



# Alpine Shire

**ORDINARY COUNCIL MEETING**

**AGENDA**

**M9 - 1 September 2015**

**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 **1 September 2015** commencing at **7:00pm**.

## AGENDA

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**1 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS, RECOGNITION OF ALL PEOPLE AND OPENING PRAYER**

The Chief Executive Officer will read the acknowledgement of the traditional custodians, recognition of all people and opening prayer.

**2 CONFIRMATION OF MINUTES**

**2.1 ORDINARY COUNCIL MEETING – M(8)**

**RECOMMENDATION**

*That the minutes of Ordinary Council Meeting M(8) held on 4 August 2015 as circulated be confirmed*

**3 APOLOGIES**

Cr Peter Roper

**4 OBITUARIES / CONGRATULATIONS**

**5 DECLARATIONS BY COUNCILLORS OF CONFLICT OF INTEREST**

**6 QUESTION TIME**



## 7 PRESENTATION OF REPORTS BY OFFICERS

### 7.1 CHIEF EXECUTIVE OFFICER – DAVE BARRY

#### 7.1.1 Councillor Mediation Costs

##### INTRODUCTION

This report is provided in response to the following question, asked by Cr Roper during General Business at the 4 August 2015 Ordinary Council meeting, 'Can you give me an estimate of how much money (including officer time) Alpine Shire Council has spent over the past 3 years on assuaging Cr Farrell's ongoing dissatisfaction with the previous and current Mayor?'

##### RECOMMENDATION

*That it be noted that the total mediation costs between Cr Farrell, Mayor Vonarx and Cr Roper is estimated to be between \$57,000 and \$68,500.*

##### BACKGROUND

Professional fees and officer time regarding this matter were accrued in 2013/14 and 2014/15. Professional fees have been accurately determined, and an estimate of time spent by the following officers tallied:

- Current CEO;
- Previous CEO;
- Director Sustainable Development;
- Director Corporate Performance;
- Former Manager Governance;
- Former Human Resources Manager;
- Former Client Liaison Coordinator.

Costs are tabulated as follows:

Professional fees		\$32,820
Officer time (estimated between 236 and 350 hours)	\$24,445	\$35,717
<b>Total</b>	<b>\$57,265</b>	<b>\$68,536</b>

##### 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
- Director Corporate Performance

##### ATTACHMENT(S)

- Nil



## **7.2 DIRECTOR CORPORATE PERFORMANCE – TREVOR BRITTEN**

### **7.2.1 Finance Report - Quarter 4 Budget Review 2014/15**

File Number:

#### **INTRODUCTION**

The purpose of this report is to provide an overview of Council's Quarter 4 financial performance against budget.

#### **RECOMMENDATION**

*That the Finance Report Quarterly Review for the period ending 30 June 2015 (favourably highlighting the outcomes of Council's business transformation project), be adopted.*

#### **BACKGROUND**

##### **Standard Statements**

The Finance Report provides an income statement, balance sheet, cash balances, current investments, borrowings and supporting graphs as at the end of the quarter.

Each of the above statements reflect Council's good performance throughout the year, with income and expenditure favourably influenced by:

- Income:
  - receipt of Council's Financial Assistance Grants in advance (from the Victorian Grants Commission); and
  - success with competitive grant applications.
- Expenditure:
  - a reduction in staff costs resulting from the HR Review; and
  - a decrease in materials and services expenditure resulting from the business transformation project.

The end of year operating result indicates an \$8M surplus (equivalent to a \$6.3M favourable variance to budget), based on unaudited 30 June 2015 data.

##### **Departmental Summaries**

The Finance Report includes a breakdown of each department's performance for the quarter, including explanations where variances exceed \$10,000 or 10%.

Rigorous new reporting arrangements requiring a much greater level of involvement by Managers are paying dividends, with increasing levels of budgeting and forecasting accuracy, and insightful explanation of variances more evident.

However, these improvements have been somewhat masked in 2014/15, with the necessary re-alignment of business units within the new organisational structure occurring in the latter half of the year.



Once established, it is expected that quarterly reporting in 2015/16 will improve to the next level, as staff begin to work with the new, simplified budget framework.

**Capital Works**

Council delivered 70% of its \$9.1M capital works program in 2014/15; this figure rises to 89% if ‘plant and motor vehicle replacement’ and ‘construction of the Myrtleford landfill cell’ are discounted from the equation (both ‘projects’ were postponed during the year for strategic reasons).

Approximately \$324k in capital works will be carried forward to 2015/16.

**ISSUES**

The next report on the agenda ‘2014/15 Annual Financial Report and Performance Statement – adoption in principle’, provides auditable, high-level, annual results; whereas this ‘Quarter 4 Budget Review’ provides detail by department including comparison between budget, actual, and forecast end-of-year results.

**KEY IMPLICATIONS**

Legislative Issues

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”.

**Risk Management**

Identified Risk	Risk Likelihood (H,M,L)	Impact of Risk (H,M,L)	Strategy to Manage Risk
Budget variances being greater than anticipated.	H	M	Quarterly review process requires managers to present to the Executive on budget variances and explain variances greater than \$10,000 or 10%.



## COUNCIL PLAN AND KEY STRATEGIC PLAN LINKS

The Finance Report is consistent with the Council Plan and Budget as follows:

<b>2013-2017 Council Plan</b>	
Strategic Objective 5.2	To manage resources well to ensure sustainability
<b>2013/14 Budget</b>	
Strategic Objective 2.5	Performance focused organisation

## CONCLUSION

Council's Business Transformation Project is making a positive difference, this report identifies:

- significant savings on employee costs, and materials and services;
- improvement in capital works program delivery; and
- a favourable end of year result to budget.

## 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
- Acting Manager Corporate Services

## ATTACHMENT(S)

- 7.2.1 Finance Report Quarterly Review, for the period ending 30 June 2015



## **7.2.2 2014/15 Annual Financial Report And Performance Statement – Adoption In Principle**

File Number:

### **INTRODUCTION**

The purpose of this report is to present the draft Annual Financial Report and Performance Statement for the year ended 30 June 2015 for review and endorsement.

### **RECOMMENDATIONS**

*That:*

- 1. The Annual Financial Report and Performance Statement for the year ended 30 June 2015 as presented be adopted in principle.*
- 2. That two councillors be authorised to certify the Annual Financial Report and Performance Statement for the year ended 30 June 2015, once amendments or changes as requested by the Victorian Auditor General have been made.*

### **BACKGROUND**

#### **Annual Financial Report**

Each year Council is required to prepare an Annual Financial Report containing financial statements that are audited according to Australian Accounting Standards.

The financial statements show Council's financial performance, financial position, and cash flows against the previous year, and comprise a:

- Comprehensive Income Statement,
- Balance Sheet,
- Statement of Changes in Equity,
- Statement of Cash Flows, and
- Statement of Capital Works.

In summary, Council ended the 2014/15 year with a budget surplus of \$7.2M (representing a positive variance of \$5.4M); income was greater than last year and expenses were less.

The favourable income result is mainly attributable to the receipt of Council's 2015/16 Financial Assistance Grants in advance - \$1.8M, and competitive grants success - \$700k. The favourable expenses result is mainly due to a reduction in employee related expenses (an outcome of the recent HR review) - \$1.1M, and a favourable revaluation of assets (due to an increase in the life of road assets) - \$500k.

Council delivered \$6.4M (70%) of its budgeted \$9.1M capital works program. This figure was significantly impacted by a freeze on plant and motor vehicle replacement





- \$1.35M, and the decision to postpone construction of the Myrtleford landfill cell - \$550k. Program delivery is actually 89% if these two issues are taken into account.

Significant capital projects delivered include:

- Bright to Harrietville rail trail – Stage 1
- Bright Splash Park
- Bright Sports Centre redevelopment
- Albert Lowerson commemorative statue (Myrtleford)
- Churchill Avenue road reconstruction (Bright)
- Kancoona South road reconstruction
- Rail trail widening and resurfacing in Bright
- Dinner Plain snow making

### **Performance Statement**

Performance Statements are required to be prepared according to the *Local Government Act* and the Local Government (Planning and Reporting) Regulations.

The performance statement comprises:

- Sustainable Capacity Indicators,
- Service Performance Indicators, and
- Financial Performance Indicators.

2015 is the first year that this 'performance statement' framework has been utilised, and therefore it is not yet possible to compare results to previous years. Nevertheless, the indicators show that Council is financially sustainable and that services are being delivered within expected parameters.

### **ISSUES**

The Annual Financial Report and Performance Statement were still subject to audit at the time of writing this report, but they must be adopted in principle to allow for their audit by the Victorian Auditor General.

The authorised Councillors will be required to certify the report and statement after any amendments or changes requested by the Victorian Auditor General have been made.

### **KEY IMPLICATIONS AND OPTIONS**

#### **Legislative Issues**

- Section 131 of the *Local Government Act* (Annual Report – contents) requires Council to prepare an annual report which contains:
  - Audited financial statements;
  - Audited performance statements; and
  - Audited financial statements against the budget (section 127)



- Section 132 of the *Local Government Act* (Annual Report - Preparation) requires Council to submit an annual financial report which is audited.
- Division 2 of the Local Government (Planning and Reporting) Regulations prescribe the performance statement contents and form.
- Part 3 of the Audit Act 1994 requires Council’s auditors to prepare a report on the financial statements.

**Risk Management**

<b>Identified Risk</b>	<b>Risk Likelihood (H,M,L)</b>	<b>Impact of Risk (H,M,L)</b>	<b>Strategy to Manage Risk</b>
Change in accounting standards	H	L	Continuous liaison with auditors. Receive updates from industry bodies including FinPro and Institute of Chartered Accountants. Regular staff training.
Change in legislation	M	L	Continuous liaison with auditors. Receive updates from industry bodies including FinPro and Institute of Chartered Accountants. Regular staff training.
Error in financial statements	H	L	Financial statements are audited. Any errors will be amended. Council has year-end controls and reconciliations in place to minimise the risk of errors occurring.

**COUNCIL PLAN AND KEY STRATEGIC PLAN LINKS**

The Annual Financial Report and Performance Statement outcomes are consistent with the Council Plan and Budget as follows:

<b>2013-2017 Council Plan</b>	
Strategic Objective 5.2	To manage resources well to ensure sustainability
<b>2014/15 Budget</b>	
Strategic Objective 2.5	Performance focused organisation

**Conclusion**

Council has ended the financial year favourable to budget; income was greater and expenses were less than the previous year. The surplus is accounted for in the 2015/16 budget and the long term financial plan (which indicates long term sustainability).

These favourable results reflect the work being done to transform the business from good to great.



Adopting the Annual Financial Report and Performance Statement in principle is a critical step in the preparation and adoption of Council's 2014/15 Annual 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 and
- Acting Manager Corporate Services

**ATTACHMENT(S)**

- 7.2.2(a) Annual Financial Report
- 7.2.2(b) Performance Statement



### 7.2.3 2015/16 Financial Assistance Grants

File Number:

#### **INTRODUCTION**

Financial Assistance Grants (FAGs) are a vital component of the revenue base of all councils, and this year councils will receive \$2.3 billion from the Australian Government under this important program.

The Government's decision in the 2014 Federal Budget to freeze the indexation of FAGs for three years beginning in 2014-15 will unfortunately cost councils across Australia an estimated \$925 million by 2017/18.

The Alpine Shire Council and every other council in Australia, has been asked by the Australian Local Government Association and state local government associations (as part of an advocacy campaign), to pass a resolution acknowledging the importance of the Commonwealth's FAGs in assisting to provide important community services and infrastructure.

#### **RECOMMENDATIONS**

*That:*

- 1. the importance of federal funding through the Financial Assistance Grants program for the continued delivery of councils services and infrastructure is acknowledged;*
- 2. it also be acknowledged that the Alpine Shire Council will receive \$3.427 million in Financial Assistance Grants in 2015/16; and*
- 3. this federal funding, and other funding provided by the Federal Government under relevant grant programs, be appropriately identified as Commonwealth grant funding in council publications, including annual reports.*

#### **BACKGROUND**

This year the Australian Government will provide \$2.3 billion for distribution to local government. From this, the Victoria Grants Commission will allocate \$395M to Victorian councils in general purpose FAGs.

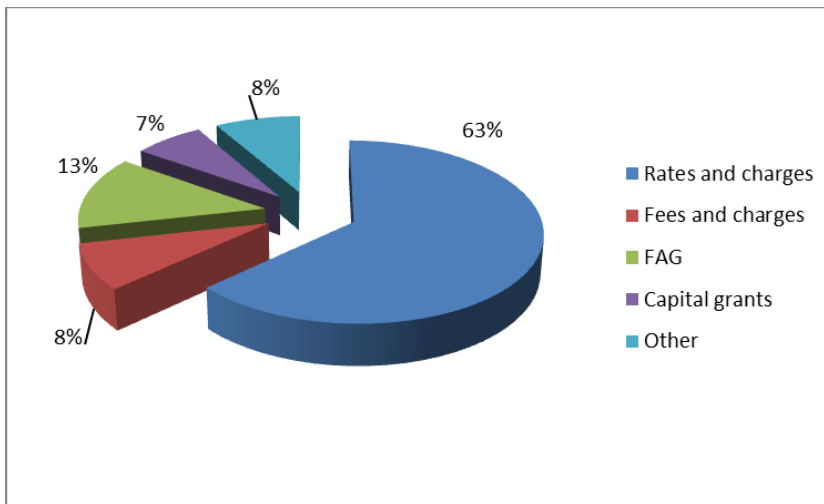
Council's 2015/16 grant allocation is as follows:

	Allocations		
Grant type	2015/16	2014/15	2013/14
General purpose grants	\$2,379,690		
Local road funding	\$1,057,402		
<b>Total</b>	<b>\$3,437,092</b>	<b>\$3,486,635</b>	<b>\$3,523,649</b>



### Critical income source

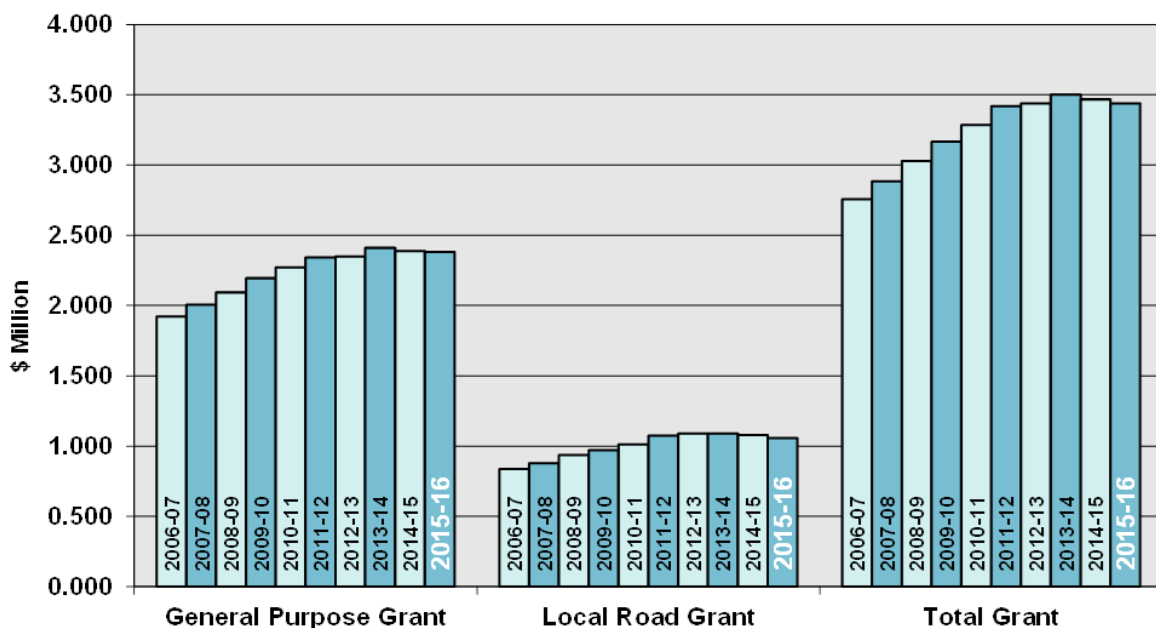
FAGs are the Alpine Shire's second largest income source (after rates and charges) and represent 13% of total income, as shown below:



FAGs are untied, which means that councils are able to determine how they are used.

### Historical allocations

The quantum of FAGs provided to the Alpine Shire Council over the last 10 years is significant and is shown graphically as follows:



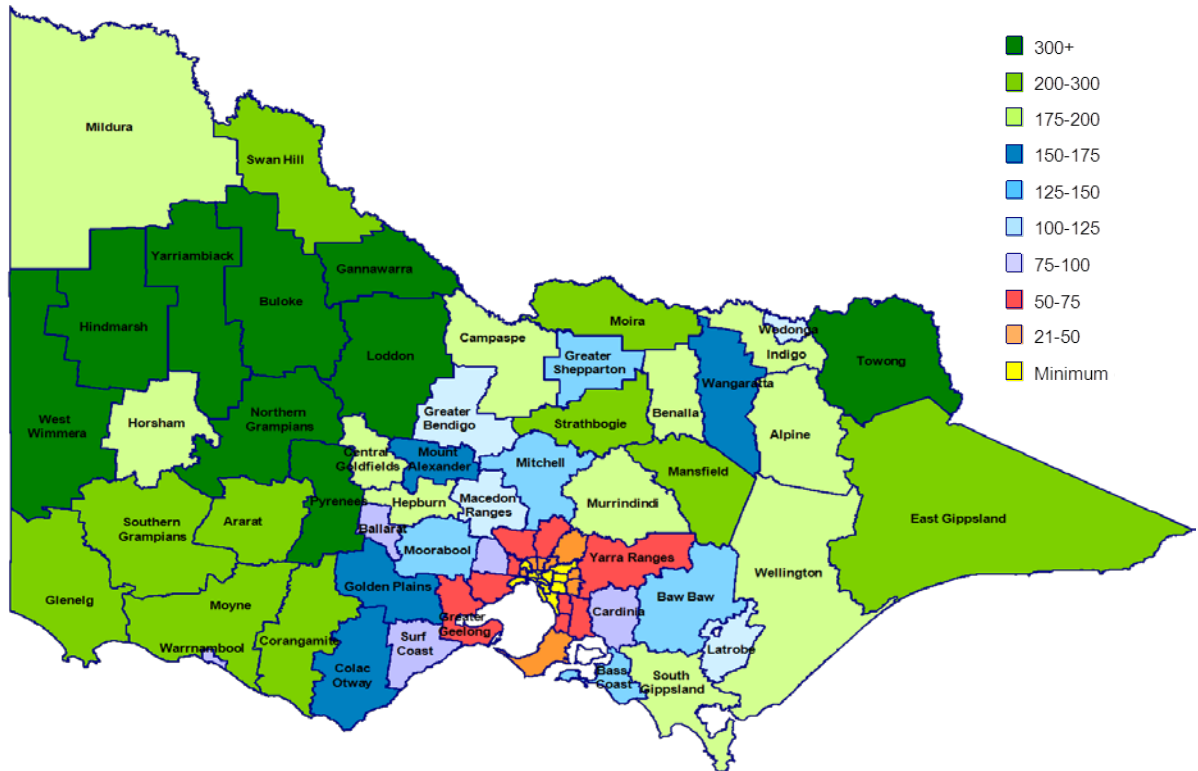
### FAG distribution

The Victorian Grants Commission (the Commission) allocates grants according to nationally agreed distribution principles, based on 'relative need'. The Commission's methodology takes account of the relative needs of each of Victoria's 79 councils by assessing their relative expenditure needs and their relative capacity to raise revenue.



## General Purpose Grants (\$/capita)

The following distribution map illustrates the allocation of the General Purpose component of FAGs (\$/capita) in Victoria. Relative need is clearly visible with rural shires receiving a greater portion of the total pool than rural cities and metropolitan Councils.



## ISSUES

### Indexation pause

Prior to 2013/14, the national pool available for FAGs was indexed annually according to CPI and population growth forecasts, but a 3-year indexation pause is now in place. The financial implications of this pause are explained in the following section.

### Allocation decrease

The Alpine Shire Council has actually experienced a 2 year decrease in FAG allocation due to:

- the indexation freeze on the total funding pool;
- a decrease in population estimates for Victoria as a whole, and
- a decrease in population for the Alpine Shire (according to the Australian Bureau of Statistics).

(Population is a major driver in the Commission's methodology to determine 'relative need').



## FINANCIAL IMPLICATIONS

The effect of the 3 year indexation pause is compounding and for the Alpine Shire amounts to a \$4.1M shortfall over 10 years. The accumulated 'gap' in 2015/16 is \$300k.

Year	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	Total
3% indexation, all years	3,523,649	3,629,358	3,738,239	3,850,386	3,965,898	4,084,875	4,207,421	4,333,644	4,463,653	4,597,563	4,735,490	45,130,176
3% indexation, from 2017/18	3,523,649	3,486,635	3,438,713	3,438,713	3,541,874	3,648,131	3,757,575	3,870,302	3,986,411	4,106,003	4,229,183	41,027,189
Net impact	0	142,723	299,526	411,673	424,024	436,744	449,847	463,342	477,242	491,560	506,306	4,102,988

## Long term financial plan

Council's Long Term Financial Plan makes the following assumptions:

- FAG indexation for years 2014/15, 2015/6, and 2016/17 = 0%
- FAG indexation for years 2017/18 and beyond = +3%/annum
- Unconfirmed grants = \$0
- Rates 'cap' from 2016/17 = +2.5%/annum

Despite these assumptions, the Long Term Financial Plan indicates Council's sustainability.

## CONSULTATION

Council will recognise the importance of the Commonwealth's FAGs in assisting to provide important community infrastructure and services by acknowledging the receipt of FAGs:

- in media releases and council publications,
- in the annual report, and
- by highlighting to the media a council project costing a similar amount to the FAGs received by Council so that the importance and impact of the grants can be more broadly appreciated.

## CONCLUSION

Indexed Financial Assistance Grants, distributed according to 'relative need', are a critical component of the Alpine Shire Council's revenue base. Council's Business Transformation Project ensures that the organisation is sustainable, but the Commonwealth funded FAG program is critical to the continued delivery of quality services and infrastructure.

## DECLARATION OF CONFLICT OF INTEREST

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

- Director Corporate Performance

## ATTACHMENT(S)

- Nil



**7.3 DIRECTOR ASSETS – CHARLIE BIRD**

**7.3.1 Nil**





## **7.4 DIRECTOR SUSTAINABLE DEVELOPMENT – HEATHER GREEN**

### **7.4.1 Alpine Amendment C39 Review of the LPPF and insertion of Rural Land Strategy**

File Number: 1468.39

#### **INTRODUCTION**

The purpose of the report is to:

1. Advise Council of proposed Amendment C39 to implement the Local Planning Policy Framework (LPPF) of the Alpine Planning Scheme and the adopted Alpine Rural Land Strategy.
2. Recommend that Council seek authorisation from the Minister for Planning to prepare Amendment C39, and when authorised, exhibit the amendment.

#### **RECOMMENDATIONS**

*That Council:*

1. *Request under Section 8A (2) and (3) of the Planning and Environment Act 1987 that the Minister for Planning authorise Alpine Shire Council to prepare Amendment C39 to the Alpine Planning Scheme;*
2. *Notify the Minister for Planning that when it exhibits Amendment C39, Alpine Shire Council intends to give full notification of the amendment under Section 19 of the Planning and Environment Act 1987 for the minimum statutory exhibition period of one month; and*
3. *When authorised by the Minister for Planning, exhibit Amendment C39 to the Alpine Planning Scheme under Section 19 of the Planning and Environment Act 1987.*

#### **BACKGROUND**

The Alpine Planning Scheme was last reviewed in 2011. In 2013 State Government funding was received through the DELWP Flying Squad program to further review the planning scheme. This review was undertaken by the EDM Group (Wodonga) in 2013/14. The final review recommended the replacement of the Local Planning Policy Framework (LPPF) to the planning scheme to reflect current strategic directions and implement a more usable and streamlined LPPF format. This revised LPPF is now proposed to be exhibited under Amendment C39.

Council also undertook a rural land strategy in 2012 – 2015, the strategy being adopted by Council in April 2015 as the Alpine Shire Rural Land Strategy, Alpine Shire Council, 2015. Amendment C39 will implement the adopted strategy into the revised LPPF to the planning scheme.

Amendment C39 proposes to revise the Alpine Planning Scheme Local Planning Policy Framework, updating the framework to reflect current strategic directions for



land use and implementing the Alpine Shire Rural Land Strategy, Alpine Shire Council, 2015. The amendment replaces the current Local Planning Policy Framework by:

- Replacing the existing Municipal Strategic Statement (Clauses 21.01 to 21.05, inclusive).
- Replacing existing local planning policies (Clauses 22.01 to 22.02, inclusive).
- Introducing a new Local Planning Policy Framework, comprising:
  - Clause 21.01, Alpine Shire profile;
  - Clause 21.02, Alpine Shire vision;
  - Clause 21.03, Settlement, built form and heritage;
  - Clause 21.04, Environment and natural resources;
  - Clause 21.05, Economic activity;
  - Clause 21.06, Infrastructure;
  - Clause 21.07, Local areas;
  - Clause 21.08, Reference documents;
  - Clause 22.01, Settlement, built form and heritage;
  - Clause 22.02, Environment and natural resources;
  - Clause 22.03, Economic activity; and,
  - Clause 22.04, Infrastructure.

## **ISSUES**

The planning scheme review and Amendment C39 meet Council's obligations under Section 12B of the *Planning and Environment Act 1987* to review the planning scheme no later than one year after approving the Council Plan. Council is now proposing new strategic directions through a revised LPPF which, when approved, will amend policy directions.

The LPPF review was undertaken with extensive consultation with Council and Council officers but did not include agency or community consultation. This amendment provides an opportunity for formal consultation on the revised LPPF.

The Alpine Shire Rural Land Strategy provides a long term strategic framework for the future land use and development in rural areas of the municipality for the next 15-20 years. The strategy was supported by extensive informal and formal community consultation and consultation with all relevant departments and service agencies. The draft strategy was publicly exhibited with 22 submissions being received, with most submissions being met in the adopted strategy.

The Alpine Shire Rural Land Strategy assesses and makes recommendations for seven district rural precincts, generally providing for the protection and growth of agriculture, the development of higher value intensive and niche agriculture, further development of rural tourism and identification of some areas appropriate for rural housing.



## **POLICY IMPLICATIONS**

The amendment will amend strategic directions for general land use in Alpine Shire, including amended policy directions for rural land use through the implementation of the adopted Alpine Rural Land Strategy.

This also complements Council's own policies and strategies namely the Alpine Shire Council Plan 2013-2017 (review 2015).

The amendment links to and implements the Council Plan, in particular the themes:

- Enhance the environment and liveability; and,
- Prosperous economy, employment and investment.

The amendment links to and implements the whole of the Alpine Shire 2030 Community Vision (2010 review), that is the vision and all seven key directions of:

1. Unspoilt natural environment;
2. Sympathetic and balanced development;
3. Economic prosperity;
4. Identity and character of our towns, villages and rural communities;
5. Services and facilities (health, wellbeing and lifestyle);
6. Linkages between communities; and,
7. Strong and safe communities.

The amendment also meets Council's obligations under the *Local Government Act 1989* Sections 126(2A and 2B) relating to the four-year Strategic Resource Plan.

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The LPPF review was completed using both internal and external resources. External consultants assisting with the review were funded by the state government.

The Alpine Rural Land Strategy was mostly completed internally and completed in 2014. An external consultant was used to review and finalise the study, being funded from the 2014/15 strategic planning budget. The adopted strategy will promote economic activity in the agricultural, tourism and servicing sectors of the rural economy.

Amendment C39 has been prepared using both internal and external resources. The external consultant assisting with the amendment has been funded from the strategic planning budgets for 2014/15 and 2015/16. Exhibition costs for the amendment will be funded from the 2015/16 budget.



## **CONSULTATION**

The LPPF review was undertaken with extensive consultation with Council and Council officers but did not include agency or community consultation. This amendment provides an opportunity for formal consultation on the revised LPPF.

The Alpine Rural Land Strategy was supported by extensive informal and formal community consultation and consultation with all relevant departments and service agencies. The draft strategy was publicly exhibited with 22 submissions being received, with most submissions being met in the adopted strategy.

The exhibition of Amendment C39 will provide a formal opportunity for agencies, landowners and the general public to make a submission to the proposed revised LPPF and implementation of the adopted Alpine Rural Land Strategy. While it is possible to exempt itself from giving direct notification of the amendment to all landowners (taking other steps to give reasonable notice of the amendment), it is considered appropriate for Council to directly notify all of these landowners given the amended policy directions proposed in the amendment.

In the event of unresolved submissions being received, submissions would be referred to an independent panel for consideration.

## **CONCLUSION**

Council has undertaken comprehensive projects to both review the Alpine Planning Scheme LPPF and prepare and adopt the Alpine Rural Land Strategy. Amendment C39 has been prepared to implement both projects.

Proposed Amendment C39 will improve the effectiveness of the Alpine Planning Scheme, implementing current land use directions, including strategic land use directions outlined in the Alpine Rural Land Strategy, Council Plan and other corporate strategies. C39 will revise the current older format of the LPPF, improving the operation and format of the planning scheme.

This report recommends that Council seek authorisation from the Minister for Planning to prepare the amendment, and when authorised, exhibit the amendment to provide for community and agency input.

## **DECLARATION OF CONFLICT OF INTEREST**

Under Section 80C of the *Local Government Act 1989*, officers providing advice to Council must disclose any interests, including the type of interest. The following officers declare that they have no interests to disclose in providing this report.

- Director Sustainable Development;
- Manager Planning and Amenity;
- Strategic Planner;
- Grant Scale – Consultant.



**ATTACHMENT(S)**

- 7.4.1(a) Proposed Amendment C39 Explanatory Report;
- 7.4.1(b) Proposed Amendment C39 Instruction Sheet;
- 7.4.1(c) Proposed Amendment C39 Clauses 21.01 – 21.08; and,
- 7.4.1(d) Proposed Amendment C39 Clauses 22.01 – 22.04.



## 7.4.2 Amendment of Local Law No. 2 Municipal Places (2012)

File Number: 1120.17

### **INTRODUCTION**

At its ordinary meeting held on 3 February 2015, Council resolved, amongst other things, to amend "Local Law No. 2 Municipal Places (2012)" to further restrict the hours that alcohol may be consumed within Bright CBD during the Iconic Bright Rod Run event.

A draft amending local law was prepared in June 2015, and was placed on public notice.

Council may now consider the submissions received and determine whether it will resolve to make the amending local law as recommended in this report.

### **RECOMMENDATION**

*That Council:*

- 1. Having complied with the requirements of Part 5 of the Local Government Act 1989 and having considered all the submissions made to it regarding "Amending Local Law (2015) - Local Law No 2 Municipal Places (2012)" make "Amending Local Law (2015) - Local Law No. 2 Municipal Places (2012)", in the form that was put on public notice, but amended such that the restricted hours over each day of the weekend of the Bright Iconic Rod Run are from 8.30pm through to midday the next day (instead of 4.00pm to 7.00am the next day as originally proposed), in the form attached to this agenda.*
- 2. Make a copy of Amending Local Law (2015) - Local Law No. 2 Municipal Places (2012) available to the public at the Council office.*
- 3. Publish notice of the making of Amending Local Law (2015) - Local Law No. 2 Municipal Places (2012) in the Victoria Government Gazette.*
- 4. Prepare a consolidated version of "Local Law No. 2 Municipal Places (2012)", that incorporates the amendments of "Amending Local Law (2015) - Local Law No. 2 Municipal Places (2012)".*

### **BACKGROUND**

At the ordinary meeting of Council on 3 February 2015, Council resolved that an amendment to Part 3 of "Local Law No. 2 Municipal Places", be prepared that bans the consumption of alcoholic beverages in the Bright CBD during the Bright Iconic Rod Run event, between the hours of 4.00pm to 7.00am on the Friday, Saturday and Sunday of the weekend of the event.

Council also resolved in February that Victoria Police, the Bright Rod and Kustom Club and the Bright and District Chamber of Commerce be notified of Councils decision.



The draft "Amending Local Law (2015) - Local Law No. 2 Municipal Places (2012)" was prepared in June 2015, as well as an accompanying explanatory report.

The draft local law was formally placed on public notice commencing on 8 July 2015, by way of a notice in the Alpine Observer. The notice period closed on 7 August 2015.

Notice was also placed in the Victoria Government Gazette published on 9 July 2015.

Council received a total of 14 submissions regarding the amendment. Some of these submissions were received prior to the giving of formal notice of the amendment in July 2015, being in response to Council's resolution of 3 February 2015.

### **ISSUES**

The "Local Law No.2 Municipal Places (2012)" is to be amended by way of an amending local law titled "Amending Local Law (2015) – Local Law No.2 Municipal Places (2012)".

The purpose of the amending local law is to amend the primary local law and does not operate as a stand-alone local law.

Consultation regarding the proposed amendment was undertaken with various interested parties, including the Police and the organisers of the event.

Once Council has considered the submissions, it must determine how it intends to proceed.

Council may decide to proceed with the amending local law as proposed, make minor amendments to the amending local law, make significant amendments to the amending local law, which may require further notice to be given, or abandon the amendment of the local law altogether.

An ordinary Council resolution makes the amending local law. The amending local law commences the day following the Council resolution.

Following the making of the amending local law, a copy of the amending local law must be made available at the Council office.

A consolidated version of the amended "Local Law No.2 Municipal Places (2012)" should also be made available at the Council office and placed on the Council's website.

Notice must also be published in the Government Gazette of the making of the amending local law and a copy of the amending local law must be sent to the Minister.

### **POLICY IMPLICATIONS**

The amendment to the local law has followed the appropriate procedures set out in the *Local Government Act 1989*.



## **FINANCIAL AND RESOURCE IMPLICATIONS**

Legal advice obtained to prepare documentation for the amendment has been at a cost of \$7,000 excluding GST. Officer time has required additional resources

## **CONSULTATION**

A complete set of the submissions received regarding the proposed amendment and a summary of each submission are attached to the agenda.

The submissions received regarding the amendment of the local law following the consultation undertaken may be divided into three general categories as set out below.

### **Generally supporting**

Four submitters generally supported the amendment of the local law, however they suggested that the hours in which alcohol consumption in public places in the Bright CBD be banned, be amended from that originally proposed by Council.

Three of these submitters suggested that the hours be amended to the period 8.30pm to midday the following day, for each day of the event weekend, while the fourth one suggested that the hours in which alcohol consumption in public places in the Bright CBD be banned be amended to the period 8.00pm to midday the following day, for each day of the weekend.

One further submission supported the hours proposed in the amending local law as drafted in a general sense, in that the submission indicated that by mid-afternoon the family atmosphere had deteriorated as a result of alcohol consumption. The submission, however, proposed that the hours in which alcohol consumption in public places in the Bright CBD should be banned be amended to the period 7.00am to 4.00pm, for each day of the weekend.

### **Amendment unnecessary**

Six submitters expressed the view that no amendment was required to the existing "Local Law No.2 Municipal Places (2012)", on the basis that participants at the event are generally well behaved and that the proposed alcohol bans would have a detrimental impact on local businesses that benefit from the Bright Iconic Rod Run event.

### **Complete alcohol ban**

Three submitters (including VicPol) suggested a complete ban on alcohol consumption in public places was appropriate for the duration of the event.

### **Discussion regarding submissions**

None of the submissions received supported the proposed amendment to "Local Law No.2 Municipal Places (2012)" in the form exhibited.

The submissions ranged from seeking a complete alcohol ban for the event, to seeking no change to the existing situation.

Having carefully reviewed and considered the submissions the recommendation is that the period of the alcohol ban in public places in the Bright CBD for the Bright





Iconic Rod Run event weekend be changed from the hours originally proposed (being 4.00pm to 7.00am the next day) to 8.30pm to midday the next day, for the Friday, Saturday and Sunday of the event weekend.

It is considered that the revised hours provide a reasonable compromise in terms of when participants and onlookers for the event may wish to reasonably and responsibly consume alcohol and the commercial and tourism benefits of this, against the potential negative consequences of alcohol consumption in public places over an extended period, particularly later into the evening and night.

The revised hours are considered to be a reasonable extension of the existing hours of prohibition in Local Law No.2 Municipal Places (2012) for the purposes of the Bright Iconic Rod Run event, in that the ban starts at 8.30pm (instead of the default of 10.00pm and continues through to midday the next day (instead of the default of 7.00am).

### **CONCLUSION**

The submissions received regarding the proposed amendment of "Local Law No.2 Municipal Places (2012)" to extend the ban on alcohol consumption in a public place in the Bright CBD on the weekend of the Bright Iconic Rod Run for the period 4.00pm to 7.00am the next day, provide little support for the proposed amendment as exhibited.

It is suggested that in response to the submissions and following further consideration of the matter, the extension of the ban on alcohol consumption be revised to the period 8.30pm to midday the next day, which appears to be a reasonable compromise having regard to the range of submissions received.

### **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 Planning and Amenity

### **ATTACHMENT(S)**

- 7.4.2(a) Submissions received concerning amending "Local Law No. 2 Municipal Places (2012)".
- 7.4.2(b) Summary of submissions received.
- 7.4.2(c) "Amending Local Law (2015) - Local Law No. 2 Municipal Places (2012)" amended such that the restricted hours over each day of the weekend of the Bright Iconic Rod Run are from 8.30pm through to midday the next day, instead of 4.00pm to 7.00am the next day, as originally drafted.



## 8 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 July / August 2015 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 8.0 to this report.

<b>Date</b>	<b>Meeting</b>
28 July	Briefing Session
4 August	Briefing Session
18 August	Briefing Session
25 August	Briefing Session

### ATTACHMENT(S)

- 8.0 Assemblies of Councillors - July / August 2015



## 9 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 August 2015 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.

<b>Date</b>	<b>Meeting</b>	<b>Councillor</b>
10 August	North East Multicultural Alliance	Cr Kate Farrell
12 August	Community Resilience Committee	Cr Ron Janas
14 August	Rural Councils Victoria	Cr Jan Vonarx
14 August	Timber Towns	Cr Jan Vonarx

### ATTACHMENT(S)

- 9.0 Presentation of Reports by Delegates - August 2015



**10 GENERAL BUSINESS**

**11 MOTIONS FOR WHICH NOTICE HAS PREVIOUSLY BEEN GIVEN**

**12 RECEPTION AND READING OF PETITIONS**



## 13 DOCUMENTS FOR SEALING

### RECOMMENDATION

*That the following documents be signed and sealed.*

1. Section 173 Agreement – Ivy Crest Pty Ltd, Lot 1A on Plan of Subdivision 628009F, Volume 11288 Folio 918 and known as Star Hotel, corner Star Road and Gavan Street, Bright, Victoria.

Planning Permit 2006.259 for the construction of buildings and works for the development of a supermarket and shops, the construction of buildings and works to the Star Hotel, a reduction in car parking pursuant to Clause 52.06 of the Alpine Planning Scheme, re-subdivision of Lots 1 and 2 PS 604779 into two lots, alteration to the access to a road in a Road Zone Category 1, and the display of advertising signs.

The Section 173 Agreement AG827413P has been amended by changing Recital C(b) and Clause 6.1(c). The land description has been updated.

2. Section 173 Agreement – Minister for Emergency Services (formerly the Minister for Bushfire Response) in right of the State of Victoria; and State of Victoria through the Department of Environment, Land, Water and Planning.

Subject Land: 1133 Myrtleford-Yackandandah Road, Mudgegonga.

The Agreement covers the Restriction on Residential or Commercial Development; Condition of Subject Land; and Consolidation and Outbuildings.

3. Section 173 Agreement – Colin Keith Armstrong and Carmen Irma Armstrong.  
Lot 1 on Title Plan 567894B, Volume 3812, Folio 237.

Condition 4 of Planning Permit 2013.118.1 for Buildings and Works for the Use And Development of a Dwelling and Shed at McConnells Lane, Porepunkah.

The Agreement provides that a Whole Farm Plan be implemented and conditions relating to the Whole Farm Plan be instigated.

4. Section 173 Agreement – Lars Paulsen and Gillian Elizabeth Paulsen  
Lots 1 & 2 on Plan of Subdivision 625743

Conditions 9 & 10 of Planning Permit 2014.095.1 for the 3 lot subdivision at 11 Porcellatos Lane, Bright.

The Agreement requires the endorsed Bushfire Management Plan be attached to the Agreement, which explicitly excludes Lot 1.



5. Section 173 Agreement – McRobin Pty Ltd.

Lots 1 & 2 on Plan of Subdivision 340827, Certificate of Title Volume 10235 Folio 110 and Volume 10235 Folio 111; and Lot 2 on Plan of Subdivision 130340, Certificate of Title Volume 3867 Folio 364.

Condition 6 of Planning Permit 2015.009.1 for the re-subdivision of 109 Buffalo Creek Road, Myrtleford.

The Agreement restricts the land from being further subdivided; and restricts two old decommissioned dwellings from being used in any other way other than for storage.

6. Section 173 Agreement – McRobin Pty Ltd.

Lots 1 & 2 on Plan of Subdivision 340827, Certificate of Title Volume 10235 Folio 110 and Volume 10235 Folio 111; and Lot 2 on Plan of Subdivision 130340, Certificate of Title Volume 3867 Folio 364.

Condition 6 of Planning Permit 2015.009.1 for the re-subdivision of 109 Buffalo Creek Road, Myrtleford.

The Agreement restricts the land from being further subdivided; and restricts two old decommissioned dwellings from being used in any other way other than for storage.