

## **MINUTES**



### **OF THE ORDINARY MEETING OF COUNCIL**

**Held on Tuesday 21 July 2020**

**At 6.30 PM in the  
Mount Alexander Shire Council Chamber, Civic Centre,  
Corner Lyttleton and Lloyd Streets, Castlemaine Vic 3450  
And via Zoom Video-Conference Meeting.**

---

---

## **TABLE OF CONTENTS**

<b>1. PRESENT</b>	<b>4</b>
<b>2. APOLOGIES/LEAVE OF ABSENCE</b>	<b>4</b>
<b>3. DECLARATIONS OF INTEREST AND CONFLICTS OF INTEREST</b>	<b>4</b>
<b>4. CONFIRMATION OF MINUTES</b>	<b>4</b>
4.1. Ordinary Meeting Of Council - 16 June 2020	4
<b>5. ACKNOWLEDGEMENTS</b>	<b>4</b>
<b>6. PUBLIC QUESTION TIME</b>	<b>5</b>
<b>7. PETITIONS / JOINT LETTERS</b>	<b>7</b>
7.1. Joint Letter Regarding Subdivision In Steele Street, Chewton	7
<b>8. COMMITTEE REPORTS</b>	<b>7</b>
<b>9. RECORD OF ASSEMBLIES OF COUNCILLORS</b>	<b>8</b>
<b>10. OFFICER REPORTS</b>	<b>16</b>
<b>10.1. Our People</b>	<b>16</b>
10.1.1. Compliance And Enforcement Policy	16
<b>10.2. Our Place</b>	<b>20</b>
10.2.1. Plan Harcourt - Considerations Of Submissions And Adoption	20
10.2.2. Chewton Pool Incorporated Operational Support	29
10.2.3. Give Public Notice - Enter Into Lease With Bendigo Kangan Institute For 65-67 Templeton Street Castlemaine	35
10.2.4. Asset Management Plans - Pathways And Bridges	41
<b>10.3. Our Economy</b>	<b>46</b>
10.3.1. Statutory And Discretionary Reserve Policy	46
10.3.2. Approval Of Audit And Risk Advisory Committee Charter	49
10.3.3. PA034/2020 - 17 Hill View Court Mckenzie Hill	54
<b>11. DELEGATES REPORTS</b>	<b>64</b>
<b>12. NOTICES OF MOTION</b>	<b>66</b>
<b>13. URGENT SPECIAL BUSINESS</b>	<b>66</b>
<b>14. CONFIDENTIAL REPORTS</b>	<b>67</b>
<b>15. MEETING CLOSE</b>	<b>67</b>

---

## **ACKNOWLEDGEMENT OF COUNTRY**

**To start the official proceedings**

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

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

The Local Government Act (the Act), Part 12, Section 395 of the Act states that '*Council meetings may be closed to the public during the prescribed period*' (1 May 2020 - 1 November 2020), provided it is live streamed and the community have been provided means to submit statements or questions for Council response. This is to ensure Local Government decision-making can continue and remains transparent during the coronavirus pandemic.

Councillors and council staff are required to continue to act in accordance with the Councillors Code of Conduct and the Local Government Acts 1989 and 2020, local laws and other Acts and policies as prescribed.

Where there are technical difficulties in being able to broadcast the meeting to the public, the meeting will be adjourned for 30 minutes until the issue is resolved or postponed to 6.30 pm, 28 July 2020.

### **RECOMMENDATION**

**That Council:**

- 1. Closes the Ordinary Meeting of Council 21 July 2020 under the Local Government Act 2020, Part 12, section 395; and**
- 2. Notes that where there are technical difficulties in being able to broadcast the meeting to the public, the meeting will be adjourned for 30 minutes until the issue is resolved or postponed to 6.30 pm, 28 July 2020.**

**MOVED Councillor Nieman**

**That the recommendation be adopted.**

**SECONDED Councillor Lesser**

**CARRIED.**

---

## **1. PRESENT**

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

Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight), Director Infrastructure and Development (Jess Howard) and Principal Governance Officer (Augustine Sheppard).

## **2. APOLOGIES/LEAVE OF ABSENCE**

Nil.

## **3. DECLARATIONS OF INTEREST AND CONFLICTS OF INTEREST**

Councillor Lesser declared a direct conflict of interest with Item 10.2.1. - Plan Harcourt - Considerations of Submissions and Adoption, due to potential pecuniary interest.

## **4. CONFIRMATION OF MINUTES**

### **4.1. Ordinary Meeting of Council - 16 June 2020**

The unconfirmed minutes of the Ordinary Meeting of the Mount Alexander Shire Council held at 6.30 pm on 16 June 2020 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 Ordinary Meeting of the Mount Alexander Shire Council held on 16 June 2020 be confirmed.**

**MOVED Councillor Lesser**

**That the recommendation be adopted.**

**SECONDED Councillor Cordy**

**CARRIED.**

## **5. ACKNOWLEDGEMENTS**

Nil.

---

## 6. PUBLIC QUESTION TIME

The public was invited to participate in the meeting by submitting questions and/or an address, no more than three minutes long by 12 noon, Tuesday 21 July 2020.

a. Ms Sally Kaptein.

Question read by Mayor Henderson.

*"Is Council concerned that the earthworks in front of No. 37 Farnsworth Street (which is Public Land with a Heritage Overlay) sets a precedent for property owners to take Public Land for private and commercial parking?"*

- The Director Infrastructure and Environment (DID) responded by advising that Council officers are cautious of setting precedents, which is why the Minor Works Permit process exists. The purpose of the permit issued in this case was not to provide private parking.

b. Ms Helen Kaptein.

Question read by Mayor Henderson.

*"There is a walking track on public land that goes up Farnsworth St from the junction of Forest St. Council has a Walking and Cycling Strategy with the stated aim "to improve and increase walking and cycling in the Shire". How is the recent addition of a carpark on public land outside 37 Farnsworth St consistent with this strategy?"*

- The DID responded by advising this is related to the previous question and that Council officers are in the process of reinforcing the fact that this is not a private parking area, and maintaining safe and clear access for pedestrians on that walking track.

c. Mr David Raco.

Question read by Mayor Henderson.

*"Are Councillors aware that the earthworks in front of 37 Farnsworth St, on Heritage Overlay 668, are being used as a car park and have been since day 1? This not only appears to contravene the Heritage Act, but also Council's own Parking Scheme.*

*52.06-to ensure the design and location of car parking is of a high standard, creates a safe environment for users ...must not adversely affect the amenity of the locality).*

*The works were carried out under a Minor Works Permit. Does this allow for the construction of a multi vehicle car park, on a steep slope, in a Heritage Overlay? This facilitates the car parking needs of a commercial business on a shared community asset. This is not a Minor Works. Council's own examples on their Minor Works Application Form include (1.vehicle crossing 2. sewer extension 3.water tapping)*

*What was applied for, and how the earthworks is being used are different. Can Council confidently assure the residents living below the car park that the engineering specifications, calculations and construction methods used, comply with the relevant building regulations? Can Council assure them that multiple vehicles parked close to an*

---

*unlighted, non-bollarded, unretained edge of an elevated car park, should not concern the residents below? Is this car park fit to withstand large rain events?*

*Residents have requested an onsite meeting on numerous occasions to discuss concerns, as onsite evidence is compelling. Will a meeting be arranged? If not why not?"*

- The DID responded by advising that a meeting with herself and the Chief Executive Officer had occurred with Mr Raco and other concerned residents on 9 July 2020. At that meeting, this matter was raised, along with a number of other concerns. The Director advised that a commitment had been made to respond within two weeks, as such, a more detailed response will be provided to the residents, including Mr Raco in the coming days.

d. Mr Chris Hosking.

Question read by Mayor Henderson.

*"I refer to my question presented to the Director of Infrastructure and Development at the June 16 meeting of Council where I questioned why a heritage permit was not sought for the "minor works" on the verge at 37 Farnsworth Street.*

*Fourteen working days later I received an answer and while I understand that Amendment VC 142 can allow exemptions for works on land subject to heritage overlays, my question now is, was the consideration that the "works" would NOT change the appearance of the heritage place taken into consideration at the time that the "minor works" permit was granted?*

*While it is pertinent to point out the subjective nature of a decision involving "appearances" per se, I am not going to enter into that here.*

*It is far to advance that a reasonable person would assume that if the exemption was considered at the time of granting said works permit then my question could have been answered at the time of my question of June 16 instead of 14 working days later.*

*To be clear, my question now for the Director is, was the exemption considered at the time of granting the "minor works" permit for work on the verge of 37 Farnsworth Street?"*

- The DID responded by advising that where a minor works permit has been issued, the works are covered by a general exemption. She further advised that in addition, under the Heritage Overlay, the works would have been exempt as well. Nevertheless, Council officers are looking to improve and strengthen the processes around issuing of Minor Works permits in general.

---

## **7. PETITIONS / JOINT LETTERS**

### **7.1. Joint Letter Regarding Subdivision in Steele Street, Chewton**

Council received a joint letter on 12 June 2020 from residents raising concerns in relation to the process behind the subdivision in Steele Street, Chewton.

#### **RECOMMENDATION:**

**That Council receive a report on the joint letter from residents raising concerns in relation to the process behind the subdivision in Steele Street, Chewton at the next Ordinary Meeting of Council on 18 August 2020.**

**MOVED Councillor Gardner**

**That the recommendation be adopted.**

**SECONDED Councillor Cordy**

**CARRIED.**

## **8. COMMITTEE REPORTS**

Nil.



---

## 9. RECORD OF ASSEMBLIES OF COUNCILLORS

*Responsible Director: Chief Executive Officer, Darren Fuzzard*

*Responsible Officer: Principal Governance Officer, Augustine Sheppard*

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

Under section 80C of the Local Government Act 1989, officers providing advice to Council must disclose any interests, including the type of interest. The Responsible Officer reviewing this report, having made enquiries with the relevant members of staff, reports that there are no conflicts of interest to be disclosed.

### **Executive Summary**

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

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

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

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

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

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

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

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

### **RECOMMENDATION**

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


**MOVED Councillor Lesser**

**That the recommendation be adopted.**

**SECONDED Councillor Cordy**

**CARRIED.**



<b>COUNCIL MEETING BRIEFING</b>	
---------------------------------	---

## ASSEMBLY DETAILS

Date: 19 May 2020  
 Time: 3.00 pm to 4.30 pm  
 Location: Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine and via Zoom video conferencing.

## ATTENDANCE

Councillors: Tony Cordy, Stephen Gardner, Max Lesser, Bronwen Machin, John Nieman, Dave Petrusma.  
 Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight), Director Infrastructure and Development (Jess Howard), Principal Governance Officer (Augustine Sheppard).  
 Visitors: Nil.  
 Apologies: Councillor Christine Henderson

## MATTERS DISCUSSED

1. A Safe Thoroughfare for School Children and Residents along Fryers Road, Campbells Creek.
2. Follow Up to Petition - Requesting Pedestrian Crossing - Traffic Island and/or Median Strip in Barker Street at Parker Street Castlemaine.
3. Adoption of Neighbourhood House Policy.
4. Review of Council's Local Laws.
5. Approval of Fraud and Corruption Prevention Policy and Fraud and Corruption Control Plan.
6. Audit and Risk Advisory Committee Remuneration.
7. Procurement Policy Update 2020.
8. Community Grants 2020 Round 1- Recommendations for Funding.
9. Castlemaine Streetscape Plans and Design Standard.
10. Planning Permit Application 008/2020 - Use and Development of a Dwelling at 420 Baringhup Road Baringhup.
11. Planning Permit Application 21/2019 – Use of a Food and Drinks Premises; Retail Premises; a Cafe Liquor Licence and Business Identification Signage; at 158 Victoria Road and 2C Warren Street Harcourt.

## CONFLICT OF INTEREST DISCLOSURES

Matter No.	Councillor / Officer Name and Description of Interest	Time left / time returned
8	Councillor Machin declared an indirect conflict of interest with Item 10.1.1 of the Agenda – Neighbourhood House Policy, as she is a member of the Castlemaine Community House Committee of Management.	3.45 pm – 3.52 pm

---

## COUNCILLOR BRIEFING SESSION



### ASSEMBLY DETAILS

Date: 26 May 2020  
Time: 2.00 pm to 6.18 pm  
Location: Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine and via Zoom video conferencing.

### ATTENDANCE

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

Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight, Director Infrastructure and Development (Jess Howard), Principal Governance Officer (Augustine Sheppard), Executive Manager Corporate Services (Carolyn Ross, Items 6.1 – 6.3), Financial Services Coordinator (Robyn Hunter, Items 6.1 and 6.2), Procurement Coordinator (Andrea O'Grady, Item 6.3), Acting Manager Community Partnerships (Glenn Brown, Item 6.4), Inclusive Communities Coordinator (Sharna Cropley, Item 6.4) and Acting Manager Organisational Capability (Amanda Wilson, Item 6.5).

Visitors: Nil.


Apologies: Nil.

### MATTERS DISCUSSED

1. Steele Street, Chewton Entrance and Planning Permit.
2. Business on Duke Street.
3. Dog Park.
4. MASH Logo.
5. Bus Shelter on Mostyn.
6. Graces Flat Reserve.
7. Campbells Creek Trail Design.
8. Newstead Levee.
9. Resumption of Briefing Sessions and Council Meetings in Council Chamber.
10. Playgrounds.
11. Federal Funding announcement.
12. Click and Collect program.
13. Annual Plan 2019/2020 - Quarter 3 Progress Report.
14. Contracts within Chief Executive Officer Delegations.
15. Draft Mount Alexander Middle Years Plan 2020-2023.
16. Volunteer Support Policy.

### CONFLICT OF INTEREST DISCLOSURES

Matter No.	Councillor / Officer Name and Description of Interest	Time left / time returned
N/A	N/A	N/A

<b>COUNCILLOR BRIEFING SESSION</b>	 <b>MOUNT ALEXANDER</b> <small>SHIRE COUNCIL</small>
------------------------------------	---

## ASSEMBLY DETAILS

Date: 2 June 2020  
 Time: 2.00 pm to 4.29 pm  
 Location: Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine and via Zoom video conferencing.

## ATTENDANCE

Councillors: Tony Cordy, Stephen Gardner (left the meeting at 2.30 pm and returned at 3.30 pm), Christine Henderson, Max Lesser, Bronwen Machin, John Nieman and Dave Petrusma.

Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight, Director Infrastructure and Development (Jess Howard), Principal Governance Officer (Augustine Sheppard), Manager Development Services (Shannon Meadows, Items 5.1 – 5.4), Coordinator Statutory Planner (Louise Johnstone, Items 5.1 – 5.4), Executive Manager Corporate Services (Carolyn Ross, Item 5.5), Manager Parks, Recreation and Community Facilities (Cath Olive, Item 5.6) and Coordinator Parks and Gardens (Stewart Campbell, Item 5.6).

Visitors: Nil.

Apologies: Nil.

## MATTERS DISCUSSED

1. Monthly Planning Summary Report - June 2020.
2. PA009/2020 - Use and Development of Land at 11 Merrifield Street, Castlemaine.
3. Planning Application PA242/2019 Use and Development of Dwelling at Conlans Road, Taradale.
4. COVID-19 Financial Hardship Policy.
5. Castlemaine Streetscape Plans and Design.
6. DCCS Update.

## CONFLICT OF INTEREST DISCLOSURES

Matter No.	Councillor / Officer Name and Description of Interest	Time left / time returned
N/A	N/A	N/A

---

**COUNCILLOR BRIEFING SESSION****ASSEMBLY DETAILS**

Date: 9 June 2020  
Time: 2.00 pm to 6.15 pm.  
Location: Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine and via Zoom video conferencing.

**ATTENDANCE**

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

Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight), Director Infrastructure and Development (Jess Howard), Principal Governance Officer (Augustine Sheppard), Acting Executive Manager Organisational Capability (Amanda Wilson, Items 5.1 and 5.2), Executive Manager Corporate Services (Carolyn Ross, Item 5.3), Manager Parks, Recreation and Community Facilities (Cath Olive, Items 5.4 and 5.5), Property Portfolio Coordinator (Lynne Williamson, Item 5.4), Active Communities Officer (Tamara Fawcett, Item 5.5) and Executive Manager Infrastructure (Tanya Goddard, Item 5.6).

Visitors: Nil.


Apologies: Nil.

**MATTERS DISCUSSED**

1. Report of Audit and Risk Advisory Committee Meeting Of 28 May 2020.
2. Recruitment of Audit and Risk Advisory Committee Independent Committee Member.
3. Statutory and Discretionary Reserve Policy.
4. Give Public Notice of Council's Intention to Enter Into Lease With Bendigo Kangan Institute for 65-67 Templeton Street Castlemaine.
5. Chewton Pool Incorporated Operational Support.
6. Five Year Capital Works Plan.
7. Return to Play, Community Halls and S86 Committees.
8. Retrospective Planning Permits.
9. Listening Posts.
10. Newstead Levee.
11. Visitors over the Long Weekend.
12. Electric Vehicle Charging Point.
13. Healthy Heart of Victoria Active Living Census Results.

**CONFLICT OF INTEREST DISCLOSURES**

Matter No.	Councillor / Officer Name and Description of Interest	Time left / time returned
2	Councillor Lesser declared an indirect conflict of interest by close association with Item 5.2 of the Agenda.	2.29 pm – 2.35 pm

<b>COUNCIL MEETING BRIEFNG</b>	 <b>MOUNT ALEXANDER</b> SHIRE COUNCIL
--------------------------------	--

## ASSEMBLY DETAILS

Date: 16 June 2020  
 Time: 5.30 pm to 6.15 pm.  
 Location: Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine and via Zoom video conferencing.

## ATTENDANCE

Councillors: Tony Cordy, Christine Henderson, Stephen Gardner, Max Lesser, Bronwen Machin, John Nieman and Dave Petrusma.  
 Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight), Director Infrastructure and Development (Jess Howard) and Principal Governance Officer (Augustine Sheppard).  
 Visitors: Nil.  
 Apologies: Nil.

## MATTERS DISCUSSED

1. Petition Residents of Penhallrick Street and Simpson Street - Request for Additional Bollards on Simpson Street.
2. Approval of Proposed Budget 2020-2021 for Public Exhibition.
3. COVID-19 Financial Hardship Policy.
4. PA009/2020 - Use and Development of Land at 11 Merrifield Street, Castlemaine.
5. Planning Permit Application PA041/2020 – Re-Subdivision of Two Existing Lots into Two New Lots at 4 Albert Street, Chewton.
6. Planning Application PA242/2019 Use and Development of Dwelling at Conlans Road, Taradale.
7. Report of Audit and Risk Advisory Committee Meeting of 28 May 2020.
8. Adoption of the Mount Alexander Shire Council Reconciliation Plan.
9. Volunteer Support Policy.
10. Castlemaine Streetscape Plans and Design Standard.
11. Response To Petition Residents Of Penhallrick St And Simpson St - Request For Additional Bollards On Simpson Street.
12. Further Response to Petition for Speed Limit Reductions on Bendigo Sutton Grange Road and Faraday Sutton Grange Road.

## CONFLICT OF INTEREST DISCLOSURES

Matter No.	Councillor / Officer Name and Description of Interest	Time left / time returned
5	Councillor Machin declared an indirect conflict of interest by close association with Item 10.1.1.6 of the Agenda – Planning Permit Application PA041/2020 – Re-Subdivision of Two Existing Lots into Two New Lots at 4 Albert Street, Chewton.	5.45 pm -5.55 pm

## COUNCILLOR BRIEFING SESSION



### ASSEMBLY DETAILS

Date: 23 June 2020  
Time: 2.00 pm to 5.44 pm.  
Location: Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine and via Zoom video conferencing.

### ATTENDANCE

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

Officers: Chief Executive Officer (Darren Fuzzard), Director Corporate and Community Services (Lisa Knight, Director Infrastructure and Development (Jess Howard), Principal Governance Officer (Augustine Sheppard), Manager Economy and Culture (David Leathem, Item 5.1), Procurement Coordinator (Andrea O'Grady, Item 5.2), Manager Development Services (Shannon Meadows, Item 5.3), Planning Compliance Officer (Georgina Hope, Item 5.3), Senior Statutory Planner (Holly Sawyer, Item 5.3), Executive Manager Infrastructure (Tanya Goddard, Item 5.4 and 5.5) and Climate Change Coordinator (Jodi Newcombe, Item 5.4).

Visitors:  
Item 5.1: Luke Mortimer, Exploration Manager, Kalamazoo Resources.  
Adam Place, Community Engagement Officer, Kalamazoo Resources.


Apologies: Nil.

### MATTERS DISCUSSED

1. Kalamazoo Resources Deputation.
2. Contracts within Chief Executive Officer Delegations.
3. Planning Matter Farnsworth Street.
4. Roadmap to Carbon Neutrality.
5. Asset Management Plans - Pathways and Bridges.
6. Shire Business and Tourism Marketing Promotion.
7. Reopening of Facilities.
8. Meeting Procedures.
9. Council Investments.
10. Dog Park.
11. DID Update.
12. DCCS Update.

### CONFLICT OF INTEREST DISCLOSURES

Matter No.	Councillor / Officer Name and Description of Interest	Time left / time returned
N/A	N/A	N/A

<b>COUNCILLOR AND CEO DISCUSSIONS</b>	
---------------------------------------	---

## ASSEMBLY DETAILS

Date: 23 June 2020  
 Time: 5.45 pm to 6.04 pm.  
 Location: Council Chamber, Civic Centre, Cnr Lloyd and Lyttleton Streets, Castlemaine and via Zoom video conferencing.

## ATTENDANCE

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

Officers: Chief Executive Officer (Darren Fuzzard.

Visitors: Nil.

Apologies: Nil.

## MATTERS DISCUSSED

1. Conflict of interest.
2. Bus stop in Mostyn Street.
3. Re-induction to Office.
4. Customer Service Centre design.
5. Return to Office of Staff.
6. Managing Difficult Customers.
7. Briefings by Staff.
8. CEO Performance Review.

## CONFLICT OF INTEREST DISCLOSURES

Matter No.	Councillor / Officer Name and Description of Interest	Time left / time returned
N/A	N/A	N/A



---

## **10. OFFICER REPORTS**

### **10.1. Our People**

#### **10.1.1. COMPLIANCE AND ENFORCEMENT POLICY**

This Report is For Decision

*Responsible Director:* Director Infrastructure and Development, Jess Howard

*Responsible Officer:* Coordinator Community Safety and Amenity, Jeffry Amy

*Attachments:* 1. Attachment A DRAFT Compliance and Enforcement Policy  
[10.1.1.1 - 5 pages]

#### **Executive Summary**

The purpose of this report is to seek Council's adoption of a new policy that expresses the organisation's commitment to provide a fair and just application of the legislation which Council is empowered to enforce.

The policy demonstrates that the organisation's focus will be working with the community to obtain voluntary compliance with laws and regulations, where possibly negating the need for any formal enforcement action. Should this approach prove ineffective in achieving compliance, a structured, incrementally more formal enforcement approach will be adopted to achieve compliance.

The policy provides information on the processes and actions that will be implemented by authorised officers investigating compliance matters. In most cases this will be employees from the Community Safety and Amenity Unit.

Once adopted, this policy will be available to the public on Council's website.

#### **RECOMMENDATION**

**That Council:**

- 1. Notes the approach to be taken by authorised officers to achieve community compliance with relevant Acts, Regulations and Local Laws.**
- 2. Adopts the Compliance and Enforcement Policy.**

**MOVED Councillor Lesser**

**That the recommendation be adopted.**

**SECONDED Councillor Petrusma**

**CARRIED.**

#### **Context**

Council is delegated to enforce specific State and Local legislation by Acts and Regulations passed into law by the Victorian State Government. Council's authorised officers are also delegated to enforce Local Laws created by Council.

---

The new Compliance and Enforcement Policy presented in this report focuses on the activities undertaken by Council's authorised officers to achieve compliance with those Acts, Regulations and Local Laws.

State Law in this instance is criminal law where the penalties to be applied can range from Official Warnings, infringements, Emergency or Enforcement Orders or prosecution.

The purpose of law enforcement in a free society is to promote public safety and uphold the rule of law. Trust and accountability between law enforcement agencies and the communities they protect is essential to advancing these goals.

Defining how enforcement action will be undertaken gives Council's authorised officers and the community a clear understanding on any formal processes which may result from illegal activity detected by, or reported to, Council.

All members of the Mount Alexander Shire community will benefit from this policy through better service, clear and consistent information, and through increased safety and a more pleasant public environment.

### **Issues**

The effectiveness of legislation in achieving its protective function depends crucially on the compliance of those persons being regulated. We recognise that most businesses and individuals want to comply with the law. We will, therefore, take care to help businesses and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who disregard the law or act irresponsibly.

In the course of their duties across the Shire, authorised officers routinely discuss general issues and specific compliance failures and investigating incidences that are observed by Council or reported by a community member.

Authorised officers carry out their duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases, this policy provides a transparent and equitable basis for interaction with community members and the resolution of issues and establishes internal procedures to promote consistency.

### **Finance and Resource Implications**

The development of the policy was undertaken by Council officers utilising existing budgets and resources. Implementation of the policy will be primarily via authorised officers employed in the Community Safety and Amenity Unit. No additional resources are required to comply with this policy.

---

## **Risk Analysis**

### Regulatory risk:

This policy establishes clear principles and guidelines to assist authorised officers to act promptly, fairly, consistently and effectively in response to unlawful activity.

### Reputation risk:

This policy establishes a five-step framework for enforcement: Educate, Ask, Instruct, Enforce and Prosecute. This approach ensures that community members are provided information to aid their understanding of a compliance issue and how they can comply, and that formal enforcement action is undertaken only in the most limited and serious circumstances.

## **Climate Impact Statement**

While the direct climate impact from this policy is negligible, the use of Council vehicles in the course of normal compliance and enforcement duties will contribute to greenhouse gas emissions.

## **Alternate Options**

This new policy has been developed to govern an operational domain and associated decision-making that has a direct impact on the community, and which has implications on how the community perceives Council.

While authorised officers currently operate in-line with the proposed policy, the absence of a policy means community members are not aware of Council's approach to compliance and enforcement.

The alternative is to continue operating without a policy, which is not recommended for the reasons noted above.

## **Communication and Consultation**

### Inform:

We will keep our community informed.

A Compliance and Enforcement Policy adopted by Council will be a public document that transparently communicates the processes to be applied by authorised officers. It will also demonstrate to the community that enforcement matters will be treated in a fair and just manner.

---

## Legislation

The Compliance and Enforcement Policy will govern the conduct of Council's authorised officers as they undertake duties to administer the following Acts, Regulations and Local Laws:

- *Building Act 1993.*
- *Country Fire Authority Act 1958.*
- *Domestic Animals Act 1994.*
- *Electoral Act 2002.*
- *Fines Reform Act 2014.*
- *Food Act 1984.*
- *Infringement Act 2006.*
- *Local Government Act 2020.*
- *Magistrates' Court Act 1989.*
- *Planning and Environment Act 1987.*
- *Public Health and Wellbeing Act 2008.*
- *Road Management Act 2004.*
- *Road Safety Act 1986.*
- *Road Safety Road Rules 2017.*
- All Regulations and Rules applying to the above.
- Local Laws of Mount Alexander Shire Council.

## Strategies and Policy Impacts

### Council Plan 2017-2021

*Our Economy - An innovation and sustainable organisation.*

- Facilitate and support a transparent and innovative culture.

The new policy is devised to enable consistent and transparent compliance and enforcement action. It will effectively govern the conduct of Council's authorised officers in the administration of Acts and Regulations adopted by the State Government, and Local Laws adopted by Council.

## 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 Officer's involved in reviewing this report, having made enquiries with the relevant members of staff, reports that there are no conflicts of interest to be disclosed.

---

## 10.2. Our Place

Councillor Lesser left the Chamber due to a declared conflict of interest at 6.46 pm.

### 10.2.1. PLAN HARCOURT - CONSIDERATIONS OF SUBMISSIONS AND ADOPTION

This Report is For Decision

*Responsible Director:* Director Infrastructure and Development, Jess Howard

*Responsible Officer:* Coordinator Strategic Planning, Lauren Watt

*Attachments:*

1. Plan Harcourt - For Council adoption - 5 June 2020 [**10.2.1.1** - 128 pages]
2. Response to Submissions Table - Draft Plan Harcourt - Feb 2020 [**10.2.1.2** - 8 pages]
3. Plan Harcourt - Planning Scheme Amendment - Instruction Sheet - April 2020 [**10.2.1.3** - 2 pages]
4. Explanatory Report - Plan Harcourt - Planning Scheme Amendment - April 2020 [**10.2.1.4** - 10 pages]

#### **Executive Summary**

The purpose of this paper is to present to Council the final Plan Harcourt for its consideration and adoption, and to seek a resolution to enable the preparation of an amendment to the Mount Alexander Planning Scheme.

The Plan has been updated in response to submissions received from the community and stakeholders during an informal exhibition period.

#### **RECOMMENDATION**

**That Council:**

- 1. Adopts Plan Harcourt (May 2020);**
- 2. Resolves to seek authorisation from the Minister for Planning to prepare a planning scheme amendment to the Mount Alexander Planning Scheme to implement the planning system reform recommendations of Plan Harcourt (May 2020);**
- 3. Delegates to the Manager Development Services the ability to prepare planning scheme amendment documentation in-line with the adopted Plan Harcourt; and**
- 4. Resolves to exhibit the planning scheme amendment following authorisation from the Minister for Planning to prepare the amendment.**

**MOVED Councillor Cordy**

**That the recommendation be adopted.**

**SECONDED Councillor Petrusma**

**CARRIED.**

---

## **Context**

Harcourt has been identified in the Loddon Mallee South Regional Growth Plan 2014 and the Mount Alexander Planning Scheme as a small town that can accommodate planned growth.

Completing a new framework for the growth of Harcourt is a key project for Council under the Council Plan 2017-2021, and the project is being delivered by the Strategic Planning unit.

Plan Harcourt is a Council document that integrates two separate but interrelated projects exploring spatial land use planning, town centre design and activation, and local economic development initiatives. The two projects are the Harcourt Framework Plan and Shine Harcourt Leanganook.

Overall, Plan Harcourt includes proposed new planning policy, zone and overlay controls that are to be incorporated into the Mount Alexander Planning Scheme. Future town centre activation projects are also identified that will improve the structure and function of the town, primarily by creating a stronger, more recognisable town centre and by improving pedestrian access and connections between points of interest.

Shine Harcourt Leanganook is an economic growth plan that was prepared within the Economy and Culture unit. This document sits as Appendix 2 to Plan Harcourt and was finalised at the time that the draft Plan Harcourt was publicly released. On this basis, no further feedback was sought from the community relating to this aspect of the Plan.

The draft Plan Harcourt went out for public consultation from November 2019 to January 2020. Feedback was sought on the updated framework plan and urban design improvements identified in a place activation plan.

The Strategic Planning Unit has considered and analysed the feedback received from Harcourt residents, developers and government departments and agencies. The feedback has subsequently led to some revisions being made to the Plan. The details of the changes are canvassed in this report.

Plan Harcourt is now final and ready for adoption by Council.

## **Issues**

### Feedback on the draft Plan

Council received 16 submissions during the public consultation period, including 13 submissions from, or on behalf of, Harcourt residents/landowners, local community groups, and a local developer.

The remaining three submissions were received from the Department of Environment, Land, Water and Planning (DELWP), the Department of Transport (DoT) and the Environmental Protection Authority (EPA).

Feedback on the Plan was also provided at two community drop-in sessions and the Harcourt Twilight Market.

The Strategic Planning unit has considered and analysed the details of each submission received by Council. The submissions have been analysed by grouping them into key themes; summarising and characterising each theme; then providing an officer response against each theme. This analysis is provided at Attachment 10.2.1.2.

---

The following key changes have been made to Plan Harcourt in response to the submissions:

*Retaining and proposing the Township Zone for both the established residential areas and future residential areas*

DELWP's submission highlighted that a new Planning Practice Note 91 (PPN91): 'Reforms to the Residential Zones' was released in December 2019. PPN91 introduces a new suite of considerations when applying residential zones and reforms the nature and application of the General Residential Zone (GRZ). Principle 4 of PPN91 states that the GRZ should be applied to areas where housing development of three storeys exists or is planned for, and that it is inappropriate to apply the GRZ to areas where the existing single and double storey character of an area is sought to be respected.

The draft Plan Harcourt that was released for public comment proposed the established residential areas of Harcourt be rezoned to GRZ, except for some land within the town centre. The draft Plan also proposed rezoning the future residential areas A and B from Farming Zone (FZ) to GRZ. Considering the Plan in the light of PPN91, the final Plan Harcourt now proposes to retain the Township Zone (TZ) for established residential areas, and to rezone the future town expansion areas from FZ to TZ. PPN91 states that the TZ is to be applied to small towns with no specific structure of residential, commercial and industrial land uses. While the Plan's high-growth scenario projects that the population may reach just over 1,600 by 2036, Harcourt will remain a small settlement; therefore, we now believe the TZ is the most appropriate zone for managing residential growth. Furthermore, the use of the Commercial 1 Zone (C1Z) in the town centre and TZ for these other areas helps to strike a balance between consolidating commercial development in the town centre and providing greater flexibility for existing and potential commercial uses in other parts of the town. As the town grows, additional land close to the town centre could be rezoned to C1Z if Council can demonstrate sufficient demand and strategic justification.

*Preparing a schedule to the Township Zone to specify neighbourhood character objectives (replacing the need for Design and Development Overlays on residential land)*

PPN91 states that preferred neighbourhood character objectives can be expressed in Schedules to the TZ to provide clear direction for new developments. These objectives provide a basis for varying some residential development standards of clause 54 and 55 of the planning scheme, where variations can be strategically justified. This can include street and side setbacks, site coverage, front fences, and maximum building height requirements. The draft Plan Harcourt proposed the inclusion of such controls – to protect neighbourhood character, sightlines, and amenity – within a Design and Development Overlay (DDO). These design considerations can now be included in a Schedule to the TZ, rather than a DDO. This follows the PPN91 that states that the DDO is more appropriately applied to promote specific urban design outcomes for an areas that cannot be achieved by varying these standards, which occurs when a built form different from the existing neighbourhood character is sought (as is the case for the town centre, where we are seeking to apply the DDO).

*Inclusion of a neighbourhood character analysis as an appendix*

A neighbourhood character analysis of the established residential areas was conducted as part of the preparation of the Harcourt Framework Plan. Following advice from DELWP, and to help support the schedules to the TZ, this has now been included within the Plan Harcourt document at Appendix 5.

*Greater focus on encouraging infill development before future residential expansion*

This follows advice from DELWP. Infill development helps to consolidate the existing urban area, makes better use of existing infrastructure, and better supports state planning policy.



---

*Minor change to the proposed township boundary*

As the TZ is proposed to be retained in the Planning Scheme (and not replaced by the GRZ), land currently in the TZ on the eastern side of Urquhart Street is proposed to be retained in this zone and be included within the proposed township boundary.

*Consolidating the proposed Design and Development Overlays (DDO) from two to one on the proposed commercial land*

This follows advice from DELWP, as the general intent of the proposed DDO applies to all land noted for rezoning to Commercial 1 Zone. The basis for this change is ensuring that future development in this area displays outstanding urban design that is appropriate to the context and prominence of the site, aids the consolidation of the present town centre and promotes active street frontages and public safety.

*Additional information provided in the Strategic Context and Land Demand Assessment*

Considering the advice from DELWP, the Strategic Context and Land Demand Assessment sections of the final Plan Harcourt now incorporates additional information, including reference to documents that provide strategic context for a planning scheme amendment to guide the future growth of Harcourt. Further analysis has also been provided on residential land supply and demand at a municipal-wide level; and applying a 650 square metre average lot size for land in the established residential area (for the residential land supply) so that this better addresses the potential for medium density development in this area, which is close to facilities and services.

*Greater clarity on future town expansion and potential future town expansion areas*

There is greater clarity and consistency on the terminology used in the document and on the graphical framework plan regarding the future town expansion and potential future town expansion areas. This includes assigning the areas with A, B, C or D, and renaming the areas from 'residential expansion' to 'town expansion' given that the Township Zone promotes other uses in addition to residential.

*Greater clarity on how the agricultural buffer is to be managed*

This has been re-worded to provide greater clarity, as feedback highlighted a general concern about the protection of existing horticultural uses.

*Urban design and place activation recommendations*

Community feedback and further internal deliberation has highlighted the need for the list of urban design/ place activation projects to be elevated in a new (separate) town centre urban design plan. This additional plan should focus on details relating to movement and access, landscaping and the public realm, and help coordinate future capital works programming and grant opportunities. The preparation of this plan will be led by the Strategic Planning unit working in collaboration with other internal units and supported by a suitably qualified urban design consultant. It is anticipated that this work will commence in the coming months, at which time expressions of interest are to be sought for a community reference group to provide local perspectives on the plan.

---

### *General improvements, errors and anomalies*

This includes some rewording throughout the document to improve clarity and grammar, minor corrections to the numerical figures in the land demand assessment, and more detailed information provided on the graphical plans (e.g. areas of cultural heritage sensitivity, more road names).

### Other changes to the Plan

#### *Developer contributions*

Since the release of the draft Plan Harcourt, the Strategic Planning unit has undertaken further research on different approaches to collect developer contributions for local infrastructure. This included discussions with the Victorian Planning Authority and other local councils on planning and legal mechanisms being utilised. Following internal deliberation, it was determined that rather than using a Development Contributions Plan Overlay (DCPO), Council will utilise a mechanism available via the Development Plan Overlay (DPO).

Under this approach, at the time a developer prepares a plan in response to the requirements of the Development Plan Overlay, they will be required to identify how the development will make a contribution to critical infrastructure in the area (external to the area affected by the DPO), either through direct provision in-line with a new Harcourt Strategic Infrastructure Plan (in kind) or by way of a cash payment (at a per-lot rate defined in the Harcourt Strategic Infrastructure Plan).

The Strategic Planning unit, working in collaboration with the Infrastructure Unit, is currently preparing the Harcourt Strategic Infrastructure Plan. The Infrastructure Plan is a technical document that is being prepared using the same methodology as a more 'formal' DCPO, insofar as it includes strategic justification for the collection of developer contributions, establishes a nexus between new development and an infrastructure item, and apportions costs to each developer on the basis of projected 'share of usage'.

This approach has been selected in view of the probable rate of growth and change in Harcourt (significant for the town, but not warranting a formal DCPO); the need to transparently collect and expend contributions; and because the approach better reflects the organisation's capacity to devise and operate a developer contribution framework.

In light of this, Plan Harcourt no longer proposes to introduce a DCPO on the future residential areas. Instead, the Plan refers to the Harcourt Strategic Infrastructure Plan that is currently being prepared, and amendment documentation will include a Development Plan Overlay with policy relating to infrastructure contributions.

### Key proposed changes to the planning scheme

The following is a summary of the key proposed changes to the planning scheme as recommended by Plan Harcourt. Refer to Appendix 4 of Plan Harcourt (Attachment 10.2.1.1) for a full list of proposed changes.

- Amend local planning policies to reflect the updated strategic directions for Harcourt, including those relating to tourism and an agricultural buffer.
- Replace the existing framework plan with the updated framework plan.
- Rezone future town expansion areas A and B from Farming Zone to Township Zone to accommodate growth, and rezone land in Market Street from General Residential Zone to Township Zone.
- Apply a Development Plan Overlay to land within the future town expansion areas A and B.

- 
- Insert a schedule to the Township Zone (for all land in Harcourt zoned Township Zone) to include neighbourhood character objectives, vary some residential development standards and mandate a maximum building height of 9 metres.
  - Rezone some land along High Street and Harmony Way within the town centre from Township Zone to Commercial 1 Zone to consolidate future commercial uses, and to promote it as the centre of commercial and community activity.
  - Apply a Design and Development Overlay to land in the town centre.
  - Rezone 61 Coolstore Road from Township Zone to Rural Living Zone (that removes the reference to future industrial).

## **Finance and Resource Implications**

The Harcourt Framework Plan has been prepared in-house by the Strategic Planning unit, with assistance from external consultants advising on bushfire risk, place-based planning and the production of graphical plans included in the Plan Harcourt document. Consultants have been funded through a Special Project budget allocation in both 2018/2019 financial year (\$13,552 – bushfire consultant) and 2019/2020 financial year (\$17,720.09). The Strategic Infrastructure Plan that is currently being prepared by a consultant has also been funded through a Special Project budget allocation (\$40,000) and part of the Strategic Planning operating budget (\$8,000).

Shine Harcourt Leanganook has been project managed by the Economy and Culture unit and funded through operating budget (\$20,000) and grant funding (\$20,000) under the Federal Government's Building Better Regions Fund. The most recent informal community consultation undertaken has seen no changes to Shine Harcourt Leanganook – that document is considered final.

Subsequent amendments to the Mount Alexander Planning Scheme to introduce the Harcourt Framework Plan – which will occur in 2020 onwards – will be funded from Council's Strategic Planning unit operating budget in 2019/2020 and 2020/2021 financial years.

The urban design and town centre activation initiatives identified in Plan Harcourt will require further consideration by Council, and implementation would ultimately necessitate future capital works funding and possibly State and/or Federal grant funding, at the appropriate time. The Strategic Planning unit is working with Council's Infrastructure unit and Parks, Recreation and Community Facilities unit to develop a project schedule.

Any initiatives arising from Shine Harcourt Leanganook that may require Council delivery or partnering would be considered through the annual budget process and may also be subject to external funding opportunities.

## **Risk Analysis**

### Strategic risk:

The primary risk inherent to any strategic land use plan is the capacity and capability to deliver on its recommendations. This risk will be reduced by preparing a planning scheme amendment immediately following the adoption of Plan Harcourt, as this process will enable the incorporation of policy directions and specific design and development guidelines into the Planning Scheme. Strategic risk can be further reduced by coordinating internal project planning, funding and delivery around Plan Harcourt; for Council's teams to continue their collaborative practice 'in place'; and to work with the Harcourt community to implement non-statutory planning initiatives.

---

## **Climate Impact Statement**

The Shire is vulnerable to weather events that will be magnified by climate change. This includes prolonged drought and fire seasons, heatwaves and widespread floods. Average temperatures will continue to increase in all seasons, with warmer days and fewer frosts projected, and less rainfall during the cool season. These changes will have widespread implications on Harcourt and highlights the need to plan to respond to flooding, bushfire and extreme heat. The Plan ensures that future population growth and development is directed to low risk locations (including areas with lower bushfire and flood risk) and includes recommendations for increasing the extent of tree canopy cover to reduce urban heat island temperatures.

## **Alternate Options**

Council may choose not to adopt Plan Harcourt and/or implement the Plan through a planning scheme amendment. This is strongly discouraged as the work is a key priority in the Council Plan 2017-2021. A considerable amount of time and resources has been directed into this project, and the Plan is a positive, forward looking document that can guide sustainable growth and investment in Harcourt. Adoption and implementation via a planning scheme amendment is encouraged.

## **Communication and Consultation**

A combination of engagement forms has occurred throughout the course of the project:

### 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.

### Inform:

We will keep our community informed.

### Involve:

We will work with our community to ensure concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.

The public consultation period for the draft Plan Harcourt was open for six weeks, commencing on 15 November 2019 to 6 January 2020 with a two week break over the Christmas and New Year period.

Two community drop-in sessions were held at the ANA Hall over this period, and officers from the Strategic Planning unit and Economy and Culture unit were available to speak to at the 'pop-up' stall at the Harcourt Twilight Market in November 2019.

The following provides a breakdown of the number of participants for each engagement activity:

- 35-40 people attended the community drop-in sessions at ANA Hall.
- 20-25 people engaged with the 'pop-up' stall at the Harcourt Twilight Market.
- Approximately 20 meetings/phone calls/ counter enquiries were conducted during the consultation period.

---

A total of 16 written general submissions were received.

The Strategic Planning unit has considered and analysed the details of each submission. These have been grouped into key themes and a summary, including an officer response. This is provided at Attachment B.

Previous to the draft Plan Harcourt, an extensive public consultation occurred between November 2018 and January 2019 on the Plan Harcourt discussion paper. Feedback was consolidated and presented to Council in the form of the Plan Harcourt: What We Heard paper (March 2019).

A future planning scheme amendment will include a formal public exhibition period, during which interested parties can make a submission to any proposed changes to the Mount Alexander Planning Scheme. Public notice and engagement activities will be adapted to comply with COVID-19 restrictions.

The Strategic Planning and Economy and Culture units will continue to work with other Council units to explore the implementation of (non-statutory) public realm and capital works projects through future budget processes. Furthermore, the Economy and Culture unit will work with Harcourt-based businesses and community groups to develop economic stimulus initiatives at the local level.

## **Legislation**

### *Planning and Environment Act 1987*

The Planning and Environment Act 1987 describes the duties and powers of a planning authority (i.e. Council) in Section 12. The clause states that a planning authority must:

- a. Implement the objectives of planning in Victoria;*
- b. Provide sound, strategic and coordinated planning of the use and development of land in its area;*
- c. Review regularly the provisions of the planning scheme for which it is a planning authority;*
- d. Prepare amendments to a planning scheme for which it is a planning authority; and*
- e. Prepare an explanatory report in respect of any proposed amendment to a planning scheme.*

Further, Section 12 states that a planning authority may:

- a. Carry out studies and commission reports;*
- b. Do all things necessary to encourage and promote the orderly and proper use, development and protection of land in the area for which it is a planning authority; and*
- c. Take any steps and consult with any other persons it considers necessary to ensure the coordination of the planning scheme with proposals by those other persons.*

## **Strategies and Policy Impacts**

### Council Plan 2017-2021

#### *Our Place - Well planned for growth.*

- Ensure there is sufficient residential land and protect commercial, farming and industrial land.

---

One of the strategic objectives of the Council Plan 2017-2021 is 'Well planned for growth'. This includes the strategy to ensure there is sufficient residential land and to protect commercial, farming and industrial land. The Plan states that to achieve this we plan to guide the revitalisation of Harcourt and review the Mount Alexander Planning Scheme, and that our measures of success are to maintain at least a 15 year residential land supply and complete the framework for the growth of Harcourt.

Planning policy that supports this strategic objective includes the Loddon Mallee South Regional Growth Plan 2014 and the Mount Alexander Planning Scheme, both of which identify that Harcourt can accommodate planned growth in the region.

Plan Harcourt includes a number of recommended changes to the Mount Alexander Planning Scheme, including changes to local policy, rezoning and applying new overlays. These changes are detailed in the draft Instructions sheet (Attachment 10.2.1.4).

Another strategic objective of the Council Plan 2017-2021 is 'An innovative and sustainable organisation'. This includes the strategy to ensure community engagement strategies and methods are accessible to all community members. To achieve this, the Plan states we will inform and consult with the community on significant projects and priorities, and that our measures of success include increasing community engagement and increasing satisfaction with our level of consultation and engagement through the Community Satisfaction Survey.

The Mount Alexander Shire Council Community Engagement Framework 2014 outlines the processes for planning community engagement. This includes preparing a feedback report for stakeholders and a report for Council that outlines the community engagement process, its outcomes and how this might impact on the decision to be made.

### **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 Officer's involved in reviewing this report, having made enquiries with the relevant members of staff, reports that there are no conflicts of interest to be disclosed.

**Councillor Lesser returned to the Chamber at 6.52 pm.**

---

## 10.2.2. CHEWTON POOL INCORPORATED OPERATIONAL SUPPORT

This Report is For Decision

*Responsible Director:* Director Infrastructure and Development, Jess Howard

*Responsible Officer:* Active Communities Officer, Tamara Fawcett

*Attachments:* 1. Condition Action Plan - Chewton Pool Inc. - April 2020  
[10.2.2.1 - 6 pages]

### **Executive Summary**

The Chewton Swimming Pool is a public facility managed by a community-based committee, Chewton Pool Incorporated (CPI). This committee reports directly to the landowner and land manager, the Department of Environment, Land, Water and Planning. Although it is not a Council managed facility, Council has provided financial support to the CPI which has held responsibility for operating and managing the Chewton Swimming Pool since 2011.

The current 2017-2020 funding agreement expired on 30 June 2020, and a new agreement is needed should Council determine to continue to provide financial support to the CPI. This report provides information about the current operations of the Chewton Swimming Pool and recommends that Council continue to provide funding to Chewton Pool Incorporated for the 2020/2021 pool season, and receive a future report identifying recommendations beyond this time.

### **RECOMMENDATION**

**That Council:**

- 1. Approves a funding contribution to Chewton Pool Incorporated (CPI) for the purpose of operating the Chewton Swimming Pool of \$42,800 for the 2020/2021 financial year, subject to the receipt of a report from CPI on the 2019/2020 pool season and the finalisation of a new Operational Support Agreement.**
- 2. Receives a future report to consider recommendations regarding funding for the CPI beyond the 2020/2021 financial year.**

**MOVED Councillor Lesser**

**That the recommendation be adopted.**

**SECONDED Councillor Petrusma**

**CARRIED.**



---

## Context

In July 2010, a report from an expert aquatics engineer identified Chewton Swimming Pool (Chewton Pool) as in such poor condition that it was no longer feasible to repair. As a result, Council, being the committee of management at the time, resolved to close the pool.

In 2011, Council accepted a proposal for a new community group Chewton Pool Incorporated (CPI) to operate the pool, as a committee of management directly reporting to DELWP. This agreement required the CPI to meet several conditions, including undertaking works to the pool and associated assets as recommended in the aquatic engineer's report. Of nine actions detailed in the Condition Action Plan (Attachment 10.2.2.1), seven have been fully completed. In 2011, Council resolved to allocate \$25,000 per year for the operations of Chewton Pool. The agreement with the CPI identified that any shortfall in operation costs would be met by the CPI. This was renewed in 2013 and in 2017 with Council committing \$35,000 in 2013, \$38,000 in 2014, increasing to \$40,000 from 2015 to 2020. This agreement concludes at the end of the current financial year (2019/2020) with the last payment made in February 2020.

The operating cost to Council for Chewton Pool is lower than all Council run pools due to the use of volunteer labour to manage the canteen and some maintenance functions including working bees to maintain the overall presentation of the facility. The CPI is also able to mobilise considerable levels of community support. This is demonstrated in the CPI's report for the 2018/2019 season with the registration of 31 volunteers, and employment of 11 part-time staff including three management roles, seven lifeguards and three swim teachers. The Council grant funding has been used to cover the salaries of paid staff at the facility.

Patronage in recent years at Chewton Pool has consistently been higher than at Harcourt and Maldon Pools. The attendances at Chewton Pool for the 2018/2019 season (7,503 visits) almost doubled that of Maldon Pool.

At the time of writing, officers are waiting to receive a report for the 2019/2020 season to provide up to date figures for the three-year period of 2017-2020. Officers have met with representatives from the CPI who have expressed difficulties completing the 2019/2020 season reports due to unexpected events occurring during the pool season including an incident where a participant at a working bee was injured which triggered a WorkSafe notification; challenges experienced by the committee in undertaking planned works arising from two successful Pick My Project grants; and consequent impacts of COVID-19 on the capacity of the committee members to undertake pool related duties.

It is proposed that officers provide updated information in a subsequent report to Council, to better inform decisions by Council regarding future allocation of funds to the CPI.

## Issues

### Formal Management Responsibilities

Council eliminated all legal risk responsibilities of Chewton Pool when it relinquished formal management responsibilities. However, by providing public funding for what is a public facility, Council has taken on a (non-legal) level of risk and liability. This risk is reputational and perceived, in the form of community expectations, and may result in later pressure to undertake works or otherwise further support – at cost to Council – the operation of the Chewton Pool.

---

### DELWP endorsement

When Council relinquished management responsibilities for the Chewton Pool, DELWP agreed to appoint the CPI as Committee of Management reporting direct to them on the proviso that CPI maintain the ongoing support of Mount Alexander Shire Council. Conversely as part of Council's current agreement, CPI must have DELWP annually endorse them as the committee to operate the facility.

At the time of writing, CPI is yet to provide Council evidence of DELWP endorsement for the coming season 2020/2021. This endorsement is required prior to commencement of the 2020/2021 season for CPI to secure financial support from Council. It is proposed that officers will work with CPI to establish that this support is given and return to Council with a future report in the first quarter of the 2020/2021 financial year to address this and to consider future funding allocations to the CPI.

### Grant funding for Improvements

Grant funding for pool infrastructure improvements is limited, restricting the opportunities for CPI or Council to secure funds to undertake repair or renewal works on this aging community asset.

In 2018, Chewton Pool Inc. was successful in gaining \$120,000 from the State Government's Pick My Project initiative to warm the pool water through solar heating. These works are currently in progress. Chewton Pool has also received a disability hoist through an additional community driven successful Pick My Project initiative.

There is one main annual funding stream for aquatic facilities available through the State Government's Local Sports Infrastructure Fund under the Aquatic Centres and Indoor Stadiums category. As this funding stream is currently structured, Council can apply for only one project up to a value of \$2 million.

Chewton Pool would be eligible for this funding; however, applications would need to be sponsored by Council and would be in competition with any initiatives identified for the four Council managed pools.

### Pool shell structure

A 2016 aquatic engineering inspection by R. J. Ball of the Chewton Pool identified that the pool shell structure remains safe for public use for another five years. Officers will ensure that a requirement is stipulated in the new operational support agreement for CPI to obtain an updated report regarding this item in 2021.

### Information

Officers requested in November 2019 that representatives from CPI provide information regarding any proposals for changes to the funding amount or agreement. To date CPI has not made a formal submission, due to competing demands to operate the pool and undertake improvement works.

To reduce the financial and potential reputational risk to Council, officers recommend Council receive a future report to consider recommendations for ongoing funding for the CPI to 2022-23.

---

### WorkSafe Incident

A further impact on pool committee has been the need to respond to a reportable WorkSafe incident that occurred in December 2019, during a working bee at the pool, which resulted in injury to a staff member's family member. This incident was reported to DELWP, Council and WorkSafe. CPI undertook appropriate processes to respond to the incident, and consequently reviewed their Occupational Health and Safety (OHS) policies and procedures, guidelines around community volunteers working at the pool and their policy around children at the work place. WorkSafe were happy with what was submitted and have closed the investigation. The pool committee will provide a report to Council on this matter.

### Increase in Funding

A representative from the CPI committee has indicated verbally that the committee would like to seek an increase in funding to support the operations of the pool, stating that costs have risen between the 2015/2016 season and now. As officers are yet to receive CPI's formal submission, it is not possible to evaluate the request currently. However, in recognition of consumer price increases since the previous Operational Support Agreement was made, it is recommended that the 2020/21 allocation by Council be increased by an additional \$2,800 (\$42,800 total).

At this time, it is proposed that Council funds remain associated with the staffing costs for providing safe supervision of the pool water, noting that in 2019 the requirements associated with this function were revised and increased by Royal Life Saving Australia with the release of updated Guidelines for Safe Pool Operations (GSPO's).

All pool operational funding, including any Council contribution to CPI, will need to be reviewed as part of future Council decisions.

### **Finance and Resource Implications**

To date, officers have considered financial support for this community facility in context with the resourcing required by Council to support and deliver aquatic services across the four Council managed pool facilities. The level of Council resourcing for CPI should assist with pool life guarding costs in line with that provided at the Council managed pools. This excludes additional costs for maintenance, management overheads, or capital improvements to the pool. This has been communicated with representatives from CPI and is consistent with the focus for funding outlined in the previous Operational Support Agreement 2017-2020.

Council has currently allocated \$42,800 in the draft 2020/2021 budget. Council's contribution is dependent on an agreement being in place between Council and CPI and will assist CPI in offsetting costs associated with the updated GSPO requirement.

It is proposed that a future report be presented to Council in the third quarter of 2020 which would allow the CPI to provide a submission for consideration and enable Council to determine whether to enter into a new funding agreement.

In line with Council's established procedures when providing funds to external organisations, a funding agreement will be developed between Council and CPI with clearly outlined responsibilities and reporting requirements. Payment of funds will be contingent on the CPI satisfactorily meeting reporting requirements. Further funding will be reviewed after the final year of the agreement. Both the funding and the agreement would be contingent on CPI successfully extending the term of agreement with DELWP. Should no such agreement be reached, then funding will not be provided.

---

## **Risk Analysis**

### Reputation risk:

Council could determine not to provide funds to CPI for the operations of the Chewton Pool in the 2020/2021 or in any future budgets. This is likely to result in a major level of risk to Council's reputation as the Chewton Pool is highly valued by the local community having been subject to considerable community activation in the past by a "Save the Chewton Pool" group formed when Council proposed the pool be closed in 2011. CPI has indicated that Council's funding contribution provides more than 50% of their operating budget, and without this contribution the pool would likely be forced to close.

If Council continues to provide funds to CPI it will enhance Council's reputation for supporting a highly valued community facility which provides opportunities for community connection, teaching water safety skills and respite from the heat during summer months.

### Safety risk:

The provision of funds by Council to CPI is contingent on CPI signing an Operational Support Agreement. This agreement outlines the requirements to meet conditions designed to ensure the pool is operated and maintained safely, and appropriate supervision as recommended by the GSPO's is provided when community members access the pool. Should Council support the continuation of funding for this purpose, a new Operation Support Agreement will be formed with CPI with payment contingent on satisfying the requirements stated in the agreement.

## **Climate Impact Statement**

It is anticipated that changing climate conditions will lead to longer, hotter and drier summers. Continuation of support for this pool service will assist community members to find respite from the heat during summer and adapt to these climate conditions. Continued support by Council for the Chewton Pool will also allow the community to access facilities within their locality, reducing the need for people to travel further to access similar services in Mount Alexander Shire or beyond.

## **Alternate Options**

An alternative option is to cease providing funding for the operation of Chewton Pool. The impact of this may be that the CPI would struggle to pay staff and open the pool to the public. This action is not recommended at this time.

## **Communication and Consultation**

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.

Council officers commenced consultation with CPI representatives in November 2019 to discuss planning for renewal of the agreement following its expiry in 30 June 2020. CPI has indicated that they would like to establish a new agreement and continue to receive funding from Council.

Officers have sought input from CPI regarding current operations (via reports to be submitted to Council) and plans, issues or constraints relating to future operation of the pool. CPI has indicated a willingness to provide input to this process via discussions, meetings and a formal

---

submission which is currently outstanding due to constraints being experienced by the CPI at this time.

Officers understand the difficulties experienced by committee members in providing a formal submission given other pool operations priorities and the disruption caused by the current COVID-19 situation. As a result, it is recommended that some leeway is given to extend the time for Council to consider the continued funding of the Chewton Pool beyond the 2020/2021 season. Officers propose to submit a future report to Council regarding this matter in the third quarter of 2020.

Additional consultation will be required with the CPI should they make a formal submission to Council.

## **Legislation**

Local Government Act

## **Strategies and Policy Impacts**

### Council Plan 2017-2021

*Our People - Socially connected, safe and inclusive communities.*

- Support the building of social connections in each of towns.

The Council Plan pillar – “Our People” includes the strategic objective ‘socially connected, safe and inclusive communities’ includes the strategy ‘Support the building of social connections in each of our towns’. Identified in the Health and Wellbeing Plan this objective is met through providing the opportunity for Chewton Pool to become that facility within Chewton that brings the community together offering a place of respite and social connections during the long hot summers.

### Chewton Community Plan (2014)

The Chewton Community Plan under Better Community Facilities states that there is a number of community owned and managed facilities that need ongoing support and development e.g. Chewton Pool. A priority action is to see support to implement the staged development plan for Chewton Pool. The vision for the future of Chewton includes – ‘Our community assets – protecting, caring for, optimising usage and enhancing our common spaces and facilities’, and ‘Supporting the do-ers – succession planning, shared administrative support, promotion, volunteering’.

## **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 Officer's involved in reviewing this report, having made enquiries with the relevant members of staff, reports that there are no conflicts of interest to be disclosed.

---

### **10.2.3. GIVE PUBLIC NOTICE - ENTER INTO LEASE WITH BENDIGO KANGAN INSTITUTE FOR 65-67 TEMPLETON STREET CASTLEMAINE**

This Report is For Decision

*Responsible Director:* Director Infrastructure and Development, Jess Howard

*Responsible Officer:* Property Portfolio Coordinator, Lynne Williamson

*Attachments:* Nil

#### **Executive Summary**

The Pienwa building at 65 – 67 Templeton Street Castlemaine has been leased to Bendigo Regional Institute of TAFE (now Bendigo TAFE) since 2009. The lease expired 31 December 2016 and is currently in over holding, which means the Bendigo TAFE (BT) as tenants are currently subject to a month to month tenancy arrangement with Council.

To provide security of occupancy, council officers have been attempting to obtain a commitment with Bendigo Kangan Institute (BKI), as the governing body of BT, for a new lease since early 2016. Having a lease in over holding poses a financial risk to Council because the tenants can vacate the building with only one month's notice.

A representative from BKI approached council officers in March 2019, advising that a greater number of classes were being offered at the premises and requested to enter into a new lease to allow ongoing provision of BT services. They also proposed that part of the premises would be sub-tenanted.

BKI are interested in a term until the end of 2021 and will consider further terms. Under the Retail Leases Act 2003, tenants have a right to a five year term; however, they can waive this right by making an application to the Victorian Small Business Commission.

Section 190 of the Local Government Act 1989, which remains relevant until 1 July 2021, requires that Council must publish a public notice of the proposed lease at least four weeks before the lease is made.

#### **RECOMMENDATION**

**That Council:**

- 1. In accordance with Sections 190 and 223 of the Local Government Act 1989, publishes a public notice advising of its intention to enter into a lease at market valuation with Bendigo Kangan Institute for 65 – 67 Templeton Street Castlemaine and inviting submissions to the proposal; and**
- 2. Prior to making a decision on the proposal, considers submissions and hear any submitters wishing to be heard at a future meeting of Council.**

**MOVED Councillor Machin**

**That the recommendation be adopted.**

**SECONDED Councillor Petrusma**

**CARRIED.**

---

## **Context**

The Pienwa building is a Council owned asset which has been leased to Bendigo TAFE (BT) since 2009. BT offers foundation level to certified courses and industry training to early school leavers through to mature age students with the aim of enhancing employment opportunities. Until December 2018, part of the premises was sub-let to Castlemaine Community House under a subsidy agreement with Council that allowed a rent reduction of \$14,000 per annum. The lease expired 31 December 2016 and is currently in over holding, which means the tenants are in month to month tenancy.

Council officers have been approached by a representative from BKI as the governing body for BT, with a request to formalise their occupation of the premises through a new lease. BKI are interested in a term until the end of 2021 and will consider further terms.

The offer of courses at the premises increased in 2019, and prior to COVID-19, it was anticipated that more courses were expected to be offered throughout 2020. Courses offered by BT include Victorian Certificate of Applied Learning, Accounting and Bookkeeping, Building and Construction, Horticulture, Animal Studies, and Aged Care.

Under the Retail Leases Act 2003, tenants have a right to a five-year term, however, this right can be waived by making an application to the Victorian Small Business Commission for a five-year waiver certificate, which is a simple process.

Council could offer a term of two years with three further options of one year each. This would allow a secure occupancy for up to five years; however, it does not allow Council the opportunity to end the lease before this time.

If there is a strategic intention for this site within the near future, Council can negotiate with the proposed tenant to lease the premises for just two years.

Section 190 of the Local Government Act 1989 requires that if the rent for any period of the lease is \$50,000 or more a year Council must publish a public notice of the proposed lease at least 4 weeks before the lease is made. The current rent is more than \$50,000 per annum and a recent market rental valuation supports an ongoing rental amount greater than \$50,000 per annum.

## **Issues**

### Over holding

BKI are looking for secure premises to rent so they can forward plan training modules through BT. If a lease is not offered and the current lease remains in over holding, the tenants can vacate the building with only one month's notice. If BT have to find alternative premises there could be a period of vacancy with no rental return, which may be exacerbated by the current implications of COVID-19.

### Commercial Space

If Council chooses to end the over holding lease arrangement it could be difficult for BKI to find appropriate commercial space in Mount Alexander. Considering the current economic environment, it may also prove difficult for Council to attract a suitable commercial tenant.



---

### Best Practice

Council's Leasing and Licensing Policy aims to ensure the best use of Council's properties. Rather than using this premises for an additional community space, best practice would be to seek a more intensive use of the building for a commercial purpose.

### Community Purposes

If an alternative commercial tenant is not found, the building could be used for community purposes, which would be a very low economic return. Council officers are periodically approached by community groups who are looking for low cost space to occupy, at this time there have not been any approaches by other potential commercial tenants for this building.

### **Finance and Resource Implications**

Officer time can be accommodated within existing budget, expenditure on legal preparation of lease contracts will require additional funding or be offset against income.

If BT vacate the premises, it is likely there will be a period of no financial return to Council until the property can be re-leased to another commercial tenant, or alternatively to a community group/s at a community rate.

Funding would be required to undertake a feasibility study and subsequently to make the building ready to move in to if Council were to explore utilising the Pienwa for other uses.

### **Risk Analysis**

#### Financial risk:

The lack of a secure and ongoing lease between Council and the current tenants poses a financial risk to Council.

#### Social risk:

Since Castlemaine Continuing Education closed, only Bendigo TAFE and Castlemaine Community House are significant providers of tertiary education in Castlemaine. Many of the people made recently redundant by the impacts of COVID-19 may not have a job to resume and could require upskilling or reskilling to increase their opportunities for employment. If training and support is not readily available in the Shire, these people could be particularly disadvantaged.

### **Climate Impact Statement**

There will be no change to the current use of the building if BKI are to continue; therefore, there are not expected to be any additional climate impacts to what the current use and management practices generate.

Providing a venue for community education in Castlemaine may decrease reliance on cars for travel and or distances travelled for community members seeking to attend course provided by BT.

### **Alternate Options**

There are several alternative options Council could consider:

- 
1. Rather than proposing to enter into a lease with BKI, Council could choose to advertise for expressions of interest to lease the property to another commercial tenant.
  2. Council officers are periodically approached by community groups who are looking for low cost space to occupy, the Pienwa building could be utilised by such a group, however, rental income could be as little as \$120 per annum.
  3. The site could be used to accommodate Council staff, if a demand is identified and the request by BKI to lease the premises denied or deferred.

## **Communication and Consultation**

Internal consultation has been undertaken with council officers to determine any current need or possible strategic direction for the property.

Officers highlighted ongoing demand for space for community groups, there have not been any other potential commercial tenants identified. Officers also highlighted the need to explore alternative accommodation of the Maternal and Child Health Centre and the Community Partnerships Team.

If the recommendation of this report is supported, public notice will be undertaken in accordance with Sections 190 and 223 of the Local Government Act 1989, in regard to the proposed lease with BKI and a further report provided to Council at the conclusion of the public notice period.

## **Legislation**

### *Local Government Act 2020 (LGA 2020)*

The reformed LGA 2020 received Royal Assent 24 March 2020 and will be implemented in four stages. Section 190 (Restriction on power to lease land) and Section 223 (Right to make submission) of the LGA 1989 will not be repealed until Stage 4 proclamation 1 July 2021, when Section 115 (Lease of land) of the LGA2020 will be implemented. Process are therefore controlled by the LGA 1989.

### *Local Government Act 1989 (LGA 1989)*

Section 190 of the Local Government Act restricts Council's power to lease land. In part Section 190 states:

*(3) If the lease is to be—*

*(a) for 1 year or more and—*

*(i) the rent for any period of the lease is \$50 000 or more a year; or*

*(ii) the current market rental value of the land is \$50 000 or more a year; or*

*(b) for 10 years or more; or*

*(c) a building or improving lease—*

*the Council must at least 4 weeks before the lease is made publish a public notice of the proposed lease.*

*(4) A person has a right to make a submission under Section 223 on the proposed lease.*

---

As the market rent is expected to be more than \$50,000 a year Council must give public notice of them and consider public submissions.

Section 223 of the Local Government Act outlines the rights and requirements under a Section 223 process as follows:

Section 223 – Right to make submission

*(1) The following provisions apply if a person is given a right to make a submission to the Council under this section (whether under this or any other Act)—*

*(a) the Council must publish a public notice—*

*(i) specifying the matter in respect of which the right to make a submission applies;*

*(ii) containing the prescribed details in respect of that matter;*

*(iii) specifying the date by which submissions are to be submitted, being a date which is not less than 28 days after the date on which the public notice is published;*

*(iv) stating that a person making a submission is entitled to request in the submission that the person wishes to appear in person, or to be represented by a person specified in the submission, at a meeting to be heard in support of the submission.*

## **Strategies and Policy Impacts**

### **Council Plan 2017-2021**

The Council Plan 2017-2021 identifies that economic development and local employment is critical to enable our townships to grow and flourish and recognises that supporting our community to build skills through education is vital to the future of our shire. Education is additionally recognised as a contributor to overall health and wellbeing.

To realise objectives for provision of 'great opportunities for education and technology', Council will 'support and advocate for high quality education for people of all ages', and aim to provide 'local services that support the needs of our community' and to 'support business growth and local employment'.

Prior to COVID-19, the Pienwa site was well utilised as BT had been progressively increasing class offerings and also regular room hire. Classes in Castlemaine are attracting students of all ages.

### **Economic Development Strategy 2013 -2017**

This strategy includes the specific objective to provide targeted learning, skill development and business support, and a supporting strategy to encourage local course and program development between education providers, local businesses and business groups (especially in trade and services training) including training and job opportunities for disadvantaged, Indigenous and disabled residents.

Prior to COVID-19, BT was providing targeted learning through provision of priority courses in areas that have been identified by the Victorian government as jobs in demand.

### **Property Leasing and Licencing Policy**

This policy provides the foundation for leasing and licensing decision-making for Council owned or controlled properties. The policy objectives include ensuring that Council properties

---

are occupied in accordance with the best interests of the community and Council and to maximise the sustainable use of Council's assets.

Relevant details include the occupation of Council's premises may be subject to an expression of interest or a tender process, and the term of commercial leases will be assessed on an individual basis.

### **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 Officer's involved in reviewing this report, having made enquiries with the relevant members of staff, reports that there are no conflicts of interest to be disclosed.

---

#### 10.2.4. ASSET MANAGEMENT PLANS - PATHWAYS AND BRIDGES

This Report is For Decision

*Responsible Director:* Director Infrastructure and Development, Jess Howard

*Responsible Officer:* Executive Manager Infrastructure, Tanya Goddard

*Attachments:*

1. MASC Asset Management Plan - Pathways - June 2020  
[10.2.4.1 - 35 pages]
2. MASC Asset Management Plan - Bridges - June 2020  
[10.2.4.2 - 22 pages]

#### **Executive Summary**

Asset management is a systematic process to guide the planning, acquisition, operation and maintenance, renewal and disposal of assets. Its objective is to maximise asset service delivery potential and manage related risks and costs over their entire lives.

The intent of this report is to review Council's Asset Management Plans (AMPs) for Bridges and Pathways.

These AMPs provide basic guidance and measures to enable Council to commence tracking performance of these asset classes over time. A number of improvements to existing practice are identified, including:

- Revisiting the financial sustainability strategy to better inform the condition management of each asset class over the next ten years.
- Developing the levels of service into measurable and practical terminology which is easy for the community to understand.

#### **RECOMMENDATION**

**That Council:**

- 1. Adopts the Asset Management Plan – Pathways; and**
- 2. Adopts the Asset Management Plan – Bridges.**

**MOVED Councillor Petrusma**

**That the recommendation be adopted.**

**SECONDED Councillor Machin**

**CARRIED.**

---

## Context

Asset Management Plans have been prepared for both the bridges and pathways asset classes consistent with the Local Government Asset Management Better Practice Guide 2015.

This report responds to the Annual Plan Action for 2019/2020 to adopt Asset Management Plans for bridges and pathways.

Each plan includes the key components of an asset management plan as per the Institute of Public Works Engineering Australasia (IPWEA) guidelines. They provide a summary of what each asset class comprises, the service levels to be provided, outline future demand, financial implications, issues and risks associated with management of the asset class and next steps/ improvement program. They also identify the processes that support asset management including asset criticality, condition and performance, as well as the financial sustainability strategy and financial forecast.

Within the levels of service included in the Asset Management Plans, there are both community and technical levels of service identified. The setting of the levels of service is somewhat limited by the budget provision for managing each asset class and have therefore been set at a conservative level (with intervention levels that are achievable given the proposed level of investment). The levels of service are also limited by our ability to collect data and therefore measure performance against each element.

From a financial perspective:

- The AMP for pathways:
  - Includes multiple funding scenarios (current, optimal and unlimited) and the subsequent impact on condition resulting from these models.
  - The optimal model is designed to prevent pathways from reaching level 5 condition (very poor).
  - Shows a renewal backlog associated with pathways in level 5 condition or above, and that this increases substantially after year 5.
- The AMP Bridges:
  - Has only one financial model as the current funding allocation was deemed sufficient (and was considered optimal).
  - Shows a renewal backlog increasing from year 4, at the current rate of funding.

There are a number of items for improvement identified within Section 7 of each plan. These include implementing levels of service, addressing current knowledge gaps, ensuring the asset register is up to date, and assessing asset functionality and capacity so that treatments other than like-for-like renewal can be programmed.

It is intended that each AMP form a 'part' or Annex to the Asset Management Strategy. The development of these AMPs will build on current prioritisation of renewal works across each asset class, and between asset classes more broadly. It will also provide the basis for setting the level of service provision to the community.

## Issues

Levels of service are used to balance the management of public infrastructure with the community's needs and wants, as well as with what the Council can afford. The Pathways and Bridges AMPs have attempted to define levels of service in a qualitative manner, as well as provide a reactive approach driven by the customer satisfaction survey and customer

---

complaints. The levels of service set out within these plans will be a test case in measuring the affordability and deliverability of the desired asset condition for each asset class.

The difference between the level of depreciation and investment in capital is called the asset renewal gap. The size of the asset renewal gap is affected by council affordability (what we can afford to invest) and provides an indicator of the level of risk associated with the management of an asset class. Similarly, the renewal backlog defines how much it would cost to renew all assets that exceed Council's desired condition service level.

The financial sustainability strategy provides the recommended funding for each asset class annually. Further integration of asset management and financial planning functions is essential to ensure that funding allocations and expenditure are reviewed consistent with AMPs to ensure that Council's annual investment is maximised to ensure asset condition levels are maintained/ improved into the future.

## **Risk Analysis**

### Asset risk:

Asset management plans help reduce Council's risk by:

- Ensuring investment is appropriately allocated (both for operational and capital works).
- Providing transparency in service levels provided to the community.
- Identifying over or under servicing of asset classes.
- Enabling Council to maximise asset life.

These AMPs focus on the information and systems currently available and will enable Council Officers to start tracking performance against the service levels identified, thereby providing a level of transparency to Councillors and the community. This performance has not historically been tracked.

### Reputation risk:

These AMPs will help us focus our asset maintenance and capital works effort for the benefit of the community. They enable more transparency with respect to funding allocation as well as performance and will help the community understand the basis of these allocations, as well as the size of the asset portfolios in each asset class.

## **Climate Impact Statement**

Climate change and asset resilience are taken into account during the design phase of capital works projects. The cost of climate change on managing assets (for example, the potential need for increased maintenance and renewal) is not a specific consideration within the modelling package MyPredictor; however, Assetic – our asset management system provider – is working to improve this in the future.

## **Alternate Options**

AMPs can be elaborate long documents which wrap all asset classes together. The format of these AMPs has been driven by a desire for the documents to be readable and usable and separated by asset class. To encourage greater understanding in the community of the considerations in relation to asset management and the setting of service levels, it is preferable to keep each asset class and asset management plan separate.

---

## **Communication and Consultation**

### Inform:

We will keep our community informed.

The internal Asset Management Working Group has reviewed the AMPs and are generally satisfied that it will assist Council in managing the asset class, whilst also helping Officers measure performance. Improvements and suggestions from the Working Group have been noted for future actions and revisions.

The Levels of Service (LOS) were developed in line with asset management plans produced by Assetic for Councils similar to the Mount Alexander Shire Council. LOS were also produced with reference to industry standards and guidelines such as the Infrastructure Design Manual, IPWEA Practice Notes, and the VicRoads Road Structures inspection manual. The LOS have been tailored to ensure that they are measurable by Council Officers using the systems we have in place.

Broader consultation is not recommended at this time as there is more work required to better understand these asset classes and how we measure fitness for purpose. Assets are (and will continue to be) managed through risk-based prioritisation until a more proactive approach is able to be adopted. Community consultation in relation to the setting of service levels (for example, through an online survey) could occur in the future, however, it is noted that Council's budget constraints may limit the ability to meaningfully respond to a desire for increased levels of service.

## **Legislation**

Local Government Amendment (Performance Reporting and Accountability) Act 2014 and the Local Government (Planning and Reporting) Regulations 2014.

Changes were designed to strengthen and modernise the planning and accountability framework for Victorian councils, including management of assets.

### Local Government Act 2020

A Council must develop and adopt an Asset Plan in accordance with its community engagement policy by 30 June 2022.

## **Strategies and Policy Impacts**

### Council Plan 2017-2021

*Our Place - Well managed assets for now and into the future.*

- Review, maintain, renew and expand the assets of our community - Adopt Asset Management Plans for all material asset classes.

Asset Management Strategy 2015 - Prepare asset management plans for each asset class. Advertise, consult with the community and adopt by Council.

Asset Management Policy 2014.

Annual Plan 2019/2020 – Review and adopt asset management plan for pathways and bridges.



---

### **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 Officer's involved in reviewing this report, having made enquiries with the relevant members of staff, reports that there are no conflicts of interest to be disclosed.

---

### 10.3. Our Economy

#### 10.3.1. STATUTORY AND DISCRETIONARY RESERVE POLICY

This Report is For Decision

*Responsible Director:* Director Corporate and Community Services, Lisa Knight

*Responsible Officer:* Management Accountant, Kaye Davis

*Attachments:* 1. DRAFT - Statutory and Discretionary Reserve Policy - Current  
[10.3.1.1 - 5 pages]

#### **Executive Summary**

This Policy applies to both Discretionary and Statutory Reserves for Council, and includes creation of reserves, transfer of funds to reserves and subsequent use of funds from reserves.

This Policy is required to ensure a consistent approach to the establishment of requirements around the creation of reserves, transfer to reserves and subsequent expenditure of funds from these reserves.

#### **RECOMMENDATION**

**That Council adopts the Statutory and Discretionary Reserve Policy.**

**MOVED Councillor Gardner**

**That the recommendation be adopted.**

**SECONDED Councillor Cordy**

**CARRIED.**

---

## **Context**

The Statutory and Discretionary Reserve Policy was a new policy in February 2016 and was based on current practices and consultation with other Councils.

This Policy is applicable to Financial Reserves for both discretionary and statutory purposes and provides guidance on the creation of reserves, transfer of funds to reserves and subsequent use of funds from reserves. This Policy excludes the Asset Revaluation Reserve that arises under the Australian Accounting Standards as it relates to the change in asset values rather than the collection of funds.

This Policy has a review period of three years. Updates to this draft include minor wording and definitional updates of all current reserves held.

## **Issues**

It is acknowledged that in lieu of borrowings, reserve funds may be used to fund specific projects and are not for funding the general operations of Council.

The Policy provides a framework for the creation and use of statutory and discretionary reserves and how funds are transferred to and from these reserves.

## **Finance and Resource Implications**

Although no direct costs will be incurred, the Policy ensures a continued consistent approach to statutory and discretionary reserve management. As at 30 June each year, the recorded cash balances should, as a minimum, be equivalent to the total of the balance of Statutory and Discretionary Reserves.

## **Risk Analysis**

### Financial risk:

This Policy enables Council to segregate income received from specific sources from the general operating surplus and sets this aside for a future application.

## **Climate Impact Statement**

Financial Reserves that can directly support Council's climate initiatives include the Energy and Water Savings Reserve. Indirect support can be made through, for example, the Waste Management Reserve or the Gravel Reserve.

## **Alternate Options**

Council could choose not to endorse a Statutory and Discretionary Reserves Policy, however, the absence of guidance to staff and Councillors may result in funds not being used as intended or legally required.

## **Communication and Consultation**

### Inform:

We will keep our community informed through quarterly Financial Management Reports as required by the Local Government Act 1989.

---

## **Legislation**

Local Government Act 1989

## **Strategies and Policy Impacts**

Council Plan 2017-2021

*Our Economy - An innovative and sustainable organisation.*

- Maintain financial sustainability to deliver the Council Plan.

Section 136 (1) of the Local Government Act 1989 requires Council to “implement the principles of sound financial management”.

This Policy is required to ensure a consistent approach to the establishment requirements around the creation of reserves, transfer to reserves and subsequent expenditure of funds from these reserves.

## **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 Officer's involved in reviewing this report, having made enquiries with the relevant members of staff, reports that there are no conflicts of interest to be disclosed.

---

### **10.3.2. APPROVAL OF AUDIT AND RISK ADVISORY COMMITTEE CHARTER**

This Report is For Decision

*Responsible Director:* Chief Executive Officer, Darren Fuzzard

*Responsible Officer:* Executive Manager Business Continuity, Jude Holt

*Attachments:* 1. Audit and Risk Advisory Committee Charter May 2020 Final Draft [OSM3] [**10.3.2.1** - 13 pages]

#### **Executive Summary**

This report seeks Council's approval of the Audit and Risk Advisory Committee Charter.

The Charter is being reviewed in line with Section 54(1) of the Local Government Act 2020 which states: "*A Council must prepare and approve an Audit and Risk Committee Charter*", and Section 54(7) which states: "*A Council must approve the first Audit and Risk Committee Charter and establish the first Audit and Risk Committee before 1 September 2020*".

#### **RECOMMENDATION**

**That Council approves the Audit and Risk Advisory Committee Charter.**

**MOVED Councillor Lesser**

**That the recommendation be adopted.**

**SECONDED Councillor Machin**

**CARRIED.**

---

## Context

The Audit and Risk Advisory Committee is a Committee of Council under Section 53 of the Local Government Act 2020 (the Act) (and previously Section 139 of the Local Government Act 1989).

The current Audit and Risk Advisory Committee Charter was reviewed in 2019 and adopted by Council on 12 June 2019. It is good practice to review the Charter regularly; a 2020 review has been mandated by Section 54 of the Act which requires a Charter to be approved by 1 September 2022.

## Issues

The Local Government Act 2020 has provided more prescription around the responsibilities for Audit and Risk Committees, and this detail has been built into the reviewed Charter.

In addition to this the Local Government Inspectorate's Report: *Protecting Integrity: Yarriambiack Shire Council Investigation*, suggests that a Charter should be developed with reference to *Audit Committees – A Guide to Good Practice for Local Government*.

The Good Practice Guide recommends a model charter from the Institute of Internal Auditors North America. The new Charter has been developed firstly from the institute's latest model Charter, and secondly by incorporating the items from the new Local Government Act.

An initial draft Charter was provided to the Audit and Risk Advisory Committee on 28 May 2020 and the Committee endorsed the Charter with amendment from feedback at the meeting. The Committee was advised that a Local Government Victoria working group, that the Executive Manager Business Continuity was a member of, was still developing the sector's final draft Charter and acknowledged further changes may be requested.

The Executive Manager Organisational Capability attended the second meeting of the working group on 29 May 2020, and the draft Charter was reviewed to include further content.

The final draft Charter was provided to the Audit and Risk Advisory Committee by circulating resolution on 1 June 2020. The Committee responses provide support for the final draft Charter, with two minor amendments, which is now being presented to Council for approval.

The working group has further refined the draft Charter that will be issued to the sector. As we have progressed through the authorising environment it has been determined that the Charter endorsed by the Audit and Risk Advisory Committee will be presented to Council for adoption this year, with consideration of the final sector Charter next year during review.

## Finance and Resource Implications

There are no specific costs related to this report.

## Risk Analysis

### Strategic risk:

By having an active Audit and Risk Advisory Committee Council is complying with Section 53 of the Act.

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

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

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

### **Climate Impact Statement**

Climate change is one of the risks that the Committee is aware of and will be discussing through the strategic risk conversation.

### **Alternate Options**

The Council may choose to:

1. Approve the Charter as presented.
2. Ask for further work to be undertaken and returned to the Council.
3. Request the current Charter to be returned for approval.

### **Communication and Consultation**

#### Inform:

We will keep our community informed.

The approval of the Audit and Risk Advisory Committee Charter is a legislated action. The Charter used is a best practice template which has been accepted by the sector. Therefore, review was limited to the Committee, and although no opportunity for review was provided to the community, the Committee comprises four independent members who are representative of the community's view.

### **Legislation**

#### Local Government Act 2020

##### *53 Council must establish an Audit and Risk Committee*

1. *A Council must establish an Audit and Risk Committee.*
2. *An Audit and Risk Committee is not a delegated committee.*
3. *An Audit and Risk Committee must—*
  - a. *include members who are Councillors of the Council; and*
  - b. *consist of a majority of members who are not Councillors of the Council and who collectively have—*
    - i. *expertise in financial management and risk; and*
    - ii. *experience in public sector management; and*
  - c. *not include any person who is a member of Council staff of the Council.*
4. *The chairperson of an Audit and Risk Committee must not be a Councillor of the Council.*
5. *Sections 123 and 125 and Division 2 of Part 6 apply to a member of the Audit and Risk Committee who is not a Councillor as if the member were a member of a delegated committee.*
6. *A Council may pay a fee to a member of an Audit and Risk Committee who is not a Councillor of the Council.*

---

## 54 Audit and Risk Committee Charter

- a. A Council must prepare and approve an Audit and Risk Committee Charter.
- b. The Audit and Risk Committee Charter must specify the functions and responsibilities of the Audit and Risk Committee including the following—
  - i. monitor the compliance of Council policies and procedures with—
    1. the overarching governance principles; and
    2. this Act and the regulations and any Ministerial directions;
  - ii. monitor Council financial and performance reporting;
  - iii. monitor and provide advice on risk management and fraud prevention systems and controls;
  - iv. oversee internal and external audit functions.
- c. An Audit and Risk Committee must adopt an annual work program.
- d. An Audit and Risk Committee must—
  - i. undertake an annual assessment of its performance against the Audit and Risk Committee Charter; and
  - ii. provide a copy of the annual assessment to the Chief Executive Officer for tabling at the next Council meeting.
- e. An Audit and Risk Committee must—
  - i. prepare a biannual audit and risk report that describes the activities of the Audit and Risk Committee and includes its findings and recommendations; and
  - ii. provide a copy of the biannual audit and risk report to the Chief Executive Officer for tabling at the next Council meeting.
- f. The Chief Executive Officer must—
  - i. ensure the preparation and maintenance of agendas, minutes and reports of the Audit and Risk Committee; and
  - ii. table reports and annual assessments of the Audit and Risk Committee at Council meetings when required by this Act and when requested by the chairperson of the Audit and Risk Committee.
- g. A Council must approve the first Audit and Risk Committee Charter and establish the first Audit and Risk Committee on or before 1 September 2020.

## Strategies and Policy Impacts

### Council Plan 2017-2021

*Our Economy - An innovation and sustainable organisation.*

- Maintain financial sustainability to deliver the Council Plan.

Council has many policies that address governance, provide an environment that promotes ethical behaviour, and address the risks of the organisation.

Some of the key documents include:

- Councillors' Code of Conduct.
- Workplace Code of Conduct.
- Conflict of Interest Policy.
- Risk Management Policy.
- Public Interest Disclosure Policy.
- Procurement Policy.
- Gifts and Hospitality Policy.
- Purchasing Card Policy.



---

### **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 Officer's involved in reviewing this report, having made enquiries with the relevant members of staff, reports that there are no conflicts of interest to be disclosed.

---

### 10.3.3. PA034/2020 - 17 HILL VIEW COURT MCKENZIE HILL

This Report is For Decision

*Responsible Director:* Director Infrastructure and Development, Jess Howard

*Responsible Officer:* Senior Statutory Planner, Holly Sawyer

*Attachments:*

1. Proposed plan of subdivision and building envelope plans [10.3.3.1 - 4 pages]
2. Cut and fill plan [10.3.3.2 - 1 page]

#### **Executive Summary**

Council has received an application for a two-lot subdivision at 17 Hill View Court, McKenzie Hill. The subject site is located within the General Residential Zone – Schedule 1 and is affected by the Erosion Management Overlay and the Bushfire Management Overlay. Planning approval is required to subdivide the land under the General Residential Zone – Schedule 1, the Erosion Management Overlay and the Bushfire Management Overlay. The proposed subdivision seeks to create two vacant lots, with proposed Lot 1 to contain 390sqm and proposed Lot 2 to contain 527m<sup>2</sup> and be irregular in shape.

Two objections have been received.

The application is not consistent with the minimum lot size identified under the Diamond Gully Structure Plan, which encourages lots within the Northern Residential In-Fill Precinct of the Structure Plan to measure between 500-1000m<sup>2</sup>. Further, the proposed subdivision layout does not reflect the established neighbourhood character of regularly shaped lots with provision of street frontage for each new dwelling, nor does the proposal address erosion risk on the site.

It is recommended that Council issue a Notice of Decision to Refuse a Planning Permit.

---

## **RECOMMENDATION**

**That Council issue a Notice of Decision to Refuse a Planning Permit for a two-lot subdivision at 17 Hill View Court, McKenzie Hill, on the following grounds:**

- 1. The proposed subdivision does not respond to the neighbourhood character and subdivision pattern of the surrounding area, pursuant to the requirements of Clause 32.08-13 and Clause 15.01-5S of the Mount Alexander Planning Scheme.**
- 2. The proposed subdivision does not meet the lot area requirements as identified in the Diamond Gully Structure Plan, 2016 and is therefore not generally in accordance with the requirements of the Diamond Gully Structure Plan, 2016 as required by Clause 21.12-3 of the Mount Alexander Planning Scheme.**
- 3. The proposed subdivision would result in inappropriate building massing and an overwhelming presence to the streetscape as a result of reduced front setbacks for proposed Lot 1, which is inconsistent with the requirements of Clause 56.04-2 of the Mount Alexander Planning Scheme; and**
- 4. The proposal has not demonstrated that erosion or land degradation risks have been satisfactorily minimised or avoided, pursuant to the requirements of Clause 44.01-8, Clause 13.04-2S and Clause 21.05-3 of the Mount Alexander Planning Scheme.**

**MOVED Councillor Gardner**

**That the recommendation be adopted.**

**SECONDED Councillor Machin**

**CARRIED.**

---

## Summary

<b>Application details:</b>	Two-lot subdivision
<b>Application No:</b>	PA034/2020
<b>Applicant:</b>	Peter Renfrew
<b>Land:</b>	17 Hill View Court McKenzie Hill VIC 3451 Lot 18 on PS814944C Vol 12152 Fol 905
<b>Zoning:</b>	General Residential Zone – Schedule 1
<b>Overlays:</b>	Erosion Management Overlay Bushfire Management Overlay
<b>Triggers:</b>	Clause 32.08-3 Clause 44.01-5 Clause 44.06-2
<b>Notice:</b>	Yes, via letters to adjoining and surrounding landowners and occupiers (2 objections received).
<b>Referrals:</b>	Country Fire Authority Council's Infrastructure Unit
<b>No. of Objections:</b>	2
<b>Consultation Meeting:</b>	No
<b>Key Considerations:</b>	Diamond Gully Structure Plan Neighborhood character Erosion risk
<b>Conclusion:</b>	Notice of Decision to Refuse a Planning Permit

## Context

The purpose of this report is to enable Council to determine an application for a two-lot subdivision at 17 Hill View Court, McKenzie Hill. The application has been referred to Council for a decision because the officer recommendation is to refuse the application.

The application was lodged on 17 February 2020 and proposes to subdivide the land into two vacant lots. Proposed Lot 1 fronts Hill View Court and covers a land area of 390 square metres. Proposed Lot 2 forms a battle axe shape and covers a land area of 527 square metres. Both lots are proposed to be provided with vehicle access from Hill View Court.

The subject site is located on the southern side of Hill View Court. The rectangular shaped site covers a land area of 918sqm and has a 4m slope rising to the north across the length of the site. The site does not contain any existing structures, and although a tree is visible on

---

aerial imagery, it has since been felled. The subject site is affected by a number of registered restrictions, as follows:

- Covenant AS615017B which includes requirements for the size and design of new dwellings (one per lot) and restrictions on further subdividing the land unless approved by the transferor. Consent from the transferor has been supplied in this application.
- Section 173 Agreement AS322958E which provides for an exemption from requiring planning approval under the Bushfire Management Overlay if a single dwelling is constructed in accordance with the approved Bushfire Management Plan. As this application is for a two-lot subdivision, the exemption provided in this agreement is not applicable.
- Section 173 Agreement AM724239A which requires developer contributions to be paid prior to the issue of Statement of Compliance for the creation of new lots. This requirement is applicable to the proposal herein.

The site is located within a new residential subdivision to the south of Maldon Road/Pyrenees Highway, which was approved as part of the Diamond Gully Development Plan. The surrounding character consists of regularly shaped residential allotments, primarily within the new residential subdivision, with land areas between 700 and 1500sqm. There are some larger allotments located further west and north of the site with land areas ranging between 1900sqm and 4 hectares. The dominant built form character is single detached dwellings on rectangular or square lots with dwellings fronting onto their relevant streets. The nearest unit development is located approximately 500 metres to the northeast (as the crow flies), outside of the Diamond Gully Structure Plan area.

The site is located within the General Residential Zone – Schedule 1 pursuant to Clause 32.08 of the Mount Alexander Planning Scheme, and is affected by the Erosion Management Overlay pursuant to Clause 44.01 and the Bushfire Management Overlay pursuant to Clause 44.06 of the Scheme. The surrounding area is located within common zoning and affected by the same overlays.

#### Outstanding objections to the application

Following advertisement of the application in accordance with Sections 52(1)(a) and 52(1)(d) of the Planning and Environment Act 1987, two objections were received. The grounds of objection are as follows:

*Further subdividing the land is not in accordance with the existing neighbourhood character established by the original master subdivision.*

This ground of objection is considered to be highly relevant to the application as the proposal is not considered to align with the established neighbourhood character in terms of land area and subdivision pattern. The existing character consists of regularly shaped allotments with land areas in excess of 700sqm, whilst the proposal is seeking to create an irregularly shaped lot (proposed Lot 2) as a battle axe and both proposed lots will contain land areas less than 700sqm (proposed Lot 1 is to contain 390sqm and proposed Lot 2 is to contain 527sqm).

*The proposal is not in accordance with the requirements of Covenant AS615017B which restricts development of the land to a single dwelling and no further subdivision.*

Whilst the intent of the covenant is clear in restricting the extent of development on the land, the covenant also includes a pathway for further subdivision and development of additional dwellings with transferor's consent. As the applicant has obtained this consent, technically, they are allowed to apply for planning approval to subdivide the land.

---

*Allowing this application would set a precedent for other lots within the immediate area to further subdivide which would increase the population and result in traffic implications.*

The proposed subdivision is not in accordance with the land area requirements of the Diamond Gully Structure Plan, therefore, the population increase associated with the proposed subdivision is not considered to be an appropriate outcome.

Applications to subdivide the land are still able to be made to Council provided transferor's consent is provided with any application.

*Concerns that this application would result in a devaluation of adjoining properties.*

The value of land is not a planning consideration. Therefore, this concern will no longer form part of this report.

## **Issues**

### *Diamond Gully Structure Plan, 2016*

The Diamond Gully Structure Plan identifies that the subject site is located within the Northern Residential In-fill Precinct, which seeks that lot sizes measure between 500 and 1000m<sup>2</sup>. The southern greenfield residential area located approximately 800 metres to the south of the subject site is identified as being suitable for conventional and medium density lots, with Clause 21.12-3 encouraging the clustering of development into that precinct.

The proposal seeks to create one lot slightly over 500m<sup>2</sup> (proposed Lot 2 at 527m<sup>2</sup>) and one less than 500m<sup>2</sup> (proposed Lot 1 at 390m<sup>2</sup>). Given that the existing land area measures 918sqm, it is impossible to create two lots that would meet the land area requirements of the Diamond Gully Structure Plan. As Clause 21.12-3 of the Scheme requires applications to be generally consistent with the Diamond Gully Structure Plan, the proposed two-lot subdivision is considered inappropriate and represents an overdevelopment of the site.

### *Neighbourhood character and subdivision pattern*

Clause 32.08-13 provides a number of decision guidelines which must be considered in relation to subdivision applications. The first consideration is the pattern of subdivision and its effect on the spacing of buildings. The proposal is not considered to reflect the existing subdivision pattern within the immediate and surrounding area. The established neighbourhood character contains a regular subdivision pattern with lots over 700m<sup>2</sup> in land area. The proposal is seeking to create one rectangular shaped lot with a land area of 390 m<sup>2</sup> (proposed Lot 1) and a battle-axe shaped lot with a land area of 527 m<sup>2</sup> (proposed Lot 2). The proposed subdivision layout does not accord with the surrounding character for ensuring that all dwellings are integrated with the street, as any future dwelling on proposed Lot 2 would be unable to form part of the preferred streetscape of single detached dwellings.

Clause 15.01-5S (Neighbourhood character) seeks to emphasise the pattern of local urban structure and subdivision. The proposal would result in an irregular lot layout that is inconsistent with the objectives of Clause 15.01-5S and the established settlement pattern along Hill View Court.

The protection of local urban structure and subdivision pattern is highlighted within *Lasermont Pty Ltd v Macedon Ranges SC* [2010] VCAT 473, where the grounds of refusal provided by Member Wilson revolved around the proposed residential subdivision's failure to integrate with the surrounding subdivision pattern and the "neighbourhood character of spaciousness". Further, the battle axe subdivision layout proposed in *Lasermont Pty Ltd v Macedon Ranges SC* [2010] VCAT 473, which has similarities to the battle axe alignment

---

proposed herein, was identified by Member Wilson as reducing landscaping opportunities and reducing the sense of space along the streetscape.

#### *Clause 56 – Residential subdivision*

Whilst the servicing and infrastructure standards of Clause 56 are considered to have been addressed, the requirements of Clause 56.04-2 (Lot area and building envelope objective) are not considered to be satisfied by this proposal. There are currently no dwellings located on either side of the subject site which would require the front setback of any new dwelling to be at least 9 metres pursuant to Clause 54 of the Scheme. The proposed subdivision provides a building envelope located 4.88 metres from the front boundary (Hill View Court), which would therefore result in a future dwelling that is inappropriately sited and out of character with future dwellings within the street. Whilst variations to the front setback requirements can be considered under Clause 56.04-2, the extent of the variation sought is not considered to be appropriate and would result in inappropriate building massing and an overwhelming presence along the streetscape. Therefore, the proposed two-lot subdivision is inconsistent with the objectives of Clause 56 and represents an overdevelopment of the site.

#### *Erosion and land degradation*

A proposed cut and fill plan was provided as part of the application which indicated that 700 millimetres of fill and between 300 millimetres and 1.3 metres of cut would be required to level proposed Lot 2, and 1.2 metres of fill and 1.8 metres of cut would be required to level proposed Lot 1. A retaining wall would be required along the southern, eastern and western boundaries of the subject site. Cut and grading would also be required for the construction of driveway access to each lot.

Pursuant to Clause 44.01-8, measures to minimise the extent of soil disturbance and details as to whether works are likely to cause erosion or landslip form part of the decision guidelines for application under the Erosion Management Overlay. No details of stabilisation or compaction have been provided for the extent of earthworks. Were a single dwelling to be constructed on the existing site, the extent of earthworks would be greatly reduced, and the risk of land degradation minimised to an acceptable level. Therefore, it is not considered that the proposed two lot subdivision is an appropriate or acceptable outcome under the Erosion Management Overlay, Clause 13.04-2S and Clause 21.05-3 as the proposal does not satisfactorily avoid or reduce erosion risk.

### **Finance and Resource Implications**

Cost of appeal to the Victorian Civil and Administrative Tribunal.

### **Alternate Options**

Council could issue a Notice of Decision to Issue a Permit, although the application does not represent an orderly planning outcome and is inconsistent with the neighbourhood character and subdivision pattern of the area.

### **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 and a sign was not placed on the site due to COVID-19 pandemic travel restrictions. Additional letters were sent out to a wider area to address this.

---

### *Applicant-Objector Consultation*

An applicant objector meeting will be convened on 7 July 2020.

### *External Referrals*

- Country Fire Authority (CFA)
- Did not object to the issue of a permit subject to the following conditions:
  - The Bushfire Management Plan (Version 1.0 prepared by Living Rural, dated 23/4/2020) must be endorsed to form part of the permit, be included as an annexure to the Section 173 Agreement and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.

It should be noted that the above condition would require Section 173 Agreement AS322958E to be amended to replace the approved Bushfire Management Plan attached to the agreement.

### *Internal Referrals*

- Council's Infrastructure Unit. No response was provided.

## **Legislation**

Planning and Environment Act 1987.

Subdivision Act 1988.

## **Strategy and Policy Impacts**

### State Planning Policy Framework (SPPF)

#### *Clause 13.02-1S – Bushfire planning*

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

Strategies of this policy include directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.

#### *Clause 13.04-2S – Erosion and landslip*

The objective of this policy is to protect areas prone to erosion, landslip or other land degradation processes.

Strategies of this policy include preventing inappropriate development in unstable areas or areas prone to erosion.

#### *Clause 15.01-5S – Neighbourhood character*

The objective of this policy is to recognise, support and protect neighbourhood character, cultural identity, and sense of place.

Strategies of this policy include ensuring development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by emphasising the pattern of local urban structure and subdivision.



---

## Local Planning Policy Framework (LPPF)

### *Clause 21.05-3 – Soil degradation*

The objective of this policy is to reduce the risk of erosion in urban and rural areas and ensure that land is only developed in accordance with the context of the environmental sensitivity of the land.

### *Clause 21.05-5 – Bushfire*

The objective of this policy is to minimise the risk of bushfire to life and property. Strategies of this policy include directing urban development to the lowest risk locations.

### *Clause 21.07-1 – Urban environment*

One of the key issues identified in this clause is encouraging new development in the Shire's residential areas whilst ensuring that development respects the existing neighbourhood character and heritage places.

This clause identifies the objective of protecting the identity and existing urban character of the Shire's townships, with the strategy of encouraging new residential development that respects existing form and character of streetscapes.

### *Clause 21.12-3 – Diamond Gully*

The objective of this policy is to reinforce the vision of the DGSP and recognise Diamond Gully as Castlemaine's primary urban growth area.

Strategies of this policy include supporting the clustering of development in the southern residential greenfield precinct. Local area implementation seeks to ensure that any proposed use or development within the Diamond Gully Structure Plan area is generally consistent with the Diamond Gully Structure Plan, 2016.

## Zoning

### *General Residential Zone – Schedule 1 (GRZ1)*

The subject site is located within the General Residential Zone – Schedule 1 pursuant to Clause 32.08 of the Mount Alexander Planning Scheme. The purpose of the GRZ1 is as follows:

- To implement the Municipal 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.

Pursuant to Clause 32.08-3, a planning permit is required to subdivide land.

### *Erosion Management Overlay (EMO)*

The subject site is affected by the Erosion Management Overlay pursuant to Clause 44.01 of the Scheme. The purpose of the EMO is as follows:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To protect areas prone to erosion, landslip or other land degradation process, by minimising land disturbance and inappropriate development.

---

Pursuant to Clause 44.01-5, a permit is required to subdivide land.

*Bushfire Management Overlay (BMO)*

The subject site is affected by the Bushfire Management Overlay pursuant to Clause 44.06 of the Scheme. The purpose of the BMO is as follows:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

Pursuant to Clause 44.06-2, a planning permit is required to subdivide land.

Particular provisions

*Clause 56 (Residential subdivision)*

This Clause is relevant to this application and has the following purpose:

- To achieve residential subdivision outcomes that appropriately respond to the site and its context.

Assessment against the requirements of Clause 56 is required pursuant to Clause 32.08-3 of the Scheme.

*Clause 53.01 (Bushfire Planning)*

This Clause is relevant to this application and has the following purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- 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.

The Bushfire Management Statement provided as part of this application was referred to the Country Fire Authority who did not object to the issue of a permit. Therefore, it is not considered that the site is subject to bushfire risk that would prohibit residential development on the site.

*Clause 65 (Decision Guidelines)*

Before deciding on an application to subdivide land, Clause 65 sets out a number of considerations to be made, including the density of the proposed development (area and dimensions of each proposed lot) and the subdivision pattern.

---

### **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 Officer's involved in reviewing this report, having made enquiries with the relevant members of staff, reports that there are no conflicts of interest to be disclosed.

## 11. DELEGATES REPORTS

Meetings attended by CEO and Mayor from 17 June 2020 to 21 July 2020.

MEETING	CEO	MAYOR
Attended meeting with CEO's of Mount Alexander Shire Council, Castlemaine Health, CHIRP Community Health and Project Manager to discuss Mount Alexander Health and Wellbeing Hub Project (video-conference meeting)	✓	
Attended meeting with CEO's of Mount Alexander Shire Council, Castlemaine Health, CHIRP Community Health to discuss matters of common interest for Mount Alexander Shire (video-conference meeting)	✓	
Meeting with Victorian Goldfields Railway representatives and to introduce Jess Howard, Director Infrastructure & Development	✓	
Interview with Tarrengower Times		✓
Attended Loddon Campaspe Councils CEOs meeting (video-conference meeting)	✓	
Attended Loddon Campaspe Councils Mayors and CEOs meeting (video-conference meeting)	✓	✓
Meeting with local resident to discuss Wright St, Elphinstone		✓
Gold Central Vic FM Interview	✓	
Attended funding announcement by Maree Edwards MP for Castlemaine Library public meeting room and work space project	✓	✓
Attended funding announcement by Mary-Anne Thomas MP for Elphinstone Hall kitchen upgrade project		✓
Meeting with KPMG consultants (engaged by Department of Jobs, Precincts and Regions) regarding the Community Benefits Scheme (video-conference meeting)	✓	
Meeting with RMCG consultants (engaged by Rural Councils Victoria) regarding Local Government Careers Pathway Program (video-conference meeting)	✓	
Attended Taradale Community Forum		✓
Attended Rural Councils Victoria Strategic Planning Workshop as Loddon Campaspe's representative (video-conference meeting)	✓	

MEETING	CEO	MAYOR
Meeting with Maree Edwards MP to discuss matters of common interest for Mount Alexander Shire (video-conference meeting)	✓	✓
Meeting with Taradale Hall Committee		✓
Gold Central Vic FM Interview	✓	
Attended Mount Alexander Health and Wellbeing Strategic Partnership meeting (Cr Bronwen Machin also in attendance)	✓	
Attended meeting with CEO's of Mount Alexander Shire Council, Castlemaine Health, CHIRP Community Health to discuss matters of common interest for Mount Alexander Shire (video-conference meeting)	✓	
Attended meeting with DELWP representatives (including Regional Director – Loddon Mallee) and Loddon Campaspe Councils CEOs to discuss climate change and renewable energy (video-conference meeting)	✓	
Attended Loddon Campaspe Councils CEOs meeting (video-conference meeting)	✓	
Attended Loddon Campaspe Regional Partnership meeting (video-conference meeting)	✓	
Gold Central Vic FM Interview	✓	
Meeting with Australian Services Union representatives to discuss upcoming Enterprise Bargaining Agreement with Jess Howard, Director Infrastructure & Development also in attendance (video-conference meeting)	✓	
Attended the Paddock Tour introduction (via video-conference)		✓
Attended funding announcement by Maree Edwards MP for Harcourt Female Friendly Change Rooms Project (Deputy Mayor, Cr Max Lesser, Cr Bronwen Machin, Cr Dave Petrusma and Jess Howard, Director Infrastructure & Development also in attendance)	✓	✓
Attended meeting with Heritage Sub-committee for Maldon Streetscape Concept Design with Cr Stephen Gardner and Jess Howard, Director Infrastructure & Development also in attendance (video-conference meeting)	✓	
Meeting with business owner in Mostyn Street, Castlemaine to discuss the Castlemaine Streetscape Project (Jess	✓	

MEETING	CEO	MAYOR
Howard, Director Infrastructure & Development also in attendance)		
Meeting with DELWP representatives (including Regional Director – Loddon Mallee) and Developer regarding planning permit matter (video-conference meeting)	✓	
Meeting with residents regarding concerns with works within a local road reserve (Jess Howard, Director Infrastructure & Development also in attendance)	✓	
Media interview for Off-lead Dog Park		✓
Gold Central Vic FM Interview	✓	
MaineFM Radio Interview		✓
Attended Maldon Streetscape Project Steering Committee meeting	✓	✓
Co-Chaired LGBTIQ+ Roundtable (video-conference meeting)		✓
Attended Loddon Campaspe Councils CEOs meeting (video-conference meeting)	✓	
Attended Rural Councils Victoria Committee Strategy Planning session as Loddon Campaspe's representative (video-conference meeting)	✓	
Attended Rural Councils Victoria Steering Committee Meeting as Loddon Campaspe's representative (video-conference meeting)	✓	

The Chief Executive Officer spoke in relation to Rural Council's Victoria, whose membership consists of 39 rural councils, and is the representative voice to State and Federal Governments.

Councillor Machin noted the attendances to three different funding announcements within the Shire.

Mayor Henderson spoke in relation to the Off-lead Dog Park.

## 12. NOTICES OF MOTION

Nil.

## 13. URGENT SPECIAL BUSINESS

Nil.

---

**14. CONFIDENTIAL REPORTS**

Nil.

**15. MEETING CLOSE**

Meeting closed at 7.30 pm