

# CONFIDENTIAL ITEMS

## Ordinary Council Meeting

Tuesday 21 January 2025

CONFIDENTIAL

## 22.2 UNSOLICITED PROPOSAL - PROPERTY THIRD PARTY

### CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the Local Government Act 1999 the Council orders that all members of the public, except the Mayor, Councillors and (Council Officers) be excluded from attendance at the meeting for the receipt and consideration in confidence of Unsolicited Proposal - Property Third Party.

The Council is satisfied that, pursuant to section 90(3) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
- (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
- (ii) would, on balance, be contrary to the public interest.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the information to be received and discussed includes the sensitive commercial information of the unsolicited proposal applicant, including their financial position, and the disclosure of Council's deliberations on the proposal may unreasonably contradict relevant privacy principles, as well as prejudice the Council receiving similar unsolicited proposals in future, enabling robust strategic decision making for asset management in the best interest of the community.

Author: Hayley Rowe, Strategic Development and Recreation Coordinator

Authoriser: Barbara Cernovskis, General Manager City Infrastructure

### RECOMMENDATION

1. That Council report titled 'Unsolicited Proposal - Property Third Party' as presented on Tuesday 21 January 2025 be noted.
2. That Council note the unsolicited proposal from Basketball Mount Gambier has been withdrawn.

### PURPOSE

To confirm that Basketball Mount Gambier (BMG) have withdrawn their unsolicited proposal to purchase the Icehouse Basketball Stadium, 451 Commercial Street West, Mt Gambier (the Icehouse).

### BACKGROUND / OPTIONS

A Council report was presented on 20 August 2024 which confirmed that:

- The unsolicited proposal from Borg to purchase the Icehouse had been withdrawn, and
- Discussions were to be held with BMG regarding their interest in extending their lease or potentially purchasing the facility.

Following this BMG presented to Council on Tuesday 22 October 2024 regarding their intention to remain at the Icehouse and requested a long-term occupancy arrangement for the facility. BMG verbally confirmed that they were no longer looking to pursue their

unsolicited proposal to purchase the Icehouse, noting this would not be a commercially viable option for them at this stage, hence confirming their intention to continue to utilise the site via occupancy arrangement (lease). They also expressed an interest in seeking grant funding to facilitate capital upgrades to the site in future, if such opportunity were to arise.

BMG confirmed in writing on Tuesday 7 January 2025 that they are:

- withdrawing their unsolicited proposal and would like a long-term lease for the Icehouse;
- requesting, that if the facility was to go to market that BMG are provided with the first opportunity to put in an offer.

BMG further stated that they did not intend to access Wulanda for their basketball competition or training, citing they were unable to finance both the management of the Icehouse and user fees for Wulanda.

While User Agreements at Wulanda are managed by Belgravia Leisure, Council administration understands that all longer-term User Agreements generally attract subsidised or packaged fees, which were offered to BMG and subsequently declined.

Council administration will draft a five-year lease agreement for the Icehouse on materially identical terms to the current occupancy arrangement and issue this to BMG for their consideration in early 2025.

It is important to note that under such Lease arrangement BMG would be permitted to seek approval from Council to undertake capital upgrades. Whilst there is no issue with this occurring necessarily, it will be important that stakeholder expectations are managed to ensure it is understood that Council stands by its strategic direction as set out under the SROSS, confirming Wulanda as the premiere basketball facility in Mount Gambier.

This is particularly relevant against the **attached** facility audit undertaken by InsideEDGE in September 2023, which indicated that whilst the Icehouse facility was in fairly good condition for its age, it was not compliant with all requisite standards for competition basketball, netball or badminton.

It is also relevant to note that whilst there is no current unsolicited proposal for the site on foot which impedes such a Lease arrangement, or capital upgrades to the facility occurring, no commitment has been made to BMG committing to selling the facility to them in future.

#### IMPLICATIONS TO CONSIDER

<b>Legal</b>	The new Lease will be drafted in accordance with the relevant legal requirements under the Local Government Act 1999 and other relevant pieces of legislation.
<b>Financial and Budget</b>	N/A
<b>Community Consultation and Engagement</b>	Given the site is not classified as community land and the Lease term is five (5) years no community consultation is required under the provisions of the Local Government Act 1999
<b>Other Resources</b>	N/A

#### RISK ANALYSIS

The risk identification and categorisation relies on the City of Mount Gambier [Risk Management Policy](#).

Risk	Consequence Rating	Risk Likelihood Rating	Risk Rating	Mitigation
<b>Finance</b> - BMG requesting funds from council to assist with the maintenance of the facility	Moderate (3)	Possible (3)	Moderate	Ensure BMG demonstrate they have appropriate resources to maintain facility to required standard.
<b>Reputation</b> - Council experience negative news profile, public agitation and loss of trust as a result of not progressing to offer lease.	Moderate (3)	Possible (3)	Low	Follow required processes for Lease.
<b>Legal / Regulatory / Policy</b> - Lease drafted in accordance with legislation	Minor (2)	Unlikely (2)	Low	Draft Lease in accordance with relevant legislation.
<b>Service Delivery</b> - Lease not offered in a timely manner	Insignificant (1)	Rare (1)	Low	Council follow due process as practical following council resolution.
<b>Infrastructure</b> - BMG unable to maintain facility to required standards	Moderate (3)	Possible (3)	Moderate	Ensure BMG demonstrate they have the appropriate resources to manage and maintain facility

## APPLICATION OF STRATEGIC PLAN

This report aligns to the following strategic objectives(s):

Priority 1: Environment and Liveability

1.2 Effectively manage recreational activities to prevent environmental impacts to our key natural areas.

Priority 3: Infrastructure and Services

3.7 Ensure that all community members have equitable access to the resources, services, programs, information and social infrastructure, enabling meaningful participation in the community.

This report contributes to delivery of the following key strategic project(s):

Priority 3: Infrastructure and Services

Continued implementation of the goals and priorities outlined in our Sport, Recreation and Open Space Strategy.



## RELEVANT COUNCIL POLICY

[Community Land \(Reserves\) Lease/License/Rental Arrangements - R200](#)  
[Unsolicited Proposals - U900](#)

## IMPLEMENTATION AND NEXT STEPS

Council administration will draft a five-year lease in accordance with legislative requirements and present to BMG for their consideration.

Further, the confidential orders placed on this item have been aligned to earlier orders, to ensure that the two inter-related unsolicited proposals considered by Council are reviewed wholistically when determining an appropriate release date from confidence, specifically noting that it may be that a staged release is appropriate in the circumstances.

## CONCLUSION

BMG have confirmed that they will not be pursuing their unsolicited proposal to purchase the Icehouse and therefore requested a standard five-year lease for the facility on materially identical terms to those currently in operation. BMG further confirmed that they do not intend to access Wulanda for their competitions or training as they will not be able to finance both the hire fees of Wulanda and maintaining the Icehouse facility.

## ATTACHMENTS

1. Icehouse - Audit Report - September 2023 [22.2.1 - 24 pages]

### CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the Local Government Act 1999 the Council orders that the report Unsolicited Proposal - Property Third Party and its attachments, resolution/s and minutes arising from the report, having been considered by the Council in confidence under:
  - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
  - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
  - (ii) would, on balance, be contrary to the public interest.be kept confidential and not available for public inspection until further order of Council after the proposal contained in the report has been settled or abandoned with the exception of any information that is prohibited from being withheld under s91(8) being disclosed being released upon the matter being settled, or any part of the information determined by the Chief Executive Officer to be released under delegation.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the Local Government Act 1999.



## City of Mount Gambier Icehouse Facility Audit Findings and Recommendations

September 2023





## INTRODUCTION + BACKGROUND

The City of Mount Gambier commissioned insideEDGE to undertake a facility audit at the Icehouse Stadium, to determine the facilities compliance and future use. This report outlines the findings of the audit undertaken. The audit and recommendations have been prepared using the following industry guidelines:

- FIBA Guide to Basketball Facilities (2009)
- Official Basketball Rules 2012 – Basketball Equipment
- National Facilities Policy - Technical Manual (Netball Australia 2015)
- Sports Dimensions Guide for Playing Area – Sport and recreation facilities (Dept of Sport and Recreation WA 2016)

Basketball has been the primary sport played at the centre since it opened. The stadium is over 50 years old. It was originally built in 1969 and consisted of two indoor courts.

The stadium's third court was finished in 1973 and then almost 15 years later the court had to be expanded again to cater for the new national basketball side, The Pioneers. The introduction of the national team also saw the stadium adopt the title of being the Icehouse, because its tin shed construction was often frosty in winter and hard to heat.

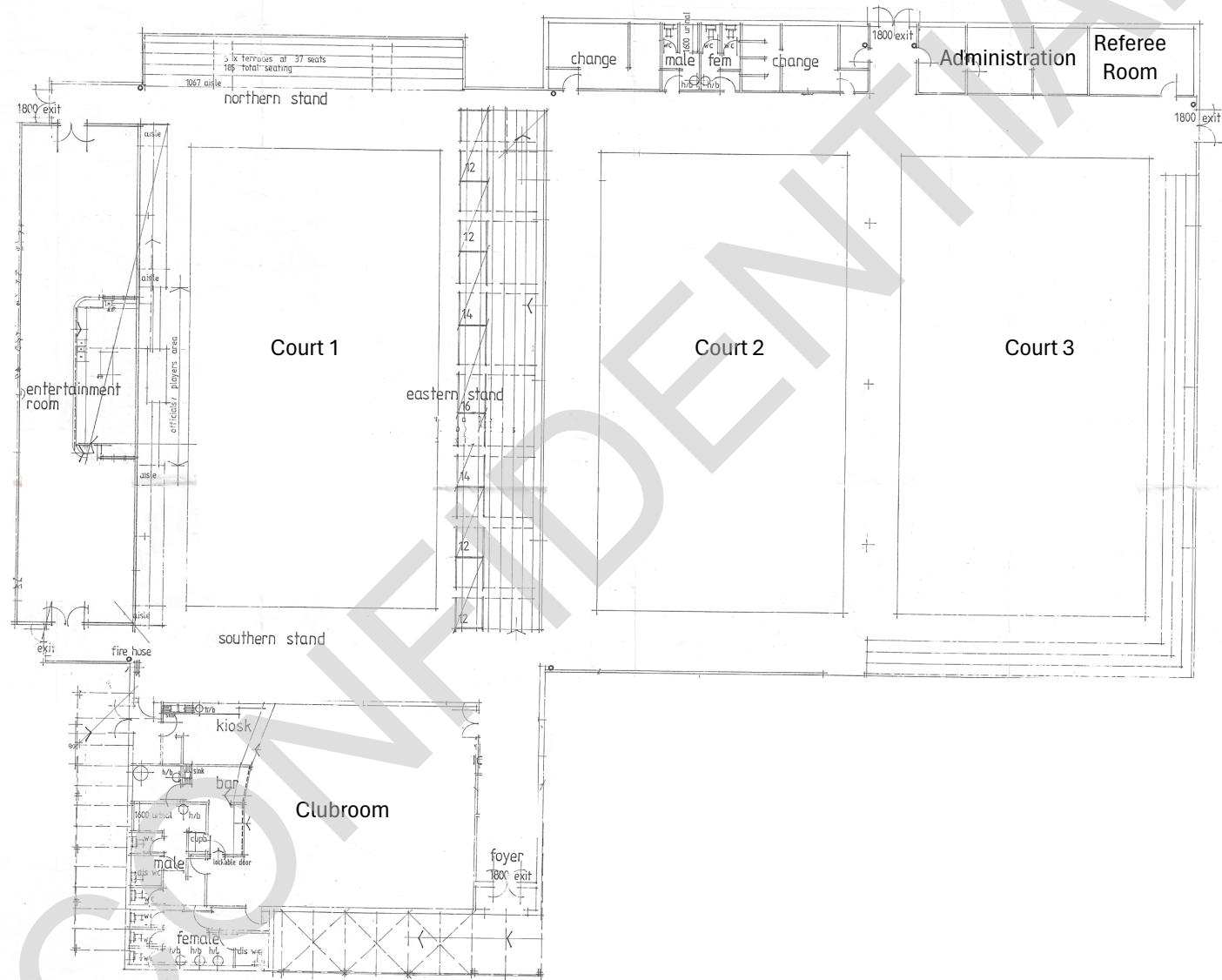
In 2022 the new Wulanda Recreation and Convention Centre was opened. This centre is a multi-purpose facility designed to be a community space, with facilities and activities for all ages and abilities including children, families, youth, community groups, recreational and organised sports and those with special needs.

This development provides substantial year-round indoor facilities, addressing many community needs both now and for future generations to come. The centre also includes aquatic facilities.

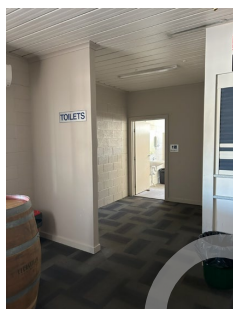
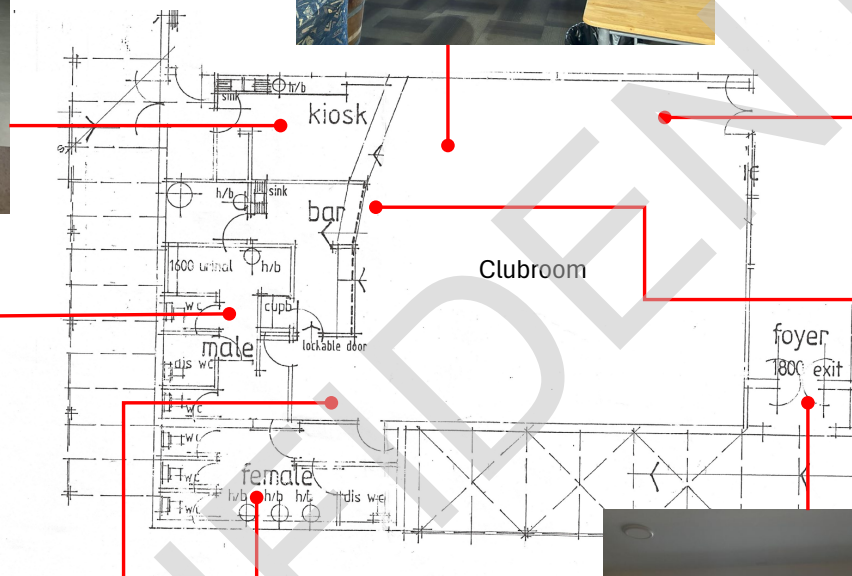
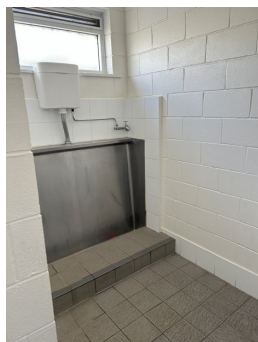
Wulanda includes 6 indoor courts, including a show court for basketball which can accommodate approximately 1000 spectators. The NBL1 team, the Pioneers now call this facility home. It was envisaged that the Mount Gambier Basketball Association would play their competition out of this centre also, but the association has flagged that they would also like to retain and continue using the Icehouse. They are currently using both facilities. This is mainly due to costs and hire fee arrangements.

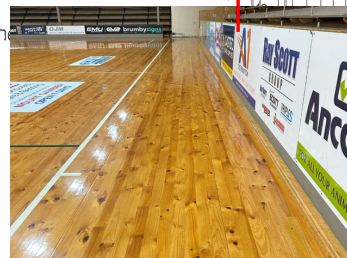
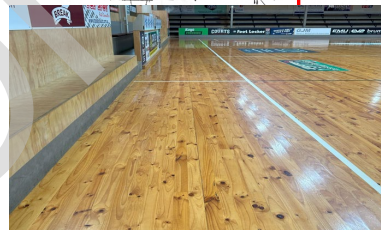
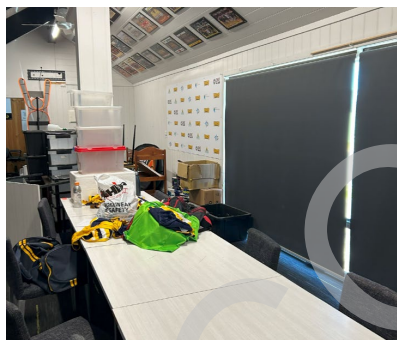
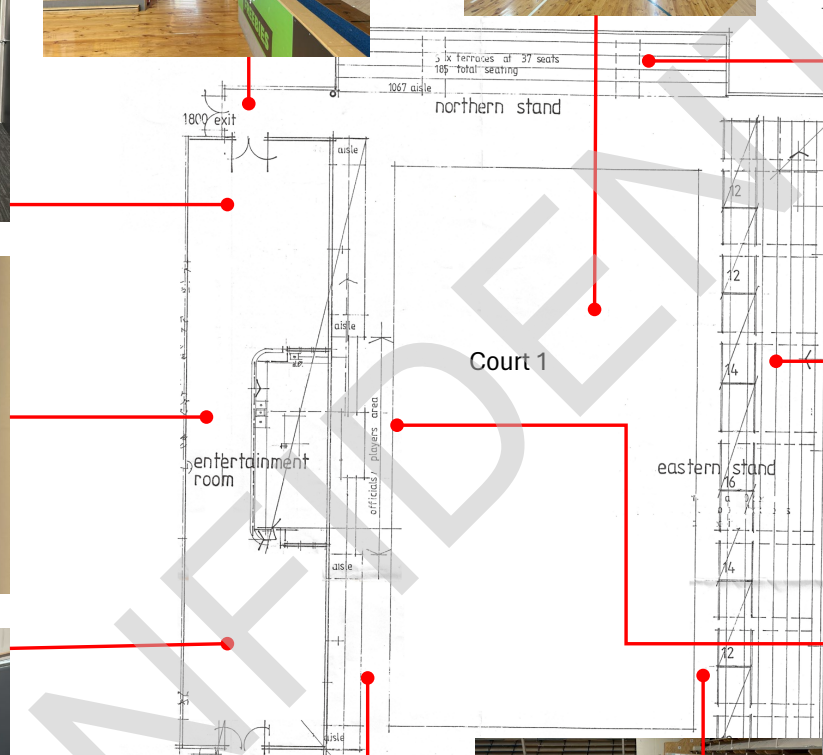
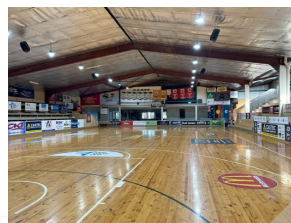
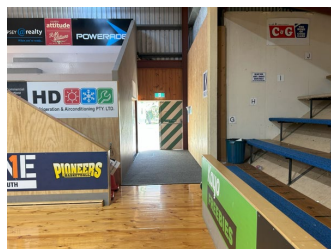
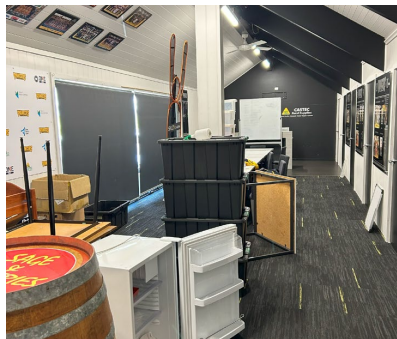
The facility audit of the Icehouse was undertaken using insideEDGE's custom-built Sports Facility Auditor (SFA) program to assess facility compliance, condition and gaps compared to relevant State and National standards for the sport. This summary report provides an overview of key findings of the audit as well as key recommendations for future use of the facility. A copy of the audit can be found in appendix 1.

ICEHOUSE STADIUM FLOOR PLAN

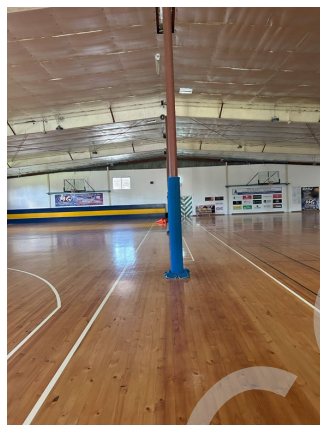
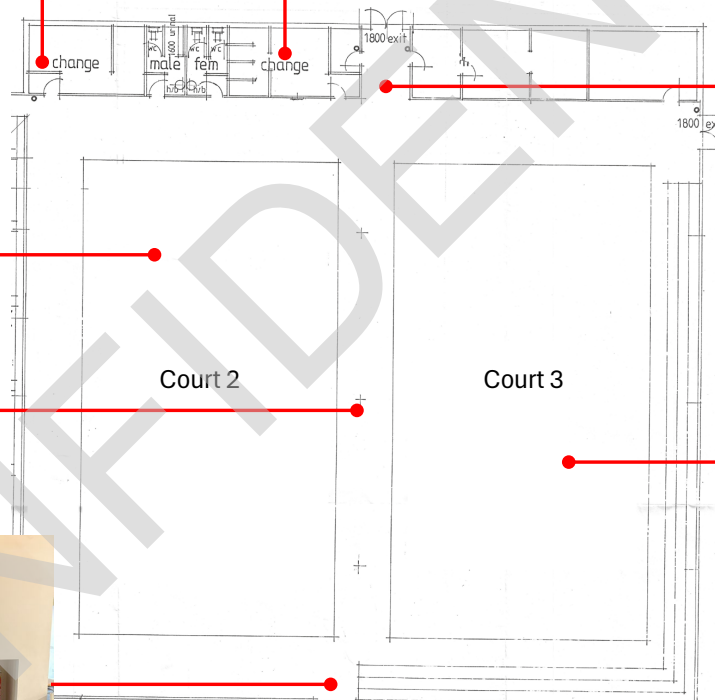












FACILITY AUDIT FINDINGS					
Area	Size (sqm) / Performance	Preferred minimum standard	Suitable for all gender uses	Condition rating	Comment
Change room 1 (home)	< 20m <sup>2</sup> / 4 showers	30-35m <sup>2</sup> 4/5 showers	No open showers	Poor	<ul style="list-style-type: none"> <li>Changerooms should be able to accommodate 12-20 players.</li> <li>They should provide benches, coat racks or lockers, whiteboard, toilets, basins.</li> </ul>
Change room 2 (away)	< 20m <sup>2</sup> / 4 showers	30-35m <sup>2</sup> 4/5 showers	No open showers	Poor	
Court 1 run off	Northern End – 2.68m	2m run off	n/a	Excellent	<ul style="list-style-type: none"> <li>Court 1 surface in excellent condition. Electronic scoreboard provided as well as suitable seating.</li> <li>Netball requires a 3.05m run off around the court. This is also not meet.</li> </ul>
	Southern End – 3.07m				
	Eastern Side – 1.77m				
	Western Side – 1.9m				
Court 1 ceiling height	6.43m	7m	n/a	n/a	<ul style="list-style-type: none"> <li>Ceiling height for netball also not sufficient - Netball requires 8.3m</li> </ul>
Court 2 run off	Northern End – 2.00m	2m run off (eastern sideline is not free of obstacles – 3 poles in between courts)	n/a	Excellent	<ul style="list-style-type: none"> <li>Court 2 surface in moderate condition. Electronic scoreboard provided as well as suitable seating.</li> <li>Netball requires a 3.05m run off around the court. This is also not meet.</li> <li>3 poles in the middle effective the run off area. The run off space should be free of any obstacles.</li> </ul>
	Southern End – 3.54m				
	Eastern Side – 3.39m				
	Western Side – 1.5m				
Court 2 ceiling height	5.4m	7m	n/a	n/a	<ul style="list-style-type: none"> <li>Ceiling height for netball also not sufficient - Netball requires 8.3m.</li> <li>Ceiling height for Badminton also not sufficient – Badminton requires 7.6m</li> </ul>
Court 3 run off	Northern End – 2.27m	2m run off (eastern sideline is not free of obstacles – 3 poles in between courts)	n/a	Excellent	<ul style="list-style-type: none"> <li>Court 1 surface in excellent condition. Electronic scoreboard provided as well as suitable seating.</li> <li>Netball requires a 3.05m run off around the court. This is also not meet.</li> <li>3 poles in the middle effective the run off area. The run off space should be free of any obstacles.</li> </ul>
	Southern End – 2.07m				
	Eastern Side – 1.06m				
	Western Side – 3.39m				
Court 3 ceiling height	5.4m	7m	n/a	n/a	<ul style="list-style-type: none"> <li>Ceiling height for netball also not sufficient - Netball requires 8.3m.</li> <li>Ceiling height for Badminton also not sufficient – Badminton requires 7.6m</li> </ul>



## KEY FINDINGS AND RECOMMENDATIONS

### Key Findings:

- Although the stadium is ageing, it seems to be well maintained and in good condition overall.
- All courts are not complaint in terms of their run off
- The ceiling height of the stadium is not compliant for Basketball, Netball or Badminton. This will limit what can be played in the stadium.
- The 3 poles between court 2 and 3 limits the sports/activities that can be undertaken due to run off compliance.
- Both changerooms are noncompliant – neither are the correct size not are they suitable for all genders.
- A good amount of spectator seating is provided around all 3 courts.
- Clubrooms are in excellent condition and are a good size (155m<sup>2</sup>). A canteen and kiosk are attached to the clubrooms as well as male and female toilets.
- There is a large entertainment area on the western side of court 1 that includes a bar area, table and storage areas.
- Administration area provided for the Mount Gambier Basketball Association, as well as a referee room.

### Recommendations:

- Due to the ceiling height and court run off, suitable sports will be limited. Although the above components can limit activity, it is recommended that the stadium is primarily used for training purposes for basketball and/or netball. If used for games, it is recommended that its only for junior games.
- Both changerooms should be upgrade to ensure they are both gender neutral. This includes lockable showers and pan toilets.
- The facility could be suitable for the following activities to activate the space:
  - Kindergym – the large open space could be used for gym programs such as kindergym where equipment can be taken in and out of storage areas.
  - Pickleball - The game is played on a badminton-sized court: 6.09m x 13.41m with a ball similar to a wiffle ball. The tennis-like net is hung 91.5cm on the ends and 86.4cm at the center. The Kitchen is the area between the net and the 2.13m line on the court.
  - The stadium could, if deemed surplus to basketball, be upgraded and developed into an indoor training facility that could provide a training space for cricket, baseball, soccer, AFL. This kind of indoor training facility is needed in the area and has been mentioned in several sports strategies as a gap in provision.
  - Martial Arts – The large space could be used for a variety of martial art activities such as taekwondo, karate, judo and wrestling.

It is advised that any programs or services offered at the Icehouse facility complement those offered at Wulanada rather than duplicating them. These two facilities ought to cooperate rather than compete with one another.

## APPENDIX 1 – FACILITY AUDIT

## Facility Audit

Document number	000011
Facility / Site Name	Icehouse
Main Facility Type	Indoor Courts / Centre
Location	451 Commercial St W Mount Gambier 5290
LGA	Brimbank City Council
Asset Owner Type	Local / Territorial Government
Asset Owner Name	City of Mount Gambier
Facility Management Model	
Tenure Type	
Tenure Length	
Established	
Facility Hierarchy (primary level)	
Auditor	Kelly Harding
Audit Date	15 Sep 2023
Last Modified	18 Sep 2023 by Kelly Harding
Comments	

## Facility / Site Audit

Participant Change Rooms / Amenities	
Does the Facility have Participant Change Rooms?	Yes
Number of Participant Change Rooms	2
Participant Change Room 1	
Participant Change Room Type	Male
Participant Change Room size (including amenities block)	Less than 20m2
Number of showers	4
Shower type	Open showers
Is an accessible shower provided?	No
Toilets	No toilets provided
Number of handwash washbasins	No handwash basins
Rate overall condition of these Participant Change Rooms	Poor (multiple quality issues identified)
Do Participant amenities meet the minimum standards for the Primary level of facility use?	No
Comments	Small changeroom with open showers

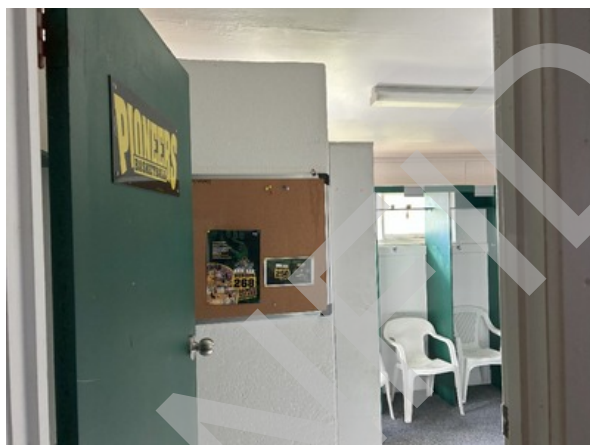


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## Participant Change Room 2

Participant Change Room Type	Male
Participant Change Room size (including amenities block)	Less than 20m2
Number of showers	4
Shower type	Open showers
Is an accessible shower provided?	No
Toilets	No toilets provided
Number of handwash washbasins	No handwash basins
Rate overall condition of these Participant Change Rooms	Poor (multiple quality issues identified)
Do Participant amenities meet the minimum standards for the Primary level of facility use?	No
Comments	Small changeroom with open showers

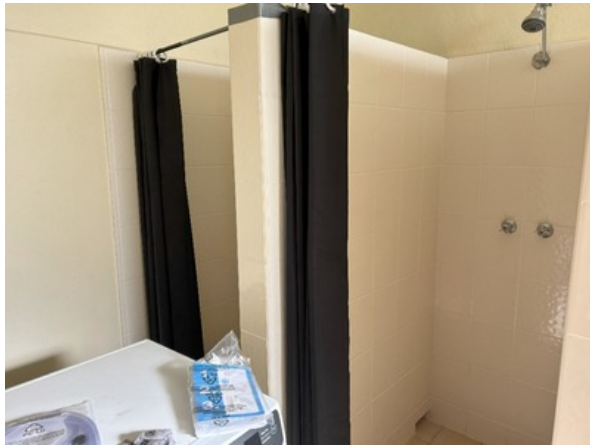


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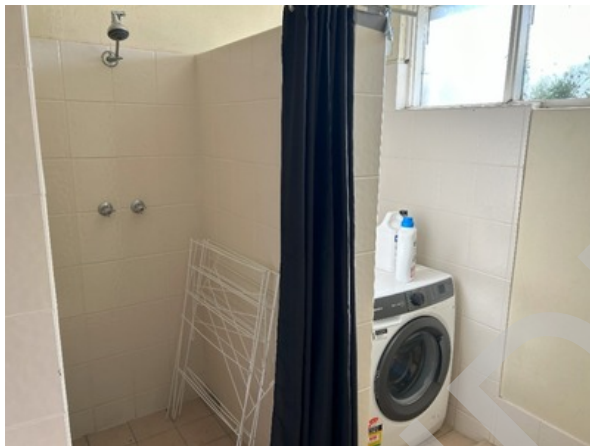


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Umpire Change Rooms / Amenities	
Does the facility have Umpire Change rooms	Yes
Number of Umpire Change Rooms	1
Umpire Change Room 1	
Type of change room	Male

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### Primary Field of Play / Activity Area

Is there a Court provided?	Yes
Number of dedicated Courts provided?	3
Primary Field of Play / Playing Area 1	
Primary Court name or number?	Show Court
Primary activity type?	Basketball
Highest Level of competition played on surface?	Not currently in use
Primary playing surface type?	Timber (sprung)
Primary Playing Court surface condition?	Excellent condition (as new)
Estimated renewal of Primary Playing Court surface?	Within 5 years
Estimated Primary Playing Court size in m2	420
Estimated Primary Playing Court length (in metres)	28
Estimated Primary Playing Court width (in metres)	15
Does the Primary Playing Court meet the minimum standards for the highest level of competition played?	No
Compliance comments	Run off should be 2m around each side of the court for basketball.  Northern End 2.68m Southern End 3.07m  Eastern side 1.77m Western side 1.9m
North court run-off dimensions (in mm)	2680
South court run-off dimensions (in mm)	3070
East court run-off dimensions (in mm)	1770
West court run-off dimensions (in mm)	1900
Scoreboard	Electronic
Lighting	Lighting provided but unable to provide accurate assessment
Lighting type	Unsure
Estimated number of permanent spectator seats?	500-999 seats
Estimated spectator view capacity?	Up to 1000 spectators
Any other comments related to the Primary Playing Court?	6.433m ceiling height





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show court



Photo uploaded: 15 Sep 2023 2:31pm  
Northern end seating



Photo uploaded: 15 Sep 2023 2:31pm  
Show court



Photo uploaded: 15 Sep 2023 2:31pm  
Northern end seating



Photo uploaded: 15 Sep 2023 2:31pm  
Southern end



Photo uploaded: 15 Sep 2023 2:31pm  
Scoreboard





Photo uploaded: 15 Sep 2023 2:31pm  
Eastern grandstand



Photo uploaded: 15 Sep 2023 2:30pm  
Eastern sideline run off



Photo uploaded: 15 Sep 2023 2:30pm  
Western Sideline run off

Is the playing area shared or line marked with another sport	Yes
<b>Netball</b>	
Number of dedicated courts for these sports	1
Do all other courts meet the minimum standards?	
Compliance comments	Netball should have a run off area of 3.05m  Northern End 1.59m  Southern End 2.02m  Eastern side 1.77m  Western side 1.9m
Any other comments related to the Playing Court Area?	
<b>Primary Field of Play / Playing Area 2</b>	
Primary Court name or number?	Court 2
Primary activity type?	Basketball
Highest Level of competition played on surface?	Local
Primary playing surface type?	Timber (not sprung)
Primary Playing Court surface condition?	Moderate (considerable wear but still playable)
Estimated renewal of Primary Playing Court surface?	Within 5 years
Estimated Primary Playing Court size in m2	4200
Estimated Primary Playing Court length (in metres)	2800
Estimated Primary Playing Court width (in metres)	1500
Does the Primary Playing Court meet the minimum standards for the highest level of competition played?	No
Compliance comments	
North court run-off dimensions (in mm)	2000
South court run-off dimensions (in mm)	3549
East court run-off dimensions (in mm)	3397
West court run-off dimensions (in mm)	1500
Scoreboard	Electronic
Lighting	Lighting provided but unable to provide accurate assessment
Lighting type	Unsure
Estimated number of permanent spectator seats?	100-199 seats
Estimated spectator view capacity?	Up to 250 spectators
Any other comments related to the Primary Playing Court?	5.462 ceiling height - basketball requires 7m  poles in the middle of court 2 and 3 in run off space



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northern end

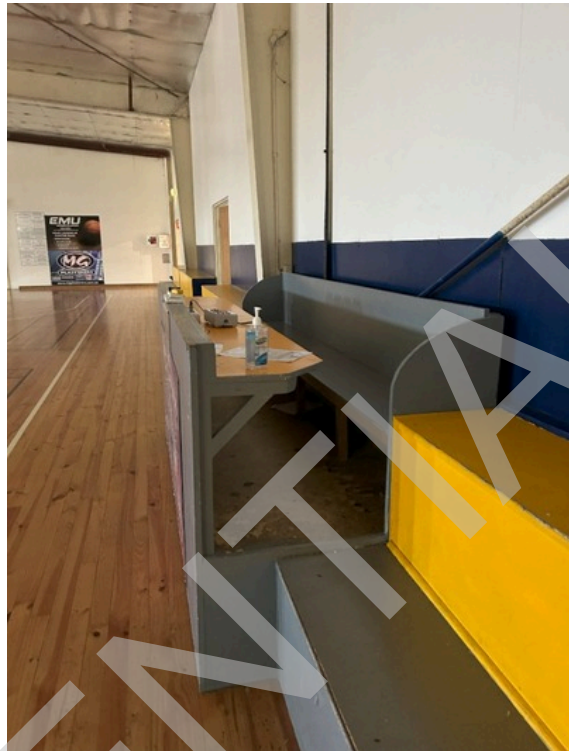


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scorers bench



Photo uploaded: 18 Sep 2023 8:25pm  
multi line court 2



Photo uploaded: 18 Sep 2023 8:25pm  
northern end run off





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court 2

Is the playing area shared or line marked with another sport	Yes
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### Badminton

Number of dedicated courts for these sports	3
Do all other courts meet the minimum standards?	No
Compliance comments	3 badminton courts lined ceiling height should be 7.6m - currently only approx 5.4m high

Any other comments related to the Playing Court Area?



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### Netball

Number of dedicated courts for these sports	1
Do all other courts meet the minimum standards?	No
Compliance comments	Poles in the run off area (between courts) ceiling height too low for netball. Requirement is 8.3m

Any other comments related to the Playing Court Area?	
Primary Field of Play / Playing Area 3	
Primary Court name or number?	3
Primary activity type?	Basketball
Highest Level of competition played on surface?	Local
Primary playing surface type?	Timber (not sprung)
Primary Playing Court surface condition?	Moderate (considerable wear but still playable)
Estimated renewal of Primary Playing Court surface?	Within 5 years
Estimated Primary Playing Court size in m2	4200
Estimated Primary Playing Court length (in metres)	2800
Estimated Primary Playing Court width (in metres)	1500
Does the Primary Playing Court meet the minimum standards for the highest level of competition played?	No
Compliance comments	
North court run-off dimensions (in mm)	2270
South court run-off dimensions (in mm)	2076
East court run-off dimensions (in mm)	1068
West court run-off dimensions (in mm)	3397
Scoreboard	Electronic
Lighting	Lighting provided but unable to provide accurate assessment
Lighting type	Unsure
Estimated number of permanent spectator seats?	50-99 seats
Estimated spectator view capacity?	Up to 250 spectators
Any other comments related to the Primary Playing Court?	run off requirements are not meet for basketball  ceiling height too low also. 5.46m in height where requirement is 7m for basketball.





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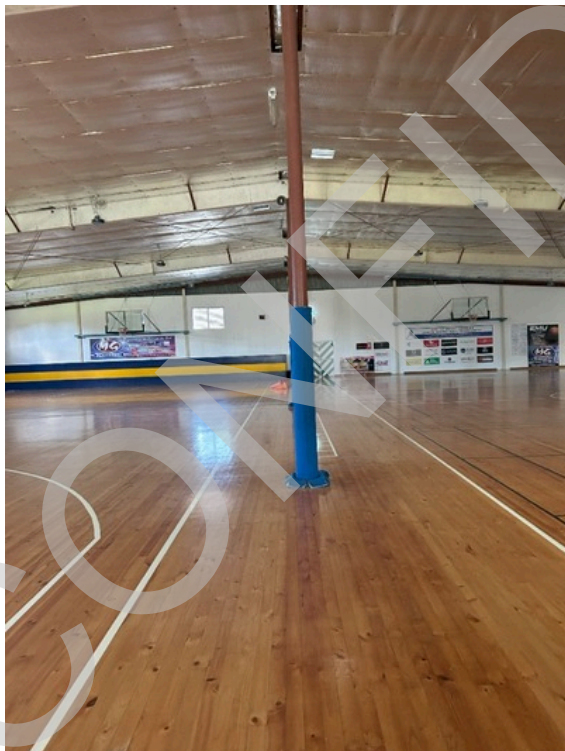


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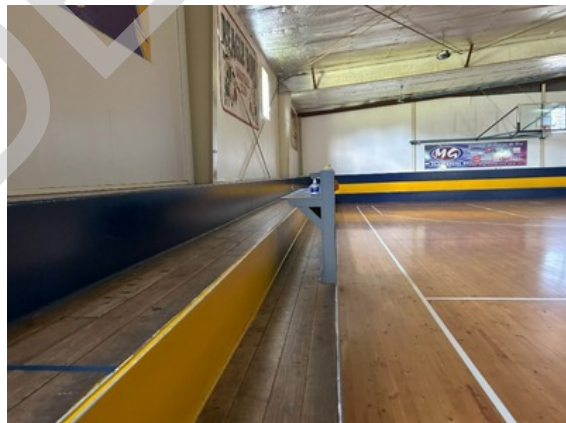


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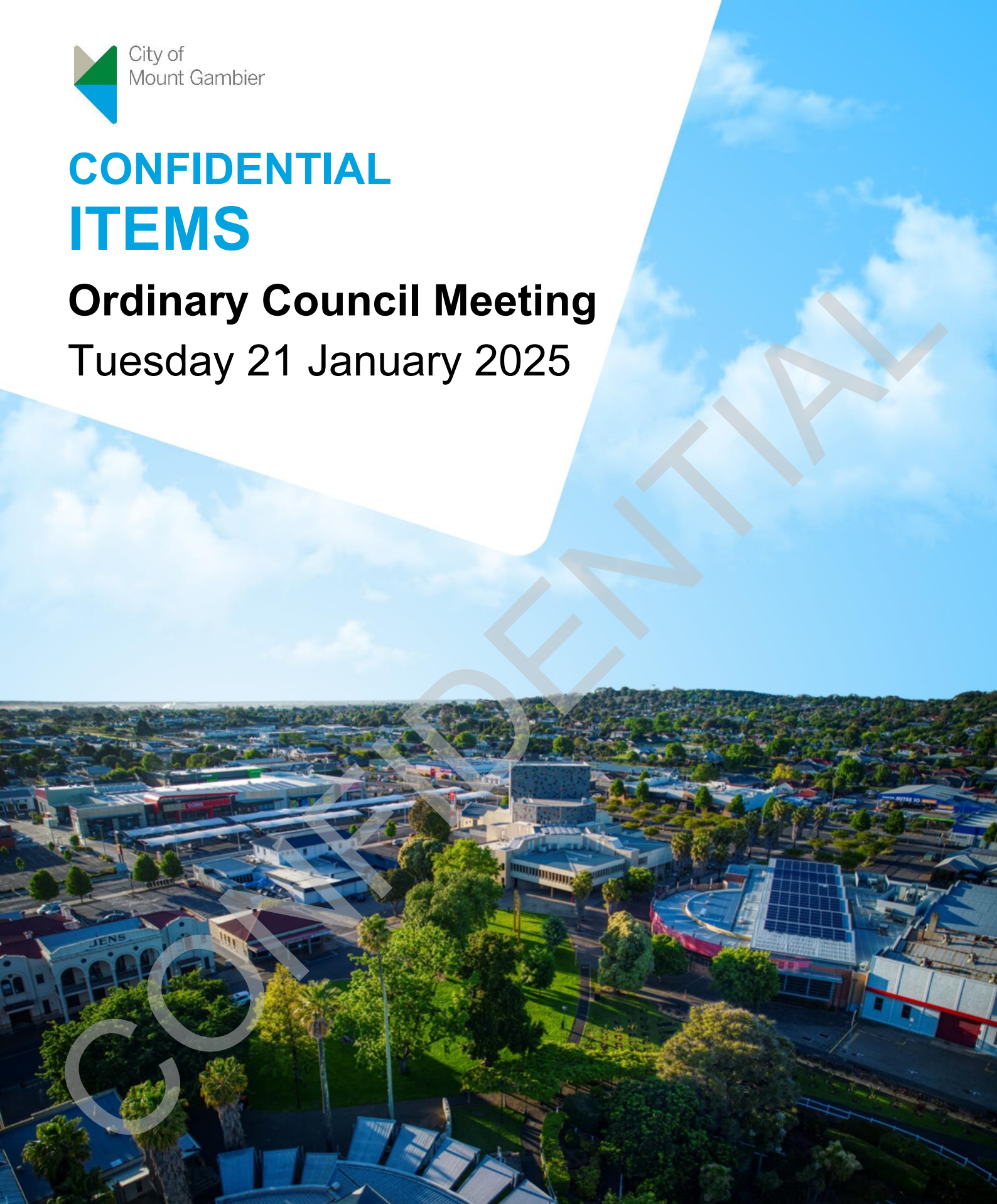
Is the playing area shared or line marked with another sport	Yes
Netball	
Number of dedicated courts for these sports	1
Do all other courts meet the minimum standards?	No
Compliance comments	run off requirements not meet.
Any other comments related to the Playing Court Area?	





# CONFIDENTIAL ITEMS

**Ordinary Council Meeting**  
Tuesday 21 January 2025





**PRESENT:** Mayor Lynette Martin (OAM)  
Cr Kate Amoroso  
Cr Max Bruins  
Cr Paul Jenner  
Cr Josh Lynagh  
Cr Sonya Meziniec  
Cr Frank Morello  
Cr Jason Virgo

**OFFICERS IN ATTENDANCE:** Chief Executive Officer  
General Manager City Infrastructure  
General Manager Corporate and Regulatory Services  
Manager Economy, Strategy and Engagement  
Manager Governance and Property  
Manager Financial Services  
Executive Administrator

- Mrs S Philpott  
- Ms B Cernovskis  
- Mrs J Fetherstonhaugh  
- Mrs B Shearing  
- Ms B Shelton  
- Ms K Rolton  
- Ms S Wilson

## **22.2 UNSOLICITED PROPOSAL - PROPERTY THIRD PARTY**

### **RESOLUTION OCM 2024/292**

Moved: Cr Sonya Meziniec

Seconded: Cr Jason Virgo

### **CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the Local Government Act 1999 the Council orders that all members of the public, except the Mayor, Councillors, S Philpott, B Cernovskis, J Fetherstonhaugh, C White, B Shearing, B Shelton, K Rolton and S Wilson be excluded

from attendance at the meeting for the receipt and consideration in confidence of Unsolicited Proposal - Property Third Party.

The Council is satisfied that, pursuant to section 90(3) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
  - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
  - (ii) would, on balance, be contrary to the public interest.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the information to be received and discussed includes the sensitive commercial information of the unsolicited proposal applicant, including their financial position, and the disclosure of Council's deliberations on the proposal may unreasonably contradict relevant privacy principles, as well as prejudice the Council receiving similar unsolicited proposals in future, enabling robust strategic decision making for asset management in the best interest of the community.

**CARRIED**

#### **RESOLUTION OCM 2024/293**

Moved: Cr Paul Jenner

Seconded: Cr Frank Morello

1. That Council report titled 'Unsolicited Proposal - Property Third Party' as presented on Tuesday 21 January 2025 be noted.
2. That Council note the unsolicited proposal from Basketball Mount Gambier has been withdrawn.
3. That excluding Council's Grants & Sponsorship program, any request from Basketball Mount Gambier for financial support with infrastructure projects will be limited to Council's legislative requirement or obligations as landlord under the lease agreement.

**CARRIED**

#### **RESOLUTION OCM 2024/294**

Moved: Cr Sonya Meziniec

Seconded: Cr Max Bruins

**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the Local Government Act 1999 the Council orders that the report Unsolicited Proposal - Property Third Party and its attachments, resolution/s and minutes arising from the report, having been considered by the Council in confidence under:
  - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
  - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
  - (ii) would, on balance, be contrary to the public interest.

be kept confidential and not available for public inspection until further order of Council after the proposal contained in the report has been settled or abandoned with the exception of any information that is prohibited from being withheld under s91(8) being disclosed being released upon the matter being settled, or any part of the information determined by the Chief Executive Officer to be released under delegation.

2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the Local Government Act 1999.

**CARRIED**