

Minutes

Of the Ordinary Council Meeting

Location: Council Chambers, Municipal Offices
62-68 Ovens Street, Wangaratta

Date **16 August 2016**

Time: **6pm**



RURAL CITY OF
WANGARATTA

Brendan McGrath
Chief Executive Officer

TABLE OF CONTENTS

	Page No.
1. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS.....	5
2. OPENING PRAYER	5
3. PRESENT	5
4. ABSENT	5
5. ACCEPTANCE OF APOLOGIES & GRANTING OF LEAVE OF ABSENCE	5
ORDER OF BUSINESS	5
6. CITIZEN CEREMONY	5
7. CONFIRMATION OF MINUTES	6
8. CONFLICT OF INTEREST DISCLOSURE	6
9. RECEPTION OF PETITIONS.....	6
10. HEARING OF DEPUTATIONS	6
PRESENTATION OF REPORTS	6
11. ADMINISTRATORS' REPORTS.....	6
OFFICERS' REPORTS	6
12. EXECUTIVE SERVICES	6
13. CORPORATE SERVICES	7
13.1 BORROWINGS STRATEGY 2016.....	7
13.2 EMERGENCY SERVICES PRECINCT PROPOSAL.....	14
13.3 COUNCILLOR SUPPORT POLICY 2016	20
14. COMMUNITY WELLBEING	23
15. INFRASTRUCTURE SERVICES	24
15.1 ST CATHERINES HOSTEL REQUEST FOR ACCESS TO OVENS STREET	24
15.4 CONTRACT C1617-003 FOR SUPPLY OF 2 ROAD MAINTENANCE UNITS	36
16. DEVELOPMENT SERVICES	40
16.1 REGIONAL TOURISM MEMORANDUM OF UNDERSTANDING.....	40
16.2 WANGARATTA RESIDENTIAL GROWTH AREAS - DEVELOPMENT CONTRIBUTIONS PLANS AND REVISED STRUCTURE PLANS	44
16.3 AGRICULTURE AND AGRIBUSINESS ADVISORY COMMITTEE - MEMBERSHIP APPOINTMENTS	55
16.4 LOCAL LAW POLICIES	58
16.5 PLANNING SCHEME AMENDMENT C69 - RURAL STRATEGY 2015 & ROADSIDE CONSERVATION MANAGEMENT PLAN 2014	72
16.6 LEASE OF COUNCIL OWNED INDUSTRIAL LAND.....	87
17. SPECIAL COMMITTEE REPORTS	91
18. ADVISORY COMMITTEE REPORTS.....	92
18.1 ADVISORY COMMITTEE REPORTS	92
19. RECORDS OF ASSEMBLIES OF ADMINISTRATORS	93
19.1 RECORDS OF ASSEMBLIES OF ADMINISTRATORS	93

20. NOTICES OF MOTION 95

21. URGENT BUSINESS 95

22. PUBLIC QUESTION TIME 95

23. CONFIDENTIAL BUSINESS 99

24. CLOSURE OF MEETING..... 99

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 Alisa Fox - Chair, Ms Irene Grant, Mr Rodney 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**

Administrators:

Officers:

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

RECOMMENDATION:

(MOVED: CHAIR ADMINISTRATOR A FOX/ADMINISTRATOR R ROSCHOLLER)

THAT IRENE GRANT BE GRANTED LEAVE OF ABSENCE FOR THE PERIOD THURSDAY 25 AUGUST TO MONDAY 19 SEPTEMBER 2016.

CARRIED

ORDER OF BUSINESS

6. **CITIZEN CEREMONY**

Nil

7. CONFIRMATION OF MINUTES

RECOMMENDATION:

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

That Council read and confirm the Minutes of the Ordinary Meeting of 19 July 2016 as a true and accurate record of the proceedings of the meeting.

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 BORROWINGS STRATEGY 2016

Meeting Type:	Ordinary Council Meeting
Date of Meeting:	16 August 2016
Author:	Director - Corporate Services
File Name:	LOANS
File No:	51.050.001

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 recommend adoption of a Borrowings Strategy 2016. The Strategy recommends that Council determine a level of borrowings that accords with strong performance and low risk as measured by commercial and sector metrics. Once this level of debt is determined, the borrowings should be allocated towards projects or works in accordance with strategic objectives as described in the Council Plan.

RECOMMENDATION:

(Moved: Administrator I Grant/Administrator R Roscholler)

That Council adopts the:

- 1. *Borrowings Strategy 2016.***
- 2. *Borrowings Policy 2016.***

Carried

Background

This Strategy has been developed as part of Council's 'Our Future' Project. As a result of delivering 'Our Future', we aim to be a more efficient and responsive organisation that reflects the needs of our community, whilst ensuring our financial sustainability in the long term.

In June 2016 we commissioned an independent review of our borrowings to include the following:

1. A review of Council's debt profile:
 - 1.1. Relationship to other balance sheet components
 - 1.2. Size of debt in relation to Council's economic profile.

2. An appraisal of, and recommendations on, Council's current borrowing portfolio in relation to:
 - 2.1. Term
 - 2.2. Lender
 - 2.3. Pricing
 - 2.4. Flexibility
 - 2.5. Probity
 - 2.6. Purpose for borrowing
 - 2.7. Timing of tendering
 - 2.8. Fixed v Variable.
3. Ascertain/recommend an appropriate debt appetite, including appropriate ranges of performance measures.
4. Make recommendations for inclusion in Council's Borrowing Strategy 2016.

Ernst & Young were engaged to undertake this review.

The Ernst & Young report made the following findings and recommendations.

5. Existing and planned debt portfolio

5.1 Council's existing debt portfolio is well diversified by lender and interest rate, reducing refinance and interest rate risk.

5.2 Council will borrow under The Local Government Funding Vehicle (LGFV) in 2016. The LGFV borrowings will further increase diversification and increase Council's debt maturity profile.

6. Credit profile

6.1 Council's credit profile is high quality and very low credit risk

6.2 Applying Moody's credit rating methodology, council's credit rating is assessed at Aa2.

6.3 Council should aim to maintain this credit profile and target 'Strong' performance according to Moody's debt service metrics to allow flexibility to increase debt if required.

7. Sustainable debt level

7.1 As at June 2015, councils sustainable debt level was considered to be \$25M (using Moody's measures) with maximum non-current liabilities constrained by VAGO to \$21M8.

Borrowing philosophy

8.1 It is recommended that Council transitions to a borrowing philosophy whereby availability of capital for investment is first determined by sustainable debt levels (per KPIs) and capital is subsequently allocated in line with strategic objectives.

8.2 This is viewed to be a best practice approach based on corporate finance principles.

8.3 Positively, Council is already moving towards a more corporate style of borrowing.

9. Borrowing policy

9.1 Implementation of Council's Borrowing Strategy should be underpinned by a formalised borrowing policy, and include structuring considerations related to borrowing source, tenor and repayment profile.

Council's Borrowings Policy is attached.

Implications

Based on the Ernst & Young recommendations, The Borrowings Strategy 2016 supports the following Strategic Goals.

1. We will maintain a diversified borrowing portfolio by using a mix of lenders and interest rates.
2. We will manage borrowings in a holistic way in order to minimise interest costs.
3. We will strive to maintain a high quality and very low credit risk profile
4. We will establish a sustainable borrowings level
5. We will consider borrowings as one of a suite of funding sources, along with revenue, savings, reserves, leases and investments.
6. We will allocate borrowings towards projects or works in accordance with strategic objectives as described in the Council Plan.
7. We will implement a Borrowings Policy 2016 that will support the strategic Goals of this Borrowings Strategy 2016

Measures we will use to assess council's borrowings performance are as follows:

1. Our borrowing portfolio is made up of a mix of:
 - a. fixed and variable interest rates

- b. lending bodies
 - c. principal and interest borrowings
2. Moody's shadow credit rating of Aa2.
3. Loans and borrowings compared to rates ratio of between 50% and 70% of rates.
4. A Borrowings Policy is adopted and implemented.

Policy Considerations

A Borrowings Policy 2016 has been prepared to support this Borrowings Strategy 2016. The Policy will include funding sources and the structure of borrowings such as:

- Repayment profile
- Tenor (term)
- Sources of borrowings
- Fixed versus variable interest
- Interest only
- Aggregation of loan portfolio.

Legal/Statutory

All borrowings undertaken will be in accordance with prevailing law and regulations.

Social

The utilisation of borrowings as a funding source may improve flexibility to undertake projects, thereby enriching community outcomes, whilst maintaining a strong financial position.

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:

Goal

We are Sustainable

We will plan and make decisions for the future:

maintaining a responsible and transparent Long Term Financial Plan.

We will focus on our business:

The non-negotiables

The best use of Council's resources.

All legislative and compliance requirements are met.

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Community concern regarding level of debt	Medium	Medium	Medium	Continue to perform in accordance with accepted measures

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform		
Consult	Decision based on sound financial advice.	Advice obtained from respected financial firm – Ernst & Young and Council's Audit Advisory Committee.

Ernst & Young were engaged to advise council on its Borrowings Strategy and Policy. This firm was also engaged by the Municipal Association Victoria to undertake the Local Government Funding Vehicle and are therefore highly credentialed in the local government borrowing field.

Options for Consideration

To adopt the Borrowings Strategy 2016 and Borrowings Policy 2016.

Conclusion

Council has obtained expert advice on its current loan portfolio and the appropriate borrowings philosophy for the future. The Borrowings Strategy and Policy are an outcome of that review and are proposed for Council to adopt.

Attachments

- 1 BORROWINGS STRATEGY 2016
- 2 BORROWINGS POLICY 2016

Questions

Ken Clark - Wangaratta

My question relates to the amount to be borrowed for the Aquatics Centre.

The original figure was \$14.4m. \$3m from state Government, \$4.4m from federal and \$7m from Rural City. Now the State has only advanced \$1.5m toward Hydrotherapy pool, does this mean the ratepayers will need to borrow the other \$1.5m to cover the shortfall?

***Ruth Kneebone, Director Corporate Services** replied the figures that were in the original part of that question were quite early figures and since then we have refined and sought money from funding bodies and received advice in relation to the amount that we could expect from those grants. We have also received very detailed costings in relation to the Aquatic strategy. The original amount of \$14.4m is now \$14.1m and that includes 5.9m from state and federal funding with 1.5m from the state government and these are included in the final figures. I can send on that information to you Ken and the commitment from Council remains the same under both of those scenarios and that is \$7.5m dollars.*

Paul O'Brien – Greta

I have two questions, I had a discussion with the Administrators when you first took over the position with regards to borrowing and with regards to the Council's portfolio of loans at the time. That 100% of the loans of the council were in fact fixed interest loans and from the communication I have received today from the CEO, 100% of those loans are still fixed loans today. Ernst and Young's profile has clearly said that shouldn't be the case, to have variable and fixed. I'm intrigued, as I called that out four years ago when I was on council, when the three administrators took over. I'm interested to know why nothing has happened with regards to that?

***Brendan McGrath, Chief Executive Officer** replied through the chair I wasn't involved in those early conversations you refer to Paul. My observations would be a couple of things. One is we have been able to access very competitive borrowings through the MAV funding vehicle which has given us, the sector, very attractive rates well below what other people can access commercially so we have taken advantage of that funding vehicle for the last couple of years. Then through our own review processes, I don't know whether they were influenced at all by your representations or not. We have done the investigation through Ernst and Young to assess what should our borrowing profile look like and how large can it be to keep within reasonable limits. That work has been done, it is in the Council agenda and we are now suggesting that we have an actual adopted strategy and policy position which we haven't had before. This assists us to provide some better guidance around the mixture of types of loans, fixed versus variable rates and various funding sources for an improved more corporatised portfolio.*

Paul O'Brien – Greta

I absolutely commend the Council for approaching MAV and using the MAV rates. There is still no excuse, using MAV rates, not to have a percentage of your stuff at a variable level. Variable rates have continued to decline for ten years and they will continue to decline for another ten years. So having a fixed portfolio makes rate payers pay more money for debt than it needs to. That's just my comment.

Brendan McGrath, Chief Executive Officer replied *I think your comments around having a mixed portfolio makes good sense and I wouldn't disagree with those. To the best of my knowledge there wasn't a variable option available through the MAV funding vehicle. When we weighed up the commercial advantage of the rates that they could source at a fixed rate, versus what we may have been able to attract ourselves at a variable rate, our analysis being it wasn't worth making that shift at that point in time.*

Paul O'Brien – Greta

As an elected council, the plan that was adopted by us as councillors, deferred any discussion with regards to a new pool or a new aquatic strategy until 2017. Based on the comments made before, I am interested to know how this council picked up and ran with this project, when the elected Council deferred a pool strategy until 2017?

Ailsa Fox, Chair Administrator replied *I think we were able to choose what we thought were reasonable projects to go on with. I am not sure I can answer that in any other way.*

Irene Grant, Administrator replied *I think Paul, the pool strategy was one we considered we couldn't defer until 2017. There were issues that we had to address and these needed to be timely. For us to say we will consider this at some time in the future, I don't think that is good enough. Yarrunga pool was beyond repair with low attendance rates and we had to look at what we needed to do in the short term to create a holistic approach and also a solution to the problems of pools here in the Rural City of Wangaratta. It was one that we saw as a priority issue when we were appointed administrators.*

13.2 EMERGENCY SERVICES PRECINCT PROPOSAL

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Executive Assistant Corporate Services
File Name: Saleyards Management
File No: 85.010.001

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 consider an approach by the Country Fire Authority (CFA) to enter into a Memorandum of Understanding (MOU) to lease, with an option to purchase, 12.14 hectares of unimproved land located on Lot 1 TP942354 on the corner of Reith and Gravel Pit Roads Wangaratta, south of the Wangaratta Saleyards. The CFA proposes to develop a combined emergency services facility for the Hume Region. This would include District 23 headquarters, Incident Control Centre, a training campus and potentially relocation of other emergency service organisations, such as the State Emergency Service (SES).

RECOMMENDATION:

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

That Council:

- 1. enters into a Memorandum of Understanding with the Country Fire Authority to provide for:***
 - a) the Country Fire Authority to carry out an Environmental Impact Study on 12.14 hectares of Lot 1 TP942354 on the corner of Reith and Gravel Pit Roads.***
 - b) a future purchase or lease of this property by or to the Country Fire Authority subject to the appropriate legal process.***
- 2. authorises the Chief Executive Officer to execute the Memorandum of Understanding and any associated documentation.***

Carried

Background

The CFA currently use a training ground located at 99D Shanley Street. Refer to the diagram below. Restrictions on this site include:

- CFA are working with the Environmental Protection Authority (EPA) in relation to a Clean-up Notice that has been issued for the current site. These Remediation works will be completed as per the requirements of the EPA Clean-up Notice issued.
- Constrained space to manage potential contaminants to the One Mile Creek.
- Planning Controls - Flood Overlay and Land Subject to Inundation Overlay restrict operations and new building works.

The diagrams below depicts the CFA current and proposed sites with aerial imagery and planning zones and overlays indicated.

Diagram 1. Existing and proposed CFA facility sites

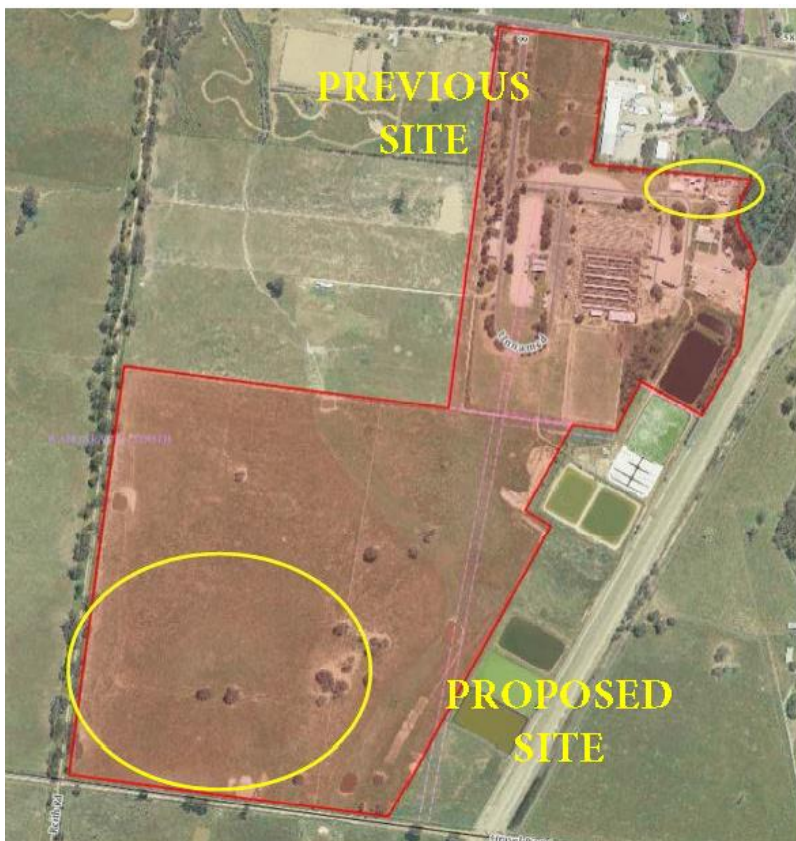
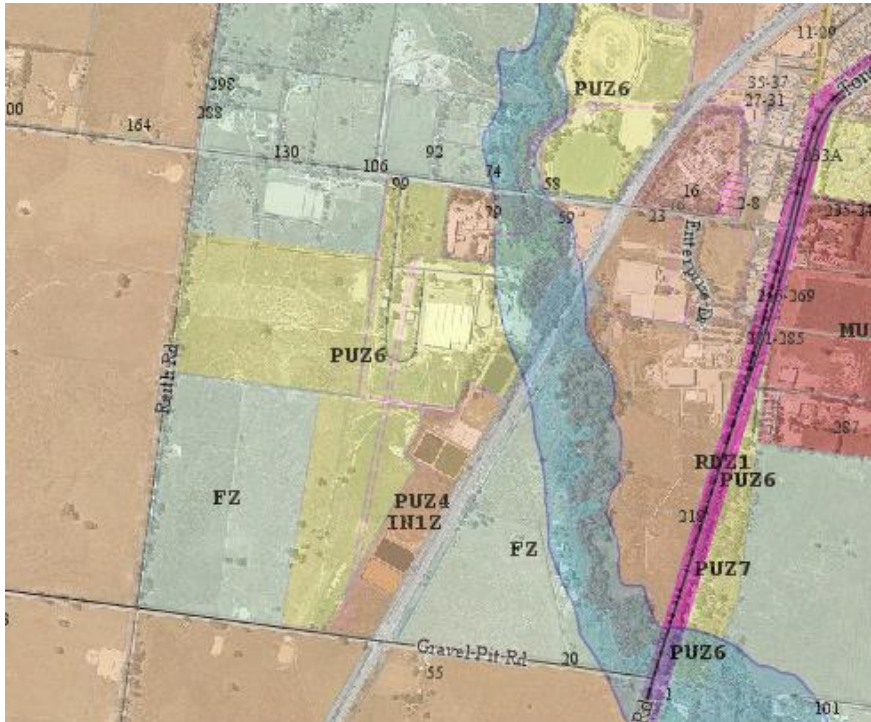


Diagram 2: Planning Zones and Overlays applicable to the site



Implications

Policy Considerations

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

Financial/Economic Implications

	2016/2017 Approved Budget for this proposal \$	This Proposal \$	Variance Approved Budget \$	to	Comments
Annual lease revenue	Nil	15,000	15,000		Additional revenue from lease to CFA
Expense					
Net Result	Nil	15,000	15,000		

Future costs associated with this proposal may include:

- Loss of use of the land for saleyards stock holding purposes and potential agistment revenue
- Provision of utility easements
- Rezoning

Future revenues associated with this proposal may include:

- Proceeds from sale of land at current valuation
- \$15,000 net market rental for 5-10 years

Legal/Statutory

An application for a rezoning of the proposed site from Farming Zone to Public Use Zone would be appropriate for this use of the land.

Social

Whilst the CFA Running track currently located on the Ovens River bank at Apex Park, is managed by the local Wangaratta CFA Brigade and is considered to be a separate issue to this proposal, it may be moved to another location within Wangaratta or to the proposed Gravel Pit Road site. This running track is situated on Crown Land of which Council as the Committee of Management.

Environmental/Sustainability Impacts

The report recommends that Council initially give permission to the CFA to conduct an Environmental Impact Study of the soil. This study will cost the CFA up to \$70,000 and may require two years to complete, depending on the findings.

Prior to commencement, the CFA are seeking a Memorandum of Understanding that should this testing prove the land to be suitable, the proposed outcome would be that Council agrees to lease 12.14 hectares to the CFA for five years with a further two five year options, with an eventual option to purchase, should funding become available for the CFA.

2013 – 2017 Council Plan (2015 Revision)

This report supports the 2013-2017 Council Plan:

Goal

We are Connected

We will research and advocate:

in partnership with the right people to make sure that everyone feels safe in their homes, in their streets and in their communities.

in workforce development initiatives and assist education and training providers to deliver appropriate workforce training.

We will create and deliver:

a focus on making it easy for people to volunteer in our community by connecting people, promoting opportunities and celebrating the brilliant contributions our volunteers make.

We will plan and make decisions for the future:

to make sure that everything we do – from building assets to delivering events – considers the physical, social, cultural and financial needs of all our community members.

The non-negotiables

Our urban areas and rural townships are safe and friendly, where everyone can participate and contribute.

The health of everyone who lives in and visits our community is protected.

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
Utilisation for saleyards purposes is restricted	Moderate	Minor	Minor	Liaise with saleyards managing body.

Consultation/Communication

Should the environmental impact study prove that the land is suitable for the CFA proposal, and the two parties agree to enter into a lease/purchase arrangement, a public consultation period of at least four weeks will be undertaken.

Options for Consideration

Council may resolve to enter into a MOU with the CFA to enter into a lease/purchase of the proposed site at a future date, should both parties agree that the site is suitable for this purpose.

Conclusion

The consolidation of a combined emergency services training facility with District 23 headquarter and ICC complex with potential for other emergency service organisations to relocate to this site would result in a regionally significant emergency services precinct for Wangaratta. It is therefore recommended that Council enter into the MOU with the CFA.

Attachments

Nil

Questions

Mathew McGauren - Wangaratta

Will that include a helipad to service the Hume Highway and the Alpine Area?

Alan Clark, Director Infrastructure replied the actual facility hasn't been designed yet and the details aren't final but that would be up to the CFA and emergency services rather than us. This is about whether council can provide the land for the facility, but it is a long way off. It hasn't been mentioned in any conversations I have been involved with at this time.

13.3 COUNCILLOR SUPPORT POLICY 2016

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 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 finalise the process of adopting a Major Council Policy, the Councillor Support Policy 2016 (*refer attachment*).

RECOMMENDATION:

(Moved: Administrator R Roscholler/Administrator I Grant)

That Council adopts the Councillor Support Policy 2016.

Carried

Background

Council adopted a Councillor Support and Civic Expense Reimbursement Policy in 2014 in compliance with section 75B(1) of the Local Government Act 1989 (the Act) which requires such a policy to be adopted and maintained.

In 2011, Council adopted the Professional Development for Councillors Policy which dealt with Councillors' attendance and reimbursement for professional development activities.

Council officers have reviewed the above policies and have finalised a Councillor Support Policy 2016 (the policy) which incorporates both of the policies mentioned above, as well as providing for a contemporary suite of resources and support for Councillors.

Implications

Policy Considerations

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

Financial/Economic Implications

The policy sets out the principles, processes and procedures that will apply to the support of Councillors in their role. The policy provides guidance for reimbursement of Councillors which is provided for in Council's budget.

Legal/Statutory

The policy assists Council's compliance with sections 75, 75A, 75B and 75C of the Act as well as conformance with associated guidelines.

The policy is required by the Act to be consistent with the prescribed types of Councillor out-of-pocket expenses that must be reimbursed if the expenses are reasonable and bona fide.

The policy must also be consistent with any prescribed procedures to be followed by Councillors in relation to the reimbursement of out-of-pocket expenses.

The policy addresses the minimum resources and facilities to be provided to the Mayor and Councillors as prescribed by section 75C of the Act and in accordance with the Victorian Government's 'Recognition and Support, the Victorian Government's Policy Statement on Local Government Mayoral and Councillor Allowances and Resources'.

Social

In accordance with the Local Law, the proposed policy is required to be reviewed to assess any impacts on National Competition Policy and the principles under the Human Rights Charter.

The policy is considered to be compatible with the Charter of Human Rights and Responsibilities.

The introduction of the policy imposes no restrictions on competition and therefore complies with National Competition Principles.

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:

Goal

We are Sustainable

The Non-negotiables:

All legislative and compliance requirements are met.

The best use of Council resources.

Risk Management

The policy aims to achieve high standards of support, transparency and accountability.

Consultation/Communication

Submissions were invited from the community in regards to the policy in accordance with clause 7 of the Local Law.

A notice to this effect was advertised in the Chronicle newspaper on Friday 24 June 2016 and also on Council's website indicating that submissions would be received up to 5.00pm on Friday 22 July 2016.

No submissions have been received.

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

Conclusion

The policy will ensure that the incoming elected Council has contemporary support arrangements in place and should be adopted by Council.

Attachments

- 1 Councillor Support Policy 2016

14. COMMUNITY WELLBEING

Nil

15. INFRASTRUCTURE SERVICES

15.1 ST CATHERINES HOSTEL REQUEST FOR ACCESS TO OVENS STREET

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Director - Infrastructure Services
File Name: 59-69 RYLEY ST WANGARATTA 3677 - NEW ST CATHERINES
File No: 7005

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 consider St Catherine's Hostel Wangaratta's request for vehicle access to Ovens Street. Support for this request would allow St Catherine's latest expansion plans to be further developed prior to the submission of an amendment to their current Planning Permit. The new access would be via the Council carpark adjacent and to the rear of the Wangaratta Art Gallery. Currently St Catherine's Hostel access is from their street frontage in Ryley Street. The St Catherine's Hostel site abuts the Art Gallery carpark site but does not have street frontage to Ovens Street. St Catherine's Hostel has questioned the status of the laneway used to access the carpark and whether or not this is a public road. There are a number of conflicting interests with this proposal along with some uncertainties around the legal status of this laneway.

Original Recommendation

That Council not approve the request for access over Council land to Ovens Street without further consideration and public consultation.

RECOMMENDATION:

(Moved: Administrator I Grant/Administrator R Roscholler)

That Council not approve the request for access over Council land to Ovens Street without further consideration through the formal planning process.

Carried

Background

St Catherine's Hostel is a centrally located aged care facility that is in great demand. The hostel provides a much needed facility. Its quality of service and central location makes it extremely popular and it typically has long waiting lists. The site is restricted with limited expansion options. The latest expansion option would see the building expand to the west over an existing car parking area and the vehicle access to the rear of the site. This concept would allow for a seamless linkage between the existing and new construction with existing floor levels continuing into the new areas. This is an obvious advantage to the aged residents and staff of the facility.

The difficulty with this concept is that access to the rear of the facility would be lost, along with car parking spaces and service entry, and therefore the request to Council to consider alternate access from Ovens Street. If this access is not available to St Catherine's Hostel, their latest expansion concept would not be viable and therefore they are seeking support prior to application to amend their current approved proposal.

Implications

Policy Considerations

The Infrastructure Design Manual (IDM) has been adopted by Council to provide the Infrastructure standards for developments. These standards are relevant to the road infrastructure requirements of this request.

Financial/Economic Implications

There are no financial implications for Council as any costs associated this concept would be borne by St Catherine's Hostel. The expansion of St Catherine's Hostel would have an economic benefit to Wangaratta during the construction phase as well as an on-going benefit due to additional beds, staffing, and services.

Legal/Statutory

The legal status of the full laneway that is used to access the carpark at the rear and adjacent to the Art Gallery is unclear. St Catherine's Hostel have researched the status and believe that the laneway has been a public road for over 20 years with 55m having been declared as such on 1 July 1995 and further believe that it has been used as a road by the public without restriction for at least that period. Council's view differs, and has aerial photography to support that view. This report does not seek to further clarify the legal status but focuses on the other implications.

The proposal would remove parking and loading facilities associated with both the Art Gallery and the Performing Arts Centre which would breach their current permits.

Social

The laneway adjacent to the Art Gallery is part of the overall Arts Precinct and has considerable pedestrian traffic. The CBD Masterplan discusses the possibility of growth in this already confined precinct. Increased traffic flow in this laneway would impact on any change to provide pedestrian friendly environments.

School Crossing/Drop Off Zone

The school crossing and drop off zone that supports the St Patricks Primary School are adjacent to the laneway access. This is an extremely busy area before and after school and it is likely to require significant change or re-location should the proposal be supported.

Technical Considerations

When Council are accessing the technical infrastructure issues as part of any Planning Permit process the application of documented and publicly available standards gives consistency which aids the developer and generally results in the best outcomes for the community. The Infrastructure Design Manual (IDM) documents these standards that are applied. In this case the relevant standards are:

1. A public carriageway should be a minimum of 6.0m
2. The minimum road reserve width should be 14.0m

Whilst not part of the IDM, emergency services normally request carriageways to have a minimum width of 7.3m. The current width of the proposed carriage way is 5.2 - 5.3m. This width could be expanded to 7.6 - 7.8m with the removal of 14 car parking spaces, however these spaces are linked to the planning permit for the Art Gallery and Performing Arts Centre.

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:

Goal

We are Connected

We will plan and make decisions for the future:

through the delivery of 'The Wangaratta Project – CBD Masterplan' we will create a city centre that is unique, diverse and active.

The non-negotiables

Our urban areas and rural townships are safe and friendly, where everyone can participate and contribute.

Consultation/Communication

There has been no public consultation about this proposal. The formal Planning Permit process would require an exhibition period allowing public input.

Options for Consideration

1. Council can support St Catherine's Hostel request for access to Ovens Street noting the requirements for other permissions.
2. Council can give in-principle approval subject to satisfactory agreement being reached that addresses the implications to all other users including but not limited to:
 - (i) IDM standards
 - (ii) Loss of car parking for the Performing Arts Centre
 - (iii) Access to the Art Gallery storage facility
 - (iv) Pedestrian access from Ovens Street to the car park at the rear of the Art Gallery
 - (v) The vicinity of the school crossing and drop off zone
 - (vi) Traffic flow into and out of the site including the feasibility of preventing right turn in and out of the site
 - (vii) Impact of traffic flow on the round-about.
3. Council cannot support the request and deal with all aspects of the proposal through the formal Planning Permit/amendment application process.

Conclusion

Whilst the legal status of the proposed access remains unclear and will remain so unless formally tested, the social, safety and technical aspects are clearer although not totally definitive. Increasing traffic within the Arts precinct is not desirable, increasing the flow of traffic adjacent to the school crossing drop-off zone and round-about increases the risk to all road users and the minimum technical requirements cannot be met without the loss of a considerable number of car parking spaces. Whilst St Catherine's Hostel has proposed some possible solutions to these issues, it is considered that these issues are too significant to pre-empt the planning permit/amendment process without public consultation and detailed solutions.

Attachments

Nil.

Questions

Hayla Brooks - Wangaratta

I would like to make a comment. Bringing up what you believe to be internal issues between St Catherine's and the dioceses or church is totally irrelevant. St Catherine's has approached the Council to make a very valid request. Council should be looking at that request, and that request on its own, outside of other issues they believe may be involved. A simple request has been made to Council and needs to be looked at on its merit.

***Irene Grant, Administrator** replied I hear what you are saying and Council is looking at it from that perspective. If we were to look at it on its merits, we are being asked to compromise access and create a roadway out of a laneway. We are also being asked to forgo parking spaces and some 14 parking spaces which are part of the planning permit for the Performing Arts Complex. They are just some of the issues that we need to consider. We are then being asked to move a whole lot of extra traffic into Ovens Street and none of that can happen without considerable discussion and further consultation. Hence my saying we won't approve the access, without further consideration. And to go through a formal planning process. We have not closed the door, we have simply said we need to talk about this to insure that we get the best outcome. Not just for St Catherine's but also for the broader community.*

John McSwiney – Wangaratta – Past Chair St Catherine's

Who suggested that there be a road created? We've asked for a private right of way, which is not a road and doesn't have all the requirements of a road.

***Alan Clark, Director Infrastructure** replied what you have asked for is St Catherine's Hostel access to Ovens Street. You have suggested in your letter that you believe it to be a public highway and we have proven that is not the case. We would then go through our normal consideration that we assess any development on, including all the technical impacts on the community such as those things we have previously mentioned.*

John McSwiney – Wangaratta

We have never asked for a road to be created. We have said from our evidence that you provided to us, it may well be a road, and we are waiting on a response, but you have not got back to us. We never asked that, what we have requested is an ROW – Right Of Way. We haven't asked for a road. It's been a misconception by you. Read all the correspondence. We have never asked for it. Which then turns all of your arguments up ended.

***Alan Clark, Director Infrastructure** replied, well I don't believe it does and your letter basically says "in other words it is as if we are asking Council to create a whole new road" and you've inquired that because it already exists "or right of way that does not already exist".*

John McSwiney – Wangaratta

But all the letters talk about a request for a right of way. If it was a road, it's a road.

Alan Clark, Director Infrastructure replied, *I'm sorry John I have the letter in front of me and that's not the wording.*

John McSwiney – Wangaratta

I will just point out that there are 31 ratepayers who are missing out on accommodation.

Ailsa Fox, Chair Administrator replied, *we understand the issue and you have explained them to us very well in the deputation. But there is a process which needs to be gone through.*

15.2 ASSET MANAGEMENT POLICY

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Manager - Assets
File Name: ASSET MANAGEMENT
File No: 84.010.005

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 recommend adoption of this Asset Management Policy 2016 (*refer attachment*).

RECOMMENDATION:

(Moved: Administrator I Grant/Administrator R Roscholler)

That Council adopts the Asset Management Policy 2016.

Carried

Background

Council services are heavily reliant on Council infrastructure and assets which require significant on-going investment in maintenance and renewal activities to ensure that they can deliver expected levels of services to the community.

The Asset Management Policy plays a key role in the development of Council's asset management framework as it supports the development, management and implementation of an Asset Management Strategy and Asset Management Strategic Action Plan. This will ensure that effective asset management practices are developed and utilised for all assets owned and controlled by Council.

An increased demand for services has resulted in an ever increasing demand on resources. Council, as a service provider, needs to be accountable and demonstrate to the community how assets will be managed so that they continue to deliver important community services. The proposed Policy facilitates achievement of this goal.

Implications

Policy Considerations

The Asset Management Policy 2016 replaces the 2010 Asset Management Policy.

Financial/Economic Implications

The policy provides financial planning and management guidance as it relates to the delivery of Council services. Whilst the policy does not commit financial resources, it does prioritise asset renewal over other infrastructure expenditure. This commitment is in place to ensure that Council looks after required existing assets to a suitable level in preference to constructing additional assets.

Legal/Statutory

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

Social

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

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:

Goal

We are Sustainable

We will create and deliver:

improved infrastructure and signage that enhances our natural reserves.
our budgeted annual capital works program.

We will plan and make decisions for the future:

refining the management of Council's infrastructure assets through a review of the Asset Management Policy.

completing Asset Management Plans to outline the key elements involved in managing Council assets.

We will focus on our business:

reviewing service levels while balancing community expectations with available resources

developing and implementing management plans; incorporating rolling capital works and cyclic maintenance

The non-negotiables

Asset management systems ensure the sustainability of our community assets.

Our natural environment and assets are protected.

There is appropriate infrastructure that enhances all townships and communities throughout the municipality.

Strategic Links

- a) Rural City of Wangaratta 2030 Community Vision
- b) Council Plan
- c) The Long Term Financial Plan and Strategic Resource Plan
- d) Asset Management Strategy
- e) Asset Management Plans

Consultation/Communication

The draft Asset Management Policy 2016 was placed on public exhibition following the Council meeting held on 21 June 2016 through advertisement in the Wangaratta Chronicle and on Council's website. The submission period closed on Friday 22 July 2016.

No submissions were received before the close of submission period.

Officers believe that following consultation the draft Asset Management Policy 2016 is now ready for adoption.

Conclusion

The Asset Management Policy 2016 is the overarching document that defines how Council manages its assets. It plays an important role in the Asset Management Framework and has strategic links to other corporate plans. It will inform the development and implementation of the Asset Management Strategy and Asset Management Strategic Action Plan.

Attachments

- 1 ASSET MANAGEMENT POLICY 2016

15.3 WANGARATTA CEMETERY FEE ADJUSTMENTS

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Executive Assistant - Infrastructure Services
File Name: CEMETERY LEGISLATION REGULATIONS & FEES
File No: 65.030.002

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 approve adjustments required to Council's fees and charges for the Wangaratta Cemetery post 1 July 2016.

RECOMMENDATION:

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

That Council:

- 1. approves adjustments due to the CPI increase to Council's fees and charges for the Wangaratta Cemetery commencing from 1 September 2016; and***
- 2. advises Funeral Directors of the increased fees and charges.***
- 3. updates Council's fees and charges schedule on its website.***

Carried

Background

The Cemetery Trust (Council) made application to the Department of Health and Human Services (DHHS) in May 2016 for an increase in fees, due to the following factors:

- Council's Enterprise Bargaining Agreement (EBA) that currently includes an annual 4% wage increase (2 employees).
- Increasing the perpetual maintenance contribution to cover costs of labour, plant, mowing, irrigation and general maintenance of plots as expected by the community; and to ensure the future maintenance of the cemetery.
- Plant costs are based on internal plant charges set by Council's fleet management policy by the estimated time for the task undertaken.
- Technology and finance costs are charged as an internal charge by Council.

Approval was given by DHHS for the requested fee increases in a letter dated 2 June 2016 and the fees were also gazetted on that date. Council were advised in the letter that the updated fees would be reflected on the DHHS website.

Council adopted its 2016-2017 Fees and Charges as part of its Budget at the ordinary meeting held on 21 June 2016. Following the adoption of fees and charges, Funeral Directors were advised of the new fees to commence on 1 July 2016.

On viewing the DHHS website following 1 July 2016, it was noted that the fees shown did not match the adopted fees. DHHS were contacted and they advised the increase was CPI of 1.9% added to the approved fees over \$100 and gazetted from 1 July 2016. (Refer attached fee schedule).

It is proposed that once approved, the new fees and charges commence from 1 September 2016 to allow time for Funeral Directors to be advised of the increases.

Implications

Policy Considerations

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

Financial/Economic Implications

There will be an increase to Cemetery revenue of 1.9% from 1 September 2016.

Legal/Statutory

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

Social

The increase in fees will provide general maintenance of cemetery plots as expected by the community; and ensure the perpetual maintenance of the cemetery into the future.

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:

Goal

We are Sustainable

We will plan and make decisions for the future:

maintaining a responsible and transparent Long Term Financial Plan.

The non-negotiables

All legislative and compliance requirements are met.

Our natural environment and assets are protected.

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

N/A

b) Other strategic links

N/A

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Wangaratta Funeral Directors	Provide updated fees and charges

Officers will inform Wangaratta Funeral Directors of the increase in fees and charges as provided by DHHS.

Conclusion

The Wangaratta Cemetery fees were increased by 1.9% CPI by DHHS after Council adopted its 2016/2017 fees and charges. To remain consistent with DHHS, Council needs to approve these changes to take effect from 1 September 2016.

Attachments

1 ADJUSTED CEMETERY FEES & CHARGES

15.4 CONTRACT C1617-003 FOR SUPPLY OF 2 ROAD MAINTENANCE UNITS

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Executive Assistant - Infrastructure Services
File Name: CONTRACT C1617-003 FOR SUPPLY OF 2 ROAD MAINTENANCE UNITS
File No: 30.075.003

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 provide information on the evaluation of Contract C1617-003 for Supply of 2 Road Maintenance Units.

RECOMMENDATION:

(Moved: Administrator R Roscholler/Administrator I Grant)

That Council:

- 1. awards Contract C1617-003 for the supply of 2 Road Maintenance Units to Blacklocks Truck Centre;**
- 2. authorises the Chief Executive Officer to sign and seal all the relevant contract documents for Contract C1617-003 for the supply of 2 Road Maintenance Units; and**
- 3. discloses the contract price for Contract C1617-003 for the supply of 2 Road Maintenance Units.**

Carried

Ailsa Fox, Chair Administrator disclosed the tender price at \$624,895.00 exclusive of GST.

Background

Contract Details

Contract C1617-003 is for the supply of 2 Road Maintenance Units. These vehicles will be used by Council's road construction and maintenance team for minor road patching and repairs.

The purchase is part of Council's ongoing fleet replacement program.

This acquisition process for Road Maintenance Units was conducted under the MAV Procurement Contracts for Specialised Trucks and Bodies NPN 1.15.

The MAV process is a group aggregation tender / contract which Council are qualified to use. This process fully complies with Council's Procurement Policy and the tendering provisions of the Local Government Act.

The tender was also advertised through Tenderlink.

Quotation Dates

Tenders for this contract were invited through advertisements as follows:

Vendor Panel	28 June 2016
Tenderlink	28 June 2016

Tenders closed at 5.00pm on Wednesday 13 July 2016. The MAV reference for the request was VP53325.

There was no pre tender meeting for this contract.

Tender Evaluation Panel

The tender evaluation panel comprised Council's Manager – Waste & Contracts, Plant and Depot Co-ordinator, Manager – Field Services and Works Co-Ordinator

Tenders Received

The following quotations for the 2 Road Maintenance Units were received by the due date:

	Tender
A	Flocon road maintenance body fitted to an Isuzu 165 – 260 MLWB Auto (one unit fitted with a Paver Box and one unit without the Paver Box)
B	Ausroad 'Horizontal Discharge' road maintenance unit fitted to an Isuzu FVD 165-260 MLWB Auto. (one unit fitted with a Paver Box and one unit without the Paver Box)

There was no trade in offered with the request for tender. Due to stamp duty, GST is not 1/11th of the purchase price.

Tender Evaluation

The tender was evaluated in accordance with evaluation criteria set out in the Conditions of Tendering. The evaluation criteria are based upon a Weighted Attribution Method as follows:

Criteria	Weighting
Price	40%
Service and Maintenance	20%
Warranty	15%
Features and OH&S	15%
Fuel efficiency and emissions standard	10%
Total	100%

Panel members assigned a score (maximum 100) to each criteria (as shown below) and then weighted the average score to produce a final Weighted Attribution Method Score.

P	Evaluation Result	Criteria
100	Exceptional	Demonstrated capacity exceeds all required standards and innovations proposed.
90	Excellent	Demonstrated capacity exceeds all required standards.
70	Good	Complies with all required standards and capacity demonstrated.
50	Satisfactory	Complies with relevant standards without qualifications.
30	Marginal	Complies with relevant standards with qualifications.
0	Unsatisfactory	Fails to satisfy required standards.

Summary of the Weighted Attribution Method Score is as follows:

	Tenderer	Score
A	Flocon road maintenance body fitted to an Isuzu 165 – 260 MLWB Auto	62
B	Ausroad 'Horizontal Discharge' road maintenance unit fitted to an Isuzu FVD 165-260 Auto.	56

The highest value reflects the most favourable tender assessment.

Implications

Policy Considerations

Council's Procurement Policy

Financial/Economic Implications

The preferred tender is higher than the allocated budget but it is proposed that savings will be made in future purchases for the fleet replacement program to compensate.

Legal/Statutory

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

Social

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

Environmental/Sustainability Impacts

The emissions of the Isuzu cab chassis is compliant to Euro V standards.

2013 – 2017 Council Plan (2015 Revision)

This report supports the 2013-2017 Council Plan:

Goal

We are Sustainable

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

N/A

Conclusion

The Flocon road maintenance units fitted to Isuzu 165 – 260 MLWB Auto cab chassis was the lowest priced tender and scored the highest in the weighted attribution method.

Consequently, the 2 Flocon road maintenance units fitted to Isuzu 165 – 260 MLWB Auto cab chassis units and tendered by Blacklocks Truck Centre is the preferred tender.

Attachments

- 1 EVALUATION FOR C1617-003 SUPPLY OF 2 ROAD MAINTENANCE UNITS - Confidential

16. DEVELOPMENT SERVICES

16.1 REGIONAL TOURISM MEMORANDUM OF UNDERSTANDING

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Manager - Economic Development and Tourism
File Name: Regional Economic Development
File No: 25.010.007

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 provide information about the proposed Regional Tourism Memorandum of Understanding (MOU) to be implemented between the following Councils, Alpine Resort Management Boards and Tourism North East (TNE): Alpine Shire Council; Benalla Rural City Council; Falls Creek Alpine Resort Management Board; Indigo Shire Council; Mansfield Shire Council; Mount Buller Mount Stirling Alpine Resort Management Board; Mount Hotham Alpine Resort Management Board; Wangaratta Rural City Council; and Towong Shire Council (referred to as Regional Tourism Partners).

RECOMMENDATION:

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

That Council authorises the Chief Executive Officer to sign the Regional Tourism Memorandum of Understanding - July 2017, between Tourism North East and the Rural City of Wangaratta (as a member of the Regional Tourism Partners Group).

Carried

Background

Lengthy consultation has occurred between TNE and all Regional Tourism Partners: (Council CEOs and representatives of the three Alpine Resort Management Boards).

The Regional Tourism Partners acknowledge the importance of working collaboratively through TNE to drive tourism outcomes for the Region. The MOU also states that the Regional Tourism Partners agree to provide TNE with operational and activity funding to act as the Region's peak tourism body, as per the terms of the MOU.

It is intended that the MOU will commence on 1 July 2017 and expire on 30 June 2020, thereby effectively covering the three financial years of 2017/18, 2018/19, and 2019/2020.

The MOU will require the Regional Tourism Partners to table negotiations from 1 May 2019 for the renewal of this MOU for a further three year period.

The signing of the MOU is to be executed by all parties by 31 August 2016 (***refer to attachment***).

Implications

Policy Considerations

This is a continuation of an existing partnership between TNE and the Rural City of Wangaratta.

Financial/Economic Implications

The following financial implications have been identified for the subject of this report.

	Base operational funding	Activity Funding	Comments
Expense	\$35,810		Cost will increase by CPI for second and third years of the MOU
Expense		\$112,000	approved for this year's RCoW budget (2016/2017) as an indicative cost for future years

Legal/Statutory

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

Social

Failure to participate could result in downturn in tourism activity in the region.

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:

Goal

We are Growing

We will research and advocate:

to ensure we prosper from the economic benefits of nature based and recreational attractions.

to promote regional cycle tourism for the benefit of our community and the local economy.

We will create and deliver:

tourism products and experiences that attract visitors.

quality and accessible pathways and cycling and walking tracks that build local and regional connections.

We will plan and make decisions for the future:

that ensure we are responding to the current and long-term recreational needs of our community.

The non-negotiables

We have a strong and accessible network of pathways and walking and cycling tracks throughout the municipality that provide community links and recreational activity areas that offer a unique and interesting mix of business, services, social and cultural spaces.

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Decline in tourism activities and outcomes if not engaged in MOU	unlikely	major	low	Ensure participation in MOU

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	inform	Meetings/newspaper

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

Conclusion

Maintaining the existing collaborative partnership between TNE and the Regional Tourism Partners will ensure stability and continuation of activities currently underway. The MOU provides a collective voice for the Regional Tourism Partners through TNE.

Attachments

- 1 Regional Tourism Memorandum of Understanding - July 2017

16.2 WANGARATTA RESIDENTIAL GROWTH AREAS - DEVELOPMENT CONTRIBUTIONS PLANS AND REVISED STRUCTURE PLANS

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Coordinator Strategic Planning
File Name: Residential Growth Areas - Structure Plans
File No: 73.010.022

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:

- Consider the recommendations of the Development Contributions Plans prepared for the North West and South Residential Growth Areas of the Regional City of Wangaratta;
- Adopt the two Development Contributions Plans (DCPs) as the basis for seeking financial contributions from developers in Wangaratta's two designated growth areas;
- Consider the mechanisms by which development contributions can be collected by Council;
- Consider and adopt revised Structure Plans prepared for each of the two residential growth area of the Regional City of Wangaratta to ensure consistency between structure plans and the DCPs;
- Endorse the adopted DCPs and revised Structure Plans for the North West and South Residential Growth Areas as the basis for comprehensive amendments to the Wangaratta Planning Scheme to facilitate planned residential growth.

RECOMMENDATION:

(Moved: Administrator R Roscholler/Administrator I Grant)

That Council:

1. ***adopts the Wangaratta North West Growth Area Development Contributions Plan, August 2016 and the Wangaratta South Growth Area Development Contributions Plan, August 2016;***
2. ***adopts the Wangaratta North West Growth Area Structure Plan, August 2016 and the Wangaratta South Growth Area Structure Plan, August 2016 as updated replacements to the Aurecon prepared and currently adopted Wangaratta Growth Areas Structure Planning Report, November 2015;***

- 3. endorses the application of the Development Contributions Plan Overlay as the planning tool to implement the adopted Development Contributions Plans;**
- 4. seeks authorisation from the Minister for Planning to prepare and exhibit amendments to the Wangaratta Planning Scheme to implement the recommendations of the adopted Development Contributions Plans and revised Structure Plans for each growth area;**
- 5. delegates to the Chief Executive Officer responsibility to make any changes to the adopted documents and planning scheme amendments as required by Department of Environment, Land, Water and Planning or identified by Council officers in the preparation of the planning scheme amendment material.**

Carried

Background

Adoption of Residential Growth Areas Structure Planning Report

In November 2015, Council adopted the *Wangaratta Growth Areas Structure Planning Report (Aurecon, 17 November 2015)*. The Report sets out the future directions for growth in two designated growth areas in north-west and south Wangaratta. The Report contains a Structure Plan for each area, setting out key land uses and infrastructure such as new road networks, stormwater infrastructure, neighbourhood activity areas with community and commercial land uses, public open space and areas of environmental significance and constraint.

Preparation of Development Contributions Plans

Council is responsible for delivering key infrastructure for each growth area. Council's planning and technical services staff have assisted experienced consultants in this field to prepare a Development Contributions Plan (DCP) for each growth area. The purpose of a DCP is to identify all major infrastructure projects required to be delivered by Council, along with detailed design and costings for each project. The projects include those works not typically delivered by land developers at the time of subdivision, such as major road upgrades and new roads, intersection upgrades, new stormwater infrastructure, community facilities, active and passive public open space and areas to be set aside to preserve environmental values.

What are development contributions?

Development contributions are money or 'in kind' works provided by developers at the time of subdivision of land. A monetary fee/levy is determined as a dollar value per developable hectare of land. This figure is based on apportionment, meaning the cost of each project is calculated by taking account of all potential users. Development contributions are not designed to provide full cost recovery for Councils, but ensure the direct beneficiaries of new infrastructure pay a

reasonable share of the cost. This ‘user pays’ system is considered fair and equitable and does not impact on landowners who choose not to develop.

Standard versus tailored development contributions

Acting on the recommendations of the Standard Development Contributions Advisory Committee, the State government will be making some amendments to the *Planning and Environment Act 1987* to facilitate the implementation of the standard levies. The Department of Environment, Land, Water and Planning (DELWP) is preparing standardised development contributions templates and figures for use by local government, in recognition that the preparation of DCPs is widely known to be costly, both in time and resources for preparation and ongoing implementation. This has led to limited use of DCPs across the State, particularly by rural and regional Councils with limited resources.

Whilst the delivery of these standard or ‘off the shelf’ development contributions is highly anticipated, and expected to be useful, they are yet to be finalised by the DELWP. Preparation of the detailed calculations, taking account of differences between metropolitan, regional and rural areas, has been slower and more complicated than expected.

Council officers have assessed the available options and determined to proceed with tailored development contributions in the meantime so that required land can be made available. This has involved the detailed design and costings for all listed projects in the Development Contributions Plans (as required to deliver the Structure Plans). Costings must be accurate, as they will be locked in, once a DCP is adopted by Council (some projects have a 10-15% loading to account for cost increases over time). This approach has meant Council has spent time and money up front and Council can recoup the cost of preparation of the DCPs through the DCP process itself.

Key findings of draft Development Contributions Plans

Two draft Development Contributions Plans have been prepared by the consultants, with detailed input from Council’s planning and technical services staff. Key findings of the DCPs are:

Wangaratta North West Development Contributions Plan

Area of Structure Plan:	215 hectares
Overall lot yield:	1,670 lots/5,000 residents
Total rate:	\$144,828 per developable hectare

Summary of charges:

Project Type	Total Cost to North Western Growth Area (\$)	Per Ha Rate (\$)
Roads	15,647,378	84,847
Community Infrastructure	3,289,063	17,835
Active Open Space	520,000	2,820
Passive Open Space	1,292,000	7,007
Off-Road Pedestrian & Cycle Trails	156,851	851
Drainage	5,699,248	30,904
Planning Costs	104,074	564
Total	\$26,708,813	\$144,828

Wangaratta South Development Contributions Plan

Area of Structure Plan: 71.5 hectares

Overall lot yield: 615 lots/1,800 residents

Total rate: \$111,158 per developable hectare

Summary of charges:

Project Type	Total Cost to Southern Growth Area (\$)	Pre Ha Rate (\$)
Roads	\$3,629,431	\$66,186
Passive Open Space	\$362,300	\$6,607
Off-Road Pedestrian & Cycle Trails	\$608,024	\$11,088
Drainage	\$1,464,849	\$26,713
Planning Costs	\$30,944	\$564
Total	\$6,095,548	\$111,158

Implementation of the DCPs

In addition to identifying necessary infrastructure and defining the means by which the cost of infrastructure will be shared, each DCP includes an Implementation Strategy. Each Implementation Strategy sets out how the development process will be managed to ensure that necessary infrastructure is delivered in a timely and efficient way by developers, with 'works in kind' as the preferred option, whilst ensuring that Council is not exposed to unreasonable risk in managing each DCP in the future (particularly if growth is slower than expected, or projects more costly).

Integral to the success of the Implementation Strategy will be a detailed understanding of the likely location and timing of development and adoption of a co-operative working relationship with developers throughout the life of each DCP.

Planning tools to implement the DCPs

There are two primary planning mechanisms for Council to implement the requirements of each DCP. These are detailed below along with a brief analysis of the pros and cons of each approach:

1. Negotiated agreements between Council and landowners/developers: These take the form of individually negotiated Section 173 agreements (as defined by the *Planning and Environment Act 1987*) between Council and each

landowner/developer to pay an agreed sum of money or works in kind (as set out in the DCP). The benefit to this approach is that Council has some flexibility in the timing of delivery of projects. This can be helpful if development is slower than expected and Council has not collected enough contributions towards a project. Council is not locked in to the delivery of projects if, in the end, they are not deemed necessary.

The challenge is that each agreement should be negotiated and signed prior to rezoning the subject land, so that Council does not lose its negotiating power. If one or more landowners within a development precinct do not agree to the contributions, it can prevent the precinct being rezoned, or rezoning occurs in a piecemeal way. If there is uncertainty before agreements are reached, Section 173 agreements on a planning permit can be subject to review at the Victorian Civil and Administrative Tribunal (VCAT) and multiple rezonings (and therefore multiple planning scheme amendments) are an inefficient use of Council resources.

2. Application of a Development Contributions Plan Overlay through the Wangaratta Planning Scheme: The Development Contributions Plan Overlay is a Victoria Planning Provision (VPP) tool designed specifically to assist Councils apply and collect developer contributions. By applying the DCPO (with an individually tailored schedule), all development on affected land is subject to the requirements of the DCPO. There is no recourse to VCAT, no need to individually negotiate and no need to undertake individual rezonings. The DCPO can be applied at the same time as broad scale rezoning of land.

The challenges with applying the DCPO are that Council must take a coordinated approach to managing the collected funds, and is committed through legislation to delivering the projects as set out in the DCPO. The funds collected are subject to audit and if development is slower than expected Council may not have the funds it has anticipated to commence a given project. There is capacity to amend the DCPO, but this also entails a planning scheme amendment, with suitable justification.

On balance, given that Council has invested considerable time and money in preparation of the DCPs, the application of the Development Contributions Plan Overlay is considered the most efficient and effective delivery mechanism. There will need to be coordination between the planning, infrastructure and finance units of Council to ensure projects are scheduled and contributions collected in a timely manner.

Revised Structure Plans

Preparation of the DCPs has resulted in the need to revise certain elements of the Wangaratta Growth Areas Structure Planning Report adopted by Council in November 2015. The Structure Plans and DCPs must be consistent with each other, as together they form the package to deliver planning controls to guide residential growth.

To this end, a revised Wangaratta North West Growth Area Structure Plan and Wangaratta South Growth Area Structure Plan have been prepared in

conjunction with each DCP. Overall, the changes are minor in nature, and result in a more succinct and clear Structure Plan for each area, with new graphics, a layered approach to the plans, a clear vision for each growth area and clear directions on the content of future planning controls (namely the Development Plan Overlay, the Development Contributions Plan Overlay and zonings).

The main changes are:

- Inclusion of public open space for each growth area, so that public open space contributions are calculated as part of the DCPs;
- Removal of the school site from the North West Growth Area Structure Plan, and replacement with active public open space.

If the revised Structure Plans are adopted, the superseded *Wangaratta Growth Areas Structure Planning Report* (Aurecon, November 2015) will assume the status of a background report.

Implications

Policy Considerations

The preparation of Development Contributions Plans and Structure Plans is consistent with the key directions of the Rural City of Wangaratta's Population and Housing Strategy 2013, with regard to green-field development.

Financial/Economic Implications

The preparation of the Development Contributions Plans and revised Structure Plans has been an initial cost to Council. This cost can be recouped through the DCPs, by adding the plan preparation to the overall cost. There has also been considerable officer time and resources spent calculating and costing infrastructure projects.

Legal/Statutory

The delivery of development contributions through the Development Contributions Plan Overlay carries statutory obligations including being audited on the collection and spending of funds and delivering each project as detailed in the DCPs.

Social

The delivery of development contributions for projects such as active open space and community facilities will have a clear social benefit.

Environmental/Sustainability Impacts

The delivery of development contributions for projects such as native vegetation reserves and stormwater management will have a clear environmental benefit.

2013 – 2017 Council Plan (2015 Revision)

This report supports the 2013-2017 Council Plan:

Goal

We are Growing

We will create and deliver:

Open spaces throughout our municipality that allow everyone to enjoy our beautiful environment and location

enhanced urban areas with vegetation corridors for environmental, recreational and aesthetic benefit to the community

We will plan and make decisions for the future:

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

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 delivery of development contributions and revised structure plans is consistent with the outcomes relating to population growth in the Community Vision. In particular, this work helps meet the desired outcomes:

- *Housing growth has been gradual, well-planned and matched by the extension of infrastructure and services; and*
- *Meeting residential land demand with appropriately located and serviced supply.*

b) Other strategic links

The delivery of development contributions and revised structure plans for Wangaratta's two key residential growth areas is consistent with:

- Hume Regional Growth Plan that identifies the Regional City of Wangaratta as a primary centre for residential growth;
- Wangaratta Population and Housing Strategy 2013 that identifies the north-west and south growth areas as the primary areas to accommodate green-field residential development.

Risk Management

In determining whether or not to proceed with the delivery of development contributions, Council must also consider the risks associated with not delivering them. The DCPs have been drafted to minimise financial risk to Council.

Council's planning, development engineering and finance units are to work closely with each other to ensure that the development contributions are recorded properly and the record is kept up to date. It is Council's responsibility to track, administer and deliver projects as specified in the DCPs and to ensure that it complies with the principle of accountability.

There may be a perception that applying development contributions to land will drive investment to other regional centres, such as Shepparton and Wodonga. It should be noted that Shepparton has been implementing development contributions for some time (initially through individual agreements, but more recently through DCPOs), and both Wodonga and Albury Council are currently preparing such work. If no contributions are collected by Council, there is potential for further Council funds to be utilised to deliver such projects without any contributions. There is also the risk is that these projects won't be delivered in a timely planned and coordinated way and that residential growth may stall or be serviced by sub-standard infrastructure, leading to public safety concerns.

Consultation/Communication

Extensive community consultation occurred during preparation of the (currently adopted) Structure Planning Report. The revised Structure Plans are considered to have only altered slightly to align with the detailed content of the Development Contributions Plans. Thus, no external consultation has been sought at this stage on the revised Structure Plans.

No community consultation has occurred during preparation of the Development Contributions Plans. This is because:

- Identification and costing of required infrastructure projects is an internal Council process;
- The key direction for projects has come from an already adopted Council report that has been through a community process including workshops, call for submissions and changes in response to submissions;
- There will be opportunity for public input through the planning scheme amendment process if, and when, Council determines to adopt the DCPs and proceed with the DCPO delivery mechanism.

Feedback has been sought from key internal Council departments during this process. Therefore, officers believe that appropriate initial consultation has occurred and the matter is now ready for Council consideration.

Options for Consideration

1. Adopt the Development Contributions Plans and revised Structure Plans and deliver the DCPs through the Development Contributions Plan Overlay (recommended): The Development Contributions Plans have been prepared by an expert consultant to ensure all high order infrastructure required for the two growth areas is delivered in an equitable, planned and timely manner, with minimal financial risk to Council. The application of the DCPO as a delivery tool will ensure there is certainty for all parties and efficient use of Council time and resources in addition to the creation of land bank for future development.

2. Adopt the DCPs and revised Structure Plans, but not the DCPO approach (not recommended): As discussed in the body of this report, the alternative approach to the DCPO is negotiated agreements with individual landowners/developers that introduce uncertainty, increase risk of stalling (creation of land bank) and multiple planning scheme amendments to rezone individual land parcels.
3. Require community consultation prior to adoption (not recommended): As discussed in the body of this report, it is considered that the level of community engagement has been adequate so far. Preparation of detailed project design and costings is largely a technical report and Council's responsibility, and only details projects required to deliver adopted Structure Plans. Community engagement at this point in time will further delay delivery of the growth areas without necessarily improving the quality of the DCPs themselves.
4. Do not proceed with DCPs (not recommended): In order to deliver the new growth areas for Wangaratta, Council will need to construct a significant amount of vital and costly infrastructure. As the primary beneficiaries of this critical infrastructure (and the rezoning of farming land for residential purposes), landowners in these areas should be required to pay their fair share, should they choose to develop.

Conclusion

Benefits of the DCPs are that they identify necessary infrastructure and establish a framework to ensure that the cost of infrastructure is shared equitably by all development proponents and by the broader community where relevant. Each DCP provides certainty for all developers and the future community by ensuring that all necessary infrastructure will be provided in a timely way and to a specific standard as development progressively takes place.

An attached package of Development Contributions Plans and revised Structure Plans for the north-west and south residential growth areas of Wangaratta provides a well-planned and economically responsible approach to the delivery of new residential land for Wangaratta.

Attachments

- 1 Wangaratta South - Final Draft
- 2 Wangaratta PSP
- 3 Wangaratta North DCP Project
- 4 Wangaratta South DCP Project

Questions

John Shaw – Wangaratta

I am involved in ownership of some of the property in the North West Sector. I have three questions if I may. The first one is about stages 1 and 2 that were proposed previously last November. Have they been removed now? I haven't noticed anything in this report that refers to those stages.

Barry Green, Director Development Services replied there were some alterations to staging in terms of how it was done. I'd have to get back to you on exactly what the new staging was.

John Shaw – Wangaratta

My second question is to do with the cost, and payment of the cost of the Cruse St extension. And whether that should be just paid by the landowners in the area to be rezoned. Or by the wider community as well. I would suggest that it ought to be paid by both.

Barry Green, Director Development Services replied the development contributions plans are not at a full cost recovery for Council. Depending upon a shared responsibility, in some areas it's been assessed as part of the background civil works it was a contribution of 80% for developers 20% for Council. In other locations it was more the reverse that the 20% was developer and Council 80%.

In terms of the ease of being able to administer these Development Contributions Plans the consultants have recommended that it's a flat fee. That takes into consideration the 'swings and round-a-bouts' that may occur through apportioning. If you get down to a portioning every parcel it makes it very difficult for applicants to know exactly what they are going to be up for. It's certainly not full cost recovery on council and is spread across different parts of the infrastructure. Main trunk roads and main drainage that services a wider community, obviously there is a greater contribution from Council towards those areas than there is from the developers.

Ailsa Fox, Chair Administrator replied, could I also add that we have received funding from the state government which is going towards some of that Cruse Street redevelopment.

John Shaw – Wangaratta

The final question I have is what the likely timing of the rezoning from this point on, assuming the recommendation is adopted tonight?

Barry Green, Director Development Services replied, the short answer could be John, how long is a piece of string? The process that we are in, should Council adopt this tonight, the staff would prepare the documentation to go through the formal planning scheme amendment. Leading up to an election we have a certain period where we can't use and advertise any of those, so we will be waiting until after the caretaker period. Then it will go out for its formal exhibition providing that we get authorisation from the minister to prepare and

exhibit that amendment. Then following the submission, for at least a minimum of one month, it will then depend on how many submissions received as to whether it then needs to go to a panel. If it needed to go to a panel, there is another 4-5 months in terms of the process of leading into a panel. If a panel is not required the documents can then come back to Council for final approval and then sent onto the minister for their approval. Even once we send it off for final approval it is still up to the Minister to where that fits in terms off his priorities.

16.3 AGRICULTURE AND AGRIBUSINESS ADVISORY COMMITTEE - MEMBERSHIP APPOINTMENTS

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Economic Development Officer
File Name: Council's Committees
File No: 10.020.008

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 provide the outcome of the invitation for Expressions of Interest to fill the vacancies created through the annual term of service expiry for three members of the committee.

RECOMMENDATION:

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

That Council:

- 1. appoints the following three people as representatives on the Agriculture and Agribusiness Advisory Committee for a term of three years ending August 2019: Rex Bennett, Lachlan Campbell, and Stuart Green.***
- 2. advises the applicants of Council's decision.***

Carried

Background

Committee members of the Agriculture and Agribusiness Advisory Committee are appointed as voluntary members to set terms of service. The terms of three existing members of the committee have an expiration date of August 2016.

Expressions of interest were publicly called with three nominations received. Nominations were assessed against the existing 'skills matrix' with Rex Bennett, Lachlan Campbell and Stuart Green being the three applicants.

The 'skills matrix' ensures adequate representation across the following sectors: Livestock Marketing, Horticulture, Viticulture, Dairy, Cropping, Meat & Wool Production, Agribusiness, Agriculture Services, Natural Resource Management, Alternative/Niche, Timber and Agriculture Science & Research.

Attached are copies of the following documents: copy of applications, skills matrix completed for each applicant, and the recommendation summary for all nominations (refer confidential attachment).

Implications

Policy Considerations

The Agriculture and Agribusiness Advisory Committee Charter sets out the terms and key dates for appointments.

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 Agriculture and Agribusiness Advisory Committee provides the opportunity for two way engagement between Council and Community/Business members in the Agricultural sector.

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:

Goal

We are Connected

We will research and advocate:

to advance regional agricultural opportunities.

We will create and deliver:

the Wangaratta Saleyards upgrade.

We will focus on our business:

by ensuring that we have the processes in place to support our community groups and committees to be viable

The non-negotiables

Our economy is diverse and strong – providing our residents with a range of employment and lifestyle

Our rural community is supported and recognised as a significant contributor to the economic and social

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Keep informed	Newspaper Website Letters to committee members

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

All applicants will be notified of Council's decision and thanked for their interest

Conclusion

Following consideration of the Expression of Interest for the vacancies on the Agriculture and Agribusiness Advisory Committee, the new appointments will assist the committee in continuing to provide Council with advice, feedback and guidance.

Attachments

- 1 Agriculture and Agribusiness Advisory Committee - Skills Matrix - Confidential
- 2 Agriculture and Agribusiness Advisory Committee - compiled nominations 2016 - confidential - Confidential
- 3 Agriculture and Agribusiness Advisory Committee - nomination summary - Confidential

16.4 LOCAL LAW POLICIES

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Manager - Environment and Community Safety
File Name: LOCAL LAWS AND REGULATIONS
File No: 58.020.001

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 following community consultation for the revised Local Laws Policies applying to the Local Law No.1 of 2014 Community Amenity (Amendment).

There are 23 policies in the document. Council has received comment on two of the policies and this report sets out the comment received and a recommended response.

RECOMMENDATION:

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

That Council:

- 1. *adopts the Local Law Policies 2016 considered by Council on 15 December 2015 as exhibited subject to the following additional clauses in the Using Footpaths policy:***
 - a) *In areas of low pedestrian activity (generally outside the Wangaratta CBD), a 1.8m Pedestrian Zone is desirable but in some cases, a 1.5m Pedestrian Zone may be considered where trading could occupy up to 75% of the frontage area as this allows spaces for pedestrians to pass. Any variation must be proposed by an applicant and will be considered as part of a formal application for a Footpath Activity Permit.***
 - b) *In non-standard streetscape areas such as intersections, interim measures or variations from the standard will be considered on a case by case basis to allow for footpath trading while maintaining the Pedestrian Zone along the building line. A variation in Kerb Zone can be considered depending on vehicle access and parking arrangements. Any variation must be proposed by an applicant and will be considered as part of a formal application for a Footpath Activity Permit.***

- c) Use of footpaths for trading or dining will not be permitted if the Pedestrian Zone is less than 1.5m wide.***
- d) When using the Activity Zone, a clearance of 1m must be maintained to allow access to other infrastructure such as hydrants, parking machines, postal boxes, pedestrian ramps, seating etc.***
- 2. gives notice in accordance with the requirements of Section 112(2) of the Local Government Act 1989 by publication in the Government gazette.***
- 3. makes the Local Law Policies 2016 available for the public on the Council website with copies available on request at the Council offices.***

Carried

Background

On 15 December 2015, Council resolved to exhibit amended Local Laws Policies to seek community comment. This document has been prepared to update the existing Local Laws Policies and better complement the Local Law No.1 of 2014 Community Amenity (Amendment). The policies provide conditions and guidance on the application of the Local Laws to improve and regulate issues relating to the amenity and safety of the community.

The draft Local Law Policies were advertised in The Chronicle and Council's webpage for consultation on 24 March, 2016, with a closing date of 28 April, 2016.

There are 23 policies in the document. Council has received comment on two policies and this report sets out the comment received and a recommended response.

It was considered that businesses would find the Itinerant Trading Policy and amendments to the existing Using Footpaths Policy of interest. Known itinerant traders were informed directly. However in the first two weeks after exhibition there had been little interest. To further inform businesses an information pack was compiled about Using Footpaths (see attached) and distributed to businesses in the CBD on 21 April 2016. The date for comment on the complete policy document was extended to 6 May 2016. The extension was advertised in The Chronicle on 29 April and also distributed through Council's business facebook network.

This elicited written responses about the Using Footpaths Policy from 15 business owners and a letter containing 20 signatures.

From this group, business owners sought a further meeting. A presentation and discussion was held on 31 May 2016. The meeting was attended by owners from approximately 20 businesses in the Wangaratta CBD and Council officers to assist during the discussion. Three members of the Disability Reference Group also spoke to the meeting about their experiences as pedestrians.

The same business owners group requested a further meeting to include the Chief Executive Officer which was held on 4 July 2016, attended by owners from approximately 18 businesses. This meeting was also attended by Mr Tim McCurdy, Member for Ovens Valley and Council officers.

A further meeting was held between the business group, Council's Administrators and Council officers on 1 August 2016.

In these consultations the business owners raised a range of issues about Using Footpaths as set out in the implications section of this report.

Regarding the Itinerant Trading Policy, the site previously used by one trader cannot meet the 300m exclusion requirement in the Local Law. The Local Law itself is not being altered and the policies do not affect the application of the Local Law. The business owner has made comment about the impact on the value of the business and the difficulty of finding a compliant site on the outskirts of the CBD.

The amended Local Laws Policies have been exhibited in accordance with the Major Council policy Consultation Local Law No. 4 of 2015. In accordance with this policy, if adopted, the amended Local Law Policies will be published in the Victorian Government Gazette.

Implications

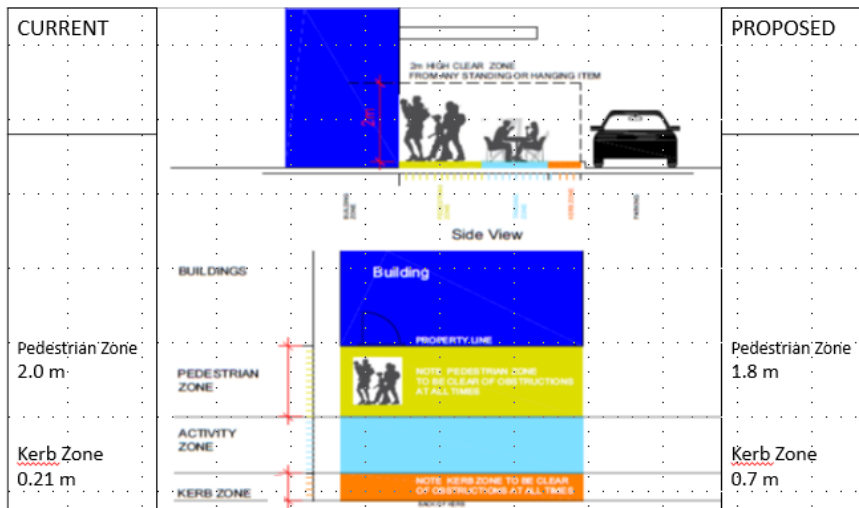
Policy Considerations

The Local Law Policy objective is to ensure accessibility along footpaths to best practice, in areas where businesses also seek to place signs, tables and stock on footpaths.

According to the 2011 Census just over 21% of Wangaratta's population has a disability, while 28.5% of our population is over 60 which is almost 10% above the state average. Most people experience some form of temporary disability in their lives and over half of over 50s have some form of sight, hearing or mobility impairment.

Both the current and amended Use of Footpaths Policy include pedestrian clearances to ensure trading does not compromise the primary purpose of pedestrian access for all users. The current policy and permits issued under it allow for a minimum clearance of 2m for pedestrian traffic and implies this is at the building line but is clear about its location. The new policy highlights clearly defined zones in diagrammatic form that implement the Australian Standard for disability access to comply with the *Disability Discrimination Act 1992*.

The amended policy clarifies and details the existing policy and reduces the Pedestrian Zone along the building line from 2m to 1.8m. A Kerb Zone distance to 0.7m has been increased from 0.3m. The area between the Pedestrian and Kerb Zone is available to businesses to use as an Activity Zone. Although businesses are required to obtain a permit that states these conditions, Council has not historically actively enforced the conditions, and some businesses have become accustomed to using the area in the Pedestrian Zone. It is also noted that some occupation of footpath areas is not authorised and as such the process of review has included an audit of all areas.



Financial/Economic Implications

During consultation, business owners raised issues about the financial impact on their business of a clearance at the building line, including:

1. Need vibrant footpaths, café culture
2. Footpath activity invites customers to shop and engage, shows business open
3. Impact on goods and customers by sun and rain if located at 1.8m distance from building
4. Displays placed outside shop front are more secure and protected
5. Businesses will suffer losses due to theft outside the shop
6. Corner businesses have physical issues due to streetscape that prevent compliance
7. Goods display closer to kerb creates issues for people leaving cars
8. Goods near the kerb block access to parking machines, seats and other items
9. Been placing stock outside the building line this way for many years; no complaints
10. Other safety issues – uneven paths, speed of scooters
11. The footpaths near the building line often have service pits in the footpath which are uneven
12. Stock and tables outside the shop create a buffer for people exiting the shop who are in danger of being hit by mobility scooters
13. Some Council seats and bollards are within the pedestrian zone adjacent to the building line

14. Council is placing barriers in the way of doing business. Changes in the CBD including parking machines and use of footpaths are driving businesses away.

Some key locations where there is difficulty implementing the desired disability access requirements are corner sites used by cafés. Corner garden beds and sightline requirements reduce the flexibility for a corner café business. It is proposed to treat these sites on a case by case basis. In some cases a transition will be needed to allow for works associated with the CBD Masterplan. This may include redesign of corner areas and changes in infrastructure.

A number of businesses in the CBD place their stock and dining areas away from the building line in accordance with the Australian Standards. These businesses do not perceive this causing a financial loss. The attractiveness and practicality of a clear pedestrian path can encourage increased and diverse pedestrian use. Industry figures suggest that increased pedestrian activity can lead to increased patronage of retail areas.

Legal/Statutory

There is a clear framework of legislation and standards that require disability access to be implemented as set out in the proposed policy. If Council does not comply it is placing itself at risk of complaint and possible litigation, especially if an incident resulted in personal injury.

The standards adopted in the Using Footpaths Policy comply with the requirements of the Australian Human Rights Commission, the *Disability Discrimination Act 1992* and Australian Standard 1428.2 Design for Access and Mobility. These standards include a clear and continuous line of travel along the building line. This is required to provide a consistent line of travel and reference line for pedestrians. A consistent clear zone avoids disabled persons and others having to navigate around obstructions caused by signage, tables, chairs and displays. The disability standards result in a uniform approach across municipalities. The Australian Human Rights Commission lists cases where it has dealt with complaints of the standards not being applied. In these cases Councils were expected to adopt and implement policy in accordance with the standards.

During consultation, the business owners proposed they use the area directly outside the business and make a pedestrian zone in the centre of the footpath. However this will not comply with disability standards for a clear line of travel. With displays outside some businesses and not others, the line of travel would change as a person walked along. This is a particular issue for persons with visual impairment. In 2011 Access Audits Australia (a disability access consultant) considered a similar proposal using barriers around displays and concluded that the random breaks and gaps would potentially create a 'corralling' effect and lead users into spaces that they may not be able to escape or negotiate easily. There could be visual confusion and gaps that create challenges for users with canes that can potentially get caught in the gaps.

The consultant considered if this non-compliant proposal was adopted, the Council concerned would place itself at risk of complaint under the Disability Discrimination Act if it were to allow footpath trading along the building line.

In the application of the Using Footpaths Policy, Council also has areas where some of its own infrastructure needs to be moved to comply.

Social

Disability access to the required standards allow all persons, but particularly disabled persons, to access facilities and shops without discrimination and in safety. It is an inclusive measure for all persons to access shops and services, and share the social connections that go with this.

Environmental/Sustainability Impacts

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

2013 – 2017 Council Plan (2016 Revision)

This report supports the 2013-2017 Council Plan:

Goal

We are Healthy

We will create and deliver:

The Using Footpaths policy supports:

delivery of programs to ensure older people can access the services and resources they need to be healthy and active.

quality and accessible pathways and cycling and walking tracks that build local and regional connections.

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
The policy not adopted	Low	High	Medium	Adopt the amended policy to clearly set out requirements of the Local Laws.
Policy is ineffective	Low	High	Medium	Ensure effective implementation of the amended policy.

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Council adopted draft policies for exhibition	Exhibition of the Local Laws Policies Specific information about Use of Footpaths delivered to CBD businesses
Consult	Additional meetings and consideration of clauses to allow variations.	Written submission received Two specific consultation meetings Onsite meetings with traders

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

Options for Consideration

Modifications to the Use of Footpaths Policy

The Local Law Policy needs to be applied consistently.
Additional clauses are proposed where Council can consider variations, given the physical conditions of the streetscape.

In areas of low pedestrian activity (generally outside the Wangaratta CBD), a 1.8m Pedestrian Zone is desirable but in some cases, a 1.5m Pedestrian Zone may be considered where trading could occupy up to 75% of the frontage area as this allows spaces for pedestrians to pass. Any variation must be proposed by an applicant and will be considered as part of a formal application for a Footpath Activity Permit.

In non-standard streetscape areas such as intersections, interim measures or variations from the standard will be considered on a case by case basis to allow for footpath trading while maintaining the Pedestrian Zone along the building line. A variation in Kerb Zone can be considered depending on vehicle access and parking arrangements. Any variation must be proposed by an applicant and will be considered as part of a formal application for a Footpath Activity Permit.

Use of footpaths for trading or dining will not be permitted if the Pedestrian Zone is less than 1.5m wide.

To take account of other street infrastructure, the following additional clause is proposed:

When using the Activity Zone, a clearance of 1m must be maintained to allow access to other infrastructure such as hydrants, parking machines, postal boxes, pedestrian ramps, seating etc.

Conclusion

From the consultation received, the Using Footpaths Policy was the only policy warranting modification in the revised Local Laws Policies applying to the Local Law No.1 of 2014 Community Amenity (Amendment).

Attachments

Nil.

Questions

Jane Hill – Wangaratta

On behalf of the traders, I think there are two of us here this evening that would like to ask a question. I wanted to make sure that you're understanding that the Human Rights Commission did give you the powers, at the discretion for different areas and where we are. I'm really wanting you to make sure that you understand the needs of the local community are met by the traders and we do our best to look after, to guide and to help people. There's also our local conditions in our areas and the temperatures, conditions that we have with the weather. Sometimes the stock outside the road is safe as houses and other times of years it's burnt to death, we have floods. We literally do have floods and it happens so fast. In Murphy Street we have had water coming into the side of the building within minutes. The water comes down through the roof and there's a big problem there.

We would like to have our stock where we can easily access it. The winds pop up out of nowhere and literally can come out of nowhere. We have weights and things that we use to weigh down our things we have outside but they are heavy. Some women that have their own shops and things, it's really not acceptable that they have to carry 5kg weights around. We have historical practices that people are used to the way we have our shops and have things set out, outside our businesses.

They are used to it and we've never had one complaint ever, you've never had one in writing. We have actually gone ahead and read the minutes from the last two years to see if there were any complaints. There have only been two issues about complaints and they were about a motor scooter and the other was an uneven foot path. We do look after our people, because of the uneven footpaths outside. We

also have unique heritage with the shop fronts not being even and environmental issues with all the hazards in the floor. So what we would like to know is, if we are forced to change against what we think is our best practices, where does the buck stop then?

Ailsa Fox, Chair Administrator replied, *I think the question that you have asked here is that if the shop keepers own safe practices are disregarded in the Wangaratta CBD, who will be held responsible for the OHS of our employees and pedestrians? So the OHS of your own employees is clearly your responsibility as an employer and I will ask the CEO to elaborate on the local pedestrian's part.*

Brendan McGrath, Chief Executive Officer replied, *I guess the question is who has liability if there is an accident or incident, there is no simple yes or no straight answer to that unfortunately. If someone was injured through some incident then the question of who is liable for that will come down to who caused it or who is at fault. If it's caused by something that is directed by Council then it could be considered that we are at fault. If it's caused by something that the shop keeper or in fact the person on the footpath has caused then the fault will be largely attributed to them. It's a case by case situation and will all come down to lawyers largely. Analysing what was the incident, who was at fault and who has the most attractive insurance policy to go after. So it's really difficult to give a definitive answer. It comes down to everyone making sure they do what they are responsible for directly, and so long as you are doing that responsibly, hopefully there will be no incident.*

Jane Hill – Wangaratta

If someone does come out and they have spilt hot cups of tea because there are no barriers out the front or buffer zones, over a person. Or if someone comes out of your shop and is collected by a scooter, who in Council is it that we phone?

Brendan McGrath, Chief Executive Officer replied, *if it's an incident that needs to be reported to Council or a potential claim against council then we have a specific officer who deals with risk and insurance issues. So you simply call our main reception number to our customer service centre and they will direct that inquiry to the appropriate person who deals with those.*

Ash Allan – Wangaratta

I have a question with five parts. Can you please explain why it is that under the Administrators guidance and execution by the CEO and Council staff the following has occurred? Under the so-called consultation regarding the Local Law amendment and the footpath access. Council has supported and payed a consultant to run a contrived meeting with shop traders, where people with disabilities were paraded in front of the traders under the guise of a focus group. In an effort, in my mind to humiliate and embarrass traders. Where the same traders clearly understand and respect the needs of those with a disability and the aged, as in their businesses they work with them every day.

Barry Green, Director Development Services replied, *in terms of the meeting we certainly didn't pay a consultant. The lady that was there is a rural access worker who works on behalf of the Wangaratta Council and Benalla Council and she*

advises Council on a range of different matters in relation to access and accessibility across both those councils. We didn't specifically bring in an external consultant for that meeting. It was felt that by bringing her in with her insight and because she deals with a number of other municipalities and she raised some of those on that night that that was giving a balanced approach to all of the traders that were there. It was something that our staff in our economic development unit, who were there on the night, supported.

Ash Allan – Wangaratta

So may I ask yourself or the administrators is it a consultant by another name?

Brendan McGrath, Chief Executive Officer replied, *it's an employee.*

Ash Allan – Wangaratta

So I refer to them as an employee? (Yes) So the Council has supported and paid an employee at the same meeting then, to state as fact, that towns who support this amendment to planning, have those with a disability and or are aged, flocked to their towns in droves, where there is simply no evidence of it?

Ailsa Fox, Chair Administrator replied, *as I wasn't at that meeting I can't verify what was said by that particular employee. Perhaps someone that was at the meeting might be able to clarify that.*

Barry Green, Director Development Services replied, *I was at the meeting but will have to go back and check my notes as to what was said.*

Ash Allan – Wangaratta

So you will come back to that as part of the decision process with this Local Law? Because it is part of the consultation and it clearly shows an agenda being driven. Therefore should impact the decision process around the local law.

Irene Grant, Administrator replied, *can I just say we are actually considering the local law. I know there has been a lot of discussion around the disability access and Jane drove that with her consultation but I think what we are dealing with tonight is the Local Law which has been in place since 2014 and Council is looking at that. Just to clarify which point we are at with terms of discussion.*

Ash Allan – Wangaratta

Administrators have asserted as fact, to traders, that at public question time at Council meetings, the issue of disability access and concerns about the same, have been raised on numerous occasions. Yet research of the past two years of minutes from public question time reflects that on only two occasions was any associated issue raised. The first occasion was a question being raised after concerns about the speed of scooters on the footpath, so not actually an access issue rather one of safety to those without scooters. The second being a suggestion post The CBD Masterplan release about administrators, councillors spending a day as a disabled person and traversing the town. At that meeting you asserted to traders that this

was a good idea. Yet did you consider if it is so, and if it is such a good idea would you apply it appropriately to other issues that present themselves to Council and where can you demonstrate that has occurred. So in essence putting yourself in a disabled or aged persons shoes do you apply the same principle to every other issue that comes forward?

Irene Grant, Administrator replied, *I guess we would like to try whenever we can and I vaguely remember the response to that statement. If we could in everything that we do put ourselves in the very shoes of the people well then clearly we would do that. However it is not always possible. That approach in regards to disability access is often one that is implemented in other communities where people do put themselves in the shoes of the very people that they are implementing regulations around to see how it actually feels for them. Disability is often one of the ones that we often do overlook what it feels like to be down when everything is up there or having to manoeuvre upstairs when you are in a wheelchair. Tonight we are looking at the local law that has been in since 2014 and Council is looking at ways that we can make this local law as relevant as it possibly can be to the traders.*

Brendan McGrath, Chief Executive Officer replied, *just on a slightly more specific note to some of Irene's comments, some of the people who we have referred to, who have asked questions are actually here in the room tonight. The disability component was part of a broader question so we have had people here tonight who have asked questions about pedestrian linkages, bike trail and there were specific elements to their questions like, where are the access points and the linkages and the accessibility components to some of that infrastructure. It's not possible without going back and looking at detail, I can't be sure, however it's possible that even though we don't capture all the nuances of questions that are asked in general business, we don't keep contemporary notes of the entire question. We try to give a good summary of what the question is or was.*

The Council does have a specific disability advisory committee which is made up of a range of independent people across the community. We refer to that committee on a range of Council initiatives to try and make sure disability and accessibility needs are met in a whole range of Council operations and aspects. I think there are a couple of committee members here tonight. A more recent example is the development of the CBD Masterplan project Wangaratta where there was a very strong theme around city accessibility both for pedestrians, cyclists and a particular strong focus on the aged population, the less able and how we can make that better. We're certainly seeing a much stronger focus on a lot of the planning we are doing and I expect the focus on that will grow into the future rather than diminish.

Ash Allan – Wangaratta

You've selectively determined that a change to all access on footpaths by referencing only one section of the DDA (Disability Discrimination Act). You have ignored and have determined to override another section the refers to historical conditions, community needs and hardship incurred. Hardship incurred in this case to traders, and indeed hardship to the community as a whole by creating barriers to the ongoing success of existing traders and businesses who have operated in a historic manner with outcomes of lowering employment opportunities in the

community and helping to vacate the business district to old businesses. Quite contrary to the CBD masterplan.

Brendan McGrath, Chief Executive Officer replied, *I'm not sure it's fair to say that we have overlooked aspects of the Act. Working out how you actually comply with various acts, regulations and standards is quite complex. In this case as we have talked about a couple of times with the traders group who we've met with, what we are moving towards has been in our Local Law for a couple of years now and is well established as modern day practice to ensure that councils do comply with the DDA and they do that based on Australian Standards which are there to ensure there is some consistency in the way these things are applied. Broadly we need to meet the obligations under the human rights charter by doing all of those things. There are many examples around Victoria where I would say the majority of councils have moved towards this practice as the standard way of dealing with creating better accessibility around the CBD areas.*

What the DDA does is provides, for example, if there was an individual trader who felt aggrieved or their particular circumstances were significantly disadvantaged, the Act gives them some capacity to actually put forward a legal argument that this is creating some hardship for them or is not considering one of those aspects you have mentioned, those claims will generally go off to another judicial tribunal other than Council to be determined. We would argue that we are not inventing something new, we're doing something that is accepted as common practice and is about providing fair and equal access to the CBD without disadvantaging people who are less able than us.

Ash Allan – Wangaratta

Brendan can I just challenge that point though. You are inventing something new.

Ailsa Fox, Chair Administrator replied *can I just make a comment that there are other councils in Victoria who have been taken to VCAT because they did not comply with the Disability Discrimination Act, so we have clearly not invented something new.*

Ash Allan – Wangaratta

You actually are, because you are implementing something in Wangaratta and the historical practice is there. I reference you back to the meeting the traders had where Pat Flynn made comment that he has been in business for almost 50 years, doing the same practice with zero issues. Now I will use Pat as an example, clearly a new thing that is being introduced to Wangaratta, that's a completely incorrect remark.

Brendan McGrath, Chief Executive Officer replied *just to clarify, my remark then, the emphasis on what we are doing is commonly accepted across the state and the local government sector. It is new in its introduction to Wangaratta and I accept that. We continue to be happy to work with individuals who have concerns about that to try and find solutions and ways to help them overcome the things that they see as barriers. Alternately if this thing is tested from a legal perspective for some reason which I'm sure we all hope it's not, they wouldn't be limiting their view of this to the*

newness to this community. They would be looking at what is accepted practice and what the standards say and how are others generally responding to their situation. What we are doing is very much keeping in what's happening widely across Victoria. I had a conversation with one of the traders yesterday about why would we do this when there are no issues.

We as an authority have a responsibility to try and prevent issues as well as respond to issues. One of the examples I like to use is playgrounds. There are many stringent standards for the development of playgrounds. If we have non-compliant playground equipment, we pull that out and we install compliant playground equipment. Not because kids are falling off and breaking their neck hopefully, but because we want to prevent injuries to children and ensure we give the best opportunity to do that by complying with standards that have been developed to try and ensure the safety in that situation. I think we can pretty easily put our hands on our hearts and say were doing something that is well accepted practice and it's about fairer access for everybody.

Ash Allan – Wangaratta

It might be an opportune time to lead into my fifth point then, as you have referenced a couple of points there, and that is that you have obviously determined to make a change to footpath conditions but refusing to take into account that yes, there have been no accidents that have occurred in living memory. No formal complaints have been received and it is reasonable to anticipate that a change in conditions might well trigger accidents to occur. The historical routes travelled will change. I can reference an elderly lady who walks past my shop each and every day, who walks along, pretty much down the line of where the new 1.8m zone is. Were I to have items at the front, she would walk straight into them and she is vision impaired. So she has a historical route that she traverses each day.

Brendan McGrath, Chief Executive Officer replied in relation to this point I would just refer to my previous response to everything I said about complying with standards to prevent incidents are all just as important as trying to point to any historic issues. I am not aware of there being any specific claims, does that mean there won't be an accident or incident, I can't definitively say that, but we have a responsibility to prevent things from occurring and to provide good access for everybody, regardless of whether we are aware of previous incidents.

Blair Downing – Wangaratta

I just had one question. Since this law was adopted and put into practice back in 2014 how many times has it actually been enforced?

Barry Green, Director Development Services replied I couldn't tell you exactly how many times it has been enforced. I know that as late as last week a notice to comply was issued to another trader within the CBD district. The staff haven't actively been enforcing it. It's been reactive.

Blair Downing – Wangaratta

So since 2014 there has only been one notice issued that you know off.

Ailsa Fox, Chair Administrator replied *I think what Barry is saying is that he doesn't have the exact numbers he just knows that there was the one last week, as it has come to his attention. Prior to that he'd have to go and look at records to actually verify that.*

Blair Downing – Wangaratta

Since 2014 it doesn't matter what's in place, if nothing is enforced it's not in front of us so we don't actually know. We say its 2014 all along but you can understand it's quite new to us.

Ailsa Fox, Chair Administrator replied *I think those people with permits, had they read them and what they had applied for, probably were not complying with their permits.*

Blair Downing – Wangaratta

I understand that but just stating that the law wasn't enforced at any stage obviously it's not apparent to some people.

Ailsa Fox, Chair Administrator replied *it's a bit like having a drivers licence and the rules say you can't drive at a certain speed, if you break them and there not enforced you continue to get away with it.*

Blair Downing – Wangaratta

It's a bit like having a permit and no one else has a permit, you don't really need it because it's not enforced.

Brendan McGrath, Chief Executive Officer replied *you raise a really good point which we spent some time talking about over the past few days. This has been one of, and not the only thing that's given us pause to think about. It is often difficult to engage with the group of people who we know will be effected by something, people in the community who are less familiar with the details, don't necessarily realise when they see these things in the Chronicle and other places that it actually has some impact on them.*

One of the things we are turning our mind to, is the possibility to do some kind of impact statement that goes out with our advertising on these issues to say that – if you are one of the following categories of people or businesses or community groups – this particular issue may be of interest to you. Try to bring people's attention to the fact that if they are in that category they may want to have a look at it. We know people get a lot of stuff through the mail and their email across their desks and it often not always apparent it might have some impact on them. One of the things we recognise we have to do is try to come up with a way to make it clearer to people, what things might have some impact and importance to them as opposed to other groups.

16.5 PLANNING SCHEME AMENDMENT C69 - RURAL STRATEGY 2015 & ROADSIDE CONSERVATION MANAGEMENT PLAN 2014

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Principal Statutory Planner
File Name: Amendment C69
File No: 73.030.087

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 as the relevant Planning Authority, to consider the recently received Panel Report. This report contains the Planning Panels review and recommendations followings the hearing held on 2 and 3 June, 2016, which considered Amendment C69 to the Wangaratta Planning Scheme.

A copy of the Panel report accompanies this report at Attachment 2, and the report is now a public document, and published on Councils Website.

Pursuant to Section 27 of the *Planning and Environment Act 1987* (The Act), Council must now consider the panel report, before deciding to either adopt or abandon the amendment.

In preparing this report, a detailed analysis has been undertaken about all of the relevant conclusions and recommendations outlined in the report. In general, analysis of the report, has concluded that the report makes many generic recommendations that have wider implications to the overall amendment, rather than the specifics discussed within each relevant chapter of the report.

This creates difficulty interpreting the recommendations of the report, and clarification was sought from Panels Victoria on a number of specific questions. The response received provided little clarity and still raises further questions.

In summary the Panel recommended the following:

'that Wangaratta Planning Scheme Amendment C69 be adopted as exhibited subject to the following:

1. Delete Clauses 22.10 (Industry, warehousing and trade supplies in rural areas), 22.11 (Intensive animal industry) and 22.12 (Tourism).
2. Abandon changes to Clause 22.01 (Rural land use and agriculture).
3. *Amend Planning Scheme Maps 18VPO, 25VPO, 32VPO and 33VPO to delete Vegetation Protection Overlay Schedule 2 on land identified in Attachment B of this report.*

4. *Amend Vegetation Protection Overlay Schedule 2 to add the following permit exemption to Clause 3.0:*
 - *The trimming, lopping or removal of vegetation to the minimum extent for the purpose of maintaining water supply and sewerage infrastructure by North East Water.*
5. *Abandon the rezoning of land from the Farming Zone to the Rural Conservation Zone, Rural Living Zone and Rural Activity Zone.*

A detailed review of these recommendations has concluded that Council should proceed with the adoption of the Amendment C69, subject to taking the following position and making the following changes:

Continue support for and adapt the following outcomes:

- Rezoning of land from Farming Zone to Rural Conservation as exhibited.
- Rezoning of land from Farming Zone to Township Zone as exhibited.
- Rezoning of land from Farming Zone to Rural Living in Glenrowan, Milawa and Oxley.
- Application and amendment of the Vegetation Protection Overlays and amendment of the Schedule as presented at the Panel Hearing.

Amend and adapt the following:

- *Amend the wording of Clause 22.01 (Rural land use and agriculture), as outlined within attachment 1.*
- Amend the rezoning boundaries of Rural Activity Zone in Milawa as outlined on the revised map contained in *Attachment 3*.

Abandon the following:

- Abandon the introduction of Clause 22.11 (*Intensive animal industry*), pending the outcomes of the current Ministerial review of Intensive Agriculture and review as part of Councils broader review of the Local Planning Policy Framework. .
- *Abandon the introduction of Clause 22.12 (Tourism), and incorporate changes of this policy into Council's MSS at Clause 21.08, as presented at the Panel hearing.*
- *Abandon the introduction of Clause 22.10 (Industry, warehousing and trade supplies in rural areas) and review as part of Councils broader review of the Local Planning Policy Framework.*

Analysis underpinning these conclusions is contained within Attachment 1 to the report.

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

- 1. Considers the Panel Report in accordance with Section 27 of the Planning and Environment Act 1987 (the Act);***
- 2. Pursuant to Section 29(1) of the Act, Adopts Amendment C69 subject to changes outlined within the recommended actions documented in Attachment 1 – Analysis of Panel Report – Summary Table;***
- 3. Pursuant to Section 31(1) of the Act, submits the adopted Amendment to the Minister for Planning for approval pursuant to Section 35 of the Act;***
- 4. Notifies submitters in writing of Council's decision.***

Carried**Background:**

Council resolved at its Special Meeting of Council on the 22 March, 2016, to request the Minister for Planning to appoint an independent Panel to consider submissions made to Amendment C69.

Amendment C69, received a total of 28 submissions during its exhibition period and could be summarised as requesting the following changes:

- (a) change the amendment in the manner requested; or
- (b) refer the submission to a Panel appointed under Part 8 of the Act; or
- (c) abandon the amendment or part of the amendment.

This Panel was appointed and a public hearing was held on 2 and 3 June 2016. A total of 10 parties including Council made representation to the Panel. The Panel has now made its recommendations within its report dated 19 July 2016.

Summary of Key Recommendations within the Panel Report:

The Panel concluded within the executive summary section that:

Based on the reasons set out in this Report, the Panel recommends that Wangaratta Planning Scheme Amendment C69 be adopted as exhibited subject to the following:

1. Delete Clauses 22.10 (Industry, warehousing and trade supplies in rural areas), 22.11 (Intensive animal industry) and 22.12 (Tourism).
2. Abandon changes to Clause 22.01 (Rural land use and agriculture).
3. Amend Planning Scheme Maps 18VPO, 25VPO, 32VPO and 33VPO to delete Vegetation Protection Overlay Schedule 2 on land identified in Appendix B of this report.
4. Amend Vegetation Protection Overlay Schedule 2 to add the following permit exemption to Clause 3.0:
 - *The trimming, lopping or removal of vegetation to the minimum extent for the purpose of maintaining water supply and sewerage infrastructure by North East Water.*
5. Abandon the rezoning of land from the Farming Zone to the Rural Conservation Zone, Rural Living Zone and Rural Activity Zone.

The Panel report provides further discussion around its recommendations and some analysis of each of the recommendations is outlined within the report.

It was noted that some of the recommendations were broad and did not fully align with the very specific discussion preceding each recommendation within the report. In general there was some lack of clarity in many instance, as to how the Panel reached some of its broad recommendations.

Council sought additional clarification from the Panel around this issue, specifically around the broad recommendations relating to Clause 22.01, the Everton Township and Area Specific Recommendations.

The response of the Panel was brief, and advised Council that *'issues raised in each of the chapters need to be considered in the context of discussions and conclusions contained in Chapter 3, specifically the conclusions relating to the 2015 Rural Strategy'*.

This additional advice has been considered in the preparation of this report, however overall it is considered to be of little benefit in providing clarity to Council's original questions to the Panel.

An analysis of the recommendations has been undertaken for Council and is contained with a table, attached to this report (Attachment 1). This table provides an in-depth analysis of the issues raised by the Panel and provides recommended action against each of their recommendations.

Overall, it is considered that the Panel report does not provide clear analysis of the issues brought before the Panel, including submissions by all parties. Many of the conclusions in particular around the proposed re-zonings and some policy implementation are broad sweeping, despite the relevant discussion within each accompanying chapter having a very narrow focus.

Pursuant to Section 27 of the *Planning and Environment Act 1987*, Council must consider the panel's report, prior to deciding to adopt or not adopt the amendment.

Implications

Policy Considerations

The amendment implements the first stage (short term actions) of the recommendations of Councils adopted Rural Strategy 2015 and relevant recommendations of the Roadside Conservation Management Strategy 2014 in relation to the application and revision of Vegetation Protection Overlays.

This amendment satisfies the requirements of Clause 21.05 of Councils Municipal Strategic Statement, specifically the undertaking of a Rural Strategy which makes recommendations on the application of the Rural Zones.

The amendment is consistent with this policy, through specific implementation of the recommendations of the Rural Strategy.

The amendment does not conflict with any existing Council policy or the *Hume Regional Growth Plan 2014*.

The objective of Clause 14.01-1 of the State Planning Policy Framework (Protection of agricultural land) is to:

- *protect productive farmland which is of strategic significance in the local or regional context*

As previously stated Amendment C69 seeks to implement the first stage of recommendations of Councils adopted Rural Strategy 2015, which is designed with the protection of agricultural land as its highest priority. Therefore it is considered that the amendment is consistent with current State Planning Policy.

Financial Implications

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

Legal/Statutory

All procedures associated with this amendment comply with the legislative requirements of the *Planning and Environment Act 1987*.

Social

The Rural Strategy 2015 has been developed to guide the future of rural land use planning within the Municipality, including supporting the growth of rural townships and protecting agricultural activity from conflicting land uses.

The retention of the State default minimums for subdivision and dwelling rights (except for Rural Activity Zone – proposed 20 hectares) is considered a fair and equitable outcome for rural communities.

Environmental/Sustainability Impacts

The amendment supports the protection of the rural environment by identifying and implementing recommendations from Council's adopted Roadside Management Strategy, specifically the protection of valuable native vegetation along roadsides through overlays within the Wangaratta Planning Scheme. The panel considers the application of the VPO's to be an appropriate planning outcome.

The amendment seeks to rezone some land identified in the Strategy as more consistent with the objectives of the Rural Conservation Zone, than the Farming Zone. Whilst this approach has drawn some objecting submissions, it is considered that the Rural Conservation Zone better reflects the conservation values of these land parcels. The panel does not agree with Council's position on these re-zonings. However it is still considered that there is strategic justification for the rezoning's as outlined within this report and relevant attachments.

Economic Impacts

Agriculture and tourism are key drivers of Wangaratta's economy and the region. This amendment recognises their importance and seeks to protect and grow these industries, through supportive planning provisions particularly the introduction of the Rural Activity Zone into the Wangaratta Planning Scheme.

2013 – 2017 Council Plan (2016 Revision)

This report supports the 2013-2017 Council Plan:

Goal

We are Sustainable

We will plan and make decisions for the future

by updating the Planning Scheme and the Municipal Strategic Statement by developing new and reviewing existing strategies, including rural land use.

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

N/A

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Amendment or part of the amendment not approved by Minister for Planning	Moderate	High	Moderate	Work with DELWP to ensure the need for the amendment is understood. This report accepts some of the recommendations of the Panel, however where Council seeks to challenge the recommendations of the Panel, strong justification must be provided, which is included within the report and supporting documentation.

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Yes	Panel Report made public after 28 days from the date of receipt, or earlier as required. This action shall be communicated to all parties
Consult	N/A	N/A
Involve	Yes	Submitters have had opportunity to participate in Panel process.
Collaborate	N/A	N/A
Empower	N/A	Minister for Planning has final power to approve this amendment.

Options for Consideration

Option 1 (Recommended option):

Resolve to make changes to the amendment pursuant to Section 29(1) of the Act as outlined within Attachment 1, and pursuant to Section 31(1) of the Act submit the amendment to the Minister for Planning with changes for approval pursuant to Section 35 of the Act.

This option follows the statutory process required to consider the Panel recommendations, makes some changes as described, without compromising good land use planning outcomes for rural land within the municipality.

Option 2: (Not recommended option):

Abandon the amendment under section 28 of the Act, given the recommendations contained within the Panel report.

This option would fail to deliver implementation of the first stage of Councils Rural Strategy 2015 and the Roadside Conservation Management Strategy 2014 into tangible policy outcomes within the Wangaratta Planning Scheme.

Option 3: (Not recommended option)

Adopt the amendment in accordance with the panel's recommendation pursuant to Section 29(1) of the Act as outlined within Attachment 1, and pursuant to Section 31(1) of the Act submit the amendment to the Minister for Planning for approval pursuant to Section 35 of the Act.

Conclusion

Amendment C69 proposes to implement the first stage (identified as 'short term' outcomes) of the recommended outcomes arising from the Rural City of Wangaratta Rural Strategy 2015 (the Strategy) and also the Roadside Conservation Management Plan 2014, within the Wangaratta Planning Scheme.

The Panel recommends the adoption of the amendment with changes as discussed within their report. As outlined within the analysis table at Attachment 1, there is strong disagreement with many of the vague conclusions of the Panel, in particular with respect to proposed re-zonings of land and policy implementation. The Panel seeks the wholesale abandonment of the proposed re-zonings, however only discusses specifically having difficulty with some of the re-zonings.

Questions are also raised around the issue of policy, in particular the requirement for and wording of the local policies. It may however be appropriate to accept some of the recommendations of the Panel with respect to the new local policies around Industry, Intensive Animal and Tourism. However it is not clear that a wholesale abandonment of the revised 22.01 following concern by the Panel of the wording and requirements around Section 173 agreements. As contained within the analysis, a revised wording is proposed in an attempt to address the concerns of the Panel and ultimately the Minister for Planning.

Overall it is considered that Council should adopt Amendment C69, with changes as outlined within the Analysis table (attachment 1) and submit the amendment to the Minister for Planning pursuant to Section 31 of the Act.

Attachments

- 1 Attachment 1 - Wangaratta C69 Analysis of Panel Report Table
- 2 Attachment 2 - Wangaratta C69 Panel Report
- 3 Attachment 3 - Wangaratta C69 Map

Questions

John Boal – Markwood

I am one of the property owners that is impacted by the change to the Rural Conservation Zone. The changes are quite profound on our land use, fundamentally in combination with the flood overlay. The zoning conditions actually prevent any future development of our property. Subsequent to that we are packing our bags and business up and heading out of the shire because the whole process has been extremely traumatic. My question to Council is that, the trauma my family has gone through in undertaking to convince Council, (and I see we were successful with our application to the panel because they considered our submission), has council considered a consequence analysis for the future role-out of the rural conservation zone?

Fundamentally we can't put a shed up on our property when you combine flood overlay with the conservation zone planning permit conditions. So our only option in the future is to either go ahead or do something illegal which we won't do. Every time we actually do any development on our property we will probably have to end up in VCAT. My question is, have you done a consequence assessment for the continued run-out of the Rural Conservation Zone?

Barry Green, Director Development Services replied *there hasn't been a detailed consequence analysis in terms of a written documentation and, as part of any justification to the changed land use the officers must consider, what is the zone provisions, what is the most appropriate land use there now. In terms of some of the comments you've made around your historic practises and a change to the new zone. The simple change to a new zone does not impact on your current land use because you have existing use rights that remain, regardless of whether the zoning of the land has changed. It allows you to continue that current use for an extended period until such time as you cease being on the land for a two year period. You would then lose the existing use rights and then you must go back to complying with the zone of the day.*

John Boal – Markwood

Not a doubt and certainly use isn't an issue. The further development of our property is prohibited.

Ailsa Fox, Chair Administrator replied I'm not aware of your particular circumstances but maybe it might be more relevant to talk to the planning staff about this or you may have already done so, I'm not sure.

John Boal – Markwood

I've had conversations with members of the planning staff and they have ensured me that fundamentally no change to our use but they never commit to the application of the permit conditions. Particularly relevant to the flood overlay on the property.

Ailsa Fox, Chair Administrator replied the flood overlay is not our doing. It is something that is done by another authority. I will ask the planning department to talk about it.

Barry Green, Director Development Services replied the C69 has not considered any flood overlays here because they are set by the relevant flooding authority. In this case North East Catchment Planning Authority, they are deemed to be the flood experts and have the technical background as to where that mapping should go. It's not something that individual councils, similar to the BMO assessed by the CFA around the bushfire areas. Once you are within a flood overlay, it triggers a referral to North East Catchment Planning Authority and that's where some of the conditions to which you are referring to come from. Council is the responsible body for planning but we have to accept the referral authority comments in those particular areas.

John Boal – Markwood

Absolutely, but in saying that, Council is actually implementing the change to the zoning. It really needs to consider some of the overlays out there in future areas of rural conservation and the implications to the people who live in it.

Paul O'Brien – Greta

I have two questions and I will try to not make this personal. I need to make a couple of comments before I ask my question. In the Council report that is presented to you as Administrators tonight, I believe the panel was very clear and made very specific comments and did not make vague recommendations. Those words were written in this report tonight. I find that report misleading, bordering on being dishonest. The panel's conclusion in my opinion were crystal clear. It said delete section 22.10, abandon section 22.01. Now if people don't find those statements to be clear, I am totally confused.

So my question is why did the planning department and the report to Council tonight not provide an alternative to proceeding with C69 with the adoption of the panel's recommended changes? Why wasn't that an option given to the Administrators?

Brendan McGrath, Chief Executive Officer replied there are three options set out in the officers report, one of which is not the recommended option, is to accept the panel's recommendations and submit it to the Minister on that basis. That option is contained within the officer's report and has been the subject of some discussion with the Administrators at the briefing forum formats which you would be quite familiar with Paul. In relation to your overarching comments and your view that it is misleading, I guess we will all have our own opinion about that. What I would say is the officers report is publically available, the full panel report is attached so it's very easy for people to read both and form their own conclusion on whether they agree. It is not like we made comments about something we haven't then provided so people could make their own comparisons and conclusions. Our staff have perhaps made some generalisation and you have touched on a couple of those.

One of the things that I think is being specifically referred to is that there are a number of chapters within the panel report that deal with specific sections of C69. There is often quite specific commentary in a chapter by the panel, for example that then does not flow onto a specific recommendation, and it's covered rather broadly later on in some of their overarching recommendations. Conversely there are some quite specific recommendations that it's very difficult to tie to any specific commentary in the report. Those are the kind of discrepancies we are referring to where it's often not easy, it's not always crystal clear, it's often difficult to read the report and find a specific recommendation or read a recommendation and find specific commentary about that recommendation. That is the sort of issue we are referring to however, as I said before our report is public, the panel report is public. We have put a table in there that tries to easily contrast our recommendations with the panel's recommendations and any alterations we are making. I think it is all transparent and people can presumably make their own judgements about their views on that.

Paul O'Brien – Greta

The next question is, and again I'm quoting word for word out of the panel report. The planning policy and provisions seeking to implement recommendation to the 2015 Rural Strategy are not well founded and have insufficient strategic justification. So that an independent panel who reviewed this. And I highlight, this was called out at earlier meetings. It goes on further to say that these policies and it means Local Policies, and this is an area that I would like some sort of response because I think it something I would like to see the Council do something about. These policies should focus on helping applicants and the community understand how a permit proposal will be considered and what will influence the decision making.

So the panel is clearly calling out here that what's written today is very one sided. Written very much for the planning people to have a hidden closet and not let the permit applicant people understand the parameters of which a permit will be evaluated on. I don't see that anywhere in any action coming out of the panel's report, it is something that the panel has highlighted and is desperately needed for this community.

Brendan McGrath, Chief Executive Officer replied I think one of the things worth covering off briefly for those who aren't familiar with the process. The panels are independent and it is their job to look at an issue and make a recommendation.

Their reports are not binding on Council and they're provided to help inform the way forward for a council on a specific issue where there are complexities and objectors. Council are quite free to accept or not accept any part of the panel's recommendation that they choose and submit their views to the Minister who will always be the final arbiter on any changes. I would hate for people to leave here with the misunderstanding that we are supposed to just blindly follow panel's recommendations, that is not the purpose of them.

In terms of your commentary around policies, from that perspective, there are really two purposes to the policies. One purpose is to provide our staff, when assessing applications for various things, some guidance from Council as the authority, on how they would like those things assessed. They are there to help us accurately and properly assess applications for particular things. The second use and not in any particular priority in importance order, is to provide a bit of certainty to an applicant as to what is the Council's view on a particular subject. For example – 'If I am going to apply for it, I would like to understand what the Council's attitude or appetite is on this particular subject, so that it can inform the way forward for my application'. I think we accept that there are two main purposes for those two things and we would always write the policies with the intent of those two purposes and whether we always hit the nail on the head and get it right, others will judge. We certainly accept that is an important consideration.

Barry Green, Director Development Services replied, you referred to insufficient justification for the policies and as part of the recommendation the officers have recommended that we not go with the 22.10. 11 and 12 in this particular amendment and they have removed them. They have considered the panel's recommendation. In relation to the other policy being 22.01, the panel's recommendation was only to abandon the changes and there have been further changes in terms of wording. The wording is very consistent with a number of other planning schemes throughout Victoria and in terms of being consistent with our applicants and consultants of the world, they like to see a level of consistency in how they are written in other planning schemes. We have used the wording out of other adjoining planning schemes.

Paul O'Brien – Greta

Is that statement in reference to Section 173s?

Barry Green, Director Development Services replied I think its reference to a number of changes in that policy.

Jan Boal – Markwood

I had one question but would like to make a small statement first if that is all right? I understand that the panel's recommendations were just that, recommendations. I understand that it was done the way it was and you don't have to accept those and you can do what's best for the shire. I also understand that the panel saying to delete the Rural Conservation Zone is a very broad statement and I can understand why you have had a problem with that. Our land is not environmentally sensitive, we as land holders are sensitive to the environment, and there is a difference. We have

created a unique property because of our sensitivity to the environment not because the land was sensitive in the first place.

The hill behind us, I can totally understand why it must be conservation. We are a small patch down the front and we believe we were bundled in together. When it was considered whether the Conservation Zone should stay there or not, was the front section of our property and adjoining properties considered separately or was it just – ‘no I think it should all be conservation, so therefore we are going to blanket it’. This is the problem in the first place, we weren’t looked at individually. We were looked at as a blanket thing over the whole big hill. It would be nice to know that we have been looked at individually, have we been?

Barry Green, Director Development Services replied in terms of the planning staff putting together the documents, a number of the planning staff including staff from our environment team actually went out and ground-truthed all of the areas that were proposed to be rezoned. They inspected all of the properties but that doesn’t mean they went onto all the properties. They certainly went out and looked at the characteristics of the areas. What they do have to consider is where we put boundary zones, so that we don’t create further land use conflicts and what are the physical barriers that may allow a zone to either extend or contract. That might be something such as a creek, waterway, a road, so that they bring it up to those particular areas.

I am happy to go back and specifically look at your property and I am aware at least four members of staff went out and ground-truthed all of the areas that were to proposed to be rezoned in the strategy.

Jan Boal – Markwood

Since the panel meeting?

Barry Green, Director Development Services replied no.

Jan Boal – Markwood

We were told at the panel hearing that they hadn’t actually looked specifically and that they had aerial shots. It would be nice to know if it was actually looked at.

Peter Farrell – Milawa

What the panel actually said and they quoted from the Council submission itself, they acknowledged that the 2015 Rural Strategy is not underpinned by information that is necessary to understand demands, supply and strategic direction for Rural Residential Zone plan. So what the panel was in fact saying is that, go back do your homework on the population housing strategy because it hasn’t been done.

To my question, in paragraph 40 of Councils closing submission to the panel it stated that, if the panel considers implementing rural living on this land is inappropriate through amendment C69, Council submits the correct approach is then to delete this component from the amendment, this would leave the land in Farming Zone. This is precisely what is stated by the panel in recommendation 5

which is abandon the rezoning of land from Farming Zone to the Rural Conservation Zone, Rural Living Zone and Rural Activity Zone. So my question is can Council please explain why in the paper in front of you this commitment made by Council to the planning panel is not being honoured?

Barry Green, Director Development Services replied *Peter I am not sure I understand the question in relation to paragraph 40.*

Peter Farrell – Milawa

Paragraph 40, of Councils closing submission to the panel, ‘..if the panel considers implementing rural living on this land is inappropriate through amendment C69, Council submits the correct approach is then to delete this component from the amendment, this would leave the land in Farming Zone.’ So my question to Council is why in the paper in front of you, this commitment has not been applied?

Barry Green, Director Development Services replied *I am aware of the land you are referring to and I know that there was some discussion between the officers, including our consultant that presented to the panel on Council’s behalf. The decision was made to continue with that land as it was consistent with the recommendations of our upcoming township development plan.*

Peter Farrell – Milawa

My point is that the Council’s submission was that it be removed and I has not been honoured in this report.

Ailsa Fox, Chair Administrator replied *so your suggesting it should stay as farming land?*

Peter Farrell – Milawa

Correct, yes. My view is that council administrators should honour what the council’s submission was to the independent panel.

Ailsa Fox, Chair Administrator replied *we will take it on notice.*

Gary Nevin – Bobinawarrah

My question has been covered in a few ways but the simple question is, after this exhaustive process why would the Council ignore the advice of the independent panel? I criticise the Council between the closing of submissions on C69 for declining to seek to resolve the differences with the various submitters and to refer it straight to the panel. We’ve had no talkies about our submissions or about our points of view, it’s gone straight to a panel. Panel’s made a decision and you didn’t like much of it. Now there have been a lot of quotes that I was going to make, but what I want to emphasise is that the Council have always said 60-80% of this C69 is underpinned by the land strategy 2015. The panel has said on three different occasions, words to the effect that planning policy and provision seeking to implement recommendations of the 2015 rural land strategy are not well founded, insufficient and require justification.

Now in the Chronicle report yesterday the Council is quoted as saying, we do want to go ahead with the rezoning's because they are strategically justified. Now I accept you can go and do what you like. Now the panel also said, in criticism I believe of Councils approach to C69, they should not be written to appear like a planning control or appear to remove discretion from any planning scheme zones. The panel also says in concluding the 2015 (Rural Strategy) was a significant changed document to 2012 land strategy, that it would have considered it appropriate for Council to undertake a more comprehensive community consultation process in the development of the 2015 Rural Strategy. That is a criticism I have been making of this Council for a long time. Why is council seeking to ignore the advice, I understand it is in that document, if you wanted to access the panel report it was somewhere about page 450 in 500 pages. If you wanted to access the table analysis it was just a few pages in front of it. There is nothing in the meeting agenda that in anyway addresses the criticisms they made of the Councils position that were significant.

Again I ask, why would Council ignore the advice of the independent panel? There is nothing hinting on this being done now, tomorrow or next year. That it smacks very much of people wanting to satisfy someone's agenda before we get an elected council. Can you answer my question when you consider the motion, because that's what I'm asking?

Ailsa Fox, Chair Administrator replied thank you very much Gary, that is a fair statement.

16.6 LEASE OF COUNCIL OWNED INDUSTRIAL LAND

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Manager - Economic Development and Tourism
File Name: Regional Economic Development
File No: 25.010.007

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 to progress the long term lease of a parcel of Council owned industrial land to Countrywide Energy for the development of a Renewable Energy Solar Farm. The land is located on Wangaratta-Eldorado Road North Wangaratta, is 14.99 hectares in size and shown as Lot 1 on Plan of Subdivision 546480M, see attachment 1.

RECOMMENDATION:

(Moved: Administrator I Grant/Administrator R Roscholler)

That Council:

- 1. gives public notice of its intention to enter into a lease in accordance with the requirements of the Local Government Act 1989 for Lot 1 PS 546480M on Certificate of Title Volume 11492, Folio 982, comprising an area of 14.99 hectares situated at Wangaratta- Eldorado Road, North Wangaratta as depicted on attached plan, in the Wangaratta Chronicle and Council's website inviting written submissions on the proposed lease until 5pm Tuesday 13 September.***
- 2. establishes a Committee of Council to hear any persons who have requested to be heard in respect of their submissions on the lease of Lot 1 PS 546480M situated at Wangaratta Eldorado Road, North Wangaratta at its ordinary meeting in the Council Chambers, Wangaratta Government Centre scheduled for Tuesday 13 September 2016.***
- 3. considers submissions when deciding whether or not to lease the land at Lot 1 PS 546480M at its ordinary meeting scheduled for Tuesday 13 September 2016.***

Carried

Background

Countrywide Energy Pty Ltd are an innovative company with experience in the renewable energy field, and are seeking to develop up to an 18 megawatt Renewable Energy Solar Farm on the land.

Countrywide Energy Pty Ltd has undertaken negotiations with local companies and have a Memorandum of Understanding in place already for one large energy user to use energy developed by the proposed solar farm. Several other companies have also expressed early interest in using the energy. The energy provided will be at a reduced rate compared to energy from the retailers relying on grid supply and this will assist the users to keep energy costs down and help with commercial viability, business and job retention within Wangaratta.

The lease term is for a 25 year period with an option for a further 25 years. This term has been chosen as the life span of the solar panels are approximately 25 years. A valuation of the land has been undertaken by Council's valuers and an annual lease amount has been proposed.

Implications

Policy Considerations

The Council Plan and Economic Development Strategy support industry growth and job creation in this area.

The process for the lease of Council owned land is specified in the *Local Government Act 1989*, which includes the hearing of any submissions in accordance with Section 223.

Financial/Economic Implications

There are financial implications of this proposal in relation to the preparation and registration of lease documentation.

The proposal has potential economic implications identified previously in this report being the new business infrastructure and construction employment in its development and then the longer term benefits to other businesses accessing the power supply.

	2012/2013 Approved Budget for this proposal \$	This Proposal \$	Variance to Approved Budget \$	Comments
Revenue/Income	Nil	9,500	9,500	Additional revenue from lease to Countrywide Energy P/L
Expense	Nil			
Net Result	Nil	9,500	9,500	

Legal/Statutory

There are legal/statutory implications identified for the subject of this report in terms of the process required to comply with the requirements of the *Local Government Act 1989*.

Social

North Wangaratta is regarded as a key employment generating area and the development of the solar farm project will provide opportunities for the supply of energy to businesses in the area at lower costs assisting with cost reduction, commercial viability and job retention.

Environmental/Sustainability Impacts

The project itself has the potential for significant environmental benefits.

2013 – 2017 Council Plan (2015 Revision)

This report supports the 2013-2017 Council Plan:

Goal

We are Growing

We will plan and make decisions for the future:

that provide assistance to local manufacturers and help our existing industry sectors grow, innovate, and employ more people.

to make sure that everything we do – from building assets to delivering events - considers the physical, social, cultural and financial needs of all our community members.

The non-negotiables

Investment in new industries is supported and encouraged.

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

N/A

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Recommendation fails	unlikely	significant	medium	Ensure recommendation is adopted based on regional benefit

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Keep informed	newspaper

The purpose of this report is to commence the process to formally exhibit Council's intentions to lease land as required by the relevant legislation. Public notice will occur post this decision and a further report provided to Council at a later date.

Officers believe that the matter is now ready for Council consideration so that required consultation can occur.

Conclusion

The parcel of land is one that has been previously marketed and identified for future industrial development, however because of its location, use of the land is limited. However, the land has been identified by Countrywide Energy Pty Ltd as being ideal for the development of the solar farm. The lease of the land will allow Countrywide Energy Pty Ltd to develop the largest Renewable Energy Solar Farm in Victoria at present. The project is expected to create approximately 10 new jobs. The provision of lower cost energy to companies located in the North Wangaratta Industrial Estate will assist with their commercial viability and job retention. Other businesses have also expressed interest in relocation or establishment in this area to avail themselves of the cheaper energy.

Attachments

- 1 Site Plan - Wangaratta-Eldorado land lease to Countrywide Energy

17. SPECIAL COMMITTEE REPORTS

Nil

18. ADVISORY COMMITTEE REPORTS

18.1 ADVISORY COMMITTEE REPORTS

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Executive Assistant Corporate Services
File Name: N/A
File No: 10.020.002

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

Minutes of the following Advisory Committee Meetings are reported to Administrators for information (refer attachments)

1. Agriculture and Agribusiness Advisory Committee Meeting 11 July 2016

RECOMMENDATION:

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

That Council notes these minutes.

Carried

Attachments

- 1 AAAC Minutes - 11 July 2016

19. RECORDS OF ASSEMBLIES OF ADMINISTRATORS

19.1 RECORDS OF ASSEMBLIES OF ADMINISTRATORS

Meeting Type: Ordinary Council Meeting
Date of Meeting: 16 August 2016
Author: Executive Assistant Corporate Services
File Name: Records of Assemblies of Administrators
File No: 10.020.020

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
19 July 2016	Administrators’ Pre-Council Briefing	Attachment
26 July 2016	Administrators’ Briefing Forum	Attachment
2 August 2016	Administrators’ Briefing Forum	Attachment
9 August 2016	Administrators’ Briefing Forum	Attachment

RECOMMENDATION:

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

That Council receives the reports of Assemblies of Administrators.

Carried

Attachments

- 1 19 July 2016 - Administrators Pre-Council Briefing
- 2 26 July 2016 - Administrators Briefing Forum
- 3 2 August 2016 - Administrators Briefing Forum
- 4 9 August 2016 - Administrators Briefing Forum

20. NOTICES OF MOTION

Nil

21. URGENT BUSINESS

22. PUBLIC QUESTION TIME

Ken Clarke – Wangaratta

This is my third request to have the bike path reopened between Tone Road and Phillipson Street. It is apparent that Council officers have no regard or concerns for the safety of children walking and riding to school situated in our busiest streets in the mornings and afternoons.

Brendan McGrath, Chief Executive Officer replied *I have sent an email off to the operations guys to have a look at this and address it tomorrow. Broadly speaking we have parts of our municipality that have suffered damage through recent flooding. They work through those issues on a priority order. Things like bike trails while they are critical are obviously secondary to roads and fallen trees. We will get the guys to check that tomorrow, assuming there is no issue we will get them to reopen it.*

Jan Hooper – Laceby South

A request to the Council for a fair and reasonable solution to this conflict about the pig farm.

We need to affirm, our genuine support to our friends, neighbours and work sharing neighbours, Brain and Kim Smith of Greta Valley Free Range Pork.

They entered the Pork Industry because of low financial returns in the Beef Industry. They have both WORKED SO HARD to become established under medical issues for BOTH Brian and Kim, to get to the stage of a successful of NOTE enterprise. They have secured “niche” markets, some of which they themselves deliver in a refrigerated container to Melbourne. They attend many farmers markets, all of which means many long hour days.

They have successfully sourced all applicable documents relating to standards, guidelines and government departments, with a high level outcome standard. It strongly appears the Rural City of Wangaratta CEO, Administrators, Corporate Management Team and ‘others’ with their overly restrictive guidelines and conditions are a constant source of ‘anxiety’, ‘anguish’ and ‘frustration’ to Brain and Kim Smith who are willing to have a GO.

We all cannot be successful in WELL PAID Employment, or live off tourism, festivals and attend Street Parties.

We generally strongly endorse “THE RIGHT TO FARM”

We urge the RCoW in its decision of outcome to understand the conditions the two forceful remaining objectors are demanding.

1. The cost that may be forced onto the applicant
2. The extra intensive physical work
3. The ability, or restrict, employment to help.

And I endorse this couple and they deserve a fair and reasonable end to this conflict.

Ailsa Fox, Chair Administrator replied both the Administrators and CEO have been out to visit this property. We had a good look at what goes on out there. We do have to work through the issues both from the objectors’ point of view and the applicant’s point of view.

Brendan McGrath, Chief Executive Officer replied I would just like to explain for the galleries information that Council has already made its decision and this was made at the last meeting. The decision was to issue a notice to grant a permit, we do that recognising a farmer’s right to farm. That decision was based on guidelines that exist for the operation of piggeries, it was reliant on both state and local policy planning scheme. At this stage we don’t have an active role, the notice of decision gives both the objectors and applicants an opportunity to challenge conditions if they choose to through VCAT. It’s not until the expiry of the timeframe that is set that we then have a role. If for example we get to the end of that period and there are no further objections and the applicants don’t take it to VCAT, the permit would be issued and the conditions that were set would then apply.

I guess we have done our bit at this point in time and we have supported their endeavours by flagging that we would grant a permit. There is an independent arbiter that will look at those conditions and if either the applicants or the objectors feel that they’re too stringent or not stringent enough. Our role is on hold at this particular time.

Brain Jones – North Wangaratta

I mentioned a little while ago in regards to the roads as a result of all the rain. There’s a fair amount of areas where the waters crossed the roads and created a lot of pot holes. Is there any chance of getting the Council to help fill in the pot holes, it would take many truckloads of the right sort of soil to do it. It would be one way of rate payers to get something for their money.

Ailsa Fox, Chair Administrator replied have you put these in as a customer request because that is probably the quickest way to get things dealt with rather than waiting to bring them to a council meeting. You can do it on the phone just by ringing our customer service centre.

Alan Clark, Director Infrastructure replied the crews are out full-time doing just that, filling in pot holes and repairing roads. There’s a huge amount of work out there and they don’t get to everything as soon as some would like. Brian I can assure you they are out there and working many hours every day.

Paul O'Brien – Greta

I'm just trying to get a little clarification if I could with regards to the levee banks. I still have this long issue with public indemnification if the levee bank breaks, or some part of it causes a problem. Is it clear today whether this Council or whether the state government owns the indemnification if something should happen to that levee bank?

Alan Clark, Director Infrastructure replied *the grey area remains until the levees are taken over as a managed levee. The discussion is over, the state has adopted a Victorian wide Floodplain Management strategy and from last week a North East regional Flood Plain Management Strategy. What that strategy brings into being are some changes to the way levees are managed. For levees to be managed and to clear up this grey area of who's responsible, councils have to agree to take over the full management of the levees. That includes maintenance, liability, everything. The levees must be brought up to a reasonable condition before that occurs. It would be a financial share of a third from state, federal and local government.*

If we want Wilson Road levee to be maintained we have to agree to take it over as a managed levee and we have to contribute a third of the cost, we are then responsible for all ongoing costs and liabilities. If we don't take it on as a managed levee we have to assume that the levee doesn't exist. So when Barry's people are looking at permits etc they have to assume that there's no levee there. So it's clearly important to us that we take on those levees and we will be putting forward a proposal shortly to upgrade those levees to get them to a suitable standard. We don't have a choice in the matter, we either take them over and manage them and bear the cost. Or we treat them as if they are not there and they cease to be maintained.

Paul O'Brien – Greta

So that didn't answer my question. My question is a very fundamental question. Who owns the public liability today?

Alan Clark, Director Infrastructure replied *that is unclear, it's still unclear and that is why this strategy was looked at, the study done and the state has come up with this way to move forward. Until they are taken over as a managed levee it is still unclear. We say they are the state's responsibility and liability but they believe some of that rests with us. If we look at some of the ways the levees were developed that may well be the case.*

Ailsa Fox, Chair Administrator replied *I think the problem that you are talking about has come from that Flood Plain Strategy and Alan has just explained to you that we still have this grey area and I can't elaborate any more on it.*

Paul O'Brien – Greta

Ailsa as a rate payer I am absolutely gobsmacked that there is a potential huge liability out there.

Ailsa Fox, Chair Administrator replied we understand that.

Matt Salmon – Wangaratta

There was a Domestic Waste Water Strategy that was being developed by Council. There is a large portion of land in the municipality that's in a special water flow catchment. At this point in time we have had a number of application refused on the basis that there is no strategy and I just wanted an update on where that was up to?

Barry Green, Director Development Services replied Council has awarded a tender to update Councils existing Waste Water Management Strategy in accordance with the new state government guidelines. There was a new septic tank code of practice that was released about a month ago. This new code of practice was unknown to even our environmental health officers. It was released and the first officers new about it was through chatter on social media. We have engaged consultants and they are the same consultants that delivered the first strategy, RMC group.

Matt Salmon – Wangaratta

Further to that, I know there was a pilot program that was run with the Mansfield Shire. Whatever happened to that?

Barry Green, Director Development Services replied it disappeared down a black hole. Originally the two pilots were supposed to produce guidelines for all councils to more easily interpret the Domestic Waste Water guidelines, in particular the septic tank code of practise. They would produce a suite of guidelines for all other councils to use and other councils were encouraged not to go down the path of a new Domestic Waste Water plan on that basis. I attended a session a little over 12 months ago where the consultants presented to a range of councils and North east Water, Goulbourn Murray Water etc and they said their directive was not to produce a set of guidelines for councils. They left it to individual councils to now come up with their own strategy based on the findings of the report. They didn't actually produce any documents for councils to use, simply here is the proposal we have gone through, if you replicate this you are going to be pretty close.

Eddie Hooper – Laceby South

Roadside conversation management plan in 2014 subject to some changes several of which council staff chose to ignore, I'm at a bit of a loss as to where noxious weeds fit in.

Barry Green, Director Development Services replied in terms of declared noxious weeds on roads?

Eddie Hooper – Laceby South

Not all noxious weeds, but we've got some bad weeds which are uncontrollable and they came with Council gravel.

Barry Green, Director Development Services replied in relation to the control of weeds on Council roads it doesn't fall under the road side management plan. It falls under a separate program and this changed 5 years ago. It used to be the land owner responsibility and now they have changed it to council's responsibility. The state issues funding each year to carry out those works in the vicinity of \$37, 000 to carry out around the whole municipality.

Eddie Hooper – Laceby South

I have been told by Council staff that they have run out of funding to treat weeds. I said I have run out of funding too. The weeds still have to be done. I'm talking about Flea Bane, it's a bad one, blows in the wind for miles and you can't see the seeds.

Ailsa Fox, Chair Administrator replied the staff have made a note of this tonight and will get someone to get back to you. The shire is divided into three or four sections and we do put money over and beyond that \$45,000 towards more controls and there is three or four contractors that do various areas.

23. CONFIDENTIAL BUSINESS

Nil

24. CLOSURE OF MEETING

The Meeting closed at 8.15pm.