



## ORDINARY COUNCIL MEETING AGENDA – 15 SEPTEMBER 2016 WEST WIMMERA SHIRE COUNCIL

### ORDINARY COUNCIL MEETING AGENDA

**Mission Statement:** *West Wimmera Shire Council will work in partnership with the community, business and government to develop and enhance a productive, healthy and safe community by providing leadership, services, advocacy and good governance*

**TO BE HELD:** **Thursday 15 September 2016**

**LOCATION:** **Edenhope Council Chamber**

**COMMENCEMENT:** **7.30pm**

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REQUIRED TO ATTEND:	
Councillors	Senior Management Group
Annette Jones, Mayor	David Leahy Chief Executive Officer
Ron Hawkins	
Bruce Meyer	Venkat Peteti General Manager Corporate & Community Services
Richard Wait	
Warren Wait	Robyn Evans General Manager Infrastructure Development & Works

*Members of the Gallery are advised that the following Local Law applies to this meeting:*

*West Wimmera Shire Council Local Law No.7, 2012*

*38. Gallery to be silent*

- (1) Any member of the public addressing the Council or in attendance in the gallery must extend due courtesy and respect to the Council and the processes under which it operates*
- (2) Visitors must not interject or take part in the debate and must take direction from the Chairperson whenever called upon to do so.*

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**Vision Statement:** *West Wimmera Shire delivers the very best experience and opportunity that rural living has to offer*



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### 1.0 WELCOME

### 2.0 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.

### 3.0 APOLOGIES, LEAVE OF ABSENCE, DECLARATION OF CONFLICT OF INTEREST

#### 3.1 APOLOGIES

Cr Warren Wait

#### 3.2 LEAVE OF ABSENCE

#### 3.3 DECLARATION OF CONFLICT OF INTEREST

*All councillors have a personal responsibility to ensure they are aware of the provisions mandated in the Local Government Act 1989 with regard Conflict of Interest disclosures. The Conflict of Interest – A Guide for Councillors (October 2012) has been made available to all Councillors in hard copy form and is available via Docs On Tap.*

### 4.0 QUESTIONS FROM THE GALLERY (maximum of 30 minutes)

#### 4.1 WRITTEN QUESTIONS ON NOTICE

*Questions on Notice are to be submitted to Council no later than the Monday prior to the relevant Council Meeting. The template for Questions on Notice is available from the Edenhope and Kaniva Council offices, and from the Shire's website.*

#### 4.1.1 Trevor Domaschenz, Patyah – Lake Wallace Boat Ramp



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In December last year Councillor Richard Wait put up a motion seconded by Councillor Warren Wait to extend the existing boat ramp in Lake Wallace. The motion was passed unanimously and the motion is to be commended as it allows visitors and residents alike to enjoy Lake Wallace to its fullest at lower levels. At the level it is now I as a 62 year old like many others drag canoes through knee deep mud 2 years ago when the lake was at this same level to try to teach my grandkids how to fish and enjoy nature.

A lot of work was put into the subsequent grant application by Friends Of Lake Wallace, the Edenhope Angling Club and West Wimmera Shire staff. West Wimmera Shire staff completed the engineering design work and on the Shire's advice West Wimmera Shire was the lead agency. Nearly all the Machinery and Labour that was pledged by signed agreements came from volunteers totalling \$14,384.40.

\$9264.40 of that money raised came from the Warner Family with the balance shared equally between Friends Of Lake Wallace and the Edenhope Angling Club.

I personally came into town to help complete the application forms under the Shire of West Wimmera's direction.

The Question is where is this application at 9 months on. Could this question be answered by addressing the following points.

(a) Has West Wimmera Shire received a reply for the grant?

(b) Where to from here?

From a concerned ratepayer and grandparent.

### 4.2 VERBAL QUESTIONS WITHOUT NOTICE

*Time permitting, this section of the Agenda allows members of gallery to ask verbal questions of Councillors, through the Mayor. At all other times during the meeting, members of the gallery are required to be silent, pursuant to West Wimmera Shire Council Local Law No.7, 2012.*

### 5.0 DELEGATES REPORTS (FOR INFORMATION ONLY) AS LISTED IN THE COUNCIL KEPT COUNCILLOR DIARY

#### 5.1 MAYOR, ANNETTE JONES

22/08/2016	CEO David Leahy
24/08/2016	West Wimmera Rural Water Supply Project Steering Committee
29/08/2016	CEO David Leahy
31/08/2016	Bank Australia Workshop: Vision for Wimmera Conservation Reserve
03/09/2016	Host for Dr Gill Hicks Evening in Kaniva
05/09/2016	CEO David Leahy
07/09/2016	Community Practice for Prevention of Violence Against Women, Beaufort
12/09/2016	CEO David Leahy
15/09/2016	Citizenship Ceremony, Edenhope
15/09/2016	Council Meetings, Edenhope



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### **5.2 COUNCILLOR RON HAWKINS**

25/08/2016 45<sup>th</sup> Little Desert Fire Conference, Kaniva  
31/08/2016 Councillor Forum, Edenhope  
07/09/2016 Rural Councils Victoria Forum, Melbourne  
08/09/2016 MAV Annual Conference and Awards Dinner, Melbourne  
09/09/2016 MAV State Council, Melbourne  
12/09/2016 Audit Committee Meeting, Kaniva  
13/09/2016 Wimmera Development Association Board Meeting, Kaniva  
15/09/2016 Citizenship Ceremony, Edenhope  
15/09/2016 Council Meetings, Edenhope

### **5.3 COUNCILLOR BRUCE MEYER**

19/08/2016 Wimmera Regional Library Corporation Board Meeting  
31/08/2016 Councillor Forum, Edenhope  
08/09/2016 MAV Annual Awards Dinner, Melbourne  
12/09/2016 Audit Committee Meeting, Kaniva  
13/09/2016 Kaniva Community Sporting Complex Meeting  
15/09/2016 Citizenship Ceremony, Edenhope  
15/09/2016 Council Meetings, Edenhope

### **5.4 COUNCILLOR RICHARD WAIT**

24/08/2016 Official Launch – Green Triangle Freight Action Plan, Portland  
26/08/2016 North West Municipalities Association Meeting, Horsham  
31/08/2016 Councillor Forum, Edenhope  
01/09/2016 Funeral of former Kowree Shire President, Mr Gerard Cranage  
14/09/2016 Johnny Mullagh Committee of Management Meeting, Harrow  
15/09/2016 Citizenship Ceremony, Edenhope  
15/09/2016 Council Meetings, Edenhope

### **5.5 COUNCILLOR WARREN WAIT**

31/08/2016 Councillor Forum, Edenhope  
01/09/2016 Funeral of former Kowree Shire President, Mr Gerard Cranage  
15/09/2016 Citizenship Ceremony, Edenhope  
15/09/2016 Council Meetings, Edenhope

### **5.6 DAVID LEAHY (CHIEF EXECUTIVE OFFICER)**

18/08/2016 James Ackland, Bendigo Bank  
22/08/2016 Mayor Annette Jones  
22/08/2016 Senior Management Group  
22/08/2016 Launch of Wimmera Mallee Community Map – Shared Services  
23/08/2016 Post-Council Staff Meeting  
23/08/2016 Regional Passenger Rail Services Feasibility Study Project, Ararat  
24/08/2016 IBAC Corruption & Integrity Forum (video link)



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24/08/2016	VLGA Discussion with Chief Municipal Inspector (teleconference)
24/08/2016	West Wimmera Rural Water Supply Project Steering Committee
25/08/2016	Wimmera Southern Mallee Regional Partnerships, Halls Gap
26/08/2016	North West Municipalities Association Meeting, Horsham
26/08/2016	Wimmera Development Association
29/08/2016	Senior Management Group
29/08/2016	Edenhope Lakeside Tourist Park
29/08/2016	Mayor Annette Jones
29/08/2016	Edenhope College School Council Meeting
30/08/2016	Copyright Agency Presentation (video link)
30/08/2016	Grant Coxon
31/08/2016	Councillor Forum, Edenhope
01/09/2016	VicRoads – Municipal Liaison Meeting, Edenhope
01/09/2016	Funeral of former Kowree Shire President, Mr Gerard Cranage
03/09/2016	Dr Gill Hicks Evening in Kaniva
05/09/2016	Senior Management Group
05/09/2016	Mayor Annette Jones
05/09/2016	Horsham Rural City Council
06/09/2016	Apsley Community Police Forum, Apsley
07/09/2016	Rural Councils Victoria Forum, Melbourne
08/09/2016	MAV Annual Conference and Awards Dinner, Melbourne
08/09/2016	Wimmera Regional CEO Meeting, Melbourne
09/09/2016	MAV State Council, Melbourne
12/09/2016	Senior Management Group
12/09/2016	Regional Development Victoria
12/09/2016	Audit Committee Meeting, Kaniva
12/09/2016	Mayor Annette Jones
13/09/2016	Regional Development Victoria – Senior Leadership Team
13/09/2016	Victorian Electoral Commission Information Session, Kaniva
13/09/2016	Wimmera Development Association Board Meeting, Kaniva
14/09/2016	Regional Workplace Forum, Warracknabeal
14/09/2016	Victorian Electoral Commission Information Session, Edenhope
15/09/2016	Citizenship Ceremony, Edenhope
15/09/2016	Council Meetings, Edenhope

### **5.7 GENERAL DELEGATES REPORTS**

Councillors to provide delegates reports to Council meeting in relation to meetings attended in last month for which they have been appointed as Council representative. Verbal or written delegates' reports.

### **6.0 CONDOLENCES**

Mr Gerard Cranage: Former President and Councillor for Central Riding in the former Shire of Kowree, first elected in 1964, final term in 1995.



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### **7.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETING**

#### **RECOMMENDATION:**

**That the Minutes of the Ordinary Meeting of Council held on Thursday 18 August 2016, be taken as an accurate record and confirmed.**

### **8.0 BUSINESS ARISING FROM PREVIOUS MINUTES**

### **9.0 NOTICES OF MOTION**

Nil

### **10.0 COMMITTEE RECOMMENDATIONS AND ASSEMBLY OF COUNCILLORS RECORD**

#### **10.1 GENERAL COMMITTEE FOR DECISION**

The resolutions arising from the General Committee Meeting held on Thursday 18 August 2016 are now required to be formally adopted by Council, on an individual basis.

#### **2.2.1 CURRENT STATUS OF TOURISM ADVISORY COMMITTEE**

**Moved: Cr Bruce Meyer**

**Seconded: Cr Ron Hawkins**

**That Council be provided with a report on the current status of the West Wimmera Tourism Advisory Committee.**

**Carried (5/0)**

#### **10.2 ASSEMBLY OF COUNCILLORS**

#### **RECOMMENDATION:**

**That the Assembly of Councillors Record for the Councillor Forum held Wednesday 31 August 2016 be received and noted.**





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### **11.0 DEPUTATIONS AND PETITIONS**

Nil



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### 12.0 CHIEF EXECUTIVE OFFICER AND GOVERNANCE

#### 12.1 SECTION 86 COMMITTEE – HARROW DISCOVERY CENTRE

**FILE NUMBER: AD0041**

**REPORT AUTHOR: DAVID LEAHY, CHIEF EXECUTIVE OFFICER**

#### **FOR DECISION**

##### Introduction

The following report provides information on the investigation into the removal of the section 86 Committee status from the Harrow Discovery Centre, as per the resolution that was ratified at the June Ordinary Meeting of Council.

##### Declaration of Interests

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

##### Background

A motion moved by Cr Richard Wait at the General Committee of the May meeting of Council and Ratified at the June Ordinary Meeting of Council reads as follows;

*That Council investigates removing the section 86 committee from the Harrow Discovery Centre and deal directly with the Discovery Centre incorporated body.*

Investigations into the operations of a section 86 committee and how they are established indicate that a special committee is established by a Council. In establishing the special committee, a Council may by instrument of delegation delegate any of its functions or powers under this or any other Act to a special committee.

Special committees cannot have delegated to them the power to set a rate or charge, further delegations, to borrow money, enter into a contract on behalf of Council or incur expenditure on behalf of Council.

According to the Act, a Council must review any delegations to a special committee that is in operation within a 12 month period following a general election.

Members appointed to special committees can be removed individually by Council resolution at any time. Members are also required to submit ordinary and primary returns to clearly identify where there may be a potential interest of a member.



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As part of the investigation into what is required to remove the section 86 status of a special committee, advice was sought from the MAV to ensure that the officers understanding of the Act was right. The officer understood that as Council establishes the section 86 status of a special committee by resolution it can dissolve the committee by the same means.

The officer's interpretation of the Act was confirmed as correct and that by resolution a Council can either remove an individual from a special committee or dissolve the committee completely.

The section 86 committee in place for the Harrow Discovery Centre does not operate as a special committee in that it does not provide ordinary or primary returns, it has not been reviewed by Council for a number of years and has not reported to Council for a number of years.

Discussions with the Harrow Discovery Centre committee have not commenced at an officer level on the topic of dissolving the section 86 status and dealing directly with the incorporated body and this would be the first to take to remove the status from the special committee.

### Risk Management Implications

The risk of not operating a section 86 committee in accordance with the Act is greater than the risks associated with the dealing directly with the incorporated body.

### Legislative Implications

Dissolving the committee by resolution is a legislative requirement that Council will be required to undertake.

### Environmental Implications

Not applicable.

### Financial and Budgetary Implications

Council currently provides an annual operating sum to the Discovery Centre section 86 committee, which in turn provides it to the incorporated body to assist with the operation of the centre.

### Policy Implications

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

Asset Capitalisation Policy

Asset Management Policy

Business Assistance Scheme Policy

Community Grants Policy



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Recreation Policy  
Tourism Policy  
Township Amenity Policy

### Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2013-2017:

- Strategic Objective 1: Increase economic activity through the support of existing businesses and new investment
- Strategic Objective 2: Increased community amenity – protect unique values of our rural communities
- Strategic Objective 3: Improve communication and community engagement activities of Council

### Communication Implications

Not commented on.

### Conclusion

In summary, for the Shire to remove the section 86 committee status from the Harrow Discovery Centre, discussions with the committee members explaining the status and any implications or removing the status must be undertaken prior to resolving to remove it.

As mentioned in the report, Councils are empowered to create section 86 committees and are also the body empowered to remove the status. This can be completed once discussions at an officer level occur with the committee.

If Council chooses to remove the section 86 committee status, it will be necessary to enter into a user agreement or memorandum of understanding that enable the financial arrangements to continue into the future.

### **OFFICER RECOMMENDATION:**

**That senior officers commence discussions with the Harrow Discovery Centre section 86 committee and incorporated body to work towards dissolving the section 86 status and developing a memorandum of understating to operate under.**

**Attachments: Nil**



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### 12.2 COMMUNITY STRENGTHENING GRANTS PROGRAM 2016-17 – ROUND 1

**FILE NUMBER: PR0105**

**REPORT AUTHOR: HEIDI GAJIC**

**TOURISM AND COMMUNICATIONS OFFICER**

#### **FOR DECISION**

##### Introduction

Round one of the West Wimmera Shire Council Community Strengthening Grants Program 2016-17 closed Friday 19 August 2016. Ten applications were received; all were deemed eligible in accordance with the Community Strengthening Grant Policy and Guidelines.

##### Declaration of Interests

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

##### Background

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.

Through the program, 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 and local social issues and are in accordance with council's strategic objectives.

##### Risk Management Implications

Community Strengthening Grants present minimal risk to council. The policy requires a successful applicant to manage the grant funding themselves. Each application has been assessed against the policy guidelines, ensuring a transparent and equitable process has been followed.



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### Legislative Implications

Nil

### Environmental Implications

Nil

### Financial and Budgetary Implications

A total of \$43,000 is allocated in the 2016-17 budget, for two rounds of Community Strengthening Grants. This funding has been divided between the three categories as follows:

- Community Events \$3,000.00.
- Community Projects \$10,000.00.
- Facilities Upgrades and Equipment \$30,000.00.

### Policy Implications

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

- Community Grants Policy
- Events Policy

### Council Plan Implications

This report supports the following section of the West Wimmera Shire Council Plan 2013-17:

- Strategic Objective 2: Increased community amenity – protect unique values of our rural communities

### Communication Implications

The Community Strengthening Grants program was promoted extensively through advertisement in the West Wimmera Wire, council website, local newspapers, community newsletters and social media.

Community Information Sessions were held in Kaniva, Goroke and Harrow (Apsley and Edenhope cancelled due to lack of attendance) to give community groups direct information on how to apply for a grant. The information sessions provided the community an important platform to workshop ideas and receive feedback, prior to submitting an application.



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All applicants receive written acknowledgment of receipt of their application, followed up by written notification of the funding decision following the council meeting. Successful applicants will be provided with constructive feedback as appropriate. Unsuccessful applicants are able to request feedback should they wish.

Further media will take place following the confirmation of successful applications, as well as media associated with individual applications.

### Conclusion

Round one of the Community Strengthening Grants Program 2016-17 was well-subscribed with strong applications and projects submitted for consideration.

### **OFFICER RECOMMENDATION:**

**That Council allocate the following funding to applications under Round 1 of the 2016-2017 West Wimmera Shire Council Community Strengthening Grants:**

- **Bills Gully Welfare Group, \$3,000.00**
- **Chetwynd Community Centre, \$1,000.00**
- **Edenhope P&A Society, \$2,720.00**
- **Harrow and District Recreation Reserve, \$2,500.00**
- **Harrow Fire Brigade, \$5,000.00**
- **Harrow Mechanics Institute, \$5,000.00**
- **Harrow Promotional and Development Group, \$385.00**
- **Kaniva Car and Bike Show, \$1,000.00**
- **SSAA Kaniva Gun Club, \$2,000.00**
- **Windmill Stitchers of Kaniva, \$500.00**

### **Attachments:**

<b>No.</b>	<b>Name</b>	<b>RecFind Ref</b>
12.2.1	West Wimmera Shire Community Strengthening Grants Applications 2016-17 – Round 1 SUMMARY	16/003340



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### 12.3 TOURISM ADVISORY COMMITTEE

**FILE NUMBER: ED0012**

**REPORT AUTHOR: KELLIE JORDAN**

**ECONOMIC DEVELOPMENT MANAGER**

### FOR DECISION

#### Introduction

The purpose of the Tourism Advisory Committee is to:

- Provide input that assists council in determining the long term tourism development needs for West Wimmera.
- Provide input that assists with the development of a tourism strategy for West Wimmera.
- Seek out and advocate for tourism development opportunities for the area.
- Provide advice on tourism related issues.

#### Declaration of Interests

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

#### Background

The Tourism Advisory Committee morphed from a Section 86 Special Committee of Council in November 2014. Since this time, the Committee has met only three times in over eighteen months. During this period, it has been difficult to retain sufficient membership to this Committee and attendance at meetings.

The Committee in its current structure does not meet the needs of council. Primarily because the role of tourism is now a responsibility of council. Secondly, the Committee represents a shire-wide approach to tourism, however in reality, committee members are focused on the individual townships they represent.

A Tourism Strategy has been set for West Wimmera and it is the role of council officers to implement this strategy.

In addition to these points, the tourism offerings across West Wimmera fundamentally differ and therefore the approach to each unique location should match those requirements. This will also assist with defining projects for external funding.





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Through observing the Committee over twelve months, council officers have concluded that there are more effective and efficient ways to engage with the community on tourism related matters. This includes one-on-one consultation, through attendance at local community meetings.

### Risk Management Implications

There are no risk implications related to this report.

### Legislative Implications

There are no legislative implications related to this report.

### Environmental Implications

There are no environmental implications related to this report.

### Financial and Budgetary Implications

There are no financial/budgetary implications related to this report.

### Policy Implications

This report is not supported by any West Wimmera Shire Council Policies.

### Council Plan Implications

This report is not directly linked to the West Wimmera Shire Council Plan 2013-2017.

### Communication Implications

Council officers have discussed this direction with members of the TAC.

### Conclusion

The Tourism Advisory Committee in its current state is not fulfilling a purpose. This is in no way a reflection on the members of the committee. It is expected that a one-on-one approach with each of the communities in West Wimmera, as well as working on individual tourism-related projects, will serve a more efficient and effective process, by which to engage on tourism matters.



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**OFFICER RECOMMENDATION:**

**That Council put the Tourism Advisory Committee in to recess, until further notice.**

**Attachments: Nil**



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### 13.0 INFRASTRUCTURE DEVELOPMENT AND WORKS

#### 13.1 EXTENSION OF DELEGATION TO AUTHORIZED OFFICERS UNDER THE DOMESTIC ANIMALS ACT 1994 AND THE LOCAL GOVERNMENT ACT 1989

**FILE NUMBER: AD0046**

**REPORT AUTHOR: ADRIAN SCHMIDT, RANGER / LOCAL LAWS OFFICER**

#### **FOR DECISION**

##### Introduction

The *Domestic Animals Act 1994* (DAA) and the *Local Government Act 1989* (LGA) provides Council the authority to delegate Council employees to become Authorised Officers.

Authorised Council Officers undertake enforcement activities to regulate and control domestic animals, livestock and the West Wimmera Shire Council (WWSC) Local Laws.

This report seeks to extend the delegations in order to improve capacity during times of leave and emergency.

##### Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

##### Background

Some animal activities under the DAA and LGA in WWSC in the last year have included dog attacks, dog and cat microchipping, nuisance complaints, cruelty to animal issues and impounding of livestock from roads.

West Wimmera Shire Council currently has several Authorised Officers delegated with powers under the DAA and LGA.

The addition of 3 more officers will enhance the existing capacity of Authorised Officer at times of leave or undertaking other duties including times of emergency.



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### Risk Management Implications

The DAA and LGA requires Council to provide a community service by ensuring public safety and animal welfare issues are addressed in accordance with the relevant Acts.

WWSC and Shire employees are at a substantial risk if Council allows unauthorised staff to perform Authorised Officer duties. By appointing further Authorised Officers, this risk is mitigated.

### Legislative Implications

The main legislation is the *Domestic Animals Act 1994* and the *Impounding of Livestock Act 1994*.

The above Acts imposes obligations on Council for various activities around domestic animals, record keeping and impounding livestock from roads and private property.

The DDA provides the mechanisms for Council to appoint Authorised Officers:

### **Section 72 Appointment of authorised officers by Council**

A Council may, by instrument, appoint as an authorised officer any specified employee of the Council.

The IOLA provides the mechanism for Council to appoint Authorised Officers.

Local Government Act 1989; Section 224

### **224 Authorised officers**

- (1) A Council may appoint any person other than a Councillor to be an authorised officer for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of the Council.

### Environmental Implications

Nil

### Financial and Budgetary Implications

Works carried out in response to customer requests regarding animals, impounding of livestock or Local Laws will have no extra financial impact on Council as this is already budgeted for in Animal Control salaries.



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### Policy and Council Plan Implications

WWSC Council Plan Strategic Objective 6 Strengthen the culture and governance of the organisation:

- Strategic Objective 4: Increase community confidence in Council Service Levels
- Strategic Objective 6: Strengthen the culture and governance of the organisation
  - o Action 6.5 Council will establish a 'Future proofing' strategy to review asset and infrastructure management, resource utilization and workforce planning.

WWSC Domestic Animal Management Plan.

### Communication Implications

Community requests come in via the WWSC offices so additional Authorized Officers are not needed to be promoted to the wider community.

### Conclusion

Council will be more able to respond in a timely manner to animal issues, livestock on roads and local laws while the Authorized Officer is on leave or unable to attend due to various reasons.

Authorized Officers are able to remove livestock from roadsides therefore minimizing the risk to traffic.

Appointing extra Authorized Officers is a low risk and positive action by Council.

### **OFFICER RECOMMENDATION:**

**That Council:**

**(1) Appoint Paul Cameron, Peter Riley and Shane Cryer as Authorized Officers of the Domestic Animals Act 1994 sec 72**

**(2) Appoint Paul Cameron, Peter Riley and Shane Cryer as Authorized Officers of the Local Government Act 1989 sec 224**

**Attachments: Nil**



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### 13.2 DERGHOLM NEIGHBOURHOOD SAFER PLACE - PLACE OF LAST RESORT

**FILE NUMBER: AD0201**

**REPORT AUTHOR: ADRIAN SCHMIDT**

**MUNICIPAL FIRE PREVENTION OFFICER**

#### **FOR DECISION**

##### Introduction

In conjunction with the Country Fire Authority (CFA), West Wimmera Shire Council (Council) is responsible for designating and maintaining Neighbourhood Safer Places - Places of Last Resort (NSP-PLR).

This report seeks the designation of the Dergholm Recreation Reserve as a NSP-PLR.

##### Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

##### Background

Council adopted the Neighbourhood Safer Places –Place of Last Resort (NSP-PLR) Plan in June 2010. This plan documents the agreed process for the nomination and adoption of any site as a NSP-PLR.

NSP-PLR suggest that a place can be safe from fire however this is not possible to guarantee. The intent behind the NSP-PLR is for when individual fire plans fail and/or a place of absolute last resort where any individuals, including visitors could go.

Discussions about NSP-PLR are conducted through Council's Municipal Fire Prevention Management Planning Committee (WWMFMPC) and endorsed by Council's Municipal Emergency Management Planning Committee (WWMEMPC) of which the WWMFMPC is a subcommittee. Recommendations from the MEMPC go to Council for consideration.

At the 19<sup>th</sup> of November 2015 Ordinary Council meeting Council approved the Dergholm Hall as a NSP-PLR.

*Moved: Cr Richard Wait*

*Seconded: Cr Bruce Meyer*



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*That Council approve the Dergholm Hall as a Neighbourhood Safer Places-Places of Last Resort (NSP-PLR) with the following conditions:*

- That Council slash the area around the hall to a distance of 60 meters to less than 100mm once a year when doing roadside slashing leading up to the fire danger period.*
- The Dergholm Hall Committee maintains the grass to less than 100mm to a distance of 60 meters from the hall for the duration of the Fire Danger period.*
- That the Dergholm Hall Committee makes the hall available for use on a 24 hour basis during the fire danger period.*
- That the Dergholm Hall Committee maintains the hall to the satisfaction of the MFPO and CFA.*

*Carried Unanimously*

As a result of this Council decision:

Council designated the Dergholm Hall as a NSP-PLR as per the CFA requirements after council approval.

Subsequently though, the Municipal Association of Victoria (MAV) advised Council that they required a Deed of Consent that met their requirements (brief summation):

- that the Dergholm hall was to be open, AND
- the Dergholm Hall Committee are responsible for managing the site.

This Deed of Consent was presented to the Dergholm Hall President and Committee to consider the requirements.

The compliance requirements were generally seen as too onerous and a proposal was suggested by some of the committee members to nominate the Dergholm Recreation Reserve for designation, thereby mitigating the requirement for the Deed of Consent.

Council received a request to investigate if this was able to be achieved. Investigation process included:

- Council request the CFA to assess the Dergholm Recreation Reserve as a NSP-PLR.
- CFA approved the site location with conditions.
- MAV advised Council that, because it was on Crown Land no Deed of Consent from the MAV was required, just a letter from the Committee of Management agreeing to use the area as a NSP-PLR.
- Council requested approval from the Dergholm Committee of Management of the Recreation Reserve seeking approval of the site being declared a NSP-PLR.



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- The Committee of Management of the Dergholm Recreation Reserve sent Council a letter advising that they consent to the area being used as a NSP-PLR and that they will maintain the area as per the CFA and Council's requirements.
- The WWMEMPC approved the change of venue from the hall to the recreation reserve at their meeting on the 18/7/2016.

### Risk Management Implications

There is a risk to Council if the NSP-PLR does not meet the criteria of a NSP-PLR.

This will be mitigated by the assessment process, adhering to the 2010 Council assessment process and complying with the CFA assessment of the Dergholm Recreation Reserve as a NSP-PLR.

### Legislative Implications

*Emergency Services Legislation Amendment Act 2009* made changes to the *Country Fire Authority Act 1958* and the *Emergency Management Act 1986* requiring the CFA to certify NSP-PLR against CFA Fire Rating Criteria and Victorian Councils to identify, designate, and maintain suitable places as NSP-PLR in their municipal district.

In regards to a NSP-PLR it is a Local Government decision whether to adopt such nominated sites as places of last resort with each application considered on its individual merits. There is no requirement to have NSP-PLR as such.

### Environmental Implications

Nil

### Financial and Budgetary Implications

Council to slash the grass to less than 100mm on the roadside of the Casterton-Apsley Road within the speed restriction signs. This is currently already undertaken by Council as part of the Works Program.

### Policy Implications

There were no Council policies that directly related.

### Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2013-2017:

Strategic Objective 6: Strengthen the culture and governance of the organisation

Action 6.6 Council will incorporate relevant emergency management and recovery initiatives and actively work with regional agencies. Initiatives will acknowledge the capacity of Council, the resilience of the community and the expertise of regional agencies.

- West Wimmera Shire Council Emergency Management Plan 2013-2017





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- West Wimmera Shire Council Municipal Fire Management Plan 2012-2016
- West Wimmera Shire Council Neighbourhood Safer Places Plan

### Communication Implications

The Dergholm community, in particular the Dergholm Hall Committee, have been consulted throughout this process. The drive for a NSP-PLR came from the Dergholm community.

Ongoing community education about fire risk, fire plans and Neighbourhood Safer Places-Places of Last Resort is necessary. The CFA are the primary conduit for such information. Council has an updated website to ensure referral to the CFA for this critical communication.

Council will support CFA messaging in all its communications regarding fire and emergency management.

If endorsed by Council the designated NSP-PLR will require Government Gazette before officially becoming a NSP-PLR.

### Conclusion

Endorsing the Dergholm recreation reserve as a NSP-PLR is a positive action by Council.

The Dergholm Community has requested that they have a NSP-PLR within the Dergholm area.

The unforeseen complexities of the requirements to continue with the Dergholm Hall as a NSP-PLR become more evident with the need to comply with the MAV Deed of Consent on private property.

The Dergholm Recreation Reserve meets the CFA requirements with conditions. The need for a MAV Deed of Consent is not required at the Recreation Reserve as it is an open space on Crown land. Dergholm NSP-PLR will continue to be monitored and maintained on an annual basis. Council will monitor the NSP-PLR as per the CFA requirements.

The Dergholm Recreation reserve NSP-PLR will be maintained by the Community. Any amendments to this NSP-PLR would be discussed at both WWMFMP and WWMEMP Committees prior to commendations going to Council.

At the 18<sup>th</sup> of July 2016 WWMEMP Committee resolved that if the Dergholm Recreation Reserve meets Council and CFA requirements as a NSP-PLR it could be designated.



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### **OFFICER RECOMMENDATION:**

**That Council:**

- 1. Remove the Dergholm Hall as the designated NSP-PLS and**
- 2. Designate the Dergholm Recreation Reserve as a Neighbourhood Safer Places-Places of Last Resort with the following conditions:**
  - That the Dergholm Recreation Reserve committee maintains the Dergholm Recreating Reserve grass to less than 100mm to a minimum distance of 70 meters from the NSP-PLR site location during the fire danger period.**
  - That the Dergholm Recreation Reserve committee removes any fallen timber within the Dergholm Recreation Reserve during the fire danger period.**
  - That the Dergholm Recreation Reserve committee maintains the Dergholm Recreation Reserve to the satisfaction of the CFA and the MFPO**

### **Attachments:**

<b>No.</b>	<b>Name</b>	<b>RecFind Ref</b>
13.2.1	Request to change Dergholm Hall NSP-PLR to Dergholm Rec Reserve	16/002961
13.2.2	WWSC to Dergholm Rec reserve committee requesting consent to designate a NSP-PLR	16/002961
13.2.3	Email from Apsley CFA	16/002961
13.2.4	Dergholm Rec Reserve to WWSC consenting to NSP-PLR	16/002961
13.2.5	Dergholm Recreation Reserve NSP-PLR CFA assessment report	16/002856
13.2.6	Factors to consider in assessing potential NSP-PLR	16/002856
13.2.7	WWMEMPC 18/7/16 meeting minutes	16/0003320



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### 13.3 FUNDING REQUEST – WIMMERA RURAL & TOWNS PHOTOGRAPHY PROJECT

**FILE NUMBER: PS0486**

**REPORT AUTHOR: SENA VI ABEEKOON, MANAGER ASSETS**

#### **FOR DECISION**

##### Introduction

Aerial Photographs embedded as a geographic information system (GIS) layers are used by West Wimmera Shire Council (Council) for delivering day to day services.

Council is part of a shared resource project, the Wimmera Rural and Towns Photography Project (the project,) with Department of Environment, Land, Water and Planning (DELWP), Wimmera Catchment Management Authority (WCMA,) and partner councils, to provide improved GIS imagery layers for partners at a reduced cost.

Due to the caretaker period overlapping the likely advice of actual cost to budget, this report seeks Council's commitment for the necessary funds as a variation to the 2016/17 budget.

##### Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

##### Background

GIS layers underpin the majority of Council activities, including engineering, assets, planning and rates. During post impact and recovery activities following emergencies, the rates department use GIS data for to support Emergency Services and Infrastructure Development and Works in reporting to emergency authorities.

Most Councils possess their own, individually collected spatial imagery data, spending upwards of \$200,000 dollars for collecting this imagery data.

Councils that collaborate with partners, such as CMAs, Water Authorities and DELWP for collection of imagery and elevation data reduce the cost of collecting imagery data. Generally these collaborative programs reduce the cost by 50% to 70%.



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The Victorian Coordinated Imagery Program (CIP) is such a program introduced by DELWP to collect spatial imagery and elevation data. The mission of the Victorian CIP is to develop an efficient and effective service and cost sharing model for the acquisition of spatial imagery and elevation products for the State of Victoria and the Program Purchase Partners.

Council does not currently possess our own spatial imagery and elevation data; relying on WCMA data given to us free to use with some conditions attached. The data was collected by CMA in 2010 with a grant they got from State Government and is now out of date.

The Project covers a total area of 38,822 sq.km, of which 526 sq.km is in rural towns. It is proposed to share the cost amongst participating councils, WCMA and DELWP in the following proportion.

DELWP	20%
CMA	40%
Partner Councils	40%

According to information received from Mr. Paul Skeen from WCMA. The estimated total cost of the project collection varies from \$200,000 to \$350,000. At the top end of the total cost of \$350,000, West Wimmera's share will be in the range of \$10,000 to \$20,000 depending on the number of participating councils.

Firm contribution for each council will be available to each within next two weeks. Data capture is expected to commence in late spring or early summer in 2016.

### Risk Management Implications

There will be a risk if we do not participate in this project as the Council officers will be using out of date data in delivering day to day services. Council will be compelled to update data within the next couple of years and this will be a prohibitive cost to West Wimmera.

This risk is mitigated with Council's involvement in the resource sharing project.

The project will be managed by DELWP officers.

### Legislative Implications

There is no adverse legislative implications in participating to this project

### Environmental Implications

Nil



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### Financial and Budgetary Implications

At the time of formulating budget bids in 2015 for 2016/17 budget, Council officers were unaware of this project. The first information received on this project was in May 2016 and consequently the cost for collecting spatial data was not included in the current budget.

The confirmed costs for the CIP project is not yet available, but the approximate cost to Council will be in the range of \$10,000 to \$20,000. This would reflect value for money for Council and it is proposed to allocate as a budget variation in 2016/17 budget.

### Policy and Plan Implications

Aerial imagery supports the following Wimmera Shire Council Policies:

- Asset Management Policy
- Building Permit Information Policy
- Customer Service Policy
- Domestic Firewood Collection Policy
- Environmental Policy
- Playground Management Policy
- Road Management Plan
- Street Tree Policy
- Temporary Street Closures Policy
- Township Amenity Policy
- Tree Plantations on Unused Road Reserves Policy
- Tree Planting on Road Reserves Policy

### Council Plan Implications

This report supports the following sections of the West Wimmera Shire Council Plan 2013-2017:

- Strategic Objective 1: Increase economic activity through the support of existing businesses and new investment
- Strategic Objective 4: Increase community confidence in Council Service Levels
- Strategic Objective 6: Strengthen the culture and governance of the organisation

### Communication Implications

The project is being managed by DELWP. Regular updates are received via emails and scheduled meetings.



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### Conclusion

It is financially prohibitive for Council to collect our own spatial imagery and elevation data.

It is also problematic for the majority of Council's activities to continue using GIS data over 6 years old. Without an update, this will continue to become more problematic as time goes on. Additionally the existing data does not include elevation data.

It is a positive and practicable solution for West Wimmera Shire collaborate in the Wimmera Rural and Towns Photography Project. The cost up to a maximum of \$20,000 represents excellent value for money for Council.

### **OFFICER RECOMMENDATION:**

- 1. That Council approve budget up to a maximum of \$20,000 for the Wimmera Rural and Towns Photography Project, AND**
- 2. That the cost be referred to the mid-year budget review.**

**Attachments: Nil**



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### 13.4 PLANNING PERMIT APPLICATION P1356 – SEAN O’KEEFE

**FILE NUMBER:** PA0899

**REPORT AUTHOR:** GILLIAN BRADSHAW  
MANAGER PLANNING & ENVIRONMENT

#### FOR DECISION

#### Introduction

The applicant, has submitted a planning permit application on behalf of the landowners and their son, who propose to remove 24 Black Box scattered paddock trees and one (1) Buloke tree, located on CA7, Section 3, Lot 2, LP129452, Lot 2, PS630876, Parish of Kaniva, Budjik Street, Kaniva to provide improved access and operation of agricultural machinery on the subject land.

The applicant has included as part of the planning permit application a planning permit application submission and an ecological significance assessment of scattered trees proposed for removal from the subject land.

*The Permitted Clearing of Native Vegetation –Biodiversity Guidelines (Department of Environment and Primary Industries)* requires any offset areas to be within the same municipality as the subject land and within the same Catchment Management Authority area. Both proposed offset sites are within West Wimmera Shire Council and within the Wimmera Catchment Management Authority areas.

A planning permit application is required from Council as the responsible authority in accordance with Clauses 42.01, Schedule 2 (Red-tailed Black Cockatoo Habitat Areas) and 52.17 of the West Wimmera Planning Scheme.

#### Declaration of Interests

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

#### Subject site & locality

Several inspections of the site and the surrounding area were undertaken and the attendees represented were the landowners and their son, Council’s Manager for Planning and Environment, an officer from the Department of Environment Land Water and Planning (DELWP), and the ecologist from Australian Ecological Research Services, who prepared the habitat assessment report titled ”Ecological significance assessment of scattered trees



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proposed for removal at CA7, Section 3, Parish of Kaniva” which is attached to the planning permit application.

The site has a total area of 177.61 hectares and currently contains no buildings, the land is used for cropping. The Kaniva consolidated school abuts on the east side of the subject land, and directly across Budjik Street are residential properties in the Township of Kaniva, including the Kaniva Caravan Park.

### **The main site/locality characteristics are:**

The subject land is located on the southern boundary of Budjik Street, Kaniva and abuts South Kaniva Road to the west, Farmers Street to the east and Rows Road to the south. The Kaniva consolidated school abuts the east side of the subject land, and agricultural land is located to the west and south.

### **Permit/Site History**

The permit history of the site includes:

The landowners and their son applied for a planning permit, P1169, on 8<sup>th</sup> September 2014 to remove 34 scattered paddock trees which were mainly Black Box trees with one Buloke tree from the subject land. The application was refused by the Victorian Civil Administration Tribunal (VCAT) on 8<sup>th</sup> September 2015.

### **Public Notification**

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Notice to the owners and occupiers of adjoining land by post on 26th July 2016.
- Placing an advert in the Kaniva Times on 3<sup>rd</sup> August 2016.
- Notice to the referral authority, Department of Environment Land Water & Planning (DELWP) by email on 26<sup>th</sup> July 2016.

The notification has been carried out correctly.

Council has received five (5) objections to date (refer attachments). The key issues that were raised in the objections are:

1. The trees cannot be replaced, but suggested a compromise of no more than six (6) be removed.

*Council accepts that the trees cannot be replaced and this may affect the vista as seen by members of the Kaniva community. From approximately 120 scattered trees located on the subject land 25 are proposed for removal scattered throughout the subject land. This will leave approximately 95 remaining scattered paddock trees which will offer a scenic vista albeit with a lesser number of trees.*





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*The West Wimmera Planning Scheme permits the applicant and the landowners to apply for a planning permit to remove native vegetation where there is no exemption provided under Clause 52.17. Council must accept the planning permit application and process the application as required under the Planning and Environment Act 1987.*

2. The trees provide a visual aspect and are a feature of the district, removal would change the outlook on the edge of Kaniva.

*Council accepts that the trees on the subject land provide a vista for the Kaniva community and reduction of the number of scattered paddock trees to approximately 95 trees remaining would still provide a vista, albeit with a reduced number of trees.*

3. Increased wind – removal of three will increase the wind in Kaniva.

*No evidence has been provided by the objector to support the claim that the removal of the 25 scattered paddock trees will increase the wind in Kaniva.*

4. Decrease in native birds, mammals and insects – mature trees are an important habitat for native species which are common in Kaniva and are important for controlling pest animals and insects.

*During the several site inspections it was noted that some of the scattered paddock trees proposed for removal do contain small hollows, some of which are occupied by small birds and animals and several trees contain wild bee hives. The hollows are too small to be used as nesting sites by the Red-tailed Black Cockatoo.*

*The impact of the removal of habitat for these small birds and animals was considered by all attendees during the inspections and this resulted in the number of trees for proposed removal being reduced from 34 to 25 to protect valuable habitat.*

*Of the 34 scattered paddock trees assessed, six (6) were considered to be of high biodiversity significance and will be retained on the subject land. The other four trees that are being retained are of moderate value and would significantly impede the overall objective of improving access for farm machinery.*

*It is proposed that approximately 95 scattered paddock trees will remain on the subject land and it is hoped that some of the unoccupied hollows may provide a habitat for the small birds and animals that currently occupy the trees proposed for removal.*

5. Removal of paddock trees for convenience farming operations will set a dangerous precedent.

*This planning permit application does not set a dangerous precedent for the removal of paddock trees for convenience of farming operation. The West Wimmera Shire Council, as the responsible authority between 1995 and 2011 granted 226 permits for the removal of native vegetation. The majority of these planning permits were granted for increased agricultural production in broad acre cropping and the installation of centre pivot irrigators. A small number of the planning permits were for VicRoads and Council to undertake road works.*



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6. The area of farmland is of importance to the walkers of “Barney Walk” and the occupants of the Kaniva Caravan Park who have commented on the wonderful farm country vista, the beautiful sunsets and the multitude of birdlife in the area.

*Council accepts that the removal of 25 scattered paddock trees may affect the vista as seen by members of the Kaniva community that use the “Barnaby Walk” and the visitors to the Kaniva Caravan Park.*

*From the 120 scattered trees located on the subject land 25 are proposed for removal scattered throughout the subject land, which will leave approximately 95 remaining scattered paddock trees which will still offer a scenic vista to the walkers along “Barnaby Walk” and the visitors to the Kaniva Caravan park, albeit with a lesser number of trees.*

7. If Council allows the removal of the trees it is not complying with the Environment Planning Scheme, Clause 21.07.

- Some of the trees are listed as moderate importance and the objector believes an Aboriginal scar tree has been sighted and identified.
- The objective to halt process of vegetation clearance – and is not the removal of these trees the removal of indigenous vegetation.
- The objective to expand the indigenous vegetation cover – the removal of the trees is contrary to this.
- Clause 21.03-4 – Key issues – halting the decline and fragmentation of indigenous vegetation.
- Conserving and enhancing of the municipality’s biodiversity
- 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.

*Of the 34 scattered paddock trees assessed, six (6) were considered to be of high biodiversity significance and will be retained on the subject land. The other four trees that are being retained are of moderate value and would significantly impede the overall objective of improving access for farm machinery.*

*No Aboriginal scar trees have been proposed for removal in this planning permit application. In 2014 an on-site inspection revealed an aboriginal scar tree which was duly recorded and registered under the Aboriginal Heritage Act. No other aboriginal scar trees were identified on the subject land.*

### 21.07 - Environment

Strategy 1.1 Protect and enhance significant habitat on public and private land in order to maintain biodiversity.

*During the several site inspections it was noted that some of the scattered paddock trees proposed for removal do contain small hollows, which are too small to be used as nesting sites by the Red-tailed Black Cockatoo, and some but not all, of the hollows present in the trees were occupied by small birds and animals and several trees contain wild bee hives.*



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*The impact of the removal of habitat for these small birds and animals was considered by all attendees during the inspections and this resulted in the number of trees for proposed removal being reduced from 34 to 25 to protect valuable habitat.*

Strategy 1.5 Protect Red Tailed Black Cockatoo and Jumping Jack Wattle habitat within the Shire.

*The habitat of the Red-tailed Black Cockatoo was considered and assessed during the on-site inspections and as recoded in the reports attached to the planning permit application. The Black Box trees do produce hollows but they are too small to be used as nesting sites for the Red-tailed Black Cockatoo.*

*One (1) Buloke tree is proposed for removal and DELWP have required that this Buloke tree be offset by four (4) Buloke trees of 40cm diameter at 1.3m or above. The landowners can provide the offset required by DELWP for the Buloke tree.*

Strategy 2.2 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.

*The objective is to minimise land clearing (including native grasslands) and does not prohibit land clearing.*

*The applicant, and any landowner, may apply to Council as the responsible authority of the West Wimmera Planning Scheme to remove native vegetation for which there is no exemption under Clause 52.17 or is required by an overlay contained in the planning scheme. The planning permit application must comply with the requirements of the Permitted Clearing of Native Vegetation –Biodiversity Guidelines (Department of Environment and Primary Industries) and the requirements of Strategy 2.2, and the Schedule to any relevant overlay.*

*The applicant has submitted a planning permit application, on behalf of the landowners and their son, to Council as the responsible authority, to remove native vegetation. The applicant has provided information with the application as required by the Permitted Clearing of Native Vegetation –Biodiversity Guidelines (Department of Environment and Primary Industries) and the requirements of Strategy 2.2. The offsets required by DELWP as a recommending and determining authority can be provided by the landowners.*

### 21.03-4 – Environment

- Halting the decline and fragmentation of the indigenous vegetation.

*As stated above, the objective is to minimise land clearing (including native grasslands) and does not prohibit land clearing.*

*The applicant, and any landowner, may apply to Council as the responsible authority of the West Wimmera Planning Scheme to remove native vegetation for which there is no exemption under Clause 52.17 or is required by an overlay contained in the planning*



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*scheme. The planning permit application must comply with the requirements of the Permitted Clearing of Native Vegetation –Biodiversity Guidelines (Department of Environment and Primary Industries) and the requirements of Strategy 2.2, and the Schedule to any relevant overlay.*

- Conserving and enhancing the municipality's biodiversity.  
*West Wimmera Shire is aware of the need to protect native vegetation and encourages landowners to protect and manage and regenerate native vegetation on their property.*

*Requests received to remove native vegetation by any landowner usually involve an on-site inspection with the Manager for Planning and Environment, and in the case of very sensitive vegetation, an officer from DELWP is also included in the inspection and discussions.*

*Every effort is made to avoid and minimise the removal of native vegetation where possible.*

- 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.  
*West Wimmera Shire is aware of the need to protect native vegetation and encourages landowners to protect and manage and regenerate native vegetation on their property.*

*Much of the vegetation clearing within the West Wimmera Shire occurred prior to any planning controls being in place. Since the introduction of the Planning & Environment Act 1987, the new format planning schemes and native vegetation controls. The removal of native vegetation requires consultation with Council, as the responsible authority, and other government departments, including DELWP and the Department for Environment in Canberra.*

*Requests received to remove native vegetation by any landowner usually involve an on-site inspection with the Manager for Planning and Environment, and in the case of very sensitive vegetation, an officer from DELWP is also included in the inspection and discussions. Every effort is made to avoid and minimise the removal of native vegetation where possible. Further, any future applications for the removal of native vegetation for the subject land in the next five (5) years will take into account and consider the outcome of this planning permit application.*

### **Consultation**

Consultation was undertaken and included:



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- On-site inspections of the subject land were conducted which were attended by the landowners and their son, Council's Manager for Environment and Planning, an officer from DELWP and the independent consultant engaged by the landowners to undertake a habitat assessment of the scattered trees on the subject land.
- The planning permit application was forwarded to DELWP for assessment under the new *Permitted Clearing of Native Vegetation –Biodiversity Guidelines (Department of Environment and Primary Industries)* and Victoria's Native Vegetation Management – A Framework for Action 2002, as required by Schedule 2 of the Environmental Significance Overlay for the Red-tailed Black Cockatoo Habitat Area.

### Referrals

#### Advice/Response/Conditions

External Referrals/Notices  
Required by the Planning Scheme:

#### Referrals/Notice

DELWP, consent with conditions

Section 55 Referrals  
Section 52 notices

Adjoining landowners and the  
Kaniva Times, five (5) objections  
received

### Assessment

#### The zoning of the land and any relevant overlay provisions 35.07 Farming Zone

The purpose of the Farming zone is

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

*The subject land is used for agricultural purposes and the purpose of the planning permit application is to remove 25 scattered paddock trees that due to their location and proximity to other trees and fences prevent the use of their 36 metre boom spray on parts of the subject land. It is stated in the report "Ecological significance assessment of scattered trees proposed for removal at CA7, Section 3, parish of Kaniva" that removal of these trees*





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*will improve the efficiency of agricultural productivity and reduce overspray of herbicide on crops.*

*The subject land is unusual that it is located in the Farming zone, and used for agricultural purposes, but is directly across the road from the Township zone and residential area of Kaniva, this does not occur in any other town within West Wimmera Shire.*

### **Overlays**

#### **42.01, Schedule 2 – Red-tailed Black Cockatoo Habitat Area**

##### **1.0 Statement of environmental significance**

The Red-tailed Black Cockatoo (*Calyptorhynchus banksii graptogyne*) of south-eastern Australia has been classified as an endangered species. The current population is estimated at about 1000 birds with approximately 600-700 breeding birds. The Red-tailed Black Cockatoo is a highly nomadic species and its population ranges throughout parts of the West Wimmera Shire Council and the Glenelg Shire Council in Victoria, as well as part of the Tatiara District Council, Naracoorte-Lucindale Council, Wattle Range Council, and District Council of Grant in South Australia. The absence of Red-tailed Black Cockatoos from a locality within its range does not mean that the locality does not provide habitat for this species.

The Red-tailed Black Cockatoo's Stringybark feeding habitat is mainly located on public land while its Buloke feeding and eucalyptus nesting habitat is mainly located on private land. Live and dead hollow bearing eucalypts provide suitable nesting sites for the species, while seed producing Buloke (*Allocasuarina leuhmannii*) and Stringybark (*Eucalyptus baxteri*, *Eucalyptus arenacea*) provide feeding habitat for the species. Buloke have separate male and female trees and both male and female trees are required to allow female trees to produce seed. The feeding and nesting habitat of the Red-tailed Black Cockatoo must be protected in order to secure the long term survival of the species.

The aim of the national Red-tailed Black Cockatoo recovery program is to increase the size of the current population. It is therefore important to ensure that there are adequate nesting and feeding resources available to support an expanded population into the future.

##### **2.0 Environmental objective to be achieved**

- To protect the habitat of the endangered Red-tailed Black Cockatoo.
- To ensure the availability of suitable nesting sites for the Red-tailed Black Cockatoo through the protection of live and dead hollow bearing trees and other suitable trees within the bird's known nesting area.
- To protect the feeding habitat of the Red-tailed Black Cockatoo through the retention of Buloke and Stringybark trees.

*The reference document for Schedule 2 of Clause 42.01 is "Victoria's Native Vegetation Management – A Framework for Action, 2002".*



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*Schedule 2 of the Environmental Significance Overlay for the Red-tailed Black Cockatoo Habitat Area was considered by all parties involved in preparing and assessing this planning permit application. It was determined that the one (1) Buloke tree proposed for removal is the trigger for a planning permit application relevant to this overlay.*

*DELWP as the Determining Authority for this application, relevant to Schedule 2 of Clause 42.01, have considered the application with reference to “Victoria’s Native Vegetation Management – A Framework for Action, 2002” and consented to the planning permit application with conditions.*

*The hollows in the Black Box trees were determined to be too small for use by the Red-tailed Black Cockatoo, although some of them are used by small birds and animals and several contain wild bee hives. The offset requirement for the one Buloke tree is as recommended in Appendix 4 of “Victoria’s Native Vegetation Management – A Framework for Action, 2002, and the required offset can be provided by the landowners.*

### **The State Planning Policy Framework (SPPF)**

#### **11.13-4 Agricultural Productivity**

##### **Objective**

To protect key agricultural resources, maintain productivity and support the development of industry.

##### **Strategies**

- Protect land and environmental resources which make a significant contribution to the region’s agricultural productivity.
- Support local industries, activities and infrastructure which complement and enhance the region’s agricultural sector.
- Facilitate agricultural diversification and value adding that takes advantage of natural assets, and provide appropriate and timely infrastructure to realise these opportunities.
- Facilitate intensive agriculture in appropriate locations.
- Protect and manage environmental assets as cropping expands in the southern parts of the region.

*The subject land is used for agricultural purposes and the purpose of the planning permit application is to remove 25 scattered paddock trees that due to their location and proximity to other trees and fences prevent the use of the 36 metre boom spray on parts of the subject land. It is proposed that removal of these trees will improve the efficiency of agricultural productivity and reduce overspray of herbicide on crops. Crops grown on the property such as Faba beans are exported to the Middle East for human consumption.*

#### **11.13-5 A Diversified Economy**

##### **Objective**



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To use the region's assets to facilitate the diversification of the economy and build a resilient community.

### **Strategies**

Facilitate diversification of the regional economy and capitalise on economic development opportunities through building on the region's assets, particularly agriculture, energy, mining and tourism.

*The subject land is used for agricultural purposes and the purpose of the planning permit application is to remove 25 scattered paddock trees that due to their location and proximity to other trees and fences prevent the use of the 36 metre boom spray on parts of the subject land. It is proposed that removal of these trees will improve the efficiency of agricultural productivity and reduce overspray of herbicide on crops. Crops grown on the property such as Faba beans are exported to the Middle East for human consumption.*

### **12.01-2 Native Vegetation Management**

#### **Objective**

To ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.

#### **Strategies**

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.

### **14.01-1 Protection of Agricultural Land**

#### **Objective**

- To protect productive farmland which is of strategic significance in the local or regional context.

#### **Strategies**

- Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.
- Consult with the Department of Economic Development, Jobs, Transport and Resources and utilise available information to identify areas of productive agricultural land.





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- Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity.
- Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.
- In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:
  - The desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
  - The compatibility between the proposed or likely development and the existing uses of the surrounding land.
- Assessment of the land capability.
- Subdivision of productive agricultural land should not detract from the long-term productive capacity of the land.
- Where inappropriate subdivisions exist on productive agricultural land, priority should be given by planning authorities to their re-structure.
- In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals.

### **14.01-2 Sustainable Agricultural Land Use**

#### **Objective**

To encourage sustainable agricultural land use.

#### **Strategies**

- Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.
- Encourage sustainable agricultural and associated rural land use and support and assist the development of innovative approaches to sustainable practices.
- Support effective agricultural production and processing infrastructure, rural industry and farm-related retailing and assist genuine farming enterprises to adjust flexibly to market changes.
- Facilitate the establishment and expansion of cattle feedlots, piggeries, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.

**The Local Planning Policy Framework (LPPF) - including the Municipal Strategic Statement (MSS) and local planning policies**

### **21.02-5 Economic Development**



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West Wimmera Shire is one of Victoria's most diverse and productive agricultural areas. As such the local economy is directly affected by the fortunes of the rural industry. The effects of the 1982 and 1994 droughts and the poor wool prices since 1991 have had a negative impact on farm incomes. Producer margins for farmers have been generally decreasing since 1982. Farms are getting bigger to become more viable, which has led to less demand on the small rural towns that service them.

While the traditional agricultural pursuits such as cropping, grazing, wool and beef have formed the basis of the economy of West Wimmera, diversity in production is being pursued. Taking advantage of the Shire's natural resource attributes has enabled new investment in production as diverse as legumes, oilseeds, flowers, potatoes and other emerging horticultural products. Further diversity in the economic base, employment and business opportunities is also being pursued through the establishment of new agriculturally linked value added industries together with the continuing expansion of tourism, recreation and leisure opportunities provided in the Shire.

Industrial and commercial development in the Shire is largely limited to small-scale activities related to the servicing of the rural and agricultural sector.

Local tourism organisations throughout the Shire are generally in the early stages of development and links between voluntary associations, tourism operators and the local and regional marketing organisations are being established. The municipality possesses a number of natural tourist attractions and features together with a number of recreation and leisure facilities and attractions in townships. Accommodation, catering and camping facilities are also available throughout the Shire.

*The subject land is located within the Farming zone and the landowners and their son use the land mainly for cropping purposes.*

### **21.04 Vision**

For our communities to survive they must be sustainable and to be sustainable they must be a place where people want to live and a place that encourages, acknowledges and rewards innovation. This vision builds on the solid foundation of the past and encourages and rewards innovation and assists people and business to grow within our community.

*There will be a small impact on the vista by the removal of 25 scattered paddock tree which o balance will have no effect on the liveability of Kaniva.*

The prime focus is on economic and infrastructure development, the basic building blocks of our communities but also community, development, sport and recreation, governance and sustainability and introduces a new focus on sustainability.

Protection of the habitat of the red tailed black cockatoo is a key element of the vision which seeks to improve the bird's habitat and water, as well as focusing on protection of



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rights of farmers, provision of recreation water and protection and enhancement of our wetlands.

Overall vision balances development against environmental protection and looks to grow our communities through the application of the three principles of sustainability, productivity and liveability.

### **21.04-1 The Council Plan**

The current Council Plan includes four goals that shape Council's vision for the municipality:

- A healthy, supportive and safe community providing a sustainable, quality lifestyle.
- A sustainable natural and built environment that meets current and future needs.
- A sustainable economy attracting and encouraging new enterprises while supporting existing businesses and encouraging long term employment.
- Progressive leadership, good governance, efficient and cost-effective services.

### **Outcome 2.5 Protect and enhance the natural environment**

#### **2.5.1 Sustain our natural resources in partnership with other organisations**

*West Wimmera Shire is aware of the need to protect native vegetation and encourages landowners to protect and manage and regenerate native vegetation on their property. Requests received to remove native vegetation by any landowner usually involve an on-site inspection with the Manager for Planning and Environment, and in the case of very sensitive vegetation, an officer from DELWP is also included in the inspection and discussions. Every effort is made to avoid and minimise the removal of native vegetation where possible.*

### **21.06-5 Agriculture**

#### **Overview**

The Shire's economic fortunes are almost wholly dependent on agriculture as agriculture is the dominant land use in the West Wimmera Shire and the key economic driver, making agricultural land a key asset. Management of this land touches on a wide range of natural resource management issues. This asset needs to be managed to ensure agricultural land is utilised within its capability, and to maintain and enhance the region's soils, while improving and sustaining profitability of the agricultural sector. The relevant catchment management strategies provide useful direction in this regard.

#### **Objectives and Strategies**

**Objective 1 - To establish a strong and vibrant rural agricultural community comprising a range of diversified enterprises that is efficiently managed and ecologically sustainable.**



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Strategy 1.2 Encourage diversification of agricultural practices including introduction of new crops and animals, use of energy efficient technology, and ecologically sustainable farming techniques.

### **Objective 2- To retain viable rural holdings, particularly on productive agricultural land.**

Strategy 2.3 Encourage use, development and management of land that is conducive to maintaining options and opportunities for future farming activities.

*The subject land is used for agricultural purposes and the purpose of the planning permit application is to remove 25 scattered paddock trees that due to their location and proximity to other trees and fences prevent the use of the 36 metre boom spray on parts of the subject land. It is proposed that removal of these trees will improve the efficiency of agricultural productivity and reduce overspray of herbicide on crops. Crops grown on the property such as Faba beans are exported to the Middle East for human consumption.*

### **21.07-1 Biodiversity Conservation and Habitat Protection**

#### **Overview**

The decline and fragmentation of indigenous vegetation and loss of biodiversity is a major environmental issue in the Shire, and a contributing factor towards all other land and water degradation issues.

Large areas of the Shire have been cleared for agriculture and the Shire contains limited areas of its natural vegetation cover. There is a risk that scattered trees on farms will die out and the roadside vegetation will be all that remains. The protection and management of the bushland reserves is important to provide a diversity of flora and wildlife refuge areas and habitat. There is particular need to protect habitat for the endangered species, the Red-tailed Black Cockatoo and Jumping Jack Wattle. There is a need for greater revegetation and management of pest plants and animals to address areas of degraded land.

Flora and fauna communities vary throughout the Shire ranging from woodlands and wetlands in the south and desert scrublands in the north. However, with less than 3% of the original Buloke woodlands intact and threats from pest species and development, there is the need to protect existing communities in order to maintain biodiversity.

#### **Objectives and Strategies**

### **Objective 1 - To effectively manage and conserve the Shire's biologically diverse natural environment as an ecologically sustainable resource for present and future generations.**

Strategy 1.1 Protect and enhance significant habitat on public and private land in order to maintain biodiversity.



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Strategy 1.3 Encourage the revegetation of degraded rural land, including in creeks and waterways.

Strategy 1.5 Protect Red Tailed Black Cockatoo and Jumping Jack Wattle habitat within the Shire.

Strategy 1.6 Protect and enhance the region's indigenous genetic biodiversity by maintaining the extent and diversity of the various ecosystems

Strategy 2.2 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.

*West Wimmera Shire is aware of the need to protect native vegetation and encourages landowners to protect and manage and regenerate native vegetation on their property. Requests received to remove native vegetation by any landowner usually involve an on-site inspection with the Manager for Planning and Environment, and in the case of very sensitive vegetation, an officer from DELWP is also included in the inspection and discussions. Every effort is made to avoid and minimise the removal of native vegetation where possible.*

*The Jumping Jack Wattle is given protection by Schedule 1 to the Vegetation Protection Overlay within the West Wimmera Planning Scheme. Any proposed works or development within the vicinity of identified Jumping Jack Wattle overlay may require a planning permit application.*

*The feeding and nesting habitat of the Red-tailed Black Cockatoo is protected by Schedule 2 to the Environmental Significance Overlay. Any application by a landowner to remove Eucalypts over 40cm in diameter at 1.3 metres above ground level, Desert Stringybark and Brown Stringybark over 30cm in diameter at 1.3 metres above ground level and Buloke trees 20cm in diameter at 1.3 metres above ground level, which form the feeding and nesting habitat for the Red-tailed Black Cockatoo will need to apply for a planning permit. The planning permit application must meet the requirements provided in the application and decision guidelines of the Schedule 2. DELWP is a Determining Authority for all applications triggered by the Schedule 2 to the Environmental Significance Overlay for the Red-tailed Black Cockatoo Habitat Area.*

### **21.07-4 Climate Change**

#### **Overview**

Climate change is one of the most serious challenges facing the world community. With the West Wimmera Shire's economy heavily reliant on agriculture, the potential risks to the municipality from changes in climate are significant. The West Wimmera Shire Council has a critical role to play in providing leadership and working with local communities to improve the environmental performance of the municipality, and ensure the long term sustainability of the community, economy and environment of the municipality.



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### Objectives and Strategies

#### **Objective 1 Improve the environmental performance of the municipality.**

Strategy 1.4 Halt the process of vegetation clearance.

Strategy 1.5 Expand the indigenous vegetation cover of the Shire.

*The municipal strategic statement contains climate change objectives and strategies in relation to native vegetation. Strategy 1.4 is to halt the process of native vegetation clearance, however to halt native vegetation clearance entirely across the West Wimmera Shire is not possible. The West Wimmera planning scheme provides for landowners to apply to remove native vegetation legally for a variety of reasons, either by a planning permit application or an exemption under Clause 52.17. West Wimmera Shire encourages its landowners to plant and regenerate native vegetation on their properties.*

#### **Relevant Particular Provisions**

##### **52.17 Native Vegetation**

There are no exemptions under Clause 52.17 which permit the removal of native vegetation for the intended purpose of the landowners and their son.

Therefore, a planning permit application is required to remove native vegetation to facilitate the operation of larger agricultural machinery around the subject land.

#### **The decision guidelines of Clause 65**

- The matters set out in Section 60 of the Act.  
*Council has considered the relevant Sections of the Act.*
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.  
*The proposal is shown to be generally consistent with the SPPF and LPPF, particularly as it relates to the native environment and biodiversity.*
- The purpose of the zone, overlay or other provision.  
*The proposal is consistent with the purpose of the Zone and considers the environmental significance overlay Schedule 2 for the Red-tailed Black Cockatoo Habitat Area.*
- Any matter required to be considered in the zone, overlay or other provision.  
*The proposal is consistent with the purpose of the Zone and considers the environmental significance overlay Schedule 2 for the Red-tailed Black Cockatoo Habitat Area.*
- The orderly planning of the area.  
*Council is satisfied that the proposal represents orderly planning of the area. The proposed removal of 25 scattered paddock trees may reduce the visual amenity of the area with approximately 95 trees remaining. The practice of removing native*





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*vegetation to facilitate agricultural production has been a long standing one within the West Wimmera Shire Council.*

- The effect on the amenity of the area.  
*Council is satisfied that the proposal represents orderly planning of the area. The proposed removal of 25 scattered paddock trees may reduce the visual amenity of the area with approximately 95 trees remaining.*
- The proximity of the land to any public land.  
*The subject land is adjacent to the Kaniva P-12 College which is situated on land owned by the State government. There are no public land reserves adjacent to the subject land.*
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.  
*The proposed removal of the 25 scattered paddock trees should not contribute to land degradation, salinity or reduce water quality. The proposed removal of the 25 trees will reduce the amount of chemicals and herbicides used on the subject land..*
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.  
*The proposed removal of 25 scattered paddock trees should not impact on the stormwater within the subject land.*
- The extent and character of native vegetation and the likelihood of its destruction.  
*The subject land contains approximately 120 scattered paddock trees, most of which are Black Box with some Buloke. The proposal to remove 25 trees that due to their location and proximity to other trees and fences prevent the use of their 36 metre boom spray on parts of the subject land. The landowners are able to provide offsets required by DELWP.*
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.  
*The proposal is for the removal of 25 scattered paddock trees on the subject land. The offsets to protect mature trees and recruit new trees will occur on another site owner by the landowners of the subject land, within the West Wimmera Shire and the Wimmera catchment Management area as required by DELWP.*
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.  
*The land is not affected by the Bushfire Management Overlay or any overlays relating to flood or erosion.*



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Overall, this proposal is generally consistent with the Clause 65 Decision Guidelines.

### **Other relevant adopted State policies/strategies – (e.g. Melbourne 2030.)**

Not applicable.

### **Relevant incorporated or reference documents**

*Permitted Clearing of Native Vegetation –Biodiversity Guidelines (Department of Environment and Primary Industries).*

### **Relevant Planning Scheme amendments**

Not applicable.

### **Summary of Key Issues**

The applicant, on behalf of the landowners and their son, proposes to remove 24 Black Box trees and one (1) Buloke tree to facilitate the operation of larger agricultural machinery around the subject land.

The applicant has met all the requirements of *Permitted Clearing of Native Vegetation – Biodiversity Guidelines (Department of Environment and Primary Industries)* and “*Victoria’s Native Vegetation Management – A Framework for Action, 2002*”. DELWP have consented to the granting of a permit with conditions.

Five (5) objections have been received from adjoining landowners. The issues raised by the objectors have been considered in this report.

### **Conclusion**

The planning permit application has met all necessary requirements of the *Permitted Clearing of Native Vegetation –Biodiversity Guidelines (Department of Environment and Primary Industries)* and “*Victoria’s Native Vegetation Management – A Framework for Action, 2002*”. The landowners can provide offsets for both the 24 Black Box trees and the Buloke tree that meet all the requirements as detailed in the DELWP response and conditions.

A Notice of Decision to Grant a Permit may be granted with conditions including the conditions from the DELWP as a Recommending Authority, and as a Determining authority.

All conditions required by DELWP as a Determining Authority and shown in their written response must be included in the planning permit conditions.





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### **OFFICER RECOMMENDATION**

#### **Notice of Decision to Grant a Permit**

That Council having caused notice of Planning Application No. P1356 to be given under Section 52 of the *Planning and Environment Act 1987* and or the planning scheme and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to issue a Notice of Decision to Grant a Permit under the provisions of Clauses 11.13-4, 11.13-5, 12.01-2, 14.01-1, 14.01-2, 21.02-5, 21.04, 21.04-1, 21.06-5, 21.07, 21.07-1, 21.07-4, 42.01 and 52.17 of the West Wimmera Planning Scheme in respect of the land known and described as CA7, Section 3, Lot 2, LP129452, Lot 2, PS630876, Parish of Kaniva, Budjik Street, Kaniva, for the removal of native vegetation, 24 Black Box trees and one (1) Buloke tree in accordance with the endorsed plans, with the application dated 25<sup>th</sup> July 2016, subject to the following conditions:

#### **Department of Environment and Primary Industry Conditions *As a Recommending Authority under Clause 66.02-2***

1. In order to offset the removal of loss of 1.760 hectares 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;
- b) 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:

- a) 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.

#### ***As a “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:

- a) Protection of 4 Buloke trees of 40cm diameter at 1.3m or above.



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- 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.
10. This permit will expire if the following circumstances applies:
  - a) The removal of native vegetation and the offset planting is not started within two years of the date of this permit.



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### Attachments:

No.	Name	RecFind Ref
13.4.1	Planning Permit application	16/002860
13.4.2	Objection letters (5)	16/003108
13.4.3	DELWP response	16/003108
13.4.4	Site map	16/002860
13.4.5	Ecological report	16/002860
13.4.6	BIORreport	16/002860
13.4.7	Offset report	16/002860



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### **13.5 INVESTIGATION INTO ALLEGED DEMOLITION WITHOUT BUILDING PERMIT**

**FILE NUMBER: BA1189, BA1266, BA1267**

**REPORT AUTHOR: ROBYN EVANS, GENERAL MANAGER**

**INFRASTRUCTURE DEVELOPMENT AND WORKS**

#### **FOR DECISION**

##### Introduction

West Wimmera Shire Council (Council) has obligations under the *Building Act 1993* in relation to the demolition of buildings.

In October 2015 Council became aware of potential demolition of farm buildings and inappropriate disposal of farm waste.

Council instigated an investigation into three properties which has been recently concluded.

The purpose of this report is to advise Council of the outcome of that investigation.

##### Declaration of Interests

The author has no declared interest under the *Local Government Act 1989* in the preparation of this report.

##### Background

Council has completed its investigation into allegations of the demolition of three dwellings in breach of the *Building Act 1993*, (the Act).

The investigation was in two parts:

1. Investigation into the alleged demolition of buildings without a permit, and
2. Investigation into Council's processes and procedures in relation to demolition permits.

#### **1. Investigation into the alleged demolition of buildings without a permit**

- i) The investigation determined that the contractor who demolished and buried waste acted illegally under the Act. As the breach by the contractor is the first breach registered with West Wimmera Shire, and the contractor complied with the investigation, the delegated officer has determined not to



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prosecute at this point in time. Council has reserved its right to prosecute in the future.

Based on discussions with the contractor, it is expected that the contractor will responsibly advise itself of its obligations under the Act and will meet those obligations in all future activities.

- ii) The investigation determined that the responsible landholder failed to meet conditions of a building permit to demolish in one instance, and failed to complete the process to obtain building permits in two other instances.

Council has reserved its right to prosecute in the future.

### **2. Investigation into Council's processes and procedures in relation to demolition permits**

- i) The investigation determined that there are systemic problems with Council's issuing of building permits to demolish to "owner builders".

Legal advice was sought and professional advice was sought through the Victorian Building Authority (VBA) and on balance it appears that risk to Council is significantly reduced if no further permits are issued to owner builders. The investigation noted the organisation's primary driving principle of supporting residents and agri-business in minimising cost and red-tape with the administration of the Act in relation to building demolition.

However this case has served to highlight the cost to Council (and thereby the greater community) when the organisation's attempts to minimise the burden on residents and agribusiness are not reciprocated with cooperation.

The delegated officer has determined that future applications must be made by a qualified practitioner. While adding to the immediate financial burden of individual applicants from here-on-in, the precedent set by this particular case suggests that the best interests of the wider community, including the health of employees and contractors and the environmental legacy of landholders, will be better served by restricting the issuing of demolition permits to qualified practitioners only.

The restriction of issuing demolition permits to qualified practitioners only, should also reduce the ultimate financial risk to the landholder by minimising the likelihood of costly remediation of breaches and potential prosecution also.



## ORDINARY COUNCIL MEETING AGENDA – 15 SEPTEMBER 2016 WEST WIMMERA SHIRE COUNCIL

- ii) Further, the investigation highlighted room for improved communication to the community generally and to permit applications. Officers cannot make assumptions about individual's competency and knowledge of due process.

### Risk Management Implications

The VBA can apply penalties to local governments who fail to uphold their obligations under the Act.

Ensuring Council meets its obligations under the Act mitigates this risk.

A second concern is the original report of the allegation was not provided directly to Council. This may reflect a lack of trust in Council's willingness to perform its statutory duties. This risk is not addressed directly as this is not able to be confirmed, however the fact that Council has conducted an independent investigation may go some way toward re-establishing community confidence in Council.

A final risk is the culture of Council for accommodating residents as the higher order "service to the community" over the sometimes grey area of interpretation of statutory requirements.

Change of culture is not an overnight affair, however this risk will be mitigated by:

- Instruction to staff to strictly implement the letter of the law from here-on-in, and
- Implementing regular training and professional development for staff in regulatory roles

### Legislative Implications

Primary legislative requirements stem from the

- *Building Act 1993*
  - Part 3 Building Permits  
Includes the requirement for a building permit to demolish buildings – Council is responsible authority

Other related legislative requirements triggered with the program delivery include:

- *Planning and Environment Act 1987*,
- *Building Act 1993* regulations.

It should be noted that the *Environment Protection (Industrial Waste Resource) Regulations 2009* covers the illegal waste disposal, however Council is not the responsible authority, rather the EPA is the responsible authority.

### *Planning and Environment Act 1987*

- S29A covers the need for a planning permit prior to the consideration of building permits and Council is the responsible authority however this was not required in this particular case



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### Environmental Implications

Not commented on.

### Financial and Budgetary Implications

Breaches under both the *Planning and Environment Act 1987* and the *Building Act 1993* are investigated and costs of remedy are applied to the responsible entity for the breach. Generally this is negotiated with the responsible entities and historically Council has had a cooperative approach to remedying breaches.

The total costs to Council of the investigation to date are \$25,178.

Council is seeking reimbursement for the costs of the investigation attributable to the landholder only, (\$15,850) on the basis that these costs were external costs.

### Policy and Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2013-2017:

- Strategic Objective 2: Increased community amenity – protect unique values of our rural communities
- Strategic Objective 3: Improve communication and community engagement activities of Council
- Strategic Objective 4: Increase community confidence in Council Service Levels
- Strategic Objective 6: Strengthen the culture and governance of the organisation

In relation to Strategic Objectives 4 and 6, principles of transparency and consideration of best outcome for community must apply. These considerations include:

- (a) better protecting the environment and its economic and social uses;
- (b) ensuring that no commercial advantage is obtained by any person who fails to comply with statutory requirements;
- (c) influencing the attitude and behaviour of persons whose actions may have adverse impacts on, or who develop, invest in, purchase or use goods and services which may have adverse impacts on, community confidence in Council Service Levels and organisational governance perceptions. environmental impacts.

This report is relevant for the following West Wimmera Shire Council Policies:

- Advocacy Policy
- Building Permit Information Policy
- Councillor Code of Conduct Policy

As a consequence of this investigation, the building permit information policy will be reviewed.



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### Communication Implications

Particularly in relation to Strategic Objective 4, increasing community confidence in Council Service Levels, of the Council Plan, Council must balance the integrity of the investigation process of any breach against the community's right to know that Council is upholding their best interests. Reputation of Council can be subject to misinformation if Council is not regularly communicating its actions to community.

Council generally minimises public commentary throughout investigations, with the final outcomes being made public through Council reports.

This particular investigation was somewhat problematic as the length of the investigation period has led to community concerns about Council's perceived inaction.

Finalising the investigation and tabling of this report will serve to redress those concerns.

### Conclusion

While lengthy, this investigation has concluded and the outcomes for Council as well as the contractor can inform improved processes.

Council can improve its internal processes for issuing building permits. Council will update its policy on communication of the same to the public about rights and responsibilities for building permits.

The contractor can ensure that a building permit has been issued before undertaking any building work. Further, the contractor ought to ask to see a copy of such permit and carefully consider and comply with any approved plans, conditions and other instructions which form part of the building permit.

Lastly, the contractor can take precautions to ensure from here-on-in that its employees are not exposed to asbestos and other risks in the course of carrying out company directions.

### **OFFICER RECOMMENDATION:**

**That the report is received and noted.**

**Attachments: Nil**





## ORDINARY COUNCIL MEETING AGENDA – 15 SEPTEMBER 2016 WEST WIMMERA SHIRE COUNCIL

### **14.0 CORPORATE AND COMMUNITY SERVICES**

#### **14.1 2015-16 ANNUAL FINANCIAL STATEMENTS AND PERFORMANCE STATEMENT**

**FILE NUMBER: FM0047**

**REPORT AUTHOR: ASHLEY ROBERTS, MANAGER FINANCE**

#### **FOR DECISION**

##### Introduction

This report provides Council with an audited copy of Council's 2015/16 Financial Statements and Performance Statement.

At the time of writing this report the Financial Statements and Performance statement are not endorsed by Council's audit committee. However, before the Council meeting, it is expected to have the endorsement from the Audit Committee on the financial statements and performance statement.

##### Declaration of Interests

No officer declared an interest under the Local Government Act 1989 in the preparation of this report.

##### Background

Section 131 (2) of the Local Government Act 1989 ('the Act') requires that Council produce as part of its annual report a set of audited Financial Statements for the financial year.

Following this, Section 132 (5) of the Act requires that the Financial Statements and Performance Statement be certified by two Councillors in their final form after any agreed changes recommended by audit have been undertaken.

The 2015-16 Financial Statements and Performance Statement are produced in line with the requirements of the Act, relevant Australian Accounting Standards, and the Local Government (Planning and Reporting) Regulations 2014 ('the Regulations').

Council's external auditors, Coffee Hunt Chartered Accountants, acting as agents for the Victorian Auditor General's Office (VAGO), attended Council's Kaniva office on 24<sup>th</sup> and 25<sup>th</sup> August for the purpose of undertaking the audit of Council's 2015/16 Financial Statements and Performance Statement.



## ORDINARY COUNCIL MEETING AGENDA – 15 SEPTEMBER 2016 WEST WIMMERA SHIRE COUNCIL

A copy of each of the 2015-16 Financial Statements and the Performance Statement are attached for member's information.

### Risk Management Implications

Council is exposed to significant financial and fraud risk if the Annual Financial Statements and Performance Statement are not audited. Having the Audit Committee review the end of year process adds another layer of oversight to prevent this.

The audit raised 3 points in the Final Management Letter, two medium risks and one low risk, being:

1. Road Condition Reports – (Medium Risk) Council have received two different consultants reports on the condition of its road assets – one by Peter Maloney of Maloney Asset Management Systems and one by Andrew Bainbridge. These reports gave quite differing opinions on the state of Council's road assets. Arising from this there is a risk that Council may not be fully recognising the change in road condition and the effect this has on the fair value of Council's road assets. As a response Council has budgeted to undertake a detailed road asset condition inspection program during 2016/2017.
2. Capturing Road Disposals – (Medium Risk) Council is not disposing of 'used' assets when renewal works are taking place, except through the revaluation process. There is a risk here that Council may be overvaluing its assets by counting both the original and renewed asset value. Council has agreed to develop a system whereby each asset that is consumed in the renewal process is written off.
3. Matching of Accounts Payable invoices – (Low Risk) Council produces an Aged Trial Balance to reconcile outstanding payables. When an invoice is entered into the system it shows as a negative on the Trial Balance, and when that invoice is paid it shows as a positive, in theory balancing to zero and removing both numbers from the Trial Balance report. Unfortunately when an invoice is paid in a period other than that which it is entered (i.e over the end of the month) the system does not match both numbers and remove them from the Trial Balance. IT does not mean that any invoices are missed from payment, but rather produces a Trial Balance of limited usefulness. This is a well-known flaw in the Civica Authority system. Council is working with Civica and other Councils to find a remedy for this problem.

### Legislative Implications

Section 131 of the Act and the schedules contained within the Regulations set out Council's requirements for end of financial year reporting.



## ORDINARY COUNCIL MEETING AGENDA – 15 SEPTEMBER 2016 WEST WIMMERA SHIRE COUNCIL

### Environmental Implications

Nil

### Financial and Budgetary Implications

The 2015-16 Financial Statements contain the following:

- Comprehensive Income Statement
- Balance Sheet
- Statement of Changes in Equity
- Statement of Cash Flows
- Statement of Capital Works

The financial statements also include a suite of notes providing detail on the figures contained within the five main statements, including an analysis of actual results against original budget.

In terms of financial performance, Council will report an operating loss of \$489,228 before other comprehensive items for the year. This climbs to an operating loss of \$500,433 for the year after other comprehensive items are included (these relate to movements in the comprehensive income items of the Wimmera Regional Library Corporation and Wimmera Development Association, both of whom Council has an equity investment in).

This operating loss was based on operating income of \$17.66 million (\$21.29 million for 2014/15) against operating expenditure of \$18.15 million (\$19.68 million for 2014/15). However, it must be noted that both years figures were skewed by the prepayment of 50% of the 2015/16 allocation of the Federal Financial Assistance Grant (FAG) (paid via the Victoria Grants Commission) on 30 June 2015. This necessitated that amount (\$2.38 million) being receipted into the 2014/15 year, with the subsequent effect that the operating result for 2014/15 (\$1.60 million surplus) was better than it would otherwise have been, while the operating result for the 2015/16 year was worse than it otherwise would have been. No prepayment of the FAG was made in 2015/16.

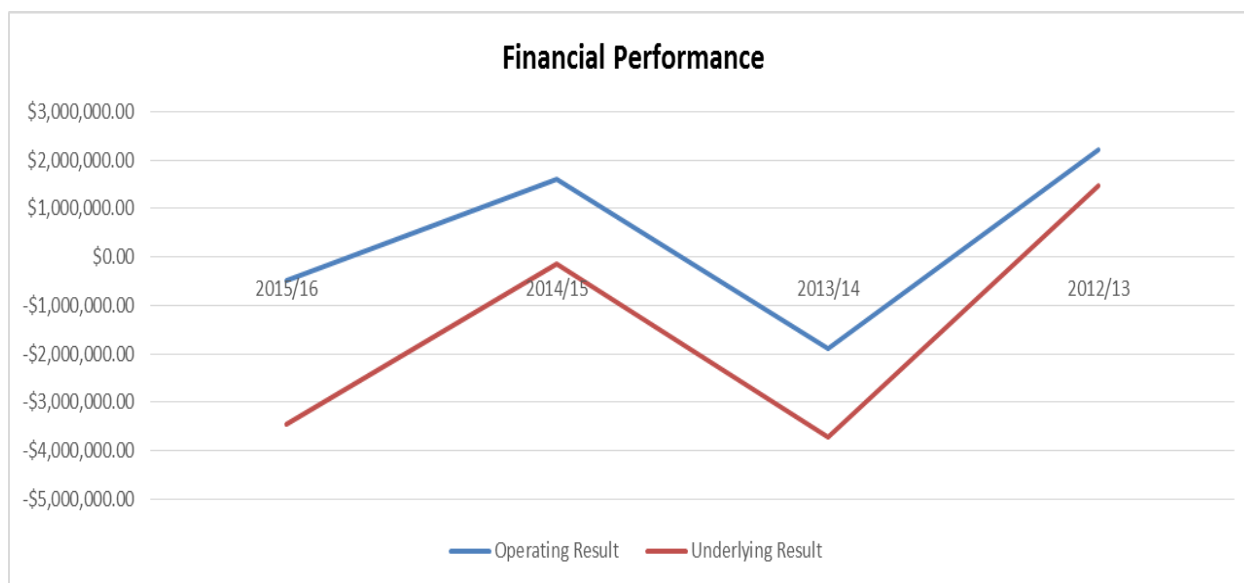
After factoring this in, the 2015/16 result looks far better, showing a considerable surplus, with the 2014/15 result going into deficit.

Of equal importance is Council's underlying operating result, that being the operating result less any non-recurrent income that is included in that result. This measure removes non-recurrent grants, contributions, and proceeds from asset sales to show what Council's operating result without those 'one-off' items. For the 2015-16 year Council received an additional \$1.9 million under the expanded Roads To Recovery program. While some unspent funding from this additional allocation may be carried forward to future years of the program, it is not truly recurrent in nature and has been removed for the purposes of calculating Council's underlying result.



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Council's underlying result for 2015/16 shows a significant deficit of \$3.45 million (2014/15 \$0.14 million). When adjusting for the FAG prepayment the deficit for 2015/16 reduces to a still substantial deficit of \$1.07 million while 2014/15 shows a significant deficit of \$2.52 million. The operating and underlying results for the last four years are outlined in the following graph:



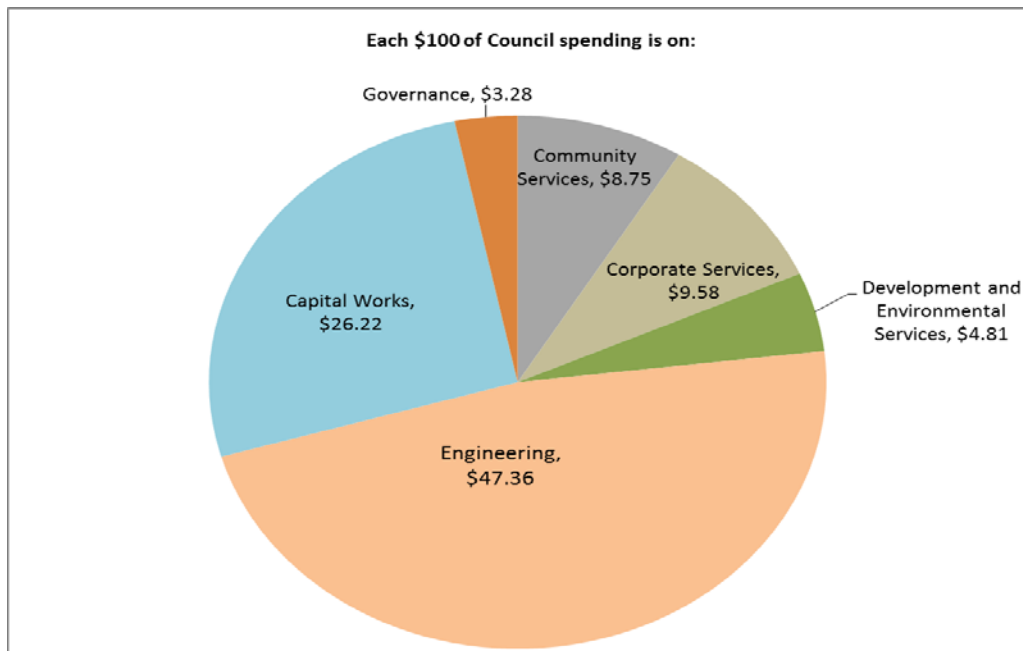
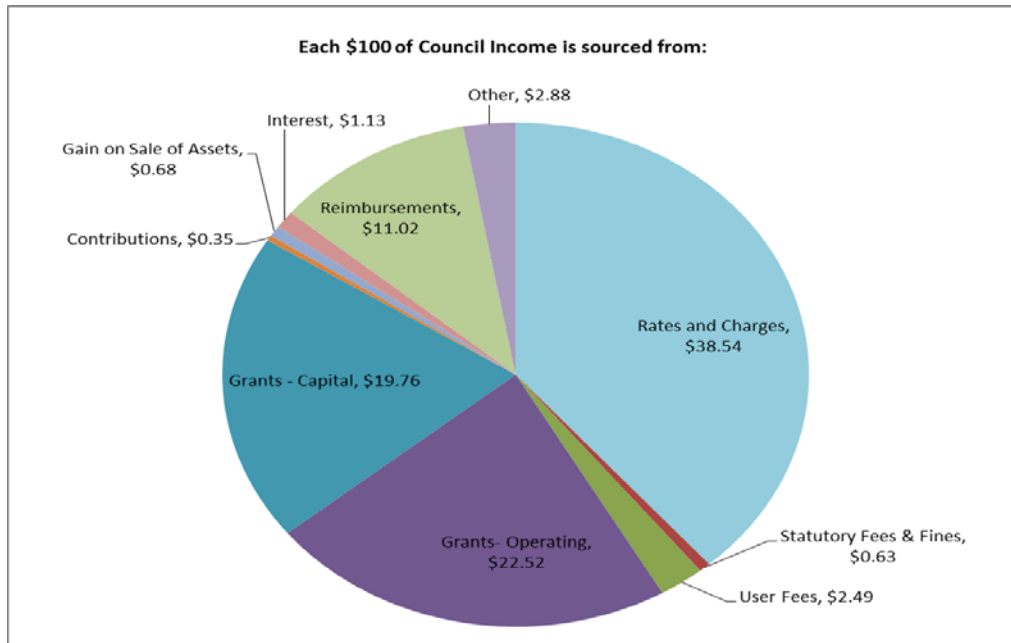
It should be noted that 2012/13 and 2013/14 were both also affected by FAG prepayments.

However this information needs to be read in context with all of Council's income and expenditure sources. When analysing Council's financial data we can see that Council incurs a significant depreciation charge of \$6.37 million for 2015/16. This amount represents the consumption of Council's assets annually. If this was removed from Council's underlying result Council would be generating a solid underlying surplus. What this indicates is that Council is dependent upon non recurrent funding sources (particularly capital grants) to fund its asset renewal. It must be said that this is not an uncommon position within local government in Victoria, with all but the largest municipalities facing similar issues. The advent of rate capping will only exacerbate this issue.



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The following charts indicate where Council's income comes from and where it spends:



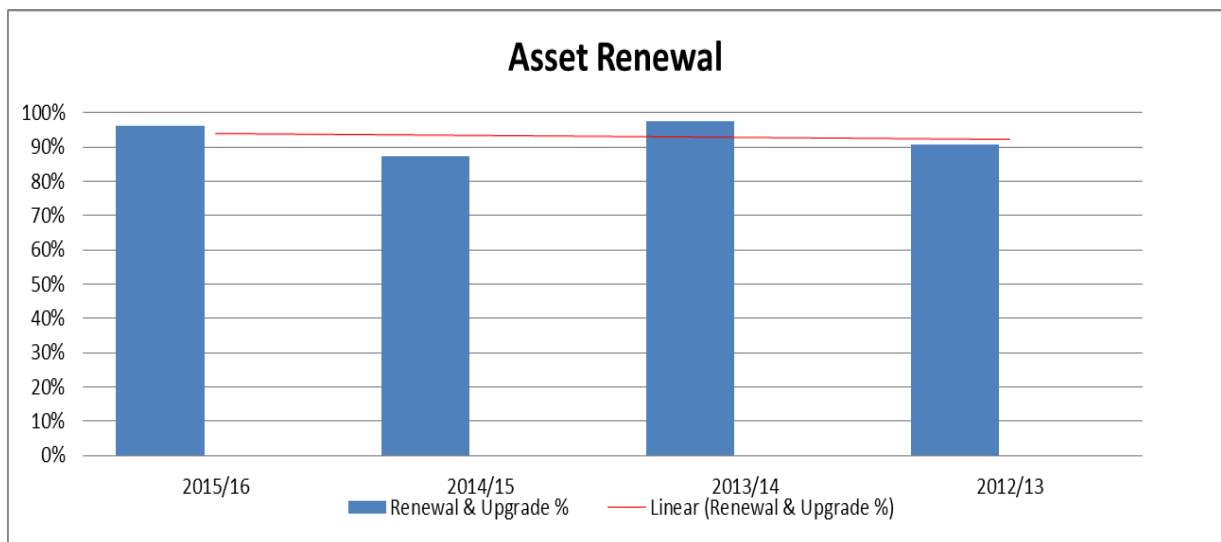
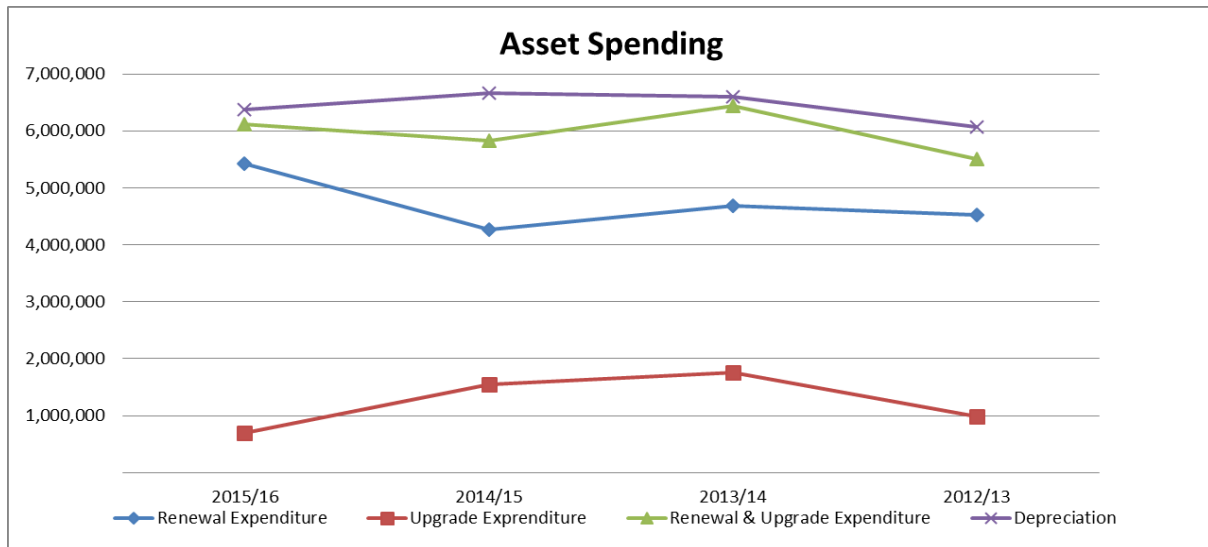
Council's dependence upon grants can clearly be seen from these charts, with grant funding making up \$42.28 of every \$100.00 Council receives.

Council delivered a significant capital expenditure program during 2015/16 of \$6.46 million (2014/15: \$6.43 million). Of this \$4.41 million was spent on roads with a further



## ORDINARY COUNCIL MEETING AGENDA – 15 SEPTEMBER 2016 WEST WIMMERA SHIRE COUNCIL

\$0.43 million spent on bridges, all aided by the expanded Roads To Recovery funding. Of the \$6.46 million spend, \$5.42 million was expended on renewing Council's existing assets, with a further \$0.69 million spent on upgrading Council's existing assets. This amount however was insufficient to cover Council's consumption of its asset base, as measured through depreciation. The following graphs show Council's last four years of asset renewal and upgrade spending as compared to depreciation:



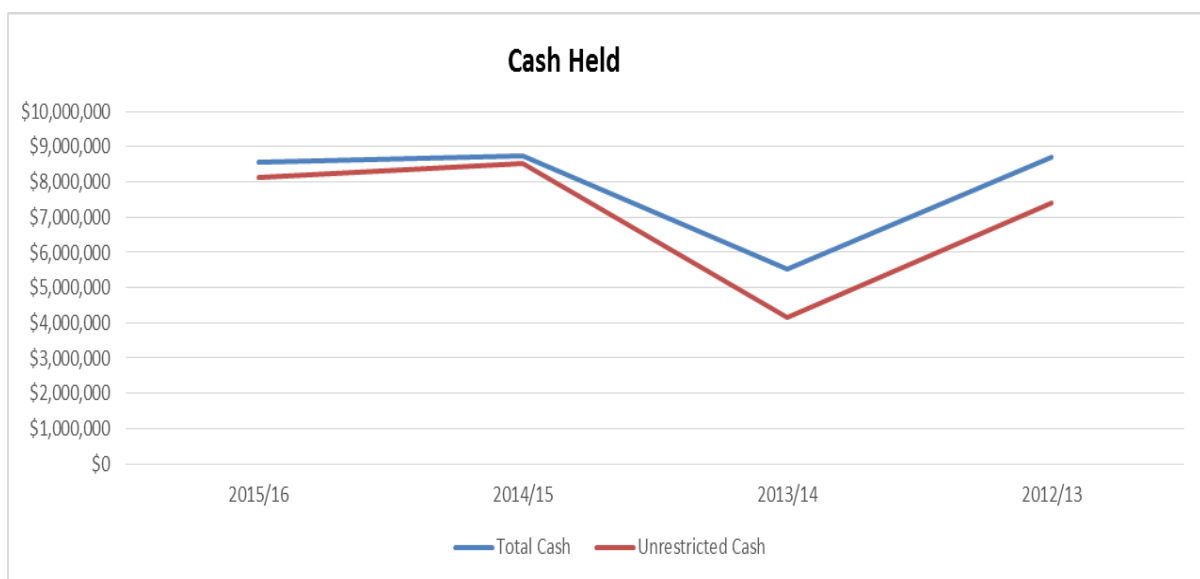
As can be seen, in none of the previous four years has Council met the 100% renewal of its asset base as measured against depreciation. This is a negative trend which may result in loss of service provision and potential into the future if it continues over the long term. Council must assess its asset base and renewal requirements in the context of setting realistic service levels over the medium to long term.



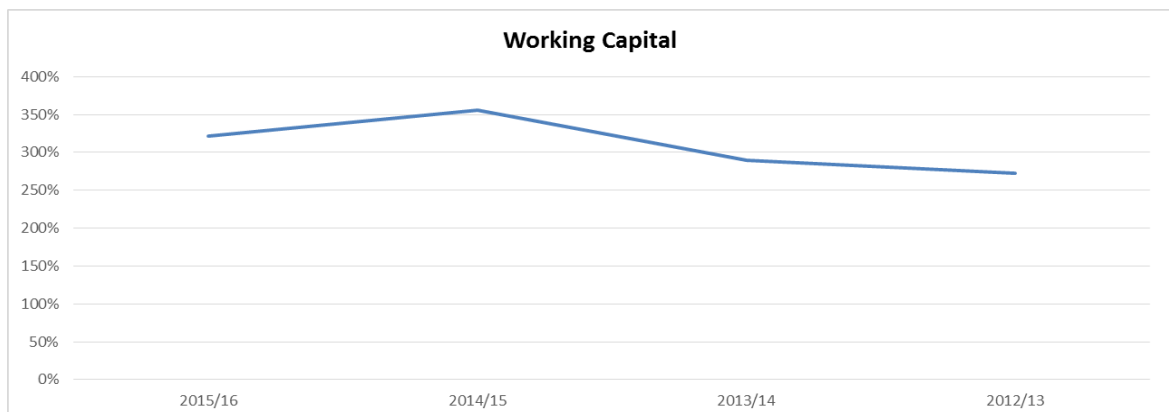
## ORDINARY COUNCIL MEETING AGENDA – 15 SEPTEMBER 2016 WEST WIMMERA SHIRE COUNCIL

Council's cash position remains healthy, with \$8.56 million in the bank at 30 June 2016. This represents \$0.20 million decline on the previous year.

However, care must be taken when assessing the cash figure. Council is holding commitments by way of reserves, unspent grants, and trust deposits of \$4.14 million, leaving an unrestricted cash amount of \$4.42 million. Of course it must be noted that \$3.70 million of the \$4.14 million of funds restricted is held on a discretionary basis which Council may resolve to use for other purposes if the need arises.



Council retains a solid working capital ratio. This is the coverage of current liabilities by current assets, and measures the ability of Council to quickly cover liabilities. At 30 June 2016 Council had a working capital ratio of 321%.





## ORDINARY COUNCIL MEETING AGENDA – 15 SEPTEMBER 2016 WEST WIMMERA SHIRE COUNCIL

While overall Council has reported an operating deficit for the year, the position would have been much more positive if the FAG prepayment had not been made in the previous year. Council has been able to manage costs efficiently throughout the year and has realised some significant savings in materials, especially in the use of external plant hire (\$104,790) as Council's own fleet are more effectively utilised and sundry expenses which have reduced by \$97,227 as a more rigorous culture and understanding of cost restraint has taken hold.

As can be seen there are good and bad points about Council's financial performance for the 2015/16 financial year.

An operating deficit is not ideal, and although the position would have been a surplus if the FAG had not been prepaid in 2014/15, this highlights Council's reliance on grants funding. This is clearly supported by Council incurring ongoing underlying deficits.

Also of concern is the fact that Council is not, and has not been for the past four years, meeting its asset renewal targets (as measured against depreciation expense). Again this highlights how much Council is dependent upon grant funding for asset renewal.

### Policy Implications

There is potential for Council's goals as set out in the Council Plan to be unachievable if Council is financially unsustainable in the long term.

Council may not be able to meet its obligations or service levels set out under various Asset Management Plans if it continues to fall behind in asset renewal.

### Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2013-2017:

- Strategic Objective 6: Strengthen the culture and governance of the organisation

### Communication Implications

The Annual Financial Statements and Performance Statement, after receiving clearance from VAGO, are inserted into Council's Annual Report. This document becomes a public document which is available in hard copy and on Council's website.

### Conclusion

Council has complied with all legislative requirements in producing the Annual Financial Statement and Performance Statement.

The statements show that Council has produced a reasonable financial performance over the period, given the pre-payment of the FAG funding in 2014/15. Council also has a strong





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working capital ratio, and solid cash reserves, and delivered a solid capital expenditure program. However, a note of caution must be shown regarding Council's underlying deficit, and ongoing reliance on grants. Also of concern is the fact that Council has not been meeting its asset renewal requirements.

Council must remain vigilant in its spending and should undertake a serious analysis of the required capital renewal program in light of desired levels of service.

An addendum report will be provided at the 15 September 2016 Ordinary Council Meeting.

### **OFFICER RECOMMENDATION:**

**That Council receive and adopt the 2015/16 Financial Statements and Performance Statement.**

### **Attachments:**

<b>No.</b>	<b>Name</b>	<b>RecFind Ref</b>
14.1.1	2015/16 Financial Statements	16/003407
14.1.2	2015/16 Performance Statement	16/003407
14.1.3	2015/16 Final Management Letter	16/003407
14.1.4	2015/16 Audit Closing Report	16/003407



## ORDINARY COUNCIL MEETING AGENDA – 15 SEPTEMBER 2016 WEST WIMMERA SHIRE COUNCIL

### 15.0 LATE ITEMS OF BUSINESS

Pursuant to Local Law No.7 (2012), Meeting Procedure and Common Seal Local Law 2012, West Wimmera Shire Council:

#### 25. *Urgent Business*

*Business must not be admitted as urgent business unless it:*

- i. Relates to or arises out of a matter which has arisen since distribution of the agenda; and*
- ii. Cannot safely or conveniently be deferred until the next Ordinary Meeting.*

### 16.0 SEALING SCHEDULE

Nil.

### 17.0 CONFIDENTIAL (PURSUANT TO SECTION 89 LGA 89)

#### **RECOMMENDATION**

That Council pursuant to section 89(2) (d) Contractual Matters and (f) Legal advice of the Local Government Act 1989 close the meeting to members of the public at ..... pm to resolve on matters pertaining to the following items:

**17.1 SENIOR CITIZEN OF THE YEAR 2016**

**17.2 KANIVA COMMUNITY HUB, TENDER FOR BUILDING WORKS**

**17.3 KANIVA INDUSTRIAL ESTATE LOT 14 – OFFER TO PURCHASE**

**17.4 CMO430 TENDER – ARCHITECTURAL AND STRUCTURAL DESIGN,  
EDENHOPE CULTURAL AND COMMUNITY HUB**

#### **RECOMMENDATION**

That the resolutions pertaining to Confidential / In-Camera items be adopted and made public and that the reports for those items remain In-camera and that Council open the meeting to the public at ..... pm.

**MEETING CONCLUDED:**

**NEXT MEETING:**

**THURSDAY 20 OCTOBER 2016  
KANIVA COUNCIL CHAMBER**