



MANSFIELD SHIRE

MANSFIELD SHIRE COUNCIL

Ordinary Meeting of Council

MINUTES

TUESDAY, 16 OCTOBER 2018
MANSFIELD SHIRE OFFICE
33 Highett Street, Mansfield
5.00PM

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1. OPENING OF THE MEETING

The Acting Mayor, Cr Harry Westendorp, opened the meeting at 5.00pm.

Councillors:

Marg Attley	<i>Tolmie Ward</i>
Peter Olver	<i>Mansfield Ward</i>
Cr Paul Sladdin	<i>Bonnie Doon Ward</i>
Paul Volkering	<i>Mansfield Ward</i>
Harry Westendorp	<i>Jamieson Ward</i>

Chief Executive Officer:

Alex Green

Community Services Manager:

Melanie Hotton

Development Services Manager:

Ben McKay

Technical Services Co-ordinator:

Paul Valente

Statutory Planner

Jack Francis

2. STATEMENT OF COMMITMENT

The Councillors affirmed the following Statement of Commitment:

"We the Councillors of Mansfield Shire / declare that we will undertake on every occasion / to carry out our duties in the best interests of the community / and that our conduct shall maintain the standards of the Code of Good Governance / so that we may faithfully represent / and uphold the trust placed in this Council by the people of Mansfield Shire."

3. ACKNOWLEDGEMENT OF COUNTRY

The Councillors affirmed the "Acknowledgement of Country" for the Mansfield Shire Council:

"Mansfield Shire Council recognises that indigenous people have been custodians of this area for generations. We acknowledge the living culture and unique role of Taungurung people in our region."



4. APOLOGIES

Nil.

5. CONFIRMATION OF MINUTES

Councillors Olver/Volkering:

That the Minutes of the Mansfield Shire Council meeting, held on 18 September 2018, be confirmed as an accurate record.

Carried

6. DISCLOSURE OF CONFLICT OF INTERESTS

Nil.

7. REPRESENTATIONS

Nil.

8. NOTICES OF MOTION

Nil.

9. MAYOR'S REPORT

The Acting Mayor, Councillor Harry Westendorp, presented the monthly Mayor's report to the Council as follows:

At our September meeting, Council endorsed a notice of motion for the CEO to start the process for a rate variation application for the 2019-20 Budget. This may cause some anxiety in our community as it sounds like we plan to impose a higher charge on our ratepayers. In fact, the variation application seeks to address an imbalance in the way we currently apportion the overall income that Council collects. For many years, the waste charge that we levy has been too high and the portion of our income designated as rates has been too low. We seek to balance that so that our income sits in the right "buckets". The outcome we are seeking will impose no net increase to our community overall – just a proper distribution of the allocations. Some may say "why doesn't the Council just change it?". The short answer is that we are required by legislation to take this to the regulatory bodies for their approval.

The process of a rate variation application involves significant community consultation, so there will be ample opportunity for anyone concerned about this to have their say and to ask questions. Much of this consultation will be facilitated through the Council's Facebook page, and in particular through the exciting new Online Engagement Portal on Council's website. We will also conduct community feedback sessions for those who wish to engage face-to-face.

Along with key Council staff, I attended Cindy McLeish's visit to the schools in Mansfield. Her commitment that a potential Liberal government after the next State election would fund an additional \$3.5M towards a dual-court sports stadium is most welcome. We are currently undertaking a feasibility study for such a venue and the output from this will inform our 2019-2020 final Budget decisions. When that happens in June 2019, the election will have been determined and we will know what funding is (or isn't) available. Notwithstanding that, it's encouraging to see a major political party with the vision to drive maximum community benefit from the original funding.

The recent Healthy Eating – Active Living forum was a valuable opportunity for community members to progress our Municipal Public Health and Wellbeing Plan. The participants developed some implementation programs that should drive this Plan further to the benefits of the community.

Ratepayers along Highton Lane have been very active in putting forward their ideas for how to fund an upgrade to that road. It was good to see so many attend the consultative session in the Council Chambers and see that debate continue in social media. I think it's fair to say that in an initiative that involves so many varied interests there will be competing ideas and the outcome may not be to satisfaction of everybody. We welcome further discussion and trust that this will be done in a way that is respectful and constructive. One thing that seems to commonly agreed is that the road does need work. The question is how it will be funded.

9. MAYOR'S REPORT CONT.

Mansfield Producers recently had their first Annual General Meeting, which was well attended. Full credit to those who have guided this group through a challenging start. We look forward to more local producers joining so that the members and the community as a whole can benefit from its growth. It's good to see locals working together in this way, recognizing where we can complement each other's strengths and learn from each other's experiences.

Our Station Precinct Activation Project is making progress and will start its community consultation process very soon. We are keen to see as many people as possible provide their thoughts and objectives into the consultative stage. This should include our residents and ratepayers, and also as wide a range of community groups as we can get. We also don't want to limit the process to those living or working in our community. We believe that visitors and others need to give us their views. We will communicate with our stakeholder community in various ways – through the Online Engagement Portal, face-to-face small groups, open sessions for special interest groups, and also through the Council booth at the next Bush market.

A number of regional mayors and councilors met recently with the Federal Minister for Local Government, the Hon Bridget McKenzie. We discussed the challenges of rural shires and gave her an insight into many of our issues. This was also an opportunity to thank her for the funding that has helped make our Station Precinct Activation Project a possibility.

As Mayor, I was privileged, along with Paul Volkering, to attend the annual Police Remembrance Service, which was held in Benalla this year. It was good to honour those who have fallen in the line of duty protecting our society. The service was also a time to reflect that those who serve us through law enforcement do so at times at great risk and cost to themselves. We thank our local police for their service to our communities.

Another exciting initiative is the recent launch of the Start-Up Shake-Up program in Mansfield. The program aims to identify and facilitate local entrepreneurs who want to start new initiatives or broaden the scope of an existing business. Start-Up Shake-Up is being run in a number of nearby municipalities and kicked off in Mansfield on 4 October. It provides a forum for exchanging ideas and hearing from those who may have learned the hard way what is needed to be successful. We look forward to some great local business opportunities coming out of this.

As a community to have also been given the opportunity to celebrate our older citizens who are rich in experience and who contribute so much to our community. The recent Seniors' Festival was a week of sharing and enjoyment for many. Mansfield Shire enjoys a high proportion of retirees, and we know that this number is likely to increase as more of our non-resident ratepayers take up the option of a "tree change" to our beautiful municipality. It's a good problem to have - that, in contrast to many rural towns, our communities will continue to grow, and our seniors will be a significant part of that.



9. MAYOR'S REPORT

For Shire officers and Councillors this also brings the challenge of preparing for an aging population through the provision of the right services and infrastructure.

Councillors Attley/Sladdin:

That the Acting Mayor's report of 18 September 2018 be received.

Carried

10. OFFICER REPORTS

10.1 DEPARTMENTAL REPORTS

File Number: E103
Responsible Officer: Chief Executive Officer, Alex Green

Introduction

Departmental reporting allows a short briefing to be provided to the Council on the current operations, tasks and projects undertaken within each Department over the past month.

The Chief Executive Officer will present the monthly Departmental reports to the Council, as follows:

- Development Services
- Engineering and Works
- Executive Services (including Corporate and Organisational Development)

Attachment

1 Departmental Reports

Councillors Attley/Volkering:

That the monthly Department reports be received.

Carried

10.2 DEVELOPMENT SERVICES

10.2.1 P045/18 – Planning Application: 55 Waterson Road, Jamieson: Building and Works – Extension to a Dwelling

File Number: DA6788
Responsible Officer: Statutory Planner, Jack Francis

Disclosure of Conflicts of Interest

The author of this report and officers providing advice in relation to this report do not have a direct or indirect interest in this matter, as provided in accordance with the *Local Government Act 1989*.

Summary

The purpose of this report is to seek Council's determination of an application for a planning permit for building and works – extension to a dwelling at 55 Waterson Road, Jamieson. The proposed extension relates to the reconfiguration of the floor plan along with additional floor space. The proposed development is to have three (3) bedrooms with no change in the current number of bedrooms.

This application is being referred to Council as the proposed development is on behalf of a member of Mansfield Shire Council staff.

Background

The application is for the extension to an existing dwelling, it is being referred for Council's determination because the owner of the subject site is a staff member of Mansfield Shire Council. A planning permit is triggered under the following clauses of the Mansfield Planning Scheme:

- Clause 35.03-4 – A permit is required to construct or carry out a building or works associated with a Section 2 Use.
- Clause 35.03-4 – A permit is required to construct a building which is within 100 metres from a dwelling not in the same ownership.
- Clause 35.03-4 – A permit is required to construct a building which is within 100 metres from a waterway, wetlands or designated flood plain.
- Clause 42.01-2 – A permit is required to construct a building or carry out works.
- Clause 44.06-2 – A permit is required to construct a building or construct or carry out works associated with accommodation.

Statutory Requirements

Council must assess the application against the relevant requirements of the *Planning and Environment Act 1987*.

10.2.1 P045/18 – Planning Application: 55 Waterson Road, Jamieson: Building and Works – Extension to a Dwelling cont.

- The application is considered to be consistent with Planning Policy Framework.
- The application is considered to be consistent with Local Planning Policy Framework.
- The application is considered to be consistent with the purpose and decision guidelines of the Rural Living Zone Schedule 1.
- Subject to conditions the application is considered to be consistent with the purpose and decision guidelines of the Environmental Significance Overlay Schedule 1.
- Subject to conditions the application is considered to be consistent with the purpose and decision guidelines of the Bushfire Management Overlay.

Council Plan

Strategic Objective 4: Enhance Liveability

The objective outlines the importance of the protection and enhancement of the natural environment. It is considered that the Lake Eildon catchment will be enhanced through the issuing of this planning permit, namely through the protection of water quality.

Financial

The application fee was \$1,102.10. There are no other financial implications in relation to this matter.

Social

There are no social implications in relation to this matter.

Environmental

The environmental implications of this application will be positive, as the decommissioning of the existing waste water treatment system provides a significant benefit and drastically reduces any likelihood of discharge into the nearby waterway. The proposed system will be setback further from the high water mark of Lake Eildon than the existing system.

Economic

There are no economic impacts in relation to this matter.

Risk Management

There are no risks inherent in this matter.

10.2.1 P045/18 – Planning Application: 55 Waterson Road, Jamieson: Building and Works – Extension to a Dwelling cont.

Community Engagement

Notice under Section 52 of the *Planning and Environment Act 1987* was not given as it is considered that the closest neighbouring dwelling is located approximately 74 metres from the neighbouring dwelling to the east. The neighbouring dwelling and Waterson Road to the north are separated by the proposed development site by significant Tea Tree, which provides a dense screening to the proposed development.

Officer's Comments

The following notable items are highlighted for Councillors information:

Wastewater

Consideration of wastewater is imperative for this application, given the subject sites proximity to the tributary flowing into Lake Eildon. Council's Environmental Health Officer conducted a site visit for this application and noted that the existing septic system is the original waste water system approved the dwelling in 1971. This system is aged significantly and treats only black water (sewerage) and not grey water. This wastewater system style is widespread throughout Mansfield Shire and is consistent with similarly aged dwellings surrounding Lake Eildon. The potential for impact on water quality is significantly higher for the old system when compared to a modern waste water system. A key objective of newly gazetted Clause 22.04 is to "... ensure cumulative benefits are achieved through incremental upgrades of existing onsite wastewater management systems to meet current day standards."

The applicant has submitted a Land Capability Assessment for the implementation of a modern system that will treat both black and grey water. The upgrade will also involve the decommissioning of the existing waste water system.

This upgrade presents a significant benefit and upgrade in wastewater treatment, which is consistent with the objectives of Clause 12.03-1, Clause 14.02-1, Clause 21.05-3 and Clause 22.04.

Bushfire

The area surrounding the subject site is heavily vegetated and extends a significant distance to the east, south and west. The subject site is located within the Bushfire Management Overlay, as is the majority of the east of Victoria. Pursuant to the Bushfire Management Overlay the applicant was required to submit documentation in relation to the threat of bushfire on the landscape and for management measures. The documentation provided identifies defendable space 13 metres in each direction of the extension at a Bushfire Attack Level Rating of BAL – 29.

10.2.1 P045/18 – Planning Application: 55 Waterson Road, Jamieson: Building and Works – Extension to a Dwelling cont.

This application was referred to the Country Fire Authority who has consented to the approval of this application, and is satisfied that the threat of bushfire to the site can be reduced to an acceptable level.

Subject to permit conditions it is considered that the application will be consistent with the Mansfield Planning Scheme.

Attachments

- 1 Development plans

Councillors Sladdin/Olver:

That Council, having considered all the matters required under Section 60 of the *Planning and Environment Act 1987*, grant a planning permit under the provisions of the Mansfield Planning Scheme in respect of the land described as Lot 1 PS088114 JAMIESON, addressed as 55 Waterson Road, Jamieson, for building and works for the development of the land for an extension to a dwelling in accordance with the endorsed plans, subject to the following conditions:

- 1. The development must be in accordance with the endorsed plans forming part of this permit and must not be altered without the prior written consent of the Responsible Authority.**
- 2. The amenity of the area must not be detrimentally affected by the development through the:**
 - a) transport of materials, goods and commodities to or from the land;**
 - b) appearance of any buildings, works or materials;**
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, waste water, waste products, grit or oil;**
 - d) presence of vermin.**

To the satisfaction of the Responsible Authority.

- 3. All external cladding and trim of the proposed buildings including the roof must be coloured or painted in muted shades and must be of a non-reflective nature to the satisfaction of the Responsible Authority. No materials having a highly reflective surface must be used. For the purpose of this condition, “highly reflective” includes unpainted or untreated aluminium, zinc or similar materials.**

10.2.1 P045/18 – Planning Application: 55 Waterson Road, Jamieson: Building and Works – Extension to a Dwelling cont.

4. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.
5. All construction and ongoing activities must be in accordance with sediment control principles outlined in ‘Construction Techniques for Sediment Pollution Control’ (EPA, 1991).
6. All wastewater from the dwelling must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent in accordance with the Land Capability Assessment prepared by Taylor Consulting Engineers (reference: TCEMJL2018) dated July 2018. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Approval.
7. The wastewater disposal area must be appropriately sized and located in accordance with the Land Capability Assessment prepared by Taylor Consulting Engineers (reference: TCEMJL2018) dated July 2018.
8. The existing septic tank system must be decommissioned once the new system is installed and operational.
9. The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away.
10. No buildings are to be constructed within 50 metres from the Full Supply Level of Lake Eildon (measured from 288.9 m AHD level).
11. The Bushfire Management Plan prepared by Taylor Consulting drawing no. A302, dated 24/05/2018 must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.
 - a) A minimum Bushfire Attack Level of BAL – 29 is to be used for construction of the building
12. Prior to the commencement of the dwelling redevelopment or any associated site or preparation works, approval must be obtained for the variation to the wastewater treatment system in the form of a Permit to Install a septic system as issued by Council pursuant to the Environment Protection Act 1970. The application for such a permit must be supported by a design based on the lodged Land Capability Assessment Rev1 Reference Number TCEMJL2018 dated 11 July 2018.

10.2.1 P045/18 – Planning Application: 55 Waterson Road, Jamieson: Building and Works – Extension to a Dwelling cont.

13. The existing wastewater system must be decommissioned to the satisfaction of Council's Environmental Health Officer.
14. Access to the property must be via the existing access location. No additional crossings are permitted to be constructed unless approved by the responsible authority.
15. The internal access track must be of an all-weather construction with dimensions adequate to accommodate emergency vehicles and be sufficient to meet CFA access requirements.
16. Prior to commencement of buildings or works, application must be made to Council to obtain a Legal Point of Stormwater Discharge.
17. No concentrated stormwater other than natural watercourses may drain or be discharged from the land to adjoining properties.
18. Interrupted overland flow from this development must not be allowed to impact on the adjacent lots.
19. Any damage to Council managed assets such as roads and stormwater infrastructure, must be repaired at the cost of the developer to the satisfaction of the responsible authority
20. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
21. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within two (2) years of the date of this permit
 - b) The development is not completed within four (4) years of the date of this permit

In accordance with Section 69 of the *Planning and Environment Act 1987*, before the permit expires or within 6 months afterwards, the owner or the occupier of the land to which it applies may submit an application to the Responsible Authority for an extension of the expiry date referred to in this condition.

Planning Notes

- Please note that this is a Planning Permit under the *Planning and Environment Act 1987* and not a Building Permit under the Building Regulations 2006. If a Building Permit is necessary for your development you will need to apply for this before commencement of any works.



10.2.1 P045/18 – Planning Application: 55 Waterson Road, Jamieson: Building and Works – Extension to a Dwelling cont.

- The subject property is located within an area of Cultural Heritage Sensitivity. Should the activity associated with proposed development require a Cultural Heritage Management Plan (CHMP), planning permits, licences and work authorities cannot be issued unless a CHMP has been approved for the activity.
- Further details regarding CFA access requirements can be found at http://www.cfa.vic.gov.au/fm_files/attachments/plan_and_prepare/BMO/CFA-BMO-Access-Aug-14.pdf
- Approval from the Goulburn Broken Catchment Management Authority must be attained prior to works occurring on waterways.

Carried

10.3 EXECUTIVE SERVICES

10.3.1 Consideration of the Mansfield Shire Council 2017-18 Annual Report

File Number: E5039
Responsible Officer: Finance Manager, Mandy Kynnersley

Disclosure of Conflicts of Interest

The author of this report and officers providing advice in relation to this report do not have a direct or indirect interest in this matter, as provided in accordance with the *Local Government Act 1989*.

Summary

This report provides an overview of the Mansfield Shire's Annual Report for the year 1 July 2017 to 30 June 2018 for Council's consideration and endorsement. In accordance with the requirements of the *Local Government Act 1989*, the 2017-18 Annual Report was forwarded to the Minister for Local Government by 30 September 2018. Notices informing the community that the draft Annual Report is available for inspection have been placed in the Mansfield Courier, on Council's website and its Facebook page.

Background

Under Section 131 of the *Local Government Act 1989*, Council is required to prepare an Annual Report containing:

- (a) a report of its operations during the financial year;
- (b) an audited performance statement;
- (c) audited financial statements;
- (d) a copy of the auditor's report on the performance statement, prepared under section;
- (e) a copy of the auditor's report on the financial statements under Part 3 of the *Audit Act 1994*
- (f) any other matter required by the regulations.

In addition, the report provides readers with:

- an overview of Mansfield Shire as a municipality and as an organisation
- performance against the Council Plan 2017-21
- accountability through Governance reporting

Statutory Requirements

Section 131 of the *Local Government Act 1989* requires Council to prepare an Annual Report.

Section 131 goes on to specify in greater detail the content of sections and the process required for presenting the Financial Statements and Performance Statement.

10.3.1 Consideration of the Mansfield Shire Council 2017-18 Annual Report Cont.

Section 134 of the *Local Government Act 1989* states that a Council must consider the annual report at a meeting of the Council, and that the meeting:

- (a) must be held as soon as practicable but within the time required by the regulations, after the Council has sent the annual report to the Minister;
- (b) must be advertised at least 14 days before the meeting is held in a public notice that states:
 - (i) that the annual report will be discussed at the meeting; and
 - (ii) the place from which copies of the annual report can be obtained before the meeting;
- (c) must be kept open to the public while the annual report is discussed.

Council Plan

The Mansfield Shire Annual Report 2017-18 provides an overview of progress on the delivery of the actions identified to be undertaken during Year 1 of the Mansfield Shire Council Plan 2017-21 and the Strategic Resource Plan.

Financial

The Annual Report provides detailed and independently audited financial statements as a means of providing a comprehensive overview of Council's financial position.

Social

The Annual Report is an important document in the ongoing process of communicating with the Mansfield Shire community and stakeholders. Information contained within the Annual Report is relevant, balanced, appropriate and clearly aligned with the Council Plan strategic objectives ensuring performance reporting is meaningful to the community.

Environmental

The current Council Plan 2017-21 includes the strategic objective (Theme), *Enhanced Liveability*, aimed at capturing the specific strategies and goals on environmental issues.

In an effort to reduce the impact on the environment, limited copies of the Annual Report will be printed. Readers will be encouraged to view the Annual Report online from Council's website.

Economic

The current Council Plan 2017-21 includes the strategic objective (Theme), *Community Resilience and Connectivity*, aimed at capturing the how Council will support and lead the sustainable growth of the Shire's economy.



10.3.1 Consideration of the Mansfield Shire Council 2017-18 Annual Report Cont.

Community Engagement

In accordance with section 134 of the *Local Government Act 1989*, an advert appeared on Council's website on 1 October 2018 and in The Mansfield Courier on 2 October 2018 stating that:

- (i) the annual report will be considered by the Council at its meeting of 16 October 2018
- (ii) a copy of the annual report can be viewed online from Council's website
- (iii) a display copy of the Annual Report may be viewed at the municipal office

An electronic version of the draft Annual Report was made available to members of the public via Council's website. A hard copy of the Report was made available for inspection at the municipal office.

Officer's Comments

The Report before Council conforms to the requirements of the *Local Government Act 1989* and further provides an account of Council's business over the past twelve months.

Care has been taken to present data in the same way that it is available through the Know Your Council website to achieve consistency and transparency in the provision of information.

Attachments

- 1 Mansfield Shire 2017-18 Annual Report.

Councillors Volkering/Sladdin:

That Council receive and endorse the Mansfield Shire 2017-18 Annual Report.

Carried



10.3 EXECUTIVE SERVICES CONT.

10.3.2 Update - Mansfield Shire Council Instrument of Appointment and Authorisation – Schedule 11A (*Planning & Environment Act 1987*)

File Number: E328
Responsible Officer: Finance Manager, Mandy Kynnersley

Disclosure of Conflicts of Interest

The author of this report and officers providing advice in relation to this report do not have a direct or indirect interest in this matter, as provided in accordance with the *Local Government Act 1989*.

Summary

This report seeks approval to update and amend the S11A Instrument of Appointment and Authorisation (*Planning & Environment Act 1987*) due to staff changes.

Background

Council utilises two Schedules of Instruments of Appointment and Authorisation:

- **S11 – in accordance with S224 of the *Local Government Act 1989***
S98 of the *Local Government Act 1989* determines that any changes to Schedule 11 Instrument of Appointment and Authorisation may be endorsed by Council's Chief Executive Officer under delegated authority.
- **S11A – in accordance with S188 of the *Planning & Environment Act 1987***
S188(1) of the *Planning and Environment Act 1987* determines that any changes to Schedule 11A Instrument of Appointment & Authorisation must be endorsed by a resolution of Council.

Council utilises these Instruments of Appointment and Authorisation to identify specific officers incumbent in roles and, in turn, appoint the officers to be authorised officers for the administration and enforcement of legislation under applicable Acts.

Only a handful of Acts and Regulations require specific roles within an organisation to be identified to undertake a specific function. There are often clauses within Acts or Regulations that state that an "authorised officer" can undertake a specific function. This is why Council needs to identify the authorised officer by role and officer name.

As a result of the recent appointment of Development Services Manager, Mr Ben McKay, an authorisation under the *Planning and Environment Act 1987* is required for Mr McKay to undertake his duties effectively.

In addition, the recent resignation of Planning and Environment Team Leader, Mr Grant Trenwith, is reflected in the attached Instrument of Appointment and Authorisation.

10.3.2 Update - Mansfield Shire Council Instrument of Appointment and Authorisation – Schedule 11A (*Planning & Environment Act 1987*) cont.

Council's associated Instrument of Appointment and Authorisation (Schedule 11) of the *Local Government Act 1989* was endorsed by the Chief Executive Officer under delegated authority on 3 October 2018 to reflect the above updates. However, in accordance with S188 of the *Planning and Environment Act 1987*, Council is required to endorse the Instrument of Appointment and Authorisation (Schedule 11A) of the *Planning and Environment Act 1987*.

Council subscribes to a Delegations and Authorisations Service produced by the legal firm, *Maddocks*. The firm reviews all legislation as it impacts upon local government in Victoria, and biannually distributes an updated schedule of delegations, reflecting recent legislative changes. This template is used by many Victorian councils and reflects common practice within the industry.

Statutory Requirements

S147(4) of the *Planning and Environment Act 1987* specifically states that the appointment of an authorised officer must come from the responsible authority – Council – and that it is not a delegable power (refer s188(2)(c) of the *Planning and Environment Act 1987*).

Council Plan

The update of Council's Instruments of Appointment and Authorisation falls under the Governance and Organisational Management objective of "*Driving Organisational Performance and Resource Management*".

Financial

There are no financial implications arising from this report.

Social

There are no significant social implications arising from this report.

Economic

There are no economic implications arising from this report.

Environmental

There are no environmental implications arising from this report.

Risk Management

The review and update of Council's Instruments of Appointment and Authorisation ensures continuing transparency and accountability. It is also a key risk management initiative in that it clearly identifies which officer can act on a particular authorisation.

10.3.2 Update - Mansfield Shire Council Instrument of Appointment and Authorisation – Schedule 11A (*Planning & Environment Act 1987*) cont.

Community Engagement

Public consultation is not required under the *Local Government Act 1989* or *Planning and Environment Act 1987*.

Officer's Comments

The Instruments of Appointment and Authorisation have been updated to reflect recent Council organisational changes and ensures that basic good governance principles are adhered to.

It is critical to Council's risk management framework that the Instruments of Appointment and Authorisation be kept up to date.

Attachments

- 1 Schedule 11A – Instrument of Appointment and Authorisation, *Planning and Environment Act 1987*.

Councillors Attley/Olver:

In the exercise of the powers conferred by section 188 of the *Planning and Environment Act 1987*, and other legislation referred to in the Schedule 11A Instrument of Appointment and Authorisations, Council resolves that:

- 1. The following members of Council staff be appointed and authorised as set out in the Instrument:**
 - Peter (Alexander) Green
 - Michael Richards
 - Ben McKay
 - Damien Gerrans
 - James Brown
 - Mathew Comerford
 - Sonia Dioguardi
 - David McKenzie
 - Lynn Plummer
 - Jack Francis
 - Clare Wilkinson
- 2. The S11A Instrument of Appointment and Authorisation come 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 S11A Instrument of Appointment and Authorisation be sealed.**

Carried

10.4 INFRASTRUCTURE

10.4.1 Special Charge Scheme – Intention to Declare – Kitchen Street, Bonnie Doon

File Number: E5468
Responsible Officer: Project Officer, Caitlin Riley

Disclosure of Conflicts of Interest

The author of this report and officers providing advice in relation to this report do not have a direct or indirect interest in this matter, as provided in accordance with the *Local Government Act 1989*.

Summary

This report provides details for the proposed implementation of a Special Charge Scheme for the construction and sealing of Kitchen Street, Bonnie Doon.

This report recommends that Council resolve its intention to declare a special charge scheme for the road construction and sealing of Kitchen Street, Bonnie Doon from Phillip Street to Jones Street. This will commence the statutory consultation process for this project.

Background

As part of its program to upgrade the road safety and amenity of its road network, Council has included the construction of Kitchen Street, Bonnie Doon in the 2018-2019 capital works program to be undertaken as a special charge scheme. The scope of works includes sealed pavement construction and minor drainage works.

An aerial image of the proposed works location is shown below.



10.4.1 Special Charge Scheme – Intention to Declare – Kitchen Street, Bonnie Doon cont.

In August 2018, surveys were sent to property owners that were identified to benefit from the proposed sealing works. Property owners were requested to provide an initial response to the proposal in order to determine if they if they were in favour of the proposal or not. Survey responses were received on 24 August 2018. The initial design and estimated property owner contribution of \$3,333 per lot was included in the information forwarded to affected property owners.

An on-site meeting was also conducted between residents, Council Officers and 1 Councillor to allow residents an opportunity to ask any questions and provide clarification of the project and the special charge scheme process. No residents attended the meeting.

Below is an outline of the survey results.

Description	Responses	% of Total
No. of Residents - Not in Favour	1	11%
No. of Residents - in Favour	6	66%
No. of Residents - Did Not Respond	2	22%
Total No. Of Residents	9	100%

Of the 9 owners of properties considered to gain benefit from the project, 6 landowners were in favour, 1 landowner expressed opposition, and 2 did not respond.

Feedback from 1 property owner that has 4 lots indicated that they would like to have kerb and channel and crossovers included in the project. Due to the nature of the road, low average daily traffic volumes of approximately 19 vehicles per day and the additional cost of such infrastructure, which will double the project estimate, the current proposed design of only a sealed pavement and minor drainage works is considered adequate.

The total project estimate is \$60,000. The table below outlines the estimated property owner contributions based on a 50:50 split between Council and residents.

Assessment No.	Lot No.	Other	Estimate
A14395 - 75 Arnot Street, Bonnie Doon	1	TP 204970	\$3,333
A7327 - 3 Phillip Street, Bonnie Doon	21	PS 40741	\$3,333
A6305 - 10 Bon Crescent, Bonnie Doon	19	CP 168415	\$3,333
A17211 - 12 Bon Crescent, Bonnie Doon	36	PS 40741	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 1)	1	PS 544136	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 2)	2	PS 544136	\$3,333

10.4.1 Special Charge Scheme – Intention to Declare – Kitchen Street, Bonnie Doon cont.

Assessment No.	Lot No.	Other	Estimate
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 3)	3	PS 544136	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 4)	4	PS 544136	\$3,333
A6307 - 24 Bon Crescent, Bonnie Doon	1	PS 39489	\$3,333

Statutory Requirements

The *Local Government Act (1989)* requires Council to follow a specific process in declaring a scheme. The ministerial guideline on special rates and charges sets out a required process for preparation of a scheme. Details of the proposed scheme as required by the Act and guidelines are as follows:

Calculation of Maximum Total Levy

a) Purpose

The purpose of the scheme is to carry out road construction and associated works. The works are considered necessary to improve level of service and local amenity.

b) Coherence of the Project

The works will provide special benefits to a group of properties which are proposed to be included within the scheme.

c) Properties to be Included in the Scheme

Properties to be included in the scheme are those properties listed in Clause 1 of the proposed declaration.

d) Estimation of Total Special Benefits

All properties which have been identified as receiving a special benefit from the works are to be included in the scheme.

e) Estimation of Total Community Benefit

Council policy states “For upgrade and expansion works relating to kerb and channel, footpaths or urban road reconstruction Council will contribute a minimum of 50% of the total cost related to the implementation of a scheme.”

f) Calculation of Benefit Ratio

The benefit ratio is calculated as follows:

$$\frac{\text{Total Special Benefits}}{\text{Total Special Benefits} + \text{Total Community Benefits}} R = 0.5$$



10.4.1 Special Charge Scheme – Intention to Declare – Kitchen Street, Bonnie Doon cont.

g) Calculation of Maximum Total Levy

In accordance with Section 163 (2A) of the *Local Government Act (1989)*, the maximum total levy (S) is calculated as:

$S = R \times C$, where R is the benefit ratio and C is the total cost

In this case, $S = 0.5 \times \$60,000 = \$30,000$

The proposed declaration is as follows:

A Special Charge is declared pursuant to Section 163(1) of the *Local Government Act (1989)* for the purposes of defraying any expenses (including design, supervision and administration) in relation to road sealing works is declared on the basis of the following clauses.

1. The land with the corresponding liability amount for which the Special Charge is declared is as detailed below:

Property Address	Estimated Contribution
A14395 - 75 Arnot Street, Bonnie Doon	\$3,333
A7327 - 3 Phillip Street, Bonnie Doon	\$3,333
A6305 - 10 Bon Crescent, Bonnie Doon	\$3,333
A17211 - 12 Bon Crescent, Bonnie Doon	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 1)	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 2)	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 3)	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 4)	\$3,333
A6307 - 24 Bon Crescent, Bonnie Doon	\$3,333

2. The area for which the Special Charge is so declared is the area comprising all the lands listed in Clause 1 of this declaration.
3. The estimated total cost of the works is \$60,000
4. The estimated total amount to be levied is \$30,000

Note: the above costs are estimates only.

The owners of the land detailed in Clause 1 are each estimated to be liable for the amount shown in the table contained within Clause 1, which is determined on shared benefit. It has also been rounded for convenience.

10.4.1 Special Charge Scheme – Intention to Declare – Kitchen Street, Bonnie Doon cont.

5. The Special Charge shall come in to force upon declaration, and will remain in force for four (4) years. The Special Charge will be discharged when it is paid in full by the landowner or rescinded by Council under the provisions of Section 164 of the Act.
6. The criteria on which the Council bases the Special Charges are:

The lands listed in Clause 1 of this report, the owners of which derive a benefit from the road sealing construction works, which the Council assesses to be half of the value derived by the whole community.
7. The Special Charge so declared will be assessed and levied in the following manner:
 - (a) *The actual costs of the portion of the works attributed to the abutting property owners includes design, supervision and administration expenses as certified by the Chief Executive Officer will be finalised on completion of the works. As an owner of land in that area your share of the cost will be a percentage of the actual cost.*
 - (b) *Each benefiting owner will be charged, annually for one quarter of that share of the actual costs apportioned, together with interest on the unpaid balance (plus any unpaid interest) at the rate set from time to time under Section 172 of the Local Government Act (1989).*
 - (c) *Annual instalment payments of the Special Charge will be due and payable on the 1 January each year. Payments may be made by 4 instalments annually. The charge will be levied after completion of the works and calculation of the actual costs.*
8. Such owners may, subject to any resolution of the Council, pay the whole of the Special Charge within 30 days of service of an annual notice requiring payment.
9. The Revenue Co-ordinator is authorised to levy and recover the Special Charge described in Clause 8 in accordance with the provisions of the *Local Government Act (1989)*.

Council Plan

Maintaining Council road assets is consistent with the Council Plan financial sustainability Strategic Objective 2.3 We prudently manage our asset maintenance and capital works programs in line with our long term financial plan.

The action in line with the objective is to ‘Review asset management practices and data to ensure optimal useful life and value for money across Council’s infrastructure and assets.’

10.4.1 Special Charge Scheme – Intention to Declare – Kitchen Street, Bonnie Doon cont.

Financial

Funding for this project is proposed in the 2018-2019 Council budget as follows:

- Seal Kitchen Street, Bonnie Doon

	<u>Budget</u>
Council Contribution	\$30,000
Landowner Contribution	\$30,000
Total	\$60,000

Social

The proposed sealing works would significantly enhance the amenity of residing on this road. In particular, the nuisance created by road generated dust is eliminated and drainage related issues minimised.

Environmental

Construction of the road would mitigate the generation of dust caused by vehicles using the road, thereby improving air quality in the immediate vicinity.

Economic

These works would provide short term benefit to primarily local businesses.

Risk Management

There are financial and reputational risks associated with a special charge scheme. These may include;

- Residents may object to the proposed intention to declare and the scheme is abandoned.
- Estimated costs could increase during the time required to carry out the special charge scheme process.
- Contractor availability to carry out the construction works could be limited.

Community Engagement

Landowners affected by the scheme will be formally notified in writing of Council's intention to declare the Scheme and will have an opportunity to formally lodge submissions in relation to the project prior to Council declaring the Scheme, with the statutory consultation period being 28 days. A public notice will also be published in locally circulating newspaper.



10.4.1 Special Charge Scheme – Intention to Declare – Kitchen Street, Bonnie Doon cont.

Officer’s Comments

Council’s Special Charge Policy states that “For upgrade and expansion works relating to kerb and channel, footpaths or urban road reconstruction Council will contribute a minimum of 50% of the total cost related to the implementation of a scheme.”

As per Council’s Special Charge Scheme Procedures, once the draft proposal is communicated to residents and majority support is received, Council may elect to formally implement the scheme.

It is considered that proceeding with the special charge scheme process is warranted by the majority positive response to the initial survey.

Property owners will receive notification of Council’s intention to declare a Special Charge Scheme under the *Local Government Act (1989)*, and may make submissions in relation to the proposed works.

Attachments

Nil

Councillors Sladdin/Volkering:

That Council resolves its Intention to Declare a Special Charge Scheme on Kitchen Street, Bonnie Doon between Phillip Street and Jones Street against the properties listed below in accordance with the *Local Government Act (1989)* - Section 163 - Special Rate and Special Charge.

Property Address	Estimated Charge
A14395 - 75 Arnot Street, Bonnie Doon	\$3,333
A7327 - 3 Phillip Street, Bonnie Doon	\$3,333
A6305 - 10 Bon Crescent, Bonnie Doon	\$3,333
A17211 - 12 Bon Crescent, Bonnie Doon	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 1)	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 2)	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 3)	\$3,333
A6306 - 20 Bon Crescent, Bonnie Doon (Lot 4)	\$3,333
A6307 - 24 Bon Crescent, Bonnie Doon	\$3,333

Carried



10.4 INFRASTRUCTURE CONT.

10.4.2 Special Charge Scheme – Intention to Declare – Ryan Street, Mansfield

File Number: E5466
Responsible Officer: Project Officer, Caitlin Riley

Disclosure of Conflicts of Interest

The author of this report and officers providing advice in relation to this report do not have a direct or indirect interest in this matter, as provided in accordance with the *Local Government Act 1989*.

Summary

This report provides details for the proposed implementation of a Special Charge Scheme for the construction and sealing of Ryan Street, Mansfield.

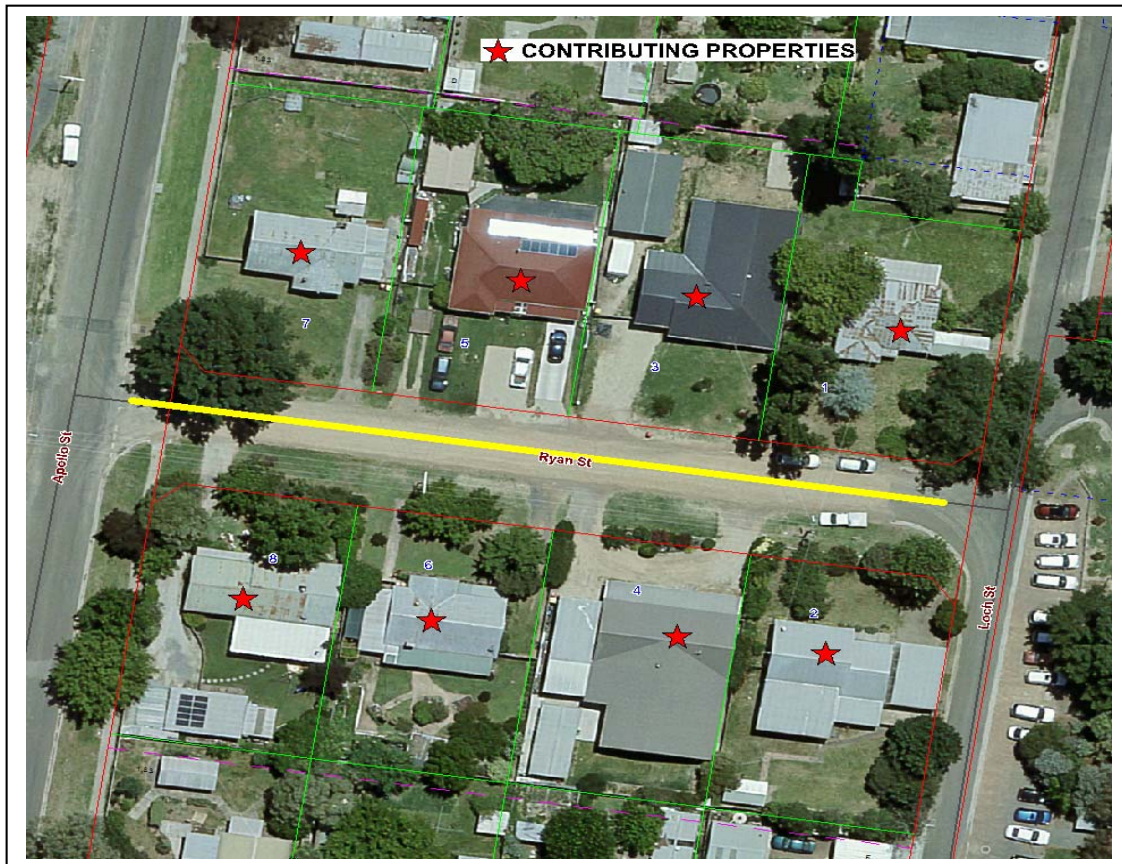
This report recommends that Council resolve its intention to declare a special charge scheme for the road construction of Ryan Street, Mansfield from Loch Street to Apollo Street. This will commence the statutory consultation process for this project.

Background

As part of its program to upgrade the road safety and amenity of its road network, Council has included the construction of Ryan Street, Mansfield in the 2018-2019 capital works program to be undertaken as a special charge scheme. The scope of works includes sealing approximately 77 metres of pavement, kerb and channel and minor drainage works.

An aerial image of the proposed works location is shown below.

10.4.2 Special Charge Scheme – Intention to Declare – Ryan Street, Mansfield cont.



In August 2018, surveys were sent to property owners that were identified to benefit from the proposed sealing works. Property owners were requested to provide an initial response to the scheme in order to determine if they if they were in favour of the scheme or not. Survey responses were received on 24 August 2018. The initial design of only a sealed road and minor drainage works (no kerb and channel), with an estimated property owner contribution of \$3,010 per lot was included in the information forwarded to affected property owners.

An on-site meeting was also conducted between residents and Council Officers to allow residents an opportunity to ask any questions and provide clarification of the project and the special charge scheme process.

10.4.2 Special Charge Scheme – Intention to Declare – Ryan Street, Mansfield cont.

Below is an outline of the survey results.

Description	Responses	% of Total
No. of Residents - Not in Favour	0	0%
No. of Residents - in Favour	8	100%
Total No. Of Residents	8	100%

Of the 8 property owners considered to gain benefit from the project, all property owners were in favour of the proposal.

Feedback from residents was that they were in favour of kerb and channel being constructed at the same time as sealing works. The cost implication of including this in the project is approximately double the initial estimate, being \$6,250 per property. This was discussed at the onsite meeting and all residents present gave a consensus that that was the preferred option. Generally, residents responded that Council should absorb the additional cost due to the perceived high community use of the road.

The total project estimate is \$100,000 including road sealing and kerb and channel. The table below outlines the estimated property owner contributions based on a 50:50 split between Council and residents.

Assessment No.	Lot No.	Other	Estimate
A8858 - 7 Ryan Street, Mansfield	12	PS 22750	\$6,250
A8859 - 5 Ryan Street, Mansfield	11	PS 22750	\$6,250
A8860 - 3 Ryan Street, Mansfield	10	PS 22750	\$6,250
A8861 - 1 Ryan Street, Mansfield	9	PS 22750	\$6,250
A8862 - 2 Ryan Street, Mansfield	1	TP 213782	\$6,250
A8863 - 4 Ryan Street, Mansfield	1	TP 213781	\$6,250
A8864 - 6 Ryan Street, Mansfield	1	TP 583131	\$6,250
A8865 - 8 Ryan Street, Mansfield	5	PS 22750	\$6,250

Statutory Requirements

The *Local Government Act (1989)* requires Council to follow a specific process in declaring a scheme. The ministerial guideline on special rates and charges sets out a required process for preparation of a scheme. Details of the proposed scheme as required by the Act and guidelines are as follows:

10.4.2 Special Charge Scheme – Intention to Declare – Ryan Street, Mansfield cont.

Calculation of Maximum Total Levy

a) Purpose

The purpose of the scheme is to carry out road construction and associated works. The works are considered necessary to improve level of service and local amenity.

b) Coherence of the Project

The works will provide special benefits to a group of properties which are proposed to be included within the scheme.

c) Properties to be Included in the Scheme

Properties to be included in the scheme are those properties listed in Clause 1 of the proposed declaration.

d) Estimation of Total Special Benefits

All properties which have been identified as receiving a special benefit from the works are to be included in the scheme.

e) Estimation of Total Community Benefit

Council policy states “For upgrade and expansion works relating to kerb and channel, footpaths or urban road reconstruction Council will contribute a minimum of 50% of the total cost related to the implementation of a scheme.”

f) Calculation of Benefit Ratio

The benefit ratio is calculated as follows:

$$\frac{\text{Total Special Benefits}}{\text{Total Special Benefits} + \text{Total Community Benefits}} R = 0.5$$

g) Calculation of Maximum Total Levy

In accordance with Section 163 (2A) of the *Local Government Act (1989)*, the maximum total levy (S) is calculated as:

$S = R \times C$, where R is the benefit ratio and C is the total cost

In this case, $S = 0.5 \times \$100,000 = \$50,000$

10.4.2 Special Charge Scheme – Intention to Declare – Ryan Street, Mansfield cont.

The proposed declaration is as follows:

A Special Charge is declared pursuant to Section 163(1) of the *Local Government Act (1989)* for the purposes of defraying any expenses (including design, supervision and administration) in relation to road sealing works is declared on the basis of the following clauses.

1. The land with the corresponding liability amount for which the Special Charge is declared is as detailed below:

Property Address	Estimated Contribution
A8858 - 7 Ryan Street, Mansfield	\$6,250
A8859 - 5 Ryan Street, Mansfield	\$6,250
A8860 - 3 Ryan Street, Mansfield	\$6,250
A8861 - 1 Ryan Street, Mansfield	\$6,250
A8862 - 2 Ryan Street, Mansfield	\$6,250
A8863 - 4 Ryan Street, Mansfield	\$6,250
A8864 - 6 Ryan Street, Mansfield	\$6,250
A8865 - 8 Ryan Street, Mansfield	\$6,250

2. The area for which the Special Charge is so declared is the area comprising all the lands listed in Clause 1 of this declaration.
3. The estimated total cost of the works is \$100,000
4. The estimated total amount to be levied is \$50,000

Note: the above costs are estimates only.

The owners of the land detailed in Clause 1 are each estimated to be liable for the amount shown in the table contained within Clause 1, which is determined on shared benefit. It has also been rounded for convenience.

5. The Special Charge shall come in to force upon declaration, and will remain in force for four (4) years. The Special Charge will be discharged when it is paid in full by the landowner or rescinded by Council under the provisions of Section 164 of the Act.
6. The criteria on which the Council bases the Special Charges are:

The lands listed in Clause 1 of this report, the owners of which derive a benefit from the road sealing construction works, which the Council assesses to be half of the value derived by the whole community.

10.4.2 Special Charge Scheme – Intention to Declare – Ryan Street, Mansfield cont.

7. The Special Charge so declared will be assessed and levied in the following manner:
 - (a) *The actual costs of the portion of the works attributed to the abutting property owners includes design, supervision and administration expenses as certified by the Chief Executive Officer will be finalised on completion of the works. As an owner of land in that area your share of the cost will be a percentage of the actual cost.*
 - (b) *Each benefiting owner will be charged, annually for one quarter of that share of the actual costs apportioned, together with interest on the unpaid balance (plus any unpaid interest) at the rate set from time to time under Section 172 of the Local Government Act (1989).*
 - (c) *Annual instalment payments of the Special Charge will be due and payable on the 1 January each year. Payments may be made by 4 instalments annually. The charge will be levied after completion of the works and calculation of the actual costs.*
8. Such owners may, subject to any resolution of the Council, pay the whole of the Special Charge within 30 days of service of an annual notice requiring payment.
9. The Revenue Co-ordinator is authorised to levy and recover the Special Charge described in Clause 8 in accordance with the provisions of the *Local Government Act (1989)*.

Council Plan

Maintaining Council road assets is consistent with the Council Plan financial sustainability Strategic Objective 2.3 We prudently manage our asset maintenance and capital works programs in line with our long term financial plan.

The action in line with the objective is to ‘Review asset management practices and data to ensure optimal useful life and value for money across Council’s infrastructure and assets.’

Financial

Funding for this project is proposed in the 2018-2019 Council budget as follows:

- Urban unsealed road sealing program – Ryan St, Church St (Mansfield), The Sideling (Jamieson)

	<u>Total 18-19 Budget</u>	<u>Ryan Street Budget</u>
Council Contribution	\$92,000	\$50,000
Landowner Contribution	\$92,000	\$50,000
Total	\$196,000	\$100,000

10.4.2 Special Charge Scheme – Intention to Declare – Ryan Street, Mansfield cont.

Social

The proposed sealing works would significantly enhance the amenity of residing on this road. In particular, the nuisance created by road generated dust is eliminated and drainage related issues minimised.

Environmental

Construction of the road would mitigate the generation of dust caused by vehicles using the road, thereby improving air quality in the immediate vicinity.

Economic

These works would provide short term benefit primarily to local businesses.

Risk Management

There are risks associated with a special charge scheme, both financial and reputational these include the following;

- Residents may object to the proposed intention to declare and the scheme is abandoned.
- Estimated costs could increase during the time required to carry out the special charge scheme process.
- Contractor availability to carry out the construction works could be limited.

Community Engagement

Landowners affected by the scheme will be formally notified in writing of Council's intention to declare the Scheme and will have an opportunity to formally lodge submissions in relation to the project prior to Council declaring the Scheme, with the statutory consultation period being 28 days. A public notice will also be published in locally circulating newspaper.

Officer's Comments

Council's Special Charge Policy states that "For upgrade and expansion works relating to kerb and channel, footpaths or urban road reconstruction Council will contribute a minimum of 50% of the total cost related to the implementation of a scheme."

As per Council's Special Charge Scheme Procedures, once the draft proposal is communicated to residents and majority support is received, Council may elect to make necessary amendments arising from the consultation and formally implement the scheme.

It is considered that proceeding with the special charge scheme process is warranted by the majority positive response to the initial survey.



10.4.2 Special Charge Scheme – Intention to Declare – Ryan Street, Mansfield cont.

Property owners will receive notification of Council’s intention to declare a Special Charge Scheme under the *Local Government Act (1989)*, and may make submissions in relation to the proposed works.

Attachments

Nil

Councillors Olver/Volkering:

That Council resolves its Intention to Declare a Special Charge Scheme on Ryan Street, Mansfield between Loch Street and Apollo Street against the properties listed below in accordance with the *Local Government Act (1989)* - Section 163 - Special Rate and Special Charge.

Property Address	Estimated Charge
A8858 - 7 Ryan Street, Mansfield	\$6,250
A8859 - 5 Ryan Street, Mansfield	\$6,250
A8860 - 3 Ryan Street, Mansfield	\$6,250
A8861 - 1 Ryan Street, Mansfield	\$6,250
A8862 - 2 Ryan Street, Mansfield	\$6,250
A8863 - 4 Ryan Street, Mansfield	\$6,250
A8864 - 6 Ryan Street, Mansfield	\$6,250
A8865 - 8 Ryan Street, Mansfield	\$6,250

Carried

10.4 INFRASTRUCTURE CONT.

10.4.3 Special Charge Scheme – Abandonment – Church Street, Mansfield

File Number: E5467
Responsible Officer: Project Officer, Caitlin Riley

Disclosure of Conflicts of Interest

The author of this report and officers providing advice in relation to this report do not have a direct or indirect interest in this matter, as provided in accordance with the *Local Government Act 1989*.

Summary

This report provides details of the proposed Special Charge Scheme for construction works at Church Street, Mansfield, to be partly funded by abutting landowner contributions and Council.

This report recommends that Council abandon the proposed scheme for the sealing of Church Street, Mansfield due insufficient support from affected residents.

Background

As part of its program to upgrade the safety and amenity of the road network within the municipality, Council has included priority projects in the 2018-2019 Council budget for the sealing of a number of roads within the Shire.

Church Street, Mansfield is an unsealed urban road, 3m wide and 147m long that predominately provides rear access to approximately 10 residential properties. Average vehicle movements a day is approximately 9, which is very low for an urban street.

In August 2018, surveys were sent to property owners adjacent to Church Street, Mansfield that were identified to benefit from the proposed sealing works. Property owners were requested to provide an initial response to the scheme in order to determine if they if they were in favour of the scheme or not.

Survey responses were received on 24 August 2018.

Statutory Requirements

The *Local Government Act 1989* requires Council to follow a specific process in undertaking a special charge scheme. The ministerial guideline on special rates and charges sets out a required process for preparation of a scheme.

Council Plan

Maintaining Council road assets is consistent with the Council Plan financial sustainability Strategic Objective 2.3 We prudently manage our asset maintenance and capital works programs in line with our long term financial plan.



10.4.3 Special Charge Scheme – Abandonment – Church Street, Mansfield cont.

Financial

Funding for this project is proposed in the 2018-2019 Council budget as follows:

- Urban unsealed road sealing program – Ryan St, Church St (Mansfield), The Sideling (Jamieson)

	<u>Budget</u>
Council Contribution	\$ 92,000
Landowner Contribution	\$ 92,000
Total	\$196,000

Social

Church Street has no properties directly fronting it as it provides only back or side access. Due to the low traffic volume and absence of through traffic, the proposed sealing works would provide minimal benefit to properties.

Environmental

Construction of the road would mitigate the generation of dust caused by vehicles using the road, thereby improving air quality in the immediate vicinity.

Economic

These works would provide very short term benefit primarily to local businesses.

Risk Management

If the works were to proceed under a special charge scheme, there is a risk that residents could appeal to the Victoria Civil and Administrative Tribunal (VCAT) to have the scheme reviewed and potentially quashed. This risk is heightened as there is not adequate support from residents.

Special Charge Schemes that are not well supported by affected residents exacerbate community discord and potentially damages the professional reputation of Council. Delays in special charge scheme projects also have flow-on affects to other capital projects as resources are diverted to resolve issues.

Community Engagement

Owners of land along Church Street, Mansfield between Adams Street and Elvins Street that would be potentially liable for contributions towards the special charge scheme were invited to take part in an initial survey with a cost estimate to determine their support for the proposal. The contribution estimate issued with the survey was \$4,480 per benefiting lot.

10.4.3 Special Charge Scheme – Abandonment – Church Street, Mansfield cont.

An on-site meeting between residents and Council Officer's was conducted to allow any questions to be directly addressed and to provide more information in regards to the proposed design and the special charge scheme process in general.

Of the 10 property owners considered to gain benefit from the project, 1 landowner was in favour, 6 opposed and 3 did not submit a response. Below is a table outlining these results.

Description	Responses	% of Total
No. of Residents - Not in Favour	6	60%
No. of Residents - in Favour	1	10%
No. of Residents - Did Not Respond	3	30%
Total No. Of Residents	10	100%

Officer's Comments

Poor support for the proposal from affected property owners at this stage in the process indicates that there could be strong resistance to the project if Council were to proceed with implementing a special charge scheme.

Given the majority of responses were not in favour of the project it is therefore recommended that that the scheme be abandoned.

Attachments

Nil

Councillors Volkering/Sladdin:

That Council abandon the implementation of a Special Charge Scheme for the sealing of Church Street, Mansfield.

Carried



10.4 INFRASTRUCTURE CONT.

10.4.4 Special Charge Scheme – Abandonment – The Sideling, Jamieson

File Number: E5469
Responsible Officer: Project Officer, Caitlin Riley

Disclosure of Conflicts of Interest

The author of this report and officers providing advice in relation to this report do not have a direct or indirect interest in this matter, as provided in accordance with the *Local Government Act 1989*.

Summary

This report provides details of the proposed special charge scheme for construction works at The Sideling, Jamieson.

This report recommends that Council abandon the proposed special charge scheme.

Background

As part of its program to upgrade the safety and amenity of the road network within the municipality, Council has included priority projects in the 2018-2019 Council budget for the sealing of a number of roads within the Shire.

The Sideling, Jamieson is a semi-rural road that services approximately 13 properties including 1 accommodation business. It is approximately 4.5m wide and 2.8 km long (1.6km Council maintained and 1.2km private road). It is also a popular access point to the state forest for motorbike riders and four wheel drivers. It is a generally narrow road with a speed limit of 40 km/h for the first 100m. It carries an average of 40 vehicle movements a day.

In August 2018, surveys were sent to property owners that were identified to benefit from the proposed sealing works. Property owners were requested to provide an initial response to the scheme in order to determine if they if they were in favour of the scheme or not. Survey responses were received on 24 August 2018.

Statutory Requirements

Section 163 of the *Local Government Act 1989* requires Council to follow a specific process for declaring a special charge scheme. The ministerial guideline on special rates and charges sets out a required process for preparation of a scheme.

Council Plan

Maintaining Council road assets is consistent with the Council Plan financial sustainability

Strategic Objective 2.3 We prudently manage our asset maintenance and capital works programs in line with our long term financial plan.



10.4.4 Special Charge Scheme – Abandonment – The Sideling, Jamieson cont.

Financial

Funding for this project is proposed in the 2018-2019 Council budget as follows:

- Urban unsealed road sealing program – Ryan St, Church St (Mansfield), The Sideling (Jamieson)

	<u>Budget</u>
Council Contribution	\$ 92,000
Landowner Contribution	\$ 92,000
Total	\$196,000

Social

Within the first 100m of The Sideling from Chenery Street, the unsealed road services the Jamieson Primary School and two homes.

The primary school have indicated that several children suffer from respiratory ailments and that the unsealed road affects their ability to safely enjoy the outdoor space immediately adjacent to the road.

Another property owner has also claimed that they suffer from a respiratory ailment and the dust from the unsealed road allegedly impacts their health.

The proposed sealing works would provide significant amenity benefit to these properties.

Environmental

Construction of the road would mitigate the generation of dust by vehicles.

Economic

Nil.

Risk Management

Nil.

10.4.4 Special Charge Scheme – Abandonment – The Sideling, Jamieson cont.

Community Engagement

Owners of land along The Sideling, Jamieson between Chenery Street and approximately 90 metres north that would be potentially liable for contributions towards the special charge scheme were invited to take part in an initial survey to determine their support for the proposal. The initial design and estimated property owner contribution of \$9,041 per lot was included in the information forwarded to affected property owners.

An on-site meeting was conducted to allow any questions to be directly addressed and to provide more information in regards to the proposed design and the special charge scheme process in general.

Of the 3 properties considered to gain benefit from the project, 2 landowners were in favour and 1 opposed. Below is a table outlining these results.

Description	Response	% of Total
No. of Residents - Not in Favour	1	33%
No. of Residents - in Favour	2	66%
Total No. Of Residents	3	100%

Two properties receiving benefit are situated on crown land and therefore exempt from paying a special charge

The other affected property owner indicated that they were in favour of having the road sealed, however would not be able to afford to pay their contribution due to being on a pension.

Officer's Comments

As per Council Special Charge Scheme Policy, Council may elect to implement, abandon or modify a project prior to resolving an intention to declare a special charge scheme.

Council may elect to;

- Abandon the scheme and do nothing;
- Proceed with implementing the scheme and seek to apply charges to all three properties that would directly benefit the work;
- Modify the scheme and proceed with only applying a charge against the non-exempt properties; or
- Abandon the scheme and proceed to construct and seal the first 90m of The Sideling, Jamieson, from Chenery Street at full cost Council.

Funding for the project in lieu of special charges would be secured via Council contributions available from abandoned special charge scheme projects within the current program.



10.4.4 Special Charge Scheme – Abandonment – The Sideling, Jamieson cont.

Attachments

Nil

Councillors Sladdin/Attley:

That Council:

- 1. abandon the implementation of a Special Charge Scheme for the sealing of The Sideling, Jamieson.**
- 2. construct and seal the first 90 metres of The Sideling, Jamieson at full cost to Council.**

Carried

11. ASSEMBLIES OF COUNCILLORS

Under section 76AA of the *Local Government Act 1989* an Assembly of Councillors (however titled) is defined as a planned or scheduled meeting, comprising at least three Councillors and one member of Council staff, that consider matters that are intended or likely to be:

- The subject of a decision of the Council; or
- Subject to the exercise of a function; duty or power of a Council that has been delegated to a person or committee [s.76AA].

An assembly of Councillors does not include a meeting of the Council, a special committee of the Council, or any club, association, peak body, political party of other organisation.

A written record of each assembly is held by Council and is available for public inspection.

The following is a list for the past month of assemblies held and the issues discussed.

Date	Type of Assembly	Issues Discussed
18 September 2018	<p>Councillors' Briefing Session</p> <p>Councillors:</p> <ul style="list-style-type: none"> • Cr Peter Olver • Cr Harry Westendorp • Cr Paul Sladdin • Cr Paul Volkering <p>Apologies:</p> <ul style="list-style-type: none"> • Cr. Attley <p>Officers:</p> <ul style="list-style-type: none"> • Chief Executive Officer, Alex Green • Community Services Manager, Melanie Hotton • Finance Manager, Mandy Kynnersley • Development Services Manager, Ben McKay 	<p><i>Conflicts of Interest:</i> NIL</p> <p><i>Issues Discussed:</i></p> <ul style="list-style-type: none"> • Annual Report • Performance Statements • Know Your Council Data • Community Satisfaction Survey Results • Swimming Pool Contract • OH&S Issue with Blower Vac and Whipper Snipper • Gaffney's Garage Development Site • Community Initiated Projects Policy (Bonnie Doon Community Centre)
25 September 2018	<p>Councillors' Briefing Session</p> <p>Councillors:</p> <ul style="list-style-type: none"> • Cr. Attley • Cr Peter Olver • Cr Harry Westendorp • Cr Paul Sladdin • Cr Paul Volkering <p>Apologies: <i>Nil</i></p> <p>External Attendees:</p> <ul style="list-style-type: none"> • NE Innovate Victoria Project Co-Ordinator – Emma Jones <p>Officers:</p> <ul style="list-style-type: none"> • Chief Executive Officer, Alex Green • Community Services Manager, Melanie Hotton • Finance Manager, Mandy Kynnersley • Development Services Manager, Ben McKay • Economic Development Administration – Danielle Roberts 	<p><i>Conflicts of Interest:</i> NIL</p> <p><i>Issues Discussed:</i></p> <ul style="list-style-type: none"> • Complaint against CEO • Discussion on Accountability • North East Innovate Victoria Launch • Community Satisfaction Survey • Strategic Discussion on Council Owned Property • Ultimo Street Renumbering • Highton Land Special Charge Scheme Process • Street Numbering Issues Across Town • Management of Roadside Native Vegetation • Budget Carry Forward Policy



11. ASSEMBLIES OF COUNCILLORS CONT.

Date	Type of Assembly	Issues Discussed
2 October 2018	<p>Councillors’ Briefing Session</p> <p>Councillors:</p> <ul style="list-style-type: none"> • Cr. Attley • Cr Harry Westendorp • Cr Paul Volkering <p>Apologies:</p> <ul style="list-style-type: none"> • Cr Peter Olver • Cr Paul Sladdin <p>Officers:</p> <ul style="list-style-type: none"> • Chief Executive Officer, Alex Green • Community Services Manager, Melanie Hotton • Finance Manager, Mandy Kynnersley • Development Services Manager, Ben McKay • Corporate and Organisational Development Manager, Sharon Scott 	<p><i>Conflicts of Interest:</i> NIL</p> <p><i>Issues Discussed:</i></p> <ul style="list-style-type: none"> • Waste Charge – Community Consultation Framework • Office 365 • Advisory Committee Review • EB Update • Rate Recovery Process for Non-Paymen tof Rates • Ultimo Street Renumbering • Mansfield West Precinct Project • Heavy Vehicle Bypass • Developers Forum • Electoral Review • Capital LWorks Update • Old Tolmie Road Roadworks • Buttercup Road VCAT Update • Grandview Drive VCAT Appeal
8 October 2018	<p>Launch of Mansfield Victorian Seniors Festival</p> <p>Councillors:</p> <ul style="list-style-type: none"> • Cr. Attley • Cr Harry Westendorp • Cr Peter Olver <p>Apologies:</p> <ul style="list-style-type: none"> • Cr Paul Sladdin • Cr Paul Volkering <p>Officers:</p> <ul style="list-style-type: none"> • Community and Home Care Coordinator – Carolyn Garlick • Community Health and Wellbeing Team Leader – Jenny Lovick • Planned Activities Officer - Deb McCabe • Community Care Worker - Marilyn Haddow 	<p><i>Conflict of Interest:</i> NIL</p> <p><i>Issues Discussed:</i></p>

Councillors Attley/Olver:

That the Council note the Assemblies of Councillors from 18 September to 8 October 2018.

Carried



12. ADVISORY AND SPECIAL COMMITTEE REPORTS

12.1 Mansfield Parks and Precincts Advisory Committee: Minutes of Meeting

The Minutes of the Mansfield Parks and Precincts Advisory Committee meeting, held on 3 October 2018, are attached for the Council's information.

Attachment

- 1 Mansfield Parks and Precincts Advisory Committee Minutes

Councillors Volkering/Attley:

That the Council receive the Minutes of the Mansfield Parks and Precincts Advisory Committee meeting, held on 3 October 2018.

Carried

13. AUTHORISATION OF SEALING OF DOCUMENTS

Nil

SUSPENSION OF STANDING ORDERS

Councillors Attley/Volkering:

That Council suspend standing orders to facilitate public question time.

Carried

14. PUBLIC QUESTION TIME

- 14.1 Ms Poppe Davis questioned why more people do not respond to Council with their opinion in relation to Special Charge Schemes. Chief Executive Officer, Mr Alex Green, responded that Council makes every effort to communicate to all ratepayers who would be affected by the introduction of such Schemes, and explained that usually only two-thirds of the database general respond to Council.
- 14.2 Ms Kym Lynch addressed the Council on behalf of the Merrijig Residents Action Group, thanking Councillors for their decision to refuse a permit for stone extraction at 401 Buttercup Road, Merrijig. A number of questions were raised by Ms Lynch in relation to the permit refusal, which were taken on notice by Development Services Manager, Mr Ben McKay.

RESUMPTION OF STANDING ORDERS

Councillors Attley/Volkering:

That Council resume standing orders.

Carried

15. CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC

That pursuant to the provisions of Section 89(2) of the *Local Government Act 1989*, the meeting be closed the public in order to consider:

- (a) personnel matters;
- (b) the personal hardship of any resident or ratepayer;
- (c) industrial matters;
- (d) contractual matters;
- (e) proposed developments;
- (f) legal advice;
- (g) matters affecting the security of Council property;
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person;
- (i) a resolution to close the meeting to members of the public.

Councillors Sladdin/Olver:

That the meeting be closed to members of the public under Section 89(2) of the *Local Government Act 1989*, specifically the following sub-sections:

- (a) personnel matters;**
- (d) contractual matters;**
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person;**
- (i) a resolution to close the meeting to members of the public.**

Carried



Councillors Attley/Sladdin:

That the meeting be reopened to members of the public.

Carried

16. CLOSE OF MEETING

There being no further business the meeting concluded at 6.17pm.

CONFIRMED this **twentieth** day of **November** 2018.

Mayor