



**MINUTES OF THE COUNCIL MEETING OF THE HINDMARSH SHIRE COUNCIL HELD
18 DECEMBER 2019 AT THE COUNCIL CHAMBERS, 92 NELSON STREET NHILL
COMMENCING AT 3:00PM.**

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 Planning Application 1647-2019 – Use and Development of Land - Mineral Extraction
– Expansion of Existing Gypsum Mine – Mining License Min5316, Ca5 Psh

Kurnbrunin (Kurnbrunin Rd Rainbow)

- 10.1.1 Supplementary Report: Planning Application 1647-2019 – Use and Development of Land – Mineral Extraction – Expansion of Existing Mine – Mining License Min5316, CA5 Parish Kurnbrunin (Kurnbrunin Road, Rainbow)
- 10.2 Planning Application PA1642-2019 for the Construction of a Store on Lot 1 Tp251227, 28 Victoria Street Nhill
- 10.3 Planning Application PA1650-2019 – Construct Replacement Dwelling – CA137 Psh Tarranginnie (71 Boyeo-Tarranginnie Rd Nhill)

11. Reports Requiring a Decision

- 11.1 Future Council Meeting Dates 2020
- 11.2 Additional Event Sponsorship and Assistance – 2020 Peter Taylor Memorial Barefoot Ski Event
- 11.3 Regional Infrastructure Fund Grant Application
- 11.4 Contract Variations on Construction of Dimboola Library Extension (Contract No. 2018-2019-10)
- 11.5 Public Interest Disclosure Policy
- 11.6 Rainbow Female Change Room – Request for Co-Contribution to Support Local Sport Infrastructure Fund Application

12. Special Committees

- 12.1 Rainbow Town Committee
- 12.2 Nhill Town Committee

13. Late Reports

14. Other Business

15. Confidential Matters

- 15.1 Australia Day Awards 2020

16. Meeting Close

Present:

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

Apologies:

Ms Monica Revell (Director Corporate and Community Services)

In Attendance:

Mr Greg Wood (Chief Executive Officer), Ms Angela Hoy (Director Infrastructure Services) (Items 1 to 11.6, 15.1 to 16), Ms Helen Thomson (Acting Director Corporate and Community Services), Ms Sarah Dickinson (Executive Assistant) (Items 1 to 10.2, 11 to 16), Mr Phil King (Manager Economic and Community Development) (Items 1 to 4), Mr Andre Dalton (Coordinator Planning and Development) (Items 1 to 10.3)

1. ACKNOWLEDGEMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER

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

2. APOLOGIES

Ms Monica Revell (Director Corporate and Community Services)

3. CONFIRMATION OF MINUTES

RECOMMENDATION:

That the Minutes of the Ordinary Council Meeting held on Wednesday 20 November 2019 at the Council Chambers, 92 Nelson Street Nhill as circulated to Councillors be taken as read and confirmed.

MOVED: Crs R Lowe/T Schneider

That the Minutes of the Ordinary Council Meeting held on Wednesday 20 November 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.

None declared.

Business Arising:

MOVED: Crs T Schneider/R Lowe

That Council bring item 11.3 forward due to time constraints for the potential grant application.

CARRIED

11.3 REGIONAL INFRASTRUCTURE FUND GRANT APPLICATION

Responsible Officer: Acting Director Corporate and Community Services

Introduction:

This report seeks support from Council for the submission of an application through Regional Development Victoria's, Regional Infrastructure Fund and financial contribution towards the project.

Discussion:

Applications for funding through the Regional Infrastructure Fund close on Wednesday 18 December 2019. Grants of up to \$500,000 are available with funding ratios for co-contributions for Small Rural Council's being up to RDV \$3 : \$1 Council.

Officers were considering submitting a grant application for the redevelopment of the Davis Park Community Pavilion (Clubrooms) with the development to incorporate the grand stand.

At the Council meeting held on 20 November 2019 Council resolved that the Chief Executive Officer be authorised to commit to Council funding of up to \$500,000 for the Davis Park redevelopment project subject to grant funding of \$500,000 and a funding commitment of \$500,000 from the Nhill and District Sporting Club.

Following discussions held with the Mayor and representatives of the Nhill District Sporting Club on Tuesday 19 November 2019, the sporting club have indicated they will require at least twelve months to fundraise for their commitment.

It is recommended that the submission of a grant application for the redevelopment of Davis Park be postponed and be prioritised for future funding.

Following the response from the Nhill and District Sport Club, a review was undertaken of Council's priority projects that meet the Regional Infrastructure Fund criteria.

Over the past three years, Dimboola has hosted a Human Powered Vehicle (HPV) exhibition race for teams from Victoria and South Australia at the Dimboola Recreation Reserve. During the 2019 event, representatives from Pedal Prix South Australia attended to view the track and to discuss the possibility of holding a larger scale event.

Pedal Prix representatives offered favourable comment in relation to the location and the potential to host a large event potentially drawing thousands of people to the shire. However, they also stated that there were a number of infrastructure improvements required to reach the required standard, including the road surface and width.

The application through the Regional Infrastructure Fund will include upgrades to the road within the Dimboola Recreation Reserve increasing the width to a minimum of six metres, creation of a pit area, improvements to the road surface and a realignment of the hairpin bend at the ticket box entrance to the recreation reserve.

Upgrading the road through the Recreation Reserve will provide opportunities for further events, including the possibility of hosting a postie bike grand prix or race, and other events that provide economic benefit.

Suggested improvements will also benefit local and visiting sporting clubs, Dimboola A&P Society and community organisations who use the Dimboola Recreation Reserve.

Options:

1. Council can submit a grant application through the Regional Infrastructure Fund for upgrades to the Dimboola Recreation Reserve road on a \$3 for \$1 basis.
2. Council can choose not to submit a grant application through the Regional Infrastructure Fund at this time.

Link to Council Plan:

Strategic Objective 1.2: A range of effective and accessible services to support the

- health and wellbeing of our community.
- 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.
- Strategic Objective 3.2: A thriving tourism industry.

Financial Implications:

Council's contribution for the project will be included in the 2020/2021 budget.

Risk Management Implications:

Upgrading the Dimboola Recreation Reserve road will reduce risk by improving the road surface and increasing the road width.

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 Officer Responsible, I have no interests to disclose.

RECOMMENDATION:

That Council submit a grant application for up to \$500,000 through the Regional Infrastructure Fund for upgrades to the Dimboola Recreation Reserve Road and include Council's contribution of up to \$167,000 in the 2020/2021 budget.

MOVED: Crs R Ismay/R Lowe

That Council submit a grant application for up to \$300,000 through the Regional Infrastructure Fund for upgrades to the Dimboola Recreation Reserve Road and include Council's contribution of up to \$100,000 in the 2020/2021 budget.

MOTION DEFEATED.

5. PUBLIC QUESTION TIME

Darren Bone, President of the Dimboola Ski Club was in attendance and spoke to item 11.2 seeking Council to consider further support of this major event.

Two other members of the public were in attendance.

6. DEPUTATIONS

No deputations.

7. ACTIVITY REPORTS

COUNCILLOR ACTIVITIES: NOVEMBER 2019

Cr GERSCH, MAYOR

Attended:

02/11/2019	Nhill Air Show
06/11/2019	Pre statutory meeting
06/11/2019	Statutory meeting
07/11/2019	Equity meeting Jeparit
08/11/2019	Lions convention civic reception
08/11/2019	Lions convention official welcome
09/11/2019	Lions convention street march
09/11/2019	Dimboola regatta
11/11/2019	Nhill RSL remembrance service
12/11/2019	WDA board meeting
12/11/2019	WDA Annual meeting
13/11/2019	Guest speaker Nhill Probus Club
14/11/2019	Radio interview ABC radio
17/11/2019	Nhill Market
18/11/2019	Nhill Sporting Club AGM
19/11/2019	Council and Nhill Sporting Club re new clubrooms
19/11/2019	Vic roads Regional manager Michael Bailey
20/11/2019	Mayor/CEO Meeting
20/11/2019	Council briefing and meeting
27/11/2019	Grampians Wimmera Mallee water forum
27/11/2019	Inspect Dimboola river with John Nichols
27/11/2019	CEO and Phil King re Nhill clubroom proposal
27/11/2019	WWHS Annual meeting at Rainbow

Cr COLBERT, DEPUTY MAYOR

Attended:

02/11/2019	Nhill Air Show
06/11/2019	Pre statutory meeting
06/11/2019	Statutory meeting
20/11/2019	Council briefing and meeting

Cr ISMAY

Attended:

01/11/2019	Mayoral gathering Warracknabeal
------------	---------------------------------

02/11/2019 Open Nhill Air show
02/11/2019 Secondary school reunion Rainbow
04/11/2019 Dimboola town committee
06/11/2019 Pre statutory briefing Nhill
06/11/2019 Statutory meeting Nhill
07/11/2019 Women's equality meeting Jeparit
15/11/2019 Inspection of caravan park with Trevor Oakley
19/11/2019 WMT meeting Rupanyup
20/11/2019 Briefing meeting Nhill
20/11/2019 Council meeting Nhill
25/11/2019 Rainbow Town Committee meeting
26/11/2019 Community Awareness breakfast BBQ Federal St.
27/11/2019 Discussion with Andrew McLachlan HPV Adelaide (Phone)
28/11/2019 RACV Tourism awards Melbourne

Cr LOWE

Attended:

02/11/2019 Centenary Celebration, "Higher Elementary," "High", "College", "P12." @
Rainbow
02/11/2019 Nhill Airshow, Nhill
06/11/2019 Pre Statutory Meeting, Nhill
06/11/2019 Statutory Meeting, Nhill
18/11/2019 New Residents BBQ & Welcome, Rainbow
19/11/2019 WMPM Meeting, Jeparit
20/11/2019 Council Briefing, Nhill
20/11/2019 Council Meeting, Nhill
21/11/2019 AGM, Civic Centre Committee of Management, Rainbow

Cr NELSON

Attended:

02/11/2019 NAHC Air Show, Nhill
04/11/2019 Town Committee meeting, Dimboola
06/11/2019 Statutory meeting, Nhill
12/11/2019 Wimmera Development Association executive meeting
12/11/2019 Wimmera Development Association AGM, Horsham
19/11/2019 Wimmera River Inspection, Dimboola
20/11/2019 Council briefing and meeting, Nhill
21/11/2019 Allambi Elderly Peoples Home AGM
23/11/2019 Fishing Classic, Dimboola
25/11/2019 Christmas decoration meeting, Dimboola
28/11/2019 Wimmera Southern Mallee LLEN meeting & dinner, Horsham

Cr SCHNEIDER

Attended:

06/11/2019 Pre statutory meeting

06/11/2019 Statutory meeting
20/11/2019 Council briefing and meeting

SENIOR MANAGEMENT ACTIVITIES: NOVEMBER 2019

GREG WOOD, Chief Executive Officer:

Attended:

02/11/2019 Nhill Air Show
06/11/2019 Pre-Statutory Meeting, Nhill
06/11/2019 Annual Statutory Meeting, Nhill
07/11/2019 Meeting with Small Business Commissioner Victoria, Nhill
07/11/2019 EBA Explanatory Presentation, Nhill
11/11/2019 Rural Council Transformation Program Vendors Forum, Melbourne
12/11/2019 Wimmera Development Association AGM Meeting, Horsham
14/11/2019 Rural Council's Corporate Collaboration (RCCC) Meeting, Horsham
14/11/2019 Wimmera Regional CEO Meeting, Horsham
15/11/2019 Wimmera River Challenge, Dimboola
19/11/2019 Regional Roads Victoria Regional Director Meeting, Nhill
20/11/2019 Mayor/CEO Meeting, Nhill
20/11/2019 Council briefing, Nhill
20/11/2019 Council meeting, Nhill
22/11/2019 Meeting with Phil Shanahan, Melbourne
28/11/2019 Manual Handling Training
27/11/2019 Mayor and Phil King re Davis Park
29/11/2019 Staff Social Club Christmas Event, Nhill

ANGELA HOY, Director Infrastructure Services:

Attended:

08/11/2019 Lions Club Convention Civic Reception, Council Chambers Nhill
13/11/2019 Managing Stress and Building Resilience Training, Council Chambers
Nhill
18-20/11/2019 National Roads Transport Congress, Adelaide Hills Convention Centre,
Hahndorf
29/11/2019 Wimmera Southern Mallee Regional Transport Group Meeting, Horsham
28/11/2019 16 Days of Activism against Gender Based Violence Community
Breakfast, Jeparit
27/11/2019 Gender Equality in Community Consultation Training, Nhill Council
Chambers
26/11/2019 First Aid Training, Nhill Council Chambers

MONICA REVELL, Director Corporate and Community Services:

Attended:

6/11/2019 Annual Statutory Meeting
7/11/2019 Gender Equity Training Section 86 Committees
8/11/2019 Civic Reception Nhill Lions Convention

11/11/2019	Rural Council's Transformation Program Vendors Forum
12 – 13/11/2019	Domestic Violence Alert Training
15/11/2019	Goolum Goolum Wimmera River Challenge
18/11/2019	First Aid Training
19/11/2019	Maintain Safety at Incident Training
20/11/2019	Council Briefing
20/11/2019	Council Meeting
21/11/2019	Municipal Emergency Management Plan Audit
22/11/2019	Meeting with EPA Victoria
26/11/2019	16 Days of Activism Breakfast Rainbow
28/11/2019	16 Days of Activism Breakfast Jeparit
28/11/2019	Manual Handling Training

8. CORRESPONDENCE

8.1 GENERAL CORRESPONDENCE

Responsible Officer: Chief Executive Officer

Attachment: 2

Introduction:

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

- Letter from Anne Webster MP
- Letter from Avonlea Aged Care in Nhill
- Letter from Jaclyn Symes MP

Outwards:

- Letter to Nhill Aviation Heritage Centre following Airshow 2019
- Dimboola Town Committee for Dimboola Tidy Towns Event
- Dimboola Rowing Club for Regatta
- Clive Eastwood for his service

RECOMMENDATION:

That Council notes the attached correspondence.

MOVED: Crs R Lowe/T Schneider

That Council notes the attached correspondence.

CARRIED

Attachment: 2

9. ASSEMBLY OF COUNCILLORS

Responsible Officer: Chief Executive Officer
Attachments: 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 R Ismay/R Lowe

That Council accepts the Assembly of Councillors Records as presented.

CARRIED

Attachment: 3

10. PLANNING PERMITS

10.1 PLANNING APPLICATION 1647-2019 – USE AND DEVELOPMENT OF LAND - MINERAL EXTRACTION – EXPANSION OF EXISTING GYPSUM MINE – MINING LICENSE MIN5316, CA5 PSH KURNBRUNIN (KURNBRUNIN RD RAINBOW)

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 11680
Applicant: John Cahill – Ostract Pty Ltd
Owner: Teresa & Dennis Gould
Subject Land: CA5 Psh Kurnbrunin (Kurnbrunin Rd Rainbow)
Proposal: Use and development of land – mineral extraction – expansion of existing gypsum mine – mining license MIN5316
Zoning & Overlays: Farming Zone (FZ);
Land Subject to Inundation Overlay (LSIO);
Environmental Significance Overlay – Schedule 6 –
Catchments of Wetlands of Conservation Value;
Bushfire Management Overlay (BMO)

Aboriginal Cultural Heritage Sensitivity

Attachment: 4

Summary:

This report recommends that Council approve Planning Permit Application PA1647-2019 for the use and development of land for mineral extraction – expansion of existing gypsum mine (mining license MIN5316) at CA5, Kurnbrunin Rd Rainbow.

Background:

On the 11 November 2019, an application for a planning permit to expand and continue to extract gypsum at CA5 Psh Kurnbrunin (Kurnbrunin Rd, Rainbow) was received.

Proposal Details:

The licenced area – see Attachment 1.3 – Mining Licence No. 5316 – has a total area of approximately 57 ha. The proposal is to increase the area under extraction on the site. Each panel of extraction is 3.65 ha in area, with no more than 8 ha of ground exposed at any one time.

The proposed operation will involve the disturbance and removal of gypsum from below the land surface, to a maximum depth of 2 metres. The gypsum will be extracted using earth moving equipment, excavating, crushing, and removing the gypsum.

Gould's Pit is currently operated on a seasonal basis that is driven by product demand. The proponent wishes to maintain the current method of work and as such, the proposed extension of the pit will not result in an increased rate of production. There will be no increase in the capacity of existing crushing/screening plant nor will there be any change in the maximum number of truck movements on local roads.

The material encountered in excavation of the pit is soft gypsiferous earth. The deposit is proposed to be worked in east-west aligned strip panels where each panel is, notionally, 50m wide by 730m long with each panel separated by a 'pillar' 10m wide. Panels are to be worked sequentially (refer Attachment 1.3) whereby only one panel (or a portion thereof) is open at any one time. It is anticipated that the next panel in the extraction sequence will be pre-stripped prior to completion of a current panel with the pre-strip material been utilised in reclamation of the exhausted panel mined previously. Thus, the site is progressively rehabilitated with no more than 8 ha of ground exposed at any given time as previously stated. The 10m pillars between panels may be progressively extracted as a final phase in the working of any given group of panels.

As the site is located within an area of Aboriginal Cultural Heritage Sensitivity, a Cultural Heritage Management Plan (CHMP) has been prepared and approved by the Barengi Gadjin Land Council on the 17 June 2019.

Requirement for Permit:

A Planning permit is required under Clause 35.07 – Farming Zone of the Hindmarsh Planning Scheme to use and develop land (including works) associated with a use in Section 2 of Clause 35.07-1.

Under the provisions of the planning scheme, ‘mineral extraction’ is a Section 2 Use in the Farming Zone (FZ).

A planning permit is required under the LSIO to carry out works.

Definitions:

The proposal is defined within the Hindmarsh Planning Scheme as ‘mineral extraction’, which is “*Land used for extraction of minerals in accordance with the Mineral Resources (Sustainable Development) Act 1990*”.

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 not exempt from requiring a CHMP pursuant to the Aboriginal Heritage Regulations 2007, as the proposal is within land affected by the Aboriginal Cultural Heritage Overlay. A CHMP has been supplied, and subsequently approved by Barengi Gadgin Land Council (BGLC).

Subject site & locality:

The subject site is known as CA 5 Psh Kurnbrunin, and is used for the purposes of a gypsum quarry, and grazing. The property (and surrounds) has been extensively cleared with little established vegetation remaining.

The subject land and proposed expansion to the mining activity is located 15 km north west of Rainbow, and approximately 64 km north of the Nhill Post Office. The license area is 57 hectares, and no native vegetation is proposed to be removed. The nearest residential property is located approximately 1.8km NE of the licence boundary.

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.*

Referrals:

External Referrals/Notices Required by the Planning Scheme:

Section 52 Notices: Notice was given to adjoining landowners, and a sign was placed on the land.

Notice was given to Parks Victoria as an adjoining landowner.

Section 55 Referrals: WCMA – at the time of writing this report no response has been received.

Internal Referrals:

- Engineering: No issues.
- Environmental Health: Not required
- Building: Not required
- Economic Development and Tourism: Not required

No objections have been received at the time of writing this report.

Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework:

Clause 13.02-1S	Bushfire planning
Clause 14.01-1S	Protection of agricultural land
Clause 14.01-2R	Agricultural productivity - Wimmera Southern Mallee
Clause 14.03	Earth and Energy Resources
Clause 14.03-1S	Resource exploration and extraction
Clause 15.03-2S	Aboriginal cultural heritage
Clause 17	Economic Development
Clause 17.01	Employment
Clause 17.01-1S	Diversified economy
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 (FZ)

Planning Scheme Overlay Provisions:

Clause 44.04 – Land Subject to Inundation Overlay (LSIO)

Particular Provisions:

- | | |
|--------------|---|
| Clause 52.08 | Earth and Energy Resources Industry |
| Clause 52.09 | Stone Extraction and Extractive Industry Interest Areas |

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.

Clause 35.07 – Farming Zone (FZ) Decision Guidelines

General Issues

The proposed use and development of land including the associated works is considered to meet the applicable decision guidelines.

Agricultural issues and the impacts from non-agricultural uses

The proposed use and development of land and associated works are considered to meet the applicable decision guidelines with regard to agricultural considerations outlined within the scheme and does not require an integrated land management plan to be prepared for the site. The proposal accords with existing development on the site. It is acknowledged that the proposal will reduce available farming area on the lot for the life of the mine – estimated to be 38 to 42 years; however, after rehabilitation of the site, the land will be returned to grazing / cropping. The supply of gypsum over the life of the mine will aid agriculture within the wider locality in general by securing supply.

Environmental issues

The proposed use and development of land including associated works is considered to:

- 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.
- The proposal will have an impact upon the biodiversity of the area, given the depth and area of excavation proposed. The impact is considered to be minimal due to the subject land being of a low biodiversity value having regard to its current use (cropping). The work plan submitted with the application also addresses site rehabilitation at the end of the mine’s life.

Design and siting issues

Not applicable, as no associated buildings are proposed as a part of this application.

Clause 52.09-5 – Stone Extraction and Extractive Industry Areas Decision guidelines

The proposal will not have any detrimental impact on any native flora and fauna, given the proposed extraction area is used for cropping, and does not contain any wildlife corridors. A comprehensive cultural heritage management plan has been approved by Barengi Gadgin Land Council, thus ensuring extraction does not cause detrimental impacts on natural and cultural landscapes. The site has been in effective operation since 2001 with continued operation on the site considered appropriate.

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.

This report is being presented to Council at its meeting on the 18 December 2019. The statutory processing time requirements of the Planning and Environment Act 1987 have been satisfied in this instance with the report presented to Council at 36 statutory days.

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 PA1647-2019 for the use and development of land for mineral extraction – expansion of existing gypsum mine – mining license MIN5316, on CA5 Psh Kurnbrunin (Kurnbrunin Rd Rainbow), subject to the following conditions:

General

(1) The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Amenity

(2) The use and development 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 building, 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.*

Permit Expiry

- (4) This permit will expire if one of the following circumstances applies:*
- (a) The development is not started within two years of the date of this permit.*
 - (b) The development is not completed within four years of the date of this permit.*
 - (c) The use is not commenced within five 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.*

~END OF CONDITIONS~

10.1.1 SUPPLEMENTARY COUNCIL REPORT: PLANNING APPLICATION 1647-2019 – USE AND DEVELOPMENT OF LAND – MINERAL EXTRACTION – EXPANSION OF EXISTING MINE – MINING LICENSE MIN5316, CA5 PARISH KURNBRUNIN (KURNBRUNIN ROAD, RAINBOW)

Responsible Officer: Director Infrastructure Services

Attachment: 4

Summary:

This supplementary report and alternative recommendation is presented to Council at its meeting on the 18 December 2019, to be read in conjunction with item 10.1 of the Agenda.

On Friday 13 December, 2019, two objections were received for planning permit application 1647-2019, Use and Development of Land – Mineral Extraction – Expansion of Existing Gypsum Mine.

Council endeavored to arrange an Objector / Applicant meeting prior to the Council meeting on 18 December, 2019. The Applicant was available however one of the Objectors was not.

A summary of the objections and Council's response to each of the objections is shown below. Officer comments / responses in italics.

Objector 1:

1. **Letter of notification received 7 days late.** *Council's Coordinator Planning and Development advises that all requirements of Section 52 of the Planning and Environment Act 1987 (the Act) have been met.*

2. **A copy of the report and plans where not provided when requested.** *Procedural matter. Copies of reports and plans are made available for viewing as per S51 of the Act, which states that "the responsible authority must make a copy of every application and the prescribed information supplied in respect of it available at its office for any person to inspect during office hours free of charge until—*
 - (a) *the end of the latest period during which an application for review may be made under section 77, 79, 80 or 82 in relation to the application or the permit; or*
 - (b) *if an application for review is made to the Tribunal within that period, the application is determined by the Tribunal or withdrawn".*

S70 of the Act - Availability of permit – states "the responsible authority must make a copy of every permit that it issues available at its office for inspection by any person during office hours free of charge.

This information is not given out publicly due to privacy reasons.

3. **The proposed planning application does not address any of the planning scheme strategies, policies, or objectives (as follows):**
 - **Clause 12.03-1S - River corridors, waterways, lakes and wetlands**
Not addressed, as this Clause does not apply to this site.

 - **Clause 12.05-1S - Environmentally sensitive areas**
Not addressed, as this Clause does not apply to this site.

 - **Clause 17.04-1R - Tourism - Wimmera Southern Mallee**
Not Applicable. This Clause relates to tourism on private land, and attractions within the wider Wimmera Region in general.

4. **The proposed planning application does not address any local planning scheme strategies, policies, or objectives (as stated):**
 - **Clause 21.03-2 - Economic Development – The proposed expansion will see further production and contradicts the need to find a balance between industry and tourism based uses.**
It is considered that this application is strongly supported by this policy, given the need for gypsum and its associated use in agriculture.

5. **The increase in dust and traffic will turn away tourists from the Lake Albacutya Park.** *This is speculative. In addition, Section 1.3 of the Risk-based work plan submitted with the application states “the proponent wishes to maintain the current method of work and as such, the proposed extension to the pit will not result in an increased rate of production. Accordingly, there shall be no increase in the capacity of existing crushing / screening plant nor shall there be any change in the number of truck movements on local roads”. As such, there is no increase in annual truck movements from this mine.*
6. **The proposed expansion is located in a Farming Zone. The proposed use will have an adverse impact on amenity, due to trucks creating dust and noise.** *Not valid. The use is appropriate in the Farming Zone (subject to planning approval) as a use that supports agriculture within the wider region.*
7. **The application does not have the required information to be assessed under the Land subject to inundation overlay.** *Not valid. The application was referred to the WCMA, who responded with advice regarding stormwater.*
8. **The current truck movement creates large amounts of dust entering my property on a daily basis.** *Refer dot point 5.*
9. **The dust from the trucks as they turn on or off the Albacutya Bridge bypass is often blinding which is a major risk to road users.** *Agreed that dust is a hazard, however this cannot be directly attributed to this application. Refer dot point 5.*
10. **The proposed hours of operation have not been enforced, with truck movements at night and early morning disturbing sleep.** *The operations of the mine (the subject of this application) are separate to the operation of the trucks as the mine does not operate trucks.*
11. **The noise from the trucks traversing the Albacutya Bridge bypass is exceptionally loud.** *Whilst noise can and does impact upon the amenity of the area, the land is zoned Farming, and as such, residential uses cannot take precedence over agricultural and mining operations. It is reasonable to expect noise from such activities at any time.*
12. **Council does not have the resources to ensure there are enough water trucks available to ensure dust does not increase from truck movements along local roads.** *Council does not have a dust reduction or suppression policy for unsealed roads, as this would be an unreasonable impost on Council resources.*
13. **Trucks are currently using the dirt road parallel to Kurnbrunin Road, increasing noise and dust.** *Refer dot point 5 and 11.*
14. **Trucks operating 24 hours a day – causing excessive noise – detrimental to health and wellbeing, causing sleep deprivation, affecting physical, mental and spiritual health.** *Refer dot point 11.*
15. **When the mine commenced operations, the trucks turned south on Kurnbrunin Road and on to Drendel Road, with little impact to my house, property or lifestyle.** *Not relevant to this application.*
16. **The original approval of the mine in 2001 lacked genuine consultation.** *Planning Permit 1002/06 was approved on the 22 May 2006 (mining license MIN5443). As a part of the processing of this application, notice was given to adjoining landowners and relevant authorities.*

17. **The expansion of the mine will also see trucks park / rest on Kurnbrunin Road waiting for the mine to open at 8am.** *Refer dot point 10.*
18. **No draft conditions have been provided, and Council is trying to progress the application quickly and with minimal transparency.** *Not a relevant objection, given this is a procedural matter. Council is obliged to process planning applications in under 60 statutory days in order to provide developers with more certainty. The application was publicly notified in accordance with s52 of the Act. The fact that 2 (two) objections have been received indicates appropriate notification was undertaken.*
19. **No prior planning permit was provided to documentation submitted to Council.** *Not a relevant objection. It is considered that enough documentation was submitted with this application to warrant proper assessment.*
20. **I am concerned the Shire has no interest in the park and is happy to allow the natural aspects be destroyed. The trees are dying from the dust coating the leaves.** *Not relevant / speculative. It is agreed that dust can and does impact upon the amenity of the area in general, however, this site and associated truck movements are not the sole generator of dust in the locality.*
21. **Visitors to the park have to contend with additional risks negotiating trucks on very narrow single carriage lanes.** *Agreed that road safety and driver behaviour (from both trucks and motorists) can be a safety issue, but this is not relevant to this application. As trucks utilising the mine are operated by private drivers acting on behalf of farmers and other clients who require gypsum for farming, a permit cannot control the movements of vehicles that aren't directly involved in mining operations.*
22. **Council should hear the application at a later date so that due process can be followed.** *Not a relevant objection. Refer dot point 18.*

Objector 2:

23. **The dust from the trucks is often blinding, causing visibility issues, which is a major risk to road users.** *Refer dot points 5, 6, and 21.*
24. **The Shire do not have enough resources to keep the water up to the road and keep the dust down.** *Agreed. Refer dot point 12.*
25. **Originally when the mines commenced operations the trucks turned south on Kurnbrunin Road and onto Drendel Road, which had little impact on the house / property.** *Not relevant to this application. Refer dot point 10.*
26. **Dust from the Albacutya bypass is an issue.** *Refer dot point 5.*
27. **Noise from the trucks on the Albacutya bypass.** *Refer dot point 11.*
28. **The trucks operate 24 hours a day, with excessive noise at night.** *Refer dot points 10 and 11.*

29. **The Shire has no interest in the Park and is happy to allow the natural aspects to be destroyed. The trees are dying from the dust coating the leaves. Refer dot point 20.**
30. **Visitors to the park have to contend with additional risks negotiating trucks on very narrow single carriage lanes. Refer dot point 21.**

Options:

1. If Council wish to approve the application, a Notice of Decision (NOD) can be issued to the applicant and objectors, thus giving the objectors 28 days to appeal Council's decision in VCAT. A permit can be issued after this time, if no appeal is lodged in VCAT.
2. If Council wish to refuse the application, a notice of refusal can be issued, thus giving the applicant 60 days to appeal in VCAT.

Council must also be aware that if the objections are withdrawn in writing, then a Permit can be issued as per the conditions on the NOD. An applicant / objector meeting is proposed to be held in the new year.

Risk Management Implications:

The Officer recommends that Council issue a Notice of Decision, subject to conditions. If Council refuses the application, costs may be awarded in VCAT should VCAT issue a permit, due to the delay of operations on the subject site.

Officer Responsible – Angela Hoy, Director Infrastructure Services

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

Author – Andre Dalton, Coordinator Planning and Development

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

ALTERNATIVE RECOMMENDATION:

That Council issue a Notice of Decision to approve planning application PA1647-2019 for the use and development of land for mineral extraction – expansion of existing gypsum mine – mining license MIN5316, on CA5 Psh Kurnbrunin (Kurnbrunin Rd Rainbow), subject to the following conditions:

General

- (1) ***The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***

Amenity

- (2) *The use and development 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 building, 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.*

Permit Expiry

- (4) *This permit will expire if one of the following circumstances applies:*
- (a) *The development is not started within two years of the date of this permit.*
 - (b) *The development is not completed within four years of the date of this permit.*
 - (c) *The use is not commenced within five 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.*

~END OF CONDITIONS~

MOVED: Crs T Schneider/R Ismay

That Council issue a Notice of Decision to approve planning application PA1647-2019 for the use and development of land for mineral extraction – expansion of existing gypsum mine – mining license MIN5316, on CA5 Psh Kurnbrunin (Kurnbrunin Rd Rainbow), subject to the following conditions:

General

- (1) *The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.*

Amenity

- (2) *The use and development 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 building, 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.*

Permit Expiry

- (4) *This permit will expire if one of the following circumstances applies:*
- (a) *The development is not started within two years of the date of this permit.*
 - (b) *The development is not completed within four years of the date of this permit.*
 - (c) *The use is not commenced within five 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.*

~END OF CONDITIONS~

CARRIED

Attachment: 4

10.2 PLANNING APPLICATION PA1642-2019 FOR THE CONSTRUCTION OF A STORE ON LOT 1 TP251227, 28 VICTORIA STREET NHILL

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 147840
Applicant: Ms Katrina Anic
Owner: Ms Katrina Anic
Subject Land: Lot 1 TP251227, 28 Victoria St Nhill
Proposal: Construction of Outbuilding (Store)
Zoning & Overlays: Commercial 1 Zone (C1Z), Environmental Significance Overlay Schedule 6 (ESO6)
Attachment: 5

Summary:

This report recommends Council approves planning application PA1642-2019 for the construction of a store on Lot 1 TP251227, 28 Victoria St Nhill. This report was deferred from Council's meeting on the 20 November 2019, as further discussion regarding the application of a condition to consolidate the two allotments occurred. This condition is not considered relevant to this particular planning application, given the Commercial 1 zoning of the land. The consolidation condition, applied to the 2006 planning permit for use and development of an in-ground swimming pool, will be dealt with separately to this application. As such, it is recommended that this condition be removed from this permit application and dealt with separately.

Proposal Details, Subject Site and Locality:

The proposal seeks a planning permit for buildings and works to construct an outbuilding for the purposes of a store on land adjacent to 28 Victoria St Nhill. The outbuilding is sited on a parcel of land separated from the main parcel via a laneway. The land, which contains the existing residence (formerly used as a bank, fruit shop, and a pharmacy), is on a separate parcel. The 2 x separate titles were to be consolidated as a part of a planning permit granted on the 20 March 2006 (Permit No. 1006/06) for the in-ground pool, but this has not occurred.

On the site of the proposed application, the aforementioned pool exists, as does a spa, a smaller shed, and a toilet facility. The nearest residentially zoned land is 22 metres to the west of the subject site. The proposed store measures 12 metres in length, 7 metres in width, and 5 metres in height from natural surface level to roof gutter (2 x storey), and will be used to store motor vehicles and equipment. No native vegetation is proposed to be removed as a part of this application.

The site area is 784 sqm in area, and is located at the southern end of the Nhill CBD, approximately 230 metres south west of the Nhill Post Office.

Requirement for Permit:

A planning permit is triggered for this application pursuant to Clause 34.01-6 of the Hindmarsh Planning Scheme for buildings and works in the Commercial 1 Zone.

Definitions:

A "store" is defined under the provisions of the Hindmarsh Planning Scheme as "Land used to store goods, machinery, or vehicles".

Restrictive Covenant or Section 173 Agreement:

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

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.*

Under the provisions of the C1Z, an application to construct a building or construct or carry out works 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. This exemption does not apply to land within 30 metres of land (not a road) which is in a residential zone. As such, the application was publicly notified by way of the placing of a sign on the land in the prescribed manner, and letters to adjoining landowners and occupiers. No objections have been received at the time of the writing of this report.

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 the existing sealed laneway.
- 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 15.01-2S Building design

Clause 15.01-1S Urban design

Clause 17.01-1R Diversified economy - Wimmera Southern Mallee

Local Planning Policy Framework

Clause 21 - Municipal Strategic Statement

Zoning Provisions

Clause 34.01 - Commercial 1 Zone (C1Z)

Overlay Provisions

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

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.

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 the interface with adjoining residential areas. Built form in the immediate vicinity of the subject land is of a similar bulk, height and scale, and the use of the store for domestic purposes will not cause detrimental amenity impacts to the nearby residential neighbourhood.

Building and works:

The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport will not be detrimentally impacted upon other than at construction stage.

Consideration of the overlooking and overshadowing as a result of the proposed works has been undertaken and it is considered that the proposal will have no impact.

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 August 2019, with an information response received by Council on the 03 October 2019. The report is being presented to Council at its meeting on the 18 December 2019 (77 statutory days). The statutory processing time requirements of the Planning and Environment Act 1987 have not been satisfied in this instance, as the

applicant requested the initial council report be removed from the ordinary council meeting Agenda on 20 November 2019 in order to allow for further discussions surrounding the application of a condition requiring consolidation of the two allotments as per planning permit 1006/06.

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 PA1642-2019 for the construction of a store on Lot 1 TP251227, 28 Victoria Street, 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 store 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.***

Minimising Glare

5. ***The exterior colour and cladding of the building must be of a non-reflective nature to the satisfaction of the Responsible Authority.***

Engineering

6. ***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.***

Permit Lapse/Extension

7. ***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 store.***
- (2) ***Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings, 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 PA1642-2019 for the construction of a store on Lot 1 TP251227, 28 Victoria Street, 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 store 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.***

Minimising Glare

5. ***The exterior colour and cladding of the building must be of a non-reflective nature to the satisfaction of the Responsible Authority.***

Engineering

6. ***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.***

Permit Lapse/Extension

7. ***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 store.**
- (2) Approval must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossings, 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

Ms Sarah Dickinson declared a conflict of interest, by way an indirect financial interest, and left the room at 3:35pm.

10.3 PLANNING APPLICATION PA1650-2019 – CONSTRUCT REPLACEMENT DWELLING – CA137 PSH TARRANGINNIE (71 BOYEO-TARRANGINNIE RD NHILL)

Responsible Officer:	Director Infrastructure Services
File:	Planning – Applications
Assessment:	168040
Applicant:	Ms Britney Goodwin – WCK Pty Ltd
Owner:	Lance Dickinson
Subject Land:	CA 137 Psh Tarranginnie
Proposal:	Construct Replacement Dwelling
Zoning & Overlays:	Farming Zone (FZ), Environmental Significance Overlay Schedule 6 (ESO6) – Catchments of Wetlands of Conservation Value, Vegetation Protection Overlay Schedule 2 (VPO2) – Biolink Corridor – Roadside Protection and Conservation
Attachment:	6

Summary:

This report recommends Council approve an application for planning permit PA1650-2019 for the construction of a replacement dwelling located at 71 Boyeo-Tarranginnie Rd, Nhill.

Background:

The proposal seeks a planning permit for buildings and works to construct a replacement dwelling on land 130.59 ha in area.

Proposal Details:

The proposal is to construct a single storey, transportable weatherboard dwelling to replace an existing dwelling on the land. The proposed dwelling is to be constructed in the same location as the existing dwelling as per plans supplied. The nearest dwelling on neighbouring properties is 1.65 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, however this is necessary anyway given the proposed transportable dwelling will be in the same location.

A planning permit is also triggered pursuant to Clause 42.01 – Environmental Significance Overlay Schedule 6 (ESO6) – Catchments of Wetlands of Conservation Value for the disposal of wastewater from the proposed septic system.

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 71 Boyeo-Tarranginnie Rd Nhill, and is currently used for agriculture (cropping) and comprises multiple farm buildings / shedding. The property (and surrounds) has been extensively cleared with little established vegetation remaining, other than along the western boundary (VPO2), and several small patches of remnant vegetation.

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: WCMA – responded with conditions.

Section 52 Notices: Not required.

Internal Referrals:

- Engineering: Access to property will be gained via an existing access from Boyeo-Tarranginnie Road, and is considered satisfactory.
- 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

Local Planning Policy Framework

Clause 21 - Municipal Strategic Statement

Zoning Provisions

Clause 35.07 - Farming Zone

Overlay Provisions

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

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 4 December 2019. The report is being presented to Council at its meeting on the 18 December 2019 (15 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 PA1650-2019 for the construction of a replacement dwelling on CA137 Psh Tarranginnie (71 Boyeo-Tarranginnie Rd) Nhill, 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.***

Environmental Health

7. ***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

8. ***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

9. ***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 Ismay/R Lowe

That Council approves planning application PA1650-2019 for the construction of a replacement dwelling on CA137 Psh Tarranginnie (71 Boyeo-Tarranginnie Rd) Nhill, 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.***

Environmental Health

7. ***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

8. ***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

9. ***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: 6

Ms Sarah Dickinson returned to the room at 3:37pm.

11. REPORTS REQUIRING A DECISION

11.1 FUTURE COUNCIL MEETING DATES 2020

Responsible Officer: Chief Executive Officer

Introduction:

This report seeks approval from Council for the 2020 meeting dates and their advertisement in the local media.

Discussion:

Each year Council advertises the meeting dates for the upcoming 12 months in the local newspapers. The advertised dates are for the Council meetings and the Annual Statutory Meeting.

It is proposed that Council continue to hold two ordinary Council meetings each month, commencing at 3:00pm, with the exception of some months only having one meeting, to facilitate participation in other forums and/or reduce the number of meetings based on the business required to be listed in past years.

It is proposed that one Council meeting be held each in Dimboola, Jeparit and Rainbow. This would allow school groups and local organisations the opportunity to provide deputations to Council. Locations are suggested in the recommendation below, based on school holiday timing and seasonal comfort in each of the facilities.

It is proposed that in keeping with practice of other councils around the state, Council does not meet in January.

It is the officers' recommendation to hold briefing meetings prior to the ordinary Council meetings, commencing at 1:00pm.

The proposed dates below have also taken into consideration external organisations conferences and forums such as Municipal Association of Victoria conferences, Rural Council Victoria conferences, National General Assembly conference and LGPro conferences, to avoid clashes where possible.

Options:

Council may choose to adopt the recommended timing and location for Ordinary Council Meetings and Council Briefings or select alternative dates, times or locations to hold its meetings.

Link to Council Plan:

Not applicable.

Financial Implications:

None.

Risk Management Implications:

Not applicable.

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 & Author – Greg Wood, Chief Executive Officer

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

Communications Strategy:

The advertisement for the meeting dates will appear in the Dimboola Banner, Dimboola Courier, Nhill Free Press, and the Rainbow Jeparit Argus. The meeting dates will also be listed on Council's website.

Next Steps:

Advertise the dates, times and locations as determined by Council.

RECOMMENDATION:

That Council sets the following times, dates and locations for Council Meetings in 2020:

WEDNESDAY	TIME	LOCATION
<i>5 February 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>4 March 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>18 March 2020</i>	<i>3:00pm</i>	<i>DMSC Health and Fitness Centre, Dimboola</i>
<i>1 April 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>22 April 2020</i>	<i>3:00pm</i>	<i>Supper Room, MECCA, Federal St, Rainbow</i>
<i>13 May 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>10 June 2020</i>	<i>3:00pm</i>	<i>Memorial Hall, Roy St, Jeparit</i>
<i>24 June 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>15 July 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>19 August 2020</i>	<i>3:00pm</i>	<i>DMSC Health and Fitness Centre, Dimboola</i>
<i>23 September 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>21 October 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>11 November 2020 (Special Council Meeting)</i>	<i>6:00pm</i>	<i>Nhill Memorial Community Centre, Nelson Street, Nhill</i>
<i>25 November 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>16 December 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>

MOVED: Crs T Schneider/D Nelson

That Council sets the following times, dates and locations for Council Meetings in 2020:

<i>WEDNESDAY</i>	<i>TIME</i>	<i>LOCATION</i>
<i>5 February 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>4 March 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>18 March 2020</i>	<i>3:00pm</i>	<i>DMSC Health and Fitness Centre, Dimboola</i>
<i>1 April 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>22 April 2020</i>	<i>3:00pm</i>	<i>Supper Room, MECCA, Federal St, Rainbow</i>
<i>13 May 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>10 June 2020</i>	<i>3:00pm</i>	<i>Memorial Hall, Roy St, Jeparit</i>
<i>24 June 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>15 July 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>19 August 2020</i>	<i>3:00pm</i>	<i>DMSC Health and Fitness Centre, Dimboola</i>
<i>23 September 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>21 October 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>11 November 2020 (Special Council Meeting)</i>	<i>6:00pm</i>	<i>Nhill Memorial Community Centre, Nelson Street, Nhill</i>
<i>25 November 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>
<i>16 December 2020</i>	<i>3:00pm</i>	<i>Council Chambers, 92 Nelson St, Nhill</i>

CARRIED

11.2 REQUEST FOR ADDITIONAL EVENT SPONSORSHIP AND ASSISTANCE – 2020 PETER TAYLOR MEMORIAL BAREFOOT SKI EVENT

Responsible Officer: Director Infrastructure Services

Attachment: 7

Introduction:

The purpose of this report is to consider the request from the Dimboola Boat and Water Ski Club for further funding of the Peter Taylor Memorial Barefoot Ski Event (**Event**) to be held in Dimboola on 27 and 28 March 2020.

Discussion:

On 27 November 2019, Council received a letter requesting additional support to enable the Event to be run at a larger capacity. The letter outlined that since its inception, the event has attracted increasing numbers of participants and spectators, with the most recent event attracting over 800 people to the Shire.

The event, run in memory of the late Peter Taylor, is a barefoot skiing competition held along the Wimmera River at the Dimboola Rowing Club foreshore. It is run by the Dimboola Boat and Water Ski Club, in conjunction with Barefoot South Australia, and has been run twice previously with attendances doubling at each consecutive event (400 at the first event, and 800 at the second). Due to the facilities previously provided and the atmosphere of the event, it is now reportedly recognised as the number one rated barefoot tournament event in Australia.

The event organisers have identified that with the rapid growth of the event, they are struggling to finance the extra services and infrastructure required for the event to be run successfully.

Council's 2019/2020 budget has allocated the following financial and in-kind support to the Event:

- \$5,000 (general ledger 10124), of which \$4,500 has already been provided as a cash payment, and \$500 allocated for rubbish collection and disposal; and
- Provision of road signage to direct attendees within the Dimboola Recreation Reserve (to be assembled by the event organisers).

The event organisers are requesting the following additional forms of support from council:

- Additional rubbish bins and provision of disposal service: event organisers have identified that in addition to the bins already supplied with Council's bin trailer (15 bins, both rubbish and recycling), another 8-10 additional bins will be required. The event organisers have also requested that Council absorb the cost of the disposal service, rather than funding the cost from the Council event sponsorship budget allocation;
- Monetary assistance with the cost of the accommodation at the Dimboola Riverside Holiday Park for international competitors and officials;
- Watering and mowing of the lawn area located in front of the Dimboola Rowing Club and along the foreshore to provide a seating area for spectators (currently part of this area is maintained by the Dimboola Rowing Club, and the remainder of the area is maintained by Council);
- Additional Council staff support for the assembly of bunting and signage in the Dimboola Recreation Reserve; and
- Any other additional financial assistance to cover event promotion and ad hoc running costs.

Similar events held recently in the Shire have been allocated the following funding:

- Nhill Airshow: \$10,000;
- Dimboola Human Powered Vehicle Event: \$3,000; and
- Rainbow Desert Enduro: \$10,000.

Options:

1. Council can choose to provide all additional support to the event organisers as outlined in the body of this report;

2. Council can choose to provide some additional support to the event organisers from the options outlined in the body of this report;
3. Council can decline to provide any further support to the event organisers; or

Link to Council Plan:

- 1.1.4 Support and celebrate volunteering and work collaboratively with volunteer groups.
- 3.1.1 Market the Shire's liveability, its stunning environment, relaxed country living and unique business opportunities.

Financial Implications:

Council has already allocated \$5,000 to the event organisers to assist with the running of the Event. The provision of additional support will attract the following financial implications:

- **Provision of monetary assistance for accommodation:** Based on Council's current fees and charges schedule, the cost of covering the accommodation during peak period for seven cabins (four two-bedroom cabins and three one-bedroom cabins) for five nights at the Dimboola Riverside Holiday Park is approx. \$4,000;
- **Provision of additional staff support:** The provision of four staff members for approximately four hours on the day prior to the event to provide in-kind setup assistance will cost approx. \$515 in wages;
- **Provision of extra bins and disposal services:** Council cannot provide any further bins for hire, and it is recommended that the event organisers' contact other Dimboola clubs to assist with the provision of bins i.e. the Dimboola Football Club;
- **Watering and mowing of the Dimboola Rowing Club lawn and foreshore area:** With regard to this request, the lawn area located between the Dimboola Rowing Club clubrooms and the river is under the maintenance of the Dimboola Rowing Club, and the event organisers are encouraged to contact the club directly regarding any maintenance requirements. The remaining grassed area along the foreshore is maintained by Council and maintenance crews will continue to mow this area as required prior to the event; and

Should Council wish to provide additional support a budget re-allocation would be required. At present, there is no unallocated budget available in the Community Development Expenditure allocation that would cover the estimated increase in support of \$4,515.00

Risk Management Implications:

Implications associated some risk management with this report. If Council makes the decision not to provide further support to this Event, there is a risk that the event will not be able to run and a large tourism attraction and economic benefit to the Shire will be lost.

Should Council approve the additional financial support requested then this could set a precedent for future events.

Conflict of Interest:

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

Author and Officer Responsible: Angela Hoy, Director Infrastructure Services
In providing this advice as the Author and Officer Responsible, I have no interests to disclose.

Communications Strategy:

Council officers will notify the event organisers of the decision in writing.

RECOMMENDATION:

That Council notify the Dimboola Boat and Water Ski Club that they are unable to increase the funding allocation from \$5,000.00 for the 2020 Peter Taylor Memorial Ski Event.

Alternative motion:

MOVED: Crs T Schneider/D Nelson

That Council invite the organisers to provide a copy of the financials for the event over the last two years, and their budget for 2020, so that we can more prudently consider their request for assistance.

CARRIED

Attachment: 7

11.4 CONTRACT VARIATIONS ON CONSTRUCTION OF DIMBOOLA LIBRARY EXTENSION (CONTRACT NO. 2018-2019-10) AND FUTURE PROJECTS

Responsible Officer: Director Infrastructure Services

Attachment: 8

Introduction:

This report seeks Council approval to update the Procurement Policy to detail variation delegation to the Chief Executive Officer (CEO) allowing the CEO to approve variation claims on behalf of Council on Contract #2018-2019-10 currently being executed by Onleys Holding Pty Ltd and set the parameters for variations to other contracts in the future.

Discussion:

Council at its meeting on 10 April 2019 approved the award of Contract #2018-2019-10 – Construction of Dimboola Library Extension – at a lump sum price to Onleys Holding Pty Ltd. Since the award of the contract there have been a number of variations required to ensure the project can be completed. Unfortunately, the resolution adopted did not make any allowance for the approval of any further spending outside the project scope of works and Council's Procurement Policy is unclear delegations to approve variations. This report seeks to rectify this issue so that works can continue outside the fixed lump sum in order for the

project to be completed.

Council had earlier engaged the services of Dig Design Architect as the principal consultant for the design of the building. Other consultants engaged include Page-green & Associates for Civil/Structural design services, NJM Design for Services Engineering and Northwind Quantity Surveyors for preparation of cost estimate and Bill of Quantity.

At the time of awarding the contract a building permit had not been applied for and Council was unaware of the fire regulations with regards to the site and conditions for fire prevention for clearance from the title boundary. Consequently a Fire Engineering Assessment (FIA) was conducted. The outcome of the FIA conducted, the Fire Engineering Report recommended an upgrade of the north side walls of the building, the adjoining walls and their fixtures as fire rated. This resulted in a Request for Variation (RFV) to the contract, as a Variation Quote Request (VQR-02).

In addition to the above, a decision was made post-contract award to incorporate a Cleaners Room, and handrails to steps which unfortunately had been omitted from the original design, this resulted in a RFV to the Contract (VQR-01, VQR03)

Subsequently a further RFV and VQR was issued due to the non-availability of the timber option initially specified in the construction documents.

A breakdown of the current variation claims on the contract are as follows:

VQR No:	Description Of Variation Claim	Amount (Excl GST)
VQR -01	Provision of Cleaners room. Includes provision of walls, door, wash-hand basin, fittings, tiling, all plumbing works, electrical works, finishings etc	\$ 7,209.40
VQR-02	Provision of fire rated walls, fire resistant Roller Shutter, windows installation to comply with fire rating requirements	\$12,518.00 (Pending finalisation)
VQR-03	Provision and installation of handrails to steps	\$ 1,742.36
VQR-04	Replacement of Timber-formed screen with Aluminium equivalence Includes structural works to support screen and price difference in changing from timber (Innowood product) to Aluminium (Aliwood product) screen.	\$ 6,639.60
	TOTAL	\$28,109.36

Options:

1. Council approve updates to the Procurement Policy to detail CEO delegations to approve variations to contracts.
2. Council can choose not to update the Procurement Policy to clarify delegations to the CEO to approve contract variations. All variation orders may need to be

presented for approval at Council meetings, causing a delay in the delivery of the project.

Link to Council Plan:

Strategic Objective 1.1	An actively engaged community.
Strategic Objective 1.2	A range of effective and accessible services to support the health and well-being of our community
Strategic Objective 1.3	A community that is physically active with access to a wide range of leisure, sporting and recreational activities.
Strategic Objective 2.1	Well-maintained physical assets and infrastructure to meet community and organizational needs.
Strategic Objective 3.1	A strong rural economy and thriving towns.
Strategic Objective 3.2	A thriving tourism industry.
Strategic Objective 3.3	Modern and affordable information and communication technology throughout the municipality.
Strategic Objective 4.2	Quality customer services

Risk Management Implications:

If Council does not approve authorise the CEO to approve variations there may be considerable delays to the completion of this and future projects.

Financial Implications:

All recommendations are within the allocated budget for the project. A total of \$1.2m budget was approved for Dimboola Library designs, projects management and construction scopes for the financial year 2019-20.

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 interest to disclose.

Author – Michael Kolapo – Project Management Engineer.

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

RECOMMENDATION:

That Council updates the Procurement Policy clause ‘2.4.2.2 Delegations Reserved for the Council’ as follows:

Commitments and processes, which exceed the CEO’s delegation, and must be approved by Council are:

- ***Initial signing and sealing of contract documents.***
- ***Tender recommendations and contract approval for all expenditure over \$150,000***

(inclusive of GST) for goods and services and \$200,000 (inclusive of GST) for construction works in value.

- *Variations of more than \$150,000 (inclusive of GST) for goods and services and \$200,000 (inclusive of GST) for construction works in value or variations requiring additional budget.*
- *Contract term extensions.*

MOVED: Crs T Schneider/R Lowe

That Council updates the Procurement Policy clause '2.4.2.2 Delegations Reserved for the Council' as follows:

Commitments and processes, which exceed the CEO's delegation, and must be approved by Council are:

- *Initial signing and sealing of contract documents.*
- *Tender recommendations and contract approval for all expenditure over \$150,000 (inclusive of GST) for goods and services and \$200,000 (inclusive of GST) for construction works in value.*
- *Variations of more than \$150,000 (inclusive of GST) for goods and services and \$200,000 (inclusive of GST) for construction works in value or variations requiring additional budget.*
- *Contract term extensions.*

CARRIED

Attachment: 8

11.5 PUBLIC INTEREST DISCLOSURE POLICY

Responsible Officer: Acting Director Corporate and Community Services

Attachment: 9

Introduction:

This report seeks Council adoption of the updated Public Interest Disclosure Policy (previously called Protected Disclosure Policy) following a review by Council officers.

Discussion:

Commencing 1 January 2020, the Protected Disclosure Act 2012 will be renamed to the Public Interest Disclosures Act 2012 (**PID Act**). Apart from the name, further amendments to the PID Act were made including:

- The terms 'protected disclosure' and 'protected disclosure complaint' were replaced with the terms
 - 'public interest disclosure' – disclosure by a natural person of information that shows / tends to show or information that the person reasonably believes shows /

- tends to show improper conduct or detrimental action (previously a protected disclosure)
- 'public interest complaint' – a public interest disclosure that has been determined by IBAC, the Victorian Inspectorate or IOC to be a Public Interest Complaint (previously a protected disclosure complaint).
 - Improper conduct has been revised to specify the following categories:
 - Corrupt conduct;
 - Criminal offence;
 - Serious professional misconduct;
 - Dishonest performance of public functions;
 - Intentional or reckless breach of public trust;
 - Intentional or reckless misuse of information;
 - Substantial mismanagement of public resources;
 - Substantial risks to health and safety of a person;
 - Substantial risk to the environment;
 - Conduct of any person that adversely affects the honest performance by a public officer of their functions for the benefit of another person.
 - The threshold for the detrimental action test has been lowered. Prior to 1 January 2020, a discloser would have had to prove that detrimental action was a 'substantial reason' for their employer taking action against that employee. However, from 1 January 2020, 'substantial' has been removed from the relevant section of the PID Act. In practice terms that means that if the fact that the employee has made a disclosure forms any part of the reason for which action is taken against the employee, it will constitute detrimental action and will be reportable as a public interest disclosure under the scheme as well as being a criminal offence.

The update to this policy primarily consisted of:

- updating the policy to ensure compliance with the new legislation.

Conclusion

The update to the policy is in line with the new PID Act commencing 1 January 2020.

Options:

1. Council can choose to adopt the updated Public Interest Disclosure Policy;
2. Council can choose to make amendments to the updated Public Interest Disclosure Policy; or
3. Council can choose not to adopt the updated Public Interest Disclosure Policy.

Link to Council Plan:

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:

Nil.

Risk Management Implications:

The Public Interest Disclosure Policy allows Council to facilitate a process where a person can make a disclosure that they believe constitutes improper conduct without fear of reprisal. The Public Interest Disclosure Policy significantly reduces Council's risk of breaching its obligations under the Public Interest Disclosure Act 2012.

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 Public Interest Disclosure Policy on our website and ensure the Policy is circulated to all staff.

RECOMMENDATION:

That Council adopts the updated Public Interest Disclosure Policy.

MOVED: Crs D Nelson/R Lowe

That Council adopts the updated Public Interest Disclosure Policy.

CARRIED

Attachment: 9

11.6 RAINBOW FEMALE CHANGE ROOM – REQUEST FOR CO-CONTRIBUTION TO SUPPORT LOCAL SPORT INFRASTRUCTURE FUND APPLICATION

Responsible Officer: Acting Director Corporate and Community Services

Introduction:

This report seeks endorsement and financial assistance from Council in support of a funding application through the Victorian Government's 2020 / 2021 Local Sports Infrastructure Fund for the construction of female change rooms in Rainbow.

The 2020 / 2021 Local Sports Infrastructure Fund grants are available to support communities, sporting clubs and Councils to develop infrastructure that provides modern, family and female friendly, safe, inclusive and accessible facilities.

There is a range of funding streams in the 2020 / 2021 Local Sports Infrastructure Fund including;

- Planning – Up to \$30,000 for Municipal Planning and up to \$50,000 for Regional Planning
- Female Friendly Facilities – Up to \$500,000 per LGA
- Community Facilities – Up to \$250,000 per application
- Strategic Facilities – Up to \$800,000 per LGA
- Aquatic Centres and Indoor Stadiums – Up to \$2M per LGA

Discussion:

Council has been unsuccessful with two previous grant applications, through the 2018 / 2019 and 2019 / 2020 Community Sports Infrastructure Fund – Female Friendly Facilities Fund.

Advice received from Sport and Recreation Victoria representatives is that neither of these applications was successful because the proposed designs did not meet Netball Victoria Facilities Manual.

As part of the Rainbow Recreation Reserve / Caravan Park Master Plan, a proposed design for new multi-use facilities has been prepared which meets Netball Victoria Facilities Manual.

It is proposed that this facility will be located within the grounds of the Rainbow Caravan Park adjacent to the netball / tennis courts.

Under the 2020 / 2021 Local Sports Infrastructure Fund – Female Friendly Facilities program, Council can apply for up to \$500,000 with an unlimited number of applications on a \$2:\$1 funding ratio.

Based on an estimate in October 2019 of \$293,685 GST Exclusive to construct the facility it is proposed that Council applies for \$200,000 through the Female Friendly Facilities program.

Based on the \$2:\$1 funding ratio a \$100,000 local contribution will be required which is proposed to consist of a contribution up to \$60,000 from Council and a \$40,000 contribution from the Rainbow community / sporting clubs (subject to confirmation).

The unsuccessful 2018 / 2019 grant application sought \$99,710 from the grant program with a \$25,000 contribution from Council and a \$17,000 community contribution.

Similarly the unsuccessful 2019 / 2020 grant application sought \$150,000 through the grant with a Council contribution of \$50,000 and \$20,000 from the community.

The proposed facility has been identified as a priority in the Rainbow Recreation Reserve Rainbow Caravan Park Master Plan and will be shared between netball players and officials and visitors to the Rainbow Caravan Park ensuring that it will be used on a regular basis.

Link to Council Plan:

Strategic Objective 1.1:	An actively engaged community.
Strategic Objective 1.2:	A range of effective and accessible services to support the health and wellbeing of our community.
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

It is proposed that Council's contribution will be allocated from the 2020 / 2021 Annual Budget.

Risk Management Implications

Appropriate Risk Management Plans will be established if the grant application is successful and prior to any resulting works commencing.

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: Helen Thomson, Acting Director Corporate & Community Services
In providing this advice as the Officer Responsible, I have no interests to disclose.

Author: Phil King, Economic and Community Development Manager
In providing this advice as the Author, I have no interests to disclose.

Communications Strategy:

To be established.

Options:

1. Council endorses and allocates up to \$60,000 of funds from *Council Contribution for Grant Funded Projects* (General Ledger 30104) in the 2020 / 2021 Annual Budget in support of the application for funding for the new female change rooms in Rainbow project.
2. Council declines to support and not allocate funds from Council Contribution for Grant Funded Projects (General Ledger 30104) for the new female change rooms in Rainbow project.

RECOMMENDATION:

That Council allocates up to \$60,000 of funds from Council Contribution for Grant

Funded Projects (General Ledger 30104) in the 2020 / 2021 Annual Budget in support of the application for funding for the new female change rooms in Rainbow project.

MOVED: Crs R Ismay/T Schneider

That Council allocates up to \$60,000 of funds from Council Contribution for Grant Funded Projects (General Ledger 30104) in the 2020 / 2021 Annual Budget in support of the application for funding for the new female change rooms in Rainbow project.

CARRIED

12. SPECIAL COMMITTEES

12.1 RAINBOW TOWN COMMITTEE

Responsible Officer: Acting Director Corporate and Community Services

Attachments: 10 & 11

Introduction:

The Rainbow Town Committee held its general meetings on 28 October 2019 and 25 November 2019. The purpose of this report is to note the minutes from the meetings. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Rainbow Town Committee meetings held on 28 October 2019 and 25 November 2019.

MOVED: Crs D Nelson/R Lowe

That Council notes the minutes of the Rainbow Town Committee meetings held on 28 October 2019 and 25 November 2019.

CARRIED

Attachments: 10 & 11

12.2 NHILL TOWN COMMITTEE

Responsible Officer: Acting Director Corporate and Community Services

Attachment: 12

Introduction:

The Nhill Town Committee held its annual general meeting on 18 November 2019. The purpose of this report is to note the minutes from this meeting and appoint members of the

committee. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

1. *That Council notes the minutes of the Nhill Town Committee annual general meeting held on 18 November 2019.*
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 Nhill Town Committee:*
 - *Ross Barker (Chairperson)*
 - *Pauline McCracken (Vice Chairperson)*
 - *Catherine Bates (Secretary)*
 - *Joanne Hayes (Treasurer)*
 - *Brian McGennissen*
 - *Bev Walker*
 - *Cr David Colbert*
 - *Leith Dean*
 - *Helen Woodhouse-Herrick*
 - *Wes Dean*
 - *Helen Ross*

MOVED: Crs R Ismay/T Schneider

1. *That Council notes the minutes of the Nhill Town Committee annual general meeting held on 18 November 2019.*
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 Nhill Town Committee:*
 - *Ross Barker (Chairperson)*
 - *Pauline McCracken (Vice Chairperson)*
 - *Catherine Bates (Secretary)*
 - *Joanne Hayes (Treasurer)*
 - *Brian McGennissen*
 - *Bev Walker*
 - *Cr David Colbert*
 - *Leith Dean*
 - *Helen Woodhouse-Herrick*
 - *Wes Dean*
 - *Helen Ross*

CARRIED

Attachment: 12

13. LATE REPORTS

No late reports.

14. OTHER BUSINESS

No other business.

15. 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:

15.1 Australia Day Awards 2020

MOVED: Crs R Lowe/D Colbert

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

15.1 Australia Day Awards 2020

CARRIED

Council moved into confidential session at 4:06pm.

Council resumed in open session at 4:23pm.

16. MEETING CLOSE

There being no further business Cr R Gersch declared the meeting closed at 4:24pm.