

Corangamite Shire



MINUTES

Ordinary Council Meeting

Held 7.00 pm • Tuesday 23 February 2016

Killara Centre

210-212 Manifold Street, Camperdown

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**MINUTES OF THE ORDINARY MEETING OF THE
CORANGAMITE SHIRE COUNCIL HELD AT KILLARA CENTRE,
210-212 MANIFOLD STREET, CAMPERDOWN 7.00 PM ON
23 FEBRUARY 2016**

1. PRESENT

Councillors J. Beard (Chairperson), R. Gstrein, P. Harkin, W. Oakes,
C. O'Connor, G. Smith, N. Trotter.

Officers Andrew Mason, Chief Executive Officer
Ian Gibb, Director Sustainable Development
Brooke Love, Acting Director Works and Services
David Rae, Director Corporate and Community Services

2. APOLOGIES

Nil.

3. DECLARATIONS OF CONFLICT OF INTEREST

Cr N. Trotter declared a direct conflict of interest in Agenda item 9.1 and left the meeting prior to any discussion or vote on the matter.

4. CONFIRMATION OF MINUTES

RECOMMENDATION

**That the Minutes of the Corangamite Shire Ordinary Council meeting held on
Wednesday 27 January 2016 be confirmed.**

COUNCIL RESOLUTION

MOVED: Cr Oakes
SECONDED: Cr Trotter

That the recommendation be adopted.

CARRIED

DISCLAIMER

The advice and information contained herein is given by the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written enquiry should be made to the Council giving the entire reason or reasons for seeking the advice or information and how it is proposed to be used.

5. DEPUTATIONS & PRESENTATIONS

The Mayor, Cr J. Beard, invited members of the public who had requested to address Council to make their presentations.

The following items were submitted:

- Mr Graham Arkinstall, on behalf of Friends of Mount Leura Inc., regarding Agenda item 9.2 Application to Amend Planning Permit PP2001/160 - Extension of an Existing Scoria Quarry.
- Mr Peter Molan, Terang, regarding Agenda item 9.2 Application to Amend Planning Permit PP2001/160 - Extension of an Existing Scoria Quarry.
- Ms Rosalind Mearns, Community Advocate from National Trust of Australia (Victoria), regarding Agenda item 9.2 Application to Amend Planning Permit PP2001/160 - Extension of an Existing Scoria Quarry.

6. MAYOR'S REPORT

6.1 Mayor's Report

Author: Jo Beard, Mayor

File No: D16/78

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - Jo Beard

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

Issues

During the past month I have had the opportunity to attend many significant events and celebrations, as well as represent Council at a regional level.

On 1 February, I had the pleasure of attending the 100th birthday celebrations for one of life's true beauties, Jean Gray of Terang. It was a wonderful afternoon spent with Jean and her family and friends at the May Noonan Hostel. She is such an inspiring lady who just lit up the room with her smile, wit and lessons for a happy life.

The Chief Executive Officer, Andrew Mason, and I attended the Great South Coast Group Board meeting on 5 February, which included updates on the Group's Beyond the Bell program and the Great South Coast Prevention of Violence against Women and Children Strategy. These important projects have been identified as priorities within our region to address life's challenges a proportion of our residents face. We are fortunate to have such dedicated teams steering these projects to deliver better outcomes for our future generations.

I was very pleased to attend the 2016 Sungold Field Days on 10 February and assist with judging for the site competition. The annual Field Days are a significant event for the district, enabling our farmers to get together and exchange ideas on a broad range of issues. It was a great opportunity to witness firsthand the innovative approaches that are being made to improve productivity for our farmers within our region. I was also impressed by the sites and the effort the businesses had gone to. Their displays and staff available ready to discuss their products was fantastic and really proved how much these events are valued by all. I must congratulate Tony Rea and his team on another well run event.

On 13 February I attended the opening of the undercover BBQ area at the Timboon Playground at the conclusion of the Crazy Dress Fun Run. This was a fantastic celebration for the Timboon community. It is incredible the transformation that entire precinct has now gone through, all thanks to the many committed and passionate community members and

organisations getting behind and embracing the processes of community planning. This recently completed project that will benefit a diverse range of people wouldn't have been achieved without financial support from BHP Billiton, Corangamite Shire and the State Government. It was another example of what our communities can do when they rally together.

The fun run was also a great forerunner to Council's annual Recreation Give it a Go program which commenced on 19 February. I encourage everyone who is able to consider getting active and participating in events like the fun run and Recreation Give it A Go. It is a great opportunity to try something different and for our clubs and sporting groups to showcase what they have to offer. Plus it can be a way of meeting new people with little to no cost, get fit, all while having a good time. We live in an amazing part of the world with such diversity in its natural surrounds, so I encourage everyone to 'Get up', 'Get Out' and 'Give It a Go'.

Andrew Mason and I participated in a regional meeting on 15 February with our local Federal Member for Wannon, Dan Tehan MP, to discuss applications for the Wannon Stronger Communities Programme. This Federal Government initiative will deliver social benefits across Australia, through funding small capital projects within our local communities. Since the meeting, Dan Tehan was appointed as Minister for Veteran Affairs and Minister for Defence Materiel. I have written to Minister Tehan, offering Council's congratulations and best wishes in his promoted role. We are fortunate to have a strong, and productive relationship with Minister Tehan, and look forward to continuing this into the future whilst he represents our Wannon electorate.

On 21 February the Victorian Branch of the Vietnam Veterans Association of Australia conducted simultaneous graveside vigils at cemeteries throughout Victoria as part of the 50th Anniversary of the Battle of Long Tan. I attended the vigil at the Cobden cemetery and had the honour of laying a wreath on behalf of Corangamite Shire Council upon the grave of Private Ralph Niblett, who bravely lost his life in that battle. It was a moving ceremony that allowed for reflection and solidarity of all those that were present. Private Niblett was only 22 years of age when he passed away so tragically serving on behalf of his country. To be able to stand alongside others and remember him and all those that sacrificed their lives for our benefit was a moment in time I will never forget. We should never lose sight of the fact that we are lucky because of those that lived before us.

Information only.

7. COMMITTEE REPORTS

7.1 Audit Committee Independent Member Appointment

Author: David Rae, Director Corporate and Community Services

File No: D16/71

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - David Rae

In providing this advice to Council as the Director Corporate and Community Services, I have no interests to disclose in this report.

Summary

The purpose of this report is to recommend the appointment of an independent member to Council's Audit Committee (the Committee).

Introduction

Council's Audit Committee is established under Section 139 of the *Local Government Act 1989* and is an advisory committee to Council. Committee appointments can only be made by Council.

In accordance with the Committee's Charter, the Committee is comprised of two Councillors and three external or independent members. The Mayor is also an ex-officio member, however, this position does not have voting rights. Independent members are appointed by Council for a three year period with staggered tenures to ensure continuity. The tenure of Ms Jacinta Thomas expired 31 January 2016. Council advertised for expressions of interest to fill the vacancy in January 2016.

Issues

An Expression of Interest process to fill vacancies was undertaken during January 2016. A panel consisting of the Councillor Gstrein, Councillor Trotter and David Rae, Director Corporate and Community Services, interviewed applicants in early February 2016. All applicants were assessed against a standardised evaluation criterion and are summarised on the evaluation which is attached under separate cover.

The panel's preferred applicant is Mr Colin Hayman. Mr Hayman has the necessary skills and experience to serve as an independent member, possesses financial competencies and is the only applicant that resides in Corangamite Shire. A copy of the expressions of interest received from each applicant is also attached under separate cover.

Policy and Legislative Context

The appointment of an independent member to Council's Audit Committee is consistent with the Committee's Charter and in accordance with the following commitments in the Council Plan 2003-2017 that:

Council will demonstrate high levels of ethical behaviour and corporate governance standards. We will make budgetary decisions that are reflective of our financial circumstances. We will advocate for and with the community to achieve outcomes.

Model contemporary standards of corporate governance and professional standards.

Council will recognise and make decisions that reflect our financial circumstances.

Internal / External Consultation

Expressions of interest were advertised in local newspapers in January 2016. All applicants were interviewed by Council appointed members of the Audit Committee and Director Corporate and Community Services.

Financial and Resource Implications

There are no financial or resource implications as a result of this report.

Options

Council must appoint an independent member to the Audit Committee.

Conclusion

The appointment of independent external members to Council's Audit Committee is consistent with Council's Audit Committee Charter and 'Audit Committees - A Good Practice Guide for Local Government'.

RECOMMENDATION

That Council:

- 1. Appoint Mr Colin Hayman as an independent (external) member of the Audit Committee for a three year period expiring 31 January 2019.**
- 2. Thank unsuccessful applicants for their interest.**
- 3. Thank Ms Jacinta Thomas for her service to the Audit Committee.**

COUNCIL RESOLUTION

MOVED: Cr Gstrein

SECONDED: Cr Trotter

That the recommendation be adopted.

CARRIED

Attachments

1. Expression of Interest - Evaluation - Under Separate Cover - Confidential
2. Expression of Interest - Applications - Under Separate Cover - Confidential

8. INFORMATION BULLETIN

Nil.

9. PLANNING REPORTS

Cr N. Trotter declared a direct conflict of interest in Agenda item 9.1 and left the meeting prior to any discussion or vote on the matter at 7.19 pm.

9.1 Use and Development of Land for Rural Industry (Ice Cream Manufacturing), Manufacturing Sales and Restaurant (Ice Cream sales) and Alteration to access to a Road Zone 1

Author: Stephanie Durant, Planning Officer

File No: D16/35

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - Stephanie Durant

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

Summary

The application proposes to use and develop the land for ice cream manufacturing, the sale of ice cream and an ice cream restaurant. Two objections have been received to the application. It is recommended to issue a Notice of Decision to Grant a Planning Permit.

Introduction

Subject Land

The subject site is 1.07 hectares, irregular in shape and is accessed from Barrett Street. Powers Creek runs through the site in a north east direction. The site rises sharply towards Barrett Street and falls towards Powers Creek, however the development area is relatively flat. The embankment along Powers Creek and the embankment along Barrett Street both contain stands of mature native vegetation. The land is zoned Rural Activity Zone and was rezoned to facilitate Tourism development.

Surrounding Area

The site is bound by Barrett Street to the north and east, Powers Creek to the south and private land to the west. The wider surrounds are a mix of uses with residential development located north of Barrett Street, commercial development located to the south and tourism and recreation uses including the Timboon Rail Trail and Timboon Distillery located to the south and along the Powers Creek corridor.



Figure 1 Subject Site and Surrounds

Proposal

The application proposes to use and develop the land for ice cream manufacturing, the sale of ice cream and an ice cream restaurant. The single storey development is elongated in shape, approximately 260 square metres in area and located centrally within the site.

The factory area is approximately 135 square metres in area and is to contain up to eight ice cream machines and vats, cool room, freezer, dry store, mix process room and loading dock. The factory is expected to produce approximately 40,000 litres of ice cream per annum, which equates to 400 litres of milk processed per week. Milk will be delivered to the factory once a week. All waste water from the factory is to be discharged into the sewer. No onsite wastewater is proposed. The factory is anticipated to employ between 3-4.5 equivalent full time positions. The Churn Room is designed to be an interactive make your own ice cream experience for visitors. Take home tubs of ice cream that have been made onsite and ancillary merchandise/souvenirs are proposed to be sold onsite.

The restaurant area is approximately 125 square metres in area and contains indoor seating for 27 patrons and an outdoor decking area for 45 patrons. The restaurant is to serve ice cream, ice cream desserts, coffee and soft drinks. Preparation of ice cream desserts will occur in a small kitchen located to the rear of the ice cream servery area. No other meals are proposed to be served. The operating hours are to be 10am-5pm 7 days a week.

The factory and restaurant areas are linked by an entrance, waiting area, theatre and viewing area, visitor toilets (male, female and accessible) and the Churn Room. The Churn Room is to be semitransparent space with the use of laser cut aluminium panels in a 'Dulux Energy' green. The restaurant, servery and Churn Room feature a floating roof structure with highlight glazing to allow natural light to these areas of the building.

The building entrance features a glazed entry and there is a glazed wall on the south-western side of the building to allow views from the restaurant to Powers Creek. The

external walls of the restaurant are clad in Australian Hardwood timber cladding which has no finish and therefore will be left to grey over time. The factory building will be constructed from Colourbond Custom Orb cladding in 'Steel Mist.' It is screened by a timber wall along the north-western side of the building which incorporates a 'Timboon Fine Ice Cream Sign.' The roof is constructed of galvanised steel. The building will range in height from 4.6 metres to 5 metres.

Vehicle access is proposed to be via the existing access driveway off Barrett Street. This will be widened to create dual access and upgraded. The application proposes to provide 33 car parking spaces, two bus parking bays as well as bicycle racks. A 71m² loading/unloading area is proposed as part of the development.

Policy and Legislative Context

Zoning

The land is located within the Rural Activity Zone-Schedule 1 and is not covered by any overlays. A planning permit is required under Clause 35.08 of the zone for use and development of the land for a rural industry (ice cream factory), manufacturing sales (sale of ice cream) and restaurant (ice cream restaurant).

State Planning Policy Framework

Clause 11.09 Great South Coast Regional Growth seeks to strengthen the region's economy through increased industry diversification, innovation and development.

Clause 13.04-1 Noise Abatement seeks to ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Clause 17.03-1 *Facilitating Tourism* seeks to:

- Encourage the development of a range of well-designed and sited tourist facilities, including integrated resorts, motel accommodation and smaller scale operations such as host farms, bed and breakfast and retail opportunities.
- Seek to ensure that tourism facilities have access to suitable transport and be compatible with and build upon assets and qualities of surrounding urban or rural activities and cultural and natural attractions.

Local Planning Policy Framework

Clause 21.04 identifies tourism as a growing market for Timboon and development associated with the tourism industry is encouraged. Assets include boutique accommodation, proximity to the coast and Great Ocean Road, walking trails, the natural environment and heritage. Opportunities exist within the township to capitalise on these assets particularly on the railway land directly adjacent to the main commercial precinct.

Clause 22.03-4 Tourism Use and Development. Objectives of this clause are:

- To support quality tourist development in association with the landscape and the heritage values of rural and urban values.
- To focus coastal related tourism use and development in the towns of Port Campbell and Princetown and on strategic tourism opportunity sites.
- To promote tourism accommodation, activities and services that will attract visitors to the Shire, serve the needs of tourists and showcase local produce and features.
- To encourage tourism development related to agricultural and other rural based industries.

- To facilitate tourism development, uses and activities that will generate local employment opportunities.
- To encourage specific and limited land uses that fulfils identified tourism needs and opportunities.

Particular Provisions

Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road.

A planning permit is required under this clause to create or alter access to a Road Zone 1 (Barrett Street) and requires referral to VicRoads.

Clause 52.06 Car Parking

Pursuant to Clause 52.06, the proposed uses (Rural Industry, Restaurant and Manufacturing sales) require the following car parking rates:

- Rural Industry: 4 spaces (2.9 per 100 square metre of floor area)
- Restaurant: 28 spaces (0.4 per patron).
- Manufacturing Sales 1 space (4 per 100 square metres leasable floor area).

The application provides 33 car parking spaces which meets this requirement.

Clause 52.07 Unloading and Loading of Vehicles

Pursuant to Clause 52.07 a minimum area of 27.4 square metres must be provided for loading and unloading of vehicles. The application proposes to provide 70 square metres which therefore meets this requirement.

Internal / External Consultation

Referrals

The application was referred to VicRoads, Wannon Water, Corangamite Catchment Management Authority, Environment Protection Authority and Councils Assets and Environmental Health Department.

Advertising

Notice of the application was given in accordance with the *Planning and Environment Act 1987* with all adjoining landowners and occupiers being given notice and a notice placed in the Warrnambool Standard and the application was placed on Councils website.

Objections

Two objections were received to the application. The issues raised in the objections and an officer response to each are provided below.

Objection	Officer Response
Noise and odour from factory, trucks and restaurant	The refrigeration plant is to be contained within the building which will greatly reduce the potential noise impacts of the development. Milk is to be delivered once a week to the site, which will also limit the potential impact of truck noise. Operating hours for the facility will be 10am-5pm and therefore noise outside of these hours will be minimal. Furthermore, the premises would need to ensure that noise emitted from the factory does not exceed the recommended

Objection	Officer Response
	<p>levels as set out within the EPA publication 'Noise from Industry in Regional Victoria NIRV: EPA Publication 1411, 2011.'</p> <p>In relation to odour, as all waste will be transferred to the sewer the potential for odour is greatly reduced. In light of all these requirements it is considered that the amenity of the surrounding area will not be unreasonably impacted upon as a result of this proposal.</p>
Proximity of development to residential areas	<p>The EPA publication <i>'Recommended Separation Distances for Industrial Residual Air Emissions'</i> does not require a separation distance for the production of milk or dairy products at a scale of less than 200 tonnes per year (the factory will process 22 tonnes per year). It is considered that as all wastewater will be discharged to sewer and the refrigeration plant will be contained within the building there will be minimal, if any noise emissions beyond the property boundary. This view has been reiterated by the EPA who have provided comment on the proposal. If the factory wanted to produce more than 200 tonnes of milk or dairy products per year this would require a separate licence from the EPA. Considering Timboon Ice Cream is an artisan business an expansion to a size that would require an EPA licence is highly unlikely to occur in the future.</p>
Site is not appropriate for the development	<p>The site is identified as a site for tourism related use and development within the Corangamite planning scheme and is located in an existing tourist and recreation node. Both of these factors make the site suitable for this use and development.</p>
Safety and Traffic	<p>The existing site access from Barrett Street will continue to be used as the access point for the development. It will be required to be upgraded with appropriate line marking and signage to the satisfaction of VicRoads who have provided conditional consent to the proposal. Pedestrian access from the development to link with the nearby footpath on Barrett Street will be a planning permit condition.</p>

Consultation

An onsite meeting was held with the permit applicant, owners, objectors, Councillors and planning officers on 2 February 2016. Further discussion with the objectors has occurred following the onsite meeting, however, whilst there was some consensus at this onsite meeting, none of the objections have been withdrawn.

Assessment

Clause 22.03-4 on Tourism Use and Development and the Local Planning Policy on Timboon promote tourism services that will attract and serve the needs of tourists and showcase local produce and features. It also encourages tourism related to agricultural and other rural based industries. This site has been identified strategically within the Corangamite Planning Scheme for its use for tourism related development through the application of the Rural Activity Zone. Clause 22.03-4 sets out a range of decision guidelines that the responsible authority must consider as relevant when assessing tourism related use and development. The following decision guidelines are considered relevant to this application.

Decision Guideline	Officer Response
The cumulative impacts of tourism development.	The proposal will further enhance Timboon’s role as a gourmet food destination, enhance visitor experience to in the area and will complement the existing tourism and recreation uses in this precinct.
The impact of the design and siting of proposed buildings and works on: the natural and built environment the landscape features of the immediate environs the topography and topographical features of the site.	The building is nestled between embankments within the Powers Creek Reserve and has been designed to respond to the natural environment and landscape features of the area to ensure that is not visually prominent when viewed from public vantage points. The development has responded to the topography of the site and as a result minimal cut and fill is required. The stands of mature trees within the Powers Creek waterway will filter views from the reserve as well as Barrett Street. Landscaping is proposed to soften the edges of the building, driveway and car parking areas.
Whether the proposed use and development is integrated with existing commercial use and development.	The site is located within the Timboon town centre and is within walking distance to existing commercial development along Barrett Street and Curdievale Road and the Timboon Distillery.
The proximity of the proposed development to transport routes.	The site is located in close proximity to the Bailey and Barrett Street intersection, which are the main thoroughfares through Timboon. It is also located directly adjacent to the Camperdown-Timboon Rail Trail which is a popular walking and cycling route.

Decision Guideline	Officer Response
The visual prominence of buildings and works when viewed from public vantage points, including tourist attractions and tourism routes.	The development will be visible from the Camperdown-Timboon Rail Trail, however due to the building design and existing mature stands of vegetation along Powers Creek, the building will not be visually dominant.
Whether the height, scale, mass and colour of the proposed development is compatible with the building forms and types evident with the surrounding environment.	The height, scale and mass of the building is comparable to other buildings within close vicinity of the site such as the Timboon Railway Distillery and the building footprint is relatively small in comparison to the size of the subject site. The use of natural materials such as timber cladding and screening and muted tones will ensure the proposed developments do not dominate the landscape setting.
The impact of the proposed development on native vegetation, watercourses and other natural features.	No vegetation is proposed to be removed as part of the application. Stormwater will be required to be sent to a legal point of discharge and sediment traps will be required to be installed to prevent sediment, litter, oil, grease and detergents from entering the stormwater system.
The capability of the site to accommodate the proposed use and development.	Power, water and sewerage can be provided to the site and the site has direct access to an arterial road.
The provision of access to and within the site from internal and external roads.	Vehicle access is proposed to be via a dual access off Barrett Street.
The provision of car parking areas for patrons.	33 car parking spaces will be provided onsite. This meets the requirement under Clause 52.06 of the Corangamite planning scheme.

Options

Council has the following options:

1. Issue a Notice of Decision to Grant a Planning Permit, subject to conditions as set out in the officer's recommendation.
2. Issue a Notice of Refusal to Grant a Planning Permit.

Conclusion

The proposed use and development of the ice cream factory and restaurant is considered to support and be consistent with the aims and objectives of the Corangamite Planning Scheme. It will further enhance Timboon as a gourmet food destination and is appropriately located within an existing tourism/recreation node, is zoned for tourist use and is in close proximity to the Timboon town centre. Any potential amenity impacts on residential areas are considered to be minimal and can be addressed through planning permit conditions. It is therefore considered that this proposal should be supported subject to conditions.

RECOMMENDATION

That Council, pursuant to Section 69 of the *Planning and Environment Act 1987*, resolve to issue a Notice of Decision to Grant Planning Permit PP2015/150 for the Use and Development of Land for Rural Industry (Ice Cream Manufacturing), Manufacturing Sales and Restaurant (Ice Cream Restaurant) and Alteration of access to a Road Zone 1 at 1 Barrett Street in Timboon and subject to the following conditions:

Amended Plans required

1. Before the use and development commences amended plans must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and a minimum of three copies provided. Such plans must be generally in accordance with the plan submitted but modified to show:
 - (a) The provision of an all-weather sealed pedestrian access way from the development to the property boundary connecting the extension of the Barrett Street footpath alongside the picnic area near the access way entrance to the development.

Use

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The use may operate only between the hours of 9am-7pm Monday to Sunday (including public holidays). These times must not be altered without the written consent of the Responsible Authority.
4. Deliveries to and from the site must only take place between:
 - a) 7am and 10pm Monday to Friday
 - b) 9am and 10pm Saturday, Sunday or Public Holidays.

Landscaping

5. Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
6. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Parking and access

7. No fewer than 33 car spaces must be provided on the land for the use and development, including two spaces clearly marked for use by disabled persons. This requirement can only be varied with the written consent of the Responsible Authority.

8. Prior to the commencement of the use, a traffic and parking management plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted and once approved will form part of this permit. The plan must include:
- a) how access to the development will integrate with traffic entering and exiting the site from the adjoining service road and Barrett Street (traffic restrictions may be required);
 - b) turning movements of buses and service vehicles within the car park to ensure they can be accommodated;
 - c) details of how parking bays will be designated in the car parking area on the gravel surface and
 - a) barriers such as bollards around the perimeter of the car park to prevent vehicles going beyond the car parking area.
 - b) surfacing suitable for vehicular traffic in all weather conditions;
 - c) be constructed and completed to the satisfaction of the Responsible Authority;
 - d) be drained in accordance with an approved drainage plan and
 - e) provide signage directing drivers to the area(s) set aside for car parking.
- to the satisfaction of the Responsible Authority.
9. Before any development commences, a construction management plan shall be submitted to and approved by the Responsible Authority. The plan must ensure that any potential risks associated with construction vehicles entering and existing the site are addressed.

Drainage

10. Before any development commences a properly prepared drainage discharge plan with computations to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and a minimum of three copies must be provided.

The plan must show:

- a) How stormwater runoff generated from the development, including the roof of the proposed building and the gravel car park, will be discharged to a legal point of discharge.
- b) Details of what treatments using water sensitive urban design principles will be in place for controlling sediments, erosion and pollutants generated during and after construction of the development.

VICROADS

11. Prior to the development coming into use, the road surface within the access area from the Timboon-Colac Rd (Barrett Street) to the proposed development shall be upgraded with a sealed asphalt surface to the satisfaction of the Responsible Authority.
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12. Prior to the development coming into use, appropriate line marking and signage shall be installed at the access point from Timboon-Colac Rd (Barrett Street) to the satisfaction of VicRoads (design to be submitted for approval).

ENVIRONMENT PROTECTION AUTHORITY

13. Offensive odours must not be discharged beyond the boundaries of the premises.
14. Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.
15. Sediment traps or similar, must be installed to prevent the transportation of sediment, litter and wastes oil, grease and detergents from vehicles to the stormwater system.
16. Stormwater contaminated with waste must not be discharged beyond the boundary of the premises and be collected and disposed of off-site by an EPA approved contractor or sent to sewer under a Trade Waste Agreement.
17. A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines 1992 or as amended.

CORANGAMITE CATCHMENT MANAGEMENT AUTHORITY

18. The finished floor level of the proposed development is a minimum of 300mm above the immediate ground level along the Barrett Street side of the building

WANNON WATER

19. The provision, at the developers cost, of the required sewerage works necessary to serve the proposed development. The works are to be constructed in accordance with the plans and specifications approved by Wannon Water.
20. The provision, at the developers cost, of the required water supply works necessary to serve the proposed development. The works are to be constructed in accordance with the plans and specifications approved by Wannon Water.
21. The developer entering into an agreement with Wannon Water for payment of the new customer contributions applicable to the proposed development.
22. The developer must obtain the necessary consents and approvals for:
- a) Alteration to or the connection of on-site plumbing.
 - b) The discharge of "trade waste" (other than domestic sewage) from the property.

Expiry

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

- a) **The use and development is not commenced within two (2) years of the date of this permit.**
- b) **The development is not completed within four (4) years of the date of this permit.**

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six (6) months afterwards.

COUNCIL RESOLUTION

MOVED: Cr Harkin

SECONDED: Cr Oakes

That the recommendation be adopted subject to the amendment of the section of the *Planning and Environment Act 1987*, to read section 64.

CARRIED

Attachments

1. PP2015/150 Planning Application Documents - Under Separate Cover
2. Objections - Under Separate Cover

Cr N. Trotter returned to the meeting at 7.25 pm.

Ms Stephanie Durant left the meeting.

9.2 Application to Amend Planning Permit PP2001/160 - Extension of an existing Scoria Quarry

Author: Greg Hayes, Manager Planning and Building Services

File No: D16/49

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - Greg Hayes

In providing this advice to Council as the Manager Planning and Building Services, I have no interests to disclose in this report.

Summary

This is an application to amend a Planning Permit PP2001/160 originally issued by VCAT to extend a scoria quarry adjacent to Mount Leura in Camperdown. Following notice of the proposed permit amendment, 13 objections were received primarily on visual amenity and heritage grounds. Following assessment concentrating on the visual impact of the proposal, it is recommended that Council issue a Notice of Decision to grant an Amended Planning Permit subject to conditions set out in this report.

Introduction

This planning permit application PP2001/160A seeks to amend a planning permit so as to allow an expansion of an existing quarry adjacent to Mt Leura in Camperdown.

History

The planning permit PP2001/160 was issued in December 2002 at the direction of VCAT for the *Development and use of the land for the purpose of Extractive Industry – Scoria Quarry, in accordance with the endorsed plans*. The review was brought by the proponent and the Friends of Mt Leura following Council issuing a Notice of Decision to issue a planning permit.

The original planning permit and endorsed plans can be found in Attachment 1.

Subject Land

The quarry is located 2km east of Camperdown on the Princes Highway adjacent the eastern edge of the Mount Leura Scoria Cone. The subject site is visible from the summit of Mount Leura and also a section of road to the summit. The quarry is not visible from any

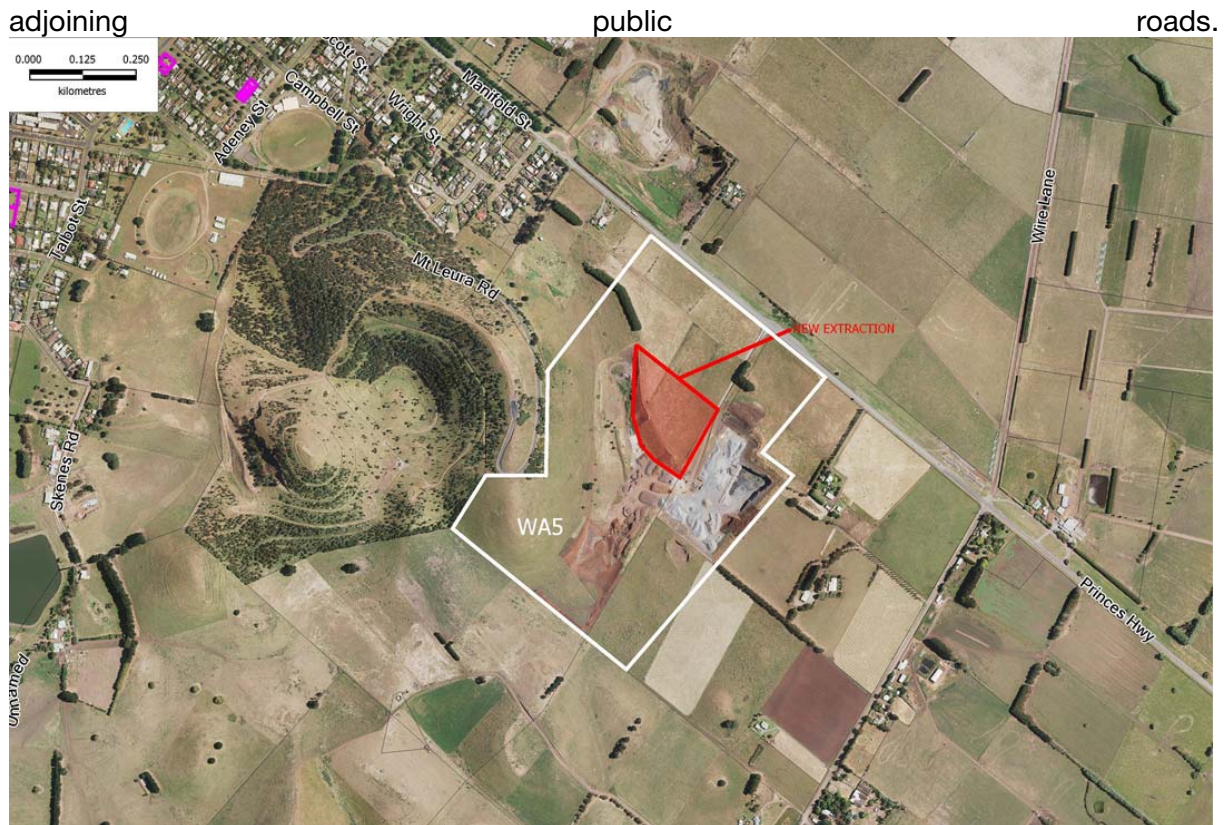


Figure 1: Location of quarry extension

Proposal

The quarry currently operates under approval by Energy and Earth Resources Victoria (Work Authority No.5). The application proposes an extension of 2.55 hectares to be located in the centre of the existing quarry operation. The area of the expansion is shown in Figure 1 above.

The proposed expansion will allow a further 580,000m³ to be extracted (this includes topsoil and overburden). The quarry operation will occur in the following three steps:

- Step 1 will involve rehabilitating the eastern section of the site forming new slopes (terminal batters) with a minimum 1:3 slope. This will determine the final finished floor of the quarry. This stage will also create a new and permanent haul road/access road formed with the slope of the batters.
- Step 2 will extract material southwards to the southern limit of extraction forming terminal surfaces for the floor, eastern, southern and western terminal batters.
- Steps 1 and 2 will create a more pronounced area for the extraction of new material in what is called Stage 3 in the central area of the site.

Extraction is to be carried out in panel formation from east to west to allow for a reduced exposure to the extraction area (limited to views only from the east - away from Mt Leura). This is shown in figure 2 below. There will be no blasting or use of explosives on site.

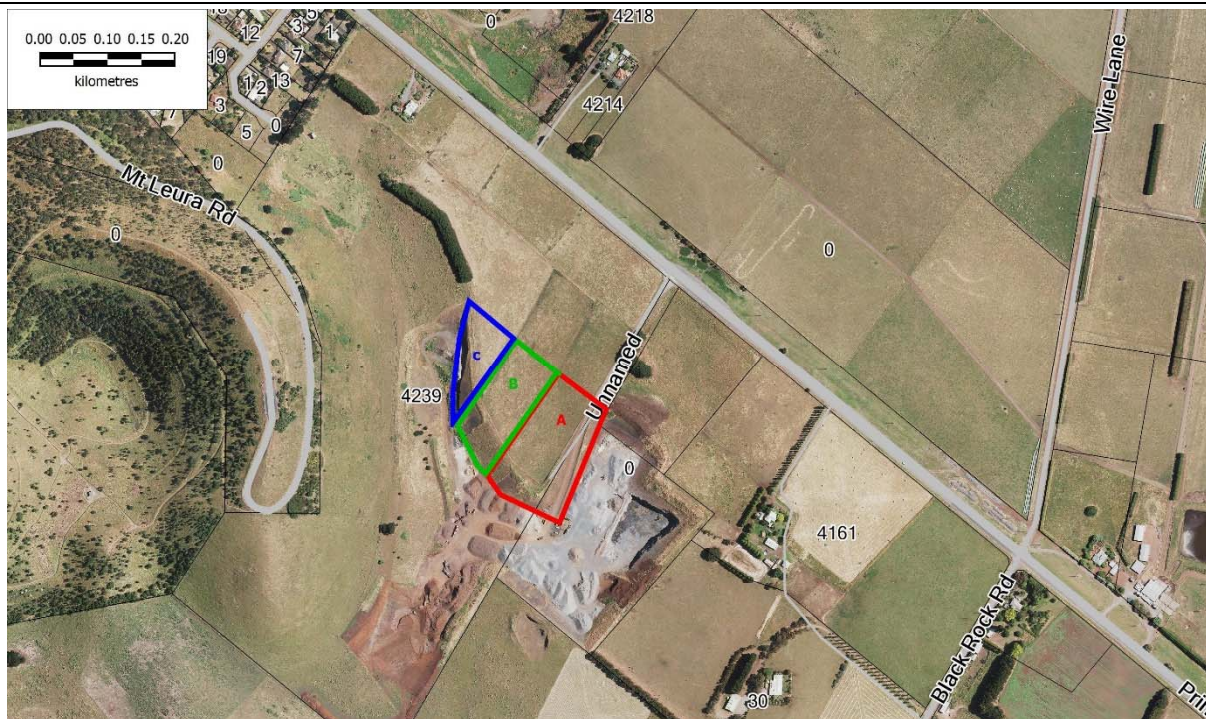


Figure 2 Sequencing of Extraction and Rehabilitation (approximate only)

Buffer zones

The proposal will maintain a 40 metre buffer zone along the highway frontage of the site. A 20 metre wide buffer zone is to be provided around the remaining area in keeping with the Work Authority approval. Native vegetation will be planted within the buffer zone fronting the highway between the existing access road and north-eastern corner of the extension area, with species selected from the Mount Leura and Mount Sugarloaf Masterplan. A tree plantation is also proposed for the eastern boundary of the site.

Overburden and topsoil

Overburden will be piled in the floor of the quarry and mixed with product or used for reclamation. Topsoil in the eastern buffer will be retained as a screen for houses to the east and will be used in the final rehabilitation of the site. New topsoil stockpiles will not be stored in the buffer zones. These stockpiles will have a maximum height of 2 metres and will be vegetated to prevent erosion.

Operating hours

Operation hours for the quarry are proposed to accord with the approved Work Authority No.5 and will be between 6am and 6pm (extended to 7:30pm during daylight savings) Monday-Friday and 6am and 2pm on Saturday. No works are proposed on Christmas Day, Boxing Day, Good Friday and Easter Monday apart from essential maintenance. No work shall take place on Sundays apart from loading of visitor trucks and essential plant maintenance.

Access

Access to the site is from an existing access road from the Princes Highway.

Noise and Air Quality

Acoustic emissions at the quarry are proposed to comply with the levels specified within EPA publication 1411 'Noise from Industry in Regional Victoria.' Noise levels will be

measured at the quarry boundary initially and then at sensitive receptors offsite where the initial evaluation indicates the potential for excessive noise emission. If dust is generated from truck movements along the access track dust suppression measures will be introduced.

Rehabilitation

The quarry is proposed to be progressively rehabilitated to return to grazing land. The access track will remain for use as a farm access track. The final rehabilitation plan is also a requirement in the approved Work Authority No.5.

Policy and Legislative Context

The application to amend the planning permit is assessed against the provisions of the Corangamite Planning Scheme. Council are the Responsible Authority for determining the amendment application.

Relevant Planning Scheme Provisions

The land is located within the Farming Zone and is also covered by a Significant Landscape Overlay-Schedule 1 (SLO1). Pursuant to Clause 35.07-4 of the Farming Zone and Clause 42.03-2 of the Significant Landscape Overlay a planning permit is required to carry out works associated with stone extraction.

The purpose of the Farming Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

The purpose of the Significant Landscape Overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify significant landscapes.
- To conserve and enhance the character of significant landscapes.

The Statement of Nature and Key Elements of the Landscape in Schedule 1 to the Significant Landscape Overlay (SLO1) are:

The Shire contains some of the State's most significant volcanic landscapes and features. These areas provide visual interest with variation in topography and vegetation and are to be protected from inappropriate development. One significant area includes Lake Gnotuk and Lake Bullen Merri and their surrounds. These lakes are both recognised for their scientific, environmental and landscape significance. They are considered to be a volcanic feature of international significance, both in terms of their geological form and as a scientific research site and the lakes and their surrounds form an outstanding and unique landscape that is attractive to both residents and visitors.

The Landscape character objectives to be achieved in the Schedule 1 to the Significant Landscape Overlay are:

- To protect and enhance the visual and environmental quality and character of volcanic features, including crater lakes and scoria cones and their environs.
- To provide control over the visual impact of development on prominent volcanic features.
- To recognise the landscape, geological, biological, historical and recreational significance of volcanic features, including crater lakes, scoria cones and their environs.
- To promote the siting and design of buildings and works, including the choice of building materials that is responsive to the character of the volcanic landscape.
- To protect the Lake Gnotuk and Lake Bullen Merri crater slopes and crater rims from development which compromises the significance of these lakes including development that modifies the crater slopes and the geological integrity of this feature.
- To protect the Lake Gnotuk and Lake Bullen Merri crater slopes and crater rims from development, which introduces additional buildings into the lakes' volcanic landscape to further remove it from a natural state or that threatens water quality through effluent or sediment runoff.

Other relevant provisions of the Corangamite Planning Scheme are within Clause 65 which sets out the general decision guidelines for all permit applications. The relevant provisions are:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.

Internal / External Consultation

Notice of this permit application was given from 27 November 2015 and attracted 13 objections. The objections in full can be found at Attachment 2 (under separate cover), however are summarised in the below table with an officer response to each:

No.	Summary of Objection	Officer response to Objection
1, 5-10	<ul style="list-style-type: none"> • Lack of environmental consideration: concerns about the need for rehabilitation after the quarrying is completed. The desire is to rehabilitate the quarry site into a 'volcanic plains woodland' to enhance the environmental and aesthetic quality of the reserves. 	<p>A Work Authority with Rehabilitation Plan has already received approval from the Department of Economic Development, Jobs, Transport and Resources. There is no evidence that a woodland has existed onsite for over 100 years with this result being contrary to the landowner's wishes.</p>

No.	Summary of Objection	Officer response to Objection
2	<ul style="list-style-type: none"> Adverse impacts on views from the Mount Leura summit, accompanying trails and the road: the proposal will be 'extremely evident' within the reserve and the loss of visual amenity will be too significant. No net community benefit from this proposal. 	<p>The operation of the quarry is likely to alter only in a minor way with extraction techniques employed to reduce the impact to an extent where the current minor view of the quarry is unlikely to change in any significant way.</p>
3	<ul style="list-style-type: none"> Concern about the 'considerable, long term loss of visual amenity' during and after the quarry extension. The proposal will be 'extremely evident' within the reserve and the loss of visual amenity will be too significant. This significant Australian landscape feature will be desecrated by the proposal. A lack of understanding and appreciation of the landscape significance is demonstrated by the applicant. Contradictions of relevant State and Local planning schemes including the State Planning Policy Framework, Municipal Strategic Statement and Schedule 1 to the SLO. 	<p>The long term impact of the quarry is likely to be positive as the return of this land to an undulating grassed landform that has the ability to meet the purposes of the land owner farmer is seen as the best outcome for the land adjacent Mount Leura.</p>
4	<ul style="list-style-type: none"> Further degradation to a significant landmark within Shire and subsequent adverse impacts on visual amenity. The importance of this landmark to the community is shown through the enthusiastic efforts to revegetate the reserve. 	<p>The impact on the Maar complex is minimal however there will be a minor impact on view lines from Mount Leura. However this impact is not considered significant to the dominant view from the look out and is appropriately managed by extraction techniques.</p>
11	<ul style="list-style-type: none"> The proposal runs counter to the <i>Mt Leura and Mt Sugarloaf Landscape Master Plan, Management Plan and Implementation Plan</i> (1994) which has been adopted by Council. The extension would have a deleterious impact on elements of this plan including a considerable, long term loss of visual amenity. The proposal runs counter to the objective of Schedule 1 to the SLO in the Council Planning Scheme. The Leura Maar (complex) is included in the National Trust's Register. No net community benefit from this proposal. 	<p>This plan was largely superseded by the Mount Leura and Mount Sugarloaf Management Plan adopted by Council in 2013 however no evidence that this proposal is contrary to the 1994 plan can be found.</p> <p>The proposal and objectives of the SLO1 are assessed later in this report.</p> <p>The statement there is no net community benefit is debatable as there are key economic advantages to local scoria quarrying whilst the impact from this proposal on the Mount Leura Maar complex is overstated.</p>

No.	Summary of Objection	Officer response to Objection
12	<ul style="list-style-type: none"> Concerns about the impacts on 'Camperdown's significant features' and a visible 'scar' on the landscape of Shire. 	<p>The rehabilitation of the site will return it to an acceptable and positive landform in keeping with the landowner's wishes.</p>
13	<ul style="list-style-type: none"> The Leura Maar (complex) is included in the National Trust's Register and the proposal is in direct opposition to the objectives of Schedule 1 to the SLO in the Council Planning Scheme. The proposal may further impact on the visual and environmental quality of the volcanic features and 'marked visual intrusion' will occur. The proposal is not consistent with maintaining the significance of the area and screen planting will not mitigate visual impacts. 	<p>The significance of the Mount Leura Maar complex is not in debate however any impact from this proposal will only occur to intermittent segments of view line from Mount Leura. The SLO1 seeks to balance the visual impact of development whilst this assessment considers what the real impact from the proposal is.</p>

Referrals

The application was referred internally to Council's Environmental Health, Environment, Planning Assets and the Recreation and Facilities units with no objections being raised subject to conditions. The application was also referred externally to VicRoads and Earth Resources Regulation at the Department of Economic Development, Jobs, Transport and Resources with no objections.

Assessment

The application has been assessed against provisions of the Corangamite Planning Scheme and the *Planning and Environment Act 1987*.

State and Local Planning Policy

State Planning Policy is strongly protective of Cultural Heritage and the protection and enhancement of Landscape and Environmental assets. There is a clear objective to protect landscapes that contribute to character and identity (Clause 11.04-2), whilst the context and setting of heritage places should be maintained or enhanced (Clause 15.03-1).

However, there is also policy to facilitate access to key construction material, "including on site quarrying" (Clause 11.09) and Clause 14 *Natural Resource Management* and one of its objectives:

To encourage exploration and extraction of natural resources in accordance with acceptable environmental standards and to provide a planning approval process that is consistent with the relevant legislation.

Local Planning Policy echoes the protection of Heritage and amenity values and draws out the Mt Leura and Mt Sugarloaf Maar as an example of a heritage asset worthy of protection. Clause 21.04 and the Camperdown Structure Plan identifies development preferences and shows the subject site as a quarry alongside the significant landscape of the Maar.

Other local policies such as Clause 22.03 *Economic Development* encourages the Shire to factor into its decision making the economic benefits that comes from development. This includes viable access to resources to build the roads that both community and tourists use.

Farming Zone

The purpose of the Farming Zone is to encourage the use and retention of productive agricultural land and can include non-agricultural uses if sustainable and they support rural communities.

The proposal seeks to continue the use of the existing quarry with the intention to rehabilitate back to grazing land. Whilst not a specified agricultural activity, quarrying is a recognised rural activity that would be supported under many conditions in the Farming Zone. The return of this land to an agricultural use would support the purpose of the zone with the rehabilitation of the land to the specifications of the farmer landowner.

The impact on the vista and character and appearance of the area is critical to this assessment and an issue best addressed in the consideration of the SLO1.

Significant Landscape Overlay – Schedule 1 (SLO1)

The purpose of the Significant Landscape Overlay is to identify, conserve and enhance the character of significant landscapes. The proposal minimises the impact of the additional extraction given that it is not seen from public areas save for the Mt Leura Lookout and intermittent areas of the Mount.

The impact of the quarrying operation on nearby Mt Leura is the critical factor. This was recognised in the VCAT decision that approved Stage 2 of the quarry. In that decision the Tribunal Members Rickards and Hewit identified:

The principle issues in this matter focus on the visual impact of the proposed extension to the quarry operations in the broad volcanic landscape within which the review site is located, and on the immediately abutting Mt Leura scoria zone specifically.

The relevant decision guidelines of the SLO require consideration of the statements and objectives in the Schedule to the overlay. These statements and objectives are given above however they specifically seek to recognise, protect and enhance the visual and environmental quality and character of the volcanic features.

The provisions of the SLO1 set out specific decision guidelines with best assessment of these guidelines being made when the recognised landscape values of Mt Leura are held up against the visual impact of the proposed quarry extension.

It is important to note that whilst the Maar complex is of considerable significance the impact of the quarry's expansion is limited to the lookout intermittent areas of Mt Leura. That is, the quarry and expansion will not be seen from any other public land and as such the impact on the broader Maar complex is negligible. Also the proposal encroaches no further onto the area surrounding Mount Leura than that which was approved by the Tribunal in 2002. The proposed changes and rehabilitation will also remove several visual scars and bare rock cuttings that currently affect the view lines from the Mount Leura lookout. The rehabilitation works propose to return the land to a shape conducive to land

surrounding the Maar complex as well as making it useable for the landowner for his agricultural purposes.

The reports by *Rosengren, Jeavons and Holmgren* all support the importance of the Maar complex however they are silent on the importance of the adjacent surrounding land in the context of the Maar. The Mt Leura and Mount Sugarloaf Management Plan adopted by Council in 2013 relates only to the immediate area of Mt Leura and Mount Sugarloaf including the land in between.

Whilst not directly relevant to this application, the Alan Willingham Camperdown Heritage Study states the view from the Mount Leura lookout is significant with all of the significant land features within 20 kilometres as well as towards Mount Elephant some 30 kilometres away. The view to the horizon catches the eye whilst the view down and to the right where the quarry sits is recessive to the broader focus of the visual panorama. When this context is considered with the operations plan to panel the extraction of Stage 3 so the cut faces away from Mount Leura, any change to the current view line from Mount Leura will not perceptibly alter.

The impact of the proposal is negligible on the broader Mt Leura Maar complex as the quarry can only be seen intermittently from Mount Leura and then in a recessive context.

This assessment concludes that the impact on the view lines from Mount Leura will be minimal and the expansion of the quarry can be managed in such a way as to further minimise any impact with the ultimate goal of returning the land to an acceptable landform befitting land adjacent to the Mount Leura and Mount Sugarloaf Maar complex. The impact on the significance of the Mount Leura Maar complex is found to be minimal with the ultimate rehabilitation of the landform being of benefit to the area.

Options

Council has the following options:

1. Issue a Notice of Decision to Grant an Amended Planning Permit subject to conditions. This is the recommended option.
2. Issue a Notice of Refusal to Grant a Planning Permit specifying the reasons for refusal.

NOTE:

It is recommended that Council issue a Notice of Decision to Grant an amended Planning Permit subject to revised conditions. In order to avoid a transformation of the planning permit whilst amending it, Council must be careful to only amend permit conditions that are relevant to the changes being sought. In order to demonstrate this, Attachment 3 has been produced to detail the exact changes to the current planning permit.

Conclusion

The significance of the Mount Leura and Mount Sugarloaf Maar complex is not in debate as is the economic and resource value of the extracted scoria. The visual impact of the expansion to the quarry from Mount Leura is of paramount consideration in determining this permit application. The impact of the expansion is considered minimal to the existing panoramic views from Mount Leura and offers no significant impact on the cultural or heritage landscape of the Mount Sugarloaf and Mount Leura Maar complex.

It is recommended that Council issue a Notice of Decision to grant an amendment planning permit subject to the amended conditions set out below.

RECOMMENDATION

That Council pursuant to Section 69 of the *Planning and Environment Act 1987* resolve to issue a Notice of Decision to Grant an Amended Planning Permit Number P2001/160A for the Development and Use of the land for the purpose of Extractive Industry – Scoria Quarry, in accordance with endorsed plans on Lot 4 LP4273, Lot 2 LP206849, Lots 2&4 LP218455, and Lot 1 TP667906P Parish of Colongulac at 4239 Princes Highway Camperdown subject to the following conditions:

1. This permit which originally authorised Stage 1 and 2 extraction of scoria for commercial sale is now amended to include stage 3 as shown in the endorsed Work Authority No.5 dated 8 October 2015 unless otherwise varied by the conditions of this permit. The Extraction of material must be in accordance with the approved Work Authority No.5 except where varied by condition on this permit.

Operating Hours Quarry Operations

2. Except for loading as hereafter provided, the use and development may operate on any day (except a Sunday or public holiday). The permitted hours of operation are between the following hours:
Monday to Friday 6:00am to 6:00pm
Saturday 6:00 am to 2:00pm
3. Truck Loading Hours - on-site loading activities may only take place from 6:00 am until 6:00pm (and 7:00pm during daylight savings periods) Monday to Sunday. No loading is permitted on public holidays.

Environmental Management Plan

4. Prior to the commencement of the use of the land as an extractive industry, an Environmental Management Plan (EMP) must be prepared to the satisfaction of the Responsible Authority in consultation with other relevant authorities. The Environment Management Plan must include details of (but not be limited to) management proposals to minimise amenity and environmental impact(s) associated with the use of the site and construction activities, and must set out objectives, performance and monitoring requirements for:
 - i. Erosion, Mitigation and Control
 - ii. Sedimentation Control
 - iii. Noise
 - iv. Dust Control
 - v. Visual Amenity including both on-site and off-site landscape maintenance
 - vi. Fire Safety
 - vii. Operational Safety
 - viii. Traffic Management
 - ix. Rehabilitation
 - x. Noxious Weed Control
 - xi. Vermin Control

Once approved, the above Environmental Management Plan shall be endorsed and will then form part of the permit.

Noise

5. Noise from the site must not exceed the limits required in the Environmental Protection Authority's - Interim Guidelines for Control of Noise from Industry in Country Victoria (EPA publication N3/89), or subsequent Guideline for control of noise from industry in country Victoria.
6. Before the use and development starts, the permit holder must install, in accordance with the advice of a suitably qualified and experienced noise control engineer, suitable reversing alarm systems to all vehicles involved in the extraction and processing of scoria to the satisfaction of the Responsible Authority, designed to reduce the noise level emanating from normal reversing alarms.
7. To a maximum practical extent, movement of cartage vehicles around the site must be carried out in a forward's direction to prevent the escape of reverse alarm sounds.
8. Prior to the commencement of the use or development, the permit holder must at its cost and to the satisfaction of the Responsible Authority, enter into an agreement with a suitably qualified and experienced noise consulting engineer to have noise levels from typical activities on the land the subject of this permit monitored not more than one month after commencement of operations under this permit and on a regular basis not exceeding six monthly thereafter and at other times as deemed appropriate by the Responsible Authority. The agreement must provide for the consulting engineer to prepare reports and forward these to the Responsible Authority to make these available for inspection free of charge. The report must identify the equipment in use at the time of monitoring and describe the nature of the activities being undertaken.

Amenity

9. The amenity of the area must not be detrimentally affected by the use or development through the:
 - i. Appearance of any buildings, works or materials;
 - ii. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam soot, ash, dust, waste water, waste products, grit or oil;
 - iii. Presence of vermin; or
 - iv. Transport of materials, goods or commodities to or from the land.
10. Load dampening facilities must be provided on site and dust suppressant measures must be carried out within the extraction and stockpile areas to the satisfaction of the Responsible Authority.
11. The site including all buildings, works and landscaping shall be maintained in a neat, tidy and safe condition in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

Maximum Area

12. An area not greater than 3.0 ha shall be open for extraction at any one time.

Conditions required by the Department of Natural Resources and Environment

Planning Administration

13. The use and development of the subject land must at all times be in accordance with the Work Authority, issued pursuant to the Extractive Industries Development Act 1995.
-

Commencement

14. The use and development of the subject land must not commence until the Work Authority is granted in accordance with the requirements of the Extractive Industries Development Act 1995.

Expiry of Works Authority

15. This permit will expire if the Work Authority for the use issued under the provisions of the Extractive Industries Development Act 1995 is cancelled in accordance with Section 24 of that Act.

Conditions required by the Environment Protection Authority

16. Measures are taken to suppress and minimise all dust from the site.
17. Sediment from the quarry is controlled in accordance with EPA Publication 275 'Construction Techniques for Sediment Pollution Control'.
18. Noise from the site is within limits outlined in EPA Publication N3/89 'Interim Guidelines for Control of Noise from Industry in Country Victoria'.
19. A buffer distance of 200 metres to nearby residences must be maintained as required in 'Recommended Buffer Distances for Industrial Residual Air Emissions'.

Conditions required by VicRoads

20. Prior to the commencement of the development a 'Type B' intersection treatment must be provided on the Princes Highway at the enhance into the development, designed and constructed generally in accordance with AUSTRROADS publication 'Guide to Traffic Engineering Practice, Part 5 - Intersections at Grade'. The access shall incorporate two (2) 3.5 metre wide sealed through lanes and a 3.0 metre wide sealed left turn lane, at full cost to the applicant.
21. Prior to commencing work within the declared road, the developer must:
- i. Provide evidence that the developer/developer's contractor has a public liability insurance for at least \$10 million for the duration of the proposed works.
 - ii. Forward detailed design plans to VicRoads for approval.
 - iii. Prepare a specification for the works in accordance with relevant sections(s) of the VicRoads Standard Specification for Roadwork's.
 - iv. Any consultants and or contractors engaged in the design or construction processes are to be approved by VicRoads.
 - v. Demonstrate that all works will be administered in accordance with quality assurance principles.
 - vi. Work site practices are to be accordance with VicRoad's Roadwork's Signing Code of Practice.

Cultural Heritage

22. The use authorised by this permit shall not commence, and no works may be undertaken, until the following requirements have been met to the satisfaction of Aboriginal Affairs Victoria and the Responsible Authority.
23. The permit holder is to fund a survey by a qualified archaeologist to locate, record and assess Aboriginal sites, places and objects on all land likely to be affected by the development, including land which may be disturbed by associated works such as new access roads, buildings, services and future erosion;
24. The permit holder is to undertake and fund any archaeological sampling to salvage excavations which may be recommended as a result of the above mentioned survey, subject to the endorsement of such recommendations by Aboriginal Affairs Victoria; and
25. Prior to the disturbance of any identified Aboriginal site, place or object, the permit holder is to seek and obtain written consent to disturb from the relevant local Aboriginal community, as nominated for the purposes of Part II A of the (Commonwealth) Aboriginal and Torres Strait Islander Heritage Protection Act 1984.

Rehabilitation

26. Rehabilitation of the site must be carried out in accordance with the report by Arnold Brian as presented to the Victorian Civil and Administrative Tribunal on 2 October, 2002, and to the satisfaction of the responsible authority. All rehabilitation works for each stage must be completed as soon as is practical after the completion of extraction from each stage.

Section 173 Agreement

27. Prior to the commencement of the use and development, the permit holder must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987. Such agreement to be registered on title(s). The agreement must be to the satisfaction of the Responsible Authority, and all costs associated with its preparation and registration must be borne by the permit holder. The agreement must provide, to the satisfaction of the Responsible Authority for:

Contribution to Off-Site Landscaping

28. The permit holder must contribute a monetary sum of \$5,000 per annum for a period of five years to Corangamite Shire Council to be used specifically for off-site landscaping purposes. This contribution is to be used to implement the Mt Leura and Mt Sugarloaf Landscape Masterplan and Management Plan Revised August 1995 and the Implementation Plan Revised Version 1997. It is the intention of this permit that the permit holder will not be required to undertake off-site landscaping works but that the contribution referred to in this condition will be used by the Council to undertake these works and landscaping.

Expiry

29. This permit will expire if the rehabilitation of Stages 1 and 2 have not been formed and stage 3 commenced within two (2) years of the date of this permit. The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within three (3) months afterwards.

COUNCIL RESOLUTION

MOVED: *Cr O'Connor*

SECONDED: *Cr Harkin*

That the recommendation be adopted subject to the amendment of the section of the *Planning and Environment Act 1987*, to read section 75.

CARRIED

Cr R. Gstrein requested her vote against the motion be recorded in the minutes.

Attachments

1. Attachment 1 Copy Original Planning Permit and Endorsed Plans P2001/160 5438P
- Under Separate Cover
2. Attachment 2 Copy of Submissions Extension of Existing Quarry PP2001 160.A
5438P - Under Separate Cover
3. Attachment 3 Amended Planning Permit PP2001/160 with tracked changes

Attachment 3 – tracked changes to PP2001/160

The recommendation below includes words in red lettering where they have been added and strikethrough where deletions have occurred.

RECOMMENDATION

That Council pursuant to Section 69 of the *Planning and Environment Act 1987* resolve to issue a Notice of Decision to Grant an Amended Planning Permit Number P2001/160A for the Development and Use of the land for the purpose of Extractive Industry – Scoria Quarry, in accordance with endorsed plans on Lot 4 LP4273, Lot 2 LP206849, Lots 2&4 LP218455, and **Lot 1 TP667906P** Parish of Colongulac at 4239 Princes Highway Camperdown subject to the following conditions:

1-General

~~This permit authorises the Stage 1 and 2 extraction of scoria for commercial sale as shown in the endorsed draft work plan document comprising twenty-five (25) pages and two (2) drawings endorsed by the Department of Natural Resources and Environment on 9 March 1998, together with the stage 3 extraction plan labelled 96-161 WP1 (revision A stage 3 removed dated 419102) attached to the report by Arnold Brian as presented to the Victorian Civil and Administrative Tribunal on 2 October, 2002, unless otherwise varied by the conditions of this permit.~~

1. This permit which originally authorised Stage 1 and 2 extraction of scoria for commercial sale is now amended to include stage 3 as shown in the endorsed Work Authority No.5 dated 8 October 2015 unless otherwise varied by the conditions of this permit. The Extraction of material must be in accordance with the approved Work Authority No.5 except where varied by condition on this permit.

2-Operating Hours Quarry Operations:

~~2.1~~ Except for loading as hereafter provided, the use and development may operate on any day (except a Sunday or public holiday). The permitted hours of operation are between the following hours:

Monday to Friday ~~7:00~~ **6:00am** to 6:00pm

Saturday ~~7:00~~ **6:00** am to 2:00pm

~~2.2~~ **3.** Truck Loading Hours - on-site loading activities may only take place from **6:00** am until 6:00pm (and 7:00pm during daylight savings periods) Monday to Saturday **Sunday**. No loading is permitted on ~~Sundays~~ or public holidays.

3-Environmental Management Plan

4. Prior to the commencement of the use of the land as an extractive industry, an Environmental Management Plan (EMP) must be prepared to the satisfaction of the Responsible Authority in consultation with other relevant authorities. The Environment Management Plan must include details of (but not be limited to) management proposals to minimise amenity and environmental impact(s) associated with the use of the site and construction activities, and must set out objectives, performance and monitoring requirements for:

- i) Erosion, Mitigation and Control
- ii) Sedimentation Control

- iii) Noise
- iv) Dust Control
- v) Visual Amenity including both on-site and off-site landscape maintenance
- vi) Fire Safety
- vii) Operational Safety
- viii) Traffic Management
- ix) Rehabilitation
- x) Noxious Weed Control
- xi) Vermin Control

Once approved, the above Environmental Management Plan shall be endorsed and will then form part of the permit.

4-Noise

4.1 5. Noise from the site must not exceed the limits required in the Environmental

Protection Authority's - Interim Guidelines for Control of Noise from Industry in Country Victoria (EPA publication N3/89), or subsequent Guideline for control of noise from industry in country Victoria.

4.2 6. Before the use and development starts, the permit holder must install, in accordance with the advice of a suitably qualified and experienced noise control engineer, suitable reversing alarm systems to all vehicles involved in the extraction and processing of scoria to the satisfaction of the Responsible Authority, designed to reduce the noise level emanating from normal reversing alarms.

4.3 7. To a maximum practical extent, movement of cartage vehicles around the site must be carried out in a forward's direction to prevent the escape of reverse alarm sounds.

4.4 8. Prior to the commencement of the use or development, the permit holder must at its cost and to the satisfaction of the Responsible Authority, enter into an agreement with a suitably qualified and experienced noise consulting engineer to have noise levels from typical activities on the land the subject of this permit monitored not more than one month after commencement of operations under this permit and on a regular basis not exceeding six monthly thereafter and at other times as deemed appropriate by the Responsible Authority. The agreement must provide for the consulting engineer to prepare reports and forward these to the Responsible Authority to make these available for inspection free of charge. The report must identify the equipment in use at the time of monitoring and describe the nature of the activities being undertaken.

5-Amenity

5.1 9. The amenity of the area must not be detrimentally affected by the use or development through the:

5.1.1 i. Appearance of any buildings, works or materials;

5.1.2 ii. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam soot, ash, dust, waste water, waste products, grit or oil;

5.1.3 iii. Presence of vermin; or

5.1.4 iv. Transport of materials, goods or commodities to or from the land.

5.2 10. Load dampening facilities must be provided on site and dust suppressant measures must be carried out within the extraction and stockpile areas to the satisfaction of the Responsible Authority.

5.3 11. The site including all buildings, works and landscaping shall be maintained in a neat, tidy and safe condition in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

6 Maximum Area

12. An area not greater than ~~6.0~~ **3.0** ha shall be open for extraction at any one time.

7 Conditions required by the Department of Natural Resources and Environment

7.1 Planning Administration

13. The use and development of the subject land must at all times be in accordance with the Work Authority, issued pursuant to the Extractive Industries Development Act 1995.

7.2 Commencement

14. The use and development of the subject land must not commence until the Work Authority is granted in accordance with the requirements of the Extractive Industries Development Act 1995.

7.3 Expiry of the Work Authority

15. This permit will expire if the Work Authority for the use issued under the provisions of the Extractive Industries Development Act 1995 is cancelled in accordance with Section 24 of that Act.

8-Conditions required by the Environment Protection Authority

8.1-16.- Measures are taken to suppress and minimise all dust from the site.

8.2-17.- Sediment from the quarry is controlled in accordance with EPA Publication 275 'Construction Techniques for Sediment Pollution Control'.

8.3-18. Noise from the site is within limits outlined in EPA Publication N3/89 'Interim Guidelines for Control of Noise from Industry in Country Victoria'.

8.4-19. A buffer distance of 200 metres to nearby residences must be maintained as required in 'Recommended Buffer Distances for Industrial Residual Air Emissions'.

9-Conditions required by VicRoads

9.1-20. Prior to the commencement of the development a 'Type B' intersection treatment must be provided on the Princes Highway at the entrance into the development, designed and constructed generally in accordance with

AUSTROADS publication 'Guide to Traffic Engineering Practice, Part 5 - Intersections at Grade'. The access shall incorporate two (2) 3.5 metre wide sealed through lanes and a 3.0 metre wide sealed left turn lane, at full cost to the applicant.

9.2-21. Prior to commencing work within the declared road, the developer must:

9.2-1-i. Provide evidence that the developer/developer's contractor has a public liability insurance for at least \$10 million for the duration of the proposed works.

9.2-2 ii. Forward detailed design plans to VicRoads for approval.

9.2-3-iii. Prepare a specification for the works in accordance with relevant sections(s) of the VicRoads Standard Specification for Roadwork's.

9.2-4-iv. Any consultants and or contractors engaged in the design or construction processes are to be approved by VicRoads.

9.2-5-v. Demonstrate that all works will be administered in accordance with quality assurance principles.

9.2-6-vi. Work site practices are to be accordance with VicRoad's Roadwork's Signing Code of Practice.

10-Cultural Heritage

10.1-22. The use authorised by this permit shall not commence, and no works may be undertaken, until the following requirements have been met to the satisfaction of Aboriginal Affairs Victoria and the Responsible Authority.

10.2-23. The permit holder is to fund a survey by a qualified archaeologist to locate, record and assess Aboriginal sites, places and objects on all land likely to be affected by the development, including land which may be disturbed by associated works such as new access roads, buildings, services and future erosion;

10.3-24. The permit holder is to undertake and fund any archaeological sampling to salvage excavations which may be recommended as a result of the above mentioned survey, subject to the endorsement of such recommendations by Aboriginal Affairs Victoria; and

10.4-25. Prior to the disturbance of any identified Aboriginal site, place or object, the permit holder is to seek and obtain written consent to disturb from the relevant local Aboriginal community, as nominated for the purposes of Par II A of the (Commonwealth) Aboriginal and Torres Strait Islander Heritage Protection Act 1984.

11 Rehabilitation

26. Rehabilitation of the site must be carried out in accordance with the report by Arnold Brian as presented to the Victorian Civil and Administrative Tribunal on 2 October,2002, and to the satisfaction of the responsibly authority. All rehabilitation works for each stage must be completed as soon as is practical after the completion of extraction from each stage.

12-Section 173 Agreement

27. Prior to the commencement of the use and development, the permit holder must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987. Such agreement to be registered on

title(s). The agreement must be to the satisfaction of the Responsible Authority, and all costs associated with its preparation and registration must be borne by the permit holder. The agreement must provide, to the satisfaction of the Responsible Authority for:

12.1 Contribution to Off-Site Landscaping

28. The permit holder must contribute a monetary sum of \$5,000 per annum for a period of five years to Corangamite Shire Council to be used specifically for off-site landscaping purposes. This contribution is to be used to implement the Mt Leura and Mt Sugarloaf Landscape Masterplan and Management Plan Revised August 1995 and the Implementation Plan Revised Version 1997. It is the intention of this permit that the permit holder will not be required to undertake off-site landscaping works but that the contribution referred to in this condition will be used by the Council to undertake these works and landscaping.

13 Expiry

29. ~~This permit will expire if the development and use are not started within two (2) years of the date of this permit.~~ **This permit will expire if the rehabilitation of Stages 1 and 2 have not been formed and stage 3 commenced within two (2) years of the date of this permit.** The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within three (3) months afterwards.

10. OFFICERS' REPORTS

10.1 Property Leasing Policy Review 2016

Author: Jane Hinds, Property Officer

File No: D16/41

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - Jane Hinds

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

Summary

The Property Leasing Policy governs the way in which Council administers the granting of leases and licenses for Council controlled land and buildings. The policy has been reviewed and updated and is recommended for adoption.

Introduction

Council owns both community and operational land and manages Crown land where Council is the delegated Committee of Management. The aim of this policy is to establish a framework for Council when developing agreements. This framework is intended to streamline the use of Council land holdings for the benefit of the community and recover costs associated with managing Council assets.

Issues

The policy was last reviewed in 2013 with a comprehensive review undertaken and significant changes implemented. As part of the 2016 review the following amendments are proposed:

- Incorporation of the Property Leasing Procedure which was developed following a Local Government Investigation and Compliance Inspection in March 2015. This procedure has been incorporated into the Leasing policy, to ensure a consistent approach is taken and all the relevant legislation, terms and conditions are situated within the one document.
- Clarification around the application of the Council Seal on lease and licence documents.
- Inclusion of Family Day Care Educators within the Commercial/ Private category.
- Noting that where Crown Land Reserves are under Council control, certification has occurred pursuant to the *Crown Land (Reserves) Act 1978*. Certification will provide Council with the legal ability to grant licences for a maximum term of three (3) years without any further approval from Department of Environment, Land, Water and Planning (DELWP) required. Any term longer than three (3) years will require approval from DELWP and Ministerial approval.
- Maintenance responsibilities will be negotiated with tenants.

Policy and Legislative Context

The Property Leasing Policy is a Council policy that has been reviewed in accordance with Council's Policy Development Framework, policy GOV 19-00.

The policy is consistent with relevant legislation including the *Local Government Act 1989* and the *Crown Land (Reserves) Act 1978*. This policy should be read along with these Acts and other relevant legislation as referred to within the body of the document.

The Property Leasing Policy is also in in keeping with the commitments in the Council Plan 2013-2017:

Council will demonstrate high levels of ethical behaviour and corporate governance standards. We will make budgetary decisions that are reflective of our financial circumstances. We will advocate for and with the community to achieve outcomes

We will create a supportive, vibrant and exciting workplace which is diverse in culture, choice and opportunity. Our organisation will provide a high level of customer service and be responsive to community needs.

The Property Leasing policy also takes into consideration other Council policies including but not limited to Community Initiated Projects and Essential Safety Measures.

Internal / External Consultation

The Property Leasing Policy is an existing policy that has been reviewed internally by Council's Facility and Recreation department, Community Services department and Senior Officers.

Financial and Resource Implications

There will be no costs to Council associated with the implementation of the review of this policy.

Some existing tenants may see an increase in rental fees and other tenants may see a reduction, this would be based on the rental and operating cost subsidy categories as the policy is implemented.

Options

Council may choose to adopt the reviewed Property Leasing Policy as prepared, with amendments, or choose not to adopt the policy.

Conclusion

The review of Council's Property Leasing Policy was undertaken to ensure that Council has a clear strategic framework for the development of all types of agreements which aligns with Council practices, to streamline the use of Council land holdings for the benefit of the community and to recover costs associated with managing Council assets.

RECOMMENDATION

That Council:

- 1. Revokes the previous Property Leasing Policy dated February 2014.**
- 2. Adopts the Property Leasing Policy dated February 2016.**

COUNCIL RESOLUTION

MOVED: *Cr Oakes*

SECONDED: *Cr Harkin*

That the recommendation be adopted.

CARRIED

Attachments

1. Property Leasing Policy

Council Policy



CORANGAMITE
SHIRE

Property Leasing

Introduction

The property leasing policy is designed to outline and assist the way in which Council administers the granting of leases and licences for Council controlled land and buildings.

Council owns both community and operational land and manages Crown land where Council is the delegated Committee of Management. Council will attempt to streamline the use of its land holdings for the benefit of the community and/ or to maximise the amount of revenue received from its assets.

Purpose

The purpose of this policy is to establish a framework for Council arrangements when developing leases for use of Council property. This framework is intended to maximise the use of its community assets in a responsible manner and be consistent with the Council Plan 2013-2017:

Council will demonstrate high levels of ethical behaviour and corporate governance standards. We will make budgetary decisions that are reflective of our financial circumstances. We will advocate for and with the community to achieve outcomes

We will create a supportive, vibrant and exciting workplace which is diverse in culture, choice and opportunity. Our organisation will provide a high level of customer service and be responsive to community needs.

Scope

This policy is applicable to all Council owned and occupied land and buildings and where Council acts as Committee of Management on Crown land.

References

[Local Government Act 1989](#)

[Local Government \(General\) Regulations \(2004\)](#)

[Crown Land \(Reserves\) Act 1978](#)

[Leasing Policy for Crown Land in Victoria 2010](#)

[Land Act 1958](#)

[Planning and Environment Act 1987 \(Vic\)](#)

[Retail Leases Act 2003](#)

[Coastal Management Act 1995 \(Vic\)](#)

Policy Detail

1. Laws and Regulations

There are many laws and regulations that apply to the way in which Council manages its land holdings. A brief summary of the major legislation and regulations governing the granting of leases for Corangamite Shire Council is provided below.

Local Government Act 1989

In the *Local Government Act 1989* the main provisions with regards to the leasing of land are defined in Section 190, which is as follows:

- Council's power to lease any land to any person is limited to leases for a term of 50 years or less.
- Subject to any other Act, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions, it must comply with this section.
- If a 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.
- A person has a right to make a submission under Section 223 of the Act on the proposed lease.

The purpose of a public notice is to inform ratepayers and residents of the intention by Council to enter into a lease agreement and to give an indication that Council is genuinely open to the best offer for that land, either on a price basis or alternative use basis.

The public notice should be clear and informative to ratepayers and residents and should include the following:

- Reference to the Act that Council is acting under e.g. Section 190 and 223 of the *Local Government Act 1989*
- The location of the property by street address or title details
- A map or plan of the land
- The term of the agreement including any further terms
- The annual rent payable
- How submissions can be made.

Local Government (General) Regulations (2004)

Under the Local Government Regulations, Council should maintain a register of all leases entered into by Council. Under Section 11(m) information to be made available to the public include, 'details of all property, finance and operating leases involving land, buildings, plant, computer equipment or vehicles entered into by the Council as lessor or lessee, including the name of the other party to the lease and the terms and the value of the lease'.

Crown Land (Reserves) Act 1978

The leasing provisions in the *Crown Land (Reserves) Act 1978* are used to authorise a wide range of leases for commercial and non-commercial purposes on reserved Crown land.

- Under Section 17(2) Committees of Management are authorised to issue licences and agreements for purposes consistent with the purpose of the reserve for a maximum term of 3 years. This is only allowed for reserves that are certified under Section 17(1).
- Section 17B provides for licences for any purpose which is not detrimental to the purpose of the reserve for a maximum term of 10 years. This term includes all further terms.
- Section 17BAA can be used in some circumstances, allowing for a longer licence term.
- Sections 17D and 17DA provide that the Minister should be a signatory to lease agreements for Crown land over which the Council is Committee of Management. The terms and conditions of the lease can be determined by Council.

Agreements involving Crown land where Council is Committee of Management must be prepared in accordance with the guidelines provided by the Department of Environment, Land, Water and Planning. All leases situated on Crown land will use the standard lease agreement as prescribed by the Department of Environment, Land, Water and Planning. Before a lease granted under Crown land or the *Crown Land (Reserves) Act 1978* can be finalised, approval of the terms and conditions must be granted by the Minister or their delegate.

Leasing Policy for Crown Land in Victoria 2010

The objectives of this policy are to provide a consistent framework for the leasing of Crown land by formalising 'Crown Land Leasing Principles' at a State-wide level and to manage Crown land in an ecologically sustainable manner. These principles will:

- Guide land manager, existing occupants and prospective occupants
- Help inform decision making around leasing
- Improve community awareness of government policy for the leasing of Crown land.

Land Act 1958

The Land Act 1958 involves the sale, grant and occupation of unreserved Crown land, Crown water frontages and government roads in Victoria.

Planning and Environment Act 1987 (Vic)

The Planning and Environment Act 1987 applies to both Crown land and freehold land. This Act outlines the planning use, development and protection of land in Victoria. Occupants need to comply with the Corangamite Shire Planning Scheme and obtain any required planning permits associated with the use and development of leased premises.

Retail Leases Act 2003

The *Retail Leases Act 2003* governs the way in which retail and commercial premises are leased. The *Retail Lease Act 2003* will apply to some Council leases where the retail premises is used wholly or predominantly for:

- a) The sale or hire of goods by retail or the retail provision of services; or
- b) The carrying on of a specified business or a specified kind of business that the Minister determines under Section 5 is a business.

The term of a retail premises lease, including any further terms must be at least 5 years.

In July 2008 the Minister for Small Business made a determination under section 5(1)(e) of the Retail Leases Act 2003 exempting certain retail premises leases granted by municipal councils from the application of the Victorian Retail Leases Act 2003. Those leases exempted are leases entered into on or after 1 August 2008 under which the leased premises may be used wholly or predominantly for any one or more of the following purposes:

- i. Public or municipal purposes;
- ii. Charitable purposes;
- iii. As a residence of a practising minister of religion;
- iv. For the education and training of persons to be ministers of religion;
- v. As a club for or a memorial to persons who served in the First or Second World War or another war, hostilities or special assignment referred to in the *Patriotic Funds Act 1958*;
- vi. For the purposes of the Returned Services League of Australia;
- vii. For the purposes of the Air Force Association (Victorian Division)
- viii. For the purposes of the Australia Legion of Ex-Servicemen and Women (Victorian Branch).

An exemption is also provided in respect of any lease of premises by a council (including in its capacity as a committee of management within the meaning of the Crown Land (Reserves) Act 1978) under which the premises are used wholly or predominantly by a body, corporate or unincorporated, that exists for the purposes of providing or promoting community, cultural, sporting, recreational or similar facilities or activities or objects and that applies its profits in promoting its objects and prohibits the payment of any dividend or amount to its members whether or not the premises are occupied by the tenant, held by the tenant in trust for the occupant or sub-leased by the tenant to another person.

This determination applies to exempt sub-leases as well as leases.

In essence this determination relieves Councils of complying with procedural obligations placed on landlords by the Act, such as disclosure of outgoings and notice of lease renewals. Councils are also exempt from the statutory maintenance and repair obligations imposed on landlords.

Coastal Management Act 1995 (Vic)

The *Coastal Management Act 1995* provides a co-ordinated approach for the use and development of coastal Crown land. The objectives of this Act are to protect, maintain and raise public awareness about Victoria's coastal resources.

2. Types of Tenure

The Corangamite Shire Council has three main forms of tenure which are used to grant the use of Council land holdings. They are as follows:

Lease

A lease is a contract by which the landlord (owner) grants exclusive use and possession of land to an occupant (lessee), in consideration for a payment (rent) for a specified term and purpose.

Licence

A licence is an agreement that generally allows the non-exclusive use of land for a fixed term to an occupant.

Occupancy Agreement

An occupancy agreement is an agreement that is not a residential tenancy agreement and is not subject to residential tenancies legislation. It will generally apply for an occupancy that occurs for a portion of the year, such as the hire of a venue.

3. Rental and Operating Cost Subsidy

Council may subsidise rental and operating costs for eligible tenants. There are seven categories based on the extent to which tenants meet the criteria outlined in Table 1. Council will make an assessment against these criteria and eligibility for rental and operating cost subsidy annually.

Council reserves the right to amend the rental if a tenant gains liquor or gaming licences, or gains access to any similar commercial means of income generation during the life of an agreement.

Council will negotiate rental and operating cost subsidy with eligible tenants after consideration of various factors, including but not limited to the following;

- Consistency with Council objectives, core business and Council Plan
- Location of the property/ building and its commercial nature
- Use of volunteers
- Service and program fees
- Access by Corangamite Shire residents
- Extent of external funding

- History and track record as a Council tenant
- Community benefit
- Service to the community

Council reserves the right to enter into an agreement and negotiate the terms and conditions, maintenance obligations, annual rent and operating subsidy on a case by case basis.

The following is provided as an indicative guide to the development of annual rent and operating costs.

Category	Annual Rent & Operating Costs	Eligibility
<p>A: Community Groups This type of rental group will include recreation community groups that provide for the community and are readily available to Corangamite Shire Council residents. E.g. sports clubs</p>	<ul style="list-style-type: none"> • Council to provide for municipal rates and charges and ensure compliance with essential safety measures. • The fire services property levy will be passed on to the tenant. • Subsidised rental \$104 per annum. • Terms and conditions of use and preventative maintenance will be negotiated with the tenant on a case by case basis. • Tenant to provide some maintenance. 	<ul style="list-style-type: none"> • Use approved by Council and • Provides significant community benefit and • Has limited revenue-raising ability (net of cost of service) e.g. service groups. • Where the tenant has other substantial income sources raised through fees and charges, recurrent operational grants and funding, or via fundraising the tenant will be assessed at the next rental level.
<p>B: Community Service Organisations in this category will provide a core service to the local community. The group will be reliant on funding and do not have the capacity to generate a significant amount of income. They will not engage in any type of commercial activity. E.g. kindergarten, senior citizens, community house</p>	<ul style="list-style-type: none"> • Rent negotiated based on size, community benefit, terms of use, level of maintenance capacity. • Tenant to be responsible for all municipal rates and charges and utilities. • Council to ensure compliance with essential safety measures. • Terms and conditions of use and preventative maintenance will be negotiated with the tenant on a case by case basis. • The fire services property levy will be passed on to the tenant. • Subsidised rental amount minimum \$104 to maximum \$1250 / 0.05% of property value (CIV) / \$10 / sqm floor space. 	<ul style="list-style-type: none"> • Use approved by Council and • Has revenue raising capacity or receives external funding assistance, e.g. Receives some State Government funding
<p>C: Other This type of rental group falls on to commercial/ private tendencies but assessments will be made in comparison with Category B: Community Services and the level of funding the group receives and the capacity</p>	<ul style="list-style-type: none"> • A commercial rental is based on a market valuation undertaken by the Valuer General or a registered valuer. • All costs incurred by Council will be passed on to the tenant, with the exception of essential safety measures compliance. • Maintenance to be negotiated within the agreement. 	<ul style="list-style-type: none"> • Use approved by Council and • Provides services that are not targeted to the Corangamite Shire Council community or part of operations includes commercial activities • Has revenue raising capacity or receives external funding assistance, e.g. Receives some State Government funding.

Category	Annual Rent & Operating Costs	Eligibility
to generate a significant amount of income.	<ul style="list-style-type: none"> Terms and conditions of use and maintenance to be negotiated with the tenant on a case by case basis. 	
D: Commercial/ Private Commercial leases are leases where the lessee; <ul style="list-style-type: none"> - Operates a business or, - Undertakes commercial activity, - Obtains income from the lease and/or there is private gain from the use of the premises. Residential tenants and Family Day Care (FDC) Educators also apply to this category.	<ul style="list-style-type: none"> A commercial rental is based on a market valuation undertaken by the Valuer General or a registered valuer. All costs incurred by Council will be passed on to the tenant, with the exception of essential safety measures compliance. Maintenance to be negotiated within the agreement. In the case of a FDC Educator, the rental will be \$70 per week. 	<ul style="list-style-type: none"> Use approved by Council and Provides services that are not targeted to the Corangamite Shire Council community or part of operations includes commercial activities.
E: Crown Land All agreements on Crown Land are subject to the <i>Crown Land (Reserves) Act 1978</i> .	Department of Environment, Land, Water and Planning nominal amount \$104 per annum or full market rent.	<ul style="list-style-type: none"> Agreements involving Crown land where Council is Committee of Management.
F. Occupancy Agreement This occurs where a venue is hired from Council	Set in accordance with Council's annual fees and charges	Use approved by Council or regular users where Council is manager
G. Grazing Other than those permits issued through Local Laws.	<ul style="list-style-type: none"> A commercial rental is based on a market valuation undertaken by the Valuer General or a registered valuer. All costs incurred by Council will be passed on to the tenant. Maintenance to be negotiated within the agreement The fire services property levy will be passed on to the tenant. 	<ul style="list-style-type: none"> Use approved by Council and Provides services that are not targeted to the Corangamite Shire Council community or part of operations includes commercial/private activities.

Table 1: Rental and Operating Cost Subsidy Categories

4. Transition Arrangement for Current Leases

Currently most community organisations are charged an annual rental which has been previously specified. In order to provide a period of time for clubs and organisations to budget for an increase in rental and maintenance obligations, all existing agreements will be reviewed in line with the policy following expiry of the agreement or at the next scheduled rent review, following the adoption of this policy.

5. Maintenance Responsibilities

Each tenant is required to maintain the facility in accordance with a maintenance schedule attached to the agreement, using the services of registered and qualified tradespeople to undertake works that require a 'Certificate of Compliance'. Schedules will specify

responsibilities of Council and tenant including responsibility for maintaining the structure including the building shell; fit out including fixtures and fittings; and grounds including ground surface. All tenants signing leases following commencement of this policy will be required to contribute towards maintenance of their facility. Generally this will include responsibility to fully maintain elements related to the function of the facility, such as playgrounds, specialist equipment, tennis courts and the like. The level of maintenance responsibility outlined in the relevant schedule will be determined by the function of the facility, the degree of community benefit, and the tenant's ability to generate revenue. In broad terms maintenance responsibilities are as outlined below in table 2 which should be seen as a general guide only. Specific responsibilities will be negotiated with each tenant taking into account the nature, age and condition of the facility and included in a schedule to that tenant's lease.

Maintenance Definitions

1. Maintain: Clean, keep in good condition and perform incidental maintenance not requiring a skilled tradesperson
2. Repair: Keep in good condition in accordance with Australian Standards. Ensure useful life of the asset is met in accordance with Council's Asset Management Plan for Buildings and Other Structures.
3. Replace: Replace at end of useful life. Replace if broken or damaged beyond repair.
4. Full Maintenance: Clean, maintain, repair, replace. Undertake: carry out specified activity.
5. NA: No maintenance

Guide to Maintenance Responsibility

Council will assess its maintenance responsibility in line with the terms and conditions agreed to with the tenant, the rental category they fall within and those buildings and/ or structures which are Council assets (Council owned). Council reserves the right to schedule maintenance or replacement of items in accordance with budget considerations.

Category	Building Component	Tenant Responsibility	Council Responsibility
A: Community Groups	All elements	Maintain	Repair
B: Community Service	Building Shell	Maintain	Repair & Replace
	Fixtures / Fittings (toilet pans, taps, door furniture)	Maintain	Replace
	Interior Surfaces (painting, carpet, tiling)	Maintain	Replace
	Building Services (water supply, gas, sewerage, electrical)	Maintain	Replace
	Essential services		Full maintenance
	Routine services (gutter cleans,)		Full maintenance
	Grounds (landscape features, external furniture)	Maintain	Replace
	Trees		Full maintenance
	Specialist ground surface and equipment	Full maintenance	
C: Other & D: Commercial/	Building Shell	Maintain	Repair & Replace

Private			
	Fixtures / Fittings (toilet pans, taps, door furniture)	Full maintenance	
	Interior Surfaces (painting, carpet, tiling)	Full maintenance	
	Building services (water supply, gas, sewerage, electrical)	Maintain	Replace
	Essential services		Full maintenance
	Routine services (gutter cleans,)	Full maintenance	
	Grounds (landscape features, external furniture)	Full maintenance	
	Trees	Maintain	Replace
	Specialist ground surface and equipment	Full maintenance	
E: Crown Land	As per Category B, C or D depending on type of use		
F. Occupancy Agreement			Full maintenance
G. Grazing	Trees	Maintain	Replace
	Fences & gates	Full Maintenance	
	Grounds (landscape features, external furniture)	Full maintenance	
	Existing infrastructure e.g. Troughs, culverts, access roads and entrances	Maintain	Replace
	New infrastructure / improvements	Full Maintenance	

Table 2: Maintenance Responsibilities

6. Renewal and End of Lease Arrangements

In order to ensure that agreements are signed by Council and the lessee on or before the day that the agreement comes into effect and the agreement is held by Council, Council must ensure the timely renewal of agreements.

With the decision being made which affect the success of Council for many years into the future, it is imperative to start the renewal process between 3 to 6 months before the end of the current lease to ensure the best outcome for Council is achieved.

End of Lease

Where the agreement has no option to renew and the lease term is set to end, Council needs to commence negotiations with the tenant to ascertain whether both parties are interested in continuing the arrangement. Should both be willing to enter into a new lease, the lease terms can be negotiated without reference to the current lease, although it is likely that the current lease would be the starting point for negotiations. After seeking a current market rental valuation for the premises, Council should negotiate all of the essential terms of the agreement no less than 6 months before the end of the current lease for commercial arrangements and 3 months before the end of the current lease or all other arrangements.

Lease Renewal

Where the lease contains an option to renew, the option must be exercised strictly in accordance with the lease and the related laws and regulations governing the agencies.

In most cases, the lease terms state to exercise the option:

- There must be no breach of any lease term
- Notice is given to Council between 3 and 6 months before the end of the lease – notice given before or after the time period may not be a valid notice
- Where the option is exercised, the same lease terms apply for the new lease, subject to the rent being adjusted
- Whilst there is no requirement for Council and the tenant to vary any of the other lease terms, there is nothing to prevent the terms being varied where both parties agree.

7. Terms and Conditions

The terms and conditions of all Council tenure will be accessed on the nature of the agreement. Additional provisions will be included when necessary to meet specific requirements of Council or the other party involved. The following general terms and conditions should be included when developing an agreement.

Terms

The terms of the agreement will be assessed on a case by case basis depending on different factors including the occupant, use of the premises and community benefits. However it shall be noted that all land identified under the *Crown Land (Reserves) Act 1978* must not be leased for more than 10 years (including further terms) unless the Ministers approval has been given. In accordance with the *Local Government Act 1989* Council may not enter into a lease that exceeds 50 years.

Use of Premises

The use of the premises should be that of the permitted use of the premises only. Any changes will be subject to Council assessment. The premises should not be used for illegal purposes and Council's written consent is needed before any alterations or additions to the premises are made.

Optimum Use of Facilities

Council's goal is to ensure the greatest community benefit and value can be provided by the utilisation of Council's facilities. This is done by encouraging multi use of facilities and tailoring the services provided by tenants to best suit the community.

Rates, Taxes Charges and Outgoings

All rates, taxes, charges, levies and outgoings involved with the establishment, duration and termination of the tenure will reflect Table 1: Rental and Operating Cost Subsidy Categories. This may include municipal rates, service charges and the fire services property levy.

All land is rateable except the following, as summarised, under Section 154 of the *Local Government Act 1989*.

- a) Unoccupied land which is owned by the Crown, Council, public statutory body or trustees appointed under the Act
- b) Land used exclusively for public or municipal purposes
- c) Land used exclusively for charitable purposes
- d) Land which is held in trust for any religious body, which is used as a residence for a Minister or as education and training of persons to be Ministers of religion
- e) Land used for mining purposes
- f) Land held in trust and used exclusively by an RSL, Air Force Association or by the Australian Legion of Ex-Servicemen and Women.

All cultural and recreation lands shall be exempt from the payment of municipal rates, except where:

- The land is subject to a grazing lease, in which case it will attract the general rate or farm rate if applicable
- The land is used for housing gaming machines, in which case the portion of the premises used for housing gaming machines shall attract the commercial rates, and the balance of the property shall be exempt from the payment of municipal rates
- The land is used as a horse racing venue, in which case the property shall attract the cultural and recreational lands rate.

Landlord's Installations

A list of all Council installations on the premises or those installed by Council after the commencement of the lease must be noted on the agreement.

Occupant's Installations

A list of all occupant installations installed by the occupant after the commencement of the lease must be noted on the agreement.

Subletting

The occupant must not transfer the lease or sublet the premises without the written consent of Council.

Advertising

Permission must be obtained from Council when seeking sponsorship and conform to all Council policies when erecting commercial advertising or signage.

Emergency Procedures

All occupants are requested to have in place and maintain current emergency and evacuation plans and procedures.

Smoking

Smoking in any form is strictly prohibited in all Council owned and managed buildings.

Security

The occupant must inform Council immediately of any key that may be lost. Cost for the replacement of keys will be borne by the occupant.

Test and Tag

The occupant must ensure that any equipment which is supplied and used by the occupant is checked regularly to ensure it is safe to use and is compliant with the Australian Standards, including the test and tag of electrical equipment. Any faults caused to Council's equipment or property will be the responsibility of the occupant. Council can organise the test and tag of equipment if required, however this service will be at the occupant expense.

Essential Safety Measures

In accordance with Council's Essential Safety Measures policy Council will ensure that essential safety standards in Council owned and occupied buildings is maintained and complies with the appropriate regulation, legislation or Australian Standard.

Water and Energy

Tenants are encouraged to minimise water and energy usage.

Consumption of Liquor

No alcoholic beverage shall be sold at any time without the appropriate permit or licence.

Rent

The rental fee for all agreements will be determined by the nature of the lease, whether it is of a not for profit, community, commercial or private nature and in accordance with the classification of rental category. The costs associated with the valuing of the property will be the responsibility of the occupant.

Fees and Charges

All fees and charges will be reviewed each year in accordance with the budget process.

Rent Review

The rent will be reviewed at the end of the term of the agreement at other intervals if nominated. Generally the rental amount will increase by the Consumer Price Index (CPI) each year or by obtaining a current valuation of the property, unless otherwise stated. The rent will not be reviewed on a CPI adjustment date if the effect of that review is to reduce the rent payable from the rent which was paid during the 12 period just ended. Each agreement will be assessed on an individual basis.

Insurance

All occupants are obligated to take out and keep current their own public liability insurance cover with Council noted as an interested party. A minimum cover amount of \$20 million is required or such other amount reasonably specified from time to time by Council. Council reserves the right to request a copy of the current certificate of currency each year for their records. Building insurance is covered by Council in the majority of cases. Council will not insure the contents of any leased premises, unless otherwise stated in the agreement.

Legal Costs

The tenant will pay all legal costs associated with the establishment of a new lease agreement that differs from Council's standard lease document, unless otherwise negotiated, except if the lease is subject to the Retail Leases Act 2003.

Maintenance and Alterations

Building and property maintenance will be assessed in accordance with the nature of the agreement and associated works. Maintenance conducted by the occupants must be reported to Council, carried out in a responsible manner and adhere to the conditions of the agreement and statutory requirements.

Council has no responsibility to maintain/ improve buildings on Council owned land occupied by an organisation or group exclusively for private purposes, subject to the requirements of the Retail Leases Act 2003 if the land is occupied pursuant to a lease subject to that Act.

Wear and tear maintenance and works of a recurrent nature are the responsibility of the occupier or management body of the building, subject to the requirements of the Retail leases Act 2003 if the land is occupied pursuant to a lease subject to that Act.

Major maintenance and capital works are the responsibility of Council unless agreement with the lessee.

Maintenance Inspections

Council reserves the right to inspect the premises each year or more frequently as required. Council will give appropriate notice to the lessor in accordance with the lease or licence conditions.

Capital Works

In assessing maintenance requests for capital works, Council must consider the following:

- The reason for the request. For example: safety issues, damage, compliance
- Estimated cost of works
- Funds available and estimated additional annual works
- Alignment with Council policies e.g. Recreation Facility Development Policy

All capital upgrades will be considered as part of the budget process in the year which they are received.

Capital works undertaken by the lessee do not give the lessee any interest or claim in the works or improvements or the premises beyond the elements contained in the lease, nor do capital works give the lessee any claim to the site (premises or land) after the expiration date of the lease. Undertaking capital works during the lease term does not provide or confer any entitlements or residual rights to the lessee or enable the lessee to demand or expect a new lease following the expiry of the lease term.

Performing Rights

The tenant will be responsible for all performing rights and will indemnify Council against any claim for breach of copyright (e.g. APRA & PPCA).

Legislation and Regulations

All tenants must adhere to the conditions of any planning permit, issued by Council or other permits issued by other authorities. Tenants will also be required to comply with all legislation and regulations and obtain any permits or licences in order for the tenant to be able to use the premises for its permitted use.

Interest

The occupant shall reimburse Council for all rent, charges and costs by the due date issued on the invoice. Continued late payments could result in a rate of 2% per annum more than the rate from time to time fixed by the Penalty Interest Rates Act 1983 (Vic) being charged.

Renewal of Further Terms

Council has a legal obligation to renew a lease for any further terms stated in the agreement if:

- There is no unremedied breach of the agreement by the tenant of which Council has given the tenant written notice
- The tenant has not persistently committed breaches of the agreement of which Council has given written notice during the term, and
- The tenant has requested the renewal in writing not more than 6 months nor less than 3 months before the end of the term. The latest date for exercising the option to renew should be stated in the attached schedule.

The renewed agreement must contain the same terms as the original agreement but with no option for renewal after the last option for a further term has been exercised. The agreement starts on the date after the original agreement ends and the starting rent will be determined in accordance with any rent reviews.

End of Lease Procedures

At the termination of an agreement, an inspection of the premises will take place to ensure vacant possession and the condition of the premises is that of the terms and conditions of the agreement.

Application of Rental Subsidy

Consideration should be given to the assessment and calculation of appropriate rental subsidy for those tenants of Council owned or controlled land and buildings whose operations is considered to be Community Service (Category B), Other (Category C) or Commercial/ Private (Category D), and where there is deemed to be a net community benefit.

Lease Holdover

Lease holdover occurs when a tenant continues to remain in possession of the property after the lease expires or terminates. The holdover clause is to be cited within all agreements. The holdover clause is as follows:

“If the Lessee shall remain in possession of the property, or any portion thereof, after expiration of this lease agreement, the lessee shall be deemed a lessee from month to month at the same monthly rental and in all other respects subject to the terms, covenants and conditions of this lease agreement. Such tenancy from month to month may be terminated by either party giving, written notice to the other. This provision shall not be construed as giving lessee any right so to hold over”.

Property Leasing Policy

Council’s Property Leasing Policy is to be adhered to when developing, renewing and administering lease and licence agreements for Council controlled land and buildings.

Dating of Documents

In accordance with key findings determined from the Local Government Inspectorate Review in April 2015, Council is required to attach a copy of the legal advice received, regarding the dating of documents to all lease agreements. A file note will be included referring to the legal advice received.

Attachments

Attachments that should form part of the documentation include but are not limited to a plan and/or map of the property, planning or building permits that have been issued and a schedule of the agreement.

8. Application of the Council Seal

The Council Seal is the signature of Council, therefore the Council Seal should be affixed to any agreement which is heard at Council or which is deemed appropriate by the Chief Executive Officer.

9. Procedures for the Granting of an Agreement

The following guidelines are a framework for the way in which Council establishes, maintains and reviews all arrangements when developing leases for use of Council buildings, land and property.

- a) Confirm current status of the land
- b) Review property legislation to find out what legislation applies to the subject property e.g. *Crown Land (Reserves) Act 1978*
- c) Liaise with other departments to conform with Council requirements e.g. Planning & Building Department
- d) Seek legal advice, dependant on the nature of the agreement
- e) Make contact with prospective occupant to discuss the proposed agreement
- f) Review proposed agreement against the Government guidelines e.g. ‘DSE Leasing Policy’ (attached) and the ‘Local Government Best Practice Guideline for the Sale, Exchange and Transfer of Land’ (attached)
- g) Forward a copy of the agreement to the occupant to review

-
- h) Advertise the agreement according to Section 190 of the *Local Government Act 1978* and invite submissions pursuant to Section 223 of the *Local Government Act 1978*
 - i) Report to be written for next Ordinary Council Meeting recommending the proposed agreement. Details of all submissions must be included in the report
 - j) Signature to be obtained by the occupant
 - k) Council Sign and Seal on the agreement
 - l) Copy of agreement to be sent to the occupant
 - m) Update the lease register and advise the finance department of the agreement and arrange for invoicing of rent
 - n) Regular monitoring of all agreements is essential, with particular attention being paid to renewal dates, collection of rent, rent reviews, evidence of current insurance cover and compliance of terms and conditions
 - o) Retain a copy of the agreement. According to record management standards it is required that entries in the register be permanent and that a copy of the lease agreement is retained for a minimum of 7 years from the expiry date of the agreement.

In the case of a licence agreement for non-exclusive use of Council buildings, land or property, provisions in Section 190 of the *Local Government Act 1989* do not apply. Subject to the conditions and limitations of the Instrument of Delegation by Council to the Chief Executive Officer (CEO), a non-exclusive licence contract may be signed by the CEO and procedures h), i) and k) above would not be applicable.

Review Date

This policy will be reviewed in 2018, or earlier as required by changed circumstances including changes to legislation and policies of Corangamite Shire Council, the Victorian Government and its agencies or Federal Government and its agencies.

Attachments

The following attachments accompany this policy:

- *Local Government Act 1989*
- *Crown Land (Reserves) Act 1978*
- Local Government Best Practice Guideline for the Sale, Exchange and Transfer of Land, Department of Planning and Community Development, 2009
- Leasing Policy for Crown Land in Victoria 2010, Department of Sustainability and Environment, 2010
- Email (D/15/15163) Advice SLM Law regarding Local Government Inspectorate Report and the need to date leases and sale documents 2015
- The standard Department of Environment, Land, Water and Planning Section 17(b) *Crown Land (Reserves) Act* Licence Document.

10.2 Quick Response Grants Policy

Author: David Rae, Director Corporate and Community Services

File No: D16/69

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - David Rae

In providing this advice to Council as the Director Corporate and Community Services, I have no interests to disclose in this report.

Summary

This report recommends Council adopt the Quick Response Grants Policy dated February 2016 as attached and revoke the Council Discretionary Fund Policy dated February 2014.

Introduction

The proposed Quick Response Grants Policy establishes the framework by which Council can continue to achieve its objectives in supporting the distribution of funds to community groups and organisations in a variety of ways and in a responsive manner. The policy has been developed in accordance with Council's Policy Development Framework and is proposed to replace the Council Discretionary Fund Policy.

Issues

The Council Discretionary Fund Policy was adopted by Council in February 2014 following the final report issued by the Local Government and Compliance Inspectorate (Inspectorate) in October 2013 into the review of Councillor Discretionary Fund (or Ward Funding) practices.

As a result of governance issues previously identified by the Inspectorate, the *Local Government Act 1989* (the Act) was recently amended to prohibit "Ward Funding" practices. Whilst the Council Discretionary Fund Policy complies with the amended Act, it is prudent a new policy be adopted in the form of the proposed Quick Response Grants Policy to avoid ambiguity and confusion with the requirements of the Act. However, there remains a residual risk to both governance and reputation if grants are not administered appropriately.

The proposed Quick Response Grants Policy is essential a re-naming of the Council Discretionary Fund Policy with some amendments which are discussed below.

Criteria for eligibility

Individuals are ineligible for funding. Recognised community groups and organisations remain eligible. Funding to assist with celebrating religious holidays is permissible to the extent the event is open to the public and widely advertised and the grant is not used for expenditure on alcohol.

Frequency

Council will consider applications monthly. Applications must be received three weeks prior to the intended Council meeting. This will improve responsiveness and customer service.

Maximum Allocation

Applicants may apply for a maximum grant of \$500 in any given financial year as opposed to \$1,000.

Applicants

An auspice body will not be considered an applicant when applying on behalf of another organisation. A previous applicant may submit a subsequent application in any given financial year for an amount that is equal to the maximum allocation less the cumulative amount of all previous applications approved by Council in the same financial year.

Acquittals

Unspent or surplus funds must be returned to Council.

What can't be funded

Fundraising events for or by charitable causes and organisations outside the municipal boundary are not eligible for funding.

Policy and Legislative Context

The proposed Quick Response Grants Policy complies with the requirements of the *Local Government Act 1989* and is in accordance with the Council Plan 2013-2017 that:

Council will demonstrate high levels of ethical behaviour and corporate governance standards. We will make budgetary decisions that are reflective of our financial circumstances. We will advocate for and with the community to achieve outcomes.

Internal / External Consultation

Council was briefed on the proposed policy on 9 February 2016.

Financial and Resource Implications

The Councillor Discretionary Fund program currently operated by Council has been efficient to administer and modest at \$14,000 per annum (2015-2016 Budget). Similarly, the Quick Response Grants program will also be efficient to administer. It is proposed for 2015-2016 the uncommitted budget from the Councillor Discretionary Fund be reallocated and administered under the Quick Response Grants Policy.

Options

Council may choose to retain the Council Discretionary Fund Policy and not adopt the Quick Response Grants Policy. Alternatively, Council may revoke the Council Discretionary Fund Policy and adopt the Quick Response Grants Policy with or without amendment.

Conclusion

The Quick Response Grants Policy is attached for Council's consideration and approval.

RECOMMENDATION

That Council:

1. Revoke the Council Discretionary Fund Policy dated February 2014.
2. Adopt the Quick Response Grants Policy dated February 2016.
3. Re-allocate the uncommitted 2015-2016 budget from the Council Discretionary Fund to the Quick Response Grants budget for 2015-2016.

COUNCIL RESOLUTION

MOVED: *Cr Gstrein*

SECONDED: *Cr Trotter*

That the recommendation be adopted.

CARRIED

Attachments

1. Quick Response Grants Policy 2016



**CORANGAMITE
SHIRE**

Council Quick Response Grants Policy

Corangamite Shire

February 2016

Council Policy



Quick Response Grants

Introduction

Council, subject to an annual budget and in accordance with this policy, will have the discretion to grant Council funds to community groups and organisations within the Shire. Grants will need to result in beneficial projects and activities for Shire communities.

Purpose

Council supports the distribution of funds to community groups in a variety of ways. Council believes the flexibility in granting small amounts to community groups in a responsive manner results in positive outcomes.

Definitions

Quick Response Grants is a fixed amount Council provides annually for the distribution of funds to Shire community groups. The granting of these funds shall be in accordance with this Policy.

A Community Group is an organisation (incorporated or unincorporated) that has social, religious, educational, recreational, environmental or other group sharing objectives, characteristics or interests whose purpose is for the provision of services for or within Corangamite Shire.

References

- *Local Government Act 1989*,
- Victorian Local Government Code of Good Governance; and
- Local Government Investigations and Compliance Inspectorate – Review of Councillor Discretionary Funds (October 2013).

Policy Detail

1. Council will set the budget for the Quick Response Grants program each year when formulating the Annual Budget.
2. Funds shall not be used in connection with any Council election or for any direct electioneering purpose.
3. Funds must be granted to a recognised community group that will undertake beneficial projects and activities for local communities. If an applicant is in doubt as to the appropriateness of a particular group then further guidance can be obtained from Council's Director Corporate and Community Services.
4. A maximum donation limit of \$500 will apply to any community group in any financial year, unless otherwise approved by Council.
5. An auspice body will not be considered an applicant when applying on behalf of another organisation. A previous applicant may submit a subsequent application in any given financial year for an amount equal to the maximum allocation less the cumulative amount of all previous applications approved by Council the same financial year.

6. Equity:

- a. The allocation of grants across the Shire shall be representative of the elected Council and distributed proportionately by the number of wards and councillors.
- b. Annual allocations for each Ward shall not exceed 1/7th of the fund's annual budget in the case of North, South West, Coastal and South Central Wards, and 3/7th of the fund's annual budget in the case of Central Ward.
- c. Applicants may apply for grants from one or more Wards (ie Multi-ward allocation).

7. Applications:

- a. Applications will be considered by Council monthly.
- b. Grants can only be allocated by Council resolution.
- c. Applications will be accepted until such time the annual budget is expended.
- d. Applications must be received three weeks prior to the Council meeting when they will be considered.
- e. The Chief Executive Officer shall advertise and promote the grants.
- f. Applications must be in writing in a form to be determined by the Chief Executive Officer, however must include:
 - i. The applicants details;
 - ii. The amount of funds requested, including quotation if possible;
 - iii. Purpose for the funds;
 - iv. How the application meets the assessment criteria.

8. Assessment of Applications:

- a. Council must assess the applications against the following criteria:
 - i. Does the applicant meet the requirements of clause three above?
 - ii. Will the community derive a benefit from the funds allocated?
Consider the extent to which funds will improve access to people of all abilities, increases participation and support more inclusive networks.
 - iii. Is there evidence of need for the funding?
Consider the extent to which the application is supported by the Council Plan, Council Strategies and Community Plans.
 - iv. Will the funds be used in accordance with clause 10 below?
- b. Applications that do not meet the above criteria are not eligible for funding. The Chief Executive Officer will advise the applicant of the unsuccessful application and provide reasons for this.
- c. Applications that meet the criteria are eligible to receive grants up to the maximum limit. The Chief Executive Officer will advise the applicant of the successful application, provide details how grants are to be

acquitted and request the applicant acknowledge Council's contribution appropriately.

9. Acquittals:

- a. Applicants in receipt of grants must provide Council with an acquittal.
- b. The Chief Executive Officer shall determine the nature of the acquittal. This could include copy of an invoice or a statement how the grant was used.
- c. Unspent or surplus funds must be returned to Council.

10. Annual Reporting:

- a. The Annual Report shall provide details of grants allocated each year.
- b. The Annual Report shall disclose the recipient's name, how much was grants and for what purpose.

11. What Can Be Funded

Grants may only be allocated for a specified project or activity including but not limited to:

- a. Printing, advertising, and promotional costs.
- b. Costs incurred in hiring a venue that may include hire costs and public liability insurance.
- c. Materials and other items essential for a project or activity.
- d. Accommodation and/or transport for event participation.
- e. Celebration of religious holidays to the extent the events is open to the public and widely advertised and the grant not used for expenditure on alcohol.

12. What can't be funded

Grants may not be allocated for:

- a. Programs or activities which are a core service of State or Federal Government, or large non-profit organisation.
- b. Projects that depend on recurrent funding from Council for continuation.
- c. Projects completed or currently in progress at the date of application.
- d. Fundraising events for or by charitable causes and organisations outside the municipal boundary.
- e. Applicants with an outstanding grant acquittal or outstanding debts owed to Council.

13. Conflict of Interest

- a. The funds shall not be used for the personal use or benefit of Councillors.
- b. A Councillor that has a conflict of interest with an application must disclose the conflict of interest in accordance with the *Local Government Act 1989* when the application is to be considered at a meeting of the Council.

-
14. Funds not granted by Council in any given financial year cannot be carried forward into a subsequent financial year.
 15. In an election year, the proportion of funds to be granted before and after the election will be on a pro-rata basis relative to the date of the election.

Review Date: February 2018

10.3 Review of Caretaker (Elections) Policy

Author: Marilyn Lynch, Organisational Development Coordinator

File No: D16/44

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - Marilyn Lynch

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

Summary

Recent legislative changes to the *Local Government Act 1989* (the Act) contained in the *Local Government Amendment (Improved Governance) Act 2015* require Council to review its Caretaker (Elections) Policy which was adopted by Council in July 2012.

Introduction

This report provides advice and information regarding the recent reforms of the Act which are intended to ensure that Council elections are not compromised by inappropriate electioneering by existing Councillors and to safeguard the authority of the incoming Council.

Issues

The Caretaker (Elections) Policy 2016 provides direction and guidance on issues related to the period immediately prior to the General Election in Corangamite. This policy covers a 32 day period, extending from last day on which nominations can be submitted until the day of the election. In 2016, this period commences at midnight on 20 September 2016 and continues until 6pm on 22 October 2016.

The policy must cover the following issues during the pre-election caretaker period:

1. Preventing inappropriate decisions and misuse of resources.
2. Limiting public consultation and scheduling of Council events to prevent influencing the election.
3. Equitable access to Council information by all candidates.

Review of the Caretaker (Elections) Policy 2012 reveals that the above issues are generally well covered.

Changes to the Caretaker (Elections) Policy 2016 include:

- Council (or their delegated Special Committees) must not:

- enter any contracts for goods and services in excess of \$150,000 or 1% of the total revenue from rates and charges in the preceding year, whichever is greater
- enter any contracts for works in excess of \$200,000 or 1% of the total revenue from rates and charges in the preceding year, whichever is greater
- undertake any entrepreneurial activity in excess of \$100,000, or 1% of the total revenue from rates and charges in the preceding year, whichever is greater.
- The Mayoral car has been added to the list of Council resources which must be used exclusively for normal Council business.
- Use of Council's social media accounts by Councillors to publish electoral material is prohibited.
- The monitoring and removal of comments posted on Council's Facebook page if deemed to be electoral matter.

Policy and Legislative Context

Recent reforms contained in the *Local Government Amendment (Improved Governance) Act 2015* require a review of the Caretaker (Elections) Policy 2012 to ensure compliance with new legislation. The revised policy is consistent with the objectives of the Council Plan 2013-2017:

Council will demonstrate high levels of ethical behaviour and corporate governance standards.

Model contemporary standards of corporate governance and professional standards.

Internal / External Consultation

The Senior Officer Group has reviewed the proposed changes to the current policy.

Financial and Resource Implications

The Caretaker (Elections) Policy 2016 directs that major decisions may not be made by Council during the caretaker period in order to ensure that the new Council is not bound to decisions entered into by the previous Council. As such, the policy has the potential to reduce the speed at which some decisions are considered. However, in accordance with section 93A of the Act, applications to the Minister may be made to grant an exemption if an issue before the Council requires an immediate decision.

The policy requires that resources provided to Councillors for the conduct of their duties are not used for election purposes. There are no additional resource implications resulting from proposed changes to the current policy

Options

Council can opt to endorse the revised Caretaker (Elections) Policy 2016 as presented, or choose to amend the Caretaker (Elections) Policy 2016.

Conclusion

Adoption of the revised Caretaker (Elections) Policy 2016 ensures compliance with recent legislative changes and is consistent with good governance.

RECOMMENDATION

That Council:

1. Revokes the Caretaker (Elections) Policy dated July 2012.
2. Adopts the Caretaker (Elections) Policy dated February 2016.

COUNCIL RESOLUTION

MOVED: *Cr Trotter*

SECONDED: *Cr Oakes*

That the recommendation be adopted.

CARRIED

Attachments

1. Policy Council Caretaker (Elections) February 2016

Council Policy



CORANGAMITE
SHIRE

Caretaker (Elections) Policy

Introduction

Council elections will take place in all Victorian municipalities in October 2016. Corangamite Shire has developed a Caretaker (Elections) Policy to bring together relevant legislative requirements related to the conduct of councillors, candidates and staff during the pre-election caretaker period.

Purpose

To provide for the general election of Council to be conducted in an environment that is open and fair to all candidates, setting out procedures and practices applicable during the pre-election caretaker period.

Scope

This policy is intended to augment the existing legislative guidelines for the conduct of fair and equitable Council elections.

This policy applies to:

- Major policy decisions
- Council resources
- Information
- Council communications and publicity
- Functions and events
- Travel and accommodation
- Councillor expenditure
- Advice to candidates
- Monitoring the policy

Definitions

The "Pre-election caretaker period" commences at midnight on 20 September 2016 and continues until 6pm on 22 October 2016, a period of 32 days.

"Council support staff" refers to all members of Council staff

References

- *Local Government Act 1989*
- *Local Government Amendment (Improved Governance) Act 2015*
- *Victorian Electoral Act 2002*
- *Information Privacy Act 2000*
- *Corangamite Shire Councillor Code of Conduct 2013*
- *Councillor Expenses Policy 2014*
- *Councillor Professional Development Policy 2012*

Policy

Major policy decisions

Section 93A of the *Local Government Act 1989* prohibits a Council, Special Committee or officer acting under delegation from making major policy decisions during the pre-election caretaker period relating:

- (a) to the employment or remuneration of a CEO, other than a decision to appoint an acting CEO;
- (b) to terminating the appointment of a CEO;
- (c) enter into any contracts:
 - for goods and services in excess of \$150,000 or 1% of the total revenue from rates and charges in the preceding year, whichever is greater;
 - for works in excess of \$200,000 or 1% of the total revenue from rates and charges in the preceding year, whichever is greater;
- (d) to undertake an entrepreneurial activity, such as participating in the operation of a corporation or acquiring shares, for a sum in excess of \$100,000, or 1% of the total revenue from rates and charges in the preceding year, whichever is greater.

In the event of exceptional circumstances requiring a Council decision, an application may be made to the Minister in accordance with Section 93A of the Act.

Council resources

It is important that due propriety is observed in the use of all Council resources. It is also necessary that Councillors have access to the resources necessary to fulfil their elected roles. In order to ensure Council resources are not used for campaigning by sitting Councillors to increase their advantage over other candidates, or to influence voters during the pre-election caretaker period, the following will apply:

- Council resources including support staff, hospitality, equipment, email, mobile phones, the mayoral car, fax machines and stationery will be used exclusively for normal Council business and will not be used in connection with election campaigning
- Reimbursements of Councillors' out-of-pocket expenses in the pre-election caretaker period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign
- Council logos, letterheads or any other Corangamite Shire branding should not be used for, or linked in any way to, a candidate's election campaign.
- Council support staff will not be asked to undertake any tasks connected with a candidate's election campaign

Information

Council recognises that all election candidates have certain rights to information from the Council administration, subject to the *Information Privacy Act 2000*. It is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Councillors shall not request or receive information or advice from Council staff to support election campaigns and there shall be transparency in the provision of all information and advice during the pre-election caretaker period.

Requests for clarification relating to provision of information should be directed to the Chief Executive Officer who may then refer the request to appropriate senior management.

Council communications and publications

Council communications are a legitimate way to promote Council activities and services. It is important that all Councillors have access to the Council's communication resources to enable them to fulfil their elected roles. However they will not be developed or used in support of a candidate's election campaign. During the pre-election caretaker period as defined:

- A Council employee must not make any public statement that could be construed as influencing the election. Statements of clarification may be required from time to time and these are to be made by the Chief Executive Officer or other officers as delegated by the Chief Executive Officer
- Council publicity and communications will be restricted to promoting normal Council activities and services and for informing residents about the conduct of the election
- In the event that a spokesperson is required for any publication or communication, the Chief Executive Officer shall fulfil that role.
- No media advice or assistance will be provided to Councillors in relation to election campaign matters
- Councillors will not use their position as an elected representative or their access to Council staff and other Council resources to gain media attention specifically in support of an election campaign
- Councillor profiles on the Council website will be limited to photograph and contact details. Other profile information will be removed from the Council website during the pre-election caretaker period
- Use of social media to publish electoral material is not permitted
- Comments posted on the Council's Facebook page will be carefully monitored and removed if deemed to be electoral matter.

Functions and events

Any event or function held during the election period shall relate only to legitimate Council business and shall not be used, or be able to be construed as being used, in connection with any election activity.

- All speeches prepared for use at Council events or functions shall be reviewed by the Community Relations Manager or the Chief Executive Officer to ensure that the content does not breach this Policy or the *Local Government Act 1989*.
- Councillors may make a speech during any event or function however the speech must not have any political reference which may be construed as giving a sitting Councillor any advantage during the election period.

Councillor professional development and travel

Despite the provisions of the *Councillor Professional Development Policy 2012*, Councillors shall not participate in any interstate or overseas travel in their capacity as a Councillor during the election period. In circumstances where it is imperative that the Mayor (or nominee) represent Council on a delegation or forum, Council may by resolution approve such attendance. If consideration by Council is impractical the Chief Executive Officer may determine the issue.

Councillor expenditure

Claims for the reimbursement of expenses shall relate only to expenditure incurred as described in the *Councillor Expenses Policy 2014*.

Advice to candidates about the election process

All candidates for Council election will be treated equally. Towards this outcome:

- Any advice provided to candidates as part of the conduct of the Council election should be available equally to all candidates
- All election related enquiries from candidates, where sitting Councillors or not, will be directed to the Returning Officer, or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer.

Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and transparency will be observed and practised in the provision of all information and advice during the Election Period.

Monitoring the policy

This policy will be published on the Council website. Any issue which arises relating to this policy should be referred to the Chief Executive Officer.

Review Date

This policy will be reviewed in 2020, or earlier as required by changed circumstances including changes to legislation and the policies of Corangamite Shire, the Victorian Government and its agencies, or Federal Government and its agencies.

10.4 Road Asset Management Plan

Author: John Kelly, Manager Assets Planning

File No: D15/688

Previous Council Reference: 25 May 2010, Item 10.3

Declaration

Chief Executive Officer – Andrew Mason

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

Author - John Kelly

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

Summary

This report seeks to endorse Council's Road Asset Management Plan which is designed to guide and assist in maintaining Council's road asset network.

Introduction

Corangamite Shire has a significant network of road assets valued at \$461 million. In order to ensure these assets are managed efficiently, an updated Road Asset Management Plan has been developed. The previous Road Asset Management Plan was adopted by Council in May 2010.

The Plan has been developed based on the International Infrastructure Model and in response to the key aspects of accountability and strategic directions under the *Road Management Act*.

The Plan compliments the previously adopted Road Management Plan by providing details on:

- service levels
- future demand
- lifecycle management
- financial planning.

The Road Asset Management Plan applies to all local roads, bridge and major culverts, kerb and channel, footpaths and drainage infrastructure as identified in Council's register of public roads.

Issues

Corangamite Shire's assets covered under this plan is comprised of:

- local road network of 2,195 km (1,280 km of gravel roads and 915 km of sealed roads);
- 70 bridges and 47 major culverts
- footpath network of 103 km;
- kerb length of 187 km;

- drainage pipe length of 94 km; and,
- 2,693 drainage pits.

The physical condition and adequacy of the roads assets impacts on Council's ability to deliver desired levels of service. Asset condition ratings currently show that:

- 98% of local sealed roads are in an acceptable condition
- 98% of local gravel roads are in an acceptable condition
- 93% of footpaths are in an acceptable condition
- 80% of kerbs are in an acceptable condition.

The Plan recognises that future sustainability depends on how well Council can preserve the current condition of the road and footpath network. Council has a robust Pavement Management Model and Condition Assessment process that is able to provide guidance on the following:

1. What the current deterioration profile of the asset is.
2. What the desired funding level should be to ensure that there is no asset loss.
3. Which road assets Council should target in its annual works plan and in its capital renewal plans for the next five years to achieve the best long term outcome.
4. If Council's funding levels were changed what will be the future asset condition
5. What future asset gaps would likely need to be filled to meet specified levels of service.

Policy and Legislative Context

Council's development of the Road Asset Management Plan is consistent with the Council Plan 2013-2017. Relevant commitments in the Council Plan are:

We will maintain a focus on the importance of our assets and infrastructure to underpin service delivery.

We will implement processes that ensure our infrastructure continues to meet the requirements of our community.

Sustainability and preservation of our assets.

Plan for and deliver improved asset capacity to meet future needs

The Road Asset Management Plan supports Council's overarching Asset Management Policy.

Internal / External Consultation

Council's Road Asset Management Plan has been reviewed by Council staff involved with road asset management and senior officers.

Council's industry specialist asset management advisors have assisted in guiding the development of the Asset Management Plan with particular input into the long term funding requirements for the assets.

In regards to external consultation, Corangamite Shire annually takes part in the Local Government Community Satisfaction Survey co-ordinated by State Government which has specific questions that measure the satisfaction levels of the community with the local road network. In the survey in recent years, Council has consistently rated lowly in the community satisfaction levels of the condition of its local road network. It should be noted that a recent VicRoads pavement condition survey of its highway and main roads network

within Corangamite Shire recorded that 18% of its network is in 'distressed' or poor condition.

This compared with the generally good condition assessed for the local road network as detailed above indicates that there may general confusion within the community as to what are the local roads that Council is responsible for and what are the main roads that State Government is responsible for.

Financial and Resource Implications

Council has mature and robust road performance models for its road assets which predict future funding needs based on optimisation. The modelling predicts average annual expenditure that maintains the current levels of service over a 10 year timeframe. To preserve current network conditions and prevent future asset loss, Council will need to allocate the following amounts for renewal works:

Asset Type & Treatment	Average Annual Expenditure
Sealed Road Reseals & Rehabs	\$3,650,000
Gravel Road Resheeting	\$2,140,000
Footpath Renewals	\$34,000
Kerb and Channel Renewals	\$172,000
Bridge & Major Culvert Renewals	\$400,000

The Road Asset Management Plan will allow Council to plan in a strategic manner as part of its long term financial planning process.

Options

Council can opt to endorse the Road Asset Management Plan as presented, or choose to amend or reject the Road Asset Management Plan.

Conclusion

The Road Asset Management Plan provides Council with information on the required level of resourcing to maintain the current condition of the road related assets.

This asset management plan enables Council to have robust long term financial plans, to ultimately sustain and preserve its assets and to meet the requirements of its community.

RECOMMENDATION

That Council:

1. Revokes the Corangamite Shire Road Asset Management Plan dated May 2010.
2. Adopts the Corangamite Shire Road Asset Management Plan dated February 2016.

COUNCIL RESOLUTION

MOVED: *Cr O'Connor*

SECONDED: *Cr Smith*

That the recommendation be adopted.

CARRIED

Attachments

1. Road Asset Management Plan February 2016 - Under Separate Cover

10.5 Buildings Asset Management Plan

Author: Jarrod Woff, Acting Manager Facilities and Recreation

File No: D15/684

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - Jarrod Woff

In providing this advice to Council as the Acting Manager Facilities and Recreation, I have no interests to disclose in this report.

Summary

This report seeks to endorse Council's Buildings Asset Management Plan, designed to guide and assist in maintaining a building asset portfolio that allows Council to effectively meet current and future demand for services.

Introduction

How Council manages its assets has direct implications on our communities. The primary aim of Council's Buildings Asset Management Plan is to assist Council in maintaining a building portfolio that allows Council to effectively meet current and future demand for services.

The *Local Government Act 1989* (Sect 3E) specifies the function of a council including "planning for and providing services and facilities for local community, and providing and maintaining community infrastructure within the municipality".

The physical assets managed by Council supports the delivery of core services, facilitates economic activity, and strengthens the community and pride of place.

Local Government Victoria has developed a *Local Government Asset Management Better Practice Guide*, 2015 to assist with improving the sectors approach to asset management, achieving core level of maturity as measured against National Asset Management Assessment Framework (NAMAF) and responding to the Victorian Auditor-General's 2014 report *Asset Management and Maintenance by Councils*.

The Victorian Auditor-General's 2014 report *Asset Management and Maintenance by Councils* examined whether councils developed and applied sound strategic frameworks for asset management and implemented efficient and effective asset management practices.

Council's Buildings Asset Management Plan outlines the strategy for managing buildings to an agreed standard of service.

Issues

Council's commitment to asset management is underpinned by its Council Plan. The Council Plan 2013-2017 identifies a number of key objectives and strategies in relation to asset management under the key theme of Infrastructure.

Recent changes to the legislative framework has reinforced Council's requirement to consider financial and non-financial resource implications in all plans formally adopted and Council must take into account services and initiatives contained in any plan when preparing the Strategic Resource Plan (*Local Government Asset Management Better Practice Guide*, 2015).

In addition the advent of Local Government Performance Reporting Framework has seen Council reporting on its development and implementation of asset management plans.

To responsibly manage assets, the organisation needs to know:

- the assets it owns and controls
- the current condition and residual lives of the assets
- the present or current replacement cost of the assets
- the cost of maintenance, replacement or renewal
- levels of service acceptable or expected by customers.

Council has collected condition information on its building portfolio over the past three years and has integrated this data into Council's asset management system. This has allowed for detailed condition data to be maintained in a central location and enabled prediction of asset renewal demands to inform budget development and long term financial planning. The building assets have been strategically assessed and works forecast based on the condition of Council's buildings.

The Asset Management Plan encompasses the following building types:

- public buildings (including halls, public toilets, playing field amenities, community centres)
- heritage buildings
- Council offices and depots.

Please note that the following building types have been excluded from this plan:

- buildings and facilities on Crown land of which Council is not the Committee of Management
- buildings and facilities on Private land of which Council has no management control.

Council's Buildings Asset Management Plan provides details of the level of service for renewal and maintenance works that will be undertaken by Council, as well as a long term assessment of the financial management requirements for these assets. The Buildings Asset Management Plan is a five year plan that will be reviewed annually prior to Council's budget development.

Council's Buildings Asset Management Plan outlines the strategy for managing buildings to an agreed standard of service. The plan includes:

1. Current state of Council's building assets including financial and condition information.
2. Service level standards at both the strategic and operational level. Furthermore, the plan outlines the framework for intervention to ensure the buildings are maintained to a certain standard.
3. Identification of the building asset management practices and key achievements from the previous financial year.

4. Funding analysis, including details of planned works, estimated costs and long term financial forecasting.
5. Detailed financial analysis and capacity assessment.
6. Specific actions to be undertaken to improve building asset management practices.

The budget is currently being developed for 2016-2017 and the buildings asset management plan will provide advice and guidance in development.

Council's Buildings Asset Management Plan identifies the current state of Council's assets and models the financial resources required to maintain the buildings to a certain level of condition. Maintaining the asset condition data is essential to ensuring Council's long term financial planning can be completed accurately.

The plan focuses on renewal of assets being funded before the funding of new and upgrade works. Inability to adequately fund renewal works will increase deterioration, reduce levels of service and increase financial burden in the long term

Policy and Legislative Context

Council's Buildings Asset Management Plan is consistent with the *Local Government Act 1989* and Local Government Victoria's *Local Government Asset Management Better Practice Guide 2015*.

Council's Buildings Asset Management Plan aligns with Council's Plan 2013-2017 as it supports the following commitments:

We will maintain a focus on the importance of our assets and infrastructure to underpin service delivery. We will implement processes that ensure our infrastructure continues to meet the requirements of our community.

Sustainability and preservation of our assets.

Plan for and deliver improved asset capacity to meet future needs.

Internal / External Consultation

Council's Buildings Asset Management Plan has been reviewed by Council staff involved with building asset management and senior officers.

Council's industry specialist asset management advisors have assisted in guiding the development of the Asset Management.

Financial and Resource Implications

Council's Buildings Asset Management Plan has been developed based on Council's building portfolio of 188 buildings with a total replacement value of \$55,649,799.

On account of financial constraints, current modelling has set intervention for renewal works at Council's buildings at condition five for building structure, ceilings, walls, fitouts and services, whilst intervention is set at condition four for floor coverings. This is likely to impact on current levels of service at Councils buildings.

The projected five year spend for Councils building portfolio is outlined below:

CAPITAL	Disability Access	Toilet Upgrades	Pool Upgrades	Heritage	Building capital*	Total
Average	20,000	20,000	30,000	116,626	145,874	332,500
Year 1	20,000	20,000	30,000	81,550	46,282	197,832
Year 2	20,000	20,000	30,000	195,380	96,323	361,703
Year 3	20,000	20,000	30,000	146,900	108,433	325,333
Year 4	20,000	20,000	30,000	77,550	231,896	379,446
Year 5	20,000	20,000	30,000	81,750	246,435	398,185
Total	100,000	100,000	150,000	583,130	729,369	1,662,499

* Building capital costs is populated by Councils Asset Management System.

Council has the option of reducing expenditure through rationalisation or disposal of its building assets. Council has been renewing its property and building portfolio on a regular basis and will continue to do so in a proactive manner to ensure those properties surplus to Councils requirements are considered for disposal.

The cost to manage Council's building asset portfolio is managed on an annual basis as a part of the development of the annual budget. The Buildings Asset Management Plan will provide direction for budget development.

Options

Council can adopt the Buildings Asset Management Plan as presented, or choose to amend the Buildings Asset Management Plan by increasing or decreasing service levels. Any decrease will impact on Council's ability to meet asset renewal ratios and maintain buildings at the current standard.

Conclusion

The primary aim of Council's Buildings Asset Management Plan is to assist Council in maintaining a building portfolio that allows Council to effectively meet current and future demand for services.

Council's Buildings Asset Management Plan provides details of the level of service for renewal and maintenance works that will be undertaken by Council, as well as a long term assessment of the financial resources required to maintain the buildings to a certain level of condition.

RECOMMENDATION

That Council adopts the Buildings Asset Management Plan 2016-2021.

COUNCIL RESOLUTION

MOVED: *Cr Harkin*

SECONDED: *Cr Trotter*

That the recommendation be adopted.

CARRIED

Attachments

1. Asset Management Plan Buildings February 2016 - Under Separate Cover

10.6 Local Government Performance Report for six month period ending 31 December 2015

Author: David Rae, Director Corporate and Community Services

File No: D16/72

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - David Rae

In providing this advice to Council as the Director Corporate and Community Services, I have no interests to disclose in this report.

Summary

The purpose of this report is to provide Council with a report on the Local Government Performance Reporting Framework (LGPRF) results for the six month period ending 31 December 2015, as required under the *Local Government (Planning and Reporting) Regulations 2014*.

Introduction

The LGPRF is a mandatory system of reporting to ensure all councils are measuring and reporting their performance through a consistent set of indicators.

The aim of the LGPRF is to strengthen accountability and transparency across local government. All councils are required to report their performance information in their annual reports which is also published on the 'MyCouncil' website.

Issues

The *Local Government (Planning and Reporting) Regulations 2014* sets out the financial planning and reporting framework for local government.

The half yearly results, and where applicable comparative results for the same period last year and 2014-2015 full financial year, are reported in the attachment (under separate cover). Council's performance for the six month period ending 31 December 2015 is not dissimilar to the same period last year. Some indicators have performed strongly, whereas some require monitoring over the remainder of the financial year. Care should also be taken when interpreting the data provided in this report, as it only pertains to half the financial year. Non-financial elements reported are not always uniform throughout the year and the timing of revenue or expenditure recognition often varies from year-to-year.

There are currently 90 indicators in the framework of which 89 are mandated. The indicators need to be reported in the 2015-2016 Annual Report and will help councils to monitor their own performance over time and benchmark performance on an annual basis with other

councils. Some of the indicators will be audited by the Victorian Auditor General's Office. Over time the data will become more useful, as Council will ultimately report up to four years of historical data and four years of forecast data to enable both the Council and community to observe trends.

The mandated indicators and measures are grouped into three areas:

- Service performance. 48 indicators (47 mandatory) across 10 services*:
- Financial performance. 12 finance indicators (all mandatory)
- Sustainability. Six indicators relating to sustainable capacity, 24 indicators relating to governance and management (all mandatory).

* In addition to the mandated services Council will also report on two optional services being Immunisations and Economic Development. Council has elected not to report on the remaining two optional services at this time due to difficulties associate with data collection. These service areas are Sportsgrounds and Street Sweeping.

Policy and Legislative Context

Consideration of this report is in accordance with the *Local Government Act 1989*, *Local Government (Planning and Reporting) Regulations 2014* and the following 2013-2017 Council Plan commitments:

Council will demonstrate high levels of ethical behaviour and corporate governance standards. We will make budgetary decisions that are reflective of our financial circumstances. We will advocate for and with the community to achieve outcomes.

Model contemporary standards of corporate governance and professional standards.

Council will recognise and make decisions that reflect our financial circumstances.

Internal / External Consultation

The reporting of results of the half yearly performance for 2015-2016 has been coordinated by Council's Organisational Development Coordinator, with data collation completed by nominated department managers. The Senior Officer Group has reviewed the results.

Financial and Resource Implications

There are no financial and resource implications as a consequence of this report. However, it is estimated the recurrent cost, through lost productivity, associated with the LGPRF is \$10,000 per annum. Additionally, the promised reduction in the reporting burden by Local Government to State Government has disappointingly been inadequate and has not resulted in any cost or time savings.

Conclusion

Effective performance reporting by councils is essential for ensuring accountability to residents and ratepayers. The primary objective of the LGPRF is to provide comprehensive performance information for this purpose. The data generated by the LGPRF can also provide an incentive to improve the performance once trend data becomes available. Council's performance for the six month period ending 31 December 2015 is favourable and comparable to the same period last year.

RECOMMENDATION

That Council notes the half yearly results for the period ending 31 December 2015 for the legislated performance indicators under the *Local Government (Planning and Reporting) Regulations 2014*.

COUNCIL RESOLUTION

MOVED: *Cr Harkin*

SECONDED: *Cr Oakes*

That the recommendation be adopted.

CARRIED

Attachments

1. LGPRF Council Report for 6 month period ending 31 December 2015 - Under Separate Cover

10.7 Planning and Environment Act - Instrument of Appointment and Authorisation

Author: Marilyn Lynch, Organisational Development Coordinator

File No: D16/36

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Author - Marilyn Lynch

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

Summary

This report provides advice and information on the preparation of a revised Instrument of Appointment and Authorisation for the exercise of powers under the *Planning and Environment Act 1987*.

Introduction

Council authorises a range of staff to act on its behalf in the enforcement of a variety of different State legislation specific to their roles. The Instrument of Appointment and Authorisation covers the roles of Planning Officers and Environmental Health Officers in the administration and enforcement of the *Planning and Environment Act 1987*.

Issues

The Instrument of Appointment and Authorisation dated 19 December 2014 requires updating due to changes in personnel.

The new Instrument of Appointment and Authorisation would apply to the following officers who are appointed as Planning Officers or Environmental Health Officers with responsibilities under the *Planning and Environment Act 1987*.

- Andrew John Mason
- Ian William Gibb
- Gregory James Hayes
- Darren Stanley Frost
- Lyall Robert Bond
- Stephanie Alexandra Durant
- Emily Kate Lanman
- Matthew White
- Scott David Matheson.

Policy and Legislative Context

The authorisation of officers using this Instrument is consistent with legal advice provided by Maddocks Lawyers. The authorisation is also consistent with the Council Plan 2013-2017 commitment that 'Council will demonstrate high levels of ethical behaviour and corporate governance standards'.

Internal / External Consultation

Relevant managers and directors have been consulted in the preparation of this report.

Options

Council can determine to appoint and authorise the officers in this Instrument for the purposes of the *Planning and Environment Act 1987*, the regulations made under that Act and under Section 232 of the *Local Government Act 1989*. The authorisation allows officers to institute proceedings for offences against the acts and regulations described in this Instrument. Council can choose not to proceed with the authorisation.

Conclusion

Adoption of the Instrument of Appointment and Authorisation fulfils Council's requirement to ensure its officers are appropriately authorised.

RECOMMENDATION

That:

- 1. In exercise of the powers conferred by Section 224 of the Local Government Act 1989 (the Act) and the other legislation referred to in the attached Instrument of Appointment and Authorisation, Council resolves that the members of Council staff:**
 - a) Andrew John Mason**
 - b) Ian William Gibb**
 - c) Gregory James Hayes**
 - d) Darren Stanley Frost**
 - e) Lyall Robert Bond**
 - f) Stephanie Alexandra Durant**
 - g) Emily Kate Lanman**
 - h) Matthew White**
 - i) Scott David Matheson**

as referred to in the Instrument be appointed and authorised as set out in the Instrument.
 - 2. The Instrument comes into force immediately the common seal of the Council is affixed to the Instrument, and remains in force until Council determines to vary or revoke it.**
 - 3. The Instrument of Appointment and Authorisation (Planning and Environment Act 1987) dated 19 December 2014 be revoked.**
 - 4. The common seal of Council be affixed to the Instrument.**
-

COUNCIL RESOLUTION

MOVED: *Cr Oakes*

SECONDED: *Cr Gstrein*

That the recommendation be adopted.

CARRIED

Attachments

1. Instrument of Appointment and Authorisation Planning And Environment Act 1987
February 2016 - Under Separate Cover

10.8 Records of Assembly of Councillors

Author: Andrew Mason, Chief Executive Officer

File No: D16/67

Previous Council Reference: Nil

Declaration

Chief Executive Officer – Andrew Mason

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

Summary

This report documents the Assembly of Councillors to be reported since the last Ordinary Meeting of Council on 27 January 2016.

Introduction

The *Local Government Act 1989* (the Act) requires that records of meetings which constitute an Assembly of Councillors be tabled at the next practicable meeting of Council and is incorporated in the minutes of the Council meeting.

Issues

An 'Assembly of Councillors' is defined in the Act as a meeting at which matters are considered that are intended or likely to be the subject of a Council decision or subject to the exercise of a delegated authority and which is either of the following:

- A meeting of an advisory committee where at least one Councillor is present; or
- A planned or scheduled meeting that includes at least half the Councillors and at least one Council officer.

Typical meetings giving rise to an Assembly of Councillors at Corangamite Shire include Councillor briefings, advisory committees and planning site inspections. However, from time to time additional records may be reported in accordance with the Act.

Section 80A of the Act requires that a record must be kept of an Assembly of Councillors which lists:

- The Councillors and members of Council staff attending.
- The matters discussed.
- Disclosures of conflict of interest (if any are made).
- Whether a Councillor left the meeting after making a disclosure.

Records of an Assembly of Councillors are documented by a Council officer present at a meeting designated as an Assembly of Councillors. Responsibility for the maintenance of records associated with Assembly of Councillors rests with the Chief Executive Officer.

Policy and Legislative Context

Tabling of the records of Assembly of Councillors ensures Council is compliant with the Act. In addition, this report is consistent with the Council Plan 2013-2017 strategy, "Council will demonstrate high levels of ethical behaviour and corporate governance standards".

Conclusion

The records documenting the below Assembly of Councillors are attached:

- Councillor Briefing 27 January 2016
- Planning Inspection (Camperdown) 2 February 2016
- Planning Inspection (Timboon) 2 February 2016
- Councillor Briefing 9 February 2016.

RECOMMENDATION

That Council accepts the attached Records of Assembly of Councillors.

COUNCIL RESOLUTION

MOVED: Cr Gstrein

SECONDED: Cr Trotter

That the recommendation be adopted.

CARRIED

Attachments

1. Record of an Assembly of Councillors 27 January 2016
2. Record of an Assembly of Councillors Planning Site Inspection (Camperdown) 02-02-2016
3. Record of an Assembly of Councillors Planning Site Inspection (Timboon) 02-02-2016
4. Record of an Assembly of Councillors 9 February 2016

Council

Record of an Assembly of Councillors

Councillor Briefing

Date: Tuesday 27 January 2016

Time: 2.00 pm

Place: Killara

Present

Councillors:

- Cr Beard Cr Gstrein Cr Harkin Cr Oakes
- Cr O'Connor Cr Smith Cr Trotter

Officers:

- Ian Gibb Brooke Love Andrew Mason David Rae

Greg Hayes (Item 4)

Guests:

Harry Umland, James Green and Trevor Gardner (Item 3)

Richard Riordan MP (Item 5)

Issues Discussed:

Item	Discussion Topic
1	Hot Topics: <i>Terang Children's Centre, GSC Group Update, Pools and Code Red Days, Spot Spraying Roadside Weeds, Richard Riordan Meeting, Director Works and Services, Hawks Nest Road, Agenda Items, New Finance Manager, Rate Capping Report, Melbourne Workshop</i>
2	Councillor Items: <i>Intensive Animal Industry, Corangamite Library Corporation and Impact of Rate Capping on their Budget, Camperdown Dairy International, Glenormiston College, Green Waste, Australia Day Congratulations, Pope Bus Lines New Service, Landfill Income, Defined Benefits, Long Term Financial Plan, Castle Carey Bridge</i>
3	Cobden Community Activity Precinct
4	Planning Scheme Review
5	Richard Riordan MP, Member for Polwarth

Conflicts of Interest declared: Cr Beard indirect interest by close association in item 3.

Councillors left the meeting at: 3.15 pm

Councillors returned to the meeting at: 3.55 pm

Councillor Conflict of Interest Form Completed: Yes (D/16/6620)

Meeting close: 6.00 pm



Note taker: Andrew Mason

Planning Inspection

Record of an Assembly of Councillors



Date: Tuesday, 2 February 2016

Time: 9.30 am

Location: Princes Highway Camperdown (Mt Leura Car Park)

Application No: PP2001/160.A

Proposal:

Amend Planning Permit for the development and use of the land for the purposes of an Extractive Industry - Scoria Quarry

Present:

Cr O'Connor Cr Gstrein Cr Oakes Cr Harkin
 Cr Beard (Mayor) Cr Smith Cr Trotter

Officers:

Greg Hayes Steph Durant Scott Matheson

Applicant:

Chris Drury (Brian Consulting Pty Ltd) Titan Willows (owner) Representative

Submitters:

Graham Arkinstall - Chair of Mt Leura & Mt Sugarloaf Management Committee and Friends of Mt Leura
 Edward Harris, Pat Robinson and Errol Harris – Member of Management Committee
 Frances Grundy
 Anna Foley (National Trust)

Issues Discussed:

General explanation of the proposal and the process of assessment and determination with all parties having the opportunity to put their questions and comments forward.

Conflicts of Interest declared: None

Meeting close: 10.20 am



Note taker: Greg Hayes

Planning Inspection

Record of an Assembly of Councillors



Date: Tuesday, 2 February 2016

Time: 10.50 am

Location: 1 Barrett Street Timboon

Application No: PP2015/150

Proposal:

Use and Development of Land for Rural Industry (ice cream manufacturing),
Manufacturing Sales, Restaurant (ice cream restaurant) and Alteration of Access to a
Road Zone 1.

Present:

Cr O'Connor Cr Gstrein Cr Oakes Cr Harkin
 Cr Beard (Mayor) Cr Smith Cr Trotter

Officers:

Greg Hayes Steph Durant Scott Matheson

Applicant:

Mathew Morse Tim and Marwood and Caroline Simmons (owners)

Submitters:

Michael Broomhall

Issues Discussed:

- Building Design
- Noise And Odour Impacts
- Traffic and Access
- Proposed Operations

Conflicts of Interest declared:

Nil

Meeting close: 11:30am

Note taker: Steph Durant



Council

Record of an Assembly of Councillors

Councillor Briefing**Date:** Tuesday 9 February 2016**Time:** 10.00 am**Place:** Old Council Chambers**Present****Councillors:**

Cr Beard Cr Gstrein Cr Harkin Cr Oakes
 Cr O'Connor Cr Smith Cr Trotter

Officers:

Ian Gibb Brooke Love Andrew Mason David Rae

Lyll Bond and Belinda Bennett (Item 3)

Rory Neeson and Catherine O'Flynn (Item 4)

David Moloney and Mick Lodge (Item 5)

Adam Taylor (Item 6)

Marilyn Lynch (Item 8)

Michael Emerson (Item 9)

Guests:

Eve Graham and Jeremy Settle (EPA) (Item 3)

Issues Discussed:

Item	Discussion Topic
1	Hot Topics: <i>Mobile Black Spot Funding, Nominations for Regional Partnership Group, GSC Group Update, CEO NZ Conference, Sister City Update, VCAT Noorat Closed Landfill, Castle Carey Bridge, EPA CEO Visit, Local Government Act Review</i>
2	Councillor Items: <i>Origin CRG, Timboon Park Opening, Timboon Action, Timboon Ice Cream, Colac Otway, GSC Ice Challenge, Planning Permit for Quarry, Saleyards, Noorat-Mortlake and Darlington Road Intersection, Caravan Park, Councillor Leave Arrangements, Cobden Airstrip, Industry Consultation about Roads, Glenormiston College, Princetown, Camperdown Dairy International Site</i>
3	EPA Priority Projects and Closed Landfills
4	Australia Day Debrief
5	Timboon Street Scape Trees
6	2016-2017 Budget Parameters and Timeline
7	Council Discretionary Fund Policy (Review)
8	Review of Caretaker (Elections) Policy and Councillor Code of Conduct
9	Economic Development Review

Conflicts of Interest declared: Cr O'Connor indirect interest by close association for topic in item 1 (Castle Carey Bridge).

Councillors left the meeting at: 10.55 am

Councillors returned to the meeting at: 10.58 am

Councillor Conflict of Interest Form Completed: Yes (D/16/8910)

Meeting close: 5.00 pm

Note taker: Andrew Mason

11. OTHER BUSINESS

The Mayor, Cr J. Beard, invited Councillors to raise items of other business.

The following items were submitted:

- Cr P. Harkin discussed the increasing number of road accidents involving tourists from overseas, suggesting directional arrows should be painted on the Great Ocean Road. Cr Harkin noted this measure has been successful in New Zealand and called on the State and Federal Governments to act before more incidents occur.
- Cr C. O'Connor congratulated Minister Dan Tehan on his appointment as Minister for Veterans Affairs and Minister for Defence Materiel.

12. OPEN FORUM

Nil.

13. CONFIDENTIAL ITEMS

Nil.

Meeting Closed: 8.20 pm

I hereby certify that these minutes have been confirmed and are a true and correct record.

CONFIRMED:

(Chairperson)

DATE:
