



FINANCE & RESOURCES COMMITTEE MEETING AGENDA

**to be held on Tuesday, 4 March 2003 at 6.30 pm
at the Richmond Town Hall**

COUNCILLOR MEMBERSHIP

Councillor Greg Barber (Chairperson)

Councillor Sue Corby

Councillor Jenny Farrar

Councillor Jackie Fristacky

Councillor Li Lai

I. ATTENDANCE

II. DECLARATIONS OF PECUNIARY INTEREST

III. COMMITTEE BUSINESS REPORTS

***Welcome to the City of Yarra.
Council acknowledges the
Wurundjeri community as the first
owners of this country.
Today, they are still the custodians
of the cultural heritage of this land.***

FINANCE & RESOURCES COMMITTEE MEETING

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1.1 Audit Committee Charter

File: 25/15/07-02
Responsible Officer: Manager Governance

Purpose

1. The purpose of this report is to recommend some minor amendments to the Charter of the Audit Committee.

Background

2. The Audit Committee Charter (see Attachment 1) was adopted by Council on 30 October 2001.
3. At its meeting on 12 February 2003, the Committee reviewed the Charter and resolved to recommend two minor changes to Council. The proposed changes are:
 - (a) that in relation to responsibilities, the Committee be responsible for monitoring the implementation of the internal audit plan; and
 - (b) that the membership be increased to two councillors.
4. In relation to responsibilities, the Audit Committee considers that its role should encompass more than simply reviewing and approving the external audit plan, but extend to monitoring the implementation of the plan.
5. In relation to membership, the committee currently comprises two external members and one Councillor (Cr Corby), with a substitute representative (Cr Barber). Since his appointment, Cr Barber has attended all meetings of the Committee, but not as a voting member.
6. The Audit Committee noted that the Audit Committee Best Practice Guidelines published by the Department of Infrastructure recommend that Audit Committees comprise a majority of external members. It is therefore proposed that only one of the Councillors (i.e. the Mayor) shall have voting rights (the usual requirements for all members of a committee to vote does not apply in this case as Council's Meetings Procedures Local Law applies only to meetings of Council and Special Committees established pursuant to S86 of the *Local Government Act* 1989, whereas the Audit Committee is an Advisory Committee. It is also proposed that in the absence of the Mayor from the meeting, the alternate member will have voting rights.
7. It is proposed that one of the Councillors be the Mayor and that the Council decide as to the other appointee on an annual basis.
8. The proposed changes are shown by bold italics and strikethrough in Attachment 1.

Consultation

9. As indicated, the matter was discussed by the Audit Committee. No other consultation is required.

Proposal

10. That the Audit Committee's recommendations be adopted.

Resource Implications

11. There are no resource implications.

Financial Implications

12. There are no financial implications.

Policy Implications

13. There are no policy implications.

RECOMMENDATION

14. That the Audit Committee Charter be amended as recommended by the Audit Committee.

CONTACT OFFICER: Tim Brown
TITLE: Manager Governance
TEL: 9205-5110

See Attachment

This Attachment is available on request from the Governance Support Unit.

1.2 Awarding of Council Contracts – Summary of Confidential Decisions made in the Previous Month

File: 25/55/01
Responsible Officer: Senior Governance Officer

Purpose

1. To report on Council contracts awarded that were subject to confidential Council decisions in the previous month.

Background

2. This report provides a summary of a confidential Council decision made in respect to the awarding of a contract at its meeting on 11 February 2003.
3. Council is committed to openness and transparency in its decision making processes. In line with this undertaking, Council will publish a summary of its confidential decisions in respect to the awarding of Council contracts.

Proposal

4. It is proposed that the report be noted.

RECOMMENDATION

5. That the report on the Awarding of Council Contracts - Summary of Confidential Decisions made at its meeting on 11 February 2003 be noted

CONTACT OFFICER: Gary Mills
TITLE: Senior Governance Officer
TEL: 9205 5128

See Attachment



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Document

1.3 Council Contracts Awarded (over the value of \$50,000) - Monthly Report

File: 25/55/01
Responsible Officer: Manager Governance

Purpose

1. To report on Council contracts awarded (over the value of \$50,000) since 11 February 2003.

Background

2. There have been no contracts awarded (over the value of \$50,000) under delegation since the last Council meeting on 11 February 2003.

Proposal

3. The report is to be noted.

RECOMMENDATION

4. That the monthly report on Council contracts awarded (over the value of \$50,000) be noted.

CONTACT OFFICER: Gary Mills
TITLE: Senior Governance Officer
TEL: 9205 5128

1.4 Environment Local Law, No 3 of 2002

File: 65/35/11
Responsible Officer: Senior Governance Officer

Purpose

1. To consider submissions received in relation to Council's proposal to make the Environment Local Law No. 3 of 2002, pursuant to section 111 of the *Local Government Act 1989*.

Background

2. At its meeting on 26 November 2002, Council resolved to defer consideration of this matter pending further information on the following matters:
 - (a) the implications to stakeholders of further limiting hours for the conduct of building works on Saturdays from the proposed hours of 9am – 5pm to 9am – 3pm; and
 - (b) the prohibition of building works without a permit on all public holidays instead of the three public holidays specified in clause 13.1.2.4 of the draft local law.
3. Council further considered the issue at its meeting of 17 December 2003, and informally at a Councillor Briefing on 18 February 2003, and has received information relating to:
 - (a) the incidence of noise complaints;
 - (b) VCAT decisions regarding the 69-75 River Street development;
 - (c) the precedence of statute over local laws;
 - (d) a proposed state-wide approach to municipal environmental controls;
 - (e) the definition of 'building works';
 - (f) EPA noise regulations; and
 - (g) comparative building working hours at neighbouring municipalities.

Issues

4. In regards to the implications of further restricting the permissible hours for the conduct of building works activities on Saturdays, the following comments are provided.
5. To reduce construction times for developers on Saturdays to between 9am to 3pm effectively reduces work time from eight hours to six hours. Generally, works undertaken on a Saturday are not of a large scale, ie concrete pours, major framing or other major time consuming or resource intensive works.

6. The implications for builders and developers is primarily the loss of two working hours and the need to re organise schedules around a six hour working day on a Saturday. As a result, there would be a likely increase in the duration of construction projects given the loss of eight hours (ie one working day) per month. Differing financial implications would be factored into the cost of individual projects and would increase nominally. It is likely, that the implications of this change would impact more severely on smaller building operations than larger operations.

Prohibited work on public holidays (Clause 13.1.2.4.)

7. In regard to prohibiting building works on all public holidays (ie the current local law prohibits construction work on Anzac Day, Good Friday and Christmas Day only), (Clause 13.1.2.4.) the major firms in the construction industry, on all occasions, addend rostered days off adjacent to public holidays.
8. Under those circumstances it is considered the impact of prohibiting construction on all public holidays would be minimal, and so the local law as proposed for Council's consideration continues to only specifically exclude works on Anzac Day, Christmas Day and Good Friday, as opposed to ALL public holidays.
9. Again, the major impact will be felt by smaller building companies and individuals who generally don't adhere to the rostered day off regime.

Comparative table of building site working hours

10. The following table below contains a comparison of building site working hours enforced by Council's neighbouring municipalities.

Comparative Building Site Hours

Municipality	Saturday	Sunday	Additional comment
Boorondara	9:00am - 8:00pm	9:00am - 8:00pm	Relies upon EPA guidelines to regulate.
Darebin	9:00am - 8:00pm	9:00am - 8:00pm	Relies upon EPA guidelines to regulate.
Melbourne (Current)	8:00am – 3:00pm	No work without a specific.	
Melbourne (Proposed)	Dwellings (owner occupiers): 8:00am – 6:00pm Other sites: 8:00am – 3:00pm	Dwellings (owner occupiers): 9:00am – 6:00pm Other sites: No work without a specific permit.	1. MCC currently undertaking the statutory procedure to introduce this proposed regime. 2. 8:00am start on Saturday is proposed as MCC felt it better accounted for the residential / commercial mix of that municipality.

Comparative Building Site Hours (Cont.)

Municipality	Saturday	Sunday	Additional comment
Moreland	9:00am - 8:00pm	9:00am - 8:00pm	Relies upon EPA guidelines to regulate.
Port Phillip	9:00am – 3:00pm	No work without a specific permit.	
Stonnington	9:00am - 8:00pm	9:00am - 8:00pm	Relies upon EPA guidelines to regulate.
Yarra (Current)	7:00am – 5:00pm	No work without a specific permit.	

Changes from the Existing Environment Local Law

11. Aside from the following more significant changes, the proposed Environment Local Law, number 3 of 2002 (Attachment 1.) is based very closely upon Council's existing Environment Local Laws.

Proposed Saturday building hours - 9:00am to 5:00pm

12. It is proposed to restrict the permitted working hour for Saturdays to (9:00am to 5:00pm (as opposed to the current 7:00am – 5:00pm regime, or the more recently discussed 9:00am to 3:00pm regime) (Clause 13.1). This is proposed to enhance neighbourhood residential amenity, without unduly hindering the building / development sector.
13. Following submissions received from the Building Commission, Master Builders Association of Victoria, and the Housing Industry Commission, the proposed local law will exempt existing building works, **as at 11 March 2003**, or works for which building contracts are finalised by **Friday 28 March 2003** from this provision. The 9:00am Saturday start time would apply immediately however to all new building sites.
14. In support of this change, the peak industry bodies argue that, if Council was to proceed with the 9:00am Saturday morning commencement time, then it is preferable to exclude works which are already under-way, or for which contract negotiations are nearing completion.
15. To this end a new sub clause (Clause 13.2) has been inserted into the attached local law as follows:

“Clause 13.1.2.3 does not apply where:

*13.2.1 building works have already commenced as at **Tuesday 11 March 2003**; or*

*13.2.2 a builder provides evidence to the satisfaction of an authorised officer that the builder has entered into a contract for the building works as at **Friday 28 March 2003**.*

In that event, a person must not, without a permit, perform or permit to be performed any building work between the hours of 6pm on any Friday and 7am on the following Saturday.”

Infringements and penalties for ongoing and repeat offences

16. It is proposed to insert a general provision (clause 55.1) into the local law to apply a penalty of one (1) penalty unit will apply for infringement notices, where the local law is otherwise silent as to the applicable penalty.
17. The penalty for failing to comply with the local law when convicted by a court for contravening this local law (clause 54.1.5) has been increased to the maximum allowable (two penalty units per day), to encourage compliance with the local law by the more intransigent offender.

Roosters and other potentially nuisance animals

18. Council's Community Amenity Branch also recommends that a clause be inserted into the proposed local law to allow authorised officers to control noisy roosters and other potentially nuisance animals.
19. This power would be used in instances where an animal's behaviour is considered to be detrimental to neighbourhood amenity. (For example, a persistently noisy rooster.)
20. It is proposed to insert a new clause (Clause 37) as follows:

37 Removal of nuisance animals

37.1 The Council or an authorised officer may, by notice in writing, direct the owner or occupier of any land to permanently remove from that land, any rooster or other animal which is, in his or her opinion, detrimental to the general amenity of the neighbourhood in which it is located..

37.2 The owner or occupier named in the notice must comply with the notice.

Penalty: Five (5) penalty units

21. Schedule 4 specifies the infringement notice penalty as two (2) penalty units for this offence.

Updating the Definition of Waste Management Guidelines

22. It is recommended that the definition of 'Waste Management Guidelines' contained within section 7 of the proposed local law be updated to avoid reader confusion. The substitute clause will read:

Clause 7.45 "Waste Management Guidelines" means the document entitled 'Builders Code of practice and Waste management Guidelines' and associated documents, as amended from time to time.

Minor Errors in Clause Numbering

23. The proposed local law (as advertised) contained a number of minor clause numbering errors which have had a sequential 'flow-on' effect to the balance of the document. These have been corrected in the proposed local law now attached.

Consultations

24. In accordance with section 119 of the Act, Council has published a public notice inviting public submissions in relation to its proposed local law. The public notice was published in the Victoria Government Gazette, Thursday 12 September 2002 and the Yarra Leader, Monday 16 September 2002.
25. Comment was also invited from:
 - (a) the Master Builders Association of Victoria (MBAV);
 - (b) the Housing Industry Association (Victoria) HIA; and
 - (c) the Building Commission (Victorian) (BC).
26. Each of the above organisations, though particularly the MBAV and HIA, lodged comprehensive submissions in response to the proposed local law. (Attachments 2, 3, & 4) Individual meetings were also held with representatives of each organisation to discuss their respective submissions and verbal submissions were made to Council's Finance & Resources Committee.
27. The proposed adjustment to the permitted commencement time of building works on Saturday morning to 9:00am (currently 7:00am), was the most controversial aspect of Council's proposed local law.
28. The detailed summary of the submissions lodged by the MBAV, HIA and BC is provided in attachment 5.

Legal Implications

29. In making the proposed Local law, Council has complied fully with the statutory procedure prescribed in *Local Government Act 1989* (Part 5.)
30. The proposed local law will become effective on the day following the publishing of a public notice of the local law in the Victoria Government Gazette.

Financial Implications

31. The introduction of the Environment Local Law, No 3 of 2002 has limited direct financial implications, though will indirectly necessitate an addendum being printed and inserted into remaining copies of the Council's 'Builders' Code of Practice and Waste Management Guidelines'.

Options

32. Having considered all submissions received in response to its proposed Local Law, Council may now:
- (a) resolve to make the proposed Local Law as advertised.
 - (b) resolve to vary the proposed local law; or
 - (c) resolve to abandon the proposed local law in its entirety.

Proposal

33. It is proposed that in accordance with section 119 of the *Local Government Act 1989*, having considered all public submissions received, Council resolves to make the 'Environment Local Law, Number 3 of 2002' as discussed in this report.

RECOMMENDATION

34. That in accordance with section 119 of the *Local Government Act 1989*, having considered public submissions, Council resolves make the Environment Local Law, No 3 of 2002' as attached, and:
- (a) that a copy of the Local Law be attached to the official Council Minutes of this meeting;
 - (b) that notice be given in the Victoria Government Gazette and a public notice in a local newspaper specifying:
 - (i) the title of the Local Law;
 - (ii) the purpose and general purport of the Local Law; and
 - (iii) that a copy of the Local Law can be inspected at the Council offices; and
 - (c) that a copy of the Local Law be sent to the Minister.
 - (d) that the submitters be advised accordingly.

CONTACT OFFICER: Gary Mills
TITLE Senior Governance Officer
TEL: 9205 5128

See Attachment



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1.5 Competitive Neutrality and Best Value

EXECUTIVE SUMMARY

Purpose

To obtain Council approval of a proposed public interest test and the draft public policy objectives for consultation purposes for the 'dry' areas of the Leisure Service and for Child Care Centres.

Issues

Under the National Competition Policy one of the requirements of a council is the application of Competitive Neutrality. In September 2002 in the Annual Report, Council reported that it was intending to ensure compliance with Best Value Competitive Neutrality for all services by 30 June 2003 including for Childcare Centres and 'dry areas' of the Council's Leisure Centres. As part of the process Council is committed to applying full cost attribution and adopting publicly tested policy objectives by 30 June 2003.

Resource Financial Implications

A public interest test will involve the use of a consultant for transparency and objectivity to conduct a public forum and will involve advertising of the public forum. Based on initial information, these costs can be taken from existing budgets.

Community Implications

The Public Interest test will involve seeking out community opinion in respect of the proposed public policy objectives for the Richmond Leisure Centre and Fitzroy Pool dry areas, and for the Child Care Centres.

Environmental Implications

N/A

City Plan, Strategy and Policy Implications

Competitive neutrality is overridden by Council policy when supported by the community. One of tests which needs to be applied to relevant significant business operations is that Council is required to establish whether community support exists for its proposed public policy.

Legal Implications

N/A

PROPOSED ACTIONS

That Council approve, in principle, the draft public policy objectives of Child Care and Leisure and that Council approves a consultation process with the community on these draft public policy objectives.

1.5 Competitive Neutrality and Best Value

File: 10/55/01
Responsible Officer: Best Value and Business Support Co-ordinator

Purpose

1. To obtain Council approval of a proposed public interest test and the draft public policy objectives for consultation purposes for the 'dry' areas of the Leisure Service and for Child Care Centres

Background

2. The Competition Principles Agreement 1995 outlined a policy that requires governments engaged in significant business activities to offset advantages over private businesses in order to provide businesses with the ability to fairly compete.
3. However, under Competitive Neutrality Policy Victoria 2000, in a Best Value context, councils will give priority to meeting the needs of the community. When a council has determined that a service is a 'significant business', it must determine its Competitive Neutral (CN) subsidy, and weigh the advantages of applying CN measures to offset any subsidy. If application of CN measures would negatively impact council's public policy objectives for that service, a Council need not apply CN if a public interest test supports the Council public policy objectives.
4. In 2001, Day Neilson, Council's internal auditors, conducted an assessment of its services for compliance with Best Value Competitive Neutrality. The findings were that Childcare Centres and the dry areas of the Council's leisure centres would need to undertake some additional steps in order to ensure their compliance with the CN Policy:
 - (a) they were deemed to be significant businesses;
 - (b) competitively neutral costing had not been determined;
 - (c) as a result, competitively neutral pricing had not been applied and
 - (d) further, Council did not have public policy objectives for these services that had been supported by the community in a public interest test.
5. In October 2002, officers arranged for an independent financial service to determine the full cost reflective pricing of those services requiring further work. In this determination, Council is required to identify costs related to any net competitive advantages arising from its ownership of the facilities. The findings were that the three Child Care Centres were not pricing at a level to fully recover competitively neutral costs, and two of the three dry areas also were not pricing to fully recover competitively neutral costs. One dry area, at Collingwood Leisure Centre, was pricing to sufficient recover the CN costs and is therefore compliant.

6. In September 2002 in the 2002 Annual Report, Council reported that it would be fully compliant with Best Value Competitive Neutrality for Childcare Centres and 'dry areas' of the Council's Leisure Centres by 30 June 2003. Council committed to applying full cost attribution and adopting a policy by 30 June 2003 in order to achieve compliance.

Issues

7. Under the process as described in the revised Victorian statement, a Council will demonstrate that it is compliant with CN by:
 - (a) documenting its decisions identifying 'significant business activities';
 - (b) documenting whether the benefits of applying CN to a significant business outweigh the costs;
 - (c) where there is a net benefit, but the council believes other public policy objectives would be jeopardised by applying CN, conduct a public interest test to:
 - (i) identify public policy objectives for the business;
 - (ii) assess alternative approaches to achieve the policy objectives;
 - (iii) conduct public consultation exploring options to determine whether the application of CN is in the public interest. Consultation should include key stakeholders, competitors and/or public as party of a public interest test to explore options. There are different opportunity costs associated with the various options;
 - (d) document the conduct and outcomes of the public interest test, and
 - (e) make the documentation publicly available.
8. It is proposed that the planned process for conducting the public interest test will be based on Section 223 of the *Local Government Act 1989*. Services will place advertisements, submissions will be accepted and considered in accordance with Section 223, and an independent facilitator will be used to conduct the public forums.
9. The application of CN pricing for these services would significantly impact proposed public policy objectives with respect to meeting community needs and with community values.

Consultations

10. Staff have consulted with another Council which had successfully undergone the CN process for its Childcare service. The Council provided details on the process and key lessons learned.

Resource and Financial Implications

11. Council has committed to the state government to be fully compliant with the National Competition Policy by 30 June 2003, and has set aside sufficient funds within its budget to enable an independent facilitator to be engaged to assist in the process.
12. The public interest test will involve the use of a consultant for transparency and objectivity to conduct a public forum and advertising. Based on initial information, the costs can be taken from existing budgets.

Environmental Implications

13. N/A

City Plan, Strategy and Policy Implications

14. CN is overridden by Council policy when supported by the community. Council need not apply the CN measure if the community supports the Council's stated public policy objectives. The emphasis is on developing a policy for each of the services.

Legal Implications

15. N/A

Options

16. With respect to each service, Council has three options:
 - (a) Close the business activity;
 - (b) Apply CN measures by raising prices to recover the subsidy, reducing costs, or a combination; and
 - (c) Conduct public interest test to determine support of a public policy objective.

Proposal

17. The proposed public policy objectives for each Service are below:
 - (a) Leisure

"The City of Yarra Leisure Facilities will provide a range of programs and activities that meet the recreational and leisure needs of City of Yarra residents and promotes a healthy life style, which adds to the quality of life of all City of Yarra residents.

Council will play a role in fostering, coordinating and providing leisure opportunities that have maximum benefit for the community. Council is committed to providing an integrated service that allows community members to participate in a range of dry and wet activities.

In order to achieve this Council will subsidise our leisure facilities to maintain a service and pricing structure that maximises community use.

To increase accessibility to activities within the municipality Council will continue to provide the community with information about other leisure service providers.

Council is committed to continuously improving leisure services in terms of quality, affordability and effective financial management which maximises operational surpluses in order to minimise subsidies under the application of the competitive neutrality policy whilst meeting the collective needs of the community.”

(b) Child Care

Council affirms its commitment to the provision of long daycare centres as a means of strengthening and developing the community and ensuring access to a number, range and mix of childcare that best meets the diverse needs of children and families across the municipality.

To this end, Council will subsidise its long daycare centres as evidence of its commitment to ensuring that it plays an integral role in meeting the health, wellbeing and developmental needs of children and their families in the community.

In undertaking this role, Council is dedicated to professionalism and consultation and will ensure that services are accessible, equitable and relevant to the range of socio-economic, special needs and cultural groups in the community.

Council's provision of long daycare services will be in compliance with the Commonwealth Government Priority of Access Guidelines, within the capacity limits of the program and undergo a regular continuous improvement process.

RECOMMENDATION

18. That Council approve, in principle, the draft public policy objectives of Child Care and Leisure for purposes of conducting a public interest test.
19. That Council approves a consultation with the community on the draft public policy objectives using the process outlined.

CONTACT OFFICER: Mark Nancarrow
TITLE: Best Value and Business Support Coordinator
TEL: 9205 5024

CONFIDENTIAL COMMITTEE BUSINESS REPORTS

The following items are deemed by the Acting Chief Executive Officer to be suitable for consideration in closed session in accordance with section 89 (2) of the *Local Government Act* 1989. In accordance with that Act, Council may resolve to consider these issues in open or closed session.

RECOMMENDATION

1. That this meeting be closed to members of the public, in accordance with section 89 of the *Local Government Act* 1989, as disclosure of any of the following matters to be considered may prejudice the Council or other persons.
2. That all information contained within the Confidential Business Reports section of this notice paper and reproduced as Council Minutes be treated as being and remaining strictly confidential in accordance with the provisions of sections 77 and 89 of the *Local Government Act* 1989 until Council resolves otherwise.