capital expenditure, rating as well as cash and investments, borrowings and reserve balances.

### Consultation

The Section 223 public consultation process has been completed in accordance with the Act. The Proposed Budget 2019/2020 was on public exhibition for the statutory period of at least 28 days.

Twelve submissions were received and a Special Meeting of Council was held on 21 May 2019 to hear submitters who wished to speak to their submissions. Five individuals or organisations spoke about their submissions at this Special Meeting.
Executive Summary

The purpose of this paper is to present for adoption the draft 2019/2020 Fees and Charges Schedule.

RECOMMENDATION

That Council adopts the draft 2019/2020 Fees and Charges Schedule.

MOVED COUNCILLOR PETRUSMA

That the recommendation be adopted.

SECONDED COUNCILLOR GARDNER

CARRIED.
Context

Each year fees and charges for Council services are reviewed, having considered the target revenue increases in the Long Term Financial Plan and current operational requirements.

Fees and charges form a significant percentage of Council’s revenue stream. This is proposed to be 5.62% in 2019/2020 (6.35% in the adopted 2018/2019 budget).

We have incorporated some required late changes to the fees and charges and have updated the expected levels of income in the 2019/2020 budget.

Refer to:


Policy and Statutory Implications

Section 113 of the Local Government Act 1989 (the Act) allows Councils to prescribe a fee, charge, fare or rent in relation to any property, goods, service or other act, matter or thing; and … prescribe the fee which is payable for the granting, renewal or transfer of a permit, licence, authority or registration.

The Council Plan 2017-2021 includes a strategy of ‘maintaining financial sustainability to deliver the Council Plan’. Councillors will promote and ensure responsible financial management by setting realistic fees and charges for Council provided services in accordance with Council’s Pricing Policy. This policy uses four pricing models when settings fees - full cost recovery, accessible pricing, disincentive pricing and market pricing. Some fees are set by legislation and therefore are statutory pricing.

Issues

A summary of the key changes are as follows.

Fees are largely proposed to increase by around 2.5%, in keeping with the Fair Go Rates System. All fees are rounded to the nearest dollar, except in the Community Wellbeing unit where these are rounded to the nearest five cents. This takes into account the more vulnerable and lower income demographic that use these services.

Venues

It is proposed to increase venue hire charges by an average of 2.4%.

Active Community Facilities

A new child swimming pool season ticket fee of $48 is proposed to reflect the current practice of charging patrons for this item.

Swimming pool entrance charges are proposed to have no increase in the 2019/2020 budget as they have been benchmarked across similar outdoor pool facilities and the charges are within a reasonable range for this type of facility. It is proposed that these fees be reviewed again and possibly increased in 2021/2022, when the current operational contract reaches its extension point, possibly allowing some scope to increase fees and decrease contract costs.
Community Wellbeing

It is proposed to increase charges for funded services by an average of 2.5%. The exception to this is the 19.4% increase to the provision of podiatry foot care kits, which was recently reviewed. This is due to the increasing costs of supplies and the fact that this fee has not been increased in some time.

Building Services

It is proposed to increase charges for building services generally by 2.5%. One exception to this is the 24.3% increase to the hourly charge for a Building Surveyor to $209. This is due to the significant cost Council incurs in providing this service.

Fees for commercial building works have been introduced in response to changes in the building regulations.

Local Laws

Infringements and parking fines are statutory fees and are set according to the number of penalty units incurred, as well as the value of a penalty unit. For example, a planning compliance fine incurs 5.0 penalty units at a penalty unit fee of $165.22 (5 x $165.22 = $826.10).

Animal registrations are proposed to increase by 2.9%.

Fees for replacement animal tags have been removed to encourage greater compliance and to provide assistance in returning lost animals to their owners. In addition, pound fees have been simplified, and some lowered, to encourage animal collection.

A fee has been introduced to partially cover officer time and costs of replacing disabled parking permits when lost or unduly damaged. This process continues to be free for the initial permit application or if the permit is stolen.

Time tiers have been introduced into Local Laws 2 (Roads and Council Land) and 3 (Environment) for commercial use of public space, the pricing being based on time.

Similarly, fees for providing outdoor eating facilities have been expanded based on the type of footpath obstruction e.g. seat, table, street furniture.

An annual fee is proposed for directional signs for real estate agents that are displayed for commercial use of public space. This is to ensure consistency with other traders.

Environmental Health

Increases to septic tank application fees and some food registrations are proposed to more appropriately recover costs and to equate with surrounding councils.

Statutory and Strategic Planning

We are yet to be advised by the State Government of a number of increases to statutory fees. Included in the proposed schedule will be a note that statutory fees are subject to change by the State Government.

Increases to some advertising fees and second request for extension of time are proposed to more appropriately recover costs and to equate with surrounding councils.

Infrastructure

Engineering services charges are proposed to increase by an average of 2.6%.
**Waste Management**

Charges for depositing waste at the landfill will increase by around 2.7% to assist with the cost of waste services.

Charges for e-waste categories will increase by an average of 1.9% to cover transport costs to processing.

**Risk Analysis**

Nil.

**Declarations of Conflicts of Interest**

Under section 80C of the Local Government Act 1989, officers providing advice to Council must disclose any interests, including the type of interest. The Responsible Officer reviewing this report, having made enquiries with the relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

**Alternate Options**

Nil. Council must adopt a schedule of fees and charges however it may elect to alter the fees and charges from that proposed.

**Financial and Resource Implications**

The proposed Schedule of Fees and Charges presented gives a detailed listing of Council’s fees and charges for 2019/2020 including the increase/decrease from 2018/2019.

**Consultation**

Nil.
ECO 23    FINANCIAL MANAGEMENT REPORT TO 31 MARCH 2019 - QUARTER 3

Responsible Director:  Director Corporate and Community Services
Responsible Officer:  Acting Executive Manager Business Performance
Original Document:  DOC/19/18694

Executive Summary

The purpose of this report is to present the Financial Management Report for the quarter ending 31 March 2019.

RECOMMENDATION


MOVED COUNCILLOR HENDERSON

That the recommendation be adopted.

SECONDED COUNCILLOR LESSER

CARRIED.
Context

Regular review of financial performance and reporting of Council activities provides an overview as to how different programs and projects are being delivered. This reporting assists in monitoring Council’s achievement of objectives in the Strategic Resource Plan and Annual Budget whilst ensuring that Council is financially sustainable in the long term.

The Financial Management Report is presented to Councillors at Briefing Sessions and at an Ordinary Meeting of Council on a quarterly basis.

The Financial Management Report presented includes the following information:

- Income Statements.
- Balance Sheet.
- Statement of Capital Works in Progress.
- Investment Register.

Refer to:


Policy and Statutory Implications

Section 138 of the \textit{Local Government Act 1989} (the Act) requires the Chief Executive Officer to present a statement comparing the budgeted income and expenditure with the actual income and expenditure to the Councillors at least every three months.

The Council Plan 2017-2021 includes a strategic objective of ‘an innovative and sustainable organisation’ and strategy of ‘maintaining financial sustainability to deliver the Council Plan’.

Councillors will promote and ensure responsible financial management by receiving and reviewing quarterly financial reports, using agreed project management processes for large projects and conducting regular internal audits of Council activities.

Issues

The Financial Management Report prepares a snapshot of the year to date financial performance for the 2018/2019 financial year and the current budget includes the adopted carry forwards budgeted for capital projects, special projects and operating items.

Risk Analysis

Not applicable.

Declarations of Conflicts Of Interest

There are no disclosable interests have been raised in relation to this report.

Alternate Options

Nil.
Financial and Resource Implications


Consultation

Nil.
ECO 24 PROCUREMENT POLICY UPDATE 2019

Responsible Director: Director Corporate and Community Services
Responsible Officer: Procurement Coordinator
Original Document: DOC/19/18324

Executive Summary

Council’s existing Procurement Policy was adopted by Council in June 2018. Under the requirements of Section 186A of the Local Government Act 1989 (the Act), Council must prepare a Procurement Policy, and at least once in each financial year Council must review its Procurement Policy and may, in accordance with Section 186A of the Act, amend the Procurement Policy.

The policy must be adopted by 30 June 2019.

RECOMMENDATION

That Council:


2. Makes copies of the Procurement Policy 2019 available to the public and on Council’s website in accordance with section 186A(8) of the Local Government Act 1989.

MOVED COUNCILLOR PETRUSMA

That the recommendation be adopted.

SECONDED COUNCILLOR GARDNER

CARRIED.
Context

Council’s existing Procurement Policy was adopted by Council in June 2018. Under the requirements of Section 186A of the Local Government Act 1989 (the Act), Council must prepare a Procurement Policy and at least once in each financial year Council must review its Procurement Policy and may, in accordance with Section 186A of the Act, amend the policy.

Refer to:


Policy and Statutory Implications

Relevant policies, strategies and plans

Under the requirements of Section 186A of the Act, Council must prepare a Procurement Policy. At least once in each financial year, Council must review its Procurement Policy and may, in accordance with Section 186A of the Local Government Act 1989, amend the Policy.

Issues

The Draft Procurement Policy 2019 has had a number of amendments. The following changes are proposed from the current version:

- Clause 2: Scope – includes Section 86 committees of management.
- Clause 2.1: Exclusions – clarification on some items following feedback from staff and removal of contractors/consultants from this clause.
- Clause 2.2: Exemptions – update wording from unforeseen urgency to unforeseen emergency.
- Clause 3.1.1: Quotations – inclusion of paragraph to address where insufficient quotations are received to address the relevant procurement threshold.
  - Clarification of mandatory evaluation criteria and when these must be applied (over $60,000 including GST).
  - Update evaluation criteria.
- Clause 3.4: Support of the local and regional economy – include reference to Mount Alexander Business Connect.
- Clause 3.5: Delegations – updated clause 8 of current policy.
- Clause 3.6: Variations – amendment of this clause and the inclusion of Appendix 1 – Contract Variation Delegation Thresholds to make it clearer who can approve variations and to what value against the original contract.
  - Appendix 1 - Clarification of cumulative variations. The total value of the original contract and all variations must be taken into account when determining if the change is within financial delegation limits.
- Clause 3.8: Contract Management, Performance Measures and Continuous Improvement – minor amendment to make this clause clearer.
- Clause 3.9: Risk Management – updated as per feedback from Risk and Safety Officer.
- Clause 3.10: Environmental Sustainability – the current policy includes in Appendix 1 Sustainable Procurement Guidelines. Following feedback from the Sustainability Officer and Executive Manager Infrastructure these guidelines have been removed and a clause embedded into the Procurement Policy. It is to be noted that an Environmentally Sustainability criteria is applied to all purchases above $60,000.
• Social Procurement – inclusion of a Social Procurement and Social Benefits clause was considered. Procurement staff are currently working with adjoining Councils to develop quotation and tender response schedules to apply to the procurement process together with the inclusion of a Social Procurement evaluation criteria. Training with Council staff and suppliers will be required to provide an understanding of Social Procurement, the inclusion within the procurement process and the benefits it could provide.
• Indigenous Procurement – inclusion of an indigenous procurement clause (separate to the Social Procurement clause) was also considered to highlight Council’s commitment towards Indigenous Procurement. Procurement staff are currently working with ArcBlue Consultants, City of Greater Bendigo and Loddon Shire to develop an Aboriginal Procurement Strategy.
• As the Aboriginal Procurement Strategy is in the early stages of development a clause has not been included in the draft Procurement Policy 2019.
• Clause 5: definitions and abbreviations used.
• Clause 6: inclusion of Human Rights Statement.

Risk Analysis

Nil.

Declarations of Conflicts Of Interest

Nil

Alternate Options

Council must review and adopt the Procurement Policy prior to 30 June 2019. Council may choose to include or exclude the suggested amendments to the proposed draft policy.

Financial and Resource Implications

Adoption of the Procurement Policy will ensure compliance with the Local Government Act and should ensure Council receives values for money in its procurement while maintaining effective and productive supplier relationships.

Consultation

A comprehensive review and comparison of Procurement Policies across the sector was undertaken to develop an improved policy. Council’s Leadership Team and other key staff regularly involved in procurement processes were provided with an opportunity to provide feedback on the current policy. The policy and proposed changes have been reviewed by Council’s Executive Team on 11 April 2019 prior to the draft policy proceeding to a Councillor Briefing on 14 May 2019.

Due to the timing of internal consultation and scheduling of meetings, the Audit and Risk Committee are not able to formally review the draft policy prior to the Council Meeting scheduled for 12 June. Therefore an Out of Session Report was circulated to members of the Audit and Risk Committee for their review. Below is the feedback received from the members that Councillors may wish to consider when adopting the Procurement Policy:

• Key Principles of the Policy to be placed at the start of page 3, after the Purpose of the Policy but before the Scope of the Policy
• Suggested tender criteria to include:
- Tendered price compared to budget
- Delivery history of the tenderer
- Third party certification of quality systems to be deployed
- Supplied references from other clients
- Ability to meet confidentiality requirements
- Quality assurance and quality control documentation requirements.
ECO 25 AUDIT AND RISK ADVISORY COMMITTEE MEETING – MARCH 2019

Responsible Director: Chief Executive Officer
Responsible Officer: Executive Manager, Organisational Capability
Original Document: DOC/19/16956

Executive Summary

This report provides a summary of the Audit and Risk Advisory Committee Meeting held on 14 March 2019. It also presents the reviewed Audit and Risk Advisory Committee Charter and seeks Council’s approval of the Charter.

RECOMMENDATION

That Council:

1. Approves the Audit and Risk Advisory Committee Charter as presented.

2. Notes the report on the Audit and Risk Advisory Committee Meeting held on 14 March 2019.

3. Notes the Minutes of the Audit and Risk Advisory Committee Meeting held on 14 March 2019.

MOVED COUNCILLOR LESSER

That the recommendation be adopted.

SECONDED COUNCILLOR PETRUSMA

CARRIED.
Context

The Audit and Risk Advisory Committee is a Committee of Council created under Section 139 of the Local Government Act 1989. The Committee's Charter governs its activities which include assisting Council in discharging its oversight responsibilities in relation to the following matters:

- Financial reporting process to ensure balance, transparency and integrity of published financial information.
- The effectiveness of Council’s internal and risk management systems.
- The effectiveness of the internal audit function.
- The independent external audit process including assessing the performance of the external auditor.
- Council's process for monitoring compliance with legislation and regulations and Council policies affecting financial reporting.
- Key policies, processes and procedures impacting the effectiveness of Council’s governance framework, including Code of Ethics, Fraud Policy, Protected Disclosure Policy, etc.
- The effectiveness of Council establishing and meeting its performance objectives.

As a Committee of Council, it is important that the Committee's activities are reported to Council following each meeting.

Refer to:

Attachment ECO 25A Audit and Risk Advisory Committee Charter.
Attachment ECO 25A Audit and Risk Advisory Committee Meeting Minutes of 14 March 2019.

Policy and Statutory Implications

Statutory powers and implications

Section 139 of the Local Government Act 1989 states:

1. A Council must establish an audit committee.
2. An audit committee is an advisory committee.
2A. The chairperson of an audit committee—
   a. must not be a Councillor; and
   b. must not be a member of Council staff; and
   c. must be suitably qualified.
3. An audit committee must be constituted in the prescribed manner.
4. An audit committee has the functions and responsibilities prescribed for the purposes of this section.
4A. Sections 76D, 79 and 81 apply to members of an audit committee as if they were members of a special committee of the Council.
(5) The Minister may make guidelines for the purposes of this section.

(6) Guidelines made under subsection (5) must be published in the Government Gazette.

(6A) The chairperson may require any report prepared by the audit committee to be listed on the agenda for the next ordinary meeting of the Council.

(7) A Council may pay a fee to a member of an audit committee who is not a Councillor or member of Council staff.

Issues

Meeting Summary

On 14 March 2019 a meeting was held and the following matters were discussed:

- The Quarterly Financial Management to 31 December 2018 was presented.

- A newly developed Enterprise Risk Management Action Plan was presented and endorsed by the Committee. The plan has been provided to the Council for consideration and approval.

- An Internal Audit Report for the Community Engagement internal audit was presented. It included 10 recommended actions under seven headings. All actions were considered medium risk.

- The Internal Audit Scope for Maternal and Child Health Records Management and Rates Revenue Management were presented. Those audits will be undertaken in May and provided to the Committee at the August Meeting for consideration and endorsement.

- The Victorian Auditor-General’s (VAGO) contractor provided an overview of the External Audit Strategy that will guide the end of financial year audit of the financial statements.

- A report was provided on work undertaken by officers to support a Section 86 Committee of Management with its governance activities.

- A verbal update on the progress of development of the 2019/20 budget was provided.

- The following standing agenda items were provided:
  - Quarterly Annual Plan Report (Quarter 2 Progress Report)
  - The Workplace Risk Management Report
  - Publications of interest to Council and/or the sector from VAGO and the Victorian Ombudsman.
Audit Committee Charter

At the meeting it was noted that the Audit and Risk Advisory Committee Charter, which was presented to the Committee for review at the meeting held on 29 November 2018, had not been provided to Council for final approval.

During the review the Committee included the following two topics into the objectives of the Charter:

1. Strategic risks
2. Workplace Risk and Safety.

It is proposed that the objectives of the Charter be amended to include the following statements:

- Strategic risk oversight to identify factors that can impact the Council in achieving its strategic objectives
- Oversight of workplace risk and safety to ensure the organisation is managing associated risks.

Risk Analysis

The Audit and Risk Advisory Committee is the Council’s assurance oversight, which is known as the third line of defence. The first and second line of defence are:

1. Management controls and internal control measures (own and manage the risks)
2. Financial controls, risk management processes, quality controls, security (such as delegations), inspection and compliance (oversee risks).

The three lines of defence are designed to improve the risk management process in the organisation, and the Committee’s work is integral to that.

Declarations of Conflicts Of Interest

Under section 80C of the Local Government Act 1989, officers providing advice to Council must disclose any interests, including the type of interest. The Responsible Officer reviewing this report, having made enquiries with the relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

Alternate Options

Council could choose not to approve the reviewed and revised Audit and Risk Advisory Committee Charter and to retain the previous version. It is considered that the amended version better reflects the current expectations of the committee however and is therefore recommended.

Financial and Resource Implications

There are no specific costs related to this report.

Consultation

Consultation has been limited to the Audit and Risk Advisory Committee as the Committee is subject to the Charter’s intent and content.
Audit and Risk Advisory Committee Charter

Purpose

The Audit and Risk Advisory Committee (the Committee) is appointed by Council and pursuant to Section 139 of the Local Government Act 1989 (the Act).

Objectives

The main objectives of the Committee are to assist Council in discharging its oversight responsibilities in relation to the following matters:

- Financial reporting process to ensure balance, transparency and integrity of published financial information;
- The effectiveness of Council’s internal control and risk management systems;
- The effectiveness of the internal audit function;
- The independent external audit process including assessing the performance of the external auditor;
- Council’s process for monitoring compliance with legislation and regulations and Council policies affecting financial reporting;
- Key policies, processes and procedures impacting the effectiveness of Council’s governance framework, including Code of Ethics, Fraud Policy, Protected Disclosure Policy, etc;
- The effectiveness of Council establishing and meeting its performance objectives;
- Strategic risk oversight to identify factors that can impact the Council in achieving its strategic objectives;
- Oversight of workplace risk and safety to ensure the Council is managing associated risks.

Authority

In performing its duties, the Committee will maintain effective working relationships with Council, management and the external and internal auditors. To perform their roles effectively, each member is expected to develop and maintain their skills and knowledge, including their understanding of the Committee’s responsibilities and of Council’s business, operations and risks.

The Committee is an independent advisory committee of Council, established pursuant to Section 139 of the Act.
Audit and Risk Advisory Committee Charter

Council authorises the Committee, within its scope of responsibilities, to:

- Perform activities within the scope of its Charter;
- Require the attendance of senior Council employees at meetings as appropriate;
- Have unrestricted access to members of the management team, employees and relevant information;
- Monitor matters reported to Council pursuant to the Protected Disclosures Act 2012 (recognising that there are strict confidentiality requirements under that legislation).

The Committee does not have executive powers or authority to implement actions in areas over which management has responsibility and does not have any delegated financial responsibility. The Committee does not have any management functions and is therefore independent of management.

Additional Powers
In accordance with Section 139 (6A) of the Act, the Chairperson may require any report prepared by the Committee to be listed on the agenda for the next Ordinary Meeting of the Council.

Conflicts of Interest
In accordance with Section 79 of the Act, members of the Committee are required to disclose all conflicts of interest and may not be eligible to vote on a matter or attend the relevant section of a meeting at which the subject of the conflict will be considered, depending on the nature of the conflict.

Members of the Committee are expected to be aware of the provisions of the Act with regard to conflicts of interest thereof. Failure to comply with the provisions of the Act with regard to conflicts of interest may result in the member's appointment being terminated.
Audit and Risk Advisory Committee Charter

Membership and Roles:

**Membership**

The Committee will be comprised of up to six members as follows:

- Two Councillors;
- At least three independent members, one of whom shall be appointed as Chairperson of the Committee by Council upon a recommendation from the Committee.

All members will have equal voting rights on all matters considered by the Committee, unless a member is unable to vote due to a conflict of interest.

The following requirements will apply to members and the appointment thereof:

- A quorum of any meeting will be at least two independent members and at least one Councillor;
- Each member should have skills and experience appropriate to Council's business;
- Each member shall be financially literate; at least one independent member must have accounting or related financial expertise;
- Appointment of independent members shall be made by Council following a public advertisement process. The evaluation of potential members shall be undertaken by at least three members of the Committee. The composition of the panel is to be gender balanced. The panel will take into account the relevant experience of candidates and their ability to apply appropriate analytical and strategic thinking to matters before the Committee. A recommendation for membership from this group will be put to Council for approval;
- Independent members of the committee shall be appointed for an initial term of up to three years and are eligible to be reappointed after the expiry of their terms to a maximum of three terms or nine years. The members have a right of reappointment after the first term, with a second term to be by application;
- The terms of each member should be arranged so that there is an orderly rotation of membership and avoidance of more than two members returning at the same time. The terms of appointment shall be aligned with the beginning of Council's financial year.
Audit and Risk Advisory Committee Charter

- If Council proposes to remove a member before the expiry of the full term of appointment, it must give written notice to the member of its intention to do so and provide that member with an opportunity to be heard at a Council meeting which is open to the public, if the member so requests.
- Remuneration will be paid to each independent member of the Committee (the basis shall be an annual fee, with an additional amount paid to the Chairperson, or a set fee per meeting, or another basis as appropriate).
- In the absence of the Chairperson from a meeting, the meeting will appoint an acting Chairperson from the external members present.
- Council shall provide appropriate secretarial and administrative support to the Committee. The Executive Manager Organisational Capability will act as the Secretary.

Roles and Responsibilities

The Committee should:

Internal Control

- Evaluate whether management is setting the appropriate 'control culture' by communicating the importance of internal control and management of risk;
- Understand the internal control systems implemented by management for approval of transactions and the recording and processing of financial data;
- Understand the controls and processes implemented by management to ensure that the financial statements derive from the underlying financial systems, comply with relevant standards and requirements, and are subject to appropriate management review;
- Evaluate the overall effectiveness of the internal control and risk management frameworks and consider whether recommendations made by the external and internal auditors have been implemented by management; and
- Consider how management is held to account for the security of computer systems and applications, and the contingency plans for processing financial information in the event of a systems failure or to protect against computer fraud or misuse.
Audit and Risk Advisory Committee Charter

Financial and Performance Reporting
- Gain an understanding of the areas of greatest financial risk and how these are being managed;
- Review significant accounting and reporting issues, including recent professional and regulatory pronouncements, and understand their impact on financial reports;
- Meet with management and the external auditors to review the financial statements, the key accounting policies and judgements, and the results of the audit;
- Ensure that significant adjustments, unadjusted differences, disagreements with management and critical accounting policies are discussed with the external auditor;
- Recommend adoption of the annual financial statements and performance report to Council. Review any significant changes that may arise subsequent to any such recommendation but before the financial statements and performance reports are signed; and
- Review the other sections of the annual report and consider whether the information is understandable and consistent with Committee members’ knowledge about Council and its operations and lacks bias.

Compliance with ‘Laws, Regulations and Governance Framework
- Review the effectiveness of the system for monitoring compliance with laws and regulations and the results of management’s investigation and follow up (including disciplinary action) of any fraudulent acts or non-compliance;
- Obtain regular updates from management and Council’s legal advisers regarding compliance matters that may have a material impact on Council’s financial statements or compliance policies;
- Have regard to regulatory compliance matters, related to Council’s business, have been considered in the preparation of the financial statements; and
- Review the findings of any examinations by regulatory agencies and the Auditor-General Victoria.

Working with Auditors - External Auditor
- Review on an annual basis the performance of the external auditors;
- Review the external auditor’s proposed audit scope and approach each year in light of Council’s present circumstances and changes in regulatory and other requirements;

Civic Centre
Cnr Lyttleton and Lloyd Sts
P.O Box 185 Castlemaine VIC 3450

(03) 5471 1700
info@mountalexander.vic.gov.au
www.mountalexander.vic.gov.au
Audit and Risk Advisory Committee Charter

- Discuss with the external auditor any audit problems encountered in the normal course of audit work, including any restriction on audit scope or access to information;
- Ensure that significant findings and recommendations made by the external auditor and management's proposed responses are received, discussed and appropriately acted upon;
- Discuss with the external auditor the appropriateness of accounting policies applied in Council's financial statements and whether they are considered as aggressive, balanced or conservative; and
- Meet separately with the external auditor to discuss any matters that the Committee or auditor believe should be discussed privately. Ensure that the auditor has access to the Committee Chairperson when required.

Working with Auditors - Internal Auditors

- Review the level of resources allocated to internal audit and the scope of its authority including the Internal Audit Charter;
- Review the scope of the internal audit plan and the effectiveness of the function, evaluating whether the plan addresses the following issues;
- Review the effectiveness of internal controls over significant areas of risk, including non-financial management control systems;
- Review the effectiveness of internal controls over key processes relating to revenue, expenditure, assets and liabilities;
- Review the efficiency and effectiveness of significant Council programs;
- Review compliance with legislation, policies, best practice guidelines and contractual arrangements;
- Review the appropriateness of special internal assignments undertaken at the request of Council or the Chief Executive Officer and whether the outcomes of such assignments have been implemented;
- Ensure that significant findings and recommendations made by the internal auditor, and management's proposed responses are received, discussed and appropriately acted upon;
- Review on an annual basis the performance of the internal auditor, and where performance is not considered satisfactory, undertakes a tender process for the appointment of a new internal auditor. The Committee Chair should lead this process;
Audit and Risk Advisory Committee Charter

- Meet separately with the internal auditor to discuss any matters that the Committee or the auditor should be discussed privately; and
- Monitor the effectiveness of liaison between the external and internal auditors to ensure Council’s audit functions as a whole are operating effectively and efficiently with a minimum of duplicated audit effort.

Access to Expert Advice

The Committee, through the Chief Executive Officer, and following authorisation by Council, and within the scope of its terms of reference, may seek information or obtain expert advice on matters of concern.

Confidentiality

All Committee members are expected to be aware of their responsibilities with regard to the confidentiality of information about Council’s affairs pursuant to Section 77 of the Act. Failure to comply with the provisions of the Act with regard to confidentiality may result in the member’s appointment being terminated.

In carrying out the duties associated with the Audit and Risk Advisory Committee, Committee members must:
- Act with integrity and impartially exercise their responsibilities in the interests of Council;
- Not improperly seek to confer an advantage or disadvantage on any person;
- Avoid conflicts between his or her public duties and his or her personal interests and obligations;
- Act honesty and avoid statements or actions that will or are likely to mislead or deceive a person;
- Exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to the position;
- Act lawfully and in accordance with the trust placed in him or her; and
- Support and promote these principles by leadership and example and act in a way that secures and preserves public confidence.
Audit and Risk Advisory Committee Charter

Meetings
Meetings shall be held not less than four times per annum and timing should be set to ensure that the Committee can properly discharge its responsibilities pursuant to this Charter.

- Special meetings may be convened as required. The secretary will convene a meeting at the request of the Chairperson, a member of the Committee, or the external and internal auditors.
- Members of the Committee are expected to attend every meeting of the Committee.

Reporting and Circulation
The secretary shall:

- Circulate the agenda and supporting documentation to members of the Committee a reasonable period in advance of each meeting (one week is the expected advance period).
- Report to Council after each Committee meeting in the form of Committee minutes or other appropriate means; and
- Report to Council annually summarising the activities of the Committee and indicating whether the Committee has addressed all items in its Charter.

Evaluation and Performance
On an annual basis the Committee must:

- Evaluate its own performance, both of individual members, and collectively. The Committee is responsible to Council for its performance.
- Review the Committee Charter and agree any changes required with Council; and
- Ensure that the Charter is approved by Council.

<table>
<thead>
<tr>
<th>Charter approved by Council</th>
<th>/ / 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signed by the Chief Executive Officer</td>
<td>/ / 2019</td>
</tr>
</tbody>
</table>

Civic Centre
Cnr Lyttleton and Lloyd Sts
P.O Box 185 Castlemaine VIC 3450

t (03) 5471 1700
e info@mountalexander.vic.gov.au
w www.mountalexander.vic.gov.au
### TABLE OF CONTENTS

1. **PRESENT**  
2. **APOLOGIES**  
3. **DECLARATIONS OF INTEREST / CONFLICTS OF INTEREST**  
4. **ACCEPTANCE OF MINUTES**  
5. **MATTERS ARISING FROM MINUTES**  
6. **FINANCE REPORTS**  
   - 6.1. QUARTERLY FINANCIAL MANAGEMENT REPORT TO 31 DECEMBER 2018  
7. **RISK MANAGEMENT REPORTS**  
   - 7.1. ENTERPRISE RISK MANAGEMENT ACTION PLAN  
   - 7.2. WORKPLACE RISK MANAGEMENT REPORT: MARCH 2019  
8. **CHIEF EXECUTIVE OFFICER REPORT – VERBAL**  
9. **MAYOR – VERBAL REPORT**  
10. **AUDIT REPORTS**  
   - 10.1. INTERNAL AUDIT REPORT – COMMUNITY ENGAGEMENT  
   - 10.2. INTERNAL AUDIT SCOPE – MATERNAL AND CHILD HEALTH RECORDS MANAGEMENT AND RATES REVENUE MANAGEMENT  
   - 10.3. EXTERNAL AUDIT STRATEGY  
11. **OTHER MATTERS**  
   - 11.1. CAMPBELLS CREEK COMMUNITY CENTRE COMMITTEE OF MANAGEMENT GOVERNANCE  
   - 11.2. QUARTERLY ANNUAL PLAN REPORT 2018/2019 – QUARTER 2 PROGRESS REPORT  
   - 11.3. BUDGET 2019/20 VERBAL UPDATE

---

**Audit and Risk Advisory Committee Meeting Minutes – 14 March 2019**  
**Page 1 of 7**

---

**Agenda for the Ordinary Meeting of Council – Mount Alexander Shire Council – 12 June 2019**  
**Page 130 of 155**
11.4 PUBLICATIONS OF INTEREST

12. NEXT MEETING

13. GENERAL BUSINESS

14. MEETING CLOSED AT 3.34 PM
1. **PRESENT**

Committee members:

Ken Belfrage (Chair), Nicole Cox, Marina Bland, Glenn Sutherland, Councillor Bronwen Machin (Mayor)

Officers: Chief Executive Officer (Darren Fuzzard), Acting Executive Manager Business Performance (Carolyn Ross for Items 6.1, 10.3, 11.2, 11.3), Executive Manager Organisational Capability (Jude Holt), Manager Community Partnerships (Gaynor Atkins for Item 10.2), Principal Governance Officer (John Taylor for Item 7.2), Risk and Safety Officer (Peter Brooks for Item 7.2)

Visitors: Councillor Max Lesser, Tahlia Dunlop (Internal Auditors - Pitcher Partners), Michal Jozwik (Internal Auditors – Pitcher Partners), Kathie Teasdale (External Auditors – RSD Audit)

2. **APOLOGIES**

Councillor Tony Cordy (Deputy Mayor)

3. **DECLARATIONS OF INTEREST / CONFLICTS OF INTEREST**

- Marina Bland informed the Committee of a new job with Department of Transport.
- Glenn Sutherland informed the Committee of his involvement with the Campbells Creek Community Centre.

4. **ACCEPTANCE OF MINUTES**

That the minutes of the Advisory Committee Meeting held on 29 November 2018 at the venue be accepted with the following amendments:

That future minutes should capture main topics and broader discussion if decisions are to be made. **Agreed**

**Moved:** Nicole Cox **Seconded:** Marina Bland

5. **MATTERS ARISING FROM MINUTES**

The matters arising from previous minutes were noted as completed with the following amendment note to Item 11.1 that the Audit and Risk Advisory Charter to be uploaded onto Docs on Tap for Councillors to access.
6. FINANCE REPORTS

6.1. QUARTERLY FINANCIAL MANAGEMENT REPORT TO 31 DECEMBER 2018

The Financial Management Report for the period to 31 December 2018 was presented and discussed.

Issues raised were:

- A suggestion for the Summary of Investments to show a breakdown of investment type in line with the Investment Policy.

Recommendation

That the Audit and Risk Advisory Committee note the quarterly Financial Management Report 1 July 2018 to 31 December 2018.

Moved: Marina Bland  Seconded: Glenn Sutherland

ACTION: Acting Executive Manager Business Performance to investigate adding a breakdown of investment type in line with the organisation's Investment Policy.

7. RISK MANAGEMENT REPORTS

7.1. ENTERPRISE RISK MANAGEMENT ACTION PLAN

The Enterprise Risk Management Action Plan was presented and there was discussion around the comprehensive approach and how it will lead to change.

Issues raised were:

- Glenn Sutherland would like to see something mentioned in the report around the positive risks of opportunity. We cannot have opportunity without risk.
- Mayor (Bronwen Machin) would like to include some detail around Councillor behaviour.

Recommendation

That the Audit and Risk Advisory Committee:

1. Endorses the Enterprise Risk Management Action Plan with modifications as per actions

2. Recommends to Council that Council formally approves the Enterprise Risk Management Action Plan.

Moved: Marina Bland  Seconded: Nicole Cox

ACTION: Executive Manager Organisational Capability to update action plan to include mention of risk and opportunity, and Councillor behaviour.
7.2. WORKPLACE RISK MANAGEMENT REPORT: MARCH 2019

The Workplace Risk Management Report: March 2019 was presented.

Recommendation

That the Audit and Risk Advisory Committee notes the Workplace Risk Management Report March 2019.

Moved: Glenn Sutherland               Seconded: Marina Bland

8. CHIEF EXECUTIVE OFFICER REPORT – VERBAL

The Audit and Risk Advisory Committee noted the CEO’s report which included the following topics:

- Recruitment for the role of Executive Manager Business Performance
- Budget Process
- Leadership development workshops
- Mayor’s leave of absence, Deputy Mayor to stand in
- Landfill rehabilitation continues to be a debate between EPA and MASC
- Risk Management – trees and trip hazards
- Community Satisfaction survey is open. No feedback to date but will present when available.

9. MAYOR – VERBAL REPORT

The Audit and Risk Advisory Committee noted the Mayor’s report which included the following topics:

- Council’s support operational efficiencies – e.g. Docs Assembler software is being considered in the budget for more efficient way of producing agendas
- Leadership Team being a partnership between Councillors and officers
- Risk – Councillor survey results
- Budget – Highlighted the smaller amount in operating budget due to rate capping.

10. AUDIT REPORTS

10.1. INTERNAL AUDIT REPORT – COMMUNITY ENGAGEMENT

The Audit and Risk Advisory Committee noted the Internal Audit Report – Community Engagement.

Recommendation

That the Audit and Risk Advisory Committee endorses the Community Engagement Internal Audit Report and accepts the 10 actions identified in the report.

Moved: Nicole Cox.               Seconded: Glenn Sutherland
10.2. INTERNAL AUDIT SCOPE – MATERNAL AND CHILD HEALTH RECORDS MANAGEMENT AND RATES REVENUE MANAGEMENT

The Audit and Risk Advisory Committee noted the Internal Audit Scope – Maternal and Child Health Records Management and Rates Revenue Management as read.

Recommendation

That the Audit and Risk Advisory Committee endorses the Internal Audit Scopes for Maternal Child Health Records Management and Rates Revenue Management.

Moved: Nicole Cox. Seconded: Ken Belfrage

10.3. EXTERNAL AUDIT STRATEGY

The Audit and Risk Advisory Committee noted External Audit Strategy as read.

Recommendation

That the Audit and Risk Advisory Committee notes the Audit Strategy for the year ended 30 June 2019.

Moved: Nicole Cox. Seconded: Glenn Sutherland

11. OTHER MATTERS

11.1. CAMPBELLS CREEK COMMUNITY CENTRE COMMITTEE OF MANAGEMENT GOVERNANCE

The Audit and Risk Advisory Committee noted the Campbells Creek Community Centre Committee of Management Governance report as read.

Recommendation

That the Audit and Risk Advisory Committee consider the report as presented and provide feedback.

Moved: Glenn Sutherland Seconded: Nicole Cox

11.2. QUARTERLY ANNUAL PLAN REPORT 2018/2019 – QUARTER 2 PROGRESS REPORT

The Audit and Risk Advisory Committee noted the Quarterly Annual Plan Report 2018/2019 – Quarter 2 Progress report as read with the following questions.

- Target completion dates – These don’t reflect the status. Need to assess if an additional column can be added with an updated date.
- Discussion around the relationship between budget and progress, i.e. Report presents a progress percentage but does not show against the budget amount. Investigate whether an earned value could be added.
Recommendation

That the Audit and Risk Advisory Committee notes the Quarterly Annual Plan Report 2018/2019 – Quarter 2.

Moved: Nicole Cox  Seconded: Ken Belfrage

ACTION: Acting Executive Manager Business Performance to review capability in software to see if additional column can be added to reflect:

a) An actual completion date

b) Earned Value (percentage of completion and percentage of budget consumed).

11.3. BUDGET 2019/20 VERBAL UPDATE

The Audit and Risk Advisory Committee noted the Budget 2019/20 Verbal Update which included the following:

- The process is progressing well with two budget sessions with Councillors
- Employee costs were discussed
- Budget document will be available to Councillors early April for review
- Public consultation will be mid-April
- The budget must be adopted by 30 June 2019.

11.4. PUBLICATIONS OF INTEREST

The Audit and Risk Advisory Committee noted the Publications of Interest and acknowledged they are for information purposes.

12. NEXT MEETING

Next meeting has been rescheduled to 13 June 2019 due to two committee members’ unavailability.

13. GENERAL BUSINESS

Nil

14. MEETING CLOSED AT 3.34 PM
ECO 26 ENTERPRISE RISK MANAGEMENT ACTION PLAN

Responsible Director: Chief Executive Officer
Responsible Officer: Executive Manager Organisational Capability
Original Document: DOC/19/4836

Executive Summary

As the governing body of the organisation the Council is ultimately responsible for managing risk for the organisation, and the Council has an important role in managing financial risk and reputation risk in relation to its interactions with important stakeholders such as Government.

The Council has delegated its responsibility for oversight of risk management practices to the Audit and Risk Advisory Committee which has the following risk management tasks in its Charter:

- Evaluate the overall effectiveness of the internal control and risk management frameworks and consider whether recommendations made by the external and internal auditors have been implemented by management
- Gain an understanding of the areas of greatest financial risk and how these are being managed.

The Enterprise Risk Management Action Plan has been developed as a roadmap to implementing risk management across the organisation. It has been provided to the Audit and Risk Advisory Committee for endorsement prior to being presented to Council for consideration and adoption.

RECOMMENDATION

That Council:

1. Notes that the Audit and Risk Advisory Committee has endorsed the proposed Enterprise Risk Management Action Plan.


MOVED COUNCILLOR LESSER

That the recommendation be adopted.

SECONDED COUNCILLOR HENDERSON

CARRIED.
Context

A risk management project has been undertaken with the overall objective to undertake a risk management gap analysis for the whole organisation.

The approach was to assess the:

2. Risk process in relation to identification, assessment, treatment and review of risks, and the accuracy of risk registers for each risk if they exist.
3. Risk culture in terms of whether risk management is embedded in normal practice, how openly and often risk management is discussed, and whether discussion is at enterprise level or within departments.

The project objectives were:

1. Identify understanding and application of risk management across the organisation by undertaking an initial scan through individual interviews with staff from across different levels of the organisation.
2. Analyse internal and external audit reports to identify any particular risks raised for the organisation and sector.
3. Review Audit Committee minutes and the status of audit report actions to evaluate assurance oversight and the responsive of the organisation to the assurance process (third line of defense¹).
4. Review corporate documentation, such as the risk management policy, framework, action plan (if they exist) to test them against best practice (ISO31000), the Council Plan which is MASC’s overall strategic plan to identify the alliance between strategy and risk, other strategic documents to identify the focus on risk management, if any.
5. Develop initial findings and evaluate their accuracy by presenting data to the Leadership Team in a feedback workshop, and testing this forum’s acceptance of the information presented.
6. Develop the final report, which includes a roadmap to improve risk management maturity for the organisation.

The resulting roadmap has been developed as the Enterprise Risk Management Action Plan.

Refer to:


Policy and Statutory Implications

Relevant policies, strategies and plans

Risk management is inherent in everything that Council does. Council has specifically identified the following risks in the Council Plan 2017-2021:

- Financial sustainability: Retain indebtedness ratios in the low to medium Victorian Auditor General risk ratings.

¹ The first line of defense being management controls and internal control measures (own and manage the risks), the second line of defense being financial controls, risk management processes, quality controls, security (such as delegations), inspection and compliance (oversee risks).
Emergency Management: Develop and implement strategies to increase emergency management capability of the shire and community. Undertake prevention measures to reduce risks from hazards.

Organisationally, staff have access to a Risk Management Policy, Risk Management Procedure, and Risk Assessment Form, all of which are recommended for review against ISO31000:2018 in the action plan.

Statutory powers and implications

There is an implicit expectation that Council will manage risk for the municipality in Section 3C of the Local Government Act 1989 (the Act) which states the Council will: “promote the social, economic and environmental viability and sustainability of the municipal district.

More explicitly there are references to risk management throughout the Act which include:

- Section 2 – managing financial risks faced by Council prudently, having regard to economic circumstances.
- Section 5 - Council must have regard to the risks involved and comply with the Act in relation to entrepreneurial activities.
- Section 219AA – relates to complaints in respect of a Councillor regarding creating serious risk to health and safety of Councillors or Council staff.

Issues

In order to understand the importance of having an overarching strategic risk management document, it is important to provide risk context for Mount Alexander Shire Council, which is subject to a range of risks due to the variability and type of services it delivers.

The following risks have been identified as relevant to the organisation. Each of the risks has been described below.

<table>
<thead>
<tr>
<th>Strategic risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety risk</td>
</tr>
<tr>
<td>People risk</td>
</tr>
<tr>
<td>Reputation risk</td>
</tr>
<tr>
<td>Regulatory risk</td>
</tr>
<tr>
<td>Asset risk</td>
</tr>
<tr>
<td>Environmental risk</td>
</tr>
<tr>
<td>Financial</td>
</tr>
<tr>
<td>Information risk</td>
</tr>
<tr>
<td>Business Continuity</td>
</tr>
<tr>
<td>Change risk</td>
</tr>
</tbody>
</table>

Strategic risk

If risk is the “effect of uncertainty on achieving objectives”\(^2\), strategic risk is the effect of uncertainty on achieving strategic objectives. Council outlines in the Council Plan 2017-2021 that it aspires to achieve its strategic objectives under the Vision of Mount Alexander: innovative, creative, and connected under the pillars of Our People, Our Place, and Our Economy\(^3\).

---


\(^3\) Annual Report 2017-2018, Mount Alexander Shire Council, p6
Safety risk

“Safety risk is essentially the risk that someone might get hurt.”  The Shire has 303 reasons to manage safety risk. Apart from the moral responsibility of sending people home safely each day there is a legal responsibility documented under Occupational Health and Safety Act 2004 (Vic) (OHS Act).

Safety is effected by the workplace environment, natural elements, climate, workplace behaviour, technology, tasks on the job, management controls, and workplace culture.

People risk

“The effectiveness with which organisations manage, develop, motivate, involve and engage the people who work in them is a key determinant of how well those organisations perform.” For a service delivery organisation managing people risk is paramount. It includes:

- Statutory obligations under OHS Act.
- Engagement - Recruitment, succession planning, poor leadership, underperformance.
- Behaviour - Bullying, harassment (including sexual), discrimination, unethical behaviour.
- Information technology (IT) – productivity reduction from social media use
- Mental health and wellbeing – stress, workaholism, absenteeism.
- External factors – family dynamics, poor lifestyle habits.

For an organisation with high community interest such as Mount Alexander Shire, people risk is intrinsically linked to reputation risk.

Reputation risk

There are opinions about whether reputation risk is a “risk in its own right or merely the outcome of other events causing a problem for reputation.” This report assesses it in its own right.

All organisations will be impacted by reputation; for public sector organisations, reputation is an important element of maintaining good Government relations, and as the Government is a key investor in the organisation, the ability to deliver services; the ability to recruit and retain staff and maintain a positive morale; and the amount of scrutiny the media provides the organisation.

Regulatory risk

Mount Alexander Shire operates in a highly regulated environment, with the Local Government Act 1989 (LG Act) being the enabling legislation, supported by a number of other Acts and Regulations under which the organisation operates and must comply with. Regulatory risk is about managing compliance with regulation.

In many ways regulatory risk is strongly related to people risk, as only those employees who have been in the sector or in a Government role truly understand the extent of

---

4 Governance Institute of Australia, Risk Management in Practice, Module 4, Safety Risk, Course Notes, p4-1
5 Number of Councillors, staff and volunteers at 30 June 2018
6 Governance Institute of Australia, Risk Management in Practice, Module 4, Safety Risk, Course Notes, p4-2
7 Governance Institute of Australia, Risk Management In Practice, Module 6, People Risk, Course Notes, 2018, p6-1
8 Chartered Secretaries Australia, Risk and Compliance, Module 5, Reputation Risk, Course Notes, 2010, p5-2
9 Chartered Secretaries Australia, Risk and Compliance, Module 5, Reputation Risk, Course Notes, 2010, p5-1
regulation and the importance of complying with every obligation associated with their role.

**Asset risk**

For Mount Alexander Shire asset risk relates to managing the maintenance, renewal, and replacement of physical assets used in service delivery. The organisation’s fixed asset base is $339M made up of property ($60M), plant ($3M), work in progress ($5M), and infrastructure assets ($271M), with infrastructure being critical assets of roads, drains, and footpaths. Because of the public nature of those assets, safety risk is strongly linked to asset risk in addition to financial risk due to the value of critical assets.

**Environmental risk**

Environmental risk exists for Mount Alexander Shire through management of landfill operations, and use of chemicals and products that can be harmful if contact is made. Due to the political sensitivity of protecting the environment, environment risk and reputation risk are closely linked.

**Financial risk**

For Mount Alexander Shire Council financial risk comes in the form of interest rate risk, liquidity risk, and credit risk, as stated in the Financial Statements for the Year Ended 30 June 2018\(^{10}\).

Interest rate, which is the risk that market interest rates will change and impact the value or cash flow of a financial instrument, is somewhat limited for Victorian councils through LG Act parameters which safeguard councils from risky investments.

From a borrowing perspective, councils must also include transactions relating to borrowings in the annual budget process to provide full transparency to the community.\(^{11}\)

Liquidity risk, which is the risk that the organisation will not have sufficient funds to settle short term commitments, is managed by Council having cash backed reserves for future specific purpose uses built into their budgeting systems which provides additional cash to avoid liquidity issues.

Credit risk, which is the risk that a counterparty will not meet its obligations for a financial commitment, can be managed from a supplier perspective through rigorous due diligence requirements for contractors, bank guarantees, etc. From the perspective of receivables, it is managed under the LG Act, as the main debtor type being rates on properties, is protected as a charge on each property and the organisation can sell a property for rate recovery if it has over three years arrears.

**Information risk**

Information risk is related to the data, information and knowledge that Mount Alexander Shire Council holds and uses; integrity of the information; appropriate handling of the information through its lifecycle; and the protection of information from loss or theft.

As a public authority regulatory risk and information risk are closely linked due to responsibilities under the *Public Records Act 1978*, *Health Act 1958*, *Evidence Act 2008*, and *Privacy and Data Protection Act 2012*.

**Business continuity**

Business continuity (BC) management is understanding risks the organisation faces, how these risks can cause disruption to service, and implementing a plan to restore services should an event occur. For Mount Alexander Shire Council examples of

\(^{10}\) Annual Report 2017-2018, Mount Alexander Shire Council, p125

\(^{11}\) Local Government Act 1989, Section 146 Budget or revised budget must include proposed borrowings
business continuity events can be power or communication disruption, industrial action, failure of a service provider (major contractor), and environmental events, such as flood, bushfire, storms\(^\text{12}\).

**Change risk**

Change risk is managing service delivery during a change process, and ensuring change has the anticipated positive impact that was planned before it occurred.

Change has been a reasonable constant for the organisation over the past decade. Internally, there have been at least two organisational restructures, with the last one occurring mid-2018, resulting in a team being consumed into other teams. Services usually don’t change much, however, currently aged care reform is progress which may change the face of service delivery of aged care services.

**Observations**

Although risk is understood and there is a focus on risk management in respective areas of the organisation, the focus is not yet organisation wide and therefore not yet best practice.

The organisation has tools, resources, and key documentation that is available and known, but currency of documentation and reference to ISO31000:2018 could be improved, and increased use and knowledge about key systems would be beneficial.

The Audit and Risk Advisory Committee is being provided with reports and key information under its Charter, but more oversight into outstanding actions and risk management generally would improve the assurance process.

Some work is required to bring the risk register up to best practice, and in line with the organisation’s risk policy.

Commentary about all of the organisational risks in the Council Plan would articulate the Council’s appetite for risk and the opportunities they provide.

There is currently no formal Risk Appetite Statement. This would document Council’s appetite and tolerance of risk, particularly the positive aspects of risk and how this links to opportunities that may arise.

**The Plan**

The Enterprise Risk Management Action Plan has been developed from observations during the risk management project with the intent to improve risk management in the organisation.

The action plan has been structured to address the foundations of risk management (framework), then focus of risk management activities (process) which should start to increase conversation and acceptance of risk management across the organisation (culture).

There are 15 actions regarding the framework, nine actions regarding process, and two actions regarding culture. There are also five actions that, although they are not risk specific, will facilitate better risk management across the organisation.

The report is being provided to the Council for consideration following endorsement by the Audit and Risk Advisory Committee.

**Declarations of Conflicts Of Interest**

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

---

Officer reviewing this report, having made enquiries with the relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

Alternate Options

Council may choose not to accept the plan and to continue managing risk with the current approach which is reliant on individual departments and officers within those departments, and in a siloed way, rather than enterprise wide. The proposed approach brings Council far closer to best practice and is therefore recommended.

Financial and Resource Implications

Although there are no identified direct costs associated with this plan, there are indirect costs, as the plan has an expectation that officers named against specific actions will complete the actions within current resources and budget.

Consultation

The Executive Team, Senior Leadership Team, and other key stakeholders with risk responsibilities were interviewees in objective one of the project (17 in total).

Initial results were presented to the Executive Team and Senior Leadership Team for feedback prior to finalising the evidence gathering process and documentation of the final report.

The action plan has been provided to the Audit and Risk Advisory Committee for endorsement prior to presenting to the Council for consideration.
Enterprise Risk Management Action Plan
Introduction

It is good governance for the Council and the Leadership Team to demonstrate commitment to a culture of risk management in the organisation.

Mount Alexander Shire Council has developed a risk management system which includes a Risk Management Policy, Risk Management Procedure and this Enterprise Risk Management Action Plan. It has been developed in line with ISO 31000:2009, the International Standard for risk management, a best practice approach.

The three documents articulate:

- Council’s commitment to managing risk
- The objectives of the risk management system
- Roles and responsibilities in risk management within the organisation
- A plan to increase the focus on risk management and ensure that risk reporting is provided to the Audit and Risk Advisory Committee.

It is acknowledged that risk appetite already exists in the organisation and that Council already has a focus on risk management through:

- General awareness and constant discussion across the business
- Assessment of risk when prioritising projects and capital works
- Active Audit and Risk Advisory Committee
- Embedded incident management practices.

However, it is also acknowledged Council currently does not operate under an enterprise risk management model as:

- There are individual risk registers across the business
- There are areas of the business without risk registers
- There appears to be a gap between risk management at the ground level and the Audit and Risk Advisory Committee
- There is low awareness of the formal risk management tool available.

Purpose

The purpose of this work plan is to document a path to transition Council into enterprise risk management. It should be acknowledged that the first iteration of this plan will be focused on implementing the foundations to build on risk management maturity over time. For this reason, this plan will be reviewed annually to monitor completion of actions and to add new actions to further mature Council in risk.

Action Plan

In order to identify the actions required to deliver the end state, it is important to articulate and acknowledge the end state, which for Council should include, but will not be limited to:
Enterprise Risk Management Action Plan

- A business intelligence tool that consolidates all risk registers into an enterprise risk register and provides the Audit and Risk Advisory Committee with consolidated reporting, such as an enterprise risk profile.
- High level strategic reporting of key performance indicators and key risk indicators that provide trend analyses to identify any “red flags” related to trends of indicators.
- A Risk Committee at staff level (senior managers and other key stakeholders) that monitors risks right across the organisation, regardless of the Committee Members’ area of expertise and knowledge.
- An agreed reporting structure that provides the Audit and Risk Advisory Committee with the right information at the right time to provide comfort that risk is being managed across the organisation.
- Assessment of emerging risks by Risk Committee which are reported to the Audit and Risk Advisory Committee before being reported to the Council.
- A culture where every decision is made from a risk-reward perspective assessing how each decision impacts delivery of the strategic objectives.
- A fully integrated governance-risk-compliance (GRC) model where work in one area compliments the other areas.

The actions in the following table have been identified as important to start the process of transitioning Council into an enterprise risk management environment. The initial actions are broken into the areas of:

- Risk management framework
- Risk management process
- Risk culture.

It is expected that best practice at the framework and process level will support a maturity in risk culture throughout the organisation.

In addition to risk specific actions, other actions that will facilitate better risk management, but are not specifically risk actions, have been included as “Other strategies to improve risk”

<table>
<thead>
<tr>
<th>No</th>
<th>Action</th>
<th>Evidence of Completion</th>
<th>Responsible Officer</th>
<th>Target date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1F</td>
<td>Review the Risk Management Policy to ensure it aligns with ISO31000:2018</td>
<td>Policy approved by Council, after endorsement by the Audit and Risk Advisory Committee</td>
<td>Executive Manager Organisational Capability</td>
<td>June 2019</td>
</tr>
<tr>
<td>2F</td>
<td>Develop a Risk Management Framework that aligns with ISO31000:2018 and documents risk governance at Council, including roles and responsibilities, reporting mechanisms, etc.</td>
<td>Framework approved by Council, after endorsement by the Audit and Risk Advisory Committee</td>
<td>Executive Manager Organisational Capability</td>
<td>June 2019</td>
</tr>
<tr>
<td>No</td>
<td>Action</td>
<td>Evidence of Completion</td>
<td>Responsible Officer</td>
<td>Target date</td>
</tr>
<tr>
<td>----</td>
<td>------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>3F</td>
<td>Review the Risk Management Procedure to ensure it aligns with ISO31000:2018</td>
<td>Procedure reviewed and approved by Executive Team</td>
<td>Risk and Safety Officer in consultation with Executive Manager Organisational Capability</td>
<td>June 2019</td>
</tr>
<tr>
<td>4F</td>
<td>Review the Risk Assessment Form to ensure it aligns with ISO31000:2018, and that it is fit for purpose</td>
<td>Form reviewed and approved by Risk Committee</td>
<td>Risk and Safety Officer in consultation with Executive Manager Organisational Capability</td>
<td>June 2019</td>
</tr>
<tr>
<td>5F</td>
<td>Convene a staff Risk Committee of senior management and other key stakeholders which meets regularly to increase conversation about risk generally and focuses on emerging risks</td>
<td>Risk Committee Minutes</td>
<td>Executive Manager Organisational Capability to convene. Risk and Safety Officer to develop Terms of Reference.</td>
<td>December 2019</td>
</tr>
<tr>
<td>6F</td>
<td>Review the Business Continuity Plan in accordance with Standards Australia HB 221:2004 Business Continuity Management</td>
<td>Business Continuity Plan approved by Council, after endorsement by the Audit and Risk Advisory Committee</td>
<td>Risk and Safety Officer</td>
<td>March 2020</td>
</tr>
<tr>
<td>7F</td>
<td>Review the Disaster Recovery Plan</td>
<td>Disaster Recovery Plan approved by Executive Team</td>
<td>Principal Information Officer</td>
<td>March 2020</td>
</tr>
<tr>
<td>8F</td>
<td>Develop of Risk Appetite Statement which identifies Risk Tolerances</td>
<td>Risk Appetite Statement approved by Council, after endorsement by the Audit and Risk Advisory Committee</td>
<td>Executive Manager Organisational Capability</td>
<td>December 2019</td>
</tr>
<tr>
<td>9F</td>
<td>Develop Key Risk Indicators, taking into consideration risk and reward for the business</td>
<td>Key Risk Indicators embedded into Audit and Risk Advisory Committee Reporting</td>
<td>Executive Manager Organisational Capability</td>
<td>June 2020</td>
</tr>
<tr>
<td>No</td>
<td>Action</td>
<td>Evidence of Completion</td>
<td>Responsible Officer</td>
<td>Target date</td>
</tr>
<tr>
<td>----</td>
<td>------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>--------------------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>10F</td>
<td>Assess ISO31000:2018 Risk Management - Guidelines to identify gaps in MASC’s risk governance as a result of the update</td>
<td>Report to Executive Team with recommendation about future use of Standard</td>
<td>Risk and Safety Officer</td>
<td>March 2020</td>
</tr>
<tr>
<td>11F</td>
<td>Ensure the Audit and Risk Advisory Committee assesses its performance against its Charter annually</td>
<td>Audit and Risk Advisory Committee provided with the results of a survey of Committee members as a self-assessment process</td>
<td>Executive Manager Business Performance</td>
<td>June 2019</td>
</tr>
<tr>
<td>12F</td>
<td>Provide Audit and Risk Advisory Committee with quarterly reports of the status of outstanding actions</td>
<td>Standing Agenda item on Audit and Risk Advisory Committee of Outstanding Action Report</td>
<td>Executive Manager Business Performance</td>
<td>June 2019</td>
</tr>
<tr>
<td>13F</td>
<td>Develop a reporting framework for risk management that is provided to the Executive Team and Audit and Risk Advisory Committee (different reports with different focus)</td>
<td>Standing Agenda item on Executive Team and Risk and Advisory Committee each quarter to be provided to Council</td>
<td>Executive Manager Organisational Capability</td>
<td>December 2019</td>
</tr>
<tr>
<td>14F</td>
<td>Develop an information security risk management framework in accordance with ISO/IEC 27001: Information security management system</td>
<td>Information Security Framework adopted by the Executive Team</td>
<td>Principal Information Officer</td>
<td>June 2020</td>
</tr>
<tr>
<td>15F</td>
<td>Develop a compliance management framework in accordance with ISO 19600:2014 Compliance Management – Guidelines</td>
<td>Framework approved by Council, after endorsement by the Audit and Risk Advisory Committee</td>
<td>Executive Manager Organisational Capability</td>
<td>June 2020</td>
</tr>
<tr>
<td>No</td>
<td>Action</td>
<td>Evidence of Completion</td>
<td>Responsible Officer</td>
<td>Target date</td>
</tr>
<tr>
<td>----</td>
<td>------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>-------------------------------</td>
<td>------------------------------</td>
</tr>
<tr>
<td>1P</td>
<td>Develop procedures for Pulse users</td>
<td>Procedures developed and provided to users</td>
<td>Executive Manager Business Performance</td>
<td>September 2019</td>
</tr>
<tr>
<td>2P</td>
<td>Facilitate Pulse training sessions for stakeholders</td>
<td>Training undertaken</td>
<td>Risk and Safety Officer</td>
<td>September 2019</td>
</tr>
<tr>
<td>3P</td>
<td>Review the current risk register to confirm strategic risks, ensuring they are documented as true risk statements, and have been assessed and controls documented</td>
<td>Register reviewed and recommendations provided to Risk Committee</td>
<td>Risk and Safety Officer</td>
<td>June 2019 to December 2019</td>
</tr>
<tr>
<td>4P</td>
<td>Review the current risk register to confirm current operational risk, ensuring they are documented as true risk statements, and have been assessed and controls documented</td>
<td>Register reviewed and recommendations provided to Risk Committee</td>
<td>Risk and Safety Officer</td>
<td>June 2019 to December 2019</td>
</tr>
<tr>
<td>5P</td>
<td>Assess the current risk matrix to ensure it is still relevant for the business and in line with Standards Australia HB 266:2010 Guide for Managing Risk in Not For Profit Organisations</td>
<td>Risk Matrix presented to Audit and Risk Advisory Committee for consideration</td>
<td>Risk and Safety Officer</td>
<td>September 2019</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Risk Matrix embedded into Risk Management Policy upon its next review</td>
<td>Risk and Safety Officer</td>
<td>March 2020</td>
</tr>
<tr>
<td>6P</td>
<td>Assess the safety management system against ISO AS/NZS 4801: 2004 Occupational Health and Safety Management Systems to identify gaps in MASC’s safety risk governance</td>
<td>Report to Executive Team with recommendation about which Standard to use in the future</td>
<td>Risk and Safety Officer</td>
<td>March 2020</td>
</tr>
</tbody>
</table>
### Enterprise Risk Management Action Plan

<table>
<thead>
<tr>
<th>No</th>
<th>Action</th>
<th>Evidence of Completion</th>
<th>Responsible Officer</th>
<th>Target date</th>
</tr>
</thead>
<tbody>
<tr>
<td>7P</td>
<td>Identify emerging risks for all areas of the business</td>
<td>Standing Agenda Item for Risk Committee</td>
<td>Members of the Risk Committee to bring emerging risks to the meeting</td>
<td>Progress reports to Risk Committee Meeting</td>
</tr>
<tr>
<td>8P</td>
<td>Review current Risk Register to ascertain whether there has been any change to the environment that would change the risk rating</td>
<td>Standing Agenda Item for Risk Committee</td>
<td>Members of the Risk Committee to bring risk register items to the meeting</td>
<td>Progress reports to Risk Committee Meeting</td>
</tr>
</tbody>
</table>

### Risk management culture

<table>
<thead>
<tr>
<th>No</th>
<th>Action</th>
<th>Evidence of Completion</th>
<th>Responsible Officer</th>
<th>Target date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1C</td>
<td>Source a risk management culture tool, and undertake a risk maturity assessment to measure the progress towards an enterprise risk management environment</td>
<td>Report provided to the Risk Committee</td>
<td>Executive Manager Organisational Capability</td>
<td>June 2019</td>
</tr>
<tr>
<td>2C</td>
<td>Undertake a risk maturity assessment to measure the progress towards an enterprise risk management environment</td>
<td>Report provided to the Risk Committee</td>
<td>Executive Manager Organisational Capability</td>
<td>One year after initial assessment</td>
</tr>
</tbody>
</table>
### Enterprise Risk Management Action Plan

#### Other strategies to improve risk

<table>
<thead>
<tr>
<th>No</th>
<th>Action</th>
<th>Evidence of Completion</th>
<th>Responsible Officer</th>
<th>Target date</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Develop a Strategic Document Framework in accordance with AS/NZS ISO 9001: 2018 Quality Management Systems – Requirements to ensure that all corporate documentation has strong document control and review processes</td>
<td>Framework approved by the Executive Team</td>
<td>Executive Manager Organisational Capability</td>
<td>March 2019</td>
</tr>
<tr>
<td>20</td>
<td>Develop an Employment Lifecycle Framework to enhance employee experience in entering and working at Council</td>
<td>Framework approved by the Executive Team</td>
<td>Executive Manager Organisational Capability</td>
<td>June 2019</td>
</tr>
<tr>
<td>30</td>
<td>Develop a Workforce Strategy to support succession planning and corporate knowledge capture</td>
<td>Strategy approved by the Executive Team</td>
<td>Executive Manager Organisational Capability</td>
<td>December 2019</td>
</tr>
<tr>
<td>40</td>
<td>Develop Asset Management Plans for all key asset classes in accordance with ISO 55001:2014 Asset management - Management systems - Requirements</td>
<td>Asset Management Plans approved by Council</td>
<td>Executive Manager Infrastructure</td>
<td>Progressively approved over 2019</td>
</tr>
<tr>
<td>50</td>
<td>Progress Council’s registration with the State Government’s Achievement Program which focuses on healthy workplaces</td>
<td>Phase approved by Achievement Program</td>
<td>Executive Manager Organisational Capability</td>
<td>Phase 1: April 2019</td>
</tr>
</tbody>
</table>
<pre><code>                                                                                                                                       |                                                                                        |                                                              | Phase 2: June 2019  |
</code></pre>
Review

As documented earlier, this plan will be reviewed annually to monitor progress with current actions and to record any new actions that have been identified throughout the year.
11. **DELEGATES REPORTS**

The Mayor noted her regular attendance at the Loddon Mallee Local Government Forum, which supports the effective operation of the Board of the Loddon Mallee Waste and Resource Recovery Group (LMWRRG).

The Mayor advised of a recent Victorian Auditor-General's Office (VAGO) report on waste, its recommendations and the lack of policy around waste issues and the high expectations of Local Government.

**Meetings Attended by Chief Executive Officer and Mayor**

The Chief Executive Officer (CEO) tabled meetings attended by the CEO and the Mayor for the period 22 May 2019 to 12 June 2019.

<table>
<thead>
<tr>
<th>Meeting</th>
<th>CEO</th>
<th>Mayor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meeting with Tim Mayfield, Senior Advisor – Roads, Office of Hon. Jaala Pulford MLC, Minister for Roads; Paul Northey, Chief Regional Roads Officer and Brian Westley, Regional Director Northern, Regional Roads Victoria regarding advocacy for funding opportunities for Mount Alexander Shire (Phil Josipovic, Director Infrastructure and Development also in attendance)</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Attended Botanical Gardens Conservation Management Plan Photo Opportunity</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Reading of the Official Book for National Simultaneous Storytime</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Attended 2019 Volunteer Week Celebration Event</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Attended Loddon Mallee Local Government Waste Forum in Swan Hill</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Meeting with People &amp; Performance Director, Don KR to discuss matters of interest (Lisa Knight, Director Corporate &amp; Community Services also in attendance)</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Attended Ordinary Meeting of North Central Goldfields Regional Library Board (Lisa Knight, Director Corporate &amp; Community Services also in attendance)</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Attended Castlemaine Debutante Ball</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Attended Sorry Day Commemoration</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Attended Launch of Reconciliation Week</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Gold Central FM Interview</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Channel Nine Media Interview</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Attended Victory Park Playspace Photo Opportunity</td>
<td>✓</td>
<td></td>
</tr>
</tbody>
</table>
Meeting with Regional Director DELWP to discuss matters of interest for Mount Alexander Shire

Mayoral Welcome to Shine Harcourt Ideas Lab

Meeting with Maree Edwards MP to discuss matters of interest for Mount Alexander Shire

Gold Central FM Interview

Attended Healthy Heart Victoria – Regional Steering Group Meeting

Meeting with Dja Dja Wurrung Clans Aboriginal Corporation

Attend Legacy Luncheon

Mayoral Opening of Rotary Club Art Show

Attend Loddon Campaspe Councils Mayors and CEOs Meeting

Gold Central FM Interview

Meeting with People & Performance Director, Don KR to discuss matters of interest (Lisa Knight, Director Corporate & Community Services also in attendance)

MaineFM Radio Interview

Meeting with Legal Representative of Planning Permit Applicants

The CEO noted the adoption of the 2019/2020 Budget and thanked Councillors for all their work in the lead up to its adoption. The CEO also wished to thank the Acting Executive Manager Business Performance and the Director Corporate and Community Services for their work in the preparation of the Budget.

The CEO advised Councillors on a recent meeting he had (with the Director Infrastructure and Development also in attendance) with Tim Mayfield, Senior Advisor for the Minister of Roads, Paul Northey, Chief Regional Roads Officer and Brian Westley, Regional Director Northern for Regional Roads Victoria.

He outlined a number of programs discussed in that meeting, including:

- Small Towns Development Program.
- Building Our Regions Program.
- Fixing Country Roads Program – the CEO noted that Council has received the most amount of funding in the region from this program.
- Pedestrian Upgrades.
- Waste and Recycling Improvements.

He noted the good working relationship that Council has with these State groups.
The CEO also noted the Healthy Heart for Victoria - Active Living Census and encouraged Councillors and the community to participate with the census remaining open until 16 June 2019.

12. NOTICE OF MOTION
Nil.

13. URGENT SPECIAL BUSINESS
Nil.

14. MEETING CLOSE
Meeting closed at 9.26 pm.