



Alpine Shire

ORDINARY COUNCIL MEETING

AGENDA

M12 – 8 November 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 **8 November 2016** commencing at **7:00pm**.

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1 INTERIM CHAIRPERSON

Under section 72(2) of the *Local Government Act 1989*, 'the office of Mayor becomes vacant at 6 a.m. on the day of a general election'.

Division 2 of Council's Local Law No.1 Council Administration provides that 'the Chief Executive Officer is to preside at the election of Mayor'.

The Chief Executive Officer will assume the role of Interim Chairperson to deal with Items 2 to 9.1.3 of this Agenda.

2 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.

In common with all narrative in a Council meeting, verbal responses to congratulations, obituaries and question time will not be recorded in the written minutes of Council meetings. This is to improve access and transparency of Council decision making to our community.

The full meeting and entire recording will be live-streamed to Alpine Shire Council's YouTube Channel and made available after the meeting.

3 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS, AND RECOGNITION OF ALL PEOPLE

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.

4 CONFIRMATION OF MINUTES

Nil

5 APOLOGIES

6 OBITUARIES / CONGRATULATIONS

7 DECLARATIONS BY COUNCILLORS OF CONFLICT OF INTEREST

8 QUESTION TIME



9 PRESENTATION OF REPORTS BY OFFICERS

9.1 CHIEF EXECUTIVE OFFICER – DAVE BARRY

9.1.1 Councillor Oath of Office and Code of Conduct declaration

File Number 640.01

INTRODUCTION

The *Local Government Act 1989* specifies that a person elected to be a Councillor is not capable of acting as a Councillor unless he or she has taken the oath of office in accordance with the *Evidence (Miscellaneous Provisions) Act 1958* and made a declaration stating that they have read, and will abide by, the Councillor Code of Conduct.

If a person elected to be a Councillor does not take the oath of office or make the Councillor Code of Conduct declaration as specified within three months after the day on which he or she was declared elected, the office of that Councillor becomes vacant.

OATH OF OFFICE

The oath of office must be made before the Chief Executive Officer (CEO); must be signed and dated before the CEO; and must be recorded in the minutes of the Council meeting.

The oath of office reads:

"I will undertake the duties of the office of Councillor in the best interests of the people in the municipal district of Alpine Shire and faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1989 or any other Act to the best of my skill and judgment."

A Councillor may take the oath of office as an Oath or an Affirmation, in accordance with the provisions of Division 2 of Part IV of the *Evidence (Miscellaneous Provisions) Act 1958*

The signed oaths of office will be included with the minutes of this meeting.

CODE OF CONDUCT DECLARATION

The Councillor Code of Conduct declaration must be made in writing and be witnessed by the Chief Executive Officer.

The Councillor Code of Conduct was adopted by Council on 28 June 2016, and includes the following statement:

The Mayor, Deputy Mayor and councillors commit to working together:

- *in the interests of the people of the Alpine Shire;*
- *to discharge their responsibilities to the best of their skill and judgement;*
- *constructively and in a manner that is consistent with Council's values.*



It also contains:

- the internal resolution procedure for dealing with an alleged contravention of the Councillor Code of Conduct by a Councillor;
- processes for the purpose of resolving an internal dispute between Councillors;
- other provisions as required by the Act.

The signed declarations will be appended to the Councillor Code of Conduct adopted on 28 June 2016.

In addition to Councillors taking the oath of office and signing their declaration to abide by the Councillor Code of Conduct (the Code), Council must review the Code within the period of four months after the general election (by 22 February 2016). All Councillors must re-sign the declaration stating that they will abide by the Code within one month of this adoption.

In accordance with Section 63 of the Local Government Act 1989, the Chief Executive Officer will invite Councillors-elect to take the oath of office as Councillors for the term 2016 to 2020, and to sign the declarations relating to the Councillor Code of Conduct.

ATTACHMENT(S)

- 9.1.1a Councillor Oaths / Affirmations of Office
- 9.1.1b Councillor Code of Conduct - version 4 (2016)



9.1.2 Mayoral Term

INTRODUCTION

The *Local Government Act 1989* (the Act) sets out several requirements for the election of Mayor including the timing of the election of Mayor and the length of the term.

The Mayor must be elected after the fourth Saturday in October but not later than 30 November each year.

Council may resolve to elect a Mayor for a term of two years under section 71(2) of the Act. If Council does not choose a two-year option, Section 71(3) of the Act determines that the election of Mayor must occur 'each year'. Therefore Council must determine a one or two year term for the Mayor.

The Chief Executive Officer will call for a motion to set the term of the Office of the Mayor (one year or two years).



9.1.3 Election of Mayor

INTRODUCTION

The *Local Government Act 1989* sets out the requirements for the election of Mayor.

Section 71(1) of the Act requires the Mayor to be elected at a meeting that is open to the public.

Any Councillor is eligible for election or re-election to the office of Mayor under section 72 of the Act.

Precedence and Functions of Mayor

Section 73 of the Act sets out the precedence of the Mayor:

- The Mayor of a Council takes precedence at all municipal proceedings within the municipal district.
- The Mayor must take the chair at all meetings of the Council at which he or she is present.
- If there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the Councillors to be the acting Mayor.
- An acting Mayor may perform any function or exercise any power conferred on the Mayor.

Section 73AA of the Act specifies that the functions of the Mayor may include:

- providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor, and the observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors; and
- acting as the principal spokesperson for the Council; and
- supporting good working relations between Councillors; and
- carrying out the civic and ceremonial duties of the office of Mayor.

The Chief Executive Officer will call for nominations and a seconder for the Office of Mayor in accordance with Council's 'Election to the office of Mayor and Deputy Mayor' procedure.

MAYORAL RESPONSE

The Chief Executive Officer will invite the newly elected Mayor to address the meeting.

The Interim Chairperson vacates the Chair and the Mayor assumes the Chair.



9.1.4 Election of Deputy Mayor

The *Local Government Act 1989* only requires Council to elect a Mayor. There is no requirement under the Act to elect a Deputy Mayor.

The position of Deputy Mayor is determined by each council. Historically Alpine Shire Council has elected a Deputy Mayor.

Section 73(3) of the Act stipulates that *'if there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the Councillors to be the acting Mayor'*. Council has traditionally appointed the Deputy Mayor to be the councillor to act on behalf of the Mayor.

Council has also historically aligned the length of the term of the Deputy Mayor to that of the office of the Mayor.

The Mayor will call for a motion to determine if Council wishes to appoint a Deputy Mayor for the purposes of Section 73(3) of the Local Government Act 1989, to act if the Mayor is absent, incapable of acting or refusing to act.

In the event that Council wishes to appoint a Deputy Mayor, the Mayor will call for motions to:

- 1. set the term of office of the Deputy Mayor; and*
- 2. call for nominations and a seconder for the position of Deputy Mayor in accordance with Council's 'Election to the office of Mayor and Deputy Mayor' procedure.*



9.2 DIRECTOR CORPORATE PERFORMANCE

9.2.1 Nil



9.3 DIRECTOR ASSETS – CHARLIE BIRD

9.3.1 Storm damage - Emergency declaration for the purpose of infrastructure reinstatement

File Number: 535.34

INTRODUCTION

The purpose of the report is to advise Council of the emergency situation as a result of the September/October 2016 floods, and seek an exemption from Council's Procurement Policy to reinstate Council infrastructure damaged by this event.

RECOMMENDATION

That as a result of the emergency situation caused by the September/October 2016 floods, Council:

- 1. Resolves, in accordance with Section 186 (5)(A) of the Local Government Act 1989, that contracts be entered into for the following:*
 - a. General road and associated infrastructure repair*
 - b. General drainage repair / replacement*
 - c. General debris clean up and vegetation removal.*
- 2. Authorises the Chief Executive Officer to*
 - a. Negotiate with contractors for the necessary works to be undertaken*
 - b. Split contracts as required to enable reinstatement works to be completed*
 - c. Enter into the necessary contracts and sign and seal the relevant contract documents*
 - d. Appoint a project manager to manage the infrastructure reinstatement program for infrastructure damaged by the storm event.*

BACKGROUND

Alpine Shire experienced sustained heavy rain over a protracted period during September and October 2016 resulting in the ground becoming saturated and waterway levels rising across the Shire. A number of road closures were implemented due to floodwaters. Infrastructure was damaged across the Shire, which requires remediation work including bridge repairs, road grading and gravel re-sheeting, road stabilisation, culvert and drain unblocking and repairs, and general clean-up and vegetation clearing.

ISSUES

It is imperative that Council acts quickly to reinstate infrastructure damaged by this flood event. Delay in completing reinstatement works presents a risk to public safety and further infrastructure damage, as the infrastructure cannot function as intended.



If action is not taken quickly in appointing contractors we could possibly experience delay in addressing the infrastructure reinstatement as the contractors will be in demand from other affected areas in North East Victoria.

POLICY IMPLICATIONS

Section 6.4 of Council's current procurement policy states that *Under specific circumstances exemption from the methods of this policy can be sought.*

Under the Local Government Act Council is able, in an emergency situation, to also step outside the procurement limits set for Council under the Act.

Excerpt from the Local Government Act 1989:

Part 9 – Specific Functions, Powers and Restrictions

Section 186 Restriction on power to enter into contracts

(5) This section does not apply if –

(a) The Council resolves that the contract must be entered into because of an emergency.

FINANCIAL AND RESOURCE IMPLICATIONS

An initial assessment of damaged infrastructure has been completed, and the results of the assessment are summarised in the following table. Assessment is ongoing; however it is considered that in excess of 90% of the cost of necessary reinstatement works has now been identified.

Category	Estimated cost
Grading	\$200,000
Gravel re-sheet	\$175,000
Open drain reinstatement	\$143,000
Path reinstatement	\$110,000
Repair scour	\$91,000
General clean-up	\$91,000
Culvert jetting	\$80,000
Tree removal	\$44,000
Assess and repair bridge damage	\$37,000
Clear debris from structures	\$28,000
Sweeping	\$14,000
Tree works	\$7,000
TOTAL	\$1,020,000

These events are above and beyond Council's normal funding sources, and as such Council officers have requested access to the Natural Disaster Financial Assistance Fund (NDFA) for Local Government.

The NDFA Fund provides financial assistance for the restoration of essential public assets. The Victorian Government will meet 75% of approved restoration costs between \$10,000 and \$110,000, and 100% of the proportion of costs above \$110,000.



The list of required works resulting from the damage assessment has been discussed with the VicRoads representative appointed by the Department of Treasury to liaise with Council in relation to the NDFA claim. Based on feedback, the required works have been divided into claimable and non-claimable works as follows.

Claimable	\$895,000
Non-claimable	\$125,000

The non-claimable works are footpath reinstatement and other pedestrian infrastructure works. These are not deemed to be essential public assets under Department of Treasury guidelines and therefore reinstatement works do not qualify for NDFA funding. Alternative sources of funding for footpath reinstatement works are being investigated.

In addition to the estimate of claimable works detailed above is an estimated \$60,000 of level 3 bridge inspections which are claimable from the NDFA fund.

CONSULTATION

Council has been in contact with directly affected community members, relevant agencies and the Department of Treasury and Finance.

Community members that have been affected have requested that infrastructure repairs are undertaken in a quick and timely manner. The community has been very understanding of the situation.

CONCLUSION

It is imperative that Council acts quickly to reinstate infrastructure damaged by the storm event. Delay in completing reinstatement works presents a risk to public safety and further infrastructure damage.

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



9.4 DIRECTOR SUSTAINABLE DEVELOPMENT – HEATHER GREEN

9.4.1 Nil



10 ASSEMBLY OF COUNCILLORS

Nil

11 PRESENTATION OF REPORTS BY DELEGATES

Nil

12 GENERAL BUSINESS

13 MOTIONS FOR WHICH NOTICE HAS PREVIOUSLY BEEN GIVEN

14 RECEPTION AND READING OF PETITIONS

Nil



15 DOCUMENTS FOR SEALING

RECOMMENDATION

That the following documents be signed and sealed.

1. *Section 173 Agreement – Fiona Louise Cottrell
Lot 20 on Plan of Subdivision 058805, Certificate of Title Volume 8486 Folio 018.
Condition 5 of Planning Permit 2016.88.1 for a residential building for short term accommodation (retrospective) at 9 Feathertop Street, Tawonga South.
The Agreement ensures that the accommodation garage/building be used for short term accommodation only.*
2. *Section 173 Agreement – Mummery Road Pty Ltd
Certificate of Title Volume 10376 Folio 355
Conditions 6 and 19 of Planning Permit 2016.66.2 for a 14 lot subdivision at Halls Road, Myrtleford.
The Agreement refers to public open space contribution if Lot A is further subdivided; building exclusion zone and CFA requirements.*