

# Minutes

## Of the Ordinary Council Meeting

**Location:** Greta-Hansonville Hall, Greta

**Date:** Tuesday, 17 May 2016

**Time:** 6pm



RURAL CITY OF  
**WANGARATTA**

Brendan McGrath  
Chief Executive Officer



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## 1. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

*We acknowledge the traditional owners of the land on which we are meeting. We pay our respects to their Elders and to Elders from other communities who may be here today.*

## 2. OPENING PRAYER

*Almighty God, we humbly ask thee to bless and guide this council in its deliberations so that we may truly preserve the welfare of the people whom we serve. Amen*

## 3. PRESENT

Administrators:

Mrs Ailsa Fox, Chair, Ms Irene Grant, Mr Rod Roscholler

Officers:

Brendan McGrath - Chief Executive Officer; Ruth Kneebone - Director Corporate Services; Alan Clark - Director Infrastructure Services; Jaime Carroll - Director Community Wellbeing; Barry Green - Director Development Services

## 4. ABSENT

Nil

## 5. ACCEPTANCE OF APOLOGIES & GRANTING OF LEAVE OF ABSENCE

### ORDER OF BUSINESS

## 6. CITIZENSHIP CEREMONY

## 7. CONFIRMATION OF MINUTES

### **RECOMMENDATION:**

**(Moved: Administrator I Grant/Administrator R Roscholler)**

***That Council read and confirm the Minutes of the Ordinary Meeting of 19 April 2016, as amended, and the Special Meeting of 3 May 2016 as a true and accurate record of the proceedings of the meetings.***

**Carried**

## 8. CONFLICT OF INTEREST DISCLOSURE

In accordance with sections 77A, 77B, 78 and 79 of the *Local Government Act 1989* Councillors are required to disclose a 'conflict of interest' in a decision if they would receive, or could reasonably be perceived as receiving, a direct or

indirect financial or non-financial benefit or detriment (other than as a voter, resident or ratepayer) from the decision.

**Disclosure must occur immediately before the matter is considered or discussed.**

**9. RECEPTION OF PETITIONS**

**10. HEARING OF DEPUTATIONS**

**PRESENTATION OF REPORTS**

**11. ADMINISTRATORS' REPORTS**

Nil

**OFFICERS' REPORTS**

**12. EXECUTIVE SERVICES**

Nil

### 13. CORPORATE SERVICES

#### 13.1 PROCUREMENT POLICY

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 May 2016  
**Author:** Manager - Business and Governance  
**File Name:** Council Policy Review  
**File No:** 10.005.003

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

#### Executive Summary

This report is presented to Council to commence the process of reviewing Council's procurement policy.

#### **RECOMMENDATION:**

**(Moved: Administrator R Roscholler/Administrator I Grant)**

#### ***That Council:***

- 1. Endorses the Proposed Procurement Policy for public exhibition;***
- 2. Invites public submissions regarding the Proposed Procurement Policy in accordance with Council's "Major Council Policy Consultation Local Law No.4 of 2015" up to 5pm on Friday 17 June 2016;***
- 3. Establishes a Special Committee of Council to hear submissions on the Proposed Procurement Policy at 4:00pm on Monday 20 June 2016, if required; and***
- 4. Reviews and adopts the Procurement Policy 2016 at the 21 June 2016 Ordinary Meeting of Council, taking into consideration all of the submissions made regarding the Proposed Procurement Policy.***

**Carried**

#### Background

Council adopted a procurement policy in 2009 in compliance with section 186A(1) of the *Local Government Act 1989* (the Act). Section 186A(7) of the Act requires Council at least once in each financial year to review the procurement

policy having regard to any guidelines made by the Minister with respect to form or content. Any changes arising from that review must be adopted by Council.

The current procurement policy has been formulated with regard to the Victorian Local Government Best Practice Procurement Guidelines 2013, the Municipal Association of Victoria Model Procurement Policy (Updated) August 2011 and Social Procurement: A Guide for Victorian Local Government Department of Planning and Community Development October 2010.

Council officers have reviewed the current procurement policy and have proposed amendments to the policy. The amendments have been incorporated into a proposed Procurement Policy (the proposed policy) (***refer attachment***).

### **Implications**

#### **Policy Considerations**

Council must review the procurement policy in this financial year ending 30 June 2016.

The guidelines have not changed since the adoption of the current procurement policy.

The proposed policy is a Major Council Policy and therefore must be subject to the consultation process set out in the Major Council Policy Consultation Local Law No. 4 of 2015.

#### **Financial/Economic Implications**

The proposed policy sets out the principles, processes and procedures that will apply to all purchases of goods, services and works made by Council. The proposed policy aims to achieve value for money and continuous improvement in the provision of services for the community.

#### **Legal/Statutory**

Section 186A(7) of the Act requires Council at least once in each financial year to review the Policy having regard to any guidelines made by the Minister.

#### **Social**

The proposed policy has an objective to ensure that Council resources are used efficiently and effectively to improve the overall quality of life of people in the local community.

#### **Environmental/Sustainability Impacts**

The proposed policy gives preference to the procurement of environmentally sustainable goods, services and works.

## **2013 – 2017 Council Plan (2015 Revision)**

This report supports the 2013-2017 Council Plan:

### **Goal**

We are Sustainable

### **The non-negotiables**

All legislative and compliance requirements are met.  
The best use of Council resources.

### **Risk Management**

The proposed policy aims to achieve high standards of probity, transparency, accountability and risk management.

### **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Community	Website Public notice
Consult	Audit Advisory Committee Community	Request advice. Request submissions.

The proposed policy is a Major Council Policy and is subject to the provisions of the Major Council Policy Consultation Local Law No. 4 of 2015 which requires a public exhibition and submission process to be undertaken. This process is planned to commence with Council endorsement at the 17 May 2016 Ordinary Meeting of Council and conclude with adoption of the reviewed procurement policy at the 21 June 2016 Ordinary Meeting of Council.

A public notice will be published in the Wangaratta Chronicle on Friday 20 May 2016 explaining the submission process. A Community Impact Statement has been prepared to inform the community about the proposed policy and to assist any member of the public who may wish to make a submission to Council (***refer attachment***).

Submissions will be received up to 5pm Friday 17 June 2016.

In their written submission, a person may also request to be heard by a Committee of Council in support of their submission, prior to Council considering the proposal. A Special Committee of Council will be established to hear submissions on the proposed policy at 4:00pm on Monday 20 June 2016.

The Audit Advisory Committee is required by its charter to consider procurement practices and provide advice to Council on better practice. The committee was requested to consider the proposed policy and offer any recommendations for Council to consider.



### **Options for Consideration**

The review is required by the Act and the process is governed by the Major Council Policy Consultation Local Law. There are no alternatives to the process outlined above.

### **Conclusion**

The review process ensures compliance with the requirements of Section 186A(7) of the Act which requires a review of the procurement policy in each financial year.

### **Attachments**

- 1 Proposed Procurement Policy
- 2 Procurement Policy Community Impact Statement

### **Public Questions**

#### **Paul O'Brien – Greta**

When was the last policy review, and has it been within the past 12 months? Does the policy talk about an organisational aspect of procurement within the Council? Is there a group within the organisation that looks after procurement or is it done across all functions?

**Ruth Kneebone, Director Corporate Services** replied, *that yes the previous procurement policy had been adopted in June 2015. We have a Contracts Officer who looks after complex tendering and procurement matters. He also undertakes procurement strategic planning. It is not fully centralised, there is procurement operations occurring across the organisation in accordance with the policy.*

As part of the submission to the procurement policy is it ok for me to talk about organisational action within that policy? So that you understand, I think it is wrong there is not a specific procurement group. I don't think individuals should manage procurement.

**Ruth Kneebone, Director Corporate Services** replied, *that it would be appropriate to discuss the policy.*

## 13.2 WITHDRAWAL OF INSURANCE FOR NON-COUNCIL OWNED PROPERTY

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 May 2016  
**Author:** Health Safety and Risk Advisor  
**File Name:** Insurance Withdrawal  
**File No:** 54.010.002

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

### **Executive Summary**

This report is presented to Council to outline the reasons for withdrawing insurance services to non-Council owned properties and the consultation process undertaken in implementing this decision.

#### **RECOMMENDATION:**

**(Moved: Administrator I Grant/Administrator R Roscholler)**

***That Council endorses officer actions in advocating for a combined approach to insurance through the Department of Environment, Land, Water and Planning to achieve a sustainable solution bringing community groups together and by communicating with those groups.***

**Carried**

### **Background**

A review of Council's insurance portfolio identified that Council was insuring a number of properties which it either did not own or manage (***refer attachment***).

Of these properties, there were also variations in the level of Council involvement. In some cases Council obtained insurance for the property and then charged the cost of the insurance back to the relevant owner. In other cases, Council was obtained the insurance for the property and absorbed the cost of insurance.

In both cases detailed above, Council had no control over how the property was being managed or maintained. There could be a lack of essential safety measures in place or poor housekeeping which would increase the risk of property damage. This posed a significant risk to Council particularly when a property is not maintained to an appropriate standard.

In addition, because Council has undertaken the process of insuring these properties, when damage is reported and an insurance claim made, the property

owners and/or managers are looking to Council for assistance in paying excesses and funding additional works. This has been highlighted by two claims made by committees during the 2015/16 period.

There is also a high risk, that Council's insurance provider could reject claims that arise from poorly managed or maintained properties. Where these claims are rejected, there is an expectation that Council will fund the cost of reinstatement of the property.

Furthermore, the insurance company could issue Council a notice to implement control measures at other sites to reduce the possibility of similar claims arising. Implementing these controls are extremely difficult where Council is not the owner of the property and cannot manage the process. The implementation of these controls could come with significant cost to the individual committee.

The maintenance issues outlined above were also identified during Council's recent property audit, which was completed by our insurer. Following this audit, the insurer made the recommendation that Council should not insure any property which it does not own or manage.

Prior to Council formalising this decision, it contacted the Department of Environment, Land, Water and Planning (DELWP) to discuss this proposal and other possible insurance avenues for their properties. Through these discussions, DELWP advised that it was not their policy to insure buildings and contents on Crown Land.

Council liaised with its current insurance provider, on behalf of the relevant committees, to ensure the change in insurance services was as smooth as possible. Included in the letters sent to the individual committees advising of Council's decision, was the contact details for Local Community Insurance Services. These letters were sent to the committees in early March.

Council will continue to provide these committees with their annual maintenance allowance. As highlighted on the attached spreadsheet, this allowance is significantly more than the cost of insurance for each of the properties.

Whilst the decision has caused anxiety amongst the committees, Council has not withdrawn its funding of these properties (provided through the maintenance allowance).

Furthermore, DELWP have not undertaken valuations of these properties for several years. For Council to continue to ensure these properties, detailed valuations would need to be undertaken. Recent evidence has shown such valuations could cost between \$1,500 and \$3,000 per property.

Based on any new valuation reports, should Council insure these buildings again, it is expected there would be a significant increase to Council's insurance schedule.

By removing these properties from Council's insurance schedule, the organisation has been able to cover other Council owned assets which have previously gone uninsured, while still experiencing overall savings year on year.

### **Policy Considerations**

There are no specific Council policies or strategies that relate to this report.

### **Financial Implications**

This decision has resulted in Council eliminating almost \$12,000,000 from its asset schedule, which, based on Council's 2015/16 Insurance Premium, will see a saving of around \$8,000 per year.

This decision also reduces the risk of Council being exposed to insurance excesses (up to \$10,000 per claim) and remedial works.

### **Legal/Statutory**

Council has an obligation to insure the local State Emergency Services property. Council has continued to include this property in its Insurance Schedule.

### **Social**

Council recognises the importance of public buildings to the social fabric of rural communities and has provided financial support for building improvements over many years.

### **Environmental/Sustainability Impacts**

There are no environmental/ sustainability impacts identified for this subject of this report.

### **Economic Impacts**

There are no economic impacts identified for the subject of this report.

### **2013 – 2017 Council Plan (2015 Revision)**

This report supports the 2013-2017 Council Plan:

#### **Goal**

We are Sustainable

#### **We will focus on our business:**

reviewing service levels while balancing community expectations with available resources

**Strategic Links****a) Rural City of Wangaratta 2030 Community Vision**

N/A

**b) Other strategic links**

N/A

**Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Financial loss due to insurance premium payments and requests for funding.	Likely	Minor	Medium	Withdraw Council's assistance
Reputational	Possible	Moderate	Medium	Draw focus to the fact these properties are not Council assets, they are state government assets and committees.
Denial of claims due to poor maintenance	Possible	Major	High	Do not insure buildings which Council does not or cannot manage.

**Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Committees of Management	Correspondence through letters, email and phone.
Consult	Land owners (DELWP)	Phone
Involve	Insurance Company	Face to face.
Collaborate		
Empower		

Council's CEO has liaised with DELWP's Acting Regional Director: Hume Region – Christine Ferguson regarding this matter. Ms Ferguson has requested a DELWP Officer facilitate a conversation with the affected committees about how they might be able to join together to bulk purchase property and/or contents insurance, should the committee wish to go down that avenue.

### **Attachments**

#### **1 INSURANCE SUMMARY OF NON-COUNCIL BUILDINGS**

### **Public Questions**

#### **Gary Nevin – Bobinawarrah**

Is this an economic decision or a decision because of the risks? There is a very simple solution if it is because of the risk. For equity amongst the communities, there is no reason why this Council can't continue to pay the premiums in insurance in the name of the committees. It is not fair to this community and the other communities affected by it, that a community like Whorouly still get their insurance paid because you own the land.

**Ruth Kneebone, Director Corporate Services** replied that advice from insurance companies states that as we are not the committee of management and we do not have control over the maintenance of the facilities, it would forfeit any future claims.

**Brendan McGrath, Chief Executive Officer** replied, further to your question we have met with the Greta Hall Committee before hand and have asked DELPW to do exactly what you have suggested. Being state owned they have significant power in terms of insurance leverage as opposed to Council. The intent is that DELWP will talk to the groups and then approach their premium providers on their behalf, which should be significantly lower than what they would have if inquiring individually. The principle is that as owners of the land and facility, DELPW should be taking the lead role on this, in which they have agreed.

#### **Paul O'Brien – Greta**

I'm a bit disappointed about the information that is displayed here. There is an \$8,000 dollar saving to the council but it does not mention the cost to the groups who will need to pay insurance. Potentially if there are 20-23 groups and they pay \$1,500 – \$2,000 dollars you are talking a \$40,000 community impact for an \$8,000 dollar saving. I would request that the Administrators put this on hold until some real information can be obtained from all the groups and what the actual cost will be. This should not be a saving. What you're really saying to rate payers is that you will need to pick up the tab for this.

**Brendan McGrath, Chief Executive Officer** replied *I acknowledge that I don't think this issue has been communicated well by Council. We should have worked better with the community to explain what the process was that we were proposing. The saving to council is not the driver of this and whilst we will save the \$8,000 per year the real potential cost is the risk that will come from any claims that are not honoured by the insurer when they discover that the asset is not actually owned by council. We are going to facilitate a proactive role between DELWP and the owners of these assets to find the best possible outcome. We would like DELWP to go to their insurers and say we have some state owned assets here, let's use our buying power to procure a policy that is appropriate.*

**Paul O'Brien – Greta**

My nervousness here is that you have presented something to the Administrators to make a decision on tonight, which in my opinion is inappropriate when the actual detailed work behind it is not complete. Go away and do the homework properly and try to get this to a breakeven \$8,000 deal. If the individuals do this, the cost will be much more than \$8,000.

**Irene Grant, Administrator** replied, *the conversation that we had with the Greta Hall Committee earlier highlighted to us the need to continue the conversation. Council needs to be mindful of the risk and it is not just about the dollar savings. The principle consideration is about being responsible for property that doesn't belong to Council. We will continue our conversation with DELWP and groups in order to achieve an outcome that is sustainable and practical.*

**Tony Tanner - Greta**

Council does value this community and all other effected communities. When talking about insurance costs, just using the two organisations here at Greta, the Hall Committees insurance is \$277 per annum. The new quote from LCIS would be \$1,700 a year which is an increase of 614%. The Greta Reserve's current insurance under Council is \$590 per annum and a verbal quote from LCIS was \$6,000. Another quote received yesterday was \$3,624.85 and again this is an increase of 614%. Massive costs that are untenable for both of our committees.

It's not simply a matter of passing it back to our user groups, we are all volunteers and part of this community. Regardless of how the insurance is provided in the future it is also inequitable for Council to expect the committees of management to fund that from our community and committee members who are also rate payers. It is inequitable compared to the use of facilities on Council owned land. I also endorse comments that the communication was not very well done. I also put to Council that this motion be deferred. Council should also continue to pay insurance after the 30 June as we are almost half way through May. If negotiations don't go according to plan the last thing we need is for the affected bodies to be wearing that cost or not having insurance.



**Brendan McGrath, Chief Executive Officer** replied that it was clear that the committees capacity to gain insurance at a competitive rate would not be sourced as easily as Council or the State Government. We need to continue this process and get some competitive pricing sourced through DELWP to understand exactly what we are dealing with. The motion tonight is not doing anything other than asking Council officers to work with DELWP to effect the outcome of finding the best possible solution for all parties involved.

**Tony Tanner – Greta**

And there will be a communication going out to all the committees saying what the state of play will be to all the committees? As opposed to the letter that went out advising that insurance that will cease on the 30<sup>th</sup> June.

**Brendan McGrath, Chief Executive Officer** replied we will write to all of the committees involved and advise them that we have spoken to the DELPW Regional Director who has agreed to work with these groups to source insurance. Council will be happy to facilitate this process to ensure it happens in a timely manner and advocate for the groups involved. An insurance quote can be done within 24 hours, so six weeks should be plenty of time.

**Lorraine Griffiths – Greta West**

Would the effected groups be able to apply for a community grant to use this money to help with insurance costs? Would the criteria of community grants be able to be expanded?

**Brendan McGrath, Chief Executive Officer** replied the current criteria of the grant program wouldn't fund insurance costs. It does however fund other initiatives that would free up cash that may have been spent elsewhere. I would not like to see the money available through this initiative consumed by basic operational costs like insurance. Rather this money should be used to continue community programs and upgrade facilities.

I understand that, but for small communities to raise those extra funds it's very difficult. It is the same people who use the hall, sit on the committee and are also your rate payers. The community grants are using rate payers money as well. There has to be a better solution to you pulling out and leaving the communities to find the funds to pay for insurance.

**Tony Tanner – Greta**

So with the recommendation then, Council is undertaking to not cease any insurance until that process with DELWP is successfully completed. My main concern here is continued insurance.



**Irene Grant, Administrator** replied that this would need to be a conversation we have with DELPW to ascertain what kind of support they are going to give to this process. To say yes to what you said would pre-empt our discussion with DELWP. It is our intention not to walk away from this and we will talk to DELWP to strengthen this process.

**Ailsa Fox, Chair Administrator** also replied that we need to get an outcome through another process that will recognise who the true owner of the asset is, to ensure appropriate insurance is undertaken.

## 14. COMMUNITY WELLBEING

### 14.1 YOUTH CHARTER

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 May 2016  
**Author:** Youth Development Officer  
**File Name:** Youth Charter  
**File No:** 63.010.001

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

#### Executive Summary

This report is presented to Council to seek endorsement of the Rural City of Wangaratta Youth Charter.

#### **RECOMMENDATION:**

**(Moved: Chair Administrator A Fox/Administrator R Roscholler)**

***That Council endorses the Rural City of Wangaratta Youth Charter.***

**Carried**

#### Background

In 2014, Council received State Government funding through the Youth Inclusion Program to deliver the YOUTH Engage Project. The project aimed to empower young people in civic and community planning whilst simultaneously building the capacity of organisations to engage with, understand and support young people throughout the Rural City of Wangaratta.

The project included the development of a Youth Charter and youth engagement resources. The Youth Charter is a set of guiding principles that will support Rural City of Wangaratta's commitment to actively involve and engage young people. It acknowledges the unique contributions that young people make in all aspects of community life.

Following the development of the youth engagement resources, training was delivered to support staff when engaging with young people. The training was open to all staff at the Rural City of Wangaratta, neighbouring local government staff and youth service providers.

Further training will be offered at staff meetings following Council's endorsement of the Youth Charter.

**Implications****Policy Considerations**

There are no specific Council policies or strategies that relate to this report.

**Financial/Economic Implications**

There are no financial or economic implications identified for the subject of this report.

**Legal/Statutory**

There are no legal/statutory implications identified for the subject of this report.

**Social**

The Youth Charter demonstrates Council's commitment to young people. The Youth Charter recognises the important contribution that young people make to our community.

**Environmental/Sustainability Impacts**

There are no environmental/sustainability impacts identified for this subject of this report.

**2013 – 2017 Council Plan (2015 Revision)**

This report supports the 2013-2017 Council Plan:

**We will create and deliver:**

**active conversations, exciting events and engaging spaces that allow everyone to join in and participate in all**

**exceptional services and programs that help our families and children to be healthy, happy and connected**

**The non-negotiables**

**We consult and engage effectively with the community and provide information that is clear, accessible and**

**Above sentence requires completion**

There are opportunities for everyone to participate and contribute to social, economic and cultural life.

## **Strategic Links**

### **a) Rural City of Wangaratta 2030 Community Vision**

- a. Work with young people to further develop activities for youth.
- b. Individuals, groups and communities are actively engaged and participate in community activities.
- c. People of all ages, backgrounds and abilities are recognised for their important contribution to the community.
- d. People have the opportunity and are encouraged to contribute to discussions about the community and future directions.
- e. There are no barriers to social participation.

### **b) Municipal Public Health and Wellbeing Plan 2013 - 2017**

Continue to actively participate in networks and partnerships to increase and improve young people's access to community life.

## **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Consult	Wangaratta Youth Service Providers Network 680 young people	Wangaratta Youth Summit Youth Survey 2015
Involve	Youth Council 2015-16	Youth Council Meetings

Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

## **Conclusion**

The Youth Charter demonstrates Council's commitment to young people in the community and acknowledges the unique contributions that young people make to all aspects of community life.

Following Council's endorsement of the Youth Charter further training will be made available to Council staff.

## **Attachments**

- 1 Youth Charter
- 2 Youth Engagement Guide
- 3 Wangaratta Youth Summit discussion paper

**15.     INFRASTRUCTURE SERVICES**

Nil

## 16. DEVELOPMENT SERVICES

### 16.1 PLANNING SCHEME AMENDMENT C63 - PROPOSED REZONING AND APPLICATION OF ENVIRONMENTAL AUDIT OVERLAY AT 8-10 GREEN STREET WANGARATTA - CONSIDERATION OF SUBMISSIONS AND ADOPTION OF AMENDMENT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 May 2016  
**Author:** Principal Strategic Planner  
**File Name:** Planning Scheme Amendment C63 - 8-10 Green Street (Rezoning and application of EAO and s173 Agreement)  
**File No:** 73.030.077

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

#### Executive Summary

This report is presented to Council to review submissions received in response to the exhibition of Wangaratta Planning Scheme Amendment C63, (which proposes to rezone 8-10 Green Street Wangaratta from Residential Growth Zone to Commercial 1 Zone, apply the Environmental Audit Overlay and apply a Section 173 Agreement). Three (3) formal submissions were received; no submissions objected to the amendment.

The report further discusses the findings of the review of a Section 173 Agreement proposed between the land owner and Council to limit future sensitive land uses.

This report seeks Councils agreement to adopt Amendment C63 and submit the associated documentation to the Minister for Planning to complete the approval process and finalise this amendment.

#### **RECOMMENDATION:**

**(Moved: Administrator R Roscholler/Administrator I Grant)**

#### ***That Council:***

- 1. Considers submissions to Planning Scheme Amendment C63***
- 2. Adopts Wangaratta Planning Scheme Amendment C63, in accordance with section 29 of the Planning and Environment Act, 1987***
- 3. Submits Planning Scheme Amendment C63 to the Minister for Planning, requesting the Minister to approve the amendment in accordance with section 35 of the Planning and Environment Act 1987***

**4. Notifies the proponent and submitters to the amendment of Councils decision.**

**Carried**

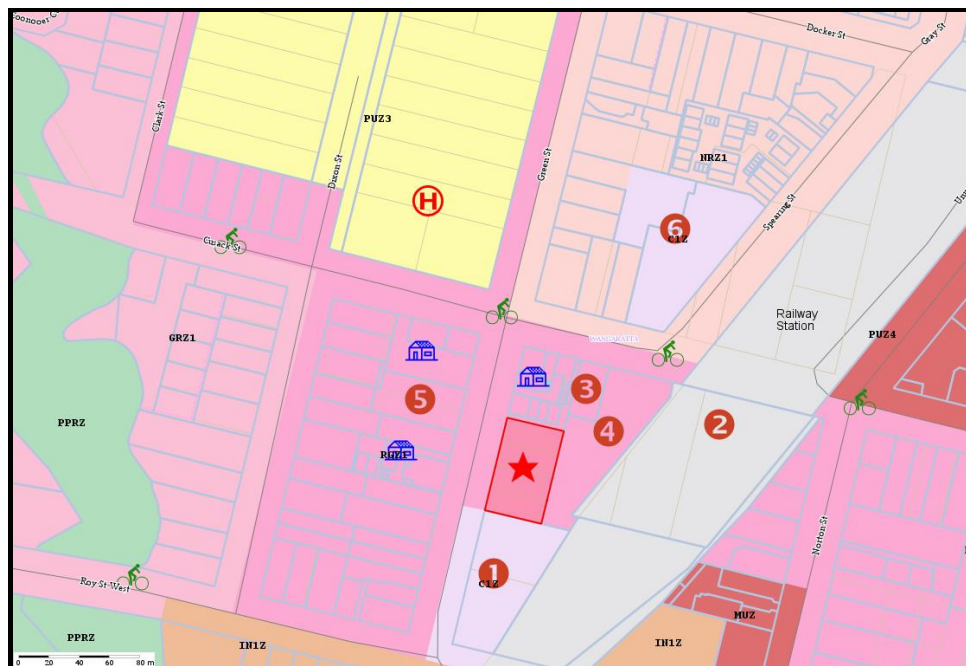
**Background**









At the Ordinary Meeting held 30 October 2015, Council agreed to the request from URS on behalf of Caltex Australia Petroleum Pty Ltd, the land owner of 8-10 Green Street, Wangaratta (a former Caltex depot site), to prepare and exhibit a planning scheme amendment to:

- Rezone the former Caltex depot site from Residential Growth Zone (RGZ) to Commercial 1 Zone (C1Z)
- Apply the Environmental Audit Overlay (EAO) to the site
- Apply a Section 173 Agreement to restrict future sensitive uses on the subject site and mitigate against potential impacts of contamination consistent with the lands former use as a fuel depot

The location of the site is illustrated below:

**Figure 1: Locality Plan (Planning Zones)**



<b>Drawing Key</b>	
	Subject site – currently zoned RGZ1
	Wangaratta Hospital (North East Health)
	Former Shell site (Commercial 1 Zone)
	Wangaratta Railway Station
	37 Cusack Street (Residential Growth Zone- McDonald Fertiliser)
	33-35 Cusack Street (Residential Growth Zone – vacant with unused silo)
	25-29 Green Street (Residential Growth Zone – with health care/allied health related uses)
	Residential Growth Zone with health care

The exhibition of the amendment occurred between 17 December, 2015 and 29 January 2016. Details about the notification process can be found in the Consultation/Communication section of this report. A number of informal enquiries about the impacts of the amendment were received during the exhibition period. At the conclusion of the exhibition, three (3) formal submissions were received.

## **Discussion**

### **Submissions to C63:**

Section 22 of the *Planning and Environment Act 1987* requires Council to consider submissions to the amendment. Three (3) submissions were received in response to the exhibition. Of the submissions:

- All were received from authorities
- All support/do not object to the amendment

Environment Protection Authority Submission:

Given the risks associated with potential contamination (consistent with the land's former use as a fuel depot) the Environment Protection Authority (EPA) were notified as a key stake holder. The EPA did not identify any concern about the approach to managing contamination associated with this site.

### **Review of the Section 173 Agreement**

The proponent for Amendment C63 has proposed to include a Section 173 Agreement (S173) as part of this proposal. The S173 will apply a site specific covenant, setting out restrictions on the use and development of the site. In this instance, the S173 is being used to mitigate against any potential public health and safety impacts associated with the sites former use as a fuel depot and seeks to place additional limitations on future development that are not specifically covered by the EAO.

Key matters addressed by the S173 include:

- Restricting use or development that is identified as a sensitive use or development as defined in the *Ministerial Direction 1, Potentially Contaminated Land*
- Restricting uses (for example public open space) permitted by the zone, which may pose a public health and safety risk
- Ensuring full compliance with the site's Environmental Management Plan (attached as part of the agreement)



- Preventing ground disturbance, ground movement, earth/excavation works and soil movement (unless in accordance with the Environmental Management Plan)
- Preventing the use of ground water.
- Ensuring transparency about the environmental condition of the site, and the measures required before any future use or development can occur.

The proponent prepared the S173 for Councils review. The proponent agreed to bear the costs of the review of this agreement prior to exhibition of the amendment.

Legal firm, Maddocks has reviewed the S173 on behalf of Council and minor changes were made. Both Council and the proponent concur that the S173 can be applied. A draft of the S173 can be found at Attachment 1 to this report.

It should be noted that a similar approach was taken with the former Shell site next door to the subject site. The former Shell site has been rezoned and is now the subject of a planning permit application for specialist medical suites with associated car parking.

### **Next Steps in the Amendment Process:**

To progress the amendment, the next step in the process required is Council's adoption of the amendment. (As there are no objecting submissions, a Panel is not required, and as no changes are suggested, the amendment can be adopted as exhibited, without change).

A legal process must also be finalised to bind the land owner to the terms outlined in the Draft S173 Agreement.

The chart below illustrates the key steps in the amendment process. The blue steps indicate the progress of the amendment to date, and the orange step indicates the final step in the amendment process. If Council adopts the amendment, officers will send the amendment to the Minister for Planning for final approval.



### **Implications**

#### **Policy Considerations**

There are no specific Council policies or strategies that relate to this report.

## **Financial/Economic Implications**

### **Financial:**

All financial costs directly attributed to this proposal are the responsibility of the proponent and land owner. This was agreed to by the land owner, prior to exhibiting the amendment. The main financial costs associated with this amendment are the statutory amendment fees, exhibition notification, and review of the S173 Agreement.

### **Economic:**

The economic implications (to the greater community) are considered to be positive. The rezoning of the site will allow a different range of uses to occur, which are not considered to be sensitive. This may result in the development of the land, which is in close proximity to regional health services and otherwise considered to be underutilised.

## **Legal/Statutory**

The proponent is proposing the application of a S173 agreement, on title to mitigate risks associated with soil and groundwater contamination. The key matters addressed by the S173 Agreement are identified in the discussion section of this report. Council has reviewed the draft S173 Agreement to ensure the best possible environmental outcome.

## **Social**

The amendment is considered to provide opportunity for positive social outcomes. Appropriate zoning, overlay provisions and the draft S173 Agreement acknowledging impacts from the former use ensures that the site is fit for purpose. The proposed zone allows for commercial development, providing an opportunity to cluster services, close to regional facilities, which is considered to benefit the community.

Any proposed development considered to be sensitive (such as a childcare centre) will trigger the need for mitigation works prior to the use proceeding. This is a positive community health outcome.

## **Environmental/Sustainability Impacts**

There are serious environmental impacts that can be addressed with rezoning, application of an EAO and application of a draft S173 Agreement on the title of the land. The EAO requires appropriate mitigation works before a sensitive use can occur. This would be the best environmental outcome.

The application of the EAO and the draft S173 Agreement restricts the potential uses and works to minimise exposure to contamination.

Both outcomes are consistent with the legislative framework for potentially contaminated land.

**2013 – 2017 Council Plan (2015 Revision)**

This report supports the 2013-2017 Council Plan:

**Goal**

We are Healthy

**We will create and deliver:**

through our new 'Place Planning' approach, make sure that the needs of the community are reflected in the way we make decisions and implement works and projects.

**We will plan and make decisions for the future:**

by identifying future development areas and giving consideration to potential planning scheme amendments and developer contributions.

**The non-negotiables**

Residential, rural, commercial and industrial land that is appropriately protected, planned and developed to meet the long term needs of the community

**Strategic Links****a) Rural City of Wangaratta 2030 Community Vision**

The proposal is consistent with the vision outlined for a healthy environment. The proposal will contribute to achieving a well-planned and sensitive development that appropriately manages ground water and surface water impacts.

**b) Other strategic links****Wangaratta Planning Scheme:**

The Wangaratta Planning Scheme provides overarching strategic direction for land uses and development, in the Municipal Strategic Statement. Clause 21.06 provides the vision and context for *Urban Development and the Central Activities Area*. It is acknowledged that the site is in a key strategic location that could be used to promote business activities or enhance the medical services provided by the hospital.

Currently Council is processing a planning permit application for a multi-million dollar medical centre on the adjacent site at 2-6 Green Street. The same suite of planning tools (zone, overlay and Section 173) apply to this site.

### **Population and Housing Strategy, 2013:**

The proposal is consistent with directions in the Population and Housing Strategy, 2013. It encourages infill development in close walkable proximity to the Wangaratta Hospital and the core of the Wangaratta CBD.

### **Ministerial Direction 1 - Potentially Contaminated Land:**

Potentially contaminated land is defined as land known to have been used for storage of liquid fuels or gas (amongst other uses). This Ministerial Direction is applicable to the proposal. A key requirement of this direction is for Council as the planning authority, to satisfy itself that any potentially contaminated land used for a sensitive use, agriculture or as public open space must be suitable for the use (i.e. fit for purpose).

The application of the EAO and the draft S173 Agreement (restricting sensitive uses until the site is remediated), are the correct mechanisms to satisfy the requirements of this Ministerial Direction.

### **Risk Management**

There are ongoing environmental risks associated with this site. These risks exist, whether the amendment proceeds or not. If the site were to remain zoned as Residential Growth Zone, the ability to control those risks is greatly diminished and much less transparent. This amendment will result in a significant reduction in risk to public health and safety posed by the current residential zoning.

### **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform		
<b>Consult</b>	We will keep you informed, listen to and acknowledge your concerns and provide feedback on how public input influences the decision	Opportunity to make a submission during the exhibition phase and influence the outcome
Involve		
Collaborate		
Empower		

Officers believe that **consulting** is the appropriate level of consultation/communication and this has occurred. The matter is now ready for Council consideration.

### **Options for Consideration**

**Consider the submissions, adopt the amendment and submit the adopted amendment to the Minister for Planning for approval.** (Recommended)

This is the best option as it appropriately responds to the legislative and policy context. It further supports outcomes that mitigate risks associated with potential future development, and provides opportunity for a better land use outcome for this site.

**Do nothing/do not submit the amendment to the Minister for Planning for approval.** (Not recommended)

This is not recommended as the site contamination issues need to be formally recognised as a priority. Council has agreed to the exhibition and intent of the amendment. Abandoning the amendment at this late stage of the process, without reason would be a waste of resources, increase the risk of inappropriate development and increase risks to public health.

**Consider the submissions, make changes to the amendment, adopt the amendment and submit the adopted amendment to the Minister for Planning for approval.** (Not recommended)

In some circumstances changes are required to address matters that have been brought up during the exhibition process. As no matters have been brought up in this amendment, no changes are necessary.

### **Conclusion**

The request to rezone and apply further controls to the site at 8-10 Green Street, Wangaratta provides a practical solution for a site, currently unused because of contamination issues.

Exhibition of the amendment provided the surrounding land owners, key stakeholders and the wider community with an opportunity to comment on the proposed changes. No objecting submissions were received.

This amendment will formally acknowledge the issues associated with the sites former use as a fuel depot. Amendment C63 puts the right mechanisms in place to ensure the site is fit for purpose (either remediated or used and developed in a way that is not considered to be sensitive). Amendment C63 provides opportunity to support appropriate development in a strategically located site (close to the centre of Wangaratta and the regional medical cluster).

### **Attachments**

- 1 DRAFT REPORT - SECTION 173 AGREEMENT

**17. SPECIAL COMMITTEE REPORTS**

Nil

**18. ADVISORY COMMITTEE REPORTS**

Nil

## 19. RECORDS OF ASSEMBLIES OF ADMINISTRATORS

### 19.1 RECORDS OF ASSEMBLIES OF ADMINISTRATORS

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 May 2016  
**Author:** Executive Assistant Corporate Services  
**File Name:** Assembly of Councillors Meeting Notes  
**File No:** 01.020.020

#### Executive Summary

An “Assembly of Administrators” is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision and is either of the following:

- a meeting of an advisory committee where at least one Administrator is present; or
- a planned or scheduled meeting that includes at least half the Administrators and at least one Council officer.

At an assembly of Administrators, a written record is kept of:

- a) the names of all Administrators and members of the Council staff attending;
- b) the matters considered;
- c) any conflict of interest disclosures made by an Administrator attending; and
- d) whether an Administrator who has disclosed a conflict of interest leaves the assembly.

The written record of an assembly of Administrators is, as soon as practicable:

- a) reported at an Ordinary Meeting of the Council; and
- b) incorporated in the Minutes of that Council meeting.

Date	Meeting details	Refer
05/04/2016	Administrators Briefing Forum	Attachment 1
12/04/2016	Administrators Briefing Forum	Attachment 1
19/04/2016	Cemetery Operations with Funeral Directors	Attachment 1
19/04/2016	Briefing Prior to Ordinary Council Meeting	Attachment 1
26/04/2016	Administrators Briefing Forum	Attachment 1
03/05/2016	Administrators Briefing Forum	Attachment 2
03/05/2016	Briefing Prior to Special Council Meeting	Attachment 2

#### **RECOMMENDATION:**

**(Moved: Chair Administrator A Fox/Administrator I Grant)**

***That Council receives the reports of Assemblies of Administrators.***

**Carried**

**Attachments**

- 1 ASSEMBLY OF ADMINISTRATORS - ATTACHMENTS 1
- 2 ASSEMBLY OF ADMINSTRATORS - ATTACHMENT 2



**20. NOTICES OF MOTION**

Nil

**21. URGENT BUSINESS****22. PUBLIC QUESTION TIME**

**Paul O'Brien – Greta**

My question relates to the C69 planning panel hearing. It appears a consultant group is representing the planning department at that hearing. Why is a consultant doing that and not staff within the planning group? Is this a sign we do not have the skills within the planning unit to do the panel hearing?

*Barry Green, Director Development Services replied, in this particular instance there have been changes to dates and the planner who had been dealing with the C69 amendment. Justin Britt, is unavailable due to long service leave. The consultant concerned has previously been hired by Council, is familiar with the planning scheme review and is an experienced ex-panel member. Other staff within Development Services are engaged with other upcoming panels.*

**Gary Nevin – Bobinawarrah**

Three years ago on the 21st May, Council agreed to enter into an agreement with Goulburn Murray Water Corporation for planning permit applications in potable water supply catchments. This was to be until Council adopted a Domestic Waste Water Management Plan in accordance with ministerial guidelines. Three years later where are we at as it does affect C69?

*Barry Green, Director Development Services replied the relevant area of Council has prepared a brief to update Councils current Domestic Waste Water Management Plan in accordance with the current ministerial guidelines and also incorporates the learning from the two pilot projects that were conducted across Victoria in relation to the development of Domestic Waste Water Management Plans. That brief has been prepared as of today.*

**Tom Wighton– Springhurst**

I received a call from a neighbour regarding 'Rocky Water Holes Creek Road' (Rocky Creek Road). There has been two cattle ramps at each end of the road as it is part of a lease. We have received a letter saying to remove the ramps. We all put objections in. Can we sit down and talk about this with Administrators and affected people? There are ten tonne trucks that use this road and we would be quite happy to contribute?

**Alan Clark, Director Infrastructure Services** replied that there was an intention several years ago to remove cattle grids on Council roads. They shouldn't be there and farmers should have their properties fenced.

There is a reserve at one end and the lady who leases the reserve does a good job of keeping the grass down. With a bit of consultation, consideration and common sense it could be worth it.

**Ailsa Fox, Chair Administrator** replied, if you leave your contact details we will arrange a meeting to discuss this matter further.

**Paul O'Brien – Greta**

At last week's cattle market I was asked by quite a few people as to what was going on with the co-op. I read in the paper that your interests need to be identified in the next two weeks. People don't know what the process is and how it is being communicated.

**Brendan McGrath, Chief Executive Officer** replied, just to give quick update, the date that was advertised wasn't a pre-set date that people were supposed to know about. We had received inquiries and there has been a call to action to submit an expression of interest. It is a detailed path to form a co-op and we would like to get the ball rolling. There's a lot of people talking about it both for and against, what we actually need are people who are generally interested in forming this co-op to put an expression of interest in.

Can I suggest that if you are going to do something like that, communication to agents needs to be forthcoming. Maybe Alan can wander around Thursdays market and tell people. There seems to be a miscommunication gap.

**Brendan McGrath, Chief Executive Officer** replied, we have met with a representative of each of the Agents who deal with the Saleyards and that's not to say that those individuals will then convey that information to all of the people who work within their area. We will be at the Saleyards next Thursday and there will be an opportunity to talk with people.

**23. CONFIDENTIAL BUSINESS**

Nil

**24. CLOSURE OF MEETING**

The Meeting closed at 6.48pm.