



**MINUTES OF THE COUNCIL MEETING OF THE HINDMARSH SHIRE COUNCIL
HELD 15 JULY 2020 AT THE NHILL MEMORIAL COMMUNITY CENTRE, 77-79
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. Correspondence

7. Assembly of Councillors

7.1 Record of Assembly

8. Planning Permit Reports

8.1 Application for Planning Permit PA1666-2020 – Two Lot Subdivision – Lot 1 TP 376682 – 40-42 Victoria Street, Dimboola

8.2 Application for Planning Permit PA1611-2018 – 2 Tullyvea Street Jeparit VIC 3423 – Construction of an open canopy building adjacent to the existing building and associated works including the construction of a levee bank

9. Reports Requiring a Decision

9.1 Audit and Risk Committee Charter

9.2 Public Transparency Policy

9.3 Governance Rules

10. Special Committees

10.1 Audit Committee Minutes

11. Late Reports

11.1 Davis Park Facilities Upgrade

12. Urgent Business

13. Confidential Matters

14. Meeting Closed

Present:

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

In Attendance:

Mr Greg Wood (Chief Executive Officer), Ms Monica Revell (Director Corporate and Community Services), Ms Angela Hoy (Director Infrastructure Services), Ms Shauna Johnson (Executive Assistant), Ms Helen Thomson (Manager Governance and Human Services), Mr Jeff Woodward (Tourism and Economic Officer).

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

No apologies.

3. CONFIRMATION OF MINUTES

RECOMMENDATION:

That the Minutes of the Ordinary Council Meeting held on Wednesday 24 June 2020 at the Nhill Memorial Community Centre, 77-79 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 24 June 2020 at the Nhill Memorial Community Centre, 77-79 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.

Cr T Schneider declared a direct conflict of interest in item 8.1.

5. PUBLIC QUESTION TIME

Community members wishing to ask questions at council meetings may do so, in writing, at least 24 hours prior to the council meeting. Both the question and answer will be read out at the meeting. Questions may be submitted by mail, email info@hindmarsh.vic.gov.au or delivered in person to a council customer centre but are limited to 100 words including any pre-amble. Offensive, trivial and repetitive questions or questions which have been recently answered may be excluded at the discretion of the Mayor.

The question must be accompanied by a name and the locality where the questioner resides or works which will be read out at the meeting. By submitting a question, the questioner gives consent to this information being read out in public. Anonymous questions will not be answered.

Wendy Bywaters - Nhill

At the Councils Special Meeting on June 17 it was unclear what the total amount of seed funding council had raised for the Government Sport and Recreation Victoria's, Community Sports Infrastructure Stimulus Program to upgrade Davis Park.

Was it \$350,000 or \$450,000?

What is the final project cost? \$1 million, \$3.5 million or \$4.5 million?

While there is some confusion in the community, exactly what this money will be used for at Davis park can council provide more details on what they are upgrading?

Response:

A Late report has been included in today's Council Meeting agenda dealing with the issues raised in your question.

Louise Dillon – Jeparit East

Q1: How is it decided which Council matters are discussed in the confidential "briefing" prior to a Council meeting?

Response:

Items for the briefing session are determined by the Chief Executive Officer but Councillors can raise issues during the briefing and request items for future briefings.

Q2: According to the *Hindmarsh Shire Council – Jeparit Community Plan – 2016 – 2019* – "The Plan illustrates a continued collaborative approach between council and the local community. The initiatives identified in the plan represent the aspirations of Jeparit and

will be considered in the development of the next Council Plan. - Anne Champness - Acting Chief Executive Officer”.

The first Objective of the *Jeparit Community Plan* is listed as “*Establish a Neighbourhood House*”.

Given we have an active incorporated committee wanting to achieve this initiative, what assistance specifically can the *Hindmarsh Shire Council* provide in relation to facilities, resources, budgets etc to achieve this Objective...?

Response:

Detail around the name, structure, not for profit status and governance of the incorporated committee and a commitment to obtain public liability insurance would be required before any request to lease a community facility would be considered by Council.

Q3: Could you please explain what is the purpose of the (new) library facility in Jeparit, and where can the public access the operations and delivery plan for the (new) library facility.

Response:

The purpose is to provide a static library, with additional hours to replace the mobile library which was operating 2 hours per fortnight in Jeparit. Library services follow the Australian Library and Information Association guidelines which set the standards for public libraries in Australia. We are very excited to be corporate members of ALIA which highlights our commitment to the provision of quality library services within Hindmarsh which meets the needs of our community. The library plan will be incorporated into the new Council Plan.

6. CORRESPONDENCE

6.1 GENERAL CORRESPONDENCE

Responsible Officer: Chief Executive Officer

Attachments: 2 - 4

Introduction:

The following correspondence is tabled for noting by Council

Outwards:

- 03/07/2020 – Thank you letter to Prime Minister Scott Morrison
- 03/07/2020 – Thank you letter to Premier Daniel Andrews
- 03/07/2020 – Letter of congratulations to Minister for Local Government Shaun Leane

RECOMMENDATION:

That Council notes the attached correspondence.

MOVED: CRS D Colbert/R Lowe

That Council notes the attached correspondence.

CARRIED

Attachments: 2 - 4

7. ASSEMBLY OF COUNCILLORS

Responsible Officer: Chief Executive Officer
Attachment: 5

Introduction:

The attached Assembly of Councillors Record is 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.

RECOMMENDATION:

That Council accepts the Assembly of Councillors Record as presented.

MOVED: CRS T Schneider/R Ismay

That Council accepts the Assembly of Councillors Record as presented.

CARRIED

Attachment: 5

8. PLANNING PERMITS

Cr T Schneider declared a direct conflict of interest in item 8.1 and left the room at 3:06pm.

8.1 APPLICATION FOR PLANNING PERMIT PA1666-2020 – TWO LOT SUBDIVISION – LOT 1 TP 376682 – 40-42 VICTORIA STREET, DIMBOOLA

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 029380
Applicant: Mr Graeme Schneider c/o Peter Richards Surveying
Owner: Mr Anthony Schneider
Subject Land: Lot 1 TP376682, 40-42 Victoria Street, Dimboola
Proposal: Two Lot Subdivision
Zoning & Overlays: General Residential Zone
Environmental Significance Overlay (Schedule 6)
Attachment: 6

Summary:

This report recommends that Council issue a planning permit to allow the two lot subdivision of Lot 1 TP 376682 at 40-42 Victoria Street, Dimboola.

Background:

Planning permit application PA1666-2020 was lodged in SPEAR on 28/04/2020 with the fee paid on 14/05/2020. The application seeks to subdivide 40-42 Victoria Street, Dimboola into two lots.

Proposal Details:

It is proposed to subdivide the lot down its central axis to create two equally sized parcels of 506 square metres. The proposed lots will therefore both be rectangular in shape and have a lot width of 10.06 metres, and a depth of 50.29 metres. No easements are proposed for the two lots.

Both lots will have a frontage to Victoria Street which is where access will be provided from. The lots will both be serviced by reticulated sewerage and potable water.

Requirement for Permit:

A planning permit is required under the following clauses of the Hindmarsh Planning Scheme:

- Clause 32.08-3 – Subdivision of land in the General Residential Zone
- Clause 42.01-2 – Subdivision of land in the Environmental Significance Overlay

Definitions:

Section 3 of the *Planning and Environment Act 1987* defines 'subdivision' as "*the division of the land into two or more parts which can be disposed of separately.*"

'Subdivision' is not defined within the Hindmarsh Planning Scheme.

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:

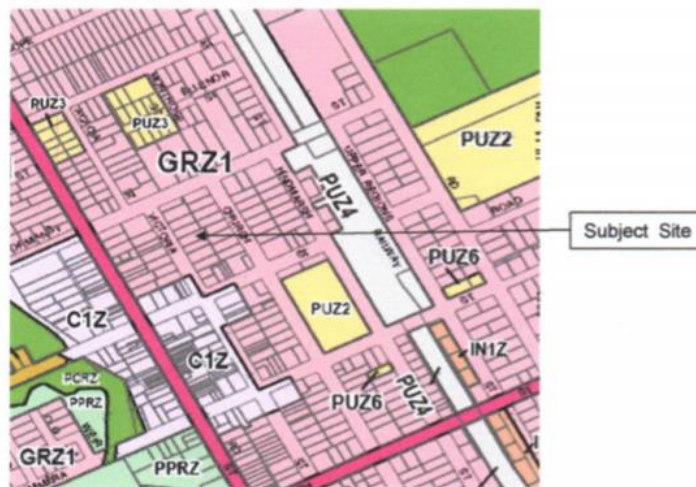
The subject site is known as 40-42 Victoria Street in Dimboola. The site is rectangular in shape and has a frontage of just over 20 metres, and a depth of 50.29 metres. The total area of the land is 1,012 square metres.

The subject site is flat, does not contain any buildings and is generally void of any notable features. All standard residential services are available to the site.

The land is situated at the eastern end of the commercial centre of the township, being in an established residential location with lots generally sized approximately 1,000 square metres. The site abuts land used for residential purposes on all boundaries. The Commercial 1 Zone is located within walking distance of the site.

The site is centrally located in the township of Dimboola, close to retail premises in the town centre and public facilities, including the Dimboola Primary School, Elderly Citizens Club and a public library at the Council Offices in Dimboola. Public Transport is available within 200 metres of the subject site at the intersection of Lloyd Street and Lochiel Street.

Figure 1 – Locality Plan and Zones (Planning Maps Online 2020)



An aerial image of the site and surrounds is displayed in Figure 2.

Figure 2 – Aerial Image (Vicmap Property)



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.*

The application is not 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 and pursuant to Section 52 of the *Planning and Environment Act 1987* the following forms of advertising were undertaken:

- a. A sign was erected at the front property boundary for a period of 14 days;
- b. Notices were sent to owners and occupiers of adjoining land; and
- c. The application was made available for public exhibition at Council's Nhill Office.

No objections have been lodged with Council.

Referrals:

Clause 66.01 states that no statutory referrals are required for a two lot subdivision, with mandatory conditions to be placed on any permit issued. These conditions will be included in the recommended conditions below.

Internal Referrals:

- Engineering: Conditions applied.

Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework

Clause 11.01- Victoria
Clause 11.01-1S – Settlement
Clause 13.02 - Bushfire
Clause 13.02-1S - Bushfire planning
Clause 16.01-4S – Housing affordability
Clause 16.01-5S – Rural residential development

Local Planning Policy Framework

Clause 21 - Municipal Strategic Statement

Zoning Provisions

Clause 32.08 – General Residential Zone

Overlay Provisions

Clause 42.01 – Environmental Significance Overlay (Schedule 6)

Particular Provisions

Clause 56 – Residential Subdivision

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.

Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy.
- Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

This clause does not apply to a VicSmart application.

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 residential purposes. The lots will provide an alternative housing option

for people who wish to stay in the area but not maintain such a large block. The lots will also provide a more affordable option for future residents of Dimboola.

General Residential Zone

The objectives of the General Residential Zone are:

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

As described above in this report, the application is generally consistent with relevant state and local planning policies.

As will be further demonstrated below in this report, the application complies with the objectives and standards of Clause 56 of the Hindmarsh Planning Scheme. With respect to garden area, the lot sizes will be able to accommodate garden area requirements on the future lots when they are developed for single dwellings. The proposed subdivision will create smaller infill residential lots close to the centre of Dimboola. Public Transport is available within walking distance of the site and the site is also capable of being connected to all standard residential services.

Environmental Significance Overlay Schedule 6

Relevant environmental objectives to be achieved in this schedule include:

- To ensure that the increase or decrease of surface runoff or concentration of surface water runoff from primary catchment areas (ESO6) does not lead to erosion and siltation of conservation value wetlands (ESO5).
- To ensure that any land use and development within a primary catchment area (ESO6) is consistent with maintaining the existing ecological condition of the wetlands of conservation value (ESO5)
- To ensure that the natural alignment of waterways is not altered.

Given the location of the subject site close to the centre of the township of Dimboola, the subdivision will not adversely impact on any catchments of wetlands.

Clause 56 – Subdivision

The application has been assessed against the requirements of Clause 56 of the Hindmarsh Planning Scheme and is considered to be in compliance with these

requirements. An application to subdivide the land for two lots must meet the objectives and standards of Clauses 56.03-5, 56.04-2, 56.04-3, 56.04-5, 56.06-8 to 56.09-2.

Although the proposed lots will be relatively small in comparison to the surrounding lots, they will comfortably fit standard sized dwellings on the lots and associated landscaping. It is considered that the smaller lots will complement the surrounding area and provide alternative housing options for both existing and new residents.

Standard C8 relates to lot area and building envelopes and requires that lots greater than 500 square metres should be able to fit a rectangle of 10 metres by 15 metres. As no objections have been received to the proposal, it is not considered necessary to limit the development of the lot by the use of building envelopes which are not necessary on lots over 500 square metres.

Both lots will have good solar orientation which will ensure that future dwellings will have good energy efficiency when constructed. No common property is proposed as part of the subdivision so an Owners Corporation is not required to be created.

Council's Engineers have required conditions to ensure that a crossover is constructed to lot 2 and that this is constructed prior to a statement of compliance for the subdivision. As stated elsewhere in this report, it is also acknowledged that the site has access to and will be connected to standard residential services including water, sewerage and electricity.



Location: Victoria Street, north west corner of property.
Aspect: View to east along the northern boundary



Location: Victoria Street, south west corner of property
Aspect: View to east along the southern boundary.

Public Open Space has not been paid on the existing lot, however as the subdivision is for the purposes of two lots and each of the lots are unlikely to be further subdivided, the application is exempt from this requirement and no conditions will be applied to the permit.

All required standard conditions from Clause 66.01 have been included on the permit recommended to be issued. The subdivision of the land is supported and is 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 Manager Contracts 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 28 April 2020 with fee paid on 14 May 2020. The report is being presented to Council at its meeting on the 15 July 2020 (20 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.

Co-Author: Stephen Michael O'Brien, Town Planning Consultant

In providing this advice as a Co-Author, I have no interests to disclose.

Co-Author: Janette Fritsch, Manager Contracts & Development

In providing this advice as a Co-Author, I have no interests to disclose.

RECOMMENDATION:

That Council approves planning application PA1666-2020 for a Two Lot Subdivision at Lot 1 TP 376682 at 40-42 Victoria Street, Dimboola, subject to the following conditions:

General

- 1. The subdivision as shown on the endorsed plan must not be altered or modified without the consent in writing of the Responsible Authority.***
- 2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.***
- 3. All existing and proposed easements and sites for existing and required utility services and roads must be set aside in favour of the relevant authority***

for which the easement or site is to be created on the plan of subdivision submitted for certification under the Subdivision Act 1988.

4. *The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.*
5. *The owner of the land must enter into an agreement with:*
 - (a) *A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and*
 - (b) *A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*
6. *Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:*
 - (a) *A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the providers' requirements and relevant legislation at the time; and*
 - (b) *A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband will not be provided by optical fibre.*

Engineering Conditions

7. Crossover

A new crossover shall be installed to provide independent access to Lot 2. This crossover shall be constructed as per IDM-240 to the satisfaction of the Responsible Authority and shall comply with the following:

- (a) *Standard crossover shall be constructed at right angles to the road to suit the proposed driveway.*
- (b) *Crossover shall have satisfactory clearance to any side-entry pit, power or telecommunication pole, manhole cover or street tree.*

Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant authority and shall be at the applicant's expense.

A consent to works within road reserve permission required prior to construction.

8. Storm Water Drainage:

All storm water and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge by underground pipe drains to the satisfaction of the responsible authority. This can be applied during building permit.

Actions required Prior to Statement of Compliance

- 9. Prior to a Statement of Compliance being issued, unless otherwise agreed to in writing by the Responsible Authority, the owner must to the satisfaction of the Responsible Authority:**
- (a) Fully construct crossovers, in accordance with plans and specifications approved by Council**
 - (b) Provide reticulated water, sewerage and electricity to each lot**

Permit Expiry

- 10. This permit will expire if**
- (a) The plan of subdivision is not certified within two years of the date of this permit; or**
 - (b) A Statement of Compliance is not issued within 5 years of the certification of the plan of subdivision**

The Responsible Authority may extend the time associated with (a) above if a request is made in writing before the permit expires or within six months afterwards. The timeframe associated with (b) above cannot be extended under the Subdivision Act 1988.

MOVED: CRS R Ismay/R Lowe

That Council approves planning application PA1666-2020 for a Two Lot Subdivision at Lot 1 TP 376682 at 40-42 Victoria Street, Dimboola, subject to the following conditions:

General

- 1. The subdivision as shown on the endorsed plan must not be altered or modified without the consent in writing of the Responsible Authority.**
- 2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**
- 3. All existing and proposed easements and sites for existing and required utility services and roads must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the Subdivision Act 1988.**
- 4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity, gas and telecommunication services to each lot shown on**

the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

5. The owner of the land must enter into an agreement with:

- (a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and**
- (b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**

6. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- (a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the providers' requirements and relevant legislation at the time; and**
- (b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband will not be provided by optical fibre.**

Engineering Conditions

7. Crossover

A new crossover shall be installed to provide independent access to Lot 2. This crossover shall be constructed as per IDM-240 to the satisfaction of the Responsible Authority and shall comply with the following:

- (a) Standard crossover shall be constructed at right angles to the road to suit the proposed driveway.**
- (b) Crossover shall have satisfactory clearance to any side-entry pit, power or telecommunication pole, manhole cover or street tree.**

Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant authority and shall be at the applicant's expense.

A consent to works within road reserve permission required prior to construction.

8. Storm Water Drainage:

All storm water and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge by underground pipe drains to the satisfaction of the responsible authority. This can be applied during building permit.

Actions required Prior to Statement of Compliance

9. ***Prior to a Statement of Compliance being issued, unless otherwise agreed to in writing by the Responsible Authority, the owner must to the satisfaction of the Responsible Authority:***
- (a) ***Fully construct crossovers, in accordance with plans and specifications approved by Council***
 - (b) ***Provide reticulated water, sewerage and electricity to each lot***

Permit Expiry

10. ***This permit will expire if***
- (a) ***The plan of subdivision is not certified within two years of the date of this permit; or***
 - (b) ***A Statement of Compliance is not issued within 5 years of the certification of the plan of subdivision***

The Responsible Authority may extend the time associated with (a) above if a request is made in writing before the permit expires or within six months afterwards. The timeframe associated with (b) above cannot be extended under the Subdivision Act 1988.

CARRIED

Attachment: 6

Cr T Schneider returned to the room at 3:08pm.

8.2 APPLICATION FOR PLANNING PERMIT PA1611-2018 – 2 TULLYVEA STREET JEPARIT VIC 3423 – CONSTRUCTION OF AN OPEN CANOPY BUILDING ADJACENT TO THE EXISTING BUILDING AND ASSOCIATED WORKS INCLUDING THE CONSTRUCTION OF A LEVEE BANK

Responsible Officer:	Director Infrastructure Services
File:	Planning – Applications
Assessment:	73680
Applicant:	Mr Bruce McIntosh, McIntosh Constructions Horsham
Owner:	EJBI Pty Ltd
Subject Land:	2 Tullyvea Street Jeparit VIC 3423 (Lot 1 TP228795W)
Proposal:	Construction of an open canopy building adjacent to the existing building and associated works including the construction of a levee bank
Zoning & Overlays:	Township Zone (TZ) & Farming Zone (FZ) Environmental Significance Overlay Schedule 6 (ESO6), Floodway Overlay (FO), Land Subject to Inundation Overlay (LSIO), Bushfire Management Overlay (BMO) and Environmental Audit Overlay (EAO)
Attachments:	7 - 9 7 - Site Plan and Elevations 8 - Memorandum Report by Water Technology 9 – Wimmera CMA Referral Response dated 25 June 2020

Summary:

This report recommends that Council approve Planning Permit PA1611-2018 for the 'Construction of an open canopy building adjacent to the existing building and associated works including the construction of a levee bank' subject to specific conditions required by the relevant catchment management authority for the construction of an earth bund and levee to minimise flooding of the site and the surrounding properties.

Background:

The site has been used for Rural Trade Supplies and Service Station (Fuel Depot) for a long time.

Discussions have been held with the owner and building designer about a proposed canopy shed and the associated flooding implications have been discussed with the Wimmera Catchment Management Authority for several years.

Proposal Details:

The proposal is for the construction of an open canopy building adjacent to the existing building and associated works including the construction of a levee bank. The proposed open canopy building will be located on the south-eastern side of the existing building and have dimensions of 30 metres long by 21 metres wide with an area of 630 square metres. The building will have setbacks of between 15.0 metres and 41.0 metres from

the property boundaries which are consistent with the existing building setbacks. The building will have five (5) open bays facing south-east, with an enclosed south-western side wall and an open north-eastern side wall. The building will have a wall height of 6.0 metres and a maximum height of approximately 7.2 metres from the existing ground level. The building will be used for the storage of supplies associated with the existing Trade Supplies use of the land. Refer to Attachment 1 – Site Plan and Elevations.

A levee bank is proposed to be constructed around the property boundaries to prevent flooding of the site and the surrounding properties from the Wimmera River floodplain extending through and adjacent to the site. The proposed levee will range in height from approximately 0.6m to 1.0m to achieve the minimum height of 81.69 m AHD.

A detailed report has been submitted with the application as a Memorandum Report by Water Technology dated 21 March 2020 which details the flood risk and detailed design of the levee bank for the proposal. Refer to Attachment 2 – Memorandum Report by Water Technology. Two Figures from this report showing a site layout plan and a plan of the site and section are detailed below.



Figure 1-1 Site Layout



Figure 3-2 Plan of Site and Long Section Location

It is noted that the concrete wall shown in the Figure above is required to be a permanent earth bund in accordance with the WCMA's conditions.

Requirement for Permit:

A planning permit is required for the following:

- Construct buildings and works for an existing Trade Supplies use which is a Section 2 Use pursuant to Clause 32.05-2 of the Township Zone.
- Construct buildings and works pursuant to Clause 44.03-2 of the Floodway Overlay.
- Construct buildings and works pursuant to Clause 44.04-2 of the Land Subject to Inundation Overlay.

A planning permit is not required for buildings and works under the Farming Zone (FZ) as the part of the site for the proposed building is not within the Farming Zone.

A planning permit is not required for buildings and works under Clause 42.01 of the Environmental Significance Overlay (ESO) and Schedule 3 and Schedule 6 of the ESO.

A planning permit is not required for buildings and works under Clause 44.06 of the Bushfire Management Overlay (BMO) as the part of the site for the proposed building is not within the BMO.

A planning permit is not required under Clause 45.03 of the Environmental Audit Overlay (EAO) as there is no new sensitive use (residential use, child care centre, pre-school centre or primary school) proposed as part of this application.

Definitions:

Trade Supplies

Land used to sell by both retail and wholesale, or to hire, materials, tools, equipment, machinery or other goods for use in: a) automotive repairs and servicing; b) building; c) commerce; d) industry; e) landscape gardening; f) the medical profession; g) primary production; or h) local government, government departments or public institutions.

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 2018, as the proposed development is not within part of the land that is affected by an Aboriginal Cultural Heritage Sensitivity Area.

Subject site & locality:

The subject site is located on the north-eastern corner of Tullyvea Street and Charles Street, Jeparit. The subject lot affected by the proposal is known as Lot 1 on Title Plan 228795W and has an area of approximately 4.0 hectares. There are existing buildings, accessways, car parking areas, a weighbridge and storage areas on the site. The

primary vehicle access is from Tullyvea Street. There is a second access point to exit from the site on Charles Street.

The site is located at the southern end of the Jeparit Township. There are residential properties to the north, west and south-west of the site. The Wimmera River and associated floodplain are situated to the south-east and south of the site. The adjoining land to the north-east on the same side of Tullyvea Street is occupied by warehouses and other non-residential uses.

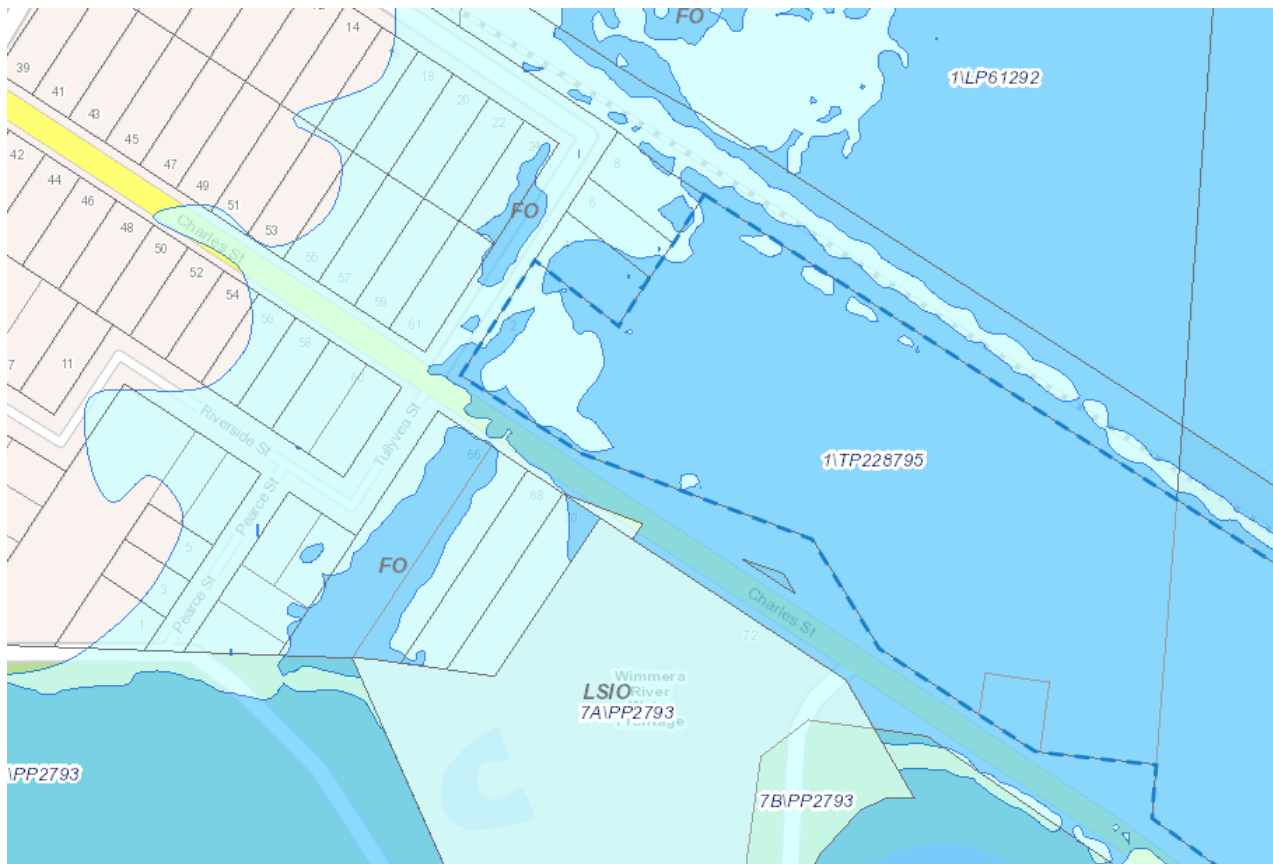
The north-western part of the land where the existing buildings and turning areas are located is within the Township Zone. The balance of the land is within the Farming Zone. The southern boundary of the site adjoins a Road Zone Category 1, being the road reserve along Charles Street.

The adjacent land to the north, north-west and south is within the Township Zone. The adjacent land to the north and east is within the Public Use Zone 4 and the Farming Zone.

Aerial Photo below showing the subject lot where the building is proposed (POZI, 2016):



Aerial Map below of the areas of the site and surrounding areas affected by the Floodway Overlay (FO) and the Land Subject to Inundation Overlay (LSIO):



Advertising

Section 52 Notice of application

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

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

The application was advertised by letters to the adjoining and adjacent owners and occupiers, by public notices on the land and by a public notice in the Rainbow Jeparit Argus newspaper.

As a result of the advertising process, no objections were received.

Referrals:

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals:

Wimmera Catchment Management Authority (WCMA) – Refer to Attachment 3 – WCMA referral response

- No objections to the permit subject to conditions relating to:

- The construction of a permanent earth bund with a minimum height of 81.69m AHD before construction of the open canopy shed.
- The construction of a temporary levee to infill a section along Tullyvea Street with specifications to meet or exceed the minimum height of 81.69M AHD.
- A Levee Management Plan to be submitted to the WCMA for approval.
- Any fencing within the floodplain to be an open style to not obstruct the conveyance of flood water across the property.

Section 52 Notices:

Environment Protection Authority (EPA)

Comments provided about the following:

- The EPA not being a statutory referral authority under Section 55 as the proposal does not require a licence or works approval, is not used for industry or warehouse in the table to Clause 53.10 and is not for a proposed extractive industry.
- EPA understands that the site currently operates as a fuel and rural supply depot. The proposal is to construct a building adjacent to the retail sales area and a water levee to protect the site during a flood event.
- EPA's role is to protect human health and the environment from pollution and waste. EPA has reviewed the application material provided and considers that the environmental and human health risks of the proposed buildings and works to be low.

Internal Referrals:

Engineering:

Condition required for:

- All stormwater and surface water discharging from the site must be conveyed to the Legal Point of Discharge drains to the satisfaction of the Responsible Authority. No effluent or polluted water of any type will be allowed to enter any Council drainage system.

Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework

Clause 11.03-6S Regional and local places

Clause 12.03-1S River corridors, waterways, lakes and wetlands

Clause 12.05-2S Landscapes

Clause 12.05-1S Environmentally sensitive areas

Clause 13.03-1S Floodplain management

Clause 13.07-1S Land use compatibility

Clause 14.02-1S Catchment planning and management

Clause 15.01-2S Building design

Clause 17.01-1S Diversified economy

Clause 17.01-1R Diversified economy - Wimmera Southern Mallee

Clause 17.02-1S Business

Clause 19.03-2S Infrastructure design and provision

Clause 19.03-3S Integrated water management

Local Planning Policy Framework

Clause 21.02 Vision – Strategic Framework

Clause 21.03 Objectives – Strategies – Implementation

Clause 22.03 Floodplain Management

Objective

To protect and manage floodplains to ensure the long term sustainability of the Shire

22.03-2 Performance standards and measures

It is policy to assess proposals against the following standards and measures:

Buildings and Works

Buildings and works should:

- Be located on land outside the Floodway Overlay and Land Subject to Inundation Overlay, or where this can be demonstrated to not be practical, be on the highest available natural ground;
- Have a 100-year Average Recurrence Interval (ARI) flood depth less than 500mm above the natural ground level at the building site;
- Have a minimum floor level at least 300mm above the 100 year ARI;
- Be aligned with their longitudinal axis parallel to the predicted predominant direction of flood flow. This requirement may override other alignment requirements;
- Include flood-proofing measures that minimise the effects of flooding on the building structure and its contents, for example, the use of water resistant building materials for foundations, footings and floors;
- Limit the size of building (fill) pads to as near as practical to the building exterior;
- Construct foundations compatible with the flood risk;
- Minimise site coverage and hard surface areas;
- Maximise permeable surfaces to minimise run-off;

Response:

The proposed development has been designed to incorporate a levee bank including a permanent earth bund and a temporary levee to minimise the flood risk to the site and surrounds, whilst still facilitating the upgrade and expansion of the buildings on the site for this important commercial business in the township of Jeparit.

Conditions are required to ensure the details recommended by Water Technology in the Memorandum Report dated 21 March 2020 are implemented and the conditions required by the WCMA are also carried out to address the detailed design of the levee bank with the necessary approvals in place. The proposal will comply with the relevant performance standards and measures and policy objectives in Clause 22.03 subject to the floodplain management conditions required on any permit issued.

The proposal will therefore comply with the PPF and LPPF subject to conditions.

Zoning Provisions

Clause 32.05 Township Zone

32.05-2 Table of uses

Retail Premises – includes Trade Supplies – existing Section 2 Permit required Use.

32.05-10 Buildings and works associated with a Section 2 use

A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.05-2.

32.05-13 Decision guidelines

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

General (relevant)

- The Municipal Planning Strategy and the Planning Policy Framework.
- The protection and enhancement of the character of the town and surrounding area including the retention of vegetation.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- The design, height, setback and appearance of the proposed buildings and works including provision for solar access.
- Provision of car and bicycle parking and loading bay facilities and landscaping.
- The effect that existing uses on adjoining or nearby land may have on the proposed use.
- The scale and intensity of the use and development.
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

Response:

The proposed development complies with the MPS and PPF as discussed above. The proposed development will protect the character of the town and the surrounding area. The existing building is connected to the utility services and the new building will be connected to these services.

The design, height, setbacks and appearance of the new building for this commercial use are appropriate. The construction of the levee bank along the property boundaries is unlikely to have any unreasonable visual impacts on the surrounding area. There will be adequate space on site for car parking and loading and unloading facilities. The scale and intensity of the existing use and proposed development is acceptable.

The proposal is unlikely to have any adverse traffic impacts to Tullyvea Street. However, the vehicle exit to Charles Street will not be accessible as a result of the levee bank required to be constructed around the property boundaries for floodplain management.

The proposal will therefore comply with the relevant decision guidelines of the Zone.

Overlay Provisions

Clause 44.03 Floodway Overlay (FO)

44.03-2 Buildings and works

A permit is required to construct a building or to construct or carry out works.

44.03-7 Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The local floodplain development plan or flood risk report.
- Any comments of the relevant floodplain management authority.
- The Victorian River Health Strategy (2002) and any relevant regional river health strategy and associated wetland plan.

Schedule to the FO

A permit is required as the buildings and works exempt as listed in the Schedule are not applicable.

Response:

The proposed development complies with the MPS and PPF as discussed above. The proposed development will be constructed in accordance with the recommendations of the Water Technology Memorandum Report dated 21 March 2020 and the conditions required by the WCMA. The proposed construction of the levee bank will minimise the risk and frequency of flooding of the site and the surrounding area.

The proposal will therefore comply with the relevant decision guidelines of this Overlay.

Clause 44.04 Land Subject to Inundation Overlay

44.04-2 Buildings and works

A permit is required to construct a building or to construct or carry out works.

44.04-8 Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any local floodplain development plan.
- Any comments from the relevant floodplain management authority.
- The existing use and development of the land.
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.
- The susceptibility of the development to flooding and flood damage.
- The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include:
 - The frequency, duration, extent, depth and velocity of flooding of the site and accessway.
 - The flood warning time available.
 - The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.
- The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.

- The effect of the development on river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance.

Schedule to the LSIO

A permit is required as the buildings and works exempt as listed in the Schedule are not applicable.

Response:

The proposed development complies with the MPS and PPF as discussed above. The proposed development will be constructed in accordance with the recommendations of the Water Technology Memorandum Report dated 21 March 2020 and the conditions required by the WCMA as discussed above.

The majority of the area of the site used for the existing Trade Supplies business is within the LSIO, so there is no flood-free land or land with a lesser flood hazard available. The development will be reasonably protected from flooding and flood damage by the levee bank proposed, which will ensure the risk to life, health and safety is reduced to an acceptable level.

The construction of the levee bank for the development will result in the redirecting of floodwater across the floodplain, but the detailed design of the levee will be approved by the responsible flood authority being the WCMA. The proposal is unlikely to have an adverse effect on the river health values.

The proposal will therefore comply with the relevant decision guidelines of this Overlay.

Particular Provisions

Clause 52.06 Car Parking

52.06-5 Number of carparking spaces required under Table 1

Table 1 of this clause sets out the car parking requirement that applies to the increase of the floor area of an existing use listed in the Table.

Table 1: Carparking requirement

Trade Supplies – 10 per cent of site area

Response:

The proposed building will have a floor area of 630m². There will be adequate space in front of the buildings on the site to ensure that 10 per cent of the site area is available for car parking, which is also not affected by the proposed levee bank.

Therefore, the provision of car parking for the additional floor area on the site will comply with this Clause.

General Provisions

Clause 65 - Decision Guidelines

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.

Clause 65.01– Approval of an application or plan

Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

Response:

The proposed development will include a permanent earth bund and temporary levee bank to around the boundaries of the site to minimise the potential flood hazard. The conditions required to address the potential flood risk will enable the amenity of the area to be protected and facilitate the orderly planning of the area.

The application complies with the relevant decision guidelines of this Clause.

Discussion:

The proposed canopy building will be sited at the rear of the existing buildings used for Rural Trade Supplies and Service Station. The proposed development will enhance the operation of this existing commercial business, which is an essential business and service for the Jeparit Township and surrounding farming areas.

The potential flooding of the site and surrounding area as a result of the proposed development will be managed by a number of conditions required by the Wimmera Catchment Management Authority (WCMA) for the construction of a permanent earth bund and a temporary levee in accordance with the report from Water Technology dated 21 March 2020. The construction of the levee will need to be in accordance with the relevant approvals in the conditions required by the WCMA.

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 and Clause 32.05 Township Zone in the Hindmarsh Planning Scheme.

The proposal will also minimise flooding risk to the site and surrounding area by requiring a permanent earth bund and levee bank to meet with the WCMA's conditions to be consistent with Clause 44.03 Floodway Overlay and Clause 44.04 Land Subject to Inundation Overlay.

Report to Council:

The Manager Contracts 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 11 December 2018. The application fee was paid on 1 May 2020.

The report is being presented to Council at its meeting on the 15 July 2020 (54 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: Bernadine Pringle, Consultant Town Planner, on behalf of Janette Fritsch, Manager of Contracts and Development.

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

RECOMMENDATION:

That Council approves Planning Application PA1611-2018 for the Construction of an open canopy building adjacent to the existing building and associated works including the construction of a levee bank, on the subject land known as 2 Tullyvea Street Jeparit VIC 3423 (Lot 1 TP228795W), 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.

General Requirements

2. The buildings and the site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area to the satisfaction of the Responsible Authority.

Levee Design

3. The approved levee design must be constructed in accordance with the Memorandum by Water Technology dated 21 March 2020 or approve alternative design to the satisfaction of the Responsible Authority.

Wimmera Catchment Management Authority Conditions

4. Prior to the construction of the open canopy shed, a permanent earthen bund with a minimum height of 81.69 m AHD must surround the building and facility, consistent with the memorandum report dated 21 March 2020 to Adrian King from Water Technology.

The earthen levee will be constructed and compliant with construction requirements as specified in the Victorian Levee Management Guidelines. As constructed survey of the levee is to be provided to the Wimmera CMA upon completion of construction.

5. Prior to the construction of the open canopy shed, a temporary levee to infill the section along Tullyvea St, with specifications to meet or exceed a minimum height of 81.69m AHD is to be purchased and onsite.

6. Prior to the construction of the open canopy shed, a Levee Management Plan in accordance with the Victorian Levee Management Guidelines must be submitted to Wimmera CMA for approval.

7. Any fencing within the floodplain shall be of an open style that will not obstruct the conveyance of flood water across the property, for example post and wire fencing or open pool style fencing.

Prior to the commencement of works, detailed plans of the proposed fencing within the floodplain area must be submitted to Wimmera CMA for approval.

Engineering

8. All stormwater and surface water discharging from the site must be conveyed to the Legal Point of Discharge drains to the satisfaction of the Responsible Authority. No effluent or polluted water of any type will be allowed to enter any Council drainage system.

Time Limit

9. The development approved by 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.**

Notes

WCMA:

- The 1% AEP flood is not the maximum possible flood. A flood larger in height and extent, than the 1% AEP flood, may occur in the future.**
- Should you require further information please contact Wimmera CMA Floodplain Officer, on (03) 5382 1544. To assist Wimmera CMA in handling any enquiries please quote WCMA-F-2019-00005 in your correspondence with us.**

MOVED: CRS R Lowe/R Ismay

That Council approves Planning Application PA1611-2018 for the Construction of an open canopy building adjacent to the existing building and associated works including the construction of a levee bank, on the subject land known as 2 Tullyvea Street Jeparit VIC 3423 (Lot 1 TP228795W), 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.**

General Requirements

- 2. The buildings and the site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area to the satisfaction of the Responsible Authority.**

Levee Design

3. The approved levee design must be constructed in accordance with the Memorandum by Water Technology dated 21 March 2020 or approved alternative design to the satisfaction of the Responsible Authority.

Wimmera Catchment Management Authority Conditions

4. Prior to the construction of the open canopy shed, a permanent earthen bund with a minimum height of 81.69 m AHD must surround the building and facility, consistent with the memorandum report dated 21 March 2020 to Adrian King from Water Technology.

The earthen levee will be constructed and compliant with construction requirements as specified in the Victorian Levee Management Guidelines. As constructed survey of the levee is to be provided to the Wimmera CMA upon completion of construction.

5. Prior to the construction of the open canopy shed, a temporary levee to infill the section along Tullyvea St, with specifications to meet or exceed a minimum height of 81.69m AHD is to be purchased and onsite.

6. Prior to the construction of the open canopy shed, a Levee Management Plan in accordance with the Victorian Levee Management Guidelines must be submitted to Wimmera CMA for approval.

7. Any fencing within the floodplain shall be of an open style that will not obstruct the conveyance of flood water across the property, for example post and wire fencing or open pool style fencing.

Prior to the commencement of works, detailed plans of the proposed fencing within the floodplain area must be submitted to Wimmera CMA for approval.

Engineering

8. All stormwater and surface water discharging from the site must be conveyed to the Legal Point of Discharge drains to the satisfaction of the Responsible Authority. No effluent or polluted water of any type will be allowed to enter any Council drainage system.

Time Limit

9. The development approved by 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.**

Notes

WCMA:

- *The 1% AEP flood is not the maximum possible flood. A flood larger in height and extent, than the 1% AEP flood, may occur in the future.*
- *Should you require further information please contact Wimmera CMA Floodplain Officer, on (03) 5382 1544. To assist Wimmera CMA in handling any enquiries please quote WCMA-F-2019-00005 in your correspondence with us.*

CARRIED

Attachments: 7 – 9

9. REPORTS REQUIRING A DECISION

9.1 AUDIT AND RISK COMMITTEE CHARTER

Responsible Officer: Director Corporate and Community Services
Attachment Number: 14

Introduction:

This report presents the Audit and Risk Committee Charter for adoption by Council and recommends the establishment of the first Audit and Risk Committee under the Local Government Act 2020.

Discussion

Following the introduction of the Local Government Act 2020 (Act) a Council must approve the first Audit and Risk Committee Charter and establish the first Audit and Risk Committee (Committee) on or before 1 September 2020 pursuant to sections 53 and 54.

Despite the repeal of Section 139 of the Local Government Act 1989, the audit committee established by a Council under that section in existence before that repeal continues in operation until the first Audit and Risk Committee is established by Council under the Local Government Act 2020 Section 53.

The Committee is an independent advisory committee and assists to strengthen Council to ensure Council's commitment to good governance, public transparency and accountability.

The committee comprises up to six members (two Councillors and up to four independent and external members), appointed by Council. Membership of the Committee will be reviewed periodically and coincide with the term of the Council with the aim of ensuring and appropriate balance between continuity of members, the

contribution of fresh perspectives and a suitable mix of qualifications, knowledge, skills and experience. Councillor members will be appointed for a one-year term.

Pursuant to Section 53 of the Local Government Act 2020 it is recommended that the first Audit and Risk Committee be made up of the following Committee Members.

Mr Bernard Young – Chairperson

Mr Darren Welsh – Independent Member

Mr Ashley Roberts – Independent Member

Ms Krista Thiele – Independent Member

Cr Debra Nelson – Councillor Delegate

Cr Tony Schneider – Councillor Delegate

Section 54(2) of the Act specifies that the Audit and Risk Committee Charter must specify the function and responsibilities of the Audit and Risk Committee including the following:

- (a) Monitor the compliance of Council policies and procedures with –
 - (i) The overarching governance principles; and
 - (ii) This Act and the regulations and any Ministerial directions;
- (b) Monitor Council financial performance reporting;
- (c) Monitor and provide advice on risk management and fraud preventions systems and controls;
- (d) Oversee internal and external audit functions.

The Audit and Risk Committee Charter provides the framework to guide effective operations of the Committee and details the role of the Committee, Authority, Membership, Meetings, Reporting, Role of the Chairperson, Functions of the Committee, Engagement with the Victorian Auditor-General's Office (VAGO), and Evaluation of Performance.

Section 54(5)(a) details the requirements of the Audit and Risk Committee to prepare biannual audit and risk reports that describe the activities of the Committee and includes findings and recommendation;

Section 54(5)(b) details the requirements of the Audit and Risk Committee to provide a copy of the biannual audit and risk report to the CEO for tabling at the next Council meeting.

The draft Audit and Risk Committee Charter was presented to the Audit Committee meeting on 17 June 2020. The Committee resolved to recommend to Council that the Audit and Risk Committee Charter be adopted.

Options:

Council can:

1. Adopt the Audit and Risk Committee Charter and appoint the first Audit and Risk Committee.

2. Amend the Audit and Risk Committee Charter and appoint the first Audit and Risk Committee.

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:

Council allocates money as part of the annual budget process for the Audit and Risk Committee independent member sitting fee.

Risk Management Implications:

An effective Audit and Risk Committee will assist with Council's risk management through independent advice and assurance on internal corporate governance, risk management, internal control and compliance.

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: Monica Revell, Director Corporate Services

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

Communications Strategy:

A copy of Council's adopted Audit and Risk Committee Charter will be placed on Council's Website and forwarded to all Audit and Risk Committee members.

RECOMMENDATION:

That pursuant to Section 53 and 54 of the Local Government Act 2020 Council:

- 1 Adopt the Audit and Risk Committee Charter as presented;***
- 2 Establish the first Audit and Risk Committee for the term up until 1 November 2024, made up of the following independent members:***
 - Mr Bernard Young – Chairperson***
 - Mr Darren Welsh – Independent Member***
 - Mr Ashley Roberts – Independent Member***
 - Ms Krista Thiele – Independent Member***
- 3 Appoint the following Councillor delegates to the Audit and Risk Committee for the term up until 24 October 2020:***
 - Cr Debra Nelson***
 - Cr Tony Schneider.***

MOVED: CRS D Nelson/D Colbert

That pursuant to Section 53 and 54 of the Local Government Act 2020 Council:

- 1 Adopt the Audit and Risk Committee Charter as presented;**
- 2 Establish the first Audit and Risk Committee for the term up until 1 November 2024, made up of the following independent members:**
 - **Mr Bernard Young – Chairperson**
 - **Mr Darren Welsh – Independent Member**
 - **Mr Ashley Roberts – Independent Member**
 - **Ms Krista Thiele – Independent Member**
- 3 Appoint the following Councillor delegates to the Audit and Risk Committee for the term up until 24 October 2020:**
 - **Cr Debra Nelson**
 - **Cr Tony Schneider.**

CARRIED

Attachment: 14

9.2 PUBLIC TRANSPARENCY POLICY

Responsible Officer: Director Corporate & Community Services

Attachment Number: 10

Introduction:

This report seeks Council endorsement for the Draft Policy to be made available to the public for consultation for the period between 16 July and 6 August (3 weeks). A final report seeking to adopt the final Policy will be brought to the Council meeting on 20 August 2020.

Discussion:

Section 57 of the Local Government Act 2020 (**Act**) requires that a Council adopts and maintains a Public Transparency Policy (**Policy**). The deadline for adopting the Policy is 1 September 2020.

Section 57 of the Act provides the following:

- (1) A Council must adopt and maintain a public transparency policy.
- (2) A public transparency policy must –
 - (a) give effect to the public transparency principles; and
 - (b) describe the ways in which Council information is to be made publicly available; and
 - (c) subject to section 58(b), specify which Council information must be made publicly available, including all policies, plans and reports required under this Act or any other Act; and
 - (d) include any other matters prescribed by the regulations.

The public transparency principles listed in s58 of the Act are as follows:

- (1) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of the Act or any other Act;
- (2) Council information must be publicly available unless –
 - (a) the information is confidential by virtue of the Act or any other Act; or
 - (b) public availability of the information would be contrary to the public interest;
- (3) Council information must be understandable and accessible to members of the municipal community;
- (4) public awareness of the availability of Council information must be facilitated.

The Public Transparency Policy has been developed based on information provided by Local Government Victoria and the relevant provisions of the Local Government Act 2020. The senior management team and relevant Council staff have been consulted during the development of the Policy.

Conclusion

The Policy will ensure compliance with the Local Government Act 2020.

Options:

1. Council can choose to approve the draft Public Transparency Policy for release to the public for the specified consultation period for comment;
2. Council can choose to amend the draft Public Transparency Policy before releasing the draft to the public for the specified consultation period;

Link to Council Plan:

Strategic Objective 1.1	an actively engaged community.
Strategic Objective 4.6	an organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation
Strategic Objective 4.6.2	Develop a governance and compliance framework within Council

Financial Implications:

No financial implications.

Risk Management Implications:

The Policy will ensure Council is compliant with the public transparency obligations and principles as outlined by sections 57 and 58 of the Local Government Act 2020.

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 publish the draft Policy on the Council website from 16 July 2020 to 06 August 2020. The public will be able to make submissions on the draft Policy until the close of the consultation period.

Council will run regular social media posts throughout the consultation period. Advertisements will be placed into the local newspaper advising the community that documents will be available for viewing.

RECOMMENDATION:

That Council endorses the draft Public Transparency Policy for public consultation and make the policy available to the public for consultation between 16 July 2020 and 6 August 2020.

MOVED: CRS T Schneider/R Lowe

That Council endorses the draft Public Transparency Policy for public consultation and make the policy available to the public for consultation between 16 July 2020 and 6 August 2020.

CARRIED

Attachment: 10

9.3 GOVERNANCE RULES

Responsible Officer: Director Corporate & Community Services

Attachment Number: 11 & 12

Introduction:

This report seeks Council endorsement for the draft Governance Rules and draft Election Period Policy to be made available to the public for consultation for the period between 16 July and 06 August 2020.

Discussion:

Under Section 60 of the Local Government Act 2020 (**Act**), Council is required to adopt and maintain Governance Rules by 1 September 2020. Under s60 (4) Council is

required to undertake a process of community consultation prior to adopting the Governance Rules.

Section 60 of the Act requires that a Council maintains Governance Rules with respect to the following:

- the conduct of Council meetings;
- the conduct of meetings of delegated committees;
- the form and availability of meeting records;
- the election of Mayor and Deputy Mayor;
- the appointment of an Acting Mayor;
- an election period policy in accordance with section 69 of the Act;
- the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130 of the Act;
- the procedure for the disclosure of a conflict of interest by a Councillor under section 131;
- the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126 of the Act; and
- any other matter prescribed by the regulations.

Section 60 also provides that the Governance Rules are also required to provide for Council to consider and make decisions on any matter fairly and on the merits and institute decisions making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.

As the new Act is a principles-based act, much of the content of the Governance Rules is not prescribed by the legislation but is instead left to individual councils to determine. The draft Governance Rules are similar in form and content to the Hindmarsh Meeting Procedures and Common Seal Local Law, however they also reference the overarching governance principles and supporting principles of the Act (section 9), as must be the case of a council in the performance of its role.

The Governance Rules, once adopted in their final form, will replace much of the existing Hindmarsh Meeting Procedure and Common Seal Local Law, which was adopted by Council on 23 June 2014. As the Governance Rules will from 1 September 2020 determine the meeting procedures of Council and delegated committees, the majority of the content within the Hindmarsh Meeting Procedure and Common Seal Local Law will become irrelevant. Some provisions will still be required which cannot legally form part of the Governance Rules. Financial penalties for offences in the event of inappropriate conduct at Council meetings and meetings of delegated committees, and for offences in relation to the misuse of the Common Seal or any petition or joint letter, can only be applied as per a local law, not the Governance Rules.

Significant changes made to the Governance Rules are set out in the table below:

Rule	Comment	LGA 2020 requirement
2 – purpose	Provides the context for the Governance Rules	Section 60 – Governance rules
4 – role of Council		Section 8 – Role of a council
5 – overarching governance principles and supporting principles		Section 9 – overarching governance principles and supporting principles
6 – council decision making		Section 60(2) – Governance rules
17 – notice of meeting	(3) and (4) are new additions	
26 – inability to achieve or maintain a quorum due to conflicts of interest of Councillors	Taken directly from the Act.	Section 67 – Council decision making where quorum cannot be maintained
Part 3, Division 4 – disclosure of conflict of interest		Section 60(1)(f) – (h) - Governance rules
37 – availability of minutes		
38 – recording of meetings		
39 – the order of business	Removed ‘general business’ and replaced with ‘urgent business’	Section 46(2)(d) – CEO to consult with the Mayor when setting the Agenda for a Council meeting
42 – time limits for meetings		
Part 6 – voting at meetings	Removed provisions for voting by secret ballot as Act provides that voting must be public however if the meeting has been closed under the Act, a Councillor is not required to disclose their vote	Section 61(5)(b) – Council meetings
92 – urgent and other business	Limitation placed on what can become urgent business	
93 – public question time	Requirement for people to submit their questions in writing, requirement for the person to be at the meeting (subject to the chair’s discretion)	
96 – the chairperson’s duties and discretions	Expanded on to include: (a) presiding over and controlling the Meeting; (b) ascertaining that a quorum is present, and it a quorum is present formally declaring the meeting open;	

Rule	Comment	LGA 2020 requirement
	<p>(c) welcoming Councillors, Members and visitors;</p> <p>(d) calling for disclosure by Councillors of any conflicts of interest;</p> <p>(e) presenting any reports for which they are responsible;</p> <p>(f) ensuring debates are conducted in the correct manner; and</p> <p>(g) in the case of competition for the right to speak, will decide the order in which the Members concerned will be heard.</p> <p>(2) The Chairperson</p> <p>(c) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise;</p> <p>(d) must call a person to order if their behaviour is disruptive and interferes with the conduct of the meeting; and</p> <p>(e) must decide on all points of order and other questions and other questions of procedure.</p>	
Part 10 – delegated committees		Section 60 – Governance rules

Election Period Policy

The draft Election Period Policy (**Policy**), which is required to form part of the Governance Rules under section 60(1)(e) of the Act, is largely similar to Council’s current Election Period Policy. The main changes made to the Policy have been made in accordance with the relevant provisions of the Act are outlined in the following table:

Draft Policy	Comment	LGA Reference
Clause 6(1) – “commits council to expenditure exceeding one per cent of the Council’s income from general rates, municipal charges and	Current policy provides that: “\$100,000 or such higher amount as may be fixed by Order in Council under section 186(1) of the Act. (note:	Section 69 LGA

service rates and charges in the preceding financial year”.	Amounts fixed are \$150,000 for goods and services contracts and \$200,000 for works contracts); or b) 1% of Council’s revenue from rates and charges levied under section 158 in the preceding financial year”	
Clause 7 – election statement	Simplified current policy by providing one blanket election statement	Section 69 LGA
Clause 10 (8) – Council resources, events	Has been included	Section 69 LGA

Conclusion:

The draft Governance Rules (including the Election Period Policy) will enable Council to conduct its business in an effective, transparent and accountable way.

A report seeking to adopt the Governance Rules will be brought to the Council meeting on 20 August 2020.

Options:

1. Council can choose to approve the draft Governance Rules for release to the public for the specified consultation period for comment;
2. Council can choose to approve the draft Governance Rules – Election Period Policy for release to the public for the specified consultation period for comment;
3. Council can choose to amend the draft Governance Rules before releasing the draft to the public for the specified consultation period;
4. Council can choose to amend the draft Governance Rules – Election Period Policy before releasing the draft to the public for the specified consultation period;

Link to Council Plan:

Strategic Objective 1.1 an actively engaged community.
 Strategic Objective 4.6 an organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation
 Strategic Objective 4.6.2 Develop a governance and compliance framework within Council

Financial Implications:

No financial implications.

Risk Management Implications:

The draft Governance Rules will ensure that Council maintains its governance and community engagement obligations under the Act.

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:

Under section 60(4) Council is required to conduct a community engagement process when adopting or amending the Governance Rules. Council will publish the draft Governance Rules (including Election Period Policy) on the Council website from 16 July 2020 to 06 August 2020. The public will be able to make submissions on the Governance Rules until the close of the exhibition period.

Council will run regular social media posts throughout the exhibition period.

Advertisements will be placed into the local newspaper advising the community that documents will be available for viewing.

RECOMMENDATION:

That

- 1. Council endorses the draft Governance Rules and Governance Rules – Election Period Policy for public consultation;*
- 2. The draft Governance Rules and Governance Rules – Election Period Policy be made available to the public for consultation between 16 July 2020 and 6 August 2020.*

MOVED: CRS T Schneider/D Nelson

That

- 1. Council endorses the draft Governance Rules and Governance Rules – Election Period Policy for public consultation;*
- 2. The draft Governance Rules and Governance Rules – Election Period Policy*

be made available to the public for consultation between 16 July 2020 and 6 August 2020.

CARRIED

Attachment: 11 & 12

10. SPECIAL COMMITTEES

10.1 AUDIT COMMITTEE MINUTES

Responsible Officer: Director Corporate & Community Services

Attachment: 13

Introduction:

The Hindmarsh Shire Council Audit Committee held its meeting on 17 June 2020. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Hindmarsh Shire Council Audit Committee meeting held on 17 June 2020.

MOVED: CRS T Schneider/D Nelson

That Council notes the minutes of the Hindmarsh Shire Council Audit Committee meeting held on 17 June 2020.

CARRIED

Attachment: 13

11. LATE REPORTS

11.1 DAVIS PARK FACILITIES UPGRADE

Responsible Officer: Director Corporate & Community Services

Introduction:

This report provides Council with an update on the Davis Park Facilities Upgrade following an application to Sport and Recreation Victoria's, Community Sports Infrastructure Stimulus Program.

Discussion:

Council resolved at the meeting on 17 June 2020 to submit an application for funding through the Community Sports Infrastructure Stimulus Program for upgrades to Davis Park Nhill.

Council resolved to allocate \$300,000 in Council's 2020/2021 budget comprising \$200,000 from the Federal Government's Local Road and Community Infrastructure funding program, and \$100,000 from Council funds. Council also acknowledged Nhill and District Sporting Club's commitment of a minimum \$50,000 contribution to the project.

Infrastructure upgrades to Davis Park include a community pavilion, AFL and Netball Victoria compliant change rooms, and a new netball court.

A Cost Plan for the infrastructure upgrades anticipates the total project cost to be \$3,931,760 (excl GST).

Funding ratios for the Community Sports Infrastructure Stimulus Program require a co-contribution of 10%.

An additional \$50,000 of Council funds has been allocated to the project from the 2019/2020 Davis Park Grandstand budget (ledger 20794) which will be carried forward to 2020/2021 for the project. This will have no financial impact on Council's budget or cash position.

Applications for funding through the Community Sports Infrastructure Stimulus Program closed on Friday 19 June 2020 with successful funding announcements expected late July 2020.

Options:

This report is for information only; no decision is required.

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:

There are no financial implications. Council's contribution for the project has been included in the 2020/2021 budget, and carry forward from 2019/2020.

Risk Management Implications:

Upgrading the Infrastructure facilities at Davis Park will reduce risk through modern compliant facilities meeting AFL and Netball Victoria standards.

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 notes the report on the Davis Park Facilities Upgrade.

MOVED: CRS T Schneider/R Lowe

That Council notes the report on the Davis Park Facilities Upgrade.

CARRIED

12. URGENT BUSINESS

MOVED: CRS R Lowe/R Ismay

That Hindmarsh Shire Council write to the Federal Minister of Immigration, Citizenship, Migrant Services and Multicultural Affairs, the Hon David Coleman MP, and Local Member Anne Webster, to let them know that we want both medical and immigration examination tests to be conducted in the Wimmera.

CARRIED

MOVED: CRS R Lowe/R Ismay

That Council write to West Wimmera Health Service, Wimmera Health Care Group, Emma Kealy, Wimmera Development Association, Luv-A-Duck and Nhill Neighbourhood House asking for their support in medical and examinations to be conducted in the Wimmera.

CARRIED

MOVED: CRS T Schneider/D Nelson

That Council congratulate the Wimmera Mail Times on its upcoming planned articles on incumbent Councillors and their plans for the future, and also on candidates for the upcoming election.

CARRIED

13. 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.

No reports.

14. MEETING CLOSE

There being no further business Cr R Gersch declared the meeting closed at 3:33pm.
