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**MINUTES OF THE COUNCIL MEETING OF THE HINDMARSH SHIRE COUNCIL HELD  
23 OCTOBER 2019 AT THE COMMUNITY CENTRE 12 WIMMERA STREET  
DIMBOOLA COMMENCING AT 3:00PM.**

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**AGENDA**

**1. Acknowledgement of the Indigenous Community and Opening Prayer**

**2. Apologies**

**3. Confirmation of Minutes**

**4. Declaration of Interests**

**5. Public Question Time**

**6. Deputations**

**7. Activity Reports**

**8. Correspondence**

**9. Assembly of Councillors**

9.1 Record of Assembly

**10. Planning Permit Reports**

10.1 Vicsmart Planning Permits – Quarterly Report

10.2 Application for Planning Permit PA1640-2019 Development of Land for a

Telecommunications Facility – Telecommunications Tower – Lot 1 TP218997,  
Netherby-Yanac Rd Yanac

10.3 Application for Planning Permit PA1643-2019 – Construct Replacement Dwelling –  
Lot 1 TP218997, 1513 Coker Dam Rd, Kiata

10.4 Application for Planning Permit PA1638-2019 – Use and Develop Land (Including  
Buildings and Works) For The Purpose of a Dwelling - CA10 Sec 1 Tsh Netherby

#### **11. Reports Requiring a Decision**

11.1 Consideration of Annual Report 2018/19

11.2 Fraud Prevention and Control Policy and Plan

11.3 Proposal to Enter into New Waste Contracts with Wimmera Mallee Waste

11.4 Financial Report for the Period Ending 30 September 2019

11.5 Council Plan Update first quarter 2019/20

#### **12. Special Committees**

12.1 Yurunga Management Committee

12.2 Jeparit Town Committee

12.3 Dimboola Town Committee

12.4 Wimmera Mallee Pioneer Museum Committee

#### **13. Late Planning Permit Reports**

13.1 Application for Planning Permit PA1644-2019 – Construct Telecommunications  
Facility - Lot 1 TP837540, 60 Lower Roy St Jeparit

#### **14. Late Reports**

14.1 Proposal to Demolish Davis Park Grandstand

#### **15. Other Business**

#### **16. Confidential Matters**

16.1 Tender for Design, Supply and Construction of Dimboola Public Amenities Report  
Contract No. 2019-2020-01

16.2 Request for Quote - Award for Purchase of One (1) Backhoe

16.3 2020 Hindmarsh Shire Youth Council

16.4 Chief Executive Officer Appraisal 2018/19

#### **17. Meeting Close**

**Present:**

Crs R Ismay (Mayor), R Lowe (Deputy Mayor), D Nelson, D Colbert, R Gersch, T Schneider

**Apologies:**

**In Attendance:**

Mr Greg Wood (Chief Executive Officer) (Items 1 to 16.3, 17), Ms Monica Revell (Director Corporate and Community Services) (Items 1 to 16.2, 17), Ms Angela Hoy (Director Infrastructure Services) (Items 1 to 16.3, 17), Ms Sarah Dickinson (Executive Assistant) (Items 1 to 16.3, 17)

**1. ACKNOWLEDGEMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER**

Cr R Ismay opened the meeting at 3:00pm by acknowledging the Indigenous Community and offering the opening prayer.

**2. APOLOGIES**

**3. CONFIRMATION OF MINUTES**

**RECOMMENDATION:**

***That the Minutes of the Ordinary Council Meeting held on Wednesday 2 October 2019 at the Council Chambers, 92 Nelson Street Nhill as circulated to Councillors be taken as read and confirmed.***

**MOVED: Crs R Gersch/R Lowe**

***That the Minutes of the Ordinary Council Meeting held on Wednesday 2 October 2019 at the Council Chambers, 92 Nelson Street Nhill as circulated to Councillors be taken as read and confirmed.***

**CARRIED**

Attachment: 1

**4. DECLARATION BY COUNCILLORS OR OFFICERS OF ANY DIRECT OR INDIRECT INTEREST IN ANY ITEM ON THE AGENDA.**

Direct; or

Indirect interest

- a ) by close association;
- b ) that is an indirect financial interest;
- c ) because of conflicting duties;
- d ) because of receipt of an applicable gift;
- e ) as a consequence of becoming an interested party; or
- f ) because of an impact on residential amenity.

Declaration of direct or indirect interest must also be advised by Councillors at the commencement of discussion of the specific item.

Ms Monica Revell (Director Corporate and Community Services) declared an indirect conflict in item 16.3 by close association.

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**5. PUBLIC QUESTION TIME**

John Johnson was in attendance and raised a personal concern with councillors.

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**6. DEPUTATIONS**

No deputations.

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**7. ACTIVITY REPORTS**

**COUNCILLOR ACTIVITIES: SEPTEMBER 2019**

**Cr ISMAY, MAYOR**

Attended:

02/09/2019	Vorra debrief Rainbow
04/09/2019	Briefing meeting Nhill
04/09/2019	Council meeting Nhill
05/09/2019	Meeting with Eugene Arrocca CAMS Melbourne
05/09/2019	VORRA meeting Melbourne
16/09/2019	RBW Enduro AGM
17/09/2019	WMT Meeting Nhill
18/09/2019	Briefing meeting Nhill
18/09/2019	Council meeting Nhill
19/09/2019	Opening Dimboola change rooms
19/09/2019	Opening Nhill skate park DIMBOOLA
19/09/2019	RFA Meeting Melbourne
20/09/2019	RFA Conference Melbourne

21/09/2019 HPV Event Murray Bridge  
23/09/2019 RBW town committee AGM  
26/09/2019 Skate park event NHILL  
27/09/2019 VORRA meeting Rainbow

**Cr LOWE, DEPUTY MAYOR**

Attended:

04/09/2019 Annual Student Citizenship, (OAM) Nhill  
04/09/2019 Council Briefing, Nhill  
04/09/2019 Council Meeting, Nhill  
17/09/2019 WMPM Meeting, Jeparit  
18/09/2019 Council Briefing, Nhill  
18/09/2019 Council Meeting, Nhill  
23/09/2019 Rainbow Town Committee AGM, Rainbow  
26/09/2019 Nhill Skate Park Competition, Nhill

**Cr GERSCH**

Attended:

04/09/2019 Council briefing and meeting  
10/09/2019 Meeting Vic Roads  
13//09/2019 Rural Councils Victoria board meeting  
15/09/2019 Meeting with Graeme Price re planning issue  
18/09/2019 Council briefing and meeting  
19/09/2019 Opening Dimboola netball rooms  
19/09/2019 Opening Nhill skatepark  
19/09/2019 Submission to Minister re Nhill grandstand

**Cr COLBERT**

Attended:

04/09/2019 Council Briefing, Nhill  
04/09/2019 Council Meeting, Nhill  
18/09/2019 Council Briefing, Nhill  
18/09/2019 Council Meeting, Nhill

**Cr NELSON**

Attended:

03/09/2019 3 Year Old kinder announcement, Dimboola  
04/09/2019 Student Citizenship Awards, Nhill  
04/09/2019 Briefing Meeting, Nhill  
04/09/2019 Council Meeting, Nhill  
09/09/2019 WSMMLLEN Finance Committee meeting, Horsham  
10/09/2019 WDA Executive Committee Meeting, Horsham  
10/09/2019 WDA Board Meeting, Horsham  
12/09/2019 HSC Audit Committee Meeting, Nhill  
18/09/2019 Briefing Meeting, Nhill

18/09/2019 Council Meeting, Nhill  
19/09/2019 Dimboola Change Room Official Opening, Dimboola  
19/09/2019 WSMLLEN COM meeting, Horsham

**Cr SCHNEIDER**

Attended:

04/09/2019 Council Briefing, Nhill  
04/09/2019 Council Meeting, Nhill  
18/09/2019 Council Briefing, Nhill  
18/09/2019 Council Meeting, Nhill

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**SENIOR MANAGEMENT ACTIVITIES: SEPTEMBER 2019**

**GREG WOOD, Chief Executive Officer:**

Attended:

02/09/2019 RCTP Business Case phone conference  
03/09/2019 3YO kinder funding announcement by parliament secretary, Dimboola  
04/09/2019 Order of Australia Annual Student Citizenship Award, Nhill  
04/09/2019 Council Briefing  
04/09/2019 Council Meeting  
05/09/2019 Regional Partnership Meeting, Horsham  
06/09/2019 VGC Regional Information Session, Stawell  
09/09/2019 Rural Outreach Program Meeting with stakeholders, Edenhope  
10/09/2019 Level Crossing Closure Public Meeting, Nhill  
10/09/2019 Introductory Meeting with Chris from WDA, Nhill  
10/09/2019 WDA Meeting, Horsham  
12/09/2019 R U OK Day Presentation, Jeparit Depot  
12/09/2019 R U OK Day Presentation, Nhill  
12/09/2019 Wimmera Regional CEO Meeting, Horsham  
12/09/2019 Hindmarsh Shire Council Audit Committee Meeting, Nhill  
18/09/2019 Mayor/CEO Meeting, Nhill  
18/09/2019 Council Briefing, Nhill  
18/09/2019 Council Meeting, Nhill  
19/09/2019 Dimboola Female Friendly Facility and Nhill Skatepark Official Opening  
19/09/2019 MAV CEO Forum, Melbourne  
23/09/2019 Rainbow Town Committee AGM meeting and general meeting, Rainbow  
26/09/2019 Nhill Skatepark competition, Nhill

**ANGELA HOY, Director Infrastructure Services:**

Attended:

03/09/2019 Environmental Water Forum, Dimboola  
04/09/2019 Annual Student Citizenship Award  
04/09/2019 Council Briefing  
04/09/2019 Council Meeting

05/09/2019	Melbourne Waste Forum, via teleconference
10/09/2019	Level Crossing Closure Public Meeting, Council Chambers Nhill
12/09/2019	Little Desert Fire Strategy Meeting for Emergency Response, Dimboola
13/09/2019	Wimmera Southern Mallee Regional Transport Group Meeting, Horsham
18/09/2019	Council Briefing
18/09/2019	Council Meeting
19/09/2019	DELWP Waste Workshop on Circular Economy, Horsham
25/09/2019	CFA Bushfire Training, Jeparit
26/09/2019	Nhill Skatepark Opening, Jaypex Park Nhill

**MONICA REVELL, Director Corporate and Community Services:**

Attended:

03/09/2019	Dimboola Kindergarten Parliamentary Secretary announcement
04/09/2019	Annual Student Citizenship Award
04/09/2019	Council Briefing
04/09/2019	Council Meeting
05/09/2019	Organisational Governance Standard 8 Training
06/09/2019	Victorian Grants Commission Regional Information Session
12/09/2019	Endeavour Petroleum business opportunities meeting
12/09/2019	Hindmarsh Shire Council Audit Committee Meeting
13/09/2019	Wimmera Regional Library Corporation Board Meeting
18/09/2019	Council Briefing
18/09/2019	Council Meeting
19/09/2019	Dimboola Female Friendly Facility and Nhill Skatepark Official Opening
20-27/09/2019	Annual Leave

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## 8. CORRESPONDENCE

### 8.1 GENERAL CORRESPONDENCE

**Responsible Officer:** Chief Executive Officer  
**Attachment:** 2

**Introduction:**

The following correspondence is tabled for noting by Council,  
Inwards:

- Fluoridation to water

Outwards:

- Thank you letter to Des and Robyn Lardner
- Apology letter to Emma Kealy

**RECOMMENDATION:**

*That Council notes the attached outwards correspondence, and write to GWM to consider fluoridation.*

**MOVED: Crs T Schneider/D Nelson**

*That Council notes the attached correspondence.*

**CARRIED**

*Attachment: 2*

**MOVED: Crs T Schneider/D Nelson**

*That Council consult with the community as to whether fluoridation should be introduced in Hindmarsh Shire.*

**CARRIED**

## 9. ASSEMBLY OF COUNCILLORS

**Responsible Officer:** Chief Executive Officer  
**Attachment:** 3

**Introduction:**

The attached Assembly of Councillors Records are presented as an attachment to the Council agenda for the information of Councillors and recorded at the Council meeting as required under s80A Local Government Act 1989.



**Options:**

1. That Council accepts the Assembly of Councillors Records as presented.

**RECOMMENDATION:**

*That Council accepts the Assembly of Councillors Records as presented.*

**MOVED: Crs T Schneider/R Lowe**

*That Council accepts the Assembly of Councillors Records as presented.*

**CARRIED**

*Attachment: 3*

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**10. PLANNING PERMITS**

**10.1 VICSMART PLANNING PERMITS – QUARTERLY REPORT**

**Responsible Officer:** Director Infrastructure Services

**Introduction:**

This report is presented to Council to inform Council, and provide an update on VicSmart permits processed by Council for the period 01 July 2019 to 30 September 2019.

**Discussion:**

The VicSmart planning permit process is a statutory process that was introduced to streamline ‘simple’ planning permit applications.

Key features of VicSmart include:

- A 10 business day permit process
- Applications are not advertised
- Information to be submitted with applications and what Council can consider is pre-set
- The CEO or his delegate decides the application.

The table below lists the VicSmart permits that have been approved within this period.

Permit No.	Address	Proposal	Date Lodged	Date Approved	Statutory Days	Comments
VS1639-2019	11-13 Lochiel St Dimboola	Verandah	30/08/2019	04/09/2019	3	N/A

**Options**

N/A

**Link to Council Plan:**

- Strategic Objective 1.1 - An actively engaged community.
- Strategic Objective 2.1 - Well-maintained physical assets and infrastructure to meet community and organisational needs.
- Strategic Objective 3.1 - A strong rural economy and thriving towns
- Strategic Objective 4.2 - Quality customer services
- Strategic Objective 4.6 - An organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation.

**Financial Implications:**

Fees associated with planning permit applications and amendments are set by the State in accordance with the Planning and Environment (Fees) Regulations 2016. These fees are currently being applied to all applications received by Council. It is therefore considered that the VicSmart process does not have any financial implications for Council.

**Risk Management Implications:**

Risk is managed appropriately by adhering to the VicSmart process.

**Conflict of Interest:**

Under section 80c of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Author – Andre Dalton, Coordinator Planning & Development

In providing this advice as the Author, I have no disclosable interests in this report.

Officer Responsible – Angela Hoy, Director Infrastructure

In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

**Communications Strategy:**

Nil

**Next Steps:**

Next Quarterly Report to be provided January 2020.

***RECOMMENDATION:***

***That Council notes the report for VicSmart permits processed by Council for the period 01 July 2019 to 30 September 2019***

***MOVED: Crs R Lowe/T Schneider***

***That Council notes the report for VicSmart permits processed by Council for the period 01 July 2019 to 30 September 2019***

***CARRIED***

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**10.2 APPLICATION FOR PLANNING PERMIT PA1640-2019 DEVELOPMENT OF LAND FOR A TELECOMMUNICATIONS FACILITY – TELECOMMUNICATIONS TOWER – LOT 1 TP218997, NETHERBY-YANAC RD YANAC**

<b>Responsible Officer:</b>	Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	169780
<b>Applicant:</b>	Kirsty Zhang – Visionstream Australia
<b>Owner:</b>	Australian Telecommunications Commission
<b>Subject Land:</b>	Lot 1 TP218997, Netherby-Yanac Rd Yanac
<b>Proposal:</b>	Development of a telecommunications facility – telecommunications tower
<b>Zoning &amp; Overlays:</b>	Farming Zone (FZ), No overlays
<b>Attachment:</b>	4

**Summary:**

This report recommends Council approve an application for planning permit PA1640-2019 to develop a telecommunications facility – telecommunications tower on Lot 1 TP218997, Netherby-Yanac Rd, Yanac.

**Background:**

The proposal seeks a planning permit for the development of a telecommunications tower on land 300m<sup>2</sup> in area, occupied by an existing Telstra exchange.

**Proposal Details:**

The proposal is to construct a 33.4 metre high telecommunications tower and associated facilities, comprised of the following:

- The construction of a new 30 metre high monopole;
- The attachment of four (4) new omnidirectional antennas on the proposed standard mount and ancillary equipment;
- The existing Telstra Exchange equipment shelter to be used to accommodate the proposed electrical equipment associated with the facility;
- Access to be provided off Nhill-Yanac Road via an existing access point; and
- Underground optical fibre and power supply routes as detailed on the submitted plans.

The proposal is being applied for under the Federal Government's Mobile Black Spot Program, and will vastly improve coverage within the locality. The improved coverage will increase access to new technologies for key regional sectors like agriculture, transport, mining and tourism, and no native vegetation is proposed to be removed.

**Requirement for Permit:**

A planning permit is triggered for this application pursuant to:-

- Clause 35.07 – Farming Zone of the Hindmarsh Planning Scheme for works associated with the construction of a telecommunications facility.

- 52.19 – Telecommunications Facility. A permit is required to construct a building or construct or carry out works unless the proposed works meet a number of exemptions in 52.19-1. In this case, the proposed works do not meet any of the exemptions specified.

**Definitions:**

A Telecommunications Facility is “Land used to accommodate any part of the infrastructure of a Telecommunications network. It includes any telecommunications line, equipment, apparatus, telecommunications tower, mast, antenna, tunnel, duct, hole, pit, pole, or other structure or thing used, or for use in or in connection with a Telecommunications network”.

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not burdened by a Restrictive Covenant or Section 173 Agreement.

**Cultural Heritage Management Plan (CHMP):**

The proposal is exempt from requiring a CHMP pursuant to the Aboriginal Heritage Regulations 2007, as the proposal is not within land affected by the Aboriginal Cultural Heritage Overlay.

**Subject site & locality:**

The proposed telecommunications facility is to be sited at the existing Telstra Exchange located near the corner of Nhill-Yanac Road and Yanac-Netherby Road, that is on the eastern edge of the township. The proposed site is reasonably separated from the neighbouring residential dwellings due to the presence of the CFA shelter and tower in between the nearest neighbour to the south. Residential dwellings within the township will be reasonably screened by established vegetation along the roads and within property boundaries.

**s52 Notice of application**

- (1) *Unless the Responsible Authority requires the applicant to give notice, the Responsible Authority must give notice of an application in a prescribed form—*
  - (a) *to the owners (except persons entitled to be registered under the **Transfer of Land Act 1958** as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the Responsible Authority is satisfied that the grant of the permit would not cause material detriment to any person.*

Whilst the provisions of the Farming Zone (FZ) do not explicitly state what types of applications are required to be notified, thus causing the determining factor surrounding notification to be ‘material detriment’, the application is not required to be publicly notified under the provisions of the Planning and Environment Act 1987 as Clause 52.19 of the Hindmarsh Planning Scheme (Telecommunications Facility) states:

*“An application under any provision of this scheme to use or develop land for a Telecommunications facility is exempt from the notice requirements of section 52(1)(a), (b)*

and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act if the Telecommunications facility is funded, or partly funded, by:

- *The Commonwealth through the Mobile Black Spot Program*”.

**Referrals:**

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals: Not required.

Section 52 Notices: Not required.

Internal Referrals:

- Engineering: Not required
- Environmental Health: Not required
- Building: Not required
- Economic Development and Tourism: Not required

**Planning Assessment:**

Planning Scheme Requirements:

**Planning Policy Framework**

Clause 11.01-1R - Settlement - Wimmera Southern Mallee

Clause 13.02 - Bushfire

Clause 17.01-1R - Diversified economy - Wimmera Southern Mallee

Clause 19.03-4S - Telecommunications

**Local Planning Policy Framework**

Clause 21 - Municipal Strategic Statement

**Zoning Provisions**

Clause 35.07 - Farming Zone

**Overlay Provisions**

None

**Particular Provisions**

Clause 52.19 - Telecommunications Facility

**General Provisions**

Clause 65 - Decision Guidelines, states that:

*“Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause”.*

The decision guidelines relevant to this application are stated within Clause 65.01 of the Hindmarsh Planning Scheme – Approval of an application or plan.

It is considered that the application complies with the relevant decision guidelines as outlined. The proposal is supportive of, and complies with the Planning Policy Framework, having regard to the benefit the proposal will cause regarding the provision of better communications and service in rural areas.

### **Clause 35.07 Farming Zone Decision Guidelines:**

#### **General Issues:**

The proposal is considered to accord with the applicable decision guidelines as outlined within the Planning Scheme, having particular regard to and support from agricultural policies within the framework. The size, current use and suitability of the land, combined with the proposal's intent to improve telecommunications within the locality in general, will result in a desirable outcome in accordance with the intent of the Farming Zone.

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

The proposal is considered to meet the guidelines with regard to agricultural considerations. The proposal will have minimal impact upon the continued agricultural viability of surrounding land, given the small size of the subject land and its current use, and the proposed tower will serve to vastly improve communications in the area.

#### **Environmental issues:**

The proposed telecommunications tower:

- will not negatively impact on the natural physical features and resources of the area;
- will not negatively impact on the flora and fauna on the site and its surrounds as no native vegetation is proposed to be removed;
- will not negatively impact upon biodiversity of the area.

#### **Design and siting issues:**

The proposal will not detrimentally impact on the natural environment, major roads, vistas and water features within the area. The impact of the proposed telecommunications tower on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance is minimal. The proposed facility has access to existing infrastructure on the subject land, including power, on-site water, road, and existing telecommunications.

### **Clause 52.19 – Telecommunications Facility Decision Guidelines:**

An assessment of the application has been made against the following decision guidelines of Clause 52.19:-

*The effect of the proposal on adjacent land*

The proposal will not affect the capacity of the existing rural uses, nor residential buildings on adjacent land to continue with those uses within the locality, nor will the proposed facility impact upon the possible future development of surrounding adjacent land for a variety of uses. In the context of the surrounding adjacent land uses, which are predominantly for agricultural and/or rural purposes, the effect on adjacent land of the proposed facility is considered minimal.

*The principles for the design, siting, construction and operation of a Telecommunications facility set out in A Code of Practice for Telecommunications Facilities in Victoria*

The proposal has been assessed against the following principles:

- A telecommunications facility should be sited to minimise visual impact –  
The proposed facility is appropriately sited at the Telstra Exchange given the land is already developed for telecommunications use, together with existing access.
- Telecommunication facilities should be co-located wherever practical -  
In this instance, the nearest existing site is over 7.5km away, therefore it is impractical to co-locate this facility.
- Health Standards for exposure to radio emissions will be met -  
The proposed telecommunications facility has been designed and will be installed to ensure the maximum human levels to radio frequency emissions comply with Radiation Protection Standard.
- Disturbance and risk relating to siting and construction should be minimised -  
Appropriate conditions will be applied to ensure this occurs.

**Strategic, Statutory and Procedural Requirements:**

The proposal is consistent with the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

**Report to Council:**

The Coordinator Planning and Development advises that all obligations of Council (strategic, statutory and procedural) have been addressed and discharged in this planning application.

**Processing Times:**

The application was received on 02 October 2019. The report is being presented to Council at its meeting on the 23 October 2019 (21 statutory days). The statutory processing time requirements of the Planning and Environment Act 1987 have been satisfied in this instance.

**Conflict of Interest:**

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services

In providing this advice as the Officer Responsible, I have no interests to disclose.



Author: Andre Dalton, Coordinator Planning and Development

In providing this advice as the Author, I have no interests to disclose.

**RECOMMENDATION:**

***That Council approves planning application PA1640-2019 for the development of a telecommunications tower on Lot 1 TP 218997, Netherby-Yanac Rd Yanac, subject to the following conditions:***

**Endorsed Plans**

1. ***The location and design of the development as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.***

**Amenity**

2. ***The construction of the telecommunications facility must be managed so that the amenity of the area is not detrimentally affected through the:***
  - (a) ***Transport of materials, goods or commodities to or from the land;***
  - (b) ***Appearance of any buildings, works or materials;***
  - (c) ***Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;***
  - (d) ***Presence of vermin; or***
  - (e) ***In any other way.***
3. ***The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.***
4. ***All loading and unloading of vehicles and delivery of goods to and from the premises must occur on site.***

**Permit Lapse/Extension**

5. ***The development approved by this permit will expire if one of the following circumstances applies:***
  - (a) ***Construction is not commenced within two years of the date of this permit.***
  - (b) ***Construction is not completed within four years of the date of this permit.***

***The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:***

- (a) Within six months afterwards for commencement, or*
- (b) Within twelve months afterwards for completion.*

**Notes:**

- (1) This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained.*
- (2) Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings within 14 days of the date of this permit, should this be required.*
- (3) A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval is subject.*

**MOVED: Crs R Lowe/T Schneider**

***That Council approves planning application PA1640-2019 for the development of a telecommunications tower on Lot 1 TP 218997, Netherby-Yanac Rd Yanac, subject to the following conditions:***

**Endorsed Plans**

- 1. The location and design of the development as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.***

**Amenity**

- 2. The construction of the telecommunications facility must be managed so that the amenity of the area is not detrimentally affected through the:***
  - (a) Transport of materials, goods or commodities to or from the land;***
  - (b) Appearance of any buildings, works or materials;***
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;***
  - (d) Presence of vermin; or***
  - (e) In any other way.***
- 3. The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.***
- 4. All loading and unloading of vehicles and delivery of goods to and from the***

***premises must occur on site.***

**Permit Lapse/Extension**

***5. The development approved by this permit will expire if one of the following circumstances applies:***

- (a) Construction is not commenced within two years of the date of this permit.***
- (b) Construction is not completed within four years of the date of this permit.***

***The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:***

- (a) Within six months afterwards for commencement, or***
- (b) Within twelve months afterwards for completion.***

***Notes:***

***(1) This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained.***

***(2) Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings within 14 days of the date of this permit, should this be required.***

***(3) A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval is subject.***

***CARRIED***

***Attachment: 4***

**10.3 APPLICATION FOR PLANNING PERMIT PA1643-2019 – CONSTRUCT REPLACEMENT DWELLING – LOT 1 TP218997, 1513 COKER DAM RD, KIATA**

<b>Responsible Officer:</b>	Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	096980
<b>Applicant:</b>	Mr Chris Warrick
<b>Owner:</b>	Warrick Land Pty Ltd
<b>Subject Land:</b>	CA 8A Psh Worraigworm
<b>Proposal:</b>	Construct Replacement Dwelling
<b>Zoning &amp; Overlays:</b>	Farming Zone (FZ), No overlays
<b>Attachment:</b>	5

**Summary:**

This report recommends Council approve an application for planning permit PA1643-2019 for the construction of a replacement dwelling located at 1513 Coker Dam Rd, Kiata.

**Background:**

The proposal seeks a planning permit for buildings and works to construct a replacement dwelling on land 7.05 ha in area.

**Proposal Details:**

The proposal is to construct a single storey, brick veneer dwelling to replace an existing dwelling on the land. The proposed dwelling is to be constructed to the west of the existing dwelling as per plans supplied. The nearest dwelling on neighbouring properties is 1.5 kilometres to the north, and no native vegetation is proposed to be removed.

**Requirement for Permit:**

A planning permit is triggered for this application pursuant to Clause 35.07 – Farming Zone of the Hindmarsh Planning Scheme for buildings and works associated with the construction of a dwelling. As a dwelling already exists on the land, a replacement dwelling is classified as a Section 2 use under the provisions of the Farming Zone.

It is proposed to condition the permit to require the owner to demolish the existing dwelling within three months of the owner receiving an Occupancy Permit as per the Building Regulations 2018 for the new dwelling.

**Definitions:**

A “dwelling” is defined under the provisions of the Hindmarsh Planning Scheme as “A building used as a self-contained residence which must include:

- a) a kitchen sink;
- b) food preparation facilities;
- c) a bath or shower; and
- d) a toilet and wash basin.

It includes outbuildings and works normal to a dwelling”.

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not burdened by a Restrictive Covenant or Section 173 Agreement.

**Cultural Heritage Management Plan (CHMP):**

The proposal is exempt from requiring a CHMP pursuant to the Aboriginal Heritage Regulations 2007, as the proposal is not within land affected by the Aboriginal Cultural Heritage Overlay.

**Subject site & locality:**

The subject site is known as 1513 Coker Dam Rd Kiata, and is currently used for agriculture and rural industry (hay and grain storage) and comprises multiple farm buildings / shedding. The property (and surrounds) has been extensively cleared with little established vegetation remaining.

**s52 Notice of application**

(1) *Unless the Responsible Authority requires the applicant to give notice, the Responsible Authority must give notice of an application in a prescribed form—*

- (a) *to the owners (except persons entitled to be registered under the **Transfer of Land Act 1958** as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the Responsible Authority is satisfied that the grant of the permit would not cause material detriment to any person.*

Whilst the provisions of the Farming Zone (FZ) do not explicitly state what types of applications are required to be notified, thus causing the determining factor surrounding notification to be 'material detriment', the application is not required to be publicly notified under the provisions of the Planning and Environment Act 1987 as the proposal is not deemed to cause material detriment to any person for the following reasons:

- The permit is to be conditioned so that the existing dwelling will be removed and therefore the proposal will not result in any net increase in dwelling density;
- The proximity to dwellings on neighbouring properties, the layout and siting of the proposed dwelling will not adversely impact upon the landscape and general amenity of the area;
- The proposed dwelling is not considered to negatively impact on the agricultural productivity of the subject and surrounding land in the area.

It is therefore determined that the proposal will not cause material detriment to any person.

**Referrals:**

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals: Not required.

Section 52 Notices: Not required.

Internal Referrals:

- Engineering: Access to property will be gained via an existing road reserve leased by the applicant from DELWP that leads to Coker Dam Road, as well as existing crossovers onto Coker Dam Road. Advice from Engineering is that the current arrangement is considered satisfactory.
- Environmental Health: Not required
- Building: Not required
- Economic Development and Tourism: Not required

**Planning Assessment:**

Permit Requirement:

A Planning permit is required under Clause 35.07-4 of the Farming Zone for buildings and works associated with a use in Section 2 of Clause 35.07-1.

Planning Scheme Requirements:

**Planning Policy Framework**

Clause 11.01-1R Settlement - Wimmera Southern Mallee

Clause 13.02 - Bushfire

Clause 17.01-1R Diversified economy - Wimmera Southern Mallee

**Local Planning Policy Framework**

Clause 21 - Municipal Strategic Statement

**Zoning Provisions**

Clause 35.07 - Farming Zone

**Overlay Provisions**

None

**Particular Provisions**

None applicable.

**General Provisions**

Clause 65 - Decision Guidelines, states that:

*“Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause”.*

The decision guidelines relevant to this application are stated within Clause 65.01 of the Hindmarsh Planning Scheme – Approval of an application or plan.

It is considered that the application complies with the relevant decision guidelines as outlined.

The proposal is supportive of, and complies with the Planning Policy Framework, having regard to the benefit the proposal will cause regarding appropriate use of land for agriculture.

### **Decision Guidelines**

#### **General Issues:**

The proposal is considered to accord with the applicable decision guidelines as outlined within the Planning Scheme, having particular regard to and support from agricultural policies within the framework. The size and suitability of the land, combined with the proposal's intent to allow for the continuation of farm succession planning, will result in a desirable outcome in accordance with the intent of the Farming Zone.

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

The proposal is considered to meet the guidelines with regard to agricultural considerations. The proposal will have minimal impact upon the continued agricultural viability of the land, and will continue to cause the land to be viably farmed in future by providing suitable contemporary accommodation. The size of the subject land ensures the land can capably handle effluent from the proposal, and access to rural infrastructure will not be impacted upon by the proposal.

#### **Dwelling issues**

It is considered that in this instance the approval of a replacement dwelling will not only permit the continued use of the land for agricultural production, but will ensure long term continuation of agriculture on the land, facilitating succession planning by providing appropriate housing for future generations. No subdivision is proposed as a part of this application; and the location of the proposed dwelling is appropriate relative to surrounding buildings and infrastructure.

#### **Environmental issues:**

The proposed dwelling:

- will not negatively impact on the natural physical features and resources of the area;
- will not negatively impact on the flora and fauna on the site and its surrounds as no native vegetation is proposed to be removed; and
- will not negatively impact upon biodiversity of the area.

#### **Design and siting issues:**

The proposal will not detrimentally impact on the natural environment, major roads, vistas and water features within the area. The impact of the proposed dwelling on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance is minimal. The proposed dwelling has access to existing infrastructure on the subject land, including power, on-site water, road, and telecommunications.

#### **Strategic, Statutory and Procedural Requirements:**

The proposal is consistent with the Planning Policy Framework and the Local Planning Policy

Framework, including the Municipal Strategic Statement and local planning policies.

**Report to Council:**

The Coordinator Planning and Development advises that all obligations of Council (strategic, statutory and procedural) have been addressed and discharged in this planning application.

**Processing Times:**

The application was received on 29 August 2019. The report is being presented to Council at its meeting on the 23 October 2019 (56 statutory days). The statutory processing time requirements of the Planning and Environment Act 1987 have been satisfied in this instance.

**Conflict of Interest:**

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services

In providing this advice as the Officer Responsible, I have no interests to disclose.

Author: Andre Dalton, Coordinator Planning and Development

In providing this advice as the Author, I have no interests to disclose.

**RECOMMENDATION:**

***That Council approves planning application PA1643-2019 for the construction of a replacement dwelling on CA 8 Psh Worraigworm (1513 Coker Dam Rd Kiata), subject to the following conditions:***

**Endorsed Plans**

1. ***The location and design of the development as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.***

**Amenity**

2. ***The construction of the dwelling must be managed so that the amenity of the area is not detrimentally affected through the:***
  - (a) ***Transport of materials, goods or commodities to or from the land;***
  - (b) ***Appearance of any buildings, works or materials;***
  - (c) ***Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;***
  - (d) ***Presence of vermin; or***
  - (e) ***In any other way.***



3. *The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.*
4. *All loading and unloading of vehicles and delivery of goods to and from the premises must occur on site.*

#### **General**

5. *The dwelling must be connected to a potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.*

#### **Engineering**

6. *Vehicle Crossings must be designed to allow all vehicles to drive forwards both when entering and leaving the property.*
7. *Any proposed vehicular crossing shall have satisfactory clearance to any power or telecommunication pole and street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the Responsible Authority and shall be at the applicant's expenses.*
8. *Any works to construct or repair a vehicle crossing located within the road reserve requires the separate approval of council (Consent for works on Road reserve).*

#### **Environmental Health**

9. *The wastewater from the dwelling must be connected to an approved septic system and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.*

#### **Decommissioning of Existing Dwelling**

10. *The existing dwelling on the subject land must be appropriately decommissioned to the satisfaction of the Responsible Authority within three (3) months of an Occupancy Certificate being issued for the new dwelling.*

#### **Permit Lapse/Extension**

11. *The development approved by this permit will expire if one of the following circumstances applies:*
  - (a) *Construction is not commenced within two years of the date of this permit.*
  - (b) *Construction is not completed within four years of the date of this permit.*

***The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:***

- (a) Within six months afterwards for commencement, or***
- (b) Within twelve months afterwards for completion.***

**Notes:**

- (1) This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained for the construction of the new dwelling, and demolition of the existing dwelling.***
- (2) Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings within 14 days of the date of this permit, should this be required.***
- (3) A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval is subject.***

**MOVED: Crs R Gersch/R Lowe**

***That Council approves planning application PA1643-2019 for the construction of a replacement dwelling on CA 8 Psh Worraigworm (1513 Coker Dam Rd Kiata), subject to the following conditions:***

**Endorsed Plans**

- 1. The location and design of the development as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.***

**Amenity**

- 2. The construction of the dwelling must be managed so that the amenity of the area is not detrimentally affected through the:***
  - (a) Transport of materials, goods or commodities to or from the land;***
  - (b) Appearance of any buildings, works or materials;***
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;***
  - (d) Presence of vermin; or***
  - (e) In any other way.***

3. *The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.*
4. *All loading and unloading of vehicles and delivery of goods to and from the premises must occur on site.*

#### **General**

5. *The dwelling must be connected to a potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.*

#### **Engineering**

6. *Vehicle Crossings must be designed to allow all vehicles to drive forwards both when entering and leaving the property.*
7. *Any proposed vehicular crossing shall have satisfactory clearance to any power or telecommunication pole and street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the Responsible Authority and shall be at the applicant's expenses.*
8. *Any works to construct or repair a vehicle crossing located within the road reserve requires the separate approval of council (Consent for works on Road reserve).*

#### **Environmental Health**

9. *The wastewater from the dwelling must be connected to an approved septic system and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.*

#### **Decommissioning of Existing Dwelling**

10. *The existing dwelling on the subject land must be appropriately decommissioned to the satisfaction of the Responsible Authority within three (3) months of an Occupancy Certificate being issued for the new dwelling.*

#### **Permit Lapse/Extension**

11. *The development approved by this permit will expire if one of the following circumstances applies:*
  - (a) *Construction is not commenced within two years of the date of this permit.*
  - (b) *Construction is not completed within four years of the date of this permit.*

***The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:***

- (a) Within six months afterwards for commencement, or***
- (b) Within twelve months afterwards for completion.***

**Notes:**

- (1) This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained for the construction of the new dwelling, and demolition of the existing dwelling.***
- (2) Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings within 14 days of the date of this permit, should this be required.***
- (3) A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval is subject.***

**CARRIED**

Attachment: 5

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**10.4 APPLICATION FOR PLANNING PERMIT PA1638-2019 – USE AND DEVELOP LAND (INCLUDING BUILDINGS AND WORKS) FOR THE PURPOSE OF A DWELLING - CA10 SEC 1 TSH NETHERBY**

<b>Responsible Officer:</b>	Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	108880
<b>Applicant:</b>	Mr Steve Smith
<b>Owner:</b>	Mr Steve Smith
<b>Subject Land:</b>	CA 10 Sec 1 Tsh Netherby
<b>Proposal:</b>	Use and develop land (including buildings and works) for the purpose of a dwelling
<b>Zoning &amp; Overlays:</b>	Farming Zone (FZ), No overlays
<b>Attachment:</b>	6

**Summary:**

This report recommends Council approve planning application PA1638-2019 to formalise the use and development of land (including buildings and works) for a dwelling at 4 Church Street, Netherby.

**Proposal Details:**

The applicant contacted Council on 18 July 2019 seeking Council's assistance to formalise the land use for his property at 4 Church Street to that of residential dwelling. Evidence of this land use is required to change the applicant's electricity tariff from commercial to residential. A search of Council's records did not find any planning or building approvals over the land for the use of the church hall as a dwelling. As the size of the subject land is 990 sqm in the Farming Zone, the applicant was advised that a planning permit was required.

**Requirement for Permit:**

A planning permit is triggered for this application pursuant to Clause 35.07-1 of the Hindmarsh Planning Scheme, as a dwelling in the Farming Zone on land is under 40 hectares is a Section 2 use within the zone and therefore requires a planning permit.

**Definitions:**

A "dwelling" is defined under the provisions of the Hindmarsh Planning Scheme as "A building used as a self-contained residence which must include:

- a) a kitchen sink;
- b) food preparation facilities;
- c) a bath or shower; and
- d) a toilet and wash basin.

It includes outbuildings and works normal to a dwelling".

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not burdened by a Restrictive Covenant or Section 173 Agreement.

**Cultural Heritage Management Plan (CHMP):**

The proposal is exempt from requiring a CHMP pursuant to the Aboriginal Heritage Regulations 2007, as the proposal is not within land affected by the Aboriginal Cultural Heritage Overlay.

**Subject site & locality:**

The subject site is known as 4 Church St Netherby, and is currently used as a dwelling, yet no formal approvals under the *Planning & Environment Act 1987* or the *Building Act 1993* have been granted. The subject site is 990sqm in area, and zoned 'Farming'. The subject land is located within the township of Netherby, which is primarily farming zoned land (aside from parks and other public land), and no existing use rights could be established for this property. The property (and surrounds) has been extensively cleared with little established vegetation remaining, and contains remnant outbuildings. Access to the property is gained from Church Street, Netherby.

**Notice & referral provisions:**

- (1) *Unless the Responsible Authority requires the applicant to give notice, the Responsible Authority must give notice of an application in a prescribed form—*
  - (a) *to the owners (except persons entitled to be registered under the **Transfer of Land Act 1958** as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the Responsible Authority is satisfied that the grant of the permit would not cause material detriment to any person.*

The provisions of the Farming Zone (FZ) do not explicitly state what types of applications are required to be notified, therefore the determining factor surrounding notification is 'material detriment'. In this instance, the application was required to be publicly notified under the provisions of the *Planning and Environment Act 1987* as the proposal may cause material detriment, particularly having regard to effluent disposal on unsewered land.

External Referrals/Notices required by the Planning Scheme:

Section 55 Referrals: Not required.

Section 52 Notices: A notice was placed on the land, and notice given to adjoining landowners. At the time of writing this report, no objections have been received.

Internal Referrals:

- Engineering: Not required.
- Environmental Health: The Environmental Health Officer (EHO) was advised in writing of the application, and it was confirmed that a Land Capability Assessment would be required, and that any effluent disposal system will need to comply with the Environmental Protection Authority (EPA) requirements for wastewater disposal. Conditions will be applied to address this matter, should a permit be granted.

- Building: Not required. Building Act provisions will apply to any works previously undertaken.
- Economic Development and Tourism: Not required

**Planning Assessment:**

Planning Scheme Requirements:

**Planning Policy Framework**

Clause 11.01-1R - Settlement - Wimmera Southern Mallee

Clause 13.02 - Bushfire

Clause 17.01-1R - Diversified economy - Wimmera Southern Mallee

**Local Planning Policy Framework**

Clause 21 - Municipal Strategic Statement

Clause 22.02 – Fire Protection

**Zoning Provisions**

Clause 35.07 - Farming Zone

**Overlay Provisions**

None

**Particular Provisions**

None applicable.

**General Provisions**

Clause 65 - Decision Guidelines, states that:

*“Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause”.*

The decision guidelines relevant to this application are stated within Clause 65.01 of the Hindmarsh Planning Scheme – Approval of an application or plan.

It is considered that the application complies with relevant decision guidelines as outlined, having regard to the minimal impacts upon the amenity of the area, the fact that the proposal is within an existing township, and that formalising the current use of the building will add to the available stock of accommodation within Netherby. Approval of a permit will allow the application of conditions to bring the current structure and use of the land into compliance with building and environmental health regulation. It is considered that this course of action is preferable to commencing enforcement action as this may set a precedent which could have wider impacts across the Council area. This is not to say that enforcement action should not be taken for similar circumstances as they arise, rather, that each case should be considered individually on its merits and circumstance.

## **Decision Guidelines – Clause 35.07-6 Farming Zone**

### **General Issues:**

The proposal is considered to accord with *some* applicable decision guidelines as outlined within the Planning Scheme, having particular regard to the existing use of the land, the pattern of development within the township of Netherby, and the fact that it is preferable to formalise development in certain circumstances, rather than commence enforcement action.

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

The proposal cannot meet several decision guidelines with regard to agricultural considerations, given that the size of the land dictates that significant agricultural production cannot be viably undertaken on this allotment, or any other allotment within the township of Netherby. The approval of this proposal to formalise the use of the existing church building will not limit surrounding agricultural production within the locality, and will serve to retain population within the Netherby township.

### **Dwelling issues**

It is considered that in this instance the approval of a dwelling will not limit the use of land within the locality, and will add to housing stock within the area in general.

### **Environmental issues:**

The proposed dwelling:

- will not negatively impact on the natural physical features and resources of the area;
- will not negatively impact on the flora and fauna on the site and its surrounds as no native vegetation is proposed to be removed; and
- will not negatively impact upon biodiversity of the area.

The primary environmental issue relating to the approval of any dwelling on unsewered land, on small allotments is the safe disposal of effluent. It is considered, however, that by applying conditions relating to the obtaining of a land capability assessment which can demonstrate that any wastewater on the land can be safely and appropriately contained within the property boundaries, is a significant improvement on what impacts may be occurring due to current use.

### **Design and siting issues:**

The proposal will not detrimentally impact on the natural environment, major roads, vistas and water features within the area. The proposed dwelling has access to existing infrastructure on the subject land, including power, on-site water, road, and telecommunications.

In conclusion, the positive outcomes, which will occur by approving this permit, include:

1. The maintenance of population within the township of Netherby;
2. The capability that the approval provides the landowner / applicant to bring the use, buildings and works into compliance with relevant legislation; and



3. The future examination of the appropriateness of the Farming Zone within Netherby and other small towns within the Shire via strategic planning scheme amendments.

**Strategic, Statutory and Procedural Requirements:**

The proposal, whilst inconsistent with some Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies, should be approved in this instance for reasons outlined within the body of this report.

**Report to Council:**

The Coordinator Planning and Development advises that all obligations of Council (strategic, statutory and procedural) have been addressed and discharged in this planning application.

**Processing Times:**

The application was received on 15 August 2019. The report is being presented to Council at its meeting on the 23 October 2019 (51 statutory days). The statutory processing time requirements of the Planning and Environment Act 1987 have been satisfied in this instance.

**Confidential Declaration:**

This information is designated "Confidential" under section 77(2)(a) or 77(2)(b) or 77(2)(c) of the *Local Government Act 1989* on the ground (Section 89 (2) (e)) that it relates to proposed development.

**Conflict of Interest:**

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services

In providing this advice as the Officer Responsible, I have no interests to disclose.

Author: Andre Dalton, Coordinator Planning and Development

In providing this advice as the Author, I have no interests to disclose.

**RECOMMENDATION:**

***That Council approves planning application PA1638-2019 to formalise the use and development of land (including buildings and works) for a dwelling on Crown Allotment 10 Section 1 Township Netherby (4 Church Street Netherby), subject to the following conditions:***

**Endorsed Plans**

1. ***The location and design of the development as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute***

*or statutory rule or local law or any other reason without the written consent of the Responsible Authority.*

**Amenity**

2. *The construction of the dwelling must be managed so that the amenity of the area is not detrimentally affected through the:*
  - (a) *Transport of materials, goods or commodities to or from the land;*
  - (b) *Appearance of any buildings, works or materials;*
  - (c) *Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;*
  - (d) *Presence of vermin; or*
  - (e) *In any other way.*
3. *The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.*
4. *All loading and unloading of vehicles and delivery of goods to and from the premises must occur on site.*

**General**

5. *The dwelling must be connected to a potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.*

**Engineering**

6. *Vehicle Crossings must be designed to allow all vehicles to drive forwards both when entering and leaving the property.*
7. *Any proposed vehicular crossing shall have satisfactory clearance to any power or telecommunication pole and street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the Responsible Authority and shall be at the applicant's expenses.*
8. *Any works to construct or repair a vehicle crossing located within the road reserve requires the separate approval of Council (Consent for works on Road reserve).*

**Environmental Health**

9. *The wastewater from the dwelling must be connected to an approved septic system and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970. The*

***applicant is to demonstrate compliance with this policy by submitting a Land Capability Assessment to the Responsible Authority within three (3) months of the date of this approval.***

**Permit Lapse/Extension**

- 10. The development approved by this permit will expire if one of the following circumstances applies:**
- (a) Construction is not commenced within two years of the date of this permit.**
  - (b) Construction is not completed within four years of the date of this permit.**

**The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:**

- (a) Within six months afterwards for commencement, or**
- (b) Within twelve months afterwards for completion.**

**Notes:**

- (1) This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained if needed.**
- (2) Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings within 14 days of the date of this permit, should this be required.**
- (3) A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval is subject.**

**MOVED: Crs T Schneider/R Lowe**

**That Council approves planning application PA1638-2019 to formalise the use and development of land (including buildings and works) for a dwelling on Crown Allotment 10 Section 1 Township Netherby (4 Church Street Netherby), subject to the following conditions:**

**Endorsed Plans**

- 1. The location and design of the development as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.**

**Amenity**

2. ***The construction of the dwelling must be managed so that the amenity of the area is not detrimentally affected through the:***
  - (a) ***Transport of materials, goods or commodities to or from the land;***
  - (b) ***Appearance of any buildings, works or materials;***
  - (c) ***Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;***
  - (d) ***Presence of vermin; or***
  - (e) ***In any other way.***
3. ***The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.***
4. ***All loading and unloading of vehicles and delivery of goods to and from the premises must occur on site.***

#### **General**

5. ***The dwelling must be connected to a potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.***

#### **Engineering**

6. ***Vehicle Crossings must be designed to allow all vehicles to drive forwards both when entering and leaving the property.***
7. ***Any proposed vehicular crossing shall have satisfactory clearance to any power or telecommunication pole and street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the Responsible Authority and shall be at the applicant's expenses.***
8. ***Any works to construct or repair a vehicle crossing located within the road reserve requires the separate approval of Council (Consent for works on Road reserve).***

#### **Environmental Health**

9. ***The wastewater from the dwelling must be connected to an approved septic system and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970. The applicant is to demonstrate compliance with this policy by submitting a Land Capability Assessment to the Responsible Authority within three (3) months of the date of this approval.***

**Permit Lapse/Extension**

**10. The development approved by this permit will expire if one of the following circumstances applies:**

- (a) Construction is not commenced within two years of the date of this permit.**
- (b) Construction is not completed within four years of the date of this permit.**

**The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:**

- (a) Within six months afterwards for commencement, or**
- (b) Within twelve months afterwards for completion.**

**Notes:**

- (1) This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained if needed.**
- (2) Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings within 14 days of the date of this permit, should this be required.**
- (3) A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval is subject.**

**CARRIED**

**Attachment: 6**

## 11. REPORTS REQUIRING A DECISION

### 11.1 CONSIDERATION OF ANNUAL REPORT 2018/19

**Responsible Officer:** Director Corporate and Community Services

**Attachment:** 7

**Introduction:**

The purpose of this report is to present the 2018/19 Annual Report for consideration by Council.

**Discussion:**

Council has a statutory responsibility under the *Local Government Act 1989* (the Act) to prepare an Annual Report in respect of each financial year, containing a report on its operations, audited performance statement, audited financial statements and any other matter required by the Local Government Planning and Reporting Regulations.

Council's Annual Report for the year ended 30 June 2019 has been prepared and forwarded to the Minister for Local Government in accordance with the Act, by the due date 30 September 2019. The Annual Report provides a comprehensive overview of Council's activities for the period 1 July 2018 to 30 June 2019, including achievements in respect of a range of projects, services and assets managed and financial performance for the year ended 30 June 2019, for which the Auditor-General has provided unqualified audit opinions on the financial and performance statements. The report is intended as a point of reference for Council, staff, residents, shire businesses, community organisations and government departments.

Under section 134 of the *Local Government Act 1989*, Council must consider the Annual Report at a meeting open to the public as soon as practicable but within the time required by the regulations, after the Council has sent the annual report to the Minister. The term 'consider' is specifically used in the Act. The meeting must be advertised at least 14 days prior in a public notice stating when the annual report will be discussed and the place from which copies of the annual report can be obtained before the meeting.

Notice of the preparation of the Annual Report and its consideration at the Council meeting on Wednesday 23 October 2019 was published in the Nhill Free Press and Dimboola Banner on Wednesday 25 September 2019, Rainbow Jeparit Argus on Thursday 26 September 2019 as well as on Council's website and Facebook page. The public notice advised that copies of the Annual Report could be inspected at Council's customer services centres and on Council's website.

**Options:**

It is recommended that Council considers and notes the Annual Report 2018/19.

**Link to Council Plan:**

4.6 An organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation.

**Financial Implications:**

No implications.

**Risk Management Implications:**

Management of Council's legislative responsibilities in a timely manner will minimise Council's exposure to adverse impacts, improve effectiveness and generate efficiencies.

**Conflict of Interest:**

Under section 80C of the LGA officers providing advice to Council must disclose any interests, including the type of interest.

Author & Officer Responsible: Monica Revell, Director Corporate & Community Services  
In providing this advice as the Author & Officer Responsible, I have no interests to disclose.

**Communications Strategy:**

Public notice of the preparation of the Annual Report was given in accordance with the *Local Government Act 1989*.

Electronic copies of Council's Annual Report will be made available on Council's website and in hard copy at Customer service centres within the Shire.

**RECOMMENDATION:**

***That having considered the Hindmarsh Shire Council Annual Report 2018/19 as presented, Council receives and notes the report.***

***MOVED: Crs D Nelson/T Schneider***

***That having considered the Hindmarsh Shire Council Annual Report 2018/19 as presented, Council receives and notes the report.***

**CARRIED**

*Attachment: 7*

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## 11.2 FRAUD PREVENTION AND CONTROL POLICY AND PLAN

**Responsible Officer:** Director Corporate and Community Services

**Attachment:** 8

### **Introduction:**

This report seeks Council adoption of the updated Fraud Control and Prevention Policy and Fraud Control and Prevention Plan following a review by Council officers.

### **Discussion:**

Council's Theft and Fraud Policy was adopted in February 2008, and prior to the current review, no review was documented.

Council officers undertook a review of the policy to ensure it was current, relevant, and demonstrated Council's strong commitment to preventing and controlling fraud.

The process of the update to the policy involved the following:

- discussing the Policy and Plan with Senior Management Team;
- discussing the Policy and Plan with Hindmarsh Shire Council's Audit Committee;
- liaising with Director Corporate and Community Services, Manager Finance and Customer Service and Chief Executive Officer;
- consulting with Hindmarsh Shire Council's Staff Consultative Committee.

The policy and plan demonstrate Council's commitment to the prevention, detection and investigation of fraudulent activity.

The policy applies to all Councillors and all Council employees including management, volunteers and contractors.

The Fraud Control plan summarises Council's fraud risks and associated strategies, either in place or in development, to minimise or combat those risks. The control plan is intended to prevent and limit the effects of fraud and is an attachment to the Fraud Control and Prevention Policy.

### **Options:**

1. Council can choose to adopt the updated Fraud Control and Prevention Policy; or
2. Council can choose to adopt the updated Fraud Control and Prevention Plan; or
3. Council can choose to make amendments to the updated Fraud Control and Prevention Policy; or
4. Council can choose to make amendments to the updated Fraud Control and Prevention Plan; or
5. Council can choose to not adopt the updated Fraud Control and Prevention Policy; or
6. Council can choose to not adopt the updated Fraud Control and Prevention Plan.



**Link to Council Plan:**

Strategic Objective 4.1: Long-term financial stability.

Strategic Objective 4.6: An organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation.

**Financial Implications:**

A strong framework for managing and controlling the risk of fraud occurring in Council.

**Risk Management Implications:**

The Fraud Prevention and Control Plan documents the controls Council has in place to mitigate the chance of fraud occurring and outlines the steps that will be taken should it occur.

**Conflict of Interest:**

Under section 80C of the *Local Government Act 1989* officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible— Monica Revell, Director Corporate & Community Services

In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

Author—Helen Thomson, Manager Governance and Human Services

In providing this advice as the Author, I have no disclosable interests in this report.

**Communications Strategy:**

Council will post an updated Fraud Prevention and Control Policy and Plan on our website and ensure the Policy and Plan are circulated to all staff.

**RECOMMENDATION:**

***That Council adopts the updated Fraud Prevention and Control Policy and Plan.***

***MOVED: Crs D Nelson/D Colbert***

***That Council adopts the updated Fraud Prevention and Control Policy and Plan.***

**CARRIED**

*Attachment: 8*

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### **11.3 PROPOSAL TO ENTER INTO NEW WASTE CONTRACTS WITH WIMMERA MALLEE WASTE**

**Responsible Officer:** Director Infrastructure Services

#### **Introduction:**

This report seeks Council approval and delegation to the CEO to enter into new contracts with Wimmera Mallee Waste for Kerbside Waste Collection, Kerbside Recyclables Collection (statewide exemption) and Transportation of Waste to Doon Landfill (no exemption required) for a period of twenty (20) months, commencing on 01 November 2019 until 30 June 2021 inclusive.

#### **Discussion:**

Council at its meeting on 15 October 2014 approved the awarding of three contracts to Wimmera Mallee Waste as detailed below;

- Contract No: 2014-2015-03 – Kerbside Waste Collection
- Contract No: 2014-2015-04 – Kerbside Recyclables Collection
- Contract No: 2014-2015-05 – Transportation of Waste to Doon Landfill

The contracts were three-year contracts with two one-year extension options. Both options have been exercised and the contracts will expire on 31 October 2019. Council have been working with the Grampians Central Waste and Resource Recovery Group (GCWRRG) and eight other Councils since the beginning of the year, as part of a Collaborative Procurement process for the tendering of waste services across the region. It was envisaged that the tendering process would be finalised and contracts awarded by December this year, with contracts commencing on 01 July 2020.

Following issues within the recycling industry, the Department Environment, Land, Water and Planning (DELWP) advised GCWRRG to put on hold the Collaborative Procurement process until the government Kerbside Collection Reforms and Circular Economy Policy is released later in the year. It is now estimated that the collaborative procurement contracts will not commence until July 2021.

The State Government granted a state wide Ministerial Exemption to all councils under section 186 of the *Local Government Act 1989* to extend recycling collection contracts to 30 June 2021. Council had applied for a Ministerial Exemption to go out to public tender for both of our remaining contracts, Kerbside Waste Collection and Transportation of Waste to Doon Landfill. However, Local Government Victoria, who is assisting with the application process, advised Council that due to the value of the contract being under the threshold for procurement regulations of \$150,000, a Ministerial Exemption application would not be support as it is not required.

At the time of writing this report Council was yet to be advised if it was successful with the Ministerial Exemption application for the Kerbside Waste Collection contract.

Council has liaised with Wimmera Mallee Waste regarding the proposed three twenty month contracts, commencing on 01 November 2019 to 30 June 2021. Wimmera Mallee Waste have confirmed they would accept a 20 month short term contract under the current circumstances with the same terms and conditions as the expiring contracts.

**Options:**

Option 1: Council can approve to enter into a 20 month short term contract with Wimmera Mallee Waste for the three existing contracts.

Option 2: Council can choose not to enter into a 20 month short term contract with Wimmera Mallee Waste for the three existing contracts.

**Link to Council Plan:**

2.4 A community living more sustainably

**Financial Implications:**

The 2019-2020 budget allocations are as follows:

- Kerbside Waste Collection: \$270,300 (General Ledger 20804)
- Kerbside Recyclables Collection: \$210,817 (General Ledger 20805)
- Transportation of Waste to Dooen Landfill: \$71,000 (General Ledger 20806)

These figures have been adopted, taking into consideration the current contract and factoring in CPI increases, therefore there should be no financial implications.

**Risk Management Implications:**

Should Council choose not to enter into a 20 month short term contract with Wimmera Mallee Waste the following would and could occur:

1. Non collection of waste and recyclables;
2. Breach of Council's Plan and Procurement obligations;
3. Lack of local waste contractors, resulting in increases in costs;
4. If new contracts were awarded to another company, a down turn in economic growth and job losses could result. This would have a substantial flow on effect across our municipality, as Wimmera Mallee Waste is based in Rainbow.

**Conflict of Interest:**

Under section 80C of the LGA officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services

In providing this advice as the Officer Responsible, I have no interests to disclose.

Author: Wayne Schulze, Manager Operations

In providing this advice as the Author, I have no interests to disclose.

**Communications Strategy:**

Following Council's decision, the current contractor, Wimmera Mallee Waste, will be notified of the outcome in writing.

**Next steps:**

Should Council approve the twenty month extensions, Officers will undertake the process to implement the contracts in accordance with Council's Procurement Policy.

**RECOMMENDATION:**

***That Council approve and delegate the CEO to enter into new contracts with Wimmera Mallee Waste for the following services:***

- ***Kerbside Waste Collection;***
  - ***Kerbside Recyclables Collection (statewide exemption); and***
  - ***Transportation of Waste to Dooen Landfill (no exemption required);***
- for a period of twenty months, commencing on 1 November 2019 until 30 June 2021 inclusive, subject to the approval of the Ministerial exemption for kerbside waste collection.***

**MOVED: Crs R Lowe/D Nelson**

***That Council approve and delegate the CEO to enter into new contracts with Wimmera Mallee Waste for the following services:***

- ***Kerbside Waste Collection;***
  - ***Kerbside Recyclables Collection (statewide exemption); and***
  - ***Transportation of Waste to Dooen Landfill (no exemption required);***
- for a period of twenty months, commencing on 1 November 2019 until 30 June 2021 inclusive, subject to the approval of the Ministerial exemption for kerbside waste collection.***

**CARRIED**

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## **11.4 FINANCIAL REPORT FOR THE PERIOD ENDING 30 SEPTEMBER 2019**

**Responsible Officer:** Director Corporate and Community Services

**Attachment:** 9

**Introduction:**

The Financial Report for the first quarter of 2019/20 financial year has been prepared, including explanations of variances where applicable, and is presented for the information of Council.

**RECOMMENDATION:**

***That Council notes the Financial Report for the period ending 30 September 2019 as presented.***

***MOVED: Crs R Gersch/D Nelson***

***That Council notes the Financial Report for the period ending 30 September 2019 as presented.***

***CARRIED***

*Attachment: 9*

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## **11.5 COUNCIL PLAN 2017-2021 PROGRESS REPORT**

**Responsible Officer:** Director Corporate and Community Services

**Attachment:** 10

**Introduction:**

Discussion to be held during the meeting regarding the status of the strategic actions in the council plan 2017-2021.

**Conflict of Interest:**

Under section 80C of the LGA officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible & Author: Monica Revell, Director Corporate & Community Services  
In providing this advice as the Officer Responsible, I have no interests to disclose.

***RECOMMENDATION:***

***That Council notes Council Plan 2017-2021 progress report.***

***MOVED: Crs T Schneider/D Colbert***

***That Council notes Council Plan 2017-2021 progress report.***

***CARRIED***

*Attachment: 10*

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## 12. SPECIAL COMMITTEES

### 12.1 YURUNGA MANAGEMENT COMMITTEE

**Responsible Officer:** Director Corporate and Community Services

**Attachment:** 11

**Introduction:**

The Yurunga Management Committee held its meeting on 22 August 2019. The purpose of this report is to note the minutes from the meeting. A copy of the minutes is included as an attachment for the information of Council.

**RECOMMENDATION:**

***That Council notes the minutes of the Yurunga Management Committee meeting held on 22 August 2019.***

**MOVED: Crs D Colbert/R Lowe**

***That Council notes the minutes of the Yurunga Management Committee meeting held on 22 August 2019.***

**CARRIED**

*Attachment: 11*

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### 12.2 JEPARIT TOWN COMMITTEE

**Responsible Officer:** Director Corporate and Community Services

**Attachment:** 12

**Introduction:**

The Jeparit Town Committee held its meeting on 9 September 2019. The purpose of this report is to note the minutes from the meeting. A copy of the minutes is included as an attachment for the information of Council.

**RECOMMENDATION:**

***That Council notes the minutes of the Jeparit Town Committee meeting held on 9 September 2019.***

**MOVED: Crs R Lowe/T Schneider**

***That Council notes the minutes of the Jeparit Town Committee meeting held on 9 September 2019.***

**CARRIED**

*Attachment: 12*

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**12.3 DIMBOOLA TOWN COMMITTEE**

**Responsible Officer:** Director Corporate and Community Services

**Attachment:** 13

**Introduction:**

The Dimboola Town Committee held its annual general meeting and ordinary meeting on 7 October 2019. The purpose of this report is to note the minutes received and appoint members of the committee from the annual general meeting. A copy of the minutes are included as an attachment for the information of Council.

On 11 October 2019 Dimboola Town Committee received a resignation from Chris Johnson.

The Dimboola Town Committee requires approval to engage MTB Carpentry Pimpinio for concreting works at the Dimboola Weir Shelter to the value of \$3,920.00 including GST. The Dimboola Town Committee have obtained grant funding to undertake these projects. Under the delegation set by Council, Rainbow Town Committee cannot enter into purchases over \$2,000 without Council approval.

**RECOMMENDATION:**

1. ***That Council notes the minutes of the Dimboola Town Committee general meeting held on 7 October 2019, and approves expenditure of \$3,920.00 (including GST) to MTB Carpentry Pimpinio for concreting works at the Dimboola Weir Shelter.***
2. ***That, in exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989 (the Act), Council appoints as members of the Dimboola Town Committee:***
  - ***Kaylene Pietsch (President)***
  - ***Phil Colquhoun (Vice President)***
  - ***Jo Donnelly (Secretary)***
  - ***Amanda Ingeme (Treasurer)***
  - ***Jan Ballard***
  - ***Ron Donaldson***
  - ***Bill Eldridge***
  - ***Emma Clark***
  - ***Chris Johnson***
  - ***Sharyn Cook***
3. ***That Council accepts the resignation dated 11 October 2019 of Chris Johnson from the Dimboola Town Committee.***

**MOVED: Crs D Colbert/t/D Nelson**

1. ***That Council notes the minutes of the Dimboola Town Committee general meeting held on 7 October 2019, and approves expenditure of \$3,920.00 (including GST) to MTB Carpentry Pimpinio for concreting works at the Dimboola Weir Shelter.***
2. ***That, in exercise of the powers conferred by sections 86 and 87 of the Local Government Act 1989 (the Act), Council appoints as members of the Dimboola Town Committee:***
  - ***Kaylene Pietsch (President)***
  - ***Phil Colquhoun (Vice President)***
  - ***Jo Donnelly (Secretary)***
  - ***Amanda Ingeme (Treasurer)***
  - ***Jan Ballard***
  - ***Ron Donaldson***
  - ***Bill Eldridge***
  - ***Emma Clark***
  - ***Chris Johnson***
  - ***Sharyn Cook***
  - ***Debra Nelson***
3. ***That Council accepts the resignation dated 11 October 2019 of Chris Johnson from the Dimboola Town Committee.***

**CARRIED**

*Attachment: 13*

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#### **12.4 WIMMERA MALLEE PIONEER COMMITTEE**

**MOVED: Crs R Lowe/T Schneider**

***That Council approves the Wimmera Mallee Pioneer Museum Committee to engage Carey Covers for upholstery works on a buggy frame and seat to the value of up to \$2,750.00 including GST.***

**CARRIED**

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**13. LATE PLANNING PERMIT REPORTS**

**13.1 APPLICATION FOR PLANNING PERMIT PA1644-2019 – CONSTRUCT TELECOMMUNICATIONS FACILITY - LOT 1 TP837540, 60 LOWER ROY ST JEPARIT**

<b>Responsible Officer:</b>	Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	63650
<b>Applicant:</b>	Mr Ian Pope – ATI Pty Ltd
<b>Owner:</b>	Hindmarsh Shire Council
<b>Subject Land:</b>	Lot 1 TP837540, 60 Lower Roy St Jeparit
<b>Proposal:</b>	Construct telecommunications facility – 20m free standing communications monopole in association with weather radar facility
<b>Zoning &amp; Overlays:</b>	Public Use Zone Schedule 6 (PUZ6) – Local Government, Environmental Significance Overlay Schedule 6 – Catchments of Wetlands of Conservation Value
<b>Attachment:</b>	17

**Summary & Proposal Details:**

The proposal is for buildings and works in the Public Use Zone Schedule 6 (Local Government), to construct a 20 metre high monopole. The pole is to provide a main data connection from the Bureau of Meteorology (BOM) weather radar site at Pullut West Road in Rainbow, to the BOM Offices in Melbourne and will form a part of the wider BOM weather radar project, located to the south of Rainbow. The monopole is proposed to be located at Council's Jeparit Depot, on the southernmost point of the subject land.

**Requirement for Permit:**

A planning permit is triggered for this application pursuant to Clause 36.01-2 (PUZ6) to construct a building or construct or carry out works.

A planning permit is required pursuant to Clause 52.19-1 – Telecommunications Facility.

**Definitions:**

The proposal is defined as a "telecommunications facility", being:

"Land used to accommodate any part of the infrastructure of a Telecommunications network. It includes any telecommunications line, equipment, apparatus, telecommunications tower, mast, antenna, tunnel, duct, hole, pit, pole, or other structure or thing used, or for use in or in connection with a Telecommunications network".

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not burdened by a Restrictive Covenant or Section 173 Agreement.

### **Cultural Heritage Management Plan (CHMP):**

The proposal is exempt from requiring a CHMP pursuant to the Aboriginal Heritage Regulations 2007, as the proposal is not within land affected by the Aboriginal Cultural Heritage Overlay.

### **Subject site & locality:**

The subject site is known as 60 Lower Roy St Jeparit, the site of Council's Jeparit works depot. The subject site is 1.98ha in area, and primarily consists of existing works, maintenance and storage shedding, and a telecommunications tower on the easternmost point of the land. Surrounding land is primarily used for railway and residential purposes to the south and west, farming land to the east, and residential to the north. To the immediate north, adjoining the subject site is the Jeparit Bowls Club.

The property (and surrounds) has been extensively cleared with little established vegetation remaining, and no native vegetation is proposed to be removed as a part of this application. Access to the property is gained via Lower Roy Street.

### **Notice & Referral of application**

(1) *Unless the Responsible Authority requires the applicant to give notice, the Responsible Authority must give notice of an application in a prescribed form—*

- (a) *to the owners (except persons entitled to be registered under the **Transfer of Land Act 1958** as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the Responsible Authority is satisfied that the grant of the permit would not cause material detriment to any person.*

Whilst the provisions of the Public Use Zone (PUZ) do not explicitly state what types of applications are required to be notified, thus causing the determining factor surrounding notification to be 'material detriment', the application was required to be publicly notified under the provisions of the *Planning and Environment Act 1987* as the proposal may cause material detriment.

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals: Not required.

Section 52 Notices: A notice was placed on the land, notice given to adjoining landowners, and a notice placed in the Rainbow-Jeparit Argus. At the time of writing this report, no objections have been received.

Internal Referrals:

- Engineering: Not required.
- Environmental Health: Not required.
- Building: Not required.
- Economic Development and Tourism: Not required

**Planning Assessment:**

Planning Scheme Requirements:

**Planning Policy Framework**

Clause 11.01-1R - Settlement - Wimmera Southern Mallee

Clause 13.02 - Bushfire

Clause 17.01-1R - Diversified economy - Wimmera Southern Mallee

Clause 19.03-04S - Telecommunications

**Local Planning Policy Framework**

Clause 21 - Municipal Strategic Statement

Clause 22.02 – Fire Protection

**Zoning Provisions**

Clause 36.01 – Public Use Zone Schedule 6 (PUZ6) – Local Government

**Overlay Provisions**

Clause 42.01 - Environmental Significance Overlay Schedule 6 (ESO6) – Catchments of Wetlands of Conservation Value

**Particular Provisions**

Clause 52.19 - Telecommunications Facility

**General Provisions**

Clause 65 - Decision Guidelines, states that:

*“Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause”.*

The decision guidelines relevant to this application are stated within Clause 65.01 of the Hindmarsh Planning Scheme – Approval of an application or plan.

It is considered that the application complies with the relevant decision guidelines as outlined. The proposal is supportive of, and complies with the Planning Policy Framework, having regard to the benefit the proposal will cause regarding the effective operation of the BOM Radar and the subsequent benefits to agriculture regionally.

**Decision Guidelines – Clause 36.01- Public Use Zone**

The proposal is considered to be in accord with the applicable decision guidelines as outlined within the Planning Scheme, having particular regard to the existing use of the land, the existing telecommunications tower on the site and the height and location of the proposed monopole.

No use, design or siting guidelines exist on the subject land.

**Decision Guidelines – Clause 52.19 – Telecommunications Facility**

The proposal will not affect the capacity of the existing uses on the subject land, nor on residential buildings on adjacent land.

As the telecommunications facility is within an Environmental Significance Overlay Schedule 6 (ESO6) – Catchments of Wetlands of Conservation Value, the decision guidelines of Clause 52.19 state that the decision guidelines contained within the ESO must be considered also, even though the ESO does not trigger the need for a planning permit for a telecommunications facility. In this regard, the proposed telecommunications tower will:

- not negatively impact on the natural physical features and resources of the area;
- not negatively impact on the flora and fauna on the site and its surrounds as no native vegetation is proposed to be removed;
- not negatively impact upon biodiversity of the area.

**Strategic, Statutory and Procedural Requirements:**

The proposal is consistent with the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

**Report to Council:**

The Coordinator Planning and Development advises that all obligations of Council (strategic, statutory and procedural) have been addressed and discharged in this planning application.

**Processing Times:**

The application was received on 23 September 2019. The report is being presented to Council at its meeting on the 23 October 2019 (31 statutory days). The statutory processing time requirements of the Planning and Environment Act 1987 have been satisfied in this instance.

**Conflict of Interest:**

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services

In providing this advice as the Officer Responsible, I have no interests to disclose.

Author: Andre Dalton, Coordinator Planning and Development

In providing this advice as the Author, I have no interests to disclose.

**RECOMMENDATION:**

***That Council approves planning application PA1644-2019 to construct a Telecommunications facility – 20m free standing communications monopole at Lot 1 TP837540, 60 Lower Roy St Jeparit, subject to the following conditions:***

**Endorsed Plans**

1. ***The location and design of the development as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.***

**Amenity**

2. ***The construction of the telecommunications facility must be managed so that the amenity of the area is not detrimentally affected through the:***
  - (a) ***Transport of materials, goods or commodities to or from the land;***
  - (b) ***Appearance of any buildings, works or materials;***
  - (c) ***Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;***
  - (d) ***Presence of vermin; or***
  - (e) ***In any other way.***
3. ***The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.***
4. ***All loading and unloading of vehicles and delivery of goods to and from the premises must occur on site.***

**Permit Lapse/Extension**

5. ***The development approved by this permit will expire if one of the following circumstances applies:***
  - (a) ***Construction is not commenced within two years of the date of this permit.***
  - (b) ***Construction is not completed within four years of the date of this permit.***

***The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:***

- (a) ***Within six months afterwards for commencement, or***
- (b) ***Within twelve months afterwards for completion.***

**Notes:**

- (1) ***This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained.***
- (2) ***Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings within 14***

*days of the date of this permit, should this be required.*

- (3) A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval is subject.**

**MOVED: Crs R Lowe/R Gersch**

**That Council approves planning application PA1644-2019 to construct a Telecommunications facility – 20m free standing communications monopole at Lot 1 TP837540, 60 Lower Roy St Jeparit, subject to the following conditions:**

**Endorsed Plans**

- 1. The location and design of the development as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.**

**Amenity**

- 2. The construction of the telecommunications facility must be managed so that the amenity of the area is not detrimentally affected through the:**
- (a) Transport of materials, goods or commodities to or from the land;**
  - (b) Appearance of any buildings, works or materials;**
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;**
  - (d) Presence of vermin; or**
  - (e) In any other way.**
- 3. The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.**
- 4. All loading and unloading of vehicles and delivery of goods to and from the premises must occur on site.**

**Permit Lapse/Extension**

- 5. The development approved by this permit will expire if one of the following circumstances applies:**
- (a) Construction is not commenced within two years of the date of this permit.**
  - (b) Construction is not completed within four years of the date of this permit.**

**The Responsible Authority may extend the periods referred to if a request is made in**

***writing before the permit expires, or:***

- (a) Within six months afterwards for commencement, or***
- (b) Within twelve months afterwards for completion.***

**Notes:**

- (1) This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained.***
- (2) Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings within 14 days of the date of this permit, should this be required.***
- (3) A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval is subject.***

**CARRIED**

Attachment: 17

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<b>14. LATE REPORTS</b>
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**14.1 PROPOSAL TO DEMOLISH DAVIS PARK GRANDSTAND**

**Responsible Officer:** Director Infrastructure Services

**Introduction:**

The purpose of this report is to seek Council approval to delegate to the Chief Executive Officer authority to commence the demolition process for the Davis Park Grandstand (the *Grandstand*).

**Discussion:**

In April 2018, a decision was made to close the Grandstand to the public after an independent engineering assessment found that the load bearing capacity of the Grandstand was severely compromised due to advanced degradation of the structure.

The result of this report recommended that the structure remain closed until it can be made safe; either through strengthening works to the structure, or demolition and replacement of the structure in its entirety.

The report briefly explored both options in terms of cost and expected life of the structure, with strengthening works offering an expected useful life of only 5-10 years at an estimated cost of \$250,000, while replacement offers an expected useful life of approximately 50 years

at an estimated cost of \$1.5m.

The scope for strengthening works and the rehabilitation of the Grandstand is considered extensive, and financially unviable given it would only add an additional life span of 5-10 years.

Therefore, on the basis of the findings in this structural assessment and the experience of officers, this report seeks approval to commence the demolition process of the Grandstand with the vision that it will be replaced when practicable with adequate financial funding.

**Options:**

1. Council can approve to delegate authority to the Chief Executive Officer to commence the demolition process for the Davis Park Grandstand
2. Council can not approve to delegate authority to the Chief Executive Officer to commence the demolition process for the Davis Park Grandstand

**Link to Council Plan:**

Strategic objective 1.3: A community that is physically active with access to a wide range of leisure, sporting and recreation facilities.

Strategic objective 2.1: Well-maintained physical assets and infrastructure to meet community and organisational needs.

**Financial Implications:**

Demolition of the Davis Park Grandstand will attract a one-off cost of approximately \$15,000 to \$25,000; depending on the level of fill required to return the site to a stable status. Further funding will be sought to construct a replacement grandstand or similar seating facility.

Council has currently allocated \$100,000 in the 2019/2020 – general ledger 20797/650/5000 – budget towards facilities at Davis Park.

**Risk Management Implications:**

At the current time, the risk to Council is lowered through the closure of the Grandstand. However, should council choose not to approve the demolition process of the Grandstand there is a risk that the grandstand may collapse. The demolition of the existing grandstand will eliminate the risk to Council and safety of any user of the public grounds on which it stands.

**Conflict of Interest:**

Under section 80C of the LGA officers providing advice to Council must disclose any interests, including the type of interest.

Author & Officer Responsible: Angela Hoy, Director Infrastructure Services

In providing this advice as the Author & Officer Responsible, I have no interests to disclose.

**Communications Strategy:**

Appropriate communications will be made to stakeholders as soon as practical after the



Council meeting via Council's website, advertisements and direct notification.

A Tender or request for quote process will commence on approval of the delegated authority to commence the demolition process.

**RECOMMENDATION:**

***That Council delegates authority to the Chief Executive Officer to commence the demolition process for the Davis Park Grandstand.***

**MOVED: Crs R Gersch/D Colbert**

***That Council delegates authority to the Chief Executive Officer to commence the demolition process for the Davis Park Grandstand.***

**CARRIED**

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**15. OTHER BUSINESS**

**MOVED: Crs R Gersch/R Lowe**

***That the CEO provide a response to the issues raised by Mr John Johnson during item 5 (public question time).***

**CARRIED**

**16. CONFIDENTIAL REPORTS**

In accordance with Section 89 (2) of the *Local Government Act* 1989, Council may close the meeting to the public if items to be discussed are deemed confidential, that is, if the items to be discussed relate to:

- 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.

**RECOMMENDATION:**

***That the meeting be closed in accordance with Section 89 of the Local Government Act 1989, to consider:***

- 16.1 *Tender for Design, Supply and Construction of Dimboola Public Amenities Report Contract No. 2019-2020-01***
- 16.2 *Request for Quote - Award for Purchase of One (1) Backhoe***
- 16.3 *2020 Hindmarsh Shire Youth Council***
- 16.4 *Chief Executive Officer Appraisal 2018/19***

**MOVED: Crs R Gersch/R Lowe**

***That the meeting be closed in accordance with Section 89 of the Local Government Act 1989, to consider:***

- 16.1 *Tender for Design, Supply and Construction of Dimboola Public Amenities Report Contract No. 2019-2020-01***
- 16.2 *Request for Quote - Award for Purchase of One (1) Backhoe***
- 16.3 *2020 Hindmarsh Shire Youth Council***
- 16.4 *Chief Executive Officer Appraisal 2018/19***

**CARRIED**

Council moved into confidential session at 4:22pm.

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Council resumed in open session at 4:45pm.

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**MOVED: Crs T Schneider / Cr Gersch**

***That the Youth Councillors consider getting involved in the annual agricultural shows within each of their towns.***

**CARRIED**

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**17. MEETING CLOSE**

There being no further business Cr R Ismay declared the meeting closed at 4:47pm.

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