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## **AGENDA**

### **SCHEDULED MEETING OF COUNCIL** **FOR** **WEDNESDAY 22 SEPTEMBER 2021** **TO BE HELD AT COBRAM CIVIC CENTRE** **COMMENCING AT 5:00 PM**

#### **RECORDING**

Consistent with section 12.3 of our Governance Rules, Council officers have been authorised to record the public session of this meeting using an audio recording device.

#### **LIVE STREAMING**

Council meetings will now be lived streamed to allow those interested in viewing proceedings greater access to Council decisions and debate, without attending the meeting in person.

#### **1. CALLING TO ORDER – CEO**

#### **2. PRAYER**

Almighty God we humbly ask you to guide our deliberations for the welfare and benefit of the Moira Shire and its people whom we serve.

Amen

#### **3. ACKNOWLEDGEMENT OF COUNTRY**

We, the Moira Shire Council, would like to acknowledge the traditional owners of the land upon which we meet and pay our respects to their Elders both past and present.

#### **4. APOLOGIES & REQUESTS FOR LEAVE OF ABSENCE**

#### **5. DECLARATION UNDER ACTS, REGULATIONS, CODES OR LOCAL LAWS**

#### **6. DECLARATION OF ANY INTEREST OR CONFLICT OF INTEREST**

#### **7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**Recommendation:** “That the minutes of the Ordinary Council Meeting held on Wednesday, 25 August 2021, as prepared, be confirmed.”

#### **8. COUNCILLOR TO PROVIDE VERBAL REPORTS**

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<b>9. PUBLIC QUESTION TIME</b>	
<b>10. OFFICER REPORTS FOR DETERMINATION</b>	
<b>10.1 OFFICE OF CEO</b>	
NIL	
<b>10.2 CORPORATE</b>	
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<b>10.3 COMMUNITY</b>	
NIL	
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<b>11. ACTION OFFICERS LIST</b>	
NIL	
<b>12. NOTICES OF MOTION</b>	
NIL	
<b>13. PETITIONS AND JOINT LETTERS</b>	
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<b>14. COUNCIL SEAL</b>	
NIL	
<b>15. GENERAL BUSINESS</b>	31
<b>16. CLOSE OF MEETING</b>	

File No: Various

Item No: 9

### QUESTIONS FROM THE PUBLIC GALLERY

Questions of Council are an opportunity for the general public to submit a question prior to the Ordinary Meeting and receive a response from Council in the Questions of Council time.

- (1) The Council will hold Questions of Council Time for up to 30 minutes duration at the beginning of each Ordinary Meeting to allow questions of Council. Extension of time may be granted at the discretion of the Mayor.
- (2) Questions of Council are an opportunity for the general public to submit a question prior to the Ordinary Meeting and receive a response from Council in the Questions of Council time.
- (3) Council meetings are recorded and broadcasted to the public, this includes community questions and responses.
- (4) Questions of Council time will not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 66 (1) of the Act.
- (5) Questions of Council may be on any matter relevant to the jurisdiction of the Council except if it:
  - (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
  - (b) relates to confidential information as defined under the Act;
  - (c) relates to the personal hardship of any resident or ratepayer; or
  - (d) relates to any other matter which the Council considers would prejudice the Council or any person.
  - (e) Deals with a subject matter already answered
- (6) No more than two questions will be accepted from any person at any one meeting.
- (7) Where the Chief Executive Officer does not accept a question, the submitter is to be informed of the reason or reasons for which their question was not accepted.
- (8) A question submitted in writing by a member of the public, which has been disallowed by the Chief Executive Officer will be provided to any Councillor on request.
- (9) Questions may be read by the submitter where they are present at the meeting. Where the submitter is not present they shall be read by a delegate of the Chief Executive Officer and may be abridged to get to remove unnecessary commentary and only state the question.
- (10) Questions submitted to the Council must be:
  - (a) in written form;
  - (b) contain the name, address and email or contact telephone number of the person submitting the question;
  - (c) in a form approved or permitted by the Council (Template available on Council's website);
  - (d) addressed to the Chief Executive Officer; and
  - (e) submitted no later than the day prior to the meeting by email to [info@moira.vic.gov.au](mailto:info@moira.vic.gov.au) clearly stating is a question for the meeting.

FILE NO: F13/503  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.2.1  
(SENIOR GOVERNANCE OFFICER,  
MARGARET HINCK)  
(GENERAL MANAGER CORPORATE, SIMON  
RENNIE)

## ASSEMBLIES OF COUNCILLORS AUGUST 2021

### RECOMMENDATION

That Council receive and note the Record of Assemblies of Councillors for August 2021.

#### 1. Executive Summary

The purpose of this report is to detail the Assemblies of Councillors held in August 2021. These records provide transparency in councils decision making process, in line with Council's commitment to the principles for public transparency and Council's Public Transparency Policy.

#### 2. Background and Options

This report provides details of Councillor Assemblies that have been held for the month of August 2021 and whether a conflict of interest disclosure was made by a Councillor.

An Assembly of Councillors can be defined as:

- A meeting (other than a Council or special committee meeting), briefing or other activity where at least half of the Council and a member of Council staff is present; and
- Where the matters considered may be subject to a decision of Council or exercise of a function, duty or power of the Council that has been delegated to a person or committee.

No formal decisions can be made at an Assembly but rather discussion and questions on the issues allow Councillors to be fully informed for the Council meeting.

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5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.2.1

**ASSEMBLIES OF COUNCILLORS AUGUST 2021 (cont'd)**

Meeting	Present at meeting	Matters discussed	Declaration of Interest(s)
<p>Council Briefing  11 August 2021</p>	<p><b>Councillors:</b> Libro Mustica Julie Brooks Kevin Bourke Ed Cox Peter Elliott Peter Lawless Wayne Limbrick Peter Mansfield</p> <p><b>Staff:</b> Chief Executive Officer Clare Keenan</p> <p>General Manager Infrastructure Andrew Close</p> <p>General Manager Community Sally Rice</p> <p>Manager Recreation, Health and Culture, Manager Governance and Risk, Manager Economic Development, Infrastructure Liaison Officer.</p>	<p>Tourism Strategy discussion / survey</p> <p>Community Vision update</p> <p>Municipal Public Health and Wellbeing Plan</p> <p>Draft Agenda Review</p>	<p>Nil</p>

FILE NO: F13/503  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.2.1

**ASSEMBLIES OF COUNCILLORS AUGUST 2021 (cont'd)**

Meeting	Present at meeting	Matters discussed	Declaration of Interest(s)
Council Briefing 25 August 2021 Briefing was held via Zoom	<p><b>Councillors:</b> Libro Mustica Julie Brooks Ed Cox Peter Elliott Peter Lawless Wayne Limbrick Peter Mansfield Marie Martin</p> <p><b>Staff:</b> Chief Executive Officer, Clare Keenan  General Manager Infrastructure, Andrew Close  General Manager Community, Sally Rice  General Manager Corporate, Simon Rennie</p>	<p>Agenda Review Annual Report Audit and Risk Committee</p>	Nil

**3. Financial Implications**

There are no financial implications to consider with this report.

**4. Risk Management**

Preparing Assemblies of Councillors provides transparency in Council's decision-making process.

**5. Internal**

The General Manager Corporate was consulted in preparation of this report.

**6. Council Plan Strategy**

Transparent and accountable governance.

**7. Legislative / Policy Implications**

This report aligns with Council's commitment to the principles for public transparency detailed in Council's Public Transparency Policy.

**8. Environmental Impact**

There are no environmental impacts to consider with this report.

**9. Conflict of Interest Considerations**

There are no council officer conflicts of interest issues to consider within this report.

FILE NO: F13/503  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.2.1

**ASSEMBLIES OF COUNCILLORS AUGUST 2021 (cont'd)**

**10. Conclusion**

The details of the assembly of Councillors incorporated into this report are a true and accurate record of all Assemblies of Councillors reported during August 2021.

**Attachments**

Nil

FILE NO: F  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.2.2  
(SENIOR GOVERNANCE OFFICER, NANCY  
MUSTICA)  
(GENERAL MANAGER CORPORATE, SIMON  
RENNIE)

## AUDIT AND RISK COMMITTEE MEETING MINUTES 16 SEPTEMBER 2021

### RECOMMENDATION

That Council:

1. Accept the minutes of the Audit and Risk Committee meeting held on 16 September 2021; and
2. Endorse the recommendations contained within the reports.

### 1. Executive Summary

The Audit and Risk Committee is an independent advisory Committee to Council. The primary objective of the committee is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risks and maintaining a reliable system of internal controls.

The main objective of the September Audit and Risk Committee meeting was to consider the audited draft 2020/21 Financial Report the 2020/21 Performance Statement for certification by Council and inclusion into the Moira Shire Council 2020/21 Annual Report.

The Audit and Risk Committee considered the following reports:

- 2020/21 Asset Valuations – Conclusion on Fair Value
- Draft Financial Report and Performance Statement 2020/21
- VAGO Closing Report 2020/21

The minutes of the Audit and Risk Committee held on 16 September 2021 are attached for consideration.

### 2. Financial Implications

There are no financial implications to consider with this report.

### 3. Risk Management

The Audit and Risk Committee manage the risks within the reports provided.

### 4. Internal and External Consultation

Consultation is conducted internally with the Audit and Risk Committee, Executive Leadership Team and Senior Management.

### 5. Regional Context

All Victorian Council's are required to produce their financial statements and performance statements at the end of the financial year.

### 6. Council Plan Strategy

This report and its content aligns with Council Plan Strategic Pillar 5 – Transparent and Accountable Governance.

### 7. Legislative / Policy Implications

There are no implications with this report.



FILE NO: F  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.2.2

**AUDIT AND RISK COMMITTEE MEETING MINUTES 16 SEPTEMBER 2021 (cont'd)**

**8. Environmental Impact**

There is no environmental impact with this report.

**9. Conflict of Interest Considerations**

There is no officer conflict of interest considerations.

**10. Conclusion**

That Council receive and accepts the minutes of Audit and Risk Committee meeting held on 16 September 2021 and endorse the recommendations contained within the reports.

**Attachments**

- 1 Audit and Risk Committee Minutes - 16 September 2021 - to be attached - *printed in separate document*

FILE NO: F  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.2.3  
(SENIOR GOVERNANCE OFFICER, NANCY  
MUSTICA)  
(GENERAL MANAGER CORPORATE, SIMON  
RENNIE)

## MOIRA SHIRE COUNCIL ANNUAL REPORT 2020/21

### RECOMMENDATION

That Council receives and notes the 2020/21 Annual Report including the audited Financial Statements and Performance Statement.

#### 1. Executive Summary

Moira Shire Council's 2020/21 Annual Report including the audited Financial Statements and Performance Statement is provided for noting by Council.

The Financial Report for the year ended 30 June 2021 and the Performance Statements for 2020/21 have been prepared in accordance with the Australian Accounting Standards, the Local Government Act 2020 and the Local Government (Planning and Reporting) Regulations 2020.

The Annual Report 2020/21 is attached for Council to note and is required to be provided to the Local Government Minister by 30 September 2021.

#### 2. Background and Options

This Annual Report reviews Moira Shire Council's achievements from the final year of the 2017-2021 Council Plan and details the Council's financial position for the 2020/21 financial year.

The role of Council includes:

- Taking into account the diverse needs of the local community;
- Establishing strategic objectives then monitoring achievements and progress;
- Ensuring resources are managed in a responsible and accountable manner;
- Advocating for the interests of the Moira community to the three tiers of government.

#### COVID-19

The COVID-19 outbreak continues to affect our whole region and we have refocused our attention on representing business and community views to Government and preparing for longer-term recovery.

It is vital Council provides a solid framework from which our communities will be able to rebuild quickly therefore, we will play an important supporting role in the recovery phase of the pandemic to support business and community engagement.

#### Highlights

During the 2020/21 year we committed to providing a solid framework from which our communities would not only survive, but be able to rebuild quickly and efficiently.

The planning of major projects advanced with the detailed design work nearing completion for a \$15 million infrastructure development for Yarrawonga which included a new Library and a multi-sport stadium.

Planning for the Numurkah Flood Mitigation Project also progressed with alignment work for the proposed levee nearing completion.

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5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.2.3

## MOIRA SHIRE COUNCIL ANNUAL REPORT 2020/21 (cont'd)

Private sector investment in the shire continued to broaden the local economy with transport, renewable energy and resort accommodation projects creating new jobs and lifting the region's profile.

Rainfall has been steady moving into 2021, with growers optimistic for a second bumper crop coming off the back of last year's record harvest.

### Organisational performance

This Annual Report is the sixth year of reporting under the Victorian Government's Local Government Performance Framework.

Our steady improvements each year have translated to significant gains for our ratepayers and service users.

Some highlights include:

- Expansion of the Community Strengthening Grants to include direct support for COVID-19 impacted businesses;
- Management of roadside weeds and pest animals across almost 1,700km of road network continues to be supported with Federal Government funding;
- Road repair requests remain at relatively low levels;
- Maintaining strong levels of Maternal and Child Health participation, despite continued COVID-19 restrictions.

Our future funding priorities have been detailed in our Financial Plan 2021-2031 and our Revenue and Rating Plan 2021-2025; these plans detail our intention to invest more than \$70 million across the next four years to renew existing council roads, buildings and facilities.

### 3. Financial Implications

There are no further financial implications.

### 4. Risk Management

There are no further risks associated with the Annual Report.

### 5. Internal and External Consultation

The Annual Report will be made available online and for inspection at Council Service Centres after the September Council Meeting.

### 6. Council Plan Strategy

Delivery of the Annual Report aligns with Council Plan Strategic Pillar 5 – Transparent and Accountable Governance.

### 7. Legislative / Policy Implications

The Annual Report meets Council's obligations under the Local Government Act 1989 and is prepared in accordance with the model reports provided by the Department.

### 8. Environmental Impact

Hard copies of the report will be available for display at Council's Service Centre.

### 9. Conflict of Interest Considerations

There are no officer conflict of interest issues to consider within this report.

FILE NO: F  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.2.3

**MOIRA SHIRE COUNCIL ANNUAL REPORT 2020/21 (cont'd)**

**10. Conclusion**

The Annual Report has been prepared in accordance with the Australian Accounting Standards, the Local Government Act 2020 and the Local Government (Planning and Reporting) Regulations 2020.

That Council note the Moira Shire Council 2020/21 Annual Report.

**Attachments**

- 1 Moira Shire Council Annual Report 2020/21 - *to be attached - printed in separate document*

FILE NO: 000.000.000  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.4.1  
(GENERAL MANAGER INFRASTRUCTURE,  
ANDREW CLOSE)  
(CHIEF EXECUTIVE OFFICER CLARE  
KEENAN)

## LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM, PHASE 3 FUNDING ALLOCATION

### RECOMMENDATION

That Council approve the allocation of the balance of the LRCIP funding to listed projects provided in Table 2 and on the basis set out within, the report.

#### 1. Executive Summary

The 2021-22 Federal Budget also added additional funds to the Local Roads & Community Infrastructure Program (LRCIP) for Phase 3 of the program commencing on 1 January 2022, with funds to be acquitted by 30 June 2023. Council has been advised its allocation under Phase 3 is \$5,089,786.

\$1,275 million of the funds have been allocated through the 2021-22 budget process and the remaining funds are now to be allocated to allow planning for projects to be able to commence as soon as possible after the funding becomes available on 1 January.

This report notes one project, the Cobram East Drainage Project, includes land owned by Mayor Mustica. Councillor Mustica has to date and should continue to, declare a conflict of interest in relation to both the Cobram East project and out of an abundance of caution the broader program. More detail about this appears in the report below.

It is recommended that Council approve the allocation of the balance of the LRCIP funding to listed projects provided in Table 2 within the report.

#### 2. Background and Options

As part of the COVID stimulus package, the Federal Government announced two rounds of LRCIP funding, Phase 1 of \$500 million and Phase 2, \$1 billion nationally. Council's allocation for Phase 1 was \$2.544million and Phase 2, \$2.483 million. Each round is expected to be acquitted within 12 months with Phase 1 due to be acquitted at the end of June and Phase 2 acquitted at the end of December.

Phase 3 has now been announced and will commence on 1 January 2022 and be acquitted on 30 June 2023. To date, projects allocated Phase 3 funds are follows:

Table 1: Projects funded in the 2021 -22 Council budget

Budget year	Project	Description	Project value	Allocated funds
20-21	Yarrowonga Splashpark	Expansion of the existing splashpark on foreshore and removal of waterslide	\$500,000	\$450,000
21-22	Wilby Rec Reserve	Installation of a sand arena for relocation of adult riding club from Vic Park to site	\$100,000	\$100,000
21-22	Cobram Sports Stadium	Installation of air conditioning to the stadium area	\$200,000	\$200,000
21-22	Botts Rd Yarrowonga	Installation of footpath and kerb and channel on west side between Jane Rd and MVH	\$305,000	\$305,000
21-22	Dust suppression program	Dust suppression seals to Coxon St and the Majors Creek boat ramp access	\$220,000	\$220,000
		Total		\$1,275,000

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5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.4.1

**LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM, PHASE 3  
FUNDING ALLOCATION (cont'd)**

Projects selected for this funding need to be almost ready to go, in that design should be substantially complete, and permit processes either completed or not required. Important to note is that the funding criteria allows Council to fund drainage projects which do not generally attract grant funding, an opportunity too good to pass over.

The \$3.815 million of unallocated LRCIP Phase 3 funding for the second half of the 21-22 financial year and into the 22-23 financial year and some of the funds are proposed to be allocated as follows:

Table 2 Projects proposed to be funded from the balance of the Phase 3 funding

Project	Description	Allocation
Nathalia West Drainage upgrade	3 <sup>rd</sup> and final stage of the drainage works to drain Veldt St into the Federation St drainage system	\$800,000
Apex Park Cobram	Council has expanded the infrastructure on the site with the new pavilion, this project looks to formalize the parking area and complete landscaping to complement the improved infrastructure on the site	\$720,000
Woods Rd Kerb and Channel	Installation of kerb and channel along the west side of Woods Rd on the VicPark, P12, and cemetery frontage.	\$350,000
Patterson St – Russell St Drainage upgrades	Provide additional funds to those already provided for in the budget for the works to increase the capacity of the underground drainage system in Paterson and Russell Streets in Numurkah	\$400,000
Williams Rd Strathmerton	Upgrade sections of Williams Rd especially the bends to cope with increased heavy traffic and improve the road for tourist traffic.	\$200,000
Yarrowonga swimming pool precinct public toilet	Install a public toilet to serve the tennis club and car park adjacent to the Yarrowonga Swimming Pool	\$175,000
Reilly's Rd drainage upgrade	Provide a drainage channel between Reilly's Rd and Brownings diversion for low flows and spillway into Main Channel	\$150,000
Wilby Equestrian project	Roof over the equestrian arena at Wilby Recreation reserve	\$250,000
Cobram East Drainage project	Installation of pumping infrastructure and rising main to remove an impediment to the expansion of Cobram's residential area to the east	\$769,786
	Total	\$3,814,786

### 3. Financial Implications

The Phase 3 grant funding will add a further \$3.815 million to the capital program for the 21-22 financial year, allowing for the projects within the draft budget already identified as being funded through grant funding, increasing it from \$14.5 million to \$18.3 million.

### 4. Risk Management

The LRCIP funding provided to create economic stimulus due to the COVID pandemic has a broad criteria of projects it can be used to fund enabling a number of projects put forward to address drainage issues that exist that do not normally have grant money available.

**FILE NO: 000.000.000  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE**

**ITEM NO: 10.4.1**

**LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM, PHASE 3  
FUNDING ALLOCATION (cont'd)**

**5. Regional Context**

The LRCIP funding is spread across the whole country providing economic stimulus to the building and construction industry providing an opportunity for local and regional contractors to be able to keep staff gainfully employed throughout the COVID pandemic and recovery.

**6. Council Plan Strategy**

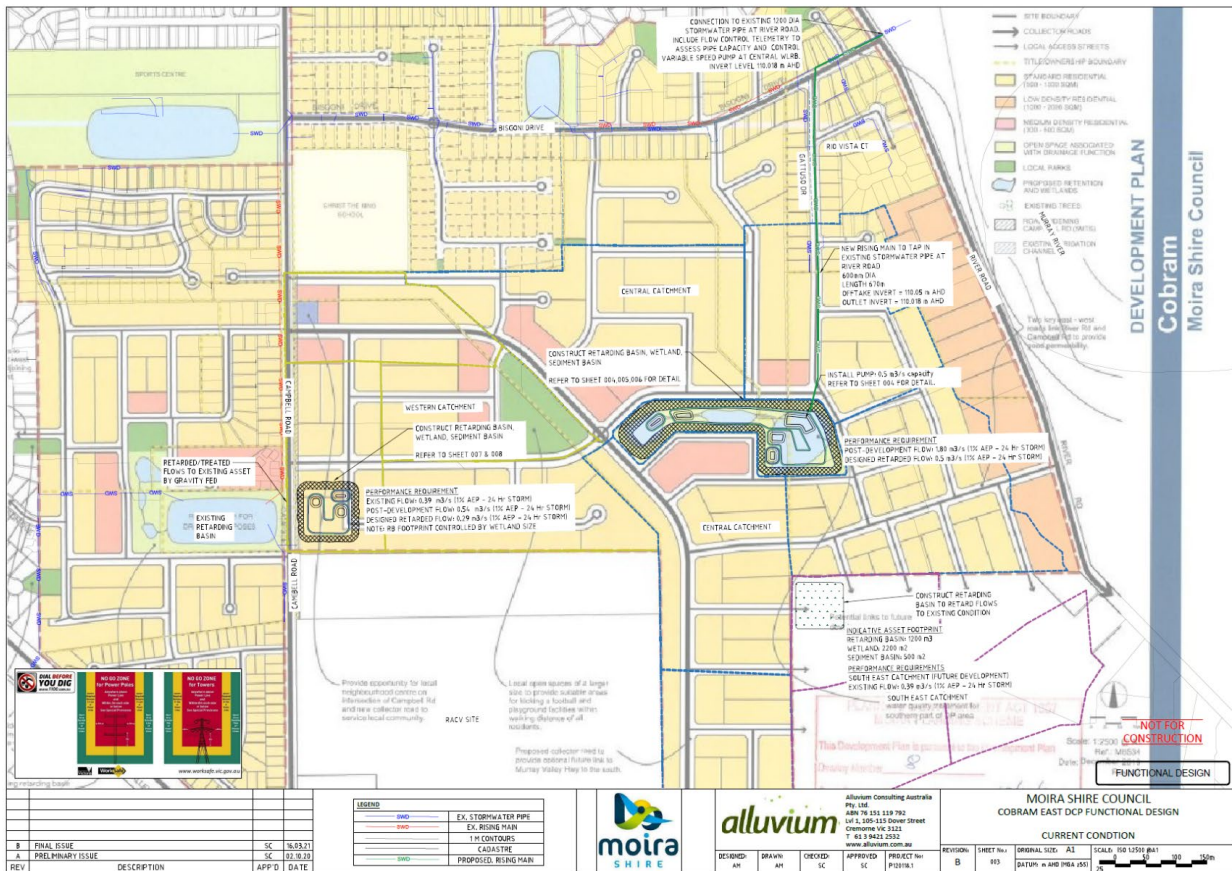
Transparent and accountable governance

**7. Conflict of Interest Considerations**

The officer preparing the report has no conflict of interest.

Councillor Mustica has to date declared and has indicated he will continue to declare, a conflict of interest in respect of particularly the Cobram East Drainage Scheme, and out of an abundance of caution, the broader program. This is explained below.

Council has an approved project in its budget to prepare a Developer Contribution Plan (DCP) to recoup from developers costs of drainage infrastructure identified under the Cobram East Development Plan Overlay. Council was to borrow the funds to complete the works and as lots were created, council would recoup its expenditure.



Council has engaged consultants to undertake the work with the design of the infrastructure well underway and is about to embark on the process to create the DCP and incorporate it into the planning scheme. This process will take around 12 months to complete, 18 months if there are objections to the DCP, and would be quite expensive to deliver.

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5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.4.1

### **LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM, PHASE 3 FUNDING ALLOCATION (cont'd)**

Under the terms of the DCP, Council can only recoup the funds expended once the DCP has been incorporated into the planning scheme and consequently, works would not be able to commence on the drainage project to install the pump station and rising main for 12 to 18 months until the DCP process is complete. Developers would be unlikely to start their works until the pump station and rising main are installed with the result that new lots may not become available for another 2 to 3 years.

The anticipated contribution was likely to be approximately \$2,000 "per lot".

Cobram has few vacant lots available with some development currently underway in the north west of the town. The Major Towns Strategy identifies Cobram's 'short term' residential growth is toward the east on the land covered by the Cobram East development plan overlay.

There has already been considerable development within the overlay area but it is now reaching a point where the fall of the land requires some major drainage to be installed for a large portion of the undeveloped land to be drained.

It is estimated that at least 375 lots will ultimately discharge to the drainage basin where the pump station and rising main will then move the stormwater to the Bisogni Drive outfall into the Murray River. The land under the development plan overlay is owned by various people or companies and the first developer would be liable for the \$750,000 plus investment in the pump and rising main to be able to progress their subdivision development making it a non-viable proposition, hence why development has stalled. Council recognised this fact in authorising the project to prepare the DCP.

COVID has now changed things and there is increased demand for land in regional areas and whether Cobram can afford to wait the 2 to 3 years for this land to be able to be developed has now come into question.

For this reason it is recommended the Council apply a part of the LRCIP funds to install the pump station and rising main to enable development of these 375 lots to progress more readily. All owners of the land under the development plan overlay will benefit from this. Council will also benefit in not having to progress the DCP and with lots coming on line earlier, noting also increased rates for developed land.

Cr Mustica (the Mayor) is one of the developers with a current planning permit almost at a stage to commence works, which would otherwise be subject to a development contribution if the DCP was required to proceed. Cr Mustica's subdivision comprises 40 lots of the estimated 375+ lots. This development, like the balance of the 375, is to be serviced by the pump station and rising main.

Cr Mustica, together with all land owners, will receive the benefit of the proposed works, including in the reverse sense, that they will not be required to make developer contributions to this drainage work intended to be completed under the proposed scheme.

The rising main (a pipeline which is pressurized to allow pumping) will need to cross part of the Cobram East Drainage area and that rising main will need to be secured by a 3 metre wide easement in favour of the Council.. There are at least 2 potential routes for the rising main and easement.



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5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.4.1

## LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM, PHASE 3 FUNDING ALLOCATION (cont'd)

Such an easement, the conduct of the works and the presence of the rising main all have the potential to impact the relevant development and therefore value of the land upon which it may be located. An independent valuation or valuations has or will be obtained so there is an awareness of potential compensation that may be payable in respect of the works and easement.

Normally the Council would need to meet any claim for compensation from the relevant land owner for the impact of the works and easement.

It has been suggested that the works, and the easement be located on Cr Mustica land. Cr Mustica has indicated he would not seek compensation for either those works or the impact of the easement. If this approach is adopted, which is recommended, an appropriate release and indemnity agreement from Cr Mustica, in favour of the Council should be prepared to secure that commitment.

The removal of the prospect of any such costs in delivering the scheme is obviously of benefit to the scheme and Council. Cr Mustica presumably also acknowledges that his land, with others will also benefit from the earlier provision of this infrastructure.

### 8. Conclusion

The Federal Government's Local Roads & Community Infrastructure Program – Phase 3 funds become available to spend on 1 January 2022. Council has already allocated \$1.275million of the total \$5.09million to projects within Council's 2021-22 budget.

The criteria of projects that can be funded is quite broad and allows for drainage projects which are not normally the beneficiary of grant programs, either State or Federal, and thus explains the number of drainage projects proposed for funding.

It is recommended that Council approve the allocation of the balance of the LRCIP funding to listed projects provided in Table 2 and on the basis set out within, this report.

### Attachments

Nil

FILE NO: F13/2478  
5. TRANSPARENT AND ACCOUNTABLE  
GOVERNANCE

ITEM NO: 10.4.2  
(INFRASTRUCTURE LIAISON OFFICER, LYN  
COOPER)  
(GENERAL MANAGER INFRASTRUCTURE,  
ANDREW CLOSE)

## SPECIAL RATES AND CHARGES POLICY - DRAFT

### RECOMMENDATION

That Council accept the draft Special Rates and Charges Policy 2021 and refer it for public exhibition and comment.

### 1. Executive Summary

The purpose of the Special Rates and Charges Policy is to provide guidance on how Council will implement and administer special rates and special charges that assist to fund the construction of new infrastructure or joint services, such as construction of kerb and channel, footpaths or marketing programs.

Council recognises that it does not have the financial resources to fully fund the upgrade of all existing infrastructure to current standards. Where Council considers that infrastructure improvements provide special benefits to abutting properties a Special Rate and Charge Scheme may be explored to share the costs. These benefits can include improvements in amenity, access, safety or economic benefits such as increased land value.

Council will achieve this using special rate and charge schemes that are implemented in accordance with this policy, section 163 of the *Local Government Act 1989* and *Ministerial Guidelines*.

It is recommended that Council accept the Draft Special Rates and Charges Policy 2021 and place it on exhibition for community feedback

### 2. Background and Options

The Special Rates and Charges Policy 2011 was due for review in 2016. This was delayed until the Local Government Act 2020 was finalised.

Recent attempts to establish special charge schemes to share infrastructure costs between council and benefitting property owners have informed the development of the updated draft policy.

The main changes to the policy are:

1. Expanded purpose
2. Process to initiate and develop a scheme
3. Cost apportionment principles listed
4. Option for charge to be per parcel (saleable lot) or property (assessment)
5. Inclusion of engineering and administration costs in total scheme cost
6. Set non-response to any survey as a 'do not support' vote
7. Scheme length based on total debt
8. Simplified beneficiary principles

### 3. Financial Implications

The main change to the policy that has financial implications is that under the current policy the interest rate is the "overdraft interest rate charged by Council's banker, plus one percent".

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## **SPECIAL RATES AND CHARGES POLICY - DRAFT (cont'd)**

As Council does not typically borrow money to fund these schemes, the new policy uses a "deemed overdraft interest rate, plus one percent". For example, for a scheme drafted today the interest rate will be the deemed overdraft rate of 2% plus 1%, so the current rate would be 3%.

### **4. Risk Management**

Having a policy that can assist application of special rates and charges to be consistent and transparent will reduce the risk of reputational damage for Council.

### **5. Internal and External Consultation**

The draft policy has been reviewed by officers from Governance and Finance and Council has been briefed on 12 May 2021 and 8 September 2021.

If approved by Council, the draft policy will be put out on exhibition for community feedback.

### **6. Regional Context**

Not applicable.

### **7. Council Plan Strategy**

This policy will assist with transparency and consistency when considering, designing and declaring special rates and charges schemes.

### **8. Legislative / Policy Implications**

Review of out of date policy.

The Local Government Act 1989 still applies for development and implementation of Special Rate and Special Charge Schemes.

### **9. Environmental Impact**

Not applicable.

### **10. Conflict of Interest Considerations**

There are no officer conflicts of interest in the preparation of this report.

### **11. Conclusion**

It is recommended that Council accept the Draft Special Rates and Charges Policy 2021 and place it on exhibition for community feedback.

## **Attachments**

- 1 Special Rates and Charges Policy 2021 - draft

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**SPECIAL RATES AND CHARGES POLICY - DRAFT (cont'd)**

**ATTACHMENT No [1] - Special Rates and Charges Policy 2021 - draft**

**Special Rates and Charges Policy**



<b>Policy type</b>	Council
<b>Adopted by</b>	Council
<b>Responsible General Manager</b>	General Manager Infrastructure
<b>Responsible officer</b>	Manager Construction & Assets
<b>Date adopted</b>	
<b>Scheduled for review</b>	This policy will be reviewed four years from the date of adoption, or sooner if required.

**PURPOSE**

The purpose of the Special Rates and Charges Policy is to provide guidance on how Council will implement and administer special rates and special charges that assist to fund the construction of new infrastructure or joint services, such as construction of kerb and channel, footpaths or marketing programs.

Council uses its powers under the *Planning and Environment Act 1987* and the *Subdivision Act 1988* to require developers to provide the infrastructure needed in new estates. These costs are included in the land sale price. However, Council cannot retrospectively apply these powers to land that was subdivided in the past without the current standard of infrastructure.

Council recognises it does not have the financial resources to fully fund the upgrade of all existing infrastructure to current standards. Where Council considers that infrastructure improvements provide special benefits to abutting properties a Special Rate and Charge Scheme will be explored to share the costs. These benefits can include improvements in amenity, access, safety or economic benefits such as increased land value.

Council may determine that the owners of the properties that receive special benefits from infrastructure works and programs should contribute an equitable share of the cost of those works. Council will achieve this using special rate and charge schemes that are implemented in accordance with this policy, section 163 of the *Local Government Act 1989* and *Ministerial Guidelines*.

**SCOPE**

This policy applies to all Special Rate and Charge Schemes declared by Council under the *Local Government Act 1989* ("the Act").

**DEFINITIONS**

<b>Community benefits</b>	are considered to exist where the works or services will provide tangible and direct benefits to people in the broader community. These will generally derive from the provision of facilities or services that are generally available to people, other than owners or occupiers of properties with special benefits, through savings from operational or maintenance costs, or through reduced risk. Where this is clear, tangible and direct, the Council should attribute a community benefit.
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**SPECIAL RATES AND CHARGES POLICY - DRAFT (cont'd)**

**ATTACHMENT No [1] - Special Rates and Charges Policy 2021 - draft**

**Special Rates and Charges Policy**



<b>Council</b>	Moirā Shire Council
<b>Councillors</b>	means the a person who holds the office of a member of Moirā Shire Council
<b>Council officer</b>	means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.
<b>Parcel</b>	a property may have multiple parcels on the one assessment which can be sold individually or as multiples without having to do a subdivision. This may mean that the liability that the current owner has for the proposed Scheme may alter if the contribution is based on a parcel basis.
<b>Property</b>	refers to property in the form of land.
<b>Scheme</b>	refers to a special rate or special charge scheme.
<b>Special Benefit</b>	is considered to be provided to a property if the proposed works or services will provide a benefit that is additional to or greater than the benefit to other properties.
<b>VCAT</b>	refers to the Victorian Civil and Administrative Tribunal.
<b>Works or services</b>	refers to the functions or powers being exercised by the Council for which it is proposed to levy a special rate or charge.

**POLICY**

**1. Scheme Initiation**

A Special Rate and Charge Scheme ('Scheme') to share the costs of capital works or services may be initiated upon receipt of a request from Councillors, community members via a submission, petition or joint letter or Council officers.

Where the requested works or services are not included in current or future works program and are deemed to provide special benefit to landowners, then the following will occur:

- a. Assess initial interest in proposed works:
  - i. identification of properties receiving a special benefit.
  - ii. identification of general community benefit resulting in anticipated percentage contribution by Council.
  - iii. initial interest survey of benefitting property owners to determine if there is sufficient interest to cost the works and develop a Scheme.
  - iv. report results to Council to receive direction on whether or not to proceed with development of a Scheme.
- b. If Council chooses to develop a Scheme:
  - i. prepare concept design and cost estimate.
  - ii. secure funds to cover community benefit and the share of any Council properties and any benefitting properties to be excluded from the Scheme by Council.
  - iii. determine proposed method of apportionment of costs amongst benefitting property owners.
  - iv. notify benefitting property owners of details of proposed Scheme.

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**SPECIAL RATES AND CHARGES POLICY - DRAFT (cont'd)**

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**Special Rates and Charges Policy**



- v. hold a public meeting(s) to discuss details of the Scheme. Where it is not possible to hold a meeting then information will be posted to benefitting property owners with a process to have questions asked and answers disseminated to all benefitting property owners.
  - vi. amend details of the Scheme if required.
  - vii. conduct survey of all benefitting property owners seeking support of proposed Scheme.
- c. Report results of survey to Council to receive direction on whether to:
- i. abandon the Scheme;
  - ii. amend the Scheme; or
  - iii. declare the scheme as per relevant legislation and Ministerial Guidelines. Council will be guided by the level of majority support as set out in this policy.

**2. Cost Apportionment**

Council will determine a method to fairly apportion costs for all landowners to be included in a special rate and charge scheme. In doing so, Council may take into consideration a number of factors, singly and in combination, such as:

- a. the number of benefitting properties;
- b. the number of benefitting parcels;
- c. the length of the abutting boundaries;
- d. lot sizes;
- e. land zoning and future subdivision potential under the Moira Shire Planning Scheme;
- f. number and location of property accesses;
- g. the types of special benefits accruing to the land; and/or
- h. any other matter that provides a reasonable basis of apportionment.

See *Appendix A: beneficiary principles* for a guide on identifying deemed beneficiaries.

**3. Council Contributions**

Council will contribute a percentage of the total cost of works or services where a community benefit has been identified. Council generally funds the contribution for Community Benefit from rates income.

See *Appendix A: beneficiary principles* for a guide on calculating community benefit.

% of total cost contributed by Council	Community Benefit
0%	Where there will be no benefit to the general community. This will give benefitting property owners the opportunity to pay off the charge over the scheme length e.g. multiple business marketing program
20%	For provision of infrastructure where there is a community benefit that is less than or equal to this contribution e.g. new kerb and channel works
50%	For provision of infrastructure where there is a community benefit that is greater than 20% e.g. new footpath works

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**SPECIAL RATES AND CHARGES POLICY - DRAFT (cont'd)**

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**Special Rates and Charges Policy**



Council will also cover the contribution of:

- a. All council owned properties included in the scheme; and
- b. A property where Council has identified a property that will receive a special benefit and has decided to exclude it from the scheme.

**4. Engineering and Administration Costs**

Council will include the engineering and administration costs associated with developing and implementing a Scheme in the total cost of the project. The engineering and administration costs will be determined according to the cost of the works as follows:

Estimated Cost of Works	Engineering and Administration Cost
Up to \$20,000	20% of estimated cost of works
\$20,001 to \$100,000	\$4,000 + \$0.15 per dollar cost over \$20,000
\$100,001 to \$500,000	\$16,000 + \$0.10 per dollar cost over \$100,000
Over \$500,000	\$56,000 + \$0.08 per dollar cost over \$500,000

**5. Survey Votes**

Benefitting property owners will be surveyed at a number of stages throughout the drafting of a scheme. In each survey a benefitting property owner will get one vote for each unit of apportionment, i.e. parcel or property to be included in the proposed Scheme. If a benefitting property owner does not submit a survey response by the closing date it will be deemed that they do NOT support the Scheme.

The development of a scheme will only occur if 80% of anticipated benefitting property owners indicate their support through an initial interest survey.

A scheme will only proceed to the next stage if the following levels of support are met depending on the level of Council contribution to cover community benefit (when not whole numbers the number is rounded up):

Community Benefit % contribution by Council	% of votes deemed a Majority
0	70%
20%	60%
50%	50% + 1



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## SPECIAL RATES AND CHARGES POLICY - DRAFT (cont'd)

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## Special Rates and Charges Policy



### 6. Scheme Length

Scheme length for each benefitting property owner is to be based on their expected contribution amount to the scheme as set out below:

Charge per parcel/property	Maximum Length of Special Rate and Charge Scheme
0 - \$2,000	Four (4) Years.
\$2,001 - \$5,000	Six (6) Years.
\$5,001 - \$10,000	Eight (8) Years.
\$10,001 +	Ten (10) Years.

### 7. Payment of Special Rates and Charges

- a. Notices requesting payment will generally be raised after the service or works are complete unless Council specifies otherwise.
- b. Council will provide reasonable opportunity for payment of special rates and charges. Special rate or charge levies will be payable by:
  - i. lump sum in full within 30 days after the date of issue of the notice; or
  - ii. quarterly instalments over a period of years as set out in scheme length for each scheme, but not exceeding 10 years.
- c. applications for relief or assistance due to hardship will be considered in accordance with Council's Financial Hardship Policy.
- d. outstanding payments will be processed in accordance with Council's Rate Collection Policy.

### 8. Application of Interest

Interest payments will be calculated for the period which commences on the issue date of the previous account up to the quarter ending which coincides with the date of the current account.

- a. interest will be charged from the due date.
- b. as a general guide, the interest rate will be determined by Council's General Manager Corporate as Council's borrowing interest rate plus one percent (1.0%) for administration costs at the time the scheme is declared.
- c. the interest will be charged on the principal balance outstanding, as at the end of the previous quarter.

### 9. Discontinued Schemes

If a Special Rate and Charge Scheme does not proceed due to lack of support during the initial assessment stage, or is discontinued as a result of objections or appeal, then the project or work will not be re-investigated for two years unless circumstances change significantly.

### 10. Right to Appeal Council's Decision

A person may apply to VCAT for review of Council's decision to impose a special charge on them. A person must apply to VCAT within 30 days of the notice of the special charge being issued to them. Section 185(2)(b) of the *Local Government Act 1989* lists the grounds of appeal that VCAT may consider.



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**SPECIAL RATES AND CHARGES POLICY - DRAFT (cont'd)**

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**Special Rates and Charges Policy**



**ATTACHMENTS**

Appendix A: Beneficiary Principles

**RELATED LEGISLATION**

*Local Government Act 1989*

*Local Government Act 2020*

*Local Government (General) Regulations 2015*

*Charter of Human Rights & Responsibilities Act 2006*

**REFERENCES**

*Ministerial Guidelines - Special Rates and Charges, September 2004*

**RELATED POLICIES**

*Rates Collection Policy*

*Financial Hardship Policy*

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**Special Rates and Charges Policy**



**APPENDIX A: BENEFICIARY PRINCIPLES**

Type of Project or Infrastructure	Category	Deemed Beneficiaries	Community Benefit (CB) Calculation Principles	Apportionment Options
Footpath or Shared Path	Access street, road or place.	Abutting and opposite properties (except where a path exists opposite).	Community benefit based on estimated volume of through pedestrian traffic.  <b>Minimum CB = 50%</b>	Determined by proportion of property frontage to path. A reduced rate may be applied for property sideage to path. Beneficiary contribution limited to standard width of footpath (1.5 metres) with additional width being paid for by Council.
	Arterial road. Commercial and industrial areas.  Collector / link road.	Abutting properties only, due to the need to have paths on both sides.	Community benefit based on estimated volume of through pedestrian traffic.  <b>Minimum CB = 50%</b>	Determined by proportion of benefit gained by the property from the works. Contribution limited to standard width of footpath (1.5 metres) with additional width being paid for by Council.
Urban Drainage	Property drainage including Kerb and Channel	Properties either discharging stormwater into the drain or receiving protection from stormwater runoff by the drain.	Community benefit based on contribution to broader drainage benefits.  <b>Minimum CB = 20%</b>	Determined by combination of relative area of each property drained or protected by drain and per parcel charge.
	Outfall drainage	Properties either discharging stormwater into the drain or receiving protection from stormwater runoff by the drain.	Community benefit based on additional capacity costs over identified scheme beneficiaries.  <b>Minimum CB = 50%</b>	Determined by combination of relative area of each property drained or protected by drain and per parcel charge.

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Type of Project or Infrastructure	Category	Deemed Beneficiaries	Community Benefit (CB) Calculation Principles	Apportionment Options
Road	<p>Access street, road and place</p> <p>A road or laneway in this category primarily provides direct access for abutting Residential, Industrial, Commercial, and in other locations, Forestry, Tourist and Agricultural properties and connect into either the Link, Collector or Arterial road network. Traffic using these roads are predominantly local vehicles.</p>	<p>Abutting properties and properties directly serviced by road. Council for non-rateable properties.</p>	<p>Benefit based on access and amenity in proportion to reason for construction. Access based on volume of vehicle traffic. Amenity based on improvements to liveability. Community benefit based on volume of non-local vehicle traffic.</p> <p><b>Minimum CB = 20%</b></p>	<p>Determined by combination of proportion of street frontage and per lot charge.</p>
	<p>Collector and link.</p> <p>Collector: Roads of this classification primarily provide a route between, and through, Residential, Industrial, Agriculture, Tourist and Forest traffic nodes and the Rural Link and/or Arterial road network.</p> <p>Link: Roads of this classification primarily provide a direct linkage between significant population centres and major traffic generators such as Residential, Industrial, Commercial, Agricultural and Tourist areas and Arterial Roads. These roads have an identifiable Origin and Destination.</p>	<p>Abutting properties and properties directly serviced by road. Council for non-rateable properties.</p>	<p>Benefit based on access and amenity in proportion to reason for construction. Access based on volume of vehicle traffic. Amenity based on relative length of road across property. Community benefit based on volume of through vehicle traffic.</p> <p><b>Minimum CB = 50%</b></p>	<p>Determined by proportion of benefit gained by the property from the works. Beneficiaries to contribute to the equivalent full cost of residential access street construction standard with Council contributing additional costs involved in upgrading the road to collector or trunk collector standard.</p>
Off Street Carpark	Retail/Commercial	<p>Properties which will derive a benefit through likelihood of customers using carpark.</p>	<p>Community benefit <b>only</b> if carpark (or standard of design) serves amenity (township promotion or landscape) purpose.</p> <p><b>Minimum CB = 0%</b> unless over standard then <b>20%</b></p>	<p>Determined by relative existing and potential shop size, type, proximity and any alternative provision or previous contribution towards spaces provided.</p>

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**SPECIAL RATES AND CHARGES POLICY - DRAFT (cont'd)**

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**Special Rates and Charges Policy**



Type of Project or Infrastructure	Category	Deemed Beneficiaries	Community Benefit (CB) Calculation Principles	Apportionment Options
<b>Streetscape Upgrade</b>	Retail/Commercial Industrial Residential	Abutting properties.	<b>Only</b> applies to works to a standard above any determined minimum standard for the type and location. Community benefit based on (or standard of design) serves amenity (township promotion or landscape) purpose.  <b>Minimum CB = 0%</b> unless over standard then <b>20%</b>	Determined by relative type and proximity of property.
<b>Marketing/Promotion Program</b>	Retail/Commercial Industrial	Properties which will receive an identifiable benefit from program, given use and type of business.	Benefit based potential for financial benefit, given relative existing and potential size of business.  <b>Minimum CB = 0%</b>	Determined by combination of Capital Improved Value of property and per property charge.
<b>Provision of Services</b>	Retail/Commercial Industrial Residential Eg. Water, sewer etc	Abutting properties. Properties which will receive an identifiable benefit from the program, given the use and type of business.	Benefit based on the potential for financial, amenity or access benefit given relative existing and potential size of business or residence. Community benefit based on the benefit to the Community outside the Scheme boundary.  <b>Minimum CB = 0%</b>	Determined by relative type and proximity of business, as well as service usage.

FILE NO: F  
4. CUSTOMER FOCUSED AND RESPONSIVE

ITEM NO: 13.1  
(SENIOR GOVERNANCE OFFICER,  
NANCY MUSTICA)  
(GENERAL MANAGER CORPORATE,  
RENNIE, SIMON)

## PETITION RESPONSE DOG COMPLAINT

### RECOMMENDATION

That Council:

1. Note the investigation of the concerns mentioned within the petition.
2. Thank the signatories of the petition and advise the first mentioned author of the petition of Council's findings.

#### 1. Executive Summary

Council received a petition at the scheduled Council meeting on the 28 July 2021 regarding a barking dog complaint in Yarrawonga.

The Moira Shire Council Safety and Amenities team are investigating the matter raised in the petition with an objective to compile a Brief of Evidence that can satisfy the burden of proof beyond reasonable doubt in the Magistrates' Court of Victoria.

Officers are endeavoring to obtain statements together with evidentiary logs to support the allegation that the dog in question is barking excessively or continuously to such a degree that it is unreasonably interfering with the peace, comfort or convenience of any person in any other premises.

To date 2 logs have been returned by signatories to the petition. Not all signatories have been interviewed but some have indicated that they are not affected by the barking and some live a considerable distance from the property where the dogs are housed which would cast doubt that these dogs are a nuisance.

Two signatories have advised that the dog does not bark at all at night anymore since Council officers last visit to dog owner.

Any outcome of this investigation will be directly conveyed to the affected person/s and will remain confidential.

Council would like to acknowledge the petition and thank all signatories for rising their concerns with Council.

#### 2. Financial Implications

There are no financial implication to consider.

#### 3. Risk Management

There are no risk management consideration.

#### 4. Internal and External Consultation

Investigations are continuing with the relevant people. Officers have communicated with the first named complainant and provided a status report.

#### 5. Council Plan Strategy

This report aligns with Council Plan Strategy 4 Customer Focus and Responsive.

<b>FILE NO: F</b> <b>4. CUSTOMER FOCUSED AND RESPONSIVE</b>
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<b>ITEM NO: 13.1</b>
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**PETITION RESPONSE DOG COMPLAINT (cont'd)****6. Conflict of Interest Considerations**

There are no officer conflict of interest considerations.

**7. Conclusion**

Given that two of the signatories have advised officers that the dog does not bark at all at night anymore since Council officers last visit to dog owner, the matter may have resolved itself.

It is recommended Council note the investigations into the concerns raised in the petition and thanks the signatories of the petition, advising the first named petitioner of Council's findings.

**Attachments**

Nil

FILE NO: VARIOUS

ITEM NO: 15

**GENERAL BUSINESS****6.4. General business**

(1) If the Agenda for a Meeting makes provision for urgent business, business cannot be admitted as Urgent Business other than by resolution of Council and only then if:

- (a) It relates to or arises out of a matter which has arisen since distribution of the Agenda; and
- (b) deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
- (c) the item involves a matter of urgency as determined by the Chief Executive Officer; and
- (d) it cannot be addressed through an operational service request process.
- (e) the matter does not:
  - substantially affect the levels of Council service;
  - commit Council to significant expenditure not included in the adopted budget;
  - establish or amend Council Policy; or
  - commit Council to any contractual arrangement.

(2) A Councillor proposing a matter be admitted as urgent business must lodge it in writing to the Chief Executive Officer four (4) hours prior to the Meeting.

(3) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.