

Agenda

Council Meeting

11 September 2019

To be held at the Trafalgar Business Centre 107 Princes Highway, Trafalgar at 5:30pm

Our Vision

Happy, healthy people sharing prosperity and knowledge from living sustainably and in harmony with our rural identity, thriving villages, productive and inspiring landscapes.

Our Mission

Leaders in delivering quality, innovative and community focused services today that make a difference for tomorrow.

Core Values

Community focused

Accessible, responsive (we're here to help), can do attitude, communicative, empathetic.

Integrity

Equitable, honest, ethical, transparent.

Respect

Listening, compassionate, open minded, understanding, patient.

Pride

Caring, enthusiastic, inspiring, accountable.

Innovation

Creative, bold, challenging, flexible.

Collaboration

Partnering, building productive relationships, inclusive.

Agenda

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1. OPENING AND RECOGNITION OF TRADITIONAL CUSTODIANS

I acknowledge the traditional custodians of the land on which we are meeting and pay my respects to their Elders both past and present. I would also like to acknowledge any other elder of any race or religion that may be in the room tonight.

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
- 4. CIVIC CEREMONIES
- 5. CONFIRMATION OF PREVIOUS MEETING MINUTES
- 6. COUNCILLORS DECLARATIONS OF INTEREST/CONFLICT OF INTEREST
- 7. MEETING CLOSED TO THE PUBLIC: RELEASE OF INFORMATION TO THE PUBLIC

Council will not hold a confidential Council meeting and therefore no information is required to be released to the public.

Nil Reports

8. COMMUNITY PARTICIPATION TIME

8.1 QUESTIONS ON NOTICE

8.2 SUBMISSIONS

Any community member is welcome to comment or ask questions on any of the officer reports listed in this agenda if it has not been part of another hearing process.

Submitters will be given up to 3 minutes to speak on their submission.

9. PETITIONS

10. VIBRANT COMMUNITIES

10.1 ALLAMBEE ESTATE ROAD BRIDGE REPLACEMENT - LAND ACQUISITION

Road Network Engineer & Directorate: Community Infrastructure

Coordinator Infrastructure Delivery Ward: East

Appendix: 8 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:

- 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 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

KEY ISSUES

- Council was successful in receiving federal 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. Refer Attachment A1 – Approximate bridge locations plan.

- 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 was 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.
- A subsequent discussion with nearby residents after the second survey
 was undertaken demonstrated that the second survey took into account
 the local knowledge provided by the residents and addressed their
 original concerns about the accuracy of the first title re-establishment.
- A process is currently underway involving the two surveying companies
 to resolve why there was a minor discrepancy between the outcomes of
 the two surveys. It is understood that the second survey took into
 account additional historical information only available to that company in
 addition to the local knowledge provided by the residents.
- The proposed bridge construction methodology results in the new bridge being realigned 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 local property owners' requests for the bridge to remain trafficable during its construction, particularly if construction is to occur during the fire danger period. The proposed bridge is also approximately 0.8m wider than the existing structure.
- As a result of the public infrastructure on private land issue, the bridge replacement works for bridge (B044) were 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 A4.
- The recommended option uses the original design for the bridge reconstruction and 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 from 301 Allambee Estate Road.
- A plan detailing the location of the land that is intended to be acquired is shown in Attachment A3 Title Re-Establishment Plan.
- This report (or a variation of) has been considered by Council on two recent occasions:
 - 12 June 2019. Council decided to delay a decision on this matter to give further time to consider the information in this report prior to Council making its decision and the report was to be included on the agenda of the ordinary meeting 10 July 2019;
 - 10 July 2019. Council decided to defer any further decision on this matter to enable legal advice to be sought prior to further Council consideration.
- In response to Council's 10 July 2019 resolution Council has had legal advice, including a briefing to Council from its legal representatives, in regard to the land acquisition process under the Land Acquisition and Compensation Act 1986.

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.
- A kerb side valuation of 301 Allambee Estate Road, and the proposed land to be acquired, was undertaken by Gippsland Property Valuations in May 2019. The valuation indicates the proposed land to be acquired has a value of \$3000.
- The cost of the land acquisition for the minor road reserve widening and deviation is the most cost-effective solution to the public infrastructure of private land issue.

 Should Council decide not to reconstruct Bridge B044, approximately \$205,000 of external funding through the Bridges Renewal Program will need to be returned. This may make funding for similar projects more difficult to obtain in the future.

Environmental Impact

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

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 land acquisitions are entitled to be compensated. This will be the subject of a 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 some of 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.
- Through further meetings and discussions with the property owner, it has been determined that their actual preference is for Council to effectively rebuild the bridge in its current location. In order to do this and maintain road access, a temporary track would need to be constructed. However, this temporary access track would enable the bridge to be rebuilt in a shorter timeframe due to not needing to maintain traffic access across the bridge whilst the bridge works take place. Less land is required to be acquired with this option at 118m² in comparison to 193m².
- The property owners preferred option is considered as Option 5B in the attachments. Based on a revised price from the bridge contractor, Option

5B is estimated to cost approximately \$84,000 more than the option being recommended to Council, Option 3. A partial breakdown of the costs for Option 3 and Option 5 are also attached to demonstrate the differential between the two.

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

 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

Council officers have previously sought legal advice in relation to this matter. Council have been provided with this advice in a recent briefing.

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:
 - the area of the land to be acquired is less than 10 per cent of the total area of the allotment; and
 - 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 $193m^2$ of the $35690m^2$ 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 kerb side 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
1	Council resolves that it intends to acquire an interest in the land.	This report
2	Council serves Notice of Intention to Acquire an Interest in Land in accordance with Section 8(1) and 8(2) of the Land Acquisition and Compensation Act 1986.	September 2019
3	Council lodges a Notice with the Registrar of Titles in accordance with Section 8(3)(b) and 10(1) of the Land Acquisition and Compensation Act 1986.	September 2019
4	Council resolves that it acquires the land.	November 2019
5	Council places a Notice in the Government Gazette after two months and no later than six months from issue of the Notice of Intention to Acquire in accordance with Sections 16, 19, 20 and 24 of the Land Acquisition and Compensation Act 1986.	November 2019
6	Council places a Notice of Acquisition of Interest in Land in a local newspaper in accordance with Section 3 of the Land Acquisition and Compensation Act 1986.	November 2019
7	Council serves a Notice of Acquisition and makes an offer of compensation within 14 days of acquisition (date the Notice).	November 2019

- Should Council elect to pursue the acquisition of the land by agreement rather than compulsory acquisition, in the event of not being able to reach an agreement with the property owner, Council is prohibited from proceeding to acquire an interest in the land by compulsory process for a period of twelve months. This prohibition can only be altered via ministerial intervention.
- Council has to 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 de-mobilised and will need to be re-mobilised when works can recommence.

• It is likely that based on the legislative steps required for the land acquisition, the reconstruction of bridge B044 will not start until early 2020.

POLICY IMPACTS

Nil

CONFLICT OF INTEREST DECLARATION

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

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Nil Reports

12. SAFE AND SUSTAINABLE ENVIRONMENTS

Nil Reports

13. ORGANISATIONAL EXCELLENCE

13.1 PROPOSED SALE OF 63 ALFRED STREET, WARRAGUL

Property Management Coordinator Directorate: Corporate and Community

Services

Ward: Central Appendix: 4 attachments

PURPOSE

For Council to consider the sale of one parcel of land known as 63 Alfred Street, Warragul.

RECOMMENDATION

That Council:

- Pursuant to Section 189 of the Local Government Act 1989 (Act), gives notice of its intention to sell the land known as 63 Alfred Street, Warragul; and
- 2. Invites public submissions under Section 223 of the Act; and
- 3. If no public submissions are received, authorises the Chief Executive Officer to sell the Land by way of public auction and enter into a contract of sale at or above the reserve price; where
- 4. An independent valuation of the Land is used to determine the reserve price for public auction process.

KEY ISSUES

- The property is 1,368 sq. m and is zoned industrial 1. Council owns clear Title on this property.
- The property is zoned Industrial 1 and has a developer contribution overlay. There are no other zoning constraints with this property. There is a sewerage easement on the southern boundary of the land in favour of Gippsland Water.
- The property was purchased on 8 October 2007 specifically for the rail crossing project.
- A small section of the eastern corner of the land was used to facilitate the underpass to Queen Street Warragul and has been removed from the Title.
- This property was leased on a commercial basis until 2016 and since the surrender of the lease Council has used the shed for storage during the West Gippsland Arts Centre redevelopment which saved paying rental on storage units.
- The land is deemed surplus to Council and Community requirements.

TRIPLEBOTTOMLINE IMPLICATIONS

Financial Impact

- Sale of the property will be by Public Auction with the Reserve set by a certified valuation.
- Proceeds from this sale can be allocated to the property reserve account. These funds will be unrestricted as the land is freehold.

Environmental Impact

There is no environmental impact with the proposed sale.

Community Impact

If Council resolves to sell, in conjunction with the public advertising, nearby premises will be written to informing them of the decision to sell.

CONSULTATION

Council must publicly advertise the sale for a period of 28 days. Any member of the community can lodge a submission and request to be heard by Council.

LEGAL/COUNCIL PLAN/POLICY IMPACT

COUNCIL PLAN

This proposal 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

Council must comply with S189 and S223 of the *Local Government Act 1989*. These sections include requirements to obtain valuations, public advertising allowing submissions (in writing and person).

POLICY IMPACTS

Sale of this property is consistent with Council's Property Policy.

CONFLICT OF INTEREST DECLARATION

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

13.2 COMMUNITY SATISFACTION SURVEY 2019 RESULTS

Manager Corporate Strategy & Chief Information Officer

Directorates: Corporate and Community Services & Customer Service and

Technology Ward: All

Appendix: 1 attachment

PURPOSE

To present the results of the 2019 Community Satisfaction Survey and 2019 Customer Experience Benchmark.

RECOMMENDATION

That Council receives and notes the results of the 2019 Community Satisfaction Survey and 2019 Customer Experience Benchmark.

KEY ISSUES

- Council undertook two surveys in 2019. The Community Satisfaction Survey (CSS) is an annual survey of Local Government performance carried out by JWS Research and the Customer Experience Benchmark (CEB) carried out by Customer Service Benchmarking Australia.
- The CEB survey was undertaken to deliver on one of the CEO's key performance indicators.

Customer Satisfaction Survey 2019

 The CSS survey was conducted over the period 1 February - 30 March 2019 and involved a random telephone survey of 400 residents aged 18 years and over. Minimum quotas are applied to gender and age groups, and post survey weighting is also applied to ensure accurate age and gender representation.

Core service performance

Community Satisfaction Survey performance results 2012 – 2019:

Service	2012	2013	2014	2015	2016	2017	2018	2019
Overall performance	45	41	57	54	48	50	50	52
Community consultation and engagement	47	45	53	52	48	48	50	49
Lobbying on behalf of the community	47	44	52	53	50	48	49	47
Decisions made in the interest of the community	n/a	n/a	51	53	47	46	48	43
Condition of sealed local roads in your area	n/a	n/a	35	36	38	42	42	40
Contact customer service	61	62	67	64	66	61	61	66
Overall Council direction	35	42	52	50	46	48	51	45

• Council's overall performance and customer service improved from 2018-2019.

- Council's performance remained stable for sealed local roads condition after several years of improvements, however it remains Council's lowest performing area.
- Results for community consultation, advocacy, council decisions and roads are all significantly lower than State-wide and Large Rural Shires performance. These are areas for further investigation and understanding.

Individual service performance

- In 2019 we also surveyed several individual service areas to provide input into the service review program.
- The below graph shows the top five service areas in terms of importance for Baw Baw Shire.

Service areas where importance exceeds performance by 10 points or more, suggesting further investigation is necessary:



Report recommendations

- JWS Research makes several recommendations for Council focus over the next twelve months:
- Maintain and improve performance in the individual service areas that
 most influence perception of overall performance and where Council is
 currently performing lower relative to other services, or where
 importance exceeds performance:
 - Decisions made in the interest of the community
 - Community consultation and engagement
 - Condition of sealed local roads in your area

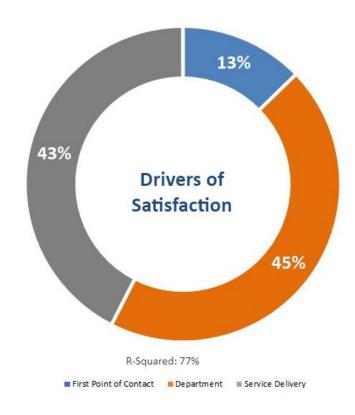
- Planning and building permits
- Elderly support

Customer Experience Benchmark 2019

- The CEB survey was conducted over the period April May 2019 using a mixture of telephone and online form interviews of a random sample of 400 customers who had made contact with Council during October-December 2018.
- The survey benchmarks Baw Baw Shire against other councils across Australia including eight Victorian councils.
- The survey looks at the entire customer journey from initial point of contact (phone, email, live chat etc.) through to the service delivery.

Community Satisfaction Drivers

- The CEB survey provides data on the specific drivers for community satisfaction in Baw Baw Shire.
- The largest driver for community satisfaction is the overall dealing with an individual department in Council.



Customer Journey

- Our initial first point of contact is consistent with other Victorian councils such as Boroondara, Glen Eira, Casey and Port Philip.
- Top performing service areas include:

- Waste Management (nine points above benchmark)
- Parks and Gardens (16 points above benchmark)
- Our areas for improvement (consistent with other surveys) are Roads and Infrastructure and Maintenance.

Recommendations

- The CEB survey highlights that key improvements need to be made to internal processes within Baw Baw Shire.
 - Making our complex processes customer not organisationally focussed.
 - Making our processes more transparent by providing consistent status updates to customers;

TRIPLEBOTTOMLINE IMPLICATIONS

Financial Impact

The fee to participate in the 2019 CSS survey was \$13,970 and a further \$7,975 for the inclusion of specific questions (individual service performance).

The fee to participate in the 2019 CEB survey was \$21,908.

Environmental Impact

N/a

Community Impact

The survey provides guidance to Council as to community perception of performance.

CONSULTATION

The CSS survey is carried out via telephone to a random survey of 400 residents aged 18 years and older.

The CEB survey is carried out via telephone and email to a survey of 400 residents who had contacted Council during Oct-Dec 2018.

LEGAL/COUNCIL PLAN/POLICY IMPACT

COUNCIL PLAN

The Community Satisfaction Survey assists with the achievement of the key strategic objective as set out in the Council Plan 2017 - 2021:

Strategic Objective 4: Organisational Excellence

 Positive leadership, advocacy and decision making around shared goals.

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES

The results of the Community Satisfaction Survey will be considered under the *Charter of Human Rights and Responsibilities*. Amendments will be recommended to ensure compatibility if required.

LEGAL

Council requires the results of several of the results from the Community Satisfaction Survey for completion of its annual reporting under the *Local Government (Planning and Reporting) Regulations* 2014.

CONFLICT OF INTEREST DECLARATION

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

14. NOTICES OF MOTION	14. N	OTICES	OF MO	NOITC
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Nil Reports

15. COMMITTEE AND DELEGATES REPORTS

16. ASSEMBLY OF COUNCILLORS

16.1 ASSEMBLY OF COUNCILLORS REPORT

Governance Administration Directorate: Corporate and Community

Services

Ward: n/a

Appendix: 4 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 16 August to Friday 30 August 2019.

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

18. GENERAL BUSINESS