



COUNCIL MEETING MINUTES – 17 MARCH 2021 WEST WIMMERA SHIRE COUNCIL

HELD: Wednesday 17 March 2021

LOCATION: Kaniva Shire Hall – Supper Room

COMMENCEMENT: 1:58pm

PUBLIC ACCESS: Live Streaming from Council’s website
www.westwimmera.vic.gov.au

IN ATTENDANCE:	
Councillors	Senior Management Group
Bruce Meyer OAM, Mayor	Paul Brumby Interim Chief Executive Officer (CEO)
Trevor Domaschenz	
Tom Houlihan	Ashley Roberts Director Corporate & Community Services (DCCS)
Tim Meyer	Mark Marziale Director Infrastructure Development & Works (DIDW)
	Officers: Kaddie Cother, Governance Support Officer Anna Ferguson, Communications Officer

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

*Members of the public are reminded that they are required to remain silent
during this meeting, except during Section 4.0 Questions from the Gallery.*

Vision Statement:

*Our Wimmera Shire communities are healthy, thriving, diverse, harmonious,
prosperous and self-sustaining, with regional and global connectivity*



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1.0 WELCOME

2.0 OPENING PRAYER – CEO

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

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

3.1 APOLOGIES

Cr Pretlove is an apology.

Moved: Cr Trevor Domaschenz

Seconded: Cr Tom Houlihan

That Council accept Cr Jodie Pretlove's apology due to illness.

Carried (4/0)

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 2020 with regard to Conflict of Interest disclosures.

Cr Pretlove declared a conflict of interest on item 14.2 – Mobile Food Vendors stating that 'Daughter owns a Mobile Coffee Van and she regularly works with her. The van frequently operates in the West Wimmera Shire.'



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4.0 QUESTIONS FROM THE GALLERY (maximum of 30 minutes)

4.1 WRITTEN QUESTIONS ON NOTICE

Governance Rules – Division 8 Section 53:

53.4 Questions submitted to Council can be submitted as follows:

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

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

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

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

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

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



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4.2 VERBAL QUESTIONS WITHOUT NOTICE

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

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

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



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5.0 DELEGATES REPORTS (FOR INFORMATION ONLY) AS PROVIDED BY COUNCILLORS TO GOVERNANCE SUPPORT OFFICER PRIOR TO AGENDA BEING ISSUED

5.1 COUNCILLOR BRUCE MEYER OAM (MAYOR)

22/02/2021	Regional Catchment Strategy Meeting – West Wimmera
24/02/2021	World Cancer Day Public Health Awareness Event
24/02/2021	Budget Workshop
24/02/2021	Kaniva & District Progress Association Meeting
01/03/2021	Harrow & District Recreation Reserve Committee of Management AGM
02/03/2021	Opening of the CWA Regional Conference
03/03/2021	Councillor Forum
10/03/2021	Health & Wellbeing Hub Open Day
11/03/2021	Superintendent Ian Milner
16/03/2021	Capital Works Budget Workshop
17/03/2021	Victorian Small Business Commissioner Meeting
17/03/2021	LINK Neighbourhood House Tour
17/03/2021	Senior Management Council Agenda Review
17/03/2021	Council Meeting

5.2 COUNCILLOR JODIE PRETLOVE (DEPUTY MAYOR)

22/02/2021	Regional Catchment Strategy Meeting – West Wimmera
22/02/2021	Wimmera Primary Care Partnership Committee of Management Meeting
24/02/2021	World Cancer Day Public Health Awareness Event
24/02/2021	Budget Workshop
03/03/2021	Councillor Forum
10/03/2021	Health & Wellbeing Hub Open Day
16/03/2021	Capital Works Budget Workshop

5.3 COUNCILLOR TREVOR DOMASCHENZ

22/02/2021	Regional Catchment Strategy Meeting – West Wimmera
24/02/2021	Budget Workshop
03/03/2021	Councillor Forum
04/03/2021	Edenhope Fishing Competition Meeting
16/03/2021	Wimmera Mallee Tourism Committee Meeting
16/03/2021	Wimmera Tourism Advisory Committee Meeting
16/03/2021	Capital Works Budget Workshop
17/03/2021	Senior Management Council Agenda Review
17/03/2021	Council Meeting



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5.4 COUNCILLOR TIM MEYER

19/02/2021	Rail Freight Alliance AGM & Meeting
22/02/2021	Regional Catchment Strategy Meeting – West Wimmera
24/02/2021	World Cancer Day Public Health Awareness Event
24/02/2021	Budget Workshop
24/02/2021	Kaniva & District Progress Association Meeting
03/03/2021	Councillor Forum
09/03/2021	Goroke Recreation Reserve Meeting
10/03/2021	Health & Wellbeing Hub Open Day
12/03/2021	Western Highway Action Committee Meeting
16/03/2021	Capital Works Budget Workshop
17/03/2021	LINK Neighbourhood House Tour
17/03/2021	Senior Management Council Agenda Review
17/03/2021	Council Meeting

5.5 COUNCILLOR TOM HOULIHAN

22/02/2021	Regional Catchment Strategy Meeting – West Wimmera
24/02/2021	World Cancer Day Public Health Awareness Event
24/02/2021	Budget Workshop
26/02/2021	Grampians Central West Waste & Resource Recovery Group LG Forum
01/03/2021	Tri-Annual Harrow Recreation Reserve AGM
03/03/2021	Councillor Forum
10/03/2021	Health & Wellbeing Hub Open Day
16/03/2021	Capital Works Budget Workshop
17/03/2021	LINK Neighbourhood House Tour
17/03/2021	Senior Management Council Agenda Review
17/03/2021	Council Meeting

Cr Tom Houlihan Noted – A tribute to the committee, the volunteers and supporters that attended the Edenhope Races. Exceptional day out, great recovery from COVID-19 the way the community supported. Well done to the Edenhope Race Club.

5.6 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.



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6.0 CONDOLENCES

Cr Tim Meyer – I would like to send our condolences to the family of Geoff Price, Kaniva Shire Secretary from 1980-1991 and member of the West Wimmera Shire Council Audit Committee 2012-2020. Held in the highest regard.

Mayor Bruce Meyer – Very well respected in the community and very good at his job. Left us in good stead. We do pass our condolences onto the family.

Moved: Cr Tim Meyer

Seconded: Cr Tom Houlihan

That Council send a letter of condolence to the family of Geoff Price, a former Kaniva Shire Secretary from 1980-1991 and a member of the West Wimmera Shire Council audit committee from 2012-2020.

Carried (4/0)

7.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETING – 17 FEBRUARY 2021

RECOMMENDATION:

That the Minutes of the Council Meeting held on Wednesday 17 February 2021 be taken as an accurate record and confirmed.

Moved: Cr Trevor Domaschenz

Seconded: Cr Tim Meyer

That the Amended Minutes of the Council Meeting held on Wednesday 17 February 2021 be taken as an accurate record and confirmed.

Minutes to include Cr Trevor Domaschenz abstained from voting on item 14.2 Risk Management Policy & item 14.3 Community Engagement Policy

Carried (4/0)

8.0 BUSINESS ARISING FROM PREVIOUS MINUTES



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9.0 NOTICES OF MOTION

9.1 ACKNOWLEDGEMENT FOR WEST WIMMERA SHIRE COUNCIL – NOM 2021/01 – CR TREVOR DOMASCHENZ

Preamble

An Acknowledgement to the traditional custodians of the land is missing from the West Wimmera Shire Council Agenda to be read out at council meetings, events and ceremonies that West Wimmera Shire Council Staff and Councillors attend.

Motion:

That at all West Wimmera Shire Council meetings, special meetings, events and ceremonies that are officiated by the West Wimmera Shire Council, it be read out that:

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

Moved: Cr Trevor Domaschenz

Seconded: Cr Tom Houlihan

That at all West Wimmera Shire Council meetings, special meetings, events and ceremonies that are officiated by the West Wimmera Shire Council, it be read out that:

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

Carried (3 for/1 abstain)

Attachments:

No.	Name	RecFind Ref
9.1.1	Notice of Motion – 2021/01 – Cr Trevor Domaschenz	E21/000025



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10.0 COUNCILLOR FORUM RECORD – 3 MARCH 2021

RECOMMENDATION:

That the Record for the Councillor Forum held Wednesday 3 March 2021 be received and noted.

Moved: Cr Trevor Domaschenz

Seconded: Cr Tom Houlihan

That the Record for the Councillor Forum held Wednesday 3 March 2021 be received and noted.

Carried (4/0)

11.0 DEPUTATIONS AND PETITIONS



12.0 CHIEF EXECUTIVE OFFICER AND GOVERNANCE

12.1 COUNCILLOR INFORMATION PRIVACY POLICY

FILE NUMBER: AD0025

REPORT AUTHOR: PAUL BRUMBY, INTERIM CHIEF EXECUTIVE OFFICER

Introduction

Each day Council staff deal with private information. Three Victorian Acts, the Privacy and Data Protection Act 2014, the Protected Disclosure Act 2012 and the Health Records Act 2001 all legislate how Council must manage and protect private information.

Declaration of Interests

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

Background

This Information Privacy Policy provides guidance to Council staff in safeguarding personal and sensitive information that Council holds or has access to, while complying with its legislative requirements under the Privacy and Data Protection Act 2014, the Protected Disclosure Act 2012 and the Health Records Act 2001.

The most recent version of this policy was adopted by Council on 19 February 2020.

The draft Information Privacy Policy is a significantly upgraded version of the 2020 policy, with the major changes being:

- written in plain English,
- more detailed purpose and scope,
- policy details addressing the 11 principles,
- detailed description of the privacy principles with examples of what each of them may look like from WWSC perspective,
- privacy breaches,
- privacy complaints process.

Risk Management Implications

Failure to review the Information Privacy Policy in line with the “next review date” creates a risk that Council’s policy suite is out-of-date. Maintaining up to date policies is a key element of good governance.

Legislative Implications



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Privacy and Data Protection Act 2014
Protected Disclosure Act 2012
Health Records Act 2001

Environmental Implications

Nil

Financial and Budgetary Implications

The review of the Information Privacy Policy has been undertaken in-house using existing resources and budgets.

Policy Implications

This report is supported by the following West Wimmera Shire Council Policies:
Communications Policy
Councillor Code of Conduct Policy
Media Relations Policy
Protected Disclosures Policy

Council Plan Implications

This report supports the following section of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 1: A proactive, well governed, professional and financially sustainable organisation that encourages community participation.

Communication Implications

Following adoption of the reviewed policy all staff will be notified of the revised document.

Conclusion

The draft Information Privacy Policy has been reviewed and substantially expanded to make it more usable which will enable staff to better discharge their obligations when managing and protecting private information. It also clearly articulates to the general public how Council manages and protects private information that they give to Council.



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OFFICER RECOMMENDATION:

That Council adopt the draft Information Privacy Policy.

Moved: Cr Trevor Domaschenz

Seconded: Cr Tim Meyer

That Council adopt the draft Information Privacy Policy.

Carried (4/0)

Attachments:

No.	Name	RecFind Ref
12.1.1	Information Privacy Policy DRAFT	



12.2 EDENHOPE PLAY SPACES MASTERPLAN

FILE NUMBER: PS0304

REPORT AUTHOR: PAUL BRUMBY, INTERIM CHIEF EXECUTIVE OFFICER

FOR DECISION

Introduction

Having a masterplan for all outdoor Council play spaces in Edenhope will enable Council to make future investments in play spaces in a planned and coordinated manner. It will also provide Council with a strategic tool to advocate for external funding of investment in play spaces.

Declaration of Interests

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

Background

Council currently has five outdoor play spaces in Edenhope:

- Anne Street Playground
- Lake Wallace Foreshore
- Lions Park
- Henley Park
- Apex Park

Attachment 1 is an aerial image of Edenhope showing the location of these play spaces.

Council does not currently have a strategic planning document available to guide the future development of, and investment in, play spaces in Edenhope, and this lack of strategic guidance has stalled implementation of the current budget allocation for additional play equipment in Edenhope and to remove and replace the existing (closed) toilet block at the tennis courts beside the bowling club.

Risk Management Implications

Failure to have a strategic planning document available to guide the future development of, and investment in, play spaces in Edenhope could lead to the haphazard development of play spaces. This could result in unnecessary duplication or gaps in the play activities offered for children and their carers wishing to use these play spaces and is also an inefficient use of Council's funds.



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Legislative Implications

Nil.

Environmental Implications

Play spaces are an important component of the built environment and the planned development and use of such spaces needs to address their impact on the surrounding environment and the amenity of their location.

Financial and Budgetary Implications

The Edenhope Play Spaces Masterplan will be undertaken by an external consultant with specific experience in this field.

Council carried forward an amount of \$20,000 from the 2019-2020 financial year that was originally allocated to the purchase and installation of additional playground equipment at Henley Park (West Wimmera Shire Council Adopted Budget 2019-2020 page 40). This amount has not yet been spent due to community feedback in relation to the proposed style and siting of the new equipment.

This report proposes to reallocate the \$20,000 carried forward for the purchase and installation of additional playground equipment at Henley Park to the Edenhope Play Spaces Masterplan project.

Policy Implications

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

- Asset Management Policy
- Communications Policy
- Community Engagement Policy
- Play Space Management Policy
- Township Amenity Policy

Council Plan Implications

This report supports the following sections of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 3: Quality sustainable community services and infrastructure.
- Strategic Objective 5: Thriving, safe and diverse local communities.
- Strategic Objective 6: Participating in activities that address health and wellbeing issues.
- Strategic Objective 7: Providing access to and promoting the natural environment.



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Communication Implications

The development of the Edenhope Play Spaces Masterplan will involve collaborative engagement with the Edenhope community and other stakeholders, in accordance with Council's Community Engagement Policy.

Conclusion

The development of an Edenhope Play Spaces Masterplan will provide the strategic framework to guide the future development of, and investment in, play spaces in Edenhope and provide a tool to advocate for play spaces grant funding from both State and Federal governments. The Edenhope Play Spaces Masterplan can be funded in the current financial year by the reallocation of the \$20,000 carried forward for the purchase and installation of additional playground equipment at Henley Park.

OFFICER RECOMMENDATION:

That Council reallocate the \$20,000 carried forward for the purchase and installation of additional playground equipment at Henley Park to the development of an Edenhope Play Spaces Masterplan.

Moved: Cr Trevor Domaschenz

Seconded: Cr Tom Houlihan

That Council reallocate the \$20,000 carried forward for the purchase and installation of additional playground equipment at Henley Park to the development of an Edenhope Play Spaces Masterplan.

Carried (4/0)

Attachments:

No.	Name	RecFind Ref
12.2.1	Play Spaces Aerial Location Map	



13.0 INFRASTRUCTURE DEVELOPMENT AND WORKS

13.1 OPPORTUNITY TO PURCHASE OF RAILWAY RESERVE, GOROKE QUARRY.

FILE NUMBER:

REPORT AUTHOR: TERRY OUGH, MANAGER WORKS, AND DIDW

FOR DECISION

Introduction

West Wimmera Shire Council has in the past expressed interest in the leasing or purchasing part of the railway corridor that was existing between Natimuk and Goroke adjacent to a parcel of land already owned by Council where there is a sandstone work authority managed by council for the purpose of supplying road making material.

An application was submitted some time ago for the leasing of the section of land for the purpose of quarrying as an extension to Councils current work authority that is nearly exhausted of pavement material. A recent response from Vic Track was received expressing no desire to lease the parcel of land and indicated that the purchase of the parcel would be considered.

Councils Works and Assets division lodged an expression of interest to purchase the railway reserve parcel of land as an adjoining landowner, this was assessed and the sale of the allotment was to progress in line with sale of public land protocols.

Information was received that the parcel of land will be offered to Council as the first right of reply.

Declaration of Interests

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

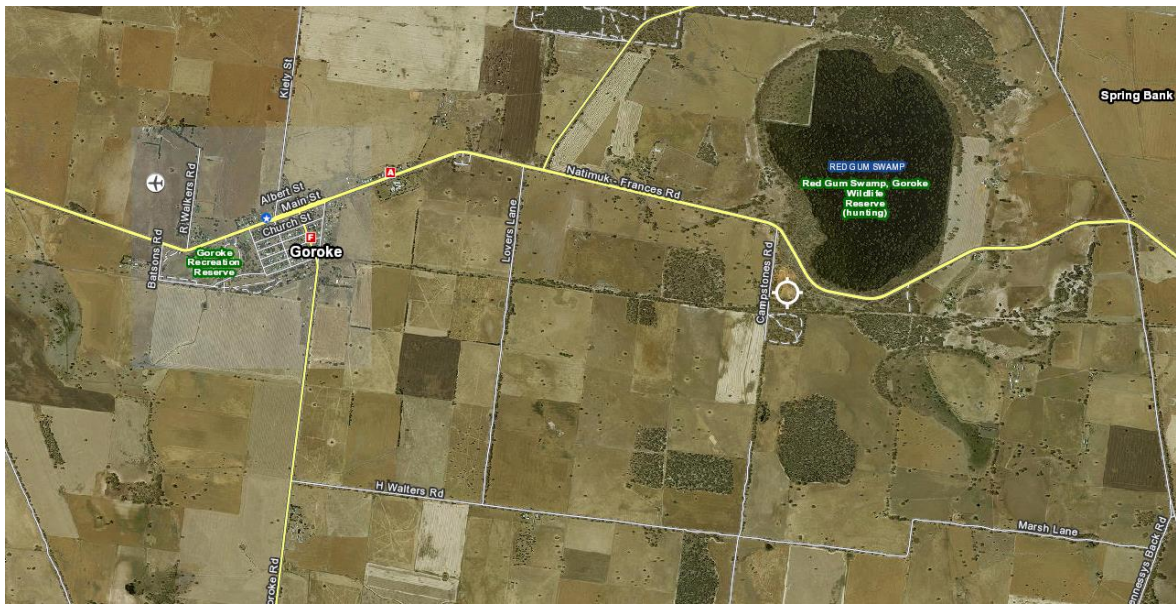
Background

Location Map:

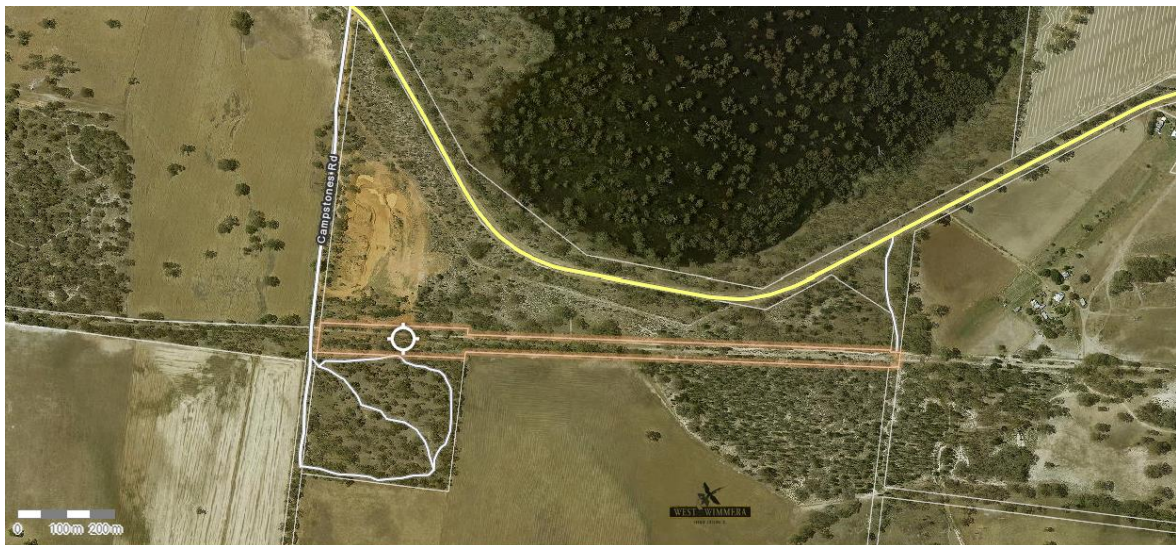
The Goroke sandstone pit is situated off the Natimuk Frances Rd 3 km's east of Goroke on Campstons Rd.



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Subject Land: - ARTC Land PARCEL SPI 50\PP2708, PARCEL PFI 130108620



Council owns the Goroke Gravel Quarry, the adjoining parcel of land, PARCEL SPI 1\TP131492 PARCEL PFI 45381273 located to the north side of the subject ARTC Land. Council's adjoining Goroke quarry allotment is approx. 10 Hectares in area, including it has a Work Authority over part of that parcel, clearly visible extraction activity on the above Subject Land map.

The original extraction area was centred on a Gravel Reserve under the land management of DELWP, this reserve was divided by the railway corridor when established leaving 2 separate areas of gravel reserve. Council over the years has extracted surface gravel and then started to extract sandstone within the smaller section of the reserve. As this area ran



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out Council established a Work Authority over a section of land owned by Council to enable continued supply of pavement materials for the Goroke district.

In the past Council had made enquiry to DELWP for the purchase of the gravel reserve to future proof its materials supply. This was never successful but could still be considered pending the outcome of the rail corridor parcel of land.

Council still holds with DELWP an extractive licence on the small section of gravel reserve that joins the proposed section of rail corridor enabling an extended work authority to extend into the railway corridor.

Risk Management Implications

Risks of Ownership - Public Liability – response measure will be fencing with signage to prevent trespass, or entry by unauthorised persons.

Risk - Quarry Operations -

Risk – Legal – Council already holds the Mineral Resources & Sustainability Act, Work Authority, which is a type of Permit including conditions relating, rehabilitation, decommissioning, and to the management of cultural heritage and bushfire hazards on the land.

Legislative Implications

Local Government Act 1989 & 2020,

Section Asset Acquisition -

Mineral Resources and Sustainability Act 1989

Planning & Environment Act 1987

Environment Protection Act 1989

Environmental Implications

Impacts on the environment will be considered within the Work Authority detail required by DEDJTR. The purchase of the rail corridor joining Councils allotment could be a positive outcome with possible future vegetation offsets as part of the whole area under Council ownership.

Financial and Budgetary Implications

Costs will include purchase of land with a shared cost for valuation.

Land value is expected to be based on farmland values, at approx. \$7500 to \$8000, plus surveying costs.

Policy Implications

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

Asset Capitalisation Policy

Procurement Policy



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Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 3: Quality sustainable community services and infrastructure.
- Strategic Objective 4: Building on our agricultural and business strengths and supporting economic development.

Communication Implications

Public Consultation in accordance with Council's Communications and Consultation Policies.

Conclusion

The opportunity to purchase the freehold title for the subject ARTC Railway land is anticipated to provide Council with long term financial benefit and security of access to sandstone required for road construction.

The prospective purchase of the subject railway land will give financial and workflow efficiencies, through economies, such as enabling use of an extension to the existing Grave Pit Works Authority allowing gravel works through the subject land, rather than the higher expense of having to apply for a new Works Authority on the other side of the railway land.

The extent of the opportunity, would be best appraised and explained with a guided site inspection by Councillors as part of the forthcoming 2022 Draft Shire Budget Tour.

OFFICER RECOMMENDATION:

That Council resolves to support the responsible Officers, to continue with their research of the business case, with intent to potentially acquire the subject ARTC railway land adjoining the Goroke Gravel Reserve.

Moved: Cr Trevor Domaschenz

Seconded: Cr Tom Houlihan

That Council resolves to support the responsible Officers, to continue with their research of the business case, with intent to potentially acquire the subject ARTC railway land adjoining the Goroke Gravel Reserve.

Carried (4/0)



14.0 CORPORATE AND COMMUNITY SERVICES

14.1 REMOVAL OF S.86 STATUS FROM PLANT COMMITTEE

FILE NUMBER: AD0004

REPORT AUTHOR: ASHLEY ROBERTS, DIRECTOR CORPORATE AND COMMUNITY SERVICES

FOR DECISION

Introduction

West Wimmera Shire Council (Council) facilitates an internal Plant Committee which has the responsibility to review and recommend plant requirements and costing structures. This committee has previously been established as a special committee of Council under S.86 of the *Local Government Act 1989* (the Act).

Declaration of Interests

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

Background

When the Plant Committee was established a number of years ago, it was established as a special committee of Council under S.86 of the *Local government Act 1989*. This section of the Act allows Council to delegate some of its powers to the Committee, exceptions being:

86(4) A Council cannot delegate to a committee the following powers—

- (a) this power of delegation;
- (b) to declare a rate or charge;
- (c) to borrow money;
- (d) to enter into contracts for an amount exceeding an amount previously determined by the Council;
- (e) to incur any expenditure exceeding an amount previously determined by the Council;
- (f) any prescribed power.

With the assent of the *Local Government Act 2020*, Section 86 of the *Local Government Act 1989* was repealed and replaced by Sections 63 (Delegated Committees), 64 (Joint Delegated Committees) and 65 (Community Asset Committees) of the *local Government Act 2020*.



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The definition of a delegated Committee of Council under the *Local Government Act 2020* is:

delegated committee means—

1. a delegated committee established by a Council under section 63; or
- (b) a joint delegated committee established by 2 or more Councils under section 64; or
- (c) a committee, other than a Community Asset Committee, exercising any power of a Council under this Act or any other Act delegated to the committee under this Act or any other Act;

A Community Asset Committee under S.65(2) ‘may be established for the purposes of managing a community asset in the municipal district’. As the Plant Committee does not directly manage a community asset then S65 of the Act is not applicable in this instance.

A joint delegated committee under s.64 refers to a committee established by two or more councils. As the Plant Committee advises solely the West Wimmera Shire Council, it will not fill the criteria of s.64 to be established as a joint delegated committee.

The Plant Committee could be established under s.63 of the *Local Government Act 2020*, as this section allows for Council to delegate some of its powers to a delegated committee.

However the question must be posed – does the Plant Committee actually have or need delegated authority from Council?

The Plant Committee is an advisory committee which proposes plant replacement schedules which are adopted by Council in its annual budget. The Plant Committee does not enter into contracts or commit Council to funding, rather that is done by separate Council resolution. It would appear that the Plant Committee does not require delegated authority to continue to provide advice to Council, and did not actually need to be established under s.86 of the 1989 Act initially.

Risk Management Implications

A delegated committee has authority to act on Council’s behalf, and as such, dependent upon the delegations allowed by Council, commit Council to obligations, operational or potentially financial. A clear instrument of delegation must be made for each and any delegated committees of Council to mitigate the risk of inappropriate action by such a committee.

Legislative Implications

Sections 63, 64 and 65 of the *Local Government Act 2020* cover three different forms of delegated committees. This in effect replaces section 86 of the *Local Government Act 1989*.



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There are no specific mentions of advisory committees in the *Local Government Act* 2020. The remnant sections of the *Local Government Act* 1989, define advisory committees as:

advisory committee means any committee established by the Council, other than a special committee, that provides advice to—

- (a) the Council; or
- (b) a special committee; or
- (c) a member of Council staff who has been delegated a power, duty or function of the Council under section 98;

In effect advisory committees remain largely a matter for individual Councils. It is possible for Council, or the Chief Executive Officer under delegation, to maintain whatever advisory committees it sees fit to provide specific advice to allow Council to undertake its required duties. These advisory committees have no delegated authority or legal power to commit Council to any activity or obligation.

It appears however that Council's Plant Committee is in effect an internal advisory committee of Council. It consists of a number of staff representatives including representative from the Works, Engineering and Finance business units of Council. It is tasked with analysing plant requirements and recommending plant replacement schedules to Council via the annual budget process. It does not commit Council to any activities or financial obligations, but rather provides advice to Council's budgetary and asset replacement responsibilities.

Environmental Implications

Not commented on.

Financial and Budgetary Implications

An advisory committee has no authority to commit Council to any budgetary or financial expenditure. The Plant committee as it stands does not commit Council to expenditure but rather provides budgetary advice and recommendations for plant replacement which Council then resolves on. In this manner the Plant Committee operates as an advisory committee, not a delegated committee.

Policy Implications

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

Council Plan Implications



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This report supports the following section/s of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 1: A proactive, well governed, professional and financially sustainable organisation that encourages community participation.
- Strategic Objective 3: Quality sustainable community services and infrastructure.

Communication Implications

As the Plant Committee is an internal committee of Council, the stakeholders are relatively easily accessible. Owing to this and the fact that the proposed amendment to the status of the Plant Committee is procedural in nature there would be no requirement for significant public consultation on this matter other than the matter being placed on agenda at a publicly accessible meeting with a public resolution on the matter.

Conclusion

Section 86 of the *Local Government Act 1989* has been repealed with the advent of the *Local Government Act 2020* and in effect replaced by section 63,64 and 65 of that later Act. Accordingly any Council committees that were constituted under section 86 of the former Act must be amended and reconstituted to comply with the latter Act.

Council's Plant Committee was established under s.86 of the *Local Government Act 1989* but is operating as an internal advisory committee of Council. It currently provides advice to Council on the plant replacement requirements to be included in the annual and 4 year budgets and 10 year financial and asset plans. It does not enter into any contracts nor commit Council to any expenditure or resource consumption. As such it does not require the status of a delegated committee and may be defined as an advisory committee of Council.

OFFICER RECOMMENDATION:

That Council resolves that the Plant Committee:

- 1. be regarded as an advisory committee to Council and;**
- 2. not receive delegated committee status under s.63 of the Local Government Act 2020**



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Moved: Cr Trevor Domaschenz

Seconded: Cr Tim Meyer

That Council resolves that the Plant Committee:

- 1. be regarded as an advisory committee to Council and;**
- 2. not receive delegated committee status under s.63 of the Local Government Act 2020**

Carried (4/0)



14.2 MOBILE FOOD VENDORS – COMMUNITY FEEDBACK

FILE NUMBER: AD0068

**REPORT AUTHOR: ASHLEY ROBERTS, DIRECTOR CORPORATE AND
COMMUNITY SERVICES**

FOR DECISION

Introduction

West Wimmera Shire Council (Council) resolved at its December 2020 Confidential Council Meeting to seek public comment on the applications received by Council for the provision of Mobile Food Vendors in both Edenhope and Kaniva.

This report provides Councillors feedback on the community consultation received.

Declaration of Interests

The writer of the report declares that two of the applicants are Council employees, and as such an indirect conflict of interest may exist. This report will provide no recommendation to Council but will simply provide the outcomes of the Public Consultation process for Councillors to formulate a position.

Background

In accordance with Council's resolution from December 2020, the three Mobile Food Vendor applications were advertised for comment on Council's website and social media and also in local papers.

A number of comments were received by Council on these, some being positive, some being negative.

A number of objections were received from local business owners. Three objections were received from Edenhope business operators with four coming from Kaniva.

The common theme in these objections concerned competition to the established local vendors with a perception of reduced overheads and regulatory costs for mobile vendors. Some concern was also raised from the Kaniva businesses around the use of a community facility (wetlands) to facilitate a private business and also the lack of connection between the wetlands and main shopping area potentially providing greater market accessibility for the mobile vendor based there.



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There were also a number of comments and letters of support for the provisioning of mobile food vendors received through the consultation process.

There have been 15 comments and letters of support received from Kaniva (3 from businesses, one from a community group and 11 from others) and 6 from Edenhope (from other non-business respondents).

Some further information for Councillors to consider:

- All three applicants have provided all required insurance policy details (including public liability).
- DELWP have provided landowner consent to allow use of the Lake Wallace reserve. It is understood that Council controls the crown reserve at Kaniva that the vendor would be situated on.
- A permit fee of \$116 for a period of 3 months is proposed, based upon DELWP recommendation. This is on top of a food vendor registration requirement.
- The permit and food registration allows for the vendor to operate up to 25 hours per week.
- Advice received is that under Council's Planning Scheme competition is not a valid reason for rejecting an application.

Risk Management Implications

Council will need to consider the potential reputational issues from either approving or rejecting all or any of these applications. For example if Council approves the applications it may be seen by some areas of the community not to be supporting its existing business (although it might be said restrictions placed on the mobile vendors may mitigate this somewhat). Conversely if the applications are rejected or conditions placed upon the mobile vendors operating it may be seen by some sections of the community that Council is not supporting new business development and competition within the municipality.

Legislative Implications

Council will need to ensure all legislative requirements are met by any mobile food vendors – this will include items such as food safety legislation, Occupational Health and Safety issues as well as the *Local Government Act 2020*.

Council does not currently have a local law governing the provision of mobile food vendors. Consequently Council will need to directly resolve to issue or not to issue permits allowing the mobile food vendors to operate or not.

In issuing a permit directly, Council will need to ensure that the potential vendors have sufficient registration under the *Food Act 1984*. Under this legislation all food sellers must be registered regardless of whether they operate from a fixed or mobile premises. This



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registration is done via the Stretrader system. All vendors have obtained suitable registration.

In addition to this a Statement of Trade must be lodged with Council by each vendor. This statement must outline when and where the vendors propose to operate their mobile vans. All vendors have lodged these.

In addition to this Council must consider the appropriateness of the positioning of the mobile vendor vans in relation to both the Planning Scheme and landowner approval.

The activity undertaken by the vendor (i.e serving food and beverages) must be allowable under the West Wimmera Planning Scheme per the *Planning and Environment Act 1987*. In simple terms, the Planning Scheme must allow the selling of food and beverages in the zone where the vendors are proposing. There are no issues with the vendors operating where they propose.

Council also needs to ensure that any land owner approvals that are required are obtained before a permit is issued.

The position of the two vendors at Edenhope requires the Department of Environment, Land, Water and Planning (DELWP) give approval as the land owner. This approval has been granted.

The proposed location of the Kaniva vendor is on a Council reserve, as such Council may grant approval or not.

Finally Council must consider all feedback, including objections and support, resulting from the community engagement process undertaken on this matter. Council must consider whether or not the basis of the objections form ground for refusal of a permit.

Environmental Implications

Whilst not directly explored in this report, each Mobile Vendor will be required to implement suitable waste management practices to prevent any environmental contamination arising from their operations.

Financial and Budgetary Implications

Based upon discussions with DELWP and other municipalities, a permit fee of \$116 per three months, allowing up to 25 hours of trading per week, is proposed for each of the Mobile Vendors. This income is not currently budgeted.

Policy Implications

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



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Council currently has no policies directly affecting mobile food vendors.

Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 3: Quality sustainable community services and infrastructure.
- Strategic Objective 5: Thriving, safe and diverse local communities.
- Strategic Objective 6: Participating in activities that address health and wellbeing issues.

Communication Implications

The outcome of Council's decision on Mobile Vendors is of high interest to the community, evidenced by the responses received to the public consultation. Council's decision will need to be carefully, clearly and swiftly communicated to all stakeholders and the public.

Conclusion

Council has received three applications for mobile food vendors to operate within the shire, two out of Edenhope and one out of Kaniva.

These businesses offer an opportunity for Council to grow competition within its business community, but at the same time provide an amount of risk for our existing businesses.

A short public consultation period resulted in a number of comments being received, including a number of objections from existing businesses. Council must consider the potential for business growth against the potential for decline in existing businesses in making its decision upon awarding permits for these new form businesses, whilst always complying with legislative and planning zone requirements.

OFFICER RECOMMENDATION:

That Council:

- 1. Considers the feedback received from the community engagement process on the three mobile food van applications; and**
- 2. Resolves to award or not to award a permit to all or any of the 3 applicants to carry out a mobile food vendor business at the locations specified in the applications.**



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Moved: Cr Tim Meyer

Seconded: Cr Trevor Domaschenz

That:

- 1. The Council has considered the feedback received from the community engagement process on the three mobile food van applications; and**
- 2. Resolves to award a permit to all of the 3 applicants to carry out a mobile food vendor business at the locations specified in the applications.**

Carried (3 for /1 against)



14.3 COVID-19 FINANCIAL HARDSHIP RATE RECOVERY POLICY

FILE NUMBER:

REPORT AUTHOR: LEILANI DAWES, RATES COORDINATOR

FOR DECISION

Introduction

The COVID-19 Financial Hardship Rate Recovery Policy (the Policy) aims to provide rate payment support to ratepayers experiencing financial hardship due to COVID-19 restrictions.

The reviewed COVID-19 Financial Hardship Rate Recovery Policy has been updated to provide a framework for providing relief to impacted ratepayers.

A draft copy of the Policy is attached for Councillors information. After considering feedback received at the Councillor Forum the final draft form of the Policy is provided to the March 21 Council Meeting for adoption by Council.

Declaration of Interests

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

Background

The COVID-19 pandemic has caused government both State and Commonwealth to institute a series of ‘lockdowns’ and social restrictions affecting the gathering and activities of people to reduce the spread and medical impact of the COVID-19 virus.

West Wimmera Shire Council has a Covid-19 Financial Hardship Rate Recovery Policy to support ratepayers experiencing financial hardship because of COVID-19 restrictions.

The Policy is aligned with the National Cabinet Advice on Principles for Hardship Provision for energy, water and rates, 09 April 2020.

These principles are:

- Offering flexible payment options to all households and small businesses in financial stress – including small businesses eligible for the JobKeeper Payment;
- Not disconnecting restricting supply/services to those in financial stress;
- Deferring debt recovery proceedings and credit default listing;
- Waiving late fees and interest charges on debt.



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The media release noted, “Those who can continue to pay their bills need to keep doing so - this is critical to ensuring the ongoing viability of essential services providers. But we need to ensure an appropriate safety net is in place for those experiencing financial stress. These are extremely challenging times. It is vital that essential service providers work with governments to deliver the support the Australian people need.”

Council has reviewed the Policy to ensure it has the flexibility to provide support to eligible recipients.

Key changes include:

- Updating dates and timeframes to be more generalised, in response to the nature of restrictions being becoming responsive and dynamic.
- Update to Application Form.
- Revised use of language and document tone.

It is important to note that the Policy only applies to those ratepayers negatively affected by the COVID-19 pandemic and lockdown. Council’s existing Rate Recovery and Financial Hardship Policy will continue to apply in all cases where ratepayers claiming hardship relief cannot show that the effects of the COVID-19 pandemic have caused their hardship.

Risk Management Implications

There are considerable risk implications for Council treated by the Policy.

The effect of the COVID-19 pandemic and lockdown on the economic situation of Council and the shire may be significant and long lasting. Businesses particularly within the shire may be significantly negatively affected to the point that they may cease to trade. This of course will impact with significant flow on damage to Council from lower employment, reduced growth, reduction in rate base and rate payers and ultimately rate income to Council. Providing temporary rate relief and assistance may aid in the mitigation of this risk.

Council is also at serious reputational risk arising from its response to COVID-19. Council may lose public support if it continues to enforce rate charges on ratepayers who have been significantly affected by the economic downturn arising from COVID-19.

Legislative Implications

Any relief or assistance Council provides must be in accordance with the *Local Government Act 1989*. The draft COVID-19 Financial Hardship Rate Recovery Policy complies with that Act.

Environmental Implications

Not commented on.



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Financial and Budgetary Implications

To date, council officers have had conversations with only a small number of businesses, and none have followed through with an application for relief. The application process is simple and aligned with many other Councils. The application criteria has been reviewed and is considered to be appropriate.

As at 01 March 2021 87% of annual rates revenue had been recovered.

Analysis of rates accounts indicates stability in outstanding accounts in comparison with pre pandemic levels. Figure one demonstrates the end of February position of rates accounts over time. (Note, the amount outstanding, includes the 4th instalment which is not yet due.)

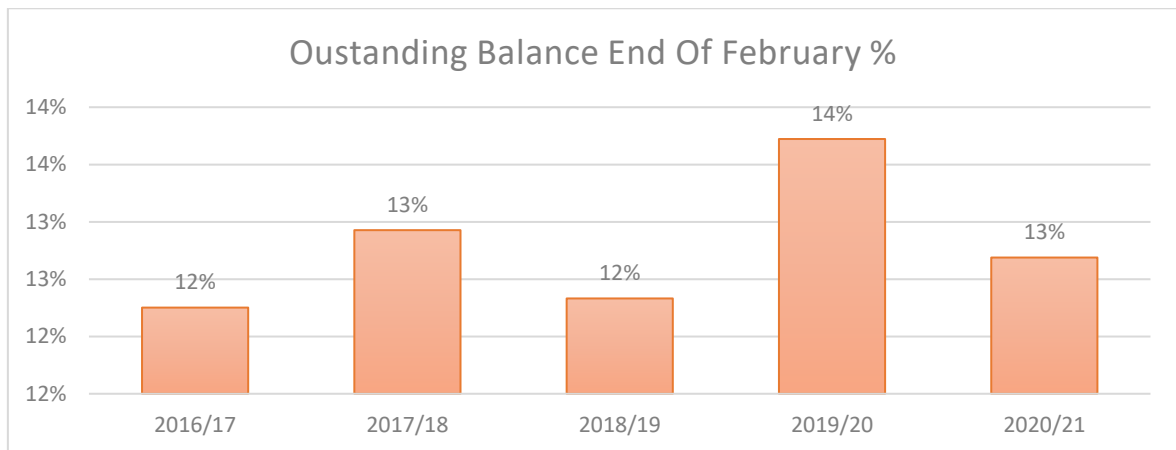


Figure 1: Percentage of annual rates received at end of February over time

Of particular interest to Council has been the distribution of rates hardship across the commercial and industrial sector of the community. A coarse analysis at this level has been conducted on the General component of the rates, see figure 2. Commercial and industrial rate recovery to date, is performing better than years past. The residential and rural recovery is comparable with earlier years.

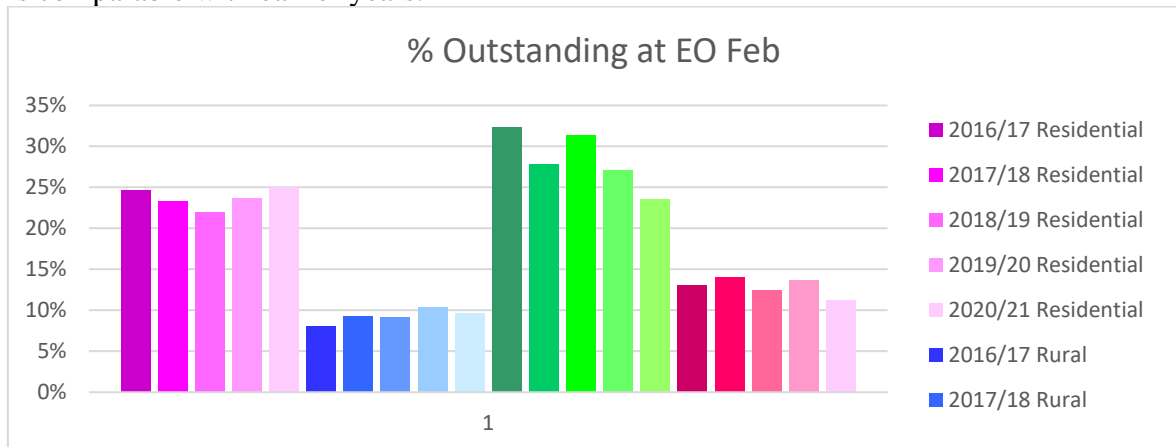


Figure 2: Percentage of general rates Outstanding by Property Category



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As rate recovery has not been impacted significantly, it can be assumed that any relief provided under this policy will have minimal financial impacts on Council.

Policy Implications

This report is supported by the following West Wimmera Shire Council Policy:
Rate Recovery & Financial Hardship Policy

Council Plan Implications

This report supports the following section/s of the West Wimmera Shire Council Plan 2017-2021:

- Strategic Objective 1: A proactive, well governed, professional and financially sustainable organisation that encourages community participation.
- Strategic Objective 5: Thriving, safe and diverse local communities.
- Strategic Objective 6: Participating in activities that address health and wellbeing issues.

Communication Implications

The Policy, if adopted will be available for all ratepayers. As such it must be advertised widely and communicated to the public clearly.

Conclusion

The COVID-19 Financial Hardship Rate Recovery Policy provides for the unique economic situation that has arisen from the COVID-19 pandemic and resultant lockdown. It extends the provisions of our existing Rate Recovery & Financial Hardship Policy by expanding the criteria for assistance to cover those who may have been uniquely affected by the effects of the pandemic.

OFFICER RECOMMENDATION:

That Council adopt the revised COVID-19 Financial Hardship Rate Recovery Policy as attached.



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Moved: Cr Tim Meyer

Seconded: Cr Tom Houlihan

That Council adopt the revised COVID-19 Financial Hardship Rate Recovery Policy as attached.

Carried (3 for/1 against)

Attachments:

No.	Name	RecFind Ref
14.3.1	Draft COVID-19 Financial Hardship Rate Recovery Policy	



15.0 LATE ITEMS OF BUSINESS

Pursuant to West Wimmera Shire Council Governance Rules – Division 3 Section 20:

20. Urgent Business

If the agenda for a Council meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council, and only then if it:

20.1 relates to or arises out of a matter which has arisen since distribution of the agenda; and

20.2 cannot safely or conveniently be deferred until the next Council meeting.

16.0 SEALING SCHEDULE



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**17.0 CONFIDENTIAL (PURSUANT TO LG ACT 2020 SECTION 66 (2)(a))
RECOMMENDATION**

1. That Council pursuant to Section 66 (2)(a) of the Local Government Act 2020 close the meeting to members of the public at ... pm to resolve on matters pertaining to the following items:

17.1 BANKING & BILL PAYMENT SERVICES TENDER

Moved: Cr Trevor Domaschenz

Seconded: Cr Tim Meyer

That Council pursuant to Section 66 (2)(a) of the Local Government Act 2020 close the meeting to members of the public at 2:59 pm to resolve on matters pertaining to the following items:

17.1 BANKING & BILL PAYMENT SERVICES TENDER

Carried (4/0)

2. That as required by Section 66 (5) (a) and (b) of the Local Government Act 2020, Council hereby records the ground or grounds for determining to close the meeting to the public as follows:

Item 17.1: BANKING & BILL PAYMENT SERVICES TENDER

Grounds: LG Act 2020 Section 3 Confidential Information

Definition (a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;

Definition (g) private commercial information, being information provided by a business, commercial or financial undertaking that—

(ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;



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Explanation: This report contains Council business information regarding commercial negotiations and private commercial information provided by the tenderers.

RECOMMENDATION

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

Moved: Cr Tom Houlihan

Seconded: Cr Tim Meyer

That the resolutions pertaining to Confidential / In-Camera items be adopted and made public (except where the resolution restricts publication) and that the reports for those items remain In-camera and that Council open the meeting to the public at 3:09pm.

Carried (4/0)

MEETING CONCLUDED: 3:11PM

**NEXT MEETING: 21 APRIL 2021
EDENHOPE COUNCIL CHAMBER**