



44 Station Street
Cobram Vic 3644
www.moirā.vic.gov.au
info@moirā.vic.gov.au

AGENDA

SCHEDULED MEETING OF COUNCIL
FOR
WEDNESDAY 28 JUNE 2023
TO BE HELD AT COBRAM CIVIC CENTRE, PUNT ROAD COBRAM VIC 3644
COMMENCING AT 4:30 PM

RECORDING

Consistent with section 13.3 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. WELCOME 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 TRADITIONAL OWNERS

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

4. APOLOGIES / LEAVE OF ABSENCE

5. DISCLOSURE OF CONFLICTS OF INTEREST

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Recommendation: “That the minutes of the Scheduled Council Meeting held on Wednesday, 24 May 2023, as prepared, be adopted.”

7.	CHAIR ADMINISTRATOR ADDRESS	
8.	DIRECTOR REPORTS	
9.	PUBLIC QUESTION TIME	
10.	OFFICER REPORTS FOR DETERMINATION	
	10.1 CHIEF FINANCIAL OFFICER	
10.1.1	FINANCIAL CONTRIBUTION TO BAROOGA AQUATIC AND RECREATION CENTRE	3
10.1.2	MOIRA SHIRE COUNCIL BUDGET 2023/24	7
	10.2 CORPORATE GOVERNANCE AND PERFORMANCE	
10.2.1	APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER	13
11.	OFFICER REPORTS FOR INFORMATION	
	11.1 SUSTAINABLE COMMUNITIES	
11.1.1	ASBESTOS INVESTIGATION AND REMEDIATION	15
12.	NOTICES OF MOTION	
13.	PETITIONS AND JOINT LETTERS	
14.	COUNCIL SEAL	
14.1	AUTHORISATION OF USE OF COUNCIL'S COMMON SEAL	20
15.	URGENT BUSINESS	21
16.	CLOSE OF MEETING	

FILE NO:
1. A WELCOMING AND INCLUSIVE PLACE

ITEM NO: 10.1.1
(CHIEF FINANCE OFFICER, MATT JARVIS)
(ACTING CHIEF EXECUTIVE OFFICER,
JOSHUA LEWIS)

FINANCIAL CONTRIBUTION TO BAROOGA AQUATIC AND RECREATION CENTRE

Recommendation

That Council support a financial contribution to the Barooga Aquatic and Recreation Centre of \$50,000 per financial year in 2022/23 and 2023/24, subject to terms and conditions being agreed, to subsidise the provision of indoor heated pool facilities to the community.

1. Executive Summary

Moira Shire Council passed a resolution at the 24 June 2020 Scheduled Council meeting to allocate up to \$100,000 over two financial years (\$50,000 per annum) towards the Barooga Aquatic and Recreation Centre (BARC).

Approximately 55% of BARC's members reside in Moira Shire with high demand for Learn to Swim enrolments also arising from Moira Shire residents. A number of Moira Shire based groups also utilise the centre on a seasonal basis.

Barooga Sports Club Ltd have proposed for a continuation of the joint contribution from Berrigan Shire and Moira Shire Councils for the 2022/23 and 2023/24 financial years. Berrigan Shire has committed to a continuation of the annual \$50,000 investment for the next 3 financial years.

This proposal aligns with the objective of the Memorandum of Understanding for collaboration between Berrigan Shire Council, Federation Council, Moira Shire Council and Indigo Shire Council (Cross Border MoU) to adopt a collaborative and community orientated approach to planning, funding and implementing services, programs and projects in particular for the cross border communities and deliver improved social and economic outcomes for the communities.

In assessing actual expenditure against Quarter 3 adopted forecasts for 2022/23, sufficient budget is available for a 2022/23 contribution. Should Council pass a resolution approving a financial contribution to BARC for 2023/24, the 2023/24 budget adoption will be subject to an adjustment. Terms and conditions for any funding contribution will need to be developed and agreed by both parties.

2. Conflict of interest declaration

Nil

3. Background & Context

Moira Shire Council passed a resolution at the 24 June 2020 Scheduled Council Meeting to allocate up to \$100,000 over two financial years (\$50,000 per annum) to subsidise the provision of indoor heated pool facilities at the Barooga Aquatic and Recreation Centre (BARC) on the basis of an equivalent contribution from Berrigan Shire and that the CEO condition the funding allocation to ensure it meets Council's intent of helping local residents re-establish an active lifestyle in a COVID-19 recovery phase.

As part of the funding terms and conditions, BARC were required to provide Council with a review of operations including profit and loss statements, membership numbers and casual usage to establish whether the community has responded through increased usage of the pool. No evidence of this reporting could be identified however Moira Shire Council fulfilled its commitment and contributed \$100,000 in total as per the Council resolution.

FILE NO:
1. A WELCOMING AND INCLUSIVE PLACE

ITEM NO: 10.1.1
(CHIEF FINANCE OFFICER, MATT JARVIS)
(ACTING CHIEF EXECUTIVE OFFICER,
JOSHUA LEWIS)

FINANCIAL CONTRIBUTION TO BAROOGA AQUATIC AND RECREATION CENTRE (cont'd)

Council reserved the right to withdraw the second financial year allocation of \$50,000 if use of the pool through memberships and casuals has not increased compared to usage pre COVID-19 shutdown. Funding could also be withdrawn if Berrigan Shire withdrew their financial support or if Barooga Sports Club Ltd ceased to operate the pool.

A report of operations was submitted to Moira Shire Council for the period of funding which highlight that due to ongoing COVID shutdowns (beyond June 2020) revenue for BARC was down by over \$200,000 (42%), annual visits were down by 19% and memberships were down by 26%.

4. Current Situation

As at 29 December 2022, 55% of Barooga Aquatic and Recreation Centre (BARC) members reside in Moira Shire. This appears consistent with pre-COVID membership splits. There is also a high demand of Learn to Swim (LTS) enrolments from Moira Shire residents, however, the percentage split of demand from Moira Shire has reduced from pre-COVID numbers. A number of Moira Shire based groups also utilise BARC on a seasonal basis such as schools and swimming clubs.

CURRENT MEMBERS - 29 Dec 2022				
Barooga	NSW	Berrigan	222	
Berrigan	NSW	Berrigan	8	
Finley	NSW	Berrigan	19	
Lalaly	NSW	Berrigan	1	
Tocumwal	NSW	Berrigan	46	296
Mulwala	NSW	Federation	5	5
Boosey	Vic	Moira	1	
Burramine	Vic	Moira	1	
Cobram	Vic	Moira	306	
Katamatite	Vic	Moira	15	
Katunga	Vic	Moira	6	
Koonoomoo	Vic	Moira	7	
Muckatah	Vic	Moira	1	
Numurkah	Vic	Moira	3	
Strathmerton	Vic	Moira	14	
Tungamah	Vic	Moira	1	
Yarrowonga	Vic	Moira	4	
Yarroweyah	Vic	Moira	7	366
Anglesea	Vic	Other	2	
Leeton	NSW	Other	2	4
TOTAL			671	671

Figure 1: Table of BARC membership residency as at 29 December 2022. Source – Barooga Sports Club Ltd

Barooga Sports Club Ltd have communicated that BARC 'will likely require an operational subsidy of between \$200,000 and \$400,000 (the significant range in the forecast reflective of

FILE NO:
1. A WELCOMING AND INCLUSIVE PLACE

ITEM NO: 10.1.1
(CHIEF FINANCE OFFICER, MATT JARVIS)
(ACTING CHIEF EXECUTIVE OFFICER,
JOSHUA LEWIS)

FINANCIAL CONTRIBUTION TO BAROOGA AQUATIC AND RECREATION CENTRE (cont'd)

the high level of uncertainty in the industry) annually over the next few years'. This has resulted in the request for further contribution from Moira Shire and Berrigan Shire Councils.

5. Community Partnership Proposal – Moira Shire, Berrigan Shire and Barooga Sports Club Ltd

Barooga Sports Club Ltd have proposed for a continuation of the joint contribution from Berrigan Shire and Moira Shire Councils for the 2022/23 and 2023/24 financial years towards the Barooga Aquatic and Recreation Centre (BARC).

At its 20 July 2022 Council Meeting, Berrigan Shire passed a motion committing to continuing the \$50,000 annual investment into the BARC pool facility, work with Moira Shire Council and Barooga Sports Club Ltd to renegotiate a further 3-year agreement to extend the funding beyond 2022/23 financial year and that Berrigan will contribute \$50,000 per year for the next 3 years independent of any decision made by Moira.

This proposal aligns with the objective of the Memorandum of Understanding for collaboration between Berrigan Shire Council, Federation Council, Moira Shire Council and Indigo Shire Council (Cross Border MoU) to adopt a collaborative and community orientated approach to planning, funding and implementing services, programs and projects in particular for the cross border communities and deliver improved social and economic outcomes for the communities.

Terms and conditions for a funding contribution from Moira Shire Council to BARC will need to be agreed prior to any transfer of funds.

6. Strategic Alignment

Council Plan

1. A welcoming and inclusive place

Recreation, sports facilities, programs and services respond to our diverse and emerging community needs.

Memorandum of Understanding for collaboration between Berrigan Shire Council, Federation Council, Moira Shire Council and Indigo Shire Council

Applicable founding principles

- Cooperation
- Maximising service delivery opportunities to meet a common community need
- Reducing costs and eliminate duplication

7. Internal & External Engagement

Engagement (who did you engage with?)
Internal Executive Leadership Team

Feedback
General support to contribute in consideration of Moira Shire residents/ratepayers utilising the facility and the facility being available

FILE NO:
1. A WELCOMING AND INCLUSIVE PLACE

ITEM NO: 10.1.1
(CHIEF FINANCE OFFICER, MATT JARVIS)
(ACTING CHIEF EXECUTIVE OFFICER,
JOSHUA LEWIS)

FINANCIAL CONTRIBUTION TO BAROOGA AQUATIC AND RECREATION CENTRE (cont'd)

External	Barooga Sports Club Ltd and Berrigan Shire Council	in lieu of a Council owned and operated facility. Desire to formalise a partnership between Moira Shire, Berrigan Shire and Barooga Sports Club Ltd.
----------	---	---

8. Budget / Financial Considerations

The Quarterly Budget Review – March 2023 tabled at the April 2023 Scheduled Council Meeting did not include a forecast contribution of \$50,000 for 2022/23. A review of these forecasts against year to date actuals has identified the availability of funds for a contribution.

The Draft 2023/24 Budget does not include a contribution to BARC for the 2023/24 financial year. Subject to Council resolution being made approving a financial contribution, an allocation will need to be included in the final 2023/24 adopted budget.

Risk & Mitigation

Risk	Mitigation
Financial	2022/23 forecast and Draft 2023/24 Budget adjusted to include a contribution subject to Council resolution. Funding agreement to include terms and conditions that limits Moira Shire's financial exposure.

9. Conclusion

Barooga Sports Club Ltd have proposed for a continuation of the joint contribution from Berrigan Shire and Moira Shire Councils for the 2022/23 and 2023/24 financial years towards the Barooga Aquatic and Recreation Centre (BARC).

A financial contribution from Moira Shire Council would align with the objectives of the Cross Border MoU.

Attachments

Nil

FILE NO: F21/395
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 10.1.2
(FINANCE MANAGER, BEAU MITTNER)
(CHIEF FINANCE OFFICER, MATT JARVIS)

MOIRA SHIRE COUNCIL BUDGET 2023/24

Recommendation

That Council:

1. Adopt the 2023/24 Budget, subject to amendment from any earlier Council resolutions, as the final Adopted Budget of Moira Shire Council for the 2023/24 financial year, prepared in accordance with Section 94 of the Local Government Act 2020;
2. Declare the Rates and Charges detailed in Section 4 of the final 2023/24 Budget Report including a General Rate, Municipal Charge, Environmental Levy and Waste Collection Service Charges; and
3. Declare the Fees and Charges detailed in Section 6 of the final 2023/24 Budget Report to be charged in respect to various goods and services during the 2023/24 financial year.

1. Executive Summary

This report requests Council's adoption of the 2023/24 Budget.

The Budget was developed with consideration on a number of important issues, including: flood recovery, sustainability and delivering on existing capital works projects.

The 2023/24 Budget has been developed following a two-step community engagement process, whereby community share their submissions and feedback through the following submission periods:

1. Community Budget Consultation Period: 15 December 2023 – 10 February 2023
2. Community Budget Feedback Period: 27 April 2023 – 19 May 2023

2. Conflict of interest declaration

There are no officer conflict of interest considerations.

3. Background & Context

Capital Works – Project Backlogs and Community Expectations

As part of the development of the budget, Council considered carried forward capital works and the commitments made to the community on these projects. Greater emphasis has been placed on clearing Council's backlog of capital works, which have been delayed due to a number of adverse factors, including flood and wet weather conditions, ability to source materials and availability of contractors.

Section 4.4 of the report highlights Council's effort to clear the backlog of capital works. Years three and four of the four-year budget (2025/26 and 2026/27 financial years respectively) are planned to focus on renewal of existing assets with minimal new projects being undertaken.

FILE NO: F21/395
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 10.1.2
(FINANCE MANAGER, BEAU MITTNER)
(CHIEF FINANCE OFFICER, MATT JARVIS)

MOIRA SHIRE COUNCIL BUDGET 2023/24 (cont'd)

This will allow adequate capacity to ensure the existing backlog of capital projects are delivered within the four-year budget period.

The total value of capital work projects budgeted for the 2023/24 financial year is \$42.2 million. Of this amount, \$21.8 million is carried forward works that are being prioritised in 2023/24. In terms of the types of projects being undertaken, \$25.3 million is budgeted for upgrade and renewal works and \$16.9 million for new projects.

Capital Works – Subject to Grant Funding

A number of projects are highlighted in the 2023/24 Budget as being subject to grant funding, shown in Section 4.5 of the budget document. Should grant funding for these projects not be successful, the project will not progress, highlighting the importance of grant funding to certain capital projects included in the 2023/24 Budget.

Rates – Capital Improved Value (CIV) Valuations

The 2023/24 Budget includes property CIV valuation data with valuations as at 1 January 2023. All rating information contained in the budget, including rates in the dollars, are based on these updated valuations.

The valuation data indicates an average 18% increase in CIV across the municipality. This however, will not result in additional rates revenue of 18% for Council in the 2023/24 financial year. The Fair Go Rates System (FGRS) sets out the maximum amount councils may increase rates in a year. For 2023/24 the FGRS cap has been set at 3.50%. The cap applies to both general rates and municipal charges and is calculated on the basis of council's average rates and charges.

To achieve Council's objectives while maintaining service levels and a strong capital expenditure program, the average general rate and the municipal charge will increase by 3.50% in line with the rate cap.

Movements between valuations in rating differential groups and for individual properties will have an impact on individual rates notices. This will not be advised until the 2023/24 annual rates notices for each property are distributed.

Budgetary Pressures

Budgetary pressures include:

- Rising inflation - CPI at 7% as of March 2023, well above the rate cap of 3.5%
- Planned increases to the Superannuation Guarantee
- Annual increases in insurance premiums; and
- Cost-of-living pressures being felt by the Community as well as Council staff.

Such budgetary pressures are anticipated to extend into future years, placing greater emphasis on longer-term financial planning to ensure Council's financial sustainability.

4. Strategic Alignment

Council Plan

5. Transparent and accountable governance

FILE NO: F21/395
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 10.1.2
(FINANCE MANAGER, BEAU MITTNER)
(CHIEF FINANCE OFFICER, MATT JARVIS)

MOIRA SHIRE COUNCIL BUDGET 2023/24 (cont'd)

5. Internal & External Engagement

Public Submissions

The 2023/24 Budget was developed following a two-step community engagement process which involved:

1. A community Budget Proposal submission period between December 2022 - February 2023. Council provided the opportunity for residents and community organisations to present project ideas to be included in the Proposed 2023/24 Budget. Council received 106 submissions, which were considered in the development of the 2023/24 Budget.
2. An opportunity for Moira Shire residents to provide comments on the Proposed 2023/24 Budget between 27 April - 17 May 2023, which included Community Feedback Sessions (by appointment) that were held in Nathalia, Numurkah, Yarrawonga and Cobram.

Invitations for comment on the proposed budget were also received, in person, by email, by mail or via Council's website. Advertising was placed in the local newspapers, on Council's social media and website. Twelve individuals and community groups submitted feedback and proposals to Council during this period. The submissions received were of the following nature:

- Moira FoodShare Program
- Cahills Road Yarrawonga Drainage
- Yarrawonga Primary School (2)
- EV Charging Station – Numurkah
- Bridge Restoration Works
- Road Sealing Works (2)
- Yarrawonga Tourist Centre
- General Feedback (3)

A Community Budget Submissions Hearing meeting was held on 24 May 2023 where 5 individuals and members of community groups took the opportunity to speak in support of their submission to the Administrator and Executive Leadership Team.

Council considered all submissions in the development of the 2023/24 Budget. Members of the community that provided a submission will be written to by a member of Council advising the outcome of their submission.

Council would like to thank all those who took the time to attend the Community Feedback Sessions and provided comment on the proposed Budget. Managers, Executive Leadership Team & Administrators have been engaged throughout the development of the 2023/24 Budget.

FILE NO: F21/395
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 10.1.2
(FINANCE MANAGER, BEAU MITTNER)
(CHIEF FINANCE OFFICER, MATT JARVIS)

MOIRA SHIRE COUNCIL BUDGET 2023/24 (cont'd)

6. Budget / Financial Considerations

Amendments to Draft Budget

Since receiving Council approval to enter into community consultation on the 2023/24 Draft Budget at the 26 April 2023 Council Meeting, the following amendments have been made to the Budget based on community submissions and consideration of new information made available to Council during the consultation period:

Operating Budget Changes:

Description of Amendment	\$000 Fav/ (Unfav)
2024 Operating Surplus (report 26 April 2023)	\$19,276
<i>Favourable budget movements:</i>	
Revised fees and charges	\$146
Additional Grant Funding – VLGGC Allocation	\$616
<i>Unfavourable budget movements:</i>	
Compliance and OHS maintenance works for Transfer Stations	(\$177)
Asbestos clean-up works	(\$1,261)
Master plan development for Apex Park	(\$30)
Updated supplier quotes for budgeted services	(\$285)
Additional FTE for new roles created	(\$182)
Removal of the sale of Campbell Road vacant land	(\$75)
Updated General Rates Levied based on final valuation report	(\$365)
2024 Final Operating Surplus	\$17,661

The Budget enables the Council to fund its approved operating and capital activities for the 2023/24 financial year. The general themes contained within the budget are ones of Recovery, Sustainability and Capital Delivery.

Section 2 of the 2023/24 Budget provides a description of the services and initiatives to be funded and how these will contribute to achieving the strategic objectives outlined in the Council plan.

The 2023/24 Budget projects an accounting surplus of \$17.7m made up of revenue of \$88.3m and operating expenditure of \$70.6m. Excluding non-operating items, such as capital grants and non-monetary contributions, the projected underlying operating result is a deficit of \$2.8m.

The Statement of Financial Position projects a working capital ratio (current assets over current liabilities) of \$36.5m or 321%, reflecting the balance of cash reserves held aside to fund future capital works projects.

FILE NO: F21/395
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 10.1.2
(FINANCE MANAGER, BEAU MITTNER)
(CHIEF FINANCE OFFICER, MATT JARVIS)

MOIRA SHIRE COUNCIL BUDGET 2023/24 (cont'd)

Basis of Valuation

The determination of the 2023/24 rates for all properties will be based on 1 January 2023 property valuations returned to Council by the Valuer-General Victoria and as subsequently amended by supplementary valuations.

The basis of valuation to be used by Council is the Capital Improved Value (CIV).

Differential Rate in the Dollar

The rate in the dollar for each differential class of land (characteristics described in Section 4.1.1 (m) of the Budget document), is used to calculate the annual general rates by multiplying the rate in the dollar by the CIV of the property. The rate in the dollar for each differential class of land for the 2023/24 financial year are detailed below:

Type or Class of Land	2023/24 Cents/\$ Capital Improved Value (CIV)
General Rate – Residential Building	0.00223766
General Rate – Residential Vacant	0.00447532
General Rate – Farm Building	0.00223766
General Rate – Farm Vacant	0.00223766
General Rate – Commercial Building	0.00313273
General Rate – Commercial Vacant	0.00447532
General Rate – Industrial Building	0.00313273
General Rate – Industrial Vacant	0.00447532
General Rate – Rural Building	0.00223766
General Rate – Rural Vacant	0.00447532
General Rate – Cultural and Recreational	0.00217053

Municipal Charge

Under Section 159 of the *Local Government Act 1989* Council is declaring a municipal charge for 2023/24.

Type of Charge	2023/24 Per Rateable Property
Municipal Charge	\$380.00

Service Rates and Charges

An annual Waste Service Charge will be declared for the collection and disposal of municipal waste.

Type of Charge	2023/24 Per Service
Kerbside General Waste Collection Service	\$267.50
Kerbside Recyclable Waste Collection Service	\$135.00
Kerbside Organic Waste Collection Service	\$110.00
Environmental Levy	\$130.00

FILE NO: F21/395
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 10.1.2
(FINANCE MANAGER, BEAU MITTNER)
(CHIEF FINANCE OFFICER, MATT JARVIS)

MOIRA SHIRE COUNCIL BUDGET 2023/24 (cont'd)

7. Risk & Mitigation

The Draft 2023/24 Budget seeks to balance the competing needs and interests expressed by the community with council's legal obligations that are defined in many acts and regulations.

Risk

Financial

Economic (regional context
or broader economic impact)
Environmental

Reputational
Legislative Compliance

Mitigation

Financial risks are considered as part of the Budget process and development.

Economic risks are considered as part of the Budget process and development.

Environmental risks are considered as part of the Budget process and development.

All councils are required to adopt their budget by 30 June 2024
The Draft 2023/24 Budget has been prepared in accordance with the *Local Government Act and Regulations* and the Model Financial Report.

8. Conclusion

The 2023/24 Budget seeks to service the many and often competing needs of the Moira community in a financially sustainable manner that is equitable across a large geographic Shire.

It is recommended that Council adopt the 2023/24 Budget.

Attachments

- 1 Moira Shire Council Budget 2023-24 - *printed in separate document*

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 10.2.1
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(ACTING DIRECTOR CORPORATE
GOVERNANCE AND PERFORMANCE,
AMANDA CHADWICK)

APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER

Recommendation

That Council appoint Joshua Lewis as the Acting Chief Executive Officer for Moira Shire Council from 1 July 2023 for a period up to 31 August 2023.

1. Executive Summary

Moira Shire Council's Chief Executive Officer (CEO) is currently on extended leave and as a result Council is required under the *Local Government Act 2020* to appoint an Acting Chief Executive Officer. It is recommended that Council extends the current Acting CEO arrangement with Joshua Lewis for a period up to 31 August 2023.

2. Conflict of interest declaration

There is no officer conflict of interest considerations.

3. Background & Context

On 10 March 2023 the Chief Executive Officer commenced a period of leave and appointed Joshua Lewis as the Acting Chief Executive Officer until 31 March 2023. Council has continued to extend the appointment of Joshua Lewis as the Acting Chief Executive Officer until 30 June 2023.

The Instrument of Delegation to the Chief Executive Officer allows the CEO to appoint an Acting Chief Executive Officer for a period not exceeding 28 days, therefore a Council resolution is required to extend the appointment of Joshua Lewis as Acting Chief Executive Officer for a further period.

4. Issues

A Council resolution is required to appoint an Acting Chief Executive Officer for a period greater than 28 days.

Section 44(5) of the *Local Government Act 2020* states that the Acting Chief Executive Officer is a member of staff.

5. Strategic Alignment

Council Plan

5. Transparent and accountable governance

6. Internal & External Engagement

Internal consultation was held with the Director Corporate, Governance and Performance and Governance Team.

7. Budget / Financial Considerations

The Acting Chief Executive Officer salary will be paid from the existing budget. There are no significant budgetary impacts as a result of this appointment.

FILE NO:
5. TRANSPARENT AND ACCOUNTABLE
GOVERNANCE

ITEM NO: 10.2.1
(SENIOR GOVERNANCE OFFICER, NANCY
MUSTICA)
(ACTING DIRECTOR CORPORATE
GOVERNANCE AND PERFORMANCE,
AMANDA CHADWICK)

APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER (cont'd)

8. Risk & Mitigation

Risk	Mitigation
Financial	Covered in existing budget
Economic (regional context or broader economic impact)	n/a
Environmental	n/a
Reputational	n/a
Legislative Compliance	Compliance with <i>Local Government Act 2020</i>

9. Conclusion

Under the *Local Government Act 2020* Council must appoint an Acting Chief Executive Officer where the period required exceeds 28 days, as delegated to the CEO.

Attachments

Nil

FILE NO:
3. A CLEAN GREEN ENVIRONMENT

ITEM NO: 11.1.1
(ACTING MANAGER - SUSTAINABILITY
DIEDRE ANDREWS)
(ACTING DIRECTOR SUSTAINABLE
COMMUNITIES, JANET MARTIN)

ASBESTOS INVESTIGATION AND REMEDIATION

Recommendation

That Council note the information provided in relation to the current Asbestos investigation.

1. Executive Summary

Following the discovery of Asbestos Containing Materials (ACM) at Tungamah and Yarrawonga transfer stations, Council progressed engagement of an independent investigator to assess causes, sources and responsibility of how this occurred.

Council has also issued a Request for Tender for the required clean-up works, which closed on 7th June 2023, thus allowing for the investigation to be completed prior to the clean-up works progressing. While the clean-up is a high priority, it is important that the investigation has all information on hand to be thorough and to shed light on the exact events that resulted in this highly unacceptable eventuation.

Council wishes to be proactive in addressing this matter in ensuring the health and wellbeing of the community/staff along with ensuring a similar situation never occurs again in the future.

Conflict of interest declaration

No conflict of interest to declare.

2. Background & Context

Tungamah Transfer Station is constructed on the site of a historical landfill site that operated prior to 1981. The site is registered as Waste and Resource Recovery (Permission A13c) which allows the site to accept residential waste and recycling from the community.

Aerial photography shows that in late 2019, a large number of soil stacks with mixed waste were deposited by truck at the rear of Tungamah Transfer Station.

On the twelfth of August 2020, Council was issued with a Notice to Clean-up by EPA (90011297) following reports of asbestos material being observed at the site. Council engaged the specialist company *Identifibre* to undertake the screening of the soil stacks, to identify if there were any asbestos containing materials contained in the soil. Following the screening and processing of materials by *Identifibre*, the sites were deemed safe and a Revocation of Notice (90011297) was issued by the EPA.

At this time, following a period of staff shortages when site inspections had not occurred, site inspections for all transfer stations, closed landfill and licensed sites were reinstated. This not only best practice, but was to manage compliance with permission conditions and to aid Council in meeting its General Environmental Duty (GED) under the newly enacted Environmental Protection Act 2017, which came into effect on 1st July 2021.

During a monthly inspection at Tungamah Transfer Station, several large stacks of soil were observed at the rear of the site with mixed waste strewn throughout the stacks. This subsequently led to an investigation by Council officers which noted the presence of suspected Asbestos Containing Materials (ACM) within the stacks.

FILE NO:
3. A CLEAN GREEN ENVIRONMENT

ITEM NO: 11.1.1
(ENVIRONMENTAL SUSTAINABILITY
OFFICER - BIODIVERSITY, DIEDRE
ANDREWS)
(ACTING DIRECTOR SUSTAINABLE
COMMUNITIES, JANET MARTIN)

ASBESTOS INVESTIGATION AND REMEDIATION (cont'd)

Soil samples and samples of the suspect ACM, were tested by Australian Laboratory Services (ALS) global. The samples were confirmed to contain asbestos. Following this identification, HazMat Solutions were engaged as a licensed hygienist to inspect the site and provide guidance on Council's required response and obligations.

Furthermore, following feedback provided by Council staff, Yarrawonga Transfer Station was inspected on the eighth of March 2023 with a suspected ACM material identified. This was followed up with a licensed occupational hygienist on 9 March 2023. Test results were received by Council on 17 March 2023 identifying that the material was indeed ACM.

3. Completed works

a. Investigation and Clean up works:

EPA was notified regarding both sites within 5 days (the required period) of the observation of potential ACM as per EPA requirements. The sites were made safe immediately i.e. any access to the material was closed off to keep all safe.

To minimise risk of any future asbestos exposure, Council has assessed each transfer station site for the potential of ACM. Initially, this was undertaken internally, followed by a licensed occupational hygienist attending two sites (Yarrawonga and Tungamah) where suspected material was identified. The tests came back positive for sections within these sites and we instigated the formal process to further make the sites safe so they are no risk to the community or staff.

Warfield and Associates were engaged in early March to lead an independent investigation into the likely causes, sources and responsibilities of those directly and indirectly involved, into the dumped ACM containing materials at Yarrawonga and Tungamah Transfer station. They have very strong and long standing credentials in investigations of this type.

An inception meeting with Warfield and Associates occurred on 16 March 2023. At this meeting Council requested that Warfield and Associates' scope of works be broadened to provide future guidance protocols, practices, education and training, for staff and contractors, to ensure incidents like this do not occur again.

There is an estimated 1,600m³ of asbestos containing soils inappropriately stored at the Tungamah Transfer Station. As mentioned above, Council issued a request for tender (RFT) for a comprehensive clean-up. This clean-up is to be done strictly in line with the recommendations provided within HazMat solutions report.

The Community have been notified and prevented from accessing affected areas at Tungamah and Yarrawonga. Temporary fencing and signage has been placed up to prevent access to the relevant portion of the site, amongst other measures that have been implemented to manage any associated risks.

Council has been engaging with surrounding landholders so they are aware of the steps in the process. On 27 and 28 April 2023, standard environmental monitoring soil tests were taken from the surrounding properties to assess potential impacts to the surrounding land. We are

FILE NO:
3. A CLEAN GREEN ENVIRONMENT

ITEM NO: 11.1.1
(ENVIRONMENTAL SUSTAINABILITY
OFFICER - BIODIVERSITY, DIEDRE
ANDREWS)
(ACTING DIRECTOR SUSTAINABLE
COMMUNITIES, JANET MARTIN)

ASBESTOS INVESTIGATION AND REMEDIATION (cont'd)

pleased to report that the test results confirmed that there is no contamination of the soil on neighboring properties. The landholders have been provided with these test results.

The land holders are also being updated as to clean-up plans so they understand the activities that will be occurring near their land holdings, along with measures that will be undertaken to ensure no risks to them/their property during the clean-up process.

To aid the investigation, EPA has been contacted for a Request of Information seeking further details of the Notice of Revocations issued for Tungamah in December 2020. The EPA has indicated they will indeed assist in this matter and are currently undertaking a thorough sweep/search of their records for the relative documents.

b. Updated controls

Following the historical incidents, additional controls have been implemented to prevent future issues, these include:

- Updated landfill Safe Operating Procedures (SOPs) were developed in March 2022 and have been in effect since July 2022.
- Identification and management practices, at transfer stations and landfill sites.
- Testing as per Table 3 of EPA publication 1882.2 for council works: Where any (soil) fill is being moved off site there are controls whereby the transporters are required to declare all material as safe.
- Further education has been provided to relevant Council staff to ascertain the requirement for Clearance Certificates and/or hygienist reports for Construction and Demolition waste (Operational Form 6B in Landfill manual to be used).
- Increased controls on Commercial and Industrial (C&I) and Construction and demolition (C&D) waste have been implemented at our landfill and waste transfer sites.

4. Ongoing works

The independent investigator attended Council offices and sites to undertake the in- person components of the investigations. The investigator was on site 22, 23 and 24 May 2023. This visit included:

- inspections of the impacted sites;
- interviews with relevant past and present staff and contractors;
- a briefing of the Acting Chief Executive Officer and the Independent Administrator.

It is noted that this is in addition to work including review and thorough investigation of a range of logs, reports, aerial photographs and other material. There has also been extensive interaction between the Investigator and Council staff overseeing this investigation, providing not only the scope but a range of background material and information. The scope of work of the investigator has been to not only come to an understanding as to how the illegal activity

FILE NO:
3. A CLEAN GREEN ENVIRONMENT

ITEM NO: 11.1.1
(ENVIRONMENTAL SUSTAINABILITY
OFFICER - BIODIVERSITY, DIEDRE
ANDREWS)
(ACTING DIRECTOR SUSTAINABLE
COMMUNITIES, JANET MARTIN)

ASBESTOS INVESTIGATION AND REMEDIATION (cont'd)

occurred but also to recommend preventative checks and measures for the future so that these occurrences will not happen again.

It is also noted that clean-up works will be completed in a way that will manage any and all risks to staff or members of the Community.

5. Strategic Alignment

Council Plan

3. A clean green environment
3.03 We will achieve excellence and best practice in the waste management

Environmental Sustainability Strategy
2022-2026

Focus Area 7
Sustainable management of waste
Align the Waste Management and Services Strategy with relevant state and regional plans and strategies and statutory compliance (EPA Amendment Act).

Waste Management and Services
Strategy 2018-2027

Objective 1
Operate compliant and, where possible, best practice management facilities

6. Internal & External Engagement

Neighbouring property owners were kept updated and alerted when their soil was tested (with a negative result i.e. no asbestos)

Moira Staff including OH&S, Sustainability Team (including Waste), People and Safety and other staff were involved in ensuring staff were safe and practices were and are greatly improved.

EPA and Worksafe were and are kept updated regularly, following all regulations and guidelines on reporting.

7. Budget / Financial Considerations

There will be costs incurred in this financial year and next financial year for both the investigation and clean-up activities.

This is in keeping with the December 2022 quarterly budget review where \$720,000 was allocated to this financial year. Any funds not used will be carried forward to next financial year, with further costs for next financial year to be considered with the final 2023/24 budget at the June 2023 Scheduled Council Meeting.

While prudent use of rate payers funds is always foremost on the minds of Council officers these are unavoidable costs and the clean-up must be conducted to the highest standard.

These costs are to investigate how the incident/s originally occurred/stipulate measures to ensure this does not occur again and also to ensure that the Community, Council Staff and contractors are safe with the safe removal and relocation of contaminated soil.

FILE NO:
3. A CLEAN GREEN ENVIRONMENT

ITEM NO: 11.1.1
(ENVIRONMENTAL SUSTAINABILITY
OFFICER - BIODIVERSITY, DIEDRE
ANDREWS)
(ACTING DIRECTOR SUSTAINABLE
COMMUNITIES, JANET MARTIN)

ASBESTOS INVESTIGATION AND REMEDIATION (cont'd)

The Investigation to be undertaken by Warfield and Associates will come to approximately \$17,700 with these funds having been allocated in this year's adopted budget forecast for this purpose. The costs from the clean-up are likely to be incurred over this and next financial year

Again it is stressed that a significant aspect of Warfield and Associates' work is on mitigating risks in the future and the development of best practice measures for Moira Shire Council. While the health and safety of our staff/contractors and the Community are of our highest concern, mitigating future financial risks is also a very high priority.

8. Risk & Mitigation

Risk	Mitigation
Financial	Multiple quotes were sourced
Economic (regional context or broader economic impact)	There will be financial penalise applied to council if it fails to act
Environmental	The site is to be rehabilitated to mitigate risk to environmental and human health
Reputational	Risk of reputational damage to council
Legislative Compliance	Council must act as duty holder in line with the GED requirements of the Environmental Protection Act 2017

9. Conclusion

The information included in this report is to be noted.

Attachments

Nil

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

ITEM NO: 14.1
**(ACTING DIRECTOR CORPORATE
GOVERNANCE AND PERFORMANCE,
AMANDA CHADWICK)**
**(ACTING DIRECTOR CORPORATE
GOVERNANCE AND PERFORMANCE,
AMANDA CHADWICK)**

AUTHORISATION OF USE OF COUNCIL'S COMMON SEAL

Recommendation

That Council authorise the Chief Executive Officer to sign and seal the document listed below.

1. Section 173 Agreement – Private Pipeline under road with Moira Shire Council and Murray River Land Pty Ltd at 3652 Fowlers Road Strathmerton.

Attachments

1. Section 173 Agreement - Murray River Land Pty Ltd - 362 Fowlers Road Strathmerton - *Confidential - printed in separate document*

FILE NO: VARIOUS

ITEM NO:

URGENT BUSINESS**7.4. Urgent 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.