

Minutes

Special Meeting of Council

Tallangatta Council Office

Thursday 15 September 2016

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<p>MINUTES FOR THE SPECIAL MEETING OF COUNCIL HELD AT THE COUNCIL OFFICE, TALLANGATTA ON THURSDAY 15 SEPTEMBER 2016 COMMENCING AT 10.00 AM.</p>
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The Mayor opened the meeting, the time being 10.05am.

1 Opening Prayer

"Almighty God, we ask that you be present at this meeting to assist us in our service to the Community through Local Government.

We pray that our decisions will be wise and taken with goodwill and clear conscience.

Amen."

2 Councillor and Officer presence at the meeting

Present: Crs Wortmann, Scales, Gadd, and Fraser

In Attendance:	Title:
J Phelps	Chief Executive Officer
J Shannon	Director Community and Corporate Services

3 Apologies and granting of leave of absence

Cr Joyce

**CR GADD
CR FRASER**

THAT THE APOLOGY BE ACCEPTED.

CARRIED

4 Declaration of pecuniary interest and/or conflict

For the purpose of this section, Councillors must disclose the nature of the conflict of interest in accordance with s79(2) of the Local Government Act.

Nil

Cr Scales entered the Council Chamber at 10.08am.

5 Community wellbeing

5.1 Corryong Netball Courts (02/08/0095)

Disclosure of Interests (S.80C):

This report was prepared by Mr Blair Phillips, Manager Finance and Ms Jo Shannon, Director Community and Corporate Services.

At the time of preparation of the report the officers did not have a direct or indirect interest in any matter to which the report or advice relates.

Background/History:

In 2013 Towong Shire Council received a grant from the State Government to contribute to the upgrade of the Corryong Netball Courts. The project included construction of two concrete netball courts with acrylic surfacing. Tenders/quotes were sought for the various components of the project.

The total project cost was \$218,276. The contributions/funding for this project were from:

Towong Shire Council	\$ 95,206
State Government	\$ 80,000
Community Contribution	\$ 35,000
In-kind works	<u>\$ 8,070</u>
Total	\$218,276

Contractors awarded:

Contractor A was awarded the tender for laying the concrete base of the new netball courts. In preparing for the new courts a geotechnical report was completed, the site surveyed and the sub surface adequately prepared for the new concrete courts. The concreters prepared the site, which included installing the waterproof membrane and the required reinforcing mesh. In the week beginning 4 March 2013, structural concrete was poured and left to cure for 28 days.

Contractor B was awarded the contract to apply the acrylic surfacing.

In the week beginning 8 April 2013 (after five weeks curing time) Contractor B installed the Rebound Ace Synpave acrylic surfacing.

Identification of defects and communication with contractors:

On 24 June 2013 Council was advised of the first defect to appear in the surfacing. This was followed by another shortly thereafter. Contractor B was advised and they sent a representative to Corryong to inspect the courts. As a result of the inspection Contractor B attributed the delamination to a saw cut close to the defect. By the end of July more defects were appearing all over the north-west corner of the court, not just at or near the concrete joins or saw cuts. Contractor B were advised as each defect appeared. On 15 August 2013 an email was sent to Contractor B with a site plan and photos of about a dozen defects. Contractor B advised that the defects could be fixed when the temperature was more favourable. In the meantime Council officers continued to record all new defects as they appeared.

The surface was repaired by Council officers in March 2014, consistent with advice received from Contractor B. This cost Council \$693 (inc GST). By June 2014 more defects were appearing and were reported to Contractor B. Contractor B's continued explanation for the delamination is that "there is moisture rising from the sub surface through the slab which can happen where there is no membrane present or there are perforations in the membrane".

Council's project officer inspected the site before the concrete pour and confirmed that the membrane was intact with the exception of one perforation near the goal post at the south end of the courts (where no delamination has occurred to date). The contracted project manager was asked to repair this and any other perforations as per the Netball Victoria guidelines prior to the concrete being poured. This was completed as requested.

After continued emails by Council officers to Contractor B seeking a suitable solution, Mr Warren Furlong a representative of Rebound Ace was called for advice. His initial concern was that the surfacing may not have been the Rebound Ace Synpave product as Contractor B is also a distributor for another brand of sports surfaces.

Contractor B responded on 17 July as follows:

"After discussing the product used with Rebound Ace & our method of application we can ascertain that the bubbles are caused from moisture penetrating rising from beneath the slab.

Unfortunately our warranty does not cover substrate moisture penetration. This moisture can be caused by no moisture barrier beneath substrate, the integrity of the

moisture barrier has been effected during the pour or by height pegs and/or substrate cracking.

I understand that there are many parties involved and a number of people to please, can I suggest we adopt a preventative maintenance program which involves maintenance being carried out on the courts before & after every season??"

Council officers did not accept that this was a satisfactory explanation as a waterproof membrane was installed and any membrane perforations were repaired. As explained to Contractor B below:

"The netball courts were constructed following Netball Victoria guidelines and taking into account recommendations provided by the geotechnical report undertaken. Every effort was made in preparing the sub-grade level to make the site free draining. As the site was on a very slight slope the subsoil was adequately prepared resulting in the northern end of the courts being well above existing ground level. "

Contractor B was asked to confirm that the base coat applied to the concrete was the correct product and to provide details of the application method used. Contractor B responded on 13 August 2014 as follows, failing to satisfactorily answer the original question:

"The surface was installed as per our scope of works & the manufacturer's instructions. I can also assure that every effort was made to get the result you have on the courts today.

Although measures were implemented to avoid any perforations in the vapour barrier prior to the pour, it is possible that during the pour perforations could have occurred.

As stated in previous emails, I would encourage Council adopt a preventative maintenance program which involves minor works being carried out on the courts before & after every season??"

Since this email there has been no further response from either Rebound Ace or Contractor B with regards to the Corryong Netball Courts despite various emails sent by Council officers seeking a suitable and amicable solution.

Independent sampling:

An external contractor hired by Council completed some sampling of both the concrete (in the area of the delamination) and the sub-surface material in October 2014. From this it was evident that a waterproof membrane is present and that there

was no moisture penetrating the concrete. There was also no moisture present in the first 800mm of the sub-surface material. Photos and physical samples are on record at Towong Shire Council. Both Rebound Ace and Contractor B were advised of this sampling via email.

Numerous emails have been sent to Contractor B who is no longer responding to claims against the warranty. Contractor B offers a 7 year warranty on product and workmanship.

Other advice sought:

An application was made to Council's insurer. Based on the information provided to Jardine Lloyd Thompson Insurance Trust they were of the opinion that the damage has resulted from faulty materials or faulty workmanship which is not covered by the policy. Their recommendation was to obtain a report from an independent expert who will be able to provide an opinion on the cause of the damage - whether it was the preparation, construction or product related.

Council officers sought legal advice about the avenues available for a breach of Australian Consumer Law and guarantees for consumers of goods and services that are fit for the purpose for which they are intended. The advice was that a 'show cause notice' could be issued once it was more definitively established what the cause of the delamination was. The lawyers recommended obtaining a report from an independent expert who will be able to provide an opinion on the cause of the damage before taking any further steps.

Independent expert report:

An engineering report dated 30 June 2016 has been received from Belvoir Consulting.

The report concludes that the two possible causes of the problems "mainly on Court two but also some evidence on Court one can be summarised as follows;

1. That the acrylic product has not been applied to this area strictly in accordance with the manufactures recommendations. This could be a lack of good base preparation prior to applying the product, or not applying the product at the specified rate, or allowing sufficient drying time between layers due to possible rushing of the job etc.
2. That the concrete in this zone of distress at that time of acrylic surfacing application had an abnormally high level of moisture, even though it appears that the slab was allowed to cure for approximately 1 month.

However, it is difficult to determine if one or the other, or possibly both reasons were contributing to the observed problem given the time that has elapsed.”

The report also recommends that the moisture content of the concrete be independently tested to ensure that it is suitable prior to having a new acrylic surface applied as part of rectification. This testing will also determine if both courts need to be rectified to prevent future issues arising.

Rectification work and funding:

A quote with two options to rectify the works has been received from Contractor C.

Option 1 - to sand back and apply sealant and acrylic surfacing product to the affected areas.

Option 2 - removal of the entire delaminating acrylic surface from both courts back to bare concrete, preparation of the concrete slab and re-application of sealer and acrylic surface.

If Option 1 were selected, Contractor C was not willing to provide a guarantee, as the remaining original product may delaminate in the future. Contractor C recommends Option 2 as the appropriate action to resolve the delamination issue and provide a guarantee on works.

A meeting was held with Sport and Recreation Victoria on 24 August 2016. No further funding is available through the Community Sporting Infrastructure fund to undertake the rectification work.

Impact on Council Policy:

Nil

State Government Policy Impacts:

Nil

Budget Impact:

Council does not have a budget allocation in its 2016/17 budget for additional works to rectify the current delaminating issues.

Risk Assessment:

Council officers have been advised that the defective playing surface is hazardous to users of the courts. Council officers have inspected the site, observed the delamination and confirmed that the damaged surface is very slippery when wet.

Community Consultation/Responses:

The Federals Football and Netball Club and Corryong Football and Netball Club have expressed concern to Council about the state of the netball courts and the risk it poses to its players. They have also expressed their disappointment that the defects have not been rectified sooner.

Discussion/Officers View:

Rectification of the defective netball courts is a priority for the Corryong Recreation Reserve Committee of Management, Federals Football and Netball Club and Corryong Football and Netball Club.

Insurance claims submitted to Council's insurer were unsuccessful. A meeting was also conducted with Sport and Recreation Victoria who confirmed that no funds are available.

Council is requested to consider establishing a budget allocation of \$65,000 for the rectification works. This is based on indicative pricing for:

- Testing the concrete for moisture content and determining its suitability prior to any rectification works being undertaken
- Removing the current surface on the two netball courts
- Resurfacing the two netball courts.

If Council agrees to establish a budget allocation, the need for resurfacing both courts will be revisited with individual contractors quoting to undertake the rectification works.

**CR FRASER
CR SCALES**

THAT COUNCIL:

- 1. NOTE THE REPORT ON THE CORRYONG NETBALL COURTS;**
- 2. MAKE A BUDGET ALLOCATION OF \$65,000 FOR THE RECTIFICATION WORKS TO BE COMPLETED; AND**
- 3. AUTHORISE THE CHIEF EXECUTIVE OFFICER TO TAKE THE NECESSARY STEPS TO HAVE THE WORKS UNDERTAKEN IN ACCORDANCE WITH COUNCIL'S PROCUREMENT POLICY.**

CARRIED

There being no further business the meeting was closed at 10.28am.

Minutes confirmed this day of..... 2016.

Mayor