



AGENDA  
of the  
ORDINARY MEETING OF COUNCIL  
WEDNESDAY 27 MAY 2020  
at  
6.00 pm  
Conducted via videoconference

This Ordinary Meeting will be conducted virtually (as per *COVID-19 Omnibus (Emergency Measures) Act 2020*, passed by Victorian Parliament on 23 April 2020)

The proceedings will be live streamed for public viewing.

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**1. PLEDGE AND RECONCILIATION STATEMENT****2. APOLOGIES AND REQUESTS FOR LEAVE OF ABSENCE****3. COMMUNITY RECOGNITION****4. DISCLOSURES OF INTEREST OR CONFLICT OF INTEREST****5. CONFIRMATION OF MINUTES**

5.1 Minutes of the Special Meeting of Council held on 6 May 2020.

**Officer Recommendation**

**That the minutes of the Special Meeting of Council held on 6 May 2020 be confirmed.**

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

7.1 OPEN FORUM

7.2 QUESTIONS OF COUNCIL

**8. OUR PLACE**

**8.1 413 BURGESS ROAD, YARCK – USE AND DEVELOPMENT OF LAND FOR PURPOSE OF A SINGLE DWELLING**

Attachment(s): *Attachments (refer Attachment 8.1)*

Land: 413 Burgess Road Yarck 3719  
Proposal: Use and development of the land for the purpose of a Single Dwelling  
Applicant: Drafting2Design Pty Ltd  
Zoning: Farming Zone  
Overlays: Bushfire Management Overlay  
Permit triggers: Use of land for a dwelling under Clause 36.04 (Farming Zone)  
Development of land under Clause 36.04 (Farming Zone) and Clause 44.06 (Bushfire Management Overlay)

## Locality Plan



### Purpose

This report recommends that Council refuse to grant a planning permit for the use and development of land for the purpose of a dwelling land located at 413 Burgess Road, Yarck. The proposed use is located in a Bushfire Management Overlay (BMO) and is considered to be inconsistent with the objectives of the Murrindindi Planning Scheme due to the unacceptable risk to life from a dwelling on this site.

### Officer Recommendation

**That Council issue a notice of decision to refuse to grant a permit for the use and development of land for the purpose of a dwelling at 413 Burgess Road, Yarck (Lot: 3 PS: 117924, Parish of Yarck), subject to the following grounds:**

- 1. The proposal is inconsistent with the objective and strategies of Clause 13.02-1S Bushfire Planning of the Murrindindi Planning Scheme in that the application would result in an extreme risk to human life from the threat of bushfire**
- 2. The application is inconsistent with the purpose of Clause 44.06 of the Bushfire Management Overlay which is to ensure that the development of land prioritises the protection of human life, strengthens community resilience to bushfire and requires that development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level**
- 3. The application has been supported by a Bushfire Management Statement which has not accurately reflected the landscape characteristics as required under Clause 53.02 Bushfire planning of the Murrindindi Planning Scheme**
- 4. The proposal is not consistent with the various purposes of Clause 53.02 Bushfire planning of the Murrindindi Planning Scheme as they relate to ensuring that development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.**

**Land and Surroundings**

The subject site is located approximately 3.5 kilometres north west of the township Yarck and is accessed from Old Yarck Road not Burgess Road. Old Yarck Road is an unsealed access track maintained by council.

The site is located within heavily vegetated hills that run from the north to south. The site is an irregular rectangular shape with an overall area of 31.2 hectares. The site slopes up significantly from the south to the north of the site.

The site is developed by way of three buildings including one that has been illegally converted into a dwelling. This application seeks approval for this building to be used and developed as a dwelling. The building proposed to be used for a dwelling is located to the north of the site on the highest contour of the site.

The site directly abuts five properties of similar size and similarly vegetated and contoured. There are no recent approvals for dwellings on these properties or in the surrounding area. Some of the properties contain dwellings, however, these have not been assessed under current planning regulations and in particular the bushfire provisions.

**Proposal**

The application is seeking approval for the use and development of land for the purposes of a dwelling. The various aspects of the proposal can be described as follows:

Use

The subject site is less than 40 Ha and a permit is required to use the land for a dwelling under Clause 35.07 (Farming Zone) of the Murrindindi Planning Scheme. The application was accompanied by a Farm Management Plan that proposed the use of land for honey production.

Development

A permit is required for the development of the land for the purpose of a dwelling under Clause 35.07 (Farming Zone) and Clause 44.06 (Bushfire Management Overlay).

The development is the conversion of an existing building to a dwelling. The building was constructed without any planning or building permits. Four additional sheds have also been constructed on this onsite without planning or building approval.

The development could be described as follows:

- Approximately 108.5m in area
- 1 bedroom
- Open lounge room, dining room and kitchen
- 1 bathroom
- Details of the proposed materials have not been provided.

**Discussion - Planning Policy**Bushfire Risk

Clause 13.02-1S (Bushfire) is the State planning policy which underpins all other bushfire considerations which are required to be assessed as part of all planning and decision making under the *Planning and Environment Act 1987*. The policy relates to land that is:

- Within in a bushfire prone area:
- Subject to a Bushfire Management Overlay; or
- Proposed to be used or developed in a way that may create a bushfire hazards.

In this particular instance all of the above apply to the application.

The objective of this policy is to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. In an effort to achieve this objective, the following strategies are adopted in decision making:

#### Protection of human life

Give priority to the protection of human life by:

- 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.

#### Bushfire hazard identification and assessment

Identify bushfire hazard and undertake appropriate risk assessment by:

- Applying the best available science to identify vegetation, topographic and climatic conditions that create a bushfire hazard
- Considering the best available information about bushfire hazard including the map of designated bushfire prone areas prepared under the *Building Act 1993* or regulations made under that Act
- Applying the Bushfire Management Overlay to areas where the extent of vegetation can create an extreme bushfire hazard.
- Considering and assessing the bushfire hazard on the basis of:
  - Landscape conditions - meaning conditions in the landscape within 20 kilometres (and potentially up to 75 kilometres) of a site;
  - Local conditions - meaning conditions in the area within approximately 1 kilometre of a site;
  - Neighbourhood conditions - meaning conditions in the area within 400 metres of a site; and
  - The site for the development.
- Consulting with emergency management agencies and the relevant fire authority early in the process to receive their recommendations and implement appropriate bushfire protection measures
- Ensuring that strategic planning documents, planning scheme amendments, planning permit applications and development plan approvals properly assess bushfire risk and include appropriate bushfire protection measures
- Not approving development where a landowner or proponent has not satisfactorily demonstrated that the relevant policies have been addressed, performance measures satisfied or bushfire protection measures can be adequately implemented.

Clause 53.02 (Bushfire Planning) relates to any application which is required under the Bushfire Management Overlay. Clause 53.02-4 outlines the bushfire protection objectives to be achieved for a development to be considered acceptable. The landscape, siting and design objectives listed include the following matters:

- Development is appropriate having regard to the nature of the bushfire risk arising from the surrounding landscape
- Development is sited to minimise the risk from bushfire
- Development is sited to provide safe access for vehicles, including emergency vehicles
- Building design minimises vulnerability to bushfire attack.

The proposals performance against these objectives is discussed in detail further in this report.

CFA's Guideline '*Applying the Bushfire Hazard Landscape Assessment in a Bushfire Management Overlay*' (the CFA Guideline) (Attachment 9) sets out how applications in the Bushfire Management Overlay should be assessed.

The CFA Guidelines suggests:

*Considering bushfire from the perspective of the broader landscape is important as it affects the level of bushfire risk development and its future occupants will be exposed to.*

*The defensible space and construction requirements in the BMO and Clause 53.02 are established based on the standard requirements of AS 3959-2009 Construction of buildings in bushfire prone areas (AS 3959-2009). To determine these requirements AS 3959-2009 models radiant heat from a potential fire front based on specified inputs and assumptions. This is often referred to as the 'design fire'. The accuracy of the design fire in reflecting the level of exposure to bushfire at a site varies. It is dependent on the potential size or scale to which a bushfire can grow before impacting the site.*

*The broader landscape and the potential scale and size of a bushfire are important considerations in the assessment of a planning application. Planning policy dictates that certain applications, namely those that are submitted under Pathways 2 and 3 must consider the wider bushfire landscape. However, all applications should have some regard to the broader landscape when considering the objectives of the State Planning Policy Framework (SPPF)*

*To consider the suitability and adequacy of the standard design fire of AS 3959-2009, judging the size to which a fire can grow and develop before impacting the site is crucial. This is because the scale of a bushfire and therefore its destructive power is driven by the characteristics of the broader landscape, rather than those assessed immediately around the site (i.e. within the 150m assessment area). The site based assessment however, remains an important aspect to applying the requirement of the BMO and Clause 53.02. Hence, there is generally a need to undertake both a landscape and a site based assessment.*

### **Inherent Level of Bushfire Risk for Subject Site**

The most significant factor in the assessment of this application for a dwelling is the inherent threat to life that results from the geographic characteristics of the surrounding landscape. While a dwelling site with minor clearing exists that may achieve some compliance with the defensible space requirements, the broader landscape surrounding the site represents an extremely high bushfire threat. The subject site adjoins properties on west, east and north sides with dense natural native vegetation. Beyond the private land to the south is the Molesworth Bushland Reserve and to the north is the Yarck Nature Conservation Reserve that extends for a great distance.

The landscape is not only a threat due to the near continuous vegetation but also due to the steep topography of the area and the extreme fire behaviour that would occur as a result of this landscape. Any fire in this landscape would move very rapidly and could also come from any or all directions. This multidirectional threat would mean that any efforts to stay and defend the property would be extremely dangerous and not an acceptable outcome to allow. As was demonstrated in the 2009 bushfires, people's ability to leave early was not always possible and the behaviour of the fire was not predictable. The nature of the surrounding landscape would mean that spotting would occur potentially from very long distances.

In the event of deciding to leave the site in bushfire events, significant threat is presented in the difficulties in leaving the site to access a safe place. The proposed house site is located at the top of a very steep hill which is accessed via an unsealed access track.

Overall it is considered that the threat from the broader landscape is such that the proposal is unacceptable on this consideration alone. Travelling along the road network would be very dangerous during bushfire events.

### **On-site Bushfire Risk Mitigation**

In addition to the consideration of the broader landscape in which the dwelling is proposed, specific compliance is required to be achieved with the objectives outlined in Clause 53.02 (Bushfire Planning). The policy sets out approved measures and meeting the objectives is required though meeting those measures. Where an approved measure is not achievable an alternative measure may be considered.

The Bushfire Management Statement (BMS) provided by the bushfire consultant has suggested that the development would need to have a defendable space and construction standards relevant to a BAL Flame Zone standard. The provided Bushfire Management Plan (BMP) has proposed that vegetation management would be required to be managed for distances of;

- North 21 m
- West 8 m
- South 3 m, and
- East 34 m.

While these distances would appear to meet the requirements of Clause 53.02 (Bushfire Planning) in relation to vegetation management, the vegetation management would be required on land which has slopes exceeding 20°. This would be very difficult to manage and could result in further land degradation and vegetation impacts.

As the proposal seeks approval for the use of the existing unapproved structure for a dwelling, it has not been demonstrated that this structure will be able to achieve a Flame Zone rating as required by the Bushfire Management Plan.

### CFA referral response

It is the position of the CFA that the proposed development will result in people being placed in an extreme bushfire risk environment dependent on inadequate protection measures.

In their referral response the CFA have stated:

*The site is surrounded by unmanaged forests in all directions. The proposed site is located at the top of a hill with slopes exceeding 30° to the south and the east, up to 10° to the north and up to 15° to the west. Fire behaviour is likely to exceed the design fire assumed under AS3959-2009 Construction of buildings in bushfire prone areas (Standards Australia).*

*Access and egress to and from the site along Old Yarck Road (approximately 3 kilometres to the outskirts of Yarck) poses obvious difficulties for timely evacuation. The closest Neighbourhood Safer Place is approximately 5 km south east of the site in the township of Yarck.*

*The application proposes BAL Flame Zone construction with three (3) metres defendable space to the south (effective downslopes between 22 and 31°). This means the proposed dwelling will be impacted (total engulfed) by direct flame from a passing fire front.*

*It is uncertain whether the existing structures can both be upgraded to the construction standard proposed and be designed appropriately to reduce the bushfire risk from the landscape beyond the site to an acceptable level.*

*It is CFA's view that the location of this development results in the site being classified as Landscape Type 4. DELWP's Technical Guide – Planning Permit Applications – Bushfire Management Overlay identifies the following characteristics for Landscape Type Four:*

- *The broader landscape presents an extreme risk*
- *Evacuation options are limited or not available.*

*It is the position of CFA that the proposed development will result in people being placed in a very high bushfire risk environment dependent on inadequate protection measures.*

The requirement of the Planning Policy Framework (PPF) at Clause 13.02 (Bushfire) to 'prioritise life over all other policy considerations' has not been achieved. The proposal has not met the relevant objectives of Clause 53.02-4 (Bushfire Planning) or addressed the extreme bushfire risk landscape factors this site will be exposed to.

While it is very uncommon for the CFA to outright object to planning applications, the advice provided in this referral response is very clear in that they do not support the application. It is evident that their position is that the development would result in an extremely high risk to property and human life of the residents of the property and any emergency service personnel that were to respond to an event at the site.

### **Relevant Case Law**

There are several applicable cases concerning the application of the current bushfire planning policy and provisions that have been determined at the Victorian Civil and Administrative Tribunal (VCAT).

In *Department of Environment, Land, Water and Planning v Yarra Ranges SC [2019]*, Helen Gibson AM, Deputy President and Christopher Harty, Member assessed an application for the use and development of land for the purpose of a dwelling in an area with similar characteristics to the subject site. Similar to the subject site this property was also rural zoned where no as of right use of land for a dwelling existed. The property was a comparable distance from the township and neighbourhood safer place. The application was ultimately refused, largely on bushfire risk grounds. Deputy President Gibson and Member Harty, made the following comments:

- 196 *In this case, the ability to mitigate the bushfire risk to an acceptable level from the landscape beyond the site is largely ineffectual and limited to what can be provided on the site as part of the proposed development. The additional elements that are proposed do not, in our view, address the broader landscape bushfire risk. The site and surrounding area is heavily vegetated. Management of fuels in the surrounding forested areas is not comprehensive and no evidence was provided to describe how surrounding bushland areas can or could be managed to reduce fire fuels.*
- 198 *Guidance about how the broader landscape bushfire risk is considered is relevant when regard is had to the policy under Clause 13.02. Amendment VC140 introduced changes to bushfire planning policy in December 2017. Clause 13.02 addresses bushfire risk. In addition, the BMO provisions at clause 44.06 and the Bushfire Planning provisions at Clause 53.02 are relevant.*
- 205 *We note that these strategies relate to the overall aim of prioritising the protection of human life and the need to do so on a broad level for decision making at all stages of the planning process, which includes both strategic and statutory planning. In particular, the strategies support directing development to low risk locations and ensuring availability of safe access to areas away from bushfire threats.*
- 207 *These strategies seek to ensure that risk from bushfires is considered not solely from a site or immediate local perspective, but also from a wider landscape perspective, where often management of bushfire risk falls outside of the direct control of individual landowners. It relates to the nature, location and extent of vegetation (whether trees or grasses) and their influence on fires runs and the relationship between fire fronts forming in the landscape as well as fire speed and behaviour with respect to generation of ember attack and radiant heat formation and exposure.*

- 214 *The provisions under clause 53.02 outline a rather automated approach to decision making that runs a risk of not appropriately considering the overall consequence of a decision to permit the use and development of the site for the purposes of a dwelling. Similar to biodiversity, planning for bushfire is not a 'tick the box' approach. Certainly, achieving compliance with the approved measures meets objectives under the clause and is very helpful in decision making, however any proposed use and development must also satisfy the policy framework, which guides decision making.*

### **Agricultural Considerations**

As the property is under 40 hectares a planning permit is required for the use and development of the land under the Farming Zone.

The application was supported by a Farm Management Plan which proposed that the dwelling was required for the development of the land for honey production. The Farm Management Plan was comprehensive and addressed the decision guidelines of the (Clause 35.07) Farming Zone and Clause 14.02 (Agriculture).

As discussed above, the site is heavily vegetated and contains steep slopes. Given these constraints of the subject site, the use of land for honey production is considered acceptable. The application is considered to meet the decision guidelines of the Clause 35.07 (Farming Zone) and Clause 14.02 (Agriculture) and this has not been included as a ground for refusal.

However, the bushfire risk to this site is extreme and while the agricultural merits of the proposal are support the application, they are not the primary consideration. State planning policy requires that risk to human life from bushfire is considered over all other policy considerations. In this instance, the extreme bushfire risk outweighs the agricultural benefits.

### **Conclusion**

Overall it is considered that this application fails on numerous ground relevant to the applicable controls. However, the key reason that this application cannot be supported is the presence of a dwelling at the proposed location would result in an unacceptable risk to life of the inhabitant of the site and any emergency service personal that could feel obligated to attempt to gain access the site in the event of a bushfire. The proposal is considered to be inconsistent with the objectives of planning policy frame and overlay provisions of the planning scheme. Therefore a refusal of the proposal is recommended.

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

This report is not consistent with the *Council Plan 2017-2021* Our Place and Our Prosperity strategic objectives:

- '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 financials implications or risks associated with the consideration of this application for planning permit.

### **Conflict of Interest**

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

## 8.2 USE AND DEVELOPMENT OF THE LAND FOR THE PURPOSE OF SIX (6) DWELLINGS – 102 FALLS ROAD, MARYSVILLE

Attachment(s):	<i>Attachments (refer Attachment 8.2) Submissions (distributed to Councillors separately)</i>
Land:	102 Falls Road Marysville 3779
Proposal:	Use and development of land for the purpose of six (6) dwellings
Applicant:	M Serapiglia
Zoning:	General Residential Zone
Overlays:	Bushfire Management Overlay Schedule 2 Vegetation Protection Overlay Schedule 1

### Locality Plan



Figure 1 – subject site highlighted in red.

### Purpose

This report recommends that a notice of decision to grant a planning permit for the use and development of land for the purpose of six (6) dwellings at 102 Falls Road Marysville. The application is being reported to Council because six objections have been received to the proposal.

### Officer Recommendation

**That Council issue notice of decision to grant a permit for the use and development of land for the purpose of six (6) dwellings at 102 Falls Road Marysville (Lot 1 on TP135028), subject to the following conditions:**

1. **Before the plan of subdivision is endorsed, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must generally be in accordance with the plans submitted with the application but modified to show:**
  - a) **The layout of the site generally in accordance with the draft plan provided to Council on 24 April including:**

- 
- I. **Units 5 and 6 amended to mirror units 3 and 4**
  - II. **Deletion of the covered alfresco areas from all Units and replacement with unroofed ground level decking**
  - III. **Revised common driveway to reduce sealed areas and increase landscaping.**
- b) **A full set of elevations must be provided including North-East and South-West elevations for all dwellings, not just for the dwellings to the front and rear of the property respectively**
  - c) **Deletion of the bin collection enclosure**
  - d) **A revised landscape plan in accordance with Condition 1a.**
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. **Prior to commencement of the development a suitable prepared engineering plan detailing the proposed driveway, earthworks and drainage, including erosion and sediment control measures must be submitted to the Responsible Authority and receive its endorsement**
  4. **Prior to the commencement of the development, detailed construction plans must be prepared and approved to the satisfaction of the Responsible Authority. All works constructed or carried out must be in accordance with those plans**
  5. **Prior to commencing construction a suitable prepared engineering plan detailing the proposed driveway, earthworks and drainage, including erosion and sediment control measures must be submitted to the Responsible Authority and receive its endorsement**
  6. **Prior to the commencement of any use of the units, the developer must construct the access in accordance with approved construction drawings**
  7. **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**
  8. **The approved works must not cut off natural drainage to adjacent properties**
  9. **Prior to 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 Councils underground drainage system.**
  10. **Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the responsible authority and any existing crossing or crossing opening must be removed and replaced with nature strip to the satisfaction of the responsible authority. Construction of new vehicular crossing(s) must comply with the IDM guidelines as given below:**
    - a. **SD 240 of IDM for Residential Single Vehicle Crossing for Unit 1**
    - b. **Existing gravel crossover next to unit shall be removed**

**c. SD 250 of IDM for Residential Double Vehicle Crossing for Units 2 to 6.****Country Fire Authority (CFA)**

- 11. Bushfire Management Plan**  
The Bushfire Management Plan – 102 Falls Road, Marysville (prepared by BAL Assessments, version 3, dated 16/11/2019) 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
- 12. Mandatory condition to Clause 44.06-5 – Building and works**  
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.
- 13. Hydrants**
  - a. An operable hydrant, above or below ground, must be provided to the satisfaction of CFA**
  - b. The maximum distance between this hydrant and the rear of all building envelopes (or in the absence of building envelopes, the rear of all lots) must be 120m. This distance must be measured around lot boundaries other than those that abut used roads or the common property access**
  - c. The hydrant must be maintained by the owner’s corporation in accordance with Australian Standard AS1851-2012 “Routine service of fire protection systems and equipment”**
  - d. The hydrant must be identified with a marker post and a road reflector to the satisfaction of the Country Fire Authority.**

**Goulburn Valley Water (the Corporation)**

- 14. Payment of new customer contribution charges for water supply to the development, such amount being determined by the Corporation at the time of payment;**
- 15. Provision of separate water supply meters to each tenement within the development, located at the property boundary and to the satisfaction of Goulburn Valley Region Water Corporation;**
- 16. Payment of new customer contributions charges for sewerage services to the development, such amount being determined by the Corporation at the time of payment;**
- 17. Connection of all sanitary fixtures within the development to reticulated sewerage, at the developer’s expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation.**
- 18. All works required are to be carried out in accordance with AS 3500.2 - ‘Sanitary plumbing and drainage’, and to the satisfaction of the Corporation’s Property Services Section;**

**Notations:**

1. **CFA - Requirements for identification of hydrants are specified in “Identification of Street Hydrants for Firefighting Purposes” is available under publications on the CFA web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au))**
2. **Goulburn Valley Water - Should the applicant wish to subdivide each tenement onto separate titles in the future, provision of appropriate servicing arrangements to facilitate a future subdivision proposal should be investigated as part of this development**
3. **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.**
4. **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.**

**Background**Land and surroundings

The subject site is located on the southern side of Falls Road, approximately 50 metres west of the intersection with Hill Avenue. The lot is rectangular in shape with a northern property boundary and frontage with Falls Road of 39.78 metres in length, a matching 39.78 metre southern property boundary, and eastern and western property boundaries of 79.46 metres in length. The total area of the site is approximately 3200 square metres.

The land is described as ‘Lot 1 on Title Plan 135028L, Vol 09718 Folio 774’. The site has a 1.56 metre wide drainage easement along the Western property boundary, is not affected by any covenants, encumbrances or agreements.

The area was heavily impacted by the 2009 Black Saturday bushfires, and while dwellings have been re-built on the majority of lots in the area in the time since those events, this remains one of the larger undeveloped lots in the area. These events have also left some variability in the density of development in the area, with some vacant lots remaining and some with single or multiple dwellings.

Proposal

This application proposes the use and development of the site for the purpose of six (6) dwellings. The proposal creates a medium density development with a design which can appropriately respond to neighbourhood character subject to appropriate permit conditions, in an existing urban area, which is consistent with the objectives of the Murrindindi Planning Scheme.

All dwellings include a master bedroom with ensuite and walk in robe, open plan living/kitchen/meals area with walk in pantry, a bathroom, laundry, alfresco area and two car spaces in an attached double garage, with a small storage area. The exterior is to be constructed of rendered polystyrene panel walls, black tile roofing, decorative porch piers and selected corners.

Wall and apex roof heights vary greatly across the elevations of the units as the site slopes significantly. The units have a floor to ceiling height of 2.7 metres, with articulated pitched roofs adding up to 2.84m, which combined with a mixture of cut and fill for foundations, results in apex roof heights ranging between 5.05 and 6.5 metres.

A schedule of colours and materials has been provided in the plans which outlines a mixture of neutral grey, beige, and brown colours to be used on the rendered walls. Each dwelling has a 2,500 litre water tank, external clothesline, and bin and mailbox space is provided for each dwelling within a shared enclosure adjacent to the shared driveway entrance.

Two shared visitor car spaces are proposed, one between units 1 and 6 on the west side of the shared driveway, and one between units 3 and 4 on the east side of the shared driveway.

Unit Summary:

	Unit Size	Bedrooms	Access	Private Open Space	Secluded Open Space
<b>Unit 1</b>	539.12	4	Separate driveway with 4m crossover direct to Falls Road	125.03	110.42
<b>Unit 2</b>	557.81	4	Access via shared driveway to Falls Road	98.34	89.12
<b>Unit 3</b>	371.86	3	Access via shared driveway to Falls Road	146.47	103.19
<b>Unit 4</b>	432.57	3	Access via shared driveway to Falls Road	215.79	120.26
<b>Unit 5</b>	417.00	3	Access via shared driveway to Falls Road	191.45	140.01
<b>Unit 6</b>	390.59	3	Access via shared driveway to Falls Road	166.74	159.78

### Background

The application was originally lodged on 7 October 2019. At the time Council Officers raised a number of concerns as part of the request for further information. The documents requested included a Bushfire Management Plan, a materials and colours schedule, a concept planting plan, and details of fencing. These have all since been provided.

The issues raised to be addressed with the original plans can be summarised as:

1. The excessive number of crossovers.
2. The number of garages directly accessing Falls Road.
3. The minimal separation between dwellings, which it was suggested should be improved to provide setbacks of a minimum of at least 3 to 4 metres between dwellings.
4. The rear setback should be increased to a minimum of at least 3 metres in width
5. Units 2, 3 and 4 should be re-orientated/re-designed for better solar access to living areas.
6. Excessive turning Bay areas, driveways and hard areas should be reduced and minimised
7. Articulation should be improved along the side elevations of Units 3 and 4 to improve visual amenity when viewed from neighbouring properties.
8. More detailing or other features should be provided within the front setback to increase visual amenity.

In response to the concerns raised, revised plans were provided on the 18 November 2019 which now form the current plans.

The following changes can be observed in comparison to the original plans:

- The number of crossovers and garages directly accessing Falls Road has been reduced from three to two
- Some separation was provided between the previously joined Units 2 and 3 and 5 and 6
- The rear south setback of Units 4 and 5 was increased to 3 metres
- A 4 metre setback was provided between Units 4 and 5
- Unit 2, 3, and 4 layouts were altered to provide solar access to open space
- Turning bay areas were reduced and minimised where possible
- Articulation was improved along the side elevations of Units 3 and 4
- Some partial brick banding was provided on the Unit 1 and 3 external facades for front setback visual amenity.

While many aspects of the proposal were improved as outlined above, the side setback distances provided between units 1, 6, and 5, are still only a very minimal 1.1 metres which provides little observable visual separation between the dwellings. Separation between the buildings is a

neighbourhood character issue and a 1 metre separation creates the impression of a continuous built form which is not appropriate in the Marysville town context where space between properties is a feature of the area.

On 24 April 2020 an additional set of plans were submitted to Council aimed at resolving some of the key issues remaining with the development. The plans were not submitted as a formal amendment of the proposal but rather as a draft plan which could be used to condition the assessed plans to achieve a better design response. The changes primarily sort to provide greater separation between Unit 1, 5 and 6, which have only 1.1 metres between them, to break up the built form and to provide more opportunity for landscaping and the provision of canopy trees throughout the site.

The changes included the floor plans of Units 5 and 6 redesigned to mirror Units 2 and 3. This has resulted in a significant improvement between these units and across the site. The roofed alfresco areas have also been removed and replaced with simple decks which has reduced the bulk and increased some setbacks from boundaries. The common driveway has also be reduced to allow more permeable surfaces and opportunities for landscaping.

The draft plans have not been advertised and are not the formal application plans. The plans formally assessed continue to be those submitted on the 18 November 2019. The draft plans are for the purpose of conditioning the advertised plans to result in a better outcome with the separation between the Units.

#### Community and Stakeholder Consultation

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 the application was displayed on the subject land
- notice of application was placed in the Alexandra and Eildon Standard.

Five submissions were received to the initial application. The concerns of the submissions can be summarised as follows:

- design should better fit with character of the surrounding area
- inappropriate density of development and precedent for the area
- larger lots with more green/open space should be provided
- use of Falls Road for on-street parking and lack of more visitor parking
- lack of separation between units
- lack of bin enclosure capacity for the new 4 bin system being introduced
- concern dwellings will all be used as holiday homes (i.e. Airbnb, etc.)
- impact upon property values
- impact upon tourism and aesthetics for visitors to Steavenson Falls
- inappropriate to allow development without a footpath for pedestrians to the Falls
- request for a 2metre high front fence to conceal the façade.

#### **Consideration of Objections Received**

Council Officers response to the objections is summarised below:

Design should better fit with character of the surrounding area:

- The design comprises relatively conventional single storey dwellings with pitched roofing, with relatively dense landscape plantings which aligns well with the treed character of the town, with units 1 and 2 appropriately facing the street frontage
- The density of development is slightly higher than neighbouring properties, the development seems conventional and a reasonable response to the character of the area.

Inappropriate density of development and precedent for the area:

- The density of development in comparison to other developments has been a core concern raised by objections, with comparisons drawn by both the objector and applicant to a number of nearby developments elsewhere on Falls Road.
- The table below summarises the lot size of nearby developments:

Address	Lot Size	No of Units	Unit size
Proposal	3,161 sqm	6 units	526 sqm per unit
92 Falls Road	3,360 sqm	4 units	840 sqm per unit
120 Falls Road	4,200 sqm	5 units	840 sqm per unit
38 Falls Road	9,200 sqm	19 units	484 sqm per unit

- The combined lot size of all these would be 16,760sqm across 28 units for an average of 598 sqm per unit
- At an average of 526sqm per dwelling, the proposal does represent a moderate increase in density over comparable nearby sites. Both state and local planning policy supports some increase in density in well serviced urban areas provided that issues of amenity and suitable neighbourhood character are adequately addressed.

Larger lots with more green/open space should be provided:

- It can be noted that all dwellings are setback 3 metres from boundaries except the garage of unit 1 and alfresco of unit 2, which have over 2 metres setback. There are open space buffers around the development in all areas between neighbouring properties
- Each dwelling exceeds the Rescode required private open space area of 40 sqm with areas ranging from approximately 140 sqm – 240 sqm. The proposed plans also include relatively dense and extensive landscaping.

Use of Falls Road for on-street parking and lack of more visitor parking:

- The proposal includes two visitor car spaces on the site in addition to the double garage provided to each dwelling, this adequately satisfies the planning scheme requirements for the provision of on-site parking for the development. Pursuant to Clause 52.06 Car Parking of the Murrindindi Planning Scheme, 2 car spaces are required for a dwelling with three or more bedrooms and at least 1 of these is required to be undercover. Additionally a multiunit development requires 1 visitor car space for every 5 units.

Lack of separation between units:

- This is a significant issue and concern with the existing plans. Council Officers raised concerns with the initial plans, and although some improvements have been made, some of the dwellings are still only separated by a narrow 1 metre wide gap. This does not provide sufficient visual separation to allow them to be clearly seen as individual buildings with adequate spacing
- However, the proposed dwellings are quite large and could be relatively simply and suitably altered to provide adequate separation with some modest changes being required by amended plan permit conditions if a permit were to be issued, such as reducing the size of the living room end of the open plan kitchen/meals/living room of unit 6 to provide three (3) metres of separation between unit 6 and unit 1. A slight reduction in the size of unit 5, such as internal changes reducing the size of the vast open plan living/meals/kitchen room slightly, should be able to provide a 2 metre separation between units 5 and 6. These changes would provide a clearly separated design
- The draft plan submitted by the applicant on 24 April 2020 provides an amended layout with Units 5 and 6 mirroring Units 3 and 4 which have a higher degree of separation between the units, consistent with the neighbourhood character of the area. Where the units previously only had 1.1 metres between them, the draft plans indicate that there would be

at least 4 metres separation. This change achieves the outcome suggested above and conditions on the permit will require amended plans be submitted in accordance with the draft plan.

Lack of bin enclosure capacity for the new 4 bin system being introduced

- This is a recent change which could easily be addressed by requiring suitably amended plans as a permit condition if a permit were to be issued.

Concerns dwellings will all be used as holiday homes (i.e. Airbnb, etc.)

- There is no specific obvious reason to assume these dwellings would be used as holiday accommodation any more than any other dwellings, nor would that in itself be a valid reason to refuse a proposal.

Impact upon property values:

- Impacts upon property values are not a valid planning consideration, with proposals being required to be assessed on the basis of various other matters such as any amenity impacts for neighbouring properties.

Impact upon tourism and aesthetics for visitors to Steavenson Falls:

- The dwelling facades are relatively conventional single storey pitched roof dwellings, benefit from appropriate landscaping, and are unlikely to have a significant impact upon tourist movements to, and appreciation of, the Steavenson Falls and Marysville township.

Inappropriate to allow development without a footpath for pedestrians to the Steavenson Falls:

- The property only has a 39 metre frontage, and it is not a development of sufficient size to require the applicant to construct a pedestrian path either the 1.5km into the town centre or the 4.7km from the town centre to Steavenson Falls, nor is it appropriate to block the redevelopment of the vacant land on that basis.

Request for a 2 metre high front fence to conceal the façade

- A 2 metre high side property boundary fence is proposed to help provide privacy across the sloping site for neighbouring properties, no front fencing is proposed
- A 2 metre high front fence as requested would conflict with Rescode standards and create a walled in, undesirable aesthetic, with no visual engagement or integration with the street
- A mixture of facade materials and suitable landscape plantings to soften the front façade, as proposed in the plans provided, appears a more suitable approach than requiring an excessively high and unattractive front fence.

#### Referral Authority Advice

This application was referred externally to:

- the Country Fire Authority (CFA) offered no object, subject to conditions
- Goulburn Valley Water (GVW) offered no object, subject to conditions.

#### **Discussion**

The key issues in assessing this proposal for the use and development of 6 dwellings at the subject site are whether the proposal is consistent with the purpose, objectives and decision guidelines of the General Residential Zone and Bushfire Management Overlay as well as the relevant State, Regional and Local planning policies of the Murrindindi Planning Scheme This includes clause 55 (Rescode) standards for building design which incorporate considerations of neighbourhood character.

### State, Regional and Local Planning Policy

The Murrindindi Planning Scheme contains various policies that relate to supporting higher density of development within existing urban areas where appropriate design is adopted to meet the local neighbourhood character.

Clause 02.03 sets out Council's Strategic Direction in relation to housing, which outlines that established townships and settlements offer a significant opportunity to expand and provide living opportunities in locations with infrastructure and leisure facilities, where natural environment is protected and where a high level of community safety is facilitated.

Council seeks to manage the development of its towns by:

- Promoting and facilitate further residential development and housing diversity in established townships to meet the needs of the community, including affordable housing, public housing and aged care accommodation
- Supporting residential growth that is sustainable
- Facilitating the rebuilding of housing and residential diversity in towns and communities affected by natural disasters, including the 2009 bushfires.

The proposal would create residential development and different form of housing inside an established township, benefitting from the availability of infrastructure and leisure facilities in Marysville, and well setback from the surrounding forest. It is also the redevelopment of a block that has been left vacant since the 2009 bushfires.

Clause 13.02-1S 'Bushfire Planning' applies to land with Bushfire Management Overlays, and has strategies of *'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'*, which is met in locating development within a cleared urban infill site with relatively lower fire risks when compared to sites outside of the urban area.

Clause 15.01S 'Neighbourhood Character' has objectives of contributing to existing or preferred neighbourhood character, and responding to characteristics of the local environment by emphasising features such as the local pattern of development and subdivision, the underlying natural landscape character and significant vegetation, and heritage and built form values that reflect community identity.

It can be noted that the conventional single storey pitched roof dwellings are similar to existing neighbourhood character, while extensive landscaping reflects some elements of the well treed nature of Marysville.

Clause 16.01-2S 'Location of residential development' has strategies supporting increasing the proportion of new housing within established urban areas, and identifying opportunities for increased residential densities to help consolidate urban areas.

Clause 16.01-2L 'Residential development in serviced and non-serviced towns' is a policy which applies only to Alexandra, Yea, Eildon and Marysville, with an objective of locating housing in these serviced towns where there are a range of community and physical services.

Strategies include:

- Facilitate residential expansion in established, serviced townships that have potential for further growth, in particular Yea and Alexandra
- Encourage a diversity of housing including higher density housing, retirement villages and residential aged care facilities
- Encourage housing in well serviced areas to maximise infrastructure provision

- Facilitate housing in locations that ensure a high level of community safety, particularly from bush fire.

The proposal would provide higher density housing within an established, serviced township, well within the existing urban area with significant setbacks from the fire risks of surrounding forests.

#### General Residential Zone (Clause 32.08)

As the subject site is located within the General Residential Zone a planning permit is required for the use and development of the land for six (6) dwellings.

The purpose of the General Residential Zone is:

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

The zone also requires that any development of two or more dwellings must meet the requirements of Clause 55 (Rescode).

#### Clause 44.06 Bushfire Management Overlay

A permit is required for works associated with six (6) dwellings in the Bushfire Management Overlay.

An application is also required to be accompanied by a bushfire planning report including a site and landscape hazard assessment and a bushfire management statement, and is required to be referred to the CFA as a recommending referral authority.

The CFA have reviewed the proposal and consented to the development subject to permit conditions.

The development proposes a BAL rating of 29 and defensible space to the property boundaries. While the development would require 48 metres around the site there is actually 60 metres to the nearest threat of bushland to the south west of the site. Each unit will be provided with a 2,500 litre water tank with CFA approved fittings and the site is accessed off Falls Road which is a sealed road capable of providing access for emergency service vehicles. The CFA have required as a condition of the permit that fire hydrants are provided in accordance with the standards.

It is considered that the proposal appropriately responds to the threat to life and property from bushfires and is consistent with the BMO.

#### Clause 55 (Rescode)

The proposal has been assessed against the requirements of clause 55 (Rescode). The proposal has been assessed to have a good level of compliance with the majority of the objectives and standards of Rescode, subject to a number of changes which could be required by amended plan permit conditions. The areas where the development could be improved primarily relate to neighbourhood character and all of the specific standards relating to infrastructure and services, onsite and offsite amenity impacts and construction standards generally comply.

The changes required will provide for clear visual separation between the dwellings, increased privacy for neighbouring properties, and also address other minor issues such as changes to the

bin enclosures. The changes conditioned on the permit would also respond to concerns raised by the objectors.

It is considered that the proposed development is consistent with the emerging neighbourhood character of Marysville. Due to the redevelopment of the town after the 2009 bushfires the majority of dwellings are new. Dwellings are predominately single storey modest dwellings on relatively large lots. There remains a significant number of vacant lots and many of these are in the order of 2000 – 4000 square metres. While there are numerous single dwellings being constructed on large lots there is also a number of medium density developments being constructed and applied for in the township. It is considered that this development has been successful in providing medium density dwellings on smaller lots (although still reasonable at just under 600 square metres) without compromising the open character of the town. The development provides generous setbacks from the street as well as side boundaries with adequate space for landscaping. Through conditions on the permit to require the amended floor plans of Units 5 and 6, there will be good separation between each of the units.

The single storey modern design of the dwellings will be an attractive feature in the streetscape and consistent with the new development in the area. With 5 of the six units having their car parking accessed off the internal access way the front façade will not be dominated by vehicle crossovers and double garages allowing more space for landscaping capable of softening the built form.

The application has proposed wire boundary fences and the provision of screening planting in place of a 1.8 metre high timber fence that would be typically be required by the 'Overlooking' Standard of Rescode. While there will be some overlooking into adjoining properties the provision of a wire fence and screening planting will help maintain the character of the area and it is considered that a variation to this standard is acceptable in this instance. Previous public consultation indicated that this was a preferred outcome for the affected neighbours. Due to the single storey development, overshadowing of neighbouring properties is almost none existent with shadows falling mostly within the site.

The development has provided an appropriate number of car spaces for the development as well as two visitors' spaces, (one more than required by Clause 52.06 'Car Parking') to ensure that there will be no impact on car parking in the area.

Overall it is considered that the development complies with the objectives and standards of Rescode and is an acceptable development of the site which will add to the housing options available in Marysville.

### Conclusion

Council officers are satisfied that this application for the proposed use and development of the land for the purpose of six (6) dwellings has been assessed against the relevant State, Regional and Local Planning Policy and has been found to have a high level of compliance with the objectives, purposes and decision guidelines, subject to a number of issues needing to be appropriately addressed with amended planning permit conditions. Fire risks, Rescode standards, and a variety of objector concerns have been considered in depth and addressed appropriately.

It is important that some of the larger lot and well separated neighbourhood character of the township is reflected in the changes to the design as outlined in the recommended permit conditions.

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

This report is consistent with the following *Council Plan 2017-2021* Our Place and Our Prosperity strategic objectives:

- ‘we will maintain and enhance places to be attractive and liveable, in balance with our natural environment’
- ‘through good land use planning enhance the liveability, prosperity and rural character of our Shire’,
- ‘recognise and embrace the history, culture and identity of our towns and communities’.

**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 financials implications or risks associated with the consideration of this application for planning permit.

**Conflict of Interest**

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

**8.3 3625 MAROONDAH HIGHWAY, ACHERON – AMENDMENT TO PLANNING PERMIT 2016/33**

Attachment(s):	<i>Attachments – (refer Attachment 8.3)</i> <i>Submissions – (distributed to Councillors separately)</i>
Land:	3625 Maroondah Highway Acheron 3714
Proposal:	Extension of existing use of land for place of assembly; construction of a pavilion
Applicant:	R C Christopher
Zoning:	Farming Zone
Overlays:	Bushfire Management Overlay (partial)
Permit Triggers:	Use of land for a bar under Clause 35.07 Buildings and works associated with a Section 2 Use under Clause 35.07

**Locality Plan**



**Purpose**

This report recommends that a notice of decision to grant a planning permit for the amendment of planning permit 2016/33 to allow for the use of land for a bar and the development of the land for the purpose of a pavilion at 3625 Maroondah Highway Acheron.

The application is being reported to Council as two objections have been received to the proposal. The grounds of objection relate to noise, amenity and traffic impacts.

Council officers are satisfied that the amendment can be supported with the noise, amenity and traffic impacts appropriately mitigated through conditions on an amended permit that may be issued.

**Officer Recommendation:**

**That Council issue an extension of existing use of land for place of assembly; construction of a pavilion at 3625 Maroondah Highway ACHERON 3714 (Lot: 1 PS: 445373, Parish of Taggerty), subject to the following conditions:**

**1. Amend the proposal to:**

- **“Construction and use of a building for Group Accommodation; Use of land for Function Centre; Use of land for Bar; Installation of Business Identification Signage; construction of a pavilion”**

**2. Insert headings for condition groups to identify conditions for ‘Bar’****3. Amend and insert the following conditions:**

- **Insert a “Bar” heading after Condition (20)**
- **Insert new conditions (21), (22), (23) and (24)**

**(21) Prior to the use hereby permitted, a fence shall be constructed along the southern boundary of the property. The purpose of this fence is to reduce the likelihood of visitors accessing Yellow Creek Road**

**(22) The bar hereby permitted shall take place only between the hours of 12pm to 10pm Sunday**

**(23) No amplified music or speakers are allowed outside the existing structures on the site. No music is permitted to be played after 9pm**

**(24) A maximum number of 48 guests may be allowed on the site for any function.**

- **Renumbering of conditions (21) – (28) to (25) – (32)**

**The Land and Surroundings**

The subject site is a 49.1 hectare parcel of land in the Farming Zone partially covered by the Bushfire Management Overlay.

The property is located to the north west of the township of Taggerty. It is bounded by the Maroondah Highway to the east and by Yellow Creek Road to the south. There are three abutting properties to the north and west all of similar size and developed by way of a single dwelling. All the surrounding land is zoned farming, and contains scattered dwellings and associated shedding. There are three dwellings within 1 kilometre of the area used for a function centre and group accommodation.

The land is developed by way of two dwellings, a group accommodation building, a common building which contains the bar area (known as the mess hall), and other shedding. The property has several dams that support a cherry orchard. It is vegetated with several paddock trees. There is a cluster of vegetation to the south east of the site.

### Background

In August 2016, a planning permit (2016/33) was issued for group accommodation (48 people) at the subject property. In October 2016, a further planning permit (2016/145) was issued for a beer and wine producers liquor licence for supply of guests of the property and wholesale venues only. No objections were received for this planning application.

In 2018 an amendment to planning permit 2016/33 was issued to include “use of land for function centre and installation of advertising signage” in the proposal. This application sought approval for the following to occur:

- People not staying on the property to attend functions
- Outside staffing, such as caterers, celebrants, DJ's and bands
- Functions could include people staying on site, or could comprise all offsite visitors
- Live bands only permitted between 2pm and 11pm on Saturdays, and will be required to comply with SEPP N-2
- All amplified music (not live bands) would cease by 11pm Friday and Saturday nights, and 10pm all other nights.

This application received two objections and was determined at the 28 November 2018 Murrindindi Shire Council meeting. Council resolved to issue a Notice of Decision which resulted in an amendment to the existing planning permit to be issued on 14 January 2019.

### Proposal

The applicant seeks approval for a further amendment to planning permit 2016/33. The application seeks planning approval for the following:

### Use

- The use of the land for a pub one day per week, where the venue is open to the public for the serving of alcohol. On this day the venue will be open from 12pm to 10pm with up to 48 people at the venue at any one time.

### Development

- The construction of a 54m<sup>2</sup> pavilion which will be open sided and contain a pizza oven
- The pavilion will be located 54 metres from the southern boundary, to the north of the existing building used as a function centre.

### **Community and Stakeholder Consultation**

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 and occupiers
- notice of the application was displayed on the subject site.

Two submissions were received to the application. One from a neighbouring property and another from a local resident and business owner. The concerns of the submissions can be summarised as follows:

#### Residential Amenity:

- Surrounding residential houses at a higher elevation and have been impacted by noise from past events
- Will be detrimental to rural area
- Has been occasions where inappropriate behaviours were witnessed by neighbours.

#### Noise Impacts:

- Noise rises with the topography
- Doors and windows will be open, music will be audible outside
- Noise from the site can be heard inside neighbouring dwelling
- Close monitoring does not happen.

Traffic impacts:

- Will increase traffic to and from the site
- Yellow Creek Road is not of a standard to handle increased traffic for events
- Concern with safety, particularly drivers under the influence of alcohol and children left unsupervised on the road
- Those staying on the premises in group accommodation will be drinking after the venue closes
- Concerns that the takeaway licence will be 7 days per week
- The land is zoned Farming and as such it is not appropriate for a commercial use.

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

- The amendment will not change the existing patron numbers
- The application for the proposed use is for one day per week
- The pavilion will not be seen from Yellow Creek Road
- No changes to existing sound restrictions
- A sound testing report has previously been provided that demonstrates the proposed sound impacts is well within the EPA requirements
- The venue, car parking and Yellow Creek Road are not visible from the neighbouring objector's property and consequently is limited in amenity impacts.

The above response was provided to both submitters, with neither objection being withdrawn.

### **Discussion**

Council Officers have assessed the proposed use and development of the land against the decision guidelines of the *Murrindindi Planning Scheme*. Only the proposed amendment is able to be considered not the existing permitted use. The key issues for this application are;

- the amenity impacts, in particular noise impacts on surrounding properties
- the increased use of Yellow Creek Road
- the commercial use of land that is zoned as Farming.

The proposal is supported by local and state Planning Policy Framework (PPF) in relation to the economic development and tourism benefits to be achieved by the proposed use.

In assessing the application, the applicable PPF were considered including, Clause 13.05 (Noise) and Clause 13.07-1S (Land use compatibility).

### **Clause 13.05 (Noise)**

Control of noise effects on sensitive land uses. This is achieved by ensuring, 'that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area'.

- The proposal includes the use of the land until 12pm to 10pm one day per week, currently approved for a Sunday. The applicant previously provided a noise report that was completed in 2017 (see submissions). In this report it was demonstrated that the use of the land for 48 guests would fall within the EPA guidelines.

### **Clause 13.07-1S (Land use compatibility).**

This policy aims to, 'safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects'. To achieve this outcome, council officers must consider whether the proposed land use is appropriate for the existing functions and character of the area. Land use compatibility concerns can be reduced by directing land uses to appropriate locations and using a range of building design, urban design, operational and land use separation measures.

- The proposed use of the land for a maximum of 48 guests one day per week in addition to the current use of land is considered to have a minimal impact on the rural amenity of the area
- It is considered that the noise impacts associated with the proposed use of the land can be mitigated through appropriate conditions and laws. In particular, the applicant is required under the *Environmental Protection Act 1970* to comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2
- In this instance, it is considered that the use of the land for a pub causes some land compatibility concerns for surrounding residential uses. However, when taking into consideration the significant distance between the residential uses, frequency of events, number of patrons and existing planning permit conditions it is considered that these impacts can be reduced to an acceptable level.

**Under existing planning permit 2016/33 the following conditions currently regulate noise and amenity impacts:**

- (5) The use or development hereby permitted shall not cause nuisance or injury to, or prejudicially affect the amenity of the locality, by reason of the transportation of materials, goods and commodities to and from the land, the appearance of any building, works, or materials on the land, the emission of noise, vibration, smell, fumes, smoke, vapour, steam soot, ash, dust, waste water, waste products, grit, oil or the presence of vermin or otherwise
- (6) The subject land must be kept neat and tidy at all times and its appearance must not, in the opinion of the Responsible Authority, adversely affect the amenity of the locality
- (7) Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority such that no direct light is emitted outside the boundaries of the subject land
- (16) The function centre hereby permitted may only be used for a maximum of 12 functions per year. A log of all events must be kept by the permit holder, and made available to the Responsible Authority upon request
- (17) The function centre hereby permitted shall take place only between the hours of 2pm to 11pm Friday and Saturday
- (18) No amplified music or speakers are allowed outdoors or to be placed or mounted on or around the existing structures on the site.

These conditions will remain on any amended planning permit that is issued.

**Amenity – Increased traffic on Yellow Creek Road**

The property is located on an unsealed public road that is maintained by Murrindindi Shire Council. A Traffic Impact Assessment was provided with the previous application for an amendment to planning permit 2016/33. As this proposal does not increase the number of patrons permitted on the site at any one time, it was not considered that another traffic management report would be required.

On the day that the venue is open to the public there will be an increase in traffic along Yellow Creek Road. As such, the proposal has been assessed against Clause 18.01-2S (Transport System) which requires the planning or regulating of new use and development to avoid detriment and where possible enhance, the service, safety and amenity desirable for that transport route on the short and long terms. The proposal has also been considered against Clause 35.07 (Farming Zone) which requires the Responsible Authority to consider whether the proposed use and development will require traffic management measures.

The entrance to the property is approximately 380 metres down Yellow Creek Road from Maroondah Highway. It is considered in this instance that the road appropriately services the site and that no increase safety or amenity issues will be caused by the increased traffic to the site.

#### Non – agricultural use and development in the Farming Zone

The primary purpose of the Clause 35.07 (Farming Zone) is to provide for the use of the land for agriculture and ensure that non-agricultural uses do not adversely affect the use of land for agriculture.

Before deciding on an application to use and develop land, a Responsible Authority must consider a range of relevant decision guidelines including:

- capability of the land to accommodate the proposal
- how the use and development relates to sustainable land management
- compatibility with adjoining and nearby land uses
- how agricultural production is supported and enhanced
- impact on physical features and resources of the area, in particular on soil and water quality
- 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 proposed extension of the existing use will have no additional impact on the agricultural potential of the land or surrounding agricultural uses.

The proposed and existing use of the land for a bar and events are unlikely to impact the existing agricultural use of the land for a cherry orchard. As the proposed use will be within the area currently being used for events no additional land will be removed from agricultural uses. The use of the land for a brewery uses produce from the land for their products.

The proposed pavilion will be barely visible from the roadside and is not considered to adversely impact the rural character of the area.

The existing effluent system was designed and installed in 2016 with the intent of it been capable to withstand future business expansion. Councils Environmental Health Officer has confirmed that the effluent system is sufficient to cope with the additional load as proposed in this application.

#### Tourism and economic growth

The proposed extension of use has been considered against the tourism and economic growth planning policy contained within the Murrindindi Planning Scheme. Local and state policy supports increasing tourist development within the municipality.

Clause 17.01-1R (Diversified Economy) seeks to strengthen and diversify the economy. This is proposed to be achieved through that facilitate growth in a range of employment sectors, based on the emerging and existing strengths of each region.

Clause 2.02 (Vision) details the overarching local planning direction for the municipality which includes to:

- Council seeks to enhance the liveability, amenity and quality of life in the municipality
- Council will facilitate sustainable population and economic growth
- The municipal rate base will be actively grown through sound planning, support for continued economic development and protection of the natural and built environment.
- A strong economy will attract people to the municipality, creating further opportunities for lifestyle choice, business investment and prosperity.

Clause 17.04-1S (Tourism) sets out State objectives and strategies seeking to encourage tourism development. In particular Clause 17.04-1R (Tourism – Hume) seeks to ‘facilitate rural tourism activities that support agricultural enterprises and accommodation in appropriate locations’.

Council officers are satisfied the proposal is consistent with the Murrindindi Planning Scheme PPF. The applicant has established that the proposal will have a beneficial impact on the economic growth of the municipality as it will facilitate the growth of tourism to the municipality.

### **Discussion – Issues Raised by Objectors**

A response to the issues raised by the objectors is set out below.

#### Noise

Submissions have been made that the increased use of the land will result in increased noise which will have a detrimental impact on residential use of the area. As discussed above, the applicant has previously provided a report detailing the existing sound mitigation measures and conditions.

The closure of the venue at 8pm / 10pm is considered to have minimal impact on the surrounding residential uses. As the use only allows the operation one day per week it is considered appropriate that the existing noise mitigation measures are sufficient.

#### Safety and amenity concerns regarding the increased use of Yellow Creek Road

The increased use of Yellow Creek Road has been raised as a concern by objectors due to the potential amenity and safety impacts.

The use of the land for a bar will increase the use of this road on the day of operation. However, as the dwelling of the neighbouring objectors property is located approximately 650 metres from this road it is considered that any impact from increased traffic will be relatively minor. Furthermore, the subject site is the first access on Yellow Creek Road from Maroondah Highway. As such, few cars would be travelling past neighbouring properties which will limit the amenity impact.

Safety concerns regarding patrons walking onto the road from the venue have been raised by a neighbouring objector. In order to mitigate this risk, a condition requiring the construction of a fence on the applicants land has been included in the officer recommendation.

#### Incompatibility with rural lifestyle

Concern was raised in relation to the impacts on the rural lifestyle. It was raised that the commercial use of the land is not consistent with the Farming Zone. As discussed above, the Farming Zone allows for complimentary uses to operate in this zone. In this instance, it is considered that the existing and proposed use compliments the agricultural use and should be supported. Adverse amenity impacts can be mitigated by conditions.

### **Conclusion**

Council officers are satisfied that the application proposal is consistent with provisions of the Murrindindi Planning Scheme. This report only assesses the proposed changes to the existing planning permit, not the existing use or development of the land. The proposal will contribute to a diversified rural economy by creating unique cultural tourist experience. As the issues raised by the objectors have been addressed through existing and proposed conditions, it is recommended that the application be approved.

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

This report is consistent with the *Council Plan 2017-2021* Our Place and Our Prosperity strategic objectives:

- ‘we will maintain and enhance places to be attractive and liveable, in balance with our natural environment’

- 'through good land use planning enhance the liveability, prosperity and rural character of our Shire'.
- 'work with our businesses, regional partners and communities to support a diverse visitor experience that promotes our natural assets, and a vibrant range of events'.

### **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 financials implications or risks associated with the consideration of this application for planning permit.

### **Conflict of Interest**

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

## **8.4 COMMUNITY PLANNING UPDATE – COMMUNITY PLANS AND GRANTS**

Attachment(s):        *Yea Community Plan (refer Attachment 8.4a)*  
                              *Yea Community Plan Summary Version 2020 (refer Attachment 8.4b)*  
                              *Toolangi/Castella Community Plan 2020 (refer Attachment 8.4c)*  
                              *Marysville Community Plan (refer Attachment 8.4d)*

### **Purpose**

The purpose of this report is for each of the Community Plans (for the three pilot communities of Yea, Toolangi/Castella and Marysville) to be presented to Council for acknowledgement. The report also provides information about the progress of the Community Planning Pilot, and the changes to the timeframes agreed with Insurance Australia Group (IAG), the funding body.

### **Officer Recommendation**

#### **That Council:**

- 1. acknowledge the three Community Plans for the communities of Yea, Marysville and Toolangi-Castella and encourage their further development**
- 2. note the extension of the IAG funded Community Planning Project to end September 2020.**

### **Background**

Murrindindi Shire Council received funding for a for a three phase community planning project with Insurance Australia Group in 2016. The project is now in the third phase of piloting the community planning framework. This framework was developed in consultation with the community during phase two.

### **Discussion**

Following the February community planning activity, the Steering Groups have worked with the Community Planning Officers (CPOs) to finalise the draft Plans and release them for community feedback, which occurred between 1 and 15 May 2020. Action Teams for each priority project have determined the next steps to progress projects and this work is included in the Plans.

IAG has agreed to an extension of the project in response to the challenges of COVID-19 and the project has been extended to 30 September 2020. This provides an extension of timeframes for the Community Planning Grant program. The Community Planning Grant program will now open in mid-July and close at the end of August, with a 12 month period for community to acquit projects. IAG funding will provide \$30,000 per town, and up to \$7,500 per project. The Grant guidelines are attached for Council's information.

**Next steps:**

- Action Teams to progress project outcomes, including developing project plans and identifying appropriate grants
- Evaluation of the community planning trial and final reporting to IAG and Council
- Council acknowledged Community Plans will be made available on our website
- Appropriate projects will be listed for the consideration of Council in subsequent year's budgets.

**Council Plan/Strategies/Policies**

This project is consistent with the *Council Plan 2017-2021* Strategic Objective: *Together we will celebrate and encourage diverse, caring and connected communities.*

Further, the project aligns directly with Action 1.2.1 in Council's *Priority Action Plan 2018/19: Help local communities plan for their future.*

**Relevant Legislation**

There is no significant legislation related to this initiative.

**Financial Implications and Risk**

This project is funded by a grant from IAG. An initial grant of \$185,000 was provided to Council by IAG to undertake the development and trial of a community planning process. IAG has provided a further grant of \$200,000 to support an extension of time for the pilot, and the development of a grant program for projects identified as part of the community planning process.

**Conflict of Interest**

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

**Community and Stakeholder Consultation**

The Community Planning initiative is a consultative process of engaging our Communities.

## **8.5 DELAY AND CHANGES IN THE LOCAL GOVERNMENT POWER PURCHASING AGREEMENT (LG PPA) PROJECT**

Attachment(s): *LG PPA Briefing Paper 10-07-2019 – (refer Attachment 8.5)*

**Purpose**

This report is to update Council on the changes to the LG PPA project and to determine if Council wish to participate further in the project.

Key issues include changes to the proposed procurement agent to act on behalf of the project group and a delay in the final delivery of a signed a contract for renewable energy.

**Officer Recommendation****That Council:**

- 1. note the changes in the project governance**
- 2. withdraws its involvement in this LG PPA project and seek out alternative options for renewable energy supply into the future as market alternatives arise**
- 3. request the Chief Executive Officer to write to Darebin City Council advising it of Council's decision.**

**Background**

In November 2017, the Victorian Greenhouse Alliances established a Local Government Electricity Contract Working Group. One of the key projects of this group was to develop a Power Purchasing Agreement (PPA).

The intent was to form a new customer-led, long-term (7-10 year) contract to purchase 100% renewable energy, commencing in 2020/21. This was to coincide with the conclusion of three of Murrindindi Shire Council large electricity retail contracts. Darebin City Council has led the project, with 39 councils; including Murrindindi participating in stage one.

The PPA was being developed over three stages:

- Stage 1 – Business Case (complete)
- Stage 2 – Tender Development
- Stage 3 – Tender Evaluation, Negotiation and Award (original date to deliver the contract was 01 July 2020).

The resolution at the council meeting on the 24<sup>th</sup> of July 2019 was that Council:

1. *notes the risks and opportunities associated with participation in the LG PPA project, particularly the opportunity to procure lower cost renewable energy in partnership with other Councils*
2. *agrees to participate in the LG PPA project to procure renewable energy for Council's Alexandra Corporate Office, Marysville Community Centre and unmetered public street light accounts*
3. *appoint Municipal Association of Victoria (MAV) as its agent in relation to this tender in accordance with the terms of that agreement and authorises the Chief Executive Officer (CEO) to sign the agency agreement*
4. *delegates responsibility to sign the final retail contract to the CEO, should the tender be accepted by MAV and subject to the CEO's assessment that the contract terms would not expose Council to unexpected and unacceptable risks.*

Since this time, it was brought to our attention that there have been delays in in the project timeline, a change of the contract delivery date and some changes in the governance structure and proposed procurement agent.

The project is now proceeding with Darebin Council as the lead organisation who will engage a new tendering supplier that originally proposed. This will require the preparation and execution of a new Participation Deed between all members of the Buyers Group and result in a delay to the projects final delivery date.

Darebin is now asking all councils to provide an indication if they wish to proceed with the new governance arrangements and new project timeline.

### **Discussion**

The main issues that relate to Murrindindi Shire Councils ongoing participation in the project are largely due to the internal resourcing of the project work. The staff time and costs involved in participating henceforth have not been factored into the 21/22 budget or work program and the project fees to continue with Darebin at this stage are unknown.

An additional challenge presented by the new timeline is the upcoming Council elections and associated caretaker period. As such, Darebin and the Project Steering Committee wish to seek out participation agreements from councils still wanting to continue in this project before that caretaker period begins, however at this time the costs of participating further in the project have not been made clear to the project group.

In light of these challenges and unknowns, it is recommended that Council withdraw their involvement in this LG PPA project and seek out alternative options for renewable energy supply into the future as market alternatives arise.

**Council Plan/Strategies/Policies**

This matter relates to the *Council Plan 2017-2021* Strategy under Our Place to strengthen the environmental sustainability of our communities, protect our natural environment and reduce resource consumption

**Relevant Legislation**

This report takes into consideration the legislated responsibilities under *The Climate Change Act 2017*.

**Financial Implications and Risk**

The costs to participate further in the project at this stage are unknown and being reviewed by Darebin City Council. There would be additional costs to participate in this project.

There still remains the risk of participating in this project for another 12 months and the tender not returning a suitable result, meaning that we either do not enter into a contract for green energy or we pay more than we anticipated to continue in the project

**Conflict of Interest**

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

**9. OUR PEOPLE****10. OUR PROSPERITY****10.1 MURRINDINDI SHIRE COUNCIL BUSINESS & TOURISM ADVISORY COMMITTEE**

Attachment(s): *MSCBAC Terms of Reference (refer Attachment 10.1)*

**Purpose**

The purpose of this report is to discuss the details for the proposed Business and Tourism Advisory Committee.

**Officer Recommendation****That Council:**

1. **accept the Murrindindi Shire Council Business and Tourism Advisory Committee Terms of Reference as attached to this report**
2. **appoint the following membership to the Murrindindi Shire Council Business and Tourism Advisory Committee:**
  - **Chair – Mayor**
  - **MSC Tourism and Events portfolio (or ward) Councillor**
  - **1 x representative Alexandra and District Tourism and Traders Association**
  - **1 x representative Kinglake Ranges Business Network**
  - **1 x representative Marysville and Triangle Business and Tourism Association**
  - **1 x representative Y Water Discovery Centre Association**
  - **Members – 5 external independent persons.**

**Background**

Council adopted the Murrindindi Shire Tourism and Events Strategy in November 2019. A key recommendation from that strategy was the establishment of a Committee of Council consisting of key industry advisers and local business operators to advise Council in regards to the delivery of the Strategy.

COVID-19 impacts have seen the need to broaden the focus of the group in the short term to include the delivery of a Murrindindi Shire Council (MSC) Business Recovery Plan (BRP).

### **Discussion**

A group of business and tourism representatives, Councillors and officers have commenced meeting weekly to initiate the development and delivery of the Business Recovery Plan and provide advice regarding the implementation of a range of Business Relief activities.

Officers recommend the formalisation of a Business and Tourism Advisory Committee for a six month period to establish the appropriate governance arrangements for the delivery of the Plan. At the six month period the Committee should be reviewed because:

- the nature of the pandemic means the needs of Council in the medium to long term are uncertain
- the committee should be established with a view to a transition back to 'business as usual' (tourism and events) at an appropriate time.

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

This report is consistent with the *Council Plan 2017-2021* Our Prosperity strategic objective 'in partnership with the community we will promote an environment in which business and community can thrive'.

### **Relevant Legislation**

No legislation has been required to be considered in the preparation of this report.

### **Financial Implications and Risk**

The delivery of both the MSC Tourism and Events Strategy and the MSC Business Recovery Plan will influence the budget and expenditure of Council. Established budgetary processes and financial management principles will be utilised and enforced to guide this outcome.

### **Conflict of Interest**

No conflict of interest was declared by Council officers in the preparation of this report.

### **Community and Stakeholder Consultation**

This Committee is established to increase Council's ability to engage with the business community and deliver appropriate activities in the interests of all Murrindindi Shire businesses.

## **11. OUR PROMISE**

### **11.1 PROCUREMENT POLICY ANNUAL REVIEW 2020**

Attachment(s): *Procurement Policy Draft June 2019 (refer Attachment 11.1)*

#### **Purpose**

The purpose of this report is to seek Council's endorsement of the revised Procurement Policy which requires annual review in accordance with Section 186A (7) of the *Local Government Act 1989* now the *Local Government Act 2020* (the Act).

#### **Officer Recommendation**

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

- 1. adopt the revised Procurement Policy as contained in Attachment 11.1**
- 2. notes that the revised Procurement Policy will remain in force until a Procurement Policy is adopted under the new Local Government Act 2020.**

**Background**

Council's Procurement Policy (Policy) was last reviewed and adopted in June 2019. It is a requirement under Section 186A of the *Act* that a Council must review the current procurement policy at least once every financial year.

Regular review of the Policy encourages continuous improvement so that Council's ways of doing business and procurement processes represent best practice.

**Discussion**

The Policy was extensively reviewed in May 2017, which brought the Policy in line with industry standards. The Policy has been successfully implemented and appears to be relatively well understood by the wider business community that seeks to engage with Council for the provision of goods or services.

Council officers from various departments undertook a review of the Procurement Policy and processes in early 2020. This review revealed that the policy and processes meet the legislated requirements and are quite robust. Council officers have found the requirements achievable and the processes supportive.

There have been areas identified such as social procurement which Council intends to include in the future however these areas require further investigation before they can be implemented.

As part of the review Council officers are proposing the following changes:

- In recognition of the adverse impacts of COVID-19, increasing the local supplier preference to being within 10% (previously 5%) of the highest scoring value for money offer. In addition to this increase, a preference provision (within 7.5%) has been added to support suppliers within the Mitchell, Mansfield and Strathbogie Shires, where there is no Murrindindi supplier within 10% of the highest value offer.
- Support for the use of recyclable materials in line with the State Government's Circular Economy Policy as part of section 5.4.
- The following modifications to the thresholds listed in section 5.7
  - a change to the tier one threshold, to increase this threshold to \$10,000 from \$5,000. Council officer feedback suggested that \$5,000 was quite low for the requirements of this threshold.
  - Tier 2 has been amended to exclude verbal responses and agreements
- The Panel thresholds have been added to the Policy as part of section 5.10. These have previously been in the guidelines only, by including them it better meets Council's intention to be as open and transparent as possible in our procurement processes.

These changes have been agreed by the Executive Management Team for consideration by Council.

The *Local Government Act 2020* commenced operation on 6 April 2020. The implementation of the requirements under the *Act* is staggered over an 18 month period. The *Act* requires Councils to take a new approach to procurement, including setting thresholds and implementing the Policy for a 4 year period. The Procurement provisions of the *Act* come into force 1 July 2021, therefore Council must act under the 1989 provisions until that time. As the current policy meets the needs of Council and the legislated requirements it is proposed that this amended policy be adopted to remain in place until the *Local Government Act 2020* provisions are applicable.

**Council Plan/Strategies/Policies**

This item is consistent with the *Council Plan 2017-2021* Our Promise strategic objective to 'ensure the range of services we provide and the way we provide them are best aligned with community priorities and Council's resources'.

**Relevant Legislation**

Review of the Policy is required under Section 186A of the *Act* which requires local councils to have a procurement policy and to review it each financial year. Once Council approves a procurement policy it must comply with the policy and make it publicly available.

**Financial Implications and Risk**

Council's Policy sets procedural controls to protect against financial, probity, fraud and corruption risk whilst also ensuring that resources are used efficiently and the removal of unnecessary barriers or costs of doing business with Council.

**Conflict of Interest**

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

**Community and Stakeholder Consultation**

Community consultation has not been required for the purpose of this statutory review of the Policy which primarily has assessed compliance with the *Act*. Upon approval, the revised procurement policy will become a publically available document available at Council offices and on Council's website.

**11.2 EQUAL OPPORTUNITY POLICY**

Attachment(s): *Policy - Equal Opportunity (refer Attachment 11.2)*

**Purpose**

The purpose of this report is to seek Council's adoption of the revised Equal Opportunity Policy.

**Officer Recommendation****That Council:**

- 1. adopt the Equal Opportunity Policy as contained in *Attachment 11.2***
- 2. rescind the Equal Employment Opportunity Policy 2016.**

**Background**

Bullying, sexual harassment, harassment, discrimination and victimisation in employment, and in the supply of goods and services, is unlawful under Commonwealth and Victorian legislation.

Council is obliged to:

- provide a workplace where employees have the opportunity to progress to the fullest extent of their capabilities
- ensure that the principles of Equal Opportunity are applied to the delivery of services to the community
- to lead by example within our community.

Council last reviewed its current Equal Employment Opportunity Policy in 2016.

**Discussion**

The existing policy was focused exclusively on Council's role as an employer and in creating a workplace for employees that is free from discrimination and harassment. The review of this policy has widened the scope to include Council's legislated responsibilities as a provider of services to the community.

The Policy has been updated to be action based. It is a statement of what Council is committed to and how this will be achieved.

The *Local Government Act 2020* also requires the CEO to ensure that Council's legislated equal opportunity responsibilities are addressed in Council's Work Force Plan. This area of the *Act* comes into force in 2021.

This Policy acknowledges Council's commitment, not only to its legislated responsibilities, but in setting the example within the community.

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

This Policy is consistent with the *Council Plan 2017-2021* strategic objectives "to work in collaboration with our communities to deliver the best possible outcomes in all that we do" and "Together we will celebrate and encourage diverse, caring and connected communities".

### **Relevant Legislation**

Bullying, sexual harassment, harassment, discrimination and victimisation in employment, and in the supply of goods and services, is unlawful under Commonwealth and Victorian legislation. Primarily in Victoria, Council's legislated responsibilities are prescribed by the *Equal Opportunity Act 2010*.

### **Financial Implications and Risk**

Failure to meet the requirements of the *Equal Opportunity Act 2010*, Commonwealth legislated responsibilities and the principles contained in this Policy could pose a significant risk to Council, both from a litigation and reputation point of view.

### **Conflict of Interest**

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

### **Community and Stakeholder Consultation**

No external community consultation was required in the review of this Policy.

## **11.3 COMMUNITY ENGAGEMENT POLICY REVIEW 2020**

Attachment(s): *Murrindindi Shire Council Community Engagement Policy (refer Attachment 11.3)*

### **Purpose**

The purpose of this report is to seek Council's input into the review of Council's Community Engagement Policy.

### **Officer Recommendation**

#### **That Council:**

- 1. adopt the revised Community Engagement Policy as contained in *Attachment 11.3***
- 2. note that the revised Community Engagement Policy will remain in force until a Community Engagement Policy is adopted under the new *Local Government Act 2020*.**

### **Background**

Council's Community Engagement Policy was last reviewed and adopted in 2012 and has been in line with industry standards during this time.

The policy has been reviewed to enable compliance with the current internal policy review process.

A more comprehensive review and amendment to this policy will be undertaken in the 2020/21 financial year to comply with the *Local Government Act 2020* reform implementation. This will support alignment with Council following the 2020 elections, and foster internal capacity building.

### **Discussion**

The current review of the Community Engagement policy does not propose any substantial change. Some minor wording changes have been made to improve clarity, and the policy principles that were in the Community Engagement Guidelines have been included, with no alterations to policy intent.

The reforms associated with the *Local Government Act 2020* now encompass an increased focus on Community Engagement.

The reforms to the *Local Government Act 2020* include:

1. Improved Service Delivery
2. Strong Local Democracy
3. Improve Conduct
4. Community Confidence
5. A New Relationship.

*The Act* has been developed to revitalise local democracy, boost council innovation and efficiency and establish a clear, simple and accessible act. Five key principles have guided the development of *the Act* including: Community Engagement, Strategic Planning, Financial Management, Public Transparency and Service Performance.

Implementation timelines have been set to support Council in adopting changes legislated within *the Act*. The key date for Council associated with adopting a new Community Engagement Policy in line with *the Act* is 1 March 2021.

Whilst the *Local Government Act 1989* did not dictate the need for a policy on community engagement, it did provide direction to Council in relation to community consultation in its “Best value principles” contained within Section 208B including:

- Council must be responsive to the needs of its community
- Council must develop a program of regular consultation with its community in relation to the services it provides.

Comparing the 1989 Best value principles with the new legislation, focus on Community engagement policy and principles clearly distinguishes the major change in this area. Council is now clearly mandated to adopt and maintain a community engagement policy in consultation with community, in line with the principles set on community engagement.

The comprehensive review of Council’s Community Engagement Policy planned for 2020/21 will support adoption by the new Council prior to the 1 March 2021 critical date. A suitable engagement process will be planned and delivered to support both community and council engagement that will support achieving the standards legislated in the *Local Government Act 2020*.

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

This policy relates to the *Council Plan 2017-2021 Our Promise* strategic objective of expanding our two way engagement with community, and ensuring that the range of services we provide are best aligned with community priorities and Council’s resources.

The policy is supported by the Murrindindi Shire Council Community Engagement Guidelines.

### **Relevant Legislation**

The *Local Government Act 2020* details Community Engagement legislation within Part 3 Council decision making, Division 1 Community Accountability, Sections 55-56.

Regular review of strategic Council policies, such as the Community Engagement Policy, is considered best practice. Whilst not specified in *the Act* officers propose that this policy is reviewed once every four years following the election of a new Council.

Once Council approves a Community Engagement Policy it must comply with the policy and make it publicly available.

**Financial Implications and Risk**

The reform of the *Act* legislated in 2020 has placed a large emphasis on Community Engagement to support service alignment with community expectations. The *Act* will require greater accountability on Community Engagement outputs, and may have implications on staff resourcing and operational budget allocations in future years to support innovation in this area.

**Conflict of Interest**

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

**Community and Stakeholder Consultation**

Broader community and council consultation has not be required for the purpose of this temporary review. With Council elections scheduled for 2020 a comprehensive policy review will take place and encompass community consultation to support adoption before March 2021.

**11.4 AUDIT AND RISK ADVISORY COMMITTEE MINUTES**

Attachment(s):     *2020-05-05 Audit & Risk Advisory Committee Minutes (refer Attachment 11.4)*  
                          *2020-05-05 Audit & Risk Advisory Committee Attachments (distributed to Councillors separately)*

Minutes of the 5 May 2020 Audit and Risk Advisory Committee Meeting.

**Officer Recommendation**

**That Council note and receive the minutes of the Audit and Risk Advisory Committee meeting held on 5 May 2020 as contained in *Attachment 11.4*.**

**12. NOTICES OF MOTIONS****13. MATTERS DEFERRED FROM PREVIOUS MEETING****14. URGENT BUSINESS****15. COUNCILLOR REPORTS**

15.1 CR SANDICE MCAULAY

15.2 CR JACKIE ASHE

15.3 CR ERIC LORDING

15.4 CR CHARLOTTE BISSET

15.5 CR REBECCA BOWLES

15.6 CR MARGARET RAE

15.7 CR LEIGH DUNSCOMBE – MAYORAL REPORT

**16. CHIEF EXECUTIVE OFFICER REPORT****17. ASSEMBLIES OF COUNCILLORS****Purpose**

This report presents the records of assemblies of Councillors for 6 May 2020 to 20 May 2020, for Council to note in accordance with Section 80A of the *Local Government Act 1989* (the Act).

**Officer Recommendation**

**That the CEO on behalf of Council receives and notes the record of assemblies of Councillors for 6 May 2020 to 22 May 2020.**

**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 6 May 2020 to 20 May 2020:

Meeting Name/Type	Briefing Session
Meeting Date:	6 May 2020 via Videoconference
Matters Discussed:	<ol style="list-style-type: none"> <li>1. COVID-19 Pandemic Update</li> <li>2. Mark McKenzie McHarg – Yea Saleyards Structure &amp; Governance Project</li> <li>3. Business Survey Results</li> <li>4. Capital Works Monthly Update – April 2020</li> <li>5. Street and Public Lighting Installation Policy Review</li> <li>6. CONT19/26 – Supply and Delivery of Back Hoe</li> <li>7. Variation and Contract Extension – CONT16/24 – Council Facilities Cleaning Services</li> </ol>
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, M Chesworth, S Brown, V Albicini, C Lintott
Conflict of Interest Disclosures:	Nil

Meeting Name/Type	Briefing Session
Meeting Date:	13 May 2020 - via Videoconference
Matters Discussed:	<ol style="list-style-type: none"> <li>1. COVID-19 Pandemic Update</li> <li>2. 413 Burgess Road, Yarck – Use and Development of Land for the Purpose of a Single Dwelling - Refusal</li> <li>3. 102 Falls Road, Marysville – Use and Development of the Land for the Purpose of Six (6) Dwellings</li> <li>4. 3625 Maroondah Highway, Acheron – Amendment to Planning Permit 2016/33</li> <li>5. Monthly Planning Report</li> <li>6. Local Government Power Purchasing Agreement</li> <li>7. Swimming Pool Update</li> <li>8. Procurement Policy</li> </ol>

	9. Equal Opportunity Policy 10. Community Engagement Policy
Councillor Attendees:	Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, M Chesworth, S Brown, V Albicini, N Stewart, C Gartland, M Schreuder, N McNamara, S Coller, T Carter
Conflict of Interest Disclosures:	Nil

Meeting Name/Type	Workshop Session
Meeting Date:	20 May 2020 – via Videoconference
Matters Discussed:	1. COVID-19 Pandemic Update 2. Draft Domestic Waste Water Management Plan 3. Community Planning Update – Yea, Toolangi, Marysville 4. Business and Tourism Advisory Committee – Terms Of Reference, Committee Appointments 5. Regional Tourism Board – Tourism North East MOU 6. CONFIDENTIAL – Tender CONT20/6 – Wilhelmina Falls Road, Murrindindi Sealing Works
Councillor Attendees:	Cr C Bisset, Cr S McAulay, Cr L Dunscombe, Cr R Bowles, Cr J Ashe, Cr M Rae, Cr E Lording
Council Officer Attendees	C Lloyd, M Chesworth, S Brown, V Albicini, N Stewart, I Coller, N McNamara, J Kirkwood, A Paix, C Lintott
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**

File Reference	Date Seal Affixed	Description of Documents	Signatures of Persons Sealing
CONT20/5	13 May 2020	Minor Works Contract between Murrindindi Shire Council and Wrights Earth Moving Pty Ltd for King Parrot Creek – Route Improvement	Craig Lloyd Cr Leigh Dunscombe
CONT19/14	14 May 2020	Formal Instrument of Agreement between Murrindindi Shire Council and Turf One Pty Ltd for Kinglake Memorial Reserve – Renewal Netball Courts	Craig Lloyd Cr Leigh Dunscombe

**Officer Recommendation**

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

**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 reports on the CONT19/26 – Supply and Delivery of Back Hoe, Tender CONT20/6 – Wilhelmina Falls Road, Murrindindi Sealing Works, Variation and Contract Extension – Contract 16/24 – Council Facilities Cleaning Services and Variation – Contract 19/22 – Rubicon Road – Route Improvement 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:**

- **CONT19/26 – Supply and Delivery of Back Hoe**
- **Tender CONT20/6 – Wilhelmina Falls Road, Murrindindi Sealing Works**
- **Variation and Contract Extension – Contract 16/24 – Council Facilities Cleaning Services**
- **Variation – Contract 19/22 – Rubicon Road – Route Improvement**