

# Minutes

## Of the Ordinary Council Meeting

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

**Date:** 19 February 2019

**Time:** 3PM



RURAL CITY OF  
**WANGARATTA**

Brendan McGrath  
Chief Executive Officer



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## 1. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

*We acknowledge the traditional owners of the land on which we are meeting. We pay our respects to their Elders past present and emerging 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

### Councillors:

Mr David Fuller, Mr Dean Rees, Mr Harry Bussell, Mr Harvey Benton, Mr Ken Clarke OAM, Mr Mark Currie, Ms Ashlee Fitzpatrick

### Officers:

Brendan McGrath, Chief Executive Officer Sarah Brindley, Director Corporate Services Alan Clark, Director Infrastructure Services Jaime Chubb, Director Community Wellbeing Stephen Swart, Director Development Services

## 4. ABSENT

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

### ORDER OF BUSINESS

## 6. CITIZEN CEREMONY

Nil

## 7. CONFIRMATION OF MINUTES

### **RESOLUTION:**

**(Moved: Councillor A Fitzpatrick/Councillor H Benton)**

***That Council read and confirm the Minutes of the Special Meeting of 29 January 2019 as a true and accurate record of the proceedings of the meetings.***

**Carried**

## 8. CONFLICT OF INTEREST DISCLOSURE

In accordance with sections 77A, 77B, 78 and 79 of the *Local Government Act 1989* Councillors are required to disclose a ‘*conflict of interest*’ in a decision if they would receive, or could reasonably be perceived as receiving, a direct or indirect financial or non-financial benefit or detriment (other than as a voter, resident or ratepayer) from the decision.

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

*Cr David Fuller declared a Conflict of Interest relating to item 16.3 due to a close working relationship and paid position with one of the applicants.*

## 9. RECEPTION OF PETITIONS

*Mayor Dean Rees tabled a petition on the night of the meeting received by Grace Jenkins regarding a reduction of the speed limit on Shanley Street from 100km to 80km or lower.*

### **RESOLUTION:**

**(Moved: Councillor H Bussell/Councillor K Clarke OAM)**

***Councillor H Bussell moved a motion:***

- 1. That Council accept this report .***
- 2. A report responding to the petition will be brought to the next Council Meeting.***

**Carried**

## 10. HEARING OF DEPUTATIONS

## **PRESENTATION OF REPORTS**

### **11. COUNCILLOR REPORTS**

#### **Cr Ken Clarke OAM**

*I would like this Council to recognise the services of the late Annette Jasper the wife of Ken Jasper, 31 years as our member of Parliament. Whilst Ken was never a minister in any of the Parliaments he sat in he was able to get along with everyone and we were very fortunate to have him here. In my previous term as Councillor Ken was very supportive of the Rural City of Wangaratta and Anette was such a pillar of strength for Ken.*

#### **RESOLUTION:**

**(Moved: Councillor K Clarke OAM/Councillor H Benton)**

***That the Councillor report be received and noted.***

**Carried**

## **OFFICERS' REPORTS**

### **12. EXECUTIVE SERVICES**

#### 12.1 MAV REPRESENTATIVE APPOINTMENT

<b>Meeting Type:</b>	<b>Ordinary Council Meeting</b>
<b>Date of Meeting:</b>	<b>19 February 2019</b>
<b>Author:</b>	<b>Executive Services Coordinator</b>
<b>File Name:</b>	<b>N/A</b>
<b>File No:</b>	<b>N/A</b>

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 a recommendation following discussion at briefing forum to formally appoint Cr Ken Clarke to continue on as the MAV Representative for the next 12 months.

The role of representative is to promote the MAV within the member council and the sector. They should also participate and offer expertise by nominating for committees or working groups in areas of interest.

#### **RESOLUTION:**

**(Moved: Councillor D Fuller/Councillor H Benton)**

***That Council:***

***1. Formally Appoint Cr Ken Clarke as the Representative of the Municipal Association of Victoria***

**Carried**

#### **Background**

Each member council can appoint a representative to attend State Council meetings, exercise their council's vote and provide regular reports to their council on MAV activities.

Appointments for MAV representatives are made annually by each council.

#### **Implications**

#### **Policy Considerations**

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



**Financial/Economic Implications**

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

**Legal/Statutory**

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

**Social**

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.

**2017 – 2021 Council Plan (2018 Revision)**

This report supports the 2017-2021 Council Plan 2018 revision)

**Attachments**

Nil.

**Public Questions**

*Mr Brian Fox asked what is the benefit for Council being a member of the MAV?*

Mayor Dean Rees responded out of the 79 Councils throughout Victoria all Councils are part of the MAV. I would like to pass on to Councillor Clarke who has been a member of the MAV and representing us for the past 2 years.

Cr Ken Clarke OAM responded participation is something that we need and we need advocacy in government and MAV is the vehicle for that to happen. We do have meetings in Melbourne but the 79 Councils are all represented at those meetings. I certainly believe we need to be a member of the MAV.

### 13. CORPORATE SERVICES

#### 13.1 LEASING & LICENSING POLICY

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Manager People & Governance  
**File Name:** Leasing and Licensing Policy  
**File No:** D18/46937

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

A draft policy was endorsed by Council to proceed to public consultation. A number of affected organisations contacted Council and provided feedback and as a result a second draft of the Policy is attached for Council's consideration.

#### **RESOLUTION:**

**(Moved: Councillor K Clarke OAM/Councillor A Fitzpatrick)**

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

- 1. Approves the Leasing & Licensing Policy which has been amended following community consultation arising from the period of public exhibition.***

**Carried**

#### Background

There are currently numerous property agreements in place with various community and sporting groups, as well as individuals. The agreements do not currently follow any consistent approach for rental amounts or length of terms. The Policy will address these inconsistencies by providing an equitable and transparent approach for entering into property agreements which will ensure the best possible outcome is achieved for the wider community.

The second draft of the Policy responds to issues raised by community organisations. These included the need for a better definition of the two categories of community organisations and the provision of further details in relation to maintenance responsibilities.

In addition, the opportunity was taken to provide further clarification in relation to insurance matters and to remove duplication in the document.

**Implications****Policy Considerations**

There are no specific Council policies or strategies that relate to this report as this is a newly created policy.

**Financial/Economic Implications**

This will lead to slightly increased income for Council as well as a pricing methodology for officers to justify the rental amounts being requested of occupiers.

**Legal/Statutory**

The Local Government Act 1989 gives Council the power to lease and/or licence land or property which it owns or manages.

**Social**

There may be a slightly detrimental impact on the groups that have been on long-term peppercorn (\$1) agreements. Following consultation with a range of community groups, there were no concerns with the proposed rental amounts.

**Environmental/Sustainability Impacts**

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

**2017 – 2021 Council Plan**

This report supports the 2017-2021 Council Plan:

**Goal**

We are Sustainable

**The non-negotiables**

Our team will make the best and most efficient use of Council's resources.  
Our community and recreation facilities are well maintained.

**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
Consult	Seek feedback on the draft Leasing & Licensing Policy	Wangaratta Chronicle, Council's website.

All affected community groups received written communication about the proposed policy. Around five contacted Council Officers to have discussions. Generally their concerns were about any possible risks to the renewal of their lease/license, rather than details contained in the Policy.

**Options for Consideration**

1. Do nothing.
2. Recommend further changes to the draft Policy
3. Approve the amended Policy.

**Conclusion**

The Policy will provide a consistent, equitable and transparent manner for occupation of Council owned/managed assets.

**Attachments**

- 1 Leasing and Licensing Policy 2019 

### 13.2 AUDIT ADVISORY COMMITTEE MEMBER APPOINTMENT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Governance & Reporting Advisor  
**File Name:** Audit Advisory Committee  
**File No:** F16/2078

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 Expressions of Interest and make recommendations for membership of Council's Audit Advisory Committee.

#### **RESOLUTION:**

**(Moved: Councillor K Clarke OAM/Councillor M Currie)**

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

- 1. appoints Gayle Lee as an External Independent Member to the Rural City of Wangaratta Audit Advisory Committee, for a three year term expiring in February 2022; and***
- 2. advises all applicants of the results of the Expression of Interest process and subsequent appointment to the Audit Advisory Committee.***

**Carried**

#### **Background**

The Audit Advisory Committee (AAC) Charter states that the primary objective of the AAC is to assist Council in the effective conduct of its responsibilities for financial reporting, management of risk, maintaining a reliable system of internal controls and facilitating the organisation's ethical development.

The Committee comprises of a minimum of five members - two Councillors and three external, independent persons. Appointments of external independent persons shall be made by Council by way of a public advertisement and be for a maximum term of three years. A vacancy now exists due to the end of an external independent member's three year term.

The attributes of an effective Committee member as set out by the Audit Advisory Committee include:

- Shows good judgement and is balanced in their consideration of issues and takes a whole of entity perspective;
- Knows the business of the entity; understands the role of the Committee and the expectations of Council; takes the time to understand changes that affect how the entity operates and its risks;
- Brings knowledge and expertise to bear in committee deliberations;
- Displays a constructive and positive attitude in dealings with other committee members, committee advisors and observers;
- Is a good communicator, builds effective networks and relationships while maintaining necessary confidences;
- Devotes sufficient time to committee business; and
- Displays independence of mind on committee deliberations and asks the 'hard' questions when necessary.

### **Implications**

#### **Policy Considerations**

Audit Advisory Committee Charters (2015) set out the terms and key dates for appointment on an annual basis.

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

Advisory Committees provide a positive outcome for the sustainability of the local community.

#### **Legal/Statutory**

The appointment of Advisory Committees is provided for in the *Local Government Act 1989*.

#### **Social**

Advisory Committees provide the opportunity for two-way engagement between Council and Community members.

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

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

## **2017 - 2021 Council Plan (2018 Revision)**

This report supports the 2017 - 2021 Council Plan (2018 Revision):

### **Pillar**

#### **We are Sustainable**

##### **The Non-Negotiables**

Our legislative, governance and compliance requirements will be met

##### **What we do every day**

We consistently focus on the achievement of the operational parameters framed in the annual budget

We provide a robust and transparent governance framework

##### **We will plan, research and advocate for the future**

By accurately understanding the constraints and opportunities that face our organisation, our community and our region

By completing asset management plans to outline key elements involved in managing council asset

To ensure our risks are managed strategically and effectively

#### **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 Audit Advisory Committee does not achieve its objectives	Possible	Minor	Medium	Re-advertise membership

**Consultation/Communication**

Expressions of Interest (EOI) were publicly called to fill this position. The EOI was advertised from Friday 11 January and closing Friday 25 January, 2019 at 4.00pm.

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

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

Applicants will be notified of Council's decision and thanked for their interest.

**Options for Consideration**

1. Council reviews the Expressions of Interest received and appoints a new External Independent representative to the Rural City of Wangaratta Audit Advisory Committee for the term specified.
2. Council does not appoint an External Independent representative to the Rural City of Wangaratta Audit Advisory Committee from the Expressions of Interest received. This option will require re-advertisement of this vacancy.

**Conclusion**

Following consideration of the Expressions of Interest application for Council's Audit Advisory Committee, the new appointment will assist the Committee in continuing to provide Council with advice, feedback and guidance.

**Attachments**

- 1 Expression of Interest - Audit Advisory Committee - Confidential



### 13.3 QUARTERLY COUNCIL PLAN MEASURES REPORT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Governance & Reporting Advisor  
**File Name:** 2018-2019 - Council Plan Reporting  
**File No:** S18/5618

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 communicate Council's performance against the Council Plan for Quarter 2 of the 2018/19 financial year.

#### **RESOLUTION:**

**(Moved: Councillor D Fuller/Councillor H Benton)**

***That Council receives the Council Plan 'What you will see in 2018/2019' Progress Report and the Council Plan Measures Report.***

**Carried**

#### **Background**

Part of Council's Mission is to provide the leadership necessary to maintain open communication and community engagement. Providing reports to the community on Council's progress against the Council Plan outcomes will assist to achieve this mission.

These results measure our progress against what is important and allow ourselves and everyone in our community to understand the impact that we are having.

#### **Implications**

Two reports are provided.

The first being the Council Plan 'What you will see in 2018/2019' Progress Report and it provides information on the progress in delivering the initiatives that are described in the Council Plan.

- Nine initiatives have already been completed, with a further three nearing completion.
- The Implementation of Waste Management Strategy (WMS), Participation in Tourism North East (TNE) programs, Preparation of the Wangaratta

Hospital Precinct Plan, Implementation of the Play Space Strategy are key initiatives which remain on-going but are progressing well.

- All projects have commenced with a number of the projects currently in the Tender phase.

The second being the Council Plan Measures Report and the report provides data against targets that were set in the Council Plan where the target can be measured on a monthly basis. The report excludes annual targets. All targets, including monthly and annual, will be presented at the end of the 2018/19 financial year.

Of the monthly targets, 10 are performing well and tracking within 5% of the target set for the 2018/19 financial year.

Stable performance is occurring across a number of areas including the Wangaratta Livestock Exchange, Planning Decision and Waste Collection.

- Green indicates that performance was within 5% of target;
- Yellow indicates that performance was within 10% of target; and
- Red indicates that performance was more than 10% outside of target.

### **Policy Considerations**

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

### **Financial/Economic Implications**

There is no immediate financial impact related to this report.

### **Legal/Statutory**

The *Local Government Act 1989* requires Council to report on performance annually in the Annual Report. This quarterly report provides the community with a progress update against some of Council's key measures.

### **Social**

The Council Plan 2017-2021 (2018 Revision) provides for the achievement of a number of social objectives.

### **Environmental/Sustainability Impacts**

The Council Plan 2017-2021 (2018 Revision) provides for the achievement of a number of Environmental/Sustainability objectives.

## **2017 - 2021 Council Plan (2018 Revision)**

This report supports the 2017-2021 Council Plan (2018 Revision):

### **THE PILLARS**

#### **WE ARE SUSTAINABLE**

##### **The Non-Negotiables**

Our team will make the best and most efficient use of Council's resources.

##### **We will Plan, Research & Advocate for the Future**

By accurately understanding the constraints and opportunities that face our organisation, our community and our region.

#### **WE ARE INSPIRED**

##### **The Non-Negotiables**

Our commitment to communicate and engage with our community about local decision making in a way that is clear, accessible and easy to understand.

##### **What we do everyday**

We talk to, inform and engage with the people who live, work and visit in our community.

### **Strategic Links**

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

The Council Plan supports the aspirations and objectives of the Rural City of Wangaratta 2030 Community Vision.



### **Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Council Plan targets not achieved leading to reputational risk	Low	High	Moderate	Identified unfavourable variances are examined and addressed.  Regular monitoring and reporting.

## **Conclusion**

This report assists Council to monitor its performance in achieving the targets prescribed within the Council Plan.

## **Attachments**

- 1 'What You Will See 2018/2019' Progress Report 
- 2 Council Plan Measures Report 

## **Public Questions**

*Mr Brian Fox asked how are we going to make Wangaratta a bike friendly community?*

Brendan McGrath Chief Executive Officer responded, our experience when we have done community consultation such as the CBD Masterplan, Tourism and Economic Development Strategies and previous Council plans is that there is a very strong emphasis from the community on wanting better pedestrian and bicycle access both in the city and around the municipality. We have data from, for example, counters on the rail trail so we do have understanding of the number of bicycles that are using the bicycle network as it exists. The draft Council Plan will be out in April so you and others are more than welcome to comment on this.

### 13.4 QUARTERLY FINANCE REPORT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Manager - Finance  
**File Name:** NA  
**File No:** NA

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 a quarterly progress report on its financial performance for the period ending 31 December 2018 for the 2018/19 financial year.

#### **RESOLUTION:**

**(Moved: Councillor M Currie/Councillor D Fuller)**

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

***1. Notes the Quarterly Finance Report for the period ending 31 December 2018.***

**Carried**

#### **Background**

The Quarterly Finance Report is a statutory requirement under the Local Government Act 1989. Council has completed its second quarter financial reporting process to manage and monitor its financial position against the annual budget.

Council adopted the 2018/19 Budget at the Ordinary Council Meeting held 19 June 2018.

In September 2018 Council resolved to carry over capital expenditure of \$1.148 million from the 2017/18 year and further resolved to reduce Council's capital expenditure in the 2018/19 budget by \$315,000 resulting in \$39.593 million capital works program.

It is Council's practice to undertake a budget reassessment midway through each financial year. To this end, a comprehensive review of Council's 2018/19 financial position was undertaken having regard to the following matters:

- The requirement under the *Local Government Act 1989* to establish and maintain a budgeting and reporting framework that is consistent with the principles of sound financial management.

- Council's audited financial position as at 30 June 2018.
- Projects and works carried forward from the 2017/18 year.
- Income received in 2017/18 in relation to the 2018/19 year.
- Outcomes of funding applications.
- Works undertaken in response to opportunities.
- Known adjustments to income and expenditure.

Council officers have undertaken a thorough revision of projected income and expenditure for the 2018/19 financial year. The revised targets will become the benchmark framework for future budget reporting.

### **Implications**

#### **Policy Considerations**

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

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

##### **Quarter 2 Year to Date Summary**

	Adopted Budget 2018/19 \$'000	Reviewed Budget 2018/19 \$'000	YTD Actuals 2018/19 \$'000	YTD Current Budget 2018/19 \$'000	YTD Current Budget Variance 2018/19 \$'000	YTD Current Budget Variance 2018/19 %
Income	59,363	61,392	44,636	44,528	108	0%
Expenses	56,826	59,067	28,645	28,847	202	1%
<b>Surplus/(deficit) for the period</b>	<b>2,537</b>	<b>2,325</b>	<b>15,991</b>	<b>15,681</b>	<b>310</b>	<b>2%</b>
<b>Capital Works Expenditure</b>	<b>38,760</b>	<b>34,870</b>	<b>13,734</b>	<b>14,034</b>	<b>300</b>	<b>2%</b>

As a result of the thorough revision of projected income and expenditure, Council considered the Mid Year Budget Review at a Special Council Meeting held 29 January 2019.

As a consequence of the Mid Year Budget Review, there are no significant budget variances to be report to Council at this time.

#### **Legal/Statutory**

This report has been prepared in accordance with the Local Government Act, Australian Accounting Standard, Council Plan 2017 – 2021, Annual Budget 2018/19 and the 2018/19 Capital Works Program.

Specifically, in accordance with the Local Government Act, Section 138 requires the Chief Executive Officer, at least every three months, to prepare a statement comparing the budgeted revenue and expenditure for the financial year with the actual revenue and expenditure to date and to present this report to Council.

#### **Social**

Social benefits of the projects will occur this financial year as outlined in the 2018/19 budget.

### **Environmental/Sustainability Impacts**

Council plans for and delivers a number of projects contained in the 2018/19 budget that supports its Environmental Sustainability Strategy.

### **2017 – 2021 Council Plan (2018 Revision)**

This report supports the 2017-2021 Council Plan:

#### **Goal**

We are Sustainable

#### **What we do everyday:**

We consistently focus on the achievement of the operational parameters framed in the annual budget.

#### **Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Poor performance against budget	M	M	M	Regular monitoring and reporting of budget position

#### **Consultation/Communication**

Consultation has been undertaken with Council managers and the corporate management team and the matter is now ready for Council consideration.

#### **Conclusion**

A thorough revision of projected income and expenditure for the 2018/19 financial year has been undertaken.

#### **Attachments**

- 1 December 2018 Quarterly Finance Report 

**14. COMMUNITY WELLBEING**

Nil



## 15. INFRASTRUCTURE SERVICES

### 15.1 T1819/038 ORGANICS PROCESSING PLANT CONSTRUCTION

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Manager Infrastructure Planning and Delivery  
**File Name:** Organics Processing Plant Construction  
**File No:** T1819/038

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 details of the evaluation of tenders for T1819/038 Organics Processing Plant Construction.

#### **RESOLUTION:**

**(Moved: Councillor K Clarke OAM/Councillor H Bussell)**

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

- 1. recognises Browns Wangaratta as the preferred tenderer;***
- 2. authorises officers to negotiate a final price with the preferred tenderer;***
- 3. requests officers revise the business case and review possible additional funding and present to Council;***
- 4. approves the maximum allocation of additional \$1,408,942 (Ex GST) from the waste reserve in the 2019/20 financial year;***
- 5. authorises the CEO to award the tender at a later stage for a maximum lump sum as specified in the confidential report attached;***
- 6. authorises the Chief Executive Officer to sign and seal documents for Contract T1819/038 Organics Processing Plant Construction, when available; and***
- 7. discloses the contract value of T1819/038 Organics Processing Plant Construction at the next Council meeting after the contract is awarded.***

**Carried**

#### Background

The Rural City of Wangaratta introduced a third bin system to the residents of Wangaratta in September 2015. As a result of its success Council has achieved low contamination rates (around 0.5-0.7%). Furthermore, this system ensured that annually 3500 tonnes of organic material that used to go to landfill is now diverted.

Council currently transports collected organic waste 160 kilometres to Biomix at Stanhope, this is not a long-term solution as it is expensive and unsustainable. Council has obtained relevant EPA approvals, and detailed design work has been completed for the construction of the organic processing facility. This project has also acquired funding of \$500,000 from the Resource Recovery Infrastructure Fund – Infrastructure Grants for a regional organics processing plant at Wangaratta.

The primary feedstock to be processed by this facility will be municipal food, and garden organics collected from households as well as organic waste from commercial kitchens. Council has also been researching the opportunity to reuse the compost material in a research and development project with the EPA, using phytocap technology to cap existing landfill that are currently awaiting rehabilitation. There is currently a lack of available capping material for these sites.

The project directly aligns to the North East Regional Waste and Resource Recovery Plan, and therefore also the State Plan. This ten-year implementation plan was developed in 2017, it not only acknowledges that 50,000 tonnes of garden waste alone is not being recovered in the North East region, but it also identifies the general lack of capacity to process food and garden organics in this region. The plan outlines Bowser Landfill as a potential site to process organic waste, and goes on to list the plant in its potential infrastructure schedule, as a recommended proposal. Furthermore, construction of the organics processing plant directly aligns with the vision of the Victorian Organics Resource Recovery Infrastructure Plan (VORRIP), to ensure that there are vibrant functioning markets for organics waste recovery, and it will contribute a valuable product to aid with climate change adaption and mitigation.

There are many benefits to having a regional organics processing facility. It will increase employment opportunities at the facility, and also create transport employment for those councils entering into FOGO collections. Potentially the compost material will aid the declining soil condition on local farms and it will educate our communities on the importance of recovering resources from landfill.

The facility will operate Monday to Friday between 8am and 4:30pm.

The development includes the construction of:

- a roofed waste receipt / shredding area;
- seven concrete compost bunkers 25m x 8m x 1m;
- a maturation area;
- leachate collection and stormwater management infrastructure;
- compost aeration management infrastructure;
- a 1.3 mega litre leachate storage pond; and
- the connection of the leachate pond to the existing Bowser landfill for disposal to sewer.

The Rural City of Wangaratta has completed the following work on- site to date:

- Construction of 1.1 km sealed access road from the property boundary into the site.
- Site clearance and distribution of firewood to collection points throughout the municipality.
- Construction of 1.3 mega litre leachate collection pond and installation stormwater management infrastructure.
- The connection of the leachate pond to the existing Bowser landfill for disposal to sewer.
- Installation of 1.2km of high voltage 3 phase power supply into the site.
- Civil works in preparation for the construction of the composting site.
- Importation of the Managed Organic Recycling Inc (MOR) equipment and technology from USA to Australia.

Tenders were advertised as follows:

Tenderlink	11 January 2019
The Chronicle	18 January 2019

Tenders closed on 31 January 2019 at 2.00pm.

At the close of tender, tenders were received from the following companies:

At the close of tender, tenders were received from the following companies:

<b>Tenders Received</b>
Browns Wangaratta
Crow Constructions Pty Ltd
Ultra Project Services Pty Ltd

The tender evaluation panel comprised Council's Manager – Infrastructure, Planning and Delivery, Project Manager and Waste Management Coordinator. A Probity Auditor from Crowe Horwath was engaged to oversee the evaluation process.

The Tenders were evaluated against the following criteria:

<b>Evaluation Criteria</b>	<b>Description</b>	<b>%</b>
<b>Value for Money</b>	Total price of the work.	25%
<b>Response to Contract Documents</b>	All specification items have been clearly addressed.	25%
<b>Risk &amp; Quality Management</b>	Management system and procedures including OH&S.	15%
<b>Experience &amp; Qualifications</b>	Capability to perform contract works based on experience and past performance in previous similar works.	15%
<b>Local Content</b>	Purchasing locally sourced material and consumables	10%

	Subcontracting services from local businesses Employment of local people.	
<b>Business &amp; Financial Capacity</b>	Viability of the Business to deliver both financial and functional aspects of the tender.	10%

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
<b>100</b>	<b>Exceptional</b>	Demonstrated capacity exceeds all required standards and innovations proposed.
<b>90</b>	<b>Excellent</b>	Demonstrated capacity exceeds all required standards.
<b>70</b>	<b>Good</b>	Complies with all required standards and capacity demonstrated.
<b>50</b>	<b>Satisfactory</b>	Complies with relevant standards without qualifications.
<b>30</b>	<b>Marginal</b>	Complies with relevant standards with qualifications.
<b>0</b>	<b>Unsatisfactory</b>	Fails to satisfy required standards.

From the Weighted Attribution Method the tenderers were scored as follows:

Tenderer	Preliminary evaluation score
<b>Browns Wangaratta</b>	<b>69</b>
Crow Construction Pty Ltd	57
Ultra Project Services Pty Ltd	60

### **Implications**

#### **Policy Considerations**

Council's Procurement Policy

Waste Management Strategy 2018-2023

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

This project is funded from Council's Waste Reserve and Council's 2018/19 capital works budget allocated \$3,200,986 (Ex GST) to this project.

Although there is a final and best price contained within the confidential report attached, Council officers will negotiate with the preferred tenderer, both scope and specification, with a view to further reduce the final price.

Additional funding as required, will be transferred from the waste reserve to account for any shortfall. The waste reserve allocations have been reviewed based on the 2019/20 budget and the long term financial plan showing the reserve has sufficient funding.

The shortfall has come about because of additional EPA, CFA fire protection requirements and legal advice after the budget process. The construction items have been further impacted by increases of 18% over the last 3 years. Materials impacted by this increase have been largely concrete, steel and asphalt, with concrete and steel making up the majority of material in this project.

This project is subject to the following external funding commitments:

State Government funding	\$500,000
Ausnet Services (Rebate)	\$ 54,856

Quality testing of the compost will occur against the Australian Composting Standard 4454, and once the product meets the requirements of this standard Council has identified immediate uses for the product. This include use in parks and gardens, rehabilitation of closed landfills and on-sold to farmers and the community.

### **Legal/Statutory**

Environment Protection Authority Victoria (EPA) has granted a works approval to the Rural City of Wangaratta (Council) to construct an organic waste processing facility at its existing EPA-licensed landfill on Coleman Road, Bowser in October 2017.

### **Social**

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

### **Environmental/Sustainability Impacts**

Initially, the facility will be composting 3,500 tonnes of kerbside collected organic material, plus an additional 500-1000 tonnes of garden waste from Council's Transfer Stations. Currently the organic service is only extended to 8,900 households within Wangaratta, however a key outcome of Council's recently reviewed Waste Management Strategy will see Council offering a viable organics collection to its rural townships Glenrowan, Milawa and Oxley. This is estimated to recover an additional 800 tonnes of garden and food waste annually that is currently entering the landfill. The Strategy, with a regional focus in mind is also considering offering organic bins at events held around the municipality. This would also see an increase in diversion of an estimated 200 tonnes annually from landfill. Ultimately increasing the life of the Bowser Landfill.

It will reduce greenhouse gas emissions. As a part of the works approval application to the EPA, Council modelled its Greenhouse Gas Emissions using the NGER's model to measure the difference between having our own facility and transporting off-site. The results of this modelling clearly indicated that if Council

were to operate an organics facility locally, there would be a reduction of CO<sup>2</sup> entering the atmosphere by 35.26 tonnes annually.

### **2017 – 2021 Council Plan (2018 Revision)**

This report supports the 2017-2021 Council Plan:

#### **Goal**

We are Sustainable

#### **We will plan, research and advocate for the future:**

for a regional approach to waste management that has economic and environmental benefits.

to assist the community to reduce their impact on the environment.

#### **We will create and deliver:**

the outcomes identified in the Rural City of Wangaratta Waste Management Strategy.

### **Strategic Links**

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

In 2030 the Rural City of Wangaratta is a zero waste community.

#### **b) Other strategic links**

N/A

### **Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Timeframe and achieving the proposed timelines	Possible	Timeframe become unrealistic	High	Project manager to reassess
Unsatisfactory quality of works	Rare	Statement of conformance not issued	Moderate	Project Manager to reassess
EPA Approval	Moderate	Delay in production	Moderate	Regular communications with EPA
Contractor Injury	Possible	Death or Injury – Workcover investigation	Extreme	Contractor to provide Safe work method statements to demonstrate how they are managing risks to workers.
Commissioning	Possible	Timeframe	Moderate	Project Manager

of plant from USA supplier		becomes unrealistic		to monitor
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### **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	We will keep you informed throughout the life of the project.	PCG meetings including waste officers Update of RCoW website Updates in the local paper
Consult	Continue to consult with EPA	Meetings and emails as required

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

### **Options for Consideration**

There are no alternate recommendations.

### **Conclusion**

The tenders received were evaluated and reference checks undertaken.

After a full tender evaluation process the evaluation panel recommend Browns Wangaratta as the preferred tenderer for T1819/038 Organics Processing Plant Construction. Council Officers will negotiate with the preferred tenderer both scope and specification, with a view to further reduce the final price before awarding the contract.

### **Attachments**

- 1 T1819/038 - Organics Processing Plant - Evaluation Report - Confidential

### **Public Questions**

*Mr Brian Fox asked why wasn't point 3 in the recommendation 'requests officers revise the business case and review possible additional funding and present to Council' used in the Aquatics recommendation?*

Alan Clark Director Infrastructure responded the business case for the Organics has changed because the price we are paying for the processing at the moment. When we did the first business case we were paying \$134 per tonne plus freight to Shepparton to process the Organics, that made our payback period very short. When Stanhope came along we were able to reduce that cost by more than half paying \$56 per tonne plus freight which greatly changed the business case. Other changes include the potential to become a regional facility and potential agreements with other Councils changes the cash flow dramatically. There is a need to continually update the business case whereas the business case with the

Aquatics is not an income making project it is there as a recreational facility making them two quite different projects to compare.



## 15.2 WASTE CHARGE POLICY 2019

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Waste Management Co-ordinator  
**File Name:** Waste Charge Policy  
**File No:** F16/2103

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 placing the recently reviewed Draft Waste Charge Policy 2019 (the Policy) on exhibition seeking feedback from the community. The policy sets out the basis of charges and fees applied for kerbside waste collection and waste received at Council's waste sites. It also sets out the basis for any exemptions to these services and associated costs.

#### **RESOLUTION:**

**(Moved: Councillor H Benton/Councillor D Fuller)**

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

- 1. places the Draft Waste Charge Policy 2019 on public exhibition seeking feedback from the public, until close of business 21 March 2019;***
- 2. establishes a Special Committee of Council to hear submissions on the Draft Waste Charge Policy 2019, if required, at a time to be determined; and***
- 3. reports back to Council at the Ordinary Council meeting on 16 April 2019, taking into consideration all of the submissions received.***
- 4. Adopt the policy if no submissions are received.***

**Carried**

### **Background**

Each year, coinciding with the adoption of the revised Council fees and charges the Waste Charge Policy is updated to reflect the operational nature of the waste services that Council delivers. The policy itself sets out the services that will attract fees and charges for kerbside waste collection and waste received at Council's waste sites. It also sets out the basis for any exemptions to these services and associated costs.

The proposed changes to the policy for 2019 are as follows:

- The impending extension of organic collection services to the residential rural areas of Glenrowan, Hamilton Park, Oxley and Milawa. (see section on page 2).
- Service allowances for commercial businesses using compostable liners (see section on page 3).
- Placing limitations on the volume of material able to be received safely at transfer stations (see section on page 4).
- Clarity on Council's ability to provide waste services for varying event sizes and complexity (see sections on pages 5-6).
- Clarification to exemptions for unoccupied commercial properties (see section on page 7).
- Updates to the contamination four strike policy:
  - a. that the four strike policy will also apply to garbage bins due to the introduction of the e-waste ban in landfills (see pages 8-9).
  - b. process for addressing where contamination may be the result of a medical issue e.g. dementia (see page 8).
- An additional condition of collection relating to the existing Local Law No. 1 (2018) sub clause 64.1.3 which requires bins to be removed from the kerbside within 24 hours of collection (see page 9).

### **Implications**

#### **Policy Considerations**

Council's Waste Management Strategy is applicable to this report.

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

The Waste Charge Policy has a direct correlation to the fees collected for waste services with the intent of recovering all costs for additional services above the base level waste service.

#### **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 'Four Strike Policy' has been changed to apply to garbage bins due to the introduction of the e-waste ban in landfills. This policy will use both education and enforcement to reduce the rate of contamination in Council bins.

### **2017 – 2021 Council Plan (2018 Revision)**

This report supports the 2017-2021 Council Plan:

## Goal

We are Sustainable

### We will plan, research and advocate for the future:

for a regional approach to waste management that has economic and environmental benefits.

to assist the community to reduce their impact on the environment.

### We will create and deliver:

the outcomes identified in the Rural City of Wangaratta Waste Management Strategy.

### We will focus on our business:

By the implementation of the Our Future project, and the continual review of our service levels in consideration of community expectations and available resources.

## Strategic Links

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

In 2030 the Rural City of Wangaratta is a 'zero waste' community.

### b) Other strategic links

N/A

## Risk Management

N/A

## Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Consult	Seek Feedback on the draft Waste Charge Policy	Wangaratta Chronicle Council's Website

Officers believe that the draft policy is ready for consultation with the community.

## Conclusion

The Waste Charge Policy governs the way Council implements its waste services. From the 2019 review the four strike policy will also apply to garbage bins due to the introduction of the e-waste ban in landfills. The other changes are to increase clarity around processes.

It is recommended that the Draft Waste Charge Policy 2019 be put on public exhibition allowing for any submissions. All feedback received will be reviewed and considered prior to formal adoption of the Policy at the 16 April 2019 Ordinary Council meeting.

### **Attachments**

- 1 Waste Charge Policy 2019 - Draft 

### **Public Questions**

*Anne Dunstan asked is it possible to change the wording in the policy to make it easier to locate Local Law No. 1 Community Amenities while searching on the website?*

Alan Clark Director Infrastructure Services responded yes we can do that Anne

*Anne Dunstan asked when are you planning on implementing the Organics collection to the rural communities?*

Alan Clark Director Infrastructure Services responded we are doing the trials at the moment and we are looking at September.

*Anne Dunstan asked how is Council going to communicate the introduction of the E-waste contamination ban?*

Alan Clark Director Infrastructure Services responded there will be communication all across Victoria. We are hoping to feed off some of the television advertising that will occur and we will be doing our own campaigning also.

### 15.3 T1819/051 WANGARATTA-ELDORADO ROAD/ BOURKE ROAD INTERSECTION RECONSTRUCTION

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Project Officer  
**File Name:** T1819/051 Wangaratta-Eldorado Road/ Bourke Road Intersection Reconstruction  
**File No:** T1819/051

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 details of the evaluation of T1819/051 Wangaratta-Eldorado Road/ Bourke Road Intersection reconstruction.

#### **RESOLUTION:**

**(Moved: Councillor H Benton/Councillor M Currie)**

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

- 1. Award T1819/051 Wangaratta-Eldorado Road/ Bourke Road Intersection reconstruction to O'Loughlin Excavations;**
- 2. Authorises the Chief Executive Officer to sign and seal documents for Contract T1819/051 Wangaratta-Eldorado Road/ Bourke Road Intersection reconstruction; and**
- 3. Discloses the contract price for Contract T1819/051 Wangaratta-Eldorado Road/ Bourke Road Intersection reconstruction.**

**Carried**

*Alan Clark Director Infrastructure Services disclosed the contract price T1819/051 Wangaratta-Eldorado Road/Bourke Road intersection upgrade as \$758,709.24 ex gst*

#### **Background**

The existing pavement at this site is in a poor condition exhibiting multiple failures along this section. This may be attributed to inappropriate pavement design, poor drainage and heavy vehicle turning movements.

Wangaratta-Eldorado Road is a link road, and Bourke Road provides access to the North Wangaratta Industrial Estate.

This project will reconstruct pavement, road seal and associated drainage for approximately 200m of Wangaratta-Eldorado Road where it intersects with Bourke Road.

Tenders for T1819/051 Wangaratta-Eldorado Road/ Bourke Road Intersection reconstruction were invited through advertisements as follows:

Advertisement	Date
Tenderlink	5 December 2018
Chronicle	7 December 2018

Tenders closed at 2:00pm on 7 January 2019.

The tender evaluation team included Council's Delivery and Contracts Coordinator and a Project Manager and Project Officer.

Three conforming tenders were received:

<b>Tenders Received</b>
O'Loughlin Excavations
Excell Gray Bruni
Cooks Earthmoving

Tenders were evaluated against the following criteria:

<b>Evaluation Criteria</b>	<b>Description</b>	<b>%</b>
<b>Cost to Council – Direct &amp; Indirect</b>	Total price of the work.	30%
<b>Experience &amp; Qualifications</b>	Capability to perform contract works based on experience and past performance in previous similar works.	25%
<b>Response to Specification</b>	All specification items have been clearly addressed.	20%
<b>Risk &amp; Quality Management</b>	Management system and procedures including OH&S.	10%
<b>Local Content</b>	Purchasing locally sourced material and consumables Subcontracting services from local businesses Employment of local people.	10%
<b>Business &amp; Financial Capacity</b>	Viability of the Business to deliver both financial and functional aspects of the tender.	5%

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.

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

From the Weighted Attribution Method the tenderers were scored as follows:

<b>Tenderer</b>	<b>Weighted Score</b>
O'Loughlin Excavations	68
Excell Gray Bruni	65
Cooks Earthmoving	63

### **Implications**

#### **Policy Considerations**

Council's Procurement Policy

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

Council's 2018/19 capital works budget allocated to this project is \$989,205 including a grant of \$710,000 ex GST.

#### **Legal/Statutory**

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

#### **Social**

Works will improve road & traffic conditions and improve access to the North Wangaratta Industrial Estate and the Eldorado community.

## Environmental/Sustainability Impacts

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

## 2017 – 2021 Council Plan (2018 Revision)

This report supports the 2017-2021 Council Plan:

### Goal

We are Growing  
We are Established

### **We will create and deliver:**

Timely and appropriate infrastructure to support our growth areas.

### **We will plan, research and advocate for the future:**

To facilitate drainage and road infrastructure to support future growth plans.

### **The non-negotiables**

To monitor our road network to meet current and future needs of our community and our industry.

## Strategic Links

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

### b) Other strategic links

## Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Works not delivered on time	Possible	Timeframe becomes unrealistic.	Moderate	Project Manager to reassess.
Unsatisfactory quality of works	Rare	Statement of conformance not issued	Moderate	Project Manager to reassess.
Disruption to local residents.	Possible	Reputation management	High	Communication to residents prior to works commencing.



**Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	We will keep you informed throughout the life of the project	Updates in the local paper Updates on Council's website

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

**Conclusion**

The tenders received were evaluated and reference checks undertaken.

The Evaluation Panel therefore recommend O'Loughlin Excavations as the preferred tenderer for T1819/051 Wangaratta-Eldorado Road/ Bourke Road Intersection reconstruction.

**Attachments**

- 1 T1819/051 WANGARATTA-ELDORADO ROAD/ BOURKE ROAD INTERSECTION RECONSTRUCTION - Confidential

## 16. DEVELOPMENT SERVICES

### 16.1 PLNAPP18/141 - USE OF LAND FOR AN ANIMAL BOARDING FACILITY

<b>Meeting Type:</b>	<b>Ordinary Council Meeting</b>
<b>Date of Meeting:</b>	<b>19 February 2019</b>
<b>Author:</b>	<b>Planner</b>
<b>File Name:</b>	<b>Use of Land for an Animal Boarding Facility</b>
<b>File No:</b>	<b>PlnApp18/141</b>

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 application is for the use of land for an animal boarding facility. The proposed facility is proposed to operate within an existing shed located on land within the Farming Zone approximately 2km west of Oxley. The subject land has an existing dwelling and multiple sheds. The proposed animal boarding facility is proposed to accommodate a maximum of 8 dogs.

Formal notice of the application was given to nearby affected land owners and occupiers on 30 November 2018. At the time of writing this report a total of eight submissions have been received, six of which are considered to be objections to the proposal.

This report is presented to Council following receipt of these six objections.

#### **RESOLUTION:**

**(Moved: Councillor H Benton/Councillor K Clarke OAM)**

#### ***That Council resolves to:***

- 1. Issue a Notice of Decision to Grant a Planning Permit with respect to Planning Permit Application 18/141 for Use of Land for an Animal Boarding Facility at 1070 Wangaratta-Whitfield Road Oxley subject to the permit conditions contained within Attachment 1; and***
- 2. Advise the applicant and all submitters of Council's decision.***

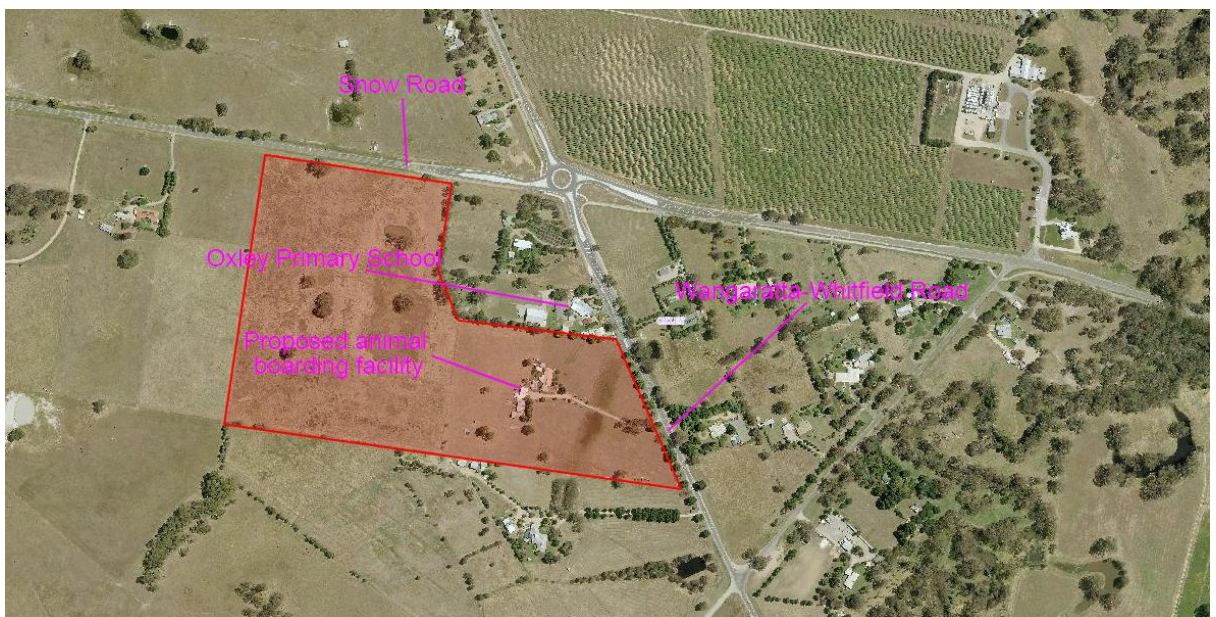
**Carried**

#### Property Details

The subject land is located approximately 2km west of the centre of Oxley township and is within the Farming Zone. The subject land is made up of one lot,

is approximately 1.87 hectares in area and is irregular in shape forming a rough 'L' shape with frontage to both Wangaratta-Whitfield Road and Snow Road. Access to the subject land is via an existing crossover to Wangaratta-Whitfield Road located along the eastern boundary of the subject land. The topography of the subject land is undulating with the land generally being more elevated towards the west. Parts of the subject land towards the east are flood prone. The subject land contains one dwelling with a habitable outbuilding and four sheds, all of which are located within the same general area in the centre of the subject land.

The surrounding area is characterised by predominantly rural residential land use and minor agricultural operations. Adjacent land to the north is being used for a primary school.



Aerial Imagery from IntraMaps 2017.

### **Permit Triggers**

Land/Address	1070 Wangaratta-Whitfield Road Oxley
Zones and Overlays	Farming Zone, Floodway Overlay
Why is a permit required	Use of Land for Animal Boarding (Clause 35.07-1)

### **Proposal in Detail**

This application is for the use of land for animal boarding.

### **Modification of Shed and Design of Facility**

The proposal is to modify an existing shed located on the subject land for use as an animal boarding facility. The subject shed is located to the south-west of the dwelling and is the northern most shed of the four existing sheds on the subject land. The steel shed is open on the eastern side. The shed has a width of 12.2

metres and a depth of 10.6 metres. The height of the shed is 2.6 metres at the edges of the shed and 5.2 metres at the ridge (as shown in **Attachment 2**).

The shed is proposed to be modified to create 6 dog enclosures, each of which is to consist of a fenced area at the front which the dog will also be able to access directly from their enclosure. Four of the dog enclosures are proposed to be located along the northern wall of the shed and a further two at the south western corner of the shed. A dog grooming room is proposed at the north eastern corner of the shed. A food preparation and washing room is proposed in the middle along the southern wall of the shed. At the south eastern corner of the shed an office/reception is proposed with a bathroom/toilet at the corner. The remaining area in the centre of the shed is proposed to be available as a play area for dogs.

All proposed rooms within the shed are proposed to be insulated and roller doors are proposed to be installed adjacent to the central play area and dog grooming room along the eastern wall of the shed. A glass door and windows are proposed adjacent to the office/reception room along the eastern wall of the shed.

An outside exercise area is proposed to be located to the north and west of the shed and is to be accessible via doors along the northern and western walls of the shed. A 1.8 metre perimeter steel mesh fence is proposed to surround the exercise area except where the walls of existing sheds form a barrier. Double gates are proposed along the eastern wall of the shed and at the south eastern corner of the exercise area to prevent dogs escaping.

A wastewater disposal system is proposed to be connected to the shed to dispose of effluent generated by the proposed facility. The discharge of this system is proposed to be to the west of the shed.

### **Proposed Operation of Facility**

The facility is proposed to accommodate a maximum of 8 dogs and is to operate for overnight boarding. The facility is intended to operate as a boarding facility exclusively for service dogs and dogs which are not service dogs but which live in the same household as service dogs who are boarding at the same time. The operator of the proposed facility has indicated that all dogs would be assessed by staff before being accepted to stay at the proposed facility because it is important to maintain the behavioural standards of service dogs whilst they board at the proposed facility.

A split-system air conditioner is proposed to be installed to maintain a comfortable temperature within the facility and this is to be powered by proposed solar panels to be installed on the roof of the shed. Ventilation is proposed to be provided by opening roller doors at the eastern and western ends of the shed and by fans. The floor of the shed is to be concreted to enable the facility to be hosed down.

The operator of the proposed facility has indicated that dogs boarding at the facility will usually be picked up from their home address and taken to and returned from the facility by staff of the facility. A gravel access way with sufficient

space for two car parking spaces is shown on the site plan for use by those customers who attend the facility in person.

The operator of the proposed facility intends to have an agreement with a veterinarian for them to provide an isolation pen and emergency medical services when this is required.

### Referrals

The application was referred to the following referral authorities under Section 55 of the Planning and Environment Act 1987.

Referral Authority	Response
Goulburn Murray Water	No objection subject to standard conditions regarding effluent disposal.
VicRoads	No objection subject to conditions regarding the upgrading of the crossover to the subject land and ongoing maintenance of that crossover.

### Internal Departmental Advice

Department	Response
Environmental Health Unit	No objection
Technical Services Unit	No objection subject to standard conditions

### Advertising

This application was advertised on 30 November 2018 under Section 52 of the Planning and Environment Act 1987, to all land owners and occupiers who could be affected by the proposal.

Eight submissions have been received. Six of those submissions are considered to be objections to the proposal.

Concerns raised by objectors with respect to the proposal are summarised as follows;

Ground for Submission	Concern Raised	Comments/Response
Noise and amenity	The subject land is in an area which is susceptible to noise travelling and this will increase the risk of amenity impacts for nearby residents.	The topography of the local area is relatively flat and therefore is likely to carry noise. This will be taken into consideration in the broader assessment of the impact of noise from this proposal.
	There is a likelihood of	Barking noise has been taken into



	<p>many dogs barking simultaneously.</p> <p>The sound of barking will reverberate within the metal building in which the dog boarding facility is proposed which will lead to dogs becoming upset and more likely to continue barking.</p> <p>There is an existing issue in the local area with dogs barking which will be exacerbated by the proposal.</p> <p>The proposed facility is too close to sensitive uses such as nearby dwellings and a primary school and this will result in unacceptable noise impacts for those nearby uses.</p> <p>There is an excessive level of noise within the local area currently which will be exacerbated by the proposal.</p> <p>The proposal whilst within the Farming Zone will impact on nearby land which is zoned 'rural residential' where a higher level of protection of amenity should be expected.</p>	<p>consideration in the broader assessment of the impact of noise from this proposal.</p> <p>The proposal includes noise attenuation measures including insulation batts to be affixed to the walls and roof of the proposed facility. This is expected to negate any significant reverberation of dog barking.</p> <p>The application is not responsible for existing noise issues within the local area and therefore the assessment of this application is restricted to consideration of the impacts of the proposal itself.</p> <p>The nearby sensitive land uses are within close proximity of the proposed facility. This has been taken into consideration in the broader assessment of the impact of noise from this proposal.</p> <p>The application is not responsible for existing issues within the local area and therefore the assessment of this application is restricted to consideration of the impacts of the proposal itself.</p> <p>All land within close proximity of the subject land and all land owned or resided on by objectors to this proposal, with the exception of the Oxley Primary School (which is zoned Public Use Zone) is located within the Farming Zone. Potential amenity impacts have been taken into consideration as part of the planning assessment.</p>
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	<p>The zoning of the subject land and local area as Farming Zone does not reflect the actual way that surrounding land is used therefore the proposal is inappropriate in this location.</p> <p>The sound and sight of children within the adjacent primary school will stimulate the dogs to bark.</p> <p>The proposal includes opening roller doors on the facility for ventilation while also providing insulation for noise attenuation and these two elements of the proposal are contradictory and incompatible.</p> <p>The design of the dog rooms allow for up to 12 dogs to be boarded rather than 8 as is proposed in the application and such an increase in the number of dogs would increase all potential issues.</p> <p>The operator of the proposed facility may not be capable of managing the number of dogs proposed to be accommodated which could lead to increased</p>	<p>The local area does contain a significant number of dwellings within a relatively small area which is more characteristic of a typical Rural Living Zone. The impact on dwellings and other existing uses is adequately covered by the applicable decision guidelines for this application and will be considered.</p> <p>There is a significant risk that the noise generated by children from the adjacent primary school will trigger dogs at the proposed facility to bark. This has been taken into consideration in the broader assessment of the impact of noise from this proposal.</p> <p>It is unclear in the application how the proposed facility intends to reduce noise while roller doors are open. This has been taken into consideration in the broader assessment of the impact of noise from this proposal.</p> <p>The proposal is for a dog boarding facility to accommodate a maximum of 8 dogs and Council are assessing the application on that basis. In accordance with the Code of Practice for the Operation of Boarding Establishments, each dog must be accommodated in its own pen unless written permission has been granted by the owner of the dog. It is unlikely such arrangements would occur unless the dogs lived together normally.</p> <p>If a permit is granted for this application any person may operate the facility as the permit is not granted to any person but rather runs with the land. Any operator of the proposed facility would be required to comply with the conditions of any</p>
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	distress for the dogs and barking.	permit granted as well as other relevant legislation including the Code of Practice for the Operation of Boarding Establishments.
Dog welfare	<p>The size of the exercise area of the proposed facility is inadequate to provide for proper dog welfare.</p> <p>Ultrasonic collars are an inappropriate system for controlling the dogs.</p> <p>The proposed split system may not be sufficient to maintain a comfortable temperature for the dogs.</p> <p>The size of the dog rooms is inadequate and cruel for the dogs.</p> <p>There is no mention of an automated watering system in the application and this is necessary for animal welfare.</p>	<p>The size of the proposed exercise area comfortably exceeds the minimum required size under the Code of Practice for the Operation of Boarding Establishments.</p> <p>The use of ultrasonic collars is submitted as a management strategy for the behaviour of dogs boarding at the proposed facility. There are laws regarding the use of these devices which the operator of the proposed facility would be required to comply with by law.</p> <p>The application indicates that a split system air conditioner will be installed to manage the temperature of the proposed facility. The facility would be required to maintain a temperature between 15 degrees and 27 degrees Celsius under the Code of Practice for the Operation of Boarding Establishments. The operator of the proposed facility will need to install a suitable sized air conditioner to meet this requirement.</p> <p>The size of the proposed dog rooms exceed the minimum size required under the Code of Practice for the Operation of Boarding Establishments.</p> <p>There is no requirement for an automated watering system under the Code of Practice for the Operation of Boarding Establishments.</p>
Dog escape	The owners of the subject land have a poor record with regard to the management of pets and livestock on the subject	If a permit is granted for this application any person may operate the facility as the permit is not granted to any person but rather runs with the land. Any operator of the



	<p>land.</p> <p>Boundary fencing of the subject land is in poor condition and unable to prevent the escape of dogs.</p> <p>Dogs may escape from the proposed facility leading to a health and safety risk to children attending the adjacent primary school.</p> <p>The proposed 1.8 metre perimeter fencing is insufficient to prevent the escape of dogs.</p> <p>Dogs escaping pose a risk to livestock on adjacent and nearby land.</p>	<p>proposed facility would be required to comply with the conditions of any permit granted as well as other relevant legislation including the Code of Practice for the Operation of Boarding Establishments.</p> <p>The proposed facility includes its own fencing which is required to be of a certain standard under the Code of Practice for the Operation of Boarding Establishments. The boundary fencing of the broader subject land is therefore not a relevant consideration.</p> <p>The proposed facility would be required to operate in accordance with the Code of Practice for the Operation of Boarding Establishments and any dog escape would be as a result of a breach of this Code of Practice and the conditions of any permit granted. The facility would be subject to enforcement action in such a situation.</p> <p>The proposed 1.8 metre perimeter fencing complies with the requirements of the Code of Practice for the Operation of Boarding Establishments.</p> <p>The proposed facility would be required to operate in accordance with the Code of Practice for the Operation of Boarding Establishments and any dog escape would be as a result of a breach of this Code of Practice and the conditions of any permit granted. The facility would be subject to enforcement action in such a situation.</p>
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Traffic and road safety	<p>The proposed use will generate an increase in traffic.</p> <p>The proposed use may lead to road safety issues.</p>	<p>The proposed facility is to accommodate a maximum of 8 dogs. It is considered that the scale of the proposed use is such that only a very minimal increase in traffic will occur for which the surrounding road network is capable of accommodating. The application was referred to VicRoads who raised no concerns with regard to increase in traffic.</p> <p>The proposed use will require an increase in use of the existing crossover to Wangaratta-Whitfield Road. VicRoads have required that this crossover be upgraded to alleviate any safety issues which may arise from an increase in the number of vehicles accessing the subject land.</p>
Other	<p>The design of the dog rooms allow for up to 12 dogs to be boarded rather than 8 as is proposed in the application and such an increase in the number of dogs would increase all potential issues.</p> <p>The proposal has been designed within an existing shed to eliminate the requirement for a planning permit for the building.</p> <p>There is no existing dog boarding facility within the municipality which is located as close to sensitive uses as the</p>	<p>The proposal is for a dog boarding facility to accommodate a maximum of 8 dogs and Council are assessing the application on that basis. In accordance with the Code of Practice for the Operation of Boarding Establishments, each dog must be accommodated in its own pen unless written permission has been granted by the owner of the dog. It is unlikely such arrangements would occur unless the dogs lived together normally. Any intention to increase the maximum number of dogs boarding at the facility would require an amendment to any permit granted.</p> <p>The existing shed has according to Council records been built legitimately and the suitability of the shed for the proposed use is being assessed as part of this application.</p> <p>The application must be assessed against its specific circumstances and other boarding facilities are not relevant to this assessment.</p>

	<p>proposed facility.</p> <p>The proposed effluent field for the proposed facility is located on land more elevated than the shed.</p> <p>The proposed facility will adversely impact the property values of surrounding properties.</p>	<p>The effluent field for the proposed facility is required to comply with Environmental Protection Agency requirements. Both Goulburn Murray Water and Council's Environmental Health Unit raised no concerns over the proposed location of the effluent field.</p> <p>This is not a planning issue and therefore Council are unable to consider this matter. Other matters such as amenity impacts have been considered.</p>
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### **Assessment under the Planning and Environment Act**

<b>Section</b>	<b>Clause</b>	<b>Provision</b>
Planning Policy Framework	14.01 17	Agriculture Economic Development
Municipal Planning Policy	21.05	Natural Resource Management
Zoning	35.07	Farming Zone
Overlays	44.03	Floodway Overlay
Particular Provisions	52.06	Car Parking
Decision Guidelines	65.01	Approval of an Application or a Plan

#### **Planning Policy Framework**

##### **Clause 14.01 – Agriculture**

Clause 14.01-2S (Sustainable agricultural land use) includes a strategy to *ensure that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.*

The proposed animal boarding facility does have the potential to adversely impact the operation and amenity of surrounding land uses. Sensitive uses such as dwellings and a primary school are located within close proximity to the proposed facility. Permit conditions will be necessary to ensure that the proposed use does not create unacceptable amenity impacts for nearby sensitive land uses in order to be consistent with this policy.

##### **Clause 17 – Economic Development**

Clause 17 (Economic Development) directs that *planning is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.* Clause 17.01-1S (Diversified Economy) includes a strategy to *support rural economies to grow and*

*diversify. Clause 17.01-1R (Diversified Economy – Hume) includes a strategy to encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.*

The proposed animal boarding facility is intended to provide accommodation primarily to service dogs. The proposal is consistent with the strategies referred to above because this type of industry could be considered new or developing or at the very least a niche business. This business would make a contribution to the diversification of the local rural economy. Subject to appropriate permit conditions which manage or resolve land use conflicts the proposal is considered to be consistent with this policy.

## **Municipal Planning Policy**

### **Clause 21.05 – Natural Resource Management**

Clause 21.05 (Natural Resource Management) identifies conflict between rural lifestyle uses and agricultural uses as being a significant issue within the municipality. It also sets out strategies related to this issue including:

- *Encourage the growth and development of environmentally and economically sustainable agricultural enterprises*
- *Recognise and protect agriculture and other rural uses as significant economic strengths, social capital and productive resources*
- *Minimise potential amenity impacts between rural agricultural uses and rural lifestyle uses, particularly in higher agricultural productivity and versatility areas*

The proposed animal boarding facility is supported by the above strategies because the proposed use is considered an agricultural land use which is to be encouraged and protected. This must be balanced against the strategy to minimise potential amenity impacts arising from land use conflicts. Any permit granted must have permit conditions which ensure that amenity impacts are managed to an acceptable level in order for the proposal to be consistent with this policy.

## **Zoning**

### **Farming Zone**

The subject land is located within the Farming Zone. Pursuant to Clause 35.07-1 (Table of Uses, Farming Zone) a planning permit is required for the use of land for animal boarding. As the proposed use is to operate within an existing shed no permit is required for buildings and works. The minor works relating to perimeter fencing and internal alterations to the shed are exempt from the requirement for a planning permit under Clause 62.02-2 (Buildings and works not requiring a permit unless specifically required by the planning scheme, Buildings and works).

The purpose of the Farming Zone includes:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*

- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

The proposed animal boarding facility is consistent with the purpose of the zone because it is an agricultural land use. The purpose of the zone also seeks to ensure that non-agricultural uses do not adversely affect the use of the land for agriculture which lends weight to the proposal by affording the proposed agricultural use a greater right to exist in the zone than other uses.

The proposal is assessed against the relevant decision guidelines under Clause 35.07-6 (Decision Guidelines, Farming Zone) below:

#### *General issues*

- *The Municipal Planning Strategy and the Planning Policy Framework.*

The Municipal Planning Strategy and Planning Policy Framework have been addressed previously in this report.

- *Any Regional Catchment Strategy and associated plan applying to the land.*

There is no applicable Catchment Strategy relevant to the subject land.

- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*

The proposal was referred to Goulburn Murray Water and Council's Environmental Health Unit, both of whom had no concerns with the capability of the land to accommodate the proposed use.

- *How the use or development relates to sustainable land management.*

The proposal is not expected to adversely impact the sustainable management of the subject land.

- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*

The proposed use is suitable for the subject land and the zone. The proposed use does have the potential to create amenity impacts to nearby sensitive land uses. These impacts can be addressed by permit conditions regarding the

operation of the proposed use and noise attenuation. A detailed discussion on amenity impacts is included later in this section of the report.

- *How the use and development makes use of existing infrastructure and services.*

The proposal does not generate the need for any new infrastructure except for an upgrade to the crossover to the subject land required as a permit condition by VicRoads and also Council's Technical Services Unit.

#### *Environmental issues*

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*

The proposal is not expected to adversely impact soil or water quality.

- *The impact of the use or development on the flora and fauna on the site and its surrounds.*

The proposal is not expected to adversely impact flora or fauna.

- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*

The proposal is not expected to adversely impact on the biodiversity of the area.

- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

The proposed effluent disposal area is not located in an area which poses any environmental risks.

#### *Design and siting issues*

- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*

The proposal utilises an existing building for the proposed use. This building is located within a cluster of buildings on the subject land.

- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*

The shed is existing and its appearance externally will largely remain the same as a result of the proposed use.

- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*

The proposed use is unlikely to lead to any significant impact on the appearance of the subject land or any other area of significance.

- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*

The proposal includes appropriate location of effluent disposal facilities which is satisfactory to Goulburn Murray Water and Council's Environmental Health Unit. Details of other infrastructure is not provided but its provision appears simple.

- *Whether the use and development will require traffic management measures.*

The proposed use is minor in scale and therefore will not require any traffic management measures.

### **Amenity Impacts**

The weight of relevant state and local policy and decision guidelines under the provisions of the zone and Clause 65.01 (Approval of an application or a plan) favour the granting of a permit for the proposed use provided that amenity impacts to nearby sensitive land uses can be minimised to an acceptable level.

This position is supported by VCAT (Victorian Civil and Administrative Tribunal) case history where the tribunal has considered the purpose of the farming zone as being primarily for agriculture and therefore contended that the level of protection of amenity which should be afforded to non-agricultural uses to be less than would be the case in other zones which include residential land uses as part of their purpose. This was the position taken by the tribunal member in *Fearns v Strathbogie SC* [2015] VCAT 1764 (10 November 2015) which was an application for an animal boarding facility. Similar positions have been taken by the tribunal in *Barbara v Melton SC* [2015] VCAT 821 (10 June 2015) and *Byrne v Casey CC* [2016] VCAT 1300 (5 August 2016) both of which relate to proposed animal keeping or animal boarding land uses on land located within the Green Wedge Zone. This is significant given that the Green Wedge Zone is a zone which affords more weight to residential uses than the Farming Zone.

In all of these cases the tribunal took a balanced approach seeking to assess whether the potential amenity impacts would be acceptable or could be made acceptable by appropriate permit conditions. This assessment was in the context of legitimate expectations for amenity impacts in zones which are primarily for agricultural uses. Such an assessment of whether appropriate permit conditions can be created to reduce the potential amenity impacts to an acceptable level is undertaken below.

The potential amenity impacts related to noise from the proposed animal boarding facility are significant with five dwellings and one primary school located



within 300 metres of the proposed facility. The amenity impacts for the primary school should be given particular weight because the school is located within the Public Use Zone and therefore expectations regarding the protection of amenity should legitimately be based upon the purpose of the Public Use Zone and not the purpose of the Farming Zone.

The proposed scale of the facility is an important consideration with a maximum of eight dogs to be accommodated at the facility. The applicant has indicated that the facility is intended to primarily accommodate service dogs and that therefore noise issues will be minimal as such dogs are particularly well trained and well behaved. The applicant indicated a willingness for a condition to be placed on any permit granted restricting the facility to only accommodate service dogs and other dogs which normally reside with service dogs. It is considered that such a condition would be problematic to interpret as there is no official accreditation required for a service dog. Additionally such a condition may become a burden for planning enforcement. Although the applicant has expressed their intention to operate the proposed facility for service dogs only, any permit if granted runs with the land and could be operated in the future by any person with conventional dogs. In any event it is not considered appropriate to put complete trust in the behaviour of service dogs to ensure that noise is not excessive. For these reasons the proposed facility must have some form of noise attenuation included in the design of the building.

The applicant proposes to clad insulation bats to the walls and roof of the shed for noise attenuation however as was raised as a concern by objectors the applicant also indicates that ventilation for the shed will be provided by opening the roller doors at either end of the shed. The applicant has not provided any answers regarding how these two conflicting objectives will be resolved. Ventilation standards are stipulated in the Code of Practice for the Operation of Boarding Establishments. It is therefore appropriate to place a condition on any permit granted requiring a suitable ventilation system to be installed in accordance with the Code of Practice prior to the commencement of the use. Such a condition will have the effect of ensuring that ventilation of the facility does not rely on the roller doors being open and that the operator of the facility would be able to close the roller doors as appropriate.

It is considered that a condition should also be placed on any permit granted requiring noise attenuation measures to be incorporated into the conversion of the shed for the proposed use. The proposed insulation batts is considered an acceptable method of achieving this objective. The Department of Environment, Land, Water and Planning (DELWP) publication *Planning requirements for racing dog keeping and training* (DELWP, August, 2017) sets out a set of requirements for racing dog keeping and training which includes standards for construction for noise attenuation. These standards can be adapted into a suitable condition for this application requiring those standards to be complied with prior to the commencement of the proposed use.

Issues relating to noise are considered to be largely negated by the requirement for a suitable ventilation system and noise attenuation to the building as conditions on any permit granted. This would allow the operator of the facility to close the roller doors whenever excessive barking is occurring. It is not



considered unreasonable that the roller doors should remain open during the daytime unless there is excessive barking occurring at that time however a condition should be included on any permit granted requiring the roller doors to remain closed during the night.

Any excessive barking occurring during daytime hours or while dogs are outside in the exercise yard should be controlled by a condition requiring the operator of the facility to maintain noise levels within EPA standards. It is envisaged that the operator would attend to excessively noisy situations in accordance with this condition by returning dogs to their pens or taking whatever other action is appropriate to control the level of noise emanating from the site. The important thing is that the shed will have noise attenuation measures to allow the operator of the facility to rely on the shed to prevent persistent excessive noise from occurring.

The sight and sound of children playing within the school grounds was raised as a potential trigger for dogs barking. This is considered to be a risk and therefore it is considered appropriate that a condition be placed on any permit granted requiring a visual barrier be constructed and maintained between the proposed animal boarding facility and the primary school such that dogs are unable to view children from any part of the proposed facility. Some existing buildings could form part of this visual barrier but where a clear view is currently available some type of visual barrier would be required. This will not alleviate the sound of the children from the school however the operator would still be bound by the condition to maintain noise levels within EPA standards. The impact of noise travelling across the local area is also considered to be generally addressed by the requirement to maintain noise levels within EPA standards.

This suite of recommended conditions to address the potential amenity impacts of noise are considered likely to ensure that the proposed animal boarding facility does not create an unreasonable amenity impact on nearby land uses. The proposed use at the scale proposed and if permitted with these recommended conditions is considered to be consistent with the purpose and decision guidelines of the Farming Zone.

## **Overlays**

### **Floodway Overlay**

The subject land is partially affected by the Floodway Overlay. The area affected is located towards the east of the subject land and is well clear of the area proposed to be used for the animal boarding facility. The Floodway Overlay provisions are therefore not relevant in the assessment of this application.

## **Particular Provisions**

### **Clause 52.06 – Car Parking**

The proposed use of the land for animal boarding does not have a specified car parking rate under Clause 52.06-5 (Number of car parking spaces required under Table 1, Car Parking). As such, pursuant to Clause 52.06-6 (Number of car

parking spaces required for other uses, Car Parking) car parking provision must be to the satisfaction of the Responsible Authority.

The proposal includes two nominal car parking spaces and a loading bay for a small van located within the hardstand area to the east of the proposed facility. The hardstand area is of sufficient size to allow for manoeuvring of vehicles and for vehicles to enter and exit the site in a forward direction. Given the scale of the proposed facility this car parking provision is considered sufficient and no adverse impacts with regard to car parking are expected for adjacent land. The proposal is therefore considered to be consistent with Clause 52.06 (Car Parking).

## **Decision Guidelines**

### **Clause 65.01 – Approval of an Application or a Plan**

The proposal is assessed against the decision guidelines of Clause 65.01 (Approval of an Application or a Plan) below:

- *The matters set out in section 60 of the Act.*

The proposal is consistent with all matters raised under Section 60 of the Planning and Environment Act 1987.

- *The Municipal Planning Strategy and the Planning Policy Framework.*

The Municipal Planning Strategy and Planning Policy Framework have been addressed previously in this report.

- *The purpose of the zone, overlay or other provision.*

The purpose of the zone and relevant overlays and other provisions have been addressed previously in this report.

- *Any matter required to be considered in the zone, overlay or other provision.*

The relevant decision guidelines under the zone, relevant overlays and other provisions are addressed previously in this report.

- *The orderly planning of the area.*

The proposal is not expected to adversely impact the orderly planning of the area.

- *The effect on the amenity of the area.*

The potential impact on the amenity of nearby sensitive land uses is the key issue for this application. This can be managed to an acceptable level through permit conditions.

- *The proximity of the land to any public land.*

The subject land is adjacent to public land currently being used as a primary school. The proposal is not expected to have a significant adverse impact on the operation and amenity of the primary school because the operation of the proposed boarding facility will be managed to an acceptable level by permit conditions.

- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*

The proposal is not expected to adversely impact land degradation, salinity or water quality.

- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*

The proposal makes use of an existing shed and therefore is unlikely to have any impact on stormwater.

- *The extent and character of native vegetation and the likelihood of its destruction.*

The proposal does not include any native vegetation removal.

- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*

The proposal does not threaten any native vegetation.

- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

The subject land is partially affected by the Floodway Overlay however the flood risk is restricted to areas towards the east of the subject land and well clear of the proposed animal boarding facility. There is no significant identified erosion or fire hazard for the subject land.

- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

The plans show a nominal loading bay. There is not expected to be significant demand for deliveries to the subject land and the size of delivery vehicles are not expected to be greater than a regular van. The proposed loading and unloading facilities are therefore considered adequate.

### **Consultation**

The planning application was advertised as per the notification requirements under the Planning and Environment Act 1987. Six objections were received. A

conciliation meeting was held on 15 January 2019 with objectors, the applicant and Council's planning staff in attendance.

### **Implications**

#### **Policy Considerations**

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

#### **Financial Implications**

The proposal does not have any impact on Council's financial resources as such. Should the matter be referred to the Victorian Civil and Administrative Tribunal then Council will likely incur costs in defending a position on the application.

#### **Legal/Statutory**

All procedures associated with the lodgement and assessment of this application have been done in accordance with the Planning and Environment Act 1987.

#### **Cultural Heritage**

The subject land is not within an area of Aboriginal Cultural Heritage Sensitivity.

#### **Social**

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

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

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

#### **Economic Impacts**

The proposed facility would create a new business in the local area which would contribute to the economic diversity of the local area.

#### **Referrals/Public Notice**

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

This report supports the 2013-2017 Council Plan:

#### **Goal**

#### **We are sustainable**

We will plan, research and advocate for the future by accurately understanding the constraints and opportunities that face our organisation, our community and our region.

### **We are thriving**

We will plan, research and advocate for the future to ensure the health and social needs of our community are understood and considered.

### **We are growing**

Our residential, rural, commercial and industrial land is thoughtfully and appropriately protected, planned and developed.

We ensure new developments comply with legislation and the needs and characteristics of our community.

We ensure that land is used and developed in a manner that is economically, socially and environmentally responsible.

We will plan, research and advocate for the future to facilitate considered planning and development in line with long term strategic objectives for the sustainability of our community and environment.

We will focus on our business to ensure we understand and plan for the long term opportunities, challenges and priorities that face our growth potential.

### **We are established**

We will plan, research and advocate for the future to address traffic, parking and pedestrian challenges to create communities that are safe, easy to navigate and accessible.

### **We are inspired**

Our commitment to communicate and engage with our community about local decision making in a way that is clear, accessible and easy to understand.

### **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
Refuse to Issue a Permit – Applicant appeals decision at VCAT	High	Low	Moderate	Representation of Council at VCAT

Notice of Decision to Grant a Permit – Objector/s appeal decision to VCAT	Moderate	Low	Moderate	Representation of Council at VCAT
Notice of Decision to Grant a Permit – Applicant appeals permit conditions at VCAT	Low	Low	Low	Representation of Council at VCAT

### **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Notify potentially affected parties of the application.	Notice of Application sent to the owners and occupiers of nearby properties
Consult	All submissions to the application will be considered.	All submissions have been reviewed and summarised in this report along with response to concerns raised. A conciliation meeting was held on 15 January 2019 with applicant and objectors to discuss concerns raised in the objections.
Involve	Opportunity to make a submission.	Notice of Application sent to the owners and occupiers of nearby properties.
Collaborate	Not applicable	Not applicable
Empower	Not applicable	Not applicable

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

### **Options for Consideration**

Issue a Notice of Decision to Grant a Permit (NOD) with respect to Planning Permit PlnApp18/141 for Use of Land for an Animal Boarding Facility at 1070 Wangaratta-Whitfield Road Oxley.

OR

Refuse the application for a planning permit.

### **Conclusion**

The application seeks approval for the use of land for an animal boarding facility. The scale and details of the proposed use are considered appropriate for the zone and will produce acceptable outcomes subject to conditions. It is therefore

recommended that Council resolve to Issue a Notice of Decision to grant a permit.

### **Attachments**

- 1 Recommended Permit Conditions 
- 2 Proposal - Plans 

### **Public Questions**

*Cameron Miller asked given the applicants willingness – letter dates 28 October 2018 as part of the application – for the applicant to include a condition setting a noise level to be at the nearest dwelling, why has this not been put forward as part of the planning recommendation?*

Stephen Swart Director Development Services responded in the proposed conditions in the permit attached to the report we refer to EPA standards in a broader sense which applies to noise to more than just one dwelling. We thought it would be a better way to deal with noise more efficiently in this case.

*Cameron Miller asked given the application stated that “grooming will only be provided to dogs boarding at the facility” why is it that there is no condition attached to the application to mitigate the amount of traffic, noise and potential escape that would come with such a service being offered to conventional dogs?*

Stephen Swart Director Development Services responded the application is not to groom dogs who are not at the boarding facility. That would be a separate activity or use of land and may trigger a planning permit. If somebody wanted to do this on the land we would have to talk to them about requirements of the planning scheme and whether they would need a separate permit.

*Robyn Snowden asked how is the Council going to enforce that the proposed Animal Boarding Facility be used for service dogs only?*

Stephen Swart Director Development Services responded the proposed planning conditions do not restrict this activity to service dogs only. The permit is for eight dogs in total. The reason is we made an assessment of imposing such a condition and we do not believe that condition is enforceable and would be hard to administer, therefore the permit is for eight dogs in general.

*Robyn Snowden asked who will be the impartial person that monitors the number of dogs at the facility at any given time?*

Stephen Swart Director Development Services responded Council will be the first line of contact and the responsible authority when it comes to administering the planning scheme, planning permits and associated conditions. However when it comes to issues like noise we do work with other authorities like the EPA so we will work with other authorities in that space.

*Ruth Hillnoble asked as the Councils Planners seem to feel that wastewater treatment must be in accordance with the Environmental Protection Agency*



*standards and that noise levels must adhere to EPA standards why do they choose to ignore the EPA standards that no boarding kennel should be allowed within 500m from any residence when the nearest residence is less than 150m and the school is barely 90m?*

Stephen Swart Director Development Services responded we did consider the noise guidelines and these are guidelines not standards so they guide how things should be considered. When they refer to these residential areas they define those as the type of residential areas you would find in an urban environment. This area is in a farming zone, which puts a slightly different lens on in terms of the 500m buffer area. We did include a number of conditions in the proposed planning permit to try and manage noise.

*Ruth Hillnoble asked if the local residents or the school community in close proximity to this proposed boarding kennels find the noise levels, or animal behaviours excessive with whom do they safely and securely lodge their complaints with and know they will be acted upon?*

Stephen Swart Director Development Services responded Council is the responsible authority for administering the planning scheme and we would be the first point of contact. We will also work with other relevant authorities if required.

Brendan McGrath Chief Executive Officer responded just to clarify regarding the safety and securely lodging of complaints, all complaints are treated confidentially. We don't disclose the name of complainants when we go out to see whether enforcement action is required or not, so those would be treated confidentially.

*Ruth Hillnoble asked because the planning permit goes with the land not the owners wouldn't it be appropriate for Council to consider the long term ramifications of a general dog boarding facility so close to residences and primary school rather than the specialist dog facility in the short term?*

Stephen Swart Director Development Services responded the application was considered exactly in that light. It was considered as a general boarding facility of a maximum of 8 dogs. The fact that it is specialist dogs that may be housed in this facility was not specifically considered as part of this application because if the permit gets issues it goes with the land and therefore we did consider the long term ramifications of such land use in this area.

*Billie Buckeridge asked the subject premises are presently training Dogs For Life. Why does the Council not issue a licence to operate the business alleviating the need for a permit which goes with the land? All the management, code of practice and EPA standards and Building requirements must still be adhered to.*

Stephen Swart Director Development Services responded from our perspective we have to look at what permits are triggered under the planning scheme. In this case the permit is triggered under the planning scheme for this type of facility. We do not have the ability to issue a license under the Planning & Environment Act we simply have to assess the planning permit application as it is submitted to us, go through the process and then recommending a decision. We do not have the



ability to issue a licence. If the permit application is successful they still have to get a domestic animal business registration through Council.

*Billie Buckeridge asked The Dogs for Life is being espoused as the basis for the kennel application. Council on its own admission states “the permit will be granted for any person to operate the facility and the permit runs with the land”. How does Council propose to monitor the EPA breaches or will it now be the neighbours responsibility to record and report breaches?*

Stephen Swart Director Development Services responded we have a planning compliance resource within Council with the specific job of this person is to follow up on these types of matters. Should applicants not comply with their permit conditions, that is exactly what we will follow up.

*Billie Buckeridge asked is it difficult to amend a planning permit and what is the process?*

Stephen Swart Director Development Services responded amending a planning permit goes through the same process again, especially in this case where we have had a number of objections to this, if we did get an application to amend a permit tomorrow we would have to go through the process again, provided the opportunity to have a say.

## 16.2 USE OF THE LAND FOR EXTRACTIVE INDUSTRY (EXPANSION OF EXISTING QUARRY)

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Senior Planner  
**File Name:**  
**File No:** PInApp18/064

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 recommending to issue of a Notice of Decision to Grant a Planning Permit for application PInApp18/064. The application was lodged with Council on 27 April 2018 and is for the use of the land for extractive industry. This is a new application but does relate to other quarrying activities in the area in the vicinity of 233 Ivones Lane in Milawa. Other quarry activities have been in operation since 1972. No native vegetation removal is proposed and the site will be rehabilitated back into the existing farmland.

The subject site is located approximately four kilometres north east of the township of Milawa and approximately four kilometres west of the township of Everton. The owners of the land have a dwelling on site and currently farm the land. The extraction area is under contract to Hanson Heidelberg who are carrying out the activity. The nearest dwellings are within 500 metres and belong to the quarry owners and managers. The nearest dwelling not in the same ownership is approximately 1 kilometre away from the proposed activity area.

The land is controlled by the Farming Zone and is entirely within the Floodway Overlay and partially covered by the Bushfire Management Overlay. Part of the land is within an area of Aboriginal Cultural Heritage Sensitivity, however the area of the activity does not fall within this or the Bushfire Management Overlay.

The proposal was advertised by way of letters to adjoining and nearby owners and occupiers, by publication in the local newspaper and on Council's website. Twelve objections have been received. The objections have been assessed and it is considered that the proposal can still be supported with no changes.

The proposal was referred to all relevant and appropriate referral bodies and none objected. Referral authorities provided conditions to be included in any permit issued.

The proposal has been assessed against the provisions of the Wangaratta Planning Scheme and it is considered that the proposal is consistent with the provisions of the Wangaratta Planning Scheme and the Objectives of Planning in Victoria.

**RESOLUTION:****(Moved: Councillor H Benton/Councillor M Currie)*****For: Cr H Bussell, Cr A Fitzpatrick, Cr M Currie, Mayor D Rees******Against: Cr K Clarke, Cr H Benton, Cr D Fuller******That Council:***

- 1. Issue a Notice of Decision to Grant a Permit with respect to Planning Permit Application 18/064 for 'Use of the Land for Extractive Industry (Expansion of Existing Quarry)' at 233 Ivones Lane Milawa (CA14 Parish of Oxley) in subject to the permit conditions contained in attachment 1; and***
- 2. Advise the applicant and all submitters of Council's decision.***

**Carried****Background****Subject / Application Details**

Applicant/Owner	Angus Calder – applicant L Jonker - owner
Land Address	233 Ivones Lane Milawa 3678 PID 3237
Title Details	CA14 Parish of Oxley
Site Area	Approximately 60 hectares
Application Number	PlnApp18/064
Zone	Farming Zone
Overlays	Floodway Overlay – entire Bushfire Management Overlay – activity area not within
Other considerations	Clause 52.06 Car Parking Clause 52.08 Earth Resources
Aboriginal Cultural Sensitivity (not specifically a Planning Scheme Overlay)	The area of activity proposed is not within the Area of Cultural Heritage Sensitivity.  No Cultural Heritage Management Plan is required for this proposal.

**Proposal**

This proposal is for the Use of the Land for Extractive Industry (Expansion of Existing Quarry). This is a new application to expand quarrying activities that

have existed since 1972. The proposal does not require a Work Plan but is required to comply with 'A Code of Practice for Small Quarries'.

A previous application for a Work Plan Variation to expand the existing extraction area was refused by DEDJTR based on objections from two referral authorities based on concerns about flooding and potential impacts on water quality of the Ovens River. Following appeal to VCAT by the developer (Hanson), the DEDJTR decision was upheld. Due to this outcome Hanson has designed a proposal that would allow for continuation of the current quarry activities on a new activity site on the land, addressing the concerns raised by the referral authorities previously.

The application proposes to quarry an area on the site:



The entire excavation site will be no larger than 4.42 hectares and no deeper than 5 metres and to this end the proposal does not require a Work Plan and falls under the Code of Practice for Small Quarries. The entire excavation site will be surrounded by a levee to mitigate any flood impact on, around and by the excavation activity. As the extraction occurs progressive rehabilitation will occur from the North following the extraction activity southwards. Extracted material is taken off site to a processing plant approximately 2.5 kilometres north-west of the quarry site. No on-site processing is proposed. Any reject material will be returned to the pit. No native vegetation is proposed to be removed. Exotic trees that exist on the site will be removed as the area is excavated.

The activity is to be carried out in three stages as follows:



Stage 1 – area excavated measures 12500 square metres. A levee bank is to be constructed around the whole site and temporary walls created around each working site.

Stage 2 – area excavated measures 11600 square metres.

Stage 3 – area excavated measures 10750 square metres.

Entry to the work area is from the west. Access to the site itself is from Markwood-Tarrawingee Road which is a local sealed road to the south.



The final landform for the proposed pits created is a lake. There are already similar lakes on the Ovens River floodplain associated with the quarry operations. The water levels are expected to fluctuate with the water table levels as is the case with the other lakes. The lake will also receive water from any flooding of the Ovens River as do the other lakes. Banks will be revegetated with indigenous species including trees, grasses and other groundcovers to protect the soil.

## Location

The subject site is located approximately four kilometres north east of the township of Milawa and approximately four kilometres west of the township of Everton. The site is adjacent to the Ovens River which runs to the north.



### Planning History

There is no previous planning permit history associated with this subject site. The use of the land for a quarry has existing use rights having been established in 1972.

### Referral and Advertising

The proposal was referred to the following referral authorities:

Referral Body	Referred Pursuant To	Response
Council's Technical Services Unit	Internal referral and Section 55 as Drainage Authority	No objection and subject to conditions
Heritage Victoria	Section 52	No response
Goulburn Murray Water	Section 55 as Determining Authority pursuant to Clause 66.02-5	No objection and subject to conditions
North East Catchment Management Authority	Section 55 as a Determining Authority pursuant to Clause 66.03	No objection and subject to conditions
Department Environment, Land, Water and Planning	Section 52	No objection subject to conditions

The proposal was advertised to adjoining and nearby land owners and occupiers by way of a letter. The proposal was also advertised in a local newspaper and made available on Council website.

The proposal received thirteen objections which are addressed as follows:

Table 1. Objections

Objection Details	Response by Assessing Officer
<p><b><u>Objection 1</u></b></p> <ul style="list-style-type: none"> <li>• Confusion about the proposal. Is it a new proposal or an extension to the existing quarries?</li> <li>• Flooding – changes to the floodplain</li> <li>• Ongoing Quarrying in the area.</li> <li>• Storage of overburden and quarry product.</li> <li>• Land Quality.</li> <li>• Traffic.</li> <li>• Aboriginal History</li> </ul>	<p>The property is formally identified on title as being in Milawa.</p> <p>The proposal is a new proposal but extends existing operations that Hansen already has in the area.</p> <p>The flooding impact has been assessed by NECMA and modelling based on the 1:100 year flood data presented by the applicant has indicated that the impact of a flood event would not extend past the site boundary. It is acknowledged that more severe flood events can occur. NECMA have not objected and have given conditions for any permit issued. A Section 173 agreement will go on title to ensure there is maintenance of the 'lake' and levees in perpetuity.</p> <p>Any land holder can submit an application to quarry under the Code of Practice Small Quarries. Permit applications for quarry are assessed on the merits of the proposal. The Use can be considered under the Farming Zone. The Officer Assessment details the considerations against the planning scheme.</p> <p>The stockpiles are proposed to be located outside and above the excavated area until such time as they are carted away.</p> <p>The land is identified at State level as significant and at local level as being of high value. It has been considered that there will be no permanent loss of agricultural land as the proposed final lake can become a water source for the existing farm for irrigation and stock.</p> <p>Any road safety issues need to be considered by Council and speed limits applied if deemed appropriate. The amount of truck movements is to be</p>

	<p>limited by a permit condition.</p> <p>The considerations for Planning are whether the activity is within an Area of Aboriginal Cultural Sensitivity. It is confirmed that the plans indicate that the activity will not be within an ACHS. It remains the responsibility of any developer under the Aboriginal Heritage Act 1972 to ensure that there is no disturbance of cultural sites and artefacts and to report such discovery.</p>
<p><b><u>Objection 2</u></b></p> <ul style="list-style-type: none"> <li>• Potential of decreased and contaminated water quality around and downstream of the proposed works.</li> <li>• Loss of productive agricultural land.</li> <li>• Impact on/lack of acknowledgement of Aboriginal Heritage usage and sites.</li> <li>• Increased potential to encourage alternate routes from the Ovens River (with regards to flooding).</li> </ul>	<p>As there is no reticulated potable water available in this farming location, bores and tanks are used. Bore water is under the jurisdiction of GMW. GMW have assessed the proposal and have not objected to the proposal. Any issues related to actual or perceived contaminated water issues from existing quarrying activities is the jurisdiction of Earth Resources (DEDJTR) and enforcement of current quarrying work plans.</p> <p>It has been considered that there will be no permanent loss of agricultural land as the proposed final lake can become a water source for the existing farm for irrigation and stock.</p> <p>Aboriginal heritage is addressed above.</p> <p>Modelling based on the 1:100 years flood data indicates that any impact from a flood event would not exceed past the site boundary. It is acknowledged that more severe flood events can occur and a Section 173 Agreement will be placed on title to ensure maintenance in perpetuity.</p>
<p><b><u>Objection 3</u></b></p> <ul style="list-style-type: none"> <li>• Road damage and traffic including dust</li> </ul>	<p>The site is to be accessed from Markwood-Tarrowingee Road and truck movements and hours of operation will be limited to usual business hours. The road is a Council road and will be maintained by Council. The traffic will be increased by ten truck movements a day, Monday to Friday, and there will be an increase in noise, dust and use of the road by these truck movements, however it is</p>



<ul style="list-style-type: none"> <li>Noise.</li> <li>Contamination of drinking water.</li> <li>Loss of agricultural land.</li> </ul>	<p>considered that in a Farming Zone area, where large farm trucks and other farm machinery are an expectation, that this will not be unusual.</p> <p>Under The Code noise has to be monitored and conditions on permit will point to this requirement. There is a distance of approximately 1km from the activity site to the nearest dwelling not in same ownership and that is considered to be reasonable to attenuate noise from the work area.</p> <p>Drinking water is covered above.</p> <p>Loss of agricultural land is covered above.</p>
<p><b><u>Objection 4</u></b></p> <ul style="list-style-type: none"> <li>Impacts from the site regarding a flood event.</li> <li>Land Quality.</li> <li>Traffic.</li> </ul>	<p>Flood issues are covered above.</p> <p>Land quality is covered above.</p> <p>Traffic issues are covered above.</p>
<p><b><u>Objection 5</u></b></p> <ul style="list-style-type: none"> <li>Site management / weed control.</li> <li>Flooding / Groundwater</li> </ul>	<p>Weed control and maintenance of the site is in The Code. Conditions on permit will require reference to management in accordance with The Code.</p> <p>Covered above.</p>
<p><b><u>Objection 6</u></b></p> <ul style="list-style-type: none"> <li>Flooding and Groundwater</li> <li>Value of property.</li> </ul>	<p>Flooding and groundwater are discussed above.</p> <p>The planning scheme does not take into account the increase or decrease in property values.</p>
<p><b><u>Condition 7</u></b></p> <ul style="list-style-type: none"> <li>Water quality / Floods / Truck impact</li> </ul>	<p>Water quality, flood and the impact of trucks are discussed above.</p>
<p><b><u>Condition 8</u></b></p> <ul style="list-style-type: none"> <li>Water quality / Flooding</li> </ul>	<p>Water quality and flood issued are discussed above.</p>
<p><b><u>Condition 9</u></b></p>	

<ul style="list-style-type: none"> <li>• Machinery noise from the site.</li> <li>• Dust / drinking water /</li> <li>• Lack of completion of requirements to existing completed pits.</li> </ul>	<p>Conditions on permit will require that no machinery is run outside operating hours unless with the consent of the Responsible Authority. The Code also cover noise.</p> <p>Dust and drinking water is covered above.</p> <p>Council is responsible to monitor compliance with planning permit conditions.</p>
<p><b><u>Condition 10</u></b></p> <ul style="list-style-type: none"> <li>• Trucks / noise</li> </ul>	<p>Trucks and noise concerns are covered above.</p>
<p><b><u>Condition 11</u></b></p> <ul style="list-style-type: none"> <li>• Flood / Traffic / More Mining</li> </ul>	<p>These areas have been covered above.</p>
<p><b><u>Condition 12</u></b></p> <ul style="list-style-type: none"> <li>• Flood / Water Quality / Value of Properties</li> </ul>	<p>These have been discussed above when raised by other objectors.</p>

### Policy Considerations

The planning permit triggers are:

- Farming Zone  
Pursuant to Clause 35.07-1 and 35.07-4 of the Farming Zone a planning permit is required to Use and Develop the land for and Extractive Industry.
- Floodway Overlay  
Pursuant to Clause 44.03-2 of the Floodway Overlay a planning permit is required to carry out works.
- Clause 52.08 Earth and Energy Resources Industry  
Pursuant to Clause 52.08-1 a planning permit is required to use and develop land for earth and energy resources industry unless exempt. As this is a small scale quarry exempt from the Work Plan requirements of the *Mineral Resources (Sustainable Development) Act 1990* the activity must comply with the 'Code of Practice for Small Quarries'. Quarries that are less than five hectares and less than five metres in depth with no blasting or native vegetation removal are exempted from the requirement of a Work Plan. There is no discharge to water proposed so this operation does not require an EPA works approval and license. See Figure 1 below.

### Clause 52.06 Car Parking

Has been considered and is satisfied.

Considerations are:

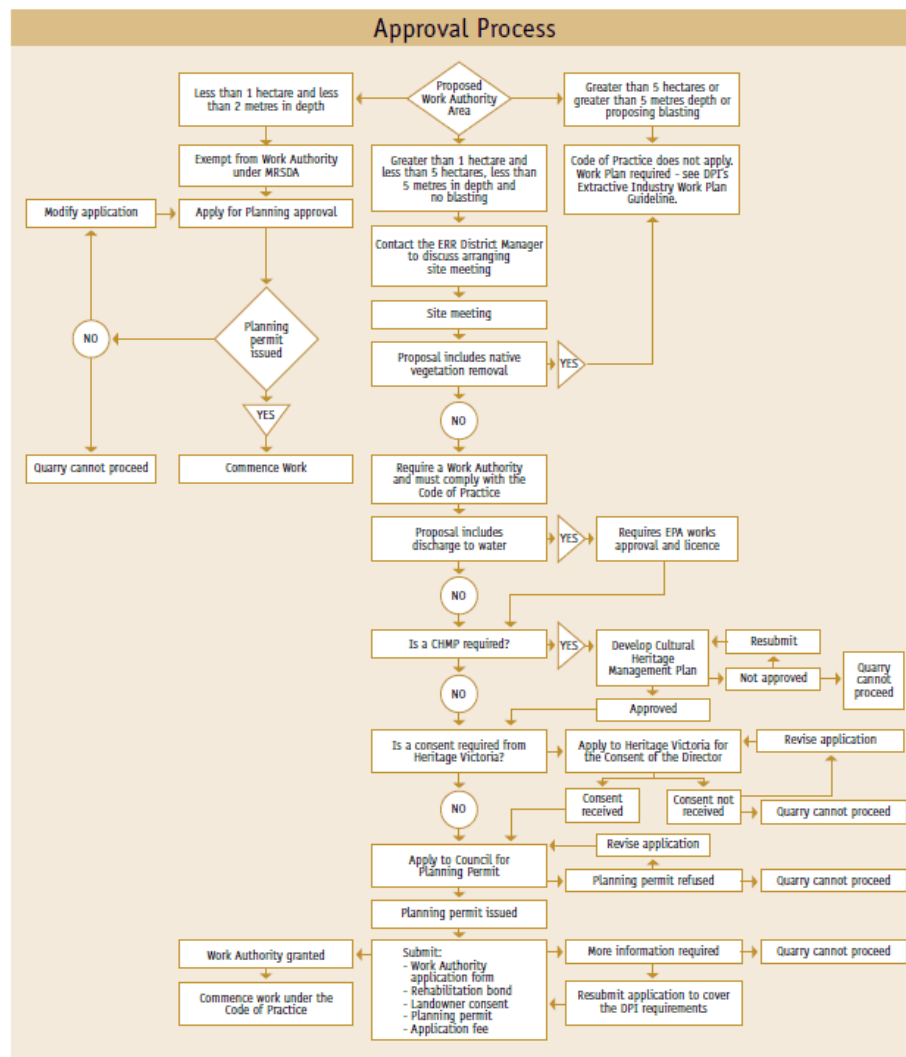
- Objectives of Planning in Victoria
- Municipal Planning Strategy and Planning Policy Framework
- Zones and Overlays
- Clause 52.06 Car Parking
- Clause 52.08 Earth and Energy Resources Industry
- Clause 65 Decision Guidelines
- Regional Context
- Council Plan Strategy

### **Objectives of Planning in Victoria**

The relevant objectives of planning as set out in Section 4(1) of the *Planning and Environment Act 1987* are:

- (a) *To provide for the fair, orderly, economic and sustainable use and development of land.*
- (f) *To facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e).*
- (g) *To balance the present and future interests of all Victorians.*

Figure 1 - Approvals process flow diagram



Note: While the approvals process is shown as a series of events many of these approvals are not sequential and can be gained at the same time

## Municipal Planning Strategy and Planning Policy Framework

### Clause 11.01-01S Settlement

The objective includes sustainable growth and development of Victoria. With relevance to this proposal this is to be achieved by planning for development and investment opportunities along existing and planned transport infrastructure.

### Clause 13.03-1S Floodplain Management

The objective is to assist in the protection of life, property and community infrastructure from flood hazard; carrying capacities of waterways and floodways; storage function; as well as the health of the waterways.

This policy directs planning to avoid intensifying the impact of flooding through inappropriately located use and development.

Use and development is to be located and managed so that potential for contact between any materials that potentially could pollute is prevented.

**Clause 14.01-01S Protection of Agricultural Land**

The objective is to protect the state's agricultural base by preserving productive farmland.

This is to be achieved with relevance to this proposal, by avoiding permanent removal of productive agricultural land without consideration of the economic importance of the land for agricultural production; protecting productive farmland that is of strategic significance in the local or regional context; prevent strategically important agricultural and primary production land from incompatible uses; and balance the potential off site effects of the use and development against the benefits of the proposal.

**Clause 14.02-1S Catchment Planning and Management**

The objective is to assist the protection and restoration of catchments, water bodies, groundwater and the marine environment.

The policy directs planning to ensure that land use and development manages storm-water from the sites to protect the health and flow of the waterways, ensuring consultation with appropriate catchment management authorities.

**Clause 14.02-2S Water Quality**

The objective is to protect water quality from potential contamination.

Planning is directed to ensure that land use activities potentially discharging contaminated runoff or wastes to waterways are sited and managed to minimise such discharges. Incompatible land use activities in areas subject to flooding are to be discouraged.

**Clause 14.03-01S**

The objective is to encourage exploration and extraction of natural resources in accordance with acceptable environmental standards.

This policy directs planning to provide for the long term protection of natural resources in Victoria, protecting the opportunity for exploration and extraction when it is consistent with overall planning considerations and acceptable environmental practices.

Planning is to ensure that buffers are developed and maintained around these activities.

**Clause 14.03-1R – Resource Exploration and Extraction – Hume**

Planning is to support the availability of construction materials locally and consider measures to facilitate and manage the extraction.

**Clause 17 Economic Development**

Planning is to provide for a strong and innovative economy where all sectors are critical to economic prosperity. Planning is to facilitate decisions and resolve land use conflicts so that each region may build on its strengths and achieve economic potential.

**Clause 17.01-1S Diversified Economy**

The objective is to strengthen and diversify the economy. This is to be achieved by improving access to jobs closer to where people live and supporting rural economies to grow and diversify.

**Clause 17.01-1R Diversified Economy**

Planning is to encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.

**Clause 17.03-2S Industrial Development Siting**

The objective is to facilitate the sustainable development and operation of industry.

This is to be achieved with relevance to this proposal by providing adequate separation and buffer areas between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effects, nuisance or exposure to hazards.

**Clause 21.04-1 Floodplains**

Flooding is a major land use issue throughout the municipality with regards to the Ovens and King Rivers. Planning is directed to avoid subdivision, buildings and works in floodplains.

**Clause 21.05-1 Rural Land and Agriculture**

Agriculture is a major economic industry and employer in the municipality. It is essential to the economic and social performance within the region. It is imperative that the productivity and versatility of agricultural land is maintained, particularly for higher agricultural versatility areas.

**Clause 21.05-2 Water**

Protection of water quality is a major issue for waterways and water storages and can be compromised through inappropriate works. Coordination is required with water authorities to provide an integrated assessment of rural water supply.

**Zones and Overlays****Clause 35.07 Farming Zone**

The purpose is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

Pursuant to Clause 35.07-1 and 35.07-4 of the Farming Zone a planning permit is required to Use and Develop the land for and Extractive Industry which comes under Section 2 as Any Other Use not in Section 1 or 3.

Appropriate decision guidelines are considered to be:

- *Municipal Planning Strategy and Planning Policy Framework.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*
- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *Any integrated land management plan prepared for the site.*
- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

### **Rural Floodway Overlay**

The purpose is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify waterways, major flood-paths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.*
- *To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.*



- *To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989 if a declaration has been made.*
- *To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

Pursuant to Clause 44.03-2 of the Floodway Overlay a planning permit is required to carry out works.

A Geomorphological Assessment has been submitted with the application which considers surface water, hydrology and hydrogeology amongst other matters.

The proposal was referred as a Section 55 of the *Planning and Environment Act 1987* to North East Catchment Management Authority.

Appropriate decision guidelines are considered to be:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The local floodplain development plan or flood risk report.*
- *Any comments of the relevant floodplain management authority.*

## **Particular Provisions**

### **Clause 52.06 Car Parking**

Pursuant to Clause 52.06-6 where the land use is not specified, before a new use commences car parking must be provided to the satisfaction of the Responsible Authority. With regards to this proposal Council is satisfied that any car parking requirements (most likely employees and business visitors) can adequately be provided on site.

### **Clause 52.08 Earth and Energy Resources Industry**

The purpose is:

- *To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards.*
- *To ensure that mineral extraction, geothermal energy extraction, greenhouse gas sequestration and petroleum extraction are not prohibited land uses.*
- *To ensure that planning controls for the use and development of land for the exploration and extraction of earth and energy resources are consistent with other legislation governing these land uses.*

Pursuant to Clause 52.08-1 a planning permit is required to use and develop land for earth and energy resources industry unless exempt. The proposal is exempt from the Work Plan requirements of the *Mineral Resources (Sustainable*



*Development) Act 1990.* As it is a small scale quarry the activity must comply with the ‘Code of Practice for Small Quarries’. Small quarries are less than five hectares and less than five metres in depth with no blasting or native vegetation removal. If there is no discharge to water proposed so this operation does not require an EPA works approval and license.

#### **Clause 65 Decision Guidelines for development**

Before deciding on an application or approval of a plan the Responsible Authority must consider as appropriate:

<i>The matters set out in section 60 of the Act.</i>	The Wangaratta Planning Scheme has been considered. The objectives of planning in Victoria have been considered. All objections have been considered. All referral responses have been considered. The proposal complies with the Small Quarries Code.
<i>The Municipal Planning Strategy and the Planning Policy Framework</i>	This has been considered above.
<i>The purpose of the zone, overlay or other provision.</i>	This has been considered above.
<i>Any matter required to be considered in the zone, overlay or other provision</i>	These have been considered.
<i>The orderly planning of the area.</i>	The proposal will result in a quarry that will be rehabilitated and returned for use with the existing farm when the use if finished with.
<i>The effect on the amenity of the area.</i>	It is considered that as the nearest dwellings not in the same ownership as interested parties are at least 1 km away that the amenity for these residents will not be impacted to a great extent. Any dust and noise will have the 1km buffer separation to mitigate them.
<i>The proximity of the land to any public land.</i>	The Ovens River and environs which is Crown Land is located to the east.
<i>Factors likely to cause or contribute to land degradation, salinity or reduce water quality</i>	No referral authority has indicated that water quality will be affected.
<i>Whether the proposed development is</i>	No referral authority has indicated that the quality of stormwater will be affected.

<i>designed to maintain or improve the quality of stormwater within and exiting the site.</i>	
<i>The extent and character of native vegetation and the likelihood of its destruction.</i>	The proposal plans to remove exotic vegetation.
<i>Whether native vegetation is to be or can be protected, planted or allowed to regenerate.</i>	As above.
<i>The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.</i>	The subject site is within the Floodway Overlay and the proposal was referred to the North East Catchment Management Authority who did not object. The subject site does have the Bushfire Management Overlay applied however the activity site is not located within it.
<i>The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.</i>	The number of truck movements have been limited with the quarry product being delivered to an existing processing plant 2.5km away.

### **Regional Context**

The Hume Regional Growth Plan 2014 cites that Earth Resources in the form of mineral and quarry products, makes a valuable economic and social contribution to the Hume Region. Opportunities to develop minerals and extractive activities should be further explored, supported and managed. These activities are now regulated to manage environmental impacts such as potential impacts on ground water. The Plan informs that a locally available supply of earth resources will support settlement growth, economic development and provision of cost effective infrastructure.

The Hume Regional Growth Plan 2014 informs that the region will continue to be one of Australia's major food producing areas. Maintaining and enhancing the contribution of these strategic resources to the production of a diverse range of agricultural commodities is a key component of the region's economic future. High quality farming land is a finite resource and must be protected. The planning system should continue to support the viability of farming through providing for increasing farm sizes and changing agricultural methods and strategies.

## **Council Plan Strategy**

The Rural City of Wangaratta Council Plan 2017-2021 revised in 2018 informs amongst its priorities is the facilitation of establishment of new industries, recognising the growth of our existing businesses so that they support population growth. This is tempered by awareness and need to maintain quality of life, with health protected as a non-negotiable.

## **Assessment**

The Hume Regional Growth Plan 2014 identifies for the reader, at the State Level, the competing economic importance of both quarry products and farming which is then reflected throughout the Planning Scheme. The Council Plan informs us that Council recognises existing businesses and the ability to support population growth by providing employment in the Region as well as supporting the local economy and this relates to farming and industry.

Policy requires planning to support sustainable growth and development of Victoria by supporting development and investment opportunities in appropriate locations that do not create land use conflicts. A diversified economy is seen as a strong economy and will attract people to the region to live and work.

This proposal intends to continue to provide for the availability of construction materials locally and it can be managed to ensure that environmental standards are met by conditions on permit. This new proposal extends existing quarry activity that has been ongoing since 1972 in this locality. The reason for a separate application is that extension to the existing Work Plan to excavate on this site has been refused at VCAT. This has led to a redesign to the work activity, forming this proposal, and it now falls under the Code of Practice for Small Quarries and does not require a Work Plan. The proposed excavation site keeps within the area and depth requirements of the Code and is contained within a site that is surrounded by land already exposed to quarry activities. It is considered that the distance from this new activity area to the nearest dwellings not in the same ownership (approximately 1 kilometre) provides for a sufficient buffer between the rural dwelling uses and the quarrying activities to maintain a reasonable amenity for residents and visitors to the area. The nearest towns are approximately four kilometres away.

The subject site falls within an area of agricultural land that is identified at state level and locally as being of high value. There is ongoing ability to farm this lot with stock and cropping even with the proposed excavation activity located to the west of the farm. Once the excavation has concluded, the pit will be used as a lake and will be planted out around the edges. This in turn can be used as a source of water for the farm. It is considered that land is not being removed permanently from farming and is not being changed so that it cannot form some part of farming activity on conclusion of the activity.

With regards to the location being in the floodplain, North East Catchment Management Authority have assessed the proposal, indicated that it is likely that the entire location would be subject to inundation from the Ovens River but have not objected. They have issued conditions that require adherence to the planned

stages, with regard to levee constructions and rehabilitation. Policy informs that planning must assist in protecting life, property and community infrastructure from the effects of flooding. The natural flood capacity and health of the waterways must also be protected. Development should avoid intensifying the impact of the flooding. The modelling based on the 1:100 year flood data informed NECMA that the impact from the excavation site and levee would extend no further than the subject site boundaries. However it is acknowledged that more severe flood events can occur and therefore a Section 173 Agreement will be placed on title to ensure maintenance in perpetuity to mitigate against flood events and impact further afield.

Goulburn Murray Water have noted that the depth is consistent with surrounding bores and draglines; that the excavations will intercept with groundwater but will not be taking the water, only the materials required being sand and gravel; is not within 100m of a waterway and they have not objected. Conditions they have required to go on any permit issued dictate that all operations will be in accordance with the Code of Practice for Low Risk Mines and must not impact on any waterways with regards sediment run off. They require that rehabilitation with vegetation as proposed must be carried out to prevent erosion and sediment run off. This again necessitates a need for an in perpetuity guarantee and therefore further supports a need for an agreement on title. Policy requires the protection of catchments and water quality. The catchment provides irrigation and potable water.

The objections have been thoroughly considered and in conclusion they cover the matters of the impact of changes to the floodplain by the development; the noise and dust from the site; the impact of the truck movements on Markwood-Tarrawingee Road; the loss of productive agricultural land; future applications for quarrying; Aboriginal Cultural Heritage Sensitivity; quality of groundwater; land values; and site management including weed control and rehabilitation. A conciliation meeting was not held between the applicant and objectors as it was unlikely that there would be any conciliatory outcomes. The objectors concerns have been responded to and in conclusion it is considered that there will not be significant social and economic effects (refer to Table 1 Objections). The issues of flooding and groundwater have been assessed by the relevant referral authorities who have expertise in these areas and they have not objected. It is acknowledged that there is concern about how the sites have been previously managed and conditions will be placed on the permit for this site to ensure that the applicants are fully aware of their responsibilities in accordance with the permit and The Code.

## **Conclusion and Recommendation**

This proposal is located in what is identified as an area of strategic agricultural land of national/state, regional and sub regional significance and at a local level of high value. That said, this proposal forms an extension of existing quarrying activity that has existing use rights and has been in operation since 1972. This proposal is on a small scale that returns the land back to agriculture as a means of access to a water source for farming activities at conclusion of the excavations. It will also be rehabilitated to ensure that the site does not affect future flooding

events and does not cause sediment run off to nearby waterways. Even though there are competing uses, (agricultural and earth resources) it is considered that the proposal does not remove the land from farming permanently and the economic benefits are possibly greater than farming for the short period of time that the activity is taking place. After this time period, the land will return to farming.

There have been no objections from the referral bodies, in particular North East Catchment Management Authority and Goulburn Murray Water, and there are conditions for any permit issued that manage the activity throughout and aim to protect the environment, rehabilitate the activity area and return it to farming land. A Section 173 Agreement will be required to maintain the land into perpetuity.

After consideration of the objections it is considered that there will be no significant social or economic effects.

In conclusion it is considered that the proposal is supported by the Wangaratta Planning Scheme.

It is recommended that a Notice of Decision to Grant a Permit be issued subject to conditions and in accordance with endorsed plans.

### **Implications**

#### **Policy Considerations**

There are no additional Council policies or strategies that have not already been discussed in this report.

#### **Financial Implications**

This proposal does not have any impact on Council's financial resources. Should the matter be referred to the Victorian Civil and Administrative Tribunal then Council will likely incur costs of representation.

#### **Legal/Statutory**

All procedures associated with the lodgement and assessment of this application have been done in accordance with the *Planning and Environment Act 1987*.

#### **Cultural Heritage**

The area of activity is not within the area of Cultural Heritage Sensitivity.

#### **Social**

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

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

Environmental/sustainability impacts identified in this report will be addressed by way of permit conditions.

## **Economic Impacts**

The application is considered to support the economy.

## **Referrals/Public Notice**

Addressed earlier in this report under the relevant 'Referrals' and 'Advertising' headings.

## **2017 – 2021 Council Plan**

This report supports the 2017-2021 Council Plan:  
**Goal**

### **We are growing**

We will plan, research and advocate for the future;

- to facilitate considered planning and development in line with long term strategic objectives for the sustainability of our community and environment.
- to ensure we contribute to a balance between environmental sustainability, development and risk, particularly in relation to flood and fire risks for our communities.

We will focus on our business of ensuring;

- we are responsive, clear and active in the development of our municipality.
- We understand and plan for long term opportunities, challenges and priorities that face our growth potential.

### **We are thriving**

We will plan, research and advocate for the future to ensure we are responding to the current and future recreational needs of our community and creating sustainable and quality recreation reserves through our municipality.

## **Strategic Links**

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

N/A

### **b) Other strategic links**

**Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Notice of Decision to Grant a Permit – objectors appeal Council's decision	Medium	Low	Low	Representation of Council decision at VCAT
Notice of Decision to Grant a Permit – applicant appeals permit conditions	Low	Low	Low	Representation of Council decision at VCAT
Refuse to issue a Permit – applicant appeals Council's position	Medium	Low	Low	Representation of Council decision at VCAT

**Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Notify potentially affected parties of the application	Notice of Application sent to surrounding owners and occupants and an advertisement placed in the Wangaratta Chronicle
Consult	All submissions to the application will be considered.	All Submissions have been reviewed and summarised in this report along with a response to relevant planning considerations.
Involve	Opportunity to make submission.	Notice of Application sent to surrounding owners and occupants and advertisement placed in the Wangaratta Chronicle.
Collaborate	N/A	N/A
Empower	N/A	N/A


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

**Options for Consideration**

1. Approve the application, through the issue of a Notice of Decision to Grant a Permit, subject to recommended conditions of permit (refer to **Attachment 1**).
- OR
2. Refuse the planning permit application. Grounds of refusal would need to be provided. This is not the recommended option.



## **Attachments**

- 1 Draft Conditions for PlnApp 18-064 

## **Public Questions**

*Estate of Nancy Sikorsky asked Do Councillors realise that the proposed levies will cause floodwater to back up onto our property as our house floor is only a few centimetres above 1993 flood level? Do Councillors realise that my parents fought for several years to have levies removed from the old works and to have them reinstated is a serious problem for this house?*

Stephen Swart Director Development Services responded I will explain our process when we deal with planning applications. Especially applications of this nature where they become very technical. Our process includes referring this application off to a number of authorities who are the experts in these fields and we have staff with specific expertise to deal with these matters. In this case we referred the application off to the North East Catchment Management Authority (NECMA) who are the flood plain managers for this area. They have had a look at the application and asked for a number of permit conditions to be put on the permit should it be issued and part of that is to construct levees around the proposed pit site.

*Bernard Mooney asked do Councillors believe they fully understand the impact permanent levees on the floodplains of the neighbouring properties?*

Stephen Swart Director Development Services responded we depend on NECMA who are the experts in this field to provide us with advice. They have had a chance to look at this planning application, they considered all the information made available to them including assessments of the way water moves across that property and provided us with their response including asking for conditions to be added to the planning permit if it should get issued and didn't arise any direct objections to the proposed application.

*Bernard Mooney asked do Councillors believe that using a proposed fish farm, which is not as yet approved, is a legitimate foil to permit Council to not consider that the land is permanently lost to agriculture?*

Stephen Swart Director Development Services responded to clarify there hasn't been an application to Council in regards to a fish farm on this property. We considered an application for extractive industry. I can only assume it refers to what this pit might look like after this use ceases and then it will be a pit filled with water and rehabilitated. In terms of agricultural value of the land when you read though the report you will see this is covered in a number of places around the quality of the land. We also have to consider that against the benefits of having this extractive industry and what the land will look like in the future.

*Paul and Wendy Hardy asked do Councillors understand that there appears to be no binding methods of keeping quarrying trucks off the dirt road (Ivonne's Lane) if*



*the Council should decide to improve the load rating if the bridge to take the trucks and effects up to six households along Ivones Lane*

Stephen Swart Director Development Services responded the permit conditions as they stand allows access from the Markwood Tarrawingee Road and not from Ivones Lane. In terms of the operation of this site that would be the access point. If they do not use that access point it would be a breach of the conditions of the permit and that would become an enforcement issue for the Council to follow up. If in the future the applicant wishes to amend their planning permit to access the site from Ivones Lane that would have to go through the amending planning permit process.

*Paul and Wendy Hardy asked We ask that Council should consider the water quality issues raised over Hanson's test showing substantial water quality impact at a distance of approximately 600-800 metres and then our private test four months later showing the problem clearing after quarrying ceased*

Stephen Swart Director Development Services responded we referred this to Goulbourn Murray Water who are the authority that looks after water quality in rural areas. Their response was for us to include a number of conditions on the planning permit and did not raise any objections to this specific proposal.

*Melissa McDevitt asked were first nations consulted and did they give free, prior and informed consent in support of the quarry project including Yorta Yorta (Monica Morgan CEO), Bangarang (Freddy Dowling) Waywurru or Taungurung first nations? And why hasn't an Aboriginal Heritage Act 2006 (VIC) Cultural Heritage Plan (CHMP) been done to satisfy the cultural heritage concerns of first nations peoples including the registered aboriginal parties established under the Aboriginal Heritage Act?*

Stephen Swart Director Development Services responded under the regulations and provisions we follow to determine the process for planning permit applications we do look at the Aboriginal Heritage Act to determine the requirements of that act. This area was looked at and assessed as being not within an area of cultural heritage sensitivity and therefore a CHMP was not required for this process.

*Melissa McDevitt asked I am under the understanding that you can request one even if it wasn't triggered?*

Stephen Swart Director Development Services responded a volunteer CMHP could be done in certain circumstances that is entirely up to the applicant, which in this case was not submitted as part of the application.

*David Davenport asked is Council aware of the rescinding of the lease arrangement covering the crusher site at Tarrawingee?*

Stephen Swart Director Development Services responded no officers were not aware.

*David Davenport asked if Council cannot guarantee the first class protection of prime farm land and the water table within the Ovens Valley how can it justify the passing of this permit?*

Stephen Swart Director Development Services responded through this process we did consider this very carefully and our conclusion is that it is a small area that is being taken out of agricultural production but will produce something else into the economy and the rest of the land would still be able to be used for agriculture.

*Rebecca Crawley asked given that this area has been an area that has not had a lot of aboriginal history, with some difficulties knowing who's country is who's up here how do you look at historical evidence and oral histories relating to that area?*

Stephen Swart Director Development Services responded as Officers we are tasked with looking at a planning application on the requirements of legislation at that moment. In this case we made a determination that a CHMP is not required.

*Rebecca Crawley asked have the applicants had any training in identifying aboriginal artefacts?*

Stephen Swart Director Development Services responded I do not know if applicants have had any training in recognising these things and there are no conditions or requirements for this in this permit.

*Terry Reeves asked how many years is it going to last?*

Stephen Swart Director Development Services responded that information is not provided in the material that I have, but typically this is a long term prospect.

*Terry Reeves asked when this permit goes through will you put another one through for the mining pockets mentioned in this newspaper article?*

Stephen Swart Director Development Services responded that is a possibility, anybody is able to make an application. We will consider each application on its merits when we receive it.

*Jule Jennings asked does Hanson have any future strategies should people be impacted by pollution in the future?*

Stephen Swart Director Development Services responded we do not know strategies for longer term monitoring of water quality. In the case of water quality in this area the responsible authority is Goulburn Murray Water they have been involved in this process and they have not raised any objections.

*Jule Jennings asked I have been informed that Hanson were willing to limit the loads to five loads per day which to me does not seem viable. A truck this morning went up Gardner's Lane over a bridge with a 20 tonne limit. Is this going to be a strategy to avoid going past the homes of objectors?*

Stephen Swart Director Development Services responded the planning permit application provides some information surrounding the access of the site. The specify using Markwood Rd rather than Ivones Lane. If this permit is approved one of the conditions relates to truck movement and the number of trucks has been restricted to five per day.

### 16.3 PLANNING APPLICATION FOR 10 LOT SUBDIVISION (485 WANGARATTA - YARRAWONGA ROAD, WALDARA)

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Senior Planner  
**File Name:** Planning Application for 10 Lot Subdivision  
**File No:** PInApp18/088

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 application seeks planning approval to subdivide land identified as 485 Wangaratta-Yarrowonga Road, Waldara, into ten low density residential lots, comprising nine vacant lots ranging in size from 4,000m<sup>2</sup> to 4,150m<sup>2</sup> and one 4,650m<sup>2</sup> lot containing the existing dwelling on site (refer to **Attachment 1**).

The application proposes the creation of a new 330m long road running the full north-south length of the subject site, which will be accessed via Talgai Drive.

The application was formally advertised on 15 October 2018. To date, four objections to the application have been received.

The report is presented to Council due to the number of submissions received.

*Cr David Fuller left the meeting at 5.04pm*

*Cr David Fuller returned to the meeting at 5.16pm*

#### **RESOLUTION:**

**(Moved: Councillor H Bussell/Councillor M Currie)**

***That Council resolves to:***

- 1. issue a Notice of Decision to Grant a Planning Permit with respect to Planning Permit Application 18/088 for a 10 Lot Subdivision at 485 Wangaratta-Yarrowonga Road, Waldara, subject to the permit conditions contained within Attachment 2; and***
- 2. advise the applicant and all submitters of Councils decision.***

**Carried**

## **Property Details**

The subject site is a 4.8 hectare property located within the Waldara Low Density Residential Area. It is sited on the north-western corner of the intersection of Wangaratta-Yarrowonga Road and Talgai Drive, with 320 metres of frontage to Wangaratta-Yarrowonga Road and 140 metres of frontage to Talgai Drive.

The land is within the Low Density Residential Zone and is affected by the Design and Development Overlay – Schedule 3 – Waldara Low Density Residential Precinct.

Surrounding land comprises a mix of low density lot sizes, with predominantly large un-subdivided lots (approximately 2.5ha in area) to the immediate north and west and smaller subdivided lots (approximately 5,000m<sup>2</sup> in area) to the immediate south and east. The south-eastern portion of subject site is also adjacent to a section of the Waldara Golf Course, located on the opposite side of Wangaratta-Yarrowonga Road.

The subject property primarily consists of cleared grazing land with a reasonable amount of vegetation planted around the existing dwelling and shed located on site. The current owner has provided a Statutory Declaration verifying that all vegetation on site has been planted by himself over the last 60 years, and is not subject to native vegetation provisions. Council's Environment Department has confirmed that existing vegetation is no older than 60 years and is therefore satisfied that all vegetation has been planted.

The existing dwelling is located toward the centre of the site, fronting Wangaratta-Yarrowonga Road, and the existing shed is located toward the south-west corner of the property, fronting Talgai Drive. Given the significant distance between the dwelling and shed, the subdivision design proposes to locate them on separate lots.

There are currently three accesses to the subject site; two from Wangaratta-Yarrowonga Road and one from Talgai Drive. The applicant proposes to remove both of the Wangaratta-Yarrowonga Road accesses and, following consultation with objectors, has also agreed remove the Talgai Drive access.

Land/Address	485 Wangaratta-Yarrowonga Road, Waldara
Zones and Overlays	Low Density Residential Zone  Design and Development Overlay
Why is a permit required	Subdivision of Land in the Low Density Residential Zone and the Design and Development Overlay.  Subdivision of Land Adjacent to a Road Zone – Category 1

## Proposal in Detail

This application is for the subdivision of the subject land into 10 lots, comprising nine vacant lots ranging in size from 4,000m<sup>2</sup> to 4,150m<sup>2</sup> and one 4,650m<sup>2</sup> lot containing the existing dwelling on site.

The application proposes the creation of a new 330m long road running the full north-south length of the subject site, which will be accessed via Talgai Drive. The road will extend through to the northern property boundary and allow for connection to the adjoining property to accommodate future development of this land.

The application also includes the creation of an easement of way to facilitate a future access to the land directly from Wangaratta-Yarrawonga Road. The easement of way is located opposite Waldara Road and would allow for a future crossroad at this juncture.

Individual accesses to proposed lots will be via the new central roadway with all existing accesses to Wangaratta-Yarrawonga Road and Talgai Drive to be removed.

Building envelopes are proposed for all vacant lots and one will also be required for the lot containing the existing dwelling in anticipation of this proposed lot being further developed in the future.

The proposed building envelopes and new road alignment will necessitate the removal of a reasonable amount of existing vegetation; however, vegetation along the Wangaratta-Yarrawonga Road frontage of the site is proposed to be retained.

Due to the natural contours of the land, it is anticipated approximately half the site will drain toward Wangaratta-Yarrawonga Road and the other half will drain toward Talgai Drive. Swale drains will be used to intercept and direct stormwater and will be located along the northern and western property boundaries and along both sides of the new road reserve. It is proposed that rainwater tanks will accommodate required onsite detention.

## Summary of Key Considerations

- Drainage
- Frontage of Lots to Wangaratta-Yarrawonga Road

## Relevant Planning Provisions

The following provisions of the Wangaratta Planning Scheme are relevant to this proposal:

Section	Clause	Provision
State Planning Policy Framework	11	Settlement

	16	Housing
Local Planning Policy Framework	21.02	Settlement
	21.07	Housing
	21.10	Infrastructure
	21.14	Public Open Space
Zones	32.03	Low Density Residential Zone
Overlays	43.02	Design and Development Overlay
Particular Provisions	52.17	Land Adjacent to a Road Zone, Category 1
	52.29	Land Adjacent to a Road Zone 1 Category
	53.01	Public Open Space Contribution and Subdivision
	56.07	Integrated Water Management
Decision Guidelines	65	Decision Guidelines
	65.01	Approval of an Application or a Plan
	65.02	Approval of an Application to Subdivide Land

### **Referrals**

The application was referred to the following referral authorities:

Authority	Section	Response
VicRoads	External Section 55 Referral - Determining Authority	No objection subject to the inclusion of conditions restricting access to Wangaratta-Yarrowonga Road.

Authority	Section	Response
North East Water	External Section 55 Referral - Determining Authority	No objection subject to the inclusion of conditions relating to water and sewer supply.
AusNet Services	External Section 55 Referral - Determining Authority	No objection subject to the inclusion of conditions relating to electricity supply.
APA Group	External Section 55 Referral - Determining Authority	No objection subject to the inclusion of conditions relating to the supply of gas.
Country Fire Authority (CFA)	External Section 55 Referral - Recommending Authority	No objection subject to the inclusion of conditions relating to road design and the provision of hydrants.

### **Internal Departmental Advice**

Department	Response
Technical Services Department	<p>No objection – subject to conditions.</p> <p>The conditions relate to the provision of drainage infrastructure to deal with existing and proposed runoff, onsite detention, property access, assets to be transferred to Council and construction standards.</p>

### **Advertising**

The application was advertised to surrounding landowners and occupants on 15 October 2018. A notice was also placed within the Wangaratta Chronicle 'Rural Connection Page'.

Four letters of objection were received. All four objections are from owners/residents of Talgai Drive, two of which are adjoining or adjacent to the subject site and two of which are located some 450 metres further down Talgai Drive.

Objector locations are identified on the following plan.





A conciliation meeting was held on 11 December 2018 and was attended by the applicant and all four objectors.

### **Objector Concerns**

#### **Drainage**

Residents are concerned that the proposed subdivision will further exacerbate these existing drainage issues. They have questioned what work is being undertaken by Council to maintain existing drains and to improve the drainage network following the Waldara LDRZ background report and Strategic Drainage Plan.

Council's Technical Services Department have acknowledged the findings of the Drainage Plan whereby works are recommended to be undertaken within the surrounding area; although they submit this work was to only consist of upgrades to existing driveway crossovers, with such works not being the responsibility of Council.

Council's Technical Services Department have advised that the Drainage Plan is conceptual only. Since publication of the Drainage Plan, further modelling and design work have been undertaken by Council representatives who have concluded that the benefits gained from redesigning drainage around Talgai Drive and Paul Larkins Reserve don't warrant the monetary costs associated with such works. Council has instead decided to concentrate its efforts toward drainage upgrades deemed to be more pressing. Funds have therefore been allocated to improve drainage further downstream around Old School Road where the greatest flood risks have been identified. Logically resolving any downstream drainage issues is considered pertinent before undertaking any works upstream.

Council's Technical Services Department have advised that the area around Talgai Drive may be reinvestigated in the future; however, some of the drainage

concerns raised by residents may be resolved with some repair and cleaning out of the existing drains as part of Council's drainage maintenance program. Council's Manager of Infrastructure Planning & Delivery has offered to meet with each objector on site and his details have been provided to relevant parties.

Council's Technical Services Department have cautioned that all drainage infrastructure across Wangaratta and Victoria is only designed to effectively manage rainfall events up to a 1 in 10 year event. Larger, more intense events will overload most drainage systems. Some recent events in the Waldara area (i.e. 2012 and 2014) have been identified as 1 in 50 year rainfall events. No matter how well a drain is installed and maintained it will not likely cope with such event as it has not been designed for such event.

With respect to the proposed subdivision, it is the applicant's responsibility to ensure drainage discharge from the subject site is no greater than predevelopment levels such that the subdivision will not impose any further load on the surrounding drainage system. The applicant has provided a conceptual drainage plan for the subdivision showing new internal swale drains along the northern and western property boundaries and along both sides of the proposed new road. Based on the concept drainage plan, approximately half of the subject site will drain into the Talgai Drive system with the other half to drain into a separate system via Wangaratta-Yarrowonga Road. In order to achieve onsite detention requirements, the applicant proposes a Section 173 agreement for future buildings to be connected with rainwater tanks designed to always have holding capacity to capture roof runoff in a rainfall event and discharge it at a managed rate. Rainwater tanks are proposed to compensate for no onsite detention being provided by the developer.

It is recommended that any permit that Council issues will require detailed modelling and civil plans demonstrating how all water currently flowing through the land will be properly managed and how the subdivision will adequately contain and control all rainfall on the subject land in accordance with the above.

### **Frontage to Wangaratta-Yarrowonga Road**

Residents have raised concern with respect to the orientation of buildings and works to be constructed on new lots fronting Wangaratta-Yarrowonga Road. Residents have requested the inclusion of covenants/restrictions on title requiring future development to front Wangaratta-Yarrowonga Road as the primary street address, similar to the requirements of Planning Permit PInApp16/092 (subdivision of Waldara Golf Course).

Inspections of the area have identified that dwellings along Wangaratta-Yarrowonga Road do predominantly front toward the road as their primary street address, whether they have direct vehicle access to the road or not. The frontages of these dwellings provide for a vibrant and inviting gateway entrance to the city. There are some examples of some recent development whereby dwellings have not fronted toward the road or have had sheds constructed in front of them. These examples are considered to have had a negative effect on the otherwise open and attractive gateway entrance, and are not the preferred development outcome for this prominent road corridor.

Recent subdivision permits issued by Council for properties along Wangaratta-Yarrowonga Road have recognised the important character of dwellings fronting the road and have included restrictions on title requiring future dwellings to front the road, and for sheds and non-transparent fencing to not be constructed in front of the dwellings.

The applicant has indicated that they are not overly supportive of such requirement in this instance, submitting that the proposed setback distances and existing vegetation should be adequate. Inspections of the land, however, does not support this notion.

While some vegetation has been identified within and around the property boundary to Wangaratta-Yarrowonga Road, this landscaping is predominantly concentrated around the existing dwelling and comprises mostly tall trees with very little understorey or undergrowth. The existing vegetation, therefore, is not considered to effectively screen the proposed vacant lots along Wangaratta-Yarrowonga Road (Lots 5, 6, 7, 9 and 10). The recommendation for future dwellings to front Wangaratta-Yarrowonga Road therefore stands.

Proposed setback distances are not consistent with the predominant setback distance of buildings along the western side of Wangaratta-Yarrowonga Road. Existing generous setback distances along the western side of Wangaratta-Yarrowonga Road generally range from 50m to 70m from the Wangaratta-Yarrowonga Road carriageway (or 30m to 50m from respective property boundaries). The proposed setback distances of 30 metres from the road reserve (2.5m and 10m from the respective property boundaries of the subject site) are considered at odds with the existing character of the area and should be increased to meet that of existing dwellings. This increased setback distance will also limit any impact upon vegetation along the Wangaratta-Yarrowonga Road and increase the likelihood of this vegetation being retained. Due to the size of the proposed lots and the generous building envelopes within, the increased setback will not impact upon the ability to construct dwellings and associated outbuildings on the lots. It is therefore recommended that an increased setback distance to Wangaratta-Yarrowonga Road be applied.

### **Traffic**

Concern was raised by residents over an increase in traffic resulting from the proposed subdivision and the standard of the Wangaratta-Yarrowonga Rd/Talgai Drive intersection treatment in coping with this additional traffic. Residents believe that the existing left-turn lane into Talgai Drive is not long enough.

The applicant has advised that the exiting left-turn lane complies with relevant industry standards. The application has been referred to VicRoads who have not raised any concern with the anticipated increase in traffic or the standard of intersection treatment and left-turn lane.

### **Impact on Rural Uses**

The main concern in this regard is the potential for dogs owned by residents of new lots to wander onto the neighbouring property to the west which is frequently

used for the grazing of livestock. The owner of this property has requested a dog-proof mesh fence. The applicant has indicated that they are prepared to install such fence along the property boundary. Such requirement is therefore recommended as a permit condition.

### **Visual Impact**

The owners of neighbouring property to the west are concerned with the “aesthetically displeasing outlook” from their property toward four proposed adjoining backyards. They have noted no proposal to tree-line property boundaries as part of this application.

The applicant has advised that planting out boundaries at subdivision stage is generally not a good practical outcome. Trees can only be planted once site services have been completed which is generally not long before a property is sold to a new owner. The trees may not be of a variety preferred by the new owner and it is also much simpler to ensure trees are properly maintained once in the ownership of the new resident. New residents will also be mindful of their privacy and are likely to plant trees very early on in the ownership and development process.

### **Covenants**

Residents are concerned that no covenants have been proposed with respect to fencing, building specifications, uniformity of tank colouring, tree line access or other measures to beautify the area.

It is considered outside the scope of the application to impose the level of detailed requirements referred to in the objection(s). A planning permit issued for this proposal can stipulate: building siting requirements in the form of building envelopes, require future development to front Wangaratta-Yarrowonga Road, require fencing outside of the building envelopes require fencing to be of a rural nature. A permit issued for this proposal can also require the provision of street tree planting which can be assessed as part of detailed landscape plans to be submitted following the issuing of a planning permit.

### **Further Subdivision Potential**

Residents have sought clarification as to minimum lot size requirements applicable to the land and have requested assurances that proposed lots cannot be further subdivided in the future.

In accordance with current Planning Scheme provisions, a minimum lot size of 4000m<sup>2</sup> applies to the land, subject to the ability to be able to provide reticulated sewer. The proposed lots therefore cannot be further subdivided under current provisions. There is no guarantee that planning provisions in the future won't change; however, any proposal for Council instigated changes will require consultation with affected owners and occupiers.



## **Location of Driveway to Lot 1**

The owner of the property on the opposite side of Talgai Drive opposes the retention of the existing property access to Talgai Drive to service proposed Lot 1. The owner is concerned with the potential for light pollution from vehicles leaving Lot 1 at night time. The owner has questioned why the driveway can't be relocated to provide access to Lot 1 from the proposed new road.

The applicant has agreed to remove the existing Talgai Drive access and to create a new access to Lot 1 via the proposed new road.

## **Proposed new road court bowl**

Residents are concerned that no court bowl has been proposed at end of the new road. Without a court bowl end, residents believe vehicles will be unable to turn around and will likely drive into new swale drains, impacting upon the effectiveness of the drains.

Council Officers have advised residents that it is intended that the new road could extend through to the property to the north, and therefore will not require a permanent court bowl. A temporary court bowl will, however, be required to be provided that will need to allow vehicles up to the size of a typical service vehicle (e.g. garbage truck) to be able to turn around.

## **Relevant Provisions under the Wangaratta Planning Scheme**

### **State and Local Planning Provisions**

The proposed subdivision is considered to respond to the State Planning Policy Framework and Local Planning Policy Framework, namely Clauses 11, 16 and 21.02, 21.07, 21.10 and 21.14 through the orderly development and servicing of residential land for future low density housing supply.

### **Zoning**

Pursuant to Clauses 32.03 of the Wangaratta Planning Scheme the land is identified as being located within the Low Density Residential Zone.

The proposed residential lots meet the 4,000sqm minimum lot size for the Low Density Residential Zone in the subject section of Waldara.

In addition to meeting the minimum lot sizes, consideration must be given in the Low Density Residential Zone to the following decision guidelines (as applicable);

- *The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.*

- *The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.*
- *The benefits of restricting the size of lots to generally no more than 2 hectares to enable lots to be efficiently maintained without the need for agricultural techniques and equipment.*
- *The relevant standards of Clauses 56.07-1 to 56.07-4.*

The subdivision is proposed to be undertaken on a large lot zoned for low density residential development, as a form of infill development.

The Waldara Precinct Background Report acknowledges infill development opportunities within Talgai Drive and establishes some expectations with respect to neighbourhood character, connectivity and road linkages. A minimum lot size of 4,000sqm has been established for the subject land, consistent with surrounding subdivided land.

Some onsite vegetation, none of which has been identified as being remnant native vegetation, will be required to be removed in order to facilitate the proposed subdivision.

Recommended changes to building envelope setbacks and restrictions on title will ensure future development on the proposed subdivision will be in keeping with the character of the area.

Utility services will be provided in accordance with Clauses 56.07-1 to 56.07-4 and all residential lots will measure much less than 2 hectares in area.

### **Design and Development Overlay**

Clause 43.02 of the Planning Scheme identifies areas that are affected by specific requirements relating to the design and built form of new development. Schedule 3 to the Overlay identifies the Waldara Low Density Residential Precinct as one such area. Specific controls for the Waldara Precinct relate to subdivision design standards, referring to the work undertaken as part of the Waldara Low Density Residential Precinct Background Report 2016, and the associated Strategic Drainage Plan 2015.

The proposed subdivision is considered to be generally in accordance with the provisions of the Overlay. Matters relating to adequate road frontages to Wangaratta-Yarrowonga Road are addressed under the notification/submissions section of this report.

### **Public Open Space**

It has been established through the Wangaratta Recreational Strategy and Open Space Strategy, 2012 that support is not provided for the provision of a public

open space land contribution in the circumstances of this application. The applicant will instead be required to make a 5% monetary contribution in accordance with Clause 53.01 of the Planning Scheme to go toward improved public space within the surrounding area.

### **Land Adjacent to Road Zone – Category 1**

As the proposed subdivision adjoins Wangaratta-Yarrawonga Road, the application is required to be referred to VicRoads as a Determining Authority under Clause 52.29 of the Planning Scheme.

VicRoads has advised that it does not object to the proposed subdivision, subject to the removal of existing property accesses to Wangaratta-Yarrawonga Road and the inclusion of a Section 173 agreement on title preventing any future lots from having direct access to Wangaratta-Yarrawonga Road.

### **Clause 65 Decision Guidelines**

It is considered that the subdivision of the land is appropriate having regard to the decision guidelines for development and for subdivision at Clause 65 of the Planning Scheme. The matters of 65.01 are generally considered elsewhere in this report under assessment of the purpose and provisions of the zones, overlays, and planning policy. The amenity of the area and drainage have been considered in response to the various matters raised by objectors.

The majority of the decision guidelines of clause 65.02 for subdivision are also covered elsewhere. The land is suitable for subdivision as the site is located within an established urban area and is zoned for such purpose. The site is within proximity to the services and facilities available in the Waldara area and the site can be appropriately serviced with the infrastructure required to support residential development. As such, it is considered that the subdivision of land for residential purposes should be supported in this location.

The subdivision layout is appropriate with all lots generally having full street frontage providing good passive surveillance to the street, consistent with the prevailing neighbourhood character of the area and representing orderly planning.

The new road will make use of the existing Talgai Drive for accessibility. An easement has also been set aside to allow for a new road access to Wangaratta-Yarrawonga Road should it be deemed necessary in the future.

The dimensions of the proposed lots will ensure that vehicles associated with dwellings to be constructed on the lots in the future will be provided with the opportunity for adequate off-street car parking, which aids the movement of traffic through the subdivision. The layout and dimensions of the lots will also ensure that solar access to future dwellings can be achieved, which will allow for energy efficiency of future dwellings.

All lots can be connected to gas, electricity, reticulated water and sewerage and telecommunications infrastructure. Drainage of the site can be achieved through the provision of a stormwater drainage system that is directed toward two existing drainage systems. The provision of detailed drainage modelling and plans will ensure that the drainage system is designed and constructed to Council's standards without adversely impacting upon surrounding properties. Conditions required by Council's Technical Services Department and other Authorities will ensure that site services are adequately provided.

In light of the above, it is considered that the proposed subdivision is generally consistent with the decision guidelines at Clause 65 of the Scheme and will produce an acceptable outcome as required.

### **Implications**

#### **Policy Considerations**

There are no additional Council policies or strategies that have not already been discussed in this report.

#### **Financial Implications**

This proposal does not have any impact on Council's financial resources, the required infrastructure is required to be constructed by the developer. Should the matter be referred to the Victorian Civil and Administrative Tribunal then Council will likely incur costs of representation.

#### **Legal/Statutory**

All procedures associated with the lodgement and assessment of this application have been done in accordance with the *Planning and Environment Act 1987*.

#### **Cultural Heritage**

The subject land is not within an area of Cultural Heritage Sensitivity.

#### **Social**

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

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

Environmental/sustainability impacts identified in this report will be addressed by way of permit conditions.

#### **Economic Impacts**

The application is considered to have a positive economic impact through the development of low density residential land to increase the amount and diversity of housing stock available within the municipality.



## **Referrals/Public Notice**

Addressed earlier in this report under the relevant 'Referrals' and 'Advertising' headings.

## **2017 – 2021 Council Plan**

This report supports the 2017-2021 Council Plan:

### **Goal**

#### **We are growing**

We will plan, research and advocate for the future;

- to facilitate considered planning and development in line with long term strategic objectives for the sustainability of our community and environment.
- to provide for attractive long term residential growth opportunities.
- to ensure we contribute to a balance between environmental sustainability, development and risk, particularly in relation to flood and fire risks for our communities.

We will focus on our business of ensuring;

- we are responsive, clear and active in the development of our municipality.
- We understand and plan for long term opportunities, challenges and priorities that face our growth potential.

#### **We are thriving**

We will plan, research and advocate for the future to ensure we are responding to the current and future recreational needs of our community and creating sustainable and quality recreation reserves through our municipality.

#### **We are established**

We will plan, research and advocate for the future;

- to address traffic, parking and pedestrian challenges to create communities that are safe, easy to navigate and accessible.
- To facilitate drainage and road infrastructure to support future growth plans

## **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
Notice of Decision to Grant a Permit – objectors appeal Council's decision	Low	Low	Low	Representation of Council decision at VCAT
Notice of Decision to Grant a Permit – applicant appeals permit conditions	Low	Low	Low	Representation of Council decision at VCAT
Refuse to issue a Permit – applicant appeals Council's position	Low	Low	Low	Representation of Council decision at VCAT

**Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Notify potentially affected parties of the application	Notice of Application sent to surrounding owners and occupants and an advertisement placed in the Wangaratta Chronicle
Consult	All submissions to the application will be considered.	All Submissions have been reviewed and summarised in this report along with a response to relevant planning considerations.
Involve	Opportunity to make submission.	Notice of Application sent to surrounding owners and occupants and advertisement placed in the Wangaratta Chronicle.  Objectors offered opportunity to attend Conciliation Meeting
Collaborate	N/A	N/A
Empower	N/A	N/A

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

### **Options for Consideration**

1. Approve the application, through the issue of a Notice of Decision to Grant a Permit, subject to recommended conditions of permit (refer to **Attachment 2**).

OR

2. Refuse the planning permit application. Grounds of refusal would need to be provided. This is not the recommended option.

### **Conclusion**



The proposed subdivision has been assessed against the provisions of Wangaratta Planning Scheme, and has demonstrated compliance with the provisions of the Low Density Residential Zone.

Subject to compliance with recommended permit conditions, the design of the proposed subdivision will integrate into the surrounding area with building envelopes to be provided on all lots demonstrating that the land can be appropriately developed in the context of relevant site constraints. An important aspect here is ensuring that future building orientation and setbacks will be consistent with those of surrounding properties. This will be achieved through the recommended changes to building envelopes and restrictions on title.

The subdivision will meet the technical requirements with regard to the provision of infrastructure, taking advantage of existing services in the surrounding area. Drainage can be provided from the land in an effective and sustainable way, and without causing adverse impact upon surrounding land. Detailed modelling and design will be required by permit conditions to ensure the final design solution demonstrates how the land will be effectively drained.

On balance, and subject to compliance with recommended conditions, it is considered that the design of the subdivision is appropriate, achieves an acceptable outcome in terms of the relevant decision guidelines and should be supported.

### **Attachments**

- 1 Proposed Subdivision Plan 
- 2 Recommended Conditions 

*Ross Cairnes asked what does Council have proposed to address the overall drainage problem in Waldara?*

Alan Clark Director Infrastructure Services responded There are works convened this year, I think you will be aware that studies in that area have been completed and there is money in the budget this year to improve the downstream end, this is where the major gains can be had. These works will free up the water movement and help it to get out of the area faster. We are going to do works on Old School

Rd this year greatly increasing the capacity for water to get under and potentially over Old School Road. There is also another piece of work budgeted for this year which is on private land to restrict water movement this is not going to have as much impact on people upstream as far as you are.

*Ross Cairnes asked a lot of water comes from the golf course and flows across underneath the Wangaratta Yarrawonga Road so is it possible to look at some works to divert that water somewhere else?*

Alan Clark Director Infrastructure Services responded of course it is a possibility, I am unsure of the facts off the top of my head I will have to go look at what has been done in the past and what solutions have been proposed.

*Wayne De La Rue asked will the extra water from hard water runoff and tank water overflow affect our property?*

Stephen Swart Director responded when it comes to drainage of this specific development it will be requirement that drainage discharge from the site would be no greater than redevelopment level and will impose no further load limit on surrounding drainage systems. As part of the application the applicant provided information on how drainage would be dealt with on site and part of the proposed planning conditions will include detailed modelling to illustrate how the flow through the land will be managed.

*Wayne De La Rue asked the drainage or culverts are in the driveways of the houses in Talgai Drive is that going to be an upgrade the landholder has to do or will Council or the subdivider going to cover those costs to cover with the extra water?*

Alan Clark Director Infrastructure Services responded if there is upgrade work done on the drive and if Council were doing the upgrade work through there I would think we would be doing those driveways, though if it is done in a more general sense then it would be up to the individuals. At this time we can't give you the specifics we are aware there are issues which have been there for a long time and they probably go back to the original development and what was approved then. Our plan at the moment is to do this first piece of work and see how that impacts on the whole area and go from there.

**17. SPECIAL COMMITTEE REPORTS**

Nil

## 18. ADVISORY COMMITTEE REPORTS

### 18.1 ADVISORY COMMITTEE REPORTS

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Executive Assistant - Corporate Services & Councillors  
**File Name:** Committees & Groups - Advisory Committees - Establishment - Administration  
**File No:** F16/2255

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 Councillors for information (refer attachments).

1. Economic Development and Tourism Advisory Committee
2. Sport and Recreation Advisory Committee
3. Agriculture and Agribusiness Advisory Committee
4. Arts Culture and Heritage Advisory Committee

#### **RESOLUTION:**

**(Moved: Councillor A Fitzpatrick/Councillor K Clarke OAM)**

***That Council notes the minutes of these committees.***

**Carried**

#### Attachments

- 1 Minutes - Wangaratta Economic Development and Tourism Advisory - 4 December 2018 
- 2 Minutes - Sport and Recreation Advisory Committee Meeting -12 December 2018 
- 3 Minutes - Agriculture and Agribusiness Advisory Committee Meeting - 27 November 2018 
- 4 Minutes - Arts Culture and Heritage Advisory Committee Meeting - 13 November 2018 

## 19. RECORDS OF ASSEMBLIES OF COUNCILLORS

### 19.1 RECORD OF ASSEMBLY OF COUNCILLORS

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 19 February 2019  
**Author:** Executive Assistant - Corporate Services & Councillors  
**File Name:** Assemblies of Councillors  
**File No:** F16/2117

#### Executive Summary

An “Assembly of Councillors” 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 Councillor is present; or
- a planned or scheduled meeting that includes at least half the Councillors and at least one Council officer.

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

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

The written record of an assembly of Councillors 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
13 November 2018	Arts Culture and Heritage Advisory Committee Meeting	Attachment
27 November 2018	Agriculture and Agribusiness Advisory Committee Meeting	Attachment
4 December 2018	Economic Development Strategic Plan Meeting	Attachment
4 December 2018	Economic Development and Tourism Advisory Committee Meeting	Attachment
10 December 2018	Councillors Briefing Forum	Attachment
14 January 2019	Councillors Briefing Forum	Attachment
18 January 2019	Wangaratta Hospital Precinct Structure Plan Councillor workshop	Attachment
21 January 2019	Councillors Briefing Forum	Attachment
29 January 2019	Councillors Briefing Forum	Attachment

Date	Meeting details	Refer
13 November 2018	Arts Culture and Heritage Advisory Committee Meeting	Attachment
27 November 2018	Agriculture and Agribusiness Advisory Committee Meeting	Attachment
4 February 2019	Councillors Briefing Forum	Attachment

**RESOLUTION:**

**(Moved: Councillor A Fitzpatrick/Councillor K Clarke OAM)**

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

**Carried**

**Attachments**

- 1 Assembly of Councillors - Arts Culture and Heritage Advisory Committee - 13 November 2018 
- 2 Assembly of Councillors - Agriculture and Agribusiness Advisory Committee - 20181127 
- 3 Assembly of Councillors - Economic Development Strategic Plan meeting - 20181204 
- 4 Assembly of Councillors - Economic Development and Tourism Advisory Committee - 20181204 
- 5 Assembly of Councillors - Councillors Briefing Forum - 20181210 
- 6 Assembly of Councillors - Councillors Briefing Forum - 20190114 
- 7 Assembly of Councillors - Wangaratta Hospital Precinct Structure Plan Councillors Workshop - 20190118 
- 8 Assembly of Councillors - Councillors Briefing Forum - 20190121 
- 9 Assembly of Councillors - Councillors Briefing Forum - 20190129 
- 10 Assembly of Councillors - Councillors Briefing Forum - 20190204 



**20. NOTICES OF MOTION**

Nil

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

*Mr Brian Fox asked why was the JJ Richards contract negotiated up?*

Alan Clark Director Infrastructure Services responded in principle I agree with your issue we should not be paying more, in this case it was a worldwide situation, if contracts hadn't been renegotiated than all recycling contractors would have gone broke and we would have had no recycling in Australia. The situation with the Minister gave exemptions right across Victoria for Councils to renegotiate contracts without following the normal processes dictated in the Act. We negotiated what I believe to be a very good result for this Council.

*Anne Dustan asked at the November meeting we extended the consultation period for 60 days for the CBD Masterplan Car parking strategy when will this be coming back to Council?*

Alan Clark Director Infrastructure Services responded yes it is down for next meeting.

**23. CONFIDENTIAL BUSINESS**

Nil

**24. CLOSURE OF MEETING**

The Meeting closed at 5.26pm