



AGENDA
of the
ORDINARY MEETING OF COUNCIL
WEDNESDAY 22 JANUARY 2020
at
Murrindindi Shire Council
Council Chamber
The Semi Circle
Yea
6.00 pm

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

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

5.1 Minutes of the Ordinary Meeting of Council held on 18 December 2019.

Officer Recommendation

That Council confirm the minutes of the 18 December 2019 Ordinary Meeting of Council.

5.2 Minutes of the Confidential Meeting of Council held on 18 December 2019.

Officer Recommendation

That Council confirm the minutes of the 18 December 2019 Confidential Meeting of Council.

6. PETITIONS**6.1 PETITION – ALLANDALE ROAD STRATH CREEK**

Attachment(s): Petition – Sealing of Falls and Allandale Roads – Strath Creek – distributed to Councillors Separately

Purpose

This report is to advise Council that a petition has been received relating to sealing of the 2km section of road from the existing bitumen on Falls Road along Allandale Road to Hanna's Road in Strath Creek.

Officer Recommendation

That Council refer the petition to the Director Assets and Development for a report to be prepared for the 26 February 2020 Ordinary Meeting of Council.

Background

The petition was submitted by William John Rogers and was signed by 36 people.

The petition requests that Council seal the 2km section of road from the existing bitumen on Falls Road along Allandale Road to Hanna's Road in Strath Creek.

This road has been identified by the petitioners as:

1. servicing the Village Green & Pavilion Cricket Ground, which is a local tourism attraction
2. being prone to pot holes due to the steep descent and a sharp 90 degree corner
3. being regularly criticised by visitors and local residents.

7. PUBLIC PARTICIPATION TIME

7.1 OPEN FORUM

7.2 QUESTIONS OF COUNCIL

8. OUR PLACE

8.1 USE AND DEVELOPMENT OF THE LAND FOR A DWELLING – 500 SPRING CREEK ROAD, FAWCETT

Attachment(s): Attachment (refer Attachment 8.1)

Land: 500 Spring Creek Road FAWCETT 3714
 Proposal: Use and development of land for the purpose of a dwelling (Retrospective)
 Applicant: C Neal
 Zoning: Farming
 Overlays: N/A

Locality Plan



Figure 1 – subject site highlighted in red.

Purpose

This report recommends that Council refuses to grant a Planning Permit for the ‘Use and development of land for the purpose of a dwelling (Retrospective)’ at 500 Spring Creek Road FAWCETT 3714. The proposal creates a rural residential lot in an area which is predominately agricultural which is inconsistent with the objectives of the Murrindindi Planning Scheme.

Officer Recommendation

That Council issue a refusal to grant a permit for the 'Use and development of land for the purpose of a dwelling (Retrospective)' at 500 Spring Creek Road FAWCETT 3714 (C/A: 104 CAL: E, Parish of Alexandra) due to the following Grounds of Refusal:

- 1. the proposal does not comply with the requirements of Clause 02.03 strategic Direction:**
 - **Protecting rural land for productive agricultural uses and compatible rural uses**
 - **Ensuring that the use and development of rural land protects and enhances agricultural potential and the productive capacity of the land and surrounding land**
 - **Ensuring that agricultural land is not developed for primarily residential purposes.**
- 2. proposal does not comply with the requirements of Clause 13.07-1S land use compatibility as residential land uses should be directed to a residential area**
- 3. proposal does not comply with the requirements of Clause 14.01 Agriculture, given that it creates a predominately residential use in a farming environment that has the potential to limit the operation and expansion of adjacent and nearby agricultural uses in high quality agricultural land**
- 4. the proposal does not comply with the requirements of Clause 16.01-5S Rural Residential Development which includes the objective to 'discourage development of small lots in rural zones for residential use or other incompatible uses**
- 5. the Proposal does not comply with the requirements of clause 35.07 Farming Zone as the proposed use of the land for a dwelling has the potential to limit agricultural uses on the subject site and surrounding land and has not justified the need for a dwelling.**

BackgroundLand and surroundings

The subject site is located on the eastern side of Spring Creek Road, approximately 1.3 Km south of the intersection with Stoney Creek Road, Fawcett. The lot is irregular in shape with a frontage of approximately 88m to Spring Creek Road, a northern boundary of approximately 530m, a western boundary of approximately 225m and an irregular southern boundary with a total length of approximately 750m. The total area of the site is approximately 12.6Ha.

The land is described as 'Land in Plan of Consolidation 378444Q, Vol 12065 Folio 040. The site is not affected by any covenants, encumbrances or agreements. There are no easements on the subject site. The subject site is 1 of 10 lots in the same ownership which have been part of a significant agricultural property. The other lots are characterised as follows:

- Lot 2 on Plan of Subdivision 506012 – located to the south of the subject site also with a narrow frontage to Spring Creek Road. This lot has an area of approximately 130Ha
- CA: 104 CAL: E – located to the north of the subject site with a frontage to Spring Creek Road and an area of approximately 13Ha. The site is not developed with a dwelling. The lot is separated from other lots in the same ownership by the subject site
- CA: 101 CAL: B – located to the south of the subject site with a frontage to the western side of Spring Creek Road, the site has not been developed with a dwelling. The lot has an area of approximately 6.42Ha
- CA: 101 CAL: A – located to the north of the above lot, this lot has a frontage to Spring Creek Road and also has not been developed with a dwelling. The lot has an area of approximately 7Ha

- CA: 101 CAL: N – located to the north of the above lot, this lot has a frontage to Spring Creek Road and has not been developed with a dwelling. The lot has an area of just over 1Ha
- CA: 101 CAL: M – located between the above property and Parsons Road, this irregular shaped lot has not been developed with a dwelling and has an area of approximately 1.3Ha
- Lot 2 on Title Plan 746678 – located on the north side of the intersection of Parsons Road and Spring Creek Road, this lot has not been developed with a dwelling and has an area of approximately 6.1Ha
- Lot 4 on Plan of Subdivision 506015 – located along the northern side of Parsons Road, this lot has not been developed with a dwelling and has an area of approximately 3Ha.

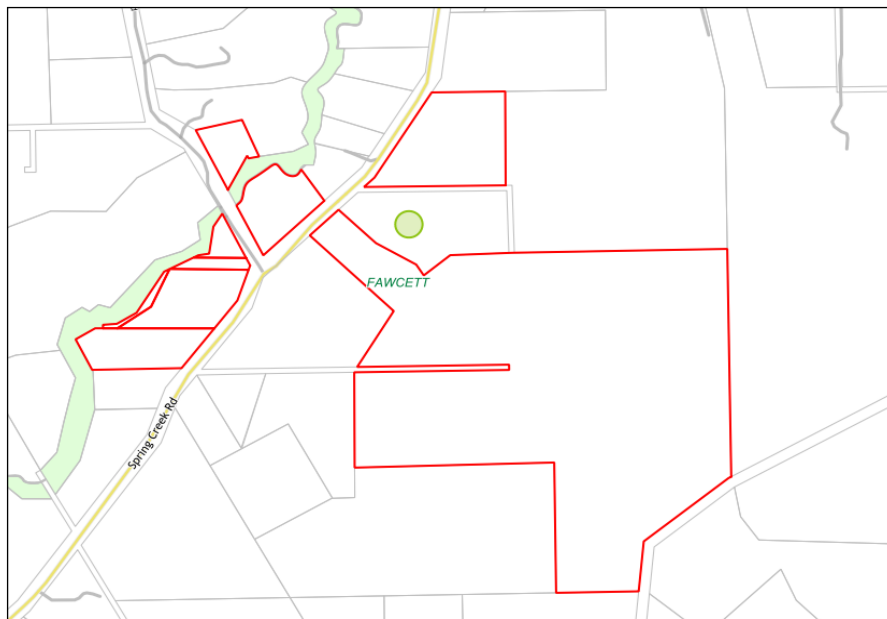


Figure 2 – lots in common ownership with subject site (green dot) outlined in red which are not developed with a dwelling but could be subject to similar applications.

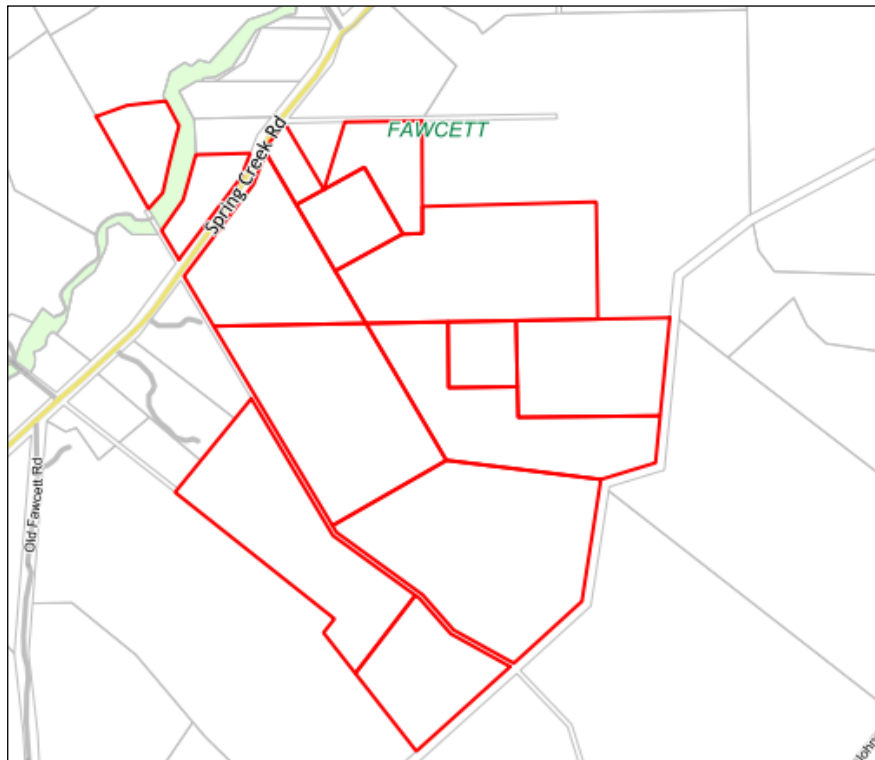


Figure 3 – lots in common ownership with a different owner to the south of the subject site which could also be subject to development applications for dwellings on small lots.

Proposal

This application proposes the use and development of the site for the purpose of a dwelling. The dwelling is modest in scale and can be described as follows:

- Two bedrooms and a study, a living room, kitchen, bathroom and laundry.
- Two car spaces within the building
- Floor area of 20m x 9m
- Total area of 180 square metres
- Wall height of 3.5 metres and a total height of approximately 4 metres
- External cladding Colorbond steel sheeting
- Water tank and 5m x 3m external generator shed constructed in Colorbond Cladding.

The proposed dwelling is to be developed within an existing shed. It is understood that the internal works have been complete and that the application is seeking retrospective approval.

Background

The area in which the subject site is located was included in the area reviewed as part of amendment C14 of the Murrindindi Planning Scheme in September 2005 which in part sought to rezone large area of land into Rural Living Zone Schedule 2. It was recommended by the panel that this aspect of the amendment be deleted and the land remained Farming Zone with a minimum subdivision area of 40Ha and a minimum area for a dwelling without a permit at 40Ha. The report stated that:

The Panel considers the extent of RLZ2 proposed for Alexandra to be excessive. It is not persuaded by the Planning Authorities submission that the majority of the land is already in this size allotment, when almost half again of the number of lots in each area can be potentially be

created or, more importantly, the suggestion that the primary use of these areas is currently rural living.

The report goes on to state:

The Panel's inspection of each of these areas has confirmed that they were remote from the town and had a rural character and use. Furthermore, the Panel is of the view that the area of land shown included in RLZ1 is sufficient to provide the likely demand over a 10 year or even longer timeframe, based on the Valuer General's figures. The panel has therefore concluded that the RLZ2 would create an excess of rural living zoning and should be deleted.

The findings of this report and the subsequent refusal of the rezoning of the area, suggests that the area is still very much an agricultural land use area.

Public Notification

Pursuant to Section 52 of the *Planning and Environment Act 1987*, notice of the application was provided by means of letters to the owners and occupiers of adjoining properties. No objections or submissions have been received in relation to the proposal.

Referral Authority Advice

This application was not required to be referred to any external referral authorities.

Discussion

Overview

The key issues in assessing this proposal for the use and development of a dwelling at the subject site are whether the proposal is consistent with the purpose, objectives and decision guidelines of the Farming Zone as well as the relevant State, Regional and Local planning policies of the Murrindindi Planning Scheme.

State, Regional and Local Planning Policy

The Murrindindi Planning Scheme contains various policies that relate to the use and development of agricultural land that are relevant to this application. Clause 02.03 sets out Council's Strategic Direction and in relation to natural resource management stating that the agricultural sector in Murrindindi Shire Council is diverse, economically significant and has potential to expand. Agricultural activities include beef and sheep grazing, horticulture, cropping, vegetable growing, aquaculture, forestry and niche products. The Goulburn River Valley and tributaries is a fertile valley of high agricultural quality. This clause highlights that agricultural land is under increasing pressure for conversion into non-agricultural uses.

Council aims protect the viability of agricultural land and waterways by:

- protecting high quality agricultural land for ongoing agricultural use
- protecting rural land for productive agricultural uses and compatible rural uses
- ensuring that the use and development of rural land protects and enhances agricultural potential and the productive capacity of the land and surrounding land
- supporting existing agricultural production activities, including beef and sheep grazing, horticulture, cropping, vegetable growing, aquaculture, timber production and niche products
- supporting emerging agricultural industries that are compatible with existing agricultural practices, including horticulture, intensive animal production, agroforestry, farm gate agricultural sales, boutique, niche agriculture, agricultural processing, value adding industries and carbon farming
- supporting the evolution of agriculture in response to improved practices and climate change. Ensuring that agricultural land is not developed for primarily residential purposes

- discouraging the fragmentation of rural land into lots incapable of productive agricultural and rural use
- protecting water catchments from inappropriate use and development, particularly the Goulburn River valley and its tributaries.

It is considered that the proposal is contrary to a number of these Council objectives in that the development is likely to impact on agricultural land use in this area. The application seeks approval for a development which will reduce the viability of broad scale agricultural in the area despite claims by the applicant to the contrary. The subject site is one of ten separately transferable lots in common ownership that are currently predominately used for grazing livestock. The actual site of the proposed dwelling has an area of just over 13Ha, an area which on its own, is not sufficient to be able to conduct a viable grazing business. While the applicant has suggested that the land use will continue as it has previously been done and that there is an association with the other lots, there is no way of controlling this and recommendations of consolidation of lots have been declined. Presently the other lots in common ownership have a reasonable level of connectivity which facilitates the use of the land for grazing. The subject site is located between two lots that if sold, would fragment the property.

The approval of the dwelling would also raise the likelihood that other small lots owned by the current owner would be subject to applications for dwellings on lots where significant agricultural activities would be limited by the small areas of these lots. Dwellings on these lots would not be able to be any more than hobby farms and their approval would reduce the overall productivity of agriculture in the area. This kind of development will inflate the land values beyond that of their agricultural value. This means that larger more legitimate agricultural properties would not be able to be expanded in areas where the planning scheme requires that they are supported.

While the small lots have already been created and are a legacy of older inappropriate subdivisions and boundary realignments, approval on small lots is still responsible for fragmentation of the land. Where the small lots are in common ownership the lots are generally managed as a whole farm. When inappropriate development of dwellings on small lots are approved a perceived precedent can be set and expectations around development changed. Within close proximity of the subject site, there is another landowner with a large holding of land made up by numerous lots smaller than 40ha. Approval of a dwelling at the subject site would suggest that dwellings would also be appropriate on each of those lots. A quick review of the mapping in the area of the subject site indicates that there could be as many as 15 lots which could be considered for dwellings which are currently held by two landowners and which are currently actively farmed.

While the objectives above suggest that council should be open to supporting emerging agricultural industries that are compatible with existing agricultural practices, including horticulture, intensive animal production, agroforestry, farm gate agricultural sales, boutique, niche agriculture, agricultural processing, value adding industries and carbon farming as well as supporting the evolution of agriculture in response to improved practices and climate change, no documentation was provided with the application that suggested that any of these initiatives were being undertaken at the subject site. The application has not provided any justification or explanation as to why a dwelling is required for the continued use of the land for grazing livestock and in suggesting that the land will continue to be farmed as it always has been, actually suggests that a dwelling is not required, given that there has not previously been one on the lot.

The objective of State Planning Policy, Clause 14.01-1S 'Protection of Agricultural Land', is to protect the state's agricultural base by preserving productive farmland. To achieve this objective various strategies are adopted that are relevant to this application such as:

- protecting productive farmland that is of strategic significance in the local or regional context, considering the compatibility between the proposed or likely development and the existing use of the surrounding land,

- limit new housing development in rural areas by:
 - directing housing growth into existing settlements
 - discouraging development of isolated small lots in the rural zones from the use for dwellings or other incompatible uses
 - encouraging consolidation of existing isolated small lots in rural zones.

The land that contains the subject site and the other lots in common ownership represent a farming property of significant scale in the context of the surrounding area. In addition to the other land holding on neighbouring lots, the two properties would be considered to be of local significance and it is clearly a bad planning outcome to allow development which could have the effect of weakening the agricultural value of the area. If more dwelling applications were considered and potentially approved as a result of the approval of a dwelling on a lot less than 40 Ha, with no agricultural justification, the agricultural value of this area would be significantly reduced.

Clause 14.01-1S clearly encourages the consolidation of small lots to ensure that dwellings and other land uses have less chance of impacting on the agricultural viability of the land. While this was recommended to the applicant, this was not supported. The applicant has highlighted that the subject site was recently consolidated, however the lots that were consolidated to form the subject site were of a scale that does not achieve the objectives sought by the policy.

Clause 14.01-1S requires that in considering a proposed use or development of agricultural land Council must consider:

- desirability and impacts of removing the land from primary production, given its agricultural productivity
- impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production
- compatibility between the proposed or likely development and the existing use of the surrounding land
- the potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.

While the proposed dwelling may maintain a limited association with agricultural land use the proposed dwelling and associated domestic infrastructure does remove significant areas of land from agricultural production. More importantly the impact of introducing rural residential development into agricultural areas has the ability to undermine the practices of large productive farms. The amenity expectations of landowners in rural areas are not always aligned with the typical land use activities of legitimate farming properties and this can lead to conflict. Councils are often expected to be the adjudicators in these disputes and should seek to avoid them through not supporting conflicting land uses.

This clause also seeks to avoid the subdivision of productive agricultural land recognising that this has the effect of diminishing the long-term productive capacity of the land. The policy directs planning to give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land such is the case in this application and surrounding land. And lastly the policy requires that planning balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal. While the footprint of the development is not large, no farm/land management plans have been provided in support of the proposal. The dwelling is located within 100 metres of a waterway and effluent generated from the site would need to be carefully managed so as to not enter the waterway. There are also a number of trees within close proximity of the dwelling site and no assessment has been undertaken into the potential impacts on the trees root zones. An encroachment of over 10% into the root zones is considered to deem a tree lost and if the tree is to remain it has the potential to become hazardous if limbs fail due to the stress on the tree.

Considerations of the design and siting of the dwelling are further emphasised in Clause 15.01-6S 'Design for Rural Areas' which seeks to ensure development respects valued areas of rural character. As the dwelling has been retrospectively applied for the site has already been altered for the construction of the shed. While a building permit was granted for the shed there is no evidence of a planning permit being applied for nor has there been any septic permit.

The dwelling is located approximately 150 metres from the road and is located within a group of trees. The trees provide some screening from the road which means that the rural aesthetic is not impacted by the development however in the farming zone it is more important to locate dwellings in such a way that the area of land removed from the farming zone is minimised. In this instance it would appear that the area that could be considered the domestic zone covers approximately 1ha. When the total area of the site is only 12Ha and there are areas of the site that would be ideally fenced off from stock to allow the creek regeneration, the actual area of the site left available for farming is minimal. As the predominant agricultural use of the land is for grazing livestock, the small number of cattle the land could support would not warrant the need for a dwelling on the site.

Farming Zone (Clause 35.07)

As the subject site is located within the Farming Zone a planning permit is required for the Use and development of the land for a dwelling. While the use of the land for a dwelling is typically a section 1 use (no permit required) the table of uses contains the condition that the lot (on which the dwelling is proposed) must be at least the area specified in a schedule to the zone. In this instance the schedule specifies the minimum area for which no permit is required to use the land for a dwelling is 40Ha.

As the subject site is approximately 12Ha and the condition is not met, the 'Use of the land for a dwelling' becomes a Section 2 Use and requires a permit. A permit is also required pursuant to Clause 35.07-4 for buildings and works associated with a Section 2 Use.

The purpose of the farming zone is:

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

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, a range of matters including:

- general issues,
- agricultural issues and the impacts from non-agricultural uses
- dwellings issues
- environmental issues and
- design and siting issues.

The following discussion considers the decision guidelines relevant to this application.

General issues

As outlined earlier in this assessment, it is considered that the proposal is inconsistent with the relevant Municipal Planning Strategy and Planning Policy Framework for a wide range of reasons relating to rural land management. While the subject site is of a sufficient size to be able to accommodate the residential development and with appropriate consideration treat waste water on site, the site is not sufficient to also contain a viable livestock grazing enterprise. The development of dwellings on small lots with no agricultural justification is not consistent with sustainable land management practices. It is considered that the land is not appropriate for the proposed use and development and if approved it could impact on the ability of adjoining lots to maintain the same level of productivity through the introduction of a residential use as well as the fragmentation of the broader farming property made up of lots in the same ownership. The site is readily accessible by Spring Creek Road.

Agricultural issues and the impacts from non-agricultural uses

The proposed dwelling on the subject site could have the ability to support agricultural production across the broader farm that is significant in size but spread across 10 lots in common ownership. Despite this as the dwelling is proposed on a separate lot of approximately 12Ha, with no ability to maintain the association with the other lots, the dwelling is more likely to just remove land from agricultural production and isolate the land to the north of the subject site, currently in common ownership. The dwelling is not likely to result in a significant impact on soil quality

It is considered that the proposal would limit the expansion of adjoining agricultural uses as the approval of a dwelling on a small lot would have the effect of inflating property prices beyond their agricultural value with prospective purchasers of small lots expecting the ability to develop lots. This is not a good outcome in farming areas where legitimate farming enterprises are not able to consolidate small lots as they become available and instead the farming properties are gradually encroached upon.

The subject site has an area of approximately 12Ha and with the domestic zone, (house, shed and effluent area) taken out of this as well as areas of the site that would benefit from having stock excluded, the left over area of the site which could be utilised for grazing, would be very small and not sufficient to maintain a viable agricultural enterprise. If the purpose of the dwelling on this lot is to assist in the management of other lots in the same ownership then it would make sense to consolidate the subject site with more of the adjoining lots. This idea has been put to the applicant but not supported. It is therefore necessary to assess the development solely on the basis of the use of the subject site for agriculture and the demonstrated need for a dwelling related to that lot only. No integrated land management plan has been provided with the application and it is considered that, for such a small site with remnant vegetation and a waterway, that this documentation would be necessary to demonstrate that any grazing of livestock would not continue to degrade the environment.

Dwelling issues

The lot on which the dwelling is proposed is located between two other lots in the same ownership which have traditionally been managed as one large farm. In total there are around 10 lots in this area which are in this ownership. The applicant for the dwelling is not the owner of the land and should this situation change the subject site would have the effect of isolating the lot to the north from the other lots. Again it has been suggested that this was not the intention however the only way to ensure this does not happen would be to consolidate more of the lots with the subject site. This would mean that even if the land changed ownership, the additional consolidated lots would have a better opportunity to undertake a viable enterprise in their own right. As this cannot be conditioned on a permit, this option is not available and is not supported by the applicant.

The development of small lots is very evident in this area and there are numerous dwellings primarily with frontages to the western side of Spring Creek Road. These lots have been created through historic subdivisions and are too small to have any agriculture beyond small hobby farms. While the lots are not an ideal land use in the farming zone the lots are limited in size due to

being located in a narrow strip between the Spring Creek Road and Spring Creek to the west. This differs from the subject site which is located on the eastern side of the road where the lots are generally larger and are often adjoining other lots in common ownership. The development of dwellings on the western side of the road was unlikely to have broken up too many farms while the development of dwellings on small lots on the eastern side would certainly lead to the reduction in size and productivity of larger agricultural properties. It is considered that the development of the dwelling will continue to contribute to the concentration of dwellings in the area and continue to change the area from a primarily agricultural area to a rural residential area.

Environmental issues

As outlined above the site contains some remnant vegetation and a waterway and as such the development of the land for a dwelling puts more pressure on the continued protection of these environmental values. As the shed has been constructed without a permit, consideration of the impacts on the trees root zones and the proximity to the waterway for the effluent disposal envelope has not been considered as would be required.

An appropriate land management plan for the site would have included areas of the site where livestock would have been excluded such as the creek and a clear delineation of the domestic zone so that the agricultural area and the conservation areas could be best protected and enhanced.

Design and siting issues

As the proposed dwelling is quite minor in scale and is to be developed inside an existing shed, it is considered that the impact of the dwelling on the amenity of the area is minimal. The dwelling is to be located within a stand of remnant mature trees and is setback approximately 150 metres from the road. Ideally dwellings in farming zones should be located so as to minimise the land lost to agriculture and while this usually means locating them at the front of sites, in this instance the treed area would likely be best to exclude stock from that area.

Conclusion

The proposed use and development of the land for the purpose of a dwelling has been assessed against the relevant State, Regional and Local Planning Policy and has been found to broadly not comply with the objectives, purposes and decision guidelines. It is recommended that the application is not supported as it would result in a bad planning outcome in the farming zone and create the perception of a precedent for the development of other small lots in the surrounding area and across the Shire.

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.

9. OUR PEOPLE**10. OUR PROSPERITY****10.1 GRANTS AND CONTRIBUTIONS PROGRAM**

Attachments: Application Summary (refer Attachment 10.1)

Purpose

The purpose of this report is to address the applications made to the December round of the 2019/20 Grants and Contributions Program.

Officer's recommendation:**That Council:**

1. **Note the changed process for the evaluation of applications to the Grants and Contributions Program following recommendations from a recent investigation into local government grant practices by the Local Government Inspectorate.**
2. **Note the grants awarded by Council officers under delegation:**

Application	Reference	Funding Sought	Outcome
Community Projects and Events			
Ensemble Goldentree	CPE 1819 032	\$4500	Approved in part to value of \$1000
Whittlesea Community Connections	CPE 1819 024	\$5000	Approved in part to value of \$4000
Governance, Skills and Capacity Building			
Skillhouettes	GSCB 1819 005	\$1740	Approved \$1740

Background

The Grants and Contributions Program provides the opportunity for community groups, not for profit organisations, and businesses to seek funding from Council to support a range of activities and initiatives happening in Murrindindi Shire. There are a range of funding streams under the program including:

- fee reductions (and waivers by exception)
- quick response grants
- sponsorships (including eligible individuals)
- governance, skills and capacity building
- community projects and events
- small and new tourism events
- events of state significance
- business growth or establishment
- industry or economy growth.

Each stream has its own objectives and eligibility criteria and a committee of officers undertakes the application assessment.

Assessment occurs monthly to meet the timeframes described in the Grants and Contributions Policy.

Discussion

Council should note the changes to assessment processes of the Grants and Contributions Program that have been made as a result of the recommendations from a recent investigation into local government grant practices by the Local Government Inspectorate.

There are two changes:

1. Councillors are removed from the evaluation process
2. Councillors to receive full report for all applications and the rationale for the outcome of the officer assessment.

Officers awarded the following grant applications under delegation:

Community Projects and Events

1. The Ensemble Goldentree requested grant funds of \$4500 to support the presentation of three 60-90 minute chamber music concerts at Marysville Information and Regional Artspace (MIRA) in Autumn 2020.

A \$1000 allocation is offered in support of the proposed event, alternatively officers would be pleased to work with the organising group to find another model that encourages greater participation and meets the objectives of the grant stream.

2. Whittlesea Community Connections requested grant funds totalling \$5000 to support the commencement of a TAC L2P program within the Kinglake and surrounding areas. This application has been approved in part to the value of \$4000. This acknowledges that there are some costs associated with extending the program to Kinglake and setting up a new vehicle. Some costs identified in the budget can be supported through L2P program funding.

Governance, Skills and Capacity Building

1. The Skillhouettes Business requested a grant of \$1740 to support development of a clear strategy for marketing through attendance of a marketing training opportunity and to improve organisational governance through participation in mentoring sessions to develop a strategic business plan. This application has been approved in full.

Council Plan/Strategies/Policies

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

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

Financial implications

The December allocations result following tally have been made from the 2019/20 Grants and Contributions Program:

Grant Stream	Allocations to date	Indicative total budget
Fee reductions	\$1471	\$7000
Governance, skills and capacity building	\$1740	\$10000
Quick response	\$5000	\$3000
Community sponsorships, projects and events	\$34092	\$50000
Small and new tourism events	\$0	\$20000
Business growth or establishment	\$0	\$40000

Industry and economy growth	\$0	\$50000
TOTAL	\$42303	\$180000

Relevant legislation

There are no legislative considerations to this report.

Conflict of interest

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

Community and stakeholder consultation

There has been no formal community consultation with respect to the assessment of this round of Grants and Contributions Program applications.

11. OUR PROMISE

11.1 VARIATION OF DELEGATION TO DETERMINE PLANNING APPLICATIONS

Purpose

This report seeks Council's endorsement to increase the delegated powers to officers to issue a planning permit in cases where there a single objection has been received, without requiring referral for Council decision.

Officer Recommendation

In the exercise of the powers conferred by s 98(1) of the *Local Government Act 1989* (the Act) and s 188 of the *Planning and Environment Act 1987* Murrindindi Shire Council (Council) resolves that:

1. **The instrument of delegation to members of Council staff dated 24 May 2019 (the instrument) be varied as follows:**

Planning and Environment Act 1987 section 61(1) (page 36) the conditions & limitations amended to state
"The power to refuse a permit application, or to determine an application for which two or more objections have been lodged (and not withdrawn) is not delegated"
2. **The members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the instrument as varied are to have the powers, duties and functions set out in the instrument as varied, subject to the conditions and limitations specified in that instrument**
3. **The instrument as varied instrument comes into force immediately the common seal of Council is affixed to the instrument as varied**
4. **The duties and functions set out in the instrument as varied must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.**

Background

Under current delegations, planning officers can only decide to issue a planning permit if an application has received no objections. If one or more objections are received (and not withdrawn), the application is determined by Council resolution, with officer recommendations. In addition, officers are not delegated powers to refuse a planning permit.

The delegated powers and duties to members of Council staff are listed in Council's S6 Instrument of Delegation which was last reviewed and adopted by Council on 24 May 2019.

To improve efficiencies for the applicant and officers Council has been considering increasing the powers of officers to be able to issue a planning permit without requiring Council resolution in cases where there has been a single objection to the application.

Discussion

The current S6 Instrument of delegation (relating to section 61(1) of the *Planning & Environment Act 1987*) places the following restrictions on the powers of officers to determine planning applications:

“The power to refuse a permit application or to determine an application for which objections have been lodged (and not withdrawn) is not delegated”

The following table summarises the number of planning applications received for the current and previous two calendar years and the number of these that have been determined by officers or referred for council resolution.

	2017	2018	2019
No of planning applications received	288	317	259*
No of planning applications determined by officers with issuing of permit	190	242	138
No of applications referred to Council with officer recommendation for refusal	4	2	4
No of applications referred to Council because there has been one or more objections, recommending approval	8	12	16

**The total of applications determined (whether by officers or Council) does not sum to the total of applications received as some applications are withdrawn, or lapse or are still “live” but awaiting further information to be provided by the applicant or referral authorities.*

The table shows that most planning applications received are determined by officers under delegation through the issuing of a planning permit (approximately 66%). The table also shows that the majority of applications referred to Council are referred because one or more objections have been received (78%).

Whilst not shown in the above table, the majority (59%) of the planning applications received with objections involve a single objector.

The following table shows the outcome of Council’s decision making on single objector applications where officers have recommended a permit be issued.

	2017	2018	2019
No of planning applications with 1 objection referred to Council – with recommendation for approval	1	3	10
No of applications with 1 objection - approved by Council in line with officer recommendation	1	3	10
No of applications with 1 objection - refused by Council against officer recommendation	0	0	0

The table shows that in all cases Council has supported the officers’ assessment and recommendation to issue a planning permit when there has been a single objection.

It is noted that in all cases where there are objections to a planning application, officers attempt to resolve the issues with the objector and applicant as part of the application assessment process. This can often result in an objection being withdrawn.

The extra requirements for officers in referral of planning applications to Council involve the preparation of briefing documents, attendance at council briefings, preparation of reports for council meetings and attendance at council meetings. The process can also add to the timeframe for the applicant in obtaining a decision and place an onus on the applicant and objector to attend and present at council meetings.

A review of planning delegations at other neighbouring councils (not including outer metro councils where there is more development pressure), indicates that the threshold for referral of planning applications for council decision is a lot higher than at Murrindindi, as shown below:

- Mansfield – 5 or more objectors referred to Council, otherwise officers decide
- Mitchell – 4 or more objectors referred to Council, otherwise officers decided
- Benalla – 5 or more objections referred to Council, otherwise officers decide
- Strathbogie - 6 or more objections referred to Council, otherwise a delegated Committee decides.

In order to improve the efficiency and timeliness for planning applicants and improve internal efficiencies it is proposed to increase the delegations of officers (including Director Assets and Development, Manager Development Services and Coordinator Planning) to determine applications where one objection has been received and not withdrawn, and where the decision will result in the issuing of a permit.

It is not proposed to change the delegation where the officer assessment is to refuse a planning permit. In these cases the decision will continue to be determined by council resolution with officer recommendation.

To safeguard against any concerns Council may have in relation to any particular application with a single objector, mechanisms can be established to enable Council to “call in” an application for Council’s decision providing an officer assessment has been completed and an officer report and recommendation is provided to Council.

Given all of the above, it is recommended that Council increase the planning delegations for the granting of planning applications by amending the S6 Instrument of delegation as follows:

“The power to refuse a permit application, or to determine an application for which two or more objections have been lodged (and not withdrawn) is not delegated”

Council Plan/Strategies/Policies

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

Relevant Legislation

Powers to determine planning applications are conferred on councils under section 61(1) of the *Planning and Environment Act 1987*.

Under Section 98(1) of the *Local Government Act 1989* Council can delegate the powers conferred on it by any Act to members of council staff to exercise without requiring council resolution.

Financial Implications and Risk

The change to the planning delegations proposed in this report is designed to improve efficiencies for planning applicants and officers. It is recognised that this decision will reduce the

opportunities for a single objector to directly address Council as part of a planning application determination process. Nevertheless, the changes proposed brings Council more in line with established practice in neighbouring Councils and safeguards will be established for Council to 'call in' an application for Council determination where the nature, complexity or sensitivity of the application may warrant this.

In most cases, an objector has an opportunity to make an application to the Victorian Civil Appeals Tribunal (VCAT) for review of a planning decision of Council.

Conflict of Interest

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

Community and Stakeholder Consultation

This matter has not involved community consultation to date.

11.2 TRANSFER OF LAND AT 174 GRANT STREET, ALEXANDRA TO THE ALEXANDRA SCOUTS GROUP

Attachment(s): Alexandra Land Transfer – Endorsed Plan of Subdivision (refer Attachment 11.2)

Purpose

The purpose of this report is to seek a resolution from Council to undertake the transfer of Council Land at 174 Grant Street, Alexandra being Lot 1 on PS830524K at a nominal cost to the Alexandra Scout Group.

The transfer will allow the Alexandra Scout Group to develop new buildings including a multi-purpose hall, storeroom, office, meeting room, kitchen and toilet facilities.

Recommendation:

That Council:

- 1. Note that no public submissions were received following Council's public notice of intent to transfer Council Land at 174 Grant Street, Alexandra, being Lot 1 on PS830524K, at a nominal cost to the Alexandra Scout Group.**
- 2. Transfers Lot 1 on PS830524K to the Alexandra Scouts Group for a nominal sum of \$11.00 (inc GST);**
- 3. Authorises the Chief Executive Officer to sign all documents and undertake all administrative processes in respect of the proposed transfer of the Land;**

Background

At the 28 August 2019 Council Meeting, Council resolved to grant a permit for the development of the land at 174 Grant Street, Alexandra for the purpose of a Scout Hall and two lot residential subdivision. This land is owned by Council.

The approved development of the Land includes the subdivision of the Land into two Lots; Lot 1 comprises 4,344 square metres (m²) at the southern end of the property and will contain the new Scout facility and Lot 2 (5,788m²) is at the northern end of the property and will retain the existing heritage building (former Mechanic's Institute Hall). The boundary between the two proposed lots aligns with the boundary of a Heritage Overlay over the existing Hall (refer Attachment 11.2).

The Alexandra Scout Group has leased the land at 174 Grant Street from Council for scout-related activities for many years, using the former Mechanics Institute Hall and other outbuildings on the site.

The proposed new facility is to be located exclusively on Lot 1 and will include a multi-purpose hall, storeroom, office, meeting room, kitchen and toilet facilities and car parking spaces. The project has been made possible through State and Federal Government grants obtained by the Alexandra Scouts Group, in recognition that the existing facilities on the site are no longer fit for purpose with respect to contemporary scouting activities.

Council at its 27 November Ordinary meeting 2019 resolved to:

1. State its intent to transfer Lot 1 on PS830524K to the Alexandra Scouts Group for a nominal sum of \$11.00 (inc GST);
2. Obtain a valuation of the Land from a valuer who has the qualification prescribed under the Valuation of Land Act 1960;
3. Give public notice of the proposed transfer of the Land as per the requirements of section 189 of the Local Government Act 1989; and
4. Receive and consider submissions (if any) in response to the public notice as per section 223 of the Local Government Act 1989.

The valuation obtained assessed the market value for selling the property at \$130,000.

Public notice was given of the proposed transfer as per the requirements of the Act and no submissions were received in response to the public notice.

This report seeks Council's endorsement to now undertake the transfer of ownership of Lot 1 at a nominal cost to Scouts Victoria.

Discussion

The transfer of the land at nominal (less than market value) cost is an acceptable practice within the Local Government Best Practice Guidelines. This decision is justified by the following factors:

1. Scouting is a well-established and internationally-recognised voluntary, apolitical, educational movement teaching leadership to young people, inclusive of all
2. Scouts Victoria is a not-for-profit organisation
3. The Alexandra Scout Group has occupied the site at 174 Grant Street at least since the 1970s
4. The Group raises funds for the purpose of facility maintenance and upgrades
5. Existing Scout assets are located on Land owned by Council
6. The Transfer of land at nominal cost (\$11) to support the Alexandra Scout Group is consistent with the Council Plan 2017-2021 strategies to create a positive environment that supports our young people to grow, participate and be happy and to work with our community and groups to connect, collaborate and plan our future.

Council Plan/Strategies/Policies

This report is consistent with the *Council Plan 2017-2021* strategy under Our People to 'create a positive environment that supports our young people to grow, participate and be happy and work with our community and groups to connect, collaborate and plan our future.'

Relevant Legislation

Council cannot agree to transfer the Land to a proposed purchaser unless it complies with the provisions of Section 189 of the *Local Government Act 1989*. This requires Council to give public notice of the proposed sale inviting submissions on the proposal before a date specified in that notice, which must be no less than 28 days from the date of publication of the notice.

Council must consider any submissions (if received) under section 223 of the *Local Government Act 1989* before determining whether to proceed with the sale of the Land.

Council must also obtain a valuation from a valuer who has the qualifications prescribed under the *Valuation of Land Act 1960*.

It is proposed that the parties will not enter into a contract of sale, but sell the Land by way of a transfer only.

As the transfer amount is less than the current market valuation, Council should explain the circumstances, reasons or factors which led to its decision. This explanation is provided in the discussion section of this report.

All statutory requirements associated with the transfer of land to date have been satisfied.

Financial Implications and Risk

The transaction will ultimately lower Council's asset base as it is being transferred at a nominal amount (less than market value), and therefore will be recorded as once-off financial loss. It is intended that Council considers future development opportunities for the balance of the land retained by Council (Lot 2) which, if realised, might offset some of this loss.

It is also proposed that Council shares the costs in equal proportion with Scouts Victoria to create the subdivision and transfer of land, as Council will retain one of the two lots. Council's share of this cost is not expected to exceed \$40,000, including legal expenses.

This allocation will be funded predominately from the 2019/20 capital budget (with the exception of legal costs) and a further report on this allocation will be provided as part of the December 2019 Quarterly Capital Works Report.

Council's valuation and advertising costs are estimated at \$1,000. These costs are within current budget allocations for sale or transfer of land.

Conflict of Interest

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

Community and Stakeholder Consultation

Public notices indicating Council's intent to transfer the land were placed in the Alexandra Standard, Yea Chronicle and Marysville Triangle from 4 December 2019, inviting public submissions until 10 January 2020. No public submissions were received.

11.3 PUBLIC INTEREST DISCLOSURE POLICY REVIEW

Attachment(s): Public Interest Disclosure Policy – DRAFT (refer Attachment 11.3)

Purpose

This report seeks Council's endorsement of the Public Interest Disclosure Policy (Attachment 11.3)

Officer Recommendation

That Council endorses the Public Interest Disclosure Policy as contained in Attachment 11.3.

Background

Council adopted the "Protected Disclosures Policy" in January 2017.

Changes in legislation effective 1st January 2020 require government agencies to update their policies and procedures related to the former "*Protected Disclosures Act 2012*". The legislation has been revised and renamed "*Public Interest Disclosures (PID) Act 2012*" ("the Act").

The legislated changes under the revised Act aim to improve access for individuals wanting to report acts of improper conduct or detrimental action. The key changes include:

- definitions have been expanded to increase the protection of individuals. Under the revised Act, detrimental action no longer has to be deemed “substantial”
- a broader range of disclosures can be made, including acts of serious professional misconduct
- new pathways for disclosures have been included. The Act takes a “No wrong door approach” for disclosures made to the wrong agency (misdirected disclosures). Under the revised legislation, agencies must assist the discloser and liaise with the right agency to facilitate the process
- the establishment of the new Integrity and Oversight Commission to monitor the performance of Victorian integrity agencies.

Overall, the changes in the Act seek to remove barriers for disclosers and as a result, increase transparency and accountability of public officials.

Discussion

The revised Public Interest Disclosure Policy (refer to Attachment 11.3) builds on the strengths of its predecessor the “Protected Disclosures Policy” to ensure Council encourages the disclosure of improper conduct or detrimental action in confidence, and that any disclosure is managed in line with the current statutory requirements in the Act.

These changes will ensure that we continue to facilitate a safe and robust process for the receipt and management of disclosures of improper conduct and protect the welfare of those who provide information.

In order to give effect to the changes to the Act, the following changes have been made to the policy:

- the Policy has been re-titled “Public Interest Disclosures”;
- the list of definitions has been updated to allow a broader range of disclosures of improper conduct to be made and increase protection of disclosers from detrimental action;
- the roles and responsibilities section has been reviewed to improve role clarity and accountability;
- a new section “misdirected disclosures” has been included to comply with the “no wrong door” provision in the Act; and
- a new email address Disclosures@murrindindi.vic.gov.au with restricted access has been created to enhance privacy and confidentiality of disclosures.

The Policy supports Council’s focus on ensuring a strong culture of integrity and accountability, aimed to mitigate the risk of acts of fraud, corruption, serious misconduct and substantial mismanagement of resources.

Council Plan/Strategies/Policies

This report relates to *Council Plan 2017-2021* Our Promise strategic objective to ensure we deliver the best possible outcomes in all that we do.

Relevant Legislation

By adopting the policy and making it available to all employees and members of the public, Council is meeting its obligations under the Act, and promoting an ethical and accountable culture. The review ensures relevance to current legislation and reflects Council practices.

Financial Implications and Risk

Breaches of the Act may give rise to civil liabilities and on occasion criminal penalties. By reviewing the Policy in line with the revision of the legislation, Council maximises its capacity to defend claims of vicarious liability.

Conflict of Interest

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

Community and Stakeholder Consultation

Community consultation was not required in relation to the review of this policy.

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 12 December 2019 to 17 January 2020, for Council to note in accordance with Section 80A of the *Local Government Act 1989* (the *Act*).

Officer Recommendation

That Council receives and notes the record of assemblies of Councillors for 12 December 2019 to 17 January 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 12 December 2019 to 17 January 2020:

Meeting Name/Type	Council Pre-Meet
Meeting Date:	18 December 2019
Matters Discussed:	<ol style="list-style-type: none"> 1. Single Dwelling - 2997 Broadford – Flowerdale Road, Flowerdale 2. Grants & Contributions 3. Purchase of 2A Murchison Street 4. Reserves Policy 5. Fraud & Corruption Control Policy 6. Council Policies for adoption & Rescission 7. Confidential - Section 181 - Rates Debt Process 8. Confidential Tender Report - Rubicon Road - Route Improvement Upgrade
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, M Schreuder, C Lintott, B Scott, G Haylock, T Carter, D Echeverry
Conflict of Interest Disclosures:	Nil

Council Plan/Strategies/Policies

This matter is consistent with the *Council Plan 2017-2021* Our Promise strategy to ‘expand our communication’.

Relevant Legislation

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

Financial Implications and Risk

There are no financial or risk implications.

Conflict of Interest

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

18. SEALING REGISTER

19. CONFIDENTIAL ITEMS

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

- (a) personnel matters
- (b) the personal hardship of any resident or ratepayer
- (c) industrial matters
- (d) contractual matters
- (e) proposed developments

- (f) legal advice
- (g) matters affecting the security of Council property
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person
- (i) a resolution to close the meeting to members of the public.

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

The report on the Tender – Architectural Services Panel and Tender CONT19/25 – Yea Recreation Reserve – Female Friendly Change Rooms – Renewal and Upgrade is being considered in the closed part of this meeting because it is considered under S89(2)(d) contractual matters.

Recommendation

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

- **Tender – Architectural Services Panel**
- **Tender CONT19/25 – Yea Recreation Reserve – Female Friendly Change Rooms – Renewal and Upgrade**