



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### ORDINARY COUNCIL MEETING MINUTES

***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*

**HELD:** Thursday 20 October 2016

**LOCATION:** Kaniva Council Chamber

**COMMENCEMENT:** 7.00pm

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IN ATTENDANCE:	
Councillors	Senior Management Group
Ron Hawkins (Chair) Bruce Meyer Richard Wait Warren Wait	David Leahy Chief Executive Officer  Venkat Peteti General Manager Corporate & Community Services  Robyn Evans General Manager Infrastructure Development & Works

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



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### TABLE OF CONTENTS

<b>1.0</b>	<b>WELCOME .....</b>	<b>4</b>
<b>2.0</b>	<b>OPENING PRAYER.....</b>	<b>4</b>
<b>3.0</b>	<b>APOLOGIES, LEAVE OF ABSENCE, DECLARATION OF CONFLICT OF INTEREST.....</b>	<b>4</b>
3.1	APOLOGIES	4
3.2	LEAVE OF ABSENCE	4
3.3	DECLARATION OF CONFLICT OF INTEREST	4
<b>4.0</b>	<b>QUESTIONS FROM THE GALLERY (maximum of 30 minutes) .....</b>	<b>4</b>
4.1	WRITTEN QUESTIONS ON NOTICE	4
4.2	VERBAL QUESTIONS WITHOUT NOTICE	4
<b>5.0</b>	<b>DELEGATES REPORTS (FOR INFORMATION ONLY) AS LISTED IN THE COUNCIL KEPT COUNCILLOR DIARY.....</b>	<b>4</b>
5.1	MAYOR, ANNETTE JONES	4
5.2	COUNCILLOR RON HAWKINS	5
5.3	COUNCILLOR BRUCE MEYER	5
5.4	COUNCILLOR RICHARD WAIT	5
5.5	COUNCILLOR WARREN WAIT	5
5.6	DAVID LEAHY (CHIEF EXECUTIVE OFFICER)	5
5.7	GENERAL DELEGATES' REPORTS	6
<b>6.0</b>	<b>CONDOLENCES .....</b>	<b>7</b>
<b>7.0</b>	<b>CONFIRMATION OF MINUTES FROM PREVIOUS MEETING .....</b>	<b>7</b>
<b>8.0</b>	<b>BUSINESS ARISING FROM PREVIOUS MINUTES .....</b>	<b>7</b>
<b>9.0</b>	<b>NOTICES OF MOTION .....</b>	<b>7</b>
<b>10.0</b>	<b>ASSEMBLY OF COUNCILLORS RECORD .....</b>	<b>7</b>
10.1	ASSEMBLY OF COUNCILLORS	7
<b>11.0</b>	<b>DEPUTATIONS AND PETITIONS.....</b>	<b>7</b>



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

<b>12.0</b>	<b>CHIEF EXECUTIVE OFFICER AND GOVERNANCE .....</b>	<b>8</b>
<b>13.0</b>	<b>INFRASTRUCTURE DEVELOPMENT AND WORKS .....</b>	<b>9</b>
13.1	PLANNING PERMIT APPLICATION P1356 – SEAN O’KEEFE .....	9
<b>14.0</b>	<b>CORPORATE AND COMMUNITY SERVICES .....</b>	<b>35</b>
<b>15.0</b>	<b>LATE ITEMS OF BUSINESS .....</b>	<b>36</b>
<b>16.0</b>	<b>SEALING SCHEDULE.....</b>	<b>36</b>
<b>17.0</b>	<b>CONFIDENTIAL (PURSUANT TO SECTION 89 LGA 89) .....</b>	<b>36</b>
<b>18.0</b>	<b>FAREWELL COMMENTS FROM COUNCILLORS .....</b>	<b>36</b>



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### **1.0 WELCOME**

Cr Hawkins welcomed all to the meeting.

### **2.0 OPENING PRAYER**

The CEO read the opening prayer.

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

#### **3.1 APOLOGIES**

Cr Annette Jones

#### **3.2 LEAVE OF ABSENCE**

Nil

#### **3.3 DECLARATION OF CONFLICT OF INTEREST**

Nil

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

#### **4.1 WRITTEN QUESTIONS ON NOTICE**

Nil

#### **4.2 VERBAL QUESTIONS WITHOUT NOTICE**

Nil

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

#### **5.1 MAYOR, ANNETTE JONES**

19/09/2016	CEO David Leahy
26/09/2016	CEO David Leahy
28/09/2016	Aboriginal Cricket History Panels Project Meeting
03/10/2016	CEO David Leahy
05/10/2016	Funding Announcement – Mr Andrew Broad MP – at Kaniva Fauna Park
05/10/2016	WSM Mayors – meeting with Minister Jaala Pulford MP, Horsham
05/10/2016	Regional Partnerships Assembly, Wimmera Southern Mallee
06/10/2016	Presentation of Senior Citizen Award 2016 at Seniors Concert
06/10/2016	Councillor Forum, Kaniva
07/10/2016	Friends of Lake Wallace
10/10/2016	CEO David Leahy
14/10/2016	Wimmera Business Awards 2016, Longerenong



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### 5.2 COUNCILLOR RON HAWKINS

05/10/2016	Funding Announcement – Mr Andrew Broad MP – at Kaniva Fauna Park
06/10/2016	Presentation of Senior Citizen Award 2016 at Seniors Concert
06/10/2016	Councillor Forum, Kaniva
08/10/2016	Kaniva Agricultural & Pastoral Show
11/10/2016	Wimmera Development Association Board Meeting
14/10/2016	Wimmera Southern Mallee Regional Transport Group Meeting
14/10/2016	Wimmera Business Awards 2016, Longerenong
20/10/2016	Council Meeting, Kaniva

### 5.3 COUNCILLOR BRUCE MEYER

23/09/2016	Wimmera Regional Library Board Meeting
05/10/2016	Funding Announcement – Mr Andrew Broad MP – at Kaniva Fauna Park
06/10/2016	Presentation of Senior Citizen Award 2016 at Seniors Concert
06/10/2016	Councillor Forum, Kaniva
08/10/2016	Kaniva Agricultural & Pastoral Show
14/10/2016	Wimmera Regional Library Board – Special Meeting
20/10/2016	Council Meeting, Kaniva

### 5.4 COUNCILLOR RICHARD WAIT

22/09/2016	Edenhope Community Police Forum
28/09/2016	Aboriginal Cricket History Panels Project Meeting
06/10/2016	Presentation of Senior Citizen Award 2016 at Seniors Concert
06/10/2016	Councillor Forum, Kaniva
07/10/2016	Wimmera Mallee Tourism Meeting
12/10/2016	Johnny Mullagh Committee of Management Meeting
14/10/2016	Wimmera Business Awards 2016, Longerenong
20/10/2016	Council Meeting, Kaniva

### 5.5 COUNCILLOR WARREN WAIT

20/10/2016	Council Meeting, Kaniva
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### 5.6 DAVID LEAHY (CHIEF EXECUTIVE OFFICER)

19/09/2016	Rebecca Sluggett
19/09/2016	Mayor Annette Jones
19/09/2016	Senior Management Group
20/09/2016	Post-Council Staff Meeting
20/09/2016	Goroke Community Police Forum
21/09/2016	Jakob Kelly, Architect



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

22/09/2016	Worked in Kaniva, met with outdoor staff at Kaniva Depot
22/09/2016	Edenhope Community Police Forum
26/09/2016	Senior Management Group
26/09/2016	Mayor Annette Jones
27/09/2016	Laurie Close, Monique Tregowan & Freya Hawker of Apsley
27/09/2016	Horsham Rural City Council
27/09/2016	Wimmera Community Transport Forum
28/09/2016	Bendigo Bank, Edenhope
29/09/2016	Wimmera Southern Mallee Regional Partnership Meeting, Horsham
03/10/2016	Senior Management Group
03/10/2016	Mayor Annette Jones
03/10/2016	Harrow & Chetwynd re flood damage
05/10/2016	Funding Announcement – Mr Andrew Broad MP – at Kaniva Fauna Park
05/10/2016	Christine Ferguson, Regional Director, DELWP
05/10/2016	Minister Jaala Pulford, Horsham
05/10/2016	Regional Partnerships Assembly, Wimmera Southern Mallee
06/10/2016	Worked in Kaniva
06/10/2016	Presentation of Senior Citizen Award 2016 at Seniors Concert
06/10/2016	Councillor Forum, Kaniva
07/10/2016	Friends of Lake Wallace
07/10/2016	Northern Grampians Shire Council
08/10/2016	Kaniva Agricultural & Pastoral Show
10/10/2016	Senior Management Group
10/10/2016	Mayor Annette Jones
11/10/2016	OH&S Meeting
11/10/2016	Wimmera Development Association Board Meeting
12/10/2016	Women's Health Grampians
13/10/2016	LGPro CEO Meeting
14/10/2016	LGPro CEO Forum
14/10/2016	Wimmera Business Awards 2016, Longerenong
15/10/2016	Pathways to Harrow 2016
17/10/2016	Senior Management Group
18/10/2016	Wimmera Southern Mallee Regional Partnerships, Warracknabeal
19/10/2016	Worked in Kaniva
19/10/2016	VEC Computer Count Information Session, Edenhope
20/10/2016	Council Meeting, Kaniva

### 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.

Cr Richard Wait congratulated Barry "Butch" Witmitz for winning Senior Citizen of the Year and commended the calibre of nominees.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### 6.0 CONDOLENCES

Nil

### 7.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETING

#### RECOMMENDATION:

**That the Minutes of the Ordinary Meeting of Council held on Thursday 15 September 2016, be taken as an accurate record and confirmed.**

**Moved: Councillor Richard Wait**

**Seconded: Councillor Bruce Meyer**

**That the Minutes of the Ordinary Meeting of Council held on Thursday 15 September 2016, be taken as an accurate record and confirmed.**

**Carried (4/0)**

### 8.0 BUSINESS ARISING FROM PREVIOUS MINUTES

Nil

### 9.0 NOTICES OF MOTION

Nil

### 10.0 ASSEMBLY OF COUNCILLORS RECORD

#### 10.1 ASSEMBLY OF COUNCILLORS

#### RECOMMENDATION:

**That the Assembly of Councillors Record for the Councillor Forum held Thursday 6 October 2016 be received and noted.**

**Moved: Councillor Richard Wait**

**Seconded: Councillor Warren Wait**

**That the Assembly of Councillors Record for the Councillor Forum held Thursday 6 October 2016 be received and noted.**

**Carried (4/0)**

### 11.0 DEPUTATIONS AND PETITIONS

Nil



## **ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL**

### **12.0 CHIEF EXECUTIVE OFFICER AND GOVERNANCE**





## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### 13.0 INFRASTRUCTURE DEVELOPMENT AND WORKS

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

**FILE NUMBER:** PA0899

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

#### FOR DECISION

##### Introduction

This report recommending the issuing of a permit was deferred from the Council meeting in Edenhope on 15 September 2016. At that meeting, Council resolved the following:

*“That the applicant and the objectors meet and participate in mediation, as per the normal planning processes.”*

A meeting was held with the General Manager Infrastructure Development and Works (GMIDW) and the landowners on Thursday 29 September 2016. Refer to the “Consultation” section of this report.

This report resubmits the application for Council decision.

##### Declaration of Interests

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

##### Background

The applicant, has submitted a planning permit application on behalf of the landowners and their son, 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



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

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.

### **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 proposed for removal at CA7, Section 3, Parish of Kaniva". This report is attached to the planning permit application.

The subject site has a total area of 113.7 hectares and currently contains no buildings. The land is used for cropping. The Kaniva consolidated (P-12 College) 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 (P-12 College) 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.

Agricultural land is located to the west and south of the subject land. Kaniva is the only township within West Wimmera Shire where the Township zone is on one side of the road and Farming zone on the other and the land in the Farming zone is used for agricultural production.

### **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.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### 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 seven (7) 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.*

*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 these trees 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.*



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

*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.*

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 “Barney 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 “Barney 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.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

- 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 was undertaken of all trees on the subject land and 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. Council acknowledges that some of the trees are old and maybe be regarded as heritage trees by some residents but they are not registered on any heritage register.*

### *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.*

*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 recorded 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.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

*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 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.*





## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

- 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:

- 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.
- 21/9/2016 a meeting with the GMIDW and the landowners was held to arrange a time for the mediation meeting. The meeting was suggested for Wednesday 28<sup>th</sup> September at 9.00am at the offset site at Peronne.
- 22/9/2016 Letters were posted to the objectors to advise them of the meeting time and venue.
- 23/9/2016 Letters were emailed to those objectors who email addresses could be located, and phone calls made to the others.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

- 27/9/2016 the objectors were advised by GMIDW by telephone that the meeting time and venue had changed due to waterlogging at the offset site. The meeting was now to be held at the Kaniva office at 10.00am on 29<sup>th</sup> September 2016.
- 29/9/2016 the mediation meeting was conducted with GMIDW, four (4) members of the landowner's family and five (5) of the objectors present. The meeting did not result in a mutual resolution to the matters raised.
- Council officers were advised by DELWP that not all objectors needed to attend the mediation meeting.

If further mediation is requested there is an opportunity for this to occur after the Notice of Decision to Grant a permit has been issued, and would be conducted by a member of VCAT who is a mediator.

### Referrals

#### Advice/Response/Conditions

External Referrals/Notices  
Required by the Planning Scheme:

#### Referrals/Notice

Section 55 Referrals	DELWP, consent with conditions
Section 52 notices	Adjoining landowners and the Kaniva Times, seven (7) 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*





## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

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

*Kaniva is the only township within West Wimmera Shire where the Township zone is on one side of the road and Farming zone on the other side of the road and the land in the Farming zone is actively used for agricultural production.*

### **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.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

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

*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.*



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### 11.13-5 A Diversified Economy

#### Objective

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.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

- Consult with the Department of Economic Development, Jobs, Transport and Resources and utilise available information to identify areas of productive agricultural land.
- 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.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

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

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

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 and 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 on 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.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

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 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.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### 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.**

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.





## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### 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.

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.*





## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### 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.

#### 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.*



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

- 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 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*



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

*owned 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.*

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.

Seven (7) 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



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

Buloke tree that meet all the requirements as detailed in the DELWP response and conditions.

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

A mediation meeting was conducted as per Council resolution of 15<sup>th</sup> September 2016, with five of the objectors and no mutual agreement on a resolution. There is the possible opportunity, if required, for further mediation to be conducted by VCAT if the Notice of Decision to Grant a Permit is issued.

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.

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

- a) Contribute gain of 0.327 general biodiversity equivalence units;**
- b) Be located within Wimmera Catchment Management Authority (CMA) or West Wimmera Municipal area.**
- c) Have a minimum strategic biodiversity score of 0.496**



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

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.
  - 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.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### ADDENDUM REPORT

#### P1356 TO 20 OCTOBER 2016 ORDINARY COUNCIL MEETING

**FILE NUMBER: PA0899**

**REPORT AUTHOR: GILLIAN BRADSHAW**

**MANAGER PLANNING & ENVIRONMENT**

#### FOR INFORMATION

##### Introduction

This addendum report is submitted in response to late correspondence received relevant to the tabled report for the permit application P1356. The correspondence was received after the agenda was released and published on the West Wimmera Shire website.

Four items of correspondence were received as attached. The correspondence largely repeats issues considered in tabled report, and therefore do not change the substance of the report nor the officer's recommendation to issue the permit. New points are summarised and outlined below.

##### Offsets:

The objectors have offered to withdraw their objections to the 25 trees to be removed conditional on the owners providing the offsets they suggest in their letter. The objector's proposal is:

1. *The fencing off of four hectares at the western end of Kaniva College farm, with planting of understorey bushes and shrubs among the existing vegetation.*  
*OR*
2. *Four rows of native species along the Budjik street boundary of the property.*

1. The owners do not wish to provide offsets as suggested in option one. Further, DELWP assessment of the value of the four hectares would need to be undertaken as the four hectares have not been assessed and may or may not be sufficient to meet the offset value requirements of the permit. Given the owners would not agree to that area being used as an offset, this option cannot be explored.
2. The owners cannot offer option two as this is not a choice they can make. The owners must achieve the request by the objectors to have the offsets on the Kaniva site, as they must meet the requirements of the Department of Environment Land Water and Planning (DELWP) response to the planning permit application and shown in their conditions on the planning permit.

In relation to the provision of offsets being offsite and not on the allotments in Kaniva, the owners have to provide offsets that meet the requirements described in the Under the ESO2 – Red-tailed Black Cockatoo (RtBC) Habitat Area overlay the reference document is *Victoria's Native Vegetation Management – A Framework for Action, 2002*. This document requires offsets to be "Like for Like", that is if a Buloke is removed, a number of Buloke





## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

trees must be protected. DELWP have stated four Buloke trees with a minimum size of 40cm diameter above ground level for the trees to be protected and this cannot be achieved on the Kaniva allotment.

The offset for the one Buloke tree to be removed is the protection (not planting as stated in the joint letter) of four mature Buloke trees with a minimum diameter of 40cm at 1.3 metres above ground level. The four Buloke trees, are among a stand of Buloke trees over 9 hectares in size, and will be protected by fencing and a vegetation management plan, which will include both offset sites, will be endorsed by DELWP and attached to the Section 173 Agreement. The Section 173 Agreement, including the vegetation management plan for both offset sites, must be registered on the title to the land **before** any native vegetation can be removed from the Kaniva site.

The owners have chosen to provide an offset for the 24 trees at another site and the current *Permitted Clearing of Native Vegetation – Biodiversity Guidelines (Department of Environment and Primary Industries)* permits offsets on land anywhere within the municipal area and the Wimmera Catchment Management Authority area. The owners have chosen a site that meets the requirements of the DELWP conditions, which is on land adjacent to the site containing the offset for the one Buloke tree.

### West Wimmera Planning Scheme:

A number of points were raised about the balance of competing elements of the planning scheme. This is the decision of the Planning Authority (Council) in their decision making process.

The consideration of balance between the environment and farm productivity is what Council must decide as the responsible authority. In relation to good farming practices – principles of good farming practices are not relevant for this planning application. In relation to the environment – this balance is what Council has to determine as the planning authority must determine.

In relation to page 4 of the Environmental Justice Australia letter, that further expert opinion should be sought on the RtBC assessment, either Council or DELWP could have sought further expert opinion if they felt necessary for them to make their decision, but both entities have considered the expert advice submitted with the permit application to be sufficient.

The mediation meeting did not achieve a successful resolution, but as stated in the formal report, further mediation may be available by a qualified Victorian Civil and Administrative Tribunal (VCAT) mediator if a Notice of Decision to Grant a Permit is issued by Council and an application for review of the application is lodged by the objectors.

### Declaration of Interests

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



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### Summary

The late correspondence does not change the tabled report on the Council agenda and the officer's recommendation to issue the permit stands.

### **Attachments:**

No.	Name	RecFind Ref
1	Bentley	16/004142
2	Joint objectors	16/004184
3	Mr van Kempen	16/004138
4	Environmental Justice Australia	16/004174

**Moved:** Councillor Warren Wait

**Seconded:** Councillor Richard Wait

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





## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

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.
  - 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:

11. 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.
12. 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.
13. 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.
14. 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.
15. All workers on the project must be informed of the conditions of the planning permit prior to any works commencing.
16. 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



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

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.

17. 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.

Carried (3/1)

### Attachments:

No.	Name	RecFind Ref
13.1.1	Planning Permit application	16/002860
13.1.2	Objection letters (7)	16/003108
13.1.3	DELWP response	16/003108
13.1.4	Ecological significance assessment of scattered trees proposed for removal	16/002860
13.1.5	Offset site report	16/002860



## **ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL**

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



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

### **15.0 LATE ITEMS OF BUSINESS**

Nil

### **16.0 SEALING SCHEDULE**

Nil

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

Nil

### **18.0 FAREWELL COMMENTS FROM COUNCILLORS**

Councillors who are not standing as candidates in the 2016 Local Council Election are invited to speak (or have a message read out on their behalf), regarding their time served as a Councillor and their contribution to the Shire.

Cr. Hawkins noted it was not only the end of a meeting but the end of a Council and invited retiring Councillors to speak.

#### **Cr. Annette Jones**

CEO read a written message from Mayor Jones, who was absent from the meeting:

“I’m very sorry I can’t be present for the last Council Meeting of this term. I have to attend my daughter’s Graduation Dinner and it’s obviously not something I can postpone. In my time on Council I have only missed one Council Meeting previously and that was when I was visiting family in the UK. All West Wimmera Councillors have a similar level of commitment to the role and we rarely miss a Council Meeting.

Four years ago I was elected to represent my community, I have taken this role very seriously and I have worked to the very best of my ability. It’s a role in which one is frequently required to express an opinion and this is not without its challenges. Over this term we have had some significant wins and it has been a very rewarding experience. I am proud to have served as Mayor for the last two years and I thank the Councillors who have supported me in this role.

I’d like to acknowledge the staff and thank them for the support they have provided to me and for their hard work and their good humour.

Councillor Richard Wait, I’d like to thank you for all the late at night phone calls, the support you have provided to me personally and for your contribution to this Council. Best of luck in your future endeavours. Combining the role of a Councillor with that of having your family is a challenge. It’s important to encourage participation from a broad cross section of the community and I would hope that this could be given further consideration over the coming years.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

I would like to acknowledge the efforts of Councillor Warren Wait and Councillor Ron Hawkins. They have served as Councillors over many years and it's important to acknowledge their contribution and thank them for their service to the community. I wish them well in their retirement. Councillor Meyer, your future in Council is in the hands of the electorate and whatever happens, there will be a fantastic opportunity with a new Council and new Councillors to bring new ideas and fresh thinking to the table.

We can point to some significant achievements over the last 4 years although I acknowledge that there is still much to be done. Population decline and balance a challenging budget will remain on everyone's agenda for some time to come. These are major problems. We will need the new Council to, not only focus upon these important challenges but also create new opportunities.

In passing the baton on, I wish the new Council well and look forward to seeing what it can achieve."

Mayor Annette Jones

### **Cr. Richard Wait**

Cr. Wait thanked the community as a whole for their support and it has been a privilege to represent them. The role of Councillor has given him a broad understanding of the West Wimmera community. He also thanked the staff of their support over the past four years. Cr. Wait wished Cr. Bruce Meyer luck for the future, whether in or out of Council after the election is decided. He also thanked Councillors Jones, Wait and Hawkins for their support and wished them well in their retirement.

Cr. Wait thanked the press for attending Council meetings and reporting on Council issues. Both the Mail Times and West Wimmera Advocate have been around the Council the whole time over the past 4 years and although they haven't always agreed, their enthusiasm for the Community is appreciated.

As a Councillor there is always something more we can do, something more to achieve.

Cr. Wait outlined some important projects for the future:

- Declining population is a major challenge and the Shire need jobs to bring people to our communities. He believes intensive agriculture is the key with biosecurity, access to major highways, water and available land important assets the Shire has to offer. It is a way to bring jobs to the community.
- Tourism opportunities – Cr. Wait believes we are just scratching the surface with tourism in our region. It is a great area and we need to keep promoting it.
- Pipeline for south of the Shire is an important project as it will create opportunity. Council needs to secure the best infrastructure we can to future proof our communities.
- Industrial Estate in Kaniva has been a great development and needs to be pushed. It is a great facility with opportunities for new businesses to set up an opportunity for growth.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

- Need to take advantage of location and stop through traffic – the Kaniva Fauna Park redevelopment is one.
- Gorokey Gateway project is a chance for rejuvenation and promotion as the southern gateway to the Little Desert.
- Lake Charlegrark facilities upgrade – hopes it will get over the line soon
- Harrow Rec Reserve – hope the money put forward can be used to get their facilities upgraded
- Harrow Glenelg Riverfront upgrade is also an important project to pursue.
- Apsley has many assets and is a community that seems to push forward on their own to achieve.

Councillor Wait wished all of the new councillors and new council all the best for the future.

Finally, Councillor Wait thanked his family, wife Ange and his boys. They have had to put up with a lot and without that sort of support he could not have served the community.

### **Cr. Warren Wait**

Councillor Warren Wait stated he served the Kowree Shire for 12 years and West Wimmera for over 20 years and noted that a lot of change has occurred in that time. Councillors started out as volunteers which has progressed to some pay over time.

Cr. Wait noted that the population is dropping, and looks forward to seeing what the new Council can do about it and noted his concern.

Cr Wait feels the Councillors have less powers now than when he started his career in local government. He believes it has become more city oriented and regimented which has made things harder.

Cr. Wait has met many interesting people over the years. He gave his thanks to all and wished all new Councillors well.

“You won’t win all the fights but you’ll win a few and that’s the enjoyable part of it”.

### **Cr. Ron Hawkins**

Councillor Hawkins remembered Cr. Jones once remarked that she spent the first 35 years of her life wandering around the world before she came to our community and fitted in very well. He thanked her for her service to the Council.

Cr. Hawkins wished Richard Wait well for his future endeavours. Councillors Jones and Wait are retiring after one term which is a little different to himself and Warren Wait. He thanked Cr. Bruce Meyer for his long service which started in the Kaniva Shire and then for the entire time of West Wimmera.



## ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL

Cr. Hawkins acknowledge the 32 years of service by Cr. Warren Wait. He believes he is the longest serving Councillor in Victoria. Cr. Hawkins noted that The Age called Cr. Warren to speak to him about his time as Councillor and believes he should speak to them about this great effort. Cr. Hawkins also noted that the MAV were eagerly waiting for the 30 years to turn over to present him with a special award.

The triangle (Hawkins, Meyer and W. Wait) have spoken daily, sometimes several times a day, about Council business.

Cr. Hawkins acknowledged the staff and always felt he had a very good rapport with them. He has always felt very honoured to be serving the community with them. He also thanked the CEO, David Leahy, for his works since joining West Wimmera earlier in the year. He believes he will shine in the new environment with the new Council. He acknowledged the former CEO Mark Crouch, who was with us for 5 years, and Jim McKay who was here for 7 years. He also acknowledge all other previous CEOs,

Cr. Hawkins thanked the community for their support since becoming a Councillor. He came into local government differently, as an appointed Commissioner after amalgamation, which he stated was a very character building experience.

Cr. Hawkins thanked his wife, Pauline, and his family. The rigors of the job mean there is a price to be paid by the family. Pauline has been a great support and hopes he can make up for the last 20 years over the next 20 years.

He believed it was fitting that his first meeting as a Councillor was in Edenhope and his last meeting is in Kaniva. He stated that the original attraction to becoming involved in local government was that he felt that West Wimmera had unlimited potential. He wanted to “have a dip” at developing the Shire, but also stated “we are a victim of our own success”. The Shire is asset rich but the assets per capita is one of the lowest in Australia. He reflected Cr. Richard Wait’s sentiments to get more intensive farming back to bring more people to the Shire.

When he once asked what the required qualifications are to be a Councillor he was told: “A bit of financial nouse and a lot of common sense”, which still holds true. He believes the role is to serve the local community and to protect the local community. Change is never ending and the changes we are going to experience may not be friendly to us. There will be a new Local Government Act released soon and it is uncertain what it will contain. The current relationship between the State Government and the Local Government sector is strained. He hopes that the changes don’t drive a wedge between elected members and the staff.

Certain things that don’t change though. He believes because of the geography of the shire needs the two offices to serve the people. He would also like the future Council to keep the services in house as far as possible. He believes it is critical for the social fabric our communities to keep our workforce together.



## **ORDINARY COUNCIL MEETING MINUTES – 20 OCTOBER 2016 WEST WIMMERA SHIRE COUNCIL**

Councillor Hawkins wished the new councillors well. He stated he will be watching with interest and won't be a shy ratepayer so if he has something to say, he will.

It has been a privilege to serve and it was a privilege to start the Council off.

**MEETING CONCLUDED: 8:04PM**

**NEXT MEETING: THURSDAY 17 NOVEMBER 2016  
GYMBOWEN PUBLIC HALL**