

SPM(9) – 25 AUGUST 2020

# Special Council Meeting

---

Agenda

Notice is hereby given that the **Ordinary Meeting** of the **Alpine Shire Council** will be held on **Tuesday 25 August 2020** commencing at **4:00pm**.

## Agenda

1.	Recording and livestreaming of Council meetings.....	2
2.	Acknowledgement of traditional custodians, and recognition of all people....	2
3.	Apologies.....	2
4.	Declarations by Councillors of conflict of interest.....	2
5.	Presentation of reports by officers .....	3
5.1	Director Corporate – Nathalie Cooke.....	3
5.1.1	Governance Rules .....	3
5.1.2	Governance Local Law (2020) .....	6
5.1.3	Public Transparency Policy.....	9
5.1.4	Councillor Expenses Policy.....	12
5.1.5	Establishment and Charter - Audit and Risk Committee .....	15
5.1.6	Community Asset Committees.....	20
5.1.7	Mount Buffalo Reactivation Planning Scheme Amendment.....	24
6.	Documents for sealing .....	31

## **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.

The reasoning behind recording council meetings is of course 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**

*The CEO will read the following statement:*

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

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

## **3. Apologies**

## **4. Declarations by Councillors of conflict of interest**

## 5. Presentation of reports by officers

### 5.1 DIRECTOR CORPORATE – NATHALIE COOKE

#### 5.1.1 Governance Rules

File Number: Vital Documents register

##### **INTRODUCTION**

Council is required to develop Governance Rules before 1 September 2020 in accordance with the requirements of section 60 of the *Local Government Act 2020* (LGA 2020).

The Governance Rules must be made in respect to the conduct of Council meetings, the election of the Mayor and Deputy Mayor, the appointment of an Acting Mayor, the procedures for disclosure of conflicts of interest, and must include an election period policy in accordance with section 69 of the LGA 2020. The Governance Rules will replace the existing *Local Law No.1 Council Administration (2016)* and Election Period Policy made under the *Local Government Act 1989* (LGA 1989).

##### **RECOMMENDATION**

***That:***

- 1. Council note that one internal submission was received regarding the draft Governance Rules. No external submissions were received;***
- 2. Improvements proposed by the internal submission, to enhance harmonisation between neighbouring Councils, be incorporated into the Governance Rules;***
- 3. The Governance Rules be adopted;***
- 4. The Governance Rules come into force on 1 September 2020; and***
- 5. The Governance Rules be signed and sealed at the appropriate stage of this meeting.***

##### **BACKGROUND**

Council's *Local Law No.1 Council Administration (2016)* currently determines the conduct of Council Meetings and special committee meetings. The Local Law was required under section 91 of the LGA 1989 and includes procedures for the use of Council's Common Seal, and offences for persons behaving in contravention of the Local Law.

Under section 60 of the LGA 2020, Councils must develop Governance Rules to determine not only the conduct of Council meetings, but many other processes including the Election of Mayor and Deputy Mayor, declarations of conflict of interest, and an election period policy. The Governance Rules must also provide for making decisions fairly and on the basis of merit, while ensuring that any person whose rights will be affected are entitled to communicate their views.

## ISSUES

### ***Preparation of Governance Rules***

Draft or 'proposed' Governance Rules were developed with reference to Local Government Victoria (LGV) and Maddocks' templates, as well as draft Rules shared by other Councils.

The existing Local Law was applied as much as possible to govern the meeting procedure for Council Meetings, and has been supplemented to:

- provide additional context and guidance;
- ensure that the requirements of the LGA 2020 are captured and understood;
- document current meeting practises that are not currently captured in the Local Law and that are suitable for formalisation;
- document important meeting practises that would benefit from further clarification; and
- document a selected number of additional meeting practices that boost current governance practices.

Council's existing procedure for the Election of the Mayor was incorporated into the Governance Rules, as has the Election Period Policy, with small adaptations to ensure correct reference to the requirements of LGA 2020.

### ***Submissions***

At the Ordinary Council meeting in July, Council resolved to release the proposed Governance Rules for public submissions, with submissions closing on 14 August.

No submissions were received from the public.

One internal submission was received, noting a desire to improve harmonisation between the Towong Shire Council and Alpine Shire Council Governance Rules. Where the Governance Rules are reflective of one another, this will assist in any joint Council meetings that may be proposed in the future. There remain some differences between the documents, however the intent is similar between the two. Changes made to the Alpine Shire Council Governance Rules as a result of the submission include:

Notices of motion	Improved processes, including a requirement for any notice of motion to be signed by two Councillors, with supporting information attached.
Rescission or amendment of motion	Improved processes, including a requirement for any rescission or amendment to be signed by two Councillors.
Recording of proceedings	Inclusion of a clause requiring any recordings of Council meetings by others to be approved by resolution of the meeting.

## **POLICY IMPLICATIONS**

Once the Governance Rules are adopted, they will provide guidance for the conduct of Council meetings. This means the relevant provisions of *the Local Law No.1 Council Administration (2016)* must then be revoked to ensure that there is no confusion between the requirements of the documents. A subsequent report in this agenda deals with the proposed revocation, and introduction of a new Local Law.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A high performing organisation

## **FINANCIAL AND RESOURCE IMPLICATIONS**

Council purchased the Maddocks template for the Governance Rules, and a significant amount of staff time has been dedicated to the development of the draft Governance Rules attached to this report. Expenditure associated with this has been allowed for in Council's budget.

## **CONSULTATION**

Officers consulted within the organisation during development of the draft Governance Rules. Councillors were briefed to ensure that any new provisions were understood.

Section 60(4) of the LGA 2020 requires that Council must ensure that a process of community engagement is followed in developing or amending the Governance Rules.

Public submissions were advertised in the Myrtleford Times / Alpine Observer on Wednesday 15 July, with submissions closing at 12pm on Friday 14 August. No external submissions were received. One internal submission was received.

## **CONCLUSION**

Development of the Governance Rules is a requirement of the *Local Government Act 2020*. The clarification of processes provides additional structure for Councillors and for members of Staff who support Council meetings. It also provides clarification for the public with regard to council meeting processes and requirements regarding conduct of Council during the Election Period.

## **DECLARATION OF CONFLICT OF INTEREST**

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

- Director Corporate
- Manager Corporate
- Governance Officer

## **ATTACHMENT(S)**

5.1.1 Alpine Shire Council Governance Rules (2020)

## 5.1.2 Governance Local Law (2020)

File Number: Vital Documents register

### INTRODUCTION

The commencement of section 60 of the *Local Government Act 2020* (LGA 2020) requires Council to develop Governance Rules regarding the conduct of Council meetings. This means that Council's existing Local Law No.1 Council Administration (2016) must now be revoked, and a replacement Governance Local Law (2020) be endorsed to govern the use of Council's Common Seal, and offences relating to Council meetings.

### **RECOMMENDATION**

***That Council:***

- 1. Note that no submissions were received regarding the Governance Local Law (2020);***
- 2. Make the Governance Local Law (2020), to come into operation on 1 September 2020;***
- 3. Note that on the commencement of the Governance Local Law (2020) that the previous Local Law No.1 Council Administration (2016) is revoked;***
- 4. Sign and seal the Governance Local Law (2020) at the appropriate stage of this meeting;***
- 5. Publish public notice of the making of the Governance Local Law (2020) in the Victorian Government Gazette, the Alpine Observer / Myrtleford Times, and on Council's website; and***
- 6. Send a copy of the Governance Local Law (2020) to the Minister for Local Government.***

### BACKGROUND

Council's existing Local Law No.1 Council Administration (2016) was made in accordance with the requirements of the *Local Government Act 1989* (LGA 1989) and encompassed:

- conduct of Council meetings and special committee meetings;
- procedures for the use of Council's Common Seal; and
- offences for persons behaving in contravention of the Local Law.

### ISSUES

The introduction of section 60 of the LGA 2020 means that Councils must develop Governance Rules to determine the conduct of Council meetings. These Governance Rules effectively replace the previous Local Law that governed the conduct of Council meetings.

While Council no longer needs to have a Local Law governing its Council meetings, it still must have a Local Law governing the use of the Common Seal. This is due to s14(2) of the LGA 2020, which states that the Common Seal must be used in accordance with any applicable Local Law.

Where Council wishes to impose offences for behaviour at Council meeting and Delegated Committee meetings, these offences cannot be included in the Governance Rules. They must be part of a Local Law.

The objectives of the Governance Local Law (2020) are to:

- regulate the use of the Alpine Shire Council Common Seal;
- provide for offences in relation to unauthorised use of the Common Seal or any device resembling the Common Seal; and
- provide for offences in relation to Council meetings and Delegated Committee meetings.

The creation of a Local Law is a statutory process in accordance with Part 5 of the LGA 1989 and the revocation of the previous Local Law is undertaken at the same time as adoption of the new Local Law.

### **POLICY IMPLICATIONS**

While the requirement for preparation of the Governance Rules is a requirement of the LGA 2020, the provisions relating to the making of Local Laws remain in the LGA 1989 and have not yet transitioned to LGA 2020. Hence the Governance Local Law (2020) has been prepared in accordance with LGA 1989. The LGA 2020 allows for local laws made under LGA 1989 to remain in force until they sunset in accordance with that Act or until amended or revoked by a local law made under LGA 2020.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A high performing organisation

### **FINANCIAL AND RESOURCE IMPLICATIONS**

Council sought legal advice regarding the use of the Common Seal under LGA 2020. Costs are covered in Council's budget.

### **CONSULTATION**

Section 119(2)(c) of the LGA 1989 stipulates that any person affected by a proposed Local Law may make a submission in accordance with s223 of that Act.

Council endorsed the proposed Governance Local Law (2020) for public submissions at the Ordinary Council meeting in July 2020. A Community Impact Statement was prepared to demonstrate how the proposed law would affect the community.

Public submissions were advertised on Council's website and in the Myrtleford Times / Alpine Observer on Wednesday 15 July, and the Victorian Government Gazette on Thursday 16 July, with submissions closing at 12pm on Friday 14 August. No submissions were received.



## **CONCLUSION**

The Local Law No.1 Council Administration (2016) is no longer required to govern the conduct of Council meetings. The Governance Local Law (2020) now governs the use of the Common Seal, and offences relating to behaviour in a Council meeting.

## **DECLARATION OF CONFLICT OF INTEREST**

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

- Director Corporate
- Manager Corporate
- Governance Officer

## **ATTACHMENT(S)**

5.1.2 Governance Local Law (2020)

### 5.1.3 Public Transparency Policy

File Number: Vital Documents Register

#### **INTRODUCTION**

Council is required to develop a Public Transparency policy before 1 September 2020 in accordance with the requirements of section 57 of the *Local Government Act 2020* (LGA 2020). Council resolved to release a draft policy for public submissions at the Ordinary Council Meeting in July with submissions due by the 14 August.

#### **RECOMMENDATION**

*That:*

- 1. Council note that no submissions were received regarding the draft Public Transparency Policy;**
- 2. The Public Transparency Policy be adopted; and**
- 3. The Public Transparency Policy be signed and sealed at the appropriate stage of the meeting.**

#### **BACKGROUND**

Under the LGA 2020, Councils must develop a Public Transparency policy which gives effect to the Public Transparency principles described by section 58 of LGA 2020, and describe the ways in which Council information is to be made publicly available.

The *Local Government Act 2020* (LGA 1989) included prescriptive content regarding which documents to make available; this prescription has largely been removed under LGA 2020. The prescription has been replaced by principles and a more explicit stipulation of what information is to remain confidential. Any information which is not deemed confidential must be accessible to the public.

#### **ISSUES**

##### ***Development of the Public Transparency Policy***

The proposed policy has been developed with reference to Local Government Victoria (LGV) template.

The policy recognises Council's commitment to sound democratic governance and recognises the importance of providing transparency as a foundation for community confidence, community engagement and accountability.

The policy clarifies what information, at minimum, will be published and what information will be made available to the public upon request, and outlines the mechanism for making a request. It also stipulates what information has been classed as confidential under relevant legislation. Finally, it describes how transparency is applied to Council's decision making processes.

***Submissions***

At the Ordinary Council meeting in July, Council resolved to release the proposed Governance Rules for public submissions, with submissions closing on 14 August. No submissions were received from the public.

**POLICY IMPLICATIONS**

The proposed policy is in accordance with the Public Transparency principles of the LGA 2020 and has also been developed with reference to the *Freedom of Information Act 1982 [Vic]*, the *Privacy and Data Protection Act 2014 [Vic]*, and the *Public Records Act 1973 [Vic]*.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A high performing organisation

**FINANCIAL AND RESOURCE IMPLICATIONS**

Staff time will be required to ensure that the information specified in the Public Transparency policy is made available via the website, at Council Offices or in other formats as appropriate to the information type. In some cases, third party consultation will be required, in accordance with the *Freedom of Information Act 1982 [Vic]*. Information will be provided free of charge or at low cost commensurate to the effort to provide it, or in accordance with any relevant legislation.

Council maintains skills across select authorised staff to ensure requests are handled in accordance with the *Freedom of Information Act 1982 [Vic]* and other related Acts. From time to time Council may seek legal advice to ensure the appropriate treatment of potentially confidential information.

**CONSULTATION**

Officers have consulted within the organisation in the development of the draft Public Transparency policy. Councillors have been briefed to ensure that related new legislative provisions are understood.

In accordance with the Public Transparency principles, Council has undertaken a process of community engagement in developing the Public Transparency policy. Public submissions were advertised in the Myrtleford Times / Alpine Observer on Wednesday 15 July, with submissions closing at 12pm on Friday 14 August. No external submissions were received.

**CONCLUSION**

Development of the Public Transparency policy is a requirement of the *Local Government Act 2020*. The policy recognises the importance of transparency as a foundation for community engagement and accountability. It clarifies the information that will be provided to the community and the application of transparency principles across Council's decision-making practices.

## **DECLARATION OF CONFLICT OF INTEREST**

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

- Director Corporate
- Manager Corporate
- Governance Officer
- Health, Safety and Risk Officer

## **ATTACHMENT(S)**

5.1.3 Public Transparency Policy

## 5.1.4 Councillor Expenses Policy

File Number: Vital Documents register

### **INTRODUCTION**

Council is required to develop an expenses policy for reimbursement of out-of-pocket expenses for Councillors and members of delegated committees before 1 September 2020 in accordance with the requirements of section 41 of the *Local Government Act 2020* (LGA 2020).

Council has developed a Council Expenses Policy to satisfy the requirements of LGA 2020 based on its existing Councillor Reimbursement of Expenses Policy.

### **RECOMMENDATION**

***That Council:***

- 1. Note that the proposed Councillor Expenses Policy has been drafted based on a review of the Councillor Reimbursement of Expenses Policy No 076, Version 4;***
- 2. Revoke the Councillor Reimbursement of Expenses Policy No 076, Version 4;***
- 3. Adopt the Councillor Expenses Policy No 076, Version 5; and***
- 4. Sign and seal the Councillor Expenses Policy No 076, Version 5 at the appropriate stage of this meeting.***

### **BACKGROUND**

The current Councillor Reimbursement of Expenses Policy defines parameters for the reimbursement of necessary out of pocket expenses incurred while performing duties as a Councillor, as required by section 75B of the *Local Government Act 1989* (LGA 1989).

Under the new LGA 2020, Council must adopt and maintain an expenses policy in relation to the reimbursement of out-of-pocket expenses for Councillors and members of delegated committees. The policy must specify procedures to be followed in applying for reimbursement and in reimbursing expenses. The policy must also provide for the reimbursement of child care where reasonably required for a Councillor or a delegated committee to perform their role, and have particular regard to expenses incurred by a councillor who is a carer within the meaning of section 4 of the *Carers Recognition Act 2012*.

Reimbursements must be provided where expenses are bona fide, have reasonably been incurred in the performance of the relevant role, and are reasonably necessary in the performance of that role. In addition, resources and facilities must be made available to the Mayor and the Councillors that are reasonably necessary for them to effectively perform their role.

## ISSUES

### *Preparation of the Councillor Expenses Policy*

A Councillor Expenses Policy has been drafted based on the existing Councillor Reimbursement of Expenses Policy which addresses most of the LGA 2020 requirements. The proposed Policy defines the parameters for reimbursement of expenses incurred while performing duties as a councillor or member of a delegated committee, and establishes the resources, facilities and support to be provided to councillors and the Mayor.

Amendments to the prior policy include:

- Extension of the scope to cover members of Council's delegated committees, noting that Council currently has no delegated committees;
- Updating of the policy intent to align with the requirements of LGA 2020;
- Clarification of support available in relation to childcare;
- Clarification of support available to councillors who are a carer in a care relationship;
- A review of the allowances available to councillors who use their own mobile phone, home wi-fi and / or mobile tablet in the performance of their role;
- Inclusion of remote area travel allowance entitlement and processes for making a claim;
- A new requirement that Councillors must describe the purpose and destination of their travel when booking a Council fleet vehicle;
- Clarification of the circumstances in which Councils may claim reimbursement of the use of private vehicles in the conduct of Council business;
- Clarification as to the procedure for reimbursement;
- A new requirement that quarterly reports of councillor and delegated committee member expenses will be provided to Council's Audit and Risk Committee.

## POLICY IMPLICATIONS

Council must adopt a councillor expenses policy by 1 September in line with the requirements of the LGA 2020.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A responsible and sustainable organisation

## FINANCIAL AND RESOURCE IMPLICATIONS

Council allocates resources in its annual budget for councillor expenses, resources and allowances. The Councillor Expenses Policy includes revisions to Councillor allowances to align to market rates and clarifies support available for child care and carer arrangements and the inclusion of a remote area travel allowance entitlement. The financial impact of these changes is not expected to have a material impact on Council's budget.

## **CONSULTATION**

Councillors were briefed to ensure that the proposed amendments were understood. Communications allowances were benchmarked against several SIM and data plans available on the market, and the childcare allowance cap was based on local childcare fees and the typical gap payment after childcare subsidies.

## **CONCLUSION**

Development of a Councillor Expenses Policy is a requirement of the *Local Government Act 2020*. The proposed Policy has been drafted based on the existing Councillor Reimbursement of Expenses Policy with several minor amendments to align to the requirements of the new act, to update allowances in line with the market and to clarify reimbursement processes.

## **DECLARATION OF CONFLICT OF INTEREST**

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

- Director Corporate
- Manager Corporate
- Governance Officer

## **ATTACHMENT(S)**

5.1.4 Councillor Expenses Policy No 076, Version 5

## 5.1.5 Establishment and Charter - Audit and Risk Committee

File Number: [SU0900.06](#)

### INTRODUCTION

The purpose of this report is to consider the establishment of an Audit and Risk Committee and the adoption of a charter for that Committee in accordance with the requirements of sections 53 and 54 of the *Local Government Act 2020*.

### **RECOMMENDATION**

***That:***

- 1. An Audit and Risk Committee be established under section 53(1) of the Local Government Act 2020;***
- 2. The Audit and Risk Committee Charter, Version 4, as required by section 54(1) of the Local Government Act 2020 and recommended by the Audit Committee at its meeting held on 17 July 2020, be adopted;***
- 3. The Audit and Risk Committee Charter, Version 4:***
  - a. comes into force immediately the common seal of Council is affixed to the Charter; and***
  - b. remains in force until Council determines to vary or revoke it.***
- 4. The Audit and Risk Committee Charter, Version 4 be signed and sealed at the appropriate stage of this meeting;***
- 5. Independent members of the Audit Committee formed under section 139 (1) of the Local Government Act 1989 be appointed to the Audit and Risk Committee formed under section 53(1) the Local Government Act 2020 for the balance of their terms as follows:***
  - a. Mark Anderson, Sue Lebish and Gerard Moore until 30 April 2021; and***
  - b. Craig Covich and Sinead Ryan until 30 June 2022;***
- 6. Councillors Forsyth and Knappstein be reappointed as councillor members of the Audit and Risk Committee;***
- 7. Remuneration of independent members be set at:***
  - a. \$415.00 per meeting for the Committee chair; and***
  - b. \$320.00 per meeting for members;***
- 8. Remuneration of independent members be reviewed annually with any increases:***
  - a. effective from 1 July each year;***
  - b. calculated on the basis of CPI All Groups Melbourne June quarter to June quarter of the preceding year; and***
  - c. rounded up to the nearest five-dollar increment;***
- 9. It be noted that the Audit Committee established by Council under the repealed section 139 of the Local Government Act 1989 will cease operation on the***



***establishment of an Audit and Risk Committee under section 53(1) of the Local Government Act 2020; and***  
***10. The Audit Committee Charter Version 3 adopted by Council on 7 May 2019 be revoked.***

## **BACKGROUND**

The *Local Government Act 2020* (LGA 2020) received Royal Assent on 24 March 2020 with the reforms being proclaimed in stages. Provisions relating to Audit and Risk Committees took effect from 1 May 2020 and require Council to establish a new Committee and adopt a Committee Charter by 1 September 2020.

Council's existing Audit Committee was established under section 139 of the *Local Government Act 1989* (LGA 1989) and while this section of that Act has been repealed the Audit Committee, by virtue of section 54(8) of the LGA 2020, continues in operation until such time as Council establishes the first Audit and Risk Committee under section 53(1) of the LGA 2020.

## **ISSUES**

### ***Establishment of Audit and Risk Committee***

Section 53(1) of the LGA 2020 requires Council to establish an Audit and Risk Committee that meets the following requirements:

- A majority of committee members must be independent of Council.
- The chair must not be a councillor.
- Members of Council staff must not be committee members.
- Collectively, the committee must have expertise in financial and risk management and experience in public sector management.

The independent membership of the existing Committee meets the LGA 2020 requirements. However, given that the Audit and Risk Committee is a new Committee rather than a continuation of the existing Committee, it does require external independent members to be "appointed" rather than assuming that the existing appointments simply carry over.

In the interests of continuity and stability, it is proposed that Council establish the new Committee by reappointing existing independent members for terms based on the remaining balance of their current three-year terms as follows:

Term expiry	Independent Member
30/04/2021	Mark Anderson, Sue Lebish, Gerard Moore
30/06/2022	Craig Covich, Sinead Ryan

The existing Audit Committee endorsed this approach at its July 2020 meeting and the independent members indicated their agreement to be appointed to the new Committee.

It is also proposed that Councillor members remain as presently appointed, until the commencement of the new Council term in October 2020.

It is also proposed that Councillor members remain as presently appointed until the end of the current Councillor term in October 2020. New appointments will be made following the beginning of the new Councillors' terms in November 2020.

### ***Audit and Risk Committee Charter***

The LGA 2020 requires Council to prepare and approve a Committee Charter before 1 September 2020. The Charter must specify the functions and responsibilities of the Committee including those prescribed in section 54(2) of the LGA 2020:

- Monitoring compliance of Council policies and procedures with the LGA 2020, regulations, governance principles and Ministerial directions.
- Monitoring Council financial and performance reporting.
- Monitoring and providing advice on risk management and fraud prevention systems and controls.
- Overseeing internal and external audit functions.

Council's existing Audit Committee Charter addresses most of the LGA 2020 prescribed requirements including financial and performance reporting, risk management, fraud, internal audit and external audit. The Charter has been reviewed and updated, taking into account Local Government Victoria's updated Good Practice Guide for Audit and Risk Committee Charters and model Charter, to ensure compliance with the LGA 2020 requirements.

The proposed Audit and Risk Committee Charter is similar in structure to the existing Charter with minor reorganisation of some sections, a more detailed functions and responsibilities section and the inclusion of three new additional sections:

- Values - the Committee will conduct itself in accordance with Council's ALPINE values.
- Misuse of position - the Committee and its members must not intentionally misuse their position in accordance with the provisions of section 123 of the LGA 2020.
- Communication - communication between Council and the Committee and any other party will at all times be open, transparent, direct and factual, recognising the need to comply with relevant privacy and confidentiality requirements.

The existing Audit Committee endorsed the proposed Audit and Risk Committee Charter at its July 2020 meeting.

### ***Remuneration of Independent Committee Members***

Council may pay a fee to the independent members of its Audit and Risk Committee under section 53(6) of the LGA 2020.

Council currently pays independent members of the existing Audit Committee a meeting attendance fee. The current fees were reviewed and approved by Council at its December 2019 meeting.

Given that the Audit and Risk Committee is a new Committee it is prudent that the fees to be paid to independent members under section 53(6) be reset by Council.

It is proposed that Council set the fees under section 53(6) at the current, 1 July 2020 rates of \$415.00 for the chair and \$320.00 for independent members. In line with existing arrangements, it is proposed that the fees be reviewed annually and CPI increases (rounded up to the nearest five-dollar increment) applied from 1 July each year, however it is recommended for clarity that the CPI applied is All Groups Melbourne June quarter to June quarter of the preceding year.

### **POLICY IMPLICATIONS**

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A responsible and sustainable organisation

### **FINANCIAL AND RESOURCE IMPLICATIONS**

There are no additional financial implications associated with the establishment of the New Audit and Risk Committee. Council allocates resources in its annual budget for the remuneration of the independent Committee members and operation of the Committee.

### **CONSULTATION**

The proposals in relation to appointment of Committee members and the Audit and Risk Committee Charter were considered by the existing Audit Committee at its meeting held on 17 July 2020. The Committee endorsed the Charter for adoption by Council and the approach to appoint existing members to the new Committee.

### **CONCLUSION**

As part of the implementation of the *Local Government Act 2020*, Council is required to establish an Audit and Risk Committee including appointing independent members to the Committee and adopt a Charter for the Committee. The recommendations in this report ensure that Council will meet its legislative responsibilities prior to the 1 September 2020 deadline.

## **DECLARATION OF CONFLICT OF INTEREST**

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

- Director Corporate
- Manager Corporate
- Health, Safety and Risk Officer

## **ATTACHMENT(S)**

5.1.5 Audit and Risk Committee Charter, Version 4

## 5.1.6 Community Asset Committees

File Number: Vital Documents Register

### INTRODUCTION

The commencement of the *Local Government Act 2020* (LGA 2020) means that the committees Council previously used to manage some facilities must now be reviewed to ensure they are being managed in accordance with the new requirements.

### **RECOMMENDATION**

**1. That the following committees formed under s86 of the Local Government Act 1989 be formally disbanded, and all previous Instruments of Delegation be revoked:**

- a. Bright Senior Citizens' Centre Committee of Management**
- b. Mount Beauty Recreation Reserve Committee of Management**

**2. That Council exercise the power conferred by s65 of the Local Government Act 2020, so that:**

- a. The Bright Senior Citizens Centre Community Asset Committee (BSCC CAC) be established for the purpose of managing the Bright Senior Citizens Centre;**
- b. Membership of the BSCC CAC shall consist of:**

<b>Alpine Shire Council</b>	<b>1 representative</b>
<b>Bright and District Senior Citizens Club</b>	<b>7 representatives</b>
<b>General Public</b>	<b>2 representatives</b>

- c. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the BSCC CAC; and**
- d. All members of the BSCC CAC have voting rights on the committee.**

**3. That Council exercise the power conferred by s65 of the Local Government Act 2020, so that:**

- a. The Mount Beauty Recreation Reserve Community Asset Committee (MBRR CAC) be established for the purpose of managing the Mount Beauty Recreation Reserve;**
- b. Membership of the BSCC CAC shall be according with the following schedule and shall consist of no more than nine (9) and no less than five (5) representatives:**

<b>Alpine Shire Council</b>	<b>1 representative</b>
<b>Dederang / Mount Beauty Football and Netball Club</b>	<b>1 representative</b>

<b><i>Mount Beauty Soccer Club</i></b>	<b><i>1 representative</i></b>
<b><i>Mount Beauty Cricket Club</i></b>	<b><i>1 representative</i></b>
<b><i>Mount Beauty Junior Football Club</i></b>	<b><i>1 representative</i></b>
<b><i>Mount Beauty Tennis Club</i></b>	<b><i>1 representative</i></b>
<b><i>General Public</i></b>	<b><i>2 representatives</i></b>

- c. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the MBRR CAC; and***
- d. All members of the MBRR CAC have voting rights on the committee.***
- 4. Instruments of Delegation for both the BSCC CAC and the MBRR CAC must be prepared and approved by the Chief Executive Officer no later than 1 September 2020.***

## **BACKGROUND**

Council's two 's86' committees were special committees formed under the *Local Government Act 1989* (LGA 1989), meaning that:

- They were established by Council, consisting of staff, other persons, or any combination of these, with membership appointed by Council;
- They acted under an Instrument of Delegation from Council to the committee; and
- Their meetings were governed by the LGA 1989, and Local Law No.1 Council Administration.

Delegations made under the LGA 1989 remain in force until 1 September 2020, therefore any existing committees operating under delegation will not have the power to exercise these delegations after this date, until new committees are established, and new instruments of delegation are made.

## **ISSUES**

### **Options under the LGA 2020**

There are two relevant committee types under the LGA, being Delegated Committees, and Community Asset Committees.

#### ***Community Asset Committees***

Council may only establish a Community Asset Committee (CAC) under s65 of the LGA 2020 to manage a community asset (a hall, recreation reserve, etc) in the municipal district.

- CAC members are delegated their powers, duties and / or functions by the CEO. Committee members can only exercise their delegation while acting as a member of

the CAC at a meeting of the CAC. Delegation may be to the holder of an office or position, rather than a named person.

- Council must appoint as many members as is considered necessary, however there is no further prescription as to membership.
- Delegation must include any specified financial limit, specified monitoring and reporting of the activities of the committee, and compliance with any governance requirements.
- The CEO must submit an annual report to the Council in relation to the activities and performance of the CAC relating to their delegated duties. Committee members are bound by conflict of interest provisions.

### ***Delegated Committees***

Delegated Committees are a very formal style of committee. They must include two Councillors, be chaired by the Mayor, with meetings governed by Council's Governance Rules (2020). Members must disclose conflicts of interest, lodge personal interest returns, and are bound by misuse of position and confidentiality requirements. Council delegates its power directly to the committee via an Instrument of Delegation. Meetings must remain open to the public.

### ***Proposal***

In order to ensure continued management of the facilities considered in this report, Council has determined that Community Asset Committees are the best option in the short term.

### **Instrument of Delegation**

The Chief Executive Officer must prepare an Instrument of Delegation to the CACs by 1 September to ensure they can continue to manage the facilities on behalf of Council.

### **POLICY IMPLICATIONS**

The commencement of s65 the LGA 2020, and repeal of s86 of the LGA 1989 means that Council must make a determination regarding management of the facilities previously operating as s86 committees.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- Highly utilised and well managed community facilities

### **FINANCIAL AND RESOURCE IMPLICATIONS**

Preparation of the Instrument of Delegation is at the CEO's discretion. Council subscribes to the Maddocks Delegations and Authorisations service, which provides standardised templates. Costs for this service are covered in Council's annual budget.

## **CONSULTATION**

Council's Manager Facilities has been consulting with the two existing committees to determine their preferred management structure going forward. Formation of the CACs as an interim measure gives the committees time to discuss whether they wish to stay as CACs or move towards Incorporated Associations operating under Council service agreements.

Councillors have been briefed on the options available under the LGA 2020 for committees managing facilities on behalf of Council.

## **CONCLUSION**

Delegations made under the LGA 1989 cease to operate on 1 September 2020. Council must therefore determine the best way forward to ensure continued management of the Bright and District Senior Citizens Centre, and the Mount Beauty Recreation Reserve. The proposed formation of Community Asset Committees under the LGA 2020 ensures these facilities can continue to be managed on behalf of Council into the future.

## **DECLARATION OF CONFLICT OF INTEREST**

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

- Director Corporate
- Manager Corporate
- Manager Facilities
- Governance Officer

## **ATTACHMENT(S)**

Nil



## 5.1.7 Mount Buffalo Reactivation Planning Scheme Amendment

File Number: 150.05

### **INTRODUCTION**

The purpose of this item is to recommend that Council seek the Minister for Planning's intervention and assistance to prepare and approve a Planning Scheme amendment to enable the reactivation of the Mount Buffalo Chalet complex.

### **RECOMMENDATION**

***That Council:***

- 1. Request the Minister for planning to intervene to prepare and approve, without exhibition, pursuant to Section 20(4) of the Planning and Environment Act 1987, an appropriate planning scheme amendment to the Alpine Planning Scheme, to enable leased land to be used for the purposes envisaged in the Food and beverage concept (café in the Chalet) in the Mount Buffalo Business Case Assessment and Activation Report 2018; and***
- 2. Authorise Council officers to liaise with officers of the Department of Environment, Land Water and Planning (DELWP), Parks Victoria (PV), Regional Development Victoria (RDV), the Country Fire Authority (CFA) and Heritage Victoria (HV) regarding the provision of supporting documentation and the form to be adopted for the amendment.***

### **BACKGROUND**

The planning controls that currently apply to the Mount Buffalo Chalet complex do not allow for the future use of the Chalet complex legislated lease area (see figure 1 below), in the event that leases are granted.

This anomaly is due to the lapsing of existing use rights established over many decades that allowed the uses to continue operating even though the planning controls did not allow for such uses.

The Mount Buffalo Chalet Complex is a community asset of national, state, regional and local significance and the current situation in relation to land use for leased land is anomalous, un-intentional and counterproductive.

There has been extensive consultation and collaboration involving many stakeholders regarding the reactivation of the Chalet complex (see figure 2 below).

It is appropriate that Council, as Planning Authority, request the Minister to prepare and approve, without exhibition, an amendment to the Alpine Planning Scheme pursuant to Section 20(4) of the Act; to allow for the use, maintenance and development of the complex generally in accordance with its historical usage.



Figure 1: Aerial photo of the Chalet complex with the legislated area able to be leased outlined in red. Only a small portion of this area at the front of the complex is currently proposed to be leased for the proposed café/office and self-guided tours area.

**Activation Area Map**

Area Schedule	sqm
Outdoor Deck	77
Café Dining	64
Kitchen / Bar	49
Dining / Lounge	58
Mens + Womens WC	34
Disabled WC	7
Staff WC	11
Store	17
Lobby	48
Lounge	59
Ballroom	128
Chalet Tours Office	27
Circulation	97
<b>Internal Area</b>	<b>599</b>
<b>Total Area</b>	<b>676</b>

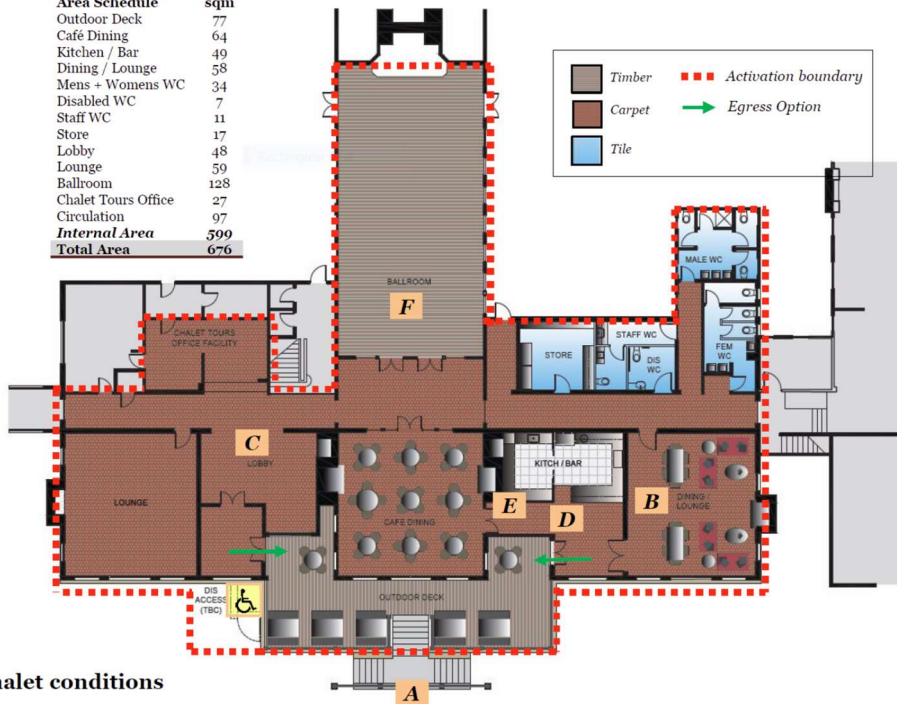


Figure2: Plan showing the portion of the Chalet complex proposed to be reactivated.

### ***Historical Significance***

The Chalet, situated in the Mt Buffalo National Park, was variously constructed from 1910 to the 1930s, and remains relatively unchanged.

Together with the surrounding park Mount Buffalo Chalet is one of Australia's most significant cultural and natural heritage places.

Originally managed by the Victorian Railways until 1986, it is currently managed by Parks Victoria.

### ***Victorian Heritage Register***

The Mount Buffalo Chalet is included on the Victorian Heritage Register, maintained by the Victorian Heritage Council (Reference H901).

The extent of registration includes: the Mount Buffalo Chalet, chalet garage, engine room, firewood store, carpenter's shop, tractor shed, lockup garages, staff amenities building (but excluding communications towers and sheds Nos. 1 and 2, pump house, swimming pool, courts, and staff quarters), and the land as defined by the Heritage Council.

Permits will be required from Heritage Victoria for subdivision, new buildings and works.

### ***Register of the National Estate***

The Mount Buffalo Chalet was included as an historic place on the Register of the National Estate, maintained by the Australian Heritage Commission in 1980.

Mount Buffalo National Park and adjacent areas were registered as a natural place at the same time as the Chalet.

The listing of Mount Buffalo was maintained when the Register of the National Estate was replaced in 2004 by the National Heritage List administered by the Department of Agriculture, Water and the Environment for which the Australian Heritage Council is the principal adviser.

### ***National Trust of Australia (Victoria)***

The Chalet building was registered by the National Trust of Australia (Vic) in 1991 as a building of state significance. There are no statutory requirements of this registration.

### ***Alpine Shire***

Mt Buffalo Chalet is identified as HO21 in the Heritage Overlay Schedule to the Alpine Shire Planning Scheme

## **ISSUES**

### ***Current Planning Controls Inappropriate for Leased Land***

In the event of leases being granted for the legislated lease area covering the Mount Buffalo Chalet complex, current planning controls in the Public Conservation and

Resource Zone (PCRZ) serve to prevent the complex being used, maintained or developed in a manner consistent with its long term historical use due to the lapsing of the existing use rights under the *Planning and Environment Act 1987*.

Historical uses of the site as currently defined in the planning scheme include:

- Accommodation
- Food and drink premises
- Leisure and Recreation, Informal Outdoor Recreation, Restricted Recreation Facility
- Place of Assembly, including, Exhibition Centre, Art Gallery, Museum, Function Centre, and Conference Centre.
- Industry (maintenance and machinery repairs)

These uses are for the most part, no longer occurring on the site and have lost their existing use rights.

The current planning controls over the complex are therefore excessively restrictive for the Chalet complex lease area and do not allow for the original long-term use or development to continue, or for appropriate new uses to establish.

It is appropriate that the Alpine Planning Scheme be amended to reflect the historical long-term use and development of the Mount Buffalo Chalet complex and allow for the continued productive use of the chalet.

The Food and Beverage concept outlined in the Mount Buffalo Business Case Assessment and Activation Report 2018 consisting of a Café/Restaurant, self-guided tours of part of the complex (defined as museum in the planning scheme), a small office, and occasional use for functions. This report was prepared for the Mount Buffalo Activation Task Force.

### ***Form of the Amendment***

Considerable discussion and background work have been undertaken by Council officers in conjunction with DELWP, Parks Victoria, Heritage Victoria and CFA officers regarding the form of the amendment and the type of justifying documentation required to support an amendment.

There have been several options canvassed as to the form of the amendment that would be supported by DELWP.

Options for planning controls to achieve Council's objectives include the option of introducing a Specific Control Overlay (SCO) to allow the potential uses envisaged; this is considered the most appropriate option at present.

The SCO can override other controls in the planning scheme to achieve specific outcomes. It is designed to apply in very specific circumstances when other controls in the planning scheme are not able to achieve the desired outcomes. It also results in the simplest and most legible form of planning control.

The SCO is only applied in very limited circumstances.

It is considered that the Mount Buffalo reactivation presents the very limited circumstances that are demanded by DELWP and the Victoria Planning Provisions.

However, the Minister is at liberty to use whatever statutory tool it wishes to allow reactivation to occur as the Minister will be the Planning Authority for the amendment, so, the final form of an amendment may differ from the current concept.

### ***Justification of the Amendment***

There have been considerable Council and State Government resources applied to the justification of the amendment. This justification has been aimed at achieving confidence that the Chalet complex can be adequately prepared and managed to deal with the level of bushfire risk on and around the site. This justification is a specific requirement of Clause 13.02 of the planning scheme.

In support of the justification process, Council commissioned a consultant study to address bushfire risk at the Chalet with State Government funding for this purpose. This study is nearing completion and will help to justify the amendment and guide the actions to be taken to maximise fire safety at the Chalet.

Based on the information provided to date it is considered likely that the site can be managed in such a way that the risks to life and property are acceptable. A major advantage of Mount Buffalo in this respect is the fact that the mountain can be closed to the public when fire danger is above defined levels. There are further advantages in that a large proportion of the mountain is made up of boulder fields which support less vegetation than normal forests. It is also possible to confine uses to certain times of the year outside of fire danger periods.

### ***Reasons for the Minister's Intervention***

The specific reasons to justify the Minister's intervention and to undertake an amendment exempt from the notification requirements of sections 17,18 and 19 of the Act in accordance with section 20(4) of Act are:

- *Compliance with any of those requirements (of sections 17, 18 and 19) is not warranted:*

As the proposal has already been subject to widespread and intensive consultation with a wide range of stakeholders as part of the consultation by the Mount Buffalo Activation Taskforce, a multi-stakeholder Task Force led by Parliamentary Secretary Danielle Green; compliance with the notification requirements is considered unwarranted.

- *The interests of Victoria or any part of Victoria make such an exemption appropriate:*

As the proposal recognises the significance of the Mount Buffalo Chalet as a major Victorian heritage asset and provides for activities which will lead to the preservation and enhancement of that heritage asset; the proposal is considered to be in the interests of Victoria.

As the proposal also creates a significant tourist attraction and generator of economic activity for the locality and the region and is therefore considered to be in the interests of this part of Victoria.

## **POLICY IMPLICATIONS**

Rectification of the Alpine Planning Scheme anomaly outlined above is considered appropriate because the current situation does not reflect the true policy intention of the State Government for the future of the Chalet.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A well planned and safe community

## **FINANCIAL AND RESOURCE IMPLICATIONS**

Council has devoted considerable officer time and availed itself of State Government grant funds of over \$50,000 devoted to preparing the amendment and supporting information.

DELWP officers advise that as the project is supported by the government there will be no fee applied to the request for the Minister to prepare the amendment.

The potential for the Mount Buffalo Chalet complex to be re-established as a functioning entity is in the economic interests of the Shire and would boost employment and economic activity in the area and at the same time strengthen the profile of the Shire as a tourist destination.

## **CONSULTATION**

An amendment under Section 20(4) of the Act is intentionally an amendment that does not require exhibition and notification in cases where it is considered that it is not in the interests of the State of Victoria, or a part of the State of Victoria to do so.

No formal statutory consultation has taken place in relation to the amendment as the current situation is anomalous and it is in the interests of the State of Victoria that the matter be addressed without undue delay.

However, there has been considerable consultation with DELWP regarding the process to be followed and with Parks Victoria as the Public Land Manager, CFA regarding fire risk, Heritage Victoria and Regional Development Victoria.

There has been substantial consultation undertaken by the Mount Buffalo Activation Taskforce was led by Parliamentary Secretary Danielle Green and included representatives from Council, Parks Victoria, Rural Development Victoria, Tourism North East, Taungurung Clans Aboriginal Corporation, the Mount Buffalo Destination Advisory Group and Community Action for the Chalet Group.

There has been substantial consultation undertaken by the Mount Buffalo Destination Advisory Group, which prepared the Vision for Mount Buffalo document.

Both Parks Victoria and Taungurung Clans Aboriginal Corporation have indicated strong support for the proposed planning scheme amendment and establishing a café in the Mount Buffalo Chalet.

The Minister may require further limited consultation as part of the approval process.

## **CONCLUSION**

It is appropriate that Council initiate a request to the Minister for Planning to prepare an amendment to the Alpine Planning Scheme under Section 20(4) of the Act to allow for the use and maintenance and development of the complex generally in accordance with the Café in the Chalet concept in the Mount Buffalo Business Case Assessment and Activation Report 2018.

It is also appropriate that Council Authorise officers to liaise with DELWP officers regarding the final form of such an amendment, and co-operate in supplying appropriate amendment documentation in support of the request to expedite the matter.

## **DECLARATION OF CONFLICT OF INTEREST**

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

- Director Corporate
- Manger Building and Amenity
- Strategic Planner

## **ATTACHMENT(S)**

Nil

## 6. Documents for sealing

### **RECOMMENDATION**

***That the following documents be signed and sealed.***

- 1. The Governance Rules be signed and sealed.***
- 2. The Governance Local Law (2020) be signed and sealed.***
- 3. The Public Transparency Policy be signed and sealed.***
- 4. Councillor Expenses Policy No 076, Version 5 be signed and sealed.***
- 5. The Audit and Risk Committee Charter, Version 4 be signed and sealed.***

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

.....

Chairperson