



Minutes

Council Meeting

12 June 2019

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Baw Baw Shire Council
Council Meeting
12 June 2019
Minutes

Minutes of the Ordinary Meeting of the Baw Baw Shire Council held in the Trafalgar Council Chambers, commencing at 5:30pm on 12 June 2019.

Present

Cr M Power, Cr J Gauci, Cr M Leaney, Cr K Cook, Cr D Wallace, Cr D Goss, Cr P Kostos, Cr T Jones and Cr J O'Donnell.

In Attendance

Ms A Leighton	Chief Executive Officer
Mr M Dupe	Director Corporate and Community Services
Mr C Van der Velde	Director Community Assets
Ms Y Woods	Director Planning and Development
Mr M Hopley	Chief Information Officer
Mr M Kestigian	Manager Communications and Economic Development
Ms A Lisle	Manager Finance
Mr P Harris	Manager Governance
Ms K Baum	Governance Coordinator
Ms D Foender	Executive Assistant to the Chief Executive Officer

1. OPENING AND RECOGNITION OF TRADITIONAL CUSTODIANS

Cr Power opened the meeting with recognition of the traditional custodians being, I would like to acknowledge the Traditional Owners of the land on which we are meeting, the Gunaikurnai People. I pay my respects to their Elders both past and present, and Elders of other communities who may be here today.

2. READING OF AFFIRMATION AND PRAYER

Cr Power read the Councillors affirmation, being, 'We now pause to reflect upon the solemn responsibilities conferred on us by the Parliament of Victoria through the *Local Government Act (1989)*.

We acknowledge that it is the responsibility of local government to ensure the peace, order and good governance of our Shire.

We are to be responsible and accountable to our community here in Baw Baw Shire through good governance and leadership.

Almighty God,

Give wisdom and understanding to the members of this Baw Baw Shire Council.

In all our deliberations help each of us to listen carefully, perceive the best course of action have courage to pursue it and grace to accomplish it.

Amen

3. APOLOGIES

Nil

4. CIVIC CEREMONIES

Nil

5. CONFIRMATION OF PREVIOUS MEETING MINUTES

RECOMMENDATION

That the minutes of the Ordinary Council Meeting held on 22 May 2019 be confirmed.

COUNCIL MOTION

Moved: Cr D Goss

Seconded: Cr K Cook

CARRIED

6. COUNCILLORS DECLARATIONS OF INTEREST/CONFLICT OF INTEREST

Nil

7. MEETING CLOSED TO THE PUBLIC: RELEASE OF INFORMATION TO THE PUBLIC

7.1 RELEASING OF COUNCIL MOTIONS IN CLOSED TO THE PUBLIC SESSION

Council did not hold a confidential meeting and therefore there is no information to be released to be public:
Nil Reports

8. COMMUNITY PARTICIPATION TIME

8.1 QUESTIONS ON NOTICE

Nil Received.

8.2 SUBMISSIONS

The following persons spoke on an item on the agenda.

Item 11.1

Wayne Newton
John Myer via Wayne Newton
Angela Phillip via Wayne Newton
Michelle Lodge
Tracey Newton for Bill Taylor
Angie Adams
Simon Duck
Lynda Earl
Alan Wakefield
Anne Allen

Item 11.2

Chris Monteleone

9. PETITIONS

Nil Reports

10. VIBRANT COMMUNITIES

10.1 ALLAMBEE ESTATE ROAD BRIDGE REPLACEMENT - LAND ACQUISITION

Road Network Engineer, Coordinator
Project Delivery

Directorate: Community Assets, Community
Assets
Ward: East
Appendix: 5 attachments

PURPOSE

The purpose of this report is to present to Council options for resolving road and bridge infrastructure that is located on adjoining private land on Allambee Estate Road, Allambee, and to commence a process to formally acquire the land.

RECOMMENDATION

That Council:

1. Declares its intention to acquire a freehold interest in the area of land as shown in Column 2 of Schedule 1 from the owners and occupiers of the land as shown in Column 1 of Schedule 1 for use as road purposes.
2. In accordance with the requirements of the Local Government Act 1989, the Land Acquisition and Compensation Act 1986 and the Regulations made under that Act, resolves to commence the statutory procedures to acquire the land by serving a Notice of Intention to Acquire on the property owners and occupiers of the land to be acquired, and thereafter by carrying out such other actions as are required of Council in order to acquire the land for road purposes.

Schedule 1

Column 1			Column 2
Title Information	Volume/Folio	Property Address	Approximate area to be acquired (sq.m)
Lot 1 LP090095	9213/014	301 Allambee Estate Road, Allambee	193

Cr Wallace requested an alternate recommendation.

ALTERNATE RECOMMENDATION

That Council;

1. delays a decision on this matter to give further time to consider the information in this report prior to Council making its decision; and
2. The report on this matter is included on the agenda of the ordinary meeting 10 July 2019.

COUNCIL MOTION

Moved: Cr D Wallace

Seconded: Cr D Goss

CARRIED

KEY ISSUES

- Council was successful in receiving funding of \$520,000 on a one to one basis under the *Bridges Renewal Program – Round Three* to replace three bridges on Allambee Estate Road.
- Council awarded a contract to Jarvis Norwood Pty Ltd in March 2018 for the reconstruction project.
- Two bridges have since been reconstructed, B045 & B046. See **Attachment 1** for a map detailing the location of the bridges.
- Consultation with affected property owners at the start of the project resulted in a proposed bridge construction methodology that enabled vehicle access to be maintained during construction of the replacement of the bridge (B044). This construction methodology proposed building the bridge in two halves. The northern half to be constructed first, enabling traffic to travel on the southern half of the existing bridge, then once complete traffic would be switched onto the northern half of the new bridge so that the southern half of the new bridge could be constructed.
- During construction there was an issue raised over the location of the existing bridge (B044) over Lorkin Creek. It was identified that the existing property boundary fence of 301 Allambee Estate Road adjacent to the bridge did not reflect the title boundary. A title re-establishment survey was carried out to determine the true location of the abutting property boundary. It was found that part of the existing road and bridge is located on private property.
- A second title re-establishment survey has been undertaken due to residents' concerns about the accuracy of the first survey. The second survey confirmed that part of the existing road and bridge is located on private property.
- The proposed bridge construction methodology results in the new bridge being positioned approximately 2.5 metres to the north of the existing

bridge's location, which subsequently encroaches further into private property. This slight change in position is primarily due to affected property owners requests for the bridge to remain trafficable during its construction. The proposed bridge is also approx 0.8m wider than the existing structure.

- As a result, the bridge replacement works for bridge (B044) was put on hold pending further investigations.
- A number of options have been explored to address and remedy Councils infrastructure being located on private land. These options are outlined in **Attachment 4**.
- The preferred option requires minor widening and deviation of the road reserve to:
 - Ensure the bridge and road is located on public land
 - Facilitate the bridge replacement works and ongoing maintenance adjacent to the bridge.
- It is therefore recommended that Council commence a process in accordance with the Land Acquisition and Compensation Act 1986 to compulsorily acquire a portion of land.
- A plan detailing the location of the land that is intended to be acquired is shown in **Attachment 3**.

TRIPLEBOTTOMLINE IMPLICATIONS

Financial Impact

- Council awarded contract 21826CT to Jarvis Norwood Constructions Pty Ltd on 14th March 2018 for the reconstruction of the three bridges.
- The *Land Acquisition and Compensation Act 1986* and the Regulations made under that Act, as a part of the compensation which Council will be required to pay for the acquired land, also require that Council pay any reasonable costs and expenses which the affected landowners will incur in relation to the proposed acquisition. These expenses may include obtaining the help of a solicitor, valuer or other professional adviser. Professional fees may be in the order of up to \$5,000, although depending on developments these costs could be higher.
- The amount of compensation will be determined in accordance with statutory requirements and will be based on valuations undertaken by an independent external property valuer. The cost of the land acquisition for the minor road reserve widening and deviation is to be fully funded by and from Council's capital expenditure as this is seen as the most cost-effective design alternative.
- Alternate options have been estimated which would result in the project going significantly over budget.

- It is recommended that Council resolve to progress with the construction of the project in accordance with the preferred design, therefore requiring an acquisition of land.

Environmental Impact

The reconstruction of the bridge structure is over a named waterway, and the West Gippsland Catchment Management Authority has been notified of the works. Further consultation would be required if the location of the bridge is changed significantly.

Community Impact

- The current construction methodology for the bridge replacement provides ongoing road access during construction in order to reduce the impact on road users.
- The indirect impact of the current construction methodology is that the bridge will encroach further into private land.
- Landowners involved in any such land acquisitions are always entitled to be compensated. This will be the subject of a future valuation and the landowners exercising their rights under the statutory framework.
- A number of nearby residents have raised safety concerns regarding two trees in the roadside near the remaining bridge. An arborist has assessed the trees and made risk management recommendations. The extent of work to the trees will be determined by Council's decision.

CONSULTATION

- Community consultation has occurred at various stages of this project. Initial discussions with the community resulted in a number of options considered to determine their viability. A key request from local property owners was the ability to keep the road open for vehicle access during construction.
- There is mixed feedback from affected property owners about the options considered in this report. Based on initial discussions, the owner of 301 Allambee Estate Road has indicated that his preference is for Council to pursue a new road alignment through the nearby existing road reserve whilst another nearby property owner doesn't want Downfall Track used as a detour route whilst construction occurs.

LEGAL/COUNCIL PLAN/POLICY IMPACT

COUNCIL PLAN

This road improvement project assists with the achievement of the key strategic objective as set out in the Council Plan 2017-2021:

Strategic Objective 1 – *Vibrant Communities*

Outcome – *Quality community focused services, facilities and infrastructure to support a growing community.*

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

This project has been reviewed under and in accordance with the *Charter of Human Rights and Responsibilities Act 2006* and it is considered compatible with the provisions and requirements of that Act.

LEGAL

Section 187 of the *Local Government Act 1989* gives Council the following power:

- A Council may purchase or compulsorily acquire any land which is, or may be, required by the Council for, or in connection with, or as incidental to, the performance of its function or the exercise of its powers.
- Council has the power under the *Land Acquisition and Compensation Act 1986* to acquire land by agreement or compulsory process. The land is required for road reserve widening purposes, as part of the Allambee Estate Road Bridge Replacement (B044).
- Land to be acquired by Council normally requires that the land is first reserved under a planning instrument for a public purpose. However, one of the statutory exceptions to this requirement is in relation to land which is to be acquired for a minor road widening or the deviation of a road and if the land is only part of an allotment, as well as:
 - (i) the area of the land to be acquired is less than 10 per cent of the total area of the allotment; and
 - (ii) the total value of the interest to be acquired is less than 10 per cent of the value of the unencumbered freehold interest in the total area of the allotment.

In the case of this acquisition, it is considered that the land to be acquired satisfies these criteria. On this basis, it is not first necessary for Council to reserve the land for a public purpose under the Baw Baw Planning Scheme.

The total area of land proposed to be acquired is 193m² of the 35690m² of the allotment. This represents a percentage of 0.54%.

The total percentage of value of the interest to be acquired is approximately 0.6%. This has been calculated based on 'kerbside/desktop' valuation completed by Gippsland Property Valuations in May 2019.

- Council has to comply with the following steps in order to compulsorily acquire an interest in land:

Stage	Description	Indicative Timeframes
I	Council resolves that it intends to acquire an interest in the land.	This report

Stage	Description	Indicative Timeframes
2	Council serves Notice of Intention to Acquire an Interest in Land in accordance with Section 8(1) and 8(2) of the <i>Land Acquisition and Compensation Act 1986</i> .	June 2019
3	Council lodges a Notice with the Registrar of Titles in accordance with Section 8(3)(b) and 10(1) of the <i>Land Acquisition and Compensation Act 1986</i> .	June 2019
4	Council resolves that it acquires the land.	August/ September 2019
5	Council places a Notice in the Government Gazette after 2 months and no later than 6 months from issue of the Notice of Intention to Acquire in accordance with Sections 16, 19, 20 and 24 of the <i>Land Acquisition and Compensation Act 1986</i> .	August/ September 2019
6	Council places a Notice of Acquisition of Interest in Land in a local newspaper in accordance with Section 3 of the <i>Land Acquisition and Compensation Act 1986</i> .	August/ September 2019
7	Council serves a Notice of Acquisition and makes an offer of compensation within 14 days of acquisition (date the Notice).	August/ September 2019

- Council shall manage disputed claims for compensation in accordance with the *Land Acquisition and Compensation Act 1986*.
- As a land acquisition process can take a number of months to complete, and there is a current contract in place for the bridge replacement works, the delay relating to the replacement of the third bridge is being managed in accordance with the current conditions of contract. The contractor has been demobilised and will need to be remobilised when works can recommence.

POLICY IMPACTS

Nil

CONFLICT OF INTEREST DECLARATION

No officer involved in the preparation of this report has a disclosable interest.

11. THRIVING ECONOMY

11.1 PLA0063/11.D - 14 MOE WILLOW GROVE ROAD, WILLOW GROVE

Coordinator Statutory Planning

Directorate: Planning Development

Ward: East

Appendix: 2 attachments

PURPOSE

To determine the Application to Amend Planning Permit PLA0036/11.D at 14 Moe Willow Grove Road, Willow Grove

RECOMMENDATION

That Council issue a Notice of Decision to Amend Planning Permit PLA0063/11 as follows:

- a) Amend Condition 5 to increase the number of patrons to 150 at any one given time.
- b) Amend Condition 13 to refer to the State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.
- c) Amend Condition 19 to increase the number of onsite car parking spaces to be provided.
- d) Amend Condition 26 to delete the part of the condition requiring the installation of self-closing doors.

Cr Leaney requested an amended recommendation.

ALTERNATE RECOMMENDATION

That Council issue a Notice of Decision to Amend Planning Permit PLA0063/11 as follows:

- a) Amend Condition 5 to increase the number of patrons to 130 at any one given time.
- b) Amend Condition 13 to refer to the State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.
- c) Amend Condition 19 to increase the number of onsite car parking spaces to be provided.
- d) Amend Condition 26 to delete the part of the condition requiring the installation of self-closing doors.
- e) *Live performance of music at the premises to only be non-amplified [acoustic] and the playing of recorded music to be no greater than background level.*
- f) *Amend the permit preamble from Use and Develop Land with a Restaurant, Signage, Reduction of Car Parking & Increase in Redline*

Area associated with a Liquor Licence to: Use and Development of Land for a Tavern and associated Liquor Licence, Signage and Reduction in Car Parking.

COUNCIL MOTION

Moved: Cr M Leaney
Seconded: Cr J O'Donnell

CARRIED

KEY ISSUES

- The proposal seeks to amend Planning Permit PLA0063/11 to:
 - Change what the permit allows from a Restaurant to a Tavern;
 - Increase the maximum number of patrons to 150 at all times; and
 - Reduction of car parking (11 spaces) requirements of Clause 52.06 of the Baw Baw Planning Scheme.
- The existing planning permit allows 80 patrons Sunday to Thursday with 110 patrons on Friday and Saturday.
- The specified hours on the planning permit are:
 - Monday to Wednesday – 11am till 10pm
 - Thursday & Friday – 11am till 11pm
 - Saturday & Sunday – 9am till 11pmNo changes are being sought for the hours of operation.
- It is considered the request to amend the use of the land from restaurant to a tavern is not appropriate given the site's interface with residential properties. Patrons attending a restaurant are more likely to be going to the premises for a meal, in comparison to those going to a tavern where the serving of liquor becomes the predominant activity which raises issues of patron behaviour. It also raises the expectation of entertainment occurring which unless properly managed will have a detrimental impact on the nearby residential properties.
- The increase in the number of patrons is considered acceptable. The peak parking demand hours for the premises will generally occur at night and on weekends when the other commercial land uses are not operating.
- The applicant has provided a revised car park layout which demonstrates an additional four spaces on site can be provided resulting in a total of 44 car spaces. This revised layout will be required to be implemented prior to the increase in the numbers permitted.

TRIPLEBOTTOMLINE IMPLICATIONS

Financial Impact

The proposal will not have financial impact upon Council unless the applicant or objectors seek a determination at the Victorian Civil and Administrative Tribunal (VCAT) against Council's decision.

Environmental Impact

Nil

Community Impact

- The application was advertised in accordance with the *Planning and Environment Act 1987*.
- 8 objections and 16 letters of support were received.
- The key areas of concern are as follows:
 - Impact on the availability of carparking and impact on the General Store and Community Hall.
 - To operate the venue as a pub rather than a restaurant changes the complete nature of the venue from its original conception.
 - The increase in the number of patrons without providing additional car parking is unreasonable.
 - The current planning permit conditions are not being adhered to.
 - The venue operates outside of its liquor licence with the sale of takeaway liquor.
 - The carparking assessment provided with the application contains false statements.
 - Road safety issues with the parking of vehicles on Moe Willow Grove Road.
 - Noise and music can be heard outside of the venue's walls

CONSULTATION

The application was advertised in accordance with the *Planning and Environment Act 1987*.

LEGAL/COUNCIL PLAN/POLICY IMPACT

COUNCIL PLAN

This planning permit application assists with the achievement of the key strategic objective as set out in the Council Plan 2017-2021:

Strategic Objective 1: *Vibrant Communities*

1.2 *Managing Baw Baw's growth and development.*

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

This planning permit application has been reviewed under the *Charter of Human Rights and Responsibilities* and is considered compatible.

LEGAL

The planning permit application was considered under the *Planning and Environment Act 1987*.

POLICY IMPACTS

Nil

CONFLICT OF INTEREST DECLARATION

No officer involved in the preparation of this report has a disclosable interest.

**11.2 PLA0071/18 - LOT 1 SUNNY CREEK CONNECTION ROAD,
TRAFALGAR**

Coordinator Statutory Planning

Directorate: Planning Development

Ward: East Ward

Appendix: 4 attachments

PURPOSE

To determine Planning Application PLA0071/18 at Lot 1 Sunny Creek Connection Road, Trafalgar.

That Council issue a Notice of Decision to Refuse to Grant a Permit for the Use and Development of a Dwelling on the following grounds:

1. The proposal is inconsistent with the relevant clauses under the State Planning Policy Framework, including:
 - Clause 14.01-1S – Protection of Agricultural Land;
 - Clause 14.01-2S – Sustainable Agricultural Land Use; and
 - Clause 16.01-5S – Rural Residential Development
2. The proposal is inconsistent with the relevant clauses under the Local Planning Policy Framework, including the Municipal Strategic Statement, including:
 - Clause 21.06-6 – Farmland and Soil Quality;
 - Clause 21.07-3 – Primary Production; and
 - Clause 22.01 – Rural Zones Policy.
3. The proposal is inconsistent with the provisions of the Rural Zones Policy as the proposal:
 - Does not demonstrate that the dwelling is required as an integral but ancillary part of the use of the land for a commercial farming purpose;
 - Will result in a proliferation of dwellings;
 - Will remove land from agricultural production; and
 - Will prejudice activities associated with agricultural production on adjoining and surrounding lots.
4. The proposal is inconsistent with the following relevant 'Decision Guidelines' at Clause 65.01 of the Baw Baw Planning Scheme
 - The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
 - The purpose of the zone.
 - The orderly planning of the area.

Cr Wallace Moved an Alternate Recommendation.

ALTERNATE RECOMMENDATION

General

1. The layout of the use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Once buildings and works have commenced, they must be completed to the satisfaction of the Responsible Authority.
3. Upon completion of the buildings and works, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.
4. Prior to the issue of a Building Permit for the development, a Development Contribution Levy must be paid to the Council in accordance with the schedule to the Development Contributions Plan Overlay in the Baw Baw Planning Scheme.
5. Prior to the occupation of the dwelling, the following requirements must be met:
 - a) Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
 - b) The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the *Environment Protection Act 1970*.
 - c) The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
 - d) The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

Amenity

6. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
7. The amenity of the area must not be detrimentally affected through any of the following:
 - a) Transport of materials, goods or commodities to or from the land.
 - b) The appearance of any stored goods or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, soot, ash, dust, waste water, waste products, grit or oil.

Health

8. Wastewater arising from the development shall be treated and retained within the lot boundary by a septic tank system (or other approved system) designed in accordance with the requirements of the Environment Protection Act 1970, EPA Publication 891.4: Code of Practice – Onsite wastewater management and the Responsible Authority.

9. Prior to commencement of the development, plans of a suitable wastewater disposal system and its location within the lot boundary must be approved in writing by the Responsible Authority.
10. Prior to occupation or issuing a Certificate of Occupancy, the building(s) allowed by this permit must be connected to an approved wastewater disposal system, to the satisfaction of the Responsible Authority.

Permit Expiry

11. This permit will expire if one of the following circumstances apply:
 - a) The development is not started within two years of the date of this permit;
 - b) The development is not completed within four years of the date of this permit;
 - c) The use is not commenced within two years of the completion of the development.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

COUNCIL MOTION

Moved: Cr D Wallace

Seconded: Cr D Goss

CARRIED

Cr Goss called for a division

For: Crs D Goss, T Jones, P Kostos, M Leaney, J O'Donnell, M Power and D Wallace

Against: Cr K Cook

KEY ISSUES

- It is proposed to use and develop the site for a single dwelling on a rural land parcel of approximately 15 hectares.
- The applicant seeks approval for the dwelling on the basis that the owner intends to breed stock horses. The Business Plan states that the owner intends to produce four foals per year, increasing to six foals by year 4.
- The proposal is considered to be inconsistent with the State and Local Planning Policy Framework of the Baw Baw Planning Scheme as the proposal has not adequately demonstrated the need for a dwelling on the land and that a viable farming operation can be achieved.
- The proposal is not in accordance with Clause 22.01: Rural Zone Policy of the Baw Baw Planning Scheme as it fails to justify that a dwelling is an integral and ancillary part of the use of the land for a commercial farming

purpose. The Farm Management Plan provided by the applicant indicates that the intended business would not have the capacity to generate an income to make it a commercially viable operation.

- The justification provided with the application does not support the need for a dwelling on the land. The business plan indicates that the breeding of horses will be limited to 4 foals each year. This does not justify the need for a dwelling as the foaling season is only for a short period in the year therefore limiting the need for supervision.
- The proposal does not meet the Objectives and Decision Guidelines of the Farming Zone.
- The matter is required to be reported to Council as Councillors have called the application in.

TRIPLEBOTTOMLINE IMPLICATIONS

Financial Impact

The proposal is not considered to have any financial impact on Council unless the applicant were to seek a review of Council's decision at VCAT.

Environmental Impact

Nil

Community Impact

It is considered that the proposal would have minimal community impact.

CONSULTATION

- The planning permit application was advertised in accordance with the *Planning and Environment Act 1987*.
- No objections were received.

LEGAL/COUNCIL PLAN/POLICY IMPACT

COUNCIL PLAN

This planning permit application does not assist with achieving the key strategic objectives set out in the Council Plan 2017-2021:

Strategic Objective 1: *Vibrant Communities*

1.2 *Managing Baw Baw's growth and development.*

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

This planning permit application has been reviewed under the *Charter of Human Rights and Responsibilities* and is considered compatible.

LEGAL

The planning permit application was assessed and processed in accordance with the *Planning and Environment Act 1987*.

POLICY IMPACTS

Nil

CONFLICT OF INTEREST DECLARATION

No officer involved in the preparation of this report has a disclosable interest.

11.3 PLA0108/18 - 2 ODDY STREET DROUIN - TO CONSTRUCT TEN DWELLINGS AND ASSOCIATED WORKS.

Manager Statutory Planning & Coordinator
Statutory Planning

Directorate: Planning Development

Ward: West Ward

Appendix: 2 attachments

PURPOSE

For Council to form a position on Planning Permit Application PLA0108/18 to construct ten dwellings and associated works at 2 Oddy Street Drouin as the number of objections exceed five (5).

RECOMMENDATION

That Council issue a Notice of Decision to Grant a Planning Permit to construct ten dwellings and associated works subject to the conditions in the attached report.

COUNCIL MOTION

Moved: Cr K Cook
Seconded: Cr T Jones

CARRIED

KEY ISSUES

- The proposal is to construct ten (10) single storey dwellings comprising of four (4) two bedroom dwellings and six (6) three bedroom dwellings within the General Residential Zone.
- Each two bedroom dwelling will be provided with a single garage with the three bedroom dwellings with a double garage. Two visitor spaces will be provided along the central accessway in the middle of the site.
- The surrounding land is also zoned General Residential and is mostly developed with single dwellings on lots. To the south is a reserve for recreational purposes but also contains an easement in favour of the SEC. The reserve contains mature native vegetation.
- The proposed development is consistent with State and Local Planning Policy Frameworks as it provides an increase in the diversity and supply of housing stock within the municipality which increases housing choice for residents, is consistent with the character of the area, and is in an area where increased housing densities are encouraged.
- The proposal is considered to generally respond appropriately to Clause 55 - ResCode and meets the car parking requirements for the provision of parking for the dwellings and visitors.
- The setback of the dwellings from the Lardner Road Reserve will generally ensure that existing vegetation within the road reserve will not

be impacted on by the development subject to conditions requiring tree protection fencing during construction and the relocation of structures within the tree protection zones. Conditions requiring the submission of an arborist report, landscape plan and other measures will be included as conditions of any permit issued.

TRIPLEBOTTOMLINE IMPLICATIONS

Financial Impact

The proposal is not considered to have any financial impact on Council unless the applicant were to seek a review of Council's decision at VCAT.

Environmental Impact

The interface with the Lardner Road reserve and impact on significant vegetation has been resolved through an appropriate design response with dwellings generally setback to minimise encroachments within tree protection zones.

Community Impact

- The proposal will support Drouin's population growth as it will provide a diversity of housing types while being respectful of the existing character of the areas.
- The objections raised the following issues as summarised:
 - Loss of trees from the site and subsequent loss of birdlife and habitat.
 - Overdevelopment of the site.
 - Lack of car parking.
 - Traffic issues.
 - Proposal does not appropriately address neighbourhood character.
 - Loss of amenity.
 - Detail regarding any retaining wall in the north-east corner of the site not provided.
 - Concerned weeds and rubbish may accumulate between the proposed fence line and fence line on adjoining property to the north-west. May create a health and fire hazard.

CONSULTATION

- Notice of the application was given to adjoining and adjacent landowners and occupiers of the subject site via registered post under Section 52(1) (a) of the *Planning and Environment Act 1987* (the Act) and notice was given via the display of an A3 sign on site for a minimum of 14 days pursuant to Section 52(1) (d) of the Act. Fourteen (14) objections regarding the proposal were received.

- The application was referred internally to Council's Environmental Planning Department and Council's Engineers who have not objected to the proposal subject to permit conditions.
- The application was referred externally to Gippsland Water, Melbourne Water, and Ausnet who have not objected to the proposal subject to conditions.

LEGAL/COUNCIL PLAN/POLICY IMPACT

COUNCIL PLAN

This decision assists with the achievement of the key strategic objective as set out in the Council Plan 2017-2021:

Strategic Objective 1. *Vibrant Communities*

Strategic Objective 2: *Thriving Economies*

Strategic Objective 4. *Growth and Prosperity*

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

This report has been reviewed under the *Charter of Human Rights and Responsibilities* and is considered compatible.

LEGAL

The planning application was submitted and assessed in accordance with the *Planning and Environment Act 1987*.

POLICY IMPACTS

Nil

CONFLICT OF INTEREST DECLARATION

No officer involved in the preparation of this report has a disclosable interest.

12. SAFE AND SUSTAINABLE ENVIRONMENTS

Nil Reports

13. ORGANISATIONAL EXCELLENCE

13.1 QUARTERLY PERFORMANCE REPORT Q3 MARCH 2019

Corporate Planner & Finance Manager

Directorate: Corporate and Community
Services

Ward: All

Appendix: 3 attachments

PURPOSE

To provide Council with the Quarterly Performance Report for Quarter 3 of the 2018/19 year.

RECOMMENDATION

That Council notes the Quarterly Performance report for Q3 2018/19.

COUNCIL MOTION

Moved: Cr D Wallace

Seconded: Cr D Goss

CARRIED

KEY ISSUES

- A performance report is prepared at the end of each quarter of the financial year, and it briefs the Council and the community on Council's progress towards its strategic objectives as set out in the Council Plan 2017 - 2021.
- The quarterly performance report is made up of:
 - Progress on the actions contained in the Council Plan for the 2018/19 year.
 - Key Performance Indicators including the statutory Local Government Performance Reporting Framework measures contained in the *Local Government Act 1989*.
 - Financial Statements, including income statement, capital works statement, balance sheet, and cash flow statement.
- Targets included for KPIs are based on the long-term average of previous performance, or where a specific target exists in the Council Plan.

Council Plan actions:

- A total of 46 initiatives are included in the Council Plan report, and these are the key projects nominated in the Council Plan and Budget for the 2018/19 year.
- Of the initiatives in the Council Plan, 6 are completed, 1 is not started, 37 are in progress and 2 are ongoing.

- Initiatives completed during the quarter:
 - Municipal Early Years Infrastructure Plan.
 - A community resilience guide for extreme weather and associated events was finalised and now published for community use.

Highlighted initiatives

- During the quarter a Youth Officer commenced at Council. FReeZA committee established with excellent participation of 15 regular members, well above minimum committee numbers.

Key Performance Indicators and LGPRF:

- WC1 Kerbside bin collection requests continues to show an upwards trend. This is attributed to the steady growth in population, requiring new residential houses/units to be supplied with bins, as well as bin replacement due to wear and tear. A number of bins which have been in service for 10+ years, are now being replaced as they become damaged.
- CP25 Visit Baw Baw website has seen an increase in the number of hits with 98,536 hits year to date, compared to 40,561 for this time last year.
- CP30 Number of people reached via social media channels has reached 4,151,693. This is a significant increase on the same time last year (2,330,749 people reached). Recent increases are attributed to key events including the bushfires and the Kmart announcement.
- E3 Number of permanent staff resignations and terminations. For this quarter the number of staff leaving has decreased, with continued improvement in staff retention. The quarterly turnover was measured at 1.5% the lowest experienced in several years.
- AM2 Number of animals reclaimed is lower than the long-term average for this measure. Comments for this measure indicate that of the 182 animals collected in the quarter, 67 were reclaimed and 70 were rehomed. Taken together this would be 75% of animals either reclaimed or rehomed for the quarter.
- R1 Sealed local road requests are currently performing below the long-term average for this measure. This is attributed to improvements in more accurately capturing requests in the CRM system. While it has been high in previous quarters, performance for this quarter is consistent with the longer-term trend for this measure.
- FS1 Time taken to action food complaints has improved for this quarter with all food complaints actioned within the same working day, bringing the year to date result to 1.41 days to action food complaints.
- All other services are performing at or above their long-term average for their service results.
- Note that performance data for the Statutory Planning performance indicators SP1, SP2, SP3 was not available at the end of Q3 due to

delays in processing of reporting from the State Government Planning Permit Activity Reporting System.

Financial Statement:

- Financial report for Quarter 3 ended 31 March 2019, including income statement, capital works statement, balance sheet and cash flow statement identifies Council's financial position to date.
 - The Income Statement reports a year to date surplus of \$6.264 million that is a (\$0.227) million variance when compared to the amended budget (adopted budget plus carryover). The unfavourable variance is mainly due to the Financial Assistance Grants income received in advance in the 2017/18 financial year plus later than expected receipt of the final capital grant for the West Gippsland Art Centre. Employee costs are underspent due to vacancies across a number of service areas of Council. Materials, services and contracts is under budget, primarily due to road maintenance works scheduled to be completed by the end of the financial year.
 - The Capital Works Statement reports year to date expenditure of \$14.032 million that is a \$7.686 million favourable variance when compared to the amended budget (adopted budget plus carryover). The variance is primarily in the Roads program \$4.341 million, \$1.791 million Land & Buildings and \$0.693 million in Recreation, leisure and community facilities.
 - The Cash Flow Statement for Council reports year to date cash of \$45.501 million that represents an increase in cash of \$15.929 million. The favourable variance mainly relates to higher than expected cash balance at the commencement of the financial year due to earlier than expected receipt of Financial Assistance Grants funding and higher than expected cash held for carry forward capital projects.

TRIPLEBOTTOMLINE IMPLICATIONS

The Quarterly Report provides an overview of Council's performance with respect to the Council Plan.

CONSULTATION

The Quarterly Performance Report will be available to the community via the published Council Papers on the Baw Baw Shire Council website.

LEGAL/COUNCIL PLAN/POLICY IMPACT

COUNCIL PLAN

This Quarterly Performance Report assists with the achievement of the key strategic objective as set out in the Council Plan 2017-2021: *Organisational Excellence*.

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

This Quarterly Performance Report has been reviewed under the *Charter of Human Rights and Responsibilities* and is considered compatible

LEGAL

Council is required to report regularly on its performance. The Quarterly Performance report meets this requirement.

CONFLICT OF INTEREST DECLARATION

No officer involved in the preparation of this report has a disclosable interest.

13.2 AWARD OF BROKERAGE AND INSURANCE TENDER

Insurance and Risk Advisor

*Directorate: Corporate and Community
Services*

Ward: All

Appendix:

PURPOSE

For Council to consider the outcome from the Insurance Broking and Risk Management Services tender process.

RECOMMENDATION

That Council;

1. Awards the Insurance Broking and Risk Management Services contract from 01 July 2019 to 30 June 2022 to Jardine Lloyd Thompson (JLT) for a period of three years, with a three-year option; and,
2. Delegates authority to the Chief Executive Officer to sign the contract documents after they have been prepared and execute the award of contract and all relevant insurance schedules.

COUNCIL MOTION

Moved: Cr D Goss
Seconded: Cr M Leaney

CARRIED

KEY ISSUES

State of the Market

- Following an unprecedented number of catastrophic weather events and natural disasters throughout 2017 and 2018, the Insurance market has been particularly volatile. Examples include hurricanes Harvey, Irma and Maria, earthquakes in Mexico and wildfires in California. There has been several various storm and flood events throughout Australia, New Zealand and Europe.

Latest reports suggest these events generated significant losses and insurer pay-outs exceeding an estimated US\$160bn – more than double the annual average in the previous 10 years.

In Australia, the eventual costs to insurers resulting from Cyclone Debbie in 2017 was \$1.7bn, the Townsville flood had claims of \$1.2bn, and the NSW hailstorm in December 2018 caused \$1.3bn in claims damages. These issues will be further compounded by the Cyclone that hit WA and Far North Queensland, the costs of which are still being estimated.

As a result, major insurers are making a concerted effort to improve the profitability of their Insurance portfolios, either by reducing their capacity on risks, amending their underwriting guidelines (i.e. refining what risks

they are willing to write) and/or imposing premium rate increases. This provides challenges for Council to achieve significant premium savings in the open market.

Insurance Program

The following policies were provided make up Councils insurance portfolio:

- Artworks
- Business Disruption
- Commercial Motor Vehicle
- Community Liability
- Corporate Travel
- Councilors and Officers Liability
- Cyber Liability
- Local Government Liability
- Personal Accident
- Property and Assets

Tender Process

- Baw Baw Shire Council engaged Procurement Australia to invite tenders for the provision of Councils Insurance Broking and Risk Management Services pursuant to Contract Number 0618/0626 Invitation to Tender. Several other Councils participated in this tender.
- Engagement of Procurement Australia provided a fair and impartial review of tender submissions, with expertise necessary to evaluate Council's insurance requirements.
- The tender was advertised on the TenderLink portal, as well as in the Herald Sun. Invitation for tender submissions commenced on 23 January 2019 and concluded on 01 April 2019.

Tender Evaluation

Evaluation Panel

Evaluation of submissions was conducted by Procurement Australia and the review conducted by the following officers:

- Chief Executive Officer
- Director Corporate and Community Services
- Chief Financial Officer
- Manager Governance
- Risk Advisor

Evaluation of Mandatory Criteria

Tender submissions were assessed against the following mandatory criteria:

- Conformance of tender submission;
- Completion of all required schedules;

- Insurance program structure;
- Governance and reputation of the tenderer;
- Confirmation of insurance policies held and level of cover;
- Confirmation of satisfactory licenses and accreditation; and
- Occupational health and safety management systems.

All submissions were conforming.

Recommendation

- Tender submissions were evaluated in accordance with the criteria set out in the Request for Tender.
- Jardine Lloyd Thompson (JLT) is the preferred tenderer. The tender comes within budget and is for a three-year period with a further three-year option to renew.
- Evaluation of Jardine Lloyd Thompson's submission provided strong understanding of local government operations, allocation of senior staff dedicated to the contract including competitive pricing.
- As the current incumbent and long-term broker, JLT hold extensive knowledge of Baw Baw Shire Council operations including established stakeholder relationships with strong customer service record.

TRIPLEBOTTOMLINE IMPLICATIONS

Financial Impact

- Procurement Australia evaluated the financial impacts of the submissions.
- Subject to some minor variations, JLT has obtained near to roll-over terms.

Environmental Impact

- Information will be provided to Council electronically rather than via paper based policies and forms.
- Climate events negatively impact Councils' insurance premium.

Community Impact

The provision of insurance cover ensures the community that Council is meeting its statutory obligations and has sufficient protection against any disaster, damage or claim against it.

LEGAL/COUNCIL PLAN/POLICY IMPACT

COUNCIL PLAN

This project assists with the achievement of the key strategic objective as set out in the Council Plan 2017-2021:

Strategic Objective 4: *Organisational Excellence*

Providing community benefit by effectively managing council's resources and finances.

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

This report has been reviewed under the Charter of Human Rights and Responsibilities and is considered compatible.

LEGAL

Section 76A of the *Local Government Act 1989* requires Council to have public liability and professional liability insurances. This tender includes complies with this section of the Act.

POLICY IMPACTS

The contract process has met the requirements of Council's Procurement Policy.

CONFLICT OF INTEREST DECLARATION

No officer involved in the preparation of this report has a disclosable interest.

14. NOTICES OF MOTION

Nil Reports

15. COMMITTEE AND DELEGATES REPORTS

15.1	Place Name Advisory Committee
	Cr Cook and Cr Kostos attended the Place Name Advisory Committee meeting where a developer name bank; respecting significant locals and checking un-registered names were all items of discussion.
15.2	Roads and Drainage Advisory Committee
	Cr Cook and Cr Wallace attended the Roads and Drainage Advisory Committee and discussed Road prioritisation methodology.
15.3	Arts and Culture Advisory Committee
	Cr O'Donnell attended the Arts and Culture Advisory committee where artist in residence was discussed.
15.4	Rural and Regional Planning Conference
	Cr O'Donnell attended the Rural and Regional Planning Conference in Ballarat.
15.5	Environmental Voice Committee
	Cr Power attended the Environmental Voice Committee and acknowledged retiring member Tessa Hoogerbrugge and Council officer Jessie Ablett who will shortly be taking parental leave.

16. ASSEMBLY OF COUNCILLORS

16.1 ASSEMBLY OF COUNCILLORS

Governance Coordinator

Directorate: Corporate and Community
Services

Ward: All

Appendix: 6 attachments

PURPOSE

To present the written records of Assemblies of Councillors that have occurred.

RECOMMENDATION

That Council receives and notes the Assembly of Councillors records tabled for the period from Friday 10 May to Friday 31 May 2019 and an Assembly of Councillors record for the Business Advisory Board for 29 April 2019.

COUNCIL MOTION

Moved: Cr P Kostos
Seconded: Cr J O'Donnell

CARRIED

KEY POINTS/ISSUES

The *Local Government Act 1989* requires that the written record of an Assembly of Councillors be, as soon as practicable, reported at an ordinary meeting of the Council and incorporated into the minutes of that meeting.

17. MAYORAL MINUTE

Nil

18. GENERAL BUSINESS

Nil

Meeting closed at 7.57pm

Confirmed at this meeting 26 JUNE 2019

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Cr M Power
Mayor