

## **MINUTES**



**FOR THE MEETING OF COUNCIL**

**Held on Tuesday 18 June 2024**

**At 6.30 pm in the**

**Mount Alexander Shire Council Chamber,  
Civic Centre**

**Corner Lyttleton Street and Lloyd Street, Castlemaine VIC  
3450.**

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## **ACKNOWLEDGEMENT OF COUNTRY**

**To start the official proceedings**

**I would like to acknowledge that we are meeting on Djaara country  
of which the members and elders of the Djaara 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.**

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## 1. PRESENT

Councillors: Tony Cordy, Matthew Driscoll, Christine Henderson, Stephen Gardner, Gary McClure, Bill Maltby and Rosie Annear.

Officers: Chief Executive Officer (Darren Fuzzard), Director Infrastructure Development (Michael Annear), Director Corporate and Community Services (Lisa Knight), Manager Governance and Risk (Leanne Brown).

## 2. APOLOGIES/LEAVE OF ABSENCE

Nil.

## 3. DECLARATIONS OF INTEREST AND CONFLICTS OF INTEREST

Councillor McClure declared a General Conflict of Interest at Item 9.4.1.

## 4. CONFIRMATION OF MINUTES

### 4.1. Meeting Of Council - 21 May 2024

The unconfirmed minutes of the Meeting of the Mount Alexander Shire Council held at 6.30 pm on 21 May 2024 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 Meeting of the Mount Alexander Shire Council held on 21 May 2024 be confirmed.**

**MOVED COUNCILLOR MCCLURE**

**That the recommendation be adopted.**

**SECONDED COUNCILLOR ANNEAR**

**CARRIED.**

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## 5. ACKNOWLEDGEMENTS

**Aboriginal and Torres Strait Islander peoples are advised that the following Item in the Agenda contains the name of a person who has passed.**

### 5.1 Vale – Aunty Fay Carter OAM

The Mayor, Councillors and staff at Mount Alexander Shire Council extend our sincere condolences to the Dja Dja Wurrung Traditional Owners and all First Nations people on the passing of esteemed Elder, Aunty Fay Carter OAM.

Aunty Fay was an incredible advocate for her community and her career contributed to enhancing programs and services that supported Aboriginal people through key ages and stages of life.

In later years, she would strongly support the Dja Dja Wurrung Recognition and Settlement Agreement, a significant milestone that recognised more than 1,000 generations of Aboriginal history in Victoria and the Dja Dja Wurrung as the Traditional Owners of much of central Victoria.

Mount Alexander Shire Council is deeply grateful for Aunty Fay's outstanding contributions. Our thoughts are with her family and community.

## 6. PUBLIC TIME

### MOVED COUNCILLOR MALTBY

**That standing orders be suspended at 6.35 pm.**

### SECONDED COUNCILLOR CORDY

#### CARRIED.

- a. John Shone, Chair, Mount Alexander Community Land Limited (MACLL).

Mount Alexander Community Land Limited (MACLL) expresses tonight its strongest support for the proposed Mount Alexander Affordable Housing Trust (MAAHT).

MACLL also commends the visionary social justice foresight demonstrated by Council when undertaking the deep research and consultation with legislatures, industries, advisories and advocates to bring the MAAHT Motion before Council tonight.

The MAAHT Draft Trust Deed builds respectfully upon the ancient and early colonial and industrial traditions of cooperation, innovation and mutual equities that are evident today in Dja Dja Wurrung Country and Castlemaine and the Villages of the Shire.

MACLL asks Councillors when VOTING YES for MAAHT to ensure the Deed of Trust enshrines Mount Alexander Shire Citizen Delivery over external contracted interests, respecting wise and capable ratepayers.

- b. Carolyn Neilson, My Home Network Coordinator.

The My Home Network supports the proposed Mount Alexander Affordable Housing Trust (MAAHT).

Our vision is that everyone in our Shire has access to secure, affordable, safe, sustainable and appropriate housing and to achieve this we need to build a more

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socially just community addressing systemic disadvantage and enabling the community to flourish.

A charitable housing trust model is a significant platform in achieving this vision and we recommend to MASC Councillors that the trust deed should enable the utilization of local place-based expertise, partnerships with diverse community organisations who are trusted interfaces with those experiencing systemic disadvantage, an affordable tenancy model that ensures long term security of tenure and trust incidental activities that align with the trust social justice principles.

Thank you.

**MOVED COUNCILLOR CORDY**

**That standing orders be resumed at 6.40 pm.**

**SECONDED COUNCILLOR MALTBY**

**CARRIED.**

**7. PETITIONS AND LETTERS**

Nil.

**8. COMMITTEE REPORTS**

Nil.

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## 9. OFFICER REPORTS

### 9.1. Economy

#### 9.1.1 ADOPTION OF 2024/2025 BUDGET

This Report is for Decision

Responsible Director: Director Corporate and Community Services, Lisa Knight

Responsible Officer: Acting Executive Manager Corporate Services, Andrew Nankivell

Attachments: 1. Annual Budget 2024/2025 - Proposed 18 June 2024 [9.1.1.1 - 59 pages]

#### Executive Summary

Having prepared and publicly displayed the Proposed Budget 2024/2025, and having received and heard from submitters and considered all submissions received, Council is now able to consider the formal adoption of the Budget 2024/2025.

#### RECOMMENDATION

That Council:

1. **Adopts the Budget 2024/2025, including the Schedule of Fees and Charges, annexed to this resolution, in accordance with the *Local Government Act 2020* and relevant regulations.**
2. **Gives public notice of this decision to adopt the Budget 2024/2025.**
3. **Having received and considered public submissions, and having publicly heard from some of these submitters, acknowledges their contribution to the budget process and thanks them for their contribution.**
4. **Declares an amount of \$28,499,918 which Council intends to raise by general rates and service charges for the period 1 July 2024 to 30 June 2025. The amount is calculated as follows:**

<b>General Rates</b>	<b>\$23,472,918</b>
<b>Service Charges</b>	<b>\$4,997,000</b>
<b>Supplementary Rates and Rate Adjustments</b>	<b>\$ 30,000</b>
<b>Total</b>	<b>\$28,499,918</b>

5. **Notes that the proposed budget released in April 2024 utilised preliminary valuations. Final valuations have now been received from the Valuer General, and minor adjustments have been made to rates income and differential rates to ensure compliance with the Fair Go Rates System.**
6. **Declares that General Rates be raised by the application of Differential Rates as detailed in Council's Revenue and Rating Plan 2021-2025 and as required under section 94(2)(i) of the *Local Government Act 2020* and section 161(2) of the *Local Government Act 1989*.**

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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:
- a. **General Rate** – applies to residential properties and home-based businesses that are conducted at residential premises. Vacant land that is not farmland and cannot be developed for residential purposes is also classified as general.
  - b. **Farm Rate** – applies to farmland and farmland is any rateable land:
    - i. That is not less than 2 hectares in area.
    - ii. That is used primarily for grazing (including agistment), dairying, pig farming, poultry-farming, fish-farming, tree-farming, beekeeping, viticulture, horticulture, fruit-growing, or the growing of crops of any kind or for any combination of those activities.
    - iii. That is used by a business:
      - That has a significant and substantial commercial purpose or character.
      - That seeks to make a profit on a continuous or repetitive basis from its activities on the land.
      - That is making a profit from its activities on the land, or that has a reasonable prospect of making a profit from its activities on the land, if it continues to operate in the way it is operating.
  - c. **Vacant Land Rate** – all vacant rateable residential land that does not have a dwelling, or to vacant commercial or industrial land.
  - d. **Commercial Rate** – any land that is occupied for the principal purpose of carrying out the manufacture or production of, or trade in, goods or services, or residential properties that are predominately used for the purposes of short-term rental.
  - e. **Recreational Rate** – all rateable land upon which sporting, recreational or cultural activities are conducted, and including buildings that 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. Declares that a Trust for Nature Covenant rebate of 100% applies to the site value of the portion of land covered by the covenant.
9. Determines each differential rate by multiplying the General Rate by the relevant differential percentage as indicated in the following table:

Differential Rate	Differential %	2024/2025 rate in \$
General	Base	.0024989
Farm	80%	.0019991

Differential Rate	Differential %	2024/2025 rate in \$
Commercial	130%	.0032486
Vacant Land	200%	.0049978
Recreational	0%	.0000000

10. Records that it considers that each Differential Rate will contribute to the equitable and efficient carrying out of Council functions.
11. Confirms 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. Declares an Annual Service Charge, for the collection and disposal of refuse, in respect of the 2024/2025 financial year. The annual service charges are the sum of, and based on the criteria, set out below:
- The Annual Service Charge (large garbage bin and recycling bin) of \$671 will apply to properties where a garbage collection service is provided, and the capacity of their refuse bin is approximately 140 litres.
  - The Annual Service Charge (small garbage bin and recycling bin) of \$462 will apply to properties where a garbage collection service is provided, and the capacity of their refuse bin is approximately 80 litres.
13. Adopts the following arrangements for interest on rates and charges:
- Declares that interest is to be charged in accordance with Section 172 of the *Local Government Act 1989*, on any amounts of rates and charges that have not yet been paid by the date fixed by the Minister in accordance with Section 167(2) of the *Local Government Act 1989*.
  - 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.
14. Authorises the Director Corporate and Community Services to levy and recover general rates and annual service charges described earlier in this resolution, in accordance with the *Local Government Act 1989*.

**MOVED COUNCILLOR GARDNER**

That the recommendation be adopted.

**SECONDED COUNCILLOR CORDY**

**CARRIED.**

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## Context

The purpose of this report is for Council, having developed a proposed Budget 2024/2025 and considered public submissions, and after declaring differential rates and giving public notice of that declaration, to adopt the budget. The Budget has been prepared having considered Council's priorities and commitments as well as strategic documents such as the Financial Plan, Asset Plan, and Council Plan 2021-2025. At the Meeting of Council held on 16 April 2024, Council resolved to give public notice that it had prepared a budget for 2024/2025. Public notice was given in the Midland Express and the Proposed Budget 2024/2025 was made available for inspection on Council's website and at the Civic Centre, with submissions in writing being received until 5.00 pm on Wednesday 8 May 2024. An Unscheduled Meeting of Council was held on 21 May 2024 to hear the submitters who wished to speak to their submissions.

## Issues

The 2024/2025 Budget is in line with the constraints identified in Council's 10-year Financial Plan, which supports the community vision and Council Plan 2021-2025 and key strategies. The Budget is a sustainable and strategic plan that seeks to build on existing initiatives to provide important works and services to our community, as well as prioritising significant long-term infrastructure projects that enhance the livability of our community. The budget features a range of initiatives across diverse sectors including early and middle years, economic development, climate change, sport, and recreation, as well as affordable housing.

By investing in new and existing infrastructure, Council plays a vital role in the local economy by supporting our businesses and residents and enabling confidence in the direction of our community and our economy.

Two rounds of public consultation were conducted to inform development of the 2024/2025 Budget:

- From mid-December 2023 to early-February 2024, where 28 individuals or organisations provided input.
- Late-April to mid-May 2024, where 25 submissions were received.

(See the Communication and Consultation section of this paper for further information concerning public submissions).

## Finance and Resource Implications

To develop the budget document, Council has used the Best Practice Guide 'Model Budget' provided by Local Government Victoria. The budget document details both the operating and capital income and expenditure for Council for the 2024/2025 financial year. The Budget includes detailed information on the operating result, capital expenditure and rating, as well as cash and investments, borrowings, and reserve balances. The Proposed Budget 2024/2025 includes:

- Funding for projects and initiatives included in various Council plans and strategies.
- Sufficient cash to meet upcoming obligations, with further information provided on Council's unrestricted cash balance.
- No proposed borrowings.

An operating surplus of \$230,000, inclusive of \$4.435 million of capital grant income. This operating surplus assumes no early receipt of the 2024/2025 financial assistance grant from the Federal Government. Excluding "non-recurrent" capital grants, the underlying operating deficit is \$3.526 million.

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## **Risk Analysis**

### Financial risk:

While a level of financial uncertainty is always present in our economy, we and our community are currently experiencing a higher-than-normal level of financial uncertainty due to a combination of factors including:

- The impact of natural disasters in Australia over the past twenty-four months and the flow on effect for supply chains for materials and contractors.
- Sustained high inflation rates and, in trying to address this issue, increases to the cash rate by the Reserve Bank of Australia.

The above may not always impact Council directly, but indirectly Council may see their combined effect in, say, higher contract prices, or difficulty in sourcing contractors or employees.

The Budget is based on a 2.75 per cent increase to average rates income, in line with the Victorian Government's Fair Go Rates System. Around 60 per cent of Budget funding comes from rates.

As in previous years, Council has not applied for a variation to the rate cap, and – conscious of cost-of-living pressures for the community - will absorb increasing costs within current allocations, which limits revenue available to fund new projects and initiatives or reduced the potential scope of projects. Inflation has been reported (Reserve Bank of Australia update as of 31 March 2024) at 3.6 per cent for the preceding 12-month period (7.0 per cent March 2023). This is higher than the 2.75 per cent rate cap set for 2024/2025, and higher than previous estimates in Council's Financial Plan. Construction costs may increase faster or higher than the broader CPI, thereby placing pressure on service delivery over the coming year.

### Information risk:

All care and diligence have been taken in preparing the budget, using information and estimates available at the time. Monitoring and reviewing financial results over the 2024/2025 financial year will help manage any unforeseen financial variations.

### Reputation risk:

Failure to adopt the Budget by the required statutory date may pose a reputational risk to Council regarding 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. By providing our community with two opportunities to provide input or feedback on the budget, and an opportunity to speak directly to Councillors, Council is seeking to manage its reputational risk by being accessible to members of the public, hearing what they have to say, and considering any requests.

## **Climate Impact Statement**

In preparing the Proposed Budget 2024/2025, Council can choose to allocate funds to address the impacts of climate change directly or indirectly. Council is directly addressing the impacts of climate change by:

- Progressing multi-year projects including construction of the Castlemaine and Campbells Creek levees (\$2.17 million).
- Participating in a local carbon offset pilot project.
- In recognising how important trees are to our environment, increasing the budget allocation for tree management and maintenance.

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## Gender Equity Statement

It is considered that this report goes towards promoting gender equity principles as outlined in the *Gender Equity Act 2020* and does not contribute to the promotion of inequalities. Mount Alexander Shire Council is committed to meeting its obligations as stated in the Act and to further promote the right to equality as set out in the Charter of Human Rights.

## Alternate Options

There are no alternate options as adoption of an annual budget is a legislative requirement as per the *Local Government Act 2020*.

## Communication and Consultation

### Consult:

We will keep our community informed, listen to and acknowledge concerns and aspirations, and provide feedback on how community input influenced the decision. We will seek community feedback on drafts and proposals.

As in previous years, Council's Budget has been developed in consideration of Council's priorities and commitments as well as Council's Financial Plan, Asset Plan, and 2021-2025 Council Plan.

Community consultation was undertaken by:

- Seeking public feedback on ideas and suggestions for the budget from mid-December 2023 to early-February 2024.
- Placing the Proposed Budget on display for 21 days from 17 April 2024 to seek feedback via public submissions.
- Hearing submitters speak, if they wished, at an Unscheduled Meeting of Council on 21 May 2024. Eleven community members or organisations spoke to Councillors about an idea or project that they were seeking support for.
- Considering those submissions and speakers before adopting the Budget.

The early engagement helped to inform Councillors during the Budget development and ensured that community priorities were considered and captured in the budget where possible.

All submissions were reviewed, and recurring themes identified from the feedback included the need for healthy livable spaces and places, such as investment in walking trails, shared pathways, and improvements to facilities, parks, and open space, as well as care for our environment and climate, including weed control and eradication.

Initiatives within the budget that sought to meet the second round of community feedback and engagement include allocations to:

- Castlemaine Community House
  - Community Lunches - \$20,000 - Ongoing
  - Social Prescribing - \$20,000 – One off
- Metcalfe Community Association
  - BBQ Shelter Metcalfe Reserve - \$30,000
- Harcourt Valley Heritage & Tourist Centre Inc.
  - James Park Harcourt Fencing - \$20,000

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## **Legislation**

### Local Government (Planning and Reporting) Regulations 2020

Part 3 of the Regulations detail further requirements regarding the provision of information in the budget document.

### Local Government Act 1989

Part 8 details the requirements for rates and charges on rateable land.

### Local Government Act 2020

Division 2 of the Act details budget processes.

### Penalty Interest Rates Act 1983

This legislation details the penalty interest rate applied to overdue rates payments.

In accordance with the Local Government Act 2020, Council must:

- Prepare and adopt a budget for each financial year and the subsequent three financial years commencing 1 July by 30 June (Section 94(1)).
- Ensure that the budget gives effect to the Council Plan and contains the information required under Section 94(2).
- Prepare the budget in accordance with:
  - Section 96(1)(a) - The financial management principles;
  - Section 96(1)(a) – Council’s Community Engagement Policy;
  - Comply with guidelines established under Section 161, including Ministerial Guidelines for Differential Rating.

## **Strategies and Policy Impacts**

### Council Plan 2021-2025

*Principle - We are always improving.*

- Council is responsive to the needs of the communities it serves.

*Principle - We are delivering together.*

- We are working across Council, government, local partners and across community to meet the varied needs of our region.

*Principle - We are engaging genuinely with the community.*

- Our community feels heard and is able to influence and participate in the decisions that impact them.

## **Child Safe Standards**

Mount Alexander Shire Council is committed to being a child safe organisation and has zero tolerance for child abuse. We recognise our legal and moral responsibilities in keeping children and young people safe from harm and promoting their best interests.

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All children who come in contact with Councillors, employees, contractors and volunteers from the organisation have a right to be and feel safe. We have specific policies, procedures and training in place to support employees, volunteers and contractors to achieve these commitments.

We create environments where all children have a voice and are listened to, their views are respected and they contribute to how we plan for, design and develop our services and activities.

### **Declarations of Conflict of Interest**

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

#### No conflicts of interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.

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## 9.2. Community

### 9.2.1 FAIR ACCESS POLICY - SPORT AND RECREATION FACILITIES

This Report is For Decision

Responsible Director: Director Infrastructure and Development, Michael Annear

Responsible Officer: Strategy and Planning Officer, Tamara Fawcett

Attachments: 1. Fair Access Policy [9.2.1.1 - 8 pages]

#### **Executive Summary**

This report seeks adoption of a Fair Access Policy to guide the equitable access and use of Council sporting facilities.

Sport and active recreation provide fundamental opportunities for enriching our communities, which should be available on an equal basis to all members of our community, visitors, and others.

The development and endorsement of a Fair Access Policy will provide a framework and plan to move towards equality for access and use for all genders, individuals who identify as gender diverse and people with disability, across Council's community sporting infrastructure facilities.

A Fair Access Policy is required to be adopted by Council by 1 July 2024 to be able to obtain funding through community sporting infrastructure grants from the Victorian State Government.

The six principles of this policy will provide Council Officers with a plan to guide the implementation, engagement, and education activities to the sporting sector in our shire, thus supporting gender and disability equitable access and use of community sports infrastructure.

#### **RECOMMENDATION**

**That Council adopts the Fair Access Policy, for equitable access and use of Council sporting facilities.**

#### **MOVED COUNCILLOR ANNEAR**

**That the recommendation be adopted.**

#### **SECONDED COUNCILLOR CORDY**

**CARRIED.**

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## Context

In 2014, a State Government advisory committee facilitated a review into participation for women and girls in community-based sport and their engagement in leadership and governance roles. A report published in 2015 identified that there was a significant need to “Change the Culture”. The Inquiry’s report went on to articulate four strategic themes:

- Commitment to Outcomes
- Innovative Ways to Effect Change
- Change the Environment
- Showcase Achievement

From these four themes, nine recommendations were developed. The Fair Access Policy project was created as a response to recommendation six, *Deliver Female Friendly Built Environments and Equitable Facility Usage Policies*.

The Fair Access Policy Roadmap, an implementation guide for local government authorities, has been developed and delivered by the Office for Women in Sport and Recreation, in partnership with VicHealth and Sport and Recreation Victoria and in collaboration with many sporting associations and Victorian Councils.

There are three key phases: Education, Readiness and Progress. The development of the Fair Access Policy falls within the Readiness phase.

There are six recommended principles that guide the Fair Access Policy framework. The principles are not mandatory, instead providing direction for creating welcoming and safe environments for Council to progress its gender equity position and processes.

To reflect the values and expectations of the community and the strategic direction of Mount Alexander Shire Council, along with our commitment to a holistic approach to equity and access and inclusion, the principles have been broadened from the wording proposed by the Office for Women in Sport and Recreation to not only include women and girls, but also to incorporate men and boys, gender diverse community members and people with disability. This ensures that inclusivity of all people, regardless of gender or ability, are included in the Policy.

The six principles are as follows:

### *Principle 1*

Community sports infrastructure and environments are genuinely welcoming, safe and inclusive.

### *Principle 2*

Women and girls, men and boys, gender diverse people and people with disability will have opportunities to participate in all aspects of community sport and active recreation. For example, as a player, coach, administrator, official, volunteer and spectator.

### *Principle 3*

Women and girls, men and boys, gender diverse people and people with disability will have equitable access to, and use of, community sport infrastructure:

- 
- of the highest quality available and most convenient
  - at the best and most popular competition and training times and locations
  - to support existing and new participation opportunities and a variety of sports

#### *Principle 4*

Women and girls, men and boys, gender diverse people and people with disability should be equitably represented in leadership and governance roles.

#### *Principle 5*

Encourage and support all user groups who access and use community sport infrastructure to understand, adopt and implement access and use policies that support:

- gender equity
- supporting participants with diversity of needs, and
- overcoming access issues

#### *Principle 6*

Provide support and, where achievable, prioritised access to Council resources to all user groups who demonstrate an ongoing commitment to equitable access and use of allocated community sport infrastructure.

### **Issues**

Three key target dates and milestones have been identified by the Office for Women in Sport and Recreation that councils are to meet.

These are as follows:

1. From **1 July 2024**, the Victorian Government funding criteria for community sport infrastructure requires gender equitable access and use policies (or equivalent) to be in place.
2. By **1 October 2024**, all local governments in Victoria have gender equitable access and use policies (or equivalent) in place for community sports infrastructure.
3. By **1 July 2027**, more women and girls report equitable access to community sports infrastructure, and improved experiences participating in community sport.

To meet requirements, Council must have an adopted Fair Access Policy that incorporates a set of Fair Access Principles. Alongside this policy, will sit an Implementation Plan. The Policy must be endorsed by Council by 1 July 2024 to be eligible to apply for funding for community sporting infrastructure from the State Government.

The Fair Access Policy aligns with the current strategic direction of Council and will assist to deliver several outcomes identified in strategic documents such as the Municipal Health and Well Being Plan 2021-2025, Disability Inclusion Action Plan 2023-2027 and Gender Equality Action Plan 2012-2025 (GEAP).

Gender Impact Assessments sit outside the Fair Access Policy; however, they will be undertaken for projects, programs or services that meet the criteria.

There are 31 sporting facilities that Council either manage directly or delegate to community groups. This is either through a Community Asset Committee, Licence or Lease Agreement, or an alternative management agreement. Other sporting facilities are either privately owned

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or are a Committee of Management reporting to the Department of Energy, Environment and Climate Action (DEECA).

The differing management models will impact the level of influence that Council has in ensuring that equitable access and use of publicly owned community sports and infrastructure across the shire, can be provided to people regardless of their gender or level of ability.

Council delegates the management of several reserves to Community Asset Committees via an Instrument of Delegation outlining each committee's roles and responsibilities. These responsibilities include overseeing the booking of the facilities to user groups. For successful implementation of the Fair Access Policy, it is essential that the current Instrument of Delegation is amended to include reference to Council's adherence to the Fair Access Policy. This task is reliant on resources from Council's Governance team. Therefore; timelines will be impacted by resources available and other commitments.

Audits will be undertaken at Council facilities as part of the Implementation Plan and will be incorporated into existing audits and inspections. This will ensure compliance and identify areas where further education or improvement is required. Information obtained from these audits will help Council in the monitoring and evaluation phase of the Implementation Plan.

Council Officers will develop a new Recreation Reserve User Policy, to help implement the Fair Access Policy, and to support committees and license holders with the fair and equitable hiring of facilities, especially in instances where there is competing interest from several groups in the use of a facility. Allowance to develop this policy has been included in the attached Fair Access Implementation Plan.

An education and consultation approach will be required with the Community Asset Committees, facility managers, and sports clubs, to assist in changing mindsets and historical practices for sporting codes that have predominantly been male-based and use facilities at the preferred peak time.

Council will have a responsibility to either deliver, or support the delivery of, sporting infrastructure that provides a foundation for equitable use of facilities. Planned implementation of facility audits for compliance and non-compliance, and inclusive accessible infrastructure for sporting participants would be required. This would see budget bids and funding submissions targeting these audit results and outcomes, to support the upgrading of facilities identified as below-standard.

There are a number of recreation reserves and facilities across the shire which are either privately owned or managed by a Committee of Management that are separate to Council, i.e. they report to DEECA. These facilities are listed below. These stakeholders are not required to create their own policy, however if they are seeking State Government funding, they will be required to provide evidence of implementation of Fair Access principles and will have access to Council's policy as a guide.

#### DEECA-managed or private facilities

<b>Reserve/Facility/Club</b>	<b>Reserve/Facility/Club</b>
Barkers Creek Recreation Reserve	Chewton Archery Range
Campbells Creek Bowling Club	Chewton Swimming Pool

Reserve/Facility/Club	Reserve/Facility/Club
Cairn Curran Sailing Club	Harcourt Bowling Club
Castlemaine Bowling Club	Harcourt North Recreation Reserve
Castlemaine Golf Club	Maldon Bowling Club
Castlemaine Lawn Tennis Club	Maldon Golf Club
Castlemaine Motor Cross Track	Mount Alexander Golf Club
Castlemaine Pistol Range	Muckleford South/Mapson-Timmins Oval
Castlemaine Shooting Range	

### Next steps

The Fair Access Policy is proposed to be implemented over three stages. The attached Implementation Plan has been developed to ensure outcomes can be achieved to move towards equitable access and use of Council's sporting reserves. The implementation is proposed to be as follows:

#### Phase 1: Prepare and undertake a trial of transition to Fair Access (May 2024 – June 2025), including:

- Identify facilities for the Fair Access Policy trial (trial to be undertake after adoption of policy)
- Adoption of Fair Access Policy
- Community Asset Committee Instrument of Delegation review
- Fair Access Policy Engagement Plan
- Recreation Reserve User Policy
- Commence transition for prioritised facilities
- Undertake lessons learned exercise on Fair Access Policy implementation at the prioritised reserves, with findings to inform full implementation across all reserves.

#### Phase 2: Broader roll out of Fair Access Policy Implementation (July 2025 – June 2026)

- Roll out Implementation Plan to broader collection of stakeholders

#### Phase 3: Reporting and Evaluation (2026/2027 onwards)

- Community Asset Committee compliance and monitoring
- Compliance monitoring and reporting of tenants and user groups
- Review and assess training and support structures in place
- Prepare reports for the Office for Women in Sport and Recreation
- Evaluate implementation of Fair Access Policy

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Phase 3 forms part of the third milestone target set by the Office for Women in Sport and Recreation, which is to be completed by 1 July 2027.

### **Finance and Resource Implications**

There is currently no dedicated staff resource to implement the Fair Access Policy.

Some aspects of the implementation and roll out of the Fair Access Policy can be absorbed by existing staff resource within the Active Communities team. A phased implementation approach for Phases 1 and 2 across 24 months is recommended to ensure deliverables can be aligned with existing staff resource capacity. If the implementation program is to be condensed, additional staff resource would be required to coordinate and deliver the required activities and deliverables.

To assist with the implementation of this policy, a \$6,000 operational budget is included in the draft 2024/2025 budget, as there will be an ongoing need for financial resource to support the implementation of the Fair Access Policy. This will allow for additional external resources to be provided to assist staff in delivering the implementation program, for example training and education with clubs and committees.

Over the past five years, Council has been systematically upgrading infrastructure at sports facilities to ensure there are equitable facilities for all genders and improved access for all abilities. These upgrades are costly and are dependent on external funding. There are several facilities (those with historically small attendance numbers) that are yet to receive upgrades. As part of the implementation of the Fair Access Policy, an audit of recreation facilities will be undertaken and a prioritisation list developed to design and construct facilities, utilising the Resourcing Recreation Framework and Capital Investment Framework.

### **Risk Analysis**

#### Council's Risk Appetite Statement:

Areas of Council's adopted Risk Appetite Statement are aligned to the Fair Access Policy:

- No appetite for the violation of laws or regulatory requirements.
- A low appetite for actions that may harm Council's reputation.
- A low appetite for not managing our financial position.
- A high appetite for shared services and joint ventures.

#### Regulation Risk

Establishing a Fair Access Policy is aligned with the Gender Equity Act 2020. Not adhering to this regulatory requirement means Council would not be promoting gender equality, counteracting the vision and outcomes identified in Council's Municipal Health and Wellbeing Plan 2021-2025, Gender Equity Action Plan, and Disability Inclusion Action Plan. There is no legislative requirement to adopt a Fair Access Policy, however if Council decides not to adopt a policy, the Organisation will not be eligible for Victorian Government community sports infrastructure funding.

#### Financial Risk

The risk of not adopting the policy will result in the inability to apply for community sport infrastructure funding from the State Government. Currently Council is very reliant on accessing State Government funds to help facilitate sport and recreation infrastructure projects. Over the past 5 years Council has received over \$4.2M in funding to complete projects in the recreation space.

#### Reputational Risk

Not having a Fair Access Policy endorsed by Council could be perceived by the community that this is not an important matter for Council. With no policy in place, opportunities to

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improve all gender inequalities will be challenging, resulting in Council not achieving actions outlined in the Gender Equity Action Plan and Disability Inclusion Action Plan.

#### Positive Risk

Development and implementation of the Fair Access Policy will allow Council to partner with other community organisations to deliver awareness and education to local community groups. It will also align with delivery of strategic actions within the Municipal Public Health and Wellbeing Plan and the Disability Inclusion Action Plan.

Initially, some sporting clubs and Committees of Management may be resistant to change practices; however, with education and support provided through the implementation plan, it will help generate meaningful change for greater equality and use of community facilities. This will lead to greater participation in sporting clubs and create a healthy culture of embracing everyone.

#### **Climate Impact Statement**

In considering this policy for adoption, there are no impacts (positive or negative) on climate change. That said, Council will continue to ensure Environmentally Sustainable Design initiatives are incorporated into any future recreation infrastructure projects, including those that address gender equality and access.

#### **Gender Equity Statement**

The development and adoption of a Fair Access Policy will provide a framework and plan to move towards equality for access and use, for all genders, individuals who identify as non-binary and people with disability, across Council's community sporting infrastructure facilities.

This Policy will work towards promoting gender equity principles as outlined in the Gender Equality Act 2020 and will not contribute to the promotion of inequalities. Mount Alexander Shire Council is committed to meeting its obligations as stated in the Act and to further promote the right to equality as set out in the Charter of Human Rights.

A Gender Impact Assessment has been completed for this project. The entire objective of the Fair Access Policy is to address gender inequalities in local sport, therefore the adoption of this policy will strongly support Council's adherence to the Gender Equality Act 2020.

#### **Alternate Options**

There is an option to not adopt the policy, however we would not be meeting State Government requirements and therefore would be forgoing future potential funding opportunities for sports infrastructure.

#### **Communication and Consultation**

##### Inform:

*We will keep our community informed.*

To develop the draft Fair Access Policy, internal consultation was undertaken with key areas of Council that will be impacted, and whose assistance is required to roll out the implementation plan. This included the Director Corporate and Community Services, Director of Infrastructure and Development, and representatives of the Active Communities, Communications, Community Partnerships, and Governance Teams. In addition, the Gender Equity Action Group has been consulted.

A community engagement plan has been developed to guide communications for the adoption of the Fair Access Policy.

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As part of the Fair Access Implementation Plan (Stage 1 – Prepare and undertake trial of transition to Fair Access), the community engagement plan will be broadened with key messages, methods of communication and identification of stakeholders to target in the first phase of the roll out.

External consultation with the Office for Women in Sport and Recreation has been undertaken to ensure the Policy aligns with the intent of the Fair Access Policy Roadmap.

## **Legislation**

### Gender Equality Act 2020

The Gender Equality Act 2020 requires Victorian organisations, including local councils, to take positive action towards achieving gender equality, and to consider and promote gender equality in their policies, programs, and services. Policies, programs, and services that relate to community sport and recreation are considered to have a direct and significant impact on the public.

This Fair Access Policy also has strong alignment to themes and obligations from the following pieces of legislations:

- Local Government Act 2020
- Public Health and Wellbeing Act 2008
- Victorian Disability Act 2020

## **Strategies and Policy Impacts**

### Council Plan 2021-2025

#### *Pillar 1: A healthy, connected and inclusive community*

- Increase access to inclusive and usable spaces for all seasons
- Ensure Council is a leader in equity and gender equality
- Improve the safety and wellbeing for our LGBTIQ+ members of our community
- Implement initiatives to change the behaviours and attitudes that contribute to family violence in our community

### Municipal Health and Wellbeing Plan 2021-2025

#### *Priority 3. Increasing active living*

- Supporting the community to take action to get more people physically active
- Provide accessible information and support and promote local sport and recreation opportunities in the community

#### *Priority 6. preventing all forms of violence*

- Incorporate gender inclusivity and equity in all decision making
  - Review existing and new Council policies to ensure incorporation of gender equality

#### *Priority 8 Improving mental wellbeing*

- Promoting good mental health and wellbeing through prevention strategies
  - Work with key stakeholders to support gender, indigenous and CALD communities

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## Disability Inclusion Action Plan 2023-2027

### *Key area 1: Equal, respectful and dignified access*

- Our policies, procedures and guidelines support disability inclusion and accessibility.
- Council buildings, facilities, parks and infrastructure are inclusive of people with disabilities.
- Key area 3: Promote inclusion, participation and agency in civic life
- Sports clubs, social clubs and committees are inclusive of people with a disability.

### *Key area 4: Change the attitudes and practices that lead to discrimination of people with a disability*

- Our community is educated, inclusive and respectful.

## Gender Equality Action Plan 2021-2025 (GEAP)

The GEAP contains the following objectives:

- Increase awareness, education and support
- Continue the organisation's commitment to equity principles through embedding these principles in policy development

## **Child Safe Standards**

Mount Alexander Shire Council is committed to being a child safe organisation and has zero tolerance for child abuse. We recognise our legal and moral responsibilities in keeping children and young people safe from harm and promoting their best interests.

All children who come in contact with Councillors, employees, contractors, and volunteers from the organisation have a right to be and feel safe. We have specific policies, procedures, and training in place to support employees, volunteers, and contractors to achieve these commitments.

We create environments where all children have a voice and are listened to, their views are respected and they contribute to how we plan for, design, and develop our services and activities.

## **Declarations of Conflict of Interest**

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

### No conflicts of interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.

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## 9.2.2. LIBRARY ENTITY REVIEW

This Report is For Decision

Responsible Director: Director Corporate and Community Services, Lisa Knight

Responsible Officer: Director Corporate and Community Services, Lisa Knight

- Attachments:
1. Goldfields Library Corporation - A Value and Efficiency Analysis of Collective Services [9.2.2.1 - 22 pages]
  2. Financial Analysis Library Models spreadsheet with notes [9.2.2.2 - 2 pages]
  3. GLC Collective Model Transition Risk Assessment [9.2.2.3 - 13 pages]
  4. Constitution of Company limited by Guarantee Your Library [9.2.2.4 - 27 pages]
  5. General duties of directors [9.2.2.5 - 6 pages]

### Executive Summary

With current Regional Library Corporations no longer encompassed under the Local Government Act 2020, all Councils currently covered by a Regional Library Corporation service, are required to transition their public library service to a new model by 2030. This includes Mount Alexander Shire Council as a member Council of the North Central Goldfields Library Corporation (trading as Goldfields Library Corporation [GLC]).

The purpose of this report is to provide an overview of the best value analysis and risk assessments undertaken, to assist Council in their decision making regarding the progress of establishing a Beneficial Enterprise for the purpose of collectively managing library services.

The report provides multiple evidence sources that support the following conclusions:

1. Broadly, a collective model produces economies of scale that result in savings for member Councils.
2. Specifically, GLC is arguably one of the most effective and efficient public library services in Victoria with every resource provided resulting in some of the highest levels of service in the state.
3. The VAGO report on all Council libraries in Victoria found that GLC was the most efficient service in the state based on comparable and measurable data across all services.
4. GLC cost per capita is \$36.39 compared to a state average of \$41.36. This cost is \$5.00 less per capita, equating to a \$1,000,000.00 saving annually compared to the average cost to run public library services in Victoria.
5. GLC delivers a quality service at a cost to Council that is relatively low and also attracts funding from other sources at a substantial level, to supplement this funding.

This assessment has enabled the GLC Board to conclude that the public library service should continue to be delivered using a collective approach as it represents best value, with the preferred approach being that of a Not-for-Profit Company limited by guarantee.

This model was preferred as it provides a close fit to the existing operation and meets the requirements of the *Local Government Act 2020* for a Beneficial Enterprise. Seven of the ten Regional Library Corporations across Victoria have either completed or are in the process of transferring services to this management model. Two Regional Library Corporations have

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now completed this process and are operating under this model as new entities, the detail available is adequate to give a clear picture of how the new entity would operate and the governance roles for each member Council.

The roles for Council Officers acting as board directors would be very similar under this structure and GLC is able to cover all costs involved in transferring services to a new entity under the Not-for-Profit Company limited by guarantee model.

### **RECOMMENDATION**

**That Council:**

- 1. Commits to establishing and transitioning service to a new Library Service Beneficial Enterprise under sections 110 and 111 of the *Local Government Act 2020*.**
- 2. Delegates the CEO to undertake the necessary steps to progress the relevant legal and financial steps required to transition to a Library Service Beneficial Enterprise under sections 100 and 111 of the *Local Government Act 2020*.**

**MOVED COUNCILLOR ANNEAR**

**That the recommendation be adopted.**

**SECONDED COUNCILLOR MCCLURE**

**CARRIED.**

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## Context

The *Local Government Act 2020* removes the sections from the *Local Government Act 1989* (s.196) providing for the establishment of Regional Library Corporations and instead provides for the establishment of Beneficial Enterprises (s.110 and 111 of the 2020 Act). This specifically notes:

### *Division 3—Beneficial enterprises*

#### *110 Beneficial enterprises*

*(1) For the purpose of performing its role, a Council may participate in any of the following beneficial enterprises—*

*(a) become a member of a corporation;*

*(b) participate in the formation of a corporation, trust or other body;*

*(c) acquire shares in a corporation, trust or other body;*

*(d) enter into a partnership or joint venture with any other person or body.*

*(2) If by virtue of any participation, subscription or acquisition under subsection (1), a Council has the right to appoint some person to be a director of or hold office in or under the corporation, trust, partnership or other body, the Council may appoint a Councillor, member of Council staff or other person to that office.*

*(3) For the purposes of subsection (1)(a), (b) or (c), a Council may nominate a person to hold the shareholding or unit holding on behalf of the Council and the person nominated is to be treated as being the shareholder or unit holder of the shares or units.*

#### *111 Process before participating in beneficial enterprises*

*(1) A Council must in participating in a beneficial enterprise under section 110—*

*(a) assess the total investment involved and the total risk exposure and ensure that its total risk exposure does not exceed its total investment; and*

*(b) if section 110(1)(a), (b) or (c) applies, ensure that the corporation is a limited corporation; and*

*(c) have regard to the risks involved; and*

*(d) establish risk management arrangements; and*

*(e) implement regular performance monitoring and reporting arrangements in relation to the beneficial enterprise; and*

*(f) ensure that any changes to the operation or purpose of the beneficial enterprise are reported to the Council; and*

*(g) identify and manage any risks associated with any changes to the operation or purpose of the beneficial enterprise.*

*(2) A Council must report on the operations and performance of each beneficial enterprise in its annual report.*

This approach is aimed at allowing Councils to consider delivering any service, including libraries, that might benefit from a collective approach with other Councils to provide economies of scale or improved service levels for any Council delivered service.

Due to the removal of Regional Library Corporations sections within the Local Government Act, Regional Library Corporations must be dissolved by 1 July 2030, as part of a sunset clause provided by the State Government.

Prior to this amendment, just over half the public library services in Victoria were provided through Regional Library Corporations (44 of 79 services) and the model particularly served regional areas well in creating collective economic benefit.

Since this amendment, the following actions have taken place across the Regional Library Corporations.

*Table 1: Regional Library Corporation Actions:*

West Gippsland RLC New entity: Myli	Bass Coast Shire, Baw Baw Shire and South Gippsland Shire	Moved all Councils and combined Cardinia Shire into an NFP Company limited by guarantee.
Eastern RLC New entity: Your Library	Knox City, Maroondah City, Yarra Ranges Shire	Moved all Councils into an NFP Company limited by guarantee.
Casey Cardinia RLC New entity: Connected Libraries	Casey City, Cardinia Shire	City of Casey has approved the NFP model and will be a single member of this company whilst Cardinia has merged with the new West Gippsland model also an NFP Company limited by guarantee.
Geelong RLC	Golden Plains Shire, Greater Geelong City, Borough of Queenscliff, Surf Coast Shire	Resolution by Board move to a Not for Profit (NFP) Company limited by guarantee, and this now includes Colac Otway Shire.
Goulburn Valley RLC	Moira Shire, Greater Shepparton City, Strathbogie Shire	All member Councils have approved the move to an NFP company and will remain a shared service.
Yarra Plenty RLC	Banyule City, Nillumbik Shire, Whittlesea City	All Councils committed to a shared service and Board has recommended moving to an NFP limited by guarantee. Legal consultants are now drafting a constitution.
Whitehorse Manningham RLC	Manningham City, Whitehorse City	Currently still operating as an RLC without further action at this time.
Wimmera RLC	Hindmarsh Shire, Horsham Rural City, Northern Grampians Shire, West Wimmera Shire, Yarriambiack Shire	RLC dissolved. Hindmarsh Shire now run a Council service. Northern Grampians has joined the Central Highlands Library Network (administered by Ballarat Council). Horsham Council runs services for Horsham and West Wimmera Shire.

		Yarriambiack Shire runs small libraries and a library van service.
Corangamite RLC	Colac Otway Shire, Corangamite Shire, Moyne Shire, Warrnambool City	<p>Dissolved – Warrnambool Council run their single library service (Warrnambool Library) with some services purchased from Yarra Plenty RLC.</p> <p>Colac Otway Shire have joined with Geelong RLC and will move to the new NFP company.</p> <p>Corangamite and Moyne Shire provide a combined service, coordinated by Moyne Shire Council, with each Council employing staff directly.</p>

## Issues

The Goldfields Library Corporation Board and CEO have undertaken preliminary work to both review the current library service and provide for informed decision-making for each member Council in considering a commitment to continue providing services as a collective.

This preliminary work by GLC has included the following elements:

### Service Review/Value Analysis (Attachment 9.2.2.1):

An independent review of service level and investment for GLC member Councils compared to state-wide library services and other Regional Library Corporations. This includes findings from the state-wide service review undertaken by the Victorian Auditor General's Office as well as state-wide figures collated by Public Libraries Victoria.

### Financial Analysis (Attachment 9.2.2.2):

Specific financial analysis of the cost of the service compared across the state and comparative to individually delivered Council services. Developed independently by City of Greater Bendigo Financial Services using financial data from GLC.

### Risk Assessment (Attachment 9.2.2.3):

Assessing and mitigating risk associated with movement to any new model with particular questions answered on the most common and preferred model- a not for profit company limited by guarantee.

### Accounting and legal service support requirements:

Ensuring expert advice on any transition to enable all accounting standards and legal requirements for dissolution and transfer of business to a new service model to be met under sections 110 and 111 of the *Local Government Act 2020*.

### Environmental Analysis (Attachments 9.2.2.4 and 5):

Analysis of the public library sector and the approaches taken, including research findings on those Regional Library Corporations that have moved to a new model.

The finding of these actions is summarised in the body of the report below and detailed in the attachments to this report.

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## Report

This section provides a summary of findings based on the actions noted above and undertaken or managed by the GLC Board and CEO.

### 1. Service Review and Value Analysis

The Service Review and Value Analysis for GLC has been completed by independent consultants, I and J Management Services who also collate and analyse annual state-wide library performance data in Victoria and developed the National Standards and Guidelines for Australian Public Libraries. (Full-service review provided as Attachment 9.2.2.1 to this report)

The report noted the following key findings:

1. The state-wide VAGO audit released in November 2019 ranked Goldfields Library Corporation as the most efficient service at delivering core services compared to all other public libraries in Victoria. (see Data Envelopment Analysis Results, pg. 79, VAGO Council Libraries Audit)
2. The VAGO report noted that “Sharing services makes libraries more efficient, enabling them to deliver more services to the community with fewer resources. Our data analysis shows that, overall, RLCs and co-operative models deliver core library services more efficiently than most standalone council libraries.” (VAGO Council Libraries Audit, page 23)
3. The cost per capita to fund GLC services is around \$5.00 per capita less than the Victorian average. This equates to an approximate \$1,000,000 saving in comparison to the average cost to provide library services in Victoria. GLC funding per capita is \$36.39 inclusive of both Council and other funding sources. Regional Library Corporations in general had far lower average per capita expenditure than stand-alone services:
  - Goldfields Libraries: \$36.39 per capita
  - Victorian Library Average: \$41.36 per capita
4. GLC can invest in a dedicated group of managers and strategic leadership to coordinate effort across the region because of the collective investment and management approach. This leads to efficiencies in service delivery through coordinated and shared programs, staff and physical resources.
5. GLC has the capacity to attract diverse funding sources using internal resources. Of all services, GLC had the fifth highest income from other sources outside government of all services in Victoria.
6. GLC attracts and retains staff because (unlike single-LGA libraries, especially those in regional and rural areas) it can leverage the resources of the four-member Councils’ collective investment in people and systems that deliver a community focused and customer focused service.
7. A collective approach has specific areas where collective benefits are tangible and can be supported with evidence. These include:
  - i. Movement of staff across municipalities to ensure continuity of operations, allowing efficiency in direct service delivery workforce and ensuring smaller libraries are staffed and are backed up and remain open when absences occur. GLC regularly has staff crossing municipal boundaries and working across multiple branches.

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- ii. Collective arrangements and partnerships that benefit all municipalities are negotiated with partners at local, state and national levels. GLC negotiates services with organisations such as the Sydney Writers Festival, Orchestra Victoria, Australian Ballet to deliver programs across the region.
  - iii. Agility to shift focus and respond to community without high level approval or delays that may be required in Council decision making. GLC rapidly develops partnerships and programs that can benefit Council and community, such as story walks and Healthy Heart of Victoria initiatives that link directly to delivering Council outcomes.
  - iv. Dedicated collective resources to strategically plan a community driven service, alongside and aligned with member Councils. In 2019, VAGO noted that "...audited Councils do not document their service plans or link library services to the achievement of overall Council objectives." GLC has consistently developed a defined strategy that outlines measurable outcomes and explicitly aligns with Council plans.
  - v. Providing a skilled workforce with a diversity of capacity to match library service delivery requirements. GLC has 100 staff with a range of professional accreditation and experience that transfers across the region, supporting management, program delivery and IT support.
  - vi. Collective agreements with partners and service providers deliver a coordinated and economically scaled level of service across all member Councils. Agreements for library management systems (catalogue, collection management, rostering, IT security, email, website) are all collectively negotiated by GLC at significant saving.
  - vii. A dedicated management structure focused on library industry best practice and library operations management. Collective structures provide dedicated management resources, focused solely on library services. GLC provides a CEO, senior operational managers and dedicated technical managers for IT, Collections, Programs and Communications, removing the need for any day-to-day management resource from Council at any level.

### **Financial and Resource Analysis**

An independent desktop analysis of both collective costs and individual Council costs was undertaken by City of Greater Bendigo Financial Services. City of Greater Bendigo supports the financial reporting and payroll management under a fee for service arrangement with GLC and was in a position to access detailed financial data for this purpose.

The detailed financial analysis is attached as a spreadsheet to this report (see Attachment 9.2.2.2); however, the key findings independently supported the conclusions of the Service Review and Value Analysis above.

The calculations undertaken in the financial review assume a total separation of library services with each Council effectively operating as a stand-alone service and that service levels would be maintained to the existing levels of the Corporation. This allowed for fair and equitable comparison.

The analysis noted the following key losses in efficiency for a stand-alone Council service model:

1. Increased staffing due to loss of capacity to shift staff across municipal boundaries to backfill or provide specialist skills/programs.

2. Repeated provision of specialised staff across areas such as communications, graphic design, IT management, program and event management for each Council.
3. Strategy, HR functions and operational support is separated between Councils and absorbed within existing structures, with some additional resources required.
4. Current cost savings through scaled agreements for internal services such as library management software, IT security, courier services (collection movement), collection purchasing power, finance management and payroll services are reduced.

Based on these assumptions, a minimum collective cost increase per annum is estimated at \$710,008.00 for the four-member Councils, outside of one-off changeover costs and redundancies.

*Table 2: Cost Analysis*

Description of inclusions	Key Functional Library Service Areas	GLC costs	Individual Council costs	Difference
Front facing customer service staff with most having a minimum Diploma in Information Services. Band 4/5	Branch Staff (47 FTE)	\$ 3,467,000	\$ 3,709,690	-\$242,690
Specialist or Technical staff operating on a regional basis- Band 6	Specialist / Program Staff (8 FTE)	\$ 612,000	\$ 734,400	-\$122,400
Strategic and Leadership staff- Band 7 and above	CEO and team leadership (2.4 FTE)	\$ 370,000	\$ 518,000	-\$148,000
Other expenses particularly related to library operations that may not be currently accessed through current Council activities or resources	Total admin and other expenses (including ICT support, licensing; Programs; Logistics;	\$ 1,312,786	\$ 1,509,704	-\$196,918
<b>TOTAL COSTS</b>		<b>\$5,761,786.00</b>	<b>\$6,471,794.00</b>	<b>(\$710,008.00)</b>

This figure independently aligns with the comparison of the cost per capita to provide services for GLC (\$36.39) against a state average of \$41.36, equating to a current saving of around \$5.00 per capita or collectively a \$1,000,000 lower price annually compared to the Victorian average cost of library services.

At this point, clear evidence from several independent sources confirms that:

1. Broadly, a collective model produces economies of scale that result in savings for member Councils.
2. Specifically, GLC is arguably one of the most effective and efficient public library services in Victoria with every resource provided resulting in some of the highest levels of service in the state.

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3. GLC delivers a quality service at a cost to Council that is relatively very low and also attracts funding from other sources at a substantial level, to supplement this funding.

This assessment enabled the GLC Board to conclude that the public library service should continue to be delivered using a collective approach, with the preferred approach being that of a Not-for-Profit Company limited by guarantee.

Based on this conclusion, the next piece of work undertaken involved a risk assessment in transferring the library service to this model.

At this point, two other Regional Library Corporations rapidly reached agreements with member Councils and transitioned to this model, enabling a detailed analysis of the process. This is explained in some detail below.

### **Financial Sustainability**

This model of service delivery has been analysed at a local and state level with results consistently showing that the provision of library services as a collective approach is highly efficient and provides a valued and effective service.

Moving to a library service delivered through a single Council approach is noted as less effective and/or more costly based on data analysed and evidence presented by VAGO, and the Service and Value Analysis commissioned by the GLC Board.

The cost to make the transition is covered by the existing corporation and will require no further funding from Council.

### **Risk Analysis**

#### Change Risk:

A change to a beneficial enterprise under the *Local Government Act 2020* would result in Member Councils agreeing to remain part of a collective group that would operate in a similar fashion to the current GLC.

Sections 110 and 111 of the *Local Government Act 2020* provide the framework and rules governing any such venture.

Key parts of both sections are reproduced below to highlight important points:

#### Section 110 Beneficial Enterprises “(1) (2) (3):

For the purpose of performing its role, a **Council may participate in any of the following beneficial enterprises (a) (b) (c) (d) become a member of a corporation; participate in the formation of a corporation, trust or other body; acquire shares in a corporation, trust or other body;** enter into a partnership or joint venture with any other person or body.

If by virtue of any participation, subscription or acquisition under Sub-Section (1), a **Council has the right to appoint some person to be a director of or hold office in or under the corporation, trust, partnership or other body,** the Council may appoint a Councillor, member of Council staff or other person to that office.

For the purposes of Sub-Section (1)(a), (b) or (c), a Council may nominate a person to hold the shareholding or unit holding on behalf of the Council and the person nominated is to be treated as being the shareholder or unit holder of the shares or units.”

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### 2.1.2 Section 111 Process Before Participating in Beneficial Enterprises

**“(1) A Council must in participating in a beneficial enterprise under Section 110 (a) assess the total investment involved and the total risk exposure and ensure that its total risk exposure does not exceed its total investment; and (b) (c) (d) (e) (f) if Section 110(1)(a), (b) or (c) applies, ensure that the corporation is a limited corporation; and have regard to the risks involved; and establish risk management arrangements; and implement regular performance monitoring and reporting arrangements in relation to the beneficial enterprise; and ensure that any changes to the operation or purpose of the beneficial enterprise are reported to the Council; and**

**(2) identify and manage any risks associated with any changes to the operation or purpose of the beneficial enterprise. A Council must report on the operations and performance of each beneficial enterprise in its annual report.”**

This is very similar to the requirements of the Regional Library Corporation model but adds flexibility for Councils to consider other beneficial enterprises that may provide collective benefit.

#### Steps involved in the transition process.

The key steps involved in this process have been made clearer, as two RLC's (West Gippsland RLC and Eastern RLC) have now completed the process of shifting to a model that fulfills these requirements, namely a Not-for-Profit Company limited by guarantee. The key steps taken in this process have been:

1. Appropriate legal support sought by both RLC (and Board) and Councils to facilitate the transition. VAGO approved legal entities now have experience in undertaking this process and can support GLC and Councils in working through any proposed transition.
2. Registration of a Not-for-Profit Company Limited by Guarantee under the *Corporations Act 2001*. The new entity is initially a “shelf company”, which is a company that is registered but will not trade or conduct business nor hold assets or liabilities. The company does not trade until after the transition from the RLC takes place (pending final Member Council endorsement).

The registration of the company with the Australian Securities and Investment Commission (ASIC) allows time to establish bank accounts, new finance and payroll requirements, whilst the RLC is dissolved and a new constitution for the company is established.

3. A new constitution drawn up (with support by a legal firm) and each Member Council signs off on the constitution of the new entity. (An example of a constitution can be found at Attachment 9.2.2.4).
4. Member Councils may also wish to seek independent legal advice as required regarding the risk implications and to undertake individual due diligence of the proposed model (company limited by guarantee), in line with sections 110 and 111 of the 2020 Act and from the perspective of each Council prior to seeking further Council commitment. GLC will provide a risk assessment for each Council, but this can be modified or reviewed by each Council.

Council Officers may also be engaged across member Councils to consider the proposal and understand the implications for each Council.

- 
5. Establish Charitable and Tax – Exempt Status under the *Australian Charities and Not-for-Profits Commission Act 2012*. This step ensures that the company will remain exempt from Corporation and Payroll Tax and retain its Deductible Gift Recipient status. Again, legal support to register has been used by those RLC's having made the changes.
  6. Finalise a new library service delivery agreement with Councils and undertake a transfer of equity, assets and liabilities. This will be the final stage where the transfer of equity, assets, and liabilities from the RLC to the new entity will occur in accordance with a transfer of business agreement to start operating on a date to be announced. The agreement governs the relationship between the Member Councils with respect to the contribution of assets and ongoing support and details the requirement of a Corporate Plan as well as a Budget Plan to identify the financial and other resource requirements of the new entity. The Agreement also sets out the Financial Contributions of Member Councils and details processes regarding reporting, accounts and membership. In the case of both RLC's that have completed the transfer, there was little or no change to requirements from existing Regional Library Agreements and Service and Funding Agreements. GLC would recommend the same approach of simply reviewing existing conditions and minimizing any changes.
  7. The drafted library agreement will be developed in conjunction with the existing library board again using legal support and is then provided to each member Council for further consideration and review.
  8. Councils provide any feedback to GLC who will collate any changes to incorporate feedback and present a final agreement to a future Council Meeting for approval.

## **Proposed Structure and Governance Arrangements**

### New Board

A new Board would be established and would be similar to the existing structure, with elected representatives from each of the Councils, providing a mix of Councillor and senior corporate representation. Under the proposed new governance structures, each Member Council would appoint two Directors to form part of the Board of Directors.

### Directors

Member Councils nominate Directors to be appointed to the Board. Directors are elected for a term of two years and eligible for reappointment for a further two years, if nominated by the Member Councils and the continued service as a Director does not exceed a period of eight years.

Director nominations can be withdrawn at any time by the Member Councils if the person no longer holds office with that Member Council or is no longer suitable.

To be eligible for the office of Director, a person must consent in writing to act as a Director. Directors must hold a Directors ID in the Australian Business Registry Service.

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Their responsibilities are very similar to the current Board Member's responsibilities and involve:

- Attendance at Quarterly Board Meetings;
- Corporate Plan; Annual Budget; Long Term Financial Strategy;
- Appoint Auditor;
- Appointment/dismissal of Chief Executive;
- Appoint Audit and Risk Advisory Committee;
- Review and approve governance policies; and
- Review and approve Tenders above delegation requirements.
- General responsibilities of the Directors are outlined in the Australian Institute of Company Directors and can be found in Attachment 9.2.2.5.

Director training and induction would take place and be funded by the new entity as part of Board membership.

Liability insurance and professional indemnity insurance for Directors would also continue to be provided by both Council and the new entity. RLC's have been advised that current insurances would provide the same protections to Directors operating within the new entity.

Member Council responsibilities or rights include:

- Requesting a General Meeting;
- Accept/rejecting new Member applications;
- Terminating existing Memberships; and
- Changing the Company Constitution

### **Environmental Analysis - Activity in the Regional Library Corporation Sector.**

As noted previously, seven of the ten Regional Library Corporations have either enacted or recommended a transition to a not-for-profit company limited by guarantee.

This model has been analysed by the public library sector as the most appropriate model to transition to as it:

- is a common legal structure with associated rule that provide for high levels of governance, transparency, regular reporting and regulation.
- reflects very similar functions and processes to the existing Regional Library Corporations, allowing for a constitution and member agreement that can mirror the current library service agreements.
- meets requirements for libraries to continue registration with the Australian Charities and Not for Profits Commission to maintain gift tax deductibility and tax exemption status.
- aligns with the requirements of the *Local Government Act 2020* definition of a Beneficial Enterprise and therefore allows Councils to and the new entity to continue to work within the requirements of the Local Government Act.

Given the completed transition to this new model by two Regional Library Corporations, GLC now has access to risk assessments, constitutions and agreements that have been

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established and are successfully operating for Myli (West Gippsland) and Your Library (Knox, Maroondah and Yarra Ranges).

Examples of these documents are attached. As noted previously, GLC would look to utilise the same approved legal and accounting consultants to undertake the transition process to minimise risk.

### **Priority/Importance**

The GLC Board sees this step as a commitment from each member Council to progressing the formation of a Beneficial Enterprise. This step is crucial for a number of reasons. This includes:

1. The collective commitment from all member Councils toward a clear outcome allows GLC to confidently invest funds in the process- there are significant costs associated with undertaking this work that will require legal and accounting consulting services. Although the work will not cost Councils any additional funds, it does require a commitment of funds of up to \$200,000 from GLC to transfer business, assets and employees to a new entity.
2. Certainty for library staff – providing a commitment to move to a Beneficial Enterprise provides certainty and stability for all 100-library staff across the region.
3. Based on the experience of both RLC's that have completed the process, the transition has taken around 18 months to two years to move from establishing a new entity through to transferring resources and winding up the existing RLC. With a deadline of 2030, this work is seen as important to get underway, so completion occurs in 2026/2027 at the latest.

### **Timelines**

The following briefly outlines the work to date and expected process following this report.

#### June 2023:

Undertake analysis and review of service value and financial analysis for Board decision and support due diligence for Councils.

#### December 2023:

Board decision to recommend to member Councils a transition to a Not-for-Profit Company as a preferred collective approach under the Beneficial Enterprise (section. 110 of the *Local Government Act 2020*).

#### March 2024:

Invitation to attend information session for all Member Councils as a Q and A session on findings and information.

#### May/June 2024:

Reports to each member Council to formally endorse commitment to and progress of Beneficial Enterprise transition.

#### July 2024:

Proceed with both legal and accounting consultation to develop new library agreements and undertake dissolution of Regional Library Corporation.

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### May 2025:

Return to Councils with agreed constitution and library service agreement for final endorsement.

### July 2025:

Commence operations of new Beneficial Enterprise.

### December 2025:

Finalise winding up of North Central Goldfields Regional Library Corporation.

The commencement of legal proceedings to establish a new entity through to the final winding up of the existing Corporation has involved an 18-month process with other RLC's and has associated costs of around \$100-150,000.00. All costs will be covered by GLC.

### **Risk Assessment**

As noted above, several independent reviews have assessed the risk of not continuing to provide a shared service approach with the requirement for each Council to establish a new leadership and management structure, increase requirements for Corporate Services and ensure staffing levels are increased locally to cover absences and specialist roles. The risk assessment undertaken by Knox City Council is provided as an example and case study of the internal risk assessment undertaken.

GLC has also undertaken an initial risk assessment based on risk assessments provided by the Regional Library Corporations that have transitioned to new entities. This can be viewed in its entirety at Attachment 9.2.2.3.

### **Climate Impact Statement**

Council responds both directly and indirectly to the impacts of climate change in numerous ways. Whilst these are not specifically mentioned in the Library Entity Review, annual budget allocations facilitate Council's response.

What is apparent, however, is the impact that climate change can have on Council operations. For example, we know we will experience natural disasters, such as fire, drought, or flood in the future. We may also experience extreme or volatile temperatures in our climate.

### **Gender Equity Statement**

It is considered that this report goes towards promoting gender equity principles as outlined in the *Gender Equity Act 2020* and does not contribute to the promotion of inequalities. Mount Alexander Shire Council is committed to meeting its obligations as stated in the Act and to further promote the right to equality as set out in the Charter of Human Rights.

A Gender Impact Assessment was not required; however, gender equity principles have been considered in the development of the project / initiative to the advancement of gender equality.

### **Alternate Options**

There are no alternate options as transitioning public library services to a Beneficial Enterprise is a requirement under sections 110 and 111 of the *Local Government Act 2020*.

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## **Communication and Consultation**

### Inform:

We will keep our community informed.

## **Legislation**

### Local Government Act 2020

#### *SECT 110 - Beneficial enterprises*

(1) For the purpose of performing its role, a Council may participate in any of the following beneficial enterprises—

- (a) become a member of a corporation;
- (b) participate in the formation of a corporation, trust or other body;
- (c) acquire shares in a corporation, trust or other body;
- (d) enter into a partnership or joint venture with any other person or body.

(2) If by virtue of any participation, subscription or acquisition under subsection (1), a Council has the right to appoint some person to be a director of or hold office in or under the corporation, trust, partnership or other body, the Council may appoint a Councillor, member of Council staff or other person to that office.

(3) For the purposes of subsection (1)(a), (b) or (c), a Council may nominate a person to hold the shareholding or unit holding on behalf of the Council and the person nominated is to be treated as being the shareholder or unit holder of the shares or units.

#### *SECT III - Process before participating in beneficial enterprises*

(1) A Council must in participating in a beneficial enterprise under section 110—

(a) assess the total investment involved and the total risk exposure and ensure that its total risk exposure does not exceed its total investment; and

(b) if section 110(1)(a), (b) or (c) applies, ensure that the corporation is a limited corporation; and

(c) have regard to the risks involved; and

(d) establish risk management arrangements; and

(e) implement regular performance monitoring and reporting arrangements in relation to the beneficial enterprise; and

(f) ensure that any changes to the operation or purpose of the beneficial enterprise are reported to the Council; and

(g) identify and manage any risks associated with any changes to the operation or purpose of the beneficial enterprise.

(2) A Council must report on the operations and performance of each beneficial enterprise in its annual report.

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## **Strategies and Policy Impacts**

### Council Plan 2021-2025

*Environment - A flourishing environment for nature and people.*

- We are maintaining, improving and celebrating our places and spaces.

*Principle - We are always improving.*

- Council is responsive to the needs of the communities it serves.

*Principle - We are delivering together.*

- We are working across Council, government, local partners and across community to meet the varied needs of our region.

## **Child Safe Standards**

Mount Alexander Shire Council is committed to being a child safe organisation and has zero tolerance for child abuse. We recognise our legal and moral responsibilities in keeping children and young people safe from harm and promoting their best interests.

All children who come in contact with Councillors, employees, contractors and volunteers from the organisation have a right to be and feel safe. We have specific policies, procedures and training in place to support employees, volunteers and contractors to achieve these commitments.

We create environments where all children have a voice and are listened to, their views are respected and they contribute to how we plan for, design and develop our services and activities.

## **Declarations of Conflict of Interest**

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

### No conflicts of interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.

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### 9.2.3. NORTH CENTRAL GOLDFIELDS REGIONAL LIBRARY CORPORATION BOARD REPORTS

This Report is for Information

Responsible Director: Director Corporate and Community Services, Lisa Knight

Responsible Officer: Executive Assistant to Director Corporate and Community Services,  
Alison Baker

- Attachments:
1. Agenda May 24 2024 [9.2.3.1 - 3 pages]
  2. DRAFT MINUTES - Board Meeting April 3 2024 [9.2.3.2 - 3 pages]
  3. Report July 1 to April 30 2024 Financial Statements [9.2.3.3 - 2 pages]
  4. Library Plan Actions 2024-2025 [9.2.3.4 - 8 pages]
  5. NCGRL - IML (Draft) [9.2.3.5 - 9 pages]
  6. MASC Quarterly Report Jan - Mar 2024 [9.2.3.6 - 2 pages]
  7. Library Plan Quarterly Report Jan to March 2024 [9.2.3.7 - 7 pages]
  8. CONFIDENTIAL - Incident Summary January to March 2024 Report for Library Board (002) [9.2.3.8 - 9 pages]
  9. CONFIDENTIAL - Workplace Safety Action Plan 2023-25 and Staff Wellbeing Action Plan - Update March 2024 (002) [9.2.3.9 - 13 pages]
  10. Report - Adoption of GLC Budget 2024-2025 (002) [9.2.3.10 - 1 page]
  11. 2024-25 Goldfields Library Budget for adoption (002) [9.2.3.11 - 23 pages]
  12. April 2024 Financial Report [9.2.3.12 - 5 pages]

#### Executive Summary

Director Corporate and Community Services provides the attached reports on behalf of the North Central Goldfields Regional Library Corporation (NCGRL) Board: -

1. Agenda 24 May 2024
2. Goldfields Library Corporation Board Draft Minutes (3 April 2024)
3. Financial Statements 1 July 2023 to 30 April 2024
4. Library Plan Actions 24/25
5. NCGRL – IML (Draft)
6. Castlemaine Library Quarterly Report January – March 2023.
7. Library Plan Quarterly report
8. Confidential: Workplace Safety Action Plan 2023/2025
9. Confidential: Incident Summary January to March 2024
10. 2024-2025 Goldfields Library Budget for Adoption
11. Report – Adoption of GLC Budget 2024-2025
12. April 2024 Financial Report

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**RECOMMENDATION**

**That Council notes the Goldfields Library Corporation reports provided. These documents are provided for information only and no decision is required.**

**MOVED COUNCILLOR ANNEAR**

**That the recommendation be adopted.**

**SECONDED COUNCILLOR CORDY**

**CARRIED.**

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### 9.3. Environment

#### 9.3.1. RESPONSE TO PETITION: SINCLAIRS AND CARPENTERS LANE, WALMER

This Report is Decision

Responsible Director: Director Infrastructure and Development, Michael Annear

Responsible Officer: Works Coordinator, Glenn Deaker

Attachments: 1. Petition - Concerns with condition of Sinclairs Lane, south of Lewis Road, Carpenters Lane, Walmer - [9.3.1.1 - 1 page]

#### **Executive Summary**

Council received a petition on 30 April 2024 from 17 residents living on Sinclairs Lane and Carpenters Lane, Walmer. The petition has raised concerns with the general condition of the road surface and the pavement rock content.

The petition requests 'better-screened material included in the surface of Sinclairs Lane if at all possible.'

Assessment was carried out by Council Officers in early May 2024 to ensure the road was safe and did not exceed Council's Road Management Plan intervention levels. The inspection identified no immediate action was required; however, spot re-sheeting and grading is required within 90 days.

#### **RECOMMENDATION**

**That Council:**

- 1. Notes the application of the treatments specified under the Road Management Plan, including and within the timeframes set within the plan.**
- 2. Notes that a Council Officer will advise the lead petitioner of the outcomes of the investigations and Meeting of Council.**

**MOVED COUNCILLOR GARDNER**

**That the recommendation be adopted.**

**SECONDED COUNCILLOR MALTBY**

**CARRIED.**

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## Context

Sinclair's Lane and Carpenters Lane, Walmer, are categorised as minor roads under Council's Road Management Plan (RMP).

Since January 2023, there have been four maintenance requests on Sinclair's Lane, and two on Carpenters Lane. In August 2023, maintenance grading on both roads occurred. Sinclair's Lane was inspected on 27 March 2024, and no RMP hazards exceeding intervention were identified. However; the road was listed for routine maintenance grading.

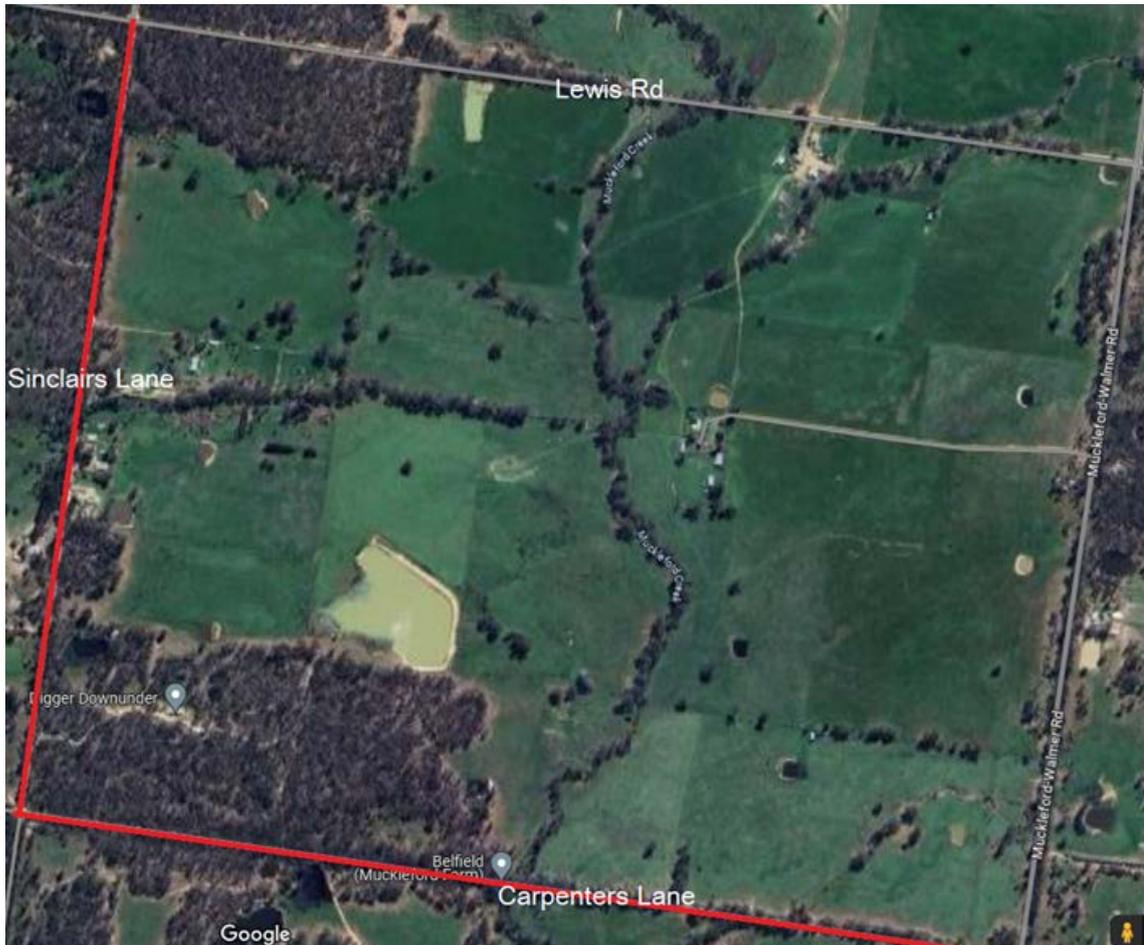
In response to the petition, an inspection was conducted on 9 May 2024. Due to minor corrugations, and the exposure of some larger gravel rocks throughout the surface (due to loss of fine material), a RMP hazard intervention work order was created. The inspection also determined that increased traffic movements between March and May 2024 had accelerated the decline in condition of both roads.

Works will be carried out within RMP minor road timeframes, allowing a maximum of 90 days for completion. Works will include a mixture of general maintenance grading and spot re-sheeting with road base material. Material will be added to the intermittent areas where the exposure of larger unbound stone is present.

Overall, deterioration of either road has not reached a level where full road re-sheeting is required; however, it is likely that full re-sheeting may be required within the next five years on both roads.

Rectification works are likely to be done before the end of June 2024, due to these roads being programmed for routine maintenance, which is within the 90-day RMP timeframes (Please note works are still pending at the time that this report was created).

Figure 1 – Aerial View of Sinclair's Lane and Carpenters Lane, Walmer



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## **Issues**

No Issues have been identified.

## **Finance and Resource Implications**

There are no additional costs associated with completing the maintenance grading works as they had previously been scheduled for completion. All costs will be captured within Council's general maintenance budget.

## **Risk Analysis**

Risks associated with the road condition will be mitigated by Council's responsibility to undertake minor maintenance under Council's RMP.

## **Climate Impact Statement**

The proposed works are expected to have a negligible climate impact.

## **Gender Equity Statement**

A Gender Impact Assessment was not required.

## **Alternate Options**

An alternative option is to bring forward the re-sheeting schedule for these roads into the 2024/2025 program. This is not recommended as it would be to the detriment of other roads that are in greater need of re-sheeting.

## **Communication and Consultation**

The lead petitioner was notified via letter that the petition had been received and that the complaint will be measured and actioned under Council's RMP.

The lead petitioner will be contacted by Council Officers to inform them of the outcome of the investigation following the Council Meeting.

## **Legislation**

Road Management Act 2004

## **Strategies and Policy Impacts**

Road Management Plan

To set the relevant standard in relation to the discharge of duties in the performance of road management functions.

Council Plan 2021-2025

*Pillar 2: An environment for nature and people*

Objective: Our community is growing in harmony with nature

Strategies: Review, maintain, renew, and expand sustainable assets of our community

## **Child Safe Standards**

Mount Alexander Shire Council is committed to being a child safe organisation and has zero tolerance for child abuse. We recognize our legal and moral responsibilities in keeping children and young people safe from harm and promoting their best interests.

All children who come in contact with Councilors, employees, contractors, and volunteers from the organisation have a right to be and feel safe. We have specific policies, procedures,

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and training in place to support employees, volunteers, and contractors to achieve these commitments.

We create environments where all children have a voice and are listened to, their views are respected and they contribute to how we plan for, design, and develop our services and activities.

### **Declarations of Conflict of Interest**

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

### No Conflict of Interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.

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### 9.3.2. RESPONSE TO PETITION: SPEED REDUCTION HARMONY WAY

This Report is Decision

Responsible Director: Director Infrastructure and Development, Michael Annear

Responsible Officer: Manager Engineering, Paul Diss

Attachments: Nil

#### **Executive Summary**

Council received a petition from the local Harcourt community on 2 April 2024, requesting the following changes to traffic management along Harmony Way between the Harcourt township and Mclvor Road intersection:

1. Extend the 60 kilometre per hour zone north from the Harcourt township to Gaaschs Road.
2. Create an 80 kilometre per hour zone from Gaaschs Road out to the Harcourt Cemetery.

Harmony Way is a Council road that was previously the Calder Highway, prior to the Harcourt bypass being created as part of the Calder Freeway project. The road at this location is constructed to a high standard and is currently a 100 kilometre per hour zone.

The Department of Transport and Planning have advised that it is a Council decision to request a change but have recommended Council consider other options prior to requesting a speed reduction.

The outcome of the investigation does not support the requested changes to the current speed zones.

#### **RECOMMENDATION**

That Council:

1. Notes the Officer report regarding the petitioners request to extend the 60 kilometre per hour speed limit from the Harcourt Township to Gaaschs Road, and to introduce an 80 kilometre per hour speed limit from Gaaschs Road to the Harcourt Cemetery on Harmony Way.
2. Notes that due to existing road safety measures, a limited crash history, and other reasons outlined within this report, the requested changes are not recommended.
3. Notes the mirrors installed for improved vision at the Twyford Street and Harmony Way intersection will be serviced and cleaned.
4. Notes that a Council Officer will advise the lead petitioner of the outcomes of the investigations and Meeting of Council.

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MOVED COUNCILLOR HENDERSON

That the recommendation be adopted.

SECONDED COUNCILLOR CORDY

NOT CARRIED.

**MOVED COUNCILLOR ANNEAR**

**That Council:**

- 1. Undertake community consultation to inform a request to the Department of Transport and Planning to introduce an 80 kilometre per hour speed zone extending from the existing 60 kilometre per hour zone out to the end of the overtaking lane, north of Gaaschs Road intersection.**
- 2. Notes that a Council Officer will advise the lead petitioner of the outcomes of the investigations and Meeting of Council.**
- 3. Notes the mirrors installed for improved vision at the Twyford Street and Harmony Way intersection will be serviced and cleaned.**

**SECONDED COUNCILLOR MALTBY**

**CARRIED.**

**COUNCILLOR ANNEAR CALLED FOR A DIVISION.**

**Councillors For: Gardner, Cordy, Annear, Henderson, McClure, Maltby.**

**Councillors Against: Driscoll.**

## Context

Council received a petition from members of the Harcourt community on 2 April 2024, requesting the changes to traffic management along Harmony Way between the Harcourt township and McIvor Road intersection.

The petition was signed by 26 persons, eleven of which were from Twyford Road. The petition sought to:

1. Extend the 60 kilometre per hour zone north from the Harcourt township to Gaaschs Road
2. Create an 80 kilometre per hour zone from Gaaschs Road out to the Harcourt Cemetery

Council acknowledged the petition at its meeting on 16 April 2024 and requested a report on the matter be provided at the Meeting of Council on the 18 June 2024.

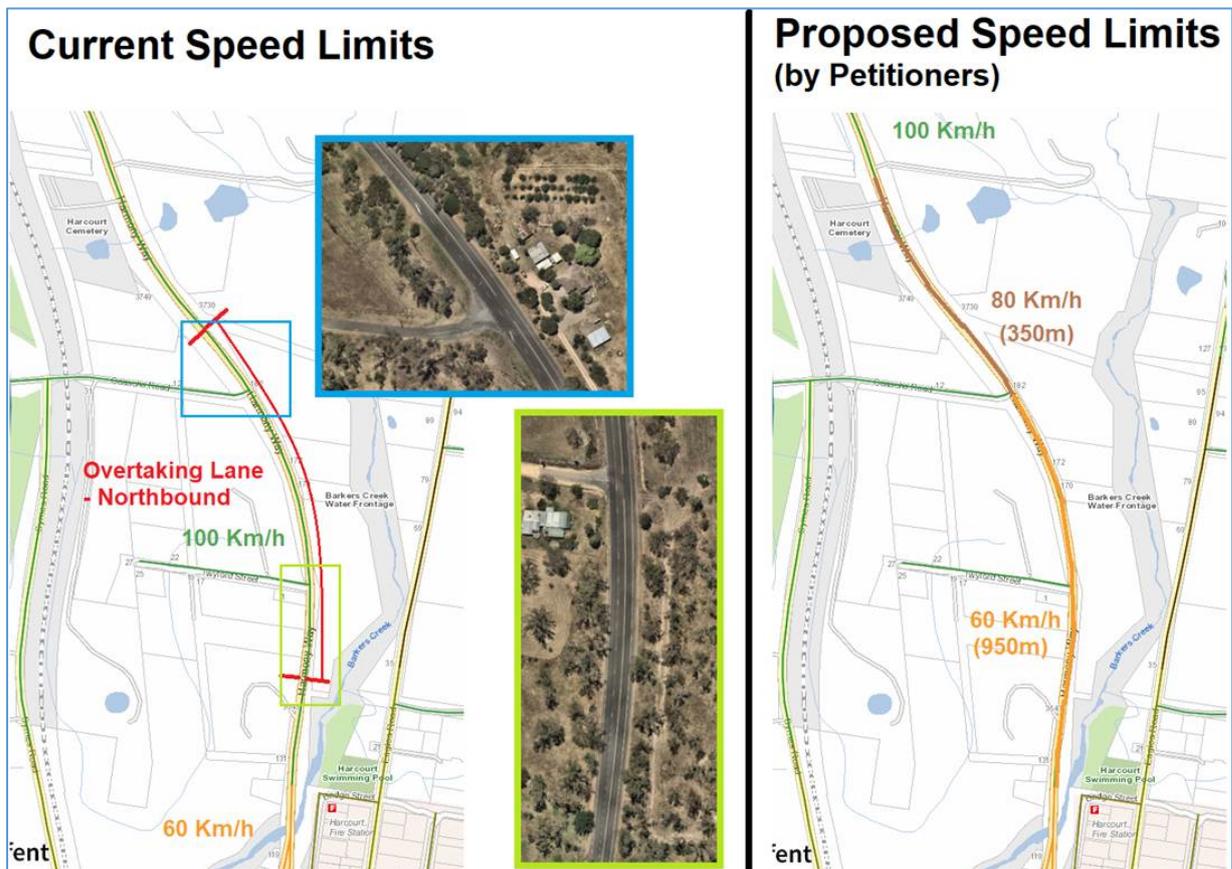
### Existing conditions

Harmony Way was once part of the Calder Highway, until the new Calder Freeway was constructed to the west of the original highway alignment, bypassing Harcourt. The existing road is constructed to typical highway/arterial road standard including 4.0 metre traffic lanes and between 1.0 to 2.0 metre sealed shoulders.

Harmony Way has subsequently been transferred to Council to manage, with the road providing a connection between Taradale, Elphinstone and Harcourt, terminating at the Calder Freeway and Fogartys Gap Road interchange.

The section highlighted in the petition is shown in Figure 1 below:

Figure 1 Location and existing and proposed speed zones.



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Currently the existing 60 kilometre per hour speed zone extends 85 metres north of the Barkers Creek, at which point it changes to a 100 kilometre per hour speed zone. A further 260 metres north sees the beginning of a north bound overtaking lane which extends for approximately 850 metres before returning to a single lane two-way road.

The overtaking lane was part of the original Calder Highway based on the original volumes of traffic. Current annual average daily traffic volumes are 605 vehicles per day, with 9% being commercial/heavy vehicles. Under these volumes, there is no longer a requirement to maintain an overtaking lane.

*Figure 2 General traffic lane arrangement.*



Twyford Street enters Harmony Way approximately 500 metres north of Barkers Creek, and is located within the 100 kilometre per hour zone and the overtaking lane section. Twyford Street currently provides direct access to nine properties.

At the intersection of Twyford Street and Harmony Way mirrors have been installed to enable improved vision for vehicles exiting Twyford Street (refer to Figure 3). These were installed by VicRoads when the then Calder Highway experienced higher traffic volumes and made it difficult to exit Twyford Street on to the highway. The mirrors continue to function; providing improved visibility to traffic coming from the left or right of the intersection.

*Figure 3 Existing mirror installation.*

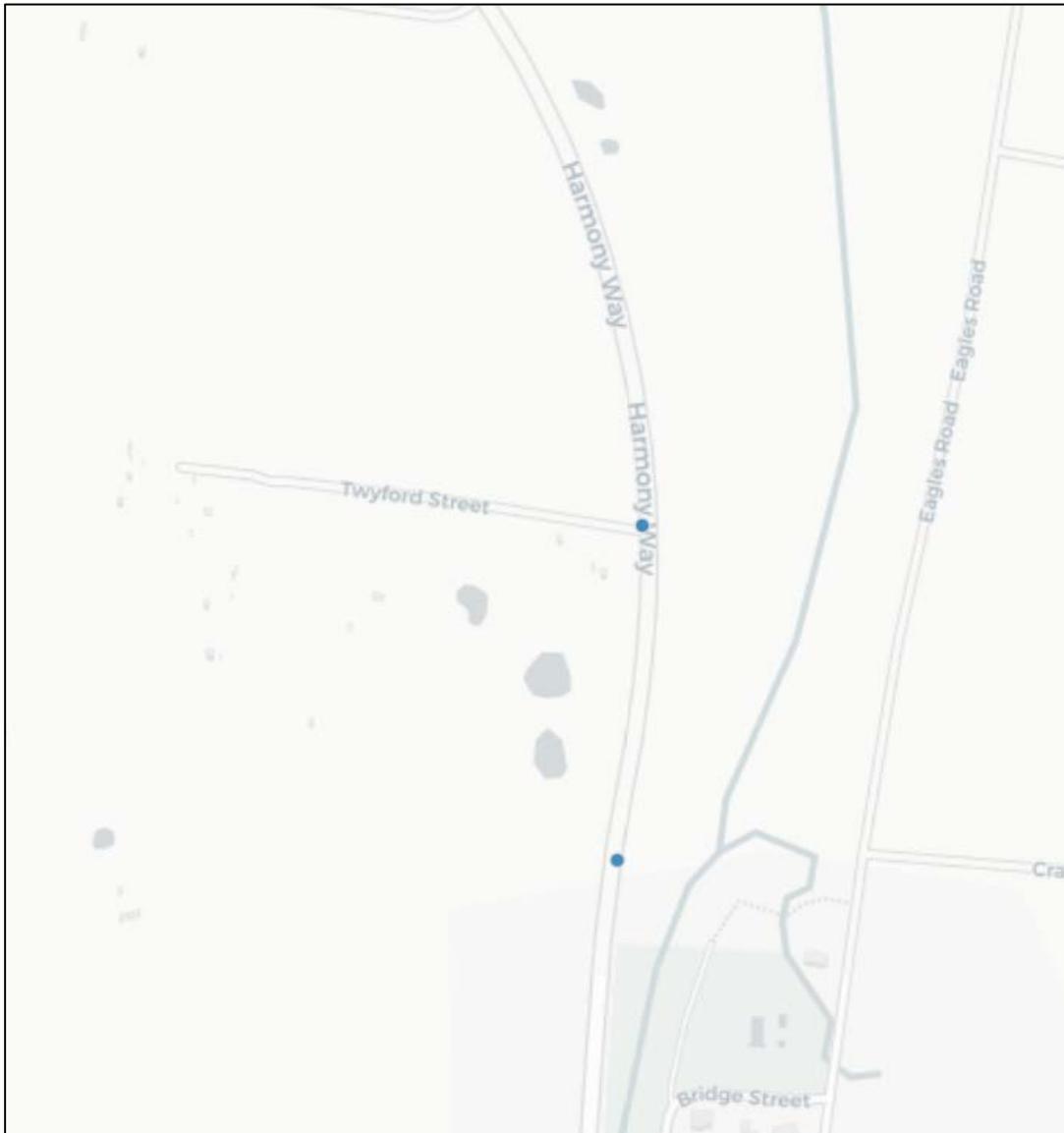


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## Accident History

A review of the Victorian Road Crash Data statistics from the Department of Transport and Planning (DTP) website indicates there have been two accidents recorded at this location. These are shown as blue dots in Figure 4.

*Figure 4 Accident locations.*



Neither accident resulted in a fatality. The incident at the Twyford Street and Harmony Way intersection was a vehicle collision that occurred in 2012. The other accident was a vehicle running off the road into a fixed object that occurred in 2023.

## **Issues**

There have been several requests for safety improvements at the Twyford Street and Harmony Way intersection. Residents believe the intersection to be dangerous due to the traffic speed and lack of visibility turning on to Harmony Way. The petition is seeking an extension of the 60 kilometre per hour zone for approximately 950 metres to Gaaschs Road along with the introduction of an 80 kilometre per hour zone out to the Harcourt Cemetery (refer Figure 1).

The petition notes that these speed zone changes would enhance the safety of vehicles entering and exiting Twyford Street. Support for the changes included:

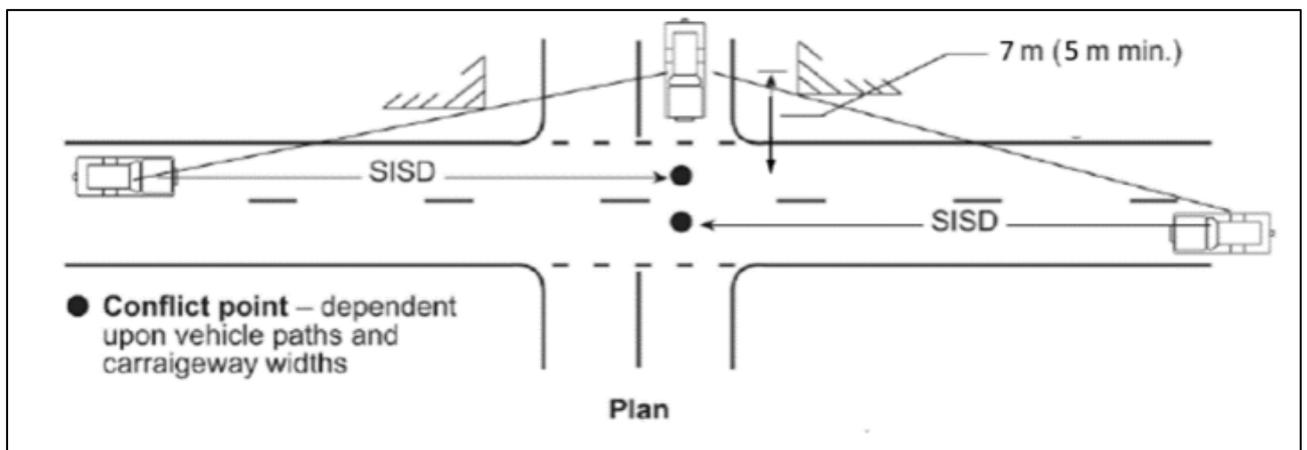
- Increased traffic from the soon to be opened miniature railway in Harcourt
- Traffic from funeral processions
- Traffic on public holidays with people visiting the cemetery

#### Engineering Assessment

A site visit was undertaken by Council Officers on 21 May 2024 and it was noted that there were site vision limitations in both directions exiting Twyford Street, due to the existing batter on the west side of Harmony Way. It was also noted that while the existing mirrors are still functional, they should be serviced and cleaned.

An assessment of the existing site distance when stopped at the intersection indicates that it is well below the requirements of the current Austroad Road Design Guidelines Part 4A (refer to Figure 5 below).

Figure 5 Site Distance requirements.



\*\* Ref: ARDG Part 4A figure 3.2

Under the Austroad Guidelines, the Safe Intersection Site Distance (SISD) for a 100 kilometres per hour zone is between 230 metres to 270 metres depending on a driver's reaction time. Currently the SISD is between 30 metres to 50 metres. However, the previous installation of mirrors at the intersection improves the SISD, and has been assessed as an appropriate alternative road safety measure for the location.

A Risk Ranking assessment utilising the DTP toolkit was undertaken to determine the recommended speed zone at this location, this assessment considers:

- locality (rural v urban)
- road geometry
- roadside hazard environment
- intersection and property access densities
- traffic volumes (by range)
- current speed limit

The risk assessment indicated a medium risk, and a recommended speed limit of 100 kilometres per hour. It did highlight that an 80 kilometre per hour zone could be considered based on previous crash history, if the intersection is considered high risk *and* there is community feedback. While there have been community requests for changes to this speed

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limit at this location, there has been a very limited crash history, and the intersection is not considered high risk due to the low number of traffic movements.

Due to these factors, justification for requesting to DTP an 80 kilometre per hour speed zone is limited, however, it has been added as an alternative option for Council consideration.

DTP were consulted on the speed zone request and advised that Council may request a speed zone reduction, however, they strongly suggest that Council consider other options before submitting a request for a formal speed zone change.

The existing traffic volumes on Harmony Way at this location are considered moderate, and the suggestion that the miniature railway will generate significantly increased traffic is unlikely and unfounded. Similarly, funeral processions are infrequent and present slow-moving traffic which is unlikely to cause traffic accidents. As mentioned, the area has a very low accident history with two accidents recorded in the last 12 years, one of which was located in the intersection.

Extending the 60 kilometre per hour zone a further 950 metres, and introducing an 80 kilometre per hour zone as requested, will likely lead to poor speed compliance from motorists given the surrounding traffic environment. This is further supported by the overtaking lane and general high standard of road presented to motorists.

Based on the above factors, and the fact that additional road safety measures have been installed at the Twyford Street and Harmony Way intersection, the extension of the 60 kilometre per hour zone and introduction of the 80 kilometre per hour zone, as requested in the petition, is not supported.

### **Finance and Resource Implications**

Costs associated with the maintenance of the mirrors installed at the Twyford Street and Harmony Way intersection will be covered by existing operational budget. There are no further financial and resource implications with no proposed changes to the existing speed limits.

### **Risk Analysis**

#### Safety

There is risk of a multi-vehicle collision, caused by vehicles entering Harmony Way from Twyford Street. The likelihood of this occurring, however, is very low, due to the low numbers of traffic using Twyford Street, and the limited accidents recorded at the location.

The presence of the mirrors at the intersection does improve sight distances and mitigates the potential for an accident.

No safety risks have been identified for the section of Harmony Way between Gaaschs Road and the Harcourt Cemetery that require intervention.

#### Reputation

There are reputational impacts with a decision that is made regarding speed limits at this location. If no change is made, the petition organisers could seek further support for change. If the change is made to increase the length of the 60 kilometre per hour zone, and introduce an 80 kilometre per hour zone as requested, there is likely to be a part of the community that will disagree with the lower speed limits.

To mitigate the risk, consideration for the impact on the whole community and all road users has been taken into consideration when forming the recommendations.

### **Climate Impact Statement**

Any proposed changes to speed limits at this location do not have a climate impact.

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## Gender Equity Statement

It is considered that this report goes towards promoting gender equity principles as outlined in the *Gender Equity Act 2020* and does not contribute to the promotion of inequalities. Mount Alexander Shire Council is committed to meeting its obligations as stated in the Act and to further promote the right to equality as set out in the Charter of Human Rights.

Given the nature of the request no Gender Impact Assessment has been completed as part of this request.

## Alternate Options

While the recommendation is to *not* consider a change in the speed limit at this location, there are several alternatives that could be considered by Council. The alternatives also respond to the DTP's suggestion to consider alternative options to speed reductions.

1. Introduce an 80 kilometre per hour speed zone extending from the existing 60 kilometre per hour zone out to the end of the overtaking lane, north of Gaaschs Road intersection. If this alternative was adopted, it is recommended to undertake community consultation on the proposed change, prior to submitting a request to DTP for consideration.
2. Undertake line marking changes along the overtaking lane section to provide left and right turn lanes into adjacent streets/roads, converting Harmony Way to single lane in both directions. This option would also require considerable community consultation as it would mean the loss of the existing overtaking lane.
3. Undertake batter works at Twyford Street to improve site vision when entering Harmony Way. This is not recommended due to the existence of mirrors at the intersection, which have been installed to improve sight distance, and the significant cost of reducing the batters at the intersection.
4. Additional signage, including flip down signs for funeral processions, is not recommended due to the existing road conditions being appropriate for the safe management of funeral processions.

Alternatively, Council may wish to support the petition request which would involve Council Officers submitting a request to DTP to extend the 60 kilometre per hour zone north from the Harcourt township to Gaaschs Road, and to create an 80 kilometre per hour zone from Gaaschs Road out to the Harcourt Cemetery. This is not recommended, as informal discussions with DTP have indicated the need to consider all alternatives to a speed zone reduction, and DTP generally do not support speed limit changes in the middle of an overtaking lane section.

## Communication and Consultation

As highlighted above, Council staff have been in discussion with DTP regarding the proposed speed zone change.

The petition organiser has not been contacted as part of the review process, as the request is clear with no clarification required. Following Council consideration of the petition, the lead petitioner will be contacted by Council Officers to inform them of the outcome.

Any proposed speed change at this location will need significant community consultation to ensure there is support for the change.

## Legislation

Road Management Act 2004

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## **Strategies and Policy Impacts**

### Road Management Plan (2021)

Purpose: To set the relevant standard in relation to the discharge of duties in the performance of road management functions.

### Council Plan 2021-2025

*Pillar 2: An environment for people and nature.*

Objective: We are facilitating managed growth of our towns while protecting natural assets.

Strategies: Coordinate land use, urban design, and infrastructure planning for towns.

## **Child Safe Standards**

Mount Alexander Shire Council is committed to being a child safe organisation and has zero tolerance for child abuse. We recognise our legal and moral responsibilities in keeping children and young people safe from harm and promoting their best interests.

All children who come in contact with Councillors, employees, contractors and volunteers from the organisation have a right to be and feel safe. We have specific policies, procedures and training in place to support employees, volunteers and contractors to achieve these commitments.

We create environments where all children have a voice and are listened to, their views are respected and they contribute to how we plan for, design and develop our services and activities.

## **Declarations of Conflict of Interest**

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

### No Conflict of Interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.

**Councillor McClure left the Chamber at 7.52. pm due to a declared conflict of interest at Item 9.4.1.**

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## 9.4. Economy

### 9.4.1. PLANNING APPLICATION PA007/2024 - 2342 CALDER HIGHWAY, ELPHINSTONE

This Report is For Decision

Responsible Director: Director Infrastructure and Development, Michael Annear

Responsible Officer: Senior Planner, Daniel Spark

Attachments:

1. Application Planning Report [9.4.1.1 - 118 pages]
2. Application dwelling plans [9.4.1.2 - 16 pages]
3. Application shed plans [9.4.1.3 - 4 pages]

#### Executive Summary

The purpose of this report is to enable Council to decide on an application for the development of a second dwelling at 2342 Calder Highway, Elphinstone. The application has been referred to Council for a decision because the Council Officer recommendation is to refuse the application.

The subject site is located within the Farming Zone pursuant to the Mount Alexander Planning Scheme. The site is also affected by the Environment Significant Overlay, Schedule 1.

The application was referred to the relevant authorities and advertised to neighbouring properties. No objections have been received from neighbouring properties. No objections were received from referral authorities, except for Council's Public and Environmental Health Department. Council's Strategic Planning team are also not supportive of the proposed development.

The application has been assessed against and determined to be inconsistent with the relevant sections of the Planning Policy Framework as outlined below. In addition, the application is considered to be contrary to the purpose and decision guidelines of the Farming Zone.

It is recommended that a Notice of Refusal to Grant a Permit is issued in accordance with the following recommendation.

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## **RECOMMENDATION**

**That Council resolve to issue Notice of Refusal to Grant a Planning Permit PA007/2024 for the development of a second dwelling at 2342 Calder Highway, Elphinstone on the following grounds:**

- 1. The proposal is contrary to Clause 16.01-3L (Rural Residential Development), the *Mount Alexander Shire 2021 to 2025 Council Plan* referenced at Clause 02.02 (Vision) and the Elphinstone Framework Plan, in Clause 02.04 of the Mount Alexander Planning Scheme as the proposal:**
  - a) Prioritises the use of the land for residential uses within areas zoned for agricultural practice.**
  - b) Does not facilitate managed growth of towns.**
  - c) Encourages rural living development within the Farming Zone, and outside areas already zoned for rural living.**
  - d) Encourages the sprawl of low-density residential land uses along the Calder Highway, throughout the Harcourt horticultural area, and on the fringes of towns along the Calder, Midland and Pyrenees highways.**
  - e) Proposes increased residential densities outside the urban boundary of Elphinstone, that has already been zoned for residential purposes contrary to the Elphinstone Framework Plan.**
- 2. The application is contrary to the strategies and objectives of Clause 11.01-1 (Settlement) as the increase in residential density on the subject site does not:**
  - a) Develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities.**
  - b) Ensure regions and their settlements are planned in accordance with their relevant regional growth plan.**
  - c) Create and reinforce settlement boundaries.**
  - d) Encourage a form and density of settlements that supports healthy, active and sustainable transport.**
  - e) Limit urban sprawl and direct growth into existing settlements.**
  - f) Develop compact urban areas that are based around existing or planned activity centres, to maximise accessibility to facilities and services.**
- 3. The proposal is not consistent with the requirements of the current Environment Protection Authority Code of Practice - Onsite Wastewater Management, Publication 891.4, July 2016, particularly in relation to set back requirements from waterways. This is contrary to Clause 14.02-1S (Catchment planning and management) which requires Council to make decisions that emphasise the importance of protecting water resources, including reservoirs, water mains, and local storage facilities, from potential contamination, and advocates for the preservation of natural drainage corridors with vegetated buffer zones at least 30 metres wide on each side of a waterway. It also insists that water quality infrastructure should be designed to minimize the risk of harm to surface waters and groundwater.**
- 4. The proposal does not represent a fair and orderly planning outcome contrary to the decision guidelines of Clause 65.01 (Approval of an Application or Plan) of the Mount Alexander Planning Scheme.**

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**MOVED COUNCILLOR CORDY**

**That the recommendation be adopted.**

**SECONDED COUNCILLOR GARDNER**

**CARRIED.**

**COUNCILLOR MALTBY CALLED FOR A DIVISION.**

**Councillors For: Gardner, Cordy, Annear, Henderson.**

**Councillors Against: Driscoll, Maltby**

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## Summary

Application details:	Construction of a second dwelling and a shed
Application No:	PA007/2024
Applicant:	Gerard Gilfelder
Land:	2342 Calder Hwy Elphinstone VIC 3448 Lot 2 on Plan of Subdivision 613896G. VOLUME 11321 FOLIO 659
Zoning:	Farming Zone
Overlays:	Environmental Significant Overlay – Schedule 1 [ESO1]
Triggers:	<p>A planning permit is required to use the land for a second dwelling under Clause 35.07-1 of the Farming Zone. A dwelling is a Section 2 Use where the land is less 40 hectares in area.</p> <p>A permit is required to construct or carry out a building or works associated with a use in Section 2 of Clause 35.07-1 under Clause 35.07-4 of the Farming Zone.</p> <p>A permit is required to construct a building under Clause 42.01-2 of the Environment Significance Overlay.</p>
Notice:	Yes, by letters to adjoining owners and occupiers.
Referrals:	<p>Internal Referrals</p> <ul style="list-style-type: none"><li>• Public and Environmental Health Department</li></ul> <p>External Referrals</p> <ul style="list-style-type: none"><li>• Department of Transport and Planning</li><li>• Coliban Region Water Corporation</li><li>• Goulburn Murray Water</li><li>• North Central Catchment Management Authority</li></ul>
No. of Objections:	None
Key Considerations:	<p>Appropriateness of the proposed multi-dwelling development in the Farming Zone</p> <p>Compliance with the Planning Policy Framework</p>

## Context

### Subject Site

The subject site is legally described as Lot 2 PS 613896 (2342) Calder Highway, Elphinstone. It is located approximately 500 metres north-west of the centre of Elphinstone. The subject site has a frontage to the Calder Highway of 144.15 metres and a maximum site depth of 288.47 metres with a total area of 3.648 hectares. The site is a triangular shaped block that is currently developed with a dwelling, associated outbuildings and three dams. Access to the existing dwelling is provided from the Calder Highway. Vegetation on the site is aligned along the frontage of the site to both the Calder Highway and along the Pyrenees Highway, with vegetation also surrounding the existing dwelling.

### Extract of the subject site Lot 02

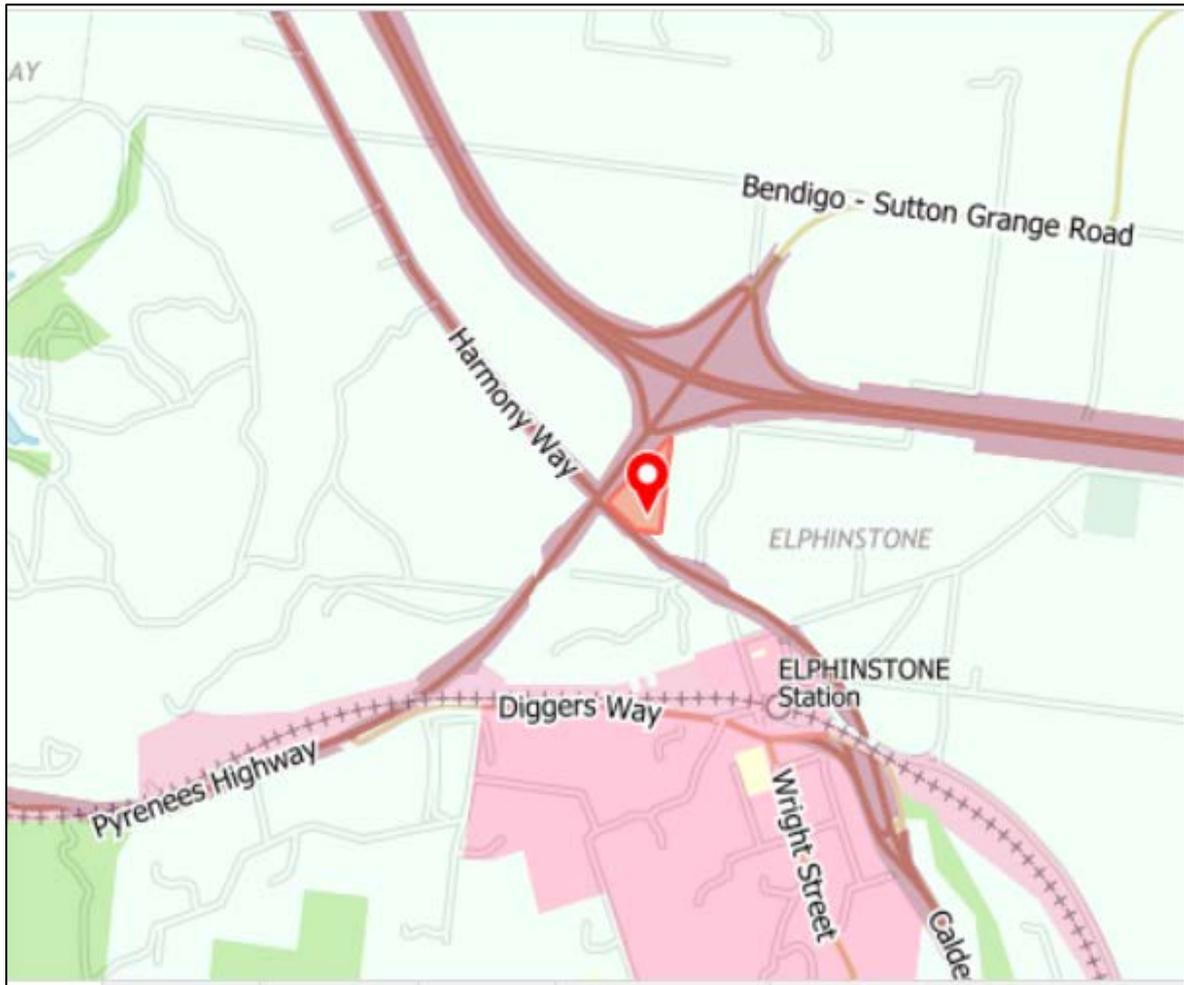


### Surrounding Area

The site is bordered by the Calder Freeway and Pyrenees Highway interchange to the north. Whilst the land immediately surrounding the site is zoned Farming Zone, the character can better be described as residential rural living properties to the east, south and west due to the smaller lot sizes and development of dwellings on the properties. The site to the north-west of the property at 2355 Harmony Way (Calder Highway) has an approval for a service station following a VCAT determination in Prosperity Park Pty Ltd v Mount Alexander Shire Council [2022] VCAT 1398.

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The subject site is on the south-eastern side of Calder Highway and the Pyrenees Highway, approximately 4.30 metres north of Elphinstone Township Zone.



Proposal

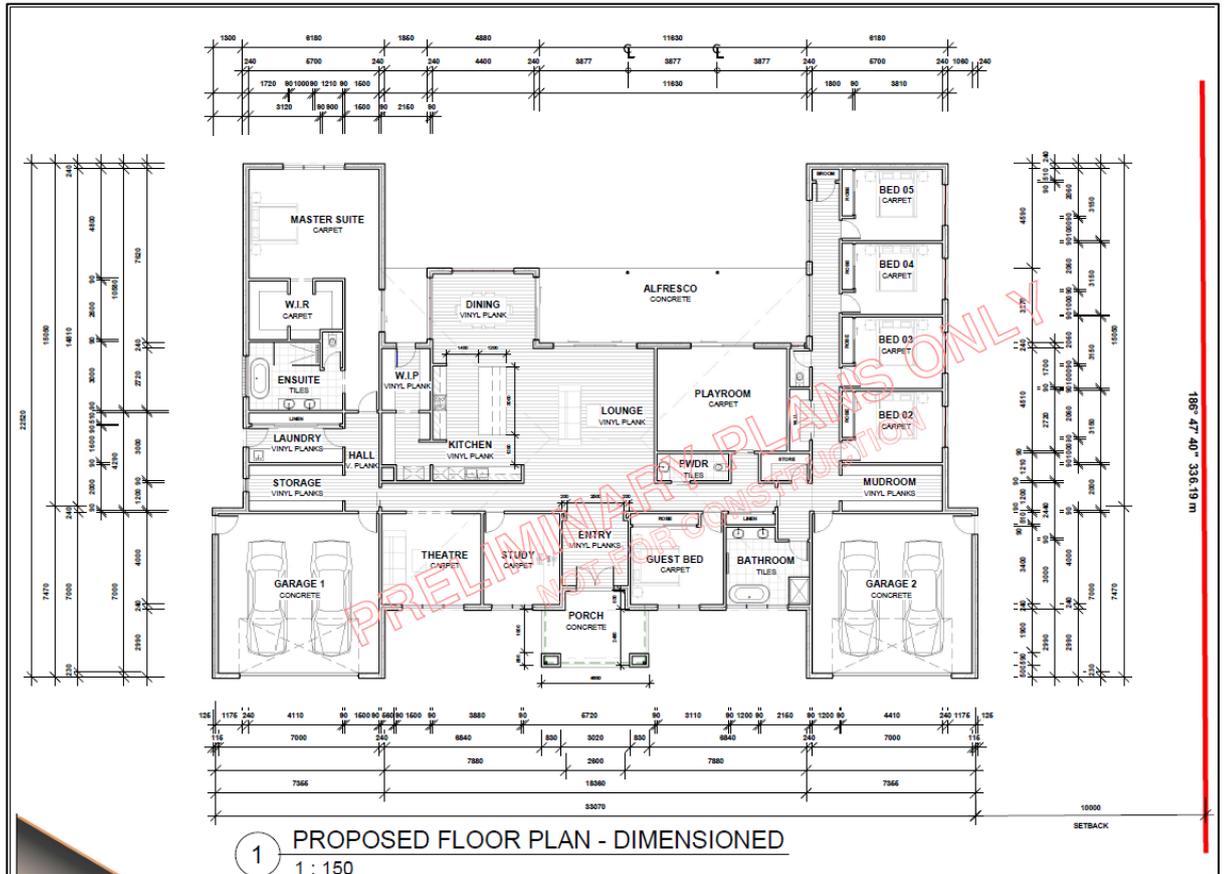
The proposal seeks the use and development of the land for a second dwelling. The application proposes a single storey dwelling and outbuilding to the south-east of the existing dwelling.

No new access is proposed, and no vegetation is proposed to be removed.

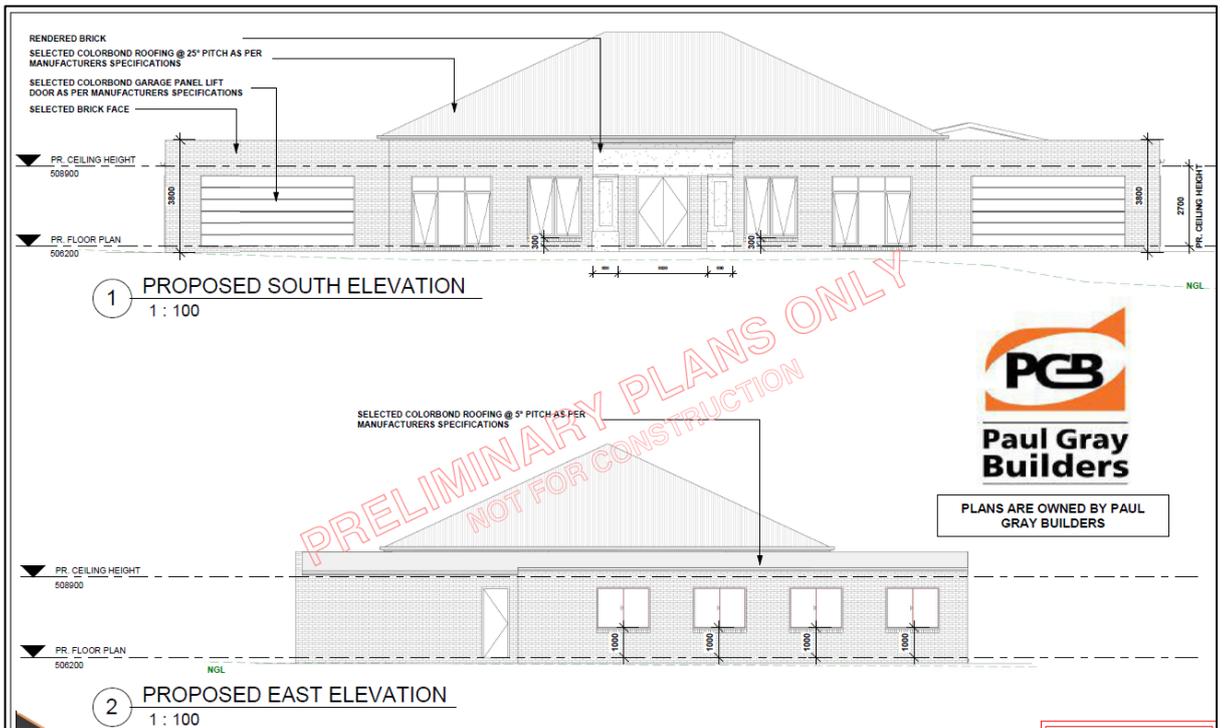
Site Plan taken from applicant 's submission



Proposed floor plan taken from the Applicant's submission



Proposed elevations taken from the Applicant's submission



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## Issues

The key issues for consideration relate to the appropriateness of the proposed second dwelling in relation to the provisions of the Farming Zone and compliance with the Planning Policy Framework. The following provides a response to considerations:

### *Appropriateness of the proposed multi-dwelling development in the Farming Zone*

The purpose of the Farming Zone, is as follows:

- 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.

Pursuant to the Farming Zone, a planning permit is required for the use and buildings and works for a dwelling. Specifically, the use of the land for a dwelling is as-of-right where a property is greater than 40 hectares in area. In this instance the lot is significantly below this area at 3.6 hectares.

An application in the Farming Zone must consider the following relevant decision guidelines:

- the Municipal Planning Strategy and the Planning Policy Framework
- any Regional Catchment Strategy and associated plan applying to the land
- the capability of the land to accommodate the proposed use or development, including the disposal of effluent
- how the use or development relates to sustainable land management
- whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses
- how the use and development make use of existing infrastructure and services
- whether the dwelling will result in the loss or fragmentation of productive agricultural land
- whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic, and hours of operation
- whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses

- 
- the potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

Officers are concerned that the application has not demonstrated compliance with the purpose or decision guidelines of the Farming Zone.

The subject site is located along the Calder corridor that created a number of small lots within the Farming Zone, following the construction of the Calder Freeway. Accordingly, over time, many smaller lots have developed with dwellings creating a hamlet of dwellings including the subject site which contains a dwelling and large shed. It is; therefore, acknowledged that the subject site and surrounding land is not suitable to prioritise the use of the land for agriculture or support or enhance meaningful agricultural production.

The minimum lot size for dwellings to become an “as-of-right” use within the Farming Zone is 40 hectares. The subject site is considered to be at capacity at 3.6 hectares being developed with an established dwelling and large shed.

It is important that Council seeks to minimise the instances of rural residential development occurring in the Farming Zone. The proposal to approve a second dwelling and increase the residential density of the subject site outside the Elphinstone township is contrary to the Planning Policy Framework that seeks to strategically manage housing and population growth in strategically planned locations.

#### *Compliance with the Planning Policy Framework*

The application was referred to Council’s Strategic Planning Unit who assessed the application against the relevant sections of the Planning Policy Framework and relevant Council policy.

The Strategic Planning Unit discourages the approval of the proposal. Specifically, the assessment is summarised as follows.

- The Mount Alexander Shire 2021-2025 Council Plan referenced at Clause 02.02 (Vision) of the Mount Alexander Planning Scheme outlines key objectives highlighting the need to protect agricultural land.

One objective states: “we are facilitating managed growth of our towns while protecting natural assets with the key associated strategy being to protect agricultural land that contributes or can contribute to local food systems from residential development”.

The Council Plan also highlights that our community is growing in harmony with nature by furthermore, protecting rural land for agriculture that contributes to local food systems.

The proposed development is contrary to key objectives and strategies within the Council Plan regarding agricultural land. In a shire where agricultural uses are prominent and the availability of quality agricultural land is limited, it is considered of the utmost importance to prevent multi-dwelling developments on individual lots within the Farming Zone.

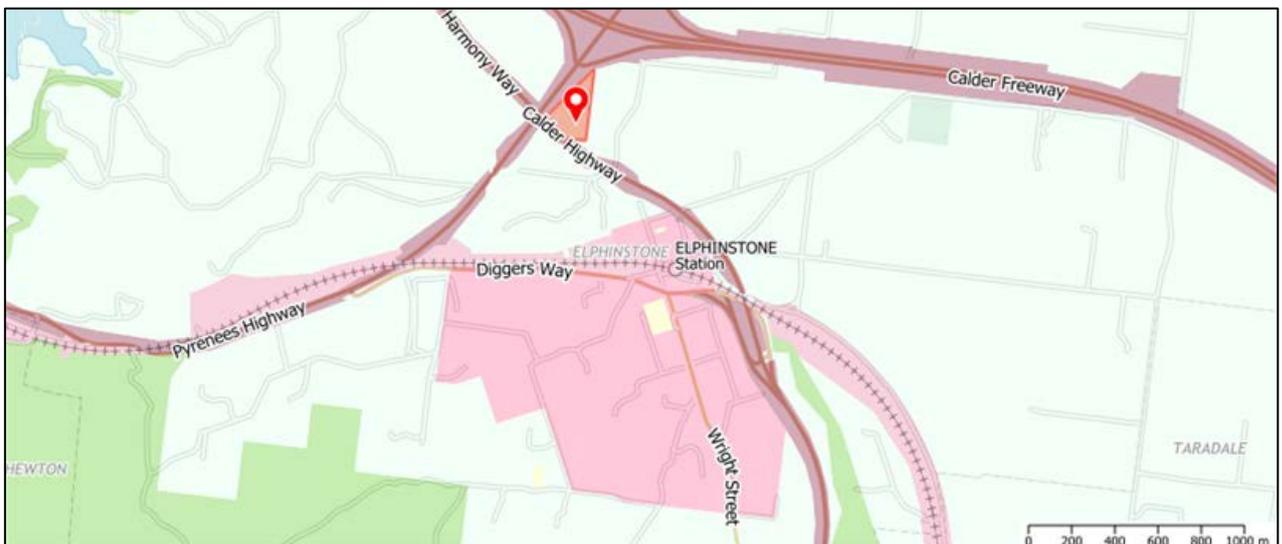
- Strategic planning in Victoria aims to ensure a 15-year land supply. The *Mount Alexander Shire Settlement Planning Assessment* evaluates the existing framework for managing residential growth in the municipality over the next 15 years. A Land Supply and Demand analysis underpinning this assessment confirms that the Shire has sufficient zoned residential land to accommodate for the housing needs of our growing population. There is little need therefore to be directing housing to inappropriate locations such as the subject site.

Elphinstone as of yet does not have access to reticulated water or sewer. As highlighted in the Settlement Planning Assessment, growth should not be encouraged in these towns until the provision of this infrastructure.

- The objectives of Clause 16.01-3L – Rural Residential Development are to:
  - Discourage rural living development within the Farming Zone and outside areas already zoned for rural living.
  - Prevent the sprawl of low-density residential land uses along the Calder Highway, throughout the Harcourt horticultural area, and on the fringes of towns along the Calder, Midland and Pyrenees highways.

Land within Elphinstone has already been zoned for residential purposes, a development outside of this residentially zoned land and not within the urban boundary would challenge local planning policy. As stated in Clause 16.01-3L, sprawl is not encouraged along the Calder and Pyrenees Highways. As seen in Figure 2, the subject site is significantly setback from the current township and residentially zoned land and is situated along the Pyrenees and Calder Highways.

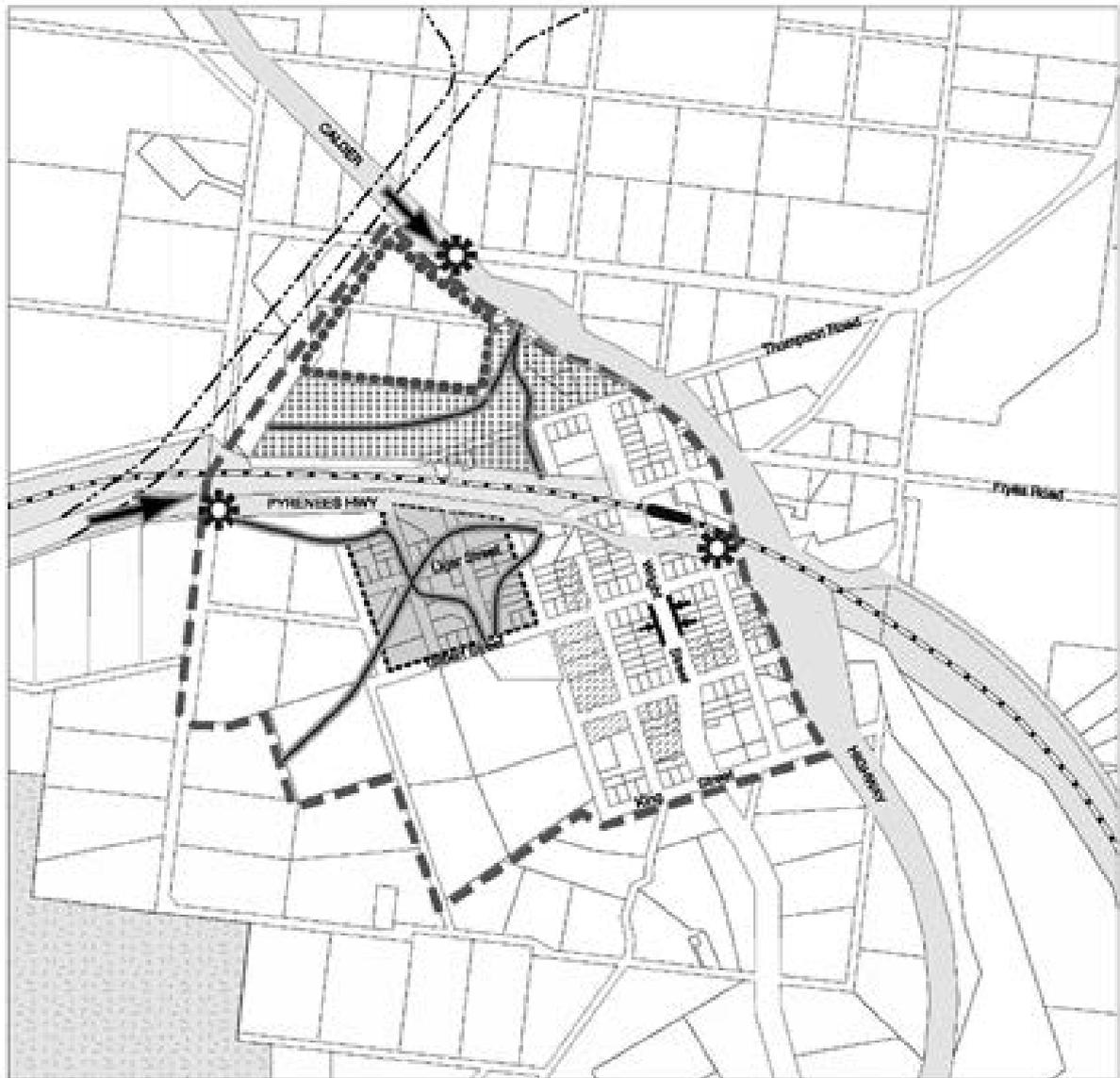
*Subject Site and Surrounding Land Use Zoning*



- The Elphinstone Framework Plan, in Clause 02.04 of the Mount Alexander Planning Scheme, depicts a township boundary of Elphinstone which accounts for future urban expansion. The subject site at 2342 Calder Hwy, Elphinstone is not within this township boundary. This framework also accounts for areas for future residential and future industrial, the subject site is not within either of these allotted areas.

Land immediately to the south of the subject site is allocated for future industrial purposes. Allowing a higher intensity of residential dwellings to develop adjacent to this area may limit the potential for this area to be used for its intended future industrial purpose.

New dwelling approvals in Elphinstone should be discouraged in farming zoned areas outside the township boundary.



**PLAN 8: ELPHINSTONE FRAMEWORK PLAN**

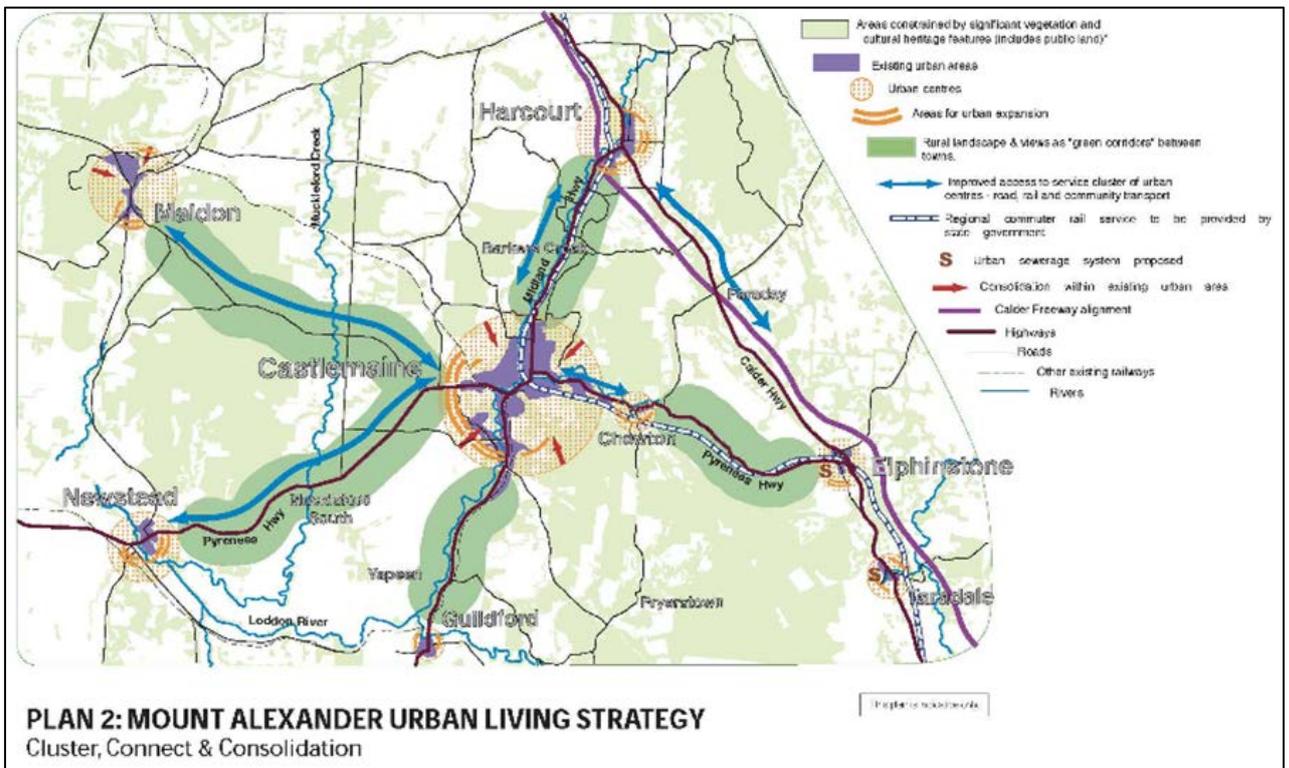
- |   |  |  |  |
|---|--|--|--|
|  | State parks reserves                                       |   | Establish new town centre -<br>Centre along Wright St and Gilbert St (east of Wright St)     |
|  | Residential infill of existing street grid                 |   | New alignment for Pyrenees Highway -<br>New alignment to proposed Calder Highway interchange |
|  | Township boundary - (allowing for future expansion)        |   | Exit points from Pyrenees Highway and Calder Freeway   |
|  | Future residential   |   | Town entrance with altered road function   |
|  | Future industrial area                                     |  | Public/Private interface areas   |
|  | Open space network - develop network based on creek system |  |  |
|  | Old, inappropriate subdivision to be restructured          |  |  |

Planning Scheme Referance Documents:  
Micko Heritage Study 1997

Mount Alexander Urban Living Strategy

The Urban Living Strategy for the Shire directs urban expansion towards the south of the existing urban centre of Elphinstone. With the proposal seeking to have two dwellings on the one lot north of the town centre it is not recommended that this form of development be encouraged.

The Strategy addressed the planning challenges of Elphinstone's haphazard growth, stressing the importance of future expansion being more compact to accommodate eventual town sewerage. Additionally, it has highlighted concerns about the conflict between horticultural usage and town development east of the highways. Given these planning concerns, the suggested development should not be encouraged.



Lastly the application was referred to the Public and Environmental Health Unit who did not support the proposal. Specifically:

The Public and Environmental Health Unit's main interest in this application is the ability of the site to treat and retain all wastewater within the allotment boundaries without having an adverse impact on public and environmental health. A desktop assessment / onsite inspection was completed on 22 January 2024.

A Land Capability Assessment (LCA) was undertaken by Edwards International dated October 2023:

*"The property is in a Farming Zone and is ~3.6 Ha in size, triangular in shape. There is currently a dwelling with associated buildings on the site with the proposed development to be located SE of the established dwelling. (At 2355 Harmony Way to the NW of the property approval has been given to construct a service station).*

*There are trees that bound the edges of the block along the intersecting roadways as well as a scattering of vegetation around the house. There are three dams on the property.*

*The proposed house is for a six bedroom premises with a study and a rumpus room.*

*The relevant LCA calculates 900sqm irrigation field for this development, however it omits the indication of a drainage line that intersects the property which would impede the necessary requirements for adequate setback."*

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The Environmental Health Unit objects to the above proposal as it is not consistent with the requirements of the current Environment Protection Authority Code of Practice - Onsite Wastewater Management, Publication 891.4, July 2016, particularly in relation to set back requirements from waterways.

It is therefore considered that the proposal is contrary to Clause 14.02-1S (Catchment planning and management) which requires Council to make decisions that:

- Ensure the continued availability of clean, high-quality drinking water by protecting water catchments and water supply facilities
- Consider the impacts of catchment management on downstream water quality and freshwater, coastal and marine environments; Retain natural drainage corridors with vegetated buffer zones at least 30 metres wide along each side of a waterway to:
  - maintain the natural drainage function, stream habitat and wildlife corridors and landscape values
  - minimise erosion of stream banks and verges
  - reduce polluted surface runoff from adjacent land uses

The response from Council's Public and Environmental Health Department is in accordance with clause 14.02-1S which states in its strategy to emphasise the importance of protecting water resources, including reservoirs, water mains, and local storage facilities, from potential contamination. It advocates for the preservation of natural drainage corridors with vegetated buffer zones at least 30 metres wide on each side of a waterway. These buffer zones serve multiple purposes: they maintain the natural drainage function; preserve stream habitats and wildlife corridors; enhance landscape values; minimise erosion of stream banks and verges; and reduce polluted surface runoff from adjacent land uses. Furthermore, clause 14.03-1S underscores the need for any development near waterways to prioritise the protection and enhancement of the waterways' environmental qualities. It also insists that water quality infrastructure should be designed to minimise the risk of harm to surface waters and groundwater.

For the above-mentioned reasons, it is considered the application has not reasonably responded to the objectives and strategies of the Planning Policy Framework.

### **Finance and Resource Implications**

Cost of appeal to the Victorian Civil and Administrative Tribunal.

### **Alternate Options**

The Council could issue a Planning Permit.

### **Communication and 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.

No objections were received.

External Referrals	
Coliban Region Water Corporation	Conditional consent was provided requiring installation of an onsite wastewater management system in line with the Land Capability Assessment.
Goulburn Murray Water	Conditional consent was provided requiring installation of an onsite wastewater management system in line with the Land Capability Assessment.
North Central Catchment Management Authority	Conditional consent.
Internal Referrals	
Public and Environmental Health Department	Did not consent - Environmental Health objects to the above proposal as it is not consistent with the requirements of the current Environment Protection Authority Code of Practice - Onsite Wastewater Management, Publication 891.4, July 2016, particularly in relation to set back requirements from waterways.

## Legislation

Planning and Environment Act 1987

## Strategy and Policy Impacts

Council Plan 2017-2021

*Principle - We are delivering together.*

- We are working across Council, government, local partners and across community to meet the varied needs of our region.

*Principle - We are engaging genuinely with the community.*

- Our community feels heard and can influence and participate in the decisions that impact them.

## Declarations of Conflict of Interest

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

No conflicts of interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.

**Councillor McClure returned to the Chamber at 8.04 pm.**

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#### **9.4.2. PLANNING APPLICATION PA088/2023 - 20-22 MORRIS STREET, MALDON**

This Report is for Decision

Responsible Director: Director Infrastructure and Development, Michael Annear

Responsible Officer: Jennifer Stanwix, Senior Statutory Planner

Attachments: 1. Proposed Plan of Subdivision - 20-22 Morris Street Maldon [9.4.2.1 - 1 page]

#### **Executive Summary**

The purpose of this report is to enable Council to make a determination on an application for a three-lot subdivision at 20-22 Morris Street, Maldon. The application has been referred to Council for a decision because ten objections have been received.

The Council Officer recommendation is to approve the application.

The subject site is within a General Residential Zone and affected by a Significant Landscape Overlay, Heritage Overlay and Bushfire Management Overlay.

The grounds of objection relate to the following:

- neighbourhood character impacts, including the size of the allotments and front and side setbacks
- heritage impacts
- precedent for future subdivisions
- inconsistencies with the Maldon and Newstead Housing and Neighbourhood Character Strategy
- traffic safety
- future development on the allotment
- bushfire risks

The application was assessed against and determined that the proposal is consistent with the relevant sections of the Planning Policy Framework. It also meets the provisions of the General Residential Zone, Heritage Overlay, and the Bushfire Management Overlay. In forming this position, consideration was given to the grounds of objection and the views of the relevant referral authorities.

It is recommended that the application is supported and a Notice of Decision to Grant a Permit is issued in accordance with the following recommendation.

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## **RECOMMENDATION**

That Council issues a Notice of Decision to Grant a Planning Permit for PA088/2023 for a three-lot subdivision at 20-22 Morris Street, Maldon, subject to the following conditions:

### **COMPLIANCE WITH ENDORSED PLANS**

1. The layout of the subdivision as shown on the endorsed plans must not be altered or modified unless otherwise agreed in writing by the Responsible Authority.

### **MANDATORY CONDITIONS**

2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, and electricity (where it is proposed to be connected) services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
4. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that act.
5. The owner of the land must enter into an agreement with:
  - a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the Applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
6. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:
  - a) A telecommunications network or service provider that all lots are connected to, or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

### **PAYMENT OF PUBLIC OPEN SPACE CONTRIBUTION**

- 
7. Before the issue of a Statement of Compliance under the *Subdivision Act 1988*, the permit holder must pay to the Responsible Authority a cash payment equivalent to five percent of the site value of all the land in the subdivision in lieu of the provision of land for Public Open Space, unless otherwise agreed in writing by the Responsible Authority.

The owner must pay the reasonable costs for the preparation of a land valuation at the request of the Responsible Authority.

#### **ENGINEERING**

8. Prior to the certification of the plan of subdivision, detailed access and drainage construction plans must be submitted to and approved by Council. When approved, the plans will be endorsed and form part of the permit. The engineering plans must accord with the Infrastructure Design Manual (IDM). All works constructed or carried out must be in accordance with those approved plans and completed to a standard satisfactory to Council prior to the issuing of Statement of Compliance.
9. 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 to the satisfaction of the Responsible Authority.
10. The site stormwater discharge is not to be increased by the proposed development. If it does, then the drainage system shall include provision of storm water detention system to limit flows downstream from the development to pre-development levels in accordance with the current Australian rainfall and runoff – flood analysis and design for a 20 percent annual exceedance probability event (IDM design standards - section 19.3 requirements).
11. Prior to the issue of Statement of Compliance, the applicant/owner must enter into an agreement under Section 173 of the *Planning and Environment Act 1987* with Council which affects each lot within the subdivision. Such agreement must covenant that:
- a) The owner will maintain the on-site detention system and not undertake any modifications without prior written approval from the Council.
  - b) The owner shall allow duly authorised officers of the Council to inspect the system at mutually agreed times.
  - c) The owner will pay for all costs associated with the construction and maintenance of the on-site detention system.

This requirement will not apply in the event that a stormwater detention system does not form part of the approved drainage design.

12. Provide cut off drains or similar to provide ongoing protection to adjoining properties from overland storm water flow. Provision is to be made to divert major rainfall (one in 100 year) storm events away from the building envelopes of lots within this and adjoining subdivisions.
13. The owner must formalise/tidy-up the open drain at property boundaries to the satisfaction of the Responsible Authority.

- 
14. The proposed vehicle crossover is to be constructed to the satisfaction and requirements of Council. No impending or redirection of existing surface flow is allowed to occur as a result of these works. Council's minimum standards are:
    - a) 3.5m wide with appropriately sized reinforced concrete pipes (min 375mm) 4.8m long centred on the crossover matching the capacity of the open drain.
    - b) 100mm minimum compacted thickness of road base gravel from edge of road to property line.
    - c) Crossings must be positioned keeping a minimum of 3m clearance from the Council trees located at the property frontages.
    - d) Batters to be re-established either side of culverts to ensure free flow.
  15. All Land Use Activity Agreement (LUAA) negotiations with Dja Dja Wurrung relating to works associated with the subdivision must be undertaken by the owner or the owner's representative. All costs associated with negotiating, undertaking and implementing the negotiated requirements will be at the cost of the developer. Council will be nominated as the decision maker and any and all costs associated with complying with/implementing the negotiated outcome, including legal costs, will be at the cost of the developer. Compliance will not be issued prior to all negotiated outcomes being complete and accepted by Dja Dja Wurrung.
  16. The owner 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).
  17. 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.
  18. Council is to be paid a fee of 0.75 percent of the total construction costs for these works for the approval of said plans plus 2.5 percent for supervision of construction. Said fees to be paid prior to commencement of any road/ drainage works.

#### **GOULBURN MURRAY WATER**

19. All construction and ongoing activities must be in accordance with EPA publication 1834.1 Civil Construction, Building and Demolition Guide (September 2023).
20. Any plan of subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the *Subdivision Act 1988*.
21. Each lot must be provided with connection to the reticulated sewerage system in accordance with the requirements of the relevant urban water authority.
22. Stormwater from the site must be discharged to a legal point as nominated by the Responsible Authority. All infrastructure and works to manage stormwater must be in accordance with the requirements of the Responsible Authority.

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## COLIBAN WATER

23. The owner is required to reach agreement with Coliban Water for the provision of reticulated water and gravity/pressure sewerage services to each of the lots within the subdivision and comply with any requirements arising from any effect of the proposed development on Coliban Water assets.

The required reticulated gravity/pressure sewer main extension must be finalised in accordance with Coliban Water's Developer Installed Works process.

Services are to be provided and where necessary, existing services must be amended in accordance with our specifications.

24. Applications to amend existing services and/or connect to Coliban's water supply and sewerage services will need to be made through our Consent to Connect process. For new water supply services, Coliban Water's approved contractor is required to install the water tapplings, meter assemblies and digital data devices (water meters) which will be located in an accessible location within two metres, but no closer than 600mm, inside a title boundary line fronting Morris Street and Caudry Street.

All private works for water supply and sanitary drainage must be constructed in accordance with the National Plumbing and Drainage Code of Australia being AS 3500, the MRWA Water Metering & Servicing Guidelines 2022 and or any relevant requirements of Coliban Water.

25. Evidence to the satisfaction of Coliban Water will be required to verify that the existing metered water supply and service pipes located on Lot 2, have been amended by a registered and licensed plumbing contractor to ensure that the meter assembly and digital data device (water meter), is located in an accessible location within two metres, but no closer than 600mm, inside the title boundary lines of the lot fronted by the water main (Coliban Water asset) located within the road reserve.
26. All Coliban Water proposed assets within the subdivision, are to be protected by an easement created in favour of Coliban Region Water Corporation.
27. If sewer servicing of each of the lots created is to be by pressure sewer rather than provision of traditional gravity sewer then; a New Customer Contributions (NCC) for pressure sewer will apply to each lot being connected to the reticulated infrastructure required. This NCC is to provide developer funding for the supply, installation and ongoing maintenance requirements by Coliban Water for the property assets on each lot including tank, pump and control box. The NCC applied may be higher for larger lots where additional works are required. The supply and installation will be completed by our approved contractors after an application to connect is received.
28. NCC's must be paid before Coliban Water will provide Statement of Compliance for the subdivision or consent to connect, as the case may be. Please refer to our Schedule of Fees & Charges accessed via the Coliban Water website for the NCC's applicable for the current financial year.
29. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must make payment to Coliban Water of New Customer Contributions. These contributions are based upon the number of additional allotments connected (or to be connected) to

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Coliban Water's water, sewer or recycled water networks. A quote will be supplied to the owner on the referral of the certified plan of subdivision.

30. Please note under Section 165(5) of the *Water Act 1989*, Coliban Water is not required to ensure that the water pressure is adequate for firefighting. It is important to note that Coliban Water does not guarantee fire flows.

#### DEPARTMENT OF TRANSPORT

31. There must only be one access from Lot 2 to the service road of Morris Street (arterial) and Lots 1 and 3 must only access Caudry Street (local).
32. Prior to the issue of a Statement of Compliance, the following must be completed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria and the Responsible Authority. The access lands, driveways, crossovers and associated works must be provided and available for use and be:
- a) Formed to such levels and drained so that they can be used in accordance with the endorsed plans.
  - b) Treated with an all-weather seal or some other durable surface.
33. Prior to commencement of works, all disused or redundant vehicle crossings must be removed, and the area reinstated to (as per the surrounding area post and wire fence) to the satisfaction of the Responsible Authority and at no cost to The Head, Transport for Victoria or the Responsible Authority.
34. Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway).
35. All vehicles must enter and exit the subject land in a forward direction.

#### COUNTRY FIRE AUTHORITY

36. Before the Statement of Compliance is issued under the *Subdivision Act 1988* the owner must enter into an agreement with the responsible authority under Section 173 of the *Planning and Environment Act 1987*. The agreement must:
- State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Mount Alexander Planning Scheme.
  - Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
  - State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the Responsible Authority on a continuing basis.

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 agreement.

37. The bushfire management plan dated 9 January 2024, and contained on pages 30 and 31 of the Bushfire Management Statement prepared by Building Issues, Amendment 3, dated 25th January 2024, must be endorsed by the Responsible

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Authority, be included as an annexure to the Section 173 agreement prepared to give effect to Clause 44.06-5 of the Mount Alexander Planning Scheme and must not be altered unless agreed to in writing by CFA and the Responsible Authority.

#### **PERMIT EXPIRY – TIME FOR STARTING AND COMPLETION**

38. This permit will expire if one of the following circumstances applies:

- a) The subdivision is not started within two years of the date of this permit;
- b) The subdivision is not completed within five years of the date of starting.

Council may extend the periods referred to if a request is made in writing in accordance with Section 69 of *Planning and Environment Act 1987*.

#### **PERMIT NOTES:**

**Note 1:** A road-opening permit must be obtained from Council's Engineering Services Unit before any vehicle crossover is constructed.

**Note 2:** A legal point of discharge must be obtained from Council's Engineering Services Unit before any drainage infrastructure is constructed.

**Note 3:** Any planning permit approval received in accordance with a municipal planning scheme does not constitute consent to conduct the works under the *Road Management Act 2004*. Any works in the arterial road reserve designated as Transport Zone 2 require a Works Within Road Reserve Permit from the Department of Transport and Planning. Section 63 and Clause 16 of Schedule 7 of the *Road Management Act 2004* require any person proposing to carry out works in, on, under or over an arterial road in Transport Zone 2, to obtain the consent of the Department of Transport and Planning, except where exemptions under this Act, or its Regulations (*Road Management (Works and Infrastructure) Regulations 2005*), apply. For the purposes of this application, the works will include the provision of:

i) **Access works**

- Please contact the Department of Transport and Planning prior to commencing any works on [nr.admin@roads.vic.gov.au](mailto:nr.admin@roads.vic.gov.au)
- For more information regarding working within the road reserve please visit the VicRoads website:
  - <https://www.vicroads.vic.gov.au/business-and-industry/design-and-management/working-within-the-road-reserve>, and
  - <https://www.vicroads.vic.gov.au/traffic-and-road-use/road-access-permits-portal>

**MOVED COUNCILLOR GARDNER**

That the recommendation be adopted.

**SECONDED COUNCILLOR MALTBY**

**CARRIED.**

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## Summary

<b>Application details:</b>	Three lot subdivision
<b>Application No:</b>	PA088/2023
<b>Applicant:</b>	Building Issues
<b>Land:</b>	20-22 Morris Street Maldon Crown Allotment 5 Section A2 Township of Maldon
<b>Zoning:</b>	General Residential Zone Schedule 1 (GRZ1)
<b>Overlays:</b>	Bushfire Management Overlay (BMO) Heritage Overlay Schedule 444 (HO444) Significant Landscape Overlay Schedule 1 (SLO1)
<b>Triggers:</b>	A planning permit is required for subdivision of land under Clause 32.08-3 of the General Residential Zone. A planning permit is required for subdivision of land under Clause 43.01-2 of the Heritage Overlay. A planning permit is required for subdivision of land under Clause 44.06-2 of the Bushfire Management Overlay.
<b>Notice:</b>	Yes, via letters to adjoining and surrounding landowners and occupiers.
<b>Referrals:</b>	<ul style="list-style-type: none"><li>• Engineering Team – No objection, subject to conditions</li><li>• Coliban Water – No objection, subject to conditions</li><li>• Goulburn-Murray Water – No objection, subject to conditions</li><li>• North Central Catchment Management Authority – No objection, no conditions</li><li>• Department of Transport and Planning – no objection, subject to conditions</li><li>• Country Fire Authority – No objection, subject to conditions</li><li>• Heritage advisor – no objection, note provided</li><li>• Environmental Health – no objection</li></ul>
<b>No. of Objections:</b>	Ten objections
<b>Consultation Meeting:</b>	None
<b>Key Considerations:</b>	<ul style="list-style-type: none"><li>• Compliance with the Planning Policy Framework</li><li>• Appropriateness of the subdivision within the General Residential Zone 1</li><li>• Compliance with Clause 56 (ResCode)</li><li>• Compliance with the Heritage Overlay</li><li>• Compliance with Bushfire Management Overlay</li><li>• Grounds of objection</li></ul>

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## Context

The purpose of this report is to enable Council to make a determination on an application for a three-lot subdivision at 20-22 Morris Street, Maldon. The application has been referred to Council for a decision because ten objections have been received.

The application was lodged on 1 May 2023 for a two-lot subdivision and was consequently amended on 14 November 2023 and proposes to subdivide the land into three similarly sized lots.

### Subject site

The site is located at 20-22 Morris Street, Maldon VIC 3463, legally known as Crown Allotment 5 Section A2 Township of Maldon Parish of Maldon. Morris Street (Bendigo-Maldon Road) is a principal road network (Transport Road Zone 2).

The subject site is generally rectangular in shape with a frontage of 50.29 metres to Morris Street, an eastern boundary of 76.44 metres abutting Caudry Street, a western boundary 60.15 metres and a rear (southern) boundary of 54.32 metres. The site has a total site area of 3566 square metres.

The site is presented as an open and undeveloped grassed grazing paddock. Other than a sole gum (eucalypt) seen to exist upon both the southern rear and western (side) title boundaries, there is no significant vegetation existing upon the allotment that may inhibit the future development from proceeding. It is noted that the large gum in the site's rear southeast corner is positioned right on the boundary, overhanging from the neighbouring site to the rear.

The following mapping illustrates the zoning and aerial view of the site controls, zones and overlays applicable to site and neighbourhood it appropriate.

Figure 1 VicPlan Zoning Mapping – extract

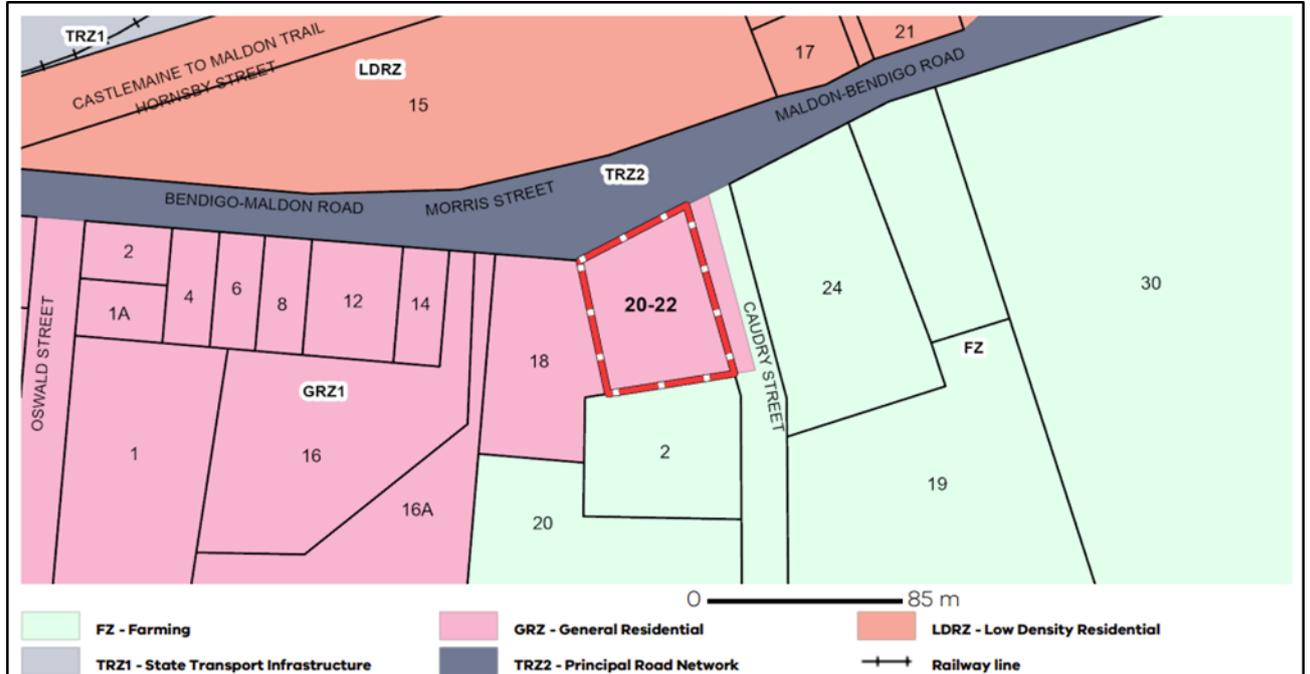
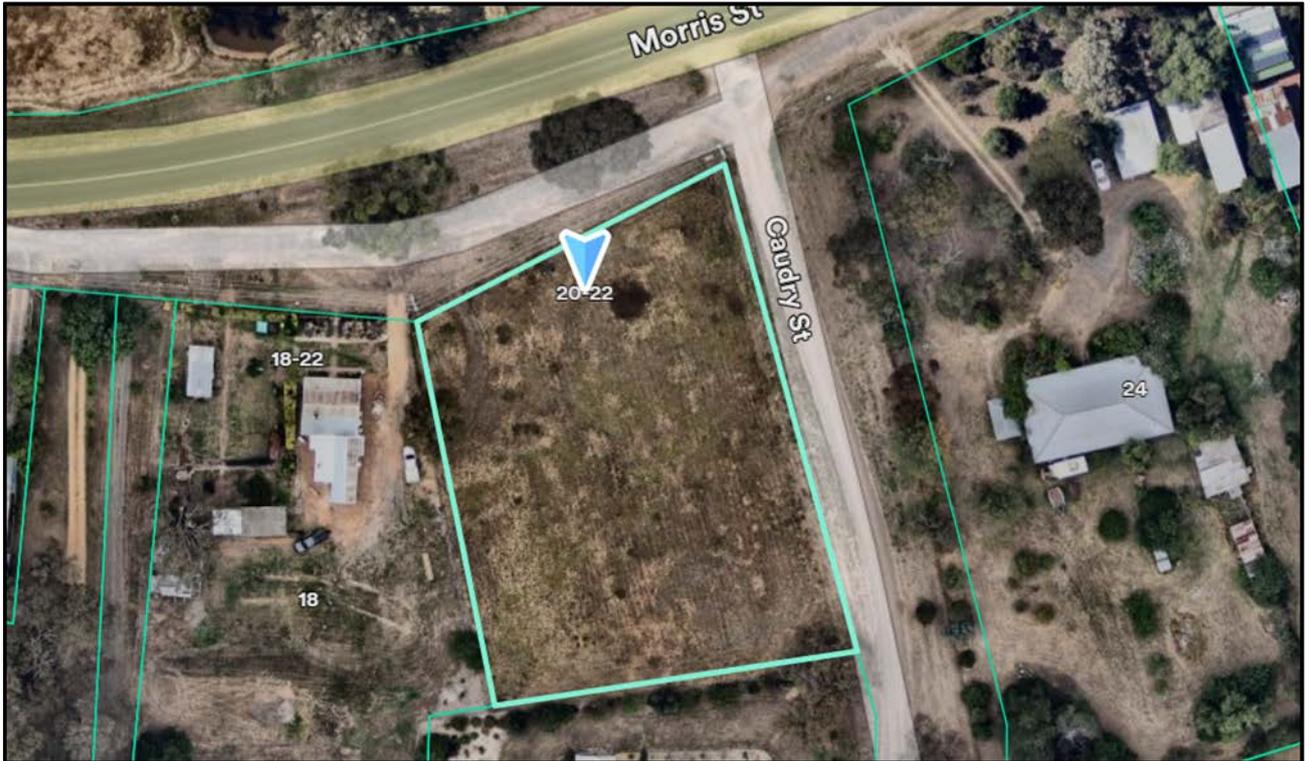


Figure 2 Site overview – NearMaps



#### Surrounding context area

The subject site is a corner block bound by Morris Street and Caudry Street, at the eastern boundary of the Township of Maldon. The subject site is approximately 1.2 kilometres east of the Maldon Town Centre, approximately 650 metres from Maldon Railway Station and approximately 15 kilometres from Castlemaine central business district.

Land to the west contains lots that are typical of the General Residential Zone in Maldon with various shapes and sizes. The land to the east and south is zoned farming with much larger parcels and developed for rural residential purposes. The land to the north across Morris Street is under Low Density Residential Zone. The subject land and surrounds are a mix of residential parcels and agricultural grassland. The area is characterised by a varied subdivision pattern, which includes a diverse range of lot sizes, including large and small sized lots, typically improved with a single-story dwelling and outbuildings.

The surrounding area is covered by managed gardens around dwellings and scattered vegetation.

Figure 3 Surrounding context area

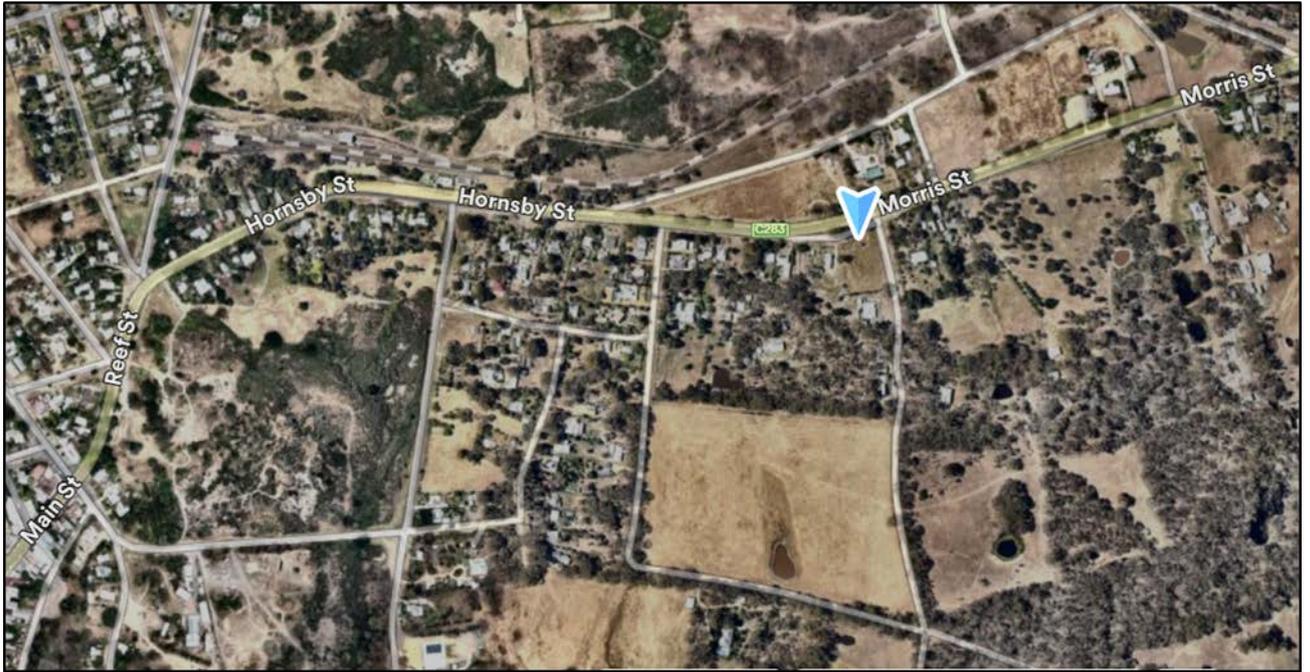


Figure 4 Roadside elevation



### Proposal

The application proposes to subdivide the land into three similarly sized lots. The detailed proposal is summarised below:

- The proposed Lot 1 is located at the intersection of Caudry Street and Morris Street and has a total site area of 1165 square metres, with a frontage to Caudry Street of 51.28 metres and a frontage to Morris Street of 25 metres. A 3.5 metre wide crossover is also proposed to provide access from Caudry Street. All services are available to the site for connection including the proposed extension of reticulated sewerage. The building envelope is setback 9 metres from the Morris Street frontage.

- The proposed Lot 2 is located to the west section of the site and has a total site area of 1019 square, with a frontage of 25.2 metres from Morris Street, with an eastern boundary of 43.44 metres.
- The site will contain the existing crossover access from Morris Street to the northern boundary. All services are available to the site for connection including the proposed extension of reticulated sewerage. The building envelope is setback 9 metres from the Morris Street frontage, and a 5 metre setback from the adjoining boundary.
- The proposed Lot 3 is located at the rear of the site (south) and has a total site area of 1332 square metres, with a frontage to Caudry Street of 25.16 metres and a depth along its southern boundary of 54.32 metres. A 3.5 metre wide crossover is also proposed to provide access from Caudry Street. All services are available to the site for connection including the proposed extension of reticulated sewerage. The proposed lot has a 4 metre setback to Caudry Street, a 4 metre setback to the southern (side) boundary and a 5 metre setback to the rear.

A complete set of the advertised plans form Attachment 5.3.1 of this report. The following selected plans have been taken from the advertised plans to illustrate the proposal and conditions onsite.

Figure 5 Proposed plan of subdivision

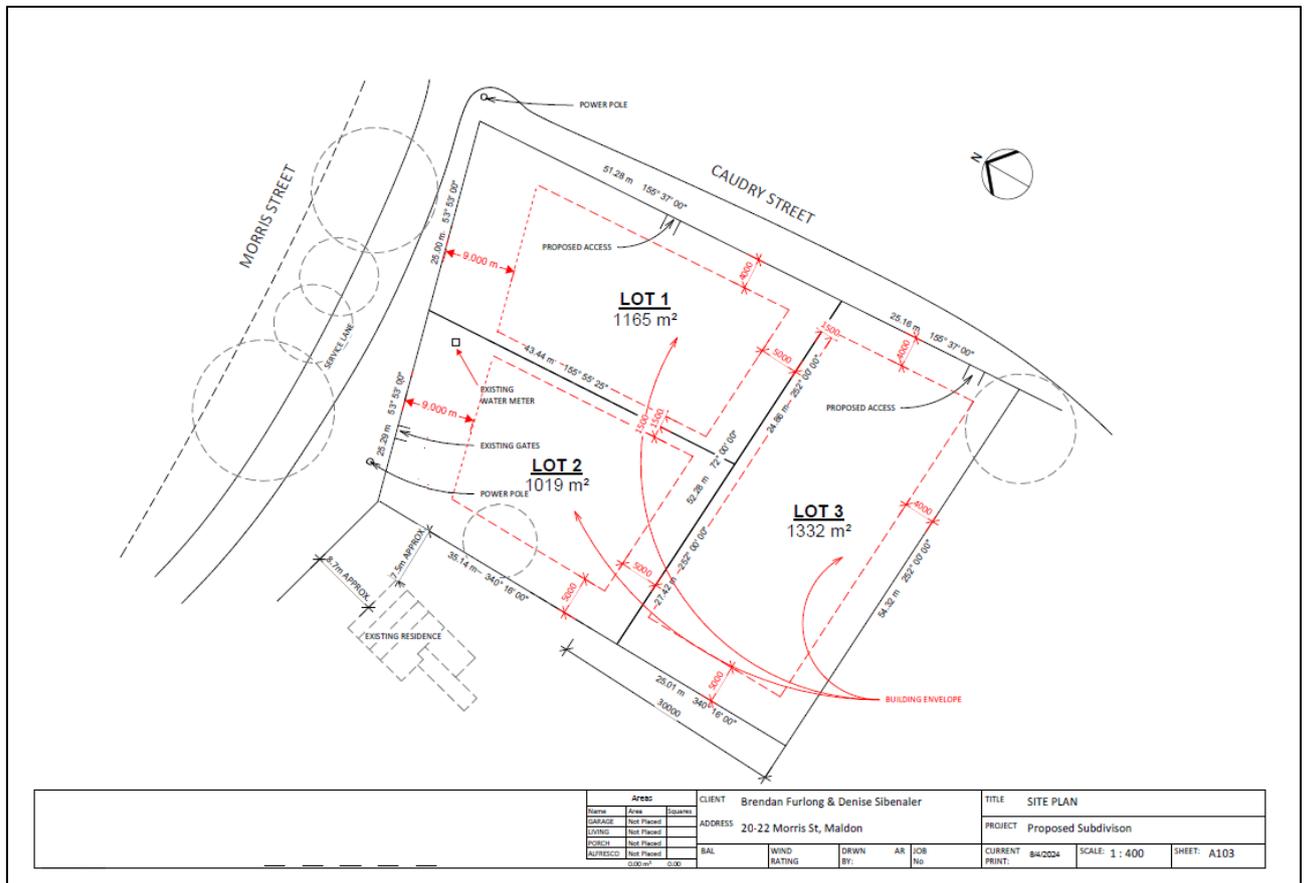
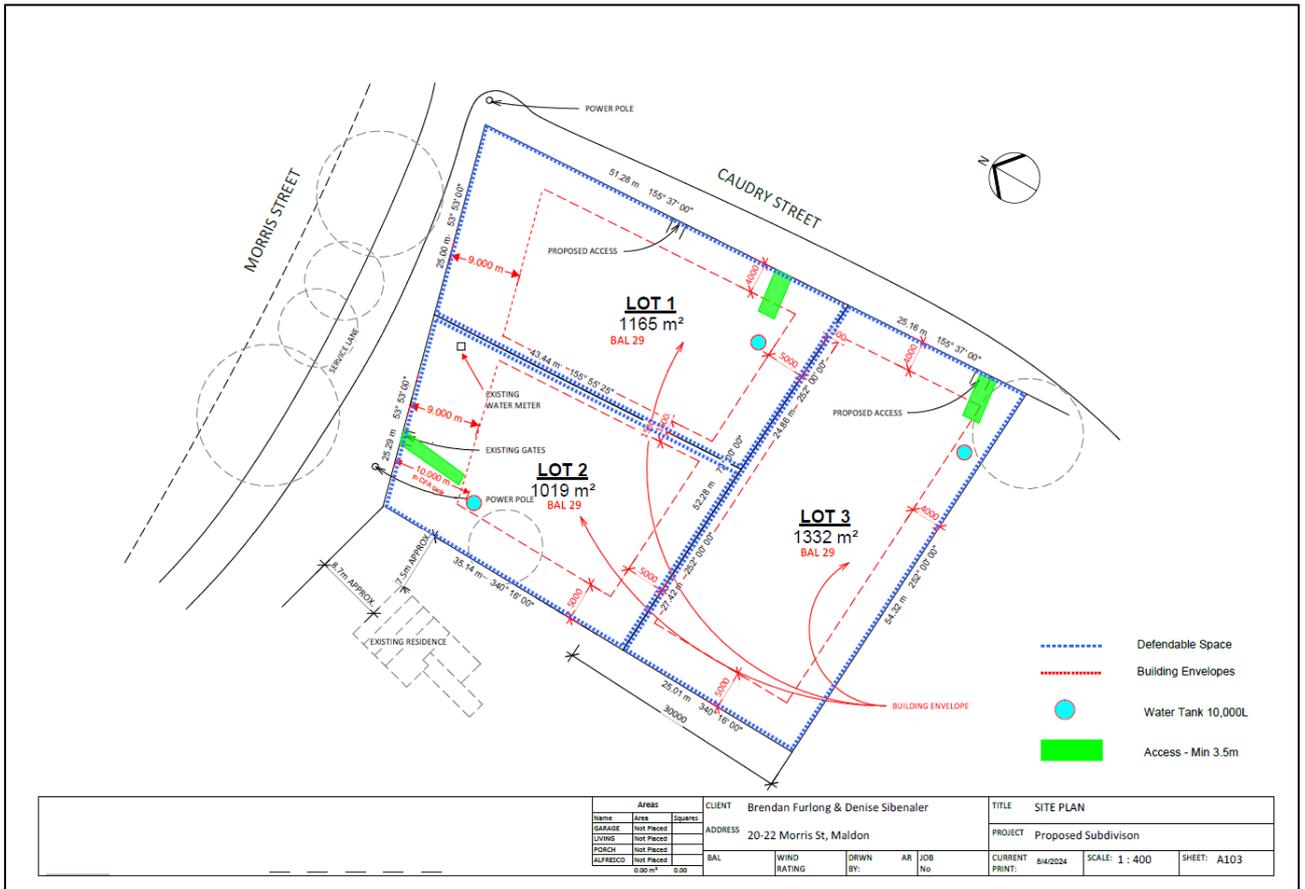


Figure 6 Bushfire Management Plan Extract



**Issues**

The key issues for consideration relate to the appropriateness of the subdivision in relation to compliance with the Planning Policy Framework, appropriateness of the subdivision in the General Residential Zone, compliance with the relevant provisions and decision guidelines of the Heritage Overlay, compliance with the relevant provisions and decision guidelines of the Bushfire Management Overlay, compliance with the relevant provisions of Clause 56 (ResCode) of the Mount Alexander Planning Scheme and the issues raised by objectors.

The following provides a response to considerations:

Compliance with the Planning Policy Framework

The Planning Policy Framework contained within the Mount Alexander Planning Scheme integrates State, regional and local policy and identifies long term directions about land use and development in the municipality.

The subject site is located within the residential area of the Maldon Framework Plan where urban expansion is encouraged. The proposed subdivision layout is considered appropriate to provide a balanced mix of lot sizes reflecting the site’s interfaces. The proposal supports settlement principles by directing development to locations that are within settlement boundaries and are capable of accommodating growth and reduce the likelihood of urban sprawl. The proposal responds to the mixed character of the area and provides for a new residential lot that is accessible and liveable. In addition, the Applicant has provided sufficient justification that the environmental impacts such as retention of native vegetation, bushfire risk and connection to services can be adequately managed which will be discussed further in the zoning and overlay considerations of this report.

Within the Mount Alexander Planning Scheme, a variety in lot sizes is recommended in Clause 02.03-6 Housing.



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*Appropriateness of the subdivision within the General Residential Zone – Schedule 1*

The purpose of the General Residential Zone (GRZ) includes:

- to implement the Municipal Planning Strategy and the Planning Policy Framework
- to encourage development that respects the neighbourhood character of the area
- to encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport
- to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

A permit is required to subdivide land.

The proposal is consistent with the outcomes sought by the GRZ by providing for an infill development and additional residential opportunities in an established residential area to meet the housing needs of different households.

The subject site is a suitable site for increased residential density as it is zoned for residential use with good access to existing services and facilities. The development would provide additional housing supply and diversity within this area. Appropriate onsite amenity and avoidance of detrimental impacts to nearby dwellings is achieved by the proposed design and layout.

Moreover, vacant parcels created by this subdivision are of an adequate size and layout to cater for future dwellings on the land that will benefit from good northern solar access. The subject site is located within the Cairn Curran Special Water Supply Catchment. The land is fully serviced with reticulated utilities, and extensions to the new lots can be readily undertaken.

Therefore, the proposed subdivision is reasonable in scale and makes a positive contribution to this policy aspiration as it will facilitate capacity for the future construction of an additional dwelling on the vacant lot.

The application is consistent with the standards and objectives of Clause 56. The application also has been referred to all relevant authorities including North Central Catchment Management Authority, Coliban Water, Goulburn-Murray Water and Country Fire Authority. The North Central Catchment Management Authority has provided unconditional consent to the application and the other authorities have no objections to the application subject to conditions.

Based on the above justification, the proposal therefore is acceptable, subject to the conditions.

Compliance with Clause 56 (ResCode)

Clause 56 of the Mount Alexander Planning Scheme applies to an application to subdivide land in a General Residential Zone. The primary focus of Clause 56, also referred to as “ResCode”, is a provision included in all Victorian Planning Schemes to prescribe requirements for the siting and design of residential subdivision. The purpose of Clause 56 (ResCode) is:

- to implement the Municipal Planning Strategy and the Planning Policy Framework
- to create liveable and sustainable neighbourhoods and urban places with character and identity
- to achieve residential subdivision outcomes that appropriately respond to the site and its context for regional cities and towns
- to ensure residential subdivision design appropriately provides for:
  - policy implementation.

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- liveable and sustainable communities.
  - residential lot design.
  - urban landscape.
  - access and mobility management.
  - integrated water management.
  - site management.
  - utilities.

The GRZ specifies that a three-lot subdivision is not required to be assessed against all Clauses of ResCode. A three-lot subdivision must only be assessed against all except Clauses 56.02-1, 56.03-1 to 56.03-4, 56.05-2, 56.06-1, 56.06-3 and 56.06-6.

The application has been assessed against and is considered to meet the relevant standards and objectives of Clause 56 (ResCode), noting the proposed lots provide areas and dimensions that enable appropriate siting of future development and servicing of proposed allotments.

#### Compliance with Heritage Overlay

Together with implementing the Planning Policy Framework, the main purpose of the Heritage Overlay is to conserve and enhance those elements which contribute to the significance of heritage places and ensure that they are not undermined or threatened in any way by inappropriate development. In this regard, the proposed subdivision will have negligible impact to Maldon Historic Residential Area.

The location of the building envelopes and new driveway/access for vehicles for all lots are shown on the proposed plan of subdivision, and is responsive to the subdivision objectives of the Maldon Design Guidelines which seek to ensure that land subdivision complements and supports the significance of Maldon's historic areas, and to ensure that any future development as a consequence of infill subdivision does not adversely affect the significance, character or appearance of the heritage place.

The proposal responds to relevant principles within the Guidelines which seek (amongst other things) to ensure that the subdivision or consolidation of heritage places results in development that retains the rhythm and pattern of built form in the heritage streetscape, and that views to significant heritage buildings from the public realm are retained. The proposal also responds to relevant principles within the Guidelines which seek to retain views to significant heritage buildings from the public realm, having particular regard to the existing heritage building to the west at 18 Morris Street. The building envelope for Lots 1 and 2 have been setback nine metres from Morris Street (10 metres for water tank) to enable site lines of the adjoining heritage dwelling, when viewed on the township approach into Maldon.

Moreover, the three-lot subdivision which is proposed provides ample space for the future dwellings on individual allotments and does not undermine the setting of the heritage place or the inherent historic and landscape qualities of the area.

The application has been referred to the council Heritage Advisor who has no objection to the proposal.

#### Compliance with Bushfire Management Overlay

The proposal requires an assessment against the provisions of Clause 13.02 – Bushfire, Clause 44.06 Bushfire Management Overlay and Clause 53.02 Planning for Bushfire. The bushfire provisions encourage settlements and development in locations where the risk to life and property can be reduced to an acceptable level.

The Applicant prepared a Bushfire Management Statement and Bushfire Management Plan which was referred to the Country Fire Authority for review. The Bushfire Management Plan acts to ensure development is only permitted where the risk to life and property from bushfire

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can be reduced to an acceptable level. The endorsement of the bushfire management plan ensures the prioritisation of human life is paramount in accordance with the objectives of Clause 13.02-1S of the Planning Policy Framework – Bushfire Planning and the objectives of Clause 53.02 Bushfire Planning. The proposed methods of management that address the dangers at this site, include defensible space inside the property boundary, access consistent with the requirements of the Country Fire Authority provisions and that of Clause 53.02 of the Planning Scheme. The Country Fire Authority has consented to the endorsement of the Bushfire Management Plan subject to conditions.

#### Clause 53.01 - Public Open Space

This Clause refers to the public open space contribution and provides that a person who proposes to subdivide land must make a monetary contribution to Council for public open space up to a maximum five percent of the site value if included in the schedule to this Clause.

Having regard to each of the relevant criteria under the *Planning and Environment Act 1987*, it is considered that there will be a need for more open space and existing public open space is likely to be more intensively used because of the subdivision and the likely development of the land. A contribution toward the provision of public open space is therefore appropriate.

#### Clause 53.02 – Bushfire Planning

The following Particular Provisions are relevant to this application:

- This clause applies to an application under Clause 44.06 - Bushfire Management Overlay.
- The bushfire hazard landscape and site assessment, and bushfire management statement submitted with the application meets the objectives of Clause 53.02.

The purpose of this clause is as follows:

- to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- to ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire
- to ensure that the location, design and construction of development appropriately responds to the bushfire hazard
- to ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level
- to specify location, design and construction measures for a single dwelling that reduces the bushfire risk to life and property to an acceptable level.

Pursuant to Clause 44.06-1 a planning permit is required for construction of a dwelling and associated outbuildings, and such proposals must be assessed against the requirements of Clause 53.02-2.

As outlined within the submitted Bushfire Management Statement, the proposed development is considered to satisfy the requirements of the Bushfire Management Overlay and Clause 53.02 –Planning for Bushfire, subject to appropriate planning permit conditions. The proposal has also been referred to the Country Fire Authority as required who have consented to the development subject to permit conditions.

#### Clause 65.02 (Approval of an application subdivide land).

In determining the application, Clause 65.02 provides a list of relevant decision guidelines to be considered for all applications. These are the following:

- The suitability of the land for subdivision.

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- The existing use and possible future development of the land and nearby land.
  - The availability of subdivided land in the locality, and the need for the creation of further lots.
  - The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
  - The density of the proposed development.
  - The area and dimensions of each lot in the subdivision.
  - The availability and provision of utility services, including water, sewerage, drainage, electricity, and, where the subdivision is not a residential subdivision, gas.

The application is consistent with the decision guidelines of the Scheme for the following reasons:

- The land is zoned residentially and is suitable for residential subdivisions.
- The existing use is vacant. Possible future development is likely to be residential which is supported by the zoning.
- The scarce vegetation on the site is along the boundaries and a single small tree. The lot size is under 0.4ha, however heritage approval is required for removal of any vegetation.
- The dimensions of each lot allow generous space for dwellings, outbuildings, and garden area.
- The building envelopes ensure appropriate setback to Morris Street.
- All sites have connection to all available reticulated services. A condition will be placed on the permit to ensure the Applicant has contacted the relevant utility companies during the Surveying and Planning through Electronic Applications and Referrals (SPEAR) process.

### **Finance and Resource Implications**

Cost of appeal to the Victorian Civil and Administrative Tribunal.

### **Alternate Options**

Council could issue a Notice of Decision to Refuse the Planning Permit. It is noted that this could result in a Victorian Civil and Administrative Tribunal Hearing.

### **Communication and Consultation**

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-site. Council received ten (10) objections from ten properties. A response to the objections (dot points) is provided as follows:

- *'Neighbourhood character and siting of Building Envelopes, including the size of the allotments and front and side setbacks.'*

Consideration of any application must be assessed against the relevant provisions of the planning scheme and in this instance, the proposed three lots are considered to accord with the provisions, as outlined in this report, particularly as it relates to neighbourhood character and integration of the lots with the existing environment due to the following assessment.

The wider subdivision lot sizes of the area are sporadic. The surrounding residential properties are located within a variety of residential zones and the creation of three lots in an area that has a history of subdivision is not considered to create a significant negative

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impact. Within the Mount Alexander Planning Scheme, a variety in lot sizes is recommended in Clause 02.03-6 Housing.

- *'Traffic impacts'*

The application was internally referred to Council's Engineering Unit and the Department of Transport and Planning who reviewed the application and consented to the proposal subject to conditions. The additional traffic movements generated from two additional allotments has been deemed to not be of concern.

- *'Precedent for future subdivisions'*

Under the provisions of the Mount Alexander Planning Scheme Council must consider each application on its individual merits, as such the proposed subdivision is not thought to have any impacts on the precedent for future subdivisions in the area.

- *'Heritage impacts'*

The proposal responds to relevant principles within the Maldon Design Guidelines which seeks (amongst other things) to ensure that the subdivision or consolidation of heritage places results in development that retains the rhythm and pattern of built form in the heritage streetscape and that views to significant heritage buildings from the public realm are retained. The proposal also responds to relevant principles within the Guidelines which seeks to retain views to significant heritage buildings from the public realm, having particular regard to the existing heritage building to the west at 18 Morris Street.

- *'Open Space for Landscaped Gardens and Shade Trees'*

The allotment sizes are more than 1000sqm and provide opportunity for both private open space, landscaped gardens and shade trees.

- *'Future development on the allotment'*

The allotment sizes at in excess of 1000sqm are of suitable size and configuration to permit the future dwelling development in accordance with the provisions of the Maldon Design Guidelines.

Any future development on the allotment will be subject to planning permit approval and will be required to respond to the provisions of the Heritage Overlay, the Significant Landscape Overlay present onsite and the Maldon Design Guidelines.

### Consultation

No consultation meeting has occurred in response to the objectors.

### *External Referrals*

The following provides a brief summary of the referral responses received.

- North Central Catchment Management Authority

Provided their consent to the application.

- Goulburn-Murray Water

Provided their conditional consent to the application subject to conditions which included ensuring the property was connected to reticulated sewerage services.

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- Coliban Region Water Corporation  
Provided their conditional consent to the application subject to conditions which included ensuring the property was connected to reticulated water and pressure sewerage services.
  - Country Fire Authority  
Provided their conditional consent to the application subject to the preparation of an Emergency Management Plan and endorsement of the submitted Bushfire Management Plan to ensure ongoing compliance.
  - Department of Transport and Planning  
Provided their conditional consent to the application subject to conditions relating to access and maintenance.

#### *Internal Referrals*

- Council's Heritage Advisor  
Provided their consent to the application.
- Council's Environmental Health Unit  
Provided their consent to the application.
- Council's Engineering Business Unit  
Provided their conditional consent to the application subject to:
  - the submission of engineering plans
  - the management of on-site stormwater and drainage requirements including a requirement to ensure the prevention of discharge of water from the subject land across any road or onto any adjoining land
  - the upgrade of vehicle crossovers (if required)
  - sediment pollution Control.

#### **Legislation**

Planning and Environment Act 1987

#### **Strategy and Policy Impacts**

Council Plan 2021-2025

Relevant Planning Policy implications have been discussed above.

#### **Declarations of Conflict of Interest**

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

#### No conflicts of interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.

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### **9.4.3. VARIATION TO EXTEND CONTRACT M1363-2018 OPERATION AND MANAGEMENT OF OUTDOOR AQUATIC CENTRES**

This Report is For Decision

Responsible Director: Director Infrastructure and Development, Michael Annear

Responsible Officer: Strategy and Planning Officer, Tamara Fawcett

Attachments: 1. CONFIDENTIAL - Variation to current contract M1363-2018 Operation and Management of Outdoor Aquatic Centres [9.4.3.1 - 3 pages]

#### **Executive Summary**

The purpose of this paper is to present a variation for a one-year extension to the current contract M1363-2018 Management and Operation of Outdoor Aquatic Centres (Castlemaine, Harcourt, Maldon, and Newstead swimming pools) with Victorian YMCA Community Programming Pty Ltd (YMCA).

The existing multi-year service contract is due to expire on 30 June 2025.

It is recommended a variation and one-year extension be offered to the YMCA to ensure continued service provision through the establishment of the new Council.

#### **RECOMMENDATION**

**That Council:**

- 1. Authorises a variation to allow for a one-year extension of Contract M1363-2018 for Operation and Management of Outdoor Aquatic Centres for the period 1 July 2025 to 30 June 2026 to Victorian YMCA Community Programming Pty Ltd for a contract price of \$617,157 (GST exclusive).**
- 2. Authorises the CEO to electronically sign and seal the Deed of Variation for Contract M1363-2018 for Operation and Management of Outdoor Aquatic Centres for a one-year period from 1 July 2025 to 30 June 2026 for the contract price of \$617,157 (GST exclusive).**
- 3. Authorises the CEO to electronically sign and seal the Deed of Extension for Contract M1363-2018 for Operation and Management of Outdoor Aquatic Centres for a one-year period from 1 July 2025 to 30 June 2026 for the contract price of \$617,157 (GST exclusive).**

**MOVED COUNCILLOR MCCLURE**

**That the recommendation be adopted.**

**SECONDED COUNCILLOR ANNEAR**

**CARRIED.**

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## Context

Council manages four outdoor aquatic centres (outdoor pools), located in Castlemaine, Harcourt, Maldon, and Newstead. Contracts for the operation and management of these pools was awarded in 2018 with the contract periods being:

Table 1 – Contract timetable

Term	Timeframe	Date
Initial contract term	Three years to 30 June 2021	1 November 2018 to 29 May 2019 (Bendigo Regional YMCA)
		30 May 2019 – 30 June 2021 (YMCA Victoria)
First extension option at Council's discretion	Two years to 30 June 2023	1 July 2021 – 30 June 2023 (YMCA Victoria)
Second extension option at Council's discretion	Two years to June 2025	1 July 2023 – 30 June 2025 (YMCA Victoria)

The initial contract term for the management and operation of the pools expired on 30 June 2021. Two extension options were available in the contract. The first extension of the contract was exercised by Council at the Ordinary Meeting of Council 15 June 2021. The second at the Ordinary Meeting of Council on 22 December 2022.

Council Officers have sought legal advice on the potential to undertake a variation to extend the current contract. In summary, the advice outlined that a contract can be varied by further agreement between the parties.

Council Officers have requested and received a schedule of pricing for a one-year extension from YMCA.

This contract is for the management, operations, and maintenance of the four facilities, and includes:

- program planning and development
- the day-to-day management, operation, supervision and maintenance of the pools, plant, equipment, building and surrounds
- the cleaning of pools, buildings, and surrounds
- administration and financial management
- community engagement
- staff management
- evaluation and reporting

## Issues

The contract for the management and operation of Council's four outdoor pools is due to expire on 30 June 2025. The initial contract term and 2 x 2-year extension periods have been exercised and the services are scheduled for retender.

The timing to award a new contract for the operation and management of the pools coincides with the upcoming Council elections and caretaker period. It is estimated that the new contract would be in place for between six to eight years at an estimated cost of 4.5 to 5 million dollars.

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It would be beneficial that the newly elected Council award the upcoming pool management contract given the length of time and costs involved. Providing a one-year extension to the YMCA would allow time for the incoming Council to undertake all their induction processes, finalise strategic documents such as the Council Plan and the Municipal Health and Wellbeing Plan and experience a pool season and its reporting. This will provide the newly elected Council a greater understanding of the resources required to manage and operate the pools to assist with their decision on award of a new contract.

It is preferred to retender a pool season before the current or extended contract ends to provide time for the tender process and for the opportunity to retender should delays occur. Should Council agree to a variation for a one-year extension with the YMCA, the tendering process for the new longer-term contract would take place between March 2025 and June 2025, with the aim to present a tender evaluation to Council in October 2025 for award.

This advanced tendering timeframe also allows for the incoming and outgoing contractors to plan, undertake recruitment, and develop compliance documentation required for pool management. Council Officers see this as an important consideration when managing service-based contracts to ensure as smooth a transition as possible is undertaken to minimise the effect it could have on customer experience and potential performance.

#### Cost escalation

There has been an overall increase from the contract price of 2024/2025 in the pricing submitted by the YMCA that would apply to the extension term 2025/2026 (if approved). Council Officers met with YMCA to discuss the submitted pricing which was adjusted down slightly. The YMCA confirmed that increases were related to the following areas;

- forecasted decrease in income and attendances (based on five-year average assessment)
- increases to staffing costs, including increased training requirements, and mandatory shadow shifts for new lifeguards during their training, as well as:
  - lifeguard observation and ongoing periodic performance monitoring, introduced to ensure compliance with supervision requirements by aquatic supervision staff
  - increased training requirements to meet increasing compliance requirements around food handling, occupational violence management and sexual harassment training
- increase in pool chemical costs including the higher cost of transportation, wages, and chemicals. There has also been an increase of pool chemicals required for operational water quality management, for example to respond to increased algae issues at some pools.

Some cost savings have been identified by the YMCA which include efficiencies with pre-season commissioning and cleaning.

#### **Finance and Resource Implications**

The schedule for pricing received for the variation to extend the current contract for 2025/2026 is \$617,157 (excluding GST).

Council provides an annual operational budget allocation to cover the pool management costs. Typically, this line item is increased annually by CPI as specified in the current contract with the YMCA. The revised costs for the variation to extend the current contract are higher than the budgeted CPI increases; while this is the case, the costs reflect changes in the sector, wage costs and response to the current high inflation rate. If Council approves this contract extension, the increase will be put forward in the 2025/2026 budget process.

As it has been seven years since Council has tested the market, there is a risk that other tender offers could be higher than the \$617,157 offered by the YMCA.

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Council Officers have undertaken a benchmarking exercise to assess the proposed rate changes and have concluded, the proposed increase is in line with industry and in line with costs for similar rural councils.

## **Risk Analysis**

### Council's Risk Appetite Statement:

The following sections of Council's adopted Risk Appetite Statement are aligned to the variation for a one-year extension to the current Operation and Management of Outdoor Aquatic Centre contract with the YMCA:

- No appetite for failure to ensure the safety and wellbeing of the community, visitors, volunteers, and contractors.
- No appetite for the violation of laws or regulatory requirements.
- A low appetite for not undertaking well managed financial planning while investing in programs that provide increased benefit to the community.
- A low appetite for actions that may harm Council's reputation

### Financial Risk

If Council choose not to grant the variation for a one-year extension of the current contract for the nominated cost, this will require Council to retender pool management services. It has been seven years since Council tested the market, and given the known industry-wide cost increases, this option is not recommended.

Additionally, an ill-informed Council is at risk of making poor financial decisions. Extending the contract by one year allows time for a new Council to become familiar with Council operations and pool operations, as Councillors will experience one full pool season prior to a tender evaluation being presented for decision. This will provide a foundation on which to make an informed financial decision on this important contract.

### Reputation Risk

The operation and management of Council's outdoor pools is a high-profile activity for Council and delivers a service highly valued by the community. The appointment of an appropriately resourced, responsive, and qualified operator is critical to manage the risks relating to Council's reputation, management, and maintenance of valuable community assets, community access to aquatic facilities within the Shire, and Council's duty of care for the health and safety of pool users.

The YMCA are industry leaders in facility management for aquatics and leisure, offering high quality health and fitness programs that cater to everyone in the community. The YMCA runs 83 council-owned recreation, aquatic, and stadium facilities across 21 local government areas. Four of those facilities are in Mount Alexander Shire.

Additionally, the YMCA has consistently achieved high levels of safety and compliance which is reflected in the Life Saving Victoria Pool Safety Assessments scores at each of our pools. Across the past two seasons they have achieved silver and gold endorsements at each pool, which mitigates the risk of failure to ensure the safety and wellbeing of the community, visitors, volunteers, and contractors at our pools.

### Regulatory Risk

Having a well credentialed and safe operator will assist the Council to meet its many legislative and regulatory compliance obligations.

In addition, it will help ensure that the safety and wellbeing of the community and visitors to our pools are protected.

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## **Climate Impact Statement**

Council's four seasonal outdoor pools are opened during the summer months and are not heated. They provide shade for community members and a place of respite from the heat.

Maldon and Newstead Swimming Pools have solar heating in the change rooms with Castlemaine and Harcourt providing cold water only amenities. Maldon has a pool blanket which assists in retaining warmth and reduces water evaporation. Three of the four pools have tank water connected to the toilets for water saving initiatives. Emptying and filling of the pools is completed in negotiations with Coliban Water and excess water is used by the local Country Fire Authority for training purposes or Council's works team.

Officers work with the operators to ensure power and water saving costs can be met and have installed variable speed drives on the circulation pumps at Harcourt, Maldon and Castlemaine which has reduced energy consumption during the season and allow for effective winterisation reducing the need to empty and refill the pools annually.

## **Gender Equity Statement**

It is considered that this report goes towards promoting gender equity principles as outlined in the *Gender Equality Act 2020* and does not contribute to the promotion of inequalities. Mount Alexander Shire Council is committed to meeting its obligations as stated in the Act and to further promote the right to equality as set out in the Charter of Human Rights.

A Gender Impact Assessment has not been prepared for this report as Officers are not proposing a change in service or specifications.

## **Alternate Options**

An alternate to seeking approval of a variation to extend the current contract for one year could be to retender pool management services and seek an award early in the new Council term (April 2025 onwards). This option is not recommended as it would leave little transition time between incoming and outgoing contractors and would place the 2025/2026 Pool Season at risk of delay. It would also not allow enough time for the incoming Council to fully understand and appreciate the resources required to manage and operate the pools, to assist with their decision on award.

Another alternative option could be to request the YMCA to consider additional cost-saving measures to bring the total cost down for the one-year extension. This would likely lead to specification changes and would result in a service reduction in the number of hours the pools would be open. This option is not supported as it would impact upon the current service delivery and community expectations for pool opening hours.

## **Communication and Consultation**

As there is no planned service change, it is not proposed to undertake engagement with the community on the proposed contract extension. Therefore, there is no overarching Communication and Consultation plan affecting this report.

Internal consultation has occurred with Council's Procurement Coordinator to confirm the approach for a variation to extend the existing contract. External legal advice has also been obtained, which confirms support of the planned approach.

Consultation has been held with the YMCA who have confirmed their commitment to continue to operate swimming pools for a further year. They have submitted their schedule of pricing documents for the 2025/2026 season.

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## Inform:

We will keep our community informed.

Community engagement is undertaken annually through customer satisfaction surveys and meetings with pool community groups. Programs and services are adapted to meet the needs of the community.

Survey results show that 77% say that they would either likely or highly likely recommend the pools managed by the YMCA to others.

## **Legislation**

### Local Government Act 2020 (the Act)

The Act provides relevant direction to Local Government regarding procurement and contracts. Section 108 of the Act requires Councils to undertake competitive market testing processes before entering contracts for the purchase of goods, services or works valued at \$200,000 and above (GST exclusive). The Act imposes specific restrictions on Council, regarding entering such contracts.

All goods and services purchased by Council must be compliant with the *Occupational Health and Safety Act 2004*, the *Dangerous Goods Act*, *Equipment (Public Safety) Act 1987*, and associated regulations and codes of practice whenever applicable.

### Occupational Health and Safety Regulations 2017

Safer Public Pools – Code of practice was developed by Life Saving Victoria in partnership with the State Government and industry leaders. This code of practice is the joint response to a coronial inquest in 2014. It provides practical guidance about the operation and management at Victorian public swimming pools and ways Council and operators can meet their legal obligations under the *Occupational Health and Safety Act 2004* and *Occupational Health and Safety Regulations 2017*.

### Public Health and Wellbeing Act 2008

Public aquatic facilities are regulated under the *Public Health and Wellbeing Act 2008* and *Public Health and Wellbeing Regulations 2019*. The regulations outline:

- registration requirements
- general duties of aquatic facility operators
- the minimum water quality requirements for aquatic facilities
- response procedures for non-compliant water quality
- requirements for aquatic facilities suspected or implicated as a source of infection and record-keeping.

Public pools must comply with the aquatic facilities provisions of the regulations and the Water quality guidelines for public aquatic facilities.

The awarding of the pool management contract and the subsequent management and operations of Council's outdoor swimming pools is consistent with the above priorities and policies.

## **Strategies and Policy Impacts**

### Council Plan 2021-2025

*Community - A healthy, connected and inclusive community.*

- Our community is physically and mentally healthy. Services in our community are accessible and coordinated.

*Principle - We are always improving.*

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- Council is responsive to the needs of the communities it serves.

*Principle - We are delivering together.*

- We are working across Council, government, local partners and across community to meet the varied needs of our region.

The contract for the operation and management of Mount Alexander Shire Council's four outdoor pools assists Council to deliver on several key elements of Council Plan 2021-2025. By ensuring that important health and wellbeing facilities are available for community members to recreate, play, socialise, exercise and access respite from hot weather during the summer months. This contributes to the development of a healthy, connected, and inclusive community through providing important hubs for community members to gather. Furthermore, the contract ensures that these highly valued community assets are appropriately managed, utilised, and maintained during the life of the contract.

#### Municipal Public Health and Wellbeing Plan 2021-2025

##### *Increasing Healthy Eating*

The pool contract follows VicHealth healthy eating guidelines in the kiosk only providing green food and drinks (best choices) and limited amber food and drinks (choose carefully). The YMCA has a Healthy Living Magazine that is available in hard copy at the pools and online. They also provide Virtual Y which is an online free access to exclusive fitness videos, nutritious recipes, wellbeing advice, family activities and a youth hub. This is available to the community year-round.

##### *Increase Active Living*

The pools provide the community with an opportunity to undertake physical exercise seven days a week during the summer for a wide range of ages. Activities range from recreation swimming, lap swimming, swim club, aqua aerobics, junior lifeguard, school carnivals, learn to swim education and aqua playgroups. This enables the community to be active no matter the age or swimming ability.

##### *Improving Mental Wellbeing*

Pools are a place of respite during the summer offering a safe supervised space that people can socially connect and undertake activities such as swimming and aquatic exercise as well as pool parties and events which assist in people's mental health and wellbeing.

#### **Child Safe Standards**

Mount Alexander Shire Council is committed to being a child safe organisation and has zero tolerance for child abuse. We recognise our legal and moral responsibilities in keeping children and young people safe from harm and promoting their best interests.

All children who come in contact with Councillors, employees, contractors, and volunteers from the organisation have a right to be and feel safe. We have specific policies, procedures, and training in place to support employees, volunteers, and contractors to achieve these commitments.

We create environments where all children have a voice and are listened to, their views are respected, and they contribute to how we plan for, design, and develop our services and activities.

The YMCA holds an accreditation with the Australian Childhood Foundation and maintains the highest standards with respect to being a Child Safe Organisation. All staff are required to undertake an induction and the Safeguarding Children and Young People education program, signing a commitment to child safety.

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### **Declarations of Conflict of Interest**

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

#### No conflicts of interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.

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#### 9.4.4. MOUNT ALEXANDER AFFORDABLE HOUSING TRUST

This Report is for Decision

Responsible Director: Chief Executive Officer, Darren Fuzzard

Responsible Officer: Housing Solutions Broker, Clare Richards

- Attachments:
1. Mount Alexander Affordable Housing Trust - Deed [9.4.4.1 - 14 pages]
  2. Mount Alexander Affordable Housing Trust - Explanatory Statement [9.4.4.2 - 6 pages]
  3. Mount Alexander Affordable Housing Trust - A4 Information Sheet - Summary and Diagram [9.4.4.3 - 3 pages]
  4. Mount Alexander Affordable Housing Trust Advisory Committee - Expression of Interest [9.4.4.4 - 3 pages]
  5. Mount Alexander Affordable Housing Trust Advisory Committee - Skills Matrix [9.4.4.5 - 1 page]
  6. Mount Alexander Affordable Housing Trust Advisory Committee - Terms of Reference [9.4.4.6 - 4 pages]
  7. CONFIDENTIAL Mount Alexander Affordable Housing Trust - Communications and Engagement Plan [9.4.4.7 - 16 pages]

#### Executive Summary

The purpose of this report is to recommend that Council adopts the proposed Trust Deed to enable establishment of a Mount Alexander Affordable Housing Trust (MAAHT), as a Public Benevolent Institution with Deductible Gift Recipient status.

The report also proposes adoption of a Terms of Reference for a Housing Trust Advisory Committee and the Expression of Interest and selection process associated with this.

If approved, subsequent steps in developing the MAAHT will be presented for consideration in future Meetings of Council, including:

- Appointment of the MAAHT Advisory Committee.
- The results of the Fundraising Campaign when it is deemed to have reached a level of monetary and/or land contributions sufficient to enable an initial project and hence to commence establishment of the MAAHT.
- The appointment of a Trustee that in turn will establish the MAAHT.
- Potential periodic allocation of Council land or capital to the MAAHT.

The proposed Trust Deed meets the requirements of the *Local Government Act 2020*. Explanatory notes to the Trust Deed are also provided.

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## **RECOMMENDATION**

**That Council:**

- 1. Adopts the attached Trust Deed as the basis for establishing the Mount Alexander Affordable Housing Trust (MAAHT).**
- 2. Adopts the Mount Alexander Affordable Housing Trust Advisory Committee Terms of Reference and Expression of Interest documents as the basis for selecting the MAAHT Advisory Committee.**
- 3. Notes that, if approved, the Trust Deed will be:**
  - a) Promoted through communications and community engagement to build understanding of the purpose and scope of the proposed Trust.**
  - b) Used to assist in appointing the Advisory Committee to the Trust once there is sufficient understanding of the Trust in the community.**
  - c) Used as the basis of a fundraising campaign to attract sufficient pledges to enable delivery of an initial project and consequently establishment of the Housing Trust.**
  - d) Used as a basis for seeking to appoint a Trustee with assistance from the Advisory Committee.**
- 4. Notes that further reports will be presented to Council for decision in respect of the matters listed in Recommendation No: 3, as required.**

**MOVED COUNCILLOR HENDERSON**

**That the recommendation be adopted.**

**SECONDED COUNCILLOR ANNEAR**

**CARRIED.**

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## Context

The 2021-2025 Council Plan includes as a priority the need to improve housing availability in the Shire. Since 2021, community members have also highlighted growing concern about the lack of affordable and appropriate housing choices within the Shire for people in a variety of circumstances.

As part of a wide range of responses to these aspirations and concerns, the Housing Solutions Broker commenced research into establishing a Charitable Trust for affordable housing in late 2021.

Charitable Trusts are legal structures quite different to other common forms of organisational governance, such as companies or associations. A Charitable Trust must be established with a particular and clear purpose that aligns to one of the scopes defined within charitable and trust law. A Trust is essentially a set of intentions and purposes which is then entrusted to a Trustee to hold responsibility for and to enact.

A Trustee is thus akin to a custodian. They are responsible for, and legally hold in trust, the assets of the Trust, but this is a custodianship and not equivalent to the freehold notion of absolute ownership. If the Trustee resigns or is replaced, the assets of the Trust transfer to the next Trustee and must always be managed and utilised in accordance with the charitable purpose laid out in the Trust Deed. Activities, policies and plans of the Trustee must also be consistent with that purpose.

Charitable Trusts which provide a public benefit are designed for perpetuity – that is the nature of the governance structure of such Trusts. This stability of purpose and perpetuity over time help build public confidence and provide opportunity to steadily accumulate assets to meet community needs (in this case, for affordable housing).

Where there is sufficient opportunity for significant donations or bequests of land or capital from the public, the option to also include a Deductible Gift Recipient status to the Charitable Trust exists. Doing so then enables, and encourages, such donations and bequests to be made.

While still broadly uncommon in Australian Councils, examples of Charitable Trusts successfully established for this purpose do exist. In Victoria, the best-known example is in the City of Port Phillip which formed a housing trust in 2005. Charitable Housing Trusts are also a common tool used in many European countries, UK, USA and Canada.

### History of consideration of establishment of a Housing Trust by Mount Alexander Shire Council

In February 2022, an Affordable Housing Workshop was held with Council and the option to explore the establishment of a Charitable Trust for housing was presented. In response, Councillors expressed an interest to learn more and requested that the concept be further developed.

A follow up briefing on Charitable Trust options was presented in December 2022. An outcome of this meeting was the request that a draft Trust Deed (Attachment 9.4.4.1) and Explanatory Notes (Attachment 9.4.4.2) be prepared for further consideration by Council.

The draft Trust Deed and explanatory notes were presented and discussed with Council in briefings in April and May 2023 and Council gave in-principal support for the work to progress.

In August 2023, a briefing paper was presented to Council outlining the nature and function of the Trust in preparation for decision on adoption of the Trust Deed at a future meeting. A further outcome of that meeting was support from Council to seek quotes from fundraising consultants.

Following the August briefing, quotes were sought and obtained from fundraising consultants and feedback sought from senior practitioners in the charitable fundraising field. Some clear directions emerged from that input. Strong advice was received to invest in a period of pre-

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launch engagement with key stakeholders and potential donors to ascertain whether the level of support and donation potential in the community is likely to be enough to enable the Trust to establish and operate.

It was noted that generally the majority of funds raised in other campaigns come from a small number of high worth donations. Thus, understanding the appetite for such donations in the community, and the views of potential donors regarding the Trust's planned purpose and governance model, is important.

In a CEO-Councillor meeting in December 2023, the need to conduct initial scoping of community donation potential to inform the decision on investing in a consultant-led feasibility study and preparation of a fundraising plan was discussed. An initial Trust communications document was created, and Councillors agreed to gauge interest and donation potential in the community over the summer break (Attachment 9.4.4.3).

Following Councillor efforts over the summer break, it was concluded that taking the Trust Deed out to the broader community to build understanding and support, and to allow potential donors to self-present, was the best approach in this situation.

That said, it is the Officer's view that, beyond opportunities for large donations from a few individuals or corporations, there does appear to be widespread interest in our community (and beyond) in making small to medium sized donations which would enable the Trust to commence an initial project. Such interest is evidenced by the ongoing existence and growth of community led groups such as *My Home Network*.

## **Issues**

### Funding the Establishment of the Charitable Trust

Following Council's in-principal support for progressing the Trust Deed, the document was presented to potential stakeholders in the philanthropic and public trust sector for feedback. This input indicated a need for the Trust to obtain an initial capital (and land) base of \$3-5 million to make appointment of a Corporate Trustee (such as Equity, Perpetual or ANZ Trustees), and operational commencement, feasible. The opportunity for Government contributions was also explored and is currently considered unlikely in the establishment phase of the Trust.

Given this, establishing Deductible Gift Recipient status for the Trust is felt essential to increase the likelihood of attracting sufficient individual and corporate donations. Provision for this status has since been included in the proposed Trust Deed.

If the proposed Trust Deed is adopted, Officers will use this as the basis of an education and then Fundraising Campaign to seek pledges for the donation of funds and/or assets to an initial project, and consequently for the establishment of the Mount Alexander Affordable Housing Trust. Once sufficient pledges have been obtained, a further report will be presented to Council seeking the appointment of a Trustee and the associated establishment of the Trust.

### Initial Project

The importance of identifying a suitable initial project to launch the establishment of the Trust was emphasised in many recent conversations with the philanthropic sector.

Until the Trust Deed is adopted and broad communication and engagement occurs, the extent of appetite and opportunity in the community to contribute money or land (by gift or significant discount) cannot be quantified. The potential location and nature of an initial project is thus not yet known. However, following the initial education phase, appointment of the Advisory Committee is proposed, and this group would assist in identifying a suitable initial project on which to launch the fundraising activity for the Trust.

Notwithstanding this, scoping and conversations with landholders in the central Castlemaine area have commenced. It may also be the case that landholders with an interest in donating

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or providing land (at significantly below market price) will emerge during the 'educational' launch of the Trust Deed.

If Council chooses to commit funds to the Trust, these could also assist to leverage additional donations and assist in attracting discounted land offers suitable for an initial project.

#### Legislative Requirements and Managing Risk

Under the *Local Government Act Vic 2020 (the Act) Part 5 – Council Operations Division 3 – Beneficial Enterprises Section 110*, Councils may establish certain legal vehicles, and this includes Trusts.

A law firm experienced in the charitable sector and Charitable Trusts was engaged to draft the Trust Deed for the proposed Mount Alexander Affordable Housing Trust (MAAHT). The MAAHT is a legally sound mechanism for securing land for the purpose of perpetually providing affordable housing in the Shire.

Section 111 of the Act notes that, among other points, Council must:

- Assess the total investment involved,
- Assess the total risk exposure,
- Ensure that its total risk exposure does not exceed its total investment; and
- Establish risk management arrangements.

Appointment of a professional Trustee (bound by law to strict standards of governance and prudential management) is one means of addressing the requirement to “establish risk management arrangements”.

A further mechanism to manage this risk is afforded by appointment of an Advisory Committee by resolution of Council under the *Local Government Act*. Under the proposed Trust Deed, Council would require the appointed Trustees to *have regard for* the advice of an Advisory Committee.

The Advisory Committee is proposed to be appointed by Council via a public Expression of Interest process (Attachment 9.4.4.4) which will seek to obtain a broad range of capacity across Committee members (Skills Matrix, Attachment 9.4.4.5). The Advisory Committee would be required to operate within the authority afforded it under the Mount Alexander Affordable Housing Trust Advisory Committee Terms of Reference (Attachment 9.4.4.6), and as amended from time to time.

Another important risk management benefit of establishing such a Trust is that, once the MAAHT is established, it operates as a separate legal entity. Thus, it is not a subsidiary of Mount Alexander Shire Council for which Council would have any legal fiduciary duty to manage or to support once it is established.

The establishment of a Trust model (rather than a company *limited by shares* model), is a further mechanism for better managing the risk associated with authorising an external party to manage land and capital allocated from Council and others. The proposed Trust Deed does this by enabling relatively swift action to be taken by Council, should it deem that the Trustees are not managing the Trust in accordance with the purpose laid out in the Trust Deed.

Section 116 of the *Local Government Act 2020 (the Act)* is relevant to the question of transfer of land or capital to the MAAHT once established. Section 116 states that Council is not restricted by the limits of Sections 114 and 115 (which would otherwise require community consultation) in exercising its powers to sell or exchange land or lease land when the transfer, exchange or lease of land is to a trust with public or municipal purposes. Provision of affordable housing for the residents of Mount Alexander Shire is a public purpose. Thus, Council can choose whether to seek community views prior to the transfer, exchange or lease of land to MAAHT.

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### Structure of the proposed Trust Deed

To meet legal obligations, the functions of the Trust must be bounded and clear enough to protect its intended purpose, and the use of the assets collected for that purpose, over time. For practical reasons though, it must also allow sufficient flexibility to adapt to changing circumstances, needs and opportunities over a very long-time horizon. For example, the terms of the Trust set now must still be relevant in 50, 100 or 200 years.

To meet these potentially competing objectives, the proposed Trust Deed includes setting governance arrangements that:

- Maximise transparency to both the community and to regulators.
- Support a strong working relationship between the appointed Trustee and the Advisory Committee.
- Support a strong and mutually informing relationship between the strategic planning functions of Council, the community leadership and knowledge of Councillors and other appointed Advisory Committee members, and the long-term planning of the Trustee.
- Assure independent professional management of the Trust in line with its purpose that cannot be unduly influenced by the preferences of any one party (be that Council, locally active Community Housing Providers, other levels of government or other stakeholders).

As noted previously, the proposed Trust is a Charitable (Public Benevolent Institution) Trust that includes Deductible Gift Recipient (DGR) status. By doing so, a range of benefits including income tax exemption and capacity to receive tax deductible donations and bequests, are derived.

Income tax exemption is a significant benefit as it means that all revenue derived by the Trust (e.g. through sub-lease and rental arrangements) does not attract income tax. DGR status also enables the Trust to seek and receive tax-deductible donations from the public and enables partnerships and potential donations and grants from other philanthropic organisations and foundations.

### Operation of the Trust

Under Trust law, as the body establishing the MAAHT and appointing the Trustee, Council is known as the Appointor. The Appointor cannot also be the Trustee. However; Council can be the body to appoint the proposed Advisory Committee and can be represented on such a committee. A Terms of Reference and Expression of Interest process has been developed for approval by Council to establish the Advisory Committee (Attachments 9.4.4.4, 5 and 6).

Using the Act to appoint an Advisory Committee to the MAAHT provides a formal structure through which Advisory Committee members can be selected. Being an Instrument of Government, this process may also help to maintain the strength of the consultation and communication between the Committee and the Trustee over time.

While the Advisory Committee will have an ongoing role supporting the Trustee once the Trust is established, it will also have a vital role during the establishment phase of the Trust. It is proposed that the Advisory Committee be appointed in the months following this decision, once the community has developed a good understanding of the purpose and scope of the Trust.

The Advisory Committee will be appointed via a public Expression of Interest process. The Advisory Committee will be comprised of seven members, one of whom will be a Councillor. The Housing Solutions Broker will sit on the Committee as a non-voting member. A skills matrix (Attachment 9.4.4.5) has been formed to assist in selection of members and will be provided to applicants. Applications will be available to people within and beyond the Shire.

Once the Advisory Committee is appointed it will be inducted and then commence working in collaboration with Council to promote the Trust and assist in conducting the fundraising campaign. The Committee will also be involved in assessing the options for appointment of a

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Trustee. The Housing Solutions Broker will consult with the Advisory Committee in determining recommendations on the best model for Trusteeship. Final recommendations will be presented to Council for decision, before the selection process for a Trustee commences.

It is envisaged that the significant involvement of the Advisory Committee in the formation of the Trust will assist in engagement with community, reaffirm the autonomous nature of the Trust, and help the Trust's fundraising efforts to reach widely across the community, and beyond.

Pending achievement of sufficient pledges and Council's subsequent approval to proceed to establish the MAAHT, an 'open tender' process would be conducted for the appointment of a Trustee and the results presented to Council for a decision.

The Trust Deed has been constructed to enable the Trustee to subcontract to other entities to develop, build and operate housing on Trust land. In doing so, the Trustee can contract different providers over time that are best suited to and experienced in addressing the needs of different cohorts.

The Trust Deed's primary focus on securing land for the provision of affordable housing enables flexibility and means that the Trustee is not beholden to a singular model of how to provide affordable housing.

While Local Government Authorities in Victoria are restricted to leasing their own land for a maximum of 49 years, there is no such restrictions on Charitable Trusts. The MAAHT could therefore, enter long term partnerships with housing providers which enable such providers to access a range of finance options beyond those limited by leaseholds under 50 years duration.

There is also an allowance for the Trustee to engage in revenue generating activities (described in Trust law as "incidental activities") if the intention of the activity is clearly to support the purpose of the MAAHT. This would allow, for example, the Trustee to respond to housing needs for priority community cohorts who would not come within the scope of a Public Benevolent Institution (due to their income, for instance). For these cohorts the Trustee could provide full market rate housing as an income generating activity in support of the MAAHT's purpose.

### **Finance and Resource Implications**

Excluding staffing costs, the cost of developing the legal documentation, establishing the MAAHT and appointing a Trustee is estimated to be less than \$15,000. Council has allocated funds in the 2022/2023 and 2023/2024 budgets to enable this work to occur.

If a fundraising consultant is engaged to assist with a promotional plan for the invitation and for collection of pledges for the MAAHT this is expected to cost up to \$60,000 and would be funded from the 2024/2025 Housing Initiatives budget (if approved).

The cost of establishing and supporting the Advisory Committee to the MAAHT is estimated to be less than \$5,000 per year, ongoing, with the initial year funded from the 2024/2025 Housing Initiatives budget (if approved).

Prior to appointment of a Trustee, while sufficient funds are being raised to enable an initial project, Council may partner with the Foundation for Rural and Regional Renewal (FRRR) who may provide a DGR status ancillary fund account to hold Trust donations during the establishment phase of the Trust. FRRR charge a 5% management fee on incoming donations up to a maximum fee of \$5,000. This fee is deducted on deposit of donations and thus is not a direct cost to Council.

The legal requirement for the MAAHT to obtain and retain sufficient capital to enact its purpose and to meet its obligations is the responsibility of the Trustee and not of Council. Once a Trustee is appointed, an annual fee of not more than 1.056% of the net assets of the

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MAAHT is payable to the Trustee. These funds are allocated from the capital reserves of the MAAHT and not from Council.

Notwithstanding that Council has no obligation to do so, following the establishment of the MAAHT Council may on an annual basis consider allocating funds to the MAAHT through normal budget processes.

Similarly, Council could, at any time, consider on a case-by-case basis the allocation of Council property to the MAAHT via lease or freehold transfer. Such actions would require a formal decision of Council once the relevant disposal process had occurred.

### **Risk Analysis**

Council's adopted Risk Appetite Statement includes:

*In exploring the best outcomes for current and future generations, we will pursue opportunities that promote economic, social and environmental sustainability, and will encourage innovative and collaborative activities, particularly those that have state, regional, and local relevance. We will promote transparent decision making by engaging with the community.*

*We have no appetite for harm to our people and fraudulent activities, and low appetite for damage to our reputation and acting in contravention with the law.*

The proposal to establish the Mount Alexander Affordable Housing Trust has been developed in accordance with this statement.

Specifically, the nature of the Trust proposed, the appointment of an Advisory Committee to the Trustee and the Terms of Engagement proposed in the Trust Deed seek to actively pursue the positive risks of this venture for Mount Alexander Shire's community, while minimising the negative risks to Council's ongoing operations and reputation. Each of the latter negative risks has been discussed and addressed in the body of this report.

### **Climate Impact Statement**

The decision to progress with the establishment of the MAAHT does not have direct climate impact implications. However; it is anticipated that a likely outcome of the initiative will be more climate-appropriate housing being made available to more cohorts within the Mount Alexander Shire community.

### **Alternate Options**

Having investigated the opportunity to establish a Housing Trust in Mount Alexander Shire, Council may decide to not proceed further. Excluding Officer time, the investment to date is approximately \$15,000.

Given the relatively unusual nature of this proposal, the process to develop the MAAHT concept has intentionally included multiple opportunities for Council to choose not to proceed. It is recommended that Council continue with the initiative at this point and consider the matter further, following Officers undertaking the process of attracting pledges. Doing so will however require the adoption of the Trust Deed as proposed.

### **Communication and Consultation**

Due to the technical and exploratory nature of this initiative, consultation to date has primarily involved working with other Councils, the Municipal Association of Victoria, Homes Victoria, relevant legal advisors, professional Trustee service providers and philanthropic fund managers.

Locally, there has been engagement with Maldon Community Bank, Castlemaine Community House, My Home Network, Castlemaine Institute, Mount Alexander Community Land Ltd, the Connectors network and the Maine Ministers network.

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This initiative has also been discussed with the State Minister for Housing, local Member for Bendigo West, Maree Edwards, and the office of the Federal Minister for Housing and Homelessness. Further details of the Communications and Engagement Plan are available at Attachment 9.4.4.7.

Should Council choose to proceed to the next phase of this initiative, the promotional plan will engage broadly with the community and be aimed at building understanding of the purpose and scope of the Trust, attracting EOIs for membership of the Advisory Committee, then attracting pledges from the Mount Alexander Shire community, relevant philanthropic funds and other interested parties and individuals from outside the Shire.

### **Legislation**

Charities Act 2013 (Federal)

Income Tax Assessment Act 1997 (Federal)

Local Government Act 2020

Housing Act 1983

Planning and Environment Act 1987

Trustee Act 1958

### **Strategies and Policy Impacts**

Council Plan 2021-2025

*Environment - A flourishing environment for nature and people.*

- We are focused on the housing affordability challenge in our community.

### **Declarations of Conflict of Interest**

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

No conflicts of interest

The Officers involved in reviewing this report, having made enquiries with the relevant members of staff, report that there are no conflicts of interest to be disclosed.

## 10. DELEGATES REPORTS

Meetings attended by CEO and Mayor from 22 May 2024 to 18 June 2024.

MEETING	CEO	MAYOR
Meeting with Board member of Castlemaine State Festival and Goods Shed to discuss matters of common interest for Mount Alexander Shire	✓	
Meeting coordinated by Department Jobs, Skills, Industry and Regions, Bendigo office to discuss the Loddon Mallee Housing project (other Loddon Mallee / Loddon Campaspe Region Council's CEOs also in attendance)	✓	
Attended Loddon Campaspe Councils CEOs meeting	✓	
Attended Loddon Campaspe Regional Partnership meeting	✓	
Attended Rural Council's Victoria committee meeting as Loddon Campaspe's CEO representative	✓	
Attended National Sorry Day event at Castlemaine Botanical Gardens		✓
Attended Reconciliation Week launch	✓	✓
Meeting with local business owner to discuss Mount Alexander Shire's upcoming election	✓	
Onsite meeting with local resident to discuss proposed location for Campbells Creek off-road trail		✓
Gold Central Vic radio interview	✓	
Meeting with representatives from Haven Home Safe; Six Degrees Architects; Urbis and Remark Practice to discuss affordable housing project in Templeton Street, Castlemaine (Michael Annear, Director Infrastructure and Development; Clare Richards Housing Solutions Broker also in attendance)	✓	
Attended Municipal Association Victoria's Mayors and CEOs dinner	✓	✓
Chaired Economic Development Strategy project control group meeting		✓
Meeting with Infrastructure Manager, Creative Victoria to discuss Castlemaine State Festival	✓	
Gold Central Vic radio interview	✓	
Attended joint State / Local Government CEOs forum	✓	
Attended Loddon Campaspe Councils CEOs meeting	✓	
Meeting with Deloitte Australia (administrators) regarding Castlemaine State Festival	✓	

MEETING	CEO	MAYOR
Gold Central Vic radio interview	✓	
Joint Executive Team meeting for Environment Protection Authority (Bendigo Office) and Mount Alexander Shire Council to discuss matters of common interest (Lisa Knight, Director Corporate and Community Services; Michael Annear, Director Infrastructure and Development also in attendance)	✓	
Attended Campbells Creek Recreation Reserve Netball Court upgrade official opening by Lisa Chesters MP, Federal Member for Bendigo and Maree Edwards MP, State Member for Bendigo West (Cr Bill Maltby and Director Annear also in attendance)	✓	
Meeting with potential Councillor candidate	✓	✓
Attended Castlemaine Documentary Film Festival event		✓
Meeting with Executive Officer, Castlemaine Community House (Clare Richards, Housing Solutions Broker also in attendance) regarding Council's Templeton Street housing development project.	✓	
Meeting with Victorian Electoral Commission regarding upcoming Local Government council elections	✓	
Gold Central Vic radio interview	✓	
Read Bowerbird Blues by Aura Parker for National Simultaneous Storytime Day		✓
Meeting with Ben Allmonm, documentary producer about his new documentary titled The Basin		✓
Meeting with Ratepayer regarding a tree issue		✓
Attended (as Mayor) Rotary Club's Paul Harris Fellow presentation		✓
Attended Zinda Multicultural Festival (Cr Annear, Cr McClure and Cr Cordy also in attendance)		✓
Attended (as Mayor) Rotary Art Show Weekend		✓
Interview with Drew Jones, Fox Sports regarding Dustin Martin		✓
Listening Post at Guildford Post Office		✓
Opened Castlemaine Jazz Festival		✓
Attended Industry Placement presentation with representatives from the Federation University (Cr McClure and Cr Henderson also in attendance)	✓	✓
Attended meet the Mayor at Market Building		✓

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Mayor Driscoll noted that he opened the Castlemaine Documentary Film Festival, attended the Zinda multicultural festival and Castlemaine Jazz Festival. He also paid tribute to footballer Dustin Martin for playing his 300th game with Richmond.

Deputy Mayor Annear advised that she attended the Maggolee Award Ceremony with Council Officers, as well as Sorry Day and National Reconciliation Week activities. She also paid tribute to some local primary schools who were nominated for Resource Smart Awards, which are run by Sustainability Victoria. Castlemaine Steiner School and Kindergarten and Chewton Primary School both won awards in different categories.

Councillor Henderson noted that she attended the launch of the Djandak Wi Cultural Burning Strategy put forward by DJAARA.

Councillor Maltby advised that he attended the opening of new netball courts in Campbells Creek Recreation Reserve.

Councillor McClure attended an industry placement presentation with Councillor Henderson, regarding archiving and historical records. He also attended the opening of the Castlemaine Jazz Festival with the Mayor, with the opening performance by the Castlemaine Secondary College Senior band.

## **11. NOTICES OF MOTION**

Nil.

## **12. URGENT SPECIAL BUSINESS**

Nil.

## **13. CONFIDENTIAL ITEMS**

Nil.

## **14. MEETING CLOSE**

The Meeting closed at 8.53 pm.