

AGENDA

FOR THE
GREATER SHEPPARTON CITY COUNCIL

ORDINARY COUNCIL MEETING

TO BE HELD ON
TUESDAY 20 March 2012
AT 1.00PM

IN THE COUNCIL BOARD ROOM
90 WELSFORD STREET

COUNCILLORS:

Cr Michael Polan (Mayor)
Cr Chris Hazelman (Deputy Mayor)
Cr Cherie Crawford
Cr Geoff Dobson
Cr Jenny Houlihan
Cr Milvan Muto
Cr Kevin Ryan

VISION

GREATER SHEPPARTON
AS THE FOOD BOWL OF AUSTRALIA,
A SUSTAINABLE, INNOVATIVE
AND DIVERSE COMMUNITY
GREATER FUTURE

A G E N D A
FOR THE
ORDINARY COUNCIL MEETING
TO BE HELD ON
TUESDAY 20 March 2012 AT 1.00PM

CHAIR
CR MICHAEL POLAN

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PRESENT:

1. ACKNOWLEDGEMENT

“We the Greater Shepparton City Council, begin today’s meeting by acknowledging the traditional owners of the land which now comprises Greater Shepparton. We pay respect to their tribal elders, we celebrate their continuing culture, and we acknowledge the memory of their ancestors.”

2. APOLOGIES

3. DECLARATIONS OF CONFLICTS OF INTEREST

4. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on 21 February 2012, as circulated, be adopted.

5. MANAGEMENT REPORTS

FROM THE ASSET DEVELOPMENT DEPARTMENT

5.1 Our Sporting Future Funding Program Round Two 2011/2012 - Minor and Sports Aid Funding

Disclosures of Conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

Applications received for the second round of funding for the 2011/2012 Our Sporting Future Funding Program - Minor Facilities and Sports Aid Categories have been considered by the interim assessment team.

RECOMMENDATION

That the following allocations be made for the Council's 2011/2012 Our Sporting Future Funding Program.

Our Sporting Future – Minor Facilities Category

Club	Project	Allocation
Medland Park Body Corporate	Playground Equipment	\$2,900
Orrvale Primary School	Senior Playground	\$5,598
Tatura Netball Association	Lighting of Netball Courts	\$15,000
Mooroopna Bowls Club	Erection of shade shelters	\$7,920
	TOTAL	\$31,418

Our Sporting Future – Sports Aid

Club	Project	Allocation
Shepparton Rowing Club	Reformation of club	\$5,000
Skateboarding Australia	Skateboarding Hub	\$3,950
	TOTAL	\$8,950

5. MANAGEMENT REPORTS

5.1 Our Sporting Future Funding Program Round Two 2011/2012 - Minor and Sports Aid Funding (Continued)

Background

The Our Sporting Future Funding Program has been established to assist community organisations with the implementation of small to medium sized facility development projects. The program also assists with development programs for new and developing sporting organisations throughout the Greater Shepparton Municipality.

The funding program provides three categories for funding:

- Major facility development
- Minor facility development
- Sports Aid

The Minor and Sports Aid applications are assessed in three rounds, with the second round closing on Friday 25 November 2012 are subject to this report. The Major applications which are assessed in two rounds, with the second round closing on Friday 24 February 2012 and will be reported at the April 2012 Council meeting.

A cross department interim assessment team has been developed to improve the assessment of applications. The team consists of the following members:

- Team Leader Recreation
- Team Leader Events
- Strategic Planner Communities. Recreation and Parks Officer
- Grants Officer

Our Sporting Future (Minor) accommodates projects on a \$1 to \$1 basis requesting assistance from Council of up to, but not exceeding \$15,000. The program is for the implementation of small sized facility development projects.

The following applications were received for the Minor category:

MEDLAND PARK BODY CORPORATE

Funding Category	Minor		
Project	Purchase of Playground Equipment		
Project Details	Purchase of Equipment for their community playground to replace existing old equipment.		
Senior Membership (playing and social)		Junior Membership (playing and social)	
Total Project Cost	\$5,800	Organisation Cash	\$1,450

Requested Council Contribution	\$2,900	Organisation In-kind	\$1,450
Recommendation from the Interim assessment team	The project is consistent with the funding criteria in providing Playground Development for the project. The project is recommended for funding with an allocation of \$2900.		

5. MANAGEMENT REPORTS

5.1 Our Sporting Future Funding Program Round Two 2011/2012 - Minor and Sports Aid Funding (Continued)

ORRVALE PRIMARY SCHOOL

Funding Category	Minor
Project	Senior Playground
Project Details	Installation of senior playground equipment

Senior Membership (playing and social)		Junior Membership (playing and social)	
Total Project Cost	\$23,991	Organisation Cash	\$18,393

Requested Council Contribution	\$5,598	Organisation In-kind	\$0
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Recommendation from the Interim assessment team	The project is consistent with the funding criteria in providing Schools Playground Development for the project. The project is recommended for funding with an allocation of \$5598.		
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TATURA NETBALL ASSOCIATION

Funding Category	Minor		
Project	Lighting of Netball Courts		
Project Details	Lighting of an additional four courts		
Senior Membership (playing and social)		Junior Membership (playing and social)	130
Total Project Cost	\$49,024.80	Organisation Cash	\$34,024.80
Requested Council Contribution	\$15,000	Organisation In-kind	\$0
Recommendation from the Interim assessment team	The project is consistent with the funding criteria in providing Sports Surface Development for the project. The project is recommended for funding with an allocation of \$15,000.		

MOOROOPNA BOWLS CLUB

Funding Category	Minor		
Project	Erection of shade structures		
Project Details	Erection of two shade structures to main green		
Senior Membership (playing and social)	160	Junior Membership (playing and social)	
Total Project Cost	\$15,840	Organisation Cash	\$4,920
Requested Council Contribution	\$7,920	Organisation In-kind	\$3,000
Recommendation from the Interim assessment team	The project is consistent with the funding criteria in providing OH&S requirements for the project. The project is recommended for funding with an allocation of \$7,920.		

5. MANAGEMENT REPORTS

5.1 Our Sporting Future Funding Program Round Two 2011/2012 - Minor and Sports Aid Funding (Continued)

The following applications were received for the Sports Aid Category:

SHEPPARTON ROWING CLUB

Funding Category	Sports Aid
Project	Reformation of Shepparton Rowing Club
Project Details	To reform rowing club on Victoria Park Lake

Senior Membership (playing and social)	40	Junior Membership (playing and social)	0
Total Project Cost	\$9,050	Organisation Cash	\$4,050
Requested Council Contribution	\$5,000	Organisation In-kind	\$0
Recommendation from the Interim assessment team	The project is consistent with the funding criteria for the establishment for new sporting organisations. The project is recommended for funding with an allocation of \$5,000.		

SKATEBOARDING AUSTRALIA

Funding Category	Sports Aid		
Project	Greater Shepparton Skateboarding HUB		
Project Details	Set up a street wise 12 month skateboard program		
Senior Membership (playing and social)		Junior Membership (playing and social)	
Total Project Cost	\$2,3950	Organisation Cash	\$20,000
Requested Council Contribution	\$3,950	Organisation In-kind	\$0
Recommendation from the Interim assessment team	The project is consistent with the funding criteria for the establishment for new sporting organisations. The project is recommended for funding with an allocation of \$3,950.		

Risk Management

Consideration has been given to risk management issues during the assessment of all applications for funding support.

Policy Implications

There are no conflicts with existing Council policy.

Best Value Implications

The funds allocated by the Council are considered to offer value in terms of facilitating improvements to the quality and condition of local leisure facilities and supporting clubs to increase participation in physical activity in our community.

5. MANAGEMENT REPORTS

5.1 Our Sporting Future Funding Program Round Two 2011/2012 - Minor and Sports Aid Funding

Financial Implications

Total annual budget amount for the 2011/2012 Our Sporting Future funding program - Minor and Sports Aid is \$109,200.

Recommendations for the second round total \$40,368.00 leaving a YTD balance for the third round of \$48,979.00.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

This proposal does not limit any of the human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*

Legal/Statutory Implications

The proposal is consistent with Section 186 of *Local Government Act 1989*.

Consultation

The grants are advertised through various grants newsletter, media releases, and via emails to groups registered on the Council's mailing lists

Parks and Recreation branch staff have discussed the projects with the applicants and assisted in the application process. All applicants have been reminded that projects will not be funded retrospectively.

Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

This proposal supports the community and infrastructure objectives of the Greater Shepparton 2030 Strategy.

b) Council Plan

This proposal supports the community and infrastructure objectives of the Council Plan.

c) Other strategic links

This proposal supports the community and infrastructure objectives of the Municipal Public Health Plan.

Attachments

Nil.

5. MANAGEMENT REPORTS

5.2 Contract No.1348 – Isabel Pearce Kindergarten Extension

Disclosures of conflicts of interest in relation to advice being provided in this report:

No Council officers who have provided advice in relation to this report have a conflict of interest in relation to the matter under consideration.

Summary

The contract includes the construction of an extension to the existing Isabel Pearce Kindergarten building at the junction of Channel Road and Central Avenue Shepparton East, construction of an extended car park and the supply and installation of a new septic system.

RECOMMENDATION

That the Council:

1. accept the tender submitted by GL & DC Marshall Pty Ltd of Shepparton for the construction of a building extension and associated civil works at the Isabel Pearce Kindergarten, Shepparton East for the lump sum price of \$337,258.90 (including GST).
2. authorise the Chief Executive Officer to sign and seal the contract documents.

Contract Details

The contract is a lump sum contract

Tenders

Tenders were advertised in the Shepparton News on 9 December 2011. The tenders closed at 4.00pm on Wednesday 1 February 2012. Seven tenders were received (one later withdrawn) from six companies as follows (arranged in price order – lowest to highest):

- Crow Constructions (tender withdrawn)
- GL & DC Marshall
- Neatline Homes Pty Ltd
- Castlereagh Building B (alternative tender)
- Big G Trading
- Castlereagh Building A
- Contract Control Pty Ltd

Tender Assessment

The Council's estimate for the works is \$410,000 (excl. GST) and the total available budget is \$399,000 (excl. GST).

The tenders were evaluated in accordance with the criteria detailed in the tender documentation using a point scoring method. A separate confidential tender assessment has been provided to councillors.

The Evaluation Committee consisted of:

- Early Childhood Services Coordinator - Children's Services
- Contracts Engineer - Engineering Projects
- Capital Works Planning Coordinator - Engineering Projects

5. MANAGEMENT REPORTS

5.2 Contract No.1348 – Isabel Pearce Kindergarten Extension (Continued)

Crow Constructions withdrew their tender and were excluded from further evaluation.

Upon review of the attributes of each contractor the evaluation committee makes the following comments:

- GL & DC Marshall is the preferred tenderer and has submitted the lowest priced conforming tender and received the highest overall score.
- GL & DC Marshall is a local contractor who has completed similar projects for Greater Shepparton City Council. These projects include extensions to childcare centres: Arthur Dickmann and Frank Pullar. The company has also successfully completed projects for Connect GV and The Adviser. The Evaluation Committee is satisfied that GL & DC Marshall has established a good performance history with Council, and is considered to have the experience, capability and resources to complete this project within the time period stipulated.
- The tender submitted by GL & DC Marshall for a total lump sum price of \$337,258.90 (including GST) has been determined to provide the best value for Council.

Risk Management

Financial Risk:

The tender submitted by the preferred tenderer is lower than the estimated cost prepared by the Council and is within the Budget allocation.

Delivery Risk:

The preferred tenderer is experienced in the delivery of these projects, and has a sound knowledge of the scope and locality of the works.

Procurement Risk:

The tender was publicly advertised, and Council's Procurement Protocols have been followed.

Community Engagement Risk:

Council will maintain a close working relationship with the kindergarten management committee to ensure cooperation of parents during the construction period and to emphasise safe operating conditions at the kindergarten.

OHS Risk:

On contract award, the successful contractor will develop a site specific OHS Management Plan. The Council officers managing the contract will undertake site inspections of the successful contractor's OHS site performance.

Policy Implications

There are no conflicts with Council Policy

Best Value Implications

The development of contract specifications and the tender assessment process has been undertaken in the context of over-arching principles of Best Value service delivery, which include quality and cost standards, responsiveness to community needs, accessibility and continuous improvement.

5. MANAGEMENT REPORTS

5.2 Contract No.1348 – Isabel Pearce Kindergarten Extension (Continued)

Financial Implications

This project is funded in the 2011/2012 budget and incorporates, Department of Education and Early Childhood Development, Isabel Pearce Kindergarten committee and budgeted Council funds. The proposed contract amount is within this available budget.

It should be noted that the initial price estimate was \$280,000 and was within the budget allocation. However, with further development of the project a need was identified for additional funds. These funds are covered from the environmental works allocation and previous financial year unspent Department of Education and Early Childhood Development grant from existing budget within the Children's Services program area. Isabel Pearce kindergarten submitted an application for DEECD funds based on quotes received from local suppliers. As there was no guarantee of being successful in this application the scope of the project and associated costs could not be fully investigated without financial implications. As a result of a successful grant application and further development of the project, additional and underestimated costs were identified. Some of the major extra expense was:

Item	Original estimate	Engineers estimate
Septic	\$10,000.00	\$64,000.00 GST exclusive
Building	\$213,000.00	\$230,000.00 GST exclusive
Roadwork's	\$0.00	\$10,590.00 GST exclusive
Storm Water	\$0.00	\$16,500.00 GST exclusive
	Total extra	\$84,140.00 GST exclusive

INCOME:	
DEECD Grant	\$200,000 GST exclusive
Kindergarten Committee Contribution	\$ 59,000 GST exclusive
DEECD Grant funds from previous financial year	\$100,000 GST exclusive
TOTAL INCOME	\$359,000 GST exclusive
EXPENDITURE:	
Contract value	\$303,533.00 GST exclusive
Maximum additional costs and contingency	\$60,706.00 GST exclusive
TOTAL MAXIMUM EXPENDITURE	\$364,239.00 GST exclusive
Direct Council contribution (from budget allocated for Kindergarten environmental works)	\$40,000

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

This proposal does not limit any of the human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*

Legal/Statutory Implications

The proposal is consistent with Section 186 of *Local Government Act 1989*.

5. MANAGEMENT REPORTS

5.2 Contract No.1348 – Isabel Pearce Kindergarten Extension (Continued)

Strategic Links

a) Greater Shepparton 2030

Direction 2: Community life

Enhance social connectedness, physical and mental health and wellbeing, education and participatory opportunities in order to improve liveability with a greater range of public open spaces, and recreation and community services.

b) Council Plan

Community Life strategies

- Item No. 15 - Provide affordable and sustainable community services
The large number of services we deliver must be provided to a standard acceptable to the community.

Infrastructure strategies

- Item No. 28 - Provide affordable and sustainable community infrastructure
Our community enjoys a high standard of infrastructure, which need to be maintained at a standard acceptable to the community.

c) Other Strategic Links

- Draft Greater Shepparton Best Start Early Years Plan 2011/2014 is incorporated in the Council plan and includes visions that –
- All children enjoy a healthy start on life
- All children are supported to become confident learners
- Greater Shepparton – a child and family friendly city
- Collaborative planning and service development

These works will increase the capacity of kindergarten places in Greater Shepparton, reducing waiting lists and providing for universal access 15 hours in 2013.

Attachments

Nil.

5. MANAGEMENT REPORTS

FROM THE COMMUNITY DEVELOPMENT DEPARTMENT

5.3 Greater Shepparton Best Start Early Years Plan 2011/2014

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

The Greater Shepparton Best Start Early Years Plan 2011/2014 is the new four year plan to improve learning, development, wellbeing and health outcomes for children aged 0 to 6 years living in our municipality. The new plan will provide the strategic direction for the Best Start Early Years Partnership and relevant workgroups responsible for implementing the plan.

The Partnership has approved this plan and is now seeking the endorsement/adoption of Council. A briefing was held with Councillors on Tuesday 14 February.

RECOMMENDATION

That Council endorse the draft Greater Shepparton Best Start Early Years Plan 2011/2014 for broad public consultation over a period of four weeks.

Background

Greater Shepparton was one of the first Best Start demonstration sites from 2003 to 2005 and has continued as an extension since 2006. At this time Municipal Early Years Plans (MEYP) were introduced by the Municipal Association of Victoria and Councils were required to develop a plan for the children living in their municipality. The Partnership group made the decision to merge the Best Start plan and MEYP into one, given both cover the same age group, same priorities and the Partnership was already established to provide strategic direction. The most recent plan finished in December 2010.

In October 2010 Greater Shepparton was named one of two Enhanced Best Start sites in Victoria. The focus for Enhanced Best Start is to increase breastfeeding rates and to increase access to and participation in Maternal and Child Health and kindergarten services for children known to ChildFIRST and child protection.

Since January this year the Partnership and Best Start project team have undertaken extensive community consultations to identify priorities for the new plan. Interviews and focus groups with parents, forums with service providers and the Partnership, and review of the evaluation report from the 2008/2010 plan have informed the development of the new Greater Shepparton Best Start Early Years Plan 2011/2014.

Risk Management

Any risks associated with the Greater Shepparton Best Start Early Years Plan 2011/2014 are minimal as the actions are based on well researched and evaluated data with positive outcomes for children.

5. MANAGEMENT REPORTS

5.3 Greater Shepparton Best Start Early Years Plan 2011/2014 (Continued)

Policy Implications

There are no conflicts with Council policy. The adoption of this plan will meet Council's responsibility of providing a Municipal Early Years Plan and references Council's Public Health Plan.

Best Value Implications

This recommendation is in line with Best Value principles.

Financial Implications

The actions in the plan will be fully incorporated within the Best Start and Enhanced Best Start grant of \$300,000 per annum, which is fully funded by the Department of Education and Early Childhood Development. Council contributes \$20,000 annually to support the development and evaluation of the Municipal Early Years Plan component.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The review will give consideration to human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*. The actions identified within the plan will assist in giving all children in the municipality equitable opportunities to have the best start in life.

Legal/Statutory Implications

This recommendation is consistent with the *Local Government Act 1989*.

Consultation

Parents, community members, early years service providers, workgroup members and Partnership members were consulted in the development of this new plan. Consultation was undertaken broadly through early years networks, with focus groups and a series of 1-on-1 interviews. A community consultation report has been developed.

Strategic Links

a) Greater Shepparton 2030 Strategy

There are no direct links to the Greater Shepparton 2030 Strategy.

b) Council Plan 2009-2013

Specific links to this document under Community Life strategies – 'provide a safe and family friendly community' and 'develop and pursue strategies to improve community health and wellbeing'

c) Municipal Public Health Plan 2009-2013

Links to the importance of the early years and specifically childhood immunisation

Attachment

Greater Shepparton Best Start Early Years Plan 2011/2014.

5. MANAGEMENT REPORTS

5.4 Cultural Diversity and Inclusion Strategy and Action Plan

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

Considering the cultural diversity of our region, it is imperative that Council highlight our commitment to diversity by developing a Cultural Diversity and Inclusion Strategy. The development of this strategy is designed to build on the work already undertaken and to strengthen partnerships between Council and the region's Culturally and Linguistically Diverse (CALD) communities, service providers and other cultural stakeholders. It considers all members of CALD communities, inclusive of established, new and emerging populations.

At an Ordinary Council meeting held on 20 December 2011, Council resolved to release the draft Cultural Diversity and Inclusion Strategy for public feedback. The draft strategy was made widely available to a broad range of community organisations and venues including our CALD communities.

The feedback from the recent consultations has indicated strong support for the adoption of the strategy and that Council continue to promote and celebrate cultural diversity.

RECOMMENDATION

That the Council adopt the Cultural Diversity and Inclusion Strategy and Action Plan 2012/2015; and support further implementation of identified actions in the plan, subject to budget availability.

Background

Greater Shepparton is a richly diverse region with the 2006 Australian Bureau of Statistics Census revealing that 11 per cent of the population identifies as being born in a country other than Australia. The development of a Cultural Diversity and Inclusion Strategy is designed to build on the existing positive achievements of Greater Shepparton City Council and guide our commitment to supporting and celebrating cultural diversity through best practice. Its development will inform future Council strategies and policies to further support the development of harmonious communities which are inclusive of all.

Risk Management

The adoption of the Cultural Diversity and Inclusion Strategy and Action Plan 2012/2015 will strengthen community centric planning and result in reduced risk for Council, such as delivering programs which do not meet community needs.

Policy Implications

The adoption of the Cultural Diversity and Inclusion Strategy and Action Plan 2012/2015 is intrinsically linked to the Council Plan, Community Development Framework and Community Engagement Policy.

Best Value Implications

The Strategy is consistent with all Best Value principles.

5. MANAGEMENT REPORTS

5.4 Cultural Diversity and Inclusion Strategy and Action Plan (Continued)

Financial Implications

Budget implications have been considered in the development of the Strategy. Actions identified within the plan requiring additional resources will be considered through Council's annual budgetary processes.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The Strategy does not limit any human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Legal/Statutory Implications

The Strategy is consistent with the requirements of the *Local Government Act 1989*.

Consultation

The Cultural Diversity and Inclusion Strategy and Action Plan was developed from extensive community consultation with many cultural groups, service providers and internal Council staff.

The draft Strategy was placed on public exhibition from 20 December 2011 to 20 February 2012. A copy of the strategy was mailed to service providers and stakeholders who assisted with the development of the strategy. A summary of the strategy was translated into seven community languages, Albanian, Arabic, Dari, Greek, Italian, Swahili and Turkish, and then distributed to CALD community members. A consultation forum was held on 17 February 2012 with over 30 representatives from community organisations and CALD community groups.

The feedback from the recent consultations has indicated strong support of the adoption of the directions and actions within the strategy. Further feedback proposed that Council:

- Clearly outline that this document does not include our Aboriginal communities, but a separate document which will be developed throughout 2012 will outline Council's commitment and relationship with our Aboriginal communities.
- Continue to consult with CALD communities over the implementation of the action plan in the most appropriate manner
- Continue to work with CALD communities to ensure they understand Council processes
- Ensure we continue to work with the wider community to promote understanding and acceptance of our CALD communities.

Officers believe that appropriate consultation will occur and the matter is now ready for the Council's consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

Vision and Direction- Community Life

b) Council Plan

- Objective 6 - Community Life- Embrace and strengthen cultural harmony and diversity
- Objective 7 - Community Life- provide a safe and family friendly community

5. MANAGEMENT REPORTS

5.4 Cultural Diversity and Inclusion Strategy and Action Plan (Continued)

- Objective 8- Community Life- Increase education and learning opportunities for our community
- Objective 9- Community Life- Develop and pursue strategies to improve community health and wellbeing
- Objective 11- Community Life- Ensure social issues are actively considered when making planning decisions
- Objective 15- Community life- Provide affordable and sustainable community services
- Objective 16- Community Life- Value Arts and Culture as an integral part of a dynamic community

Objective 31- Council Organisation and Management- Engage our community when making decisions

c) Other strategic links

- Greater Shepparton City Council – Community Engagement Policy
- Greater Shepparton City Council – Municipal Public Health Plan
- Greater Shepparton City Council - Community Development Framework
- Greater Shepparton City Council - Municipal Strategic Statement
- Greater Shepparton City Council – Customer First Commitment
- Victorian State Government – *Racial and Religious Tolerance Act 2001*
- Victorian State Government – Multicultural Victoria Act 2004 (including *Multicultural Victoria Amendment Act 2008*)
- Victorian State Government – *Charter of Human Rights and Responsibilities Act 2006*
- Victorian State Government – *Equal Opportunity Act 2010*
- Municipal Association of Victoria – Statement to Cultural Diversity 2007
- All of Us: Victoria's Multicultural Policy 2009
- Australian Government – The People of Australia – Australia's Multicultural Policy
- Federal legislation – *Racial Discrimination Act 1975*

Attachments

1. Cultural Diversity and Inclusion Strategy and Action Plan 2012/2015
2. Cultural Diversity and Inclusion Strategy - Community Consultation Overview
3. Cultural Diversity and Inclusion Strategy – Budget implications

5. MANAGEMENT REPORTS

FROM THE CORPORATE SERVICES DEPARTMENT

5.5 Councillor Expense Report – February 2012

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

The purpose of the report is to provide details of Councillor expense payments.

RECOMMENDATION

That the Council receive and note the Councillor expenses report for the month of February 2012.

Background

The report has been prepared in accordance with the *Council Plan 2009 – 2013* Strategic Objective 6 “Council Organisation and Management”. This provides that:

“Greater Shepparton City Council will deliver best practice management, governance, administrative and financial systems that support the delivery of Council programs to the community of Greater Shepparton”.

This report will be presented to Council on a monthly basis to make councillor expenses more transparent.

Risk Management

There are no identified risks associated with this report.

Policy Implications

There are no conflicts with other Council policies.

Best Value Implications

The public presentation of Councillor expenses is in line with Best Value principles.

Financial Implications

The 2011/2012 Budget provides a basis for measurement of actual performance/position to July 2012.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The report does not limit any human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Legal/Statutory Implications

There are no legal/statutory implications.

Consultation

No consultation is required for this matter.

5. MANAGEMENT REPORTS

5.5 Councillor Expense Report – February 2012 (Continued)

Strategic Links

a) Greater Shepparton 2030 Strategy

There are no direct links to the Greater Shepparton 2030 Strategy.

b) Council Plan

The report is consistent with the governance principal of Strategic Objective 6 of the *Council Plan 2009 – 2013* “Council Organisation and Management”.

c) Other strategic links

No other strategic links have been identified.

Attachment

February 2012 Councillor Expense Report.

5. MANAGEMENT REPORTS

5.6 Financial Report – February 2012

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

This report provides interim details of Council's financial position at 29 February 2012.

RECOMMENDATION

That the Council receive and note the financial report and position as at 29 February 2012.

Background

Section 137 of the *Local Government Act 1989* provides that Council maintain a budgeting and reporting framework that is consistent with the principles of sound financial management. Ongoing monthly reports will provide the basis for this.

Council adopted a revised \$104M Operating Budget and a \$36M Capital Works Program for 2011/2012. Council expects to have another successful year in delivering a multitude of Capital and Community based projects.

The following reports have been prepared and are presented to Council to facilitate decision making:

- Overview Commentary
- Income Statement
- Balance Sheet
- Cash Flow Statement.

Other schedules have been included for the information of Councillors:

- Strategic Objective Reports (both Operating and Capital)
- Investment Reports
- Sundry Debtor Report
- Rates Report.

Risk Management

Risks identified as part of the preparation of this report include works being undertaken with invoices not yet received.

Policy Implications

There are no conflicts with existing Council policies.

Best Value Implications

Close monitoring of budgets is in line with Best Value principles.

Financial Implications

The 2011/2012 Budget provides a basis for measurement of actual performance/position to July 2012.

5. MANAGEMENT REPORTS

5.6 Financial Report – February 2012 (Continued)

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The report does not limit any human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Legal/Statutory Implications

Section 138 of the *Local Government Act 1989* requires quarterly statements comparing budgeted revenue and expenditure for the financial year with the actual revenue and expenditure to date to be presented to the Council at a Council meeting which is open to the public. This report satisfies that requirement.

Consultation

All officers responsible for works included in the 2011/2012 Budget have been consulted in preparing this report.

Council officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

There are no direct links to the *Greater Shepparton 2030 Strategy*.

b) Council Plan

The report is consistent with the governance principle of Strategic Objective 6 of the *Council Plan 2009-2013* "Council Organisation and Management".

c) Other strategic links

No other strategic links have been identified.

Attachments

February 2012 Financial Report containing:

1. Overview Commentary
2. Income Statement
3. Balance Sheet
4. Cash Flow Statement
5. Strategic Objective Reports (both Operating and Capital)
6. Investment Reports
7. Sundry Debtor Report
8. Rates Report.

5. MANAGEMENT REPORTS

5.7 Proposed Road Closure of Part of Court Bowl in Marlboro Drive, Kialla

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

As a result of the planning permit application process it was identified that continuing residential development and subdivision along Marlboro Drive would benefit from the redesign of the road reserve to alter the existing court bowl into a through road, with Marlboro Drive then to connect with an extension of Kerang Avenue, Kialla.

This would result in a portion of the court bowl being surplus and it was recommended that part of the road reserve within the court bowl be formally closed and transferred to the adjoining property owner to be included in the subdivisional land.

Submissions

At the Council Meeting on 19 July 2011, the Council resolved to give public notice of the proposed partial road closure and invite submissions from any person affected by the proposed road closure.

Twelve submissions were received, however concerns related to general development matters rather than the proposed road closure and land transfer. Following discussions in which these matters were clarified, all submitters were satisfied and withdrew the submissions.

RECOMMENDATION

That the Council:

1. Determines that the portion of the road reserve within the existing court bowl known as Marlboro Drive, Kialla, is not required for public use as a road due to construction of a through road and will be formally closed.
2. Determines that the land within the closed road reserve will be transferred to the adjoining property owner and consolidated with lot 8 in Marlboro Drive, Kialla, being certificate of title volume 9321 folio 534 to form part of the proposed residential subdivision.
3. Give notice of the road closure in the *Victorian Government Gazette*.
4. Authorise the Chief Executive Officer to sign and seal all documentation for Council to complete the road closure and transfer the surplus former road reserve land to the adjoining property owner.

Background

The Council has considered the road closure and transfer of a portion of a road reserve within the court bowl in Marlboro Drive, Kialla. The court bowl was originally created as part of an earlier subdivision, however the adjoining property is now being further subdivided with the road reserve to be extended to connect with Kerang Avenue Kialla. Due to this realignment, part of the court bowl will no longer be required as road reserve.

5. MANAGEMENT REPORTS

5.7 Proposed Road Closure of Part of Court Bowl in Marlboro Drive, Kialla (Continued)

It is recommended that part of the court bowl should be formally closed, subdivided from the remaining road reserve and transferred to the adjoining property owners to be included in the subdivision. This will enable the best outcome identified for the development of this site. The new development will include an enhanced road network which will be transferred to the Council once construction is complete.

Risk Management

A risk assessment has been completed. A risk that the proposal would not be supported by nearby residents was identified through the public consultation process, however following further consultation and withdrawal of all submissions, it is believed this risk has been mitigated. There were no other significant risks identified.

Policy Implications

The proposed road closure of part of the road reserve within the court bowl and the transfer of the surplus road reserve land to the adjoining property owner does not conflict with Council's policies. The Asset Management Policy states that the Council is committed to maximising resources to achieve the best outcome for the community, which will be evidenced by the enhanced road network provided by the subdivisional development.

Best Value Implications

The proposal is consistent with Best Value principles in providing the best outcomes for the community. The closure of part of the court bowl and allowing for appropriate road realignment will provide improved road infrastructure.

Financial Implications

The cost of the closure and land transfer, including subdivision costs, will be met by the adjoining property owner. As a result of the proposed subdivisions, the Council will receive the newly constructed road infrastructure as a gifted asset.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The proposal does not limit any human rights provided for under the Victorian *Charter and Human Rights and Responsibilities Act 2006*

Legal/Statutory Implications

This procedure is being undertaken in compliance with the *Local Government Act 1989*. Section 206 Clause 3 of schedule 10 provides the Council with the power to close a road reserve and transfer the land. This will enable the surplus land in the closed portion of the road reserve to be subdivided and transferred to the adjoining property owners.

Consultation

A number of relevant Council branches have been consulted, including the planning, engineering and assets departments. The proposal was referred to all relevant authorities and as no assets were located in the portion of court bowl, no objection was received.

As a result of public notice being provided, 12 objections were received. Each of the objections stated that they objected to the closure unless Marlboro Drive was fully constructed with kerb and channel, footpaths, town water, gas and speed limits imposed on Archer Road. Two of those objectors asked to present their submissions in person.

5. MANAGEMENT REPORTS

5.7 Proposed Road Closure of Part of Court Bowl in Marlboro Drive, Kialla (Continued)

Following discussions with each of the objectors and assurances from Council that Marlboro Drive would be constructed as each of the adjoining properties were developed, each of the objections were withdrawn.

Officers believe appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

This proposal is consistent with the *Greater Shepparton 2030 Strategy* as one of the supporting principles is identified within the Infrastructure section that “*The provision and restructure of urban and rural infrastructure to enhance the performance of the municipality and facilitate growth.*”

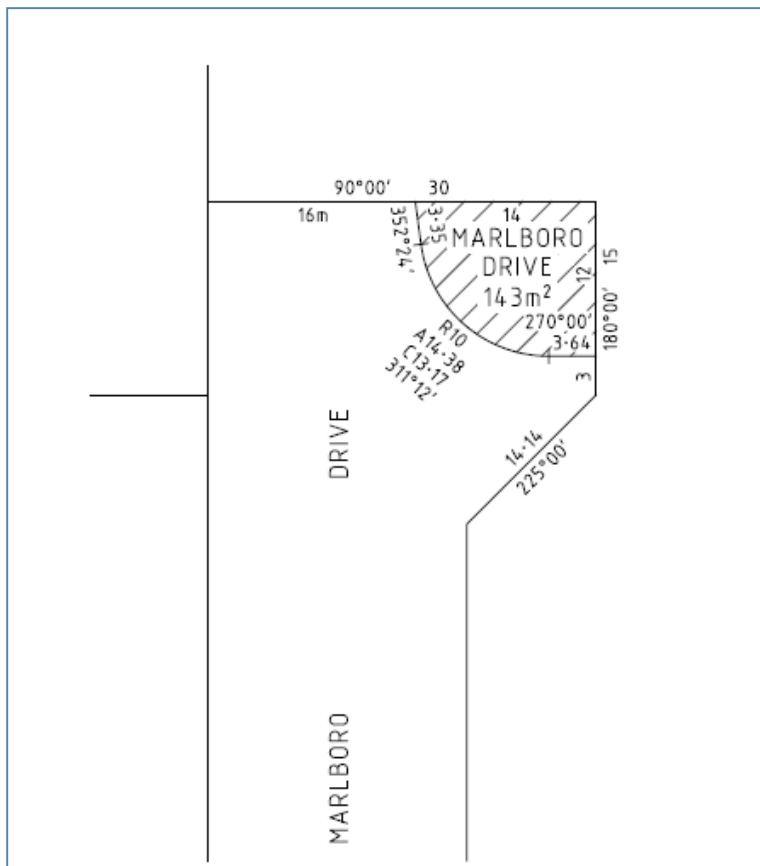
b) Council Plan

This proposal is consistent with this document. The strategic objective, Growth, identifies an action as “*Facilitate residential, commercial and industrial development across Greater Shepparton.*”

c) Other strategic links

No other strategic links have been identified.

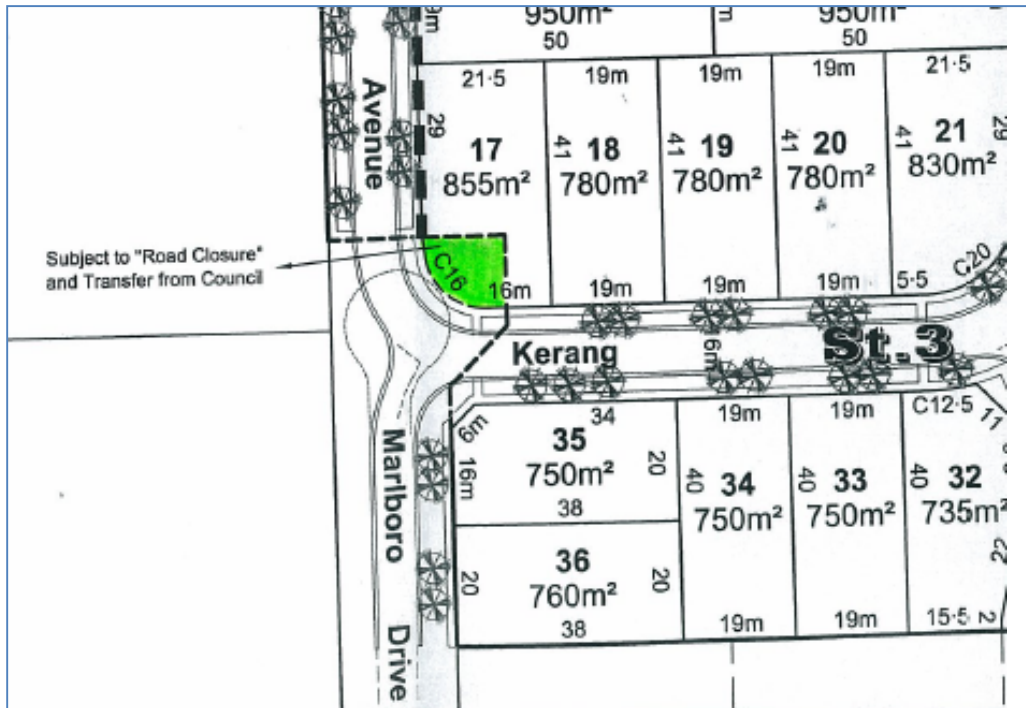
Site plan showing the portion of the court bowl identified for closure



5. MANAGEMENT REPORTS

5.7 Proposed Road Closure of Part of court bowl in Marlboro Drive, Kialla (Continued)

Site plan showing the proposed subdivisional development plan, with new road alignment



5. MANAGEMENT REPORTS

5.8 Withdrawal of Application to Lease Land at 26 Little Road, Mooroopna

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

The Shepparton Horse and Pony Club Inc. (the Club) have been considering relocating from their current site for a number of years and had approached the Council to lease part of the land at 26 Little Road Mooroopna. On 18 May 2010 the Council resolved to give public notice and invite public submissions of its intention to enter into a lease with the Club.

The Club members have recently advised the Council that the site at 26 Little Road Mooroopna does not meet their future needs and has withdrawn its application to lease the property.

RECOMMENDATION

That the Council notes that the Shepparton Horse and Pony Club Inc. has withdrawn its application to lease the Council owned land at 26 Little Road Mooroopna and that the land will be retained for Council purposes.

Background

The Club currently leases Council land and adjoining land owned by and located at the rear of the Shepparton Harness Racing Club. The Club members have been pursuing the opportunity to relocate to a site which will provide additional space for its activities.

In 2009, the Club approached the Council with a request to enter into a lease of the land at 26 Little Road, Mooroopna. As a result of continuing discussions and investigations into the proposal, a report was submitted to the May 2010 Council meeting recommending that a lease to the Club be considered, and public notice of the proposal be given.

The Club members have since been investigating funding opportunities to assist them with relocating the site and has now determined that the land at 26 Little Road does not meet their needs. Its members have advised the Council that they do not wish to pursue a lease on the site.

Submissions

Three submissions were received in response to the public notice as follows:

1. Further public consultation should be undertaken and an ecological and recreational assessment of the land should be conducted prior to a final decision being made.
2. The site could be better utilised for public recreation and parkland.
3. The site could be used as a botanical site/parkland to enhance the entrance to Mooroopna from the north.

The matters raised in the submissions were taken into consideration during the development of proposed lease conditions and further consideration by the Club.

5. MANAGEMENT REPORTS

5.8 Withdrawal of Application to Lease Land at 26 Little Road, Mooroopna (Continued)

The consultation process also identified the suitability for part of the land to be set aside to preserve significant vegetation. A further opportunity was identified that part of the site would meet the Council's requirement for land for offset planting. As the Club no longer has an interest in leasing the land, it is proposed that the site be retained for the Council to further explore this opportunity.

Interest has been expressed in using the site for offset vegetation planting. The site has been identified as ideal for this purpose which is strongly supported by RiverConnect. This will be further investigated and reported back to Council.

Risk Management

As part of the consideration of risks, RiverConnect provided advice on the impact to vegetation and investigation of any cultural heritage impacts were undertaken.

Public notice identified the risk that if the land which was tied up in a lease for an extended period of time, it would reduce the opportunity for the site to be utilised as parkland or for revegetation purposes.

The Club also considered their own risks in the financial viability of relocating to the site which contributed to their decision to withdraw their application.

Policy Implications

The recommendation to accept the Clubs withdrawal of interest in the lease and retain the land for Council purposes does not conflict with any Council Policy.

Best Value Implications

This report is in line with the Best Value principles.

Financial Implications

The proposed lease was a community lease therefore there are little financial implications.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The proposal does not limit any human rights provided for under the Victorian *Charter and Human Rights and responsibilities Act 2006*.

Legal/Statutory Implications

The procedure to consider the proposal to lease the property was undertaken in compliance with the *Local Government Act 1989*, section 190 and 223 which provide the Council with the power to publicly advertise its intention to lease land and receive public submissions.

Consultation

Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

This proposal is consistent with the *Greater Shepparton 2030 Strategy* as one of the strategies identified within Community Life provides that Council, "Improve the image and appearance of public parks and spaces".

5. MANAGEMENT REPORTS

5.8 Withdrawal of Application to Lease Land at 26 Little Road, Mooroopna (Continued)

b) Council Plan

This proposal is consistent with this document. The strategic objective Promote and Demonstrate Environmental Sustainability, provides that Council will “achieve positive environmental outcomes for our community”.

c) Other strategic links

No other strategic links have been identified.

Attachments

Nil.

5. MANAGEMENT REPORTS

5.9 Discontinuance of Crown Road Reserves Abutting Kialla West Cemetery

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

The Kialla West Cemetery, located at 7374 Goulburn Valley Highway, Kialla West, has three unused crown road reserves abutting its boundaries to the north, east and south. There is no existing public access to these road reserves as a channel has been constructed on a fourth crown road reserve which abuts the western side of the cemetery.

The Department of Sustainability and Environment (DSE) has provided Ministerial consent for the road reserves to be formally discontinued and combined to form part of the cemetery. This would greatly benefit the cemetery as it would allow for expansion into the future and additional area to deal with flood mitigation and beautification works.

RECOMMENDATION

That the Council:

1. in accordance with the provisions of section 223 of the *Local Government Act 1989*, give public notice of its intention to discontinue the three unused crown road reserves, abutting the north, east and south boundaries of crown allotment 14 Parish of Kialla, known as Kialla West Cemetery, 7374 Goulburn Valley Highway, Kialla to enable the parcels to be consolidated with the cemetery property; and
2. invite submissions from any person affected by the proposed discontinuance of those crown road reserves.

Background

The Council has received Ministerial consent to formally discontinue the crown road reserves abutting the Kialla West Cemetery, which the Council can facilitate in accordance with section 206 and clause 3 of schedule 10 of the *Local Government Act, 1987*. The Crown road reserves are unused roads and are not considered to be required for road use into the future. The land is currently used by adjoining farmers for grazing and/or cropping purposes, however this use is not licensed.

Formally discontinuing the road reserves will remove the road status from the titles of the unused crown road reserves, which will enable the land to be consolidated with the Kialla West Cemetery property. As land used for cemetery purposes is Crown land, the ownership status will remain unchanged. DSE is very supportive of this action, demonstrated by providing written Ministerial approval.

While the cemetery currently has capacity to provide for interments for 50 years or more based on existing trends, an emerging demand to establish new specific denominational areas provides additional challenges on this capacity. With the Goulburn Valley attracting settlers from different cultural backgrounds, the Kialla West Cemetery can provide a solution for the specific cultural burial needs. The opportunity to expand the site by inclusion of the closed road reserves supports this.

5. MANAGEMENT REPORTS

5.9 Discontinuance of Crown Road Reserves Abutting Kialla West Cemetery (Continued)

Risk Management

A risk assessment has been undertaken which identified mostly positive outcomes. There was no unacceptable risk identified. One risk identified was that the adjoining land owners may oppose the loss of land for their use, although it is not licensed. These parties have been advised in writing of the proposal. They will also be formally advised and will have an opportunity to make a submission as part of the public notice process. All submissions will be taken into consideration when the Council determine the matter.

Policy Implications

The proposed discontinuance of the unused Crown road reserves and consolidation with the Kialla West Cemetery does not conflict with any Council policies.

Best Value Implications

The proposal is consistent with the intent of the best value principals, enhancing the future capacity of the cemetery to continue to meet the community's needs.

Financial Implications

The costs of providing public notice and notification in the *Victorian Government Gazette* will be less than \$1,000 and will be paid by the Kialla West Cemetery Trust. This will be managed within budget. As the land will be retained by the crown there will be no transfer, stamp duty or purchase costs.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The proposal does not limit any human rights provided for under the *Victorian Charter and Human Rights and responsibilities Act 2006*.

Legal/Statutory Implications

This road discontinuance procedure is being undertaken in compliance with *the Local Government Act 1989*. Section 206 clause 3 of schedule 10 provides the Council with the power to discontinue a road. The road reserves belong to the Crown and upon discontinuance will remain the property of the Crown and will be consolidated with the title to Kialla West Cemetery.

Consultation

The proposal was discussed with the Kialla West Cemetery Trust at its meeting on 12 September 2011 and the trust secretary was authorised to proceed with the proposal. Advertising and public consultation will be undertaken if the proposal is supported by the Council. Any submissions received as a result of the public notice will then be considered in Council's final determination of the matter. Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

This proposal is consistent with the *Greater Shepparton 2030 Strategy* as one of the supporting principals is identified within the Infrastructure section that "The provision and restructure of urban and rural infrastructure to enhance the performance of the municipality and facilitate growth"

b) Council Plan

This proposal is consistent with this document. The strategic objective Embrace and Strengthen Cultural Harmony and diversity, supplies the direction to "Ensure Council

5. MANAGEMENT REPORTS

5.9 Discontinuance of Crown Road Reserves Abutting Kialla West Cemetery (Continued)

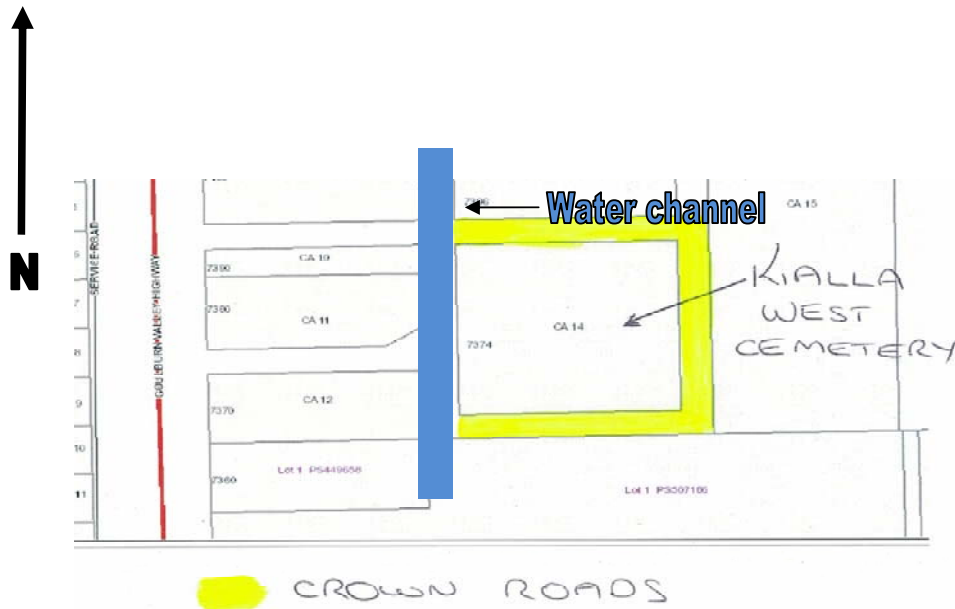
activities support and enhance its reputation for cultural harmony and inclusiveness". By supporting this proposal, the Council is ensuring the sufficient land will be available to consider the requests to accommodate the needs of different cultures in providing separate areas for burial.

c) Other strategic links

No other strategic links have been identified.

Attachment

Site Plan showing the unused road reserves identified for discontinuance.



5. MANAGEMENT REPORTS

FROM THE SUSTAINABLE DEVELOPMENT DEPARTMENT

5.10 Shared Path Location

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

This report reconsiders the location of the shared path alignment through 7615 Goulburn Valley Highway, Kialla (the land) following the preparation of an independent review of the Council's previous decision.

The Council resolved on 21 September 2010 to require that the proposed shared path alignment on the land abut's the Sevens Creek.

This alignment resulted in the future shared path being located between the Creek and the dwelling on the land and was opposed to by the land owner given the impact on the dwellings privacy.

Following the Council's resolution in September 2010 the Council's previous Chief Executive Officer (CEO) sought an independent review of the Council's decision. This review was undertaken by Isis Planning Pty Ltd.

This review was provided on 26 November 2010 and made the following recommendations regarding the shared path location:

- *That the Council confirms with the landowner the precise location of the shared pathway east of the existing dwelling prior to assessing an application to subdivide the land.*
- *That the Council identifies the extent of the Urban Floodway Zone (UFZ) that will be required on the land for public open space purposes. The current high bank of the Sevens Creek (plus three metres should provide the basis for this).*

To implement these recommendations, the Planning and Development Branch was instructed to negotiate a shared path alignment to the east of the existing dwelling with the land owner. Following numerous discussions an agreed shared path alignment was agreed to on 25 October 2011.

On the basis of this agreed plan and the Isis review, the Planning and Development Branch recommend that the Council resolve to allow the future shared path location to be aligned to the east of the dwelling as shown on 'Plan of Proposed Shared Path Location' prepared by GVIS Onleys Version 10'.

RECOMMENDATION

That the Council resolves to approve the plan of proposed shared path location as prepared by GVIS Onleys Version 10 and require the plan to be incorporated into any future planning application for residential development for the land.

5. MANAGEMENT REPORTS

5.10 Shared Path Location (Continued)

Background

This matter dates back to April 2008, when planning application 2007-207 sought to subdivide the land into two lots. The application was refused on the grounds that the subdivision did not provide land for the future shared path route in accordance with the approved Overall Development Plan (ODP) for the southern growth corridor.

Following this refusal lengthy, discussions were held with the applicant to attempt to resolve the location of the shared path. This was brought to a head by the Council's resolution in September 2010 requiring that the shared path following the Creek.

This Council decision led to the Isis 'independent review of the decision by the Greater Shepparton City Council on the provision of a shared path within the Shepparton South Outline Development Plan Area'.

Isis made the following conclusions regarding the alignment of the shared path:

- The shared path shown in the ODP has an alignment east of the original dwelling
- On the basis there is no need to modify the ODP to support the shared path on the land east of the dwelling.

Following the preparation of this independent report, planning officers and the applicant negotiated an agreed plan which includes the following features:

- 2.5 metre wide shared path alignment to the east of the existing dwelling
- Land within the Creek environs to be vested to the Council as public open space
- Three metre wide Council reserve along the Creek is to prevent privatisation of the Creek (this three metre reserve is to provide emergency access and should not in the future be used as a shared path alignment).

Although this plan is agreed to in principle by the Planning and Development Branch, the applicant was informed a Council resolution is required to endorse the eastern alignment of the shared path.

Based on the Isis report it is recommended that the Council resolve to adopt the position within the Isis report.

Risk Management

This recommendation adopts the alignment of a shared path which is a standard type planning decision of the Council. The matter is discretionary and it is open for the Council to decide on the matter.

There is a risk that future developers may rely on this Council decision as a precedent to argue that future shared path alignments should not to follow the Creek / River environs. This risk is minimised however as each planning decision should be assessed and decided on its own individual planning merits.

Policy Implications

The Isis report states that the ODP shows the shared path alignment to the east of the original dwelling, therefore it is Isis conclusion that the shared path on the eastern side of the dwelling is generally in accordance with the ODP.

Financial Implications

The land is within the Developer Contributions Plan Overlay 2, which requires that the developer make financial contribution towards the cost of construction for the shared path.

5. MANAGEMENT REPORTS

5.10 Shared Path Location (Continued)

It is likely that the contributions made by the developer towards the shared path would not be enough to fund the construction. If this occurs the balance would need to be made up by the Council. The contribution is not required to be paid until development of the land occurs.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The Victorian bills explanatory memoranda states that the purpose of this 'Charter is to establish a framework for the protection and promotion of human rights in Victoria'.

The human rights protected by the Charter are civil and political rights.

Smith v Hobsons Bay (Red Dot) 2010 (VCAT 668) considered the link between planning decisions and the Charter.

The Charter does not manifestly change the role and responsibility of the Tribunal. Implicitly, the Tribunal already considers the reasonableness of potential infringements on a person's privacy and home in its day-to-day decision making, in dealing with issues such as overlooking (as in this case), overshadowing, noise, environmental constraints and a variety of other issues and potential amenity impacts within the planning regulatory framework. That framework recognises that reasonable restrictions may be placed on the use and development of land, and that there may on occasion be reasonable and acceptable off-site impacts on others. There is an emphasis on performance based policies, objectives and guidelines that deal with a range of potential amenity impacts on a person's privacy and home. Provided these issues are properly considered, it would be a rare and exceptional case where the exercise of a planning discretion in accordance with the regulatory framework is not Charter compatible.

Given the alignment of the shared path is a routine planning decision that has been considered in accordance with the relevant parts of the Greater Shepparton Planning Scheme, the decision does not contravene the Charter.

Legal/Statutory Implications

This is a decision that interprets that shared path should be located to the east of the dwelling in the southern growth corridor ODP.

This decision will bind the Council to the location of the shared path to the east of the dwelling, when considering any future planning applications.

Consultation

The plan of shared path has been prepared and agreed to following numerous meetings between the Council's Planning Officers and the applicants. The plan represents an acceptable shared path alignment outcome for both parties.

Officers believe that appropriate consultation has occurred and the matter is now ready for the Council's consideration.

5. MANAGEMENT REPORTS

5.10 Shared Path Location (Continued)

Strategic Links

a) Greater Shepparton 2030 Strategy

The southern growth corridor

'covers the area south of the Broken River to Bennetts Road between the west side of the Goulburn Valley Highway and Goulburn River, and its western and southern boundaries shaped by Seven Creeks, and has a total area of approximately 490 hectares. This corridor contains the former drive-in site (corner Riverview Drive and Goulburn Valley Highway), which is a major redevelopment site, and is also located close to Shepparton Airport and the Shepparton Harness Racing Track to the east'.

The southern growth corridor provides for 181 hectares of developable land which will accommodate a population of 3,671.

b) Council Plan

The Council plan encourages innovative, appropriate, sustainable and affordable housing solutions and to encourage sustainable municipal growth and development.

c) Public Health Plan

Being active has proven health and well-being benefits. The Greater Shepparton community needs to be responsive to the needs of all residents to promote physical activity.

The resolution of the dispute regarding the shared path location, will allow the residential subdivision of the land at the appropriate time which allows for increased growth in a designated growth corridor and provides for shared path links which promote physical activity.

Attachments

1. Isis independent review
2. Plan of proposed shared path location.

5. MANAGEMENT REPORTS

5.11 Minor Amendments to Existing Planning Delegations Required Due to Legislative Changes

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

Section 98 of the *Local Government Act 1989* and section 188 of the *Planning and Environment Act 1987* empower the Council to delegate its powers, duties and functions under relevant legislation to members of Council staff.

The Council may also delegate to committees comprising Councillors and staff or a combination of both, pursuant to sections 86 and 87 of the *Local Government Act 1989* and section 188 of the *Planning and Environment Act 1987*.

The report addresses minor changes required to the existing Instrument of Delegation, particularly following some amendments to the *Planning and Environment Act 1987* regulations.

These include:

1. The delegation on the duty to notify the Minister if abandoning an amendment has been limited so that the power to make a decision to abandon an amendment cannot be delegated.
2. Power to agree to extend time for making a claim.
3. The replacement of the Planning and Environment (Fees) Regulations 2000 with the Planning and Environment (Fees) Interim Regulations 2011, which delegate the power to waive or rebate fee in prescribed circumstances:
 - where the Council is the responsible authority the power to waive or rebate fee for amendment to a planning scheme in prescribed circumstances
 - where the Council is the planning authority and the duty fee waived or rebated to record in writing the matters taken into account and which formed the basis of the decision
 - where the Council is the responsible authority or planning authority.

RECOMMENDATION

In relation to the exercise of the powers conferred by section 86, 87 and 98 (1) of the *Local Government Act 1989* and section 188 of the *Planning and Environment Act 1987* and the other legislation referred to in the attached Instrument of Delegation, the Council resolves that:

1. There be delegated to the person holding the position, acting in or performing the duties of General Manager Sustainable Development, Manager Planning and Development, Statutory Planning Team Leader, Development Team Leader, Strategic Planning Team Leader, Principal Statutory Planner, Principal Strategic Planner, Statutory Planners, Strategic Planners and Development

5. MANAGEMENT REPORTS

5.11 Minor Amendments to Existing Planning Delegations Required Due to Legislative Changes (Continued)

Engineers the powers, duties and functions set out in the attached Instrument of Delegation to the General Manager Sustainable Development, Manager Planning and Development, Statutory Planning Team Leader, Development Team Leader, Strategic Planning Team Leader, Principal Statutory Planner, Principal Strategic Planner, Statutory Planners, Strategic Planners and Development Engineers, subject to the conditions and limitations specified in that Instrument.

2. The Instrument of Delegation comes into force immediately the Common Seal of Council is affixed to the instrument.
3. On the coming into force of the Instrument all previous delegations to the General Manager Sustainable Development, Manager Planning and Development, Statutory Planning Team Leader, Development Team Leader, Strategic Planning Team Leader, Principal Statutory Planner, Principal Strategic Planner, Statutory Planners, Strategic Planners and Development Engineers are revoked.
4. The duties and functions set out in the Instrument of Delegation must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

Background

The Council's Planning Delegations were last updated on 16 August 2011. This update was to address minor changes required to the existing Instrument of Delegation, particularly following some amendments to the *Planning and Environment Act 1987* and also amendments to include provision for delegated Council staff to perform functions and duties under the Greater Shepparton Planning Scheme.

Risk Management

The review of Instruments of Delegation ensures that they remain valid and legal and that generally routine decisions are able to be made without the need for a Council meeting.

The Council subscribes to the Delegations and Authorisations Service provided by Maddocks Lawyers and the proposed changes have been recommended by this Service. Subscribing to the Maddocks Service reduces the risk that legislative changes which have implications for the Council's delegations and authorisations are not properly identified and implemented.

Should Council not have appropriate delegations in place there is a risk of slower processing times and therefore delays to applicants.

Policy Implications

The existing Instrument of Delegation was adopted by the Council on the 16 August 2011. The proposed Instrument of Delegation makes minor changes to the existing Instrument and continues to reflect the Council's ongoing commitment to reducing the waiting times and delays in planning processes.

5. MANAGEMENT REPORTS

5.11 Minor Amendments to Existing Planning Delegations Required Due to Legislative Changes (Continued)

Best Value Implications

The proposal is consistent with the Planning and Development Branch Best Value review, to streamline planning processes and avoid unnecessary delays.

Financial Implications

There are no financial implications as a result of the proposed changes. However there are significant cost savings to applicants and developers in reducing waiting times and delays.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The proposal does not limit any human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Legal/Statutory Implications

The proposed Instrument of Delegation is consistent with the *Planning and Environment Act 1987*. The decision of a delegate of Council is "deemed" to be a decision by the Council.

It binds the Council in the same manner and to the same extent as a decision made at a Council meeting.

Consultation

Streamlining of planning processes has been discussed on a number of occasions with the development industry. The development industry is supportive of the proposed changes.

Officers believe that appropriate consultation will occur and the matter is now ready for the Council's consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

The proposed changes are consistent with Greater Shepparton 2030.

b) Council Plan

The proposal is also consistent with one of the Council Plan's strategies to maintain an efficient planning permit service to meet industry needs.

c) Other strategic links

No other strategic links have been identified.

Attachment

Instrument of Delegation - Council to Members of Staff (Planning)

5. MANAGEMENT REPORTS

5.12 Heritage Advisory Committee – Community Nominations

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

At the Ordinary Council Meeting held on the 17 January 2012, the Council authorised the formation of the Heritage Advisory Committee in accordance with the proposed Terms of Reference. The Committee's role is one of providing advice. It is not delegated to act as an internal referral body, to comment / object to applications or to make decisions on behalf of the Council. The primary purpose of the Committee is to provide the best possible advice to Council on how to conserve and promote the unique cultural heritage of Greater Shepparton and to act as an advocate for all cultural heritage matters within the Municipality.

The Council also resolved to appoint the three community members unaffiliated with historical groups and societies within the Municipality to the Committee subject to a public consultation period.

An advertisement calling for community applications for membership of the Heritage Advisory Committee was placed in the Shepparton News on Friday, 27 January 2012 and Friday, 3 February 2012, and the Tatura Guardian on Wednesday, 1 February 2012.

Four nomination forms were received. The Committee assessed each nomination against the following selection criteria:

- demonstrated experience in area or building conservation, or the development industry in general,
- knowledge of conservation and historical issues affecting the Municipality, and
- the ability to access historical or conservation networks and stakeholder groups.

Following consideration of each nomination application, the Committee resolved to advise the Council that it seeks to propose three of these nominations to the Committee for a one year term.

RECOMMENDATION

That the Council, having considered the nominations received for appointment to the Heritage Advisory Committee, appoint the following members for a one year term to the Committee:

1. Evan LLOYD
2. Neil C PENNEY
3. Brian PETHYBRIDGE

5. MANAGEMENT REPORTS

5.12 Heritage Advisory Committee – Community Nominations

Background

At the Ordinary Council Meeting held on the 17 January 2012, the Council authorised the formation of the Heritage Advisory Committee and to appoint three community members unaffiliated with historical groups and societies within the Municipality to the Committee following a public consultation period.

An advertisement calling for community applications for membership of the Heritage Advisory Committee was placed in the Shepparton News on Friday, 27 January 2012 and Friday, 3 February 2012, and the Tatura Guardian on Wednesday, 1 February 2012. Following this public consultation period, four applications were received. The Committee assessed the nomination applications against the following selection criteria:

- demonstrated experience in area or building conservation, or the development industry in general,
- knowledge of conservation and historical issues affecting the Municipality, and
- the ability to access historical or conservation networks and stakeholder groups.

Following consideration of each nomination application against these selection criteria, the Committee resolved to advise the Council that it seeks to propose three of these nominations to the Committee for a one (1) year term.

Risk Management

Failure to resolve to approve the three community nominations for the Heritage Advisory Committee would reduce the Committee's ability to promote community participation in and raise awareness of cultural heritage issues within the Municipality.

Policy Implications

There are no conflicts with existing Council policies.

Best Value Implications

The Best Value principles have been taken into account and the proposal is consistent with them. The Heritage Advisory Committee will ensure that the Council is best equipped to identify and protect the unique cultural heritage of the Municipality.

Financial Implications

There are no financial implications relating to the approval of the three community nominations for the Heritage Advisory Committee, as the Committee is a voluntary group.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The proposal does not limit any of the human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*

Legal/Statutory Implications

The proposal conforms with the *Local Government Act 1989* and all other relevant legislation.

Consultation

Key stakeholders were actively engaged following the publication of the advertisement calling for nominations for the Cultural Heritage Awards. Officers believe that appropriate consultation has occurred and the matter is now ready for the Council's consideration.

5. MANAGEMENT REPORTS

5.12 Heritage Advisory Committee – Community Nominations

Strategic Links

a) Greater Shepparton 2030 Strategy

The approval of the three community nominations for the Heritage Advisory Committee is consistent with the objectives, strategies and actions outlined in the Environment Section of the Greater Shepparton 2030 Strategy.

b) Council Plan

The approval of the three community nominations for the Heritage Advisory Committee is consistent with the following objectives outlined in the Council Plan:

- Strategic Objective 3: Environment - Point 18: Identify and respect our significant cultural and environmental assets.
- Strategic Objective 6: Council Organisation and Management - Point 31: Engage our community when making decisions.

c) Any other strategic links

The approval of the three community nominations for the Heritage Advisory Committee will also develop and implement the initiatives outlined in the:

- Section 14.2 of the Greater Shepparton Heritage Study Stage IIB.

Attachments

Nil

5. MANAGEMENT REPORTS

FROM THE ORGANISATIONAL PERFORMANCE BRANCH

5.13 RedR Australia Ambassadorship Proposal

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

RedR Australia provides emergency assistance to communities devastated by conflict or natural disaster, by selecting, training and providing competent and effective personnel to humanitarian relief programs worldwide.

Each year, RedR Australia's trains and prepares approximately 200 aid workers from across Australia and overseas at its training base at the Dookie campus of the University of Melbourne.

Greater Shepparton Councillors were briefed on the work of RedR Australia in 2011 and following that briefing, have been invited to become informal ambassadors for RedR Australia.

RECOMMENDATION

That the Council accept the offer to become informal ambassadors for RedR Australia and promote the work of RedR Australia in the community and more widely when the opportunity arises.

Background

RedR Australia provides emergency assistance to communities devastated by conflict or natural disaster, by selecting, training and providing competent and effective personnel to humanitarian relief programs worldwide.

Since 1998, RedR Australia has been training humanitarian workers for organisations such as the United Nations, the World Food Program, AusAid and many humanitarian Non Government Organisations. Training is conducted at the Dookie campus of the University of Melbourne and each year, approximately 200 aid workers from across Australia and overseas are prepared for deployment on humanitarian operations.

At the time of writing this report, registered RedR Australia personnel are assisting humanitarian operations in the Horn of Africa, Afghanistan, Democratic Republic of Congo, Ghana, Syria, Ivory Coast, Kenya, Somalia, Liberia, Fiji, Philippines, Cambodia, Pakistan, Sri Lanka and South Sudan.

Greater Shepparton Councillors were briefed on the work of RedR Australia in September 2011. At the time of the briefing, most councillors were not aware that RedR Australia undertook its important training within the municipality of Greater Shepparton and expressed the view that more should be done to promote the organisation to the wider community. The CEO of RedR Australia invited all councillors to become "informal ambassadors" for RedR Australia, by making people aware of its existence and training role when the opportunity arose, particularly when natural or manmade disasters occurred and were reported on in the media. In November 2011, the CEO wrote to the Council, again extending this invitation.

5. MANAGEMENT REPORTS

5.13 RedR Australia Ambassadorship Proposal (Continued)

Risk Management

Two potential risks were identified and are considered below:

1. Reputational
By aligning itself with RedR Australia, the Council could incur damage to its reputation if RedR Australia or any of its staff were ever found to have acted in an illegal, immoral or unethical manner. RedR is considered to be a highly reputable organisation which receives funding from AusAid, the Australian Government's international aid agency. Reputational risk is assessed as very low.
2. Financial
An agreement by councillors to become informal ambassadors carries no current or future obligation to provide funding or in kind support to RedR Australia. If in the future the Council is approached to provide more tangible support, such requests would be assessed on their merits at that time. Financial risk is considered low.

Policy Implications

While it does not include a financial component, the proposal for councillors to become informal ambassadors was assessed against the Council's Provision of Sponsorship Policy, which requires that any proposals for sponsorship are not approved if they conflict with any Council objectives, policies or values. No conflicts were identified.

Best Value Implications

This report does not relate to the procurement of goods or services, or the delivery of Council services or programs and therefore, there are no Best Value considerations.

Financial Implications

Informal ambassadorship as proposed has no financial implications for the Council. As noted under Risk Management, any future approaches for financial support would be considered on their merits and included in the Council's budget, if approved.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The five step Human Rights impact assessment has been applied to this proposal and it is not considered to limit or infringe any human rights contained in the Charter. To the contrary, supporting the work of RedR Australia contributes to the upholding of human rights for the victims of manmade and natural disasters, particularly their right to life and the rights of families and children to protection.

Legal/Statutory Implications

This proposal has no legal or statutory implications.

Consultation

Councillors were briefed by the CEO of RedR in September 2011, at which time they expressed interest in becoming informal ambassadors for that organisation.

Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

This proposal supports the aims of the Key Objective of Community Life, through the promotion of volunteerism and social connectedness.

5. MANAGEMENT REPORTS

5.13 RedR Australia Ambassadorship Proposal (Continued)

b) Council Plan

This proposal links to Key Strategic Objective 2: Community Life. The work of RedR Australia enhances social connectedness in our community, as many of our new citizens arrived as refugees and would have had firsthand experience of and benefited from the types of services RedR Australia personnel are able to provide

c) Other strategic links

No other strategic links were identified

Attachments

Nil.

5. MANAGEMENT REPORTS

5.14 Dookie Memorial Hall Committee of Management

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have a conflict of interest in relation to the matter under consideration.

Summary

At the Ordinary Council Meeting held on 20 December 2011, six members were appointed to the Dookie Memorial Hall Committee of Management for a two year term expiring on 20 December 2013. An additional member has now submitted an application to be appointed to the Committee of Management.

RECOMMENDATION

That the Council having considered the application received for appointment to the Dookie Memorial Hall Committee of Management, appoint Lynda Ford to the committee for a term expiring on 20 December 2013.

Background

At the Ordinary Council Meeting held on 20 December 2011, six members were appointed to the Dookie Memorial Hall Committee of Management for a two year term expiring on 20 December 2013.

The Committee of Management have an agreement that the town's kindergarten facilities are run from a room that forms part of the hall and the outdoor area. It was proposed at the Committees annual general meeting on Tuesday 7 February 2012, that a representative from the kindergarten should be encouraged to apply for membership of the Committee of Management, to ensure that when there are matters or issues to be raised in relation to the kindergarten, they can be discussed during the meeting.

The proposal was raised with the kindergarten staff, and Lynda Ford agreed and has applied to be part of the Committee. Lynda is currently the kindergarten president and would be the ideal candidate to form part of the committee to allow for better cross communication.

Risk Management

The appointment of members through formal resolution of the Council reduces governance risks associated with the delegation of Council powers to a committee by ensuring that all members appointed to a committee are covered by the Council's public liability insurance.

Policy Implications

There are no conflicts with Council Policy.

Best Value Implications

The Best Value principles have been taken into account and the proposal is consistent with them.

Financial Implications

There are no financial implications associated with this proposal.

5. MANAGEMENT REPORTS

5.14 Dookie Memorial Hall Committee of Management

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The proposal does not limit any of the human rights embodied in the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Legal/Statutory Implications

The proposal conforms to all relevant legislation.

Consultation

Officers believe appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

There are no direct links to the *Greater Shepparton 2030 Strategy*.

b) Council Plan

This proposal supports objective 35 – provide best practice management and administrative systems and structures to support the delivery of Council services and programs.

c) Other strategic links

No other strategic links have been identified.

Attachments

Nil.

5. MANAGEMENT REPORTS

5.15 Instrument of Delegation – Members of Staff - Non Planning

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

The Council is a legal entity composed of its members (the Councillors). As the Council it is not a “natural” person, it can act in only one of two ways: by resolution or through others acting on its behalf. For others to act on the Council’s behalf, the relevant Council powers must be delegated by the Council.

The Council has delegated the majority of its delegable powers to the Chief Executive Officer, who is permitted under the act to further sub-delegate these powers to other members of Council staff. The powers conferred on the Council under some legislative instruments cannot be delegated through the CEO, however, and must be delegated by resolution directly to Council officers.

These updates take into account legislative changes made since the last update in May 2011. These changes affect Council’s powers, functions and duties. The Acts and Regulations affected by the changes are:

- *Cemeteries and Crematoria Act 2003*
- *Cemeteries and Crematoria Regulations 2005*
- *Food Act 1984*
- *Residential Tenancies Act 1997*

RECOMMENDATION

That in the exercise of powers conferred by section 98(1) of the *Local Government Act 1989* and other legislation referred to in the revised and attached Instrument of Delegation to Council Staff:

1. the Council delegates to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *Instrument of Delegation to Members of Council Staff (Non Planning)*, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
2. the Instrument comes into force immediately the common seal of Council is affixed to the instrument
3. on the coming into force of the instrument, the *Instrument of Delegation to Members of Council Staff (Non Planning)* adopted by the Council on 20 July 2010 is revoked.

The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

Background

The power of a Council to act by resolution is set out in section 3(5) of the Act:

“Where a Council is empowered to do any act, matter or thing, the decision to do the act, matter or thing is to be made by a resolution of the Council.”

5. MANAGEMENT REPORTS

5.15 Instrument of Delegation – Members of Staff - Non Planning (Continued)

The Council is not in a position to exercise all the powers conferred upon it by resolution and requires others to act on its behalf. This is made possible under section 98(1) of the Act which provides that a Council may, by Instrument of Delegation, delegate to a member of its staff any power, duty or function of a Council under the *Local Government Act 1989* or any other Act, other than certain specified powers.

The Council has delegated the majority of its delegable powers to the CEO. Section 98(2) of the Act provides that the CEO may, by Instrument of Delegation, delegate to a member of the Council staff any power, duty or function of his or her office, except the power of delegation itself. This is the avenue by which most Council officers are delegated the power to make decisions.

The powers conferred on the Council under some legislative instruments cannot be delegated through the CEO, however, and must be delegated by resolution directly to Council officers. The Acts and Regulations referred to in the attached *Instrument of Delegation to Members of Council Staff (Non Planning)* are among those which require direct delegation.

This Instrument has been reviewed as required by section 98(6) of the Act and a number of changes proposed. These changes are necessary to reflect changes in the delegable powers and duties under these Acts and Regulations since the last delegation was adopted.

The following outlines the changes made to the Instrument of Delegation:

1. The notation has been amended as to when the *Cemeteries and Crematoria Act 2003* and the Regulations apply.
2. There have been legislative changes the *Food Act 1984*, in relation to the regulation of food premises and other relevant provisions have been inserted.
3. For sections 518F and 526A of the Residential Tenancies Act 1997, a notation has been inserted that these provisions are not yet in force and are due to commence on 31 March 2012 if not proclaimed earlier.

Risk Management

The review of Instruments of delegation ensures that they remain valid and legal and that generally routine decisions are able to be made without the need for a Council meeting.

The Council subscribes to the Delegations and Authorisations Service provided by Maddocks Lawyers and the proposed changes have been recommended by this Service. Subscribing to the Maddocks Service reduces the risk that legislative changes which have implications for the Council's delegations and authorisations are not properly identified and implemented.

Policy Implications

The proposed Instrument must be exercised in accordance with the Council's Exercise of Delegations policy.

Best Value Implications

The *Instrument of Delegation to Members of Council Staff (Non Planning)* has no Best Value Implications.

Financial Implications

There are no direct financial implications arising from the *Instrument of Delegation to*

5. MANAGEMENT REPORTS

5.15 Instrument of Delegation – Members of Staff Non Planning (Continued)

Members of Council Staff (Non Planning). Financial delegations have been made by the CEO and are consistent with the Council's Exercise of Delegations Policy.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

This proposal does not limit any of the human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Legal/Statutory Implications

The *Instrument of Delegation to Members of Council Staff (Non Planning)* ensures that decision made by Council officers are legally compliant and enforceable.

Consultation

The review of the Delegation was undertaken by the Organisational Performance Executive team in conjunction with advice provided by Maddocks Lawyers.

Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

There are no direct links to the *Greater Shepparton 2030 Strategy*.

b) Council Plan

The issuance of the *Instrument of Delegation to Members of Council Staff (Non Planning)* supports Strategy 35 of the Council Organisational and Management objective: "Provide best practice management and administrative systems and structures to support the delivery of Council services and programs".

c) Other strategic links

No other strategic links have been identified.

Attachment

Instrument of Delegation to Members of Council Staff (Non Planning).

5. MANAGEMENT REPORTS

5.16 Bunbartha Recreation Reserve Committee of Management

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Summary

At the Ordinary Council Meeting held on 16 February 2010, six members were appointed to the Bunbartha Recreation Reserve Committee of Management for a two year term. The appointment of these members has now expired and it is necessary to fill the vacant positions on the committee.

An advertisement calling for applications for membership of the Bunbartha Recreation Reserve Committee of Management was placed in the Shepparton News on Friday 10 February 2012 and Friday 17 February 2012. Letters were sent to the six committee members whose membership was due to expire, encouraging them to reapply.

Six nomination forms were received to form the Committee of Management.

RECOMMENDATION

That the Council, having considered the nominations received for appointment to the Bunbartha Recreation Reserve Committee of Management, appoint the following members for a term of two years:

Barry HINCHCLIFFE
Douglas LEES
Tonietta MACKIN
Tony PEARDON
John PETTIGREW
Barry RUTHERFORD

Background

At the Ordinary Council Meeting held on 16 February 2010, six members were appointed to the Bunbartha Recreation Reserve Committee of Management for a two year term. The appointment of these members has now expired and it is now necessary to fill the positions of a minimum of 5 members to the vacant positions on the committee.

Risk Management

The appointment of replacement members through formal resolution of the Council reduces governance risks associated with the delegation of council powers to a committee by ensuring that all members appointed to a committee are covered by the Council's public liability insurance.

Policy Implications

There are no conflicts with existing Council policies.

Best Value Implications

The Best Value principles have been taken into account and the proposal is consistent with them.

5. MANAGEMENT REPORTS

5.16 Bunbartha Recreation Reserve Committee of Management

Financial Implications

There are no financial implications associated with this proposal.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

The proposal does not limit any of the human rights embodied in the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Legal/Statutory Implications

The proposal conforms with all relevant legislation.

Consultation

Letters were sent to all members of the committee whose membership was due to expire, encouraging them to reapply.

Strategic Links

a) Greater Shepparton 2030 Strategy

There are no direct links to the Greater Shepparton 2030 Strategy.

b) Council Plan

This proposal supports strategic objective 12 – to develop and promote local community sporting facilities.

c) Other strategic links

No other strategic links have been identified.

Attachments

Nil.

6. TABLED MOTIONS

6.1 Planning Application 2005-306 – 45 Apollo Drive Shepparton

At the Ordinary Council Meeting held on 21 February 2012 Cr Houlihan moved:

Moved by Cr Houlihan

That this matter lay on the table for one month only, subject to Council being supplied with a detailed works program for completion.

A decision was taken to lay the motion as presented on the table for one month only.

RECOMMENDATION

That the Council resolves to take the question from the table.

6. TABLED MOTIONS

6.2 Planning Application 2005-306 – 45 Apollo Drive Shepparton

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest in relation to the matter under consideration.

Summary

Planning permit 2005-306 was issued by the Victorian Civil and Administrative Tribunal (VCAT) on 6 June 2006 and allowed the use and development of the land for a brothel. Condition 29 of the permit required that the use and development be commenced within two years of the date of the permit and that the development be completed with four years of the date of the permit.

On 22 December 2008, VCAT ordered the extension of time to the permit for the commencement of the development, and therefore required the development be completed by 31 August 2011.

Senior Member Horsfall made the following comment:

'An extension for a brothel permit is entitled to consideration on the same basis as an extension of a permit for a factory, medium density housing or any other permit, irrespective of views on the morality or acceptability of brothels'.

On 18 August 2011, the permit applicant sought an extension to the completion date of the permit to 31 December 2011.

On 23 September 2011, following a resolution of the Council, the permit was extended by four months to require completion of the development and commencement of use by 31 December 2011.

As the development is not complete the permit holder has sought to extend the permit until 31 March 2012 to allow completion of the works and commencement of the use.

It is important to note that the merits of the use and development of the land for a brothel are not being reconsidered. This application is limited to deciding if the application to extend the completion date should be granted.

The two most substantive considerations are:

1. Has there been significant change to planning policies which would prevent the re-issue of the permit?
2. Has the development been substantially commenced?

Since the issue of the permit in June 2006, the zoning of the land and surrounding land is unchanged, there has been no significant change to the planning policies relating to brothels. Therefore, it is likely if this permit was to expire and a fresh application was applied for a permit would be re-issued, most likely at the direction of VCAT.

At the time of the previous extension request in September 2011, the development was described as being at lock up stage. The applicant has informed that since the previous extension internal works have been progressed such as plastering, bathrooms, electrical works and tiling.

6. TABLED MOTIONS

6.2 Planning Application 2005-306 – 45 Apollo Drive Shepparton (Continued)

The applicant made assurances that the previous extension would allow works to be completed, including

'the writer (Mr Albon) says no further request for extension of time will come forward, at least not one in his name'.

The application for extension made by Mr Albon goes against this previous undertaking. Whilst this is less than ideal, it is not a valid planning reason to deny an extension based on a non binding assurance provided to the Council and its planning officers.

Given the applicant continues to satisfy the two substantive considerations, it is the Planning and Development Branch's view that there is no practical planning purpose in not allowing an extension of time to allow the development to be completed and the use to commence.

RECOMMENDATION

That in relation to the extension of time to the completion date for Planning Permit 2005-306 for use and development of a brothel at 45 Apollo Drive, Shepparton, on the basis of the information before the Council and having considered all relevant matters as required by the *Greater Shepparton Planning Scheme*, in accordance with Section 69(2) of the *Planning and Environment Act 1987* the Council extends the permit as follows:

1. The time in which the permit will expire if the development is not completed is extended to 31 March 2012
2. The time in which the permit will expire if the use is not started is extended to 31 March 2012.

Assessment under the Planning and Environment Act

When submitting a request for an extension of time to a permit it is generally accepted, that the applicant is obliged to advance some reason in support of the application.

In the written request for the extension the following reasons were provided by the applicant in support of the application:

The works undertaken since the previous extension of time are – plastering of the entire building, near completion of showers, their screens and the associated tiling, vanities. Completion of all electrical wiring and half way through fit out, west wall completed in tiling of bluestone blocks. Erection of two wings that are fencing. Additional signage. Near completion of air-conditioning. All door jams completed and doors in place in most instances. Purchase of further communication equipment, and completion of security system wiring and monitoring. Installation of lockers near completed, facilities for working women advanced and all storm water pipes laid, hot water services installed. Installation of cabling for computer systems.

6. TABLED MOTIONS

6.2 Planning Application 2005-306 – 45 Apollo Drive Shepparton (Continued)

All insulation in internal and exterior walls completed. All underground cabling for lighting has been completed. General cleaning of site and building. Removal of excessive building material from the site.

It is proposed to commence the use on 14 February 2012. It follows that the permit should extend until that date, but erring on the side of caution and with regard to my personal health which has seen me hospitalised on two occasions during November and December 2011 that massively impacted on the project not being completed and the operation commenced by 31 December 2011, let us say, an extension to 31 March 2012.

The applicant's proposal to commence the use on 14 February 2012, is seven days before the February Council meeting, at which it will be decided if the permit extension is granted. The applicant has been informed the use cannot commence until this application is decided on by the Council, or VCAT if necessary.

Kantor & Ors v Murrindindi Shire Council 18 AATR 285 at 313 and Juric v Banyule set out relevant considerations for the application to extend the completion date, which are considered below.

Whether there has been a change of planning policy.

Since the issue of the permit in 2006, the zoning of the land and surrounding land is unchanged. There has been no major changes to either State or Local planning policies relating to the use and development of land for brothels.

Whether the landowner is seeking to 'warehouse' the permit.

The *Planning and Environment Act, 1987* (The Act) does not support a permit holder extending a permit so that the owner may obtain a windfall by selling the land. If the owner was reasonably considered to be seeking to warehouse the permit, this would negatively influence the issue of an extension.

The warehousing test generally relates to an application to extend time for a commencement of a development. Given the project is substantially completed and continues to progress towards completion, this test is of little relevance.

Intervening circumstances bearing on grant or refusal of the extension.

This ground relates to circumstances that have arisen since the granting of the permit and which are not entirely under the control of the permit holder and which have reasonably caused a delay in being able to act upon the permit. Such matters would need to be of significance (beyond life's common setbacks), such as unusual seasonal conditions, natural disasters, actions by third parties, sudden and significant changes to markets and unexpected delays in obtaining other necessary approvals.

The applicant states that recent hospitalisations of the permit holder has 'massively impacted' on the completion of the development.

6. TABLED MOTIONS

6.2 Planning Application 2005-306 – 45 Apollo Drive Shepparton (Continued)

The total elapse of time and whether the time limit originally imposed was adequate.

An extension would tend not to be supported if the permit has become excessively old and it is appropriate that all issues be reconsidered and any interested parties or referral authorities be given an opportunity for input by way of a fresh application. Given there has been no significant changes in policy since the issue of the permit, the total elapse of time does not either negatively or positively impact on the application to extend the completion date.

The economic burden imposed on the landowner by the permit.

The applicant would have investigated significantly in the development by obtaining the permit and in construction costs incurred to date.

The probability of a fresh permit issuing should a fresh application be made.

This test is determinative as to whether the original permit is still appropriate. If the extension was refused, how likely is it that a similar permit would be issued. If it is likely that a permit would re-issue, this leads to the extension of a permit.

This test triggers consideration if there would be any practical planning purpose by refusing to extend the permit and force the permit holder to apply for a fresh permit.

Also relevant to this ground is whether or not a fresh permit would be issued subject to similar conditions. If the circumstances had changed to the extent that significantly different conditions would be appropriate, this would negatively influence the grant of an extension to the completion date.

It is considered that if this request for an extension to the completion date was refused, and a fresh application was made, it is likely to be granted. This is primarily based on the fact that there has been no significant change to planning policies relating to the land or brothels.

Based on this, there is no practical purpose served in preventing the development from being completed.

Substantial Commencement

This test specifically relates to applications seeking to extend the completion date, such as this application. It considers how far the development has proceeded and if the developer has committed to the proposal by progressing towards completion.

The applicant has sought a short extension period (three months) for the development to be completed.

The applicant has obviously expended significant amounts of money on progressing the development to a point of near completion. In doing this the developer has complied with numerous planning permit conditions including, submission of design plans and drainage plans, urban vehicle crossings and signage.

Given that the development has clearly substantially commenced, to now prevent a development that is said to be 90% complete provides no beneficial planning outcome.

6. TABLED MOTIONS

6.2 Planning Application 2005-306 – 45 Apollo Drive Shepparton (Continued)

Risk Management

There are no identified risks associated with this report if it is decided to extend the permit. Should it be decided to refuse to extend the permit it is possible that VCAT could overturn the Council's decision and award costs against the Council.

Policy Implications

There are no conflicts with existing Council policy.

Financial Implications

In the event of an application for review by VCAT, each respective party will be required to bear its own costs.

Victorian Charter of Human Rights and Responsibilities Act 2006 Implications

This proposal does not limit any of the human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Legal/Statutory Implications

The responsible authority's decision may be subject to an application for review by VCAT.

Consultation

There is no statutory requirement to provide public notice of an application to extend a planning permit.

Despite this, one interested person informed the Planning and Development Branch of their concern with the planning application being extended by the Council.

Council Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

Strategic Links

a) Greater Shepparton 2030 Strategy

Greater Shepparton 2030 does not contain any objectives that specifically relate to this proposal.

b) Council Plan

There are no direct links to the Council Plan.

c) Other strategic links

There are no Strategic Links.

Attachment

Site photos

7. REPORTS FROM COUNCIL DELEGATES TO OTHER BODIES

8. REPORTS FROM SPECIAL COMMITTEES AND ADVISORY COMMITTEES

9. NOTICES OF MOTION, AMENDMENT OR RESCISSION

Notice of Motion 2/2012 – Cr Crawford

Cr Crawford has given notice that she will move:

That in relation to the Council's recent decision to issue a Notice of Refusal for permit 2012-4 relating to the installation and use of electronic gaming machines at the Peppermill Hotel, relevant Council Officers provide detailed information and advice on:

1. The courses of action Council open to the Council now that the decision has been appealed to the Victorian Civil and Administrative Tribunal (VCAT); and
2. The Planning Officer's professional opinion as to the likelihood of VCAT upholding the Council's decision.

10. DOCUMENTS FOR SIGNING AND SEALING

11. COUNCILLOR ACTIVITIES

Councillors' Community Interaction and Briefing Program

From 24 January 2012 to 26 February 2012, some or all of the Councillors have been involved in the following activities:

- Meet Your Councillors session - Merrigum
- Moving Art 10th Birthday Picnic
- Australia day events around the local area
- Signing of the Leeton / Greater Shepparton MOU
- Consultation Stuart Reserve Shepparton
- Summer Stroll Series – Merrigum
- Launch of Fairley Leadership 2012 Program
- Summer Stroll Series – Toolamba
- Reconciliation 'Sorry' Breakfast
- Shepparton Art Museum – Media Launch prior to launch
- Shepparton Art Museum – Official opening night
- Meet Your Councillors session - Toolamba
- Draft Murray Darling Basin Plan Community Education and Feedback Session

Councillors were also briefed on the following matters:

- Sustainability Policy
- Word and Mouth Funding Post July 2014
- Sustainability and Environment Strategy Update
- North Tatura Industrial Investigation Area

11. COUNCILLOR ACTIVITIES

Councillors' Community Interaction and Briefing Program (Continued)

- Councillor Annual Survey Results
- Shepparton Bowls Club
- International Relations
- Dairy Industry Council
- United Way GV Community Fund Presentation to seek renewal of funding
- Heritage Advisory Committee
- Best Start Early Years Plan
- Councillor Walk through of Art Gallery
- MAV Position on role of Local Government in Emergency Management
- Verbal briefing and presentation for the emerge Festival
- Melbourne Rd Landscape project
- Meet Your Councillors – Toolamba

In accordance with section 80A of the Local Government Act 1989 records of the Assemblies of Councillors are attached.

RECOMMENDATION

That the summary of the Councillors' community interaction and briefing program be received.

Attachments

Assemblies of Councillors Records

- Short Discussion Session - 24 January 2012
- Short Discussion Session - 31 January 2012
- Stuart Reserve Residents Meeting - 2 February 2012
- Goulburn Valley Highway Shepparton Bypass Action Group - 2 February 2012
- Short Discussion Session - 7 February 2012
- Short Discussion Session - 14 February 2012
- RiverConnect Implementation Advisory Committee Meeting - 15 February 2012
- Short Discussion Session - 21 February 2012
- Disability Advisory Committee – 21 December 2011
- Disability Advisory Committee – 28 October 2011

12. URGENT AND OTHER BUSINESS NOT INCLUDED ON THE AGENDA

13. PUBLIC QUESTION TIME

14. CONFIDENTIAL MANAGEMENT REPORTS

14.1 Designation of Confidentiality of Information – Report Attachments

RECOMMENDATION

In accordance with section 77(2)(b) of the *Local Government Act 1989* (the Act) the Council designates as confidential all documents used to prepare the following agenda item 5.1 'Contract No.1348 – Isabel Pearce Kindergarten Extension' and designated by the Chief Executive Officer or her delegate in writing as confidential under section 77(2)(c) of the Act. These documents relate to contractual matters, which is a relevant ground applying under section 89(2)(d) of the Act.