



AGENDA  
of the  
ORDINARY MEETING OF COUNCIL  
WEDNESDAY 25 SEPTEMBER 2019

at

Murrindindi Shire Council  
Council Chamber  
The Semi Circle  
Yea

6.00 pm

\*\* Audio recordings of all Council meetings are taken by Council's Governance Officers and published on Council's website. (Resolution of Council 23 January 2019)

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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 community achievement for Ray Bartlam - Kinglake Football and Netball Club.

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

5.1 Minutes of the Ordinary Meeting of Council held on 28 August 2019.

**Officer Recommendation**

**That the minutes of the Ordinary Meeting of Council held on 28 August 2019 be confirmed.**

**6. PETITIONS****7. PUBLIC PARTICIPATION TIME**

7.1 OPEN FORUM

7.2 QUESTIONS OF COUNCIL

**8. OUR PLACE**

8.1 PROPOSED DWELLING – 115 DYES LANE, BUXTON

Attachment(s): Attachment (refer Attachment 8.1)  
Submission (distributed to Councillor separately)  
Confidential Supporting Document (distributed to Councillors separately)

Land: 115 Dyes Lane, Buxton  
Proposal: Use and development the land for the purpose of a dwelling  
Applicant: Mrs G Morris  
Zoning: Farming  
Overlays: Bushfire Management  
Floodway  
Land Subject to Inundation

## Locality Plan



## Purpose

This report recommends that a Notice of a Decision to Grant a Permit be issued to use and develop land at 115 Dyes Lane, Buxton for the purpose of a dwelling. A dwelling commenced on the land under a planning and building permit more than 20 years ago but was never completed and the permits subsequently lapsed. The building has remained in a partially completed state since that time. The current application seeks approval to reinstate the use of the land for a dwelling and to modify and complete the dwelling. This application is being reported to Council as an objection has been received by the joint owner of the land.

The planning issues to be resolved in this application relate to the suitability of the land for a dwelling having regard to the Farming Zone provisions and bushfire, flooding and inundation overlays, which also affect the land.

## Officer Recommendation

**That Council issue a Notice of a Decision to Grant a Permit for the use and development of land for a dwelling at 115 Dyes Lane, Buxton (Crown Allotment 5A, Parish of Buxton) subject to the following conditions:**

- 1. The layout of the site and the size and type of the proposed buildings and works, including the materials of construction, as shown on the endorsed plans must not be altered or modified without the consent in writing of the Responsible Authority.**
- 2. The existing unauthorised use of the dwelling for accommodation must cease within 120 days of the date of this permit, unless the permit is acted upon, an Occupancy Permit for the current living area is obtained and requirements in relation to effluent disposal, bushfire management, drainage, vehicle crossing and domestic water supply have been complied with to the satisfaction of the Responsible Authority.**
- 3. This permit will expire if the development hereby permitted is not completed and the use commenced within two years of the date hereof, or any extension of such period the Responsible Authority may allow in writing. A request for an extension of time may be made before or within six months after the permit expiry date, where the use or development allowed by the permit has not yet commenced, or within 12 months after the permit expiry date, where the development allowed by the permit lawfully commenced before the permit expired.**
- 4. All wastewater is to be treated to a secondary (20/30) standard and the effluent disposal field must be installed in accordance with the recommendations outlined**

within the land capability assessment prepared by Mansfield Land Capability & Soil Assessments (Report No. L125/2019 dated 15 May 2019) and the *Code of Practice Onsite Wastewater Management (891.4 2016)*.

5. All sewage and sullage waters must be treated in accordance with the requirements of the Environment Protection Authority (EPA) and Council. All effluent shall be disposed of and contained within the property boundaries and shall not discharge directly or indirectly to an adjoining property, street or any water course, water storage or dam. Sufficient land shall be set aside and kept available for the purpose of effluent disposal.
6. Prior to the commencement of any works, including site works, the applicant must obtain a septic tank permit from Council.
7. The existing vehicle crossover location is to be utilised. Prior to the commencement of the approved use, the vehicle crossover must be upgraded at the applicant's expense to provide ingress and egress to the site of a size and standard satisfactory to the Responsible Authority. Refer to Council's *Infrastructure Design Manual* Section 12.9.2 – Rural Vehicle Crossings and standard drawing SD 260.
8. All stormwater and surface water discharging from the building and works must be conveyed to a point of discharge, approved by the Responsible Authority. No stormwater during construction and discharge from downpipes or overflow from storage tanks and surface water shall be directed or caused to be directed in a concentrated form that will cause erosion and/or adverse effects within the site to adjoining land or properties and the Acheron River.
9. A water system shall be provided to accommodate a total minimum of 45,000 litres for domestic.

#### **Country Fire Authority (CFA)**

10. The Bushfire Management Plan – 115 Dyes Lane, Buxton prepared by BAL Assessments, Version 1, dated 30 April 2019, must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.
11. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the Responsible Authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

#### **Notations**

1. This permit does not authorise the commencement/completion of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

#### **Background**

##### **The Land and Surroundings**

The subject land comprises of a small and irregular-shaped land parcel of 1.35 hectares (ha) located to the west of Dyes Lane, Buxton. The land occupies the western edge of the Buxton Township within a bend of the Acheron River. The river corridor at this location is protected within a Crown Land reserve and the subject land has an approximate 500 metre (m) abuttal to this reserve.

The land opposite Dyes Lane is zoned Township and Low Density Residential and contains existing dwellings and recently subdivided land. The land to the south is zoned Rural Living and contains a 6.9ha lot with an established dwelling. The land to the north and west, on the opposite bank of the Acheron River, comprises of agricultural land within the Farming Zone and State

Forest. The Acheron River reserve and State Forest is included in a Public Conservation and Resource Zone.

The subject land occupies a residual portion of the Farming Zone. However, due to the small size of the property, existing stands of trees and proximity to the Acheron River, the land is not used for agricultural purposes but is maintained as a lifestyle property.

Most of the subject land is constrained by flooding. The western portion of the land is within a Floodway Overlay (FO) and the eastern portion is affected by a Land Subject to Inundation Overlay (LSIO). The existing dwelling is located within the LSIO portion of the land. The whole of the land is also subject to the Bushfire Management Overlay (BMO).

#### Planning Background

Planning Permit No. 80260 was granted under the former Alexandra Planning Scheme more than 20 years ago on 21 March 1989. The permit authorised the 'erection of a detached dwelling in accordance with the endorsed plans'. Condition No. 7 of the permit stated:

'This permit shall expire if the development hereby permitted is not completed within two years of the date hereof or any extension of such period the Responsible Authority may allow in writing on such an application made before or within three months after such expiry'.

A building permit was granted on 30 March 1989 and the dwelling commenced under this permit but was not completed. No request to extend the time to complete the dwelling was sought by the permit holder and the planning permit subsequently lapsed on 31 March 1991. The building permit also lapsed at this time. The partially completed dwelling has not had the benefit of any formal approval since the lapsing of the permit, however the following planning approvals have been granted since:

- Planning Permit 1999/332 was issued on 11 October 1999 to allow a garage on the land
- Planning Permit No. 2002/125 was issued on 6 May 2002 to allow a bungalow
- Planning Permit No. 2009/4 was issued on 1 April 2009 to allow replacement of the garage following the 2009 bushfires.

The part of the dwelling which was not completed comprises the central portion of the building (originally proposed as the kitchen and living areas). Flooring joists were put in place and walls were partially completed but the roofing, floorboards and internal layout were not completed. The southern portion of the dwelling was completed (although a final inspection has not been undertaken and an occupancy certificate has not been issued). This portion of the building and the adjacent bungalow are currently being used for accommodation in contravention of the Planning Scheme. The northern portion of the dwelling, comprising of the garage and a mezzanine/storage area (at first floor level), was constructed but not fully completed. The mezzanine area has also been converted to provide unauthorised accommodation (but has not been used for this purpose for a number of years).

In relation to the existing bungalow building, Council officers have confirmed with the applicant that this building was not previously approved as a dwelling and does not have separate dwelling rights under the Scheme. The building is considered part of the former dwelling and the ongoing use of the bungalow as part of the dwelling will need to be authorised under a new planning permit.

In August 2018 an application for a planning permit was lodged to complete the dwelling but was subsequently withdrawn.

A second application for planning permit was lodged in 2018 to complete the dwelling, however this application lapsed due to a failure to submit information required under the Planning Scheme.

The current application was lodged in May 2019 and all required information has now been professionally prepared and submitted.

### Proposal

The current application seeks to authorise the use of the land for a dwelling. The application also seeks retrospective approval for the existing partially completed dwelling and the further completion of buildings and works in relation to the dwelling.

The dwelling will not be completed to the original design. The applicant now proposes to construct an open and unroofed deck within the area originally proposed for the kitchen and living area (within the central portion of the building). The new decking will comprise an outdoor living space of 82 metre square (m<sup>2</sup>). Other minor works will involve renovations and the provision of new treated timber stairs and handrails.

The existing garage will be retained together with the first floor mezzanine. The southern portion of the building will be utilised for accommodation. Existing decking will connect the dwelling with the existing bungalow and will be considered part of the dwelling.

As the dwelling has been previously constructed in stonework it is capable of complying with current bushfire standards. A bushfire management plan has been prepared and approved (and is discussed further in this report). A Bushfire Attack Level BAL 29 of construction is required. A new crushed rock driveway to accommodate emergency vehicles and a dedicated water supply tank for firefighting also forms part of the application proposal.

A land capability assessment has been completed which has confirmed that the existing septic system does not comply with the current Environmental Protection Authority (EPA) Code of Practice and will need to be upgraded to a secondary system due to the required setback distance to the Acheron River. The assessment concludes that wastewater can be accommodated and managed on the site with minimal risk. Wastewater will be directed to the highest point of the property (between the house and the road) away from the river and within areas least subject to flooding.

In relation to flooding, a new survey level and feature plan has been prepared by the applicant. In 1989 Council required that the dwelling be constructed 0.5m above the 1935 flood level. The current views of the floodplain authority are discussed further in this report.

The applicant has prepared an Environmental Management Plan to address the care of the balance of the land. The plan provides for the ongoing retention of trees, weed management and stock exclusion.

### Public Notification

Notice of the application was provided in accordance with the requirements of the *Planning and Environment Act 1987* by sending letters to adjoining and nearby property owners and occupiers and displaying a sign on the site. Notice of the application was also given to the other joint landowner. At the end of the notice period one objection was received from the other joint landowner. Attempts to mediate an outcome relating to this objection have been unsuccessful.

The objector claims that the proposal would restrict future use and possible future improvements to the dwelling.

Further particular objections relate to:

- adverse impact on the amenity of the building as a result of the proposed development

- provision and placement of a 10,000 litre (L) water supply tank for firefighting is not supported
- provision of a crushed rock driveway is not supported due to damage to the lawn and mowing equipment
- the applicant has been able to reside in the partially completed dwelling in the absence of any planning or building approval.

A response to the issues raised by the objector are discussed further in this report.

#### Referral Authority Advice

The application and a bushfire management plan prepared for the land was referred to the Country Fire Authority (CFA). The authority supports the proposal subject to conditions. As previously noted the partially completed dwelling has been constructed in stonework and is capable of complying with a required BAL 29 for construction. Areas of defendable space are available around the existing building.

A referral request was sent to the Department of Environment, Land, Water and Planning (DELWP) who had no objection to the application.

The application was also referred to the Goulburn Broken Catchment Management Authority (GBCMA) as the land, and current dwelling location, is subject to flooding. The authority have advised that based on the recently completed *Acheron Valley Flood Mapping and Intelligence Study (2018)* the land is subject to flooding but there is no objection to retaining and upgrading the dwelling as proposed. In relation to the driveway access, the authority has advised that the existing alignment is greater than 0.5m in depth in relation to the 1% Annual Exceedance Probability (AEP) type flood event and does not comply with development standards for safety set out in the *Guidelines for Development in Flood Affected Areas (DELWP 2019)*. However, due to the particular circumstances relating to the land (dwelling previously constructed), the authority have not objected in this instance and have not required a realignment or earthworks in relation to the access.

#### **Discussion – Planning Assessment**

##### State, Regional and Local Policy

Relevant State, Regional and Local policies seek to:

- ensure that the siting, scale and appearance of development protects and enhances rural character (Clause 15.01-6S)
- protect biodiversity (Clause 12.01-1S) particularly along river corridors (Clause 12.03-1S)
- ensure development has regard to bushfire risk (Clause 13.02-1S) and floodplain management (Clause 13.03-1S)
- ensure dwelling proposals have regard to existing and proposed agricultural values (Clause 14.01-1S).

Council officers are satisfied that the proposed dwelling is consistent with the above policies.

#### Farming Zone

As previously noted the subject land comprises a residual portion of the Farming Zone located west of the Acheron River. The small size of the land parcel and close proximity to the Acheron River does not allow agricultural uses. The continued use of the land for a dwelling is appropriate and will assist with the management of the land for its broader environmental and management of land in relation to flooding.



The purpose of the zone seeks to ensure that non-agricultural uses do not adversely affect the use of land for agriculture. Council officers are satisfied that a dwelling will not prejudice agricultural activities on adjoining land and the dwelling will not be adversely affected by agricultural activities on nearby land.

The application includes an Environmental Management Plan and actions to be implemented to improve the existing values found on the land over time.

Floodway Overlay (Clause 44.03) and Land Subject to Inundation Overlay (Clause 44.04)

The dwelling is proposed on land now included in a LSIO. The flooding risks associated with the land were considered when the dwelling was initially approved 20 years ago. As previously noted the floodplain authority (GBCMA) is satisfied that the dwelling (and its completion) is appropriate and will not compromise the free passage and temporary storage of floodwaters and is compatible with the flood hazard and local drainage conditions. As part of any new permit that may be issued, upgrades to the existing wastewater disposal will be required which will further improve and protect water quality.

No development is proposed within that portion of the land affected by the Floodway Overlay

Bushfire Management Overlay (Clause 44.06)

The application, including a Bushfire Management Plan, was referred to the CFA. The authority does not object to the proposal subject to conditions.

**Discussion - Issues Raised by Objector**

The proposed development will have an adverse impact on the amenity of the area and the proposed dwelling

The objector has not provided any basis for this claim nor has this issue been raised by other surrounding property owners/occupiers. It is the view of Council officers that the completion of the dwelling, while not in the manner originally anticipated will have an acceptable amenity and design outcome. The site is not prominent and the infill works are between the two ends of the building. The completion of the dwelling as proposed would provide for a better outcome than retaining the dwelling in its uncompleted state.

Provision of a water tank for firefighting and new gravel driveway

The proposal to provide a separate water supply for firefighting purposes and upgrade the driveway to provide all-weather access for emergency vehicles is appropriate and necessary having regard to current planning requirements.

The proposed location of the 10,000L water tank for firefighting purposes satisfies the requirements of the Bushfire Management Overlay and has been approved by CFA.

Applicant continuing to reside in the dwelling without planning or building approval

The objector's concerns in relation to this particular matter are considered reasonable. Council officers have not taken compliance action to require the applicant to cease using the partially completed dwelling for accommodation. It is recommended that Council formally request that this use cease within a further 120 day period unless the permit is acted on and an occupancy permit is issued for the current occupied space. This would also be subject to compliance with all other conditions in the permit but not requiring the construction/upgrade of the other part of the building, which would have a two year time frame.

**Conclusion**

Council officers are satisfied that this application proposal is consistent with the provisions of the *Murrindindi Planning Scheme*. Support of the proposal will allow the partially completed dwelling on the land to be completed and the land used for accommodation.

**Council Plan/Strategies/Policies**

This report is consistent with the *Council Plan 2017-2021* Our Place strategic objective ‘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’.

**Relevant Legislation**

This proposal has been assessed under the provisions of the *Murrindindi Planning Scheme* and the *Planning and Environment Act 1987*.

**Financial Implications and Risk**

There are no financial implications or risks associated with this report.

**Conflict of Interest**

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

**8.2 PROPOSED RE-SUBDIVISION AND USE OF LAND FOR A DWELLING ON EACH LOT – 95 DEVIATION ROAD, KINGLAKE CENTRAL**

Attachment(s): Plan (refer Attachment 8.2)  
Submission & Response (distributed to Councillors separately)

Land: 95 Deviation Road, Kinglake Central  
 Proposal: Re-subdivision of existing lots, change of use of land to provide for a dwelling on each lot and (re)creation of crossover to Road Zone Category 1  
 Applicant: Masten Bennet & Associates Pty Ltd  
 Zoning: Farming  
 Overlays: Bushfire Management

**Locality Plan**



**Purpose**

This report recommends that Council refuse to grant a planning permit to re-subdivide and use land at 95 Deviation Road Kinglake Central for the purpose of dwellings and related access

works. The proposal is predominantly rural residential development in an agricultural area that is of a significantly high bushfire risk. Additionally, one objection has been received.

### **Officer Recommendation**

**That Council issue a refusal to grant a permit to re-subdivide existing lots, change the use of the land to allow a dwelling on each lot and (re)create the crossover to a Road Zone Category 1 at 95 Deviation Road, Kinglake Central. Grounds of refusal:**

1. **proposal does not comply with the requirements of Clause 02.03 Strategic Directions:**
  - a. **'protecting rural land for productive agricultural uses and compatible rural uses'**
  - b. **'ensuring that the use and development of rural land protects and enhances agricultural potential and the productive capacity of the land and surrounding land'**
  - c. **'ensuring that agricultural land is not developed for primarily residential purposes'**
  - d. **'discouraging the fragmentation of rural land into lots incapable of productive agricultural and rural use'.**
2. **proposal does not comply with the requirements of Clause 13.07-1S Land Use Compatibility as residential uses should be directed to a residential area**
3. **proposal does not comply with the requirements of Clause 14.01 Agriculture, given that it creates predominantly residential use in a farming environment that has the potential to limit the operation and expansion of adjacent and nearby agricultural uses in high quality agricultural land**
4. **proposal does not comply with the requirements of Clause 16.01-5S Rural Residential Development, which objects to 'discourage development of small lots in rural zones for residential use or other incompatible uses'**
5. **proposal does not comply with the requirements of Clause 35.07 Farming Zone as the proposed use of dwellings has the potential to limit agricultural uses on the subject site and surrounding land**
6. **proposal does not provide adequate information to properly assess the use of the land for dwellings, the potential impact of those dwellings and the future use of the land**
7. **proposal does not include plans for development and therefore does not provide adequate information, as per *Chadband v. Murrindindi (2016) VCAT967*.**

### **Background**

#### The Land and Surroundings

The subject land comprises of three lots of approximately 8,974 square metres (sqm), 8,74sqm, and 12,814sqm respectively. The lots are currently vacant with some scattered areas of native vegetation. Deviation Road runs adjacent to the northern boundaries and Whittlesea-Kinglake Road adjacent to the southern. There is an existing informal gravel service road from Whittlesea-Kinglake Road that is proposed to service proposed Lot C.

The adjoining land to the east is a similar lot, which is also vacant and the adjoining lot to the north-west is currently vacant and in the same ownership as the subject land. There are many small lots, adjoining to the south-west which have existing dwellings and associated sheds, these lots average approximately 2,000sqm each.

The land adjacent, across Whittlesea-Kinglake Road to the south at Grandview Crescent, is made up of relatively small lots with dwellings in the Farming Zone, however this land is subject

to the Restructure Overlay and those lots with dwellings have an approved restructure plan under the Murrindindi Planning Scheme.

The land adjacent, across Deviation Road to the north, is generally larger allotments, of approximately 8 hectares (ha). This land is in the Farming Zone and also subject to Schedule 1 of the Environmental Significance Overlay which classifies the land as a 'high quality agricultural land'.

The subject site, and surrounding land, generally slopes up from north to south, with a rise of approximately 20 metres (m) over the subject land.

The lots were affected by the 2009 Bushfires, however all lots were vacant at the time.

#### Proposal

The application seeks planning approval to:

- re-subdivide the existing three lots
- change the use of the land to allow a dwelling on each lot (a permit is required for a residential use in the farming zone on lots less than 40ha.).

The applicant stated that the lots are not capable of supporting any farming or agricultural activity given the proposed lot sizes, 9,983sqm, 12,770sqm, and 7,723sqm approximately. In effect, the lots will be used for rural residential purposes. Note that the application at this stage is for the use, and not for a specific dwelling development.

The proposal is also to (re)create access to the Road Zone Category 1 (Whittlesea-Kinglake Road) and develop two new crossovers to Deviation Road, for proposed Lots A and B.

#### Public Notification

Notice of the application was provided in the form of letters to adjoining, opposite and nearby property owners and occupiers. At the end of the notice period a single objection had been received. The objection was received from a resident of Murrindindi shire that is not a near neighbour of the property. The grounds of objection are summarised below:

- information regarding dwellings has not been provided as part of the application
- basic level of information relating to dwellings must be provided, as per *Chadband v. Murrindindi (2016) VCAT967 {paragraph 54, 55}*
- subdivision will create residential living, rather than enhancing agriculture in Farming Zone
- set a precedent for further development of small Farming Zone lots.

Attempts to mediate an outcome relating to the objection have not been successful. The issues raised by the submitter are discussed further in this report.

#### Referral Authority Advice

The application was referred to Country Fire Authority (CFA), Goulburn Murray Water, AusNet and VicRoads, who have raised no objections subject to conditions on any permit that may issue.

### **Discussion – Planning Assessment**

#### Overview

The key issues in considering this application is whether the proposed subdivision and use of each lot for a dwelling is consistent with the farming zone.

Ordinarily in considering an application for a dwelling on a lot less than 40ha in the Farming Zone the application addresses both:

- the ongoing use of the land consistent with the Farming Zone
- how the proposed dwelling will not impact on the use of surrounding land for agricultural purposes (e.g. by siting and setbacks within the site).

Given this application does not include a specific proposal for use of the site consistent with the Farming Zone and it does not include an application for development of a specific dwelling, the application does not include sufficient information to demonstrate how the key criteria relevant to use for a dwelling in the Farming Zone will be met. Further, at this stage of the development process it is very difficult to provide the required level of information to consider use for a dwelling.

While a re-subdivision could be considered at this stage, consideration of the use for a dwelling is more properly considered when future owners have a specific proposal for use of the site and development of a dwelling.

#### State, Regional and Local Policy

Clause 02.03 Strategic Directions is a local policy which aims to protect rural land for productive agriculture and ensure that rural land is not developed for residential uses.

The lots have been identified as being in a 'bushfire prone area' (and are subject to the Bushfire Management Overlay). Clause 13.02-1S aims to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. In response, the application includes a Bushfire Management Statement (BMS) and Plan which have been approved by the CFA. The BMS provides building exclusion zones for the areas of existing vegetation that are to be retained and specifies that potential dwellings will have a minimum Bushfire Attack Level of BAL-29.

Clause 14.01-1S sets out State objectives and strategies relating to protecting the State's agricultural base by preserving productive farmland. The proposal relates to land that is not currently being used for agricultural purposes however, is located adjacent to land which is affected by the Environmental Significance Overlay for high quality agricultural land.

The State objective for design in rural areas (Clause 15.01-6S) is to 'ensure development respects valued areas of rural character'. Development of dwellings was not included as part of the application, therefore the proposed design cannot yet be assessed.

Clause 16.01-5S sets out strategies for rural residential development to 'manage development in rural areas to protect agriculture and avoid inappropriate rural residential development'. The development of small lots in rural zones for residential uses is discouraged.

#### Farming Zone (Clause 35.07)

The primary purpose of this zone seeks to provide for agricultural uses. Responsible Authorities are required to consider the following guidelines when considering an application for subdivision and the use of dwellings:

- capability of the land to accommodate the proposal
- how the use relates to sustainable land management
- compatibility with adjoining and nearby land uses
- how agricultural production is supported and enhanced
- potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses
- impact on physical features and resources of the area, in particular on soil and water quality

- loss or fragmentation of productive agricultural land
- impact from agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation
- potential to lead to a concentration or proliferation of dwellings in the area
- need to protect and enhance the biodiversity of the area
- location of on-site effluent disposal area to minimise the impact of nutrient loads on waterways and native vegetation
- visual impact of development on surrounding land.

The application was supported by a response to the Farming Zone, which describes the site as being unviable for farming uses and unlikely to ever be consolidated with adjoining lots. The applicant defines the land as underutilised in its current state and if approved for the use of dwellings, the lots would be managed and maintained and therefore improved.

A Land Capability Assessment (LCA) and BMS accompany the application and satisfy the requirements that the land is capable of accommodating the proposed use however, as the application does not include development of dwellings it is unclear as to what the outcome of dwellings on each lot would be.

The proposed use for dwellings on each lot does not support sustainable land management, if each lot was to have a dwelling then they could be considered as being used for rural residential development. The proposed location of the vehicle crossover for proposed Lot A will be over an existing watercourse and culvert under Deviation Road. This location is inappropriate and will potentially change the natural flow of water.

The proposed use for dwellings is compatible with adjoining land uses to the east, south and west however, across Deviation Road to the north the land is currently farmed and within the Environmental Significance Overlay (Schedule 1 – high quality agricultural land). The intensity of the farming operations on these properties could increase and might have adverse effects on the subject site. There is a possibility that if dwellings were to be approved on these lots then they could be affected by the agricultural uses on adjacent land to the north, from odour, noise, dust, traffic or spraying.

The application, if approved, would allow for the existing proliferation of dwellings in the area to increase, adding to the existing high bushfire risk.

The application was supported by a LCA which provides appropriate effluent fields, however these fields, or exclusion zones, are not included in the provided plan of subdivision. The proposed fields are approximately 630sqm and provide for a minimum 30m setback from all watercourses and meet required setbacks from boundaries.

The proposed re-subdivision will not have any visual impact on the surrounding land or viewpoints from either Deviation Road or Whittlesea-Kinglake Road, however if dwellings were to be approved on each lot then they would be visible from all surrounding land and particularly a dwelling on proposed Lot C from Whittlesea-Kinglake Road.

The proposed access for each lot would need to be constructed, proposed Lot A has the access located at the point of the watercourse which crosses underneath Deviation Road. The proposed crossover location for Lot B has very poor sight lines and is considered dangerous. Access for Lot C is further discussed in this report as it is onto a Road Zone Category 1.

Each lot would be required to treat and retain wastewater onsite, as there is no option to connect to reticulated sewerage. As there is also no reticulated water available, each lot will need

sufficient rain water storage tanks for potable domestic uses and firefighting purposes. The lots are able to be connected to the reticulated electricity supply.

#### Bushfire Management Overlay (Clause 44.06)

The application was supported by a BMS, prepared by Practical Ecology, who determined the Bushfire Attack Level as BAL-29. This report provides a Bushfire Management Plan with appropriate building exclusion zones, to protect the existing native vegetation. The BMS was referred to the CFA - their referral response was conditional consent to the granting of a permit.

If a permit was to be granted the building exclusion zones, as approved by the CFA, would need to be included in a Section 173 Agreement, to be considered at a time when an application is lodged for the development of dwellings.

#### Land Adjacent to a Road Zone Category 1 (Clause 52.29)

The purpose of the provision is to 'ensure appropriate access to identified roads' and 'ensure appropriate subdivision of land adjacent to identified roads'.

The access for proposed Lot C is to be from Whittlesea-Kinglake Road, opposite Grandview Crescent. There is an existing, informal, gravel service road that could be utilised, which is not maintained by Regional Roads Victoria (RRV). RRV provided conditional consent to the granting of a permit, with the access to be from the service road. The landowner would then be responsible for maintaining the service road.

The proposed access from the service road also crosses over the footpath and could cause damage to the pedestrian access along Whittlesea-Kinglake Road.

#### Bushfire Planning (Clause 53.02)

The purpose is to 'ensure that the location, design and construction of development appropriately responds to the bushfire hazard', as this application is for 'use' only, the application is not able to be properly assessed under this provision.

#### Approval of an Application to Subdivide Land (Clause 65.02)

The Responsible Authority must consider:

- the suitability of the land for subdivision
- the existing use and possible future development of the land and nearby land
- the subdivision pattern having regard to the physical characteristics of the land including existing vegetation
- the density of the proposed development
- the area and dimensions of each lot in the subdivision
- the movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots
- if the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewerage within the boundaries of each lot.

The proposed subdivision is the re-subdivision of three lots, which would not create any additional lots. The re-subdivision re-aligns the boundary between Lots 1 and 2, from a north-south boundary to an east-west boundary. This new alignment requires the access from proposed Lot C to be from Whittlesea-Kinglake Road, a Road Zone Category 1.

#### **Discussion – Issues Raised by Objector**

As noted above, Council is required to consider whether the land is capable of accommodating the proposal, including the impact on adjoining and surrounding land uses.

Information regarding dwellings has not been provided as part of the application

The application is for the 'use' of dwellings and does not include the development. This kind of application assumes that additional planning permits would be required for each dwelling proposal and would need to align with any requirements set out in a Section 173 Agreement. In the absence of dwelling plans, and an application for development, Council is unable to assess the impact the dwellings might have on adjoining and surrounding land and the impact adjacent farming properties might have on the dwellings.

Basic level of information relating to dwellings must be provided, as per *Chadband v Murrindindi (2016) VCAT967* {paragraph 54, 55}

The application is for the use of dwellings, it is unclear who would be developing the land for dwellings and the lots have potential to be sold.

The Victorian Civil and Administrative Tribunal (VCAT) case, *Chadband v Murrindindi*, summarises the issues that arise when an application is made for a dwelling without supporting plans for development. The VCAT member, Mary-Anne Taranto, raised the following issues:

- proposal for use of dwellings could impact the current and long term ability of adjoining and nearby properties to use their land for productive farming purposes
- rural residential development does not have planning scheme support, especially when the application is deficient in detail and lacks strategic support
- there is no possibility to know how the land, not required for the dwelling, will be used into the future
- the Planning Scheme specifically discourages development of isolated small lots in the rural zone from use for single dwellings, rural living and other incompatible uses
- 'one of the difficulties in assessing the suitability of the proposed dwelling development is the absence of any development plans', this creates too much uncertainty
- to issue a permit without the necessary plans is not consistent with fundamental planning principles
- sentiments expressed by Member Bennett in the *Macarthur Wind Farm* case: "... while I am aware that many municipalities outside Melbourne take a more lenient approach to the standard of material submitted with permit applications, there is a basic level of information, including scaled plans, which should be provided with all applications no matter how insignificant they may seem..."
- absence of detailed plans could create unrealistic expectations about the site's development potential in the future
- the existence of a small lot should not create the expectation that its use for a dwelling is somehow inevitable or necessary
- rural residential development does not sit comfortably with the realities of farm life, where the effects of dust, spray drift, odours and noise from farming activities including the operation of farm machinery can create conflicts between neighbours
- it has not been proven that the land is not suited to a productive agricultural use.

Subdivision will create residential living, rather than enhancing agriculture in Farming Zone

The proposed lots are to range from 7,723sqm to 12,770sqm and would allow dwellings. The development of dwellings on these lots, including driveways, effluent fields and potential associated shedding, would cause very minimal land left over for any other uses. The potential to use the land for any agricultural purposes would be considered lost if a permit was issued.

Set precedent for further development of small Farming Zone lots

Council officers recognise that this area, especially around Grandview Crescent, has an existing pattern of Farming Zone land being utilised for single dwellings, without the use of agriculture.



**Conclusion**

Council officers are not satisfied that this application meets the requirements of the Murrindindi Planning Scheme as it will have impacts on surrounding and adjoining land uses.

The proposal does not align with Councils strategic plans.

**Council Plan/Strategies/Policies**

This report is not consistent with the *Council Plan 2017-2021* as it does not show how the proposal will enhance the liveability, prosperity and the rural character of our Shire.

**Relevant Legislation**

The proposal has been assessed under the provisions of the *Murrindindi Planning Scheme* and the *Planning and Environment Act 1987*.

**Financial Implications and Risk**

There are no financial implications or risks associated with this report.

**Conflict of Interest**

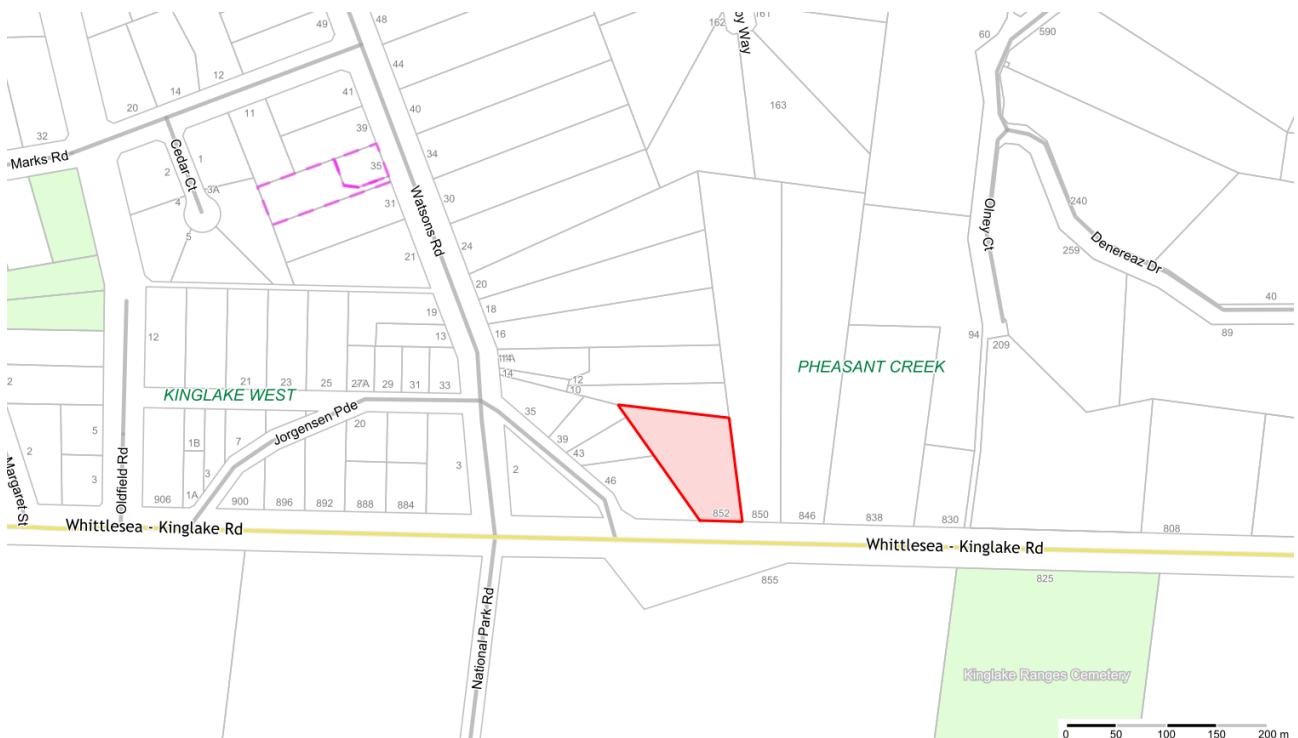
There are no declared conflicts of interest by Council officers in relation to this report.

**8.3 TWO LOT SUBDIVISION, 852 WHITTLESEA – KINGLAKE ROAD, PHEASANT CREEK**

Attachment(s): Application Information (refer Attachment 8.3)  
Submission (distributed to Councillors separately)

Land: 852 Whittlesea-Kinglake Road, Pheasant Creek  
 Proposal: Two (2) lot residential subdivision  
 Applicant: Central Vic Planning Consultants  
 Zoning: Township  
 Overlays: Bushfire Management

**Locality Plan**



**Purpose**

This report recommends that Council not support the granting of a planning permit for the two lot subdivision of 852 Whittlesea-Kinglake Road, Pheasant Creek.

**Officer Recommendation**

**That Council issue a refusal to grant a permit for the two lot subdivision of 852 Whittlesea-Kinglake Road, Pheasant Creek. Grounds of refusal:**

1. **The proposal does not support State planning policy objectives and strategies relating to the protection of Native Vegetation (Clause 12.01-2S) as there has been minimal attempt to avoid or minimise the removal of native vegetation.**
2. **The proposal does not support State planning policy objectives and strategies which seek to protect the visual amenity of valued rural landscapes, township approaches and sensitive tourist routes (Clause 15.01-6S).**
3. **The proposal does not support State planning policy objectives and strategies which seek to ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods (Clause 15.01-3S).**
4. **The proposal is not in accordance with Clause 56 Residential Subdivision, as the subdivision design does not meet the following objectives:**
  - a. **Clause 56.01-2 – subdivision design response as the irregular shape of two lots will potentially impact on the amenity of proposed Lot 2**
  - b. **Clause 56.03-5 – neighbourhood character objective as the extent of vegetation removal will impact on the character of the locality.**

**Background**The Land and Surroundings

The property is approximately 8,000 square metres (sqm) in area. It is developed with a single dwelling located in the centre of the property. The property is heavily vegetated with cleared land around the dwelling. It is situated north of Whittlesea-Kinglake Road and is on the south eastern edge of the Township Zone.

The properties directly abutting to the north and west are also in the Township Zone. These properties range from 2,000sqm to 9,000sqm and generally contain a single dwelling or are vacant.

The land and land to the north and west are zoned and developed as Township which generally signifies residential development in an area without reticulated sewerage and water supply. Land to the east is zoned Rural Living and developed with minimum 2 hectare (ha) lot sizes.

The Proposal

The proposal was originally for a three lot subdivision. After the limitations of the land were considered this was reduced to a two lot subdivision.

The proposal is for a subdivision of an 8,033sqm lot, proposed Lot 1 to the rear (but fronting Whittlesea-Kinglake Road) with an existing house and area of 4,217sqm and proposed Lot 2 at the frontage with an area of 3,816sqm. Proposed Lot 2 would extend for the whole length of the land, with defined housing and effluent disposal envelopes being indicated. Access to both lots is via a common accessway. The access for Lot 1 traverses the majority of the frontage and the western boundary of Lot 2, consequently the frontage for Lot 2 is 6.05 metres (m) wide.

A Bushfire Management Statement, Land Capability Assessment and Vegetation Protection Proposal and ResCode assessment under Clause 56 of the Murrindindi Planning Scheme were submitted with the application.

### Public Notification

The application was advertised by giving notice to adjoining and nearby landowners. The application received one submission which raised the following issues:

- new driveway would be next to and go along the entire length of boundary fence, having an effect on fencing over a period of time
- with a second residence on the land, the entire outlook and feeling and beautiful landscape of submitter's land would change as with tree removal, will probably be looking at a tin roof.

The applicant responded to this submission by noting that the structural integrity of the common fence would not be impacted, the submitter has a substantial garden and private open space between their house and the fence line and it is unreasonable to expect the applicant to maintain the current condition of their property for the submitter's benefit.

### Referrals

The application was referred to the Country Fire Authority (CFA) and Regional Roads Victoria.

The CFA initially did not support aspects of the bushfire hazard site assessment. Subsequent advice based on an amended assessment raised no objection on the basis of three conditions being included in an approval.

Regional Roads Victoria has no objection to the proposed subdivision subject to three conditions relating to crossover upgrading and maintenance.

### **Discussion - Issues Raised by Objector**

#### New driveway would be next to and go along the entire length of boundary fence, having an effect on fencing over a period of time

There appears to be no evidence that the proposed fencing will compromise existing fencing. In any case, fencing needs between properties is regulated under the *Fencing Act* and is not a direct planning matter.

#### With a second residence on the land, the entire outlook and feeling and beautiful landscape of submitter's land would change as with tree removal, will probably be looking at a tin roof

While a greater intensification of residential development will alter the existing development settlement pattern in the area and allow a dwelling closer to the submitter's land, the proposal is considered acceptable in the Township Zone. The existing dwelling on proposed Lot 1 is approximately 25m from the submitter's common boundary, with the proposed access driveway over 30m from the submitter's dwelling, providing sufficient setback for amenity protection.

### **Planning Assessment**

#### Clause 12.01-2S – Removal of Native Vegetation

The objective of Clause 12.01-2S – Removal of Native Vegetation is to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

Ensure decisions that involve, or will lead to, the removal, destruction or lopping of native vegetation, apply the three-step approach in accordance with the *Guidelines for the Removal, Destruction or Lopping of Native Vegetation* (Department of Environment, Land, Water and Planning, 2017):

- avoid the removal, destruction or lopping of native vegetation
- minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided
- provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

This application will result in considerable native vegetation removal from the implementation of the Bushfire Management Plan and construction of the proposed dwelling and driveway. Vegetation contained within the defendable space area identified by the Bushfire Management Plan is not required to be offset, as it is exempt under Clause 53.02. However, it is still required to be taken into consideration when assessing a planning permit application. Council officers consider this removal to not be consistent with the objective of this clause as it will result in a net loss to biodiversity.

Along with the native vegetation required to be removed to comply with the Bushfire Management Plan, the creation of the proposed Lot 2 will result in consequential loss of native vegetation. As the proposed lot size will be under 4,000sqm, the vegetation will no longer be protected by Clause 52.17 of the Murrindindi Planning Scheme.

In response to the issue of consequential loss the applicant has proposed to enter into a Section 173 Agreement to protect the trees at the rear of the property that are not included within the defendable space outlined on the Bushfire Management Plan. This however will not protect the vegetation to the front of the property and therefore does not support State planning policy objectives and strategies relating to the protection of Native Vegetation (Clause 12.01-2S).

#### Clause 13.02-1S Bushfire Planning

The objective of Clause 13.02-1S Bushfire Planning is to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life:

- prioritising the protection of human life over all other policy considerations
- directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire
- reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process.

Through assessing this application, Council officers are required to consider whether it is appropriate to intensify residential development in a high-risk bushfire area.

The proposed subdivision will have the impact of reducing the ability of the existing occupiers of the dwelling of the proposed Lot 1 to protect their property from bushfire due to the vegetation at the rear of proposed Lot 2. Currently in accordance with the '10:50' rule, the occupiers of this property are able to clear undergrowth for 50m from their dwelling. Once this subdivision is complete the owners of Lot 1 will lose rights to remove vegetation in this area. Furthermore, the vegetation in this area is proposed to be protected by a Section 173 Agreement which will further reduce the ability to clear understorey.

#### Clause 13.02-1L Bushfire Planning

The Murrindindi Planning Scheme requires Council officers to consider the location of development to mitigate bushfire risk to an acceptable level.

#### Clause 15.01-3S Subdivision Design

Council officers do not consider the design of the subdivision to be consistent with the objectives of Clause 15.01-3S Subdivision Design to ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods. The strategies to achieve this objective include:

- creating urban places with a strong sense of place that are functional, safe and attractive
- protecting and enhancing native habitat

- creating an urban structure and providing utilities and services that enable energy efficiency, resource conservation, integrated water management and minimisation of waste and air pollution.

#### Clause 15.01-6S Design for Rural Areas

Clause 15.01-6S Design for Rural Areas requires Council officers to consider whether a proposal respects valued areas of rural character. Strategies for achieving this include:

- ensure that the siting, scale and appearance of development protects and enhances rural character
- protect the visual amenity of valued rural landscapes and character areas along township approaches and sensitive tourist routes by ensuring new development is sympathetically located
- site and design development to minimise visual impacts on surrounding natural scenery and landscape features including ridgelines, hill tops, waterways, lakes and wetlands.

The proposed subdivision will result in the front of the property being able to be cleared of vegetation without further planning permit approval. The subdivision will require a driveway to be constructed along the front of the property. There is a possibility that a fence will be required to separate the driveway to the proposed Lot 2 from the dwelling on the proposed Lot 1. Council officers consider this to have a significant adverse impact on the rural amenity of the area.

#### Clause 32.05 – Township Zone

Council officers consider the proposal to not to meet the objectives of the Township Zone. The purpose of the Township Zone is to:

- to implement the Municipal Planning Strategy and the Planning Policy Framework
- to provide for residential development and a range of commercial, industrial and other uses in small towns
- to encourage development that respects the neighbourhood character of the area
- to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The proposed subdivision will have a shared access to Whittlesea-Kinglake Road, with proposed Lot 1 including the existing dwelling.

The Township Zone does not prescribe a minimum or maximum lot sizes but allows a design based on the characteristics of the land. However in areas where lots cannot be provided with reticulated sewerage the application must be accompanied by:

- a land assessment which demonstrates that each lot is capable of treating and retaining all wastewater in accordance with the *State Environment Protection Policy (Waters of Victoria)* under the *Environment Protection Act 1970*
- a plan which shows a building envelope and effluent disposal area for each lot.

The application included a Land Capability Assessment and plan of subdivision that identifies the area to be used for effluent disposal and a building envelope. The Land Capability Assessment refers to three lots as a new Land Capability Assessment was not provided when the application was amended to two lots.

A two lot subdivision is required to meet the requirements of Clause 56 and the following clauses, 56.03-5, 56.04-2, 56.04-3, 56.04-5, 56.06-8 to 56.09-2. An assessment of these clauses is outlined in the table below:

Objective	Comments
<p><u>Clause 56.01-01 – Subdivision Site and Context Description</u></p> <p>The site and context description may use a site plan, photographs or other techniques and must accurately describe:</p> <ul style="list-style-type: none"> <li>• in relation to the site:               <ul style="list-style-type: none"> <li>○ site shape, size, dimension and orientation</li> <li>○ levels and contours of the site</li> <li>○ natural features including trees and other significant vegetation, drainage lines, water courses, wetlands, ridgelines and hill tops</li> <li>○ the siting and use of existing buildings and structures</li> <li>○ street frontage features such as poles, street trees and kerb crossovers</li> <li>○ access points</li> <li>○ location of drainage and other utilities</li> <li>○ easements</li> <li>○ any identified natural or cultural features of the site</li> <li>○ significant views to and from the site</li> <li>○ noise and odour sources or other external influences</li> <li>○ soil conditions, including any land affected by contamination, erosion, salinity, acid sulphate soils or fill</li> <li>○ any other notable features or characteristics of the site</li> <li>○ adjacent uses</li> <li>○ any other factor affecting the capacity to develop the site including whether the site is affected by inundation.</li> </ul> </li> </ul>	<p>The proposed subdivision lot sizes are generally consistent with nearby and neighbouring lots in the Township Zone. Lots range from 3,200sqm to 9,600sqm approximately.</p> <p>However, the adjoining land to the east is within the Rural Living Zone and is made up of much larger allotments. The land to the south across Whittlesea-Kinglake Road is within the Farming Zone and lots are approximately 20ha.</p>
<p><u>Clause 56.01-2 – Subdivision Design Response</u></p> <p>The design response must explain how the proposed design:</p> <ul style="list-style-type: none"> <li>• derives from and responds to the site and context description</li> <li>• responds to any site and context features for the area identified in a local planning policy or a Neighbourhood Character Overlay</li> <li>• responds to any relevant objective, policy, strategy or plan set out for the area in this scheme</li> <li>• meets the relevant objectives of Clause 56 and 56.01-02.</li> </ul>	<p>The subdivision has been designed to allow for the existing dwelling to retain wastewater disposal and defensible space within proposed Lot 1. It also would allow for a building envelope and effluent disposal envelope on proposed Lot 2.</p> <p>The proposed design of the subdivision is irregular and will create a very long driveway for proposed Lot 1, which will run adjacent to Whittlesea-Kinglake Road and then along the neighbouring property to the west. This driveway will be in close proximity to a new dwelling on Lot 2 and creates potential amenity issues once the development of Lot 2 occurs.</p> <p>The site has some existing native vegetation, with some proposed to be retained however, due to the requirement for defensible space around dwellings and associated outbuildings a significant amount will need to be removed.</p> <p>As proposed Lot 2 (vacant lot) is to be less than 4,000sqm an exemption from requiring a planning permit would apply, therefore potentially allowing the lot to be totally cleared. The applicant has proposed a Section 173 Agreement be prepared to protect vegetation that is outside of the defensible space.</p>
<p><u>Clause 56.03-5 - Neighbourhood Character Objective</u></p> <p>To design subdivisions that respond to</p>	<p>The character of the area is predominately single dwellings with native vegetation, the potential for vegetation to be cleared will alter this neighbourhood</p>

<p>neighbourhood character. Subdivision should:</p> <ul style="list-style-type: none"> <li>• respect the existing neighbourhood character or achieve a preferred neighbourhood character consistent with any relevant neighbourhood character objective, policy or statement set out in this scheme</li> <li>• respond to and integrate with the surrounding urban environment</li> <li>• protect significant vegetation and site features.</li> </ul>	<p>character. The subject site is also visible when travelling either direction along Whittlesea-Kinglake Road.</p> <p>The site has some existing native vegetation, with some proposed to be retained however, due to the requirement for defendable space around dwellings and associated outbuildings a significant amount will need to be removed.</p> <p>As proposed Lot 2 (vacant lot) is to be less than 4,000sqm an exemption from requiring a planning permit would apply, therefore potentially allowing the lot to be totally cleared. The applicant has proposed a Section 173 Agreement be prepared to protect vegetation that is outside of the defendable space.</p>
<p><u>56.04-2 Lot Area and Building Envelopes Objective</u></p> <p>Lots greater than 500sqm should be able to contain a rectangle measuring 10m by 15m, and may contain a building envelope.</p>	<p>The proposal meets this objective.</p>
<p><u>56.04-3 - Solar Orientation of Lots Objective</u></p> <p>To provide good solar orientation of lots and solar access for future dwellings.</p>	<p>The proposal meets this objective. The existing dwelling has good solar orientation and the proposed building envelope, when considering defendable space, will be able to have good solar access.</p>
<p><u>56.04-5 - Common Area objectives</u></p>	<p>Not applicable as no common area is proposed.</p>
<p><u>56.06-8 - Lot Access Objective</u></p> <p>To provide for safe vehicle access between roads and lots.</p>	<p>Access to the proposed lots will be shared from Whittlesea-Kinglake Road, which has been conditioned by Regional Roads Victoria. The proposed access to Lot 1 is irregular and approximately 80m long.</p> <p>The proposal meets servicing and technical requirements of VicRoads, CFA and Council, subject to appropriate conditions. A common driveway, utilising the current dwelling entry onto the land, has been required by VicRoads to minimise further driveway entries onto a main road.</p>
<p><u>56.09-2 Utilities</u></p> <p>To maximise the opportunities for shared trenching.</p> <p>To minimise constraints on landscaping within street reserves.</p>	<p>Access to electricity and telecommunication services is readily available. There is no available gas, water supply or reticulated sewerage.</p>

#### Clause 44.06 Bushfire Management Overlay

The application was accompanied by a Bushfire Management Statement and accompanying Bushfire Management Plan. This was referred the CFA who provided conditional consent.

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

##### Council Plan 2017-2021

This report is consistent with the *Council Plan 2017-2021* Our Place strategic objective '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'.

##### The Kinglake Ranges, Flowerdale and Toolangi - Plan and Design Framework, February 2014

*The Kinglake Ranges, Flowerdale and Toolangi - Plan and Design Framework, February 2014* identifies the area as within the settlement boundary of the Kinglake West/Pheasant Creek and generally supports infill development within the Township area. New residential development needs to complement the character of the region by the use of site sensitive and responsive design styles and palates and also articulates the physical attribute to be the rural and bushland setting within the Kinglake West/Pheasant Creek area.

**Conclusion**

It is considered that while specific issues raised in the objection cannot be substantiated the proposal is not considered to be appropriate for the land and area due to the extent of native vegetation removal and the layout of the two lots, specifically the access to Lot 1. The proposal does not meet relevant planning policies and controls, and is recommended for refusal

**Relevant Legislation**

The proposal has been assessed under the provisions of the *Murrindindi Planning Scheme* and the *Planning and Environment Act 1987*.

**Financial Implications and Risk**

There are no financial implications or risks associated with this report.

**Conflict of Interest**

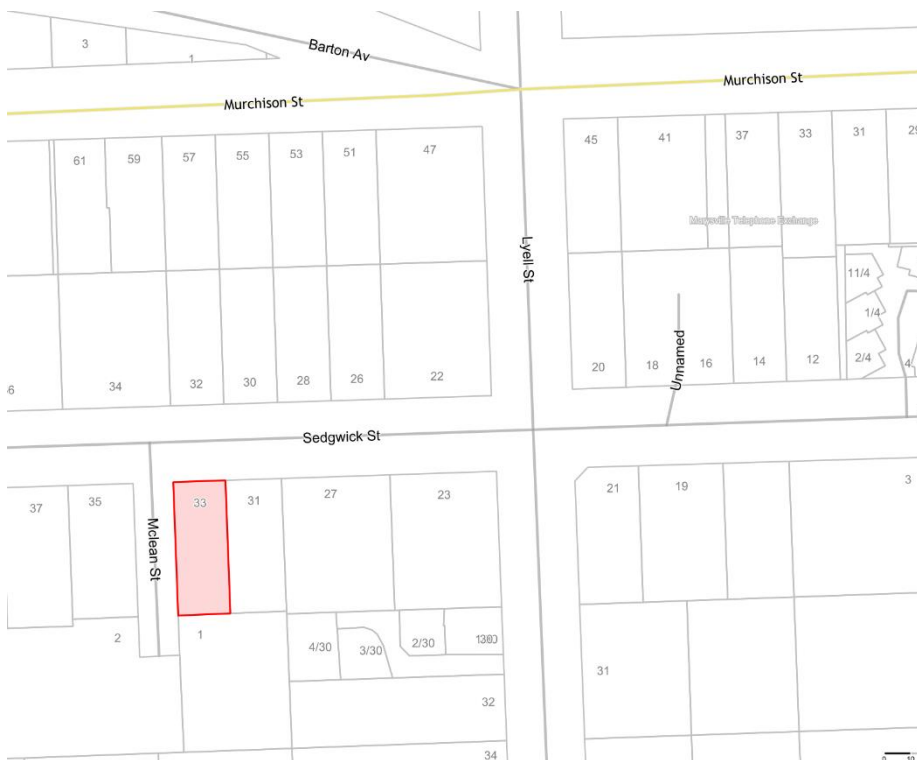
There are no declared conflicts of interest by Council officers in relation to this report.

**8.4 PROPOSED 2 LOT SUBDIVISION AND SECOND DWELLING, 33 SEDGWICK STREET, MARYSVILLE**

Attachment(s): Plans and Supporting Documents (refer Attachment 8.4)  
 Submissions (distributed to Councillors separately)

Land: 33 Sedgwick Street, Marysville  
 Proposal: Two (2) lot subdivision and development of a second dwelling  
 Applicant: H E Mitchell  
 Zoning: General Residential Zone 1  
 Overlays: Bushfire Management Overlay – Schedule 2  
 Vegetation Protection Overlay - Schedule 1

**Locality Plan**





**Purpose**

This report recommends that a Notice of Decision to grant a permit be issued for the two lot subdivision of 33 Sedgwick Street, Marysville and the development of a second dwelling on a lot. One objection has been received.

**Officer Recommendation**

**That Council issue a Notice of Decision to Grant a Planning Permit for the two lot residential subdivision of 33 Sedgwick Street, Marysville with the development of a dwelling on one lot, in accordance with endorsed plans, subject to the following conditions:**

1. **Before the development of the proposed dwelling hereby permitted starts, amendments must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the plans previously provided but modified to show:**
  - a. **screening of a minimum of 1.8 metres high from the finished floor level of the deck covering the eastern length of the balcony.**
2. **The layout of the site and the size and type of the proposed buildings and works, including the materials of construction, as shown on the endorsed plan shall not be altered or modified without the consent in writing of the Responsible Authority.**
3. **The subdivision and creation of easement must be in accordance with the endorsed plan. This endorsed plan can only be altered or modified with the prior written approval of the Responsible Authority, or to comply with statutory requirements.**
4. **This permit shall expire if the development of the approved dwelling is not completed, and the plan of subdivision hereby permitted is not certified, within two years of the date hereof, or any extension of such period the Responsible Authority may allow in writing. A request for an extension of time may be made before or within six months after the permit expiry date, where the use or development allowed by the permit has not yet commenced, or within 12 months after the permit expiry date, where the development allowed by the permit lawfully commenced before the permit expired.**
5. **All external cladding including the roof and trims of the building allowed must be coloured or painted in muted shades of green, brown or charcoal, or in a colour approved in writing by the Responsible Authority.**
6. **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.**
7. **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.**
8. **The owner of the land must enter into an agreement with:**
  - **a telecommunications network or service provider for the provision of telecommunications services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time**
  - **a suitably qualified person for the provision of fibre ready telecommunications facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**

9. **Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:**
- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time
  - a suitable qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Telecommunications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

### **Engineering**

10. **Prior to commencing construction, a suitable prepared engineering plan detailing the proposed driveway, earthworks and drainage, including the erosion and sediment control measures must be submitted to the Responsible Authority and receive its endorsement.**
11. **Prior to the issue of a Statement of Compliance, the developer must construct the access in accordance with approved construction drawings.**
12. **All stormwater and surface water discharging from the building and works must be conveyed to a point of discharge, approved by the relevant authority. No stormwater discharge from downpipes or overflow from storage tank and surface water shall be directed or caused to be directed in a concentrated form that will cause erosion and or adverse effects within the site or to adjoining land or properties.**
13. **The approved works must not cut off natural drainage to adjacent properties.**
14. **Prior to certification of the plan of subdivision or the approval of any building construction plans, a stormwater management plan including arrangements for Onsite stormwater detention measures must be forwarded to and approved by the Responsible Authority. The plan must be in accordance with Council's Infrastructure Design Manual Section 16 – Urban Drainage and Section 19 - On Site Detention Systems. All new units must be connected to the Council underground drainage system.**
15. **Proposed building on Lot 2 has no direct stormwater outlet other than running through Lot 1. Certification plans must provide drainage easement on Lot 1 in favour of Lot 2 to provide effective drainage for Lot 2 to the satisfaction of the Responsible Authority.**
16. **Prior to commencing any residential building works, any new or otherwise vehicular entrance to the subject land from the road must be constructed at the applicant's expense to provide ingress and egress to the site at a location and of a size and standard satisfactory to the Responsible Authority. Refer to Council's Infrastructure Design Manual Section 12.9.2 – Typical Swale Drain Vehicle Crossing and standard drawing SD 260.**
17. **An application for consent to work is required to be made prior to commencing any works on the road reserve and must comply with the requirements of the *Road Management Act 2004* and associated regulations.**

### **Country Fire Authority**

18. **The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the Responsible Authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.**

19. **The Bushfire Management Plan (prepared by Mountain Planning, drawing ref. 33 Sedgewick Street, Marysville, Revision B dated 31 May 2019) must be endorsed to form part of the permit, be included as an annexure to the Section 173 Agreement and must not be altered unless otherwise agreed in writing by the Country Fire Authority and the Responsible Authority.**
20. **In addition to the requirements of Clause 44.06-5 of the Murrindindi Planning Scheme, the Section 173 Agreement prepared in accordance with that clause must also specify the following:**
  - a. **explicitly exclude Lot 1 from the following exemption under Clause 44.06-2 of the *Murrindindi Planning Scheme*:**
    - **a building or works consistent with an agreement under Section 173 of the Act prepared in accordance with a condition of permit issued under the requirements of Clause 44.06-5.**
  - b. **state that the Section 173 Agreement has also been prepared for the purpose to give effect to the conditions of this permit that require bushfire mitigation measures to be implemented on Lot 1.**

## **Background**

### The Land and Surroundings

The subject land comprises of a dwelling and is approximately 977 square metres (sqm) in size. There is a slope down to Sedgewick Street. The existing access to this property is off Mclean Street and the property also abuts Sedgewick Street to the north. The adjoining property to the east is vacant. This lot is owned by the objector.

The subject land is situated in a generally developed residential area, with vacant adjoining lots to the east and south and dwellings on lots opposite streets to the north and west.

The area is generally in a residential area of Marysville, approximately 1 kilometre outside of the commercial area.

### Proposal

It is proposed to subdivide a 976sqm residential lot into two lots with one dwelling. Proposed Lot 1 fronting Sedgewick Street would be 492 metre square (m<sup>2</sup>) in size and include the existing dwelling, while the proposed Lot 2 fronting McLean Street being 484m<sup>2</sup> in area and includes a proposed dwelling. The proposed dwelling on Lot 2 is for a three bedroom dwelling constructed of timber with a colorbond roof. A drainage easement would run through proposed Lot 1 to provide drainage outfall for proposed Lot 2. A detailed plan was submitted for the dwelling on proposed Lot 2.

The application was accompanied by ResCode assessments under Clauses 55 (two or more dwellings on a lot) and 56 (subdivision) and a Bushfire Management Statement.

### Public Notification

Notice of the application was provided in the form of letters to adjoining, opposite and nearby property owners and occupiers. At the end of the notice period a single objection had been received. The grounds of objection are summarised below:

- inappropriate to have dual occupancies with all existing built-on properties being single dwellings
- Marysville is a holiday destination for which low density is the most appropriate, with higher density being more appropriate closer to the Central Business District (CBD) part of Marysville
- front deck/verandah, at a height of 1.5 to 2 metres (m), will overlook the rear of the proposed future dwelling

- the proposed new dwelling has a setback of 3.05m with the kitchen and bedroom number two looking into the rear of the adjoining yard and will deny privacy for rear of the property
- design not considerate of privacy as will be overlooked at all times as application land is much higher than objector's land
- front deck of proposed house should face McLean Street, with windows along the east and north being higher and smaller
- applicant notes 'minimal boundary fencing' but would have to build high fence to block looking into back yard.

The applicant responded to the objection, noting:

- there are higher density two lot subdivisions further from the CBD than this proposal
- willing to split the cost of fencing that maximises the privacy of both properties
- house has been designed to maximise solar efficiencies which is why the common living areas, including the deck, are north facing
- will not change design as not sure of timeline for submitter's building and cannot look at plans together.

#### Referral Authority Advice

The application was referred to the Country Fire Authority (CFA) who have given conditional consent to the grant of the proposal.

#### **Discussion - Planning Assessment**

##### State, Regional and Local Policy

The State and Local Planning Policy Frameworks support the provision of diversity in both housing styles and lot sizes in serviced townships under Clause 16.01-2S - Location of Residential Development, Clause 16.01-2L - Residential Development in Serviced Towns, and Clause 16.01-3S, Housing Diversity.

As the site has access to reticulated water, sewer and power, the size of the allotment is not a consideration. Further to this, the Planning Scheme supports the consolidation of development within township areas.

##### Clause 32.08 – General Residential Zone

Council officers consider the proposal to meet the objectives of the General Residential Zone. The purpose of the General Residential Zone is to:

- implement the Municipal Planning Strategy and the Planning Policy Framework
- encourage development that respects the neighbourhood character of the area
- encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport
- allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The proposed development will have good access to the services in central Marysville. The proposed unit is considered to compliment the character of the area.

The Council officer recommendation used a merits based approach for the subject land in the form of a ResCode assessment. The General Residential Zone does not prescribe a minimum or maximum lot sizes but allows a design based on the characteristics of the land.

The overall proposal meets required ResCode standards under Clauses 55 (two or more dwellings) and Clause 56 (Residential subdivision). Proposed Lot 2 has sufficient space for a minimum building envelope of 10 by 15m, as required under Standard 8 of Clause 55 (ResCode).

A two lot subdivision is required to meet the requirements of Clause 56 and the following clauses, 56.03-5, 56.04-2, 56.04-3, 56.04-5, 56.06-8 to 56.09-2.

Objective	Comments
<p><u>Clause 56.01-01 – Subdivision Site and Context Description</u></p> <p>The site and context description may use a site plan, photographs or other techniques and must accurately describe:</p> <ul style="list-style-type: none"> <li>• In relation to the site:                             <ul style="list-style-type: none"> <li>○ site shape, size, dimension and orientation</li> <li>○ levels and contours of the site</li> <li>○ natural features including trees and other significant vegetation, drainage lines, water courses, wetlands, ridgelines and hill tops</li> <li>○ the siting and use of existing buildings and structures</li> <li>○ street frontage features such as poles, street trees and kerb crossovers</li> <li>○ access points</li> <li>○ location of drainage and other utilities</li> <li>○ easements</li> <li>○ any identified natural or cultural features of the site</li> <li>○ significant views to and from the site</li> <li>○ noise and odour sources or other external influences</li> <li>○ soil conditions, including any land affected by contamination, erosion, salinity, acid sulphate soils or fill</li> <li>○ any other notable features or characteristics of the site</li> <li>○ adjacent uses</li> <li>○ any other factor affecting the capacity to develop the site including whether the site is affected by inundation.</li> </ul> </li> </ul>	<p>The proposed subdivision is consistent with neighbourhood character. The character is defined by a mix of residential densities and built form comprising single dwellings on a range of lot sizes.</p> <p>Houses are typically single or two storeys and take advantage of the slope and views across the township.</p> <p>The proposal is consistent with the pattern of development along Sedgwick Street and McLean Street.</p> <p>There is one significant exotic tree located at the rear of the existing dwelling. This tree will be retained and will be located in between the existing dwelling and the proposed dwelling.</p> <p>The neighbourhood and site description is provided below.</p>
<p><u>Clause 56.01-2 – Subdivision Design Response</u></p> <p>The design response must explain how the proposed design:</p> <ul style="list-style-type: none"> <li>• derives from and responds to the site and context description</li> <li>• responds to any site and context features for the area identified in a local planning policy or a Neighbourhood Character Overlay</li> <li>• responds to any relevant objective, policy, strategy or plan set out for the area in this scheme</li> <li>• meets the relevant objectives of Clause 56 and 56.01-02.</li> </ul>	<p>The design has been derived after assessing and reflecting the development on the surrounding sites. This area has a good mixture of larger and smaller blocks each with the benefit of northerly outlook achieved with sloping north facing land above Sedgwick Street.</p> <p>The architectural styles show a mix of skillion and hipped or gable roofed homes, mostly single storey and a mixture of colorbond, weatherboard and brick cladding.</p> <p>Secluded private open space is not a feature, instead properties have minimal boundary fencing and scattered planting and trees that create a relaxed a green setting.</p> <p>The area to the back of the site has been chosen as it can utilise the existing side street for access, and to provide some separation from the existing dwelling on site and allow views over and north light in to the home without compromise privacy of the existing home. The existing planting on Mclean Street will remain.</p>
<p>Clause 56.03-5 - Neighbourhood Character</p>	<p>The application is consistent with the existing and desired</p>

<p><u>Objective</u> To design subdivisions that respond to neighbourhood character. Subdivision should:</p> <ul style="list-style-type: none"> <li>• respect the existing neighbourhood character or achieve a preferred neighbourhood character consistent with any relevant neighbourhood character objective, policy or statement set out in this scheme</li> <li>• respond to and integrate with the surrounding urban environment</li> <li>• protect significant vegetation and site features.</li> </ul>	<p>character of Marysville. Significant vegetation on the property will be protected.</p>
<p><u>56.04-2 - Lot Area and Building Envelopes Objective</u> If lots of between 300sqm and 500 sqm are proposed to contain dwellings that are built to the boundary, the long axis of the lots should be within 30 degrees east and 20 degrees west of north unless there are significant physical constraints that make this difficult to achieve.</p>	<p>This has been achieved by the design of the proposed dwelling.</p>
<p><u>56.04-3 - Solar Orientation of Lots Objective</u> To provide good solar orientation of lots and solar access for future dwellings</p>	<p>The dwelling has been designed to provide maximum northern light into the dwelling.</p>
<p><u>56.04-5 - Common Area Objectives</u></p>	<p>Not applicable as no common area is proposed</p>
<p><u>56.06-8 - Lot Access Objective</u> To provide for safe vehicle access between roads and lots.</p>	<p>Access to the proposed lot will be from Mclean Street with no safety concerns.</p>
<p><u>56.09-2 - Utilities</u> To maximise the opportunities for shared trenching. To minimise constraints on landscaping within street reserves.</p>	<p>Access to services is readily available.</p>

#### Clause 42.02 - Vegetation Protection Overlay

The purpose of the Vegetation Protection Overlay is to protect areas of significant vegetation and ensure that development minimises the loss of vegetation. There is no vegetation proposed to be removed as part of this application. The property is not vegetated and reasonably clear. Therefore meets the provisions of the Vegetation Protection Overlay 1.

#### Clause 44.06 - Bushfire Management Overlay

The application was accompanied by a Bushfire Management Statement and Bushfire Management Plan. The CFA required some minor changes to the Bushfire Management Plan, the amended Bushfire Management Plan has been provided to the CFA and we hope to receive conditional consent shortly.

#### **Discussion - Issues Raised by Objector**

Inappropriate to have dual occupancies with all existing built-on properties being single dwellings  
The proposal includes an application to subdivide the land, which would result in a single dwelling on a lot. There are two or more dwellings on lots throughout Marysville and it is considered in keeping with neighbourhood character.

Marysville is a holiday destination for which low density is the most appropriate, with higher density being more appropriate closer to the CBD part of Marysville;

While a greater intensification of residential development will alter the existing development settlement pattern in the area, Council officers consider the proposal acceptable in the General

Residential Zone that provides for housing in fully serviced areas. While the property is not on the main street it is approximately 300m from Murchison Street and well within in the township of Marysville.

Privacy in to the objector's rear future garden

The proposal provides sufficient privacy that can reasonably be expected in an established residential area. The proposal meets ResCode standards for dwelling siting and design. It is considered unreasonable that the proposal be rejected or modified to accommodate a future dwelling on the adjoining lot that has not yet applied for a planning or building permit. It is considered that there is adequate room on the submitter's lot to site and design a future dwelling and meet ResCode standards for a dwelling.

The submitter has suggested that the front deck of the proposed house should face McLean Street, with windows along east and north being higher and smaller. However, this would be considered a poor design outcome as it would result in the future dwelling receiving minimal direct daylight.

In response to these concerns, a requirement for the permit holder to include screening from the deck has been included.

Applicant notes 'minimal boundary fencing' but would have to build high fence to block looking into back yard.

Fencing between properties is regulated under the *Fencing Act* and is not a direct planning matter. Fencing does not require any planning consent to either build or remove so cannot be readily considered through this application process.

**Conclusion**

It is considered by Council officers that all issues raised in the objection can be satisfactorily addressed. The proposal meets planning policies, controls and standards for residential subdivision and development in an established, serviced residential area. Privacy can be reasonably maintained on both the objector's and applicant's lots through meeting residential design standards and it is considered unreasonable to refuse the application to accommodate a future dwelling that has not been designed or applied for. It is considered that the proposal is suitable for approval, subject to appropriate conditions.

**Council Plan/Strategies/Policies**

This report is consistent with the *Council Plan 2017-2021 Our Place* strategic objective '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'.

**Relevant Legislation**

The proposal has been assessed under the provisions of the Murrindindi Planning Scheme and the *Planning and Environment Act 1987*.

**Financial Implications and Risk**

There are no financial implications or risks associated with this report.

**Conflict of Interest**

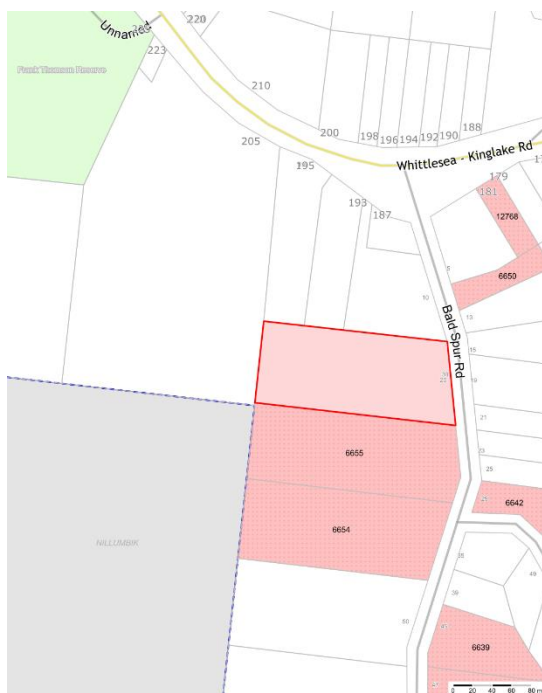
There are no declared conflicts of interest by Council officers in relation to this report.

## 8.5 PROPOSED FARM SHED, 20 BALD SPUR ROAD, KINGLAKE CENTRAL

Attachment(s): Attachments (refer Attachment 8.5)  
Submissions (distributed to Councillors separately)

Land: 20 Bald Spur Road, Kinglake Central  
Proposal: Development of a farm shed  
Applicant: SL Molenkamp  
Zoning: Farming  
Overlays: Bushfire Management  
Environmental Significance – Schedule 1 (High Quality Agricultural Land)  
Restructure

### Locality Plan



### Purpose

This report recommends that a Notice of Decision to grant a planning permit be issued for the development of a farm shed at 20 Bald Spur Road, Kinglake Central. One objection has been received.

### Officer Recommendation

That Council issue a Notice of Decision to Grant a Planning Permit for the development of a farm shed at 20 Bald Spur Road, Kinglake Central, subject to the following conditions:

1. Prior to the commencement of the works, floor and elevation plans of the proposed farm shed must be submitted to and approved by the Responsible Authority. Submitted plans must indicate external building materials, colours and one side of the shed to be open sided. When approved, the plans will be endorsed and form part of this permit.
2. The layout of the site and the size and type of the proposed building and works, including the materials of construction, as shown on the endorsed plans shall not be altered or modified without the consent in writing of the Responsible Authority.
3. This permit shall expire if the development hereby permitted is not completed within two years of the date hereof, or any extension of such period the Responsible Authority may allow in writing. A request for an extension of time may be made



before or within six months after the permit expiry date, where the development allowed by the permit has not yet commenced, or within 12 months where the development allowed by the permit lawfully commenced before the permit expired.

4. All external cladding including the roof and trims of the building allowed must be coloured or painted in muted shades of green, brown or charcoal, or in a colour approved in writing by the Responsible Authority.
5. The proposed shed may be used for storage purposes only and must not contain facilities that will allow the building to be used for the purposes of accommodation.

#### **Country Fire Authority (CFA)**

6. Before the development starts, a bushfire management plan must be submitted to and endorsed by the Responsible Authority. The plan must show the following bushfire protection measures, unless otherwise agreed in writing by the CFA and the Responsible Authority:
  - a. Include a site plan showing the proposed farm shed, site boundaries, existing dwelling and area of defendable space in accordance with detailed requirements of Condition 1).
  - b. The outbuilding must be located a minimum distance of 10 metres (m) from any dwelling on the subject site and adjacent sites.
  - c. Show an area of defendable space for a distance of 10m around the proposed building or to the property boundary where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:
    - i. Grass must be short cropped and maintained during the declared fire danger period.
    - ii. All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
    - iii. Within 10m of a building, flammable objects must not be located close to the vulnerable parts of the building.
    - iv. Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
    - v. Shrubs must not be located under the canopy of trees.
    - vi. Individual and clumps of shrubs must not exceed 2 square metres in area and must be separated by at least 5m.
    - vii. Trees must not overhang or touch any elements of the building.
    - viii. The canopy of trees must be separated by at least 2m.
    - ix. There must be a clearance of at least 2m between the lowest tree branches and ground level.

#### **Notations**

1. This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
2. A site assessment for determining the bushfire attack level (BAL) in relation to the construction of a building has not been considered as part of this planning permit application.

## **Background**

### The Land and Surroundings

The subject land is 1.63 hectares (ha) and has an existing dwelling and outbuilding onsite. There are patches of vegetation to the west of the site. The subject land is west of the Kinglake Township and south of Whittlesea-Kinglake Road.

There are two heavily vegetated lots to the south of the subject land which have restrictions preventing them from being developed with dwellings, these properties are also owned by the subject land owner. To the north are lots generally under 1ha and developed with dwellings. There is a church on an adjoining property to the north with access off Whittlesea-Kinglake Road. The property to the north-west is undeveloped and heavily vegetated.

The area is in the Farming Zone with a Bushfire Management Overlay, Environmental Significance Overlay and Restructure Overlay. The area is made up of small lots with single dwellings.

### The Proposal

The application is for a shed to store farm machinery. The shed would be 12m x 6m in size and situated approximately 4m from the common boundary with the adjoining property and 15m from a row of screen trees on that adjoining property. No detailed building plans have been submitted to date, although the applicant has indicated that the shed will be open on one side and of better brick construction. A planning permit is required under the Restructure Overlay and Farming Zone, as it would be less than 100m from neighbouring dwelling and 5m from the boundary.

### Notification

Notice of the application was provided in the form of letters to adjoining, opposite and nearby property owners and occupiers. At the end of the notice period a single objection from an adjoining property was received. The grounds of objection are summarised below:

- requesting clarification as to whether one side of the shed is to be open or that all walls are to be better brick
- better brick appears to be more the basis of a dwelling and a precursor to a future dwelling than a machinery shed but have no issue with a machinery shed
- this proposal is not for a dependent person's unit but one could be applied for in the future
- this development would open the likelihood of future applications that place demands on objector's property, such as clearing and fencing.

The issues raised by the submitter are discussed further in this report.

### Referrals

The application was referred to the Country Fire Authority (CFA), Goulburn Murray Water (GMW), Goulburn Broken Catchment Management Authority (GBCMA), Department of Environment Land Water and Planning (DELWP), and Regional Roads Victoria (RRV), who have raised no objections subject to conditions on any permit that may issue.

CFA had no objection, with recommendation for inclusion of a condition requiring a bushfire management plan indicating defensible space of 10m around the proposed building.

DELWP had no objection with recommendation to advise the applicant of current policies applying to the protection of native vegetation.

GMW, GBCMA and RRV had no objection or conditions.

**Discussion**Issues Raised by Objector

The applicant has responded to issues raised in the objection, noting that:

- trailers and machinery are used for private purposes only
- the front of the shed will be left open for access
- shipping containers on the land are not the landowners and will be removed
- there will be no storage of rubbish and no noise
- besser block has been selected as a more fire resistant material than colorbond
- cannot see how the proposal can affect a neighbour's block as there is vegetation screening.

It is considered by Council officers that the proposal has satisfactorily met the objector's concerns. Further detailed plans of the shed are required and when assessed and approved, can guarantee the objector's concerns regarding maintaining one side of the shed open and to ensure the use of reasonable building materials. The objector's amenity is fully protected with the proposed shed being approximately 80m from the objector's dwelling and screened from it by vegetation at the southern edge of the objector's property.

State, Regional and Local Policy

Clause 02.03 Strategic Directions is a local policy which aims to protect environmental values, including native vegetation.

The lot is within a Bushfire Prone Area and is subject to the Bushfire Management Overlay. Clause 13.02-1S aims to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. While an application for a farm shed is not required to meet the requirements of the Bushfire Management Overlay, CFA have recommended that the proposal address the requirements due to the proximity of the existing dwelling.

Clause 14.01-2S Sustainable Agricultural Land Use ensures strategies for encouraging agricultural use of land, the application for a farm shed aligns with the *Murrindindi Planning Scheme*.

Farming Zone (Clause 35.07)

The primary purpose of this zone seeks to provide for agricultural uses. The application for a farm shed does not require a planning permit for the use. However, the buildings and works must be considered due to setback requirements of the zone.

Environmental Significance Overlay – Schedule 1 (High Quality Agricultural Land) (Clause 42.01)

The purpose of the overlay is to ensure development is compatible with environmental values, in particular to protect high quality agricultural land.

Bushfire Management Overlay (Clause 44.06)

The application was supported by a Bushfire Management Plan, as requested by CFA.

Restructure Overlay (Clause 45.05)

The purpose of the overlay is to preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development.

Bushfire Planning (Clause 53.02)

The purpose is to 'ensure that the location, design and construction of development appropriately responds to the bushfire hazard', the application is for a shed to be constructed of besser brick which will be able to meet the requirements.

**Conclusion**

It is considered that all issues raised in the objection can be satisfied through appropriate conditions in a planning permit. The proposal meets planning policies and controls and is suitable for approval.

**Council Plan/Strategies/Policies**

This report is consistent with the *Council Plan 2017-2021* Our Place strategic objective ‘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’.

**Relevant Legislation**

The proposal has been assessed under the provisions of the *Murrindindi Planning Scheme* and the *Planning and Environment Act 1987*.

**Financial Implications and Risk**

There are no financial implications or risks associated with this report.

**Conflict of Interest**

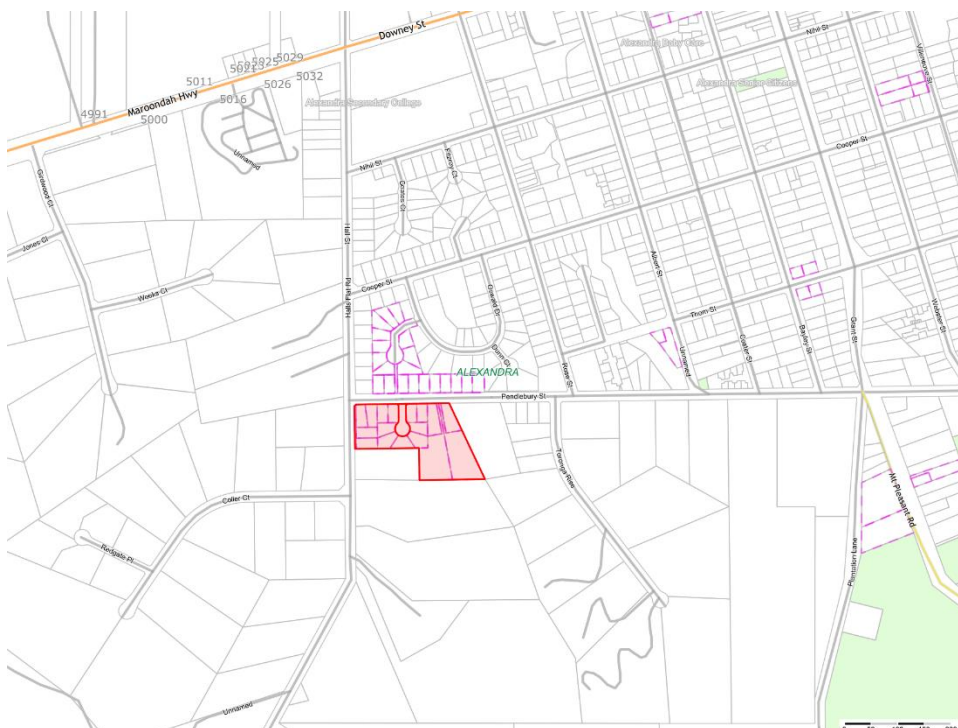
There are no declared conflicts of interest by Council officers in relation to this report.

**8.6 PROPOSED 16 LOT RESIDENTIAL SUBDIVISION, 15 HALLS FLAT ROAD ALEXANDRA**

Attachment(s): Attachments (refer Attachment 8.6)  
 Submissions (distributed to Councillors separately)

Land: 15 Halls Flat Road Alexandra  
 Proposal: 16 Lot Residential Subdivision and removal of native vegetation  
 Applicant: Discedo Pty Ltd  
 Zoning: General Residential Zone  
 Overlays: Nil

**Locality Plan**



**Purpose**

This report recommends that a Notice of Decision to grant a permit be issued for a 16 lot residential subdivision at 15 Halls Flat Road, Alexandra. The subdivision and the lot sizes are in character with the broader area and other residential lots.

**Officer Recommendation**

**That Council issue a Notice of Decision for a 16 lot subdivision at 15 Halls Flat Road Alexandra (Lot: 1 LP: 220673, Parish of Alexandra), subject to the following conditions:**

- 1. The subdivision must be in accordance with the endorsed plan. This endorsed plan can only be altered or modified with the prior written approval of the Responsible Authority, or to comply with statutory requirements.**
- 2. This permit shall expire if all stages of the plan of subdivision hereby permitted are not certified within two years of the date hereof or any extension of such period, the Responsible Authority may allow in writing on an application made before or within six months after such expiry.**
- 3. Before any works associated with the development commence, the developer shall appoint a competent and suitably qualified Project Manager who shall be responsible for the supervision and management of the project, to the satisfaction of the Responsible Authority.**
- 4. The owner of the land must enter into an agreement with:**
  - a telecommunications network or service provider for the provision of telecommunications services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time**
  - a suitably qualified person for the provision of fibre ready telecommunications facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.**
- 5. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:**
  - a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time**
  - a suitable qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.**
- 6. All new power lines within the subdivision must be underground.**
- 7. Pursuant to Section 18 of the *Subdivision Act 1988*, the applicant must pay to the Responsible Authority a sum equivalent to 5% of the site value of all land in the subdivision for public open space. This payment shall be made prior to the issue of a Statement of Compliance and may be adjusted in accordance with Section 19 of the *Subdivision Act 1988*.**
- 8. Prior to the issue of a Statement of Compliance, a Section 173 Agreement must be entered into at no cost to Council, which ensures the following:**
  - protection of the existing mature trees shown on plan on Lots 5, 7 and 2 except with the written consent of the Responsible Authority.**

**The Section 173 Agreement must be prepared by Council's solicitors, to the satisfaction of the Responsible Authority and must be recorded on the folio of the Register to the subject land pursuant to Section 181 of the *Planning and Environment Act 1987*.**

**9. Engineering**

**Prior to commencing construction of Pendlebury Street, the following must be submitted to and approved by the Responsible Authority:**

- a. a suitably prepared cost estimate for the works**
- b. provision of a cash bond or bank guarantee of 1.5 times of the construction cost as guarantee that the works will be constructed accordingly**
- c. written request from the applicant for Council to cancel the agricultural lease and bring the road into the road register.**

**Upon completion of the construction of the road to the satisfaction of the Responsible Authority, the cash bond will be refunded to the applicant.**

**10. Stormwater Management**

**Prior to the commencement of any works, a drainage plan or plans must be submitted to and approved by the Responsible Authority, detailing the following:**

- a. the levels of stormwater discharge estimated from a fully constructed development (including dwellings),\**
- b. provision of appropriate detention works, including onsite detention if necessary, to ensure that the discharge from the site to Hall Street is kept to pre development levels.**

**11. Design and Specification of Roads and Drainage**

**Prior to the commencement of any construction work on the development, the Developer must undertake or cause to be provided in accordance with the requirements of the Responsible Authority the following:**

- a. the layout for the roads shall generally be in accordance with the endorsed plan**
- b. the road and drainage design must meet the objectives for the minor and major drainage systems as defined in Infrastructure Design Manual (IDM) Guidelines**
- c. drainage pipes located in drainage easements shall be designed for 100-year Average Recurrence Interval (ARI) storm events to protect buildings**
- d. the road and stormwater drainage systems for the development shall incorporate water sensitive urban design and shall be designed in accordance with Urban Stormwater Best Practice Environmental Management Guidelines 1999**
- e. the road design shall incorporate measures to protect swale drain and infiltration areas by deterring unauthorised parking and/or access of vehicles in those areas**
- f. each lot must be independently drained to the satisfaction of the Responsible Authority. Drainage pipes from each lot should not discharge directly to the kerb and channel**
- g. a landscaping plan detailing features designed to enhance the visual and environmental amenity of the development. The plan should provide for extensive planting of predominately native trees, shrubs and grasses in the road reserves through and abutting the development**
- h. plans and specifications for the landscaping, roads and stormwater drainage system, including computations and supporting information must be prepared to the satisfaction of the Responsible Authority and be endorsed.**

**12. Road Reserve, Road Pavement, Drainage and Footpath Requirements**

The parameters used for the design and the construction of roads, footpaths and drainage must be as follows:

**a. court road and bowl (from Pendlebury Street to south):**

- minimum pavement width of 5.6 metres (m), with semi-mountable kerb and channel or concrete edge strip, measured invert to invert
- pavement shall consist of a minimum depth 250 millimetre (mm) of class 3 crushed rock placed on a suitably prepared subgrade. The pavement shall be primed and have a minimum two coat sealed (size 7mm and 10mm); or 30mm asphaltic final surface
- design and construct a 1.5m wide concrete footpath, on one side of the road
- design and construct all pavement, kerb and channel, concrete edging, drainage and footpaths
- the road shall be designed and constructed with batter slopes not steeper than 5 to 1 fill and 3 to 1 cut
- vehicle crossings for all lots shall be designed and constructed. The design of the crossings shall generally be in accordance with Council standard requirements for urban areas with kerb and channel with modifications as necessary to accommodate drainage system operation.

**b. Halls Flat Road (from the intersection of Pendlebury Street to southern end of Lot 1:**

- construct concrete edging and footpath on the east side from intersection of Pendlebury Street to southern end of Lot 1
- vehicle crossings for Lots 1 and 2 shall be constructed without adversely affecting the road side vegetation
- provision of necessary line marking and signs.

**c. Pendlebury Street (frontage to the subject land and including the intersection with Hall Street):**

- construction to be within the existing (nominally 20m wide) road reserve
- minimum pavement width of 7.1m, with semi-mountable kerb and channel or concrete edges, measured invert to invert
- pavement shall consist of a minimum depth 250mm of class 3 crushed rock placed on a suitably prepared subgrade. The pavement must be primed and have a two coat seal (size 7mm and 10mm); or 30mm asphaltic final surface
- design for 1.5m wide concrete footpath along northern side
- construct full width sealed road pavement with kerb/concrete edging and footpath on the north side. Construction of the footpath and kerb/concrete edging on the north side of the road is not required. In lieu of constructing the edging on the north side a 1.0m shoulder and conventional open drain shall be provided
- vehicle crossings for all lots shall be designed and constructed. The design of the crossings shall generally be in accordance with Council standard requirements for urban areas with kerb and channel with modifications as necessary to accommodate drainage system operation
- traffic calming measures to be installed at an agreed location, and in a manner that will reduce the speed of traffic past the development site

- an 'as constructed' set of plans for the entire work.

**13. Water Sensitive Urban Design – Owner Information**

The developer shall prepare and implement an information package to warn and educate owners, trades and service authorities of the presence of the drainage system and requirements to protect its integrity. The information package shall be prepared and implemented to the satisfaction of the Responsible Authority and should include:

- street signs
- tagging of individual properties to warn trades
- owner information and maintenance instruction procedures.

**14. Street/Road Name Allocation**

Prior to the application for certification of the subdivision being made under the *Subdivision Act 1988*, the applicant must lodge an application to Council for the approval of any street names and street numbers on the proposed plan of subdivision.

**15. Construction Management Plan (CMP)**

Before commencement of works for any stage of the subdivision, a CMP must be submitted to and approved by the Responsible Authority. The plan must include:

- a site specific plan showing proposed erosion and sedimentation control works
- techniques and intervention levels to prevent a dust nuisance, including provision of a water cart for dust suppression throughout the construction phase
- techniques to prevent mud and dirt being transported from the site to nearby streets
- the protection measures taken to preserve any vegetation identified for retention
- the barrier closing Pendlebury Street to through traffic not to be removed until such time as the whole of the road is completed.

**16. Prior to the issue of a Statement of Compliance by the Responsible Authority, the Developer must undertake or cause to be provided in accordance with the requirements of the Responsible Authority the following:**

- complete the construction of Pendlebury Street, road and court bowl including landscaping, roads, footpaths including Halls Flat Road, vehicle crossings and stormwater drainage systems in accordance with the endorsed plans and specification to the satisfaction of the Responsible Authority
- the maintenance of all construction works for a defect liability period of 12 months from the date construction is practically completed including the lodgement of a refundable bond calculated at 5% of the road and drainage construction costs. The Responsible Authority will only accept the works at the end of this period if there is no damage or defect identified during or at the conclusion of the defect liability period. Defects shall be rectified to the satisfaction of the Responsible Authority
- payment to the Responsible Authority of a supervision fee to a maximum of 2.5% of the actual cost of the construction works, the amount to be determined by the Responsible Authority (the developer must submit a copy of the Construction Contract Schedule, for verification of the amount by Council)



- payment to the Responsible Authority of an engineering design checking fee of up to 0.75% of the value of documented works, the amount to be determined by the Responsible Authority
- complete planting of trees, shrubs and grasses in accordance with the landscaping plan. Planting is to be completed at least nine months prior to conclusion of defects liability period
- install and provide details of permanent survey/bench marks
- fire plugs in accordance with the Country Fire Authority requirements (generally at a maximum spacing of 120m), at the subdivider's expense
- reticulated water supply, sewerage, telecommunications and electricity to each lot, in conjunction with the relevant authorities
- under road conduits for lot water services
- install public lighting in Pendlebury Street, the court bowl and road. Public street lighting shall be installed on steel or concrete poles for public street lighting, where underground electrical cables are required.
- telecommunications to be supplied by underground cabling
- reticulated water supply, sewerage, telecommunications and electricity to each lot, in conjunction with the relevant authorities
- full set of 'as constructed' digitised construction plans for roads and drainage (DXF format or equivalent format)
- an 'as constructed' set of plans for the entire work
- the subdivision must proceed in the order of stages as shown on the endorsed plans unless otherwise agreed to by the Responsible Authority.

**AusNet Electricity Services Pty Ltd (AusNet)**

**17. The applicant must:**

- enter in an agreement with AusNet for supply of electricity to each lot on the endorsed plan
- enter into an agreement with AusNet for the rearrangement of the existing electricity supply system
- enter into an agreement with AusNet for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AusNet
- provide easements satisfactory to AusNet for the purpose of 'Power Line' in the favour of 'AusNet Electricity Services Pty Ltd' pursuant to Section 88 of the *Electricity Industry Act 2000*, where easements have not been otherwise provided, for all existing AusNet electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land
- obtain for the use of AusNet any other easement required to service the lots
- adjust the position of any existing AusNet easement to accord with the position of the electricity line(s) as determined by survey
- set aside on the plan of subdivision reserves for the use of AusNet for electric substations
- provide survey plans for any electric substations required by AusNet and for associated power lines and cables and executes leases for a period of 30 years,

at a nominal rental with a right to extend the lease for a further 30 years. AusNet requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the *Transfer of Land Act* prior to the registration of the plan of subdivision

- provide to AusNet a copy of the plan of subdivision submitted for certification that shows any amendments that have been required
- agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AusNet. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the *Electricity Safety Act 1998*
- ensure that all necessary auditing is completed to the satisfaction of AusNet to allow the new network assets to be safely connected to the distribution network.

#### Goulburn Valley Water (the Corporation)

18. Payment of new customer contribution charges for water supply to the development, such amount being determined by the Corporation at the time of payment.
19. Provision of a reticulated water supply and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation.
20. Any existing water service that crosses any of the proposed allotment boundaries within the proposed development must be disconnected and re-located at the developer's expense, to be wholly within one allotment only, including notification of the proposed lot to be serviced by the existing water meter, to the satisfaction of the Goulburn Valley Region Water Corporation.
21. Payment of new customer contributions charges for sewerage services to the development, such amount being determined by the Corporation at the time of payment.
22. Provision of a reticulated water supply and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation.
23. Payment of new customer contributions charges for sewerage services to the development, such amount being determined by the Corporation at the time of payment.
24. Provision of reticulated sewerage and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation (the works may include, but not be limited to the construction of a sewerage pumping station, rising mains and gravity mains).
25. Provision of easements in favour of the Goulburn Valley Region Water Corporation over all existing and proposed sewer mains located within private property.
26. The operator under this permit shall be obliged to enter into an agreement with Goulburn Valley Region Water Corporation relating to the design and construction of any sewerage or water works required. The form of such agreement shall be to the satisfaction of the Corporation. A copy of the format of the agreement will be provided on request.
27. The land to be included in an extension of the Sewer District and the owner agree to contribute to the actual cost to extend the District Boundary necessary to provide

reticulated sewer to this development. Such amount being determined by the authority at the time of payment.

28. The plan of subdivision lodged for certification is to be referred to the Goulburn Valley Region Water Corporation pursuant to Section 8(1) of the *Subdivision Act 1988*.

### **Country Fire Authority (CFA)**

#### **29. Hydrants**

Prior to the issue of a Statement of Compliance under the *Subdivision Act 1988* the following requirements must be met to the satisfaction of the CFA:

- above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m and hydrants must be no more than 200m apart. These distances must be measured around lot boundaries
- the hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the CFA

Note - CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting purposes' available under publications on the CFA's website [www.cfa.vic.gov.au](http://www.cfa.vic.gov.au) .

#### **30. Roads**

Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width:

- the average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50m. Dips must have no more than a 1 in 8 (12%) (7.1 degrees) entry and exit angle
- curves must have a minimum inner radius of 10m
- have a minimum trafficable width of 3.5m and be clear of encroachments for at least 1.5m on each side and 4m above the access way.
- roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

### **Department of Environment, Land, Water and Planning (DELWP)**

31. Before works start, the permit holder must advise all persons undertaking the vegetation removal and road works of all relevant permit conditions of this permit.
32. To offset the removal of 0.321 hectares (ha) of native vegetation the permit holder must secure a native vegetation offset, in accordance with the 'Guidelines for the removal, destruction or lopping of native vegetation' (DELWP 2017) as specified below:
- a. a general offset of 0.153 general habitat units
  - b. located within the Goulburn Broken Catchment Authority boundary or Murrindindi Shire boundary
  - c. with a minimum strategic biodiversity score of 0.451
  - d. the offset secured must provide protection of at least five large trees.

**33. Before any native vegetation is removed, evidence that the required offset for the project has been secured must be provided to the satisfaction of Murrindindi Shire Council. The evidence is one or both of the following:**

- a. **an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site and/or**
- b. **credit extract allocated to the permit from the Native Vegetation Credit Register.**

**A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this permit. Within 30 days of endorsement of the offset evidence, by the Responsible Authority, a copy of the endorsed offset evidence must be provided to DELWP.**

### **Notations**

- 1. All works must be designed and constructed in accordance with Council's Infrastructure Design Manual.**

### **Background**

#### The Land and Surroundings

The subject land is generally clear with some significant remnant native vegetation, which is to be protected by a Section 173 Agreement. To the north, south and east the land is in the General Residential Zone, and there is some Low Density Residential Zone further to the west. A planning permit for a residential subdivision was granted on the land to the north earlier this year. The property is within the township boundaries of Alexandra, and slopes down from Pendlebury Street towards Cooper Street and Halls Flat Road.

#### Proposal

The application proposes a 16 lot residential subdivision. Some native vegetation will be required to be removed. This application is a continuation of the 20-lot subdivision currently taking place at Oswald Drive.

There are five significant trees on the property that will be protected as part of the subdivision.

#### Notification

Notice of the application was provided in accordance with the requirements of the *Planning and Environment Act 1987* as follows:

- letters to adjoining and nearby property owners
- notice of application displayed on the subject land
- notice of application placed in the Alexandra and Eildon Standard.

Two submissions were received to the initial application and a meeting of parties was held to discuss the issues raised. The application was amended to the current proposal.

Both submissions remain outstanding, and the concerns can be summarised as follows:

- increased use of Pendlebury Street
- lack of clarity regarding whether Pendlebury Street will be sealed.

A detailed response to the grounds of objection is set out further in this report.

### **Referrals**

This application was referred to Goulburn Valley Water, Country Fire Authority (CFA), AusNet Electricity Services Pty Ltd and the Department of Environment, Land, Water and Planning (DELWP). No objections were received subject to conditions.

**Discussion - Issues Raised by the Objectors**Increased use of Pendlebury Street

The proposed subdivision will result in increased use of Pendlebury Street.

At the meeting of parties the issue of speed along Pendlebury Street was discussed. It was submitted that Pendlebury Street will have a 50km/h speed limit. Given concerns over speeding, the developer has agreed to install speed management controls.

Confusion over whether Pendlebury Street will be sealed and concerns over dust created during construction

Pendlebury Street will be required to be sealed as part of the statement of compliance for the subdivision.

Any approval will include conditions requiring the barrier up the top of Pendlebury Street to remain until the road is sealed.

**Planning Considerations**Planning Policy Framework

Council officers consider this application to meet local and State planning policy.

Clause 11.03-3S Peri-urban Areas sets out the objective - to manage growth in peri-urban areas to protect and enhance their identified valued attributes.

The strategies to achieve this include:

- provide for development in established settlements that have capacity for growth
- enhance the character, identity, attractiveness and amenity of peri-urban towns.

The objective of Clause 12.01-2S Native Vegetation Management to ensure there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

Strategies:

- avoid the removal, destruction or lopping of native vegetation
- minimise the impacts from the removal of native vegetation that cannot be avoided
- provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

The applicant has sort to minimise the removal of native vegetation where possible. The protection of the large red gums is a reflection of this attempt.

Clause 15.01-3S Subdivision Design aims to ensure the design of subdivision achieves attractive, safe, accessible, diverse and sustainable neighbourhoods. This can be achieved by ensuring the development of new residential areas should be designed to create liveable and sustainable communities.

Council officers are satisfied that this proposed subdivision is consistent with the above policies.

General Residential Zone

The purpose of Clause 32.08 General Residential Zone is to:

- encourage development that respects the neighbourhood character of the area
- encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

It is considered that the proposal will respect the neighbourhood of the area. The lots are of similar size to those nearby. The subject land is on the outskirts of Alexandra. There is existing infrastructure. The lots will be required to be connected to services.

#### Clause 56 – Subdivision (ResCode)

Clause 56 of the *Murrindindi Planning Scheme* sets out State planning provisions relating to the subdivision of land in the general residential zone. The following table provides details on whether the proposal complies with these requirements. Under these provisions a development:

- must meet all of the objectives
- should meet all of the standards.

A subdivision of between 16 and 59 lots must address all of Clause 56 exempt 56.03-1 to 56.03-3, 56.03-5, 56.06-1 and 56.06-3.

If Council is satisfied that an application for an alternative design solution meets the objective, the alternative solutions may be considered.

		Objectives	Standards	Comments
		✓ - Compliance ✗ - Non compliance NA - Not Applicable		
C1	Policy Implementation	✓	✓	This standard seeks to ensure that the application accurately describes how the subdivision is consistent with and implements any relevant plans for the area.  The application provided the relevant documents and supporting information to address the provisions of ResCode. The subject land is not in a development plan overlay, so the only requirements that need to be addressed are included in these documents.
C5	Built Environment Objective	✓	✓	This standard seeks to create urban places with identity and character.  The built environment should implement urban design strategies, provide environments that are functional, safe and attractive, be integrated and contribute to a sense of place. In the absence of a broader states neighbour character, the Responsible Authority must consider the implied character of the area. In this case, the character has been developed through the establishment of single dwellings on lot sizes similar to those proposed with the application.  The layout and lot sizes proposed in this subdivision will continue to provide a consistent character response for the area.
C7	Lot Diversity and Distribution	✓	✓	This standard seeks to provide higher density within walking distances, and to provide a range of lot sizes suited to a variety of dwellings and household types.  The proposed subdivisional layout provides for the development of an additional 16 allotments within an existing residential area, with lot sizes ranging between 700 and 4200 square metres (sqm) in size. The shapes of the allotments are generally in accordance with the existing character of the area.
C8	Lot Area and Building Envelopes	✓	✓	This standard requires that each lot is capable of enabling the appropriate siting and construction of a dwelling.  Under this provision, any lot more than 500sqm must be able to contain an envelope of 10m x 15m, and may

		Objectives	Standards	Comments
		✓ - Compliance ✗ - Non compliance NA - Not Applicable		
				<p>contain a building envelope but this is not a requirement. Each lot is also able to accommodate a dwelling in a manner that protects the solar access of adjoining dwellings in accordance with the building regulations.</p> <p>The dimensions of each lot are such that this standard is achieved, and building envelopes have not been applied to allow more freedom of placement for future owners.</p>
C9	Solar Orientation of Lots	✓	✓	<p>This standard seeks to provide good solar orientation for future dwellings.</p> <p>Without any significant topographical constraints, the dimensions of each lot are considered adequate to allow for the protection of solar access to each lot.</p>
C10	Street Orientation	✓	✓	<p>This standard seeks to provide for a lot layout that contributes to social interaction, safety and security.</p> <p>The site is constrained in relation to how the streets can be developed by the existing road reserve in Pendlebury Street and the location of the access into the property from the first two stages of the subdivision.</p>
C11	Common Areas	NA	NA	
C12	Integrated Urban Landscape	✓	✓	<p>This standard seeks to provide for attractive and continuous landscaping in streets and public spaces, and to protect remnant native vegetation.</p> <p>Landscape design for the development should create attractive landscapes and respond to the broader area in terms of character. The site should also protect and enhance natural features of the site.</p> <p>The proposal will include the protection of five trees, to be protected with a Section 173 Agreement. These trees have been offset.</p>
C13	Public Open Space Provision	✓	✓	<p>This standard seeks to provide for public open space for all users.</p> <p>Council officers are not able to request further contributions to open space for this development.</p>
C15	Walking and Cycling Network	✓	✓	<p>This standard seeks to provide for safe movement through neighbourhoods for pedestrians and cyclists.</p> <p>The application is not providing specific paths for bicycling, but there is the provision of footpaths on all new roads being constructed. These will allow for pedestrian movements, with the streets of a standard to accommodate the cycling requirements.</p>
C17	Neighbourhood Street Network	✓	✓	<p>This standard seeks to provide for direct, safe and easy movement through and between neighbourhoods.</p> <p>The design of the subdivision must take account of the existing network, provide for safe and efficient access to all lots, and for safe movement of vehicles.</p> <p>It is proposed to construct the cul-de-sac (Cleary Close) and the remainder of Pendlebury Street in this subdivision.</p> <p>Both roads will be subject to conditions on any permit that may issue requiring them to be sealed, have kerb and channel and footpaths in accordance with the requirements of the IDM.</p>
C18	Walking and Cycling Network	✓	✓	<p>This standard seeks to ensure footpaths, shared paths and cycle path networks can accommodate all users.</p>

		Objectives	Standards	Comments
		✓ - Compliance ✗ - Non compliance NA - Not Applicable		
	Detail			Footpaths will be required to be constructed as part of this subdivision, in accordance with the IDM.
C19	Public Transport Network Detail	✓	✓	This standard seeks to provide access to public transport networks. There is not a formal public transport system within the township of Alexandra, with the only public transport option being a bus to and from Melbourne each day. This proposal will have the same access to this available transport as the rest of the township.
C20	Neighbourhood Street Network Detail	✓	✓	This standard seeks to ensure the design and construction of streets is accessible and safe for all users.  The proposed road construction standard for Pendlebury Street and the cul-de-sac is for a sealed road of a required width, with semi-mountable kerb.
C21	Lot Access	✓	✓	This standard seeks to provide for safe vehicle access between roads and lots.  The proposed semi-mountable kerb will allow for access to each property at any point without the need for delineated driveway entries. This will allow each site to place the driveway in the most appropriate location for each individual dwelling.
C22	Drinking Water Supply	✓	✓	This standard seeks to provide for drinking water. Drinking water will be supplied by Goulburn Valley Water and will be connected as part of the subdivision.
C23	Reused and Recycled Water	✓	✓	This standard seeks to provide for the substitution of drinking water for non-drinking purposes with reused and recycled water.  There is no formal reused or recycled water supply within Alexandra from Goulburn Valley Water, however each individual allotment will be able to install recycled systems as they wish.
C24	Waste Water Management	✓	✓	This standard seeks to ensure all properties have adequate access to waste water management systems. Sewerage will be supplied by Goulburn Valley Water to all allotments.
C25	Stormwater Management	✓	✓	This standard seeks to minimise any offsite impacts from stormwater, and to ensure streets operate adequately in storm events.  Some onsite detention may be required, and will be subject to conditions for drainage computations and plans on any permit that may issue.
C26	Site Management	✓	✓	This standard seeks to ensure the protection of infrastructure and the surrounding area during the construction phase of the development.  The site is currently clear of rubbish, with all construction waste to be contained onsite and removed when the development is completed. There will be requirements on any permit that may issue to manage dust and other impacts through the construction phase.
C27	Shared Trenching	✓	✓	This standard seeks to maximise shared trenching opportunities.  Power and telecommunications will be placed in a shared trench, and all opportunities to share trenching



		Objectives	Standards	Comments
		✓ - Compliance ✗ - Non compliance NA - Not Applicable		
				will be undertaken where agreed by servicing authorities.
C28	Electricity, Telecommunications and Gas	✓	✓	This standard seeks to ensure the development is serviced with the available public utilities. Electricity and telecommunications will be provided as part of the subdivision. Gas is not available in Alexandra and will not be supplied.
C29	Fire Hydrants	✓	✓	This standard requires the provision of hydrants to enable firefighting access. Fire hydrants will be supplied in accordance with any requirements from the CFA.
C30	Public Lighting	✓	✓	This standard seeks to allow for the provision of street lighting for safety at night. Lighting will be designed and supplied in accordance with the requirements of both Council and AusNet Pty Ltd.

### 52.17 Native Vegetation

The purpose of Clause 52.17 Native Vegetation is to:

- ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation
- manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

This application was accompanied by a Biodiversity Offset Report. The landowner will be required to pay to offset all vegetation that will be required to be removed or will be considered lost as a result of the subdivision.

This application was referred to the DELWP who had no objection to the proposal subject to conditions.

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

This report is consistent with the *Council Plan 2017-2021* Our Place strategic objective '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.'

### **Relevant Legislation**

The proposal is being considered under the provisions of the *Murrindindi Planning Scheme* and the *Planning and Environment Act 1987*.

### **Financial Implications and Risk**

There are no financial implications or risks associated with the consideration of this application for planning permit.

### **Conflict of Interest**

There are no declared conflicts of interest by Council officers preparing this report.

### **Legal/Policy Issues**

The following provides additional planning scheme provisions relating to the consideration of the application proposal.

## 8.7 RESPONSE TO PETITION – SEALING OF SALEYARDS STREET, YEA

### Purpose

This report provides Council with a response to the petition tabled at the Ordinary Meeting of Council, 28 August 2019. The petition requests the sealing of Saleyards Street, Yea.

### Officer Recommendation

#### That Council:

1. note this report and that Council officers have reviewed the requests from petitioners
2. request that the Manager Community Assets consult with landowners likely to be affected to seek their interest and willingness for Council to investigate the:
  - a. closure of the road between Saleyards Street and Smith Street or
  - b. contributions to a Special Charge Scheme to upgrade (sealing) the road so as to proceed to the declaration of a Scheme.
3. request that the Manager Community Assets write to the convenors of this petition advising them of the resolution.

### Background

A petition was tabled to Council at its Ordinary Meeting of 28 August 2019 relating to the sealing of Saleyards Street, Yea. The petition was submitted by Philip Armstrong and was signed by 19 people.

The petition requests that Council seals Saleyards Street for the following reasons:

1. Council permitted the initial subdivision of blocks on Saleyards Street to proceed without imposing a sealed road condition on the developer.
2. The recent approval of Planning Permit 2018/143 subdivision, subdivision at 6 Smith Street Yea, will increase traffic volumes on the unsealed section of Saleyards Street.
3. The dust created by the existing traffic on Saleyards Street is impacting on the health and wellbeing of the current residents. It is anticipated that this will only become worse with higher traffic flows.
4. In the notes provided by Council's Planning Department, as presented to Councillors for consideration of Planning Permit 2018/143 at the Council meeting on 24 April 2019, it states under Consideration of Objections – Traffic Impacts Relating to Nearby Roads:  
'Councils Development Engineer has advised that the existing construction standard of Moyle Street will accommodate the additional 8 new dwellings that will require access from this road' (Moyle Street).  
  
Nowhere in this report does the Council's Development Engineer give an opinion as to the suitability of Saleyards Street to accommodate additional traffic requiring access to the four allotments proposed off Smith Street.
5. In the same notes, Traffic Impacts to Nearby Roads, it states that:  
'No additional contributions will need to be made by existing residents to the north of Smith Street'. Saleyards Street is the only street north of Smith Street.

### Discussion

A detailed review of the request from the petitioners was conducted by Council officers. The outcome of the investigation is as follows:

1. 'Council permitted the initial subdivision of blocks on Saleyards Street to proceed without imposing a sealed road condition on the developer.'

Investigation outcome - records indicate that the Shire of Yea, at the time, did undertake road and drainage works for new developments. Council officers have, however, been unable to confirm that this street formed part of subdivision works that the Shire of Yea committed to undertake.

2. 'The recent approval of Planning Permit 2018/143 subdivision, subdivision at 6 Smith Street Yea, will increase traffic volumes on the unsealed section of Saleyards Street.'

Investigation outcome - a planning report advised that the subdivision will create a slight increase to traffic along Moyle and Smith Streets, however this is considered reasonable in the context of residential growth. The report further advised that Moyle Street is capable of taking additional traffic in its current form however Smith Street is currently gravel and is very steep. Access roads comprising the extension of Moyle Street and Smith Street shall be constructed as part of the subdivision development. With regard to Saleyards Street, it is anticipated that increased traffic volumes due to the new subdivision will be low. The majority of traffic impact may be from four lots that adjoin Smith Street, however it is anticipated that it is more likely that traffic movements will be along Moyle Street, as it is the direct sealed link to the Yea Township. The remaining lots adjoin Moyle Street and it is expected that traffic from these lots will travel along Moyle Street.

3. 'The dust created by the existing traffic on Saleyards Street is impacting on the health and wellbeing of the current residents. It is anticipated that this will only become worse with higher traffic flows.'

Investigation outcome - it is not anticipated that an increase in traffic volumes will occur once the subdivision in Smith Street is completed and that impact will be similar to that currently experienced by the residents of Saleyards Street.

The unsealed section of the road is in maintenance Standard 4 (access unsealed) as per the Council Road Management Plan. Six monthly inspections are carried out by Council officers. Defects detected during these inspections or reported to Council by community members are addressed in accordance with the Road Management Plan.

Council has recorded and responded to four road maintenance requests since 2016 for this road. One request concerned potholing of the road and 1 request for slow down signage, 1 in relation to dust issues and 1 requesting sealing. A further three requests related to roadside vegetation and furniture issues.

With regard to dust issues, Council discontinued the use of dust suppressants as a treatment on unsealed roads some years ago due to the high cost, lack of effectiveness and environmental concerns.

4. 'In the notes provided by Council's Planning Department, as presented to Councillors for consideration of Planning Permit 2018/143 at the Council meeting on 24 April 2019, it states under Consideration of Objections – Traffic Impacts Relating to Nearby Roads:

Council's Development Engineer has advised that the existing construction standard of Moyle Street will accommodate the additional 8 new dwellings that will require access from this road' (Moyle Street).

Nowhere in this report does the Council's Development Engineer give an opinion as to the suitability of Saleyards Street to accommodate additional traffic requiring access to the four allotments proposed off Smith Street.'

Investigation outcome - as noted above, it is anticipated that additional traffic volumes from the new subdivision will be low. The majority of impact will be from four lots that adjoin Smith Street. The remaining lots adjoin Moyle Street and it is anticipated that traffic exit from that area. It is also more likely, that those adjoining Smith Street will use Moyle Street as this is the direct link to the Yea Township.

As noted in the report to Council on the 24 April 2019, it would be unreasonable on planning grounds to require that the sealing of Saleyards Street form part of any conditions of permit for the subdivision development in Smith Street that may be issued.

5. 'In the same notes, Traffic Impacts to Nearby Roads, it states that:

'No additional contributions will need to be made by existing residents to the north of Smith Street'. Saleyards Street is the only street north of Smith Street.'

Investigation outcome - over recent years concerns have been raised with Council regarding the periodic deterioration of the road surface in the unsealed section of Saleyards Street between Meara Street and Smith Street. This has resulted in the need for frequent maintenance of the street including regular grading and in the past, seasonal dust suppression works.

Given the concerns of residents and the maintenance needs, Council officers undertook the preliminary steps to initiate a Special Charge Scheme. The continuation to further investigation and the consultation process for a proposed scheme requires demonstrated support by a significant number of property owners who would be liable to contribute to a proposed scheme.

In the 2015/16 financial year, twenty-six properties in Saleyards Street, Smith Street, Meara Street, Moyle Street, Raglan Street and The Parade were assessed and deemed to receive special benefit from the proposed works. Each property owner was mailed an outline of the proposed works and was invited to confirm their support or lack of support for the development of a Scheme via the survey provided. In accordance with the Council Policy, an indicative property cost based on per metre frontage was provided. No allowance was made for a Council contribution for any wider community benefit. The special rate to properties ranged from \$4,185 to \$42,972, with an average of \$12,179. This wide variation is due to:

- properties suitable for subdivision into multiple lots or development with higher density housing
- properties with a side or rear entrance to the proposed roads to be sealed
- wide mix of combinations of past works in the existing area (seal without kerb, kerb without seal, kerb and seal without path).

A total of 33 responses from the 35 surveys were received after 30 days from the mail out with 18 opposing and 5 surveys supporting the scheme. In summary, the 18 properties against represent 72% of the residents surveyed. As part of this consultation process, whilst there was a desire to manage dust issues, there was not sufficient demonstrated support to proceed with the instigation of a Special Charge Scheme to fund the proposed works.

Under Section 163 of the *Local Government Act 1989* (the *Act*) Council can only declare a scheme if it receives a majority agreement from affected landowners or it contributes a minimum of one third of the cost. Such a contribution would require a Council allocation of approximately \$170,000. Council's policy also states that there is a three year waiting period after a failed scheme investigation before instigating new consultation. This waiting period would expire at the completion of this financial year.

Section 163 of the *Act* is intended to enable a Council to recover the cost of capital works from property owners where those works will be of a special benefit to them. The benefit in this case, results from the proposed infrastructure work being additional to, or greater than the benefit to other properties in the broader community. Such works would also be of financial benefit effected in the increased property value if the infrastructure was improved. As the majority of road users in Saleyards Street are the residents of this street it is proposed that Council officers re-write to landowners likely to be affected to seek their interest and willingness to contribute to a Special Charge Scheme to upgrade (sealing) of the road so as to proceed to the declaration of a scheme.

At the presentation of the petition to Council, it was also suggested by the petitioner to close the Saleyards Street to through traffic at Smith Street. This is an alternate option to consider, but would require further consultation with property owners as this would affect

traffic movements by property owners in Saleyards Street who may wish a direct route of travel to the Melba Highway via Meadow Road.

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

Council adopted a *Special Charge Scheme for Infrastructure Works Policy* in November 2013 which sets out the policy framework and process for initiating a Scheme. The process to date has followed this Council policy and the relevant provisions of the *Act*.

This matter is consistent with the Council Plan 2017-2021 Our Place strategy to 'enhance community safety, resilience and liveability through improved planning, community engagement, and a fair and transparent approach to compliance'.

### **Relevant Legislation**

The relevant legislation is:

- *Road Management Act 2004* - Code Of Practice Operational Responsibility For Public Roads
- *Section 163 Local Government Act 1989* - special rate and special charge relates to the declaration of a Scheme and directs Council in the consideration of how special charges apply to properties where there is a special benefit in relation to the proposed works.

### **Financial Implications and Risk**

There are no current financial implications to Council at this stage.

### **Conflict of Interest**

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

### **Community and Stakeholder Consultation**

Internal consultation with Council Infrastructure Operations and Planning Units has been carried out in response to this petition.

## **9. OUR PEOPLE**

## **10. OUR PROSPERITY**

### **10.1 GRANTS AND CONTRIBUTIONS PROGRAM AUGUST 2019**

Attachment(s): Grants and Contribution Program Summary – August 2019 (refer Attachment 10.1)

### **Purpose**

The purpose of this report is to address the applications made to the August round of the 2019/20 Grants and Contributions Program, specifically recommendations to Council for decisions made by the Community Projects, Events and Sponsorships Assessment Committee.

### **Officer Recommendation**

**That Council:**

1. **endorse the following grants and contributions:**

	Applicant	Project	Funding sought	Community Grants Panel recommendation
1	Individual Sponsorship – Lachlan Nicholls	Sponsorship request to support Lachlan Nicholls to attend the Asian Oceania Modern Pentathlon Championships in Kunming China. Auspice by Narbethong CFA.	\$1,000	Supported in full with a sponsorship of \$1,000
2	Community Sponsorship – Fit to Drive	Fit to Drive Program – driver safety program delivered to year 11 students at Alexandra Secondary College and Yea High School.	\$270	Supported in full with a sponsorship of \$270

### Background

The Grants and Contributions Program provides the opportunity for community groups, not for profit organisations and businesses to seek funding to support a range of activities and initiatives.

### Discussion

Two applications for sponsorships were received in the August round of the Grants and Contributions Program.

The Community Projects, Events and Sponsorships Assessment Committee (Assessment Panel) has recommended supporting the following applications:

1. Lachlan Nicholls submitted an application for individual sponsorship to assist him to attend the Asian Oceania Modern Pentathlon Championships in Kunming China. Lachlan lives in Narbethong and trains locally using trails and recreational facilities in Narbethong and Marysville. The Assessment Panel recommended supporting this application in full with a sponsorship of \$1,000.
2. Fit to Drive Foundation submitted an application for community sponsorship to assist them to deliver the Fit to Drive education program to Yea High School and Alexandra Secondary College. The program provides information on safe driving and safe behaviours to year 11 students. The Assessment Panel recommended supporting this application in full with a sponsorship of \$270.

### Council Plan/Strategies/Policies

The Community Grants and Contributions Program delivers operational outcomes of the *Council Plan 2017-2021* Our People strategic objective 'to provide a seed funding pool to support community initiated projects' and Our Prosperity strategic objective 'in partnership with the community we will promote an environment in which business and community can thrive'.

The Community Grants and Contributions Program is guided by the Community Grants and Contributions Policy.

### Relevant Legislation

There is no legislation relating to this matter.

### Financial Implications and Risk

The Council Grants and Contributions Program budget for the 2019/20 financial year is \$230,000. A total of \$14,270 has been allocated in previous rounds and a further \$1,270 is recommended for this round (applications received in August 2019), leaving a balance of \$214,460 for the remainder of the financial year.

**Conflict of Interest**

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

**Community and Stakeholder Consultation**

The Community Projects and Events Grants applications are assessed by the Community Projects, Events and Sponsorships Assessment Committee including the Deputy Mayor, Portfolio Councillor and the Chief Executive Officer (CEO).

**11. OUR PROMISE****11.1 AUDIT AND RISK ADVISORY COMMITTEE MINUTES**

Attachment(s): 2019-09-13 Audit & Risk Advisory Committee Minutes (refer Attachment 11.2)  
2019-09-13 Audit & Risk Advisory Committee Attachments (distributed to Councillors separately)

**Officer Recommendation**

**That Council note and receive the minutes of the Audit and Risk Advisory Committee meeting held on 13 September 2019 (Attachment 11.2).**

**11.2 AUDIT AND RISK ADVISORY COMMITTEE ANNUAL REPORT**

Attachment(s): Audit & Advisory Committee Annual Report 2018/19 (refer Attachment 11.2)

**Purpose**

This report (as required by Section 2(O) of the Audit and Risk Advisory Committee Charter) provides details summarising the activities of the Committee during the previous financial year, that being July 2018 to June 2019.

The report was presented to the Audit and Risk Advisory Committee at its meeting on 13 September 2019 by Michele Sheward, Audit and Risk Advisory Committee Chair from July 2018 to June 2019. The Committee endorsed the report for presentation to Council.

Current Chair, Claude Baxter will present the report in person on behalf of Michele Sheward and the Audit and Risk Advisory Committee.

**Committee Recommendation**

**That Council receive the Audit and Risk Advisory Committee Annual Report for July 2018 to June 2019.**

**11.3 APPROVAL OF ANNUAL FINANCIAL STATEMENTS 2018/19**

Attachment(s): Financial Statements 2018/19 (refer Attachment 11.3a)  
Performance Statement 2018/19 (refer Attachment 11.3b)

**Purpose**

The purpose of this report is to approve in principle the draft audited Financial Report and Performance Statement for 2018/19.

The Draft Financial Report 2018/19 shows that Council continues to maintain a sound financial position.

**Officer Recommendation  
That Council:**

1. **approves in principle the Murrindindi Shire Council Financial Statements and Performance Statement for the year ended 30 June 2019 as attached to this report**
2. **authorise the Principal Accounting Officer to make minor amendments to the Financial Statements and Performance Statement for the year ended 30 June 2019 to meet the Victorian Auditor General's (VAGO) requirements**
3. **authorises the Cr Sandice McAulay (Mayor), Cr Leigh Dunscombe and the Chief Executive Officer to certify the Financial Report and Performance Statement in its final form after any changes recommended, or agreed to, by the auditor have been made.**

**Background**

As part of the requirements of Section 131 of the *Local Government Act 1989* and *Local Government (Finance and Reporting) Regulations 2014*, Council must pass a resolution giving its approval in principle to the Annual Financial Statements, which must comprise of the Financial Statements and Performance Statement, prior to submitting the report to the Auditor General.

Audit work has been completed by Council's external auditors and Council officers have prepared a draft 2018/19 Financial Report and Performance Statement for submission to the Victorian Auditor-General's Office (VAGO). A copy of the draft report and statements, forming the 'in principle' statements, are attached (refer to Attachments 11.3a and 11.3b).

The following process is required to ensure that Council's Financial Statements and Performance Statement are submitted to VAGO in a timely manner, enabling the Auditor General to officially express his opinion prior to the statutory deadline of 30 September 2019.

The initial step in the approval process is for Council's Audit and Risk Advisory Committee to review the draft statements and to recommend in principle approval to Council.

It is a requirement for Council to formally review the draft statements and to authorise two Councillors and the Chief Executive Officer to sign the final statements on behalf of, and with the full authority of Council. The 'in principle' approved statements and the Council resolution are provided to the external auditor.

The external auditor checks the 'in principle' approved statements. The statements, Council's resolution, and the external auditor's recommended Audit Report is then forwarded to VAGO for review.

The Auditor General reviews the statements and may request changes where appropriate. Council's Principal Accounting Officer, the Manager Business Services, then incorporates any requested changes by the Auditor General into the 'in principle' approved statements, where appropriate.

The Auditor General's Audit Report will then be issued to Council once the final signed statements have been received and checked by VAGO.

Council's Annual Report 2018/19, which incorporates the audited Financial Statements and Performance Statement and Auditor General's Report, must be forwarded to the Minister for Local Government by 30 September 2019.

**Discussion**

The draft financial statements that are attached to this report detail Council's financial position as at 30 June 2019, and a record of all financial activity that occurred during the 2018/19 financial year. It should be noted that these statements were prepared in accordance with Australian



Accounting Standards and the Model Accounts for Victorian Councils which are developed by Local Government Victoria and VAGO.

It should also be noted that these draft statements have been signed off by Council's external auditor RSD Audit, acting as agent for VAGO.

The financial statements were presented to Council's Audit and Risk Advisory Committee on 13 September 2019 where they were endorsed for adoption by Council at this meeting.

A summary of the draft financial results for the year ending 30 June 2019 is provided as follows.

#### Operating Performance – Income Statement Results Against Budget

	2018/19 Adopted Budget	2018/19 Actual	Variance
Income	34,626,000	40,300,809	5,674,809
Expenses	34,624,000	36,120,594	(1,496,594)
Surplus/(Deficit)	2,000	4,180,215	4,178,215

The income statement accounts for all Council revenue, including grants and contributions associated with capital works and all operating expenditure.

The operating surplus posted for the financial year of \$4.18 million was largely the result of increased revenue of \$5.67 million and increased expenses of \$1.49 million. Major contributing factors to this result include:

Line Item	Variance	Variance explanation
<b>Income</b>		
Grants - operating	1,732,497	Increased funding for Family Day Care (\$369,699) and Maternal & Child Health Services (\$47,667). The following grants were received but not budgeted: Rubicon Village Waste Water (\$225,000), Releasing the Floating City (\$200,000), Bushfires Commemoration (\$329,085), Spring Valley Recreation Reserve Change Rooms (\$149,328), Moving Murrindindi Community Cars (\$77,332), Flood (2017 National Disaster Funding) (\$256,460), U T Creek Restoration Works (\$40,000), Walk to School Program (\$15,000).
Grants - capital	1,485,137	The following grants were received, but not budgeted: Fixing Country Roads (\$1,172,732), Yea Recreation Resource Female Change Room (\$140,400), Kinglake Ranges Neighbourhood House (\$18,125), Marysville Tourism & Arts Centre (\$25,306), Bushfire Memorials (\$62,858), E-Waste Upgrades (\$59,700).
Contributions - non monetary	1,249,478	Council receives contributions in the form of infrastructure as a result of subdivisions and developer contributions. The timing and amount of such contributions is largely outside Council's control.
<b>Expenses</b>		
Materials and services	(1,390,600)	The 2018/19 budget figure does not include carried forward expenditure from 2017/18 (relating to unspent grants and projects). Carry forward adjustments were reported in Council's September Quarterly Financial Report at the 24 October 2018 Council Meeting. The carry forward amount relevant to materials and services adjustment equalled \$1,461,288.
Net loss on disposal of property, infrastructure, plant and equipment	(800,328)	Several major plant, fleet and machinery purchases/replacements originally budgeted were not procured in 2018/19. As a result, the proceeds from the sale of assets is below the budget estimate. This line also includes the end of financial year adjustments to the carrying value of assets disposed.
Increase/(decrease) in provision for landfill Liability	652,685	Landfill provision has decreased following the annual review of provision accounts.

A detailed analysis of all variances greater than \$500,000 or 10% is outlined in note 1.1 of the Financial Statements in Attachment 11.3a.

### Key Financial Ratios

An analysis of the key financial ratios reviewed by Council's auditors is provided below. This is a subset of all of the indicators which Council is required to report on as a part of its obligations under the Local Government Performance Reporting Framework (LGPRF).

Ratio	2015/16	2016/17	2017/18	2018/19	Comment
<b>Working Capital</b>					
Current assets compared to current liabilities	390.20%	537.67%	471.11%	590.22%	Assesses Council's ability to meet current commitments. A percentage greater than 100% is favourable.
<b>Rates Concentration</b>					
Rates compared to adjusted underlying revenue	60.33%	55.45%	58.66%	55.94%	Indicates Council's dependence on rates income. The higher the percentage, the higher the dependence.
<b>Loans and Borrowings</b>					
Loans and borrowings compared to rates	11.09%	7.06%	4.98%	3.25%	Indicates the level of long term debt being appropriate to Council's rating capacity. Low or decreasing level suggests an improvement in the capacity to meet long term obligations.

Council's working capital remained high in 2018/19 which is reflective of Council's strong cash levels and debt reduction strategy. All other key financial indicators remain well within acceptable limits for a small rural council.

Further financial performance indicators can be found on page 5 and 6 of the Performance Statement in Attachment 11.3b.

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

Reviewing the financial statements supports the *Council Plan 2017-2021 Our Promise* strategy to maintain Council's financial sustainability through sound financial and asset management'.

### **Relevant Legislation**

Council is required to produce audited Annual Financial Report and Performance Statement pursuant to the requirements and process outlined in the *Local Government Act 1989* and the *Local Government (Finance and Reporting) Regulations 2014*.

### **Financial Implications and Risk**

The review by the Audit and Risk Advisory Committee and the audit by VAGO's agent reduces the risk to the Council of inaccurate accounts.

The preparation of the annual financial statements is a statutory procedural matter and all associated costs are contained within Council's adopted budget.

### **Conflict of Interest**

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

### **Community and Stakeholder Consultation**

The development of the draft Financial Statements and Performance Statement have been undertaken in consultation with Council's external auditors (RSD Audit) and Council's Audit and Risk Advisory Committee.

## 11.4 MAV PANEL CONTRACTS FOR HUMAN RESOURCES SERVICES

### Purpose

The purpose of this report is to seek Council's endorsement to join the following Municipal Association of Victoria (MAV) panel arrangements to replace our current Human Resources (HR) Panel (Panel):

1. recruitment neutral vendor managed services (temporary staffing)
2. permanent recruitment services.

### Officer Recommendation

#### That Council:

1. **agree to procure recruitment services through the Municipal Association of Victoria Permanent Recruitment Services Panel Contract for the remainder of the panel contract term (September 2023)**
2. **agree to procure temporary staffing services through the Municipal Association of Victoria Recruitment Neutral Vendor Managed Services (temporary staffing) Panel Contract for the remainder of the panel contract term (November 2022)**
3. **authorise the Chief Executive Officer to sign the required documentation to give effect to Council's decision to procure recruitment and temporary staffing services through the Municipal Association of Victoria Panel Contracts.**

### Background

Council went to the open market with a Panel Tender in 2014 for HR Services including labour hire and temporary hire. Council engaged three providers as part of the Panel arrangement. The initial term was for 3 years with two optional 1-year extensions. The Panel arrangement has now expired.

Of the three providers, one has ceased trading and therefore the Panel has predominantly only included two providers for the entire term.

The MAV offer a procurement service that leverages the combined purchasing power of multiple councils to provide better value for money and simplified procurement processes. This service includes several established panels that Council can choose to utilise.

### Discussion

MAV Panel Contracts offer member councils an opportunity to achieve best value for money, a variety of service providers and a simplified procurement process. MAV adheres to the requirements of the *Local Government Act 1989* when establishing the Panel Contracts, therefore minimising Council's risk associated with procuring services and managing the associated contracts.

MAV Panel Contracts do not require exclusivity, meaning that Council can engage another service provider that is not a party to the panel contract if we require. This would require Council to follow the appropriate procurement process for engaging this service provider dependent on spend. This is a benefit in the event that the Panel Contract service providers cannot meet Council's required recruitment needs.

### HR Service Arrangements

MAV has two panels that Council could join to ensure we are fulfilling our current HR service needs:

1. recruitment neutral vendor managed services (temporary staffing).

The majority of Council's spend in relation to HR Services is associated with temporary staffing. In particular, in the Infrastructure Operations team, to ensure that services are delivered to the community on time and to the expected standards.

Currently Council utilises one provider for this service that is under our own panel contract.

MAV Panel Contract for 'recruitment neutral vendor managed services' was awarded to Commensura. This company acts as a broker utilising a broad network of agencies for short-term staffing and consultancy placements.

Council officers, including Director Corporate and Shared Services, Manager Community Assets and Manager Governance and Risk met with a representative of Commensura to evaluate its ability to meet Council's staffing needs. Commensura assured Council that it would endeavour to support the local market, including engaging any local suppliers of temporary staffing and current suppliers to Council to ensure consistency.

Currently the following councils are a party to this MAV panel:

- Banyule City Council
- Cardinia Shire Council
- City of Casey
- City of Greater Bendigo
- City of Greater Dandenong
- City of Port Phillip
- Darebin City Council
- Horsham Rural City Council
- Hume City Council
- Knox City Council
- Manningham City Council
- Maribyrnong City Council
- Maroondah City Council
- Mount Alexander Shire Council
- Southern Grampians Shire Council
- Stonnington City Council
- Wyndham City Council
- Yarra Ranges Shire Council

Surf Coast and Colac Otway are seeking Council endorsement to join the Panel.

2. permanent recruitment services.

Council currently engages recruitment services on an ad hoc basis. Council's utilisation of recruitment services does not warrant having our own panel arrangement. MAV Panel Contract for permanent recruitment services offers Council a better value for money option for the limited occasions where it is required.

The permanent recruitment services panel has the following suppliers:

- Aspect Personnel
- Charterhouse Recruitment

- Clicks Recruit (Australia)
- Davidson Executive
- Drake Australia
- Finite Group APAC
- Flexi Personnel
- GBS Recruitment
- Hays Specialist Recruitment (Australia)
- HOBAN Recruitment
- Horner Recruitment Systems
- Hudson Global Resources (Australia)
- JFE Global
- M&T Resources
- McArthur (VIC)
- Randstad
- SACS Consulting
- Talent International (VIC)

This Panel is designed to facilitate long term or permanent role recruitment and advice, not temporary staffing employment.

#### Alternative Procurement Option

The alternative is that Council go out to the open market again to procure panel suppliers.

This has not proven to be an effective way of procuring HR services in the past with minimal response, a more involved procurement and contract management approach.

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

This report is consistent with the *Council Plan 2017-2021* Our Promise strategies to 'maintain a positive, flexible and engaged organisation' and 'maintain Council's financial sustainability through sound financial and asset management'.

#### **Relevant Legislation**

MAV Panel Contracts are established and meeting all of the legislated procurement requirements under the *Local Government Act 1989*.

#### **Financial Implications and Risk**

The total spend for the life of the existing panel contract was \$1,499,830.47 (five years). The last two years of the contract saw an increase with half of the total spend relating to 2017/18 and 2018/19. This was the result of increased vacancies in the Infrastructure Operations area. Temporary staffing is budgeted for annually within the Infrastructure Operations area due to the importance of ensuring continuity of service delivery.

Commensura offer broadened staffing services that will allow Council the ability to temporarily backfill vacancies that are traditionally difficult to recruit for and take some time to fill with a permanent role. Whilst it is likely that expenditure on temporary labour may increase under the new contract it is important for Council to note that this increase is offset by savings in wages from the temporary vacancy.

The anticipated annual spend for the recruitment neutral vendor managed services (temporary staffing) is \$500,000 per annum. As outlined above this is not an additional expense to Council. It

is either directly through budget allocation for temporary labour, or offset by savings in wages for vacant positions.

Council's spend in relation to permanent position recruitment would not be expected to exceed \$40,000 annually, and may be much less. This estimate is based on the average spend over the last two years, which included recruitment associated with the appointment of the Chief Executive Officer, a Director and three Managers.

**12. NOTICES OF MOTIONS**

**13. MATTERS DEFERRED FROM PREVIOUS MEETING**

**14. URGENT BUSINESS**

**15. COUNCILLOR REPORTS**

15.1 CR MARGARET RAE

15.2 CR JACKIE ASHE

15.3 CR ERIC LORDING

15.4 CR CHARLOTTE BISSET

15.5 CR REBECCA BOWLES

15.6 CR LEIGH DUNSCOMBE

15.7 CR SANDICE MCAULAY – MAYORAL REPORT

**16. CHIEF EXECUTIVE OFFICER REPORT**

**17. ASSEMBLIES OF COUNCILLORS**

**Purpose**

This report presents the records of assemblies of Councillors for 28 August 2019 to 11 September 2019, 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 28 August 2019 to 11 September 2019.**

**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 an assembly 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 28 August 2019 to 11 September 2019:

Meeting Name/Type	Council Pre-Meet
Meeting Date:	28 August 2019
Matters Discussed:	<ol style="list-style-type: none"> <li>1. Petition - Sealing Saleyards Street</li> <li>2. Proposed Tourist Accommodation – 182 Shannons Road Murrindindi</li> <li>3. Yoga and Wellness Retreat – 5393 Goulburn Valley Highway Yea</li> <li>4. Proposed Scout Hall and Two Lot Subdivision – 174 Grant Street Alexandra</li> <li>5. Alexandra Youth Precinct Masterplan</li> <li>6. Grants and Contributions – July 2019</li> <li>7. End of Year Report – Capital Works Program 2018/19</li> <li>8. Quarterly Financial Report to 30 June 2019</li> <li>9. Annual Review of Chief Executive Officer Remuneration Package</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	M Chesworth, S McConnell, V Albicini, T Carter, N Grey, C Gartland, N McNamara, C Lintott, G Haylock, N Stewart, B Scott
Conflict of Interest Disclosures: Nil	

Meeting Name/Type	Briefing
Meeting Date:	4 September 2019
Matters Discussed:	<ol style="list-style-type: none"> <li>1. Draft Murrindindi Shire Tourism and Events Strategy</li> <li>2. Activating Lake Eildon</li> <li>3. Proposed Re-Subdivision and Use of Land for a Dwelling on Each Lot – 95 Deviation Road, Kinglake Central</li> <li>4. Proposed Farm Shed, 20 Bald Spur Road, Kinglake Central</li> <li>5. Aged and Disability Services Transition Update</li> <li>6. Murrindindi Shire Representation Review – Preliminary Report</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, V Albicini, M Thomas, J Rabel, N Grey, C Gartland, N McNamara, N Stewart
Conflict of Interest Disclosures: Nil	

Meeting Name/Type	Briefing
Meeting Date:	11 September 2019
Matters Discussed:	<ol style="list-style-type: none"> <li>1. Alexandra &amp; District Open Gardens (Cally Sinclair) – Sculpture Plan for Alexandra Roundabout - Presentation</li> <li>2. Sealed Roads – Resealing Program – 2019/2020 - Tender</li> <li>3. Proposed 2 Lot Subdivision and Dwelling, 33 Sedgwick Street, Marysville</li> <li>4. Two Lot Subdivision, 852 Whittlesea – Kinglake Road, Pheasant Creek</li> <li>5. Proposed 16 Lot Residential Subdivision, 15 Halls Flat Road Alexandra</li> </ol>

	6. Proposed Dwelling – 115 Dyes Lane, Buxton 7. MAV Panel Contracts for Human Resources Services 8. Local Government Rating System Review
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr M Rae
Council Officer Attendees	M Chesworth, V Albicini, C Lintott, D Smith, C Gartland, N Grey, K Girvan, T Carter
Conflict of Interest Disclosures: Nil	

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

This matter is consistent with the Council Plan 2017-2021 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 assembly of Councillors tables listed above.

## **18. SEALING REGISTER**

## **19. 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 report on the Tender 19/8 – Yea Saleyards – Scanning and Weighing Services and Sealed Roads – Resealing Program – 2019/20 - Tender 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 19/8 – Yea Saleyards – Scanning and Weighing Services**
- **Sealed Roads – Resealing Program – 2019/20 - Tender**