

Minutes

Of the Ordinary Council Meeting

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

Date: 21 September 2020

Time: 6pm



RURAL CITY OF
WANGARATTA

Brendan McGrath
Chief Executive Officer

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1. **ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

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

2. **OPENING PRAYER**

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

3. **PRESENT**

Councillors:

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

Officers:

Brendan McGrath, Chief Executive Officer Marcus Goonan, Acting Director Infrastructure Services Jaime Chubb, Director Community Wellbeing Stephen Swart, Director Development Services Sarah Brindley, Director Corporate Services.

4. **ABSENT**

Officers:

Alan Clark – Director Infrastructure Services.

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

ORDER OF BUSINESS

6. **CITIZEN CEREMONY**

Nil.

7. **CONFIRMATION OF MINUTES**

RESOLUTION:

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

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

Carried

8. CONFLICT OF INTEREST DISCLOSURE

In accordance with Division 2, Sections 126, 127 and 128 of the *Local Government Act 2020* Councillors are required to disclose a ‘*conflict of interest*’ in a decision if they would receive, or could reasonably be perceived as receiving, a direct or indirect financial or non-financial benefit or detriment (other than as a voter, resident or ratepayer) from the decision.

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

Mayor Dean Rees declared a conflict of interest in relation to item 16.3 Planning Permit Application PLNAPP20/129 – Two Lot Subdivision and Variation of a Restrictive Covenant – 6 Pin Oak Drive, Wangaratta due to relationship with the applicant’s father-in-law.

Brendan McGrath, Chief Executive Officer declared a conflict of interest in relation to item 15.3 2020/21 Annual Reseal Contract as he is a board member of Procurement Australia.

9. RECEPTION OF PETITIONS

Nil.

10. HEARING OF DEPUTATIONS

Nil.

PRESENTATION OF REPORTS

11. COUNCILLOR REPORTS

Cr Ashlee Fitzpatrick

The past 3 and a bit years have gone so quickly and what a journey it has been. It was unfortunate circumstances that led me to represent you today, with the passing of Cr Amery.

Firstly, I want to thank our community for trusting me to be your representative and giving me the opportunity to be a voice. I also really want to thank my colleagues, Dean, Dave, Mark, Ken, Harvey, Harry and their families for the support they have given me as a young Councillor and it has been a pleasure working alongside with you all. I’m very proud to say what we have achieved for our community together. And so I want to share a few items that I am proud of.

I am proud that we have addressed the importance of community wellbeing, something that was high on my agenda and a topic I am quite passionate about. So one of my proudest achievements whilst being on council has been being a part of receiving the \$2.7m from the Federal Government with stakeholders in our community. With \$1.2m of that for our Resilience Program for our Wangaratta community to better understand what drives people's positive mental health and wellbeing. So seeing this in action makes me quite proud of what we can achieve together when we work together as a team for our community. I'm proud during our term we have included our Youth, our next generations in our community conversations, supporting them and advocating for Bike Jumps and building a pump track which I've been down this evening and it is awesome. Being present at our local schools and giving them a voice, I think it is extremely important when we give our younger people in our generation to participate in community conversations.

Delivering and implementing the projects for our young families with the Mitchel Avenue Reserve, the Wareena Street Masterplan, it's great to see our projects becoming a reality for our community to enjoy. I'm proud we have made Wangaratta a bit more inviting and modern with the small projects that we see with the new black streetlights, the fairy lights on Murphy and Reid Streets. I'm proud to be a part of the endorsements of the Access and Inclusion Plan that aims to provide an accessible and inclusive environment, which supports people of all abilities to participate fully in our community. However, it is difficult to summarize our time on Council and all the amazing things we have implemented over the years.

But I also want to say thank you to Brendan, our Corporate Management Team, Sarah, Steven, Jaime, Alan, and thank you to our Senior Management Team officers and all of our Council staff. Your hard work isn't so appreciated and I thank you for your service delivering for our community and support. A special shout-out and thank you to Bec and the EAs for always supporting us. We couldn't do our jobs without you. And our community, your support has been so much appreciated, and I have thoroughly enjoyed my time on Council representing you.

Thank you.

Cr Ken Clarke

Some 4 years ago after a period of turmoil and uncertainty, and astronomical costs for redundancies and legal fees, the voters of Wangaratta democratically elected 7 people to put the Rural City back on track. I was honoured to be chosen by my peers to lead the City for its first 2 years before passing the baton to you Mr. Mayor. The loss of Ruth Amery early in the term was a shock for us all, but after a recount we obtained another lady to fill her shoes thank goodness.

I believed the previous 4 years had really tarnished the image of the council not only in the community, but with the State Government too. We were reminded very early in our term that Community consultation was more than important. The fiasco of the proposed re-development of Molony's Arcae and the vitriol that was levelled at both Officers and Councillors over the lack of community input, taught

us a very valuable lesson, something that was taken on board in almost everything until Covid. Development Services were certainly hindering our growth, it was common knowledge around my acquaintances that we didn't welcome new business, so people went elsewhere. I think a prime example of this was certainly the concrete plant which went to Benalla.

But gradually with a united council, things started to happen, we did get our foot in the door of Government and started to see some investment come our way. My great disappointment was that our applications to the Federal Government for funding of our aquatics centre had never been indexed. \$4.4m was all we received and the cost of it had blown out to some \$15m. The total cost is almost \$18m of which rate payers have had to fund more than \$12m. Expenditure on Infrastructure was rolling along at around \$16m, but for the past two years we have managed almost \$40m. The extension to Cruse Street, the upgrade of King George gardens and Ovens Street, the soon to be completed Railway Precinct, Barr 2 Oval reconstruction and not forgetting the Organic Plant have all happened under our watch.

Mr. Mayor there are some real challenges ahead. We will have some state of the art facilities at WISAC, but are desperate to upgrade and expand our basketball courts which have served us well for 45 years, our netball centre is non-compliant, many of the buildings at the Showgrounds are dilapidated and we not have a master plan for Wareena Park which I think will need well over \$10m to activate. Mitchell Avenue is almost complete, so we can channel some money toward our other sporting facilities. I think our IT strategy will allow us to become a real leader in Local Government, and once Covid has gone our marketing will have people crying out to visit. I know that housing is at a premium with sales continuing on an upward trend which augers well for the City.

Mr. Mayor, it would be a remiss of me if I didn't thank the staff for their efforts over the past 4 years. I have fired from the hip sometimes, but believe that I have acted in the best interests of the community at all times as after all, the buck stops with us. Certainly a couple of new faces in the CMT team have been for the better. Finally, I would like to pay homage to all my fellow councillors for the support and confidence you have shown toward the Rural City. To bring together a team that has always come to a consensus on issues by frank and honest discussion has made it a pleasure to work with you all. I hope that most, if not all of us are able to continue the journey as we strive to make the Rural City of Wangaratta's best Regional City.

Thank you.

Deputy Mayor, David Fuller

I'd like to start by thanking my colleagues on Council. We had a wonderful time these last 4 years. Thank you to Brendan, CMT and all the staff, but most of all, thank you to the community. These last 4 years have been a wonderful undertaking. While the full journey has a myriad of emotions, I plan to takeaway the positives and focus on them. The positivity of change as a community you've embraced, the positivity of growth which will come from opening up more residential spaces, the positivity of the greatest spread of inclusion across the

municipality with more spending and projects in our important rural communities. I'm equally mindful of the learning and I truly appreciate the support of all those who have offered feedback along the way. Highlight of my 4 years without a doubt would be the wonderful people that I've met in the community. I'm very proud of this community, I'm very proud of those who give so much and usually with little fanfare. And most of all, I'm proud of the staff of this organization who give so much to this community in keeping it better. Other highlights include the major projects like the Organics and the Mitchel Avenue Masterplan. Organics will help with income in an environmentally beneficial way. While having grown up in Yarrawonga, I'm more than excited to see the Mitchel Avenue Masterplan come to fruition.

Thank you all.

Cr Mark Currie

I don't want to take up much of everyone's time, but I would like to take a minute to thank a few people that I have spent time with over the past 4 years.

Firstly, to my Councillor colleagues. It has been incredibly enjoyable and satisfying to spend time with like-minded people who genuinely want to do the best for RCoW community. We have had some great debates and while we have not always seen eye to eye, we have always been a group of Councillors that are passionate and not scared to stand up for what we believe in for the community.

To both Ken and Dean. Following on from a time under Administrators, and with a community that needed strong and credible leadership, I cannot think of a pair that could have done it better. I thank you for always lending an ear, and your support when I needed it.

To the staff of RCoW past and present. You are the key to all things council. When there has been a crisis you are on the frontline supporting the community. When projects have to be done you deliver them... I don't believe that you get enough of the accolades and as Councillors we cannot do a great job without you. Nothing gets delivered without your hard work and commitment, so thank you.

To CMT. Thank you for being patient and spending the time to educate us all. I know that at times I have pushed the boundaries of our working relations, but I can assure that I have respect for each and everyone of you. I would also like to single out Jaime, especially for your support in the first few years of my tenure. You were able to give me great insight into thinking a different way about measuring outcomes. It isn't always about money.

To the CEO Brendan, I never know how hard it could be to manage so many different personalities until recently. For those who have never been in your position, it is impossible to understand how hard your role can be. You do an incredible job in keeping everyone level and keeping us on point, this a huge strength and I only wish that I had your skills. You have developed a great team around you and I look forward to seeing where you lead Wangaratta to next.

When I started my campaign for Councillors I wanted to achieve a couple of things. 1 I wanted to ensure that there were KPI's in place and 2. I wanted to help create more jobs in the RCoW. I believe that I achieved both of these with stronger measurements in capital expenditure, stronger CEO KPI's and general reporting. The marketing plan has taken some time to develop and get underway but if the new Councillors continue with the plan then I am sure that RCoW will continue to achieve growth and prosperity.

There have been so many success stories to tell the community, but my biggest regret is not having the main street of Glenrowan beautified. The key works behind the scene have been completed but the works on the ground will not happen until the next budget if the new Councillors deem it to be a worthwhile project. I will continue to lobby for this in the years to come. I am excited to see this come to life.

I want to thank all ratepayers for their support over the past 4 years, it has been a privilege to represent the community. Unfortunately, work commitments and a young family restrains the time I have available and you all deserve someone that has the time. I will not be standing for re-election due to this reason. At a point in time in the future I would love to have the opportunity to again represent RCoW residents as an elected official.

Thank you.

Cr Harry Bussell

I firstly want to thank my community for working with me for the last 4 years. It's been an absolute privilege and not one of the people I've worked with or any party I've interacted with in the last 4 years has been rude to me and that's been quite a pleasure.

I want to thank my fellow Councillors and staff for working with me also, it's been really pleasurable and quite productive. I just want to list some of the things that have occurred in the Southern Ward over the last 4 years because apart from Covid-19, I think that we've put a lot of infrastructure and things in place in our rural community which will help us in the future. These are just a few of the ones that have rolled off the top of my head that I've listed here. In Whorouly, there has been some new playground equipment, full upgrade of the Whorouly South Carboor Road, a pocket path in Whorouly, which people get pleased with. Works at the Carboor-Everton Road. A new netball court in Milawa which is clearly the best netball court in the Northeast. And the Council staff that worked on this need to be congratulated because it was done really really well.

Streetscape plans in Milawa, sealing of some roads in Milawa, Oxley sealing of some streets and the Carpark at the Oxley School which is about \$60,000. The street work in Moyhu was about 3 quarters of a million dollars with kerb and channelling and it sets up the gateway of the King Valley for when the tourists come back. Some electrical works at the Moyhu Hall, work at the Moyhu Netball Court, another grant for the fence at the Moyhu football ground. We're also working on the rural living zone across the Rural City of Wangaratta and I hope that in coming times it will come to fruition because I think it is very important for

the people that live rurally now more than ever. More money for gravel resheeting is now \$1.8m which is miles more than it was not so many years ago. And the roads in the rural areas have never been better. They have never been better than what they are right now. And having lived and driven on bloody gravel roads all my life, I really do appreciate driving around to visit my constituents on the gravel roads now. So, thank you to Alan and Marcus for their team for that work.

Grants to the Edi-Upper Tennis Club, Whitefield Cemetery both got grants for works there. The Whitfield Recreation Reserve's new floor in the Swinburne Pavilion. Works are being done in the planning for the streets in Whitfield. Surveying for the Whitfield-Murray Road. A grant for the Cheshunt Hall. The roadside weeds, the roadsides and plants that grow on our roads are very important. I take a great deal of interest in that and the weeds on roadside of the whole municipality has never been managed better than what it is right now. I want to thank Brendan and his team, and I'm not sure whose team it is there that looks after the weeds, it is sensational now that they really care the contractors for looking after those weeds.

And for all the tourism grants that have been issued over the last 4 years, it is regrettable with the Covid-19 that our great tourism industry has come to a bit of a halt at the moment. But I have great faith that it's going to kick off as our summertime starts and the numbers are certainly trending in the right direction. So, I want to thank all my constituents, everybody I've worked with in the last 4 years, and I'm looking forward to the next 4 years working with everybody too.

Thank you, Mr. Mayor.

Mayor Dean Rees

I was elected to Council in 2016 and have been the Mayor for the last two years. When we started on this journey as a Council 4 years ago, we made it clear that we wanted to make economic development and growth in Wangaratta a priority.

I'm proud to say that we've been able to achieve this, though we have had some challenges along the way, and I think there is still work to go, and we'll get there.

I'd like to acknowledge firstly the contribution of Cr Ruth Amery in her short time on Council before tragically passing away. Her loss affected us all and it is a credit to all Councillors that Cr Amery's legacy was respected while we welcomed Cr Fitzpatrick to the team.

The biggest shift over the past four years has been a massive increase to our capital works funding. Key projects, as mentioned before like other Councillors, like the Cruse Street extension, Wangaratta Railway Precinct Enhancement and Wangaratta Aquatics Project are transforming Wangaratta from a tired city with ageing infrastructure to a modern city ready to take the next step. Our regional areas haven't been forgotten either, with record investment in gravel road re-sheeting as pointed out by Cr Bussell and our township plans and rural placemaking funding.

We've overseen record capital works investments over the past two years and that will set us up for the years to come and will complete the vibrant city that we are seeing today.

Another area I am particularly proud of has been the transformation of our planning processes to make it easier for people to do business with us. We want Wangaratta to grow and are making sure this can happen in a sustainable way. We've opened up in the last 12 months massive residential growth areas both North and South. We've developed areas of our CBD where we attracted businesses like Quest Apartments, Dan Murphy's and more to come.

The past two years have been extremely challenging, with freak storm events, followed by bushfires and now Covid-19. Throughout this our focus has been on supporting our community in any way possible. Sometimes this has meant lobbying government to allow us to re-open, and other times, it has meant simply providing shelter during a fire. I know that there is so much work to still be done in this space, as we continue to grow through Covid-19 and transition to economic and social recovery.

I'm also proud to stand and support the Bangerang name and its people.

In my time as Mayor, I have had two Deputy Mayors – Cr Currie and Cr Fuller, and I'm proud to have them by my side and I thank them for their support, their opinions even though I don't always agree with them but it always matters.

I'd like to thank Cr Benton and Cr Bussell, thanks for your respect, your knowledge of the years as well as your ability and openness and your transition to change and also for the tireless work you've both done in your country communities. It's been noticed.

Cr Fitzpatrick, our only female Councillor and Mom to all of us, a very valued member of our team and thanks for teaching me about our youth and allowing me to be involved in your portfolio to gain this understanding.

Cr Clarke, I should be saying that my mother always told me that if you've got nothing good to say, you say nothing. I could wrap it up right now. But I've taken kindly the counsel of the years and you have been quietly surrendering the things of the youth. I've spoken on regular occasions to former Mayors, Dinning Joyce and Grant and spent four years with you as my guide from 2016. My Council colleague, my sparring partner and I hate to even say it now, my friend, I love your opinionated ways (sometimes), but you have a worthwhile role on Council and you are greatly appreciated as my Council constituent and I hope you get back on Council. You've got a lot more to offer.

I'd like to point out to Directors Clark, Chubb and Brindley, we've had some good and bad and some indifferent moments, but the best way to appreciate someone is to imagine our term here without you. So, thanks for all your great work. Stephen Swart, well, he's showing me a balanced way that planning matters how it might adversely affect a person's rights and interests, and hopefully learning to have an open mind to the matters free from bias but be open to persuasion. I hope you're open to persuasion as well, Stephen, to make our planning process a

bit simpler and a bit easier and to help the people of Wangaratta. It's all about learning and we are both learning this together. So, thank you Stephen more making a huge change in this area and Wangaratta would not be the open-minded planning area that we now have without you being here.

Brendan, it's all about the results, so, tick! Steve Jobs commented 'The things in business are never done by one person, it's done by a team of people.' But any which way you look at it, you need a really good leader backed by a great team to really score goals, so thanks for your leadership, patience and also your connectedness to all Councils massaging seven different personalities is a job on its own.

There is a lot to look forward to for the future and for all the Wangaratta people, I say thank you on behalf of me, you've been a part of my life for four years. Some people like me and some people don't, but I'd like to represent you again and be here at the table. Your input though in our community consultation and everything, the phone calls I get, is invaluable. So, stay safe and make sure you're here for the coming years.

And to the three girls up the back, and especially the two girls, Jess and especially to Rebecca, who's been my sounding board for a long time, we text each other at nights about certain issues and things that I need doing and I always get a text back fairly promptly.

So, thank you very much and thanks to everyone. I'll now hand to Brendan McGrath.

Brendan McGrath, CEO

Thank you, Mr. Rees and to all of the other Councillors for your great words. Just very briefly, this evening is about the Mayor and the Councillors, it's not about me and the staff team but if I could, just very briefly on mine and CMT's behalf, just congratulate you all for a very successful four-year term, I think it's been a highly successful term from my perspective, so congratulations to all of you for the part you've all played in that.

Thank you if I could on behalf of our community for the care that you have shown for their wellbeing, and thank you for the respect and support that you've shown to me and to the staff who work here, that's highly appreciated and in local government can be a bit rare. And finally, for those of you who are running again, good luck. And to Mark, who's declared tonight that he's not, thanks for your time and I'm sure our paths will continue to cross going forward.

Congratulations and thank you to all.

RESOLUTION:

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

Cr K Clarke OAM moved a motion:

That Councillors' speeches be included in the Minutes.

Carried

OFFICERS' REPORTS

CEO BRENDAN MCGRATH

12. EXECUTIVE SERVICES

Nil

13. CORPORATE SERVICES

13.1 ICT STRATEGY TENDER - CORE BUSINESS SYSTEM CONTRACT

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

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

Executive Summary

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

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

RESOLUTION:

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

That Council:

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

Carried

Background

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

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

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

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

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

The procurement methodology was undertaken in two parts.

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

Advertisement	Date
Eprocure	3 March 2020

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

7 EOI submissions were received.

The EOI evaluation team included the:

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

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

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

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

Implications**Policy Considerations**

Procurement Policy.

Financial/Economic Implications

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

Legal/Statutory

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

Social

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

Environmental/Sustainability Impacts

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2020 Council Plan:

Goal

We are Sustainable

We will:

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

We will plan and make decisions for the future:

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

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

N/A

b) Other strategic links

RCoW ICT Strategy;
Customer Experience Strategy

Risk Management

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

Consultation/Communication

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

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

Options for Consideration

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

Conclusion

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

Attachments

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

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

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

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

Executive Summary

This report is presented to Council to update the Wangaratta Rural City Council (Council) instrument of delegation to members of Council staff (instrument).

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

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

RESOLUTION:

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

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

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

that it may from time to time adopt.

Carried

Background

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

Implications

Policy Considerations

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

Financial/Economic Implications

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

Legal/Statutory

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

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

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

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

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

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

Social

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

Environmental/Sustainability Impacts

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

Council Plan

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

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

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

Risk Management

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

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

Consultation/Communication

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

Options for Consideration

Option 1 - Recommended:

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

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

Option 2 – Not recommended:

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

Conclusion

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

Attachments

- 1 Instrument of delegation from Council to members of Council staff 

13.3 2019/20 CARRY OVERS - CAPITAL AND OPERATING PROJECTS

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

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

Executive Summary

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

RESOLUTION:

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

That Council:

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

Carried

Background

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

Implications

Policy Considerations

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

Financial/Economic Implications

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

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

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

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

Capital expenditure

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

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

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

A number of projects budgeted for in 2020/21 have been partly completed in 2019/20 or commenced earlier than expected and are funded from the 2020/21

approved budget. These projects total \$1,128,386 and are listed in the following table.

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

Capital income

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

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

Net Operating Expenditure – Non recurrent

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

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

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

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

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

Legal/Statutory

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

Social

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

Environmental/Sustainability Impacts

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

2017 – 2021 Council Plan

This report supports the 2017-2021 Council Plan:

Goal

We are Sustainable

The non-negotiables

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

Risk Management

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

Consultation/Communication

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

Options

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

Conclusion

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

Attachments

- 1 Capital Works Expenditure Carry Overs 

14. COMMUNITY WELLBEING

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

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

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

Executive Summary

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

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

RESOLUTION:

(Moved: Councillor A Fitzpatrick/Councillor D Fuller)

That Council:

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

Carried

Background

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

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

operational and in the first year alone, over 3,000 meals were delivered to the elderly.

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

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

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

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

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

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

- 3.1 achieve a financial return to Council; and
- 3.2 select a well credentialed Proponent to:

- 3.2.1 provide safe, integrated and high-quality affordable housing at the Site for the most at-risk members of the Rural City of Wangaratta community;
- 3.2.2 enter into a Tripartite Agreement; and
- 3.2.3 take a transfer of ownership of the Site.

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

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

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

Only one submission was received.

Submissions

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

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

Implications

Financial/Economic Implications

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

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

Legal/Statutory

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

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

Social

Housing stress is a growing issue in the municipality. In 2016, Beyond Housing Network provided crisis service to 220 Rural City of Wangaratta residents. In that year, 51% of lone person households in Wangaratta were living with rent related poverty (compared to 47% for the Victorian Hume Region) and 71% of one parent families were living below the poverty line (compared to 60% for the Victorian Hume Region)

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

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

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

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

Environmental/Sustainability Impacts

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are Thriving

We will plan, research and advocate for the future:

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

The non-negotiables

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

Strategic Links**Municipal Public Health and Wellbeing Plan**

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

Risk Management

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

Consultation/Communication

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

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

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

Options for Consideration

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

Conclusion

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

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

Attachments

- 1 SUBMISSION - MAX PARKINSON LODGE 

14.2 INFORMAL BIKE JUMP RISK ASSESSMENT AND PROPOSED MITIGATION

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

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

Executive Summary

This report is presented to Council to assist with making an informed decision on the way forward regarding informal bike jumps within the Rural City of Wangaratta.

RECOMMENDATION:

That Council:

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

1. Confirm the following sites as designated supported jumps sites within Wangaratta:
 - Arlington Park
 - St Bernard's version 2 (200m down from exiting site)
 - Valdoris Avenue
 - Railway area at Sydney Beaches
2. Remove existing and emerging jumps under the following situations:
 - They are in inappropriate areas;
 - Culturally or socially significant (commemorative sites)
 - Sensitive environmental areas
 - Interferes with normal Council maintenance operation
 - They are causing significant damage to a public use area

- They are dangerous to riders and people using the area
 - They are constructed from dangerous materials
3. Install appropriate signage across three different types of sites:
- Signage at the sites of managed jumps.
 - Signage at areas where jumps have been removed.
 - Signage at areas that have risk of jump construction.
4. Work with jump builders on the design and construction at the supported sites. This will include:
- Dirt will be dropped at each supported site.
 - A track designer will be engaged to run workshops to build a knowledge base around safe jumps and tracks.
 - Establish criteria on how the tracks can be altered.
 - Ensure visit sites on a regular basis to assess jumps
 - Regular inspections of the tracks and jumps to ensure that the criteria are being followed.
5. Monitor the success of this approach on an ongoing basis and adjust as required.

RESOLUTION:

(Moved: Councillor D Fuller/Councillor A Fitzpatrick)

That Council:

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

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

- ***Arlington Park***
- ***St Bernard's version 2 (200m down from exiting site)***
- ***Railway area at Sydney Beaches***
- ***Valdoris Avenue Site not be established until a review of use and success of the Pump Track***

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

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

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

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

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

- ***Dirt will be dropped at each supported site.***
- ***A track designer will be engaged to run workshops to build a knowledge base around safe jumps and tracks.***
- ***Establish criteria on how the tracks can be altered.***
- ***Ensure visit sites on a regular basis to assess jumps***
- ***Regular inspections of the tracks and jumps to ensure that the criteria are being followed.***

5. Monitor the success of this approach on an ongoing basis and adjust as required and that the criteria for monitoring potentially include the environment, safety, observation of rules & resident satisfaction.**Carried****Background**

In early 2019, bike jumps, and tracks began to be constructed by young people through public areas of Wangaratta. These tracks were created and expanded relatively organically and spread quickly throughout the city. Whilst young people tended to use tracks close to their homes and schools, their construction also facilitated movement throughout the city by young people. A network of tracks soon established along key walking tracks, waterways and throughout public

reserves, and their use was prominent and prolific. The number of young people using these jumps and tracks increased quickly, and many hundred were participating in both the construction and use of the evolving network.

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

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

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

1. Council would support the continuation of the jumps if clear rules were established and followed. These were:
 - No fires
 - No damage to trees and the surrounds
 - No rubbish to be left
 - No bringing in dangerous material for jump/path construction
 - No holes to be dug on walkways
 - No graffiti or vandalism
 - No 'ownership' over sites – they are for everyone to use
- No expansion of tracks outside designated areas
2. Council would remove jumps if their impact on the environment was too significant, if anti-social behavior continued or they were deemed too dangerous for riders or the community.
3. Council would prioritise the development of the Mitchell Avenue pump track to enable a more formalized riding option within the city.
4. Key sites were established where Council would work with young people to develop jumps safely and with minimal environmental impact. These were:
 - HP Barr Reserve
 - Tarrawingee
 - Mitchell Avenue Pump track
 - Appin Park/St Bernard's track

- Arlington

5. Young people nominated themselves to being involved in the planning and development of different sites.

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

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

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

Implications

Policy Considerations

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

Financial/Economic Implications

As part of this report the following expense is

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

Legal/Statutory

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

Social

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

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

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

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

Environmental/Sustainability Impacts

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

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

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

2017-2021 Council Plan (2020 Revision)

This report supports the 2013-2017 Council Plan:

Goal

We are Thriving

We will plan, research and advocate for the future:

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

We will create and deliver:

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

We will focus on our business:

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

The non-negotiables

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

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

N/A

Risk Management

Risk	Likelihood	Consequence	Resultant Risk
Riding a bike on informal jumps and tracks is a risk to the	Possible (may occur from time to time)	Moderate (Significant non-permanent)	Medium

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

Consultation/Communication

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

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

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

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

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

Options for Consideration

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

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

Conclusion

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

Attachments

- 1 WANGARATTA BIKE JUMPS DIRECTION REPORT AND RISK ASSESSMENT SEPTEMBER 2020 

Public Questions

Please follow link [21 September 2020 Council Meeting Video](#) and refer to minutes to 58:13 to 1:25:42 for public questions and responses to item 14.2 Informal Bike Jump Risk Assessment and Proposed Mitigation.

15. INFRASTRUCTURE SERVICES

15.1 ADVENTURE PLAYGROUND & PARKOUR PLAY SPACE - APEX PARK

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

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

Executive Summary

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

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

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

RESOLUTION:

(Moved: Councillor A Fitzpatrick/Councillor M Currie)

For: Cr Fitzpatrick, Cr Fuller, Cr Bussell, Cr Currie, Cr Benton, Mayor Rees

Against: Cr Clarke

That Council:

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

Carried

Background

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

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

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

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

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

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

There were seven tenders received.

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

Implications

Policy Considerations

Procurement Policy.

Financial/Economic Implications

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

Legal/Statutory

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

Social

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

Environmental/Sustainability Impacts

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are Healthy

We will create and deliver:

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

We will plan and make decisions for the future:

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

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

Rural City of Wangaratta Play Space Strategy 2017 – 2027

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

Risk Management

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

Risks	Likelihood	Consequence	Rating	Mitigation Action
				monitor & report timely delays.

Consultation/Communication

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

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

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

Options for Consideration

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

Conclusion

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

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

Attachments

Nil.

15.2 C26595 CUSACK & SPEARING STREET - DRAINAGE & CARPARK RENEWAL

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

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

Executive Summary

This report is presented to Council to award contract C26595 Cusack & Spearing Street drainage and carparking renewal.

RESOLUTION:

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

That Council:

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

Carried

Marcus Goonan, Acting Director Infrastructure Services disclosed the contract price for C26595 Cusack & Spearing Street – Drainage & Carpark Renewal as \$842,910.16 ex. GST.

Background

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

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

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

Tenders were advertised through Eprocure and the Wangaratta Chronicle.

The Tender was evaluated against the following criteria:

Cost 40%
Capacity 30%
Capability 30%

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

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

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

Implications

Policy Considerations

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

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

Financial/Economic Implications

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

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

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

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

Legal/Statutory

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

Social

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

Environmental/Sustainability Impacts

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

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We Are Established

We will research and advocate:

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

We will create and deliver:

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

We will plan and make decisions for the future:

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

We will focus on our business:

By enhancing the way we plan and deliver infrastructure projects.

The non-negotiables

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

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

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

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

b) Other strategic links

- Wangaratta Health Precinct Structure Plan
- Wangaratta Car Parking Plan

Risk Management

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

Consultation/Communication

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

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

Options for Consideration

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

Conclusion

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

Attachments

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

15.3 2020/21 ANNUAL RESEAL CONTRACT

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

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

CEO Brendan McGrath declared a Conflict of Interest in relation to item 15.3 2020/21 Annual Reseal Contract due being a Board Member of Procurement Australia.

Executive Summary

This report is presented to Council to award annual reseal program for 2020/21.

RESOLUTION:

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

That Council:

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

Carried

Background

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

In 2018 Rural City of Wangaratta joined with five other Councils and Procurement

Australia to contract a panel of suppliers for Annual reseal programs for three years with the potential for two twelve-month options. The 2020/21 financial year is the third year of this panel.

Implications

Policy Considerations

Council's Procurement Policy

Financial/Economic Implications

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

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

Legal/Statutory

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

Social

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

Environmental/Sustainability Impacts

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are Sustainable

We will research and advocate:

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

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

Asset Management Plan – Roads

Risk Management

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

Consultation/Communication

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

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

Options for Consideration

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

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

Conclusion

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

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

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

Attachments

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

15.4 CARBOOR - EVERTON ROAD EMERGENCY EGRESS

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

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

Executive Summary

This report is presented to Council to consider approving the implementation of emergency egress work on the Carboor–Everton Road.

RESOLUTION:

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

That Council:

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

Carried

Background

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

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

At this point Council Officers have completed the plans and costed the required works and have sought all necessary approvals and exemptions from DELWP. These approvals and exemptions have not yet been received and thus full implementation will be subject on the receipt of these. Approval is required from

DELWP to remove the trees and an exemption is necessary to remove the requirement to pay for tree off-sets. Tree off-sets are required to cover the costs of planting new trees in compensation for the removal of native vegetation. Off-set costs are estimated to be approximately \$50,000.

Implications

Policy Considerations

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

Financial/Economic Implications

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

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

Legal/Statutory

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

Social

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

Environmental/Sustainability Impacts

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are Established

We are Sustainable

Our non-negotiables

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

What we do everyday

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

We ensure we are prepared for emergency response and recovery

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

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

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

N/A

b) Other strategic links

N/A

Risk Management

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

Consultation/Communication

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

Options for Consideration

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

Conclusion

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

Attachments

Nil.

16. DEVELOPMENT SERVICES

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

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

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

Executive Summary

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

RESOLUTION:

(Moved: Councillor D Fuller/Councillor M Currie)

That Council:

1. ***Appoints three people from the received nominations as representatives on the Wangaratta Economic Development and Tourism Advisory Committee for a term of three years ending August 2023:***
 - ***The successful candidates are: Stephen Oxley, Trent Crothers, Dennis O'Neil.***
2. ***Appoints one person from the received nominations as a representative on the Agriculture and Agribusiness Advisory Committee for a term of three years ending August 2023:***
 - ***The successful candidate is: Graeme Norman.***
3. ***Advises all applicants of Council's decision.***

Carried

Background

Advisory Committee members are appointed as voluntary members to set terms of service. The advisory committees have a maximum of nine representatives with three being up for renewal annually to ensure a level of continuity. The terms of exiting members of both committees have an expiration date of August 2020. Three vacancies have been created through the annual term of service expiry for both committees. An expression of interest process was undertaken to fill these vacancies. WEDTAC received four applications and the AAAC received one application.

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

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

There remains four vacancies on the AAAC with the ability to appoint further members should applications be received.

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

Implications

Financial/Economic Implications

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

Legal/Statutory

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

Social

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

Environmental/Sustainability Impacts

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are connected.

We will focus on our business:

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

Consultation/Communication

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

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

Options for Consideration

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

Conclusion

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

Attachments

- 1 WEDTAC Nominations 2020 - Confidential
- 2 WEDATC Nomination Review & Skills Matrix - Confidential
- 3 AAAC Nomination 2020 - Confidential
- 4 AAAC Nomination Review and Skills Matrix - Confidential

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

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

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

Executive Summary

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

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

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

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

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

RECOMMENDATION

That Council:

1. *Resolves to issue a Notice of Refusal to Grant a Permit under Section 61 (1) (c) of the Planning and Environment Act 1987 for planning permit application Plnapp20/131 at 449 Mcmahons Road Springhurst (CA137 & 137A) for a Two Lot Re-subdivision, on the following grounds:*
 - *The application is inconsistent with the Planning Policy Framework at clauses 11.01-1S, 14.02-1S, 14.01-2S and 16.01-5S by creating a small lot and fragmenting productive agricultural land;*
 - *The application is inconsistent with the Local Planning Policy Framework at clauses 21.01, 21.02, 21.05, 21.07-3 and 22.01 by undermining the primacy of agriculture in an area of 'high' productivity*

and introducing a residential outcome in an unsuitable area.

- *The application is inconsistent with the Farming Zone by fragmenting land and introducing land use conflicts that will adversely affect and limit nearby farming operations; and*
- *The application results in an unacceptable agricultural outcome.*

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

RESOLUTION

(Moved: Councillor H Bussell/Councillor H Benton)

For: Mayor Rees, Cr Fuller, Cr Fitzpatrick, Cr Bussell, Cr Benton

Against: Cr. Clarke, Cr. Currie

That Council:

issues a Notice of Decision to Grant a Permit with respect to Planning Permit Application PInApp20/131 for a two lot re-subdivision at 449 McMahons Road Springhurst subject to the conditions listed below, and in accordance with endorsed plans.

Permit conditions:

Endorsed plans

1. ***The subdivision layout as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***

Section 173 Agreement

2. ***Prior to the issue of a Statement of Compliance the permit holder must enter into an agreement with the Responsible Authority, in a form satisfactory to the Responsible Authority, under section 173 of the Planning and Environment Act 1987 to provide for the following:***

- a) ***Lot 2 must not be used or developed for the purpose of a dwelling or other accommodation;***
- b) ***The subject land must not be further subdivided in any way that creates an additional lot(s); and***
- c) ***The owners and occupiers of Lot 1 acknowledge that noises, smells, sights and sounds typical of agriculture are to be expected in this area.***

The owner must pay the costs of the preparing, lodging and registering the agreement and any subsequent amendment, removal or other dealing associated with the agreement. Evidence that the agreement has been registered on the certificate of title for the land must be provided to the

Responsible Authority.**Mandatory conditions**

- 3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**
- 4. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**
- 5. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act**

Subdivision expiry

- 6. This permit will expire if any of the following circumstances applies:**
 - a) The plan of subdivision is not certified within twelve months of the original issue date of the permit.**
 - b) The registration of the subdivision is not completed within five years of the date of the plan of subdivision being first certified.**

In accordance with section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in part (a) of this condition.

Carried

Property Details

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

Proposal in Detail

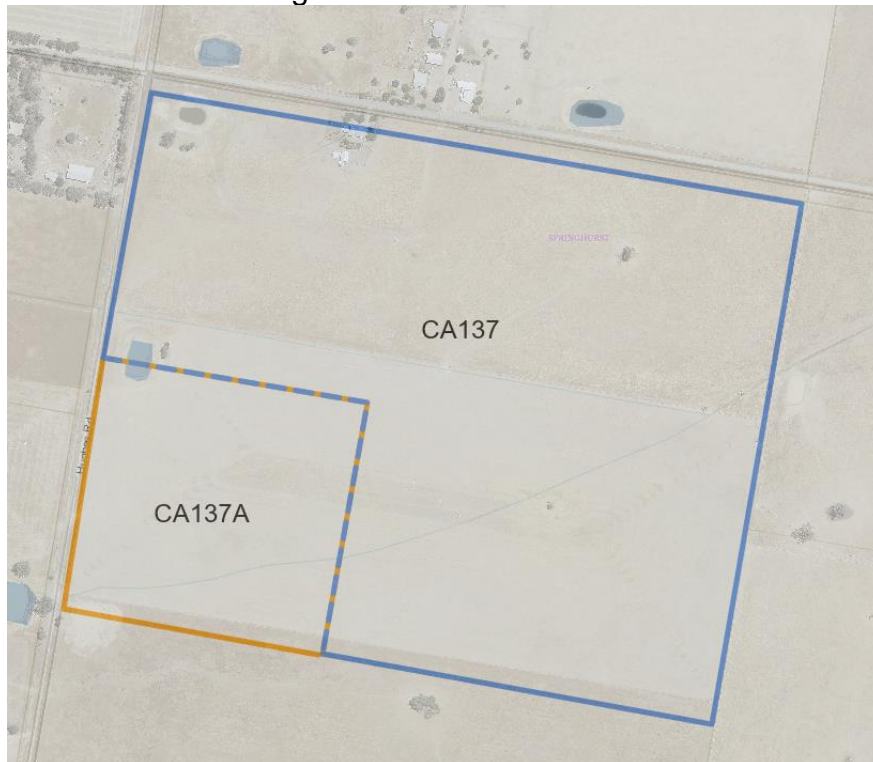
The application seeks a permit to re-subdivide two lots in common ownership.

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

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

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

The current lot configuration is shown below:



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



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

Summary of Key Issues

The Wangaratta Planning Scheme seeks to:

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

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

The proposal inherently seeks to:

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

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

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

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

Background

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

Assessment under the Planning and Environment Act

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

The key policy clauses that are considered are:

Clause 11.01-1S Settlement

Clause 14.02-1S Protection of agricultural land

Clause 14.01-2S Sustainable agricultural land use

Clause 16.01-5S Rural residential development

Clause 21.01 Introduction

Clause 21.02 Settlement

Clause 21.05 Natural Resource management

Clause 21.07-3 Housing form

Clause 22.01 Rural land use and agriculture

Clause 35.07 – Farming Zone

Clause 65.02 – Decision Guidelines

Implications

Policy Considerations

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

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

Financial Implications

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

Legal/Statutory

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

Social

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

Environmental/Sustainability Impacts

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

Economic Impacts

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

Referrals/Public Notice

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

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal

We are Sustainable

We will research and advocate:

to advance regional agricultural opportunities.

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

N/A

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Objector appeals an approval to VCAT	Medium	Very high	High	Representation at VCAT.
Permit applicant appeals a refusal to VCAT	Medium	Medium	Medium	Examine the possibility of being represented by a consultant at VCAT.

Consultation/Communication

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




Options for Consideration

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

Conclusion

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

Attachments

- 1 PInApp20/131 - Assessment against the Wangaratta Planning Scheme 
- 2 PInApp20/131 - Copy of objection 
- 3 PInApp20/131 - Copy of planning permit application 

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

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

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

Mayor Dean Rees declared a conflict of interest in relation to item 16.3 Planning Permit Application PLNAPP20/129 – Two Lot Subdivision and Variation of a Restrictive Covenant – 6 Pin Oak Drive, Wangaratta due to relationship with the applicant's father-in-law.

Mayor Dean Rees left the meeting at 7:38pm having previously declared a conflict of interest.

Executive Summary

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

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

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

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

- Variation of a Restrictive Covenant which, to this point, has provided a level of assurance to surrounding land owners.

- Consistency of the proposal with surrounding neighbourhood character and the established subdivision pattern and density of the area.
- Cumulative impacts of like proposals on under-developed infrastructure.

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

RESOLUTION:

(Moved: Councillor H Bussell/Councillor M Currie)

For: Cr. Benton, Cr. Bussell and Cr. Currie, Cr. Fuller

Against: Cr. Clarke, Cr. Fitzpatrick

That Council:

1. Refuse to Grant a Permit with respect to Planning Application PlnApp20/129 for a two lot subdivision and variation of a restrictive covenant, at 6 Pin Oak Drive Wangaratta for the following reasons:

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

Carried

Mayor Dean Rees returned to the meeting at 7:43pm.

Property Details

The subject site is situated in the southern-most fringe of the Wangaratta residential area, located within the first stage of the Laceby Grange housing estate. The property is located on the south-east corner of the intersection of Pin

Oak Drive and Elm Avenue, approximately 120m from the entry to Laceby Grange estate from Clarkes Lane. The current lot is an irregular shape with an area of 4,038m² and frontages of 63m and 44m to Pin Oak Drive and Elm Avenue respectively.

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

Some way to the north of the subject site the final stage of the Laceby Grange estate subdivision has been completed with the majority of lots having been developed. Comprising 23 lots of similar size and dimensions to the existing stages, lots in this final stage range in size from 2,300m² through to 6,600m², with an average lot size of 3,300sqm.

Proposal in Detail

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

Subdivision

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



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

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

Variation of a Restrictive Covenant

All lots within Plan of Subdivision PS606220J (including the subject land) are both burdened and benefitted by Covenant AJ049503Y (see **Attachment 2**). This Covenant was applied to the land on 1 July 2011 under Section 45 of the *Transfer of Land Act 1958*. No sunset clause is applicable. The Covenant

contains five specific conditions restricting how the land may be used and developed. Condition (i) states:

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

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

Summary of Key Issues

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

Assessment under the Planning and Environment Act

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

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

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

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

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

Referrals

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

Advertising

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

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

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

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

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

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

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

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

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

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

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

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

Implications**Policy Considerations**

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

Financial Implications

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

Legal/Statutory

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

Cultural Heritage

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

Social

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

Environmental/Sustainability Impacts

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

Economic Impacts

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

2017 – 2021 Council Plan (2020 Revision)

This report supports the 2017-2021 Council Plan:

Goal**We are Sustainable**

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

We are thriving

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

We are growing

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

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

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

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

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

We are established

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

We are inspired

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

Strategic Links

a) Rural City of Wangaratta 2030 Community Vision

N/A

b) Other strategic links

N/A

Risk Management

Risks	Likelihood	Consequence	Rating	Mitigation Action
Refuse to Grant a Permit - Applicant appeals decision at VCAT	Moderate	Moderate	Moderate	Representation of Council at VCAT
Notice of Decision to Grant a Permit – Objector/s appeal decision at VCAT	Moderate	Moderate	Moderate	Representation of Council at VCAT

Risks	Likelihood	Consequence	Rating	Mitigation Action
Notice of Decision to Grant a Permit – Applicant appeals permit conditions at VCAT	Low	Low	Low	Representation of Council at VCAT

Consultation/Communication

Level of public participation	Promises to the public/stakeholders	Tools/Techniques
Inform	Notify potentially affected parties of the application	Notice of Application sent to the owners of all properties within Plan of Subdivision PS606220.
Consult	All submissions to the application will be considered.	All Submissions have been reviewed and summarised in this report along with a response to relevant planning considerations.
Involve	Opportunity to make a submission.	Notice of Application sent to the owners of all properties within Plan of Subdivision PS606220.
Collaborate	Not Applicable	Not Applicable
Empower	Not Applicable	Not Applicable

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

Options for Consideration

1. Refuse to grant the Planning Permit.

OR

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

Conclusion

The application seeks approval for the variation of a restrictive covenant and a two lot subdivision. Whilst the proposed subdivision in isolation complies with the purpose of the zone and can generally satisfy the minimum requirements of the zone and applicable standards, the subdivision layout does not respond favourably to the established neighbourhood character of the area. The

subsequent development of Lot 2 will result in a contrasting density of built form on what is a prominent corner lot at the entrance to the Laceby Grange Estate.

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




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

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

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

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

Attachments

- 1 PInApp20/129 - Proposed Subdivision Layout Plan 
- 2 PInApp20/129 - Restrictive Covenant 
- 3 PInApp20/129 - Assessment Report 

17. SPECIAL COMMITTEE REPORTS

Nil

18. ADVISORY COMMITTEE REPORTS

Nil

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

19.1 RECORD OF ASSEMBLY OF COUNCILLORS & ADVISORY COMMITTEE REPORTS

Meeting Type: Ordinary Council Meeting
Date of Meeting: 21 September 2020
Author: Executive Service Coordinator
File Name: Assemblies of Councillors
File No: IC20/52

Executive Summary

Assembly of Councillors:

An “Assembly of Councillors” is a meeting at which matters are considered that are intended or likely to be the subject of a Council decision and is either of the following:

- a meeting of an advisory committee where at least one Councillor is present; or
- a planned or scheduled meeting that includes at least half the Councillors and at least one Council officer.

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

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

The written record of an assembly of Councillors is, as soon as practicable:

- a) reported at an Ordinary Meeting of the Council; and
- b) incorporated in the Minutes of that Council meeting.

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

Advisory Committee Meetings:

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

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

RESOLUTION:

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

That Council:









1. ***receives the reports of Assemblies of Councillors with the following amendment:***

Inclusion of date 31 August 2020 in attachment 6 Assembly of Councillors – Councillors Briefing Forum

2. ***notes the minutes of these Advisory Committees***

Carried

Attachments

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

20. NOTICES OF MOTION

Nil

21. URGENT BUSINESS

Nil

22. PUBLIC QUESTION TIME

NIL

23. CONFIDENTIAL BUSINESS

Nil

24. CLOSURE OF MEETING

The Meeting closed at 7:45PM.