

M(1) – 30 JANUARY 2024

# Ordinary Council Meeting

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Agenda

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 **30 January 2024** commencing at **5:00pm**.

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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 is focused on a specific area however audio from the entire room is captured.

In common with all narrative during Council meetings, verbal responses to congratulations, obituaries and question time will not be recorded in the written minutes. By submitting a question, you consent to your question being read aloud at the meeting.

The reasoning behind recording council meetings is to hold us more accountable and improve transparency of Council's decision-making to our community.

The full meeting is being streamed live on Council's YouTube channel which is "Alpine Shire Council" and will also be available on the YouTube channel shortly after this meeting.

## 2. Acknowledgement of traditional custodians, and recognition of all people

*All to stand, the Mayor will read the following statement:*

Alpine Shire Council acknowledges the Taungurung peoples as the Traditional Owners of the lands on which we are meeting today. Council also acknowledges all of the Traditional Owners of the wider lands of the area known as the Alpine Shire.

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 – M(12) – 19 DECEMBER 2023

#### **RECOMMENDATION**

*That the minutes of Ordinary Council Meeting M(12) held on 19 December 2023 as circulated be confirmed.*

## 4. Apologies

## 5. Obituaries / congratulations

Refer to Alpine Shire Council's website [www.alpineshire.vic.gov.au](http://www.alpineshire.vic.gov.au); for its YouTube live-streaming recording for responses to questions.

## 6. Declarations by Councillors of conflict of interest

## 7. Public questions

Questions on Notice will be limited to two questions per person.

Written Questions on Notice will be tabled ahead of questions from the floor.

Refer to Alpine Shire Council's website [www.alpineshire.vic.gov.au](http://www.alpineshire.vic.gov.au); for its YouTube live-streaming recording for responses to questions.

## 8. Presentation of reports by officers

### 8.1 CHIEF EXECUTIVE OFFICER – WILL JEREMY

#### 8.1.1 Nil

## 8.2 DIRECTOR ASSETS – ALAN REES

### 8.2.1 Dinner Plain Snowmaking - Water and Electrical Supply

File Number: CT23063

#### INTRODUCTION

This report relates to the award of a contract for the Dinner Plain Snowmaking - Water and Electrical Supply.

#### RECOMMENDATIONS

*That Council:*

1. *Awards Contract No. CT23063 'Dinner Plain Snowmaking - Water and Electrical Supply' to ABC Civil Group for the lump sum price of \$854,097 (GST exclusive); and*
2. *Delegates authority to the CEO to sign and seal the contract at the appropriate time.*

#### BACKGROUND

In 2021 Council received a grant from the Regional Infrastructure Fund as part of Regional Development Victoria with the aim to assist with growth of rural Victoria by providing grants for infrastructure projects. Council secured the funding for the upgrade and improvement of snowmaking infrastructure. This will provide a reliable snow season from mid-June to late September each year at Dinner Plain, resulting in economic and social benefits for the Dinner Plain community and businesses all year round.

The contract scope of works consists of the following:

1. Installing the water and electrical reticulation for the two snow guns and snowmaking factory at the toboggan (Peashooter) run.
2. Three concrete service pits for the snow guns will be constructed.
3. The hardstands for the snowmaking factory and the services shed required to house the electrical components for the snowmaking factory.

#### EVALUATION

The Tender was placed on tenders.net and the Alpine Shire Council website from 17 November 2023 to 8 December 2023. A site tender briefing session was held on 24 November 23, and one prospective tenderer attended the meeting.

The tender documents were viewed by 18 prospective tenderers, downloaded by 14 and two tender responses were received.

The key selection criteria listed in the Invitation to Tender were:

1. Price
2. Qualifications and previous performance
3. Delivery
4. Social
5. Environmental Sustainability

Following the assessment of the tenders, it was determined that the tender from ABC Civil Group best met the selection criteria.

## ISSUES

None.

## POLICY IMPLICATIONS

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.5 Assets for our current and future needs

## FINANCIAL AND RESOURCE IMPLICATIONS

The total budget for this contract is \$854,097 (GST exclusive), which is within the grant budget allocation and fully funded by the Victorian State Government through the Regional Infrastructure Fund.

The Dinner Plain Snowmaking Project is fully funded by the Regional Infrastructure Fund, and the cost for the Water and Electrical Supply for snowmaking is an eligible cost to be funded and is within the allocation of the grant of \$3 million.

## RISK MANAGEMENT

The key risks to the project are as follows:

Risk	Likelihood	Impact	Mitigation Action / Control
Weather, rain/snow will delay works	Possible	Moderate	<ul style="list-style-type: none"> <li>• Provision of two months has been allowed in the program.</li> </ul>
Availability of materials	Possible	Moderate	<ul style="list-style-type: none"> <li>• Provision of two months contingency has been allowed in the program.</li> </ul>

## CONSULTATION

Engagement in relation to this contract award recommendation has been carried out with Vail Resorts Hotham and all relevant Council departments.

## CONCLUSION

Following a tender assessment, the tender from ABC Civil Group is considered the best value option for Council.

## DECLARATION OF CONFLICT OF INTEREST

In accordance with Section 130 of the *Local Government Act 2020* and Chapter 7, section A6 of the Council's Governance Rules, the following officers declare that they have no interest to disclose in providing this report.

- Director Assets
- Manager Asset Development
- Project Officer

## ATTACHMENT(S)

Nil



## 8.2.2 Gravel Road Reconstruction and Re-Sheeting

File Number: 230391

### INTRODUCTION

This report relates to the award of a contract for the Gravel Road Reconstruction and Re-sheeting program.

### RECOMMENDATIONS

*That Council:*

- 1. Awards Contract No. 230391 for "Gravel Road Reconstruction and Re-sheeting 2023-24" to 'Richardson Earthworks and Maintenance' based on the tendered lump sum components and supporting schedule of rates and subject to a maximum agreed cost of \$494,800 (GST exclusive); and*
- 2. Delegates authority to the CEO to sign and seal the contract at the appropriate time.*

### BACKGROUND

The 2023-24 Gravel Road Reconstruction and Re-sheeting program will be carried out in the Upper Ovens region.

Council undertakes drainage, road formation and gravel re-sheeting works each year on roads identified through condition inspections.

The tender was advertised in the Border Mail on 15 November 2023 as well as on Tenders.net and the Alpine Shire Council website.

The tender documents were downloaded by 18 prospective tenderers and four responses were received by the closing date.

### EVALUATION

The key selection criteria listed in the Invitation to Tender were:

1. Price
2. Qualifications and previous performance
3. Delivery
4. Social
5. Environmental Sustainability

Following the assessment of the tenders, it was determined that the tender from Richardson Earthworks and Maintenance best met the selection criteria.

### ISSUES

There are two roads included in the works, Rimini Road and Jones Road, that will need to be carried out post grape harvest to ensure access for harvesting machinery can be maintained through the harvest.

## **POLICY IMPLICATIONS**

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.5 Assets for our current and future needs

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The total adopted budget for the Gravel Road Reconstruction and Re-sheeting program is \$500,000.

There is sufficient allocation within the project budget to complete the works.

## **RISK MANAGEMENT**

No risks of note to report.

## **CONSULTATION**

Consultation has been undertaken with Council's Operations Department to finalise the scope. The contractor will inform impacted residents and businesses prior to the works commencing as part of the terms and conditions of the contract.

## **CONCLUSION**

Following a comprehensive assessment, the tender from Richardson Earthworks and Maintenance is considered to present the best value option for Council.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Assets and Engineering
- Project Manager

## **ATTACHMENT(S)**

Nil

## 8.2.3 Provision of Fuel Card Services

### INTRODUCTION

This report relates to the award of a contract for the Provision of Fuel Card Services for the Alpine Shire Council.

### RECOMMENDATION

*That Council delegates authority to the CEO to commit to an extension of the current contracts for the Provision of Fuel Card Services with Viva Energy Australia and Caltex Australia Petroleum for a fixed period ending 31 January 2025 with a combined upper limiting value of \$250,000 (GST Exclusive).*

### BACKGROUND

In May 2018, following an aggregated tendering process carried out by Municipal Association of Victoria (MAV) on behalf of Victorian Councils, Alpine Shire Council entered a three-year fixed term contract with Viva Energy Australia and Caltex Australia Petroleum for the Provision of Fuel Card Services, ending 31 January 2021, and with an option for two additional one-year extensions.

Council was notified in January 2021 that, as the panel arrangement was working effectively, MAV wished to exercise the option to extend the term of the contract for a period of two years, taking the expiry date to 31 January 2023. This was further extended to 31 January 2024. MAV is currently working on a replacement panel which will be a tender at the end of March/April 2024 and have extended the existing arrangement to 31 January 2025 or until such time that it is terminated, and the new fuels and lubricants arrangement is active. This contract extension is in-line with the Terms and Conditions of the Contract NPN 1.17 Fuel Card Discounts agreed between MAV and Viva Energy Australia.

Viva Energy Australia is the primary fuel supplier for Council, with Caltex Australia Petroleum a secondary supplier. Council approval is sought to continue the terms of the Viva Energy Australia and Caltex Australia Petroleum contract until the end of the extension period on 31 January 2025, and any future extension for this financial year.

### ISSUES

Outside of Viva Energy Australia, who operate Shell branded service stations, the only fuel card service provider with coverage of the Alpine Shire is Caltex Australia Petroleum, operating as AMPOL branded service stations.

## POLICY IMPLICATIONS

The tendering process followed by the Municipal Association of Victoria met the requirements of Council's Procurement Policy.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

## FINANCIAL AND RESOURCE IMPLICATIONS

To access the discounted pump price for fuel, Council entered contracts with Caltex Australia Petroleum and Viva Energy Australia based on the terms of the Supplier Deeds negotiated by MAV Procurement. By entering into these contracts, Council is not committed to purchase fuel from either supplier; however, it does introduce a financial incentive for doing so. There is no minimum fuel purchase commitment of Council to access the discounted rates.

The expected cost benefit for Council for cents per litre discounted off Pump Price is 5.50 for Viva Energy Australia. Caltex Australia offer a less attractive incentive of 4.00 for cents per litre discounted off Pump Price. There are no additional card fees applied from either supplier.

## RISK MANAGEMENT

No risks of note to report.

## CONSULTATION

The MAV consulted with councils which entered into a contract with Viva Energy Australia following the decision to extend the term of the contract, taking the expiry to January 2025. The tender documents for the initial tendering process are made available to councils on request, and all Victorian councils are eligible to access the negotiated agreements.

## CONCLUSION

Following an in-house assessment of the current fuel providers within the Alpine Shire and current fuel economy it is considered that the best value for Council is achieved by continuing current contracts for the Provision of Fuel Card services with both Caltex Australia Petroleum and Viva Energy Australia. Both Suppliers offer the most attractive fuel card discounts within the contract NPN 1.17.

The recommendation in this report is to accept the extension, and any future extension, for the existing contract of Provision of Fuel Card Services for this financial year to Viva Energy Australia and Caltex Australia Petroleum until 31 January 2025 for the combined upper limiting value of \$250,000 (GST Exclusive).

## DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Operations
- Operations Officer

## ATTACHMENT(S)

Nil

## 8.2.4 Toms Road, Tawonga - Road Deviation and Land Exchange

### INTRODUCTION

This report relates to the deviate parts of a government road known as Toms Road, Tawonga (Roads) and to carry out a land exchange with the respective adjoining owners.

### RECOMMENDATIONS

*That Council, having followed the required statutory procedures under clause 2 of Schedule 10 and sections 206, 207 and 223 of the Local Government Act 1989 (LGA89) and section 114 of the Local Government Act 2020 (LGA20), and having received no submissions in response to its public notice:*

1. *Resolves to deviate part of Toms Road, Tawonga (North Road), which comprises the following:*
  - a. *the part of the North Road shown hatched on the plan contained in Attachment 3 to this report (Unused North Road), which will be discontinued and vest in Council; and*
  - b. *the part of the North Road shown cross-hatched on the plan contained in Attachment 3 (New North Road), which will be designated as a "road" pursuant to the LGA89 and vested in Council,*

*together, the North Road Deviation); and*
2. *Subject to Council first resolving to proceed with the proposed road deviation of the North Road, resolves to complete the land exchange of the Unused North Road, the New North Road and the adjoining owner's titles which will result in:*
  - a. *the land comprising the Unused North Road being registered in the name of the adjoining owners; and*
  - b. *the title to the New North Road (currently registered in the name of the adjoining owners) being registered in the name of Council;*
3. *Directs that a notice under clause 2(3) of Schedule 10 of the Act be published in the Victorian Government Gazette to give effect to the road deviation of the North Road; and*
4. *Authorises the Chief Executive Officer to sign any documents necessary to give effect to the road deviation and land exchange of the North Road; and*
5. *Resolves to deviate part of Toms Road, Tawonga (South Road), which comprises the following:*
  - a. *the part of the South Road shown hatched on the plan contained in Attachment 4 to this report (Unused South Road), which will be discontinued and vest in Council; and*
  - b. *the part of the South Road shown cross-hatched on the plan contained in Attachment 4 (New South Road), which will be designated as a "road" pursuant to the LGA89 and vested in Council,*
  - c. *(together, the South Road Deviation); and*

6. *Subject to Council first resolving to proceed with the proposed road deviation of the South Road, resolves to complete the land exchange of the Unused South Road, the New South Road and the adjoining owner's titles which will result in:*
  - a. *the land comprising the Unused South Road being registered in the name of the adjoining owners; and*
  - b. *the title to the New South Road (currently registered in the name of the adjoining owners) being registered in the name of Council;*
7. *Directs that a notice under clause 2(3) of Schedule 10 of the Act be published in the Victorian Government Gazette to give effect to the road deviation of the South Road; and*
8. *Authorises the Chief Executive Officer to sign any documents necessary to give effect to the road deviation and land exchange of the South Road.*

## BACKGROUND

Toms Road, Tawonga South, is 1.6km in length and maintained by Alpine Shire Council. A contract for the upgrade of Toms Road was awarded at the February 2022 Council meeting. During the scoping phase of the project, it was identified that the formed road was not located entirely in the road reserve and that private infrastructure had been constructed on the road reserve following previous Council approval.

Survey work has been undertaken to establish title boundaries and determine land areas impacted and subject to the road discontinuance and land exchange.

On 5 April 2022, Council considered a report (Initial Report) and passed a resolution (Initial Resolution) in respect of its intention to deviate the Roads. A copy of the Initial Report is attached as Attachment 1 and a copy of the Council minutes (including the Initial Resolution) is attached as Attachment 2 to this report.

The Initial Report sets out the background to, and rationale for, this proposal.

Council officers consider that the Initial Resolution did not accurately refer to the correct statutory powers under the *Local Government Act 1989* (LGA 1989) to effect a road deviation, being clause 2 of Schedule 10 to the LGA 1989.

In August 2023, Council resolved to rescind the Initial Resolution. A copy of the council report is attached (agenda report) as Attachment 5 to this report.

Council resolved to commence the statutory process to deviate the Roads (New Report), which referred to the correct statutory powers under the LGA89. A copy of the New Report is attached (minutes) at Attachment 6 to this report.

Council will now reconsider whether to commence the statutory procedures necessary to deviate the Roads and undertake land exchanges, based on the recommendation set out in this report and having regard to the matters set out in the New Report.

## ISSUES

### *Local Government Act requirements*

Road discontinuance and deviation is governed by the *Local Government Act 1989*, including the requirement for public submissions in accordance with s223 of that Act. Land exchange is now governed by the *Local Government Act 2020*, with consultation processes in accordance with Council's Community Engagement Policy.

On 5 September 2023 Council gave public notice via newspaper, Council's website and Facebook of its proposal to deviate the Roads.

No public submissions were received during the 28 day notice period.

Council must now determine whether to make a decision to formally deviate the Roads and exchange the land. This decision must then be advertised in the Victorian Government Gazette in order to meet all the requirements of the *Local Government Act 1989*.

## POLICY IMPLICATIONS

Council must ensure that it is complying with the relevant sections of the Local Government Act 1989 and the Local Government Act 2020 when undertaking road discontinuance, road deviation, and land exchange.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.5 Assets for our current and future needs

## FINANCIAL AND RESOURCE IMPLICATIONS

A valuation of all land to be exchanged has been conducted and has been valued at \$18,000 per hectare. The total difference of the combined land exchanges is 0.106 hectares and totals \$1,907. The outcome of the exchange is to the advantage of the landowners. Due to the costs associated with the sales and purchases of the land, no financial consideration will be sought from the landowners by Council.

The resources required to carry out the discontinuation of the road and carry out a road deviation and land exchange have been sourced internally and externally.



## RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Public infrastructure located on private land.	Possible	Moderate	Survey work undertaken to established proper title boundaries and the statutory process to complete the land exchange is complied with.

## CONSULTATION

Extensive consultation and negotiations have been ongoing for approximately three years with landowners directly affected by the land exchanges.

Council has entered into an agreement with the adjoining landowners to document the 'in principle' agreement between Council and the adjoining owners regarding the Land Exchange, which is subject to Council carrying out the necessary statutory processes required by Council to proceed with the proposed road deviation and land exchange.

The Road Deviation and Land Exchanges were placed on public exhibition for no less than 28 days.

## CONCLUSION

It is recommended that the required deviation of the road and land exchanges are carried through to ensure the existing road alignment is within the road reserve in its entirety.

## DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Engineering and Assets
- Project Officer

## ATTACHMENT(S)

8.2.4 Attachment 1 - Council Report dated 5 April 2022.

8.2.4 Attachment 2 - Council Minutes dated 5 April 2022.

8.2.4 Attachment 3 - Plan – North Road.

8.2.4 Attachment 4 - Plan – South Road.

8.2.4 Attachment 5 - Council Report dated 29 August 2023.

8.2.4 Attachment 6 - Council Minutes dated 29 August 2023.

## 8.2.5 January 2024 Storm Event

### INTRODUCTION

The purpose of the report is to advise Council of the impact caused during a storm on 3 January 2024, provide an update on the status of the subsequent recovery efforts and provide a preliminary assessment of costs.

### RECOMMENDATIONS

*That Council:*

1. *Notes the significant storm event which occurred in the Alpine Shire on 3 January 2024 and the efforts of Council's officers to support the community through the immediate aftermath of this emergency;*
2. *Notes that the total cost of reinstatement works resulting from the storm event is currently estimated to be \$350,000, and that Council officers will seek to recoup funds to the greatest extent possible from all available means.*

### BACKGROUND

On Wednesday 3 January 2024 a significant storm event occurred in the Alpine Shire. The areas that have incurred the greatest damage are primarily located in the Kiewa Valley, Germantown and Freeburgh areas with minor damage sustained in surrounding areas including Porepunkah, Bright and Myrtleford. The storm caused widespread damage to Council infrastructure across the Shire, impacting particularly significantly on our trees.

In the Upper Kiewa Valley, the areas that were most heavily impacted include Mountain Creek Road, Tawonga Tourist Park, Damms Road and the Freda's Lane area through to the Mount Beauty Transfer Station.

### ISSUES

#### *Available Support*

It was important for Council to act quickly to reinstate infrastructure damaged by the storm event. Delay in progressing reinstatement works would have presented a risk to public safety and further infrastructure damage, as the infrastructure cannot function as intended.

Protracted road closures have an impact on the community being able to carry on normal business and swift reinstatement means economic recovery and community resilience is supported.

Council officers moved rapidly to secure contractor resources to support the recovery, recognising the high demand on contractor resources post-emergency event.

#### *Immediate Event Response*

The State Emergency Services (SES) requested Council to support the response to the event.

Councils after hours on-call officer stood up a response centre and mobilised a response team immediately on the night of the event in order to support the community and make the situation as safe as possible under the circumstances. Council's team collaborated with and supported Ausnet Services as the main initial priority to make the downed power lines safe and restore power where possible.

### ***Commonwealth State Disaster Recovery Funding Arrangements (DRFA)***

It was announced on 11 January 2024 that the jointly funded disaster assistance had been activated for communities impacted by the Victorian Floods and Storms that commenced on 24 December 2023, under the Commonwealth-State Disaster Recovery Funding Arrangements (DRFA).

### ***Economic Impact***

The Tawonga Caravan Park was evacuated and closed to enable cleanup operations. The site was cleared to reopen on 16 January 2024.

No figure is currently available for the economic cost to the Kiewa Valley from the storm damage. This event follows a challenging period of time for the local business community with the prolonged closure of the road to Falls Creek.

## **POLICY IMPLICATIONS**

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 3.4 A community that is prepared for, can respond to, and recover from emergencies

## **FINANCIAL AND RESOURCE IMPLICATIONS**

An initial assessment of damaged infrastructure indicates that the cost of reinstatement works as a direct result of the storm could exceed \$350,000. Council officers are seeking to recoup the expenditure to the greatest extent possible.

### ***Natural Disaster Financial Assistance Fund***

It was announced on 11 January 2024 that the jointly funded disaster assistance had been activated for communities impacted by the Victorian Floods and Storms that commenced on 24 December 2023, under the Commonwealth-State Disaster Recovery Funding Arrangements (DRFA).

Council officers have requested access to the Natural Disaster Financial Assistance Fund (NDFA) for Local Government. The NDFA has added the Alpine Shire Council to the list of affected areas and allocated an official event number that will be used to submit costs for reimbursement once the recovery phase is complete and the funding details clarified.

The NDFA 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.

***Council Insurance***

In addition, Council's insurance provider has been notified of the event and a possible insurance claim for the costs of reinstating Council infrastructure and repairing the associated damage.

***Green Waste***

Free disposal of storm-related green waste has been made available to the community in support of the emergency response. The loss of income to Council through this important community initiative is not yet known, and it is still unclear whether Council will be able to recoup the lost income through insurance or disaster assistance funding.

***Ongoing Restoration and Cleanup***

Cleanup operations are continuing to reinstate Council and community infrastructure and a weekly assessment will be made regarding demand and the associated resource requirements.

**RISK MANAGEMENT**

Risk	Likelihood	Impact	Mitigation Action / Control
Public Safety from tree or limb damage	Almost Certain	Major	Road closure in place to allow for safe removal of fallen debris on roads and properties
State and Federal governments do not provide funding	Possible	Moderate	<ul style="list-style-type: none"> <li>• Council to advocate for funds with State and Federal government.</li> <li>• Council ensures accurate collection of cost data</li> </ul>
Council's Insurance claim is not fully covered	Possible	Moderate	<ul style="list-style-type: none"> <li>• Council engages with insurer to ensure information needs are met</li> </ul>

**CONSULTATION**

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

Community members who 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

A significant storm event impacted on the Alpine Shire on 3 January 2024. Council's team supported the community through the emergency response on the night of the emergency and continues to support the recovery. The estimated cost impact at this stage is \$350,000 and Council officers will seek to recoup these costs to the greatest extent possible through disaster funding and insurance.

Delay in completing reinstatement works presents a risk to public safety and further infrastructure damage.

## DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Operations

## ATTACHMENT(S)

Nil

## 8.2.6 Fleet Renewal

### INTRODUCTION

This report relates to the purchase of two new vehicles from unbudgeted Capital spend for the 2023/2024 financial year.

### RECOMMENDATION

*That Council approves unbudgeted Capital expenditure of \$75,896 (GST exclusive) for the purchase of two new vehicles for the 2023/2024 financial year.*

### BACKGROUND

In 2020 the North East Waste Resource Recovery Group (NEWRRG) commissioned a report *Resource Recovery Centre – Combustible Recyclable Waste Material Assessment - Regional Report* on behalf of Alpine Shire Council and its other member councils, across 19 resource recovery centres (transfer stations). The report included a fire risk assessment that aimed to provide recommendations for fire protection equipment, safety systems and procedures that aim to comply with the following Victorian State Governments legislation, regulations and guidelines:

- Environmental Protection Act 2017.
- Environment Protection Regulations 2021.
- Management and Storage of Combustible Recyclable and Waste Management Guidelines – Version 1667.2, (CRWM Guidelines).

Since 2020, Council officers have been working towards putting these recommendations in place with the incorporation of stockpile management and reporting, fire extinguisher installations, and emergency management plans and operational procedures manuals specifically relating to fire prevention and suppression.

Further risk assessments conducted in 2023 by Council officers established that water trailer suppression units should be made available onsite to meet the requirements under the State Government's Environmental Protection Act, Regulations and Guidelines for Combustible Recyclable and Waste Materials (CRWM).

Three vehicles are required to ensure the water trailer suppression units can be made available at Council's transfer stations and moved around site by Council staff in the instance of spot fires.

### ISSUES

An opportunity has arisen to deploy three older vehicles to the transfer stations that would normally be sold and replace two of those older vehicles with new vehicles as part of the annual fleet program. This would require Council to accelerate its fleet renewal plan by six (6) months in order to achieve compliance with the CRWM guidelines.

The Municipal Association of Victoria (MAV) collaborative procurement process will be utilised to procure these vehicles. The MAV procurement is a unit of the MAV and

leverages the combined purchasing power of Victorian councils to achieve better value on products and services.

## POLICY IMPLICATIONS

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 3.3 Responsible management of waste

## FINANCIAL AND RESOURCE IMPLICATIONS

In order to deploy three older vehicles to the transfer stations, Council is required to replace two of the vehicles with new vehicles. Council has the opportunity to accelerate the annual fleet program by 6 months and in doing so will incur the Capital expense in the 2023/2024 financial year. This is an unbudgeted Capital spend of \$75,896 (GST exclusive).

## RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Fire at the transfer station	Possible	Extreme	<ul style="list-style-type: none"> <li>• Fire prevention (i.e stockpile management) and fire suppression actions.</li> </ul>

## CONSULTATION

Engagement has been carried out with the Environmental Protection Agency and relevant Council officers.

## CONCLUSION

In order to meet the Victorian State Government's requirements under the *Environmental Protection Act (2017)* and Combustible Recyclable and Waste Management Guidelines, Council is required to responsibly manage waste at transfer stations in a manner that minimises the risk of harm to human health and the environment from fire.

Whilst Council has progressed its fire prevention and suppression requirements at the three transfer stations, a further step of having mobile water trailers has been identified to reduce the fire risk to a reasonable level.

Three vehicles are required to move the water trailers around each transfer station, and it is proposed that the planned renewal of two vehicles is accelerated by six months to enable the provision of these vehicles. This solution involves redeploying three older

vehicles that would normally be sold and replacing two of them with new vehicles as part of the annual fleet renewal program.

This requires Council to approve an unbudgeted Capital expenditure of \$75,896 for the purchase of two new vehicles for the 2023/2024 financial year.

### **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Engineering and Assets
- Manager Operations

### **ATTACHMENT(S)**

Nil



## 8.3 DIRECTOR CUSTOMER AND COMMUNITY – HELEN HAVERCROFT

### 8.3.1 Porepunkah Panthers Clubhouse

#### INTRODUCTION

Council has received a planning permit application from the Porepunkah Panthers Baseball Club (the Club) seeking approval for "building and works associated with a minor sport facility" in the Porepunkah Reserve. The assessment of the planning permit application has reached an impasse between Council officers and representatives of the Club.

#### RECOMMENDATIONS

*That Council:*

1. *Notes the status of the application for 'buildings and works associated with a minor sports and recreation facility' in the Porepunkah Reserve as outlined in this report;*
2. *Notes the alternative options that Department of Energy, Environment and Climate Action (DEECA) has provided for the Club to secure public land manager consent, being:*
  - a. *Relocation of the building and works such that they no longer straddle a property boundary; or*
  - b. *Boundary realignment such that the building and work no longer straddle a property boundary.*
3. *Notes the intent of Council officers to provide a further four week window of opportunity for the Club to proactively engage with DEECA in order to establish the preferred pathway to achieve public land manager consent, and that if progress has not been made within this timeframe, the permit application will be deemed invalid, and the permit application fee returned to the applicant; and*
4. *Notes the willingness of Council officers to actively participate in meetings between the Club and DEECA to support the Club in establishing their preferred pathway to securing public land manager consent.*

#### BACKGROUND

The Porepunkah Reserve (the Reserve) is located on Crown land. The State Government Department of Energy, Environment and Climate Action (DEECA) is the Public Land Manager, and DEECA has appointed a voluntary committee of management, The Porepunkah Public Hall and Porepunkah Public Reserve Committee of Management (the Committee), to oversee the operations of the Reserve.

The Committee of Management Guidelines published by DEECA in December 2021 notes in relation to powers of the committee:

*Your committee's powers to "manage, improve, maintain and control" the reserve are set out in sections 14 and 15 of the Crown Land Reserves Act. These committee powers include:*

- *Carry out works and improvements on the land once any necessary approvals are obtained.*
- *Negotiate and grant leases and licenses for all or part of the reserve. Leases and licences are subject to the written approval of the Minister or DELWP as the delegate for the Minister.*

The Porepukah Panthers Baseball Club (the Club) was established in 1988. The Club is based at the Porepukah Reserve.

The Club is seeking to upgrade its facilities at the Reserve. In December 2021 the Club made a submission to the Alpine Shire Council Sport and Recreation Plan outlining the Club's needs and requirements.

From August 2022 having progressed design plans and secured a commitment of external funding, the Club engaged informally with Council officers in order to establish the level of support that Council might be able to provide to the Club's proposed clubrooms. The Club was advised to commence any planning permit application as soon as possible. No commitment of support was communicated beyond the statutory assessment of a valid planning permit application.

A planning permit application was lodged with Council on 20 October 2022 seeking approval for 'buildings and works associated with a minor sports and recreation facility'. The permit applicant is Carter Perspective acting on behalf of the Porepukah Panthers Baseball Club. Council, as the Responsible Planning Authority, is the decision-maker for the planning permit application.

Assessment of the planning permit application has reached an impasse, and no decision has been made on the permit application.

## ISSUES

### ***Public Land Manager Consent***

Clause 36.02-3 of the Alpine Planning Scheme 'Public Park and Recreation Zone' contains the following application requirement:

*An application for a permit by a person other than the relevant public land manager must be accompanied by the written consent of the public land manager, indicating that the public land manager consents generally or conditionally either:*

- *To the application for permit being made.*
- *To the application for permit being made and to the proposed use or development*

The planning scheme defines Public Land Manager as:

*"The Minister, government department, public authority or municipal council having responsibility for the care or management of public land. In relation to Crown land*

*reserved under an Act and managed or controlled by a committee of management, other than Parks Victoria, the Great Ocean Road Coast and Parks Authority or a municipal council, it means the Minister administering that Act and does not include the committee of management."*

As reserved Crown Land the 'public land manager' is the Minister for Energy, Environment and Climate Change.

This is distinct from a public land owner, the State or Commonwealth Government who owns Crown land. Most Crown land in Victoria is owned by the Victorian Government.

Assessment of the planning permit application has stalled because public land manager consent has not been provided to the satisfaction of Council officers, who are fulfilling the delegated role of Responsible Planning Authority on behalf of Council.

Club representatives have communicated their strong opinion that public land manager consent has been provided and that assessment of the permit application can and should proceed to a decision.

DEECA, the public land manager, has confirmed in writing that they do not consent to the application. DEECA has advised that in order to obtain public land manager consent:

- *the proposed buildings and works must be wholly contained within Crown Allotment 12 Section 1A Township of Porepunkah Parish of Porepunkah, or*
- *the boundary between Crown Allotment 12 Section 1A Township of Porepunkah Parish of Porepunkah and the Martley Street Road Reserve must be realigned to ensure the proposed buildings and works do not straddle a property boundary.*

The Club has previously communicated in a meeting with Council officers and DEECA representatives that they cannot accommodate either of the two pathways proposed by DEECA to secure public land manager consent, on the basis that they are unable to relocate the building to sit entirely within the reserve due to operational reasons, and the long timeframe for a boundary realignment puts their funding at unacceptable risk.

Council has communicated in-principle support to the project and does not object to the building crossing the boundary between two parcels of land with different public land managers.

When agreement has been reached between the Club and DEECA on the way forward and this agreement has been communicated to Council, then Council officers will support the Club to secure public land manager consent from DEECA through whichever of the two alternative pathways has been agreed.

Council has limited resources and many competing demands from the community. In the absence of agreement between the Club and public land manager and a written request of Council, Council officers will not unilaterally commit resources or funding to progress either of the solutions proposed by DEECA.

### ***Alternative Development Pathways***

Pursuant to Clause 62.02-1 of the Alpine Planning Scheme:

*'a planning permit is not required for 'buildings and works with an estimated cost of \$1,000,000 or less carried out by or on behalf of a municipality'.*

Therefore, should Council contract the works directly or determine that the proposed works by the Porepunkah Panthers Baseball Club are being carried out 'by or on behalf of a municipality', and should the estimated cost of the works in Council's assessment not exceed \$1,000,000, then a planning permit is not required.

However, this exemption does not alleviate the requirement for DEECA to consent to the works.

Preliminary advice provided by DEECA in relation to an alternative process as described above is that it does not support the project proceeding in its current form as the same issues arise.

### ***Anticipated Planning Permit Conditions***

In the event that public land manager consent is provided to the satisfaction of Council's officers and the permit application proceeds to issue if a permit, then likely conditions on the permit include infrastructure works relating to stormwater drainage and provision of car parking which will impose an additional cost on the project.

In the event that public land manager consent is provided to the satisfaction of Council's officers, and a Notice of Decision to grant a planning permit is issued, then likely conditions on the permit include infrastructure works relating to stormwater drainage and provision of car parking which will impose an additional cost on the project.

## **POLICY IMPLICATIONS**

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.2 Planning and development that reflects the aspirations of the community

## **FINANCIAL AND RESOURCE IMPLICATIONS**

There are no additional costs associated with the assessment of the planning permit application, and statutory planning resources are available to progress the planning permit application to a decision when public land manager consent has been provided by the applicant.

No commitment of Council funds or resources has been made towards delivery of the project by the Club, or to the ongoing maintenance of the clubhouse and associated infrastructure.

When planning permission has been secured and should the Club seek Council's support to fund or to deliver components of the works in order to satisfy planning permit conditions, this request will be assessed through Council's usual grant funding and budgeting processes.

## RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
That Council's reputation is impacted by negative media interest.	Possible	Moderate	<ul style="list-style-type: none"> <li>Continue to work in a positive and collaborative way with the applicant, facilitating engagement between DEECA and the applicant.</li> </ul>
That Council is not able to determine the application and must declare it invalid and close it down.	Possible	Minor	<ul style="list-style-type: none"> <li>Continue to work in a positive and collaborative way with the applicant, facilitating engagement between DEECA and the applicant.</li> </ul>

## CONSULTATION

Council officers raised the matter of public land manager consent with the applicant early in the planning process, have continued to seek evidence of public land manager consent from the applicant and the Club representatives, and attempted to facilitate resolution to this matter while continuing to progress the application in good faith.

## CONCLUSION

The role of Council and its officers is to facilitate development within the legislated framework.

In this application, public land manager consent is required prior to the lodgement of a planning application and Council cannot circumvent this statutory requirement.

The application was lodged without the appropriate public land manager consent and therefore is not a valid planning application and cannot be considered or determined.

From here, the applicant must focus on working with DEECA to secure a satisfactory resolution. Both Council and DEECA officers continue to express willingness to assist with achieving such a resolution.

## DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Planning, Compliance and Local Laws
- Statutory Planning Coordinator

## ATTACHMENT(S)

Nil

### 8.3.2 Instruments of Appointment and Authorisation - *Planning and Environment Act 1987*

File Number: Delegations register

#### INTRODUCTION

Instruments of appointment and authorisation are an important means of Council ensuring that its officers are appropriately authorised under the relevant Acts that Council administers. This report provides for a newly appointed officer in Council's Planning department.

#### RECOMMENDATION

*That Council exercise the powers conferred by section 147(4) of the Planning and Environment Act 1987, so that:*

- 1. The following member of Council staff referred to in attachment 8.3.3.a "S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987" (the instrument) be appointed and authorised as set out in the instrument;*
  - a. Planning Officer*
- 2. The instrument comes into force immediately the common seal of Council is affixed to the instrument, and remains in force until Council determines to vary or revoke it;*
- 3. The instrument be signed and sealed at the appropriate stage of this meeting.*
- 4. On the coming into force of the previous "S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987" for the following member of Council staff, as dated, be revoked;*
  - a. Civil Development Engineer (CDE2), dated 29 August 2023*

#### BACKGROUND

Council staff involved in planning roles require current and accurate authorisations to fulfil their duties. Council has appointed a Planning Officer, who requires authorisation under the *Planning and Environment Act 1987*. The Instrument for the Civil Development Engineer (CD2) (dated 29 August 2023) is being revoked as the officer no longer works for Council.

#### ISSUES

##### *Authorised Officers*

Authorised officers have statutory powers under relevant legislation. In the case of Council's staff in the Planning department, the attached Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987* mean that they are authorised officers for the purposes of that Act.

While Council may delegate its powers, duties or functions to staff, so that a delegate acts on behalf of the Council, staff appointed as authorised officers have their own statutory powers under the relevant Act.

### ***Planning and Environment Act 1987***

Section 188(1)(b) of the *Planning and Environment Act 1987* specifies that “a planning authority ... may by instrument delegate any of its powers, discretions or functions under this Act to an officer of the authority”. However Section 188(2)(c) specifically prevents an officer from further sub-delegating any duty, function or power. Therefore, as the responsible authority, Council must authorise staff directly using the “S11A – Instrument of Appointment and Authorisation – *Planning and Environment Act 1987*”, rather than via the Chief Executive Officer.

### ***Maddocks Delegations and Authorisations Service***

Council utilises the delegations and authorisations service provided by law firm Maddocks. This is a template system used by many councils and provides a detailed way of ensuring that appropriate delegations and authorisations are given to Council staff. All of the relevant legislation affecting local government, including Acts and regulations and the sections that relate to the powers, duties and functions of Council are outlined within the template and the relevant officer is allocated accordingly.

## **POLICY IMPLICATIONS**

Ensuring authorisations are kept up to date ensures that Council's planning staff can undertake their statutory roles.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

## **FINANCIAL AND RESOURCE IMPLICATIONS**

Council has an annual subscription to the Maddocks delegation and authorisation service that is provided for in Council's annual budget. There are no other financial implications associated with these instruments of appointment and authorisation.

Appropriate authorisations allow Council and Council staff to operate effectively and within legislative frameworks.



## RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Authorisations are not in place or are out of date	Possible	Moderate	<ul style="list-style-type: none"> <li>Ensure that all Council officers have up-to-date authorisations to ensure that they can undertake their duties.</li> </ul>

## CONSULTATION

The relevant staff and Director have been consulted during the preparation of the IoAAs. There is no requirement to consult the community in the preparation of these instruments.

## CONCLUSION

The appropriate appointment of authorised officers to enforce the *Planning and Environment Act 1987* is required to ensure that Council officers can undertake their statutory roles.

## DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Corporate
- Governance Officer

## ATTACHMENT(S)

8.3.3.a S11A – Instrument of Appointment and Authorisation – *Planning & Environment Act 1987* – Planning Officer

## 9. Informal meetings of Councillors

### Introduction

In accordance with Chapter 8, section A1 of Council's Governance Rules, if there is a meeting of Councillors that:

- is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- is attended by at least one member of Council staff; and
- is not a Council meeting, Delegated Committee meeting, or Community Asset Committee meeting;

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are tabled at the next convenient Council meeting, and are recorded in the minutes of that Council meeting.

### **RECOMMENDATION**

*That the summary of informal meetings of Councillors for December 2023 / January 2024 be received.*

### Background

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

Date	Meeting
19 December	Briefing Session
23 January	Briefing Session

### Attachment(s)

- 9.0 Informal meetings of Councillors – December 2023 / January 2024

10. Presentation of reports by delegates
11. General business
12. Motions for which notice has previously been given
13. Reception and reading of petitions

## 14. Documents for sealing

### RECOMMENDATIONS

*That the following documents be signed and sealed.*

**1. Section 173 Agreement – CS McTaggart**

*This Section 173 Agreement is required by conditions 22, 23 and 24 of Planning Permit P.2019.063 for a two (2) lot subdivision at 13 Showers Avenue, Bright being the land referred to in Certificate of Title Volume 8579 Folio 652 and described as Lot 12 on plan of subdivision LP066453.*

*The Agreement provides for bushfire management protection measures, including incorporating a Bushfire Management Plan, and exempts proposed Lot 2 from the planning permit requirement of clause 44.06-2 of the Alpine Planning Scheme.*

**2. S11A - Instrument of Appointment and Authorisation - Planning and Environment Act 1987 - Planning Officer.**

There being no further business the Chairperson declared the meeting closed at \_\_\_\_p.m.

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Chairperson