

# Agenda

## For the Ordinary Council Meeting

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

**Date:** Tuesday, 23 March 2021

**Time:** 6pm



RURAL CITY OF  
**WANGARATTA**

Brendan McGrath  
Chief Executive Officer



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## Rural City of Wangaratta Live Stream

Clause 24 of the Governance Rules 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

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

### ORDER OF BUSINESS

### 6. CITIZEN CEREMONY

### 7. CONFIRMATION OF MINUTES

<b>RECOMMENDATION:</b>
<i><b>That Council read and confirm the Minutes of the Ordinary Meeting of 23 February 2021 as a true and accurate record of the proceedings of the meeting.</b></i>

### 8. CONFLICT OF INTEREST DISCLOSURE

In accordance with section 130 of the Local Government Act 2020 a councillor who has a conflict of interest in respect of a matter must disclose the conflict of interest in the manner required by Council's Governance Rules and exclude themselves

from the decision making process in relation to that matter, including any discussion or vote on the matter and any action in relation to the matter.

Clause 28.1 of Council's Governance Rules requires a councillor to indicate that they have a conflict of interest by clearly stating:

- (a) the item for which they have a conflict of interest; and
- (b) whether their conflict of interest is general or material; and
- (c) the circumstances that give rise to the conflict of interest.

**Immediately prior to the consideration of the item in which they have a conflict of interest, a councillor must indicate to the meeting the existence of the conflict of interest and leave the meeting.**

A councillor who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.

## 9. RECEPTION OF PETITIONS

### 9.1 PETITION REGARDING THE RURAL CITY OF WANGARATTA REGISTER OF PUBLIC ROADS

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Executive Services Coordinator  
**File No:** IC21/484

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

#### Executive Summary

A petition/joint letter containing 42 signatures from ratepayers, residents, workers and business owners of Cozens Street, Vincent Road, Newman Street, Greta Road, Bullivant has been received.

The petition requests that Cozens Street Wangaratta be included in the Rural City of Wangaratta Register of Public Roads.

A copy of the letter has been provided to Councillors under separate cover.

#### **RECOMMENDATION:**

1. ***That the petition letter regarding the addition of Cozens Street to the Rural City of Wangaratta's Register of Public Roads be received.***
2. ***That the petition be referred to the Chief Executive Officer for a report to a future Council Meeting.***

#### Conclusion

Clause 14 of the Rural City of Wangaratta Governance Rules provides that a petition presented to the Council may be dealt with in any of the following ways.

The petition may:

- be received;
- where the petition relates to an item listed on the agenda, be considered in conjunction with that agenda item;
- be referred to the Chief Executive Officer for consideration and response;
- be referred to the Chief Executive Officer for a report to a future Council meeting.

Where the petition relates to an operational matter, council must refer it to the Chief Executive Officer for consideration.

Where a petition relates to a planning matter which is the subject of a public notification process under the *Planning and Environment Act 1987*, the petition will be treated as a joint submission in relation to that planning matter.

Where a petition relates to a matter which is the subject of a community engagement process under the *Local Government Act 2020*, the petition will be treated as a joint submission in relation to that matter.

**Attachments**

- 1 Cozens Street Petition - Confidential

## 9.2 PETITION REGARDING TRAFFIC CONDITIONS AND SPEED LIMITS IN CHESHUNT AND WHITFIELD, KING VALLEY

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Executive Services Coordinator  
**File No:** IC21/570

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

### **Executive Summary**

A petition/joint letter containing 112 signatures from the residents and visitors of the Rural City of Wangaratta concerning the speed limits and traffic conditions that presently exist in the surrounds of Cheshunt and Whitfield in the King Valley has been received.

A copy of the letter has been provided to Councillors under separate cover.

#### **RECOMMENDATION:**

1. ***That the petition letter regarding the speed limits and traffic conditions in Cheshunt and Whitfield be received.***
2. ***That the petition be referred to the Chief Executive Officer for a report to a future Council Meeting.***

### **Conclusion**

Clause 14 of the Rural City of Wangaratta Governance Rules provides that a petition presented to the Council may be dealt with in any of the following ways.

The petition may:

- be received;
- where the petition relates to an item listed on the agenda, be considered in conjunction with that agenda item;
- be referred to the Chief Executive Officer for consideration and response;
- be referred to the Chief Executive Officer for a report to a future Council meeting.

Where the petition relates to an operational matter, council must refer it to the Chief Executive Officer for consideration.

Where a petition relates to a planning matter which is the subject of a public notification process under the *Planning and Environment Act 1987*, the petition will be treated as a joint submission in relation to that planning matter.

Where a petition relates to a matter which is the subject of a community engagement process under the *Local Government Act 2020*, the petition will be treated as a joint submission in relation to that matter.

**Attachments**

- 1 Petition Regarding Speed Limits and Traffic Conditions in Cheshunt and Whitfield King Valley - Confidential

**10. HEARING OF DEPUTATIONS**

**PRESENTATION OF REPORTS**

**11. COUNCILLOR REPORTS**

Nil

**OFFICERS' REPORTS**

**12. EXECUTIVE SERVICES**

Nil

### 13. CORPORATE SERVICES

#### 13.1 REVIEW OF THE PROCUREMENT POLICY FOR PUBLIC CONSULTATION

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Procurement Specialist  
**File No:** IC21/252

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

#### Executive Summary

This report is presented to Council to commence the process of seeking public feedback on the annual review of Council's Draft Procurement Policy (the draft policy).

#### **RECOMMENDATION:**

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

- 1. Endorses the Draft Procurement Policy 2021 for public exhibition;***
- 2. Invites public submissions regarding the Draft Procurement Policy 2021 in accordance with Council's "Major Council Policy Consultation Local Law No.4 of 2015" up to 5pm on Friday 23 April 2021;***
- 3. If submissions requesting changes to the policy are received:***
  - a. Establishes a Special Committee of Council to hear submissions on the Draft Procurement Policy 2021, if required, at a time to be determined***
  - b. Reviews and considers adopting the Draft Procurement Policy 2021 at the Ordinary Council Meeting on 25 May 2021, taking into consideration all submissions made.***
- 4. If no submissions requesting changes to the policy are received, adopts the Draft Procurement Policy 2021 without further resolution.***

#### Background

Council adopted a procurement policy in 2016 in compliance with section 186A(1) of the *Local Government Act 1989* (the Act). Section 186A(7) of the Act



requires Council to review its procurement policy at least once in each financial year, having regard to any guidelines made by the Minister with respect to form or content. Any changes arising from that review must be adopted by Council. The current procurement policy has been formulated with regard to the Victorian Local Government Best Practice Procurement Guidelines 2013 and the Municipal Association of Victoria Model Procurement Policy (Updated) August 2011.

Council officers have reviewed the current procurement policy and have incorporated the new branding guidelines for 2021 to the policy (*refer attachment*). No other changes have been made.

### **Policy Considerations**

Council must review the procurement policy in this financial year ending 30 June 2021.

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

### **Financial/Economic Implications**

The proposed policy sets out the principles, processes and procedures that will apply to all purchases of goods, services and works made by Council. The proposed policy aims to achieve value for money and continuous improvement in the provision of services for the community.

### **Legal/Statutory**

Section 186A (7) of the Local Government Act 1989 requires Council to review the Procurement Policy at least once in each financial year, having regard to any guidelines made by the Minister. That is the purpose of this report.

Whilst the Local Government Act 2020 received Royal Assent on 24 Mar 2020 it only comes into effect in stages, meaning the requirements of the new Act do not yet affect council's Procurement Policy. This Policy will therefore return for a further update and engagement in December 2021 once the new requirements come into force.

### **Social**

The draft policy includes council's commitment to the strategic use of local suppliers to encourage economic development where such purchases are justified on value for money grounds, while remaining compliant with the Competition and Consumer Act 2010 and other fair trading legislation requirements.

### **Environmental/Sustainability Impacts**

The Council's draft policy encourages the sourcing of environmentally sustainable goods, services and works.

## **2017 – 2021 Council Plan**

This report supports the 2017-2021 Council Plan (Revision 2020):

### **Goal**

We are Sustainable

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

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

We will ensure our workforce systems and processes are efficient and effective.

We provide a robust and transparent governance framework.

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

For the best options to deliver services in conjunction with our surrounding Council partners.

To ensure our risks are managed strategically and effectively.

### **The non-negotiables**

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

Our legislative, governance and compliance requirements will be met.

## **Strategic Links**

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

N/A

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

N/A

## **Risk Management**

The draft policy aims to achieve high standards of probity, transparency, accountability, and risk management.

## **Consultation/Communication**

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Community	Website

		Public notice in local newspaper Make copy available for public inspection at Council's Customer Service counter
Consult	Audit Advisory Committee	Request advice Request submissions
Involve		Consider submissions

The proposed policy is a Major Council Policy and is subject to the provisions of the Major Council Policy Consultation Local Law No. 4 of 2015 which requires a public exhibition and submission process to be undertaken. This process is planned to commence with Council endorsement at the Ordinary Council Meeting on 23 March 2021 and conclude with adoption of the reviewed procurement policy at the Ordinary Council Meeting on 25 May 2021.

A public notice will be published in the Wangaratta Chronicle on Friday 26 March 2021 explaining the submission process. Submissions will be received up to 5pm on 23 April 2021.

In their written submission, a person may also request to be heard by a Committee of Council in support of their submission, prior to Council considering the proposal. A Special Committee of Council will be established to hear submissions on the proposed policy, if required, at a time to be determined.

### **Options for Consideration**

1. Proceed to public exhibition with the attached Draft Procurement Policy – Recommended.
2. Proceed to public exhibition with a revised Draft Procurement Policy.

### **Conclusion**

The review process ensures compliance with the requirements of Section 186A (7) of the Local Government Act 1989 which is still in force and requires a review of the procurement policy in each financial year. Officers believe the Draft Procurement Policy is now ready to be put out for public exhibition.

### **Attachments**

- 1 Draft Procurement Policy 2021 [!\[\]\(1e63609ed98a835f4eb8c01936fe5abe\_img.jpg\)](#) 
- 2 Procurement Policy 2021 Community Impact Statement [!\[\]\(667a6241441d64e420cc3455b8ca30eb\_img.jpg\)](#) 

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

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Governance and Reporting Advisor  
**File No:** IC21/396

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 includes the insertion of provisions due to the introduction of an online food premises registration portal under the *Food Act 1984*. It also contains changes to various other Acts regarding powers, duties, and functions that have been revoked or amended.

#### **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 and that 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 changes to Acts causing powers, duties, and functions to be inserted, revoked, or amended.

## **Implications**

### **Policy Considerations**

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

### **Financial/Economic Implications**

The update confirms arrangements 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 contained in the updated instrument (**Attachment 1**) and listed in the table in **Attachment 2**.

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 maintaining effective and efficient processes.

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 list of services provided by local government it would be practically impossible for the council to make all decisions. Local government

everywhere uses 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, to avoid any issues 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 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 [!\[\]\(4d5671ed09a68966fe2e932f2c5334b2\_img.jpg\)](#) 
- 2 Changes to the instrument of delegation by Council to members of council staff [!\[\]\(9a639d5fb3cec1d6a97a5cccd1addbdc\_img.jpg\)](#) 

### 13.3 REAPPOINTMENT OF DIRECTORS TO THE WANGARATTA LIVESTOCK EXCHANGE PTY LTD

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Governance and Reporting Advisor  
**File No:** IC21/438

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 reappoint independent directors, whose terms of appointment have expired or will soon expire, to the board of the Wangaratta Livestock Exchange Pty Ltd (WLE).

#### **RECOMMENDATION:**

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

- 1. Reappoints the Directors listed in confidential attachments 1, 2, 3 and 4 to the Wangaratta Livestock Exchange Pty Ltd, each for a term of 2 years commencing 24 March 2021 and ending 23 March 2023.***
- 2. Authorises the Mayor and Chief Executive Officer to sign and seal a record of the resolution in paragraph 1 above that documents the date and time that it is signed and includes the Directors' names and the length and the start and end dates of their terms.***

#### **Background**

WLE directors were appointed by Council following a thorough recruitment and selection process.

The terms of appointment of 4 directors have expired or will soon expire. These directors have consented to being reappointed for a term of 2 years and have provided signed consent forms (confidential attachments 1, 2, 3 and 4) and should be reappointed as they have performed satisfactorily.

WLE is a single member company. As the sole member (shareholder) of WLE, the power to appoint a person as a Director by resolution in a General Meeting lies solely with Council under clause 15.1.2(a) of the WLE Constitution (the constitution, Attachment 5).

Council has the power to make decisions by recording and signing them. The recording of this decision is deemed to be the passing of a resolution. Further, the resolution is deemed to have been passed at a General Meeting, notwithstanding

that a physical meeting was not convened. The date and time of the meeting is deemed to be the date and time that the resolution is signed. Refer to clauses 13.2.1 and 13.3.1 of the constitution.

### **Implications**

#### **Policy Considerations**

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

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

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

#### **Legal/Statutory**

Council must comply with the provisions of the *Corporations Act 2001* and, from a legal perspective, the obligations set out in the constitution.

#### **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.

### **Council Plan**

This report supports achievement of the council plan strategic objective of growing the economy and community by ensuring that the livestock exchange is managed in an appropriate structure for business growth and sustainability.

### **Risk Management**

Reappointing appropriately skilled and experienced directors to WLE mitigates risk by ensuring WLE strategies and decisions are well informed.

### **Consultation/Communication**

The WLE directors whose terms of appointment have expired or will soon expire have been consulted regarding their interest in reappointment. Each of them has submitted a signed consent to do so.

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



**Options for Consideration**

Option 1 - Reappoint the Directors as outlined in this paper. Recommended.

Option 2 - Do not reappoint the Directors and commence a process seeking expressions of interest in the Director positions. Not recommended as this will create an additional risk for the company due to uncertainty, and a perceived lack of confidence in some Directors.

**Conclusion**

The terms of appointment of 4 Directors of WLE have expired or will soon expire and they have consented to reappointment for a term of 2 years. They should be reappointed as they have performed satisfactorily and hold appropriate skills and experience for the roles.

**Attachments**

- 1 Confidential Company Director Consent Form 1 - Confidential
- 2 Confidential Company Director Consent Form 2 - Confidential
- 3 Confidential Company Director Consent Form 3 - Confidential
- 4 Confidential Company Director Consent Form 4 - Confidential
- 5 Wangaratta Livestock Exchange Pty Ltd Constitution [!\[\]\(49aa2e1da5fe39294864e9598c593810\_img.jpg\) !\[\]\(7d0a8d8b1031f74abe67b09fcf4a2322\_img.jpg\)](#)

### 13.4 GOVERNANCE RULES AMENDMENT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Governance and Reporting Advisor  
**File No:** IC21/463

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

#### **Executive Summary**

This report is presented to Council to commence the process of community engagement in amending its Governance Rules.

The long-standing tie-breaking process of electing a Mayor or Deputy Mayor by lot was included in the Governance Rules adopted in 2020 but is not permitted by the *Local Government Act 2020* (the Act) and must be removed.

#### **RECOMMENDATION:**

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

- 1. Endorses the proposed amended Governance Rules (Attachment 1) for public exhibition.***
- 2. Invites public submissions regarding the proposed amended Governance Rules for a 28-day period.***
- 3. Where no public submissions requiring changes are received on the proposed amended Governance Rules, resolves to approve the amended Governance Rules without further resolution.***
- 4. Where any public submissions requiring changes on the proposed amended Governance Rules are received, takes those public submissions into account when deciding to adopt the amended Governance Rules.***

#### **Background**

Council has received advice that the tie-breaking process of electing a Mayor or Deputy Mayor by lot included in the Governance Rules adopted by council in 2020 is not permitted by the Act.

The Act requires that the election must be by an absolute majority of the Councillors and if an absolute majority of the Councillors cannot be obtained, the Council may resolve to conduct a new election at a later specified time and date.

Therefore, Council's Governance Rules must be amended and a version incorporating this change has been drafted (Attachment 1). Attachment 2 provides

an excerpt of the relevant clauses of the Governance Rules showing the proposed changes.

### **Implications**

#### **Policy Considerations**

The Governance Rules are a major council policy and the provisions of the Major Council Policy Consultation Local Law (the local law) may apply as this amendment could be considered a major council policy proposal.

However the definition of a major council policy proposal explicitly excludes any proposed change consisting of only minor amendments such as those that are of an insubstantial nature that do not alter purpose or outcomes or do not impact related policies or stakeholders.

The proposed amendment does not alter the purpose, outcome or impact on stakeholders but simply ensures that electing a Mayor or Deputy Mayor complies with the Act. Consequently, in this case, the local law does not apply.

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

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

#### **Legal/Statutory**

Section 25 of the Act requires that the election of a Mayor must be by an absolute majority of the Councillors and if an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.

Section 27 of the Act provides that section 25 of the Governance Rules applies to the election of the Deputy Mayor.

Section 60 of the Act concerns the Governance Rules and:

- requires inclusion of a process for the election of the Mayor and the Deputy Mayor
- allows Council to amend its Governance Rules
- mandates a process of community engagement in amending its Governance Rules

#### **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.

## **Council Plan**

This report supports achievement of council plan strategic objectives by ensuring that council is a sustainable organisation through good governance and council decision-making.

## **Risk Management**

The amended Governance Rules will mitigate legal risk by ensuring compliance with the Act.

## **Consultation/Communication**

The Act requires that a process of community engagement is followed in amending the Governance Rules. Only a minor amendment is proposed so it is appropriate that council employs a simple public submission process as outlined in the following table.

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Draft amended Governance Rules are available for public review	Public notice and the draft are exhibited on the council website
Consult	Public invited to make submissions over a 28-day period	Written submissions accepted and considered.





## **Options for Consideration**

1. Council endorses the proposed amended Governance Rules for public consultation for the period proposed. This provides for the amendment required for compliance with the Act and allows a 28-day consultation period for community consideration of this simple change – Recommended.
2. Council chooses a different approach to community engagement on the proposed amended Governance Rules – Not recommended.
3. Council may wish to further revise the Governance Rules prior to public consultation – Not recommended.

## **Conclusion**

The proposed amended Governance Rules and the recommended process of community engagement for amending them comply with the requirements of the Act.

## **Attachments**

- 1 Governance rules March 2021  
- 2 Pages from Governance rules marked up  

## 14. COMMUNITY WELLBEING

### 14.1 COMMUNITY RESILIENCE EVENTS FUND PROGRAM

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Executive Assistant Community Wellbeing  
**File No:** IC21/534

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 endorsement of the recommended funded projects for the Community Resilience and Recovery Program's Community Events Fund.

#### **RECOMMENDATION:**

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

- Awards the total of \$26,500 to fund the following projects as part of the Community Resilience and Recovery Program's Community Events Funding Program:***

Applicant	Project	Location	Recommended funding amount
Milawa Primary School	Movie Night	John McAleese Park Milawa (Milawa Hall - backup)	\$1,000.00
Sustainable King Valley Inc	Movie Night, Plastic Free July/War on Waste	Cheshunt hall	\$800.00
Oxley Residents' Association and Oxley Shire Hall Committee of Management	Oxley – Then and Now	Oxley Town Hall and grounds	\$1,000.00
Wangaratta Landcare and Sustainability Inc.	Sustainable Connections: Respecting history and connecting to shape the future.	Wangaratta Landcare and Sustainability Inc	\$900.00
Whorouly Football & Netball Club	Whorouly Community Winter Sports Season Launch	Whorouly Recreation Reserve	\$1,000.00
Whitfield Rec. Reserve Committee of Management in conjunction with King Valley United Football Netball Club (KVUFNC)	Community Dinner for the community by the community	KVUFNC and Whitfield Tennis Club	\$1,000.00

Off-Grid Living Festival	Off-Grid Living Festival	Centennial Park in Eldorado	\$1,000.00
King Valley CWA (Country Women's Association)	King Valley CWA Green High Tea	Red Feet Winery, King Valley	\$600.00
Moyhu Tennis Club	10 week program to include Family and community night social tennis	Moyhu Tennis Club, Moyhu	\$1,000.00
Springhurst Recreation and Community Hall Reserve	Community Fair	Springhurst Recreation Reserve	\$1,000.00
Tarrowingee Community Group	Community Connections – meet, reconnect and celebrate with your neighbours.	Plough Inn, Tarrowingee	\$1,000.00
MDYC Moyhu Gymnastics club	Girls Staying Sporty	Moyhu Gymnastics club	\$1,000.00
Wangaratta Croquet Club Inc	Social Day	Club rooms and Marquee	\$1,000.00
Wanagaratta Lions Club	Road Safety School Open Day	Ryan Avenue Safey School	\$600.00
Wangaratta Farmers Market	Wangaratta Farmers Market Back on the ground.	Farmers Market	\$1,000.00
Wangaratta Social group	Native flora and fauna in the park	Wangaratta	\$1,000.00
Wangaratta Symphony Orchestra (WSO)	WSO: Open Day inaugural performance	Wangaratta Uniting Church	\$1,000.00
Da Vinci Social Club Inc (DVSC Inc)	Multicultural Day	Club rooms	\$1,000.00
Wangaratta Community Toy Library	40th Birthday Party in the Park	Apex Park	\$1,000.00
Merriwa Industries	Creating Community connections for people of all Abilities.	Wangaratta showgrounds, at Norm Mills oval	\$1,000.00
Wangaratta Rangers Baseball/softball club Inc	Come and try Baseball at Wangaratta Rangers	Targoora Park	\$600.00
Wangaratta Community Radio Association Incorporated ( OAK FM)	OAK FM Open Day	Radio Station	\$1,000.00
Goulburn and North East Arts Alliance (GANEAA)	Across the Arts Forum-Elemental	GoTAFE	\$1,000.00
Mullinmur Billabongs Community Education Hub	Reflections on Mullinmur Art Exhibition	Mullinmur Billabong Community Education Hub	\$1,000.00

Wangaratta rod and custom club	Trivia Day	Club rooms	\$1,000.00
North East Multicultural Association	Wangaratta City and Shire Harmony Day Celebration	Wangaratta CWA Hall	\$1,000.00
Into Our Hands Community Foundation	Into Our Hands- Bushfire funding announcement for north east Victoria	Wangaratta	\$1,000.00
Charlies	Performance by young people for young People	Charlies, Wangaratta	\$1,000.00
<b>TOTAL</b>			<b>\$26,500.00</b>

### **Background**

The Community Events Fund was established to provide financial support to community organisations within the Rural City of Wangaratta who wished to hold events to bring their community back together after the disruptions of the devastating bushfires of January 2020 and the Covid-19 pandemic.

“Community sector organisations are embedded in their local communities, build and maintain social connections and networks, and develop the strengths of people and families, all of which contribute to day to day resilience.” – *Victorian Council of Social Service, Building Resilient Communities, 2017.*

The Program received 29 applications with a total funding request of \$27,500. Twelve of these applications were from the rural designated areas of Wangaratta, with the remaining 17 designated as town based or covering a catchment of the entire municipality.

The applications have been assessed and/or reviewed by the following:

- Community Resilience & Recovery Coordinator
- Events Team Leader
- 28 applications were shortlisted based on eligibility and quality of application.

The second stage of assessment scored the 28 applications based on a pre-determined scoring matrix. The program recommends that all 28 projects be endorsed to the value of \$26,500 for funding.

This program is not a grant program, but a program that will directly fund community organisations to hold events that will help to reconnect their communities.

Applications were open from Tuesday 26, January 2021 – Friday 19th February 2021.

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## **Alignment with Bushfire Recovery Victoria's Recovery Guidelines**

Bushfire Recovery Victoria (BRV) has outlined five pillars to recovery, including Social Recovery. Social Connections and networks increase resilience and promote recovery. Community organisations are crucial to maintaining and building vital social connections that help people cope with change and crises. The Bushfires of January 2020 followed by Covid-19 have placed an undue amount of stress on our communities. Holding events that reconnect the community is the first step in helping to re-establish those key support systems. The organisations best placed to hold these events are the ones already established within the community. This community driven method is the cornerstone of BRV's recovery approach. The application process was implemented to ensure that there was consideration behind the event proposals, and transparency both from a Council and a BRV perspective as to which groups were funded.

## **Implications**

### **Policy Considerations**

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

### **Financial/Economic Implications**

As part of Council's 2020/21 budget, an allocation of \$20,000 was approved from the Rural Placemaking budget for this program, of which, \$6,000 will be required.

\$20,500 from the Community Resilience and Recovery Program has also been allocated for the Community Events Fund Program.

The Community Resilience and Recovery Program has a total allocation available of \$40,000 to the successful community organisations.

There are surplus funds to the value of \$13,500 which will remain in the Rural Placemaking Project for other activities.

### **Legal/Statutory**

As the Community Resilience and Recovery Program is funded via a Bushfire Recovery Victoria Grant, if the community groups were unable to hold an event then the funds would be returned to Council and must be utilised for resilience and recovery related activities by 30 June 2022.

### **Social**

The allocation of funds to community groups achieves social outcomes that benefit our community. Community organisations provide opportunities for people to meet, to develop a sense of belonging, and to create a sense of purpose. They encourage significant levels of volunteering, benefiting both the volunteers and the communities with whom they work in helping to build networks and friendships for people who may be at risk of social exclusion.



Other social implications relate to the impact unfunded projects may have on community organisations. All unsuccessful projects are supported to develop their projects and applications to strengthen future funding opportunities – both within Council and through other avenues. Assessment of project submissions takes into consideration the social impact of projects for communities.

### **Environmental/Sustainability Impacts**

All events applications were considered with any potential environmental impact in mind.

### **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 that the health and social needs of our community are understood and considered.**

#### **The non-negotiables**

**Our urban and rural townships are safe and equitable. Everyone can participate and contribute.**

### **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
Group/s capacity to implement project with available volunteer or staff capacity.	3. Possible	2. Minor	Medium	Constant communication and monitoring throughout project implementation.

### **Consultation/Communication**

The community Events Fund Program was developed with community involvement. Discussions with community members from bushfire impacted areas of the Rural City of Wangaratta between August and December 2020 indicated that most community groups (including representatives from hall committees, schools, local CFA, local associations) were unable to gather after the fires due to Covid-19 restrictions. Not only had they missed that debrief opportunity, they had missed their community connections throughout the year because of Covid-19. Further discussions with members of similar organisations across Wangaratta indicated the same issues, as well as issues around lack of funds due to an inability to hold events. These groups also indicated a desire to do things themselves to try and reconnect their communities.

This program empowered community groups to propose their own events to reconnect their communities.

The Community Events Fund Program was promoted through a range of communication methods including:

- Direct emails to database of businesses and community groups
- Rural City of Wangaratta Connections Page (Wangaratta Chronicle)
- Media release and editorial in local media
- Economic Development newsletter and Projects and Recreation newsletter
- Social media content
- Council's webpage.

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Involve	to come up with a way for community groups to lead reconnection events	conversations, email
Empower	for community groups to decide how they want to reconnect their community tools	application for event funding

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

### **Options for Consideration**

1. That Council endorse the recommendation to fund 28 projects to the value of \$26,500.00.
2. That Council endorse the recommendation of funded projects with amendments.

3. That Council does not endorse the recommendations and the Community Resilience and Recovery Coordinator provides an alternative to holding community events.

### **Conclusion**

Following assessment, 28 of the 29 applications are recommended for funding. Upon endorsement of the Community Events Fund Program recommendation, successful and unsuccessful applicants will be notified.

### **Attachments**

Nil.

## 15. INFRASTRUCTURE SERVICES

### 15.1 PETITION - LACK OF DRAINAGE AND FOOTPATH ALONG WILSON ROAD

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Manager Infrastructure Planning and Delivery  
**File No:** IC21/313

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

#### **Executive Summary**

A petition was tabled at Council's Ordinary meeting on the 23 February 2021. The petition is seeking that Council consider footpath and drainage works along Wilson Road

This report addresses the request made by the petitioners and provides recommendation for Council consideration.

#### **RECOMMENDATION:**

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

- 1. Includes the construction of a footpath and drainage along Wilson Road in a future year's capital works program; and***
- 2. Responds to the first signatory with details of the resolution of Council.***

#### **Background**

The shared path along Wilson Road is listed as a high priority in the Walking and Cycling Strategy. It is listed for design in the 2021/22 financial year and construction in 2022/23 financial year, dependant on budget allocation.

Drainage works will be completed at the same time as the footpath installation.

#### **Implications**

#### **Policy Considerations**

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

**Financial/Economic Implications**

The estimated cost of a shared path on one side from Weir/Chandler St to the King River bridge is \$330,000. The estimated cost for a standard footpath both sides from Thomas St is \$128,250.

**Legal/Statutory**

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

**Social**

Installation of this footpath would increase the connectivity for the residents of the area.

**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 Established

**We will research and advocate:**

To facilitate drainage and road infrastructure to support future growth plans

**We will create and deliver:**

Timely and appropriate infrastructure to support our growth areas

**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**

N/A

**b) Other strategic links**

Walking and Cycling Strategy

**Risk Management**

There are no moderate or high risks for the purpose of this report.

**Consultation/Communication**

Council Officers and Councillors have had several one on one meetings with residents regarding this project.

**Options for Consideration**

1. Council could not adopt the recommendations of this report. No works would be completed.
2. Council could allocate funding to the project now. Works could be completed by the end of the year.

**Conclusion**

A footpath should be considered in a future year's capital works program as detailed in the Long-Term Financial Plan.

**Attachments**

- 1 Petition - Lack of drainage and footpath along Wilson Road - Confidential

## 15.2 PETITION - LACK OF MAINTENANCE AT PELICAN COURT PARK

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Manager Infrastructure Planning and Delivery  
**File No:** IC21/317

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

### **Executive Summary**

A petition was tabled at Council's Ordinary meeting on the 23 February 2021. The petition is seeking that Council consider additional maintenance and upgrade works at Pelican Court Park.

This report addresses the request made by the petitioners and provides recommendation for Council consideration.

#### **RECOMMENDATION:**

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

- 1. Notes Officers will conduct a once off additional maintenance clean up works on the existing fence, trees and shrubs;***
- 2. Requests Officers review the green space for addition to the tree planting register for 2021/22;***
- 3. Confirms that the green space doesn't require additional services as per Council's Play Space Strategy 2017 – 2027; and***
- 4. Responds to the first signatory with details of the resolution of Council.***

### **Background**

A petition was tabled at the February Council meeting with the requests detailed below.

1. New Fences at rear and front of park to meet AS/NZS ISO 1300 for Risk Assessment of Children's' Playgrounds and KidSafe Australia 2020 recommendations for providing a safe environment.
2. Request more plants, trees to provide a barrier and beautify the area to enhance the playground.
3. Placement of a water tap/drink fountain in the park

Pelican Court Park is located off Murdoch Road approximately 3km from Merriwa Park.

The Park is designed as "Green Space" not a playground park. As noted, the residents have paid for the installation of the existing play equipment in the park.

As detailed in Council's Play Space Strategy 2017 – 2027 all urban residents should ideally have access to a park within an approximate 10-minute walk, and desirably within approximately 800m.

There are parks located inside or just outside of this radius from Pelican Court. Bindall Avenue Reserve and Targoora Park are within 1km and the Mitchell Avenue Development is 1.5km.

The Fence at the rear of the green space is a private rural fence and should be removed if it is hazardous. Officers will review the existing fence. There is no requirement to fence between Council and private land, practically open green space.

The services offered in this green space are the same as other green spaces in and around the municipality. Some general maintenance of the existing park should be completed. The area will be reviewed for a future tree planting schedule.

### **Implications**

#### **Policy Considerations**

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

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

The additional maintenance works have an estimated cost of \$3,000.

#### **Legal/Statutory**

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

#### **Social**

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

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

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

### **2017 – 2021 Council Plan (2020 Revision)**

This report supports the 2017-2021 Council Plan:

#### **Goal**

We are Established

**We will create and deliver:**



Timely and appropriate infrastructure to support our growth areas

**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**

N/A

**b) Other strategic links**

Play Space Strategy 2017 - 2027

**Risk Management**

N/A

**Consultation/Communication**

No consultation has been undertaken.

**Options for Consideration**

1. Council could approve the installation of a new fence, drinking fountain, additional plantings and play equipment. Estimated additional cost \$50,000.

**Conclusion**

Pelican Court park is fit for purpose as a green space and requires no additional work.

**Attachments**

- 1 Petition - Lack of maintenance at Pelican Court Park - Confidential

### 15.3 WANGARATTA CLAY TARGET CLUB - SITE REHABILITATION WORKS

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Project Officer  
**File No:** IC21/322

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 award of contract C29492 Wangaratta Clay Target Club Site Rehabilitation.

In 2016 the Environment Protection Authority Victoria (EPA) issued the Wangaratta Clay Target Club (WCTC) with a Clean Up Notice for lead found in the ground and water at the site including the adjacent Recreation Reserve.

Clean up works at the Reserve have been completed and remediation works are now set to commence at the WCTC.

This report will appoint a suitably qualified contractor to undertake the rehabilitation works in line with the Clean Up Plan (CUP) requirements.

Funding has been received from the Department of Environment, Land, Water and Planning (DELWP) to deliver the works.

#### **RECOMMENDATION:**

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

- 1. Awards Contract C29492 Wangaratta Clay Target Club Site Rehabilitation to Enviropacific Ltd;***
- 2. Authorises the Chief Executive Officer to sign and seal documents for C29492 Wangaratta Clay Target Club Site Rehabilitation;***
- 3. Appoints the Chief Executive Officer to superintendent for the project; and***
- 4. Discloses the contract price for C29492 Wangaratta Clay Target Club Site Rehabilitation.***

#### **Background**

Clean up works have since been completed at the North Wangaratta Reserve, with works now set to commence at the WCTC in April.

The works include the preparation, compliance and implementation of approved management plans, including the development of a Construction Environmental Management Plan (CEMP) and a material tracking plan. Obtaining permits and approvals relating to the management and handling of contaminated soil, and providing documentation as requested by the auditor.

Ground works include the relocation of three existing trap houses to better control the trajectory of targets and shots, capping of contamination material, drainage construction, including drainage improvements along Detour Road.

The remediation works have been tendered and Council Officers have evaluated the submissions.

### **Implications**

#### **Policy Considerations**

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

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

In 2018 the Department of Environment, Land, Water & Planning (DELWP) provided Council with funding of up to \$3,000,000 (GST exclusive) as part of the Environmental Management of Victorian Shooting Ranges and a \$62,000 in kind contribution from Council. Giving a total project budget of \$3,062,000 (GST exclusive). Considering the costs of this project and previous clean up works the available budget is \$1,166,728 (GST exclusive) to deliver the remaining clean up works and appoint an environmental consultant to assist in the delivery of the EPA CUP.

The funding body (DELWP) have provided a letter (attachment 2) confirming an outstanding income amount of \$1,000,000 (GST exclusive) payable to Council upon completion of the agreed milestone deliverables.

#### **Legal/Statutory**

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

#### **Social**

The works are being completed in line with the EPA issued Clean up Notice.

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

There are potential environmental and sustainability impacts if these works are not undertaken.

#### **2017 – 2021 Council Plan (2020 Revision)**

This report supports the 2017-2021 Council Plan:

## Goal

We are Sustainable

### 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
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)	5	Project Manager to monitor
Works timeline exceed EPA CUP notice.	Major (3)	Moderate (3)	6	Project Manager to monitor
Works do not meet EPA CUP requirements.	Major (3)	Major (4)	7	Project Manager & Coordinator to manage.

### Consultation/Communication

Extensive engagement has been undertaken with the WCTC and if contract is awarded will continue to collaborate throughout the delivery of this project.

Stakeholder engagement with surrounding residents, sporting clubs and businesses will be maintained throughout the duration of works.

Continued engagement with DELWP as the funding body will continue throughout the project.

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

**Options for Consideration**

1. Do not approve C29492 Wangaratta Clay Target Club Site Rehabilitation and re-advertise. The requirements of the EPA Clean-up notice will not be delivered.

**Conclusion**

Contract C29492 Wangaratta Clay Target Club Site Rehabilitation is recommended to be awarded to Enviropacific Ltd.

Enviropacific Ltd have the capacity and the experience in environmental clean-up and specifically in rifle range rehabilitation works.

**Attachments**

- 1 C29492 Wangaratta Clay Target Club Clean Up - Evaluation Report - Confidential
- 2 Wangaratta Clay Target Club - Letter of Support DELWP - Confidential

## 16. DEVELOPMENT SERVICES

### 16.1 PLANNING SCHEME AMENDMENT REQUEST - REITH ROAD EQUINE PRECINCT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Strategy Planner  
**File No:** IC21/319

The following Council officers and contractors have provided advice in relation to this report and have disclosed a conflict of interest regarding the matter under consideration:

#### Executive Summary

This report is presented to Council to consider a request to amend the Wangaratta Planning Scheme as it applies to the Reith Road Equine Precinct, specifically to diversify the scope of uses allowed under the requirements of the Special Use Zone 7 – Reith Road Equine Precinct (SUZ7).

In 2016, Wangaratta Planning Scheme Amendment C56 was approved. Amendment C56 made changes to the Wangaratta Planning Scheme to enable a site-specific land rezoning, to facilitate complimentary private development and realise a vision of becoming a racing centre for Regional Victoria. Amendment C56 was focused on creating opportunities for registered thoroughbred horse trainers to stable and train their horses at the Wangaratta Turf Club, located near the Reith Road Equine Precinct.

A new Planning Scheme Amendment (Amendment C85) has been requested to allow the land affected by the SUZ7 to be opened up to broader equine uses (that is, uses beyond the originally intended thoroughbred horse training uses) to create greater opportunity for other equine activity that would benefit from being located within an equine focused development. The draft proposed amendment documentation for Amendment C85 is included as **Attachment 1 and 2**.

#### **RECOMMENDATION:**

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

- 1. Considers the request to amend the Wangaratta Planning Scheme as submitted by Habitat Planning on behalf of Property Investments Vic P/L.***
- 2. Seeks authorisation from the Minister for Planning to prepare and exhibit planning scheme amendment C85 to facilitate the requested changes to the SUZ7.***
- 3. Delegates to the Chief Executive Officer and Director Development Services responsibility to make any changes to***

***documents as required by the Department of Environment, Land Water and Planning or identified by Council officers in the preparation of the planning scheme amendment material.***

## **Background**

### *Background to the amendment request:*

- In 2016 a request to rezone approximately 43 ha land at Lot 2 PS 7041222, Reith Road from Farming Zone (FZ) to SUZ7 and apply the Development Plan Overlay 5, was considered and approved (via Planning Scheme Amendment C56). The purpose of Amendment C56 was to facilitate equine related development in association with the Wangaratta Turf Club. Amendment C56 complimented the upgrade proposed to the Wangaratta Turf Club and was to assist in the aim of becoming a major training and equine education Regional Centre for Victoria.
- Amendment C56 primarily focused on activity relating to thoroughbred horse racing and the original amendment was supported by the Minister for Transport, Planning and Local Infrastructure and the Minister for Racing.
- A development plan (required by the Development Plan Overlay 5) and subdivision permit (16/072) were approved and issued, making the site 'development ready' for investment and thoroughbred racing activity.
- To date the site has not achieved its vision and the landowners are seeking changes to the provisions approved by amendment C56 to allow a broader range of equine uses to realise the potential of the site.

### *The amendment request and proposed changes to existing policy:*

- The amendment request specifically proposes changes to the SUZ7, in the purpose, table of uses and use of land requirements. The proposed changes to the SUZ7 are shown in **Attachment 2**.

The purpose of the zone is proposed to be broadened to include supporting the use and development of the site for additional professional equine training and related facilities for Wangaratta and the surrounding region. Current controls restrict this to professional and registered thoroughbred horse trainers.

The table of uses is proposed to be broadened to include:

- animal training on site;
- the construction of horse stables; (without the need for a permit, for harness racing, equine animal keeping or horse husbandry uses); and
- industry, for the purpose of collecting and recycling manure from the equine precinct as compost (requiring a planning permit - this illustrates an example of an ancillary use to the main purpose of the precinct).

The zone's current provision only allows for animal training on site and construction of stables for thoroughbred trainers. Industry (other than store) is currently a prohibited use.

Proposed changes to the use of land will allow for the consideration of a dwelling to be used by any persons who are conducting equine animal keeping or horse husbandry. This is a substantial shift from current requirements, where a dwelling can only be occupied by a licenced trainer or employee of a licenced trainer.

Generally, site specific amendments for individual landowners are not supported, due to the significant resources required to administer an amendment. However, a site-specific amendment was supported in 2016, and this amendment request provides opportunity for the landowner to use the site for diverse equine related activities and support the vision and economic development opportunities associated with the Reith Road Equine Precinct.

### **Implications**

#### **Policy Considerations**

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

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

The proposal is considered to generate positive economic impacts for both the Wangaratta Turf Club and the City of Wangaratta generally. The Victorian Government has provided significant funding for upgrading of the training facilities for the Turf Club and actively encouraged additional private investment which will support the upgraded facilities. This amendment will facilitate substantial private sector investment in equine development for Wangaratta.

Economic benefits to the region will include use of local professional service additional accommodation for staff and purchase of feed and supplies from the local area.

Processing a proponent lead amendment request requires significant resources in the form of officer support.

There are administrative fees and costs associated with the planning scheme amendment process (including advertising and potential panel costs). The proponent has advised Council in writing that they will cover all associated amendment costs and support officers with the assessment and resolution of submissions associated with this amendment.

Supporting this request will have some impact on the ability of the Strategy Team to deliver other scheduled strategic land use projects.

#### **Legal/Statutory**

An existing planning permit for subdivision (16.072.01) was certified in February 2019. An existing Section 173 Agreement also makes up the suite of approval documents associated with the planning permit requirements for the site. Should the amendment request be supported and ultimately approved by the Minister for planning, an amendment to both the permit and Section 173 Agreement would be needed to ensure they not at odds with the new requirements of the Wangaratta



Planning Scheme. The proponent has advised Council they agree with the intention to revisit the permit after the planning scheme amendment has advanced.

## **Social**

The proposal does not identify any significant social impacts. Additional equine activity could generate activity that supports the Wangaratta Equine Hospital, and students pursuing equine studies and horse breeding via GO Tafe, which are considered positive social impacts.

## **Environmental/Sustainability Impacts**

The proposal identifies changes to the table of uses, including a provision that will allow the consideration of a site for recycling manure into compost. This is considered to mitigate environmental impacts associated with the Reith Road Equine Precinct.

## **2017 – 2021 Council Plan (2020 Revision)**

This report supports the 2017-2021 Council Plan:

### **Goal**

We are Growing

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

To facilitate considered planning and development in line with long term strategic objectives for the sustainability of our community and environment.

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

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

### **Our non-negotiables:**

We encourage considered investment in the development of new, and the growth of our existing, industries and businesses.

## **Strategic Links**

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

The Community Vision identifies steps to achieve the key outcomes including the:

*Review and update land-use zoning to strengthen protection of agricultural land for agricultural activities; set aside suitable areas for future industry growth;*

*provide for future residential growth in both Wangaratta and around rural townships.*

This proposal is consistent protecting agricultural land for agricultural activity.

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

Population and Housing Strategy, 2013: *lists diversifying residential opportunities inclusive of stabling and training opportunities for equine related activity close to GoTafe and the racecourse.*

This is further recommended as an action to support the population and housing strategic directions.

#### **Risk Management**

Consideration of this amendment request is not considered to generate moderate – extreme risk for Council.

#### **Consultation/Communication**

Should this amendment request be facilitated, an exhibition process, consistent with the requirements *Planning and Environment Act, 1987* will be followed to consult with and involve the community.

#### **Options for Consideration**

##### ***Support the request (Recommended)***

The current controls have not led to the realisation of the vision for the site since their introduction in 2016. This amendment request will allow for a broader range of uses to be facilitated in the Reith Road Equine Precinct and allow for greater diversity for the occupation of the site. A planning scheme amendment is required to make these changes and facilitate these opportunities.



##### ***Do not support the request***

This option will likely result in underutilisation of the site for its intended purpose. It further limits the ability to achieve a range of policy directions identified in the Council Plan, Rural City of Wangaratta 2030 Community Vision and recommendations of the Population and Housing Strategy, 2013

#### **Conclusion**

This planning scheme amendment request will assist to facilitate development associated with broader equine uses. It will help the Reith Road Equine Precinct to realise its full development potential and assist with creating opportunities for additional equine related industries including harness racing and horse husbandry previously not considered.

#### **Attachments**

- 1 Attachment 1 - C85 Draft Explanatory Report [↓](#) 
- 2 Attachment 2 - C85 Draft SUZ7 [↓](#) 

## 16.2 PLANNING SCHEME AMENDMENT C81- CONSIDERATION OF THE PANEL REPORT

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Strategy Planner  
**File No:** IC21/358

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

### **Executive Summary**

This report is presented to Council as the relevant Planning Authority, to consider:

- the recommendations of the Panel Report for Wangaratta Planning Scheme Amendment C81 – Wangaratta Urban Floodway Study 2017; and
- adopting the amendment with changes.

In summary, the Panel determined that Amendment C81 should be adopted with changes, full details are discussed within this report.

### **RECOMMENDATION:**

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

- 1. Considers the Wangaratta Planning Scheme Amendment C81 Panel Report and the recommendation of this report in accordance with Section 27 of the Planning and Environment Act 1987 (the Act);***
- 2. Adopts Planning Scheme Amendment C81 – Wangaratta Urban Floodway Study 2017, with the following changes in accordance with Section 29 of the Act;***
  - a) Mapping changes as per panel recommendations 3 and 4.***
  - b) Referencing the Study as a Background Document at Clause 72.08.***
  - c) Including at Clause 72.04 'Further Strategic Work' a point to do additional climate change work in conjunction with the North East Catchment Management Authority as per recommendation 2 of the Panel report.***
- 3. Submits the amendment to the Minister for Planning pursuant to Section 31 of the Act for approval in accordance with Section 35 of the Act;***
- 4. Notifies submitters in writing of Council's decision.***

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## **Background**

Wangaratta Planning Scheme Amendment C81 was prepared in a collaboration between the North East Catchment Management Authority (NECMA) and Council to implement the relevant recommendations of the *Wangaratta Urban Waterways Flood Investigation Report (2017)*, which was adopted by Council in 2017.

### **What Amendment C81 proposes:**

The Amendment proposes to:

- Amend the extent of the Land Subject to Inundation Overlay (LSIO) and Floodway Overlay (FO) mapping in the Planning Scheme.
- Amend the schedule to the Floodway Overlay (FO).
- Amend the schedule to the Land Subject to Inundation Overlay (LSIO).
- Amend Clause 21.12 (Reference Documents) to include the *Wangaratta Urban Waterways Flood Investigation Study Report 2017*.

### **C81 Planning Panel**

The Panel hearing was conducted online on 4 and 5 November 2020. NECMA and Council made a joint submission to the Panel advocating support and approval of the amendment, which also included changes to the Amendment as recommended in considering submissions to the amendment. The submission by Council officers also provided a response to all submissions.

A number of submitters to the Amendment made representations to the Panel in support of their submissions.

A full copy of the Panel Report is attached at **Attachment 1**.

### **The Planning Panel's Recommendations:**

The Planning Panel has recommended that Wangaratta Planning Scheme Amendment C81 be adopted as exhibited subject to the following:

1. *The Flood Study should not be referenced in the Planning Scheme in its current form.*
2. *If the Council intends to refer to the Flood Study as a background document in the future, further work should be completed on the Flood Study to account for the impacts of climate change.*
3. *Remove the Land Subject to Inundation Overlay mapping from the island of land at 55 Gravel Pit Road, Wangaratta South circled in blue in Figure 2.*
4. *Amend the Planning Scheme maps as follows:*

- a) *Delete the Flooding Overlay from Map No 37 FO as it applies to 398 Markwood-Tarrawingee Road, Wangaratta (as shown in Figure 3) and apply the Land Subject to Inundation Overlay to the same land on Map No 37 LSIO.*
- b) *Delete the Flooding Overlay from Map No 18 FO as it applies to 95 Usshers Drive, Waldara (as shown in Figure 4) and apply the Land Subject to Inundation Overlay to the same land on Map No 18 LSIO.*
5. *Delete the substantive changes proposed by Goulburn-Murray Water and adopted by Council from the Land Subject to Inundation Overlay schedule.*
6. *Review the Land Subject to Inundation Overlay and the Flooding Overlay schedules to ensure that they meet the current Form and Content requirements for Planning Schemes.*
7. *Abandon the changes proposed to Clause 21.12 to list the Flood Study as a background document.*

### **Consideration and response to the Panel recommendations**

<i>Panel recommendation 1:</i>	<i>The Flood Study should not be referenced in the Planning Scheme in its current form.</i>
<i>Panel recommendation 2:</i>	<i>If the Council intends to refer to the Flood Study as a background document in the future, further work should be completed on the Flood Study to account for the impacts of climate change.</i>
<i>Panel recommendation 7:</i>	<i>Abandon the changes proposed to Clause 21.12 to list the Flood Study as a background document.</i>

Recommendation 1,2 and 7 by the Panel are interlinked and all relate to the Panel's concern that the study does not include climate change modelling, in particular that specific modelling was not undertaken to address State Planning Policy at Clause 13.01-1S:

*'Natural hazards and climate change objective - To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning*

Overall, the Panel considered that:

- *The Flood Study represents the best currently available information about the risks of flooding in the Amendment area. However, it does not sufficiently address climate change which is expected to increase the severity and frequency of flood events.*
- *The Flood Study is sufficient (in its current form) to inform the FO and LSIO mapping in the Planning Scheme.*

However, the concern over the lack of climate change modelling has lead the Panel to recommend that the Flood Study should not be referenced within the Planning Scheme. In this regard the Panel Report states:

- *The Flood Study should not be referenced in the Planning Scheme in its current form as it does not sufficiently account for the risks of climate change. An addendum to the study should be prepared which addresses climate change considerations before the Flood Study is referenced or is used to inform strategic land use planning decisions.*
- *Given the Flood Study did not account for the effects of climate change, the Panel is concerned about the implications of relying on this information for long term decisions. If the model underestimates the severity and frequency of future flood events, then the strategic direction for residential development may not adequately avoid the risk from natural hazards. Such an approach would be inconsistent with State policy at clauses 13.01 of the Planning Scheme.*

The concerns of the Panel are acknowledged; however, it is still considered that the Study should be referenced as a Background Document at Clause 74.02.

Background documents are able to be updated or changed after their referencing within the scheme provided, they have no effect on the content of the Planning Scheme. This is outlined in PPN13 (Incorporated and Background Documents). It is considered that the additional work around climate change could be added as an addendum to the background document post approval of the amendment. This will not change the planning scheme in any way and the Study itself provides important context and information about the current revision of the overlays and updated flooding information.

Currently within the Victorian Planning Provisions there is a disconnect around how planning authorities can plan for the current and emerging issues of climate change. State based policy within the Victorian Planning system requires consideration at a high policy level, however there is limited spatial recognition clearly allowable under the current spatial tools (overlays etc), with many current overlays based on past and not future or projected events.

Enquiries have been made to commence the additional work under the guidance of NECMA and undertaken by Water Tech who are the original authors of the Study.

This work may highlight some differences between the current 1% AEP flood modelling and the estimated flood conditions under a climate change scenario. Council must consider this work, in particular when directing future growth of urban settlement in projects like the Draft Low Density and Rural Residential Strategy and may have to adopt a more conservative approach to the direction of settlement.

At the same time, it will be important for Council to consider the best method for representing this information with the Scheme and this may involve further conversations with DELWP. Simply attaching this work as addendum to the Study runs the risk that this information is not front of mind when important land use decisions are being made, which spatial representation can provide.

At present the spatial recognition of two very important environmental hazards specifically relevant to our Municipality are treated in contrast to each other by the Victorian Planning Systems, yet they are both hazards to human life. Planning for



Bushfire including changes to policy and bushfire hazard mapping (Bushfire Management Overlay) is controlled by the State Government and updated by the Minister on a State-wide basis without exhibition or public notice prior to approval.

The recognition of Flooding through the updating or the introduction of Flood Overlays, is not undertaken in a centralized manner and is left to Local Government and Catchment Management Authorities adopting a regular planning scheme amendment process, including full exhibition. For a comprehensive recognition of Flood hazards across Victoria, a more centralized approach must be adopted around the issue of incorporating climate change into future modelling. In the absence of this approach important hazard identification information will not be spatially recognised, at a state level and Council should continue to advocate for this issue to be managed in a more centralised approach with input from all stakeholders.

The planning scheme allows Council to list further strategic planning work that it intends to undertake at Clause 72.04 (Further Strategic Work). It is considered that Council should reference the further strategic work nominated by the Panel at this Clause to ensure its prominence in the scheme:

- That Council and NECMA undertake additional modelling to project the possible climate change impacts on riverine flooding covered by the Wangaratta Urban Waterways Flood Study and include this as an addendum to the Study.

On the basis of the discussion above, the following options are provided for Council to consider in response to recommendations 1,2 and 7:

Option 1: (Recommended)

- Agree to undertake the further climate change modelling and utilise this modelling as a Strategic Planning tool, noting the limitations and impacts.
- Adopt the Amendment with all other Panel recommendations and include the Study as a Background Document at Clause 72.08.
- Clause 72.04 – Include as ‘Further Strategic Work’ the following information:
  - That Council and NECMA undertake additional modelling to project the possible climate change impacts on riverine flooding covered by the Wangaratta Urban Waterways Flood Study and include this as an addendum to the *Wangaratta Urban Waterways Flood Investigation Report (2017)*.

Option 2:

- Agree to undertake the further climate change modelling and utilise this modelling as a Strategic Planning tool, noting the limitations and impacts.
- Accept the Panel’s recommendation and not include the Study Document as a ‘Background Document’.
- Nominate Climate change work as Further Strategic Work at Clause 72.04.

It is recommended that Council proceed with Option 1 (above) to address the concerns of the Panel and to undertake the climate change modelling, whilst still allowing the study to be referenced in the Scheme to provide useful background information to inform decision making around issues of flooding in the Study area. It should be noted that that there are risks in proceeding with Option 1 against

the Panel's recommendation in that the Minister may disagree with Council and not reference the Study as a Background Document.

<i>Panel recommendation 3:</i>	<i>Remove the Land Subject to Inundation Overlay mapping from the island of land at 55 Gravel Pit Road, Wangaratta South circled in blue in Figure 2.</i>
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This recommendation supports the position of NECMA and Council at the Panel following discussion with the landowner. Officers recommend adopting this panel recommendation by changing the change the relevant mapping.

<i>Panel recommendation 4:</i>	<p><i>Amend the Planning Scheme maps as follows:</i></p> <p><i>a) Delete the Flooding Overlay from Map No 37 FO as it applies to 398 Markwood-Tarrowingee Road, Wangaratta (as shown in Figure 3) and apply the Land Subject to Inundation Overlay to the same land on Map No 37 LSIO.</i></p> <p><i>b) Delete the Flooding Overlay from Map No 18 FO as it applies to 95 Usshers Drive, Waldara (as shown in Figure 4) and apply the Land Subject to Inundation Overlay to the same land on Map No 18 LSIO.</i></p>
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This recommendation supports the position of NECMA and Council at the Panel following discussion with the landowner. Officers recommend adopting this panel recommendation by changing the change the relevant mapping.

<i>Panel recommendation 5:</i>	<i>Delete the substantive changes proposed by Goulburn-Murray Water and adopted by Council from the Land Subject to Inundation Overlay schedule.</i>
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Goulburn-Murray Water withdrew their submission to the Amendment prior to the Planning Panel, therefore the proposed changes to the schedules to the overlays designed to accommodate their comments should be removed prior to submission of the Amendment for Approval to the Minister. Officers recommend adopting this panel recommendation by deleting the changes proposed by Goulburn-Murray Water. No Council recommendation is made about this Panel recommendation as Goulburn-Murray Water's proposed changes were not part of the exhibited amendment.

6	<i>Review the Land Subject to Inundation Overlay and the Flooding Overlay schedules to ensure that they meet the current Form and Content requirements for Planning Schemes</i>
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A final check of the schedules to both overlays will be undertaken on lodgement of the Amendment with DELWP to ensure they meet current form and content requirements.

### **Next Steps in the Amendment Process**

Council must consider the recommendations made in the Panel Report. To progress the amendment Council must:

- a) Adopt the amendment as exhibited; or



- b) Adopt the amendment subject to all or some of the recommendations of the Panel; or
- c) Abandon the amendment

The following diagram outlines the steps in the amendment process. The boxes in blue show the steps Council have completed and the boxes in orange show the steps required to finalise this amendment.



### **Implications**

#### **Policy Considerations**

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

#### **Financial Implications**

The planning panel fees cost Council just under \$20,000, which was covered under the current 20/21 FYI budget. A nominal fee is required to lodge the amendment officially with the Minister for approval.

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

### **Options for Consideration**

1. Adopt the amendment with the general changes recommended by the Panel Report, except for the Panel's recommendation 1,2 and 7 and proceed with option 1 as outlined in this report in response to recommendation 1,2 and 7. **(Recommended)**
2. Abandon the amendment **(Not recommended)**. This option is not recommended as it would effectively end the process without implementing important changes to the planning scheme. It is also noted that the Panel Report does not identify any reasons to abandon the amendment.


### **Conclusion**

Wangaratta Planning Scheme Amendment C81 proposes to implement the latest and most accurate flood information for the urban extent of Wangaratta as outlined in the *Wangaratta Urban Waterways Flood Investigation Study Report 2017*. The Panel have supported these elements of the Amendment and the updating of the current flood overlays within the Scheme.

It is acknowledged that the Study does not include climate change modelling and step are being taken to undertake that work. Where the Panel has not provided

support for the amendment, the Panels comments have been considered within this report, however on balance it is considered that there is merit in not accepting those recommendations and proceeding as outlined within this report, specifically the referencing of the study as a background document.

### **Attachments**

- 1 Wangaratta C81 Panel Report [↓](#) 

### 16.3 WANGARATTA ECONOMIC DEVELOPMENT AND TOURISM ADVISORY COMMITTEE - APPOINTMENTS TO COMMITTEE

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Economic Development & Tourism Project Officer  
**File No:** IC21/451

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 on the Wangaratta Economic Development and Tourism Advisory Committee (WEDTAC).

#### **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 2024:***
  - ***The successful candidates are:.....***
2. ***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 three members on the committee had an expiration date of August 2021 but each member has vacated their positions early. An expression of interest process was undertaken to fill these three vacancies. WEDTAC received five applications during this time.

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, export, tourism, logistics and education.

The recommended appointments to WEDTAC will assist in filling gaps within the existing skill set including sustainability, manufacturing, infrastructure, global exports and key tourism sectors such as food and wine. It is important to have a large cross section of skills across the committee to ensure all areas of business acumen are represented.

Attached to this report are copies of the applications, and assessments against the skills matrix for each nominee for WEDTAC (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 on key industries within our municipality

### **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	Expressions of interest were open to the public for a period of 2.5 weeks. These were

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	decision making in a way that is clear, accessible and easy to understand.	advertised through a number of media platforms including the local paper, the Council website, social media, LinkedIn and e-newsletters.
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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 (recommended).
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 it is recommended to appoint three members to WEDTAC. These appointments will assist the committee in continuing to provide Council with advice, feedback and guidance on a range of matters on economic development and tourism within the municipality.

### **Attachments**

- 1 WEDTAC Skills Matrix and Assessment of Nominations - Confidential

**17. SPECIAL COMMITTEE REPORTS**

Nil

**18. ADVISORY COMMITTEE REPORTS**

Nil

## 19. MINUTES OF ADVISORY COMMITTEE MEETINGS

### 19.1 RECORD OF ADVISORY COMMITTEE REPORTS

<b>Meeting Type:</b>	<b>Ordinary Council Meeting</b>
<b>Date of Meeting:</b>	<b>23 March 2021</b>
<b>Author:</b>	<b>Executive Service Coordinator</b>
<b>File Name:</b>	<b>Assemblies of Councillors</b>
<b>File No:</b>	<b>IC21/501</b>

#### Executive Summary

#### Advisory Committee Meetings:

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

1. Arts, Culture, Events and Heritage Advisory Committee Meeting Minutes – 18 January 2021 (endorsed)

#### **RECOMMENDATION:**

***That Council notes the minutes of these Advisory Committees.***

#### Attachments

- 1 Arts, Culture, Events and Heritage Advisory Committee Meeting Minutes (endorsed) - 18 January 2021 [!\[\]\(1f101ad452ef9a3f01bb1e89af34fc34\_img.jpg\)](#) 

## 20. NOTICES OF MOTION

### 20.1 NOTICE OF MOTION NO 66. - CR DAVID FULLER

**Meeting Type:** Ordinary Council Meeting  
**Date of Meeting:** 23 March 2021  
**Author:** Executive Services Coordinator  
**File No:** IC21/573

Cr Fuller has given notice of his intention to move the following motion at the Ordinary Meeting of Council to be held on 23 March 2021:

**Background:**

During the election campaign for the 2020 Local Government Elections, the Victorian Pride Lobby called on all candidates to examine the potential for five pledges to assist and support the LGBTIQ+ community.

In conjunction with that, some candidates, made full or partial commitment to explore these pledges. During the symbolic month of March, in which we acknowledge Mardi Gras, and International Women's Day, order to lead and progress the conversation, I am asking for support from my colleagues, with this motion.

**NOTICE OF MOTION:**

***That Council undertake the following actions:***

- 1. Support our partnership for the Rainbow Ball and its associated agencies, both financially and in kind where appropriate, reviewed annually***
- 2. Initiate a Diversity and Inclusivity Reference Group or Advisory Committee with applicable terms of reference***
- 3. Ask this group to prepare a submission to council as part of the budget and council plan process to initially consider:***
  - a) Application of a form of the Rainbow Flag to relevant public facilities, and potentially on social media platforms, particularly on significant days***
  - b) Support for appropriate members of community to participate in relevant LGBTIQ+ functions and events, either virtually or in person***
  - c) Resources and the ability for council as an organization to consider undertaking the rainbow tick accreditation process***
  - d) Utilizing the Youth Development Officer and the Youth Council in conjunction with relevant agencies, to investigate resources required for an open conversation in the community to identify gaps in diversity and inclusivity, particularly for younger people***
  - e) Subsequent conversations required to ensure our community is supportive, accessible, and inclusive for all, with a report on***



***this due to council in the second quarter of the new financial year.***

**21. URGENT BUSINESS**

**22. PUBLIC QUESTION TIME**

**23. CONFIDENTIAL BUSINESS**

Nil

**24. CLOSURE OF MEETING**

**ATTACHMENTS**



## PROCUREMENT POLICY

Responsible Officer: <b>Procurement Specialist</b>	Adoption Date:	
	Approved By:	
Authorising Officer: <b>Director Corporate Services</b>	Review Date:	Draft
	Policy Type	Major Council Policy

### PURPOSE

The *Local Government Act 1989* (the Act) requires Rural City of Wangaratta (Council) to comply with an approved Procurement Policy (Policy) that applies to the purchase of all goods, services and works.

The purpose of this Policy is to:

- provide policy and guidance to the Council to ensure consistency and control over Procurement activities;
- demonstrate accountability to ratepayers;
- demonstrate the application of best practice principles; and
- increase the probability of obtaining the right outcome when purchasing goods and services.

### OBJECTIVES

The objectives of this Policy are to:

- establish a framework to achieve value for money and continuous improvement in the provision of services to the community;
- ensure Council resources are used efficiently and effectively;
- achieve compliance with relevant legislative requirements, including probity, transparency, accountability and risk management;
- support the Council's corporate strategies; and
- use strategic procurement practices and innovative solutions, including making use of collaborative and partnership opportunities.
- encourage the procurement of environmentally sustainable goods, services and works
- encourage the use of local suppliers

## LEGISLATIVE COMPLIANCE

The Council's procurement activities shall be carried out to the professional standards required by best practice and in compliance with:

- The Act;
- Council's policies;
- Council's Code of Conduct; and
- Local Government Procurement Best Practice Guidelines.

## SCOPE

This Policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council staff and all persons undertaking procurement on behalf of Council.

## CONDUCT OF COUNCILLORS AND COUNCIL STAFF

Councillors, Council staff and all persons undertaking procurement on behalf of Council are to ensure they:

- Conduct themselves ethically and with integrity;
- Comply with Council's Gifts, Benefits and Hospitality Policy;
- Declare, and effectively manage, real, perceived and potential Conflicts of Interest;
- Maintain information security and confidentiality; and
- Comply with the relevant Codes of Conduct for Councillors and Council staff.

It is a requirement of Council that all Council staff involved in preparing a request for quote or request for tender, evaluating a proposal or placing a purchase order be trained in the use of, and comply with, this Policy.

## PRINCIPLES

All procurement shall be conducted in accordance with the following best principles, this Policy as a whole, and Council's Procurement Guidelines.

### VALUE FOR MONEY

Council will consider both cost and non-cost factors in determining value for money, including:

- Advancing Council's priorities;
- Fitness for purpose;
- Quality;
- Service and support; and
- Whole of life costs

Under section 186(4) of the Act, Council is not obligated to accept the lowest, or any, price when considering value for money.

#### **OPEN AND FAIR COMPETITION**

Council will treat all current and prospective suppliers and contractors fairly and in an open and transparent manner without bias, or perception of bias.

#### **ACCOUNTABILITY AND DELEGATIONS**

Councils Instrument of Delegation determines the levels of staff authority required for expenditure.

Measures which intentionally seek to avoid the requirement to give public notice, such as contract splitting, placing multiple orders, seeking multiple quotations with a single supplier, or engaging a single supplier under different guises, are considered to breach the requirement to call public tenders where threshold values would otherwise be reached.

#### **RISK MANAGEMENT AND OCCUPATIONAL HEALTH AND SAFETY REQUIREMENTS**

Council will manage all aspects of its procurement processes in accordance with its Risk Management Policy and Occupational Health and Safety Policy in such a way as to minimise risk to a minimum standard required by law, or in accordance with relevant Australian Standards where applicable.

Council requires all contractors and service providers to comply with all legislative requirements, including but not limited to, their obligations under the Occupational Health and Safety Act 2004 (Vic). These are mandatory, and any non-compliance will disqualify prospective suppliers immediately.

#### **PROBITY**

Council's procurement activities shall be performed with integrity and in a manner able to withstand the closest possible audit scrutiny.

#### **CONFLICT OF INTEREST**

Councillors and Council staff shall at all times avoid situations in which private interests conflict, or might reasonably be thought to conflict, or have the potential to conflict, with their Council duties.

Councillors and Council staff involved in the procurement process, must:

- **Avoid** conflicts where possible, whether actual, potential or perceived, arising between their official duties and their private interests. Private interests include the financial and other interests of Councillors and Council Staff, plus their relatives and close associates;
- **Declare** that there is no conflict of interest. Where future conflicts, or relevant private interests arise. Council Staff must make their manager, or the chairperson of the relevant tender assessment panel or board aware and allow them to decide whether the officer should continue to be involved in the specific Procurement exercise;
- **Observe** Council guidelines on how to prevent or deal with conflict of interest situations; and not take advantage of any tender related information whether or not for personal gain.

## LOCAL CONTENT

Council is committed to the strategic use of local suppliers to encourage economic development where such purchases are justified on value for money grounds, while remaining compliant with the Competition and Consumer Act 2010 and other fair trading legislation requirements.

Wherever practicable, Council will fully examine the benefits available through purchasing goods, services and works from suppliers and contractors within a 100km radius from Wangaratta.

Council will encourage its vendors to also source their own goods, materials and services from suppliers and contractors within a 100km radius in so far as this is feasible and commercially viable.

## SUSTAINABILITY

Council will aim to make purchases that have the least impact on the environment and human health, within the context of purchasing on a value for money basis.

## TENDERS AND QUOTATIONS

Tenders and Quotations shall be conducted in accordance with the Act, this Policy and the Procurement Manual, unless approved exemptions are available.

All values are for the full contract term (including optional terms), and including GST, unless specified otherwise.

## PURCHASING METHODS

Councils' standard methods for purchasing goods, services and works shall be by:

- Petty cash;
- Purchasing cards;
- Purchase order following a quotation or tender process; or
- Under purchasing schemes including collaborative purchasing arrangements with other Councils, and commercial schemes such as those provided through Procurement Australia (PA), Municipal Association of Victoria (MAV), State Procurement Contracts etc

## PURCHASING UNDER \$150,000

For procurements under \$150,000 Council staff are required to follow processes in accordance with the Procurement Guidelines, and within approved delegations.

Purchase orders must be raised in Council's Technology One finance system. Reference to the quote is to be included on the purchase order.

A public tender process may be used for values less than \$150,000 if this is within Council's interest and will produce a better outcome under the context of this Policy.

**PURCHASING OVER \$150,000**

For procurement over \$150,000 Council staff are required to follow processes in accordance with the Procurement Guidelines, and within approved delegations:

- a) For procurement where there is an existing Panel Contract, staff are required to:
  - Obtain quotes from suitable Panel members;
  - Raise a Purchase order in Council's Technology One finance system, detailing any milestone payments. Reference to the quote is to be included on the purchase order.
- b) Where there is a Contract in place and Council has appointed a tendering agent, for example Procurement Australia, staff are required to:
  - Obtain quotes from the Contracted Suppliers;
  - Raise a Purchase order in Council's Technology One finance system, detailing any milestone payments. Reference to the quote is to be included on the purchase order.
- c) Where no Contract exists, Council may determine to seek Expressions of Interest where there is likely to be many tenderers, tendering will be costly, or the procurement is complex, or there is uncertainty as to the willingness and/or interest of suppliers or contractors to undertake the proposed works.

Where Expressions of Interest are to be sought, staff are required to:

- Use the appropriate Expression of Interest template;
  - Conduct a publicly advertised, open and competitive Expression of Interest process in accordance with the Procurement Guidelines;
  - Once Expressions of Interest have been received, develop the Request for Tender using the appropriate template;
  - Conduct a closed tender in accordance with the Procurement Guidelines;
  - Raise a Purchase orders in Council's Technology One finance system, detailing any milestone payments. Reference to the quote is to be included on the purchase order.
- d) Where no Contract exists, and Expressions of Interest are not sought, staff are required to:
    - Use the appropriate Request for Tender template;
    - Conduct a publicly advertised, open and competitive Tender in accordance with the Procurement Guidelines;
    - Raise a Purchase orders in Council's Technology One finance system, detailing any milestone payments. Reference to the quote is to be included on the purchase order.

Publicly advertised Tenders will be listed on Council's website and in the Wangaratta Chronicle newspaper at a minimum.

Exemptions for advertising are set out in Section 186(5 and 5A) of the Act.

## **TENDER EVALUATIONS**

All Quotations and Tenders are to be evaluated in accordance with the Procurement Guidelines by an evaluation panel of no less than two (2) persons.

The evaluation panel will be established to independently evaluate each tender or quotation submission against the selection criteria.

Council staff must:

- Not accept late tenders under any circumstance;
- Appoint an independent Council employee onto an evaluation panel for all Tenders over \$1 million, or that are considered high risk or high profile under this amount, to ensure the procedural integrity of the procurement process has been maintained;
- Appoint a Probity Auditor onto an evaluation panel for all Tenders over \$5 million, or that are considered high risk or high profile under this amount;

## **POST- TENDER NEGOTIATIONS**

Once a preferred tenderer, or shortlist of tenderers, has been selected through an evaluation panel negotiations may be conducted in order to better meet or achieve Councils' needs, providing negotiations remain within the intent and scope of the tender.

## **VARIATIONS**

Contract and scope variations must be approved in accordance with the Instrument of Delegations based on the revised lump sum contract value.

The total sum of contract variations worth 10% or more of the original lump sum contract value are to be assigned to the higher delegation level.

## **EXEMPTIONS, BREACHES AND NON-CONFORMANCE**

### **EXEMPTIONS FROM THE LOCAL GOVERNMENT ACT**

The Local Government Act sets out the occasions where Council is exempt from carrying out a public tender or expression of interest for contracts valued at or over \$150,000 (for goods or services) or \$200,000 (for works). Council officers must obtain the required exemptions and submit all approvals for inclusion in Council's Exemptions Register. Requirements for exemption for tender are limited by Section 186(1) of the Local Government Act and are outlined in Section 3.7 of the Victorian Local Government Best Practice Procurement Guidelines 2013.

### **BREACHES OF THE LOCAL GOVERNMENT ACT**

Council will disclose in its annual report and on its website where a document can be inspected by the public listing any contracts made by Council in breach of the Local Government Act within that financial year.



**NON-CONFORMANCE WITH COUNCIL'S PROCUREMENT GUIDELINES**

Council staff are required to obtain internal approval for non-conformance to Council's Procurement Guidelines in advance of any quote or tender being approved. These non-conformances will be registered to enable continual review and ensure Council's policy and procedures remain fit for purpose.

**DISPUTE RESOLUTION**

All Council contracts shall incorporate dispute management and alternative dispute resolution provisions to minimise the chance of disputes getting out of hand and leading to legal action.

**REVIEW**

Any change or update which materially impacts and alters this policy must be by Council approval following review by the Corporate Management Team.

Under the Act Council must review and approve the Policy within twelve (12) months of adoption.



## Major Council Policy Community Impact Statement

### Procurement Policy

Council provides the following information to the community in respect of the proposed major council policy.

#### PART A – General

##### Background

Council is considering adopting a new major council policy, the Procurement Policy (the policy), that establishes a procurement framework for Council.

##### Objectives

Section 186A (7) of the Local Government Act 1989 (the Act) requires Council to review the policy at least once in each financial year, having regard to any guidelines made by the Minister with respect to form or content. Any changes arising from that review must be adopted by Council.

The current policy has been formulated with regard to the Victorian Local Government Best Practice Procurement Guidelines 2013 and the Municipal Association of Victoria Model Procurement Policy (Updated) August 2011.

Council officers have reviewed the current policy and have updated the format in line with the new Council branding guidelines, and after community consultation last year a sustainability section was added to the procurement policy.

The objectives of the policy are set out in the draft of the policy. Of particular note is the purpose of the Procurement Framework to achieve value for money and continuous improvement in the provision of services to the community.

#### PART B – Overall Impact Assessment

The Policy will ensure that all procurement activities are undertaken in a manner which is consistent with the requirements of the Local Government Act 1989.

The policy has been adapted from the previous Wangaratta Rural City Council Procurement Policy 2020

##### Measures of success of the policy

The success of the policy will be best measured by the extent to which it improves the efficiency and effectiveness of procurement activities.

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Major Council Policy Community Impact Statement  
Procurement Policy

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**Legislative context**

There is no existing local legislation that could be adapted for this purpose.

**Existing legislation that might be used instead**

There is no existing local legislation that could be adapted for this purpose.

**State legislation more appropriate**

There is no existing State legislation that could be adapted for this purpose.

**Overlap of existing legislation**

There is no overlap with existing legislation or policies.

**Overlap of planning scheme**

The policy has no relevance to the Planning Scheme.

**Risk assessment**

The policy enhances the probity of Council's procurement processes.

The approach addresses the risk that procurement activities may inadvertently breach the Local Government Act 1989.

**Legislative approach adopted**

The policy operates in conjunction with the relevant sections of the Local Government Act 1989.

**Restriction of competition**

Council has conducted a review of the policy in accordance with National Competition Principles. The results of that review are attached.

The policy has no National Competition Policy implications.

**Penalties**

The policy imposes an obligation only on Council itself and therefore no practical sanction can apply.

**Permits**

The policy does not make provision for the issue of permits.

**Fees**

The policy does not make provision for the charging of fees.

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Major Council Policy Community Impact Statement  
Procurement Policy

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**Comparison with neighbouring and like Councils**

The policy is a standard approach as adopted by many Councils. It is based on a review of other Council Procurement Policies.

**Charter of Human Rights**

Council has assessed the policy for compatibility with the Charter of Human Rights and Responsibilities. A report of this assessment is attached.

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

**Consultation**

In accordance with Council's Major Council Policy Consultation Local Law, Council will invite submissions from interested parties.

All submissions requesting changes will be considered by Council prior to the policy being adopted.

**Submissions**

Submissions are invited from the community in regards to the policy in accordance with clause 7 of the Major Council Policy Consultation Local Law No. 4 of 2015.

A notice to this effect will be advertised in the Chronicle newspaper, and on Council's website, indicating that submissions will be received for 28 days.

Persons making submissions can request an opportunity to address Council. A Special Committee of Council will be established to hear submissions on the policy that request change to the policy following the close of submissions.

Any submissions requesting change to the policy will be considered by Council at the Ordinary Meeting of Council scheduled for Tuesday 25 May 2021. If no submissions requesting change to the policy are received, then Council will adopt the Procurement Policy 2021 without further resolution.

**Part C – Specific Provisions****Objectives**

The objectives have been specified.

**Legislative Compliance**

Relevant acts have been documented.

**Application**

The policy applies to all Councillors and Council Officers.

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Major Council Policy Community Impact Statement  
Procurement Policy

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This provision ensures that there is adequate definition of the scope of the policy.

**Procurement Principles**

Council will apply the following fundamental best practice principles to every procurement, irrespective of the value and complexity of that procurement, including:

- Best value, encompassing the best combination of quality, cost (including whole of life costs) and environmental, social and economic sustainability
- Open and fair competition
- Purchasing from local businesses where such purchases are justified on value for money grounds and are compliant with the Competition and Consumer Act 2010
- Accountability
- Risk management
- Probity and transparency
- Workplace health and safety.

Council is also committed to reducing its environmental impacts. Council will encourage the design and use of products and services that have been produced to ethical standards, which have minimal impact on the environment and human health. This includes, but is not limited to:

- Waste management
- Recycling
- Energy management
- Water conservation
- Green building design
- Environmentally sustainable procurement.



## Major Council Policy Human Rights Charter Assessment

### Procurement Policy

As from 1 January 2008 all public authorities (including Councils) are required to act in accordance with the Human Rights Charter, and to consider human rights when making a decision.

The Charter is a law that protects the rights of all people in Victoria. It introduces standards and a framework to assist public authorities to consider the rights of all interested parties, and to be better able to strike a balance between an individual's rights and those of competing public interests.

The rights in the Charter may be subject to reasonable limitations in order to achieve this balance. As with all discerning decision making, if limitations are applied, this must be documented.

There are twenty rights listed in the Charter that promote the principles of freedom, respect, equality and dignity. These are listed at the end of this document.

Issues and Purpose	Rights Impacted Positive	Rights impacted Negative	Justification and alternatives
OBJECTIVES	Nil	Nil	No impact as it sets out the purpose of the policy.
APPLICATION	Nil	Nil	No impact as it sets out who, what and when the policy applies.
POLICY	Nil	Nil	No impact as the policy sets out the provisions for the conduct of procurement activities. There are no restrictions on human rights.
DEFINITIONS	Nil	Nil	Provides relevant definitions to aid understanding of the policy provisions.

### Victoria's Charter of Human Rights and Responsibilities

The Charter sets out the rights, freedoms and responsibilities that are shared by all Victorians and protected by law.

The Charter protects the following rights in Victoria:

- Right to be recognised and treated equally before the law;
- Right to life and to not have your life taken without a lawful reason;
- Protection from cruel treatment or punishment, including torture and medical treatment without consent;
- Freedom from forced work or slavery;
- Right to move freely within Victoria, to come into and leave Victoria, and to choose where to live;
- Right to privacy and to protect your reputation;
- Freedom of thought, conscience, religion and belief;

## Major Council Policy Human Rights Charter Assessment

Procurement Policy

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- Right to hold an opinion and freedom of expression;
- Right to gather together, take part in a peaceful demonstration or protest, and to join groups such as political, sport or union groups;
- Protection of families and children;
- Right to take part in public life, including the right to vote;
- Right to enjoy your culture, practise your religion, and speak your language;
- Right not to have your property taken away, unless the law says it can be taken;
- Right not to be arrested or detained unfairly, and right to the security of person, such as protection from harassment and threats in everyday life;
- Right to be treated humanely when arrested or detained ;
- Protection of children in the criminal process;
- Right to a fair hearing ;
- Rights in criminal proceedings including the right to be presumed innocent until proved guilty; and
- Right not to be tried or punished more than once for the same crime.



## Major Council Policy National Competition Policy Assessment

### Procurement Policy

#### Introduction

A policy must not restrict competition unless it can be demonstrated that:-

- The benefits of the restrictions to the community as a whole outweigh the costs; and
- The objectives of the policy can only be achieved by restricting competition.

This report applies the competition test to the Procurement Policy.

#### Objectives, Legislative Compliance and Application

These sections set out the objectives, legislative compliance and application elements of the policy.

*It does not contain any restriction on competition.*

#### Policy

This section sets out the procurement policy settings and supporting processes that will guide the conduct of Council and staff.

*It does not contain any restriction on competition*



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## Instrument of delegation to members of Council staff

Responsible Officer	Adoption Date	March 2021
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

<b>Abbreviation</b>		<b>Position (or any successor position)</b>
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 23 March 2021; 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

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Instrument of delegation to members of  
Council staff

- 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) strategyadopted 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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<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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	

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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

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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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



<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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	

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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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	

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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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

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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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-interring 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	

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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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	

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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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	

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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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	

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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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	



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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Act 2003</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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	

<b>Cemeteries and Crematoria Regulations 2015</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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 mausolea 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	

<b>Cemeteries and Crematoria Regulations 2015</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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, clause5(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, clause6(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, clause7(1)	power to give directions regarding the dressing of places of interment and memorials	SCFS, MFS, HC	see note above regarding model rules

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Instrument of delegation to members of  
Council staff

<b>Cemeteries and Crematoria Regulations 2015</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
Schedule 2, clause8	power to approve certain mementos on a memorial	SCFS, MFS, HC	see note above regarding model rules
Schedule 2, clause11(1)	power to remove objects from a memorial or place of interment	SCFS, MFS, HC	see note above regarding model rules
Schedule 2, clause11(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, clause12	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, clause14	power to approve an animal to enter into or remain in a cemetery	SCFS, MFS, HC	see note above regarding model rules
Schedule 2, clause16(1)	power to approve construction and building within a cemetery	DIS, MFS	see note above regarding model rules
Schedule 2, clause17(1)	power to approve action to disturb or demolish property of the cemetery trust	MFS, HC	see note above regarding model rules
Schedule 2, clause18(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

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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

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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.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



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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	

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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.36A	Power to accept an application for registration or notification using online portal	EHO, CCC, MBP&C	Where Council is the registration authority Note: This provision commences on 1 July 2021, unless proclaimed earlier

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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.36B	Duty to pay the charge for use of online portal	CCC, MBP&C	Where Council is the registration authority Note: This provision commences on 1 July 2021, unless proclaimed earlier
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
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

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Instrument of delegation to members of  
Council staff

<b>Food Act 1984</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision</b>	<b>Thing delegated</b>	<b>Delegate</b>	<b>Conditions &amp; limitations</b>
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
s.38G(1)	Power to require notification of change of the food safety program type used for the food premises	EHO, CCC	Where Council is the registration authority Note: This provision commences on 1 July 2021, unless proclaimed earlier
s.38G(2)	Power to require the proprietor of the food premises to comply with any requirement of the Act	EHO, CCC	Where Council is the registration authority Note: This provision commences on 1 July 2021, unless proclaimed earlier
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	

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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.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.40F	Power to cancel registration of food premises	MBP&C, DDS	Where Council is the registration authority Note: This provision commences on 1 July 2021, unless proclaimed earlier
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

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Instrument of delegation to members of  
Council staff

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

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Instrument of delegation to members of  
Council staff

Local Government Act 1989			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
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.

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Instrument of delegation to members of  
Council staff

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	



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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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.

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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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

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Instrument of delegation to members of  
Council staff

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



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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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

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Instrument of delegation to members of  
Council staff

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

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Instrument of delegation to members of  
Council staff

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

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Instrument of delegation to members of  
Council staff

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  function of receiving any part of a land equalisation amount required for the acquisition of outer public purpose land	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

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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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

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Instrument of delegation to members of  
Council staff

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 collection 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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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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

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Instrument of delegation to members of  
Council staff

Planning and Environment Act 1987			
Column 1	Column 2	Column 3	Column 4
Provision	Thing delegated	Delegate	Conditions & limitations
s46Q(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	

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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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

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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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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Instrument of delegation to members of  
Council staff

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	

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Instrument of delegation to members of  
Council staff

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	



## Changes to the instrument of delegation by Council to members of council staff

For the updated instrument to be adopted 23 March 2021

Change	Effect of change
<p><i>Food Act 1984</i> Sections 36A, 36B, 38G(1), 38G(2) and 40F have been inserted and will commence on 1 July 2021 unless proclaimed earlier.</p>	<p>The changes have resulted from the <i>Food Amendment Act 2020</i>. Section 36 relates to enabling the Secretary to require councils to pay a charge for any use made by them of an online portal for the registration of food premises.</p> <ul style="list-style-type: none"> <li>Section 36A is the power to use and accept online portal registrations and is recommended to be delegated to those currently delegated to accept hard copy registration applications.</li> <li>Section 36B provides that if a council uses the online portal, then the council must pay the user charge that is declared by the Secretary and is recommended to be delegated to officers responsible for the budget and fees and charges.</li> </ul> <p>Section 38G requires the proprietor of a registered food premises to notify the relevant registration authority (council) if there is a change in food safety program type for the food premises. Section 38G(2) requires the proprietor to notify the registration authority of the change within 14 days of it occurring. These powers are recommended to be delegated to those officers that currently hold powers generally to require proprietors to comply with this Act.</p> <p>Section 40F provides that the registration authority, council, may cancel the registration of a food premises if satisfied that the applicant proprietor has permanently ceased to operate a food business from the premises. Registration can no longer be transferred to an incoming proprietor of a food business and a person who proposes to commence to operate a food business from premises that were registered by the applicant proprietor may apply for registration of the food premises. This is a significant step and is recommended to be delegated to the relevant director and manager.</p>
<p><i>Local Government Act 1989</i> (LGA 1989) Section 181H has been removed.</p>	<p>The power now lies with the CEO. With the repeal of section 181H(2) of the LGA 1989, the CEO may now sub-delegate the power to enter into an environmental upgrade agreement and declare and levy an environmental upgrade charge to a member of Council staff under section 181H of the LGA 1989 and section 47 of the <i>Local Government Act 2020</i>.</p>
<p><i>Residential Tenancies Act 1997</i> Updated the commencement date of the new provisions to 27 April 2021 unless proclaimed earlier</p>	<p>Confirms a date change for the commencement of provisions.</p>
<p><i>Road Management Act 2004</i> Section 42A has been updated.</p>	<p>Removed reference to <i>VicRoads</i> and replaced it with <i>Head, Transport of Victoria</i>.</p>

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**Dated** 22 - 6 - 2018

**Constitution**

***CORPORATIONS ACT 2001 (CTH)***  
**COMPANY LIMITED BY SHARES**

**Wangaratta Livestock Exchange Pty Ltd**  
ACN 626 999 308

[7145984; 19917669\_6]

**Interstate offices**  
Canberra Sydney  
Affiliated offices around the world through the  
Advoc network - www.advoc.com





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## Constitution

### *CORPORATIONS ACT 2001 (Cth)*

**Wangaratta Livestock Exchange Pty Ltd ACN 626 999 308**

**A Company limited by Shares**

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#### **1. Definitions**

In this Constitution:

**Act** means the *Corporations Act 2001 (Cth)*.

**ASIC** means the Australian Securities and Investment Commission.

**Business Day** means a day (other than a Saturday or Sunday) on which banks (as defined in the *Banking Act 1959 (Cth)*) are generally open for business.

**Constitution** means this Constitution and any supplementary, substitute or amended Constitution for the time being in force.

**Company** means the abovenamed company.

**Delegate** means a person appointed as a delegate of the Directors in accordance with clause 17.8.

**Director** means a Director for the time being of the Company including an attorney for a Director or alternate Director.

**Directors** means all Directors for the time being of the Company and if there is only one Director, that Director.

**Holding Company** has the meaning given in section 9 of the Act.

**Member** means a holder of Shares.

**Members** means all Members for the time being of the Company and if there is only one Member, that Member.

**Nominated Interest Rate** means the interest rate per annum calculated as the National Australia Bank Limited Base Rate plus 2% per annum.

**Seal** means the common seal of the Company and includes any official seal of the Company.

**Secretary** means any person appointed to perform the duties of a secretary of the Company.

**Shares** means shares in the capital of the Company.

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Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.

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**2. Name of the Company**

The name of the Company is specified at the top of page one of this Constitution.

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**3. Liability of Members**

The liability of Members is limited.

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**4. Limitations on Company****4.1 Members**

The Company limits to not more than 50 the number of its Members, counting joint holders of Shares as one person and not counting any person who is employed by the Company or any of its subsidiaries or any person who was while so employed and since then has continued to be, a Member of the Company.

**4.2 Subscription**

The Company prohibits:

4.2.1 any invitation to the public to subscribe for; and

4.2.2 any offer to the public to accept subscriptions for,

any Shares in, or debentures of, the Company.

**4.3 Deposits**

The Company prohibits any invitation to the public to deposit money with, and any offer to the public to accept deposits of, money with the Company for fixed periods or payable at call, whether bearing or not bearing interest.

**4.4 Prohibition on Borrowing**

The Company must not borrow money or charge any property or business of the Company or issue debentures or give any other security for a debt, liability or obligation of the Company.

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**5. Replaceable Rules**

Each of the sections or sub-sections of the Act which would apply to the Company as a replaceable rule within the meaning of the Act, if not for this clause, are displaced and do not apply to the Company.

## **6. Share capital and variation of rights**

### **6.1 General**

- 6.1.1 Shares in the Company do not have a par value. The Directors will unanimously determine the issue price of all Shares issued.
- 6.1.2 Shares issued will be of a class specified in the Schedule or any other class permitted by this Constitution, provided that the directors unanimously agree as to the class of shares to be issued.
- 6.1.3 Without prejudice to any special rights previously conferred on the holders of any existing Shares or class of Shares but subject to the Act, Shares may only be issued with the unanimous approval of the Directors and any such Shares may be issued with such preferred, deferred or other special rights or such restrictions, whether with regard to dividend, voting, return of capital or otherwise, as the Directors unanimously determine.
- 6.1.4 Subject to the Act and this Constitution, in particular, clauses 6.1.1, 6.1.2 and 9, Shares shall be under the control of the Directors, so that only with the unanimous approval of the Directors:
  - (a) Shares may be allotted or disposed of and options may be granted in respect of Shares, to such persons and on such terms and conditions and at such time, and upon such terms of payment, whether in cash or otherwise, as the Directors may unanimously determine; and
  - (b) Shares may be issued as fully or partly paid and may be issued or allotted as part payment for any property acquired by the Company or in return for any services rendered to the Company.

### **6.2 Preference Shares**

Subject to the Act and this Constitution, the Directors may by unanimous agreement issue any preference Shares on the terms that they are, or at the option of the Company are, liable to be redeemed.

### **6.3 Class Rights**

- 6.3.1 The rights attached to Shares in a class of shares may be varied or cancelled only by special resolution of the Company and:
  - (a) by special resolution passed at a meeting of the class of Members holding Shares in the class; or
  - (b) with the written consent of Members with at least 75% of the votes in the class.
- 6.3.2 If the Shares in a class of Shares are divided into further classes, and after division the rights attached to all of those Shares are not the same:
  - (a) the division is taken to vary the rights attached to every Share, that was in the class existing before the division; and
  - (b) Members who hold Shares to which the same rights are attached after the division form a separate class.

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- 6.3.3 If the rights attached to some of the Shares in a class of Shares are varied:
- (a) the variation is taken to vary the rights attached to every other Share that was in the class existing before the variation; and
  - (b) Members who hold Shares to which the same rights are attached after the variation form a separate class.

#### **6.4 Recognition of Shares Held on Trust**

- 6.4.1 Except as required by the Act, the Company shall not recognise a person as holding a Share upon any trust.
- 6.4.2 The Company is not bound by or compelled in any way to recognise (whether it has notice of the interest or rights concerned) any equitable, contingent, future or partial interest in any Share or unit of a Share or (except as otherwise provided by this Constitution or by the Act) any other right in respect of a Share except an absolute right of ownership in the registered holder.

#### **6.5 Brokerage or Commission**

The Company may pay brokerage or commission to a person in respect of that person or another person agreeing to take up Shares in the Company.

#### **6.6 Entitlement to Share Certificates**

- 6.6.1 A person whose name is entered as a Member in the register of Members is entitled to receive a certificate in respect of his or her Shares in accordance with the Act but, in respect of a Share or Shares held jointly by several persons, the Company is not bound to issue more than one certificate.
- 6.6.2 Delivery of a certificate for a Share to one of several joint holders is sufficient delivery to all such holders.

#### **6.7 Lost or Destroyed Certificates**

Upon the loss or destruction of a Share certificate, it may be renewed upon payment of a fee not exceeding the prescribed amount pursuant to the Act and on provision of:

- 6.7.1 a statement in writing that the certificate has been lost or destroyed, and has not been pledged, sold or otherwise disposed of and, if lost, that proper searches have been made; and
- 6.7.2 an undertaking in writing that if it is found or received by the owner it will be returned to the Company.

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### **7. Liens**

#### **7.1 First and Paramount Liens**

- 7.1.1 The Company has a first and paramount lien on every Share (not being a fully paid Share) for all money (whether presently payable or not) called or payable at a fixed time in respect of that Share.
- 7.1.2 The Company also has a first and paramount lien on all Shares (other than fully paid Shares) registered in the name of a sole holder for all money presently payable by him or her or his or her estate to the Company.



7.1.3 The Directors may at any time exempt a Share wholly or in part from the provisions of this clause.

7.1.4 The Company's lien (if any) on a Share extends to all dividends payable in respect of that Share.

## **7.2 Sale of Shares Over Which Company Has a Lien**

7.2.1 Subject to clause 7.2.2, the Company may sell, in such manner as the Directors agree and think fit, any Shares on which the Company has a lien.

7.2.2 A Share on which the Company has a lien shall not be sold unless:

- (a) the Directors unanimously agree to the sale;
- (b) a sum in respect of which the lien exists is presently payable; and
- (c) the Company has, not less than 14 days before the date of the sale, given to the registered holder for the time being of that Share or the person entitled to that Share by reason of the death or bankruptcy of the registered holder, a notice in writing setting out, and demanding payment of, such part of the amount in respect of which the lien exists as is presently payable.

## **7.3 Method of Sale**

7.3.1 For the purpose of giving effect to a sale referred to in clause 7.2, the Directors may authorise a person to transfer the Shares sold to the purchaser of the Shares.

7.3.2 The Company shall register the purchaser as the holder of the Shares comprised in any such transfer and the purchaser is not bound to see the application of the purchase money.

7.3.3 The title of the purchaser to the Shares is not affected by any irregularity or invalidity in connection with the sale.

## **7.4 Proceeds of Sale**

The proceeds of a sale referred to in clause 7.2 shall be applied by the Company in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue (if any) shall (subject to any like lien for sums not presently payable that existed over the Shares before the sale) be paid to the person entitled to the Shares at the date of the sale.

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## **8. Calls on Shares**

### **8.1 General**

8.1.1 The Directors may make calls upon the Members in respect of any money unpaid on their Shares, provided that any call is in accordance with the terms on which the Shares are on issue and that no call exceeds one-quarter of the sum of the nominal values of the Shares or will be payable earlier than one month from the date fixed for the payment of the last preceding call.

8.1.2 Each Member shall, upon receiving at least 14 days' notice specifying the time or times and place of payment, pay to the Company at the time or times and place so specified the amount called on his or her Shares.

8.1.3 The Directors may revoke or postpone a call.

**8.2 When Call Made**

A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed and may be required to be paid by instalments.

**8.3 Calls on Joint Holders**

The joint holders of a Share are jointly and severally liable to pay all calls in respect of the Share.

**8.4 Interest on Unpaid Calls**

If a sum called in respect of a Share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment of the sum to the time of actual payment at such rate not exceeding the Nominated Interest Rate as the Directors determine, but the Directors may waive payment of that interest wholly or in part.

**8.5 Deemed Calls**

Any sum that, by the terms of issue of a Share, becomes payable on allotment or at a fixed date shall for the purposes of this Constitution be deemed to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable, and, in case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

**8.6 Discretion regarding Calls**

The Directors may, on the issue of Shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

**8.7 Payments Made Without Calls**

8.7.1 The Directors may accept from a Member the whole or a part of the amount unpaid on a Share although no part of that amount has been called up.

8.7.2 The Directors may authorise payment by the Company of interest upon the whole or any part of an amount so accepted, until the amount becomes payable, at such rate, not exceeding the prescribed rate, as is agreed upon between the Directors and the Member paying the sum.

8.7.3 For the purposes of clause 8.7.2, the prescribed rate of interest is:

- (a) if the Company has, by resolution, fixed a rate, the rate so fixed; and
- (b) in any other case, the Nominated Interest Rate.

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**9. Transfer of Shares**

**9.1 General**

9.1.1 A member may only transfer all or any of his or her Shares upon obtaining the unanimous approval of the Directors to the proposed transfer.

9.1.2 Subject to this Constitution, a Member may transfer all or any of his or her Shares by instrument in writing in any usual or common form or in any other form that the Directors unanimously approve.

9.1.3 An instrument of transfer referred to in clause 9.1.2 shall be executed by or on behalf of both the transferor and the transferee.

9.1.4 A transferor of Shares remains the holder of the Shares transferred until the transfer is registered and the name of the transferee is entered in the register of Members in respect of the Shares.

## **9.2 Mechanism for Transfers**

The instrument of transfer must be left for registration at the registered office of the Company, together with such fee (if any) not exceeding the prescribed amount pursuant to the Act as the Directors require, accompanied by the certificate of the Shares to which it relates and such other information as the Directors properly require to show the right of the transferor to make the transfer, and thereupon the Company will, subject to any powers vested in the Directors by this Constitution, register the transferee as a Member.

## **9.3 Directors' Discretion**

The Directors may refuse to register a transfer of Shares, without being bound to assign any reason for such refusal and may also decline to register any transfer of Shares on which the Company has a lien or any transfer which is not accompanied by the certificate for the Shares to which the transfer relates.

## **9.4 Suspension of Registration of Transfers**

The registration of transfers may be suspended at such times and for such periods as the Directors from time to time determine not exceeding in the whole 30 days in any year.

## **9.5 Notice of Refusal to Register Transfer**

If the Company refuses to register a transfer of Shares it shall within 2 months after the date on which the transfer was lodged send the transferee a notice of the refusal.

## **9.6 Instruments of Transfer**

All instruments of transfer which are registered by the Company shall be retained by the Company, but any instrument of transfer which the Directors have refused to register shall, except in the case of fraud, be returned to the person who deposited it with the Company.

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## **10. Transmission of Shares**

### **10.1 General**

In the case of the death of a Member, the survivor where the deceased was a joint holder, and the legal personal representatives of the deceased where he or she was a sole holder, shall be the only persons recognised by the Company as having any title to his or her interest in the Shares, but this clause 10.1 does not release the estate of a deceased joint holder from any liability in respect of a Share that had been jointly held by him or her with other persons.

**10.2 Registration of Transmission**

- 10.2.1 Subject to the *Bankruptcy Act 1966* (Cth), a person becoming entitled to a Share in consequence of the death or bankruptcy of a Member may, upon such information being produced as is properly required by the Directors, elect either to be registered him or herself as holder of the Share or to have some other person nominated by him or her registered as the transferee of the Share.
- 10.2.2 If the person becoming entitled elects to be registered him or herself, he or she shall deliver or send to the Company a notice in writing signed by him or her stating that he or she so elects.
- 10.2.3 If he or she elects to have another person registered, he or she shall execute a transfer of the Share to that other person.
- 10.2.4 All the limitations, restrictions and provisions of this Constitution relating to the right to transfer Shares and the registration of transfers of Shares are applicable to any such notice or transfer, subject to the Act, as if the death or bankruptcy of the Member had not occurred and the notice or transfer were a transfer signed by that Member.

**10.3 Right to Dividends**

- 10.3.1 Where the registered holder of a Share dies or becomes bankrupt, his or her personal representative or the trustee of his or her estate, as the case may be, shall, upon the production of such information as is properly required by the Directors, be entitled to the same dividends and other advantages, and to the same rights (whether in relation to meetings of the Company, or to voting or otherwise), to which the registered holder would have been entitled if he or she had not died or become bankrupt.
- 10.3.2 Where 2 or more persons are jointly entitled to any Share in consequence of the death of the registered holder, they shall, for the purpose of this Constitution, be deemed to be joint holders of the Share.

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**11. Forfeiture of Shares****11.1 General**

- 11.1.1 If a Member fails to pay a call or instalment of a call on the day appointed for payment of the call or instalment, the Directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him or her requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued.
- 11.1.2 The notice shall name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made and shall state that, in the event of non-payment at or before the time appointed, the Shares in respect of which the call was made will be liable to be forfeited.

**11.2 Non-Compliance with Notice**

- 11.2.1 If the requirements of a notice served under clause 11.1 are not complied with, any Share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect.

- 11.2.2 Such a forfeiture shall include all dividends declared in respect of the forfeited Shares and not actually paid before the forfeiture.

### **11.3 Directors' Discretion**

A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Directors unanimously agree and think fit, and, at any time before a sale or disposition, the forfeiture may be cancelled on such terms as the Directors think fit.

### **11.4 Liability of Member Whose Shares Are Forfeited**

A person whose Shares have been forfeited ceases to be a Member in respect of the forfeited Shares, but remains liable to pay to the Company all money that, at the date of forfeiture, was payable by him or her to the Company in respect of the Shares (including interest at the Nominated Interest Rate from the date of forfeiture on the money for the time being unpaid if the Directors think fit to enforce payment of the interest), but his or her liability ceases if and when the Company receives payment in full of all the money (including interest) so payable in respect of the Shares.

### **11.5 Statement as to Forfeiture**

A statement in writing declaring that the person making the statement is a Director or a Secretary of the Company, and that a Share has been duly forfeited on a date stated in the statement, is prima facie evidence of the facts stated in the statement as against all persons claiming to be entitled to the Share.

### **11.6 Sale of Forfeited Share**

- 11.6.1 The Company may receive the consideration (if any) given for a forfeited Share on any sale or disposition of the Share and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed.
- 11.6.2 Upon the execution of the transfer, the transferee shall be registered as the holder of the Share and shall not be bound to see to the application of any money paid as consideration.
- 11.6.3 The title of the transferee to the Share shall not be affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the Share.

### **11.7 Deemed Calls for Forfeiture Purposes**

The provisions of this Constitution as to forfeiture shall apply in the case of non-payment of any sum that, by the terms of issue of a Share, becomes payable at a fixed time as if that sum had been payable by virtue of a call duly made and notified.

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## **12. Alteration of capital**

### **12.1 Larger Nominal Value**

The Company may by resolution consolidate and divide all or any of its Share capital into Shares of larger nominal value than its existing Shares.

### **12.2 Smaller Nominal Value**

The Company may by resolution subdivide all or any of its Shares into Shares of smaller nominal value (a subdivision must not alter the proportion between the amount paid and the amount (if any) unpaid on the Shares concerned).

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**13. General meetings****13.1 General**

Any Director, whenever he or she thinks fit, may convene a general meeting of Members.

**13.2 Decisions of Single Member**

- 13.2.1 If the Company has only one Member and the Member records the Member's decision to a particular effect, the recording of the decision counts as the passing by the Member of a resolution to that effect.
- 13.2.2 A record made for the purposes of clause 13.2.1, also has effect as minutes of the passing of the resolution.
- 13.2.3 A record made for the purposes of clause 13.2.1 must be made in writing.

**13.3 Circulating Resolutions**

- 13.3.1 If all the Members have signed a document containing a statement that they are in favour of a resolution of the Members in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a general meeting held on the day, and at the time at which, the document was last signed by a Member.
- 13.3.2 For the purposes of clause 13.3.1, 2 or more separate documents containing statements in identical terms each of which is signed by one or more Members shall together be deemed to constitute one document containing a statement in those terms signed by those Members on the respective days on which they signed the separate documents.
- 13.3.3 A reference in clause 13.3.1 to all the Members does not include a reference to a Member who would not be entitled to vote on the resolution.
- 13.3.4 The resolution pursuant to clause 13.3.1 will not be deemed to be passed unless, where a Share is held jointly, each joint Member has signed the document.

**13.4 Notices**

- 13.4.1 Subject to the Act and any requirement of the Act pertaining to the passing of a special resolution, at least 21 days written notice must be given of any general meeting. However, the Company may call a general meeting on shorter notice if Members with at least 95% of the vote that may be cast at the meeting agree beforehand, except at a general meeting at which a resolution will be moved to remove the Company's auditor (if any) pursuant to Section 329 of the Act.
- 13.4.2 Subject to the Act, any general meeting or any proceeding at the meeting is not invalid only because of:
  - (a) the accidental omission to give notice of the meeting;
  - (b) the non-receipt of such notice by any person entitled to such notice; or
  - (c) a defect in such a notice given.

13.4.3 Written notice of every general meeting pursuant to clause 13.4.1 must be given individually to:

- (a) each Member entitled to attend and vote at the meeting and in the case of joint holders to the joint holder whose name appears first in the register of Members in respect of the registered Share jointly held;
- (b) each Director;
- (c) the Company's auditor (if any) for the time being; and
- (d) every person known to the Company as being entitled to a Share in consequence of the death, bankruptcy or mental incapacity of a Member who would otherwise be entitled to receive notice of the meeting.

13.4.4 No other person shall be entitled to receive notices of general meetings.

13.4.5 Each notice of a general meeting shall:

- (a) specify the place, the day, and the hour of the meeting, and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this;
- (b) state the general nature of the business to be transacted at the meeting;
- (c) if a special resolution is to be proposed at the meeting, set out an intention to propose a special resolution and state the resolution; and
- (d) if a member is entitled to appoint a proxy contain a statement setting out the following information:
  - (i) that the Member has a right to appoint a proxy;
  - (ii) whether or not the proxy needs to be a Member of the Company;
  - (iii) that a Member who is entitled to cast 2 or more votes may appoint 2 proxies and specify the proportion or number of votes each proxy is appointed to exercise; and
  - (iv) comply with any other disclosure requirements of the Act.

### 13.5 Cancellation of Meeting

Subject to the Act and this Constitution, the Directors with the prior written approval of the Members, as they see fit, may cancel a general meeting which has been notified to the Members any time before the meeting.

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## 14. Proceedings at General Meetings

### 14.1 General

- 14.1.1 A general meeting may be held at 2 or more venues using any electronic means that gives the Members as a whole a reasonable opportunity to participate.

- 14.1.2 The quorum required for the purposes of a general meeting shall be:
- (a) a Member or Members representing not less than one half of the voting rights of all Members having the right to vote at the general meeting; or
  - (b) a Member or Members holding Shares conferring a right to vote at the general meeting being Shares on which an aggregate sum has been paid equal to not less than one half of the total sum paid up on all the Shares conferring that right.
- 14.1.3 For the purpose of determining whether a quorum is present, a person attending as a proxy, or as representing a body corporate that is a Member, shall be deemed to be a Member.
- 14.1.4 No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- 14.1.5 A reference to a Member being personally present at a meeting includes a reference to a Member participating in a meeting by electronic means.
- 14.1.6 If there is a failure of the electronic means which results in the disconnection of any or all of the Members participating in the meeting, the meeting shall be adjourned until the failure of the electronic means has been rectified. If that is not possible within 60 minutes of the initial failure, the Chairman must adjourn the meeting until such time, date and place that is considered to give the Members as a whole a reasonable opportunity to participate in the meeting.

#### **14.2 Quorum not Present**

If a quorum is not present within 30 minutes from the time appointed for the meeting:

- 14.2.1 where the meeting was convened upon the requisition of Members, the meeting shall be dissolved; and
- 14.2.2 in any other case:
- (a) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
  - (b) if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting the meeting shall be dissolved.

#### **14.3 Chair**

- 14.3.1 If the Directors have elected one of their number as chair of their meetings, he or she shall preside as chair at every general meeting.
- 14.3.2 If the Directors have elected one of the number as deputy chair, the deputy chair shall preside as chair at a general meeting if the Director elected as chair is absent or not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act.
- 14.3.3 Where a general meeting is held and:
- (a) a chair has not been elected as provided by clause 14.3.1 and a deputy chair has not been elected as provided by clause 14.3.2; or



- (b) both the chair elected as provided by clause 14.3.1 and the deputy chair elected as provided by clause 14.3.2 are absent or not present within 15 minutes after the time appointed for the holding of the meeting or are unwilling to act,

the Members present shall elect another Director of the Company to be chair of the meeting.

#### **14.4 Adjournment of Meeting**

- 14.4.1 The chair may with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 14.4.2 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- 14.4.3 Except as provided by clause 14.4.2, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

#### **14.5 Resolutions at Meetings**

- 14.5.1 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the chair;
  - (b) by a Member or Members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting; or
  - (c) by a Member or Members holding Shares in the Company conferring a right to vote at the meeting being Shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the Shares conferring that right.
- 14.5.2 Unless a poll is so demanded, a declaration by the chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 14.5.3 The demand for a poll may be withdrawn.

#### **14.6 Poll at Meetings**

- 14.6.1 If a poll is duly demanded, it shall be taken in such manner and (subject to clause 14.6.2) either at once or after an interval or adjournment or otherwise as the chair directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded.
- 14.6.2 A poll demanded on the election of a chair or on a question of adjournment shall be taken immediately.

**14.7 Casting Vote of Chair**

In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting at which the show of hands takes place or at which the poll is demanded, in addition to his or her deliberative vote (if any), has a casting vote.

**14.8 Votes by Members**

Subject to any rights or restrictions attached to any class or classes of Shares:

- 14.8.1 at meetings of Members or classes of Members each Member entitled to vote may vote in person or by proxy or attorney; and
- 14.8.2 on a show of hands every person present who is a Member or a representative of a Member has one vote, and on a poll, every person present in person or by proxy or attorney shall have one vote for each share he or she holds.

**14.9 Votes by Joint Holders**

If a share is held jointly and more than one member votes in respect of that share, whether in person or by proxy or by attorney, only the vote of the Member whose name appears first in the register of Members counts.

**14.10 Unsound Mind**

If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, his or her committee or trustee or such other person as properly has the management of his or her estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

**14.11 Entitlement to Vote**

A Member shall not be entitled to vote at a general meeting unless all calls and other sums presently payable by him or her in respect of Shares in the Company shall have been paid.

**14.12 Objections to Qualification to Vote**

- 14.12.1 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- 14.12.2 Any such objection shall be referred to the chair of the meeting, whose decision shall be final.
- 14.12.3 A vote not disallowed pursuant to such an objection shall be valid for all purposes.

**14.13 Proxies**

- 14.13.1 An appointment of a proxy is valid if it is signed by the Member of the Company making the appointment and contains the following information:
  - (a) the Member's name and address;
  - (b) the Company's name;
  - (c) the proxy's name or the name of the office held by the proxy; and
  - (d) the meetings at which the appointment may be used.

14.13.2 An appointment may specify the way in which the proxy is to vote on a particular resolution and, where an appointment so provides, the proxy shall not be entitled to vote in the resolution except as specified in the appointment.

14.13.3 A proxy appointed to attend and vote for a member has the same rights as a member to speak at the meeting or join in demanding a poll.

#### **14.14 Time Within Which Proxies to be Lodged**

14.14.1 For an appointment of a proxy to be effective, the following documents must be received by the Company at least 48 hours before the meeting:

- (a) the proxy's appointment; and
- (b) if the appointment is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of the authority.

14.14.2 If a meeting has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.

14.14.3 A Company receives an appointment authority when it is received at any of the following:

- (a) the Company's registered office;
- (b) a fax number at the Company's registered office; or
- (c) a place, fax number or electronic address specified for the purpose in the notice of meeting.

#### **14.15 Validity of Votes made by Proxy**

14.15.1 A proxy who is not entitled to vote on a resolution as a Member may vote as a proxy for another Member who can vote if their appointment specifies the way they are to vote on the resolution and they vote that way.

14.15.2 Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if before the proxy votes:

- (a) the appointing Member dies;
- (b) the Member is mentally incapacitated;
- (c) the Member revokes the proxy's appointment;
- (d) the Member revokes the authority under which the proxy was appointed by a third party; or
- (e) the Member transfers the share in respect of which the proxy was given.

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**15. Appointment, removal and remuneration of Directors****15.1 General**

- 15.1.1 The number of the Directors (not including alternate Directors) shall be not less than three nor more than seven.
- 15.1.2 The Company, in general meeting, may by resolution:
- (a) appoint a person as a Director; and
  - (b) increase or reduce the maximum number of Directors specified in clause 15.1.1.

**15.2 Retirement**

- 15.2.1 Any Director may retire from office on giving written notice to the Company of his or her intention to retire.
- 15.2.2 Any resignation of a Director will take effect from the date specified in the notice or if the date of resignation is earlier than the date of service of the notice, the resignation will take effect from the date of service.

**15.3 Filling of Vacancy**

Subject to the Act, the Company in general meeting, may by resolution appoint any person as a Director:

- 15.3.1 to replace a Director who has ceased to hold office; or
- 15.3.2 as an additional Director but so that the total number of Directors does not at any time exceed the number determined in accordance with clause 15.1.

**15.4 Additional or Casual Directors**

- 15.4.1 The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors does not at any time exceed the number determined in accordance with clause 15.1.
- 15.4.2 Any Director so appointed shall hold office only until the next general meeting when the Company at a general meeting must resolve:
- (a) to confirm the appointment of that Director;
  - (b) to appoint another person to replace that Director; or
  - (c) to leave the position vacated by that Director empty.

**15.5 Removal of Directors**

- 15.5.1 The Company in general meeting, may by resolution remove any Director before the expiration of his or her period of office, and may by resolution appoint another person in his or her stead.
- 15.5.2 The person so appointed shall be subject to retirement at the same time as if he or she had become a Director on the day on which the Director in whose place he or she is appointed was last elected a Director.

**15.6 Remuneration of Directors**

- 15.6.1 The Directors shall be paid such remuneration as shall from time to time be determined by the Company in general meeting.
- 15.6.2 That remuneration shall be deemed to accrue from day to day.
- 15.6.3 The Directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or otherwise in connection with the business of the Company.

**15.7 Share Qualification of Directors**

The Share qualification for Directors may be fixed by the Company in general meeting and, unless and until so fixed, is nil.

**15.8 Additional Circumstances for Vacation of Office**

In addition to the circumstances in which the office of a Director shall become vacant by virtue of the Act, the office of a Director shall become vacant if the Director:

- 15.8.1 becomes of unsound mind or becomes a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- 15.8.2 resigns his or her office by notice in writing to the Company;
- 15.8.3 is absent without the consent of the Directors from meetings of the Directors held during a period of 6 months;
- 15.8.4 without the consent of the Company in general meeting holds any other office of profit under the Company except that of managing Director or principal executive officer or executive Director; or
- 15.8.5 has, subject to clause 15.10, a conflict of interest and fails to declare the nature of his or her interest as required by the Act.

**15.9 Death, Incapacity or Bankruptcy of Sole Director and Member**

- 15.9.1 If a person who is the only Director and the only Member of the Company dies or cannot manage the Company because of the person's mental incapacity, and a personal representative or trustee is appointed to administer the person's estate or property, the personal representative or trustee may appoint a person (including the personal representative or trustee) as the Director of the Company.
- 15.9.2 If a person who is the only Director and the only Member of the Company vacates the office:
  - (a) on becoming an undischarged bankrupt under section 206B (3) of the Act; or
  - (b) as a result of the application of Section 206B (4) of the Act;
 and a trustee in bankruptcy is appointed to the person's property, the trustee may appoint a person (including the trustee) as Director of the Company.
- 15.9.3 A person appointed as a Director of the Company under clause 15.9 holds that office as if they had been properly appointed in accordance with the Constitution.

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**15.10 Conflict of Interest**

- 15.10.1 A Director who has a material personal interest in a matter that relates to the affairs of the Company must, unless that Director is the sole Director, give the other Directors notice of the interest held at a meeting of Directors as soon as practicable after the Director becomes aware of their interest in the matter.
- 15.10.2 The Director shall declare the full details of the nature and extent of the interest and its relation to the affairs of the Company.
- 15.10.3 The Secretary shall record the declaration of a Director's interest in the minutes of the meeting.
- 15.10.4 The Director may give the other Directors standing notice of the nature and extent of the interest in the matter either at a Directors' meeting or to the other Directors individually and in writing.
- 15.10.5 If standing notice is given to the other Directors individually in writing, it must be tabled at the next meeting of Directors after it is given.
- 15.10.6 Notwithstanding any rule of law or equity to the contrary but subject to clause 15.8.5, no Director shall be or become disqualified from his or her office by contracting with the Company either as vendor or purchaser, or promoter or otherwise or from being employed or performing any service for or on behalf of the Company in any capacity, professional or otherwise, nor shall any such contract or arrangement be liable to be impeached, affected or avoided by reason of that Director being a party to or otherwise interested in that contract or arrangement, nor shall that Director be liable to account to the Company for any profit realised by or in respect of such contract or arrangement.

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**16. Powers and duties of Directors****16.1 General**

Subject to the Act and to any other provision of this Constitution, the business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and forming the Company, and may exercise all such powers of the Company as are not, by the Act or by this Constitution, required to be exercised by the Company in general meeting.

**16.2 Attorney for Company**

- 16.2.1 The Directors may, by power of attorney, appoint any corporation, firm, person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- 16.2.2 Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.



### 16.3 Execution of Cheques and Bills of Exchange

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 Directors or if the Company has only one Director, by that Director or in such other manner as the Directors determine.

### 16.4 Directors of Wholly-Owned Subsidiaries

Where the Company is a wholly-owned subsidiary of a body corporate, a Director may act in the best interests of the Holding Company if:

- 16.4.1 the Director acts in good faith in the best interests of the Holding Company;
- 16.4.2 the Company is not insolvent at the time the Director acts; and
- 16.4.3 the Company does not become insolvent because of the Director's act.

## 17. Proceedings of Directors

### 17.1 General

- 17.1.1 The Directors may meet together by electronic means or otherwise for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- 17.1.2 If there is a failure of the electronic means used in conducting a meeting of directors, the meeting shall be adjourned until the failure can be rectified. If that is not possible within one hour of the initial failure, the Directors who are able to communicate with each other must adjourn the meeting to a time, date and place determined by those Directors.

### 17.2 Decisions of Directors

- 17.2.1 Subject to this Constitution, except where the provisions of this Constitution require the unanimous approval of the Directors, questions arising at a meeting of Directors shall be decided by a majority of votes of Directors present and voting and any such decision shall for all purposes be deemed a decision of the Directors.
- 17.2.2 In case of an equality of votes, the chair of the meeting, in addition to his or her deliberative vote (if any), shall have a casting vote.

### 17.3 Director Interested in Contract with Company

Subject to clause 15.10, a Director may vote in respect of any contract or arrangement in which he or she is interested and may attest the affixing of the Seal to any document relating to any such contract or arrangement.

**17.4 Alternate Directors**

- 17.4.1 A Director, with the approval of a majority of the other Directors, (except where the Company only has one Director), may appoint a person (whether a Member or not) to be an alternate Director in his or her place during such period as he or she thinks fit.
- 17.4.2 An alternate Director is entitled to notice of meetings of the Directors and, if the appointor is not present at such a meeting, is entitled to attend and vote in his or her stead.
- 17.4.3 An alternate Director may exercise any powers that the appointor may exercise and the exercise of any such power by the alternate Director shall be deemed to be the exercise of the power by the appointor.
- 17.4.4 An alternate Director shall not be required to have any Share qualifications.
- 17.4.5 An appointment of an alternate Director shall be effected by a notice in writing signed by the Director who makes the appointment and served on the Company.
- 17.4.6 The appointment of an alternate Director may be terminated at any time by the appointor or by resolution passed by the Directors notwithstanding that the period of the appointment of the alternate Director has not expired, and shall terminate in any event if the appointor vacates office as a Director.
- 17.4.7 The termination of an appointment of an alternate Director shall be effected by notice to the Company in writing signed by the Director who made the appointment or signed by the chair of the meeting of Directors or in his or her absence, the deputy chair (if any) or in his or her absence another Director and served on the alternate Director.

**17.5 Quorum**

At a meeting of Directors, the number of Directors whose presence shall be necessary to constitute a quorum shall be such number as shall be determined by the Directors and, unless so determined, shall be:

- 17.5.1 one Director, if the Company has only one Director; or
- 17.5.2 a majority of Directors in the case where the Company has an even number of Directors or 50% of Directors in the case where the Company has an odd number of Directors, if the Company has 2 or more Directors.

**17.6 Vacancies**

In the event of a vacancy or vacancies in the office of a Director or offices of Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum or of convening a general meeting of the Company.

**17.7 Chair**

- 17.7.1 The Directors shall elect one of their number as chair of their meetings and may determine the period for which that Director is to hold office.
- 17.7.2 The Directors may elect one of their number as deputy chair of their meetings and may determine the period of office for which that Director is to hold office.



17.7.3 The deputy chair shall chair the meetings of the Directors where the chair is absent or not present within 10 minutes after the time appointed for the time of the meeting or is unwilling to act.

17.7.4 Where a meeting of Directors is held and:

- (a) a chair has not been elected as provided by clause 17.7.1 and a deputy chair has not been elected as provided by clause 17.7.2; or
- (b) the chair and the deputy chair are both absent or not present within 10 minutes after the time appointed for the holding of the meeting or are unwilling to act,

the Directors present shall elect one of their number to be the chair of the meeting.

#### **17.8 Delegation by Directors**

- 17.8.1 The Directors may by resolution delegate any of their powers to a committee or committees of directors, a Director, an employee of the Company or any other person, consisting of such of their number as they think fit.
- 17.8.2 A Delegate must exercise the powers delegated in accordance with any directions of the Directors.
- 17.8.3 The exercise of the power of the Delegate is as effective as if the Directors had exercised it.
- 17.8.4 Directors who delegate their powers are responsible for the exercise of the power by the delegate as if the power had been exercised by the Directors themselves.

#### **17.9 Committees of Directors**

- 17.9.1 The Members of any committee appointed pursuant to clause 17.8 may elect one of their number as chair of their meetings.
- 17.9.2 Where such a meeting is held and:
  - (a) a chair has not been elected as provided by clause 17.9.1; or
  - (b) the chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act,the Members present may elect one of their number to be chair of the meeting.
- 17.9.3 A committee may meet and adjourn as it thinks proper.
- 17.9.4 Questions arising at a meeting of a committee shall be determined by a majority of votes of the Members present and voting.
- 17.9.5 In the case of an equality of votes, the chair, in addition to his or her deliberative vote (if any), shall have a casting vote.

**17.10 Resolutions of Directors**

- 17.10.1 If all the Directors have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Directors held on the day on which the document was signed and at the time at which the document was last signed by a Director or, if the Directors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a Director.
- 17.10.2 For the purposes of clause 17.10.1, 2 or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.
- 17.10.3 A reference in clause 17.10.1 to all the Directors does not include a reference to a Director who, at a meeting of Directors, would not be entitled to vote on the resolution.

**17.11 Decisions and Declarations of Single Director**

- 17.11.1 If the Company has only one Director and the Director records the Director's decision to a particular effect, the recording of the decision counts as the passing by the Director of a resolution to that effect.
- 17.11.2 A record made for the purposes of clause 17.11.1 also has effect as minutes of the passing of the resolution.
- 17.11.3 If the Company has only one Director and the Director records the Director's declaration to a particular effect, the recording of the declaration and signing of the record counts as the making of a declaration to that effect made at a meeting of the Directors.
- 17.11.4 A record made for the purposes of clause 17.11 must be made in writing.

**17.12 Validity of Acts of Directors**

All acts done by any meeting of the Directors or of a Delegate or by any person acting as a Director are effective even if the appointment or the continuance of the appointment of the Director is invalid because the Company or Director did not comply with the Constitution or any provision of the Act.

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**18. Managing Director****18.1 General**

- 18.1.1 The Directors may from time to time appoint one or more of their number to the office of managing director for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in a particular case, may revoke or vary any such appointment.
- 18.1.2 A Director so appointed shall not, while holding that office, be subject to retirement, but his or her appointment shall automatically terminate if he or she ceases for any cause to be a Director.

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**18.2 Remuneration of Managing Director**

A managing director shall, subject to the terms of any agreement entered into in a particular case, receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Directors determine.

**18.3 Powers of Managing Director**

- 18.3.1 The Directors may, upon such terms and conditions and with such restrictions as they think fit, confer upon a managing director any of the powers exercisable by them.
- 18.3.2 Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Directors.
- 18.3.3 The Directors may at any time revoke or vary any of the powers so conferred on a managing director.
- 18.3.4 The Directors may delegate the responsibility for the day to day management of the operations of the Company to the managing director.
- 18.3.5 The managing director will carry out the directions of the Directors and report to the Directors.

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**19. Associate Directors****19.1 Appointment**

- 19.1.1 The Directors may from time to time appoint any person to be an associate Director and may from time to time terminate any such appointment.
- 19.1.2 The Directors may not appoint any more than 5 associate Directors at any time.
- 19.1.3 The Directors may from time to time determine the powers, duties and remuneration of any person appointed as an associate Director.

**19.2 Qualification**

A person appointed as an associate Director shall not be required to hold any Shares to qualify him or her for appointment but, except by the invitation and with the consent of the Directors, shall not have any right to attend or vote at any meeting of Directors.

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**20. Secretary**

Subject to the Act, the Company is not required to appoint a Secretary. However, any Secretary appointed shall hold office on such terms and conditions, as to remuneration and otherwise, as the Directors determine.

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**21. Seal****21.1 Custody of Seal**

If the Directors resolve to have a Seal, the Directors shall provide for the safe custody of the Seal.

**21.2 Use of Seal**

The Seal shall be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal, and every document to which the Seal is affixed shall be:

21.2.1 signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included; or

21.2.2 if there is only one Director, who is also the only Secretary of the Company, signed by that person and it is stated next to the signature that the person witnesses the sealing in the capacity of sole Director and sole Secretary of the Company.

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**22. Accounts and inspection of records****22.1 Accounts**

22.1.1 The Directors shall cause proper accounting and other records to be kept and also distribute copies of balance sheets as required by the Act.

22.1.2 The Directors shall, unless the Shareholders resolve to the contrary in writing, cause to be prepared a financial report and Directors' report for a financial year.

**22.2 Inspection of Records**

The Shareholders or a nominee may inspect the accounting records and other documents of the Company at any reasonable time.

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**23. Dividends and Reserves****23.1 Declaration of Dividends**

Subject to the provisions of the Act and any special rights and restrictions attached to any Shares, the Directors may declare and pay a dividend at any time as appears to the Directors to be justified by the profits of the Company.

**23.2 Interim Dividends**

The Directors may declare and pay at any time such interim dividends as appear to the Directors to be justified by the profits of the Company.

**23.3 Interest on Dividends**

Interest shall not be payable by the Company in respect of any dividend.

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**23.4 Reserves**

- 23.4.1 The Directors may, before recommending any dividend, set aside out of the profits of the Company such sums as they think proper as reserves, to be applied, at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied.
- 23.4.2 Pending any such application, the reserves may, at the discretion of the Directors, be used in the business of the Company or be invested in such investments as the Directors think fit.
- 23.4.3 The Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.

**23.5 Entitlement to Dividends**

- 23.5.1 Subject to clause 23.5.4 and the rights of persons (if any) entitled to Shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the Shares in respect of which the dividend is paid.
- 23.5.2 All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the Shares during any portion or portions of the period in respect of which the dividend is paid, but, if any Share is issued on terms providing that it will rank for dividend as from a particular date, that Share ranks for dividend accordingly.
- 23.5.3 An amount paid or credited as paid on a Share in advance of a call shall not be taken for the purposes of this clause 23.5 to be paid or credited as paid on the Share.
- 23.5.4 Where more than one class of Shares has been issued, the Directors may declare and pay a dividend or make a distribution of capitalised profits:
- (a) on the Shares of any one or more classes to the exclusion of any other class; or
  - (b) on the Shares of any one class at the same rate, or a higher or lower rate than the dividend declared and paid or distribution made on the Shares of other classes.

**23.6 Deductions from Dividends**

The Directors may deduct from any dividend payable to a Member all sums of money (if any) presently payable by him or her to the Company on account of calls or otherwise in relation to Shares in the Company.

**23.7 Dividends Paid from Specific Assets**

- 23.7.1 The Directors when declaring a dividend may, by resolution, direct payment of the dividend wholly or partly by the distribution of specific assets, including paid up Shares in, or debentures of, any other corporation.

- 23.7.2 Where a difficulty arises in regard to such a distribution, the Directors may settle the matter as they consider expedient and fix the value for distribution of the specific assets or any part of those assets and may determine that cash payments will be made to any Members on the basis of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as the Directors consider expedient.

### **23.8 Payment of Dividends**

- 23.8.1 Any dividend, interest or other money payable in cash in respect of Shares may be paid by cheque sent through the post directed to:
- (a) the address of the holder as shown in the register of Members, or in the case of joint holders, to the address shown in the register of Members as the address of the joint holder just first named in that register; or
  - (b) to such other address as the holder or joint holders in writing directs or direct.
- 23.8.2 Any one of 2 or more joint holders may give effective receipts for any dividends, interest or other money payable in respect of the Shares held by them as joint holders.

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## **24. Capitalisation of Profits**

### **24.1 General**

The Company may capitalise profits to:

- 24.1.1 pay up any amount unpaid on issued Shares; or
- 24.1.2 pay up Shares to be issued to Members as fully-paid bonus Shares.

### **24.2 Application of Capitalised Profits**

The amount capitalised must be applied for the benefit of Members in the proportions in which the Members would have been entitled to dividends if the amount capitalised had been distributed as a dividend.

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## **25. Notices**

### **25.1 General**

A notice may be given by the Company to any Member either by serving it on him or her personally or by sending it by post, facsimile transmission or electronic mail to him or her at his or her address as shown in the register of Members or the address, facsimile number or electronic mail address supplied by him or her to the Company for the giving of notices to him or her.





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**25.2 Deemed Notice**

Any such notice shall be deemed to have been given:

- 25.2.1 if by post on the day it would have been received in the normal course of post; and
- 25.2.2 if by facsimile transmission or electronic mail when the transmitting machine confirms successful completion of transmission during the recipient's normal business hours or, if transmission occurs after that time, during the normal business hours of the recipient on the next Business Day.

**25.3 Joint Holders**

A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder first named in the register of Members in respect of the Share.

**25.4 Death or Bankruptcy**

A notice may be given by the Company to a person entitled to a Share in consequence of the death or bankruptcy of a Member by serving it on him or her personally or by sending it to him or her by post addressed to him or her by name, or by the title of the representative of the deceased or assignee of the bankrupt, or by any like description, at the address (if any) within the territory supplied for the purpose by the person or, if such an address has not been supplied, at the address to which the notice might have been sent if the death or bankruptcy had not occurred.

**25.5 Service on Company**

A document may be served on the Company by leaving it at, or by sending it by post to, the registered office of the Company.

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**26. Winding up****26.1 Division of Property**

If the Company is wound up, the liquidator may, with the sanction of a special resolution, divide among the Members in kind the whole or any part of the property of the Company and may for that purpose set such value as he or she considers fair upon any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of Members.

**26.2 Vesting of Property**

The liquidator may, with the sanction of a special resolution, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member shall be compelled to accept any Shares or other securities in respect of which there is any liability.

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**27. Indemnity****27.1 Definition of Liability and Officer**

In this clause 27:

27.1.1 **Liability** means costs, losses, liabilities and expenses.

27.1.2 **Officer** means a Director, secretary or other officer of the Company.

27.1.3 References to **Officers** include references to former Officers.

**27.2 Indemnity of Officers**

Every Officer of the Company must be indemnified out of the assets of the Company against any Liability incurred by that Officer in the person's capacity as an Officer of the Company by reason of any act or thing done or omitted to be done by that person in that capacity or in any way in the discharge of that person's duties or by reason of or relating to the person's status as an Officer of the Company, but excluding any Liability from or against which the Company is not permitted by the Act to exempt or indemnify the Officer.

**27.3 Indemnity for proceedings**

Without limiting clause 27.2, every Officer of the Company must be indemnified out of the assets of the Company against any Liability incurred by that person in defending proceedings, whether civil or criminal, in respect of any act or thing done by the Officer in that person's capacity as such Officer but excluding any Liability from or against which the Company is not permitted by the Act to exempt or indemnify the Officer.

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**28. Interpretation****28.1 Persons**

In this Constitution, a reference to a person includes a firm, partnership, joint venture, association, corporation or other corporate body.

**28.2 Legislation**

In this Constitution, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

**28.3 This Document, Clauses and Headings**

In this Constitution:

28.3.1 a reference to this or any other document includes the document as varied or replaced regardless of any change in the identity of the parties;

28.3.2 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Constitution;

28.3.3 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form; and

28.3.4 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Constitution.





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**28.4 Business Day**

If a payment or other act is required by this Constitution to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.

**28.5 Number and Gender**

In this Constitution, a reference to:

28.5.1 the singular includes the plural and vice versa; and

28.5.2 a gender includes the other genders.

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## Schedule

### SHARE CLASSES

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#### 1. Classes of Shares

Subject to the provisions of clauses 6.1 and 6.2, the Directors may elect to issue shares of the following classes:

- 1.1 Ordinary Shares;
- 1.2 'A' class Shares;
- 1.3 'B' class Shares;
- 1.4 'C' class Shares;
- 1.5 'D' class Shares;
- 1.6 'E' class Shares;
- 1.7 'F' class Shares;
- 1.8 'G' class Shares;
- 1.9 'H' class Shares; and
- 1.10 Redeemable Preference Shares.

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#### 2. Rights and restrictions applicable to Shares of different classes

##### 2.1 Ordinary Shares

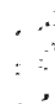
Holders of Ordinary Shares will possess the following rights and be subject to the following restrictions:

- 2.1.1 a right to receive notice of any general meeting of the Company under clause 13.4;
- 2.1.2 voting rights as specified in clause 14.8;
- 2.1.3 dividends as determined from time to time in accordance with this Constitution; and
- 2.1.4 the right to participate in the distribution of surplus assets on winding up.

##### 2.2 'A', 'B' and 'C' Class Shares

Holders of 'A', 'B' and 'C' class Shares will possess the following rights and be subject to the following restrictions:

- 2.2.1 a right to receive notice of any general meeting of the Company under clause 13.4;
- 2.2.2 voting rights as specified in clause 14.8;



2.2.3 dividends as determined from time to time in accordance with this Constitution; and

2.2.4 the right to participate in the distribution of surplus assets on winding up.

### **2.3 'D', 'E' and 'F' Class Shares**

Holders of 'D', 'E' and 'F' class Shares will possess the following rights and be subject to the following restrictions:

2.3.1 no right to receive notice of any general meeting;

2.3.2 no voting rights at any general meeting of the Company;

2.3.3 dividends as determined from time to time in accordance with this Constitution; and

2.3.4 no right to participate in the distribution of surplus assets on a winding up.

### **2.4 'G' Class Shares**

Holders of 'G' class Shares will possess the following rights and be subject to the following restrictions:

2.4.1 a right to receive notice of any general meeting of the Company under clause 13.4;

2.4.2 voting rights as specified in clause 14.8;

2.4.3 no right to specific dividends;

2.4.4 no right to participate in the distribution of surplus assets on winding up.

### **2.5 'H' Class Shares**

Holders of 'H' class Shares will possess the following rights and be subject to the following restrictions:

2.5.1 no right to receive notice of any general meeting of the Company;

2.5.2 no voting rights;

2.5.3 dividends as determined from time to time in accordance with this Constitution;

2.5.4 the right to participate in the distribution of surplus assets on winding up.

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## **3. Special provisions applicable to redeemable preference Shares**

### **3.1 Redeemable Preference Shares**

Holders of Redeemable Preference Shares (**RP Shares**) will possess the following rights and be subject to the following restrictions:

3.1.1 The right to receive notice of any general meeting of the Company under clause 13.4;

- 3.1.2 The same voting rights as the holders of Ordinary Shares, but only where the following special circumstances occur:
- (a) a dividend or part of a dividend is in arrears with respect to the RP Shares;
  - (b) a reduction of capital is proposed;
  - (c) a resolution to ratify the terms of a buy-back agreement is proposed;
  - (d) any other proposal is put forward that affects rights which flow from ownership of the RP Shares;
  - (e) it is proposed that the Company be wound up;
  - (f) it is proposed that the whole of the Company's property, business and undertaking be disposed of.
- 3.1.3 As determined by the Directors at the date of issue:
- (a) the right to a fixed cumulative dividend at a yearly rate fixed by the Directors at the date of issue;
  - (b) the right to a fixed non-cumulative dividend at a yearly rate fixed by the Directors at the date of issue;
  - (c) the right to a cumulative dividend at a rate or rates determined by the Directors at any time; or
  - (d) the right to a non-cumulative dividend at a rate or rates determined by the Directors at any time.
- 3.1.4 The right to be paid their dividends before any dividends are paid on the other classes of Shares;
- 3.1.5 The right, on a winding up or capital reduction, to a return of capital at the issue price of the RP Shares (together with any unpaid dividends on RP Shares) in priority to any other Shares which have been issued.
- 3.1.6 RP shareholders will not otherwise possess the right to participate in any surplus assets or profits.

### **3.2 Redemption of RP Shares**

Subject to sections 254J and 254K of the Act, the RP Shares will be redeemable at the option of the Company, upon payment to the RP Shareholders of the aggregate issue price of the RP Shares, together with any accumulated dividends.

### **3.3 Notice**

The option to redeem will be exercised by providing notice in writing to the RP Shareholders at their respective registered addresses. A bank cheque to each of the RP Shareholders for the amount payable on redemption will accompany each notice.

### STATEMENT BY PERSONS WHO HAVE CONSENTED TO BE MEMBERS

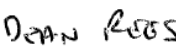
We, the persons whose full names and addresses are set out below and who consent to becoming a member of the Company agree to the form of the constitution of the Company set out above.

The Common Seal of the Wangaratta Rural City Council was affixed in the presence of:

)  
)  
)  
)



  
Councillor signature

  
~~Ken Clarke OAM~~  
Mayor, Rural City of Wangaratta  
Government Offices  
62-67 Ovens Street, Wangaratta

  
Chief Executive Officer signature

Brendan McGrath  
Chief Executive Officer  
Rural City of Wangaratta  
Government Offices  
62-67 Ovens Street, Wangaratta

Date: 22 / 6 / 2018



## Governance Rules

Responsible Officer	Adoption Date	March 2021
Governance and Reporting Advisor	Approved By	Council
	Review Date	August 2023
Authorising Officer	Policy Type	Major Council Policy
Director Corporate Services		

### Statement and Purpose

This policy provides Council's governance rules as required by, and in accordance with, section 60 of the *Local Government Act 2020*.

### Scope

This policy applies to all councillors, Council employees, associates of Council and members of committees to the extent described in the policy.

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## Application to Committees

### 1. Delegated committees

- (1) Where the Council establishes a delegated committee, these governance rules will apply to the meetings of the delegated committee with any necessary modifications.
- (2) For the purpose of rule 1(1):
  - (a) a Council meeting is to be read as a reference to a delegated committee meeting;
  - (b) a councillor is to be read as a reference to a member of a delegated committee; and
  - (c) a reference to the chairperson is to be read as a reference to the chairperson of a delegated committee.
- (3) Where the Council establishes a delegated committee, the Council may resolve that a provision of these governance rules do not apply to that delegated committee.

### 2. Community asset committees

- (1) The governance rules may apply to any community asset committee established by Council with any necessary modifications.
- (2) For the purpose of rule 2(1):
  - (a) a Council meeting is to be read as a reference to a community asset committee meeting;
  - (b) a councillor is to be read as a reference to a member of a community asset committee; and
  - (c) a reference to the chairperson is to be read as a reference to the chairperson of a community asset committee.
- (3) Council may resolve, in establishing a community asset committee which governance rules apply but as a minimum must include the rules related to minutes.
- (4) A community asset committee must report the minutes of each committee meeting to the next practicable scheduled Council meeting.
- (5) A community asset committee must act in accordance with its charter and instrument of delegation.

### 3. Audit and risk committee

- (1) The governance rules will apply to the audit and risk committee established by Council unless otherwise provided in the audit and risk committee charter.
- (2) Council may resolve, in establishing an audit and risk committee that the meeting procedure chapter of these governance rules does not apply.

- (3) For the purpose of rule 3(1):
  - (a) a Council meeting is to be read as a reference to an audit and risk committee meeting;
  - (b) a councillor is to be read as a reference to a member of an audit and risk committee; and
  - (c) a reference to the chairperson is to be read as a reference to the chairperson of an audit and risk committee.
- (4) An audit and risk committee must report the minutes of all committee meetings to the next practicable scheduled Council meeting.
- (5) An audit and risk committee must act in accordance with its charter adopted by Council.

#### **4. Advisory committees**

- (1) The governance rules may apply to an advisory committee established by Council unless otherwise provided in the advisory committee's charter.
- (2) Council may resolve, in establishing an advisory community asset committee, which governance rules apply but as a minimum must include the rules related to minutes.
- (3) For the purpose of rule 4(1):
  - (a) a Council meeting is to be read as a reference to an advisory committee meeting;
  - (b) a councillor is to be read as a reference to a member of an advisory committee; and
  - (c) a reference to the chairperson is to be read as a reference to the chairperson of an advisory committee.
- (4) An advisory committee must report the minutes of all committee meetings to the next practicable scheduled Council meeting.
- (5) An advisory committee must act in accordance with its charter adopted by Council.

## Meeting procedures

### 5. Purpose of meetings

- (1) Scheduled meetings and, when required, unscheduled meetings of the Council are held to conduct the business of the Council.
- (2) Council is committed to transparency in decision making and, in accordance with the *Local Government Act 2020*, Council and delegated committee meetings are open to the public and the community can attend.
- (3) Council and delegated committee meetings will only be closed to members of the public if:
  - (a) there are clear reasons for a matter or matters to remain confidential; or
  - (b) a meeting is required to be closed for security reasons; or
  - (c) it is necessary to enable the meeting to proceed in an ordinary manner.
- (4) The chairperson and councillors will ensure good council decision-making by endeavouring to ensure that:
  - (a) decision making is transparent to councillors and observers;
  - (b) councillors have sufficient information to make good decisions;
  - (c) every councillor is supported to contribute to decisions;
  - (d) any person whose rights are affected has their interests considered;
  - (e) debate and discussion are focussed on the issues at hand;
  - (f) meetings are conducted in an orderly manner;
  - (g) decisions are made on the merits of a matter.

### 6. Meeting roles

#### 6.1 Chairperson

- (1) The Mayor must be chairperson at all Council meetings at which the Mayor is present.
- (2) Where the Mayor is not in attendance at a Council meeting, the Deputy Mayor, if one has been elected, must be chairperson.
- (3) Where the Mayor and any Deputy Mayor are not in attendance at a Council meeting, Council must appoint one of the councillors as chairperson of the meeting by resolution.
- (4) The chairperson has the specific duties and discretions provided in these governance rules.
- (5) The chairperson must not accept any motion, question or statement which is:

- (a) vague or ambiguous; or
  - (b) defamatory, malicious, abusive, or objectionable in language or substance; or
  - (c) outside the powers, functions, or duties of the Council.
- (6) The chairperson must:
  - (a) allow the Chief Executive Officer, or delegate, the opportunity to correct factual errors or incorrect assertions that arise during the meeting; and
  - (b) call a person to order if their behaviour is disruptive and interferes with the conduct of the business of the Council; and
  - (c) decide on all points of order.
- (7) The chairperson may direct that a vote be recounted to be satisfied of the result.

#### **6.2 Delegated committee chairperson**

- (1) At the meeting at which Council establishes a delegated committee it must also appoint a chairperson.
- (2) The chairperson of a delegated committee must be a councillor.
- (3) For the avoidance of doubt, rule 6.2(1) does not intend to limit the powers of the Mayor provided in the Act.

#### **6.3 Chief Executive Officer**

- (1) The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the chairperson.
- (2) The Chief Executive Officer, or delegate, should:
  - (a) immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
  - (b) advise if there are operational, financial or risk implications arising from a proposed resolution;
  - (c) help clarify the intent of any unclear resolution to facilitate implementation;
  - (d) on request, assist with procedural issues that may arise.

#### **6.4 Councillors**

Councillors contribute to good governance and decision making by:

- (a) seeking views of community members and reading the agenda prior to the meeting;
- (b) demonstrating due respect and consideration to community views and the professional and expert advice provided in the agenda papers;
- (c) attending meetings and participating in debate and discussion;

- (d) demonstrating respect for the role of the chairperson and the rights of other councillors to contribute to the decision-making; and
- (e) being courteous and orderly.

#### **6.5 Community**

- (1) Council meetings and delegated committee meetings are decision making forums and it is important that they are open to the community to attend or view proceedings.
- (2) Community members may only participate in Council meetings and delegated committee meetings in accordance with these governance rules.
- (3) Community members are encouraged to participate in Council's engagement processes.
- (4) Community members may seek to inform individual councillors of their views by contacting them directly in advance of meetings.

### **7. Conduct and behaviour**

#### **7.1 Councillor allowed to speak uninterrupted**

A councillor who is permitted to speak according to these Governance Rules must not be interrupted unless called to order, or given notice by the chairperson that their speaking time has elapsed or is about to elapse, when they must stop speaking and, if standing, sit and remain silent until the councillor raising the point of order has been heard and the point of order dealt with.

#### **7.2 Addressing the meeting**

- (1) Where the chairperson so determines, any person addressing the chairperson must refer to the chairperson as:
  - (a) Mayor; or
  - (b) chairperson.
- (2) All Councillors, other than the Mayor, must be addressed as *Councillor (surname)*.
- (3) All members of Council staff may be addressed by their official title.
- (4) Except for the chairperson and Chief Executive Officer, any person who addresses the meeting, where able to do so, must come forward and direct all remarks through the chairperson.
- (5) Members of the public may only address the Council in accordance with rule 12.

**7.3 Display of placards and posters**

- (1) Subject to rules 7.3(2) and 7.3(3), a person can display any placards or posters in the chamber where a meeting is being, or is about to be, held, including outside the entrance to the building.
- (2) A placard or poster must not:
  - (a) display any offensive, indecent, insulting, or objectionable item or words; or
  - (b) obstruct the entrance to the chamber; or
  - (c) obstruct the entrance to a building where a meeting is being, or is about to be, held; or
  - (d) obstruct the view of any person; or
  - (e) physically impede any person.
- (3) The chairperson may order and cause the removal of any placard or poster that is deemed by the chairperson to not meet the standard imposed by rule 7.3(2).

**7.4 Conduct at meetings**

Members of the public present at a meeting must:

- (a) not interject during the meeting;
- (b) not take part in debate during the meeting;
- (c) not make any offensive gestures towards any person during the meeting.

**7.5 Chairperson may remove**

- (1) The chairperson may direct a person to:
  - (a) stop interjecting during the meeting; or
  - (b) stop making offensive gestures towards any person during the meeting; or
  - (c) cease taking part in debate during the meeting.
- (2) Where a person contravenes a direction given under rule 7.5(1), the chairperson may order the removal of the person from the meeting.
- (3) In causing a person's removal under rule 7.5(2), or the removal of an object or material under rule 7.3(3), the chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the person, object or material.

**7.6 Council or the Mayor may remove a councillor**

- (1) Where a councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts a meeting, and prevents the Council from conducting its business:



- (a) where the chairperson has warned the councillor to cease that behaviour, the Council may, by resolution, suspend that councillor from a portion of the meeting or from the balance of the meeting; or
  - (b) the Mayor, under section 19 of the Act, at a Council meeting, having previously warned the councillor to cease that behaviour, may direct a councillor to leave the meeting for a period of time or the balance of the meeting.
- (2) Where the Council suspends a councillor under rule 7.6(1)(a), or the Mayor directs a councillor to leave the meeting under rule 7.6(1)(b), the councillor will take no active part in that portion of the meeting.
- (3) Where a councillor has been suspended from a meeting or directed to leave in accordance with rule 7.6(2), the chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the councillor.

#### **7.7 Chairperson may adjourn a disorderly meeting**

- (1) The conduct of councillors and members at meetings is governed by the Act, these governance rules, and the Councillor Code of Conduct.
- (2) Where the chairperson is of the opinion that disorder at a meeting makes it desirable to adjourn the meeting, the chairperson may adjourn the meeting to a later time on the same day or to some later day whichever the chairperson thinks proper.

### **8. Date, time, and place of meetings**

#### **8.1 Scheduled meetings**

- (1) At or before the last meeting each calendar year, Council must fix the date, time, and place of all scheduled Council meetings for the following calendar year.
- (2) Council by resolution, or the Chief Executive Officer, may change the date, time, and place of, or cancel, any scheduled Council meeting and must provide notice of such change to the public.

#### **8.2 Postponement**

- (1) In the case of an emergency, the Chief Executive Officer, or delegate, or in the absence of both, a director, may postpone a Council meeting, provided every reasonable attempt is made to notify every councillor of the postponement.
- (2) The Chief Executive Officer, delegate or director must submit a full written report of the circumstances requiring his or her action in respect of the emergency postponement at the next scheduled Council meeting.

#### **8.3 Unscheduled meetings**

- (1) Council may by resolution call an unscheduled Council meeting.

- (2) The Mayor, or three councillors, may by written notice call an unscheduled Council meeting.
- (3) The Chief Executive Officer, following consultation with the Mayor, may call an unscheduled Council meeting.
- (4) A written notice to call an unscheduled Council meeting must:
  - (a) specify the business to be transacted; and
  - (b) be delivered to the Chief Executive Officer or delegate in sufficient time to enable notice to be given in accordance with these governance rules.
- (5) The Chief Executive Officer or delegate must determine the time and date for the meeting, considering:
  - (a) the urgency of the business to be transacted;
  - (b) the availability of councillors; and
  - (c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted.
- (6) The Chief Executive Officer must arrange for notice of the meeting to be published on Council's website.
- (7) Any resolution of Council to call an unscheduled meeting must specify the date and time of the unscheduled meeting and the business to be transacted. The date and time of the unscheduled meeting must not be prior to 6pm on the day following the Council meeting at which the resolution was made.
- (8) The Chief Executive Officer must call a meeting to determine the mayoral term and elect a Mayor following a Council general election declaration, in accordance with the Act.
- (9) The unscheduled meeting for the election of a Mayor following an election may also consider the role of Deputy Mayor and any other matters as determined by the Chief Executive Officer.
- (10) Only the business specified in the Council resolution, or specified within the advance written notice, may be considered at an unscheduled meeting, unless Council, by unanimous resolution, determines to admit another matter.

#### 8.4 Notice of scheduled meetings

- (1) A notice of a scheduled Council meeting, incorporating or accompanied by an agenda, must be sent electronically to every councillor for each meeting, at least 5 business days before the meeting. A period of less than 5 business days may be justified if exceptional circumstances exist.
- (2) An agenda for each scheduled Council meeting will be made available on Council's website no less than 48 hours before the meeting.

- (3) A schedule of Council meetings must be prepared, published and accessible to a broad section of the community, including publishing on Council's website at least once each year and with such greater frequency as the Chief Executive Officer determines.
- (4) The schedule of Council meetings must be available from Council's Customer Service Centres.

#### **8.5 Notice of unscheduled meetings**

- (1) Notice of an unscheduled meeting must be published on Council's website as soon as practicable after the time, date and place of the meeting has been determined.
- (2) An agenda for an unscheduled Council meeting must be made available electronically to every councillor at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.
- (3) An agenda for an unscheduled Council meeting will be made available on Council's website no less than 24 hours before the meeting.

### **9. Attendance**

#### **9.1 Apologies and absences**

- (1) Councillors who are unable to attend a meeting may submit an apology:
  - (a) in writing to the chairperson, who will advise the meeting; or
  - (b) by seeking another councillor to submit it at the meeting on their behalf.
- (2) An apology submitted to a meeting will be recorded in the minutes.
- (3) A councillor intending to take a leave of absence should submit it in writing to the Mayor.
- (4) The Mayor will aim to have any councillor leave of absence request received included in the agenda of the next Council meeting.
- (5) A leave of absence not included in a Council meeting agenda may still be considered by Council if a written request has been received by the Mayor prior to the meeting.
- (6) Council will not unreasonably withhold its approval of a leave of absence request.
- (7) A councillor who has not submitted an apology or had a leave of absence approved and who is not in attendance at a Council meeting will be recorded as absent.

#### **9.2 Quorum**

- (1) A quorum for a Council meeting is provided by the Act.
- (2) Meetings must commence within 30 minutes of the scheduled starting time.

- (3) Where, after 30 minutes from the scheduled starting time of any meeting or adjournment, a quorum cannot be obtained, the chairperson, or if the chairperson is not present, those councillors present or, if there are no councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a director, may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.
- (4) Where, during any meeting or any adjournment of the meeting, a quorum cannot be maintained, the chairperson, or if the chairperson is not present, those councillors present or, if there are no councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a director, may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.
- (5) The chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more councillors that will cause a quorum to be lost, and direct the Chief Executive Officer to include that item of business on an agenda for a future Council meeting.
- (6) Where a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of councillors, the Council must:
  - (a) determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
  - (b) determine to make decisions on separate parts of the matter at a meeting where a quorum can be maintained, before deciding on the whole matter at a meeting for which a quorum can be maintained.
- (7) Where a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of councillors, and the matter cannot be separated into component parts or prior decisions made, the Council will delegate the decision to be made:
  - (a) to the Chief Executive Officer; or
  - (b) to a delegated committee, established for the purpose of determining the matter, comprised of all the councillors and members who have not disclosed a conflict of interest and any other persons the Council or the committee considers suitable.
- (8) A decision made under delegation due to Council or a committee not being able to achieve or maintain a quorum will be reported to the next scheduled Council meeting.
- (9) The Chief Executive Officer must provide written notice, including by electronic means, to each councillor of any Council meeting adjourned to another date or time due to an inability to achieve or maintain a quorum.
- (10) Where it is not practicable to give notice in accordance with Rule 9.2(9) because time does not permit, then provided every reasonable attempt is made to contact each councillor either verbally, or by some other means, the resulting notice will be sufficient.

- (11) Notice of an adjournment of a Council meeting to another date, time, or place must be published on Council's website as soon as practicable.

## **10. Business at meetings**

### **10.1 Matters to be included**

- (1) The Chief Executive Officer may include any matter on the agenda for a Council meeting that they think should be considered at the meeting to which the agenda relates.
- (2) No business can be dealt with at a meeting unless it is:
- (a) contained on the agenda; or
  - (b) admitted as urgent business in accordance with rule 10.4.

### **10.2 Order of business**

Unless otherwise agreed by the councillors, the order of business for Council meetings could follow the example set out below:

- (a) welcome;
- (b) recording of meeting statement;
- (c) acknowledgement of traditional owners;
- (d) opening prayer;
- (e) present, absent and apologies;
- (f) granting of leave of absence;
- (g) citizenship ceremony;
- (h) confirmation of minutes of previous meetings;
- (i) conflict of interest disclosure;
- (j) designation of items as confidential;
- (k) petitions;
- (l) councillor reports;
- (m) officer reports;
- (n) minutes and reports of delegated committees;
- (o) minutes and reports of the Audit and Risk Committee;
- (p) minutes and reports of advisory committees;
- (q) notices of motion;
- (r) notices of rescission;
- (s) foreshadowed items;
- (t) urgent business;
- (u) public question time;
- (v) confidential business;

- (w) closure of meeting.

### 10.3 Change to order of business

Once an agenda has been sent to councillors, the order of business for that meeting may only be altered by a resolution of the Council.

### 10.4 Urgent business

- (1) Where the agenda makes provision for urgent business, business cannot be admitted as urgent business other than by a resolution of Council and only then where:
  - (a) it relates to or arises out of a matter which has arisen since distribution of the agenda and deferring the item until the next meeting will mean a decision on the item will not have any effect on the matter; or
  - (b) the matter cannot be addressed through an operational service request process; and
  - (c) the matter does not:
    - I. substantially affect the levels of Council service; or
    - II. commit Council to significant expenditure not included in the adopted budget; or
    - III. establish or amend Council policy; or
    - IV. commit Council to any contractual arrangement.
- (2) A councillor proposing that a matter be admitted as urgent business must lodge the proposal in writing with the Chief Executive Officer no later than 3pm on the day of the meeting.
- (3) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.

## 11. Length of meetings

### 11.1 Time limits

A meeting must not continue after three hours from the time it commences unless a majority of councillors who are present vote in favour of its extension in accordance with this rule.

### 11.2 Extensions

- (1) Extensions of a meeting must only be in block periods of 30 minutes.
- (2) After an initial 30-minute extension the meeting must not continue unless a majority of councillors who are present vote in favour of a further extension.
- (3) A meeting may only be continued for a maximum of two 30-minute extensions.

- (4) In the absence of such extensions as provided for in rules 11.20, 11.2(1) and 11.2(2), or in the event there is further business to be transacted at the completion of two extensions, the meeting must stand adjourned to 6 pm on the following day.
- (5) Notwithstanding rule 11.2(4), the chairperson may seek the agreement of Council or of the committee not to adjourn the meeting to the following day, if the chairperson reasonably believes the remaining business will take less than 10 minutes to transact.

### **11.3 Chairperson may temporarily adjourn a meeting exceeding two hours**

- (1) The chairperson may adjourn a meeting for a 10-minute break, at an appropriate point in proceedings after two hours has elapsed.
- (2) Notwithstanding rule 11.3(1), the chairperson may seek the agreement of Council or of the committee not to adjourn the meeting if the chairperson reasonably believes the remaining business of the meeting will take less than 30 minutes to transact.

## **12. Public question time**

### **12.1 Public question time to be held**

- (1) Public question time provides an opportunity for members of the public to submit questions and make statements to the Council.
- (2) The Council will hold public question time at each scheduled Council meeting other than:
  - (a) during any period of a Council meeting where the Council has closed the meeting under section 66 of the Act; or
  - (b) at a scheduled Council meeting held during the election period for a general election.
- (3) Council meetings are recorded and broadcasted to the public, including public question time.

### **12.2 Submitting questions**

- (1) A question will be accepted in relation to any matter other than where it is:
  - (a) considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance; or
  - (b) related to confidential information as defined by the Act; or
  - (c) related to the personal hardship of any person; or
  - (d) related to any other matter which the Council considers would prejudice the Council or any person.
- (2) Any member of the public or group who wishes to be heard during public question time may provide their question or statement:



- (a) in writing, containing the name, address and email or contact telephone number of the person to be heard; and
- (b) addressed to the Chief Executive Officer; and
- (c) exactly as intended to be read; and
- (d) in a form approved or permitted by the Council; and
- (e) where applicable, identifying the person who is to represent a group or an individual; and
- (f) provided before 10am on the day of the scheduled Council meeting;
  - I. in a letter to PO Box 238, Wangaratta 3676; or
  - II. in an email to [council@wangeratta.vic.gov.au](mailto:council@wangeratta.vic.gov.au); or
  - III. delivered by hand to the Council's Office - Wangaratta Government Centre, 62-68 Ovens Street, Wangaratta Vic 3677.
- (3) Copies of all questions submitted and accepted in accordance with rules 12.2(1) and 12.2(2) must be provided in writing to all councillors.
- (4) Where a question is not accepted, the Chief Executive Officer or delegate must inform submitter of the reason or reasons for which the question was not accepted.
- (5) A question submitted in writing by a member of the public which has been disallowed under rule 12.2(1) will be provided to any councillor on request.
- (6) The Chief Executive Officer must cause a submission provided in a language other than English to be translated to English. If the translation is not possible prior to the commencement of the meeting the submission will be translated in time to be heard at the next scheduled Council meeting and the submitter notified accordingly.
- (7) A question may be asked by a person from the meeting's public gallery when invited by the chairperson to do so.
- (8) The chairperson may disallow or stop a submission if, in the chairperson's opinion, the submission is deemed inappropriate.
- (9) Any question which has been disallowed by the chairperson must be made available to any other Councillor upon request.

### 12.3 Time allowed

- (1) Public question time will not exceed 30 minutes in aggregate, unless by resolution of Council, in which case public question and submission time may be extended once for 15 minutes.
- (2) Questions related to a matter listed on the agenda of the meeting will be heard and responded to just prior to the consideration of that matter.
- (3) Questions not related to a matter listed on the agenda of the meeting will be heard and responded to at the time listed in the agenda of the meeting for public question time.



- (4) The total number of questions asked by each person or each group at a meeting must not exceed two.
- (5) Where a person has provided two questions to a meeting, the second question may:
  - (a) at the discretion of the chairperson, be deferred until all other persons who have asked a question to have had their questions asked and answered; or
  - (b) may not be asked if the time allotted for public question time has expired.
- (6) The chairperson will allocate a maximum of 5 minutes to each person who wishes to address Council.

#### 12.4 Procedure

- (1) A member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the chairperson whenever called on to do so.
- (2) The chairperson will first invite any person who has submitted a question that has been accepted in accordance with rules 12.2(1) and 12.2(2) to present to Council.
- (3) The chairperson will then invite members of the public gallery who would like to present to Council.
- (4) The chairperson has the discretion to alter the order of persons to be heard.
- (5) A person whilst addressing the Council:
  - (a) must confine their address to the 5-minute allocation of time; and
  - (b) shall extend due courtesy and respect to the Council and the processes under which it operates; and
  - (c) shall take direction from the Chair whenever called upon to do; and
  - (d) shall not engage in discussion or debate with anyone at the meeting.
- (6) Councillors may ask the person addressing the Council questions of clarification without the need to suspend standing orders to allow this to occur.

#### 12.5 Responses

- (1) Like questions may be grouped together and a single response provided.
- (2) The chairperson may nominate a councillor, the Chief Executive Officer, or another member of Council staff to respond to a question.
- (3) A response may be provided immediately.
- (4) The chairperson or the Chief Executive Officer may require a question to be put on notice.
- (5) Where a question is put on notice, a written response must be sent within five business days to the person who asked the question and the question, and the

corresponding response will be published in the minutes of the next scheduled Council meeting.

- (6) The Chief Executive Officer may advise Council that the response to a question should be given in a meeting closed to members of the public. The Chief Executive Officer must briefly state the reason why the response should be so given and, unless Council resolves to the contrary, the response to the question must be given in that way.

### **13. Petitions and joint letters**

#### **13.1 Submitting petitions**

- (1) Every petition submitted to Council must:
  - (a) be in legible and in permanent writing; and
  - (b) include the whole request of the petitioners or signatories on each page; and
  - (c) not be derogatory, defamatory, or objectionable in language or nature; and
  - (d) not relate to matters outside the powers of Council; and
  - (e) contain the names, addresses and handwritten original signatures of at least 12 people.
- (2) Where a petition has been signed by less than 12 people, it will be treated as a joint letter and forwarded directly to the Council for action as an operational item.
- (3) Petitions must be lodged with the Chief Executive Officer at least five business days before a scheduled Council meeting for it to be considered at that meeting.

#### **13.2 Online or electronic petitions**

- (1) An online or electronic petition may be presented to a scheduled Council meeting.
- (2) An online or electronic petition must not be presented to a scheduled Council meeting if it contains signatures that are false or misleading.
- (3) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is submitted to Council.

#### **13.3 Procedure for considering petitions**

- (1) The Chief Executive Officer must arrange for a petition that meets the requirements of rule 13.1 to be listed for presentation at the next scheduled Council meeting.
- (2) Only the petition text, the number of signatories and a brief introduction providing context for the petition will be included in the agenda.
- (3) Where a petition is addressed to a councillor, and listed in the agenda, that councillor may read the petition out at the meeting without speaking to it.
- (4) A councillor presenting a petition must ensure that:

- (a) they are familiar with the contents and purpose of the petition; and
  - (b) the petition is not defamatory or objectionable in language or nature.
- (5) Where a petition is not addressed to an individual councillor, and listed in the agenda, the petition must be read by the Chief Executive Officer or delegate.
- (6) The only motions that may be considered on any petition are:
  - (a) that the petition be received; or
  - (b) where the petition relates to an item listed on the agenda, that the petition be considered in conjunction with that agenda item; or
  - (c) that the petition be referred to the Chief Executive Officer for consideration and response; or
  - (d) that the petition be referred to the Chief Executive Officer for a report to a future Council meeting.
- (7) Where a petition relates to an item already on the agenda, the petition may be received in conjunction with that agenda item as if it were a question submitted in accordance with rule 12.
- (8) Where a petition relates to an operational matter, Council must refer it to the Chief Executive Officer for consideration.
- (9) Where a petition relates to a planning matter which is the subject of a public notification process under the *Planning and Environment Act 1987*, the petition will be treated as a joint submission in relation to that planning matter.
- (10) Where a petition relates to a matter which is the subject of a community engagement process under the Act, the petition will be treated as a joint submission in relation to that matter.

## 14. Motions and debate

### 14.1 Allowing motions

The chairperson must not accept any motion which:

- (a) is defamatory; or
- (b) is objectionable in language or nature; or
- (c) is vague or unclear in its intention; or
- (d) is outside the powers of the Council; or
- (e) is not relevant to an item of business on the agenda and has not been admitted as urgent business; or
- (f) purports to be an amendment but is not.

**14.2 Speaking times**

- (1) Unless a motion for an extension of speaking time has been carried, the maximum speaking times are in the case of:
  - (a) the mover of a motion or amendment, 5 minutes;
  - (b) the mover of a motion when exercising their right of reply, 2 minutes; and
  - (c) any other speaker, 3 minutes.
- (2) A motion for an extension of speaking time must be proposed before the initial speaking time, for that speaker, expires.
- (3) A motion for an extension of speaking time must not be accepted by the chairperson if another councillor has commenced speaking.
- (4) Only one extension of speaking time is permitted for each speaker.
- (5) Any extension of speaking time must not be more than two minutes.

**14.3 Procedure for moving a motion**

The procedure for moving a motion is as follows:

- (a) The mover must outline the motion without speaking in support of it;
- (b) The motion must be seconded by a councillor other than the mover;
- (c) Where a motion is not seconded, the motion lapses for want of a seconder;
- (d) Where there is a seconder, then the chairperson must call on the mover to speak to the motion;
- (e) After the mover has spoken to the motion, the seconder may also speak to the motion;
- (f) After the seconder has spoken to the motion (or after the mover has spoken to the motion if the seconder does not speak to the motion), the chairperson must call on any councillor who wishes to speak against the motion, then on any councillor who wishes to speak for the motion, after waiting until all councillors wishing to speak to the motion have spoken;
- (g) Where no councillor wishes to speak against the motion, then the chairperson may put the motion to a vote or call on any other councillor to speak.

**14.4 Right of reply**

- (1) The mover of a motion, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.
- (2) No new matters may be raised in the right of reply.
- (3) Where no councillor has spoken against a motion, there will be no right of reply.
- (4) After the right of reply has been exercised, the motion must immediately be put to the vote without any further discussion or debate.

#### 14.5 Moving an amendment

- (1) A motion, which has been moved and seconded, may be amended by leaving out, inserting, or adding words, which must be relevant to the subject of the motion.
- (2) An amendment may be proposed or seconded by any councillor, except the mover and seconder of the original motion.
- (3) Where a councillor proposes an amendment and the original mover and seconder of the motion both indicate their agreement with the amendment, the amended motion becomes the substantive motion without debate or vote.
- (4) Where a councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
  - (a) the amendment must be moved and seconded;
  - (b) a councillor may speak on any amendment once, whether or not he or she has spoken to the motion, but debate must be confined to the terms of the amendment;
  - (c) any number of amendments may be proposed to a motion, but only one amendment may be accepted by the chairperson at any one time. No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with and voted on;
  - (d) where the amendment is carried, the motion as amended then becomes the motion before the meeting (known as the *substantive motion*); and
  - (e) the mover of an amendment does not have right of reply.

#### 14.6 Foreshadowing motions

- (1) At any time during debate a councillor may foreshadow a motion so as to inform the Council of their intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- (2) A motion foreshadowed may be prefaced with a statement that, in the event of a motion before the meeting being resolved in a certain way, a councillor intends to move an alternative or additional motion.
- (3) A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.
- (4) The minutes of the meeting will not include foreshadowed motions unless the foreshadowed motion is subsequently formally moved as a motion.

#### 14.7 Withdrawal of motions

Before any motion is put to the vote, it may be withdrawn with the agreement of the Council.

**14.8 Separation of motions**

- (1) Where a motion contains more than one part, a councillor may request the chairperson to put the motion to the vote in separate parts.
- (2) The chairperson may decide to put any motion to the vote in separate parts.

**14.9 Motions moved in a block**

The chairperson may allow like motions to be moved, or request councillors to move like items, in a block, only if the motions note actions already taken and will not commit the Council to further action, spending or changes to policy.

**14.10 Motions in writing**

- (1) All motions, except procedural motions, must be submitted in writing.
- (2) The chairperson may adjourn a meeting while a motion is being written or may request the Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

**14.11 Debate must be relevant to the motion**

- (1) Debate must always be relevant to the motion before the meeting, and, if not, the chairperson must request the speaker to confine debate to the motion.
- (2) Where, after being requested by the chairperson to confine debate to the motion before the meeting, the speaker continues to debate irrelevant matters, the chairperson may direct the speaker to be seated and not speak further in respect of the motion. The speaker must immediately comply with any such direction.

**14.12 Adequate and sufficient debate**

- (1) Adequate debate is required where a matter is contentious in nature. In such a case, every councillor should be given an opportunity to participate in the debate.
- (2) A motion has been sufficiently debated if opposing views, where they exist, have been sufficiently put by not so much the number of those who have spoken but whether all opposing views have been put.
- (3) Once the views put are representative of the views of all councillors the debate would be regarded as sufficient.

**15. Voting****15.1 How a matter is determined**

- (1) To determine a motion at a meeting, the chairperson must first call for those in favour of the motion and then those opposed to the motion and must then declare the result to the meeting.

- (2) The chairperson may direct that a vote be recounted to be satisfied of the result.
- (3) In the event of a tied vote, the chairperson must, unless the Act provides otherwise, exercise the casting vote.

#### **15.2 Voting must be seen**

- (1) Voting may be by any method resolved by the Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a councillor has voted at the time a vote is taken.
- (2) In the absence of the Council resolving an alternative method, voting on any matter is by a show of hands.

#### **15.3 When a division is permitted**

- (1) A division may be requested by any councillor on any vote.
- (2) A request for a division must be made to the chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the meeting has moved to the next item of business.
- (3) When a division is called for the chairperson must:
  - (a) first ask each councillor wishing to vote in favour of the motion to indicate their vote and the chairperson must then state the names of those councillors to be recorded in the minutes; and
  - (b) then ask each Councillor wishing to vote against the motion to indicate their vote and the chairperson must then state the names of those councillors to be recorded in the minutes; and
  - (c) next, ask each Councillor abstaining from voting to indicate their vote and the chairperson must then state the names of those councillors to be recorded in the minutes; and
  - (d) finally, declare the result of the division.
- (4) Where a division is requested after the original vote has been taken, the motion is decided on the division and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

#### **15.4 No discussion once a vote has been declared**

Once a vote on a motion has been declared carried or lost by the chairperson, no further discussion relating to the motion is allowed, unless the discussion:

- (a) involves a councillor requesting that his or her opposition to a resolution be recorded in the minutes or calling for a division in accordance with rule 15.3; or
- (b) is a councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.



## 16. Procedural motions

- (1) Unless otherwise prohibited, and subject to rule 16(3), a procedural motion may be moved at any time and must be dealt with immediately by the chairperson.
- (2) Procedural motions require a seconder.
- (3) The chairperson may reject a procedural motion if he or she believes the motion on which it is proposed has not been adequately or sufficiently debated.
- (4) Regardless of any other rule, a procedural motion must be dealt with in accordance with the table at rule 16(8).
- (5) A procedural motion may not be moved or seconded by the chairperson.
- (6) Unless otherwise provided, debate on a procedural motion is not permitted and the mover does not have a right of reply.
- (7) Unless otherwise provided, a procedural motion must not be amended.
- (8) Procedural motions table:

Motion	Form	Mover and seconder	When prohibited	Effect if carried	Effect if lost	Debate permitted
<b>Deferral of a matter</b> (to a future meeting)	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral)'...	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor or Deputy Mayor; or (b) During the election of a chairperson; or (c) When another Councillor is speaking	Consideration and debate on the motion or the amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated	Debate continues unaffected	Yes



Motion	Form	Mover and seconder	When prohibited	Effect if carried	Effect if lost	Debate permitted
<b>Closure</b> (of debate)	'That the motion now be put'	Any councillor who has not moved or seconded the original motion or spoken for or against the original motion	During nominations for a chairperson	Motion or amendment is put to the vote immediately without further debate, subject to any councillor exercising their right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
<b>Laying a motion on the table</b> (pausing debate)	'That the motion be laid on the table'	A councillor who has not spoken for or against the motion	During the election of the Mayor or Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No
<b>Take a motion from the table</b> (resume debate on a matter)	'That the motion in relation to xx be taken from the table'	Any councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
<b>Alter the order of business</b>	'That the item listed at xx on the agenda be considered before or after the item listed as xy'	Any councillor	(a) At a meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the agenda	No

Motion	Form	Mover and seconder	When prohibited	Effect if carried	Effect if lost	Debate permitted
<b>Suspension of standing orders</b>	'That standing orders be suspended to ...' (reason must be provided)	Any councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion  No debate or decision on any matter, other than a decision to resume standing orders, is permitted	The meeting continues unaffected	No
<b>Resumption of standing orders</b>	'That standing orders be resumed'	Any councillor	When standing orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No
<b>Consideration of confidential matter(s)</b> (Close the meeting to members of the public)	That, in accordance with section 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item xx which is confidential as it relates to <i>[insert reason]</i>	Any councillor	During the election of the Mayor or Deputy Mayor	The meeting is closed to members of the public	The meeting continues to be open to the public	Yes
<b>Reopen the meeting</b>	'That the meeting be reopened to members of the public'	Any councillor		The meeting is reopened to the public	The meeting remains closed to the public	No

## 17. Notices of motion

### 17.1 Submitting a notice of motion

- (1) A councillor can submit to the Chief Executive Officer a notice of motion for inclusion in the agenda for a scheduled Council meeting.
- (2) A notice of motion must be in writing, signed by the councillor (including by electronic means), and be lodged with the Chief Executive Officer no later than 12 noon 10 business days before the meeting at which it is intended to be considered to ensure its inclusion in the agenda.
- (3) The Chief Executive Officer must inform councillors about the legal and cost implications of any proposed notice of motion.
- (4) The Chief Executive Officer may suggest revised wording to the draft notice of motion to facilitate compliance with the requirements for notices of motion under these governance rules.
- (5) A notice of motion must relate to the objectives, role and functions of Council as outlined in the Act.
- (6) A notice of motion must include a call for a Council report if the notice of motion proposes any action that:
  - (a) impacts Council service levels; or
  - (b) commits Council to expenditure that is not included in the adopted or revised Council budget; or
  - (c) proposes to establish, amend, or extend Council policy; or
  - (d) proposes to impact the rights of any person who has not had the opportunity to contribute their views; or
  - (e) commits Council to any contractual arrangement; or
  - (f) concerns any litigation in respect of which Council is a party.
- (7) The Chief Executive Officer must reject any notice of motion which:
  - (a) is too vague; or
  - (b) is defamatory; or
  - (c) may be prejudicial to any person or Council; or
  - (d) is objectionable in language or nature; or
  - (e) is outside the powers of Council; or
  - (f) is submitted during the election period.
- (8) The Chief Executive Officer may reject a proposed notice of motion that:
  - (a) relates to a matter that can be addressed through the operational service request process; or

- (b) relates to a matter that has been previously resolved by the Council or is already acted upon.
- (9) Where a notice of motion is rejected, the Chief Executive Officer must inform the councillor proposing that notice of motion of the rejection and the reasons for the rejection no later than nine business days before the meeting at which it is intended to be considered. The councillor may submit a revised notice of motion within 24 hours of receiving that advice.
- (10) The Chief Executive Officer may designate a notice of motion to be confidential in accordance with the Act, in which case, the notice of motion will be considered in that part of the relevant scheduled Council meeting that is closed to members of the public.
- (11) The Chief Executive Officer must cause all notices of motion to be sequentially numbered, dated and entered in a register.

#### **17.2 Procedure to consider a notice of motion**

- (1) The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda and outline the policy, financial and resourcing implications if the notice of motion is passed.
- (2) The Chief Executive Officer may arrange for comments on the implications of the notice of motion from members of Council staff to be provided to councillors prior to the notice of motion being published in the agenda.
- (3) Unless the Council resolves otherwise, each notice of motion must be considered in the order in which they were received.
- (4) The motion moved must not be substantially different to the notice of motion published in the agenda, however, it may be amended by resolution of the Council.
- (5) Where a councillor who has lodged a notice of motion is absent from the meeting or fails to move the motion when called upon by the chairperson to do so, any other councillor may move the motion.
- (6) Where a notice of motion is not moved at the meeting at which it is listed, it lapses.

### **18. Notices of rescission**

#### **18.1 Submitting a notice of rescission**

- (1) Motions to rescind or alter a previous resolution of the Council can be made by:
  - (c) a notice of rescission delivered by a councillor; or
  - (d) a recommendation contained in an officer's report included in the agenda.
- (2) It is good practice for the Council to review policies at least once in each Council term (every 4 years) and such reviews may lead to a change in policy. A motion for rescission is not required where the Council wishes to change policy.

- (3) A policy designated by the Council as a Major Council Policy may only be amended, modified, or revoked in accordance with the Major Council Policy Consultation Local Law No. 4 of 2015.
- (4) A councillor may propose a motion to rescind or alter a previous resolution of Council provided:
  - (a) the previous resolution has not been acted on; and
  - (b) the effect of the notice of rescission will not place the Council at significant legal, financial, or other risk, including non-compliance with statutory obligations; and
  - (c) a notice is delivered to the Chief Executive Officer or delegate setting out the previous resolution to be rescinded or altered and the meeting and date when the previous resolution was carried.
- (5) A notice of rescission must be in writing, signed (including by electronic means) by a councillor and be delivered to the Chief Executive Officer or a delegate by 12 noon at least 10 business days prior to the next scheduled Council meeting.
- (6) Unless a notice of rescission specifies a particular meeting date, the Chief Executive Officer must list the notice of amendment or rescission, and if more than one, in the order they were received, on the next appropriate scheduled Council meeting agenda.
- (7) The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution of the Council, may implement that resolution at any time after the close of the meeting at which it was made.
- (8) A resolution of the Council will be deemed to have been acted on if:
  - (a) its contents or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the proposed minutes of the meeting on Council's website; or
  - (b) a statutory process has been commenced to vest enforceable rights or obligations on the Council or any other person.
- (9) The Chief Executive Officer must cause every notice of rescission received to be sequentially numbered and maintained in a register.
- (10) Notwithstanding rule 15.1(7), the implementation of a resolution must be deferred where it:
  - (a) has not been acted on; and
  - (b) it is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with rule 15.1(5), unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.

**18.2 Procedure to consider a notice of rescission**

- (1) The full text of any notice of rescission accepted by the Chief Executive Officer must be included in the agenda and outline the policy, financial and resourcing implications if the notice of rescission is passed.
- (2) A notice of rescission listed on an agenda may be moved by any councillor present but must be moved in the form it was listed and must not be amended.
- (3) Where a motion for rescission is not moved at the meeting for which it is listed, it lapses.
- (4) Where a motion for rescission is lost, a similar motion may not be put before the Council for at least six months from the date it was last lost, unless the Council resolves that the notice of rescission be re-listed at a future meeting.

**19. Foreshadowed items**

- (1) At the time designated in the agenda, a councillor may foreshadow a notice of motion to be submitted for consideration at the next meeting by indicating, when called on to do so by the chairperson, the subject matter of the foreshadowed notice of motion.
- (2) The subject matter, as indicated by the councillor, of a foreshadowed item will be recorded in the minutes.
- (3) No discussion or debate is allowed on a foreshadowed item.
- (4) A foreshadowed item will have no further formal status at that meeting.
- (5) Where a councillor does not submit a notice of motion for the next meeting, no further action on a foreshadowed item will occur.

**20. Points of order****20.1 Valid points of order**

- (1) A point of order may be raised in relation to:
  - (a) a motion which has not been accepted by the chairperson;
  - (b) a question of procedure;
  - (c) a councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
  - (d) debate that is irrelevant to the matter under consideration;
  - (e) a matter that is outside the powers of Council; or
  - (f) any act of disorder.
- (2) A mere difference of opinion or contradicting a speaker is not a point of order.

**20.2 Making a point of order**

A councillor raising a point of order must state:

- (a) the point of order; and
- (b) any provision, rule, practice or precedent relevant to the point of order.

**20.3 Deciding a point of order**

- (1) The chairperson must decide a point of order by stating the provision, rule, practice, or precedent which they consider applicable to the point of order raised, without entering any discussion or comment, other than, if necessary, to confer with the Chief Executive Officer or delegate for the purpose of making the decision.
- (2) The chairperson may adjourn the meeting to consider a point of order; otherwise they must rule on it as soon as it is raised.
- (3) All other matters before the Council are suspended until a point of order is decided.

**20.4 Dissent in chairperson's ruling**

- (1) A councillor may move that the Council disagree with the chairperson's ruling on a point of order, by moving a motion of dissent.
- (2) A motion of dissent in the chairperson's ruling must, if seconded, be given priority to all other items of business.
- (3) A substitute chairperson must be elected to preside while the motion of dissent is being considered.
- (4) The substitute chairperson must put questions relative to the ruling to the chairperson first, and then to the mover of the motion of dissent.
- (5) The substitute chairperson must conduct a debate on the chairperson's ruling, and the matter must be decided by a majority vote.
- (6) The chairperson must then resume the chair for the remainder of the meeting.

**21. Suspension of standing orders**

- (1) To temporarily remove the constraints of meeting procedure and allow full discussion or clarification of an issue, the Council may, by resolution, suspend standing orders in accordance with the procedural motion table at rule 16(8).
- (2) Suspension of standing orders should not be used purely to dispense with the processes and protocol of the Council.
- (3) No motion can be accepted or lawfully dealt with by the chairperson during any suspension of standing orders, except a motion to resume standing orders.

- (4) No motion to suspend standing orders can be accepted by the chairperson during a second extension of time for a meeting.

## **22. Joint council meetings**

- (1) The Council may resolve to participate in a joint council meeting to consider:
  - (a) collaborative programs;
  - (b) collaborative projects;
  - (c) collaborative procurement;
  - (d) emergency response.
- (2) Where the Council has resolved to participate in a joint council meeting, the Chief Executive Officer, or delegate, will agree on governance rules for that meeting with the participating councils.
- (3) Where the Council is the lead council on a matter to be brought for consideration at a joint council meeting, the Mayor will be nominated as chairperson for the joint council meeting.
- (4) Councillors will be appointed by the Council to represent Council at a joint council meeting.
- (5) Consistent information will be provided to councillors from each Council prior to any joint meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing of councillors.
- (6) A joint briefing arranged in accordance with rule 22(5) may be held electronically.

## **Records of meetings**

### **23. Minutes**

#### **23.1 Responsibility for minute taking**

The Chief Executive Officer or delegate is responsible for the keeping of minutes of Council meetings on behalf of Council.

#### **23.2 Minutes must record**

The minutes must record:

- (a) the date, time, place, and nature of the meeting;
- (b) the names of councillors and whether they are present, or have submitted an apology, or are on a leave of absence;
- (c) the titles of the members of Council staff present who are not part of the gallery;



- (d) the disclosure of a conflict of interest made by a councillor in accordance with the Act;
- (e) the arrivals and departures of councillors, during the course of the meeting, including any temporary departures or arrivals;
- (f) every motion and amendment moved, including procedural motions;
- (g) the outcome of every motion moved;
- (h) where a division is called, the names of every councillor and the way their vote was cast and if they abstained;
- (i) when requested by a councillor, a record of their support of, opposition to, or abstention from voting on any motion, noting that under section 61(5) of the Act a councillor present at the meeting who does not vote is taken to have voted against the motion;
- (j) details of any failure to achieve or maintain a quorum;
- (k) a summary of any question asked, and the response provided as part of public question time;
- (l) details of any petitions made to Council;
- (m) the time and reason for any adjournment of the meeting or suspension of standing orders;
- (n) any other matter, which the Chief Executive Officer or delegate thinks should be recorded to clarify the intention of the meeting or assist in the reading of the minutes; and
- (o) the time the meeting was opened and closed, including any part of the meeting that was closed to members of the public.

### 23.3 Availability of minutes

The minutes as recorded by the Chief Executive Officer, or delegate, unless circumstances do not permit, will be made available as unconfirmed minutes to:

- (a) councillors, within 5 business days of the date of the meeting they relate to; and
- (b) members of the public, by publishing them on Council's website, within 5 business days of the date of the meeting they relate to unless the meeting was not open to members of the public.

### 23.4 Confirming the minutes

- (1) At every meeting, unconfirmed minutes of preceding meetings must be dealt with as follows:
  - (a) a motion will be moved to confirm minutes in the following terms: *'That the minutes of the [insert type of meeting] meeting held on [insert date in the form d mmmm yyyy] be confirmed'*;
  - (b) where a councillor indicates opposition to the minutes, the councillor must specify the particular item or items in the minutes and, after asking any

questions to clarify the matter, can only move a motion to rectify errors in the minutes by adding the following words to the motion in rule 23.4(1)(a),  
*'...subject to the following alterations.....'*

- (2) No debate or discussion is permitted on a motion to confirm minutes except regarding their accuracy as a record of the proceedings of the meeting to which they relate.
- (3) Where minutes are confirmed in their original or amended form, minutes must, if practicable, be signed by the chairperson of the meeting at which they have been confirmed.
- (4) Minutes that have been confirmed must be entered in the minute book and each item in the minute book must be entered consecutively.
- (5) An unconfirmed version of the minutes must be replaced on the website with the confirmed version of those minutes.

#### 24. Video and audio recordings

- (1) A member of Council staff or a Council contractor may operate a recording device:
  - (a) for the purpose of preparing draft minutes of a meeting, in which case the recording will be destroyed as soon as its original purpose is served; or
  - (b) for the purpose of providing access to the meeting to members of the public who are unable to attend or view a meeting, in which case the recording will be published and retained by Council in accordance with Council's legal obligations.
- (2) Recording devices other than those operated in accordance with rule 24(1)(a) must not be used during any period when a meeting is closed to members of the public in accordance with the Act.
- (3) Where the meeting is being recorded in accordance with rule 24(1)(a) the chairperson must read the following statement: *'This public meeting is being recorded for the purpose of preparing draft minutes of the meeting. The recording will be destroyed as soon as its original purpose is served. As a visitor in the public gallery, your presence may be recorded.'*
- (4) Where the meeting is being recorded in accordance with rule 24(1)(b) the chairperson must read the following statement: *'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 or online, your presence may be recorded.'*
- (5) Where other parties are recording a meeting that is open to members of the public:
  - (a) there will be no adjustments to lighting, seating, or any other modifications to facilitate recording, in the chamber; and
  - (b) recording devices must not be used in a manner which disrupts the meeting by obstructing the entrance to a building where a meeting is being, or is about to

be, held, or obstructing the entrance to the chamber or obstructing the view of the meeting by any person or physically impeding any person's access to the meeting or causing any person present not to be able to see and hear the proceedings of the meeting.

## Mayor, Deputy Mayor & Acting Mayor

### 25. Election of Mayor & Deputy Mayor

#### 25.1 Chief Executive Officer to set time and date for election of Mayor

The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor, except that the election of the Mayor must be held in accordance with any provisions contained in the Act.

#### 25.2 Election of Deputy Mayor

- (1) At the Council meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a councillor to the position of Deputy Mayor.
- (2) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by the Council.
- (3) Where the Council has not resolved to establish the position of Deputy Mayor, any provisions in these governance rules relating to a Deputy Mayor have no effect.

#### 25.3 Determining the election of Mayor and Deputy Mayor

- (1) The Chief Executive Officer will preside during the election of the Mayor.
- (2) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with each nominee.
- (3) The election of the Mayor must be carried out by a show of hands or following a resolution made in accordance with Rule 15.2(1)(1), an electronic method that enables those observing, including those in attendance and those watching a livestream broadcast, to see who a councillor has voted for at the time the vote is taken.
- (4) Where in an election for the Mayor:
  - (a) only one candidate has been nominated, that candidate must be declared elected;
  - (b) two candidates have been nominated:
    - I. a vote must be taken and the candidate who receives the number of votes equal to or greater than half the councillors of the Council must be declared elected;
    - II. where no candidate receives the number of votes equal to or greater than half the councillors of the Council, a second vote will be conducted;
    - III. where, after a second vote, no candidate receives the number of votes equal to or greater than half the councillors of the Council, the Chief

Executive Officer will seek a resolution for a subsequent meeting to conduct a new election, to be held at 6pm the following day.;

- (c) more than two candidates have been nominated:
  - I. a vote must be taken and the candidate who receives the number of votes equal to or greater than half the councillors of the Council must be declared elected;
  - II. where no candidate receives the number of votes equal to or greater than half the councillors of the Council, the candidate with the fewest number of votes cast must be eliminated;
  - III. the names of the remaining candidates must be put to the vote again; and
  - IV. the procedure in rules 25.3(4)(c)II and 6.3(4)(c)III above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in Rule 25.3(4)(b).
  - V. in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes) the Chief Executive Officer will conduct a vote for one candidate to be defeated.

- (5) Where Council resolves to have the office of Deputy Mayor, rules 25.3(2), 25.3(3) and 25.3(4) apply to the election of the Deputy Mayor with all necessary modifications and adaptations.

#### **25.4 Ceremonial Mayoral speech**

- (1) Upon being elected, the Mayor may make a ceremonial speech.
- (2) The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

### **26. Appointment of an Acting Mayor**

#### **26.1 Role of an Acting Mayor**

- (1) An Acting Mayor may perform any function or exercise any power conferred on the Mayor.
- (2) Where an Acting Mayor has been appointed, unless inconsistent with the context or subject matter, a reference in these governance rules to the Mayor includes a reference to the Acting Mayor.

#### **26.2 When to appoint an Acting Mayor**

- (1) Where there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, and there is no Deputy Mayor, the Council must appoint one of the councillors to be the Acting Mayor.

- (2) The Mayor will be deemed to be absent if the Mayor is, or will be, away from the municipality or uncontactable whilst within the municipality and therefore unable to fulfil the role of Mayor for a period of seven or more consecutive days.
- (3) The Mayor will be deemed to be incapable of acting where the Mayor declares to the Council that they are incapable of fulfilling the role of Mayor.
- (4) The Mayor will be deemed to be refusing to act if, after being requested by a Council resolution to fulfil the role of Mayor, in the opinion as expressed in a subsequent resolution of the Council, the Mayor continues to refuse to act.

### **26.3 Election of an Acting Mayor**

Where an Acting Mayor is to be appointed, rules 25.3(2), 25.3(3) and 25.3(4) apply to the election of the Acting Mayor with all necessary modifications and adaptations.

## Election Period Policy

- (1) Council must have in place an election period policy that:
  - (a) governs decision making during an election period, including what may be considered at Council and committee meetings;
  - (b) prohibits the use of Council resources for election campaign purposes, including Federal, State or Council elections;
  - (c) sets out the conditions for undertaking community engagement, including consultations, civic events, and activities of committees established by Council, during an election period;
  - (d) sets out the requirements for Council publications during an election period, including the website, social media, newsletters, and advertising, to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
  - (e) defines roles and responsibilities in relation to who is the spokesperson for Council during an election period;
  - (f) sets out the requirements for a councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
- (2) The election period policy made under the *Local Government Act 1989* forms part of these governance rules with any necessary modifications and adaptations.
- (3) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, the Council must review its election period policy.
- (4) The operation of Council advisory committees must be suspended during the election period.

## Conflict of interest

### 27. Obligations

- (1) Councillors and members of Council staff are required to:
  - (a) avoid all situations which may give rise to conflicts of interest; and
  - (b) identify conflicts of interest; and
  - (c) disclose conflicts of interest.
- (2) Members of Council staff may be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure at rule 29(3) and the employee code of conduct.
- (3) The Chief Executive Officer will maintain a conflict of interest register which must be made available on Council's website.

### 28. Disclosure by a councillor

#### 28.1 Procedure at a Council meeting

- (1) Councillors may not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- (2) At the time indicated in the agenda, a councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:
  - (a) the item for which they have a conflict of interest; and
  - (b) whether their conflict of interest is general or material; and
  - (c) the circumstances that give rise to the conflict of interest.
- (3) Immediately prior to the consideration of the item in which they have a conflict of interest, a councillor must indicate to the meeting the existence of the conflict of interest and leave the meeting.
- (4) A councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner required for the declarations of conflicts of interest at rule 28.1(2) prior to leaving the meeting.
- (5) A councillor who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.
- (6) Disclosures of conflicts of interest must be recorded in the minutes of the meeting.



**28.2 Procedure at other meetings organised, hosted, or supported by Council**

- (1) A councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- (2) At the time indicated on the agenda, a councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- (3) Where there is no agenda, a councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- (4) At the time for discussion of that item, the councillor will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.
- (5) The existence of a conflict of interest will be recorded in the minutes of the meeting.
- (6) Where there are no minutes kept of the meeting, a conflict of interest will be recorded in a meeting record and kept in the conflicts of interest register.
- (7) The minutes or meeting record will also record in relation to a matter where a conflict of interest has arisen, the duration of the discussion and whether the councillor left the meeting.
- (8) Minutes, meeting records and reports will be presented to Council for noting and inclusion on the public record.

**29. Disclosure by a member of Council staff**

- (1) A member of Council staff:
  - (a) must act in accordance with the employee code of conduct; and
  - (b) must not exercise a delegation or decide on any matter where they have a conflict of interest.
  - (c) must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- (2) All conflicts of interest disclosed by Council staff must be recorded in the conflicts of interest register.
- (3) A member of Council staff who has disclosed a conflict of interest may provide advice to Council or another member of Council staff acting under delegation where:
  - (a) the number and qualifications of other people providing advice regarding the same matter is equal or greater; or
  - (b) the member of Council staff who has disclosed the conflict of interest is the only person with expertise in the area and their director determines that the conflict of interest has not influenced the advice provided; and

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- (c) the existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

## Breaches

Breaches of this policy may lead to disciplinary action in accordance with the Act or Council's enterprise agreement or employment contract.

## Definitions

Act	<i>Local Government Act 2020.</i>
Advisory committee	A committee established by the Council that is not a delegated committee, that provides advice to: <ul style="list-style-type: none"> <li>(a) the Council; or</li> <li>(b) a member of Council staff who has been delegated a power, duty, or function of the Council.</li> </ul>
Agenda	A document containing the date, time and place of a meeting and a list of business to be transacted at the meeting.
Associates of Council	Contractors working in-house, staff on exchange, members of Special Committees, members of Advisory Committees, volunteers, work experience students or graduate placements who perform work for Council as well as external suppliers and other contractors and subcontractors.
Agreement of council	Indicative agreement of all the councillors or members present, without a vote being conducted. In the event there is any uncertainty about the majority of councillors agreeing, the matter may be put to a vote.
Audit and Risk Committee	The Audit and Risk Committee established by the Council under section 53 of the Act.
Authorised Officer	Has the same meaning as in the <i>Local Government Act 1989</i> or any other Act.
Chairperson	The chairperson of a meeting and includes an acting, temporary and substitute chairperson.

Chamber	Any room where the Council holds a council meeting.
Chief Executive Officer	The person occupying the office of Chief Executive Officer of the Council, and includes a person acting in that office.
Committee	A delegated committee or any other committee to which these governance rules apply.
Committee meeting	A meeting of a committee convened in accordance with these governance rules and includes a scheduled meeting and an unscheduled meeting.
Council	The Wangaratta Rural City Council comprised of elected councillors and led by the Mayor.
Council	The Rural City of Wangaratta, led by the Chief Executive Officer.
Councillor	A councillor of the Council.
Code of conduct	Has the same meaning as in the Act
Council meeting	A meeting of the Council convened in accordance with these governance rules and includes a scheduled meeting and an unscheduled meeting.
Delegate	A member of Rural City staff to whom powers, functions and duties have been delegated by an instrument of delegation.
Delegated committee	Has the same meaning as in the Act.
Delegated committee meeting	A meeting of a delegated committee convened in accordance with these governance rules and includes a scheduled meeting and an unscheduled meeting.

Deputy Mayor	The Deputy Mayor of the Council and any person appointed by the Council to act as Deputy Mayor.
Director	A senior member of Council staff holding the position of Director or another position, however designated, which reports directly to the Chief Executive Officer.
Disorder	Any disorderly conduct at a meeting by a member of the gallery of the meeting or a councillor and includes: <ul style="list-style-type: none"> <li>(a) interjecting when another person is speaking, except, in the case of where a councillor or member is raising a point of order; and</li> <li>(b) making comments that are defamatory, malicious, abusive, or offensive; and</li> <li>(c) refusing to leave the meeting when requested, ordered, or directed to do so by the chairperson in accordance with the Act and the governance rules; and</li> <li>(d) engaging in any other conduct which prevents the orderly conduct of the meeting.</li> </ul>
Election period	Has the same meaning as in the Act.
Employee code of conduct	The code of conduct for members of Council staff developed and implemented under section 49 of the Act.
Foreshadowed item	A matter raised in the relevant section of the meeting that indicates that a councillor intends to submit a notice of motion for the next meeting.
Majority of the votes	A majority of councillors present at the time of a vote voting in favour of a matter.
Mayor	The Mayor of the Council and any person appointed by the Council to be acting as Mayor.
Meeting	A Council meeting or a committee meeting.
Member	A member of a committee.

Minister	The Minister for Local Government.
Minutes	The official record of the proceedings and decisions of a meeting.
Motion	A proposal framed in a way that will result in the opinion of the Council being expressed, and a decision being made, if the proposal is adopted.
Notice of motion	A notice setting out the text of a motion which a councillor proposes to move at a meeting.
Notice of rescission	A notice of motion to rescind a resolution made by the Council.
On notice	Held or deferred to a future meeting to enable preparation of a response.
Point of order	A procedural point about how the meeting is being conducted, not involving the substance of a matter before the meeting.
Procedural motion	A motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure.
Questions	Questions and statements submitted in public question time.
Rule	A rule included in these governance rules.
Scheduled meeting	A meeting convened in accordance with the schedule of meetings set by the Council.
Urgent business	A matter that relates to or arises out of a matter which has arisen since distribution of the agenda and cannot safely or conveniently be deferred until the next meeting.
Unscheduled meeting	A meeting convened for a particular purpose that cannot be effectively dealt with in a scheduled meeting.

## References

### Legislation

- *Local Government Act 2020*

### Review

These governance rules must be reviewed by Council, and amended if necessary, at least once in each Council term and, not later than 12 months prior to the commencement of an election period.

## Mayor, Deputy Mayor & Acting Mayor

### 25. Election of Mayor & Deputy Mayor

#### 25.1 Chief Executive Officer to set time and date for election of Mayor

The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor, except that the election of the Mayor must be held in accordance with any provisions contained in the Act.

#### 25.2 Election of Deputy Mayor

- (1) At the Council meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a councillor to the position of Deputy Mayor.
- (2) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by the Council.
- (3) Where the Council has not resolved to establish the position of Deputy Mayor, any provisions in these governance rules relating to a Deputy Mayor have no effect.

#### 25.3 Determining the election of Mayor and Deputy Mayor

- (1) The Chief Executive Officer will preside during the election of the Mayor.
- (2) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with each nominee.
- (3) The election of the Mayor must be carried out by a show of hands or following a resolution made in accordance with Rule 15.2(1)(1), an electronic method that enables those observing, including those in attendance and those watching a livestream broadcast, to see who a councillor has voted for at the time the vote is taken.
- (4) Where in an election for the Mayor:
  - (a) only one candidate has been nominated, that candidate must be declared elected;
  - (b) two candidates have been nominated:
    - I. a vote must be taken and the candidate who receives the number of votes equal to or greater than half the councillors of the Council must be declared elected;
    - II. where no candidate receives the number of votes equal to or greater than half the councillors of the Council, a second vote will be conducted;
    - III. where, after a second vote, no candidate receives the number of votes equal to or greater than half the councillors of the Council, [the Chief Executive Officer will seek a resolution for a subsequent meeting to](#)



~~conduct a new election, to be held at 6pm the following day the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6pm the following day the declaration will be determined by lot to determine who is the elected candidate;~~

- (c) more than two candidates have been nominated:
  - I. a vote must be taken and the candidate who receives the number of votes equal to or greater than half the councillors of the Council must be declared elected;
  - II. where no candidate receives the number of votes equal to or greater than half the councillors of the Council, the candidate with the fewest number of votes cast must be eliminated;
  - III. the names of the remaining candidates must be put to the vote again; and
  - IV. the procedure in rules 25.3(4)(c)II and 6.3(4)(c)III above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in Rule 25.3(4)(b).
  - V. in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes) ~~the Chief Executive Officer will conduct a vote for one candidate to be defeated the declaration will be determined by lot.~~

~~(5) Where a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:~~

- ~~(a) Each candidate will draw one lot;~~
- ~~(b) The order of drawing lots will be determined by the alphabetical order of the surnames of the councillors who received an equal number of votes except that if two or more such Councillor surnames are identical, the order will be determined by the alphabetical order of the councillor's first names; and~~
- ~~(c) As many identical pieces of paper as there are councillors who received an equal number of votes must be placed in a receptacle;~~
- ~~(d) Where the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared been elected; and~~
- ~~(e) Where the lot is being conducted to determine who is duly elected, the word "Elected" shall be written on one of the pieces of paper, and the councillor who draws the paper with the word "Elected" on it must be declared to be duly elected.~~

(6)(5) Where Council resolves to have the office of Deputy Mayor, rules 25.3(2), 25.3(3) and 25.3(4) apply to the election of the Deputy Mayor with all necessary modifications and adaptations.

#### **25.4 Ceremonial Mayoral speech**

- (1) Upon being elected, the Mayor may make a ceremonial speech.
- (2) The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

### **26. Appointment of an Acting Mayor**

#### **26.1 Role of an Acting Mayor**

- (1) An Acting Mayor may perform any function or exercise any power conferred on the Mayor.
- (2) Where an Acting Mayor has been appointed, unless inconsistent with the context or subject matter, a reference in these governance rules to the Mayor includes a reference to the Acting Mayor.

#### **26.2 When to appoint an Acting Mayor**

- (1) Where there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, and there is no Deputy Mayor, the Council must appoint one of the councillors to be the Acting Mayor.
- (2) The Mayor will be deemed to be absent if the Mayor is, or will be, away from the municipality or uncontactable whilst within the municipality and therefore unable to fulfil the role of Mayor for a period of seven or more consecutive days.
- (3) The Mayor will be deemed to be incapable of acting where the Mayor declares to the Council that they are incapable of fulfilling the role of Mayor.
- (4) The Mayor will be deemed to be refusing to act if, after being requested by a Council resolution to fulfil the role of Mayor, in the opinion as expressed in a subsequent resolution of the Council, the Mayor continues to refuse to act.

#### **26.3 Election of an Acting Mayor**

Where an Acting Mayor is to be appointed, rules 25.3(2), 25.3(3) and 25.3(4) apply to the election of the Acting Mayor with all necessary modifications and adaptations.

*Planning and Environment Act 1987*

## WANGARATTA PLANNING SCHEME

### AMENDMENT C85

#### EXPLANATORY REPORT

##### **Who is the planning authority?**

This amendment has been prepared by the Rural City of Wangaratta Council which is the planning authority for this amendment.

The amendment has been made at the request of Habitat Planning, on behalf of Property Investments Vic P/L, being the landowners of the property..

##### **Land affected by the amendment**

The amendment applies to approximately 43 hectares of land at Wangaratta. This land is described as Lot 2 PS704122M, Vol 1136 Fol 843 and is located adjacent 382 Reith Road, Wangaratta.



Figure 1 – Location of the subject land (red outline) in the surrounding local context.

**What the amendment does**

The amendment proposes to amend Schedule 7 to the Special Use Zone (SUZ7) as it relates to the Reith Road Equine Village land at Reith Road Wangaratta. The purpose of the Amendment is to amend the provisions of the SUZ7 that relate to the occupiers of the proposed lots to create greater opportunity for other equine activities that would benefit from locating within an equine focussed development.

The amendment also proposes to acknowledge opportunity for establishing additional ancillary uses within the precinct that can provide sustainable land management, including the collection and recycling of manure waste from individual lots within the precinct.

**Strategic assessment of the amendment****Why is the amendment required?**

The amendment has been requested by the landowner in recognition of the opportunity to create greater potential for the specialised equine precinct to the broader equine industry and community.

Since first establishing and progressing the Wangaratta Equine Village, the proponent has identified considerable interest from a range of professional equine operators, including those in the harness racing industry, jumps racing, equestrian and the like, as well as other occupiers with equine animal keeping activities.

While these occupiers are not registered or licensed, they have a strong desire to utilise and make use of facilities available at the Wangaratta Turf Club and surrounding area. The existing SUZ7 provisions restricting occupiers to licensed trainers under the Australian Rules of Racing is now considered to be unnecessarily restrictive and eliminates a wide segment of professional equine users that would benefit from a high quality equine focussed development.

The proposed Amendment will create the ability for a broader range of equine related occupiers to co-locate within a purpose built development with associated users. It will also have external benefits to the Wangaratta Turf Club and surrounding industries by establishing a greater 'hub' of equine occupiers who will rely on those surrounding activities.

The proposed land will continue to be used for the original intended purposes, being lots containing horse stables, a dwelling and area for loading/unloading and accommodation of horses. The proposed lots would not include training facilities, with horses to utilise the upgraded training facilities of the adjacent racecourse. The application of a Section 173 agreement on all lots will ensure the use of the land for stables and dwelling accommodation is restricted for that purpose.

**How does the amendment implement the objectives of planning in Victoria?**

The amendment is consistent with the broad environmental, social and economic objectives for planning in Victoria by identifying appropriate zoning and land use on a strategic basis in accordance with preferred growth directions for Wangaratta.

**How does the amendment address any environmental, social and economic effects?***Environmental Impacts*

The western area of Wangaratta has become increasingly fragmented but also has been subject to ongoing zoning changes to more conventional lots and rural living activities.

The land has been historically used for agricultural production and grazing, and as such, the natural environment has been significantly modified. In addition, the land is mostly cleared of vegetation, other than for isolated patches of vegetation at the western extent of the land. These areas of native vegetation will be retained. Three Mile Creek watercourse which abuts the eastern boundary of the property also contains established vegetation.

The property is identified as being partly flood prone on the eastern boundary. The area affected by the Flood Overlay generally comprises land at eastern boundary adjacent the Three Mile Creek reserve. Some further low lying land adjacent to the creek is also identified within the Land Subject to Inundation Overlay.

The land is not within a declared Special Water Supply Catchment. Wastewater from future development will be required to be treated and disposed of in a manner which will not affect the groundwater or adjacent watercourses. Details on wastewater disposal will be considered as part of future detailed design.

The amendment will not significantly alter the development potential of the land over and above what has already been considered in earlier amendments. It will facilitate a broader range of users of the land, however fundamentally will remain an equine village.

#### *Social and Economic Impacts*

The amendment will facilitate additional equine activities considered to be of regional significance, given the potential future investment within Wangaratta, both directly and indirectly, and its role in achieving the growth and development outcomes of the Wangaratta Turf Club precinct.

The amendment has positive economic impacts for both the Wangaratta Turf Club and the City of Wangaratta generally. The expected direct funding for the establishment of the village itself will be in the order of \$8-10 million, plus additional investment by future landowners.

The Victorian Government has provided significant funding for upgrading of the training facilities for the Turf Club and actively encouraged additional private investment which will support the upgraded facilities. This amendment will facilitate substantial private sector investment in equine development for Wangaratta.

Economic benefits to the region will include use of local professional services, additional accommodation for staff and purchase of feed and supplies from the local area.

The additional equine related activities in the Wangaratta area will complement the ongoing growth of the educational services offered by Wangaratta TAFE, particularly in veterinary and equine sciences. Both the Wangaratta Turf Club and the landowners have committed to ongoing practical assistance to the TAFE campus and its coursework.

The intended future character proposed for the amendment is a dedicated equine precinct aimed at a broad range of professional equine users. The character of the residential precinct is intended to be protected by way of restrictions on the titles for the land and application of a Section 173 agreement.

#### **Does the amendment address relevant bushfire risk?**

The subject land is not within the Bushfire Management Overlay but is a site with some bush fire risk. The subject site is identified as 'bushfire prone' under the building regulations. The Amendment proposes potential outcomes for the land that are sustainable and safe with regard to bushfire and achieve the objective to mitigate against bushfire risk to the community.

The amendment does not result in any significant changes in land use or development over what is already permissible by the current zoning. There will be no apparent unacceptable risk to human life or any increased threat to property or assets in the immediate area in terms of bushfire.

#### **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**



The amendment is consistent with the Ministerial Direction of the Form and Content of Planning Schemes under Section 7 of the *Planning and Environment Act 1987*.

The amendment is consistent and compliant with the requirements of *Ministers Direction No. 11 - Strategic Assessment of Amendments*.

**How does the amendment support or implement the Planning Policy Framework and any adopted State policy?**

There are a number of relevant considerations under the State Planning Policy Framework (SPPF) regarding this proposal.

Settlement (Clause 11)

Clause 11.01-1R generally encourages economic growth within Wangaratta, through its status in the SPPF as a major regional centre. It also encourages “sustainable development of the regional cities and centres” which includes Wangaratta.

The proposal seeks to facilitate further investment for equine related uses and activities directly supportive of the existing equine industry within the region.

Environmental Risks and Amenities (Clause 13)

Clause 13.02-1S has the objective to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. It requires that planning settlements and communities and prioritise protection of human life by:

- *Directing population growth and development to low risk locations, being those locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre under AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2009).*
- *Ensuring the availability of, and safe access to, areas assessed as a BAL-LOW rating under AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2009) where human life can be better protected from the effects of bushfire.*
- *Ensuring the bushfire risk to existing and future residents, property and community infrastructure will not increase as a result of future land use and development.*
- *Achieving no net increase in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reducing bushfire risk overall.*
- *Assessing and addressing the bushfire hazard posed to the settlement and the likely bushfire behaviour it will produce at a landscape, settlement, local, neighbourhood and site scale, including the potential for neighbourhood-scale destruction.*
- *Assessing alternative low risk locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis.*
- *Not approving any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than a BAL-12.5 rating under AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2009).*

The proposed development can achieve a BAL12.5 construction standard upon development and therefore will not cause significant risk to human life.

Clause 13.03-1S refers to floodplain management. The subject land is identified as having a small risk of inundation from floodwaters in a 1:100 year event. This affects the eastern side of the property. The provision of a variety of lot sizes means that future lots can be established within this part of the property to ensure that adequate area is provided within areas not at risk of inundation. The remaining part of the property is not affected by flood risk.

Clause 13.07-1S refers to land use compatibility. The amendment proposes to enable the opportunity for other ancillary collection and recycling activities to occur on the property. This will involve the collection of waste generated on the site and processing of this material into a reusable form in off-site locations. The nature of the uses intended for the site are consistent and compatible with the equine village and will not lead to any amenity conflicts.

#### Economic Development (Clause 17)

Clause 17.01-1R encourages appropriate new and developing forms of industry, agriculture, tourism and alternative energy production. The expanded equine village and its associated uses will contribute to this objective.

#### **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

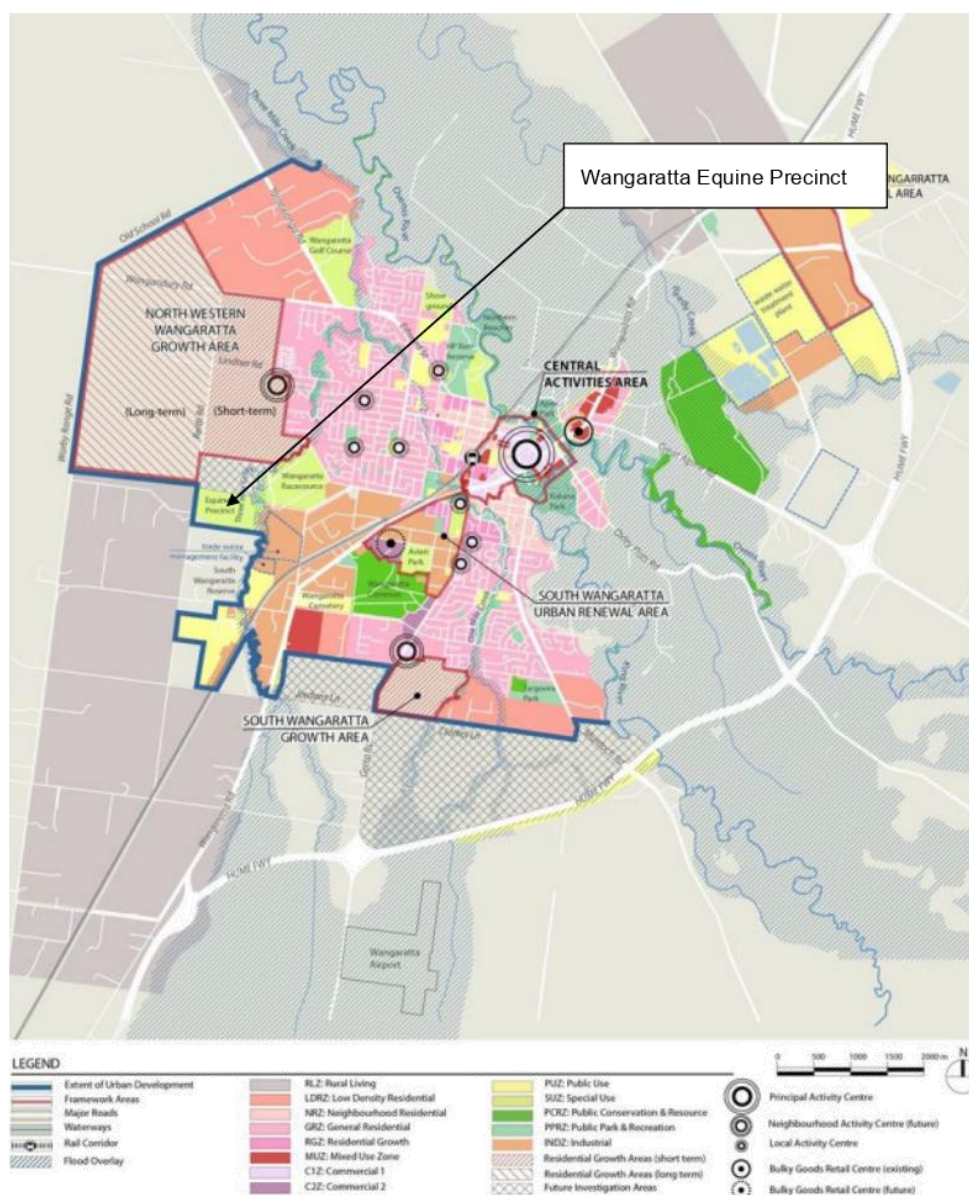
The proposed amendment supports and responds to the relevant matters of the Municipal Strategic Statement (MSS) and Local Planning Policy Framework, as considered below.

Clause 21.01 sets out the vision for Wangaratta and key issues. Amongst these is the vision for Wangaratta to be a hub for recreational, commercial, educational, tourism and health facilities, including regional private and public hospitals and allied health services. The city is well served by preschool, primary, secondary and tertiary education options including the Wangaratta District Special School, Goulburn Ovens Institute of TAFE and a campus of Charles Sturt University.

A key objective is for 'growth' of the city, noting that the economy and community are growing because there are growth opportunities and potential and that the region continues to attract visitors, investors and new residents. The vision also includes a desire to be sustainable, including to ensure long term viability and capacity to deliver quality services and infrastructure, decisions will be made that meet the changing and complex challenges that face the municipality.

Clause 21.02 refers to 'settlement' and supports the PPF at clause 11. The planning scheme notes that Wangaratta is a vibrant and strategically located regional centre that has been identified in the Hume Regional Growth Plan as a Regional City with opportunity for significant residential growth. It notes that in addition to the urban areas, some residential development will occur incrementally in rural areas and settlements, which would include specific developments such as the equine village development. It also notes that there is demand for low density residential type lots in Wangaratta (lots in the 0.4 to 2 hectare size range), with market preference to the north (Waldara area), south-east (Wangaratta-Whitfield Road) and generally south-west (west of Reith Road).

The Activity Areas map within clause 21.02-2 of the MSS notes the specific location of the Equine Development within the growth area of the city and as a key transitional element in the north west area. Refer to figure below.



Clause 21.03-1 sets considerations for biodiversity and notes that native vegetation is a critical part of biodiversity and environmental health and the incremental loss of native vegetation, on both public and private land, makes the conservation of remaining vegetation very important. An objective of this clause is to recognise, protect and enhance biodiversity values, ecosystem health and remnant vegetation, including scattered trees, roadsides, native grasslands and wetlands.

Clause 21.04-3 notes the risk to Wangaratta from bush fire, particularly in areas located on the outskirts of Rural Townships and Rural Settlements, consistent with a highly vegetated natural environment. The subject site is identified as 'bushfire prone' under the building regulations. The Amendment proposes potential outcomes for the land that are sustainable and safe with regard to bushfire and achieve the objective to mitigate against bushfire risk to the community.



### Population and Housing Strategy

The *Rural City of Wangaratta Population and Housing Strategy* (“the Population and Housing Strategy”) provides strategic support for the proposed equine related activities on the land. The Population and Housing Strategy includes a recommendation to “Support the designation of the land to the south west (the subject land) of the Wangaratta Racecourse over the Three Mile Creek for equine related development, including horse stabling and training facilities with ancillary dwellings”. It also recommends the application of a Special Use Zone, consistent with the adjacent Racecourse land, preparation of a land capability assessment with consideration of appropriate lot sizes across the site sufficient to support the satellite stables and residential development.

### Hume Regional Growth Plan

The Hume Regional Growth Plan was prepared by the Department of Transport, Planning and Local Infrastructure (DTPLI) in partnership with Councils in the Hume Region, including Wangaratta. The structure plan for Wangaratta within the Plan identified the subject land for future equine development.

### **Does the amendment make proper use of the Victoria Planning Provisions?**

The proposed amendment will retain the existing Special Use Zone and schedule, while making changes to the content of the schedule. The SUZ7 has been specifically drafted for the Equine Village precinct and is considered to be the most appropriate provision to use in this instance.

The existing and revised combination of zone and overlay represents a proper use of planning controls to ensure future development of the property is achieved in an efficient and preferred manner.

### **How does the amendment address the views of any relevant agency?**

An opportunity for formal response to the amendment will be provided to all relevant agencies during the exhibition process.

### **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The amendment is consistent with the Transport System Objectives contained within Division 2 of the Transport Integration Act 2010 (TIA) because:

- it will not exclude future residents from access to the local transport network;
- future development will have access to a collector road and arterial road;
- the land has been assessed for environmental impacts and designated for residential development;
- the future road network will be designed to integrate with other means of transport such as motor vehicles, bicycles and pedestrians as necessary; and
- the future road layout will be designed to provide for the safe operation of all transport modes.

The amendment satisfies the Decision Making Principles contained within Division 3 of the TIA because:

- all relevant government agencies will be consulted in regards to the amendment;
- on balance, there is a net benefit to the community;
- it does not prejudice any sector of the community;
- the future layout will provide for transport system users;
- the merits of the proposal render the ‘precautionary principle’ redundant; and
- no information has been withheld from any party with an interest in the proposal.

There is no Ministerial Statement of Policy Principle under Division 4 of the TI Act applicable to the amendment.

**Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

No additional resource requirements resulting from the approval of the amendment are anticipated. The changes will not result in any greater number of development proposals being considered by Council than otherwise would have been expected.

**Where you may inspect this amendment**

The amendment can be inspected free of charge at the Rural City of Wangaratta's website.

The amendment is also available for public inspection, free of charge, during office hours at the following places:

Rural City of Wangaratta Council  
Wangaratta Government Centre  
62-68 Ovens Street  
Wangaratta Victoria 3677

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.planning.vic.gov.au/public-inspection](http://www.planning.vic.gov.au/public-inspection).

**Submissions**

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by [insert submissions due date].

A submission must be sent to: Chief Executive Officer, Rural City of Wangaratta, PO Box 238, Wangaratta, Victoria, 3676

**Panel hearing dates**

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: [insert directions hearing date]
- panel hearing: [insert panel hearing date]

## WANGARATTA PLANNING SCHEME

DD/MM/YYYY

**SCHEDULE 7 TO THE SPECIAL USE ZONE**Shown on the planning scheme map as **SUZ7****REITH ROAD EQUINE PRECINCT****Purpose**

To encourage the use and development of ~~thoroughbred horse training~~ professional equine training facilities in association with the Wangaratta Racecourse and equine industry of Wangaratta and the surrounding region ~~(this in association with the racecourse needs revision based on the proposed vision ie: general equine Trotting etc).~~

To provide for subdivision of land for use and development as ~~thoroughbred horse training~~ professional equine training and related facilities.

To facilitate on-site accommodation for professional equine facilities, horse trainers and their employees in conjunction with ~~thoroughbred horse training~~ equine facilities.

To ensure that ~~thoroughbred horse training facilities~~ equine activities are established in a manner that does not prejudice the amenity of surrounding land uses.

To allow associated ancillary uses that support the sustainable operation of the equine uses in the precinct

**1.0**

DD/MM/YYYY

**Table of uses****Section 1 - Permit not required**

USE	CONDITION
<b>Animal training</b>	Must be conducted by a person registered under the Australian Rules of Racing <del>or the State Controlling Body of Harness Racing;</del> or any other person engaged in use of the land for equine animal keeping or horse husbandry uses.
<b>Dependent Persons Unit</b>	Must be the only dependent person's unit on the lot.  Must meet the requirements of Clause 3.0.
<b>Home Occupation</b>	
<b>Horse Stables</b>	Must be conducted by a person registered under the Australian Rules of Racing <del>or the State Controlling Body of Harness Racing;</del> or any other person engaged in use of the land for equine animal keeping or horse husbandry uses.  Must be in conjunction with the Wangaratta Racecourse <del>(Delete – see comments re: in association.)</del>

## WANGARATTA PLANNING SCHEME

Informal outdoor recreation	
Mineral exploration	
Mining	Must meet the conditions of Clause 52.08
Minor utility installation	
Natural systems	
Stone exploration	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

## Section 2 - Permit required

USE	CONDITION
Agriculture (other than Horse stabling and Animal Training)	
Animal keeping (other than Animal boarding)	Must be no more than 5 animals.
Car Park	Must be used in conjunction with another use within the Equine Precinct in Section 1 or 2.
Dependent person's unit – if the Section 1 condition is not met	Must meet the requirements of Clause 3.0.
Dwelling (other than Bed and Breakfast)	Must be the only dwelling on the lot. Must be 'in conjunction with' Horse stables activities conducted on the lot. Must meet the requirements of Clause 3.0.
Industry	<u>Must be for the purposes of collecting and recycling manure from the equine precinct as compost.</u>
Intensive animal husbandry (other than Broiler farm and Cattle feedlot).	
Leisure and recreation (other than Informal outdoor recreation, Major sports & recreation facility and Motor racing track)	
Mineral, stone or soil extraction (other than Mineral exploration, Mining and Stone exploration)	
Market	
Store (other than freezing and cool storage)	
Any use in Section 1 - if the condition is not met	

## WANGARATTA PLANNING SCHEME

**Section 3 - Prohibited****USE****Accommodation (other than Dependent person's unit and Dwelling)****Adult sex bookshop****Brothel****Cemetery****Corrective institution****Fuel depot****Freezing and cool storage****Industry (other than Store)****Motor racing track****Transport terminal****Utility installation (other than Minor utility installation)****Warehouse (other than Store)****Any use not in Section 1 or 2****2.0**

DD/MM/YYYY

**Use of land**

An application to use a lot for a dwelling must be accompanied by an 'Integrated Land Management Plan' (ILMP) describing the horse stabling facilities on the site (or proposed on the site) and which explains how the proposal responds to the following:

- The dwelling is in conjunction with horse stables and ~~the business of horse training equine facilities~~ as described in the ILMP.
- The occupier of the land is a licensed horse trainer or is an employee of a licensed horse trainer (for the avoidance of doubt, a dwelling may only be occupied by a licensed horse trainer or employee of a licensed horse trainer within the meaning of the Australian Rules of Racing together with their domestic partner and any dependents) ~~or the State Controlling Body of Harness Racing; or any other person engaged in use of the land for equine animal keeping or horse husbandry uses.~~
- Horse stables are established on the lot or proposed as part of the permit application.
- There is only one dwelling on a lot.
- The dwelling can be connected to a reticulated sewerage system or if not available, the waste water can be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- The dwelling can be connected to a reticulated potable water supply or is able to have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- The dwelling can be connected to a reticulated electricity supply or have an alternative energy source.

A permit for a dwelling must be issued subject to a condition requiring the landowner to enter into an agreement with the responsible authority under Section 173 of the *Planning and Environment Act 1987* that provides for, or requires that the land may only be used for the purposes of a dwelling if:

## WANGARATTA PLANNING SCHEME

- it is in conjunction with horse training and horse stables in accordance with an approved ILMP; and
- the dwelling is occupied by a licensed horse trainer within the meaning of the Australian Rules of Racing or an employee of a licensed horse trainer, including their domestic partners and dependents or the State Controlling Body of Harness Racing; or any other person engaged in use of the land for equine animal keeping or horse husbandry uses.

**Exemption from notice and review**

An application for use is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act if it is generally in accordance with the Development Plan (Reith Road Equine Precinct) approved under Schedule 5 to Clause 43.04 of this Scheme.

**Decision guidelines**

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including
- the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land
- How the use or development relates to the purposes of the zone
- The impacts of the use or development upon amenity of surrounding properties through light spill, noise and dust, and measures to be undertaken to minimise any adverse impacts

**3.0**

DD/MM/YYYY

**Subdivision**

A permit is required to subdivide land.

A permit may only be granted to subdivide land for the purposes of an equine precinct if:

- The minimum lot size for any lot created is 0.8 hectares; no more than 9 lots created by the subdivision are to be less than 1.0 hectares, and a total of no more than 30 lots are created by the subdivision.
- Effluent disposal fields are nominated on the plan if the lots are not connected to a reticulated sewerage system.

The landowner must enter into an agreement with the responsible authority under Section 173 of the *Planning and Environment Act 1987* requiring that each lot created must be used for the purposes of horse stables.

A permit may only be granted to create smaller lots by a public authority or utility service provider to create a lot for a utility installation.

**Exemption from notice and review**

An application for subdivision is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act if it is generally in accordance with the Development Plan (Reith Road Equine Precinct) approved under Schedule 5 to Clause 43.04 of this Scheme.

**4.0**

DD/MM/YYYY

**Buildings and works**

A permit is required to construct a building or construct or carry out works.

This does not apply to:

## WANGARATTA PLANNING SCHEME

- An alteration or extension to an existing dwelling or stable provided the floor area of the alteration or extension is not more than 100 square metres.
- An out-building associated with an existing dwelling or stable provided the floor area of the out-building is not more than 100 square metres.

**Application Requirements**

An application to construct a building or carry out works must be accompanied by the following information, as appropriate:

- A plan drawn to scale which shows:
  - The boundaries and dimensions of the site.
  - Adjoining roads.
  - The location, height and purpose of buildings and works on adjoining land.
  - Ground levels.
  - The layout of existing and proposed buildings and works.
  - All driveway, car parking and loading areas.
  - Proposed landscaping areas.
  - All external storage areas.
  - All effluent storage, disposal and treatment areas and their capability
- Elevation drawings to scale showing the colour and materials of all buildings and works.
- Construction details of all drainage works, driveways, vehicle parking and loading areas.

**Exemption from notice and review**

An application for buildings and/or works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act if it is generally in accordance with the Development Plan (Reith Road Equine Precinct) approved under Schedule 5 to Clause 43.04 of this Scheme.

**Decision Guidelines**

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

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- 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 including the visual impact on the landscape.
- 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

*Planning and Environment Act 1987*

**Panel Report**

**Wangaratta Planning Scheme Amendment C81  
Wangaratta Flood Controls**

**24 December 2020**



**How will this report be used?**

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment. [section 27(1) of the *Planning and Environment Act 1987* (the Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the Act]

*Planning and Environment Act 1987*

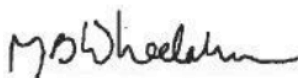
Panel Report pursuant to section 25 of the Act

Wangaratta Planning Scheme Amendment C81

24 December 2020



Gabby McMillan, Chair



Michael Wheelahan, Member

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## Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
AEP	Annual Exceedance Probability
ARI	Average Recurrence Interval
Council	Rural City of Wangaratta
DELWP	Department of Environment, Land, Water and Planning
FO	Flooding Overlay
GMW	Goulburn-Murray Water
HRGP	Hume Regional Growth Plan
LDRRS	Low Density Rural Residential Strategy
LSIO	Land Subject to Inundation Overlay
NECMA	North East Catchment Management Authority
PPF	Planning Policy Framework
WUWFI	Wangaratta Urban Waterways Flood Investigation Study Report 2017

## Overview

Amendment summary	
<b>The Amendment</b>	Wangaratta Planning Scheme Amendment C81
<b>Common name</b>	Wangaratta Flood Controls
<b>Brief description</b>	The Amendment proposes to implement the findings of the Wangaratta Urban Waterways Flood Investigation Study Report 2017 (WUWFI or Flood Study) by amending flooding controls in the Planning Scheme, including the Floodway Overlay (FO) and Land Subject to Inundation Overlay (LSIO) maps.
<b>Subject land</b>	Land in Wangaratta municipality in proximity to the Ovens River, King River, Fifteen Mile Creek, One Mile Creek, Three Mile Creek and Reedy Creek.
<b>The Proponent</b>	Rural City of Wangaratta (with input from North East Catchment Management Authority)
<b>Planning Authority</b>	Rural City of Wangaratta
<b>Authorisation</b>	16 March 2020
<b>Exhibition</b>	30 April to 20 July 2020
<b>Submissions</b>	Number of Submissions: 17 Opposed: 11

Panel process	
<b>The Panel</b>	Gabby McMillan (Chair) and Michael Wheelahan
<b>Directions Hearing</b>	2 October 2020
<b>Panel Hearing</b>	4 and 5 November 2020
<b>Site inspections</b>	Unaccompanied, 13 October 2020
<b>Parties to the Hearing</b>	Wangaratta Rural City Council represented by Mr David Hunter North East Catchment Management Authority represented by Mr Tim Loffler and supporting submissions by Mr Ben Tate of Water Technology. Jack McBain Eberhard Kunze Rhonda Diffey Vicki Bechaz Kate and William Ivey Justin Schultz Paul and Wendy Hardy James Panozzo
<b>Citation</b>	Wangaratta PSA C81 [2020] PPV
<b>Date of this Report</b>	24 December 2020

## Executive summary

Wangaratta Planning Scheme Amendment C81 (the Amendment) seeks to implement the findings of the *Wangaratta Urban Waterways Flood Investigation Study Report 2017* (WUWFI or Flood Study) by amending planning controls.

The Amendment proposes to:

- Amend the extent of the Land Subject to Inundation Overlay (LSIO) and Floodway Overlay (FO) mapping in the Planning Scheme.
- Amend the schedule to the Floodway Overlay (FO).
- Amend the schedule to the Land Subject to Inundation Overlay (LSIO).
- Amend Clause 21.12 (Reference Documents) to include the *Wangaratta Urban Waterways Flood Investigation Study Report 2017*.

The key issues raised in submissions include:

- The accuracy of the flood modelling underpinning the changes to the planning controls.
- The practical consequences of the purported modelling inaccuracies at individual locations, having regard to on-ground experience of past flood events.
- Scope of the permit triggers in the LSIO (this submission was withdrawn during the Panel process).

Planning policy requires environmental hazards to be recognised in the Planning Scheme so that decisions can take that risk into account. It is policy to include the most reliable hazard data available and for that data to account for the risks of climate change (which will increase the severity and frequency of flood events).

The Flood Study, which is the basis for the Amendment, was initiated by the North East Catchment Management Authority (NECMA). The NECMA instructed the consultant to prepare the study based on a methodology that was accepted practice at that time. However, the scope of the Flood Study did not account for climate change considerations.

The NECMA submitted that the data in the Flood Study could be used to estimate more severe flooding expected in a climate change scenario. A 'rule of thumb' adjustment was suggested where a more conservative flood level, 0.5% Annual Exceedance Probability (AEP) could be adopted, compared with the 1% AEP reflected in the FO and LSIO maps. The approach suggested by the NECMA is a practical workaround but it is not a transparent process.

The Panel concludes that the Flood Study represents the 'best available information' but does not respond to other aspects of planning policy relating to climate change. The Flood Study is sufficient to inform the extent of mapping, which is simply a trigger for further consideration through a planning permit process. However, the Panel does not consider that the Flood Study is adequate to inform longer term strategic planning decisions. If the Council intends to refer to the Flood Study as a background document in the future, an addendum to the Flood Study should be prepared addressing climate change risks before it is referenced in the Planning Scheme.

The Panel has considered individual submissions which raised concerns about the flood modelling and how it affected the extent of the FO and LSIO mapping on submitters' properties. The model is designed to predict likely and plausible future flood events; it does not represent an exact depiction of the worst possible scenario or previous flood event. Even

though the model does not necessarily match the lived experiences of many submitters, this does not mean it cannot be relied upon to map the flood risk for statutory planning purposes. Subject to some adjustments that address anomalies, the Panel considers that the mapping is a sufficient representation of the risks modelled in the Flood Study.

The Panel concludes that:

- The Flood Study represents the best currently available information about the risks of flooding in the Amendment area. However, it does not sufficiently address climate change which is expected to increase the severity and frequency of flood events.
- The Flood Study is sufficient (in its current form) to inform the FO and LSIO mapping in the Planning Scheme.
- The Flood Study should not be referenced in the Planning Scheme in its current form as it does not sufficiently account for the risks of climate change. An addendum to the study should be prepared which addresses climate change considerations before the Flood Study is referenced or is used to inform strategic land use planning decisions.
- Some revisions are required to the mapping to address anomalies identified by individual submitters.

### Recommendations

Based on the reasons set out in this Report, the Panel recommends that Wangaratta Planning Scheme Amendment C81 be adopted as exhibited subject to the following:

1. **The Flood Study should not be referenced in the Planning Scheme in its current form.**
2. **If the Council intends to refer to the Flood Study as a background document in the future, further work should be completed on the Flood Study to account for the impacts of climate change.**
3. **Remove the Land Subject to Inundation Overlay mapping from the island of land at 55 Gravel Pit Road, Wangaratta South circled in blue in Figure 2.**
4. **Amend the Planning Scheme maps as follows:**
  - a) **Delete the Flooding Overlay from Map No 37 FO as it applies to 398 Markwood-Tarrowingee Road, Wangaratta (as shown in Figure 3) and apply the Land Subject to Inundation Overlay to the same land on Map No 37 LSIO.**
  - b) **Delete the Flooding Overlay from Map No 18 FO as it applies to 95 Usshers Drive, Waldara (as shown in Figure 4) and apply the Land Subject to Inundation Overlay to the same land on Map No 18 LSIO.**
5. **Delete the substantive changes proposed by Goulburn-Murray Water and adopted by Council from the Land Subject to Inundation Overlay schedule.**
6. **Review the Land Subject to Inundation Overlay and the Flooding Overlay schedules to ensure that they meet the current Form and Content requirements for Planning Schemes.**
7. **Abandon the changes proposed to Clause 21.12 to list the Flood Study as a background document.**



# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

The purpose of the Amendment is to implement the findings of the *Wangaratta Urban Waterways Flood Investigation Study Report 2017* (WUWFI or Flood Study) by amending planning controls.

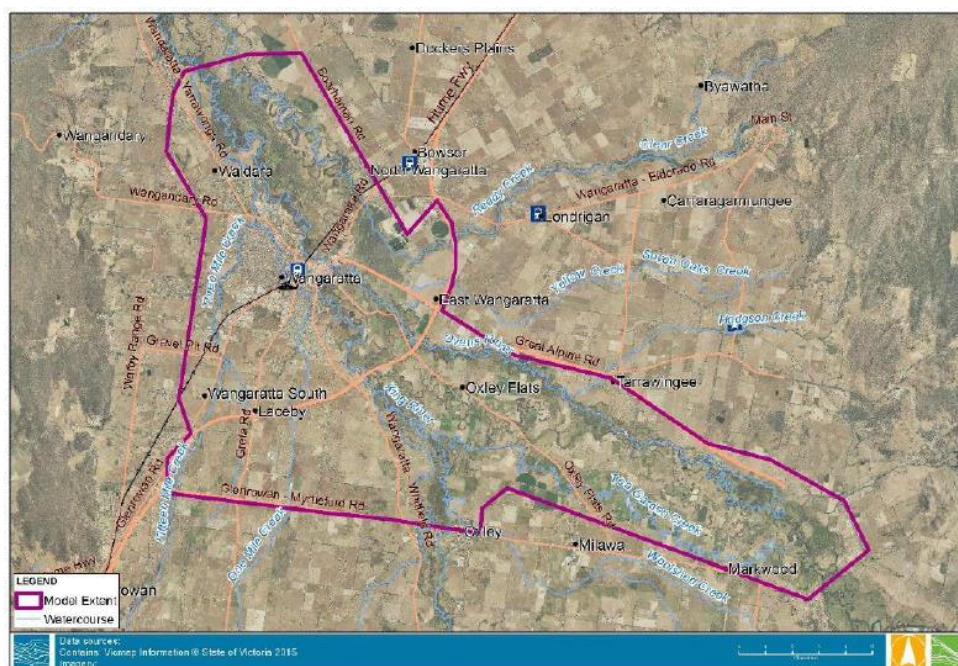
Specifically, the Amendment proposes to:

- Amend the extent of the Land Subject to Inundation Overlay (LSIO) and Floodway Overlay (FO) mapping in the Planning Scheme.
- Amend the schedule to the Floodway Overlay (FO).
- Amend the schedule to the Land Subject to Inundation Overlay (LSIO).
- Amend Clause 21.12 (Reference Documents) to include the *Wangaratta Urban Waterways Flood Investigation Study Report 2017*.

### (ii) The subject land

The Amendment applies to land in proximity to the Ovens and King Rivers, and Fifteen Mile, One Mile, Three Mile and Reedy Creeks shown at Figure 1.

Figure 1 The subject land



## 1.2 Background

The Flood Study was prepared by North East Catchment Management Authority (NECMA) in consultation with Council. The objective of the Flood Study was to review and revise current flood mapping and flood intelligence for Wangaratta's major waterways based on updated data, more recent flood events and new flood modelling.

Prior to the Flood Study, the flood data used for planning purposes relied heavily on mapping of the 1993 flood event, which represents the largest flood on record for the urban area. The October 1993 flood led to significant inundation throughout the study area and led to additional flood mitigation studies and flood management work for the urban area.

On 17 April 2018 Council adopted the Flood Study and concurrently resolved to request that the Department of Environment, Land, Water and Planning (DELWP) complete the necessary planning scheme amendment to implement the Flood Study.

Following the April 2018 resolution, DELWP advised Council that it would not undertake the planning scheme amendment on behalf of Council and that Council should undertake the amendment if it wished to implement the recommendations of the Flood Study.

On 17 September 2019 Council revised its earlier resolution to proceed (with support from NECMA) with preparing a planning scheme amendment and to seek authorisation to exhibit a planning scheme amendment to implement the relevant recommendations of the Flood Study.

Amendment C81 was prepared by Council with support from the NECMA.

After the exhibition period, submissions were considered by Council with input from technical officers at NECMA. Several site meetings and discussions were held between submitters, Council and NECMA during the process. Some of these discussions occurred before Council referred the Amendment to the Panel. Other discussions continued after the Council had formally referred all submissions to the Panel.

On 25 August 2020 Council considered all submissions to the Amendment and resolved to:

- Consider all submissions to Wangaratta Planning Scheme Amendment C81 – Wangaratta Urban Waterways Flood Investigation Study Report 2017, pursuant to Section 22(1) of the *Planning and Environment Act 1987*.
- Make changes to the exhibited Amendment C81 in accordance with the changes identified and recommended in Attachment 1 to the Council report.
- Refer Amendment C81 to a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
- Formally request that the Minister for Planning appoint a Panel in accordance with Section 23(1)(b) of the *Planning and Environment Act 1987*.
- Continue to work with submitters with unresolved submissions to attempt to reach a resolution that can be presented to a Panel.
- Notify submitters to Amendment C81 of Council's decision.



### 1.3 Procedural issues

#### 1.3.1 Scope of resolved submissions

The Council resolved to make changes to the Amendment as outlined in Attachment 1 to the Council report on 25 August 2020. Most of the changes described in Attachment 1 were not precisely defined, particularly changes related to mapping. The only change that was clear were the revisions requested by Goulburn-Murray Water (see discussion in section 1.3.2 of this report).

The Panel was unable to confidently conclude that changes made in response to landowner submissions, described in Attachment 1 of the Council report, resolved landowner submissions under section 23(1)(a) of the Act. Accordingly, the Panel has considered all landowner submissions as part of its assessment of the Amendment. This includes submissions which the Council indicated had been 'withdrawn' or 'resolved'.

#### 1.3.2 Goulburn-Murray Water

Goulburn-Murray Water made a submission to the Amendment. It requested a change to the drafting of the schedule to the LSIO to increase the scope of works that required a permit. It requested the following change (shown in underline):

A permit is not required to construct or carry out the following buildings or works:

...

The construction of a pergola, verandah, deck or carport associated with an existing dwelling provided that the works are located more than 30m from any waterway.

Council resolved to adopt this change to the Amendment at its meeting on 25 August 2020.

At the Directions hearing the Panel asked Goulburn-Murray Water to elaborate on the reason for this change, given the implications for landowners across the municipality. The change would alter permit requirements in any parts of the municipality mapped within the LSIO, not just the Amendment area.

In response, Goulburn-Murray Water wrote to the Panel on 22 October 2020 indicating that the change was only a 'suggestion'. Then on 28 October 2020 it advised the Panel that it no longer sought any changes to the exhibited version of Amendment and withdrew its submission.

#### 1.3.3 Version of Amendment considered by the Panel

Given the imprecise nature of Council's resolution on 25 August 2020 and issues outlined above, the Panel considered the Amendment as exhibited with the only change being the revised LSIO schedule.

### 1.4 Summary of issues raised in submissions

#### (i) Planning Authority

The key issues for Council were:

- The accuracy of the flood modelling and consequential mapping changes.
- The need to update the flood mapping to reflect current planning policy.

**(ii) Relevant agencies**

The key issues for the NECMA were the same as the issues for the Planning Authority.

Goulburn-Murray Water made submissions in relation to scope of permit requirements in the LSIO schedule. As outlined above, this issue was not pursued during the hearing.

**(iii) Individual submitters or groups of submitters**

The key issues for submitters were:

- Accuracy of the flood modelling.
- Accuracy of the FO and LSIO mapped areas.
- Impacts of changes to land use and approved developments on the modelling.
- Lack of consideration of flood mitigation works in the modelling.

For the reasons outlined in section 1.3, the Panel considered all individual submissions to be unresolved. However, the Panel notes the effort the Council and NECMA have gone to in responding to individual submissions during the process.

**1.5 The Panel's approach**

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the hearing. It has reviewed a large volume of material, and has had to be selective in referring to the more relevant or determinative material in this Panel Report. The Panel considered all submissions and materials in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context and strategic justification
- Methodology for the Flood Study
- Site specific issues
- Form and content of the Amendment.

**1.6 Limitations**

The Panel has not considered the consequences on insurance in detail. This is not a relevant planning consideration. However, the consequences on insurance are noted as a genuine concern for many submitters.

## 2 Planning context

### 2.1 Planning Policy Framework

Council submitted that the Amendment is supported by various clauses in the Act and Planning Policy Framework, which are summarised below.

#### Victorian planning objectives

Council submitted:

The Amendment will assist in implementing State policy objectives set out in section 4 of the Act

4(1) (a) to provide for the fair, orderly, economic and sustainable use, and development of land;

4(1) (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;

4(1) (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; and

...

4 (1) (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e).

#### Clause 11.02-1 (Supply of urban land)

Council submitted that the Amendment supports Clause 11.02-1 by revising flood mapping and planning controls to ensure continued protection of life and property from flooding and that identified flood storages are not affected.

#### Clause 13.01-1S (Natural hazards and climate change)

Council did not specifically identify this policy objective, however the Panel considers it relevant. The policy seeks to minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning. Some of the strategies to meet the policy objective include:

- Consider the risks associated with climate change in planning and management decision making processes.
- Identify at risk areas using the best available data and climate change science.
- Ensure planning controls allow for risk mitigation or risk adaptation strategies to be implemented.

#### Clause 13.03-1S (Floodplain Management)

Council submitted that the Amendment would apply the most accurate data available in relation to flooding based on the Flood Study for the urban area of Wangaratta and provide an accurate reflection of the floodplains and flood extent, including the 1% Annual Exceedance Probability (AEP) event, and the flood storages and capacities required.

#### Clause 14.02-1S (Catchment planning and management)

Council submitted that the Amendment supports Clause 14.02-1S by:

- Considering the impacts of catchment management on downstream water quality and freshwater, coastal and marine environments.

- Ensuring that development at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses.
- Requiring appropriate measures to restrict sediment discharges from construction sites.
- Ensures planning is coordinated with the activities of catchment management authorities.
- Provides revised planning controls relating to the identification and ongoing protection of the floodplain from inappropriate development.
- Introducing new controls that align Council's decision making with the information available from NECMA.

#### **Clause 21 (Municipal Strategic Statement)**

Council submitted that the Amendment supports the Municipal Strategic Statement by:

- Clause 21.03-1 Biodiversity, by recognising the floodplain extents for ongoing protection which may provide important biodiversity and habitat values
- Clause 21.03-3 Rivers, by identifying the floodplains and sensitive riparian areas to avoid inappropriate development and potential adverse impacts on water quality
- Clause 21.04-1 Floodplains, by introducing revised Schedules and Maps for the Floodway and Land Subject to Inundation Overlays
- Clause 21.10-2 Development Infrastructure, by introducing revised maps for the Floodway and Land Subject to Inundation Overlays which recognise flood impacts to the urban area
- Clause 21.12 Reference Documents, by recognising the Wangaratta Urban Waterways Flood Investigation Study Report 2017 as a reference document for the municipality.

#### **Clause 22 (local planning policies)**

The Council did not identify any specific local policies related to the Amendment. The Panel agrees that there are no local policies in Clause 22 that specifically relate to the Amendment.

## **2.2 Other relevant planning strategies and policies**

### **(i) Hume Regional Growth Plan**

The Hume Regional Growth Plan (HRGP) provides broad direction for land use and development across the Hume Region for the next 30 years, as well as more detailed planning frameworks for the key regional centre of Wangaratta.

Council submitted that the Amendment supports the HRGP. Council referred to section 12.3 of the HRGP which refers to natural hazards and risks, and states:

Parts of the Hume Region have been impacted by flood and climate predictions indicate future flood events may be more extreme although they may be less frequent. Many of the region's urban centres are located within the floodplains of major rivers including Benalla on the Broken River, Shepparton on the Broken and Goulburn rivers, Seymour on the Goulburn River, Wangaratta on the Ovens and King Rivers and Wodonga on the Murray River.

The risks of flood must be considered in land use planning decisions. These decisions should be based on the best quality information on flood hazards to minimise risk to life, property, community infrastructure and environmental assets. Flood provisions in planning schemes should be used consistently across the region to avoid inappropriate

development or require appropriate development responses, as well as to apply design responses. New development will be directed away from areas of highest flood hazard and development should not be supported if it increases the flood risk for other sensitive areas or development. Flood hazard has been explicitly considered in the development of this plan, particularly in assessing potential future development directions for specific settlements.

Council also referred to section 13.2 of the HRGP which in relation to Wangaratta states that:

Growth needs to be managed to protect environmental assets and values and limit exposure to natural hazards such as bushfire and flood.

## 2.3 Ministerial Directions and Practice Notes

### Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018. That discussion is not repeated here.

### Planning Practice Notes

*Planning Practice Note 12 Applying the Flood Provisions in Planning Schemes: A guide for councils*, June 2015, is relevant for this assessment and is discussed below.

## 2.4 Flood study standards and guidance

There is limited guidance in the Planning Scheme regarding the methodology which should be used to prepare a Flood Study. The Council submitted that it relied on other guidance, endorsed by DELWP and advisory bodies.

*Planning Practice Note 12 Applying the Flood Provisions in Planning Schemes: A guide for councils*, June 2015, explains the basis for defining the extent of flooding (p. 3):

The 'probable maximum flood' (PMF) determines the maximum possible extent and height of flooding. This is the largest flood that could conceivably occur at a particular location. The area defined by the PMF is referred to as 'flood prone' and the area outside the PMF is referred to as 'flood-free' (see Figure 1).

In general, it is not practical or economical to provide land use planning or flood protection up to the PMF. A lesser flood standard, known as the 'design flood event' (DFE), is adopted for land use planning purposes and is the area applicable for planning schemes. The area defined by the DFE will be referred to as 'land subject to inundation' and can be divided into its relevant UFZ, FO, LSIO and SBO components as the case requires.

In Victoria, the design flood event for land use planning and building purposes is the 100-year ARI (average recurrence interval) flood, which occurs on average once every 100 years. This is the basis for declaring flood levels and flood areas under the *Water Act 1989* and for setting minimum building floor levels under the *Building Act 1993*.

At the time of preparing the Flood Study, Council submitted that the most relevant guidance for scoping of flood studies was a generic brief for flood investigations and associated guideline developed by the National Flood Risk Advisory Group consistent with the Australian Emergency Management Handbook 7, *Managing the floodplain: best practice in flood risk management in Australia. (Guidelines for Using the National Generic Brief for Flood Investigations to Develop Project Specific Specifications)*. Council submitted that the



specifications for the Flood Study were not based directly on the generic brief, but that the overall scope and output requirements for the study were consistent with Victorian practice.

The following guidance was published after the commencement of the Flood Study:

- DELWP (2016). *Victorian Flood Data and Mapping Guidelines* ([https://www.water.vic.gov.au/\\_data/assets/pdf\\_file/0027/53757/Victorian-Flood-Data-and-Mapping-FOR-WEB.pdf](https://www.water.vic.gov.au/_data/assets/pdf_file/0027/53757/Victorian-Flood-Data-and-Mapping-FOR-WEB.pdf))
- DELWP (2016) *Victorian Floodplain Management Strategy* (<https://www.water.vic.gov.au/managing-floodplains/new-victorian-floodplain-management-strategy>)
- Australian Rainfall and Runoff: A Guide to Flood Estimation (substantial revision in 2016, current version 2019) (<http://arr.ga.gov.au/arr-guideline>)

These documents were not taken into account in the Flood Study and are not referenced in the Flood Study.

The *Victorian Floodplain Management Strategy* states on page 25, section 9.2 Scenario Planning that:

One way to prepare for a range of climate conditions is to model different climate change scenarios as part of flood studies.

The Flood Study did not model a range of climate change scenarios.

The 2019 version of Australian Rainfall and Runoff: A Guide for Flood Estimation, which was issued after the completion of the Flood Study, provides some guidance on including the effects of climate change on flooding in flood studies.

## 2.5 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

The land affected by the Amendment is zoned for several purposes. A large proportion of the land is zoned Farming Zone, however there are several areas zoned for residential purpose as well. The land is also affected by a range of overlay controls.

## 2.6 Amendment VC148

Amendment VC148 was gazetted on 31 July 2018. VC148 made substantial changes to the structure and content of the Planning Policy Framework, as well as other provisions in the Planning Scheme.

Refer to section 5 in this report for further discussion on the form and content of the Amendment.

## 2.7 Other amendments and strategic work

### 2.7.1 Amendment C75 – Planning Scheme Review

Amendment C75 was prepared by Council in 2017 to implement the recommendations of the *Wangaratta Planning Scheme Review: background, issues and review report* (July 2016). The Amendment was gazetted on 16 August 2018.

Relevantly for this Amendment, Amendment C75 identified the need for further strategic work at Clause 21.04 (Environmental risks) relating to floodplains:

In conjunction with the North East Catchment Management Authority, undertake further flood studies to inform future flood management plans for the Ovens Rural Floodplain area.

### **2.7.2 Amendment C77 – Wangaratta Aerodrome**

Amendment C77 was prepared by Council in 2019 in relation to the land at the Wangaratta Aerodrome. The main purpose of Amendment C77 was to implement the objectives of the Wangaratta Aerodrome Master Plan 2017 by rezoning land to Special Use Zone – Schedule 8 and applying the Design and Development Overlay for airspace protection surfaces. Amendment C77 also sought to implement part of the Flood Study as it related to the Wangaratta Aerodrome, by amending the FO and LSIO maps in accordance with the Flood Study.

Given Amendment C77 would enable land use and development changes at the Aerodrome, Council submitted it was appropriate to update the flood maps for the Aerodrome as recommended by the adopted Flood Study to ensure that flood and inundation matters are properly considered.

Amendment C77 has been adopted by Council. At the time of preparation of this Report it is awaiting approval by the Minister for Planning.

### **2.7.3 Draft Low Density Rural Residential Strategy 2020**

Council submitted that the *Draft Low Density Rural Residential Strategy 2020* (Rural Residential Strategy or LDRRS) is currently in a draft format and it completed a two month period of community consultation earlier this year. Council is currently considering submissions.

The purpose of the draft LDRRS is to identify a suitable level of land supply for dwellings within the Low Density and Rural Living Zones. The planning horizon of the LDRRS is for the next 30 years to ensure that current and future residents are provided with a diverse range of housing options.

The area within the draft LDRRS known as Wangaratta W-1c (South Wangaratta) is affected by the flood overlays and Amendment C81. This area is currently referenced at Clause 21.02-3 of the Wangaratta Planning Scheme as a 'future investigation', stating:

Investigate the identified 'future investigation areas', for rezoning to Low Density Residential or Rural Living Zone having regards to and pending resolution of environmental issues, including flooding, bushfire, localised drainage issues, airport environs, access issues, freeway interface and presence of key underground infrastructure including High Pressure Gas Transmission Pipelines etc.

## **2.8 Discussion**

### **2.8.1 Response to policy on hazards and climate change**

The Planning Scheme calls for planning authorities to implement planning controls that accurately identify environmental hazards, including flood risk.

Clause 13.01-1S (Natural hazards and climate change) is of key relevance for this Amendment and clearly directs decision makers to:

- Consider the risks associated with climate change in planning and management decision making processes.
- Identify at risk areas using the best available data and climate change science.
- Ensure planning controls allow for risk mitigation or risk adaptation strategies to be implemented.

Council's local policy direction at Clause 21.04 (Environmental risks – floodplains) specifically identifies that:

Flooding is a major land use issue in the municipality, which has the major floodplain systems of the Ovens River and King River

There is clear strategic support to ensure flood mapping accurately reflects the risk of flooding. Broadly, the proposal to implement Council's most recent Flood Study into the Planning Scheme is consistent with the Planning Policy Framework.

However, the Panel has some concerns that the Flood Study does not specifically account for the impacts of climate change. State policy clearly requires Council to identify at risk areas using the best available data and climate change science. It is expected that climate change will increase the severity and intensity of flood events and this is not specifically addressed in the Flood Study.

## **2.8.2 Response to guidance on flood investigations**

There is limited direction in the Planning Scheme about the methodology that should be used to prepare a flood study. However, Clause 13.01-1S of the Planning Scheme directs planning authorities to:

... use best available data and climate change science.

The Hume Regional Growth Plan echoes the State policy position and states that:

The risks of flood must be considered in land use planning decisions. These decisions should be based on the best quality information on flood hazards to minimise risk to life, property, community infrastructure and environmental assets.

The Council submitted that the Flood Study represents the most recent and reliable information. The Council indicated that the brief for the study was based on guidance in the Australian Emergency Management Handbook 7. It submitted that this was consistent with Victorian practice at the time. However, after the Flood Study was commissioned additional guidance was released which was not accounted for. The Council submitted that climate change science was not addressed in the Flood Study.

The Council and NECMA submitted that it would be possible to estimate the impact of more severe floods influenced by climate change from the information in the Flood Study (e.g. using a 0.5% AEP flood as a trigger for controls or decision making rather than a 1% AEP flood). However, this adjustment process is not reflected in the proposed planning controls and therefore not considered to be transparent.

State policy clearly requires Council to identify at risk areas using the best available data and climate change science. It is expected that climate change will increase the severity and intensity of flood events and this is not specifically addressed in the Flood Study. The Panel is concerned that the Flood Study does not address this risk.



### 2.8.3 Relationship with other strategic work

This Amendment is occurring in concert with other strategic studies that are at different stages of development. A key purpose of this Amendment is to use the information from the Flood Study to provide more accurate FO and LSIO mapping. However, the Amendment also seeks to implement the Flood Study as a 'Reference document' in the Planning Policy Framework.

Council submitted that the Flood Study would be used to inform other strategic land use decisions, including the current LDRRS which has a 30 year horizon. Given the Flood Study did not account for the effects of climate change, the Panel is concerned about the implications of relying on this information for long term decisions. If the model underestimates the severity and frequency of future flood events, then the strategic direction for residential development may not adequately avoid the risk from natural hazards. Such an approach would be inconsistent with State policy at clauses 13.01 of the Planning Scheme.

### 2.9 Conclusions and recommendation

The Panel concludes that the Flood Study represents the best currently available flood data for the Ovens and King Rivers, and Fifteen Mile, One Mile, Three Mile and Reedy Creek catchments. However, the Flood Study fails to account for the impacts of climate change.

The Panel considers that the lack of climate change consideration in the Flood Study is a shortcoming if it is to be used for longer term decision making. The Council and NECMA indicated they could, with some additional work, extrapolate information from the study to give a reasonably reliable indication of the impact of climate change on flooding. However, Council and NECMA did not make clear how this approach would be reflected in the proposed planning controls.

The Panel is concerned that referencing the Flood Study in the Planning Scheme, in its current form, could have unintended consequences for future land use planning decisions.

For the reasons set out in the following chapters, the Panel concludes that:

- The mapping changes proposed by the Amendment are supported by, and implement, the relevant sections of the Planning Policy Framework, and are consistent with the relevant Ministerial Directions and Practice Notes. The mapping changes are strategically justified and should proceed, subject to addressing the specific issues raised in submissions as discussed in the following chapters.
- Referencing the Flood Study in the Planning Scheme is not strategically justified. This component of the Amendment should be abandoned until further work is completed to account for the impacts of climate change.

The Panel recommends:

1. **The Flood Study should not be referenced in the Planning Scheme in its current form.**
2. **If the Council intends to refer to the Flood Study as a background document in the future, further work should be completed on the Flood Study to account for the impacts of climate change.**

### 3 Flood study methodology and integration into the planning system

#### 3.1 The issue

The issue is whether the methodology for flood modelling in the Flood Study is adequate for planning purposes.

#### 3.2 Relevant policies, strategies and studies

Clause 13.03-1S Floodplain Management of the Wangaratta Planning Scheme is the key clause in the planning scheme that supports this amendment. It includes the strategy of:

Identify land affected by flooding, including land inundated by the 1 in 100 year flood event or as determined by the floodplain management authority in planning schemes.

Clause 13-03-1S provides that the planning authority should consider as relevant the:

Victorian Floodplain Management Strategy (Department of Environment, Land, Water and Planning 2016)

During the almost two year period over which the Flood Study was prepared, three new guidelines and standards were released. These new guidelines were not addressed in the Flood Study.

Council's Part B submission detailed how the Flood Study was developed. Representatives from NECMA and Water Technology explained at the hearing about how the flood modelling in the flood study was carried out.

- 3.2 The Wangaratta Urban Waterways Flood Investigation was completed in 2017 but was initiated earlier in 2015. This brief developed by North East CMA largely reflected contemporary flood study briefs for work undertaken in Victoria at that time however it was also informed by the general requirements of the National Flood Risk Advisory Group's Australian Emergency Management Handbook 7, Managing the floodplain: best practice in flood risk management in Australia and associated generic brief.

- 3.3 During the study the following relevant standards and guidelines were released:

Australian Rainfall and Runoff: A Guide to Flood Estimation (2016), since revised in 2019. This is a major accepted standard for flood studies across Australia, with the 2016 revision seeing significant changes in the design hydrology methods recommended since the previous version in 1987. The document focusses on providing guidance to practitioners regarding the relevant technical methods to apply in developing flood hydrology estimates and performing hydraulic flood modelling.

Victorian Flood Data and Mapping Guidelines were released by the Department of Environment, Land, Water and Planning in 2016. This document describes why flood studies are completed, what information should be collated and delivered and in what format. It also describes how information from flood studies should be translated into products for planning schemes, community awareness, flood mitigation design, emergency management intelligence products, and for insurance purposes.

Victorian Floodplain Management Strategy (2016) released by the Department of Environment, Land, Water and Planning. This document aims to set clear roles and responsibilities for the management of the floodplains of Victoria. It sets out clear priorities for the future and provides a framework for flood studies to be prioritised and initiated.

- 3.4 The Wangaratta Urban Waterways Flood Investigation adopted a thorough methodology as expected of a detailed flood study for a flood prone town in Victoria.... The technical methodology adopted for the Wangaratta Urban Waterways Flood Investigation meets today's best practice approaches. It uses detailed hydrology and hydraulic models calibrated to multiple events, it gathered community feedback at 3 public sessions, it considered a range of magnitude design events from 20% AEP to Probable Maximum Flood ...
- 3.5 During the Wangaratta Urban Waterways Flood Investigation, the approach was independently peer reviewed, by a flood specialist appointed by the Department of Environment, Land, Water and Planning. The peer review stated that the study "... provides a sound foundation for the development of the floodplain management strategy". The peer review identified some aspects of the reporting that needed further documentation, to which the study team addressed all concerns.

### 3.3 Submissions

The Panel did not receive any submissions or evidence that specifically challenged the technical basis or the standards used to prepare the Flood Study.

Eight of the submitters (submissions 1, 4, 5, 6, 7, 8, 11 and 12) challenged the accuracy of the flood modelling that underlies the flood mapping as it would apply to their properties. The submissions included comparisons of the flood modelling to past floods and highlighted differences in the flood extent and depth experienced during past floods.

Water Technology (author of the Flood Study) and NECMA submitted that no two floods are the same and that the flood modelling and mapping does not try to represent an actual flood but instead represents the modelled extent of a 1 in 100-year AEP flood. The modelling is calibrated against flood data from past floods where data exists and where the AEP of the flood is estimated.

### 3.4 Discussion

As described in section 2.4 of this Report, in Victoria, the 'design flood event' for land use planning and building purposes is the ARI flood, which occurs on average once every 100 years.<sup>1</sup> Flood modelling is used to estimate the extent of such a flood. Models underpin a range of different planning controls (e.g. flood and bushfire). A model represents one possible or plausible scenario, but it does not represent a specific past or future event.

The level of resolution used in a flood model needs to be practical, balancing the need for a sufficient resolution to be accurate and not so much resolution that it makes the flood model too big to run in a practical time frame. The Flood Study describes how it used topographic information about the study area, and then created a model of how water would flow across the land in a range of different rainfall events, including in a 100-year ARI flood. The Flood Study describes how different areas that it covered included different levels of detail, depending on the need to achieve a suitably accurate outcome.

The company that prepared the Flood Study, Water Technology, submitted that the flood model took around two weeks to run through the computer program that processed it. Water Technology submitted that this was an unusually long time for a flood model, indicating the relatively high level of resolution adopted for the study given the scale of the catchment.

<sup>1</sup> This is the same as a 1 in 100 year AEP flood, which is how the event is described in the Flood Study.

The modelling also needs to be considered in the context of the planning system. The model is the starting point for applying the FO and LSIO mapping in the Planning Scheme. If land is mapped within these areas, it triggers the need for further consideration through the planning permit process. If a proposal has merit and can sufficiently deal with the flood risk at that particular location then Council can decide to grant a planning permit.

While many of the submissions to the Panel focused on comparisons of past floods with the modelled flood used to inform the FO and LSIO in the amendment, these comparisons do not necessarily undermine the accuracy of the flood modelling. The modelling is considered to represent the best available information for the Ovens and King Rivers, and Fifteen Mile, One Mile, Three Mile and Reedy Creek catchments.

There are some areas where the mapping needs to be adjusted due to anomalies identified by submitters, mainly arising due to the level of resolution for a study at this scale. This is discussed in section 4 of this report.

As outlined in section 2, the methodology used for the Flood Study is not currently sufficient to be used for strategic planning decisions given the lack of consideration of climate change impacts.

### 3.5 Conclusions

The Panel concludes:

- That the Flood Study is a suitable basis for the flood mapping in the Amendment. It represents the best available information, even though it does not address all recently published standards. It provides a sufficient basis to trigger a statutory planning decision.
- That the Flood Study should not be referenced in the Planning Scheme as it does not address the impacts of climate change. It should not form the basis for longer terms strategic decisions (see recommendation 1).

## 4 Site specific issues

The issues raised in submissions 1, 4, 5, 6, 7, 8, 11 and 12 challenged the accuracy of the flood modelling that underlies the flood mapping as it would apply to their properties in the proposed amendment. These challenges are addressed in section 3 above. Several other submissions raised site specific issues that are addressed below.

### 4.1 Accuracy of the flood modelling in Fisher Lane

#### (i) The issues

The issues are:

- The accuracy of the flood modelling underlying the flood mapping in the amendment for Fisher Lane, Wangaratta East.
- Whether the flood modelling and mapping should take into account planned roadworks in Fisher Lane.

#### (ii) Submissions

Mr Panozzo and Mr McBain, who both live on Fisher Lane, Wangaratta East, challenged the accuracy of the flood modelling. The submissions included comparisons of the flood modelling to past floods and highlighted differences in the flood extent and depth experienced during past floods and shown in photographs of those floods.

Mr Panozzo and Mr McBain challenged the accuracy of the modelling as it applied to a neighbour's land (Mr Panozzo) and as it applied to Fisher Lane itself (Mr McBain).

44 Fisher Lane is proposed to be covered by the FO and partly covered by LSIO. The LSIO proposed for 44 Fisher Lane would cover a dwelling and associated buildings. Mr Panozzo submitted that 44 Fisher Lane should instead be entirely covered by the FO, including the dwelling and associated buildings.

The NECMA provided evidence that the small portion of 44 Fisher Lane covering the dwelling and associated buildings that was proposed to be covered by the LSIO (and not the FO) was higher than the surrounding land. It submitted that the LSIO was the appropriate overlay for the dwelling and associated buildings.

Mr McBain submitted that planned roadworks in Fisher Lane, including installing a new culvert under the Lane, would reduce the flooding extent over Fisher Lane and should be taken into account in the flood modelling and mapping.

Council confirmed that the planned works are scheduled to occur in the 2020-21 financial year. NECMA submitted that the impact of the works on the extent of flooding on Fisher Lane was not known and had not been considered in the flood modelling and mapping. NECMA also submitted that given the long period between initiating the Flood Study (in 2015) and now that it was not practicable to integrate every proposed change to infrastructure in the Flood Study.



**(iii) Discussion**

While the submissions focused on comparisons of past floods with the flood modelling used to inform the FO and LSIO mapping in the Amendment, these comparisons do not necessarily undermine the accuracy of the flood modelling and mapping (refer to Chapter 3).

The Panel agrees that it is not practical to integrate every proposed change to infrastructure in the Flood Study, given the long period that the Flood Study has taken to complete and the number of infrastructure projects that could be undertaken in the Flood Study area. Once works are carried out that may impact the behaviour of flood waters, the impact of the works should be considered when assessing any planning permit applications for activities that may be affected by the works.

**(iv) Conclusion**

The Panel concludes:

- That the Flood Study is a suitable basis for the flood mapping in the Amendment for Fisher Lane and neighbouring properties.

**4.2 Accuracy of the flood modelling for neighbouring property in Jordans Lane****(i) The issue**

The issue is the accuracy of the flood modelling underlying the flood mapping for Jordans Lane.

**(ii) Submissions**

Ms Bechaz and Mr Neate, who both live on Jordans Lane, challenged the accuracy of the flood modelling:

- that underlies the flood mapping. The submissions included comparisons of the flood modelling to past floods and highlighted differences in the flood extent and depth experienced during past floods.
- as it applied to a neighbour's land to the north which is identified for possible rezoning in the draft LDRRS.

The submitters stated that the land was subject to flooding in 1993. They believe that a greater portion of the land to the north of Jordans Lane should be identified as flood affected.

The Council and NECMA submitted that the modelling does not show the land as being flooded in 1993. They showed aerial photographs of the land in the 1993 flood that showed part of the land under water and submitted that this was not due to riverine flooding but was a local drainage issue.

Council submitted that local drainage would be considered during planning changes to implement the LDRRS.

**(iii) Discussion**

The Panel did not receive any evidence that challenged the modelling as it applied to the land to the north of Jordans Lane. The Panel accepts the submissions of the NECMA in relation to the cause of the flooding experienced in 1993.

The Panel accepts the submitters concerns about the implications of future development, if the land is proposed to be rezoned. However, the Council submitted that this was an investigation area in a draft study. The Panel agrees that further strategic work would be required in relation to flooding before the land is rezoned. As outlined in Chapter 2 of this report, the Panel recommends further work is required before the Flood Study is used for longer term decisions.

**(iv) Conclusion**

The Panel concludes:

- That the Flood Study is a suitable basis for the flood mapping for land to the north of Jordans Lane.

**4.3 ‘Smoothing’ to cover ‘islands’ within the LSIO at 55 Gravel Pit Road, Wangaratta South**

**(i) The issue**

The issue is whether the Council and NECMA should have ‘smoothed’ the flood mapping to cover ‘islands’ of land within the LSIO at 55 Gravel Pit Road, Wangaratta South.

**(ii) Submissions**

The Council and NECMA submitted that it was standard practice to ‘smooth’ the LSIO to cover ‘islands’ or holes within the overlay for small areas of elevated land that were surrounded by the LSIO to reflect the impact of the surrounding LSIO on accessing the ‘islands’.

**(iii) Discussion**

Prior to the Panel hearing, the Council and NECMA agreed with Ms Diffey, the owner of 55 Gravel Pit Road, Wangaratta South, to remove the LSIO from an ‘island’ of slightly elevated land as shown in Figure 2. The ‘island’ is relatively large and connects the property with Gravel Pit Road, providing a potential safe means of access to the land.

**Figure 2** Map of LSIO applying to 55 Gravel Pit Road, Wangaratta South



**(iv) Conclusions and recommendations**

The Panel concludes:

- That the 'island' of land at 55 Gravel Pit Road should be removed from the LSIO.

The Panel recommends:

- 3. Remove the Land Subject to Inundation Overlay mapping from the island of land at 55 Gravel Pit Road, Wangaratta South circled in blue in Figure 2.**

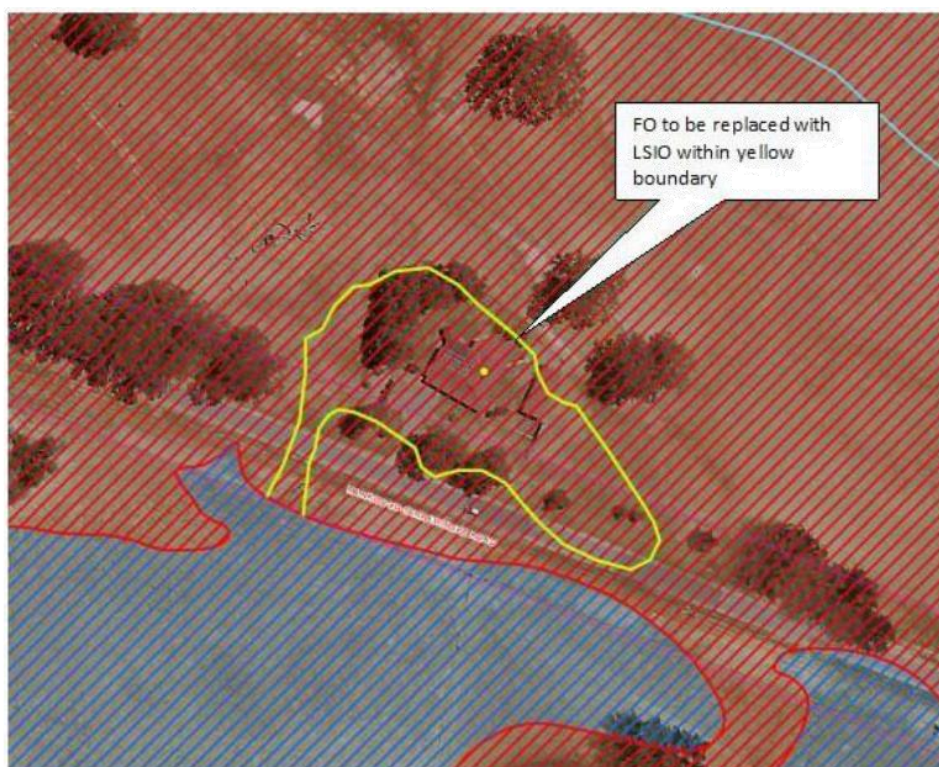


#### 4.4 Council agreed changes to FO and LSIO maps

(i) **The issue**

The Council has agreed to some minor changes to the FO and LSIO maps as they apply to 398 Markwood-Tarrawingee Road, Wangaratta (within the yellow boundary in Figure 3) and 95 Usshers Drive, Waldara (replacing the LSIO boundary shown in green with the boundary shown in red in Figure 4).

**Figure 3** Proposed update to the mapping for 398 Markwood-Tarrawingee Road, Wangaratta



**Figure 4** Proposed update to the mapping for 95 Usshers Drive, Waldara



**(ii) Submissions**

At the Panel hearing Council submitted that it agreed with Mr and Ms Hardy and Mr and Ms Andison to make minor adjustments to the FO and LSIO maps to take account of more detailed, on-the-ground information on topography and flood depth, provided to it by the submitters.

**(iii) Conclusions**

The Panel concludes that the minor adjustments proposed by the Council to the FO and LSIO maps as agreed with Mr and Ms Hardy and Mr and Ms Andison are reasonable adjustments to make as they are based on topographical information provided by the submitters.

**(iv) Recommendations**

The Panel recommends:

4. Amend the Planning Scheme maps as follows:
  - a) Delete the Flooding Overlay from Map No 37 FO as it applies to 398 Markwood-Tarrawingee Road, Wangaratta (as shown in Figure 3) and apply the Land Subject to Inundation Overlay to the same land on Map No 37 LSIO.
  - b) Delete the Flooding Overlay from Map No 18 FO as it applies to 95 Usshers Drive, Waldara (as shown in Figure 4) and apply the Land Subject to Inundation Overlay to the same land on Map No 18 LSIO.

**4.5 Agency submissions**

**(i) The issue**

The Country Fire Authority, DELWP Hume Region, and Goulburn-Murray Water, made submissions on the Amendment.

The Country Fire Authority and DELWP Hume Region raised no issues their submissions.

Goulburn-Murray Water requested the following change to the LSIO, effectively increasing the range of works that would need a permit in the LSIO (shown in underline):

A permit is not required to construct or carry out the following buildings or works:

...

The construction of a pergola, verandah, deck or carport associated with an existing dwelling provided that the works are located more than 30m from any waterway.

The Council adopted the change requested by Goulburn-Murray Water at its meeting on 25 August 2020.

#### **(ii) Submissions**

As outlined in Chapter 1.3.2 of this report Goulburn-Murray Water did not attend the Hearings and advised that the proposed change was merely a 'suggestion'. Goulburn-Murray Water withdrew its submission in letter to Panel dated 28 October 2020.

The Council or NECMA did not make any submissions supporting this change to the LSIO. Council submitted that it had relied on the advice of Goulburn-Murray Water.

#### **(iii) Discussion**

In the absence of any submission regarding the strategic basis for the change, the Panel cannot see any justification for it, despite Council adopting the change. Introducing a stricter permit requirement in the LSIO could have unintended consequences for affected property owners and occupiers across the whole municipality. These potentially affected property owners were not given direct notice of this change, apart from the minutes of the Council meeting.

#### **(iv) Conclusions and recommendation**

The Panel concludes that the revisions to the LSIO schedule proposed by Goulburn-Murray Water are not strategically justified and could have unintended consequences for other properties in the LSIO across the municipality.

The Panel recommends:

- 5. Delete the substantive changes proposed by Goulburn-Murray Water and adopted by Council from the Land Subject to Inundation Overlay schedule.**

### **4.6 Insurance**

#### **(i) The issue**

The issue is whether the potential impact on insurance costs and availability is a relevant consideration for the Panel in considering the Amendment.

#### **(ii) Submissions**

Mr and Ms Ivey and Mr McBain submitted that the proposed Amendment would affect their ability to access insurance for their properties or would increase the cost of insurance.

Council submitted that insurance was not a relevant planning consideration in relation to the Amendment.

**(iii) Discussion**

The purpose of the proposed Amendment is to identify land that may be subject to flooding in a 1 in 100 AEP flood event to facilitate orderly planning and the proper assessment of any development proposals on land covered by the FO and LSIO. To modify or remove the proposed overlays due to an anticipated effect on insurance for the properties would undermine the objective of the Amendment. Panel reports<sup>2</sup> have consistently concluded that impacts on insurance are not relevant when considering proposed amendments.

**(iv) Conclusions and recommendations**

The Panel concludes that impacts on insurance from the application of the FO and LSIO to property are not a relevant planning consideration.

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<sup>2</sup> See, for example, Greater Bendigo Planning Scheme Amendment C221, 21 November 2016, section 5.2, South Gippsland Planning Scheme Amendment C116, 15 November 2019, section 3.3 and 3.4, Greater Geelong Planning Scheme Amendment C394ggee, 3 April 2020, section 7.5.



## 5 Form and content of the Amendment

### 5.1 General drafting issues

#### 5.1.1 Schedules to the LSIO and FO

Two new schedules are proposed to be introduced as part of the Amendment. The Council provided a tracked change version of the schedules to the Panel. Apart from the changes sought by Goulburn-Murray Water, no other submitters raised any concerns with the drafting of the schedules.

The Panel has identified some drafting issues with the schedules, including:

- Unclear drafting and failure to use plain English.
- Duplication of requirements.
- Inconsistent references to ARI and AEP.

The drafting issues were discussed during the Panel hearing and Council acknowledged that there were some errors in the drafting that needed to be corrected.

The Panel recommends that Council carefully review the schedules to ensure that they meet the current Ministerial Direction on the Form and Content of Planning Schemes, issued under section 7(5) of the Act. Any edits made as part of this review should not affect the substance of the controls or the planning permit requirements.

#### 5.1.2 GMW revisions

As discussed in section 4.5 of this report, the Panel recommends that the substantive changes to the LSIO schedule recommended by Goulburn-Murray Water and adopted by Council post exhibition should be deleted.

#### 5.1.3 Referencing the Flood Study in the Planning Scheme

The Flood Study is proposed to be included as a 'Reference Document' at Clause 21.12 of the Planning Scheme. Clause 21.12 contains a list of studies and documents that are all described as 'reference documents'. The status of these documents is not entirely clear.

In response to questions from the Panel at the hearing, the Council acknowledged that the intention was to include the Flood Study as a 'Background document' at Clause 72.08 of the Planning Scheme.

*A Practitioner's Guide to the Victoria Planning Provisions* (April 2020) explains that:

A background document provides information that helps to understand why a particular policy or provision has been included in the planning scheme. Background documents were previously referred to as 'reference documents'.

A background document is not part of the planning scheme and must not be directly relied on for decision making. If a background document contains content that is necessary for decision making (such as strategies or decision guidelines) then these must be extracted and placed in the relevant policy or control.

...

Planning Practice Note 13 (Incorporated and background documents) explains that it is not necessary to automatically refer to documents in the Planning Scheme. The Practice Note states that:

There is no need to refer to a document in the planning scheme if the substantive elements of the document have been included in either the MPS, a local planning policy or a schedule, unless it contains additional useful information.

As outlined in section 2, the Panel is concerned that the Flood Study does not account for current policy on climate change. The Council and NECMA has indicated that data in the study could be extrapolated to provide more meaningful predictions accounting for a climate change scenario. The Panel considers that for the purpose of transparency, any updates or extrapolation of information should be documented in an addendum to the Flood Study.

The Flood Study should not be referenced in the Planning Scheme until such time that an addendum addressing climate change considerations has been prepared. While background documents are not strictly used to inform planning decision, there is an inference that a recently included background document reflects current policy.

## 5.2 Conclusions and recommendations

The Panel concludes that:

- Some revisions are required to the drafting of the FO and LSIO schedules to meet current the Ministerial Direction on the Form and Content of Planning Schemes, issued under section 7(5) of the Act.
- Any revisions should not change the substance or permit triggers in the FO or LSIO.
- The Flood Study should not be referenced in the Planning Scheme in its current form (refer to recommendation 1).

It is recommended that:

6. **Review the Land Subject to Inundation Overlay and the Flooding Overlay schedules to ensure that they meet the current Form and Content requirements for Planning Schemes.**
7. **Abandon the changes proposed to Clause 21.12 to list the Flood Study as a background document.**

## Appendix A Submitters to the Amendment

No.	Submitter
1	Ms W and Mr P Hardy
2	Mr D and Mrs C Ellis
3	Mr J Panozzo
4	Mr G and Mrs K Andison
5	Mr E Kunze
6	Ms K Ivey
7	Ms L Balfour
8	Mr A and Ms H Twitt
9	Ms V Bechaz
10	Mr D Neate
11	Mr D Davenport
12	Ms C and Mr J Schultz
13	Ms R Diffey
14	Mr J McBain
15	Country Fire Authority
16	Department of Environment, Land, Water and Planning, Hume Region
17	Goulburn-Murray Water

## Appendix B Document list

No.	Date	Description	Presented by
1	9/10/20	Email from Council in relation to Panel Direction 2	Council
2	22/10/20	Email in response to Panel Directions	Goulburn-Murray Water
3	27/10/20	Council Part A submission	Council
4	28/10/20	Email in response to Panel Directions and request for clarification (withdrawing submission)	Goulburn-Murray Water
5	28/10/20	Council Part A submission (minor revisions)	Council
6	28/10/20	Submission documents	E Kunze
7	4/11/20	Letter from Rural City of Wangaratta to Ms Bechaz regarding Wangaratta Planning Scheme Amendment C76, to implement the Wangaratta Industrial Land Use Strategy 2017	V Bechaz
8	4/11/20	Council Part B submission	Council
9	4/11/20	Submission documents	R Diffey
10	4/11/20	Further submission documents	E Kunze
11	4/11/20	Further submission documents	V Bechaz
12	4/11/20	Submission withdrawal	L Balfour
13	4/11/20	Email supporting agreed revision	G Andison
14	4/11/20	Photographs of flooding events	J Panozzo
15	9/11/20	Email responding to NECMA submissions circulated following the hearing	E Kunze
16	10/11/20	Email with further response to NECMA submissions	E Kunze
17	11/11/20	Panel Further Directions letter	Panel Chair
18	19/11/20	Further submission in response to Panel Directions	J McBain
19	19/11/20	Further submissions in response to Panel Directions	J Panozzo



# Arts, Culture, Events and Heritage Advisory Committee



**Date** Monday 18 January 2021  
**Time** 5:30pm – dinner included  
**Location** Cafe Martini, 87 Murphy Street, Wangaratta

## MINUTES

### 1. PRESENT

#### Committee members

David Godkin  
 Rhonda Diffey  
 Margaret Brickhill  
 Adrian Vaughan  
 Ian Poole  
 Patricia Boake  
 Marc Bongers

#### Councillors & Officers

Cr Dave Fuller  
 Penny Hargrave – Manager Arts, Culture & Events

### 2. APOLOGIES

No apologies – all members present

*That apologies be accepted*

**Moved:** Adrian Vaughan

**Seconded:** Rhonda Diffey

**AGREED**

### 3. CONFLICT OF INTEREST DECLARATIONS

**NIL**

### 4. MINUTES OF PREVIOUS MEETING (previously circulated)

#### Motion:

*That the minutes of the August 2020 meeting be accepted as presented. No meeting was held in December 2020.*

**Moved:** David Godkin

**Seconded:** Margaret Brickhill

**AGREED**

### 5. GENERAL BUSINESS & BUSINESS ARISING (from the previous minutes)

## AGENDA ITEMS

### 6.1 Farewell to people not re standing

Retiring members were thanked by Cr Fuller.

- Patricia Boake
- Adrian Vaughan
- Ian Poole
- Margaret Brickhill

A discussion around the achievements of ACHAC over the period of membership occurred.

Cr Fuller updated the committee on the inclusion of “events” into the title of Arts, Culture, Events & Heritage Advisory Committee

### 6.2 Update on nominations

- Nominations for new members closed on 27/11/2020 and a report seeking endorsement of recommendations will be presented to Councillors at the January Council meeting (27/01/2021).
- All nominees will be advised of their status after this meeting.
- There were 16 nominations received for 10 positions and came from a wide and varied group of people.

### 6.3 Events 2021

- Events were severely curtailed in 2020 due to the coronavirus pandemic.
- Events will be slow to reach full capacity on 2021.
- The Events team will continue to review, reimagine or reschedule events in 2021 depending on the prevailing requirements at the time the event is due to take place.
- Current events that have been impacted by the current COVID requirements under the Public Events Framework include:
  - Australia Day – Wangaratta event – relocated to the Wangaratta Performing Arts & Convention Centre to accommodate a later start time due to the inclusion of the Governor General of Australia, COVID requirements relating to outdoor events and the expected heat health alert for 26/01/2021
  - Rural Australia Day events – some have been cancelled, some have been reviewed and changes made to meet COVID requirements
  - Outdoor Ball – pending – subject to restrictions
  - Moonlight Movies – rescheduled to April instead of January
  - Acoustic Vibe (supported by Wangaratta Rural City Council) scheduled for 20/02/2021 but reassessing if border restrictions remain

### 6.4 Infrastructure Planning & Acceleration Fund – Creative Precinct Grant

- Council was successful in obtaining a grant to develop a business case to enhance the Creative Precinct – the area that houses the Wangaratta Art Gallery, Wangaratta Performing Arts & Convention Centre, Wangaratta Library and the Wangaratta Historical Society.
- The business case will utilise the information provided from the Wangaratta Project, Wangaratta Art Gallery Feasibility Study and the WPACC Business Development study to inform the business case
- Stakeholder and community engagement will take place
- Completion date for the study is 30/06/2021

### 6.5 Public Art update

- 2 artworks have been completed – Playful connection at the Wangaratta Library and Welcome at the train station
- Works on the water tower will commence late January and take approximately 6 weeks to complete
- The final artwork is the reinstatement of the RJ Barry Fountain at the Ovens & Reid Streets roundabout. EOI's for this structure will open mid-February 2021, close 6 weeks later and construction to be completed by 30/06/2021.
- The artworks enhance the works being undertaken in the Railway Precinct (Norton, Docker 7 Cusack Streets).

### 6.6 Live Music Strategy

- The draft strategy has been circulated to relevant advisory groups and interested parties.
- Feedback has been received
- Meeting will be held with groups who have requested an opportunity to speak to their feedback and recommendations.
- The Strategy will be officially launched in 21 June 2021 as part of **Make Music Day** a worldwide initiative in over 100 countries to celebrate the importance of live music in our lives.

### 6.7 Round table discussion

Ideas were sought from the current committee around what ACEHAC should keep doing, stop doing and start doing. Those ideas are summarized below.

#### START DOING

- Induction important – need to provide overview of:  
Venues  
Vision  
Purpose  
Admin / procedures  
Take new members through the history and stories of ACEHAC for greater understanding
- Invite younger people on to the committee
- Utilize others outside of ACEHAC as resources – especially if they are able to provide influence
- Promote the arts & culture in a tangible way – maybe ACEHAC could have a Facebook page where achievements activities could be listed and shared
- Heritage needs more attention and focus

#### KEEP DOING

- ACEHAC provides good advocacy – keep it up
- Exchange of ideas is important
- Being persistent – follow through on actions and be on toe for the long haul

#### STOP DOING

- No issues raised

### 7.1 BUSINESS UNIT REPORTS

**Motion:** *That the October – December 2020 reports for Arts, Culture, and Events Unit circulated via email & presented at the January 2021 meeting be accepted as presented.*

**Moved:** Margaret Brickhill

**Seconded:** Marc Bongers

**MEETING CLOSED 8:17pm**

#### **NEXT MEETING**

**Dates to be determined once new committee is elected**

#### **Attachments:**

1. Minutes – August 2020 meeting
2. Business Unit Report – October – December 2020