

# Minutes

## Of the Ordinary Council Meeting

**Location:** Myrree Soldiers Memorial Hall,  
1736 Benalla–Whitfield Road, Myrree

**Date:** Tuesday, 15 October 2019

**Time:** 6PM



RURAL CITY OF  
**WANGARATTA**

Brendan McGrath  
Chief Executive Officer



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

### 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:

Mayor Dean Rees, Deputy Mayor Mr Mark Currie, Cr Harry Bussell, Cr Harvey Benton, Cr Ken Clarke OAM, Cr Ashlee Fitzpatrick

Officers:

Brendan McGrath, Chief Executive Officer Alan Clark, Director Infrastructure Services Jaime Carroll, Director Community Wellbeing Sarah Brindley, Director Corporate Services

### 4. ABSENT

Councillors:

Cr David Fuller

Officers:

Nil.

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 M Currie)**

***That Council read and confirm the Minutes of the Ordinary Meeting of 17 September 2019 and the Special Meeting of 23 September 2019 as a true and accurate record of the proceedings of the meetings.***

**Carried**

8. **CONFLICT OF INTEREST DISCLOSURE**

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

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

9. **RECEPTION OF PETITIONS**

10. **HEARING OF DEPUTATIONS**

**PRESENTATION OF REPORTS**

11. **COUNCILLOR REPORTS**

**Cr Harry Bussell:**

**Speech on Tourism Grants – Transmoto 8 Hour Motorbike Race**

Thank you Mr Mayor, this is a report about the tourism grants we give out every year, and this grant was for the Transmoto 8 hour Motorbike Race at Bobinawarra on the 21<sup>st</sup> and 22<sup>nd</sup> September. It was a \$5000.00 grant.

The event sold out overnight online. There were 470 riders and there was 150 riders on a waiting list. So that is a lot of interest there.

- There was 238 entrants in the Wangaratta 8 hour event it will be there only race for the year.
- 287 entrants was the first time they have ridden in the Wangaratta region.
- 91% of the riders intend to come back for the 2020 race.
- Participants spent \$180,000.00 in the region.
- 470 riders and in total 800 total attended the event.
- Online content pre and post event reached 690,000.00 people.
- 83% spent more than 2 days here. 93% travelled more than 150kms.
- 36% of people came from interstate.

The Transmoto raised \$3000.00 on Saturday afternoon for the prevention of suicide in Wangaratta.

A personal thank you to you Mr Mayor, for your work as the auctioneer, for auctioning off pole position to this event. So well done we have raised \$3000.00 there.

The Transmoto wants to thank our council for our hands on support for this event. They were impressed by that and so, I am very proud to be a part of the team that can do things here in Wangaratta and we can change people's lives for the better.

### **King Valley Arts – Moyhu Hall Event**

The next report I have got is quite an interesting one.

The King Valley Arts put on a performance which was called "Three Birds, One Cock" at the special Moyhu Hall, it's a great place the Moyhu Hall.

A couple of months later the Hall Committee received a thank you card from the performers, which was Cathy, Anna and Maddie which says:

*"Dear Anita, Louisa, Neil and team at the Moyhu Hall,  
We just wanted to follow up and say a huge thank you for having us bring and show to Moyhu. The hall was a very special one to perform in and we felt very, very spoilt with the delicious soup and treats afterwards from the CWA. We would love to come back again someday. Moyhu was definitely the highlight on our Regional Arts Victoria Tour".*

This great old hall deserves to have some love and care and have a bit of money spent on it.

Thank you Mr Mayor.

### **Councillor Speeches**

Please follow link [15 October 2019 Council Meeting Video](#) and refer to minutes 7:30 to 11:06 for councillor speeches related to Item 11 Councillor Reports.

**OFFICERS' REPORTS**

**12. EXECUTIVE SERVICES**

Nil

### 13. CORPORATE SERVICES

#### 13.1 ANNUAL REPORT 2018/19

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 15 October 2019  
**Author:** Manager - Finance  
**File No:** IC19/460

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 for Council consideration of the Annual Report 2018-2019.

#### **RECOMMENDATION:**

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

***That Council receives and adopts the Annual Report 2018-2019.***

***For: Councillor H Benton, Councillor H Bussell, Councillor A Fitzpatrick, Councillor M Currie and Councillor D Rees***

***Against: Councillor K Clarke OAM***

**Carried**

#### Background

Sections 131 and 134 of the *Local Government Act 1989* (the Act), require all councils to prepare, and meet to consider, an Annual Report for the preceding financial year. Section 133 of the Act requires councils to forward a copy of their Annual Report to the Minister for Local Government by 30 September each year. A copy of the Annual Report was forwarded to the Minister by the due date.

The 2018/19 Financial Statements, the 2018/19 Performance Statement and the 2018/19 Governance and Management Checklist required to be included in the Annual Report, were adopted in-principle at the Special Council Meeting held 23 September 2019.

The Annual Report meets the State Government's performance reporting framework that became mandatory from 1 July 2014. All councils are required to report results as part of their Annual Report. The framework was introduced to ensure all councils measure and report on their performance in a consistent way. The Annual Report also follows the Local Government Better Practice Guide 2018-19 Report of Operations, published by the Department of Environment, Land, Water and Planning (DELWP).



## **Implications**

### **Policy Considerations**

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

### **Financial/Economic Implications**

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

### **Legal/Statutory**

This report has been prepared in accordance with the Act, the Local Government (Planning and Reporting) Regulations 2014 and Council Plan 2017 - 2021.

### **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:

### **Pillar**

We are Sustainable

Our legislative, governance and compliance requirements will be met.

## **Risk Management**

There are no risks identified for the subject of the report.

## **Consultation/Communication**

Section 134 of the Act requires Council to consider the Annual Report at a meeting of Council held as soon as practicable after the Council has sent the annual report to the Minister. The meeting must be advertised at least 14 days before the meeting is held and the advertisement must also advise where copies of the annual report can be obtained. The meeting must be kept open to the public while the annual report is discussed.

### **Options for Consideration**

The Annual Report process is legislated process and therefore no alternative options exist.

### **Conclusion**

In accordance with the requirements of the Act, the Wangaratta Rural City Council prepared an Annual Report for the financial year 2018/19 and submitted the Report to the Minister for Local Government within three months of the end of the financial year. It is now appropriate for Council to adopt the Annual Report 2018-2019.

### **Attachments**

- 1 Annual Report 2018-2019 

### **Public Questions**

Please follow link [15 October 2019 Council Meeting Video](#) and refer to minutes 12:15 to 14:26 for public questions and responses related to Item 13.1 Annual Report 2018/19.

### **Councillor Speeches**

Please follow link [15 October 2019 Council Meeting Video](#) and refer to minutes 14:38 to 17:22 for councillor speeches and responses related to Item 13.1 Annual Report 2018/19.

## 13.2 ELECTION PERIOD POLICY

<b>Meeting Type:</b>	<b>Ordinary Council Meeting</b>
<b>Date of Meeting:</b>	<b>15 October 2019</b>
<b>Author:</b>	<b>Governance &amp; Reporting Advisor</b>
<b>File Name:</b>	<b>Elections</b>
<b>File No:</b>	<b>IC19/608</b>

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

### **Executive Summary**

This report is presented to Council to approve revisions to the Election Period Policy 2019.

#### **RECOMMENDATION:**

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

***That Council adopts the revised Election Period Policy 2019.***

**Carried**

### **Background**

Victorian Council elections will be held on 24 October 2020.

*The Local Government Act 1989* (the Act) prescribes the process for conducting local government elections. Section 93B of the Act requires that following the general election which was held on 22 October 2016, Council continues to maintain an Election Period Policy by reviewing and, if required, amending the policy.

The Election Period Policy explains to the community how Council will conduct its business immediately prior to an election. This is to ensure the election is not compromised by inappropriate electioneering and to safeguard the authority of the incoming council.

The policy must cover the following three matters:

1. Preventing inappropriate decisions and misuse of resources;
2. Limiting public consultation and council events; and
3. Equitable access to council information.

Council adopted its current Election Period Policy 2016 at the 15 March 2016 Ordinary Council Meeting. Council's Election Period Policy is classified as a Council Policy which can be approved by Council upon recommendation by the Chief Executive Officer.

## Summary of Revisions

The following revisions have been made to the Election Period Policy 2019:

- Dates and times relating to the election have been updated;
- References to Administrators have been removed and replaced with Councillors, where appropriate;
- Position titles have been updated, where required; and
- Referenced documents have been updated, where required (e.g. Annual Report 2019/20).

## Policy Considerations

Council's current Election Period Policy is relevant to this report. The Election Period Policy 2016 is classified as a Council Policy.

The purpose of this proposed Election Period Policy is to ensure that:

- The ordinary business of local government in the Rural City of Wangaratta continues throughout the election period in a responsible and transparent manner, and in accordance with statutory requirements and established 'caretaker' conventions; and
- The general elections for the Wangaratta Rural City Council are on Saturday 24 October 2020 and any subsequent elections are conducted in a manner that is ethical, fair and equitable and is publicly perceived as such.

This Election Period Policy will commit Council, during the election period to:

- Avoid making significant new policies or decisions that could unreasonably bind a future Council; and
- Ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the elections.

The Election Period Policy addresses:

- Commitment
- Election period notification
- Major policy decisions prohibition
- Significant decisions prohibition
- Use of Council resources
- Provision of information
- Public consultation
- Council communications and publications
- Public statements
- Improper use of position
- Annual Report
- Social media
- Functions and events
- Travel and accommodation

- Administrator expenditure
- Advice to candidates about the election process
- Monitoring and enforcing the policy.

### **Financial/Economic Implications**

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

### **Legal/Statutory**

Section 93B of the Act requires Council to prepare and adopt an Election Period Policy 12 months before the commencement of each subsequent general election period. The Election Period commences 32 days prior to the election, at midnight 22 September 2020. As such this revision is slightly late. Legal advice has been taken to assess the impact of the delay and the decision taken to proceed with the minor updates to this policy.

### **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 (2019 Revision):

#### **Pillar**

We are Sustainable

#### **Our Non-Negotiables**

Our legislative, governance and compliance requirements will be met

### **Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Breach of legislative requirements under the Act	Possible	Minor	Medium	Review of Council's Election Period Policy in accordance with legislative requirements



The policy mitigates exposure to the risk that some election candidates may be unfairly treated during the election process.

### **Conclusion**

The Election Period Policy 2019 was revised giving consideration to contemporary better practice advice and the requirements of the Local Government Act 1989.

The Election Period Policy ensures that the ordinary business of local government in the Rural City of Wangaratta continues throughout the election period in a responsible and transparent manner, and in accordance with statutory requirements and established 'caretaker' conventions.

### **Attachments**

- 1 Election Period Policy 2016 
- 2 Election Period Policy - Revised October 2019 

### 13.3 2018/19 ANNUAL COUNCIL PLAN MEASURES REPORT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 15 October 2019  
**Author:** Governance & Reporting Advisor  
**File Name:** 2018-2019 - Council Plan Reporting  
**File No:** IC19/617

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

#### **Executive Summary**

This report is presented to Council to communicate Council's performance against the 2017-2021 Council Plan (2018 Revision) for the 2018/19 financial year.

#### **RECOMMENDATION:**

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

***That Council receives the Council Plan 'What You Will See in 2018/2019' Annual Report and the Council Plan Measures Annual Report.***

**Carried**

#### **Background**

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

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

#### **Implications**

Two reports are provided.

The first being the Council Plan 'What You Will See in 2018/2019' Annual Report and it provides information on the achievement of project or initiatives to be delivered in the 2018/19 financial year.

Of the 44 projects or initiatives identified by Council to be completed during 2018/19 and listed within 2017-2021 Council Plan (2018 Revision) under 'What You Will See in 2018/2019', the following has been achieved:

- Twenty-eight (28) projects or initiatives have been completed;
- Fourteen (14) remain in progress; and
- Two (2) have been placed on hold.

This provides Council with a completion rate of 64% with the majority of the fourteen in-progress projects or initiatives to be delivered in early 2019/20.

The second report being provided is the Council Plan Measures Annual Report which provides annual results against measures that were set in the Council Plan.

Of the 17 measures set in the 2017-2021 Council Plan (2018 Revision) Council achieved the following:

- Ten measures achieved green indicators meaning that performance was within 5% of target;
- Two measures achieved yellow indicators meaning that that performance was within 10% of target; and
- Five measures achieved red indicators meaning that performance was more than 10% outside of target.

Exceptional performance has occurred in a number of areas including the percentage change in housing lots released in the municipality, the average number of days to close a customer request and the percentage of registered class 1 and 2 food premises that received an annual food safety assessment.

### **Policy Considerations**

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

### **Financial/Economic Implications**

There is no immediate financial impact related to this report.

### **Legal/Statutory**

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

### **Social**

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

### **Environmental/Sustainability Impacts**

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



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

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

### **WE ARE SUSTAINABLE**

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

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

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

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

### **WE ARE INSPIRED**

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

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

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

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

### **Risk Management**

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

### **Conclusion**

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

### **Attachments**

- 1 'What You Will See in 2018/2019' - Annual Report 
- 2 Council Plan Measures - Annual Report 2018/19 

## 14. COMMUNITY WELLBEING

### 14.1 EVENT POLICY

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 15 October 2019  
**Author:** Events Attraction Coordinator  
**File No:** IC19/272

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 endorsement of the Rural City of Wangaratta Event Policy which has been developed in response to the Events & Attraction Strategy 2018-2023.

This is a framework policy that seeks to document existing practices, create clarity for event requirements and introduces a requirement for an Event Permit to be issued by Council (for low, medium and high impact events).

The policy informs the event applicant of the procedures and application timelines which will set expectations and make it easier for the public, including community groups, individuals and event proponents and organisers to engage with Council relating to events.

This policy provides the basis for further operational documents being developed as part of this project such as notification and application forms, event guides and process flowcharts.

#### **RECOMMENDATION:**

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

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

- 1. Endorses the draft Events Policy for public exhibition***
- 2. Invites public submissions regarding the Policy until close of business on Friday 15 November 2019***
- 3. If no submissions are received under the Local Law, resolves to approve the Events Policy 2019 revision without further resolution.***

**Carried**

## **Background**

Council recognises and facilitates the significant contribution that events make to the social and economic fabric of our community. Many events are hosted on council land or within council facilities that are delivered by external event organisers and community groups.

These events are vital for our community, but require considered management to ensure they adequately mitigate risk and provide a safe and enjoyable event for our visitors and community.

This policy will support council to facilitate the delivery and management of external events through the provision of structured processes, procedures and controls from the application stage through to the event delivery.

This policy clearly defines events categories, the benefits that events should provide to the community, expected timelines for event applications to be submitted and approved, how applications will be assessed and the appeals process, should an event be declined.

## **Implications**

### **Policy Considerations**

This policy has been developed to support the implementation of the Events & Attraction Strategy 2018-2023.

### **Financial/Economic Implications**

There are no financial or economic implications identified for the subject of this report. Budget has been allocated for the completion of the project (including policy development, notification and application forms, event guides and process flowcharts).

	2019/2020 Approved Budget for this proposal \$	This Proposal \$	Variance to Approved Budget \$	Comments
Revenue/Income	-	-	-	-
Expense	\$29,000	-	-	\$29,000 is the total project budget.
Net Result				

### **Legal/Statutory**

The event application process will provide applicants with clear guidelines however regulated approvals such as getting a Planning Permit for a Prescribed Temporary Structure or an Occupancy Permit for a Place of Public Entertainment sit outside of this policy.

## **Social**

Events provide significant benefit to the social, cultural, health and wellbeing of the community. Supporting community organisations who coordinate events along with internally curated events allows our community to thrive, improving community cohesiveness, reducing isolation and barriers to connectivity and community wellbeing.

Events can help to make our region a great place to live by bringing communities together, providing entertainment, and celebrating our heritage and special interests.

## **Environmental/Sustainability Impacts**

The policy takes in to consideration and events are assessed based on the below;

- The level of disruption to the local community and minimising this where possible;
- Suitable risk management throughout planning and delivery;
- Minimal impact on the site being used; and
- Protection of trees, shrubs, lawns, flowerbeds and park infrastructure.

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

This report supports the 2017-2021 Council Plan:

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

*An events strategy that focuses on delivering and supporting a range of events throughout the municipality.*

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

*You will be able to see the direction of our projects and services – in partnership with you we are focused on achieving a sustainable and vibrant future and our plans and decisions will be consistent with that.*

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

*We will always look for ways to improve – we will research, explore and review to make sure we are always getting better at what we do.*

### **The non-negotiables**

*We will set standards for responding to you – whether it is in person, on the phone, or via email or post, and we will consistently meet those standards. Getting back to you is a priority.*

## **Strategic Links**

### **a) Events & Attraction Strategy 2018-2023**

This policy is in direct response to the Events & Attraction Strategy 2018-2023.

## **Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
If there is no policy	Moderate	There is no guiding framework for approving and managing events within the municipality.		Developing a policy to address the needs of the organisation and the community.
Outdated documentation	Extreme	Event organisers have a convoluted process to follow that isn't clear and what to expect.		Preparing the updated operational documents to add to the suite of collateral for the events team and event organisers.

## **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform		
Consult	Provide RCOW staff the opportunity to give feedback.	One on one meetings with RCOW staff from 13 Council departments. Workshop with RCOW staff 30/7/19.
	Provide event organisers the opportunity to respond.	The draft policy was sent to key event organisers/managers, the Arts, Culture & Heritage Advisory Committee and Section 86 Committees for preliminary feedback.
	Community Consultation	Following the Council meeting on 15/10/19, the policy will be out for community consultation for a period of 21 days.
Involve	Community Consultation	Key event proponents and the community are invited to provide feedback on the policy.
Collaborate	Feedback considered	Feedback that is submitted is considered in the policy draft and operational documents.
Empower	Training sessions.	Training sessions to present the new documents and provide

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
		guidance to the community and event organisers is planned for February 2020.

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

### **Conclusion**

Events contribute to residents having a sense of pride in our community, developing skills and learning opportunities for volunteers. Events allow residents to share their pride and be great ambassadors for our region while positively contributing to the economy and growth of the region.

This policy and associated documents will ensure that all events held on public or private land within the Rural City of Wangaratta Local Government Area are effectively managed, and negative impacts to the community and environment are avoided or minimised.

Therefore, the adoption of this policy will provide the events team with the necessary framework to approve and manage events being conducted within the Rural City of Wangaratta.

### **Attachments**

- 1 Draft Event Policy 

### **Public Questions**

Please follow link [15 October 2019 Council Meeting Video](#) and refer to minutes 21:05 to 26:35 for public questions and responses related to Item 14.1 Event Policy.

### **Councillor Speeches**

Please follow link [15 October 2019 Council Meeting Video](#) and refer to minutes 26:50 to 27:58 for councillor speeches and responses related to Item 14.1 Event Policy.

## 14.2 PROPOSED USE OF WISAC RESERVE FUNDING-BASKETBALL BACKBOARDS AND RINGS

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 17 September 2019  
**Author:** Executive Assistant Community Wellbeing  
**File No:** IC19/383

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

### **Executive Summary**

This report is presented to Council to seek endorsement for the use of WISAC reserve funds for the purchase and installation of two basketball backboards and rings for the centre, including works to the supporting backboard structures as required.

#### **RECOMMENDATION:**

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

***That Council transfer \$12,067.00 from the WISAC reserve for the supply and installation of two basketball backboards, rings and side swinging wall brackets.***

**Carried**

### **Background**

The WISAC reserve exists to support planning, upgrades and works to the facility. The financial contributions that make up the reserve are a result of the profit share arrangement that council has in its contractual agreement with the YMCA for the operational management of the facility. In this contract, one third of annual profits are returned to the reserve.

Within the WISAC facilities, Courts 2 and 3 can be used in a 'long court' configuration, whereby the combined area is used as a larger court with backboards and rings at each end provided by cantilevered structures. These are currently not in serviceable condition, and do not comply with current standards.

From discussions with Wangaratta Basketball Incorporated, indoor basketball facilities at WISAC are currently limited in their ability to host large events due to this issue. Replacing the backboards and rings for this arrangement with modern Perspex backboards and spring activated rings will allow this long court arrangement to be brought back into use, improving capacity for basketball training and events.

## **Implications**

### **Policy Considerations**

Council's Procurement Policy

### **Financial/Economic Implications**

The use of these funds will reduce the WISAC reserve funds from approximately \$122,000 to \$110,000.

### **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 Thriving

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

To ensure we are responding to the current and future recreational needs of our community and creating sustainable and quality recreation reserves throughout our municipality

### **Strategic Links**

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

In 2030 Sport, recreation, arts and culture play an important role in bringing communities together and improving personal and community health and wellbeing.

### **Risk Management**

There are no moderate or major risks identified for the subject of this report.



### **Consultation/Communication**

Consultation has been undertaken with the Wangaratta Basketball Incorporated regarding the proposed installation.

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 proposed upgrade of the two backboards and rings will provide substantial benefit to the basketball community which will alleviate the short term strain on the provision of appropriately sized basketball court configuration for large events and training.

### **Attachments**

Nil.

### **Councillor Speeches**

*Please follow link [15 October 2019 Council Meeting Video](#) and refer to minutes 29:41 to 30:04 for councillor speeches and responses related to Item 14.2 Proposed Use of WISAC Reserve Funding – Basketball Backboards & Rings.*

**15. INFRASTRUCTURE SERVICES**

Nil

## 16. DEVELOPMENT SERVICES

### 16.1 PLANNING PERMIT APPLICATION PLNAPP19/088 - TWO LOT SUBDIVISION - 268 CARBOOR WHOROULY ROAD, WHOROULY

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 15 October 2019  
**Author:** Senior Planner  
**File No:** IC19/600

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

#### Executive Summary

This report is presented to Council recommending that a Notice of Decision to refuse to grant a permit be issued.

This planning permit application was presented to Council at the ordinary Council meeting of 20 August 2019, recommending that Council issue a Notice of Decision to refuse to grant a permit. Council resolved to advertise the application as required under Section 52 of the *Planning and Environment Act 1987* and consider the application at a future Council meeting.

This application seeks approval for the subdivision of the land into two lots to excise off an existing dwelling at 268 Carboor-Whorouly Road in Whorouly. The site currently measures 83.96 hectares. The application proposes to create a lot measuring 6602 square metres containing the existing dwelling with a balance lot measuring 83.3 hectares containing farming infrastructure.

The subject site is located in the north west of the King Valley, recognised as a significant food and wine producing area and is identified in the Hume Regional Growth Plan (2014) as being of strategic agricultural significance at a state and regional level. Locally the site is within the Very High and Moderate agricultural versatility ranges, denoting farming land capable of high productivity and suited to a range of agricultural practices.

An application to subdivide the subject land into two lots to excise off an existing dwelling was refused by Council in 2016 with no appeal to Victorian Civil and Administrative Tribunal (VCAT).

The proposal has been advertised in accordance with Council's resolution at the August 2019 meeting, with notices sent to adjacent and nearby land owners and occupiers. No objections were received. Five supporting submissions were received with the primary theme of succession planning which is not considered in the Planning Scheme.

The proposal has been referred to referral authorities both externally and internally with no objections received.

The proposal has been assessed against the provisions of the Wangaratta Planning Scheme and it is considered the proposal does not support the Purpose of the Farming Zone and does not accord with the appropriate decision guidelines of the Farming Zone. When assessed against the state and local policy it is concluded that application should be refused. The proposal is not supported by state or local strategic directions.

**ORIGINAL RECOMMENDATION:**

*That:*

1. *Council issues a Notice of Decision to Refuse to Grant a Permit in respect to Planning Permit Application PlnApp19/088 for a two lot subdivision at 268 Carboor-Whorouly Road, Whorouly, based on the following grounds:*
  - (a) *The proposal does not support the Purpose of the Farming Zone and does not accord with what are considered to be appropriate decision guidelines at Clause 35.07.*
  - (b) *The proposal when assessed against the relevant state and local planning policy is not considered to be supported. The relevant planning policy being –*
    - *Clause 11.01-1S*
    - *Clause 13.02-1S*
    - *Clause 13.07-1S*
    - *Clause 14*
    - *Clause 14.01-1S*
    - *Clause 17*
    - *Clause 21.01*
    - *Clause 21.02*
    - *Clause 21.05*
    - *Clause 22.01-2*
  - (c) *The proposal is not supported by state and local strategic documents being –*
    - *Hume Regional Growth Plan 2014*
    - *Rural City of Wangaratta Our Roadmap for the Future Council Plan 2017-2021 Revised 2019*
    - *An Assessment of the Versatility of Agricultural Land in the Rural City of Wangaratta April 2000 (Adopted)*
    - *Rural Strategy 2015 (Adopted)*
2. *The applicant, referral authorities and VCAT are notified of Council's decision.*

**ALTERNATE MOTION:**

**(Moved: Councillor H Bussell/Councillor H Benton)**

***That Council issues / grants a planning permit with respect to Planning Permit Application PlnApp19/088 for a two lot subdivision at 268 Carboor-Whorouly Road, Whorouly, subject to conditions listed below, and in accordance with endorsed plans.***

**Conditions:**

**GENERAL**

- 1. The subdivision layout as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.***
- 2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***
- 3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.***
- 4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.***

**SECTION 173 AGREEMENT**

- 5. Prior to the issue of a Statement of Compliance, the owner of the lots must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987, and make application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act which provides that:***
  - a) The land described as Lot 2 on the endorsed plans will not be further subdivided so as to create additional lots.***

***The owner/s must pay all costs (including Councils costs) associated with the preparation, execution, registration and (if later sought) cancellation of the Section 173 Agreement.***

**ENGINEERING**

**General**

- 6. Plans and specifications must be prepared at the permit holder's expense by a qualified engineer and approved by the Responsible Authority before construction begins. The Authority will only approve plans and specifications complying with the current edition of the Local Government Infrastructure Design Association's Infrastructure Design Manual (IDM), and drawn in***

**AutoCAD or equivalent.**

- 7. The permit holder must complete full construction of all new access ways, drainage and related infrastructure. All works must conform to plans and specifications approved by the Responsible Authority.**

**Drainage**

- 8. Prior to the issue of a statement of compliance the permit holder must satisfy the Responsible Authority that;**
- a) All stormwater runoff originating from or transferred through each Lot in a 10% Annual Exceedance Probability (AEP) rainfall event will either be retained on the Lot or collected and conveyed by underground pipes or open channels to a legal point of discharge. In a 1% AEP rainfall event all stormwater runoff will be collected and conveyed to a satisfactory destination, without adversely affecting any person, infrastructure or natural features in or beyond the Lot**
  - b) No part of any open channel conveying stormwater from or through the developed site will pass through the zone of influence of an effluent disposal field.**

**Property access**

- 9. Prior to the issue of a statement of compliance the permit holder must satisfy the Responsible Authority that a vehicle crossing providing each Lot with safe and convenient access to and from a suitable public road has been designed, constructed, sealed and drained to IDM standards. Where a rear Lot is accessed by an extended driveway that forms part of that Lot, the driveway must be constructed to the rear boundary of the front Lot in a manner that provides effective dust suppression and drainage.**

**Construction**

- 10. Before construction begins, and during construction, effective measures must be taken to:**
- a) Secure occupational health and safety; and**
  - b) Locate any existing underground services; and**
  - c) Implement effective traffic management and environmental controls; and**
  - d) Establish and maintain safe construction vehicle access to the site; and**
  - e) Maintain vehicle and machinery hygiene; and**
  - f) Avoid the spread of soil-borne pathogens and weeds; and**
  - g) Minimise erosion, sedimentation and contamination; and**
  - h) Reduce the impact of noise, dust and other emissions; and**
  - i) Prevent mud, dirt, sand, soil, clay or stones from entering the drainage system; and**
  - j) Avoid having such materials deposited on public land by construction vehicles;**

**k) Establish and maintain all recommended Tree Protection Zones.**

11. **No excavated or construction materials may be placed or stored outside the site area or on adjoining road reserves or nature strips.**
12. **No tree may be removed unless that tree is clearly designated for removal in the approved plans, except with the prior written agreement of the Responsible Authority.**
13. **Prior to the issue of a statement of compliance, all areas and underground services disturbed in the course of works must be restored to their original condition, to the satisfaction of the Responsible Authority.**

**Goulburn Murray Water**

14. **All works within the subdivision must be done in accordance with EPA Publication 960 “Doing It Right on Subdivisions, Temporary Environmental Protection Measures for Subdivision Construction Sites”, September 2004.**
15. **Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.**
16. **Prior to the issuing of Statement of Compliance, all wastewater from the existing dwelling on Lot 1 must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent and must be disposed of in accordance with the Land Capability Assessment RM26102016-1A prepared by Damien Porta, Porta Environmental Pty Ltd, dated November 2016. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Approval.**
17. **Where the following features are present in proximity to the subject land, the wastewater disposal area must be located:**
  - **Above the 1 in 100 year flood level**
  - **At least 50 metres from any waterways**
  - **At least 40 metres from the nearest drainage line**
  - **At least 60 metres from any dams**
  - **At least 20 metres from any bores.**
18. **Prior to the issuing of Statement of Compliance, the existing wastewater disposal area on Lot 1 must be decommissioned once the new area is installed and operational to the satisfaction of Council’s Environmental Health Department.**
19. **Prior to the issuing of Statement of Compliance, the existing wastewater disposal area on Lot 2 must be decommissioned and the associated septic tank must be decommissioned to the satisfaction of Council’s Environmental Health Department.**
20. **Prior to the issuing of Statement of Compliance, the second dwelling must be decommissioned and must not be connected to the new wastewater disposal system. The building must not contain any wastewater producing facilities or rooms that could be used as bedrooms.**

**Expiry****21. This permit will expire if -**

- a) **The plan of subdivision is not certified within two years from the date of this permit; and**
- b) **The subdivision is not completed within five years from date of certification of the plan of subdivision.**

**The Responsible Authority may extend the time at part (a) to gain certification if a request is made in writing before the permit expires or within six months after.**

**Planning Note/s**

- a) **Before undertaking any works that cross onto public land or roads, the permit holder must obtain a permit from the relevant authority giving Consent to Work within a Road Reserve.**

**For: Councillor H Benton, Councillor H Bussell, Councillor A Fitzpatrick and Councillor D Rees**

**Against: Councillor M Currie and Councillor K Clarke OAM**

**Carried**

**Property Details**

Land/Address	268 Carboor-Whorouly Road, Whorouly. (Lot 4 on Plan of Subdivision 410739)
Zones and Overlays	Farming Zone Bushfire Management Overlay (part)
Why is a permit required	Pursuant to Clause 35.07-3 of the Farming Zone a permit is required to subdivide land.  Pursuant to Clause 44.06-2 of the Bushfire Management Overlay a permit is required to subdivide land.

**Site Plan:**





### **Proposal in Detail**

This proposal is for a two lot subdivision that excises off an existing habitable dwelling on farming land measuring in area 83.96 hectares. Farming infrastructure and farm vehicle access for stock transfers are within 45 metres of the dwelling that currently is associated with agricultural activity on the land.

Proposed Lot 1 measures 6602 square metres and contains the existing habitable dwelling, shedding and a decommissioned dwelling. Access will be by an existing access point. This effectively creates what is called a 'rural lifestyle lot' whereby it is considered that it is not associated with agricultural activity.

Proposed Lot 2 measures 83.3 hectares and contains agricultural infrastructure. Access will be via a proposed new access from Carboor-Whorouly Road adjacent to the northern shared boundary with Lot 1. The shedding, stock yards and farm vehicle access are all within 45 metres of the habitable dwelling proposed on Lot 1. The plans indicate farm vehicles manoeuvring directly adjacent to the northern and western shared boundaries. The dwelling will be bound on three sides by farming activity in close proximity to the rural residential lifestyle with no proposed buffering from vegetation or space. A cattle loading ramp is located approximately 56 metres from the dwelling.

This lot has potential to be subdivided down into the minimum lot sizes of 40 hectares with an as of use right of the land for a further dwelling on each lot ultimately resulting in three dwellings on this site rather than the maximum of two allowable under existing use rights at this current time.

The subject site is an ongoing farming business, located in farming land to the south east of the municipality, where there are still many larger farms than the minimum of 40 hectares.

This area of the municipality has been identified as being of Very High, High and Moderate agricultural versatility. This subject land is productive farming land currently being used to crop and graze, but which has potential to be productively used in a variety of other agricultural ways.

The land is partially affected by the Bushfire Management Overlay.

There is an Area of Cultural Heritage Sensitivity over the majority of the site due to the waterways, however the proposal is exempted from the need for a Cultural Heritage Management Plan.

The history of the site includes an application in 2016 for a planning permit (PInApp16/088) for a two lot subdivision (house excision) which was refused. There was no appeal to VCAT.

### **Summary of Key Issues**

- Conflict between farming activities and rural lifestyle living.
- Incremental loss of productive agricultural land due to exposure to potential for proliferation of dwellings.

### **Public Notification and Referral**

#### Public notice

The proposal was advertised pursuant to Section 52 of the *Planning and Environment Act 1987*. Five submissions were received that supported the proposal based on the view that the application supports family and farm business succession planning. This is not a matter that is considered in the Planning Scheme.

#### Referrals

<b>Referrals/Notice</b>	<b>Advice/Response/Conditions</b>
Section 55 Referrals	GMW under Clause 66.02-5 as a determining authority – no objection and conditions given. CFA under Clause 66.03 as a recommending authority – no objection and no conditions given.
Section 52 notices	Nil

<b>Internal Council Referrals</b>	<b>Advice/Response/Conditions</b>
Infrastructure Services	No objection and conditions given.
Environmental Health	No response received.

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

<b>Section</b>	<b>Clause</b>	<b>Provision</b>
Planning Policy Framework	11.01-1S 13.02-1S 13.07-1S 14 14.01-1S 17	Settlement Bushfire Planning Land Use Compatibility Natural Resource Management Protection of Agricultural Land Economic Development
Local Planning Policy Framework	21.01 21.02 21.05 22.01-2	Introduction Settlement Natural Resource Management Rural Land Use and Agriculture
Zoning	35.07	Farming Zone
Overlays	44.06	Bushfire Management Overlay
Decision Guidelines	65.01 65.02	Approval of an Application or a Plan Approval of an Application to Subdivide Land

#### **Planning Policy Framework - State Policy**

##### Clause 11 Settlement

Planning is to prevent environmental and amenity problems created by siting incompatible land uses close together.

With regards to state policy at Clause 11.01-1S *the objective is to promote sustainable growth and development of Victoria through a network of settlements. The growth and development is to be focused in major regional cities and associated settlements, in accordance with the Regional Growth Plan and local strategic frameworks.*

It is considered that the proposal will not align with policy as the land is not suitable for subdivision as it is farming land. Any dwelling excised off will result in a dwelling not in association with agriculture but rather a lifestyle lot, potentially leading to conflict between uses and incremental loss of productive agricultural land.

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

The objective is to *strengthen the resilience of settlements and communities to bushfire through risk based planning that prioritises the protection of human life over other policy considerations. This is to be achieved by directing population growth and development to low risk locations ensuring access to areas where human life can be protected from the effects of bushfire.*

A planning permit is required under the Bushfire Management Overlay in line with this policy. This application was referred to the CFA.

##### Clause 13.07-1S Land Use Compatibility

The objective is to *safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off site effects. This is to be*

*achieved by ensuring the compatibility of a use and development as appropriate to the land use function and character of the area.*

The excision of the dwelling onto a smaller lot will allow for a rural lifestyle lot which is not compatible with adjoining and surrounding farming land uses. This proposal potentially sets up a situation whereby there is conflict between the uses due to residential amenity expectations on the one hand and farming activities on the other, with farming having their 'right to farm' challenged. The existing habitable dwelling is within 40 metres of the proposed access for farm vehicles, with farming activity such as stock holding pens, loading and unloading, storage of agricultural machinery and products, within 45 metres of the dwelling further compounding a potential conflict.

#### Clause 14 Natural Resource Management

*Planning should ensure agricultural land is managed sustainably, whilst acknowledging the economic importance of agricultural production.*

The subject land is currently farmed. It is considered that the proposal presented may reduce its capacity for agricultural production due to potential land use conflicts.

#### Clause 14.01-1S Protection of Agricultural Land

*With regards to Clause 14.01-1S the objective is to protect the state's agricultural base by preserving productive farmland. This is to be achieved by identifying and avoiding removal of productive farming land without consideration of the economic importance of the land. This policy also directs planning to prevent inappropriately dispersed urban activities in rural areas, protecting farming activities from incompatible uses. This policy also directs planning to limit new housing development in rural areas, directing growth to existing settlements and discouraging development of isolated small lots in rural areas.*

This application proposes a situation that could potentially result in a conflict between farming activities and rural lifestyle living; incremental loss of productive agricultural land through the potential need for further dwellings to continue to farm on the balance lot; and potential increase in price of surrounding farming land that reflects rural lifestyle lot values rather than farming land values with potential to stymie growth of surrounding agricultural businesses.

#### Clause 17 Economic Development

*Planning is to provide for a strong and innovative economy where all sectors are critical to economic prosperity.*

Agriculture, forestry and fishing is recognised in the Wangaratta Council Plan as one of the top five income generators. The protection of agricultural land is an important part of supporting agriculture as a significant economic sector in the municipality.

## Local Planning Policy Framework

### Clause 21.01 Introduction

*This current local policy identifies the fertile river valleys and the agricultural industry as being highly successful in production. Key issues include managing residential growth in existing areas and growth areas.*

The subject site is identified in 'An Assessment of the Versatility of Agricultural Land in the Rural City of Wangaratta April 2000' (referenced in the planning scheme) as partially 'Very High' and partially 'Moderate'. A 'Very High' classification denotes farming land that is of high productivity mostly on alluvial floodplain and suited to a wide variety of horticulture and cropping, dairy farming and viticulture. A 'Moderate' classification denotes a moderate to low productivity on gentle slopes commonly suited to grazing and viticulture as well as forestry. Planning is directed to preserve this productive farmland as it is of economic importance locally and regionally.

### Clause 21.02 Settlement

*This policy identifies where population growth will be managed into, stating 'Rural settlements are not suitable locations for residential development that is not associated with an agricultural use'.*

*Whorouly is identified as a rural township with residential and commercial uses, although limited development infrastructure, allowing incremental growth.*

*This local policy directs planning to support residential development in appropriate locations in the municipality, avoiding residential development in areas of environmental significance, landscape significance and of agricultural value.*

The proposal, in this instance, does not remove land from productive agricultural activity as the land around the dwelling is currently used for effluent field and house garden. However, due to the balance lot being over 80ha, there is potential to lose two more house lots (one on each of a 40ha lot) given that a dwelling on a lot of 40ha is a Section 1 use (permit not required) within the Farming Zone. A proposed subdivision of the balance lot may be considered in the future and thereby the current proposal could ultimately lead to the incremental loss of productive agricultural land given that two more dwelling sites could be developed, whereas at this time the farm is being run from one dwelling.

### Clause 21.05 Natural Resource Management

*Agriculture is a major economic industry and employment generator in the municipality. The agricultural sector is essential to the economic and social performance of the region and it is imperative that the productivity and versatility is maintained particularly for higher agricultural versatility areas.*

This policy informs that subdivision may impact on the productive performance of rural land with the construction and use of housing generating conflict between rural and lifestyle uses. The subdivision and use of the land for housing must be directly linked to agriculture. Any proposed house lot excision needs to protect



and be closely linked with the continuing productive agricultural use of the land particularly in higher productivity and versatility areas.

#### Clause 22.01 Rural Land Use and Agriculture

With regards to Clause 22.01-2 '*Subdivision in Rural Areas*' this policy identifies once again that the agricultural sector is a significant economic industry and social resource and rural subdivision that is not associated with dedicated rural activity can potentially undermine the rural sector. This could be in the form of amenity impacts, loss of productive land, infrastructure and water that could otherwise be used for agricultural production as well as increasing rural land values above the farming value.

The objectives of this policy are to ensure that land subdivision does not diminish the productivity in high and very high locations; that subdivision is not for rural lifestyle lots or development; and ensuring an adequate standard of infrastructure for rural land subdivision.

It is policy to:

- *Ensure that any subdivision proposal has a relationship with and is required to directly support the continuing operation of an existing rural use conducted on the land. Maintain agricultural production and rural uses on the land.*
- *Ensure that any subdivision proposal is compatible with and will not have an adverse impact on farming and other rural land uses on the land, adjoining land and the general area.*
- *Ensure that any subdivision proposal meets the principle of 'right to farm' in rural areas, where existing agricultural and rural uses in the area have a right to legally continue.*
- *Minimise any potential amenity impact on adjacent or nearby land and not reduce the potential for agricultural production or other rural activity.*
- *Provide for the ongoing sustainable use of the land, including consideration of environmental constraints and protection and enhancement of the natural environment.*
- *Avoid any adverse effect on existing rural and irrigation infrastructure and not affect the continuing use of this infrastructure for agricultural production.*
- *Not recognise any lots which are 'closed roads' in any re-subdivision lot entitlement calculations.*
- *Discourage house lot excisions in 'high' or 'very high' agricultural versatility areas and ensure that any excision of land in all other rural areas be linked to and required for the ongoing rural and agricultural use of the land.*
- *Discourage house lot excisions if the proposal can be otherwise met by the realignment of existing land titles.*
- *Discourage house lot excisions if the existing dwelling on the lot to be excised is required to maintain the ongoing agricultural production and rural use of the land.*

It is policy that in assessing any proposal council will consider:

- *How the land to be subdivided is used for rural activities and agricultural production, and how the proposal meets the ongoing needs for these uses.*

- *How the subdivision minimises any potential amenity impacts on adjacent or nearby land, and how agricultural production on the subject land or adjoining/nearby land is maintained.*
- *Maintenance and when possible, enhancement of existing environmental features and quality of the land.*
- *How re-subdivision proposals consider the shape, size and location of the original titles and clearly demonstrate why a new configuration is required to achieve the objectives of the scheme and this policy.*
- *Any proposal for a new lot that will have an area below the minimum subdivision size of the zone must clearly demonstrate why this size is required to accommodate the natural features and maintain agricultural production on the land.*
- *How any proposal for subdivision in ‘high’ or ‘very high’ agricultural versatility areas, other than the minor realignment of existing boundaries, can be substantiated by a ‘whole farm plan’.*
- *How the proposal can be adequately serviced with water (potable, stock and domestic and firefighting supply), power, telecommunications, drainage and all weather two-wheel-drive road access.*
- *The need to consolidate lots in the same ownership as part of a subdivision proposal in ‘high’ or ‘very high’ agricultural versatility areas if it is considered by Council that consolidation would protect the existing and future productive use of rural and agricultural land.*

## **Zoning and Overlay Provisions**

### Clause 35.07 - Farming Zone

The purpose is:

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

Pursuant to Clause 35.07-3 a permit is required to subdivide land. Smaller lots may be created if the subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.

Appropriate decision guidelines are considered to be:

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

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*

The proposal is for the excision of a house lot, that will contain a current dwelling and a decommissioned dwelling, measuring 0.6602ha, leaving a balance lot of 83.3ha. The total lot size currently is 83.96ha and comprises farm buildings and dwelling. The excision leaves farm buildings and farm vehicle access as well as stock loading infrastructure within 40m of the habitable dwelling.

Given that the application proposes to create a lifestyle lot it is considered that there is great potential for land values to increase to reflect rural lifestyle living in the area. Rural lifestyle living is popular in many municipalities including the Rural City of Wangaratta and is promoted as such by real estate agents hoping to meet market demands and maximise prices. The outcome of this change in use is known to affect surrounding farming land values, leading to increased costs to further grow productive farming enterprises or may stymie the growth of surrounding agricultural businesses.

#### Clause 44.06 - Bushfire Management Overlay

The purpose is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

Pursuant to Clause 44.06-2 a permit is required to subdivide land.

Pursuant to Clause 44.06-3 if in the opinion of the Responsible Authority any part of the requirements to provide a Bushfire Hazard Site Assessment, a Bushfire Hazard landscape Assessment and a Bushfire Management Statement is not relevant to the assessment of the application then the Responsible Authority may waive, vary or reduce the requirement. In this instance, due to the knowledge that the proposal is recommended to be refused, the requirements were waived. This has been supported at this time by the CFA.



## Decision Guidelines

### Clauses - 65.01 and 65.02

<i>Matters set out in Section 60 of the Act</i>	Considered
<i>The MPS and PPF</i>	Considered
<i>The purpose of the zone, overlay or other provisions.</i>	Considered
<i>Any matter required to be considered in the zone, overlay or other provision.</i>	Considered
<i>The suitability of the land for subdivision.</i>	The land is identified as not being suitable for subdivision as it is creating a 'lifestyle rural lot'.
<i>The existing use and possible future development of the land and nearby land.</i>	The use has been for the dwelling in association with agriculture activity. The proposed excision is considered to create a lifestyle lot that has the potential to allow for an as of right use for a dwelling on the balance lot and potential two if the land is further subdivided into two 40ha lots.
<i>The availability of subdivided land in the locality and the need for the creation of further lots.</i>	There is no need to excise the dwelling off. If a lifestyle lot is required then there are available lots in nearby settlements that are appropriately zoned and located.
<i>The availability and provision of utility services including water, sewerage, drainage, electricity and gas.</i>	There are limited services in this rural community.

### Other relevant adopted State policies/strategies

#### Hume Regional Growth Plan 2014

##### 11.2 Agriculture

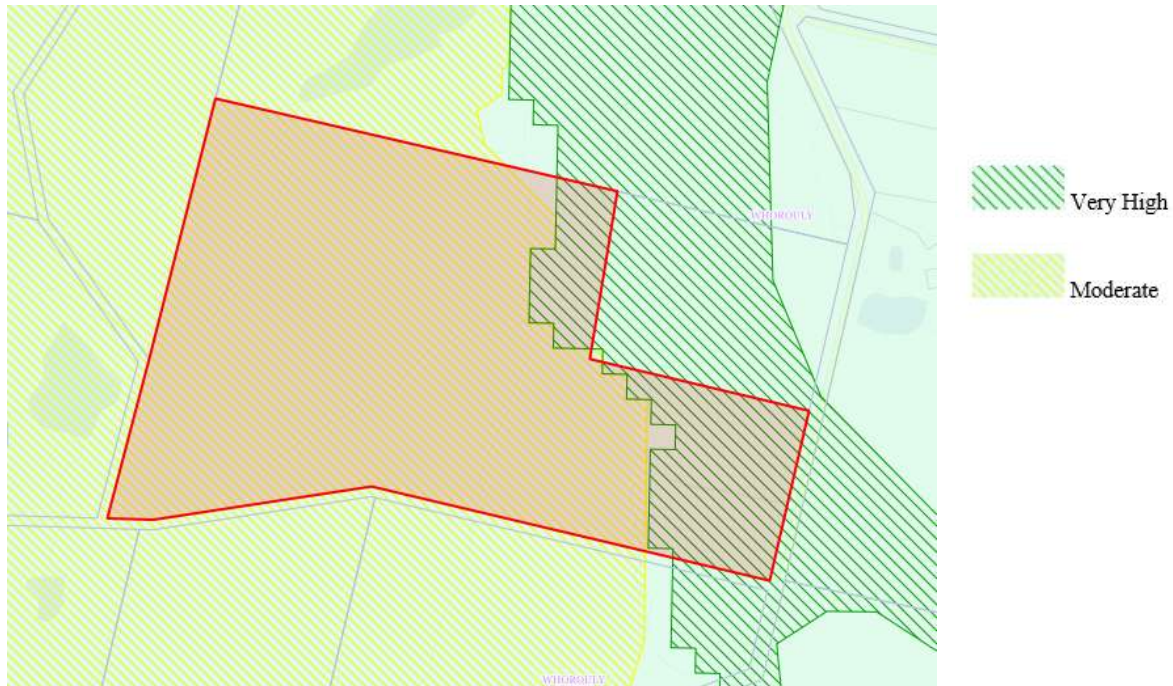
The Hume Regional Growth Plan recognises that the Hume Region will continue to be one of Australia's major food producing areas. Agriculture production will be supported through the protection and enhancement of key agricultural assets including land and water resources.

High quality agricultural land is a finite resource and is an essential basis for many forms of agriculture. The reference in the Victorian Planning Provisions at Clause 14.01 protecting 'productive farmland that is of strategic significance in the local or regional context' is an important precept in rural land use planning. Strategic agricultural areas are defined as having versatility in production. Measures to protect areas identified as such should include directing settlement to existing centres and avoiding encroachment from rural residential settlement that are non-complementary to agriculture.

## **Relevant incorporated or reference documents**

### An Assessment of the Versatility of Agricultural Land in the Rural City of Wangaratta April 2000

This document identifies the subject site as being partially included in the Very High Versatility and partially included in the Moderate Versatility (see map below). This document identifies landforms and soil types that are highly advantageous for agricultural production and directs that they be protected from competing land use.



### Council Plan 2017 - 2021

The revised Council Plan 2017-2021 identifies agriculture, forestry and fishing as one of the top five income generators for Wangaratta. The Council Plan also informs in 'Our Vision' that 'Our economy is stronger than ever. From agriculture to tourism, health to education, we have focused on building resilience and diversity and achieving a prosperity that has benefitted all our residents.' In 'Our Non Negotiables' the Plan identifies 'Our rural communities are supported and recognised as significant contributors to the economic and social character of the municipality' and that 'Our residential, rural, commercial and industrial land is thoughtfully and appropriately protected, planned and developed.'

### Conclusion

It is concluded that the proposal does not support the purpose of the Farming Zone, does not accord with what are considered to be appropriate decision guidelines and when assessed against relevant policy the proposal is found to be weighted in favour of refusal.

## **Implications**

### **Policy Considerations**

As mentioned previously, the Council Plan 2017-2021 has been referenced.

### **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. There may also be costs incurred if awarded to third parties.

### **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**

There is an Area of Cultural Heritage Sensitivity that applies to the site, however the applicant has provided information from using the Heritage Tool that informs that no Cultural Heritage Management Plan is required. After assessment against the Aboriginal Heritage Regulations 2018, it is considered that the response from the applicant has assumed that there has been previous Significant Ground Disturbance. It is considered that there may have been good cause to provide some form of evidence from the Registered Aboriginal Party or a Due Diligence CHMP, but given that this proposal was to be refused it has been considered unreasonable to insist given the costs involved. Should it go to VCAT this will be something that is determined absolutely before commencing to consider any appeal.

### **Social**

The potential social impacts are of detrimental consequences to the rural communities that rely on the preservation of their farming businesses remaining viable and intact, providing employment and social cohesion within these communities along with connectivity to the municipality. Succession Planning is not considered in the Planning Scheme.

### **Environmental/Sustainability Impacts**

None as known at this time.

### **Economic Impacts**

There is potential for economic impacts on a state, regional and local level should productive agricultural land be removed incrementally.

## **Risk Management**

Risks	Likelihood	Consequence	Rating	Mitigation Action
Refuse application as recommended – Applicant appeals decision at VCAT	Moderate	High	Moderate	Representation of Council at VCAT
Grant permit in favour of application	Moderate	High	Moderate	Refuse permit

### **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Advertising	Letters to property owners Placed on Council Homepage
Consult	All submissions considered	Submissions, if any, will be reviewed and may result in the application coming back to council for consideration
Involve	Council Meeting VCAT	Questions allowed
Collaborate	Not applicable	Not applicable
Empower	Not applicable	Not applicable

### **Options for Consideration**

1. Issue Notice of Decision to Refuse to Grant a Permit with respect to Planning Permit Application PlnApp19/088 for a two lot subdivision at 268 Carboor-Whorouly Road, Whorouly.  
Or
2. Issue a Permit with conditions.

### **Attachments**

- 1 Proposed Subdivision Plan 

### **Public Questions**

Please follow link [15 October 2019 Council Meeting Video](#) and refer to minutes 33:05 to 42:59 for public questions and responses related to Item 16.1 Planning Permit Application PLNAPP19/088 – Two Lot Subdivision – 268 Carboor Whorouly Road, Whorouly.

### **Councillor Speeches**

*Please follow link [15 October 2019 Council Meeting Video](#) and refer to minutes 43:13 to 103:50 for councillor speeches and responses related to Item 16.1 Planning Permit Application PLNAPP19/088 – Two Lot Subdivision – 268 Carboor Whorourly Road, Whorourly.*

**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:** 15 October 2019  
**Author:** Executive Assistant - Corporate Services & Councillors  
**File Name:** Assemblies of Councillors  
**File No:** IC19/509

#### 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>
3 September 2019	Wangaratta Economic Development & Tourism Advisory Committee	Attachment
12 September 2019	Audit Advisory Committee Meeting	Attachment
16 September 2019	Councillor Briefing Forum	Attachment
16 September 2019	Logo Workshop	Attachment
17 September 2019	Audit Advisory Committee Meeting	Attachment
17 September 2019	Pre-Council Meeting Discussion	Attachment
23 September 2019	Pre-Special Council Meeting Discussion	Attachment

<b>Date</b>	<b>Meeting details</b>	<b>Refer</b>
23 September 2019	Councillor Briefing Forum	Attachment
30 September 2019	Councillor Briefing Forum	Attachment
7 October 2019	Councillor Briefing Forum	Attachment

### **Advisory Committee Meetings:**

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

1. Wangaratta Economic Development & Tourism Advisory Committee Minutes – 3 September 2019
2. Audit Advisory Committee Minutes - 13 June 2019

### **RECOMMENDATION:**

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

***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 - 3 September 2019 
- 2 Assembly of Councillors - Audit Advisory Committee - 12 September 2019 
- 3 Assembly of Councillors - Councillors Briefing Forum - 16 September 2019 
- 4 Assembly of Councillors - Logo Workshop - 16 September 2019 
- 5 Assembly of Councillors - Audit Advisory Committee - 17 September 2019 
- 6 Assembly of Councillors - Pre Council Meeting Discussion - 17 September 2019 
- 7 Assembly of Councillors - Pre Special Council Meeting Discussion - 23 September 2019 
- 8 Assembly of Councillors - Councillors Briefing Forum - 23 September 2019 
- 9 Assembly of Councillors - Councillors Briefing Forum - 30 September 2019 
- 10 Assembly of Councillors - Councillors Briefing Forum - 7 October 2019 
- 11 Wangaratta Economic Development Tourism Advisory Committee Minutes - 3 September 2019 
- 12 Audit Advisory Committee Minutes - 13 June 2019 



**20. NOTICES OF MOTION**

Nil

**21. URGENT BUSINESS**

Nil

**22. PUBLIC QUESTION TIME**

*PLEASE FOLLOW LINK [15 OCTOBER 2019 COUNCIL MEETING VIDEO](#) AND REFER TO MINUTES 1:07:05 TO 1:42:45 FOR PUBLIC QUESTIONS AND RESPONSES RELATED TO ITEM 22 PUBLIC QUESTION TIME.*

**23. CONFIDENTIAL BUSINESS**

Nil

**24. CLOSURE OF MEETING**

The Meeting closed at 7:39pm.