



Alpine Shire

ORDINARY COUNCIL MEETING

AGENDA

M5 - 7 June 2016

Bright Council Chambers

7:00pm



Notice is hereby given that the next **Ordinary Meeting** of the **Alpine Shire Council** will be held in the Council Chambers, Great Alpine Road, Bright on **7 June 2016** commencing at **7:00pm**.

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1 RECORDING AND LIVESTREAMING OF COUNCIL MEETINGS

The CEO will read the following statement:

All Council meetings are filmed, with both video and audio being recorded.

Video recording is focused on Councillors and staff, while audio from the entire room is captured.

By speaking during question time, or at any time, you consent to your voice and any comments you make being recorded.

The entire recording will be live-streamed to the internet on Council's website www.alpineshire.vic.gov.au, and will also be made available online after the meeting. This is to improve access and transparency of Council decision making to our community.

2 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS, RECOGNITION OF ALL PEOPLE AND OPENING PRAYER

The CEO will read the following statement:

The Alpine Shire Council acknowledges the traditional owners of the land we are now on.

We also acknowledge those people who have contributed to the rich fabric of our community and strive to make wise decisions that will improve the quality of life for all.

3 CONFIRMATION OF MINUTES

3.1 ORDINARY COUNCIL MEETING – M4

RECOMMENDATION

That the minutes of Ordinary Council Meeting M4 held on 3 May 2016 as circulated be confirmed

4 APOLOGIES

5 OBITUARIES / CONGRATULATIONS

6 DECLARATIONS BY COUNCILLORS OF CONFLICT OF INTEREST

7 QUESTION TIME



8 PRESENTATION OF REPORTS BY OFFICERS

8.1 CHIEF EXECUTIVE OFFICER – DAVE BARRY

8.1.1 Rural Councils Victoria - support for incorporation

File Number: 650.09

INTRODUCTION

Rural Councils Victoria (RCV) has requested its member Councils to consider their support for the RCV association to become an incorporated body to allow it to continue its work in supporting rural councils across Victoria.

RECOMMENDATION

That:

- 1. the proposed incorporation of Rural Councils Victoria does not involve an investment and/or risk exposure that exceeds the thresholds set out in section 193(5C) of the Local Government Act 1989;*
- 2. Council vote in favour of authorising Jim Nolan, Chief Executive Officer of Pyrenees Shire Council, to apply to the Registrar of Incorporated Associations for the incorporation of Rural Councils Victoria Incorporated;*
- 3. Council approves the draft Rules attached to this report as 'Attachment A' as the Rules for Rural Councils Victoria Incorporated; and*
- 4. Council authorises Cr Vonarx to vote on Council's behalf on this matter, in accordance with this resolution, at the meeting of RCV to be held on 10 June 2016*

BACKGROUND

Rural Councils Victoria (RCV) is an unincorporated organisation which represents the interests of rural councils within Victoria and currently has 38 members, of which Council is one.

The RCV's work includes:

1. providing opportunities for networking and professional development;
2. activities directed at ensuring the sustainability of rural councils; and
3. activities to assist rural communities to remain sustainable.

This occurs via a number of mechanisms, including the:

1. organisation of forums and conferences for member councils;
2. engagement of consultants to undertake project work; and
3. applying for Government grants, particularly through Regional Development Victoria.

Given that the RCV is not a separate legal entity, it conducts its business through a 'Secretariat'. This involves the Executive appointing a willing council member to,



essentially, act as its agent, providing administrative support and entering into contracts on its behalf.

ISSUES

Incorporation of RCV

As the RCV is currently unincorporated, Council is, together with all other member councils, exposed to liability in respect of its operations.

To address this, and to enable the RCV to operate with greater independence and ease, it is proposed to incorporate the RCV as an incorporated association. It will be called 'Rural Councils Victoria Incorporated' and will operate in accordance with the draft Rules, attached to this report as 'Attachment A'.

The benefits of the RCV being incorporated include that it:

1. is recognised as a separate legal entity, with protection from debts for members and perpetual succession;
2. has the power to own and hold property, enter into contracts and otherwise act as any other legal entity would;
3. cannot distribute profit to its members;
4. must operate in accordance with a set of rules, including a statement of purpose – being the draft Rules attached to this report as 'Attachment A'; and
5. is operated by a Committee of Management and a Secretary, which are responsible for ensuring that all legislative obligations are complied with, and purposes are being achieved.

The RCV fulfils a number of functions that are important to rural councils in Victoria. Perhaps most importantly, it currently has responsibility for applying for Government grants, particularly through Regional Development Victoria, which are of benefit to rural councils.

It will be important that the RCV is incorporated to enable it to carry on those functions with greater independence and flexibility while still being subject to the views of its member councils.

It is not expected that the manner in which the RCV operates will be different from its current operations, although election to the Committee of Management will be based on slightly different zones, as set out in the draft Rules attached to this report as 'Attachment A'.



Exercise of Entrepreneurial Powers

As Council will, if in favour of this proposal, be participating in the formation and operation of a separate legal entity, it is required, in accordance with s193 of the *Local Government Act 1989* (LG Act), to have regard to the risks involved and comply with sections 193(5A) and (5B) of the LG Act.

Council is advised that:

1. the **total investment** involved in Council's participation in the formation of Rural Councils Victoria Limited is:

\$0

Council will be required to continue paying membership fees, as fixed by the Committee from time to time, but will not be required to invest anything in respect of the incorporation; and

2. the **total risk** involved in Council's participation in the formation of Rural Councils Victoria Limited is:

\$0

Any liability for the activities of Rural Councils Victoria Limited will attach to it, not to the individual members.

So, the total investment and risk exposure will be \$0, meaning that Council is not required to take any further action in relation to this matter under s193(5C) of the LG Act.

Next Steps

If the RCV continues operating as an unincorporated association, there is a risk that its individual members, including Council, will be exposed to liability if the RCV fails to properly conduct its business. Furthermore, it will be unable to enter into contractual arrangements on its own behalf – instead relying on the Secretariat council to do so.

It is therefore recommended that Council accepts the analysis of Council's investment and risk exposure and votes in favour of the RCV being incorporated on the basis of the draft Rules attached to this report as 'Attachment A'.

It is proposed that a vote of all current members will be held at the next meeting of RCV to be held on 10 June 2016. The vote will, if a majority is in favour, authorise Jim Nolan, Chief Executive Officer of Pyrenees Shire Council (the current Secretariat council), to apply to the Registrar of Incorporated Associations for the incorporation of RCV and approve the draft Rules.



POLICY IMPLICATIONS

Section 193 of the LG Act details the necessary steps that any council must follow when exercising 'Entrepreneurial Powers'.

The Alpine Shire Council Plan 2013-2017 supports the work of Rural Councils Victoria by the following means:

Inspired Community Leadership: Council values effective community advocacy and partnerships.

- *Strategic Objective 1.2: To advocate on behalf of and represent stakeholders on key issues*
- *Strategy 1.2.1: Advocate for beneficial community outcomes.*

FINANCIAL AND RESOURCE IMPLICATIONS

As previously indicated in this report, the financial implications of supporting the incorporation of RCV is zero. Council will continue to pay membership fees, but will not be required to invest anything in respect of the incorporation.

CONSULTATION

RCV has requested all of its member councils to consider their support for the incorporation of RCV, prior to the meeting scheduled for 10 June 2016. In order for RCV to apply for incorporation, at least 50 percent of members of the unincorporated association must vote in favour of it.

CONCLUSION

Council to accept the analysis of Council's investment and risk exposure and vote in favour of the RCV being incorporated on the basis of the draft Rules attached to this report as 'Attachment A'.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Chief Executive Officer
- Governance Officer

ATTACHMENT(S)

- 8.1 'Attachment A' - draft Rules for Rural Councils Victoria Incorporated



8.2 DIRECTOR CORPORATE PERFORMANCE – TREVOR BRITTEN

8.2.1 Finance Report - Quarterly Review

File Number: 600.03

INTRODUCTION

The purpose of this report is to provide a summary of how Council has performed during the quarter against budget and forecast.

Capital Works Expenditure

Capital works expenditure year to date (YTD) is tracking less than forecast by \$1.2 million. This is due to some works being behind schedule. There are a significant amount of works to be undertaken in quarter four and the first 6 weeks have seen \$1.6 million of works invoiced or 33% of the remaining forecast. There have already been some projects highlighted for carry forward/re-budgeting or will not proceed into 2016/17 including:

- Myrtleford Landfill Cell Construction – Council adopted a decision to close the Myrtleford landfill on 17 December 2015, which rendered this project and other associated projects redundant.
- Rehabilitation of Porepunkah Landfill – design approvals taking longer than planned.
- Mount Beauty Library Redevelopment – project was placed on hold while a strategic review of the library location was undertaken and delays in the design development process.
- Mountain Bike Trails Dinner Plain – delays in the cultural heritage and native vegetation assessments have led to implementation being deferred until next financial year.

There are a number of new projects which are being funded that were not part of the original budget. These include:

- Pavement renewal works (\$377K) which have been made possible by additional funding from the Roads to Recovery Program.
- Lakeview Children's Centre stage 2 (\$283K).
- Mount Beauty Progressing Place shade structure (\$63K) which has been made possible by additional grant funding.
- Alpine Events Centre (\$217K) which is a major project that was successful with a grant application after the budget was adopted. This project has had scoping works commence and the project life is expected to be 3 years.
- Mount Beauty pool repair works (\$34K) which were unbudgeted and required prior to the pool season commencing.
- Dinner Plain Castran Corner footpath and steps works (\$64K) to address a public safety risk ahead of the ski season.



- Restoration and repair of infrastructure damaged by the storm event on 8 December 2015 (\$320K).

With this in mind, it is expected that Council will achieve a capital spend of \$7.9 million.

Summary of operational performance

Council's operating performance is tracking favourable to forecast and budget. The main reasons for the favourable variance is due to savings in employee costs (\$544K) and materials and services being considerably below budget (\$1.4 million). Reasons for the variance to budget include:

- Vacant positions during the year;
- Outsourcing pool staff; and
- Demand reduction programs being realised in materials and services.

RECOMMENDATION

That Council:

Adopt the Finance Report - Quarterly Review for the quarter ending 31 March 2016.

BACKGROUND

Preparation of the finance report

The purpose of this report is to provide Council with a summary of the financial performance for the quarter against budget and forecast. This report provides an overview for the quarter including:

- Income statement
- Balance sheet.
- Cash balance;
- Current investments; and
- Loans balances.

This report also includes a summary of each department's quarterly performance with explanations for variances which are approximately greater than \$10,000 or 10%.

This report has been prepared for internal management reporting purposes and as required under section 138 of the *Local Government Act 1989*. This report has not been audited.

The Quarterly Finance Report (QFR) is prepared based on a rigorous process which includes:

- Each department reviewing their budget and providing explanations for variances at the master account level.



- Departments submitting their quarterly budget explanations to the Finance department for review and further analysis.
- Departmental managers presenting to the Executive on their departmental performance for the quarter.
- Presentation of the QRF to the Finance Committee and subsequently Council.
- Forecasting is undertaken by department managers each quarter at master account level. There has been significant progress made in the maturity of forecasting which is evidenced by the minimal year to date variances against forecast.
- This report is also provided to the Audit Committee for noting.

POLICY IMPLICATIONS

The Local Government Act (the Act) requires the following relating to financial management:

- Section 137 (Budgeting and reporting framework) - "Council must establish and maintain a budgeting and reporting framework that is consistent with the principles of sound financial management.
- Section 138 (Quarterly statements) – "At least every 3 months, the Chief Executive Officer must ensure that a statement comparing the budgeted revenue and expenditure for the financial year with the actual revenue and expenditure to date is presented to the Council at a Council meeting which is open to the public".

CONSULTATION

The quarterly finance report is available on Council's website once it has been adopted by Council.

CONCLUSION

The financial performance YTD is in line with forecast, and is expected to be under budget at year end. This is due to Council's demand reduction program and emphasis on controlling employee costs. It is recommended that Council adopt the Quarterly Finance Report.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Manager Corporate

ATTACHMENT(S)

- 8.2.1 Finance Report - Quarterly Review for the quarter ending 31 March 2016



8.2.2 Alpine Shire Council Procurement Policy

Documents Register: Procurement Policy No. 089

INTRODUCTION

The *Local Government Act 1989* requires councils to annually review their Procurement Policy. In 2014, Council adopted a revised Procurement Policy, which was harmonised with Towong and Indigo Shire Councils.

In 2016 the Manager Corporate reviewed the Procurement Policy and recommends no amendments as being necessary.

RECOMMENDATION

That Council:

- 1. Note that the 2016 review of the Procurement Policy No.089 version 3 has been completed;*
- 2. Note that no policy amendments are required; and*
- 3. Sign and seal the Procurement Policy No. 089 version 3 at the appropriate time of this meeting.*

BACKGROUND

In 2014, Alpine, Indigo and Towong Shire Councils worked together to develop a harmonised procurement policy, shared across the three councils. This was finalised and adopted by Council in June 2014.

In 2015, the Procurement Policy review focused on the procurement procedures specific to Alpine Shire Council and consisted of the following:

- Working group established to refine procurement procedures;
- Weekly meetings conducted in February, March and April to ensure progress met the requirements of all departments;
- Develop procurement procedures and templates; and
- Three audits have been conducted on purchasing procedures to ensure that the Procurement Policy is being adhered to.

In 2016, the Finance department undertook four (4) audits of the procurement and purchasing process with no issues noted. These results were presented to the Audit Committee each quarter. Based on the strong controls and compliance with the Procurement Policy currently in place no changes are recommended to the Procurement Policy at this time.



ISSUES

Principles

The key Procurement Policy principles are:

- Value for money
- Open and fair competition
- Probity and transparency
- Accountability
- Risk management
- Reporting
- Environmental sustainability
- Local sourcing
- Continuous improvement
- Collaboration

Harmonised procurement policy

The outputs of the project were a single harmonised procurement policy that:

- Aligns approval amounts
- Aligns procurement conditions
- Is supported by a single procedure manual and set of templates.

POLICY IMPLICATIONS

Legislative requirements

Section 186A of the *Local Government Act 1989* (the Act) requires:

(1) A Council must prepare and approve a procurement policy.

and

(7) At least once in each financial year, a Council must review the current procurement policy and may, in accordance with this section, amend the procurement policy.

Council Plan and other key strategic plan links

2013-2017 Council Plan

<i>Strategic Objective 5.2</i>	<i>To manage resources well to ensure sustainability</i>
<i>Strategy 5.2.1</i>	<i>Deliver responsible and prudent financial management</i>



FINANCIAL AND RESOURCE IMPLICATIONS

The procurement policy sets out spend thresholds and conditions required to undertake purchases within those thresholds. This ensures that Council is adhering to the principles outlined in the Procurement Policy, as well as the principles of sound financial management as set out in section 136 of the Act.

CONSULTATION

The policy adopted in 2014 was developed in conjunction with Indigo and Towong Shire Councils. The reviews in 2015 and 2016 have been undertaken internally with Council staff.

CONCLUSION

The 2016 review of the Procurement Policy ensures compliance with the Act, while noting that there have been no modifications required.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Manager Corporate

ATTACHMENT(S)

- 8.2.2 Alpine Shire Council Procurement Policy 089 - version 3



8.3 DIRECTOR ASSETS – CHARLIE BIRD

8.3.1 Community Sports Infrastructure Fund – Council financial commitment to support funding applications

File Number: 1543.03, 1563.01, 1563.10, 1566.08

INTRODUCTION

An opportunity exists for Council to seek funding to upgrade the Mount Beauty Swimming Pool and McNamara Reserve Female Change Facility in Myrtleford through the Victorian Government's Community Sports Infrastructure Fund.

RECOMMENDATION

That Council:

- 1. Authorise the submission of a Victorian Government grant application to upgrade the McNamara Reserve Female Change Facility with a Council commitment of no more than \$400,000; and*
- 2. Authorise the submission of a Victorian Government grant application to upgrade the Mount Beauty Swimming Pool with a Council commitment of no more than \$100,000.*

BACKGROUND

The Community Sports Infrastructure Fund is a Victorian Government funding program administered by Sport and Recreation Victoria (SRV), and helps provide high quality, accessible community sport and recreation facilities across Victoria by encouraging:

- increased sport and recreation participation for all Victorians
- increased female and junior participation
- increased access to sport and recreation opportunities
- better planning of sport and recreation facilities
- innovative sport and recreation facilities
- environmentally sustainable facilities
- universally designed facilities.

The Community Sports Infrastructure Fund provides grants for planning, building new, and improving existing facilities where communities conduct, organise and participate in sport and recreation. Funding is available under a range of categories; however, the following categories are relevant to the applications detailed in this Council Report:

- Female Friendly Facilities – Grants of up to \$100,000 are available to build new and upgrade existing, out-dated change facilities at sports clubs around the state that cater for female sport, with a focus on promoting female and family friendly environments.



- Small Aquatic Projects – Grants of up to \$200,000 are available to improve and upgrade aquatic facilities, seasonal pools and develop new water play spaces.

The maximum funding ratio for these programs is \$2:\$1.

It is proposed that Council seeks funding through the Community Sports Infrastructure Fund to:

- Upgrade the out-dated and deficient female change facilities at McNamara Reserve, Myrtleford to improve access for female participants and officials (Female Friendly Facilities category).
- Upgrade the Mount Beauty Swimming Pool to improve its sustainability and usability (Small Aquatics Projects category).

ISSUES

The existing McNamara Reserve female change facility should be an important facility for several user groups (e.g. Myrtleford Football Netball Club, Myrtleford Netball Association), however it is underutilised due to its poor condition and undersized and deficient change rooms.

The existing McNamara Reserve female change facility is located on land subject to inundation. An upgraded facility would replace the existing and generally be located on a similar footprint. The design of an upgraded facility would need to consider potential flooding impacts.

Repairs were conducted to the Mount Beauty Swimming Pool ahead of the 2015/16 swimming pool to address significant water losses observed in the 2014/15 pool season. However, additional works are required to upgrade and modernise the facility to improve its sustainability and usability.

POLICY IMPLICATIONS

Upgrading the Mount Beauty Swimming Pool and McNamara Reserve Female Change Facility in Myrtleford is consistent with the following Strategic Objectives of the Council Plan:

- 2.2 - To improve the quality of the built environment and amenity
- 2.3 - To improve the condition and management of Council's assets
- 3.1 - To support the health and wellbeing of communities
- 4.1 - To effectively plan and deliver strategic and major projects.

FINANCIAL AND RESOURCE IMPLICATIONS

The concept design for the upgraded McNamara Reserve Female Change Facility has been prepared by an architect. It is estimated that the total cost of an upgraded facility could be up to \$500,000, including demolition, construction of new facility, landscaping and car parking. The maximum funding available under the Female Friendly Facilities category is \$100,000, therefore Council would be required to fund the remainder (up to \$400,000).



The project scope for the Mount Beauty Swimming Pool Upgrade has been developed in consultation with a pool specialist. The total cost of the project is estimated to be \$291,500. Considering funding ratios limitations, the maximum funding available for this project under the Small Aquatics Projects category would be \$194,333. Therefore Council would be required to fund the remainder (\$97,167).

It is expected that successful funding applications will not be announced until November 2016. It is likely that work on the Mount Beauty Swimming Pool Upgrade would commence following closure of the pool at the end of the 2016/17 season (currently anticipated to be end March 2017), and on-ground works would not commence on the McNamara Reserve Female Change Facility until October 2017 (after the following netball season).

CONSULTATION

The project scope and concept design for the McNamara Reserve Female Change Facility Upgrade project has been developed in close consultation with the McNamara Reserve Committee of Management, which has representation from the following relevant user groups; Myrtleford Football Netball Club; Myrtleford Netball Association; Myrtleford Tennis Club; and Ovens Valley Canine Club.

The project scope for the Mount Beauty Swimming Pool Upgrade has been developed in consultation with Council's Facilities department, which is responsible for the operation of the pool. Letters of support for the pool upgrade have been received from Triathlon Australia, Mount Beauty Secondary College, and the Mount Beauty and Falls Creek primary schools.

The local SRV representative has been very encouraging of these proposals.

CONCLUSION

Council has an opportunity to secure funding through the Victorian Government's Community Sports Infrastructure Fund to:

- Upgrade the out-dated and deficient female change facilities at McNamara Reserve, Myrtleford to improve access for female participants and officials.
- Upgrade the Mount Beauty Swimming Pool to improve its sustainability and usability.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development

ATTACHMENT(S)

- Nil



8.4 DIRECTOR SUSTAINABLE DEVELOPMENT – HEATHER GREEN

8.4.1 Events funding for Dinner Plain Marathon & Daniher's Drive

File Number: 1608.12

INTRODUCTION

An amount of \$60,000 was budgeted to provide event organisers with financial assistance toward event delivery in Dinner Plain in the 2015/16 Financial Year (FY). To date, \$43,000 has been committed to or paid to event organisers for events undertaken, leaving a surplus of \$17,000 in the budget. The surplus is as a result of two planned events not being delivered and other conceptual events not being taken any further. The event funding round for the 2016/17 FY is now open with two event applications already received: The inaugural Great Alpine Road Marathon and the charity Daniher's Drive. There is very strong support for these two events at both a community level and from the Dinner Plain Advisory Committee (DPAC). Both these events are anticipated to bring substantial economic and promotional benefits to the village.

Both events would benefit from immediate funding approval (from the 2015/16 budget) to secure their presence in Dinner Plain.

RECOMMENDATION

That:

- 1. Council endorse funding a total of \$11,449 for the two proposed events from the funds available in the 2015/16 FY budget.***
 - Daniher Drive, \$6,449;***
 - Dinner Plain Road Marathon \$5,000.***

BACKGROUND

In FY2015/16, two events – the Carols in the Alps and the Mountain Bike Enduro and Funduro – were awarded \$5,500 and \$2,500 in funding, respectively. Due to various circumstances, neither event was delivered, contributing to the \$17,000 remaining balance in the Dinner Plain events budget for the current financial year. Two applications for events have been received that require urgent consideration.

Daniher's Drive:

This is a charity motor vehicle rally that will stop in Dinner Plain on the night of Thursday, 13 October 2016.

The event is run by Neale Daniher, a former Essendon player and coach of the Melbourne Football Club who suffers from Motor Neurone Disease (MND).

Daniher's Drive raised over half a million dollars for MND research in its first year in 2015. The event not only supports a good cause, but also brings the opportunity for significant media attention to Dinner Plain because of Neale Daniher's high profile.



The event has already attracted 260 participants, all of who will be staying and dining in Dinner Plain at a time of year that is seasonally quiet for the village. This will provide a welcome boost to the Dinner Plain economy.

The charity has applied for funding for a marquee, including tables, chairs and lighting at a cost of \$6,449. It has proposed that the marquee be set up at the back of High Plains Hotel, which will be catering to up to 300 guests on the night.

The marquee has been requested because there is no suitable venue in Dinner Plain to adequately host that number of people at the event dinner. As such, access to a marquee is critical for the event to proceed in Dinner Plain.

The Great Alpine Road Marathon:

The second event – the Great Alpine Road Marathon – is the first full marathon proposed for Dinner Plain. Planned for Sunday 4 December 2016, the organiser estimates it will attract up to 250 participants in its first year, of which the majority will stay in Dinner Plain.

Marketed right, there is potential for this event to grow in the coming years and become a mainstay of the marathon calendar.

The Great Alpine Road Marathon has applied for \$5,000 in event funding from Dinner Plain. The Hotham Resort Management Board has approved \$5,000 in funding. It is estimated the event will cost \$26,000 to run, including single lane road closure costs.

This event needs to begin promotion to the marathon community now in order to attract participants and it would greatly benefit from prompt funding approval. The event will not run if it fails to attract funding.

ISSUES

A key positive to the event organisers of a prompt funding approval is that both events will be provided with a much greater lead time to well prepare, promote and deliver their events successfully, in turn, benefitting the Dinner Plain economy.

The remaining \$17,000 in the Dinner Plain events budget for FY2015/16 would otherwise enter the reserve. Rather than allow this to happen, the Dinner Plain economy would greatly benefit from the injection of the requested \$11,449 into supporting the two proposed events.

Moving the funding of these two events forward into this financial year will provide greater opportunity for funding for other events in FY2016/17.

DPAC supports the use of this years budgeted event funds to assist these two events. Events provide crucial economic benefits to Dinner Plain and the failure of events such as the Carols in the Alps has resonated deeply within the community.

POLICY IMPLICATIONS

This recommendation aligns with:

- Alpine Shire Council Plan 2013-2017, Theme 4, Prosperous Economy, Employment and Investment; and



- The Dinner Plain Recreation and Leisure Strategy.

FINANCIAL AND RESOURCE IMPLICATIONS

The funding of these two events now using the unused \$17,000 in the Dinner Plain events budget for this financial year would greatly assist in the success of these events as it would provide the organisers sufficient time to organise and market their programs.

CONCLUSION

The recommendations of DPAC provide a clear pathway for Council and the two events would provide a boost to the Dinner Plain economy.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Sustainable Development
- Manager Economic and Community Development
- Marketing and Events Officer, Dinner Plain

ATTACHMENT(S)

- Nil



8.4.2 Use of Bird Scare Guns

File Number: 1022.13

INTRODUCTION

The purpose of this report is to address a petition from residents in the Gapsted area who have requested Council prohibit the use of scare guns at 36 Lower River Road, East Gapsted. The report also outlines the current controls in place to manage the use of bird scare guns in Alpine Shire.

RECOMMENDATION

That Council:

- 1. Note that monitoring of bird scare guns at 36 Lower River Road East Gapsted will take place next season - December 2016 to April 2017.*
- 2. Review Council Policy - Control of Noise from Scare Guns and the relevant section of Amenity Local Law No.5 to ensure:*
 - A balance between the right to farm and the impact on residents in the vicinity;*
 - Currency;*
 - Consistency; and*
 - The best approach for ensuring compliance*
- 3. Advise the main proponent of the petition of these outcomes.*

BACKGROUND

The use of bird scare guns has been the subject of complaints over many years which led to the development of regulatory tools to assist in dealing with these complaints. In 1995 Council adopted a Policy on bird scare guns following community consultations and in 2005 a Local Law.

Complaints are still being received and most recently a Community Petition was received by Council on 14 April 2016. The petition, tabled at the Council meeting on 3 May 2016, was signed by 37 persons who reside in the vicinity of the property situated at 36 Lower River Road East Gapsted. The petition requested that Alpine Shire "take immediate action to stop the use of gas scare guns on the Mercuri property".

ISSUES

The issues presented relate to bird scare guns - devices that produce an explosive sound for the purpose of scaring away birds from crops and orchards. For the guns to be effective they should only be used when the birds are actively feeding, which is normally in the early morning and late afternoon. While bird scare guns can be used all year round they are generally used during the months of January to April. The issues relate to the regulatory tools used to manage bird scare guns, the control of noise and the alternative options available.



Regulatory Tools

The Regulatory tools currently available for Council to deal with noise complaints from the use of bird scare guns are:

1. **The Environment Protection Authority Noise Control Guidelines 2008** which are primarily intended to be used by Council officers to assist in the resolution of noise complaints. The guidelines can also be used in the making of a local law. (Appendix A)

The EPA guidelines state:

- Scare guns must not be used within 300 metres of a complainant's dwelling.
 - Scare guns may be operated from 7 am and up to 12 hours per day (but not after sunset).
 - The interval between blasts must not be less than 6 minutes.
2. **The Alpine Shire Policy for Control of Noise from Scare Guns** is enforced using the Public Health & Wellbeing Act 2008 and is attached in Appendix B.

The Scare Gun Policy states:

A scare gun may be used without a permit on rural and rural living zoned land (as defined in the Alpine Planning Scheme) provided:

- It is not used within 300 metres of dwellings on adjoining properties.
 - It must be set to provide an average clear interval between a cycle of blasts of 8 – 16 minutes.
 - It may be used for a maximum of 6 hours per day (Eastern standard time 7 - 10am and 4 - 7 pm / Daylight savings time 7 – 10 am and 5 – 8 pm).
 - Maximum number of blasts per day permitted is 90 (triple shot gun).
 - The number of scare guns must not exceed 1 scare gun per 4 hectares of crop area or part thereof.
3. **The Alpine Shire Amenity Local Law No 5 Clause 14** has the same conditions as the Scare Gun Policy but is enforced by an Authorised Officer. (Appendix C)

While the Council policy and local law are similar, they have differing enforcement regulations. The EPA guidelines differ primarily through the permitted hours of operation. The guidelines state scare guns can be used for up to 12 hours per day, however the local law and policy state specific times of operation.

Noise Complaints from use of Scare Guns at 36 lower River Road East Gapsted

The Community Petition tabled at the Council meeting in May was the result of ongoing noise complaints from the use of bird scare guns at 36 Lower River Road East Gapsted. The noise complaints have been the subject of an ongoing investigation by Council Officers as summarized below:

A Prohibition Notice under the *Public Health & Wellbeing Act 2008* was issued on 3 March 2015 on the grounds of complaints received by Council relating to the use of



scare guns outside the permitted hours (Council Scare Gun Policy). The occupiers subsequently made written application to Council to vary the hours of use. The application was refused on the basis that the proposed increase in the use of scare guns would subject neighbours to excessive noise. No further action was taken against the operator during the 2015 season.

Complaints from seven nearby properties have been received during the 2015/16 season.

A full day of monitoring of the bird scare guns used at the property was conducted by Council's Ranger on 30 March 2016. The monitoring found the scare guns were being operated outside two criteria of the Council Policy:

- The scare guns were operated outside the permitted times (before 5pm daylight savings time) and;
- The number of blasts exceeded the maximum permitted number of 180 for the 6 hour permitted period (215 blasts heard).

These breaches have validated the complaints and petition received.

Following the monitoring, a prohibition notice was issued to the occupiers. In the meantime, the petition from complainants was received. The matter has not been resolved as the season has concluded and the scare guns are not being used. Council officers will undertake monitoring next season (end of 2016 and into 2017) and should non-compliance with the Policy and Local Law be found, enforcement action will be pursued.

Alternative Options

Under Council's current regulatory regime it is not in a position to prohibit / stop the use of bird scare guns at the property or any other property that is on 'rural' or 'rural living' land and being operated in accordance with the Policy and Local Law conditions.

It should be noted that scare guns are not the only method of bird control available, other control methods include:

- Kites shaped like birds of prey,
- Plastic strips which hum in the wind,
- Netting

Officers advise farmers of these alternative control methods, but cannot enforce these. The occupiers were informed about these alternative methods of bird control when their application to vary the use of operating hours for their bird scare guns was rejected in 2015 and again this year when discussions were held with them.

As the existing policy and local law are 20 and 10 years old respectively it is considered timely to review these documents to assess currency and seek input from the farming community and others more broadly. It will be prudent to seek legal advice in the review of the Council Policy and Local Law.



POLICY IMPLICATIONS

The use of the local Council Policy and Local law relating to the control of noise from bird scare guns complement other Council policies and strategies, namely the Alpine Shire Council Plan 2013 - 2017 (review 2015) by advocating for beneficial community outcomes (1.2.1).

It also complements the 2030 Community Vision key direction - sympathetic and balanced development and the 2013 Municipal Health and Wellbeing Plan which aims to deliver on the strategic objective 'to ensure council leadership and community engagement as key to decision making'.

FINANCIAL AND RESOURCE IMPLICATIONS

Council officers will be required to conduct further monitoring of the property located at 36 Lower River Road East Gapsted (most probably during January to April 2017 when the bird scare guns are in use). If the bird scare guns are not used in the manner set out in the Policy and/or Local Law then Council will continue to enforce the Alpine Shire Scare Gun Policy or alternatively the Local Law when dealing with complaints received relating to the use of scare guns outside the Policy at the property. This may involve the:

- Issue of another Prohibition Notice.
- Impounding of the device/s.
- Prosecuting via taking the matter to the Magistrates Court.

It is estimated that the amount of officer time already spent on this complaint is about 40 hours and that a similar amount will be required for further investigation of this matter by Council Officers next season.

A review of the current policy and local law including the required consultation will cost approximately \$5,000 to \$10,000.

CONCLUSION

The use of bird scare guns is controlled using regulatory rules as stated in the Alpine Shire Council Policy and Local Law with guidance in developing policy and local law provided through EPA Control of Noise Guideline.

Complaints particularly around the property situated at 36 Lower River Road East Gapsted have been investigated and found to be valid. Officers have taken appropriate action and will continue to monitor the situation next season and take action as provided under the Local Law and Policy. The request by the petitioners to prohibit the use of scare guns at this property cannot be achieved under the current regulations. A review of the policy and local law and policy may assist in achieving a more considered outcome.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.



- Director Sustainable Development
- Acting Manager Planning and Amenity
- Environmental Health Officer

ATTACHMENT(S)

- 8.4.2 Appendix A - Environment Protection Authority Noise Control Guidelines
- 8.4.2 Appendix B - Alpine Shire Policy for Control of Noise from Scare Guns
- 8.4.2 Appendix C - Alpine Shire Amenity Local Law No 5 Clause 14



9 ASSEMBLY OF COUNCILLORS

INTRODUCTION

Section 80A of the *Local Government Act 1989* requires a written record of Assemblies of Councillors to be reported at an ordinary meeting of the Council and to be incorporated in the minutes of the Council meeting.

RECOMMENDATION

That the summary of the Assemblies of Councillor for May 2016 be received.

BACKGROUND

The written records of the assemblies held during the previous month are summarised below. Detailed assembly records can be found in Attachment 9.0 to this report.

Date	Meeting
3 May	Briefing Session
24 May	Briefing Session

ATTACHMENT(S)

- 9.0 Assemblies of Councillors - May 2016



10 PRESENTATION OF REPORTS BY DELEGATES

INTRODUCTION

Councillor representation on various committees occurs where Council has an interest. Delegate reports contain information about meetings attended, and the outcomes of those meetings that affect Council.

RECOMMENDATION

That the summary of the presentation of reports by delegates for May 2016 be received.

BACKGROUND

The written records of the delegates reports held during the previous month are summarised below. Detailed delegates reports can be found in Attachment 9.0 to this report.

Date	Meeting	Councillor
9 May	North East Multicultural Association	Cr Kate Farrell
16 May	Bright Art Gallery	Cr Kate Farrell
12 May	Rural Councils Victoria	Cr Jan Vonarx
20 May	Timber Towns	Cr Jan Vonarx
19-20 May	North East Waste and Resource Recovery Group	Cr Ron Janas

ATTACHMENT(S)

- 10.0 Presentation of Reports by Delegates - May 2016



11 GENERAL BUSINESS

12 MOTIONS FOR WHICH NOTICE HAS PREVIOUSLY BEEN GIVEN

13 RECEPTION AND READING OF PETITIONS



14 DOCUMENTS FOR SEALING

RECOMMENDATION

That the following documents be signed and sealed.

1. *Section 173 Agreement – Richard John Piazza and Jan Louise Piazza Lot 2 on Plan of Subdivision 446822S Volume 10593 Folio 667*

Condition 5 of Planning Permit 2015.53.1 for a 2 lot subdivision at 28 Lawrence Street, Myrtleford.

The Agreement states that for any development on proposed Lot 1, the internal driveway and car parking area (including any garage or carport) must be designed and constructed so as to allow all vehicles to drive forwards when entering and leaving the property.

2. *Section 173 Agreement – Stradher Investments Pty Ltd Lot: S4 PS: 326821 Volume 11371 Folio 712*

Condition 4 of Planning Permit 2014.40.1 for subdivision of land into 20 lots in 2 stages at 40 Rangeview Drive, Myrtleford.

The Agreement states the surface level depths and thickness etc. for any development.

3. *Department of Environment, Land, Water and Planning Lease in favour of Kerrie Sinclair Dance School be signed by Alpine Shire Council as Committee Of Management.*

4. *Alpine Shire Council Policy No. 089 Procurement Policy V3 be signed and sealed.*

5. *Contract CT 16009 for Alpine Events Park - Hero Trail Design and Construction in favour of Alpine Community Plantation Inc.*