



MINUTES

POLICY REVIEW PANEL

held on 30 June 2016 at 9.30 – 11.30 am in Civic Room 1

Present: Cr Majdlik
Cr Bentley
Cr Ramsey
Dan Hogan
Fiona MacPherson

Chairperson: Cr Majdlik

1. **Welcome**
2. **Apologies**
None
3. **Declaration of interests and/or conflict of interests**
Nil
4. **Confirmation of minutes of 7 April 2016 meeting**

Recommendation

Cr Bentley/Cr Ramsey

5. **Business Arising**
None

6. **General Business**

6.1 Community Gardens Policy

Presented by Kate Hills and Matthew Wilson.

The current Edible Community Gardens Policy has been reviewed to ensure implementation processes can be effectively streamlined using a set of guidelines. The current Policy outlines three categories – larger scale, medium scale and smaller scale - under which community groups must provide evidence against essential and desirable selection criteria to apply for a community garden. In order to improve support for community groups undertaking the application process, the reviewed Policy has combined these three categories into one set of essential and desirable selection criteria which includes community group capacity and governance; provision of Council support; capital and programmatic resourcing; and community development resourcing. The title of the Policy has also been changed to 'Community Gardens Policy' to allow for inclusion of both edible and non-edible planting.

Recommendation:

Cr Ramsey/Cr Bentley

That Council adopts the Community Gardens Policy.



MINUTES

6.2 Military Service Commemoration Advisory Committee Terms of Reference

Presented by Dan Hogan.

Officers are seeking the establishment of an Advisory Committee in accordance with the tabled Terms of Reference, the purpose of which is to:

1. provide a method in which external and internal proposals for Council investment in military commemorations of any nature are considered
2. to ensure that any form of Council investment in military service commemoration is appropriate and considered
3. to ensure that the growth and number of military service commemorations of any nature within the municipality is appropriately and sensitively managed.

The Committee sought two changes to the presented Terms of Reference;

- i. Change the name of the Committee to 'Military Commemoration Investment Advisory Committee'
- ii. Change membership to substitute 'Deputy Mayor' with 'two Councillors'.

Recommendation:

Cr Bentley/Cr Ramsey

That Council adopts the amended Terms of Reference for the Military Commemoration Investment Advisory Committee.

6.3 Building Control Intervention Policy

Presented by Ian Stewart

This policy applies to the discharge of Council responsibilities under the Build Act 1993 in circumstances where a private building surveyor has been appointed to carry out functions in respect of building work. This policy sets out the actions to be taken where there is a real risk of danger to persons or property when a private building surveyor has been appointed.

This policy has been amended as the previous policy has now expired.

Recommendation:

Cr Ramsey/Cr Bentley

That Council adopts the Building Control Intervention Policy.

6.4 Build Over Easement Policy

Presented by Matthew Hutchinson

The review of the Build Over Easement Policy has proposed two minor amendments

1. Currently any structure built over the Legal Point of Discharge requires a Section 173 (s173) agreement. The cost to the property owner is about \$1000 to produce and register on title. Often this is for a small 3x3 shed and seems onerous on the property owner.

The proposal is to remove the need for a s173 agreement and enter into a standard Build Over Easement agreement. This would include all the normal conditions that if Council require access to the Legal Point of Discharge the structure needs to be removed at the owners cost. The Legal Point of Discharge is to remain flush mounted and accessible in the shed.



MINUTES

The difference between the s173 and standard agreement is the s173 is on title and the future property owners should be more aware of the agreement and its conditions.

The risk with not making this change is property owners may think the cost and time of obtaining a s173 is prohibitive and not bother to get approval. A standard Build Over Easement agreement only costs \$50 and is a simple process.

The risk is making this change is future owners could be less aware of the agreement and not understand their obligations to remove any structure if Council require access.

2. Currently any structure over 27m² requires a s173 agreement. The proposal is the removable portion of the structure needs to be greater than 27m² to require a s173. The risks associated with making this amendment are the same as detailed in item 1.

Recommendation:

Cr Bentley/Cr Ramsey

That Council adopts the Build Over Easement Policy.

6.5 Community Infrastructure Planning Policy

Presented by John Cook

Development of a comprehensive Community Infrastructure Policy supports the Council Plan 2013-17 strategy 2.2.2, which is to 'implement a strategic evidence based approach for the provision, management and maintenance of civic and community assets to ensure sustainable Council operations and equitable community access'.

This is the first element of the Community Infrastructure Framework, the development of which has been managed under Council's Project Management Framework.

The existing Community Infrastructure Provision Policy will remain in force until this is made redundant by a Community Infrastructure Plan, currently under development.

Recommendation:

Cr Majdlik/Cr Ramsey

That Council adopts the Community Infrastructure Policy.

6.6 Resource Support and Expenses of Councillors and Special Committee Members

Presented by Daniel Hogan

A report was presented to the Panel for discussion, seeking changes to the existing Councillors and Special Committee Resource Support and Expenses policy to:

1. establish a distinction between conference (or other event) attendance and professional development opportunities voluntarily pursued by Councillors
2. implement an alternative administrative process to approve Councillor attendance of professional development activities through the submission of a standardised training application form to the CEO for decision.

Recommendation:

Cr Bentley/Cr Ramsey

That Council adopts the amended and 'Resource Support and Expenses of Councillors and Special Committee Members Policy' incorporating the changes discussed and endorsed.



MINUTES

7. **Other Business**


None.

8. **Next Meeting**

The next meeting is to be held on 18 August commencing at 9.30am in Civic Room 1.

9. **Close of Business**

The meeting closed at 11.30am.

	<h2>Community Gardens Policy</h2>
Version No.	V2.0, 30 June 2016
Endorsement	Executive, 16 June 2016 Policy Review Panel, 30 June 2016
Authorisation	Council, xxxx
Expiry date	December 2018
Responsible officer	Manager, Community Planning
Policy owner	Social Planning and Wellbeing Coordinator

1. Purpose

To guide Council's decision making in relation to the establishment of community gardens on Council owned or managed land within the City of Melton.

The policy provides a framework for the consideration of requests for the community led establishment and management of community gardens within the municipality. In addition, it provides guidance as to the level of support that Council may consider providing to community groups.

The policy has been developed in the context of Council's commitment to protect, improve and promote public health and wellbeing within the municipality.

2. Scope

This policy applies to formal requests (including but not limited to requests received via the Council's Community Grants Program, Annual Budget Submission Process and other applications) received by Council in relation to the establishment of community gardens on Council owned or managed land within the City of Melton. Other forms of landscape including but not limited to botanical gardens, market or commercial-use gardens and nature reserves are not considered within the scope of this policy.

Council acknowledges that community gardens can take on many forms including but not limited to individual and/or shared plots, crate based gardening and fruit orchards. Likewise, governance and management models vary. This policy encourages the establishment of a range of community gardens with strong community led governance structures.

3. Definitions

Word/Term	Definition
Community Gardens	Community gardens are places of either temporary, semi-permanent or permanent agreements where people come together to grow edible and non-edible plants in a supportive community context, typically on individual plots within a larger communal area. When carefully designed and managed they can provide a wide range of environmental, social and economic benefits. There are a number of different community garden structures, with the most common types being:

Word/Term	Definition
	<ul style="list-style-type: none"> • Those with individual plots allocated to individuals. • Those where the entire garden is run collectively as a shared enterprise. • Those that integrate both individual plots and shared gardens. <p>Community gardens can also take the form of 'pop up' gardening which are generally self-contained and transportable gardens plots housed in individual crates or other containers. These are generally located in activity centres and community facilities.</p>
Council Land	Council owned or managed land (with land owner's approval). For example, linear reserves and powerline easements. Council managed land may require additional approvals from the governing body of that land.
Community Group	<p>An organisation that is not-for-profit, a registered incorporated group, or association that is accessible and accountable to members of the community.</p> <p>Generally a community group has a primary objective relating to community benefit and community engagement and participation and may have an elected committee of management or executive group that act on behalf of and for the benefit of the club, organisation and/or the broader community.</p>
Crime Prevention Through Environmental Design (CPTED) Principles	Crime Prevention Through Environmental Design (CPTED) Principles aim to influence and inform decisions about designing and managing environments, in order to prevent the incidence of crime and enable communities to be safer, more secure and therefore more sustainable.

4. Policy

Council acknowledges community gardens are a valuable addition to the municipal landscape and offer many benefits including:

- Contributing to positive public health and wellbeing outcomes through increased social connection and food production and availability
- Supporting community development and capacity building through skill development and sharing
- Developing community pride and enhancing a sense of place
- Fostering environmental education and increasing awareness of sustainability principles.

Council will consider community led applications that meet eligibility criteria as outlined in this policy. The objectives of this policy are to:

- Ensure community gardens comply with the requirements of the Melton Planning Scheme
- Provide guidance as to Council's role in supporting community led community gardens
- Ensure proposals for community gardens and the level of support provided is consistent with Council's strategic objectives, strategic planning and land use planning documents and resourcing availability

- Provide guidance for Council decision making in relation to the support it may consider providing for the establishment and management of community gardens
- Encourage the development of community gardens in existing and new communities
- Encourage equitable distribution and access to community gardens throughout the municipality
- Promote community led governance models for the establishment and management of community gardens
- Support the development of sustainable community partnerships
- Apply best practice principles to Council's decision making process when assessing community led applications
- Ensure community gardens are consistent with existing (and future) Council policies and procedures (e.g. Landscape Guidelines), master plans, urban design principles and Crime Prevention Through Environmental Design (CPTED) principles.

4.1 Melton Planning Scheme

The establishment of community gardens within the municipality must be in accordance with the Melton Planning Scheme and other strategic land use planning documents. Within the Melton Planning Scheme, community gardens are identified as 'horticulture', which is '*land used to propagate, cultivate or harvest flowers, fruit, vegetables, vines or the like*'. As such their establishment must not cause conflict with land use planning principles and strategic plans, particularly in relation to proposals for establishment on residential land, or land in close proximity to sensitive land uses.

Even though the use of land for a community garden may be a permitted land use in the Melton Planning Scheme, there is still a due planning process that needs to be undertaken. It should not be implied that if an application is made to establish a community garden, that a permit should or will be granted.

Council, as the Responsible Authority, must decide whether the proposal will produce acceptable outcomes in terms of the relevant State and Local Planning Policy Frameworks of the Melton Planning Scheme, as well as the purpose and decision guidelines of the relevant land use zoning and any other relevant decision guidelines.

4.2 Community Group Capacity and Governance

Council supports the development of community gardens with strong community led governance structures and acknowledges that community gardens come in many forms. Therefore, the establishment, governance and maintenance requirements vary considerably – as does the level of support Council may consider providing.

In order for Council to review a formal request for a community garden, community groups must complete an application form as part of a Community Garden Guidelines document (to be developed by Council to support this policy) demonstrating their capacity to fulfil the following criteria:

- Demonstration of appropriate community support for the establishment of a community garden
- Nomination of a preferred site(s)
- Pre-application meeting with Council's Community Planning and Recreation departments

- If required, a planning permit application related to the preferred site, with minimum application requirements be submitted including:
 - the relevant planning application form
 - recent Certificate of Title for the subject land
 - planning application fee
 - Landscape Plans to the standard identified in the Application and Project Assessment Requirements section of the Landscape Guidelines as well as any other relevant information
 - covering letter and a planning report outlining the scope of the application including:
 - a) method of operation
 - b) hours of operation
 - c) likely impacts of the use on adjoining land and
 - d) how the proposal responds to this policy and the relevant policies, zone objectives and decision guidelines of the Melton Planning Scheme.
- Essential core functions of the community group including but not limited to:
 - Incorporation or support of an auspice body
 - A highly organised, motivated and adequately skilled group of residents with demonstrable skill, commitment and time to participate in and govern the community garden in the short and long term
 - Established funds and ongoing income streams (or the ability to establish these in a timely manner)
 - Commitment to community inclusion and accessibility
 - Evidence of a plan for intended governance and management of the garden, inclusive of the expected garden life-cycle.
- Engagement with relevant community members (e.g. surveys of neighbouring residents to the proposed site) as informed by advice from Council's Community Development Officer.
- Site design and safety
- Implementation of appropriate management frameworks
- Development of a financial plan (including establishment and ongoing costs)
- Public liability and site insurance as deemed appropriate by Council's Risk Manager
- If a community garden initiative is not successful, or not maintained to a high standard, costs for the removal of the garden and infrastructure needs must be covered by the community group.

4.3 Recommendations for provision of Council support

Following the satisfactory demonstration of the community group's capacity to undertake the responsibilities (as outlined above), and relevant to the request, Council may consider the provision of support. Recommendations for support to establish community gardens will vary between requests as outlined below:

4.3.1 Recommendation for the provision of land

Recommendations for community gardens will be made by Council Officers in line with Council's financial delegation, in consultation with relevant departments and informed by the Melton Planning Scheme and outcomes of any planning permit requirements.

The following criteria will be considered by Council for the provision of land for a community garden:

4.3.1.1 Essential

- Demonstrate appropriate community support for the establishment of a community garden
- Community capacity to govern and manage the garden has been satisfactory demonstrated
- Suitable land tenure and long term lease/licence agreement can be identified or established
- Location is consistent with land use planning strategic documents and relevant planning provisions including master plans and the Melton Planning Scheme
- There is no current or future use for the land that would conflict with the use of that land or part thereof for an community garden
- Consideration of whether a planning permit is required
- Location is in close proximity to suitable existing community infrastructure
- Location contributes positively to local amenity including enhancing natural surveillance and activation of public space
- Suitable sun:shade ratio
- Disability access
- Soil quality conducive to community gardening/ability for raised garden beds
- Any necessary permits have been obtained.
- Ability to maintain the garden is demonstrated including allocation of responsibility for mowing, mending fences, pest control etc.

4.3.1.2 Desirable

- Located in close proximity to an accessible toilet
- Parking provisions and/or public transport access (including pedestrian and cycling access)
- Access to mains water

4.3.2 Recommendation for capital and/or programmatic resourcing

The provision of capital and/or programmatic funds required will vary depending on the size and model of the proposed garden, establishment plan, availability of grants and access to sponsorship.

The following criteria will be considered by Council for the provision of capital and/or programmatic resourcing:

4.3.2.1 Essential

- Demonstrate appropriate community support for the establishment of a community garden
- Community capacity to govern and manage the garden has been satisfactory demonstrated
- A Project Proposal has been developed outlining: community need and demand for a garden, governance/management model, sustainability post funding, proposed garden features and requirements
- Suitable land (including secure tenure) has been confirmed and is on Council owned or managed land (as outlined in 4.3.1).

4.3.2.2 Desirable

- Strong community partnerships based on in-kind and financial or pro-bono support.

Council may consider providing funding through the Community Grants Program to support the establishment of community gardens. In this case, decision making will be guided by the grant program criteria alongside the criteria outlined in this policy.

4.3.3 Recommendation for community development resourcing

The level of community development support required will depend on the community group - their level of mobilisation, ability to incorporate, conflict resolution skills etc. The following criteria will be considered by Council for the provision of community development resourcing:

4.3.2.1 Essential

- Demonstrate appropriate community support for the establishment of a community garden
- Community capacity to govern and manage the garden has been satisfactory demonstrated
- Appropriate joint use agreements and/or management plans are agreed to including roles and responsibilities

4.4 Policy Considerations and Decision Making Criteria

To submit a formal request, the community group must complete an application process following a Community Garden Guidelines document which will be developed by Council to support this policy. In assessing each formal request, Council will make considerations against the Melton Planning Scheme, strategic planning documents and in relation to the community group's capacity to establish, resource, govern and manage a community garden in alignment with the criteria presented in this policy.

4.5 Non-Council Owned or Managed Land

Community gardens could be located on non-Council owned or managed land, including, but not limited to residential blocks, privately owned land and Government owned or managed land. The size, tenure and management will vary depending on the private use agreements.

Community gardens on non-Council owned or managed land may require planning permits under the Melton Planning Scheme. All planning permit applications will be assessed against the requirements of the Scheme.

Council's role in supporting community gardens on private land is limited.

5. Responsibility /Accountability

5.1	Manager Community Planning Oversee implementation of the policy including community engagement, coordination of application process and review and collaboration with Council departments.
5.2	Manager City Design, Strategy and Environment Support for Manager Community Planning on recommendation of Council support relating to provision of land.
5.3	Manager Recreation and Youth Support for Manager Community Planning on recommendation of Council support relating to provision of land and capital or programmatic resourcing.
5.4	Managers, Coordinators, Team Leaders and Supervisors Ensure all employees are made aware of the policy.

6. References and links to legislation and other documents

Name	Location
Municipal Public Health and Wellbeing Plan	www.melton.vic.gov.au/health
Melton Planning Scheme	www.melton.vic.gov.au
The Good Practice Guide for Community Gardens	www.cultivatingcommunity.org.au



Terms of Reference

Name Military Commemoration Investment Advisory Committee (MCIAC).
Approved by: TBC
Last reviewed: Inaugural

1. PURPOSE

This document establishes the terms of reference, composition and operating arrangements of the Melton City Council Military Commemoration Investment Advisory Committee (the Committee).

The purpose of the Committee is to:

1. provide a method in which external and internal proposals for Council investment in military commemorations of any nature are considered
2. to ensure that any form of Council investment in military service commemoration is appropriate and considered
3. to ensure that the growth and number of military service commemorations of any nature within the municipality is appropriately and sensitively managed.

2. RESPONSIBILITY

The Military Commemoration Investment Advisory Committee is an advisory Committee of Council. The Committee has no authority to exercise any powers, but can only make recommendations for Council consideration.

The Committee may variously consider the following in formulating recommendations to Council:

- The number of commemorations appropriate annually and cumulatively
- The frequency and timing of military commemorations
- The budget allocated or expenditure of Council funding annually
- Ongoing and cumulative financial or material impacts of investment
- Coordination of Council activities
- Council's existing operational commitments
- The definition of Council's role in the support or otherwise of activities
- The cooperation and integration of community led commemorations and Councils responsibilities
- Direction for the carriage of any actions arising from Council sanctioned recommendations.
- Extending invitations to special interest groups, such as RSL sub-branches, within the municipality and community to assist the committee consider options.

3. COMMITMENT OF COUNCIL

- To form the Committee at least annually and as otherwise required.

- To fully consider recommendations of the Committee contained within Committee Minutes that
- To observe all requirements as an assembly of Councillors under s80A of the Local Government Act.

4.1. Membership

4.1.1 The Committee will be comprised of The Mayor and two (2) Councillors, General Manager Corporate Services and General Manager Community Services.

4.1.2 The Governance Coordinator will attend meetings in a secretariat function.

4.2. Method of Appointment

Membership is by direct appointment.

5. OPERATING PROCEDURES

5.1. Chair

The Chairperson is the Mayor.

5.2. Quorum

A majority of Committee members.

5.3. Meetings

5.3.1 Minimum of one (1) meeting annually.

5.3.2 Additional meetings as required, as called by either General Manager.

5.4. Reports

5.4.1 Minutes of Committee meetings will be received, noted and recommendations considered within the Agenda of a subsequent Meeting of Council for adoption.

5.5. Expectations/ Requirements of Members

Members are expected to:


5.5.1. Declare any interest, pecuniary interest or conflict of interest.

5.5.2. Prepare for and actively participate in meetings.

5.5.3. Behave in a manner consistent with the Councillor Code of Conduct.

5.6. Evaluation and Review

Council may evaluate and review the Committee and Terms of Reference at any time.

	Building Control Intervention Policy
Version No.	Draft 3.1 7 April 2016
Endorsement	General Manager Corporate Services, 31 March 2016 Executive, 7 April 2016 Policy Review Panel, 30 June 2016
Authorisation	Council, [Insert date]
Review date	1 March 2020
Responsible officer	Manager Compliance
Policy owner	Building Services Coordinator

1. Purpose

To state the responsibilities of the **private building surveyor** and determine when Melton Shire Council (Council) will take action where there is a real risk of danger to persons or property when a private building surveyor has been appointed for building work to be carried out.

2. Scope

This policy applies to discharge of Council responsibilities under **the Act** in circumstances where a **private building surveyor** has been appointed to carryout functions in respect to building work.

3. Definitions

Word/Term	Definition
The Act	Building Act 1993
The Filter Criteria	Building Control Intervention Filter Criteria
Private Building Surveyor	Private Building Surveyor as per section 3 of the Building Act 1993

4. Policy

Melton Shire Council is committed to providing the community with safe built environments at home, work and in all public areas.

4.1 Policy Objectives

- Direction of matters/complaints to appropriate bodies.
- Risk management and accountability in building control.
- Mitigating unnecessary Council liability.
- Consistency and transparency of Council's approach to the administration and enforcement of the Building Act.
- Deterrence of improper actions by building practitioners through referral to the Building Commission.

4.2 Policy Principles

- a) When an investigation request is received, the Municipal Building Surveyor will have regard to **the Filter Criteria** to determine when to intervene when a **Private Building Surveyor** is appointed for building work using the powers under the building act. The filter criterion uses

a risk assessment matrix to classify the method of response based on the level of risk to life and property.

- b) The filter criteria provide a range of actions – from immediate action by the Municipal Building Surveyor to referring the matter to the relevant building surveyor in the case of low risk.
- c) Serious misconduct by any building practitioner will be referred to the Building Commission for supervision, direction and/or discipline.

5. Responsibility /Accountability

5.1	Building Surveyors
	<ul style="list-style-type: none"> • Responsible for the provision of professional advice to public, employees and authorised delegates regarding this policy.

6. References and links to legislation and other documents

Name	Location
<i>Building Act 1993 Building Regulations 2006</i>	www.legislation.vic.gov.au
<i>Building Regulations 2006</i>	www.legislation.vic.gov.au
Procedure for building complaints where a Private Building Surveyor has been appointed	Council Website www.melton.vic.gov.au
Building Control Intervention Filter Criteria Matrix	
Procedure for investigating illegal building work	
Standard letters amended from time to time used by Building Services Unit	

Appendix 1

BUILDING CONTROL INTERVENTION FILTER CRITERIA**STEP 1 – Determine the possible consequences of the matter being complained of:**

Table E1 Qualitative measures of consequence or impact

Level	Descriptor	Example detail description
1	Insignificant	No injuries, low financial loss, no detriment to health, no damage to property, siting
2	Minor	Injury (self-treatable e.g. minor cuts or abrasions), medium financial loss, minimal detriment to health, minor damage to property.
3	Moderate	Injury (medical treatment required by other), high financial loss, moderate detriment to health, moderate damage to property.
4	Major	Serious non-permanent injury, major financial loss, major detriment to health, major damage to property.
5	Catastrophic	Permanent injury or death, huge financial loss, irreparable damage to property.

STEP 2 – Determine the likelihood of the event in Step 1 occurring

Table E2 Qualitative measures of likelihood

Level	Descriptor	Description
A	Almost certain	Is expected to occur in most circumstances
B	Likely	Will probably occur in most circumstances
C	Possible	Might occur some time
D	Unlikely	Could occur at some time
E	Rare	May occur only in exceptional circumstances

STEP 3 – Locate the issue on the risk matrix by comparing the likelihood to the consequence

Table E3 Qualitative risk analysis matrix – level of risk

Likelihood	Consequences				
	Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
A (almost certain)	M	M	E	E	E
B (likely)	M	M	H	E	E
C (Possible)	L	M	H	H	E
D (unlikely)	L	L	M	H	E
E (rare)	L	L	M	H	H

Appendix 1

STEP 4 – Identify action to be taken #

Table E4 Legend for Risk Analysis Matrix and Treatment

E	Extreme risk: immediate action required	Refer to PBS without delay*	Council/MBS takes immediate action to suitably reduce risk**	<p>If there is evidence of conduct by any building practitioner such that a finding under section 179(1) of the Building Act 1993 could be made by the Building Practitioners Board the matter, with supporting evidence, may be referred to that Board for Inquiry.</p> <p>If there is a suspicion that any practitioner has engaged in conduct that may amount to illegal conduct or conduct as set out in section 179(1) of the Act the matter may be referred to the Victorian Building Authority for investigation;</p> <p>AND</p> <p>if it is necessary to do so for the proper administration of the Act, may refer the matter of RBS to the Victorian Building Authority for the exercise of its directive powers under s205M of the Building Act 1993.</p>
H	High risk, attention needed in reasonable time	Refer to PBS without delay*	Council/MBS takes action if PBS is not taking action to suitably reduce the risk within reasonable time	
M	Moderate risk, treatment by PBS	Refer to PBS without delay*	No other action by Council/MBS	
L	Low risk, manage by referral	Refer to PBS without delay*; or, Refer complainant to PBS without delay	No other action by Council/MBS	

When the MBS forms an opinion that an emergency order is required then these matters are automatically 'Extreme Risk' (see notes on emergency orders on next page)

* Consider the privacy of the complainant when referring the matter to the PBS.

** s89(1) The Victorian Building Authority, on the application of an owner or adjoining owner may declare that emergency protection work is required in respect of a particular adjoining property.

STEP 5 – Take the action as required by the matrix

Appendix 1**Emergency Orders**

An emergency order may be issued pursuant to section 102, Division 1, Part 8 of the Building Act. Section 102 provides an MBS with the power to deal with urgent safety matters in a timely and efficient manner.

Surprisingly, an emergency is not an essential condition for the issuing of an emergency order. However, the heading of Division 1, Part 8, "Emergencies", does give some guidance as to the context in which the words in that Division are to be interpreted.

The important feature of an emergency is that there is a need for urgency in taking action to avoid a danger.

An emergency order should be used where, in the circumstances described in section 102, the MBS forms the view that there is a danger to life or property.

Typically, an emergency order should be issued where there is a sense of urgency in the situation and immediate action is warranted. It should be noted that a building notice under section 106 cannot compel the owner or occupier to take immediate action.

RELEVANT LEGISLATION REGARDING REFERRALS***Building Act 1993***

s179. Inquiry into conduct

- (1) On an inquiry into the conduct of a registered building practitioner, the Building Practitioners Board may make any one or more of the decisions mentioned in subsection (2) if it finds that the registered building practitioner—
- (a) is guilty of unprofessional conduct; or
 - (b) has failed to comply with this Act or the regulations; or
 - (c) has failed to comply with a determination of the Building Appeals Board or a direction of the Authority; or
 - (d) has been guilty of conduct in relation to his or her practice as a building practitioner which—
 - (i) is constituted by a pattern of conduct or by gross negligence or gross incompetence in a particular matter; and
 - (ii) shows that he or she is not a fit and proper person to practise as a building practitioner; or
 - (da) has shown in the information provided to the Board under section 172A that he or she is not a fit and proper person to practise as a building practitioner; or
 - (e) has employed or engaged to do, on his or her behalf, work of a kind that can only be done by a person registered under this Part in a particular category or class, a person who is not so registered; or
 - (f) has obtained his or her registration under this Part or any required insurance by fraud or misrepresentation; or
 - (fa) has failed to comply with a reasonable direction of an insurer in respect of the completion or rectification of defective building work or any payment to be made to the insurer in respect of the completion or rectification of defective building work in accordance with required insurance or in accordance with a guarantee under the House Contracts Guarantee Act 1987 or has failed to comply with a direction under section 44 of the House Contracts Guarantee Act 1987; or
 - (fb) has failed to carry out a recommendation contained in an inspector's report under section 48 of the Domestic Building Contracts Act 1995; or
 - (fc) has failed to comply with the Domestic Building Contracts Act 1995; or
 - (g) has had his or her authority to practise as a building practitioner in a place outside Victoria cancelled or suspended otherwise than for failure to renew that authority; or

Appendix 1

(h) has failed to comply with an undertaking given to the Board under this Division.

Building Regulations 2006

Regulation 1502 Professional standards

A registered building practitioner must—


- (a) perform his or her work as a building practitioner in a competent manner and to a professional standard; and
- (b) immediately inform the client in writing if a conflict of interest arises or appears likely to arise between his or her interest as a building practitioner and that of his or her client; and
- (c) receive remuneration for his or her services as a building practitioner solely by the professional fee or other benefits specified in the contract of engagement or by the salary and other benefits payable by the building practitioner's employer.

Note: A building practitioner who contravenes the requirements of regulation 1502 may be the subject of an inquiry under section 179 of the Act.

Building Act 1993

s205M Directions and recommendations in relation to building surveyors

- (1) If it considers it necessary for the purposes of this Act or the regulations, the Authority may direct a municipal building surveyor or private building surveyor to carry out his or her functions under this Act or the regulations—
 - (a) in accordance with this Act or the regulations; or
 - (b) within a period specified in the direction.
- (2) The Authority, in giving a direction under subsection (1)(b), must not vary a time limit prescribed by this Act or the regulations.
- (3) If it considers it necessary for the purposes of this Act or the regulations, the Authority may recommend to the person who appointed a municipal building surveyor or private building surveyor that the person take action specified by the Authority.
- (4) Before giving a direction or making a recommendation under this section, the Authority must give the municipal building surveyor or private building surveyor concerned—
 - (a) written notice of the Authority's intention; and
 - (b) a reasonable opportunity to make a submission about the matter to the Authority.
- (5) The Authority must give a copy of any direction or recommendation under this section to the municipal building surveyor or private building surveyor concerned.

	Build Over Easement Policy
Version No.	Draft 6.1 16 May 2016
Endorsement	General Manager, Planning and Development 16 May 2016 Executive 16 May 2016 Policy Review Panel <insert date>
Authorisation	Council <insert date>
Review date	30 June 2020
Responsible officer	Manager Engineering Services
Policy owner	Design & Traffic Coordinator

1. Purpose

To meet our obligations in the Building Act 1993 and the Building Regulations 2006 and to provide a basis upon which Council will consider applications for the construction of buildings, works and any other structures over Council's easement.

2. Scope

This policy applies to all applications to build over an easement.

3. Definitions

Word/Term	Definition
Easement	An area of land registered on the certificate of title around services. The organisations who maintain these services have the right to control how the land in the defined area is used.
Section 173 Agreement	An agreement between the property owner and Council recorded on the certificate of title.
Council's drain	Stormwater pipes owned and maintained by Council.

4. Policy

4.1 Non-Permissible Structure

Council will not permit the following in any easement whatsoever: -

- Any part of a habitable dwelling,
- Any structure under the same roofline as the habitable dwelling,
- In ground swimming pools,
- Structures containing sewered fixtures within the easement,
- Industrial buildings,
- Any structure over or within 1m of a stormwater access pit, and
- Strip footings.

4.2 Permissible Structures

Council's assessment of build over easement applications for permissible structures depends upon two main factors. What is in the easement and is the proposed structure major or minor.

4.3 Easement Use

Where a Council underground drain does not exist at the time of application, Council will assess the future need for Council or another authority or a property owner to use the easement. If the easement is deemed to be required for future use the application will be assessed as normal.

If the easement is deemed to be of no future use any of the major and minor structures will be approved under the standard build over easement agreement.

4.4 Build Over Easement Agreements

An agreement between Council and the property owner is entered into upon the consent to build over an easement. This can be a standard build over easement agreement or a Section 173 agreement that records the same agreement onto the property title.

For 'minor works and structures' as defined below the owner is required to enter into a standard Build Over Easement Agreement.

For 'major works and structures' the owner is required to enter into a Section 173 Agreement with the Council that contains appropriate terms and conditions that ensures the ongoing protection of Council's interests and assets in an easement. Where a Section 173 Agreement is required the owner is to bear all costs for drafting the agreement and for registering the agreement on title. Minor and major structures are categorised as below.

4.4.1 Minor

- Timber fence,
- Brick fence perpendicular to easement provided no load is transferred to Council's drain,
- Internal Services – i.e. down pipes, sewer pipes,
- Stand alone outbuildings of light weight materials and steel frame with a floor area of less than 23 square metres such as a steel shed,
- Cut or Fill – minimum 400mm cover to top of pipe,
- A simple open carport i.e. with a flat steel roof, flat frame and steel or timber posts
- Simple timber decking structure on timber stumps,
- Eaves where there is a minimum height from ground level of 2.2m,
- Rain water tank (not concrete) provided that load is not transferred to Council's drain i.e. must be on a structural platform,
- Minor retaining walls i.e. not requiring a building permit only where it is unavoidable and the full impact on the Council drain is determined,
- Paving, concrete or asphalt for pedestrians and vehicles, and
- Pool surrounds provide it is not part of the pool structure.
- Shipping container provided no load is transferred to Council's drain.

4.4.2 Major (Requiring a Section 173 Agreement)

- Brick garages, sheds or outbuildings,
- Stand alone outbuildings of light weight materials and steel frame with a floor area of greater than 23 square metres such as a steel shed. Where the bay of a steel shed over the easement can be easily removed this structure will be considered a minor structure (refer Appendix A).

- Major timber structures that don't fall within the minor category.

4.5 Construction Conditions

Major and minor structures must all comply with the following requirements and will be reviewed as part of the application process.

- Any proposed buildings, works or structures are designed and constructed in a manner which protects the structural integrity of the drain i.e. no loads transferred to the drain. This may require deeper footings than structurally required to satisfy the angle of repose, and
- Any part of the building, structure (including footings) or works is kept at least 300 mm clear of the underground drain.

4.6 Dispute Resolution

Section 144 of the Building Act allows an appeal to be made against Council to the Building Appeals Board. An appeal can be made for: -

- Refusal to consent to an application,
- Conditions imposed, and
- Failure within a reasonable time to decide an application.

Appeals must be made within 30 days of the date that the refusal is issued.

Further appeal information can be found at www.buildingcommission.com.au

5. Responsibility /Accountability

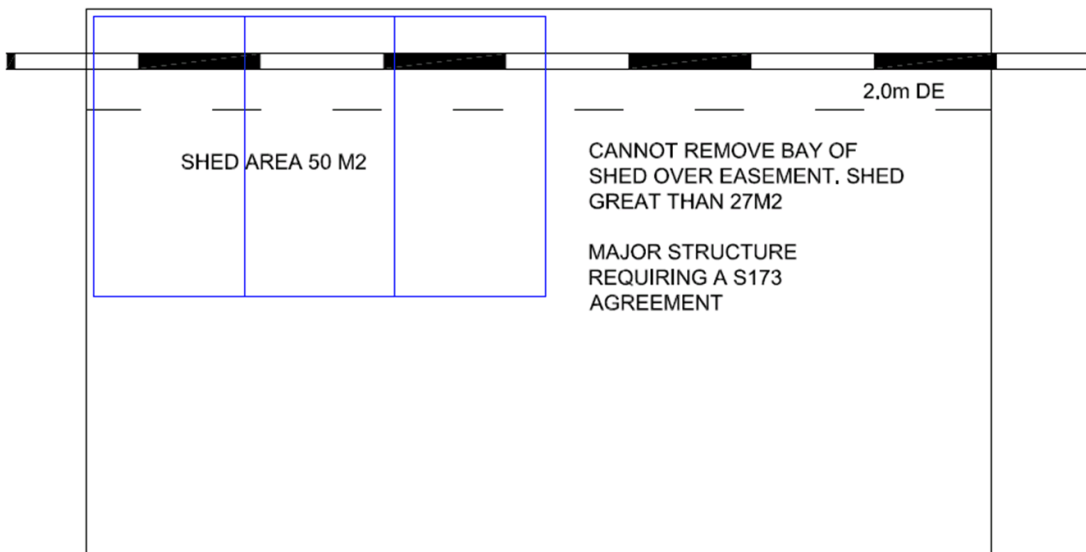
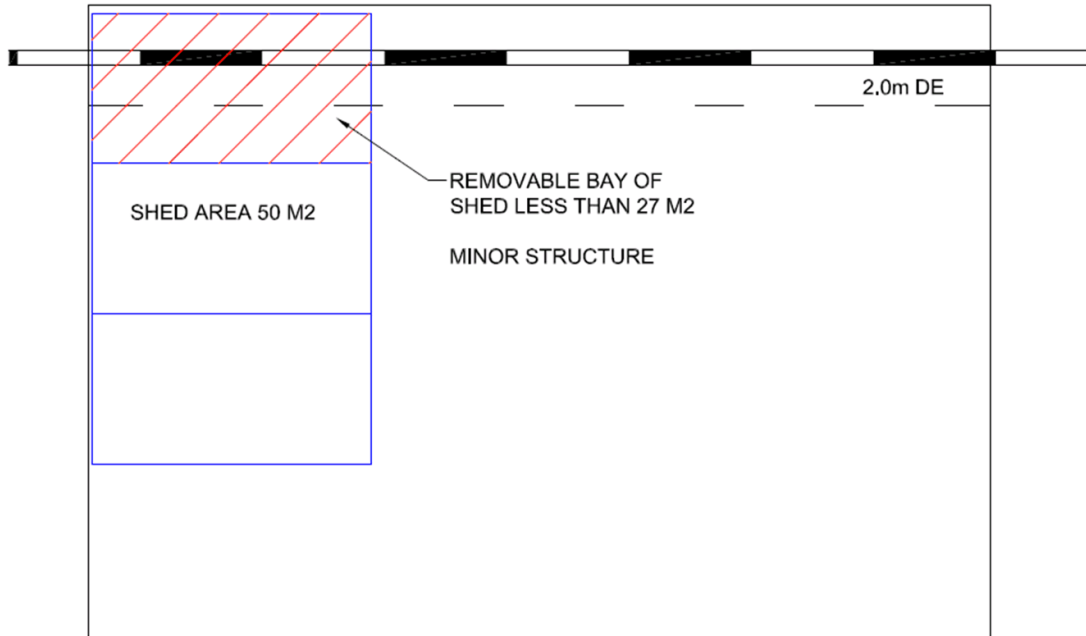
5.1	Graduate Engineer, Design Engineer, Design & Traffic Coordinator, Manager
	<ul style="list-style-type: none"> • Responsible for the provision of professional advice to public, employees and authorised delegates regarding this policy.


6. References and links to legislation and other documents

Name	Location
<i>Building Act</i> 1993 Building Regulations 2006	www.legislation.vic.gov.au
Guide to Build over Easements (2010)	Melton City Council website www.melton.vic.gov.au

Appendix 1

Appendix A - Major and Minor Sheds



	Community Infrastructure Planning Policy
Version No.	1.0 30 June 2016
Endorsement	Community Infrastructure Framework Project Control Group, 18 May 2016 Policy Review Panel 30 June 2016
Authorisation	Council, [insert date]
Review date	30 July 2019
Responsible officer	Community Planning Manager
Policy owner	Community Infrastructure Planner

1. Purpose

Describes the elements of Council's Community Infrastructure Framework by which decisions regarding community infrastructure are made.

2. Scope

This policy applies across all of Council.

3. Definitions

Word/Term	Definition
Adaptable	The capacity of a building to accommodate effectively and economically the evolving demands of its context, thus maximizing value through life.
Community infrastructure	Physical and related organisational structures that support individuals, and communities to meet their social needs, maximise their potential for development, and enhance community wellbeing, traditionally provided at a municipal or sub-municipal level.
Demand management	Strategies that preference increasing the efficiency and utility of existing infrastructure before investing in new infrastructure, particularly by mediating the way raw demand is expressed.
Early provision	A policy position that prioritises access to an appropriate level of community infrastructure for a new residential community.
Environmentally sustainable design	A design philosophy that prioritises reduction of the impacts of construction and use of buildings on the natural environment.
Greenfield	A description of undeveloped or agricultural land with potential for development and use for industrial or urban purposes.
Infrastructure hierarchy	A system for classifying infrastructure according to the size of the service catchment it serves.
Sustainable	The physical state in which the present generation's needs are met without compromising the needs of future generations.
Universally accessible	Design of infrastructure to serve the needs of all community members, regardless of distinction as to age, ability, sex or other status.

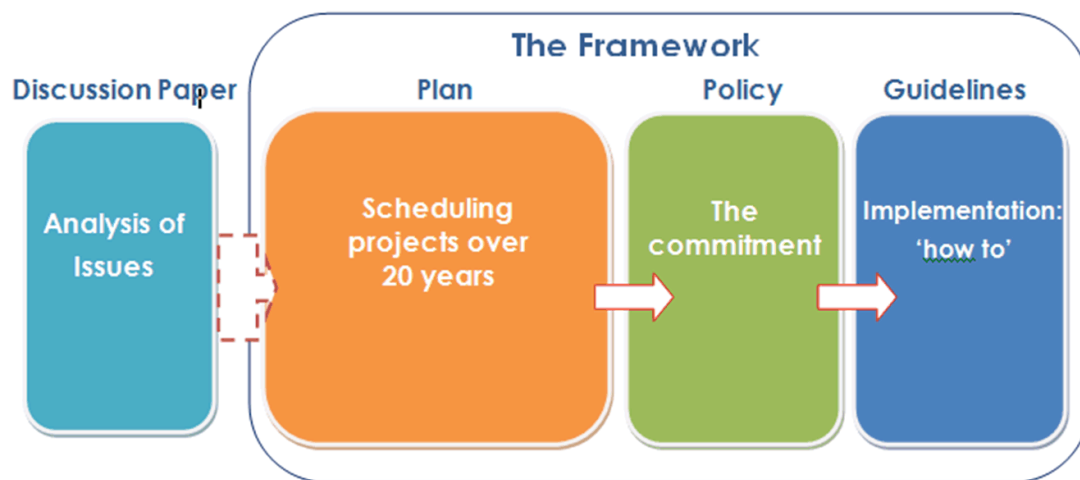
4. Policy

Council is committed to providing a diverse range of community infrastructure in support of its communities. It will therefore implement a Community Infrastructure Framework (“the Framework”) to guide decision-making on related issues.

The elements of the Community Infrastructure Framework are:

1. Community Infrastructure Planning Policy: setting out Council’s commitment (Nb “this Policy”)
2. Community Infrastructure Plan: identifying particular actions over a twenty year planning horizon that will implement this commitment
3. Community Infrastructure Guidelines and Procedures: a range of supporting documentation that will assist to implement directions contained in the above Policy and Plan.

Additionally, a Discussion Paper identified a range of issues that the Framework would seek to address. While not part of the Framework, this provides relevant background for its interpretation.



4.1 Vision

For the purposes of the Framework, Council’s vision is of ‘strong and resilient communities with equitable access to a diverse range of supportive community infrastructure’.

4.2 Strategy

This Framework provides the strategic line of sight between the Council Plan and related documents, and the governance arrangements pertaining to community infrastructure planning and provision.

4.3 Principles

Principles to guide decision-making with respect to community infrastructure are:

- Desirable
 - Community infrastructure is attractive and welcoming for residents and visitors
 - Community infrastructure is safe and perceived to be safe, incorporating Crime Prevention Through Environmental Design (CPTED) principles
 - Community infrastructure is at the heart of the community, contributing to a sense of place and of community pride
 - Decision-making about community infrastructure incorporates appropriate levels of community participation
- Accessible

- Community Infrastructure is distributed equitably within the municipality, and across its various population catchments
- Community infrastructure is designed to be universally accessible to people, regardless of age, ability, gender, cultural background or other status
- Community infrastructure is staged according to demand management principles, balanced against the need for appropriate levels of early provision in isolated Greenfield developments
- Community infrastructure is located to promote the most sustainable transport modes practicable
- Diverse
 - Community infrastructure supports a diverse range of functions and activities that reflects the diversity of community needs and interests
 - Community infrastructure is designed to reflect and promote local character and identity
 - Community infrastructure is either co-located with or in proximity to other compatible uses, consistent with the community infrastructure hierarchy
- Sustainable
 - Community infrastructure is designed to be adaptable, with an adequate supply of suitable land, in order to preserve the opportunities of future generations
 - Planning for community infrastructure promotes efficient use of resources, and takes into account the long term costs of maintaining and managing infrastructure
 - Environmentally sustainable design principles and practices are factored into community infrastructure decision-making.

4.4 Community Infrastructure Hierarchy

Community infrastructure is classified according to the following hierarchy, relating to the size of service catchments.

Hierarchy	Infrastructure Items
Level 1 – Up to 10,000 residents	Regulated children's rooms
	Recreation pavilions
	Consulting suites (including for Maternal & Child Health)
	Community meeting rooms and larger activity rooms
Level 2 – Every second level 1 facility	Neighbourhood houses
Level 3 or above – District catchment around a Major Activity Centre	Community halls
	Libraries
	Youth facilities
	Social support age friendly facilities
	Indoor recreation facilities, including aquatic centres
	Cultural facilities including Art Galleries, Museums, Performing Arts Centres

4.5 Governance and Review

It is intended that elements of the Community Infrastructure Framework will need to be reviewed iteratively to maintain currency. Proposals to revise the timing, scope, location or budget of projects in the Plan will be made jointly with responsible service units on the recommendation of the Capital Works Planning Committee as part of the annual budget process.

4.6 Guidelines & Procedures

This Policy authorises the Executive Team to adopt operational guidelines and procedures to assist Council officers and contractors to implement the Community Infrastructure Policy and Plan.

5. Responsibility /Accountability

5.1	Community Infrastructure Planner <ul style="list-style-type: none"> Responsible for developing and reviewing this Policy and related items in the Community Infrastructure Framework
5.2	All Council officers and contractors <ul style="list-style-type: none"> Responsible for adhering to this Policy.

6. References and links to legislation and other documents

Name	Location
<i>Local Government Act 1989</i>	www.legislation.vic.gov.au
<i>Planning and Environment Act 1987</i>	www.legislation.vic.gov.au