



AGENDA  
of the  
ORDINARY MEETING OF COUNCIL  
WEDNESDAY 28 NOVEMBER 2018

at

Murrindindi Shire Council  
Council Chamber  
The Semi Circle  
Yea

6.00 pm

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**1. PLEDGE AND RECONCILIATION STATEMENT****2. APOLOGIES AND REQUESTS FOR LEAVE OF ABSENCE****3. COMMUNITY RECOGNITION**

Suspension of standing orders to thank and acknowledge the achievements for two members of the Yea Saleyards Committee of Management.

**4. DISCLOSURES OF INTEREST OR CONFLICT OF INTEREST****5. CONFIRMATION OF MINUTES**

5.1 Minutes of the Ordinary Meeting of Council held on 24 October 2018.

**Officer Recommendation**

**That the minutes of the Ordinary Meeting of Council held on 24 October 2018 be confirmed.**

5.2 Minutes of the Special Meeting of Council held on 31 October 2018.

**Officer Recommendation**

**That the minutes of the Special Meeting of Council held on 31 October 2018 be confirmed.**

**6. PUBLIC PARTICIPATION TIME**

6.1 QUESTIONS OF COUNCIL

6.2 OPEN FORUM

6.3 PETITIONS

6.3.1 PETITION – BILLBOARD - 2 ANDERSON LANE NARBETHONG

Attachment(s): *1/2018/235/1 – 2 Anderson Lane Narbethong – Submission – Objections-Petition (distributed separately to Councillors)*

**Summary**

This report is to advise Council that a petition has been received in objection to the proposed erection of a billboard at 2 Anderson Lane in Narbethong.

The stated purpose is requesting Council to consider:

- that Narbethong is the entry to the shire by allowing a billboard it becomes like any other suburb
- it goes against why tourists come to visit the area or why people live there

- sets a precedence and more will pop up everywhere
- contravenes Council's vision in the following areas
  - sound planning
  - protection of the natural environment
  - lifestyle choice
  - protect high amenity rural, natural landscapes and the character of the area
  - need to support the vitality of the municipality.

The petition was signed by 237 people. The petition was submitted by Vicky Pigdon, resident of Narbethong.

There is a current planning permit application at 2 Anderson Lane, Narbethong to which this petition relates. The recommendation is that the petition be considered as part of the assessment of the planning permit application and a report on that assessment be provided to Council at the December 2018 Ordinary meeting.

#### **Officer Recommendation**

**That the petition on the proposed billboard in Narbethong be noted and referred to the Manager Development Services for consideration as part of the assessment of the associated planning permit application and a report on that assessment be provided to Council at the 19 December 2018 Ordinary Meeting.**

## **7. OUR PLACE**

### **7.1 PROPOSED PLANNING SCHEME AMENDMENT - EWING WYND, YEA**

**Attachment(s):** *Consultant Submission (refer Attachment 7.1)*

#### **Purpose**

This report discusses a request for an amendment to the Murrindindi Planning Scheme to reduce the minimum lot size on land in the Rural Living Zone located south of the Yea Township. The report recommends the amendment request not be supported.

#### **Officer Recommendation**

**That Council resolve to not support the request to prepare and exhibit an amendment to the Murrindindi Planning Scheme to reduce the minimum lot size in the schedule to the Rural Living Zone (Clause 53.03) on land at Ewing Wynd, Yea.**

#### **Background**

A request has been received from planning consultants (Hansen Partnership) on behalf of Mr W Anderson (landowner) seeking Council support to prepare and exhibit an amendment to the Murrindindi Planning Scheme. The request seeks to amend the schedule to the Rural Living Zone (Clause 35.03) relating to the subject land from the current 4 hectare (ha) minimum lot size (with a 6 ha average lot size) to a minimum 2 ha minimum lot size (with no requirement for an average lot size).

The subject land is located to the west of the Melba Highway and 5 kilometres (km) south of the Yea Township. The land comprises a large area of approximately 242 ha containing 12 lots which have access from Ewing Wynd. The existing average lots sizes are approximately 22 ha and all but one of the lots (5 Ewing Wynd) remains in the common ownership of the amendment proponent. The land contains two dwellings (one owned by the current landowner/ amendment

proponent at 48 Ewing Wynd) and a further dwelling on the lot in separate ownership (5 Ewing Wynd). The current rural subdivision was created under a former planning scheme (prior to 1999).

A proposal to include the subject land within a Rural Living Zone was initially rejected under the Rural Residential Study (Murrindindi Shire, 2004) and Amendment C14 to the Murrindindi Planning Scheme (2006). However, following a further strategic assessment the land was recommended for rezoning to Rural Living under the Yea Structure Plan (2014). The subject land was subsequently included in the Rural Living Zone as part of the approval of Amendment C55 to the Murrindindi Planning Scheme in 2016. Amendment C55 also put in place the schedule setting out the current subdivision minimum (4 ha) to provide a transition and differentiation to the 2 ha minimum for the Rural Living zone around the existing Yea Township.

The Murrindindi Planning Scheme uses a subdivision sizes of 4 ha minimum and 6 ha average for all of the Rural Living Zone with the exception of land closer to the Yea Township and in the Kinglake West area.

### **Proposal**

Under the current zone provisions, the land is capable of subdivision of up to approximately 40 rural living lots (subject to planning permit). Under the amendment proposal (2 ha minimum lot size) the land would be capable of accommodating three times this number (120 lots) although it should be noted that the consultants for the landowner acknowledge that land capability constraints (particularly in relation to steeper slopes on the western portion of the subject land), would result in a lesser number of lots.

In support of the proposed changes the amendment proponent submits:

- the proposed changes would be consistent with minimum lot sizes currently provided around the Yea Township
- there is an urgent need to stimulate population growth and economic development within the Shire and particularly around township areas
- the reduced subdivision size will remain consistent with the provisions and intent of the Rural Living Zone
- the land is sufficiently close to the Yea Township and there is a demonstrated market demand for smaller lot sizes. Letters from local real estate agents have been obtained in support of the changes
- the proposed subdivision would be particularly attractive to residents that require access to the eastern side of the Melbourne metropolitan area
- the landowner is committed to a fully integrated and master planned rural community within an attractive environmental setting
- a well-designed rural living subdivision will have potential to create its own community within an attractive environment close to the Yea Township.

A copy of the full submission prepared by planning consultants in support of the amendment is attached to this report.

### **Discussion**

In the consultation process for the Yea Structure Plan (2014) and Amendment C55, the current landowner and his consultant advocated strongly for the rezoning of the subject land. Given the physical separation of the land from the Yea Township, there was debate as to whether the land warranted rezoning in the first instance due to its location. Ultimately Council at that time determined to support the rezoning of the land to recognise its existing fragmented nature and to provide some opportunity for subdivision at conventional rural living subdivision sizes (4 ha minimum and 6 ha average).

### Murrindindi Planning Scheme

The purpose of the Rural Living Zone (Clause 53.03) seeks to:

- implement the Municipal Strategy and Planning Policy Framework
- provide for residential uses in a rural environment
- provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses
- protect and enhance the natural resources, biodiversity and landscape and heritage values of the area
- encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

In relation to the Planning Policy Framework, Clause 11 (Settlement) states:

‘Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.’

Further State planning provisions seek to:

- limit new housing development in rural areas by directing housing growth into existing settlements (Clause 14.01-1S)
- promote consolidation of urban development and integration of land use and transport (Clause 15.02-1S)
- ensure access to services and integration with public transport, schools and open space (Clause 16)
- increase the proportion of new housing in designated locations within established areas and reduce the share of new dwellings in dispersed development areas (Clause 16.01-2S).

Local Planning Policy Framework provisions recognise that the Rural Living and Low Density Residential zones ‘provide a range of residential choice and diversity in proximity to townships and settlements.’ However, subdivision and development of land within the Rural Living Zone is required to provide ‘sustainable outcomes’ (see Clause 21.04-1). Strategies generally emphasise development outcomes which are connected and integrated with township areas.

The existing 6 ha average lot size is far more capable of meeting the purpose of the zone (for this particular area) compared to the amendment proposal which would more than double the lot yield (and associated population). Council must also have regard to the impact that an additional population and lot yield will have on the viability and function of existing farming operations that surround Ewing Wynd. These areas to the north, south and east are currently used for productive grazing purposes.

State and local planning policy provide an appropriate level of support for the provision of land for rural living purposes. However, when considering proposals to further intensify housing outcomes within these areas, Council must have regard to a range of relevant considerations set out in the Scheme. On balance, policy considerations are in favour of directing further rural living and housing growth to areas in and around existing settlement and township areas. The subject land is physically separated from the Yea Township by a considerable distance and in this context further lot density and development is not supported. There are no current proposals to designate further township or rural living growth in the intervening farmland between the current Yea township boundaries and the subject land.

The Yea township has a considerable area zoned for Rural Living which will cater for demand over the next 30 years. The challenge for Council is to facilitate further development within these areas rather than to encourage further development in more dispersed locations. A current proposal is being developed to create 45 lots (within the 2 ha range) in the Carey Road area, northeast of Yea. Council officers are confident that with the release of this land further development opportunities around the township will be realised to meet demand.

In relation to the letters of support from local agents, Council would need to be cautious in accepting this as independent evidence in support of any changes. Even if such evidence were to be independently verified, it would not, in the view of Council officers, be sufficient on its own to overcome the weight of planning policy against the proposal. The provision of a further population in what is considered to be an out-of-township location has the potential to generate future resident expectations for the provision of services and physical and community infrastructure (e.g. public transport) for which there is currently no State or Local Government commitments.

At the panel hearing for Amendment C55, Hansen Partnership, on behalf of the current landowner, agreed to the current subdivision provisions in conjunction with the land being rezoned to Rural Living. An initial submission requesting a 2 ha minimum lot size was withdrawn by the proponent at the panel consideration stage of the amendment. This outcome was accepted by the independent panel and subsequently by Council and the Minister for Planning. While it is regrettable that the current landowner is having difficulties marketing the larger lot size at this time, the further intensification of development outcomes on this particular site is not considered to be sustainable over the longer term and should be rejected on this basis.

### **Process**

For the proposed amendment to proceed, Council, acting as the Planning Authority, would need to resolve to request authorisation from the Minister for Planning to prepare the amendment and place it on exhibition. If Council resolve that the amendment should not proceed then no further action is available to the proponent other than to request that the Minister for Planning prepare the amendment. This is an unlikely outcome as the Minister for Planning would normally not undertake an amendment to a planning scheme without the support of Council.

### **Council Plan/Strategies/Policies**

The Murrindindi Shire Council Plan 2017-2021 sets out the following provisions:

- Our Place – we will maintain and enhance places to be attractive and liveable, in balance with our natural environment and through good land use planning enhance the liveability, prosperity and rural character of our Shire
- Our Place – strengthen the environmental sustainability of our communities, protect our natural environment and reduce resource consumption.

### **Relevant Legislation**

The Murrindindi Planning Scheme is administered under the *Planning and Environment Act 1987*.

### **Financial Implications and Risk**

If an amendment were to proceed the proponent would need to submit prescribed fees to assist in the further processing of the amendment through the exhibition, panel, Council adoption and Ministerial approval stages.

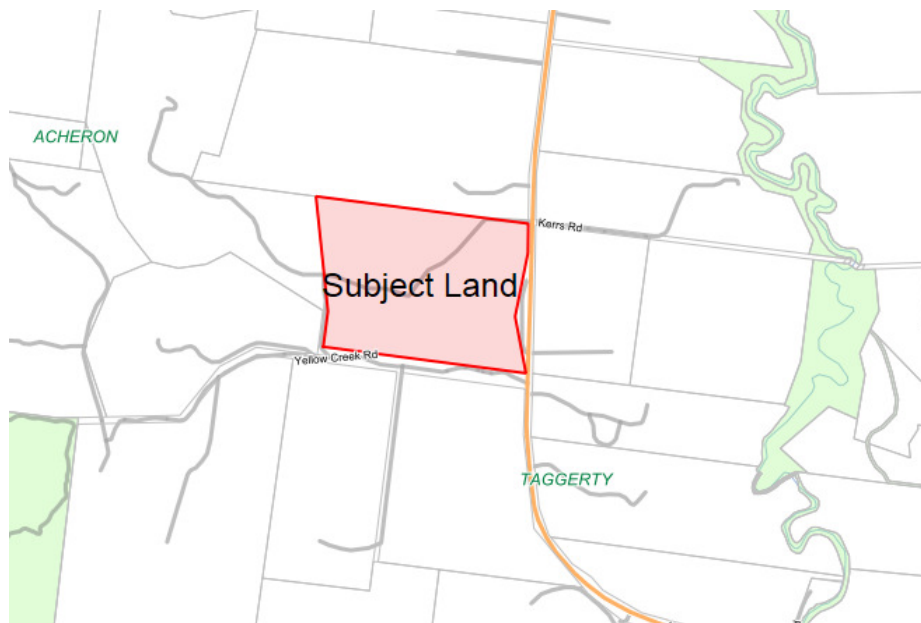
### **Community and Stakeholder Consultation**

The Yea Structure Plan 2014 and Amendment C55 both involved formal consultation processes to which Hansen Partnership and current landowner made submissions. There were no previous objections under either process to the rezoning of the subject land to Rural Living.

**7.2 1/2016/33/2 – BONFIRE STATION AMENDMENT**

Attachment(s): 1/2016/33/1 Existing planning permit (refer Attachment 7.2a)  
Application documents (refer Attachment 7.2b)  
Existing permit with proposed changes tracked (refer Attachment 7.2c)  
(aerial photograph and submissions were distributed separately)

Land: 3625 Maroondah Highway, Acheron  
Proposal: Amendment to permit to incorporate a function centre and one business identification sign  
Applicant: R Christopher  
Zoning: Farming  
Overlays: Bushfire Management (Part)

**Locality Plan****Purpose**

This report recommends that a notice of decision to grant an amendment be issued for planning permit 2016/33. The amendment seeks to change the current use of the land to include a function centre and business identification signage on land at 3625 Maroondah Highway, Acheron. The application is being reported to Council because two objections have been received which have not been resolved. The grounds of objection relate to noise, amenity and traffic impacts. Council officers are satisfied that the amendment can be supported subject to further conditions forming part of an amended permit that may be issued.

**Officer Recommendation**

**That Council issue a Notice of Decision to grant an amendment to Planning Permit No. 2016/33 to change the proposal to include a function centre and business identification signage at 3625 Maroondah Highway, Acheron, subject to the following permit changes and conditions:**

- 1. Amend the proposal to 'Construction and use of a building for group accommodation; use of land for function centre; and installation of business identification signage'**
- 2. Insert headings for group accommodation, function centre and business identification signage components of the permit**



**3. Amend and insert the following conditions:**

- insert a 'Group Accommodation' heading before condition (15)
- amend condition (15) to remove the words 'in the building' to 'in the group accommodation building'
- insert 'Function Centre' heading before condition (16)
- insert new conditions (16), (17), (18), (19) and (20) as follows:
  - (16) the function centre hereby permitted may only be used for a maximum of 12 functions per year. A log of all events must be kept by the permit holder, and made available to the Responsible Authority upon request
  - (17) the function centre hereby permitted shall take place only between the hours of 2 pm to 11 pm Friday and Saturday
  - (18) no amplified music or speakers are allowed outdoors or to be placed or mounted on or around the existing structures on the site
  - (19) a maximum number of 48 guests may be allowed on the site for any function
  - (20) prior to the commencement of any use, a car parking area must be provided to the satisfaction of the Responsible Authority. This car parking area must be constructed in accordance with plans that are submitted to and approved by the Responsible Authority, and must be drawn to scale and demonstrate compliance with the *Guide to Traffic Engineering Practice: Part 11 Parking (AustRoads, 2017)*. A minimum of 15 car spaces must be provided on site
- Insert 'Business Identification Signage' heading before condition (21)
- Insert new conditions (21), (22), (23), (24) and (25) as follows:
  - (21) the business identification signs hereby permitted, and as shown on the endorsed plan can only be altered or modified with the written approval of the Responsible Authority
  - (22) only one sign can be put on the property. This sign must not contain any flashing, animated, illuminated or reflective parts, must not exceed two square metres in area, and its only message must relate to a use conducted on the property
  - (23) the sign shall be located wholly within the curtilage of the subject land
  - (24) the sign hereby permitted shall be kept in good order and maintained to the satisfaction of the Responsible Authority
  - (25) the sign hereby permitted may only be lit from below with one light, and this light must be baffled in a manner to not spill light beyond the boundaries of the property
- Renumber existing conditions (16) to (18) to (26), (27) and (28).

**4. Addition of notation:**

- (3) the permit holder should be aware that the operation of the use is at all times required, pursuant to the *Environmental Protection Act 1970*, to meet the requirements of the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.

**Background**

In August 2016, a planning permit (2016/33) was issued for group accommodation (48 people) at the subject property. In October 2016, a further planning permit (2016/145) was issued for a beer

and wine producers liquor licence to serve guests on the property and distribute by wholesale only. The current application seeks to amend planning permit 2016/33 to include 'use of land for function centre and installation of advertising signage' in the proposal. This will allow the following to occur:

- people not staying on the property to attend functions
- allow outside staffing, such as caterers, celebrants, DJ's and bands
- functions to allow both guests and offsite visitors.

The applicant has included the following self-imposed limitations in their proposal:

- live bands only permitted between 2 pm and 11 pm on Saturdays, and will be required to comply with State Environment Protection Policy N2 (*Control of Music Noise from Public Premises - SEPP N-2*)
- all amplified music (not live bands) will cease by 11 pm Friday and Saturday nights, and 10 pm all other nights
- DJ's will not be permitted
- all guests attending the property must be associated with the group booking the site.

The advertising signage proposed is for a 2 metres x 1 metre (2 square metres) sign on a towable trailer lit by a solar light.

### **The Land and Surroundings**

The subject land is a 49.1 hectare parcel of land in the Farming Zone. The land contains two dwellings, a group accommodation building, a common building which contains the bar area (known as the mess hall), and other outbuildings. The property is bounded by the Maroondah Highway on the eastern boundary, by Yellow Creek Road on the southern boundary, and private property to the north and west. All the surrounding land is also in the Farming Zone and contains rural dwellings and associated outbuildings. There are three dwellings within 1 kilometre of the area to be used for the function centre.

### **Discussion**

The current permit allows for the site to be used for group accommodation and the associated planning permit for the liquor licence allows guests of the accommodation to use the bar facilities on site. When considering this amendment, Council officers are required to assess whether it is reasonable to allow outside caterers, entertainers, etc. to also utilise the site and to allow people not staying on the property to use the facilities. The applicant has indicated that bands would perform infrequently (typically one Saturday a month over the summer period) and that DJ's would not be permitted.

The planning scheme generally supports economic development and tourism proposal and is supportive of niche and smaller proposals such as this. The site has been running for over two years with 48 people on site on a regular basis, with no formal complaints recorded by Council during this period. The proposal is in line with the existing number of people allowed on the site and will allow some flexibility in the way the business operates.

The issue raised by the submitters relates to both music and guest noise outside the buildings. The existing and proposed conditions of permit are considered capable of addressing these concerns and potential impacts.

The application proposes that vehicle parking would be provided on site and proposed conditions will require this outcome. It is not anticipated that vehicles will need to be parked on the road reserve. Yellow Creek Road is a formed gravel road included on Council's Road Register which is of an appropriate standard to service the proposed activity. Any dust caused by traffic would

also be expected to settle before it had an impact on the nearby dwellings due to the existing setbacks of these dwellings to the road.

When considering the signage proposed, the location detailed is not visible to neighbouring houses, and the sign will be required to be kept in good order and condition. The planning scheme allows consideration for business identification signage up to 3 square metres. The proposed sign will provide a modest area of 2 square metres.

One of the submitters has raised concern that the proposal will not be in accordance with the liquor licence issued for the property. Council officers have assessed the conditions on the licence and have confirmed that the proposed changes, if approved, will not conflict with the licence.

When considering the proposal in its entirety, the proposed amendment is considered acceptable. Conditions of permit (existing and proposed) are capable of addressing any amenity impacts relating to surrounding properties

### **Referrals**

No external referrals were required as part of this application.

### **Council Plan/Strategies/Policies**

This proposal relates to the Murrindindi Shire Council Plan 2017-2021 objectives of:

- Our Place – we will maintain and enhance places to be attractive and liveable, in balance with our natural environment and the strategy through good land use planning enhance the liveability, prosperity and rural character of our Shire
- Our Prosperity – in partnership with the community we will promote an environment in which business and community can thrive.

### **Relevant Legislation**

The proposal is being considered under the provisions of the Murrindindi Planning Scheme.

### **Financial Implications and Risk**

The amendment proposal will not impose any direct financial implications or risks on Council.

### **Conflict of Interest**

There are no declared conflicts of interest by Council officers in relation to this report.

### **Community and Stakeholder Consultation**

Nine nearby and adjoining owners were notified of the application directly. In addition, a notice of the application was displayed on the site and also placed in the Alexandra and Eildon Standard. Two objections were received and are summarised below:

- Function Centre
  - will allow live and recorded music
  - could be for hundreds of people
- Residential Amenity
  - surrounding residential houses at a higher elevation and impacted by noise
  - will be detrimental to rural area (two submitters)
  - has been occasions where inappropriate behaviours were witnessed by neighbours
- Noise Impacts
  - noise rises with the topography

- doors and windows will be open, music will be audible outside
- noise from the site can be heard inside neighbouring dwelling
- close monitoring does not happen
- Traffic Impacts
  - will increase traffic to and from the site
  - Yellow Creek Road is not of a standard to handle increased traffic for events
  - concern with safety, particularly drivers under the influence of alcohol
  - cars and buses parked on site will be visible to neighbours
- not in accordance with existing liquor licence permit
- concerned with how the property is being advertised on line
- signage is unsightly
- does not believe the 'Self Imposed Conditions' are enforceable.

The applicant provided a response to the objections, which can be summarised as follows:

- amendment will not change patron numbers, trading frequency or hours
- proposing to move existing car parking area to a safer, more discreet location on the property
- have already planted over 100 trees around venue to screen from adjoining properties
- has improved signage on site to address inappropriate behaviour
- music limiters to be provided on all entertainment provided
- windows and doors will be closed when required to limit music noise.

This response was sent to both submitters, with neither objection withdrawn.

### **Legal/Policy Issues**

#### State Planning Policy Framework

##### 13 *Environmental Risks and Amenity*

Objective: planning should aim to avoid or minimise natural and human-made environmental hazards, environmental degradation and amenity conflicts.

##### 13.05 *Noise*

Objective: to assist the control of noise effects on sensitive land uses.

Strategies:

- ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

##### 13.05 *Amenity and Safety*

Objective: to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.

Strategies:

- ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by:
  - directing land uses to appropriate locations

- using a range of building design, urban design, operational and land use separation measures.

#### 17.01-1R *Diversified Economy*

Objective: to strengthen and diversify the economy.

Strategies:

- facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.

#### 17.04 *Tourism*

Objective: to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination.

Strategies:

- encourage a range of well-designed and sited tourist facilities, including integrated resorts, accommodation, host farm, bed and breakfast and retail opportunities
- promote tourism activities that preserve, are compatible with and build on the assets and qualities of surrounding activities and attractions
- encourage investment that meets demand and supports growth in tourism.

#### 17.04-1R *Tourism - Hume*

Strategies:

- facilitate rural tourism activities that support agricultural enterprises such as cellar door and farm gate sales and accommodation in appropriate locations.

### Local Planning Policy Framework

#### 21.02-1 *Vision*

The key elements to achieving this vision will be:

- expansion and promotion of the tourism industry for a range of existing and emerging activities
- recognition and protection of the natural and built environment to protect high amenity rural and natural landscapes and the character of the area.

#### 21.03-3 *Tourism*

Issues:

- need to enhance tourism in the municipality, promoting the proximity to Melbourne and the natural environment
- considerable potential for the expansion of the tourism industry as a major driver of the municipal economy
- contribution of tourism to generate local employment and business opportunities
- the need for provision of a wide range of tourism accommodation options, including backpacker's accommodation and boutique luxury accommodation.

Objective 1: Tourism growth and facilitation:

- enhance and promote tourism to increase the economic, social and cultural benefits to the municipality.

**Strategies:**

- support and grow tourism that builds upon the strengths of and is linked to the natural environment
- encourage small creative enterprises in tourism, creative arts, home-based businesses, overnight visitor accommodation and farm enterprises/markets that showcase local produce.

Zoning

35.07

*Farming Zone***Purpose:**

- to provide for the use of land for agriculture
- to ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture
- to encourage the retention of employment and population to support rural communities.

**Decision Guidelines:****General Issues:**

- whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses

**Agricultural issues and the impacts from non-agricultural uses:**

- whether the use or development will support and enhance agricultural production
- to potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.

**Design and siting issues:**

- the impact of the siting, design, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts
- whether the use and development will require traffic management measures.

A planning permit is required for the use of the land for group accommodation and for the purpose of a function centre.

Particular Provisions

52.05

*Signs***Purpose:**

- to regulate the development of land for signs and associated structures
- to ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character
- to ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

**Category 4 – Sensitive Areas****Maximum limitation**

**Purpose:** to provide for unobtrusive signs in areas requiring strong amenity control.

A planning permit is required for a business identification sign, and the sign must be no more than 3 square metres in size.

## Decision Guidelines:

- the character of the area, including:
  - the sensitivity of the area in terms of the natural environment, heritage values, waterways and open space, rural landscape or residential character
  - the consistency with any identifiable outdoor advertising theme in the area
- impacts on views and vistas:
  - the potential to obscure or compromise important views from the public realm
- the impact of any illumination:
  - the impact of glare and illumination on the safety of pedestrians and vehicles
  - the impact of illumination on the amenity of nearby residents and the amenity of the area.

53.06 *Live Music and Entertainment Noise*

## Purpose:

- to recognise that live music is an important part of the State's culture and economy
- to ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise
- to ensure that the primary responsibility for noise attenuation rests with the agent of change.

## Decision Guidelines:

- the extent to which the siting, layout, design and construction minimise the potential for noise impacts
- whether existing or proposed noise sensitive residential uses will be satisfactorily protected from unreasonable live music and entertainment noise
- whether the proposal adversely affects any existing uses.

General Provisions65.01 *Approval of an Application or Plan*

Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate:

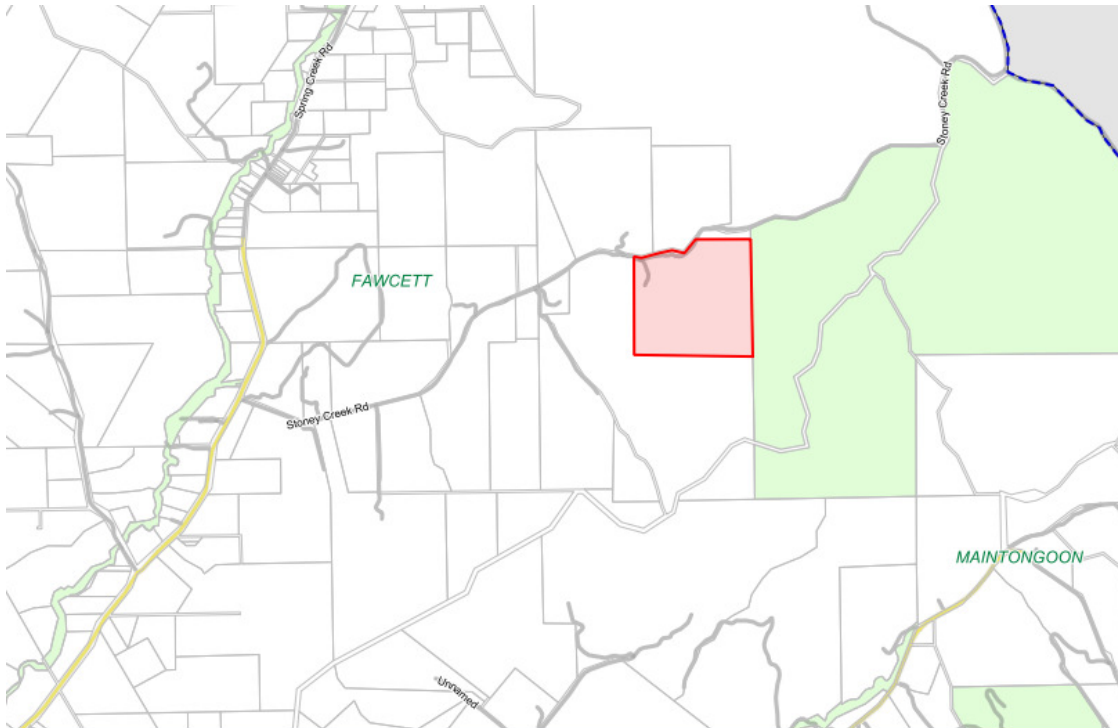
- the orderly planning of the area
- the effect on the amenity of the area.

**7.3 2 LOT SUBDIVISION – 450 STONEY CREEK ROAD, FAWCETT**

Attachment(s): *Application Documents (refer Attachment 7.3)*

Land: 450 Stoney Creek Road, Fawcett  
Proposal: Two lot subdivision  
Applicant: T & C Development Services Pty Ltd  
Zoning: Farming  
Overlays: Bushfire Management

## Locality Plan



### Purpose

This report provides an assessment of an application for planning permit to subdivide 103.5 hectares (ha) of land at the eastern end of Stoney Creek Road, Fawcett into two lots. Having regard to the provisions of the Murrindindi Planning Scheme it is recommended that the application be refused.

### Officer Recommendation

**That Council Refuse to Grant a Permit for a two lot subdivision at 450 Stoney Creek Road, Fawcett on the following grounds:**

1. **the proposal is not in accordance with Clause 14.01-1S 'Protection of Agricultural Land' as it will diminish the long term productive capacity of the land**
2. **the proposal is not in accordance with Clause 21.03-2 'Agriculture' as it:**
  - a. **does not enhance, but will reduce the agricultural productive capacity of the subject land**
  - b. **will lead to additional fragmentation of rural land**
  - c. **is rural living in nature, not compatible with the agricultural activity of the general area and has potential to create amenity and land use conflict with other land holdings in the general area**
3. **the proposal is not in accordance with Clause 21.06-2 'Infrastructure', as access to the subject land is not of sufficient standard to service the proposed subdivision and would create an unreasonable cost to Council to provide and maintain upgraded access to the land**
4. **The proposal is not in accordance with Clause 35.07 'Farming Zone' as it:**
  - a. **does not support or enhance agricultural production**
  - b. **does not have appropriate access to rural infrastructure**



**5. The proposal is not in accordance with Clause 65.02 'Approval of an application to subdivide land' as it has the capacity to limit the future agricultural use of the land and nearby land.**

**Proposal**

This application is for the subdivision of land at 450 Stoney Creek Road, Fawcett into two lots. The proposed subdivision (see Attachment 7.3) will provide for one lot of 61.1 ha (Lot 1 – which will contain an existing dwelling) and a further vacant lot of 42.4 ha (Lot 2).

The land is zoned Farming and is also affected by a Bushfire Management Overlay (BMO).

In support of the application, the applicant has submitted:

- the land is agricultural and will be used for a niche prime lamb farming enterprise. As the land will be used for high quality produce, smaller stock numbers will be maintained, reducing the area required for farming
- the proposal will protect dryland farming, further the potential for agriculture and make more land available that is no longer used for farming
- a bushfire assessment report and bushfire management statement demonstrates how the proposal meets Bushfire Management Overlay and defensible space requirements.

No further details or agricultural/farm plan were submitted with the application to justify the stated objective to establish a prime lamb enterprise requiring a reduced area of land.

**The Land and Surroundings**

The land lies at the eastern end of Stoney Creek Road, is bordered by Crown Land to the east, is undulating and hilly in nature, approximately 40 percent vegetated and is used for grazing.

The nearest dwelling to the property is located 1 kilometre (km) to the west. The land abutting to the west and south is a single lot and is predominately vegetated. Crown Land is located to the east that is also vegetated. A small 3.2 ha lot immediately abutting to the north (in the same ownership as the subject land) is also fully vegetated. A larger lot on the northern side of Stoney Creek Road is more sparsely vegetated. Stoney Creek Road runs along a valley at this point and stops at this property. The land in the vicinity of the road has a moderate slope becoming steep further into the property.

**Discussion**

Issues associated with this proposal are:

Access

Stoney Creek Road is currently listed on Council's Road Register as an access track from Spring Creek Road for a distance of 1.81km. From that point the road is not included in Council's Road Register. The subject land is 4.5km from the intersection with Spring Creek Road.

There are a number of houses that are already constructed along Stoney Creek Road. Four houses have access within the first section of the road included in the Road Register. A further four houses have access beyond this point on that part of the road that is not maintained by Council. It is noted that of these four houses, one was constructed in 2003 (planning permit issued in 2002), another constructed in 2004 (with no planning permit required for the dwelling) and two further dwellings were constructed in 2007 and 2011 (with planning permits). These dwellings were constructed at an earlier time and did not rely on the Road Register status as is currently the case.

The subject land has legal access to Stoney Creek Road, however the road condition in proximity to the subject land is best described as an 'access track'. It is not constructed to Council

standards and is not officially maintained by Council for a distance of approximately 2.7km prior to the subject land. While this section of the road can provide physical access to the land under favourable conditions for certain vehicles, further development and subdivision of the area would create pressure on Council to construct this section of the road for practical all-weather access and thereafter maintain the road following construction for this purpose. There is no current or proposed budget available for these works and the permit applicant has not proposed any works or contributions to secure this outcome. Any permit that may be issued could contain a condition for an agreement to be entered into to require construction but without a full understanding of the scope of the works, costing and benefit apportionment to other landholders this condition is unlikely to be supported if appealed at VCAT, such as approach would not, in any case, overcome the other substantive issues raised in relation to the application proposal.

The proposed subdivision would create an expectation for a future dwelling that potentially could not be realised on the land because of the road access constraints. Clause 35.07-3 contained in the Farming Zone states that a lot may only be used for a dwelling where access is provided 'via an all-whether road with dimensions adequate to accommodate emergency vehicles'.

#### Agricultural Potential

The land comprises lower agricultural quality soils and pasture, mitigating against any establishment of a high value lamb production enterprise. No details of any intensive operations have been provided, e.g. outbuildings or pasture supplementation. Sheep farming in this general area requires very large areas of land to be viable and could not be economically conducted on a small rural lot of the size proposed that is already heavily vegetated and subject to extended summer dry periods.

The assertion in the application that part of the land is no longer used for farming is not sufficient justification for further subdivision that will increase the chance of an additional dwelling and reduce the agricultural potential of the land. The retention of the existing lot area of 103.5ha will assist in maintaining some agricultural potential for the land, allowing it to be operated in a larger, more economical unit.

#### Impact on the General Area

The general area could be characterised as being in low intensity grazing use on larger sized rural lots, particularly to the north. Crown Land to the east and private land to the south and west is heavily and permanently vegetated. Further to the west is more rural living in nature. Further subdivision and an additional dwelling in the area would be rural living in nature and may detract from these area characteristics, particularly grazing land to the north, creating potential amenity conflicts and land use aspirations that differ from agricultural land use.

#### Compliance Under the Murrindindi Planning Scheme

Clause 21.03-2 'Agriculture' (under Clause 21.03 'Economic Development') includes the objectives:

- support and grow agriculture as one of the Shire's principal economic activities
- protect rural land for productive agricultural uses and compatible rural uses.

The Farming Zone includes the following purposes:

- to provide for the use of land for agriculture
- to encourage the retention of productive agricultural land
- to ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

It is considered that the proposal conflicts with both these objectives and will not support agriculture or protect and retain the agricultural potential of the land. The proposal, with the ability for an additional dwelling on a relatively small rural lot, is more typical of rural living than farming

in nature. The proposal therefore has the potential to prejudice the future use of the land for ongoing agriculture.

### **Referrals**

Notice of the application was given to the Country Fire Authority (CFA). The CFA advised that it had no objections and no conditions, commenting that any future dwelling on proposed Lot 2 can meet defensible space requirements of the planning scheme. Council officers have been advised that the CFA are not able to take into account the fact that access to the land is not included in Council's Road Register.

### **Council Plan/Strategies/Policies**

This proposal relates to the Council Plan 2017-2021 objectives of:

- Our Place – we will maintain and enhance places to be attractive and liveable, in balance with our natural environment and the strategy through good land use planning enhance the liveability, prosperity and rural character of our Shire
- Our Prosperity – in partnership with the community we will promote an environment in which business and community can thrive.

### **Relevant Legislation**

The proposal is being considered under the provisions of the Murrindindi Planning Scheme and the *Planning and Environment Act*.

### **Financial Implications and Risk**

The proposal has the potential to create demand and an expectation to upgrade Stoney Creek Road to the subject land over a number of kilometres to provide all-weather access for the residents and emergency vehicles. These costs are likely to be substantial and are currently unfunded.

### **Conflict of Interest**

There are no declared conflicts of interest by Council officers in relation to this report.

### **Community and Stakeholder Consultation**

The application was publicly advertised to adjoining and nearby landowners, with no submissions or objections being received.

### **Legal/Policy Issues**

#### State Planning Policy Framework

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

Objective:

- to protect the state's agricultural base by preserving productive farmland.

Strategies:

- limit new housing development in rural areas by:
  - directing housing growth into existing settlements
- in considering a proposal to subdivide agricultural land consider the:
  - desirability and impacts of removing the land from primary production, given its agricultural productivity
  - impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such provision
  - land capability

- avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.

### Local Planning Policy Framework

#### 21.03-2 *Agriculture*

Objective 1: agricultural production, growth and diversity:

- support and grow agriculture as one the Shire's principal economic activities.

Strategies:

- retain and expand existing agricultural production activities, including beef and sheep grazing, horticulture, cropping, vegetable growing, aquaculture, timber production and niche products.

Objective 2: rural and agricultural land use and development:

- protect rural land for productive agricultural uses and compatible rural uses.

Strategies:

- discourage the fragmentation of rural land into lots that are not capable of productive agricultural and rural use
- ensure that the use and development of rural land protects and enhances agricultural potential and the productive capacity of the land
- ensure that agricultural land is not primarily developed for residential purposes.

#### 21.06-2 *Infrastructure*

Objective 1: Infrastructure:

- provide adequate infrastructure to support new subdivision or development in both rural towns and rural areas.

Strategies:

- ensure that any new subdivision in urban or rural areas is provided with an adequate level and standard of infrastructure, to the standards of the relevant authority.

### Zoning

#### 35.07

#### *Farming Zone*

Purpose:

- to provide for the use of land for agriculture
- to encourage the retention of productive agricultural land
- to ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture
- to encourage the retention of employment and population to support rural communities
- to encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

Decision Guidelines:

General Issues

- how the use or development relates to sustainable land management
- whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses

- how the development makes use of existing infrastructure and services
- agricultural issues and the impacts from non-agricultural uses:
  - whether the use or development will support and enhance agricultural production
  - to potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses
  - the agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure
  - any integrated land management plan prepared for the site.

Design and Siting Issues:

- the location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities

A planning permit is required for the subdivision of land.

### General Provisions

#### 65.01 *Approval of an Application*

Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate:

- the purpose of the zone
- the orderly planning of the area.

#### 65.02 *Approval of an Application to Subdivide Land*

Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate:

- the suitability of the land for subdivision
- the existing use and possible future development of the land or nearby land
- the availability of subdivided land in the locality, and the need for the creation of further lots.

## **7.4 AMENDMENT C63, ADOPTION REPORT**

TRIM References: SF/1194, 18/67965

Attachment: *Amendment Documents (refer Attachment 7.4a)*  
*Submission (refer Attachment 7.4b)*

### **Purpose**

To recommend that Council adopt Amendment C63 to implement a series of anomaly corrections and minor changes in the Murrindindi Planning Scheme.

### **Officer Recommendation**

#### **That Council resolve to:**

- 1. adopt Amendment C63 to the Murrindindi Planning Scheme in accordance with section 29 of the *Planning and Environment Act 1987*, other than for the exhibited change relating to 43 Grant Street (Heritage Overlay Schedule 39), and submit the amendment to the Minister for Planning for approval**
- 2. advise submitters to Amendment C63 of the adopted changes.**

**Background**

At its meeting on 23 May 2018, Council resolved to prepare and exhibit a planning scheme amendment (Amendment C63) to make minor and corrective changes to the Murrindindi Planning Scheme. The amendment was subsequently authorised for exhibition by the Department of Environment, Land, Water and Planning (DELWP) on 30 May 2018 and exhibited in August and September 2018.

The changes proposed by Amendment C63 are summarised below:

- zoning mapping changes in Acheron, Alexandra, Cheviot, Flowerdale, Kanumbra, Kinglake Central, Kinglake West, Marysville, Taggerty and Yea to ensure that zones accord with land ownership and management
- overlay mapping changes for the Heritage Overlay (Alexandra, Strath Creek and Yea); Development Plan Overlay (Yea); and Environmental Significance Overlay (Kinglake Central and Kinglake West) to ensure coverage accord with land ownership and management
- Heritage Overlay schedule changes (Alexandra, Strath Creek and Yea) to correctly define places of heritage significance
- Vegetation Protection Overlay (Schedule 1) changes in Marysville to clarify exemptions from the need for planning permit
- changes to the Local Planning Policy Framework at Clause 21.05-4] (Environment), to delete the reference to the outdated Environment Strategy 2011 – 2015 (reference document)
- changes to the schedule to the Incorporated documents (Clause 72.04) to include the 'Advisory list of environmental weeds of the ranges bioregions of Victoria, Department of Sustainability and Environment, 2009' (as amended).

Further details of the proposed changes and the particular land parcels affected are outlined in the attachments to this report.

**Discussion**

The proposed amendment only includes changes that are minor and corrective in nature. The changes proposed in the amendment largely reflect the status quo through the recognition of current land ownership and management and current policy practice.

The only submission received seeking changes to the amendment relates to 43 Grant Street, Alexandra which is currently affected by Heritage Overlay (Schedule 39 – Alexandra Main Street Precinct). As exhibited, Amendment C63 proposed that this land (43 Grant Street) be deleted from the broader overlay because it was not fully considered, documented and assessed as part of the Murrindindi Shire Heritage Study, Context Pty Ltd, 2011.

The submission from the landowner objects to the removal of the Heritage Overlay on the basis that:

- the existing building is a substantial late nineteenth century brick and weatherboard shop that has seen a range of uses over the years
- the building(s) comprise an important part of Alexandra's commercial landscape and a remnant of early commercial development in Grant Street.

A heritage citation has been submitted with the submission, demonstrating the significance of the building.

On the basis that further evidence has now been submitted confirming heritage significance and the retention of the overlay has the support of the land owner it is recommended that this component of the amendment not proceed.

### **Council Plan/Strategies/Policies**

The amendment is consistent with the Murrindindi Shire Council Plan 2017-2021, in particular the strategic objectives:

- Our Place - we will maintain and enhance places to be attractive and liveable, in balance with our natural environment; and the strategy:
  - through good land use planning enhance the liveability, prosperity and rural character of our Shire
  - recognise and embrace the history, culture and identity of our towns and communities
- Our Prosperity - in partnership with the community we will promote an environment in which business and community can thrive.

### **Relevant Legislation**

Amendment C63 will make changes to the Murrindindi Planning Scheme, which is administered under the *Planning and Environment Act 1987*.

### **Financial Implications and Risk**

The proposed amendment will incur state prescribed amendment fees. There are no other financial or resource risks associated with the proposed amendment.

### **Conflict of Interest**

There are no declared conflicts of interest by Council officers with this proposal or the preparation of this report.

### **Community and Stakeholder Consultation**

The amendment was publicly exhibited to all affected landowners and relevant authorities. Only one submission was received seeking changes to the amendment which has been previously discussed in this report. The Land and Built Environment section of DELWP have advised Council that it does not object to the amendment.

## **8. OUR PEOPLE**

## **9. OUR PROSPERITY**

## **10. OUR PROMISE**

### **10.1 ANNUAL REPORT 2017/18**

Attachment(s): *Annual Report (refer Attachment 10.1)*

#### **Purpose**

The presentation of the Annual Report is an important milestone in recognising the significant achievements of Council in 2017/18, including the objectives and activities of the Council Plan 2017–2021 and the 2017/18 Annual Budget.

This report presents the Annual Report for the period 1 July 2017 to 30 June 2018 for Council's endorsement.

In accordance with section 133 of the *Local Government Act 1989* the Annual Report was submitted to the Minister for Local Government by 30 September and following this submission Council made the report publicly available.

### **Officer Recommendation**

**That Council formally considers and endorses the Annual Report 2017/18 as attached to this report.**

### **Background**

The Annual Report 2017/18 details Council's performance over the past 12 months in achieving the objectives and activities of the Council Plan 2017-2021 and the 2017/18 Annual Budget.

A copy of the Annual Report is contained in Attachment 10.1.

Council has previously endorsed the financial statements which forms part of the Annual Report at its Ordinary Meeting in September 2018.

### **Discussion**

Whilst the Annual Report lists many achievements for the year, some highlights include:

- our new CEO, Craig Lloyd was appointed, after an extensive recruitment process
- we developed the Murrindindi Business and Tourism Innovation Grants Program and delivered the first round of funding allocations to local businesses and groups amounting to \$264,700
- we supported some significant tourism events including two stages of the Jayco Herald Sun Tour, the Marysville Jazz & Blues Festival, Eildon Big Fish Challenge, Alexandra Pro Rodeo and the Alexandra Truck, Ute and Rod Show
- our refurbished Mobile Library and Customer Service Van was put back into service, providing library services and the full range of Council's services to residents in Eildon, Buxton, Marysville, Strath Creek, Flowerdale, Toolangi, Glenburn and Highlands
- we have expanded our use of social media, not only to communicate important things about our services and Shire on the Murrindindi Shire Council Facebook page, but also to attract visitors to the Shire.
- we launched the Dindi Solar Bulk Buy initiative which provides a great opportunity for our residents to explore solar options for their household energy consumption needs
- we launched two trial Reuse Shops (Scrap Shacks) at the Alexandra and Yea Resource and Recovery Centres
- we have reviewed our approach to Local Law enforcement (now known as Community Safety) to reflect community expectations for Council responsiveness on safety issues
- we delivered \$7.76 million in capital works in a busy year for infrastructure projects.

### **Council Plan/Strategies/Policies**

The achievements in the Annual Report are consistent with the Council Plan 2017-2021 strategy under Our Promise to 'ensure the range of services we provide and the way we provide them are best aligned with community priorities and Council Resources' and to 'expand our communication and two-way engagement with the community'.

### **Relevant Legislation**

Sections 131 to 134 of the *Local Government Act 1989* set out the requirements for the preparation, public exhibition and consideration by Council of the Annual Report.



Subject to Council's consideration and endorsement of the Council's Annual Report 2017/18 at this meeting and giving public notice of its endorsement, all statutory requirements associated with the Annual Report will have been met.

### Financial Implications and Risk

The Annual Report includes the audited Financial Report and Standard Statements for the 2017/18 financial year which were approved by Council at its September 2018 Ordinary meeting.

### Conflict of Interest

There are no declared conflicts of interest by Council officers in relation to this report.

### Community and Stakeholder Consultation

The Annual Report was forwarded to the Minister for Local Government in accordance with statutory requirements by 30 September and has been confirmed as received.

This report has been made publicly available in line with the requirements under section 133 of the *Local Government Act 1989*.

## 10.2 SECTION 86 COMMITTEE OF MANAGEMENT MEMBERSHIP ENDORSEMENT

### Purpose

The purpose of this report is to seek endorsement of the membership positions for individual Section 86 Committees of Management resulting from the 2018 Annual General Meetings (AGM) held by each committee. Council has 12 delegated Section 86 Committees of Management in total, 10 are currently active and two are in recess.

### Officer Recommendation

That Council endorses the following membership:

Committee of Management	Representative Position	Member	Period
Buxton Recreation Reserve Committee of Management	Community Representative	Peter Denham	2 Years
Buxton Recreation Reserve Committee of Management	Community Representative	Elizabeth McDowall	2 Years
Eildon Alliance Boat Ramp Committee of Management	Community Representative	Bill Peters	1 Year
Eildon Alliance Boat Ramp Committee of Management	Community Representative	Lenny Timmins	1 Year
Yea Saleyards Committee of Management	District Farming Representative	Tom Oliver	2 Years
Yea Showgrounds & Recreation Reserve Committee of Management	Community Representative	David Stares	1 Year
Yea Showgrounds & Recreation Reserve Committee of Management	Yea Tennis Club User Group	Ross Shaw	1 Year
Yea Showgrounds & Recreation Reserve Committee of Management	Yea Football/Netball Club User	Brad Watts	1 Year
Yea Showgrounds & Recreation Reserve Committee of Management	Yea Cricket Club User Group	Andrew Chisholm	1 Year
Yea Showgrounds & Recreation Reserve Committee of Management	Yea Show Committee User Group	Elaine White	1 Year
Yea Wetlands Committee of Management	Community Representative	Amanda Hard	2 Years

Committee of Management	Representative Position	Member	Period
Yea Wetlands Committee of Management	Community Representative	Ron Litjens	2 Years
Yea Wetlands Committee of Management	Community Representative	Glenda Woods	2 Years
Yea Wetlands Committee of Management	Community Representative	Judy Watts	2 Years

### Background

Council's Committees of Management (CoM) are delegated under section 86 of the *Local Government Act 1989* to manage reserves and facilities on behalf of Council.

Committees must hold a public nomination process to propose the community representative membership to Council and Council may in its absolute discretion decline to appoint. Community representatives can sit on a committee for up to three years without re-election and the committees call for nominations as part of the AGM process when required.

### Discussion

CoM play an important role in assisting Council with the operation of many of its facilities and reserves. The members of these committees are all volunteers and are proposed to Council through a democratic process. Nominations are sought from the public or from the relevant user groups and a vote is held at the AGM.

Committee members can be nominated for up to three years. The following is a summary of the committees that have nominated members to be endorsed by Council.

#### Buxton Recreation Reserve

The Buxton Recreation Reserve CoM has five members who were endorsed by Council in 2017 for a three year period. They had two vacancies which have been filled at this year's AGM and are proposing appointment for a two year period to bring them in line with the other five members.

Committee of Management	Representative Position	Member	Period
Buxton Recreation Reserve Committee of Management	Community Representative	Peter Denham	2 Years
Buxton Recreation Reserve Committee of Management	Community Representative	Elizabeth McDowall	2 Years

#### Eildon Alliance Boat Ramp Committee of Management

The Eildon Alliance Boat Ramp Committee of Management has five members who were endorsed by Council in 2016 for a three year period. They had two vacancies which have been filled at this year's AGM and are proposing an appointment for a one year period to bring them in line with the other five members.

Committee of Management	Representative Position	Member	Period
Eildon Alliance Boat Ramp Committee of Management	Community Representative	Bill Peters	1 Year
Eildon Alliance Boat Ramp Committee of Management	Community Representative	Lenny Timmins	1 Year

#### Yea Saleyards Committee of Management

The Yea Saleyards Committee representatives were endorsed by Council in 2017 for a three year period. This committee had two resignations prior to the 2018 AGM, a community representative and the District Farming Representative positions. The District Farming Representative position has been filled, however this committee remains with one vacancy.

Committee of Management	Representative Position	Member	Period
Yea Saleyards Committee of Management	District Farming Representative	Tom Oliver	2 Years

#### Yea Showgrounds and Recreation Reserve Committee of Management

The Yea Showgrounds and Recreation Reserve CoM has two community representatives who were endorsed by Council in 2016 for a three year period. This committee receives nominations annually from the user groups for the five representative positions.

The Yea Red Cross branch has now disbanded and therefore this committee has proposed to change that position to a further community representative, which has been proposed for a one year period to bring them in line with the other community representative positions.

Committee of Management	Representative Position	Member	Period
Yea Showgrounds & Recreation Reserve Committee of Management	Community Representative	David Stares	1 Year
Yea Showgrounds & Recreation Reserve Committee of Management	Yea Tennis Club User Group	Ross Shaw	1 Year
Yea Showgrounds & Recreation Reserve Committee of Management	Yea Football/Netball Club User	Brad Watts	1 Year
Yea Showgrounds & Recreation Reserve Committee of Management	Yea Cricket Club User Group	Andrew Chisholm	1 Year
Yea Showgrounds & Recreation Reserve Committee of Management	Yea Show Committee User Group	Elaine White	1 Year

#### Yea Wetlands Committee of Management

The Yea Wetland CoM has 10 community representative positions total. They call for nominations annually for five representatives who are endorsed for a two year period.

This committee had one resignation from the five representatives appointed in 2017, therefore were calling for six nominations at this year's AGM. This committee was only able to fill four of the six positions and therefore remains with a vacancy for a one year period and a vacancy for a two year period.

Committee of Management	Representative Position	Member	Period
Yea Wetlands Committee of Management	Community Representative	Amanda Hard	2 Years
Yea Wetlands Committee of Management	Community Representative	Ron Litjens	2 Year
Yea Wetlands Committee of Management	Community Representative	Glenda Woods	2 Year
Yea Wetlands Committee of Management	Community Representative	Judy Watts	2 Year

#### **Council Plan/Strategies/Policies**

This matter is consistent with the Council Plan 2017-2021 Strategic Objective under Our Promise -we will all work in collaboration with our communities to deliver the best possible outcomes in all that we do.

#### **Relevant Legislation**

CoM are delegated by Council in accordance with the *Local Government Act 1989*.

**Financial Implications and Risk**

Until Council has endorsed these memberships the individuals do not have any obligations under the Instrument of Delegation and cannot make any financial decisions.

**Conflict of Interest**

There are no declared conflicts of interest by Council officers in relation to this report.

**Community and Stakeholder Consultation**

Council advertised the community representative nomination processes and AGM details for two weeks prior to each of the meetings in a newspaper of the CoM's choice. This process adheres with the regulations in the Committee of Management Governance Manual.

**10.3 SERVICE PROVISION AND FIRE DANGER RATINGS POLICY**

Attachment(s): *Draft Service Provision and Fire Danger Ratings Policy (refer Attachment 10.3)*

**Purpose**

This report seeks Council's endorsement of the Service Provision and Fire Danger Ratings Policy which has been renamed and slightly modified from the former Service Provision on Code Red Days Policy.

Council has a legal obligation to ensure its employees, Councillors and the general public are not placed in situations of risk to safety due to its services and actions. The Service Provision and Fire Danger Ratings Policy (Policy) outlines changes to Council's services on days declared to be the most dangerous if a fire started, to minimise potential risks to personal safety.

**Officer Recommendation**

**That Council adopts the Service Provision and Fire Danger Ratings Policy as attached to this report.**

**Background**

In November 2013 Council adopted the Policy and last reviewed and updated in December 2017.

The current Policy sets out the anticipated level of service delivery by Council on days designated by the Country Fire Authority (CFA) as Code Red. Such days are considered by fire agencies to be the most dangerous, with fire behaviour predicted to be uncontrollable, unpredictable and fast moving. On such days the CFA advises people to leave areas of high bushfire risk, either the night before, or early in the morning and avoid heavily grassed or forested areas.

Many public services will be reduced or suspended on Code Red Days, including schools, kindergartens, pre-schools and employment generally is likely to be disrupted as people heed the advice of the CFA and enact their bushfire preparedness plans.

Council has a legal responsibility to provide a duty of care to its employees, Councillors and the general public to ensure people are not placed in undue risk as a consequence of Council's services and activities.

The current Policy has been reviewed to ensure that part or all of the Policy can be invoked by the Chief Executive Officer (CEO) on days declared to pose Severe or Extreme Fire Danger, in addition to Code Red.

**Discussion**

The existing Policy recognises that Council's services will operate with altered or reduced service levels on Code Red Days for the following reasons:

- the large area within the Shire considered to be of high bushfire risk
- the need to ensure Council's operations do not unintentionally cause a fire to start
- the need to provide for the safety of Council staff and to ensure that the public is not placed in situations of undue risk when travelling to and accessing Council services
- to ensure sufficient staff resources can be re-deployed to emergency response planning functions and, in the event of a fire event, provision of support to fire combating agencies and emergency relief centres
- the likelihood that some staff will take approved leave on Code Red Days to attend to family arrangements and to enact personal bushfire plans.

The Policy indicates that Council offices in Alexandra, Yea and Kinglake will remain open, as far as practicable, on Code Red Days.

The Policy emphasises the need to avoid all non-essential travel on Code Red Days. The Policy requires that Council meetings (Ordinary, Special and Briefings) as well as Council's delegated Committee or Advisory Committee meetings be cancelled on Code Red Days recognising the extent of travel often required for Councillors, staff, volunteers and members of the public to attend meetings.

Given that the urban centres of both Alexandra and Yea are the only areas in the Shire not considered bushfire prone there may be a greater propensity for people enacting their fire plans on Code Red Days to relocate to these towns. Where possible, Council's recreational services such as swimming pools and library services will be maintained in these towns.

The Policy also requires that a number of non-essential Council services in locations outside Yea and Alexandra will be suspended on Code Red Days, given the need for travel to, or through, higher risk bushfire prone areas by staff and the public to deliver or access these services. These include Maternal Child and Health Services (Toolangi, Kinglake, Eildon, Marysville and Flowerdale), Swimming Pools in Eildon and Marysville and all mobile library services.

The Policy also indicates that Council's outdoor infrastructure operations will be suspended, with staff on stand-by arrangements to respond to any emergencies arising.

The Policy also indicates that Council will issue media releases outlining the services available on Code Red Days. Council's website and Facebook pages will include regularly updated information concerning the availability of Council services and Council will utilise the services of UGFM Community Radio to issue bulletins where possible.

It is recommended that the scope of the Policy be expanded to recognise that alterations to Council's service provision may also be required on days declared to pose Severe or Extreme fire danger in order to minimise risks to public and employee safety. A decision to alter service provision on these days would be based on local conditions, the presence of fire activity in the Shire and/or advice from emergency services.

Wording has been included in the Policy to enable the CEO to invoke some or all of the Policy on days of Severe or Extreme Fire Danger. The Policy has also been renamed the Service Provision and Fire Danger Ratings Policy to reflect this broader scope. A copy of the revised Policy is included in the Attachment 10.3.

### **Council Plan/Strategies/Policies**

The Policy review relates to the Council Plan 2017-2021 Strategic Objective to work in collaboration with our communities to deliver the best possible outcomes in all that we do.

There is a separate organisational policy and procedures providing internal operational guidelines for staff in relation to Fire Danger Ratings, including provisions for leave approval where required.

### **Relevant Legislation**

Council is obliged under the *Occupational Health and Safety Act 2004* to provide a duty of care to its employees, Councillors and the general public. Therefore, Council needs to mitigate potential risk on days of significant fire danger by restricting work to essential services and those services that do not impose unnecessary risks.

### **Financial Implications and Risk**

The Policy is aimed to ensure that Council personnel (including employees, Councillors, volunteers and contractors) and members of the public are not placed in situations of undue risk on days of significant fire danger when conducting Council business or in accessing Council services.

In the event of an actual fire emergency on a code red day, Council's emergency management procedures, documented in Council's Municipal Emergency Management Plan (MEMP), will come into operation.

### **Conflict of Interest**

There are no declared conflicts of interest by Council officers in relation to this report.

### **Community and Stakeholder Consultation**

It is not planned to conduct community consultation with respect to this Policy review. The Policy is published on Council's website.

## **10.4 INSTRUMENT OF APPOINTMENT AND AUTHORISATION**

Attachment(s): *S11A. Instrument of Appointment & Authorisation (Planning and Environment Act 1987) (Attachment 10.4)*

### **Purpose**

The purpose of this report is to seek Council's adoption of the Instrument of Appointment and Authorisation of staff under the *Planning and Environment Act 1987*.

### **Officer Recommendation**

**In the exercise of the powers conferred by section 224 of the *Local Government Act 1989* (the *Act*) and the other legislation referred to in the attached instrument of appointment and authorisation (the instrument), Murrindindi Shire Council (Council) resolves that:**

- 1. the members of Council staff referred to in the Instrument of Appointment & Authorisation (*Planning and Environment Act 1987*) (Attachment 10.4) be appointed and authorised as set out in the instrument**
- 2. the instrument comes into force immediately the common seal of Council is affixed to the instrument, and remains in force until Council determines to vary or revoke it.**

### **Background**

Council is a legal entity comprised of its members (the seven Councillors). Its decision making power exists only as a group through resolution not as singular Councillors. Most decisions are not required to be made at a Council level therefore the Council must entrust some of the decision making power to others, this is done through delegations and authorisations.

Council officers who are delegated with duties under the *Planning and Environment Act 1987* are required to be appointed as Authorised Officers by Council.

**Discussion**

Instruments of Appointment and Authorisations allow Council to authorise or appoint a person to a particular statutory position. Under the *Planning and Environment Act 1987* an employee of Council can only be authorised by Council, this is done through S11A. Instrument of Appointment & Authorisation (*Planning and Environment Act 1987*), Attachment 10.4.

Council officers undertake a thorough review annually of all of the delegated powers and authorisations to ensure that legislation, staff and role changes are reflected. The Instruments of Delegation and Authorisations were adopted by Council at its 24 October 2018 Ordinary Meeting.

Since the adoption there has been a staffing change with an additional Planning Technical Officer employed in a maternity leave 12-month position.

**Council Plan/Strategies/Policies**

This report is consistent with the strategic objective in the Council Plan 2017-2021 to work in collaboration with our communities to deliver the best possible outcomes in all that we do.

**Relevant Legislation**

*The Local Government Act 1989* section 98(1) provides for Council to delegate its powers to others. The instruments cover various pieces of legislation and Council's responsibilities.

**Financial Implications and Risk**

Effective and efficient functioning of Local Government would not be possible without formal delegations to officers.

**Conflict of Interest**

There are no declared conflicts of interest by Council officers in relation to this report.

**Community and Stakeholder Consultation**

No external consultation is required in the preparation of Delegations and Authorisations

**11. NOTICES OF MOTIONS****12. MATTERS DEFERRED FROM PREVIOUS MEETING****13. URGENT BUSINESS****14. COUNCILLOR REPORTS**

14.1 CR MARGARET RAE

14.2 CR ERIC LORDING

14.3 CR JACKIE ASHE

14.4 CR CHARLOTTE BISSET

- 14.5            **CR REBECCA BOWLES**
- 14.6            **CR LEIGH DUNSCOMBE**
- 14.7            **CR SANDICE MCAULAY – MAYORAL REPORT**
- 15.            CHIEF EXECUTIVE OFFICER REPORT**
- 16.            ASSEMBLIES OF COUNCILLORS**

**Purpose**

This report presents the records of assemblies of Councillors for 24 October 2018 to 21 November 2018, for Council to note in accordance with Section 80A of the *Local Government Act 1989* (the Act).

**Officer Recommendation**

**That Council receives and notes the record of assemblies of Councillors for 24 October 2018 to 21 November 2018.**

**Background**

In accordance with Section 80A of the Act, written assemblies of Councillors are to be reported at an Ordinary Meeting of Council.

An assembly of Councillors includes advisory committees, where one or more Councillors were present, along with planned or scheduled meetings involving at least half of the Councillors and a Council officer.

A Councillor who has a conflict of interest at assemblies of Councillors, must disclose the conflict of interest, and leave the meeting while the matter is being discussed.

**Discussion**

A written record is required to be kept of every assembly of Councillors, including the names of all Councillors and staff at the meeting, a list of the matters considered, any conflict of interest disclosed by a Councillor, and whether a Councillor who disclosed a conflict left the meeting.

The following summary details are for 24 October 2018 to 21 November 2018:

Meeting Name/Type	Workshop
Meeting Date:	24 October 2018
Matters Discussed:	1. Review of Aged and Disability Services
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, M Chesworth, N McNamara
Conflict of Interest Disclosures:	Nil



Meeting Name/Type	Council Pre-Meet
Meeting Date:	24 October 2018
Matters Discussed:	<ol style="list-style-type: none"> <li>1. Planning Scheme Amendment – Infrastructure Design Manual</li> <li>2. Municipal Public Health and Wellbeing Plan Year 1 Progress Report</li> <li>3. Community Grants Program Round 1 – June to September 2018</li> <li>4. Quarterly Council Plan 2017-2021 Progress Summary – 30 September 2018</li> <li>5. Quarterly Capital Works Report</li> <li>6. Quarterly Financial Report to 30 September 2018</li> <li>7. Instruments of Delegation, Appointments and Authorisations</li> </ol>
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, M Chesworth, S McConnell, D Jackson, K Girvan, N McNamara, T Carter, C Lintott, S Mortensen
Conflict of Interest Disclosures: Nil	

Meeting Name/Type	Briefing
Meeting Date:	7 November 2018
Matters Discussed:	<ol style="list-style-type: none"> <li>1. Tourism and Events Strategy – Councillor Workshop</li> <li>2. Emergency Management Pre-season Briefing</li> <li>3. 2 Lot Subdivision – 450 Stoney Creek Road, Fawcett</li> <li>4. Proposed Planning Scheme Amendment - Reduction in Subdivision Size, Ewing Wynd, Yea</li> <li>5. Amendment C63, Adoption Report</li> <li>6. GRVT Update</li> <li>7. Murrindindi Library Service – Update</li> <li>8. Feedback on Councillor and Community Capital Budget Proposals</li> </ol>
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, M Chesworth, S McConnell, S Brown, N McNamara, C Price, D Jackson, M Crane, J Rabel, M Thomas
Conflict of Interest Disclosures: Nil	

Meeting Name/Type	Briefing			
Meeting Date:	14 November 2018			
Matters Discussed:	<ol style="list-style-type: none"> <li>1. Closed Landfill Risks and Resource Recovery Centre - Yea</li> <li>2. 1/2016/33/2 – Bonfire Station Amendment</li> <li>3. Rubicon Village – Water and Sewerage Arrangements</li> <li>4. Communications Strategy – Councillor Workshop</li> <li>5. Broad Timeline for Budget Development</li> </ol>			
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording			
Council Officer Attendees	C Lloyd, M Chesworth, S McConnell, D Jackson, M Crane, S Coller, J Rabel, S Brown			
Conflict of Interest Disclosures: Yes				
Matter No.	Councillor making disclosure	Was a vote taken?	Did the Councillor leave the room?	When? Before or after discussion
2	Cr Sandice McAulay	No	Yes	Before

Meeting Name/Type	Workshop
Meeting Date:	21 November 2018
Matters Discussed:	1. Alexandra Playspace Consultation 2. Murrindindi Shire Council Grants and Contributions Policy 3. Councillor Code of Conduct 4. Quarterly Organisational Health Check
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, M Chesworth, S McConnell, N McNamara
Conflict of Interest Disclosures:	Nil

### Council Plan/Strategies/Policies

This matter is consistent with the Council Plan 2017-2017 Our Promise strategy to “Expand our communication”.

### Relevant Legislation

For full details of Council's requirement for assemblies of Councillors, refer to Section 80A of the *Local Government Act 1989*.

### Financial Implications and Risk

There are no financial or risk implications.

### Conflict of Interest

Any conflicts of interest are noted in the assemblies of Councillors tables listed above.

## **17. SEALING REGISTER**

File Reference	Date Seal Affixed	Description of Documents	Signatures of Persons Sealing
SF/993	19 October 2018	Section 17D Crown Land (Reserves) Act 1978 Lease (Non Retail) between Murrindindi Shire Council and Alexandra Tennis Club Inc for Leckie Park Alexandra	Craig Lloyd Cr Margaret Rae
SF/123	2 November 2018	Murrindindi Shire Council Instrument of Appointment and Authorisation ( <i>Planning and Environment Act 1987</i> only)	Craig Lloyd Cr Sandice McAulay
SF/123	2 November 2018	Murrindindi Shire Council S6. Instrument of Delegation to Members to Council Staff	Craig Lloyd Cr Sandice McAulay
SF/123	7 November 2018	Murrindindi Shire Council S5. Instrument of Delegation to Chief Executive Officer	Cr Sandice McAulay Cr Leigh Dunscombe
	19 October 2018	Section 17D Crown Land (Reserves) Act 1978 Lease (Non Retail) between Murrindindi Shire Council and Alexandra Tennis Club Inc for Leckie Park Alexandra	Craig Lloyd Cr Margaret Rae

### Officer Recommendation

**That the list of items to which the Council seal has been affixed be noted.**

**18.            CONFIDENTIAL ITEMS**

*The Local Government Act 1989* section 89(2) allows Council to resolve to close a meeting to the public to consider confidential information relating to any of the following matters:

- (a) personnel matters
- (b) the personal hardship of any resident or ratepayer
- (c) industrial matters
- (d) contractual matters
- (e) proposed developments
- (f) legal advice
- (g) matters affecting the security of Council property
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person
- (i) a resolution to close the meeting to members of the public.

Where possible Council will resolve to make public any decision it makes in a closed meeting where the resolution does not disclose confidential information. There may be occasions where Council cannot make its decision public.

The reports on the Tender 18/12 – Footpath and Kerb Renewal Program – 2018/19 and Tender CONT18/15 – Gravel Roads Re-Sheeting Program 2018/19 are being considered in the closed part of this meeting because it is considered under S89(2)(d) contractual matters.

**Recommendation**

**That Council, in accordance with the *Local Government Act 1989* section 89(2)(d), resolve to close the meeting to the members of the public:**

- **Tender 18/12 – Footpath and Kerb Renewal Program – 2018/19**
- **Tender CONT18/15 – Gravel Roads Re-Sheeting Program 2018/19**