

# Minutes

## Of the Ordinary Council Meeting

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

**Date:** 17<sup>th</sup> September 2019

**Time:** 6pm



## TABLE OF CONTENTS

	<b>Page No.</b>
1. <b>ACKNOWLEDGEMENT OF TRADITIONAL OWNERS</b> .....	5
2. <b>OPENING PRAYER</b> .....	5
3. <b>PRESENT</b> .....	5
4. <b>ABSENT</b> .....	5
5. <b>ACCEPTANCE OF APOLOGIES &amp; GRANTING OF LEAVE OF ABSENCE</b> .....	6
<b>ORDER OF BUSINESS</b> .....	6
6. <b>CITIZEN CEREMONY</b> .....	6
7. <b>CONFIRMATION OF MINUTES</b> .....	6
8. <b>CONFLICT OF INTEREST DISCLOSURE</b> .....	6
9. <b>RECEPTION OF PETITIONS</b> .....	6
10. <b>HEARING OF DEPUTATIONS</b> .....	6
<b>PRESENTATION OF REPORTS</b> .....	6
11. <b>COUNCILLOR REPORTS</b> .....	6
<b>OFFICERS' REPORTS</b> .....	7
12. <b>EXECUTIVE SERVICES</b> .....	7
13. <b>CORPORATE SERVICES</b> .....	7
14. <b>COMMUNITY WELLBEING</b> .....	8
14.1     COMMUNITY ACCESS AND INCLUSION PLAN (CAIP) SUBMISSION REPORT .....	8
15. <b>INFRASTRUCTURE SERVICES</b> .....	12
15.1     T1819/072 - SUPPLY AND DELIVERY - ONE (1) SLOW SPEED SHREDDER.....	12
15.2     T1819/070 GRETA ROAD & MASON STREET INTERSECTION IMPROVEMENTS .....	18
15.3     RURAL ORGANICS BIN ROLL OUT .....	22
15.4     T1920/012 ANNUAL RESEAL WITHIN THE MUNICIPALITY .....	26
16. <b>DEVELOPMENT SERVICES</b> .....	29
16.1     PLANNING PERMIT APPLICATION PLNAPP19/071 - BUILDINGS AND WORKS FOR A DOG BREEDING ESTABLISHMENT (EXISTING USE RIGHTS) - 2434 SNOW ROAD, MARKWOOD.....	29
16.2     WANGARATTA ECONOMIC DEVELOPMENT AND TOURISM ADVISORY COMMITTEE AND AGRICULTURE AND AGRIBUSINESS ADVISORY COMMITTEE - APPOINTMENTS TO COMMITTEES 2019.....	44
16.3     DOMESTIC ANIMAL MANAGEMENT PLAN 2017 - 2021 (2019 REVISION).....	48
16.4     WANGARATTA FLOOD STUDY 2017 - IMPLEMENTATION & AMENDMENT C77.....	53
16.5     PLANNING PERMIT APPLICATION PLN08-183.01 - USE AND DEVELOPMENT OF A WELFARE CENTRE (45 TEMPLETON STREET, WANGARATTA) .....	57
17. <b>SPECIAL COMMITTEE REPORTS</b> .....	74
18. <b>ADVISORY COMMITTEE REPORTS</b> .....	74
19. <b>RECORDS OF ASSEMBLIES OF COUNCILLORS &amp; MINUTES OF ADVISORY COMMITTEE MEETINGS</b> .....	75
19.1     RECORD OF ASSEMBLY OF COUNCILLORS & ADVISORY COMMITTEE REPORTS .....	75

**20. NOTICES OF MOTION ..... 77**

**21. URGENT BUSINESS ..... 77**

**22. PUBLIC QUESTION TIME..... 77**

**23. CONFIDENTIAL BUSINESS ..... 77**

**24. CLOSURE OF MEETING..... 77**

## RURAL CITY OF WANGARATTA LIVE STREAM

CLAUSE 91(4) OF THE GOVERNANCE AND MEETING CONDUCT LOCAL LAW PROVIDES THE FOLLOWING:

*“THIS PUBLIC MEETING IS BEING RECORDED TO IMPROVE ACCESS TO THE MEETING FOR OUR COMMUNITY. THE RECORDING WILL BE PUBLISHED AND WILL BE RETAINED BY COUNCIL IN ACCORDANCE WITH COUNCIL’S LEGAL OBLIGATIONS. AS A VISITOR IN THE PUBLIC GALLERY, YOUR PRESENCE MAY BE RECORDED.”*

### 1. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

*We acknowledge the Bangarang people as the traditional land owners on which we are meeting here today. I would like to pay our respects to their elders past, present and to any other traditional land owners who may be with us, meeting 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:

Jaime Chubb, Acting Chief Executive Officer Alan Clark, Director Infrastructure Services Ben Thomas, Acting Director Community Wellbeing Stephen Swart, Director Development Services Sarah Brindley, Director Corporate Services

### 4. ABSENT

Councillors:

Nil.

Officers:

Brendan McGrath Chief Executive Officer.

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

**ORDER OF BUSINESS**

6. **CITIZEN CEREMONY**

Nil.

7. **CONFIRMATION OF MINUTES**

**RECOMMENDATION:**

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

***That Council read and confirm the Minutes of the Ordinary Meeting of 20 August 2019 as a true and accurate record of the proceedings of the meeting.***

**Carried**

8. **CONFLICT OF INTEREST DISCLOSURE**

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

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

9. **RECEPTION OF PETITIONS**

Nil.

10. **HEARING OF DEPUTATIONS**

Nil.

**PRESENTATION OF REPORTS**

11. **COUNCILLOR REPORTS**

Nil.

**OFFICERS' REPORTS**

**12. EXECUTIVE SERVICES**

Nil.

**13. CORPORATE SERVICES**

Nil.

## 14. COMMUNITY WELLBEING

### 14.1 COMMUNITY ACCESS AND INCLUSION PLAN (CAIP) SUBMISSION REPORT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Youth Development Officer  
**File No:** IC19/273

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 for the consideration and recommended adoption of the 2019-2022 Community Access and Inclusion Plan (CAIP) following the public exhibition of the document.

Council received three submissions during the public exhibition period. The submissions were primarily positive with some minor wording changes to the CAIP suggested. Four changes to the CAIP were made:

1. Mayor’s Message (Pg. 3) – Added the phrase ‘*public spaces*’.
2. Communication and Engagement (Pg. 5) – added detail to why we apply the IAP2 principals... “*to ensure the contribution of people of all abilities.*”
3. Objective 4 (Pg. 14) – Added “*This includes accessible information such as timetables.*” To broaden approach in relation to public transport.
4. Objective 7 (Pg. 16) – Added basic Auslan training as additional option to Makaton (Key Word Sign).

The feedback that wasn’t incorporated into the document was either already covered within the plan, wasn’t within the plan’s scope, or applied to other existing Rural City Of Wangaratta plans. Specific feedback has been provided to each submitter.

#### **RECOMMENDATION:**

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

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

1. ***Considers the submissions made during the community consultation period***
2. ***Adopts the Community Access and Inclusion Plan 2019-2022***

**Carried**

## **Background**

The CAIP communicates Council's role in ensuring people of all abilities, including those living with a disability, their families and carers are able to actively participate in community life and civic events; contribute to local government planning; and can access services, facilities, sporting and cultural activities.

The CAIP covers four key themes broken into objectives and actions. The themes are;

- Inclusion and Participation,
- Communication and Engagement,
- Civic Leadership and Attitudes,
- Accessible Environments.

## **Implications**

### **Policy Considerations**

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

### **Legal/Statutory**

In response to its obligations under the Commonwealth Disability Discrimination Act 1992 and the Victorian Disability Act 2006, the Rural City of Wangaratta has in place a Community Access and Inclusion Plan.

### **Social**

The CAIP communicates RCoW's role in ensuring people of all abilities, including those living with disability, their families and carers are able to actively participate in community life and civic events; contribute to local government planning; and can access services, facilities, sporting and cultural activities.

## **2017-2021 Council Plan (2019 Revision)**

This report supports the 2017-2021 Council Plan:

### **Goal**

We are Thriving

### **We will research and advocate:**

- To ensure that the health and social needs of our community are understood and considered.

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

- To ensure that the health and social needs of our community are understood and considered.

## **The non-negotiables**

- Our urban and rural townships are safe and equitable. Everyone can participate and contribute.
- Our most vulnerable – including older people, people with mental health challenges, and people with a disability – receive the services and support they need. We make sure they are cared for and included.

## **Strategic Links**

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

N/A

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

Municipal Public Health and Wellbeing Plan 2017 – 2021

## **Consultation/Communication**

The CAIP 2019-2022 went out for public exhibition on the 16th of July. It was advertised and sent out for feedback through the following channels:

RCOW Website	17 <sup>th</sup> July 2019
Emailed to Disability Services Network	23 <sup>rd</sup> July 2019
Accessibility Reference Group	23 <sup>rd</sup> July 2019
Wangaratta Chronicle	26 <sup>th</sup> of July
Presented to vision impaired group	5 <sup>th</sup> August 2019

We received feedback from two organisations (Women’s Health Goulburn North East and Deaf Access Victoria) and one community member.

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

## **Options for Consideration**

Do not endorse the CAIP attached. This would lead to a delay in finalising access and inclusion planning, and may leave Council open to complaints resulting from discrimination and lack of planning and advocacy in the space of accessibility and inclusion.

## **Conclusion**

The Community Access and Inclusion Plan 2019-2022 is an important planning document to guide Council in its decision making and infrastructure when considering people of all abilities living within the municipality.

## **Attachments**

- 1 COMMUNITY ACCESS AND INCLUSION PLAN 2019 - 2022 

## **Public Questions**

*Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 16:08 to 18:50 for public questions and responses related to Item 14.1 Community Access & Inclusion Plan (CAIP) Submission Report.*

## **Councillor Speeches**

*Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 19:04 to 20:26 for councillor speeches and responses related to Item 14.1 Community Access & Inclusion Plan (CAIP) Submission Report.*

## 15. INFRASTRUCTURE SERVICES

### 15.1 T1819/072 - SUPPLY AND DELIVERY - ONE (1) SLOW SPEED SHREDDER

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Project Manager  
**File No:** IC19/321

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 awarding the contract T1819/072 Supply and Delivery – Slow Speed Shredder.

#### **RECOMMENDATION:**

***Total contract price for Contract T1819/072 Supply and Delivery – Slow Speed Shredder Services disclosed as: \$751,000 ex GST.***

***The additional funds required from the Waste reserve are: \$201,000 ex GST.***

**(Moved: Councillor K Clarke OAM/Councillor D Fuller)**

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

- 1. Transfer the additional funds required from the waste reserve***
- 2. Award T1819/072 Supply and Delivery – Slow Speed Shredder to Finlay Waste & Recycling;***
- 3. Authorises the Chief Executive Officer to sign and seal documents for Contract T1819/072 Supply and Delivery – Slow Speed Shredder; and***
- 4. Discloses the contract price for Contract T1819/072 Supply and Delivery – Slow Speed Shredder.***

**Carried**

#### Background

The Rural City of Wangaratta is currently constructing an organics processing facility at Bowser landfill located at North Wangaratta, Victoria 3678.

This plant will initially process between 3500 – 4000 tonne pa of green waste, tree branches (up to 400mm dia), lawn clippings and kitchen waste. . The current plant under construction has the ability to increase its production over the next five years.

The Rural City of Wangaratta (Council) is seeking to purchase one (1) new, diesel powered, rubber track mounted, slow speed shredder to be supplied and delivered on site to the waste facility located at 64 Byawatha Road West, North Wangaratta, Victoria 3678.

Tender for T1819/072 - Supply and Delivery - one (1) slow speed shredder were invited through advertisements as follows:

<b><u>Advertisement</u></b>	<b><u>Date</u></b>
eProcure	28 June 2019
Chronicle	5 July 2019

Tender closed at 2:00pm on 19 July 2019.

At the closing date, 12 submissions were received from 8 suppliers:

There were no non-conforming tenders received.

The evaluation panel consisted of Council's Project Manager, Depot Services Coordinator and Team Leader – Landfill.

The Tender was evaluated against the following criteria:

<b>Evaluation Criteria</b>	<b>Description</b>	<b>%</b>
Cost to Council – Direct & Indirect	Total price	25%
Warranty & Parts	Warranty for machine in years and hours	25%
Fuel Efficiency	The efficiency of the machine over a 10,000 hr asset life	20%
Delivery Time	When is the earliest equipment can be delivered, tested and commissioned	15%
Feature & OH&S	OHS standards to Australian Standards	10%
Local Content	Stock provided from local suppliers	5%

Panel members assigned a score to each criteria and then weighted the average score to produce a final Weighted Attribution Method Score.

From the Weighted Attribution Method the tenderers were scored as follows with the top two tenders taken through to interviews and final evaluation.

<b>Respondent</b>	<b>Preliminary evaluation score</b>
Vermeer	4
GMC Environ Pty Ltd (Tana Shark 440T)	27
GMC Environ Pty Ltd (Forus Se 250)	42
Lincom Group (Pronar NRW 2.58g)	54

Respondent	Preliminary evaluation score
Waste Initiatives (HAAS Tyron 2000)	28
<b>Focus Enviro (Edge Slayer)</b>	<b>60</b>
Finlay Waste & Recycling (Non stock Terex)	51
<b>Finlay Waste &amp; Recycling (stock Terex)</b>	<b>62</b>
ELB Equipment (crambo 3400)	39
ELB Equipment (crambo 5000)	39
ELB Equipment (crambo 5200)	47
Petromech (Hammel VB 750 DK)	40

The final evaluation was based upon the documentation submitted at tender and additional documentation supplied following the tender interview process and site visits. The evaluation panel rescored the two shortlisted tenderers against the original tender evaluation criteria and resulted in the following scores:

Respondent	Weighted score
Focus Enviro (Edge Slayer)	60
<b>Finlay Waste &amp; Recycling (stock Terex)</b>	<b>62</b>

## Implications

### **Policy Considerations**

Council's Procurement Policy

### **Financial/Economic Implications**

Council's 2019/20 capital works budget allocated \$550,000 to supply and deliver one (1) low speed shredder. The preferred tenderer's price is substantially more than the allocated budget but no cheaper option was deemed viable. As a result the evaluation panel looked at options for both leasing and hire but neither were feasible. It is proposed that the additional budget be transferred from the waste reserve.

The evaluation panel also looked at two other options:

- Lease options (with option to purchase), the preferred tender didn't offer lease neither did any of the top three tenderers.
- Machine hire, there is one machine available for hire which would increase final processing cost substantially.

It is recommended that the additional budget be transferred from the waste reserve.

The running costs of the preferred tender over the ten year life cycle of the machine is \$48,000 less compared to the second tenderer. The preferred tenderer has spare parts in stock in Australia. The second tenderer would require Council to hold spare parts on consignment at an undisclosed cost.

### **Legal/Statutory**

EPA Works Approval 149177

### **Social**

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

### **Environmental/Sustainability Impacts**

The Shredder is a major item of plant required for the organics facility which 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.

The successful commissioning of the organics processing plant, for which the shredder is essential 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<sub>2</sub> entering the atmosphere by 35.26 tonnes annually.

### **2017 – 2021 Council Plan (2019 Revision)**

This report supports the 2017-2021 Council Plan:

#### **Goal**

We are Established  
We are Sustainable

**We will create and deliver:**

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

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

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

**We will focus on our business:**

By enhancing the way we plan and deliver infrastructure projects

**The non-negotiables**

Our infrastructure is developed and maintained based on what we understand is important to the people who live, work and visit here

**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**

Waste Management Strategy 2018-2023

**Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Timeframe and achieving the proposed timelines	Possible	Timeframe become unrealistic	High	Supplementary plant in stock.
Injury	Possible	Death or Injury – Workcover investigation	Extreme	Contractor to provide Safe work method statements and training on the plant.

**Consultation/Communication**

N/A

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 the interviews and seeing both machines in operation the evaluation committee still hold concerns that the parts availability and service back-up for the Focus Enviro (Edge Slayer) was a major issue. The cost of breakdown in a seven day a week operation, spare parts and serviceability was considered a significant disadvantage of the Focus Enviro (Edge Slayer).

Following a comprehensive evaluation of tenders against the pre-determined evaluation criteria and weightings, Finlay Waste & Recycling is the recommended supplier.

## **Attachments**

- 1 T1819/072 Supply and delivery of one slow speed shredder - tender evaluation - Confidential

## **Public Questions**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 24:40 to 26:36 for public questions and responses related to Item 15.1 T1819/072 Supply and Delivery – Slow Speed Shredder.

## **Councillor Speeches**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 26:44 to 31:48 for councillor speeches and responses related to Item 15.1 T1819/072 Supply and Delivery – Slow Speed Shredder.

## 15.2 T1819/070 GRETA ROAD & MASON STREET INTERSECTION IMPROVEMENTS

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Delivery and Contracts Coordinator  
**File No:** IC19/429

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 awarding contract T1819/070 Greta Road & Mason Street Intersection Improvements.

#### **RECOMMENDATION:**

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

**Total contract price for *T1819/070 Greta Road & Mason Street Intersection Improvements* disclosed as: \$629,131.30 ex GST.**

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

- 1. Awards contract T1819/070 Greta Road & Mason Street Intersection Improvements to Excell Gray Bruni;***
- 2. Authorises the Chief Executive Officer to sign and seal documents for contract T1819/070 Greta Road & Mason Street Intersection Improvements; and***
- 3. Discloses the contract price for contract T1819/070 Greta Road & Mason Street Intersection Improvements.***

**Carried**

### **Background**

The existing roundabout at Mason Street and Greta Road is inadequate for heavy vehicle movements.

This project will allow Council to undertake enhancements to better facilitate freight movement, in addition to pulling back the existing kerb lines, relocating the central lighting and installing pedestrian footpaths.

Tenders for T1819/070 Greta Road & Mason Street Intersection Improvements were invited through advertisement as follows:

Advertisement	Date
Eprocure	30.07.2019
Chronicle	02.08.2019

Tenders closed at 2:00pm on 21 August 2019.

The tender evaluation team included Council's Delivery and Contracts Coordinator, Project Manager and Project Engineer.

<b>Tenders Received</b>
McPherson Earthmoving Contractors Pty Ltd
Mawsons Constructions
North East Civil Constructions Pty Ltd
Excell Gray Bruni
One Stop Civil
Scope Project Consulting

Tenders were evaluated against the following criteria:

Cost 40%

Capacity 30%

Capability 30%

### **Implications**

#### **Policy Considerations**

Council's Procurement Policy.

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

Council's 2019/20 capital works budget allocated to this project is \$766,000 (GST exclusive).

With \$383,000 coming from Regional Roads Victoria's Fixing Country Roads Program.

#### **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 (2019 Revision)**

This report supports the 2017-2021 Council Plan:

#### **Goal**

We are Growing

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

Timely and appropriate infrastructure to support our growth areas.

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

We will respond to the challenges that face our organisation and community in innovation and effective ways. We will partner, collaborate and advocate to make sure that we will have a sustainable and vibrant future.

### **Strategic Links**

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

Manufacturing and service industries continue to grow.

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

Freight and Land Use Strategy  
North – West Growth Area – Structure Plan

### **Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Timeframe and achieving the proposed timelines	Minor (2)	Moderate (3)	5	Project Manager to monitor
Unsatisfactory quality of works	Minor (2)	Minor (2)	4	Project Manager to monitor
Contractor Injury	Minor (2)	Moderate (3)	5	Project Manager to monitor contractors OH&S performance
Community concerns	Minor (2)	Moderate (3)	5	

### **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Ongoing communication with businesses & residents through the life of the project	Letters, meetings, phone calls & Chronicle advertisement
Consult	Local freight & bus companies	Letter, phone calls

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

### **Options for Consideration**

Nil

### **Conclusion**

The current Greta Road & Mason Street roundabout restricts B-double movements which impact on freight movement throughout Wangaratta. The proposed works will rectify this situation.

### **Attachments**

- 1 T1819/070 - Greta Road and Mason Street Roundabout Improvement - Evaluation Report - Confidential

### **Councillor Speeches**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 34:08 to 35:00 for councillor speeches and responses related to Item 15.2 T1819/070 Greta Road & Mason Street Intersection Improvements.

### 15.3 RURAL ORGANICS BIN ROLL OUT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Waste Management Coordinator  
**File No:** IC19/448

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 endorse the roll out of food and garden waste bins as a compulsory service, to the rural townships of Milawa, Oxley, Glenrowan and Hamilton Park.

#### **RECOMMENDATION:**

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

***That Council endorses the roll out of food and garden organic waste bins, as a compulsory service to the rural townships of Milawa, Oxley, Glenrowan and Hamilton Park.***

**Carried**

#### **Background**

The introduction of the third bin to urban Wangaratta has been a huge success in terms of diversion from landfill (33%) resulting in significant greenhouse gas reductions and the increase to life expectancy of the landfill. The increase to the landfill life means that Council can control its own costs for many more years instead of contracting out landfill services and transporting waste out of the municipality.

Food and garden waste when disposed of to landfill is not only a wasted renewable resource, but it also releases toxic greenhouse gas into the atmosphere. One of the key actions from the adopted Waste Management Strategy 2018-2023, was to further roll out the food and garden organic waste bins out to the rural townships of Milawa, Oxley, Glenrowan and Hamilton Park.

As part of the development of this Strategy, a general waste survey was sent out to the community proposing the extension of this service to the surrounding rural communities of Wangaratta. The response was inconclusive as 75 people surveyed were against (no) and 55 were for (yes), and 21 were unsure. However, this was a survey to all the people of the Rural City of Wangaratta, not just those specific townships. Therefore, the action developed for the strategy was to

“investigate the potential to offer a weekly food and organic waste bin collection to the rural townships of Milawa, Oxley and Glenrowan”.

Visual audits were also taken of the bins collected in these townships, which found a high percentage of food and garden organics. An opt-in trial was undertaken in Glenrowan and Hamilton Park in late 2018. This attracted 24 applicants for the trial. The trial was run for a period of 10 weeks from October through to December 2018.

A second compulsory trial in Milawa and Oxley townships was conducted with the trial period running from March to May 2019 and included approximately 70 properties. On average 50% of these properties regularly used the bin (based on collection rate).

Following each trial, the recipients were surveyed. The surveyed results were positive for those who used the system and responded. Due to the small amount of data collected, a larger survey was then distributed to all proposed recipients of the new bin system. The results of this survey again indicated 50.2% YES and 49.8% NO. The individual breakdown of each township is as follows:

Town	Yes	No	No Response
Milawa	23	19	89
Oxley	29	34	115
Glenrowan	31	41	125
Hamilton Park	40	29	32

### **Implications**

#### **Policy Considerations**

The Waste Management Strategy is directly related to the content of this report. The Strategy was endorsed by Council in 2018. A number of actions were identified as part of the development of this strategy, this included the potential to expand on the existing collection system for food and organic waste to the larger rural townships.

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

There are financial implications identified for the subject of this report.

	Approved Budget for this proposal \$
Revenue/Income	\$46,200 of rate income.
Expense	\$60,000
Net Result	\$14,000 expense

#### **Legal/Statutory**

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

## **Social**

The Wangaratta community has embraced the roll out of food and organic waste bins, with our low contamination rate proving the system to be worthwhile. This proposal provides the same opportunities to rural residents, as the urban residents.

## **Environmental/Sustainability Impacts**

Food and garden organics are recyclable resources that if disposed of in a landfill create toxic greenhouse gas emissions. Organic waste when decomposed in a landfill generates methane gas, and when released to the atmosphere it is 25 times more potent than carbon dioxide. By rolling out a compulsory organics service to the 600 properties, Council will recover approximately 255 tonne per year of organics. This is equivalent to removing 581 cars from the road annually.

## **2017 - 2021 Council Plan – revised 2019**

This report supports the 2017-2021 (revised 2019) Council Plan:

### **Goal**

We are Sustainable

### **We will research and advocate:**

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

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

Rural townships organics roll out.

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

Percentage of kerbside waste diverted from landfill.

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

We service our community by managing our waste and recycling streams.

### **The non-negotiables**

Our protection of the environment underpins our development, projects and decisions.

## **Strategic Links**

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

The 2030 Community Vision supports the idea of ‘no waste disposed of to landfill within the municipality’, with the vision to be a zero waste community.

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

N/A

### **Consultation/Communication**

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

### **Options for Consideration**

1. The full compulsory service to all townships, as recommended; or
2. Not to proceed with the rollout.

### **Conclusion**

Given the survey results, the environmental benefits and the long term financial benefits it is recommended that the food and organic waste bin system be rolled out to the rural townships of Milawa, Oxley, Glenrowan and Hamilton Park.

### **Attachments**

Nil.

### **Public Questions**

*Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 38:14 to 41:42 for public questions and responses related to Item 15.3 Rural Organics Bin Roll Out.*

### **Councillor Speeches**

*Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 41:51 to 44:31 for councillor speeches and responses related to Item 15.3 Rural Organics Bin Roll Out.*

#### 15.4 T1920/012 ANNUAL RESEAL WITHIN THE MUNICIPALITY

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Executive Assistant - Infrastructure Services  
**File No:** IC19/516

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 award Contract T1920/012 Annual Reseal within the municipality.

#### **RECOMMENDATION:**

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

**Total contract price for T1920/012 Annual Reseal within the municipality disclosed as: \$783,803.35 ex GST.**

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

- 1. Awards the contract T1920/012 Annual Reseal within the municipality 2019/20 financial year to Downer EDI Works Pty Ltd;***
- 2. Authorises the Chief Executive Officer to sign and seal documents for contract T1920/012 Annual Reseal within the municipality, when available; and***
- 3. Discloses the contract price for T1920/012 Annual Reseal within the municipality.***

**Carried**

#### **Background**

As part of the Rural City of Wangaratta's asset maintenance program, Council completes an annual reseal program based on road condition data.

In 2018, Procurement Australia undertook a collaborative procurement process for reseal works on behalf of the following councils:

- Rural City of Wangaratta
- Benalla Rural City Council
- Murrindindi Shire Council
- Towong Shire Council
- Wodonga City Council

From this tender process Procurement Australia contracted a panel of suppliers for three years with the potential for two twelve month options. The 2019/2020 financial year is the second year of this panel.

Each year the panel is requested to tender rates for each Councils works program. The tender opened on the 31 July 2019 and closed on the 14 August 2019. After the tenders closed Procurement Australia compiled and reviewed the submitted prices and requested additional information from the tenderers if required. The price review and comparison was received from Procurement Australia on 15 August 2019.

### **Implications**

#### **Policy Considerations**

Council's Procurement Policy

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

Council's 2019/20 Capital Works Budget allocated \$850,000.00 ex GST for reseal works, this includes contract and project management costs.

The works program has been adjusted to fit within the budget allocation.

#### **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 original 2018/19 panel tender included Quality and Sustainability as a key selection criteria with the recommended company holding accreditation in ISO14001 (Environmental) and ISO31000 (Risk Management).

### **2017 – 2021 Council Plan (2019 Revision)**

This report supports the 2017-2021 Council Plan:

#### **Goal**

We are Sustainable

#### **We will research and advocate:**

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**

N/A

**Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Advertise works on Council's website and other media outlets	

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

**Conclusion**

The Rural City of Wangaratta used Procurement Australia to procure Contract T1920/012 Annual Reseal within the municipality.

The tender review recommends Downer EDI Works Pty Ltd be awarded the Contract T1920/012 Annual Reseal within the municipality for the 2019/20 financial year.

**Attachments**

- 1 T1920-012 Annual Reseal within the Municipality - Evaluation Report - Confidential

**Councillor Speeches**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 46:05 to 46:46 for councillor speeches and responses related to Item 15.4 T1920/012 Annual Reseal within the municipality.

## 16. DEVELOPMENT SERVICES

### 16.1 PLANNING PERMIT APPLICATION PLNAPP19/071 - BUILDINGS AND WORKS FOR A DOG BREEDING ESTABLISHMENT (EXISTING USE RIGHTS) - 2434 SNOW ROAD, MARKWOOD

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Senior Planner  
**File No:** IC19/389

#### Executive Summary

This planning permit application is for buildings and works associated with an existing dog breeding establishment located in Markwood on the Snow Road. The subject land is zoned Farming. As there are more than five (5) entire animals being kept on site, the use is classified as 'Domestic Animal Husbandry' which is a Section 2 Use under the Farming Zone and triggers the need for a planning permit

Evidence has been provided for Existing Use Rights through documentation such as breeding journals and awards evidencing dog names. Evidence that the owner lived at the address during this time was also produced and there is mapping evidence that there were some animal pens on the site in 2009.

Formal notice of the application was given to nearby affected landowners and occupiers on 14 May 2019. At the time of writing this report a total of 5 submissions have been received, all of which are objecting to the proposal.

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

#### **RECOMMENDATION:**

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

***It is recommended that Council:***

- 1. Issues a Notice of Decision to Grant a Permit with respect to Planning Permit Application PlnApp19/071 for 'Buildings and Works for a Dog Breeding Establishment (Existing Use Rights)' at 2434 Snow Road, Markwood subject to the planning permit conditions contained with Attachment 2; and***
- 2. Advises the applicant, submitters and referral agencies of Council's decision.***

**Carried**

**Property Details**

Land/Address	2434 Snow Road, Markwood (CA8A Sec8A Par Oxley)
Owner/Applicant	A Scarcella
Zones and Overlays	Farming Zone Nil Overlays
Why is a permit required	<p>Under Clause 35.07-4 of the Farming Zone a permit is required to construct or carry out a building and works associated with a use in Section 2 of Clause 35.07-1. Keeping more than 5 animals under Domestic Animal Husbandry (under which Dog Breeding is nested) is a Section 2 use under Clause 35.07-1.</p> <p>Existing Use Rights have been claimed and pursuant to Clause 63.05 a use in Section 2 may continue provided:</p> <ul style="list-style-type: none"> <li>• No buildings or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other buildings or works requirement in this scheme.</li> <li>• Any condition or restriction the use was subject to continues to be met. This includes any implied restriction on the extent of the land subject to the existing use right or the extent of activities within the use.</li> <li>• The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use.</li> </ul> <p>The existing use right claim is based on fifteen years of continuous use.</p>
Special Water Catchment Area	Yes

**Proposal in Detail**

The proposal is for buildings and works associated with an existing use of the land for dog breeding – see Attachment 1.

**Location**

The subject site is located approximately 22 kilometres south east of Wangaratta along the Snow Road past Oxley and Milawa.

The subject site sits on top of a hill with two dwellings within approximately 150 metres to the east and west, as well as two other dwellings approximately 300 metres to the south east and west. The access is from the Snow Road along an unnamed Government Road.



### Site Operation

The application was an outcome of the owners registering the dogs at Council and it being noted that there were nineteen dogs on site comprising nine (9) entire females, six (6) entire males and four (4) neutered dogs. If an owner has less than 10 entire females but more than 3 they can register with a dog association. In this case the owners are registered with Dogs Victoria and fall under their compliance guidelines for the keeping of dogs. While a planning permit is required for buildings and works on the site, existing use rights for dog breeding was established as the owners of the subject land had been breeding dogs on the site for more than fifteen years. This application is therefore only for buildings and works.

Based on historical aerial imagery from 2009, it was determined that there were four existing pens in the south east corner of what is identifiable as a house yard. This is currently being extended out to accommodate an increase in the number of dogs on site. The applicant intends to continue to construct further pens and fence off areas within the house yard and also complete construction of a perimeter fence around the garden yard. See Attachment 1 for details.

The construction and extension of the dog breeding facility is required as the owners have increased the number of dogs on site to nineteen (19) from 2017.

This is considered to be a significant increase in the number of dogs when compared to previous years.

Below is an excerpt from animal registration records regarding the dogs registered to the subject site since 2002. While the breeding establishment is not required to be registered with Council each individual dogs is required to be registered with Council.

Year	Total animals	Total German Shepherd	Total Maltese	Miniature Pinscher
Current	18	10	8	0
2019	20	10	10	0
2018	17	9	8	0
2017	13	8	5	0
2016	6	4	0	2
2015	6	4	0	2
2014	6	4	0	2
2013	7	4	0	3
2012	9	6	0	3
2011	9	6	0	3
2010	10	7	0	3
2009	6	6	0	0
2008	9	9	0	0
2007	9	9	0	0
2006	9	9	0	0
2005	8	8	0	0
2004	8	8	0	0
2003	8	8	0	0
2002	8	8	0	0

### Existing Use Rights

Evidence has been provided for Existing Use Rights as defined under the Wangaratta Planning Scheme through documentation such as breeding journals and awards evidencing dog names as well as evidence that the owner lived at the address during this time. There is also mapping evidence that there were some pens in 2009. Likewise the dog registration information, provided above, is also evidence that dogs have been bred on that site for a number of years.

Penning areas have been extended to accommodate the increase in the number of dogs to include a different breed (Maltese).

It has been determined in this instance that the use was carried out in the house yard area and continues today.

**Planning History**

There is no previous planning permit history associated with this site recorded on Council’s current systems.

**Referrals**

The proposal was referred to Goulburn Murray Water (GMW) under Section 55 of the *Planning and Environment Act 1987* and pursuant to Clause 66.02-5 of the Wangaratta Planning Scheme. The referral was made due to the subject site being located within the Ovens River Special Water Catchment. Goulburn Murray Water did not object and provided conditions to be placed on any permit issued.

The proposal was referred to Council’s Compliance team who attended site visits and advised there is no requirement for an Excess Animal Permit. The Compliance team further advised that as the applicants are registered with Dogs Victoria they do not have to register with Council as a business. They did not object and provided no conditions for any permit issued.

**Advertising**

The proposal was advertised to adjoining and nearby property owners and occupiers. A letter was sent to each and the proposal was advertised on Council’s website. Five (5) objections were received and these are considered below.

<b>Submission / Objection</b>	<b>Assessing Response</b>	<b>Officer</b>
A submission supporting the proposal was received by Council.		
<p>Objection 1 –</p> <ul style="list-style-type: none"> <li>• Loud barking and howling since the 1990’s – worse when the owners are not home</li> <li>• Can hear the owners yelling and banging to discipline at times</li> <li>• Have to have windows closed</li> <li>• Have to wear ear plugs</li> <li>• Cannot enjoy being outdoors</li> <li>• Avoid areas of property that are in proximity to theirs</li> <li>• Complaints made to owner with no lasting improvements</li> <li>• Have planted trees in hope of buffer however it has not worked</li> <li>• Have not complained to council as did not want to ‘dob’ however this has given us opportunity to try and address barking</li> <li>• Would like the application to be rejected</li> <li>• Do not want to hear their dogs</li> </ul>	<p>Excessive dog barking is an issue that should be referred to Council’s Community Compliance team who work through a process of assessing, that can result in fines.</p> <p>With regards to the permit not being able to be passed on, there is a claimed existing use right and this application is for buildings and works only under Clause 63. Therefore, unless the existing use right is challenged, any person coming in after the current owners, could use the</p>	

Submission / Objection	Assessing Officer Response
<ul style="list-style-type: none"> <li>• Want to enjoy area without barking dogs</li> <li>• Do not want this permit to be able to be transferred to anybody else</li> </ul> <p>A diary of dog barking over one month has been submitted and passed to Compliance Team.</p>	<p>subject site for the same use as long as there was no ceasing of the use for two years or more.</p>
<p>Objection 2 –</p> <ul style="list-style-type: none"> <li>• Barking dogs particularly when the owners are not home which is noted by the lack of raised voices requesting quiet</li> <li>• Have not objected previously but now wish for the inconvenience to be removed and request the permit not be issued</li> </ul>	<p>The barking dogs are associated with the use of the land for which there is a claimed existing use right.</p> <p>Council has a process for assessing and addressing barking dog complaints.</p>
<p>Objection 3 –</p> <ul style="list-style-type: none"> <li>• Having tried to be good neighbours reluctantly tolerated ever increasing barking</li> <li>• Against an increase in the number of dogs</li> <li>• Negative impact on amenity for surrounding dwellings</li> </ul>	<p>Same as above</p>
<p>Objection 4 –</p> <ul style="list-style-type: none"> <li>• Dogs barking at times particularly when moving around our property</li> <li>• Shared common boundary and the dog yards are close and so we try to avoid this area of our property. We acknowledge the newly erected fencing.</li> <li>• Number of dogs – how is this monitored by council</li> <li>• The properties in this area are not used for farming and most people who live here have an expectation for a quieter rural amenity and the dog breeding establishment diminishes this and may affect ability to sell property</li> <li>• Is the permit issued to the owners or the property and is it ongoing and how are the conditions monitored</li> </ul>	<p>As above</p>
<p>Objection 5 –</p> <ul style="list-style-type: none"> <li>• From 1990 there has been persistent barking from dogs and it interferes with enjoyment of my rural property</li> <li>• Sometimes leave for the day to avoid barking</li> <li>• Keep windows closed</li> <li>• The number of dogs has increased with the introduction of the Maltese and have added to the noise</li> </ul>	<p>As above</p>

Submission / Objection	Assessing Response	Officer
<ul style="list-style-type: none"> <li>• Existing fencing and sheds have little sound attenuating properties and can amplify sound like jumping up</li> <li>• In 'line of sight' between properties and trees planted provide a visual screen but not a sound barrier</li> <li>• The open back yard with the pens can be viewed and heard from our property</li> <li>• Have alerted Council previously in 2004 and 2017 to the noise and whilst not having put in a formal complaint council has known about unhappiness about the barking dogs</li> <li>• Lives have been impacted detrimentally</li> <li>• The property is not suitable for 19 dogs</li> </ul>		

In consideration of the objections, it is acknowledged that the use may have detrimental amenity impacts due to the dogs barking. It is recognised that there has been a significant increase in the number of dogs since 2017. No formal complaints have been lodged with Council about barking on the site.

A conciliation meeting was convened on 27 June 2019 and it was attended by the applicants and their representative, several of the objectors and Council Officers. Discussion included the applicants being informed how the objectors were affected and how the dogs could be managed so that the neighbours are not disturbed by barking. The applicants agreed they would take steps to mitigate the noise. The applicants informed the attendees that they were putting in fencing to keep the dogs away from boundaries and the front gate to minimise visual disturbance which excites the dogs. The objectors questioned if the number of dogs could be limited. The meeting was advised by the attending Compliance Officer that Excess Animal Permits are not required and neither is the breeding business required to be registered with Council as the applicants are registered with Dogs Victoria. The only avenue for management and perhaps resolution open to the objectors via Council, is for those affected by barking to complain about barking dogs and then there is a process that is followed which may result in fines being issued.

### Summary of Key Issues

The key issues to consider are:

- Consideration of the new buildings and works.
- The amenity of the area and any change in the activities beyond the limited purpose of the existing use.

This proposal is for Buildings and Works only, due to a claim for Existing Use Rights as a dog breeding establishment for over fifteen (15) years. Therefore the use is not something that is being considered and this limits conditions that can fairly and reasonably be placed on any permit issued to only those pertaining to the buildings and works.

## Assessment under the Planning and Environment Act

Section	Clause	Provision
Planning Policy Framework		N/A
Local Planning Policy Framework		N/A
Zoning	35.07	Farming Zone
Overlays		N/A
General Provisions	63.01	Existing Use Rights
Decision Guidelines	65.01	Approval of an Application or a Plan

### Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

It is considered that there are no relevant policies under the PPF or the LPPF to this proposal. The Farming Zone and Clauses 63 and 65 allow assessment of the proposal to come to a recommendation.

### Zones

#### 35.07 - Farming Zone

Pursuant to Clause 35.07-4 a planning permit is required to keep more than five (5) animals (Domestic Animal Husbandry under which Dog Breeding is nested). The use of the land for Dog Breeding has been claimed as an Existing Use Right which is considered under Clause 63.

The purpose of the Farming Zone 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.*

Appropriate decision guidelines are considered to be:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The capability of the land to accommodate the use or development including 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.*
- *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 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 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 location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*

In considering the policy related to the Farming Zone, it can be noted that the buildings are all located in close proximity on the subject site and restricted to an area that can be identified as the house yard, back and front. It should be noted that the lots in this area were created in a period of time before the restrictions of the 40 hectare minimum lot size (1982) and therefore development has occurred on these sites that resemble rural residential.

Further with regards to the decision guidelines of the Farming Zone it is considered that the development must comply with the requirements of any stormwater management conditions on permit, must comply with Goulburn Murray Water conditions on permit to manage water quality and must comply with EPA requirements to manage waste and effluent disposal.

## **General Provisions**

### Clause 63 Existing Use Rights

Pursuant to Clause 63.01 an existing use right is established in relation to the use of the land under this scheme if proof of continuous use for 15 years is established under Clause 63.11.

Clause 63.11 '*Proof of Continue Use*' informs that if in relation to an application under the Act or this Scheme, the extent of any existing use right for a period in excess of 15 years is in question it is sufficient proof of the establishment of the existing use right if the use has been carried out continuously for 15 years prior to the date of the application. An existing use right may be established under this clause even if the use did not comply with the Scheme immediately prior to or during the 15 year period unless the use has been held to be unlawful by a court or tribunal; or the Responsible Authority has during that time clearly and unambiguously given a written direction for the use to cease by reason of its non-compliance with the Scheme.

Pursuant to Clause 63.05 the use being in Section 2 of the Farming Zone may continue provided no buildings or works are constructed or carried out without a permit. A permit must not be granted unless the buildings and works comply with

any other building and works requirements in the Scheme. The amenity of the area must not be damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.

An Existing Use Right claim can be challenged at VCAT.

Before deciding on an application under Clause 63, in addition to the decision guidelines at Clause 65 and any other requirement of the Act, the Responsible Authority must consider the extent to which compliance can be achieved with all scheme requirements that can reasonably be met.

In this case existing use rights have been established for a dog breeding facility on the subject land.

#### Clause 65 Decision Guidelines

The matters set out in section 60 of the Act.	Considered throughout the report.
The Planning Policy Framework and the Local Planning Policy Framework.	It is considered that there are no relevant policies under the PPF or LPPF by which to assess this proposal. It is considered that through assessment of the Farming and Clauses 63 and 65 that a recommendation can be made.
The purpose of the zone, overlay or other provision.	The purpose of the zone is considered in the context of the use in relation to an existing dog breeding establishment. With respect to the zone and the existing activities it is considered that the use being carried out prior to 2017 would have met relevant decision guidelines with a limit on the number of dogs being bred and kept on site for that purpose.
Any matter required to be considered in the zone, overlay or other provision.	Clauses 63 and 65 are considered in the report.
The orderly planning of the area.	The area of use for dog breeding is contained within what is considered to represent a house yard and therefore the use is in close proximity to the house and is considered to be reasonably orderly.
The effect on the amenity of the area.	Council has been informed as to the detrimental effect on the amenity on the surrounding residents by the barking dogs.
The proximity of the land to any public land.	Not relevant.

Factors likely to cause or contribute to land degradation, salinity or reduce water quality.	Unknown, however GMW are aware that a waterway crosses the subject site where there is a dam and has required conditions on any permit issued to manage waste on site so as not to detrimentally impact the water quality.
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.	The new sheds and pens that are being constructed will be required to manage all stormwater. It has been noted that no building permits have been applied for and this is currently being investigated by Council's Building Department.
The extent and character of native vegetation and the likelihood of its destruction.	Unknown. No vegetation removal is included in this proposal.
Whether native vegetation is to be or can be protected, planted or allowed to regenerate.	Landscaping could be required however the site is cultivated.
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.	No overlays apply to indicate a high risk to any of the hazards.
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.	All loading and unloading is carried out on site. The subject site is off the main highway and has access from an unnamed government road that is only accessed by the residents.

### Other Strategic Matters

Amendment VC159 to the Wangaratta Planning Scheme was gazetted during the assessment of this application. This amendment made the following changes relevant to this application –

- Split the definition of 'Animal Keeping' into 'Domestic Animal Husbandry' with an amended definition and 'Racing Dog Husbandry' with a new definition.
- Renamed 'Animal Keeping' to 'Domestic Animal Husbandry' and changed the definition to exclude the keeping, breeding or boarding of racing dogs.

The result of this amendment to the application was in name only. The definition remained the same.

### Assessment

The proposal is for buildings and works, some of which have already been carried out and have been continued to be carried out regardless of the need for a planning permit. These buildings and works are associated with the dog breeding

that is carried out on the land as far as can be established from information submitted (see Attachment 1).

A permit should be issued for the buildings and works that are associated with the existing use of the land for a dog breeding establishment. Objectors have concerns about the total number of dogs on site and the effect on the surrounding neighbours by the barking. It has been concluded that the only avenue is for those affected by barking dogs to lodge complaints with Council's Compliance Team.

From the objections received from adjacent neighbouring property owners the use of the land for dog breeding with the current number of dogs, is not entirely compatible given that the lots are used as rural residential and the dwellings are in reasonably close proximity to each other, unlike in farming areas with larger lots.

With regards to Clause 63 it is considered that compliance with the planning scheme can be met if the planning permit is issued for the buildings and works in association with the use of the land for a Dog Breeding Establishment. It is considered that the amenity of the area may have been impacted by the introduction of twelve more dogs to the site since 2017 but that whether or not this is considered to be beyond the limited purpose of the use preserved by the existing right is unable to be gauged at this level of assessment.

Currently it is noted that for some of the buildings and works that have already been carried out without a planning permit that no building permits have been applied for. This relates particularly to a new large shed that has been constructed on site already. It is unknown at the time of writing this report if building permits are required for any of the other structures. However, this application for a planning permit captures the planning scheme requirements.

### **Consultation**

The planning application was advertised as per the notification requirements under the *Planning and Environment Act 1987*. Five objections were received. A conciliation meeting was held on 27 June 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. However amenity issues caused by barking dogs may have an impact on nearby residents.

**Environmental/Sustainability Impacts**

Stormwater management is addressed in this report and by conditions on any permit issued.

Water quality is addressed by Goulburn Murray Water as above.

**Economic Impacts**

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

**Referrals/Public Notice**

Appropriate Notice was provided as per the requirements of the *Planning and Environment Act 1987*.

**2017 – 2021 Council Plan (2019 Revision)**

This report supports the Council Plan.

**Goal**

We are Growing

**What we will do every day:**

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

**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	Moderate	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 27 June 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

**Options for Consideration**

Issue a Notice of Decision to Grant a Permit (NOD) with respect to Planning Permit PInApp119/071 Building and works for a dog breeding establishment (existing use rights) at 2434 Snow Road, Markwood.

OR

Refuse the application for a planning permit.

### **Conclusion**

Objections received are related to barking dogs and amenity. Although amenity can be considered at Clause 63 it is in direct association with whether or not the existing use has been extended beyond the limited purpose and as stated previously, this assessment is unable to determine that. Documentation supplied has satisfied the establishment of existing use rights for the use of the land for breeding for more than 15 years continuously.

With regards to the buildings and works, some structures have already been erected, with no history of building permits and this is currently being investigated. The construction and design of the dog pens are audited by Dogs Victoria. With regards to the buildings and works being assessed against the planning scheme, it is considered that a permit should be issued.

It is therefore recommended that a planning permit be issued for 'Buildings and Works for a Dog Breeding Establishment (Existing Use Rights)' in accordance with conditions on the permit.

### **Consultation/Communication**

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

### **Attachments**

- 1 Attachment 1 - Plan for Endorsement 
- 2 Attachment 2 - Proposed Permit Conditions 

### **Public Questions**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 49:20 to 56:42 for public questions and responses related to Item 16.1 Planning Permit Application PLNAPP19/071 – Buildings and Works for a Dog Breeding Establishment (Existing Use Rights) – 2434 Snow Road, Markwood.

16.2 WANGARATTA ECONOMIC DEVELOPMENT AND TOURISM  
ADVISORY COMMITTEE AND AGRICULTURE AND AGRIBUSINESS  
ADVISORY COMMITTEE - APPOINTMENTS TO COMMITTEES 2019

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Economic Development Officer  
**File No:** IC19/149

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 invitations for Expressions of Interest to fill the vacancies created through the annual term of service expiry for both the Wangaratta Economic Development and Tourism Advisory Committee (WEDTAC) and the Agriculture and Agribusiness Advisory Committee (AAAC).

**RECOMMENDATION:**

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

***That Council:***

1. ***Appoints three people from the received nominations as representatives on the Wangaratta Economic Development and Tourism Advisory Committee for a term of three years ending August 2022:***
  - ***The successful candidates are: Robert Floyd, Elizabeth Ellis & Simon Fraser***
2. ***Appoints two people from the received nominations as representatives on the Agriculture and Agribusiness Advisory Committee for a term of three years ending August 2022:***
  - ***The successful candidates are: Lachlan Campbell and John (Bill) Wilson.***
3. ***Advises all applicants of Council's decision.***

**Carried**

**Background**

Advisory Committee members are appointed as voluntary members to set terms of service. The advisory committees have a maximum of nine representatives with three being up for renewal annually to ensure a level of continuity. The terms of exiting members of both committees have an expiration date of August 2019. Three vacancies have been created through the annual term of service expiry for both committees. An expression of interest process was undertaken to fill these vacancies. WEDTAC received five applications and the AAAC received two application.

Applicants are assessed against a Skills Matrix which ensures adequate representation across a number of sectors and aims to fill the skills gaps identified for each committee. The WEDTAC skills matrix includes areas such as manufacturing, transport, education and export. The AAAC skills matrix includes horticulture, dairy, timber as well as a range of additional agricultural based skills.

The new WEDTAC representatives recommended assist in filling gaps within the existing skill set including sustainability, manufacturing, retail and logistics. It is important to have a large cross section of skill base across the committee to ensure all areas of business acumen are represented.

There are two remaining vacancies on the AAAC and there is an ability to appoint further members should applications be received.

Attached to this report are copies of the applications, and assessment against the skills matrix for each nominee (refer confidential attachments).

## **Implications**

### **Policy Considerations**

This report adheres to the specific Council policy that relates to the Appointment to Council Committees Policy 2017.

### **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**

Community representatives on Council committees provide valuable advice and assistance to the Council. The Committees provides the opportunity for two way engagement between Council and Community members in the agricultural and business sector.

### **Environmental/Sustainability Impacts**

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

### **2017 – 2021 Council Plan (2019 Revision)**

This report supports the 2017-2021 Council Plan:

#### **Goal**

We are connected.

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

To ensure that we understand and plan for the long term opportunities, challenges and priorities that face our growth potential.

### **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Our commitment to communicate and engage with our community about local decision making in a way that is clear, accessible and easy to understand.	Expressions of interest were open to the public for a period of 4 weeks. These were advertised through a number of media platforms including the local paper and Council website.

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

### **Options for Consideration**

1. Council acknowledges the nominations and appoints three members to WEDTAC and two members to the AAAC.
2. Council acknowledges the nominations and does not appoint any of the nominees. This option will require re-advertisement of these vacancies.

### **Conclusion**

Following consideration of the Expressions of Interest for Council's WEDTAC and AAAC it is recommended to appoint three members to WEDTAC and two members to the AAAC. These appointments will assist the committees in continuing to provide Council with advice, feedback and guidance on a range of matters in the agricultural, tourism and business sectors.

### **Attachments**

- 1 WEDTAC Nominations 2019 - Confidential
- 2 WEDTAC Skills Matrix Assessment 2019 - Confidential
- 3 AAAC Nominations 2019 - Confidential

4 AAAC - Nomination Review - August 2019 - Confidential

### 16.3 DOMESTIC ANIMAL MANAGEMENT PLAN 2017 - 2021 (2019 REVISION)

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Community Compliance Coordinator  
**File No:** IC19/447

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

#### **Executive Summary**

This report is presented to Council to approve public consultation on the Domestic Animal Management Plan (DAMP) 2017 – 2021 (Revision 2019). Council has a statutory obligation under the *Domestic Animals Act 1994* to prepare a DAMP.

#### **RECOMMENDATION:**

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

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

- 1. *Endorses the draft Domestic Animal Management Plan 2017 - 2021 for community consultation;***
- 2. *Invites submissions regarding the draft Domestic Animal Management Plan 2017 – 2021 (Revision 2019) for a period of 1 month (commencing 25 September 2019 and concluding at the close of business 25 October 2019)***
- 3. *If submissions are received, a further report detailing the recommended actions be presented to the next available Ordinary Council meeting with the view to adopt the draft Domestic Animal Management Plan 2017 – 2021.***
- 4. *If no submissions are received, resolves to adopt the Domestic Animal Management Plan 2017 – 2021.***

**Carried**

#### **Background**

Council has a statutory obligation under the *Domestic Animals Act 1994* to prepare a DAMP and submitted it to State Government for approval. The DAMP also has to be reviewed annually.

Council's current DAMP expired in 2017. A new DAMP has been prepared and recently reviewed.

Council's updated DAMP is attached to this report (see Attachment 1). The revisions include the update of statistics and dates, the inclusion of the new Council structure and a revision of actions, some of which have been added, amended or removed if no longer relevant.

The draft DAMP 2017 – 2021 (revision 2019) sets out how Council applies its statutory obligations to the management of domestic and semi domestic/feral animals and is underpinned by Local Law 1 of 2018.

The draft DAMP presented details Council's commitment to:

- Document current processes and practices under the Rural City of Wangaratta's animal management responsibilities;
- Increase pet owners' knowledge of the principles of responsible pet ownership to enhance community safety and awareness;
- Assist the Bureau of Animal Welfare (BAW), a branch of DJPR, to achieve its stated objectives of reducing the numbers of dogs and cats being euthanized;
- Maximise the numbers of dogs and cats that are registered in the Wangaratta municipality;
- Minimise the harmful effect of domestic pets on the population of native birds, mammals and reptiles;
- Take into account community views on animal management matters;
- Comply with the relevant provisions of the *Domestic Animals Act 1994*;
- Ensure responsible conduct of domestic animal businesses.

As a result of the revision of the DAMP, community consultation and formal exhibition is required following the Council meeting.

### **Implications**

#### **Policy Considerations**

The Local Law (1 of 2018) Community Amenity is relevant to this report and provides the guidance for implementing certain sections of the DAMP (see Attachment 2).

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

There are no financial or economic implications identified for the subject of this report as implementation of the DAMP will be carried out by the community compliance team as part of their general duties.

## **Legal/Statutory**

There is a statutory obligation under Section 68A of the *Domestic Animals Act 1994* to write a DAMP and this is the subject of this report to Council.

## **Social**

There are no direct social implications however it is recognised that the incorrect management of domestic animals such as feral cat populations or uncontrolled dogs will impact the community adversely.

## **Environmental/Sustainability Impacts**

It is acknowledged that feral cats have an adverse impact on native fauna populations. The DAMP deals with this aspect.

## **2017 – 2021 Council Plan (2019 Revision)**

This report supports the 2017-2021 Council Plan:

### **Goal**

We are Sustainable

#### **We will research and advocate:**

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

#### **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**

N/A

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

Rural City of Wangaratta Local Laws 1 of 2018 (Community Amenity)

**Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Non conformity with the Domestic Animals Act & Local Law	High	High	High	Approve DAMP
Potential lack of control on domestic animals including feral cats	Moderate	High	Moderate	Approve DAMP
No control of animal business that provide a service relating to domestic animals	Moderate	High	Moderate	Approve DAMP

**Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Advertise DAMP	Public exhibition including DAMP available at Council offices, on website and advertisement in the local paper of consultation period
Consult	Request for comments and submissions	Comments and submissions on DAMP received
Involve	Comments and submissions will be considered	Comments and submissions, if any, will be reviewed and may result in the DAMP being revised
Collaborate	Not applicable	Not applicable
Empower	Not applicable	Not applicable

## **Conclusion**

The preparation of the DAMP is a statutory obligation upon Council under the *Animal Management Act 1994*. This report on the DAMP is presented to Council for approval to undertake community consultation.

## **Attachments**

- 1 Attachment 1 - Domestic Animal Management Plan 2017 - 2021 (Revision 2019) 
- 2 Attachment 2 - Local Law (1 of 2018) excerpt 

## **Public Questions**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 1:01:21 to 1:03:08 for public questions and responses related to Item 16.3 Domestic Animal Management Plan (DAMP) 2017 – 2021 (Revision 2019).

## 16.4 WANGARATTA FLOOD STUDY 2017 - IMPLEMENTATION & AMENDMENT C77

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Strategy Planner  
**File No:** IC19/457

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**

In April 2018 Council adopted the Wangaratta Urban Waterways Flood Study 2017 which was commissioned by North East Catchment Management Authority (NECMA). Council also resolved to request that the Department of Environment, Land, Water and Planning (DELWP) complete the necessary planning scheme amendment to implement the study, this resolution needs to be amended as DELWP has not agreed to complete the planning scheme amendment.

#### **RECOMMENDATION:**

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

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

- 1. Amends the resolution made at the 17 April 2018 Ordinary Council Meeting to request the Department of Environment, Land, Water and Planning (DELWP) to complete the necessary Planning Scheme amendment to reflect the 1% AEP for the Wangaratta Urban Waterways Flood Study 2017 to now:***
  - Proceed to prepare the relevant documentation and seek authorisation to exhibit a planning scheme amendment to the Wangaratta Planning Scheme to implement the relevant recommendations of the Wangaratta Urban Floodway Study 2017.***
- 2. Delegates to the Chief Executive Officer responsibility to make any changes to documents as required by the Department of Environment, Land Water and Planning or identified by Council officers in the preparation of the planning scheme amendment material.***

**Carried**

## **Background**

At the Ordinary Council meeting of 17 April 2018, Council resolved to:

1. *adopt the Wangaratta Urban Waterways Flood Study*
2. *adopt the 1% Annual Exceedance Probability (AEP) for all future planning purposes*
3. *request the Department of Environment, Land, Water and Planning (DELWP) complete the necessary Planning Scheme amendment to reflect the 1% AEP.*

This report is presented to Council to consider amending point 3 of the resolution.

Council has been notified by DELWP, that they will not undertake the planning scheme amendment on behalf of Council and therefore, Council should undertake the amendment if they wish to implement the recommendations of the Wangaratta Urban Waterways Flood Study.

On this basis the resolution must be amended to enable Council officers to prepare the amendment, seek authorisation of the amendment and exhibit the amendment.

## **Implications**

### **Policy Considerations**

Relevant Strategies within the Wangaratta Planning Scheme at Clause 13.03-1S, seek to *'Identify land affected by flooding, including land inundated by the 1 in 100 year flood event or as determined by the floodplain management authority in planning schemes'*.

Implementing the Wangaratta Urban Waterways Flood Study within the Scheme is consistent with this policy and will result in an update of the existing overlays across the urban extent of Wangaratta.

### **Financial/Economic Implications**

Council will incur cost associated with the planning scheme amendment process.

### **Legal/Statutory**

The adoption of this report will lead to a Planning Scheme amendment to implement Wangaratta Urban Waterways Flood Study 2017.

### **2017 – 2021 Council Plan (2019 Revision)**

This report supports the 2017 - 2021 Council Plan:

## Goal

We are Growing  
We are Established  
We are Sustainable

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

To ensure we contribute to the balance between environmental sustainability, development and risk, particularly in relation to flood and fire risk for our communities.

### We will focus on our business:

By working towards managing our risk for our community for flood, fire, and other natural disasters and impacts.

### The non-negotiables

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

### Strategic Links

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

N/A

#### b) Other strategic links

Wangaratta Urban Waterways Flood Study 2017

### Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Changes in flood mapping may not be in accordance with planning applicant expectations.	M	M	M	Wide consultation has been undertaken to complete the study. The mapping is now more accurate. A greater risk would have been not to do the study.

### Consultation/Communication

Officers have had discussions and correspondence with DELWP to request they complete the necessary Planning Scheme amendment as per council resolution. DELWP has declined this request.

### Options for Consideration

1. That Council amends its original resolution as recommended and undertake the preparation of all the relevant documentation to seek authorisation to exhibit a planning scheme amendment to the Wangaratta Planning Scheme to reflect the 1% AEP for the Wangaratta Urban Waterways Flood Study 2017.
2. That Council resolves not to undertake an amendment to the Wangaratta Planning Scheme to reflect the 1% AEP for the Wangaratta Urban Waterways Flood Study 2017.

### **Conclusion**

The Wangaratta Urban Waterways Flood Study 2017 was adopted by Council and now needs to be implemented into the planning scheme via an amendment.

The Study used historical data, recent events and improved technology to enhance the accuracy of current flood modelling for Wangaratta and has resulted in a far higher level of detail that is now available to inform decision makers, the public and Emergency Services.

### **Attachments**

Nil.

### **Public Questions**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 1:05:09 to 1:06:07 for public questions and responses related to Item 16.4 Wangaratta Flood Study 2017 – Implementation & Amendment C77.

### **Councillor Speeches**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 1:06:15 to 1:07:05 for councillor speeches and responses related to Item 16.4 Wangaratta Flood Study 2017 – Implementation & Amendment C77.

16.5 PLANNING PERMIT APPLICATION PLN08-183.01 - USE AND DEVELOPMENT OF A WELFARE CENTRE (45 TEMPLETON STREET, WANGARATTA)

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Planner  
**File No:** IC19/459

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 amendment to planning permit PIn08-183 to allow the re-development of the subject land to enable the existing use of the land for a welfare centre to continue. Permit PIn08-183 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) in 2009. The proposed new building is proposed to be approximately the same size and style as the existing building however the siting of the proposed building is to be altered slightly. The application also seeks approval for associated signage, demolition and tree removal.

Formal notice of the application was given to nearby affected land owners and occupiers on 18 July 2019. At the time of writing this report, nine objections to the proposal were received.

**RECOMMENDATION:**

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

***That Council resolves to:***

- 1. Issues a Notice of Decision to Amend a Planning Permit with respect to Planning Permit Application PIn08-183.01 for the Use and Development of a Welfare Centre, Demolition of a Building, Display of Signage and Removal of a Tree at 45 Templeton Street Wangaratta subject to the conditions contained in Attachment 1; and***
- 2. Advises the applicant and all submitters of Council's decision.***

**Carried**

## **Property Details**

The subject land is located towards the western end of Wangaratta's Central Activities Area and within a predominantly residential area. The subject land is made up of one lot with a total area of approximately 1012 square metres and is within the Neighbourhood Residential Zone.

The subject land is rectangular in shape and access to the land is possible to the north from Templeton Street although permit PIn08-183 includes a condition that the use of the land for a welfare centre may only occur with access being via Rowan Street and the adjacent lot to the south, with egress from the site for vehicles to Templeton Street. The topography of the subject land is generally flat.

The subject land contains one existing building which is a former dwelling which has more recently been used for a welfare centre. This building is no longer useable due to structural damage. The land south of the site contains car parking space and an egress drive way runs along the eastern boundary. The Templeton Street boundary of the site contains a 1.5 metre fence with electronically operated vehicle egress gate at the eastern end.

Adjacent and nearby land fronting Templeton Street is generally characterised by residential use and development. A bar is located approximately 70 metres west of the subject land and Baker Street which is approximately 120 metres east of the subject land has extensive commercial uses and development. Adjacent land immediately to the south of the subject land is also owned by St Vincent De Paul and has a continuing functional relationship with the subject land by providing access to the subject land in association with the welfare centre use. This relationship between the subject land and adjacent land to the south is recognised through a Section 173 Agreement which provides that the welfare centre use may only continue while access across the adjacent land to the south is made available.



Aerial Imagery from IntraMaps 2017.

### **Permit Triggers**

Land/Address	45 Templeton Street Wangaratta
Zones and Overlays	Neighbourhood Residential Zone Parking Overlay Bushfire Management Overlay Heritage Overlay
Why is a permit required	Use of land for a Welfare Centre (Clause 32.09-2 - Table of Uses, Neighbourhood Residential Zone)  Buildings and works associated with a Section 2 Use (Clause 32.09-9 - Buildings and Works Associated with a Section 2 Use, Neighbourhood Residential Zone).  Demolition of a Building, Construct a Building, Construct or Display a Sign, Removal of a Tree (Clause 43.01-1 – Permit Requirement, Heritage Overlay).

### **Proposal in Detail**

The application is to amend permit PIn08-183 which was issued by the Victorian Civil and Administrative Tribunal (VCAT) in 2009. The existing permit PIn08-183 is shown in Attachment 3 and the associated endorsed plans are shown in Attachment 4. The proposed amendment seeks approval for a replacement building in which to continue the existing approved use of a welfare centre. It should be noted that 'Welfare Centre' is not a listed land use term in the Wangaratta Planning Scheme and therefore is known as an innominate use. The classification of the use was considered by VCAT in 2009 and welfare centre was considered to be the most appropriate description. The proposed replacement building and associated development is not identical to the existing development and therefore constitutes a change to the existing approved use, and therefore requires the existing permit to be amended to reflect this change. The plans of the proposed development are shown in Attachment 2.

The proposed replacement welfare centre building is to be sited in a similar location to the existing building. The front setback is proposed to be 6.56 metres which is equal to the setback of the existing building. The proposed building is to be sited approximately 1 metre from the eastern boundary and approximately 9.16 metres from the western boundary. The egress driveway is proposed to be located to the west of the building. It is currently located to the east of the existing building. The new drive way will require the removal of one small tree.

The proposed building is to have a length of approximately 15.45 metres and a width of approximately 9.64 metres giving an indoor floor area of approximately 148.9 square metres. A verandah is proposed along both the front and rear of the building, both of which are to be approximately 19 square metres in area. The

floor plan of the proposed new building contains two small store rooms, an administration room, a kitchen and three consulting rooms, one of which is able to be joined to the kitchen area with bi-fold doors. The proposed building is to be single storey.

The design of the building is consistent with the scale and proportions generally found amongst existing development in Templeton Street. The external wall cladding is to be weatherboard painted in cream colour and the roof is to be galvanised steel. The existing front fence and gate style are proposed to be retained although part of this will involve reconstruction because of the proposed relocation of the egress drive way. The front yard of the building is also proposed to be fenced in the same picket style as the front fence.

A disabled car parking space is proposed to be installed immediately to the west of the proposed building and a further nine angle car parking spaces are proposed to be provided to the rear of the building along the eastern and western boundaries.

The proposal includes directional and disabled car parking signage. All proposed signs are to be orientated inward and will not generally be visible from outside the site.

The proposal does not include any change to the purpose of the site or how it will be used. The permit allowing the welfare centre use is however required to be amended to reflect the minor changes to the building footprint and siting and the location of car parking which are proposed to be altered which will mean that the use occurs differently to how it was originally approved.

### **Referrals**

The application was not required to be referred to any referral authorities under Section 55 of the *Planning and Environment Act 1987*.

### **Internal Departmental Advice**

The application was not referred for advice to any internal departments within Council.

### **Advertising**

This application was advertised on 18 July 2019 under Section 52 of the *Planning and Environment Act 1987*, to all land owners and occupiers who could be affected by the proposal.

Nine objections have been received to the application.

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

<b>Ground for Submission</b>	<b>Concern Raised</b>	<b>Comments/Response</b>
Change of Use	The use as approved under permit PIn08-183 should not be changed.	<p>The proposal includes some very minor changes to the nature of the use. There has been no suggestion that the purpose of the facility will alter and the only real change proposed is the siting of the new building and layout of access routes and car parking.</p> <p>These changes are considered very minor and unlikely to cause any adverse impacts in comparison to the existing use.</p>
Pedestrian Gate	The decision to restrict access for pedestrians from Templeton Street should be maintained and no gate should be allowed to be installed along the Templeton Street frontage of the subject land to protect amenity of residents in Templeton Street.	The proposal initially included a pedestrian gate along the Templeton Street frontage of the subject land. In response to concerns raised by objectors, the applicant has amended the design plans to remove the pedestrian gate and this gate is no longer part of this proposal. It is therefore considered that this concern is no longer relevant.
Front Fence Height	The height of the fence should be maintained at the current height of 1.5 metres to reinforce that pedestrian access is not available from Templeton Street to ensure the safety of pedestrian and aged person's scooter traffic along Templeton Street.	The proposal initially included a 1.15 metre high fence along the Templeton Street frontage of the subject land. In response to concerns raised by objectors, the applicant has amended the design plans to remove this change and instead maintain the existing fence height. It is therefore considered that this concern is no longer relevant.
Potential Changes to Permit Conditions	The proposal may lead to the removal of or changes to permit conditions which may diminish the controls on the existing use decided by the existing permit PIn08-183.	The applicant has not requested any changes to conditions of the permit. If Council in determining this application, grants an amendment to the permit, it must review all conditions and consider whether they remain relevant. Council must also consider whether any new conditions are required to address any issue raised by the proposed amendment to the use and development.

Ground for Submission	Concern Raised	Comments/Response
		Council cannot alter, remove or add conditions which do not directly relate to the proposed changes to the use and development sought by this application.
Section 173 Agreement	The proposed amendment to the permit may lead to the variation or removal of the Section 173 Agreement which is registered on title for the subject land and requires that the use of the subject land for a welfare centre must cease if the adjacent lot immediately to the south does not continue to provide access to the subject land.	The proposal does not seek to vary or remove the Section 173 Agreement. The nature of the proposal does not necessitate any change to the wording of this agreement and the access arrangements contained within the Agreement continue to remain appropriate.
On-Street Car Parking	If pedestrian access is allowed from Templeton Street then this may lead to increased demand for car parking in Templeton Street and this is in addition to an increase in car parking demand from the Central Activities Area of Wangaratta which has increased significantly since permit PIn08-183 was issued.	The proposal has now removed any aspect of pedestrian access from Templeton Street therefore this concern is no longer relevant.
Change of Activity	The activities carried out on site may change and cause issues.	The application does not include any proposed changes to the activities to be carried out in association with the welfare centre use.
Safety Gate	The proposal should include a gate for access from the front yard to the drive way area.	The front yard area is accessible from the proposed building. There are no legislative requirements that a separate gate be provided connecting the front yard to the drive way area. The lack of such a gate is not considered likely to create any adverse outcomes.

## **Assessment under the Planning and Environment Act**

Section	Clause	Provision
Planning Policy Framework	13.02-1S 15.03-1S	Bushfire Planning Heritage Conservation
Municipal Planning Policy	22.06	Heritage Places and Precincts
Zoning	32.09	Neighbourhood Residential Zone
Overlays	43.01 44.06 45.09	Heritage Overlay Bushfire Management Overlay Parking Overlay
Particular Provisions	52.06 53.18	Car Parking Stormwater Management in Urban Development
Decision Guidelines	65.01	Approval of an Application or a Plan

### **Planning Policy Framework**

#### **Clause 13.02-1S – Bushfire Planning**

This policy seeks to identify and manage bushfire risk with the greatest emphasis on the protection of human life. The subject land is within a Bushfire Prone Area and is affected by the Bushfire Management Overlay. Despite this, the proposed development does not trigger a planning permit under the Bushfire Management Overlay as it is an innominate use.

The nature of the proposed use and development is unlikely to create a significant risk to human life because people using the proposed building will not be residing there. The subject land has ready access to fire hydrants in Templeton Street, is accessible and easy to evacuate and does not contain vegetation on site which would present a significant fire risk. For these reasons it is considered that the proposed use and development does not create an unacceptable bushfire risk. The plans show that the proposed development is to be constructed to Bushfire Attack Level (BAL) 12.5 standard.

#### **Clause 15.03-1S – Heritage Conservation**

This policy seeks to identify and conserve heritage places by managing development in and around heritage places. The proposal is sympathetic to the heritage character of the local area and is therefore consistent with this policy. The issue of heritage is discussed in greater detail in subsequent sections of this report.

### **Municipal Planning Policy**

#### **Clause 22.06 – Heritage Places and Precincts**

This policy seeks to ensure that heritage precincts are identified and managed to preserve their heritage character. This objective is implemented through a set of policy guidelines. The most relevant guidelines for this application are that any proposal for demolition should be accompanied by a development proposal and to encourage new development which respects the scale and form of existing

heritage buildings within the local area. The proposal is consistent with all relevant guidelines and the condition of the building is such that restoration is not a viable option, therefore the proposal is considered to be consistent with this policy.

## **Zoning**

### **Neighbourhood Residential Zone**

The subject land is located within the Neighbourhood Residential Zone. The use of land for a Welfare Centre is an innominate use and therefore requires a permit in the Neighbourhood Residential Zone pursuant to Clause 32.09-2 (Table of Uses, Neighbourhood Residential Zone). Pursuant to Clause 32.09-9 (Buildings and Works Associated with a Section 2 Use, Neighbourhood Residential Zone) a permit is required for buildings and works associated with a Welfare Centre.

The proposed use is already established having been granted approval under permit Pln08-183. Due to structural damage to the existing building, a new building is required. The proposed replacement building is very similar in size, scale and design to the existing building. The floor plan of the proposed building reflects a more modern layout of the same use as currently occurs in the existing building. The siting of the proposed building is closer to the eastern lot boundary than the existing building and the proposal includes the relocation of the egress drive way to the western side of the lot. Some minor changes to the location of car parking spaces are proposed and are necessary as a result of the other changes. The proposed changes to the use are considered to be very minor and unlikely to create any change to the potential for amenity impacts.

The design of the proposed replacement building is similar in built form to the existing building and has been designed with respect for the heritage character of the Templeton Street streetscape. The proposed building could easily be converted into a dwelling in future. The proposed building is therefore considered to be consistent with neighbourhood character. The proposal is not expected to create any adverse impacts on car parking or traffic within the local area.

For the reasons identified above, the proposed use and development is considered to be consistent with Clause 32.09-13 (Decision Guidelines, Neighbourhood Residential Zone).

## **Overlays**

### **Heritage Overlay**

The subject land is affected by the Heritage Overlay and Schedule 15 applies. Schedule 15 identifies the heritage place as being 'Templeton Street East (Precinct), Templeton Street Wangaratta.' This precinct is of heritage significant because it contains surviving evidence of the earliest European buildings and public amenities in Wangaratta. The subject land is not identified as being an individually significant heritage place, however it is identified as being contributory to the heritage significance of the precinct.

Pursuant to Clause 43.01-1 (Permit Requirement, Heritage Overlay) a permit is required for demolition, buildings and works and to display a sign. The application was referred to Council's Heritage Advisor who had no objection to the proposal subject to some specific conditions relating to the construction of the proposed building. These conditions relate to some minor elements of the building such as the style of gutters, down pipes, verandah posts and front door and a requirement for roll topped ridge capping.

The proposed demolition is considered acceptable because of the condition of the existing building and its structural damage. The proposed replacement building has been designed to respect the heritage character of the local area and features similar scale, setbacks, built form and colours to surrounding buildings. The proposed signage is orientated inwards and the front of the signs will generally not be visible from outside the site. The extent and scale of signage is considered practical and appropriate. The tree to be removed to allow for the new egress drive way is small, is not mentioned in any heritage study for the local area and appears to not contribute to the heritage character of the area.

The proposal is considered to be consistent with Clause 43.01-8 (Decision Guidelines, Heritage Overlay).

### **Bushfire Management Overlay**

The subject land is affected by the Bushfire Management Overlay. Pursuant to Clause 44.06-2 (Permit Requirement, Bushfire Management Overlay) no planning permit is required for buildings and works associated with a Welfare Centre.

It is noted that the building is proposed to be constructed to BAL 12.5 standard which is the standard which would be required in the event the building changed use to a dwelling.

### **Parking Overlay**

The subject land is affected by the Parking Overlay and Schedule 1 applies. The Parking Overlay may specify alternative car parking requirements to those normally applying to land uses which are set out under Clause 52.06 (Car Parking). In the case of a Welfare Centre, this use is not a defined land use term within the Wangaratta Planning Scheme and as such there is no alternative car parking requirement set out for this land use in the Parking Overlay.

### **Particular Provisions**

#### **Clause 52.06 – Car Parking**

The proposal is for an amendment to a permit which allowed the use of land for a Welfare Centre. Pursuant to Clause 52.06-5 (Number of Car Parking spaces Required Under Table 1, Car Parking) there is no set requirement for the number of car parking spaces to be provided in association with the use of land for a Welfare Centre, and therefore pursuant to Clause 52.06-6 (Number of Car

Parking Spaces Required for Other Uses, Car Parking) Council must assess whether the proposed car parking provision is satisfactory.

Car parking was not addressed in the Victorian Civil and Administrative Tribunal (VCAT) decision to grant permit PIn08-183. It is therefore somewhat unclear exactly the extent of car parking which is currently available in association with the existing Welfare Centre use. Aerial imagery and site visit photographs have been used to assess the existing car parking provision and it appears that approximately 10 car parking spaces are currently available on the subject land in association with the existing use. These appear to have been provided along the western boundary and immediately to the south of the building. Up to two car parking spaces appear also to have been occupied along the eastern boundary however, these spaces do not appear to be able to be practically occupied at the same time as the spaces immediately to the south of the building, therefore they should not be counted. It is considered that the existing car parking provision is ten car parking spaces.

The proposal includes the provision of ten car parking spaces which includes seven along the western lot boundary, two along the eastern lot boundary and the proposed disabled car parking space immediately to the west of the proposed building. All these spaces meet the required standards for size and access. Given that there is no significant change in the size of the proposed building and the existing building, it is not expected that any additional car parking spaces will be required. It is therefore considered that the proposed car parking provision is satisfactory.

### **Clause 53.18 – Stormwater Management in Urban Development**

Pursuant to Clause 53.18-1 (Application, Stormwater Management in Urban Development) an application to amend a permit under Section 72 of the *Planning and Environment Act 1987* is not required to address this Clause.

It is worth noting that the proposed replacement building is approximately the same size as the existing building and the extent of impervious surfaces are also proposed to be approximately the same as the existing scenario. Therefore it is not expected that any significant increase in stormwater runoff will be generated by the proposal.

### **Decision Guidelines**

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

The decision guidelines under Clause 65.01 (Approval of an Application or a Plan) are addressed below:

*The matters set out in Section 60 of the Act.*

The proposal is consistent with all matters set out in Section 60 of the Act.

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

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

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

The proposal is consistent with the purpose of the zone and all other relevant provisions.

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

All relevant decision guidelines have been previously addressed in this report.

*The orderly planning of the area.*

The proposal is consistent with the principles of orderly planning.

*The effect on the amenity of the area.*

The proposed changes to the existing use and the proposed development are not expected to impact the amenity of the area.

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

The proposal is not expected to impact on any public land.

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

The proposal is not expected to lead to any of the above issues.

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

The proposal is not expected to generate any significant increase in stormwater runoff in relation to the amount generated by the existing development. It is therefore not considered necessary to require any stormwater detention.

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

There is no native vegetation on the subject land.

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

There is no native vegetation on the subject land.

*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.*

There is no identified flood or erosion hazard for the subject land. The subject land is within the Bushfire Management Overlay and therefore has an identified bushfire risk. The proposal is not required to comply with any requirements related to bushfire under the overlay and the proposal is considered to be consistent with Clause 13.02-1S (Bushfire Planning) as addressed previously in this report.

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

The proposal provides for adequate space, access and egress to accommodate occasional deliveries. The proposed use is not expected to generate a significant amount of deliveries.

### **Recommended Amendments to Preamble and Conditions of Permit**

The preamble (which states what the permit allows) and the conditions of the existing permit Pln08-183 should be amended to make them suitable for the proposed changes embodied in this application.

It is recommended to change the preamble to now state that the permit allows 'Use and Development of a Welfare Centre, Demolition of a Building, Display of Signage and Removal of a Tree.' These changes are required to reflect the broader suite of approvals required as a result of the proposal.

A number of the conditions of the permit are no longer suitable as a direct result of the proposal. Conditions are only recommended to be amended where the current proposal necessitates those changes and this application to amend the permit is not an opportunity to revise any and all conditions of the permit. Only to the extent that the current proposal changes the circumstances of the use is there justification to amend the conditions. Likewise provided the intent of the condition is clear, it is inappropriate to amend conditions simply to revise phrasing or language or to correct minor errors. It should also be noted that the applicant has not specifically requested any conditions to be amended.

Condition 1 is recommended to be amended because it requires amended plans showing details, some of which are no longer relevant. The current proposal also has some minor details required to be shown on amended plans. These changes are minor enough to be suitable to require as a permit condition. Given that the layout of the site has changed as a result of the current proposal it is appropriate to revise the requirements for signage previously included in Condition 1. These requirements have been simplified but the original intent of these requirements have been maintained.

Condition 3 is recommended to be amended because it currently refers back to works required under the existing Condition 1. As Condition 1 is recommended to be amended, so too must Condition 3 be amended. It is to be altered to require that the approved development be completed prior to the commencement of the approved use. This condition has the purpose of making it explicit that the approved use must only occur within the approved development.

Condition 5 requires a Section 173 Agreement to be entered into which requires the approved use to cease if access from Rowan Street is no longer available. It is acknowledged that this condition has already been complied with however there is also no reason to remove this condition. The Section 173 Agreement is in fact considered to still be completely appropriate and no variation to it is considered necessary.

Condition 17 is recommended to be amended to remove the requirement for sealing of the car parking area. The original intent of this condition is unclear because it refers to areas set aside for parking on the endorsed plan. The endorsed plans for this permit only show three car parking spaces however it is clear that a much wider area of car parking is actually available for that purpose. The current proposal changes the location of car parking spaces to some extent. This application has been assessed on the basis of providing a greater area of car parking than what was originally required to be sealed by this condition. It is therefore considered reasonable to simplify this condition to only require the car parking areas to be maintained in a useable condition rather than for them to be sealed. It is considered that a requirement to seal all car parking areas would be onerous and unnecessary in this instance given the minor scale and intensity of the approved use.

Condition 18 is recommended to be amended to provide for an appropriate set of timeframes for expiry of the permit.

Condition 19 is recommended to be added because as a result of relocating the egress drive way there will be a remnant vehicle crossover at the north eastern corner of the subject land. The new egress drive way can make use of the existing crossover at the north western corner of the subject land provided it meets the appropriate standard.

Condition 20 is recommended to be added because the signage it refers to was a requirement of Condition 1 which is required to be amended. Condition 1 currently requires an amended plan to show directional signage indicating that welfare centre clients can gain access to the welfare centre from Rowan Street. An existing sign located at the Rowan Street frontage generally meets this requirement. It is therefore not appropriate to require the sign to be shown on an amended plan under the recommended revised Condition 1. A separate condition is therefore necessary to require the sign to be maintained.

The remaining conditions relating to signs more generally and the use of the welfare centre are considered to be appropriate to remain the same. This is because the activity to be carried out on site is not proposed to change and it is considered that the siting of the replacement building does not make a significant difference to the potential for the approved use to cause any adverse impacts.

### **Consultation**

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

## **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 proposed development site is within an area of Aboriginal Cultural Heritage Sensitivity however the subject land has been subject to significant ground disturbance and therefore a Cultural Heritage Management Plan is not required.

### **Social**

The proposal if approved would allow the community services provided on the subject land to continue.

### **Environmental/Sustainability Impacts**

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

### **Economic Impacts**

The existing welfare centre provides assistance to people in relation to managing personal finance.

### **Referrals/Public Notice**

This has been addressed earlier in this report under the 'Referrals' and 'Advertising' headings.

### **2018 – 2021 Council Plan (2019 Revision)**

This report supports the 2018-2021 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 an amended permit – Objector/s appeal decision to VCAT	Low	Low	Low	Representation of Council at VCAT
Notice of Decision to grant an amended 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.
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 an Amended Permit (NOD) with respect to Planning Permit PIn08-183.01 for the Use and Development of a Welfare Centre, Demolition of a Building, Display of Signage and Removal of a Tree at 45 Templeton Street, Wangaratta.

OR

Refuse the application to amend a planning permit.

## **Conclusion**

This application seeks an amendment to permit PIn08-183 to allow the use and development of a Welfare Centre, Demolition of a Building, Display of Signage and Removal of a Tree. The proposed changes to the existing approved use are considered minor. The poor condition of the existing building is considered to be sufficient justification for demolition. The proposed replacement building and associated signage is sympathetic to the heritage character of the area and is considered appropriate. The removal of the tree is not considered detrimental to heritage values. It is therefore recommended that Council resolve to Issue a Notice of Decision to amend permit PIn08-183.

## **Attachments**

- 1 PIn08-183.01 - Draft Permit Conditions 
- 2 PIn08-183.01 - Plans 
- 3 PIn08-183 - Permit 
- 4 PIn08-183 - Endorsed Plan 

## **Public Questions**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 1:08:55 to 1:16:35 for public questions and responses related to Item 16.5 Planning Permit Application PIn08-183.01 for the Use and Development of a Welfare Centre, 45 Templeton Street Wangaratta.

## **Councillor Speeches**

Please follow link [17 September 2019 Council Meeting Video](#) and refer to minutes 1:16:50 to 1:20:00 for councillor speeches and responses related to Item 16.5 Planning Permit Application PIn08-183.01 for the Use and Development of a Welfare Centre, 45 Templeton Street Wangaratta.

17. SPECIAL COMMITTEE REPORTS

Nil

18. **ADVISORY COMMITTEE REPORTS**

Nil

## 19. RECORDS OF ASSEMBLIES OF COUNCILLORS & MINUTES OF ADVISORY COMMITTEE MEETINGS

### 19.1 RECORD OF ASSEMBLY OF COUNCILLORS & ADVISORY COMMITTEE REPORTS

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Executive Assistant - Corporate Services & Councillors  
**File Name:** Assemblies of Councillors  
**File No:** IC19/96

#### Executive Summary

#### Assembly of Councillors:

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.

<b>Date</b>	<b>Meeting details</b>	<b>Refer</b>
6 August 2019	Wangaratta Economic Development & Tourism Advisory Committee	Attachment
12 August 2019	Councillor Briefing Forum	Attachment
19 August 2019	Councillor Briefing Forum	Attachment
20 August 2019	Pre-Council Meeting Discussion	Attachment
26 August 2019	Councillor Briefing Forum	Attachment
2 September 2019	Councillor Briefing Forum	Attachment
9 September 2019	Councillor Briefing Forum	Attachment

### **Advisory Committee Meetings:**

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

1. Agriculture & Agribusiness Advisory Committee Minutes – 30 July 2019
2. Wangaratta Economic Development & Tourism Advisory Committee Minutes – 6 August 2019
3. Place Naming Committee Minutes – 13 August 2019

#### **RECOMMENDATION:**

**(Moved: Councillor D Fuller/Councillor A Fitzpatrick)**

***That Council:***

- 1. receives the reports of Assemblies of Councillors***
- 2. notes the minutes of these Advisory Committees***

**Carried**

### **Attachments**

- 1 Assembly of Councillors - Wangaratta Economic Development & Tourism Advisory Committee - 6 August 2019 
- 2 Assembly of Councillors - Councillors Briefing Forum - 12 August 2019 
- 3 Assembly of Councillors - Councillors Briefing Forum - 19 August 2019 
- 4 Assembly of Councillors - Pre Council Meeting Discussion - 20 August 2019 
- 5 Assembly of Councillors - Councillors Briefing Forum - 26 August 2019 
- 6 Assembly of Councillors - Councillors Briefing Forum - 2 September 2019 
- 7 Assembly of Councillors - Councillors Briefing Forum - 9 September 2019 
- 8 Agriculture and Agribusiness Advisory Committee Meeting Minutes - 30 July 2019 
- 9 Wangaratta Economic Development Tourism Advisory Committee Minutes - August 6 2019 
- 10 Place Naming Committee Minutes – 13 August 2019 

**20. NOTICES OF MOTION**

Nil

**21. URGENT BUSINESS**

Nil

**22. PUBLIC QUESTION TIME**

*PLEASE FOLLOW LINK [17 SEPTEMBER 2019 COUNCIL MEETING VIDEO](#) AND REFER TO MINUTES 1:21:18 TO 1:41:55 FOR PUBLIC QUESTIONS AND RESPONSES RELATED TO ITEM 22 PUBLIC QUESTION TIME.*

**23. CONFIDENTIAL BUSINESS**

Nil

**24. CLOSURE OF MEETING**

The Meeting closed at 7:33pm.