

Agenda

For the Ordinary Council Meeting

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

Date: Monday, 21 September 2020

Time: 6.00pm



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

2. OPENING PRAYER

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

3. PRESENT

4. ABSENT

Alan, Clark, Director Infrastructure Services.

5. ACCEPTANCE OF APOLOGIES & GRANTING OF LEAVE OF ABSENCE

ORDER OF BUSINESS

6. CITIZEN CEREMONY

7. CONFIRMATION OF MINUTES

RECOMMENDATION:

That Council read and confirm the Minutes of the Ordinary Meeting of 25 August 2020 as a true and accurate record of the proceedings of the meeting.

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

Nil

OFFICERS' REPORTS

12. EXECUTIVE SERVICES

Nil

13. CORPORATE SERVICES

13.1 ICT STRATEGY TENDER - CORE BUSINESS SYSTEM CONTRACT

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Manager Customer, Digital & Transformation Services
File No: IC20/1452

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

Executive Summary

This report is presented to Council to provide details of the evaluation of contract C23111 – Core Business Systems.

As part of Council's ICT Strategy, the Core Business Platform project aims to introduce a single cloud-based Software-as-a-Service platform that supports a large component of the services facilitated in a Local Government setting, to enable improved productivity and mobility.

RECOMMENDATION:

That Council:

- 1. Authorises the Chief Executive Officer to sign documents to award contract C23111 – Core Business System, up to the value detailed in the Core Business System Evaluation Report (see Confidential Attachment);***
- 2. Authorises the Chief Executive Officer to apply Council's Common Seal to documents for contract C23111 – Core Business System, when available; and,***
- 3. Discloses the final contract price for contract C23111 – Core Business System at the next available Council Meeting following contract signing.***

Background

In October 2019 Council's ICT Strategy was commissioned, following an extensive organisational Business Health Check. This strategy guides Council's efforts to achieve its desired digital transformation. Digital transformation is one of Council's top priorities, and achieving that priority will help better meet changing and growing Customer and Council business expectations and need.

The ICT Strategy's five-year road map identified 11 critical strategic initiatives and provides a timeline for implementation of 28 'must do' actions.

One of the critical strategic initiatives is the consolidation of the core business systems onto a single cloud-based platform, followed by the effective implementation of the following software functionality:

1. Asset Operations and Maintenance
2. Customer Relationship Management
3. Regulatory and Compliance Management
4. Document and Records Management
5. Financial Management
6. Property and Revenue Management
7. Procurement and Inventory Management
8. Spatial Management
9. Core Platform
10. Strategic Asset Management

Based on extensive consultation with key business owners across Council, business requirements were developed for all functional modules.

The procurement methodology was undertaken in two parts.

An Expression of Interest (EOI) for contract C23111 – Core Business System was advertised publicly as follows:

Advertisement	Date
Eprocure	3 March 2020

The Expression of Interest closed at 5:00pm on 4 May 2020.

7 EOI submissions were received.

The EOI evaluation team included the:

- Asset Planning Coordinator;
- Business Systems Coordinator;
- Director - Development Services;
- Director - Corporate Services;
- Performing Arts Centre Coordinator;
- Manager - Customer, Digital & Transformation Services; and,
- Consultant (Corporate Strategic Systems)

Based on the Evaluation Team's recommendation, a selective tender was undertaken.

The selective tender closed at 12:00pm on 31 August 2020. One tender was received. The tender evaluation team included the:

- Asset Planning Coordinator;
- Business Systems Coordinator;
- Customer Experience and Information Management Coordinator; and,
- Manager - Customer, Digital & Transformation Services.

Implications**Policy Considerations**

Procurement Policy.

Financial/Economic Implications

This five-year software contract will be funded by Council's ICT Strategy operational and capital project budgets, and by Council's Business Systems Maintenance annual operational budget.

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 (2020 Revision)

This report supports the 2017-2020 Council Plan:

Goal

We are Sustainable

We will:

- Ensure our long-term viability and capacity to deliver quality services and infrastructure
- Do things better, improve our environmental and economic impact, and create lasting benefits

We will plan and make decisions for the future:

- We will provide enabling systems to support excellent customer service, staff engagement, communication, collaboration and business needs.

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

N/A

b) Other strategic links

RCoW ICT Strategy;
Customer Experience Strategy

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Timeframe and implementation of the proposed ERP	Minor (2)	Moderate (3)	5	Program of work schedule
Unsatisfactory quality of new ERP	Minor (2)	Moderate (3)	4	User Testing Plan; Stakeholder engagement plan
Staff concerns	Minor (2)	Moderate (3)	5	Stakeholder Engagement Plan; Communication Plan
Disruption to Council Business	Minor (2)	Moderate (3)	5	Risk Management Plan

Consultation/Communication

To develop both the ICT Strategy, and subsequently the requirements that formed the basis of this EOI and Tender process, significant consultation has taken place throughout the organisation, with workshops held with representatives from all business areas.

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

Options for Consideration

1. To authorise the Chief Executive Officer to sign and seal documents for C23111 – Core Business System;
2. To request a re-tender for the C23111 – Core Business System with proposed changes requested to tender scope or quality requirements.

Conclusion

This project will bring Council's Core Business System up to date with modern functionality to enable improved staff productivity and mobility. Following the comprehensive evaluation of an EOI process and tender against the pre-determined evaluation criteria and budget constraints, it is recommended that authorisation for contract C23111 – Core Business Systems be granted.

Attachments

- 1 Council - Report - Attachment - 21 September 2020 Confidential - C23111 - Core Business System Evaluation Report - Confidential

13.2 UPDATED INSTRUMENT OF DELEGATION BY COUNCIL TO MEMBERS OF COUNCIL STAFF

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Governance and Risk Advisor
File No: IC20/1326

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 update the Wangaratta Rural City Council (Council) instrument of delegation to members of Council staff (instrument).

Council powers, duties and functions within various Acts and Regulations, which contain a specific power of delegation, cannot be delegated through the Chief Executive Officer but must be made directly to Council staff to ensure the effective management of the day-to-day operations of the Council.

This update reflects the introduction of the *Local Government Act 2020*, changes to various other Acts and Regulations since that time, the current organisation structure and staff position titles and current operational requirements to ensure services are delivered effectively and efficiently.

RECOMMENDATION:

In the exercise of the powers conferred by the legislation referred to in the attached instrument of delegation, Wangaratta Rural City Council (Council) resolves that:

- 1. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation to members of Council staff (Attachment 1), the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.***
- 2. The instrument comes into force immediately the common seal of Council is affixed to the instrument.***
- 3. On the coming into force of the instrument all previous delegations from Council to members of Council staff (other than the Chief Executive Officer) are revoked.***
- 4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.***

Background

The instrument must be updated because of the introduction of the *Local Government Act 2020* and changes to various other Acts and Regulations.

Implications

Policy Considerations

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

Financial/Economic Implications

The update includes changes which reflect current operational requirements to ensure services are delivered effectively and efficiently.

Legal/Statutory

The powers conferred on the Council under some legislative instruments cannot be delegated through the CEO and must be delegated by resolution directly to Council staff.

The power to delegate is contained within each of the various Acts and Regulations listed in the instrument.

The legislative changes reflected in the updated instrument are listed in the following table. Some changes have also been made to reflect improvements in the efficient and effective delivery of planning services.

Change	Effect of change
Commencement of the <i>Local Government Act 2020</i>	References in the instrument to the power of delegation have been changed to reflect the new Act.
A change due to the replacement of the <i>Heritage Act 1995</i> by the <i>Heritage Act 2017</i>	Delegation made under the <i>Heritage Act 1995</i> under section 84(2) transposed to the new Act under section 116.
The addition of section 185L of the <i>Local Government Act 1989</i>	Clarifies that the ability to declare and levy a cladding rectification charge stays with the Chief Executive Officer

Change	Effect of change
<p>Changes to the <i>Planning and Environment Act 1987</i> in relation to public land contributions:</p> <ul style="list-style-type: none"> removal of sections 46GF - 46H1(5), 46GL, 46GM and 224(8) insertion of sections 46GI(2)(b)(i) - 46LB(3) and 172C - 172D (2) amendment of sections 62(5)(a) and 62(6)(a) 	<p>The recommended delegations are consistent with the existing delegations related to development contributions and are necessary for the efficient delivery of planning services.</p>
<p>Changes to the <i>Planning and Environment Act 1987</i> in relation to distinctive areas and landscapes which include the insertion of sections 46AW - 46AZK</p>	<p>These provisions apply where Council is a 'responsible public entity' and has been delegated to the relevant director and managers.</p>
<p>A change to the <i>Planning and Environment Act 1987</i> regarding section 46AS</p>	<p>The new section 46AS does not contain a council power, duty or function resulting in its removal from the instrument.</p>
<p><i>Rail Safety (Local Operations) Act 2006</i> has been repealed.</p>	<p>The delegations relating to this Act have been removed from the instrument.</p>
<p>Changes to the <i>Residential Tenancies Act 1997</i> involving:</p> <ul style="list-style-type: none"> insertion of sections 91ZU(1), 91ZZC(1), 91ZZE(1), 91ZZE(3), 206AZA(2), 207ZE(2), 311A(2), 317ZDA(2) repeal of sections 252, 262(1) and 262(3) 	<p>These powers, duties and functions have been delegated to officers consistent with existing residential tenancies delegations.</p>
<p>The <i>Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010</i> has been replaced by the <i>Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020</i></p>	<p>Delegations made under the 2010 regulations have been transposed to the 2020 regulations.</p>
<p>Changes to a term used in the Road Management Act 2004 in sections 14(4), 14(7), 119(2), 120(1), and 120(2) and schedule 2 clause 4.</p>	<p>The instrument has been updated to reflect the replacement of the term <i>VicRoads</i> with the term <i>Head, Transport for Victoria</i> in those areas.</p>

The subject matter does not raise any issues in respect of the Charter of Human Rights and Responsibilities.

Social

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

Environmental/Sustainability Impacts

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

Council Plan

This report supports the council plan strategic priority of a sustainable organisation by making our processes more effective and efficient.

There are many Acts and Regulations, which confer a responsibility on councils to act or determine matters. It is not practical for Council alone to exercise the many statutory powers, duties and functions bestowed on the Council.

Given the extensive variety of services provided by local government it would be practically impossible for the council to make all decisions. Local government everywhere use delegations to senior officers to provide an appropriate level of service within acceptable time frames.

Risk Management

It is important to ensure that Council has properly delegated powers, duties and functions, in order to avoid any issues arising regarding the legality of a decision or an action purportedly made or taken on behalf of the council.

Efficiency and effectiveness of service delivery may be reduced if delegations are not considered on a regular basis to reflect on-going operational requirements.

Consultation/Communication

There is no requirement to consult with the community regarding the subject of this report.

Options for Consideration

Option 1 - Recommended:

That the delegations are adopted as per the recommendation. Many decisions are made under Council delegation and this will ensure decision-making power is appropriately allocated by formal delegations.

The delegations recommended for adoption have been well established. The changes involved reflect changes in various Acts and Regulations and are consistent with the approach taken in the past.

Option 2 – Not recommended:

That the delegations are not adopted, meaning that they remain with Council. This would lead to slow and ineffective decision-making processes ultimately impacting productivity and service delivery capacity.

Conclusion

Having considered this report and the attached instrument it is appropriate that the Council formalise the delegations as recommended.

Attachments

- 1 Instrument of delegation from Council to members of Council staff [↓](#)

13.3 2019/20 CARRY OVERS - CAPITAL AND OPERATING PROJECTS

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Manager Finance
File No: IC20/1100

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 end of year financial position in relation to the Capital Works Program and the carry forward of budget allocations or over expenditure of the relevant 2019/20 capital budgets to the 2020/21 financial year. The report also recommends adjustments to the 2020/21 Income Statement to carry over capital income and non-recurrent operating costs budget from 2019/20 to 2020/21.

RECOMMENDATION:

That Council:

- 1. Carries forward \$3,278,612 from the 2019/20 capital works budget allocations to the 2020/21 financial year.***
- 2. Reduces capital expenditure in the 2020/21 budget by \$1,128,386 for capital projects commenced in the 2019/20 financial year.***
- 3. Increases income in the 2020/21 budget by \$717,715 for capital projects commenced in the 2019/20 financial year where contributions, reimbursement or grants are now expected to be received in 2020/21.***
- 4. Carries forward \$419,903 in net non-recurrent operating expenditure to the 2020/21 financial year.***

Background

Capital works budgets are allocated on an annual basis, however unforeseen events can impact on the ability of some of these projects to be completed within the expected timeframe. As such, it is not uncommon for there to be an amount of allocated funds to be carried over to the next financial year to enable the completion of key capital projects.

Implications

Policy Considerations

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

Financial/Economic Implications

As summary of the carry over adjustments is set out below:

	Adopted Budget 2020/21 \$'000	Carry Over adjustment \$'000	Adjusted Adopted Budget 2020/21 \$'000
Operating Surplus / (Deficit)	6,061	298	6,359
Borrowings	18,291	Nil	18,291
Capital Works expenditure	29,876	2,150	32,026

The Operating Surplus / (Deficit) carry over of \$298,000 is the net of the capital income carry over of \$717,715 (recommendation 3) and the net non-recurrent operating expenditure of \$419,903 (recommendation 4).

The Capital Works expenditure carry over of \$2.15 million is the net of the recommended changes to the 2020/21 capital works program, being an increase of \$3,278,612 (recommendation 1) and a decrease of \$1,128,386 (recommendation 2).

Capital expenditure

Set out below are the proposed carry over amounts in excess of \$100,000:

Project	2020/21 Capital Works Budget increases
01573 2014 Aquatics Plan - WISAC Development	\$1,825,534
02141 Mitchell Avenue Reserve Pump Track	\$302,488
01995 Mitchell Avenue Children's Garden Construction	\$300,418
01777 HP Barr Oval 2 Drainage & Restoration Works	\$226,007
02140 WISAC - Buildings & Cafe renewal	\$160,641
02001 1920 Building Renewal	\$125,000

A detailed list of the carry over projects, totalling \$3,278,612 are set out in **attachment 1** to this report.

A number of projects budgeted for in 2020/21 have been partly completed in 2019/20 or commenced earlier than expected and are funded from the 2020/21 approved budget. These projects total \$1,128,386 and are listed in the following table.

Project	2020/21 Capital Works Budget reductions
02139 Aquatics Equipment	\$(4,545)
01885 Murrell Street Basin Renewal	\$(7,700)
01997 Gravel Resheeting Program 19/20	\$(12,038)
01460 Cemetery Development (begin use of undeveloped land)	\$(12,109)
01999 Plant Replacement 19/20	\$(12,999)
02028 Wangaratta Aerodrome Infrastructure Development Stage 2	\$(16,013)
01875 Wangaratta Aerodrome - Commercial Hangars	\$(137,440)
01753 CBD masterplan: Railway Precinct - Design and construction	\$(925,542)

Capital income

The timing of income to support Council's capital works program can be uncertain as completion of project milestones are often the relevant indicator for recognition of the income. The income is usually set out in Funding Agreements and notwithstanding the income was not recorded in 2019/20, this does not represent a loss of income to Council. The 2020/21 Budget should be increased to reflect these amounts as income. The relevant adjustments are:

Income type	2020/21 increase to Income
Contributions – cash	\$234,530
Contributions – in kind	\$15,600
Grant – Federal Government	\$33,675
Grant – State Government	\$501,260
Total	\$717,715

Net Operating Expenditure – Non recurrent

Some operational projects will be carried forward to the 2020/21 financial year. Typically, carry forward adjustments are made for operating projects only where:

1. projects are fully or partly funded by the State or Federal Governments and Council has an obligation to acquit the funding in its entirety;
2. a Council resolution requires expenditure to continue into the next budget year; or
3. delays in project delivery have occurred or expenditure straddles two financial years and a contract or tender has been awarded for the works.

Council does not carry forward operational, recurrent expenditure such as employee costs or other recurring operating costs.

Projects that have a net carried forward adjustment of \$50,000 or more are as follows:

Project	Net expenditure /(income) carry forward to 2020/21
01951 Flood Event 13 Dec 2018	\$242,590
02144 Bushfire Recovery 2020 Council Assistance Fund	\$(173,867)
01745 Ovens & Murray Multicultural Regional Area Partnership	\$(116,551)
01909 Strategic Engagement Coordinator	\$188,120
02092 Grit and Resilience Program	\$102,595
02152 Grit and Resilience Project Logic	\$(117,000)
01966 Building Service Level Planning	\$50,000
02113 WISAC Implementation Project	\$123,567

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

This report supports the 2017-2021 Council Plan:

Goal

We are Sustainable

The non-negotiables

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

Risk Management

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

Consultation/Communication

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

Options

1. That Council adopts the above recommendation, and the 2020/21 budget is adjusted as advised – recommended.
2. That Council advises of any changes to the proposed carry over items, and proposes an alternative recommendation to enable the 2020/21 budget to be adjusted accordingly.

Conclusion

Whilst every effort is made to predict the timelines of project expenditure, there are many factors that can delay or advance actual project expenditure. Therefore, under and over expenditures need to be carried forward to allow for budget matching with expenditure.

Attachments

- 1 Capital Works Expenditure Carry Overs [↓](#)

14. COMMUNITY WELLBEING

14.1 SALE OF FACILITY AND LAND, 8 SADLER STREET, WANGARATTA (FORMERLY MAX PARKINSON LODGE)

Meeting Type:	Ordinary Council Meeting
Date of Meeting:	21 September 2020
Author:	Director - Community Wellbeing
File No:	IC20/1368

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 on the outcome of the public notice of Council's intention to sell the land contained Expression of Interest for the transfer of the Max Parkinson Lodge facility.

These proposals have now been reviewed and assessed and a recommendation is provided to Council.

RECOMMENDATION:

That Council:

- 1. Consider the submission received regarding the sale of land and;***
- 2. Proceed with the sale of the land and buildings located at Lot 1 PS 710744 Volume 11508 Folio 883, situated at 8 Sadler Street, Wangaratta.***

Background

The Max Parkinson Lodge (MPL) facility at 8 Sadler Street, Wangaratta is a purpose built eight-bedroom residential care facility. Council acquired the land on which MPL is built in 1969. The building development was funded in 1989 through a Local Government and Community Housing Program grant from the Minister of Housing and Construction, Victoria. As part of the project, Council contributed \$123,460.

The building itself was named in memory of Mr Max Parkinson (who passed away on 2 September 1991) in recognition of his tireless and selfless service to the senior citizens of Wangaratta. Mr Parkinson formed part of the sub-committee, which in partnership with Council, established the first Meals on Wheels service for Wangaratta. Max was instrumental in assisting the service to become fully operational and in the first year alone, over 3,000 meals were delivered to the elderly.

The facility was managed by St. Johns Village until 2000 and later used by the Aged and Disability Day Activity Service (ADDAS - later known as the Planned Activity Group PAG) after Council was unable to secure a suitable tenant that would comply with the requirements of the funding agreement. The Planned Activity Group remained at the facility until 30 June 2009 when they relocated to the HP Barr Community Centre. Max Parkinson Lodge has remained vacant since then.

The building is currently not suitable for use or occupation. A building condition report in July 2016 identified significant issues relating to the structure. An estimate of works required on the building (without significant layout changes) is in the vicinity of \$300,000. Council continues to maintain the facility and provide security and service connections. This totals approximately \$15,000 annually.

Under the terms of the original funding agreement, if Council was to sell the building, instead of transferring the facility, it would be required to return funds to the to the Director of Housing. The amount that would need to be returned following the sale would be determined by a formula set out in the original contract - the original amount of the grant multiplied by MV2, divided by MV1 - where MV1 is the market value of the building (including land) at the date of completion (1990) and where MV2 is the market value of the building (and land) now. The property was valued in September 2019 for \$325,000. If Council was to sell the property it would be required to return \$257,457 to the Department. There are also terms within the funding agreement that dictate the possible uses of the facility.

At the September 2016 Ordinary Council meeting, Council resolved to proceed with an expression of interest process with the Department of Health and Human Services to identify a suitable registered housing authority to transfer the facility for a social housing outcome. Under Section 191 of the Local Government Act 1989, Council may transfer, exchange or lease any land to the Crown, a Minister or any public body for public or municipal purposes. No comments or submissions were received during the review period.

The following three years required significant negotiation with the Department of Health and Human Services regarding the terms and conditions of the transfer. The current Public Use zoning of the land was questioned by DHHS as they had previously proposed that Council rezone the land to residential use. Discussions with Council's Planning officers has advised that it is not necessary to re-zone the land for the public housing purpose and that a planning permit would be appropriate.

In September 2019, Council advertised the Expression of Interest for the transfer of the MPL facility and land. The process identified that the principal objectives of the process for Council are to:

- 3.1 achieve a financial return to Council; and
- 3.2 select a well credentialed Proponent to:
 - 3.2.1 provide safe, integrated and high-quality affordable housing at the Site for the most at-risk members of the Rural City of Wangaratta community;
 - 3.2.2 enter into a Tripartite Agreement; and
 - 3.2.3 take a transfer of ownership of the Site.

Proponent proposes to carry out (nature, quality and timing of works).

Subsequently at the Ordinary Council meeting in December 2019, Council endorsed entering into a tripartite agreement with the Director of Housing and Beyond Housing Network Limited to facilitate the transfer of the land and buildings at Lot 1 PS 710744 Volume 11508 Folio 883, situated at 8 Sadler Street, Wangaratta.

Following this, Council recently gave notice of its intention to sell the land contained in land and buildings at Lot 1 PS 710744 Volume 11508 Folio 883, situated at 8 Sadler Street, Wangaratta. This was advertised in the Public Notice section of the Wangaratta Chronicle from Friday July 24, 2020 and closed on Monday 24, August 2020 at 3pm.

Only one submission was received.

Submissions

One submission was received by Council iterating concerns for the proposed sale of the land and subsequent housing development. The details of the submission are summarised in the attached assessment documentation.

The submission was presented to Council for consideration in a briefing forum on Monday August 31, 2020.

Implications

Financial/Economic Implications

The property was valued in September 2019 for \$325,000, with an expected sale period of 6 months due to a narrow market segment. There are terms within the initial funding agreement (1990) that require Council to return funds to the Department of Housing (now the Department of Health and Human Services) if the property was sold. This amount is based on the current market value (at the time of sale). If Council was to sell the property instead of entering into a tripartite agreement, Council would be required to return \$257,457 to the Department.

At finalisation of the sale, Beyond Housing will financially contribute \$230,000 to Council for the land.

Legal/Statutory

Council has legislative and statutory requirements it must comply with. These include the provisions of:

- its *Sale of Council Land Policy 2015* (the Policy); and
- Section 191 of the *Local Government Act 2020* (the Act).

Social

Housing stress is a growing issue in the municipality. In 2016, Beyond Housing Network provided crisis service to 220 Rural City of Wangaratta residents. In that

year, 51% of lone person households in Wangaratta were living with rent related poverty (compared to 47% for the Victorian Hume Region) and 71% of one parent families were living below the poverty line (compared to 60% for the Victorian Hume Region)

In 2018/2019 Beyond Housing saw more than 860 people who needed urgent help with housing – 49% were single people and 18% were single parent families. 60% were in crisis and facing eviction. 57% were on either newstart, youth allowance or parenting payments. Given the low fixed income most private rentals are cost prohibitive.

Given the proximity of the Max Parkinson facility to schools, shopping precincts, health care services and other amenities, Beyond Housing believe that the site supports small families to engage in the community and access required services. The site also enables people to access required services on foot, reducing living costs and providing opportunity to those without a vehicle. The smaller units of housing will allow Beyond Housing to service a larger proportion of the community who are homeless or at risk.

The benefits of long term, secure and affordable housing for an individuals and families cannot be underestimated. Considerable research demonstrates that homelessness causes and/or exacerbates poor mental and physical health, causes significant barriers to education, isolates people from their networks and the broader community and can lead to anti-social/criminal behaviour. Current research also demonstrates that the costs of homelessness to the broader community are significant – health, justice, and general community services deal with the impact of homelessness.

The sale of the Max Lodge Facility and land and subsequent development will provide significant increases in the availability of safe and accessible housing for people and families within our community who are at risk of homelessness. This will have a profound impact on their capacity to live safe and healthy lives, whilst also supporting their positive contribution to our community.

Environmental/Sustainability Impacts

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are Thriving

We will plan, research and advocate for the future:

In partnership with the right organisations we will make sure that everyone feels safe in their own homes, in their streets and in their communities

The non-negotiables

Our families can access affordable and high quality services for their children. As a community we take responsibility for the health, happiness and development of our children

Strategic Links

Municipal Public Health and Wellbeing Plan

Action: Advocate, facilitate and support projects that provide safe, accessible and affordable housing options appropriate to the needs of all community members

Risk Management

If the sale of the facility and land does not take place, it may jeopardise the planned development of affordable housing and the availability of safe and accessible housing for people and families within our community who are at risk of homelessness.

Consultation/Communication

As per the requirements of section 191 of the Local Government Act Council is not required to provide a notice of intention to sell the facility and land located at 8 Sadler Street or receive submissions, however, advertised a public notice in the Wangaratta Chronicle for a period of 28 days from Friday 24, July until Monday 24, August inviting submissions. One submission was received.

There has been a number of previous consultation processes that have been undertaken over the last several years in relation to the land and facility. In 2016 the intent to transfer the land was publicly advertised, and in 2019 the Expression of Interest process for suitably qualified housing authorities was also advertised. Media over the last year has been in partnership between Beyond Housing and Council.

Beyond Housing will begin more comprehensive engagement with the community, in particular with the surrounding neighbourhood, once the sale is approved. Beyond Housing have strong knowledge of the importance of neighbourhood support for projects.

Options for Consideration

1. Council processed with the sale to Beyond Housing as per the officer's recommendation
2. Council elects to sell the facility and land and return funds to the Department of Health and Human Services as per the original contractual funding arrangement.
3. Council elect not to sell the facility and the land and continue to maintain and secure the site.

Conclusion

Access to safe and secure housing is a vital contributor to people's health and wellbeing. The lack of affordable housing for many people within our community presents a significant barrier for many people to attain secure homes. Beyond Housing is well placed to not only deliver the housing project, but to also provide the full complement of homelessness and housing support services to support people who have experienced or been at risk of homelessness. Their vision is for all people to have safe, secure, affordable and appropriate housing. Beyond Housing is committed to ending homelessness, and will work in partnership with Government, business, communities and individuals to develop and provide the full range of quality housing and homelessness services.

This project allows for the development of a strong, resilient and diverse community, supported through appropriate and accessible services and supports.

Attachments

- 1 SUBMISSION - MAX PARKINSON LODGE [↓](#)

14.2 INFORMAL BIKE JUMP RISK ASSESSMENT AND PROPOSED MITIGATION

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Executive Assistant Community Wellbeing
File No: IC20/1337

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 assist with making an informed decision on the way forward regarding informal bike jumps within the Rural City of Wangaratta.

RECOMMENDATION:

That Council:

Endorses the following recommendation for the management of informal bike jumps throughout Wangaratta:

1. Confirm the following sites as designated supported jumps sites within Wangaratta:

- ***Arlington Park***
- ***St Bernard's version 2 (200m down from exiting site)***
- ***Valdoris Avenue***
- ***Railway area at Sydney Beaches***

2. Remove existing and emerging jumps under the following situations:

- ***They are in inappropriate areas;***
 - ***Culturally or socially significant (commemorative sites)***
 - ***Sensitive environmental areas***
 - ***Interferes with normal Council maintenance operation***
- ***They are causing significant damage to a public use area***
- ***They are dangerous to riders and people using the area***
- ***They are constructed from dangerous materials***

3. Install appropriate signage across three different types of sites:

- ***Signage at the sites of managed jumps.***
- ***Signage at areas where jumps have been removed.***
- ***Signage at areas that have risk of jump construction.***

4. Work with jump builders on the design and construction at the supported sites. This will include:

- ***Dirt will be dropped at each supported site.***
- ***A track designer will be engaged to run workshops to build a knowledge base around safe jumps and tracks.***

- ***Establish criteria on how the tracks can be altered.***
- ***Ensure visit sites on a regular basis to assess jumps***
- ***Regular inspections of the tracks and jumps to ensure that the criteria are being followed.***

5. Monitor the success of this approach on an ongoing basis and adjust as required.

Background

In early 2019, bike jumps, and tracks began to be constructed by young people through public areas of Wangaratta. These tracks were created and expanded relatively organically and spread quickly throughout the city. Whilst young people tended to use tracks close to their homes and schools, their construction also facilitated movement throughout the city by young people. A network of tracks soon established along key walking tracks, waterways and throughout public reserves, and their use was prominent and prolific. The number of young people using these jumps and tracks increased quickly, and many hundred were participating in both the construction and use of the evolving network.

The tracks were constructed by young people, with some assistance occasionally provided by parents. They were predominately developed with the use of shovels and equipment brought in by the riders. As they grew, other materials such as wooden pallets, bricks, carpet and bits of rubble (rocks, concrete, etc.) were also used. Often this digging equipment was left at the sites of the bike jumps whilst their expansion took place.

In August 2019 there was no formal Council position on bike jumps and a decision was made to remove some jumps in response to consistent regarding the damage the jumps were causing to the natural environment, and the impact on walking tracks. There had also been complaints of anti-social behavior.

Council also held a meeting with the young people who had developed and used these jumps, to establish a clear way forward. Over 200 young people and many parents attended the meeting. The meeting established several key directions:

1. Council would support the continuation of the jumps if clear rules were established and followed. These were:
 - No fires
 - No damage to trees and the surrounds
 - No rubbish to be left
 - No bringing in dangerous material for jump/path construction
 - No holes to be dug on walkways
 - No graffiti or vandalism
 - No 'ownership' over sites – they are for everyone to use
- No expansion of tracks outside designated areas
2. Council would remove jumps if their impact on the environment was too significant, if anti-social behavior continued or they were deemed too dangerous for riders or the community.

3. Council would prioritise the development of the Mitchell Avenue pump track to enable a more formalized riding option within the city.
4. Key sites were established where Council would work with young people to develop jumps safely and with minimal environmental impact. These were:
 - HP Barr Reserve
 - Tarrawingee
 - Mitchell Avenue Pump track
 - Appin Park/St Bernard's track
 - Arlington
5. Young people nominated themselves to being involved in the planning and development of different sites.

Following the meeting progression of the informal jumps at the designated sites was challenging. Engagement with the young people was inconsistent and it became evident that it was actually the unstructured and unsupervised nature of the jumps that had been the biggest appeal for many of the young people involved in the development.

The Mitchell Avenue Pump Track has been completed over the start of 2020, with a design that was developed in partnership with young people. The track, and its build process has been a significant project in recognizing the ideas and priorities of young people in the development of facilities.

2020 has seen a continued growth in the size, number and use of the bike jumps and tracks throughout the city. This in part has likely been fueled by the impacts of the COVID-19 pandemic. For months there has been social distancing and lockdown requirements in place that have meant that organised sport, schools and many businesses have been inaccessible. For young people, the need to find solo activities, that are done in non-populated areas has matched well with the riding and jumps that were already popular.

Implications

Policy Considerations

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

Financial/Economic Implications

As part of this report the following expense is

	2020/21 Approved Budget for this proposal \$	This Proposal \$	Variance to Approved Budget \$	Comments
Expense	\$0.00	10,000.00	10,000.00	These funds will allow for the installation of signage and for engaging a bike jump contractor to work with young people.

Legal/Statutory

Legal implications have been considered within the risk assessment attached to this report.

Social

The jumps have formed an important social and recreational outlet for young people throughout the city, especially during the COVID-19 social restrictions in place for much of 2020. The absence of school and organised sport has left a significant gap in the ability for young people to come together, and the jumps have helped to address this.

Part of the appeal of the construction and constant evolution of the bike jumps is undoubtedly in the sense of independence and control that the young people have in the process. Whilst there has been an appreciation for the ‘facilitator’ role that Council has played in some projects – including pump track and the delivery of dirt, success in this area relies on providing independence to young people, with the right level of support to ensure that risks are managed.

This situation poses some conflicting thoughts on the engagement, rights and behavior of young people. Many people believe what the young people are doing is brilliant – that they are showing initiative, mateship, and self-sufficiency. There is a strong community sentiment that they are being active – and after so many years of begging them to get off screens we should be supporting this. The contrasting view is that the young people are being destructive, disrespectful and entitled by using public land without permission or consideration of other users. To make this issue even more divisive is the acknowledgment that whilst most of the riders are polite and respectful of the people and place, there are some who are absolutely behaving in a way that is socially inappropriate.

The balance of different ages using the sites has also been a point of tension across the community. Whilst there may be only a few years between people using the tracks, their behavior, skill and language is very different, sometimes resulting in disagreements and conflict. With younger children constantly moving through the sites there is a continual evolution of ‘ownership’ and acceptance.

Environmental/Sustainability Impacts

A significant concern about the emergence and continued growth of the jumps and tracks is their destruction and damage to the natural environment. Most of the jumps are constructed in public reserve areas, many of environmental significance. Trees and growth have been damaged in some areas, to the extent that some large and significant trees have had to be removed. Waterways have been blocked and polluted, and native fauna has had habitats destroyed.

The impact has caused divide between protection and use of the environment. There are many examples of human activity causing detrimental impacts to our natural environment, and often to sensitive and significant areas. The impacts of other human activities are considered as part of approval processes, something that has not occurred with the jumps. The fact that the jumps are developing organically, and with no planning or management has meant that many have evolved to create a conflict with the environment in which they have been built. Conversely, the use and enjoyment of our natural environment is a key attraction to the young people using these jumps and tracks. In some cases, they cause the same level of impact as walking tracks and camping.

The four proposed sites have all been nominated because of their location and ability to house jumps and tracks with limited and controlled impact on the environment.

2017-2021 Council Plan (2020 Revision)

This report supports the 2013-2017 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.

We will create and deliver:

Exciting and evolving play spaces in our city and rural areas that create opportunities for children, young people and families to explore and interact

We will focus on our business:

By making sure that all our teams work together to plan, develop and deliver innovative projects that enhance the health and wellbeing of our community

The non-negotiables

Our community can access recreation facilities and programs. We can all lead an active and healthy lifestyle

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

N/A

Risk Management

Risk	Likelihood	Consequence	Resultant Risk
Riding a bike on informal jumps and tracks is a risk to the rider of injury (Health and Safety)	Possible (may occur from time to time)	Moderate (Significant non-permanent injury/illness. Treatment by medical professional, hospital outpatient, hospital overnight stay)	Medium
Others community members using the area in which jumps are constructed (walking/running/cycling) may injure themselves on the jumps (Health and safety)	Possible (may occur from time to time)	Moderate (Significant non-permanent injury/illness. Treatment by medical professional, hospital outpatient, hospital overnight stay)	Medium
Emergency Services cannot access some existing areas (Health and Safety)	Unlikely (Could occur at some time but infrequently)	Major (Extensive permanent injury/illness e.g. loss of finger(s); Extended hospitalisation.)	Medium
Risk of long-term damage to the environment (Environmental and Public Health)	Likely - Strong likelihood of occurrence in the next 12 months.	Major (Repeated occurrences which cause ongoing harm which is able to be remediated in > 2 years and < 5 year)	High

Consultation/Communication

Consultation has occurred across many different stages of the project. Initially a community meeting was held to facilitate a public conversation with young people about the jumps and the best approach going forward. This was strongly attended, and also led to an ongoing database of young people to communicate with.

The method of communication with young people is a changing landscape, whereby the preferred platform for communication can change rapidly. The different ages involved also means that access to independent communication channels (personal mobile phones, etc.) varies greatly. Often parents and care givers also expect communication and involvement.

Significant media has surrounded the bike jumps from their initial days. This has spread information and opinion on both sides of the debate.

Council maintains connection with young people via social media channels, through email, and via schools and youth organisations.

The success of the project will hinge on the ability to maintain clear and honest communication with young people and residents who surround and use the areas.

Options for Consideration

The following options have been considered within the management of informal bike jumps within the Rural City of Wangaratta:

1. Remove existing informal bike jumps and prohibit further activity
2. Allow existing informal bike jumps to continue to be constructed unmanaged by council
3. Nominate four areas where informal bike jumps may be created, with removal of informal jumps. Provide a truck load of dirt, engage a bike track specialist and set rules around use of the sites.

Conclusion

In considering the actions in managing informal bike jumps and the residual risk, it is proposed that Option 3 is undertaken. By nominating these areas & setting rules that reflects best practise in bike jump design the overall residual risk will be minimised. By setting these areas and providing an opportunity it is anticipated this will discourage the creation of informal jumps at other locations. With four sites identified and setup, work will begin on long term rehabilitation of existing areas which have been damaged.

Attachments

- 1 WANGARATTA BIKE JUMPS DIRECTION REPORT AND RISK ASSESSMENT SEPTEMBER 2020 [↓](#)

15. INFRASTRUCTURE SERVICES

15.1 ADVENTURE PLAYGROUND & PARKOUR PLAY SPACE - APEX PARK

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Project Officer
File No: IC20/1238

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

Executive Summary

This report is presented to Council to recommend the appointment of a preferred contractor to design and construct an Adventure Playground and Parkour Play Space at Apex Park, Wangaratta.

The project has received \$500,000 (GST exclusive) in funding to deliver the works through the 2019/20 Regional Infrastructure Funds.

The project will develop and activate one of Wangaratta's most prominent areas Apex Park, into a significant adventure and play destination. Located within the CBD and on the banks of the Ovens River the precinct will drive visitation, build social connection and achieve economic growth and diversity.

RECOMMENDATION:

That Council:

- 1. authorises officers to negotiate a final price with the preferred tenderers;***
- 2. authorises the CEO to award the tender at a later stage for a maximum lump sum of no more than \$1,500,000 (excluding GST);***
- 3. authorises the Chief Executive Officer to sign and seal documents for Contract C26508 – Design and Construct an Adventure Playground and Parkour Play Space, when available; and***
- 4. discloses the contract value of Contract C26508 – Design and Construct an Adventure Playground and Parkour Play Space at the next Council meeting after the contract is awarded.***

Background

Parkour is an emerging and incredibly popular activity. The parkour element will be activated by Council's Youth Services team, through the delivery of regular training programs and competitions.

The existing playground will also be transformed into an adventure style playground suitable for people of all abilities including toddlers, young children and their parents.

The project also includes additional shelter, seating, connecting paths and landscaping. To provide a welcoming space for the local community and visiting tourists.

The Rural City of Wangaratta sought a suitably qualified contractor to complete the works via an open tender process.

Advertisement	Date
Eprocure	31/07/2020
Chronicle	07/08/2020

Tenders closed at 2:00pm on 24 August 2020.

There were seven tenders received.

The tender evaluation team included two Project Managers and Council's Manager of Infrastructure, Planning and Delivery.

Implications

Policy Considerations

Procurement Policy.

Financial/Economic Implications

Council's 2020/21 capital works budget allocated \$1,500,000 to this project including a grant of \$500,000 from 2019/20 Regional Infrastructure Fund.

Legal/Statutory

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

Social

The project will meet the social and recreational needs of a wide age group, with equipment for young children, their parents, middle aged children, adults and people of all abilities. Creating an engaging physical activities hub for all age groups and abilities within the CBD.

Environmental/Sustainability Impacts

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are Healthy

We will create and deliver:

“We will lead the way in innovation and creativity – we will be brave to try new things and be leaders in our community and our industry”.

We will plan and make decisions for the future:

“We will give you a reason to involve yourself in our projects, discussions and plans”.

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

Rural City of Wangaratta Play Space Strategy 2017 – 2027

- “We will create and deliver exciting and evolving play spaces in our city and rural areas that create opportunities for children, young people and their families to explore and interact”.

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Achieving funding milestones on time.	Minor (2)	Moderate (3)	5	Project Manager to monitor & report timely delays.
Community concerns	Minor (2)	Minor (2)	4	Community engagement plan to be developed & delivered.
Delays in construction	Moderate (3)	Minor (2)	5	Project Manager to monitor & report timely delays.

Consultation/Communication

This tender is design and construct. An external steering committee will be established to provide valuable input into the final design. Representatives will include local community members, Schools, existing user groups, Council's Youth Services Team and local indigenous networks.

Engagement will commence in October. An invitation will be sent directly to key representatives and an expressions of interest campaign will be run on social media to attract community representation.

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

Options for Consideration

1. Wait until a preferred tender is clear and final price known. Then proceed to Council meeting for award – This will significantly delay the start of the project and cause the project to not meet the funding milestones.
2. Not award the project – This will cause the project to stall and the funding would need to be returned to the funding body. This could also impact future funding applications.

Conclusion

This project will put Wangaratta and the North East Region on the map as a tourism destination and create a key Adventure Playground and Parkour Play Space.

The tenders received were evaluated and reference checks undertaken. After a full tender evaluation process the evaluation panel has shortlisted two contractors. Council Officers will negotiate with shortlisted contractors on the design elements to get the best outcome for this project and the community before awarding the contract.

Attachments

Nil.

15.2 C26595 CUSACK & SPEARING STREET - DRAINAGE & CARPARK RENEWAL

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Project Manager
File No: IC20/1327

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 C26595 Cusack & Spearing Street drainage and carparking renewal.

RECOMMENDATION:

That Council:

- 1. Award the contract C26595 Cusack Street and Spearing Street Drainage and Carparking Renewal to Jarvis Delahey Contractors P/L,***
- 2. Authorises the Chief Executive Officer to sign and seal documents for C26595 Cusack Street and Spearing Street Drainage and Carparking Renewal, and***
- 3. Disclose the contract price for C26595 Cusack Street and Spearing Street Drainage and Carparking Renewal.***

Background

Currently sections of Cusack & Spearing Streets regularly flood, creating a hazard for vehicles and pedestrians. The works will remove flooding issues during storm events.

Existing car parking within the Cusack Street area from Clark Street to Green Street is of an informal nature, consisting of a gravel surface with irregularities & trip hazards. This area has been identified as part of the Hospital Precinct Plan which includes construction of formal carparking.

These works will be the second stage of a two-stage process.

Tenders were advertised through Eprocure and the Wangaratta Chronicle.

The Tender was evaluated against the following criteria:

Cost 40%
Capacity 30%

Capability 30%

The tender evaluation team included two Project Managers and one Project Engineer.

Tenders closed on 28 August 2020 and six (6) submissions were received as follows:

Bordignon Excavations Pty Ltd
Excell Gray Bruni
Jarvis Delahey Contractors Pty. Ltd.
North East Civil Construction Pty Ltd
S&R Engineering
Miller Pipe & Civil

Implications

Policy Considerations

Specific Council policies or strategies that relate to this report include:

- Council Procurement Policy
- Asset Management Policy
- Drainage Asset Management Plan

Financial/Economic Implications

2020/21 capital project budget allocated \$850,000.00 excl GST to this project.

The original tendered price exceeds the allocated budget. The increase from the original estimate arose due to additional works proposed to the Green Street roundabout & upgrade to the pedestrian footpath network, which came from a recent road safety audit.

Officers have re-scoped the project bringing the total value of the contract within budget.

The scope reduction is focused on provisional items, the roundabout and carparking which is impacted by the current COVID testing setup. Officers propose to include the removed works in the 2021/22 budget.

Legal/Statutory

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

Social

The upgrade of the stormwater system and car parking in the area will benefit local residents in the Hospital precinct by reducing flooding and increasing formalised parking bays.

Environmental/Sustainability Impacts

The Natural Resource Management and Sustainability Officer has inspected the area of the drainage network from One Mile Creek to Spearing Street.

All works will be monitored during construction to minimise impact within the tree protection zones.

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We Are Established

We will research and advocate:

To develop options for overcoming drainage deficiencies within rural and urban areas.

We will create and deliver:

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

We will plan and make decisions for the future:

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

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**

A Healthy Environment - A combination of pollution prevention, water capture and treatment measures have improved the quality of stormwater and made it a valuable water resource.

This has been achieved by including a Gross Pollution Trap within the design to ensure environmental expectations from the community are met.

b) Other strategic links

- Wangaratta Health Precinct Structure Plan
- Wangaratta Car Parking Plan

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Timeframe and achieving the proposed timelines	Minor (2)	Moderate (3)	5	Project Manager to monitor
Community concern	Minor (2)	Moderate (3)	5	Project manager to monitor
Unsatisfactory quality of works	Minor (2)	Moderate (3)	4	Project Manager to monitor

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Ongoing communication with user groups and residents through the life of the project	Website, Newsletter, meetings, phone calls & Chronicle
Consult	Northeast Health/ Ambulance Victoria	On Site Meetings
Collaborate	Preferred Contractor	Pre-Start and On-site inspections.

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

Options for Consideration

Not award the contract – these are specialised works and cannot be performed internally therefore the works would not be completed and the existing drainage issues would continue.

Conclusion

Recommend that contract C26595 Cusack & Spearing Street Drainage and Carparking Renewal is awarded to Jarvis Delahey Contractors P/L.

Attachments

- 1 C26595 –Cusack & Spearing Street Drainage and Carparking Renewal- Stage 2 - Evaluation Report - Confidential

15.3 2020/21 ANNUAL RESEAL CONTRACT

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Project Manager
File No: IC20/1410

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 annual reseal program for 2020/21.

RECOMMENDATION:

That Council:

- 1. Notes the preferred tenderer as Bitupave Ltd;***
- 2. authorises officers to negotiate a final price with the preferred tenderer;***
- 3. authorises the Chief Executive Officer to award the tender at a later stage for a maximum lump sum of no more than \$650,000 (excluding GST);***
- 4. authorises the Chief Executive Officer to sign and seal documents for 2020/21 Annual Reseal within the municipality, when available; and***
- 5. discloses the contract value of 2020/21 Annual Reseal within the municipality at the next Council meeting after the contract is awarded.***

Background

As part of the Rural City of Wangaratta's asset maintenance program, Council completes an annual reseal program based on road condition data. The reseal program consists of the preparation for and bitumen sealing of selected roads in urban and rural areas.

In 2018 Rural City of Wangaratta joined with five other Councils and Procurement Australia to contract a panel of suppliers for Annual reseal programs for three years with the potential for two twelve-month options. The 2020/21 financial year is the third year of this panel.

Implications

Policy Considerations

Council's Procurement Policy

Financial/Economic Implications

Council's 2020/21 Capital Works Budget allocated \$650,000.00 ex GST for reseal works.

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 (2020 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

Asset Management Plan – Roads

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Delays in construction	Moderate (3)	Minor (2)	5	Project Manager to monitor

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Advertise works	Council website and social media

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

Options for Consideration

Not award the contract – these are specialised works and can't be performed internally therefore the works would not be completed.

Delay the award of the contract – the works would be delayed. These works shouldn't be completed during periods of warm weather and therefore the works would likely need to be delayed until March or April 2021.

Conclusion

The Rural City of Wangaratta used Procurement Australia to jointly procure Contract T1819/016 Annual Reseal within the municipality.

The tender review recommends Bitupave Ltd be awarded the Contract 2020/21 Annual Reseal within the municipality for the 2020/21 financial year.

Council Officers will negotiate with Bitupave Ltd on the scope of the project before awarding the contract.

Attachments

- 1 2020-21 Annual Reseal - Evaluation Report - Confidential

15.4 CARBOOR - EVERTON ROAD EMERGENCY EGRESS

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Director - Infrastructure Services
File No: IC20/1459

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 approving the implementation of emergency egress work on the Carboor–Everton Road.

RECOMMENDATION:

That Council:

- 1. approve the construction of the turn-around point on Carboor-Everton Road;***
- 2. approve the tree reduction works on Carboor-Everton subject to receiving approval from DELWP;***
- 3. approve the expenditure of up to \$140,000 on the works; and***
- 4. fund these works from the existing gravel re-sheet project and if funds are available, re-fund this amount at the mid-year budget review.***

Background

At the March 2020 Ordinary meeting of Council, Council adopted the following motion:

“That Council Officers work with representatives from DELWP, CFA and the Municipal Fire Management Planning Committee and any other relevant agency to determine a plan or implement the Municipal Fire Management Plan’s recommendations to create safe public egress during emergencies such as fires along the Carboor-Everton Road. This plan should consider appropriate turn around points for large vehicles, and treatment of trees and other vegetation on the roadsides. This plan should be presented to Council prior to the 2020/21 Fire Season.”

At this point Council Officers have completed the plans and costed the required works and have sought all necessary approvals and exemptions from DELWP. These approvals and exemptions have not yet been received and thus full implementation will be subject on the receipt of these. Approval is required from DELWP to remove the trees and an exemption is necessary to remove the requirement to pay for tree off-sets. Tree off-sets are required to cover the costs

of planting new trees in compensation for the removal of native vegetation. Off-set costs are estimated to be approximately \$50,000.

Implications

Policy Considerations

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

Financial/Economic Implications

The cost of these works is estimated to be approximately \$136,000 if tree off sets are required to be paid or \$86,000 if the necessary exemptions are received. There is no existing budget for this project thus it is proposed to fund the works from the existing gravel re-sheet project and to then seek reimbursement for these funds at the mid-year budget review.

	Approved Budget for this proposal \$	This Proposal \$	Variance to Approved Budget \$	Comments
Revenue/Income	\$0	\$0	\$0	
Expense	\$0	\$136,000	\$136,000	
Net Result	\$0	\$136,000	\$136,000	

Legal/Statutory

The removal of native vegetation is regulated under legislation which is managed by DELWP. Approval for the tree removal aspects of the plan are necessary for the work to commence.

Social

The community's very real fear of having the Carboor-Everton Road blocked by large fallen trees in an emergency such as a bushfire has long been held. Whilst these works will not eliminate the risk, they will significantly mitigate the risk.

Environmental/Sustainability Impacts

Whilst this plan proposes to remove a number of trees, the trees are all located in moderately to heavily treed roadsides and thus it is considered that the removal will not have adverse impact on the macro environment.

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are Established

We are Sustainable

Our non-negotiables

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

What we do everyday

We respond to requests of our community to ensure our infrastructure is safe and well maintained

We ensure we are prepared for emergency response and recovery

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

To address traffic, parking and pedestrian challenges to create communities that are safe, easy to navigate and accessible

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

N/A

Risk Management

There are no identified risks in completing these works and the works will remove or mitigate the risk of lack of egress on the Carboor-Everton Road in an emergency.

Consultation/Communication

There has been considerable consultation around tree management and other safety aspects during emergencies on this road for a number of years. The community, emergency services, DELWP and Council have been involved and the Municipal Fire Management Planning Committee has recommended these works.

Options for Consideration

1. Not approve any of the works
2. Approve the road works but wait on the outcome of the requests for approval/exemptions for the tree work
3. Approve the works as recommended

Conclusion

Carboor-Everton Road has been identified as the highest risk road in times of fire emergencies within the municipality. These works will not remove all risk but will remove or mitigate the worst risks. These works need to be completed prior to the fire season and thus approval is sought.

Attachments

Nil.

16. DEVELOPMENT SERVICES

16.1 WANGARATTA ECONOMIC DEVELOPMENT AND TOURISM ADVISORY COMMITTEE AND AGRICULTURE AND AGRIBUSINESS ADVISORY COMMITTEE - APPOINTMENTS TO COMMITTEES 2020

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Economic Development Officer
File No: IC20/1392

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:

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 2023:***
 - ***The successful candidates are:.....***
2. ***Appoints one person from the received nominations as a representative on the Agriculture and Agribusiness Advisory Committee for a term of three years ending August 2023:***
 - ***The successful candidate is:.....***
3. ***Advises all applicants of Council's decision.***

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 2020. 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 four applications and the AAAC received one 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 recommended appointments to WEDTAC will assist in filling gaps within the existing skill set including sustainability, tourism and development. 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 remains four vacancies on the AAAC with the ability to appoint further members should applications be received.

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

Implications

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 (2020 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 one member 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 one member 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 2020 - Confidential
- 2 WEDATC Nomination Review & Skills Matrix - Confidential
- 3 AAAC Nomination 2020 - Confidential
- 4 AAAC Nomination Review and Skills Matrix - Confidential

16.2 PLANNING PERMIT APPLICATION PLNAPP20/131 - 449 MCMAHONS ROAD SPRINGHURST - TWO LOT RE-SUBDIVISION

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Planning Coordinator
File No: IC20/1422

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 a decision on a planning permit application seeking to re-subdivide two lots at 449 McMahons Road, Springhurst creating a small lot around the existing dwelling.

The application leads to a residential outcome in a productive farming area. The Wangaratta Planning Scheme encourages sustainable and productive farming outcomes in areas of regional and local agricultural significance.

The application results in a detrimental farming outcome and is inconsistent with planning policy in the following ways:

- Fragments productive farmland;
- Introduces residential expectations and amenity conflicts into a productive farming area;
- Fails to demonstrate the long-term agricultural need or justification for the subdivision.

The recommendation to Council is to refuse the application given the detrimental agricultural impact that the subdivision will have on the subject land and the surrounding farm land. A full assessment of the application against the Wangaratta Planning Scheme can be found at **Attachment 1**.

RECOMMENDATION:

That Council:

1. ***Resolves to issue a Notice of Refusal to Grant a Permit under Section 61 (1) (c) of the Planning and Environment Act 1987 for planning permit application Plnapp20/131 at 449 McMahons Road Springhurst (CA137 & 137A) for a Two Lot Re-subdivision, on the following grounds:***
 - ***The application is inconsistent with the Planning Policy Framework at clauses 11.01-1S, 14.02-1S, 14.01-2S and 16.01-5S by creating a small lot and fragmenting productive agricultural land;***

- ***The application is inconsistent with the Local Planning Policy Framework at clauses 21.01, 21.02, 21.05, 21.07-3 and 22.01 by undermining the primacy of agriculture in an area of ‘high’ productivity and introducing a residential outcome in an unsuitable area.***
- ***The application is inconsistent with the Farming Zone by fragmenting land and introducing land use conflicts that will adversely affect and limit nearby farming operations; and***
- ***The application results in an unacceptable agricultural outcome.***

2. *Notify the applicant and objector of the Councils’ decision.*

Property Details

Land/Address	449 McMahons Road Springhurst CA137 and 137A
Zones and Overlays	Farming Zone
Why is a permit required	Clause 35.07-3 A permit is required for subdivision

Proposal in Detail

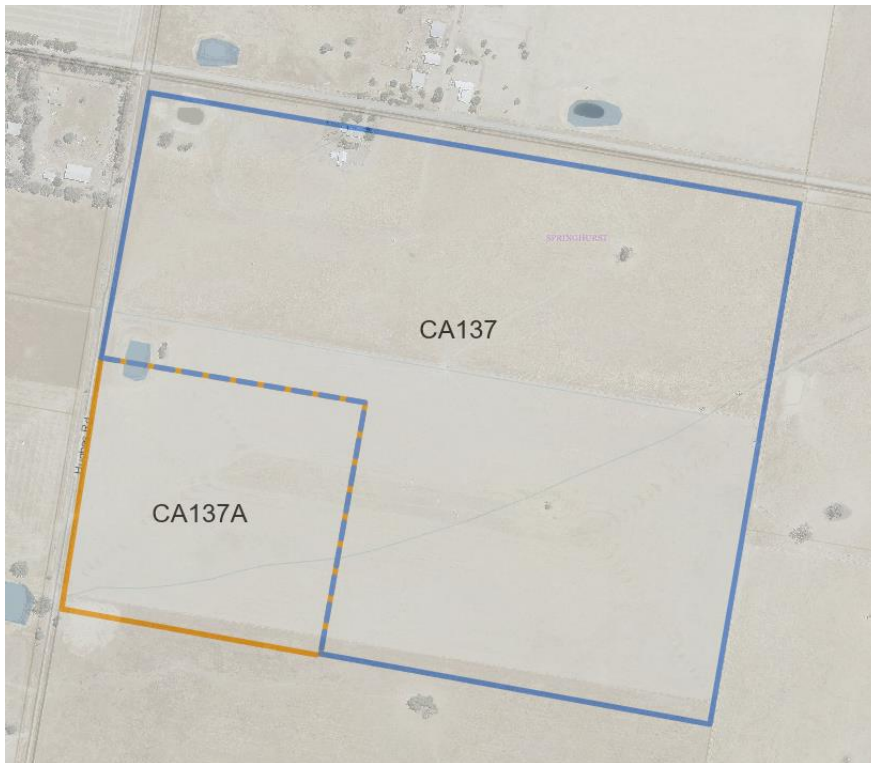
The application seeks a permit to re-subdivide two lots in common ownership.

The land is a total of 53 hectares and contains a dwelling, curtilage and shedding.

The land is used for cropping and contains two small dams. Some vegetation is present around the dwelling. The farms around the subject land is used for cropping and grazing.

The wider area forms part of a dryland farming area and little to no irrigation infrastructure is available. Holdings in the area are typically large – a reflection of the agricultural trend in that part of the municipality.

The current lot configuration is shown below:



The proposed plan of subdivision seeks to re-subdivide two existing lots in a manner as shown below:



As seen above – the proposal seeks to place the existing dwelling onto a small lot, 2 hectares in area. The balance of the land would be placed into a vacant lot around 51 hectares in area and contain the two dams and cropping area.

Summary of Key Issues

The Wangaratta Planning Scheme seeks to:

- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.
- Prevent inappropriately dispersed urban activities in rural areas.
- Protect strategically important agricultural and primary production land from incompatible uses.
- Limit new housing development in rural areas by:
 - Encouraging consolidation of existing isolated small lots in rural zones.

Agricultural land is afforded a high level of protection in the Wangaratta Planning Scheme due to its very important role in the economic and social wellbeing of the community.

The proposal inherently seeks to:

- Fragment the land into two separate parcels that serve competing and conflicting purposes; and
- Create a residential outcome in a productive farming area.

The application has not been forthcoming with any farming reason or justification for the subdivision.

The issue that planning policy takes with the creation of small residential lots in rural and agricultural areas – is that they inherently do not serve a farming purpose. By displacing a ‘farmhouse’ away from the ‘farm’, it becomes simply a ‘house’. In doing so, the end result is a residential/lifestyle outcome and along with it – expectations of amenity which can lead to land use conflicts.

One objection has been received to the application. The objection states that the proposal will lead to the gradual decline of the agricultural sector. A copy of the objection can be found at **Attachment 2**.

Background

The application was received on 2 July 2020 and has been subject to public notice. One objection has been received and the application is ready to be determined. A full copy of the application can be found at **Attachment 3**.

Assessment under the Planning and Environment Act

A full assessment against the Wangaratta Planning Scheme is included at Attachment 1.

The key policy clauses that are considered are:

Clause 11.01-1S Settlement

Clause 14.02-1S Protection of agricultural land

Clause 14.01-2S Sustainable agricultural land use

Clause 16.01-5S Rural residential development

Clause 21.01 Introduction

Clause 21.02 Settlement

Clause 21.05 Natural Resource management

Clause 21.07-3 Housing form

Clause 22.01 Rural land use and agriculture

Clause 35.07 – Farming Zone

Clause 65.02 – Decision Guidelines

Implications

Policy Considerations

The implications as measured against the Wangaratta Planning Scheme are considered in full in **Attachment 1**.

The application is also inconsistent with Council's Economic Development Strategy 2018-2023. That strategy calls for broad support for the agribusiness sector, and this subdivision undermines that strategy.

Financial Implications

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

Legal/Statutory

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

Social

The potential social impacts are of detrimental consequences to the rural communities that rely on the preservation of their farming businesses remaining viable, providing employment and social cohesion within these communities along with connectivity to the municipality. There is potential for conflict between the use of the land for farming purposes and residential component constraining any prospective farming business to expand or change activities potentially and setting up amenity conflicts.

Environmental/Sustainability Impacts

There are no environmental/sustainability impacts identified for this subject of this report, in the context of impacts upon the Council.

Economic Impacts

Potential longer term issues may be experienced related to land use conflicts and amenity which may make it difficult to continue to farm in the area. This may in turn reduce employment opportunities not just on the farm but surrounding business that supply the farm.

Referrals/Public Notice

No referrals were required as a part of the processing of the application.

Public notice was given, and one objection was received. The grounds for objection are supported by Officers and they contribute to the recommendation to refuse the proposal.

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are Sustainable

We will research and advocate:

to advance regional agricultural opportunities.

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
Objector appeals an approval to VCAT	Medium	Very high	High	Representation at VCAT.
Permit applicant appeals a	Medium	Medium	Medium	Examine the possibility of being represented by

Risks	Likelihood	Consequence	Rating	Mitigation Action
refusal to VCAT				a consultant at VCAT.

Consultation/Communication

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

Options for Consideration

1. Council issue a Notice of Refusal to Grant a Permit; or
2. Council may issue a Notice of Decision to Grant a Permit subject to conditions.

Conclusion

The application is inconsistent with the Wangaratta Planning Scheme and is not suitable for Council support. It is recommended that a Notice of Refusal to Grant a Permit be issued.

Attachments

- 1 PInApp20/131 - Assessment against the Wangaratta Planning Scheme [↓](#)
- 2 PInApp20/131 - Copy of objection [↓](#)
- 3 PInApp20/131 - Copy of planning permit application [↓](#)

16.3 PLANNING PERMIT APPLICATION PLNAPP20/129 - TWO LOT SUBDIVISION AND VARIATION OF A RESTRICTIVE COVENANT - 6 PIN OAK DRIVE, WANGARATTA

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Senior Planner
File No: IC20/1333

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

The planning permit application seeks to vary a restrictive covenant burdening the land and subdivide the land into two individual lots. The subdivision proposes to create a vacant allotment of 2,007m² whilst the residual 2,031m² lot would contain the property's existing dwelling and associated outbuilding. A restrictive covenant burdening the land, whilst not specifically preventing subdivision, effectively prohibits any future development of the proposed vacant lot by limiting development of the entire subject land to that of a single dwelling house and associated outbuildings. Approval is therefore also sought to vary the restrictive covenant by removing the clause preventing any future development.

The proposal for a variation of restrictive covenant and two lot subdivision has previously been applied for via Planning Permit Application PInApp17/215. The previous application was refused by Council at its meeting of 20 March 2018. The current application proposes no material differences to that of the previous application.

Formal notice of the current application was made to all beneficiaries of the restrictive covenant on 16 July 2020. At the time of writing this report a total of nine submissions have been received, all of which object to the proposed subdivision and covenant variation.

Similar to the previous application, key issues for consideration have been identified as:

- Variation of a Restrictive Covenant which, to this point, has provided a level of assurance to surrounding land owners.
- Consistency of the proposal with surrounding neighbourhood character and the established subdivision pattern and density of the area.
- Cumulative impacts of like proposals on under-developed infrastructure.

The proposal has been re-assessed against the relevant provisions of the *Planning and Environment Act 1987* and the Wangaratta Planning Scheme with the recommendation to not support the proposed covenant variation and associated subdivision. It is considered that there has been no material change to the proposal, and minimal physical change within the immediate area that would

warrant Council making a decision at odds with its original decision from 20 March 2018.

RECOMMENDATION:***That Council:***

1. Refuse to Grant a Permit with respect to Planning Application PInApp20/129 for a two lot subdivision and variation of a restrictive covenant, at 6 Pin Oak Drive Wangaratta for the following reasons:

- i. In accordance with Section 60(2) of the Planning and Environment Act 1987, it cannot be sufficiently demonstrated that owners of land benefited by the restriction will be unlikely to suffer loss arising from a change to the character of the neighbourhood or other material detriment as a consequence of the covenant variation.***
- ii. In accordance with the Decision Guidelines of Clause 52.02, it has been adequately demonstrated by the volume of objections to the proposal that the interests of persons benefitted by the restrictive covenant will be affected.***
- iii. In accordance with Clause 65.02 of the Wangaratta Planning Scheme the proposed subdivision is not considered to be in keeping with the established density or pattern of subdivision within the area, or the level of infrastructure currently afforded within the area.***

Property Details

The subject site is situated in the southern-most fringe of the Wangaratta residential area, located within the first stage of the Laceby Grange housing estate. The property is located on the south-east corner of the intersection of Pin Oak Drive and Elm Avenue, approximately 120m from the entry to Laceby Grange estate from Clarkes Lane. The current lot is an irregular shape with an area of 4,038m² and frontages of 63m and 44m to Pin Oak Drive and Elm Avenue respectively.

The immediately surrounding area is typified by large residential allotments of 4,000m² or more, generally featuring contemporary dwellings with significant setbacks, large ancillary outbuildings and expansive areas of landscaping. The predominant character is further influenced through the absence of kerb and channel, lack of footpaths and prevalence of open style rural fencing. This is consistent across the 32 lots comprising the first two stages of Laceby Grange Estate.

Some way to the north of the subject site the final stage of the Laceby Grange estate subdivision has been completed with the majority of lots having been developed. Comprising 23 lots of similar size and dimensions to the existing

stages, lots in this final stage range in size from 2,300m² through to 6,600m², with an average lot size of 3,300sqm.

Proposal in Detail

This application is for the variation of a restrictive covenant and the two lot subdivision of the land known as 6 Pin Oak Drive, Wangaratta. No development or works, other than those required for the provisioning of services associated with subdivision are proposed.

Subdivision

The subdivision proposes to divide the current allotment approximately in half, creating two lots with a common boundary aligned on a roughly east-west axis (see plan below and **Attachment 1**).



The southern-most lot, proposed Lot 1, would be generally rectangular in shape and have an area of 2,031m² with a 30m frontage to Pin Oak Drive. Access to the lot would be via the existing crossover on Pin Oak Drive. The existing dwelling and an associated outbuilding would be contained within proposed lot 1.

Proposed Lot 2 would create a generally rectangular vacant allotment of 2,007m². The lot would have dual frontages of 32m and 44m to Pin Oak Drive and Elm Avenue respectively. Access is proposed to be achieved via a crossover to Elm Avenue located to the east of the site, setback approximately 42m from the intersection with Pin Oak Drive. A Building Envelope to guide siting of future development on Lot 2 has been shown on the proposed subdivision plan.

Variation of a Restrictive Covenant

All lots within Plan of Subdivision PS606220J (including the subject land) are both burdened and benefitted by Covenant AJ049503Y (see **Attachment 2**). This Covenant was applied to the land on 1 July 2011 under Section 45 of the *Transfer of Land Act 1958*. No sunset clause is applicable. The Covenant contains five specific conditions restricting how the land may be used and developed. Condition (i) states:

“No building shall be erected on the land transferred except a single dwelling house with the usual and necessary garage carport and / or outbuildings. No buildings so erected shall be used for any purpose other than a single dwelling and residential purposes reasonably incidental thereto.”

The application seeks to vary the Covenant by removing the above condition (i).

Summary of Key Issues

- Variation of a Restrictive Covenant which, to this point, has provided a level of assurance to surrounding land owners.
- Consistency of the proposal with surrounding neighbourhood character and the established subdivision pattern and density of the area.
- Cumulative impacts of like proposals on under-developed infrastructure.

Assessment under the Planning and Environment Act

The assessment of the application against the relevant parts of the Wangaratta Planning Scheme and the *Planning And Environment Act 1987* is included in **Attachment 3**.

The following provisions of the *Planning and Environment Act* are of particular relevance to this proposal:

- Section 52 – Notice of Application
- Section 60(2) – What matters must a Responsible Authority consider

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

Section	Clause	Provision
State Planning Policy Framework	15.01-3	Neighbourhood and subdivision design
Local Planning Policy Framework	21.06	Urban Development & Central Activities Area
Zones	32.03	Low Density Residential Zone – Schedule 1
Overlays	N/A	N/A
Particular Provisions	52.02	Easements, Restrictions and Reserves
Decision Guidelines	65	Decision Guidelines

Referrals

The proposal for a two lot subdivision was not required to be referred to any referral authorities. The matter was referred to Council's Technical Services Department and they have no objections.

Advertising

The application was advertised on 16 July 2020 to all land owners and occupiers benefitted by Covenant AJ049503Y, namely all 19 other lots shown on Plan of Subdivision PS606220J (Stage 1 of Laceby Grange Estate). By virtue of the subject site's location, the extent of advertising included all adjoining property owners who would typically be notified of an application of this nature.

Subsequent to notification, nine individual submissions have been received. All submissions are considered to be objections to the proposal.

Of the nine objections received, seven are from persons directly benefitted by the restrictive covenant in Stage 1 and two are from persons benefitted by the same covenant in Stage 2.

The seven objections received represent 37% of all direct beneficiaries of the covenant (i.e. 7 of the 19 other properties) in Stage 1. This is slightly less than the 42% (8 of 19) of direct beneficiaries who objected to the previous application.

Concerns raised by objectors with respect to the proposal are summarised in **Attachment 3** (Assessment Report).

In summary, the following concerns raised by objectors are supported.

- Loss arising from a change to the character of the neighbourhood; and
- Other material detriment with respect to;
 - o the inadequacy of some infrastructure,
 - o cumulative impacts of traffic,
 - o the precedent that support of this application would set; and

- the loss of the protection and surety that the current covenant currently provides beneficiaries.

Section 60(2) of the *Planning and Environment Act* states:

The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer—

- (a) financial loss; or*
 - (b) loss of amenity; or*
 - (c) loss arising from change to the character of the neighbourhood; or*
 - (d) any other material detriment—*
- as a consequence of the removal or variation of the restriction.*

All other relevant considerations in the assessment and determination of this application are detailed in **Attachment 3**.

Implications

Policy Considerations

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

Financial Implications

This 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

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

Cultural Heritage

The land is not within a designated area of Cultural Heritage Sensitivity.

Social

Should the application be approved then there may be adverse social impacts on the landowners who benefit from the existing covenant.

Environmental/Sustainability Impacts

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

Economic Impacts

There may be some economic impacts should the matter proceed to VCAT.

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 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 Grant a Permit - Applicant appeals decision at VCAT	Moderate	Moderate	Moderate	Representation of Council at VCAT
Notice of Decision to Grant a Permit – Objector/s appeal decision at VCAT	Moderate	Moderate	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 of all properties within Plan of Subdivision PS606220.
Consult	All submissions to the application will be considered.	All Submissions have been reviewed and summarised in this report along with a response to relevant planning considerations.
Involve	Opportunity to make a submission.	Notice of Application sent to the owners of all properties within Plan of Subdivision PS606220.
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

1. Refuse to grant the Planning Permit.

OR

2. Issue a Notice of Decision to Grant a Permit with respect to Planning Permit Application PInApp20/129 for a two lot subdivision and variation of a restrictive covenant at 6 Pin Oak Drive Wangaratta, subject to conditions. This is not the recommended option.

Conclusion

The application seeks approval for the variation of a restrictive covenant and a two lot subdivision. Whilst the proposed subdivision in isolation complies with the purpose of the zone and can generally satisfy the minimum requirements of the zone and applicable standards, the subdivision layout does not respond favourably to the established neighbourhood character of the area. The subsequent development of Lot 2 will result in a contrasting density of built form on what is a prominent corner lot at the entrance to the Laceby Grange Estate.

The application is unable to adequately demonstrate that the concerns raised by owners of land benefitted by the restrictive covenant will be alleviated or are otherwise not valid. A sufficient amount of risk therefore remains that variation of the covenant will likely cause owners benefitted by the covenant to suffer loss arising from a change in the character of the neighbourhood and other material detriment.

In addition to being unable to definitively demonstrate that no objecting party benefitted by the covenant will suffer any loss, the volume of objections received to the proposal must also be considered if for no other reason than it gives substance to what otherwise may be considered the subjective nature of many of the concerns.

Council should have due regard to the reasonable expectations of objectors that the protections afforded them by the covenant, a legal document, should be enforced when appropriate by governing bodies and not dismissed to benefit a sole party to the agreement.

There has been no material change from the original proposal (PInApp17/215), and minimal physical change within the immediate area that would warrant Council making a decision at odds with its original decision from 20 March 2018.

The application is therefore not supported, and it is recommended that Council refuse to grant the permit.

Attachments

- 1 PInApp20/129 - Proposed Subdivision Layout Plan [↓](#)
- 2 PInApp20/129 - Restrictive Covenant [↓](#)
- 3 PInApp20/129 - Assessment Report [↓](#)

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: 21 September 2020
Author: Executive Service Coordinator
File Name: Assemblies of Councillors
File No: IC20/52

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.

Date	Meeting details	Refer
4/8/2020	Economic Development & Tourism Advisory Committee Meeting –	Attachment
10/8/2020	Arts Culture & Heritage Advisory Committee Meeting	Attachment
10/8/2020	Councillor Briefing Forum	Attachment
17/8/2020	Councillor Briefing Forum	Attachment
24/8/2020	Councillor Briefing Forum	Attachment
25/8/2020	Pre-Council Meeting Discussion – August Council Meeting	Attachment
31/8/2020	Councillor Briefing Forum	Attachment

Advisory Committee Meetings:

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

1. Economic Development & Tourism Advisory Committee Meeting – Minutes – 4 August 2020

RECOMMENDATION:

That Council:

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

Attachments

- 1 Assembly of Councillors - Wangaratta Economic Development & Tourism Advisory Committee Meeting - 4 August 2020 [↓](#)
- 2 Assembly of Councillors - Arts, Culture and Heritage Advisory Committee Meeting - 17 August 2020 [↓](#)
- 3 Assembly of Councillors - Councillors Briefing Forum - 10 August 2020 [↓](#)
- 4 Assembly of Councillors - Councillors Briefing Forum - 17 August 2020 [↓](#)
- 5 Assembly of Councillors - Councillors Briefing Forum - 24 August 2020 [↓](#)
- 6 Assembly of Councillors - Pre Council Meeting Discussion - 25 August 2020 [↓](#)
- 7 Assembly of Councillors - Councillors Briefing Forum - 31 August 2020 [↓](#)
- 8 Wangaratta Economic Development & Tourism Advisory Committee - MINUTES - 4 August 2020 [↓](#)

20. NOTICES OF MOTION

Nil

21. URGENT BUSINESS

22. PUBLIC QUESTION TIME

23. CONFIDENTIAL BUSINESS

Nil

24. CLOSURE OF MEETING

ATTACHMENTS

1

Instrument of delegation to members of Council staff

Responsible Officer	Adoption Date	September 2020
Governance and Reporting Advisor	Approved By	Council
	Review Date	October 2021
Authorising Officer	Policy Type	Council Policy
Director Corporate Services		

Instrument of Delegation

In exercise of the powers conferred by the legislation referred to in the attached Schedule, the Council:

- delegates each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column 3 of the Schedule;
- records that references in the Schedule are as follows:

Abbreviation		Position (or any successor position)
AOI	means	Asset Officer Inspections
APC	means	Asset Planning Coordinator
CCC	means	Community Compliance Coordinator
CP	means	Cadet Planner
DCS	means	Director Corporate Services
DCW	means	Director Community Wellbeing
DDS	means	Director Development Services
DIS	means	Director Infrastructure Services
EHO	means	Environmental Health Officer
G&RA	means	Governance & Reporting Advisor
HC	means	Horticulture Coordinator

Abbreviation		Position (or any successor position)
MBP&C	means	Manager Building Planning & Compliance
MBS	means	Municipal Building Surveyor
MEDE&S	Means	Manager Economic Development Environment & Strategy
MF	means	Manager Finance
MFS	means	Manager Field Services
MIP&D	means	Manager Infrastructure Planning & Delivery
MP&G	means	Manager People & Governance
P	means	Planner
PCBPC	means	Planning Coordinator
PCO	means	Planning Compliance Officer
SCFS	means	Supervisor Cemetery
SPBPC	means	Senior Planner
SPSGE	means	Strategy Planner
SW	means	Supervisor Works
TSC	means	Technical Services Coordinator
WC	means	Works Coordinator

3. declares that:

- 3.1. this Instrument of Delegation is authorised by a resolution of Council passed on 25 August 2020; and
- 3.2. the delegation:
 - 3.2.1. comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 3.2.2. remains in force until varied or revoked;
 - 3.2.3. is subject to any conditions and limitations set out in sub-paragraph 3.3, and the Schedule; and
 - 3.2.4. must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
- 3.3. the delegate must not determine the issue, take the action or do the act or thing:
 - 3.3.1. if the issue, action, act or thing is an issue, action, act or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council; or

- 3.3.2. if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a
- (a) policy; or
 - (b) strategy
- adopted by Council; or
- 3.3.3. if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation; or
- 3.3.4. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff or delegated committee.

THE COMMON SEAL OF THE WANGARATTA)
RURAL CITY COUNCIL was hereunto affixed)

_____ Mayor/Councillor

_____ Chief Executive Officer

_____ Date

Schedule

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Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
The provisions of this Act apply to Councils appointed as a cemetery trust under section 5 of this Act, and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53)			
s.8(1)(a)(ii)	power to manage one or more public cemeteries	CEO	
s.12(1)	function to properly and efficiently manage and maintain each public cemetery for which responsible and carry out any other function conferred under this Act	CEO	where council is a Class B cemetery trust
s.12(2)	duty to have regard to the matters set out in paragraphs (a)-(c) in exercising its functions	CEO	where council is a Class B cemetery trust
s.12A(1)	function to do the activities set out in paragraphs (a) – (n)	Not applicable	where council is a Class A cemetery trust
s.12A(2)	duty to have regard to matters set out in paragraphs (a)-(e) in exercising its functions	Not applicable	where council is a Class A cemetery trust
s.13	duty to do anything necessary or convenient to enable it to carry out its functions	CEO	
s.14	power to manage multiple public cemeteries as if they are one cemetery	CEO	
s.15(1) and (2)	power to delegate powers or functions other than those listed	CEO	
s.15(4)	duty to keep records of delegations	MFS	
s.17(1)	power to employ any persons necessary	CEO	

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.17(2)	power to engage any professional, technical or other assistance considered necessary	CEO	
s. 17(3)	power to determine the terms and conditions of employment or engagement	CEO	subject to any guidelines or directions of the Secretary
s.18(3)	duty to comply with a direction from the Secretary	MFS, HC, SCFS	
s.18B(1) & (2)	duty to establish governance committees within 12 months of becoming a Class A cemetery trust and power to establish other governance committees from time to time	Not applicable	where council is a Class A cemetery trust
s.18C	power to determine the membership of the governance committee	Not applicable	where council is a Class A cemetery trust
s.18D	power to determine procedure of governance committee	Not applicable	where council is a Class A cemetery trust
s.18D(1)(a)	duty to appoint community advisory committee for the purpose of liaising with communities	Not applicable	where council is a Class A cemetery trust
s.18D(1)(b)	power to appoint any additional community advisory committees	Not applicable	where council is a Class A cemetery trust
s.18D(2)	duty to establish a community advisory committee under section 18D(1)(a) within 12 months of becoming a Class A cemetery trust.	Not applicable	where council is a Class A cemetery trust
s.18D(3)	duty to include a report on the activities of the community advisory committees in its report of operations under Part 7 of the Financial Management Act 1994	Not applicable	where council is a Class A cemetery trust

Instrument of delegation to members of
Council staff

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Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.18F(2)	duty to give preference to a person who is not a funeral director of a stonemason (or a similar position) when appointing a person to a community advisory committee	Not applicable	where council is a Class A cemetery trust
s.18H(1)	duty to hold an annual meeting before 30 December in each calendar year, in accordance with section	Not applicable	where council is a Class A cemetery trust
s.18I	duty to publish a public notice of annual meeting in a newspaper, a reasonable time before the date of the annual meeting	Not applicable	where council is a Class A cemetery trust
s.18J	duty to provide leadership, assistance and advice in relation to operational and governance matters relating to cemeteries (including the matters set out in section 18J(2))	Not applicable	where council is a Class A cemetery trust
s.18L(1)	duty to employ a person as the chief executive officer (by whatever title called) of the Class A cemetery trust	Not applicable	where council is a Class A cemetery trust
s.18N(1)	duty to prepare an annual plan for each financial year that specifies the items set out in paragraphs (a)-(d)	Not applicable	where council is a Class A cemetery trust
s.18N(3)	duty to give a copy of the proposed annual plan to the Secretary on or before 30 September each year for the Secretary's approval	Not applicable	where council is a Class A cemetery trust
s.18N(5)	duty to make amendments as required by the Secretary and deliver the completed plan to the Secretary within 3 months	Not applicable	where council is a Class A cemetery trust

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.18N(7)	duty to ensure that an approved annual plan is available to members of the public on request	Not applicable	where council is a Class A cemetery trust
s.18O(1)	duty to prepare a strategic plan and submit the plan to the Secretary for approval	Not applicable	where council is a Class A cemetery trust
s.18O(4)	duty to advise the Secretary if the trust wishes to exercise its functions in a manner inconsistent with its approved strategic plan	Not applicable	where council is a Class A cemetery trust
s.18O(5)	duty to ensure that an approved strategic plan is available to members of the public on request	Not applicable	where council is a Class A cemetery trust
s.18Q(1)	duty to pay an annual levy on gross earnings as reported in the annual financial statements for the previous financial year.	Not applicable	where council is a Class A cemetery trust
s.19	power to carry out or permit the carrying out of works	MFS	
s.20(1)	duty to set aside areas for the interment of human remains	MFS	
s.20(2)	power to set aside areas for the purposes of managing a public cemetery	CEO	
s.20(3)	power to set aside areas for those things in paragraphs (a) – (e)	CEO	
s.24(2)	power to apply to the Secretary for approval to alter the existing distribution of land	CEO	
s.36	power to grant licences to enter and use part of the land or building in a public cemetery in accordance with this section	CEO	subject to the approval of the Minister

Instrument of delegation to members of
Council staff

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.37	power to grant leases over land in a public cemetery in accordance with this section	CEO	subject to the Minister approving the purpose
s.40	duty to notify Secretary of fees and charges fixed under section 39	MFS, DIS	
s.47	power to pay a contribution toward the cost of the construction and maintenance of any private street adjoining or abutting a cemetery	MFS, DIS	provided the street was constructed pursuant to the Local Government Act 2020
s.57(1)	duty to submit a report to the Secretary every financial year in respect of powers and functions under the Act	MFS, DIS	report must contain the particulars listed in s.57(2)
s.59	duty to keep records for each public cemetery	DIS, MFS	
s.60(1)	duty to make information in records available to the public for historical or research purposes	SCFS, HC	
s.60(2)	power to charge fees for providing information	SCFS, HC	
s.64(4)	duty to comply with a direction from the Secretary under section 64(3)	DIS	
s.64B(d)	power to permit interments at a reopened cemetery	DIS	
s.66(1)	power to apply to the Minister for approval to convert the cemetery, or part of it, to a historic cemetery park	DIS	the application must include the requirements listed in s.66(2)(a)–(d)
s.69	duty to take reasonable steps to notify of conversion to historic cemetery park	DIS	

Instrument of delegation to members of
Council staff

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Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.70(1)	duty to prepare plan of existing places of interment and make a record of any inscriptions on memorials which are to be removed	SCFS, HC	
s.70(2)	duty to make plans of existing place of interment available to the public	SCFS, HC	
s.71(1)	power to remove any memorials or other structures in an area to which an approval to convert applies	SCFS, HC	
s.71(2)	power to dispose of any memorial or other structure removed	SCFS, HC	
s.72(2)	duty to comply with request received under section 72	SCFS, HC	
s.73(1)	power to grant a right of interment	SCFS, HC	
s.73(2)	power to impose conditions on the right of interment	MFS, HC	
s.75	power to grant the rights of interment set out in subsections (a) and (b)	MFS, HC	
s.76(3)	duty to allocate a piece of interment if an unallocated right is granted	MFS, HC	
s.77(4)	power to authorise and impose terms and conditions on the removal of cremated human remains or body parts from the place of interment on application	MFS, DIS	
s.80(1)	function of receiving notification and payment of transfer of right of interment	SCFS, HC	
s.80(2)	function of recording transfer of right of interment	SCFS, HC	

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.82(2)	duty to pay refund on the surrender of an unexercised right of interment	SCFS, HC	
s.83(2)	duty to pay refund on the surrender of an unexercised right of interment (sole holder)	SCFS, MFS, HC	
s.83(3)	power to remove any memorial and grant another right of interment for a surrendered right of interment	SCFS, HC	
s.84(1)	function of receiving notice of surrendering an entitlement to a right of interment	SCFS, HC	
s.85(1)	duty to notify holder of 25 year right of interment of expiration at least 12 months before expiry	SCFS, HC	the notice must be in writing and contain the requirements listed in s.85(2)
s.85(2)(b)	duty to notify holder of 25 year right of interment of expiration of right at least 12 months before expiry	SCFS, HC	does not apply where right of interment relates to remains of a deceased veteran.
85(2)(c)	power to leave interred cremated remains undistributed in perpetuity and convert right of interment to perpetual right of interment or;	SCFS, HC	may only be exercised where right of interment relates to cremated human remains of a deceased identified veteran, if right of interment is not extended or converted to a perpetual right of interment

Instrument of delegation to members of
Council staff

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
85(2)(c)	remove interred remains and re-inter at another location within cemetery grounds and remove any memorial at that place and re-establish at new or equivalent location.	SCFS, HC	may only be exercised where right of interment relates to cremated human remains of a deceased identified veteran, if right of interment is not extended or converted to a perpetual right of interment
s.86	power to remove and dispose of cremated human remains and remove any memorial if no action taken by right holder within time specified	SCFS, HC	
s.86(2)	power to leave interred cremated human remains undisturbed or convert the right of interment to a perpetual right of interment	SCFS, HC	
s.86(3)(a)	power to leave interred cremated human remains undisturbed in perpetuity and convert the right of interment to a perpetual right of interment	SCFS, HC	
s.86(3)(b)	power to remove interred cremated human remains and take further action in accordance with s.86(3)(b)	SCFS, HC	
s.86(4)	power to take action under s.86(4) relating to removing and re-intering cremated human remains	SCFS, HC	
s.86(5)	duty to provide notification before taking action under s.86(4)	SCFS, HC	
s.86A	duty to maintain place of interment and any memorial at place of interment, if action taken under s.86(3)	SCFS, HC	

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.87(3)	duty, if requested, to extend the right for a further 25 years or convert the right to a perpetual right of interment	SCFS, HC	
s.88	function to receive applications to carry out a lift and re-position procedure at a place of interment	MFS, SCFS, HC	
s.91(1)	power to cancel a right of interment in accordance with this section	MFS, HC	
s.91(3)	duty to publish notice of intention to cancel right of interment	MFS, HC	
s.92	power to pay refund or grant a right of interment in respect of another place of interment to the previous holder of the cancelled right of interment	MFS, SCFS, HC	
s.98(1)	function of receiving application to establish or alter a memorial or a place of interment	SCFS, HC	
s.99	power to approve or refuse an application made under section 98, or to cancel an approval	MFS, HC	
s.99(4)	duty to make a decision on an application under section 98 within 45 days after receipt of the application or within 45 days of receiving further information where requested	MFS, HC	
s.100(1)	power to require a person to remove memorials or places of interment	MFS, HC	
s.100(2)	power to remove and dispose a memorial or place of interment or remedy a person's failure to comply with section 100(1)	MFS, SCFS, HC	

Instrument of delegation to members of
Council staff

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.100(3)	power to recover costs of taking action under section 100(2)	MFS, HC	
s.101	function of receiving applications to establish or alter a building for ceremonies in the cemetery	MFS, SCFS, HC	
s.102(1)	power to approve or refuse an application under section 101, if satisfied of the matters in (b) and (c)	MFS, HC	
s.102(2) & (3)	power to set terms and conditions in respect of, or to cancel, an approval granted under section 102(1)	MFS, HC	
s.103(1)	power to require a person to remove a building for ceremonies	MFS, HC	
s.103(2)	power to remove and dispose of a building for ceremonies or remedy the failure to comply with section 103(1)	MFS, HC	
s.103(3)	power to recover costs of taking action under section 103(2)	MFS, HC	
s.106(1)	power to require the holder of the right of interment of the requirement to make the memorial or place of interment safe and proper or carry out specified repairs	MFS, HC	
s.106(2)	power to require the holder of the right of interment to provide for an examination	MFS, HC	
s.106(3)	power to open and examine the place of interment if section 106(2) not complied with	MFS, HC	

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.106(4)	power to repair or – with the approval of the Secretary - take down, remove and dispose any memorial or place of interment if notice under section 106(1) is not complied with	MFS, HC	
s.107(1)	power to require person responsible to make the building for ceremonies safe and proper or carry out specified repairs	MFS, HC	
s.107(2)	power to repair or take down, remove and dispose any building for ceremonies if notice under section 107(1) is not complied with	SCFS, HC	
s.108	power to recover costs and expenses	MFS, HC	
s.109(1)(a)	power to open, examine and repair a place of interment	MFS, HC	where the holder of right of interment or responsible person cannot be found
s.109(1)(b)	power to repair a memorial or, with the Secretary's consent, take down, remove and dispose of a memorial	MFS, HC	where the holder of right of interment or responsible person cannot be found
s.109(2)	power to repair the building for ceremonies or, with the consent of the Secretary, take down, remove and dispose of a building for ceremonies	MFS, HC	where the holder of right of interment or responsible person cannot be found
s.110(1)	power to maintain, repair or restore a memorial or place of interment from other funds if unable to find right of interment holder. with consent of the Secretary	MFS, HC	
s.110(2)	power to maintain, repair or restore any building for ceremonies from other funds if unable to find responsible person and with consent of the Secretary	MFS, HC	

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s. 110A	power to use cemetery trust funds or other funds for the purposes of establishing, maintaining, repairing or restoring any memorial or place of interment of any deceased identified veteran	MFS, HC	
s.111	power to enter into agreement with a holder of the right of interment to maintain a memorial or place of interment	MFS, HC	
s.112	power to sell and supply memorials	SCFS, HC	
s.116(4)	duty to notify the Secretary of an interment authorisation granted	MFS, SCFS, HC	
s.116(5)	power to require an applicant to produce evidence of the right of interment holder's consent to application	MFS, SCFS, HC	
s.118	power to grant an interment authorisation if satisfied that the requirements of Division 2 of Part 8 have been met	MFS, HC	
s.119	power to set terms and conditions for interment authorisations	MFS, HC	
s.131	function of receiving an application for cremation authorisation	SCFS, HC	
s.133(1)	duty not to grant a cremation authorisation unless satisfied that requirements of section 133 have been complied with	MFS, HC	Subject to subsection (2)
s.145	duty to comply with an order made by the Magistrates' Court or a coroner	MFS, HC	

Cemeteries and Crematoria Act 2003			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.146	power to dispose of bodily remains by a method other than interment or cremation	DIS	subject to the approval of the Secretary
s.147	power to apply to the Secretary for approval to dispose of bodily remains by a method other than interment or cremation	DIS	
s.149	duty to cease using method of disposal if approval revoked by the Secretary	MFS, HC	
s.150 & 152(1)	power to authorise the interment or cremation of body parts if the requirements of Division 1 of Part 11 are met	MFS, HC	
s.151	function of receiving applications to inter or cremate body parts	SCFS, HC	
s.152(2)	power to impose terms and conditions on authorisation granted under section 150.	MFS, HC	
Schedule 1 clause 8(3)	power to permit members to participate in a particular meeting by telephone, closed-circuit television or any other means of communication	MFS, HC	
Schedule 1 clause 8(8)	power to regulate own proceedings	DIS	subject to clause 8
Schedule 1A clause 8(3)	power to permit members to participate in a particular meeting by telephone, closed-circuit television or any other means of communication	Not applicable	where council is a Class A cemetery trust
Schedule 1A clause 8(8)	power to regulate own proceedings	Not applicable	where council is a Class A cemetery trust. Subject to clause 8

Cemeteries and Crematoria Regulations 2015				
Column 1	Column 2	Column 3	Column 4	
Provision	Thing delegated	Delegate	Conditions & limitations	
These provisions apply to Councils appointed as a cemetery trust under section 5 of the Cemeteries and Crematoria Act 2003, and also apply to Councils appointed to manage a public cemetery under section 8(1)(a)(ii) as though it were a cemetery trust (see section 53)				
r.24	duty to ensure that cemetery complies with depth of burial requirements	SCFS, MFS, HC		
r.25	duty to ensure that the cemetery complies with the requirements for interment in concrete-lined graves	SCFS, MFS, HC		
r.27	power to inspect any coffin, container or other receptacle if satisfied of the matters in paragraphs (a) and (b)	SCFS, MFS, HC		
r.28(1)	power to remove any fittings on any coffin, container or other receptacle if the fittings may impede the cremation process or damage the cremator	Not applicable		
r.28(2)	duty to ensure any fittings removed of are disposed in an appropriate manner	Not applicable		
r.29	power to dispose of any metal substance or non-human substance recovered from a cremator	Not applicable		
r.30(2)	power to release cremated human remains to certain persons	Not applicable	subject to any order of a court	
r.31(1)	duty to make cremated human remains available for collection within 2 working days after the cremation	Not applicable		
r.31(2)	duty to hold cremated human remains for at least 12 months from the date of cremation	Not applicable		

Cemeteries and Crematoria Regulations 2015			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r.31(3)	power to dispose of cremated human remains if no person gives a direction within 12 months of the date of cremation	Not applicable	
r.31(4)	duty to take reasonable steps notify relevant people of intention to dispose of remains at expiry of 12 month period	Not applicable	
r.32	duty to ensure a mausoleum is constructed in accordance with paragraphs (a)-(d)	DIS, MFS	
r.33(1)	duty to ensure that remains are interred in a coffin, container or receptacle in accordance with paragraphs (a)-(c)	SCFS, HC	
r.33(2)	duty to ensure that remains are interred in accordance with paragraphs (a)-(b)	SCFS, HC	
r.34	duty to ensure that a crypt space in a mausoleum is sealed in accordance with paragraphs (a)-(b)	SCFS, HC	
r.36	duty to provide statement that alternative vendors or supplier of monuments exist	SCFS, HC	
r. 40	power to approve a person to play sport within a public cemetery	DIS, MFS	
r. 41(1)	power to approve fishing and bathing within a public cemetery	DIS, MFS	
r. 42(1)	power to approve hunting within a public cemetery	DIS, MFS	
r. 43	power to approve camping within a public cemetery	DIS, MFS	

Cemeteries and Crematoria Regulations 2015			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r. 45(1)	power to approve the removal of plants within a public cemetery	DIS, MFS	
r. 46	power to approve certain activities under the Regulations if satisfied of regulation (1)(a)-(c)	DIS, MFS	
r. 47(3)	power to approve the use of fire in a public cemetery	DIS, MFS	
r. 48(2)	power to approve a person to drive, ride or use a vehicle on any surface other than a road, track or parking area	SCFS, MFS, HC	
Note: Schedule 2 contains Model Rules – only applicable if the cemetery trust has not made its own cemetery trust rules			
Schedule 2, clause 4	power to approve the carrying out of an activity referred to in rules 8, 16, 17 and 18 of Schedule 2	DIS, MFS	see note above regarding model rules
Schedule 2, clause 5(1)	duty to display the hours during which pedestrian access is available to the cemetery	MFS, SCFS, HC	see note above regarding model rules
Schedule 2, clause 5(2)	duty to notify the Secretary of, (a) the hours during which pedestrian access is available to the cemetery; and (b) any changes to those hours	DIS, MFS	see note above regarding model rules
Schedule 2, clause 6(1)	power to give directions regarding the manner in which a funeral is to be conducted	SCFS, MFS, HC	see note above regarding model rules
Schedule 2, clause 7(1)	power to give directions regarding the dressing of places of interment and memorials	SCFS, MFS, HC	see note above regarding model rules

Cemeteries and Crematoria Regulations 2015			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
Schedule 2, clause 8	power to approve certain mementos on a memorial	SCFS, MFS, HC	see note above regarding model rules
Schedule 2, clause 11(1)	power to remove objects from a memorial or place of interment	SCFS, MFS, HC	see note above regarding model rules
Schedule 2, clause 11(2)	duty to ensure objects removed under sub rule (1) are disposed of in an appropriate manner	SCFS, MFS, HC	see note above regarding model rules
Schedule 2, clause 12	power to inspect any work being carried out on memorials, places of interment and buildings for ceremonies	SCFS, MFS, HC	see note above regarding model rules
Schedule 2, clause 14	power to approve an animal to enter into or remain in a cemetery	SCFS, MFS, HC	see note above regarding model rules
Schedule 2, clause 16(1)	power to approve construction and building within a cemetery	DIS, MFS	see note above regarding model rules
Schedule 2, clause 17(1)	power to approve action to disturb or demolish property of the cemetery trust	MFS, HC	see note above regarding model rules
Schedule 2, clause 18(1)	power to approve digging or planting within a cemetery	MFS, HC	see note above regarding model rules

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Instrument of delegation to members of
Council staff

Domestic Animals Act 1994			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.41A(1)	power to declare a dog to be a menacing dog	DDS, MBP&C	Council may delegate this power to an authorised officer

Instrument of delegation to members of
Council staff

Environment Protection Act 1970			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.53M(3)	power to require further information	MBP&C, CCC, EHO	
s.53M(4)	duty to advise applicant that application is not to be dealt with	MBP&C, CCC, EHO	
s.53M(5)	duty to approve plans, issue permit or refuse permit	MBP&C, CCC, EHO	refusal must be ratified by council or it is of no effect
s.53M(6)	power to refuse to issue septic tank permit	MBP&C, CCC, EHO	refusal must be ratified by council or it is of no effect
s.53M(7)	duty to refuse to issue a permit in circumstances in (a)-(c)	MBP&C, CCC, EHO	refusal must be ratified by council or it is of no effect

Food Act 1984			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.19(2)(a)	power to direct by written order that the food premises be put into a clean and sanitary condition	EHO, CCC, MBP&C	If section 19(1) applies
s.19(2)(b)	power to direct by written order that specified steps be taken to ensure that food prepared, sold or handled is safe and suitable	EHO, CCC, MBP&C	If section 19(1) applies
s.19(3)	power to direct by written order that the food premises not be kept or used for the sale, or handling for sale, of any food, or for the preparation of any food, or for any other specified purpose, or for the use of any specified equipment or a specified process	MBP&C, CCC	If section 19(1) applies. Only in relation to temporary food premises or mobile food premises
s.19(4)(a)	power to direct that an order made under section 19(3)(a) or (b), (i) be affixed to a conspicuous part of the premises, and (ii) inform the public by notice in a published newspaper or otherwise	MBP&C, CCC	If section 19(1) applies
s.19(6)(a)	duty to revoke any order under section 19 if satisfied that an order has been complied with	MBP&C, CCC	If section 19(1) applies
s.19(6)(b)	duty to give written notice of revocation under section 19(6)(a) if satisfied that an order has been complied with	MBP&C, CCC	If section 19(1) applies
s.19AA(2)	power to direct, by written order, that a person must take any of the actions described in (a)-(c).	MBP&C, CCC	where council is the registration authority

Instrument of delegation to members of Council staff

Food Act 1984			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s. 19AA(4)(c)	power to direct, in an order made under s.19AA(2) or a subsequent written order, that a person must ensure that any food or class of food is not removed from the premises	MBP&C, CCC	Note: the power to direct the matters under s.19AA(4)(a) and (b) not capable of delegation and so such directions must be made by a Council resolution
s. 19AA(7)	duty to revoke order issued under s. 19AA and give written notice of revocation, if satisfied that that order has been complied with	MBP&C, CCC	where council is the registration authority
s. 19CB(4)(b)	power to request copy of records	MBP&C, EHO, CCC	where council is the registration authority
s. 19E(1)(d)	power to request a copy of the food safety program	EHO, CCC	where council is the registration authority
s. 19GB	power to request proprietor to provide written details of the name, qualification or experience of the current food safety supervisor	EHO, CCC	where council is the registration authority
s. 19M(4)(a) & (5)	power to conduct a food safety audit and take actions where deficiencies are identified	EHO, CCC	where council is the registration authority
s. 19NA(1)	power to request food safety audit reports	EHO, CCC	where council is the registration authority
s. 19U(3)	power to waive and vary the costs of a food safety audit if there are special circumstances	DDS, MBP&C	

Instrument of delegation to members of Council staff

Food Act 1984			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.19UA	power to charge fees for conducting a food safety assessment or inspection	MBP&C, CCC	except for an assessment required by a declaration under section 19C or an inspection under sections 38B(1)(c) or 39.
s.19W	power to direct a proprietor of a food premises to comply with any requirement under Part IIIB	EHO, CCC, MBP&C	where council is the registration authority
s.19W(3)(a)	power to direct a proprietor of a food premises to have staff at the premises undertake training or instruction	MBP&C, CCC	where council is the registration authority
s.19W(3)(b)	power to direct a proprietor of a food premises to have details of any staff training incorporated into the minimum records required to be kept or food safety program of the premises	MBP&C, CCC	where council is the registration authority
---	power to register, renew or transfer registration	MBP&C, CCC, EHO	where council is the registration authority. Refusal to grant/renew/transfer registration must be ratified by Council or the CEO (see section 58A(2))
s.38AA(5)	power to (a) request further information; or (b) advise the proprietor that the premises must be registered if the premises are not exempt	EHO, CCC, MBP&C	where council is the registration authority
s.38AB(4)	power to fix a fee for the receipt of a notification under section 38AA in accordance with a declaration under section 38AB(1)	EHO, CCC, MBP&C	where council is the registration authority

Food Act 1984			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.38A(4)	power to request a copy of a completed food safety program template	EHO, CCC, MBP&C	where council is the registration authority
s.38B(1)(a)	duty to assess the application and determine which class of food premises under section 19C the food premises belongs	EHO, CCC, MBP&C	where council is the registration authority
s.38B(1)(b)	duty to ensure proprietor has complied with requirements of section 38A	EHO, CCC	where council is the registration authority
s.38B(2)	duty to be satisfied of the matters in section 38B(2)(a)-(b)	EHO, CCC	where council is the registration authority
s.38D(1)	duty to ensure compliance with the applicable provisions of section 38C and inspect the premises if required by section 39	EHO, CCC	where council is the registration authority
s.38D(2)	duty to be satisfied of the matters in section 38D(2)(a)-(d)	EHO, CCC	where council is the registration authority
s.38D(3)	power to request copies of any audit reports	EHO, CCC	where council is the registration authority
s.38E(2)	power to register the food premises on a conditional basis	EHO, CCC	where council is the registration authority; not exceeding the prescribed time limit defined under section 38E(5).
s.38E(4)	duty to register the food premises when conditions are satisfied	EHO, CCC	where council is the registration authority
s.38F(3)(b)	power to require proprietor to comply with requirements of this Act	CCC, EHO	where council is the registration authority

Instrument of delegation to members of Council staff

Food Act 1984			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.39A	power to register, renew or transfer food premises despite minor defects	CCC, EHO	where council is the registration authority. Only if satisfied of matters in sections 39A(2)(a)-(c)
s.40(2)	power to incorporate the certificate of registration in one document with any certificate of registration under Part 6 of the Public Health and Wellbeing Act 2008	CCC, EHO	
s.40C(2)	power to grant or renew the registration of food premises for a period of less than 1 year	CCC, EHO	where council is the registration authority
s.40D(1)	power to suspend or revoke the registration of food premises	MBP&C, CCC	where council is the registration authority
s.43F(6)	duty to be satisfied that registration requirements under Division 3 have been met prior to registering, transferring or renewing registration of a component of a food business	CCC, EHO	where council is the registration authority
s.43F(7)	power to register the components of the food business that meet requirements in Division 3 and power to refuse to register the components that do not meet the requirements	CCC, MBP&C	where council is the registration authority
s.46(5)	power to institute proceedings against another person where the offence was due to an act or default by that other person and where the first person charged could successfully defend a prosecution, without proceedings first being instituted against the person first charged	DDS, MBP&C, CCC	where council is the registration authority

Instrument of delegation to members of
Council staff

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Heritage Act 2017			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.116)	power to sub-delegate Executive Director's functions, duties and powers	DDS	must first obtain Executive Director's written consent; Council can only sub-delegate if the instrument of delegation from the Executive Director authorises sub-delegation

**Instrument of delegation to members of
Council staff**

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Local Government Act 1989			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.181H	power to enter into an environmental upgrade agreement on behalf of Council and declare and levy an environmental upgrade charge	CEO	The only member of staff who can be a delegate in Column 3 is the CEO.
s 185L(4)	Power to declare and levy a cladding rectification charge	CEO	The only member of staff who can be a delegate in Column 3 is the CEO.

Instrument of delegation to members of
Council staff

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.4B	power to prepare an amendment to the Victoria Planning Provisions	MEDE&S, MBP&C, DDS	if authorised by the Minister
s.4G	function of receiving prescribed documents and a copy of the Victoria Planning Provisions from the Minister	MEDE&S, MBP&C, DDS	
s.4H	duty to make amendment to Victoria Planning Provisions available	MEDE&S, MBP&C, DDS	
s.4I	duty to keep Victoria Planning Provisions and other documents available	MEDE&S, MBP&C, DDS	
s.8A(2)	power to prepare amendment to the planning scheme where the Minister has given consent under s.8A	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s. 8A(3)	power to apply to Minister to prepare an amendment to the planning scheme	MEDE&S, MBP&C, DDS	
s.8A(5)	function of receiving notice of the Minister's decision	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.8A(7)	power to prepare the amendment specified in the application without the Minister's authorisation if no response received after 10 business days	MEDE&S, MBP&C, DDS	
s.8B(2)	power to apply to the Minister for authorisation to prepare an amendment to the planning scheme of an adjoining municipal district	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.12(3)	power to carry out studies and do things to ensure proper use of land and consult with other persons to ensure co-ordination of planning scheme with these persons	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.12A(1)	duty to prepare a municipal strategic statement (including power to prepare a municipal strategic statement under section 19 of the Planning and Environment (Planning Schemes) Act 1996)	MEDE&S, DDS, MBP&C	
s.12B(1)	duty to review planning scheme	MEDE&S, DDS, MBP&C	
s.12B(2)	duty to review planning scheme at direction of Minister	MEDE&S, DDS, MBP&C	
s.12B(5)	duty to report findings of review of planning scheme to Minister without delay	MEDE&S, DDS, MBP&C	

Instrument of delegation to members of
Council staff

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.14	duties of a Responsible Authority as set out in sections 14(a) to (d)	MEDE&S, MBP&C, DDS	
s.17(1)	duty of giving copy amendment to the planning scheme	MEDE&S, DDS, MBP&C	
s.17(2)	duty of giving copy s.173 agreement	MEDE&S, DDS, MBP&C	
s.17(3)	duty of giving copy amendment, explanatory report and relevant documents to the Minister within 10 business days	MEDE&S, DDS, MBP&C	
s.18	duty to make amendment etc. available	MEDE&S, DDS, MBP&C	
s.19	power to give notice, to decide not to give notice, to publish notice of amendment to a planning scheme and to exercise any other power under section 19 to a planning scheme	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.19	function of receiving notice of preparation of an amendment to a planning scheme	Not applicable	where Council is not the planning authority and the amendment affects land within Council's municipal district; or where the amendment will amend the planning scheme to designate Council as an acquiring authority.

Instrument of delegation to members of
Council staff

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Planning and Environment Act 1987				
Column 1	Column 2	Column 3	Column 4	
Provision	Thing delegated	Delegate	Conditions & limitations	
s.20(1)	power to apply to Minister for exemption from the requirements of section 19	MEDE&S, DDS, MBP&C		
s.21(2)	duty to make submissions available	MEDE&S, DDS, SPSGE, MBP&C, PCBPC		
s.21A(4)	duty to publish notice	MEDE&S, DDS, SPSGE, MBP&C, PCBPC		
s.22	duty to consider all submissions	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	except submissions which request a change to the items in sections.22(5)(a) and (b)	
s.23(1)(b)	duty to refer submissions which request a change to the amendment to a panel	MEDE&S, DDS, SPSGE, MBP&C, PCBPC		

Instrument of delegation to members of
Council staff

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.23(2)	power to refer to a panel submission which do not require a change to the amendment	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.24	function to represent council and present a submission at a panel hearing (including a hearing referred to in section 96D)	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.26(1)	power to make report available for inspection	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.26(2)	duty to keep report of panel available for inspection	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.27(2)	power to apply for exemption if panel's report not received	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	

Instrument of delegation to members of
Council staff

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.28	duty to notify the Minister if abandoning an amendment	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	Note: the power to make a decision to abandon an amendment cannot be delegated
s.30(4)(a)	duty to say if amendment has lapsed	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.30(4)(b)	duty to provide information in writing upon request	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.32(2)	duty to give more notice if required	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.33(1)	duty to give more notice of changes to an amendment	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	

Instrument of delegation to members of
Council staff

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.36(2)	duty to give notice of approval of amendment	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.38(5)	duty to give notice of revocation of an amendment	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.39	function of being a party to a proceeding commenced under section 39 and duty to comply with determination by VCAT	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.40(1)	function of lodging copy of approved amendment	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.41	duty to make approved amendment available	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	

Instrument of delegation to members of
Council staff

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.42	duty to make copy of planning scheme available	MEDE&S, DDS, SPSGE, MBP&C, PCBPC	
s.46AAA	duty to prepare an amendment to a planning scheme that relates to Yarra River land that is not inconsistent with anything in a Yarra Strategic Plan which is expressed to be binding on the responsible public entity		where council is a responsible public entity and is a planning authority. Note: this provision is not yet in force, and will commence on the day on which the initial Yarra Strategic Plan comes into operation. It will effect a limited number of councils
s.46AW	function of being consulted by the Minister	MEDE&S, DDS, MBP&C	where Council is a responsible public entity
s.46AX	function of receiving a draft Statement of Planning Policy and written direction in relation to the endorsement of the draft Statement of Planning Policy power to endorse the draft Statement of Planning Policy	MEDE&S, DDS, MBP&C	where Council is a responsible public entity
s.46AZC(2)	duty not to prepare an amendment to a declared area planning scheme that is inconsistent with a Statement of Planning Policy for the declared area that is expressed to be binding on the responsible public entity	MEDE&S, DDS, MBP&C	where Council is a responsible public entity

Instrument of delegation to members of
Council staff

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s 46AZK	duty not to act inconsistently with any provision of the Statement of Planning Policy that is expressed to be binding on the public entity when performing a function or duty or exercising a power in relation to the declared area	MEDE&S, DDS, MBP&C	where Council is a responsible public entity
s 46GI(2)(b)(i)	power to agree to a lower rate of standard levy for a class of development of a particular type of land than the rate specified in a Minister's direction	MEDE&S, DDS, MBP&C	where Council is the planning authority, the municipal Council of the municipal district in which the land is located and/or the development agency
s 46GJ(1)	function of receiving written directions from the Minister in relation to the preparation and content of infrastructure contributions plans	MEDE&S, DDS, MBP&C	
s 46GK	duty to comply with a Minister's direction that applies to Council as the planning authority	MEDE&S, DDS, MBP&C	
s 46GN(1)	duty to arrange for estimates of values of inner public purpose land	MEDE&S, DDS, MBP&C, MF	
s 46GO(1)	duty to give notice to owners of certain inner public purpose land	MEDE&S, DDS, MBP&C	
s 46GP	function of receiving a notice under s 46GO	MEDE&S, DDS, MBP&C	where Council is the collecting agency

Planning and Environment Act 1987

Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s 46GQ	function of receiving a submission from an affected owner who objects to the estimated value per hectare (or other appropriate unit of measurement) of the inner public purpose land	MEDE&S, DDS, MBP&C	
s 46GR(1)	duty to consider every submission that is made by the closing date for submissions included in the notice under s 46GO	MEDE&S, DDS, MBP&C	
s 46GR(2)	power to consider a late submission duty to consider a late submission if directed to do so by the Minister	MEDE&S, DDS, MBP&C	
s 46GS(1)	power to accept or reject the estimate of the value of the inner public purpose land in a submission made under s 46GQ	MEDE&S, DDS, MBP&C	
s 46GS(2)	duty, if Council rejects the estimate of the value of the inner public purpose land in the submission, to refer the matter to the valuer-general, and notify the affected owner of the rejection and that the matter has been referred to the valuer-general	MEDE&S, DDS, MBP&C	
s 46GT(2)	duty to pay half of the fee fixed by the valuer-general for arranging and attending the conference	MEDE&S, DDS, MBP&C	
s 46GT(4)	function of receiving, from the valuer-general, written confirmation of the agreement between the planning authority's valuer and the affected owner's valuer as to the estimated value of the inner public purpose land	MEDE&S, DDS, MBP&C	

Planning and Environment Act 1987				
Column 1	Column 2	Column 3	Column 4	
Provision	Thing delegated	Delegate	Conditions & limitations	
s 46GT(6)	function of receiving, from the valuer-general, written notice of a determination under s 46GT(5)	MEDE&S, DDS, MBP&C		
s 46GU	duty not to adopt an amendment under s 29 to an infrastructure contributions plan that specifies a land credit amount or a land equalisation amount that relates to a parcel of land in the ICP plan area of the plan unless the criteria in s 46GU(1)(a) and (b) are met	MEDE&S, DDS, MBP&C		
s 46GV(3)	function of receiving the monetary component and any land equalisation amount of the infrastructure contribution power to specify the manner in which the payment is to be made	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency	
s 46GV(3)(b)	power to enter into an agreement with the applicant	MEDE&S, DDS, MBP&C, PCBPC	where Council is the collecting agency	
s 46GV(4)(a)	function of receiving the inner public purpose land in accordance with s 46GV(5) and (6)	MEDE&S, DDS, MBP&C, PCBPC	where Council is the development agency	
s 46GV(4)(b)	function of receiving the inner public purpose land in accordance with s 46GV(5) and (6)	MEDE&S, DDS, MBP&C, PCBPC	where Council is the collecting agency	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s 46GV(7)	duty to impose the requirements set out in s 46GV(3) and (4) as conditions on the permit applied for by the applicant to develop the land in the ICP plan area	MEDE&S, DDS, MBP&C, PCBPC	
s 46GV(9)	power to require the payment of a monetary component or the provision of the land component of an infrastructure contribution to be secured to Council's satisfaction	MEDE&S, DDS, MBP&C	where Council is the collecting agency
s 46GX(1)	power to accept works, services or facilities in part or full satisfaction of the monetary component of an infrastructure contribution payable	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency
s 46GX(2)	duty, before accepting the provision of works, services or facilities by an applicant under s 46GX(1), to obtain the agreement of the development agency or agencies specified in the approved infrastructure contributions plan	MEDE&S, DDS, MBP&C	where Council is the collecting agency
s 46GY(1)	duty to keep proper and separate accounts and records	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency
s 46GY(2)	duty to keep the accounts and records in accordance with the Local Government Act 2020	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency

Planning and Environment Act 1987				
Column 1	Column 2	Column 3	Column 4	
Provision	Thing delegated	Delegate	Conditions & limitations	
s 46GZ(2)(a)	duty to forward any part of the monetary component that is imposed for plan preparation costs to the planning authority that incurred those costs	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan. This duty does not apply where Council is that planning authority	
s 46GZ(2)(a)	function of receiving the monetary component	MEDE&S, DDS, MBP&C, MF	where the Council is the planning authority. This duty does not apply where Council is also the collecting agency	
s 46GZ(2)(b)	duty to forward any part of the monetary component that is imposed for the provision of works, services or facilities to the development agency that is specified in the plan as responsible for those works, services or facilities	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan. This provision does not apply where Council is also the relevant development agency	
s 46GZ(2)(b)	function of receiving the monetary component	MEDE&S, DDS, MBP&C, MF	where Council is the development agency under an approved infrastructure contributions plan. This provision does not apply where Council is also the collecting agency	
s 46GZ(4)	duty to use any land equalisation amounts to pay land credit amounts under s 46GZ(7), except any part of those amounts that are to be forwarded to a development agency under s 46GZ(5)	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s 46GZ(5)	duty to forward any part of a land equalisation amount required for the acquisition of outer public purpose land by a development agency specified in the approved infrastructure contributions plan to that development agency	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan. This provision does not apply where Council is also the relevant development agency
s 46GZ(7)	duty to pay to each person who must provide an infrastructure contribution under the approved infrastructure contributions plan any land credit amount to which the person is entitled under s 46GW	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZ(9)	duty to transfer the estate in fee simple in the land to the development agency specified in the approved infrastructure contributions plan as responsible for the use and development of that land	MEDE&S, DDS, MBP&C, MF	if any inner public purpose land is vested in Council under the Subdivision Act 1988 or acquired by Council before the time it is required to be provided to Council under s 46GV(4). Where Council is the collecting agency under an approved infrastructure contributions plan. This duty does not apply where Council is also the development agency
s 46GZ(9)	function of receiving the fee simple in the land	MEDE&S, DDS, MBP&C, MF	where Council is the development agency under an approved infrastructure contributions plan. This duty does not apply where Council is also the collecting agency

Planning and Environment Act 1987

Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s 46GZA(1)	duty to keep proper and separate accounts and records	MEDE&S, DDS, MBP&C, MF	where Council is a development agency under an approved infrastructure contributions plan
s 46GZA(2)	duty to keep the accounts and records in accordance with the Local Government Act 2020	MEDE&S, DDS, MBP&C, MF	where Council is a development agency under an approved infrastructure contributions plan
s 46GZB(3)	duty to follow the steps set out in s 46GZB(3)(a) – (c)	MEDE&S, DDS, MBP&C, MF	where Council is a development agency under an approved infrastructure contributions plan
s 46GZB(4)	duty, in accordance with requirements of the VPA, to report on the use of the infrastructure contribution in the development agency's annual report and provide reports on the use of the infrastructure contribution to the VPA	MEDE&S, DDS, MBP&C, MF	if the VPA is the collecting agency under an approved infrastructure contributions plan. Where Council is a development agency under an approved infrastructure contributions plan
s 46GZD(2)	duty, within 6 months after the date on which the approved infrastructure contributions plan expires, to follow the steps set out in s 46GZD(2)(a) and (b)	MEDE&S, DDS, MBP&C, MF	where Council is the development agency under an approved infrastructure contributions plan
s 46GZD(3)	duty to follow the steps set out in s 46GZD(3)(a) and (b)	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s 46GZD(5)	duty to make payments under s 46GZD(3) in accordance with ss 46GZD(5)(a) and 46GZD(5)(b)	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZE(2)	duty to forward the land equalisation amount back to the collecting agency within 6 months after the expiry date if any part of a land equalisation amount paid or forwarded to a development agency for acquiring outer public purpose land has not been expended by the development agency to acquire that land at the date on which the approved infrastructure contributions plan expires	MEDE&S, DDS, MBP&C, MF	where Council is the development agency under an approved infrastructure contributions plan. This duty does not apply where Council is also the collecting agency
s 46GZE(2)	function of receiving the unexpended land equalisation amount	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan. This duty does not apply where Council is also the development agency
s 46GZE(3)	duty, within 12 months after the date on which the approved infrastructure contributions plan expires, to follow the steps set out in s 46GZE(3)(a) and (b)	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZF(2)	duty, within 12 months after the date on which the approved infrastructure contributions plan expires, to use the public purpose land for a public purpose approved by the Minister or sell the public purpose land	MEDE&S, DDS, MBP&C, MF	where Council is the development agency under an approved infrastructure contributions plan
s 46GZF(3)	duty, if land is sold under s 46GZF(2)(b), to follow the steps in s 46GZF(3)(a) and (b)	MEDE&S, DDS, MBP&C, MF	where Council is the development agency under an approved infrastructure contributions plan

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s 46GZF(3)	s 46GZF(3)(a) function of receiving proceeds of sale	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan. This provision does not apply where Council is also the development agency
s 46GZF(4)	duty to divide the proceeds of the public purpose land among the current owners of each parcel of land in the ICP plan area and pay each current owner a portion of the proceeds in accordance with s 46GZF(5)	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZF(6)	duty to make the payments under s 46GZF(4) in accordance with s 46GZF(6)(a) and (b)	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZH	power to recover the monetary component, or any land equalisation amount of the land component, payable under Part 3AB as a debt in any court of competent jurisdiction	MEDE&S, DDS, MBP&C, MF	where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZI	duty to prepare and give a report to the Minister at the times required by the Minister	MEDE&S, DDS, MBP&C, PCBPC, SPBPC	where Council is a collecting agency or development agency
s 46GZK	power to deal with public purpose land which has vested in, been acquired by, or transferred to, Council	MEDE&S, DDS, MBP&C	where Council is a collecting agency or development agency

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Planning and Environment Act 1987

Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s 46LB(3)	duty to publish, on Council's Internet site, the payable dwelling amount for a financial year on or before 1 July of each financial year for which the amount is adjusted under s 46LB (2)	MEDE&S, DDS, MBP&C, PCBPC, SPBPC	
s.46N(1)	duty to include condition in permit regarding payment of development infrastructure levy	MBP&C, PCBPC, DDS, SPBPC	
s.46N(2)(c)	function of determining time and manner for receipt of development contributions levy	MBP&C, PCBPC, DDS, SPBPC	
s.46N(2)(d)	power to enter into an agreement with the applicant regarding payment of development infrastructure levy	MBP&C, DDS, PCBPC	
s.46O(1)(a) & (2)(a)	power to ensure that community infrastructure levy is paid, or agreement is in place, prior to issuing building permit	MBP&C, DDS, PCBPC, SPBPC	
s.46O(1)(d) & (2)(d)	power to enter into agreement with the applicant regarding payment of community infrastructure levy	MBP&C, DDS, PCBPC	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.46P(1)	power to require payment of amount of levy under section 46N or section 46O to be satisfactorily secured	MBP&C, DDS, PCBPC, SPBPC	
s.46P(2)	power to accept provision of land, works, services or facilities in part or full payment of levy payable	MBP&C, DDS, PCBPC	
s.46Q(1)	duty to keep proper accounts of levies paid	MF	
s.46Q(1A)	duty to forward to development agency part of levy imposed for carrying out works, services, or facilities on behalf of development agency or plan preparation costs incurred by a development agency	MBP&C, DDS, MF	
s.46Q(2)	duty to apply levy only for a purpose relating to the provision of plan preparation costs or the works, services and facilities in respect of which the levy was paid etc	MBP&C, DDS	
s.46Q(3)	power to refund any amount of levy paid if it is satisfied the development is not to proceed	MBP&C, DDS	only applies when levy is paid to Council as a 'development agency'
s.46Q(4)(c)	duty to pay amount to current owners of land in the area if an amount of levy has been paid to a municipal council as a development agency for plan preparation costs incurred by the council or for the provision by the council of works, services or facilities in an area under s.46Q(4)(a)	MBP&C, DDS	must be done within six months of the end of the period required by the development contributions plan and with the consent of, and in the manner approved by, the Minister
s.46Q(4)(d)	duty to submit to the Minister an amendment to the approved development contributions plan	MBP&C, DDS	must be done in accordance with Part 3

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.46Q(4)(e)	duty to expend that amount on other works etc.	MBP&C, DDS	with the consent of, and in the manner approved by, the Minister
s.46QC	power to recover any amount of levy payable under Part 3B	MBP&C, DDS	
s.46QD	duty to prepare report and give a report to the Minister	MF	where council is a collecting agency or development agency
s.46V(3)	duty to make a copy of the approved strategy plan (being the Melbourne Airport Environs Strategy Plan) and any documents lodged with it available	Not applicable	
s.46Y	duty to carry out works in conformity with the approved strategy plan	Not applicable	
s.47	power to decide that an application for a planning permit does not comply with that Act	MBP&C, DDS	
s.49(1)	duty to keep a register of all applications for permits and determinations relating to permits	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.49(2)	duty to make register available for inspection	MBP&C, DDS, PCBPC, SPBPC, P, CP	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.50(4)	duty to amend application	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.50(5)	power to refuse to amend application	MBP&C, DDS, PCBPC	
s.50(6)	duty to make note of amendment to application in register	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.50A(1)	power to make amendment to application	MBP&C, DDS, PCBPC, SPBPC, P	
s.50A(3)	power to require applicant to notify owner and make a declaration that notice has been given	MBP&C, DDS, PCBPC, SPBPC, P	
s.50A(4)	duty to note amendment to application in register	MBP&C, DDS, PCBPC, SPBPC, P, CP	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.51	duty to make copy of application available for inspection	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.52(1)(a)	duty to give notice of the application to owners/occupiers of adjoining allotments unless satisfied that the grant of permit would not cause material detriment to any person	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.52(1)(b)	duty to give notice of the application to other municipal councils where appropriate	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.52(1)(c)	duty to give notice of the application to all persons required by the planning scheme	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.52(1)(ca)	duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if may result in breach of covenant	MBP&C, DDS, PCBPC, SPBPC, P, CP	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.52(1)(cb)	duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if application is to remove or vary the covenant	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.52(1)(d)	duty to give notice of the application to other persons who may be detrimentally affected	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.52(1AA)	duty to give notice of an application to remove or vary a registered restrictive covenant	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.52(3)	power to give any further notice of an application where appropriate	MBP&C, DDS, PCBPC, SPBPC, P	
s.53(1)	power to require the applicant to give notice under section 52(1) to persons specified by it	MBP&C, DDS, PCBPC, SPBPC, P	
s.53(1A)	power to require the applicant to give the notice under section 52(1AA)	MBP&C, DDS, PCBPC, SPBPC, P	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.54(1)	power to require the applicant to provide more information	MBP&C, DDS, PCBPC, SPBPC, P	
s.54(1A)	duty to give notice in writing of information required under section 54(1)	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.54(1B)	duty to specify the lapse date for an application	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.54A(3)	power to decide to extend time or refuse to extend time to give required information	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.54A(4)	duty to give written notice of decision to extend or refuse to extend time und section 54A(3)	MBP&C, DDS, PCBPC, SPBPC, P, CP	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.55(1)	duty to give copy application, together with the prescribed information, to every referral authority specified in the planning scheme	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.57(2A)	power to reject objections considered made primarily for commercial advantage for the objector	MBP&C, DDS, PCBPC	
s.57(3)	function of receiving name and address of persons to whom notice of decision is to go	MBP&C, DDS, PCBPC, SPBPC	
s.57(5)	duty to make available for inspection copy of all objections	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.57A(4)	duty to amend application in accordance with applicant's request, subject to section 57A(5)	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.57A(5)	power to refuse to amend application	MBP&C, DDS, PCBPC, SPBPC	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.57A(6)	duty to note amendments to application in register	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.57B(1)	duty to determine whether and to whom notice should be given	MBP&C, DDS, PCBPC, SPBPC	
s.57B(2)	duty to consider certain matters in determining whether notice should be given	MBP&C, DDS, PCBPC, SPBPC	
s.57C(1)	duty to give copy of amended application to referral authority	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.58	duty to consider every application for a permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.58A	power to request advice from the Planning Application Committee	MBP&C, DDS	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.60	duty to consider certain matters	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s60(1A)	duty to consider certain matters.	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.60(1B)	duty to consider number of objectors in considering whether use or development may have significant social effect	MBP&C, DDS, PCBPC, SPBPC, P, CP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.61(1)(a)	power to determine permit application, to decide to grant a permit	MBP&C, DDS, PCBPC, SPBPC, P	the permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006 Limitations: P, SPBPC: For developments <\$1M PCBPC: For developments <\$2M MBP&C: For developments <\$5M DDS: For developments >\$5M where the number of objections does not exceed three

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.61(1)(b)	power to determine permit application, to grant a permit with conditions	MBP&C, DDS, PCBPC, SPBPC, P	the permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006 Limitations: P, SPBPC: For developments <\$1M PCBPC: For developments <\$2M MBP&C: For developments <\$5M DDS: For developments >\$5M where the number of objections does not exceed three
s.61(1)(c)	power to determine permit application, to refuse a permit application	MBP&C, DDS, PCBPC	where the number of objections does not exceed three
s.61(2)	duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	MBP&C, DDS, PCBPC	
s.61(2A)	power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	MBP&C, DDS, PCBPC	
s.61(3)(a)	duty not to decide to grant a permit to use coastal Crown land without Minister's consent	Not applicable	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.61(3)(b)	duty to refuse to grant the permit without the Minister's consent	Not applicable	
s.61(4)	duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	MBP&C, DDS, PCBPC	
s.62(1)	duty to include certain conditions in deciding to grant a permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.62(2)	power to include other conditions	MBP&C, DDS, PCBPC, SPBPC, P	
s.62(4)	duty to ensure conditions are consistent with paragraphs (a), (b) and (c)	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.62(5)(a)	power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	MBP&C, DDS, PCBPC, SPBPC, P	
s.62(5)(b)	power to include a permit condition that specified works be provided on or to the land or paid for in accordance with section 173 agreement	MBP&C, DDS, PCBPC, SPBPC, P	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.62(5)(c)	power to include a permit condition that specified works be provided or paid for by the applicant	MBP&C, DDS, PCBPC, SPBPC, P	
s.62(6)(a)	duty not to include a permit condition requiring a person to pay an amount for or provide works except in accordance with sections 46N(1), 46GV(7) or 62(5)	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.62(6)(b)	duty not to include a permit condition requiring a person to pay an amount for or provide works except a condition that a planning scheme requires to be included as referred to in section 62(1)(a)	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.63	duty to issue the permit where made a decision in favour of the application (if no one has objected)	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.64(1)	duty to give notice of decision to grant a permit to applicant and objectors	MBP&C, DDS, PCBPC, SPBPC, P, CP	this provision applies also to a decision to grant an amendment to a permit - see section 75

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.64(3)	duty not to issue a permit until after the specified period	MBP&C, DDS, PCBPC	this provision applies also to a decision to grant an amendment to a permit - see section 75
s.64(5)	duty to give each objector a copy of an exempt decision	MBP&C, DDS, PCBPC	this provision applies also to a decision to grant an amendment to a permit - see section 75
s.64A	duty not to issue permit until the end of a period when an application for review may be lodged with VCAT or until VCAT has determined the application, if a relevant recommending referral authority has objected to the grant of a permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	this provision applies also to a decision to grant an amendment to a permit - see section 75A
s.65(1)	duty to give notice of refusal to grant permit to applicant and person who objected under section 57	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.66(1)	duty to give notice under section 64 or section 65 and copy permit to relevant determining referral authorities	MBP&C, DDS, PCBPC, SPBPC, P, CP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.66(2)	duty to give a recommending referral authority notice of its decision to grant a permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	if the recommending referral authority objected to the grant of the permit or the responsible authority decided not to include a condition on the permit recommended by the recommending referral authority
s.66(4)	duty to give a recommending referral authority notice of its decision to refuse a permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	if the recommending referral authority objected to the grant of the permit or the recommending referral authority recommended that a permit condition be included on the permit
s.66(6)	duty to give a recommending referral authority a copy of any permit which Council decides to grant and a copy of any notice given under section 64 or 65	MBP&C, DDS, PCBPC, SPBPC, P, CP	if the recommending referral authority did not object to the grant of the permit or the recommending referral authority did not recommend a condition be included on the permit
s.69(1)	function of receiving application for extension of time of permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.69(1A)	function of receiving application for extension of time to complete development	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.69(2)	power to extend time	MBP&C, DDS, PCBPC, SPBPC	
s.70	duty to make copy permit available for inspection	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.71(1)	power to correct certain mistakes	MBP&C, DDS, PCBPC, SPBPC, P	
s.71(2)	duty to note corrections in register	MBP&C, DDS, PCBPC, SPBPC, P, CP	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.73	power to decide to grant amendment subject to conditions	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.74	duty to issue amended permit to applicant if no objectors	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.76	duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.76A(1)	duty to give relevant determining referral authorities copy of amended permit and copy of notice	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.76A(2)	duty to give a recommending referral authority notice of its decision to grant an amendment to a permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	if the recommending referral authority objected to the amendment of the permit or the responsible authority decided not to include a condition on the amended permit recommended by the recommending referral authority

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Planning and Environment Act 1987				
Column 1	Column 2	Column 3	Column 4	
Provision	Thing delegated	Delegate	Conditions & limitations	
s.76A(4)	duty to give a recommending referral authority notice of its decision to refuse a permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	if the recommending referral authority objected to the amendment of the permit or the recommending referral authority recommended that a permit condition be included on the amended permit	
s.76A(6)	duty to give a recommending referral authority a copy of any amended permit which Council decides to grant and a copy of any notice given under section 64 or 76	MBP&C, DDS, PCBPC, SPBPC, P, CP	if the recommending referral authority did not object to the amendment of the permit or the recommending referral authority did not recommend a condition be included on the amended permit	
s.76D	duty to comply with direction of Minister to issue amended permit	MBP&C, DDS, PCBPC, SPBPC, P, CP		
s.83	function of being respondent to an appeal	MBP&C, DDS, PCBPC		
s.83B	duty to give or publish notice of application for review	MBP&C, DDS, PCBPC		
s.84(1)	power to decide on an application at any time after an appeal is lodged against failure to grant a permit	MBP&C, DDS		

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.84(2)	duty not to issue a permit or notice of decision or refusal after an application is made for review of a failure to grant a permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.84(3)	duty to tell principal registrar if decide to grant a permit after an application is made for review of its failure to grant a permit	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.84(6)	duty to issue permit on receipt of advice within 3 working days	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.84AB	power to agree to confining a review by the Tribunal	MBP&C, DDS	
s.86	duty to issue a permit at order of Tribunal within 3 working days	MBP&C, DDS, PCBPC, SPBPC, P, CP	
s.87(3)	power to apply to VCAT for the cancellation or amendment of a permit	MBP&C, DDS, PCBPC, SPBPC	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.90(1)	function of being heard at hearing of request for cancellation or amendment of a permit	MBP&C, DDS, PCBPC, SPBPC	
s.91(2)	duty to comply with the directions of VCAT	MBP&C, DDS, PCBPC, SPBPC	
s.91(2A)	duty to issue amended permit to owner if Tribunal so directs	MBP&C, DDS, PCBPC, SPBPC	
s.92	duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under section 90	MBP&C, DDS, PCBPC, SPBPC	
s.93(2)	duty to give notice of VCAT order to stop development	MBP&C, DDS, PCBPC, PCO	
s.95(3)	function of referring certain applications to the Minister	MBP&C, DDS	
s.95(4)	duty to comply with an order or direction	MBP&C, DDS	
s.96(1)	duty to obtain a permit from the Minister to use and develop its land	MBP&C, DDS	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.96(2)	function of giving consent to other persons to apply to the Minister for a permit to use and develop Council land	MBP&C, DDS	
s.96A(2)	power to agree to consider an application for permit concurrently with preparation of proposed amendment	DDS, MBP&C, PCBPC, MEDE&S	
s.96C	power to give notice, to decide not to give notice, to publish notice and to exercise any other power under section 96C	DDS, MBP&C, PCBPC, MEDE&S	
s.96F	duty to consider the panel's report under section 96E	MBP&C, DDS, PCBPC, SPBPC, MEDE&S, SPSGE	
s.96G(1)	power to determine to recommend that a permit be granted or to refuse to recommend that a permit be granted and power to notify applicant of the determination (including power to give notice under section 23 of the Planning and Environment (Planning Schemes) Act 1996)	DDS, MBP&C, PCBPC, MEDE&S	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.96H(3)	power to give notice in compliance with Minister's direction	MBP&C, PCBPC, MEDE&S	
s.96J	power to issue permit as directed by the Minister	MBP&C, PCBPC, MEDE&S, SPSGE	
s.96K	duty to comply with direction of the Minister to give notice of refusal	MBP&C, PCBPC, MEDE&S, SPSGE	
s. 96Z	duty to keep levy certificates given to it under ss. 47 or 96A for no less than 5 years from receipt of the certificate	MBP&C, MF	
s.97C	power to request Minister to decide the application	DDS, MBP&C	
s.97D(1)	duty to comply with directions of Minister to supply any document or assistance relating to application	MBP&C, DDS, PCBPC	
s.97G(3)	function of receiving from Minister copy of notice of refusal to grant permit or copy of any permit granted by the Minister	DDS, MBP&C, PCBPC	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.97G(6)	duty to make a copy of permits issued under section 97F available for inspection	DDS, MBP&C, PCBPC	
s.97L	duty to include Ministerial decisions in a register kept under section 49	DDS, MBP&C, PCBPC	
s.97MH	duty to provide information or assistance to the Planning Application Committee	DDS, MBP&C, MEDE&S	
s.97MI	duty to contribute to the costs of the Planning Application Committee or subcommittee	DDS, MBP&C, MEDE&S	
s.97O	duty to consider application and issue or refuse to issue certificate of compliance	DDS, MBP&C, PCBPC	
s.97P(3)	duty to comply with directions of VCAT following an application for review of a failure or refusal to issue a certificate	DDS, MBP&C, PCBPC, SPBPC	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.97Q(2)	function of being heard by VCAT at hearing of request for amendment or cancellation of certificate	DDS, MBP&C, PCBPC	
s.97Q(4)	duty to comply with directions of VCAT	MBP&C, DDS, PCBPC, SPBPC	
s.97R	duty to keep register of all applications for certificate of compliance and related decisions	DDS, MBP&C, PCBPC	
s.98(1)&(2)	function of receiving claim for compensation in certain circumstances	DDS, MBP&C	
s.98(4)	duty to inform any person of the name of the person from whom compensation can be claimed	DDS, MBP&C	
s.101	function of receiving claim for expenses in conjunction with claim	DDS, MBP&C	
s.103	power to reject a claim for compensation in certain circumstances	DDS	
s.107(1)	function of receiving claim for compensation	DDS, MBP&C	
s.107(3)	power to agree to extend time for making claim	DDS, MBP&C	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.114(1)	power to apply to the VCAT for an enforcement order	DDS, MBP&C, PCBPC	
s.117(1)(a)	function of making a submission to the VCAT where objections are received	MBP&C, DDS, PCBPC, SPBPC	
s.120(1)	power to apply for an interim enforcement order where section 114 application has been made	DDS, MBP&C, PCBPC	
s.123(1)	power to carry out work required by enforcement order and recover costs	DDS, MBP&C, PCBPC	
s.123(2)	power to sell buildings, materials, etc salvaged in carrying out work under section 123(1)	DDS	except Crown Land
s.129	function of recovering penalties	DDS, MBP&C	
s.130(5)	power to allow person served with an infringement notice further time	DDS, MBP&C, PCBPC,	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.149A(1)	power to refer a matter to the VCAT for determination	DDS, MBP&C, PCBPC, SPBPC	
s.149A(1A)	power to apply to VCAT for the determination of a matter relating to the interpretation of a s.173 agreement	DDS, MBP&C, PCBPC, SPBPC	
s.156	duty to pay fees and allowances (including a payment to the Crown under subsection (2A)), and payment or reimbursement for reasonable costs and expenses incurred by the panel in carrying out its functions unless the Minister directs otherwise under subsection (2B) power to ask for contribution under subsection (3) and power to abandon amendment or part of it under subsection (4)	DDS, MBP&C, MEDE&S	where council is the relevant planning authority
s.171(2)(f)	power to carry out studies and commission reports	DDS, MBP&C, MEDE&S	
s.171(2)(g)	power to grant and reserve easements	DDS, MBP&C, MEDE&S	

Planning and Environment Act 1987				
Column 1	Column 2	Column 3	Column 4	
Provision	Thing delegated	Delegate	Conditions & limitations	
s.172C	power to compulsorily acquire any outer public purpose land that is specified in the approved infrastructure contributions plan	DDS, MBP&C, MEDE&S	where Council is a development agency specified in an approved infrastructure contributions plan	
s.172D(1)	power to compulsorily acquire any inner public purpose land that is specified in the plan before the time that the land is required to be provided to Council under s.46GV(4)	DDS, MBP&C, MEDE&S	where Council is a collecting agency specified in an approved infrastructure contributions plan	
s.172D(2)	power to compulsorily acquire any inner public purpose land, the use and development of which is to be the responsibility of Council under the plan, before the time that the land is required to be provided under s.46GV(4)	DDS, MBP&C, MEDE&S	where Council is the development agency specified in an approved infrastructure contributions plan	
s.173 (1)	power to enter into agreement covering matters set out in section 174	DDS, MBP&C, PCBPC, SPBPC, MEDE&S, SPSGE		
s.173(1A)	power to enter into an agreement with an owner of land for the development or provision of land in relation to affordable housing	DDS, MBP&C, PCBPC, SPBPC	where council is the relevant responsible authority	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
---	power to decide whether something is to the satisfaction of Council, where an agreement made under section 173 of the Planning and Environment Act 1987 requires something to be to the satisfaction of Council or Responsible Authority	DDS, MBP&C, PCBPC, SPBPC MEDE&S	
---	power to give consent on behalf of Council, where an agreement made under section 173 of the Planning and Environment Act 1987 requires that something may not be done without the consent of Council or Responsible Authority	DDS, MBP&C, PCBPC, SPBPC MEDE&S	
s.177(2)	power to end a section 173 agreement with the agreement of all those bound by any covenant in the agreement or otherwise in accordance with Division 2 of Part 9	DDS, MBP&C, PCBPC, SPBPC MEDE&S	
s.178	power to amend a s.173 agreement with the agreement of all those bound by any covenant in the agreement or otherwise in accordance with Division 2 of Part 9	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.178A(1)	function of receiving application to amend or end an agreement	MBP&C, PCBPC, SPBPC, MEDE&S, SPSGE	
s.178A(3)	function of notifying the owner as to whether it agrees in principle to the proposal under s.178A(1)	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178A(4)	function of notifying the applicant and the owner as to whether it agrees in principle to the proposal	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178A(5)	power to propose to amend or end an agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.178B(1)	duty to consider certain matters when considering proposal to amend an agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178B(2)	duty to consider certain matters when considering proposal to end an agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178C(2)	duty to give notice of the proposal to all parties to the agreement and other persons who may be detrimentally affected by decision to amend or end	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178C(4)	function of determining how to give notice under s.178C(2)	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.178E(1)	duty not to make decision until after 14 days after notice has been given	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178E(2)(a)	power to amend or end the agreement in accordance with the proposal	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	If no objections are made under s.178D. Must consider matters in s.178B
s.178E(2)(b)	power to amend or end the agreement in a manner that is not substantively different from the proposal	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	If no objections are made under s.178D. Must consider matters in s.178B.
s.178E(2)(c)	power to refuse to amend or end the agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	If no objections are made under s.178D. Must consider matters in s.178B

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.178E(3)(a)	power to amend or end the agreement in accordance with the proposal	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	After considering objections, submissions and matters in s.178B
s.178E(3)(b)	power to amend or end the agreement in a manner that is not substantively different from the proposal	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	After considering objections, submissions and matters in s.178B
s.178E(3)(c)	power to amend or end the agreement in a manner that is substantively different from the proposal	DDS, MBP&C PCBPC, SPBPC, MEDE&S	After considering objections, submissions and matters in s.178B
s.178E(3)(d)	power to refuse to amend or end the agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	After considering objections, submissions and matters in s.178B

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.178F(1)	duty to give notice of its decision under s.178E(3)(a) or (b)	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178F(2)	duty to give notice of its decision under s.178E(2)(c) or (3)(d)	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178F(4)	duty not to proceed to amend or end an agreement under s.178E until at least 21 days after notice has been given or until an application for review to the Tribunal has been determined or withdrawn	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178G	duty to sign amended agreement and give copy to each other party to the agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.178H	power to require a person who applies to amend or end an agreement to pay the costs of giving notices and preparing the amended agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.178(3)	duty to notify, in writing, each party to the agreement of the ending of the agreement relating to Crown land	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.179(2)	duty to make available for inspection copy agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.181	duty to apply to the Registrar of Titles to record the agreement and to deliver a memorial to Registrar-General	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.181(1A)(a)	power to apply to the Registrar of Titles to record the agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	
s.181(1A)(b)	duty to apply to the Registrar of Titles, without delay, to record the agreement	DDS MBP&C, PCBPC, SPBPC, MEDE&S	
s.182	power to enforce an agreement	DDS, MBP&C, PCBPC, SPBPC	
s.183	duty to tell Registrar of Titles of ending/amendment of agreement	DDS, MBP&C, PCBPC, SPBPC, MEDE&S	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.184F(1)	power to decide to amend or end an agreement at any time after an application for review of the failure of Council to make a decision	DDS, MBP&C, MEDE&S	
s.184F(2)	duty not to amend or end the agreement or give notice of the decision after an application is made to VCAT for review of a failure to amend or end an agreement	DDS, MBP&C, MEDE&S	
s.184F(3)	duty to inform the principal registrar if the responsible authority decides to amend or end an agreement after an application is made for the review of its failure to end or amend the agreement	DDS, MBP&C, MEDE&S	
s.184F(5)	function of receiving advice from the principal registrar that the agreement may be amended or ended in accordance with Council's decision	DDS, MBP&C, MEDE&S	
s.184G(2)	duty to comply with a direction of the Tribunal	DDS, MBP&C, PCBPC, MEDE&S	
s.184G(3)	duty to give notice as directed by the Tribunal	DDS, MBP&C, PCBPC, MEDE&S	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.198(1)	function to receive application for planning certificate	Not applicable	Council is no more the authority to receive and issue planning certificates as Amendment C60 had been gazetted on 25 September 2014.
s.199(1)	duty to give planning certificate to applicant	Not applicable	Council is no more the authority to receive and issue planning certificates as Amendment C60 had been gazetted on 25 September 2014.
s.201(1)	function of receiving application for declaration of underlying zoning	DDS, MBP&C, PCBPC, MEDE&S, SPSGE	
s.201(3)	duty to make declaration	DDS, MBP&C, PCBPC, MEDE&S	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.201(3)	power to decide, in relation to any planning scheme or permit, that a specified thing has or has not been done to the satisfaction of Council	DDS, MBP&C, PCBPC, MEDE&S, SPBPC, SPSGE, P, CP	
s.201(3)	power, in relation to any planning scheme or permit, to consent or refuse to consent to any matter which requires the consent or approval of Council	DDS, MBP&C, PCBPC, MEDE&S	
s.201(3)	power to approve any plan or any amendment to a plan or other document in accordance with a provision of a planning scheme or condition in a permit	DDS, MBP&C, PCBPC, MEDE&S	
s.201(3)	power to give written authorisation in accordance with a provision of a planning scheme	DDS, MBP&C, PCBPC, MEDE&S	

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Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.201UAB(1)	function of providing the Victorian Planning Authority with information relating to any land within municipal district	DDS, MBP&C, PCBPC MEDE&S	
s.201UAB(2)	duty to provide the Victorian Planning Authority with information requested under subsection (1) as soon as possible	DDS, MBP&C, PCBPC MEDE&S	

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Planning and Environment Regulations 2015

Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r. 6	function of receiving notice, under section 19(1)(c) of the Act, from a planning authority of its preparation of an amendment to a planning scheme	DDS, MEDE&S, MBP&C, PCBPC SPSGE	where Council is not the planning authority and the amendment affects land within its municipal district; or where the amendment will amend the planning scheme to designate Council as an acquiring authority.
r.21	power of responsible authority to require a permit applicant to verify information (by statutory declaration or other written confirmation satisfactory to the responsible authority) in an application for a permit or to amend a permit or any information provided under section 54 of the Act	DDS, MBP&C, PCBPC	
r.25(a)	duty to make copy of matter considered under section 60(1A)(g) available for inspection free of charge	DDS, MBP&C, PCBPC	where Council is the responsible authority
r.25(b))	function of receiving a copy of any document considered under section 60(1A)(g) by the responsible authority and duty to make the document available for inspection free of charge	DDS, MBP&C, PCBPC	where Council is not the responsible authority but the relevant land is within Council's municipal district
r.42	function of receiving notice under section 96C(1)(c) of the Act from a planning authority of its preparation of a combined application for an amendment to a planning scheme and notice of a permit application	DDS, MEDE&S, MBP&C, PCBPC, SPBPC SPSGE	where Council is not the planning authority and the amendment affects land within Council's municipal district; or where the amendment will amend the planning scheme to designate Council as an acquiring authority.

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Planning and Environment (Fees) Regulations 2015

Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r.19	power to waive or rebate a fee relating to an amendment of a planning scheme	DDS, MBP&C, MEDE&S	
r.20	power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	DDS, MBP&C	Deleted PCBPC
r.21	duty to record matters taken into account and which formed the basis of a decision to waive or rebate a fee under r.19 or R.20	DDS, MBP&C, MEDE&S	Deleted PCBPC

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Residential Tenancies Act 1997			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s 91ZU(1)	Power to give a renter a notice to vacate rented premises	DCW, DDS, DCS, MF	Where Council is a public statutory authority engaged in the provision of housing. Note: this power is not yet in force and will commence on 1 January 2021, unless proclaimed earlier
s 91ZZC(1)	Power to give a renter a notice to vacate rented premises	DCW, DDS, DCS, MF	Where Council is a public statutory authority authorised to acquire land compulsorily for its purposes. Note: this power is not yet in force and will commence on 1 January 2021, unless proclaimed earlier
s 91ZZE(1)	Power to give a renter a notice to vacate rented premises	DCW, DDS, DCS, MF	Where Council is a public statutory authority engaged in the provision of housing. Note: this power is not yet in force and will commence on 1 January 2021, unless proclaimed earlier
s 91ZZE(3)	Power to publish Council's criteria for eligibility for the provision of housing	DCW, DDS, DCS, MF	Where Council is a public statutory authority engaged in the provision of housing. Note: this power is not yet in force and will commence on 1 January 2021, unless proclaimed earlier
s.142D	function of receiving notice regarding an unregistered rooming house	DDS, MBP&C	

Residential Tenancies Act 1997			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.142G(1)	duty to enter required information in Rooming House Register for each rooming house in municipal district	CCC, EHO	
s. 142G(2)	power to enter certain information in the Rooming House Register	CCC, EHO	
s.142I(2)	power to amend or revoke an entry in the Rooming House Register if necessary to maintain the accuracy of the entry	CCC, EHO	
s 206AZA(2)	Function of receiving written notification	CCC, EHO	Note: this power is not yet in force and will commence on 1 January 2021, unless proclaimed earlier
s 207ZE(2)	Function of receiving written notification	CCC, EHO	Note: this power is not yet in force and will commence on 1 January 2021, unless proclaimed earlier
s 311A(2)	Function of receiving written notification	CCC, EHO	
s 317ZDA(2)	Function of receiving written notification	CCC, EHO	
s.518F	power to issue notice to caravan park regarding emergency management plan if determined that the plan does not comply with the requirements	DDS, MBP&C	
s.522(1)	power to give a compliance notice to a person	DDS, MBP&C	

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Residential Tenancies Act 1997			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.525(2)	power to authorise an officer to exercise powers in section 526 (either generally or in a particular case)	DDS, MBP&C	
s.525(4)	duty to issue identity card to authorised officers	DDS, MBP&C, DCS	
s.526(5)	duty to keep record of entry by authorised officer under section 526	DDS, MBP&C, CCC	
s.526A(3)	function of receiving report of inspection	DDS, MBP&C, CCC	
s.527	power to authorise a person to institute proceedings (either generally or in a particular case)	DDS, MBP&C	

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Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r.7	Power to enter into a written agreement with a caravan park owner	MBP&C, DDS	
r.10	function of receiving application for registration	MBP&C, CCC, EHO	
r.11	function of receiving application for renewal of registration	MBP&C, CCC, EHO	
r.12(1)	duty to grant the registration if satisfied that the caravan park complies with these regulations	MBP&C, CCC, EHO	
r.12(1)	Power to refuse to renew the registration if not satisfied that the caravan park complies with these regulations	MBP&C, CCC	
r.12(2)	duty to renew the registration if satisfied that the caravan park complies with these regulations	MBP&C, CCC, EHO	
r.12(2)	power to refuse to renew the registration if not satisfied that the caravan park complies with these regulations	MBP&C, DDS, CCC	
r.12(3)	duty to have regard to matters in determining an application for registration or an application for renewal of registration	MBP&C, DDS, CCC, EHO	
r.12(4) & (5)	duty to issue certificate of registration	CCC, EHO	

Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r.14(1)	function of receiving notice of transfer of ownership	CCC, EHO	
r.14(3)	power to determine where notice of transfer is displayed	MBP&C, CCC, EHO	
r.15(1)	duty to transfer registration to new caravan park owner	MBP&C, CCC	
r.15(2)	duty to issue a certificate of transfer of registration	MBP&C, CCC	
r.16(1)	power to determine the fee to accompany applications for registration or applications for renewal of registration	DDS, MBP&C	Deleted CCC
r.17	duty to keep register of caravan parks	MBP&C, CCC, EHO	
r.18(4)	power to determine where the emergency contact person's details are displayed	MBP&C, CCC, EHO	
r.18(6)	power to determine where certain information is displayed	MBP&C, CCC, EHO	
r.22(1)	duty to notify a caravan park owner of the relevant emergency services agencies for the caravan park, on the request of the caravan park owner	MBP&C, CCC, EHO	
r.22(2)	duty to consult with relevant emergency services agencies	MBP&C, CCC	
r.23	power to determine places in which caravan park owner must display a copy of emergency procedures	MBP&C, CCC, EHO	

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Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r.24	power to determine places in which caravan park owner must display copy of public emergency warnings	MBP&C, CCC, EHO	
r.25(3)	duty to consult with relevant floodplain management authority	MBP&C, CCC	
r.26	duty to have regard to any report of the relevant fire authority	MBP&C, CCC	
r.28(c)	power to approve system for the collection, removal and disposal of sewage and waste water from a movable dwelling	MBP&C, CCC, EHO	
r.40	function of receiving notice of proposed installation of unregistrable movable dwelling or rigid annexe	MBP&C, CCC	
r.40(b)	power to require notice of proposal to install unregistrable movable dwelling or rigid annexe	MBP&C, CCC	
r.41(4)	function of receiving installation certificate	MBP&C, CCC	
r.43	power to approve use of a non-habitable structure as a dwelling or part of a dwelling	MBP&C, MBS, CCC	
Schedule 3 clause 4(3)	power to approve the removal of wheels and axles from unregistrable movable dwelling	MBP&C, CCC	

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Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.11(1)	power to declare a road by publishing a notice in the Government Gazette	DIS	obtain consent in circumstances specified in section 11(2)
s.11(8)	power to name a road or change the name of a road by publishing notice in Government Gazette	DIS	
s.11(9)(b)	duty to advise Registrar	DIS, MIP&D	
s.11(10)	duty to inform Secretary to Department of Environment, Land, Water and Planning of declaration etc.	DIS, MIP&D	clause subject to section 11(10A)
s.11(10A)	duty to inform Secretary to Department of Environment, Land, Water and Planning or nominated person	DIS, MIP&D	where council is the coordinating road authority
s.12(2)	power to discontinue road or part of a road	DIS	where council is the coordinating road authority
s.12(4)	power to publish, and provide copy, notice of proposed discontinuance	DIS	power of coordinating road authority where it is the discontinuing body. Unless section 12(11) applies
s.12(5)	duty to consider written submissions received within 28 days of notice	DIS	duty of coordinating road authority where it is the discontinuing body. Unless section 12(11) applies

Instrument of delegation to members of Council staff

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Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.12(6)	function of hearing a person in support of their written submission	DIS	function of coordinating road authority where it is the discontinuing body. Unless section 12(11) applies
s.12(7)	duty to fix day, time and place of meeting under section 12(6) and to give notice	DIS	duty of coordinating road authority where it is the discontinuing body. Unless section 12(11) applies
s.12(10)	duty to notify of decision made	DIS, MIP&D	duty of coordinating road authority where it is the discontinuing body. Does not apply where an exemption is specified by the regulations or given by the Minister
s.13(1)	power to fix a boundary of a road by publishing notice in Government Gazette	DIS	power of coordinating road authority and obtain consent under section 13(3) and section 13(4) as appropriate
s.14(4)	function of receiving notice from Head, Transport for Victoria	DIS, MIP&D	
s.14(7)	power to appeal against decision of Head, Transport for Victoria	DIS	
s.15(1)	power to enter into arrangement with another road authority, utility or a provider of public transport to transfer a road management function of the road authority to the other road authority, utility or provider of public transport	DIS	

Road Management Act 2004				
Column 1	Column 2	Column 3	Column 4	
Provision	Thing delegated	Delegate	Conditions & limitations	
s.15(1A)	power to enter into arrangement with a utility to transfer a road management function of the utility to the road authority	DIS		
s.15(2)	duty to include details of arrangement in public roads register	DIS, MIP&D, APC		
s.16(7)	power to enter into an arrangement under section 15	DIS		
s.16(8)	duty to enter details of determination in public roads register	DIS, MIP&D, APC		
s.17(2)	duty to register public road in public roads register	DIS, MIP&D, APC	where council is the coordinating road authority	
s.17(3)	power to decide that a road is reasonably required for general public use	DIS	where council is the coordinating road authority	
s.17(3)	duty to register a road reasonably required for general public use in public roads register	DIS, MIP&D, APC	where council is the coordinating road authority	
s.17(4)	power to decide that a road is no longer reasonably required for general public use	DIS	where council is the coordinating road authority	
s.17(4)	duty to remove road no longer reasonably required for general public use from public roads register	DIS, MIP&D, APC	where council is the coordinating road authority	

Instrument of delegation to members of
Council staff

100

Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.18(1)	power to designate ancillary area	DIS	where council is the coordinating road authority, and obtain consent in circumstances specified in section 18(2)
s.18(3)	duty to record designation in public roads register	DIS, MIP&D, APC	where council is the coordinating road authority
s.19(1)	duty to keep register of public roads in respect of which it is the coordinating road authority	DIS, MIP&D, APC	
s.19(4)	duty to specify details of discontinuance in public roads register	DIS, MIP&D, APC	
s.19(5)	duty to ensure public roads register is available for public inspection	DIS, MIP&D, APC	
s.21	function of replying to request for information or advice	DIS, MIP&D, MFS	obtain consent in circumstances specified in section 11(2)
s.22(2)	function of commenting on proposed direction	DIS	
s.22(4)	duty to publish a copy or summary of any direction made under section 22 by the Minister in its annual report	DIS	
s.22(5)	duty to give effect to a direction under this section	DIS, MIP&D, MFS	

Instrument of delegation to members of
Council staff

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Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.40(1)	duty to inspect, maintain and repair a public road	DIS, MIP&D, APC, AOI, AI, MFS, WC, SW	
s.40(5)	power to inspect, maintain and repair a road which is not a public road	DIS, MIP&D, MFS	
s.41(1)	power to determine the standard of construction, inspection, maintenance and repair	DIS, MIP&D, MFS	
s.42(1)	power to declare a public road as a controlled access road	DIS, MIP&D	power of coordinating road authority and Schedule 2 also applies
s.42(2)	power to amend or revoke declaration by notice published in Government Gazette	DIS	power of coordinating road authority and Schedule 2 also applies
s.42A(3)	duty to consult with VicRoads before road is specified	DIS	where council is the coordinating road authority. If road is a municipal road or part thereof
s.42A(4)	power to approve Minister's decision to specify a road as a specified freight road	DIS	where council is the coordinating road authority. If road is a municipal road or part thereof and where road is to be specified a freight road

Instrument of delegation to members of
Council staff

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Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.48EA	duty to notify the owner or occupier of land and provider of public transport on which rail infrastructure or rolling stock is located (and any relevant provider of public transport)	DIS, MIP&D, MFS	where council is the responsible road authority, infrastructure manager or works manager
s.48M(3)	function of consulting with the relevant authority for purposes of developing guidelines under section 48M	DIS, MIP&D	
s.49	power to develop and publish a road management plan	DIS, MIP&D	
s.51	power to determine standards by incorporating the standards in a road management plan	DIS, MIP&D	
s.53(2)	power to cause notice to be published in Government Gazette of amendment etc of document in road management plan	DIS	
s.54(2)	duty to give notice of proposal to make a road management plan	DIS, MIP&D	
s.54(5)	duty to conduct a review of road management plan at prescribed intervals	DIS, MIP&D	
s.54(6)	power to amend road management plan	DIS	
s.54(7)	duty to incorporate the amendments into the road management plan	DIS, MIP&D, APC	
s.55(1)	duty to cause notice of road management plan to be published in Government Gazette and newspaper	DIS	

Instrument of delegation to members of
Council staff

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Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.63(1)	power to consent to conduct of works on road	DIS, MIP&D, APC, TSC, MFS	where council is the coordinating road authority
s.63(2)(e)	power to conduct or to authorise the conduct of works in, on, under or over a road in an emergency	DIS, MIP&D, MFS	where council is the infrastructure manager
s.64(1)	duty to comply with clause 13 of Schedule 7	DIS, MIP&D, MFS	where council is the infrastructure manager or works manager
s.66(1)	power to consent to structure etc	DIS, MIP&D, DDS, MBP&C, PCBPC, MEDE&S	where council is the coordinating road authority
s.67(2)	function of receiving the name & address of the person responsible for distributing the sign or bill	DIS, MIP&D	where council is the coordinating road authority
s.67(3)	power to request information	DIS, MIP&D, DDS, MBP&C, PCBPC, MEDE&S	where council is the coordinating road authority

Instrument of delegation to members of
Council staff

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Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.68(2)	power to request information	DIS, MIP&D, DDS, MBP&C, PCBPC, MEDE&S	where council is the coordinating road authority
s.71(3)	power to appoint an authorised officer	CEO, DIS	
s.72	duty to issue an identity card to each authorised officer	DIS, MIP&D, DCS	
s.85	function of receiving report from authorised officer	DIS, MIP&D	
s.86	duty to keep register re section 85 matters	DIS, MIP&D	
s.87(1)	function of receiving complaints	DIS, MIP&D	
s.87(2)	duty to investigate complaint and provide report	DCS, G&RA, MP&G	
s.112(2)	power to recover damages in court	DIS, MIP&D	
s.116	power to cause or carry out inspection	DIS, MIP&D, MFS	

Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s.119(2)	function of consulting with Head, Transport for Victoria	DIS, MIP&D, APC, TSC	
s.120(1)	power to exercise road management functions on an arterial road (with the consent of Head, Transport for Victoria)	DIS, MIP&D, APC, TSC, MFS, WC	
s.120(2)	duty to seek consent of Head, Transport for Victoria to exercise road management functions before exercising power in section 120(1)	DIS, MIP&D, APC, TSC, MFS, WC	
s.121(1)	power to enter into an agreement in respect of works	DIS, MIP&D, MFS	
s.122(1)	power to charge and recover fees	DIS	
s.123(1)	power to charge for any service	DIS, MIP&D, MFS	
Schedule 2 Clause 2(1)	power to make a decision in respect of controlled access roads	DIS, MIP&D	
Schedule 2 Clause 3(1)	duty to make policy about controlled access roads	DIS	

Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
Schedule 2 Clause 3(2)	power to amend, revoke or substitute policy about controlled access roads	DIS	
Schedule 2 Clause 4	function of receiving details of proposal from Head, Transport for Victoria	DIS	
Schedule 2 Clause 5	duty to publish notice of declaration	DIS	
Schedule 7, Clause 7(1)	duty to give notice to relevant coordinating road authority of proposed installation of non-road infrastructure or related works on a road reserve	DIS, MIP&D	where council is the infrastructure manager or works manager
Schedule 7, Clause 8(1)	duty to give notice to any other infrastructure manager or works manager responsible for any non-road infrastructure in the area, that could be affected by any proposed installation of infrastructure or related works on a road or road reserve of any road	DIS, MIP&D	where council is the infrastructure manager or works manager
Schedule 7, Clause 9(1)	duty to comply with request for information from a coordinating road authority, an infrastructure manager or a works manager responsible for existing or proposed infrastructure in relation to the location of any non-road infrastructure and technical advice or assistance in conduct of works	DIS, MIP&D	where council is the infrastructure manager or works manager responsible for non-road infrastructure
Schedule 7, Clause 9(2)	duty to give information to another infrastructure manager or works manager where becomes aware any infrastructure or works are not in the location shown on records, appear to be in an unsafe condition or appear to need maintenance	DIS, MIP&D	where council is the infrastructure manager or works manager

Instrument of delegation to members of
Council staff

Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
Schedule 7, Clause 10(2)	where Schedule 7 Clause 10(1) applies, duty to, where possible, conduct appropriate consultation with persons likely to be significantly affected	DIS, MIP&D	where council is the infrastructure manager or works manager
Schedule 7 Clause 12(2)	power to direct infrastructure manager or works manager to conduct reinstatement works	MIP&D, MFS	where council is the coordinating road authority
Schedule 7 Clause 12(3)	power to take measures to ensure reinstatement works are completed	MIP&D, MFS	where council is the coordinating road authority
Schedule 7 Clause 12(4)	duty to ensure that works are conducted by an appropriately qualified person	MIP&D, MFS	where council is the coordinating road authority
Schedule 7 Clause 12(5)	power to recover costs	DIS, MIP&D	where council is the coordinating road authority
Schedule 7, Clause 13(1)	duty to notify relevant coordinating road authority within 7 days that works have been completed, subject to Schedule 7, Clause 13(2)	DIS, MIP&D	where council is the works manager
Schedule 7 Clause 13(2)	power to vary notice period	DIS, MIP&D	where council is the coordinating road authority
Schedule 7, Clause 13(3)	duty to ensure works manager has complied with obligation to give notice under Schedule 7, Clause 13(1)	DIS, MIP&D	where council is the infrastructure manager
Schedule 7 Clause 16(1)	power to consent to proposed works	DIS, MIP&D	where council is the coordinating road authority

Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
Schedule 7 Clause 16(4)	duty to consult	DIS, MIP&D	where council is the coordinating road authority, responsible authority or infrastructure manager
Schedule 7 Clause 16(5)	power to consent to proposed works	DIS, MIP&D	where council is the coordinating road authority
Schedule 7 Clause 16(6)	power to set reasonable conditions on consent	DIS, MIP&D	where council is the coordinating road authority
Schedule 7 Clause 16(8)	power to include consents and conditions	DIS, MIP&D	where council is the coordinating road authority
Schedule 7 Clause 17(2)	power to refuse to give consent and duty to give reasons for refusal	DIS, MIP&D	where council is the coordinating road authority
Schedule 7 Clause 18(1)	power to enter into an agreement	DIS, MIP&D	where council is the coordinating road authority
Schedule 7 Clause 19(1)	power to give notice requiring rectification of works	DIS, MIP&D	where council is the coordinating road authority
Schedule 7 Clause 19(2) & (3)	power to conduct the rectification works or engage a person to conduct the rectification works and power to recover costs incurred	DIS, MIP&D	where council is the coordinating road authority

Road Management Act 2004			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
Schedule 7 Clause 20(1)	power to require removal, relocation, replacement or upgrade of existing non-road infrastructure	DIS, MIP&D	where council is the coordinating road authority
Schedule 7A Clause 2	power to cause street lights to be installed on roads	DIS, MIP&D	power of responsible road authority where it is the coordinating road authority or responsible road authority in respect of the road
Schedule 7A Clause 3(1)(d)	duty to pay installation and operation costs of street lighting - where road is not an arterial road	DIS, MIP&D	where council is the responsible road authority
Schedule 7A Clause 3(1)(e)	duty to pay installation and operation costs of street lighting – where road is a service road on an arterial road and adjacent areas	DIS, MIP&D	where council is the responsible road authority
Schedule 7A Clause (3)(1)(f),	duty to pay installation and percentage of operation costs of street lighting – for arterial roads in accordance with clauses 3(2) and 4	DIS, MIP&D	duty of council as responsible road authority that installed the light (re: installation costs) and where council is relevant municipal council (re: operating costs)

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Instrument of delegation to members of
Council staff

Road Management (General) Regulations 2016			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r.8(1)	duty to conduct reviews of road management plan	DIS, MIP&D	
r.9(2)	duty to produce written report of review of road management plan and make report available	DIS, MIP&D	
r.9(3)	Duty to give notice where road management review is completed and no amendments will be made (or no amendments for which notice is required)	DIS, MIP&D	where council is the coordinating road authority
r.10	duty to give notice of amendment which relates to standard of construction, inspection, maintenance or repair under section 41 of the Act	DIS, MIP&D	
r.13(1)	Duty to publish notice of amendments to road management plan	DIS, MIP&D	where council is the coordinating road authority
r.13(3)	duty to record on road management plan the substance and date of effect of amendment	DIS, MIP&D	
r.16(3)	power to issue permit	DIS, MIP&D, TSC, DEVE, TO	where council is the coordinating road authority
r.18(1)	power to give written consent re damage to road	DIS, MIP&D, TSC	where council is the coordinating road authority
r.23(2)	power to make submission to Tribunal	DIS, DDS	where council is the coordinating road authority

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Instrument of delegation to members of
Council staff

Road Management (General) Regulations 2016			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r.23(4)	power to charge a fee for application under section 66(1) Road Management Act 2004	DIS	where council is the coordinating road authority
r.25(1)	power to remove objects, refuse, rubbish or other material deposited or left on road	DIS, MIP&D, TSC, DEVE, TO, MFS, WC, SW, CCC, CCO	where council is the responsible road authority
r.25(2)	power to sell or dispose of things removed from road or part of road (after first complying with regulation 25(3))	DIS, MIP&D	where council is the responsible road authority
r.25(5)	power to recover in the Magistrates' Court, expenses from person responsible	DIS, MIP&D	

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Instrument of delegation to members of
Council staff

Road Management (Works and Infrastructure) Regulations 2015			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
r.15	power to exempt a person from requirement under clause 13(1) of Schedule 7 of the Act to give notice as to the completion of those works	DIS, MIP&D	where council is the coordinating road authority and where consent given under section 63(1) of the Act
r.22(2)	power to waive whole or part of fee in certain circumstances	DIS	where council is the coordinating road authority

Project	Capital Expenditure Carry Forward 2019/20 to 2020/21
Capital Works Carry Forwards	
01573 2014 Aquatics Plan - WISAC Development	1,825,534
02141 Mitchell Avenue Reserve Pump Track	302,488
01995 Mitchell Avenue Children's Garden Construction	300,418
01777 HP Barr Oval 2 Drainage & Restoration Works	226,007
02140 WISAC - Buildings & Cafe renewal	160,641
02001 1920 Building Renewal	125,000
01851 Payroll & HRIS	63,258
02005 19/20 Urban Drainage Renewal	63,254
01944 South Wangaratta Reserve Lighting Upgrade	60,540
01911 Design for Ovens / Faithfull & Templeton roundabout	57,259
01982 Bowser - Cell 6 landfill liner design and auditor sign off	40,337
01577 Barr Two Oval Lighting Development - Optus Mobile Tower Inst	19,326
02054 19/20 New Footpath / Shared Path Program	11,218
01946 WJ Findlay Oval Lighting Project	8,549
02090 Mitchell Ave Splash Park Repairs	7,072
02008 Bridge Renewal - Design	5,400
00102 Gallery acquisitions	2,313
Total Carried Forward to 2020/21 Capital Works Expenditure	3,278,612
Capital Works 2020/21 Budget Reductions	
02139 Aquatics Equipment	-4,545
01885 Murrell Street Basin Renewal	-7,700
01997 Gravel Resheeting Program 19/20	-12,038
01460 Cemetery Development (begin use of undeveloped land)	-12,109
01999 Plant Replacement 19/20	-12,999
02028 Wangaratta Aerodrome Infrastructure Development Stage 2	-16,013
01875 Wangaratta Aerodrome - Commercial Hangars	-137,440
01753 CBD masterplan: Railway Precinct - Design and construction	-925,542
Total Reduction to 2020/21 Capital Works Expenditure	-1,128,386

Chief Executive Officer

Rural City Of Wangaratta

Wangaratta Rural City Council

25 AUG 2020

Corner Ford and Ovens Streets

Ref: _____

Wangaratta VIC 3677

Re: Proposed sale of Land, 8 Sadler St Wangaratta, Max Parkinson Lodge

23/08/2020

Dear Chief Executive Officer,

I am writing in regard to the proposed sale of the Max Parkinson Lodge at 8 Sadler Street Wangaratta.

While I understand, and support the need for low cost emergency housing, this particular part of Wangaratta is not suited to having the proposed buildings on this site. I have a number of objections to the sale of this land to Beyond Housing.

- Should the sale of this land go through, then I consider that it will be a fait accompli that the housing will eventually be built. In my email communication with Jamie Chubb on 19/08/2020 he indicated that "Beyond Housing are finalising the planning process now and will soon begin community information processes to update residents about the project, including design details." To date there has not been any community consultation of the local rate payers and residents who may be impacted by such a development. The mention of the community information process also suggests that building of low-cost housing is a certainty.
- I have been living near this site since 2014 and Wangaratta Rural City Council have not directly informed the local ratepayers and residents of this planned change. There has been no direct communication from the Wangaratta Rural City Council, nor has there been any notices posted at the site itself. I have passed this property almost daily since I moved into Sadler Street in 2014 and no notice has ever appeared on the property, or the signage located therein, that the property was being considered for sale. It appears that the local rate payers and residents have not been provided with the opportunity to be consulted about the use of this land, prior to it being sold.
- As a Senior Worker in the Child Protection field I am currently working with families and individuals that need to utilise emergency housing. It is often the case that these families are struggling with factors such as significant mental health issues, exposure to physical violence, issues with the use and abuse of legal and illicit substances, as well as Family Violence. I have spent my professional career working with families and individuals that experience these difficulties and are committed to continuing to working with families that experience these negative life events. I also have an intimate understanding of the need for low cost emergency housing. However, the Sadler and Stuart Street area is a quiet and

stable area and is not suitable for a residential building as is being proposed. With a revolving influx of new people it is certain that this will at times necessitate the involvement of agencies such as Victoria Police, Child Protection, and other support services that impact on the quality of life for all of the families and current residents of Sadler and Stuart Streets. I specifically chose this part of Wangaratta as an area that has low probability of Child Protection clients living in the local area. A development of this kind will significantly impact on the well-being of my family as well as compromise my ability to continue to work with families in the Child Protection program.

- Both Sadler Street and Stuart Street are occupied by many families with young children, and older retirees, and it is a safe and quiet environment. In my email communication with Jamie Chubb on 19/08/2020 he indicated that “Beyond Housing will be developing the site with 13 independent low costs housing units with a mix of sizes – mainly 2 and 3 bedrooms. The project will also create garden space and common outdoor spaces for residents.” This planned development, which depends on the sale of the land, is not consistent with the current area and it is expected that there would be significant disruption to both Sadler and Stuart Streets should this development proceed. Given the plan is for the current building to be demolished, and a new buildings being constructed there is the prospect of significant long term disruption to both Sadler and Stuart Streets during the demolition and construction phases. Should the planned buildings be constructed then there will be significant ongoing increases in vehicle and foot traffic, which is not currently supported by the existing infrastructure. As it currently stands there is only one vehicle access point to this site which is on the corner of Sadler and Stuart street. Any significant changes to this site will make it extremely difficult for many residents to access their homes.
- Should this property be sold, and the proposed building constructed, there will be significant safety issues with the ongoing increase in vehicle and foot traffic once the buildings have been completed. This will most significantly cause difficulties for primarily the residents of Sadler Street. The safety of the street corners of Sadler and Stuart Street, as well as the corner of Stuart and Bronmar Street are already difficult to navigate safely when there are any parked cars in the vicinity. There is a high likelihood of accidents occurring in this area with an influx of people in a new residential facility, many of which would be expected to be children.
- The sale of this land, and the subsequent building of low-cost emergency housing, will bring significant numbers of new people to the area on a revolving basis. As a result of this influx of people I will be worried about who will be nearby and how this will impact my family, as well as the other young families in Sadler and Stuart Streets. We specifically purchased property in this area on the understanding that it was a quiet neighbourhood and that the Max Parkinson Lodge had been used for Aged Care and Day programs.
- The provision of this housing type will also negatively impact on the natural beauty of the land along one-mile creek and the current existing walking track. Should this sale of land proceed, with the resulting development, then the use of the land along the creek will be disrupted. As detailed above there is only one current vehicle access point to this site. Should vehicle access be provided to the site through Bronmar Street this will result in damage to the land alongside the creek, as well as create significant safety hazards for the many children and families that use this land.

Wangaratta Bike Jumps

Direction Report and Risk Assessment

September 2020

History

In early 2019, bike jumps, and tracks began to be constructed by young people through public areas of Wangaratta. These tracks were created and expanded relatively organically and spread quickly throughout the city. Whilst young people tended to use tracks close to their homes and schools, their construction also facilitated movement throughout the city by young people. A network of tracks soon established along key walking tracks, waterways and throughout public reserves, and their use was prominent and prolific. The number of young people using these jumps and tracks increased quickly, and many hundred were participating in both the construction and use of the evolving network.

The tracks were constructed by young people, with some assistance occasionally provided by parents. They were predominately developed with the use of shovels and equipment brought in by the riders. As they grew, other materials such as wooden pallets, bricks, carpet and bits of rubble (rocks, concrete, etc.) were also used. Often this digging equipment was left at the sites of the bike jumps whilst their expansion took place.

In August 2019 there was no formal Council position on bike jumps and a decision was made to remove some jumps in response to consistent complaints by some community members regarding the damage the jumps were causing to the natural environment – waterways were being impacted by litter, trees and shrubs had been damaged and removed, walking tracks had become unsafe and the habitats of wildlife destroyed. There had also been complaints of anti-social behavior. Fires had been lit and left to burn, neighbours had been verbally abused, and language and music was loud and disrespectful for public spaces.

The result of the removal of the jumps was quick and significant. Online conversations across social media platforms escalated quickly, and the media quickly responded. Councilors were contacted by young people and their parents within 24 hours.

Council responded with the decision to host a meeting with the young people who had developed and used these jumps, to establish a clear way forward. Over 200 young people and many parents attended the meeting. The meeting established several key directions:

1. Council would support the continuation of the jumps if clear rules were established and followed. These were:
 - No fires
 - No damage to trees and the surrounds
 - No rubbish to be left
 - No bringing in dangerous material for jump/path construction
 - No holes to be dug on walkways
 - No graffiti or vandalism

- No 'ownership' over sites – they are for everyone to use
 - No expansion of tracks outside designated areas
2. Council would remove jumps if their impact on the environment was too significant, if anti-social behavior continued or they were deemed too dangerous for riders or the community.
 3. Council would prioritise the development of the Mitchell Avenues pump track to enable a more formalized riding option within the city.
 4. Key sites were established where Council would work with young people to develop jumps safely and with minimal environmental impact. These were:
 - HP Barr Reserve
 - Tarrawingee
 - Mitchell Avenue Pump track
 - Appin Park/St Bernard's track
 - Arlington
 5. Young people nominated themselves to being involved in the planning and development of different sites.

Following the meeting progression of the informal jumps at the designated sites was challenging. Engagement with the young people was inconsistent and it became evident that it was actually the unstructured and unsupervised nature of the jumps that had been the biggest appeal for many of the young people involved in the development.

New sites continued to emerge, and some sites that had been 'favourites' were not used as much. Floodwater that is so prevalent in Wangaratta was a natural impact on the jumps and many were damaged and removed by the natural flooding of the creek areas.

Supported projects

The Mitchell Avenue Pump Track has been completed over the start of 2020, with a design that was developed in partnership with young people. The track, and its build process has been a significant project in recognizing the ideas and priorities of young people in the development of facilities.

Whilst many of the tracks and jumps have been developed within the city, there has also been significant jump construction and use within the rural communities. Whilst some of this has developed on private land, given the larger blocks and availability of farmland, there have also been some jumps constructed on community land. To support the safe use and construction of these sites, and to protect their impact on the environment Council has begun to deliver dirt to the sites where approval from the management committee has been obtained. Tarrawingee received dirt in mid-2020 with further sites planned for the end of the year.

Within the Parklands Masterplan consideration has been given to incorporating an area of formal gravel tracks and jumps within the precinct. While this masterplan is yet to be adopted by council, bringing this forward would provide another outlet for young people and reduce the damage on the environment from the creation of informal jumps. This location is also seen as being central and would be a popular site.

Current situation

2020 has seen a continued growth in the size, number and use of the bike jumps and tracks throughout the city. This in part has likely been fueled by the impacts of the COVID-19 pandemic. For months there has been social distancing and lockdown requirements in place that have meant that

organised sport, schools and many businesses have been inaccessible. For young people, the need to find solo activities, that are done in non-populated areas has matched well with the riding and jumps that were already popular.

What we have learnt

They grow up

The nature of working with young people means that their quickly progress through the stages of childhood and early teens – this means that the young people who agree to the rules one year, have often moved on to other things by the next.

The balance of different ages using the sites has also been a point of tension across the community. Whilst there may be only a few years between people using the tracks, their behavior, skill and language is very different, sometimes resulting in disagreements and conflict. With younger children constantly moving through the sites there is a continual evolution of ‘ownership’ and acceptance.

They want to do it themselves

Part of the appeal of the construction and constant evolution of the bike jumps is undoubtedly in the sense of independence and control that the young people have in the process. Whilst there has been an appreciation for the ‘facilitator’ role that Council has played in some projects – including pump track and the delivery of dirt, success in this area relies on providing independence to young people, with the right level of support to ensure that risks are managed.

The challenge of communication

The method of communication with young people is a changing landscape, whereby the preferred platform for communication can change rapidly. The different ages involved also means that access to independent communication channels (personal mobile phones, etc.) varies greatly. Often parents and care givers also expect communication and involvement.

There is also the challenge of managing the expectation of all people who have a view of the project. Given that the jumps are predominately being constructed in public areas, there is an expectation that the community will be consulted and kept informed. Given the quickly changing landscape of the jumps, including their construction and use, it is challenging to keep people informed about the jumps. In many cases, the community is aware of construction and issues before Council is.

There is community conflict

This situation poses some conflicting thoughts on the engagement, rights and behavior of young people. Many people believe what the young people are doing is brilliant – that they are showing initiative, mateship, and self-sufficiency. There is a strong community sentiment that they are being active – and after so many years of begging them to get off screens we should be supporting this. The contrasting view is that the young people are being destructive, disrespectful and entitled by using public land without permission or consideration of other users. To make this issue even more divisive is the acknowledgment that whilst most of the riders are polite and respectful of the people and place, there are some who are absolutely behaving in a way that is socially inappropriate.

The other element that has caused divide is the balance between protection and use of the environment. There are many examples of human activity causing detrimental impacts to our natural environment, and often to sensitive and significant areas. The impacts of other human activities are considered as part of approval processes, something that has not occurred with the

jumps. The fact that the jumps are developing organically, and with no planning or management has meant that many have evolved to create a conflict with the environment in which they have been built. They have impacted waterways, flora and fauna, and polluted the area with rubbish. Conversely, the use and enjoyment of our natural environment is a key attraction to the young people using these jumps and tracks. In some cases, they cause the same level of impact as walking tracks and camping.

Red tape

Like many things, when government becomes involved things become significantly more complicated and slower. Young people by nature can be impatient and limited in their knowledge and acceptance of the process of planning, approvals, risk mitigation. Their desire for immediate action and access has been challenging to manage at a decision-making level – which has required the consideration of complex and varied elements.

The result has been that they have bypassed, disregarded or not realized the process that the jumps should go through. They have seen public land as publicly available for any use and have made decisions themselves about construction and access. For many of the young people using the jumps, the process in their eyes has worked well. By all accounts there are few injuries, most neighborhoods now have easily accessible jumps, they have constructed social and recreational facilities for next to no cost, and they have established a strong community of riders. Coming in now with the requirement of planning and risk mitigation has been met with resistance and confusion, it is hard to achieve understanding when the process will become significantly more regulated and controlled.

Risk Identification

At the core of the bike jumps issue are three key risks:

1. Bike jumps are inherently dangerous, especially when they are built with little knowledge of safe design, materials and construction. Many of these riders are young (pre and early teens) and are inexperienced both in construction and riding.
2. When constructed in public areas that are regularly used by people to walk and run, the jumps and tracks pose a significant risk to others. There is no consideration to the other people who are using these public areas.
3. Thirdly, they are being constructed in areas and in ways that show little regard for the surrounding environment and can cause significant damage and destruction.

Ultimately, as a Council and a community we want our young people to be safe. It is imperative that as we navigate a sustainable solution for the way forward, we remain focused on ensuring the safety and health of all the people using these areas.

For Council, it is important we balance the risk with the reality. Avoidance of liability is only one element is developing a successful risk management response. We are striving for the best outcome for the entire community.

The following risk identification has been undertaken of the existing situation with informal bike jumps and tracks using council's risk management framework:

Risk	Likelihood	Consequence	Resultant Risk
Riding a bike on informal jumps and tracks is a risk to the rider of injury (Health and Safety)	Possible (may occur from time to time)	Moderate (Significant non-permanent injury/illness. Treatment by medical professional, hospital outpatient, hospital overnight stay)	Medium
Others community members using the area in which jumps are constructed (walking/running/cycling) may injure themselves on the jumps (Health and safety)	Possible (may occur from time to time)	Moderate (Significant non-permanent injury/illness. Treatment by medical professional, hospital outpatient, hospital overnight stay)	Medium
Emergency Services cannot access some existing areas (Health and Safety)	Unlikely (Could occur at some time but infrequently)	Major (Extensive permanent injury/illness e.g. loss of finger(s); Extended hospitalisation.)	Medium
Risk of long-term damage to the environment (Environmental and Public Health)	Likely - Strong likelihood of occurrence in the next 12 months.	Major (Repeated occurrences which cause ongoing harm which is able to be remediated in > 2 years and < 5 year)	High

Risk Management Options considered

1. REMOVE AND PROHIBIT

What this would look like:

Under this model, Council would remove all jump sites as they are created across the municipality – including all current sites regardless of their size or safety and all new sites as they arose. This option would involve a significant undertaking by the Natural Resource Management and Outdoor works team and would need to be undertaken on a regular basis as new sites are created.

Current sites where the jumps construction is the most prevalent, would have signage installed that would outline that jumps construction was prohibited.

What are the risks:

- We know from previous removal that young people will continue to construct jumps after they are removed. The number of young people who are involved in building jumps significantly outweighs the resources of Council to remove them. A single weekend can lead to large jumps sites being built.

- In this scenario, Council has no position to manage the risks and location of the jumps that will continue to be built. If we took a hardline approach, our capacity to partner and support, intervene or work with is gone.
- There is the risk that the approach would severely damage our relationship with young people. Whilst there is definitely some anti-social and destructive behavior that is happening, there is also good that is coming from the jump's sites, and this would be eroded if we took a hard line approach. This response is also likely to be expressed by the many people in the community who have been supportive and encouraging of the bike jumps.
- The resources to take this approach would be significant. In the first instance there would be a need to resource the identification of the jump sites, and then their actual removal. Following this, the sites would need to be repaired and regenerated. The ongoing monitoring of new jumps, and their continued removal would also need resources to manage and ensure that the issue does not escalate again.
- This approach would raise the expectation that this level of monitoring and maintenance is continued in public areas. This expectation is unsustainable for Council within current and foreseeable resource levels.

What are the benefits:

- The financial and risk liability for council would be addressed as we would be actively removing all jump sites as soon as we became aware of them.
- We would be able to have greater control over the impact of the jumps on the environment.
- The community members who have consistently expressed concerns with the environmental impacts, the behavior and the lack of management surrounding the jumps will have their concerns addressed.

2. ALLOW UNMANAGED**What this would look like:**

This approach would follow a 'hands off' approach to the management of the jumps, for both maintenance and creation of new sites. Council would play no role in monitoring, removing or maintaining the jumps in any area unless they directly impacted another piece of community infrastructure or an asset, including a walking track. Given the rapid change that happens with jumps sites, this approach would let their development and use run its own course.

This approach works on the theory that the novelty of the jumps will dissipate over time. History shows that the phase of activities for young people tends to come in trends. These trends can last weeks to years, and whilst the trajectory of the jumps in our community appears to have staying power, there is also the assumption that some of the strength of the bike jumps is at least in some part linked to the current COVID-19 restrictions and the lack of organized sports and activities.

What are the risks:

- This approach would result in significant risks of injury for people using the areas in which jumps are built, both the riders and other community people. With the jumps unmanaged, there is no opportunity to ensure they are safe for people using them deliberately, or for people who come across them in the course of other activities such as walking.
- Given that Council is aware of the jumps, their expansive impact and the rapid growth that happens, we would be financially and legally liable for many of risks identified in the risk matrix.

- There is a real risk that many environmentally, culturally and socially significant areas would be severely damaged, perhaps beyond repair. Some sites where jumps are beginning to come up include commemorative gardens and sites of remembrance. There is also current damage to areas where there is an impact that could have lasting impact, including to waterways and wildlife habitats.
- This approach is not addressing concerns that have been repeatedly presented by many community members regarding the management of the jumps. There is a risk that we would not be meeting the expectation by the community to play an active role in the jumps, rather we could be seen as negligent and passive.

What are the benefits:

- This approach would have limited resource demand on Council, given that we would not be playing an active role except for our role to repair damage and clean up where required.
- Young people would continue to have access to the jumps and would be free to develop them and use as they would like.

3. BALANCE AND MITIGATION

What this would look like:

This approach is a middle ground, we would manage a set number of sites whilst also giving young people freedom to construct and evolve the jumps within these set areas. Once these sites were established, we would remove the remaining sites where significant jumps had been constructed and rehabilitate the areas that had been damaged. It is important to acknowledge that there are likely hundreds of small jumps that have been built around the city in all manner of areas. It would be challenging and potentially

There would be significant communication, engagement, management and partnership that would go in to ensuring that that this approach is successful. This approach would include the following elements:

1. Site confirmation for supported jumps sites. Thorough assessment has already been undertaken on the existing major jump sites, and areas that would be conducive to housing jumps. The nominated sites include:

1. Arlington Park
2. St Bernard's version 2 (moving 200m down from exiting site)
3. Valdor's Avenue
4. Railway area at Sydney Beaches

2. Remove high risks jumps. Jumps will be removed under the following situations:

1. They are in inappropriate areas;
 - a. Culturally or socially significant (commemorative sites)
 - a. Sensitive environmental areas
 - b. Private property
2. They are causing significant damage to a public use area
3. They are dangerous to riders and people using the area
4. They are constructed from dangerous materials

Entire site areas may be removed, or a decision may be made to only remove individual jumps or pieces of dangerous material. As jump sites become known to Council, there will be a process of assessing their impact and risk. Council will also rely on community information and feedback to understand the evolution of jumps.

3. Install signage. Signage will be installed across three different types of sites:

- Signage at the sites of managed jumps. This signage will articulate the ‘rules’ and have emergency contact information should an accident happen.
- Signage at areas where jumps have been removed. This signage will articulate that the area is of environmental and social significance and it needs to be protected for use by everyone. It will give directions to the jump sites and the pump track.
- Signage at areas that have risk of jump construction. This signage will encourage all users to tread carefully and treat the area with care.

4. Work on design and construction. To ensure that the supported sites are safe and engaging, whilst also a place where young riders can have freedom and independence in the construction, an approach of initial involvement and then ‘hands off’ will be taken. This will include:

1. Dirt will be dropped at each supported site.
2. A track designer will be engaged to run workshops with young people to build a knowledge base around safe and fun jumps and tracks. The designer to work with the young people on the layout once the dirt has been placed and give information about the safest and most effective designs and construction methods.
3. The track designer will provide some criteria on how the tracks can be altered - height/grade/separation of jumps etc, whilst still maintaining safety. This will be included in our signage at these locations.
4. Track designer to visit sites on a regular basis annually to assess jumps and run follow up workshops with young people to ensure a continuation of the local knowledge base.
5. Regular inspections of the tracks and jumps will be undertaken to ensure that the criteria are being followed.

5. Monitor and adjustment. Council will monitor the success of this approach on an ongoing basis and adjust as required. Council will continue to work with young people and the broader community on the ongoing use and impact of the supported sites, and the evolution of jumps in other areas.

What are the risks:

- Under this approach, as Council would be actively participating in managing the jumps, Council will become liable for certain risks, including the safety of riders.
- There is still a risk that new jumps are constructed in areas that have been designated inappropriate, or in areas with no designation has been made. Ongoing monitoring of these areas, assessment and then removal would create a risk for Council in ensuring that appropriate decisions were made regarding evolving jump sites.
- This approach would require resources from Council are maintained for the project. The capacity to safely control both the supported sites and the development of new sites would be reliant on Council’s capacity to resource with time.
- There is a risk that the new supported sites won’t have the same appeal to riders, and that they won’t be used.

What are the benefits:

- This approach will ultimately result in safer jumps and less risk of injury to riders. From the start, information and guidance will be given help the design and construction of safe jumps and tracks. From here, regular monitoring will ensure that the jumps met the requirements set for safety.
- The approach will help mitigate the impact on the environment. The supported sites will only be established in areas where this is little opportunity for extensive environmental damage.
- This approach addresses the priorities of young people – with independence and the ability to self-construct their jumps – and community members who desire to maintain safe and protected areas of natural significance.
- It is expected that this approach would help to mitigate the number of informal bike jumps that area created throughout the city, given that that there will be the opportunity for ongoing construction at the supported sites.

Steps from here

It is recommended that the balance and mitigation approach be implemented by Council commencing immediately. The following timeline is recommended:

1. September – sites approved at Council meeting
2. September and October – communication strategy delivered
3. September school holidays and October – workshops with young people regarding safe and quality bike jumps construction
4. October – signage installed
5. October – new sites developed with young people
6. October and November – dangerous sites to be progressively removed

Council has established a project control group that will oversee the project delivery. A project manager will work with individual teams to coordinate the response. This project is taking a collective view to ensure that a considered and sustainable outcome is reached and maintained.

ATTACHMENT 1

This report has been prepared to document the statutory planning processing and assessment pursuant to the *Planning and Environment Act 1987 (the Act)*.

WANGARATTA PLANNING SCHEME – ASSESSMENT REPORT**Pinapp20/131****Two lot re-subdivision****449 McMahons Road Springhurst****CA 137 Vol 11449 Fol 288 & CA 137A Vol 11449 Fol 289****KEY DETAILS**

Land owner	B J Hourigan, T M Hourigan
Applicant	Oxley & Company
Zone	Farming Zone (FZ)
Overlays	Nil
Property ID	8563
Site inspection	The site was visited on 24 August 2020

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PROPOSAL AND SITE DETAILS

The application currently with Council seeks a permit to re-subdivide two lots in common ownership.

The land is a total of approx. 53 hectares in area and contains a dwelling, curtilage and shedding. The dwelling is near to McMahons Road and is in fair condition. The land is used for cropping and contains two small dams. Some vegetation is present around the dwelling – this vegetation appears to be exotic.

The area around the subject land is also used for cropping and grazing. The wider area forms part of a dryland farming area and little to no irrigation infrastructure is available. Holdings in the area are typically large – a reflection of the agricultural trend in that part of the Municipality.

The farming operations as they operate on the land are shown below:



At present the lot configuration is per the image below:

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The proposed small lot will also incorporate some of the productive farm land and not just the dwelling and curtilage.

The applicant has included an offer to enter into a Section 173 legal agreement that would have the effect of prohibiting a dwelling from the balance lot (despite such an outcome becoming 'as of right' by virtue of the subdivision).

PLANNING CONTROLS (PERMIT TRIGGERS)

Control	Clause(s)	Consideration
Farming Zone	Clause 35.07-3	Subdivision

Cultural sensitivity

Pursuant to the *Aboriginal Heritage Regulations 2018*, a Cultural Heritage Management Plan (CHMP) is not required:

- As the land is not a registered cultural heritage place or an area of cultural heritage sensitivity.

Restrictions on Title (Covenants, S173 agreements and easements)

No restrictions are lodged on title.

Special Water Supply Catchments

The land is not within a declared Special Water Supply Catchment listed in Schedule 5 of the *Catchment and Land Protection Act 1994*.

Agricultural versatility

The land is mapped as being of 'High' versatility as defined in *An Assessment of the Versatility of Agricultural Land in the Rural City of Wangaratta, April 2000*.

A whole farm plan has not been submitted with the application, even though the Planning Scheme would suggest that one is required to test the strength of the subdivision.

REFERRALS & PUBLIC NOTIFICATION

Referrals

No referrals were required.

Internal advice (including verbal advice)

No internal advice was sought.

Public Notice

Public notice was carried out by Council in accordance with Section 52 of the Act.

Notice was given in the form of:

Letters to adjoining and adjacent owners and occupiers.

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One objection was received. The objection is considered later in this report.

REPORT – PLANNING CONSIDERATION

Planning Policy Framework

The following clauses of the PPF are relevant to the assessment of this application:

Clause 11.01-1S Settlement

Clause 14.02-1S Protection of agricultural land

Clause 14.01-2S Sustainable agricultural land use

Clause 16.01-5S Rural residential development

Local Planning Policy Framework

The following clauses of the PPF are relevant to the assessment of this application:

Clause 21.01 Introduction

Clause 21.02 Settlement

Clause 21.05 Natural Resource management

Clause 21.07-3 Housing form

Clause 22.01 Rural land use and agriculture

Zone

Clause 35.07 – Farming Zone

Purpose

- 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.

Overlay(s)

None applicable.

Particular provisions

None applicable

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General provisions

Clause 65.02 – Decision Guidelines

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

- *The suitability of the land for subdivision.*
- *The existing use and possible future development of the land and nearby land.*
- *Others continue.*

ASSESSMENT AGAINST PLANNING POLICY

Offer of Section 173 Agreement

The applicant has offered up a S173 agreement to prohibit a dwelling on the balance lot, however using this approach is less than ideal and has been discouraged by the Tribunal, a recent example is *JSW Brian Pty Ltd v South Gippsland SC (2019) VCAT 1730*. In that decision, the Tribunal was critical of such an approach and stated (paragraph 113):

I consider it inappropriate to oust the operation of the planning scheme and prohibit a dwelling on the Balance Lot. I find that there is no express support in the Farming zone or in applicable planning policy nor in the specific factual circumstances in the matter before me to justify the imposition of a section 173 agreement for a dwelling on a lot greater than 40 hectares where it is as of right under the planning scheme.

As such, Council in this application must note the offer to enter a S173 agreement, but ultimately, it cannot be relied upon to sustain an approval, nor to bypass the normal operation of the zone.

The result, little weight has been given to the offer of a S173 agreement to facilitate a subdivision that will grant a dwelling 'as of right' on the balance lot.

Given that the applicant relies heavily on their offer of entering a S173 – the justification for granting a permit is weakened.

Farming Zone

The Farming Zone allows the application to be made under the following provision:

Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

- *The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.*
- *The subdivision is the re-subdivision of existing lots and the number of lots is not increased.*

The applicant seeks to re-subdivide two existing lots that is essentially a dwelling excision. In the event that this land was in a contiguous lot, they could have made the same application anyway, given the presence of the dwelling and the operation of the zone. The proposal is in effect – a dwelling excision but by way of a re-subdivision.

The consultant who prepared the report appears to have combined policy objectives along with the technical ability for a permit to be granted. Indeed, the Farming Zone

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allows the application to be made, however simply meeting a technical requirement does not equate to being consistent with broader policy and zoning objectives.

The proposal will create a small lot within a broadacre farming area. The larger Lot 2 will comprise the farming activity, while the dwelling is effectively excised. The area forms part of the rural assets of the Municipality as well as part of the broader North East.

Officers accept that the land uses that presently exists will probably not alter on the land because of this subdivision. Officers also accept that waste water can be managed and the lot is within the preferred size set out in the local policy – however it is noted that 2 hectares is the maximum preferred size and the small lot could be smaller and still meet the technical requirements of the zone.

Officers suggest that the excision could lead to a proliferation of dwellings in the area and there is potential for a clustering of dwellings given the current area conditions.

These aspects must be weighed against the overall objectives of policy and the zone to protect agricultural land and to prevent land use conflict. Officers suggest that the proposal is not supported by the State and Local policy relating to agriculture or the objectives of the Farming Zone as set out.

Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*

Agricultural issues and the impacts from non-agricultural 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.*
- *Any integrated land management plan prepared for the site.*

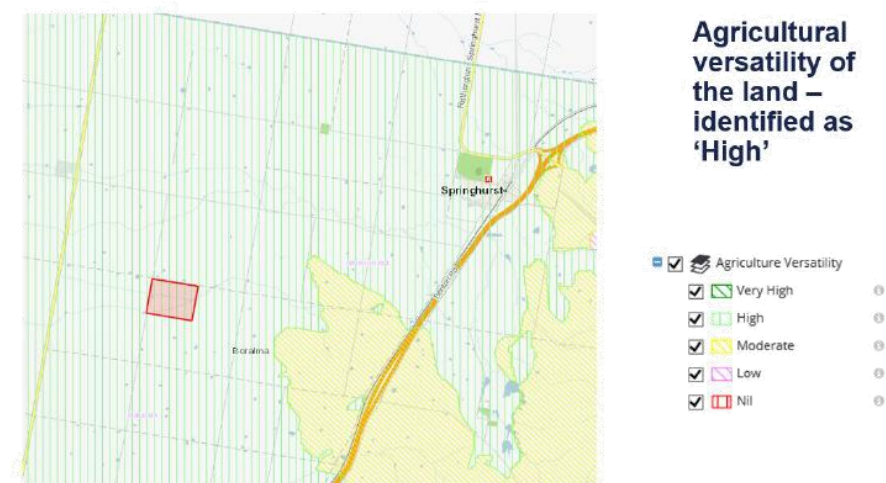
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General

The application seeks to place an existing house onto a small lot and separate it from the land which it is connected to (in farming terms). There are several policies nominated above which discourage the fragmentation of productive agricultural land and promote the creation and expansion of sustainable farming operations.

The subject land is identified as being of “high” versatility. The land is also in the midst of a broadacre farming area where the main agricultural uses are grazing and cropping.

The image below shows where the subject sits within the versatility mapping.

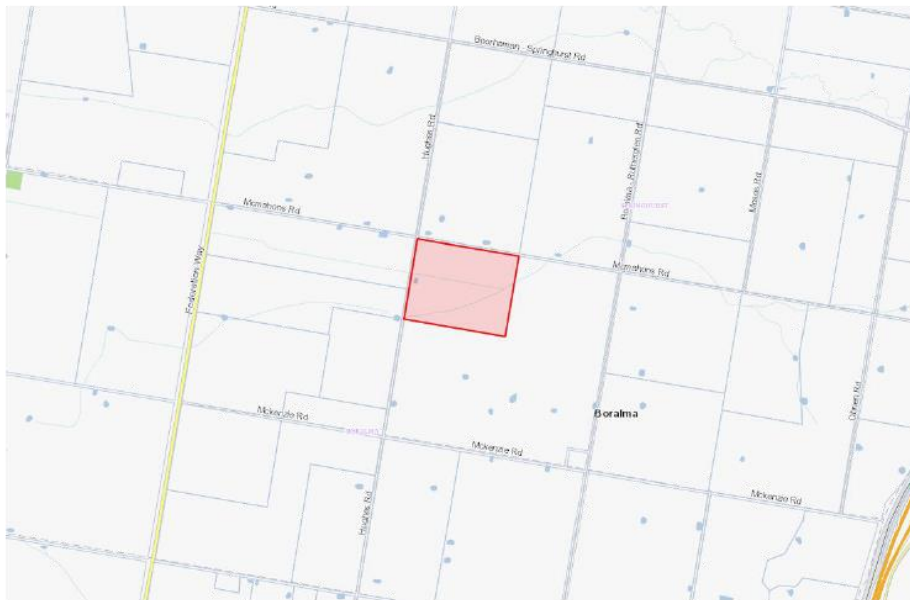


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The image below shows the pattern of agricultural activity in the area (mostly grazing and cropping).



The image below shows the pattern of ownership in the area – it is noted that the vast majority are large holdings.



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The application documentation that accompanies the proposal does not provide qualified farming reasons for this subdivision. There is no whole farm plan and no attempt to convince Council as to the *bona fide* desire to subdivide in this manner.

The report does not give any indication as to why or how the subdivision results in an acceptable farming outcome. It does say several times the subdivision will “retain the larger parcel for agricultural use”. However, there is no attempt to demonstrate the strength of this claim.

Given that the subdivision fundamentally delivers a small lot with a dwelling, and therefore a residential outcome in a productive farming area.

The reason why this is mentioned is by virtue of the LPPF at clause 22.01 which calls for a whole farm plan to be considered.

It is noted that part of the scheme references dwelling applications, however it is important to note that this subdivision grants the balance lot a dwelling ‘as of right’.

The issue that planning policy takes with the creation of small residential lots in rural and agricultural areas is that they inherently do not serve a farming purpose. By displacing a ‘farmhouse’ away from the ‘farm’, it becomes simply a ‘house’. In doing so, the end result is a residential/lifestyle outcome and along with it – expectations of amenity which leads to land use conflicts.

The objections Council has received to the proposal to expand the cattle feedlot at Boorhaman North is a stark example of such an event.

The proposal does not shed light on the intended outcome of the subdivision – this is left to Officers. It would be fair to presume that the subdivision is being sought so that the current owners can either:

- Retain the balance lot and sell the house lot; or
- Retain the house and sell the balance lot.

In either scenario, the applicant should have expanded on the link between the subdivision and the intended outcome. Local policy at clause 21.05 clearly articulates:

Any subdivision and rural housing proposals in higher agricultural productivity and versatility areas need to be directly linked to an agricultural use, retain productive agricultural use of the land and area, protect the economic potential of the land and area for agriculture, and not be used for rural lifestyle purposes.

The application before Council does not give an indication of what agricultural outcome the subdivision seeks to deliver. There is no demonstration of a direct link to an agricultural use.

Officers are not able to definitively say what if any agricultural outcome will be delivered on the small lot. As for the large balance given that a dwelling becomes ‘as of right’ there is possibility for that lot to be purchased for its development potential in that regard. There isn’t justification to show Council that the vacant lot can be actually retained for farming.

The Scheme, and indeed the zone do not call for proposals to simply achieve a status quo. The zone goes one step further and includes in its decision guidelines “Whether the use or development will *support and enhance* agricultural production.” Where this application falls, is there is no supporting or enhancing features to the subdivision.

CONDITIONS DISCUSSION

In light of the application being recommended for refusal, this section does not require a response other than to say if Council was of a mind to approve the proposal it would have done so subject to standard conditions. Council ought to include a condition to

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prevent further subdivision and prevent the construction of a dwelling on the balance lot.

CONCLUSION & RECOMMENDATION

The application is inconsistent with the Wangaratta Planning Scheme and is not suitable for Council support. It is recommended that a notice of refusal to grant a permit be issued.

Grounds for refusal are outlined below:

Grounds for refusal

1. The application is inconsistent with the **Planning Policy Framework** at clauses 11.01-1S, 14.02-1S, 14.01-2S and 16.01-5S by creating a small lot and fragmenting productive agricultural land;
2. The application is inconsistent with the **Local Planning Policy Framework** at clauses 21.01, 21.02, 21.05, 21.07-3 and 22.01 by undermining the primacy of agriculture in an area of 'high' productivity and introducing a residential outcome.
3. The application is inconsistent with the **Farming Zone** by fragmenting land and introducing land use conflicts that will adversely affect and limit nearby farming operations; and
4. The application results in an unacceptable agricultural outcome.

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Attachment 2

Subject: Proposal at 449 McMahons Road Springhurst

To Council,

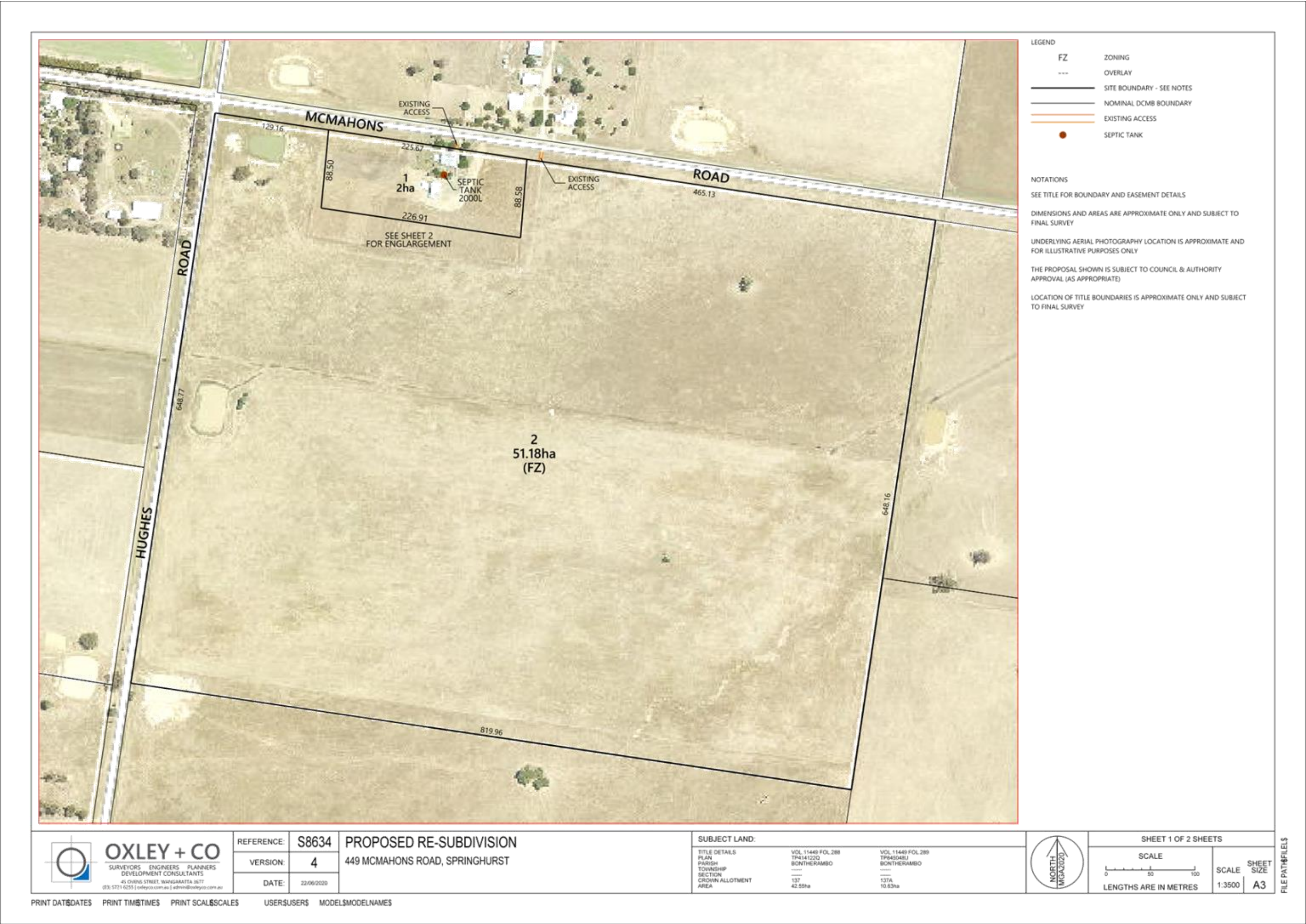
I have heard about the proposed subdivision at 449 McMahons Road in Springhurst through a neighbour.

As a share farmer in the Chiltern and Springhurst area (and my family work in farming too) I can say these subdivisions are eating away at our way of life and are slowly eroding our right to farm. Death by a thousand cuts is going to be the end of farming in this region!

I hereby lodge my objection to the proposed subdivision because it is not good for our farming areas and farmers. A lot of people in country areas don't object to their neighbour's proposals because they don't want to upset them, but deep down they know these subdivisions are bad news.

Yours sincerely,









TOWN PLANNING REPORT

Two Lot Re-subdivision

ADDRESS

449 McMahon's Road
SPRINGHURST

PREPARED FOR

Bridget Hourigan

DATE

23 June 2020



OXLEY + CO

SURVEYORS ENGINEERS PLANNERS
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Revision Table

Revision	Date	Details	Prepared by	Reviewed by
1	23/10/2019	Draft	JB	
2	08/01/2020	Update Report with Site photos	JB	Client
3	11/03/2020	Update v3 plans	JB	
4	23/06/2020	Update v4 plan - Septic	JB	

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1.0 Introduction

This Report has been prepared by Oxley and Company on behalf of the landowner to support a planning permit application to the Rural City of Wangaratta for a Two Lot Re-subdivision at 449 McMahon's Road, Springhurst. The property is described as CA137 TP414122 and CA137A TP845048, within the Parish of Bontherambo.

This Application is accompanied by:

- Land Titles
- Existing Titles Plan S8634 v2
- Proposed Subdivision Plan S8634 v4 (2 sheets)
- Plumbers Letter

This Report addresses the relevant provisions of Wangaratta Planning Scheme, including the Planning Policy Framework and Local Planning Policy Framework.

The following provisions of the Wangaratta Planning Scheme trigger a planning permit in this instance:

- Under Clause 35.07-3 of the Farming Zone a permit is required to subdivide land, including re-subdivision.

1.1 Merits Summary

We submit that following an assessment of the relevant provisions of the Wangaratta Planning Scheme that a planning permit should be supported for the following reasons:

- The proposal complies with the provisions of the Farming Zone which allows for a permit to be granted creating smaller lots if it meets the criteria set out in Clause 35.07-3;
- The number of dwellings will not be more than the total permitted under the current provisions (subject to S173 Agreement);
- There is no detrimental amenity impact on neighbouring land; including noise, odour and offsite runoff;
- The proposal will enable the retention of the larger parcel of land for agricultural use.

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2.0 Site Analysis

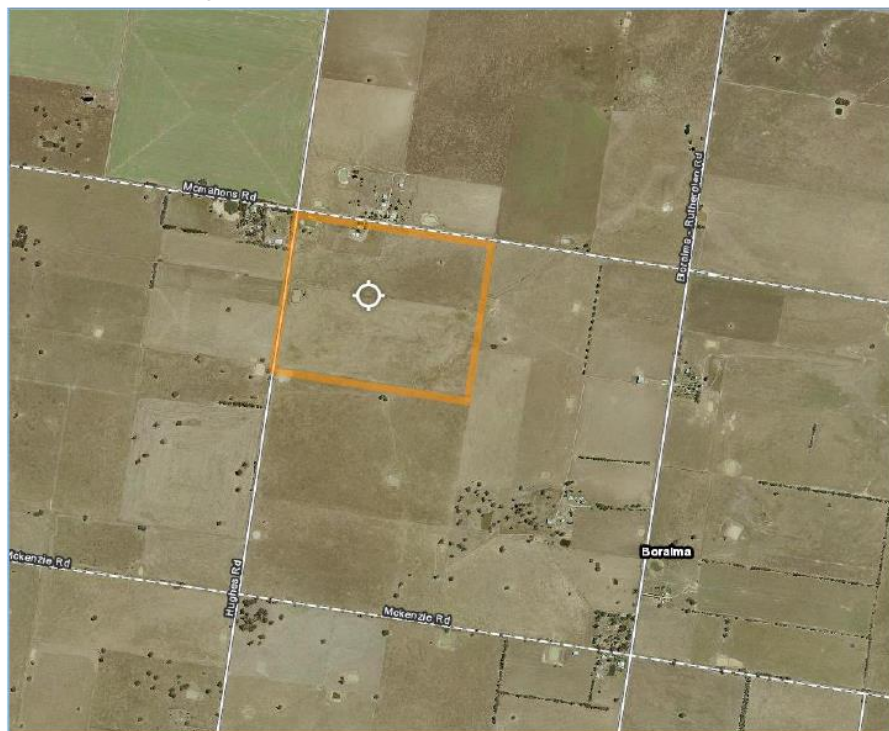


Figure 2.1: Subject land (Source: Wangaratta Online Mapping 2017 Aerial Imagery)

2.1 Subject Land

The subject land comprises two titles of 10.63ha and 42.55ha encompassing a total area of 53.95ha. The land currently contains a single dwelling with planted vegetation surrounding, two large water tanks, domestic shed, two dams and several large fenced paddocks.

The existing dwelling is currently located on 45.55ha within Lot 137 and situated to the McMahon Road frontage with the large domestic shed/garage to the south of the dwelling. The existing dwelling is currently leased out and does not relate to the current agricultural use of the land, therefore is not required for the ongoing agricultural use of the land.

Lot 137A is a vacant lot except for a dam and comprises 10.63ha however is unfenced and forms part of the larger holding.

The subject land is located approximately 4.5km to the south west of the township of Springhurst within the Boralma locality. The land is situated on the corner of McMaho ns Road and Hughes Road with access to the land gained via McMaho ns Road. There are two existing access points to the subject land from McMaho ns Road.

The land is generally flat and largely cleared grazing land with minor undulations containing several ephemeral waterways and drainage lines. Figures 2.2 below details the current layout. This Plan is also provided at Appendix 2.

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The Agricultural Versatility (AV) within the site is graded as 'High' as detailed by Figure 2.3 below. Also refer to Figures 2.4 to 2.6 below for site and access pictures.



Figure 2.2: S8634 Current Titles v2



Figure 2.3: Agricultural Versatility – High (Source: Rural City of Wangaratta 2019)

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Figure 2.4: Looking east to dwelling from McMahons Road



Figure 2.5: Existing Dwelling Access to dwelling

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Figure 2.6: Existing Access to Proposed Lot 2

2.2 Land Title Particulars

The Certificates of Title relevant to this Application are provided at Appendix 1, and show that the land is in the ownership of the following:

Title Details	Ownership
VOLUME 11449 FOLIO 288/289 CA 137/137A Parish of Bontherambo	TRAVIS MATTHEW AND BRIDGET JANE HOURIGAN both of 475 ROBBINS ROAD BORALMA VIC 3682

There are no encumbrances or easements registered on Title.

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2.3 Surrounding Land

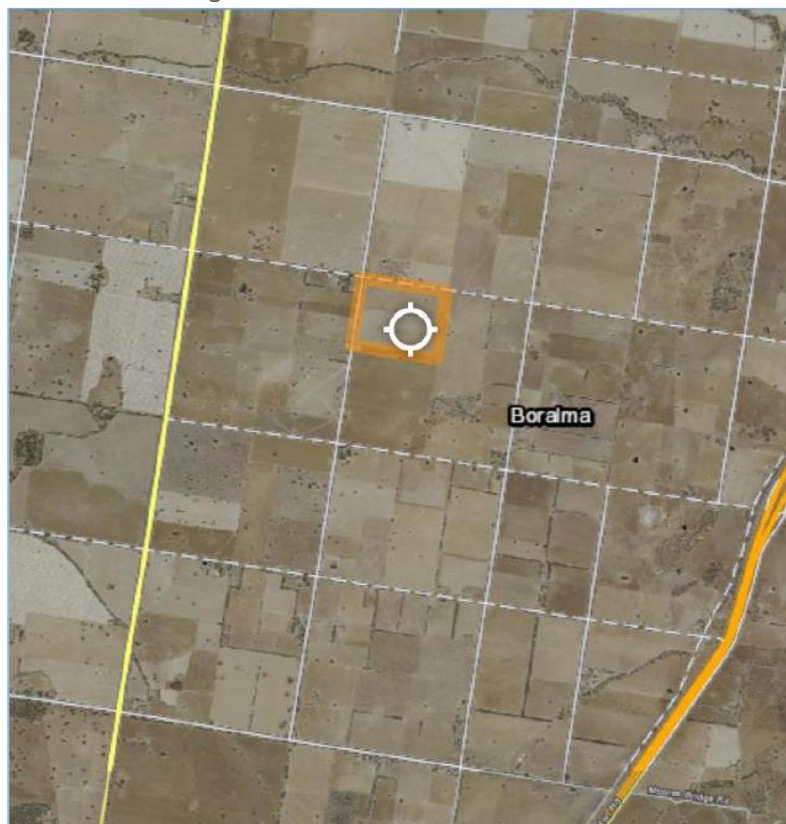


Figure 2.3: Subject land and surrounds (Source: Wangaratta Online Mapping 2019 Aerial Imagery)

The surrounding area is made up of larger farming properties which are largely cleared and used for a mix of grazing and cropping. There are approximately 6 existing dwellings within a 2km radius of the subject land.

The township of Springhurst is located approximately 4.5km north east with the Hume Freeway and the Melbourne to Sydney rail line located 3.8km due west.

The land immediately surrounding and to the west is considered high Agricultural Versatility land with the land containing swamp patches towards Boorhaman. The Agricultural Versatility reduces to Moderate to the east where the land becomes more undulating and rockier with increased areas of native vegetation.

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3.0 The Proposal

It is proposed to re-subdivide the existing two parcels to create a smaller lot for the existing dwelling and a larger lot to be retained for agricultural use.

The existing dwelling, shed, access, septic tank and effluent disposal fields would be contained within a new Lot 1 comprising 2ha. The residual Lot 2 would be 51.18ha and this would contain the existing two dams and separate access to the east of the dwelling access. The owner does not wish to construct a dwelling on Lot 2 so would not be averse to a Section 173 Agreement being a condition of approval.

The proposed Lots are as detailed in Table 3.1 below:

Existing Lot	Proposed Lot	Existing Area (ha)	Proposed Area (ha)	Proposed Use and Development
137	1	42.55	2	Dwelling and domestic shedding
137A	2	10.63	51.18	Grazing land, two dams

Table 3.1 Proposed subdivision details

Figures 3.2 and 3.3 below details the layout of the proposed subdivision. These Plans are also

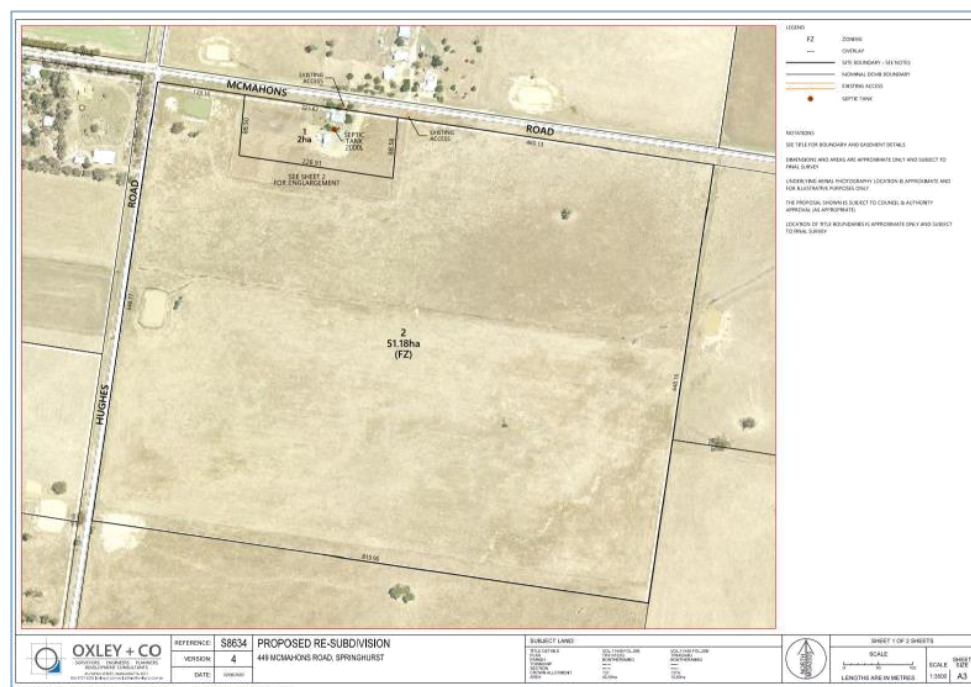


Figure 3.2 Proposed Re-subdivision, Ref S8634 v4

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Figure 3.3 Enlargement of Lot 1, Ref S8634 v4

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4.0 Planning Scheme Controls

4.1 Zone

The site is located within the Farming Zone (FZ) pursuant to Clause 34.07 of the Wangaratta Planning Scheme, as detailed in Figure 4.1 below.

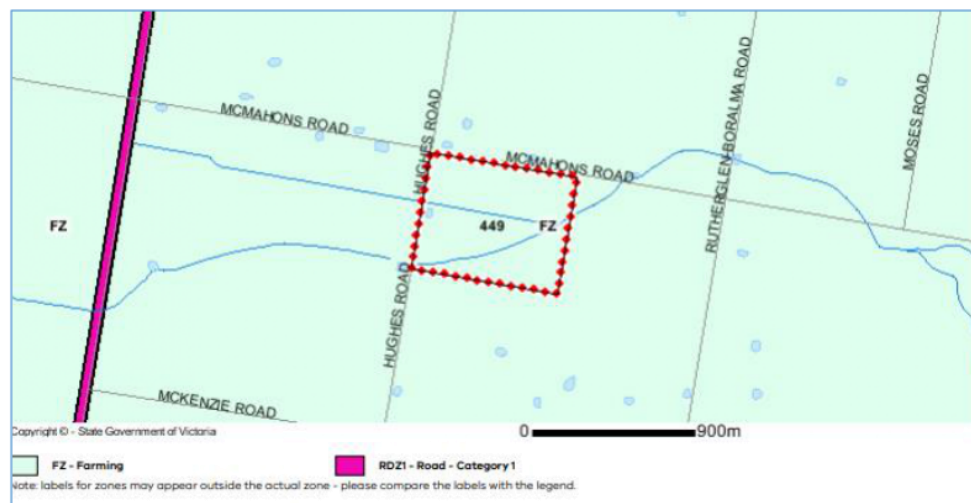


Figure 4.1: Zoning Plan (Source: VicPlan 2020)

A permit is required to subdivide land pursuant to clause 35.07-3. Each lot is ordinarily required to meet the area requirement of the Schedule to the Zone, being 40 hectares; however, the provision allows for a permit to be granted to create smaller lots where:

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.

It is submitted that the proposal meets this exemption as it is a two lot re-subdivision that creates a smaller lot for an existing dwelling.

Under the Farming Zone there are several Decision Guidelines that must be considered in the assessment of the application, the relevant Decision Guidelines are detailed and responded to within Table 4.1 below.

Decision Guideline	Assessment
General Issues	
The capability of the land to accommodate the proposed use or development, including the disposal of effluent.	Proposed Lot 1 will be 2ha which is more than sufficient to contain the existing septic system and effluent disposal area. Lot 2 does not propose to contain a dwelling. A plumber has inspected the existing system and determined it will be contained within the new lot boundary.
How the use or development relates to sustainable land management	The proposal aims to retain the larger parcel of land for agricultural use.

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Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.	The use of the subject land will not change as a result of the re-subdivision. The surrounding land comprises primarily larger holdings used for a mix of grazing and cropping. There are several dwellings located within 500m of the site.
How the use and development makes use of existing infrastructure and services.	The existing access and septic system will be utilised. No changes to the use or development of the land are proposed.
Agricultural issues and impacts from non-agricultural uses	
Whether the use or development will support and enhance agricultural production.	The proposed re-subdivision will support the ongoing operation of the land for agriculture by retaining this land within a larger lot.
Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.	No change to the existing use and development is proposed.
The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.	No new use of development is proposed, therefore, no impact to adjoining and nearby agricultural uses would result.
The capacity of the site to sustain the agricultural use.	This proposal will not alter the agricultural production or capacity of the land. It will however ensure the ongoing agricultural use of the land.
The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.	As detailed by Figure 2.2 above, the Agricultural Versatility within the site is graded as 'high'. There are two existing dams and several ephemeral waterways within proposed Lot 2 which can provide stock water.
Environmental issues	
The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.	The proposal will not have a material impact upon any natural features.
The impact of the use or development on the flora and fauna on the site and its surrounds.	The land is largely void of any significant vegetation with only a couple of isolated paddock trees in situ. The proposed re-subdivision will not impact on any existing flora or fauna.
The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.	No native vegetation is proposed to be removed and all existing structures are greater than 200m from waterways.
The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.	The existing effluent disposal area is located within the new lot boundary and is more than 200m from any waterway.

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Design and Siting Issues	
The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.	No new buildings are proposed.
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.	n/a
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.	n/a
The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.	Existing access is to be utilised to both Lots 1 and 2 and connects to McMahons Road which is an unsealed local access road. The dwelling is connected to relevant services and no new services or infrastructure is required.

Table 4.1: Farming Decision Guidelines Assessment

4.2 Particular Provisions

No Particular Provisions apply to this application.

4.3 Domestic Waste Water Management Plan

The recently adopted Domestic Waste Water Management Plan (DWWMP) rates this area as having an Overall Risk Rating of 3 – therefore placing it in a low risk category. The DWWMP also states at section 3.4 that a minimum lot size of 4,000m² is generally sufficient to sustainably management wastewater flows .

The proposal will result in Lot 1 being 2ha and Lot 2 being 51.18ha thereby complying with the DWWMP.

A plumber's report was obtained for the existing system which determined the system will be contained within the new lot boundary. See Appendix 5.

Previous advice received from Council has confirmed that a Land Capability Assessment is not required if each lot was over 5000sqm.

4.4 Clause 65

The general Decision Guidelines for subdivision are contained within Clause 65 of the Wangaratta Planning Scheme. Table 4.2 below lists the relevant Decision Guidelines of Clause 65.02 and provides a response of compliance.

Clause 65.02 Relevant issues	Response
The suitability of the land for subdivision	This Report demonstrates the proposed subdivision can occur without contradicting the Wangaratta Planning Scheme. The smaller lot can contain the existing dwelling and effluent disposal. The subject site is accordingly suitable for subdivision.

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The existing use and possible future development of the land and nearby land.	The existing and future use of the land for grazing and the existing dwelling will not impact on future use of surrounding land.
The subdivision pattern having regard to the physical characteristics of the land including existing vegetation	The subdivision responds well to the physical environment by retaining the larger area of land for continued use for an agricultural purpose.
The area and dimensions of each lot in subdivision	The proposed subdivision provides for one lot that retains the minimum lot size of at least 40ha and a smaller lot of no more than 2ha, however, meets the requirements of the FZ for a smaller lot to be created for an existing dwelling as well as a resubdivision of existing lots.
The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.	The proposed dwelling's septic will be entirely within the boundary of proposed Lot 1 and other relevant services are available.

Table 4.2: Clause 65 Decision Guidelines

5.0 Policy Assessment

5.1 Planning Policy Framework

The Planning Policy Framework (PPF) comprises general principles and objectives of planning in Victoria which planning authorities must consider and give effect to.

The following PPF clauses are considered relevant to the proposed subdivision:

Clause 14.01-1S - Protection of Agricultural Land

In considering a proposal to use, subdivide or develop agricultural land, consider the:

- *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
- *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production*
- *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
- *Land capability*
- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*

It is submitted that the proposed development is consistent with the PPF relating to agriculture for the following reasons:

- The proposed subdivision does not alter the existing use of the land and does not detract from the long-term productive capacity of the land;
- The proposal will not affect primary production from continuing on adjoining land;
- The proposal does not increase the number of lots or dwellings.

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5.2 Local Planning Policy Framework

Clause 22.01-2 *Subdivision in Rural Areas* applies to subdivision of land in the Farming Zone. It is policy to:

All subdivision:

- *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 resubdivision lot entitlement calculations.*

House lot excision:

- *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.*

Performance measures include *inter alia*:

- *A maximum area of 2 hectares for the lot with the existing house located on it, or if existing buildings and dwelling infrastructure covers a large area, as near as practicable to this area.*
- *A minimum area for the residual lot of at least the minimum subdivision size of the zone schedule applying to the land.*

The re-subdivision creates a smaller lot for the existing dwelling which complies with the maximum 2ha requirement and the balance land exceeds the minimum 40ha lot size of the zone (51.18ha). It has been demonstrated throughout this report that the proposal will maintain an agricultural use on the larger lot, has adequate infrastructure, existing road access, will not increase the number of dwellings permitted on the land and that no additional lot is being created, thereby complying with Clause 22.01-2.

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6.0 Conclusion

The proposal is for the Two Lot Re-subdivision to create a smaller lot for an existing dwelling and retain the larger parcel for agricultural use.

The proposal has been assessed against the relevant provisions of the Wangaratta Planning Scheme and is considered consistent with the following:

- Farming Zone
- Planning Policy Framework
- Local Planning Policy Framework

The granting of a permit for the proposed re-subdivision will not prejudice the outcomes for the agricultural use of the subject land or the adjoining agricultural land.

In view of this, Council is in a position to approve the proposal that is grounded in sound planning principles and meets the requirements of the Wangaratta Planning Scheme. It is therefore requested that Council support this Application with the issue of a planning permit.

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Application for Planning Permit for a Subdivision

Supplied by Jennie Baldry
Submitted Date 23/06/2020

Application Details

Application Type Planning Permit for a Subdivision
 Version 1
Applicant Reference Number S8634
Responsible Authority Name Rural City of Wangaratta
Responsible Authority Reference Number(s) (Not Supplied)
SPEAR Reference Number S160084C
Application Status Submitted
Planning Permit Issue Date NA
Planning Permit Expiry Date NA

The Land

Primary Parcel 449 MCMAHONS ROAD, SPRINGHURST VIC 3682
 Crown Allotment No 137A
 Parish Name BONTHERAMBO
 SPI 137A\PP2180
 CPN 8563
Zone: 35.07 Farming

Parcel 2 449 MCMAHONS ROAD, SPRINGHURST VIC 3682
 Crown Allotment No 137
 Parish Name BONTHERAMBO
 SPI 137\PP2180
 CPN 8563
Zone: 35.07 Farming

The Proposal

Plan Number (Not Supplied)
Number of lots 2
Proposal Description Two Lot Re-subdivision
Estimated cost of the development for which a permit is required \$ 0

Existing Conditions

Existing Conditions Description Existing dwelling and associated outbuildings, two dams, fenced paddocks, two titles

Title Information - Does the proposal breach an encumbrance on Title? Encumbrances on title, such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope do not apply.

Applicant Contact

Applicant Contact Ms Jennie Baldry

Applicant**Applicant**

Bridaet Hourigan

Owner**Owner**

(Owner details as per Applicant)

Declaration

I, Jennie Baldry, declare that the owner (if not myself) has been notified about this application.

I, Jennie Baldry, declare that all the information supplied is true.

Authorised by**Organisation**

Jennie Baldry

Oxley & Company

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 11449 FOLIO 289

Security no : 124079937430S
Produced 25/10/2019 03:01 PM

LAND DESCRIPTION

Crown Allotment 137A Parish of Bontherambo.
PARENT TITLE Volume 11380 Folio 049
Created by instrument AK596088V 17/09/2013

REGISTERED PROPRIETOR

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AS003350D 14/03/2019
RURAL BANK LTD

For details of any other encumbrances see the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP845048U FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER	STATUS	DATE
AS342174D	TRANSFER CONTROL OF ECT Completed	11/07/2019

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 449 MCMAHONS ROAD SPRINGHURST VIC 3682

ADMINISTRATIVE NOTICES

NIL

eCT Control 19040F BENDIGO AND ADELAIDE BANK LTD
Effective from 11/07/2019

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TITLE PLAN	EDITION 1	TP 845048U
Location of Land Parish : BONTHERAMBO Township : - Crown Allotment: 137 A Section : - Base record : DCMB Last Plan Reference : - Derived From : VOL. 8760 FOL. 575 VOL. 8760 FOL. 577 Depth Limitation : NIL		Notations ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN
Description of Land/ Easement Information		
		THIS PLAN HAS BEEN PREPARED BY LAND REGISTRY, LAND VICTORIA FOR TITLE DIAGRAM PURPOSES COMPILED: Date 2/08/05 VERIFIED: A. DALLAS Assistant Registrar of Titles
LENGTHS ARE IN LINKS	Metres = 0.3048 x Feet Metres = 0.201168 x Links	Sheet 1 of 1 Sheets

Register Search Statement - Volume 11449 Folio 288

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 11449 FOLIO 288

Security no : 124079937429T
Produced 25/10/2019 03:01 PM

LAND DESCRIPTION

Crown Allotment 137 Parish of Bontherambo.
PARENT TITLE Volume 11380 Folio 048
Created by instrument AK596088V 17/09/2013

REGISTERED PROPRIETOR

Estate Fee Simple
Joint Proprietors

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AS003350D 14/03/2019
RURAL BANK LTD

For details of any other encumbrances see the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP414122Q FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER	STATUS	DATE
AS342174D	TRANSFER CONTROL OF ECT Completed	11/07/2019

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 449 MCMAHONS ROAD SPRINGHURST VIC 3682

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NIL

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TITLE PLAN		EDITION 1	TP 414122Q
Location of Land Parish: BONTHERAMBO Township: Section: Crown Allotment: 119, 137 Crown Portion: Last Plan Reference: Derived From: VOL 8760 FOL 574 Depth Limitation: NIL		Notations ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN	
Description of Land / Easement Information		THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT COMPILED: 20/04/2000 VERIFIED: HG	
<p>Diagram details:</p> <ul style="list-style-type: none"> Parcel 119: Top boundary 90° 6' 4080; Right boundary 4602 180° 0'; Bottom boundary 210° 3' 4080; Left boundary 0° 0' 4605. Parcel 137: Top boundary 210° 3' 4076; Right boundary 3222 180° 0'; Bottom boundary 210° 0' 2398; Left boundary 0° 0' 1660. Parcel 136: Bottom boundary 210° 0' 2398; Left boundary 0° 0' 1565. Parcel 138A: Right boundary 1678 210° 0'. Parcel 138B: Right boundary 1565 0° 0'. <p>TOTAL AREA = 292A 3R 34P</p>			
LENGTHS ARE IN LINKS Metres = 0.3048 x Feet Metres = 0.201168 x Links		Sheet 1 of 1 sheets	

The image is an aerial photograph of a residential property with a technical site plan overlaid. The property is divided into two lots by a diagonal boundary line.

- LOT 1 (2031m²):** Located in the lower-left portion of the image. It contains an "EXISTING DWELLING" (a dark grey footprint) and an "EXISTING SHED" (a smaller grey footprint). The lot is bounded by a cyan line with various setbacks labeled: 63.14m on the bottom, 37.86m on the right, and 30.85m on the left. A "PROPOSED CROSS-OVER" is indicated on the right boundary.
- LOT 2 (2007m²):** Located in the upper-right portion of the image. It contains a "Building Envelope" (a large orange cross-hatched area) with a "Building Envelope 1278m²" label. The lot is bounded by a cyan line with setbacks labeled: 44.66m on the top, 40.72m on the right, 33.7m on the bottom, and 30.7m on the left. A "PROPOSED CROSS-OVER" is indicated on the top boundary.
- Boundaries and Easements:** The entire property is enclosed by a cyan line. A blue line runs diagonally between the two lots. Various setbacks and easements are labeled with dimensions: 6.16m, 8.9m, 7m, 32.75m, 6.5m, 6m, 43.0m, 56.07m, 10.1m, 11.8m, 7.8m, and 7.8m.
- Other Features:** The plan shows numerous trees (represented by green circles with crosshairs) and a "PROPOSED CROSS-OVER" area on the right side of Lot 1.

Legend

	Existing Boundary Line		Existing Post & Wire Fence
	Vegetation to Remain		Existing Colourbond Fence
	Proposed Boundary Line		Proposed Building Envelope



0 5m 10m
SCALEBAR (m)
A4 Scale - 1:600



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TRANSFER OF LAND

Section 45 Transfer of Land Act 1958

Lodged by:

Name: Mune Lawyers

Phone: (03) 5721 5311

Address: 11 Reid Street Wangaratta

Ref.: BENNETT / JONES

Customer Code: 1203D

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AJ049503Y

01/07/2011 \$507 45


MADE AVAILABLE/CHANGE CONTROL

Office Use Only

The transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed —

- together with any easements created by this transfer;
- subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer; and
- subject to any easements reserved by this transfer or restrictive covenant contained or covenant created pursuant to statute and included in this transfer.

Land: *(volume and folio reference)*

Volume 11133 Folio 660

Estate and Interest: *(e.g. "all my estate in fee simple")*

all my estate in fee simple

Consideration:

\$153,000.00

Transferor: *(full name)*

Maria Sacco

Transferee: *(full name and address including postcode)*

James Edward Bennett and Glenda Rose Jones both of 11 Roger Street Wangaratta 3677 as Joint Proprietors

Directing Party: *(full name)*

Creation and/or Reservation and/or Covenant:

The Transferee covenants with the Transferor, and as a separate covenant with the registered proprietor or proprietors for the time being of every lot and road shown on Plan of Subdivision No PS 606220J lodged in the Land Titles Office, whether transferred by the Transferor before or after this transfer, to the intent that the burden of these covenants shall be annexed to and run at law and in equity with the said lot hereby transferred and with each and every lot and road or street shown on the Plan of Subdivision (other than this land transferred) as part of and for the purpose of effecting a general building scheme affecting the whole of the lots and roads shown on the Plan of Subdivision, as follows, namely:-

- (i) No building shall be erected on the land transferred except a single dwelling house with the usual and necessary garage carport and/or outbuildings. No buildings so erected shall be used for any purpose other than a single dwelling and residential purposes reasonably incidental thereto.

Continued on T2 page 2

Approval No. 18170711L

ORDER TO REGISTER

Please register and issue title to

T2



Signed

Cust. Code:

STAMP DUTY USE ONLY

Original Land Transfer
Stamped with \$4,020.00
Doc ID 2725385, 29 Jun 2011
SRD Victoria Duty, J3417
s57J (PPR)

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Land Registry, 570 Bourke Street, Melbourne 3000. Phone 03 8636 2010

corptitle.com.au Item 2.26

AJ049503Y

01/07/2011 \$507 45



- (ii) The external walls of any dwelling erected on the land shall not be constructed of any materials other than brick, brick veneer, stone, concrete or masonry PROVIDED THAT up to 50% of the total area of each external wall may be constructed of timber and/or glass.
- (iii) The roof of any building on the land shall not be constructed of material other than terracotta tiles, cement tiles and/or colour bonded decking all being non-reflective.
- (iv) The external walls of any outbuilding garage or shed exceeding four metres in height shall not be constructed of or clad with materials other than brick, brick veneer, stone, concrete, masonry or dark colour bonded materials.
- (v) Not at any time to build construct or erect or permit or suffer to be built, constructed, erected or placed or to remain on the land any relocatable or transportable dwelling.

Dated: 19/08/2020

Execution and attestation:

Signed by the Transferor
in the presence of:*Anna Sacco*Signed by the Transferees
in the presence of:*LIMAMB**Bernato**garafone*

Approval No. 571027L

T2 Page 2

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Attachment 3**Assessment Report for PlnApp20/129 – 6 Pin Oak Drive Wangaratta****Executive Summary**

The application seeks to vary a restrictive covenant burdening the land and to subdivide the land into two individual lots. The subdivision proposes to create a vacant allotment of 2,007m² whilst the residual 2,031m² lot would contain the property's existing dwelling and associated outbuilding. A restrictive covenant burdening the land, whilst not specifically preventing subdivision, effectively prohibits any future development of the proposed vacant lot by limiting development of the entire subject land to that of a single dwelling house and associated outbuildings. Approval is therefore also sought to vary the restrictive covenant by removing that clause preventing any future development.

The proposal for a variation of restrictive covenant and two lot subdivision has previously been applied for via Planning Permit Application PlnApp17/215. The previous application was refused by Council at its meeting 20 March 2018. The current application proposes no material differences to that of the previous application.

Formal notice of the current application was made to all beneficiaries of the restrictive covenant on 16 July 2020. At the time of writing this report a total of nine submissions have been received, all of which object to the proposed subdivision and covenant variation.

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

Similar to the previous application, key issues for consideration have been identified as:

- Variation of a Restrictive Covenant which, to this point, has provided a level of assurance to surrounding land owners.
- Consistency of the proposal with surrounding neighbourhood character and the established subdivision pattern and density of the area.
- Cumulative impacts of like proposals on under-developed infrastructure.

The proposal has been re-assessed against the relevant provisions of the *Planning and Environment Act 1987* and the Wangaratta Planning Scheme with the recommendation being similar to the previous application; that is to not support the proposed covenant variation and associated subdivision. It is considered that there has been no material change to the proposal, and minimal physical change within the immediate area that would warrant Council making a decision at odds with its original decision from 20 March 2018.

Property Details

The subject site is situated in the southern-most fringe of the Wangaratta residential area, located within the first stage of Laceby Grange housing estate. Laceby Grange estate is an irregular shape, bordered to the south by Clarkes Lane and enclosed to the north, east and west by waterways including One Mile Creek.

The subject property is located on the south-east corner of the intersection of Pin Oak Drive and Elm Avenue, approximately 120m from the entry to Laceby Grange estate from Clarkes Lane. The current lot is an irregular shape with an area of 4,038m² and frontages of 63m and 44m to Pin Oak Drive and Elm Avenue respectively. The land is generally flat and devoid of any significant vegetation and contains an existing single storey dwelling and outbuilding.

The immediately surrounding area is typified by large residential allotments of 4,000m² or more, generally featuring contemporary dwellings with significant setbacks, large ancillary outbuildings and expansive areas of landscaping. The predominant character is further influenced through the absence of kerb and channel, lack of footpaths and prevalence of open style rural fencing. This is consistent across the 32 lots comprising the first two stages of Laceby Grange Estate.

Some way to the north of the subject site the final stage of the Laceby Grange estate subdivision has been completed with the majority of lots having been developed. Comprising 23 lots of similar size and dimensions to the existing stages, lots in this final stage range in size from 2,300m² through to 6,600m², with an average lot size of 3,300sqm. East of Laceby Grange estate and one Mile Creek is a large undeveloped parcel of residentially zoned land and the Cathedral College School campus. To the south of the site, land transitions to Farm Zone south of Clarkes Lane. Land to the west has recently been rezoned residential as part of the Planning Scheme Amendment C73 (Wangaratta South Growth Area) but has not yet been developed.

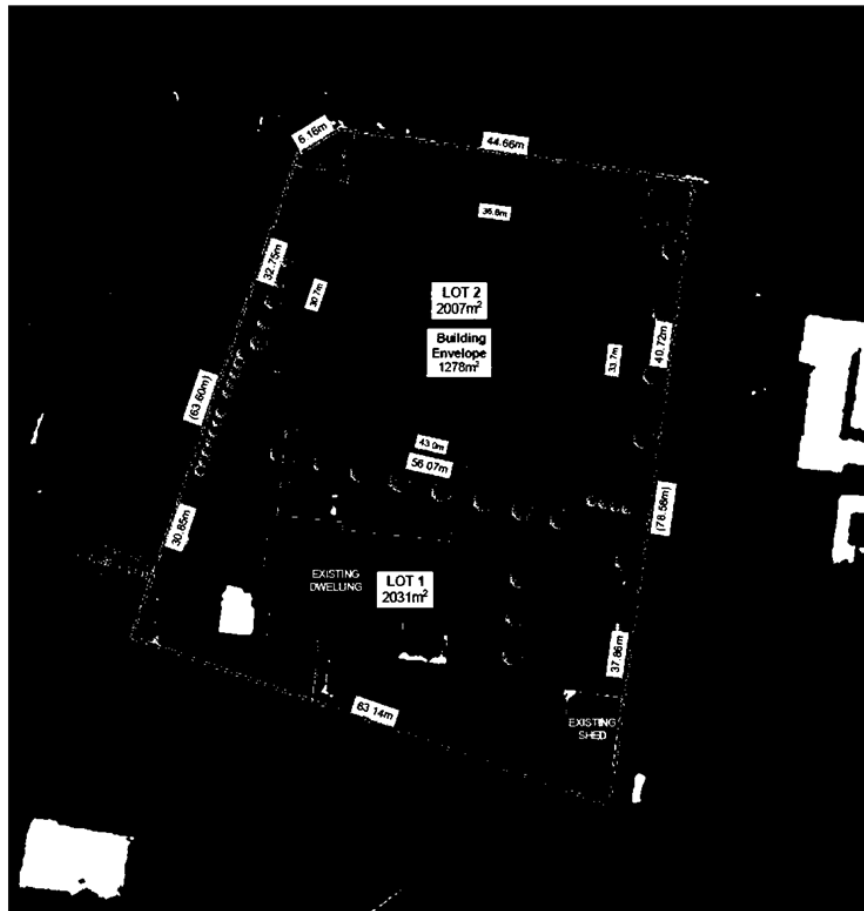
Land/Address	6 Pin Oak Drive WANGARATTA VIC 3677
Zones and Overlays	Low Density Residential Zone – Schedule 1 No applicable Overlays
Why is a permit required	Subdivision of Land Variation of a Restrictive Covenant

Proposal in Detail

This application is for the variation of a restrictive covenant and the two lot subdivision of the land known as 6 Pin Oak Drive, Wangaratta. No development or works, other than those required for the provisioning of services associated with subdivision are proposed.

Subdivision

The subdivision proposes to divide the current allotment approximately in half, creating two lots with a common boundary aligned on a roughly east-west axis.



The southern-most lot, proposed Lot 1, would be generally rectangular in shape and have an area of 2,031m² with a 30m frontage to Pin Oak Drive. Access to the lot would be via the existing crossover on Pin Oak Drive. The existing dwelling and an associated outbuilding would be contained within proposed lot 1.

Proposed Lot 2 would create a generally rectangular vacant allotment of 2,007m². The lot would have dual frontages of 32m and 44m to Pin Oak Drive and Elm Avenue respectively. Access is proposed to be achieved via a crossover to Elm Avenue located to the east of the site, setback approximately 42m from the intersection with Pin Oak Drive. A Building Envelope to guide siting of future development on Lot 2 has been shown on the proposed subdivision plan.

No development is proposed as part of this application other than site works associated with the provisioning of services to each lot such as water, sewerage, drainage and crossovers. Under the provisions of the Low Density Residential Zone a Single Dwelling is a Section 1 Use and therefore, should the subdivision proceed, the development of a dwelling would not require further planning permission, only building approval.

Variation of a Restrictive Covenant

All lots within Plan of Subdivision PS606220J are both burdened and benefitted by Covenant AJ049503Y. This Covenant was applied to the land on 01/07/2011 under Section 45 of the Transfer of Land Act 1958. No sunset clause is applicable. The Covenant contains five specific conditions restricting how the land may be used and developed. Condition (i) states;

“No building shall be erected on the land transferred except a single dwelling house with the usual and necessary garage carport and / or outbuildings. No buildings so erected shall be used for any purpose other than a single dwelling and residential purposes reasonably incidental thereto.”

The application seeks to vary the Covenant by removing the above condition (i).

Summary of Key Issues

- Variation of a Restrictive Covenant which, to this point, has provided a level of assurance to surrounding land owners.
- Consistency of the proposal with surrounding neighbourhood character and the established subdivision pattern and density of the area.
- Cumulative impacts of like proposals on under-developed infrastructure.

Background

The proposal for a variation of restrictive covenant and two lot subdivision has previously been applied for via Planning Permit Application PInApp17/215. The previous application was refused by Council at its meeting 20 March 2018. The current application proposes no material differences to that of the previous application.

Assessment under the Planning and Environment Act

Relevant Planning Provisions

The following provision of the Planning and Environment Act 1987 are of particular relevance to this proposal;

- Section 52 – Notice of Application
- Section 60(2) – What matters must a Responsible Authority consider

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

Section	Clause	Provision
State Planning Policy Framework	15.01-3	Neighbourhood and subdivision design
Local Planning Policy Framework	21.06	Urban Development & Central Activities Area
Zones	32.03	Low Density Residential Zone – Schedule 1
Overlays	N/A	N/A
Particular Provisions	52.02	Easements, Restrictions and Reserves
Decision Guidelines	65	Decision Guidelines

Referrals

The proposal for a two lot subdivision was not required to be referred to any referral authorities. Clause 66.01-1 of the Planning Scheme requires mandatory conditions be applied to any Planning Permit issued for a two lot residential subdivision to ensure that the requirements of relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services are complied with.

Internal Departmental Advice

Department	Response
Technical Services Department	No objection, subject to the inclusion of conditions relating to the provision of drainage infrastructure, onsite detention, property access and construction standards.

Advertising

The application was advertised on 16 July 2020 to all land owners and occupiers benefitted by Covenant AJ049503Y, namely all 19 other lots shown on Plan of Subdivision PS606220J (Stage 1 of Laceby Grange Estate). By virtue of the subject site's location, the extent of advertising included all adjoining property owners who would typically be notified of an application of this nature.

Subsequent to notification, nine individual submissions have been received. All submissions are considered to be objections to the proposal. Objector locations are identified in the following plan.



Of the nine objections received, seven are from persons directly benefitted by the restrictive covenant in Stage 1 and two are from persons benefitted by the same covenant in Stage 2. It should be noted that only those properties in Stage 1 were notified of this application; however, all submissions received, whether received from persons directly notified or not, must be considered.

The seven objections received represent 37% of all direct beneficiaries of the covenant (i.e. 7 of the 19 other properties) in Stage 1. This is slightly less than the 42% (8 of 19) of direct beneficiaries who objected to the previous application.

No objections are founded upon seeking or maintaining commercial gain, nor do any submissions appear to be vexatious or personally vindictive in nature and, as such, all submissions must be considered as valid objections.

Concerns raised by objectors with respect to the proposal are summarised below in accordance with *Section 60(2) of the Planning and Environment Act 1987*.

In summary, the following concerns raised by objectors are supported.

- Loss arising from a change to the character of the neighbourhood; and
- Other material detriment with respect to;
 - o the inadequacy of some infrastructure,
 - o cumulative impacts of traffic,
 - o the precedent that support of this application would set; and
 - o the loss of the protection and surety that the current covenant currently provides beneficiaries.

Section 60(2) of the Act states;

The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer—

- (a) *financial loss; or*
- (b) *loss of amenity; or*
- (c) *loss arising from change to the character of the neighbourhood;*
- or*
- (d) *any other material detriment—*

as a consequence of the removal or variation of the restriction.

a) Financial Loss – Concerns generally not supported	
Concern Raised	Comments/Response
Likelihood of decreased property values should the subdivision be approved.	<p>Partially Supported</p> <p>Properties directly adjoining and opposite the site may incur some depreciation as a result of the proposed subdivision and changes to density and neighbourhood character. It is not considered likely that properties further afield and not adjoining or directly opposite the site would be adversely affected.</p> <p>This assessment is further supported by advice received from Councils independent property valuers (LG Valuation Services) that suggests the approval of the application would not have a negative impact on overall values in the locality. It is their contention that the opposite may indeed be true, specifically for other lots that have the appropriate characteristics to allow for similar subdivision.</p> <p>With respect to individual properties it is the valuers' informed opinion that the only property that may incur a negative effect on value is 4 Elm Avenue, directly adjoining the site. No objection was received from 4 Elm Avenue.</p>
Opportunity for other property owners to subdivide has been lost due to most developing in a manner adhering to the restrictive covenant and subsequently difficult to subdivide.	<p>Not Supported</p> <p>The ability of other property owners to make a similar application and seek removal or variance of a restrictive covenant under Section 60(2) of the Planning and Environment Act has remained unchanged since 1991, this pre-dates the original development of the Laceby Grange estate.</p>
Potential amenity impacts from development within the estate forcing existing residents to spend money on their own properties to reduce these impacts or selling and moving elsewhere.	<p>Not Supported</p> <p>As addressed in more detail below, the amenity impacts of the proposal are considered minor and concerns raised relate primarily to potential civil issues between neighbours that are more to do with resident behaviour than being a direct result of a subdivision.</p>

b) Loss of Amenity – Concerns generally not supported	
Concern Raised	Comments/Response
Outlook and views will be degraded due to increased dwellings and use of colorbond fencing.	<p>Considered to be subjective and generally not supported</p> <p>Only limited properties will have a direct view of the subject site from their land. The likely setback of any future development would result in approximately 20m separation from the nearest dwelling. Such separation would ensure that no view is significantly obstructed or blocked.</p> <p>Concerns relating to the broader outlook and visual appearance of the site, including the use of colorbond fencing, are considered to be affiliated with neighbourhood character and as such have been considered below in the response to neighbourhood character.</p>
Increased noise arising from the additional dwellings.	<p>Not Supported</p> <p>Due to the combination of significant setbacks and negligible overall increase in the number of dwellings, it is considered that any additional noise generated by the proposal (beyond finite construction works) would be negligible.</p> <p>Within a residential context, noise issues are typically associated with the behaviours and activities undertaken by occupiers and are not caused by land uses or developments. Such behaviours and activities could conceivably be generated by the current occupiers of any existing dwelling.</p> <p>Noise pollution and what constitutes excessive noise is legislated and governed by the Environment Protection (Residential Noise) Regulations 2008.</p>
Increased density will increase likelihood of neighbourly disputes.	<p>Not Supported</p> <p>Neighbourly disputes are a result of occupiers, their activities and consideration (or lack of) given to the amenity of their neighbours. The development proposed by the application is not considered to be a catalyst for neighbourly disputes.</p>

b) Loss of Amenity – Concerns generally not supported	
Concern Raised	Comments/Response
Concern that the removal of the covenant will allow for the development of commercial operations.	<p>Not Supported</p> <p>The allowable Uses and Development of Land remains governed by the Planning Scheme and would be unaltered by the approval of the application.</p> <p>Any residential Use other than a single dwelling requires an additional Planning Permit. Similarly, uses other than residential uses that can be considered within the zone, such as commercial ventures, are limited and would require additional Planning Permits.</p> <p>Under current policies and relevant decision guidelines, and given the locality and character of the area, it is considered highly unlikely that support would be given to any commercial venture should such an application be made.</p>

c) Loss Arising from a Change of Character to the Neighbourhood – Supported	
Concern Raised	Comments/Response
<p>Proposal is not considered in keeping with the existing neighbourhood character.</p> <p>The proposed lots will measure 2,000sqm while all other lots within the existing subdivision are at least 4,000sqm.</p> <p>Much smaller lot frontages giving the appearance of a higher density residential area, out of keeping with the character of the existing estate.</p>	<p>Supported</p> <p>While the proposed lot sizes do meet the minimum lot size stipulated by the zone, the proposal would result in lots at least half the size of all other lots in the currently developed section of Laceby Grange estate.</p> <p>The average frontage of the existing lots in Stages 1 and 2 of Laceby Grange is 44m. Proposed Lot 1 will be afforded 30m of frontage to Pin Oak Drive. This is smaller than all but one lot within Stage 1 of the estate. Proposed Lot 2 will have a primary frontage of 44m to Elm Avenue and a secondary frontage of 33m to Pin Oak Drive; frontage dimensions not too dissimilar to other allotments within the estate.</p> <p>While it is noted that the proposed Lots will have frontages not entirely out of keeping with some other properties in Stage 1, it is also noted that;</p> <ul style="list-style-type: none"> a) The proposed lots do <u>not</u> share the same property depths as existing lots; and b) Partly as a result of this lack of depth, proposed Lot 2 is reliant on a building envelope comprising street setbacks not in keeping with other dwellings in Stages 1 and 2 of the Estate, particularly immediately adjoining dwellings in Pin Oak Drive and Elm Avenue.

c) Loss Arising from a Change of Character to the Neighbourhood – Supported	
Concern Raised	Comments/Response
	<p>The generous depths throughout the estate afford a large degree of space used to achieve generous separation distances between structures on each lot (i.e. the dwelling and outbuilding) and between dwellings on neighbouring lots. This contributes to a degree of 'openness' and space throughout the Estate that the proposed subdivision is at odds with.</p> <p>It is considered that upon development of a dwelling and outbuilding on the proposed Lot 2 the high visibility resulting from dual frontage, on what is a prominent corner site leading into the Estate, will accentuate the perception of increased density when viewed from the public realm. Once developed, the density of dwellings and ancillary outbuildings would be significantly more concentrated than elsewhere in the vicinity. This visual bulk would be in stark contrast to the existing character of the area.</p> <p>The applicant has submitted an analysis of setback distances between dwellings throughout the estate putting forward that the separation distances that are likely to result from the proposed subdivision are comparable to separation distances between some of the more closely located dwellings within the Estate. What isn't reflected in this analysis is the degree of space around each existing dwelling due to the size of the existing lots, and that dwellings and outbuildings on the proposed lots will be far more 'cramped'. Further, the separation distances aren't reflective of the predominant separation distances throughout the estate.</p> <p>It is also noted that the measurements provided in the applicant's analysis are considered to be somewhat skewed, significantly in some instances, portraying closer separation distances between existing dwellings than is actually the case. Most measurements provided appear to take 2-3m off the actual separation distances between dwellings and some measurements are considerably flawed as the applicant has measured distances to outbuildings, not other dwellings. Little weight has therefore been provided to this analysis.</p>

c) Loss Arising from a Change of Character to the Neighbourhood – Supported	
Concern Raised	Comments/Response
Expectation that solid fencing will be installed due to the smaller lot sizes proposed.	<p>Partly supported. Potentially resolvable by way of permit condition.</p> <p>Whilst it is acknowledged that rural open style fencing is the predominate style of fencing used throughout the estate, there are existing examples of solid fencing having been utilised in the area, including the subject site and nearby land.</p> <p>There is currently no control or restriction prohibiting the use of solid fencing within the estate. The predominate use of rural style fencing is understood to be a result of the developer installing as such as part of the original subdivision of the Estate.</p> <p>It is also considered presumptive to assume the proposal would necessarily result in the installation of solid fencing. However, in light of the concerns raised by objections, if a permit were to be issued, it is considered appropriate to include conditions limiting any fencing within street setbacks to types and styles sympathetic to the predominant neighbourhood character (i.e. post and wire rural style fencing). The permit applicant has indicated a willingness to do this.</p>
<p>Current 'rural' feel will be altered by the development.</p> <p>The creation of 2,000sqm lots is more akin to a suburban setting not the current rural setting.</p> <p>Loss of open aspect of the neighbourhood.</p>	<p>Partly supported.</p> <p>The proposal would result in one additional lot and subsequent dwelling, albeit at a higher density on a smaller parcel than exists currently. Land is zoned Low Density Residential Zone (LDRZ) which falls within the residential suite of zones and not rural zones. Loss of current 'rural' feel is therefore considered to be subjective.</p> <p>It is, however, agreed that the openness of the existing estate is at odds with the density of development resulting from the proposed subdivision and covenant removal.</p>

c) Loss Arising from a Change of Character to the Neighbourhood – Supported	
Concern Raised	Comments/Response
Recent new developments in Stage 3 of Laceby Grange have not altered the existing character of Stages 1 and 2.	<p>Supported.</p> <p>The character of the immediate area, particularly the area within Stage 1, is far more prevalent in the assessment of neighbourhood character than Stage 3. Stage 3, however, still comprises lot sizes considerably greater than those of the proposed subdivision, ranging from 2,300sqm through to 6,600sqm at an average of 3,300sqm. There are some lots within Stage 3 that, due to the layout of the Estate, exhibit reduced frontages; however, these lots possess a depth far in excess of the proposed lots such that parallels cannot be drawn. Furthermore, the majority of smaller lots with narrower frontages are located at the opposite end of the Estate, far removed from the subject site, and have minimal bearing in the assessment of neighbourhood character compared to more immediate lots within Stage 1.</p>
Cumulative impact of further like proposals on the current character of the area. Other lots within the estate are available to carry out similar subdivisions, especially in Stage 3 where some properties that are potentially capable of further subdivision into 2,000sqm lots have not yet been developed.	<p>Partially supported</p> <p>Due to the existing pattern of development that has occurred on properties throughout the Estate there is limited scope for proposals of a similar nature to the application to be carried out. Most potential subdivisions would instead be reliant upon battle-axe style configurations. Never-the-less a large number of existing lots would potentially be capable of subdivision and could cause significant cumulative impact to the character of the area, particularly Stages 1 and 2.</p> <p>Although any permit application must be considered largely on its own merits there is a danger of setting some form of precedent to be referred to in any later subdivision proposals. This is discussed in greater detail below.</p>

d) Any other material detriment – Infrastructure – Supported	
Concern Raised	Comments/Response
Existing infrastructure, namely road standard, swale drains and absence of footpaths was approved and constructed on the premise and standards associated with minimum lot size of 4,000sqm not 2,000sqm.	<p>Supported</p> <p>These concerns are supported. New developments at the density proposed would typically require significantly more infrastructure provision than what is currently in existence in Stages 1 and 2 of Laceby Grange estate. Increased infrastructure is required at such higher densities for technical, functional and aesthetic purposes. Subdivisions comprising lot sizes down to 2,000sqm would generally be required to provide kerb and channel, footpaths and more significant public stormwater detention. If any such requirements were to be imposed upon the subject application, they would, in isolation, be nonsensical and detrimental to the character of the area. Similarly, it is considered that if such requirements were imposed they would likely be successfully appealed at VCAT.</p> <p>However, if a number of similar subdivision were to be supported the cumulative impact of these would likely require a holistic upgrade of infrastructure throughout the estate at cost to the Council/community.</p>
<p>The existing reticulated water and sewerage supplies were installed on the premise of a 4,000sqm dwelling density, not a 2,000sqm dwelling density.</p> <p>Submit there is poor pressure in the existing reticulated water and sewerage systems that will be further exacerbated by additional dwellings.</p>	<p>Not supported</p> <p>The land is residentially zoned and serviced by North East Waters (NEW) reticulated potable water and sewerage schemes. NEW is the responsible authority for ensuring appropriate infrastructure is provided to adequately service connected lots.</p> <p>If the existing infrastructure is unable to support the proposal the applicant must provide for the required upgrades.</p>
Additional bores associated with any new dwellings will decrease the available water supply and pressure for existing dwellings and have a negative impact on the environment.	<p>Not Supported</p> <p>Beyond what can be considered under the Planning Scheme. Any bore, including those constructed for domestic use, require a license from Goulburn Murray Water. Subsurface water is not an asset belonging exclusively to existing property owners.</p>

d) Any other material detriment – Traffic – Supported	
Concern Raised	Comments/Response
<p>Congestion and additional traffic generated by the development.</p> <p>Safety of other non-vehicle road users. Stages 1 and 2 Laceby Grange Estate do not have formalised foot/bike paths and all pedestrian and bike traffic utilise the road network.</p> <p>Concern that the additional traffic generated by the proposal will exacerbate potential conflicts between road users.</p>	<p>Supported</p> <p>It is considered that the proportionate increase in traffic generated by one additional lot and dwelling would be reasonably minor in the context of the area; however, Laceby Grange Estate currently comprises 55 existing lots utilising the same point of access which is getting toward the threshold of what is deemed acceptable for a single access Estate.</p> <p>This is exacerbated by a lack of infrastructure typically required for a 2,000sqm development, as provided above, including a lack of safe pedestrian and cycle options. Cumulatively, if other like developments were also permitted, the impacts are considered unacceptable.</p>
<p>Emergency Access.</p> <p>Increased potential for the singular entry/exit from the estate to become obstructed in an emergency trapping residents.</p>	<p>Partly Supported</p> <p>As with other traffic related issues raised in submissions, it is considered that the increase of traffic likely to be generated by the proposal in isolation is negligible; however, cumulatively the presence of only one access will become more prevalent as the 55 lots it currently services continue to increase.</p> <p>While the previous assessment of this application (PInApp17/215) identified the existing footbridge to Wenhams Lane as possible alternative route, the bridge is unsuitable for anything other than pedestrians and cyclists.</p>
<p>Concerns that the proposed allotments will not provide sufficient off-street parking resulting in vehicles parking on the street.</p>	<p>Not Supported</p> <p>All dwellings must provide sufficient car parking spaces on the land in accordance with the requirements of clause 52.06 of the Wangaratta Planning Scheme.</p> <p>Furthermore, a 2,000sqm lot, even once fully developed, will afford ample areas for onsite parking. Any support for the proposal would require a generous setback to Elm Avenue, allowing additional informal parking within the frontage of the site.</p> <p>Nuisance or dangerous parking within the road reserve is beyond the realm of what can be considered in the assessment of this application.</p>

d) Any other material detriment – Protection and Surety of Existing Covenant and Precedent set by removing it – Support	
Concern Raised	Comments/Response
Protection and surety provided by the restrictive Covenant was a significant reason for purchasing land within the estate. All parties including the applicant were aware of the restriction when purchasing.	<p>Supported</p> <p>This is strongest and most consistent theme across all objections and, given the number of objectors expressing it, is considered a valid concern.</p> <p>Whilst the restrictive covenant was applied to the land under the Transfer of Land Act 1958 and not the Planning and Environment Act, it is considered a fair and valid submission that all persons entering into a contract of sale to purchase a lot within the original subdivision were aware, or should have been aware, of the expectations that the restriction carried.</p> <p>Potential purchasers, if unsure of any ambiguities in phrasing or meaning should have sought independent advice and in the absence of such can be assumed to have understood the restriction. Having understood the restriction it is similarly understandable that purchasers have an expectation that the protections afforded them by the covenant are enforced when appropriate by governing bodies.</p>
Approval of the application will set a precedent resulting in further subdivisions, compounding identified issues.	<p>Supported</p> <p>While precedent has limited bearing in the decision making process of assessing a single planning application in isolation, the reality is that supporting this proposal would establish a prominent Council position with respect to the current restrictive covenant throughout the Laceby Grange Estate.</p> <p>There are a number of lots throughout the estate capable of being subdivided. While it is acknowledged that the majority of these would be in the form of a battle-axe configuration, there is very little content within the relevant decision guidelines that would distinguish these forms of subdivision from a corner lot subdivision such as the one proposed.</p> <p>The cumulative impacts resulting from a number of like proposals would be unacceptable.</p>

d) Any other material detriment – Protection and Surety of Existing Covenant and Precedent set by removing it – Support	
Concern Raised	Comments/Response
This matter has already been determined by Council. Objectors don't understand why they have to go through the same process again or why Council would change its decision.	<p>Partially Supported</p> <p>Despite the proposed covenant variation and subdivision having already been considered and determined by Council, the permit applicant is entitled to reapply. Similarly, Council is required to assess such application in accordance with the Planning and Environmental Act, including consideration of submissions by persons potentially affected by the proposal. This necessitates the application have to be re-notified and concerned parties having to re-submit their concerns in writing.</p> <p>There has, however, been very little material change within the Estate or change in Planning Policy since Council's previous decision to warrant Council determining this current application any differently. Development of Stage 3 has progressed; however, this is considered to have very little bearing on the matters considered with respect to this application, potentially heightening some concerns over cumulative impacts (especially with regard to traffic generation and some infrastructure provision) should it be developed in the same way as currently proposed.</p> <p>The applicant has submitted a more comprehensive application this time around; however, the concerns raised in Council's previous assessment of the application and recommendation provided by the Planning Department still stand.</p>

d) Any other material detriment – Protection and Surety of Existing Covenant and Precedent set by removing it – Support	
Concern Raised	Comments/Response
<p>The precedent set by Council's previous refusal to support 2,000sqm lots in Stage 3.</p> <p>and;</p> <p>Existing residents having clearly demonstrated opposition to higher density (refers to Pln08-205).</p>	<p>Partly Supported</p> <p>The originally approved Planning Permit for the entire Laceby Grange estate comprised lots exclusively exceeding 4,000sqm, as was the minimum lot size at the time.</p> <p>In what is assumed to be in response to Planning Scheme Amendment VC100 (July 2013) an amendment was sought to the original Permit seeking to reduce the sizes of the proposed lots within Stage 3 of the development. A minimum lot size of 2,000sqm was proposed increasing the number of lots from 19 to 32 (51 to 64 lots within the Estate). Thirteen objections were received to the amendment application.</p> <p>As a result of these submissions and concerns raised by referral authorities, a revised Stage 3 proposal providing for 23 lots ranging in size from 2,300sqm to 6,600sqm was ultimately approved.</p> <p>Whilst submissions and neighbourhood character did contribute significantly to the above decision, they were not the exclusive reasons for Councils decision and should not be regarded as setting any exclusive precedent.</p>

d) Any other material detriment – Other – Not Supported	
Concern Raised	Comments/Response
<p>The impact of altered street numbering with respect to confusion over utility services and in the instance of emergency events.</p>	<p>Not Supported</p> <p>The subdivision as proposed would not result in any requirement for properties beyond the subject site to amend their street numbers. This advice has been confirmed by Councils Rates Department (responsible for the allocation of street addressing). The proposed properties, if approved, would be known as 6 Pin Oak Drive and 2 Elm Drive respectively.</p>
<p>Application not in keeping with the original provisions of the Planning Scheme (i.e. 4,000sqm minimum lot size stipulated in the Planning Scheme prior to the introduction of Amendment VC100 in July 2013).</p>	<p>Not Supported</p> <p>Council as the responsible authority must consider any application it receives in accordance with the relevant provisions of Planning Scheme at that particular point in time. Amendment VC100 has allowed Council to consider lot sizes down to 2,000sqm in the Low Density Residential Zone. Just because the Planning Scheme allows Council to consider such lot size; however, does not mean that Council should support it.</p>

d) Any other material detriment – Other – Not Supported	
Concern Raised	Comments/Response
Proposed lots tailored for investors and will become rental properties as opposed to owner-occupiers.	<p>Not Supported</p> <p>It is the policy of the Planning Scheme to support a diversity of housing options within the municipality (although this is by no means an exclusive/determining policy of the Scheme). It is presumptive to assume that the proposal would result in rental properties and similarly disparaging to make negative inferences to this demographic.</p>

Relevant Provisions under the Wangaratta Planning Scheme

State Planning Policy Framework

Clause 15.01-3 Neighbourhood and subdivision design

The objective of this policy is to “*ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods.*”

The proposed subdivision is considered to be at odds with much of the intent of this objective; however, the comparably isolated nature of Laceby Grange estate from the commercial and employment centres of Wangaratta has resulted in a vehicular dependant community. Cycling and walking opportunities are realistically limited to recreation as opposed to being feasible modes of alternate transport.

Local Planning Policy Framework

Clause 21.06 Urban Development

The proposal attempts to address the themes outlined in this diverse policy such as providing for a range of lots sizes to cater for and to encourage housing options. Conversely, the proposals ability to adequately address objectives intended to protect amenity and create subdivisions with a sense of place and neighbourhood are questionable in light of the volume of objections received.

Zoning

Clause 32.03 Low Density Residential Zone

Pursuant to Clause 32.03 of the Wangaratta Planning Scheme the site is identified as being within the Low Density Residential Zone.

The purpose of the Low Density Residential Zone includes;

- *To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.*

Under the provision of the Low Density Residential Zone a planning Permit is required to subdivide land.

The proposed subdivision is not considered to contradict the purposes of the zone in that it will create an additional lot suitable for residential development. The proposed lots meet the minimum lot size specified within the relevant schedule to the zone and can be fully serviced with reticulated sewerage.

The relevant decision guidelines of the zone stipulate that, in addition to considering any relevant state and local policies and any relevant provisions (refer below), consideration must also be given to;

- *The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.*
- *The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.*
- *The benefits of restricting the size of lots to generally no more than 2 hectares to enable lots to be efficiently maintained without the need for agricultural techniques and equipment.*
- *The relevant standards of Clauses 56.07-1 to 56.07-4.*

The subdivision generally satisfies these considerations. The Laceby Grange Estate is an existing developed residential area and the proposed lots can be readily serviced with all utilities. The proposed lot sizes comply with minimum Lot areas specified in Schedule 1 to the Zone and similarly do not exceed the recommended maximum lot area.

As provided earlier in this report, however, the proposal is not considered in keeping with the character of the area.

Particular Provisions

Clause 52.02 Easements, Restrictions and Reserves

The purpose of Clause 52.02 is to enable the removal and variation of an easement or restriction to permit a use or development that complies with the planning scheme after the interests of affected people are considered.

The clause states that a permit is required before a person proceeds to vary or remove an easement or restriction. The Decision Guidelines of this clause

direct that, in addition to the Decision Guidelines in Clause 65 (detailed below), Council must consider the interests of affected people.

In the absence of any specific guidelines on how the interests of affected people (those benefitted by the restrictive covenant) should be considered, the only means available to enable such an assessment is through an appraisal of submissions made to the application. A comprehensive review of submissions is detailed above addressing and responding to each of the key themes raised by objectors.

The number of objections received to the application clearly demonstrates substantial opposition to the proposal from a significant percentage of neighbouring residents. It should, however, be noted that generally Council is not specifically obliged to have regard to the number of objections received when considering its decision unless the proposal may result in significant social effect.

Decision Guidelines

Clause 65.01 Approval of an application or plan

Clause 65.01 further requires appropriate consideration be given to, amongst other matters, the purpose of the zone, orderly planning, effect on amenity and any relevant environmental considerations.

Due deliberation has been given to these issues and is discussed elsewhere in this report. Of note though, it is considered that the proposed subdivision is in keeping with the purpose of the zone and all relevant environmental concerns can be satisfied or suitably mitigated against. The proposal, however, is considered at odds with the neighbourhood character and orderly infrastructure provision.

Clause 65.02 Approval of an application to subdivide land

Clause 65.02 stipulates that Council must also have regard to a range of matters specifically relating to subdivision. These matters include the suitability of the land for subdivision, existing and future nearby development, the need for additional lots in the locality, the pattern of subdivision, the proposed density, pedestrian and vehicle movements and environmental considerations.

Many of these matters are addressed in detail elsewhere throughout this report. It is considered, though, that the proposed subdivision cannot derive an outcome sympathetic to or in keeping with the existing pattern of subdivision. Furthermore, the resultant increased density, particularly once developed, cannot be adequately concealed or otherwise incorporated to achieve coherence with the prevailing character. Matters relating to vehicle and pedestrian movements have also been found to be unsatisfactory.

Conclusion

The application seeks approval for the variation of a restrictive covenant and a two lot subdivision. Whilst the proposed subdivision in isolation complies with the purpose of the zone and can generally satisfy the minimal requirements of the zone and applicable standards, the subdivision layout does not respond favourably to the established neighbourhood character of the area. The subsequent development of Lot 2 will result in a contrasting density of built form on what is a prominent corner lot at the entrance to the Laceby Grange Estate.

It is considered that the application is unable to adequately demonstrate that the concerns raised by owners of land benefitted by the restrictive covenant will be alleviated or are otherwise not valid. A sufficient amount of risk therefore remains that variation of the covenant will likely cause owners benefitted by the covenant to suffer loss arising from a change in the character of the neighbourhood and other material detriment.

In addition to being unable to definitively demonstrate that no objecting party benefitted by the covenant will suffer any loss, the volume of objections received to the proposal must also be considered if for no other reason than it gives substance to what otherwise may be considered the subjective nature of many of the concerns.

Furthermore it is considered that Council should exercise its civic discretion and have due regard to the reasonable expectations of objectors that the protections afforded them by the covenant, a legal document, should be enforced when appropriate by governing bodies and not dismissed to benefit a sole party to the agreement.

It is considered that there has been no material change from that of the original proposal (PInApp17/215), and minimal physical change within the immediate area that would warrant Council making a decision at odds with its original decision from 20 March 2018.

The application is therefore not supported, and it is recommended that a determination of refusal be made once again.



Rural City of
Wangaratta

File: F16/2117

Assembly of Councillors

Date: August 4, 2020

Meeting: Wangaratta Economic Development & Tourism Advisory Committee

Commenced: 5:30pm

Councillors:

Cr Dean Rees - Mayor
Cr Mark Currie – Deputy Mayor
Cr Harry Bussell
Cr David Fuller
Cr Harvey Benton

Present

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Absent

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Officers:

Brendan McGrath – CEO
Stephen Swart – DDS
Celeste Brockwell – MSG&E
Janine Rolles – CED
Travis Vincent – BIO
Kate Clark – EDO (minutes)

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Committee: Cr. Currie, John Joyce, Elizabeth Ellis, Robert Floyd, Stephen Oxley, Ilena Young, Jamie Ramage, Simon Frazer.

Apologies: Cr. Dean Rees, Cr. Dave Fuller, Cr. Harvey Benton, Cr. Harry Bussell, Christine Haddrick, Travis Vincent.

Independent Presenters: Lucy Clark (RCoW Marketing Specialist)

Conflict Of Interest Disclosure: (Left the room – Returned): N/A

Matters Considered:

- Minutes of previous meeting
- Water Security
- Branding and Marketing – presentation from Lucy Clark
- Business Arising

Meeting Closed at: 6:52pm

Sub Folder S20/110



Assembly of Councillors

Date: 17 August 2020

Meeting: ACHAC

Commenced: 5.30pm

Councillors:

	Present	Absent
Cr Dean Rees - Mayor	<input type="checkbox"/>	<input type="checkbox"/>
Cr Mark Currie – Deputy Mayor	<input type="checkbox"/>	<input type="checkbox"/>
Cr Harry Bussell	<input type="checkbox"/>	<input type="checkbox"/>
Cr Ken Clarke	<input type="checkbox"/>	<input type="checkbox"/>
Cr Dave Fuller	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Harvey Benton	<input type="checkbox"/>	<input type="checkbox"/>
Cr Ashlee Fitzpatrick	<input type="checkbox"/>	<input type="checkbox"/>

Officers:

Brendan McGrath – CEO		
Alan Clark – DIS	<input type="checkbox"/>	<input type="checkbox"/>
Jaime Chubb – DCW	<input type="checkbox"/>	<input type="checkbox"/>
Sarah Brindley – DCS	<input type="checkbox"/>	<input type="checkbox"/>
Steven Swart – DDS	<input type="checkbox"/>	<input type="checkbox"/>

Apologies: Patricia Boak, Marc Bongers

Presenters:

Committee Members:

Margaret Brickhill
Rhonda Diffey
David Godkin
Ian Poole
Adrian Vaughan

Officers in attendance:

Penny Hargrave
Tanya Camplin
Celeste Brockwell

Conflict of interest: NIL

Meeting Closed at: 7:00pm

Sub Folder S20/110



Assembly of Councillors

Date: 10 August 2020

Meeting: Councillors Briefing Forum

Commenced: 3pm

Councillors:

	Present	Absent
Cr Dean Rees - Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Dave Fuller – Deputy Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Harry Bussell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Ken Clarke	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Mark Currie	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cr Harvey Benton	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Ashlee Fitzpatrick	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Executive Team:

Brendan McGrath – CEO	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alan Clark – DIS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jaime Chubb – DCW	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sarah Brindley – DCS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Swart – DDS	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Independent Presenters: Tony Raven – Governance & Reporting Advisor; Martin Ireland – Planning Coordinator; Steven Tucker – Emergency Management Coordinator; Lucy Clark – Creative Marketing Specialist; Chloe Davies – Sports, Aquatic and Events Precinct Manager

Conflict of interest: N/A

Matters Considered:

1. Proposed Governance Policies – Consideration of Submissions
2. Council Plan Measures Q4 FY2019-20
3. Reith Road Equine Precinct
4. Emergency Management Planning Reform
5. Wangaratta Sports & Aquatic Centre Monthly Update
6. Review Briefing Forum Actions
7. General Business

Sub Folder S20/110



Assembly of Councillors

Date: 17 August 2020

Meeting: Councillors Briefing Forum

Commenced: 3pm

Councillors:

	Present	Absent
Cr Dean Rees - Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Dave Fuller – Deputy Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Harry Bussell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Ken Clarke	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Mark Currie	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Harvey Benton	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Ashlee Fitzpatrick	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Executive Team:

Brendan McGrath – CEO	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alan Clark – DIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jaime Chubb – DCW	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sarah Brindley – DCS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Swart – DDS	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Independent Presenters: Meghan Kelly – Strategy Planner; Celeste Brockwell - Manager - Economic Development, Environment & Strategy; Sarah Brindley – Director Corporate Services; Wendy Daly – Community and Recreation Officer; Kelly Timms – Events Team Leader; Jaime Chubb – Director Community Wellbeing; Brendan McGrath - CEO

Conflict of interest: N/A

Matters Considered:

1. Planning Scheme Amendment C81 – Wangaratta Urban Waterways Flood Investigation Study Report 2017
2. Loan Borrowings 2020/21
3. Community Asset Committees
4. Staff Wellbeing Initiatives
5. Draft Community Engagement Policy
6. Reward & Recognition Program
7. Briefing Forum Actions
8. General Business

Sub Folder S20/110



Assembly of Councillors

Date: 24 August 2020

Meeting: Councillors Briefing Forum

Commenced: 3pm

Councillors:

	Present	Absent
Cr Dean Rees - Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Dave Fuller – Deputy Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Harry Bussell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Ken Clarke	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Mark Currie	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Harvey Benton	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Ashlee Fitzpatrick	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Executive Team:

Brendan McGrath – CEO	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alan Clark – DIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jaime Chubb – DCW	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sarah Brindley – DCS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Swart – DDS	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Independent Presenters: Celeste Brockwell, Manager Economic Development, Environment & Strategy; Janine Rolles – Economic Development & Tourism Coordinator; Juan Hernandez – Manager Customer, Digital & Transformation Services; Steven Burke - Media & Communications Coordinator; Kelly Timms – Events Team Leader; Stephen Swart – Director Development Services; Sarah Brindley – Director Corporate Services

Conflict of interest:

6.5 Council Meeting Agenda Discussion – Cr Dave Fuller declared conflict and left the meeting for discussion of item 14.3 'Council Contribution to the Wangaratta Festival of Jazz and Blues 2020' of the papers due to his role as Chair of the Board for the festival.

Matters Considered:

1. Tourism North East & Business Development Investment Attraction Quarterly Update
2. ICT Strategy – Benefits & Update
3. #TogetherWangCan Project Report
4. Council Meeting Agenda Discussion
5. General Business
6. Operational Status Reports

Sub Folder S20/110



Assembly of Councillors

Date: 25 August 2020

Meeting: Pre Council Meeting Discussion

Commenced: 5.30pm

Councillors:

Cr Dean Rees - Mayor
Cr Dave Fuller – Deputy Mayor
Cr Harry Bussell
Cr Ken Clarke
Cr Mark Currie
Cr Harvey Benton
Cr Ashlee Fitzpatrick

Present

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Executive Team:

Brendan McGrath – CEO
Alan Clark – DIS
Jaime Chubb – DCW
Sarah Brindley – DCS
Stephen Swart – DDS

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Sub Folder S20/110



Assembly of Councillors

Date:

Meeting: Councillors Briefing Forum

Commenced: 3pm

Councillors:

	Present	Absent
Cr Dean Rees - Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Dave Fuller – Deputy Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Harry Bussell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Ken Clarke	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Mark Currie	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Harvey Benton	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cr Ashlee Fitzpatrick	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Executive Team:

Brendan McGrath – CEO	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alan Clark – DIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jaime Chubb – DCW	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sarah Brindley – DCS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Swart– DDS	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Independent Presenters: Katie Gibson, Community & Recreation Officer; Tatum McMonigle, Project Manager; Marcus Goonan, Manager Infrastructure Planning & Delivery; Jaime Chubb, Director Community Wellbeing; Tony Raven, Governance & Reporting Advisor

Conflict of interest: N/A

Matters Considered:

1. Business and Community Recovery Grants Program Update
2. Senior Citizens Club Feasibility Study
3. Website Redevelopment Project
4. Strategic and Emerging Risks
5. Sale of Facility and Land, 8 Sadler Street
6. Review Briefing Forum Actions
7. General Business



DRAFT Minutes

Wangaratta Economic Development & Tourism Advisory Committee

5:30pm August 04, August 2020 at Microsoft Teams

APPOLOGIES: Cr. Dean Rees, Cr. Dave Fuller, Cr. Harvey Benton, Cr. Harry Bussell, Christine Haddrick, Travis Vincent.

COMMITTEE: Cr. Currie, John Joyce, Elizabeth Ellis, Robert Floyd, Stephen Oxley, Ilena Young, Jamie Ramage, Simon Frazer.

GUESTS: Lucy Clark (RCoW Marketing Specialist)

NON VOTING: Brendan McGrath, Stephen Swart, Celeste Brockwell, Janine Rolles, Travis Vincent, Kate Clark (minutes)

Agenda Item

1. Welcome – John Joyce

- **Meeting Apologies** – As above.
- **Review of previous meeting minutes:**
Moved by: Jamie Ramage
Seconded by: Stephen Oxley
- **Conflict of interest declarations:** N/A

2. Lucy Clark – RCoW Marketing Specialist (Fixed Item – Branding & Marketing)

Lucy presented to the group an overview of the *Invest Wangaratta* completed Brand guidelines. She then presented the *Visit Wangaratta* Guidelines to the group and positive feedback was given for both pieces of work. It was mentioned that going out to market with such professional looking suites of collateral will be excellent for the Economic Development team and for the town.

3. Fixed Item – John Joyce - Water Security

John and Cr. Benton met with Bruce Diffey and Ken Gourdon for their insights into water within the RCoW.

Ken referred to the Water Security for Wangaratta report August 2014 and proposed the developed for three new deep bores that would supplement the Ovens and King in times of reduced flow.

Kens advised while this report is six years old, is possibly still relevant at this point in time.

John suggests a situational analysis is needed to clarify our key objectives. Celeste advised giving clarity around project costs before considering grant or advocacy documentation. This would need to include the amount of funding we are prepared to put into the project also. Stephen Swart recommended the committee investigate and drill down on what we want to do and what will have the most impact..

ACTION – Those who wish to be a part of a working group for the situational analysis to email John before the next meeting (Robert acknowledged in the meeting he would take part).

4. Business Arising

- Celeste Brockwell- Informed the committee that the Wangaratta Regional Study Centre has applied to be an open university centre for students who wish to study online and still attend the campus as their hub to complete work. The Department of Education, has requested clarity around the Governance of the project and evidence on how the model will support neighbouring LGAs before confirmation of the application.
- Kate Clark – 3 committee vacancies have been advertised..
Open from August 3 – August 28 at 4pm.
Application forms available on the website or from council reception.
- John Joyce advised that, with approval from the committee, a satisfaction type survey will be distributed with the minutes to gain insight into how everyone was feeling about WEDTAC and its outputs over the last 12 months. All agreed a good idea.

ACTION – Circulate survey with minutes.