



13 February 2019

To Councillor,  
"as addressed"

NOTICE is hereby given that an **ORDINARY MEETING** of the Hindmarsh Shire Council will be held at the Memorial Hall, Roy Street, Jeparit on Wednesday 20 February 2019, commencing at **3:00pm**.

A handwritten signature in black ink, appearing to read 'gwood', written over a horizontal line.

Greg Wood  
**Chief Executive Officer**

**AGENDA**

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|----|---|
| 1. | <b>Acknowledgement of the Indigenous Community and Opening Prayer</b> |
| 2. | <b>Apologies</b>  |
| 3. | <b>Confirmation of Minutes</b>  |
| 4. | <b>Declaration of Interests</b>                                       |
| 5. | <b>Public Question Time</b>   |
| 6. | <b>Deputations</b>  |
| 7. | <b>Correspondence</b>   |

**8. Assembly of Councillors**

8.1 Record of Assembly

**9. Planning Permit Reports**

9.1 Application for Amendment to Planning Permit 1514-2015 – 116-120 Lloyd St Dimboola

**10. Reports Requiring a Decision**

10.1 Financial Report for the Period Ending 31 December 2018

10.2 Council Plan 2017-2021 Progress Report

**11. Special Committees**

11.1 Rainbow Town Committee

11.2 Dimboola Town Committee

**12. Late Reports**

No report

**13. Other Business**

**14. Confidential Matters**

14.1 Lease of Land Surrounding Nhill Aerodrome

**15. Meeting Close**

**1. ACKNOWLEDGEMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER**

***Acknowledgement of the Indigenous Community***

*We acknowledge the Shire's Indigenous community as the first owners of this country. We recognise the important ongoing role that indigenous people have in our community and pay our respects to their elders and people both living and past.*

***Opening Prayer***

*Dear Lord,*

*We humbly request your blessing upon this Council and welcome your guiding presence among us.*

*May our decisions be taken wisely and in good faith, to your glory and the true welfare of the citizens of the Hindmarsh Shire.*

**2. APOLOGIES**

**3. CONFIRMATION OF MINUTES**

***RECOMMENDATION:***

***That the Minutes of the Ordinary Council Meeting held on Wednesday 6 February 2019 at the Council Chambers, 92 Nelson Street, Nhill as circulated to Councillors be taken as read and confirmed.***

*Attachment: 1*

**4. DECLARATION BY COUNCILLORS OR OFFICERS OF ANY DIRECT OR INDIRECT INTEREST IN ANY ITEM ON THE AGENDA.**

- Direct; or
- Indirect interest
- a ) by close association;
- b ) that is an indirect financial interest;
- c ) because of conflicting duties;
- d ) because of receipt of an applicable gift;
- e ) as a consequence of becoming an interested party; or
- f ) because of an impact on residential amenity.

Declaration of direct or indirect interest must also be advised by Councillors at the commencement of discussion of the specific item.

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**5. PUBLIC QUESTION TIME**

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**6. DEPUTATIONS**

No deputations.

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**7. CORRESPONDENCE**

**7.1 GENERAL CORRESPONDENCE**

**Responsible Officer:** Chief Executive Officer

No correspondence.

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**8. ASSEMBLY OF COUNCILLORS**

**Responsible Officer:** Chief Executive Officer

**Attachment:** 2

**Introduction:**

The attached Assembly of Councillors Records are presented as an attachment to the Council agenda for the information of Councillors and recorded at the Council meeting as required under s80A Local Government Act 1989.

**Options:**

1. That Council accepts the Assembly of Councillors Records as presented.

**RECOMMENDATION:**

***That Council accepts the Assembly of Councillors Records as presented.***

*Attachment: 2*

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**9. PLANNING PERMITS**

**9.1 APPLICATION FOR AMENDMENT TO PLANNING PERMIT 1514-2015 – 116-120  
LLOYD ST DIMBOOLA**

<b>Responsible Officer:</b>	Acting Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	025220
<b>Applicant:</b>	Graeme Schneider – Tomkinson Group
<b>Owner:</b>	Graeme Schneider
<b>Subject Land:</b>	Lots 1, 2, 3 and 4 TP805320
<b>Proposal:</b>	Amend planning permit to reconfigure approved four lot subdivision
<b>Zoning &amp; Overlays:</b>	<ul style="list-style-type: none"><li>• Commercial 1 Zone (C1Z)</li><li>• Heritage Overlay Schedule 34 (HO34) – Dimboola Town Centre Heritage Precinct</li><li>• Environmental Significance Overlay Schedule 6 (ESO6) – Catchments of Wetlands of Conservation Value;</li></ul>
<b>Attachment:</b>	3

**Summary:**

This report recommends that Council approve amended planning permit application 1514-2015 to reconfigure a previously approved four lot subdivision.

**Background:**

Council, at its meeting on the 6 April 2016, resolved to approve planning application 1514-2015 to resubdivide four lots. On the 31 October 2017, a further application to amend this planning application was received, which proposes to alter the approved endorsed plan, as well as area alterations to Lots 2,3, 4 and relocation of easements following direction from GWM Water. This application to amend the plan was lodged on 09 January 2018. An explanatory report provided by the applicant outlines the history and evolution of this subdivision (as follows):

1. *“The original application for re-subdivision of the existing four lots was approved by Council Permit No. 1514-2015 issued on 13 April 2016. Condition 12 of this permit demands plan certification must be arranged prior to 13 April 2019, or the permit lapses.*
2. *The inordinate delay in concluding this project has mainly been caused by imposed clean-up actions elsewhere and the focus on resolving this problem, which has now been finalised.*
3. *The subsequent survey completed for plan certification purposes revealed significant differences between title and existing fences. Plan of Subdivision PS748665X (see*

- attached) was prepared and presented to Council for approval, based on the current perimeter boundaries which would be subject to alteration and subject to Land Use Victoria approval. One possible way to alter boundary dimensions to agree with aged fencing is to undertake an adverse possession claim. This can be a protracted and complicated action and can take approximately 12 months to conclude.*
4. *Fortunately, an alternative, less contentious method is available, subject to consensus between any affected property owners. Under Scheme Clause 62.04, where a new boundary coincides with a boundary fence that is more than five years old in an urban area, a common boundary re-alignment between two lots can be arranged without a permit. This situation has existed for many years (>40yr) and consequently, three re-subdivision applications are proposed to rectify and re-align title boundaries along the extant aged fencing.*
  5. *Agreement has been obtained from two of the adjoining owners to utilise these provisions. Each have signed a Form 1 confirming their acceptance. The remaining abutting landholder to the south - Hindmarsh Shire Council - are yet to consent to this approach.*
  6. *On this basis, Plan of Subdivision PS803114J has been prepared, submitted for certification approval, accepted by Council and has obtained SOC (statement of compliance) issue. Presently, this plan is again before Council for re-certification purposes, due to some minor necessary corrections required for plan registration, which will be arranged on receipt of the amended approved plan.*
  7. *Once PS803114J has been lodged for registration, a second plan (PS803115G) and involving the [adjoining] land will be submitted for Council approval under the same Scheme provisions and subsequently registered.*
  8. *When the second re-subdivision is finalised and subject to Council agreement, a third application (PS803116E) will be presented for Council certification purposes, again under identical Scheme provisions and registered, in due course.*
  9. *Actions in 6, 7 & 8 above will take some time to conclude, possibly greater than 6 months. As mentioned in 1. above, Plan of Subdivision PS748665X must be certified before 13 April 2019. Due to the period overlap caused the three re-subdivision applications and time for plan approval, the boundaries described in PS748665X will likely need to be amended afterwards. In order to avoid the risk of the original permit lapsing, I seek certification of the existing plan by Council before this date - any plan changes can be arranged later”.*

**Proposal Details:**

The proposal is to alter the 4 approved lots as follows:

Lot 1 – No change.

Lot 2 – Increase in size from 1118m<sup>2</sup> to 1196m<sup>2</sup>, with easement changes as per plan submitted, and reconfiguration of boundary with Lot 4.

Lot 3 – Increase in size from 728m<sup>2</sup> to 744m<sup>2</sup>, with additional easement.

Lot 4 – Reduction in size from 1431m<sup>2</sup> to 1339m<sup>2</sup>, and reconfiguration of boundary with Lot 2.

The changes are considered significant enough to warrant an amendment to the planning permit.

**Requirement for Permit:**

A Planning permit is required under Clause 34.01-3 – Commercial 1 Zone of the Hindmarsh Planning Scheme to subdivide land. A permit is also required under Clause 43.01-1 – Heritage Overlay to subdivide land.

**Subject site & locality:**

The subject site is on land formerly occupied by the Dimboola Hotel. The land is currently vacant, and constitutes four lots. The surrounding locality primarily consists of commerce, offices and shops – the Dimboola CBD, with residential development surrounding. An application has been lodged to amend Permit 1514-2015 as per plans submitted with the proposal, changing the size of the approved lots as well as realigning easements as per the requirements of GWM Water.

**Public Notification**

Section 52 of the Planning and Environment Act 1987 prescribes the requirements relating to giving notice as such:

***s52 Notice of application***

*(1) Unless the responsible authority requires the applicant to give notice, the responsible authority must give notice of an application in a prescribed form—*

- (a) to the owners (except persons entitled to be registered under the Transfer of Land Act 1958 as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the responsible authority is satisfied that the grant of the permit would not cause material detriment to any person.*

The application is not required to be publicly notified under the provisions of the Planning and Environment Act 1987 as the proposal is not deemed to cause material detriment to any person for the following reasons:

- Given the proximity to dwellings and commerce within the area , the proposal will not adversely impact upon the landscape and general amenity of the area;
- The proposal is not increasing the number of lots on the subject land; and
- The proposal is not considered to negatively impact on the potential use of the subject and or surrounding land in the area.

It is therefore determined that the proposal will not cause material detriment to any person.

### **Referrals**

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals: Re-referred through SPEAR to the following:

- GWM Water: Consent to certifying plan.
- Powercor: Consent to certify, compliance withheld.
- WCMA: No objection, consent to certification and issuance of statement of compliance.

Section 52 Notices:

Internal Referrals:

- Engineering: Conditions previously applied.
- Environmental Health: Not required.

### **Planning Assessment:**

#### Permit Requirement:

A Planning permit is required under Clause 34.01-3 – Commercial 1 Zone of the Hindmarsh Planning Scheme to subdivide land. A permit is also required under Clause 43.01-1 – Heritage Overlay to subdivide land.

#### Planning Scheme Requirements:

### **Planning Policy Framework**

Clause 11 – Settlement

Clause 11.01 –Victoria

Clause 11.01-1R Settlement - Wimmera Southern Mallee

Clause 17 – Economic Development

Clause 17.01 - Employment

Clause 17.01-1S - Diversified economy

Clause 17.01-1R - Diversified economy - Wimmera Southern Mallee

Clause 21 – Municipal Strategic Statement

### **Zoning Provisions**

Clause 34.01– Commercial 1 Zone

### **Overlay Provisions**

Clause 43.01– Heritage Overlay Schedule 34 – Dimboola Town Centre Heritage Precinct  
Clause 42.01 - Environmental Significance Overlay Schedule 6 (ESO6) – Catchments of Wetlands of Conservation Value

### **Particular Provisions:**

None Applicable

### **General Provisions**

Clause 65 – Decision Guidelines, states that:-

*“Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause”.*

The decision guidelines relevant to this application are stated within Clause 65.01 of the Hindmarsh Planning Scheme – Approval of an application or plan.

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

This clause does not apply to a VicSmart application.

It is considered that the application complies with the relevant decision guidelines as outlined.

**Discussion:**

The application has been assessed against the Planning Policy Framework within the Scheme, and it is considered that the proposed subdivision is consistent with relevant policies contained within this section of the Hindmarsh Planning Scheme.

Clause 34.01-8 of the Hindmarsh Planning Scheme – Commercial Zone, Decision guidelines, states that:

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

General

- The Municipal Planning Strategy and the Planning Policy Framework.
- The interface with adjoining zones, especially the relationship with residential areas.

Planning Response:

The proposed subdivision is considered to meet the applicable decision guidelines as outlined above. The Municipal Planning Strategy and the Planning Policy Framework have been considered within this proposal, and the subject land does not directly abut any residential areas.

Use

- The effect that existing uses may have on the proposed use.
- The drainage of the land.
- The availability of and connection to services.
- The effect of traffic to be generated on roads.
- The interim use of those parts of the land not required for the proposed use.

Planning Response:

Not Applicable. The proposal is not an application to use the land.

#### Subdivision

- Provision for vehicles providing for supplies, waste removal and emergency services and public transport.
- The effect the subdivision will have on the potential of the area to accommodate the uses which will maintain or enhance its competitive strengths.

#### Planning Response:

It is considered that the amended subdivision proposal is appropriate within the area, being the CBD of Dimboola, and will facilitate better servicing of the allotments. The future use of the land and any necessary permits will be determined in accordance with the requirements of the Hindmarsh Planning Scheme and the Commercial 1 zone in particular.

#### Building and works

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.
- The storage of rubbish and materials for recycling.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.
- Consideration of the overlooking and overshadowing as a result of building or works affecting adjoining land in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.
- The availability of and connection to services.
- The design of buildings to provide for solar access.
- The objectives, standards and decision guidelines of Clause 54 and Clause 55. This does not apply to an apartment development.
- For an apartment development, the objectives, standards and decision guidelines of Clause 58.

#### Planning Response:

The only works proposed will be associated with the provision of services to the subject land.

#### **Strategic, Statutory and Procedural Requirements:**

The proposal is consistent with the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

**Report to Council:**

The Coordinator Planning and Development advises that all obligations of Council (strategic, statutory and procedural) have been addressed and discharged in this planning application.

**Processing Times:**

The application was lodged on 09 January 2018. The report is being presented to Council for approval at its meeting on 20 February 2019 (408 days). The statutory processing time requirements of the Planning and Environment Act 1987 have not been satisfied in this instance.

**Conflict of Interest:**

Under section 80c of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible – Janette Fritsch, Acting Director Infrastructure Services

In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

Author – Andre Dalton, Coordinator Planning and Development

In providing this advice as the Author, I have no disclosable interests in this report.

**RECOMMENDATION:**

***That Council approves an application to amend planning permit 1514-2015 to resubdivide land at Lots 1-4, TP805320 (116-120 Lloyd St Dimboola) to create four lots, subject to the following conditions:***

**1. Formal Plans of Subdivision:**

***The formal plan of subdivision lodged with Council for certification must be in accordance with the Endorsed Plan and must not be modified except to comply with statutory requirements or with the written consent of the Responsible Authority.***

**2. GWM Water Conditions:**

***The owner/applicant must install sewerage mains and associated works to individually serve each lot of the proposed development, at the owner's cost, in accordance with GWM Water's requirements.***

**3. *The owner/applicant must provide individual sewer services to each lot in accordance with GWM Water's requirements.***

**4. *The owner/applicant must provide plans and estimates of all proposed sewerage works prior to commencement for GWM Water's approval.***

5. ***The owner/applicant must pay to GWM Water a fee of 3.25% of the total cost of construction (including design and supervision) for its review of design documentation and supervision of works. This fee relates to checking that all works are designed and constructed in accordance with GWM Water's requirements and does not relieve the developer from ensuring proper design and appropriate supervision.***
6. ***The owner/applicant must provide three metre wide easements in favour of GWM Water's overall existing and proposed sewers within private land.***
7. ***The owner/applicant must provide written notification of commencement of the works to enable GWM Water to organise inspections and coordinate with its staff.***
8. ***The owner/applicant must provide "as constructed" plans and a schedule of final asset costs at the level identified in GWM Water's asset register for all sewerage works on completion.***
9. ***The plan of subdivision submitted for certification must be referred to GWM Water in accordance with Section 8 of the Subdivision Act.***

10. **Powercor:**

***The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.***

***The applicant shall:-***

- ***Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or rearrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.***
- ***Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.***
- ***Any building must comply with the clearances required by the Electricity Safety (Network Assets) Regulations.***

- ***Any construction work must comply with the Officer of the Chief Electrical Inspector "No Go Zones" rules.***
- ***Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.***

***Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and accessways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.***

- ***Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Powerline Purposes" pursuant to Section 88 of the Electricity Industry Act 2000.***
- ***Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.***
- ***Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.***
- ***Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.***
- ***Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.***

**11. Shire Engineering Requirements:**

- Lots 1, 2 and 3 are entitled to one crossover entering from Lochiel Street built to Council standards.***
- Lot 4 is to be serviced via the existing crossover from Victoria Street.***
- The Legal Point of Discharge (LPD) for lots 1, 2 and 3 are to be located on the Northern boundary of each lot.***
- The LPD connections are to be made into Council's existing underground storm water system located in the road reserve of Lochiel Street.***
- The LPD for lot 4 is to be located on the western boundary.***

- f) The LPD connection is to be made into Council's Kerb and Channel located in the road reserve of Victoria Street.**
- g) The landowner is responsible for the construction and maintenance of each LPD connection.**
- h) All connections will be constructed to Council standards.**
- i) Any storm water pipes and pits are to be designed to Council's standards.**
- j) Any future development will require storm water detention systems designed to Council's satisfaction.**
- k) All works undertaken in the road reserve requires a road opening permit.**

**12. This Permit will expire if:**

**12.1. The Plan of Subdivision is not certified within three years of the date of this Permit, or**

**12.2. The registration of the subdivision is not completed within five years of the date of the certification of the plan of subdivision.**

**The Responsible Authority may extend the permit if a request is made in writing before the permit expires or within three months afterwards.**

**Attachment: 3**

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**10. REPORTS REQUIRING A DECISION**

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**10.1 FINANCIAL REPORT FOR THE PERIOD ENDING 31 DECEMBER 2018**

**Responsible Officer:** Director of Corporate and Community Services

**Attachment:** 4

**Introduction:**

The Financial Report for the second quarter of 2018/19 financial year has been prepared, including explanations of variances where applicable, and is presented for the information of Council.

**RECOMMENDATION:**

*That Council notes the Financial Report as presented.*

*Attachment: 4*

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**10.2 COUNCIL PLAN 2017-2021 PROGRESS REPORT**

**Responsible Officer:** Director Corporate and Community Services

Discussion to be held during the meeting regarding the status of the 2018/2019 strategic actions in the council plan 2017-2021.

**Conflict of Interest:**

Under section 80C of the LGA officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible & Author: Monica Revell, Director Corporate & Community Services  
In providing this advice as the Officer Responsible, I have no interests to disclose.

**RECOMMENDATION:**

*That Council notes the report.*

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**11. SPECIAL COMMITTEES**

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**11.1 RAINBOW TOWN COMMITTEE**

**Responsible Officer:** Director Corporate and Community Services  
**Attachment:** 5 & 6

**Introduction:**

The Rainbow Town Committee held its general meetings on 26 November 2018 and 28 January 2019. The purpose of this report is to note the minutes from the meetings. A copy of the minutes is included as an attachment for the information of Council.

**RECOMMENDATION:**

***That Council notes the minutes of the Rainbow Town Committee general meetings held on 26 November 2018 and 28 January 2019.***

*Attachment: 5 & 6*

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**11.2 DIMBOOLA TOWN COMMITTEE**

**Responsible Officer:** Director Corporate and Community Services  
**Attachment:** 7 & 8

**Introduction:**

The Dimboola Town Committee held its general meetings on 3 December 2018 and 4 January 2019. The purpose of this report is to note the minutes from the meetings. A copy of the minutes is included as an attachment for the information of Council.

**RECOMMENDATION:**

***That Council notes the minutes of the Dimboola Town Committee general meetings held on 3 December 2018 and 4 January 2019.***

*Attachment: 7 & 8*

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**12. LATE REPORTS**

No report.

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**13. OTHER BUSINESS**

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**14. CONFIDENTIAL REPORTS**

In accordance with Section 89 (2) of the *Local Government Act* 1989, Council may close the meeting to the public if items to be discussed are deemed confidential, that is, if the items to be discussed relate to:

- a) Personnel matters;
- b) The personal hardship of any resident or ratepayer;
- c) Industrial matters;
- d) Contractual matters;
- e) Proposed developments;
- f) Legal advice;
- g) Matters affecting the security of Council property;
- h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person;
- (i) a resolution to close the meeting to members of the public.

***RECOMMENDATION:***

***That the meeting be closed in accordance with Section 89 of the Local Government Act 1989, to consider.***

***14.1 Lease of Land Surrounding Nhill Aerodrome***

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**15. MEETING CLOSE**

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