



WELCOME

TO THE WEST

West Wimmera Shire Council

AGENDA

COUNCIL MEETING

Wednesday 15 March 2023
2:00 pm

Council Chambers
Kaniva Council Office
25 Baker Street, Kaniva Victoria
3419

PUBLIC ACCESS

Open to the public and Live streaming
from Council's website:
www.westwimmera.vic.gov.au



Councillors and Shire Map



MAYOR
Cr. Tim Meyer



**DEPUTY
MAYOR**
**Cr. Jodie
Pretlove**



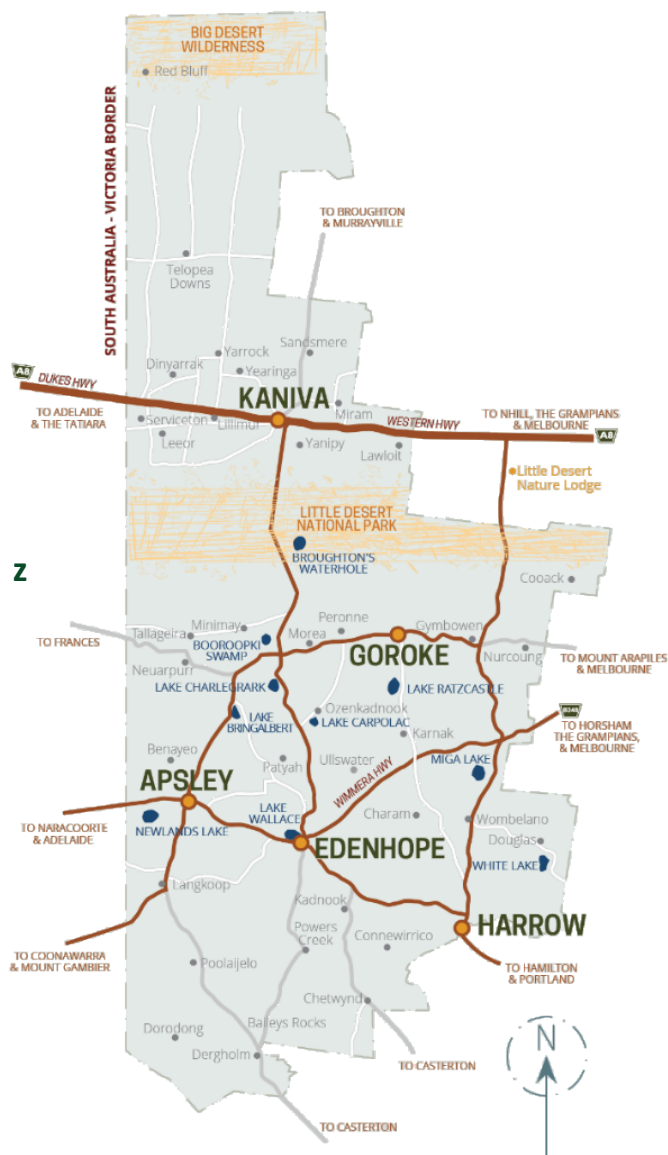
**Cr. Trevor
Domaschenz**



**Cr. Tom
Houlihan**



**Cr. Bruce
Meyer OAM**





COUNCIL VISION

Our West Wimmera community is healthy, thriving, diverse, harmonious, prosperous, and self-sustaining, with regional and global connectivity.

OUR VALUES

INNOVATIVE – We will proactively respond to change, are optimistic about our future and pursue continuous improvement in everything that we do.

ACCOUNTABLE – We will be responsible, take ownership of our actions and are committed to good governance, excellence, transparency, achievement of goals and advocating for our community

UNITED – We will do everything within our ability to encourage and form trusting relationships, to work together as one team to achieve our goals and advocate for ‘One West Wimmera’.

COLLABORATIVE – We will actively and openly consult with you and work constructively with community organisations, agencies, the business community and other levels of government to our community’s benefit.

OUR GOALS





Purpose of Council meetings

- (1) Council holds scheduled meetings and, when required, unscheduled meetings to conduct the business of Council.*
- (2) Council is committed to transparency in decision making and, in accordance with the Local Government Act 2020, Council and Delegated Committee meetings are open to the public and the community are able to attend.*
- (3) Meetings will only be closed to members of the public, in accordance with section 66 of the Act, if:*
 - (a) there are clear reasons for particular matters to remain confidential; or*
 - (b) a meeting is required to be closed for security reasons; or*
 - (c) it is necessary to enable the meeting to proceed in an ordinary manner.*
- (4) A meeting closed to the public for the reasons outlined in sub-rule 3(b) or 3(c) will continue to be livestreamed. In the event a livestream is not available:*
 - (a) the meeting may be adjourned; or*
 - (b) a recording of the proceedings may be available on the Council website*

The West Wimmera Shire Council Governance Rules set out the meeting procedure rules for this Council Meeting.

Members of the public are reminded that they are required to remain silent during this meeting, except during Section 5 Questions from the Gallery.

This Council meeting will be recorded for live streaming.

Councillors pledge

As Councillors of West Wimmera Shire Council, we solemnly and sincerely declare and affirm that we will consider each item on this agenda in the best interests of the whole municipal community.



REQUIRED TO ATTEND:

Councillors:

Tim Meyer, Mayor
Jodie Pretlove, Deputy Mayor
Trevor Domaschenz
Tom Houlihan
Bruce Meyer OAM

Executive Leadership Group:

David Bezuidenhout - Chief Executive Officer (CEO)
James Bentley - Director Corporate & Community Services (DCCS)
Ram Upadhyaya - Director Infrastructure Development & Works (DIDW)



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1 Welcome

2 Acknowledgement of Country

The West Wimmera Shire Council acknowledges the traditional custodians of the land on which we meet, and pays respect to their elders, past, present and emerging.

3 Opening Prayer

Almighty God, we humbly ask your blessing upon this Council. Guide and prosper our decisions to the advancement of Your Glory and the true welfare of the people of West Wimmera Shire. Amen.

4 Apologies, Leave of Absences, Declaration of Conflict of Interest

4.1 Apologies

4.2 Leave of Absence

4.3 Declaration of Conflict of Interest

All Councilors have a personal responsibility to ensure they are aware of the provisions mandated in the Local Government Act 2020 with regard to Conflict of Interest disclosures.



5 Questions from the Gallery

5.1 Written Questions on Notice

Governance Rules – Division 8 Section 53:

53.4 Questions submitted to Council can be submitted as follows:

53.4.1 In writing, stating the name and address of the person submitting the question and generally be in a form approved or permitted by Council; and

53.4.2 Placed in the receptacle designated for the purpose at the place of the meeting at least two hours prior to the Council meeting, or be lodged electronically at the prescribed email address at least two hours prior to the Council meeting.

53.5 No person may submit more than two questions at any one meeting.

The Question on Notice template is available from the Edenhope and Kaniva Council Offices, and from Council's website.

Written Questions on Notice submitted to Council no later than the deadline of 5:00pm on the Monday in the previous week to the relevant Council Meeting, will be included in the agenda.

Written Questions submitted subsequent to that deadline can be lodged electronically to KaddieCother@westwimmera.vic.gov.au, no later than two hours prior to the Council Meeting.

No questions on notice were received for inclusion in the agenda.



5.2 Verbal Questions without Notice

RECOMMENDATION:

That Council suspend Standing Orders for the purpose of receiving questions without notice from the members of the Gallery.

Time permitting, this section of the Agenda allows members of gallery to ask verbal questions of Councillors, following the removal of standing orders and when prompted by the Mayor (Governance Rules Division 8 S53.4.3)

Members of the Gallery providing verbal questions without notice at a Council Meeting must state their name, to be recorded in the minutes (Governance Rules Division 8 S53.4.4)

No person may submit more than two questions at any one meeting (Governance Rules Division 8 S53.5)

RECOMMENDATION:

That Council resume Standing Orders.



6 Delegates Reports

Delegate Reports are for information only and the following have been provided by Councillor's to the Governance Support Officer prior to Agenda Being Issued.

6.1 Councillor Tim Meyer (Mayor)

Date	Event
17/02/2023	Rail Freight Alliance AGM
24/02/2023	Western Highway Action Committee Meeting
01/03/2023	Councillor Forum
03/03/2023	Edenhope Lions Club Op Shop Opening
07/03/2023	Strategic Leadership Team Meeting
10/03/2023	We Are One Event
15/03/2023	Council Meeting

6.2 Councillor Jodie Pretlove (Deputy Mayor)

Date	Event
01/03/2023	Councillor Forum
03/03/2023	Edenhope Lions Club Opening
07/03/2023	Strategic Leadership Team Meeting
15/03/2023	Council Meeting

6.3 Councillor Trevor Domaschenz

Date	Event
28/02/2023	Wimmera Development Association Meeting
01/03/2023	Councillor Forum
03/03/2023	Edenhope Lions Club Op Shop Opening
08/03/2023	Wimmera Mallee Tourism Meeting
15/03/2023	Council Meeting



6.4 Councillor Tom Houlihan

Date	Event
01/03/2023	Councillor Forum
03/03/2023	Edenhope Lions Club Op Shop Opening
15/03/2023	Council Meeting

6.5 Councillor Bruce Meyer OAM

Date	Event
17/02/2023	Wimmera Regional Library Corporation Meeting
01/03/2023	Councillor Forum
03/03/2023	Edenhope Lions Club Op Shop Opening
15/03/2023	Council Meeting

7 Condolences

Nil



8 Confirmation of Previous Minutes

8.1 Council Meeting held on Wednesday, 15th February 2023

RECOMMENDATION:

That the Minutes of the Council Meeting held on Wednesday, 15th February 2023 be taken as an accurate record and confirmed.

Attachments

Nil

9 Business Arising From Previous Minutes

10 Notices of Motion

There were no Notices of Motion submitted for the agenda.

11 Councillor Forum Record

11.1 Councillor Forum Record Wednesday, 1st March 2023

RECOMMENDATION:

That the Record for the Councillor Forum Record Wednesday, 1st March 2023 be received and noted.

12 Deputations and Petitions

There were no Petitions or Deputations submitted for the agenda.

13 Chief Executive Officer



No Reports



14 Corporate and Community Services

14.1 Grant Policy and Guidelines

Directorate: Corporate and Community Services

Report Author: Community Development and Tourism Manager

Report Purpose: For Decision

Introduction

Each year, Council operates several grant program streams which enable Council to work in partnership with the community by providing financial support to extend the capacity of groups, businesses, and organisations to implement and sustain a wide range of local recreational, cultural, social, community and business support initiatives that make a positive contribution to the West Wimmera community. Eligibility for each of the grant streams is determined in accordance with the relevant grant Guidelines. These Guidelines operate under the overarching umbrella of the Council Grants Policy.

Declaration of Interest

No officer declared an interest under the Local Government Act 2020 (LGA 2020) in the preparation of this report.

Background

After discussion in the February Council forum, a meeting was held with Councillors to workshop each of the individual grant Guidelines. Following this workshop, Councillors provided officers with direction regarding the relevant evaluation criteria for each of the grant Guidelines. These grant Guidelines are now presented to Council for adoption. The Guidelines establish a framework by which grant applications can be assessed under the overarching Council Grants policy, which is also attached for consideration and adoption by Council.

Risk Management Implications

The recent VAGO audit identified potential governance risks relating to the assessment and approval of grant applications received by Council. The Grants Policy and Guidelines submitted for Council adoption seek to ensure best practice standardisation and transparency in the grant assessment and approval process, thereby mitigating any perceived or actual risk in the grant process.

Legislative Implications

The report complies with the requirements of the:
Local Government Act 2020



Environmental Implications

Nil

Financial and Budgetary Implications

Transparency in the Grants Policy and associated Guidelines ensure that grant applications and approvals are determined in accordance with Council's budgetary arrangements.

Policy Implications

This report is supported by the following West Wimmera Shire Council Policy/s:

Council Grants Policy

Council Plan Implications

This report supports the following sections of the West Wimmera Shire Council Plan 2021 – 2025:

Goal 1 – Liveable & Healthy Community

- 1.1 Create a healthy, active, and vibrant community.
- 1.5 Support and encourage our events, cultural and arts communities.

Goal 2 – Diverse and Prosperous Economy

- 2.1 Encourage and support the establishment and expansion of innovative, creative and sustainable businesses.
- 2.3 Facilitate the development of the local economy and jobs.
- 2.4 Create vibrant and attractive town centres.

Goal 3 – Sustainable Environment

- 3.1 Preserve and enhance the natural environment.
- 3.2 Promote sustainable environmental management practices.
- 3.3 Protect and promote public open space and natural assets.
- 3.4 Pursue alternative and sustainable energy sources.

Goal 4 – Good Governance

- 4.2 Engage with the community in a timely and respectful way.

Communication Implications

No Communication Implications

Gender Equality



Not Applicable

Conclusion

The Council Grants Policy and associated Guidelines are required for good governance in relation to facilitate Council's commitment to the effective and targeted application of Community, Business, Streetscape, and future grant programs for maximum responsiveness to community need. The Policy and Guidelines will expedite support to the business and community sector in a timely and efficient manner in accordance with the Council's adopted budget and transparency principles.

OFFICER RECOMMENDATION:

That Council adopts the Grants Policy and the accompanying Grants Guidelines.

Attachments

1. Business Assistance Grant Guidelines 2023 [**14.1.1** - 8 pages]
2. Business Streetscape Grant Guidelines 2023 [**14.1.2** - 12 pages]
3. Quick Response Grant Guidelines 2023 v 2 [**14.1.3** - 7 pages]
4. Community Strengthening Grant Guidelines 2023 Template 1 [**14.1.4** - 12 pages]
5. Sponsorship and Contributions Grant Guidelines 2023 Template 1 [**14.1.5** - 7 pages]
6. WWSC Council Grants Policy 2023 with track changes [**14.1.6** - 5 pages]



Council Guideline Manual WEST WIMMERA SHIRE COUNCIL

COUNCIL GUIDELINE	
BUSINESS ASSISTANCE GRANT GUIDELINES	Guideline No:
	Adopted by Council:
	Next review date:
Senior Manager:	Director Infrastructure Development and Works
Responsible Officer:	Economic & Business Development Coordinator
Functional Area:	Infrastructure Development and Works
Introduction & Background	<p>Council is committed to attracting new and expanding existing business and industry to the municipality.</p> <p>Council is willing to provide assistance to businesses in certain circumstances to commence or expand business operations within the shire.</p> <p>To be eligible for assistance these businesses must demonstrate that they will be financially and environmentally sustainable and provide a long-term benefit to the West Wimmera community.</p> <p>West Wimmera Shire Council's Business Development Department is committed to:</p> <ul style="list-style-type: none"> • Encouraging job creation, business growth and investment • Attracting new business and capital to the region • Supporting local businesses that enhance local economic development. • Supporting local businesses to connect with government and • Facilitating investment in business infrastructure to support industry development.



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Purpose & Objectives	<p>These guidelines provide a framework to enable Council to provide targeted assistance to businesses to commence or expand operations within the shire. Assistance may include the offsetting of some costs of establishing or expanding businesses which may include permit and fee offsets, and/or may include professional business advice including marketing and business planning.</p> <p>The over-arching goals of the Business Assistance Grant is to provide a sustainable and growing shire economy through:</p> <ul style="list-style-type: none"> • Support for local businesses that will enable them to enhance their profitability and growth. • Competitiveness and provision of employment opportunities. Council recognises that the creation of employment for the region is one of the most critical challenges that we face. • The attraction of new businesses to the region.
Levels of Funding	<p>Tier 1 – Grant Writing support to the value of up to \$1000 +GST Grant writing support via GrantGuru.</p> <p>Tier 2 – New Business or expanding existing business – Up to \$10,000 +GST per business.</p>
Eligibility and Assessment Criteria	<p>Applicants for funding will be assessed against the following criteria and will be awarded until the financial allocation for the program has been exhausted.</p> <p>The following matters will be assessed in determining if a grant application is successful:</p> <ol style="list-style-type: none"> Must have a current/active Australian Business Number (ABN) Must be based within the municipality of West Wimmera Shire. Have 20 or less full-time equivalent employees. Has acquitted any previous Council grants and have no overdue debts with West Wimmera Shire. Must demonstrate a benefit to the Community.



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Terms and Conditions	<p>An applicant must comply with the following terms and conditions:</p> <p>General</p> <ul style="list-style-type: none"> a) The applicant is to submit a completed application form including all supporting information i.e. description of proposed works, a digital image/ photo of business area being upgraded before works commence. b) Eligible works that are successful and require a planning/ building permit will need to obtain a planning/ building permit prior to receiving funds for works. It is the responsibility of the applicant to investigate the requirement of any necessary permits through Councils planning/ building department. c) Costs associated with obtaining planning/building permits may be included in the total amount of the grant application, as a reimbursement, providing that the permits are approved and included in the application. d) Council will not provide funding for retrospective activities or equipment (activities that have occurred, or equipment purchased, prior to Council decision). e) The grant funding is to be used specifically for the project identified in the application. f) The applicant is to enter into an agreement with Council listing the agreed schedule of works and grant sum (+GST). g) Works should not commence until the applicant has signed the agreement with Council. h) You must actively participate in the grant writing process – Tier 1 i) Works approved for grant funding are to be completed within 12 months from the date the agreement with Council is signed or grant funds will be reallocated. j) Funding cannot be used as a deposit or part of a financing agreements.
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	<p>k) Any overrun in costs is not the responsibility of Council and extra funds will not be granted.</p> <p>l) Applicants are required to partake in media and communications opportunities that promote the council's business grants program.</p> <p>Works are to be carried out in accordance with the Victorian Occupational Health and Safety Act 2004 and Occupational Health and Safety Regulations 2017, the Victorian Electricity Safety Act 1998, the Victorian Electricity Safety (Installations) Regulations 2009 and other legislation as required.</p> <p>Disclaimer</p> <ul style="list-style-type: none"> • Council will not be responsible for under estimation of costs. • A successful applicant cannot be guaranteed funding to the level requested. • An applicant meeting the key selection criteria will not be guaranteed funding.
1.	<p>Tier 1 – Grant Writing Support</p> <p>To the value of up to \$1000 +GST. Grant writing support via GrantGuru for external funding e.g. State and Federal Government.</p> <p>Additional gap fees will be required to be paid by the business.</p>
	<p>Eligible Activities</p> <p>Activities that will be eligible for grant funding include:</p> <ul style="list-style-type: none"> • Grant writing services via Grant • Grant writing support and assistance via in kind Council support if available <p>If insufficient information is provided on the application form, Council may seek clarification on the proposed activities before deciding about the grant application.</p>



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	Ineligible Activities
	<p>The type of activities/items that are not eligible for the program are:</p> <ul style="list-style-type: none"> • Grant writing services provided outside of GrantGuru or Council • Associated costs for grant related activities that may be required as part of a grant application. An example might be a survey of an area that may need to be completed in order to submit a grant application. Council can provide support via grant writing, but not for grant requirements.
	Application and Assessment
	<p>Applications are made through SmartyGrants which can be accessed on Council's Grants web page: https://westwimmera.smartygrants.com.au/</p> <p>Detailed proposal, describing the nature of your business and funding stream intended on applying for.</p> <p>A report will be submitted to Councillors for a decision.</p>
	How to Claim Grant Funding
	<p>To claim the funds the applicant must provide Council with:</p> <ul style="list-style-type: none"> • A tax invoice from the service provider (including ABN) to Council for the agreed grant sum (+GST). • A completed acquittal must be submitted once a service provider has been engaged and grant application submitted.
2.	Tier 2 – New or Expanding Existing Business
	Up to \$10,000 +GST per business.
	Eligible Works
	<p>Works that will be eligible for grant funding include:</p> <ul style="list-style-type: none"> • Refurbishing or replacing equipment • Upgrading of facilities



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	<ul style="list-style-type: none"> • Repair of building • Extension to current facilities
	<p>Ineligible Works</p> <p>The type of works that are not eligible for the program are:</p> <ul style="list-style-type: none"> • Works that have not been approved via the applicable planning and development laws. • Works on a building that has received grant funds from this program in the past five years.
	<p>Application and Assessment</p> <p>Applications are made through SmartyGrants which can be accessed on Council's Grants web page: https://westwimmera.smartygrants.com.au/</p> <p>Application Requirements</p> <ul style="list-style-type: none"> • All directors/principals named. • Applicants are to provide a business plan, detailing the nature of the business including sufficient financial details to demonstrate the business is sustainable. • SWOT analysis • Owner consent (if applicable) <p>A report will be submitted to Councillors for a decision.</p>
	<p>How to Claim Grant Funding</p> <p>To claim the funds the applicant must provide Council with:</p> <ul style="list-style-type: none"> • A tax invoice (including ABN) to Council for 80% of the agreed grant sum (+ GST). • On completion of works an acquittal must be submitted. • A tax invoice (including ABN) for the remaining 20%. <p>Council will inspect the works and only pay the grant funding when the works have been satisfactorily completed in accordance with the agreed schedule of works listed in the agreement.</p>



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	OH&S Requirements
	<p>Works are to be carried out in accordance with the Victorian Occupational Health and Safety Act 2004, and Occupational Health and Safety Regulations 2017, the Victorian Electricity Safety Act 1998, the Victorian Electricity Safety (Installations) Regulations 2009 and other legislation as required.</p> <p>Specifically, the applicant, building owner and licensed contractor must:</p> <ul style="list-style-type: none"> • Accord with the Occupational Health and Safety Amendments Regulations 2014, Australian Standards or Codes where they exist. • Not obstruct and or hinder movement of persons on footpaths or roadways e.g. ladders and scaffolds etc. Traffic management for construction or maintenance work is to be in accordance with the requirements of the Road Management Act 2004 and related Regulations. • Should a temporary road or footpath closure be required, a Council application for a temporary road or footpath closure must be completed at least ten days before the work is started. • Not allow items such as drop sheets, ladders, trestles etc. to be a trip hazard for passers-by or motorists. • Ensure that if any work is required to be done near electrical wiring that this work is completed strictly in accordance with the Victorian Electricity Safety (Installations) Regulations 2009 the Code of Practice on Electrical Safety for Work on or Near High Voltage Electrical Apparatus (the Blue Book 2012) to prevent electrocution or serious injury. • Ensure the structural integrity of any awnings or structures if work is to be conducted on or from those places. • Ensure the structural integrity of any ornamental work e.g. stone/brick rosettes, figurines etc. prior to beautification work commencing. • Ensure when working above ground to inspect roof / awnings or access points for brittle sheets e.g. fibreglass etc. to prevent persons falling through. • Ensure that any asbestos content of a facade or structure is appropriately handled and managed – reference to WorkSafe Victoria for information on safe handling of asbestos products is essential. • Ensure that no asbestos cement surfaces are water blasted to prepare the



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	<p>surfaces for painting.</p> <ul style="list-style-type: none">• Ensure that proper access and egress is provided to work areas above ground e.g. ladders should extend 1 metre above landing point; ladders used at a ratio of 4:1 etc.• Do not work within 2 metres of an unprotected edge – if this is not possible then temporary handrails, fences to be erected to prevent falls or if not practicable, harnesses must be used.• Arrange to have information sheets available (Material Safety Data Sheets) on chemicals used in beautification works e.g. Paint stripper and paints in general. MSDS's are available from the manufacturer and are generally available on the internet on the manufacturer's website.		
Review	<p>This program is to be reviewed annually in accordance with the review of Council's budget. The review of the program is to consider:</p> <ul style="list-style-type: none">• The success of the program in achieving the program objectives• The rate of take-up of the program.• Feedback from post-grant survey results from building owners• Whether the grant program information or process need to be revised• Whether eligible works/activities need to change• Whether the amount of grant funding should be changed		
Guideline Adopted:			
Guideline Reviewed:			



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COUNCIL GUIDELINE		
BUSINESS STREETScape GRANT GUIDELINES	Guideline No:	
	Adopted by Council:	
	Next review date:	
Senior Manager:	Director Infrastructure Development and Works	
Responsible Officer:	Economic & Business Development Coordinator	
Functional Area:	Infrastructure Development and Works	
Introduction & Background	The West Wimmera Business Streetscape Grant program is aimed at encouraging building owners and business operators to upgrade the appearance of building facades and to improve accessibility to premises.	
Purpose & Objectives	<p>The purpose of the program is to beautify the region’s local shops by improving the streetscape and ensuring universal access. Through providing financial assistance the program aims to develop a stronger partnership between Council, building owners and business operators in making overall improvements to the building façade.</p> <p>To provide financial assistance to encourage building owners and business operators to undertake works to upgrade the facades of buildings and access to those buildings within the Shire.</p> <p>The program will benefit the broader community by:</p> <ul style="list-style-type: none">• Making places more attractive, comfortable and confident for doing business and spending time in the main street precincts.• Increasing activity in the local shopping precincts which will generate more business and attract new business to the area.• Providing universal access for everyone, not just people with a disability. Good access will benefit the aged and people with prams and young children.	



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Levels of Funding	<p>Tier 1 - Non-Active Shopfront Rejuvenation - Up to the maximum amount of \$500 – reimbursement upon successful application only.</p> <p>Tier 2 - Self completed works up to the maximum amount of \$3000 +GST.</p> <p>Tier 3 - Work undertaken by a contractor up to maximum amount of \$5000 +GST.</p> <p>Other grant submissions: Community groups, who are not eligible to apply for Tiers 1 – 3 can apply for the Streetscape Community Group Grant of up to a maximum of \$1500.</p> <p>Applicants for key landmark buildings or where the proposal includes the upgrading of Council owned infrastructure e.g. footpaths, street furniture, may be able to negotiate a larger Council contribution considering the significance of the building to the streetscape. Key landmark buildings are often located on corners or have a wider than average frontage increasing the costs of works.</p>
Eligibility and Assessment Criteria	<p>Applicants for funding will be assessed against the following criteria and will be awarded until the financial allocation for the program has been exhausted.</p> <p>The following matters will be assessed in determining if a grant application is successful:</p> <ul style="list-style-type: none"> a) The application is for facade or access improvement works to a retail/ commercial building. b) The applicant must be a small business owner. A small business is defined as a business employing less than 20 people. The business must be operating for Tier 2-3. c) The proposed works are consistent with or compliment any approved colour palette, facade design and/or streetscape for the area.

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	<p>d) The proposed works are in keeping with heritage character. (If applicable).</p> <p>e) The proposed access works are in accordance and compliant with relevant disability legislation and regulations.</p> <p>f) The application is for eligible works and the applicant has submitted all relevant information with the completed application form.</p> <p>Council reserves the right to approve or refuse a grant application in terms of the colour, material or method of execution as it considers appropriate.</p> <p>Prior to commencing the works, applicants must enter into an agreement with Council detailing the agreed schedule of works and grant sum. The applicant must have read and agrees to comply with the terms and conditions applying to the program.</p> <p>It is the responsibility of the applicant to investigate the requirement of any necessary planning/building permits through Councils planning/ building department. Costs associated with obtaining building/planning permits may not be included in the total amount of the grant application.</p> <p>Eligible works that are successful and require a planning/ building permit will need to submit a planning/building application for approval prior to receiving funds for works.</p>
Terms and Conditions	<p>An applicant must comply with the following terms and conditions:</p> <p>General</p> <p>a) The applicant is to submit a completed application via Council's SmartyGrants program and must include all supporting information i.e. description of proposed works, a digital image/ photo of shopfront, area being upgraded before works commence, colour pallet, and owner's consent (if applicable).</p> <p>b) Only one grant application is lodged per property, however a number</p>



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	<p>of business owners may jointly make a combined application.</p> <ul style="list-style-type: none">c) The applicant must obtain necessary planning/building approvals before commencement of the works.d) Two quotes from licensed contractors are to be submitted with the application if work is not being completed by owner/business.e) The applicant is to enter into an agreement with Council listing the agreed schedule of works and grant sum (+GST).f) Works should not commence until the applicant has signed the agreement with Council.g) Applicants will be required to remove any illegal signage as part of the facade improvements.h) Works approved for grant funding are to be completed within 12 months from the date the agreement with Council is signed or grant funds will be reallocated.i) Any overrun in costs is not the responsibility of Council and extra funds will not be granted.j) Applicants are required to partake in media and communications opportunities that promote the council's business grants program. <p>Works are to be carried out in accordance with the Victorian Occupational Health and Safety Act 2004 and Occupational Health and Safety Regulations 2017, the Victorian Electricity Safety Act 1998, the Victorian Electricity Safety (Installations) Regulations 2009 and other legislation as required.</p> <p>Disclaimer</p> <ul style="list-style-type: none">• Council will not be responsible for under estimation of costs.• A successful applicant cannot be guaranteed funding to the level requested.• An applicant meeting the key selection criteria will not be guaranteed funding.
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1.	Non-Active Shopfront Rejuvenation
	Up to the maximum amount of \$500 for non-active shopfronts.
	Eligible Activities
	<p>Works that will be eligible for grant funding include:</p> <ul style="list-style-type: none"> • Painting • Cleaning of brickwork • Removal and replacement of cladding and awnings
	Ineligible Activities
	<p>The type of works that are not eligible for the program are:</p> <ul style="list-style-type: none"> • Works required as part of a development approval conditions of consent. • Works on a building that has received grant funds from this program (or other council grant program) in the past three years. • If insufficient information is provided on the application form, Council may seek clarification on the proposed works before making a decision about the grant application.
	Application and Assessment
	<p>Applications are made through SmartyGrants which can be accessed on Council's Grants web page: https://westwimmera.smartygrants.com.au/</p> <p>You will require the following for an application.</p> <ul style="list-style-type: none"> • Detailed costings for paint and equipment including colour pallet and description of proposed works. • Photos of current condition. • Owner consent (if applicable) <p>If insufficient information is provided on the application form, Council may seek clarification on the proposed works before making a decision about the grant application.</p> <p>A report will be submitted to Councillors for a decision.</p>



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	<p>How to Claim Grant Funding</p> <p>To claim the funds the applicant must provide Council with:</p> <ul style="list-style-type: none"> • On completion of works an acquittal must be submitted, including receipts and photos. • A tax invoice to Council for the agreed grant sum. <p>Council will inspect the works and only pay the grant funding when the works have been satisfactorily completed in accordance with the agreed schedule of works listed in the agreement.</p>
2.	<p>Tier 2 – Self Completed Works</p> <p>Up to the maximum amount of \$3000 +GST</p>
	<p>Eligible Works</p> <p>Works that will be eligible for grant funding include:</p> <ul style="list-style-type: none"> • Painting • Upgrading of signage structures (excluding sign writing etc) • Cleaning of brickwork • Removal and replacement of cladding and awnings • Repair or replacement of wall tiles, facade structures • Other facade improvement works subject to Council's approval. • Access works to reduce entrance barriers. • Removal of steps to install an access ramp. • Installation of handrails to existing ramp entry or additional stepped entry • Minor works to make other parts of the existing premises more accessible will be considered.



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	<p>Ineligible Works</p> <p>The type of works that are not eligible for the program are:</p> <ul style="list-style-type: none"> • Works required as part of a development approval conditions of consent. • Works on a building that has received grant funds from this program (or other council grant program) in the past three years. • Home based businesses.
	<p>Application and Assessment</p> <p>Applications are made through SmartyGrants which can be accessed on Council's Grants web page: https://westwimmera.smartygrants.com.au/</p> <p>You will require the following for an application.</p> <ul style="list-style-type: none"> • Detailed costings for paint and equipment including colour pallet and description of proposed works. • Photos of current condition. • Owner consent (if applicable) <p>If insufficient information is provided on the application form, Council may seek clarification on the proposed works before making a decision about the grant application.</p>
	<p>How to Claim Grant Funding</p> <p>To claim the funds the applicant must provide Council with:</p> <ul style="list-style-type: none"> • A tax invoice (including ABN) to Council for 80% of the agreed grant sum (+ GST). • On completion of works an acquittal must be submitted. • A tax invoice (including ABN) for the remaining 20%. <p>Council will inspect the works and only pay the grant funding when the works have been satisfactorily completed in accordance with the agreed schedule of works listed in the agreement.</p>



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3.	Tier 3– Work Undertaken by a Contractor
	Up to the maximum amount of \$5000 +GST
	Eligible Works
	<p>Works that will be eligible for grant funding include:</p> <ul style="list-style-type: none"> • Painting • Upgrading of signage structures (excluding sign writing etc) • Cleaning of brickwork • Removal and replacement of cladding and awnings • Repair or replacement of wall tiles, facade structures • Other facade improvement works subject to Council's approval. • Access works to reduce entrance barriers. • Removal of steps to install an access ramp. • Installation of handrails to existing ramp entry or additional stepped entry • Minor works to make other parts of the existing premises more accessible will be considered.
	Ineligible Works
	<p>The type of works that are not eligible for the program are:</p> <ul style="list-style-type: none"> • Works required as part of a development approval conditions of consent. • Works on a building that has received grant funds from this program (or other council grant program) in the past three years. • Home based businesses.
	Application and Assessment
	<p>Applications are made through SmartyGrants which can be accessed on Council's Grants web page: https://westwimmera.smartygrants.com.au/</p> <p>You will require the following for an application.</p>

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	<ul style="list-style-type: none"> Detailed costings for paint and equipment including colour pallet and description of proposed works. Photos of current condition. Owner consent (if applicable) <p>If insufficient information is provided on the application form, Council may seek clarification on the proposed works before making a decision about the grant application.</p>
	<p>How to Claim Grant Funding</p> <p>To claim the funds the applicant must provide Council with:</p> <ul style="list-style-type: none"> On completion of works an acquittal must be submitted including photos. A tax invoice from the contractor (including ABN) for the agreed grant sum (+GST). <p>Council will inspect the works and only pay the grant funding when the works have been satisfactorily completed in accordance with the agreed schedule of works listed in the agreement.</p>
4.	<p>Community Group Applications</p> <p>Community groups, who are not eligible to apply for Tiers 1 – 3 can apply for the Streetscape Scheme Community Group Grant of up to a maximum of \$1500.</p>
	<p>Eligible Works</p> <p>Works that will be eligible for grant funding include:</p> <ul style="list-style-type: none"> Painting Upgrading of signage structures (excluding sign writing etc) Cleaning of brickwork Removal and replacement of cladding and awnings Repair or replacement of wall tiles, facade structures Other facade improvement works subject to Council's approval. Access works to reduce entrance barriers.



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	<ul style="list-style-type: none"> • Removal of steps to install an access ramp. • Installation of handrails to existing ramp entry or additional stepped entry • Minor works to make other parts of the existing premises more accessible will be considered.
	<p>Ineligible Works</p> <p>The type of works that are not eligible for the program are:</p> <ul style="list-style-type: none"> • Works required as part of a development approval conditions of consent. • Works on a building that has received grant funds from this program (or other council grant program) in the past three years.
	<p>Application and Assessment</p> <p>Applications are made through SmartyGrants which can be accessed on Council's Grants web page: https://westwimmera.smartygrants.com.au/</p> <p>You will require the following for an application.</p> <ul style="list-style-type: none"> • Detailed costings for paint and equipment including colour pallet and description of proposed works. • Photos of current condition. • Owner consent (if applicable) <p>If insufficient information is provided on the application form, Council may seek clarification on the proposed works before making a decision about the grant application.</p>
	<p>How to Claim Grant Funding</p> <p>To claim the funds the applicant must provide Council with:</p> <ul style="list-style-type: none"> • On completion of works an acquittal must be submitted including photos. • A tax invoice to Council for the agreed grant sum. <p>Council will inspect the works and only pay the grant funding when the works have been satisfactorily completed in accordance with the agreed schedule of works listed in the agreement.</p>



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OH&S Requirements
<p>Works are to be carried out in accordance with the Victorian Occupational Health and Safety Act 2004, and Occupational Health and Safety Regulations 2017, the Victorian Electricity Safety Act 1998, the Victorian Electricity Safety (Installations) Regulations 2009 and other legislation as required.</p> <p>Specifically, the applicant, building owner and licensed contractor must:</p> <ul style="list-style-type: none"> • Accord with the Occupational Health and Safety Amendments Regulations 2014, Australian Standards or Codes where they exist. • Not obstruct and or hinder movement of persons on footpaths or roadways e.g. ladders and scaffolds etc. Traffic management for construction or maintenance work is to be in accordance with the requirements of the Road Management Act 2004 and related Regulations. • Should a temporary road or footpath closure be required, a Council application for a temporary road or footpath closure must be completed at least ten days before the work is started. • Not allow items such as drop sheets, ladders, trestles etc. to be a trip hazard for passers-by or motorists. • Ensure that if any work is required to be done near electrical wiring that this work is completed strictly in accordance with the Victorian Electricity Safety (Installations) Regulations 2009 the Code of Practice on Electrical Safety for Work on or Near High Voltage Electrical Apparatus (the Blue Book 2012) to prevent electrocution or serious injury. • Ensure the structural integrity of any awnings or structures if work is to be conducted on or from those places. • Ensure the structural integrity of any ornamental work e.g. stone/brick rosettes, figurines etc. prior to beautification work commencing. • Ensure when working above ground to inspect roof / awnings or access points for brittle sheets e.g. fibreglass etc. to prevent persons falling through. • Ensure that any asbestos content of a facade or structure is appropriately handled and managed – reference to WorkSafe Victoria for information on safe handling of asbestos products is essential.

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	<ul style="list-style-type: none">• Ensure that no asbestos cement surfaces are water blasted to prepare the surfaces for painting.• Ensure that proper access and egress is provided to work areas above ground e.g. ladders should extend 1 metre above landing point; ladders used at a ratio of 4:1 etc.• Do not work within 2 metres of an unprotected edge – if this is not possible then temporary handrails, fences to be erected to prevent falls or if not practicable, harnesses must be used.• Arrange to have information sheets available (Material Safety Data Sheets) on chemicals used in beautification works e.g. Paint stripper and paints in general. MSDS's are available from the manufacturer and are generally available on the internet on the manufacturer's website.		
Review	<p>This program is to be reviewed annually in accordance with the review of Council's budget. The review of the program is to consider:</p> <ul style="list-style-type: none">• The success of the program in achieving the program objectives• The rate of take-up of the program.• Feedback from post-grant survey results from building owners• Whether the grant program information or process need to be revised• Whether eligible works/activities need to change• Whether the amount of grant funding should be changed		
Guideline Adopted:			
Guideline Reviewed:			



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COUNCIL GUIDELINE	
COMMUNITY QUICK RESPONSE GRANTS	Guideline No:
	Adopted by Council:
	Next review date:
Senior Manager:	Director Corporate and Community Services
Responsible Officer:	Manager Community Development and Tourism
Functional Area:	Corporate and Community Services
Introduction & Background	<p>Our Quick Response Grants Scheme encourages community outcomes in line with West Wimmera Shire 2041 community vision, and the Council Plan 2021-25. Community Quick Response Grant may be via application for funds and/or Council in kind support.</p> <p>It aims to build community capacity by encouraging:</p> <ul style="list-style-type: none"> • Participation and inclusion in events, projects, activities, and programs. • Growing community partnerships • Providing learning opportunities • Supporting social connectedness, and • Activating our community spaces such as parks, halls, and other facilities.
Purpose & Objectives	<p>The Quick Response Grants have been established to assist eligible organisations who require small amounts of funding throughout the year to support:</p> <ul style="list-style-type: none"> • Unforeseen expenses or urgent issues • To take advantage of an unexpected opportunity

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	<ul style="list-style-type: none"> To support the establishment of a new group / program As a result of a disaster or emergency event
Overview	<ul style="list-style-type: none"> A maximum grant limit of \$1000 will apply to any community group. Maximum of one successful application every four funding rounds per organisation. The grants are open all year round and available through https://westwimmera.smartygrants.com.au/ Grants in this category will be assessed by a panel of Staff Officers and approved by the Chief Executive Officer with minuted consultation with all Councillors. Grants need to be acquitted within three months.
1.	<p>Criteria – General</p> <p>After reading the funding guidelines, please contact the Councils Community Development Project Officer to seek feedback on your proposal. This will ensure you are eligible to apply, and your application meets the guidelines.</p> <ul style="list-style-type: none"> Grants are available to not-for-profit community groups operating in the West Wimmera Shire Council. Department of Energy, Environment and Climate Action, Department of Health and Human Services, Department of Education and other Government organisations are not eligible to be an applicant. Applicants must be incorporated bodies or have an established legal entity. If your organisation is not incorporated or doesn't have an ABN, you will be required to provide the details of an auspice organisation. The auspice organisation will receive the grant funding on your behalf and will ultimately be responsible for the Acquittal Report. If your organisation is incorporated but does not have an ABN, a 'Statement by a Supplier – Reason for Not Quoting an ABN' form must be included with your funding agreement. This form is available from the Australian Tax Office website. Activities must be administered in the West Wimmera Shire Council area. Applicants who have previously been successful in receiving Council grant funding MUST have completed all Acquittal Reports and complied with Council

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	<p>requirements prior to being considered for this grant.</p> <ul style="list-style-type: none">• All applicants must provide a copy of a current Public Liability Insurance certificate of currency with activity/event details, where applicable. (For an event the P/L certificate of currency must include the event name, date, and location).• All activities are encouraged to align with Key Council Plans:<ul style="list-style-type: none">○ West Wimmera Shire Council Council's Plan 2021-25○ West Wimmera Shire 2041 Community Vision• All activities must ensure inclusivity, social connectedness and accessibility has been considered.• Multiple applications for the same activity will not be accepted.• Applications must be completed in full and have sufficient evidence to make a reasonable assessment of the application. Council reserves the right to further investigate aspects of the application. Applications and Acquittal Reports must be on the correct form.• Where possible, the goods and services used in the funded activity (suppliers and contractors) be sourced from within the West Wimmera Shire Council.• Activities that are primarily for the purpose of fundraising will be required to demonstrate the Community benefits in addition to the fundraising outcome.• For all expenditure items of \$1,000 or more you must include a quote or evidence of the item cost.• Applications deemed to be for commercial benefit will not be considered. This will be determined on a case-by-case basis. This will include applications where the main beneficiary is a business.• Funding must not be regarded as a recurrent commitment from Council. There is no guarantee a recurring activity will be funded in the future. Funding is limited.• The applicant is responsible for all ongoing maintenance and running costs of any equipment purchases resulting from a successful application.• Council may reduce the amount allocated to you if the funding applied for is considered unsubstantiated and/or excessive.• Council may reduce the amount allocated to you if the funding allocation is oversubscribed; additionally, if Council is aware of an alternative option
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	<p>available to you, it will recommend it as an alternative to funding.</p> <ul style="list-style-type: none">• Successful applicants will be required to complete a Funding Agreement, which includes the conditions of grant funding. You may also be asked to comply with additional conditions.• You are required to acknowledge West Wimmera Shire Council Council's support of your activity as specified in the Funding Agreement• Funding must be returned if the activity is not completed in line with the Funding Agreement. Any excess funding must be returned.• Quick response grants to be read in conjunction with the West Wimmera Shire Councils Grants Policy.
2.	<p>Council's In-kind Support</p> <p>West Wimmera Shire Council's in-kind contribution is a contribution of a good or a service other than money. Some examples include:</p> <ul style="list-style-type: none">• Preparation of an area out of normal works routine (Mowing, slashing, etc.)• Allocation, preparation, delivery, and removal of extra bins• Allocation, delivery, and removal of traffic management signage <p>As with monetary support in kind contribution is a contribution by council and as such requires acknowledgement to the support and sponsorship of the West Wimmera Shire Council</p>
3.	<p>Unincorporated Organisations</p> <p>An unincorporated organisation must have their application auspiced by an eligible incorporated organisation. Information on the auspicing body is required in the application including their ABN details, copy of current public liability insurance and a completed Auspice Agreement attached to the application.</p> <p>If the applicant is successful, the auspicing body is legally responsible for the funds and grant payment is made into their bank account.</p> <p>Further information on auspicing can be found at Not for Profit Law – Auspicing.</p>



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4.	<p>Supporting Documents</p> <p>(CEO may waive some or all of the required documents during an emergency or if the situation is urgent)</p> <p>The following documents are required with your application.</p> <ul style="list-style-type: none">• Current bank statement showing date and bank balance.• Quotes are required for each item you are requesting funding for and should clearly show the service or company where the item is being purchased, what is being purchased and how much each item is. A screenshot is sufficient so long as all the above are included. Preference should be given to local suppliers.• Current certificate of public liability insurance to cover the project.• If your group is being auspiced you will need to complete an Auspice Agreement and attach a copy of the Auspice organisation's current certificate of public liability insurance• An Australian Tax Office Statement by Supplier if you do not have an ABN.• Permission from the asset owner to undertake the project (if applicable)
5.	<p>Application and Assessment</p> <p>Applications are made through SmartyGrants which can be accessed on Council's Grants web page www.westwimmera.vic.gov.au/grants.</p> <p>The following criteria will be used to assess applications:</p> <ul style="list-style-type: none">• how well the request meets one or more of the purposes of the grant.• how well the group has provided evidence of justification to support the request.• the level of benefit to West Wimmera Shire residents. <p>The Chief Executive Officer has the authorisation to approve the application upon consultation with councillors.</p> <p>Council reserves the right to approve partial funding or refuse funding.</p> <p>Applicants will be advised of the outcome of their application as soon as practicably possible once the assessment and approval conditions have been met</p>



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6.	<p>Grant Acquittal</p> <p>The project should be completed within three months of receiving funds.</p> <p>After you have completed your project, you must tell us how you spent the money by acquitting the grant in SmartyGrants. You will need to provide copies of receipts, invoices and packing slips are not accepted. We also ask that you provide photos and any media promotion.</p> <p>Please note that you are required to acknowledge Council's funding contribution within any media associated with the project.</p> <p>If your project is delayed, please contact Council's Community Development Team as soon as possible to discuss your specific circumstances.</p> <p>Failure to complete an acquittal report for any successful grant funding received through Council's Community Grants Program may result in applicants being ineligible for any further funding through the Community Grants Program.</p>
7.	<p>Contact</p> <p>For assistance in completing the online application please contact the Volunteer and Events Officer via phone 13 99 72 or email grants@westwimmera.vic.gov.au</p> <p>Disclaimer: these Guidelines are updated on a regular basis. Please ensure your application aligns with the latest Guidelines which are available on Council's Community Grants webpage.</p>

Guideline Adopted:			
Guideline Reviewed:			



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COUNCIL GUIDELINE		
COMMUNITY STRENGTHENING GRANTS	Guideline No:	
	Adopted by Council:	
	Next review date:	
Senior Manager:	Director Corporate and Community Services	
Responsible Officer:	Manager Community Development and Tourism	
Functional Area:	Corporate and Community Services	
Introduction & Background	<p>Council's Community Strengthening Grants Program has been a valuable source of financial support for local events and projects in West Wimmera Shire communities for many years. There are two rounds of grants each year with applications opening on the</p> <ul style="list-style-type: none">• 1st Monday in April and closing last Friday in April• 1st Monday in September and closing last Friday in September <p>Grants will be assessed with recommendations going to the 1st Council meeting after the closing date.</p>	
Purpose	<p>The Community Strengthening Grants program is designed to promote and increase participation of local residents in community initiatives, to build and strengthen local networks and partnerships and to support community leadership, learning and skill development.</p> <ul style="list-style-type: none">• Council will provide financial assistance to community groups and organisations to support the provision of programs, activities and services which respond to identified community needs, contribute to the building of a stronger community, develop innovative approaches	



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	and local social issues and are in accordance with Council's strategic objectives.
Overview	<p>Grants of up to \$5000 are available in three streams:</p> <ul style="list-style-type: none"> • Community Projects Funding - maximum of \$5,000 on a \$2 for \$1 basis. Maximum of one successful application every four funding rounds per organisation. • Community Events Funding - maximum of \$1,200. Maximum of one successful application every four funding rounds per organisation. • Facilities Upgrades and Equipment Purchases - maximum of \$5,000 on a \$2 for \$1 basis. Maximum of one successful application every four funding rounds per organisation. <p>Grant of up to \$10,000:</p> <ul style="list-style-type: none"> • Major Community Project, Facilities upgrade and Equipment Grant – Maximum of \$10,000 on a \$1 to \$1 basis with a limit of 10% of the total applied grant being in kind. Maximum of one successful application every six funding rounds per organisation.
Policy statement	<p>West Wimmera Shire Council provides grants to community groups for the development of positive and beneficial projects which deliver on the Community Vision 2040 and the Council's priority actions.</p> <ul style="list-style-type: none"> • West Wimmera Shire Community Vision is a statement that capture the hopes and aspirations of the West Wimmera community and ensures we are planning for a bright future for all. • Council Plan 2021-2025 incorporates Council's strategic commitment to deliver on Council's Vision, which includes the following themes of Liveable & Healthy Community, Diverse and Prosperous Economy, Sustainable Environment, Good Governance & Our Commitment. <p>Please note: Council recommends that in the preparation of applications and delivery of grant projects individuals/groups are aware of and adhere to the most recent Covid-19 advice which can be found at https://www.australia.gov.au/.</p>



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Key Dates	<p>All community Strengthening Grants open on the</p> <ul style="list-style-type: none"> • 1st Monday in April and closing last Friday in April • 1st Monday in September and closing last Friday in September
Process Flowchart	<ul style="list-style-type: none"> • Read the Grant Standard Guidelines to check your idea meets the criteria. • Talk to Volunteer and Events Officer via phone 13 99 72 or email grants@westwimmera.vic.gov.au. • Register your group or organisation on SmartyGrants. • Complete the online grant application form by the due date outlined on our website. • Applications assessed by grants panel and then approved by Council. • Successful applicants notified, funding agreement issued and signed by both parties and funds paid. • At the conclusion of the grant period (12 months from the approval of the grant) the grant must be acquitted (See acquittal process in this guideline)
Standard Guidelines	<p>These standard guidelines include important information and requirements that are common to all the three streams when preparing an application.</p>
1.	<p>GRANT STREAMS</p> <p>All funding streams should relate back to the objectives of the Council Plan 2021-2025</p> <p>Community Projects Funding</p> <p>Maximum of \$5,000 on a \$2 for \$1 basis. Maximum of one successful application every four funding rounds per organisation.</p> <p>Examples may include:</p> <ul style="list-style-type: none"> • These are projects that are designed to provide benefits to the community in a wide range of areas, for example: • Community and cultural development • Sport and recreation • Health and wellbeing



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Requirement: Quotations must be submitted with all applications in this category.

Community Events Funding

Maximum of \$1,200. Maximum of one successful application every four funding rounds per organisation.

These are events that contribute to the community in the following ways:

- Strengthening a sense of community, belonging and civic pride.
- Encourage residents to participate in social, cultural, sporting, and recreational activities.
- Foster social and cultural diversity.
- Promote local business and trading groups.
- Enhance the West Wimmera Shire Council as a desirable destination.

Requirement: Applications in this category must include evidence of public liability insurance

Facilities Upgrades and Equipment

Maximum of \$5,000 on a \$2 for \$1 basis. Maximum of one successful application every four funding rounds per organisation.

This category covers the funding of works or equipment related to community capacity building projects which support an ongoing community activity, program or project that can demonstrate one or more of the following objectives:

- Increases community participation in projects and activities.
- Assists community groups to operate more effectively.
- Encourages and supports the involvement of volunteers.
- Improves occupational health and safety.
- Contributes to environmental sustainability.

Priority will be given to projects that can demonstrate a high level of community need, or where the service or program is in danger of being discontinued without the required facility upgrade or equipment purchase.



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	<p>Major Community Project, Facilities upgrade and Equipment Grant</p> <p>Maximum of \$10,000 on a \$1 to \$1 basis with a limit of 10% of the total applied grant being in kind. Maximum of one successful application every six funding rounds per organisation.</p> <p>This category covers the funding of Projects, Facility upgrades and Equipment related to community capacity building projects which support an ongoing community activity, program or project that can demonstrate one or more of the following objectives:</p> <ul style="list-style-type: none"> • Increases community participation in projects and activities. • Assists community groups to operate more effectively. • Encourages and supports the involvement of volunteers. • Improves occupational health and safety. • Contributes to environmental sustainability. <p>Priority will be given to projects that can demonstrate a high level of community need and have a plan for future growth.</p> <p>Requirement: a minimum of two quotations for each element (if applicable) must be submitted with all applications in this category.</p>
2.	<p>ELIGIBILITY CRITERIA</p> <p>Applicant must be a community group or organisation.</p> <p>Community groups and organisations must be:</p> <ul style="list-style-type: none"> • not for profit; and • incorporated or have an auspice arrangement. <p>Groups may submit multiple applications per round, but they must be for different projects and cannot be the same application over multiple streams.</p> <p>Government organisations and agencies are not eligible to apply. However, kindergartens, Committees of Management, other community committees and local branches of larger organisations (e.g., CFA and SES) are eligible where significant community benefit can be demonstrated.</p> <p>The project must be carried out within the Shire and benefit West Wimmera Shire communities and residents.</p>



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	<p>Previous funded applicant must have no outstanding debts or overdue acquittals with West Wimmera Shire Council.</p> <p>Applicant must have a level of public liability insurance appropriate to cover the project. This is where if increased insurance is required, it could form part of the application.</p> <p>Applicant must provide quotes or evidence to support the budget for any individual expenditure over \$250.</p> <p>The following rates should be used as a guide when calculating in-kind budget expenses for applicable grants:</p> <ul style="list-style-type: none"> • Community group/individual labour: \$30 per hour. • Professional labour provided by a qualified tradesperson: \$45 per hour. <p>The number of times an applicant has previously received funding through the Community Strengthening Grants program will be considered during the assessment process. Council may choose not to fund a project by applicants who have previously received funding should the program be oversubscribed.</p> <p>For facilities' improvements, the applicant must either be the owner of the land/building/facility or have the written consent from the owner. Consent evidence must be in writing and attached to the online application.</p> <p>If the community facility is on Council-owned land/property, the applicant must discuss the project with a West Wimmera Shire Council Community Development Project Officer prior to submitting the application.</p>
3.	<p>FUNDING CRITERIA</p> <p>All applications will be assessed against the following criteria (weighted out of 100):</p> <ul style="list-style-type: none"> • Clear objectives that align with the grant focus areas (40%) <ul style="list-style-type: none"> ○ The objectives of the project are clearly identified. ○ The project and intended target group aligns with the grant focus areas. • Direct benefit to the West Wimmera Shire community (20%) <ul style="list-style-type: none"> ○ The project delivers clear and measurable outcomes and benefits to the target group. ○ There is potential for the project to have a lasting community impact.



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	<ul style="list-style-type: none"> ○ Ability to foster greater understanding of community issues or provide for preventative measures. • Capacity of the organisation to manage the funding and deliver the service or program (40%) <ul style="list-style-type: none"> ○ There is evidence of project planning for the full funding period (including achievable timelines). ○ The application contains a detailed, clear, and accurate budget. ○ Clearly demonstrated ability to manage and implement the project.
4.	<p>FUNDING CONDITIONS</p> <p>All applications must be submitted online at https://westwimmera.smartygrants.com.au/</p> <ul style="list-style-type: none"> • All applicants must acknowledge that they have read and understood the legislative requirements for volunteer health and safety. A Guide to Work Health and Safety for Volunteers • All applicants must submit a completed application via SmartyGrants to Council before the closing date to be considered for funding. • If successful, funding will be paid directly into the bank account specified in the tax invoice. • Grant approval is subject to the applicant demonstrating that they have obtained the necessary permits or approvals to complete the project. • All projects must be completed within 12 months of receiving funding notification unless Council gives prior written permission for an extension. Extensions may be granted up to a maximum of 6 months. • Applicants are required to submit a final project report via SmartyGrants at the completion of the project. • Every approved project is subject to the acquittal process to validate the expenditure and confirm that the funding has been spent on the project in accordance with the funding agreement. • Council accepts no responsibility for budget over-runs. • Council accepts no responsibility for the ongoing maintenance of projects unless otherwise agreed to in writing.



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5.	<p>COUNCIL'S IN-KIND SUPPORT</p> <p>West Wimmera Shire Council's in-kind contribution is a contribution of a good or a service other than money. Some examples include:</p> <ul style="list-style-type: none"> • Preparation of an area out of normal works routine (Mowing, slashing, etc.) • Allocation, preparation, delivery, and removal of extra bins • Allocation, delivery, and removal of traffic management signage <p>As with monetary support, in-kind contribution is a contribution by council and as such requires acknowledgement to the support and sponsorship of the West Wimmera Shire Council</p>
	<p>COUNCIL WILL NOT FUND</p>
	<ul style="list-style-type: none"> • Applicant whose project has received West Wimmera Shire Council funding for the same activity through another grant stream of funding (you cannot be funded twice). • Department of Energy, Environment and Climate Action, Department of Health and Human Services, Department of Education and other Government organisations . • Individuals cannot be the applicant. • Projects that only provide direct financial benefit to a commercial business or individual with no significant community outcome. • Projects that cannot demonstrate significant benefit/outcomes to West Wimmera Shire communities. • Works that have already commenced prior to the grant application deadline. • The purchase of land. • Projects for which the funding is the responsibility of other levels of government. • An organisation's recurring operational costs such as salaries, rent and utilities or insurance. • Duplicates of existing services/activities unless it can be demonstrated that it meets an unmet community need. • Funding for individuals to attend conferences, training, or workshops. • Funding for prizes, donations, awards, scholarships, or gifts. • Activities that are inconsistent with Council Plan 2021-2025.



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	<ul style="list-style-type: none"> • Payments or wages for contracted staff, players, coaches and/or administrators. • Deficit funding (to repay cash shortfalls). • Applicants who have received funding in the past four (six for major grant) Community Strengthening Grant rounds.
6.	<p>ASSESSMENT CRITERIA</p> <p>Applications will be assessed according to the following criteria:</p> <ul style="list-style-type: none"> • Projects will be assessed via a competitive process whereby a panel of 3 Council officers relevant to the specific stream of funding make an initial assessment against the funding criteria. • Final endorsement will be given by the Council. • All applicants will be informed on the outcome of their application in writing. • Applicants may appeal decisions made in writing, to the CEO. <p>Important:</p> <ul style="list-style-type: none"> • Meeting all the criteria does not guarantee that an application will be successful. • Budget constraints will ultimately limit the projects that can be funded in any given financial year. <p>What Happens After Assessment Process?</p> <ul style="list-style-type: none"> • Unsuccessful applicants will be advised by post or email as soon as possible after the grants have been approved by Council • Successful applicants will be contacted and will be required to enter into a contractual agreement with West Wimmera Shire Council in accordance with the Funding Conditions.
7.	<p>ACQUITTAL REPORT GUIDELINES</p> <p>Having completed your funded project, West Wimmera Shire Council needs to gather information from you.</p> <p>The information you provide in your Acquittal Report will:</p>



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	<ul style="list-style-type: none"> • Account for your use of public funds, demonstrating that the funding was used for the purpose for which it was provided and in accordance with your Funding Agreement • Assist West Wimmera Shire Council in assessing how successful funding programs are in meeting the needs of the West Wimmera Shire community. • Provide you with the opportunity to make suggestions regarding improvements to the funding program. <p>Your Acquittal Report due date and full acquittal requirements are specified in your Letter of Offer / Funding Agreement.</p> <p>Acquittals are submitted online using SmartyGrants. All funding recipients will be sent information about the acquittal process (including a link to your Acquittal Report form) and timeline directly via email.</p> <p>If you do not satisfactorily acquit your grant, you will not be eligible to apply for further West Wimmera Shire Community Strengthening Grants funding and the applicant must return any funds not spent on the project to West Wimmera Shire Council. We will notify you once we have received and accepted your Acquittal Report. You will then have completed all of the obligations under the Funding Agreement.</p> <p>If you have any difficulty providing your report on time or complying with any specified requirements, you should discuss this with West Wimmera Shire Council Volunteer and Events Officer as soon as possible on Ph: 13 99 72.</p>
8.	<p>ADDITIONAL INFORMATION</p> <p>Features of a strong funding application</p> <p>There are ways to make your funding application more competitive:</p> <ul style="list-style-type: none"> • Broader community reach, multiple objectives. • Clearly outline what is proposed, why it is needed, how it will be achieved, who is involved and where it will take place. • Provide relevant support material: preference will be given to projects which can demonstrate. • clear, defined partnerships with other community organisations and demonstrate partnership by providing letters of support from partner

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	<p>organisations/groups.</p> <ul style="list-style-type: none"> • Provide relevant support material that shows the potential of the proposed activity. <p>Auspice Information</p> <p>If your group is a not-for-profit organisation but is not incorporated, you will need to find an organisation that can auspice your application to be able to lodge an application.</p> <p>Once you have an agreed auspice organisation you will be required to complete an auspice agreement form and upload the completed form and the Auspice organisations certificate of currency.</p> <ul style="list-style-type: none"> • It is the applicant responsibility to have an auspice agreement completed using the grant program Auspice Agreement form. • Applicant must keep the auspice organisation fully informed of the details of the application and all project aspects and progress. • If the application is successful, all grant funds will be paid to the auspice organisation for distribution to the applicant. • In some instances, an applicant may request the auspice organisation provides public liability insurance (PLI) for their project. Should this occur, the applicant must obtain a PLI certificate of currency from the auspice organisation and include this in the applicant application. A policy statement or receipt is not acceptable. <p>Legal and Taxation Requirements</p> <ul style="list-style-type: none"> • If required, you must arrange public liability insurance to cover the activity/s detailed in the grant application. • All applicants must possess an Australian Business Number (ABN) or provide a statement by a supplier form available from the ATO website. • Allocated funds must be expended within 12 months of receiving the grant, unless otherwise negotiated. <p>Acknowledgement, Promotion and Marketing</p> <ul style="list-style-type: none"> • Successful grant applicants must acknowledge West Wimmera Council as a funding source on all marketing and publicity material. • You will need to include the Council official logo and the following wording: 'This
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	<p>project is supported by the West Wimmera Council through its Community Strengthening Grants Program.'</p> <ul style="list-style-type: none"> • A logo will be supplied via email to successful applicants. Successful applicants are required to contact the Community Development Project Officer to arrange approval of all proofs/materials before making these public. • Unauthorised use of the West Wimmera Council logo or inappropriate attribution may result in the funded applicant being ineligible to apply for further grants.
9.	<p>CONTACT</p> <p>For assistance in completing the online application please contact the Volunteer and Events Officer via phone 13 99 72 or email grants@westwimmera.vic.gov.au</p> <p>Disclaimer: these Guidelines are updated on a regular basis. Please ensure your application aligns with the latest Guidelines which are available on Council's Community Grants webpage.</p>

Guideline Adopted:			
Guideline Reviewed:			



Council Guideline Manual WEST WIMMERA SHIRE COUNCIL

COUNCIL GUIDELINE	
COMMUNITY SPONSORSHIP AND CONTRIBUTIONS GRANTS	Guideline No:
	Adopted by Council:
	Next review date:
Senior Manager:	Director Corporate and Community Services
Responsible Officer:	Manager Community Development and Tourism
Functional Area:	Corporate and Community Services
Introduction & Background	The West Wimmera Shire Council Sponsorship and Contributions Grants provides communities with the opportunity to collaborate with Council to make their locality a better place to live. The Council provides Sponsorships and Contributions to address local needs and provide opportunities to support the community and enhance lifestyles of West Wimmera Shire Council residents. Sponsorship and Contributions may be via application for funds and/or Council in-kind support.
Purpose & Objectives	<p>West Wimmera Shire Council Sponsorship and Contributions Grants is to support locally based groups and organisations that:</p> <ul style="list-style-type: none"> • Support community wellbeing • Encourage community participation. • Bring economic benefit to the West Wimmera Shire • Assist in the recovery from catastrophic emergencies (funding to non-West Wimmera Shire groups may be considered i.e., Blazaid)



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1.	Eligibility – organisations/groups must:
	<ul style="list-style-type: none"> • Be a not-for-profit group or organisation. • Have no outstanding payments owed to Council. • Have a current ABN or complete a Statement by a Supplier Form.
2.	Ineligible
	<ul style="list-style-type: none"> • Organisations/groups that have outstanding payment owed to Council. • Individuals, unincorporated groups, political, businesses and for-profit groups
3.	What projects will be funded?
	<p>Council will consider requests for sponsorship towards initiatives and/or activities that:</p> <ul style="list-style-type: none"> • Demonstrate significant community benefit. • Are inclusive and encourage community participation. • Are responsive to current community needs. • Support community recovery • Be a community group or organisation with an Australian Business Number • Submit an online application form. • Request sponsorship or a contribution which aligns to objectives of the funding program. • Have the ability to undertake their project/activity and acquit expended funds by the end of the financial year, unless provided with a written extension. • Work collaboratively with council. • Not already receive substantial support from council • Not be in breach of any statutory requirements. • Have Public Liability Insurance cover for the project and must indemnify Council against any legal claims arising out of the project.
4.	What projects will not be funded?
	<p>Council will not consider projects that:</p> <ul style="list-style-type: none"> • Are for wages and staffing costs. • Are for the purchase of gift and prizes.

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	<ul style="list-style-type: none"> • Are non-compliant of regulatory requirements. • Are for the reimbursement of council fees and charges consultancies. • Unconditional gifts, contributions, bequests, or endowments • Political sponsorships, contributions, or merchandising. • Events or programs that denigrate, exclude, or offend minority groups. • Events that create environmental concerns • Programs that may present a hazard to the community. • They are based outside of the West Wimmera Shire • The funding is the responsibility of other Government departments i.e., Department of Land, Water and Planning, Department of Health and Human Services, Department of Education. • Duplicate other locally available services, resources, or programs. • The funding is requested retrospectively. • There is outstanding debt with the council. Councils' financial hardship policy can be discussed in context with your application. <p>Sponsorship is a commercial arrangement in which Council provides a contribution of financial or in-kind support for an activity, group, or organisation.</p>
5.	<p>Funding and Timelines</p> <p>Applicants can request a Sponsorship or Contribution of up to \$1000 per annum.</p> <p>Council's Sponsorship and Contributions Grants is open throughout the year, until all budgeted funds have been expended.</p> <p>Application assessment panels are convened as required, and applicants will be notified within two weeks of the next council meeting of the outcome.</p> <p>If your application is successful in obtaining Council Sponsorship and Contributions funding you will be required to enter into a written agreement with Council, stating your organisation will adhere to the following conditions:</p> <p>Funding Conditions</p> <ul style="list-style-type: none"> • Sponsorship is allocated specifically for the use articulated in the funding agreement and cannot be used for any other purpose without prior formal written agreement from Council.

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	<ul style="list-style-type: none"> • Only one successful grant (quick response, community strengthening grant, Sponsorship/Contributions) application per organisation is permitted per two financial years. • Funds allocated to the organisation are GST exclusive. • Any change to the original submission must be approved by West Wimmera Shire Council in writing. • Any works to be undertake must obtain relevant permits and approvals prior to commencement. • Organisations are required to sign a funding agreement with Council and partake in media and communications opportunities that promote the council's community grants, as requested. • Any programs or activities undertaken with grants or funding under this program must acknowledge the support and sponsorship of the West Wimmera Shire Council • Successful applicants will be provided with the West Wimmera Shire Council corporate logo, use of the logo must be approved by the West Wimmera Shire Council media and communications department. • Organisations are required to meet relevant government legislation requirements (e.g., Occupational Health & Safety Issues, Risk Management Equal Opportunity, Workcover, Privacy) • Organisations are required to ensure volunteers are registered with the organisation and adequately covered by insurance - where required. <p>Sponsorship acquittals are submitted via https://westwimmera.smartygrants.com.au/</p> <p>Applicants will be ineligible for further grants if the acquittal process is incomplete.</p>
6.	<p>Information about Financial Support</p> <p>The level of assistance available to the community is limited by Council's budgetary allocation which is set each financial year. No applicant can be guaranteed funding, nor can any applicant be guaranteed to receive the full amount requested.</p> <p>Groups/Organisations are eligible for one sponsorship contribution per financial year from Council. Please note that submitting a request does not guarantee</p>



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	<p>approval.</p> <p>The sponsorship/contribution provided maybe either financial and/or in-kind support up to \$1,000. Groups/Organisations wishing to obtain a Council sponsorship or contribution for an amount greater than \$1,000.00 must submit their request for consideration prior to the commencement of the financial year for which the organisation requires the sponsorship.</p> <p>Any support provided through the Community Sponsorship and Contributions Grants (direct financial or in kind) will require recognition of Council's contribution.</p>
7.	<p>Submitting a Request Form</p> <p>Request forms can be completed via https://westwimmera.smartygrants.com.au/</p> <p>Groups/organisations wishing to obtain Council sponsorship for an amount greater than \$1,000.00 must submit their application for consideration prior to the commencement of the financial year for which the organisation requires the donation.</p> <p>For assistance in completing the online application please contact the Volunteer and Events Officer grants@westwimmera.vic.gov.au</p>
8.	<p>Council's In-kind Support</p> <p>West Wimmera Shire Council's in-kind contribution is a contribution of a good or a service other than money. Some examples include:</p> <ul style="list-style-type: none"> • Preparation of an area out of normal works routine (Mowing, slashing, etc.) • Allocation, preparation, delivery, and removal of extra bins • Allocation, delivery, and removal of traffic management signage <p>As with monetary support, in kind contribution is a contribution by council and as such requires acknowledgement to the support and sponsorship of the West Wimmera Shire Council</p>
9.	<p>Assessment Criteria</p> <p>Applications will be assessed according to the following criteria:</p> <ul style="list-style-type: none"> • The request effectively meets identified local need and meets the objectives



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	<p>of the Sponsorship and Contributions program.</p> <ul style="list-style-type: none"> • The request has clear and achievable objectives and outcomes. • The request has been accurately costed. • The applicant has the capacity to implement and report on the project. • Does not contravene the West Wimmera Shire Council Grants policy.
10.	<p>Assessment Process</p> <p>All applications are assessed against the program criteria and eligibility:</p> <ul style="list-style-type: none"> • Applications are reviewed by a cross-departmental panel of three Council Officers • A community development officer provides administrative and record-keeping support in the assessment process - they are not a member of the assessment panel. • Applicants will be notified in writing within 2 weeks of Council approval if their application has been successful. • All Sponsorship and Contributions applications will be assessed against the Sponsorship and Contributions Assessment Guide. The outcome of the grant application assessment will guide the eligibility of the applicant to receive grant funding. • The level of funds awarded will be determined by the grant assessment panel with consideration for: <ul style="list-style-type: none"> ○ The number of applications received. ○ Total funding pool available for the financial year • Applicants may not receive the full amount requested. • Council reserves the right to provide Contributions without application in the case of recovery operations during or after a catastrophic emergency event.
11.	<p>Submitting the application</p> <p>Applications must be submitted via https://westwimmera.smartygrants.com.au/</p> <p>For assistance in completing the online application please contact the Volunteer and Events Officer grants@westwimmera.vic.gov.au</p>



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12.	Disclaimer
	These Guidelines are updated on a regular basis. Please ensure your application aligns with the latest Guidelines which are available on Council's Community Grants webpage.

Guideline Adopted:			
Guideline Reviewed:			



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COUNCIL POLICY	
COUNCIL GRANTS POLICY	Policy No:
	Adopted by Council:
	Next review date: December 2026
Senior Manager:	Director Corporate and Community Services
Responsible Officer:	Manager Community Development and Tourism
Functional Area:	Corporate and Community Services
Introduction & Background	
Each year, Council operates a number of grant programs which enables Council to work in partnership with the community by providing financial support to extend the capacity of groups, businesses and organisations to implement and sustain a wide range of local recreational, cultural, social, community and business support initiatives that make a positive contribution to the West Wimmera community.	
Purpose & Objectives	To provide Council with an overarching framework for the various grant's programs administered by Council to ensure that they are accessible, appropriate, fair, and equitable across all groups in the municipality.
	To provide a common standard of grants administration. Each specific grant's program has its own criteria depending on the specific purpose of the grant scheme.
	<p>The key objective of this policy is to:</p> <ol style="list-style-type: none"> 1. Outline Council's commitment to providing the community with funding. 2. Provide the framework for a transparent, equitable and inclusive process that is understood by the community. 3. Identify Council's commitment to accountability through acquittal and evaluation processes. 4. Align grants with Council's strategic objectives and establish clear expectations for both Council and the Community. <p>This policy refers to the following Guidelines:</p> <ol style="list-style-type: none"> 1. Community Strengthening Grant Guideline 2. Sponsorship and Contributions Grant Guideline 3. Quick Response Grant Guideline 4. Business Assistance Grant Guideline 5. Business Streetscape Grant Guideline

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<p><u>Response to the Overarching Governance Principles of the Local Government Act 2020</u></p>	<p>Section 9 of the <i>Local Government Act 2020</i> states that a Council must in the performance of its role give effect to the overarching governance principles.</p> <p>This policy is in response to the following overarching governance principle/s of the <i>Local Government Act 2020</i>:</p> <p>(a) the community engagement principles (section 56);</p> <p>(b) the public transparency principles (section 58);</p>
Policy Details	
1.	<p>Definitions</p> <p>'Grant' is a payment (monetary and/or in-kind) to an organisation, which is directed at achieving goals and objectives consistent with Council policy. The payment is conditional upon the recipient using the funds/in-kind for specific purposes set out in the terms and conditions of the grant guidelines and application form.</p>
2.	<p>Principles</p> <p>In administering the Council grant programs, Council undertakes to apply the following principles:</p> <ul style="list-style-type: none"> The administration and assessment of the grant program will be conducted in accordance with accepted standards of public accountability, probity and transparency of decision making. Council will apply the principles of democratic representation, social inclusion, and meaningful community engagement. The program will be administered on the basis of ethical and legal behaviour by West Wimmera Shire Council (WWSC) Councillors and employees. The grant programs will be regularly reviewed to ensure it remains responsive to emerging themes, issues, and trends in the community. Grant priorities will be set in accordance with Council's strategic objectives, budgetary resources and identified community needs. Each Grant program will have a clear set of guidelines. All applications will be assessed in accordance with the grant guidelines and Council's key strategic objectives as identified in the Council Plan, Strategies or Community Plans. Grant applications for amounts greater than \$2,500 will be taken to Council for a resolution. Grant applications for less than or equal to \$2,500 will be approved under delegation by the CEO. Applicants approved under delegation will be notified of the results of their request following a Council briefing.

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	<ul style="list-style-type: none"> Grant recipients will be required to publicly acknowledge Council's contribution as detailed in the funding agreement. 'Smartygrants' grant management system will be used by Council to administer all applications. The total amount of funds available per application and the matching funding requirements will be set by Council resolution prior to the advertising of each round of grants.
3.	<p>Funding Exclusions</p> <p>Council will not fund:</p> <ul style="list-style-type: none"> Retrospective funding for projects commenced prior to <u>the application opening date for the grant being applied for receipt of grant funding</u> Applications for 100% funding, organisations are required to contribute financial and/ or in kind to the project within the requirements established in each specific grant program guidelines. Fundraising activities. Core business and operational responsibilities of the organisation. Staff wages and salaries and ongoing operational, maintenance or administrative costs. Ongoing projects or a duplication of existing services. Support for individual pursuit without community benefit. Projects that do not involve the WWSC Community Services or activities which are considered to be primarily the responsibility of the State or Federal Governments. Applicants that have failed to correctly acquit funding with Council in the past. Applicants who have received funding from Council within the last 12 months. <u>Any other funding proposal that does not meet the specific funding guideline.</u>
4.	<p>Eligibility</p> <ul style="list-style-type: none"> Council will consider grant applications from registered businesses and incorporated community groups that are legal entities based in West Wimmera Shire according to specific eligibility criteria and other conditions are outlined in the respective grants program guidelines. If the organisation is not a legal entity, an eligible organisation can apply on their behalf, through auspicing arrangements, provided the auspicing body has the necessary legal entity status to enter into a funding agreement with Council and agrees to administer funding on their behalf.
5.	<p>Application Process</p> <ul style="list-style-type: none"> Applications will only be accepted on the forms made available by Council <u>at the time the grant funding round is advertised.</u> Complete responses must be provided to all questions on the application form. Applications not received by the closing date <u>(if applicable)</u> will not be considered. Applications must include all supporting documentation, where required, as per

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	<p>the guidelines, ie. budget, Certificate of Incorporation, quotations, etc.</p> <ul style="list-style-type: none"> Applicants who attend the education workshops prior to the closing date will be highly regarded.
6.	<p>Assessment</p> <ul style="list-style-type: none"> For each grant program, the appropriate Grants Assessment Team, will individually score applications received, based on meeting the agreed selection criteria for the specific grant program. <u>The Grants Assessment Team will be comprised of Council staff only.</u> Applications will be ranked accordingly, based on defined scoring protocols and funds available and submitted with a recommendation to Council for decision regarding the distribution of grants funding. Exception is the Quick Response Grant whereby The Chief Executive Officer has the authorisation to approve the application upon consultation with councillors. Decisions regarding the allocation or non-allocation of funding made by Council are considered final. Council reserves the right to part-fund an application.
7.	<p>Accountability</p> <ul style="list-style-type: none"> Successful applicants will be contacted in writing and a Grant Funding Agreement will be prepared by Council to outline the responsibilities, obligations and identified outcomes required of the organisation. Funding must be expended within twelve months of when the funds were granted (unless otherwise stated and agreed to in the Agreement) or the funds must be refunded to Council. An extension may be sought before the 12 months has expired, by writing to the Council. Monies received must only be spent on the project as approved by Council. Any unspent funds must be returned to Council. To vary the purpose for the allocated grant funds, written permission must be obtained in writing from Council prior to spending the funds. Failure to abide by the grant conditions could jeopardise your organisation's chances of receiving further funds from Council. At completion of the project, the grant recipient must submit a WWSC Grant Acquittal Report with all required accompanying documents.
8.	<p>Communications</p> <ul style="list-style-type: none"> Grant programs will be widely advertised as per Council's Community Engagement Policy. All applicants will receive written notification acknowledging receipt of their application within one week of the grant program closing. Council will conduct a number of community information sessions across the municipality to highlight grant availability. All applicants will receive written notification about the success or otherwise of their grant application. Unsuccessful applicants will be encouraged to seek feedback from council in order to maximise their opportunity to obtain funding

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	for future applications. Applicants will be able to see the status of their application through the Councils online grants portal (SmartyGrants).
9.	<p><u>Conflict of Interest</u></p> <p>Councillors and Council officers who participate in the grant application process must declare any conflict of interest in accordance with the Local Government Act 2020, Sections 126 to 131, and the WWSC Councillor Code of Conduct and WWSC Employee Code of Conduct</p>
	<p><u>Statement of Compatibility</u></p> <ul style="list-style-type: none"> As a public authority, Council has a duty to act compatibly with human rights and to give human rights proper consideration in decision making. It is considered that this policy does not impact negatively on any rights identified in the Charter of Human Rights and Responsibilities Act 2006 (Vic) It is considered that this policy is written and meets the safe and strong: A Victorian Gender Equality Strategy. <p>You may provide feedback about this document by emailing info@westwimmera.vic.gov.au</p>

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Policy Adopted:	Ordinary Meeting 25/11/99	Minute Book Page 6906	
Policy Reviewed:	Ordinary Meeting 25/07/02	Minute Book Page 10300	
	Ordinary Meeting 06/04/06	Minute Book Page 13682	
	Ordinary Meeting 11/03/10	Minute Book Page 17759	
	Ordinary Meeting 18/06/15	Minute Book Page 30619	RecFind 15/002328
	Ordinary Meeting 19/07/17	Minute Book Page 35794	RecFind 17/002783



14.2 Aged Care Services in West Wimmera Shire

Directorate: Corporate and Community Services

Report Author: Director Corporate and Community Services

Report Purpose: For Decision

Introduction

Like most Councils in Victoria, West Wimmera Shire Council has provided home-based care services to its community for many years. This report seeks to provide Councillors with information to facilitate a direction from Council regarding its future role in delivering aged care and support at home services (known as Commonwealth Home Support Program (CHSP) and Home and Community Care Program for Younger People (HACC-PYP) services to people living in the West Wimmera Shire.

Declaration of Interest

No officer declared an interest under the Local Government Act 2020 (LGA 2020) in the preparation of this report.

Background

The Home and Community Care (HACC) program was introduced in Victoria in 1985 and was designed to provide low level assistance to help people to remain independent in their homes and communities. Council delivers the program on behalf of the Commonwealth, via the State Government, which established the program criteria and administered the provision of funding. In Victoria, local government provides a co-contribution to ensure the successful delivery of a high quality program.

West Wimmera Shire Council has a team of dedicated and passionate staff who provide support to our community under this program. The aged care reforms currently being implemented are a response to the Productivity Commission's report: Caring for Older Australians (August 2011) and came into full effect on 1 July 2015. The aged care service system in Victoria moved to two systems in 2016 with the introduction of the Commonwealth Home Support Program (CHSP). People over 65 years of age receive services through the Commonwealth-funded CHSP and those under 65 years of age from the State-funded Home and Community Care Program for Younger People (HACC-PYP).

With the introduction of this split in the service system, service providers receive funding from the Commonwealth for CHSP and from the State for HACC-PYP. This coincided with the



introduction of the NDIS program as another form of funding for people with a disability eligible to enter that service system. The original reform timing was due to transition by 30 June 2018; this has been the subject of five extensions: one to 2019, then to 2020, again to 2022, to 2023 and now to 2024.

The Commonwealth's continuing reform of the aged care service system will introduce comprehensive changes over the next five years, aimed at creating a nationally consistent and integrated aged care program that provides older Australians with more choice, easier access and better continuity of care. Many of these changes, being progressively introduced, directly impact on the funding and regulation of aged care services currently delivered by Council on behalf of the Commonwealth.

National Aged Care Reform

Home-based aged-care services support almost one million senior Australians. Research has shown that older Australians want to remain at home for as long as possible before entering a residential aged care facility, and this is a more economical option for funding bodies than early entry into residential care.

Australia's national aged care program has been undergoing significant reforms over the past decade, following Commonwealth agreement to take full responsibility for aged care in August 2011 and establishment of the National Disability Insurance Scheme at around the same time.

The Commonwealth Government is now implementing significant changes in the aged care industry that will have a direct impact on the ability of councils to continue delivery of services. The reforms are motivated by the desire to find an Australia-wide, efficient, and effective model of service to meet increasing demand for aged care services, including introducing a standardised national and competitive approach to service delivery, and a shift to a model where the consumer controls their own care and how much they are willing to pay for it - including who delivers it, where and when it is delivered.

The existing CHSP will change to a new "Support at Home Program" providing an across-the-board model of support needed for residents aged 65 and over to continue to live independently and provide greater choice to clients between providers. These changes will see eligible residents receive Commonwealth-funded support packages that enable them to purchase services directly from providers, which has the potential to result in an increase of



available providers operating within the Shire and exposing Council to market-based competition on cost and quality. Further detail is provided in the Commonwealth's Support at Home Overview (refer attachment 14.2.1).

Council's current funding agreement as a service provider to the Commonwealth government expires on 30 June 2023. The new service system will see the combination of CHSP, Home Care Packages and the Short Term Restorative Care Program to become the new In-Home Aged Care program, reforming all aspects of the delivery of in-home aged care. The introduction of the new In-Home Aged Care program concludes the long-standing funding, service agreements, and contracted roles and responsibilities that Victorian local government has participated in for more than 35 years.

The release of the Commonwealth's "5 Pillars over 5 Years" blueprint (refer attachment 14.2.2) provides the direction of the reform activities and timeframes, including those that will directly impact Council's current funded aged care service arrangements. The Commonwealth released the Support at Home Program Overview in January 2022. This provided the first opportunity to assess the architecture of the future aged care program in more detail. The program had been slated for introduction on 1 July 2023; this has since been extended to 1 July 2024. In line with this extension, the Commonwealth will review some components of the previous Support at Home Program model, and released 'A New Program for In-Home Aged Care' discussion paper in October 2022 (refer attachment 14.2.3).

The January 2022 overview confirms that the proposed program will be significantly different from the existing CHSP program and will include:

- individualised support plans for clients linked to funding that is based on assessed need
- a new integrated assessment tool that controls access to all aged care services, from home based to residential care services
- an increased reliance on technology and digital services for clients, business systems and payment platforms
- a service list that will better define the outputs and allow flexibility for clients
- clients being provided greater choice and control over the time and place services are provided, assuming multiple providers are available
- the cessation of block funding and transition to payment in arrears for units of service delivered



- introduction of regulated competition between providers

The release of the program architecture has prompts the reconsideration of Council's response to this comprehensive reform of the aged care service system, as well as an assessment of the best way it can contribute to the well-being of our older residents and maximise its ability to foster a positive ageing experience now and into the future.

A review of Council's ability to continue its involvement in the delivery of funded aged care services has been informed by the following considerations:

- The new Aged Care Act will embed an extensive range of new provider, system and service level requirements that will be legislated to ensure the delivery of a safe, high quality and sustainable aged care service system.
- The likely investment required to introduce and establish new systems, structures, processes and practices to meet requirements under new governance, accountability and program arrangements.
- The clear orientation of the reforms to improve the interface between health and aged care systems, founded upon a strengthened focus for aged care to align with clinical governance and operating models.
- The introduction of a competitive market driven structure and Council's responsibilities and obligations under the National Competition Policy, the Victorian Competitive Neutrality Policy and the Local Government Act Service Performance principles.
- The reliance on income generated on a fee for service basis with an established schedule of fees, a competitive market and the impact of these on the ability to reach economies of scale that support a sustainable business model. The influence of the change in the funding model for CHSP on Council's ability to deliver other funded programs such as HACC-PYP.
- The program details being provided by the Commonwealth and the ability to participate and influence a smooth transition to the new In-Home model of aged care for the community.
- Recognition of the unique role Council has in the delivery of outcomes for older residents that is not defined simply by involvement in the delivery of Commonwealth funded aged care services. Considering what opportunity Council has to provide locally responsive positive ageing supports in the advocacy space that complement Commonwealth and State funded services, thereby facilitating the connection and engagement of older residents with their local community.

The information released to date by the Commonwealth, reviewed in light of the above matters, strongly suggests that effective operation under the new In-Home Aged Care



Program would necessitate substantial investment by Council in clinical and governance-related areas, as well as fundamental changes to its existing operating model including a reduction in operating costs.

The combination of all these factors mounts a credible argument against West Wimmera Shire entering into a new service delivery contract with the Commonwealth, and instead relinquishing its existing service delivery functions at the conclusion of the current contract period, namely 30 June 2023. Should such a relinquishment occur, it would be incumbent on Council to manage the transition in the best interests of its clients and their families, its staff and the broader community. This would involve active participation in an oversight role to help ensure that the new In-Home Aged Care program functions in the best interests of its older residents. Such participation could also include assisting residents to navigate the new In-Home Aged Care system, as well as implementing its own programs focused on positive aging and greater connectedness for those who are not conversant with modern technology.

Council has the opportunity to consider a broader contribution to improving outcomes for older residents through positive ageing activities available to all older people in the Shire. This opportunity could be realised through the development of a new access and inclusion strategy to empower and engage older residents.

Current Service Delivery Overview

Council is currently contracted by the Commonwealth Government to deliver the CHSP which provides the following support services:

- In-home support services including domestic and personal care
- Respite support
- Social support – individual and group
- Delivered meals
- Home maintenance program
- Transport

The existing CHSP contract with the Commonwealth expires on 30 June 2023. Notification has been received that a one-year extension is being offered to 30 June 2024. Council submitted the intention to continue until 30 June 2024, but, as this matter is under consideration by Council, officers held a meeting with the funding body assistant director (Department of Social Services - Community Grants Hub) to ascertain that exiting CHSP at an earlier date is an easy process and creates no issues.



In addition, Council currently provides the Regional Assessment Service (RAS) under contract to the Victorian Government, which in turn is the contract holder for this service for the Commonwealth Government. Council's existing contract for the RAS also expires on 30 June 2023 with a one-year extension to the end of June 2024 also on offer.

Current Services

West Wimmera Shire Council is currently contracted to provide services on behalf of the Commonwealth Government under the CSHP and on behalf of the Victorian Government under HACC-PYP and Regional Assessment Services (RAS). Council provides services to approximately 19 clients under the Victorian Government HACC-PYP and approximately 210 clients under the Commonwealth Government's CHSP. Due to the small client base, it is not feasible to provide services to HACC-PYP should Council not accept the CHSP contract extension. As RAS is fully funded by the Victorian Government, it is recommended that Council accept the contract extension to 30 June 2024.

Engagement and Consultation

Preliminary discussions have commenced with neighbouring Councils who have already relinquished the service. Meetings have been convened with representatives from local health providers. Further discussions will continue with providers with the aim of ensuring that in the event of service relinquishment, Council will have the capacity to transition clients smoothly to a new provider well in advance of any changeover on 1 July 2024.

It is the Commonwealth's preference to ensure client continuity of care. The most practical way of achieving this objective is to ensure that local providers assume service provision should Council make the decision to relinquish. Since those providers are currently assessing enquiries from other councils who have already resolved to relinquish the service, it makes practical sense to inquire if the local providers would be interested in providing their services to West Wimmera Shire as well. This will allow them to make provision for West Wimmera Shire's clients in their plans for expanded service provision. There is a risk that local providers may not be in a position to accommodate West Wimmera's needs if they have already made commitments and commenced the planning process with our neighbouring councils. This would most likely result in a large city-based provider assuming the service in our local government area.

Risk Management Implications

A number of high level risks have been identified, including:



- Service demand and ability to achieve an economy of scale: the current cost structure is based on receipt of block funding and a consistent demand for service. The introduction of competition and consumer directed care will likely increase the cost of future service delivery and reduce Council's service user market share. Council will be challenged by the inability to expand beyond geographic boundaries, inherent cost structures and the limited range of service offerings able to be made.
- Responsibilities and obligations under the National Competition Policy (NCP) and the Victorian Competitive Neutrality Policy: The NCP and the Competitive Neutrality Policy would apply to the provision of aged care services by Council under the individualised model of care as Council's aged care services are a 'significant business activity' to which NCP applies. Hence, were Council to remain a provider in the new In-Home Aged Care program, Council would be required to implement competitive neutrality measures, most likely in the form of a public interest test to address its competitive advantage created by rate payer subsidies, to be able to offer competitive pricing in a commercial industry. Likely interest from other providers may result in Council being challenged to establish a policy position that would be tested through a public interest test. This means that Council would be required to charge cost reflective pricing, which would be financially prohibitive to clients, and ultimately unsustainable for Council.
- Commonwealth Home Support is delivered by Council on behalf of the Commonwealth government. If Council is to remain a service provider, a funding co-contribution will be required. This could be considered cost shifting to local government and exacerbates issues of inequity experienced by smaller local government areas.
- Ability to deliver the increased level of service: the Royal Commission into Aged Care Quality and Safety recommended that providers of the Care at Home category of services be required to demonstrate a coordinated and integrated range of care and support across domains not currently reflected in Council's role as a service system entry-level provider. This includes care management, clinical oversight, enabling and therapeutic care, nursing care, allied health, palliative care and end of life care. Council is not currently equipped to deliver a clinical model of care, nor to implement a broader staffing profile including nursing and other allied health disciplines.
- Should Council relinquish the service, it will be required to manage individual client transition. Transition at the end of the current contract on 30 June 2023 will provide



Council with the opportunity to participate in a structured transition to a new service provider.

- Should Council continue service provision until 1 July 2024 upon implementation of the fully-commercialised model, it is foreseeable that there will be a degree of flux in the industry owing to the final activation of wholesale change in the sector. This risk will be mitigated should Council decide to relinquish service provision effective 30 June 2023.
- Addressing vulnerability: most clients are anticipated to transition with minimal Council support. However, clients with increased vulnerability may require additional resources to help facilitate a smooth transition.
- Thin market: A thin market results in few or no alternative providers to deliver the new In-Home Aged Care program. Such a market puts client continuity of care at risk, and therefore officers have commenced discussions with neighbouring councils and local health providers in order to ascertain potential interest in a regional approach to responding to the challenges faced as a result of the aged care reforms.
- Council's Community Care team of 18 dedicated people are highly valued by the organisation, community and their clients. In accordance with Council's Enterprise Agreement no.10, if Council resolves to relinquish service provision, some redeployment opportunities may be available. If staff seek to enter employment with another provider servicing West Wimmera Shire, Council would seek to support a smooth and expedited transition for those staff to their new employer.

Enterprise Agreement Implications

Council's Enterprise Agreement No 10 Section 16 Managing Change in the Workplace requires Council to notify and consult with relevant employees following the decision to introduce a major change. In addition, the Agreement mandates that Council must communicate with relevant employees when it is "seriously considering implementation of major change." Officers have already briefed relevant employees that Council's provision of aged care services has been referred to Council for a decision regarding its future direction. The relevant provisions of the Agreement follow:

16. MANAGING CHANGE IN THE WORKPLACE



- 16.1 This clause applies if the employer:
(a) is seriously considering a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
(b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

- 16.2 For a major change referred to in paragraph 16.1(a):

(a) the employer must notify the Union and relevant employees of the decision to introduce the major change; and
(b) subclauses 16.3 to 16.9 apply.

- 16.3 The relevant employees if not represented by a Union, may appoint a representative for the purposes of the procedures in this term.

- 16.4 If
(a) relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
(b) the employee or employees advise the employer of the identity of the representative;
the employer must recognise the representative.

- 16.5 When the employer is seriously considering implementation of major change, the employer must:

(a) discuss with the relevant employees:
the introduction of the change; and
the effect the change is likely to have on the employees; and
measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
(b) for the purposes of the discussion—provide, in writing, to the relevant employees:
all relevant information about the change including the nature of the change proposed; and
information about the expected effects of the change on the employees; and
any other matters likely to affect the employees.

- 16.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

- 16.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

- 16.8 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the



employer, the requirements set out in paragraph 16.2(a) and subclauses 16.3 and 16.5 are taken not to apply.

16.9 In this term, a major change is likely to have a significant effect on employees if it results in:

- (a) the termination of the employment of employees; or
- (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (d) the alteration of hours of work; or
- (e) the need to retrain employees; or
- (f) the need to relocate employees to another workplace; or
- (g) the restructuring of jobs.

Legislative Implications

The report complies with the requirements of the Local Government Act 2020.

Environmental Implications

Not applicable

Financial and Budgetary Implications

Council receives funding to deliver CHSP and HACC-PYP services and subsidises the service to pick up any shortfall in funding. With the change in funding model for CHSP to an activity-based payments-in-arrears funding model, along with the introduction of competition in the local market, the future cost of services will increase with the volatility of demand, resulting in higher risk. Investment would be required by Council to comply with new operational, quality and governance obligations.

In line with the key directions of the aged care reforms, existing block funding arrangements are being replaced with a competitive market model involving fee for service payments in arrears and full cost reflective pricing (client contributions meeting the gap between funding and service cost).

As a result, there is uncertainty of future funding levels for Council, and as other providers enter the service system, Council's market share will most likely reduce.

Whilst the schedule of fees has not been finalised by the Commonwealth, current information indicates that the unit price for in-home services will fall within the current range of unit price funding. Traditionally, Council has budgeted for a co-contribution to offset the difference between the actual cost of the delivery of in-home care services and the funding received.



The new Support at Home Program will end the long-standing funding arrangements currently in place. Funding changes started from 1 July 2022 with agreed funding levels for activities delivered now paid retrospectively, upon provision of invoice by Council. Formerly, block grants were awarded at the start of a financial year based upon negotiated target service levels. This is already a fundamental change in the funding model with long-term implications on cash flow and a lack of forward budgeting certainty

In the event a decision is made to relinquish the service, staff redundancy costs are anticipated to amount to approximately \$200,000.

Policy Implications

This report is supported by the following West Wimmera Shire Council Policy/s:

Not applicable

Council Plan Implications

This report supports the following sections of the West Wimmera Shire Council Plan 2021 – 2025:

Goal 1 – Liveable & Healthy Community

1.4 Deliver quality services that support community life.

Goal 4 – Good Governance

4.1 Ensure long term financial sustainability.

4.3 Advocate for our community on issues important to our future.

Goal 5 – Our Commitment Values

Accountability - We will be responsible, take ownership of our actions and are committed to good governance, excellence, transparency and advocating for our community.

Communication Implications

Consultation with affected staff members has been undertaken. Council's decision regarding this matter will be communicated with staff, clients and the community in general.

Gender Equality

A Gender Impact Assessment (as defined in the Gender Equality Act 2020) has been undertaken in relation to this matter in accordance with the Gender Equality Act (2020).

Conclusion



Under the reform process, new governance arrangements and obligations on providers have been implemented, namely a new Code of Conduct for Aged Care (from 1 January 2023) and a change in regulation to strengthen provider governance (from 1 December 2022) have been introduced. These changes place significant new requirements on providers including leadership responsibilities, provider accreditation and approval requirements, new governance standards, public provider performance reporting, liquidity, and capital adequacy reporting requirements.

Provider governance obligations from 1 December 2022 include a requirement to assess the suitability of key personnel annually, continuous disclosure requirements for material changes (including key personnel and corporate structure changes), and annual reporting on operations. Providers must also set up and continue a quality care advisory body and consider the establishment of a consumer advisory body.

Under the future Support at Home model, all services - from entry level (West Wimmera Shire is currently at this level) to complex needs support - will be consolidated and delivered through contracted providers. This means that to be a provider, Council must operate under a governance framework analogous to specialist aged care service agencies that deliver clinical and allied health services. The reforms will require significant operational adjustments to be made and additional specialist skills recruited.

OFFICER RECOMMENDATIONS:

OPTION 1

That Council,

Continue to be a service provider for Commonwealth Support at Home Program services and State Home and Community Care Program for Younger People Services and will commit with the additional resources required for clinical governance compliance obligations.

OR

OPTION 2

That Council,

- 1. No longer be a service provider of the following programs from 30 June 2023, including all:**
 - (a) Commonwealth Home Support Program services**
 - (b) State Home and Community Care Program for Younger People services**
 - (c) assessment services**



(d) brokered services.

- 2. Commits to working with the Commonwealth and Victorian governments to negotiate timing and transition processes that will support the interests of clients, their families, staff, and the broader community.**
- 3. Notes that under its service agreements, all processes and matters related to the transition process will remain confidential until the Commonwealth and Victorian governments provide consent for release of information.**
- 4. Reaffirms that in taking this decision, Council will maintain an active role in advocating that the new aged care service system delivers high quality service and meets the needs of the community.**
- 5. Will provide a staff resource to support improved positive ageing outcomes for the broader community.**
- 6. Delegates authority to the Chief Executive Officer, or their nominee, to undertake or commission all tasks and activities related to the implementation of this Council resolution.**
- 7. Authorises the Chief Executive Officer to negotiate a short-term extension if it is identified that this is required to provide better client or staff transition outcomes.**

Attachments

1. support-at-home-program-overview [**14.2.1** - 16 pages]
2. five-pillars-over-5-years [**14.2.2** - 1 page]
3. a-new-program-for-in-home-aged-care-discussion-paper 0 [**14.2.3** - 34 pages]

Ageing and Aged Care



Australian Government
Department of Health

Support at Home Program Overview

January 2022



health.gov.au/aged-care-reforms

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Purpose of this Paper

This Paper provides an overview of the proposed design for the new Support at Home Program. Support at Home will start in July 2023 and replace the

1. Commonwealth Home Support Programme (CHSP)
2. Home Care Packages (HCP) Program
3. Short Term Restorative Care (STRC) Programme.¹

This is in line with the Royal Commission in Aged Care Quality and Safety's (the Royal Commission's) recommendation 35, to implement a new aged care program, and recommendation 118, to introduce a new funding model for care at home.

While the Royal Commission included a number of detailed recommendations about aged care support in the home, it also recognised that considerable work needed to be undertaken before the implementation of a new aged care program.

Before settling the details of the administrative and funding arrangements for the care at home category, or finalising the scope of this category, the System Governor should complete its work on the optimal design for the integration of the Commonwealth Home Support Programme and Home Care Package Program. The most recent report of this work provides preliminary support for a model of scalable or 'proportionate' assessment, with classification and funding dependent on a triage or 'screening' process during assessment. Options then would include people being 'classified and funded using only service events', receiving a more complex assessment that would result in classification of the person to a particular level of funding entitlement.

This should include a study to ascertain the need characteristics, service usage patterns and resource requirements of people who access care at home. In light of this study, the System Governor should develop a classification system with distinct classes of need within categories based on clinically meaningful differences in service usage patterns and resource requirements. The study should address whether individualised budgets, casemix funding levels, or some other mechanism for funding, such as direct grants, are appropriate. It should identify whether different funding mechanisms should be used for certain service types or different needs classifications.

In conducting this work, the System Governor should consult with the aged care sector and older people who use the relevant services, and should conduct any trials it deems necessary.²

The department will consult on aspects of the Support at Home Program in early 2022. Sign up to the [Ageing and Aged Care Engagement Hub](#) to be notified when these consultations are commencing.

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- 1 The new assessment system under Support at Home will better integrate residential respite into home care assessments and service plans. Residential respite funding will be delivered through the residential Australian National Aged Care Classification framework (AN-ACC).
 - 2 Royal Commission into Aged Care Quality and Safety Volume 3A page 174.

Why are we moving to Support at Home?

In home aged care services support almost one million senior Australians. Research shows that senior Australians want to remain at home for as long as possible before entering a residential aged care facility.

Improved supports in the home would prevent senior Australians from having to enter residential aged care prematurely and against their wishes. If done well, it may mean people don't need to enter residential aged care at all. Older Australians would be supported to manage the risks associated with staying at home, while the assessment process would ensure that anyone who needs to relocate to residential aged care is able to do so.

In home aged care currently consists of several programs which have different approaches to assessment, eligibility, service providers, funding and fees. The system can lead to inequitable outcomes for senior Australians, as people with the same needs receive different supports, and not enough funding is spent on direct care. As a result, the system is complicated and can be confusing for senior Australians and their families.

The HCP Program has a history of long wait times, high overhead costs charged by some providers, and high levels of unspent funds. The CHSP has variable service availability by location.

In its response to the Royal Commission, the Australian Government announced a commitment to establish a new Support at Home Program in consultation with senior Australians and community stakeholders. The design of the program will be finalised following sector consultation and detailed model development. The program will address several of the Royal Commission's recommendations to improve the support for senior Australians to remain independent and in their own homes for longer.

How would the proposed Support at Home Program improve services?

The proposals for a new Support at Home Program would reform all aspects of the delivery of in-home aged care including assessment, reablement and restorative care, to individualised support plans, clarity on service inclusions, funding of providers, and regulation of the market.

Senior Australians would receive individualised service approvals, based on their assessed aged care needs and personal circumstances, rather than being placed in one of the four broad home care package levels.

Senior Australians would have access to a new program for goods, equipment, assistive technologies, and home modifications needed to live safely and independently, rather than needing to 'save up' package funds for these purchases.

A new funding model would support point-of-delivery payments for service providers, while reducing their reporting burden. This would enable greater transparency for senior Australians and reduce fees and administrative costs.

Support at Home assessments would focus on independence, providing senior Australians with guidance and support to delay functional decline.

Senior Australians would have greater choice between providers to deliver their care.

A risk-proportionate regulation model is being developed to support care businesses and care workers to participate in the delivery of safe and high-quality aged care services in a home environment.

Consistent assessment and better service recommendations

Aged care assessments are currently completed by the Regional Assessment Services (RAS) and the Aged Care Assessment Teams (ACATs) using the National Screening and Assessment Form (NSAF). A new assessment tool would be introduced in July 2023 under a single assessment system.

A new assessment tool

An **Integrated Assessment Tool** is being developed to better match services to a person's aged care support needs. The tool will assess eligibility for all aged care programs, including home care, residential care, transition care, multi-purpose services and respite. A suite of assessment instruments will be combined to cover several domains that identify a person's aged care needs. These include:

- General and personal health
- Functional decline
- Cognition and behaviour
- Psychological condition
- Community engagement and support
- Medical conditions
- Home and personal safety
- Carer support

Recognising that not all senior Australians need intensive assessments, the new tool will have four levels of assessment. Each level of assessment will build on the previous, using trigger points to guide assessors to the most appropriate assessment level for each person.

In addition to assessing a senior Australian's eligibility for the Support at Home Program the new tool would also identify the home care services that are most appropriate to meet their aged care needs using a new classification system.

The assessment process will identify if a senior Australian's needs would be best met in residential aged care and provide their funding approval as part of the assessment outcome.

The Integrated Assessment Tool has been developed through research in which 2,500 senior Australians were assessed using a prototype tool. This tool will be further refined through an iterative 'Living Lab' trial in 2022

Consistent assessment that aligns to client needs

In the proposed new program, people with low-level needs would be assigned one or two services at assessment.

Others would enter a new classification system, which is being developed to convert the results of the Integrated Assessment Tool into a service offer. Clients with similar characteristics identified at assessment will have access to different services within a class that aligns to their broad support needs. Assessors would then determine the tailored mix of services that the person requires within the range permitted for the class, taking account the client's needs, individual circumstances and personal preferences. This will be summarised in an Individualised Support Plan.

A data study of 2,500 existing aged care clients is being undertaken to develop the classes where:

- Services are based on the needs of the client (including their living circumstances) rather than the provider delivering the services.
- The cost of providing support to consumers within any one class is similar (within a range).
- The classes reflect characteristics that make sense to clients and their family/ carers, and people working in aged care.

Figure 1 describes what the classes might look like based on the results of the data study. For example, one class would include people with cognitive issues and significantly reduced physical function; another would cover people with no cognitive issues and moderately reduced physical function. The classes also take account of the complexity of the clients in terms of issues such as incontinence, health conditions, social connection and whether they have had recent falls.

This framework will continue to be modified during the Living Lab trial of the assessment tool and processes in 2022.

An example of the what the Framework may look like is shown in Figure 1.

Figure 1: An Example Classification Framework

Care needs	Complexity
Low needs (e.g. minor reduction in physical function)	One or two services
Restorative care	Time limited services focussing on allied health
Moderate reduction in physical function	Low complexity in terms of frailty, incontinence, health conditions, recent falls, swallowing, psychological issues, social connection, living alone
	Medium complexity in terms of frailty, incontinence, health conditions, recent falls, swallowing, psychological issues, living alone
	High complexity in terms of frailty, incontinence, health conditions, recent falls, swallowing, psychological issues, social connection, living alone
Significant reduction in physical function	Low complexity in terms of frailty, incontinence, health conditions, recent falls, swallowing, psychological issues, social connection, living alone
	Medium complexity in terms of frailty, incontinence, health conditions, recent falls, swallowing, psychological issues, social connection, living alone
	High complexity in terms of frailty, incontinence, health conditions, recent falls, swallowing, psychological issues, social connection, living alone
Cognitive issues AND Significant reduction in physical function	Low complexity in terms of frailty, incontinence, health conditions, recent falls, swallowing, psychological issues, social connection, living alone
	Medium complexity in terms of frailty, incontinence, health conditions, recent falls, swallowing, psychological issues, social connection, living alone
	High complexity in terms of frailty, incontinence, recent falls, swallowing, psychological issues, social connection, living alone

Individualised assessment outcomes

Following assessment, senior Australians would receive an **Individualised Support Plan**. The Plan would outline the service types the senior Australian is eligible for and the frequency and duration in which they should receive them. The senior Australian and the assessor would work together to adjust the service mix within the Individualised Support Plan, to ensure that it best reflects the client’s support needs, individual circumstances and personal preferences, within the bounds of the senior Australian’s assessed class.

An illustrative example of an Individualised Support Plan is shown in Figure 2.

Figure 2: Example of an Individualised Support Plan



A Service List for clarity and efficiency

The CHSP has an established Service Catalogue, which groups services into different types. In the HCP program, providers display prices for some common services, however there is no service list and senior Australians, and providers are instead guided by the Aged Care Act as to which services may be accessed. There is great discrepancy among providers as to the type of services offered.

The Support at Home Program would use a **Service List** to provide greater clarity to senior Australians and providers as to the services available in the new Program. Services included on the Service List would be available to senior Australians at a Commonwealth Government subsidised cost. Providers may choose to offer additional services to senior Australians; however, these would not receive Commonwealth Government funding and would be at the person's own cost.

Services on the Service List would be grouped into Service Categories. Categories would be composed of alike services, which would give people similar outcomes. To ensure that senior Australian's can have their support preferences reflected in their aged care services, people would be able to swap services they have been approved for and that are within the same service category. This will also enable providers to adjust a person's support plan if they have minor changes in their aged care needs.

Figure 3 is a draft of the proposed Service List. The department will be undertaking consultation on the Service List in early 2022, focussing on the Service Categories, the granularity of service types and reablement and restorative care services.

Subsidies set by service type

Under a fee-for-service funding model, a price schedule would be developed by Government, with support from the Independent Hospital and Aged Care Pricing Authority. The price schedule would determine the price of each service type in the Service List.

The set price would include the government subsidy which would reflect the cost of delivering the service, including administrative overheads. The Independent Hospital and Aged Care Pricing Authority would, over time, set prices to reflect the efficient cost of delivering the services.

Figure 3: Draft Service List for the Support at Home Program

Service category	Service types	Sub-categories	Description	Service available in			Potential new service types
				CHSP	HCP	STRC	
1 Independence at Home	Domestic assistance	General house cleaning, Linen services, Shopping delivery	Supports the care recipient with domestic chores to maintain their capacity to manage everyday activities in a safe, secure and healthy home environment.	✓	✓	✓	
	Home maintenance	Gardening Maintenance and repairs	Assists care recipients to maintain their home in a safe and habitable condition. Includes services such as repair of flooring, yard maintenance such as pruning and clearance, gutter cleaning.	✓	✓	✓	
	Meals	Meal delivery Meal preparation	Provides access to nutritional meals for care recipients. Also includes support to increase knowledge, skills, confidence and or safety.	✓	✓	✓	
	Digital monitoring, education, and support	Digital remote monitoring Digital education and support services	Education, assistance or advice to support consumers to use digital technologies effectively, or subscription-based monitoring of consumers using digital technologies.				NEW – proposed service type to enable remote monitoring
2 Social Connections	Social support	Visiting in person Accompanied shopping Accompanied attendance at appointments & social engagements Group social activities	Services that support a person's need for social contact and or company and participation in community life.	✓	✓	✓	
	Transport	Direct Transport (driver and car provided) Indirect Transport (supported through supply of taxi vouchers)	Includes group and individual transport services to connect care recipients with their usual activities such as accessing the community or medical appointments.	✓	✓	✓	
3 Personal Care	Personal care	Assistance with self-care Assistance with client self-administration of medications	Assistance with activities of daily living and self care tasks to help maintain appropriate standards of hygiene and grooming. Includes support with eating, bathing, toileting, and dressing.	✓	✓	✓	
	Nursing	Nursing - high care Nursing - standard	Clinical care provided by a Registered Nurse, Enrolled Nurse or an Assistant in Nursing. Includes the assessment, treatment and monitoring of medically diagnosed clinical conditions. Includes wound care.	✓	✓	✓	

Service category	Service types	Sub-categories	Description	Service available in			Potential new service types
				CHSP	HCP	STRC	
4 Health and Specialised Support	Allied health	Aboriginal and Torres Strait Islander Health Worker, Diversional Therapist, Exercise Physiologist, Dietitian, Occupational Therapist, Physiotherapist, Podiatrist, Social Worker, Speech Pathologist, Audiologist, Pharmacist, Psychologist, Assistants in Allied Health	To assist older people to regain or maintain physical, functional and cognitive abilities which support them to either maintain or recover a level of independence, allowing them to remain living in the community.	✓	✓	✓	
	Specialised supports	Continence advisory services Specialist behavioural intervention support Psychosocial recovery coaching Vision and hearing services Sign language and interpreting supports	Specialised or tailored services for a specific condition. Supports the care recipient to manage these conditions and maximise independence. Includes direct services and expert advice.	✓			NEW – All specialised supports now available to all eligible home care consumers
	Assistance with care and housing	Squalor and hoarding supports	Some existing CHSP housing supports to be provided by Care Finders.	✓			
5 Care Management	Care management	Care management	Coordination with multiple providers, connect to assistance outside of aged care and conduct check-ins. Clinical oversight - monitor care needs, coordinate with the health system and conduct check ins.		✓	✓	NEW – Quarantined funding for care management
6 Digital technologies, equipment, and home modifications	Digital technologies	Digital technology	Acquisition and installation of digitally-enabled technologies that use software for the purpose of supporting consumer independence, care, monitoring, functioning, risk management or social support.				NEW – digital technologies
	Goods, equipment and assistive technologies (non-digital)	Short term and ongoing support through supply of equipment and aids to assist with mobility, communication, reading and personal care.	Goods, equipment and assistive technologies to assist with mobility, communication, reading and personal care, and maintain independence.	✓	✓	✓	
	Home modifications		Where clinically justified or required for safety, alterations to the home to improve safety and accessibility and maintain independence for the care recipient.	✓	✓	✓	
7 Respite Care	Respite	In-home respite (day and overnight), community and centre based respite, host family respite, cottage based respite.	Provides supervision and assistance to the care recipient by a person other than the care recipient recipient's usual informal carer.	✓	✓	✓	
	Residential respite		Respite provided in a residential aged care setting.				

Care management

In the Support at Home Program, care management would be included as a service type. Care Management would be offered to senior Australians who have a more complex mix of services and need oversight and coordination of their care. Funding for care management would be restricted, so that people are not able to swap their care management for any other service type.

The department will undertake consultation with stakeholders in early 2022 to define:

- the roles and responsibilities of the care manager,
- providers' accountability for client care outcomes, including where a senior Australian opts to use multiple providers,
- sharing of client information between care managers and providers,
- how care managers engage with other actors in the aged care system, and
- how care managers are represented in the regulatory framework.

Expressions of interest in engaging in this process are welcome. Let us know by registering your interest on the [Engagement Hub](#).

Access to goods, equipment, assistive technologies and home modifications to support independence

Goods, equipment, and assistive technologies (GEAT) and home modifications are essential supports for many senior Australians living in the community. Simple supports, such as handrails, home monitoring devices, and shower chairs can minimise safety risks and help senior Australians to maintain independence without the need for expensive ongoing services. However, access to these supports is limited under the current in-home programs.

Recipients of the CHSP can currently access up to \$1000 for GEAT and up to \$10,000 for home modifications. Availability is limited by the low proportion of grant funding available for this purpose. Senior Australians receiving an HCP may access any GEAT or home modifications as required using package funds, but must first 'save' enough subsidy funding to make the purchase.

It is intended that the new assessment process would consider a person's need to access GEAT that would improve or maintain their independence. The need for minor home modifications would also be assessed.

The assessor would determine if the person has a need for low-level, mid-level, or high-level GEAT or home modifications that would maintain or retain their mobility, independence, and ability to remain living at home. Senior Australians would have access to the support they are assessed as needing for both GEAT and home modifications without needing to save funds.

The department will undertake co-design activities with stakeholders to continue developing and refining the approach to providing GEAT and home modifications in the Support at Home Program.

Further work is needed on how best to provide access to GEAT and home modifications, including higher cost items, under the Support at Home Program. Consultation will be undertaken in 2022. If you are interested in being involved in this consultation, please let us know by registering on the [Aged Care Engagement Hub](#).

Supporting senior Australians to self-manage their care

Under the current *Aged Care Act 1997*, recipients of a HCP must select one Approved Provider to take full responsibility for the delivery of care under their package. This can involve delivering the full suite of care in-house or managing a series of sub-contractors to deliver care.

The **new regulatory model** under the Support at Home Program would enable clients to self-manage their care, including by using multiple service providers if they choose to do so.

The Approved Provider model is under review, with alternative approaches with risk-proportionate regulation and market-entry requirements under development. The intent is to assure safe and quality care can be delivered with appropriate oversight, including by small businesses, without undue administrative burden.

Self-management under Support at Home would be enabled by a **new ICT payments** platform which would allow senior Australians and providers to view the person's entitlements and book and pay for services at the point of delivery.

Consistent funding arrangements

Home care providers are currently under different funding arrangements, depending what program they operate under. CHSP providers are currently paid in block grant arrangements, with agreed prices for services, target levels of activities and quarterly reporting which leads to adjustments if there is significant under-delivery. HCP providers receive subsidies based on the package levels of how many people are under their care each month, with payments made against services delivered.

Support at Home would bring all in home aged care providers under one funding model. Building on changes already introduced to the CHSP and the HCP Program, Support at Home providers would be paid on a fee-for-service basis. Payments would be made based on the agreed prices for the service list, once services specified in a person's support plan have been delivered.

A **Point of Delivery Payment Platform** is being developed to enable providers to receive payments in real time, from both government and senior Australians. The Platform would also assist in capturing information from providers about service delivery and their clients, automating reporting on service provision.

Support at Home would not allow providers and senior Australians to accrue unspent funds, with providers paid as services are delivered. For example, if a person goes on holiday and does not require their cleaning services, the provider would not receive payment for them, and the senior Australian would not accrue their entitlement.

The needs of senior Australians can change often and rapidly. Support at Home would need to enable providers to respond to changing needs in a timely fashion, without creating excessive reassessment requirements.

One option being considered is to allow each service provider to deliver minor additional services across their clients up to a capped amount per month. Providers would need to allocate the additional services between people as their needs change. Providers would receive the additional funding once they have delivered the services. Additional services would need to be consistent with the senior Australian's Support Plan, included on the Service List and paid based on the pricing schedule.

Senior Australians whose needs change significantly would have to be independently reassessed into a new class.

Support for providers operating in thin markets

The Support at Home Program intends to offer services and a choice of provider, where possible, to all senior Australians, regardless of their geographic location. To facilitate this, it is proposed that a grant program be run to offer financial support to providers operating in thin markets. This includes providers operating in regional, rural, and remote areas, as well as providers who deliver services to small cohorts of senior Australians who have unique aged care support needs that can't be met elsewhere.

The grants would provide supplementary funding to providers who can demonstrate that they have legitimate grounds for additional support to service a small cohort of people.

The department is currently developing guidelines for the grant program to help support providers with small cohorts to remain viable.

Better support for all senior Australians, including specific cohorts

Reablement and restorative care

The STRC program offers people eight weeks of restorative care. The program targets senior Australians who can restore skills or capabilities and is limited to people outside of the HCP program.

Support at Home will integrate the existing STRC program and offer short-term or reablement services to all senior Australians who would benefit from them. Short-term services would be available for up to 12 weeks to help people improve or maintain independence without the reliance on ongoing services. Following the 12-week period, people would be reassessed to determine whether they need ongoing services.

Dementia

The Support at Home Program will continue to have a focus on supporting senior Australians living with dementia and their carers.

The new assessment Tool includes a focus on dementia and psychosocial factors with the aim of better supporting both senior Australians who have a formal diagnosis, and people who may be exhibiting early signs consistent with dementia. Referrals to services such as memory clinics and GP diagnostic pathways would support more timely diagnosis and enable people with dementia and their carers to access early intervention supports. The Service List may offer specialised support services which includes dementia advisory services.

The Support at Home Program complements other reforms so that dementia-related needs are identified early, and access to post-diagnostic support is improved, in both the health and aged care systems.

Aboriginal and Torres Strait Islander peoples

The Australian Government is implementing a new national support service for senior Aboriginal and Torres Strait Islander people to access a range of services, including Support at Home. The new service will offer intensive face-to-face support for senior Indigenous Australians and their families to help them access care, make sure that care is delivered in an environment of cultural safety, and provide guidance to providers on cultural safety and working with Indigenous clients. The service will include end-to-end support to navigate and access aged care services, and assistance to connect with other community supports.

The department will shortly approach the market to seek interest from Aboriginal community-controlled organisations to deliver this service. Recognising different approaches will be needed in different locations, the department is looking to co-design the model with Aboriginal community-controlled organisations from across Australia. The new service is expected to commence early 2022 in a staged roll-out and offer employment to around 250 Indigenous Australians nationally.

The department is also working to establish an Indigenous single assessment system delivered by Indigenous specific organisations, to support Aboriginal and Torres Strait Islander elders to access the aged care services that they need. Recognising different approaches will be needed in different locations, the department is looking working with Aboriginal organisations from across Australia to co-design the model with Aboriginal community-controlled organisations from across Australia.

Carers

The Support at Home Program is supporting informal carers through the assessment process and improved integration between My Aged Care and the Carer Gateway.

The **Carer Gateway** will enable carers to book respite services in advance and provide assistance through counselling, coaching, peer support and skills training. There is also access to specialised dementia carer education through the Carer Gateway.

The new assessment tool would compile information about the carer and their identity. The outcomes of a senior Australian's assessment and their service recommendations will be reflective of the support provided by their informal carer.

Next steps

As mentioned throughout this update **the department will undertake consultation in 2022** to inform the design of the Support at Home Program. The department is seeking to engage with:

- senior Australians, their families, and informal carers
- aged care providers
- aged care and health professionals
- aged care assessors
- peak bodies
- the general public, and
- experts in target areas.

Consultation will include workshops, focus group sessions and bilateral discussions.

A draft consultation timeline has been developed by the Department as below:

	Timing	Consultation Area	Topics	Audience
Codesign	November 2021 – August 2022	Aged Care for Aboriginal and Torres Strait Islander Peoples	Assessment tools and assessment processes for Aboriginal and Torres Strait Islander Peoples	<ul style="list-style-type: none"> Indigenous organisations NAGATSIAC Aboriginal and Torres Strait Islander communities States/territories Broader public
Codesign	February – March 2022	Care Management	<ul style="list-style-type: none"> Definition of care management Responsibilities of care managers Self-management Regulating care management 	<ul style="list-style-type: none"> Consumers, carers Providers and peaks Aged care professionals Experts
	February – March 2022	Service List	<ul style="list-style-type: none"> Appropriate categorisation of service types Granularity of service types Reablement services 	<ul style="list-style-type: none"> Consumers, carers Providers and peaks Aged care professionals NDIS, DVA Assessors
	February – March 2022	Price List for Support at Home	Testing an initial draft price list	<ul style="list-style-type: none"> Consumers, carers Providers Peaks NDIS, DVA
	February – March 2022	Funding Model	<ul style="list-style-type: none"> Overview of model Testing ideas on flexibility for minor changes in needs Self management 	<ul style="list-style-type: none"> Consumers, carers Providers Peaks
	February – March 2022	Evaluation Framework for Support at Home	Led by Health Policy Analysis <ul style="list-style-type: none"> Measures of success for the Support at Home Program Methodology for monitoring and evaluation 	<ul style="list-style-type: none"> Consumers, carers Providers and peaks Aged care professionals Regulators NDIS, DVA
	March – April 2022	Point of Delivery Payment Platform	Consultation to seek input on the payment platform design from providers and consumers.	<ul style="list-style-type: none"> Providers Consumers, carers
	March – June 2022	Assessment Model	Living Lab Trial testing the appropriateness and validity of <ul style="list-style-type: none"> The assessment Tool Assessment process Assessment outcomes 	<ul style="list-style-type: none"> Living Lab trial partners Assessors Providers Consumers, carers
Codesign	May 2022	Goods, equipment, assistive technologies, and home modifications	<ul style="list-style-type: none"> Designing the new schemes for timely access to GEAT and home modifications 	<ul style="list-style-type: none"> Providers Aged care professionals State and Territories NDIS, DVA Consumers, carers

To get updates on these consultations and the latest information on the aged care reforms:

- subscribe to *Your Aged Care Update* (previously called the Information for the Aged Care Sector newsletter) at health.gov.au/aged-care-newsletter-subscribe
- sign up to engage with us through the Engagement Hub at agedcareengagement.health.gov.au
- download resources at health.gov.au/aged-care-reforms.

If you have any questions regarding this update, please send us an email at careathome@health.gov.au. Additionally, if there is any feedback you would like to share before formal consultations in 2022, you can also send this to our email address.

\$17.7 billion
5 pillars over 5 years

Pillar 1:

Home care

2021

- 40,000 more home care packages.
- Senior Australians able to access assistance and information about aged care through 325 Services Australia Service Centres, and aged care specialists in 70 Service Australia centres.
- Extra support for informal carers.

2022

- 40,000 more home care packages.
- Respite services for 8,400 additional clients every year.

2023

- 500 local Community Care Finders provide targeted, specialist face-to-face support to vulnerable senior Australians to help them access aged care and connect with other health and social supports.
- Senior Australians can access a new support at home program.
- Single assessment workforce will expand to the new support at home program.

2024

- New support at home program supports senior Australians to stay in their homes and keep connected to their communities.
- Single assessment workforce will continue assessments for the new support at home program.

Pillar 2:

Residential aged care services and sustainability

2021

- Supplement of \$10 per resident per day.
- Continuation of the increases to the homeless and viability supplements.
- New prudential monitoring, compliance and intervention to help providers build financial sustainability, capability and resilience.
- Independent Hospital and Aged Care Pricing Authority established, extending role of existing hospitals pricing authority to include aged care advisory function.

2022

- New funding model to improve quality of care for 240,000 people using residential care and 67,000 people using residential respite care each year.
- Average care minutes for each resident increased to 200 minutes per day, including 40 minutes of registered nurse time.
- Registered nurse on site for a minimum of 16 hours per day.
- Structural Adjustment Program delivers increased provider viability and a strengthened aged care market.
- Single assessment workforce introduced to improve the experience of senior Australians in residential care.
- Better reporting, including through Star Ratings, to help senior Australians make easier comparisons and improve choice of care.

2023

- Minimum care time becomes mandatory.
- Annual funding increases and price setting take into account advice from the new Independent Hospital and Aged Care Pricing Authority.

2024

- Increased choice for senior Australians receiving residential care with care packages assigned to consumers, not providers.
- New residential aged care accommodation framework gives senior Australians more choice and improves accessibility and dementia-friendly accommodation.
- Aged Care Approval Round discontinued.

2025

- Improved service suitability that ensures the care needs and preferences of senior Australians in residential aged care are met.

Pillar 3:

Residential aged care quality and safety

2021

- Immediate improvements to the quality of care in dementia, diversity, food and nutrition services.
- Stronger clinical care standards developed by the Australian Commission on Safety and Quality in Health Care.
- Up to 120,000 additional GP services through boosted Aged Care Access Incentive.
- Increasing dementia care capability delivers better outcomes for people living with dementia.
- Palliative care services expanded to support end-of-life care at home.

2022

- Residents access improved care through Primary Health Networks facilitating telehealth and out-of-hours triage services.
- Expansion of the Serious Incident Response Scheme gives 1 million senior Australians receiving home and community care greater protection.
- Stronger presence of Aged Care Quality and Safety Commission in facilities with an extra 1,500 site audits.
- Providers to report regularly to residents and families on care and commencement of Star Rating system.

2023

- Improved support and training in dementia care and minimising restraint (restrictive practices).

2024

- National Aged Care Data Strategy improves the information that is available to senior Australians about the quality in aged care.
- New independent regulatory authority established following review of the Aged Care Quality and Safety Commission.

2025

- Senior Australians receive high quality, compassionate care.
- Confidence in aged care is rebuilt.

Pillar 4:

Workforce

2021

- Up to 6,000 new personal care workers in workplaces.
- Surge locum workforce capacity in regional and rural locations.
- Improved training in dementia care and minimising restraint (restrictive practices).

2022

- Up to 7,000 new personal care workers in workplaces.
- 33,800 additional training places rolled out over two years for personal care workers to attain a Certificate III in Individual Support (Ageing).
- More registered nurses in workplaces due to nurse incentive and financial support schemes.
- Single assessment workforce in place to conduct assessments across residential and home care.

2023

- Additional training places for personal care workers to attain a Certificate III in Individual Support (Ageing).

2024

- Continued growth of the aged care workforce and a demonstrable increase in registered nurses choosing aged care as their career.

2025

- Tangible improvements seen in staffing levels, skill mix and training of the care workforce.
- Workforce continues to meet the demand for aged care services, particularly in home care.

Pillar 5:

Governance

2021

- Initial rollout of expanded regional network to improve local planning and understanding of needs.
- Council of Elders established to provide a direct voice to Government.
- National Aged Care Advisory Council established to provide expert advice to Government.
- Expanded capital infrastructure grants available to improve access to better quality aged care services for First Nations people and those in rural and remote locations, or who are homeless or at risk of homelessness.
- Improved services and health outcomes for people in remote and Indigenous communities as a result of additional aged care funding.

2022

- New workforce of trusted First Nations people to assist Older First Nations people navigate and access aged and disability care.

2023

- Introduction of a new, values based Aged Care Act.

2025

- Strong and effective governance of aged care is in place with senior Australians at the centre and improved care outcomes consistently delivered.



Australian Government
Department of Health and Aged Care



A New Program for In-Home Aged Care

Discussion Paper

agedcareengagement.health.gov.au

October 2022



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Minister's Foreword

Older Australians who have contributed so much to Australian society rightly expect to be well supported in their frailer years. For many older people, that means support to live safely at home and in their community. Approximately one million older Australians are supported through in-home aged care services ranging from transport and house cleaning through to clinical care such as nursing and allied health. Most people want to stay in their homes for as long as possible, and value the services that allow them to do this.

As outlined by the Royal Commission into Aged Care Quality and Safety (the Royal Commission), the current in-home aged care system needs to be improved to better support older Australians. Wait times for care are too long, administration fees are too high, program arrangements are confusing, services are not always well targeted, and older Australians do not always get the help they need to support their independence. These issues have been exacerbated by workforce shortages and underpaid workers.

The Australian Government is committed to resolving issues in the current aged care programs, starting with listening to the people who use and deliver the services.

The new in-home aged care program should:

- be simple to access and understand so that older Australians don't have to waste time getting the care that they need
- provide people with timely access to the safe and high-quality services they need, so they can live at home for longer
- provide people with real choices about who provides their services and the types of services that they receive
- have fair and transparent fees, and ensure that funds are directed towards care
- support workers to deliver the highest standard of care for older Australians living at home, including through remuneration that recognises the value and complexity of their roles,
- support providers to be more innovative and to invest in improvements to service delivery.

I welcome your feedback on the questions raised in this discussion paper. We can learn from your experiences to ensure the new in-home aged care program delivers excellence in aged care services for older Australians, their families and their carers. These reforms must meet the challenges of the coming decades. We have to do it once and we have to do it well.

The Government has returned to the Royal Commission's recommendation to commence the new in-home aged care program on 1 July 2024. The Government has committed that people who receive support through Commonwealth Government aged-care programs will not lose any existing services under the new in-home aged care program.

With your support and input we can create a better in-home aged care program that will serve the needs of all older Australians today and into the future.

The Hon Anika Wells MP
Minister for Aged Care
Minister for Sport

Purpose of the Discussion Paper

This discussion paper canvasses key issues in the design of reforms to in-home aged care. It seeks the views of older Australians, carers, and service providers on five key areas of focus for the design of a new in-home aged care program.

This paper builds on previous consultations on reforms for in-home aged care which found broad agreement to a range of elements including:

- Improving the consistency of assessment of aged care needs by independent assessment organisations
- Introducing a new scheme for goods, equipment and assistive technology and home modifications that supports older Australians to remain independent
- Explicitly funding care partners to monitor older Australians' clinical needs and support them when they need help
- Introducing a service list that provides more clarity around the services available in the home.
- Further work is being done on these program elements, but they are not the focus of this paper.

The five key areas of focus set out in this discussion paper are:

- how to give older Australians the opportunity to manage their own services simply and easily should they choose to do so
- how to best implement the desired clinical oversight and practical assistance through care partners for older Australians receiving care at home
- how to fund providers to meet the full cost of care while achieving value for money across different service types, regions, and client cohorts
- how to ensure the flexibility to respond to the changing needs of older Australians
- how to foster innovation and future investment in in-home aged care.

We invite interested parties to provide a submission regarding the indicative model and discussion questions we have outlined in this paper. Submissions may be written or uploaded into a web form on the Department of Health and Aged Care's [Consultation Hub](#). Alternatively, you may call My Aged Care on 1800 319 209 and provide your views over the phone. Submissions will be open for six weeks until 25 November 2022.

In the coming months, we will continue with our consultations through seminars, workshops, and analysis of the submissions. In December 2022, we aim to have our third webinar to update the community on what we have learned through these engagements and the likely direction of the new in-home aged care policy.

Part One: The Case for Reform

Overview of current in-home aged care programs

Commonwealth Home Support Programme

The Commonwealth Home Support Programme (CHSP) provides recipients with entry-level services which support activities of daily living. CHSP is designed so recipients can improve their independence at home and be active in the community. Services can be short-term or long-term, depending on the assessed needs of the older Australian. Client contributions are set and collected by service providers in accordance with an older Australian's capacity to pay.

In 2020-21 approximately 825,383 people received CHSP services valued at around \$2.7 billion.¹

Home Care Packages

The Home Care Packages (HCP) program supports older people with more complex care needs to live independently in their own homes. Under the Aged Care Act 1997, the Australian Government provides a subsidy to an approved provider of home care, chosen by the older Australian, to coordinate a package of care, services, and case management to meet their individual needs. There are four package levels, ranging from supporting individuals with basic care needs to supporting individuals with high care needs. A basic daily fee and an income tested care fee are applied to HCPs.

At 30 June 2021, there were 176,105 HCP recipients.² The cost of the HCP program was \$4.19 billion in 2020-21.³

Short-term Restorative Care

The Short-term Restorative Care (STRC) program provides support for recipients over a short period, to assist them to manage or adapt to their changing needs. Its goal is to have recipients regain or keep their independence at home, using allied health services, including chiropractic services, nursing, physiotherapy, and occupational therapy. STRC allows for services to be provided for up to eight weeks, twice in any 12-month period. In 2020-21, 6,227 people received STRC.⁴

¹ Department of Health and Aged Care (2021) *Aged care data snapshot – 2021*, www.gen-agedcaredata.gov.au/www_ahwgen/media/Data-Snapshot/Aged-Care-Data-Snapshot-2021-Release-3.xlsx, viewed 16 September 2022, GEN.

² Department of Health and Aged Care (2021) *Aged care data snapshot – 2021*, www.gen-agedcaredata.gov.au/www_ahwgen/media/Data-Snapshot/Aged-Care-Data-Snapshot-2021-Release-3.xlsx, viewed 16 September 2022, GEN.

³ Department of Health and Aged Care (2021) *Aged care data snapshot – 2021*, www.gen-agedcaredata.gov.au/www_ahwgen/media/Data-Snapshot/Aged-Care-Data-Snapshot-2021-Release-3.xlsx, viewed 16 September 2022, GEN.

⁴ Department of Health and Aged Care (2021) *Aged care data snapshot – 2021*, www.gen-agedcaredata.gov.au/www_ahwgen/media/Data-Snapshot/Aged-Care-Data-Snapshot-2021-Release-3.xlsx, viewed 16 September 2022, GEN.

Residential Respite

Residential respite provides short-term care in aged care homes, with the primary purpose of giving a carer, or the person being cared for, a break from their usual care arrangements.

In 2020-21, 67,775 older Australians accessed an average of around 35 days of residential respite per person. Residential respite was delivered by 2,613 providers, with Commonwealth subsidies of \$458.0m.

Issues with Current Arrangements

Existing aged care programs deliver care to around a million older Australians at home through many dedicated service providers and a committed workforce. However, there are several issues with how well the current arrangements support people as they age, many of which were highlighted by the Royal Commission.

Program complexity

Entry into aged care and progression through the system is complicated by having different assessment organisations assessing for different programs. This is confusing and can lead to multiple assessments to get a person into the right program. Similarly, having multiple in-home aged care programs creates unnecessary complexity for older Australians. For example, a person receiving entry-level services from a CHSP provider is likely to have to change providers when their needs increase and they are assigned a home care package. This can be distressing for people who have developed trusted relationships with their care workers. Different fees under different programs can also create perverse incentives for people to decline the services they need.

The Royal Commission recommended existing programs be consolidated and simplified into one aged care program with one set of eligibility criteria and one assessment process, to improve accessibility, choice, and inclusion.⁵

Access to services

While wait times for HCP have improved over time, many older Australians are still waiting for up to 3 to 6 months to receive access to funding. People waiting for a HCP can access CHSP services in the interim, but this is unlikely to fully meet their needs. Additionally, CHSP funding is not always distributed efficiently according to need in the community – in some Aged Care Planning Regions, CHSP providers are at full capacity before the end of a payment period and manage wait lists, whereas other providers will return unused funds. For example, in 2020-21 people in several areas in regional NSW had to wait around 15 weeks for home modifications services.

In the HCP program, providers are required to provide care management services to older Australians, especially for those with complex needs. HCP providers may charge against the older Australian's subsidy for this service. While existing HCP clients have acknowledged the importance of care management, many have queried whether this service is currently more administrative than clinical. Care management is not separately funded under the CHSP.

Alignment with needs

Aged care assessments need to do a better job of accurately identifying the needs of older Australians, and programs need to better direct funding to address needs. A recent

⁵ Royal Commission into Aged Care Quality and Safety (2021), *Final report: Care, dignity and respect (Volume 1) - Summary and recommendations*, agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-volume-1_0.pdf, viewed 16 September 2022.

Department study of around 2,500 in-home aged care clients found that people with similar support needs may be receiving very different levels of service. In the HCP program, older Australians accumulate unspent funds if they do not use their full budget. At 13 September 2022, there was \$2.4 billion⁶ in unspent HCP funds while other older people were still waiting for a package.

Value for money

HCP recipients regularly raise concerns with the Department about not receiving value for money from home care providers. As highlighted by the Royal Commission, between one-quarter and one-third of the HCP funds can be directed towards administration and care management fees.⁷ According to StewartBrown, in 2018-19, people on a Level 4 package received over three times as much care management per week as nursing and allied health care combined.⁸ Care management fees represented around 12.0 per cent of provider income in March 2022.⁹ Administration fees as a percentage of provider income were around 23.6 per cent in March 2022.¹⁰ In a recent survey undertaken by the department, more than half of older Australians and their carers and families said they did not know why they were charged care or package management charges. HCP direct service costs also include administration, meaning that there are three levels of administration charges being levied by providers.

In the CHSP, administration costs are invisible to older Australians as they are included in grants paid directly to providers. Unit prices for providers vary significantly around the country based on historical patterns and many providers have administration costs that are significantly higher than others.

Support for independence

In-home aged care programs could do more to provide older Australians with the supports they need to remain independent. At present, HCP clients need to 'save up' package funding if they need to purchase higher cost capital items like aids and equipment or home modifications. This may be at the expense of forgoing ongoing services they need. In CHSP, program guidelines allow for access up to \$1,000 in goods, equipment and assistive technology.¹¹ The STRC program provides supports to assist people who have experienced a setback get back to their best level of independence, but funding is limited.

⁶ Department of Health and Aged Care (2022), unpublished data.

⁷ Royal Commission into Aged Care Quality and Safety (2021), *Final report: Care, dignity and respect (Volume 1) - Summary and recommendations*, agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-volume-1_0.pdf, viewed 16 September 2022.

⁸ StewartBrown (2020), *Home care provider survey analysis of data collected*, www.health.gov.au/resources/publications/home-care-provider-survey-analysis-of-data-collected, viewed 16 September 2022.

⁹ StewartBrown (2022) *Aged care financial performance survey: March 2022 (nine months) summary results*, www.stewartbrown.com.au/images/documents/StewartBrown_Aged_Care_Survey_-_March_2022_Results_Summary_Presentation.pdf, viewed 16 September 2022.

¹⁰ StewartBrown (2022) *Aged care financial performance survey: March 2022 (nine months) summary results*, www.stewartbrown.com.au/images/documents/StewartBrown_Aged_Care_Survey_-_March_2022_Results_Summary_Presentation.pdf, viewed 16 September 2022.

¹¹ Department of Health and Aged Care (2022) *Commonwealth Home Support Programme: Program manual 2022-23*, www.health.gov.au/resources/publications/commonwealth-home-support-programme-chsp-manual, viewed 16 September 2022.

Stakeholder Perspectives

The Department has conducted a range of consultation with older Australians, carers, service providers, assessors, allied health professionals, and other stakeholders on a draft program design for Support at Home released in January 2022. A summary of the feedback about the reforms is outlined below.

Older Australians

The engagement with older Australians, including current and prospective consumers, and experienced consumer advocates, highlighted several priorities including:

- choice over aged care services, including through self-management of funds
- flexibility to adjust services over time as needs change
- value for money through controls on unreasonable administration fees, and
- better clarity and transparency around how funding is used, including for care management.

Indigenous elders emphasised the need for aged care services to be delivered by staff with strong cultural competency and expressed a preference for care to be delivered by Indigenous owned and run organisations, where possible.

Older Australians from culturally and linguistically diverse backgrounds (CALD) emphasised the importance of access to interpreters, and the value of bi-lingual care workers that can help CALD clients navigate the system and communicate their needs.

Service Providers

Service provider consultations included providers of CHSP and HCP, STRC and residential respite, as well as peak bodies. The Department spoke to providers varying from small to large who are located right across the country, from rural, regional, and remote areas through to providers operating in our cities.

Priorities identified by providers and peak bodies include:

- sustainable funding that recognises the full cost of delivery, including travel and administration
- recognition of the cost of complying with regulatory frameworks and requirements
- the importance of predictable funding for some service types
- the need for flexibility to adjust services on the ground as older Australians' needs change
- consideration of appropriate implementation timeframes, particularly when looking at significant ICT changes.

Carers

The Department consulted with carers, including the peak body, Carers Australia. Carers emphasised the importance of:

- supporting sustainable caring relationships through access to respite and dementia support services
- care partners who can help as things change, and
- understanding the circumstances of carers in the aged care system and in connected government systems.

Part Two: Reform Considerations

Objectives for Reform to In-Home Aged Care

In August 2022, the Government announced its intention to align the commencement of a new in-home aged care program with the timeframe recommended by the Royal Commission, 1 July 2024. To assist readers to respond to the discussion questions, this section, and the next outline the overall objectives for reform and the indicative overall model. Feedback from this consultation process along with other work on program design will continue to refine the model.

The following objectives are proposed to guide the final design of reforms:

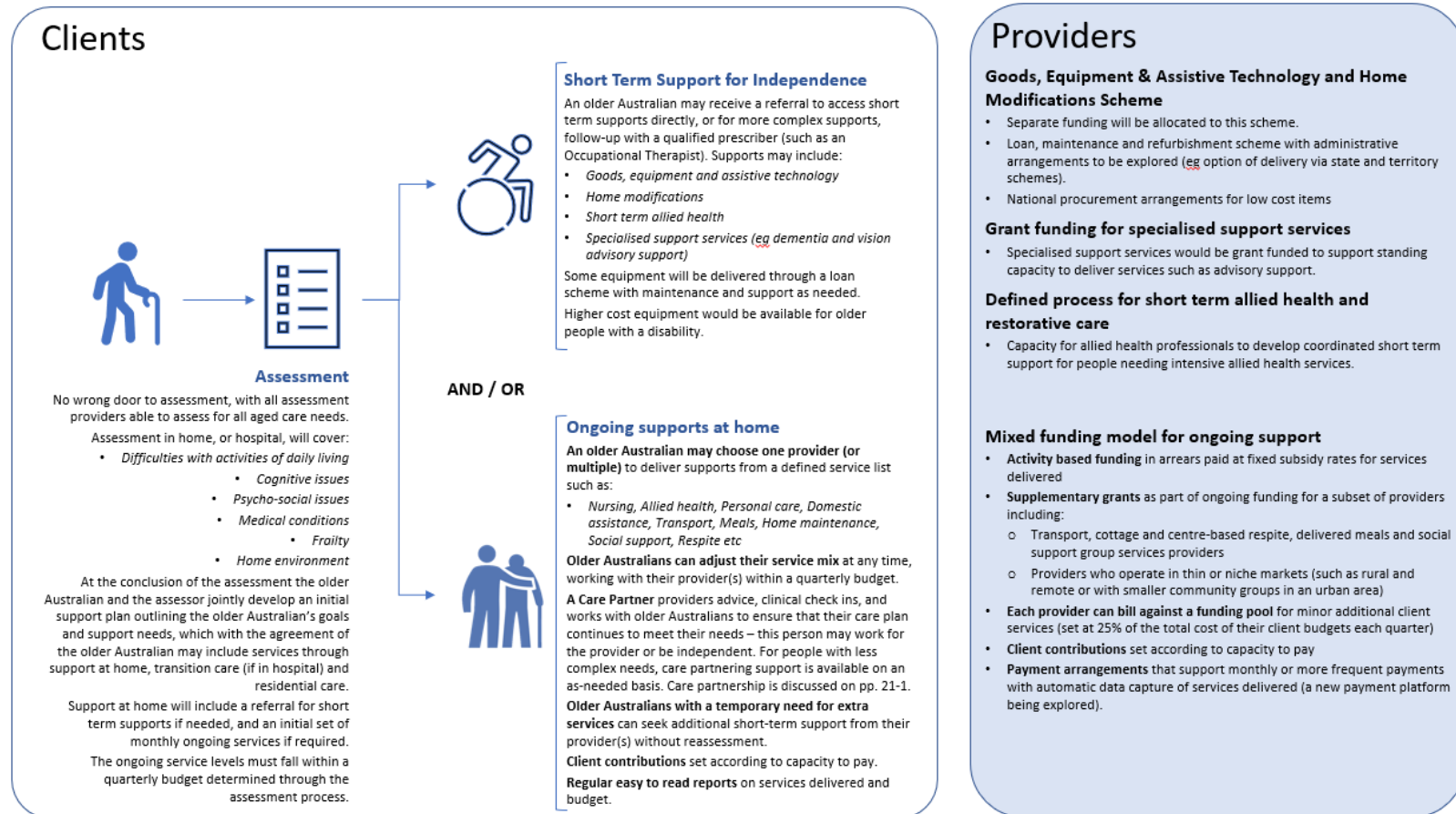
- Reform to in-home aged care should simplify current arrangements for older Australians by consolidating assessment arrangements and programs that are currently cumbersome for older Australians to navigate.
- Services should represent value for money for government and older Australians.
- Services should be underpinned by a robust evidence base on how to meet a person's assessed needs and support independence.
- Older Australians should have timely access to a full range of services that meet their assessed aged care needs.
- People who can afford to contribute to the cost of their care should do so.
- Older Australians should have choice and control over services that meet their assessed aged care needs.
- Funding and quality assurance arrangements should ensure that older Australians receive services that are safe and high quality.
- Aged care expenditure over time should be predictable and fiscally sustainable.

Indicative Model for a New Program

An indicative model for a new program is outlined in Figure that brings together in-home aged care programs to achieve these objectives. The model includes:

- Assessment for aged care services using verified assessment tools
- Early support for independence at home, including aids and equipment, home modifications and allied health
- Support plans for monthly ongoing services that outline service levels
- Flexibility for older Australians to adjust services according to their needs
- Care partners to provide clinical monitoring and support as needed
- Potentially higher levels of support at home (pending further research)
- A mixed Funding model for providers with a combination of activity-based payments in arrears and grants
- Program growth to meet an ageing population
- Risk proportionate regulation
- Automatic data capture on services delivered, enabling improved reporting for older Australians and providers and better program oversight by Government.

Figure 1: Summary of proposed model of in-home aged care



Key Areas of Focus for Reform

Several areas that have been identified as needing further consideration are considered further below, including:

- How self-management across multiple providers would operate in practice
- How to ensure care partners are available to support older Australians when needed
- How to ensure funding arrangements provide value for money without adversely impacting the ability to deliver critical services
- How to implement flexibility to meet the changing needs of older Australians over time.
- How to create incentives for providers to innovate and invest in service delivery improvements.

Managing Services Across Multiple Providers

Consultations with older Australians highlighted the need for more choice and flexibility in managing services. While many older Australians prefer to have one service provider take care of their full suite of aged care needs, some HCP recipients told us that there can be challenges with having a single provider delivering all their services. Some service providers may not offer the same level of quality and value for money across all the service types they deliver. The choice to use different providers for different service types may help older Australians to access the care and support that best meets their needs. The option for older Australians to choose multiple providers may also increase the incentives for providers to offer innovative and high-quality services.

The Department proposes to allow older Australians to choose between having a single or multiple providers delivering the services identified on their individual support plan, noting that many CHSP clients currently access services from multiple providers.

There are practical challenges associated with giving people the choice to manage services across different providers. Without a lead provider managing an older Australian's package, a critical challenge is the ability for older Australians to track their budget to ensure they don't over-book services that cannot be afforded within their budget. The Department is exploring new payment arrangements for the new in-home aged care program, which may involve a new payment platform that could help older Australians to manage their funds. The payment arrangements should:

- Enable simple payments to providers, from both the government and older Australians, and
- Support the automatic collection of service delivery information from payment data avoiding the need for additional reporting.

Discussion Questions

When someone chooses to use more than one provider to deliver their care:

- Should a care partner be accountable for monitoring outcomes and changes in clinical and care needs, and ensuring the older Australian is receiving their services? How might this work?
- If an older Australian chooses to use different providers to deliver different services, what should be the responsibilities of each provider to communicate with each other, and with the older Australians' care partner? How should these responsibilities differ for providers of different service types (for example domestic assistance vs nursing)?
- Should the older Australian be responsible for managing their own budget and ensuring they stay within their funding entitlements? How might this work?
- What challenges might providers and older Australians face in coordinating services across multiple organisations? How might these challenges be overcome?

Care Partners for Older Australians

Earlier this year, older Australians, their families and informal carers, peak bodies, service providers, aged care professionals, assessors, and other interested parties participated in co-design sessions to help us better understand how care management should ideally operate. Older Australians emphasised that care management should be a partnership between themselves and an appropriately trained person – or care partner – who can support them to achieve the best outcomes from aged care services.

Care management involves clinical oversight and monitoring to understand and identify changing needs of older Australians. It also includes an element of checking and safeguarding the safety of the older Australian. While care management also includes an element of onboarding and coordination of services, the focus is not on administrative tasks such as scheduling care workers. A care partner must also have a degree of impartiality, even if employed by a service provider responsible for delivering other services and supports.

Participants in the co-design sessions looked closely at:

- what care management might look like in a perfect world
- eligibility for care management
- potential models for care management
- implications of a multi-provider model on care manager roles
- roles, attributes, capabilities, and accountability of care managers
- workforce capability and capacity.

Key messages from the co-design sessions included that care management:

- needs to be available to all older Australians (not just those with complex needs), should they require it
- should support continuity of care and be flexible and responsive to changing needs
- should be enhanced by technology and innovation
- should be delivered in partnership with the older Australian.

Stakeholders agree the system should support all older Australians using aged care services to access the right support when needed – for some this may be through regular check-ins, for others it may only be needed periodically when circumstances change. There are challenges in implementing a care management model that achieves this kind of universal coverage while ensuring scarce expertise is targeted to those who need it most. Another challenge is to ensure care partners can provide effective support to those who choose to self-manage their care across multiple providers. Stakeholders highlighted the importance of having mechanisms (such as IT systems) for care workers to share concerns or observations with care partners outside their organisations.

Discussion Questions

- If an older Australian is using more than one provider, how can information and observations of care workers from different organisations be communicated to the care partner?
 - Does it matter where the care partner 'sits'?
 - Should they sit with the provider delivering the highest risk services, sit with the provider selected by the older Australian, or alternatively, be independent of other providers?
- A care partner can support transitions in care and proactive responses to prevent crises.
 - What, and how, should a care manager be held accountable for this role?
- What does successful care management look like?
 - What should a care partner's 'Key Performance Indicators' look like?
- What should the role of a care partner be in relation to ensuring services are meeting quality standards?
 - How might this link to Quality Indicators for in-home aged care providers?

A Funding Model that Supports Provider Viability and Offers Value for Money

Recommendations 117 and 118 of the Royal Commission proposed a new funding model to support in-home aged care and support services through a mix of grants and activity-based funding and either an individualised budget or case-mix classification approach.

The Department proposes a mixed funding model that includes a combination of each of these elements, including:

- A separately funded scheme for goods, equipment, assistive technology and home modifications that includes both procurements and a loan scheme with maintenance and refurbishment included
- Grant funding for specialized support services to provide a standing capacity to deliver advisory support in areas such as vision loss and dementia
- Ongoing services to be delivered primarily on an activity-based funding basis with:
 - prices set by Government that cover the full cost of service delivery at efficient rates, and
 - payments made to providers once services have been delivered.
- Additional long-term grants as part of the ongoing funding for some providers including:
 - Providers delivering transport, social support group, cottage and centre-based respite and delivered meals services, and
 - Providers operating in thin or niche markets such as rural and remote areas or those supporting particular community groups in an urban setting
- Each older Australian would have a known quarterly budget and will have a monthly support plan that can be adjusted within the budget
- Service providers would have access to an additional pool of funds on top of an individual's budget to facilitate minor tops ups without needing a reassessment (set at around 25% of the total cost of their clients' budgets each quarter). It would be up to the provider how this pool is spent across their clients, based on guidance about how to prioritize needs. Funds would be paid on an activity basis.
- Two areas where the Department has received feedback that greater flexibility is needed which require further consideration are:
 - Care management arrangements, given feedback that there needs to be a standing capacity to provide episodic support as needed; and
 - Indigenous services providers, who have indicated that funding certainty may be required to grow the sector which is needed to increase the proportion of Aboriginal and Torres Strait Islander elders who access aged care services.

The following aspects of this model will be a focus of further consultation.

Prices that reflect the full cost of service delivery

Providers have emphasised the need for prices to be evidence-based to ensure they fully capture the costs of delivering services. For example, providers of goods, equipment and assistive technologies have noted that costs go well beyond just the purchase and delivery of equipment, including organising equipment, costs of running a showroom and staff time to offer product trials. Similarly, providers operating in rural areas have highlighted the significant travel costs often associated with servicing these locations.

Older Australians want a new funding model that does not have administrative charges that appear excessive. The introduction of activity-based funding for services would involve separate prices for each service type. This will enable efficient prices to be established that cover the full cost of delivering services, including administration, travel and regulatory requirements.

The Department will work with the Independent Health and Aged Care Pricing Authority (IHACPA) to develop a set of efficient prices to form the basis for the activity-based service payments.

- Nationally efficient prices could be set for each service type, with loadings for rural and remote areas. For example, IHACPA could develop a national efficient price for an hour of domestic assistance that incorporates the cost of administration, travel, and other costs as with a reasonable profit margin to cover the cost of capital and support innovation. A higher price may be payable in regions with higher travel costs. These prices would then be publicly available providing transparency to older Australians and providers. The approach to consumer contributions will also need to be considered in setting prices.

The CHSP national unit price ranges and reasonable client contributions, as outlined in the 2022-23 CHSP Manual, provide a broad indication of how unit-pricing could operate under a single program (see Figure 1). The 2022-23 unit price ranges illustrate the actual subsidies and contributions that CHSP providers receive for in-home aged care services. Note:

- HCP providers may have different costs not reflected
- This is not a comprehensive list of services, eg it excludes care management
- Providers of some service types have suggested re-examining pricing units, such as the use of simple “trips” for transport

Many of the prices are consistent with unit costs of other government funded programs (for standard weekday delivery during business hours). These price ranges would be an input for IHACPA when developing prices for a new program.

Figure 2: 2022-23 CHSP national unit prices ranges and client contributions

CHSP Service Type	Output measure	2022-23 CHSP National Unit Price Ranges	CHSP reasonable client contribution
Allied Health and Therapy Services	Hour	\$95-\$125	\$5-15
Centre-based Respite	Hour	\$27-\$51	\$2-4
Cottage Respite	Hour	\$28-\$53	\$2-6
Domestic Assistance	Hour	\$48-\$61	\$6-12
Flexible Respite	Hour	\$51-\$67	\$4-8
Home Maintenance	Hour	\$53-\$75	\$8-20
Meals	Meal	\$7.50-\$13	\$4-12
Nursing	Hour	\$104-\$129	\$4-10
Other Food Services	Hour	\$25-\$41	\$6-15
Personal Care	Hour	\$51-\$68	\$6-12
Social Support Group	Hour	\$17-\$27	\$2-4
Social Support Individual	Hour	\$39-\$60	\$4-8
Specialised Support Services	Hour	\$76-\$118	\$3-12
Transport	One-way trip	\$18-\$36	\$2-12

Thin markets have additional delivery costs

The Department acknowledges that some providers in thin markets will require supplementary grant funding in addition to any loadings included in the prices. This is because service costs and volumes in thin markets, such as rural and remote locations or particular CALD communities in urban settings, can vary significantly. For example, an average loading may be sufficient for a rural provider who travels between towns 100km apart but may be insufficient for a provider who regularly has to drive 200km to get an older Australian to a service. Similarly, a national price may be sufficient for a provider servicing a large CALD community in a major city, however there may be a niche provider with a very small client base that needs an additional grant to cover its fixed costs. As such the new program would contain provisions for grants for providers operating in thin markets.

- CHSP service delivery data gives some indication of the proportion of services that may be supported through thin market grants.
- Around 275 service providers and 3% of CHSP grants (or \$88.5m) operate in MMM 6 or 7 regions
- Around 782 service providers and 9% of CHSP grants (or \$248m) operate in MMM 5 regions

Around 133 service providers and 4% of CHSP grants (or \$95m) have more than 50% of their clients from CALD or Indigenous communities (outside of MMM 5, 6 and 7 regions).

It is not expected that all providers in these categories would require thin market grants, and those who receive the grants may still receive a significant share of their funding through activity-based payments.

It is envisaged that thin market grants would be allocated through a competitive grant process, with five-year funding agreements and minimal reporting requirements, noting that these would be additional to activity-based payments that enable automatic capture of service provision data.

In addition, the Department would anticipate retaining a fund to run a standing ad hoc grants process to address unforeseen pressures such as workforce constraints or to address emergencies as they arise.

Some service types need a degree of funding certainty

Service providers have raised concerns about an activity-based payment model for service types with high fixed costs and/or a high number of volunteers, particularly where services are delivered to groups that can fluctuate in size. Providers of group social support and transport services along with meals delivery providers have advocated to receive an element of guaranteed grant funding as part of their funding mix.

Similarly, specialized support services that are episodic in nature with fluctuating demand, such as dementia support, continence advisory services and vision support services, have indicated that it would be difficult to offer a standing service offer under activity-based payment arrangements.

It is proposed that grants be included as part of the ongoing funding model for the new program to better support providers of these services. In the case of meals delivery, there may be value in considering how this funding can also be used to support social connection. For example, funding rates could vary between meals providers who simply drop off a meal and those who also provide substantial face-to-face social support.

Indigenous providers are seeking an alternative model

Indigenous stakeholders, including indigenous owned providers and providers who specialize in providing services for Indigenous Elders are concerned a predominantly fee-for-service model could be inappropriate for their circumstances and could hamper growth in indigenous care delivery. They suggested an alternative model, where the provider is funded more flexibly, could better allow Elders to reveal preferences over time with a trusted provider. The Department will be consulting on an alternative in-home care delivery model for Indigenous Elders in the coming months.

Discussion Questions

- What key services and types of providers may require supplementary or additional grants?
- What are the positive and negative experiences providers have from current grant programs for in-home care, and the key learnings for future provision of grant funding?
- Which diverse groups may be at-risk from the shift to activity-based payments, both in remote areas and metropolitan areas, and what are the specific supports grants should address?
- What should be the reporting requirements of these grants?
- What are the fairest arrangements for reporting on grant performance, including options for the roll-over of funds across periods, or to other essential service delivery?

Support that meets assessed needs, but is responsive to changes over time

Improved assessment would better match funding to needs

Stakeholders across the aged care system agree that getting aged care assessment right is critical to the success of the program. The Department has worked with HealthConsult, Flinders University and the Global Centre for Modern Ageing to develop and test a new Assessment Tool and classification system to facilitate more thorough assessments of aged care needs.

The intent of the assessment tool and classification system is to better align older Australians' aged care assessment service recommendations and funding intensity with their support needs. While there is further work needed to refine this system, the concept of a new assessment tool and funding classes based on need were not disputed and are not included as a focus area in this paper.

Funding should be responsive to changes in needs over time

While assessment plays a vital role in ensuring older Australians are assigned the right services at the right levels, older Australians and service providers have consistently told us that the new in-home aged care program must have flexibility to adjust the service mix as older Australian's needs change over time. The circumstances of older people are not static, and neither are their aged care requirements. An aged care assessment provides a point-in-time indication of the services that a person may need to help them live independently at home. However, a person's situation can change day by day through factors like the availability of a family member to help with transport, or a change in a medical condition. This can impact whether someone needs extra support on a given day or wants to forgo a service like social support due to feeling unwell.

Under the proposed model, older Australians would be able to adjust the ongoing services listed in their initial support plan as and when required within a quarterly budget. There may be some constraints on this flexibility, such as limiting the total amount of the budget that can be allocated to domestic assistance or home maintenance to prevent people from forgoing the clinical support they need in favour of extra cleaning or gardening. The quarterly budget would reset every three months with no accumulation of unspent funds between quarters.

Older Australians who access services through a single provider would talk to their provider about any changes required. People who are self-managing services across multiple providers would be supported to keep track of their quarterly budget with regular information on their service use against the budget.

It is also proposed that when older Australians have a minor or temporary change in needs that they should have access to additional support without the need for reassessment. This would be facilitated by giving providers access to additional funds to respond to changing needs of their clients. For example, if an older Australian needs additional transport services for a short period because their spouse will be unavailable, they may request extra services which their provider could bill to the funding pool. Each provider would have an additional quarterly funding pool that would be equivalent to 25% of the total value of their clients' quarterly budgets. Service providers would prioritise the use of their flexible funds across all

of their clients based on clear guidance and client need. Payments would be made from this funding paid on an activity basis.

Discussion questions

- What are the benefits and limitations providers anticipate in distributing pooled funds: which services should see increased use, and which may be limited by workforce availability?
- How should the flexible pool be set – is 25% of client budgets appropriate?
- What should be included in guidance for prioritising the use of the funds across clients?
- Are there any unintended consequences of this type of payment model?

Encouraging Innovation and Investment

Reform to in-home aged care presents an opportunity to reconsider how to incentivise innovation and investment in the aged care system. The following three areas are being considered under the new arrangements to foster innovation and investment.

Competition on quality – if activity-based payments are paid at prices set by Government, competition between providers will not primarily be on price. Together with parallel reforms on transparency and quality, the intent of these reforms is to encourage competition on quality. New Quality Indicators and Star Ratings to be introduced for in-home aged care will provide a way for older Australians to compare providers and make decisions. This should result in providers increasing their focus on areas such as staff training, or value-adding services offered to older Australians. Over time there may be potential to consider reward payments for quality outcomes once a sound quality framework has been established and bedded down.

The right conditions for investment – institutional investment in in-home aged care is currently hindered by uncertainty about reforms and regulatory requirements along with concerns about workforce challenges. The proposed reforms would provide greater certainty about future program arrangements along with risk-proportionate regulation. Funding providers primarily through efficient prices for different service types with cost-based indexation will provide greater certainty about revenue estimates. There should also be predictable program growth and more opportunities for services to expand client numbers. These funding arrangements should provide an environment that supports investment in service innovation and staff development.

A funding framework that enables innovation – the proposed funding arrangements include separate funding for goods, equipment, and assistive technologies. This will enable a dedicated focus on new technologies as they emerge to support independence at home. For example, in recent years there has been an emergence of monitoring technology that utilises Artificial Intelligence learn an older Australian's typical behaviours and send an alert when something unusual occurs. This may become particularly helpful for people living alone. For providers operating in congregate settings, such as retirement villages, there may also be opportunities to pool client funds to offer shared services, such as a nurse available on-call. It will be important to ensure such models are not precluded as the funding model is finalised. Finally, an annual innovation grants program could foster and publicise new and innovative practices in the delivery of in-home aged care. This could be a way for organisations to access pilot funding to trial or scale up innovative delivery models. It could also be supported through an online community of practice to share information about new approaches.

Discussion questions

- How can innovation and investment in in-home aged care be fostered under the reforms?
- How might we support innovative approaches to safely deliver higher levels of care at home?
- How might we enable innovation in home care for providers working in congregate care settings?
- How might we encourage innovations that increase the quality of care?

Part Three: Next Steps

Where to next?

We invite submissions in response to the discussion questions listed throughout the discussion paper and our indicative model. We invite input from all stakeholders, including:

- older Australians, their families, and informal carers
- Indigenous elders and their families and informal carers
- older Australians from culturally and linguistically diverse backgrounds, and their families and informal carers
- older Australians with disabilities and progressive conditions, and their families and informal carers
- aged care providers
- aged care and health professionals
- aged care assessors
- peak bodies
- the general public, and
- experts in target areas.

The Department will consider these submissions in updating the policy for the new in-home aged care program. We will aim to provide a webinar update in December 2022. To get updates on consultations and the latest information on the aged care reforms:

- subscribe to Your Aged Care Update (previously called the Information for the Aged Care Sector newsletter) at health.gov.au/aged-care-newsletter-subscribe
- sign up to engage with us through the Ageing and Aged Care Engagement Hub at agedcareengagement.health.gov.au
- download resources at health.gov.au/aged-care-reforms.

In addition, work will continue on new assessment arrangements. The Department is planning a large-scale trial to test a prototype assessment tool and assessment process. The trial is being planned for the first half of 2023, with a refined prototype tool to be used by the existing assessment workforce to assess around 20,000 older Australians over a three-month period. These assessments would be used for research purposes only, with older Australians' formal assessment finalised using the current National Screening and Assessment Form. The trial will provide representative data to validate the allocation of older Australians to classes and the service levels assigned, as well as collecting further feedback to refine the tool and assessment process, including decision support for assessors. A particular focus of the trial will be assessments for First Nations people to inform the practices for new Indigenous assessment organisations that will be established under reforms to assessment arrangements.





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15 Infrastructure Development and Works

15.1 Planning Application PA1133 for the removal of native vegetation at Grants and Richs Road, Kaniva (Crown Allotment 22, Section 4, Parish of Kaniva)

Directorate: Infrastructure Development and Works

Report Author: Ebony Cetinich, Contract Town Planner

Report Purpose: For Decision

Introduction

The Following report presents Planning Application PA1133 for the Removal of Native Vegetation at Grants and Richs Rd, Kaniva (Crown Allotment 22, Section 4, Parish of Kaniva)

This planning application is being presented to Council for consideration as two objections have been received against the proposal.

Declaration of Interest

No officer declared an interest under the Local Government Act 2020 (LGA 2020) in the preparation of this report.

Background

Preliminary planning advice was provided to the applicant (PAR0495) on 19 September 2022 outlining that a planning permit is required for the removal of five native trees (subject of this application) and that any future application must demonstrate the 'avoid' and 'minimise' principles in accordance with the Guidelines for the removal, destruction or lopping of native vegetation.

Proposal

Council received a planning application for the removal of native vegetation on 10 January 2023.

The proposal consists of the removal of five native trees to facilitate the development of a shed to store agricultural machinery associated with cropping of the land. An aerial image of the trees proposed to be removed as well as a site plan and photographs are contained within Figures 1 to 3 on the following page.

A copy of the application and supporting documentation is provided as an attachment to this report (Attachment 1).



Figure 1 – Site Plan (trees to be removed highlighted in yellow)



Figure 2 – Aerial image of trees proposed to be removed

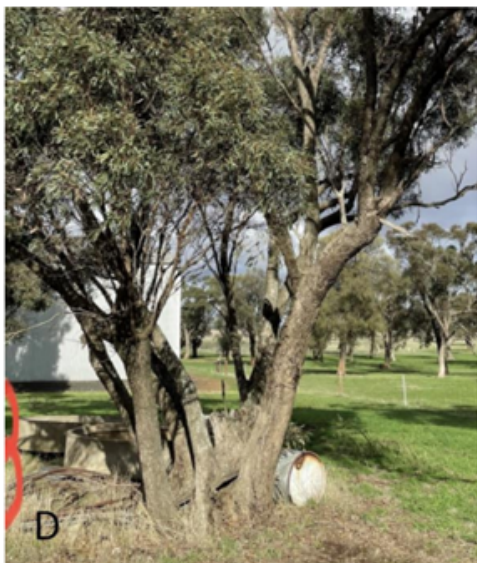


Figure 3 – Photographs of trees proposed to be removed

Subject land

The subject land is known as Grants and Richs Road, Kaniva, being Crown Allotment 22, Section 4, Parish of Kaniva. The site has a total area of approximately 129 hectares and a frontage of approximately 1.6km to Grants and Richs Road. The site is used for broadacre cropping and contains a small pocket of agricultural buildings surrounded by remnant native vegetation adjacent to Grants and Richs Road. The site and surrounding land is situated within the Farming Zone and Environmental Significance Overlay.

The surrounding land is also used for broadacre cropping and typically contains a dwelling, agricultural buildings and minimal scattered native vegetation.

An aerial image of the site and surrounding area is contained within Figure 4 and a zoning map is contained within Figure 5 on the following page.



Figure 4 – Aerial image of the site and surrounding area

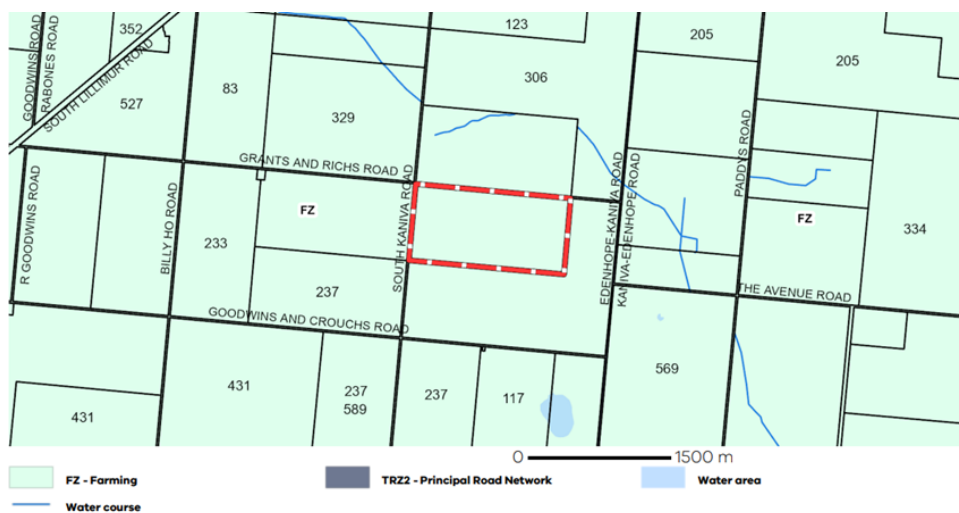


Figure 5 – Zoning map

Further Information

No further information was requested during the assessment of this application.

Public Notice



The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* and two objections were received. Copies of the objections are provided as an attachment to this report (Attachment 2).

The issues identified in the objections have been summarised, as follows:

- Trees classified as endangered should not be removed.
- Cumulative impacts of native tree removal within the Municipality.
- Loss of habitat for birds and animals.
- Removal goes against restoration and preservation of vegetation policies and action undertaken within the Municipality.
- Insufficient off-set trade off.

A detailed response to the issues raised in the objections was provided by the applicant/planning consultant and is contained within Attachment 3.

Planning controls

- Clause 35.07 - Farming Zone (FZ)

There are no permit triggers under the FZ that involve removal of native vegetation. As such, the FZ will be discussed no further in this report.

- Clause 42.01 - Environmental Significance Overlay (ESO) – Schedule 2

Under Clause 42.01-2, a planning permit is required to remove, destroy or lop any vegetation, including dead vegetation, unless a schedule to the Overlay specifically states that a permit is not required.

Clause 3.0 under Schedule 2 to the ESO states that a permit is not required to remove vegetation unless it is any of the following:

- A hollow bearing eucalypt tree.
- Buloke with a trunk diameter of greater than 20 centimetres at 1.3 metre above ground level.
- Buloke with a density of more than 1 tree per 10 hectares of development.
- Stringybark with a trunk diameter of greater than 30 centimetres at 1.3 metre above ground level.

Preliminary advice was obtained from Council's Environmental Services Coordinator which outlines that the trees proposed to be removed are likely Black Box (*Eucalyptus largiflorens*) and no hollows are evident. As such, the proposal meets the permit exemption under Clause 3.0 under Schedule 2 to the ESO. The ESO will be discussed no further in this report.



- Clause 52.17 – Native Vegetation

Pursuant to Clause 52.17-1, a planning permit is required to remove, destroy or lop native vegetation, including dead native vegetation, unless the table to Clause 52.17-7 specifically states that a permit is not required. The table to Clause 52.17-7 contains an exemption for new buildings within the Farming Zone provided that the building is associated with agricultural production and removal is the minimum extent necessary to enable construction of the building.

It is considered that the subject land provides ample opportunity for the development of a new agricultural building without requiring vegetation removal. As such, the proposed removal is not considered to be to the minimum extent necessary and a planning permit is required under Clause 52.17-1 of the West Wimmera Planning Scheme.

Municipal Planning Strategy (MPS)

The relevant policies of the MPS that have been considered are as follows:

Clause 02.03 Strategic Directions

Clause 02.03-2 Environmental and landscape values

Planning Policy Framework (PPF)

The relevant policies of the PPF that have been considered are as follows:

Clause 12.01-1S – Protection of biodiversity

Clause 12.01-1R – Protection of biodiversity -Wimmera Southern Mallee

Clause 12.01-1L – Protection of biodiversity -West Wimmera

Clause 12.01-2S – Native vegetation management

Clause 52.17 – Native Vegetation

Purpose

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):

1. Avoid the removal, destruction or lopping of native vegetation.



2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

52.17-4 Decision Guidelines

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

Table 1 - The Decision Guidelines specified in the Guidelines.

Number	Decision guidelines to be considered
1	<p>Efforts to avoid the removal of, and minimise the impacts on, native vegetation should be commensurate with the biodiversity and other values of the native vegetation and should focus on areas of native vegetation that have the most value. Taking this into account consider whether:</p> <ul style="list-style-type: none">• the site has been subject to a regional or landscape scale strategic planning process that appropriately avoided and minimised impacts on native vegetation.• the proposed use or development has been appropriately sited or designed to avoid and minimise impacts on native vegetation. <p>feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal.</p>
2	<p>The role of native vegetation to be removed in:</p> <ul style="list-style-type: none">• Protecting water quality and waterway and riparian ecosystems, particularly within 30 metres of a wetland or waterway in a special water supply catchment area listed in the Catchment and Land Protection Act 1994.• Preventing land degradation, including soil erosion, salination, acidity, instability and water logging particularly:<ul style="list-style-type: none">- where ground slopes are more than 20 per cent



	<ul style="list-style-type: none">- on land which is subject to soil erosion or slippage- in harsh environments, such as coastal or alpine areas.• Preventing adverse effects on groundwater quality, particularly on land:<ul style="list-style-type: none">- where groundwater recharge to saline water tables occurs- that is in proximity to a discharge area- that is a known recharge area.
3	The need to manage native vegetation to preserve identified landscape values.
4	Whether any part of the native vegetation to be removed, destroyed or lopped is protected under the Aboriginal Heritage Act 2006.
5	The need to remove, destroy or lop native vegetation to create defensible space to reduce the risk of bushfire to life and property, having regard to other available bushfire risk mitigation measures.
6	Whether the native vegetation to be removed is in accordance with any Property Vegetation Plan that applies to the site.
7	Whether an offset that meets the offset requirements for the native vegetation to be removed has been identified and can be secured in accordance with the Guidelines.
9	<p>For applications in both the Intermediate and Detailed Assessment Pathway only – consider the impacts on biodiversity based on the following values of the native vegetation to be removed:</p> <ul style="list-style-type: none">• The extent.• The condition score.• The strategic biodiversity value score.• The number and circumference of any large trees.• Whether it includes an endangered Ecological Vegetation Class.• Whether it includes sensitive wetlands or coastal areas

Clause 65.01 – Approval of an Application or Plan (Decision Guidelines as relevant)



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.
- Any significant effects on the environment, including the contamination of land, may have on the use or development.
- 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 environment, human health and amenity of the area.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- 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.

Assessment

Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF)

Clause 02.03-2 highlights that the decline and fragmentation of indigenous vegetation and loss of biodiversity is a major environmental issue in the Shire. Further, it is recognised that large areas of the Shire have been cleared for agriculture, resulting in limited areas of natural vegetation cover and there is a risk that scattered trees on farms will die out and the roadside vegetation will be all that remains.

Whilst private land in the Shire has been substantially altered during the past 150 years, small pockets of remnant habitat still exist and these areas have become increasingly important with the realisation that only 3 per cent of the original vegetation remains intact.

The Strategic Directions relevant to the assessment of application include:

- Conserve the Shire's biologically diverse natural environment.
- Encourage development to increase indigenous vegetation cover.
- Minimise impacts on areas with high habitat value.
- Retain high quality vegetation stands throughout the municipality.

Similarly, the intent of Clause 12.01-1S, Clause 12.01-1R and Clause 12.01-1L is to protect and enhance Victoria's biodiversity, specifically habitat for the Red Tailed Black Cockatoo and Jumping Jack Wattle within the Municipality. Clause 12.01-2S is more specific as it seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. The strategy under Clause 12.01-2S requires decision making to apply the three-step approach in accordance with the Guidelines for the removal,



destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017), as follows:

- Avoid the removal, destruction or lopping of native vegetation.
- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation

The three-step approach (avoid, minimise, offset) is the key policy in relation to the removal of native vegetation to achieve no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. It is a precautionary approach that aims to ensure that the removal of native vegetation is restricted to only what is reasonably necessary, and that biodiversity is appropriately compensated for any removal of native vegetation that is approved.

As discussed in greater detail under Clause 52.17 below, the proposal fails to appropriately respond to the three-step approach or provide evidence that biodiversity will not be harmed as a result of the proposed tree removal. As such, the proposal cannot be supported by the relevant provisions of the MPS and PPF, as listed above. A full native vegetation assessment is found under Clause 52.17 below.

Clause 52.17 – Native Vegetation

The purpose and decision guidelines of Clause 52.17 and the Guidelines focus strongly on the three-step approach (avoid, minimise, offset), as highlighted above. The applicant provided an avoid and minimise statement which outlines that the proposed vegetation removal is required to accommodate a new farm machinery storage shed. A summary of the reasons for the location of the new shed is as follows:

- The location is amongst existing buildings where an existing shed will be replaced and existing infrastructure and accessways will be utilised. Furthermore, it will be close to existing staff amenities/first aid and being consolidated with existing buildings increases security and surveillance.
- The location will have minimal impacts on productive agricultural land.
- Alternative locations have a significant rise and would require significant earthworks and increased costs.
- An existing power line also restricts relocating the position of the new shed.

Figure 6 on the following page contains a photograph supplied with the application to show the powerline and slope of the land.



Figure 6 – Photograph supplied with application

It is clear within the Guidelines that an application to remove native vegetation must demonstrate or provide appropriate evidence to show that no options exist to further minimise the impacts of native vegetation removal, that will not undermine the objectives of the proposed use or development. A photograph and generic statements are not considered to be sufficient to demonstrate that there are no options available to relocate the shed to avoid loss of native vegetation. An example of such evidence would include a contour plan and supporting quotes to demonstrate that the earthworks necessary to provide a benched area would not be economically viable.

Native vegetation removal within the West Wimmera Shire has been explored at VCAT in the case *McDonald v West Wimmera SC (Red Dot) [2019] VCAT 70 (16 January 2019)*. This case involved the review of a decision to grant a permit by West Wimmera Shire Council for the removal of 23 scattered Grey Box *Eucalyptus macrocarpa* trees from a 257 hectare farming property west of Kaniva. The property is currently farmed under crops, with the purpose of removing the trees to allow for easier, more efficient and safer access for agricultural machinery for cropping activities. Council's decision was set aside and no permit was granted. The findings of this case are particularly relevant in the assessment of this application as it explores native vegetation removal for agricultural gain and examines the legislation changes over time and increasing importance placed on the protection of scattered large native trees. The following paragraphs are of relevance:

12. In December 2017 the native vegetation regulations were further amended under Amendment VC138. State policy and Clause 52.17 provisions were changed and the



Guidelines for the Removal, Destruction or Lopping of Native Vegetation, 2017 (the 2017 Guidelines) were introduced as an incorporated document into the West Wimmera Planning Scheme.

13. The 2017 Guidelines now introduced a basic, intermediary and detailed assessment pathway approach together with a shift in the emphasis of the three-step approach back towards the consideration of native vegetation generally and irrespective of its contribution to the value of the State's biodiversity in decision making. In addition, the 2017 Guidelines includes additional recognition, particularly through decision guidelines on:

- The value of native trees, where they are identified as large trees [7]. Large trees are often the oldest part of an ecological system and are difficult to replace in the short term.*
- The value of EVCs that have a bioregional conservation status of endangered.*

14. This change represents a pendulum swing with native vegetation management through a greater recognition of both scattered native trees and bioregional conservation status of EVCs.

33. The proposal relies heavily on the scores relating to extent and condition and to the SBS, which for the trees individually are mostly low at around 0.14 with one exception, which is 0.7. DELWP and Council appear to have relied on these types of scores and numbers to form conclusions to offer no objection and to support the granting of a permit.

34. However, the shift in policy and the application of the avoidance principle to native vegetation per se, rather than only to native vegetation which is significant to Victoria's biodiversity, represents a wider application and strengthening of the requirement to avoid removal and minimise impacts and which is regardless of the SBS. This places greater emphasis on recognising how the proposed change (in this case improved cropping efficiency) that is pursued can be planned commensurate with the impacts (in this case tree removal and effects on biodiversity) that may occur. In this regard, the presence of large trees from an endangered EVC highlights that loss from the removal of these trees is significant and that avoidance is possible because of the choices that are available (in this case a choice of either continuing to



crop amongst the trees unchanged or to reduce or avoid cropping around and amongst these trees).

44. *Policy under Clause 12.01-1S supports the protection of scattered trees where they provide a habitat function and where decision making is required to take into account the impacts of development on Victoria's biodiversity including consideration of cumulative impacts and fragmentation of habitat. I find the proposal fails to satisfy this policy direction.*
45. *Similarly, the endangered EVC, to which the trees belong and the proposed clearing compromises the higher value where the local area has experienced a decline in the number of large trees and they are infrequent in the landscape. The site contains a relatively small number of scattered trees, certainly well below the EVC 66 benchmark tree density of 20 per hectare (the current tree density is around 4.5 per hectare for the cluster of trees subject to the majority of proposed clearing). This heightens and contributes to my findings.*
46. *It appears that although the clearing of the trees would improve farming operations, the loss of the large Grey Box trees is effectively irreversible and does not produce a strong net community benefit or an acceptable outcome, in terms of policy and biodiversity impacts for the area.*

A full copy of the VCAT case is contained within Attachment 4.

As demonstrated by the findings of the VCAT case, large scattered trees within cleared rural landscapes are increasingly important to local biodiversity and their importance may not be adequately reflected in the Strategic Biodiversity Score (SBS) automatically generated on Native Vegetation Removal Reports. In this case, the SBS for the trees proposed to be removed is relatively low at 0.151 out of 1. However, the location of the trees proposed to be removed is classified as endangered Ecological Vegetation Class, meaning that less than 10% of pre-European extent remains in existence or more than 90% has been cleared, as per the expert evidence presented in the VCAT case. In the absence of a detailed ecological assessment undertaken by a qualified ecologist, the trees proposed to be removed are considered to be important to biodiversity given their maturity and the heavily cleared rural environment.

Taking into consideration the above, it cannot be said that all reasonable steps have been undertaken to avoid the removal of native vegetation to ensure that there is no net loss to biodiversity. Consequentially, the proposal cannot be supported under the provisions of Clause 52.17.



Clause 65 Decision Guidelines

The proposal does not accord with the MPS, PPF and Clause 52.17, as discussed above. The proposal will result in the removal of native vegetation at a cost to biodiversity within the Municipality and environmental harm. As a result, the proposal cannot be viewed as an example of orderly planning.

Response to Objections

The objectors concerns broadly relate to biodiversity loss and environmental harm within the Municipality as a result of the proposed native vegetation removal. Their concerns generally align with the issues raised within the planning assessment above and are supportive of the recommendation to refuse this application, as outlined in the officers recommendation below.

Risk Management Implications

Risk identified: Environmental risk

Regulatory risk

Reputation risk

Council is the responsible authority for the administration of the *Planning and Environment Act 1987*. The assessment of this application is conducted by Council officers in accordance with this legislation.

Legislative Implications

The report complies with the requirements of the:
Local Government Act 2020

Environmental Implications

Environmental Risk rating has been assessed as: Medium

Financial and Budgetary Implications

The operation of Council's regulatory planning and building services are conducted within the adopted 2022 – 2023 Council budget.

Policy Implications

This report is supported by the following West Wimmera Shire Council Policy/s:



Community Engagement Policy
Environmental Policy

Council Plan Implications

This report supports the following sections of the West Wimmera Shire Council Plan 2021 – 2025:

Goal 1 – Liveable & Healthy Community

1.7 Improve the liveability of the shire to assist in growing our population into the future.

Goal 3 – Sustainable Environment

3.1 Preserve and enhance the natural environment.

3.2 Promote sustainable environmental management practices.

Goal 5 – Our Commitment Values

Accountability - We will be responsible, take ownership of our actions and are committed to good governance, excellence, transparency and advocating for our community.

Communication Implications

Consultation has already been undertaken in the development of the plans.

The application was advertised by mail to surrounding property owners and occupiers and two objections were received. The issues identified within the objection have been summarised above.

Gender Equality

A Gender Impact Assessment (as defined in the Gender Equality Act 2020) has been undertaken in relation to this matter in accordance with the Gender Equality Act (2020).

Conclusion

The proposed removal of native vegetation does not comply with the relevant provisions of the West Wimmera Planning Scheme, particularly, the MPS, PPF and the purpose and decision guidelines of Clause 52.17 and Clause 65.

There is strong local policy encouragement for the retention of native vegetation within the Municipality given extensive clearing that has occurred over the past 150 years as a result of agricultural production. Native vegetation policy has also adapted over time to place increased importance on the significance of large trees within cleared rural environments and emphasis on the three-step approach (avoid, minimise, offset) in decision making. As discussed in detail within the assessment above, the application fails to demonstrate that all reasonable steps have been undertaken to avoid the removal of native vegetation or



provide evidence that biodiversity will not be harmed as a result of the proposed tree removal.

Having regard to the above, it is recommended that Council refuse Planning Application PA1133 and issue a Notice of Decision to Refuse to Grant a Permit for the removal of native vegetation, for the reasons outlined within the Officers Recommendation below.

OFFICER RECOMMENDATION:

That Council resolves to issue a Notice of Decision to Refuse to Grant a Planning Permit for the Removal of Native Vegetation at Grants and Richs Road, Kaniva (Crown Allotment 22, Section 4, Parish of Kaniva), for the following reasons:

- 1. The application does not meet the strategic directions of Clause 02.03-2 (Environmental and landscape values). The proposal will not conserve the Shire's biologically diverse natural environment, encourage development to increase indigenous vegetation cover, minimise impacts on areas with high habitat value or retain high quality vegetation stands throughout the Municipality.**
- 2. The application does not meet the Objectives or Strategies of Clause 12.01-1S (Protection of biodiversity), Clause 12.01-1R (Protection of biodiversity -Wimmera Southern Mallee) and Clause 12.01-1L (Protection of biodiversity - West Wimmera). The proposal does not protect or enhance biodiversity within the Municipality where it is recognised that small pockets of native vegetation are of high importance (Clause 02.03-2).**
- 3. The application does not meet the Objective or Strategies of Clause 12.01-2S (Native Vegetation Management). The application fails to demonstrate that all reasonable steps have been undertaken to avoid vegetation removal and there will be no net loss to biodiversity.**
- 4. The application is inconsistent with the purpose and decision guidelines of Clause 52.17, which seek to ensure that there is no net loss to biodiversity as a result of the removal of native vegetation. As stated above, the application fails to demonstrate that all reasonable steps have been undertaken to avoid vegetation removal and there will be no net loss to biodiversity.**



Should the officer's recommendation not be supported and Council resolves to issue a Notice of Decision to Grant a Planning Permit, the following Conditions should be included:

1. The Native Vegetation removal as shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
2. To offset the removal of 0.228 hectares of native vegetation, the permit holder must secure a native vegetation offset, in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified below:
 - a. A general offset of 0.041 general habitat units:
 - located within the Wimmera Catchment Management Authority boundary or West Wimmera Shire municipal district with a minimum strategic biodiversity score of at least 0.151.
 - b. The offset(s) secured must provide protection of at least 5 large trees.
3. Before any native vegetation is removed, evidence that the required offset for the project has been secured must be provided to the satisfaction of the Responsible authority. The offset evidence must be:
 - a. An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site; and/or
 - b. credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
4. Before works start, a native vegetation protection fence must be erected around native vegetation to be retained on site to clearly delineate vegetation that is not to be removed. This may take the form of temporary fencing, rope lines, paint marks or similar to the satisfaction of the responsible authority. The protection fence must remain in place until all works are completed to the satisfaction of the responsible authority.



5. Except with the written consent of the responsible authority, within the area of native vegetation to be retained and any tree protection zone, during the construction the holder of this permit must:
 - a. Not import and/or create any storage or dumping of any soils (including piles of dirt or gravel), materials, equipment, vehicles, machinery or waste products on the work site which is prohibited and not relocate any spoil material to another location nearby. Any fill material required should be either a re-use of the existing road base material or be sourced from a reputable, legal source (eg. nearby certified quarry).
 - b. Ensure that any bulk construction materials do not remain on the ground for longer than 24 hours unless placed upon an existing formed road surface.
 - c. Not clean down of any plant or equipment on-site.
 - d. Ensure all construction vehicles travel upon/park on existing formed road surfaces.
 - e. Ensure any other actions or activities that may result in adverse impacts to retained native vegetation such as perform any herbicide spraying not be undertaken.
 - f. Ensure all plant, equipment and machinery is to be clean and free of any soil or plant material which could contain weed seeds before being brought to the site.
6. The above-mentioned planning permit expires if one of the following circumstances arise:
 - a. The vegetation removal works have not commenced within two years of the date of this permit.
 - b. The vegetation removal works have not been 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 in accordance with Section 69 of the Planning and Environment Act 1987.

Attachments

1. Attachment 1 [15.1.1 - 43 pages]
2. Attachment 2 [15.1.2 - 2 pages]
3. Attachment 3 [15.1.3 - 3 pages]
4. Attachment 4 [15.1.4 - 13 pages]



Our Ref: PPA2022-033

09 January, 2023

Planning Department
West Wimmera Shire Council
PO Box 201
EDENHOPE VIC 3318

Email: planning@westwimmera.vic.gov.au
And council@westwimmera.vic.gov.au

Dear Sir/Madam

Planning Application: Native Vegetation Removal (5 trees)
Address: Grant & Richs Road, Kaniva

North West Planning has been engaged by Craig Rich to act on his behalf and submit a planning permit application for the above-mentioned proposal.

In support of the application, please find attached the following documents:

- Completed Planning Permit Application Form
- Current Search Statement and Title Plan
- Planning Property Report/s
- NVIM Report & Additional Application Requirements
- Existing Conditions and Photo's
- Photographs of 5 trees
- VCAT Hearing

Please advise of the prescribed application lodgement fee as soon as possible, which will be paid by my Client in due course.

Please note: at the time of initially preparing the application prior to Christmas, I could not access the NVIM Reports properly as they would not download, so I had to wait for DELWP to send a copy of the relevant plans. I then realised that the additional information (statements) had to be prepared separately. I have not had this occur before?

Please note: that I am away on leave for a couple of weeks. Could you please forward a copy of all correspondence to Craig Rich - his contact details are on the Application Form. I will be checking emails from time to time, but should I miss something, Craig will be able to assist you should you have any questions.

Thank you for your time.
Yours faithfully,

Jodie Senior
Planning Consultant



NORTH WEST PLANNING PO Box 104 Wycheproof, Vic 3527 ABN: 64 632 523 739 M: 0492 973 478
E: admin@northwestplanning.com.au W: www.northwestplanning.com.au



Planning Enquiries
Phone: (03) 5585 9900
Web: www.westwimmera.vic.gov.au

Clear Form

Office Use Only

Application No.:

Date Lodged: / /

Application for a Planning Permit

If you need help to complete this form, read MORE INFORMATION at the end of this form.

Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any questions, please contact Council's planning department.

Questions marked with an asterisk (*) must be completed.

If the space provided on the form is insufficient, attach a separate sheet.

Click for further information.

The Land

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address *

Unit No.:	St. No.:	St. Name: GRANT - RICH'S ROAD	
Suburb/Locality: KANIVA		Postcode: 3412	
A	Lot No.:	<input type="radio"/> Lodged Plan <input type="radio"/> Title Plan <input type="radio"/> Plan of Subdivision	No.:
OR			
B	Crown Allotment No.: 22	Section No.: 4	
Parish/Township Name: KANIVA			

Formal Land Description *

Complete either A or B.

This information can be found on the certificate of title.

If this application relates to more than one address, attach a separate sheet setting out any additional property details.

The Proposal

You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.

For what use, development or other matter do you require a permit? *

NATIVE VEGETATION REMOVAL (5 TREES)

Provide additional information about the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

Estimated cost of any development for which the permit is required *

Cost \$ 10,000

You may be required to verify this estimate. Insert '0' if no development is proposed.




Existing Conditions

Describe how the land is used and developed now *

For example, vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

HIGH PRODUCTIVE AGRICULTURAL FARM LAND


 Provide a plan of the existing conditions. Photos are also helpful.

Title Information

Encumbrances on title *

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- ☐ Yes (If 'yes' contact Council for advice on how to proceed before continuing with this application.)
- ☒ No
- ☐ Not applicable (no such encumbrance applies).

 Provide a full, current copy of the title for each individual parcel of land forming the subject site. The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments', for example, restrictive covenants.

Applicant and Owner Details

Provide details of the applicant and the owner of the land.

Applicant *

The person who wants the permit.

Please provide at least one contact phone number *

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

Owner *

The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organisation.

Name:		
Title: MR	First Name: CRAIG	Surname: RICH
Organisation (if applicable):		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.: 1295	St. Name: OZENKADNOOK-MORTAT ROAD
Suburb/Locality: PERONNE		State: VIC Postcode: 3413

Contact information for applicant OR contact person below

Business phone: 0492 973 478	Email: admin@northwestplanning.com.au
Mobile phone: 0429 861 022	Fax: Email: craigarich@gmail.com

Contact person's details*


Name:		Same as applicant <input type="checkbox"/>
Title: MS	First Name: JODIE	Surname: SENIOR
Organisation (if applicable): NORTH WEST PLANNING		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name: PO BOX 104
Suburb/Locality: WYCHEPROOF		State: VIC Postcode: 3527

Name:		Same as applicant <input type="checkbox"/>
Title:	First Name: WILLIAM	Surname: RICH
Organisation (if applicable):		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name: PO BOX 169
Suburb/Locality: GOROKE		State: VIC Postcode: 3412
Owner's Signature (Optional):		Date: day / month / year



Declaration

This form must be signed by the applicant *

 Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.

Signature:

Jodie Senior

Date: 09-Jan-2023

day / month / year

Need help with the Application?

General information about the planning process is available at planning.vic.gov.au

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist. Insufficient or unclear information may delay your application.

Has there been a pre-application meeting with a council planning officer?



No



Yes

If 'Yes', with whom?: Tim Berger & Edwin Irvine

Date: last corresp. 22/11/2022

day / month / year

Checklist

Have you:



Filled in the form completely?



Paid or included the application fee?

to be paid by client



Most applications require a fee to be paid. Contact Council to determine the appropriate fee.



Provided all necessary supporting information and documents?



A full, current copy of title information for each individual parcel of land forming the subject site.



A plan of existing conditions.



Plans showing the layout and details of the proposal.



Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.



If required, a description of the likely effect of the proposal (for example, traffic, noise, environmental impacts).



Completed the relevant council planning permit checklist?



Signed the declaration above?

Lodgement

Lodge the completed and signed form, the fee and all documents with:

West Wimmera Shire Council
PO Box 201
Edenhope VIC 3318
49 Elizabeth Street
Edenhope VIC 3318

Contact information:

Phone: (03) 5585 9900

Email: council@westwimmera.vic.gov.au

Deliver application in person, by post or by electronic lodgement.



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**REGISTER SEARCH STATEMENT (Title Search) Transfer of
Land Act 1958**

Page 1 of 1

VOLUME 07481 FOLIO 078

Security no : 124103084945A
Produced 10/01/2023 09:56 PM

LAND DESCRIPTION

Crown Allotment 15 Section 3, Crown Allotment 22 Section 4, Crown Allotment 24
Section 4 Parish of Kaniva and Crown Allotment 110 Parish of Yanipy.

PARENT TITLES :

Volume 02678 Folio 600 Volume 02791 Folio 092 Volume 02900 Folio 917

Volume 03266 Folio 107

Created by instrument 2361293 22/01/1951

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

WILLIAM JOHN RICH of RICH RD KOONIK
V492870T 24/06/1998

ENCUMBRANCES, CAVEATS AND NOTICES

For details of any other encumbrances see the plan or imaged folio set out
under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP541609Y FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

DOCUMENT END



Imaged Document Cover Sheet

The document following this cover sheet is an imaged document supplied by LANDATA®, Secure Electronic Registries Victoria.

Document Type	Plan
Document Identification	TP541609Y
Number of Pages (excluding this cover sheet)	1
Document Assembled	10/01/2023 21:57

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The document is invalid if this cover sheet is removed or altered.

TITLE PLAN		EDITION 1	TP 541609Y
<p>Location of Land</p> <p>Parish: KANIVA YANIPY</p> <p>Township: 3 4</p> <p>Section: 15 22, 24 110</p> <p>Crown Allotment: 15 22, 24 110</p> <p>Crown Portion:</p> <p>Last Plan Reference:</p> <p>Derived From: VOL 7481 FOL 078</p> <p>Depth Limitation: 50 FEET(CA 110)</p>		<p>Notations</p> <p>ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN</p>	
<p>Description of Land / Easement Information</p>		<p>THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT</p> <p>COMPILED: 22/06/2000</p> <p>VERIFIED: A.D.</p>	
<p>The diagram shows a series of land parcels. Parcel 14 is at the top, with a width of 8000 and a height of 4000. Below it is parcel 15, also 8000 wide and 4000 high. To the right of parcel 15 is parcel 13. Below parcel 15 is parcel 22, which is 8000 wide and 2700 high. To the right of parcel 22 is parcel 24, which is 2660 1/2 wide and 2700 high. Below parcel 22 is parcel 23. To the right of parcel 24 is parcel 18, which is 90' 3" wide and 6328 high. Below parcel 18 is parcel 110, which is 6327 wide and 270' 4" high. The diagram also shows various roads and government land (GOVT) areas. Dimensions are given in feet and links. The total area is 979A 2R 27P.</p>			
<p>LENGTHS ARE IN LINKS</p>		<p>Metres = 0.3048 x Feet Metres = 0.201168 x Links</p>	
		<p>Sheet 1 of 1 sheets</p>	

PROPERTY REPORT



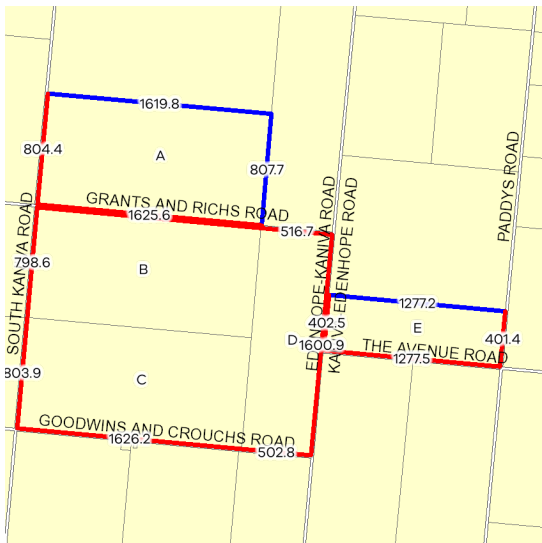
From www.planning.vic.gov.au at 10 January 2023 08:25 PM

PROPERTY DETAILS

Address: **GRANTS AND RICHES ROAD KANIVA 3419**
Crown Description: **This property has 5 parcels. See table below**
Standard Parcel Identifier (SPI): **See table below**
Local Government Area (Council): **WEST WIMMERA** www.westwimmera.vic.gov.au
Council Property Number: **1002989**
Directory Reference: **Vicroads 24 F8**

SITE DIMENSIONS

All dimensions and areas are approximate. They may not agree with those shown on a title or plan.



Area: 5238870 sq. m (523.89 ha)
Perimeter: 15.69 km
For this property:
— Site boundaries
— Road frontages
Dimensions for individual parcels require a separate search, but dimensions for individual units are generally not available.
1 overlapping dimension label is not being displayed
Calculating the area from the dimensions shown may give a different value to the area shown above
For more accurate dimensions get copy of plan at [Title and Property Certificates](#)

PARCEL DETAILS

The letter in the first column identifies the parcel in the diagram above

Lot/Plan or Crown Description	SPI
PARISH OF KANIVA	
A Allot. 15 Sec. 3	15-3\PP2833
B Allot. 22 Sec. 4	22-4\PP2833
C Allot. 23 Sec. 4	23-4\PP2833
D Allot. 24 Sec. 4	24-4\PP2833
PARISH OF YANIPY	
E Allot. 110	110\PP3952

UTILITIES

Rural Water Corporation: **Grampians Wimmera Mallee Water**
Urban Water Corporation: **Grampians Wimmera Mallee Water**
Melbourne Water: **Outside drainage boundary**
Power Distributor: **POWERCOR**

STATE ELECTORATES

Legislative Council: **WESTERN VICTORIA**
Legislative Assembly: **LOWAN**

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PROPERTY REPORT: GRANTS AND RICHES ROAD KANIVA 3419

PROPERTY REPORT



Environment,
Land, Water
and Planning

PLANNING INFORMATION

Property Planning details have been removed from the Property Reports to address duplication with the Planning Property Reports which are DELWP's authoritative source for all Property Planning information.

The Planning Property Report for this property can found here - [Planning Property Report](#)

Planning Property Reports can be found via these two links

Vicplan <https://mapshare.vic.gov.au/vicplan/>

Property and parcel search <https://www.land.vic.gov.au/property-and-parcel-search>

Area Map



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PROPERTY REPORT: GRANTS AND RICHES ROAD KANIVA 3419

Page 2 of 2

PLANNING PROPERTY REPORT



From www.planning.vic.gov.au at 10 January 2023 08:25 PM

PROPERTY DETAILS

Address: **GRANTS AND RICHS ROAD KANIVA 3419**
Crown Description: **More than one parcel - see link below**
Standard Parcel Identifier (SPI): **More than one parcel - see link below**
Local Government Area (Council): **WEST WIMMERA** www.westwimmera.vic.gov.au
Council Property Number: **1002989**
Planning Scheme: **West Wimmera** [Planning Scheme - West Wimmera](#)
Directory Reference: **Vicroads 24 F8**
This property has 5 parcels. For full parcel details get the free Property report at [Property Reports](#)

UTILITIES

Rural Water Corporation: **Grampians Wimmera Mallee Water**
Urban Water Corporation: **Grampians Wimmera Mallee Water**
Melbourne Water: **Outside drainage boundary**
Power Distributor: **POWERCOR**

STATE ELECTORATES

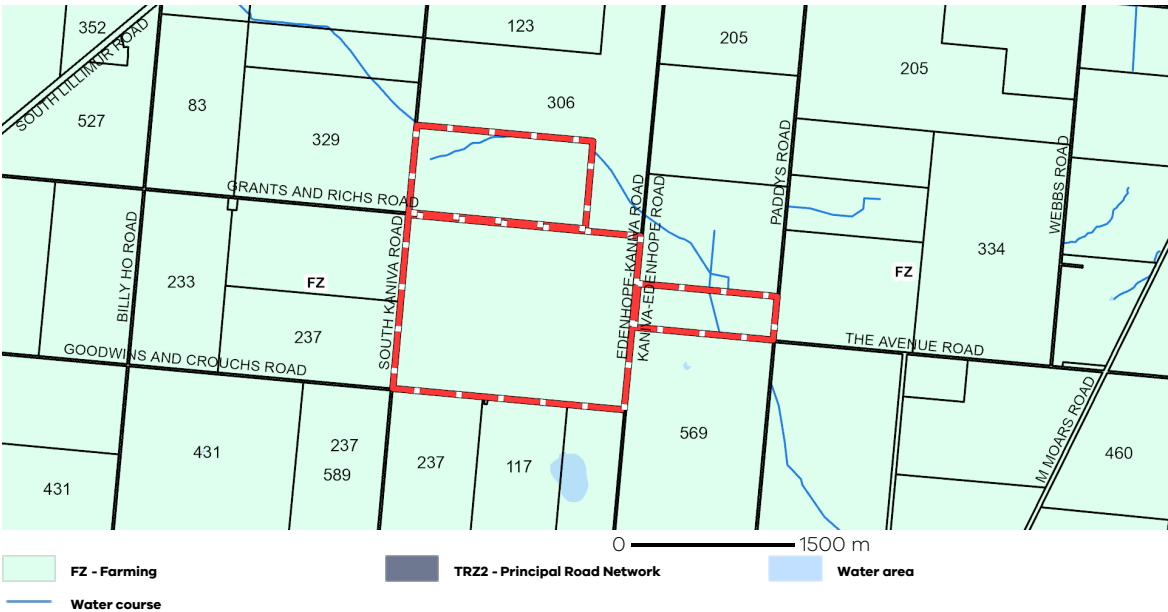
Legislative Council: **WESTERN VICTORIA**
Legislative Assembly: **LOWAN**

OTHER
Registered Aboriginal Party: **Barengi Gadjin Land Council**
Aboriginal Corporation

[View location in VicPlan](#)

Planning Zones

[FARMING ZONE \(FZ\)](#)
[SCHEDULE TO THE FARMING ZONE \(FZ\)](#)



Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

PLANNING PROPERTY REPORT



Environment,
Land, Water
and Planning

Planning Overlay

ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 2 (ESO2)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

Further Planning Information

Planning scheme data last updated on 21 December 2022.

A **planning scheme** sets out policies and requirements for the use, development and protection of land. This report provides information about the zone and overlay provisions that apply to the selected land. Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may affect the land. To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

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PLANNING PROPERTY REPORT: GRANTS AND RICHES ROAD KANIVA 3419

Page 2 of 3

PLANNING PROPERTY REPORT



Designated Bushfire Prone Areas

This property is in a designated bushfire prone area. Special bushfire construction requirements apply to the part of the property mapped as a designated bushfire prone area (BPA). Planning provisions may apply.

Where part of the property is mapped as BPA, if no part of the building envelope or footprint falls within the BPA area, the BPA construction requirements do not apply.

Note: the relevant building surveyor determines the need for compliance with the bushfire construction requirements.



Designated BPA are determined by the Minister for Planning following a detailed review process. The Building Regulations 2018, through adoption of the Building Code of Australia, apply bushfire protection standards for building works in designated BPA.

Designated BPA maps can be viewed on VicPlan at <https://mapshare.vic.gov.au/vicplan/> or at the relevant local council.

Create a BPA definition plan in [VicPlan](#) to measure the BPA.

Information for lot owners building in the BPA is available at <https://www.planning.vic.gov.au>.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>. Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>. For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>.

Native Vegetation

Native plants that are indigenous to the region and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#).

To help identify native vegetation on this property and the application of Clause 52.17 please visit the Native Vegetation Information Management system <https://nvim.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](#) or please contact your relevant council.

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PLANNING PROPERTY REPORT: GRANTS AND RICHES ROAD KANIVA 3419

Page 3 of 3

PLANNING PROPERTY REPORT



From www.planning.vic.gov.au at 10 January 2023 08:26 PM

PROPERTY DETAILS

Crown Description: **Allot. 22 Sec. 4 PARISH OF KANIVA**
Address: **GRANTS AND RICHS ROAD KANIVA 3419**
Standard Parcel Identifier (SPI): **22-4\PP2833**
Local Government Area (Council): **WEST WIMMERA** www.westwimmera.vic.gov.au
Council Property Number: **1002989 (Part)**
Planning Scheme: **West Wimmera** [Planning Scheme - West Wimmera](#)
Directory Reference: **Vicroads 24 F8**
This parcel is one of 5 parcels comprising the property. For full parcel details get the free Property report at [Property Reports](#)

UTILITIES

Rural Water Corporation: **Grampians Wimmera Mallee Water**
Urban Water Corporation: **Grampians Wimmera Mallee Water**
Melbourne Water: **Outside drainage boundary**
Power Distributor: **POWERCOR**

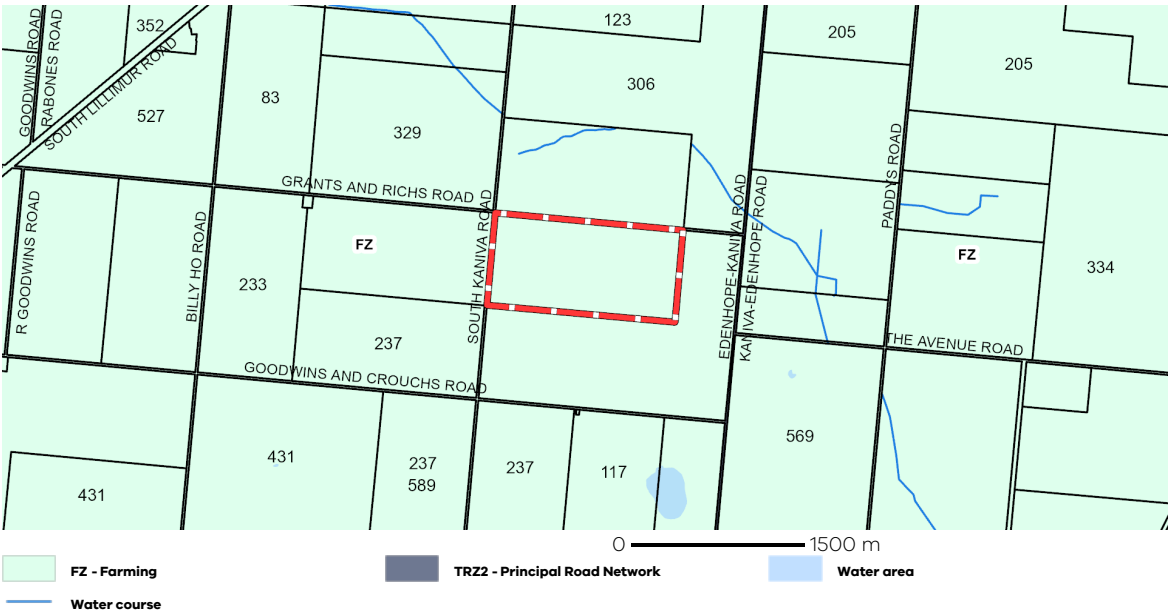
STATE ELECTORATES

Legislative Council: **WESTERN VICTORIA**
Legislative Assembly: **LOWAN**
OTHER
Registered Aboriginal Party: **Barengi Gadjin Land Council**
Aboriginal Corporation

[View location in VicPlan](#)

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[FARMING ZONE \(FZ\)](#)
[SCHEDULE TO THE FARMING ZONE \(FZ\)](#)



Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

PLANNING PROPERTY REPORT



Planning Overlay

ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 2 (ESO2)



Further Planning Information

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PLANNING PROPERTY REPORT: Allot. 22 Sec. 4 PARISH OF KANIVA

Page 2 of 3

PLANNING PROPERTY REPORT

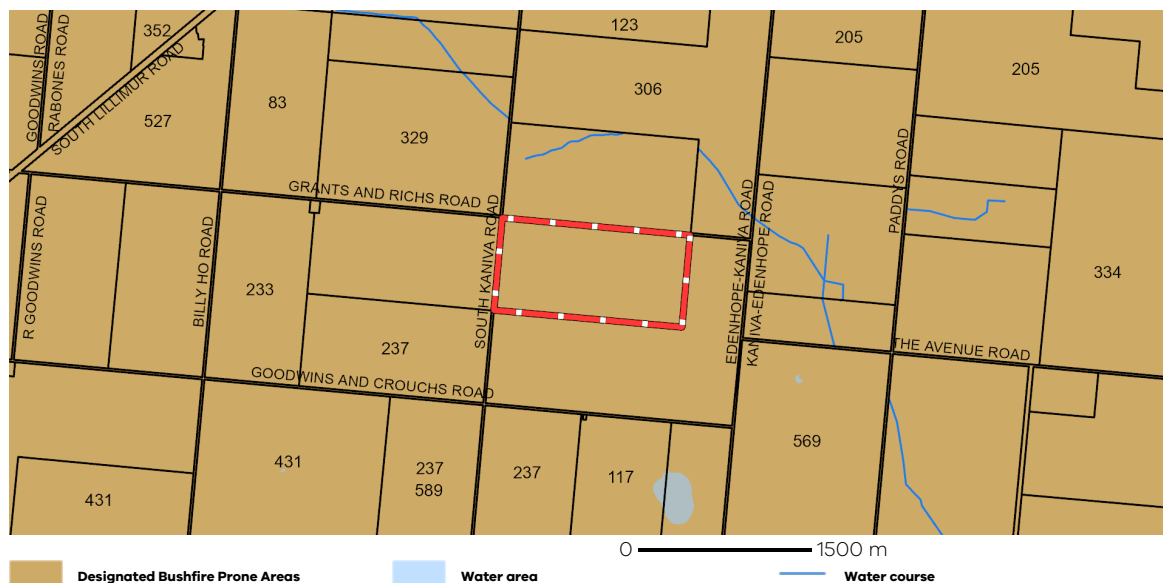


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PLANNING PROPERTY REPORT: Allot. 22 Sec. 4 PARISH OF KANIVA

Page 3 of 3

Topographical and land information

The site of the proposed development is relatively flat, as it currently consists of an old farm shed that needs replacing. As there are a few trees surrounding this existing shed, they need to be removed to allow construction of the new farm shed.

The trees proposed to be removed do not contain any hollows. Please refer to **Photographs** attached to this application.

To the east of the proposed development and north of the existing silos, is a significant rise within the site. Please refer to **Existing Conditions and Photo's** attached for further information.

The land as a whole comprises 130ha, used for high productive agricultural farmland used mainly for cropping, as can be seen in Figure 1 below, which was extracted from VicPlan Interactive Mapping.



Figure 1. Subject land – Crown Allotment 22 Section 4 Parish of Kaniva

Avoid and minimise statement

Although the subject land is quite large, existing buildings and farming infrastructure are all located within the vegetated area. See Figure 2 below.

Due to the significant rise within this area, together with existing infrastructure including a powerline easement to the east (shown in dark blue), it is considered not practical to construct a large shed in this location due to large amounts of cut and fill that would be required and the cost involved.

The 5 trees requested to be removed as part of this application are located around the perimeter of the existing farm building. The proposed new shed is to accommodate the landholders larger farm machinery that can no longer fit in the small (and old) farm shed any more. The new shed will also provide extra security, from passerby's and from the elements of the weather.



Figure 2. Farm infrastructure

Defendable space statement

Not applicable.

Offset statement

It is requested that the applicant use the first party offset option.

The applicant has access to first party option due to the result of a VCAT Hearing McDonald v West Wimmera SC [2017] VCAT 1298 (21 August 2017) in accordance with the DELWP.

Please find attached a copy of this VCAT decision for your information.

The applicant is fully aware on how to secure the offsets, and understands the cost and requirements to secure this offset site.



Photo 1

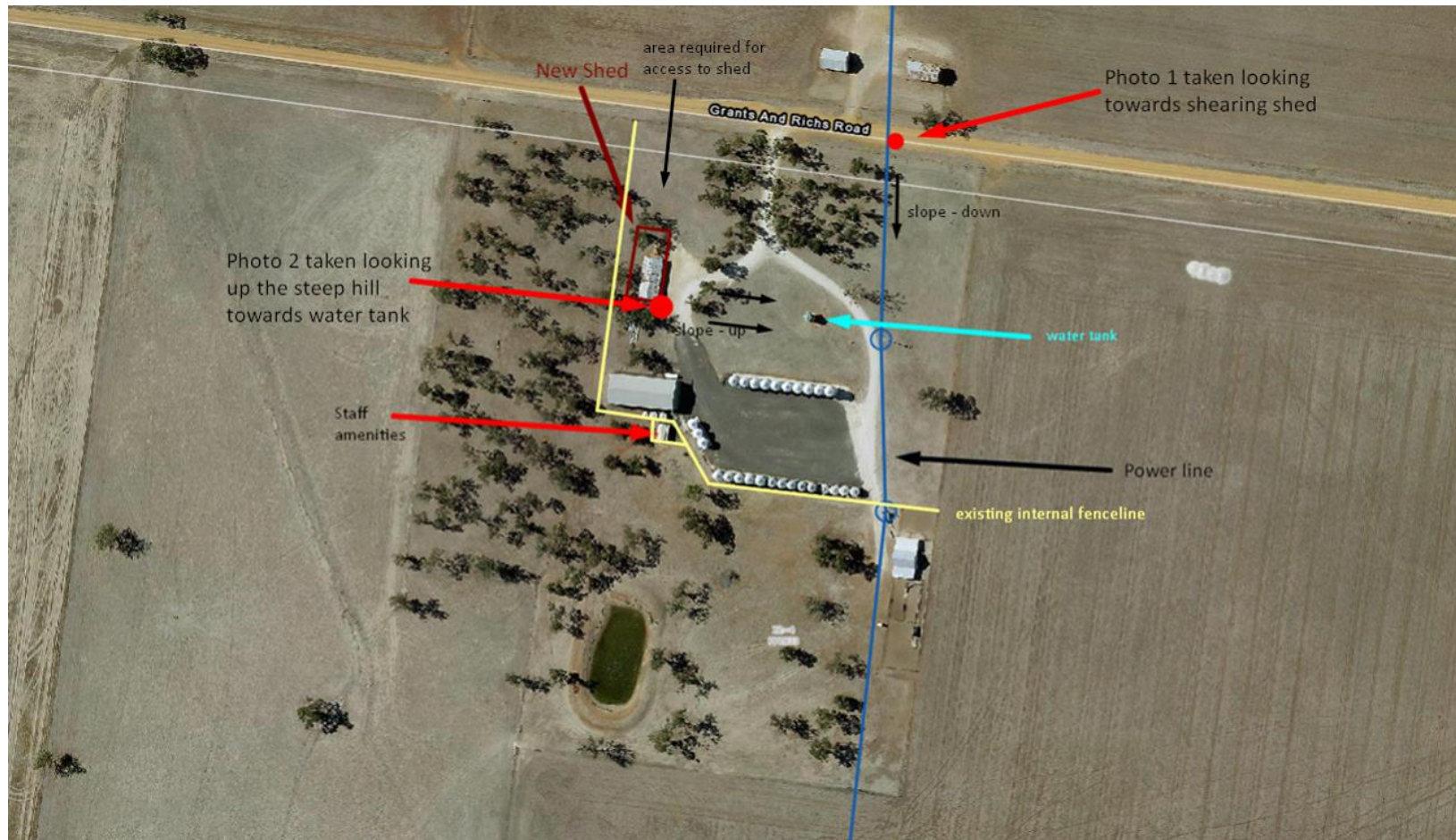
- taken from road side, looking downhill towards the shearing shed,
- powerline overhead, and the land is not flat enough for the shed

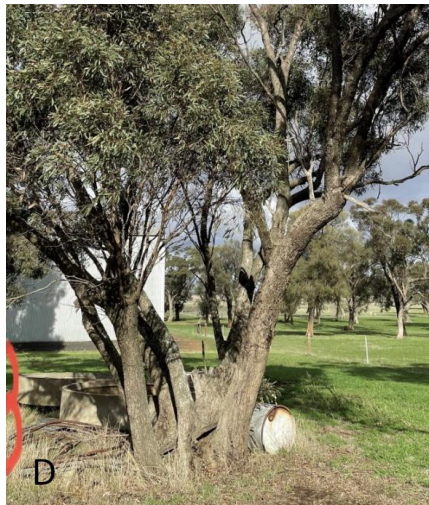
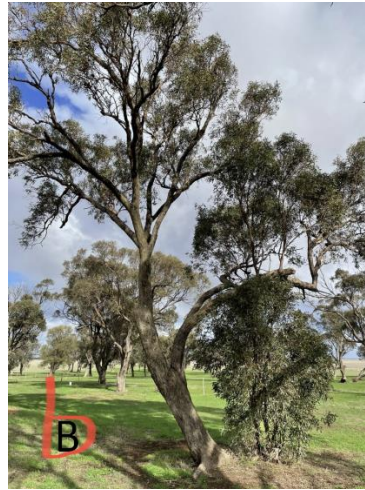
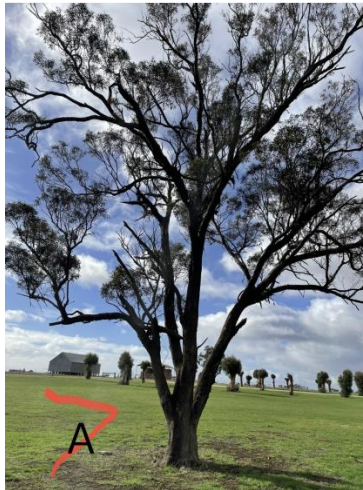


Photo 2

- taken from proposed shed site, looking up the steep hill towards the water tank up on top of the rise.
- There is also insufficient room for roadways leading up to the shed doors.

SITE PLAN OF EXISTING CONDITIONS





PROPOSED TREE REMOVAL

**5 trees considered exempt under clause 52.17
New building under the Farming Zone**

Native vegetation removal report

This report provides information to support an application to remove, destroy or lop native vegetation in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation*. The report **is not an assessment by DELWP** of the proposed native vegetation removal. Native vegetation information and offset requirements have been determined using spatial data provided by the applicant or their consultant.

Date of issue: 21/12/2022
Time of issue: 3:15 pm

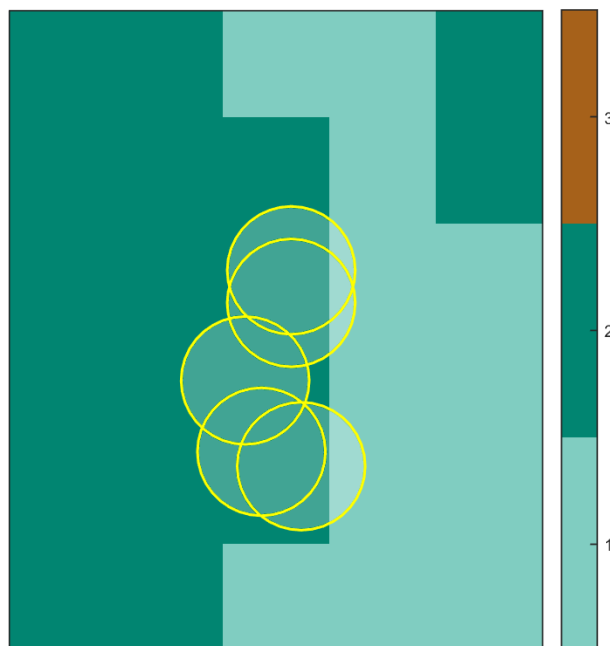
Report ID: GEN_2022_278

Project ID	featureclass_084109
------------	---------------------

Assessment pathway

Assessment pathway	Intermediate Assessment Pathway
Extent including past and proposed	0.228 ha
Extent of past removal	0.000 ha
Extent of proposed removal	0.228 ha
No. Large trees proposed to be removed	5
Location category of proposed removal	Location 2 The native vegetation is in an area mapped as an endangered Ecological Vegetation Class (as per the statewide EVC map). Removal of less than 0.5 hectares of native vegetation in this location will not have a significant impact on any habitat for a rare or threatened species.

1. Location map



Native vegetation removal report

Offset requirements if a permit is granted

Any approval granted will include a condition to obtain an offset that meets the following requirements:

General offset amount ¹	0.041 general habitat units
Vicinity	Wimmera Catchment Management Authority (CMA) or West Wimmera Shire Council
Minimum strategic biodiversity value score ²	0.151
Large trees	5 large trees

NB: values within tables in this document may not add to the totals shown above due to rounding

Appendix 1 includes information about the native vegetation to be removed

Appendix 2 includes information about the rare or threatened species mapped at the site.

Appendix 3 includes maps showing native vegetation to be removed and extracts of relevant species habitat importance maps

¹ The general offset amount required is the sum of all general habitat units in Appendix 1.

² Minimum strategic biodiversity score is 80 per cent of the weighted average score across habitat zones where a general offset is required

Native vegetation removal report

Next steps

Any proposal to remove native vegetation must meet the application requirements of the Intermediate Assessment Pathway and it will be assessed under the Intermediate Assessment Pathway.

If you wish to remove the mapped native vegetation you are required to apply for a permit from your local council. Council will refer your application to DELWP for assessment, as required. **This report is not a referral assessment by DELWP.**

This *Native vegetation removal report* must be submitted with your application for a permit to remove, destroy or lop native vegetation.

Refer to the *Guidelines for the removal, destruction or lopping of native vegetation* (the Guidelines) for a full list of application requirements. This report provides information that meets the following application requirements:

- The assessment pathway and reason for the assessment pathway
- A description of the native vegetation to be removed (met unless you wish to include a site assessment)
- Maps showing the native vegetation and property
- The offset requirements determined in accordance with section 5 of the Guidelines that apply if approval is granted to remove native vegetation.

Additional application requirements must be met including:

- Topographical and land information
- Recent dated photographs
- Details of past native vegetation removal
- An avoid and minimise statement
- A copy of any Property Vegetation Plan that applies
- A defensible space statement as applicable
- A statement about the Native Vegetation Precinct Plan as applicable
- An offset statement that explains that an offset has been identified and how it will be secured.

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Melbourne 2022

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For more information contact the DELWP Customer Service Centre 136 186

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Appendix 1: Description of native vegetation to be removed

All zones require a general offset, the general habitat units each zone is calculated by the following equation in accordance with the Guidelines:

$$\text{General habitat units} = \text{extent} \times \text{condition} \times \text{general landscape factor} \times 1.5, \text{ where the general landscape factor} = 0.5 + (\text{strategic biodiversity value score}/2)$$

The general offset amount required is the sum of all general habitat units per zone.

Native vegetation to be removed

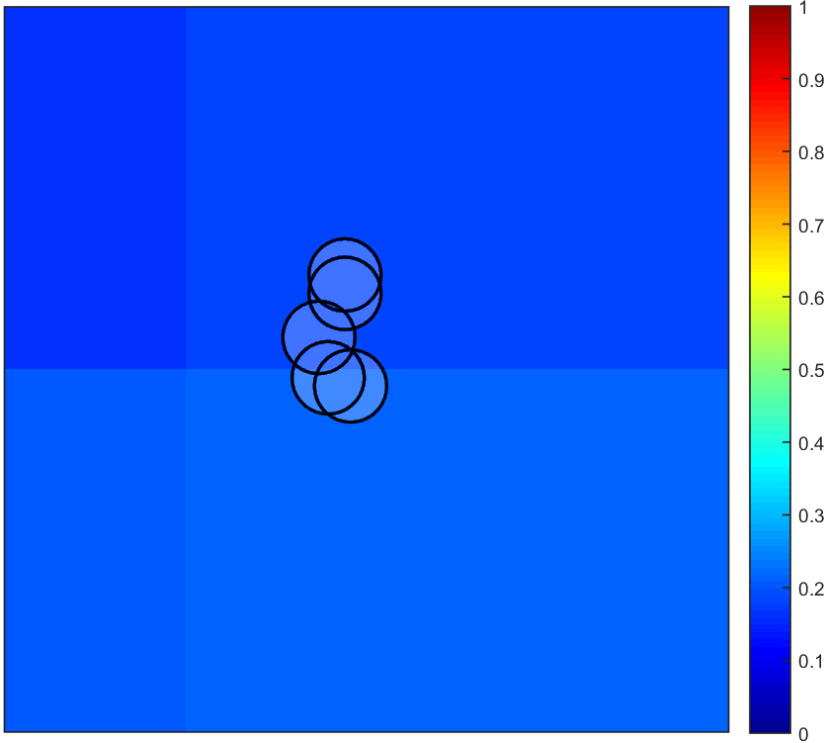
Information provided by or on behalf of the applicant in a GIS file						Information calculated by EnSym						
Zone	Type	BioEVC	BioEVC conservation status	Large tree(s)	Partial removal	Modelled Condition score	Polygon Extent	Extent without overlap	SBV score	HI score	Habitat units	Offset type
1-A	Scattered Tree			1	no	0.200	0.070	0.046	0.180		0.008	General
2-A	Scattered Tree			1	no	0.200	0.070	0.040	0.180		0.007	General
3-A	Scattered Tree			1	no	0.200	0.070	0.053	0.180		0.009	General
4-A	Scattered Tree			1	no	0.200	0.070	0.039	0.202		0.007	General
5-A	Scattered Tree			1	no	0.200	0.070	0.050	0.205		0.009	General

Appendix 2: Information about impacts to rare or threatened species' habitats on site

This is not applicable in the Intermediate Assessment Pathway.

Appendix 3 – Images of mapped native vegetation

2. Strategic biodiversity values map



3. Aerial photograph showing mapped native vegetation



4. Map of the property in context



Yellow boundaries denote areas of proposed native vegetation removal.



Australasian Legal Information Institute

Victorian Civil and Administrative Tribunal

McDonald v West Wimmera SC [2017] VCAT 1298 (21 August 2017)

← McDonald v West Wimmera → SC [2017] VCAT 1298 (21 August 2017)

Last Updated: 21 August 2017

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO.P2396/2016
PERMIT APPLICATION NO. P1356

CATCHWORDS

Application under Section 82 of the *Planning & Environment Act 1987* to review a notice of decision to grant a permit; West Wimmera Planning Scheme; repeat appeal; removal of native vegetation; scattered trees; biodiversity value and sustainable agriculture.

APPLICANTS

Ross McDonald, Frances Mary McDonald, Martin Van Kemp, Charles Ferrier and Lynette Powell

RESPONSIBLE AUTHORITY

West Wimmera Shire Council

REFERRAL AUTHORITY

Department of Environment, Land, Water and Planning

RESPONDENTS

William Rich and Margery Rich

SUBJECT LAND

CA7 & 8, Section 3, Parish of Kaniva, (Lot 2 LP129452 & Lot 2 LP 630876), Budjik Street, Kaniva

WHERE HELD

Horsham

BEFORE

Christopher Harty, Member

HEARING TYPE

Hearing

DATE OF HEARING

20 July 2017

DATE OF ORDER

21 August 2017

CITATION

← McDonald v West Wimmera → SC [2017] VCAT

1298

ORDER

1. In application P2396/2016 the decision of the responsible authority is varied.
2. In planning permit application P1356 a permit is granted and directed to be issued for the land at Crown Allotments 7 and 8 Section 3 Parish of Kaniva (Lot 2 LP129452 and Lot 2 PS630876), Budjik Street, Kaniva in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - . Removal of 15 live hollow bearing Eucalypt trees, three (3) dead native trees and one (1) Buloke tree as part of the overall number of 25 trees under the Environmental Significance Overlay Schedule 2
 - . Removal of native vegetation including dead native vegetation comprising 24 Black Box trees and one (1) Buloke tree under Clause 52.17

Christopher Harty

Member

APPEARANCES

For applicants	Mr Bruce Lindsay, advocate from Environmental Justice Australia. He called the following witness: Mr Lincoln Kern, Ecologist from Practical Ecology
For responsible authority	Ms Gillian Bradshaw, Manager Planning and Environment from West Wimmera Shire Council
For referral authority	No appearance
For respondents	Mr Craig Rich. He called the following witness: Dr Matthew Wood, Ecologist from Australian Ecological Services

INFORMATION

Description of proposal	Removal of native vegetation comprising 24 Black Box trees (<i>Eucalyptus largiflorens</i>) and one (1) Buloke tree (<i>Allocasuarina luehmannii</i>) to allow for access of agricultural machinery for cropping.
Nature of proceeding	Application under section 82 of the <i>Planning and Environment Act 1987</i> – to review the decision to grant a permit.
Planning scheme	West Wimmera Planning Scheme
Zone and overlays	Farming Zone (FZ) Environmental Significance Overlay Schedule 2 – <i>Red-tailed Black Cockatoo Habitat Areas</i>
Permit requirements	Clause 42.01-2 – Removal of hollow bearing eucalypt trees and a Buloke tree in the ESO2. Clause 52.17 – Removal of native vegetation including dead vegetation.
Relevant scheme policies and provisions	Clauses 10, 11, 12, 14, 21.02, 21.03, 21.04, 21.06, 21.07, 21.10-2, 42.01, 52.17 and 65.
Land description	<p>The site is located on the south side of Budjik Street on the southern edge of the Kaniva township. It is farmland currently used for cropping with a total area of 113.72 ha and bounded by the South Kaniva Road to the west, Farmers Street to the east and Rowers Road to the south. The site is generally flat and contains approximately 120 large native scattered trees across the land comprising primarily Black Box and Buloke trees.</p> <p>The Kaniva College adjoins the north-west corner of the site whilst a parcel of land 2.6 ha containing a dwelling and shedding is located adjoining the south-east corner of the site. Surrounding land is also farmed under crops. To the north, across Budjik Street are residential properties in the Kaniva township including the Kaniva Caravan Park.</p>
Tribunal inspection	21 July 2017 unaccompanied

REASONS[1]

WHAT IS THIS PROCEEDING ABOUT?

1. On 21 October 2016, West Wimmera Shire Council resolved to issue a Notice of Decision to Grant a Permit for the removal of native vegetation comprising 24 Black Box trees (*Eucalyptus largiflorens*) and one (1) Buloke tree (*Allocasuarina luehmannii*) from the review site (the site). The site is currently farmed under crops and the purpose of removing the trees is to allow easier and more efficient access for agricultural machinery for cropping. The site currently contains approximately 120 large native trees that are scattered around the site. This makes it difficult for agricultural machinery to efficiently access and manoeuvre around the site for cropping and associated land management activities due to the large size of machinery that is used by the permit applicant for farming purposes.
2. The review applicants have lodged an appeal to the Tribunal against the Council's decision. The issues are the impacts on the biodiversity values of the native vegetation, the site and surrounding area and the link between biodiversity protection and farming sustainability.

Repeat appeals

3. The proposal to remove native vegetation from the site is the second time it has been before the Tribunal. The previous matter *McFarlane v West Wimmera SC* [2015] VCAT 1405 (the McFarlane case) involved a notice of decision by Council to grant a permit for the removal of 34 Black Box trees. The Tribunal set aside that decision and ordered that no permit be granted. The primary reason was an insufficient assessment of the condition, habitat value and contribution to biodiversity value of the trees proposed to be removed. The Tribunal found:

.... the application is inadequate and does not provide enough information for a determination of significance or otherwise of what value the Black Box trees with and without hollows may have towards habitat and biodiversity value for the site and area to be made. A more detailed ecological assessment of the Black Box trees would have informed a view as to how many trees contained hollows. It would have assisted in determining whether any hollow bearing trees benefited fauna and birdlife and whether it would be more appropriate to focus on removing only those trees that did not involve Bulokes and any hollow bearing Black Box trees. Unfortunately, for the permit applicant, this is not the case and has proven fatal to the chances of a permit being granted.

4. The current matter qualifies as a repeat appeal and it is appropriate that it should be considered in line with the usual principles applied to repeat appeals.
5. The principles of repeat appeals primarily are founded on the basis of giving great weight to previous Tribunal decisions and reversing such decisions only if it can be demonstrated that a change in circumstances warrants a different view. The concept and principles have been usefully set out in a number of past Tribunal decisions, however, the decision of *Lifestyle 104 Pty Ltd v Whitehorse CC*^[2] appropriately summarises these points:

These were usefully set out in the Tribunal's decision in the matter of *Sprut v Stonnington CC*.^[3] In that decision, the Tribunal distinguished between 'classic repeat appeals' where an

applicant makes little material change in a development and seeks to 'forum shop' or wear down the opposition, and a 'correcting repeat appeal' described as a circumstance where

16. ... the Tribunal has refused an earlier application but indicated a modified form of development or changes that might be acceptable, and the repeat appeal comprises a genuine attempt to address those issues.

The Applicant's submission, which we accept, is that this Application for review is in the nature of a correcting repeat appeal.

Also relevant to our consideration of this proposal is what was said in Sprut in respect of the Tribunal's role in repeat appeals:

18. ...irrespective of whether the repeat appeal is in the nature of a 'classic' or 'correcting' repeat appeal, the role of the Tribunal is not to determine whether the proposal before it would have satisfied the earlier (and perhaps differently constituted) Tribunal, nor to summarily determine the matter solely by reference to the Reichert principles. This is a sometimes misunderstood notion. As Amoco itself indicated, the role of the Tribunal is to still consider the new application before it on its merits but, in doing so, to give great weight to the Tribunal's decision on the earlier application having regard to the usual principles that have evolved for this purpose.

6. The principles referred to above when reviewing an application that is similar to a proposal that has been the subject of previous Tribunal findings and which might justify departure from earlier determinations have been outlined in *Reichert v Banyule CC*^[4] and include:

- . Significant changes in the application itself;
- . Changes in the circumstances of the land and its surrounds;
- . Changes in planning policy; and/or
- . Changes in the interpretation of the facts or law relevant to the Tribunal's consideration.

7. This means that I place weight on the previous Tribunal outcome but also that a consideration of the matter is undertaken on its own merits.

8. I will undertake my assessment bearing these considerations in mind and mindful of determining the application on its merits. I note, however, that the current matter includes an ecological assessment of the trees previously proposed for removal. That assessment has resulted in the current proposal reducing the number of trees to be removed from 34 to 25. This is a direct response to the criticisms of the Tribunal in the McFarlane case.

What is the key issue?

9. In reviewing all the submissions put before me, I consider the question to be determined is whether the removal of native vegetation is acceptable?

10. I must decide whether the proposal will produce an acceptable outcome having regard to the relevant policies and provisions in the West Wimmera Planning Scheme. Net community benefit is central in reaching a conclusion. Clause 10.04 of the scheme requires the decision-maker to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development.

11. With this proposed removal of native vegetation, I must decide whether a permit should be granted and, if so, what conditions should apply. Having considered all submissions presented with regard to the applicable policies and provisions of the West Wimmera Planning Scheme, I have decided to vary the decision of the responsible authority and direct a permit be granted with some minor modifications to conditions. My reasons follow.

WHETHER THE REMOVAL OF NATIVE VEGETATION IS ACCEPTABLE?

12. In considering the repeat appeal principles outlined in paragraph 6 above, it is clear that the only change that has occurred between what is proposed now from what was proposed in the McFarlane case is the reduction in the number of trees proposed for removal. The other significant difference is that the trees have had an ecological assessment on their biodiversity value and in particular, with respect to their habitat value for the endangered Red-tailed Black Cockatoo (*Calyptorhynchus banksii graptogyne*).

13. This is a significant change and one that provides information on the biodiversity value of the trees proposed for removal that was essentially missing from the McFarlane case. The ecological assessment provides me with information upon which I can determine whether the proposed tree removal is acceptable or not.

14. The consideration of the review application against permitting the proposal to remove native vegetation from the site at Kaniva is about the balance between intensifying agricultural production associated with cropping and protecting environmental values adjacent to the Kaniva township in the form of scattered paddock trees.

15. The site is zoned Farming under which cropping is a permitted use and for which the site has been extensively cropped for a number of years.

16. The proposal seeks to remove 25 native trees comprising 24 Black Box trees and one (1) Buloke tree out of approximately 120 trees on the site. This represents 20.8% of the scattered paddock trees found on the site. The removal affects 15 trees in the north-east of the site with the other 10 trees around the perimeter boundaries. All 25 trees require a permit for removal under the *Native Vegetation* provisions of the West Wimmera Planning Scheme.^[5]

17. Under the Environmental Significance Overlay Schedule 2 - *Red-tailed Black Cockatoo Habitat Areas* (ESO2), 19 trees specifically require approval for removal as part of the overall number of 25 trees, comprising:

- . 15 trees because they are live hollow bearing eucalypt trees;
- . three (3) trees because they are dead eucalypt trees with a trunk diameter greater than 40cm at 1.3 metres above ground level; and
- . one (1) live Buloke tree with a trunk diameter greater than 20cm at 1.3 metres above ground level.

18. Removal of the trees is proposed to enable the permit applicant to increase agricultural production on the site. Removal of trees will enable better access for agricultural machinery including a 36 metre boom spray, seeding equipment and harvesting machinery. It will increase cropping efficiency including an increase in navigational accuracy by reducing both over and under spraying application of chemical and seed. This will result in increased crop yields. Over-spraying occurs when the path of the satellite navigated machinery is obstructed by trees and needs to be diverted back over a previously sprayed area to avoid the tree.

19. Council supported the application, again relying on the lack of objection received from the Department of Environment, Land, Water and Planning (DELWP) to the proposed tree removal.^[6] Council also relied on the proposal for a compliant offset site to be provided by the permit applicant as well as the findings from the ecological assessment undertaken by Dr Wood on behalf of the permit applicant.

20. The permit applicant has provided an offset strategy which proposes to provide a first party offset of remnant native vegetation on land at 1295 Ozenkadnook-Mortat Road, Dopewora. The offset site is located approximately 40 kilometres to the south of the site. The offset site is within the Wimmera Catchment Management Authority (Wimmera CMA) region and the West Wimmera Shire. It complies with the minimum offset requirements for the proposed vegetation removal of 0.327 General Biodiversity Equivalence Units (GBEUs) and with a Strategic Biodiversity Score (SBS) of 0.496 and provision for the four (4) large Buloke trees. Four Buloke trees of a satisfactory size (at least 40cm trunk diameter measured at 1.3 metres above ground level) are present on the offset site.

21. The review applicants consider the removal of the trees would be a loss to the biodiversity and habitat of the area and would not represent a sustainable form of development and an acceptable outcome. They fear the removal of trees within a landscape that has already been largely cleared would not be an outcome that balances the need for farming with biodiversity objectives set out under the West Wimmera Planning Scheme.

22. Mr Lindsay submitted that the significance to the State, of the vegetation proposed for removal, is an important matter to take into account. Decision making needs to integrate biodiversity and agricultural values (within the meaning of ecological sustainability). The intrinsic values and significance of the trees to be removed needs to be accounted for, on the basis of what the scattered trees mean in a landscape largely cleared of such vegetation and where little of what was, remains.

What does the planning scheme say regarding scattered tree removal?

23. With regards to native vegetation, planning policy at a State level relating to *Native vegetation management* seeks to ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.^[7] The strategy to achieve this objective is to:

Apply the risk-based approach to managing native vegetation as set out in Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013). These are:

Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.

Minimise impacts on Victoria's biodiversity.

Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.

24. Policy is supported by the provisions of Clause 52.17 and in turn the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (the Guidelines), which are an incorporated document in the West Wimmera Planning Scheme.

25. At the local level, planning policy recognises the tension between agriculture and biodiversity conservation and habitat protection. Clause 21.06-5 relating to *Agriculture* identifies the economic importance of agriculture in the West Wimmera Shire and highlights the need for a strong and vibrant agricultural community with a range of diversified enterprises that is efficient and ecologically sustainable.

26. With regards to biodiversity and habitat, Clause 21.07-1 relating to *Biodiversity conservation and habitat protection* identifies the decline and fragmentation of native vegetation and loss of biodiversity as a major environmental issue in the Shire. This is demonstrated by private land having been substantially altered with 3% of the original vegetation remaining intact with a risk that scattered trees on farms will die out leaving roadside vegetation as the key remnants. Relevantly, I note the following strategies at 2.1 and 2.2, to:

- . Reduce fragmentation and isolation of vegetation communities.
- . Minimise land clearing (including native grasslands) and where land clearing is proposed, require a site analysis, management and remediation plan demonstrating the consideration of any rare or threatened species on or adjacent to the site and the continued integrity of the remnant vegetation and habitat.

27. The site is also affected by the ESO2 which, as mentioned earlier, establishes policy to protect the habitat of the endangered Red-tailed Black Cockatoo. One of the objectives of the ESO2 is to ensure the availability of suitable nesting sites for the bird through the protection of live and dead hollow bearing trees and other suitable trees within the bird's known nesting area, which includes areas up to Kaniva. One of the decision guidelines of the ESO2 is whether the trees proposed to be removed have any significance as nesting sites for the Cockatoo.

How does the proposal respond?

28. In the McFarlane case, much reliance was placed on a Biodiversity Assessment Report generated from DELWP's Native Vegetation Information Management (NVIM) modelling database. One of the Tribunal's criticisms in the McFarlane case was the lack of on-site inspection and assessment of the trees. This shortcoming has been addressed in the current matter through an ecological assessment and report by Dr Wood (*Ecological significance assessment of scattered trees proposed for removal at CA7, Section 3, Parish of Kaniva, dated 16 June 2016*).

29. Dr Wood's report included an assessment of each of the 34 trees originally proposed for removal for their biodiversity value considering their size, health and condition, number of hollows, signs of current or previous occupancy of hollows and potential suitability of hollows to provide nest sites for native arboreal vertebrate species.

30. The ecological assessment identified the site within a low risk location (Location A), which together with the proposal to remove more than 15 scattered trees (proposed removal of 25 trees) results in the proposal falling within the moderate risk-based pathway under

Clause 52.17 and the Guidelines. Applications that fall within a moderate or high risk-based pathway require DELWP to prepare a Biodiversity Impact and Offset Requirements Report (BIOR). A BIOR was produced for the proposal on 16 May 2016.

31. The BIOR applies a standardised site area for scattered trees of 0.070 ha per tree equating to an overall area of impact of vegetation loss of 1.760 ha associated with the proposed removal of 25 trees. For moderate risk-based pathway proposals, a habitat hectare assessment is usually required, however, for applications involving scattered trees, DELWP do not require such assessments and scattered trees are assigned a standard condition score of 0.2 to facilitate calculation of habitat hectares which are in turn used to generate offset requirements.

32. The BIOR identified the SBS of the trees proposed to be removed as 0.620. This score represents the value of the native vegetation's contribution to the State's biodiversity. The closer the score is to 1, the greater the significance of the contribution the native vegetation makes to the State's biodiversity. However, this is a modelled score and is information that does require consideration in conjunction with the outcomes of an on-site based ecological assessment, which is now something provided by the permit applicant.

33. Dr Wood's ecological assessment used factors relating to tree size, health and condition, number of hollows and signs of use to rank them as either high, moderate or low in terms of biodiversity value by:

- . Identifying trees with a high value where they contained hollows showing signs of current or previous use.
- . Identifying trees as moderate value where they contained at least two hollows that may provide potential nest sites for native arboreal vertebrate species, particularly those that contained a range of hollows of varying dimensions.
- . Identifying trees with a low value where they contained no hollows or less than two hollows that may provide potential nest sites for native arboreal vertebrate species.

34. The results were that:

- . Six (6) of the 34 trees were considered of high biodiversity value as they contained hollows with evidence of current or previous use. All of these trees are now proposed to be retained and excluded from the proposal for removal.
- . Five (5) of the nine (9) trees that were assessed as moderate biodiversity value shall be retained. Retention of the other four (4) trees of moderate biodiversity value would significantly impede the overall objective of improving access for farm machinery.
- . All 21 trees identified as low biodiversity value are proposed for removal.

35. Dr Wood's evidence was that the habitat value of the trees proposed for removal for the Red-tailed Black Cockatoo is limited due to hollows, where present, not being large enough for their use. Dr Wood considered;

- . The Red-tailed Black Cockatoo feeds almost exclusively on the seeds of Buloke trees and that of the Desert Stringybark (*Eucalyptus arenacea*) and Brown Stringybark (*Eucalyptus baxteri*).
- . They require very large, old hollow bearing eucalypts for nesting, preferring dead trees but also using live trees where dead trees have been cleared. Hollows used for nesting are typically very large with an entrance diameter of at least 18cm primarily found in spouts rather than hollows in trunks.

. The most common tree species used for nesting is the River Red Gums (*Eucalyptus camaldulensis*). However, they have been known to nest in Brown and Desert Stringybarks, Manna Gums (*Eucalyptus viminalis*), Yellow Gums (*Eucalyptus leucoxylon*) and Pink Gums (*Eucalyptus fasciculosa*).

. Nesting in Black Box trees by Red-tailed Black Cockatoos has not been recorded.

36. Regarding the single Buloke tree proposed for removal, Dr Wood's report concluded:

The Buloke tree proposed for removal was relatively small in comparison to other Buloke trees on the property and was in extremely poor condition with only one lower branch bearing live foliage. This tree was not considered to be an important food source for Red-tailed Black Cockatoos nor was it likely to contribute to the pollination of other Buloke being located 30 m from the nearest Buloke and over 60m to the next closest Buloke tree.

37. Dr Wood's assessment was that none of the scattered trees proposed for removal provided suitable habitat for the Red-tailed Black Cockatoo. I note Mr Kern's evidence agreed with this conclusion. It is therefore clear that the removal of Black Box trees and the single Buloke tree will not pose an unacceptable impact on the habitat of the Red-tailed Black Cockatoo. Hence the proposal represents an acceptable outcome with regards to the ESO2.

38. Council, the permit applicant and Dr Wood considered that by only removing those trees which impeded access for agricultural machinery, the vast majority of scattered trees on the site would be retained. They considered this was an appropriate response to avoiding and minimising the loss of native vegetation whilst enhancing the use of land in the Farming Zone (FZ) for agriculture. This combined with the offer from the permit applicant of an offset site on land located elsewhere in the Shire which satisfies DELWP's requirements culminates in my finding that the proposal is satisfactory.

39. Under the Guidelines, consideration of the proposal requires consideration of whether reasonable steps have been taken to minimise the impacts of the removal of the trees on biodiversity. Also, that an offset that meets the offset requirements for the trees to be removed has been identified in accordance with the Guidelines.

40. The Guidelines also state that:

The decision guidelines are applied according to the risk-based pathway of the application for a permit to remove native vegetation. If the application for a permit to remove native vegetation satisfies the decision guidelines for the relevant risk-based pathway then the permit should not be refused, or objected to on the basis of the biodiversity considerations in Clause 52.17.

41. Based on the decision guidelines of both Clause 52.17 and the Guidelines it appears the proposal is satisfactory regarding biodiversity considerations and should not be refused.

Scattered trees and sustainable agriculture

42. Mr Lindsay and the evidence of Mr Kern focussed on the issue of integration of biodiversity and sustainable agriculture and how the retention of scattered trees in a largely

cleared landscape, plays a critically important ecological role in supporting appropriate land management.

43. Mr Kern noted the trees on the site represent 'ecological artefacts' or the 'living dead' as they have no space for regeneration and replacement over time. I agree with his opinion noting that currently cropping activities occur over the whole of the site and within 2 to 3 metres of each tree, giving little space for any form of natural regeneration or buffering for the tree from such activity. This makes the ability of these trees to produce the next generation difficult. Mr Rich submitted that those trees proposed to be retained would remain in place whether live or dead and hence, he considered any ecological role they have as habitat, would also be retained.

44. Mr Kern's evidence acknowledged that, although the trees proposed for removal may have less significance on the site, they remain of ecological value because:

- . they are relatively healthy;
- . they are large old trees either with hollows or likely to produce them and losing them is a listed threatening process;
- . it is likely not all hollows may have been detected with the on-site assessment;
- . they likely provide important foraging habitat for birds, insects and fauna such as bats;
- . they represent the Low Rises Woodland Ecological Vegetation Class (EVC) which is an endangered EVC and of which 10% remains in Victoria;
- . they represent significant habitat resources in an over-cleared region noting that in West Wimmera Shire, only 3% of remnant native vegetation remains on private land;
- . they maintain the 'matrix habitat' of different habitat values across an area; and
- . they provide spatial and temporal links within landscapes that allow for regeneration and restoration of biodiversity in cleared farming areas over time.

45. Mr Lindsay submitted the loss of these trees would undermine sustainable agriculture because of a detrimental impact on ecosystem services and poor land management.

46. Mr Rich submitted that, as long-standing farmers, they wish to pursue efficient and sustainable farming practices, of which 'no till' farming^[8] is a method through which good soil management is an outcome. He referred to this practice of cropping as a means of avoiding the great dust storms of 1983 where topsoil was lost during those drought years.

47. Whilst I appreciate the arguments of Mr Lindsay and Mr Kern, I must acknowledge that farming, including cropping is a land use that is strongly supported under the FZ. It is an activity that does not require a permit. References to the decision guidelines under the FZ relating to land management plans are not called up for consideration because there is no permit trigger under the FZ.

48. Mr Kern's references to the bioregional conservation status of the Low Rises Woodland EVC and the intrinsic value of scattered paddock trees is acknowledged. However, they are references to the previous native vegetation management framework under which, the previous policy of 'net gain' employed greater recognition of the intrinsic conservation values of individual communities of native vegetation. This form of recognition of native vegetation has been replaced with a policy of 'no net loss', which considers biodiversity value of native vegetation on a risk-based State wide basis. I am bound to consider the current make-up of the planning scheme in determining this matter.

49. In terms of the decision guidelines under Clause 65, I find the proposal now retains those trees of higher value and provides a compliant offset. These elements assist in supporting my decision to grant a permit.

50. I do not consider the proposal results in the severity of impact that Mr Lindsay and Mr Kern portray. The proposal that is now before me is a further reduced version compared to the McFarlane case with 25 trees, not 34, now proposed to be removed. The proposal is effectively a thinning out of those trees located in the north-east part of the site and will retain 95 other trees on the site.

51. I now have the benefit of an ecological assessment of the trees that confirms that their removal will not impact on the endangered Red-tailed Black Cockatoo as I am required to consider under the ESO2. Regarding Clause 52.17 and the Guidelines, the proposal satisfies the provisions and provides for both avoidance and minimisation and appropriate offset as required by the Guidelines. This, despite the concerns expressed by Mr Lindsay over the shortcomings of the Guidelines with respect to a lack of like for like with regards to the provision of offsets.

52. Overall, I am satisfied the proposal is an acceptable outcome under the West Wimmera Planning Scheme.

CONCLUSION

53. For the reasons given above, the decision of the responsible authority is varied. A permit is granted subject to conditions.

Christopher Harty

Member

APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	P1356
LAND	Crown Allotments 7 and 8 Section 3 Parish of Kaniva (Lot 2 LP129452 and Lot 2 PS630876), Budjik Street, Kaniva
WHAT THE PERMIT ALLOWS	
In accordance with the endorsed plans: Removal of 15 live hollow bearing Eucalypt trees, three (3) dead native trees and one (1) Buloke tree as part of the overall number of 25 trees under the Environmental Significance	

Overlay Schedule 2

Removal of native vegetation including dead native vegetation comprising 24 Black Box trees and one (1) Buloke tree under Clause 52.17

CONDITIONS

Department of Environment, Land, Water and Planning conditions as recommending referral authority under Clause 66.02-2

1. In order to offset the removal of loss of 1.760 hectares (being the area required for the offset,) with a strategic biodiversity score of 0.620 approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements, and is in accordance with the *Permitted Clearing of Native Vegetation –Biodiversity Guidelines* and the *Native Vegetation gain scoring manual* (DELWP 2013).

The general offset must:

- a) Contribute gain of 0.327 general biodiversity equivalence units;
2. Be located within Wimmera Catchment Management Authority (CMA) or West Wimmera Municipal area.
- c) Have a minimum strategic biodiversity score of 0.496
2. Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the Responsible Authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of *Permitted Clearing of Native Vegetation –Biodiversity Guidelines* and the *Native Vegetation gain scoring manual*. Offset evidence can be either:
 1. a security agreement, to the required standard, for the offset site or sites, including a 10 year offset management plan.
 - b) a credit register extract from the Native Vegetation Credit Register.

Department of Environment, Land, Water and Planning conditions as determining referral authority under Clause 66.04

3. In order to offset the removal of 1 Buloke tree approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements:

1. Protection of 4 Buloke trees of 40cm diameter or above measured at 1.3m above ground level.

Fencing around the Buloke tree or patch of trees with a buffer of twice the canopy cover is deemed satisfactory protection allowing for future recruitment of Buloke.

A security agreement placed over the protected trees to the required standard, being the offset must be located within the West Wimmera Shire municipal boundary.

Responsible Authority conditions:

4. The proposed development shall be in accordance with the documentation and endorsed plans and shall not be altered or modified without the consent in writing of the responsible authority.
5. Trees approved for removal must be felled in such a manner to avoid damaging remaining standing vegetation. Vehicular access beneath large trees and habitat trees must be prevented.
6. All felled trees and stumps must be utilised as far as practical. Habitat logs or branches removed must be used in the offset area as habitat for ground dwelling fauna.
7. To prevent the spread of weeds, disease and pathogens, all equipment must be made free of soil, seed and plant material before being taken to the works site and again on completion of the project prior to leaving the site.
8. All workers on the project must be informed of the conditions of the planning permit prior to any works commencing.
9. The owners must secure both offset areas either by a [Section 173](#) agreement under the *Planning & Environment Act 1987* or a covenant. The owner must make application to the Registrar of Titles to have the Section 173 agreement or covenant registered on the title to the land under Section 181 of the Act. The costs of the preparation, execution and registration of the Section 173 Agreement or covenant must be borne by the owners.

Expiry of permit for development

10. This permit as it relates to removal of native vegetation and provision of an offset will expire if one of the following circumstances applies:
- . (a) The development is not started within two (2) years of the issue date of this permit.
 - . (b) The development is not completed within four (4) years of the issue date of this permit.

In accordance with [section 69](#) of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

– End of conditions –

^[1] The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

^[2] [\[2014\] VCAT 907](#).

^[3] [\[2012\] VCAT 1675](#).

^[4] [\[1996\] 38819](#).

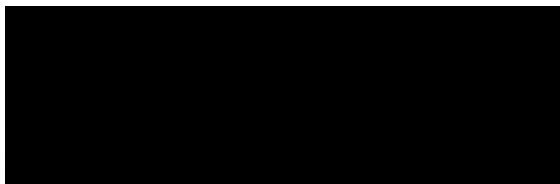
[5] Clause 52.17.

[6] DELWP are a recommending referral authority under Clause 66.02-2 where it is proposed to remove greater than 0.5 ha of native vegetation and a determining referral authority under Clause 66.04 relating to the ESO2.

[7] Clause 12.01-2.

[8] No till farming is a system where seeds are directly placed into untilled soil which has received the previous crop residues and which helps retain organic matter and protects the soil from water and wind erosion.

Objection to Grant of Planning Permit.



We object to Permit Application No PA 1133- Grant- Rich's Road

Native Vegetation removal- 5 trees. The land to be used for the erection of a farm/machinery shed

Applicant for the permit- Craig Rich

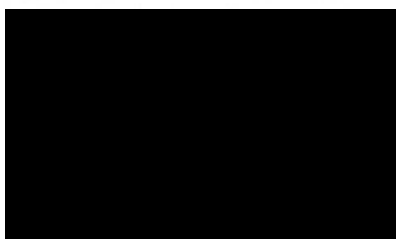
Reasons for objection-

It is stated in the Native Vegetation Removal report that- The native vegetation is in an area mapped as an endangered Ecological Vegetation Class (as per the state-wide EVC map). Surely it is recognised in 2023 that any vegetation categorised as endangered should not be removed. In the last ten years there has already been a number of trees removed in this area due to successful tree removal applications.

How we would be affected-

This all leads to loss of habitat for birds and animals in this area. As Landcare members and farm owners we have worked for over twenty-five years to protect and enhance vegetation in our area. These applications to remove mature trees go against what we work towards.

Any further removal of vegetation threatens the vulnerable species of the district.





The land affected by the application is located at: Grants and Richs Road, Kaniva VIC 3419 (Crown Allotment 22, Section 4, Parish of Kaniva) The application is for a Permit to: Removal of Native Vegetation The applicant for the Permit is: Craig Rich, C/- Jodie Senior, North West Planning The application reference number is: PA1133

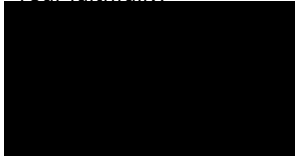
To Relevant Authority
Planning@westwimmera.vic.gov.au
Re Above Application.

I wish to lodge the following objection to the above application.

I have been part of the Landcare group in this area for about 25 years. As such we are working towards the restoration and preservation of vegetation. Rich's application goes against what we are working towards.

Council please carefully consider your policies - respecting preservation of what we have. Also I don't believe the "offset trade off" to be sufficient.

Your faithfully,





Our Ref: 2022-033
Your Ref: PA1133

21 February 2023

Ebony Cetinich
Consultant Town Planner
West Wimmera Shire Council
PO Box 201
EDENHOPE VIC 3318

Dear Ebony

Planning Permit Application PA1133
Proposal: Native Vegetation Removal

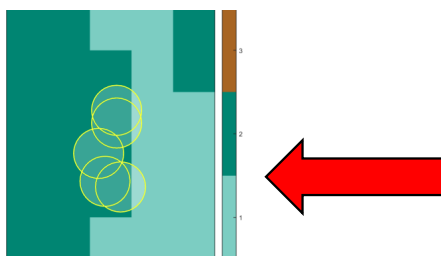
I refer to the above Planning Permit Application and your correspondence received 8 February, 2022 advising that Council had received an objection (letter & email) to the above application.

In accordance with your request, please find below a response to the Objectors concerns:

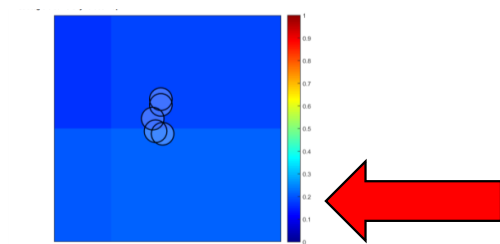
Ecological Vegetation Class & Protection of Vegetation

As noted by the objector, and as indicated on the state-wide EVC map image below, the location of the vegetation proposed to be removed are within an endangered Ecological Vegetation Class area. Whilst this is so, they are also on the very edge, and at the lower end of the scale. It is known by DELWP that 'desktop' assessments vary from that on the ground as well.

As part of the application process, a photograph of each tree proposed to be removed, was provided. Each of these trees did not contain a 'hollow'.



The 'Strategic Biodiversity Value' (as shown in the image below) is also on the lower side of the scale.



NORTH WEST PLANNING PO Box 104, Wycheproof ABN: 64 632 523 739 M: 0492 973 478
E: admin@northwestplanning.com.au W: www.northwestplanning.com.au



The removal of the proposed 5 trees will not have a direct impact as there are still quite a large number of native vegetation remaining. The proposal is to allow 0.228 hectares, which is less than half of what is stated in the 'Assessment pathway' as follows: *"the removal of less than 0.5 hectares of native vegetation in this location will not have a significant impact on any habitat for a rare or threatened species"*.

Land & Location

The subject land has been in the 'Rich' family for 5 generations, with the younger generation being more environmentally aware than previous generations. The youngest generation currently resides in Goroce, so requires a shed to store and secure his farm machinery. The 'Rich' family try and support all local businesses where they can, including buying their fuel and chemicals in Kaniva. They also sponsor the local football club.

Although the land is quite large, existing buildings and farming infrastructure are already located within the vegetated area. The site of the proposed new shed was chosen for a number of reasons:

- To replace an existing shed;
- The existing shed is not large enough to store the large farm machinery;
- Topography of the land & powerline easement.

The proposed site is relatively flat, and contains an existing 100 year-old farm shed that needs replacing due to white ants. The existing shed is also not large enough to be able to store the large farm machinery that is required for the operations of the farming enterprise.

To the east of the proposed development site, and just north of the existing silo's is a significant rise. It would not be efficient or financially viable to construct the shed in this location due to the amount of earthworks that would be required.

Further to the east is a powerline easement which restricts any development under or near the existing powerlines.

The remaining land is used for high productive agricultural farmland and used for cropping and grazing, which is the primary purpose of the Farming Zone.

By siting the proposed shed in the location of the existing shed which needs replacing, it minimises the requirement for native vegetation removal, which meets the guidelines *"If removal cannot be avoided, then only the minimum amount necessary should be cleared"*. (DELWP - Native vegetation removal in the farming and rural activity zones, Information sheet, 2017)

My client is also aware of the importance of retaining vegetation for biodiversity and improve and expand habitats for native plants and animals. However the proposal is necessary to provide sustainability and management of the future operations of the farm - which is the primary purpose of the Farming Zone and meets the objectives of the state and local planning policies such as Clause 02.03-4 where Agriculture is the key economic driver in the West Wimmera Shire and states that it needs to *"retain viable rural land holdings within the Farming Zone"*. Clause 14 states that it should *"ensure agricultural land is managed sustainably, whilst acknowledging the economic importance of agricultural production"*.

Reasons for the proposed location

These include:

- to utilise existing roadways without having to spend tens of thousands of dollars on a new roadway;
- to be closer to existing infrastructure such as:
 - power supply at the adjoining shedding;
 - water supply - existing tanks for fire-fighting purposes;
- to have ample access to the shed- this allows very large heavy machinery to have sufficient access to the proposed three shed doors, as machinery is getting larger and



they need a lot of room to manoeuvre around to get the machinery into the shed in a safe manner;

- be close to existing staff amenities and first aid facilities in case of an emergency;
- be close to other farm buildings which keeps farm more secure and requires less expense on surveillance;
- to reduce the amount of earthworks, which would be significant if constructed on the site of the hill.

Other points Council and the Objector/s should consider:

- that the new shed has been located in this particular location as 5 trees were required to be removed, instead of 7 where they originally wanted the shed (closer to the existing shed to the south);
- that there is a significant amount of native vegetation to the west that would provide exceptional amount of biodiversity, as it will be retained and never disturbed;
- that the proposed location does not impact the existing high productive agricultural farm land;
- that if the proposed shed is to be located elsewhere, it would have an impact on the agricultural farm land, fencing would have to alter, more internal roadways would need to be constructed, and its own amenities.
- by impacting on the agricultural land - it would devalue the land as you are reducing the most productive area of the farm and is against all State and Local planning policy objectives;
- If the shed was to face in a westerly direction, it takes on most of the weather, which is not good farming practice. A majority of sheds are faced to the east to minimise the impacts of weather on machinery.

Three Step Approach - Avoid/Minimise/Offset

The 'three step approach' has been considered by my client (landholder) by trying to avoid tree removal where possible by minimising the number of trees to be removed at this particular location. My Client also has no issues to appropriately compensate for the tree removal and meet the offset requirements as specified by the Planning Scheme and the '*Guidelines for the removal, destruction or lopping of native vegetation*'. (DELWP Guidelines)

The remaining vegetation on the site will be retained and will not be disturbed or degraded over time by the proposed development associated with the removal.

My client also wishes to advise the objector that they have previously locked up 104 hectares, with the Trust for Nature, and are not out to harm the environment. With a new generation farming the land, their aim is to protect the environment whilst trying to farm the land. They have also obtained information from Lisa Gervasoni of the VFF, who deals with environmental issues on farm land.

I hope the above information satisfies the concerns of Council and the Objector/s.

Should you wish to discuss any concerns, please do not hesitate to contact me.

Yours faithfully,



Jodie Senior
Planning Consultant

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McDonald v West Wimmera SC (Red Dot) [2019] VCAT 70 (16 January 2019)



Australasian Legal Information Institute

Victorian Civil and Administrative Tribunal

McDonald v West Wimmera SC (Red Dot) [2019] VCAT 70 (16 January 2019)

McDonald v West Wimmera SC (Red Dot) [2019] VCAT 70 (16 January 2019)

Last Updated: 21 February 2019

RED DOT DECISION SUMMARY

The practice of VCAT is to designate cases of interest as 'Red Dot Decisions'. A summary is published and the reasons why the decision is of interest or significance are identified. The full text of the decision follows. This Red Dot Summary does not form part of the decision or reasons for decision.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1133/2018
PERMIT APPLICATION NO. P1503

IN THE MATTER OF

McDonald v West Wimmera SC (Red Dot)
[2019] VCAT 70

BEFORE

Christopher Harty, Member

NATURE OF CASE	Removal of native vegetation; scattered large trees; Ecological Vegetation Class (EVC) bioregional conservation status; biodiversity value, safe and sustainable agriculture
LOCATION OF PASSAGE OF INTEREST	
REASONS WHY DECISION IS OF INTEREST OR SIGNIFICANCE	
PLANNING SCHEME – interpretation or consideration	Consideration of large scattered trees under the detailed assessment pathway for removing native

[https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2019/70.html?context=1;query=west wimmera;mask_path=au/cases/vic/VCAT](https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2019/70.html?context=1;query=west%20wimmera;mask_path=au/cases/vic/VCAT)



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McDonald v West Wimmera SC (Red Dot) [2019] VCAT 70 (16 January 2019)

of VPP provision	vegetation under Clause 52.17 and the <i>Guidelines for the Removal, Destruction or Lopping of Native Vegetation, 2017</i> and the <i>Assessor's Handbook – Applications to remove, destroy or lop native vegetation, October 2018</i> .
POLICY – interpretation or application of policy	Consideration of policy for protection of biodiversity (Clause 12.01-1S) and native vegetation management (Clause 12.01-2S).

SUMMARY

This case involved the review of a decision to grant a permit by  **West Wimmera**  Shire Council for the removal of 23 scattered Grey Box trees (*Eucalyptus microcarpa*) from a large (257 hectares) farming property west of Kaniva (at Serviceton) to allow easier, more efficient and safer access by agricultural machinery for cropping purposes. The key issue was whether the removal of native vegetation is acceptable having regard to recent changes to policy and regulations governing the removal, destruction or lopping of native vegetation and a shift regarding greater recognition of the biodiversity value of large scattered trees.

The decision considers the biodiversity value of large scattered native trees under a detailed assessment pathway where they form part of an Ecological Vegetation Class (EVC) that is endangered, and where they are recognised for their role as “steeping stones” within a predominantly cleared landscape and replacement is challenging.



VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1133/2018
PERMIT APPLICATION NO. P1503

CATCHWORDS

Application under Section 82 of the *Planning & Environment Act 1987* to review a notice of decision to grant a permit;  **West Wimmera**  Planning Scheme; removal of native vegetation; scattered large trees; Ecological Vegetation Class (EVC) bioregional conservation status; biodiversity value, safe and sustainable agriculture

APPLICANT

William Ross McDonald, Frances Mary McDonald and Martin Van Kempen

RESPONSIBLE AUTHORITY

 **West Wimmera**  Shire Council

REFERRAL AUTHORITY


Department of Environment, Land, Water and Planning

RESPONDENT

Jonathan Dyer

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SUBJECT LAND	Crown Allotments 48 and 52, Parish of Dinyarrak, Western Highway, Serviceton
WHERE HELD	Horsham
BEFORE	Christopher Harty, Member
HEARING TYPE	Hearing
DATE OF HEARING	4 and 5 December 2018
DATE OF ORDER	16 January 2019
CITATION	McDonald v  West Wimmera  SC [2019] VCAT 70



ORDER

1. In application P1133/2018 the decision of the responsible authority is set aside.
2. In planning permit application P1503 no permit is granted.

Christopher Harty

Member

APPEARANCES

For William Ross McDonald, Frances Mary McDonald and Martin Van Kempen	Mr Bruce Lindsay, Lawyer of Environmental Justice Australia. He called the following witness: Mr Lincoln Kern, Ecologist of Practical Ecology Pty Ltd
For  West Wimmera  Shire Council	Mr Brendan O'Loan, Town Planning Consultant
For Department of Environment, Land, Water and Planning	No appearance
For Jonathan Dyer	In person



INFORMATION

[https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2019/70.html?context=1;query=west wimmera;mask_path=au/cases/vic/VCAT](https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2019/70.html?context=1;query=west%20wimmera;mask_path=au/cases/vic/VCAT)

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McDonald v West Wimmera SC (Red Dot) [2019] VCAT 70 (16 January 2019)

Description of proposal	Removal of native vegetation comprising 23 scattered Grey Box trees (<i>Eucalyptus microcarpa</i>) to allow for access of agricultural machinery for cropping.
Nature of proceeding	Application under section 82 of the Planning and Environment Act 1987 – to review the decision to grant a permit.
Planning scheme	 West Wimmera  Planning Scheme
Zone and overlays	Farming Zone (FZ) No overlays
Permit requirements	Clause 52.17 – Removal of native vegetation
Relevant scheme policies and provisions	Clauses 12, 14, 21.02, 21.03, 21.04, 21.07, 52.17, 65 and 71
Land description	The site comprises Crown Allotments 48 and 52 and is located on the northern side of the Western Highway, north of Serviceton. It is located approximately 18 kilometres west of Kaniva and 23 kilometres east of the South Australian border. The site comprises an open cropping area of approximately 257 hectares. It is flat with the majority of the scattered trees proposed to be removed located on the southern boundary of Crown Allotment 48, shared with Crown Allotment 52. The northern Crown Allotment 48 is approximately 128 hectares. It contains approximately 80 scattered native trees with approximately 40 trees forming the cluster of trees from which it is proposed to remove 20 of the 23 trees. The cluster of trees is approximately 500 metres north from the Western Highway. Crown Allotment 52 is located adjacent to the Western Highway. It is approximately 129 hectares in area with a 12 hectare area located at its western edge that contains remnant native woodland vegetation proposed to be used, in part, as an offset site.
Tribunal inspection	5 December 2018 unaccompanied

REASONS[1]

WHAT IS THIS PROCEEDING ABOUT?

1. On 23 May 2018,  **West Wimmera**  Shire Council (the Council) resolved to issue a Notice of Decision to Grant a Permit for the removal of native vegetation comprising 23 scattered Grey Box trees (*Eucalyptus microcarpa*) from the review site (the site). The site is currently farmed under crops and the purpose of removing the trees is to allow easier, more efficient and safer access for agricultural machinery for cropping. The site currently contains

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approximately 80 large native trees that are scattered around the site and a 12 hectare area of remnant native open woodland vegetation. The presence of scattered native trees in the southern/central portion of the site makes it difficult for agricultural machinery to efficiently and safely access and manoeuvre around the site for cropping and associated land management activities due to the large size of machinery that is used by the permit applicant for farming purposes.

2. The review applicants (objectors) have lodged an appeal to the Tribunal against the Council's decision. The issues are the impacts on the biodiversity values of the native vegetation, the site and surrounding area and the link between biodiversity protection and farming sustainability.

WHAT IS THE KEY ISSUE?

3. In reviewing all the submissions and evidence put before me, I consider the question to be determined is whether the removal of native vegetation is acceptable?

4. I must decide whether the proposal will produce an acceptable outcome having regard to the relevant policies and provisions in the  **West Wimmera**  Planning Scheme. Net community benefit is central in reaching a conclusion. Clause 71.02-3 – *Integrated decision making* of the planning scheme requires the decision-maker to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development.

5. With this proposed removal of native vegetation, I must decide whether a permit should be granted and, if so, what conditions should apply. Having considered all submissions and evidence presented with regard to the applicable policies and provisions of the  **West Wimmera**  Planning Scheme, I have decided to set aside the decision of the Council and direct no permit be granted. My reasons follow.

WHETHER THE REMOVAL OF NATIVE VEGETATION IS ACCEPTABLE?

6. This year marks the 30th anniversary since regulations were introduced into Victorian planning schemes to manage native vegetation clearing and requiring planning permits for the removal, destruction and lopping of native vegetation.

Native vegetation regulation

7. Initially introduced to slow and halt the large scale clearing of native vegetation that had been initiated since settlement with exemptions to permit the minimum amount of clearing necessary for day to day and routine management of native vegetation, the regulation of native vegetation removal has been effective in reducing the permissions for clearing to that of relatively small amounts of such activity.

8. Since the beginning of the current Century, the emphasis of regulation moved from merely requiring permits for clearing of native vegetation to one that seeks to achieve a *net gain*^[2] under the then *Victoria's Native Vegetation Management – A Framework for Action, 2002*. The shift in focus was recognition of the intrinsic value of native vegetation communities established through the concept of Ecological Vegetation Classes (EVCs)^[3] and their

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conservation status within various bioregions across the State. The regulatory approach introduced the three step approach of avoid, minimise and then offset losses in native vegetation with a like for like achievement of a net gain.

9. In 2013, the regulations were amended with a move away from a reliance on the intrinsic value of native vegetation and their EVC bioregional conservation status towards a policy of *no net loss*^[4] through the *Permitted Clearing of Native Vegetation - Biodiversity Assessment Guidelines, 2013*. The change in policy included reference to the value of contribution of the native vegetation to the State's biodiversity. Thus a greater emphasis was laid upon the significance value of the contribution made by the native vegetation proposed to be cleared to Victoria's biodiversity. It included a move towards requiring assessment under the three step approach to focus on the significance of the contribution. Greater emphasis was placed on the significance of the native vegetation as habitat for biodiversity measured on a statewide basis, through the Strategic Biodiversity Score (SBS)^[5].

10. The assessment process reflects the above hierarchy through risk assessment pathways of low, medium and high according to the extent and condition of native vegetation across the State.

11. With regards to scattered native trees, they were assigned a standard extent score under the 2013 provisions.



Current native vegetation regulation

12. In December 2017 the native vegetation regulations were further amended under Amendment VC138. State policy and Clause 52.17 provisions were changed and the *Guidelines for the Removal, Destruction or Lopping of Native Vegetation, 2017* (the 2017 Guidelines) were introduced as an incorporated document into the  **West Wimmera**  Planning Scheme. The 2017 Guidelines reference, and are supported by, a range of documents, including, of note, the *Assessor's Handbook – Applications to remove, destroy or lop native vegetation, October 2018* (the Assessor's Handbook)^[6].

13. The 2017 Guidelines now introduced a basic, intermediary and detailed assessment pathway approach together with a shift in the emphasis of the three step approach back towards the consideration of native vegetation generally and irrespective of its contribution to the value of the State's biodiversity in decision making. In addition, the 2017 Guidelines includes additional recognition, particularly through decision guidelines on:

- . The value of native trees, where they are identified as large trees^[7]. Large trees are often the oldest part of an ecological system and are difficult to replace in the short term.
- . The value of EVCs that have a bioregional conservation status of endangered.



14. This change represents a pendulum swing with native vegetation management through a greater recognition of both scattered native trees and bioregional conservation status of EVCs.

15. Mr Dyer drew my attention to the Tribunal's decision in *McDonald v*  **West Wimmera**  SC [2017] VCAT 1298 (the 2017 Tribunal case) and the similarities between this proposal and that of the 2017 Tribunal case. Both involved the removal of a similar number of scattered

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native paddock trees (albeit different species of tree) associated with the improvement of cropping efficiency around paddock trees.

16. The 2017 Tribunal case was assessed under the 2013 native vegetation regulatory regime. However, as Mr Lindsay stressed, *the rules have changed* as the current proposal must be assessed under the current version of the  **West Wimmera**  Planning Scheme and the current 2017 version of the native vegetation management regulations and the 2017 Guidelines.

17. The differences, in my view, are significant.

18. Under the 2017 Guidelines large trees are given a default extent area score based on a standard area associated with a circle with a 15 metre radius (equivalent to an area of approximately 706.86 square metres). The proposal includes the removal of 23 Grey Box trees of which 19 are considered large trees and three considered small trees^[8]. Irrespective of this, the trees are all given a standard condition score of 0.2 out of 1 (a fifth in value), based on their scattered tree typology. This is a low score and attracted criticism from Mr Lindsay for being somewhat automated and not sufficiently nuanced to identify qualitative aspects of the real value of the trees, as scattered specimens in a highly cleared rural landscape.

19. The permit applicant provided a Site Assessment Report, September 2018, prepared by Dr Matthew Wood from Australian Ecological Research Services^[9], which identified the extent of native vegetation removal at 1.274 hectares. This involves more than 0.5 hectare of vegetation clearing and hence, despite the site being located with Location 1^[10], triggered a detailed pathway assessment^[11].

A shift in policy direction

20. Under a detailed pathway assessment, the removal of large trees and their association with *EVC 66 – Low Rises Woodland*^[12], which has a bioregional conservation status of endangered within the Wimmera Bioregion, is recognised in the decision guidelines under the 2017 Guidelines as having a higher value with regards to additional biodiversity values.

21. Despite the apparent similarities with the 2017 Tribunal case, the pendulum swing in policy and regulatory control persuades me that the biodiversity value of the scattered large paddock trees proposed for removal in this case are sufficiently high to warrant not granting a permit for their removal.

22. My findings on this are reinforced by the subtle, yet significant shift in the following relevant policies of the Planning Policy Framework (PPF):

. Clause 12.01-1S – *Protection of biodiversity* refers to assisting the protection and conservation of Victoria's biodiversity. There is now no longer any reference to important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites. This significantly broadens the basis of protecting and conserving the State's biodiversity irrespective of any value that the native vegetation may contribute to biodiversity across the State.

. Clause 12.01-2S – *Native vegetation management* refers to ensuring decisions involving the removal, destruction or lopping of native vegetation, applies the three step approach of



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avoiding the removal of native vegetation, minimising impacts from removal of native vegetation that cannot be avoided and providing an offset to compensate for the biodiversity impact from the removal of native vegetation.

23. The above changes to policy places greater emphasis on avoidance of clearing and where it cannot be avoided, to minimise impacts and to provide offsets that compensate the impacts on biodiversity from the removal of that native vegetation. Linked with the native vegetation to be removed is its type and EVC. This is relevant because the proposed offset site that is proposed is an area located on the western end of Crown Allotment 52, which is an area of native vegetation with different EVCs. This is a disconnect that fails to compensate for the biodiversity impacts sought by the policy. The impacts on the further reduced area of EVC 66 from the proposed removal of the 23 Grey Box trees will not be addressed by the protection of existing native vegetation associated with other EVCs on the proposed offset site.

24. The endangered bioregional status of the EVC associated with the trees proposed to be cleared also leads me to believe that, despite the view of Council, that the removal of 23 trees is unlikely to result in this classification moving to critically endangered, the loss of these trees will impact this EVC. They will not be compensated for within the proposed offset. Mr Kern suggested that an EVC with an endangered bioregional conservation status means that less than 10% of pre-European extent remains in existence or more than 90% has been cleared. This means that not much of the vegetation community to which these Grey Box trees belong is left within the broader regional landscape.

25. I am further concerned that local policy at Clause 21.07 – *Environment*, reflects the diminution of native vegetation extent on private land within  **West Wimmera**  Shire by recognising that:

The private land in the Shire has been substantially altered during the past 150 years but still contains small pockets of remnant habitat, wetlands and other original features. These areas have become increasingly important with the realisation that only 3% of the original vegetation remains intact.

26. Further, this policy recognises the need to control the loss of native vegetation and habitat.

Sustainable farming, offsets and biodiversity scoring

27. Council considers the proposal thins out the cluster of trees, which will still maintain its character. Mr Dyer stated that if the permit is not granted the status quo will continue. He advised that continued impacts around the trees from current cropping activity will continue. Improved land management around the trees will not occur due to the continued multiple movements and over-spraying and tilling of the land that occurs now with trying to manoeuvre a 36 metre wide boom sprayer between trees with gaps less than that distance.

28. The aim of the proposal is to make cropping more efficient and productive. Mr Dyer stated it is costly to crop amongst the trees. The permit applicant's avoid and minimise statement described that the proposal would assist in the safety of cropping activities around the trees and for their environmental improvement through avoidance of repetitive activity

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around them. This would be achieved by isolating trees to be at least 38 metres apart so that the boom sprayer can operate between them. The proposal had been refined after on-site assessment with officers from Council and the Department of Environment, Land, Water and Planning (DELWP) earlier in 2018 and was limited to the removal of smaller trees of poorer condition and leaving larger and more significant trees, particularly if hollows were observed.

29. Mr Dyer does not believe that sustainable farming would be achieved if the trees could not be removed. He also considered improved safety of working amongst the trees would be not improved if removal of trees was not permitted. He also felt that protection and encouragement of tree replacement and improvement to ecological condition through the offset site would not be achieved. If the proposal was not supported, the scattered paddock trees would continue as they are, but with no potential for regeneration and would, as Mr Kern referred to, remain as *the living dead*.

30. The proposal seeks to remove 23 Grey Box trees or around 20 to 30 % of the scattered paddock trees found on the site (the vegetated area located in the western end of Crown Allotment 52, closest to the Western Highway contains a remnant patch of vegetation rather than a number of scattered trees and has not been included in the estimation of the number of scattered paddock trees).

31. The trees proposed to be removed represent an area of approximately 0.5% or around 8-10 hectares of a property of around 257 hectares. The majority of the trees are clustered along the southern boundary of Crown Allotment 48 and northern boundary of Crown Allotment 52, which is an area that features two dams.

32. Mr Dyer indicated, in response to questions, that it is not a significant area in terms of economic value and not an area that he would rely upon as critical for the financial sustainability of farming.

33. The proposal relies heavily on the scores relating to extent and condition and to the SBS, which for the trees individually are mostly low at around 0.14 with one exception, which is 0.7. DELWP and Council appear to have relied on these types of scores and numbers to form conclusions to offer no objection and to support the granting of a permit.

34. However, the shift in policy and the application of the avoidance principle to native vegetation per se, rather than only to native vegetation which is significant to Victoria's biodiversity, represents a wider application and strengthening of the requirement to avoid removal and minimise impacts and which is regardless of the SBS. This places greater emphasis on recognising how the proposed change (in this case improved cropping efficiency) that is pursued can be planned commensurate with the impacts (in this case tree removal and effects on biodiversity) that may occur. In this regard, the presence of large trees from an endangered EVC highlights that loss from the removal of these trees is significant and that avoidance is possible because of the choices that are available (in this case a choice of either continuing to crop amongst the trees unchanged or to reduce or avoid cropping around and amongst these trees).

35. I acknowledge that cropping, as a form of agriculture does not require a permit for use under the Farming Zone (FZ). Hence, the land may continue to be cropped, as it is, and has been. That is a choice open to Mr Dyer. However, I find that policy under Clause 12.01-1R - *Protection of biodiversity - Wimmera Southern Mallee*, to facilitate greater connectivity

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between areas of medium to high natural value to improve ecosystem resilience would not be supported by a reduction, from clearing, of the extent of large scattered paddock trees.

Large scattered paddock trees

36. The proposal relates to 19 large trees and three (3) small trees, the majority of which (20) are clustered in a small 8 to 10 hectare area on the site. Two large trees are located further to the north and one large tree is located in the south-west corner of the site near the Western Highway frontage.

37. Mr Lindsay was critical of the Site Assessment Report in that it did not include information on:

- . The nature, extent and composition of EVC 66 – *Low Rises Woodland* and any potential impacts on that vegetation community resulting from proposed removal of the trees.
- . The full biodiversity values and ecological features of these trees, such as the presence of hollows, tree health, and habitat potential.
- . The landscape context of the trees, including cumulative impacts of clearing, local decline in large trees, or whether removal inhibits landscape connectivity.

38. Mr Lindsay was also critical of the applicant's avoid and minimise statement as it did not clearly establish:

- . Whether trees of greater ecological value have been prioritised for retention such as hollow bearing trees.
- . Whether cropping can proceed without the proposed clearing, i.e. whether alternative means of cropping could be employed.
- . Whether or how the endangered bioregional conservation status of the EVC to which the trees belong was considered in the design of the proposal and what proportion of the EVC would be impacted by the removal of the trees.

39. The above criticisms go to an assessment that has not had regard of the greater recognition of large trees in a cleared landscape associated with an endangered EVC. This is a significant shortcoming. Reliance on scores alone does not address all of the matters that are required under a detailed risk assessment pathway for clearing large scattered paddock trees.

40. The assessment requires more than a *tick a box* approach. To this end, I find the scoring system generated from the native vegetation modelling somewhat disconnected from an assessment that requires consideration of large trees and endangered EVCs. Hence my reliance on policy, the decision guidelines under Clauses 52.17-4 and 65 of the planning scheme, the 2017 Guidelines and Assessor's Handbook in forming my deliberations on this matter and noting that under Cause 65:

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.

41. The evidence of Mr Kern refers to the role of large scattered paddock trees as *keystone structures* where such trees are aged, most likely pre-date European settlement and represents the legacies of previous denser native woodland communities. As such, he

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considered they provide long-standing ecological functions, particularly if containing hollows. His evidence also referred to large scattered paddock trees as *stepping stones* between larger patches of remnant native vegetation. Large scattered paddock trees are critically important for birds and bats in agricultural landscapes that are heavily cleared and function as stopping points for avifauna movement.

42. I consider the stepping stone analogy relevant and important. The cluster of trees has gaps between other paddock trees and links to vegetated roadsides of approximately 350 to 500 metres. Under the Assessor's Handbook, the value of large trees under the detailed risk assessment pathway are that they may have a higher biodiversity value if they facilitate landscape connectivity (e.g. a stepping stone) and removal could result in further habitat fragmentation.

43. Given the geographical positioning of the trees, I find that they have potential to provide a stepping stone service to habitat connectivity within this landscape.

44. Policy under Clause 12.01-1S supports the protection of scattered trees where they provide a habitat function and where decision making is required to take into account the impacts of development on Victoria's biodiversity including consideration of cumulative impacts and fragmentation of habitat. I find the proposal fails to satisfy this policy direction.

45. Similarly, the endangered EVC, to which the trees belong and the proposed clearing compromises the higher value where the local area has experienced a decline in the number of large trees and they are infrequent in the landscape. The site contains a relatively small number of scattered trees, certainly well below the EVC 66 benchmark tree density of 20 per hectare (the current tree density is around 4.5 per hectare for the cluster of trees subject to the majority of proposed clearing). This heightens and contributes to my findings.

46. It appears that although the clearing of the trees would improve farming operations, the loss of the large Grey Box trees is effectively irreversible and does not produce a strong net community benefit or an acceptable outcome, in terms of policy and biodiversity impacts for the area.

CONCLUSION

47. My assessment has been based on the detailed assessment pathway under the 2017 Guidelines and found that the Strategic Biodiversity Score for the 23 Grey Box trees is generally low and the Habitat Hectare score for the single patch of trees is also low, despite the presence of high scores for large trees and canopy cover.

48. However, the trees are generally large and indicate higher values for biodiversity through their role in landscape connectivity as stepping stones within an over-cleared landscape. The trees also form part of an endangered EVC, which places the trees within a higher value for biodiversity. In my view the proposal does not result in an acceptable outcome.

49. Based on a precautionary approach, and for the reasons given above, the decision of the responsible authority is set aside. No permit is granted.

Christopher Harty

Member

[1] The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

[2] Net gain is the outcome for native vegetation and habitat where overall gains are greater than overall losses and where individual losses are avoided where possible.

[3] EVCs are native vegetation types classified on the basis of a combination of floristics, lifeforms and ecological characteristics.

[4] No net loss is an outcome where a particular gain in the contribution to Victoria's biodiversity is equivalent to an associated loss in the contribution to Victoria's biodiversity from permitted clearing.

[5] The SBS is a weighted score or measure of the native vegetation's importance for Victoria's biodiversity, relative to other locations across the landscape. It relates to the rarity and level of depletion of the types of vegetation, species habitats and condition and connectivity of native vegetation.

[6] Section 7 of the 2017 Guidelines refers to the Assessor's Handbook providing more information on how to apply the decision guidelines for applications that fall within the detailed assessment pathway.

[7] A large tree is a native canopy tree with a Diameter at Breast Height, measured 1.3 metres above ground level (DBH) greater than or equal to the large tree benchmark for the relevant bioregional EVC.

[8] Small trees are allocated a circle of 10 metres radius or approximately 314.16 square metres.

[9] The Site Assessment Report was provided following lodgement of the review and was not provided, as required, under the application requirements of the Guidelines for a detailed risk assessment pathway prior to Council determining the permit application.

[10] The location categories indicate the potential risk to biodiversity from removing a small amount of native vegetation.

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[11] This assessment pathway also factors in the removal of large trees and endangered EVCs as well as sensitive wetlands and coastal areas.

[12] A Euclaypt woodland to 15 metres tall on elevated plains and low rises with a diverse shrub understorey and grassy field layer. It occurs in a range of environmental settings that have resulted in well-drained surface soils mantling clay sub-soils.



15.2 Local Law - Township Maps

Directorate: Infrastructure Development and Works

Report Author: Manager Planning and Environment

Report Purpose: For Decision

Introduction

Council's Community Local Law No 6 of 2012 was made pursuant to the *Local Government Act 1989* and "sunset" on 30 September 2022. Accordingly, it needs to be replaced with updated and comprehensive local law. The proposed Local Law went out to community for consultation in 2022. Since the original consultation period the proposed township maps have changed.

The intention of this report is to seek endorsement from the Council on amended township boundary maps and obtain approval to put those maps for community feedback in line with the requirement of the Local Government Act 2020.

Declaration of Interest

No officer declared an interest under the Local Government Act 2020 (LGA 2020) in the preparation of this report.

Background

The Draft West Wimmera Shire Council went to community consultation on the proposed Community Local Law following the November 2022 Council meeting. Following this meeting, further changes have been proposed to the associated township boundaries that relate solely to the new draft of Local Law. Given that the areas proposed to be included in the maps have been amended, these maps are required to go out for another period of community consultation.

The township maps are required to work alongside the Local Law document to ensure that the Council can monitor and manage township amenity issues.

Section 73 (6) of the Local Government Act requires the Council to conduct a further community consultation of any material alterations to the Local Law that has previously been advertised and consulted.

Risk Management Implications

Risk identified: Regulatory risk

Reputation risk



The council is committed to ensuring that the townships identified in the township maps have a level of regulation to ensure that amenity issues within the township can be appropriately addressed.

Legislative Implications

The report complies with the requirements of the:
Local Government Act 2020

Environmental Implications

Environmental Risk rating has been assessed as: Medium

Financial and Budgetary Implications

Policy Implications

This report is supported by the following West Wimmera Shire Council Policy/s:

Communications Policy
Community Engagement Policy
Township Amenity Policy

Council Plan Implications

This report supports the following sections of the West Wimmera Shire Council Plan 2021 – 2025:

Goal 1 – Liveable & Healthy Community

- 1.1 Create a healthy, active, and vibrant community.
- 1.2 Support a safe and inclusive community.
- 1.3 Provide well planned and sustainable community infrastructure.
- 1.6 Support a prepared and resilient community.

Goal 2 – Diverse and Prosperous Economy

- 2.4 Create vibrant and attractive town centres.

Goal 4 – Good Governance

- 4.2 Engage with the community in a timely and respectful way.
- 4.3 Advocate for our community on issues important to our future.

Goal 5 – Our Commitment Values

Accountability - We will be responsible, take ownership of our actions and are committed to good governance, excellence, transparency and advocating for our community.



Communication Implications

Consultation has already been undertaken in development of the plans

Community consultation occurred for the entire proposed Local Law following the November Council meeting.

This report proposes to put the township maps back out to community consultation given the changes in the proposed boundaries.

Gender Equality

Not Applicable

Conclusion

Councils Community Local Law is in the process of being created. To ensure township amenity within this Local Law, maps are required to define township boundaries for a number of the township amenity related clauses within the proposed document. The maps that went out to community consultation following the November 2022 council meeting have been altered and the proposed maps are required to go out for a further period of community consultation. The current version of the Local Law has been attached for reference.

OFFICER RECOMMENDATION:

It is recommended that:

- a. the proposed Community Local Law No 9 Township Maps of 2023 be advertised in accordance with section 73 of the *Local Government Act 2020*;
- b. submissions be invited with a closing date of 12 April 2023;
- c. that any submissions be considered by Council its meeting on 17 May 2023; and
- d. the proposed local law be further considered by Council after the submission process.

Attachments

1. Community Local Law 2023 ABS Mk 13 [15.2.1 - 38 pages]



2. Proposed township Boundaries - West Wimmera Local Laws Review updated 6.3.2023
[15.2.2 - 13 pages]



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COMMUNITY LOCAL LAW NO 9

Adopted by Council on TBA 2023

[9076676:35974431_1]



Community Local Law 2023 WEST WIMMERA SHIRE COUNCIL

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COMMUNITY LOCAL LAW NO. 9 2023

PART ONE - PRELIMINARY PROVISIONS

1. TITLE

- 1.1 This is the Community Local Law No. 9 of 2023.

2. OBJECTIVES

- 2.1 The objectives of this Local Law are to provide for the peace, order, and good government of the *municipal district* of the West Wimmera Shire Council by:
- 2.1.1 managing, regulating, and controlling activities and uses on any land which:
 - (a) may be dangerous, cause a *nuisance* or be detrimental to the amenity of the area or the environment; and
 - (b) are directed at maintaining a healthy and safe environment for residents and visitors;
 - 2.1.2 promoting an environment in which residents and visitors to the *municipal district* can enjoy a lifestyle that is expected of the area;
 - 2.1.3 protecting against behaviour which causes detriment to the amenity and environment of the *municipal district*;
 - 2.1.4 identifying activities and uses that are not permitted; and
 - 2.1.5 providing for the administration of *Council's* powers and functions.

3. AUTHORISING PROVISION

- 3.1 This Local Law is made under section 71 of the *Local Government Act 2020*.

4. COMMENCEMENT, REVOCATION AND AREA OF OPERATION

- 4.1 This Local Law:
- 4.1.1 commences on TBA 2023;
 - 4.1.2 unless it is revoked sooner, ceases to operate on TBA 2023; and
 - 4.1.3 operates throughout the whole of the *municipal district*.



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5. DEFINITIONS

In this Local Law, the following words have the meaning given to them unless stated otherwise:

- *the Act* means the *Local Government Act 2020*;
- *advertising sign* means any placard, board, poster, banner, sign, "A frame" sign, card, or other device, whether portable or not, used for the purpose of soliciting custom for goods or services or for displaying information but excludes electoral signage, a real estate board, a community advertising sign and an open for inspection sign;
- *alcohol* means a beverage intended for human consumption with an alcohol content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius;
- *animal* includes every species of quadruped and every species of bird;
- *applicant* means the applicant for a *permit*;
- *appropriate fee* means a fee determined by *Council* in accordance with this Local Law;
- *authorised officer* means a person appointed as an authorised officer under section 224 of the *Local Government Act 1989*;
- *barbecue* means a device used for the cooking of food outdoors, whether constructed or manufactured and whether powered by gas, electricity, liquid or solid fuel, or any combination of them, and includes a device for spit roasting;
- *bulk rubbish container* means a bin, skip or other receptacle used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance but excludes a receptacle used in connection with *Council's* regular household rubbish collection;
- *camp* means using a tent, caravan, mobile home, or any other movable temporary form of accommodation, including sleeping bags or swags;
- *charity* has the same meaning as in the *Charities Act 2013* (Cth);
- *Chief Executive Officer* means the person appointed as the Chief Executive Officer of *Council*;
- *Council* means West Wimmera Shire Council;
- *Council land* means land, reserves, buildings and facilities which are owned, occupied or vested in *Council* or in respect of which *Council* has the care and management and to which the public has access whether an entry fee is paid or not;
- *delegate* means a member of *Council* staff given delegated powers pursuant to section 47 of *the Act*;



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- *domestic animal business* has the same meaning as in the *Domestic Animals Act* 1994;
 - *domestic bird* includes but is not limited to budgerigars, canaries, finches, pigeons, cockatoos, parrots, galahs and cockatiels, which can be kept in a portable cage or in captivity but does not include *poultry*;
 - *e-waste* means:
 - any waste item that uses a plug, battery or power cord and includes televisions, mobile phones, and computers;
 - batteries;
 - light bulbs;
 - cables;
 - smoke detectors;
 - power drills;
 - remote controls;
 - printer cartridges;
 - thermostats;
 - automatic dispensers;
 - *environmental weed* means any weed that *Council* has, in a public notice, declared to be an environmental weed;
 - *event* means any organised activity held in a *public place* or on *Council land* where an open area, facility, venue, road or temporary structure is to be used by more people than are usually found in that location
;
- Note – the term “event” does not, therefore, apply to small gatherings associated with families, organisations, clubs and the like.
- *farm land* means any rateable land which is not less than two (2) hectares in area and is used primarily for carrying on one or more of the following businesses or industries:
 - a) grazing;
 - b) agistment;
 - c) dairying;



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- d) pig farming;
- e) *poultry* farming;
- f) fish farming;
- g) tree farming;
- h) bee keeping;
- i) viticulture;
- j) horticulture;
- k) fruit growing;
- l) the growing of crops of any kind;
- *incinerator* includes any structure or device which is:
 - a) not enclosed in a building;
 - b) used, intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance; and
 - c) not licensed or otherwise subject to control under the *Environment Protection Act 2017*;but does not include a *barbecue*
- *incorporated document* has the meaning ascribed by section 76 of the *Act*;
- *livestock* ~~has the same meaning as in the *Impounding of Livestock Act 1994*~~ means an animal (including a bird) of any species used in connection with primary production other than a dog or cat;
- *manufactured fireplace* means a brazier, chimenea, fire pit, or other self-contained, manufactured item for outdoor burning designed exclusively for cooking, heating, or comfort;
- *municipal district* means the *municipal district of Council*;
- *noxious weed* has the same meaning as in the *Catchment and Land Protection Act 1994*;
- *nuisance* means any condition which is liable to be noxious, offensive, dangerous or injurious to health or personal comfort, and includes any noise created by an *animal* or any other thing which persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises or on any other land;



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- *offence* means an offence under this Local Law;
- *official warning* has the same meaning as in the *Infringements Act 2006*;
- *penalty unit* has the same meaning as in the *Sentencing Act 1991*;
- *permit*, in relation to a use or activity, means a permit issued under this Local Law which authorises that use or activity;
- *permit holder* means a person to whom a *permit* has been issued pursuant to this Local Law;
- *Planning Scheme* means the Planning Scheme operating in the *municipal district* under the *Planning and Environment Act 1987*;
- *poultry* means birds kept for the production of eggs or meat for human consumption but does not include roosters
- *public place* has the same meaning as in the *Summary Offences Act 1966*;
- *receptacle* means a *Council* supplied mobile garbage or recycling bin or similar container fitted with a secure lid which is both fly proof and vermin proof, which lid has an overlapping flange and a secure handle constructed of heavy-duty moulded plastic;
- *recreational vehicle* means a *vehicle* used for recreational purposes, including a motorcycle, trail bike or mini-bike, a motor scooter, a go-cart and any other *vehicle* which is propelled by internal combustion, steam, gas, electricity or other power but does not include a motor car or *vehicle*, motor tractor or other *vehicle* used solely for or in connection with primary production, cultivation, construction or maintenance or for the conveyance of a person who is physically disabled;
- *reptile* means any snake, lizard, turtle or tortoise;
- *road* has the same meaning as in the *Local Government Act 1989* and applies to roads for which *Council* is the responsible authority under the *Road Management Act 2004* but does not include a State road under the *Road Management Act 2004* unless a provision in this Local Law is expressly applied to a State road;
- *road related area* means an area on which infrastructure has been installed or constructed on behalf of a road authority, the State, or a relevant State body for road related purposes to:
 - facilitate the operation or use of the roadway or pathway; or
 - support or protect the roadway or pathway
- *scaregun* means a gas or similar gun designed to scare birds but excludes a firearm;
- *shopping precinct* means within the areas outlined in *Council's* Township Maps which



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are incorporated documents, and which are published on *Council's* website;

- *storage container* means a removable enclosed container capable of holding goods for storage which is not designed to be lifted without mechanical assistance and includes a shipping container;
- *township* means the areas defined as such on *Council's* Township Maps; and
- *vehicle* means any form of conveyance intended to be used on a *road* or *road related area*, including but not limited to a motor car, a caravan, a motor bike, a trailer, a tractor, a *recreational vehicle* or a bicycle.



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PART TWO – PERMIT REQUIREMENTS

6. ACTIVITIES AND USES REQUIRING A PERMIT

6.1 A person who does not comply with the requirements of this Part is guilty of an *offence*.

6.2 A *permit holder* must comply with any conditions of a *permit*.

Penalty: 10 penalty units

7. STORAGE OF VEHICLES AND MACHINERY

7.1 A person must not, without a *permit*, keep or store any:

7.1.1 abandoned, unregistered or derelict *vehicle*; or

7.1.2 item of derelict machinery,

at a residential property in a *township* if such a *vehicle* or machinery is visible from a *public place*.

Penalty: 10 penalty units

8. KEEPING EXCESS ANIMALS AND REPTILES

8.1 A person must not, without a *permit*, keep *animals* or *reptiles* at a property in a *township* where the number of *animals* or *reptiles* exceeds the number in *Table 1*.

Penalty: 15 penalty units

8.2 For the purposes of calculating the maximum limit of numbers of *animals* or *reptiles* kept, the progeny of any *animals* or *reptiles* lawfully kept will be exempt for a period of three months after their birth.

Type of animal/reptiles	Land up to 0.4ha	Land greater than 0.4ha and up to 2.1ha	Land greater than 2.1ha and up to 8.2ha in a township area
Dogs	2	2	4
Cats	2	2	4
Reptiles	5	5	5



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Type of animal/reptiles	Land up to 0.4ha	Land greater than 0.4ha and up to 2.1ha	Land greater than 2.1ha and up to 8.2ha in a township area
Ferrets, guinea pigs, rabbits or rodents	5	5	5
Poultry	10	10	10
Roosters	1	1	1
Domestic birds	2	4	4
Maximum combined total of <i>animals</i> allowed for the <i>animal</i> types shown in the shaded area below			
Sheep, alpacas and goats	2 (*)	5	10
Horses, ponies, donkeys and mules	1	4	8
Cows	0	2	4
Pigs	0	0	0
Deer	0	0	0

(*) That is, for example, one sheep and one alpaca.

Table 1

- 8.3 The requirement for a *permit* under this clause does not apply where a planning permit or a *domestic animal business* registration has been obtained.

9. CAMPING ON PRIVATE LAND

- 9.1 A person must not, without a *permit*, *camp* or allow any other person to *camp* on any private land for a period in excess of 28 days in any 12-month period.

Penalty: 3 penalty units

- 9.2 In addition to any other conditions proposed or on a *permit* issued pursuant to this clause, the *applicant* and the *permit holder* must satisfy an *authorised officer* that



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proper sanitary facilities are available and maintained so as not to be a *nuisance* to other occupiers of land in the vicinity.

- 9.3 Notwithstanding sub-clauses 9.1 and 9.2, a *permit* is not required to *camp* in a registered caravan park or camping ground.

10. BEHAVIOUR ON COUNCIL LAND AND RESERVES AND IN MUNICIPAL PLACES

10.1 General

10.1.1 A person must not, on any *Council land*:

- (a) park a *vehicle* other than in a place set aside for that purpose; or
- (b) remain on *Council land* after being directed to leave by an *authorised officer*; or
- (c) enter *Council land* after having been directed by an *authorised officer* to leave it until granted written permission to do so by *Council* or an *authorised officer*.

Penalty: 10 penalty units

10.1.2 A person must not, on any *Council land*, without a *permit* or other form of permission to do so:

- (a) act contrary to any conditions of entry applicable to the *Council land*; or
- (b) enter the *Council land*, without paying any fee or charge applicable to it or the hire or use of it; or
- (c) hire or use any *Council* property in connection with the *Council land* without first paying any fee or charge which is applicable; or
- (d) destroy, damage, interfere with or deface the *Council land*; or
- (e) remove any object which is owned by *Council* from the *Council land*; or
- (f) collect and remove firewood from the *Council land*; or
- (g) sell or offer for sale any goods, services, food or beverages; or
- (h) erect, affix, place or leave any sign, including any A Frame; or
- (i) erect, operate or cause to be erected or operated any amusement; or



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- (j) organise or participate in any function, *event*, rally, procession, demonstration or similar activity; or
- (k) bring onto the *Council land* any substance, liquid, object, *animal* or powder which may:
 - (i) be dangerous or injurious to health; or
 - (ii) have the potential to foul, pollute or soil any part of *Council land*; or
 - (iii) cause discomfort to any person; or
- (l) ride or drive a *vehicle* or *animal* in a manner or in a place which is likely to damage or ruin any grassed area or turf surface or otherwise interfere with the use of the *Council land* by another person; or
- (m) light a fire or permit any fire to remain alight except in:
 - (i) a *barbecue*;
 - (ii) a permanent designated fireplace; or
 - (iii) a *manufactured fireplace*.

Penalty: 10 penalty units

- 10.1.3 A person must not light a fire, whether in an *incinerator* or not, or allow a fire to be lit or remain alight in the open air on any private land under 8.2 hectares in area so as to cause a *nuisance*.

Penalty: 10 penalty units

- 10.1.4 Unless permitted to do so by an Act, Regulations or a *permit*, a person must not burn, or cause or allow to be burned on any land or *road* and in the open air, any rubber or plastic substance, petroleum oil or material containing petroleum oil paint or receptacle which contains or has contained paint, manufactured chemicals, pressurised cans, textile fabrics or food waste.

Penalty: 10 penalty units

- 10.1.5 Nothing in this clause restricts or otherwise affects the right of a person to light or use a *barbeque*, provided that the day is not a day declared under the *Country Fire Authority Act 1958* to be a day of "total fire ban" in any part of Victoria that includes the *municipal district*.

10.2 Protection of Council Land and Assets

10.2.1 Damaging Council Land or Roads



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- (a) A person must not, without prior written permission from an *authorised officer*.
 - (i) place or allow to be placed anything on *Council land* or any *road* so as to endanger any other person or any property; or
 - (ii) remove any thing from *Council land*, or from any *road* (including firewood).

Penalty: 20 penalty units

- (b) Sub-clause 10.2.1(a) does not apply to a person employed or engaged by *Council* while acting in the course of the person's duties.

10.2.2 Bulk Rubbish Containers and Storage Containers

A person must not, without a *permit* or other form of permission, place, or authorise to be placed, a *bulk rubbish container* or *storage container* on any *road* or *Council land* or in any *public place*.

Penalty: 10 penalty units

10.2.3 Clothing Bins

A person must not, without a *permit*, place a *charity* clothing bin on any *road* or *Council land*.

Penalty: 10 penalty units

10.2.4 Processions, Street Festivals and Street Parties

A person must not, without a *permit*, on any *road* or *Council land* or in any *public place* hold or allow to be held or participate in a:

- (a) street party;
- (b) street festival;
- (c) street market;
- (d) *event*; or
- (e) procession.

Penalty: 20 penalty units

10.2.5 Using Footpaths for Activities

- (a) A person must not, without a *permit*, use a footpath for:
 - (i) outdoor dining; or



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- (ii) displaying goods for sale; or
- (iii) moveable *advertising signs* that are not of a size or type where a permit is required under the *Planning Scheme*; or
- (iv) the installation or maintenance of street furniture.

Penalty: 20 penalty units

- (b) In considering whether to grant a *permit* pursuant to sub-clause 10.2.5(a), *Council* or an *authorised officer* must take into account:
 - (i) whether or not the equipment makes a positive contribution to the amenity of the street on which the footpath is constructed;
 - (ii) whether or not the equipment is stable and safe to pedestrians and diners; and
 - (iii) whether or not A-frames have other notices, signs or objects attached.

10.2.6 Trading, Collections, and Subscriptions

- (a) A person must not, without a *permit*, solicit collections, gifts of money or subscriptions from any footpath or from house to house.

Penalty: 20 penalty units

- (b) A person must not, without a *permit*, trade from *Council land*, a *road* or a *road related area* where trading takes place or is to take place from a *vehicle*, stall or any other temporary structure and irrespective of whether trading is on a permanent or casual basis.

Penalty: 20 penalty units

- (c) All applications for a *permit* under sub-clause 10.2.6(a) must be submitted, on the form available from *Council*, at least seven days prior to the fundraising activity and include the method of collection, the date, time and location of collection, the use or recipient of funds collected, the Registered Charity Number (if applicable) and any additional information required by *Council* or an *authorised officer*.
- (d) *Permits* will not be granted under sub-clause 10.2.6(a) to organisations or individuals utilising collectors who receive financial gain.
- (e) *Permits* will not be issued more than three months in advance of the *event*.
- (f) In determining whether to grant a *permit* under sub-clause 10.2.6(a), *Council* or an *authorised officer* must consider:



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- (i) the times and days proposed to collect;
- (ii) the manner or thing to be collected;
- (iii) the areas where the collections will take place;
- (iv) the impact on traffic and the safety of pedestrians;
- (v) the impact on the amenity of the surrounding area including, but not limited to, the frequency of use of the required area;
- (vi) whether the activity will disturb, annoy, or disrupt adjacent owners or occupiers of any property or any person;
- (vii) whether the activity will unfairly impact a fixed business selling, offering, or displaying goods for sale that are similar to those offered by the applicant;
- (viii) any complaints received about the activity;
- (ix) the capacity of the *permit holder* to supervise collectors;
- (x) whether evidence has been produced that the *applicant* has the required current public liability insurance of 20 million dollars;
- (xi) any view of the Victoria Police or the Head, Transport for Victoria (where relevant) concerning the proposed location or conduct of any collection;
- (xii) whether any other necessary consents or approvals required under other legislation have been obtained; and
- (xiii) any other matter relevant to the circumstances of the application.



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PART THREE – COMPLIANCE WITH THE LOCAL LAW

11. USES AND ACTIVITIES

11.1 General

11.1.1 A person who does not comply with the requirements of this Part is guilty of an *offence*.

11.2 Standards Required for Keeping Animals

11.2.1 Whether a *permit* is required or not, a person keeping *animals* must provide shelter for them that is reasonable and appropriate for the type of *animal* being kept and having regard to the need to:

- (a) protect neighbours from any noise or *nuisance* from the *animal*; and
- (b) maintain the housing in an inoffensive and sanitary condition.

Penalty: 10 penalty units

11.2.2 For the purposes of sub-clause 11.2.1(b) all *animal* shelters must be maintained in an inoffensive and sanitary condition by:

- (a) ensuring that shelters or housing are not located within:
 - (i) six metres of the frontage of the land; or
 - (ii) three metres of any dwelling on adjacent land; or
 - (iii) 1.5 metres of a property boundary;
- (b) not allowing manure and other waste to remain on the land for an excessive period;
- (c) keeping food and other materials in fly and vermin proof containers;
- (d) adequately draining the land; and
- (e) ~~not~~ allowing grass, weeds, refuse, rubbish, and other material to build up within three metres of the *animal* shelter.

11.3 Animal Control

11.3.1 A person keeping a dog or housing a dog must not allow that dog to be housed on land within:

- (a) six metres of the frontage of the land; or
- (b) three metres of any dwelling on adjacent land.



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Penalty: 10 penalty units

- 11.3.2 A person with the care and control of an *animal* must immediately collect and dispose of any excrement left by that *animal* in a *public place* in a way that does not cause a *nuisance* to any other person.

Penalty: 10 penalty units

- 11.3.3 A person disposing of dead *livestock* or parts of dead *livestock* must dispose of the *livestock* in a way that does not cause a *nuisance* or which is detrimental to the health of another person or detrimental to the environment.

Penalty: 10 penalty units

- 11.3.4 A person must not allow any *animal* of which the person is the owner or carer to stray from the land on which the *animal* is being kept.

Penalty: 10 penalty units

- 11.3.5 A person keeping any *animals* on land must ensure that the *animals* are contained by fencing that is adequate to prevent the type of *animal* being kept on the land escaping.

Penalty: 10 penalty units

- 11.3.6 A person must not keep any *animal* in a way that would create a *nuisance* or be dangerous or injurious to the health of another person.

Penalty: 10 penalty units

11.4 Livestock Movements within the Municipal District

- 11.4.1 A person who drives or grazes *livestock* on *roads* for which *Council* is the responsible road authority must comply with *Council's Livestock Droving and Grazing Guidelines*.

Penalty: 10 penalty units

~~A person must not, without a *permit*, or other form of permission from the relevant road authority, drive, or graze *livestock* on *roads* for which *Council* is not the responsible road authority.~~

- 11.4.2 The *Livestock Droving and Grazing Guidelines* are incorporated documents.



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PART FOUR – PROHIBITED OR REGULATED ACTIVITIES AND USES

12. CONTRAVENTION OF THIS PART

A person who contravenes this Part is guilty of an *offence*.

13. CONSUMPTION AND POSSESSION OF ALCOHOL ON ROADS OR IN CAR PARKS

- 13.1 A person must not consume any *alcohol* or have in their possession or control any *alcohol* other than in an unopened container at any time while they are in a *shopping precinct* identified within *Council's* Township Maps.

Penalty: 10 *penalty units* for a first offence

20 *penalty units* for a subsequent offence

- 13.2 The prohibition in this clause does not apply to any person who consumes *alcohol* or has in their possession or control any *alcohol* while:

13.2.1 taking part in a public ceremony or a function which *Council* has permitted;
or

13.2.2 at a licensed premises or authorised premises under the *Liquor Control Reform Act* 1998 or in a defined area immediately adjacent to licensed premises set aside for meals for which a *permit* has been issued.

14. CONSUMPTION AND POSSESSION OF ALCOHOL ON COUNCIL LAND

- 14.1 A person must not consume any *alcohol* or have in their possession or control any *alcohol* other than in an unopened container while they are on any *Council land* or in any *vehicle* on *Council land* between 11:00pm and 6:00am the following day.

Penalty: 10 *penalty units* for a first offence

20 *penalty units* for a subsequent offence

- 14.2 Sub clause 14.1 does not apply to any person who consumes *alcohol* or has in their possession or control any *alcohol* while taking part in any organised function which *Council* has permitted.

15. DILAPIDATED, UNSIGHTLY, UNTIDY AND DANGEROUS PREMISES

15.1 General

- 15.1.1 This clause 15 contains provisions which aim to ensure that the appearance of buildings in the *municipal district* are consistent with an image of the



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municipal district that is safe, attractive and well maintained by controlling premises that have been allowed to reach a dilapidated, unsightly or dangerous condition.

15.1.2 An owner or occupier of land must not allow any land to be used, kept or remain in a condition that:

- (a) is detrimental or destructive to the amenity of the neighbourhood; or
- (b) which may constitute a danger, hazard or *nuisance* to others:
 - (i) because of the state of the land or because its appearance is untidy or unsightly;
 - (ii) because the land harbours unconstrained rubbish, including disused excavation, waste material or builder's rubble;
 - (iii) because the land has excessive vegetation stockpiles and/or growth, including *noxious weeds*;
 - (iv) because of the nature, type, composition or growth of any vegetation on the land;
 - (v) because of the nature, type or composition of any goods or materials stored on the land or in premises on the land;
 - (vi) because graffiti or writing is on any building or other structures or fittings associated with the land;
 - (vii) because the exterior of any building is in a state of disrepair or has been damaged or defaced so as to affect the visual amenity of the land or the area in which it is located; or
 - (viii) because encroachments on the land are in a state of disrepair which may be dangerous or likely to cause a danger to any person.

Penalty: 20 penalty units

15.1.3 An *authorised officer* may:

- (a) if satisfied that sub-clause 15.1.2 has been or is being breached, serve on the owner of the land a Notice to Comply specifying the work required to correct the condition of the land; and
- (b) if satisfied that sub-clause 15.1.2 has been or is being breached, serve on the occupier of the land a Notice to Comply if the owner of the land cannot, after reasonable enquiry, be located.

15.1.4 In addition to any other means of enforcement provided by this Local Law, if the person served with a Notice to Comply under sub clause 15.1.3 fails to



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comply with the Notice to Comply to the satisfaction of an *authorised officer* or *Council*, the *authorised officer* or *Council* can take whatever action it considers is necessary to bring the land into compliance with the Notice to Comply.

- 15.1.5 Any costs incurred by *Council* in taking action under clause 15.1.3 (including, without limitation, the cost of carrying out building work, the erection of hoardings and barricades and the removal of material from the land) must be paid by the person served with the Notice to Comply.

16. REAL ESTATE BOARDS AND COMMUNITY ADVERTISING SIGNS

- 16.1 A person must not exhibit, place out for exhibition, allow to be exhibited, or placed out for exhibition, a real estate board or community *advertising sign* on any *road* or in any *public place* so as to create a *nuisance*.

Penalty: 20 Penalty units

- 16.2 A person must not exhibit, place out for exhibition, allow to be exhibited, or placed out for exhibition, an open for inspection sign on any *road* or in any *public place* unless the sign is:

- 16.2.1 exhibited on the day the property which is the subject of the sign is open for inspection or auctioned;
- 16.2.2 exhibited either on the nature strip in front of the property for sale or a sign on the nature strip at either end of the street in which the property for sale is located;
- 16.2.3 removed within one hour of completion of the open for inspection or auction; and
- 16.2.4 placed 750mm from the kerb and allows at least 1.2m space between the placement of the sign and the property boundary for pedestrian access.

Penalty: 20 penalty units

17. OVERHANGING AND ENCROACHING VEGETATION

- 17.1 The owner or occupier of any land must not allow any vegetation located on the land to grow in a manner that obstructs the clear passage or view:

- 17.1.1 by a driver of any vehicle of a:

- (a) ~~vehicle~~; or
- (b) pedestrian; or
- (c) street sign; or



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(d) traffic control item,

or

17.1.2 by a pedestrian of any:

- (a) vehicle; or
- (b) street sign; or
- (c) traffic control item; or
- (d) vegetation.

Penalty: 5 penalty units

17.2 An owner or occupier of any land must not allow vegetation on that land to overhang any road at a height of less than 4.5 metres from the surface of the road and two metres from the surface of the footpath in line with clause 2.5 of the *West Wimmera Shire Council Road Management Plan 2021 - 2025*.

Penalty: 5 penalty units

~~The West Wimmera Shire Council Road Management Plan 2021 – 2025 is an incorporated document.~~

17.3 Council or an authorised officer may, by notice in writing, direct the owner or occupier of land from which any tree or plant is causing damage to or interference with a road or Council land to undertake works on the owner or occupier's land, or on the adjacent road or Council land, to ensure that it ceases to cause damage or interference. The owner or occupier of the land must comply with that direction.

Penalty: 5 Penalty units

18. BEES AND WASPS

18.1 An owner or occupier of land who keeps or allows bees to be kept on that land must do so in accordance with the *Apiary Code of Practice*.

Penalty: 20 penalty units

18.2 The *Apiary Code of Practice* is an incorporated document.

18.3 Sub-clause 18.1 does not apply to a person who keeps or allows bees to be kept on the land where a planning permit has been issued for such use.

18.4 An owner or occupier of any land must, upon becoming aware of the existence of an unmanaged honeybee swarm on that land, take reasonable steps to cause the removal of that unmanaged honeybee swarm.



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Penalty: 20 penalty units

- 18.5 An owner or occupier of land must not allow or suffer English wasps or European wasps to nest on the land, and, upon becoming aware of the existence of a wasp nest on the land, must take reasonable steps to cause the nest to be destroyed.

Penalty: 20 penalty units

- 18.6 If an *authorised officer* serves a Notice to Comply in relation to a contravention of this clause 18, the works required to correct the contravention may include the destruction of the English wasps or European wasps.
- 18.7 An owner or occupier of any land must not allow or suffer any feral European honeybees on the land to cause, or be likely to cause, a *nuisance*.

Penalty: 20 penalty units

- 18.8 Circumstances in which feral European honeybees on land are causing, or likely to cause, a *nuisance* include when the feral European honeybees are swarming or likely to swarm.

19. RECREATIONAL VEHICLES

- 19.1 A person must not use or allow to be used a *recreational vehicle* on any land in a manner that is a *nuisance* or constitutes a risk to the safety of any other person.

Penalty: 20 penalty units

20. NOISE

20.1 Burglar Alarms

- 20.2 A person must not allow an audible burglar alarm to be located on any residential premises or any industrial, commercial or trade premises or fitted to any *vehicle* unless the alarm, once activated, is automatically switched off within ten minutes of being activated and cannot reactivate until it has been reset.

Penalty: 20 penalty units

20.3 Amplified Sound Equipment

- 20.3.1 A person must not use or allow or suffer to be used any sound amplifying equipment or the like from a *vehicle* on a *road* or *Council land* or in a *public place* to a level that the noise is objectionable, constitutes a *nuisance* to any other person or interferes with the reasonable enjoyment of the nearby area by others.

Penalty: 20 penalty units



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- 20.3.2 An owner or occupier of industrial, commercial or trade premises must ensure that any external amplified telephone, door type bells or public address system from such industrial, commercial or trade premises is or are not audible within a habitable room of residential premises between 6:00pm and 9:00am of the following day.

Penalty: 20 penalty units

21. NOXIOUS AND ENVIRONMENTAL WEEDS

- 21.1 An owner or occupier of land must ensure that *noxious weeds* and *environmental weeds* are not present or growing on their land.

Penalty: 20 penalty units

- 21.2 A person must not sell or possess for sale any *environmental weed*.

Penalty: 20 penalty units

22. PEST AND STRAY ANIMALS

- 22.1 A person must not feed or encourage the presence of pest *animals*, stray *animals*, wild birds or foxes or allow any such *animals* access to food.

Penalty: 5 penalty units

23. VEHICLES

23.1 Unregistered Vehicles and Moveable Dwellings on Roads or Council Land

- 23.1.1 A person must not leave standing any abandoned or unregistered *vehicle* or moveable dwelling on a *road* or *Council land*.

Penalty: 5 penalty units

23.2 Heavy and Long Vehicles

- 23.2.1 A person must not park, keep, store, repair or allow to remain on any premises a *vehicle* which is greater than 7.5 metres in length or which has a gross *vehicle* mass of greater than 4.5 tonnes so as to create a *nuisance*.

Penalty: 20 penalty units



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24. SCAREGUNS

24.1 Purpose

24.1.1 The purpose of this clause is to regulate and control the use of *scareguns* within the *municipal district* in a manner that prevents their use being detrimental to the environment or to the quality of life of the community.

24.2 Use of Scareguns

24.2.1 A person must not use or allow or authorise another person to use a *scaregun* unless all the following are satisfied:

- (a) the *scaregun* is only used for the bona fide purpose of scaring birds;
- (b) the distance in a straight line between the *scaregun* and residential premises on another property is 300 metres or greater;
- (c) the distance in a straight line between the *scaregun* and another *scaregun* in use (whether located on the same property or on another property) is 150 metres or greater;
- (d) the *scaregun* is only used between 7:00am and sunset on any day but for not more than 12 hours in total on any day;
- (e) the maximum noise level of the *scaregun* when measured immediately in front of a residential premises on another property is 100Db peak or less; and
- (f) the *scaregun* does not emit more than the number or exceed the regularity of blasts in any one-day period than the number set out in clause 24.3.

Penalty: 5 penalty units

24.3 Frequency of Scaregun Blasts

24.3.1 For the purposes of sub-clause 24.2.1(f), the number and regularity of blasts in any one-day period is as follows:

- (a) in the case of a single blast *scaregun*, 70 blasts, with the time between blasts to be no less than six minutes; and
- (b) in the case of a multiple blast *scaregun*, 70 blasts, with:
 - (i) the time between blast sequences being no less than six minutes; and
 - (ii) the time between the first blast of a sequence and the last blast of a sequence being no more than one minute; and



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- (c) each blast in a sequence from a multiple blast *scaregun* must be counted as one blast.

24.4 Application

- 24.4.1 Clause 24 does not apply to the use of *scareguns* by *Council* staff or a *Council* contractor.

25. USE OF RECEPTACLES

25.1 General

- 25.1.1 A person must not cause or permit to be placed in any *receptacle* any:

- (a) slops or liquid waste; or
- (b) hot ashes or dirt; or
- (c) wire or other jagged or rough-edged material or object unless the material or object is securely wrapped so as to prevent injury to any person emptying the *receptacle*; or
- (d) syringes or other sharp objects which may be contaminated with infectious waste (including blood) unless wrapped or secured in such a manner as to render it or them harmless or inoffensive; or
- (e) *e-waste*; or
- (f) oil, paint or solvents, or any other thing, substance or material whatsoever which may damage such *receptacle* or reduce its strength; or
- (g) the carcass of a deceased *animal* or mammal; or
- (h) building waste; or
- (i) hazardous chemicals, or volatile, explosive or flammable substances; or
- (j) human faeces,

except in a *receptacle* approved for that purpose.

Penalty: 20 penalty units

- 25.1.2 An occupier of a dwelling must cause any *receptacle* to be removed from where it was left for collection within 24 hours from the time at which the *receptacle* was emptied.

Penalty: 10 penalty units



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25.1.3 Sub-clause 25.1.2 does not apply to:

- (a) *receptacles* left for collection at common collection points where properties are not accessible by a waste collection *vehicle*; or
- (b) properties where the driveway is steep; or
- (c) where, due to age, infirmity or a disability, the occupier is unable to move the *receptacle* without ease or assistance; or
- (d) commercial premises where there is inadequate space to store *receptacles*.

25.2 Recyclable Waste, Hard Waste and Food and Organic Waste

25.2.1 *Council* may, from time to time, and in such manner as it may determine, undertake the collection of waste, including but not limited to recyclable waste, hard waste and food and organic waste.

25.2.2 The occupier of a dwelling in the recyclable household service area who is supplied by *Council* or its contractor with a *receptacle* for collection, must use the *receptacle* only for the purpose for which it was provided.

Penalty: 10 penalty units

25.2.3 Hard waste must not be placed out on the *road related area* in such a manner that will obstruct or hinder the use of any *road* (including a footpath).

Penalty: 10 penalty units

25.2.4 Garden waste must not be placed out on the *road related area* in such a manner that will obstruct or hinder the use of any *road* (including a footpath).

Penalty: 10 penalty units

26. NATURE STRIPS – ALTERNATIVE TREATMENT

26.1 A person who is the owner or occupier of land in a *township*:

26.1.1 may undertake maintenance of the lawn on the nature strip adjacent to the land; and

26.1.2 must obtain a *permit* to undertake other gardening works or other alternative treatment on the nature strip adjacent to the land, such as creating garden beds or planting trees.

Penalty: 20 penalty units



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PART FIVE – ADMINISTRATION AND ENFORCEMENT

27. PERMITS AND FEES

27.1 Permit Applications

- 27.1.1 A person who wishes to apply for a *permit* may do so by:
- (a) lodging an application; and
 - (b) paying the *appropriate fee* (where applicable).
- 27.1.2 *Council* or an *authorised officer* may require an *applicant* to provide additional information before dealing with an application for a *permit* or for an exemption to the requirement to obtain a *permit*.
- 27.1.3 *Council* or an *authorised officer* may require an *applicant* to give public notice of the application.
- 27.1.4 At the discretion of *Council* or an *authorised officer*, the public notice of the application may be required to be given:
- (a) by *Council* to the general public; or
 - (b) by the *applicant* to persons specified by *Council* or an *authorised officer*.
- 27.1.5 A public notice given by *Council* shall be advertised:
- (a) on the *Council* website; and
 - (b) where practicable, in a newspaper published in Victoria and circulating in the *municipal district*.
- 27.1.6 A public notice given by the *applicant* shall be:
- (a) in a form approved in advance by an *authorised officer*; and
 - (b) given by registered mail to the persons specified by *Council* or an *authorised officer*.
- 27.1.7 A copy of the public notice given by the *applicant* must be provided to *Council*.
- 27.1.8 A public notice given pursuant to this clause must provide that submitters be given 14 days to respond.
- 27.1.9 Submissions received pursuant to this clause:



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- (a) shall, where the public notice has been given by the *applicant*, be considered by an *authorised officer*; and
- (b) shall, where the public notice has been given by *Council*, be considered in accordance with *Council's Community Engagement Policy*.

27.1.10 In deciding whether to grant a *permit*, *Council* or an *authorised officer* may, in addition to anything else specified in this Local Law or where nothing else is specified, take into consideration whether the proposed activity or use will:

- (a) cause a danger or hazard to pedestrians or *vehicles*;
- (b) disturb, annoy or disrupt adjacent property owners or occupiers;
- (c) be detrimental to the amenity of the area;
- (d) destroy native vegetation on *Council land* or *roads*;
- (e) cause damage to *Council* assets;
- (f) require the consent of or whether the application should be referred to obtain the opinion of any other public authority or individual;
- (g) obstruct a footpath so that it will not be possible to always maintain a clear walkway; or
- (h) necessitate the *applicant* to have insurance against any risk.

27.2 Issue of Permits

27.2.1 *Council* or an *authorised officer* may:

- (a) issue a *permit* with or without conditions; or
- (b) refuse to issue a *permit*.

27.3 Conditional Permits

27.3.1 A *permit* may be subject to conditions which *Council*, or an *authorised officer*, considers appropriate in the circumstances including:

- (a) the payment of a fee or charge;
- (b) the payment of a security deposit, bond or guarantee to *Council* to secure the proper performance of conditions on a *permit* or to rectify any damage caused to *Council* assets as a result of the use or activity allowed by the *permit*;
- (c) a time limit to be applied by specifying the duration or commencement or completion date;
- (d) that the *applicant* be insured to the satisfaction of the *authorised officer*;



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- (e) the rectification, remedying or restoration of a situation of circumstance;
- (f) where the *applicant* is not the owner of the subject property, the consent of the owner is obtained; and
- (g) the granting of some other *permit* or authorisation.

27.3.2 The conditions of a *permit* must be set out in the *permit*.

27.3.3 *Council* or an *authorised officer* may, during the currency of a *permit*, alter the conditions of a *permit* if it considers or they consider it to be appropriate to do so, after providing the *permit holder* with an opportunity to make comment on the proposed alteration.

27.4 Permit Cancellations

27.4.1 *Council* or an *authorised officer* may cancel a *permit* if it is considered that:

- (a) there has been a serious or ongoing breach of the conditions of the *permit*;
- (b) a Notice to Comply has been issued but not complied with within seven days or such other time as is specified in the Notice to Comply;
- (c) there was a significant error or misrepresentation in the application for the *permit*; or
- (d) in the circumstances, the *permit* should be cancelled.

27.4.2 Before it cancels a *permit*, *Council* or an *authorised officer* must provide the *permit holder* with an opportunity to make a submission on the proposed cancellation.

27.4.3 If a *permit holder* is given the opportunity to make a submission pursuant to sub-clause 27.4.2 the *permit holder* must be given 14 days to make a submission.

27.4.4 If a *permit holder* is not the owner of the land and the owner's consent was required to be given to the application for the *permit*, the owner must be notified of any Notice to Comply and of the reason why it has been served.

27.5 Correction of Permits

27.5.1 *Council* or an *authorised officer* may correct a *permit* in relation to:

- (a) an unintentional error or an omission; or
- (b) an evident material miscalculation or an evident material mistake in the description of a person, property, or thing.



Community Local Law 2023 WEST WIMMERA SHIRE COUNCIL

27.5.2 *Council* or an *authorised officer* must notify the *permit holder* in writing of any correction.

27.5.3 If the *permit holder* is not the owner of the land and the owner's consent was required to be given to the application for the *permit*, the owner must be notified of any correction to a *permit*.

27.6 Appeal Rights

27.6.1 An *applicant* may appeal in writing to the *Chief Executive Officer* (CEO) against the decision of an *authorised officer* to refuse to grant a *permit* or to issue a *permit* with conditions within 14 days of being notified of the decision.

27.6.2 Appeals will be considered by the CEO, a *delegate* of the CEO or another person appointed by the CEO.

27.6.3 The CEO may obtain any additional information to assist with the determination of the appeal.

27.6.4 The CEO must advise the *applicant* in writing of the decision and the reasons for it within 14 days of receiving the request to review the decision of an *authorised officer* or within 14 days of receiving any additional information requested of the *applicant*.

27.7 Duration of Permits

27.7.1 A *permit* is in force until the expiry date indicated on the *permit*, unless it is cancelled before the expiry date.

27.7.2 If no expiry date is indicated on the *permit*, the *permit* expires two years after the date on which it is issued.

27.7.3 Before the *permit* expires, a person may request *Council* to extend the *permit* for a further period.

27.8 Fees

27.8.1 *Council* may, from time to time, by resolution determine fees for the purposes of this Local Law.

27.8.2 In determining any fees and charges, *Council* may establish a system or structure of fees, charges, bonds, and guarantees including a minimum or maximum fee or charge if it considers it is appropriate to do so.

27.8.3 *Council* or an *authorised officer* may waive, reduce, or alter a fee with or without conditions.

27.8.4 *Charities* are exempt from *permit* fees.



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27.9 Exemptions

27.9.1 *Council* or an *authorised officer* may by written notice exempt any person or class of persons from the requirement to obtain a *permit*, either generally or at specified times.

27.9.2 In determining whether to grant an exemption to the requirement to obtain a *permit*, *Council* or an *authorised officer* will have regard to:

- (a) the circumstances of the application;
- (b) whether the application is to raise funds for community for charitable purposes;
- (c) whether the proposed activity or use will have an overall community benefit;
- (d) whether the proposed activity or use could have a detrimental effect on adjoining properties;
- (e) whether the *applicant* will be given an unfair advantage over any other person or organisation; and
- (f) any other matters relevant to the circumstances of the application.

27.9.3 An exemption may be granted subject to conditions.

27.9.4 A person must comply with the conditions of an exemption.

Penalty: 10 penalty units

27.9.5 An exemption may be cancelled or corrected as if it were a *permit*.

27.10 Offences

27.10.1 A person who makes a false representation or declaration (whether oral or in writing), or who intentionally omits relevant information in an application for a *permit* or exemption, is guilty of an *offence*.

Penalty: 10 penalty units

28. ENFORCEMENT

28.1 Compliance with Directions

28.1.1 A person must comply with any lawful direction or instruction of an *authorised officer* given under this Local Law when requested to do so in urgent circumstances or for public safety reasons, whether or not the person has a *permit*.



Community Local Law 2023 WEST WIMMERA SHIRE COUNCIL

Penalty: 10 penalty units

28.2 Warning to Offenders

28.2.1 Where there is a breach of this Local Law an *authorised officer* may request the person breaching the Local Law to stop or remedy the breach.

28.2.2 If a breach of this Local Law continues after an *authorised officer* has requested a person to remedy or stop the breach, the *authorised officer* may issue an *official warning* which must comply with the requirements of the *Infringements Act 2006* and the *Infringements Regulations 2016*.

28.3 Power of Authorised Officer – Notice to Comply

28.3.1 Where there is a breach of this Local Law, an *authorised officer* may serve a Notice to Comply on the person who is breaching the Local Law.

28.4 Time to Comply

28.4.1 A Notice to Comply must state the time and date by which the breach must be remedied.

28.4.2 The time required by a Notice to Comply must be reasonable in the circumstances having regard to:

- (a) the amount of work involved;
- (b) the degree of difficulty;
- (c) the availability of necessary materials or other necessary items;
- (d) climatic conditions;
- (e) the degree of risk or potential risk; and
- (f) any other relevant factor.

28.5 Failure to Comply with a Notice to Comply

28.5.1 A person who fails to comply with a Notice to Comply served on that person is guilty of an *offence*.

Penalty: 10 penalty units

28.5.2 Where a Notice to Comply requiring works to be undertaken is not complied with, an *authorised officer* may cause any works to be carried out to ensure compliance and may recover the costs incurred by *Council*.



Community Local Law 2023 WEST WIMMERA SHIRE COUNCIL

29. POWER OF AUTHORISED OFFICERS

29.1 Urgent Circumstances

- 29.1.1 In urgent circumstances arising as a result of a failure to comply with this Local Law, an *authorised officer* may take action to remove, remedy or rectify a situation without first serving a Notice to Comply if the *authorised officer* considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with serving a notice, may place a person, *animal*, property or thing at risk or in danger.
- 29.1.2 In deciding whether circumstances are urgent, an *authorised officer* must take into consideration, to the extent relevant, whether:
- (a) it is practicable to contact:
 - (i) the person by whose default, permission, or tolerance the situation has arisen; or
 - (ii) the owner or the occupier of the premises or property affected; and
 - (b) there is an urgent risk or threat to public health, public safety, the environment, or *animal* welfare.
- 29.1.3 The action taken by an *authorised officer* under sub-clause 29.1.1 must not extend beyond what is necessary to cause the immediate abatement of or minimise the risk or danger involved.
- 29.1.4 An *authorised officer* who takes action under sub-clause 29.1.1 must ensure that, as soon as practicable, details of the circumstances and remedying action are forwarded to the person on whose behalf the action was taken.

29.2 Power to Impound

- 29.2.1 Where any items, goods and equipment are used in contravention of this Local Law an *authorised officer* may remove and impound them.
- 29.2.2 Where any items and equipment are impounded under this provision, an *authorised officer* must, as soon as possible and where practicable, serve a Notice of Impounding on the owner or the person responsible for the item setting out the fees and charges payable and the time by which the item must be retrieved.
- 29.2.3 Where the identity or whereabouts of the owner or the person responsible for the impounded item is unknown the *authorised officer* must take reasonable steps to establish the identity or whereabouts of the person and may dispose of the impounded item in the following way:
- (a) where the item has no saleable value, it may be disposed of in the most economical way determined by an *authorised officer* or *delegate* in



Community Local Law 2023 WEST WIMMERA SHIRE COUNCIL

accordance with *Council's Asset Disposal Policy* or other relevant policy; or

- (b) where the item appears to have some saleable value, the item may be disposed of by tender, public auction or private sale but may be given away or disposed of if the sale is unsuccessful in accordance with *Council's Asset Disposal Policy* or other relevant policy.

29.2.4 Any proceeds from the disposal of an impounded item will be paid to the owner or the person who, in the opinion of *Council* or an *authorised officer*, appears to be authorised to receive the money, except for the reasonable costs incurred by *Council* in the administration of this Local Law.

29.2.5 If the person described in sub-clause 29.2.4 cannot be identified or located within six months of serving the Notice of Impounding, any proceeds of sale cease to be payable to that person and may be retained for municipal purposes.

29.2.6 If an *authorised officer* has impounded anything in accordance with this Local Law, *Council* may refuse to release it until the *appropriate fee* or charge for its release has been paid to *Council*.

29.2.7 In exercising any of the powers in this clause an *authorised officer* must have regard to any specific requirements in the *Act*.

29.3 Penalties and Infringement

29.3.1 As an alternative to prosecution, an *authorised officer* may issue an infringement notice to any person whom the *authorised officer* reasonably considers has committed an *offence*.

29.3.2 A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.

29.3.3 The penalty in respect of an infringement for which an infringement notice is issued is the amount set out in the Schedule.

29.3.4 A person issued with an infringement notice may pay the penalty amount to *Council* at the address indicated in the notice.

29.3.5 To avoid prosecution and subject to the *Infringements Act* 2006, the penalty indicated in the infringement notice must be paid within 28 days after the day on which the infringement notice is issued.



Community Local Law 2023 WEST WIMMERA SHIRE COUNCIL

COMMUNITY LOCAL LAW NO 9

SCHEDULE

PENALTIES FIXED FOR INFRINGEMENT NOTICE PURPOSES

Explanatory Note: Infringement notice penalties are used to simplify the process of enforcing less serious breaches of the law.

Infringement notices avoid the complex process of Court prosecution.

When infringement notices are paid on time, no conviction is recorded by a Court. The amount of an infringement penalty is normally significantly less than the potential maximum penalty a Court might impose for the same offence. Maximum penalties may be imposed by a Court when:

- Council or an authorised officer chooses to prosecute an offence, rather than issue an infringement notice; or
- a person receiving an infringement notice chooses to have the matter heard in Court.

Penalty units are indexed annually.

Clause or sub-clause	Offence	Infringement Penalty Units	Maximum Penalty Units
6.2	Failing to comply with the conditions of the permit	2	10
7	Failing to obtain a permit to store vehicles and machinery	2	10
8	Failing to obtain a permit to keep excess <i>animals</i>	3	15
9.1	Failing to obtain a permit to camp in excess of the period	3	15
10.1.1	Committing an offence pursuant the sub-clause	2	10
10.1.2	Committing an offence pursuant the sub-clause	5	10
10.1.3 & 10.1.4	Committing an offence pursuant the sub-clause	5	10
10.2.1	Damaging Council land or roads	10	20
10.2.2	Bulk rubbish containers	5	10



Community Local Law 2023 WEST WIMMERA SHIRE COUNCIL

Clause or sub-clause	Offence	Infringement Penalty Units	Maximum Penalty Units
10.2.3	Clothing bins	5	10
10.2.4	Processions, street festivals and street parties	10	20
10.2.5(a)	Use of footpaths for activities	10	20
10.2.6(a) & 10.2.6(b)	Trading, collections, subscriptions, and raffles	10	20
11.2.1	Failing to comply with requirements for keeping animals	5	10
11.3.1	Failing to comply with requirements for animal control	5	10
11.3.2 – 11.3.6	Animal control	2	10
11.4	Failing to comply with requirements for livestock movements within the municipal district	5	10
13.1	Consumption and possession of alcohol on roads or in car parks contrary to the Local Law	10 (first offence), 20 (subsequent offences)	20
14.1	Consumption and possession of alcohol on reserves contrary to the Local Law	10 (first offence), 20 (subsequent offences)	20
15	Dilapidated, unsightly, untidy, and dangerous premises	20	20
16.1 & 16.2	Real estate boards and community advertising signs	10	20
17.1, 17.2 & 17.3	Overhanging vegetation	5	5
18.1, 18.4, 18.5 & 18.7	Bees and wasps	10	20
19	Recreational vehicles	10	20
20	Noise	10	20
21	Noxious and environmental weeds	10	20
22	Pest and stray animals	2	5
23.1.1	Vehicles	2	5
23.2.1	Heavy and long vehicles	10	20



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Clause or sub-clause	Offence	Infringement Penalty Units	Maximum Penalty Units
24	Scareguns	5	5
25.1.1	Use of receptacles	10	20
25.1.2	Receptacles	3	10
25.2.2, 25.2.3 & 25.2.4	Receptacles – recyclable waste, hard waste and food and organics	5	10
26.1.2	Nature strip treatments	10	20
27.9.4	Non-compliance with exemption	5	10
27.10.1	Offences relating to declarations	5	10
28.1.1	Non-compliance with directions	5	10
28.5.1	Failure to comply with a Notice to Comply	5	10



Community Local Law 2023

WEST WIMMERA SHIRE COUNCIL

The resolution for making this Local Law was agreed to by the West Wimmera Shire Council on TBA 2023

THE COMMON SEAL of the West Wimmera Shire Council was hereunto affixed in the presence of:	
----------------------------------------------------------------------------------------------------------------	--

_____	Councillor
_____	Councillor
_____	Chief Executive Officer

Notices of the proposal to make and of the making of this Local Law were included in the Victoria Government Gazette dated the ??? 2022 & INSERT DATE 2023.

Public notice of the proposal to make and confirmation of the making of the Local Law were inserted in the:

- a) West Wimmera Advocate on 23 November 2022 & **INSERT DATE** 2023; and
- b) Kaniva Times on 23 November 2022 & **INSERT DATE** 2023.

A copy of this Local Law was sent to the Minister for Local Government on **INSERT DATE** 2023.

+++++

WEST WIMMERA SHIRE COUNCIL
COMMUNITY LOCAL LAW NO 9
SCHEDULE XX
SHOPPING PRECINCTS

Apsley

Wallace Street from Townsend Street to Laidlaw Street

Edenhope

Elizabeth Street from Orme Street to Wallace Street

Goroke

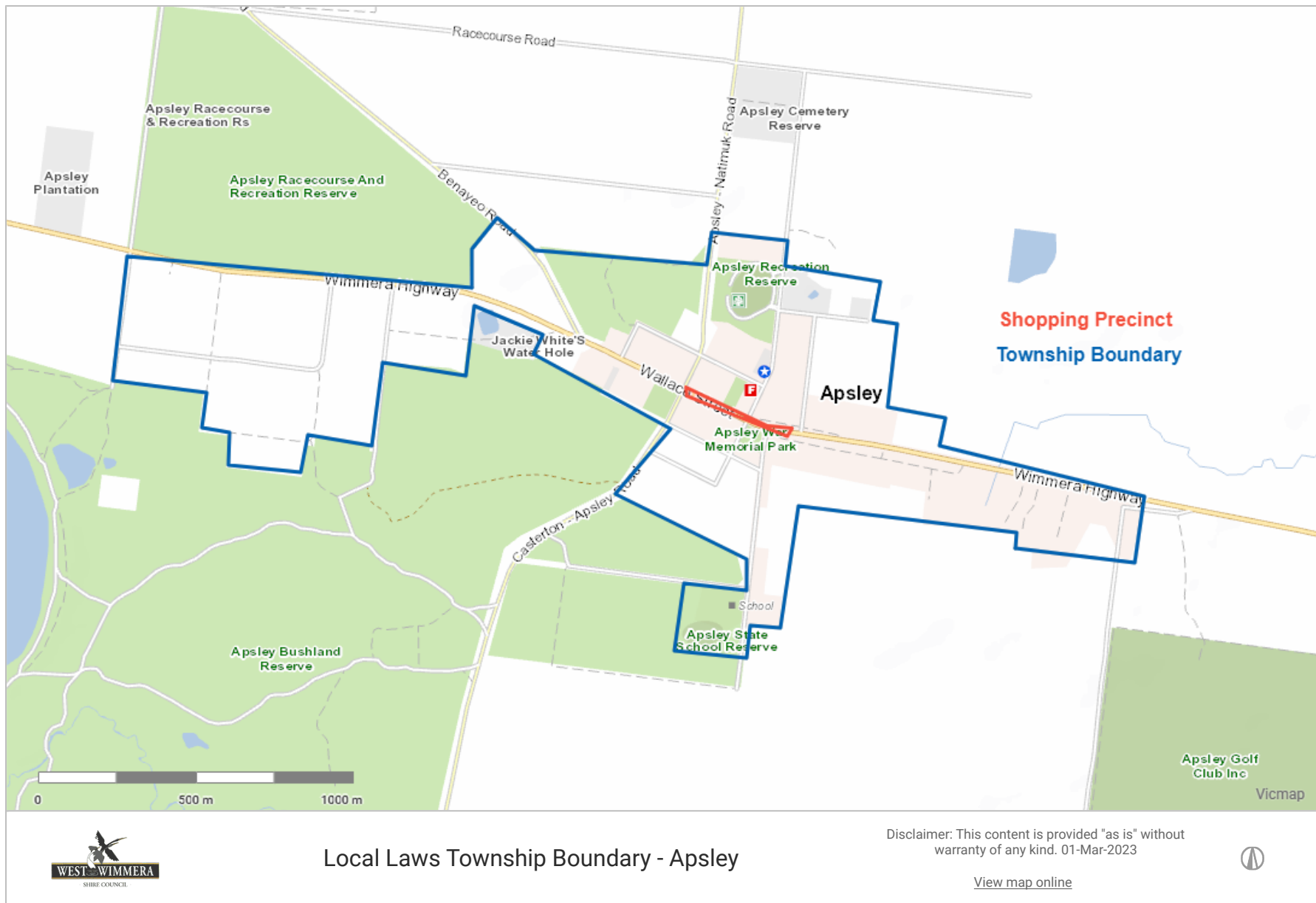
Main Street from Mill Street to Compton Street

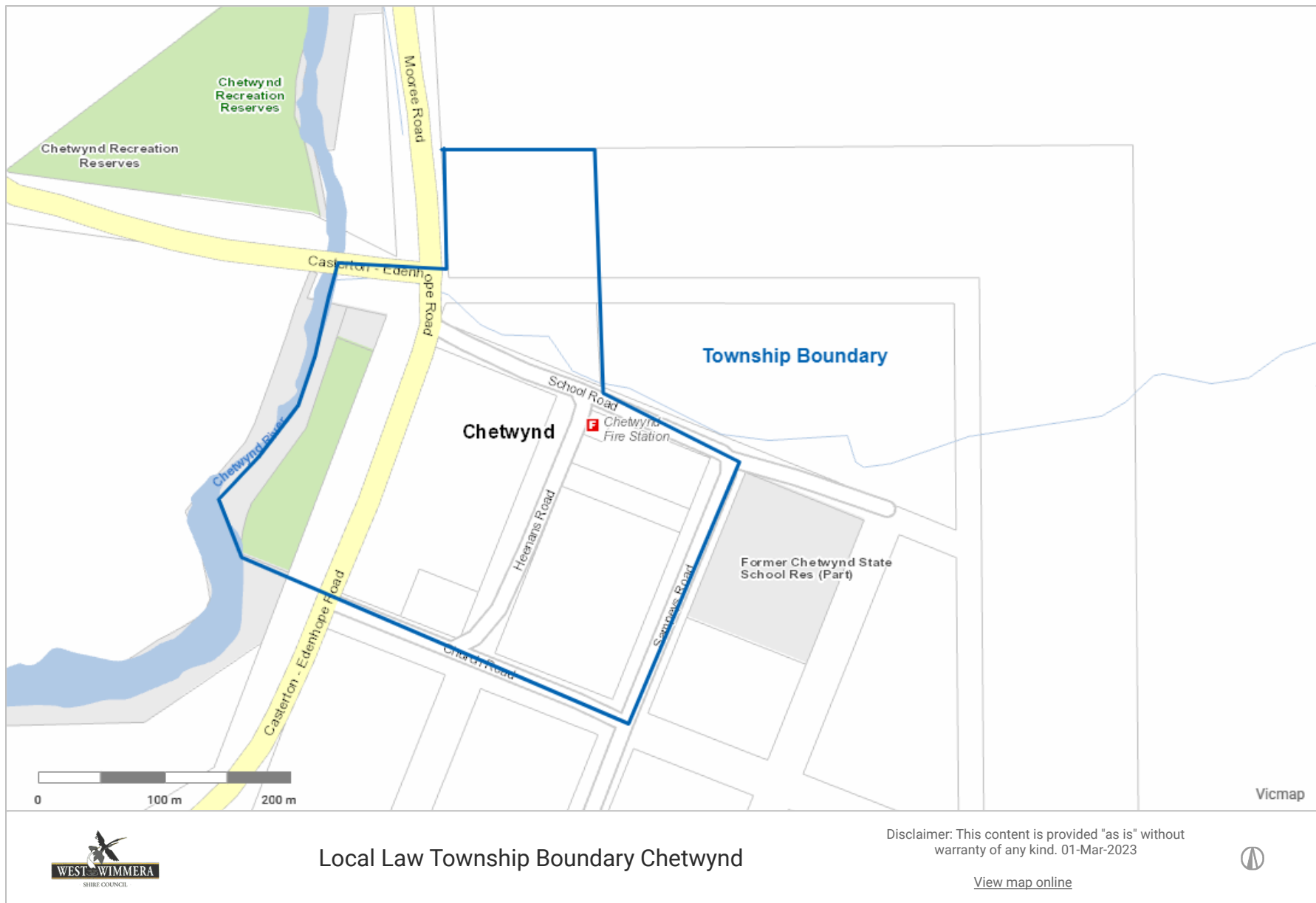
Harrow

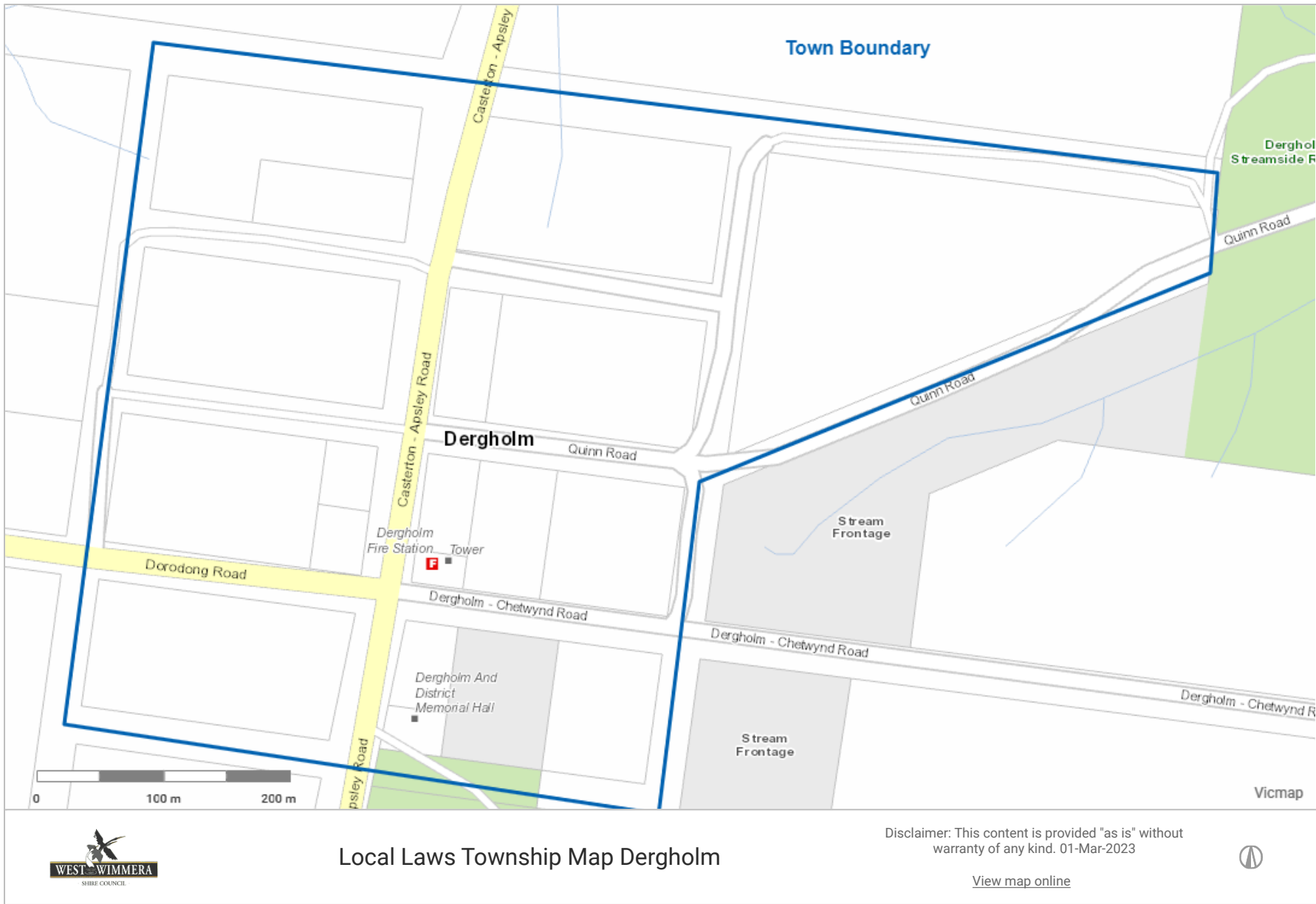
Blair Street from Whittaker Street to 50-52 Blair Street (existing General Store)

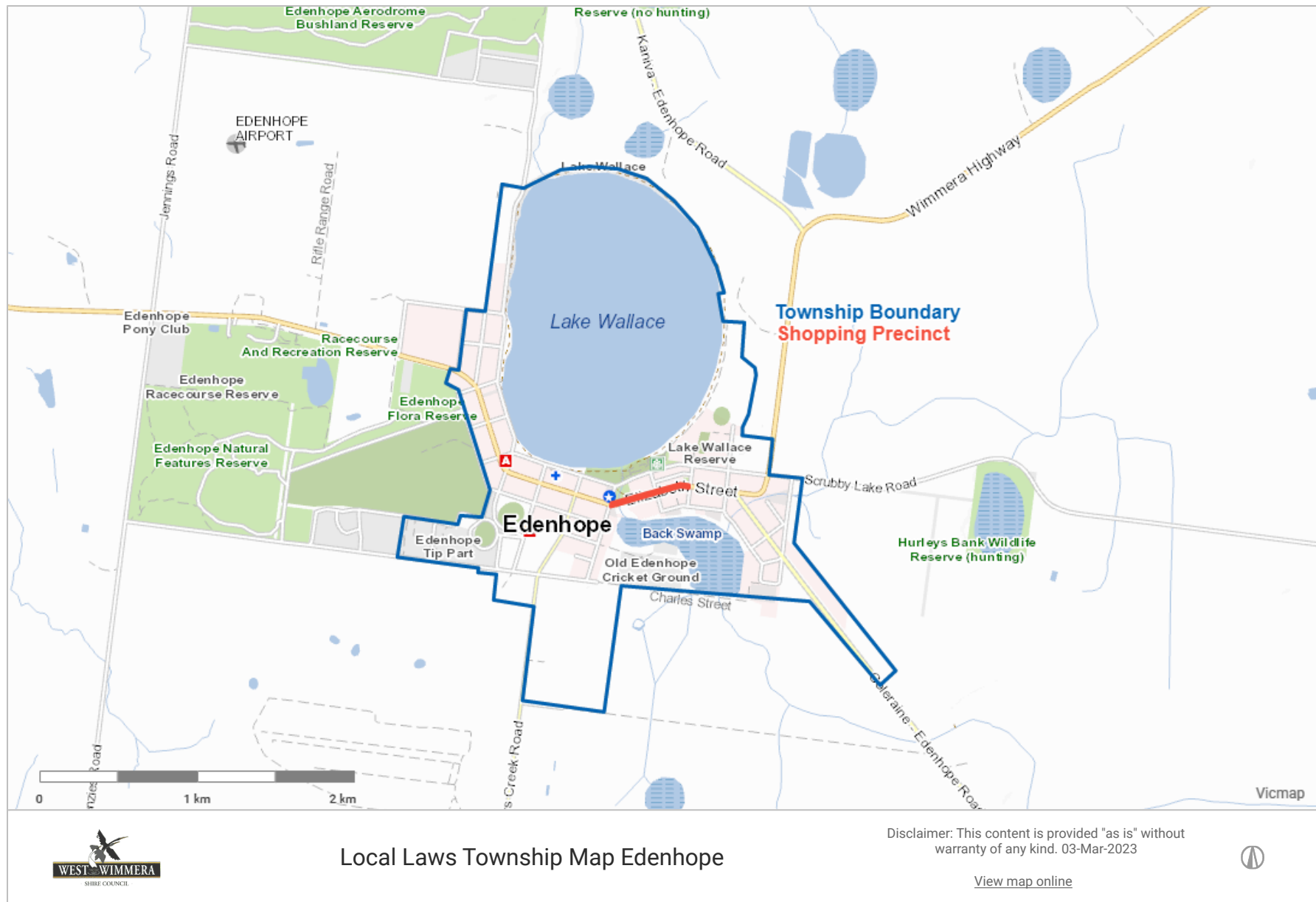
Kaniva

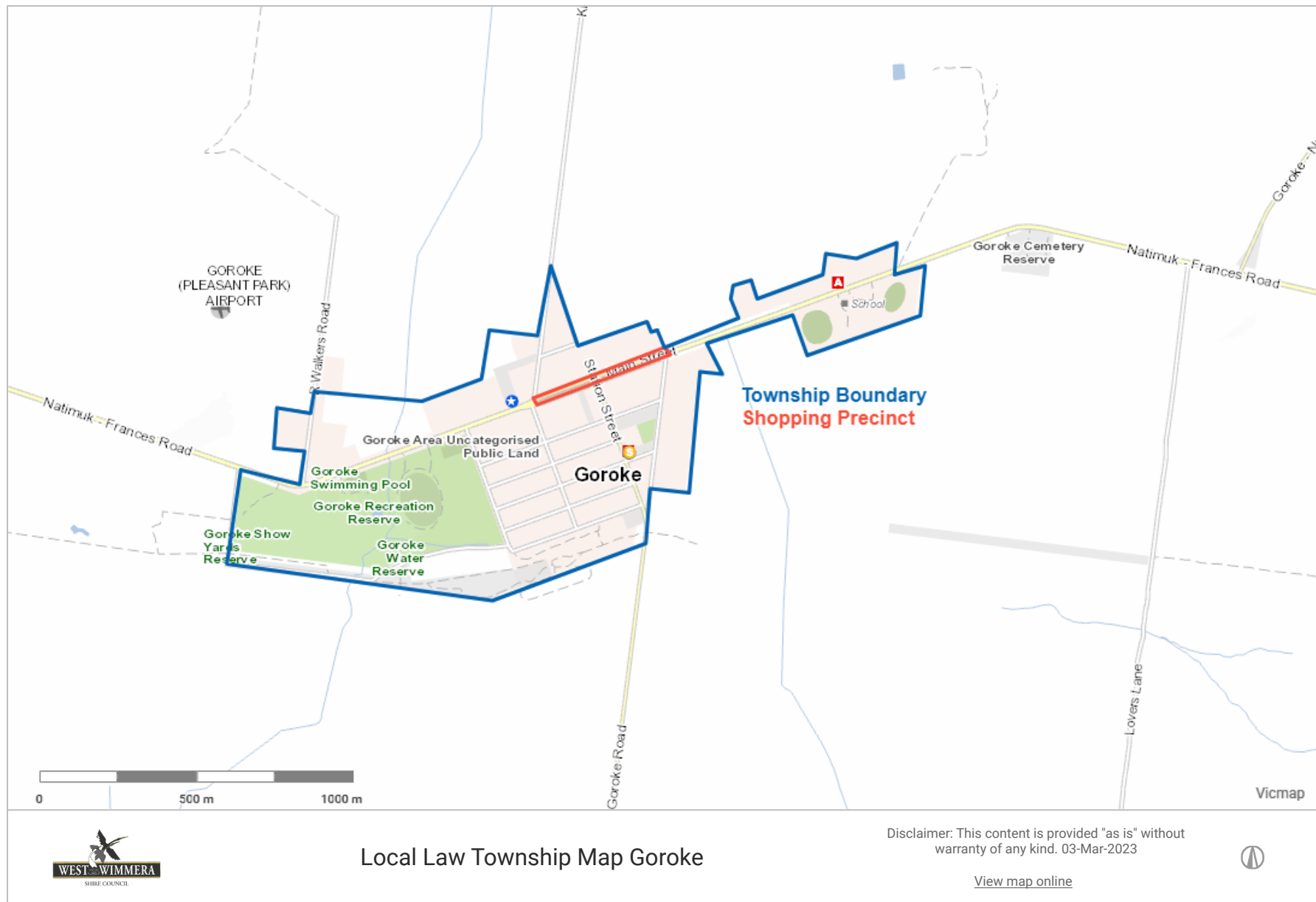
Commercial Street from Madden Street to Baker Street

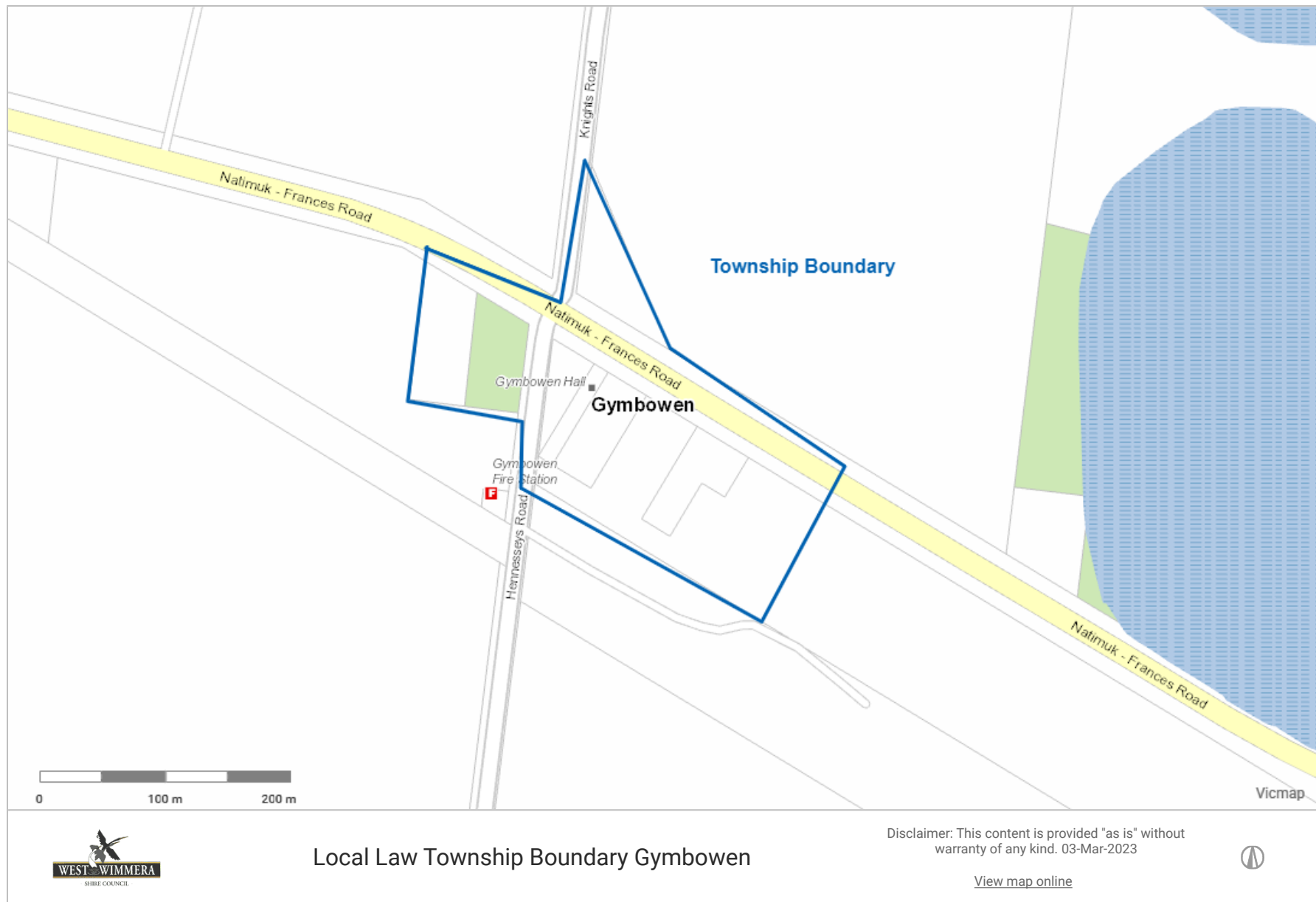


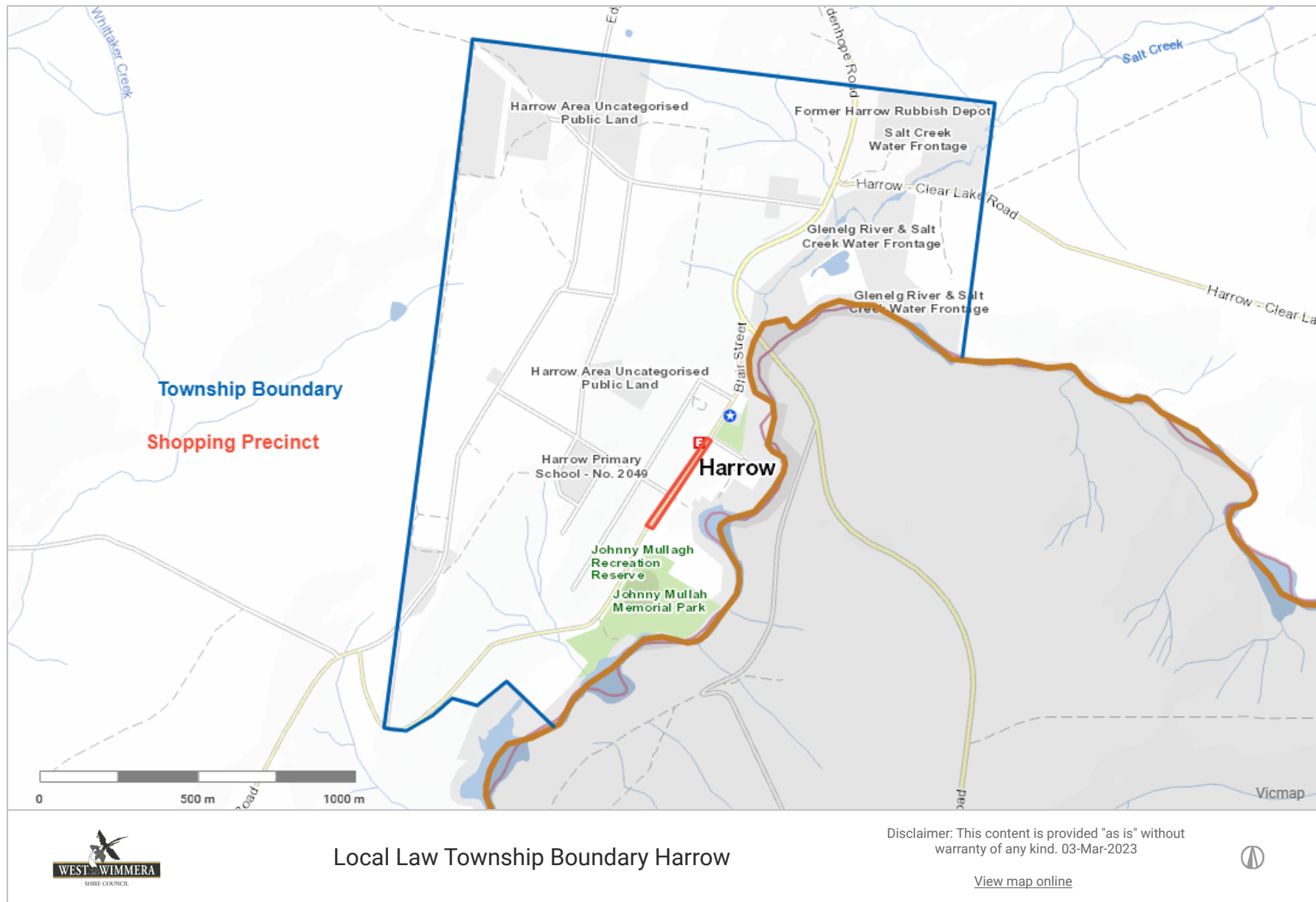


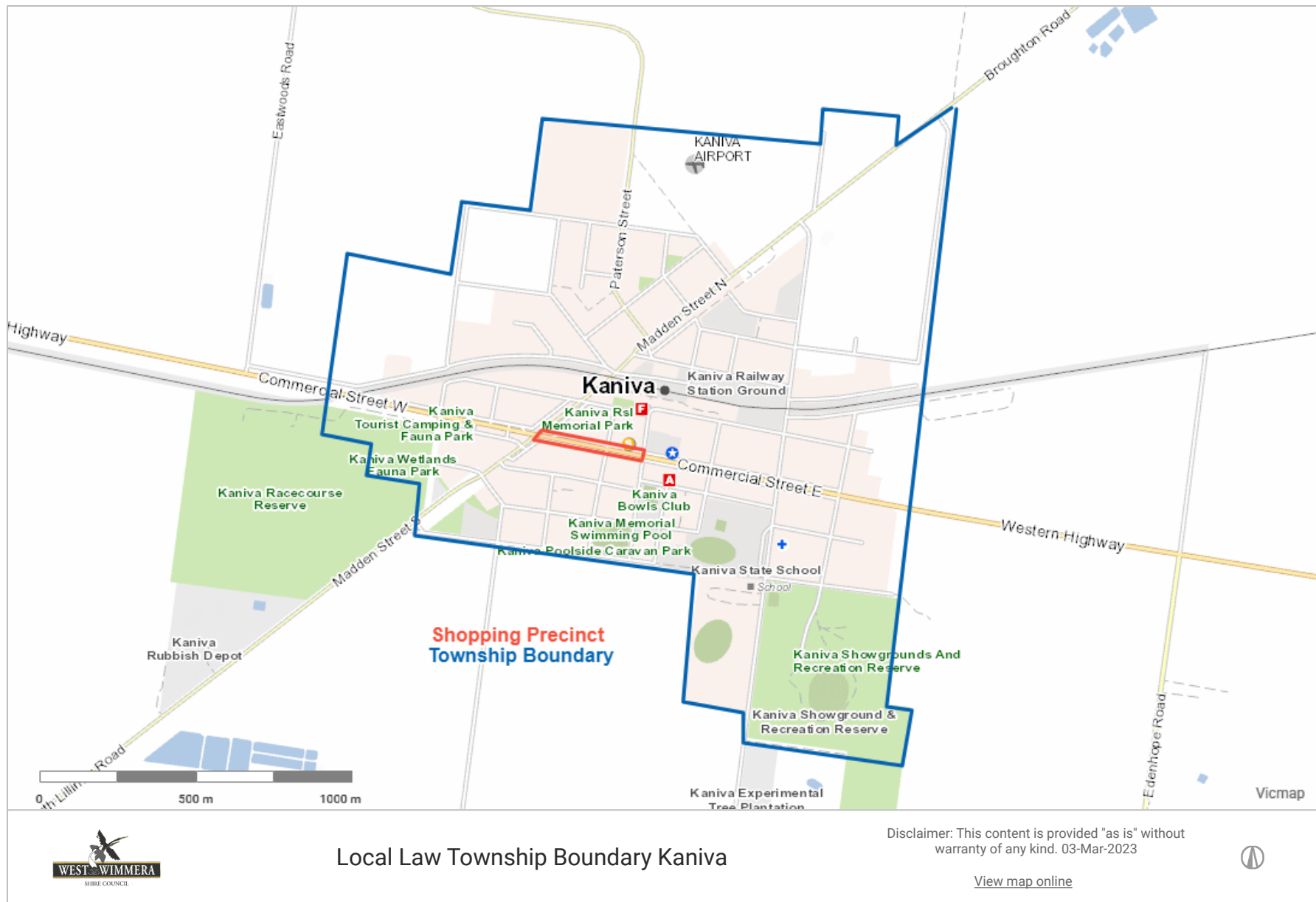


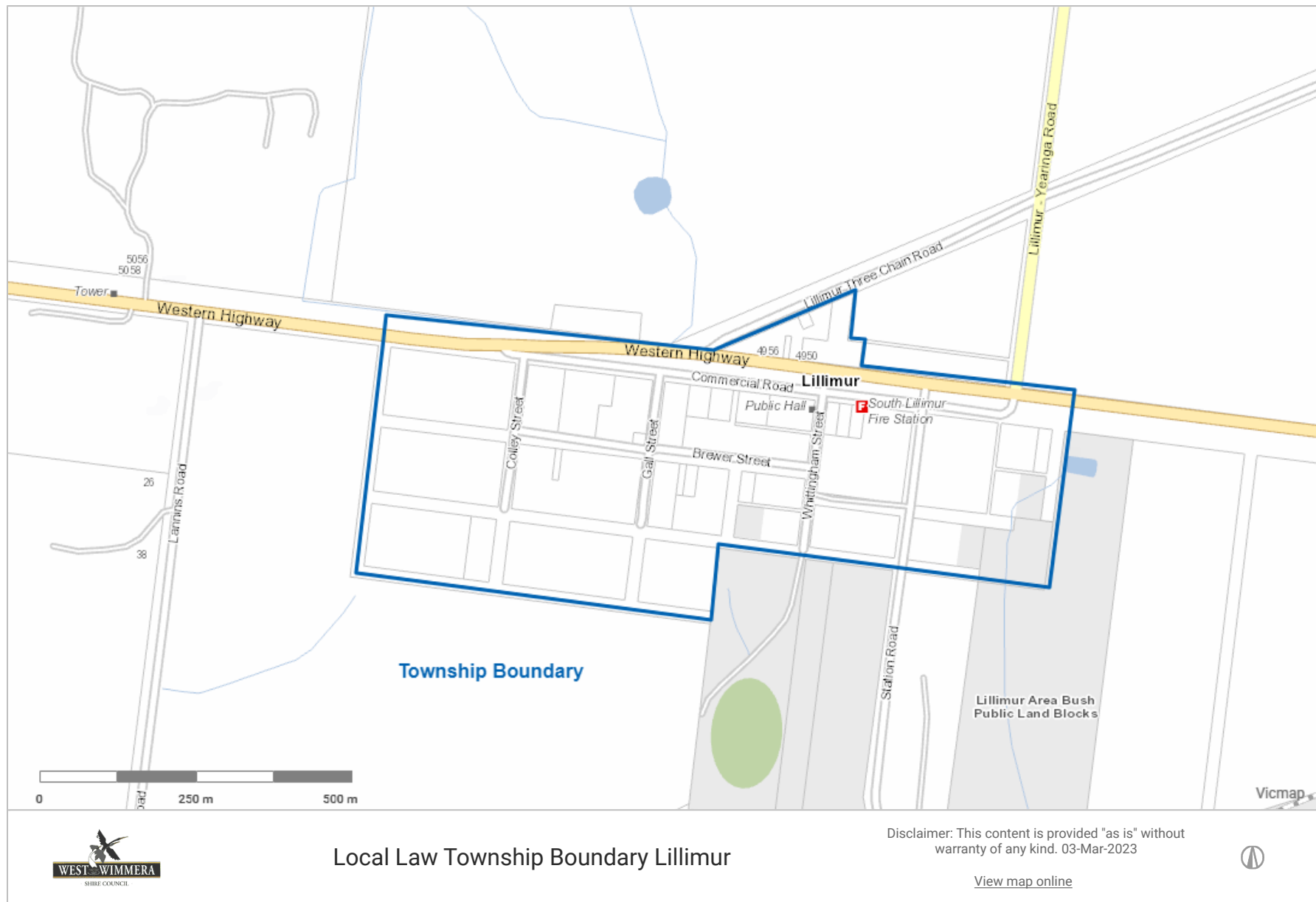




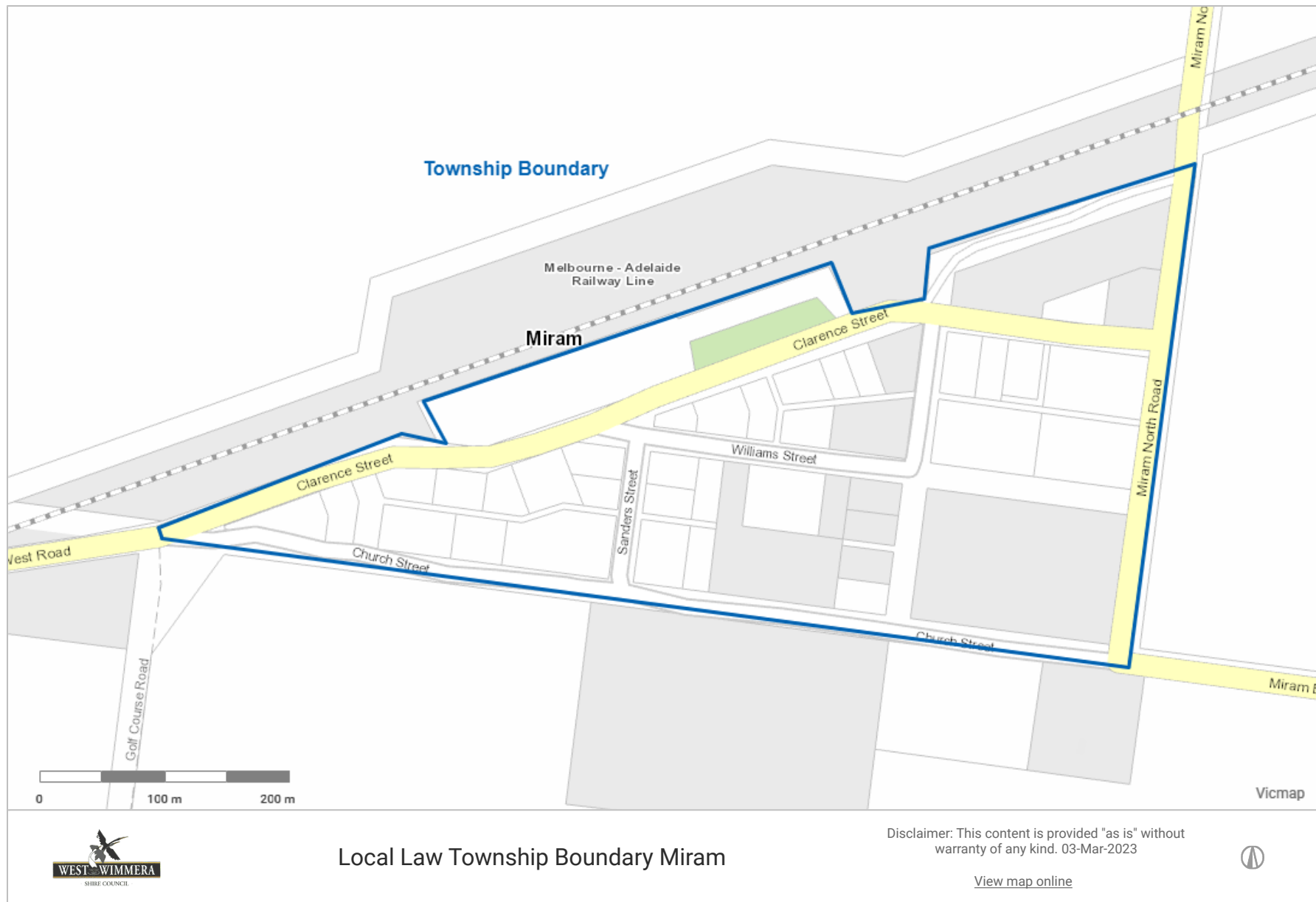


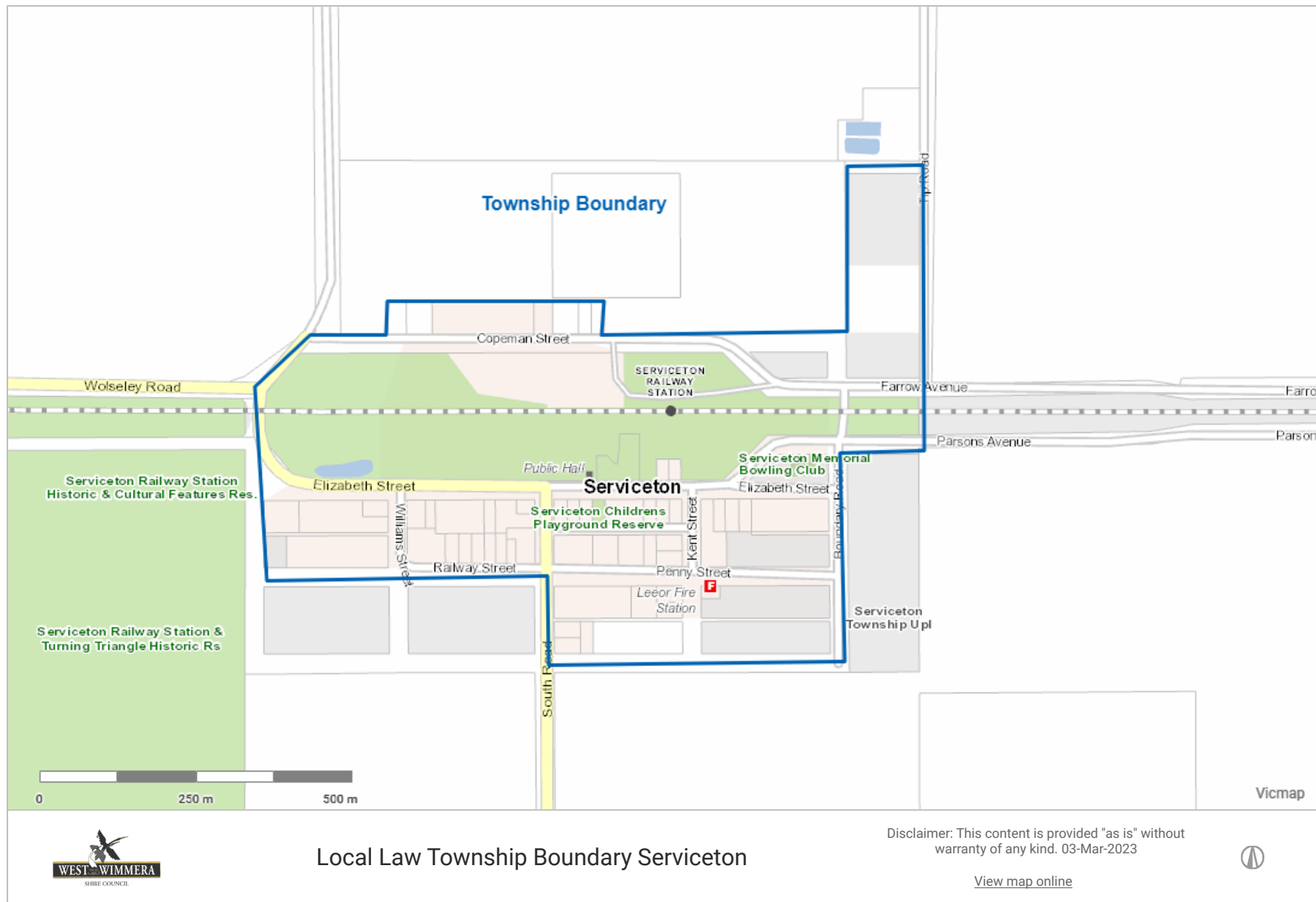














15.3 Briefing Report CFNP SRV Funding Application - Goroke Irrigation Fencing Draining Project

Directorate: Infrastructure Development and Works

Report Author: Assets & GIS Coordinator

Report Purpose: For Decision

Introduction

The intention of this report is to obtain the Council's endorsement for the submission of the application to the Country Football and Netball Program for the Upgrade of Goroke Ovals Irrigation, Drainage and Fencing at the Goroke Recreation Reserve. The details of the application are addressed within this report.

The project was specifically identified during the development of the Annual Plan as an action to seek funding when an opportunity arises.

Declaration of Interest

No officer declared an interest under the Local Government Act 2020 (LGA 2020) in the preparation of this report.

Background

The 2023 Country Football and Netball Program (CFNP) is a competitive Victorian Government investment program in partnership with AFL, AFL Victoria and Netball Victoria aimed at providing funding to assist regional football and netball clubs, associations and umpiring organisations to upgrade and develop facilities in rural, regional and outer metropolitan locations.

West Wimmera Shire Council has identified the Goroke Irrigation, Fencing & Drainage project to be progressed to shovel ready and funding application ready status in the FY22/23 Annual Plan.

The project is now ready for a funding application to upgrade irrigation, fencing and drainage. This will ensure the Goroke Football oval is game ready and upgrade key equipment that is past its due date. This will support the Goroke Football Netball Club and Goroke Community as well as allow participation to continue for many years to come.

The Goroke Recreation Reserve Committee has committed \$20,000 towards the project and in line with Council Policy, 50% of this contribution would be provided prior to the application being submitted.

The application for this funding is set to close on 27 March 2023. The officers are working to submit the application in time.



Risk Management Implications

Risk identified: There are no obvious risks for Council to mitigate or eliminate regarding the proposal considered for funding support in this report.

Legislative Implications

Not Applicable

Environmental Implications

Nil

Financial and Budgetary Implications

The CFNP funding round allows for applications of up to \$250,000 on a 1:3 ratio in rural areas. These applications must come from Local Government Authorities to be considered for funding. Given this maximum of \$250,000 the Goroke Irrigation, Fencing and Drainage project is the only shovel ready project suitable for this funding round.

An estimated project budget based on initial quotations is shown below. Design cost portion is included in each section.

Goroke Irrigation, Fencing & Drainage	
Irrigation Upgrade - This incorporates a popup sprinkler system, pump station and large tank.	\$ 105,779.77
Fencing Upgrade & Removal of Old - This is a new black chain mesh fence set to AFL standard height.	\$ 100,000.00
Drainage Upgrade - Post realignment of the oval to reform the new drain around the oval	\$ 13,000.00
Electrical Work for Pumps	\$ 30,290.00
Contingency	\$ 30,000.00
Project Management	\$ 20,930.23
TOTAL:	\$ 300,000.00

Funding - Based on Ratio of 1:3	
Country Football Netball Program Contribution	\$ 225,000.00
Goroke Recreation Reserve Contribution	\$ 20,000.00
West Wimmera Shire Council Contribution	\$ 55,000.00
TOTAL:	\$ 300,000.00

Council Officers are requesting a commitment from the council for up to \$60,000 within the 2023/24 financial year as a matching fund to this funding stream. This value is to allow for secondary pricing to come back higher than initial quotes.



The total project cost in the application is estimated to be \$300,000.

Policy Implications

This report is supported by the following West Wimmera Shire Council Policy/s:

Community Contributions Policy

Community Engagement Policy

Procurement Policy

Risk Management Policy

Council Plan Implications

This report supports the following sections of the West Wimmera Shire Council Plan 2021 – 2025:

Goal 1 – Liveable & Healthy Community

- 1.1 Create a healthy, active, and vibrant community.
- 1.2 Support a safe and inclusive community.
- 1.3 Provide well planned and sustainable community infrastructure.
- 1.4 Deliver quality services that support community life.
- 1.5 Support and encourage our events, cultural and arts communities.
- 1.6 Support a prepared and resilient community.
- 1.7 Improve the liveability of the shire to assist in growing our population into the future.

Goal 2 – Diverse and Prosperous Economy

- 2.1 Encourage and support the establishment and expansion of innovative, creative and sustainable businesses.
- 2.2 Promote the Shire as a great place to visit, live and invest.
- 2.3 Facilitate the development of the local economy and jobs.
- 2.4 Create vibrant and attractive town centres.
- 2.5 Enhance the local road network and explore transport options.
- 2.6 Provide infrastructure to sustain economic activity.

Goal 4 – Good Governance

- 4.1 Ensure long term financial sustainability.
- 4.2 Engage with the community in a timely and respectful way.
- 4.3 Advocate for our community on issues important to our future.
- 4.4 Develop a high performing accountable organisation.
- 4.5 Maintain a rigorous risk management framework.

Communication Implications



Consultation has already been undertaken in development of the plans

Gender Equality

Not Applicable

Conclusion

Outcomes of the funding applications are expected to be announced in June 2023. The application will be worked on and submitted only after council endorsement.

OFFICER RECOMMENDATION:

That,

1. The Council endorses the funding application to Country Football and Netball Program 2023 for the Upgrade of the Goroke Irrigation, Fencing and Drainage.
2. The council commits up to \$60,000 towards the funding application and underwrites the community's contribution of \$20,000. As a part of this application, it is required that any external contributions are underwritten by the Council.

Attachments

1. Goroke Recreation Ground Irrigation Project [15.3.1 - 1 page]

GOROKE RECREATION GROUND IRRIGATION PROJECT

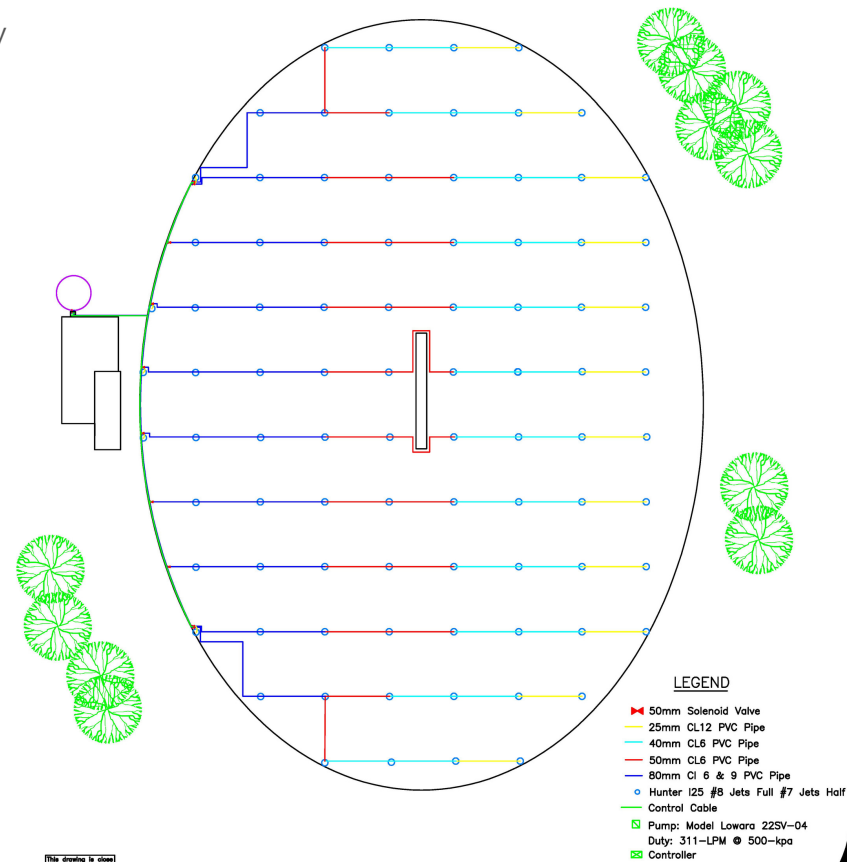


PROJECT

This project will improve the playing surface and player safety by delivering irrigation to the Goroke Oval which is currently relies on volunteers manual watering it currently. The project will also delivery drainage and upgraded fencing which will be impacted by the irrigation works.

BUDGET

Total Project Budget - \$274,115.75





Directorate: Infrastructure Development and Works
Report Author: Facilities and Quality Manager
Report Purpose: For Decision

The intention of this report is to gain approval from the Council on a lease agreement between GWM Water and West Wimmera Shire Council for the construction of a 200 kilolitre water tank on Council land located in Apsley.

The project scope is to supply and install a new ground water tank as shown in the diagram below. Apsley would receive water supply from the new ground water tank once installed. GWM Water will be responsible for funding and delivering the project.





No officer declared an interest under the Local Government Act 2020 (LGA 2020) in the preparation of this report.

Background

The Apsley Water Tank is located on Crown Allotment 5A Section 9, Parish of Boikerbert and this land is Crown Land. GWMWater holds a licence with DELWP (licence number 2001601).

The land parcel to the left which is Crown Allotment 5 Section 9 Parish Boikerbert is owned by the West Wimmera Shire Council.

GWMWater has utilised the above-mentioned Council owned parcel for many years. Both parties searched their records, and no lease appears to be in place.

A letter from Council to the water authority in 1997 stated that Council was aware of water authority assets being on Council land and were happy for existing arrangements to continue.

Currently, Council utilises GWM Water licenced land to stack construction materials. This will be formalised via agreement with GWM Water

Risk Management Implications

Risk identified: There are no obvious risks for the Council to mitigate or eliminate in regard to the proposal considered for funding support in this report.

Legislative Implications

The report complies with the requirements of the:
Local Government Act 2020

Environmental Implications

Nil

Financial and Budgetary Implications

The lease is for the term of 20 years with the option for renewal for another 20 years. The lease of land under this proposal is to be given without consideration in accordance with the Local Government Act 2020 hence GWM Water will not be required to pay rental to West Wimmera Shire Council.

Policy Implications

This report is supported by the following West Wimmera Shire Council Policy/s:

Asset Management Policy



Council Plan Implications

This report supports the following sections of the West Wimmera Shire Council Plan 2021 – 2025:

Goal 1 – Liveable & Healthy Community

1.4 Deliver quality services that support community life.

Goal 2 – Diverse and Prosperous Economy

2.6 Provide infrastructure to sustain economic activity.

Communication Implications

No Communication Implications

Gender Equality

Not Applicable

Conclusion

The council is utilising Section 116, Transfer, exchange or lease of land without consideration of the Local Government Act 2020.

(1) A Council's powers to transfer, exchange or lease any land include the power to do so with or without consideration to:

- a) The crown; or
- b) A Minister; or
- c) Any public body; or
- d) The trustees appointed under any Act to be held on trust for public or municipal purposes.

It would be prudent for both parties to have a lease in place to identify respective responsibilities.

OFFICER RECOMMENDATION:

That the Council authorises the CEO to execute the lease agreement between GWM Water & West Wimmera Shire Council

Attachments

1. GWM Water lease - site lease agreement Laidlaw Street Apsley [15.4.1 - 21 pages]

Our ref: 15/095/056
Contact: Alana Roissetter
Office: McLachlan



10 October 2022

ABN 35 584 588 263

11 McLachlan Street
(PO Box 481)
Horsham Victoria 3402

Attention: James Magee
West Wimmera Shire Council
49 Elizabeth Street
EDENHOPE VIC 3318

Tel: 1300 659 961

Fax: 03 5381 9881

Email: info@gwmwater.org.au

Website: www.gwmwater.org.au

*Certified to best practice standards
ISO 9001 / 14001 and AS/NZS 4801*

Dear James

Site Lease Agreement for Laidlaw Street Apsley

Please find enclosed two copies of a Site Lease Agreement to formalise GWMWater's land tenure at Laidlaw Street Apsley known as Crown Allotment 5 Section 9 Parish of Boikerbert.

Would you please arrange signature of both Agreements and return one copy to GWMWater for finalisation.

If you have any queries please contact Alana Roissetter on 1300 659 961.

Yours sincerely

Ross Higgins
Manager Legal and Corporate Resources

LEASE

WEST WIMMERA SHIRE COUNCIL
(ABN 17 283 765 673)
(‘LESSOR’)

AND

GRAMPIANS WIMMERA MALLEE WATER CORPORATION
(ABN 35 584 588 263)
(‘LESSEE’)

SITE LEASE

LAIDLAW STREET, APSLEY, VICTORIA

THIS LEASE IS MADE BETWEEN:

WEST WIMMERA SHIRE COUNCIL (ABN 17 283 765 673) of 49 Elizabeth Street,
Edenhope, Victoria, 3318 ('Lessor')

AND

GRAMPIANS WIMMERA MALLEE WATER CORPORATION (ABN 35 584 588 263) of 11 McLachlan Street, Horsham, Victoria, 3400 ('Lessee')

The Lessor grants and the Lessee takes, a Lease of the site on the terms and conditions as agreed and set out in this document.

EXECUTED by all parties as a deed

THE LESSOR

Municipal Council

SIGNED for and on behalf of)
WEST WIMMERA SHIRE COUNCIL)
by **David Bezuidenhout, Chief Executive**)
Officer, Delegate)

.....
Signed

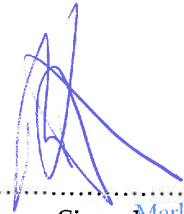
In the presence of:

.....


Date: / / 2022

THE LESSEE

SIGNED SEALED AND DELIVERED by)
the **MANAGING DIRECTOR** of)
GRAMPIANS WIMMERA MALLEE)
WATER CORPORATION pursuant to the)
power delegated to that position by an)
Instrument of Delegation dated 18/05/2022)


.....
Signed **Mark Williams**
Managing Director

in the presence of:


.....
Amanda Collins

Date: 05 / 10 / 2022

PART A. PARTICULARS

Note: Any reference to G.C. refers to the relevant General Condition.
Any reference to S.C. refers to the relevant Special Condition.

1. The Lessee (G.C.2)

Name: **Grampians Wimmera Mallee Water Corporation**
Address: **PO Box 481, Horsham VICTORIA 3402**

2. The Site (G.C.2)

Laidlaw Street, Apsley, Part of Crown Allotment 5 Section 9 Parish of Boikerbert

3. Term of Lease and Agreement (G.C.3)

For a period of 20 years 01/09/2022 to 31/08/2042

4. Option for Renewal (G.C.5)

Further term of 20 years

5. Rent (G.C.4.1)

The lease of the land will be given without consideration in accordance with the Local Government Act 2020 hence Grampians Wimmera Mallee Water Corporation are not required to pay rental to West Wimmera Shire Council

6. Rent Review

Not applicable

7. Guarantors of this Lease

Not applicable

8. Lessee Outgoings (G.C.4.2)

Any utility charges or rates raised on the site due to the site being a separate occupancy.

9. Insurance – Amount of Public Risk Cover
(G.C.4.9)

\$20 Million

10. Security Deposit
(G.C.4.11)

Not applicable

PART B. SPECIAL CONDITIONS

- (a) The Lessee shall be responsible for all site management responsibilities;
- (b) All access and exit points to the site are to be via Laidlaw Street only and access and exits to the site are to be installed and maintained by the Lessee;
- (c) All site safety; including traffic management is to be the responsibility of the Lessee.

PART C. GENERAL CONDITIONS

1 Agreement

1.1 In consideration of:

- 1.1.1 this Agreement; and
- 1.1.2 payment of any charges specified in this Agreement;

the Lessor has agreed to Lease the site to the Lessee on the terms and conditions set out in this document.

1.2 This Agreement Incorporates:

- 1.2.1 PART A The Particulars;
- 1.2.2 PART B The Special Conditions (if any);
- 1.2.3 PART C The General Conditions.

2 Definitions

In this Agreement the following terms or words shall have the following meaning:

'Act' means the *Water Act 1989 (Vic)* and unless precluded by context, includes all regulations, codes, standards and other rules or enactments made pursuant to that Act;

'Business' means the operation which is taking place on the site;

'Date of Expiration' means the date stated in Part A Particulars, Item 3, or any earlier date on which the Lease ends;

'Land' means all the land owned by the Lessor on which the site is contained more particularly described in Part A Particulars, Item 2;

'Lease' means the Lease or tenancy that exists between the Lessor and the Lessee in relation to the site of whatever nature and whether at law or in equity as evidenced in whole or in part by the document;

'Lessee' means the Lessee described in the Part A Particulars and its successors, assigns, its employees, agents, contractors and sub-contractors;

'Lessor' means the Lessor described on the front page of this Lease, its successors, assigns, its employees, agents, contractors and sub-contractors;

'Lessor's Works' means works to be carried out by the Lessor;

'Permitted Use' means the use by the Lessee of the Land under this Lease for the setting up, maintenance and operation of Bore Pumps, Pump Shed, Water Tank and all matters incidental to those purposes, and any other use permitted by Law;

'Plan' means the plan comprising in Schedule 1 to this Lease;

'Site' means the area occupied or to be occupied by the Lessee located on the land described in G.C.2 and as identified in the attached plan.

3 Term

The Lessor leases the Premises to the Lessee for the Term set out in Part A Particulars Item 3.

4 Lessee's Agreement

The Lessee agrees with the Lessor:

- 4.1** That rental payment is not required as set out in Part A Particulars Item 5;
- 4.2** to pay all outgoings and other such charges having application to the site as set out in Part A Particulars Item 8;
- 4.3** not, unless the prior written consent of the Lessor has been obtained, use the site for any purpose other than Permitted Use;
- 4.4** to keep the site in good repair, order and condition at the Lessee's expense;
- 4.5** to comply with any notice given by the Lessor requiring the Lessee to fulfil its obligations under this Lease;
- 4.6** to provide the Lessor written notice of the happening of any accident or safety incident or the discovery of any defect on or affecting the site;
- 4.7** to quietly and peaceably give up the site in a state that is restored and cleaned up to the satisfaction of the Lessor. The cost of any cleaning-up or clearing away required by the Lessor may be recoverable from the Lessee;

- 4.8 not to assign, sublet, mortgage, license, charge or in any way dispose of any part or possession of the site without having first obtained the written consent of the Lessor;
- 4.9 to maintain a public liability insurance in respect of the site in the name of the Lessee, the amount of such insurance to be set out in Part A Particulars Item 9;
- 4.10 that at its own expense, shall insure and keep insured the site for the duration of the Lease as it was its own;
- 4.11 to pay to the Lessor the sum set out in Part A Particulars Item 10 as a security deposit.
- 4.12 to allow the West Wimmera Shire Council access to the land for occasional storage of materials where it will not interfere with any operations or requirements of the Lessee.

5 Construction and Alterations

The Lessee may at any time install, erect, construct, dismantle, repair, replace, renew and maintain upon the Premises:

- a) Security fencing; and
- b) Such Lessee's Fixtures as are deemed necessary or required by the Lessee for or in connection with the Permitted Use now and in the future.

The Lessee must comply with the requirement of any statute, law or Government Agency having jurisdiction in connection with any works referred to in G.C.5 a) and 5 b).

The Lessor must, on request and at the Lessee's expense, sign all documentation and do all such things as the Lessee or any person nominated by the Lessee reasonable requires to authorise or assist the Lessee in its endeavours to obtain the consent or approval from any Government Agency or any other relevant person to the matters referred to in G.C.5.

6 Access

The Lessor grants to the Lessee site access 24 hours per day 7 days per week.

The Lessee grants access to the Lessor and its agents for the purposes of carrying out the Lessor's Works and its rights and obligations as owner, including the remedying of any repair defaults of the Lessee.

7 Indemnity

- 7.1 The Lessee shall indemnify the Lessor for any loss or damage suffered by the Lessor (including any financial loss) arising out of the use of the site.
- 7.2 The Lessee shall indemnify the Lessor against any claim or order made against the Lessor for any loss or damage suffered by any other party in relation to the Lessee's lease of the site.

8 Termination

- 8.1 At the end of the term.
- 8.2 The Lessor may after any first or subsequent breach give notice to the Lessee in writing of that breach requiring either rectification (if possible) or non-re-occurrence of the breach. Failure to rectify the breach will result in immediate termination of this Lease.
- 8.3 The Lessee will not be guilty of a breach of this Agreement where such incident arises due to circumstances beyond its control such as flood, storm or like occurrence.
- 8.4 The Lessee may otherwise terminate this Lease at any time by providing six (6) months' notice in writing to the Lessor.

9 Settlement of Disputes

- 9.1 Any dispute or difference arising out of or in connection with this Agreement or concerning the performance or the non-performance by either party of its obligations under this Agreement shall be referred, upon the giving of seven (7) days written notification by either party, to a dispute panel consisting of at least two members with each party appointing an equal number of members.
- 9.2 Any decision of the dispute panel shall be binding on the parties.
- 9.3 If the dispute panel fails to reach a decision on the matter within 30 days of the dispute being referred to the dispute panel, the dispute may be referred to mediation or arbitration, if the parties so agree, or to the courts should either party believe on reasonable grounds that course of action is necessary.

10 Disclosure

This Lease and any documents referred to in this Lease contain the whole of the agreement between the parties and no warranty, representation, understanding, arrangement or provision not expressly set out in this Lease shall be binding upon the parties.

11 Permits

The Lessee agrees that it will obtain and maintain all necessary licences, permits, approvals and any other consents of any Federal, State, Local Government or other Statutory Authority required in order to occupy the site.

12 Severance

If any provision of this Lease is either held void or unenforceable by any Arbitrator or Court then to the extent possible at law that provision shall be struck out and the balance of this Lease shall continue to apply.

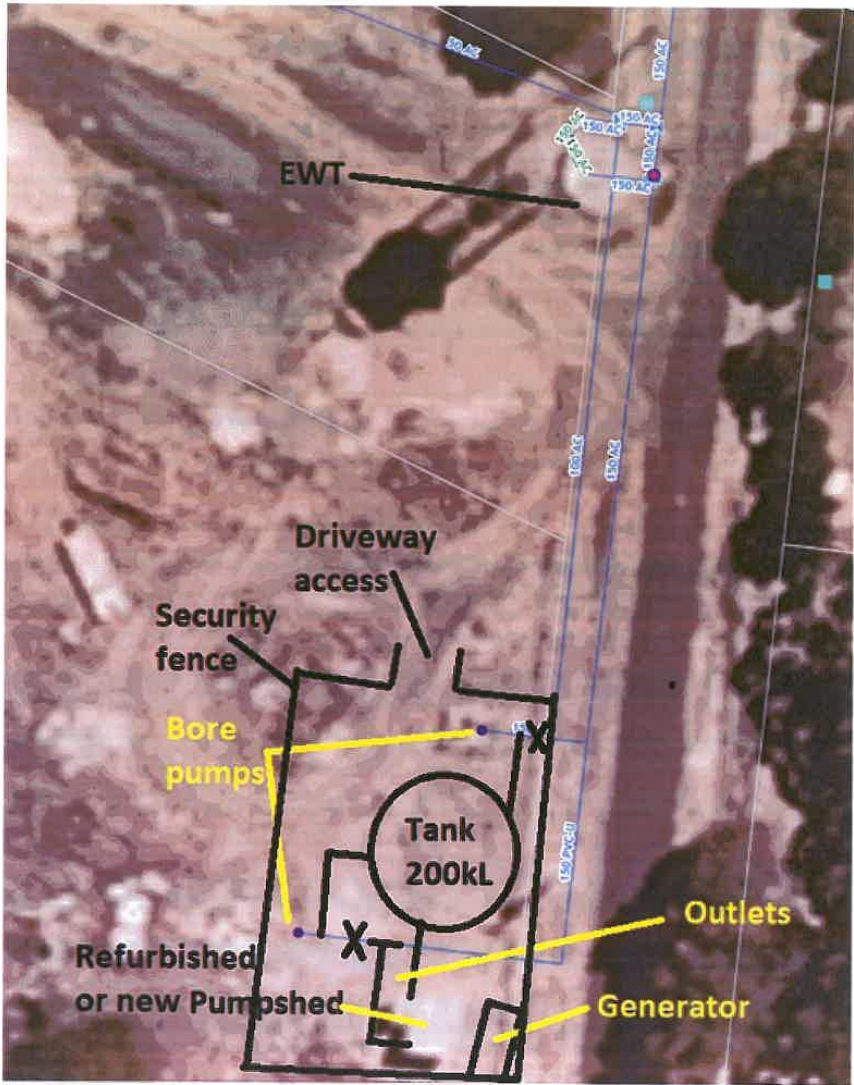
13 Waiver

No consent or waiver by the parties of any breach by the other party shall amount to a waiver of the relevant party's rights arising from this Lease.

14 Notices

Any notice given pursuant to this Lease shall be duly given if it is in writing and signed by or on behalf of the particular party giving the notice.

Schedule 1
Site Plan



LEASE

WEST WIMMERA SHIRE COUNCIL
(ABN 17 283 765 673)
(‘LESSOR’)

AND

GRAMPIANS WIMMERA MALLEE WATER CORPORATION
(ABN 35 584 588 263)
(‘LESSEE’)

SITE LEASE

LAIDLAW STREET, APSLEY, VICTORIA

THIS LEASE IS MADE BETWEEN:

WEST WIMMERA SHIRE COUNCIL (ABN 17 283 765 673) of 49 Elizabeth Street,
Edenhope, Victoria, 3318 ('Lessor')

AND

GRAMPIANS WIMMERA MALLEE WATER CORPORATION (ABN 35 584 588 263) of 11 McLachlan Street, Horsham, Victoria, 3400 ('Lessee')

The Lessor grants and the Lessee takes, a Lease of the site on the terms and conditions as agreed and set out in this document.

EXECUTED by all parties as a deed

THE LESSOR

Municipal Council

SIGNED for and on behalf of)
WEST WIMMERA SHIRE COUNCIL)
by **David Bezuidenhout, Chief Executive**)
Officer, Delegate)

.....
Signed

In the presence of:

.....

Date: / / 2022

THE LESSEE

SIGNED SEALED AND DELIVERED by)
the **MANAGING DIRECTOR** of)
GRAMPIANS WIMMERA MALLEE)
WATER CORPORATION pursuant to the)
power delegated to that position by an)
Instrument of Delegation dated 18/05/2022)


.....
Signed
Mark Williams
Managing Director

in the presence of:


.....
Amanda Collins

Date: 05 / 10 / 2022

PART A. PARTICULARS

Note: Any reference to G.C. refers to the relevant General Condition.
Any reference to S.C. refers to the relevant Special Condition.

1. The Lessee (G.C.2)

Name: **Grampians Wimmera Mallee Water Corporation**
Address: **PO Box 481, Horsham VICTORIA 3402**

2. The Site (G.C.2)

Laidlaw Street, Apsley, Part of Crown Allotment 5 Section 9 Parish of Boikerbert

3. Term of Lease and Agreement (G.C.3)

For a period of 20 years 01/09/2022 to 31/08/2042

4. Option for Renewal (G.C.5)

Further term of 20 years

5. Rent (G.C.4.1)

The lease of the land will be given without consideration in accordance with the Local Government Act 2020 hence Grampians Wimmera Mallee Water Corporation are not required to pay rental to West Wimmera Shire Council

6. Rent Review

Not applicable

7. Guarantors of this Lease

Not applicable

8. Lessee Outgoings (G.C.4.2)

Any utility charges or rates raised on the site due to the site being a separate occupancy.

9. Insurance – Amount of Public Risk Cover
(G.C.4.9)

\$20 Million

10. Security Deposit
(G.C.4.11)

Not applicable

PART B. SPECIAL CONDITIONS

- (a) The Lessee shall be responsible for all site management responsibilities;
- (b) All access and exit points to the site are to be via Laidlaw Street only and access and exits to the site are to be installed and maintained by the Lessee;
- (c) All site safety; including traffic management is to be the responsibility of the Lessee.

PART C. GENERAL CONDITIONS

1 Agreement

1.1 In consideration of:

- 1.1.1 this Agreement; and
- 1.1.2 payment of any charges specified in this Agreement;

the Lessor has agreed to Lease the site to the Lessee on the terms and conditions set out in this document.

1.2 This Agreement Incorporates:

- 1.2.1 PART A The Particulars;
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In this Agreement the following terms or words shall have the following meaning:

'Act' means the *Water Act 1989 (Vic)* and unless precluded by context, includes all regulations, codes, standards and other rules or enactments made pursuant to that Act;

'Business' means the operation which is taking place on the site;

'Date of Expiration' means the date stated in Part A Particulars, Item 3, or any earlier date on which the Lease ends;

'Land' means all the land owned by the Lessor on which the site is contained more particularly described in Part A Particulars, Item 2;

'Lease' means the Lease or tenancy that exists between the Lessor and the Lessee in relation to the site of whatever nature and whether at law or in equity as evidenced in whole or in part by the document;

'Lessee' means the Lessee described in the Part A Particulars and its successors, assigns, its employees, agents, contractors and sub-contractors;

'Lessor' means the Lessor described on the front page of this Lease, its successors, assigns, its employees, agents, contractors and sub-contractors;

'Lessor's Works' means works to be carried out by the Lessor;

'Permitted Use' means the use by the Lessee of the Land under this Lease for the setting up, maintenance and operation of Bore Pumps, Pump Shed, Water Tank and all matters incidental to those purposes, and any other use permitted by Law;

'Plan' means the plan comprising in Schedule 1 to this Lease;

'Site' means the area occupied or to be occupied by the Lessee located on the land described in G.C.2 and as identified in the attached plan.

3 Term

The Lessor leases the Premises to the Lessee for the Term set out in Part A Particulars Item 3.

4 Lessee's Agreement

The Lessee agrees with the Lessor:

- 4.1 That rental payment is not required as set out in Part A Particulars Item 5;
- 4.2 to pay all outgoings and other such charges having application to the site as set out in Part A Particulars Item 8;
- 4.3 not, unless the prior written consent of the Lessor has been obtained, use the site for any purpose other than Permitted Use;
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- 4.8 not to assign, sublet, mortgage, license, charge or in any way dispose of any part or possession of the site without having first obtained the written consent of the Lessor;
- 4.9 to maintain a public liability insurance in respect of the site in the name of the Lessee, the amount of such insurance to be set out in Part A Particulars Item 9;
- 4.10 that at its own expense, shall insure and keep insured the site for the duration of the Lease as it was its own;
- 4.11 to pay to the Lessor the sum set out in Part A Particulars Item 10 as a security deposit.
- 4.12 to allow the West Wimmera Shire Council access to the land for occasional storage of materials where it will not interfere with any operations or requirements of the Lessee.

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9 Settlement of Disputes

- 9.1 Any dispute or difference arising out of or in connection with this Agreement or concerning the performance or the non-performance by either party of its obligations under this Agreement shall be referred, upon the giving of seven (7) days written notification by either party, to a dispute panel consisting of at least two members with each party appointing an equal number of members.
- 9.2 Any decision of the dispute panel shall be binding on the parties.
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10 Disclosure

This Lease and any documents referred to in this Lease contain the whole of the agreement between the parties and no warranty, representation, understanding, arrangement or provision not expressly set out in this Lease shall be binding upon the parties.

11 Permits

The Lessee agrees that it will obtain and maintain all necessary licences, permits, approvals and any other consents of any Federal, State, Local Government or other Statutory Authority required in order to occupy the site.

12 Severance

If any provision of this Lease is either held void or unenforceable by any Arbitrator or Court then to the extent possible at law that provision shall be struck out and the balance of this Lease shall continue to apply.

13 Waiver

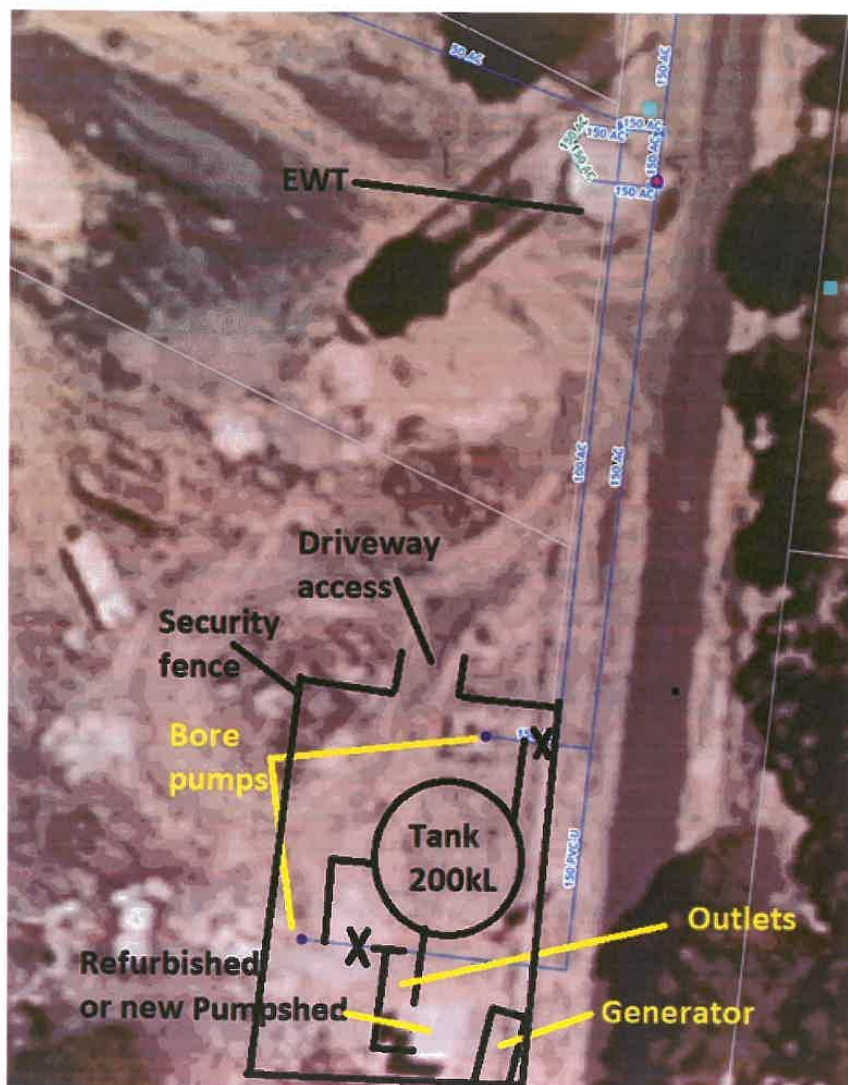
No consent or waiver by the parties of any breach by the other party shall amount to a waiver of the relevant party's rights arising from this Lease.

14 Notices

Any notice given pursuant to this Lease shall be duly given if it is in writing and signed by or on behalf of the particular party giving the notice.

Schedule 1

Site Plan





15.5 Circular Economy Household Education Fund - Round 3

Directorate: Infrastructure Development and Works

Report Author: Director Infrastructure Development and Works

Report Purpose: For Decision

Introduction

The intention of this report is to obtain the Council's endorsement for the submission of the funding application for Circular Economy Household Education Fund - Round 3. The fund aims to raise awareness in the community to maximise recycling practices.

Declaration of Interest

No officer declared an interest under the Local Government Act 2020 (LGA 2020) in the preparation of this report.

Background

Sustainability Victoria recently announced Circular Economy Household Education Fund – Round 3 with two main objectives:

- provide councils with financial support to use the Campaign Materials when introducing, improving or promoting household recycling services systems
- educate and help Victorians to understand and use the new, upcoming, or existing services correctly, to achieve low levels of contamination.

The new household recycling services under the Circular Economy (CE) policy are:

- a glass-only recycling service (kerbside bin or drop-off)
- food organics and garden organics (FOGO) service (kerbside bin or drop-off)
- adding food organics (FO) to an existing garden organics (GO) service
- expanding existing opt-in GO or FOGO services to the entire municipality
- changing bin lid colours to be consistent across the state
- achieving a 4-stream household recycling service.

The Council approved the introduction of the Kerbside Glass Collection Service in 23/24 financial year at the November Council Meeting.

The base amount available under this funding stream is \$30,000 for each of the applicant Councils. In addition, there is a variable component is also available which is based on the population and recycling challenges faced by the Council. The maximum funding through this stream is capped at \$106,000 per Council. No contribution is required/proposed from the Council.



Officers are currently developing a funding application. The majority of funding will go towards advertising and media campaigns to circulate awareness on glass separation and proper mixed recycling.

The application deadline is on 17 March 2023.

Risk Management Implications

Risk identified: There are no obvious risks for Council to mitigate or eliminate in regard to the proposal considered for funding support in this report.

Legislative Implications

The report complies with the requirements of the:
Local Government Act 2020

Environmental Implications

Not applicable

Financial and Budgetary Implications

The project will be entirely funded by Sustainability Victoria (if successful).

Policy Implications

This report is supported by the following West Wimmera Shire Council Policy/s:

Communications Policy
Community Engagement Policy

Council Plan Implications

This report supports the following sections of the West Wimmera Shire Council Plan 2021 – 2025:

Goal 3 – Sustainable Environment

- 3.1 Preserve and enhance the natural environment.
- 3.2 Promote sustainable environmental management practices.

Goal 4 – Good Governance

- 4.3 Advocate for our community on issues important to our future.

Goal 5 – Our Commitment Values

Innovation - We will proactively respond to change, are optimistic about our future and



pursue continuous improvement in everything that we do.

Accountability - We will be responsible, take ownership of our actions and are committed to good governance, excellence, transparency and advocating for our community.

Uniting - We will do everything within our ability to encourage and form trusting relationships, to work together as one team to achieve our goals and advocate for “One West Wimmera”.

Collaboration - We will actively and openly consult with you and work constructively with community organisations, agencies, the business community and other levels of government to our community’s benefit.

Communication Implications

No Communication Implications

Gender Equality

Not Applicable

Conclusion

The success of funding will assist in maximising recycling practices in the municipality and hence eventually diverting materials from landfill and reducing the dumping cost. The application will be submitted before the deadline of 17 March 2023.

OFFICER RECOMMENDATION:

That the Council endorses the funding application for Circular Economy Household Education Fund - Round 3

Attachments

Nil



16 Confidential Reports

RECOMMENDATION:

That Council pursuant to Section 66 (2)(a) of the Local Government Act 2020 close the meeting to members of the public to resolve on matters pertaining to the following items:

16.1 Edenhope Equine Facility Upgrade Tender Recommendation Report

16.2 Management of the Kaniva Caravan Park

16.3 Kaniva Caravan Park Cabins Tender Recommendation Report

16.4 Apsley Netball/Tennis Courts & Lighting Upgrade Tender Recommendation Report

16.5 Harrow Netball/Tennis Courts & Lighting Upgrade Tender Recommendation Report

16.6 CM0 566 – Provision of ICT Services

Reason for confidentiality – Local Government Act 2020, Section 3, Council Business Information

Reason for confidentiality – Local Government Act 2020, Section 3, Private Commercial Information

17 Late Items of Business

Pursuant to West Wimmera Shire Council Governance Rules – Division 3 Section 20:

20. Urgent Business

If the agenda for a Council meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council, and only then if it:

- 20.1 relates to or arises out of a matter which has arisen since distribution of the agenda; and*
- 20.2 cannot safely or conveniently be deferred until the next Council meeting.*



18 Sealing Schedule

Nil.

19 Close of Meeting

Next Meeting:

Wednesday 19th April 2023

Edenhope Council Chamber