

# MINUTES

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## ORDINARY MEETING OF COUNCIL

TUESDAY 29 JANUARY 2019

7.00PM

COUNCIL CONFERENCE AND RECEPTION CENTRE  
CITY HALL  
LITTLE MALOP STREET, GEELONG

**COUNCIL:**

Cr B Harwood (Kardinia Ward)

Mayor

Cr S Asher (Bellarine Ward)

Cr J Mason (Bellarine Ward)

Cr T Sullivan (Bellarine Ward)

Cr E Kontelj (Brownbill Ward)

Cr S Mansfield (Brownbill Ward)

Cr P Murrhy (Brownbill Ward)

Cr R Nelson (Kardinia Ward)

Cr P Murnane (Kardinia Ward)

Cr A Aitken (Windermere Ward)

Cr K Grzybek (Windermere Ward)

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**MINUTES OF THE ORDINARY MEETING  
OF THE GREATER GEELONG CITY COUNCIL  
HELD AT THE COUNCIL CONFERENCE AND RECEPTION CENTRE  
CITY HALL, LITTLE MALOP STREET, GEELONG  
TUESDAY, 29 JANUARY 2019  
COMMENCING AT 7.00 PM**

**PRESENT:** Cr B Harwood (Mayor), Crs A Aitken, S Asher, E Kontelj, S Mansfield, J Mason, P Murnane, P Murrhiy, T Sullivan

**Also present:** M Cutter (Chief Executive Officer), B Luxford (Director Investment and Attraction), G Smith (Director Planning and Development), G Wilson-Browne (Director City Services), M Dugina (Director Finance & Strategy), R Stevens (Acting Director Community Life), L Barton (Acting Executive Manager People and Organisation Development), R Leonard (Executive Manager Governance & Legal Services)

**OPENING:** The Mayor declared the meeting open at 7.00pm

**ACKNOWLEDGEMENTS:**

Council acknowledged Wadawurrung Traditional Owners of this land and all Aboriginal and Torres Strait Islander People who are part of the Greater Geelong community today.

**APOLOGIES:** Nil.

**LEAVE OF ABSENCE:**

Cr Asher moved, Cr Nelson seconded –

That Leave of Absence be granted to Cr Kontelj from 22 February to 4 March 2019, inclusive.

Carried.

Cr Nelson moved, Cr Kontelj seconded –

That Leave of Absence be granted to Cr Asher for 12 February 2019.

Carried.

**CONFIRMATION OF MINUTES:**

Cr Sullivan moved, Cr Kontelj seconded -

That the Minutes of the Ordinary Meeting held on 11 December 2018 be confirmed.

Carried.

## **DECLARATIONS OF CONFLICTS OF INTEREST:**

Cr Harwood declared a Conflict of Interest by Close Association in Agenda Item 4 – Tender T1900015 – Provision of Grinding and Decontamination Services in that he is a friend and former business partner with one of the Directors.

## **QUESTION TIME:**

Electronic Gaming Machines Application – Polish Community Association:

The Mayor provided the following address to the Gallery:

*Before we take questions, I understand there is a lot of community interest in the Polish Community Association's Electronic Gaming Machines Application on tonight's agenda and many questions have come in for public question time. Firstly, I'd like to thank you for coming in to address the Council tonight and express your opinion.*

*City officers have put a recommendation before Council this evening and Councillors will debate the matter. This means we will be unable to answer specific questions raised as we cannot pre-empt a decision. I still welcome you to ask your question and we will take it as a submission in our decision-making process.*

### **Henry Szuka:**

1. Our Club's proposal involves spending a total of \$4.7m. This will include:

- A major upgrade of our sporting change rooms;
- An upgrade the hospitality areas of our Club;
- Provision of an all-weather synthetic soccer pitch for community use;
- Installation of regulation sporting field lighting.

All this will be provided at NO COST to the ratepayers, now or in the future.

Furthermore, the cap set 12 months ago on the number of gaming machines in the Geelong area for the next 20 years was 1,416. Currently in operation there are only 1385 gaming machines.

Why is the Council opposing our application and potentially depriving the community, and over 80 soccer kids, of sporting and other facilities our Club will be able to offer especially when:

- 1) Evidence shows that increase in number of gaming machine does not increase the incidence problem gambling. Just as limiting the number of alcohol retail outlets won't decrease alcohol abuse in our community;
- 2) The 43 Gaming machines will be installed in three tranches over a period of five years, during which time the population of Geelong will increase.

## **Jack Karpinski**

State Government Gaming Taxes are structured in such a way that having MORE machines at a venue results in less gaming tax. This means the Polish Community Association's proposal will be funded mainly from this tax advantage (around \$400,000 a year) and from bank borrowings.

The additional licences we have acquired are from the Geelong area and in no way increase the number of gaming machines in Geelong. Furthermore, there is no evidence that increasing the number of gaming machines at a venue, will increase problem gambling at the venue. On the other hand, if our proposal is unsuccessful, then we won't receive this tax advantage and therefore we won't qualify for bank loans. Our club will be forced to sell the land where the current sub-standard sports fields are located, and we will have to forego our dream of an all-year-round community sports field.

Given the tangible, certain and overwhelming benefits our proposal will bring to the community the minute risk of any disadvantage and the likelihood of the VCGLR agreeing that the benefits of our proposal grossly outweigh the disadvantages (as was in the case with the Geelong RSL), why should Council spend money fighting our proposal?

## **Maria Krywult**

The Polish Club follows best-practice in the Responsible Service of Gaming. By law, the Club also must ensure that all its surpluses are reinvested into preserving our parents' hard-earned legacy at White Eagle House and to continue to provide sporting facilities and general access to members of our broader community.

If we fail in our application, the 43 Gaming Entitlements will most likely be lost from the Geelong community clubs' pool of entitlements and go to profit-driven, privately owned pubs, whose owners rarely live in the Geelong area. Furthermore, it is generally acknowledged that pubs present a higher risk of problem gambling than community clubs.

Why then would Council support the risk of this outcome by opposing our application?

## **Halina Zychla**

All recent data shows no nexus between increases in gaming machine numbers and gaming expenditure or problem gambling. Specifically in Geelong, the closure of the GFC's 100 machine venue DID NOT result in a drop in gaming revenue, instead the gaming revenue was spread amongst other venues. There is no evidence that our application will result in any identifiable increase in problem gambling. It therefore appears that some Councillors seem to have a political agenda against gaming machines.

Is this "political" agenda sufficient reason for Council to potentially sacrifice the current sporting facilities and forego the \$4.7 million upgrade to the sporting fields and the hospitality venue, all of which will add to the economic activity in the Geelong area?

## **Krystyna Matczak**

We understand that all forms of gambling can be detrimental to some individuals and to the community but studies show that alcohol abuse is by far a greater problem. You only have to drive through Moorabool St around midnight on a Saturday to sadly witness the number of inebriated young people dragging themselves or being dragged by friends along the street.

Why are Responsible Service of Alcohol Regulations not enforced at these venues as they are in community clubs?

Why is the Council issuing building permits for more and more bottle shops? We now have bottle shops attached to pubs, bottle shops attached to every supermarket and if there are no supermarkets or pubs on a main street, then we find free-standing bottle shops.

Has the Council set limits on the number of alcohol selling outlets? Or does it only set limits on pokies outlets and then only focusing on community clubs?

*The Mayor thanked the Polish Community for their questions and indicated the questions would be addressed during debate of the item.*

*Questions were submitted to Council prior to the meeting from Rusty; Simon Mims; Cesar Escobido and Peter Cage. As they were not present at the meeting a written response will be forwarded.*

**Lois Newman** outlined her concerns at the application and the harm that an increase of seventeen machines will have on our communities and the families within it. As the Council documents state, the current density of machines in the area surrounding the venue is currently 20 machines per 10,000 adults, compared to the average of 65 in the rest of the City. I feel this number, in an area of disadvantage, is already too high and an increase will have serious impacts on the wellbeing of the community.

What does the Council intend to do regarding this application, and what policies does the Council have in place to mitigate the harms of poker machines in our community?

*The Mayor responded the questions will be addressed during debate of the item.*

**Tom Debar** asked:

The social damage caused by poker machines is well researched and documented as I am sure you are all very aware.

The application from the Polish Community Association which you are considering endorsing your previous non-support flagrantly breaches the spirit and most of the provisions of your Electronic Gaming Policy and your staff recommendation fully recognises this situation .

Justifications submitted by the Association are unsupported and very much in the usual pie in the sky mode most of such applications rely on.

Of course the gaming lobby has most state governments in their pocket due to the rivers of gold they contribute and the media clout they can deliver at election time. The last Tasmanian poll was a prime example.

Local government remains the last bastion against such powerful and damaging players and spending money to protect your constituents in the courts I part of your remit.

I am sure the recommendation will be supported by all informed and ethical Councillors.

*The Mayor thanked Mr Debar for his questions which would be discussed during debate of the item.*

## **PETITIONS:**

**Cr Grzybek** presented a petition in relation to the North East Lara Flooding Works and Single Story Rural Outlook. The residents are requesting Council's assistance in relation to the overland flooding issue in the Kyema Drive and North of McClelland Avenue area be given priority for completion within the next 12-18 months. Also to assist in limiting to single storey a development application submitted for a two storey dwelling at the rear of 63 McClelland Avenue, which is highly undesirable to the local community.

## **1. AMENDMENT C386 – COVENANT COLLEGE, BELL POST HILL CONSIDERATION OF SUBMISSIONS AND ADOPTION**

**Source:** Planning and Development - Strategic Implementation  
**Director:** Gareth Smith  
**Portfolio:** Sustainable Development

### **Purpose**

1. To consider the submissions received in relation to the exhibition of Amendment C386 and draft Planning Permit PP-720-2018 and to adopt Amendment C386 and recommend to the Minister that he issue Planning Permit PP-720-2018.

### **Background**

2. Amendment C386 (**amendment**) rezones a 3.237 ha portion of land at 65 Creamery Road, Bell Post Hill from Farming Zone (**FZ**) to Special Use Zone Schedule 15 (**SUZ15**), for a private education centre, consistent with the purpose of the schedule. Planning Permit PP-720-2018 (**planning permit**) seeks subdivision of the land to be rezoned and consolidation of that land with the land at 105 Creamery Road, which is already zoned SUZ15.
3. The amendment and draft planning permit were exhibited between 18 October 2018 and 19 November 2018.

### **Key Matters**

4. Exhibition of the amendment resulted in one submission being received from the Environment Protection Authority (**EPA**).
5. The EPA recommended that potential soil contamination be considered. The applicant responded to this issue and Council officers are satisfied the submission is resolved.
6. Having exhibited the amendment and considered the submissions, and there being no objecting submissions or submissions requesting changes, Council can adopt the amendment and recommend to the Minister for Planning that he issue the planning permit.

### **Cr Mason moved, Cr Aitken seconded:**

7. **That Council:**
  - 7.1 **Adopt Amendment C386 in the form outlined in Attachment 4 of this report;**
  - 7.2 **Submits the adopted Amendment C386 together with the prescribed information to the Minister for Planning requesting approval; and**
  - 7.3 **Recommends to the Minister for Planning that Planning Permit PP-720-2018 be approved in the form outlined in Attachment 5 of this report.**

**Carried.**

## **Attachment 1**

### ***Financial Implications***

1. There will be no financial implications for Council as a result of the adoption of this amendment.

### ***Community Engagement***

2. The amendment and draft planning permit were exhibited in accordance with the provisions of the *Planning and Environment Act 1987 (Act)* from Thursday 18 October 2018 to Monday 19 November 2018.

### ***Social Equity Considerations***

3. The rezoning will allow the school to expand and have a positive social impact by providing improved educational facilities in the northern suburbs of Geelong.

### ***Policy/Legal/Statutory Implications***

4. The change proposed by this amendment and planning permit will have no policy, legal or statutory implications for Council.
5. Consistent with the objectives set out in Section 4 of the Act, the amendment:
  - 5.1 Provides for the fair, orderly, economic and sustainable use and development of the land;
  - 5.2 Balances the need for the future growth of Covenant College in the context of the identified future urban development proposed for the area; and
  - 5.3 Uses appropriate planning provisions for consistent and orderly consideration of future development applications across the entire school site, both existing and proposed.
6. The proposal accords with the objectives of Planning in Victoria as set out in the Act as it will provide for re-zoning and subdivision of land to achieve an orderly, well planned outcome consistent with the requirements of the Act.
7. In particular, the amendment is supported by the following policies of the Greater Geelong Planning Scheme:
  - 7.1 Clause 11.01-1R Settlement - Geelong G21. Specifically, to: "Provide for long term growth options that build on existing infrastructure, including two further investigation areas north and west of Geelong."
  - 7.2 Clause 11.09 Geelong. The amendment supports the objective to build and support diversity, knowledge and innovation by supporting the future growth and expansion of Covenant College and protecting its future in this location.
  - 7.3 Clause 19.02 Community infrastructure. The amendment supports the policy by planning for long term growth in an area where future demand is likely and where existing facilities can be better utilised. Specifically 19.02-2S Education facilities, which includes a Strategy: "Consider demographic trends, existing and future demand requirements and the integration of facilities into communities in planning for the location of education and early childhood facilities."

***Alignment to Council Plan***

9. The proposed amendment supports the Planned Sustainable Development strategic priority of the Council Plan 2018-22.

***Conflict of Interest***

10. No Council Officers involved in the preparation of this report have any direct or indirect interest, in accordance with Section 80C of the Local Government Act.

***Risk Assessment***

11. The land is designated as Bushfire Prone; however it is not subject to a Bushfire Management Overlay.
12. The site is located within the future Western Growth Area. The land is remote from the proposed extent of the intended rural interface of the growth area upon completion of build-out.
13. The land also abuts already developed land occupied by the applicant for the amendment, and is proposed to be consolidated with, developed and managed in the same manner and for the same purpose as that land.
14. Given the above considerations, Council officers are of the view that the proposed re-zoning does not form an unacceptable risk.

***Environmental Implications***

15. No environmental implications arise from the proposed re-zoning and subdivision, other than the issue of potential soil contamination raised by the EPA, which has been considered.
16. Any future development of the rezoned land will be required to obtain all planning and building permits, consistent with the provisions of the zone and schedule and the *Building Act 1993*.

## **Attachment 2**

### ***Discussion***

1. The amendment is sought to rezone the land to facilitate the long term expansion and growth of Covenant College. A planning permit for subdivision is required so as to enable the rezoning, as it is not possible under the Victoria Planning Provisions to rezone land such that a single parcel would be in two zones.
2. The application has been made with the knowledge and support of the owner of the land that is to be rezoned and subdivided.
3. The impetus for the application at this time relates to the requirement of a Federal Government grant that the land to be purchased with grant monies be zoned in a manner that allows for it to be used and developed for educational purposes, consistent with the basis of the grant. In order to be eligible to receive the grant it is necessary for the school to be able to provide certainty in relation to planning use rights.
4. The proposed rezoning and subdivision will result in a good planning outcome, in that it is consistent with the identified long term needs of Covenant College and will ensure that the required land is available and appropriately zoned for that purpose.
5. There will be no adverse impacts on the balance of the lot, which will remain in the farming zone, which will retain a frontage of 81.60 metres to Creamery Road, as identified on the Plan of Subdivision at **Attachment 6**.
6. It is proposed to rezone the site to SUZ15, recently introduced by Amendment C286, which permits Private Education Centre as an as-of-right use.
7. The Table of Uses within the Schedule includes the uses of 'education centre', 'library', 'place of worship' and 'hall' in Section 1 – permit not required subject to the condition that it must form part of, or be ancillary to the education centre or religious institution. Other uses such as 'accommodation', 'place of assembly', 'office' and 'outdoor recreation facility' are Section 2 – permit required uses.
8. All buildings and works will require planning permission in the new schedule. This will provide Council with the ability to consider any impacts of development, which may subsequently be proposed on nearby properties.

### ***Consideration of Submissions***

9. Following exhibition of the amendment, a submission was received from the EPA, which gave in-principle support to the re-zoning, while recommending that Council request further information from the applicant, to better enable Council to consider whether the site complied with Ministerial Direction No 1, in relation to the potentially contaminated land.
10. Consistent with the recommendation of the EPA, Council requested and obtained from the applicant an environmental assessment of the land to be re-zoned, prepared by suitably qualified consultants. Consistent with and based on the conclusions contained in that report, Council officers are satisfied that the site is suitable for the sensitive use proposed to be allowed by the amendment.

**Attachment 3**

**Existing zoning**



**Attachment 4**

**Amendment to be Adopted**

*Planning and Environment Act 1987*

**GREATER GEELONG PLANNING SCHEME**

**AMENDMENT C386**

**INSTRUCTION SHEET**

The planning authority for this amendment is the Greater Geelong City Council.

The Greater Geelong Planning Scheme is amended as follows:

**Planning Scheme Maps**

The Planning Scheme Maps are amended by a total of one attached map sheet.

**Zoning Maps**

1. Amend Planning Scheme Map Nos.25 and 32 in the manner shown on the attached map marked "Greater Geelong Planning Scheme, Amendment C386".

End of document



**Attachment 5**

**Draft Planning Permit PP-720-2018**

Planning and Environment Regulations 2015 - Form 9, Section 96J

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<b>PLANNING PERMIT GRANTED UNDER SECTION 96I OF THE PLANNING AND ENVIRONMENT ACT 1987</b>	<b>Permit No.: PP-720-2018</b> <b>Planning scheme: Greater Geelong Planning Scheme</b> <b>Responsible authority: Greater Geelong City Council</b>
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**ADDRESS OF THE LAND: 65 & 105 CREAMERY ROAD, BELL POST HILL**

**THE PERMIT ALLOWS: COMBINED REZONING AND TWO (2) LOT SUBDIVISION**

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**

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**Endorsed Plans**

1. The layout and site dimensions of the proposed subdivision as shown on the endorsed plan(s) shall not be altered or modified without the written consent of the Responsible Authority. There are no requirements to alter or modify the endorsed plan if a plan is certified under the provisions of the Subdivision Act 1988 that is generally in accordance with the endorsed plans.

**Drainage Design**

2. Unless otherwise approved in writing by the Responsible Authority, the site must be drained in accordance with the submitted drainage documentation from Phipps Consulting to the satisfaction of the Responsible Authority, and no concentrated storm water may drain or discharge from the land to adjoining properties.

**Servicing Authorities**

3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
4. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
5. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

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<b>Date Issued:</b>	<b>Date Permit comes into operation: (or if no date is specified, the permit comes into operation on the same day as the amendment, to which the permit applies, comes into operation)</b>	<b>Signature for the Responsible Authority</b>
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Planning and Environment Regulations 2015 - Form 9. Section 96J

**Telecommunications**

6. The owner of the land must enter into agreements with
- a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.

**Prior to Certification**

7. The Plan of Subdivision submitted for certification must include all easements deemed necessary to protect existing or future drainage lines within the subject site, and any easements required between the subject site and the nominated legal point of discharge must be created to the satisfaction of the Responsible Authority.

**Prior to Statement of Compliance**

8. Unless otherwise approved in writing by the Responsible Authority, prior to the issue of a Statement of Compliance for the subdivision, the subdivider must:
- Construct the site stormwater system in accordance with the submitted drainage documentation from Phipps Consulting, or as otherwise approved by the Responsible Authority;
  - Construct vehicular crossings in accordance with the requirements and standards of the City of Greater Geelong; and;
  - Remove any redundant vehicular crossings with kerb and channel and the footpath/nature strip area reinstated to match existing construction in the street.

All to the satisfaction of the Responsible Authority.

9. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
  - a suitably qualified person that fibre ready telecommunications facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**Expiry**

10. The permit will expire if the plan of subdivision is not certified within 2 years from the date of this permit and if a statement of compliance is not issued within 5 years of the date of certification of that plan.

The Responsible Authority may extend the certification period referred to if a request is made in writing before the permit expires or within 6 months afterwards.

<b>Date Issued:</b>	<b>Date Permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment, to which the permit applies, comes into operation)	<b>Signature for the Responsible Authority</b>
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Planning and Environment Regulations 2015 - Form 9, Section 96J

**Notes**

1. All internal property drainage must be designed and constructed to satisfy AS/NZS 3500.
2. A Vehicle Crossing Permit must be obtained prior to commencement of works.

DRAFT

Date Issued:

Date Permit comes into operation:  
(or if no date is specified, the permit comes into operation on the same day as the amendment, to which the permit applies, comes into operation)

Signature for the Responsible Authority

Permit No.: PP-720-2018

Page 3 of 3

Planning and Environment Regulations 2015 - Form 9, Section 96J

## IMPORTANT INFORMATION ABOUT THIS PERMIT

### WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit. The permit was granted by the Minister under section 96I of the **Planning and Environment Act 1987** on approval of Amendment No. **C386** to the Greater Geelong Planning Scheme.

### WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

### WHEN DOES A PERMIT EXPIRE?

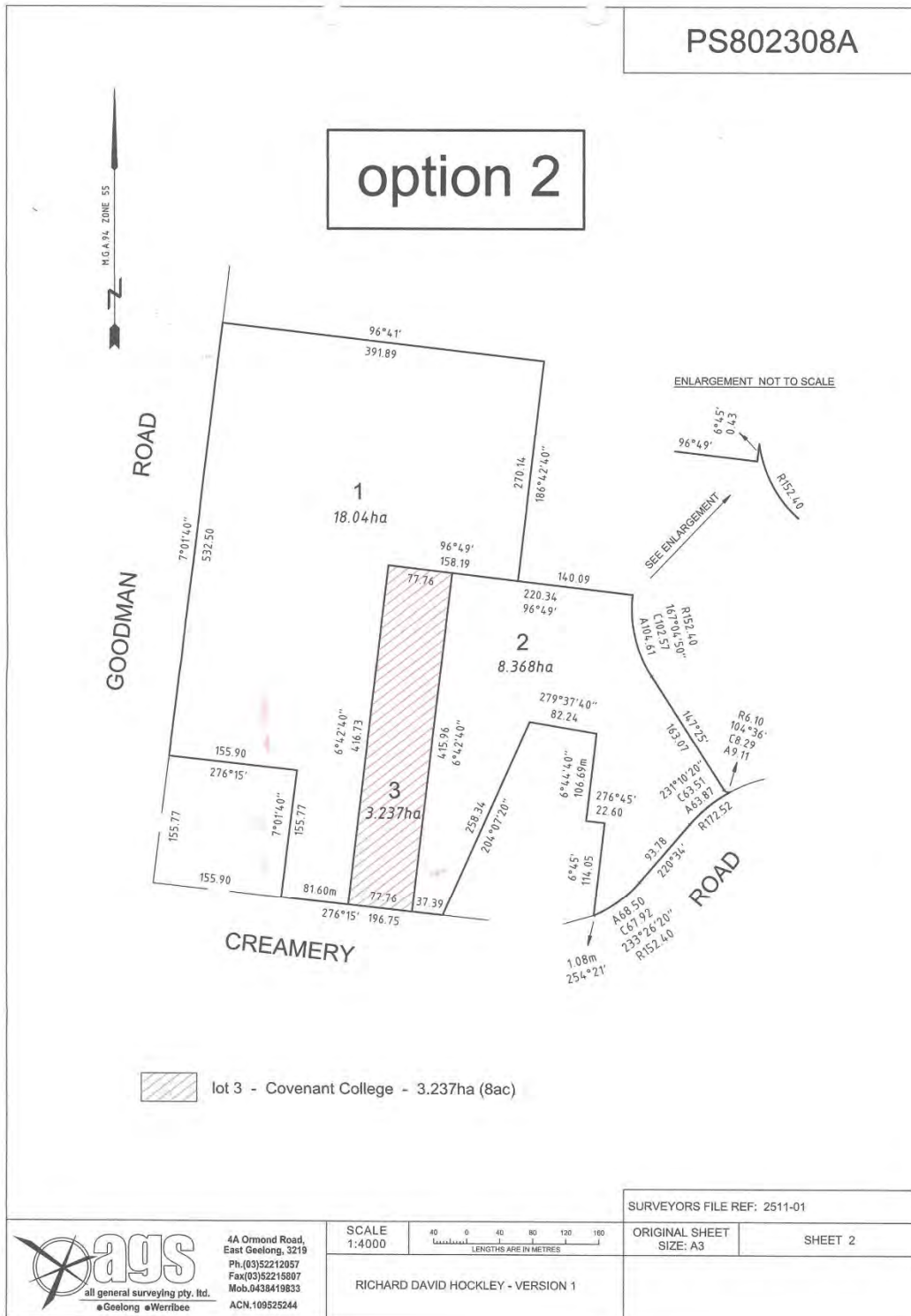
1. A permit for the development of land expires if—
  - the development or any stage of it does not start within the time specified in the permit; or
  - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
  - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if—
  - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
  - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
  - the development or any stage of it does not start within the time specified in the permit; or
  - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
  - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
  - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
  - the use or development of any stage is to be taken to have started when the plan is certified; and
  - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

### WHAT ABOUT REVIEWS?

- In accordance with section 96M of the **Planning and Environment Act 1987**, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.

**Attachment 6**

**Plan of Subdivision**



## **2. ELECTRONIC GAMING MACHINES APPLICATION – POLISH COMMUNITY ASSOCIATION**

**Source:** Community Life – Healthy Communities  
**Acting Director:** Robyn Stevens  
**Portfolio:** Community Health and Safety

### **Purpose**

1. To endorse the City of Greater Geelong's response to an application for 43 additional electronic gaming machines in the municipality.

### **Background**

2. To increase their allocation of electronic gaming machines (EGMs), commonly referred to as pokies, gaming venues must apply for approval from the Victorian Commission for Gambling and Liquor Regulation (VCGLR).
3. The Polish Community Association in Geelong Inc. (Applicant) has applied to the VCGLR to increase their number of EGMs from 35 to 78 at White Eagle House in Breakwater. The net losses from EGMs recorded at White Eagle House in the 2017-18 financial year amounted to \$1,693,681, which averages to \$48,391 per EGM.
4. The City can submit a response within 60 calendar days of notification by the VCGLR (received 13 December, 2018) either supporting or objecting to the application. A response must be lodged by 11 February 2019.
5. The City has an *Electronic Gaming Policy (Attachment 3)* adopted in 2017, which provides guidance on responding to applications to increase EGMs.

### **Key Matters**

6. The City has assessed the application, including the Social and Economic Impact Assessment (SEIA). The City concludes there will be net community detriment should the application be approved.
7. Since 2011, the City has on occasion utilised both a barrister and an expert consultant to attend hearings for EGM applications. This has been where associated harm from gambling was thought to be more significant due to the locality profile. The circumstances of this application calls for both legal representation at the hearing and the support of an independent expert witness. This places the City in stronger position to not only manage its case in what is essentially a legal environment, where rules of evidence cross-examination apply and it will place the City in the best position to implement Council's policy and planning requirements.

**Cr Mason moved, Cr Mansfield seconded -**

### **8. That Council:**

- 8.1 **Endorse the proposed response to the Victorian Commission for Gambling and Liquor Regulation (VCGLR), not to support an increase to the number of electronic gaming machines at the Polish Community Association in Geelong Inc. White Eagle House, and that this response be submitted to the VCGLR by 11 February, 2019.**
- 8.2 **Endorse a budget allocation of up to \$30,000 from the underlying surplus to employ both legal counsel and an independent expert to represent the City's case at the VCGLR.**

**Carried.**

## **Attachment 1**

### ***Financial Implications***

1. There is a financial cost to the City to prepare and argue the proposed response at the VCGLR. This requires engaging legal counsel and an independent expert consultant to speak on behalf of the City and cross examine the applicant at the Tribunal. Barrister's fees for preparation for the hearing are estimated at \$7,000 and the appearance fees are estimated at \$8,000 (two-day hearing). In addition to counsel's fees, an amount of up to \$15,000 is required to engage an independent expert to analyse data, prepare a report and appear at the hearing. There is no budget currently allocated for this expense. Total estimated project cost is \$30,000.

### ***Community Engagement***

2. The City has/will engage and consult residents of the City of Greater Geelong via:
  - 2.1 'Have your say' engagement on Geelong Australia website;
  - 2.2 face to face survey at Bellarine Village and Newcomb Central shopping centres;
  - 2.3 written and verbal communication with affected organisations within the 2.5 km radius catchment for the venue;
  - 2.4 official media release; and
  - 2.5 social media information via City of Greater Geelong Twitter and Facebook.

### ***Social Equity Considerations***

3. The burden of the potential for problem gambling should not be disproportionately held by communities experiencing disadvantage. Council's *Electronic Gaming Policy* argues against the introduction of EGMs in areas where density is above that of the municipality as a whole, as is the case in this application.

### ***Policy/Legal/Statutory Implications***

4. Council has an *Electronic Gaming Policy*, adopted in 2017, which provides guidance in responding to applications from gaming venues seeking to increase their allocation of EGMs. The policy has been developed within the legislative frameworks and policy contexts of the State of Victoria, which requires Council to facilitate the implementation of ongoing licensing and management of gaming as a legal activity, in addition to promoting health and wellbeing within the municipality.

### ***Alignment to Council Plan***

5. This report aligns with the *Council Plan 2018-2022* strategic priority area 1 – Improved Health and Safety of Our Community.

### ***Conflict of Interest***

6. No direct or indirect officer conflict of interest exists.

### ***Risk Assessment***

7. Council has a stated role in reducing harm in the community by applying its adopted policies. The guiding policy in this case is the *Electronic Gaming Policy (2017)*.

### ***Environmental Implications***

8. There are no environmental implications for the recommendation.

## Attachment 2

### Discussion

1. When considering this application, there are concerns that its approval would result in an increase in the density of EGMs in suburbs (including Whittington and Breakwater) already experiencing relative disadvantage. The current density of machines in a 2.5 km catchment around the venue is 20 machines per 1000 adult versus 6.5 for the municipality. The City experiences the 5<sup>th</sup> highest number of losses from EGMs in Victoria. The total number of losses from EGMs in the Greater Geelong region for the 2017/18 financial year was \$118.8M. Of this, approximately 20% is attributed to the area where the proposed additional EGMs would be located.
2. The applicant's Social and Economic Impact Assessment (SEIA) proposes a number of benefits will arise from their application including: *"a new bistro, function room, playground, new kitchen and bar facilities, community rooms, and player and referee soccer changing rooms, along with the substantial investment for the community in an all-weather, synthetic soccer pitch. These works over the next few years would establish the White Eagle House and its associated facilities among the best in the Geelong region, benefitting not only venue patrons, but the broader soccer community, local schools and other groups."* The applicant's SEIA was considered in the City's assessment, however the application only provides limited detail regarding the plans for additional community facilities or the financial capacity to deliver on the community facilities listed.
3. Since 2011, the City has on occasion utilised both a barrister and an independent expert to attend hearings for EGM applications. This has been where associated harm from gambling was thought to be more significant due to the locality profile. The circumstances of this application calls for both legal representation at the hearing and the support of expert evidence because, consistent with Council's current policy and planning requirements:
  - 3.1 EGMs are sought to be placed in a low Socio-Economic Indexes for Areas (SEIFA) index area; and
  - 3.2 additional EGMs are to be placed at a venue immediately adjacent to another EGM venue, in this case Buckley's Entertainment Centre.
4. The use of an independent expert strengthens the City's submission as the SEIA, by its nature, is a data-heavy document and an expert can speak to the detail of the assessment directly to the Commission. This provides the opportunity for the Commissioner to gain a more robust understanding of Council's position and enter into direct dialogue with the independent expert on the content of the assessment and Council's position regarding the application.
5. The City must lodge its submission with the VCGLR by 11 February 2019.
6. Thirteen cases were heard by the VCGLR during 2018. The VCGLR can only approve an application if it finds there will be no net detriment to the community. It is difficult to identify definitive reasons for success in a hearing as each case, and the associated arguments for and against, is particular to the specific venue catchment. The VCGLR must assess each case individually. In 2018 four cases opposed by local government led to a rejection by the Commission. The reasons outlined by the Commission in rejecting those applicants included increased potential for problem gambling and associated harms, the level of social disadvantage, the concentration of EGMs and the level of community opposition to the EGM increase.

# COUNCIL POLICY



<b>Electronic Gaming Policy</b>	Document No:	CPL295.11
	Approval Date:	23 May 2017
	Approved By:	Council
	Review Date:	23 May 2020
Responsible Officer: <b>Director Community Life</b>	Version No	01
Authorising Officer:		<b>Chief Executive Officer</b>

## 1. PURPOSE

The purpose of the Electronic Gaming Policy (the Policy) is to guide Council responses to gaming proposals and planning applications within the municipality of Geelong. Problem gambling can exist in many gambling contexts, including Electronic Gaming Machines (EGMs), table games, horse racing and sports betting. While recognising some positive impacts from electronic gaming on the community, a key objective of the Policy is to reduce the negative impacts of problem gambling resulting from EGMs by:

- Influencing the location of EGMs within the City of Greater Geelong municipality;
- Taking an advocacy role in relation to government policies;
- Adopting a community development role in terms of engaging and informing the community on issues relating to problem gambling harm; and
- Facilitating research of the extent and effects of problem gambling in the municipality.

## 2. SCOPE

When Council receives an application to increase the number of EGMs at a venue a dual assessment processes of social planning and statutory planning is undertaken.

Council's Policy is focused on the social aspects of gaming and complements the Local Planning Policy Framework provisions for gaming. The Policy has been developed within the legislative frameworks and policy contexts of the State of Victoria. These require Council to facilitate the implementation of ongoing licensing and management of Gaming as a legal activity, in addition to promoting health and wellbeing within the municipality.

Council's Policy states that when carrying out a social and economic impact assessment (SEIA) of EGMs on residents, it will consider community expectations and/or concerns regarding problem gambling. Council will work to reduce problem gambling in the municipality by:

- Providing a strategic policy context to assist ongoing implementation and good governance of gaming;
- Providing leadership by establishing strategic objectives for gaming and monitoring their achievement;
- Providing an evidence base for decision making; and
- Improving the quality of life of residents by promoting community wellbeing, applying community development principles of equity and access, and limiting disadvantage via the implementation of the 'no net-detriment test'.

Promoting the economic, social, cultural and environmental viability and sustainability of the municipality; and assisting applicants to understand Council's objectives and decision making processes, and the requirements for the operation of gaming venues within the municipality.

Applications for new gaming venues and increasing the number of EGMs in existing venues, will be considered on the merits of each proposal.

Council will undertake all activities with respect to gaming in accordance with Council's Electronic Gaming Policy; Greater Geelong Planning Scheme (particularly clause 21.07, 22.57 and 52.28) and the Gambling Regulation Act (2003).

### **3. REFERENCES**

- City Plan (2011–2020)
- Greater Geelong Planning Scheme, particularly clauses 21.07, 22.57 and 52.28
- Greater Geelong Gaming Policy Framework (2007)
- Gambling Regulation Act (2003)
- Local Government Act (1989)
- Public Health and Wellbeing Act (2008)
- Planning and Environment Act (1987)
- City of Greater Geelong Municipal Health and Wellbeing Plan (2013–2017)
- Charter of Human Rights and Responsibilities Act (2006)
- Productivity Commission Inquiry Report – Gambling (2010)
- Prevalence of Problem Gambling from a Public Health Perspective – Victorian Responsible Gambling Foundation (2014)

### **4. DEFINITIONS**

This Policy provides Council with a policy position to assess gaming applications and their potential impact across the municipality and in local areas.

The following definitions are used in analysis of data for the purpose of this Policy:

- Application: An application, or a proposed application, for a planning permit and/or approval from the Victorian Commission for Gambling and Liquor Regulation (VCGLR) for: a new gaming venue; an increase in EGMs; extension of opening hours at an existing venue.
- Electronic Gaming Machine (EGM): Any device, whether wholly or partly mechanically or electronically operated for the purpose of playing a game of chance or a game of mixed chance and skill. As a result of making a bet on the device, winnings may become payable.
- Gaming Venue: A hotel or club approved by the VCGLR as a premises suitable for EGM gambling.
- Harm minimisation: Minimising harm to people. The three core elements of harm minimisation are supply reduction, demand reduction and harm reduction:
  - Supply Reduction: Achieving appropriate EGM/1,000 adult population densities;
  - Demand Reduction: Promoting a balance of recreation pursuits, community education (for instance, gambling risks); and
  - Harm Reduction: Promoting gamblers help services; promoting responsible gambling and advocating for inbuilt safety mechanisms in EGMs.
- No disadvantage: A health and wellbeing status which is not significantly different in comparison to other residents on average in the State of Victoria.
- No significant disadvantage: A state whereby there are no significant differences between City of Greater Geelong indicators and those for the State of Victoria. Indicators may include the SEIFA, gaming industry ratios such as EGM per 1,000 head of adult population and EGM expenditure per 1,000 head of adult population.
- Relative Advantage/Disadvantage: Relative ranking (as described by SEIFA), either of small areas as defined in this policy within the municipality of Greater Geelong, or Greater Geelong in comparison to the State of Victoria.
- Public Health: Science and art of preventing disease, promoting a positive state of health through the organised efforts of informed choices of society, organisations (public and private), communities and individuals. In doing so it considers the social, environmental, political and economic conditions that affect population and individual health.
- No Net Detriment Test: A test that requires that the VCGLR be satisfied that the net economic and social impact of an approval to increase the number of EGMs will be either neutral or positive.

## 5. COUNCIL POLICY

Council's Policy is based on a number of principles:

- Gaming is a legal activity with the State of Victoria that is to be considered within the context of public health and consumer protection.
- Problem gambling is a public health issue affecting the community, not just the individual.

- The impact of gaming should not be unevenly distributed in particular communities or populations.
- Along with the Borough of Queenscliffe, the City of Greater Geelong is currently a capped region, which together cannot have more than 1,421 EGMs. Should there be a review of this cap, Council will argue for no increase in this cap while the municipality remains above the state average for the number of EGMs per adult head of population.
- While there is an uneven spread of EGMs in the municipality, Council will discourage an increase in the number of machines in areas where disadvantage (SEIFA levels) and EGM/adult density is higher than the State average.
- Locating EGMs within 400 metres of any ABS collection district that is in the bottom 20% of the most disadvantaged collection districts in Victoria, as identified in the latest SEIFA, will be discouraged.
- It is preferable that gaming machines are located in areas where the EGM density is equal to or below the municipal average.
- EGMs should be located proximate to activity centres that serve more than the local catchment and minimise the likelihood that people will pass by venues with EGMs in the course of their usual business.
- Gaming is carried out in an environment that develops and reinforces a commitment to responsible gambling.
- Community attitudes towards the effects of increasing EGMs should be surveyed by the applicant when making application.
- The applicant will provide a thorough SEIA when making application for the establishment of a new gaming venue or for an increase in the number of EGMs in an existing venue.

Council will take action by:

- Raising community awareness regarding inherent risks of playing EGMs, the extent of problem gambling and potential harm caused.
- Supporting state-wide initiatives that aim to make EGMs a safer recreational pursuit.
- Undertaking or facilitating research into the extent of problem gambling and measures for reducing the level of problem gambling in the community.
- Developing collaborative mechanisms involving the gambling and problem gambling support sectors, with the aim to reduce potential harm caused by problem gambling.
- Investigating community attitudes towards gambling and its effects.
- Advocating to VCGLR to increase the timeframe for Council to conduct necessary research into the SEIA of a gaming proposal. This is in addition to having adequate time to formally consider such applications in the normal course of Council meetings and procedures.
- Interpreting and applying the VCGLR gaming application requirements to the assessment of gaming applications.

- Advocating to the State Government for a nil increase to the EGM cap for the City of Greater Geelong municipality.
- Notifying the VCGLR that it will be submitting a SEIA (social and economic impact assessment), when an application has been received. This notification is made in the context of tight timelines imposed by the State Government to address applications and the need for Council to have time to formally consider applications at regular Council meetings.

## 6. QUALITY RECORDS

Quality Records shall be retained for at least the period shown below.

Record	Retention/Disposal Responsibility	Retention Period	Location

## 7. ATTACHMENTS

- 7.1. Background and strategic context for the Electronic Gaming Policy.
  - 7.1.1. Legislation governing gambling
  - 7.1.2. Municipal caps
  - 7.1.3. Community wellbeing
  - 7.1.4. Catchment
  - 7.1.5. Prevalence of problem gambling
  - 7.1.6. Problem gambling in the City of Greater Geelong.

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## **7. ATTACHMENT**

### **7.1. Background and strategic context for the Electronic Gaming Policy (the Policy)**

#### **7.1.1. Legislation governing gambling**

Regulation of the gambling industry and its activities is the responsibility of the Victorian Commission for Gambling and Liquor Regulation (VCGLR). Laws governing the conduct of gambling, licensing of gambling industry participants and the enforcement of Licencees' legal obligations is set out in the following legislation:

- Gambling Regulation Act 2003 re-enacts and consolidates the law relating to various forms of gambling.
- The Casino Control Act 1991 provides authority to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) to issue a casino operator's license as well as enter in an agreement for the development of a casino in Victoria.
- The Casino (Management Agreement) Act 1993 details the agreement entered into between the State of Victoria and Crown Melbourne, in particular the intended management of the casino.
- The Crimes Amendment (Integrity in Sports) Act 2013 amended the Crimes Act 1958 in Victoria to create offences in relation to match fixing, race fixing and cheating at gambling.
- The Gambling Regulations 2015 provide detailed regulations on the operation of different forms of gambling. This includes gambling machines, wagering and betting, trade promotion lotteries, and community and charitable gaming.
- The Casino Control (Fees) Regulations 2015 prescribe the fees to accompany an application for a special employee licence, an application to replace a licence, or an application for the redefinition of the casino boundaries.

#### **7.1.2. Municipal caps**

In 2001, the Victorian Government introduced caps on the number of EGMs that can be contained in Local Government Areas (LGA). These were reviewed in 2006 and again in 2012. The caps are set at 10 EGMs per 1000 people or at the gaming machine density in the region at the date the cap was imposed, whichever is lower. The cap for the area in which the City of Greater Geelong is located (includes the Borough of Queenscliffe) is 1,421 EGMs.

Greater Geelong will experience significant population growth over the next ten years, with population predicted to increase by over 71,610. Under section 3.2.4A of the Gambling Regulation Act 2003 the VCGLR can review the regional cap if it deems that the current number is no longer appropriate; otherwise this EGM cap is reviewed every five years.

#### **7.1.3. Community wellbeing**

Community wellbeing is a reflection of the measure of health of a community in terms of physical health, happiness, contentment and/or prosperity. Gambling has the potential for significant negative impacts on the health and wellbeing of whole communities.

It is acknowledged that a small but significant number of gamblers identify as problem gamblers and that this can have a considerable adverse impact on the community in terms of its overall wellbeing.

The 2010 report of the Productivity Commission on Gambling notes that 4 per cent of Australian adults play EGMs weekly or more. Of this group, 15 per cent would be classified as problem gamblers with an additional 15 per cent experiencing moderate risks.

A significant finding by the Commission is that people considered as at moderate-risk are still important for public health policy (just as in relation to alcohol use and body weight) in that they involve higher likelihood of harm and potential for progression to more serious problems.

The City of Greater Geelong is a large community with significant disparity between disadvantaged and advantaged communities. The capacity of gambling to impact negatively on the health and wellbeing of vulnerable communities is of particular concern.

Noted cases citing community wellbeing:

The Romsey Hotel decision – Romsey Hotel Pty Ltd v Victorian Commission for Gambling Regulation & Anor [2009] VCAT 2275 (12 November 2009) (440) – gave legal recognition to the value of community wellbeing as being pertinent for all members of the community.

Whittlesea City Council v Victorian Commission for Gambling Regulation and George Adams Pty Ltd [2011] VCAT 534 (7 April 2011) 160a – gives due recognition to instances where there is strong community opposition to the introduction of gaming machines into the community.

#### **7.1.4. Catchment**

The Gambling Regulation Act 2003 – S 3.3.4 requires that that the municipal district be considered when assessing applications for gaming venues. However, decisions by the VCGLR and Victorian Civil and Administrative Tribunal (VCAT) have utilised 'venue catchment' in addressing appropriateness of a venue or number of machines at a closer local level than Local Government Area (LGA). These include the following hearings: the Werribee Football Club Ltd (VCGR, 19 May 2009; p12), Pakenham Lakeside Hotel (VCGR, 26 June, 2008, 84); Branbeau ((Branbeau PL v Victorian Commission of Gambling Regulation (Occupational and Business) [2005] VCAT 2606 (16 December 2005)); Lakes Hotel (VCGR 14 December 2011, 14); Royal Hotel (VCGR 11 November 2011); Kingston Club (VCGR 6 December 2011).

#### **7.1.5. Prevalence of problem gambling**

Problem gambling is a public health issue affecting the community, not just individuals. The prevailing view in Australia is that problem gambling is not solely an individual problem but can emerge from a combination of factors related to the individual gambler and the wider gambling and social environment.

Australian research has consistently found that unacceptably high levels of problem gambling are often associated with:

- Accessibility (especially to EGMs in casinos, clubs and hotels)
- Environmental factors such as spatial distribution and location of machines
- Industry practices and features of EGM design, such as speed, repetitive and continuous play.
- Advertising and inducements to gamble.

- Government policies and regulation.

The Productivity Commission Report (2010) identified that problem gambling affects a small but significant number of people within the community, and these figures increase dramatically for EGM gambling. Around a third of regular (weekly) EGM gamblers are problem gamblers or moderate risk gamblers.

In 2014, the prevalence of problem gambling in Victoria (VRGF, 2015) was measured using a sample of 15,000 Victorian adults. The study calculated the following estimates for the Victorian population:

Problem gamblers	0.81%	35,563
Moderate-risk gamblers	2.79%	122,493
Low-risk gamblers	8.91%	391,188
Non-problem gamblers	57.59%	2,528,453
Non gamblers	29.90%	1,312,741

The study also found a significantly higher proportion of people of Indigenous backgrounds who are classified as having a gambling problem (8.71%) relative to the proportion of the Victorian adult population (0.81%).

While these percentages and numbers are small, they translate to an even greater number of people (family, friends, work colleagues and members of the community) affected by problem gambling.

Current evidence suggests a 'ripple effect' in addition to the person who develops a gambling problem where five to ten people are adversely affected to varying degrees.

#### **7.1.6. Problem gambling in the City of Greater Geelong**

Using Productivity Commission's estimates it can be calculated that within Greater Geelong at any given time there are 7,042 adults who play the EGMs on a weekly basis (4% of the adult population). Of these, 15% or 1,056 who would be classified as problem gamblers with a further 1,056 (15%) experiencing moderate risk, a total of 2,112 individuals. The Commission also found that the knock on effects to family, friends and the workplace reach a further five to ten individuals.

Therefore, it is estimated that some 10,000–20,000 people (including family members and friends of problem gamblers) may be adversely affected by problem gambling in Greater Geelong at the present time. The knock-on effect to the broader community in terms of family disruption, families unable to pay schooling and other costs, family violence, work colleagues bearing the brunt of another colleague's gambling problem and the economic impact to employers and local economies are all impacts not currently quantified for local governments.

### **3. NEW POLICY ADOPTION - DELEGATIONS POLICY**

**Source:** Governance & Legal Services - Governance  
**Executive Manager:** Rebecca Leonard  
**Portfolio:** Leadership and Governance

#### **Purpose**

1. For Council to adopt the proposed Delegations Policy.

#### **Background**

2. There are many Acts and Regulations which confer a responsibility on councils to take action or determine matters. Because of this, it is not practical for Council alone to exercise the many statutory powers, duties and functions bestowed on the Council. As a result, Council delegates authority to others under a set of delegation instruments.
3. The proposed Delegations Policy (**Attachment 2**) establishes a framework for managing Council delegated authority so that those delegated authorities continue to be exercised for the efficient and effective delivery of services to the community.

#### **Key Matters**

4. The proposed policy will govern the management of any instruments of delegation established by the Council, the Chief Executive Officer and the Municipal Building Surveyor under the *Local Government Act 1989* and any other Acts.
5. The proposed policy will provide guidance to Council officers regarding:
  - 5.1 how delegations are to be made;
  - 5.2 what is excluded and any conditions and limitations required;
  - 5.3 the authority to sub-delegate;
  - 5.4 staff and special committee delegates;
  - 5.5 matters that should be referred to Council;
  - 5.6 issues around the exercise of delegations;
  - 5.7 consideration of delegated powers, duties and functions when making a decision or recommending a decision be made;
  - 5.8 standards to apply to the review of delegations;
  - 5.9 monitoring the effectiveness of Council's delegations framework; and
  - 5.10 advice, training and record keeping related to delegations.
6. The proposed policy is based on recognised good practice and Council's current delegation settings. It will strengthen the City's governance framework and facilitate efficient administration of functions. It also satisfies a recommendation from the internal audit of the City's delegations conducted in 2018.

**Cr Grzybek moved, Cr Murrphy seconded -**

**7. That Council adopts the proposed Delegations Policy at Attachment 2.**

*Cr Mason left the meeting room at 8.26pm*

**Carried.**

## **Attachment 1**

### ***Financial Implications***

1. There are no financial implications related to the subject of this report.

### ***Community Engagement***

2. No public consultation is required or necessary for the Council to establish the standards and specifications related to delegating its powers.

### ***Social Equity Considerations***

3. There are no social equity issues arising from the subject of this report.

### ***Policy/Legal/Statutory Implications***

4. The proposed policy is consistent with provisions related to the delegation of powers, duties and functions of the *Local Government Act 1989* and other Acts. It provides the foundation for an effective delegations framework for the City.
5. There are no implications regarding the Victorian Charter of Human Rights and Responsibilities related to the subject of this report.

### ***Alignment to Council Plan***

6. The recommendation furthers the Council Plan 2018-22 strategic priority of organisational leadership, strategy and governance by supporting the key priority of making our processes more effective and efficient.

### ***Conflict of Interest***

7. No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

### ***Risk Assessment***

8. The proposed policy establishes standards and specifications that mitigate risk associated with the administration and application of delegated powers, duties and functions.

### ***Environmental Implications***

9. There are no environmental implications identified for the subject of this report.

THE CITY OF  
GREATER GEELONG

# DELEGATIONS POLICY

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**VERSION: 00**

<b>Approval Date</b>	DRAFT
<b>Approved by</b>	Chief Executive Officer
<b>Review Date</b>	31 October 2021
<b>Responsible Officer</b>	Executive Manager Governance & legal Services
<b>Authorising Officer</b>	Chief Executive Officer

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# Introduction

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## **PURPOSE**

There are many Acts and Regulations which confer a responsibility on councils to take action or determine matters. It is not practical for Council alone to exercise the many statutory powers, duties and functions bestowed on the Council.

The purpose of this policy is to establish a framework for delegating Council authority in a manner that facilitates efficiency and achieves the best possible results for the City, Council and the community.

## **SCOPE**

This policy applies to the Greater Geelong City Council and any instruments of delegation established by the Council, the Chief Executive Officer and the Municipal Building Surveyor under the *Local Government Act 1989* and any other Acts.

Delegation instruments are not the source of all delegated authority. Actions may also be taken by City staff under implied authority arising from position descriptions, policies, procedures, schedules, guidelines and practices.

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# Definitions

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This section defines the key terms used in this policy.

## **ACT**

*Local Government Act (Vic) 1989*

## **AGREEMENT OR CONTRACT**

Documents having the effect, when signed or approved, of committing the City to legally binding obligations.

## **CEO**

The Chief Executive Officer of the City of Greater Geelong.

## **CITY**

The City of Greater Geelong organisation, led by the CEO.

## **CONFLICT OF INTEREST**

Has the same meaning as that contained in the Act.

## **COUNCIL**

The City of Greater Geelong Council comprised of elected councillors and led by the Mayor.

## **DELEGATE**

An officer or a group of persons such as a committee, with delegated authority pursuant to either a resolution of Council or written instrument signed by the CEO.

## **DELEGATION**

The conferral of an authority to a position to exercise a power, duty or function on behalf of Council. The authority is exercised in the name of the delegate.

## **ELT**

The Executive Leadership Team of the City, as constituted from time to time.

## **MBS**

The Municipal Building Surveyor of the City of Greater Geelong.

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# Policy

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## SOURCES OF COUNCIL POWER

Council is a statutory entity. It is able to do only those things that it is authorised by statute to do.

The sources of council power are:

- power to do things that a “natural person” can do. Section 5 of the Act gives Council the power to deal with property and, more generally, the capacity to do anything which bodies corporate may by law do “which are necessary or expedient” for performing its functions and exercising its powers
- powers conferred by provisions of acts and regulations, such as the Act and the *Planning and Environment Act 1987*
- powers conferred by other forms of statutory instrument

## COUNCIL DECISIONS

Council is a legal entity composed of its members. Because it is not a “natural” person, it can act either by resolution, or through others acting on its behalf.

### By Council resolution

The power of a Council to act by resolution is set out in section 3(5) of the Act -

*“(5) Where a Council is empowered to do any act, matter or thing, the decision to do the act, matter or thing is to be made by a resolution of the Council.”*

### By others

Council can act through others via formal written “instruments of delegation” wherever practicable.

## INSTRUMENTS OF DELEGATION

A delegation to a position is valid only when it is made or evidenced by either a written “Instrument of Delegation” made by Council resolution or a written “Instrument of Delegation” made by the CEO or a written “Instrument of Delegation: made by the MBS.

Council “Instruments of Delegation” are evidenced by a minuted Council resolution and by the instruments being stamped with Council’s seal and signed and countersigned by the Mayor and CEO. These instruments remain in force until revoked by Council.

CEO “Instruments of Delegation” are evidenced by a minuted CEO decision and by the instruments being signed by the CEO. These instruments remain in force until revoked by the CEO.

MBS “Instruments of Delegation” are evidenced by a minuted MBS decision and by the instruments being signed by the MBS. These instruments remain in force until revoked by the MBS.

Instruments of delegation must exclude delegations that cannot legally be made. This policy also establishes exclusions and limitations related to other delegations.

### Delegations excluded by law

The Act excludes the delegation of:

- the power to declare a rate or charge
- the power to borrow money
- the power to approve any expenditure not contained in a budget approved by the Council
- any power, duty or function of the Council under section 223 - Right to make submission
- decisions required by law to be done by Council resolution
- any prescribed power

## **Other delegations excluded or limited**

In addition, the following powers, duties and functions must not be delegated to the CEO, Council staff or special committees:

- incurring expenditure beyond the limit set in the instrument of delegation
- entering into agreements or contracts for amounts exceeding the limit set in the instrument of delegation. The power to contract is also constrained by the provisions of the Act and the Procurement Policy
- making a local law under Part 5 of the Act
- approval of the Council Plan under s.125 of the Act
- adoption of the Strategic Resource Plan under s.126 of the Act;
- preparation or adoption of the Budget or a Revised Budget under Part 6 of the Act
- adoption of the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act
- determining pursuant to s.37 of the Act that an extraordinary vacancy on Council not be filled
- exempting a member of a special committee who is not a Councillor from submitting a return under s.81 of the Act
- appointment of councillor or community delegates or representatives to external organisations
- the return of the general valuation and any supplementary valuations
- matters which Council has previously designated must be the subject of a Council resolution
- decisions which are inconsistent with a policy or strategy adopted by Council
- matters exclusively delegated to another member of Council staff

## **DELEGATES**

The Act, as well as other legislation, makes express provision for the appointment of delegates to act on behalf of Council. There are two basic forms of delegation under the Act -

- to a member of Council staff
- to a special committee

The decision of a delegate of Council is considered a decision of Council.

### **Staff**

Delegations are made to staff in relation to a position they occupy and are set out in schedules referenced by instruments of delegation.

Unless otherwise explicitly stated, a delegation to a specific position or positions applies to any staff member within or above that position.

The incumbent includes the acting or temporary occupant of a position.

Directors, Executive Managers and Managers are responsible for ensuring acting position arrangements are in place when required so that delegated authority can continue to be executed.

Appointment to a position, whether permanent, temporary or acting must be evidenced in writing or have an audit trail.

If a position is abolished or re-named, the delegation should be taken to be a reference to the principal successor to the functions of that position.

### **Special committees**

When Council delegates a power, duty or function to a special committee it invests the committee with the authority to act as the Council.

The delegation is to the committee, it relates to the committee acting as a body, not to individual members of the committee.

Accordingly, the powers, duties and functions delegated to the committee can only be executed by the committee under delegation when the committee is sitting in a formally constituted meeting.

## **AUTHORITY TO SUB-DELEGATE**

The CEO may, by instrument of delegation, delegate to a member of the Council staff any power, duty or function of the CEO's office other than the power of delegation.

No other delegate is authorised to sub-delegate any of the delegate's delegated functions to any other person or group of persons.

A special committee cannot delegate any of its responsibilities to others. For example, a committee established to manage a Council facility cannot delegate its powers to approve expenditure to a single committee member or an employee.

## **REFERRAL TO COUNCIL**

A delegate must, before exercising a delegation, refer to Council with an appropriate recommendation, any matters that:

- involve making plans and determining strategic priorities
- are required by law to undergo community engagement
- raise an issue of significant public interest, opportunity, concern or controversy, or are likely to do so. Such issues would normally involve an assessed high or extreme risk rating and are likely to impact on people and the places they live, work and play
- have given rise to substantial public objection or appear likely to do so
- involve an issue of policy which affects the community in some way where there is no existing Council policy to guide the delegate
- would lead to a delegate decision inconsistent with, or appearing to be inconsistent with, a previous decision or previous decisions made by or on behalf of Council regarding the matter or similar matters
- would require the expenditure of Council funds not specifically provided for in the Council budget
- the delegate assesses have not been subject to appropriate consultation with those persons likely to be affected by any related decision
- involve a planning application that any Councillor wishes to call in for a Council decision in line with the Planning Committee Terms of Reference
- the delegate otherwise considers would be more appropriately decided by Council resolution

## **EXERCISING DELEGATED AUTHORITY**

In exercising a delegation, a delegate must comply with all conditions and limitations of a delegation, relevant legislation, resolutions of Council; industrial awards and agreements; and the City's policies and procedures.

### **Delegate accountability**

The delegate is responsible and accountable for any decisions made under a delegation and are required to be able justify such decisions or actions.

Authority is exercised by the lowest level delegate in the first instance and escalated to a higher level delegate if the lower delegate is unavailable or has a conflict of interest in a matter.

### **Conflicts of interest**

A person must not exercise a delegation that would create for them any direct or indirect conflict of interest. In these circumstances, the delegate must refer the matter to a person more senior in their line of accountability.

A person is not obliged to exercise a delegation, where in their reasonable opinion, circumstances exist that would make it more transparent or ethical for the matter to be dealt with by another delegate. The matter must be transferred to a person more senior in their line of accountability.

### **No retrospectivity**

A delegation cannot be exercised retrospectively.

### **Matters 'called in'**

A power, duty or function that has been delegated may, notwithstanding the delegation, be exercised by the CEO or Council as the case may be. In this case, a delegation must not be exercised regarding the matter 'called in'.

### **Signing documents**

A delegate may sign any document to give effect to his or her function or authority, except for legally binding agreements or contracts specifically delegated to others.

If a legal agreement or other document covering a matter included in a delegate's authority also includes subject matter that falls within the responsibility of a delegate with a higher authority, then the document must be signed by the delegate with the higher authority.

A delegate must not sign an agreement unless the total cost of the transaction to the City, including both monetary and any in-kind costs, falls within their delegated financial authority, except in relation to agreements created under section 173 of the *Planning and Environment Act 1987*.

The CEO may sign any agreement or other document in respect of any transaction within the CEO's financial delegation.

### **Consultation conditions**

A delegation that contains the words 'in consultation with', 'on advice from', 'on advice of', or 'on recommendation of' means that the delegation should not be exercised until the required consultation, advice or recommendation is received and considered.

### **Legal delegations**

Legal delegations cover any legal agreements or contracts including but not limited to deeds, the exchange of letters, a heads of agreement and other documents that create a legally binding obligation inclusive of tender submissions.

Advice from Council's Legal Services unit must be taken by delegates prior to exercising a 'legal' delegation other than in the circumstances where a Legal Services unit approved standard letter, agreement or terms and conditions apply in relation to a low risk, low value and low complexity matter. For example, advice must be taken where the matter is assessed as a high or extreme risk, or the matter involves actual or potential monetary costs greater than \$10,000, or a matter where a party seeks to change contractual or agreement terms and conditions or a matter where it is obvious to the delegate that a commercial relationship is deteriorating or is likely to deteriorate.

### **Financial delegations**

Any delegation must be exercised in accordance with the approved budget or source of funds except where explicitly stated in a delegation schedule.

Delegation limits apply to transactions and a transaction may not be separated into parts in order to exceed a limit on a delegate's authority.

The total cost of a transaction may not be offset by deductions or trade-ins.

## **CONSIDERATION OF DELEGATION ISSUES**

Directors and Executive Managers are responsible for:

- ensuring all decisions, actions, reports and other documents have properly considered the delegations of the CEO and other delegates where a delegation is required to make a decision or to implement a policy or resolution of Council
- ensuring that a suitable delegation exists
- requesting such delegation be made if no suitable delegation exists.

## **REVIEWS OF DELEGATIONS**

The City's Governance Unit is responsible for coordinating reviews of delegations.

Legal risk (the legal validity and enforceability of Council contracts and Council's ability to legally enforce and litigate breaches of Acts, Regulations and local laws) is minimised by maintaining the currency of delegations to members of Council staff through a regular review cycle.

Directors, Executive Managers and Managers are responsible for:

- reviews of position delegations within their departments and business units to ensure the delegations remain current and reflect the responsibilities of positions
- advising Governance regarding organisation changes and resultant implications for delegations at the time those changes are being made

A formal review of currency of the Council's delegations to the CEO and special committees will be undertaken as required by the Act, unless circumstances such as legislative amendment render an earlier review necessary.

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# Implementation

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## MONITORING AND REPORTING

The administration and quality control of the City's policy and processes, including instruments of delegation and the associated framework of policies and procedures, must be subject to regular scrutiny.

The delegations framework will be subject to risk assessment and internal audit review as appropriate.

The exercise of delegations will be tested by Victorian Auditor General's office (VAGO) external audit from time to time as determined by VAGO.

Reporting of delegations exercised is essential to ensure that adequate information regarding those actions is available to other staff, managers and Council. The powers, duties and functions to be reported will be determined with reference to risks associated with the exercise of delegations. Such reporting can be by:

1. Presentation of reports to Council within the time specified in the table; or
2. Preparation of a memorandum to relevant officers within the prescribed time; or
3. Production of a register that will be available for inspection at any time.

Specifications for reporting requirements will be set out in an associated procedure.

## ADVICE AND ASSISTANCE

It is essential that the City supports committee members and employees to raise queries and issues about the proper exercise of delegated powers, duties and functions, including queries and issues relating to their own delegations or those of others.

The City must designate an employee position whose occupant manages the provision of advice to the organisation, including committee members and employees, regarding this policy and associated procedures. A person who is uncertain how to comply with this policy should seek advice from this person or from their immediate line manager or committee chairperson.

Seeking advice does not abrogate an individual's or body's responsibility to make the right decision in respect of exercising their delegated powers, duties and functions.

## TRAINING

The City must ensure that all employees receive induction in the operation of this policy and associated procedures, including:

- information about the aim, principles, accountabilities, and requirements of the policy
- operation of associated procedures and where to locate them

Employees holding positions with delegated powers should be reminded of their responsibilities and limits of powers at least every two years.

## RECORDS

Delegates will keep appropriate records of all actions taken under delegation. The level of detail in record keeping will be in keeping with the nature of the delegation and any associated risks to the council.

For example, the routine issue of a permit would be recorded in a permits register, detailing relevant issues.

In the event of more complex matters, delegates need to record the sort of information that would otherwise be available to the council if the delegation did not exist.

All council decisions are recorded in a minute book; members of staff must similarly evidence their decisions by recording details of the decision and how it was formed, on the appropriate council file to ensure that a "paper trail" exists.

Decisions made by delegates might subsequently be the subject of review by:

- Management;

- Council;
- The Ombudsman;
- The Local Government Investigations and Compliance Inspectorate;
- Victorian Civil and Administrative Tribunal; and
- Law Courts.

Accordingly a proper record of delegated action must be kept to ensure that the decision can be substantiated at a later date.

<i>Record</i>	<i>Retention / Disposal Authority</i>	<i>Retention Period</i>	<i>Location</i>
Instruments of delegation to staff	Governance & Legal Services	7 years after delegation is revoked or superseded Common Administrative Functions Retention & Disposal Authority: PROS 07/01	Document management System
Records of staff exercising delegated powers, duties and functions	Various departments	Various (depending on function) Local Government Functions Retention & Disposal Authority: PROS 09/05	Document management System
Instruments of delegation to special committees	Various departments	Permanent Local Government Functions Retention & Disposal Authority: PROS 09/05	Document management System
Records of special committees exercising delegated powers, duties and functions – minutes of special committee meetings	Various departments	Permanent Local Government Functions Retention & Disposal Authority: PROS 09/05	Document management System

## REVIEW

This policy should be reviewed by October 2021.

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# References

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*Local Government Act 1989*

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**CITY OF GREATER GEELONG**

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**CUSTOMER SERVICE CENTRE**

Geelong  
100 Brougham Street  
Geelong VIC 3220  
8:00am – 5:00pm

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*Cr Harwood declared a Conflict of Interest by Close Association in Agenda Item 4 – Tender T1900015 – Provision of Grinding and Decontamination Services in that he is a friend and former business partner with one of the Directors and left prior to discussion at 8.27pm*

#### **4. TENDER T1900015 - PROVISION OF GRINDING AND DECONTAMINATION SERVICES**

**Source:** Finance & Strategy – Property and Procurement  
**Director:** Michael Dugina  
**Portfolio:** Finance

##### **Purpose**

1. To award the contract C1900015 for the Provision of Grinding and Decontamination Services of green organics waste at the City's Green Organics Processing Facility in Anakie to Vegetation Management and Greenwaste Recycling Services Pty Ltd trading as Green Care Mulching, ABN: 92 135 762 211.

##### **Background**

2. The City currently undertakes grinding and decontamination of green organics at its Moolap site, which will be transferred to its new Green Organics Processing Facility in Anakie. For this to occur, the City issued a tender for the services of an experienced and capable contractor to undertake the decontamination of green organic waste collected from residential properties and the subsequent grinding of these green organics at its Green Organics Processing Facility located in Anakie.

##### **Key Matters**

3. Procurement Services undertook a tender process seeking a service provider for the grinding and decontamination services.
4. The submissions were evaluated in accordance with the processes detailed in the City's 'Procurement and Contracts Manual'.
5. Based on the overall service quality and value to Council the evaluation panel recommend the above named tenderer to be appointed for these services.
6. All respondents met the mandatory criteria, and the submissions were assessed accordingly.
7. Subject to Council awarding the contract, the services will commence 1 February 2019 for a 3-year term with the option to extend for a further 2 twelve month periods at the sole discretion of the City. The contract shall operate on a schedule of rates.
8. The estimated value of the contract over the term of the contract (plus extension options) is \$7,075,000.00 (excluding GST).

**Cr Murnane moved, Cr Murrhiy seconded -**

**9. That Council:**

- 9.1 Award Contract C1900015 for the Provision of Grinding and Decontamination Services of green organics waste at the City's Green Organics Processing Facility in Anakie to Greenwaste Recycling Services Pty Ltd trading as Green Care Mulching (ABN: 92 135 762 211):**
- (a) at the tendered Schedule of Rates;**
  - (b) for an initial contract term of 3 years;**
  - (c) with 2 possible extensions of 12 months to a maximum 5-year term, exercisable at the City's discretion; and**
- 9.2 Note the estimated contract cost for the maximum term is \$7,075,000 (excluding GST); and**
- 9.3 Authorise the Chief Executive Officer to sign all the relevant contract documents to give effect to contract C1900015 for the Provision of Grinding and Decontamination Services of green organics waste at the City's Green Organics Processing Facility in Anakie.**

*The Mayor vacated the Chair at 8.27pm*

*Cr Murrhiy assumed the Chair at 8.27pm*

*Cr Mason re-entered the meeting room at 8.28pm*

*Cr Nelson left the meeting room at 8.28pm*

*Cr Nelson re-entered the meeting room at 8.30pm*

**Carried.**

## **Attachment 1**

### ***Financial Implications***

1. The estimated annual cost of this contract is provided for in the budget.

### ***Community Engagement***

2. No public consultation is required or necessary for the Council to establish this contract.

### ***Social Equity Considerations***

3. It is expected that the provision of the grinding and decontamination services as a by-product of the green organics waste processing will create positive outcomes for the community by utilising the product in the regions parks and gardens and potentially generating income for the City.

### ***Policy/Legal/Statutory Implications***

4. This tender was publicly advertised in accordance with the requirements of section 186 of the *Local Government Act 1989* and the tender process has been conducted in accordance with Council's Procurement Policy.

### ***Alignment to Council Plan***

5. The provision of grinding and decontamination services forms part of the City's broader strategic priorities in delivering effective environmental management by redirecting all green waste to the Green Organics Facility for processing, helping to meet a target of 60 per cent of garbage, recyclables and green organics collected from kerbsides diverted from landfill.

### ***Conflict of Interest***

6. No officers or contractors involved in the preparation of this report have a direct or indirect interest in matters to which this report relates.

### ***Risk Assessment***

7. The tender evaluation process involved the assessment of Work, Health and Safety policies, procedures and risk assessment documents. Any other risks associated with the acceptance of this tender will be managed through the contract conditions.

### ***Environmental Implications***

8. Any environmental implications associated with this contract will arise from the execution of the works. It is considered that these are the responsibility of the Contractor and will be managed through the contract documentation.

## Attachment 2

### Tender Details

#### Contract Details

1. Contract C1900015 for the Provision of Grinding and Decontamination Services of green organics waste at the City's Green Organics Processing Facility in Anakie

#### Invitation to Tender

2. The City issued a tender for the services of an experienced and capable contractor to undertake the decontamination of green organic waste collected from residential properties and the subsequent grinding of these green organics at its Green Organics Processing Facility located in Anakie

*Table 1 Invitations to Tender*

Medium	Date Advertised
The Geelong Advertiser	13 October 2018
eProcure	13 October 2018
Geelong Australia Website	13 October 2018

#### Tender Evaluation Panel

3. The tender evaluation panel met to review the tenders, members of the panel are as follows in Table 2.

*Table 2 Tender Evaluation Panel*

Position Title	Panel role
Coordinator Procurement	Chair
Team Leader - Green Organics Processing Operations and Development	Member
Coordinator Waste Management	Member
Manager Environment & Waste Services	Member
Team Leader - Waste Service Delivery	Member
Operations Leader Green Waste Services	Member

#### Tender Submissions

4. Tenderers had to comply with the following mandatory criteria:
  - 4.1 OH&S system – if tenderers system does not meet a minimum standard determined by the Principal, the tenderer will not be considered for the Contract
  - 4.2 Tenderer must have a heat and UV radiation exposure management procedure, and if not, must be willing to abide by the City of Greater Geelong Heat and UV Radiation Exposure and Outdoor Clothing Procedures (Long/Long).
  - 4.3 Tenderer was required to attend a mandatory site briefing at the Green Organics Processing Facility.

- 4.4 Tenderer was required to have a stand-by grinder that can be engaged on-site within 8 hours of breakdown/maintenance at all times.
5. Both tenderers met the mandatory criteria.

*Table 3 Tender Submissions Received*

Tender		Conforming tender
A	Vegetation Management and Greenwaste Recycling Services Pty Ltd trading as Green Care Mulching (ABN 92 135 762 211)	Yes
B	Tender B	Yes

**Tender Evaluation**

6. The tender submission responses were scored and rated individually against all the separate criteria above. Panel members undertook a rigorous exercise of due diligence by assessing the various tenderer submissions, undertaking pricing assumptions against the schedules provided and analysing further written clarifications on aspects of tendered bids.
7. All tenderers were then assessed on a value for money basis.
8. The Evaluation Panel used the following assessment criteria (in order of weighting) to assess the submissions:

*Table 4 Comparative Criteria Weighting*

Comparative Criteria	Weighting %
Capability and experience in processing kerbside green organics over past three years	25%
Proposed plant and equipment levels, condition and maintenance/servicing programs	25%
Proposed staffing levels	10%
Economic Contribution to the Geelong Region	10%
GROW and G21 initiatives (mandatory)	5%
Aboriginal and Torres Strait Islanders inclusion (mandatory)	5%
Recycled Content and Environment (mandatory)	5%
Clever and Creative (Innovation) (mandatory)	5%
Quality Management Policy and Systems	5%

**Tender Evaluation Scores**

9. All tender submissions satisfied the mandatory criteria and were deemed conforming.
10. All tenderers obtained an acceptable evaluation score and were deemed to have demonstrated the necessary capability, staffing and resources to deliver the services in accordance with the specification.
11. The tender submitted by Vegetation Management and Greenwaste Recycling Services Pty Ltd trading as Green Care Mulching provided the best value for money solution.
12. At the conclusion of the Evaluation Panel's assessment the submissions were ranked in the following order as shown in Table 5.

*Table 5 Tender Evaluation Scores*

<b>Tender</b>		<b>Score</b>
A	Vegetation Management and Greenwaste Recycling Services Pty Ltd trading as Green Care Mulching	67.11
B	Tender B	64.09

***Post-Tender Contact***

13. There was no post-tender contact with tenderers.

***Probity***

14. Process probity was managed by the Procurement Department.

*Cr Harwood re-entered the meeting room at 8.33pm*

## **5. REVOCATION OF FLOOD PRONE AREA DESIGNATION OF NEW LOTS AT WARRALILY ESTATE, STAGE 78B**

**Source:** City Services - Engineering Services  
**Director:** Guy Wilson-Browne  
**Portfolio:** Social and Infrastructure Planning

### **Purpose**

1. For Council to consider revoking its designation of 12 December 2006 of flood affected land Warralily Estate, Stage 78B as liable to flooding pursuant to regulation 153 of the *Building Regulations 2018*.

### **Background**

2. Council has a statutory obligation under the *Building Regulations 2018* to designate land as liable to flooding where it reasonably knows it to be prone to flooding. Conversely, there is an obligation to remove the encumbrance of designation from land that is no longer considered to be flood-prone.
3. The current designated flood mapping (**Attachment 2**) was designated by Council at its meeting of 12 December 2006, under the provisions of the *Building Regulations 2018*.
4. This revocation will result in another stage of new lots in Warralily Estate fronting 612 Torquay Road, Armstrong Creek being free of their flood prone status, paving the way for owners to build homes on their land.

### **Key Matters**

5. The flood mapping is subject to a revision due to the subdivision and development at 612 Torquay Road, Armstrong Creek. Prior to subdivision the parent lot was considered to be liable to flooding. This development site, which is also known as Warralily Estate, Stage 78B, achieves flood immunity for newly created lots for flood events up to and including the 100-year Average Recurrence Interval (**ARI**) event due to approved internal earthworks.
6. The decision by Council engineers that the flood prone status can be removed includes assessment of internal drainage, road construction and earthworks to contain potential floodwaters from the 100 year ARI event within road and drainage reserves (**Attachment 3**).
7. It should be noted that designation is separate to the creation of flood overlays within the Planning Scheme, which generally follows designation. In the case of this development, the planning scheme amendment to create post-development flood zones or overlays is proposed after the design of the proposed precincts.

*Cr Harwood resumed the Chair at 8.33pm*

**Cr Murnane moved, Cr Nelson second -**

8. **That Council revoke the Council designation of 12 December 2006 of flood affected land Warralily Estate, Stage 78B as liable to flooding pursuant to regulation 153 of the *Building Regulations 2018*.**

**Carried.**

## **Attachment 1**

### ***Financial Implications***

1. No impact to budget.

### ***Community Engagement***

2. A revocation of designation does not warrant public consultation as it constitutes the removal of an encumbrance on land.
3. Relevant Council databases and flood maps will be revised and updates sent to the Corangamite Catchment Management Authority and Building Control Commission.

### ***Social Equity Considerations***

4. Council have a responsibility to the community to provide the best possible information on areas that are flood prone. The removal of flood prone designation allows owners to build on their land without a special permit from the City, and without raising the floor level of their home. It also reduces the cost of property insurance.

### ***Policy/Legal/Statutory Implications***

5. The City has various statutory responsibilities for drainage management and flood management (prevention, response and recovery) as set out in the *Local Government Act 1989*, *Local Government Regulations 1990*, *Planning and Environment Act 1987*, *Building Regulations 2018*, *Water Act 1989*, *Subdivision Act 1988* and *Emergency Management Act 1986*.
6. The works have resulted in the lots being protected from flooding during a major storm event that has a one per cent probability of occurring in any one year, and occurs on average once in 100 years. This is the required standard for new subdivisions.

### ***Alignment to Council Plan***

7. The recommendations of this report are consistent with Council Plan, in relation to planned sustainable development.

### ***Conflict of Interest***

8. There are no officer direct or indirect interests with respect to this report.

### ***Risk Assessment***

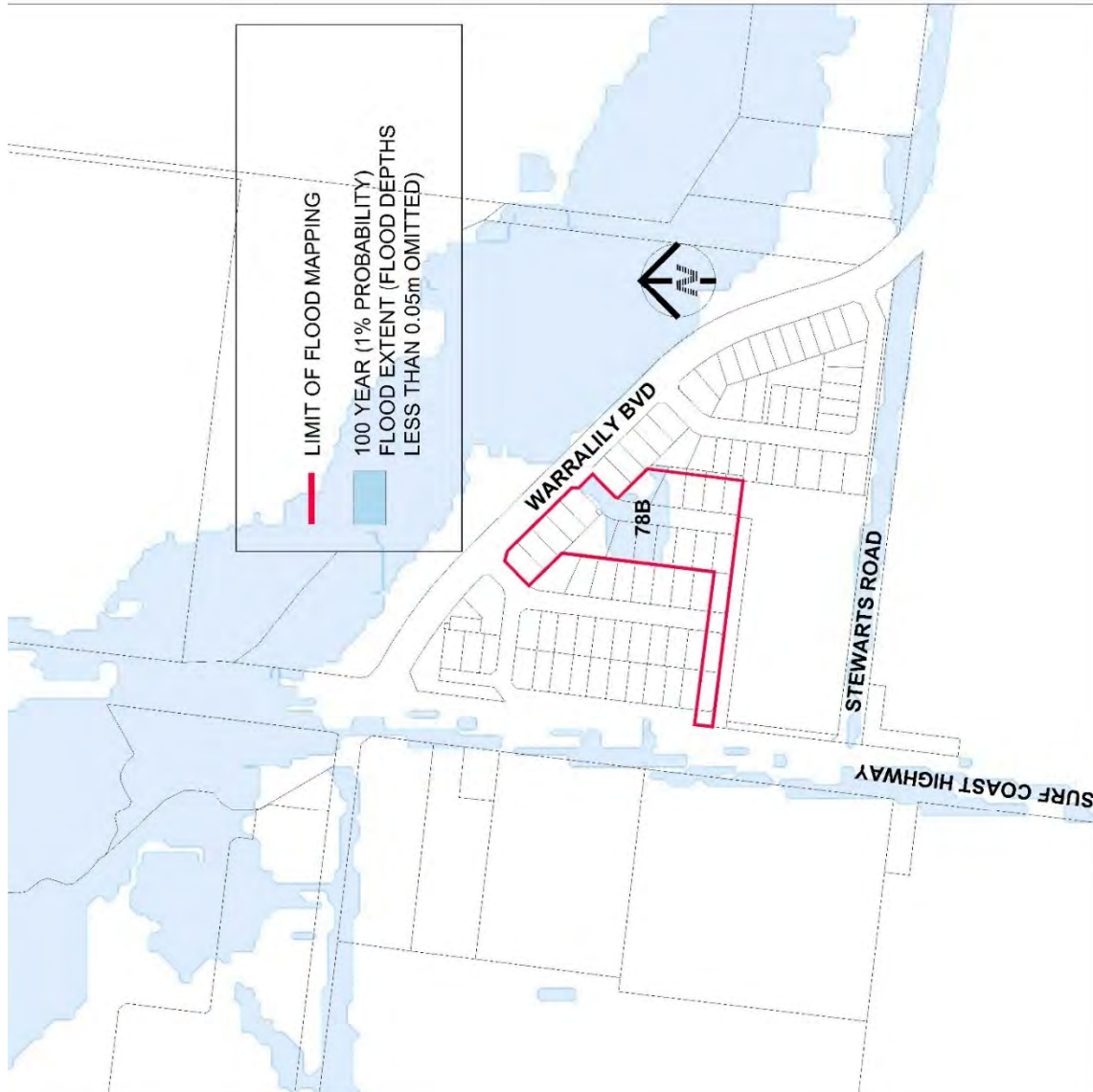
9. Council also has some risk exposure with any failure to disclose the flood-prone status of a property in a Land Information Certificate.
10. The revocation of the designation is the final step in minimising Council's risk.

### ***Environmental Implications***

11. The revocation of flood-prone areas designation and designation of revised flood data through the design of this stage is considered unlikely to result in any known adverse environmental impacts.

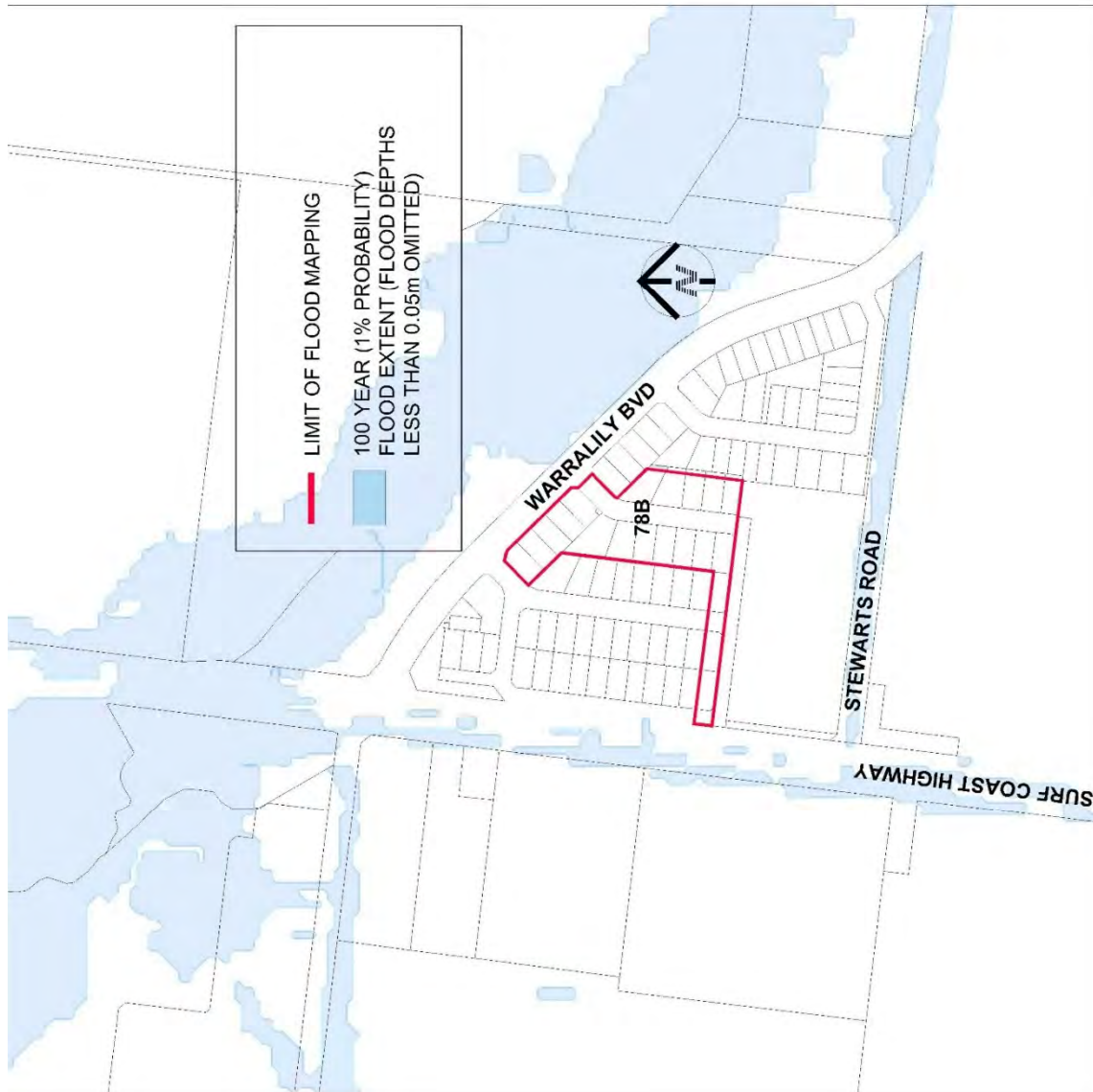
**Attachment 2**

**CURRENT FLOOD MAP**



**Attachment 3**

**REVISED FLOOD MAP**



## **6. REVOCATION OF FLOOD-PRONE AREA DESIGNATION OF NEW LOTS AT CHARLEMONT, STAGE 5**

**Source:** City Services – Engineering Services  
**Director:** Guy Wilson- Browne  
**Portfolio:** Social and Infrastructure Planning

### **Purpose**

1. For Council to consider revoking its designation of 12 December 2006 of flood affected land Charlemont, Stage 5 as liable to flooding pursuant to regulation 153 of the *Building Regulations 2018*.

### **Background**

2. Council has a statutory obligation under the *Building Regulations 2018* to designate land as liable to flooding where it reasonably knows it to be prone to flooding. Conversely, there is an obligation to remove the encumbrance of designation from land that is no longer considered to be flood-prone.
3. The current designated flood mapping (**Attachment 2**) was designated by Council at its meeting of 12 December 2006, under the provisions of the *Building Regulations 2018*.
4. This revocation will result in another stage of new lots in Charlemont fronting 150 – 230 Horseshoe Bend Road, Charlemont being free of their flood prone status, paving the way for owners to build homes on their land.

### **Key Issues**

5. The flood mapping is subject to a revision due to the subdivision and development at 150 – 230 Horseshoe Bend Road, Charlemont. Prior to subdivision the parent lot was considered to be liable to flooding. This development site, which is also known as Charlemont, Stage 5, achieves flood immunity for newly created lots for flood events up to and including the 100-year Average Recurrence Interval (**ARI**) event due to approved internal earthworks.
6. The decision by Council engineers that the flood prone status can be removed includes assessment of internal drainage, road construction and earthworks to contain potential floodwaters from the 100-year ARI event within road and drainage reserves (**Attachment 3**).
7. It should be noted that designation is separate to the creation of flood overlays within the Planning Scheme, which generally follows designation. In the case of this development, the planning scheme amendment to create post-development flood zones or overlays is proposed after the design of the proposed precincts.

**Cr Murnane moved, Cr Nelson seconded -**

8. **That Council revoke the Council designation of 12 December 2006 of flood affected land Charlemont, Stage 5 as liable to flooding pursuant to regulation 153 of the *Building Regulations 2018*.**

**Carried.**

## **Attachment 1**

### ***Financial Implications***

1. No impact to budget.

### ***Community Engagement***

2. A revocation of designation does not warrant public consultation as it constitutes the removal of an encumbrance on land.
3. Relevant Council databases and flood maps will be revised and updates sent to the Corangamite Catchment Management Authority and Building Control Commission.

### ***Social Equity Considerations***

4. Council have a responsibility to the community to provide the best possible information on areas that are flood prone. The removal of flood prone designation allows owners to build on their land without a special permit from the City, and without raising the floor level of their home. It also reduces the cost of property insurance.

### ***Policy/Legal/Statutory Implications***

5. The City has various statutory responsibilities for drainage management and flood management (prevention, response and recovery) as set out in the *Local Government Act 1989*, *Local Government Regulations 1990*, *Planning and Environment Act 1987*, *Building Regulations 2018*, *Water Act 1989*, *Subdivision Act 1988* and *Emergency Management Act 1986*.
6. The works have resulted in the lots being protected from flooding during a major storm event that has a one per cent probability of occurring in any one year, and occurs on average once in 100 years. This is the required standard for new subdivisions.

### ***Alignment to Council Plan***

7. The recommendations of this report are consistent with Council Plan, in relation to planned sustainable development.

### ***Conflict of Interest***

8. There are no officer direct or indirect interests with respect to this report.

### ***Risk Assessment***

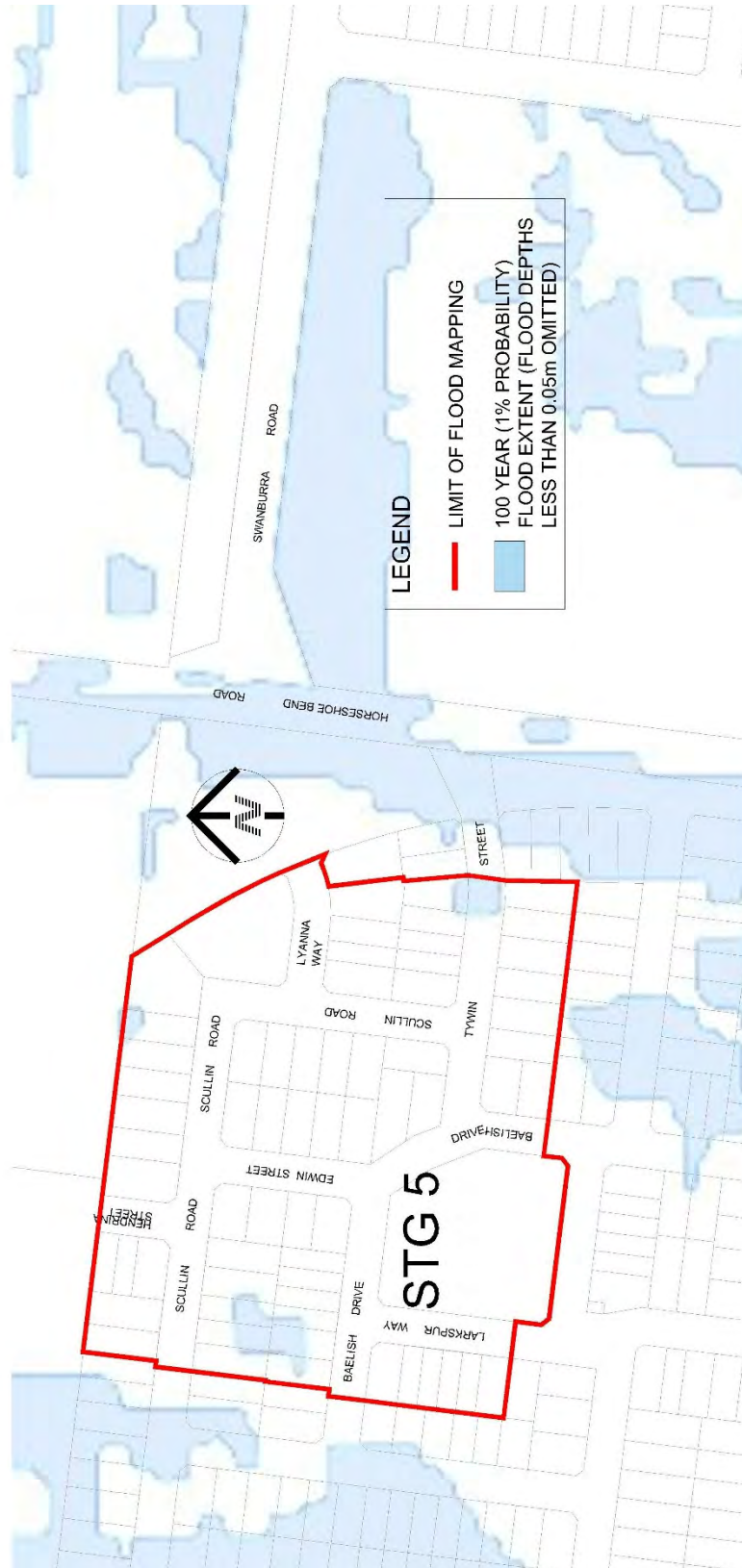
9. Council also has some risk exposure with any failure to disclose the flood-prone status of a property in a Land Information Certificate.
10. The revocation of the designation is the final step in minimising Council's risk.

### ***Environmental Implications***

11. The revocation of flood-prone areas designation and designation of revised flood data through the design of this stage is considered unlikely to result in any known adverse environmental impacts.

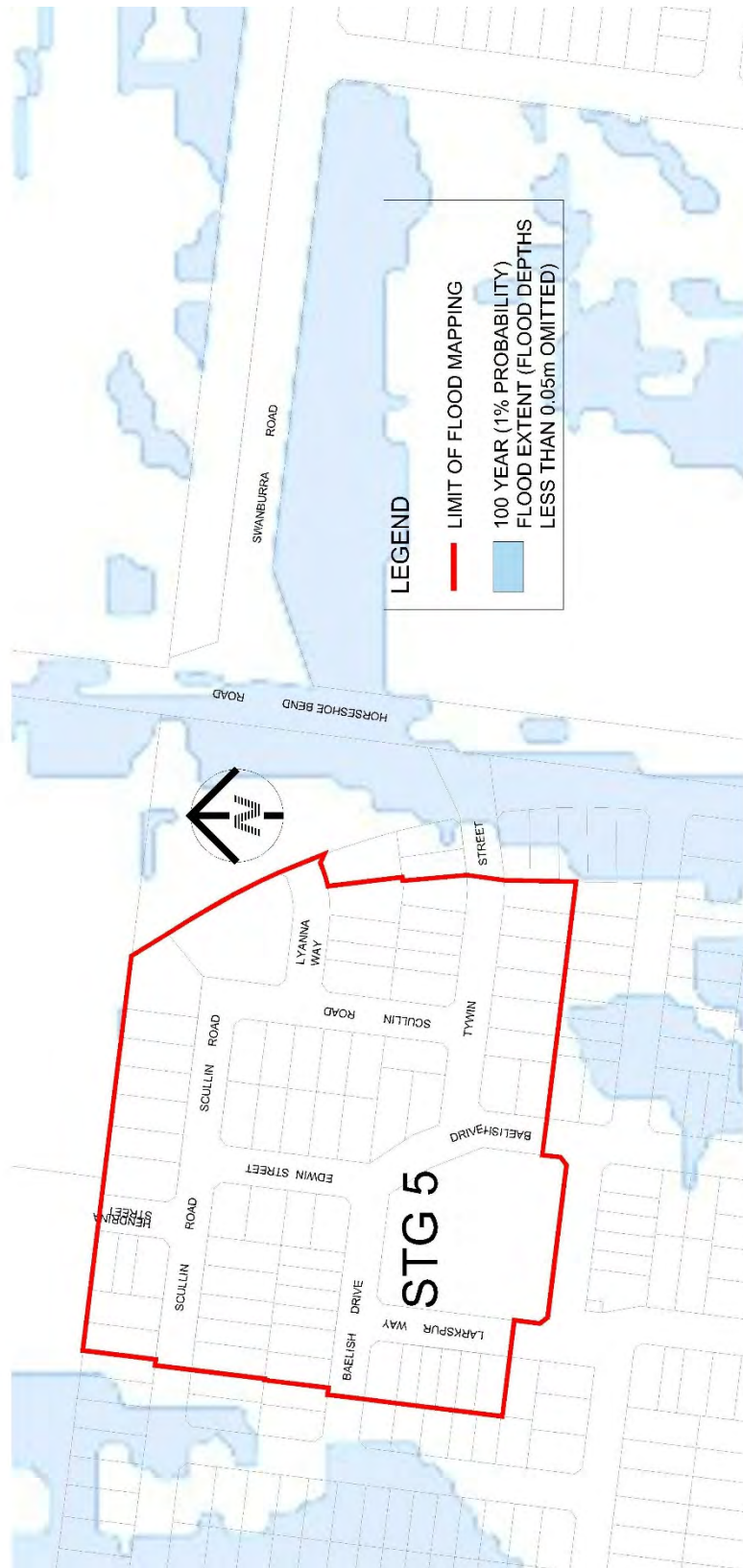
**Attachment 2**

**CURRENT FLOOD MAP**



**Attachment 3**

**REVISED FLOOD MAP**



## **7. PROPOSED DEVELOPMENT**

**Source:** Planning and Development - Strategic Implementation  
**Director:** Gareth Smith  
**Portfolio:** Sustainable Development

**Cr Asher moved, Cr Grzybek seconded -**

**That in accordance with Section 89 (2) (e) of the Local Government Act 1989, this proposed development be considered at the conclusion of all other business at which time the meeting be closed to members of the public.**

**Carried.**

## **ASSEMBLY OF COUNCIL RECORD**

**Source:** Governance and Legal Services  
**Chief Executive Officer:** Martin Cutter  
**Portfolio:** Leadership & Governance

### **Summary**

1. Section 80A (2) of the Local Government Act 1989 requires the record of an Assembly of Council be reported to the next practicable Ordinary Meeting of Council.
2. A record of Assembly of Council meeting(s) is attached as an Appendix to this report.

**Cr Kontelj moved, Cr Mansfield seconded -**

3. **That the information be received.**

**Carried.**

**RECORD OF ASSEMBLIES OF COUNCIL  
(Council Meeting 29 January 2019)**

Assembly Details	Councillors	Officer Attendees	Agenda Items	Conflict of Interest Disclosures
Civic Accommodation Project Advisory Committee <b>11 November 2018</b>	Crs Harwood, Murrphy, Mason, Murnane, Sullivan	M Cutter (CEO) M Dugina (DIR) B Luxford (DIR) M Kelly (MGR) S Broadbent (MGR) T Kirwood (MGR) J Bosker (CO ORD) L Higgins (PROP ADV) B Szymczak (SNR COMM ADV) D Chrimes (OFF) P Harney (OFF) P Taylor (CO ORD)	<ul style="list-style-type: none"> <li>Civic Accommodation Discussion</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>
Councillor's Only <b>21 December 2018</b>	Crs Harwood, Murrphy, Mason, Asher, Sullivan, Mansfield (phone), Murnane, Nelson, Grzybek	M Cutter (CEO) G Smith (DIR) M Dugina (DIR) T Kirwood (MGR) J Van Slageren (MGR) J Brown (MGR) K Fulton (CO ORD) J Giacchi (GENERAL COUNSEL) Jake Brown (CO ORD)	<ul style="list-style-type: none"> <li>Councillor's Discussion.</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>

Assembly Details	Councillors	Officer Attendees	Agenda Items	Conflict of Interest Disclosures
<p>Council Briefing  <b>22 January 2019</b></p>	<p>Crs Harwood, Aitken, Asher, Grzybek, Mansfield, Mason, Murrily, Murnane, Nelson, Sullivan.</p>	<p>G Wilson-Browne (A/CEO)  M Dugina (DIR)  B Luxford (DIR)  G Smith (DIR)  R Stevens (A/DIR)  R Leonard (EXEC MGR)  M Kelly (MGR)  T Kirwood (MGR)  J Lane (MGR)  R Thomas (MGR)  J Malone (CO ORD)  T Raven (CO ORD)  J Brown (CO ORD)  P Smith (CO ORD)  A Ross (CO ORD)  R Roob (OFF)  K Ivens (SNR ADV TO MAYOR &amp; CEO)  J Van Slageren (MGR)  G Russell (MGR)  M Macgugan (SNR COMM ADV)  C Francis (Officer)</p>	<ul style="list-style-type: none"> <li>• Amendment C386 Covenant College, Creamery Road, Bell Post Hill – Adoption</li> <li>• Electronic Gaming Machines Application – Polish Community Association</li> <li>• New Policy Adoption – Delegations Policy</li> <li>• Policy Update – Debt Management Policy</li> <li>• Tender T1900015 – Provision of Grinding and Decontamination Services</li> <li>• Revocation of Flood Prone Area Designation of New Lots at Warralily Estate Stage 78B</li> <li>• Revocation of Flood Prone Area Designation of New Lots at Charlemont Stage 5</li> <li>• Proposed Development (<i>Confidential</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Nil.</li> </ul>

## **PLANNING DELEGATIONS**

**Source:** Planning & Development - City Development  
**Executive Manager:** Gareth Smith  
**Portfolio:** Sustainable Development

### **Summary**

1. Section 98 of the *Local Government Act 1989* and section 188 of the *Planning and Environment Act 1987* empower Council to delegate its powers, duties and functions under relevant legislation to members of Council staff.
2. Council may also delegate to committees comprising Councillors and staff or a combination of both, pursuant to sections 86 and 87 of the *Local Government Act 1989* and section 188 of the *Planning and Environment Act 1987*.
3. At its meeting on 13 March 2007, Council established a Planning Committee and a Development Hearings Panel with delegated powers to determine upon any development applications which have been the subject of an objection or in circumstances where officers have recommended refusal of the application.
4. At its meeting on 23 September 2008, Council adopted a recommendation to allow Officers (restricted to Manager, Coordinator and Team Leader level) the ability to consider and approve applications with five or less objections.
5. The appendix to this report contains a schedule of all applications determined under these delegations.

**Cr Asher moved, Cr Murrhiy seconded -**

6. **That the information be received.**

**Carried.**

### PLANNING DECISIONS REPORT - DECEMBER 2018

App Number	Location	Application Type	Decision Date	Description	Authority Description/
PP-1061-2017	145 Windermere Road, LARA	Use and Development for a Tourist Facility, comprising Restaurant and Accommodation (Cabins)	7/12/2018	Refusal to Grant a Planning Permit	Development Hearings Panel
PP-112-2018	161-169 South Valley Road, HIGHTON	Use and Development of a Retirement Village; Development of a Residential Aged Care; Display of an Internally Illuminated Business Identification Signage; Reduction in Bicycle Requirements; and Alterations to Access to a Road Zone Category 1	19/12/2018	Refusal to Grant a Planning Permit	Planning Committee
PP-155-2011/B	297-301 Moorabool Street, GEELONG	Demolition of a dwelling, partial demolition of a building, use and development of a place of assembly (including bingo, live theatre, cinema, concerts, function centre, exhibition centre and restricted place of assembly but excluding nightclub, amusement parlour, carnival, circus, library and place of worship) with associated car parking and ancillary food and drink premises, display of associated business identification signage, external painting, and reduction in the required car parking provision	19/12/2018	Grant an Amended Planning Permit/Plans	Delegated Authority
PP-179-2018	50 Mackey Street, NORTH GEELONG	Use and Development of a Multi-Level Office Building generally in accordance with the endorsed plans	13/12/2018	NOD - PC/C Planning Permit	Planning Committee
PP-319-2017	755 Peak School Road, LARA	Use and development of the land for the purposes of intensive animal husbandry and a dwelling in the Farming Zone and Buildings and Works carried out within an Environmental Significance Overlay 4	20/12/2018	Refusal - Clerical Error	Delegated Authority
PP-407-2018	87 Skene Street, NEWTOWN	Building and Works for Business Identification Signage, Facade Alterations and Removal of Vegetation in a Heritage Overlay	21/12/2018	Refusal to Grant a Planning Permit	Development Hearings Panel
PP-606-2018	104-108 Sparks Road, NORLANE VIC 3214	Use and Development of a Medical Centre, Associated Pharmacy and Business Identification Signage	27/12/2018	PI - Delegate - No Appeal Lodged	Delegated Authority

PP-1073-2018	2/342 Pakington Street, NEWTOWN VIC 3220	Use of the Land for a Restricted Recreation Facility (Fitness Centre)	20-Dec-2018	NOD - Delegate	2
PP-1122-2018	60 The Terrace, OCEAN GROVE	Buildings and Works Associated with the Construction of a Dwelling Exceeding 7.5m in Height	5-Dec-2018	NOD - Delegate	2
PP-1127-2018	3A Dargo Court, CORIO	Construction of Two (2) Dwellings	21-Dec-2018	NOD - Delegate	5
PP-1133-2018	90 Coonawarra Drive, AVALON	Buildings and Works Associated with an Existing Cattery	21-Dec-2018	NOD - Delegate	1
PP-1160-2018		Demolition of existing garage and construction of garage including habitable addition	5-Dec-2018	NOD - Delegate	2
PP-1409-2017	38 Newcombe Street, PORTARLINGTON	Construction of a Dwelling and a Two (2) Lot Subdivision	5-Dec-2018	NOD - Delegate	2
PP-203-2018	27 Lawton Avenue, GEELONG WEST	Demolition of an Existing Dwelling and the Construction of a Replacement Dwelling	10-Dec-2018	NOD - Delegate	5
PP-511-2018		Retention of an Existing Dwelling and Buildings and Works for the Construction of Three (3) Dwellings and Four (4) Lot Subdivision	27-Dec-2018	NOD - Delegate	1
PP-594-2018	104 Orton Street, OCEAN GROVE	Construction of a Replacement Dwelling	13-Dec-2018	NOD - Delegate	3
PP-660-2018	32 Denman Street, EAST GEELONG	Construction of Two (2) Dwellings and Two Lot Subdivision (Boundary Re-alignment)	10-Dec-2018	NOD - Delegate	2
PP-752-2018	3 Toyne Avenue, HAMLYN HEIGHTS	Buildings and Works for the Construction of Two (2) Dwellings and Two (2) Lot Subdivision	17-Dec-2018	NOD - Delegate	1
PP-8-2017	66 Vines Road, HAMLYN HEIGHTS	Development of the Land for Four Dwellings, Four Lot Subdivision and to Create Access to a Road in a Road Zone Category 1	24-Dec-2018	NOD - Delegate	2
PP-878-2018	41 Bond Street, NEWTOWN	Construction of Two Double Storey (2) Dwellings and Two (2) Lot Subdivision.	4-Dec-2018	NOD - Delegate	1

**Cr Sullivan moved, Cr Asher seconded -**

**That the meeting be closed to the public.**

**Carried.**

**The Meeting was closed to the public at 8.36pm**

**A record of the proceedings of this section of the meeting is contained in a Confidential Minute Book.**

**Cr Nelson moved, Cr Mansfield seconded -**

**That the Meeting be opened to the public.**

**Carried.**

### **CLOSE OF MEETING**

As there was no further business the meeting closed at 8.44pm. Tuesday, 29 January 2019.

**Signed:** \_\_\_\_\_  
**Cr Bruce Harwood (Mayor)**

**Date of Confirmation:** \_\_\_\_\_.