



Yarriambiack
SHIRE COUNCIL

Agenda

Ordinary Meeting of Council

27 March 2024

COUNCIL CHAMBERS

34 Lyle Street, Warracknabeal

MEETING OF COUNCIL TO COMMENCE AT 9.30AM

We acknowledge that the activities of Yarriambiack Shire Council are being held under the traditional skies and in the waterways and lands of the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk people.

MEMBERS OF THE PUBLIC MAY VIEW THE MEETING VIRTUALLY VIA THE LIVESTREAM

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TABLE OF CONTENTS

1	WELCOME	4
2	STREAMING PREAMBLE	4
3	ACKNOWLEDGEMENT AND PRAYER	4
3.1	ACKNOWLEDGING TRADITIONAL OWNERS OF THE LAND	4
3.2	PRAYER	4
4	PRESENT	5
5	APOLOGIES	5
6	CONFIRMATION OF MINUTES	6
6.1	MINUTES 28 FEBRUARY 2024 – ORDINARY MEETING	6
6.2	MINUTES 28 FEBRUARY 2024 – CLOSED (CONFIDENTIAL) MEETING	6
7	DECLARATION OF CONFLICT OF INTEREST	7
7.1	CONFLICT OF INTEREST DECLARED	7
8	BUSINESS ARISING.....	8
8.1	BUSINESS ARISING FROM PREVIOUS MINUTES	8
8.2	ONGOING AND PENDING ACTION LIST	8
9	PETITIONS	9
10	CORRESPONDENCE	9
11	SPECIAL COMMITTEES.....	10
11.1	Audit and Risk Committee Meeting Schedule	10
11.2	Community Asset Committee – Woomelang Retirement Units.....	10
11.3	Yarriambiack Tourism Advisory Committee of Council	10
12	ACTIVITY REPORTS	11
12.1	Mayor Activity Report	11
12.2	Councillor Activity Reports	12
12.3	Chief Executive officer Activity Report.....	14
13	PUBLIC QUESTIONS	16
13.1	Questions Submitted	16
14	COUNCILLOR REPORTS	17
14.1	Mayors Report	17
15	REPORTS FOR DECISION	18
15.1	Craigs Channel – Redundant as a Public Drain Classification	18
15.2	Southern Wimmera Renewables Research Association Advocacy Group request regarding Proposed Campbells Bridge Wind Project	25
15.3	Lions Park Warracknabeal 17B Agreement	31
15.4	Corporate Debit and Credit Card Policy	34
15.5	Woomelang Retirement Units Community Asset Committee of Council – adoption of committee members.....	36
15.6	Enabling Tourism Funding Application.....	39

15.7	Common Seal and Conduct at Meetings 2024 Local Law.....	42
15.8	Planning Permit Application PA2024003 – 165-167 Scott Street Warracknabeal	45
16	COUNCIL REPORTS FOR NOTING	49
16.1	Craig Avenue Bridge Repair.....	49
17	PERMITS ISSUED	50
18	URGENT BUSINESS	51
19	CLOSED (CONFIDENTIAL) MEETING	52
19.1	Permit To Store Unregistered Vehicles	52
19.2	Internal Audit Contract Extension C265-2020	52
20	NEXT MEETING	52
21	CLOSED	52

OUR VISION

A connected rural community who values its land and wellbeing.

We will achieve this vision through:

- ✓ Supporting agriculture
- ✓ Strengthening business and tourism
- ✓ Staying connected through infrastructure
- ✓ Being a supportive Council
- ✓ Looking after our communities
- ✓ Being environmentally friendly

CONTINUOUS IMPROVEMENT

We drive continuous and sustainable improvement in service provision, operational efficiency, and stakeholder relations to create a leading organisation.

LIVE STREAMING

Council meetings will now be live streamed to allow those interested in viewing proceedings greater access to Council decisions and debate without attending the meeting in person.

1 WELCOME

2 STREAMING PREAMBLE

The Chief Executive Officer is to read this section as part of the Meeting Governance process.

This Open Council Meeting is to be streamed live, recorded and published online.

I give notice to anyone who is in the gallery, that they maybe recorded, and their image may be published online.

Anyone who submits a question as part of item 13 – Public Questions will have their name stated and recorded as part of the livestreaming and recording, which is published online.

The Chair and/or the Chief Executive Officer have the discretion and authority at any time to direct the termination or interruption of livestreaming. Such direction will only be given in exceptional circumstances, where deemed relevant. Circumstances may include instances where the content of debate is considered misleading, defamatory, or potentially inappropriate to be published.

The stream will stop prior to the closed section of the meeting, and that will conclude the Meeting of Council, open to the public.

The public can view this livestream via Council's YouTube Channel, with the link available via Council's website. The recording of Council Meetings will be available for viewing until the next scheduled Council Meeting.

Should technical issues prevent the continuation of the stream, the meeting will be adjourned until the issue is resolved or the meeting will be postponed to another time and date in accordance with Council's meeting procedures and Governance Rules.

3 ACKNOWLEDGEMENT AND PRAYER

Mayor K Zanker to open the meeting at **9.30am** by acknowledging the Indigenous Community and offering the opening prayer.

3.1 ACKNOWLEDGING TRADITIONAL OWNERS OF THE LAND

'We acknowledge that the activities of Yarriambiack Shire Council are held under the traditional skies and in the waterways and lands of the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk people, and we pay respects to their Elders, past, present and emerging'.

3.2 PRAYER

Almighty God, without whom no Council can stand, nor anything prosper we ask that you be present and guide us in our deliberations today. We pray that we will be fair in our judgements and wise in our actions and that decisions will be made with goodwill and a clear conscience for the betterment and welfare of the people of Yarriambiack Shire.

Amen

4 PRESENT

Mayor	Kylie Zanker	Warracknabeal Ward
Councillor	Andrew McLean	Hopetoun Ward
Councillor	Tom Hamilton	Dunmunkle Ward
Councillor	Graeme Massey	Warracknabeal Ward
Councillor	Chris Lehmann	Hopetoun Ward
Councillor	Corinne Heintze	Dunmunkle Ward
Councillor	Karly Kirk	Warracknabeal Ward

Council Officer	Tammy Smith	Chief Executive Officer
Council Officer	Tony Caccaviello	Chief Operating Officer
Council Officer	Belinda Penny	Governance Officer
Council Officer	Tim Rose	Manager Community Health
Council Officer	Adam Moar	Manager Development and Environmental Services

5 APOLOGIES

Name / Role	Description of Leave / Absence

6 CONFIRMATION OF MINUTES

6.1 MINUTES 28 FEBRUARY 2024 – ORDINARY MEETING

Minutes of the Ordinary meeting of Council held on 28 February 2024 be taken as an accurate record and confirmed.

Recommended Motion:

That the minutes of the Ordinary Meeting of Council held on 28 February 2024, as circulated be taken as read and confirmed.

6.2 MINUTES 28 FEBRUARY 2024 – CLOSED (CONFIDENTIAL) MEETING

Minutes of the Closed (Confidential) meeting of Council held on 28 February 2024 be taken as an accurate record and confirmed.

Recommended Motion:

That the minutes of the Closed (Confidential) Meeting of Council held on 28 February 2024, as circulated be taken as read and confirmed.

7 DECLARATION OF CONFLICT OF INTEREST

Pursuant to Division 2 – Conflict of Interest, of the *Local Government Act 2020* general and material conflict of interest must be declared prior to debate on specific items within the agenda; or in writing to the Chief Executive Officer before the meeting.

A Councillor who has declared a conflict of interest in respect of a matter must:

- a) Disclose the conflict of interest in the manner required by the Yarriambiack Shire Council Governance Rules.
- b) Exclude themselves from the decision-making process in relation to that matter, including any discussion or votes on the matter at any Council meeting or delegated committee, and any action in relation to the matter.

General conflict of interest is if a relevant person has an interest in a matter if an impartial, fair-minded person would consider that the person’s private interests could result in that person acting in a manner that is contrary to their public duty

- a) *Private interests* mean any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief.
- b) *Public duty* means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person.

Material conflict of interest is if a relevant person has an interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter,

- a) The benefit or loss incurred may be directly or indirectly,
- OR
- b) In a pecuniary or non-pecuniary form.

Councillors are also encouraged to declare circumstances where there may be a perceived conflict of interest.

7.1 CONFLICT OF INTEREST DECLARED

Conflict Declared by	Agenda Item	Reason - Explanation

8 BUSINESS ARISING

8.1 BUSINESS ARISING FROM PREVIOUS MINUTES

As per ongoing and pending actions list, item 8.2

8.2 ONGOING AND PENDING ACTION LIST

Council Meeting	Recommendation Action	Action Taken
28 September 2022	Council to undertake a recycling collection service survey in October 2023	Task added to the Council Meeting and Forum Agenda Planner 2023. This survey is delayed and will form part of the Master Environment Strategy development and community engagement process. The survey is currently being compiled, with it to be released within the next two months.
25 October 2023 Item 15.4	Stage two of the Community Engagement process that identifies specific hierarchy changes to roads and streets based on updated categories from the Stage 1 consultation process to be conducted in January 2024.	On hold, further reviews being undertaken.
22 November 2023 Item 15.4	Lascelles Caravan Park endorsed. Lease to be enacted.	Lease is currently undertaking the review process, consulting with stakeholders.
22 November 2023 Item 15.5	Murtoa Caravan Park endorsed that Council Officers can apply to DEECA to sub-lease to Murtoa Progress Association.	Lease is awaiting Ministerial approval.
28 February 2024 Item 15.5	Funding Murtoa Courts and Hopetoun Swimming Pool Letter of support confirming support for Council contributions towards Hopetoun Swimming Pool Upgrade Project and the Murtoa Recreation Reserve Netball/Tennis Courts Upgrade Project	Letter of support to be completed when final project costings have been confirmed.

9 PETITIONS

Council received a petition from the residents along Craig Avenue in Warracknabeal in relation to the damage to the footbridge. Please refer to update on the status of the bridge repairs at item 16.1 of this Agenda.

This Agenda item is confidential information for the purpose of section 3(1) of the *Local Government Act 2020* because it contains personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs (section 3(1)(f))

Confidential Attachment: Petition Craig Avenue Bridge 28 02 2024

10 CORRESPONDENCE

Outgoing		
Date	Recipient	Details
23/02/24	Warracknabeal Rotary	Letter of Support GrainCorp Funding
23/02/24	Hopetoun and District Neighbourhood House	Letter of Support Tiny Towns Funding
23/02/24	Hopetoun and District Neighbourhood House	Letter of Support FRRR Grant
01/03/24	Emma Kealy MP	Letter of Advocacy for ongoing Library Funding
01/03/24	Mallee CMA	Letter of Support Fish Habitat Improvement Fund
05/03/24	Minister Dimopoulos	Email follow up regarding Recreational Water Letter sent on 18 December 2023
14/03/24	Murtoa Big Weekend Committee	Letter of Support – Regional Arts Fund Project Grant
15/03/24	Minister Dimopoulos – Advisor	Follow up email, after discussion in relation to Recreational Water.
20/03/24	Murtoa Residents	Notification of Change to Transfer Station Hours and Days from 07 April 2024
20/03/24	Warracknabeal Residents	Notification of Change to Transfer Station Hours and Days from 07 April 2024
20/03/24	Hopetoun Residents	Notification of Change to Transfer Station Hours and Days from 07 April 2024
21/03/24	Rupanyup RSL	Letter of Support for Funding Submission

Incoming		
Date	Sender	Details
06/03/24	Minister Local Government	Local Government Service Rates and Charges Ministers Good Practice Guidelines

11 SPECIAL COMMITTEES

11.1 AUDIT AND RISK COMMITTEE MEETING SCHEDULE

The proposed scheduled meeting program is as follows for the next 12 months for the Audit and Risk Committee:

Date	Description
Monday 15 April 2024	Ordinary Meeting
Monday 15 July 2024	Ordinary Meeting
September 2024 TBC	Special Meeting

11.2 COMMUNITY ASSET COMMITTEE – WOOMELANG RETIREMENT UNITS

Woomelang Retirement Units Community Asset Committee of Management held an Annual General meeting and General on 07 March 2024

[Attachment: Draft AGM Minutes – Woomelang Retirement Units Community Asset Committee – 7 March 2024](#)

[Attachment: Draft Minutes - Woomelang Retirement Units Community Asset Committee – 7 March 2024](#)

Recommended Motion:

That Council note the Draft Minutes from the Woomelang Retirement Units Community Asset Committee held 7 March 2024.

11.3 YARRIAMBIACK TOURISM ADVISORY COMMITTEE OF COUNCIL

The Yarriambiack Tourism Advisory Committee of Council meeting was held on 04 March 2024.

[Attachment: Draft Yarriambiack Tourism Advisory Committee of Council Minutes 04 March 2024](#)

Recommended Motion:

That the minutes of the Yarriambiack Tourism Advisory Committee of Council Meeting, be taken as read and confirmed.

12 ACTIVITY REPORTS

12.1 MAYOR ACTIVITY REPORT

Mayor Kylie Zanker – Warracknabeal Ward (March)		
Date	Activity	Location
04/03/24	Mayor and CEO Catch Up	Warracknabeal
05/03/24	Rural Councils Victoria advocacy and Government relations training facilitated by the 'Agenda Group'	Melbourne
05/03/24	Parliament House meeting with Ministers	Melbourne
06/03/24	Moria incident report training with Maddocks	Online
07/03/24	International Women's Day event	Horsham
08/03/24	Mayor and CEO Catch Up	Warracknabeal
12/03/24	Interview with Horsham Times Journalist, various matters	Online
12/03/24	Landholder Agreement Meeting, Craigs and Cannings Channel Update	Warracknabeal
13/03/24	Council Forum	Warracknabeal
14/03/24	Wimmera Southern Mallee Central Highlands MAV regional meeting	Online
14/03/24	Rural Business and Community Board meeting	Online
14/03/24	Spoke with resident regarding Easter festivities in Warracknabeal re; referral for permits / road closures	Warracknabeal
15/03/24	Mayor and CEO Catch Up	Warracknabeal
15/03/24	Radio interview with ABC Wimmera – Mildura regarding the Hopetoun Childcare Centre	Online
15/03/24	Radio interview with Flow FM regarding the Hopetoun Childcare Centre	Online
18/03/24	Mayor and CEO Catch Up	Warracknabeal
18/03/24	Meeting with CEO Tammy Smith and residents regarding a local law matter	Warracknabeal
20/03/24	NBN official celebratory 'NBN network going live'	Hopetoun
22/03/24	Mayor and CEO Catch Up	Warracknabeal
22/03/24	Longerenong College Graduation Ceremony	Horsham
24/03/24	Wimmera Diversity Day Event	Horsham

12.2 COUNCILLOR ACTIVITY REPORTS

Cr Andrew McLean – Hopetoun Ward (March)		
Date	Activity	Location
29/02/24	Opened the Woomelang Bush Nursing Centre's new Gym at the Recreation Reserve	Woomelang
06/03/24	Moria incident report training with Maddocks	Online
13/03/24	Council Forum	Warracknabeal
14/03/24	Wimmera Southern Mallee Central Highlands MAV regional Meeting	Online
18/03/24	Patchewollock Incorporated Meeting	Patchewollock
20/03/24	NBN official celebratory 'NBN network going live'	Hopetoun
22/03/24	Opening of the Tempy Book Swap	Tempy

Cr Tom Hamilton – Dunmunkle Ward (March)		
Date	Activity	Location
24/02/24	Yarriambiack Tourism Advisory Group	Warracknabeal
06/03/24	Moria incident report training with Maddocks	Online
13/03/24	Council Forum	Warracknabeal
13/03/24	Stick Shed Meeting	Murtoa
14/03/24	Launch of Murtoa Community Action Plan	Murtoa

Cr Graeme Massey – Warracknabeal Ward (March)		
Date	Activity	Location
04/03/24	Yarriambiack Tourism Meeting	Warracknabeal
10/03/24	Aubrey Hall Centenary and Cannum School Plaque unveiling	Aubrey and Cannum
13/03/24	Council Forum	Warracknabeal
22/03/24	Meeting with Landholders in relation to Craigs Channel	Warracknabeal

Cr Chris Lehmann – Hopetoun Ward (March)		
Date	Activity	Location
24/02/24	Yarriambiack Tourism Advisory Group	Warracknabeal
06/03/24	Moria incident report training with Maddocks	Online
13/03/24	Council Forum	Warracknabeal
22/03/24	Meeting with Landholders in relation to Craigs Channel	Warracknabeal

Cr Corinne Heintze – Dunmunkle Ward (March)		
Date	Activity	Location
06/03/24	Moria incident report training with Maddocks	Online
06/03/24	Progress Association	Minyip
08/03/24	Tour and meeting with Paul Atherton, Donald Mineral Sands	Minyip
13/03/24	Council Forum	Warracknabeal
22/03/24	Grampian Wimmera Mallee Water (GWM) Stakeholder Meeting	Horsham
22/03/24	Wimmera Southern Mallee Tourism Group (WSMTG) Meeting	Horsham

Cr Karly Kirk – Warracknabeal Ward (March)		
Date	Activity	Location
06/03/24	Moria incident report training with Maddocks	Online
13/03/24	Council Forum	Warracknabeal
14/03/24	Victorian Local Government Grants Commission	Online
22/03/24	Meeting with Landholders in relation to Craigs Channel	Warracknabeal

12.3 CHIEF EXECUTIVE OFFICER ACTIVITY REPORT

Tammy Smith (March)		
Date	Activity	Location
29/02/24	Local Government Women's CEO Dinner – Elevating Ethics	Melbourne
29/02/24	Hopetoun Uniting Early Learning Services Meeting – Staffing Updates and Challenges	Online
01/03/24	Meeting with Local Government Executive Coach	Melbourne
01/03/24	Meeting with the Victorian Building Authority, Weir Legal and Regional Development Victoria	Melbourne
01/03/24	Ministerial Roundtable Pre-Briefing	Online
04/03/24	Mayor and CEO Catch Up	In person
04/03/24	Wimmera Southern Mallee Development representatives and CEO's meeting with Minister D'Ambrosio	Melbourne
05/03/24	Rural Councils Victoria Parliament House Event	Melbourne
06/03/24	Meeting with Superintendent Western Region Div 4	Online
07/03/24	RWE, Yarriambiack and Northern Grampians – Campbells Bridge Wind Farm Meeting	Online
07/03/24	Wimmera Southern Mallee Development Post Board Briefing Update	Online
08/03/24	Mayor and CEO Catch Up	Warracknabeal
12/03/24	Landholder Agreement Meeting, Craigs and Cannings Channel Update	Warracknabeal
13/03/24	Council Forum	Warracknabeal
14/03/24	Grampians, Wimmera Mallee Tourism Board Meeting	Horsham
14/03/24	Wimmera CEO Meeting	Horsham
14/03/24	Visit Grampians Industry Forum – Launch of Visitor Economy Partnership	Horsham
14/03/24	Rural Councils Victoria meeting with Minister Dimopoulos	Online
15/03/24	Mayor and CEO Catch Up	Warracknabeal
18/03/24	Meeting with Warracknabeal Resident and Mayor	Warracknabeal

Tammy Smith (March)		
18/03/24	Mayor and CEO Catch Up	Warracknabeal
20/03/24	Meeting with Uniting Vic and Hopetoun Early Years Families	Hopetoun
20/03/24	NBN Launch Hopetoun	Hopetoun
21/03/24	GNet Meeting	Online
21/03/24	Mineral Resources Local Council and State Government Stakeholder Reference Group	Online
22/03/24	Mayor and CEO Meeting	Warracknabeal
26/03/24	Meeting with Jacinta Ermacora MP – Maroona to Portland Line	Horsham
26/03/24	Hopetoun Community Meeting Childcare	Hopetoun

13 PUBLIC QUESTIONS

Division 8 – Public Question Time (Yarriambiack Shire Council Governance Rules)

Community Members (excluding Councillors) may submit a question to Council.

Questions must be submitted in writing, stating the name and address of the person submitting the question, on an approved or permitted form by Council. [Public Questions for Council – Yarriambiack Shire Council](#).

Questions must be submitted 24 hours prior to a Council Meeting.

The questions will be answered at a Council meeting by the Chief Executive Officer or a nominated Officer.

If questions are submitted less than 24 hours before the Council meeting, they will be answered at the meeting where possible, and if no answer can be given, then a written answer will be given to the person as soon as possible after the Council meeting.

No person can submit more than two questions at any Council meeting (unless permitted by the Chair – Mayor).

The question will not be allowed if:

- i. relates to a matter outside the duties, functions and powers of Council;
- ii. is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
- iii. deals with a subject matter already answered;
- iv. is aimed at embarrassing a Councillor or an Officer;
- v. relates to a personnel matter; or
- vi. contains or refers or relates to Confidential Information.

Questions and answers must be as brief as possible, and no discussion is allowed other than for the purpose of clarification.

The Name of Person and Question will be read out by either the Mayor or Chief Executive Officer, and the nominated Officer is to respond.

13.1 QUESTIONS SUBMITTED

Name: Nil	Town:
Question:	
Respondent:	
Response:	

14 COUNCILLOR REPORTS

14.1 MAYORS REPORT

Hopetoun Childcare

On 26 March 2024 I will be attending the Hopetoun Community Meeting, where Jo Martin, Executive Officer of Wimmera Southern Mallee By5 Five, will present on her team's research and advocacy to date. We will also be discussing the challenges of attracting and retaining Early Years professionals to rural communities, and how as a community we can work together to entice professionals to move to our region. I will provide a verbal update during the Council Meeting on this important matter.

Project Status

I am excited to report that several of our projects are progressing well, and nearing completion.

The Warracknabeal Caravan Park Amenity Block is close to practical completion, and we hope for it to be operational in the next month, and the redundant amenities demolished thereafter.

The Rupanyup Community Library Precinct is nearing completion, with Council planning to apply for a second phase of funding to complete the outdoor pergola and landscaping.

The Warracknabeal Three-Year-Old building is complete, and we now need to complete the second phase of the project, with the construction of the car park and playground. We hope to have a funding outcome in April to move forward and complete the entire project, with the building to be open for the 2025 Kindergarten year.

NBN Update

I had the pleasure of attending the NBNCo. community BBQ in Hopetoun to celebrate the completion of the nbn's fibre network. The residents and businesses in Hopetoun can now benefit from the faster and more reliable nbn internet technology following the completion of the fibre upgrades. The upgrade from fixed wireless technology to fibre to the premises was estimated to give approximately 395 homes and business access to fixed fibre internet. This is a great outcome for our community.

Murtoa Early Learning Centre

A community meeting will be held on Wednesday 17 April commencing at 5pm, at the Murtoa Neighbourhood House. It will be attended by Department of Education representatives, and Yarriambiack Shire staff to provide the community with an update on the progress of the new Early Learning Centre to open on the P-12 site in 2025.

Scott Street Wombat Crossing Project

The Scott Street Wombat Crossing construction works will commence after Easter. There will be disruptions to access along Scott Street and parking during this time.

New Yarriambiack Boundary and Town Signs

We are currently installing new boundary signs across the Shire, and are pleased they are now being rolled out, highlighting we are Silo Art Country.

In addition, the arch, town entrance signs artwork panels are also being updated across our townships where they are faded and require replacement.



15 REPORTS FOR DECISION

15.1 CRAIGS CHANNEL – REDUNDANT AS A PUBLIC DRAIN CLASSIFICATION

Prepared by Tammy Smith, Chief Executive Officer

SUMMARY

In 2014 Craigs Channel transferred ownership from GWMWater to Council. The asset was deemed to be required to perform a drainage function.

In 2023 it was identified that Council does not own a large portion of Craigs Channel, and therefore is restricted from fulfilling obligations along that channel. The Crown (through the Department of Energy, Environment and Climate Action (DEECA)) has asserted ownership of both the land and the bed and banks and associated infrastructure of this large portion of Craigs Channel.

In addition, an expert Environmental Engineer was engaged to perform a study on the drainage function of Craigs Channel, and to identify if it was required to perform a 'public drain'¹ function.

This paper outlines that Craigs Channel does not perform a public drain function, and it is recommended that the status of Craigs Channel as a public drain become redundant.

Recommended Motion:

That, having undertaken a community engagement process with DEECA and Landholders with Access Agreements, Council:

- a) Acknowledges the advice and direction of the Department of Energy, Environment and Climate Action (DEECA) that Council does not own a large portion of Craigs Channel.
- b) Declares and to the extent necessary or able, divests itself of any duty, management, and control of Craigs Channel as a Public Drain within the Municipal District under section 198(1) of the *Local Government Act 1989* on the basis that:
 - a. a large portion of Craigs Channel is not vested in Council but vested in the Crown so that by virtue of section 198(2), section 198(1) does not apply; and
 - b. the whole of Craigs Channel serves no public drainage function and is redundant.
- c) As from 27 March 2024, by divesting, Council will no longer have and/or recognise management and control of Craigs Channel as a public drain within the meaning of the Act.
- d) Will write to all landholders along Craigs Channel notifying them of this decision, and to also notify them of the termination of the Drainage Channel Access Deed in accordance with clause eight (8) of that agreement, endorsed by Council on 24 May 2023.
- e) Will not be instructing the infilling of any sections along Craigs Channel and any such infilling, if instigated, will be for each owner to consider and, where the channel is owned by the Crown, approval must be sought from GWMWater and DEECA in the first instance.

¹ Public drain definition, in accordance with section 198 (1) of the *Local Government Act 1989*

CONFIDENTIAL ATTCHMENTS

This Agenda item is confidential information for the purpose of section 3(1) of the *Local Government Act 2020* because it is legal privileged information, being information to which legal professional privilege or client legal privilege applies; (section 3(1)(4):

Attachment: Expert Report Craigs Channel

Attachment: Expert Report Cannings Channel

Attachment: Legal Advice Russell Kennedy Lawyers

Attachment: Letter - DEECA Confirmation of Channel Ownership

Attachment: Title Example of Property with channel owned by DEECA

DISCUSSION

Background

The Craigs Channel system was thought to constitute a public drain within the meaning of the *Local Government Act 1989* which had vested in Council and for which Council had management and control as a Council asset, for the following reasons:

1. Council entered a Deed for Transfer of Assets with Grampians Wimmera Mallee Water Corporation (GMMWater) in respect of Craig's Channel, pursuant to section 288(1) of the *Water Act 1989* (WA89) on 18 March 2014 assuming responsibility for the channel; and
2. Council understood that Craigs Channel performed a drainage function for the benefit of multiple properties and a large area as part of the public drainage network.

Whilst Craigs Channel was thought to be a Council asset post 18 March 2014, it is important to note this only extended to ownership of the asset (channel), not the land (under the channel). This remains the ownership of each property landowner or the Crown (as the case may be).

Council's responsibility for Craigs Channel was constrained by the fact that there were no specific, executed agreements on record with the individual property landowners. This meant Council had no right under statute to legally access the land for the purposes of discharging its responsibilities.

Council was keen to ensure that there was clear separation and defining of responsibilities between the Council and landowners in relation to this and other channels going forward, with the aim of avoiding any confusion or misunderstanding.

This issue was escalated during the October 2022 significant rain event.

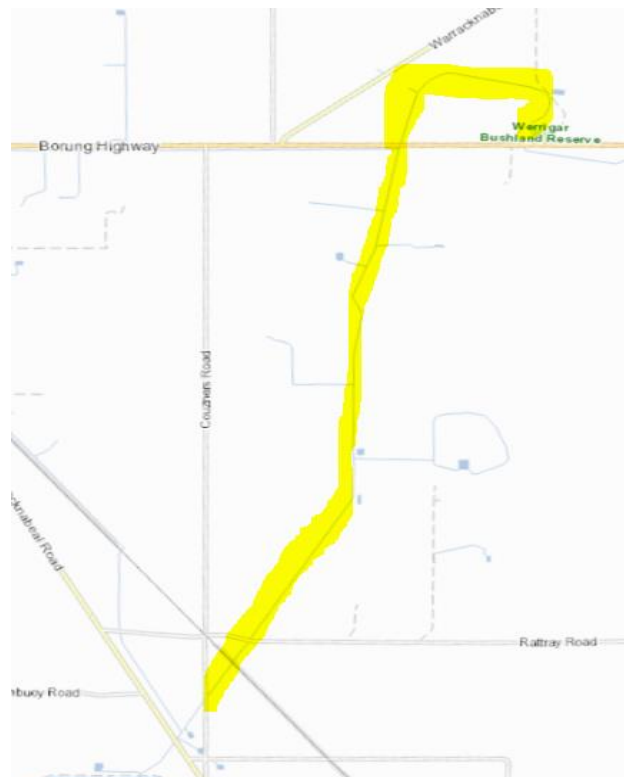
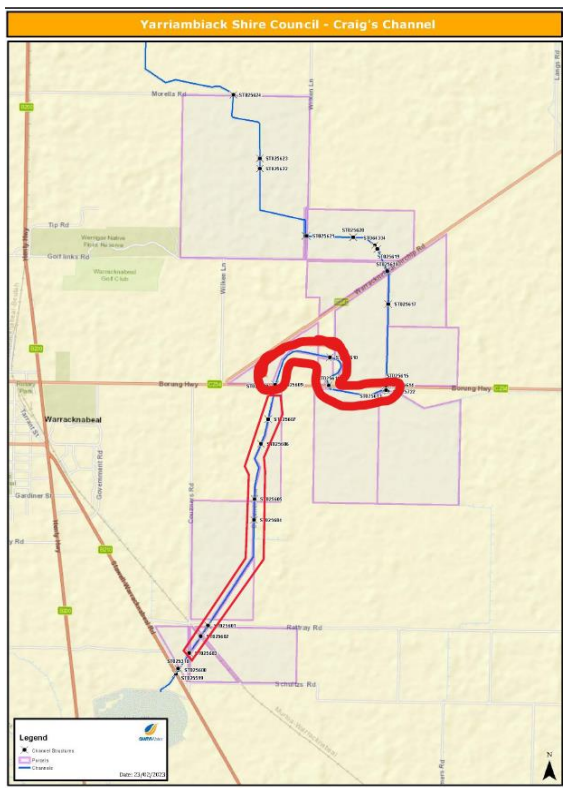
For the above reasons, Council entered into a 'Drainage Channel Access Deed' (Drainage Agreement) to ensure that:

1. Council had access rights to the channel for the purposes of fulfilling its responsibilities.
2. The responsibilities of the Council and landowner are separate and clear.
3. A system is put in place that gives certainty to the landowner and the Council in relation to the Channel into the future.
4. Obligations upon the landowners not to interfere with the Drainage Channel or to divert water from it are understood, and where access to water is requested a due process for consideration and endorsement is applied.

The Drainage Agreement for Craigs Channel was endorsed by Council on 24 May 2023.

Council Officers then commenced the process of the agreement negotiations with DEECA for the land known as the Rifle Range along Cannings Channel.

This discussion triggered a review of Craigs Channel, where it was revealed, after discussions with DEECA, that Council did not own the below section (red out line – bold and unbolded) of Craigs Channel. The sections identified along Craigs Channel are owned by DEECA and it is asserted by DEECA that GWMWater did not have the ability or power to transfer ownership to Yarriambiack Shire Council in 2014.



Investigation

As the additional information came to light, further investigation and legal advice was commissioned.

- Water Technology, Water, Costal and Environmental Consultants were commissioned to undertake an investigation and formulate a report to inform Council Officers and Councillors if Craigs Channel was required for public drainage purposes.
- Russell Kennedy was also engaged to provide legal advice, regarding if Craigs Channel was not required, what is Councils legal responsibility to maintain the channel with a land access agreement in place.

Investigation Summary

During October 2022 the Bureau of Meteorology (BoM) issued several flood watch and flood warnings across many Victorian catchments. A low-pressure system south of the mainland linked up with tropical moisture during the middle of the month, forming an extensive, slow-moving rain band over south-east Australia. The rain falling on already wet catchments resulted in major and moderate flood warnings issued for catchments across central and northern Victoria, northern Tasmania, New South Wales and southern Queensland. This included the Wimmera River catchment and catchments within distributaries of the Wimmera River i.e. Yarriambiack Creek.

The observed rainfall caused significant flooding in the Wimmera, including in and around Warracknabeal. While there was flooding of the Wimmera River and flood flow distribution to Yarriambiack Creek, most of the inundation observed around Warracknabeal was from localised catchments, inundating significant areas of agricultural land.

The report was prepared to investigate the mechanisms of inundation around Warracknabeal and the efficacy of Craigs Channel.

Site visits, drone footage and imagery from the rain event, along with hydraulic modelling was undertaken to better understand the impact of Craigs Channel on flood levels and drainage.

The modelling methodology applied was in line with the recommendations set out in the Australian Rainfall and Runoff 2019.

The hydraulic model was developed using TUFLOW software, employing a source inflow modelling approach. The most significant component of the model is the topography, as observed during the site inspection. Craigs Channel sits in a topographic high point, wrapping around the terrain to maintain an elevation which can supply water to dams.

The report identified that Craigs Channel was not designed to serve a drainage function, benefit or service. To confirm this, removal of the channel was modelled for a 10% AEP² and 1% AEP events using the modelling described above. The change in modelled water levels and extents as a result of the channel removal for the 10% AEP and 1% AEP shows some slight changes in inundation depths, but in general very little change. There is a slight increase (0.02m) upstream of the Borung Highway; however, the Expert considers this level of change to be unperceivable and no economic impact would be achieved. The increases are due to additional overland flow occurring across Craigs Channel at its very southern end, south of Rattray Road. The 1% AEP event does not show these increases with changes limited to immediately surrounding the area south of Rattray Road. The Expert did not consider this level of change sufficient to cause economic impacts.

Other Factors for Consideration

In addition to the report identifying that Craigs Channel does not perform a drainage function, within the definition of a public drain, in accordance with the *Local Government Act 1989*, the consideration of maintenance responsibility is further compounded by Council not owning a large section of the channel.

DEECA identified that each landholder would need to initiate entering into a licence agreement with DEECA, before any further agreements between the landholder and Council could be enacted.

For the large portion of Craigs Channel that is owned by the Crown, Council never in fact had a legal obligation to manage and control that portion as a public drain because that portion was never vested in Council pursuant to section 198(1) of the *Local Government Act 1989* by virtue of section 198(2).

Legal Advice

Clause 8 of the Landowner Access Deed Agreements entered into with property owners along Craigs Channel, outlines that termination can occur by notice at the election of Council.

Purpose of Craigs Channel and relationship to Cannings Channel

Craigs Channel was designed as a stock and domestic water supply channel and is located on higher portions of topography to ensure it could maintain an even grade when supplying water. Due to the location of the channel (running along local high points with

² AEP definition – Annual Exceedance Probability. 1% AEP means there is a 1% chance in any given year of the event occurring. This means that on average 1 event of this size will occur every 100 years. Therefore, 1% AEP is equal to a 100 year Annual Recurrence Interval (ARI), a 2% AEP is a 50 year ARI, and a 10% AEP is a 10 year ARIA flood with a 1% AEP has a one in a hundred chance of being exceeded in any year. A 10% AEP means there is a 10% chance of an event occurring in any given year.

channel banks to prevent water from flowing in and out of it), it interacts with very limited upstream catchment areas.

Cannings Channel is drainage infrastructure, located in the lowest point in the topography, designed to capture runoff generated upstream (south of the Borung Highway) and draining it north before entering Yarriambiack Creek. There is no designed relationship between Craigs Channel and Cannings Channel with each operating independently of one another (prior to Craigs Channel becoming redundant due to the Wimmer Mallee Pipeline Project).

Summary of Experts previous work in the Wimmera area:

Undertaken a number of studies in and around the Wimmera region over the last 12 years. Relevant studies undertaken include:

- Project manager and primary author for the Warracknabeal and Brim Flood in 2016 which was undertaken for the Wimmera Catchment Management Authority (Wimmera CMA).
- Project manager and primary author for the Horsham Flood Investigation in 2019 which was undertaken for the Wimmera CMA.
- Engaged by WIM Resource Pty Ltd to provide expert evidence at the Avonbank Mineral Sands Mine Environment Effects Statement (EES) Inquiry and Planning Panel in 2023 (located immediately upstream of Horsham).
- Project manager and primary author of the Victorian Strategic Flood Intelligence Report in 2013 which was undertaken for the Victorian State Emergency Service (VICSES).
- Project manager and primary author of the Wimmera CMA 2011 Flooding Review which was undertaken for the Wimmera Catchment Management Authority (Wimmera CMA).
- Project manager and primary author of the Glenelg Hopkins CMA Comrie Review Submission in 2012, commissioned by Glenelg Hopkins CMA.
- Worked in the Horsham Incident Control Centre (ICC) as a Flood Analyst, providing expert advice on the expected consequences. Worked in the Horsham ICC during 2016 and 2022.
- Worked on a number of development proposals and/or assessments within the Wimmera area relevant to report.

Recommendation

It is recommended that Council recognise and declare that Craigs Channel is redundant for public drainage purposes and that Council, to the extent necessary or that Council is able to, divests itself of any duty, management and control of Craigs Channel.

It is recommended that Council terminate all existing deeds that have been entered into by Council with those owners where they concern parts of the channel which constitute Crown land, by sending a letter to each of those property owners indicating that Council has elected to terminate the agreements in accordance with clause 8.1.2.

This would be on the basis of both of the following:

- DEECA claiming ownership of the asset constituted by the bed and banks and any infrastructure constituting certain parts of the relevant channel; and
- Council having ascertained from an expert that, in the case of Craigs Channel, that the channel serves no public drainage function.

Council would also terminate the agreements relating to those parts of Craigs Channel which are within private ownership, in a similar manner as above, for the sole reason that Craigs Channel serves no drainage function.

RELEVANT LAW

- *Local Government Act 1989, Section 198 (1)*
- *Water Act 1989*
- *Crown Land Act 1978*

COUNCIL PLANS AND POLICIES

Council Plan 2021-2025: A Council Who Serves its community.

Strategic Priorities: Embed good governance into all decision making.

Strategic Priorities: Consider a broad base of evidence before making decisions, ensuring value for money, responsive, innovative services and solutions are provided.

RELATED COUNCIL DECISIONS

24 May 2023 – Ordinary Meeting of Council, item 17.2 Craigs and Cannings Channel Access Agreements

OPTIONS

- a) Council could choose to reject the motion, retaining Craigs Channel as a “public drain”. However, Council is restricted on the maintenance it can undertake on the asset and would be exposed to liability if it cannot execute its duties and functions across the entire channel. Councillors need give due consideration to their responsibilities as outlined in the *Local Government 2020*, section 9 – Overarching governance principles and supporting principles.
- b) If landholders strongly believe that the channel is required as a “public drain”, in contrary to the expert advice, the landholders may request that Council enter into an approved scheme as outlined in section 201 Approved Schemes within the *Local Government Act 1989*, in accordance with section 216 of the *Water Act 1989*. This would require landholders to fund the rural drainage scheme and Council could impose a tariff and require a contribution to establish and manage the scheme. The scheme would be required to be gazetted, and notification made to Department of Transport and Planning, and other responsible authorities under the Planning and Environment Act 1987, that are likely to be affected by the scheme. It should be noted that this is a lengthy process and would require dedicated resources to establish this.

SUSTAINABILITY IMPLICATIONS

Economic: The expert report identified that Craigs Channel does not perform a drainage function. Water inundation will naturally occur due to the land topography. This in turn will pose a risk to crop damage within agriculture land during flood events. Retaining Craigs Channel as a public drain will not reduce that risk.

Social: Resolving to make Craigs Channel redundant as a public drain may compromise the relationship between landholders along Craigs Channel and Council. This is due to Council initially conceding it owned the whole channel, it was required for drainage purposes, and that it would maintain it.

COMMUNITY ENGAGEMENT

On 12 March 2024 a landholder meeting was held with:

- Landholders along Craigs Channel; and
- Landholders where Council has entered into an access deed along Cannings Channel.

The meeting provided an update on the ownership status of the channel system, and the investigation report. Landholders were also informed that a decision would be presented to Council in relation to the drainage function of Craigs Channel, and that it would be recommended that it is no longer deemed a “Public Drain” and that it be classified as

redundant (decommissioned). It was confirmed Council would not remove / fill in the channel; it would no longer be deemed a public drain. Maintenance responsibility would revert to the landowner, and it was conveyed that where the channel is owned by the Crown, permission to fill in or alter the channel is required from GWMWater and DEECA.

Since that meeting, a landholder along the Borung Hwy has contact the CEO directly, stating that Council should consult with the residents along the Borung Highway, and any other relevant parties before any further action or decisions are made.

The decision is being put before Councillors, as the Council cannot execute its obligations in accordance with the Landholder Agreements, as it does not own part of the Craigs Channel asset. Council needs to resolve its exposure to risk and liability before it can consider any further actions and consultation.

RISK MANAGEMENT

Utilising the Risk Management Framework the following assessment has been made:

<i>Strategic Risk Description and Residual Risk Level</i>	<i>Action to Mitigate/Reduce Risk</i>	<i>Does Action maintain or reduce Residual Risk Level</i>
Corporate Governance, Compliance and Liability Risk - Residual Risk Level Low	Due diligence has been performed over the ownership of the channels. Resolving that Craigs Channel is redundant as a public drain, reduces Council’s legal liability risk, as it cannot control the water inundation on properties, as identified in the report, and modelled to demonstrate maintenance is not a contributing factor to water inundation. Council cannot manage only part of a channel to effectively execute its responsibility.	Reduces Residual Risk Level
Reputational Risk - Residual Risk Level Low	Declaring that Craigs Channel is redundant as a public drain will increase the risk of reputational damage to Council, regardless of the expert advice. There are some people within the community, regardless of the expert advice, who hold the belief that Craigs Channel performs a ‘public drainage’ function.	Increases Residual Risk Level
Strategy Execution and Change Management Risk - Residual Risk Level Medium	Whilst it has been deemed Craigs Channel is not required as a public drain, as an option for landowners’, Council could offer a Rural Drainage Scheme as an alternative to landholders along Craigs Channel. They will have to pay the costs associated with establishing and executing the drainage scheme. It also needs to be acknowledged this is not a quick process.	Maintains Residual Risk Level

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

- Warracknabeal and Brim Flood Study in 2016

CONFLICTS OF INTEREST

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in the subject matter of this report.

15.2 SOUTHERN WIMMERA RENEWABLES RESEARCH ASSOCIATION ADVOCACY GROUP REQUEST REGARDING PROPOSED CAMPBELLS BRIDGE WIND PROJECT

Prepared by: Tammy Smith, Chief Executive Officer

SUMMARY

RWE Australia (RWE) is proposing a wind farm in the Campbells Bridge area. The Southern Wimmera Renewables Research Association (SWRRA) has formed, which is primarily an advocacy group, who are opposed to wind turbines being constructed in their region.

This paper outlines the SWRRA concerns and their requests to the Council for action in relation to the proposed project.

Recommended Motion:

That Council:

- a) Write to Minister Sonya Kilkeny, Minister for Planning and request that the proposed RWE Australia Campbells Bridge Wind Farm Project undergo an Environmental Effects Statement process, before the planning permit application is considered.
- b) Outline the SWRRA concerns to RWE during Councillor and CEO meetings; and
- c) Advocate for participation by both RWE and SWRRA in a facilitated landholder meeting, to be organised by Northern Grampians Shire.

ATTACHMENTS

[Link: RWE Australia Website](#)

[Link: SWRRA Website](#)

[Link: Yarriambiack Shire Council Energy Projects](#)

DISCUSSION

The proposed wind farm in the Campbells Bridge area is planned by project developer RWE. There is community division in relation to this project, with the SWRRA forming in response to, and in objection to, the project.

In accordance with Section 8 of the Local Government Act 2020, the role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community. This includes taking into consideration a balanced view when it comes to economic, social, environmental, financial and sustainability matters.

This paper aims to provide a background to RWE, provide an overview of the proposed project, highlight SWRRA's concerns and discuss the energy challenges our region and state are facing.

About SWRRA

SWRRA is a community lead research group who aims to advocate for and engage communities to understand what a renewable energy project would mean for their local landscape. The trigger for establishing the group was the Campbells Bridge Wind Facility proposed by RWE.

Their website states they are not against renewable energy as they believe it can, and should, play a role in the energy market. SWRRA state existing renewable energy facilities should be better utilised and rooftop solar potentially expanded, opposed to new renewable energy projects.

The group also represents the concerns of residents and communities affected by the proposed Navarre Green Energy Hub, near the township of Navarre (approximately 34 km northeast of Stawell).

About RWE

RWE is one of the largest energy utilities in Europe. The company has a planned gross investment in Australia of \$6 billion by 2030, to develop up to 3 GW of onshore wind, solar and battery project across multiple states. Their business model is to develop, own and operate renewable energy projects, with Australia identified as a key growth market.

RWE entered the Australian market in 2018, initially to support the delivery of the Limondale Solar Farm, commissioning the largest solar farm in the Country, in NSW near Balranald.

RWE is currently developing several other non-publicly announced projects across QLD, NSW and VIC.

RWE, in their presentation to Council noted that they wish to develop long term partnerships to become a positive member of the local community, with their build, own and operate business model, which they believe will provide confidence in fulfilling their commitments.

RWE is proud of deploying the first of its kind, recyclable turbine blade at their Kaskasi offshore wind farm.

Proposed Campbells Bridge Wind Farm Project

Campbells Bridge Wind Farm is a proposed wind energy facility, located approximately 15 km north-west of Stawell and 11 kilometres south of Rupanyup, which is planned to have approximately 145 turbines and generate an estimated 1,000 megawatts of power.

The project boundary will incorporate about 14,000 hectares however the boundaries of the site are still being negotiated with a few landowners.

The project is targeted to be operational by 2029.

The project is proposed to connect into the existing Bulgana Terminal Station, with approximately 30km of new overhead transmission lines required.

SWRRA Concerns

In November 2023, the Mayor, CEO and Manager Development and Environmental Services met with the SWRRA to hear their concerns.

Later that month, the SWRRA formally wrote to the Mayor, outlining their concerns and requested an audience with the Councillors.

On 07 February 2024, SWRRA was provided with the opportunity to outline their concerns to Councillors, and in summary, their apprehension to the project is outlined as follows:

- a) **Construction Impacts:** It is the SWRRA's belief that a concrete batching plant will be located on a hosts' land to build each of the turbines. Internal connecting transmission lines will be required, however no details have been provided on their proposed location. Each blade is 80m long, and the proposed site for the project to access the paddocks will have to navigate predominately rural roads. There is significant concern regarding the number of trees to be removed, and the impact on flora and fauna in the area.
- b) **Habitat Impacts:** The area hosts several local species and the critically endangered Buloke tree. There are concerns regarding the swift parrot, the hooded robin and the wedge tail eagle that will be displaced and their flight path being disturbed.
- c) **Firefighting Risks:** The SWRRA has raised concerns regarding fire risk, and insurance coverage in relation to the turbines.

- d) Hydrology Data: The area proposed for the wind farm has been noted by SWRRA as having a clearly traceable history of being flood prone. The area includes the Richardson River and Dunmunkle Creek, with other tributaries transversing the area. They have concerns regarding the disruption to the hydrology of the area, with the infrastructure that is to be built as part of the windfarm development.
- e) Economic Impacts: The SWRRA believe that short term incentives with long term detrimental impacts will occur, with a workforce boom promise that will not arrive, labour pressure increasing, and tourism opportunities being impacted.
- f) Social Impact: The SWRRA stated that communities claim to benefit, but they are not the ones living directly with the wind turbines. They fear that that the turbines cause animosity between neighbours and families. Having a significant social impact on communities.

The SWRRA also raised concerns regarding the lack of industry regulations, how noise disturbance will be managed, the rehabilitation of the land and the terms of the agreements and on-selling contract rights.

The SWRRA are requesting that Council:

- Contact the State Planning Minister and call for the project to be rejected, failing that, contact the State Planning Minister and call for the project to undergo an Environmental Effects Statement process.
- Call on the State Planning Minister to implement a 5km minimum distance from turbines to dwellings, and closest a turbine can be placed is 1km, within the project boundary. It is their belief; this will remove the planning permit restrictions neighbours will be subject to if the current system remains.
- Contact RWE directly, calling for a 5km minimum distance between turbine placement and neighbouring dwellings. Also call for the turbines to be placed 1km within the project boundary.

Considerations

As an organisation we understand that the clean energy transition is critical to meeting Australia's, and Victoria's climate targets, ensuring energy security and supply stability, and controlling and abating cost of living pressures.

We also acknowledge that the Western Victoria region geography and topography can provide an abundance of reliable solar and wind resources.

Building generation and transmission capacity in the Wimmera Southern Mallee (WSM) area in a timely way will prevent Victoria's demand for electricity exceeding its supply when the Yallourn power station closes in 2028.

We also acknowledge existing capacity constraints in Victoria's energy transmission grid means that Victoria's transition to renewable energy is being seriously constrained.

We concede that a solution to address the energy poverty our region faces is required to address the constraints which inhibit economic growth and development.

What is an Environmental Effects Statement (EES)?

The SWRRA is requesting that the project undertake an EES.

An EES is a document that examines the possible impacts a proposed development may have on the environment. It aims to provide for the transparent, integrated, and timely assessment of the environmental effects of projects capable of having a significant impact on the environment.

The goal of an EES is to summarise the proposed development, identify any alternatives, technically analyse the potential impacts and their consequences, develop a program for minimising, managing, and monitoring impacts and provide for public participation in the decision-making process.

Who decides if an EES is required?

The Minister for Planning is responsible for administering the *Environment Effects Act 1978* and deciding whether an Environment Effects Statement (EES) is required under that Act. If a proposal is likely to have a significant effect on the environment, the proponent (RWE) should refer it to the Minister for a decision on the need for an EES.

If an EES is not required, the planning permit process will need to be followed. Clause 72.01-1 of the VPP specifies that the Minister for Planning is the responsible authority for considering and determining planning permit applications for the use and development of land for a:

- energy generation facility, which includes a wind energy facility with an installed capacity of 1 megawatt or greater, and
- utility installation used to:
 - transmit or distribute electricity.
 - store electricity if the installed capacity is 1 megawatt or greater.

If an EES is required for a wind energy facility, this process must be completed before the planning permit application can be determined. Many wind energy facilities are not required to be considered through the EES process and are assessed through the planning permit processes.

The onus is on the proponent to refer a proposal to the Minister for Planning to determine whether an EES is required.

The Minister for Planning will require a preliminary landscape assessment to accompany a referral of a proposed wind energy facility. Should an EES be required, then it must include an independently peer-reviewed visual impact assessment by a suitably qualified and experienced person.

The ministerial guidelines for assessment of environmental effects under the *Environment Effects Act 1978* provide guidance on EES processes.

An EES would consider the whole proposal including the wind energy facility and electricity network connection. This approach is preferred as it enables all aspects of the proposal to be considered by the responsible authority and communities.

Action and Recommendations

Based on the SWRRA concerns, it is recommended that Council write to the Minister for Planning to request the Campbells Bridge project undertake an EES process.

It should be noted that Yarriambiack Shire Council along with Northern Grampians Shire Council Officer representatives are meeting monthly with RWE to discuss and convey community concerns.

RELEVANT LAW

- *Local Government Act 2020*
- *Environment Effects Act 1978*

COUNCIL PLANS AND POLICIES

- Strategic Objective 1: A Vibrant and Diversified Economy.
- Strategic Objective 3: A Robust and Thriving Environment.
- Strategic Objective 4: A Council Who Serves its Community.

RELATED COUNCIL DECISIONS

Not applicable

OPTIONS

- a) Councillors could choose to reject the proposal for the RWE Campbells Bridge Project, however they are not the authority who decides if a Windfarm project is approved or not.
- b) Councillors could choose not to advocate for an EES; however, it should be noted, that an EES provides greater reassurance to Council and Community that all environmental matters relating to the project are researched and considered via this process.

SUSTAINABILITY IMPLICATIONS

Economic: Our region has limited energy capacity, and it inhibits economic growth and development. However, our Shire already has one active windfarm and an additional two windfarms in project development. Whilst we recognise the importance of renewable energy transition, the EES process will identify if the Campbells Bridge project is suitable for our region.

Social: The Campbells Bridge project has created community division, with some community members positively supporting the project, and others adamantly against it. The project has the potential to impact negatively on the community’s social health and wellbeing outcomes. With a clear division between community members already evident.

Environmental: Advocating for an EES ensures all elements of the Campbells Bridge project are considered, and that environmental sustainability implications are addressed, and mitigated through this process.

Climate change: The Victorian Government has a renewable energy target of 25% by 2020, 65% by 2030 and 95% by 2035. This target is in response to Victoria’s changing climate, identifying an increase in temperature of 12 degrees Celsius, decrease in average rainfall, increase in fire danger in spring and increase in severity in storms. Wind farm construction across the Wimmera, Southern Mallee supports the state governments vision to address their renewable energy targets, whilst also addressing climate change.

Financial: Windfarms generate Payment in Lieu of Rates (PiLOR), that can contribute towards enhancing Council’s financial viability. Yarriambiack Shire Council is recognised as an unsustainable Council and has limited opportunities to raise alternative sources of revenue. PiLOR provides a positive financial benefit to Council, and more broadly the municipal district, where enhanced investment and operating activities can result from increased revenue.

COMMUNITY ENGAGEMENT

This paper is based on a request from community group, SWRRA where they have advocated to Council in relation to their concerns.

GENDER IMPACT ASSESSMENT

Not applicable

RISK

Utilising the Risk Management Framework the following assessment has been made:

Strategic Risk Description and Residual Risk Level	Action to Mitigate/Reduce Risk	Does Action maintain or reduce Residual Risk Level
Reputational Risk - Residual Risk Level Low	In accordance with the Local Government Act 2020, Council is required to govern for its Municipal District, and is required to address and initiate Climate Change initiatives.	Maintains Residual Risk Level

Strategic Risk Description and Residual Risk Level	Action to Mitigate/Reduce Risk	Does Action maintain or reduce Residual Risk Level
	Council has recognised the SWRRA concerns and will advocate for an EES to be undertaken. This process will identify any legitimate environmental concerns and will mitigate the risks accordingly.	
Political Risk - Residual Risk Level Low	The State Government has adopted Emission Reduction Targets and is actively working towards implementing its program. Council acknowledges this target; however, it will advocate to ensure environmental considerations are factored into all decision-making processes where it will impact directly on the Yarriambiack Community.	Maintains Residual Risk Level
Strategy Execution and Change Management Risk - Residual Risk Level Medium	Council has adopted a Council Plan and Economic Development Strategy. To support economic growth and prosperity, solutions to address energy poverty in the region are required and supported.	Maintains Residual Risk Level

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

- Victorias 2035 Emissions Reduction Target
- Commonwealth Powering Australia Plan

CONFLICTS OF INTEREST

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in the subject matter.

15.3 LIONS PARK WARRACKNABEAL 17B AGREEMENT

Prepared by Belinda Penny, Governance Officer

SUMMARY

Yarriambiack Shire Council was made Committee of Management of the area known as the Lions Park in Warracknabeal in 1975.

The site is the home to wildlife and is actively cared for and managed by the Warracknabeal Lions Club.

The arrangement between the Shire and the Lions Club has been informal over the years. This paper aims to formalise the arrangement, with the aim of clearly identifying each parties' roles and responsibilities. Noting that the agreement must be formally endorsed by the Department of Energy, Environment and Climate Action as the landowner.

Recommended Motion:

That Council:

- a) Endorse that Council enter a licence with the Warracknabeal Lions Club to manage the site known as the Lions Park in Warracknabeal, located on Craig Avenue, subject to Department of Energy, Environment and Climate Action Minister approval.
- b) Approve the affixing of the common Seal to the 17B Licence between the Warracknabeal Lions Club and the Yarriambiack Shire Council.

ATTACHMENTS

[Attachment 1: Draft 17B Licence between Warracknabeal Lions Club and Yarriambiack Shire Council](#)

[Attachment 2: 1975 appointment of Shire of Warracknabeal as Committee of Management](#)

[Attachment 3: Wildlife Displayer Licence](#)

[Attachment 4: 17B Approval in Principal letter – Warracknabeal Lions Park](#)

DISCUSSION

The Lions Park in Warracknabeal is located on Department of Energy, Environment and Climate Action (DEECA) land, with Yarriambiack Shire Council identified as the Land Manager.

The Lions Club in Warracknabeal have actively managed and supported the development of the site, including caring for the Wildlife contained within the enclosures over a long-standing period.

To ensure the legitimacy of the arrangement between Council and the Lions Club, a formal Licence has been negotiated between both parties, which identifies roles and responsibilities. Prior to this arrangement being formalised, it must first be endorsed by DEECA.

Map: Location of Lions Park in Warracknabeal



RELEVANT LAW

- *Crown Land (Reserves) Act 1978 - s14* – Appointment of Committees of Management.
- *Crown Land (Reserves) Act 1978 - s17B* – Licences for purposes other than those for which land is reserved.
- *Wildlife Act 1975 - s22(3)*

COUNCIL PLANS AND POLICIES

Council Plan 2021-2025: Strategic Objective 1: A Vibrant and Diversified Economy.

RELATED COUNCIL DECISIONS

22 November 2023 – Ordinary Meeting of Council, item 15.5 Murtoa Caravan Park Lease

OPTIONS

- a) Council could choose to not enter into a formal licence arrangement; however, it would not be considered good governance practice to have a group operating and maintaining the site without a formal agreement in place.

SUSTAINABILITY IMPLICATIONS

Social: The Lions Park in Warracknabeal is a highly utilised and valued community asset. The site encourages outdoors activities and enhances social health and wellbeing outcomes. Council would not be able to provide the level of service currently offered from the site without the partnership of the Warracknabeal Lions Club.

Environmental: Council is the licensee for the wildlife animals, and the Lions Park Committee ensures they are cared for and their enclosures are well maintained. The park is located on the banks of the Yarriambiack Creek, which incorporates the natural environment.

Financial: The Lions Club undertakes the maintenance tasks for the Wildlife Park, which is undertaken as in-kind support to the operation and management of the park.

COMMUNITY ENGAGEMENT

Direct consultation with the Warracknabeal Lions Club has occurred to develop this licence.

GENDER IMPACT ASSESSMENT

Not required for this report.

RISK

Utilising the Risk Management Framework the following assessment has been made:

<i>Strategic Risk Description and Residual Risk Level</i>	<i>Action to Mitigate/Reduce Risk</i>	<i>Does Action maintain or reduce Residual Risk Level</i>
Corporate Governance, Compliance and Liability Risk - Residual Risk Level Low	Ensuring there is an active licence in place ensures roles and responsibilities are clearly defined, mitigating compliance, and liability risks.	Reduces Residual Risk Level
Strategy Execution and Change Management Risk - Residual Risk Level Medium	The Lions Park Warracknabeal contributes to enhancing the social health and wellbeing outcomes across the community, and also contributes to Council delivering on its Council Plan and Tourism Strategy strategic priorities and objectives.	Reduces Residual Risk Level
Reputational Risk - Residual Risk Level Low	Ensuring there is an active licence in place ensures each party understands their role and responsibility and assists with preventing misconceptions which in turn can lead to relationship breakdowns and reputational risk on Council.	Reduces Residual Risk Level

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Department of Energy, Environment and Climate Action (DEECA) – Committees of Management of Crown Land Reserves

CONFLICTS OF INTEREST

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in the subject matter of this report.

15.4 CORPORATE DEBIT AND CREDIT CARD POLICY

Prepared by Anita McFarlane, Manager Corporate Services

SUMMARY

Council's Corporate Debit and Credit Card Policy is due for review in June 2024. The Policy has been revised and amended to reflect current practices.

Recommended Motion:

That Council:

- f) Adopt the revised draft Corporate Debit and Credit Card Policy as attached to this Council report.

ATTACHMENTS

[Attachment: Draft Corporate Debit and Credit Card Policy](#)

DISCUSSION

Section 101 – Financial Management Principles of the *Local Government Act 2020* requires that Council manage and monitor financial risks.

The policy has been revised and amendments have been made to the terminology of the banking forms and the authorised positions to reflect the current organisation structure. The reconciliation of monthly statements has also been expanded to detail current processes.

RELEVANT LAW

Section 101-Financial Management Principles of the *Local Government Act 2020*.

COUNCIL PLANS AND POLICIES

This policy should be read in conjunction with relevant policies including:

- Fraud and Corruption Prevention Policy
- Public Interest Disclosure Policy and Procedure
- Procurement Policy

RELATED COUNCIL DECISIONS

The former policy was adopted by a resolution of Council on 23 June 2021, minute book page 208.

OPTIONS

An alternative option would be not to issue corporate credit and debit cards, however consideration would need to be made to the impact it would have on service delivery, such as the ongoing subscription to purchase software.

SUSTAINABILITY IMPLICATIONS

Financial – The policy addresses the governance structure for the management of corporate debit and credit cards, therefore reducing the risk of improper use.

COMMUNITY ENGAGEMENT

The policy is not required to undertake a community engagement process as it is a requirement within the Local Government Act and supporting regulations to have a policy to mitigate the risk of fraud.

RISK

Utilising the Risk Management Framework the following assessment has been made:

<i>Strategic Risk Description and Residual Risk Level</i>	<i>Action to Mitigate/Reduce Risk</i>	<i>Does Action maintain or reduce Residual Risk Level</i>
Corporate Governance, Compliance and Liability Risk - Residual Risk Level Low	The Policy meets the Local Government Act 2020 - Financial Management Principles to mitigate Council's risk of fraud.	Maintains Residual Risk Level
Financial Risk - Residual Risk Level Medium	The Policy assists to minimise the risk of fraud which could have a financial impact on Council.	Maintains Residual Risk Level

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Not applicable.

CONFLICTS OF INTEREST

The author involved in the preparation of this report has no Conflict of Interest requiring disclosure.

15.5 WOOMELANG RETIREMENT UNITS COMMUNITY ASSET COMMITTEE OF COUNCIL – ADOPTION OF COMMITTEE MEMBERS

Prepared by Tony Caccaviello, Chief Operating Officer

SUMMARY

The Woomelang Retirement Units Community Asset Committee of Council became effective on 01 September 2020 in accordance with Section 65 of the *Local Government Act 2020*.

In accordance with the requirements of the *Local Government Act 2020*, the Council must endorse the appointment of members to the Community Asset Committee.

RECOMMENDED MOTION:

That Council:

- a) Endorse the membership of the Woomelang Retirement Units Community Asset Committee of Council, as included in the Annual General Meeting Minutes held on the 07 March 2024 as follows:

President: Joe Collins, Vice President: Grant Kelly, Secretary: Brydie Kelly, Treasurer: Karen Adcock and general committee members: Rick Johnston, Sharon Gallagher, Rachel McClelland, Jason Collins, Barrell Boxall, Sandra Mott, Gwenyth Barbary, Don Collins, Gwen Michael.

- b) Note the revision of the Community Asset Committee Charter for the Woomelang Retirement Units as attached to this report.

ATTACHMENTS

[Attachment: 11.2 Draft AGM Minutes Community Asset Committee – 07 March 2024](#)

[Attachment: 11.2 Draft Minutes Community Asset Committee – 07 March 2024](#)

[Attachment: Revised Community Asset Committee Charter – Woomelang Retirement Units](#)

DISCUSSION

As a continuous improvement exercise, Council has reviewed and revised the Community Asset Committee processes to ensure compliance with the *Local Government Act 2020*.

As part of this review, it was identified a process was to be implemented to ensure Councillors, via a Council resolution, endorsed changes to the membership of the Community Asset Committee as they occur.

On 07 March 2024, the Woomelang Retirement Units Community Asset Committee of Council held its Annual General Meeting. During this meeting the following memberships were endorsed:

President: Joe Collins, Vice President: Grant Kelly, Secretary: Brydie Kelly,

Treasurer: Karen Adcock and

General Committee Members: Rick Johnston, Sharon Gallagher, Rachel McClelland, Jason Collins, Barrell Boxall, Sandra Mott, Gwenyth Barbary, Don Collins, Gwen Michael.

This committee membership requires formal endorsement from the Council, with this report being presented at a Council meeting that is scheduled as soon as practicable after the AGM of the Woomelang Community Asset Committee of Council.

At the Council meeting of 26 July 2023, Council endorsed the Chief Executive Officer be delegated responsibility to finalise the Community Asset Committee Charter, in

consultation with the Woomelang Retirement Units Committee, and make changes to the charter as required to achieve effective and efficient governance, in accordance with the Local Government Act 2020 and Council's Policies, Procedures, Plans and Guidelines.

Following engagement with the Committee, at the annual general meeting the Committee moved a motion recommending that the length of tenure for office bearers and committee members be updated to two years and that the general meeting to elect office bearers and committee members be moved to a biennial (every second year) schedule to match this length of tenure. These changes have been reflected in the Community Asset Committee Charter as attached to this report.

RELEVANT LAW

- Section 65 *Local Government Act 2020* and Section 47 *Local Government Act 2020*

COUNCIL PLANS AND POLICIES

- Council Plan 2021-2025 Strategic Objective 4: A Council Who Serves its Community.

RELATED COUNCIL DECISIONS

Minutes 26 August 2020 - Appointment of Woomelang Retirement Units as a Community Asset Committee

Minutes 26 July 2023 – Woomelang Retirement Units Community Asset Committee of Council endorsement the appointment of members of the Community Asset Committee.

OPTIONS

Council could choose to abolish the Community Asset Committee, however Council would be required to ensure adequate resources were allocated to ensuring the effective management of the units.

SUSTAINABILITY IMPLICATIONS

Economic: Community assets such as the retirement units are vital to the economic prosperity of the Shire. Sustaining the Shires population is heavily reliant on services, facilities and accommodation on offer. It is important that Council can ensure the longevity of Council owned assets where possible, and partner with volunteer groups to ensure services and facilities are maintained.

Social: Providing opportunities for residents to remain longer in their own homes and communities enhance the liveability, social connection, and cohesion across communities.

Financial: Council is heavily reliant on volunteerism across the Shire. Without volunteer groups such as the Woomelang Retirement Units Community Asset Committee of Council, Council would be unable to provide the level of services currently on offer. There are significant benefits to not only Council, but the community, supporting Community Asset Committees to function and thrive across our Shire.

COMMUNITY ENGAGEMENT

Community engagement activities have occurred directly with the Woomelang Retirement Units Asset Committee of Council.

GENDER IMPACT ASSESSMENT

Not applicable

RISK

Utilising the Risk Management Framework the following assessment has been made:

<i>Strategic Risk Description and Residual Risk Level</i>	<i>Action to Mitigate/Reduce Risk</i>	<i>Does Action maintain or reduce Residual Risk Level</i>
Strategy Execution and Change Management Risk - Residual Risk Level Medium	The establishment and support of the Community Asset Committee of Council, aligns with Council Plan 2021-2025 – Strategic Objective Two: A Healthy and Inclusive Community. Where a key priority is identified to partner and advocate for the delivery of social, affordable and aged care housing across our Shire.	Maintains Residual Risk Level
Corporate Governance, Compliance and Liability Risk - Residual Risk Level Low	Revising the Asset Committee Instrument of Delegation, Charter and the development of the Operations Manual supports good governance practices.	Maintains Residual Risk Level

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Not applicable

CONFLICTS OF INTEREST

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in the subject matter of this report.

15.6 ENABLING TOURISM FUNDING APPLICATION

Prepared by Tammy Smith, Chief Executive Officer

SUMMARY

The State Government Enabling Tourism Fund is now open and closes at 5pm on 28 March 2024.

The aim of the funding is to create a strong pipeline of investment ready infrastructure projects across Victoria.

It is recommended that Council apply for this funding opportunity to progress forward with the Hopetoun Former School Site, business case and feasibility study outcomes which identifies the site for an accommodation venue, supporting and promoting tourism across our Region.

Recommended Motion:

That Council:

- a) Endorse a co-contribution of \$91,800 towards the Hopetoun Former School Site, State Government, Enabling Tourism Funding Application.
- b) That the \$50,000 allocated towards the design phase of the Hopetoun Former School site that was endorsed via Council resolution on 23 August 2023, be absorbed into the \$91,800 allocation; and
- c) That the funding co-contribution of \$91,800 be included in the 24/25 Budget.

ATTACHMENTS

[Reference: Hopetoun Former School Site Business Case and Feasibility Study Council Report Adoption – 23 August 2023](#)

[Website Link: Enabling Tourism Fund | Tourism and Events](#)

DISCUSSION

On 24 November 2021, Council resolved to purchase the Old School Site, on Garrard Street Hopetoun. Council engaged Urban Design to undertake Master Planning to reflect the communities long term vision for the site. A building condition report was also undertaken to inform the final Masterplan.

Funding was secured via the Regional Infrastructure Fast Track Investment Fund from the State Government to develop a Feasibility Study and Business Case (Business Case) for the site.

The Business Case supported the development of a multipurpose venue and accommodation enterprise. This opportunity involves the redevelopment of Hopetoun's former primary school complex (the 1978 constructed buildings/campus) to be utilised as a multipurpose venue and accommodation facility, supporting and enhancing tourism across the region. It is estimated that the capital redevelopment cost for this component of the site is approximately \$4.3million.

On the 23 August, when Council endorsed the Business Case, it was recommended that Council, in the first instance, break the project into two phases, design and construction, and seek funding to commence the design phase of the project.

In October 2023, Council applied for the Commonwealth Government Regional Precincts and Partnership Program, Stream One: Precinct Development and Planning. Initially, the funding stream advised that successful funding applications would be announced in December 2023. Unfortunately, this has since been pushed out to early 2024. With no announcement on the horizon, and with the concern of missing out on funding opportunities to progress this important priority project, it is recommended Council apply for the State Government Enabling Tourism Funding.

Council would be applying for the Stream 2: Preparing for investment stream, of up to \$500,000 (ex GST) to prepare a combination of materials to ensure that the project is ready for infrastructure investment.

The program has a \$4 for \$1 funding structure, with in kind excluded from the Council's contribution amount.

Council will be requesting a total \$459,000 to enable the project to be shovel ready. Council would be required to provide a co-contribution of \$91,800 towards the project. Noting that Council, had previously endorsed on the 23 August 2023, to allocate \$50,000 towards the design phase of the site.

RELEVANT LAW

- *Local Government Act 2020*

COUNCIL PLANS AND POLICIES

Council Plan – Strategic Objective 2: A Healthy and Inclusive Community.

RELATED COUNCIL DECISIONS

24 November 2021 – 12.2 Purchase of Former Hopetoun School Site

23 August 2023 – 15.2 Endorsement of Hopetoun Former School Site Feasibility Study and Business Case

OPTIONS

- a) Council could choose to await the outcome of the Commonwealth Funding, however we risk the chance of missing out on a funding opportunity all together.

SUSTAINABILITY IMPLICATIONS

Economic: The accommodation venue will provide an economic stimulus for the Shire and region, as it was noted in the feasibility study and business case, there was limited facilities that could accommodate large groups. This would encourage groups to stay and spend within our Shire, promoting and enhancing tourism.

Social: The redevelopment of the site provides an overarching benefit to the Hopetoun and district community. Beautifying and investing in the site, enhances social health and wellbeing outcomes within the municipal district.

Financial: Council needs to ensure they invest in project planning to inform grant applications. There is a risk, in this current economic environment that Council could be exposed to cost escalation risks. This funding stream supports developing investment ready projects.

COMMUNITY ENGAGEMENT

The development of the Masterplans for the Hopetoun Former School site undertook extensive community engagement.

Council endorsed a Hopetoun Old School Site Advisory Committee of Council, which was established via an open and transparent nomination process.

The Hopetoun Old School Site Committee was engaged as part of the Feasibility Study and Business Case development.

It is important to note, this project has been a community led and driven project. Council’s role has been facilitating and enabling this project to succeed.

GENDER IMPACT ASSESSMENT

Not applicable at this stage. GIA will be undertaken during the design phase.

RISK

Utilising the Risk Management Framework the following assessment has been made:

<i>Strategic Risk Description and Residual Risk Level</i>	<i>Action to Mitigate/Reduce Risk</i>	<i>Does Action maintain or reduce Residual Risk Level</i>
Strategy Execution and Change Management Risk - Residual Risk Level Medium	This project is aligned with the Council Plan objectives and strategic priorities, along with the Council’s Economic Development Strategy, the Wimmera Southern Mallee Regional Economic Development Strategy, Horizon Highway and WSMD Strategic Plan. It also supports the strategic vision for Tourism outlined in the WMT Strategy.	Reduces Residual Risk Level
Financial Risk - Residual Risk Level Medium	Ensuring funds are dedicated to design and cost estimating will reduce Council’s risk of overcommitment.	Maintains Residual Risk Level
Program and Project Risk - Residual Risk Level Medium	Breaking the project into stages / phases will assist with adequately costing and managing the project.	Maintains Residual Risk Level
Reputational Risk - Residual Risk Level Low	Council is committing to supporting this project, having a plan of action to move forward.	Reduces Residual Risk Level

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

- Horizon Highway - Wimmera Southern Mallee Regional Partnership Strategy
- Wimmera Southern Mallee Regional Economic Development Strategy
- Wimmera Mallee Tourism Strategy
- Wimmera Southern Mallee 2023-2027 Strategic Plan
- Rural Council’s Victoria Strategy 2020-2024

CONFLICTS OF INTEREST

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in the subject matter of this report.

15.7 COMMON SEAL AND CONDUCT AT MEETINGS 2024 LOCAL LAW

Prepared by Belinda Penny, Governance Officer

SUMMARY

The Common Seal and Conduct at Council Meetings Local Law 2024 is developed to establish the circumstances under which the official Council Common Seal may be affixed to documents and to address offences in respect of conduct at meetings. The document was presented to Councillors at the meeting held on 28 February 2024 without the Solicitors endorsement. This has since been rectified and the document is now required to be presented and adopted by Council again.

Recommended Motion:

That Council:

1. Rescinds the Resolution made at the Council meeting held on 28 February 2024 in respect of Agenda Item 15.2 – Common Seal and Conduct at Meetings 2024 Local Law.
2. Having:
 - a) completed the statutory process under Division 3 of Part 3 of the *Local Government Act 2020* for the making of the proposed Common Seal and Conduct at Meetings Local Law 2024 (proposed Local Law);
 - b) obtained a certificate from a suitably qualified lawyer stating that, in their opinion, the proposed Local Law is consistent with the local law requirements set out in s 72 of the *Local Government Act 2020*, attached to this Report as Attachment 2 and
 - c) undertaken community engagement in accordance with Council's Community Engagement Policy in respect of the proposed Local Law and having considered all submissions that were received,
 - d) resolves to make the Common Seal and Conduct at Meetings Local Law 2024 in the form attached to this Report as Attachment 1, to commence operation on 27 March 2024.
3. Authorises the Chief Executive Officer to publish in the Victorian Government Gazette and on Council's website, in respect of the Common Seal and Conduct at Meetings Local Law 2024, the notice required by s 74(4) of the *Local Government Act 2020*.

ATTACHMENTS

[Attachment 1: Revised version of Common Seal and Conduct at Council Meetings Local Law 2024](#)

[Attachment 2: Solicitor's Certificate – Common Seal and Conduct at Meetings Local law 2024](#)

[Attachment 3: Local law Community Impact Statement](#)

[Attachment 4: Feedback from Community Consultation](#)

DISCUSSION

Section 14(1)(b) of the *Local Government Act 2020* requires Council as a body corporate to have a common seal. However, the *Local Government Act 2020* does not make express provision for the circumstances in, or the procedures by, which a common seal may or must be affixed to documents.

Section 14(2)(c) of the *Local Government Act 2020* provides that Council's Common Seal must be 'used in accordance with any applicable local law' but does not otherwise regulate its use or describe any documents to which it must be affixed.

Matters relating to the use of the Common Seal are ultimately left to be regulated by Council, through the Local Law.

Councils tend to use their Common Seals 'Out of Habit', 'For Ceremonial Purposes' or 'To avoid queries about what power the signatory had to sign a document on Council's behalf'.

The Common Seal and Conduct at Council Meetings Local Law has recently been reviewed to rectify the identified anomaly in enabling the affixing of the Common Seal when a staff member has been delegated responsibility. This specifically applies to the affixing of Council's Common Seal to Section 173 Agreements administered under the *Planning and Environment Act 1987*, once the agreement has been assessed and approved by the applicable nominated Council Officer in accordance with the S6 Instrument of Delegation.

Under the Common Seal and Conduct at Council Meeting Local Law 2020 a section 173 Agreement was required to be taken to a Council Meeting to be adopted and have the Common Seal applied as a formality, when it is the applicable delegated Officers' responsibility to approve the agreement and Council has no authority to do so. By addressing this anomaly, it will allow for the nominated Officer to approve, seal and sign these agreements without needing to wait for the next Council Meeting.

Documents being sealed and signed under delegation will still follow the signature arrangement of the Chief Executive Officer and two Councillors and will be recorded in the Common Seal register.

RELEVANT LAW

- *Local Government Act 2020* Part 2, Division 2, Clause 14, (1)(b)
- *Local Government Act 2020* Part 2, division 2, Clause 14, (2)(c)

COUNCIL PLANS AND POLICIES

- Freedom of Information Part II Statement

RELATED COUNCIL DECISIONS

Council Meeting - 26 August 2020 – Common Seal and Conduct at Meetings Local Law 2020

OPTIONS

Council can decide to not adopt the revised version of the Local Law 2024 which addresses the anomaly relating to Section 173 Agreements being signed under delegated authority and continue to have these Agreements come through Council. This will cause delays in the signing of the Section 173 Agreements and a subsequent delay in the setting of conditions or restrictions on the use of the development of land involved in the Section 173 Agreement.

SUSTAINABILITY IMPLICATIONS

One of the Overarching governance principles in section 9 of the *Local Government Act 2020* is that the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.

Economic: Timely processing of 173 Agreements is imperative to supporting economic development activities of Council. A 173 Agreement sets out the conditions and restrictions on the use or development of land, or to achieve other planning objectives in relation to the land.

COMMUNITY ENGAGEMENT

Community Engagement has been undertaken in the reviewing process of the Common Seal and Conduct at Meetings Local Law 2024 by having the Local Law available on Council’s website for public submissions between 17 January 2024 and 16 February 2024. One submission was received during this period.

The feedback provided asked why the Common Seal and Conduct at Meetings Local Law was required, and if there had been an outbreak of inappropriate behaviour by Councillors and the public. It also questioned if the document was aimed at intimidating and/or silencing people.

In answer to the feedback provided;

- Council has only made changes to the section in relation to the Common Seal.
- Part C – Offences has not been altered, in relation to conduct at meetings.
- There have been no reports of inappropriate behaviours by Councillors and or the public.
- Whilst it is hoped our Council would never have to utilise the Part C – Offences section of the Common Seal and Conduct at Meetings Local Law, it does provide a mechanism for dealing with offensive and disorderly conduct, and improper conduct in the chambers if it was to arise.

GENDER IMPACT ASSESSMENT

Not applicable

RISK

Utilising the Risk Management Framework the following assessment has been made:

<i>Strategic Risk Description and Residual Risk Level</i>	<i>Action to Mitigate/Reduce Risk</i>	<i>Does Action maintain or reduce Residual Risk Level</i>
Corporate Governance, Compliance and Liability Risk - Residual Risk Level Low	The Common Seal and Conduct at Meetings Local Law has been revised to address the application of a Common Seal to 173 Agreements. This ensured a timely process, and our actions were in accordance with the Local Law.	Maintains Residual Risk Level
Reputational Risk - Residual Risk Level Low	In relation to above, it is important that Council processes planning matters in a timely manner to support economic development within our community.	Maintains Residual Risk Level

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Nil

CONFLICTS OF INTEREST

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in the subject matter of this report.

15.8 PLANNING PERMIT APPLICATION PA2024003 – 165-167 SCOTT STREET WARRACKNABEAL

By: Adam Moar, Manager Development and Environmental Services, and James Thomas, Development Services Officer/Student Planner

SUMMARY

A planning permit application (PA2024003) has been lodged with Council for the proposed sale and consumption of liquor in association with an existing food and drink premises (restaurant) and the reduction of car parking spaces.

The application was notified to adjoining property owners for a period of 14 days with two submissions being received objecting to the application. The submissions raised the availability of car parking spaces and the additional liquor license as issues.

Recommended Motion:

That Council

Issues a Notice of Decision to Grant a Permit under the provisions of the Yarriambiack Planning Scheme in respect of the land known and described as Lot 1 TP412575L and Lot 1 TP613604L being 165-167 Scott Street, Warracknabeal, for the sale and consumption of liquor in association with a food and drink premises (Restaurant) and the reduction in car parking, subject to the following conditions:

Compliance with documents approved under this permit.

1. At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

Layout not altered.

2. The layout of the use must not be altered from the layout on the approved and endorsed plans without the written consent of the responsible authority.

Approved and endorsed plans – no changes required.

3. Before the development starts, plans must be approved and endorsed by the responsible authority. The plans must:
 - a) be prepared to the satisfaction of the responsible authority,
 - b) be drawn to scale with dimensions,
 - c) submitted in electronic form,
 - d) be generally in accordance with the plans that form part of the application.

General amenity provision.

4. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a) transport of materials, goods or commodities to or from the land,
 - b) appearance of any building, works or materials,
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
 - d) presence of vermin

Service in the outdoor areas.

5. The outdoor areas are to be closed by 10pm on any particular day, with music played in these areas also to cease.

Noise control

6. At all times noise emanating from the land must comply with the requirements of the Environment Protection Regulations 2021 (as amended from time to time) as measured in accordance with the Noise Protocol to the satisfaction of the responsible authority.

Noise Protocol means the *Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues*, published by the Environment Protection Authority on its website, as in force from time to time.

Hours of operation

7. The use must only operate between the following times:
 - a) 7am and 11pm Monday to Saturday
 - b) 10am and 11pm Sunday
 - c) ANZAC Day and Good Friday: 12pm to 11pm.

The responsible authority may consent in writing to vary these requirements.

Licensed premises – regulation of sale and consumption of liquor

8. The predominant activity carried out on the land must be the preparation and serving of meals for consumption on the premises.

Limit on number of persons.

9. At any one time no more than 100 patrons may be present on the land.

The responsible authority may consent in writing to vary this requirement.

Number of bicycle spaces required.

10. No fewer than three (3) bicycle spaces must be provided on the land in accordance with the Yarriambiack Planning Scheme.

Control of light spill

11. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.

Commencement of permit

12. This permit will operate from the issued date of this permit.

Expiry - use

13. This permit as it relates to use will expire if the use does not start within 2 years after the issued date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the period referred to in this condition.

PERMIT NOTES

The permitted development may need to comply with, or obtain the following further approvals:

- A building permit under the Building Act 1993.
- A liquor licence under the Liquor Control Reform Act 1998

ATTACHMENTS

[Attachment: Application Documents](#)

[Attachment: Delegate Report](#)

DISCUSSION

Planning Permit Application PA2024003 proposes the expansion of an existing restaurant into an existing building on the site which would require a reduction in the number car parking spaces that the Yarriambiack Planning Scheme requires, and for a liquor licence to be used by the restaurant.

Under the provisions of the Yarriambiack Planning Scheme the elements of the proposal that require a planning permit are the reduction in onsite car parking spaces and the liquor license as the land is located in the Commercial 1 Zone where a food and drink premises is a Section 1 – No permit required use.

The application received two (2) submissions during the notification period to adjoining property owners. The submissions both raised the availability of car parking spaces as an issue, with one raising an additional liquor licence as an issue.

The application has been assessed against the provisions of the Yarriambiack Planning Scheme and the required sections of the *Planning and Environment Act 1987*. The full assessment of the application is provided in the attached delegate report, along with the relevant sections of the planning scheme.

The overall assessment of the application provides for a recommendation to approve the application subject to conditions which relate to the amenity of the locality, hours of operation, and compliance with the endorsed plans and documents.

RELEVANT LAW

Planning and Environment Act 1987

Planning and Environment Regulations 2015

COUNCIL PLANS AND POLICIES

Yarriambiack Planning Scheme

RELATED COUNCIL DECISIONS

Nil

OPTIONS

Option 1:

That Council issues a notice to approve the planning permit subject to conditions. This option provides the objectors with the option to challenge the decision at VCAT.

Approving a planning permit subject to condition also provides the applicant to challenge any conditions at VCAT.

Option 2:

That Council issues a notice of decision to refuse the planning permit application for reasons relating to amenity concerns for the locality and the availability of car parking. This option also allows the applicant to challenge the refusal at VCAT.

SUSTAINABILITY IMPLICATIONS

Economic: The application proposes the full use of an existing building within the main Street of Warracknabeal which will provide an additional option for dining in the town. Without this use the site on a predominate corner on the main street may have remained vacant.

Social: The holder of a liquor licence is required to serve alcohol responsibly, where this is not undertaken the owner could be fined or have their licence revoked.

COMMUNITY ENGAGEMENT

This application has been advertised to adjoining owners for a minimum period of 14 days. Submissions can be accepted on any application until a decision has been made on the application.

The attached delegate report addresses the concerns raised by the submissions received for this application.

GENDER IMPACT ASSESSMENT

A gender impact assessment is not required for this report.

RISK

Utilising the Risk Management Framework the following assessment has been made:

<i>Strategic Risk Description and Residual Risk Level</i>	<i>Action to Mitigate/Reduce Risk</i>	<i>Does Action maintain or reduce Residual Risk Level</i>
Strategy Execution and Change Management Risk - Residual Risk Level Medium	Risk of approving inappropriate land uses on sites where amenity issues may arise, or not conditioning an approval appropriately to minimise amenity impacts.	Reduces Residual Risk Level

REGIONAL, STATE AND NATIONAL PLANS AND POLICIES

Nil

CONFLICTS OF INTEREST

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in the subject matter of this report.

16 COUNCIL REPORTS FOR NOTING

Recommended Motion:

That Council:

Note item 16.1 Council Report for Noting, Craig Avenue Bridge Repair.

16.1 CRAIG AVENUE BRIDGE REPAIR

In the aftermath of recent unpredictable weather, a sizeable tree limb caused damage to a portion of the Yarriambiack Creek boardwalk footbridge, along Craig Avenue in Warracknabeal. This cherished asset, located on State Government, Department of Energy, Environment, and Climate Action land, is a key element for the community.

The Council has been working closely with the Yarriambiack Creek Development Committee and DEECA Officers to assess and rectify the damage as soon as possible.

An inspection by our Municipal Building Surveyor revealed that the main impact was confined to one bay, with only minor damage to adjacent areas. Thankfully, the rest of the footbridge remains unaffected, alleviating concerns about extensive repairs or building permits.

Council Officers, in collaboration with the Creek Committee and a contractor, are diligently working to determine the cost of repairs. The Council is in constant communication with DEECA to expedite the restoration process. Understanding the boardwalk footbridge's significance to the community.

The Yarriambiack Shire Council values the community's connection to the boardwalk footbridge and assures residents that every effort is being made to restore this beloved asset promptly.

We are in the process of finalising quotations for submission to DEECA's insurers, to enact the claim process. Our aim is to have all documentation submitted prior to Easter.

Once the claim is processed and approved, works should commence shortly after, with Council Officers being delegated to project manage and assist with repairs.

17 PERMITS ISSUED

List of permits issued in February 2024 is listed below for noting.

Recommended Motion:

That Council:

Note the permits issued by Council between 1 February and 29 February 2024

Reference No	Description	Address	Date of Issue
Building Permits			
BLD20230372	Construction of a dwelling	Beulah	27/02/2024
BLD20240385	Demolition works	Speed	15/02/2024
Planning Permits			
Nil			
Local Law Permits			
01-24	Street Trade Permit – Warracknabeal Lions Club	Scott Street Warracknabeal	13/02/24
02-24	Keeping more than the allowed number of animals – Cats	Murtoa	13/02/2024
03-24	Street Trade Permit – The General Store	Scott Street Warracknabeal	28/02/24
RRWP & APP			
2024-01	World Minerals and Resources – Roadside Drilling Exploration	Warracknabeal	15/0/2024
2024-02	World Minerals and Resources – Roadside Drilling Exploration	Beulah	16/02/2024
2024-03	ACDC – Roadside Drilling Exploration	Warracknabeal	20/02/2024

18 URGENT BUSINESS

Business cannot be admitted as urgent business, other than by resolution of Council. Council must only admit business as urgent if the business:

- a) Cannot safely be deferred until the next Council meeting; or
- b) Involves a matter of urgency, as determined by the CEO.

Councillors may ensure that an issue is listed on an Agenda by submitting a Notice of Motion in accordance with Governance rules, item 2.13.

If the CEO rejects the Notice of Motion, she must provide a response to the Councillor as outlined in 2.13 (e) of the Governance Rules.

19 CLOSED (CONFIDENTIAL) MEETING

That, in accordance with sections 66(1) and 66(2)(a) of the *Local Government Act 2020*, the meeting be closed to members of the public for consideration of the following confidential items:

19.1 PERMIT TO STORE UNREGISTERED VEHICLES

This Agenda item is confidential information for the purpose of section 3(1) of the *Local Government Act 2020*:

1. Because it is law enforcement information, being information that if released would be reasonably likely to prejudice the investigation into an alleged breach of the local law, or the fair trial or hearing of any person (section 3(1)(d)); and
2. Because it contains personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs (section 3(1)(f));

This ground applies because the Agenda Item concerns personal information about a rate payer that would, if prematurely released, compromise Council's position in relation to the requirement to comply with the *Privacy and Data Protection Act 2014* and enforcement activities.

19.2 INTERNAL AUDIT CONTRACT EXTENSION C265-2020

This Agenda item is confidential information for the purpose of section 3(1) of the *Local Government Act 2020*:

1. Because it is Council business information, being information that would prejudice Council's position in commercial negotiations if prematurely released (section 3(1)(a)); and
2. This ground applies because the Agenda Item concerns the progress of ongoing contractual negotiations that would, if prematurely released, diminish the strength of Council's position in those negotiations.

20 NEXT MEETING

24 April 2024

21 CLOSED