



***HEPBURN SHIRE COUNCIL
ORDINARY MEETING OF COUNCIL
MINUTES***

TUESDAY 20 OCTOBER 2009

**CLUNES TOWN HALL
BAILEY STREET
CLUNES
7PM**

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**Hepburn Shire Council
Ordinary Meeting of
Council**



MINUTES

TUESDAY 20 OCTOBER 2009

**Clunes Town Hall
Bailey Street, Clunes
Commencing 7PM**

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KAYLENE CONRICK
CHIEF EXECUTIVE OFFICER
15 OCTOBER 2009

1. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS:

We would like to acknowledge we are meeting on Jaara people country, of which members and elders of the Dja Dja Wurrung community and their forebears have been custodians for many centuries.

On this land the Jaara people have performed age old ceremonies of celebration, initiation and renewal.

We acknowledge their living culture and their unique role in the life of this region.

2. OPENING OF MEETING: The Meeting started at 7.10pm

PRESENT: Mayor Cr Bill McClenaghan, Cr Jon Barrell, Cr Rod May, Cr Tim Hayes, Cr Sebastian Klein, Cr Janine Booth, Cr Don Henderson

IN ATTENDANCE: Chief Executive Officer Kaylene Conrick, General Manager Corporate Services Lucy Roffey, General Manager Sustainable Development Robert Jennings, General Manager Community Development Martin Walmsley, Acting General Manager Infrastructure Peter Reeve.

STATEMENT OF COMMITMENT

“WE THE COUNCILLORS OF HEPBURN SHIRE
DECLARE THAT WE WILL UNDERTAKE ON EVERY OCCASION
TO CARRY OUT OUR DUTIES IN THE BEST INTERESTS
OF THE COMMUNITY
AND THAT OUR CONDUCT SHALL MAINTAIN THE STANDARDS
OF THE CODE OF GOOD GOVERNANCE
SO THAT WE MAY FAITHFULLY REPRESENT
AND UPHOLD THE TRUST PLACED IN THIS COUNCIL BY THE
PEOPLE OF HEPBURN SHIRE”

3. APOLOGIES: Nil.

4. DECLARATION OF CONFLICTS OF INTEREST:

Cr Booth declared a conflict in interest in Item 15.3

5. CONFIRMATION OF MINUTES:

Motion

5.1 *That the Minutes of the Ordinary Meeting of Council held on 15 September 2009 and the Minutes of the Special Meeting of Council held on 29 September 2009 (as previously circulated to Councillors) be confirmed as required under Section 93 (2) of the Local Government Act 1989.*

Moved: Cr Jon Barrell

Seconded: Cr Don Henderson

Carried.

6. NOTICES OF MOTION:

6.1 PASSENGER RAIL SERVICES FOR CLUNES

MOTION

That Council again write to the Minister for Transport and the Department of Transport to support the determination of the Clunes community that the Ballarat to Maryborough passenger train be scheduled to stop in Clunes as soon as practicable and that suitable passenger facilities be provided that may include restoration of the existing heritage railway station and platform, suitably modified to disability access standards and for accommodating passenger trains of the required operating length on that line.

Moved: Cr Don Henderson

Seconded: Cr Sebastian Klein

Carried.

Background

The Clunes community has always sought better public transport links with Maryborough, Ballarat and Melbourne and is currently receiving a basic bus service from Donald to Ballarat that passes through Clunes twice a day. There is now a stated and justified need for additional and more suitable public transport connections to Clunes.

The Clunes community has grown to over 1,000 people, many of whom do not have motor cars and who are dependent upon public transport. There is a significant aged and retired group, a larger than normal group of young people, many of whom attend Wesley College Clunes. There are now sufficient numbers of people in Clunes who can justify extra public transport connections. Parents whose children are attending Wesley may wish to visit using rail services. Tourists may also care to visit Clunes by train as was the case in days gone by.

Disability access is now an important characteristic of public transport, indeed a legal requirement. Buses are not as convenient nor are they as comfortable as trains, especially for people with a disability. Continuation of the bus service is also required as an additional means of transport on the current timetable but the addition of passenger rail services is what the community now desires.

A well attended public meeting on Wednesday 07 Oct 09 saw a number of motions passed to support the immediate introduction of passenger rail services in Clunes once the line to Maryborough opens for passengers in 2010. There was standing room only in the Clunes Town Hall and many local residents strongly advocated that

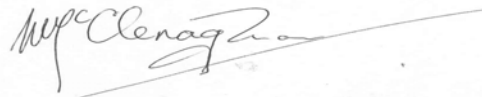
the train must stop in Clunes to pick up and set down passengers as soon as the passenger service to Maryborough is re-instated.

The Hepburn Shire Council advocates strongly for the needs of its many communities; the smaller ones as well as the larger towns. Hepburn Shire Council is dedicated to working with the State Government to increase the availability of public transport and many other services to the people of this Shire.

The Hepburn Shire Council Plan 2009 – 2013 makes commitments towards a more prosperous economy, tourism, business infrastructure, as well as building healthy, safe and vibrant communities. All of these things are fostered by better transport connections, as is environmental sustainability, which is supported by promoting sustainable public transport links and reduced need for private motor cars.

Councillor Name: Cr. Bill McClenaghan

Councillor Signature:

A handwritten signature in black ink, appearing to read "Bill McClenaghan", written over a horizontal line.

CEO Signature:

A handwritten signature in black ink, consisting of stylized initials or a name, written over a horizontal line.

6.2 SUPPORT FOR CONSERVATION VOLUNTEERS AUSTRALIA IN NATIONAL GREEN JOBS CORPS

MOTION

That Council

6.2.1

Sends a letter of support for the proposed National Green Jobs Corps projects to the Federal Government as a means of providing valuable and ongoing education and training to unemployed young people in our community.

6.2.2

Commends Conservation Volunteers Australia (CVA) in their running of various Green Corps projects which have produced excellent outcomes for this and other Shires, communities, public places and participants.

6.2.3

Sends a letter of support commending and endorsing Conservation Volunteers Australia in its tender bid for the National Green Jobs Corps.

Moved: Cr Sebastian Klein

Seconded: Cr Janine Booth

Carried.

Background

The Australian Government is investing \$77.6 million in National Green Jobs Corps to offer 10 000 places for Australians aged 17 to 24 years to gain a combination of environmental work experience, skills development and Accredited Training. The program will help to equip young Australians with the skills to fill employment opportunities in emerging green and climate change-related industries.

The objectives of the National Green Jobs Corps are to:

- provide Australians aged 17 to 24 years with quality work experience and training opportunities in structured Projects that focus on the conservation, protection and rejuvenation of Australia's natural environment and restoration of cultural heritage;
- promote connections between young Australians and the community;

- provide personal development, including team work and leadership skills, and
- help equip young Australians with the skills to fill employment opportunities in emerging green and climate change-related industries, particularly where there is an urgent need for work to avoid damage to environmental or heritage assets, and to improve our readiness for the impact of climate change.

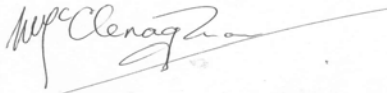
National Green Jobs Corps Projects should align with the environmental goals of Australian, state, territory and local government environmental plans.

Conservation Volunteers Australia (CVA) is very excited by this proposed program and intends to submit a tender to be one of the service providers for the National Green Jobs Corps.

Last week, the last Green Corps Project wound up in Creswick and this program is not to be continued but instead replaced by the National Green Jobs Corps. CVA organised and ran a quality, well resourced program and has done so many times before. It is therefore recommended to Council that CVA be commended and their tender bid supported.

Councillor Name: Cr. Bill McClenaghan

Councillor Signature:

A handwritten signature in black ink, appearing to read "Bill McClenaghan", written over a horizontal line.

CEO Signature

A handwritten signature in black ink, consisting of stylized initials or a name, written over a horizontal line.

7. PRESENTATION OF REPORTS:

Mayor's Report

Councillor Bill McClenaghan, Holcombe Ward delivered the following report:

What a month it has been for community events and functions.

Hepburn Shire has four towns on the State list of 52 regarded as bushfire prone and work is now starting on Township Protection Plans. On 16 September, I chaired the Municipal Fire Prevention Committee and the TPPs were tabled in template form, identifying where the Neighbourhood Safer Places might be located. Since then, there appears to be some change in who will designate the NSPs and who will take responsibility for them. Details are still emerging on fire preparations for summer but a lot of work will need to be done in the next six weeks to adequately prepare for the summer fire season. The CFA is now conducting Fire Ready Victoria meetings in various locations around the Shire.

The University of the Third Age (U3A) came to the fore in the past month. On 17 September, the Hepburn U3A conducted a luncheon and familiarization session for volunteer groups, funded by Hepburn Shire. Community not-for-profit groups were encouraged to tell others about themselves and to offer a wish list. Some good interacting, co-operation and sharing between these groups has now commenced. On 9 October, I attended the official launch of the new Creswick U3A that now has over fifty members and a program up and running. Congratulations to the Hepburn and Creswick chapters of U3A.

Speaking of volunteers, it is pleasing to note that two local members of the Country Women's Association were encountered volunteering in the CWA pavilion at the Royal Melbourne Show. Colleen Stephens and Rhonda Smith were on the job serving meals to patrons and reported that their train trip to Melbourne that day was so packed that they were unable to get a seat.

State Government consultations on their turf featured prominently in the past month. On Friday 18 September I attended the offices of Sustainability Victoria to take part in a consultation on the Government's Green Paper on Climate Change with Mayors and CEOs from other Shires. Likewise on Tuesday 22 September, Mayors and CEOs met with Minister Jennings about the Government's proposed amalgamation of Regional Waste Management Groups. A few of us present just happened to be Directors of these RWMGs and gave the minister some insightful feedback generally that we did not regard the proposal well. Regional consultations are planned with individual groups. The Highlands RWMG is mooted for amalgamation with the Grampians group that will extend our territory from Moorabool Shire to the South

Australian border. The new “Business Units” created by these amalgamations look like mini versions of Sustainability Victoria and take in all three waste streams; municipal waste (as our current focus only) will have commercial and industrial waste added with representatives from private industry brought on board. Watch this space for more exciting news as the Government tries to sell its re-organisation of Regional Waste Management Groups.

Congratulations again to volunteer Joe Rozen who has now been recognized for fifteen years work at the Daylesford Regional Visitor Information Centre. We look forward to recognizing similar volunteer achievement at the new Creswick Interpretative Centre that has replaced the former Creswick Visitor Information Centre.

On Friday 23 September, I met with Senator Stephen Conroy regarding the Federal Government’s planned roll out of new fibre-optic technology and information nodes to bring universal high speed broadband access to all people outside major towns and cities.

The Drummond community in the North East of the Shire are currently desirous of protecting their Avenue of Honour from neglect and the ravages of elm leaf beetles. I attended a meeting of local residents and VicRoads officers to work out some details of a three way partnership with Hepburn Shire, although we don’t manage the Malmsbury Road arterial on which the trees are located. A “Friends Group” is to be established to better maintain the area, erect appropriate and approved signage and to “adopt a highway”. All good pro-active local community building stuff.

On 1 October it was the launch of Community Safety Month at Federation Square. I attended and collected lots of information and chanced to meet with Minister Bob Cameron with whom I briefly discussed the issue of bushfire memorials and mini-tankers. That Friday, 2 October, I had the pleasure of being MC at the Hepburn Relocalisation Network’s Bushfire Forum where much good practical advice was provided with answers to many questions. Congratulations to the organizers of this premier community event.

Sunday 4 October saw the first sod turned for extensions to the Trentham Neighbourhood House by Catherine King MHR. Geoff Howard MP and I were also in attendance, between us representing all three levels of Government. These extensions will be a great asset for Trentham. Also that weekend was the annual Trentham Spring Festival as another fantastic community event.

On Monday 5 of October, a new bus service commenced between Old Hepburn and Creswick, every afternoon through the week and twice on Saturdays. This bus service will connect to the regular commuter buses into Ballarat from Creswick and to

Melbourne trains. It will be great for senior citizens, young people and those without cars and will be particularly good for attending weekend sport.

Public transport again, on Wednesday 7 October in Clunes, I spoke at a well organized and attended public meeting aimed at getting the planned new Ballarat to Maryborough passenger train to stop at Clunes. The Clunes community really supports this service and want to be included. It was standing room only in the Town Hall that night like it will be when the trains start running.

Friday 9 October saw the opening of the Annual Glenlyon Sculpture Show. I think that we could well find a practical use for at least two of the pieces on display. Saturday 10 October in Ballarat saw the Annual Regional Achievement Awards. Congratulations to Brian Reason from Creswick as a semi-finalist in the Local Hero Award section and to Kevin and Rhonda Butler of "Blaze Aid" in Kilmore East, who won the Local Hero Award. It was great for Hepburn Shire to have been of assistance to Blaze Aid, now suitably recognized for terrific community empowerment and achievement.

Monday 12 October saw the Municipal Association of Victoria, South Central Region hold their quarterly Regional Forum in Daylesford.

It has been the month for aged care events. The week ending 4 October was Senior's Week. I had pleasure in attending and speaking at an excellent one act play, "Wicked Widows" in the Daylesford Town Hall. The play took an insightful yet humorous look at a serious topic and is currently touring the State.

Also, I attended and spoke at the opening of "Kucha Ebony" as a residential respite home in East St Daylesford run by Care Connect, a not-for-profit group that runs a similar house in Rosebud. On 12 October, I attended and spoke at the AGM of John Curtin Aged Care Inc in Creswick where they were celebrating their 25th year. Congratulations to the current Board and to those forward thinking folk whose hard work and dedication established the John Curtin Hostel over 25 years ago. What an asset to Creswick it has been!

On 10 October, I participated in "La Grand Parata" (Grand Parade) through Hepburn Springs to the Official Opening of this year's Swiss Italian Festa. Over a week of community events followed in this annual celebration of Swiss Italian heritage.

What a terrific month it has been for community events. I have not named them all and one can only attend so many and do so much before this report is too long and over time.

Councillor Reports

Councillor Jon Barrell, Birch Ward delivered the following report:

- 1. On 22/09/09 I attended, on behalf of HSC, a seminar sponsored by Municipal Association of Victoria titled “The Art of Mainstreet Renewal” facilitated by Mr Gilbert Rochecouste, Director of Village Well, a Melbourne based consultancy who specialize on Place Making.**

Attendees included a range of Councillors and Officers from around Victoria including Ararat and Gippsland.

Our Council Plan lists as strategy #23 “preparing main street revitalization plans for our key towns and completing as a priority the rejuvenation of Vincent St, Daylesford.”

Mr Rochecouste argued that our needs for community renewal, and food and energy security, and strategies to combat climate change could all be addressed by embracing an Era of Place Making.

He argued that a great place has

- children, older people , and mothers
- authenticity and civic ownership
- a vision, and
- a place brand.

He sought to encourage Local Government to act as a civic entrepreneur, to lead and facilitate.

He identified factors that make a great main street include

- activity on the street
- a heart or a hub, a village square or green
- walkability and reduced cars
- beauty, art, architecture, trees – multiple pause points
- diversity, people, playgrounds, quality public amenities
- art that kids can climb on
- civic architecture such as a library
- identification points such as art or a fountain or a clock
- the right mix of operators by creating a strategy and identifying gaps
- space for bicycle racks and scooters
- sidewalks wide enough to allow outdoor cafes and space for pedestrians to pass

He identified blocks to a great main street including

- narrow minded traders: “where there is vision, people flourish; where there is no vision, people perish”
- high rents, greedy landlords and greedy developers
- poor pedestrian access
- parking levies

He spoke of main streets as a 3rd place after home and work. People need lots of 3rd places, he said, such as cafes, galleries, & piazzas.

Successful 3rd places are

- free or inexpensive to enter,
- easily accessible, preferably on foot,
- a number of people can be expected to be there,
- everyone feels welcome,
- easy to start a conversation,
- easy to find old friends,
- easy to make new friends

I believe Hepburn Shire is blessed with a number of 3rd places, but, in my opinion, they need to be developed and maintained to be the best that they can be.

He spoke of

- Australia's 20000 year of place making such as the rock art of Kakadu,
- the importance of sunlight
- the street as a river of life
- green trees
- the current health crisis and the value of walking
- wide sidewalks with plantings to offer protection for pedestrians
- utilizing recycled water for public green use

He argued

- put people and place 1st, and the rest will come
- the quality of a pedestrian route will determine whether people will actually use it
- that beauty is an economic driver
- zoning has strangled communities
- for bike lanes and paths
- for "living over the store"
- lots of public seating

He encouraged us to create pride and loyalty: "Create a great public toilet, clean it and manage it, and people will come"

He spoke of trends in the United Kingdom to ban new shopping centre developments away from existing shopping strips. That retail is the lifeblood of a shopping strip and it should be supported, nourished, and managed.

He spoke of a history of public art installed by private citizens.

In summary he argued for a bold plan and vision, with flexible zoning, providing a total experience, and selling a unique story.

I thank HSC for enabling to attend this inspiring seminar, and I commend its ideas to my fellow Councillors.

2. **The Wombat Hill Botanical Gardens Advisory Committee Meeting met this morning and I shall provide a detailed report next month**
3. **I have continued my involvement with the Destination Daylesford Campaign Committee** by attending the AGM & wind up of the HRTA & the AGM of DDBG which I believe intends to broaden its base as a Business And Tourism Association (BATA). I am confident this will create an opportunity for the strengthening of a voice representing local business and tourism. A new Hepburn Shire Regional Tourism Association (working name Tourism Hepburn) is being constructed.
4. ARC Advisory Committee – no meeting

Councillor Don Henderson, Creswick Ward delivered the following report:

During the past month I have been fortunate to be involved in the launch of U3A in Creswick along with yourself and Cr Booth. This is a very welcome organisation in Creswick because it gives the opportunity of sharing and imparting knowledge to community. Often this knowledge is not academic but rather skills gained from many years of just being on the face of the earth.

I also attended the Glendaruel/ Mt Beckworth long service awards right here in this hall. The highlight was the presentation of a National Service Medal to John Drife by Russell Rees from CFA headquarters. Another pleasing event was to see Norm Latta from our Planning Department receive a 20 year service medal. I was told yesterday by someone who attended that it was one of the few times that they had felt proud of our shire and how much our presence was appreciated. Must have said something that touched their hearts Mr Mayor.

On the issue of bushfires I listened with interest to several speakers regarding fire readiness and methods of construction to allow buildings to be saved in the event of fire. Residents were appreciative of this chance to hear David Holmgren and other speakers on this issue. Forest management was also discussed and I left with plenty to think about

Cr Booth and I assisted our staff at a meeting in Newlyn to discuss their ideas around a community plan and around 50 people came along and participated. Our team were really pleased with the level of participation. A committee of interested locals is being formed to progress this idea . The Creswick Development Committee president Wendy Ohlsen spoke to the group and offered support.

I was also in attendance here for a meeting of persons interested in having the passenger train service stop at Clunes. There was standing room only and a very well run and calm meeting was held. Discussions were quite vigorous but very polite and I can say that the people of Clunes seem very determined to have their way on this one. Several motions were carried unanimously. The meeting was appreciative of Government initiatives to bring back the trains to Maryborough but just wanted to be included I think we will hear more about this in the future.

I also attended the graduation of some young participants in Creswick involved in the Green Corps. These young folk really enjoyed the experience gained and it was great to see them leave with all of their new found skills and appreciation of our area. Their work on park infrastructure and weed management will be very valuable to us all.

I must report here that ratepayers have expressed thanks on a number of occasions lately for quick assessment and response by our engineering and outdoor staff to some long standing problems. When these things happen it feels good to be a councillor who is able to assist with our team.

Councillor Tim Hayes, Cameron Ward

Did not deliver a report this month.

Councillor Sebastian Klein, Coliban Ward delivered the following report:

The Cosmopolitan info night has set Trentham abuzz with the expectation of the reopening of the hotel on the 31st of October.

The Timor Leste Working Group continues to be interesting and productive, having met during September and highlighted the development of a municipal governance system and the development of science education in Timor, I look forward to developments in this regard with the group.

First sod turned for the Trentham Neighbourhood centre. Catherine King MLA and Geoff Howard attended this auspicious event, another step forward for Trentham.

The annual Feldspar/ Lions Club Spring fest was a great success and as it always seems to called in the fine spring weather.

Creswick bus service launch saw an important connection from Daylesford to the rest of the world established with the Creswick line, which will allow for people to make the important connector to Ballarat.

A CHLLEN committee meeting explained the process to ensure that LLENs continue to receive funding from the federal government to continue their important work connecting young people with career pathways.

The first meeting of “Weed free Trentham” saw a group of committed residents meet to work and share knowledge and skills in the effort to beautify Trentham and save the environment. It was a valuable and rewarding experience to be a part of this.

Councillor Janine Booth, Creswick Ward delivered the following report:

In addition to those regular monthly meetings I attended the official Launch of Creswick’s U3A group at Creswick along with Cr Henderson and Cr McClenaghan.

This energetic new group has been operating for some weeks now at the Creswick Learning Centre and provides for continued learning opportunities for our older residents.

I attended the Newlyn district Community Plan forum along with Cr Henderson. The forum coordinated by our Community Planning Liaison Officer Sue Moses was attended by 50 residents, who keenly participated in identifying their community’s strengths, weaknesses and opportunities for the future. As a Councillor I find Community plans extremely useful in not only identifying the needs of the Community but in uncovering ideas and identifying partnerships to help address Communities expectations. A number of people put their hands up to form a Community Planning Group to further develop and explore some of the matters that were raised.

I also attended the monthly meeting of the Creswick Community planning Committee where a Community launch for the newly developed Community Plan was discussed. The Committee hopes to hold the Launch in conjunction with a forum being organized with CDDA with a focus on the economic benefits of Community participation. It is hoped to invite Councils Economic Development Officer John Collins to attend as a guest speaker.

I attended to welcome the Mayor and travelers on the inaugural Bus trip from Old Hepburn to Creswick. Unable to secure the services on the Creswick Brass Band, I approached a Lecturer researcher at the Melbourne University to attend and herald the arrival of the bus on his Didgeridoo. I believe it provided an auspicious air to the launch of this service that now provides a afternoon link to Daylesford/Hepburn Springs and Ballarat by linking in with the Davis Bus Line Service operating daily between Creswick and Ballarat thanks to the hard work and co-ordination of our Transport Connections Officer Simon Evans.

Councillor Rod May, Birch Ward

Did not deliver a report this month.

Motion :

7.1.1 *That Council receive and note the reports of the Mayor and Councillors.*

Moved: **Cr Rod May**

Seconded: **Cr Don Henderson**

Carried.

8. PUBLIC PARTICIPATION TIME:

This part of the Ordinary Meeting of Council allows for the tabling of petitions by Councillors and Officers and 30 minutes for the purpose of:

- Responding to questions that have been submitted by members of the community
- Allowing members of the community to address Council.

Community members are invited to submit written questions to the CEO by 12 noon on the day of the Council meeting. If you wish to address Council you must provide a brief synopsis of your address in writing to the CEO by 12 noon on the day of the Council meeting.

Questions may be taken on notice and responded to later. Likewise, some questions of an operational nature may be responded to through usual administrative procedure. Separate forums and Council processes are provided for deputations or for making submissions to Council.

8.1. PETITIONS:

Nil petitions received at time of collating Agenda.

8.2 QUESTIONS

Question 1

Submitted by J Gilding, Daylesford.

Does council support the view that any rating system for wind energy facilities should not impose a greater burden on small community based projects than it does on large commercial projects (when calculated on a dollar per installed MW basis)?

Response by General Manager Sustainable Development, Robert Jennings.

Council intends to determine the final format of the rating system for wind energy facilities tonight. Within the officer's report, allowance is given for all projects, including small community based projects to reach mutually acceptable agreements on whatever terms and conditions are acceptable to the Hepburn Shire Council and the wind energy generator. Council's view of each project will be determined on a case by case basis.

8.3 PRESENTATION

Chair of the Hepburn Shire Council Audit and Risk Advisory Committee, Mr Robert Taylor, presented the following report about the Audit and Risk Committee's activities during 2008/2009:

The Audit & Risk Advisory Committee is an independent advisory Committee to Council. The primary objective of the Audit & Risk Advisory Committee is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risk, maintaining a reliable system of internal controls and facilitating the organisation's ethical development.

The Audit & Risk Advisory Committee is established to assist the co-ordination of relevant activities of management, the internal audit function and the external auditor to facilitate achieving overall organisational objectives in an efficient and effective manner.

The Audit Committee meets at least quarterly and is made up of two Councillors, Cr May and Cr Henderson (Cr Hayes & Cr McClenaghan to November 2008) and three external independent members, Mr Robert Taylor (Chair), Peter Barton, Alan Meers (resigned April 2009) and Les Eastcot.

During 2008-09 the Audit Committee met five times on 19 August 2008, 25 November 2008, 23 February 2009, 6 April 2009 and 1 June 2009. At these meetings the Audit Committee considered the following issues and reports:

- 2007-08 Financial Statements
- 2009-10 Budget & 2009-2013 Strategic Resource Plan
- Council's Risk Policy and Risk Register
- Accounting implications re the transfer of the Bathhouse from DSE back to Council
- 2008-09 Internal Audit Program
- Internal Audit Reports on the Daylesford Visitor Centre, Asset Management, Contract Management, OH&S Processes, and Tendering Processes
- Review and update of the Audit Committee Charter
- 2007-08 External Audit Program and Management Letter
- Victorian Auditor General's Report: Enforcing Planning Permits
- Land Under Roads Accounting Policy
- Fraud Prevention and Action Policy and Whistleblowers policy

Motion:

8.3.1 That Council receive the report from the Audit and Risk Advisory Committee

Moved: Cr Sebastian Klein

Seconded: Cr Don Henderson

Carried

9 EXECUTIVE SERVICES :

Nil reports this month.

10 CORPORATE SERVICES:

10.1 PROCUREMENT POLICY

(Action Officer – General Manager Corporate Services)

File Ref:30/20/01

Introduction

In November 2008, amendments to the Local Government Act (the Act) were passed which included a new section, s186a that requires a council to “prepare and approve a procurement policy”. This report outlines the process undertaken for developing the procurement policy and presents a Draft Procurement Policy for adoption by Council.

Report

Section 186a of the Act states that “A procurement policy must include any prescribed matter and a council must have regard to Ministerial Guidelines made under the section when preparing its policy. A council must review its procurement policy annually and make it available for public inspection”.

In response to the legislative amendments, and the Procurement Strategy, the MAV through its services arm, MAV Procurement, conducted three workshops during March and April 2009, to assist councils prepare or update their procurement policy. These workshops were facilitated by Landell Consulting Pty Ltd. Officers from 59 local government entities participated and a draft procurement policy was produced reflecting their input as well as the best practice information from Landell Consulting Pty Ltd.

This MAV Draft Procurement Policy was used as the basis for the Hepburn Shire Council’s draft policy (see Attachment 1). The policy has been further developed by the GM Corporate Services and the Acting Manager Governance in consultation with the Executive Management Team and the Extended Leadership Group.

Relevant Policies

Council Plan 2009-2013

22. Requiring Council Management to prepare policies and protocols that support transparent decision making

Community Engagement

As required by the Act, the policy will be made available for inspection by the public at Council’s offices and on Council’s website.

Financial Implications

Nil

Motion

That Council:

10.1.1 Adopt the draft Procurement Policy, Policy Number 46; and

10.1.2 Make the Procurement Policy available for public inspection at Council Offices and on Council's website

Moved: Cr Tim Hayes

Seconded: Cr Janine Booth

Carried.

Attachment 1
Item 10.1

HEPBURN SHIRE COUNCIL

POLICY NUMBER: 46

Draft Procurement Policy

Adopted: Date:

PROGRESSIVE ORGANISATIONS HAVE GOOD POLICIES

Policies help organisations and the public to better understand an organisation's priorities and where it is heading. Hepburn Shire Council is committed to developing and maintaining a comprehensive set of policies to guide the organisation towards a better future.

Policies are regularly reviewed and staff input is actively sought in this process. Community input is sought for those policies which have a major public focus.

Comments are also welcomed after policies have been adopted to assist in their continuous review and improvement.

KAYLENE CONRICK
CHIEF EXECUTIVE OFFICER
HEPBURN SHIRE COUNCIL

LAST AMENDED: June 2007

AMENDED: October 2009

NEXT REVIEW: **October 2010**

RESPONSIBLE OFFICER: General Manager Corporate Services

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Procurement Policy

1. Objective

Hepburn Shire Council:

Requires that Council's contracting and purchasing activities:

- support the Council's corporate strategies, aims and objectives including, but not limited to those related to sustainability, protection of the environment, and corporate social responsibility;
- span the whole life cycle of an acquisition from initial concept to the end of the useful life of an asset, including its disposal, or the end of a service contract;
- achieve value for money and quality in the acquisition of goods, services and works by the Council;
- apply risk management strategies to prevent, withstand, and recover from interruption to the supply of goods, services and works and
- generate and support business in the local community.

1.2 *Purpose*

- Comply with Sections 186 and 186A of the Local Government Act 1989 ("the Act") and its content:
- provides policy and guidance to the Council to allow consistency and control over procurement activities;
- demonstrates accountability to rate payers;
- provides guidance on ethical behaviour in public sector purchasing;
- demonstrates the application of elements of best practice in purchasing and
- increases the probability of obtaining the right outcome when purchasing goods and services.
- will enhance achievement of Council objectives such as sustainable and socially responsible procurement; bottom-line cost savings, supporting local economies; achieving innovation; and better services for communities.

- will provide a purchasing framework that will advance the sustainable use of resources and reduce impacts on the Shire environment and community health.

1.3 Scope

The Local Government Act 1989 requires Council to prepare, approve and comply with a Procurement Policy encompassing the principles, processes and procedures applied to all purchases of goods, services and works by the Council.

This policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council Officers, temporary employees, contractors and consultants while engaged by the Council.

Expenditure not applicable to this policy includes:

Payments for utilities (where the utility provider is the only provider in the market)
A contract for Legal Services (refer Part 4 – Local Government Regulations)
All Payroll expenses and deductions and
All refunds

1.4 Treatment of GST

All monetary values stated in this policy include GST except, where specifically stated otherwise.

1.5 Definitions and Abbreviations

Term	Definition
Act	<i>Local Government Act 1989.</i>
Commercial in Confidence	e.g prices, discounts, rebates, profits, methodologies and process information, etc.
Contract Management	The process that ensures both parties to a contract fully meet their respective obligations as efficiently and effectively as possible, in order to deliver the business and operational objectives required from the contract and in particular, to provide value for money.
Council Staff	Includes full time and part-time council officers, and temporary employees, contractors and consultants while engaged by the Council.
Probity	The dictionary definition of probity refers to uprightness, honesty, proper and ethical conduct and propriety in dealings. Within Government, the word "probity" is often used in a general sense to mean "good process." A Procurement process that conforms to the expected standards of probity is one in which clear procedures that are consistent with the Council's policies and legislation are established, understood and followed from the outset. These procedures need to consider the legitimate interests of suppliers and ensure that all potential suppliers are treated equitably.
Standing Offer Arrangements (SOA)	A contract that sets out rates for goods and services which are available for the term of the agreement. However, no commitment is made under the agreement to purchase a specified value or quantity of goods or services
Sustainability	Activities that meet the needs of the present without compromising the ability of future generations to meet their needs.
Procurement	Procurement is the whole process of acquisition of external goods, services and works. This process spans the whole life cycle from initial concept through to the end of the useful life of an asset (including disposal) or the end of a service contract.

Tender Process	The process of inviting parties to submit a quotation or tender by public advertisement, followed by evaluation of submissions and selection of a successful bidder or tenderer.
Value for Money	Value for Money in Procurement is about selecting the supply of goods, services and works taking into account both cost and non-cost factors including: <ul style="list-style-type: none"> • contribution to the advancement of the Council’s priorities; • non-cost factors such as fitness for purpose, quality, service and support; and cost-related factors including whole-of-life costs and transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods, services or works.

2. Policy Compliance and Control

2.1 Ethics and Probity

Council’s procurement activities shall be performed with unquestionable integrity and in a manner able to withstand the closest possible scrutiny.

2.1.1 Conduct of Councillors and Council Staff

Councillors and Council Staff shall at all times conduct themselves in ways that are, and are seen to be, ethical and of the highest integrity (refer Councillors/Employees Code of Conduct) and *will*:

- treat potential and existing suppliers with equality and fairness;
- not seek or receive personal gain;
- maintain confidentiality of Commercial in Confidence such as contract prices and other sensitive information;
- present the highest standards of professionalism and probity;

2.1.2 Members of Professional Bodies

Councillors and Council Staff belonging to professional organisations shall, in addition to the obligations detailed in this policy, ensure that they adhere to any code of ethics or professional standards required by that body.

2.1.3 Tender Processes

All tender processes shall be conducted in accordance with the requirements of this policy and any associated procedures, relevant legislation, relevant Australian Standards and the Act.

2.1.4 Fair and Honest Dealing

All prospective contractors and suppliers must be afforded an equal opportunity to tender or quote.

Impartiality must be maintained in selecting contractors and suppliers so that no action is taken that could evoke criticism of the Council.

The commercial interests of existing and potential suppliers must be protected.

Confidentiality of information provided by existing and prospective suppliers must be maintained at all times, particularly commercially sensitive material such as, but not limited to prices, discounts, rebates, profit, manufacturing and product information.

2.1.5 Accountability and Transparency

The processes by which all procurement activities are conducted will be in accordance with the Council's Procurement Policies and Procedures as set out in this policy and related Council Policies and Procedures.

All Council Staff must be able to account for all Procurement decisions made over the lifecycle of all goods, services and works purchased by the Council and provide feedback on them; and all procurement activities are to leave an audit trail for monitoring and reporting purposes.

2.1.6 Gifts and Hospitality

No Councillor or member of Council Staff shall, either directly or indirectly solicit or accept gifts or presents from any member of the public who is involved, either directly or indirectly, with any matter that is connected with the duties of the officer, or in which the Council is interested. (refer to Council's Gifts and Hospitality Policy)

2.2 Governance

Council shall:

- establish a procurement management responsibility structure and delegations ensuring accountability, traceability and auditability of all Procurement decisions made over the lifecycle of all goods, services and works purchased by the Council;
- ensure that the Council's Procurement structure is flexible enough to purchase in a timely manner the diverse range of material, goods, works and services required by Council;
- ensure that policies that impinge on the purchasing policies and practices are communicated and implemented.

2.2.1 Standards

The Council's procurement activities shall be carried out to the professional standards required by best practice and in compliance with the:

- Act,
- The Council's policies,
- The Council's Code of Conduct, and
- Other relevant legislative requirements such as but not limited to the Trade Practices Act, Goods Act and the Environmental Protection Act and OH&S Act.

2.2.2 Responsible Financial Management

The principle of responsible financial management shall be applied to all procurement activities.

To give effect to this principle:

- the availability of existing funds within an approved budget, or source of funds, shall be established prior to the commencement of any Procurement action for the supply of goods, services or works.
- Council Staff must not authorise the expenditure of funds in excess of their financial delegations.

2.3 Procurement Thresholds and Competition

Council will from time to time decide and publish in this policy clear guidelines for minimum spend competition thresholds. These will be decided by Council based on the size and complexity of the proposed Procurement activities.

2.3.1 Minimum Spend Competition Thresholds

2.3.1.1 Tenders

Purchase of all goods, services and works for which the estimated expenditure exceeds \$150,000 (for contracts for goods and services) or \$200,000 for contracts carrying out works) must be undertaken by public tender.

However, should the CEO consider that the nature of the requirement and the characteristics of the market are such that the public tender process would lead to a better result for the Council, public tenders may be called for purchase of goods, services and works for which the estimated expenditure is \$150,000 or less.

Emergency – Council may enter into a Contract up to or beyond the limits above for the provision of goods services or works without first putting that contract to public tender if the Council resolves that the contract must be entered into because of an emergency.

2.3.1.2 Quotations

Purchase of goods, services having a total valuation of \$150,000, or for contracts carrying out works having a total valuation of \$200,000 or less may be undertaken using the Procurement by Quotation method as described below in accordance with the thresholds listed in the table below:

Threshold	Number of Quotes	Quotes(Verbal,Written.Email)
Up to \$1,000	1	Verbal
\$1,001– \$5,000	1	Written
\$5,001- \$25,000	2	Written
\$25,001-\$150,000 (up to \$200,000 for works)	3	Written

NOTE:

- Quotation Statements must be kept in accordance with Procurement Guidelines
- Advertising – Quotations may be advertised at the Managers discretion in addition to the methods set out above.
- Insufficient Quotations – where the above number of quotes cannot be satisfied the details of the contacted suppliers must be recorded on the order or as a spreadsheet recommendation.
- Threshold amounts set out above are inclusive of GST.

2.3.1.3 Purchases through an existing Council, or Collaborative Purchasing scheme

Value of Purchase	Minimum Process	Specification	Need to enter into Contract
Where an existing contract itemises costs for works, goods or services	Proceed with purchase	Not required	Contract already exists. Provide Purchase Order only.
Where existing contract does not itemise cost or works, goods or services	Proceed with purchase following receipt of three written quotations. If existing Contract does not provide for item then may go back to quotation process.	At Business Unit discretion. Reference should be made to the original contract	At Business Unit discretion depending on original contract. Provide Purchase Order.

2.4 Delegation of Authority

Council delegated responsibilities relating to the expenditure of funds for the purchase of goods, services and works, the acceptance of quotes and tenders and for Contract Management activities, will be reviewed annually.

2.4.1.1 Council Staff

Council will maintain a documented scheme of procurement delegations, identifying Council Staff authorised to make procurement commitments in respect of goods, services and works on behalf of the Council.

The delegated limits are set out in the Procurement Policy Guidelines.

2.4.1.2 Purchasing Decisions reserved for the Council.

Commitments and processes which exceed the Chief Executive Officer's delegation and which must be approved by the Council are matter which require the council to affix the common Seal, or matters in respect of which the council has specifically resolved to affix its Common Seal.

2.5 Internal Controls

Council will maintain a framework of internal controls over procurement processes that will ensure:

- more than one person is involved in and responsible for a transaction end to end;
- transparency in the procurement process;
- a clearly documented audit trail exists for procurement activities;
- appropriate authorisations are obtained and documented; and
- systems are in place for appropriate monitoring and performance measurement.

2.6 Risk Management

Risk Management will be appropriately applied at all stages of Procurement activities which will protect and enhance the Councils capability to prevent, withstand and recover from interruption to the supply of goods services and works.

2.6.1 Supply by Contract

Council will minimise its risk exposure by measures such as:

- standardising contracts to include current, relevant clauses;
- requiring security deposits where appropriate;
- requiring signed contractual agreement before allowing the commencement of work;
- referring complicated technical specifications to relevant experts; and
- adhering to Council's Risk Management Policy and OH&S contractor compliance procedures

2.7 Contract Terms

All contractual relationships will be documented in writing based on standard terms and conditions.

Where this is not possible, approval must be sought from the CEO or relevant General Manager. A request for such an approval should be supported with procurement details and legal relevant advice.

2.8 Dispute Resolution

All Council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes getting out of hand and leading to legal action.

2.9 Contract Management

A Contract Manager will be delegated for each Contract to ensure that the Council, and where applicable its clients, receive the goods, services or works provided to the required standards of quality and quantity as intended by the contract by establishing a system reinforcing the performance of both parties' responsibilities and obligations under the contract.

3. Demonstrate Sustained Value

This Council procurement policy supports the Council Plan, its corporate aims and objectives, including but not limited to those related to sustainability, protection of the environment, corporate social responsibility and meeting the needs of the local community such as:

- feeling safe;
- living in a clean and pleasant environment; and
- providing good quality well managed Council services that are Value for Money

3.1 Achieving Value for Money

Council's procurement activities will be carried out on the basis of obtaining Value for Money. This means minimising the total cost of ownership over the lifetime of the requirement consistent with acceptable quality, reliability and delivery considerations.

3.1.1 Approach

This will be facilitated by:

- developing, implementing and managing procurement strategies that support the co-ordination and streamlining of activities throughout;
- effective use of competition;
- using aggregated contracts and SOA where appropriate;
- identifying and rectifying inefficiencies in procurement processes; and
- developing a more cost efficient tender process including appropriate use of e-solutions;

3.1.2 Role of Specifications

Specifications used in quotations, tenders and contracts will support and contribute to the Council's Value for Money objectives through being written in a manner that:

- ensures impartiality and objectivity;
- encourages the use of standard products;
- encourages sustainability;
- eliminates unnecessarily stringent requirements; and
- wherever possible specifies technical standards and requirements that are within the capabilities of local suppliers.

3.2 Performance Measure and Continuous Improvement

Appropriate performance measures will be put in place. Reporting systems will be used to monitor performance against metrics and compliance with procurement policies, procedures and controls.

Procurement procedures, practices and costs will be benchmarked externally. Internal service standards will be agreed within the Council and performance against these targets will be measured and reviewed regularly to support continuous improvement.

3.2.1 Standard Processes

Council will provide effective commercial arrangements covering standard products and standard service provisions across the Council to enable employees to source requirements in an efficient manner.

This will be achieved via harmonisation of the following areas:

- Pricing where relevant
- Processes, Procedures and techniques
- Tools and business systems (e.g. implementing the appropriate e-catalogue arrangements for customers to utilize).
- Reporting requirements
- Application of standard contract terms and conditions.

3.2.2 Performance Indicators

A list of performance indicators will be developed to measure procurement performance. They will include criteria such as:

- The proportion of spend against corporate contracts
- User and supplier satisfaction levels
- The extent to which procurement is involved in supporting larger projects
- Measuring the success of procurement initiatives eg. purchasing cards

3.2.3 Management Information

The Council will capture Procurement Management information in a variety of areas, including:

- Volume of spend
- Number of transactions per supplier
- Supplier performance
- User satisfaction
- Category management
- Green spend

Council will also use external sources of management information to assist with the procurement decision making process including:

- Benchmarking data
- Information from professional bodies such as the Chartered Institute of Purchasing and Supply Australia
- Supplier reports

3.3 Sustainability

Council is committed to achieving sustainability, increasing the Council percentage of green product purchasing, aligning to strategic documents and ensuring it monitors and reports on Council activities and programs that have an impact on or contribute to the environment including but not limited to:

- waste management,
- recycling,
- energy management,

- carbon emission management,
- water conservation,

3.3.1 Sustainable Procurement

Council is committed to adopting a Green Procurement approach by supporting the principles of sustainable Procurement within the context of purchasing on a Value for Money basis.

Value for Money purchasing decisions made by the Council are made on the basis of cost and non cost factors including contribution to the Council's sustainability objectives.

The Council will therefore:

- Reduce, Reuse, and Recycle
- Buy Recycled:
- Promote green procurement

For more information, refer to the Sustainable Purchasing Guidelines

3.4 Diversity

Promoting equality through procurement can improve competition, Value for Money, the quality of public services, satisfaction among users, and community relations.

3.5 Support of Local Business

Council is committed to supporting local and regional businesses, as such Council may pay up to a 10% premium provided that the required quality standards are met.

4. Build and Maintain Supply Relationships

Council recognises that in order to achieve sustainable value, appropriate relationships must be developed and maintained with suppliers and that it seeks to operate with 'informed choice' on what supply strategy it adopts – whether to 'do it yourself', participate in regional or sector aggregated projects or to access State Government panel agreements. Council will consider which supply arrangement delivers best value outcomes for council in terms of time, cost, value and outcome.

5. Continual Improvement

Council is committed to continuous improvement and will review this procurement policy on an annual basis, to ensure that it continues to meet its wider strategic objectives.

6. Related Documents

- Local Government Act 1989
- Department of Planning and Community Development-Local Government
- Procurement Best Practice Guidelines
- Purchase Card Policy
- Delegated Approval/Acceptance of Contracts/Quotations and their Variations and Extensions Policy
- Contract Procedures Manual
- Sustainable Purchasing Guidelines

7. Adoption of Policy

Policy No 46 Procurement Policy replaces the Purchasing Policy which was developed and first adopted by Council on 19 June 2007.

8. Policy Review

Council will review this policy annually.

10.2 MONTHLY FINANCE REPORT

(Action Officer –Manager Finance)

File Ref: 30/08/17

Introduction

A summary report on the Council's financial performance for the financial year to the 30 September 2009 is provided for information.

Report

This report provides information on Council's operating performance for the 3 months to 30 September 2009 against the budget adopted by Council in June 2009. The report considers year to date budgets against year to date actual for each operating program and for all capital works.

The budget was adopted based on projected completion of projects and capital works at 30 June 2009 and information available at that time. Council will have an opportunity in its half yearly review to review its budget based on current information about projects, variations that occur and new information.

Statutory Requirements

Under Section 138 of the Local Government Act 1989, at least quarterly a report comparing expenses and revenue to budget must be presented to the Council.

Operating Summary:

The year to date operating result against budget currently indicates a favourable variance of \$471 thousand. While there are a number of small variances which are mostly favourable at this stage the following items are worth noting:-

- Unbudgeted grants for Bush Fire Recovery, L2P Driving and Youth support totaling \$122 thousand have been received.
- Higher than expected development activity at this time of year has resulted in increased Planning Fees (\$25 thousand), Building Fees (\$17 thousand) and Supplementary Rates (\$32 thousand).

After only three months of the financial year it is to be expected that there would be few variations that cannot be explained because of timing differences, projects to be carried over from 2008/2009 or projects where unbudgeted funding has been received. The net operating result is monitored each month to ensure that the overall budget is met by year end.

Capital Works and Major Projects:

The 2009/10 capital works program is in its early stages as projects are being scoped and designed and contracts let. Main variations in this area relate to projects carried over from 2008/2009 that will be adjusted as part of the half yearly budget review. The year end surplus for 2008/2009 confirms that a number of projects were not completed and will have to be accommodated in 2009/2010.

Balance Sheet

Current Assets:

Cash and investments at 30 September total \$5.9 million and include \$0.9 million for the Long Service Leave Provision.

Net current receivables are \$10.6 million including \$9.96 million in rates. Trade debtors at 30 September are \$277 thousand. Debtors are being monitored and regular follow up action taken to minimise any write offs.

Council is generally owed money for the GST input tax credit and BAS's are lodged monthly. All legislative requirements are being met.

The reduction in other assets represents the reversal of prepayments recorded at 30 June 2009 that apply to the 2009/10 financial year.

Current Liabilities:

The major items here are the creditors control, current loan liability, provision for landfill rehabilitation and employee provisions. Deposits and Securities are reviewed quarterly and refunds or transfers made where applicable.

Non-Current Assets:

These include all infrastructure assets and for the purpose of this report the net cost of current capital and major works has been treated as works in progress and included in this figure in the balance sheet.

It should be noted depreciation is not taken into account until year end.

Non-Current Liabilities:

Major items here include loan liability, provision for landfill rehabilitation and provision for long service leave.

Variance Report

Overall

Variance - Surplus/(Deficit) 000's				\$471
DEPARTMENTAL REPORT FOR THE PERIOD ENDING 30 SEPTEMBER 2009				
	Annual Budget 000's	YTD Budgets 000's	YTD Actuals 000's	YTD Variance 000's
OVERALL				
INCOME				
Corporate Services	12,853	11,208	11,248	40
Community Services	2,106	448	608	160
Regional Development & Promotion	555	136	181	45
Public Safety	300	27	43	16
Recreation	498	123	93	(30)
Infrastructure	2,575	471	474	3
Waste Management	1,700	1,608	1,615	7
Total Income	20,587	14,021	14,262	241
EXPENDITURE				
Corporate Services	4,679	1,269	1,159	110
Community Services	3,184	675	674	1
Regional Development & Promotion	2,451	530	475	55
Public Safety	718	167	154	13
Recreation	1,422	298	266	32
Infrastructure	2,320	509	582	(73)
Waste Management	1,572	310	218	92
Total Expenditure	16,346	3,758	3,528	230
NET	4,241	10,263	10,734	471

Variance Report

Corporate Services

Variance - Surplus/(Deficit) 000's				\$150	
DEPARTMENTAL REPORT FOR THE PERIOD ENDING 30 SEPTEMBER 2009					
	Annual Budget 000's	YTD Budgets 000's	YTD Actuals 000's	YTD Variance 000's	Note
CORPORATE SERVICES INCOME					
Revenue Services (Rates & M/C)	10,741	10,689	10,721	32	1
Grants Commission	1,743	436	438	2	
Other Income	369	83	89	6	
Total Income	12,853	11,208	11,248	40	
EXPENDITURE					
Council	758	176	155	21	2
Financial Services	901	246	234	12	
Technical Services	867	177	156	21	2
Governance & IT	1,094	405	374	31	2
Organisational Development	317	72	52	20	2
Other Administration	743	193	188	5	
Total Expenditure	4,679	1,269	1,159	110	
NET	8,174	9,939	10,089	150	
NOTES					
1. Additional rates raised through supplementary valuations.					
2. Staff vacancies.					

Variance Report

Community Services

Variance - Surplus/(Deficit) 000's					\$161
DEPARTMENTAL REPORT FOR THE PERIOD ENDING 30 SEPTEMBER 2009					
	Annual Budget 000's	YTD Budgets 000's	YTD Actuals 000's	YTD Variance 000's	Note
COMMUNITY SERVICES INCOME					
Community Development	431	49	199	150	3
Family & Children's Services	103	26	30	4	
Aged & Disability Services	1,138	274	278	4	
Housing	85	12	17	5	
Contract Services	348	87	84	(3)	
Total Income	2,106	448	608	160	
EXPENDITURE					
Community Development	1,180	197	198	(1)	
Family & Children's Services	269	64	83	(19)	4
Aged & Disability Services	1,371	323	288	35	5
Housing	43	18	17	1	
Contract Services	321	73	88	(15)	
Total Expenditure	3,184	675	674	1	
NET	(1,078)	(227)	(66)	161	
NOTES					
3. Unbudgeted funding received for Bush Fire recovery \$72k, L2P Driving grant \$40k and \$10k Youth grant.					
4. Mainly due to timing of payment to Hepburn Health Service Maternal & Child Health Bushfire funding received late last financial year.					
5. Respite Care and Housekeeping expenditure below budget. Timing of receipt of contractor invoice for Meals on Wheels.					

Variance Report

Regional Development

Variance - Surplus/(Deficit) 000's					\$100
DEPARTMENTAL REPORT FOR THE PERIOD ENDING 30 SEPTEMBER 2009					
	Annual Budget 000's	YTD Budgets 000's	YTD Actuals 000's	YTD Variance 000's	Note
REGIONAL DEVELOPMENT INCOME					
Planning & Heritage Services	160	37	62	25	6
Building Services	110	27	44	17	6
Tourism & Economic Development	254	69	70	1	
Other Cultural Activities	25	1	3	2	
Public Halls	6	2	2	0	
Total Income	555	136	181	45	
EXPENDITURE					
Planning & Heritage Services	989	210	183	27	7
Building Services	164	41	31	10	
Tourism & Economic Development	497	105	71	34	7
Community Amenities	164	31	29	2	
Library Services	405	101	117	(16)	8
Other Cultural Activities	160	24	30	(6)	
Public Halls	72	18	14	4	
Total Expenditure	2,451	530	475	55	
NET	(1,896)	(394)	(294)	100	
NOTES					
6. Permit fees higher than anticipated at this time of year.					
7. Staff vacancies.					
8. Early payment of contribution to CHRL.					

Variance Report

Public Safety

Variance - Surplus/(Deficit) 000's					\$29
DEPARTMENTAL REPORT FOR THE PERIOD ENDING 30 SEPTEMBER 2009					
	Annual Budget 000's	YTD Budgets 000's	YTD Actuals 000's	YTD Variance 000's	Note
PUBLIC SAFETY INCOME					
Fire Prevention	33	0	-1	-1	
Animal control	91	5	7	2	
Compliance	34	8	14	6	
Health	135	14	11	(3)	
School Crossing	8	0	0	0	
Emergency Management	0	0	12	12	
Total Income	300	27	43	16	
EXPENDITURE					
Fire Prevention	52	8	1	7	
Animal control	24	12	15	(3)	
Compliance	249	58	52	6	
Health	245	57	56	1	
Environmental Initiatives	111	23	21	2	
School Crossing	26	6	8	(2)	
Emergency Management	12	3	1	2	
Total Expenditure	719	167	154	13	
NET	(419)	(140)	(111)	29	
NOTES					
No material variances.					

Variance Report

Recreation

Variance - Surplus/(Deficit) 000's					\$2
DEPARTMENTAL REPORT FOR THE PERIOD ENDING 30 SEPTEMBER 2009					
	Annual Budget 000's	YTD Budgets 000's	YTD Actuals 000's	YTD Variance 000's	Note
RECREATION INCOME					
Parks & Gardens	5	1	0	(1)	
Reserves	9	2	2	0	
Mineral Springs Reserves	480	120	91	(29)	9
Indoor Recreation	5	0	0	0	
Total Income	498	123	93	(30)	
EXPENDITURE					
Parks & Gardens	176	39	40	(1)	
Reserves	728	182	161	21	10
Mineral Springs Reserves	238	59	39	21	10
Swimming Areas	240	8	6	1	
Cemeteries	1	0	0	0	
Indoor Recreation	39	10	20	(10)	
Total Expenditure	1,422	298	266	32	
NET	(924)	(175)	(173)	2	
NOTES					
9. Timing of issuing of invoices.					
10. Seasonal work expenditure expected to be greater late spring and early summer.					

Variance Report

Infrastructure

Variance - Surplus/(Deficit) 000's					(\$70)
DEPARTMENTAL REPORT FOR THE PERIOD ENDING 30 SEPTEMBER 2009					
	Annual Budget 000's	YTD Budgets 000's	YTD Actuals 000's	YTD Variance 000's	Note
INFRASTRUCTURE					
INCOME					
Road Maintenance	1,583	223	222	(1)	
Other Transport	992	248	252	4	
Total Income	2,575	471	474	3	
EXPENDITURE					
Road Maintenance	1870	397	481	(84)	11
Depots	45	11	9	2	
Other Transport	405	101	92	9	
Total Expenditure	2,320	509	582	(73)	
NET	255	(38)	(108)	(70)	
NOTES					
11. Higher than YTD budget due to timing of street sign maintenance.					

Variance Report

Waste Management

Variance - Surplus/(Deficit) 000's					\$99
DEPARTMENTAL REPORT FOR THE PERIOD ENDING 30 SEPTEMBER 2009					
	Annual Budget 000's	YTD Budgets 000's	YTD Actuals 000's	YTD Variance 000's	Note
WASTE MANAGEMENT INCOME					
Waste Revenue	1,694	1,606	1,605	(1)	
Land Management	6	2	10	8	
Total Income	1,700	1,608	1,615	7	
EXPENDITURE					
Street Cleaning	127	32	21	11	
Waste Management	1,437	276	189	87	12
Land Management	8	2	8	(6)	
Total Expenditure	1,572	310	218	92	
NET	128	1,297	1,397	99	
NOTES					
12. Timing of receipt of contractor invoice.					

**Variance Report
Capital Works**

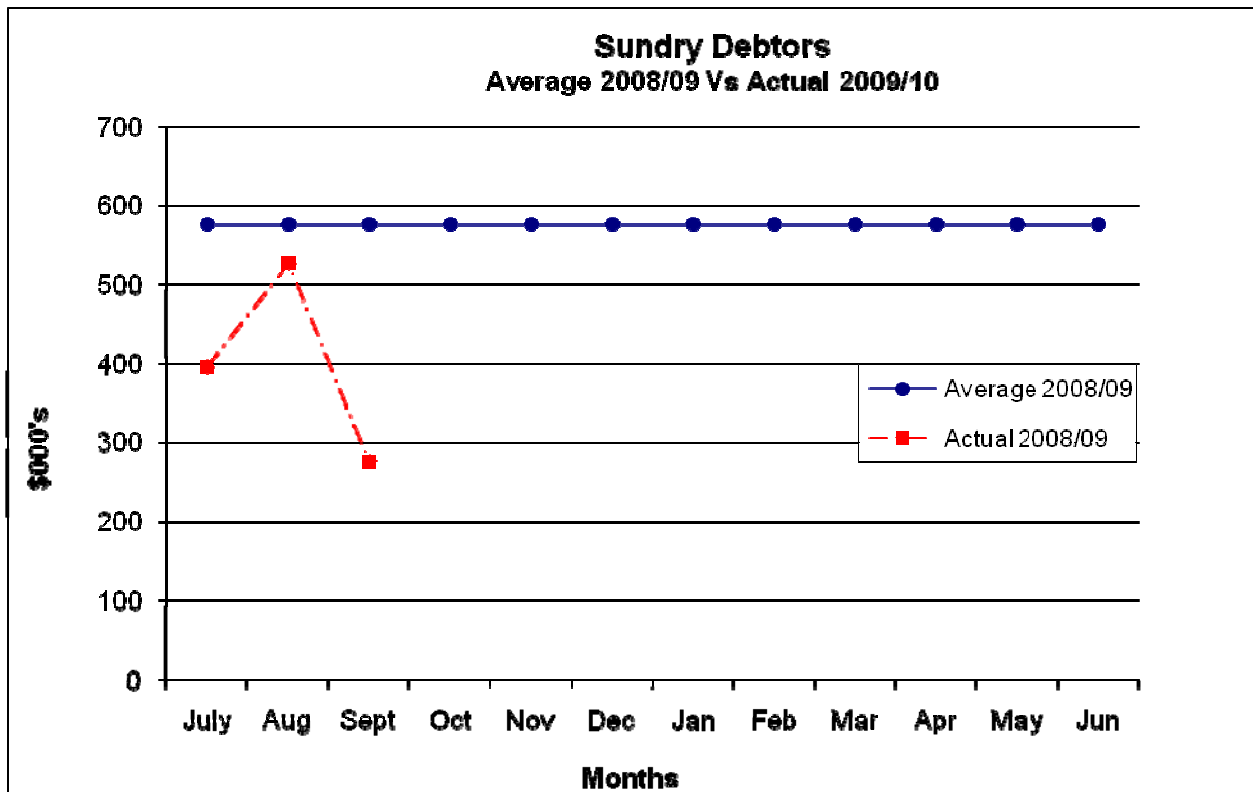
Program	Major Activities	Annual Budget 000's	YTD Budgets 000's	YTD Actuals 000's	Note
9 Capital Income					
Land & Buildings	Doug Lindsay Project, Magic Pudding Playground, Clunes Football Netball Club, Collins Place Rotunda	2,868	0	0	
Environmental Initiatives	Carbon Negative Initiatives, Calambeen Caravan Park	55	0	0	
Infrastructure	Reseals, Resheets, Gooches Bridge Infrastructure Gap Project	0	0	0	
Furniture & Equipment	Computer Equipment	0	0	4	
Plant & Machinery	Passenger & Commercial Fleet, Works Plant & Equipment	383	80	83	
Waste Management	Sealing of access way, new bins	0	0	0	
Other Structures	Vic Park Project	38	0	0	
Total Capital Income		3,344	80	87	
9 Capital Expenditure					
Land & Buildings	Doug Lindsay Project, Magic Pudding Playground, Clunes Football Netball Club, Collins Place Rotunda Toilet Facilities Upgrade	4,329	430	664	13
Environmental Initiatives	Carbon Negative Initiatives, Calambeen Caravan Park	242	0	10	
Infrastructure	Reseals, Resheets, Gooches Bridge Infrastructure Gap Project	3,136	0	50	
Furniture & Equipment	Computer Equipment	244	0	3	
Plant & Machinery	Passenger & Commercial Fleet, Works Plant & Equipment	1,293	130	134	
Waste Management	Sealing of access way, new bins	185	0	5	
Other Structures	Playground Replacement, Victoria Park Project	162	25	40	
Total Capital Expenditure		9,591	585	905	
	NET	(6,247)	(505)	(819)	
NOTES					
13. Additional expenditure relates to timing of payments for Depot Project totaling \$247,000 that were expected to be paid in the last quarter of 2008/09. These were not paid until the first quarter of 2009/2010					

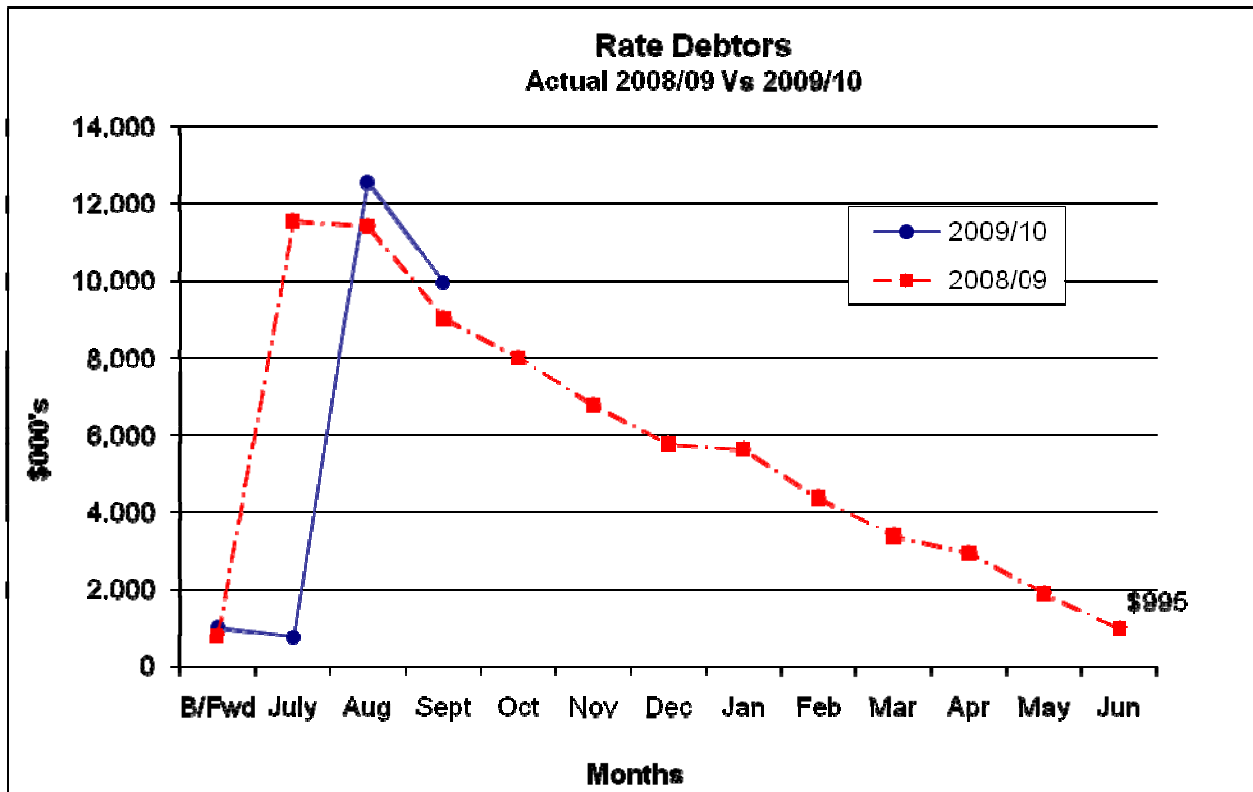
Balance Sheet

Balance Sheet		
As at 30 September 2009		
	\$000's	\$000's
	30-Jun-09	30-Sep-09
Assets		
Current assets		
Cash and cash equivalents	5,356	5,893
Trade and other receivables	1,739	10,609
Inventories	25	43
Non-current assets classified as held for sale	0	0
Other assets	94	0
Total current assets	7,214	16,545
Non-current assets		
Trade and other receivables	2	2
Financial assets	899	899
Investments in associates accounted for using the equity method	447	447
Property, plant and equipment, infrastructure	160,556	161,375
Total non-current assets	161,904	162,723
Total assets	169,118	179,268
Liabilities		
Current liabilities		
Trade and other payables	899	356
Trust funds and deposits	795	818
Provisions	1,660	1,537
Interest-bearing loans and borrowings	419	296
Total current liabilities	3,773	3,007
Non-current liabilities		
Provisions	736	736
Interest-bearing loans and borrowings	3,193	3,193
Total non-current liabilities	3,929	3,929
Total liabilities	7,702	6,936
Net Assets	161,416	172,332
Equity		
Accumulated surplus	95,956	95,956
Operating result for period	0	10,875
Reserves	65,460	65,500
Total Equity	161,416	172,332

Level of Council Debtors

Following for Councillors information are two graphs which show the level of Rate Debtors for 2009/10 in comparison to the previous year and the level of Sundry Debtors to the average level of sundry debtors for the previous year. Both are considered to be at acceptable levels at the end of September 2009.





Conclusion:

As expected there are few major variations this early in the financial year other than those caused by timing differences. However there are some areas that will be closely monitored and reviewed regularly with Executive Management Team and Line managers. As indicated a number of variances have resulted from projects carrying over from 2008/2009 or new projects where funding will be received in 2009/2010.

The half yearly budget review to be conducted in January 2010 will be an opportunity for these projects to be brought to account and the overall budget fine tuned with the knowledge of 6 months of operations. In the meantime managers will continue to review in detail both operating and capital budgets to ensure that the overall budget will be achieved.

Relevant Policies

Council Plan – Good Governance

Community Engagement

Not Applicable

Financial Implications

The reports attached provide the opportunity for constant review of Council's financial position to ensure compliance with budgets. The reports presented show the annual budget, year to date budget, year to date actuals and year to date variance. The reports note any variances against the year to date actual amount.

Motion

10.2.1 That Council receives the Monthly Financial Report for the three months from 1 July 2009 to 30 September 2009

Moved: Cr Janine Booth
Seconded: Cr Sebastian Klein
Carried.

10.3 CONSIDERATION OF THE 2008-09 ANNUAL REPORT

(Action Officer – General Manager Corporate Services)

File Ref: 16/22/04

Introduction

In accordance with Section 131 of the Local Government Act 1989 (the Act), Council is required to consider the annual report at a meeting of Council as soon as practicable after the council has sent the annual report to the Minister. The annual report was sent to the Minister on 30 September 2009 as required under the Act.

Report

The requirements to prepare an Annual Report are contained in Section 131 of the Act and Part 4 of the Local Government (Finance and Reporting) Regulations 2004 (the Regulations).

The information that must be contained in an annual report for each financial year includes:

- A report of operations for the financial year;
- Audited standard statements;
- Audited financial statements; and
- A copy of the performance statement

The audited standard statements and financial statements were adopted in principal by Council at its Special Meeting held on Tuesday 25th August 2009. The performance statement, as noted at the Special Meeting, could not be included in the 2008-09 Annual Report as targets were not set in the 2008-09 Budget.

The required content for the Report of Operations is specified in Part 4, Division 1, Section 10 and 11 of the Regulations with key elements as follows:

1. Review of performance against the Council Plan
2. Legislative, economic or other factors which have impacted on performance
3. Major policy initiatives undertaken
4. Major works undertaken or completed
5. Major changes that have taken place during the year
6. Other major operations and achievements

In addition the following information must also be included:

1. Range of services provided
2. Persons or sections of the community served by Council
3. Names of all Councillors and their dates of election and retirement

4. Name of CEO and occupants of senior offices with a brief description of the areas of responsibility
5. Organisational chart
6. List of documents available for inspection and where they can be viewed
7. Number, classification and types of jobs
8. Statement on equal opportunity program, its objectives and outcomes.

All of the above information has been included in the 2008-09 Annual Report, a copy of which has been provided to Councillors and is also available for viewing at Council's offices and on its website.

Relevant Policies

Local Government Act 1989 Section 131

Community Engagement

As required by the Act, a public notice was placed in the Advocate and on Council's website advertising Council's intention to consider the 2008-09 Annual Report at the Ordinary Meeting of Council on Tuesday 20 October 2009.

Financial Implications

Nil

Motion

10.3.1 That Council receive and note the 2008-09 Annual Report

10.3.2 Express its gratitude and congratulations to the Officers in preparing the Annual Report.

Moved: Cr Rod May

Seconded: Cr Don Henderson

Carried.

10.4 NOMINATIONS HEPBURN SHIRE COUNCIL INTERNATIONAL WOMEN'S DAY HONOUR ROLL ORGANISING COMMITTEE

(Action Officer – General Manager Corporate Services)

File Ref: 16/04/07

Introduction

This report seeks Council consideration of nominations received from nominees for appointment to the Hepburn Shire Council International Women's Day Honour Roll Organising Committee. The Shire Honour Roll of Women began in 2004 and since then has paid tribute to twenty-three (including fifteen posthumous) women from across the Shire. Following the recent advertisement inviting nominations to the Organising Committee , seven nominations have been received.

Report

Council at the August 2009 meeting adopted the following terms of reference for the Hepburn Shire Council International Women's Day Women's Honour Roll Organising Committee :

- to advise Council on the Women's Honour roll Nomination process,
- to oversee the Women's Honour roll nomination process,
- to provide recommendations to Council as to who to induct onto the Honour Roll
- to advise Council as to when to hold the Honour roll event, and
- to organise the Honour Roll event

Council has previously resolved that the committee membership will comprise six (6) community members supported by Council staff and Councillor Janine Booth, Council's representative to the Committee.

The following nominations have been received for the 2009/10 Organising Committee:

Rosalind Berry
Jo Kidd
Marjorie Atkinson
Noelene Gratton
Julie Ingleby
Meg Ulman
Kelly Longstaff

Details in support of each of the nominees has been forwarded to Councillors under separate cover.

Relevant Policies

Council Plan 2009- 2013:

17. Embracing community knowledge and expertise to help guide its decision making and implementation.

Community Engagement

Advertising and inviting nominations to be lodged with Council for appointment to this Committee .

The Women's Honour roll event is a formal civic reception of the Hepburn Shire Council to which all interested members of the public are invited.

Financial Implications

A Budget of \$3,000 is allowed for the cost of the Hepburn Shire Women's Honour Roll event.

Motion

10.4.1 That Council receive the nominations listed and resolve to appoint :

Rosalind Berry

Nolene Gration

Marjorie Atkinson

Julie Ingeby

Jo Kidd

Meg Ulman,

Kelly Longstaff

to the 2009-2010 Hepburn Shire Council International Women's Day Honour Roll Organising Committee.

Moved: Cr Janine Booth

Seconded: Cr Sebastian Klein

Carried.

10.5 SALE OF LAND – CANTERBURY STREET, CLUNES

(A/O – General Manager Corporate Services)

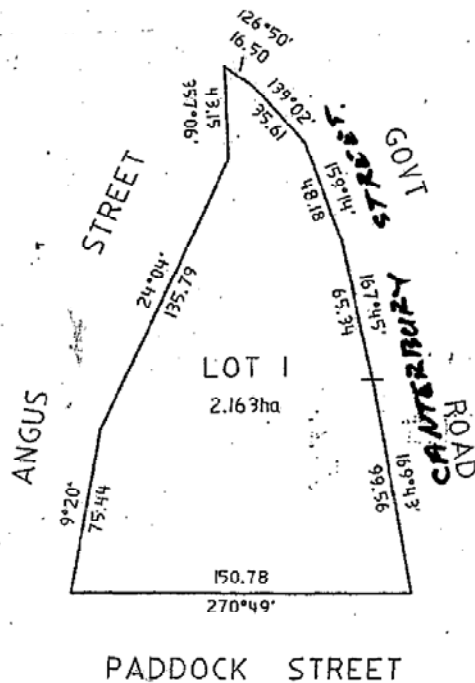
File Ref: 1/1160/10101

Introduction

The former plantation site of Clunes primary school was transferred back to Council ownership in August 2002 by the Minister of Education. Council at the July 2009 Meeting resolved to give notice of intention to dispose of this land and advertised for public submissions to be received by the 28 August 2009

Report

This land is Lot 1, Title Plan 23255Y and is contained in Certificate of Title Vol 10622 Fol 537. It is 2.163ha in area. The land is generally triangular and surrounded by Canterbury Street, Angus Street, and Paddock Street. Refer to the plan below.



The history of Council's ownership of this land goes back many years to when the then Borough of Clunes in 1926 'gifted' the land to the Education Department to enable the school to establish a school plantation. Around 1999 after the plantation was harvested the Department formed the view that an obligation existed to "return the gift" to the community to where it originated.

The land is vacant, save for remnants of the plantation. Under the Hepburn Shire Council Planning Scheme the land is Township Zone (TZ) with Environmental Significance overlay Schedule 1 (ESO1).

For the Council to sell the land, it has pursuant to Section 192 of the Act declared the land as surplus to needs and gave 28 days public notice of intention to sell the land as required by S189 of the Act.

Relevant Policies / Council Plan implications

Within the 2009 – 2013 Council Plan reference is made to achieving long term financial sustainability by disposing of poorly utilised, inefficient or surplus assets.

Community / Engagement / Communication / Consultation

Public notice of the Council's intention to sell land has been published and a 28 day period has been given for submissions to be received for consideration under S223 of the Act.

No submissions have been received within the advertised period and therefore Council may now proceed to sell this land

Financial Implications

As part of the sale process Council must obtain a valuation of the land from a registered valuer within 6 months of the sale date. As a basic guide to value, the matter has been discussed with a Valuer and a valuation range of between \$60,000 – \$80,000 has been indicated. A formal valuation will be requested prior to Auction and used as the reserve value for auction purposes.

Motion :

10.5.1 *That Council resolve to sell Lot 1 Title Plan 23255Y Cert. Of Title Vol 10622 Fol.537 (Canterbury Street) by public auction and that a Reserve price for the land be set at the formal valuation received by Council.*

10.5.2 *That the net proceeds of the sale be used to fund the improvement of existing assets or the establishment of new assets in the Clunes district.*

Moved: Cr Tim Hayes

Seconded: Cr Janine Booth

Amendment:

To delete from the Motion item 10.5.2 *That the net proceeds of the sale be used to fund the improvement of existing assets or the establishment of new assets in the Clunes district.*

Amended Motion:

10.5.1. *That Council resolve to sell Lot 1 Title Plan 23255Y Cert. Of Title Vol 10622 Fol.537 (Canterbury Street) by public auction and that a Reserve price for the land be set at the formal valuation received by Council.*

Moved: Cr Jon Barrell

Seconded: Cr Sebastian Klein

Carried

A Division was called

For:

Cr Bill McClenaghan

Cr Don Henderson

Cr Jon Barrell

Cr Sebastian Klein

Cr Rod May

Against:

Cr Tim Hayes

Cr Janine Booth

11 COMMUNITY DEVELOPMENT:

11.1 APPOINTMENT OF DEPUTY MUNICIPAL RECOVERY MANAGER

(Action Officer – General Manager Community Development)

File Ref: 28/06/02

Introduction

The purpose of this report is for Council to consider the appointment of a Deputy Municipal Recovery Manager.

Report

Council has a range of roles and responsibilities in responding to emergencies within the Shire. Under the Emergency Management Act 1986, Council is required to prepare and maintain a Municipal Emergency Management Plan and appoint various officers as Municipal Emergency Resource Officers, including a Municipal Recovery Manager (MRM).

On the 21 October 2008, Council resolved to appoint the Manager Community Services, now A/General Manager Community Development as MRM. The Finance Manager was appointed Deputy MRM.

Following the Musk Vale bushfire in late February 2009, it became apparent that additional Deputies were required to ensure our recovery processes were co-ordinated effectively.

It is proposed to appoint Kathleen Brannigan, Community Strengthening Manager as a Deputy MRM. Ms Brannigan has played an active role in recovery arrangements this year and has strong community development skills. Formal training in Emergency Management will be provided.

In a major emergency, Council staff would all be involved in some capacity, either in the field or by assuming additional duties to cover for staff who are assisting with the emergency.

Relevant Policies

Council Plan

- “We will assist our residents improve the health, safety and vibrancy of our communities”.

Hepburn Shire Council Municipal Emergency Management Plan

Community Engagement

N/A

Financial Implications

N/A

Motion :

11.1.1 That Council appoint the Community Strengthening Manager as a Deputy Municipal Recovery Manager.

Moved: Cr Don Henderson

Seconded: Cr Tim Hayes

Carried.

11.2 RECOMMENDATIONS FROM THE RECREATION ADVISORY COMMITTEE FOR SPORT AND RECREATION GRANTS

(Action Officer – General Manager Community Development)

File Ref: 56/02/02

Introduction

The purpose of this report is to advise Council about the recommendations made by the Recreation Advisory Committee on the Department of Planning and Development *Sport and Recreation Grants Program for 2010 / 2011*.

Report

The Department of Planning & Community Development (DPCD) *2010/2011 Sport and Recreation Grants* are currently open. Council is required to submit applications to DPCD on behalf of community organisations, along with any Council initiated projects. The grant categories under the 2010/2011 Sport and Recreation Grants are:

1. The **Community Facility Funding Program**, which has the following categories:

Planning Category

- *Recreation Planning*
- *Facility Feasibility*
- *Regional Planning*

This category has a DPCD \$1:\$1 local matching contribution requirement and each Council can submit one application. The closing date for applications is 28 October 2009.

Building Community Infrastructure

- Minor Facilities – Projects up to \$250,000 with a maximum grant of \$60,000
- Major Facilities – Projects over \$250,000 with a maximum grant of \$500,000

This program has a DPCD \$2:\$1 local matching contribution requirement and each Council can submit up to three applications. The closing date for applications was 17 September 2009.

2. The **Country Football and Netball Program** which provides funding to assist grass roots country football and netball clubs and umpiring organisations to develop facilities in rural, regional and outer metropolitan locations. This program has a DPCD \$2:\$1 local matching contribution requirement and each Council can submit up to three applications under this program – one application for a grant of up to \$60,000 and two for grants of up to \$20,000. The closing date for application is 31 December 2009.

The availability of these grants was advertised and a community groups Information Session held on 22 July, 2009. The closing date for applications was 9 August and applicants were invited to present their proposals to the Recreation Advisory Committee (RAC) on 12 August. Final applications were considered by the RAC on 31 August 2009.

The Recreation Advisory Committee recommended that Council submit the following projects for funding:

Community Facility Funding Program (Planning)

Project: Walking and Cycling Strategy

It is proposed that Council apply for funding to develop a *Walking and Cycling Strategy* for Hepburn Shire consistent with Council Plan 2009-2013 (Priority 62: Promotion and development of cycling and walking infrastructure) and in line with the Recreation Needs Strategy (2006).

Amount requested from DPCD:	\$15,000
Proposed Council contribution 2010/11:	<u>\$15,000</u>
<u>Total anticipated project cost:</u>	<u>\$30,000</u>

Community Facility Funding Program – Minor Facilities

Project 1: Stage 2 Daylesford Community Park – Playground

An application has been submitted for funding to complete stage 2 of the Daylesford Community Park. This project involves installation of a playground suitable for children aged 4-12 including soft fall material, seating and shade sails. This is consistent with Sport and Recreation's priorities of improving broad access and participation in recreation by young people.

Amount requested from DPCD:	\$60,000
Proposed Council contribution 2010/11:	<u>\$40,000</u>
<u>Total anticipated project cost:</u>	<u>\$100,000</u>

Project 2: Calembreen Park Walking Track

An application has been submitted for funding to create a new walking track around Calembreen Park, Creswick. This is consistent with Sport and Recreation's priorities of improving broad access and participation in recreation by all population groups.

Amount requested from DPCD:	\$60,000
Proposed Council contribution 2010/11:	<u>\$40,000</u>
<u>Total anticipated project cost:</u>	<u>\$100,000</u>

It should be noted that DPCD may not consider this application, as it may be viewed premature given Council has not developed a Walking and Cycling Strategy.

No community group applications were received for minor facilities funding.

Country Football and Netball Program

Applications were received for the *Country Football and Netball Program (CFNP)* from:

Project 1: Hepburn Football and Netball Club

To improve current netball court/player facilities to meet safety requirements and build a second multi-use court to increase participation.

Amount requested from CFNP:	\$40,000
Club contribution:	\$20,740 (including in-kind)
Amount requested from Council 2010/11:	<u>\$0 -10,000</u> (pending resolution of lighting specifications)
<u>Total project cost:</u>	<u>\$60,740-\$70,740</u>

Project 2: Newlyn Football & Netball Club

To provide extra facilities to accommodate male and female umpires, disability access and additional meeting/storage space.

Amount requested from CFNP:	\$20,000
Club contribution:	\$20,000 (including in-kind)
Other community:	\$5,000
Amount requested from Council 2010/11:	<u>\$15,000</u>
<u>Total project cost:</u>	<u>\$60,000</u>

The need for Council contributions towards DPCD Sport and Recreation projects is subject to whether the application is successful. Funding announcements for Community Facility funding are expected to be made in October 2009 and Country Football and Netball Grants in March 2010.

Funding Re-allocation

At its meeting of 31 August 2009 the Recreation Advisory Committee resolved to recommend:
That if a Sport and Recreation application submitted by Council is not successful that any Council contribution be reallocated to another priority recreation project.

Moved: Georgie Patterson

Seconded: Gayle Orford

Carried unanimously

Relevant Policies

Council Plan – Priority 62: Promotion and development of cycling and walking infrastructure
Hepburn Shire Recreation Strategy 2006

Community Engagement

An Information Session for community groups was held on 22 July 2009. The Recreation Advisory Committee comprises community members and was appointed in 2008 for 2 years.

Financial Implications

The 2009/10 Council recreation budget allocation was \$120,000 plus \$300,000 for Doug Lindsay Reserve. If the above applications are successful Council's 2010-11 budget commitment could be up to \$125,000.

Motion

That Council:

11.2.1 Accept and support the Grant Applications of the Recreation Advisory Committee for the Department of Planning and Development Sport and Recreation Grants Program for 2010 / 2011.

11.2.2 Note the resolution of the Recreation Advisory Committee "That if a Sport and Recreation application submitted by Council is not successful that any Council contribution be reallocated to another priority recreation project".

Moved: Cr Jon Barrell

Seconded: Cr Tim Hayes

Amendment:

To remove from Item 11.2.2 "Note the resolution of the Recreation Advisory Committee," and insert "may."

Moved: Cr Rod May

Seconded: Cr Sebastian Klein

Carried.

Amended Motion

That Council:

11.2.1 Accept and support the Grant Applications of the Recreation Advisory Committee for the Department of Planning and Development Sport and Recreation Grants Program for 2010 / 2011.

11.2.2 That if a Sport and Recreation application submitted by Council is not successful that any Council contribution may be reallocated to another priority recreation project.

Carried.

9.25pm Cr Tim Hayes left the Meeting

12 SUSTAINABLE DEVELOPMENT:

12.1 HEPBURN SHIRE INTERIM HEATWAVE STRATEGY

(Action Officer – Senior Environmental Health Officer)

File Ref: 50/24/03

Introduction

As a result of the recent bushfires in the early part of 2009 the State Government has declared that all Councils should have a heat wave strategy in place to compliment the emergency response to any future bushfires. This decision is based on the death of 347 people last summer as a direct result of extended hot periods of weather which were over and above the comparable figure of the past 5 years.

Hepburn Shire has been allocated funds of \$25,000 from the Department of Health to compile a Heatwave Strategy (Refer Attachment 2) and Heatwave Advice Sheet (Refer Attachment 3) that involves Council providing an alert procedure that targets specific vulnerable groups by 6 November 2009.

Report

The proposed heatwave strategy should be regarded as a temporary response strategy until Council officers have sufficient time to develop a full heatwave response strategy as part of the Municipal Public Health Plan process. The Interim Heatwave Strategy deals with the following key issues:

- Preparedness – identify the vulnerable groups and ensure their contact details are known
- Alert System – nominate Council officer(s) to be responsible for the monitoring of the Bureau of Meteorology and DHS reports to assess the needed response outlined in the Heatwave Strategy.
- Review – Ensure a review of procedures is carried out prior to the hotter months.

To date, the Heatwave Planning Guide that DHS has issued to assist in the construction of this strategy needs greater refinement as to what Council will have to provide in terms of facilities and functions. DHS is yet to define an appropriate course of action and the strategy is currently dependent on Councils to do the bulk of the work and bear the full implementation cost both in terms of finance and resources.

A full heatwave procedure will not be possible until the DHS has completed a full review of the procedures, failures and responsibilities associated with an active heatwave strategy. At this point there are a number of pilot projects in place.

Relevant Policies

Municipal Emergency Management Plan
Municipal Public Health Plan

Council Plan 2009-2013:

49. Involving communities in emergency response preparedness.

Community Engagement

There will be full community engagement as part of the Municipal Public Health Plan preparation during which time the Heatwave Plan will be considered.

Financial Implications

As stated there is a \$25,000 grant that has been approved to assist in the development of the heatwave strategy. This grant should cover all costs surrounding the production of the interim document in terms of staff costs.

Motion :

That Council:

- 12.1.1 *Adopt this Interim Heatwave Strategy for the 2009-2010 period.*
- 12.1.2 *Link the Heatwave Strategy to the Municipal Public Health Plan.*
- 12.1.3 *Receive a further report on the full Heatwave Strategy following its review in April 2010.*

Moved: Cr Jon Barrell
Seconded: Cr Janine Booth
Carried.

Cr Tim Hayes returned to the Meeting at 9.28pm.

Attachment 2

Item 12.1

INTERIM HEATWAVE STRATEGY 2009-2010

Background

In January 2009, Victoria experienced a prolonged state wide heatwave with temperatures among the highest ever recorded. The Office of the Chief Health Officer concluded that there were 374 additional deaths during the heatwave period in comparison to the past 5 years.

Consequently a decision was made to put in place a state wide heatwave strategy that would allow for unusual periods of excessive heat or extended periods of hot days. These strategies are designed to protect isolated and vulnerable people within our community.

The heatwave strategy forms part of the suite of measures required for Fire Preparation this season. The adoption of an interim strategy will provide sufficient measures for this summer season and give time for the full heatwave strategy process (outlined in this document) to take place.

Identification of Vulnerable Groups

The selected vulnerable groups for the focus of this Interim Strategy are:

- Older people (>65 years), particularly isolated residents living alone without air conditioning
- Infants
- Pregnant and nursing mothers
- People with pre-existing ailments such as heart disease & high blood pressure
- People on medications for mental disease.

These groups of people are to be regarded as a basic list of vulnerable people and once the Municipal Public Health Committee is formed then preparation and development of a more extensive list will be developed. Vulnerable groups can be contacted through Home and Community Care (HACC), Hepburn Health Service and Maternal and Child Health Nurses.

Heat Alerts

The Department of Health has established a heat wave threshold of 30° for the Melbourne Metropolitan area for the daylight hours and 24° for an overnight average. The Department of Health is in the process of reviewing similar thresholds for regional Victoria. These results will be available by December 2009 and be one of the major discussion points for the Municipal Public Health Committee.

At this stage Hepburn Shire will be dependent on the Department of Health to alert the Council when a heatwave officially commences. The Senior Environmental Health officer will be

responsible for the activation of the Interim Heatwave Strategy. Once the alert is in place the process of activating all relevant Council services will commence.

Initially this would involve informing Council's customer services to expect calls in relation to the announced heatwave. A formalised written information sheet will be issued to customer service and be made available to the public on request. If there is sufficient time the local media would be contacted and a warning notice and advice sheet would be placed in the local newspapers as well as posting this information on Councils website.

Establishing a Cooling Centre

According to the DHS Heatwave Planning Guide, a Cooling Centre is an option Council may consider as part of their overall response. A Cooling Centre is a temporary air-conditioned public space set up to deal with the health effects of a heatwave. There are a number of unanswered questions surrounding cooling centres and it is the officer's recommendation that at this stage it is too early to adopt this element of the plan.

Whether or not Council decide to establish these Cooling Centres at a later date will be discussed during the preparation of Councils Municipal Public Health Plan.

Public Education

For the purposes of the 2009-2010 period, the distribution of advice sheets and contact phone number to people who may experience heat distress is the appropriate preliminary action to combat the effects of heatwave. If this heat distress evolves into a more serious health condition, residents should be urged to contact their doctor or proceed to the Hospital emergency room as soon as possible.

The purposes of these advice sheets are to minimise risks during the heatwave period. Public education about heatwave effects will be raised during the consultative process associated with the preparation of the full Heatwave Strategy as part of the Municipal Public Health Plan.

Emergency Management

In the Municipal Emergency Management Plan locations of relief centres are identified for personnel to contact in a declared emergency. *Unless the unanswered questions surrounding Cooling Centres are resolved it is unadvisable to be offering relief centres as part of the Hepburn Shires heatwave strategy for the 2009-2010 period.*

Consequently the response procedures outlined in this heatwave strategy in response to a State Government declared emergency, will constitute the formal heatwave response for the Hepburn Shire for 2009 – 2010.

Process for 2010-2014 Heatwave Strategy

The following 9 items shall be factors to be considered by the committee in the formation of any detailed heatwave plan during the preparation of the Municipal Public Health Plan:

1. Management Support

- Identify person(s) responsible to manage the project
- Identify the leaders from Council officers
- Identify external stakeholders
- Identify Municipal Public Health Plan Committee members and their roles

2. Determine which style of plan the heatwave strategy will feature

- Links to the Council Plan
- Appropriate planning frameworks identified
- Available resources identified and allocated with specific roles
- Involve other heatwave plans, protocols or legislation affecting the formation of heatwave plan
- Timeframes and plan development

3. Assess needs of vulnerable population groups

- Identify vulnerable groups
- Collate and analyse data and information
- Identify key stakeholders associated with these vulnerable groups

4. Engage internal and external stakeholders

- Identify key internal and external stakeholders
- Identify key community partners
- Prepare an engagement strategy for each partner

5. Goals and Strategies

- Objectives and desired outcomes of these identified partnerships
- Partnerships formalised
- Organisations needing heatwave plans as part of their internal policies
- Awareness raising

6. Write the heatwave plan

- Final stage of committee function
- Heatwave plan completed and endorsed by Council

7. Evaluation Strategy

- Process of evaluation developed and agreed upon
- Measureable goals and objectives defined and agreed upon
- Frequency of evaluation identified

- Evaluation commences on the implementation of the heatwave strategy
- Evaluation strategy documented and endorsed

8. Implement heatwave plan

- Heatwave plan public launch
- Heatwave strategies implemented

9. Heatwave Plan Review

- Plan evaluated annually prior to the summer months

Attachment 3
Item 12.1

Heat Wave – Advice Sheet

Who is at Risk?

- Older people (>65 years), particularly isolated residents living alone without air conditioning
- Infants
- Pregnant and nursing mother
- People with pre-existing ailments such as heart disease & high blood pressure
- People on medications for mental disease

Elderly people are more prone to heat stress than younger people because their body may not adjust well to sudden temperature change. They are more likely to have a chronic medical condition and to be taking medication that may interfere with the body's ability to regulate temperature.

Illness	Advice
<p><u>Heat Cramps</u></p> <p>Heat cramps are muscle pains or spasms, usually in the abdomen, arms or legs. They may occur after strenuous activity in a hot environment, when the body gets depleted of salt and water</p> <p>They may be a symptom of heat exhaustion</p>	<p><u>What to do</u></p> <ul style="list-style-type: none"> • Stop activity and sit quietly in a cool place • Increase fluid intake • Rest a few hours before returning to activity • Seek medical help if no improvement
<p><u>Heat Exhaustion</u></p> <p>Heat exhaustion is a serious condition that can develop into heat stroke</p> <p>Warning signs may include :</p>	<p><u>What to do</u></p> <ul style="list-style-type: none"> • Get the person to a cool area and lie them down • Remove outer clothing • Wet skin with cool water or wet cloths • Seek medical advice

<ul style="list-style-type: none"> • Pale and sweating • Rapid heart rate • Muscle cramps, weakness • Dizziness, headache • Nausea, vomiting • Fainting 	
---	--

Illness	Advice
<p><u>Heat Stroke</u> Heat stroke is a life-threatening emergency. It occurs when the body is unable to prevent the temperature rising rapidly</p>	<p><u>What to do</u></p> <ul style="list-style-type: none"> • Call an ambulance • Get the person to a cool area and lie them down • Remove clothing and wet skin with water, fanning continuously • Position an unconscious person on their side and clear the airway

If you must be out in the heat

- Limit outdoor activity
- Protect yourself from the sun by using a sunscreen, wearing a hat and covering exposed skin
- Rest regularly in the shade
- Drink fluids frequently
- Do not consume alcohol
- Wear lightweight loose fitting clothing
- Don't rely on fans to cool yourself unless there is adequate ventilation

Further Information

For further information contact Nurse on Call on 1300 606024 (24 hour service).

12.2 WIND ENERGY FACILITIES RATING GUIDELINES

(Action Officer – General Manager Sustainable Development)

File Ref: 66/02/01

Introduction

The Hepburn Shire Council Wind Energy Guidelines 29 July 2009 provides guidance to applicants, operators and the community about wind energy facility proposals with the Hepburn Shire.

As part of the adoption of the Guidelines, Council requested that officer's report to Council on the adoption of a formula for the payment to Council by wind energy generators of an amount in addition to normal property rate payments to enable a decision on incorporation into the Wind Energy Facilities Guidelines. This report deals with this matter.

Report

The Hepburn Shire Council Wind Energy Facility Guidelines state that "Council will determine a formula for the payment of an amount in lieu of rates during the 2009-10 financial year."

In December 2004, the Victorian Government requested a Panel to "review the framework currently applied under the Electricity Industry Act in determination of amounts to be paid by electricity generators in lieu of council rates." The Panel recommendations (refer Attachment 4) are summarised below:

The Panel recommends to the Government that:

- Electricity generators should continue to have an option, under the Electricity Industry Act, to be able to elect not to pay rates under the Local Government Act, and to make payments in lieu of rates under specific provisions;
- Payments in lieu of rates should be based on \$40,000 fixed yearly payment plus an annual fee of \$900 per MW of rated capacity – both in June 2005 values, and to be indexed annually to the Melbourne CPI;
- Discounts on the payment figure should apply to generators operating at low capacity:
 - A 50% discount should apply to generators operating at less than 10% capacity
 - A 25% discount should apply for generators operating at between 10 and 20% of capacity
- Notwithstanding this payment value, generators and local government should be able to reach mutually acceptable agreements, on whatever terms and conditions are acceptable to the parties;
- Any existing agreements should continue for the terms specified in that agreement;
- If parties are unable to reach agreement, then arbitration is to occur,

taking into account the above basis. In addition, the arbitrator may also consider other issues presented by the parties which may be relevant, including but not limited to:

- The age of the relevant generator, where this can be shown to have a demonstrable effect on the efficiency of its output; and
- The impacts of the generator on the local area, both positive and negative, again where it can be shown these impacts should have material effect on the proposed payment level.

The above Panel findings are recommendations only. If adopted, Council maintains the right to hold discussions directly between Wind Energy suppliers and Council on a case by case needs basis, to determine which of the above recommendations should form part of any agreed contract to make payments in lieu of rates.

Council officers recommend that each agreement should be determined by Council at an Ordinary Meeting of Council.

Relevant Policies

Council Plan 2009-2013: *We will guide our Shire towards environmental sustainability*

65. Enacting policies which encourage environmentally sustainable development, particularly measures relating to energy initiatives and transport.

Community Engagement

None anticipated.

Financial Implications

None anticipated.

Motion :

That Council:

12.2.1 Adopt the following wording for payment by electricity generators to Council for Wind Energy Facilities in addition to Council rate requirements on the same land as required under the Local Government Act 1989.

- Electricity generators should continue to have an option, under the Electricity Industry Act, to be able to elect not to pay rates under the Local Government Act, and to make payments in lieu of rates under specific provisions;
- Payments in lieu of rates should be based on \$40,000 fixed yearly payment plus an annual fee of \$900 per MW of rated capacity – both in June 2005 values, and to be indexed annually to the Melbourne CPI;
- Notwithstanding this payment value, generators and local government should be able to reach mutually acceptable agreements, on whatever terms and conditions are acceptable to the parties;
- Any existing agreements should continue for the terms specified in that agreement;
- If parties are unable to reach agreement, then arbitration is to occur, taking into account the above basis. In addition, the arbitrator may also consider other issues presented by the parties which may be relevant, including but not limited to:
 - The age of the relevant generator, where this can be shown to have a demonstrable effect on the efficiency of its output; and
 - The impacts of the generator on the local area, both positive and negative, again where it can be shown these impacts should have material effect on the proposed payment level.
- Where wind energy generators can demonstrate a community enterprise ownership to the satisfaction of Hepburn Shire Council, consideration can be given to reducing or removing the \$40,000 fixed yearly payment.

12.2.2 Incorporate the above wording into the Wind Energy Facility Guidelines.

Moved: Cr Rod May
Seconded: Cr Sebastian Klein
Carried.

Amendment:

That Council:

12.2.1 *Adopt the **Local Government (Rating Arrangements under the Electricity Industry Act 200) Review Panel** recommendations for payment by electricity generators to Council for Wind Energy Facilities in addition to Council rate requirements on the same land as required under the Local Government Act 1989.*

Moved: Cr Jon Barrell

Seconded: Cr Janine Booth

Lost.

Attachment 4
Item 12.2

Local Government Victoria

Local Government
(Rating Arrangements
under the Electricity Industry
Act 2000) Review Panel
December 2004



The Report

*Department for
Victorian Communities*



Letter of Transmission

Hon Candy Broad MLC
Minister for Local Government
Parliament House
Spring Street
MELBOURNE VIC 3000

Dear Minister

In August 2004, you appointed us as a Panel under section 220A of the *Local Government Act 1989*, to review and report on the rating arrangements for electricity generators in section 94 of the *Electricity Industry Act 2000*.

We have pleasure in presenting you with our Final Report. This Report follows an extensive consultation process, including opportunities for both generators and local government to respond to a Discussion Paper and subsequently a Position Paper.

The Panel wishes to thank participants in the review for their time and interest in the issues. Their comments have made valuable contributions to our thinking and recommendations.

The Panel believes that, as requested by the Government, our final recommendations will improve on the current arrangements, and will create a more predictable way of calculating payments that is fair to councils and generators.

Yours sincerely

John Warburton (Chair)
EIA Rating Arrangements Review Panel

Bill Unkles (Member)

Consultant to the Panel
Tony Ward
Milbur Consulting Pty Ltd

Executive Summary

The Government asked this Panel to “review the framework currently applied under the Electricity Industry Act in the determination of amounts to be paid by electricity generators in lieu of council rates.”

The central part of the Panel's task is to see whether it is possible to develop a clearer and more robust basis for the payment amounts.

The Panel appreciates the willingness of stakeholders to participate in the review, and the goodwill shown in comments such as from Yallourn:

This review has led the Panel to consider a large range of unique issues that each council and individual type of generator faces. It is a difficult task to provide a 'one size fits all' solution that is 'fair and reasonable' to every party. However Yallourn commends the Panel on its fair and transparent approach to this review and the quality of the Discussion Paper and Position Paper.

The Panel has listened carefully to the comments made during this Review. The initial Discussion Paper outlined four options for consideration, and stakeholders in the first round of consultation suggested two additional options. The subsequent Position Paper discussed all these options, and the Panel's preferred position built on one of the additional options proposed by stakeholders. In this Final Report, the Panel has further refined and modified its proposal in the light of comments made in the second round of consultation.

After considering stakeholders' comments, the Panel maintains its position that the best prospect for a standard methodology is to continue with provisions in the Electricity Industries Act, and set a payment per MW of installed capacity. The Panel proposes three changes to the preferred position set out in the Position Paper:

- Introduction of a 25% discount for generators operating between 10 and 20% capacity factors (to supplement the 50% discount already proposed for capacity factors less than 10%);
- A slight increase in the overall quantum; and
- This increase to be in the form of a stepped payment schedule, of \$40,000 plus \$900 per MW.

Final Recommendation

The Panel recommends to the Government that:

- Electricity generators should continue to have an option, under the Electricity Industry Act, to be able to elect not to pay rates under the Local Government Act, and to make payments in lieu of rates under specific provisions;
- Payments in lieu of rates should be based on \$40,000 plus \$900 per MW of rated capacity – both in June 2005 values, and to be indexed annually to the Melbourne CPI;
- Discounts on the payment figure should apply to generators operating at low capacity:
 - A 50% discount should apply to generators operating at less than 10% capacity
 - A 25% discount should apply for generators operating at between 10 and 20% of capacity
- Notwithstanding this payment value, generators and local government should be able to reach mutually acceptable agreements, on whatever terms and conditions are acceptable to the parties;
- Any existing agreements should continue for the terms specified in that agreement;
- If parties are unable to reach agreement, then arbitration is to occur, taking into account the above basis. In addition, the arbitrator may also consider other issues presented by the parties which may be relevant, including but not limited to:
 - The age of the relevant generator, where this can be shown to have a demonstrable effect on the efficiency of its output; and
 - The impacts of the generator on the local area, both positive and negative, again where it can be shown these impacts should have material effect on the proposed payment level.
- The Panel also recommends a number of implementation issues, as addressed in this report.

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1. Background

Under section 94 of the *Electricity Industries Act 2000* (EIA), electricity generators may elect not to pay council rates under the *Local Government Act 1989* (LGA), but to enter into an alternative payment agreement with the local council. If agreement is not forthcoming, section 94 of the EIA provides for an arbitration process.

The Victorian Government announced in March 2004 that it would establish a Panel to review the arrangements for payments to local government by electricity generators. Two key factors contributed to the Review:

- Disquiet in 2003 from both generators and local government that no established methodology existed for negotiations over payments for wind farms; and
- The current agreement for payments by the Latrobe Valley generators, struck in 2000, expires in 2005.

The Government stated that "the review is intended to identify a more predictable way of calculating payments that is fair to councils and generators".

Terms of Reference

The Terms of Reference for the Review are:

Review of rating arrangements under the *Electricity Industry Act 2000* (EIA)

The Panel has been requested by the Minister for Local Government to review the framework currently applied under the EIA in the determination of amounts to be paid by electricity generators in lieu of council rates. In doing so the Panel is requested to take into account:

- 1) The adequacy of the methodology currently applied under the EIA to provide certainty for electricity sector investors and Victorian local governments. In particular, the adequacy of the current approach and the requirements that the Chairperson of the Victoria Grants Commission, as the default arbitrator, must refer to the Loy Yang B decision.
- 2) The potential impact of the current framework and any possible alternative rating approach on:
 - a) the competitiveness of the various types of Victorian electricity generators operating in the National Electricity Market;
 - b) the competitiveness of the Victorian economy;
 - c) the attractiveness of Victoria as an energy sector investment location; and

- d) the ability of local governments to obtain reasonable rates or rates equivalent revenue from electricity generators compared with other significant industrial and commercial activities; and
- 3) The Government's existing policies relating to:
- a) Energy – in particular the security, accessibility, affordability and sustainability of Victoria's energy supplies.
 - b) Local Government – in particular the principle that local governments are responsible for the management of their own financial affairs.

The Panel is requested to identify:

- A.** Options to improve the current framework in a way that:
 - a) provides long term certainty for both councils and electricity generators;
 - b) is fair and equitable to all parties; and
 - c) is flexible – so that it can be applied across all Local Government areas and electricity generation sources; and
- B.** Any implementation issues associated with the options and measures necessary to resolve these.

The Panel is to make recommendations to the Minister for Local Government on any action which may need to be taken on matters which may result from the Panel's enquiries.

The Panel assessed its then proposed option against these Terms of Reference in section 4.1 of the Position Paper. This Final Report refines and adjusts that preferred option, and the Panel considers that its final recommendations even better meet the goals set out in the Terms of Reference.

1.1 Process Thus Far

In August 2004, the Government released the draft Terms of Reference for the review of Section 94 of the EIA. Subsequently, the Minister for Local Government announced the appointment of Panel members, to form an independent panel under Section 220A of the LGA.

The review has included several opportunities for stakeholder consultation:

- In August, stakeholders were consulted on the terms of reference and the timetable for the review.
- In early September, the Panel released a Discussion Paper for stakeholder consideration.
- Following this:

- The Panel conducted hearings on 20, 21 and 23 September, to both outline the Discussion Paper and to hear initial comments from stakeholders; and
- Stakeholders were invited to make formal submissions by 8 October.
- In early November, the Panel published a Position Paper which:
 - Summarised the comments outlined in the 19 submissions made to the Panel; and
 - Presented a draft final position for further consultation.
- The Panel held a hearing session on Tuesday 23 November, and requested submissions by 3 December.

This Final Report summarises comments made in the submissions and discussions with stakeholders. The report meets the Government's request that the Panel complete the Review by the end of 2004. This timing was set so that, if changes are to be made to the legislation, such changes can be made before June 2005, when the current payment agreements for the Latrobe Valley generators expire.

While, as is noted below, many submissions disagreed with the Panel's proposed approach, several submissions complimented the process. Edison Mission Energy complimented the "thorough and informative Position Paper". Pacific Hydro Ltd

commends the review process and the work done to date by the Panel in presenting the Discussion Paper and the Position Paper.

Southern Hydro

commends the Panel for the work it has undertaken to review the rating issue and for the quality of its communications and reports to the stakeholders.

However, Latrobe City Council struck a cautionary note:

*Given the number of stakeholders involved in this decision, and the length of time to date in which no single solution has been reached, the Panel should be mindful that a **'one size fits all' approach is unlikely to be achieved**, and it is a reality that not all parties will be satisfied with whatever solution is finally put forward.*

1.2 Position Paper Preferred Option

The features of the Panel's preferred option were:

- Electricity generators should continue to be able to elect not to pay rates under the Local Government Act, and to make payments in lieu of rates under specific provisions in the Electricity Industry Act;
- The benchmark for payments in lieu of rates should be \$900 per MW of rated capacity – in June 2005 values, to be indexed annually to the Melbourne CPI;

- A 50% discount on this figure should apply to generators operating at less than 10% capacity
- Notwithstanding this benchmark value, generators and local government should be able to reach mutually acceptable agreements, on whatever terms and conditions are acceptable to the parties;
- Any existing agreements should continue for the terms specified in that agreement;
- If parties are unable to reach agreement, then arbitration is to occur, taking into account the above benchmark. In addition, the arbitrator may also consider other issues presented by the parties which may be relevant, including but not limited to:
 - The age of the relevant generator, where this can be shown to have a demonstrable effect on the efficiency of its output; and
 - The impacts of the generator on the local area, both positive and negative, again where it can be shown these impacts should have material effect on the proposed payment level.

2. Comments made in submissions

2.1 Summary of comments

Submissions fell broadly into four groups:

1. The Municipal Association of Victoria and Latrobe City Council argued strongly that special provisions in the Electricity Industry Act were unnecessary, and generators should be rated, along with all other ratepayers, under the Local Government Act. This position was supported by some (but not all) other councils, but was strongly opposed by virtually all generators;
2. A number of other councils indicated they supported the concept of using rated capacity as the basis for rate payments – but argued that the quantum was too low. A two-tier payment schedule was proposed;
3. Base load generators generally supported the recommendation, with some reservations that the quantum was too high;
4. Intermittent generators generally accepted the capacity basis, but argued that the proposed 50% discount for capacity factors under 10% should be extended to give discounts (possibly on a reducing scale) to all generators with capacity factors less than 50%.

2.2 Use of the Electricity Industry Act

The Municipal Association of Victoria (MAV) presented

“a strong argument that payment of rates by electricity generators should be governed by the provisions within the Local Government Act, rather than under (or by any amendments to) the Electricity Industry Act.”

The MAV argued a number of grounds in support, claiming:

- “the Terms of Reference have not established the rationale for providing electricity generators with a rating discount”. “The State Government has made an arbitrary distinction between energy types, without critically justifying why councils should be required to accept discounted rates from electricity generators but not from other energy producers.”
- The Panel’s approach is arbitrary both for
 - The suggested amount: “One could be forgiven for thinking the whole process has been based around minimising any change in the payments to base load generators, rather than any overall consideration of taxation jurisdiction and why electricity, now totally privatised, should be treated differently from any other private business”; and for

- The discount for low capacity factors: “the selection of both the 50% reduction on output at less than 10% of capacity could well have been 40% and 20% or some other combination.”
- Equity with other ratepayers. “under the proposed \$900 payment per MW of installed capacity, wind farm operators would pay only between 6 percent and 27 percent of the total rates levied on other businesses with an equivalent capital improved value.” “Businesses involved in petroleum and gas production are currently paying “full rates” or making payments under rate agreements that provide modest discounts on full rates compared with what the position paper proposes for electricity generators”.
- Precedent for other industries: “any other strategically important state-wide industry will demand an equal discount”
- Alleged “hypocrisy of the State Government”, to “impose the direct cost of subsidisation only on those ratepayers in the council areas in which the favoured industries/business operate [when the State Government is not], itself, currently providing any relief from State taxes to electricity generators: State Land Tax, Coal Royalties and Payroll Tax.”

The MAV contends that “Councils have significant flexibility [under the Local Government Act], given access to differential rating powers and the 4:1 range permissible, to provide rate relief if they deem it appropriate.”

It concluded:

electricity generators should be rated under the Local Government Act for the following reasons:

- *It is the only mechanism by which equality with other ratepayers can be ensured;*
- *The State Government continues to levy full taxation on electricity generators;*
- *The review is not considering the fundamental nature of rates as a wealth tax through the introduction of arbitrary discounts for use;*
- *The alternative arrangements are complex and arbitrary;*
- *The Local Government Act provides the flexibility for councils to provide a suitable arrangement for electricity generators.*

Latrobe City Council also disputed the Panel's analysis

Unfortunately the proposed position adopted by the Review Panel fails to recognise that the political environment today is not the same as it was in the early 1990's when the original Loy Yang B decision was negotiated: the Generators have been fully privatised for over 10 years now, are working towards a financially sustainable and commercially viable position, have strong management teams in place and enjoy good relationships with local government and other local businesses.

The council supported the MAV's argument

that any further temporary subsidies required by the Electricity Industry, for example to subsidise the current fledgling renewable energy sector, should be funded directly and transparently by State or Federal Government, without the burden shifting to local ratepayers.

And argued its preferred position, that

- *The Generators in Latrobe City be rated and valued under the Local Government Act (“LGA”) and the Valuation of Land Act using the same processes as presently used to determine the rates payable by all other ratepayers;*
- *The definition of Capital Improved Value (CIV) for the purposes of applying that Act in relation to Generators’ land, be made specific in the Valuation of Land Act 1960 to avoid doubt;*
- *The Generators receive the maximum discount allowed under the differential rating provisions of the Local Government Act which is presently a 75% discount on the highest differential rate OR negotiate separate long term (e.g. 10 years) Rating Agreements under S169 of the Local Government Act using these parameters as a basis; and*
- *The small resultant increase in the overall amount of rates to be paid by the Latrobe Generators (< \$2m) be distributed through a rate reduction to other ratepayers, such that the overall quantum of rates raised by Latrobe remains constant.*

The rationale behind this position is as follows:

- *It is a simple and logical approach, the mechanisms for which already exist in an established and proven regime;*
- *It is supported by the Valuer General Victoria, other councils and the MAV;*
- *It addresses the Generators’ issue of uncertainty, putting in place a cap and a methodology for achieving a longer term timeframe within which the Generators can get on with planning and running their businesses;*
- *It recognises the capital intensity of generators, and puts in place a regime that encourages industry growth and further investment; and*
- *It represents the interests of ALL ratepayers in Latrobe.*

The Council argued that, within such a framework, it would be highly likely to reach an independent, commercial rating agreement with its generators within the next few months.

Loy Yang Power disputed the MAV and Latrobe’s arguments re applicability of the Local Government Act (LGA). It contended that the LGA was *introduced at a time when power generators and other essential services were State-owned and their properties were consequently not rateable. As a result, that scheme does not make any allowance for essential service providers or for the particularly high capital intensity of power station sites.*”

Adoption of the LGA approach would also require a raft of associated measures,

such as modified valuations to exclude productive process plant and equipment, a discount to recognise capital intensity, making the discount mandatory to recognise captive industry, and a discount to take into account that the generators are providing an essential service.”

Loy Yang also disputed Latrobe's contention that the concession to generators means that Latrobe ratepayers are subsidising consumer prices, arguing that this is not correct in competitive wholesale electricity market, where generators have to accept market prices.

Southern Hydro also supports the continued use of the EIA as it avoids *the fear of the councils defaulting to inappropriate rating systems and the power of veto over alternative proposals.*

2.2 Other council views

Hobson's Bay City Council generally supported the use of valuations and Local Government Act provisions

Hobsons Bay fully understands the rationale behind the Panel's preferred option of payment in lieu of rates to be based on generator nameplate capacity. Whilst this provides some degree of certainty for the stakeholders it does not address the fairness and equity issues with the ratepayers of Hobsons Bay. . .

All other ratepayers must pay rates based on the capital improved value of their land. The assessment of CIV for some of the larger industrial and petro-chemical complexes can be a laborious and sometimes contentious task; notwithstanding these impediments the final outcomes address the important issues of fairness and equity. . .

With approved guidelines laid down by an independent authority such as the Valuer General it should be possible to overcome the majority of the perceived problems and assess the CIV with some degree of transparency and certainty.

However, while preferring these provisions

it is not the wish of Hobsons Bay to operate under an alternative arrangement to the rest of Victoria. Consequently if the panel decides to recommend its preferred option on the terms outlined in the Position Paper, then Council would not seek to negotiate a stand alone agreement with Ecogen Pty Ltd.

Alpine Shire reiterated the key points of its first submission

- *The Shire's existing agreement with Southern Hydro must be recognised as Council's minimum position;*
- *The Shire would support a standardised methodology based on MW capacity;*
- *A move to such a methodology should ensure that a fair and equitable rates contribution by electricity generators is achieved.*
- *A move to such a methodology must respect existing arrangements.*

Referring to the Panel's proposal,

Council supports the approach being taken in this position paper based on the preferred option for a benchmark payment to be set on installed capacity. Obviously further refinement and discussion needs to take place, particularly with respect to quantum to ensure a fair and equitable rates outcome. However, it must be reiterated that the Shire's existing agreement with Southern Hydro continues to remain Council's minimum position.

Pyrenees Shire Council argued

The Position Paper prepared by the Panel only reinforces that one model for all power generators from coal produced power to wind power is not achievable. . . It is considered that the proposed benchmark of \$900 per MW is neither fair nor equitable.

and

Whilst there is a view that all power generators should be rated on a similar level for equity, it is considered that wind energy is not in direct competition with base load generators but is in fact competing for a share of the renewable energy market not the overall electricity demand. Therefore it is submitted that the panel should approve a two tier rating structure.

Pyrenees concluded

It could only be described as cost shifting by the State Government to achieve and encourage its sustainable energy target. To shift the burden of rates to other ratepayers is not an option to this Council. If the recommendation in the Position Paper are adopted then Council will be forced to review its current policy of supporting wind farm developments.

Glenelg Shire

strongly advocates for the capacity model based on an upper threshold factor of \$2,250 and the amendment of the current Electricity Industry Act by removing the requirement of an Arbitrator to have regard to the Loy Yang B decision. In the event that the Panel does not recommend an appropriate capacity factor as the threshold, then the Glenelg Shire will advocate that all electricity generators be rated under the Local Government Act subject to all rating agreements entered into prior to the commencement of the legislative amendment being honoured. This approach is the basis of the Municipal Association of Victoria submission to the Panel.

Moyne Shire Council considered the \$900 per MW proposal as “grossly inadequate.” The Council disputed linking the benchmark to the original Loy Yang B quantum. It argued

the quantum is not an accepted part of the landscape. It only involves one council – Latrobe! It has not had any relevance beyond the Latrobe boundaries and therefore has not been subject to comment by others, prior to this review. It is certainly not part of the broader local government landscape.

Moyne felt

The Panel has missed the opportunity to establish a methodology and we recognise that this was always going to be a difficult task.

And concluded

unless the Panel, and ultimately the Government identifies an appropriate quantum that is fair and equitable to Moyne or identifies a robust methodology, we basically have no option but to revert to supporting the response made by the MAV: that electricity generators should be rated under the Local Government Act.

2.3 Base Load Generators

Loy Yang Power

considers that the draft recommendation of the panel in the position paper is broadly satisfactory as it balances the interests of municipalities and electricity generators and does not make any radical change to the quantum of payments.

Loy Yang Power also considered two other issues raised in the Position Paper and other submissions. The first was adjusting council rates for environmental factors: Loy Yang noted discussion of carbon taxes or carbon emissions trading.

In our submission, those are the arenas for consideration of such proposals, and it is not appropriate for additional imposts in that area to be considered at municipal level.

The second issue was sovereign risk.

The system for establishing applicable municipal rates is an investment consideration for foreign investors, and a radical change to a tailored formula for the operational sites, and a radical increase in the quantum, would be seen as a sovereign risk issue and a disincentive for future foreign investment.

Edison Mission Energy (EME)

wishes to confirm its support for the preferred option, subject to the following matters:

- i. Where an arbitrator is determining an amount in lieu of rates under the EIA, the arbitrator is not to have regard to the Site Value, Capital Improved Value and Net Annual Value of the relevant land;*
- ii. The amount of the discount on capacity from the benchmark amount could be a sliding scale for output between 10-30% of installed capacity. This would accommodate generators which would normally operate on a mid-merit basis ie between base and peak load.*

EME believes that the preferred option, taking into account the proposed modifications will be fair for all stakeholders, will deliver an outcome that provides certainty to the generators and to local councils and should provide a positive incentive for the investment in and the development of electricity generation in Victoria.

Yallourn, with some 'modest amendments'

supports the approach recommended by the Panel and believes it would be likely to result in greater certainty in the future and a decreased need for arbitration.

We strongly believe that the ability for generators to make payments in lieu of rates under the Electricity Industry Act 2000 (EIA) should remain the fundamental framework.

Yallourn also noted that when the Minister for Energy Industries and Resources and the Minister for Local Government wrote in April 2004 to stakeholders regarding the amendment to the EIA, they set the specific goal to 'avoid excessively high rates being charged on the basis of a full asset valuation'.

In the company's view, a further argument against the LGA is *the recent revaluation of Yallourn Energy's Capital Improved Value (CIV) resulting in a massive proposed increase of about 67%. This assessment is currently subject of a Notice of Objection lodged with the Latrobe City Council.*

Yallourn argued in its first submission that the overall quantum should not be substantially increased. It calculated that the proposed payment under the new option would be \$1,332,000, an increase of \$262,000 (24.5%) on 2004/05 – and preferred "that the figure for dollars per MW of capacity be set at \$700."

However, if the panel determines that a higher figure per MW is appropriate, Yallourn submits that:

- *\$900 per MW should be the absolute maximum, representing an increase of more than 20% for Yallourn; and*
- *introduction of any new increased figure should be ramped to avoid the rate shock to existing business plans in the early years of the new arrangement.*

Yallourn also supported the proposed 50% discount for peaking generators operating less than 10% of the time, and felt this could be extended

We would support additional bands for those generators that, for example run at between 10% and 30% capacity

IPRH Hazelwood commented

The Review Panel are never going to produce a recommended outcome that will fully satisfy all parties. However, on balance, IPRH support the direction being taken in the Position Paper and believe that, with some fine-tuning, the Preferred Option can provide a sound basis for determining the rate liabilities for all classes of generation plant across Victoria.

IPRH, being the oldest base load generator, is by far the biggest "loser" in absolute dollar terms from the application of the preferred option (from \$1 042K in 04/05 to \$1 440K in 05/06, i.e. +\$398K or a 38% increase). However, IPRH are somewhat reluctantly prepared to support the Panel's proposed methodology in the interests of achieving certainty and avoiding the very public disputation with the LCC that has existed in the past and has damaged the reputation of all parties.

IPRH expressed concern

that the Position Paper has not made sufficient effort to ensure that the application of the preferred methodology is as fair as possible to all parties.

While it will not affect Hazelwood, IPRH believes the Review Panel should explore a more sophisticated application of the amount per MW of capacity (or the discount factor) to different classes of generation plant.

As an example, the different classes of generation might be –

Class 1: Base Load Plant – LYB, LYA, YE, IPRH

Class 2: Gas Fired Intermediate Plant – Newport, Bairnsdale¹

Class 3: Gas Fired Peaking Plant – JL, VP

Class 4: Hydro Plant

Class 5: Wind Turbine Plant

IPRH suggested “The \$900/MW would apply to Class 1”, and perhaps optimistically suggested that while

it would be inappropriate for IPRH to suggest on behalf of generators in Classes 2-5 what the recommended amount per MW or discount factor should be . . . it should not be that difficult for the Panel to reach a judgement on what would a fair uniform amount.

2.4 Intermittent Generators

Ecogen noted that the Panel's recommendation would be a 'worst case' scenario for it:

- Jeeralang Power Station's payments would rise from \$56,000 to \$211,000, an increase of 276.8%, “substantially greater than any other percentage increase proposed for any of the other generators”;
- Newport will experience an increase on its existing payment of 37% from \$330,000 to \$459,000.

Ecogen noted

Jeeralang is a 'peaking' facility which is utilised only during periods of peak demand. It is also used as a 'black start' facility to restore power to the grid in the event of major system failure

And disputed some of the analysis in the Position Paper

Ecogen cannot take advantage of the high spot prices during peak demand as the prices are hedged under agreements with retail companies . . . While it is true that prices in the national electricity market do vary and Jeeralang only operates during peak times and times of higher market prices, the hedging contracts stop Ecogen from taking advantage of the higher prices during times of high demand.

¹ The IPRH submission included Bairnsdale in the 'peaking' category. From its capacity factor reported in the table below, this generator is more aptly put in the intermediate category

Ecogen concluded that it

does not support a change to the framework which results in a payment based on capacity. However, if there is to be change, Ecogen submits that there should be a greater discount for peaking facilities of at least 70% and the introduction of a 20-30% discount for intermediate generators having a capacity factor of between 11% and 30%.

Pacific Hydro Limited (PHL) supported

The proposed methodology of setting a benchmark figure based on the original Loy Yang B decision and applying this to installed capacity.

However, PHL argued

- *When compared to coal-fired base load generators, the quantum of \$900 per MW of installed capacity is too high for renewable energy sources for the following reasons:*
 - *Renewable energy (wind is 35%) has a much lower capacity factor than a coal-fired base load generator (90%) and the financial impact of a flat rate of \$900 per MW is much greater for renewable energy generators.*
 - *The PP does not take the environmental benefits of renewable energy into account and PHL suggests that the proposed 50% discount for low capacity generators with a capacity factor under 10% should be expanded to include renewable energy generators with a capacity factor of 50% or below. Or, introduce a sliding scale of a 25% discount for plants generating 10-50% of the time.*
- **PHL maintains** *that a quantum of \$700 per MW of installed capacity is a more reasonable figure in view of the competitiveness of Victorian electricity generators operating in the National Electricity Market. Particular competitive focus should be placed on NSW and Qld that rate on site value and thus impose no rates on electricity generation infrastructure.*

As a way forward, PHL suggested that the Panel should

- For existing generators “establish a rating structure that preserve their current rating arrangements”.
- For new generators, including wind “establish a new framework. . . [setting] the quantum to \$700 per MW of installed capacity and extend the 50% discount to all electricity generators who have a capacity factor of 50% or less

The Australian Wind Energy Association (AusWEA) felt

The Panel’s Preferred Option has both attractive tenets for moving the issue forward in a positive manner, and a high prospect of meeting participants’ needs. However, AusWEA believes that amendments to the Option are necessary to meet the Panel’s review requirements.

Referring to the Terms of Reference,

AusWEA considers that the Panel has identified a means for achieving long-term certainty for both Councils and electricity generators, and a

methodology that has substantial flexibility for application across all Local Government areas and electricity generation sources. AusWEA is not confident, however, that the Preferred Option, as it stands, is fair and equitable to all parties.

The Preferred Option can achieve the required balance, however, it will be necessary to provide separate categories for peak, intermittent and base-load operational capacity, and to provide an appropriate percentage discount for the intermittent category.

AusWEA supports \$900, and the 50% discount for CF less than 10%. It also recommends "an intermittent category of between 10% and 45% operational capacity with an associated 35% rates discount."

The submission also argued that wind generation *in contrast to base load generation, benefits councils in respect of increased employment, greater demand for existing local industry and services, and increased tourism, and these benefits must be included in determining a fair and equitable outcome for both councils and intermittent generators.*

Southern Hydro argued *Southern Hydro and other wind and hydro generators stand to be the most adversely impacted parties should the proposed capacity mechanism be implemented. . . We continue to oppose a capacity based charge as it imposes an unfair burden on peaking and intermittent operators.*

If a capacity charge is to be used, the submission felt a fairer quantum is \$700, with an extension of the discount for peaking and intermittent plant with capacity factors from 10% up to 50%.

The company joined Ecogen in disputing the Position Paper analysis that intermittent generators can receive high prices. Especially during periods such as the current drought

For the most part, the water flowing through hydro stations is released to meet irrigation demand and environmental requirements. These releases may or may not coincide with high spot prices and so there is no guarantee that the generator can invariably capture high prices. In fact over the past two months we have significantly increased generation at Dartmouth in response to instructions from the water authority to provide greater irrigation releases. Prices have been mostly unattractive. We would have much preferred storing the water and releasing it during times of high prices but that option was not ours to exercise.

And therefore

We reiterate our support for a dispatched generation output based rating system which is more aligned with an "ability to pay", [and] is more equitable for renewable peaking and intermittent operations. . .

However if a capacity based system is mandated we recommend that consideration be given to:

- *A system based on average capacity utilised over an agreed time period rather than installed capacity.*
- *A sliding scale of discounts commencing at 50% for plant utilisation of less than 10% through to a lesser discount for utilisation of between 40% and 50%.*

And on the recommendation that existing arrangements be protected

We totally concur with the recommendation as Southern Hydro has long term rating agreements which formed a part of the terms on which our shareholders invested and provides us with some certainty of our rating liability into the future.

3. Panel's Response to Issues Raised

Submissions raised a range of important issues. In the light of these comments, the Panel has revised its preferred position. This section discusses the issues in five broad categories, and gives the Panel's rationale for any changes suggested.

3.1 Electricity Industry Act

The MAV and Latrobe City Council strongly argued that the provisions of the Local Government Act should apply to electricity generators, as they apply to all other ratepayers. Other councils were prepared to support the Panel's proposed capacity approach under the Electricity Industry Act – but indicated they would revisit this support if they feel the quantum is not sufficient.

The generators argued equally strongly against use of the Local Government Act. They particularly raised concerns about the valuation process:

- Yallourn noted the uncertainty stemming from frequent revaluations, especially from the 60-70% increase in its valuation between 2002 and 2004;
- Loy Yang argued that the valuation treatment of electricity equipment has adverse impacts, contrasting the process for its plant with that for the nearby Maryvale plant. In particular, it appears that valuation practice for generators is to include most if not all equipment in the CIV value, while practice for most other industrial plant is to exclude movable equipment – effectively meaning a comparatively higher CIV valuation for electricity generators.

In addition, as noted in the Discussion Paper, and emphasised in the first submission from Moyne Shire, considerable diversity exists in the rates in the dollar struck by councils across Victoria under the Local Government Act. This diversity occurs both in the general rate, and in the extent to which councils use differential rates. The diversity could be exacerbated if differing

decisions were made by councils on the extent of discounts they would offer to electricity generators – which is a likely prospect from the MAV's recommendation that such decisions should be left to councils.

In consequence, the Panel considers that use of the Local Government Act would give little prospect of a standard methodology which, in the words of the Panel's Terms of Reference, can "be applied across all Local Government areas and electricity generation sources."

The MAV, and some other submissions, argued that providing a legislated discount to electricity generators would create a precedent that other large industrial ratepayers would seek to duplicate.

The Panel doubts that the proposed approach would give such a precedent, for two reasons:

- All parties agree that electricity generators are a special case in view of their extreme capital intensity, and should receive some discount on standard local government rates. This capital intensity was documented in the 1996 Boston Consulting Group report summarised in the Discussion Paper; and
- The proposed approach, using the Electricity Industry Act and setting a payment in dollars per MW capacity, quarantines a rates discount to electricity generators more effectively than would a standard (or variable) discount on rates under the Local Government Act.

The Panel therefore concludes that continued use should be made of provisions in the Electricity Industry Act to set a framework for generator payments to local government.

3.2 Use of Capacity Basis

From reviewing stakeholders' initial submissions in its Position Paper, the Panel argued that only two options had the potential for widespread support across both generators and local government:

- Modification of the current provisions, based on the Loy Yang B precedent; or
- Use of a payment per MW installed capacity.

As discussed in the previous section, the only additional option strongly supported in the second round of submissions was use of the Local Government Act. However, this certainly did not win widespread support.

The Position Paper preferred the payment per MW approach. This received considerable (though not universal) support from participants in the second round of submissions.

The Panel maintains its position that the best prospect for a standard methodology is to set a payment per MW of installed capacity.

3.3 Discount for Reduced Capacity Factors

The Position Paper noted arguments from a number of participants in favour of discounted payments for generators with low capacity factors. Several submissions in the second round made similar arguments.

The Position Paper also noted contrary arguments, for example that put by the Valuer General:

Other property owners, such as farmers and large manufacturers, have widely varying income streams, however receive no adjustment in rates to take into account the reduced income periods for droughts, fires, a down turn in prices etc.

In addition, the Position Paper presented analysis of prices potentially gained by peaking generators selling into the higher priced periods of the wholesale market.

Notwithstanding such arguments, the Position Paper noted some generators which, while operating on very low capacity factors, are nonetheless an important part of the electricity network. In its recent submission, Ecogen emphasised this point

Jeeralang is a 'peaking' facility which is utilised only during periods of peak demand. It is also used as a 'black start' facility to restore power to the grid in the event of major system failure

The Position Paper therefore recommended a 50% discount on payments should apply to generators operating at less than 10% capacity factor.

This recommendation was strongly supported in submissions. Many felt that the discount should be extended, to apply on a sliding scale up to 30% or even 50% capacity factors.

The Panel accepts there is some case for revising this aspect. Southern Hydro made particularly strong points on the impact of droughts in both:

- Restricting overall water flows, and therefore capacity factor utilisation;
- Requiring water to be released for irrigation timing, rather than for peak electricity prices.

Similar arguments can also be made for other peaking generators, that take a critical role in the market at high demand times, but operate at low capacity factors in lower demand (and lower price) years.

In accepting these points, the Panel also notes that such stations, when operating at more reasonable capacity, do have the ability to win significantly higher prices from the market.

The Panel therefore proposes to establish a sliding scale for discounts:

- A 50% discount for capacity factors less than 10%

- A 25% discount for capacity factors between 10% and 20%
- No discount for capacity factors above 20%.

The Panel notes that some generators will change between these ranges in different years. While such details are best dealt with in discussions between generators and their councils, an appropriate mechanism may be:

- The generator and council to agree at the start of each financial year what the expected capacity factor will be for that year, possibly based on usage the previous financial year; and
- An audit and reconciliation take place at the end of the financial year. As most variation in electricity demand, capacity factors and prices takes place during summer, reconciliation and any outstanding payments should be able to take place in June, within the financial year.

3.4 Equity with other ratepayers

One of the most important issues raised in the second round of submissions was equity with other ratepayers. Referring to some possible outcomes with large discounts on valuations, the Position Paper stated (p27)

All submissions accepted the arguments presented in the Discussion Paper that electricity generators should receive a discount on normal rates. Figures such as these raise the question of how far such discounts should go before they create anomalies that are publicly seen as inequitable.

Ecogen indicated some of the complexities of the situation in referring to the 2000 Arbitration decision

the issue of equity with other rate payers is incapable of clear definition given the differential rating already possible under the Local Government Act and the implied special case under the Electricity Industry Act

Despite such complexities, equity is an important consideration. A key goal of this Review is to establish a basis for payments which will provide certainty for both generators and local government. If a suggested framework becomes widely seen as inequitable, it is likely that political pressure will build to redress the perceived problems. This hardly creates certainty.

A number of submissions did indeed argue that the proposed recommendation would create such an image of inequity. This was particularly so for smaller generators, for obvious reasons. It is difficult for any ratepayer to compare themselves meaningfully with Loy Yang A. In contrast, if smaller generators receive substantial discounts, their actual payments can be readily compared with rates paid by other ratepayers.

Thus, the MAV argued

under the proposed \$900 payment per MW of installed capacity, wind farm operators would pay only between 6 percent and 27 percent of the total rates levied on other businesses with an equivalent capital improved value.

Moyne described as 'ludicrous' any claim that the \$900 per MW proposal met tests of "fairness and equity – certainly not to local government or to other ratepayers!" It gave specific examples:

Under the Panel's proposal the existing wind farm in Moyne will pay only \$16,380. This is an extraordinary 76% discount on Moyne's full rates and some 86% on a State standardised rate.

For some other councils the concession will be even more significant, such as Ararat – a discount of a staggering 94%! A supermarket in Ararat, valued at approximately 1/15th the value of the wind farm will pay a similar amount of rates.²

Glenelg calculated that, for the Portland project

The adoption of the Panel's recommendation would provide Pacific Hydro with an estimated discount of 85% compared to Council's industrial and commercial rate. This equates to a discount of \$823,725 dollars with the full rate of \$969,975 being reduced to \$146,250. The Glenelg Shire was willing to provide a discount of at least 50% to 60%. As the Portland Wind Energy Project has not been constructed, the figures quoted are subject to the final valuation when the project is completed. However, the figures do provide an indication of the magnitude of the rate discounts proposed by the Panel.

The Panel notes these criticisms, and accepts that comparability with other ratepayers has to be addressed. The following section outlines a mechanism to achieve this, drawing on suggestions by several councils agreeing with Pyrenees

The option of a stepped rate structure for wind farms is fair and equitable and provides long term certainty.

3.5 Quantum

The Position Paper (p36) proposed a quantum of \$900 per MW capacity, calculated by averaging two approaches to updating previous decisions:

- \$950, calculated from the \$700 per MW from the original Loy Yang B decision in 1992, and indexing by subsequent CPI movements to June 2005;
- \$850, calculated from the average payment per MW in the 2000 arbitration, adjusted for the age of some plant and indexed by CPI to June 2005.

The Position Paper also noted (p37) that the proposed \$900 per MW (prior to any negotiated discount for age of plant at specific generators) represented a 30% increase on the 2000 amounts for the four base load generators. While this is greater than the rate of inflation over these years, the Position Paper noted that local government rates generally had moved more than the rate of inflation between 2000/1 and 2002/3. In consequence, a total 30% increase in five years for the base load generators would be an increase "less than most ratepayers are paying."

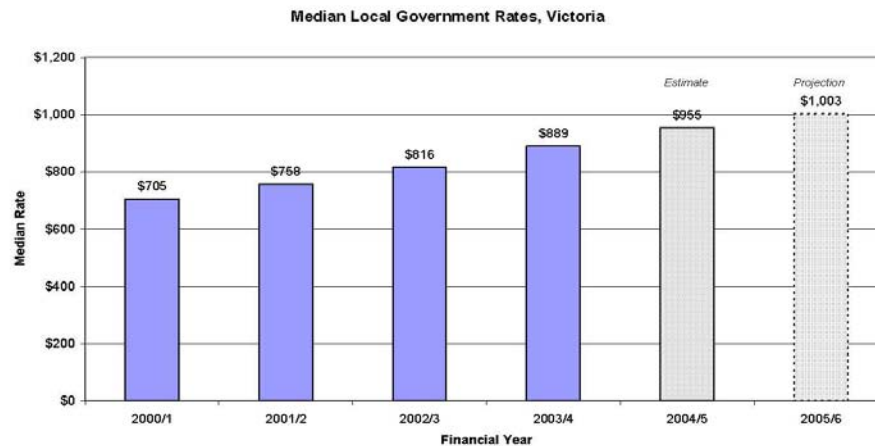
More information is now available on the pattern of local government rates across Victoria, for both 2003/04 and 2004/5.

² The example is of a supermarket valued at \$5 million, compared with an expected valuation of \$75 million for the Chalicum Hills wind farm

The following graph shows the median local government rates per assessment from 2001/2 to 2003/4, taken from data to be published shortly in the *Local Government in Victoria 2004* report. This is supplemented by:

- estimating the 2004/5 figure by applying the average increase in rates of 7.4% reported by councils in a survey conducted by Local Government Victoria
- projecting the 2005/6 figure by applying a conservative 5% increase on the 2004/5 estimate (this 5% increase is less than any annual increase which occurred in the previous four years)

The graph shows the median rate per assessment growing from \$705 in 2000/1 to \$1,003 in 2005/6, an increase of 42%. However, it is worth noting that residential rates have generally increased by slightly more than commercial and industrial rates across these years, so the typical industrial rate increase may be somewhat less than 40%. This is still significantly higher than the 30% increase proposed for generator payments in the Position Paper.



Sources: 2001/2 to 2003/4 – median local government rates per assessment, as reported in councils' Local Government Indicators. *Local Government in Victoria 2004* (in preparation). The annual percentage increases have been: 7.5% in 2001/2; 7.9% in 2002/3 and 8.9% in 2003/4.
 2004/5 – median rate estimated from \$889 for 2003/4, plus the average 7.4% increase in rates for 2004/5 reported by councils to Local Government Victoria
 2005/6 – median rate projected from estimated \$955 for 2004/5, assuming an average increase of 5% in 2005/6

On the grounds of equity with other ratepayers, there is a case for increasing the quantum from the proposed \$900 per MW.

The following table shows two options for increasing the quantum:

- A general increase in the quantum, to \$950 per MW; or
- A stepped payment schedule – with a possibility being a minimum payment of \$40,000, and then \$900 per MW.

Power station	Capacity factor (CF)	Rated capacity (MW)	Payment 2004/05 \$'000	Position Paper \$900 per MW with CF discounts		Alternative 2 \$950 per MW with CF discounts		Alternative 3 \$900 per MW \$40,000 base with CF discounts		
				Est payment 2005/06	Change from 04/05	Est payment 2005/06	Change from 04/05	Est payment 2005/06	Change from 04/05	
Loy Yang A	Coal	0.95	2,000	1,749	1,800	51	1,900	151	1,840	91
Hazelwood	Coal	0.85	1,600	1,070	1,440	371	1,520	451	1,480	411
Yallourn W	Coal	0.85	1,450	1,070	1,305	236	1,378	308	1,345	276
Loy Yang B	Coal	0.95	1,000	923	900	-23	950	27	940	17
Newport D	Gas	0.15	510	335	344	9	363	28	374	39
Jeeralang	Gas	0.05	468	56	211	154	222	166	231	174
Valley Power	Gas	0.05	300	124	135	11	143	19	155	31
Kiewa	Hydro	0.15	194	111	131	20	138	27	161	50
Dartmouth	Hydro	0.15	150	32	101	69	107	75	131	99
Eildon + Rubicon	Hydro	0.15	136	44	92	48	97	53	122	78
Bairnsdale	Gas	0.25	80	150	72	-78	76	-74	112	-38
Challicum Hills	Wind	0.35	53		48		50		88	
Toora	Wind	0.35	21	77	19	-58	20	-57	59	-18
Codrington	Wind	0.35	18		16		17		56	
Portland (proposed) Wind	Wind	0.35	195		176		185		216	

Notes: The position paper number differs slightly from those on p38 of the Position Paper, as the above figures include the proposed 25% discount for capacity factors between 10% and 20%.
The estimated payments for the hydro stations as based on their recent capacity factor experience at 15%.

The two options in the table were developed on the following rationale:

- A general increase in the quantum, to \$950 per MW: when compared with the 2000 payments for the base load generators (once again, prior to any negotiated discount for age of specific plants), this gives an increase of 37%, which is similar to that faced by other industrial ratepayers. However, this option does not address the other concern noted above – of equity with other ratepayers at the lower end of the scale.
- A stepped payment schedule – with a possibility being a minimum payment of \$40,000, and then \$900 per MW (the rationale for these figures is discussed below). As the table shows, compared with the \$950 proposal, this produces:
 - A payment slightly less than the first option for the base load generators;
 - Similar payments for mid-size generators, around 500 MW;
 - Larger payments for the smaller generators

The Panel is attracted to the second option, as it better addresses the question of equity with other ratepayers. Also, this gives a slight incentive for generators to develop extra capacity in an existing station, as the additional impost is \$900 per MW rather than \$950 per MW.

Ultimately, any choice of the numbers will be somewhat arbitrary. Given the diversity of local government rates, any standard proposal will have varying comparability across the State. In considering possible amounts, the Panel has attempted to meet three criteria:

- The payments for larger generators should be broadly consistent in aggregate with general rate increases between 2000 and 2005 for other ratepayers
- They should provide, as far as possible, discounts on the full local government rates for all generators;
- They should minimise possible inequity anomalies.

With these goals in mind, the Panel has decided on the \$40,000 plus \$900 per MW figures as they:

- Produce payments for stations above 500MW similar to the first option;
- Offer significant discounts (of –25%) to the two generators (Toora and Bairnsdale) currently paying rates under the Local Government Act;
- Deliver rate payments which are less anomalous in comparison with other ratepayers. As noted above, Moyne criticised the proposed payment for the Challicum Hills wind farm as it would be the same payment as a supermarket in Ararat valued at 1/15th the amount. Under this new proposal, the payment for Challicum Hills would be \$88,000 – almost twice the rates of the supermarket, and would represent a discount on original valuation similar to that for the base load generators.

In addition, the Panel has been provided confidential information for one proposed wind farm development of the payment offers made by the proponents and the council (including in the latter case a discount on rates). The proposed payment is close to half way between these two positions.³

While the proposed payment schedule best meets these goals, it is possible that the stepped payment arrangement could disadvantage some generators, in comparison with the rates they might pay under the Local Government Act. There are two 'circuit breakers' if this situation does arise:

- The Electricity Industry Act offers generators the option of an alternative mechanism instead of normal local government rates. If the alternative is not attractive, a generator can choose not to exercise the option;
- Throughout this review, councils have emphasised they accept the rationale for some discount for generators, and both the MAV and Latrobe City stressed the ability to offer such discounts under the Local Government Act. Such goodwill offers a good starting point for discussions between generators and councils if anomalies do arise.

³ This is reminiscent of the original Loy Yang B arbitration, in which the Victoria Grants Commission concluded that, in the absence of a specific formula to determine a precise total, the VGC would consider the highest and lowest bids by the parties. In that case, the VGC decided on a payment slightly below half way between the two parties' proposals. (VGC 1992, p13)

4. Panel Recommendation

Following the consultation process, the Panel has revised its preferred position. The Panel recommends to the Government that:

- Electricity generators should continue to have an option, under the Electricity Industry Act, to be able to elect not to pay rates under the Local Government Act, and to make payments in lieu of rates under specific provisions;
- Payments in lieu of rates should be based on \$40,000 plus \$900 per MW of rated capacity – both in June 2005 values, and to be indexed annually to the Melbourne CPI;
- Discounts on the payment figure should apply to generators operating at low capacity:
 - A 50% discount should apply to generators operating at less than 10% capacity
 - A 25% discount should apply for generators operating at between 10 and 20% of capacity
- Notwithstanding this payment value, generators and local government should be able to reach mutually acceptable agreements, on whatever terms and conditions are acceptable to the parties;
- Any existing agreements should continue for the terms specified in that agreement;
- If parties are unable to reach agreement, then arbitration is to occur, taking into account the above basis. In addition, the arbitrator may also consider other issues presented by the parties which may be relevant, including but not limited to:
 - The age of the relevant generator, where this can be shown to have a demonstrable effect on the efficiency of its output; and
 - The impacts of the generator on the local area, both positive and negative, again where it can be shown these impacts should have material effect on the proposed payment level.
- The Panel also recommends a number of implementation mechanisms, as addressed in the next section of this report.

5. Implementation Issues

The Position Paper noted three implementation issues: Indexation, Arbitration mechanism, and dealing with rates shock. A fourth issue was raised in submissions: that of the term that any agreement should last.

5.1 Indexation

The Position Paper reviewed three alternatives for indexing payments, linked to: general local government rates; wholesale electricity prices; or Consumer Price Index.

This issue did not attract much attention in submissions, although Hobsons Bay argued

Council's preference is that the payment is adjusted annually in accordance with the movement in total rate revenue. This adjustment may vary from one municipality to another, however this merely reflects the normal rate environment that all enterprises have to work within.

Alternatively the annual adjustment could be in accordance with rate revenue movement on a statewide basis. This would also promote a more level playing field between competing generator companies in different municipalities.

However, where other submissions considered the issue, they appear to agree with the Position Paper's preference for the Consumer Price Index.

The Panel still views the Consumer Price Index as the appropriate indexation mechanism.

5.2 Arbitration Mechanism

The Position Paper proposed that the current provisions of the Electricity Industry Act should be maintained, to allow for the possibility of arbitration.

The Panel then expressed the views that

- The setting of a benchmark level will hopefully reduce the number of arbitration sessions required;
- Participants generally appreciated the relatively low key arbitration approach taken thus far by the VGC.

The Panel's preferred position was that, if arbitration is to occur, it should take into account the benchmark payment level basis.

In addition, the arbitrator could also consider other issues presented by the parties which may be relevant, including but not limited to:

- The age of the relevant generator, where this can be shown to have a demonstrable effect on the efficiency of its output; and
- The impacts of the generator on the local area, both positive and negative, again where it can be shown these impacts should have material effect on the proposed payment level

These views were supported by several submissions, with Yallourn supporting *the continued option for arbitration if an agreement cannot be reached. However, if clear guidance can be given, we would expect that any future amendments to process, as well as the benchmark, will lessen the need for arbitrations. We are supportive of providing flexibility for the arbitrator but also offering some points of reference when making his/her decision.*

Ecogen supported the elements that the Panel suggested for arbiter's decision, but also

submits that additional issues should be considered including:

- *general state of electricity generation market in Victoria at the time;*
- *rate values and charges applying to other electricity generating assets in the national electricity market;*
- *any existing agreement in place or previously existing, applying to the station; and*
- *other matters considered by the arbitrator to be relevant.*

Southern Hydro argued the factors for arbitration "should specifically include the impacts on the economic viability of the generator of inequitable rates."

These proposed additions would set a very broad canvas for the arbitration. Indeed, the scope is so wide that it might well encourage parties to go to arbitration in the hopes of gaining a better deal. This is the antithesis of the objective in the Panel's Terms of Reference to encourage more certainty.

One important issue is the question of economic viability. The analysis in the Discussion Paper, supported by comments in stakeholders' submissions reported in the Position Paper, is that the proposed level of rate payments would not pose a heavy impost. If this were not the case in a specific situation, the issue would certainly be raised by participants under the rubric of issues "including but not limited to".

The Panel therefore considers that its previous proposal for arbitration guidelines can handle the situation, and maintains that position.

5.3 Avoiding rates shock

The Position Paper noted that some generators may face substantial increases in payments, and suggested such large increases should be phased in. While the Paper considered that “both the timing and the scale of the yearly changes are up to the parties to negotiate”, it felt a phase in over three years seems reasonable.

IPRH Hazelwood supported “a similar approach to what was adopted to implement increases under previous arbitration decisions and avoids any “rate shock”, and suggested

Given the extent of the windfall increase in rates revenue receivable by LCC in 2005/06, the Panel might consider that any rate increases in excess of 10% for a generator be phased in on the basis of a capped increase of 10% pa over a maximum of five years.

Pyrenees agreed with Moyne’s proposal

We believe that it is reasonable that a higher benchmark be ‘stepped in’ over say 4 or 5 years.

Hobsons Bay stated

Council is willing to consider a phasing in of any new agreement, however the precise terms will depend on the final outcome and decision handed down by the State Government.

While this is a matter appropriately left to the parties involved in specific negotiations, the Panel supports the idea of a 3-5 year phase in for large increases in payments.

5.4 Term of Agreement

Hobsons Bay noted

The Position Paper does not make any recommendation regarding the duration of Agreement or rollover provisions in the event that the term of the Agreement is shorter than the relevant Lease or occupancy agreement.

It would be beneficial if the adopted scheme reduced the time and resources currently and historically required to renegotiate a satisfactory arrangement every five years.

As previously, the Panel considers that any existing agreements should continue for the length of their stated term. Consistent with this, if councils and generators wish to establish agreements for mutually acceptable terms, then they should be able to do this.

However, it would be expected that most agreements would refer to the Panel’s suggested amounts, at least as a starting point. It is desirable that a review occur at some stage to ensure this starting point is still appropriate.

While it is possible in legislation to set any time period thought desirable:

- Submissions indicated some feeling that a five year time period is too short;
- It may therefore be useful to apply the standard set in clause 5 of the *Subordinate Legislation Act 1994*, which establishes a 10 year sunset on regulations.

The Panel therefore recommends that, if the Government accepts its recommendations, the new system should be reviewed in ten years' time.

Submissions Received on Position Paper

Councils

Alpine Shire Council
Glenelg Shire Council
Hobsons Bay City Council
Latrobe City Council
Moyne Shire Council
Pyrenees Shire Council

Municipal Association of Victoria

Generators

Ecogen Energy
Edison Mission Energy
International Power Hazelwood
Loy Yang Power
Pacific Hydro
Southern Hydro
Yallourn

AusWEA (Australian Wind Energy Association)

13 INFRASTRUCTURE:

13.1 ROAD CLOSURE – INTERSECTION OF WEST AND VICTORIA STREETS, CLUNES

(Action Officer – Acting General Manager Infrastructure)

File Ref: 7410

Introduction

At the Councillors' Briefing Session held on Tuesday 4 August 2009 a report was presented in relation to receipt of \$34,000 through the Federal Blackspot Funding program 2008/09 for an identified blackspot located at the intersection of Victoria Street and West Street (Learmonth Road) in Clunes. As part of the delivery of the project, a section of the road is required to be closed.

West and Victoria Streets intersection has had a number of incidents with vehicles either entering or exiting at this intersection. Based on this information, an application to rectify the intersection was investigated and an application for Blackspot funding was lodged with VicRoads.

This report formally seeks Council to resolve to implement the road closure following completion of the notification period.

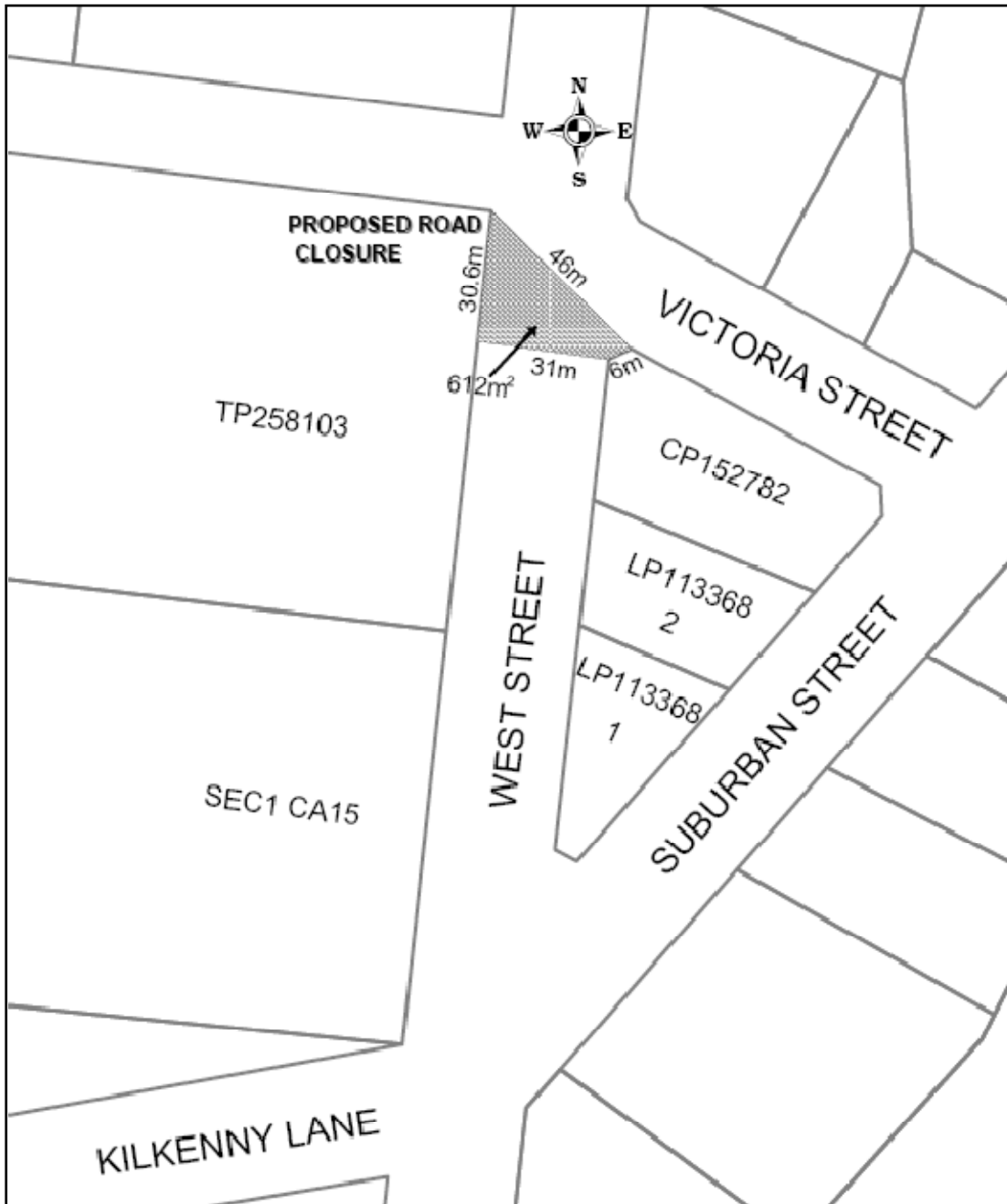
Report

Council advertised its intention to close this section of road and called for public submissions to the proposal on Saturday 5 September 2009 in *The Courier* (Ballarat) and Wednesday 9 September 2009 in *The Advocate*.

Council also sent a letter to abutting property owners and emergency services to provide an opportunity for comment on the proposed road closure.

Council has received no submissions in relation to this proposed road closure at the end of the advertising period on Monday 12 October 2009.

Road Closure – Intersection of West and Victoria Streets, Clunes



Relevant Policies

Council Plan 2009-2013:

7. Disposal of poorly utilised, inefficient or surplus assets in consultation with the community where appropriate

Community Engagement

Notification of proposed road closure was advertised in *The Courier, Ballarat* on Saturday, 5 September 2009 and *The Advocate* on Wednesday, 9 September 2009 and letters were sent to abutting property owners and emergency services that may use this road to service abutting properties.

Financial Implications

Nil

Motion :

13.1.1 That Council consent to the closure of this section of Government Road having determined that the section of road is not reasonably required for public traffic in accordance with Section 206, Schedule 10, Clause 3 of the Local Government Act 1989.

Moved: Cr Tim Hayes

Seconded: Cr Don Henderson

Carried.

13.2 ROAD CLOSURE – DOXA YOUTH FOUNDATION, DRUMMOND NORTH

(Action Officer – Acting General Manager Infrastructure)

File Ref: 5/7255/01900

Introduction

At the Ordinary Meeting of Council held on 18 August 2009, Council received a report about the proposed road closure of an unnamed and unmade Government road butting the Doxa Youth Foundation to allow current buildings to continue to occupy the road reserve.

Council resolved to advertise its intention to proceed under S206 and clause 3 of Schedule 10 of the Local Government Act 1989 to close the road reservation comprising 163m² on Crown Allotment 2023 abutting Crown Allotment 24 and 25.

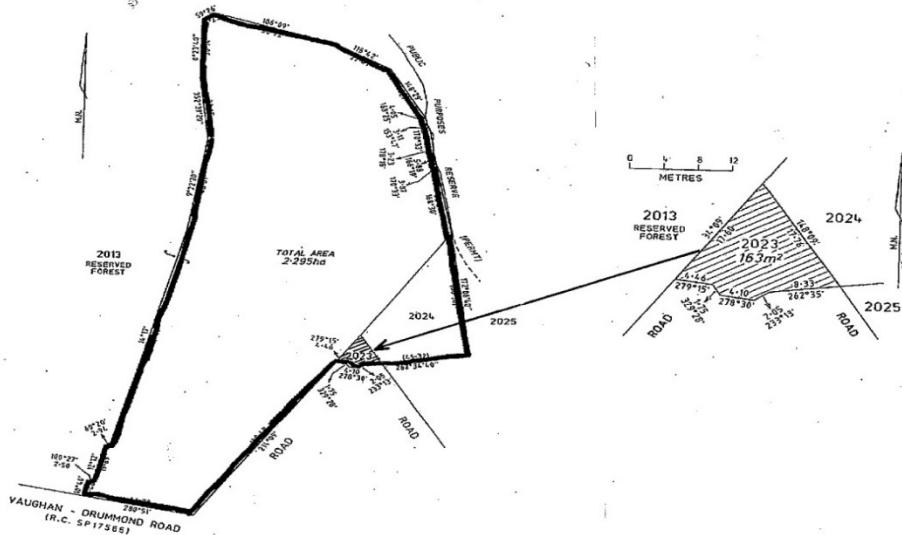
This further report is submitted following the conclusion of the advertising period.

Report

Council advertised its intention to close this section of road and called for public submissions to the proposal on Saturday, 5 September 2009 in *The Courier, Ballarat* and Wednesday, 9 September 2009 in *The Advocate* newspaper.

Council has received no submissions in relation to this proposed road closure at the end of the advertising period on Monday, 12 October 2009.

Road Closure – Doxa Youth Foundation



Relevant Policies

Council Plan 2009-2013:

7. Disposal of poorly utilised, inefficient or surplus assets in consultation with the community where appropriate.

Community Engagement

Notification of proposed road closure was advertised in *The Courier, Ballarat* on Saturday, 5 September 2009 and *The Advocate* on Wednesday, 9 September 2009.

Financial Implications

Nil

Motion :

That Council

13.2.1 Consent to the closure of this section of Government Road having determined that the section of road is not reasonably required for public traffic in accordance with Section 206, Schedule 10, Clause 3 of the Local Government Act 1989.

13.2.2 Ask the property owner to reimburse Council for costs incurred.

Moved: Cr Don Henderdon

Seconded Cr Tim Hayes

Carried.

14. COUNCIL SECTION 86 AND ADVISORY COMMITTEES

14.1 COUNCIL SECTION 86 AND ADVISORY COMMITTEE MINUTES

(A/O – Manager Governance)

File Ref: Various

Introduction

Section 86 Committee and Advisory Committee Minutes are tabled for noting.

Report

Please see listed below the minutes of various Section 86 and Advisory Committees for your information.

- Minutes of the Creswick InfoLink meeting dated 1 September, 27 August, 31 July, 23 July, Annual Report 31 July 2009 and Usage of InfoLink File No: 1/2570/00036
- Minutes of the Clunes Museum meeting dated 23 July File No: 1/2570/00036

Relevant Policies

Nil

Community Engagement

Members of the community are represented on these committees.

Financial Implications

Motion :

- 14.1.1 *That Council note the Minutes of the Committees listed above which have been distributed under separate cover*

Moved: Cr Tim Hayes
Seconded: Cr Janine Booth
Carried.

14.2 APPOINTMENT OF SECTION 86 SPECIAL COMMITTEE OF COUNCIL – DEAN RECREATION AND TENNIS COURT RESERVE

(Action Officer – General Manager Corporate Services)

File Ref:

Introduction

This report provides Council with nominations to the Dean Recreation and Tennis Court Reserve Section 86 Special Committees that Council resolved to call nominations for at the 18th August 2009 meeting.

The Report also recommends to Council the Instrument of Delegation to be signed and sealed by Council indicating the powers and duties expected of the Section 86 Special Committee

Report

Council advertised on 26 August 2009 a call for nominations to the Special Committee with nominations closing on the 8th September 2009.

The following nominations have been received:

Ngairé McKay
Paul O'Brien
Matthew McCann
Kayleen Faull
Jan Jenner

Relevant Policies

Local Government Act 1989

Council Plan 2009-2013

Item 17 Embracing community knowledge and expertise to help guide decision making and implementation.

Community Engagement

The call for nominations to the above Special Committees has been undertaken via a public advertisement in "The Advocate"

Financial Implications

There are no financial implications

Motion :

That Council:

14.2.1 Accept and resolve to appoint the following persons as Special Committee members to the Dean Recreation Reserve Committee:

Ngaire McKay

Paul O'Brien

Matthew McCann

Kayleen Faull

Jan Jenner

and

14.2.2 In exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989 (the Act), resolves that:

*From the date of this resolution, there be established as a special committee –**Dean Recreation and Tennis Court Reserve Committee***

The purposes of the Committee are those set out in the schedule to this resolution.

The members of the Committee are :

Seven (7) community representatives

The Committee is required to report to Council at the intervals specified in the schedule to this resolution.

The members of the Committee who are not Councillors are pursuant to section 81(2A) of the Act, exempted from being required to submit a primary return or ordinary return.

A quorum for the Committee is a whole number that is an absolute majority of the number of members of the Committee.

All members of the Committee have voting rights on the Committee.

*There be delegated to the Committee the powers, duties and functions set out in the attached Instrument of Delegation (**the Instrument**).*

The Instrument:

*comes into force immediately the common seal of Council is affixed to the Instrument;
and*

remains in force until 31 July 2013.

The powers, duties and functions conferred on the Committee by the Instrument must be exercised in accordance with any guidelines or policies Council may from time to time adopt.

The Instrument be sealed.

Moved: **Cr Tim Hayes**

Seconded: **Cr Rod May**

Carried.

Attachment 5
Item 14.2



INSTRUMENT OF DELEGATION **Special Committee**

Section 86 Local Government Act – 1989

Dean Recreation Reserve and Tennis Court Committee of Management

Hepburn Shire Council (Council) delegates to the special committee established by resolution of council passed on 20th October 2009 and known as the Dean Recreation Reserve and Tennis Court Committee (the Committee), the powers and functions set out in the Schedule, and declares that :

1. This instrument of Delegation is authorised by a resolution of Council passed on the 20th October 2009;
2. The delegation:
 - 2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 2.2 remains in force until Council resolves to vary or revoke it; or until the 31 July 2013; and

- 2.3 is to be exercised in accordance with the attached Schedule and any guidelines or policies which council from time to time adopts.
- 3. Exceptions, conditions and limitations.

The Committee is not authorised by this instrument to :

- 3.1 enter into contracts, or incur expenditure, for an amount which exceeds the approved budget; and
 - 3.2 exercise the powers which, by force Section 86 of the Act, cannot be delegated.
- 4. All members of the committee will have voting rights on the Committee.

**The Common Seal of the Hepburn
Shire Council was affixed in the presence of**

.....**Mayor**

.....**Chief Executive Officer**

This.....day of2009

SCHEDULE 1.

Hepburn Shire Council (The Council)

The Hepburn Shire Council as constituted under the Local Government Act 1989 and acting as Committee of Management of Crown Land under the Crown Land Reserves Act 1978.

Name of Committee

The special committee of Council shall be entitled the “ Dean Recreation Reserve and Tennis Court Committee of Management”

Objectives

To administer, manage and control the property:-

Dean Recreation Reserve –Vol.9509 Fol.032 Section 4 Parish of Dean. Lot 2 LP. No 142549. 2.648 ha with Pavilion-Toilet Block-Bus Shelter.
Dean Tennis Courts- Vol.5939 Fol.616 C.A. Pt.3 FA Section 4 Parish of Dean. Two Courts, shelter and fencing.

Hereinafter referred to as the stated property.

Membership of Committee

1. The Committee shall be comprised of:
 - At least 7 community representatives.
2. The Council may at any time, remove a member from the Committee or disband the committee or appoint a member to the Committee.

Office Bearers

The committee shall at its commencement and then at its Annual Meeting each year elect from its members the following office bearers:

- Chairperson of the committee
- Secretary
- Treasurer

Committee Proceedings

1. The Committee shall at its Annual Meeting each year appoint a time and place for regular meetings. Such meetings shall be held at intervals of not more than three (3) months. Should it be necessary to alter the times or place of a regular appointed meeting all members of the Committee shall be given at least forty-eight (48) hours notice in writing of the new time or place.
2. The quorum of the Committee shall be a majority of the members.
3. Each member shall be entitled to one vote and in the event of equality of votes the Chairperson shall have a casting vote as well as a deliberative vote.
4. The Committee shall hold an Annual Meeting during the month of August each year. The Annual meeting shall be advertised in the local newspaper at least fourteen (14) days prior to the meeting date.
5. The Secretary of the Committee shall, on receipt of a requisition signed by the Chairperson, or three (3) members, stating the object of such meeting, within fourteen (14) days call a Special Meeting. Written notice of such meeting shall be given to each member of the Committee specifying the object of the meeting and the time and place where the meeting shall be held.
6. No business, apart from that which is described in the object of a Special Meeting, can be conducted or acted upon by the Committee at a Special Meeting.
7. All motions/resolutions of the Committee, apart from usual, day to day meeting motions/resolutions; shall be reduced to writing before being voted upon.
8. No motion/resolution has any standing if made at a meeting where a quorum was not present.
9. Any contracts or other such instruments that the Committee enters into will have no legal effect upon Council unless preceding clauses (7) and (8) are followed.
10. The Committee shall cause minutes to be kept of all meetings and shall forward to the council a copy of such minutes within fourteen (14) days of each meeting.

Conflicts of Interest

Committee members must observe the provisions of the Local Government Act 1989 as they relate to a conflict of interest in matters of business handled by the Committee. In general a person has a conflict of interest if they have a direct interest in a matter, including where they are likely to directly gain or lose financially or where their residential amenity is likely to be directly affected.

Meetings

All meetings of the Committee must be advertised to the public and be conducted as open meetings. A meeting may be closed by resolution of the Committee to deal with an item of business of a sensitive or confidential nature.(refer provisions of the Local Government Act 1989)

Duties of Chairperson

The Chairperson shall: -

- i. Ensure the Committee operates in accordance with the Local Government Act 1989, Council's Meeting Procedures Local Law, this delegation and any other relevant laws.
- ii. Shall ensure that the required notice of meetings is provided in accordance with the Local Government Act 1989.
- iii. Shall chair the meetings of the committee.

Duties of Secretary

The Secretary shall: -

- i. Conduct the correspondence of the Committee
- ii. Shall have the custody of all documents belonging to the Committee
- iii. Shall keep correct minutes of all proceedings and records of the Committee
- iv. Shall accurately record all written motions/resolutions in the minutes.
- v. Carry out the directions of the Committee (under motion/resolution)
- vi. Shall forward a copy of the minutes of all meetings and ensure a copy of the Financial statements, tabled at the Annual Meeting, are forwarded to the Council within fourteen (14) days of each respective meeting.
- vii. Immediately call a Special Meeting upon receiving the requisition to do so.

Duties of Treasurer

The Treasurer shall: -

- i. Pay into the Bank all monies received by the Committee within seven (7) days of receipt.
- ii. Keep correct accounts and books showing the financial affairs of the Committee.
- iii. Prepare statements of receipts and expenditure.
- iv. Provide a financial report to each regular meeting.
- v. Provide a full statement of all monies received and expended by the committee for the period ending 30th June each year, to the Annual Meeting.
- vi. Provide a statement of assets and liabilities for the period ending 30th June each year, to the Annual Meeting.
- vii. Ensure the person appointed by Council has duly audited the Annual Meeting statements prior to the meeting taking place.
- viii. Ensure that no later than the 31st of August each year a certified copy of each of those statements prepared for the Annual Meeting are forwarded to Council.
- ix. Receive and manage bequests and trust funds made to the Dean Recreation Reserve and Tennis Courts Committee.

Powers and Duties of Committee.

1. The Committee shall: -
 - Ensure they have an understanding of the Instrument of Delegation and they may seek assistance from Council to do this.
 - Ensure any new members have an understanding of the Instrument of Delegation.
 - Ensure all procedures are followed.
 - Set and approve of conditions, fees and charges for use of the stated property.
 - Carry out all minor items of maintenance as defined in the attached Schedule at the Committee's expense.
 - Report to Council on any other items of maintenance.
2. The Committee cannot delegate any of its powers or functions.
3. The Committee may enter into any contract for an amount up to five thousand dollars (\$5,000).
4. The Committee may incur expenditure on any one matter up to ten thousand dollars (\$10,000).
5. The Committee may only borrow money, obtain a bank overdraft or exceed the limits specified in the preceding clauses (3) & (4) upon receiving written approval from Council.
6. The Committee shall ensure that all funds raised by the Committee are only expended on management of and minor maintenance of the stated property.
7. Subject to Clauses 1 – 6 hereof, the Committee may exercise all powers and functions of Council necessary for the control and management of the stated property.
8. The Committee may apply to Council for an advance or contribution of monies for the purpose of improvements on the stated property and if the advance/contribution is approved the Committee shall:
 - Carry out all conditions imposed by Council in making the advance/contribution.
 - Repay out of funds received by it the amount of such advance/contribution in the manner prescribed by Council when making the advance/contribution.
9. The Committee shall ensure a quarterly building inspection is completed with the end of the year inspection being returned to Council engineering by the 31st of December each year.

Finance

1. The Committee shall open a (or maintain the existing) bank account and advise Council of the name of the bank.
2. The Committee shall authorise the manager of its bank to supply the Council with a copy of the Committee's bank account on the written request of the Chief Executive Officer.
3. All expenditure shall be authorised by the Committee and shall be paid by cheque signed by any two (2) of three (3) signatories.
4. The Committee shall ensure that the audit of financial reports presented at the Annual Meeting is made available to Councils' auditor no later than the 1st of August, each year.

Indemnity

Council indemnifies members of the Committee against any action, liability, claim or demand on account of any matter or thing done by them on behalf of the Committee, provided they are acting in accordance with this Instrument of Delegation in an honest and reasonable belief or under a mistake of law that the member was properly exercising any function or power of the Committee hereunder.

Commencement of Delegation

This instrument of delegation commences immediately the common seal of Council is affixed to this Instrument of Delegation, and remains in force until Council resolves to vary or revoke it or the 31st July 2013.

Winding Up

In the event of the Committee being wound up or dissolved for any reason:- all monies, after the satisfaction of all debts and liabilities, or property held or held in trust and any other assets will be paid or transferred to Council. No monies or property shall be distributed to or amongst members of the Committee.

Delegation

The Council by resolution and this Instrument delegates to the Committee its power, duties and functions necessary to meet its purpose and all related matters.

SCHEDULE 2.

Hepburn Shire Council and Dean Recreation Reserve and Tennis Courts Committee of Management.

1. Maintenance has its ordinary meaning and includes cleaning, repairing, painting, polishing or similar activities.
2. Minor Maintenance refers to any activity which has a total cost of \$1,000 or where the Committee has reached the amount of \$3,000 for the financial year in expenditure on maintenance.
3. All legal instruments, being contracts, leases, agreements, licences above the sum of two hundred (\$200) must be executed and attested to in the following manner: -

*“This contract/agreement/licence/lease** is executed by The Dean Recreation Reserve and Tennis Courts Committee of Management for and on behalf of the Hepburn Shire Council in accordance with the terms of its Appointment and Instrument of Delegation”*

Signed _____

Committee member #1

4. The Committee will set the fees, charges and conditions to hire the stated property.
5. The Committee will pay the following outgoings as appropriate:-
 - Electricity
6. The Committee will be responsible for the minor maintenance of the above property.
7. Council will be responsible for all major maintenance of the property.

END SCHEDULES

14.3 CALL FOR NOMINATIONS –SECTION 86 SPECIAL COMMITTEES OF COUNCIL

(Action Officer – General Manager Corporate Services)

File Ref: Various

Introduction

This report will inform Council of its obligations under the Local Government Act 1989 with regards to the reviewing of delegations which are in place under Sec 98(1) and Section 86 of the Local Government Act 1989('act'). The report proposes call for nominations to the following Section 86 Committees:

- Lyonville Hall Committee (at least 7 members)
- Glenlyon Recreation Reserve (at least 7 members)
- Clunes Community Centre (at least 7 members)
- Campbelltown School Ground (at least 5 members)

Report

Hepburn Shire Council is required to review all delegations which are in place under Section 98(1) and Section 86 of the Local Government Act 1989 within 12 months of a general election. Council recently appointed the Clunes Museum Committee and Clunes Municipal Purpose Committee (Town Hall) for a period ending 31st July 2013 and this meeting will appoint the Dean Recreation and Tennis Court Reserve Committee for the same period.

It is anticipated that if Council resolves to call for members for the above committees now, that it will be in a position to reappoint these committees at the November Council meeting, and in doing so can resolve to sign and seal a new Instrument of Delegation to the Special Committees

It is recommended that :

- Lyonville Hall
- Glenlyon Recreation Reserve
- Clunes Community Centre
- Campbelltown School Ground Committees

be appointed for the period ending 31st July 2013 to co-incide with the review period of the Council to be elected in 2012 as has been the case with the Committees already appointed.

Council has also resolved (August 2009) to exempt members of special committees (who are not Councillors or nominated Officers) from completing Interest Returns in accordance with Section 81 of the Local Government Act 1989.

It is recommended that Council now call for nominations to serve the above Committees for the period ending 31 July 2013 .

Relevant Policies

Local Government Act 1989

Council Plan 2009-2013 :

Item 17 Embracing community knowledge and expertise to help guide decision making and implementation.

Community Engagement

Delegations are of a procedural nature and are necessary for the functioning of everyday Council business. There will be notices published in the local press calling for nominations for members of the committees listed above.

Financial Implications

There are no financial implications.

Motion

That Council:

14.3.1 Call for nominations to the following Special Committees of Council to serve a period ending 31st July 2013;

- *Lyonville Hall Committee – at least 7 members*
- *Glenlyon Recreation Reserve – at least 7 members*
- *Clunes Community Centre Committee – at least 7 members*
- *Campbelltown School Ground Committee – at least 5 members*

14.3.2 In accordance with Council's previous resolution exempt members of special committees (who are not Councillors or nominated Officers) from completing Interest Returns in accordance with Section 81 of the Local Government Act 1989.

Moved: Cr Jon Barrell

Seconded: Cr Sebastian Klein

Carried.

Cr May left the meeting at 10.12pm

PROCEDURAL MOTION :

That Council deal with Item 14.5 before Item 14.4.

Moved : Cr Don Henderson

Carried.

Cr Rod May returned to the Meeting at 10.14pm.

14.4 HERITAGE ADVISORY COMMITTEE (Formerly Item 14.5)

(Action Officer – General Manager Sustainable Development)

File Ref: 66/08/02

Introduction

This report provides information on three recommendations from the Hepburn Shire Council Heritage Advisory Committee relating to committee membership and appointment of a nominated representative to the Culture and Arts Advisory Committee.

Report

The Heritage Advisory Committee at its last meeting held on Tuesday, 8 September 2009 resolved to make three recommendations to Council as follows:

1. Accept the resignation of Peter Horsburgh, community representative, and write to Peter to thank him for his contribution to the Committee whilst a member.
2. Advertise in the *Advocate* newspaper calling for nominations for two new community representatives to become members of the Committee.
3. Nominate Ina Bertrand as the Heritage Advisory Committee representative on the Culture and Arts Advisory Committee.

Relevant Policies

Local Government Act 1989

Council's Local Law No 1 – Meeting Procedures and Common Seal

Hepburn Shire Council Heritage Advisory Committee – Terms of Reference January 2008

Community Engagement

Call for nominations from the community for Committee membership.

Financial Implications

Council has allocated funds within the current budget to cover the operating costs of this Committee. There are minimal financial implications in advertising for nominations.

Motion :

That Council:

- 14.5.1 *Resolve to accept the resignation of Peter Horsburgh and write to him to thank him for his contribution to the Heritage Advisory Committee.*
- 14.5.2 *Call for nominations for membership on the Heritage Advisory Committee to fill two vacancies for Community Representatives.*
- 14.5.3 *Nominate Ina Bertrand as the Heritage Advisory Committee representative to join the Culture and Arts Advisory Committee.*

Moved: Cr Sebastian Klein

Seconded: Cr Don Henderson

Carried.

14.5 APPOINTMENT OF CULTURE & ARTS ADVISORY COMMITTEE (formerly Item 14.4)

(Action Officer – General Manager Community Development)

File Ref: 04 02 01

Introduction

The purpose of this report is for Council to consider community nominations for appointment to the Hepburn Culture & Arts Advisory Committee (CAAC).

Report

Council adopted Terms of Reference for a Culture & Arts Advisory Committee (**Attachment 3**) in February 2007. Council also resolved to advertise for Expressions of Interest for community members to form the Committee every two years or as vacancies arise. Expressions of Interest for the Advisory Committee were advertised in the Advocate and via the Culture and Arts email news list in June 2009.

The following 12 (twelve) nominations have been received:

Tracy Anthony
Ian Head
Sally van Rooden
Margaret Giles
Marian Chivers
Louiseann Zahra-King
Anna Schlooz
Paula Collard
Saskia Post
Ivor Bowen
Cecily Davis
Lynn Ann Buddenbaum

All nominees meet the eligibility criteria as detailed in the Terms of Reference and offer a mix of community and skill based representation. It is anticipated that additional community members will join the Committee that meet criteria in the Terms of Reference that remain vacant (one young person (under 25 years) representative and one representative of the Heritage Advisory Committee).

The Advisory Committee will have the power to co-opt expertise and knowledge and to establish working groups to manage specific priorities.

Nominees attended an Information Session on Wednesday, 30 September 2009 where it was recommended to undertake a strategic planning session in November this year. The development of a strategic priorities document will guide the work of members throughout their term and identify several focus areas including the implementation of the LEAP (Localities Enhancing Arts Participation) project.

It is envisaged that members of the advisory committee will brief Council in December to present key goals and issues identified.

Relevant Policies

Council Plan – “We will assist our residents to improve the health, safety and vibrancy of our communities”.

Community Engagement

Nominees represent geographical communities across the shire including: Daylesford, Glenlyon, Porcupine Ridge, Creswick, Eganstown, Broomfield and Trentham. Nominees responded to advertisements in the Advocate and via the Culture and Arts email news list in June 2009.

Financial Implications

The 2009/10 Council arts and culture budget allocation is \$4,000 which will be expended to cover operational costs of the advisory committee and any costs necessary to engage specialist skills for the November planning session.

Motion :

14.4.1 That Council appoint:

Tracy Anthony

Ian Head

Sally van Rooden

Margaret Giles

Marian Chivers

Louiseann Zahra-King

Anna Schlooz

Paula Collard

Saskia Post

Ivor Bowen

Cecily Davis

Lynn Ann Buddenbaum

to the Hepburn Culture & Arts Advisory Committee for a period of two years.

Moved: Cr Sebastian Klein

Seconded: Cr Tim Hayes

Carried.

Attachment 6
Item 14.4

HEPBURN CULTURE & ARTS ADVISORY COMMITTEE

Purpose/Terms of Reference

Definitions:

Culture shall be taken to be the amalgam of ways of living, customs, activities, values, traditions, diversity, human ingenuity and heritage that come to define a community and which are remembered, celebrated and preserved for future generations.

Arts shall be taken to include the visual and performing arts, design, music, dance, literature, craft, and other developing forms of artistic expression such as multimedia, new technologies and/or cross platform expressions of differing art forms as well as any expression of creativity and innovation within the community.

Purpose:

The Culture and Arts Advisory Committee (CAAC) has no delegated powers.

The purpose of the Culture and Arts Advisory Committee is to advise Council in relation to:

- Culture and Arts policy;
- Culture and Arts facilities;
- Development, promotion and education on culture and arts within the Shire and its culture and arts industries;
- Cross fertilisation of culture and arts with other aspects of Shire activities such as tourism, economic development and heritage;
- Council funding of culture and arts.

Terms of Reference:

The Culture and Arts Advisory Committee Advisory Committee does not have a statutory role.

The role of the Culture and Arts Advisory Committee Advisory Committee is to:

- i. Provide advice on general culture and arts policy and strategies (including indigenous culture and arts).
- ii. Encourage the valuing of and the importance of nurturing culture and arts within the Shire as a valued community asset and acknowledge its role in the social health and contribution to the well being of the community.
- iii. Provide advice on the culture and arts requirements, use and development of new and existing facilities including Shire Halls and community facilities
- iv. Develop and maintain an Arts register of artists, arts organisations, and arts-related businesses within the Shire.
- v. Provide advice on the development, protection and promotion of culture and arts activities within the Shire and their economic viability and sustainability

- vi. Provide advice on broad education initiatives and policy relating to culture and the arts throughout the Shire including but not limited to skills development for practising or aspiring artists, art appreciation and involvement in the arts
- vii. Work with the Arts and Cultural Development Coordinator and other relevant Council Officers whose work impinges on the activities and area of interest of the Culture and Arts Advisory Committee.
- viii. Promote healthy networks of artists, arts organisations and arts-related businesses to maximise the potential, success and community strengthening attributes of arts within the Shire.
- ix. Encourage visiting artists, performances, demonstrations and exhibitions to the Shire to expand the community's and artists' vision of their own and other arts forms and their potential.
- x. Encourage the networking and exchanges of work (exhibitions, performances etc) between this Shire and neighbouring Shires.
- xi. Encourage and assist artists, arts-based or arts-oriented business in the Shire.
- xii. Provide policy advice on the establishment and maintenance of a Council Collection which might include visual arts, music recordings, photography, recordings of performances etc as both an historical and cultural record and enhance the community's access to art forms.
- xiii. Encourage and develop policy on public arts purchase and installation throughout the Shire.
- xiv. Cross reference with the Heritage Advisory Committee on the arts and cultural aspects of heritage, built environment and natural environment and facilitate the collection, promulgation, dissemination and "telling" of the stories of the Shire.

Composition:

a) Council:

Representation as agreed

b) Community:

Council would appoint people with experience, knowledge and understanding of culture, arts and events issues as well as a representative of the business communities and a representative of the general community.

The Committee should comprise up to fourteen (14) members and membership should:

- contain at least one young people (under 25 years) representative;
- contain at least one representative of the Heritage Advisory Committee;
- contain at least 1 representative of business organisations;
- contain at least 1 representative of the general community;
- reflect the Shire's geographic diversity;

- include representatives of arts organisations;
- include a strong representation by practising artists;
- reflect a broad range of art forms and activities.

Meeting frequency:

A minimum of four times per year

Term of Appointment:

2 years (half retiring annually)

Responsible Unit:

Community Development Department

15 CONFIDENTIAL ITEMS: CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC

That pursuant to the provisions of Section 89(2) of the Local Government Act 1989, the meeting be closed to the public in order to consider:

- (d) Contractual matters;
- (h) Any other matter which the Council or special committee considers would prejudice the Council or any person;

Motion :

- 15.1 *That the meeting be closed to members of the public under Section 89(2) of the Local Government Act 1989, specifically the following sub-section:*
89(2)(d) Contractual matters
89(2)(h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person.

Moved: Cr Rod May
Seconded: Cr Sebastian Klein
Carried.

15.2 APPOINTMENT OF INTERNAL AUDITOR

(Action Officer – General Manager Corporate Services)

File Ref: 30/04/06

Motion

That Council:

- 15.2.1 *Appoint Pitcher Partners as the provider of internal audit services for a period of three years;*
- 15.2.2 *Sign and seal the contract documents; and*
- 15.2.3 *Make public the awarding of the contract to Pitcher Partners*

Moved: Cr Jon Barrell
Seconded: Cr Sebastian Klein
Carried.

**Cr Janine Booth left the Meeting at 10.20pm due to Conflict of Interest.
Cr Rod May left the Meeting at 10.20pm and returned at 10.22pm.**

15.3 SUPPLY OF BANKING SERVICES - CONTRACT NO H202-2009

(Action Officer – General Manager Corporate Services)

File Ref: 30/06/01

Motion :

That Council:

15.3.1 Appoint the Commonwealth Bank of Australia as the provider of banking services to Council for a period of three years with options to extend the contract for two further periods of one year at the discretion of Council; and

15.3.2 Sign and seal the contract documents.

15.3.3 Make public the awarding of the contract to the Commonwealth Bank of Australia.

Moved: Cr Jon Barrell

Seconded: Cr Don Henderson

Carried.

Cr Janine Booth returned to the Meeting at 11.12pm.

16. RE-OPENING OF MEETING TO PUBLIC

Motion

16.1 That Council having considered the confidential items, re-opens the Meeting to members of the public.

Moved: Cr Sebastian Klein

Seconded: Cr Rod May

Carried.

17. ITEM OF URGENT BUSINESS

Motion:

17.1.1 That Council consider an Item of Urgent Business

Moved: Cr Sebastian Klein

Seconded: Cr Janine Booth

Carried.

17.2 ACCIDENT COMPENSATION FOR COUNCILLORS.

Motion :

17.2.1 That Council support the recommendations made by Peter Hanks QC in the *Accident Compensation Act Review – Final Report, 2008*, that:

- a) Scheme cover under the AC Act be extended to municipal councillors by amending the relevant section of the AC Act;
- b) Regulations or guidelines are developed to clarify the circumstances in which councillors would be regarded as acting in the course of their employment; and
- c) Councillors would only be regarded as employed by the council for the purposes of the AC Act and would not be considered employees of the council under other legislation.

Moved: Cr Sebastian Klein

Seconded: Cr Jon Barrell

Carried.

Division called:

YES

Cr Bill McClenaghan

Cr Jon Barrell

Cr Tim Hayes

Cr Sebastian Klein

Cr Janine Booth

NO

Cr Rod May

Cr Don Henderson

Cr Don Henderson requested his dissent be recorded.

17. CLOSE OF MEETING The meeting closed at 11.40pm.