



**MINUTES OF THE COUNCIL MEETING OF HINDMARSH SHIRE COUNCIL HELD  
WEDNESDAY 2 MARCH 2022 AT THE NHILL MEMORIAL COMMUNITY CENTRE, 77-79  
NELSON STREET NHILL, COMMENCING AT 3:00PM.**

**AGENDA**

<b>1</b>	<b>ACKNOWLEDGMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER</b>	<b>3</b>
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- 8.4 PLANNING PERMIT APPLICATION PA1747-2021 – USE AND DEVELOPMENT FOR A DWELLING AND TRADE SUPPLIES WITH AN ASSOCIATED SHED, A REDUCTION IN CAR PARKING SPACES REQUIRED AND A TWO LOT SUBDIVISION (RE-SUBDIVISION OF TWO EXISTING LOTS) AT RAINBOW-NHILL ROAD RAINBOW VIC 3424 50

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- 14.1 2022 YOUTH COUNCIL NOMINATIONS  
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CRS M Albrecht (Mayor), B Ireland (Deputy Mayor), R Ismay, D Nelson, W Bywaters, R Gersch.

**In Attendance:**

Mr Greg Wood (Chief Executive Officer), Ms Monica Revell (Director Corporate and Community Services), Ms Angela Hoy (Director Infrastructure Services) and Ms Shauna Johnson (Executive Assistant).

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**1 ACKNOWLEDGMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER**

Cr M Albrecht opened the meeting at 3:00pm by acknowledging the Indigenous Community and offering the opening prayer.

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**2 APOLOGIES**

No apologies.

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**3 DECLARATION OF INTERESTS**

A Councillor or Officer with a conflict of interest in an item on the Agenda must indicate that they have a conflict of interest by clearly stating:

- the item for which they have a conflict of interest;
- whether their conflict is **general** or **material**; and
- the circumstances that give rise to the conflict of interest.

Declaration of material or general conflict of interest must also be advised by Councillors and Officers at the commencement of discussion of the specific item.

Cr R Ismay declared a general conflict of interest in item 8.4 as he is a neighbour to the property.

Ms S Johnson declared a general conflict of interest in item 9.6 as she is a member of the Hindmarsh Ski Club committee.

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**4 CONFIRMATION OF MINUTES**

**RECOMMENDATION:**

***That the Minutes of the Ordinary Council Meeting held on Wednesday 2 February 2022 at the Nhill Memorial Community Centre Nhill, as circulated to Councillors be taken as read and confirmed.***

**MOVED: CRS R Gersch/R Ismay**

***That the Minutes of the Ordinary Council Meeting held on Wednesday 2 February 2022 at the Nhill Memorial Community Centre Nhill, as circulated to Councillors be taken as read and confirmed.***

**CARRIED**

*Attachment Number: 1*

## **5 PUBLIC QUESTION AND SUBMISSION TIME**

Community members wishing to ask questions at council meetings may do so, in writing, at least 24 hours prior to the council meeting. Both the question and answer will be read out at the meeting. Questions may be submitted by mail, email [info@hindmarsh.vic.gov.au](mailto:info@hindmarsh.vic.gov.au) or delivered in person to a council customer centre but are limited to two questions and 100 words including any pre-amble. Offensive, trivial and repetitive questions or questions, which have been recently answered, may be excluded at the discretion of the Mayor.

The question must be accompanied by a name and the locality where the questioner resides or works, which will be read out at the meeting. By submitting a question, the questioner gives consent to this information being read out in public. Anonymous questions will not be answered.

No public questions or submissions.

## **6 ACTIVITY REPORTS**

### **COUNCILLOR ACTIVITIES:**

#### **Cr ALBRECHT, MAYOR**

<b>Date</b>	<b>Meeting</b>	<b>Location</b>	<b>Comments</b>
2/02/2022	Australian Citizenship Ceremonies	Nhill Zoom	It was an honour to officially preside and welcome our newest citizens Armand von Benecke and Ruzica Savicin.
2/02/2022	Council Briefing	Nhill	
2/02/2022	Council Meeting	Nhill	
3/02/2022	Wimmera Development Association	Zoom	Formulation of action plan in accordance with Govern With.

	Individual Director Plan		
11/02/2022	Youth Council Presentation	Dimboola	Congratulations again to the Hindmarsh Shire Youth Council for 2022: Alissa Trenergy, Alexis Bone, Tarah Bond, Jandamurra Lauricella, Celie Fuller, Heidi Smith, Marcel Badua, Ethan Angel-Hands, Marrie Sellens and Jamie Clark. I look forward to seeing Youth Council thrive.
15/02/2022	Briefing with CEO	Nhill	Briefing with CEO between meetings to update on pertinent related Council matters.
21/02/2022	Nhill Town Committee Annual General Meeting	Nhill	It was pleasing to reflect on the achievements of Town Committee during 2021, noting that the COVID-19 impact, derailed many plans.
22/02/2022	Nhill Town Committee Meeting	Nhill	Welcome to the newest members of the town committee Jenny Dufty, Brock Stephens, Rhys Webb and Alana Storey. It is wonderful to have you on board.
22/02/2022	Wimmera Development Association Board Meeting	Zoom	Progression of the transformation continues with focus on a chair and additional directors.

**Cr IRELAND, DEPUTY MAYOR**

Date	Meeting	Location	Comments
26/01/2022	Australia Day ceremony	Rainbow	It was my pleasure to speak at all 4 events on behalf of the shire and to escort our Australia Day ambassador Wesa Chau for the day who presented an enlightening address to each gathering.
26/01/2022	Australia Day ceremony	Jeparit	
26/01/2022	Australia Day ceremony	Dimboola	
26/01/2022	Australia Day ceremony	Nhill	
27/01/2022	Yurunga Homestead meeting	Rainbow	
31/01/2022	Youth Council Interview	Jeparit	
02/02/2022	Council Briefing Meeting	Nhill	
02/02/2022	Council Meeting	Nhill	
11/02/2022	Councillor dinner/meeting	Dimboola	
12/02/2022	Youth Council Induction/awards dinner	Dimboola Visitor Node	
15/02/2022	Jeparit Town Committee		
16/02/2022	Wimmera Mallee Pioneer Museum meeting		

19/02/2022	Guest speaker at the Peter Taylor Barefoot Waterskiing Event	Dimboola	What a great event the ski club has created for its town and the shire. The venue was extremely crowded on the Saturday night and extremely well organised. I would have no hesitation to support the event from a shire perspective.
21/02/2022	Rainbow Town Committee		Substituted for Cr Ismay who was injured.

### Cr BYWATERS

Date	Meeting	Location	Comments
26/01/2022	Rainbow Australia Day awards ceremony	MECCA Rainbow	Thanks to the Lions Club and wonderful people of Rainbow for welcoming us bright and early. Congratulations to Belinda Eckermann for her much deserved award, Rainbow Lions Club Citizen of the year.
26/01/2022	Jeparit Australia Day awards ceremony	Menzies Square Jeparit	
26/01/2022	Dimboola Australia Day awards ceremony	Dimboola Visitor Node/Library	
26/01/2022	Nhill Australia Day awards ceremony	Goldsworthy Park Nhill	
26/01/2022	Kiata Progress Association, locals and friends, sausage sizzle, good company, banter, games and flag lowering ceremony.	Kiata at the Pines	
28/01/2022	Volunteering at Hindmarsh Visitor Information Centre	Nhill	
29/01/2022	Sing a Song of Sixpence	Hindmarsh Hotel Jeparit	
02/02/2022	Australian Citizenship Ceremony for Armand	Nhill Memorial Community Centre	
02/02/2022	Australian Citizenship Ceremony for Ruzica	Online	
02/02/2022	Council Briefing and Council Meeting	Nhill Community Centre	

10/02/2022	Councillor Catch Up and dinner	Victoria Hotel Dimboola	
11/02/2022	Youth Council Presentation Ceremony	Visitor Node, behind the Dimboola Library	
12/02/2022	Nhill Parkrun 4 <sup>th</sup> Anniversary	Jaypex Park/Nhill Lake, Nhill	As well as Bev Rethus (founding member) last time as event director. Well done Bev and thank you for all you have done for Parkrun and the greater community.
17/02/2022	Nhill YMCA FReeZA Pool Party	Nhill Aquatic Centre	The FReeZA program is a youth development program that provides opportunities for young Victorians age 12-25 across metropolitan, regional and rural Victoria to access live music events, and other cultural, recreational and artistic events that are drug, alcohol and smoke free in supervised and safe venues. Pool parties have been held in each of the four Hindmarsh Outdoor Pools.
18/02/2022	Peter Taylor Barefoot Waterski Friday event	Dimboola	
19/02/2022	Peter Taylor Barefoot Waterski Saturday event	Dimboola	
22/02/2022	Homework Club, Volunteer	The Patch Nhill	
22/02/2022	Visit to the new look Nhill Library	Nhill	To inspect recent renovations.

**Cr NELSON**

Date	Meeting	Location	Comments
14/12/2021	DMSC Awards Night	Dimboola	
15/12/2021	Briefing Meeting	Online	
15/12/2021	Council Meeting	Online	
12/01/2022	Dimboola Town Committee Meeting	Online	
26/01/2022	Australia Day Event	Dimboola	
27/01/2022	Youth Council applicants interviews	Dimboola	
02/02/2022	Briefing Meeting	Nhill	
02/02/2022	Council Meeting	Nhill	
04/02/2022	Delivered Meals on		

	Wheels		
07/02/2022	Dimboola Town Committee meeting		
10/02/2022	Councillors informal Dinner		
11/02/2022	Delivered Meals on Wheels		
11/02/2022	Youth Council Presentation event	Dimboola	
18/02/2022	Delivered Meals on Wheels		
18/02/2022	Barefoot Ski event	Dimboola	
19/02/2022	Barefoot Ski event	Dimboola	

**Cr GERSCH**

Date	Meeting	Location	Comments
26/01/2022	Australia Day	Nhill	
28/01/2022	Wimmera Regional Roads Meeting	Zoom	
28/01/2022	RCV Board meeting	Zoom	
02/02/2022	Council Meeting	Nhill	
02/02/2022	Citizen Ceremony	Zoom	
10/02/2022	Informal Councillors dinner	Dimboola	
14/02/2022	Sign papers Council		

**Cr ISMAY**

Date	Meeting	Location	Comments
14/12/2021	WMT AGM	Minyip	
14/12/2021	WMT Meeting	Minyip	
15/12/2021	Council Briefing	Nhill	
15/12/2021	Council Meeting	Nhill	
15/12/2021	SMT Christmas Breakup	Nhill	
16/12/2021	Rainbow P12 Presentation Night	Rainbow	
04/01/2022	Meeting with Youth council Officer and various others for Business plan project	Rainbow	
11/01/2022	Meeting with Youth council Officer and various others for Business plan project	Rainbow	
22/01/2022	Meeting with Youth	Rainbow	



	council Officer and various others for Business plan project		
26/01/2022	Australia Day	Rainbow	
02/02/2022	Briefing Meeting	Nhill	
02/02/2022	Council Meeting	Nhill	
02/02/2022	Rainbow Rises Events meeting		
10/02/2022	Councillor get together	Dimboola	
12/02/2022	Rainbow 240 pre-race working bee		
16/02/2022	Rainbow Rises events meeting		
19/02/2022	Dimboola Barefoot Ski Event		

## 7 CORRESPONDENCE

### 7.1 GENERAL CORRESPONDENCE

**Responsible Officer:** Chief Executive Officer

**Attachment Number:** 2

**Introduction:**

The following correspondence is attached for noting by Council.

**Inwards:**

- 16/02/2022 – Letter to Councillors from Anne Simms regarding Taverner Street Rainbow

**Outwards:**

- Nil

**RECOMMENDATION:**

**That Council:**

- *notes the attached correspondence; and*
- *notes that the letter from Anne Simms is referenced in item 9.2 of this meeting's agenda.*

**MOVED: CRS B Ireland/D Nelson**

**That Council:**

- *notes the attached correspondence; and*
- *notes that the letter from Anne Simms is referenced in item 9.2 of this meeting's agenda.*

**CARRIED**

Attachment Numbers: 2

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**8 PLANNING PERMITS**

**8.1 PLANNING PERMIT APPLICATION PA1753-2021 – TWO LOT SUBDIVISION (RESUBDIVISION) – 841 JEPARIT-WARRACKNABEAL ROAD JEPARIT VIC 3423**

**Responsible Officer:** Director Infrastructure Services  
**File:** Planning – Applications  
**Assessment:** 72380  
**Application Number:** **PA1753-2021**  
**Application Received:** 25 October 2021 (Fee paid 05 November 2021)  
**Applicant:** Angela Plazzer - Ferguson Perry Surveying Pty Ltd  
**Owner:** Susan and Gary Bell  
**Subject Land:** 841 Jeparit-Warracknabeal Road Jeparit VIC 3423 (Lot 1 TP665983F and Lot 1 TP751945K, Parish of Batyik)  
**Proposal:** Two lot subdivision (Resubdivision)  
**Zoning & Overlays:** Farming Zone (FZ)  
**Attachment Number:** 3

**Summary:**

This report recommends that Council approves Planning Permit PA1753-2021 for a two lot subdivision (Resubdivision) on the subject land known as 841 Jeparit-Warracknabeal Road, Jeparit VIC 3423 (Lot 1 TP665983F and Lot 1 TP751945K, Parish of Batyik).

**Background:**

On 25 October 2021, Ferguson Perry Surveying Pty Ltd on behalf of Susan and Gary Bell lodged a planning application to the Responsible Authority for the resubdivision of land into two (2) lots at 841 Jeparit-Warracknabeal Road Jeparit.

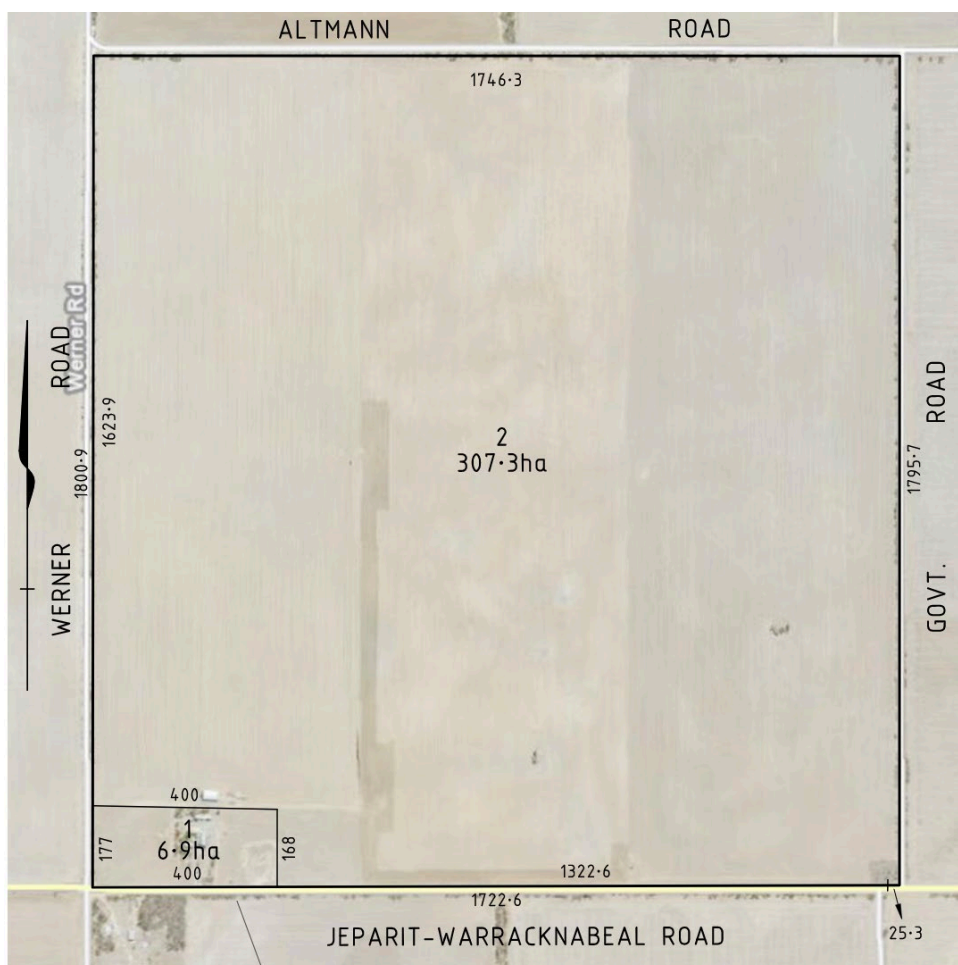
**Proposal Details:**

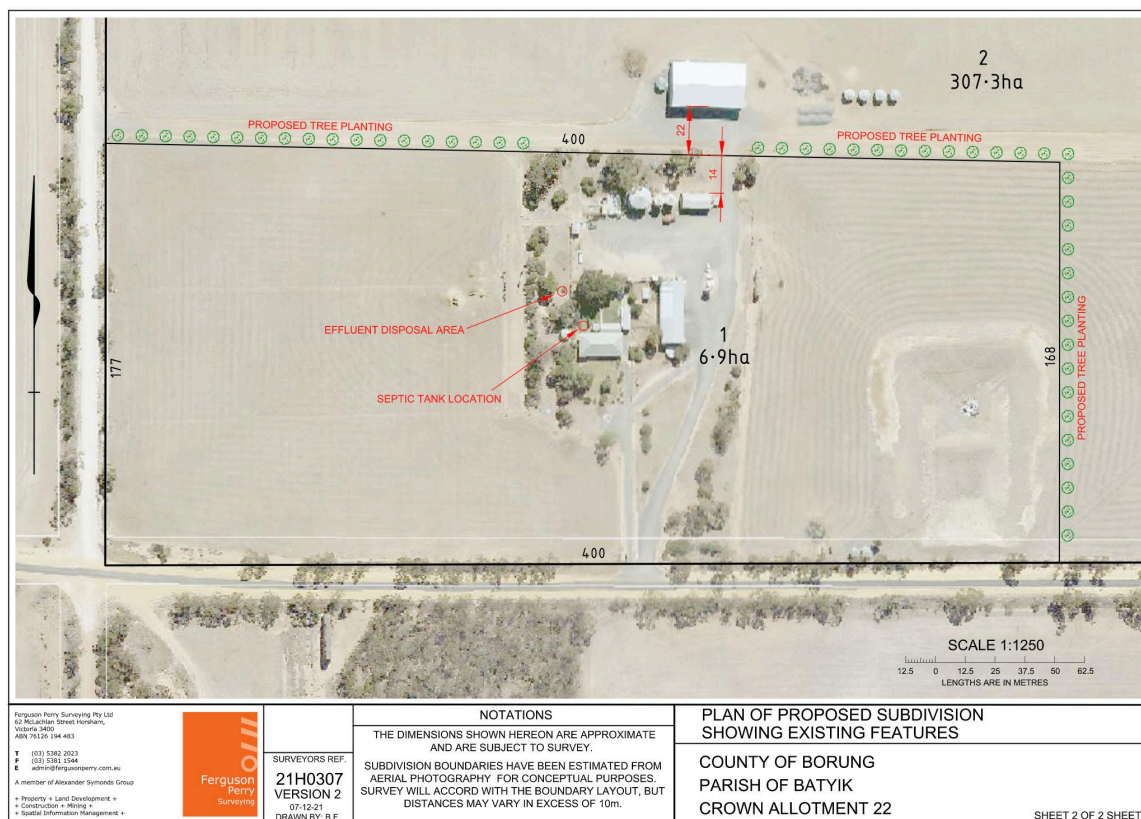
The permit applicant, Ferguson Perry Surveying Pty Ltd seeks approval for the resubdivision of land into two (2) lots on the subject land at 841 Jeparit-Warracknabeal Road, Jeparit. The subject land is currently improved by an existing residential dwelling proximate to the corner of Jeparit-Warracknabeal Road and Werner Road, with the balance of the land being cropped agricultural land.

It is noted that the two existing lots are approximately 0.4 hectares (Lot 1 TP665983F, previously the site of Peppers Plains Tennis Courts) and 313.8 hectares (Lot 1 TP751945K) in area.

It is proposed to excise the existing dwelling from the land, and retain an agricultural parcel. Proposed Lot 1 (the house lot) will be approximately 6.9ha in area, and contain the dwelling, domestic outbuildings and a dam. This lot will continue to be accessed from Jeparit-Warracknabeal Road. Proposed Lot 2 (the balance lot) will comprise agricultural outbuildings and cropping land, and be accessed from Werners Road.

Plans of the proposed re-subdivision are provided below:





**Requirement for Permit:**

A Planning Permit is required under the following clauses of the Hindmarsh Planning Scheme:

- Clause 35.07-3 (Farming Zone) – A permit is required to subdivide land.

**Definitions:**

No relevant definitions are identified.

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not affected by any Covenants or Section 173 Agreements.

**Cultural Heritage Management Plan (CHMP):**

The proposal is exempt from requiring a CHMP pursuant to the *Aboriginal Heritage Regulations 2018*, as the proposal is not within land affected identified as an area of Aboriginal Cultural Heritage Sensitivity and is an exempt activity under Regulation 9 of the Regulations.

**Subject site & locality:**

The subject site is known as 841 Jeparit-Warracknabeal Road, Jeparit and comprises two lots being Lot 1 TP665983F (approximately 0.4 hectares) and Lot 1 TP751945K (approximately 313.8 hectares), Parish of Batyik. The site therefore has a total area of approximately 314.2 hectares and is bounded by Jeparit-Warracknabeal Road (south), Werner Road (west), Altmann Road (north) and an unmade government road (east). The land is generally flat, with minimal fall across the site. The land is currently improved by an

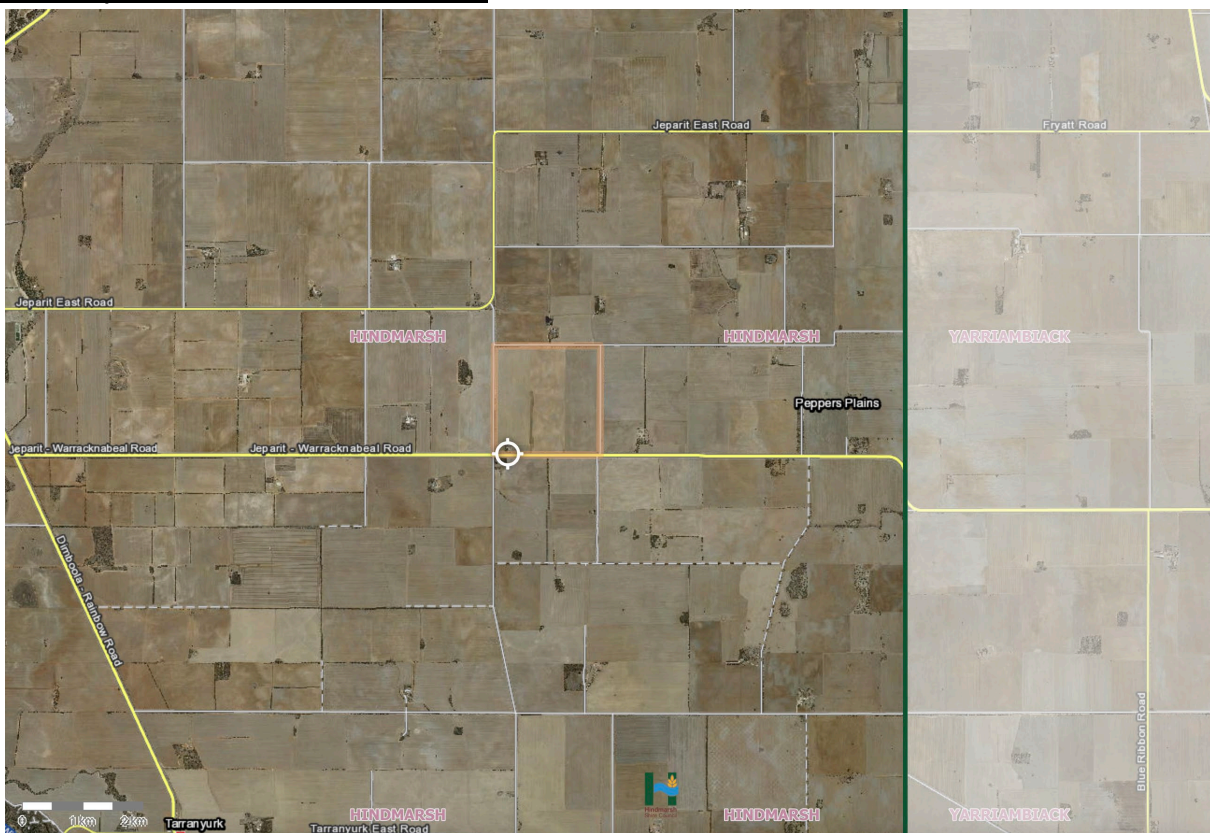


existing dwelling in the south-western corner of the site, which is proposed to be excised onto a separate lot under this application.

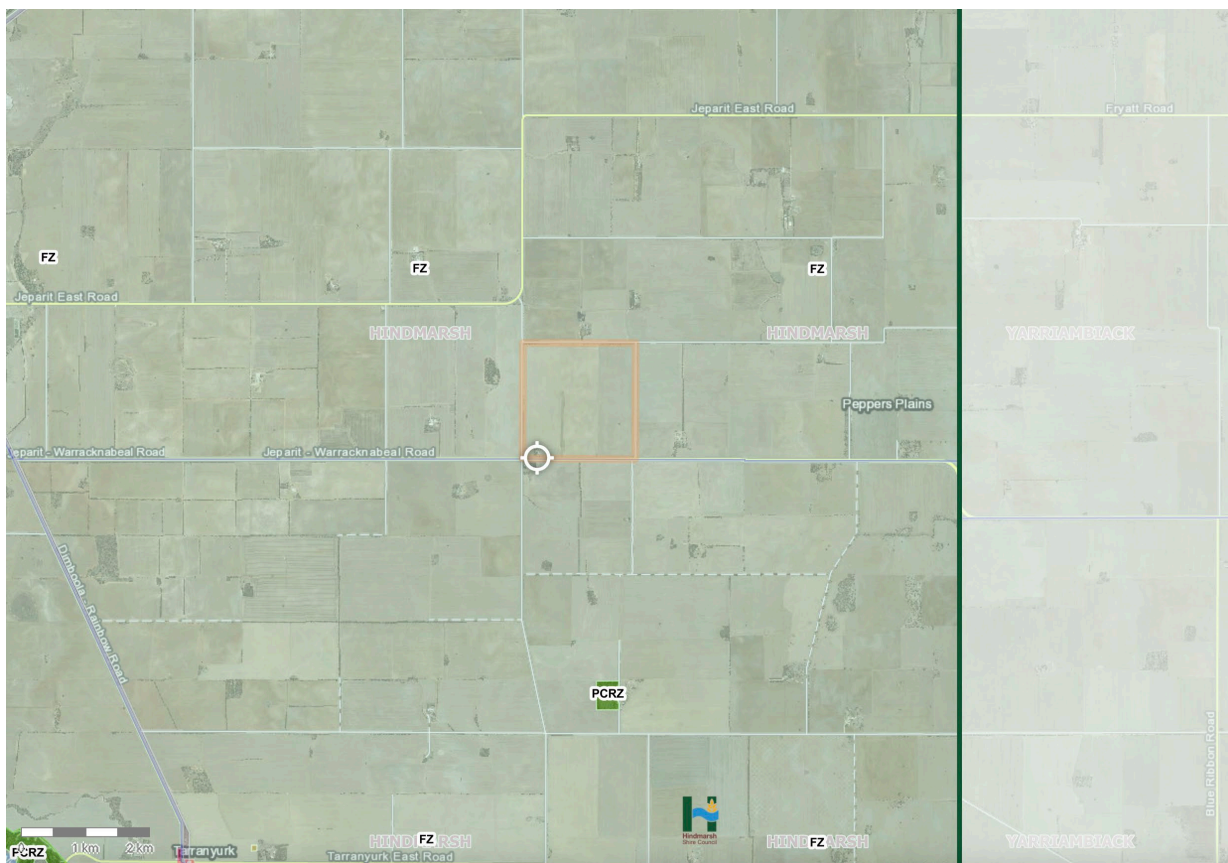
The subject site adjoins farming zoned land in all directions, and is approximately 9.5km east of the Jeparit Town Centre. Land in the surrounding area generally comprises broad acre farming activities, with minimal land fragmentation or rural lifestyle lots evident. Immediately adjoining the subject land are farming blocks of a similar size and configuration to the subject land.

The site appears to have access to reticulated power and telecommunications, but not water and sewer.

Aerial Map below – Hindmarsh POZI



Aerial Map with Zoning below – Hindmarsh POZI



**Section 52 Notice of Application**

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* by the following:

- Letters to adjoining and nearby property owners.

No objections or submissions have been received to the proposal.

**Referrals:**

Referrals/Notice	Advice/Response/Conditions
<b>Section 55 Referrals</b>	
No Section 55 referrals were required for this application.	

<b>Section 52 and Internal Notices</b>	
Engineering	Conditional consent.  Response received <b>24 January 2022.</b>
Environmental Health	Conditional consent.  Response received <b>25 January 2022.</b>

**Planning Assessment:**

Planning Scheme Requirements:

**Planning Policy Framework:**

Clause 11.01-1L Settlement – Hindmarsh  
Clause 14.01-1S Protection of agricultural land  
Clause 14.01-2S Sustainable agricultural land use

### **Zoning Provisions:**

#### **Clause 35.07 – Farming Zone (FZ)**

##### **35.07-3 Subdivision**

A permit is required to subdivide land.

##### **35.07-6 Decision Guidelines**

The following decision guidelines are relevant to the assessment of this application.

#### General issues

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*

#### Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *Any integrated land management plan prepared for the site.*

#### Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

**Planning Response:**

The subject land is of such a size to accommodate the subdivision, with no notable encumbrances in terms of landscape features or incompatible land uses. The subdivision would not impact on the potential for the subject land to be used for agricultural purposes; rather the proposal has been designed to minimise any prospect of land use conflict by way of boundary siting while minimising the extent of land removed from agricultural use. The site will utilise existing services available to the land, with no new services required.

The proposed subdivision will support agricultural use of the subject land, by consolidating all viable agricultural land onto one balance parcel and removing the surplus dwelling to be on a separate parcel of land in separate ownership, with conflict between agricultural values and rural residential land use managed by the buffers provided as part of the subdivision.

The proposed subdivision will directly remove the land around the dwelling from theoretical agricultural production; however, this is the case with all such proposals to occur in the Farming Zone. The greater concern regarding the removal of land is the indirect removal of a parcel from agricultural production due to change in land use. The proposal allows for a suitable buffer to be provided to the excised dwelling, to minimise the potential for land use conflict between the excised lot and balance lot, and retain as much productive agricultural land as possible on the balance lot. Consequently, it is considered that the proposal does not raise concerns about limiting other agricultural land uses.

The proposal does not necessitate the removal of native vegetation or lead to consequential loss due to new boundary lines. Permit conditions will ensure that the resultant house lot will be able to treat and retain wastewater from the dwelling in accordance with relevant EPA and Council requirements; noting that there is a multitude of locations where an effluent field could be installed that meets the EPA Code of Practice without adversely affecting vegetation or waterways.

Based on the above, it is considered that the proposal is supported by the relevant decision guidelines of the Farming Zone and is an appropriate subdivision outcome for the subject land.

**Overlay Provisions:**

No overlays apply to the subject land.

**Particular Provisions:**

No relevant Particular Provisions are identified.

**General Provisions**

**Clause 65 - Decision Guidelines**

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.



**Clause 65.01– Approval of an application or plan**

Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate (relevant to the application):

- The matters set out in Section 60 of the Act.
- The Municipal Planning Strategy and the Planning Policy Framework.
- 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.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- 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.

**Clause 65.02– Approval of an application to subdivide land**

Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate (relevant to the application):

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of anybody corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.

- If the land is not seweraged and no provision has been made for the land to be seweraged, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas

**Planning Response:**

As previously discussed, it is considered that the proposal is supported by the relevant provisions of the Municipal Planning Strategy and the Planning Policy Framework. As explored through this report, the re-subdivision provides for the excision of the existing house lot and the balance farm lot to be unencumbered by unnecessary infrastructure. No natural hazards issues are identified in relation to the site and no staging or common property is required. The application is therefore considered to be reflective of orderly planning.

**Discussion:**

**Planning Policy Framework (PPF) and Municipal Planning Strategy (MPS)**

The proposal meets the objectives of the relevant provisions of the PPF and MPS for the reasons discussed earlier in this report.

**Clause 35.07 Farming Zone**

The proposal complies with the purpose and decision guidelines of Clause 35.07 for the reasons outlined in the planning response as discussed above.

**Clause 65 Decision Guidelines**

The proposal complies with the relevant decision guidelines of Clause 65 as discussed above.

**Strategic, Statutory and Procedural Requirements:**

The proposal is consistent with the Planning Policy Framework and the Municipal Planning Strategy, including the Farming Zone of the Hindmarsh Planning Scheme.

**Report to Council:**

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

**Processing Times:**

- 25/10/2021 The application was received.
- 05/11/2021 The fee was paid.
- 22/11/2021 Further information was requested from the applicant.
- 08/12/2021 Further information was received.
- 04/01/2022 The application was notified.
- 24/01/2022 Referral response received from Engineering.
- 25/01/2022 Referral response received from Environmental Health.

02/03/2022 The report is being presented to the Council at the meeting held on 02 March 2022 (85 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 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services

In providing this advice as the Officer Responsible, I have no interests to disclose.

Author: Tim Berger, Consultant Town Planner, on behalf of Janette Fritsch, Manager Development.

In providing this advice as the Author, I have no interests to disclose.

**Link to Council Plan:**

N/A

**Financial Implications:**

Nil

**Risk Management Implications:**

Nil

**Communications Strategy:**

Advise the Applicant of Council's decision.

**Next Steps:**

Issue the Planning Permit and endorse the plans if approved by Council.

**RECOMMENDATION:**

***That Council approves Planning Application PA1753-2021 for a Two lot subdivision (Resubdivision) on the subject land known as 841 Jeparit-Warracknabeal Road Jeparit VIC 3423 (Lot 1 on Title Plan 751945K and Lot 1 on Title Plan 665983F, Parish of Batyik), subject to the following conditions:***

**Endorsed Plans**

- 1. The subdivision as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.***

**Subdivision Conditions**

2. ***The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***
3. ***All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.***
4. ***The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.***

**Environmental Health Conditions**

5. ***Prior to the issue of a Statement of Compliance for the subdivision hereby approved, the permit holder must demonstrate that the wastewater system associated with the existing dwelling complies with the relevant EPA Code of Practice for On-site Wastewater Management.***

***If the system is found to be non-compliant, a compliant system must be installed to the satisfaction of the Responsible Authority.***

**Engineering Conditions**

6. ***Prior to the issue of a Statement of Compliance, each lot must be provided with vehicular access and crossovers in accordance with the Infrastructure Design Manual to the satisfaction of the Responsible Authority.***

**Time Limit**

7. ***The above-mentioned planning permit will expire if either of the following circumstances arise:***
  - (a) ***The plan of subdivision is not certified within two (2) years of the date of this permit; or***
  - (b) ***The subdivision is not completed within five (5) years of the date of certification.***

***The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.***

**MOVED: CRS B Ireland/W Bywaters**

***That Council approves Planning Application PA1753-2021 for a Two lot subdivision (Resubdivision) on the subject land known as 841 Jeparit-Warracknabeal Road Jeparit VIC 3423 (Lot 1 on Title Plan 751945K and Lot 1 on Title Plan 665983F, Parish of Batyik), subject to the following conditions:***

**Endorsed Plans**

1. ***The subdivision as shown on the endorsed plans shall not be altered or modified,***

*whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.*

**Subdivision Conditions**

- 2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.*
- 3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.*
- 4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.*

**Environmental Health Conditions**

- 5. Prior to the issue of a Statement of Compliance for the subdivision hereby approved, the permit holder must demonstrate that the wastewater system associated with the existing dwelling complies with the relevant EPA Code of Practice for On-site Wastewater Management.*

*If the system is found to be non-compliant, a compliant system must be installed to the satisfaction of the Responsible Authority.*

**Engineering Conditions**

- 6. Prior to the issue of a Statement of Compliance, each lot must be provided with vehicular access and crossovers in accordance with the Infrastructure Design Manual to the satisfaction of the Responsible Authority.*

**Time Limit**

- 7. The above-mentioned planning permit will expire if either of the following circumstances arise:
  - (a) The plan of subdivision is not certified within two (2) years of the date of this permit; or*
  - (b) The subdivision is not completed within five (5) years of the date of certification.**

*The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.*

**CARRIED**

Attachment Number: 3

## 8.2 APPLICATION FOR PLANNING PERMIT PA1757-2021 – TWO LOT SUBDIVISION – FULLER ROAD RAINBOW VIC 3424 (LOT 2 ON PS545680J)

<b>Responsible Officer:</b>	Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	15560
<b>Application No:</b>	<b>PA1757-2021</b>
<b>SPEAR Ref. No:</b>	S179276S
<b>Applicant:</b>	Michael Andrew Parry, C/- Angela Perry, Ferguson Perry Surveying Pty Ltd
<b>Owner:</b>	Michael Andrew Parry
<b>Subject Land:</b>	Fuller Road Rainbow VIC 3424 (Lot 2 on PS545680J)
<b>Proposal:</b>	Two lot subdivision
<b>Zoning &amp; Overlays:</b>	Farming Zone Environmental Significance Overlay Schedule 2 and Schedule 6 Land Subject to Inundation Overlay
<b>Attachment Number:</b>	4

### Summary:

This report recommends that Council approves Planning Permit PA1757-2021 for a two lot subdivision at Fuller Road Rainbow VIC 3424 (Lot 2 on PS545680J), subject to standard conditions.

### Background:

A previous Planning Permit 970/05 was issued on 12 September 2005 for a two lot subdivision to subdivide the adjacent GrainCorp grain storage facility on a lot of 11.37ha from the balance lot of 187ha, which is the subject land.

A telecommunications facility (tower and equipment building) has been located on the front south-eastern part of the land for some time. The balance of the land has been mostly cleared and has used for agricultural purposes including cropping for a long time. The owner is seeking to subdivide the land to create a lot of 5815m<sup>2</sup> where the telecommunications facility is situated.

### Proposal Details:

The application proposes a two lot subdivision of the subject land, which will create two separate lots comprising proposed Lot 1 with an area 5815m<sup>2</sup> where the telecommunications facility is situated and proposed Lot 2 with an area of 186.4ha.

The application was submitted in SPEAR on 16/11/2021. The application form was amended on 13/12/2021 to refer to the proposal as a two lot subdivision only and remove reference to a re-subdivision pursuant to Section 50 of the *Planning and Environment Act 1987*.

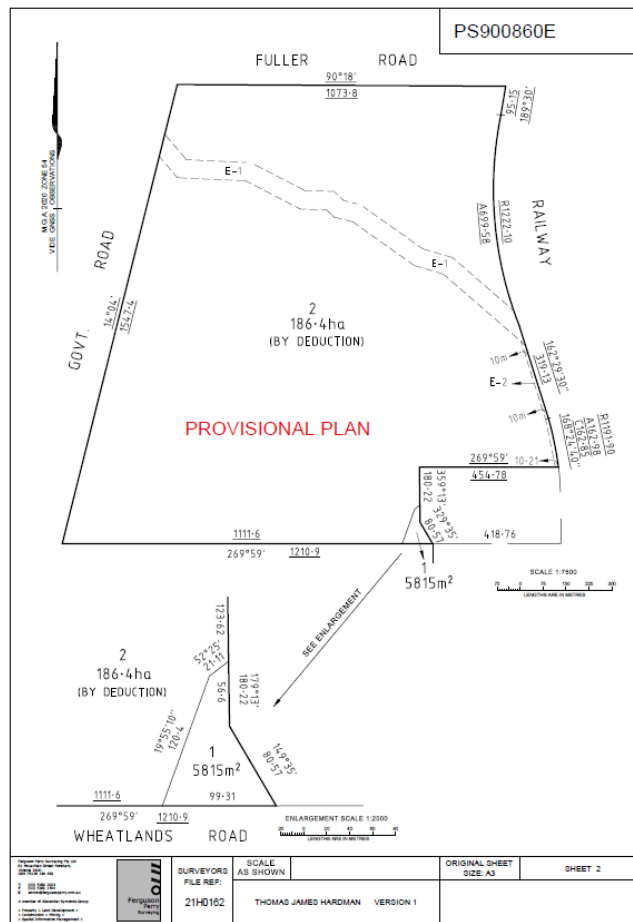
Vehicle access to proposed Lot 1 is proposed from the south on which will require a portion of the road to be upgraded to Council standards. Vehicle access to proposed Lot 2 will be from an existing crossover on Fuller Road to the north.

The applicant has stated the following about the proposal:

*'The application proposes a 2-lot subdivision of the land in order to excise the Telstra telecommunications tower from the land. It is proposed that Lot 1 will have area of 5815m<sup>2</sup> and will contain the Telstra telecommunications tower. Access to proposed Lot 1 will be taken from the existing crossing to Wheatlands Road in the south.*

*Proposed Lot 2 has an area of 186.4ha and contains all of the productive agricultural land and a large shed. Access to proposed Lot 2 will be taken from the existing crossing to Fuller Road in the north.'*

Proposed Plan for Endorsement below:



**Requirement for Permit:**

The subject land is located within the Farming Zone, the Environmental Significance Overlay Schedule 2 and Schedule 6 (part) and the Land Subject to Inundation Overlay (part).

A planning permit is required under Clause 35.07-3 Subdivision of the Farming Zone, Clause 42.01-2 of the Environmental Significance Overlay and Clause 44.04-3 of the Land Subject to Inundation Overlay, which state that a permit is required to subdivide land.

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not burdened by a Restrictive Covenant or Section 173 Agreement.

**Cultural Heritage Management Plan (CHMP):**

The subject land is partly within an Aboriginal Cultural Heritage Sensitivity Area. However, the proposed two lot subdivision is not a high impact activity and does not require a CHMP pursuant to the *Aboriginal Heritage Regulations 2018*.

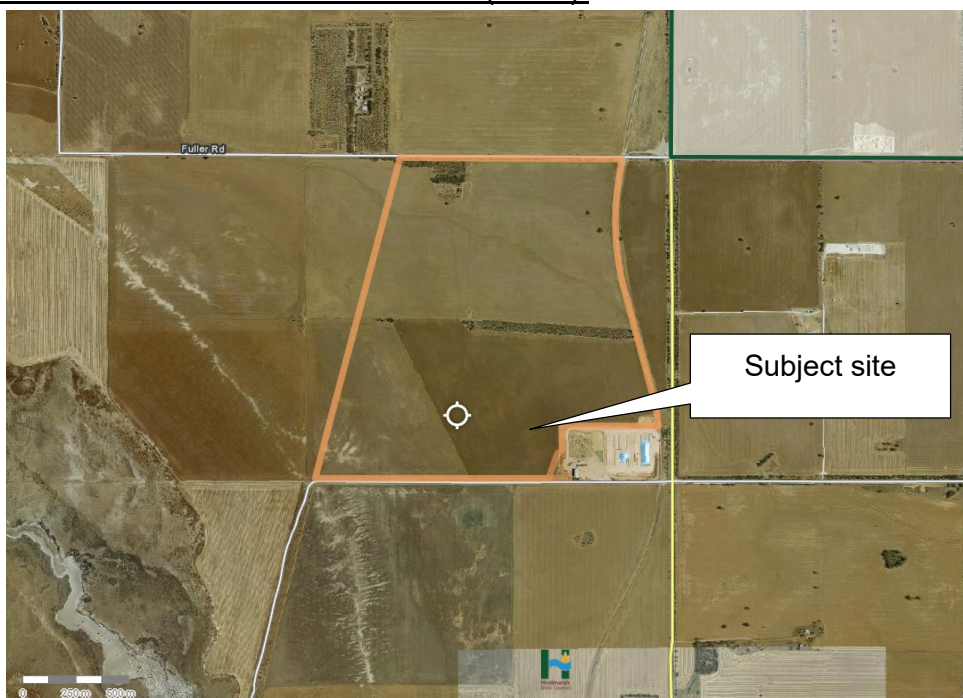
**Subject site & locality:**

The subject site has an area of approximately 187ha and contains cleared agricultural land that is used for cropping. The subject site is known as Lot 2 on PS545680J and fronts Fuller Road to the north and Wheatlands Road extension (Road 206 B03) to the south. There are some small areas of native vegetation and planted vegetation and existing buildings on the site includes small farm sheds and a small equipment building associated with the existing telecommunications facility.

Access to the site is from an existing crossover on Fuller Road to the north and from Wheatlands Road extension (Road 206 B03) to the south. A 60.35m wide water supply and drainage easement (E-1) extends across the northern part of site from east to west and a 10.0m wide water supply easement (E-2) extends along part of the eastern boundary adjoining a Railway Reserve. The site is surrounded by broad scale cropping farmland and an existing grain storage facility to the south-east. There are several dwellings on large farming lots in the surrounding area.

The site and the surrounding land are within the Farming Zone (FZ), and parts of the land are affected by the Environmental Significance Overlay Schedule 2 and Schedule 6 and the Land Subject to Inundation Overlay.

Aerial Photo of the site and surrounds below (POZI):





**Consultation:**

Consultation was undertaken and included:

- A request for further information was sent to the applicant via SPEAR on 10 December 2021.
- An amended application form was received in SPEAR on 13 December 2021 in response to the further information requested.
- Email correspondence with the applicant in relation to a timeframe for a decision.

**Section 52 Notice of application:**

The application has not been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*.

The subdivision application proposes to create a lot for a utility installation for a utility service provider and the subdivision layout will correspond with the existing uses of the land. The proposal will not cause material detriment to any person or property.

**Referrals:**

External Referrals/Notices were required by the Planning Scheme:

**Section 55 Referrals**

- Wimmera CMA – No objections and a note about flooding recommended on any permit.

**Section 52 Referrals**

- GWM Water - No objections.

**Internal Referrals:**

- Engineering: Comments provided, and conditions required as detailed below.

*We have conducted a site visit on 22/12/2021 and 13/01/2022 at Fuller Road, Rainbow. The following conditions need to be applied to the permit.*

Access:

*The current location of access at the North side of Lot 2 on Fuller Rd, will need to be upgraded to the current standard, with a new 375mm drainage pipe and crossover is to be constructed as per IDM SD-255 standard to RA satisfaction and at applicant's cost.*

*The current location of access at the South side of the Lot 1 (telecommunications tower) on Wheatlands Rd extension (Road 206B03), will need to be upgraded to the current standard, and crossover is to be constructed as per IDM SD-255 standard to RA satisfaction and at applicant's cost.*

[https://www.designmanual.com.au/assets/files/documents/Standard\\_Drawings/IDM\\_STANDARD\\_DRGS\\_SET\\_2020-03-24.pdf](https://www.designmanual.com.au/assets/files/documents/Standard_Drawings/IDM_STANDARD_DRGS_SET_2020-03-24.pdf)

*The vehicle crossing(s) must be constructed at the applicant's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority.*

*Note:*

*A consent to works within road reserve permission is required prior to construction of crossovers.*

Road Access:

*The unconstructed portion of Wheatlands Road extension (Road 206 B03) extension (Road 206 B03) from the GrainCorp site entrance to Lot 1 entrance, that services the telecommunications tower to be upgraded to a gravelled 5R all-weather access road to Council standard at the Applicant's cost.*

**Planning Scheme:**

**Municipal Planning Strategy (MPS)**

Clause 02.02 Vision

Clause 02.03 Strategic Directions

Clause 02.03-1 Settlement and housing

Clause 02.03-2 Environmental and landscape values

Clause 02.03-3 Environmental risks and amenity

Clause 02.03-4 Natural resource management

Clause 02.03-6 Economic development

**Planning Policy Framework (PPF)**

The following relevant Clauses in the PPF have been considered for the application.

Clause 11.01-1S Settlement

Clause 11.01-1R Settlement – Wimmera Southern Mallee

Clause 11.03-6S Regional and local places

Clause 14.01-1S Protection of agricultural land

Clause 14.01-1R Agricultural productivity – Wimmera Southern Mallee

Clause 14.01-2S Sustainable agricultural land use

Clause 14.02-1S Catchment planning and management

Clause 14.02-2S Water quality

Clause 14.03-2S Protection of declared irrigation districts

Clause 19.03-2S Infrastructure design and provision

Planning Response:

The proposed subdivision will not result in the loss of any productive agricultural land and the existing cropping activities will be protected. The water supply easements will not be impacted by the subdivision. The proposal will therefore comply with the relevant provisions of the MPS including Clause 02.03-4 in regard to protecting agriculture, water supply and water quality and Clause 02.03-6 in regard to retaining agricultural activities and other activities that are economically sustainable.

The proposed subdivision will comply with the relevant objectives of the PPF by protecting and enhancing valuable agricultural land and excising only a smaller portion of the land that is used as a utility installation. The proposal will not impact on the water supply easements

that exist on the site. The proposal will therefore comply with the relevant policies of the PPF including Clauses 14.01-1S, 14.01-2S, 14.02-1S, 14.02-2S and 14.02-3S.

## **Zoning Provisions**

### **Clause 35.07 Farming Zone (FZ)**

#### **35.07-3 Subdivision**

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

- The subdivision is to create a lot for an existing dwelling.
- The subdivision must be a two lot subdivision. The subdivision is the re-subdivision of existing lots and the number of lots is not increased.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

#### **35.07-6 Decision Guidelines**

Before deciding on an application to use or subdivide land, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate, matters under the following relevant headings:

- General issues
- Agricultural issues and the impacts from non-agricultural uses
- Environmental issues
- Design and siting issues

#### Planning Response:

The proposed subdivision complies with the relevant decision guidelines in the zone for the following reasons:

#### General issues

- The proposal will comply with the MPS and PPF as discussed above.
- The proposal will be consistent with the current Wimmera Regional Catchment Strategy 2021-2027.
- The subdivision will ensure sustainable land management by retaining the balance farming lot of 186.4ha on proposed Lot 2.
- The subdivision will allow the excision of proposed Lot 1 on 5815m<sup>2</sup> which is used for a utility installation. The proposal is compatible with the adjoining agricultural land uses.
- The proposal makes use of existing infrastructure and services. The two crossovers for vehicle access the two lots will need to be upgraded to Council standards. Standard conditions will be included for services to be connected as required by the relevant authorities in accordance with the conditions listed in Clause 66.01.

Agricultural issues and the impacts from non-agricultural uses

- The subdivision will not have any impact on the existing agricultural activities on proposed Lot 2.
- The subdivision does not remove any land from agricultural production.
- The subdivision is will not limit the operation and expansion of adjoining and nearby agricultural uses as the existing agricultural use will not be altered.
- The retention of the agricultural land on the larger proposed Lot 2 being 186.4ha will sustain the productive agricultural use in conjunction with adjoining agricultural lots in common ownership.
- The subdivision will require the upgrade of existing road infrastructure including the upgrade of the road access along part of Wheatland Road extension (Road 206 B03) and the upgrade of the crossovers to access the two proposed lots.
- There is no applicable land management plan for the site.

Environmental issues

- The proposal will have no adverse impact on soil and water quality and any other natural physical features and resources.
- Most of the site and the surrounding land has long been largely cleared of native vegetation due to historical broad acre farming activities. The remaining area of native vegetation in the north-west corner of the site will not be affected by the proposal. The subdivision will not any have impacts on flora and fauna in the locality.

**Overlay Provisions**

**Clause 42.01-2 Environmental Significance Overlay (ESO2 and ESO6)**

**42.01-2 Permit requirement**

A permit is required to:

- Subdivide land.

**Schedule 2 to the Environmental Significance Overlay  
Channel and Reservoir Protection**

**2.0 Environmental objective to be achieved**

- To maintain and enhance the quality and supply of irrigation and domestic water throughout the Wimmera region.
- To protect water reservoirs and channels from potential sources of pollution.
- To control the development of land in the vicinity of water supply reservoirs and supply channels.
- To prevent the unauthorised diversion of water into or from water channels.

**5.0 Decision guidelines** *(relevant to the application)*

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The comments of Wimmera Mallee Water or any other relevant authority;

- The need to protect water supply resources;

## **Schedule 6 to the Environmental Significance Overlay Catchments of Wetlands of Conservation Value**

### **2.0 Environmental objective to be achieved** (*relevant to application*)

- To protect, conserve and encourage the long term future of fauna and flora habitats in wetlands of conservation value.
- To protect threatened wetland flora and fauna within wetlands of conservation value
- To ensure that the natural alignment of waterways are not altered.

### **5.0 Decision guidelines**

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- *The Incorporated Document titled Shire of Hindmarsh, Wetlands and Catchments of Conservation Value (WCMA 2007) Decision Guidelines.*

### **6.0 Referral of application**

All applications made under this Schedule must be referred in accordance with Section 55 of the Act to the referral authority specified in Clause 66.04 or a schedule to that Clause.

#### Planning Response:

The proposal complies with the relevant decision guidelines in the overlay for the following reasons:

- The proposal will not affect the two existing water supply easements that extend through the site. The two easements will be fully contained within proposed Lot 2.
- The proposal will not adversely affect the water supply for the Wimmera Mallee Pipeline and will satisfy the decision guidelines of the ESO2.
- The proposal will not impact on flora and fauna habitats in the wetlands of conservation value and will be consistent with the incorporated document to satisfy the decision guidelines of the ESO6.
- The comments of the Wimmera CMA have been reviewed and the note provided about flooding will be included on any permit issued.

## **Clause 44.04 Land Subject to Inundation Overlay**

### **44.04-3 Subdivision**

A permit is required to subdivide land.

### **44.04-8 Decision guidelines** (*relevant to application*)

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

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any local floodplain development plan.

- Any comments from the relevant floodplain management authority.
- The existing use and development of the land.

### **Schedule to the LSIO**

There are no specific permit requirements to subdivide land in the Schedule to the LSIO.

#### Planning Response:

The proposal complies with the relevant decision guidelines in the overlay for the following reasons:

- The proposal is consistent with the MPS and PPF as discussed above.
- The proposal complies with the Wimmera Floodplain Management Strategy December 2017 for the Terminal Lakes System (Area 4).
- The Wimmera CMA has advised they have no objections to the subdivision and have recommended a note about flooding.
- The existing use and development of the land is not altered by the proposal.

### **Particular Provisions**

Nil

### **General Provisions**

#### **Clause 65 - Decision Guidelines**

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.

#### **65.01 Approval of an application or plan**

Before deciding on an application or approval of a plan, the Responsible Authority must consider, relevant matters, as appropriate.

#### **65.02 Approval of an application to subdivide land**

Before deciding on an application to subdivide land, the responsible authority must also consider, relevant matters, as appropriate.

#### Planning Response:

The proposal complies with the relevant decision guidelines as outlined above. The proposal complies with the MPS and PPF as it will protect agricultural land, protect the existing water supply infrastructure and will not impact on the environment, human health and the amenity of the area. The proposal will enable the orderly planning of the area. The proposal therefore complies with Clause 65.

### **Discussion:**

The proposed subdivision will allow a utility service provider to create a smaller lot of 5815m<sup>2</sup> for a utility installation to be contained within proposed Lot 1 and to retain and protect the agricultural use of the balance of the land in a 186.4ha parcel on proposed Lot 2. The proposed subdivision will satisfy the relevant planning policies in the MPS and PPF and the

relevant decision guidelines of the FZ, ESO2, ESO6, LSIO and Clause 65 as discussed above.

The proposal should therefore be approved, and a Planning Permit be issued subject to conditions as outlined below.

**Strategic, Statutory and Procedural Requirements:**

The proposal is consistent with the Municipal Planning Strategy and the Planning Policy Framework, the Farming Zone, the Environmental Significance Overlay Schedule 2 and Schedule 6, the Land Subject to Inundation Overlay and Clause 65.

**Report to Council:**

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

**Processing Times:**

16/11/2021 Application submitted in SPEAR  
01/12/2021 Application fee paid  
10/12/2021 Further information requested in SPEAR  
13/12/2021 Response to further information received and amended application form received in SPEAR pursuant to Section 50 of the *Planning and Environment Act 1987*  
13/12/2021 Referrals sent in SPEAR  
19/01/2022 Responses to external referrals and internal referral all received in SPEAR  
02/03/2022 The report is being presented to Council at the meeting held 02 March 2022 (79 statutory days)

The statutory processing time requirements of the *Planning and Environment Act 1987* have not been satisfied in this instance.

**Link to Council Plan:**

Objective – Facilitating and supporting economic development.

**Financial Implications:**

N/A.

**Risk Management Implications:**

There are not likely to be any risks to be managed by Council if a Planning Permit is issued.

**Conflict of Interest:**

Under section 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Officer Responsible – Angela Hoy, Director Infrastructure Services

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

Author: Bernadine Pringle, Consultant Town Planner.

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

**Communications Strategy:**

Advise the applicant of Council's decision.

**Next Steps:**

Issue the planning permit and endorse the plans if approved by Council.

**RECOMMENDATION:**

***That Council approves planning application PA1757-2021 for a two lot subdivision on the subject land at Fuller Road Rainbow VIC 3424 (Lot 2 on PS545680J), subject to the following conditions:***

**Conditions:**

**Endorsed Plans**

- 1. The layout and site dimensions of the subdivision hereby permitted, as shown on the endorsed plan/s, must not be altered or modified without the written consent of the Responsible Authority. There are no requirements to alter or modify the endorsed plan if a plan is certified under the provisions of the Subdivision Act 1988 that is generally in accordance with the endorsed plan/s.***

**Road Access**

- 2. The unconstructed portion of the Wheatlands Road extension (Road 206 B03) extension (Road 206 B03) from the GrainCorp site entrance to proposed Lot 1 entrance that services the telecommunications tower must be upgraded to a gravelled 5R all-weather access road to Council standards at the cost of the permit holder/owner and to the satisfaction of the Responsible Authority.***

**Lot Access**

- 3. Before the issue of a Statement of Compliance under the Subdivision Act 1988, the existing location of the crossovers for access to proposed Lot 1 from Wheatlands Road extension (Road 206 B03) extension and proposed Lot 2 from Fuller Road must be upgraded to current standards with new drainage pipes as required, to the satisfaction of the Responsible Authority.***
- 4. The vehicle crossovers must be constructed at the permit holder/owner's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority.***
- 5. The crossovers and access to the two lots must be constructed to current standards and must have a minimum trafficable width to accommodate***



*emergency vehicles, to the standards and satisfaction of the Responsible Authority or as otherwise agreed to writing by the Responsible Authority.*

***Subdivision Conditions in Clause 66.01***

- 6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***
- 7. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.***
- 8. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.***

***Subdivision Expiry***

- 9. The subdivision will expire if:***
  - (a) The plan of subdivision is not certified within two (2) years of the date of this permit.***
  - (b) The registration of the subdivision is not completed within five (5) years of the date of certification of the plan of subdivision.***

***In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six (6) months of the permit expiry date.***

***Notes:***

***Infrastructure***

- The current location of access at the North side of Lot 2 on Fuller Rd, will need to be upgraded to the current standard, with a new 375mm drainage pipe and crossover is to be constructed as per IDM SD-255 standard to RA satisfaction and at applicant's cost.***
- The current location of access at the South side of the Lot 1 (telecommunications tower) on Wheatlands Rd extension (Road 206B03), will need to be upgraded to the current standard, and crossover is to be constructed as per IDM SD-255 standard to RA satisfaction and at applicant's cost.***
- A Consent to Works Within Road Reserve Permit must be obtained from Council's Infrastructure Department (Phone: 03 5391 4444) before the construction or alteration/upgrade of any vehicle crossovers or any works conducted in the road reserve.***

***Wimmera CMA***

- The 1% AEP flood is not the maximum possible flood. A flood larger in height and extent, than the 1% AEP flood, may occur in the future.***

**MOVED: CRS W Bywaters/D Nelson**

***That Council approves planning application PA1757-2021 for a two lot subdivision on the subject land at Fuller Road Rainbow VIC 3424 (Lot 2 on PS545680J), subject to the following conditions:***

**Conditions:**

***Endorsed Plans***

- 1. The layout and site dimensions of the subdivision hereby permitted, as shown on the endorsed plan/s, must not be altered or modified without the written consent of the Responsible Authority. There are no requirements to alter or modify the endorsed plan if a plan is certified under the provisions of the Subdivision Act 1988 that is generally in accordance with the endorsed plan/s.***

***Road Access***

- 2. The unconstructed portion of the Wheatlands Road extension (Road 206 B03) extension (Road 206 B03) from the GrainCorp site entrance to proposed Lot 1 entrance that services the telecommunications tower must be upgraded to a gravelled 5R all-weather access road to Council standards at the cost of the permit holder/owner and to the satisfaction of the Responsible Authority.***

***Lot Access***

- 3. Before the issue of a Statement of Compliance under the Subdivision Act 1988, the existing location of the crossovers for access to proposed Lot 1 from Wheatlands Road extension (Road 206 B03) extension and proposed Lot 2 from Fuller Road must be upgraded to current standards with new drainage pipes as required, to the satisfaction of the Responsible Authority.***
- 4. The vehicle crossovers must be constructed at the permit holder/owner's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority.***
- 5. The crossovers and access to the two lots must be constructed to current standards and must have a minimum trafficable width to accommodate emergency vehicles, to the standards and satisfaction of the Responsible Authority or as otherwise agreed to writing by the Responsible Authority.***

***Subdivision Conditions in Clause 66.01***

- 6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***
- 7. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision***

*submitted for certification in favour of the relevant authority for which the easement or site is to be created.*

- 8. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**

***Subdivision Expiry***

- 9. The subdivision will expire if:**
- (a) The plan of subdivision is not certified within two (2) years of the date of this permit.***
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*In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six (6) months of the permit expiry date.*

**Notes:**

**Infrastructure**

- The current location of access at the North side of Lot 2 on Fuller Rd, will need to be upgraded to the current standard, with a new 375mm drainage pipe and crossover is to be constructed as per IDM SD-255 standard to RA satisfaction and at applicant's cost.***
- The current location of access at the South side of the Lot 1 (telecommunications tower) on Wheatlands Rd extension (Road 206B03), will need to be upgraded to the current standard, and crossover is to be constructed as per IDM SD-255 standard to RA satisfaction and at applicant's cost.***
- A Consent to Works Within Road Reserve Permit must be obtained from Council's Infrastructure Department (Phone: 03 5391 4444) before the construction or alteration/upgrade of any vehicle crossovers or any works conducted in the road reserve.***

**Wimmera CMA**

- The 1% AEP flood is not the maximum possible flood. A flood larger in height and extent, than the 1% AEP flood, may occur in the future.***

**CARRIED**

Attachment Number: 4

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**8.3 APPLICATION FOR PLANNING PERMIT 1758-2021 – SUBDIVISION OF LAND INTO TWO (2) LOTS – 7281 WESTERN HIGHWAY AND 29 GLENFERNESS STREET NHILL VIC 3418**

**Responsible Officer:** Director Infrastructure Services

<b>File:</b>	Planning – Applications
<b>Assessment:</b>	131260 and 131620
<b>Application Number:</b>	<b>PA1758-2021</b>
<b>Application Received:</b>	25 November 2021 (Fee paid 8 December 2021)
<b>Applicant:</b>	Angela Plazzer - Ferguson Perry Surveying Pty Ltd for West Wimmera Baling Pty Ltd
<b>Owner:</b>	Ashley and Emma Dickinson & Gary and Peter Taylor
<b>Subject Land:</b>	7281 Western Highway and 29 Glenferness Street Nhill VIC 3418 (Lot 1 PS522695Y and Lot 2 PS449846L Parish of Balrootan)
<b>Proposal:</b>	Subdivision of land into two (2) lots
<b>Zoning &amp; Overlays:</b>	Farming Zone (FZ) Commercial 1 Zone (C1Z) General Residential Zone – Schedule 1 (GRZ1) Environmental Significance Overlay – Schedule 5 (ESO5) Environmental Significance Overlay – Schedule 6 (ESO6) Land Subject to Inundation Overlay (LSIO) Bushfire Management Overlay (BMO)
<b>Attachment Number:</b>	5

**Summary:**

This report recommends that Council approves Planning Permit PA1758-2021 for the subdivision of land into two (2) lots on the subject land known as 7281 Western Highway and 29 Glenferness Street Nhill VIC 3418 (Lot 1 PS522695Y and Lot 2 PS449846L Parish of Balrootan).

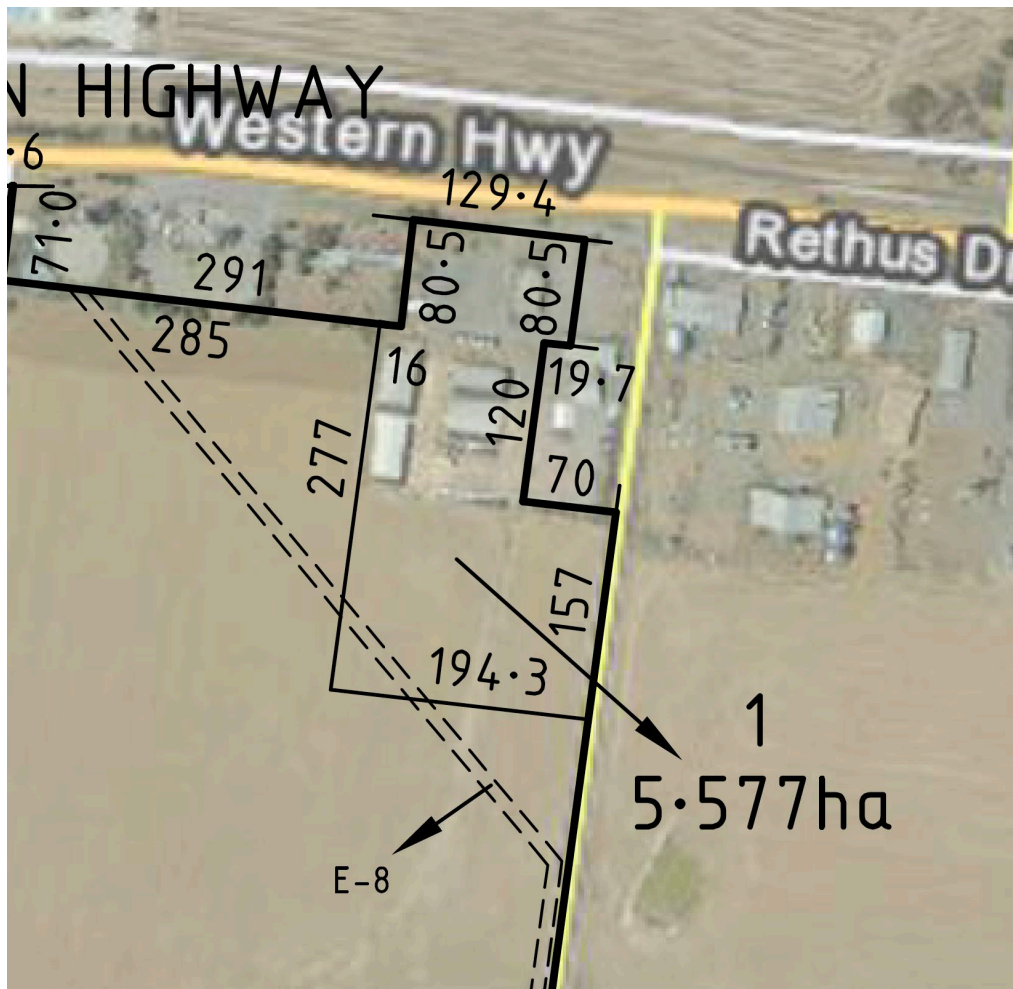
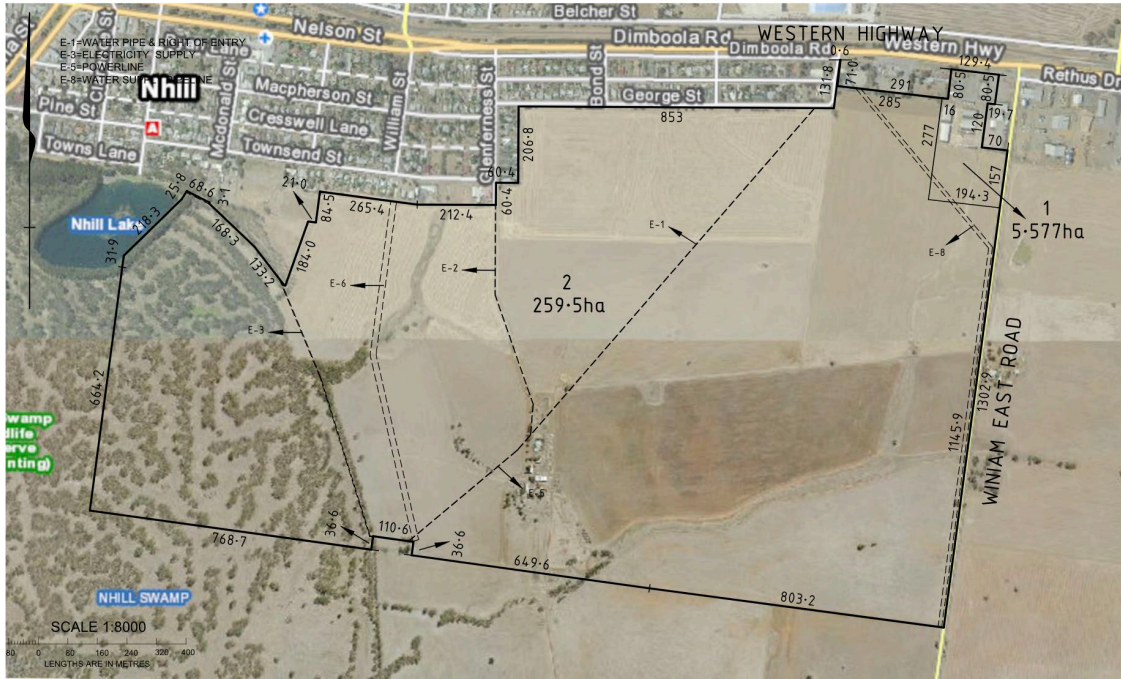
**Background:**

On 25 November 2021, Ferguson Perry Surveying Pty Ltd on behalf of West Wimmera Baling Pty Ltd lodged a planning application to the Responsible Authority for the subdivision of land into two (2) lots at 7281 Western Highway and 29 Glenferness Street Nhill.

**Proposal Details:**

The permit applicant, Ferguson Perry Surveying Pty Ltd seeks approval for the subdivision of land into two (2) lots on the subject land at 7281 Western Highway and 29 Glenferness Street, Nhill. The proposal seeks to resubdivide the existing land parcels, so as to increase the area of 7281 Western Highway by approximately 3.122 hectares, and reduce the area of 29 Glenferness Street by the same amount. No change to access arrangements or land use activities is proposed.

Plans of the proposed subdivision are provided below:



**Requirement for Permit:**

A Planning Permit is required under the following clauses of the Hindmarsh Planning Scheme:

- Clause 32.08-3 (General Residential Zone) – A permit is required to subdivide land.

- Clause 34.01-3 (Commercial 1 Zone) – A permit is required to subdivide land.
- Clause 35.07-3 (Farming Zone) – A permit is required to subdivide land.
- Clause 42.01-2 (Environmental Significance Overlay Schedules 5 and 6) – A permit is required to subdivide land.
- Clause 44.04-3 (Land Subject to Inundation Overlay) – A permit is required to subdivide land.
- Clause 44.06-2 (Bushfire Management Overlay) – A permit is required to subdivide land.

**Definitions:**

No relevant definitions are identified.

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not affected by any Covenants or Section 173 Agreements.

**Cultural Heritage Management Plan (CHMP):**

The proposal is exempt from requiring a CHMP pursuant to the *Aboriginal Heritage Regulations 2018*, as the proposal is an exempt activity under Regulation 9 of the Regulations.

**Subject site & locality:**

The subject site is known as 7281 Western Highway and 29 Glenferness Street, Nhill (Lot 1 PS522695Y and Lot 2 PS449846L Parish of Balrootan), which comprises two (2) titles with a combined area of approximately 265.08 hectares. The land is generally flat, with minimal fall across the site. 7281 Western Highway is currently occupied by West Wimmera Baling, with this parcel proposed to gain land under this application to allow for additional infrastructure to be developed (these works will also require a permit at the appropriate time). 29 Glenferness Street is a large agricultural property, comprising a dwelling, rural infrastructure and grazing land.

The subject land is on the periphery of the Nhill township, with interface to C1Z, GRZ, IN1Z, FZ, PCRZ and PPRZ land. Land to the south and east of the site is generally in the Farming Zone, and used/developed for such purposes. To the west is C1Z land on the eastern approach to Nhill, land in the GRZ and the Nhill Lake. To the north of the site is land in the GRZ and a rural store on the northern side of the Western Highway.

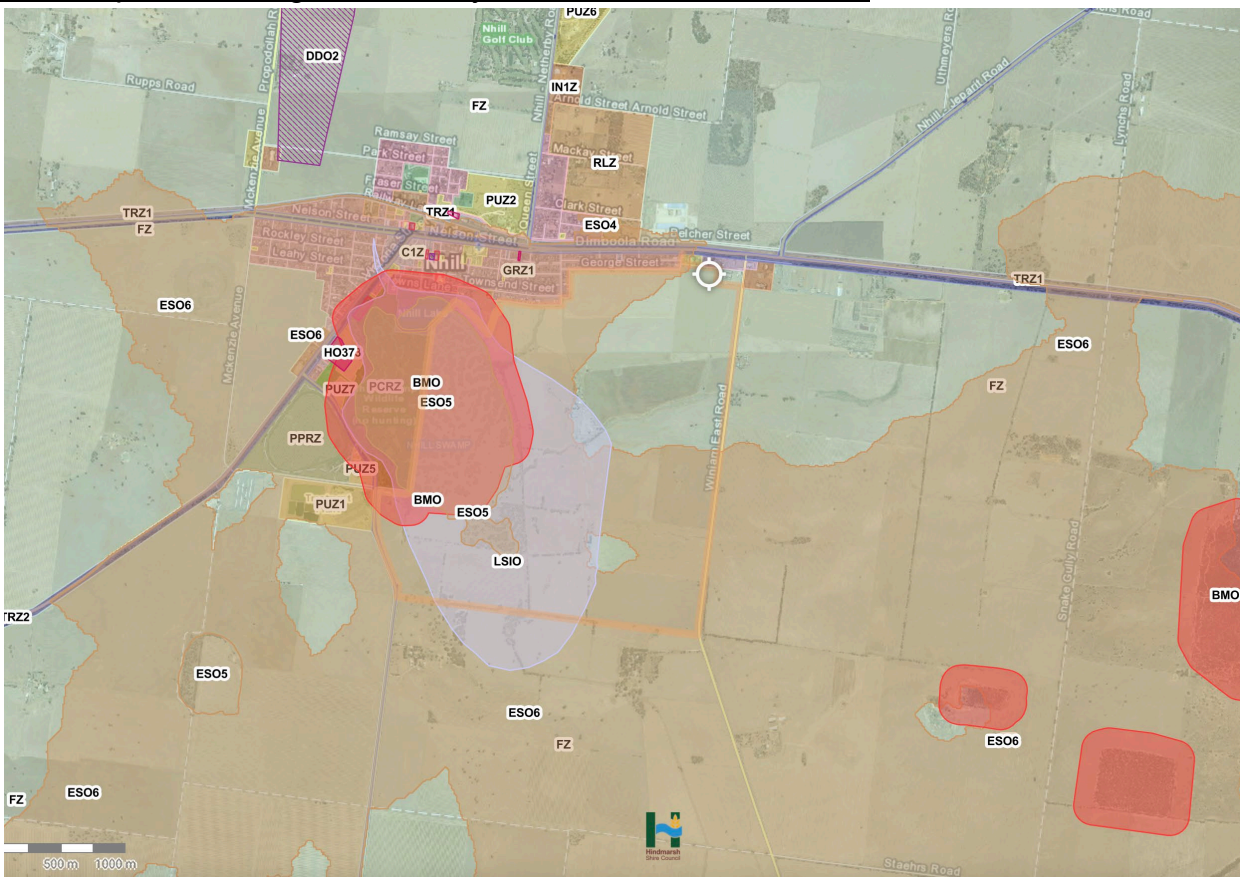
The site appears to have access to reticulated power, telecommunications and water, but not sewer.

Aerial Map below – Hindmarsh POZI





Aerial Map with Zoning and Overlays below – Hindmarsh POZI



### Section 52 Notice of Application

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* by the following:

- Letters to adjoining and nearby property owners.

No objections or submissions have been received to the proposal.

### Referrals:

Referrals/Notice	Advice/Response/Conditions
<b>Section 55 Referrals</b>	
Country Fire Authority	Consent, no conditions. Response received <b>11 January 2022.</b>
Powercor	Conditional consent. Response received <b>17 December 2021.</b>
Wimmera Catchment Management Authority	Consent, no conditions. Response received <b>13 December 2021.</b>

<b>Section 52 and Internal Notices</b>	
Department of Transport	No response received.
Engineering	Consent, no conditions. Response received <b>12 January 2022.</b>
Grampians Wimmera Mallee Water	Conditional consent. Response received <b>20 December 2021.</b>

### Planning Assessment:

Planning Scheme Requirements:

### Planning Policy Framework:

Clause 14.01-1S Protection of agricultural land  
 Clause 14.01-2S Sustainable agricultural land use  
 Clause 17.02-1S Business

### Zoning Provisions:

**Clause 32.08 – General Residential Zone – Schedule 1 (GRZ1)**

#### **32.08-3 Subdivision**

A permit is required to subdivide land.



**Planning Response:**

This control is triggered due to a small sliver of GRZ land forming part of the balance lot, adjacent to the Nhill water supply, and is unaffected by this proposal. The proposal is not at odds with the purpose or decision guidelines of the GRZ.

**Clause 34.01 – Commercial 1 Zone (C1Z)**

**34.01-3 Subdivision**

A permit is required to subdivide land.

**Planning Response:**

The existing property at 7281 Western Highway Nhill is split zoned C1Z and FZ, with the proposal seeking to add additional FZ land to the lot. No change is proposed to the C1Z part of the site. The proposal is not at odds with the purpose or decision guidelines of the C1Z as a result.

**Clause 35.07 – Farming Zone (FZ)**

**35.07-3 Subdivision**

A permit is required to subdivide land.

**35.07-6 Decision Guidelines**

The following decision guidelines are relevant to the assessment of this application.

**General issues**

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*

**Agricultural issues and the impacts from non-agricultural uses**

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *Any integrated land management plan prepared for the site.*

Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

**Planning Response:**

The subject land is of such a size to accommodate the subdivision, with no notable encumbrances in terms of landscape features or incompatible land uses. The subdivision would not impact on the potential for the subject land to be used for agricultural purposes; rather the proposal has been designed to allow the expansion of an agricultural supporting business, while minimising the extent of land removed from agricultural use. The site will utilise existing services available to the land, with no new services required.

The proposed subdivision will support agricultural activities and employment in rural industries for the surrounding area, by providing land for the expansion of West Wimmera Baling, while retaining a suitably large balance lot that productive agriculture can continue without being impeded by the proposal.

The proposal does not necessitate the removal of native vegetation or lead to consequential loss due to new boundary lines.

Based on the above, it is considered that the proposal is supported by the relevant decision guidelines of the Farming Zone and is an appropriate subdivision outcome for the subject land.

**Overlay Provisions:**

**Clause 42.01 – Environmental Significance Overlay – Schedules 5 and 6 (ESO5 and ESO6)**

**42.01-2 Subdivision**

A permit is required to subdivide land.

**Clause 5.0 to Schedules 5 and 6 of Clause 42.01-2 Decision guidelines** (relevant to the application)

Before deciding on an application, the Responsible Authority must consider, as appropriate:

- The Incorporated Document titled Shire of Hindmarsh, Wetlands and Catchments of Conservation Value (WCMA 2007) Decision Guidelines.

**Planning Response:**

It is considered that the proposed subdivision would not impact the objective of ESO5 or ESO6 which aims to protect the catchment area of significant wetlands. The proposal does not include any works elements; rather it alters a boundary line on the title plans. The proposal does not provide opportunity for additional as of right uses or developments that may undermine the effect of these controls. Any future works that trigger permits under these Clauses will be assessed on their merits at the appropriate time.

**Clause 44.04 – Land Subject to Inundation Overlay (LSIO)**

**44.04-3 Subdivision**

A permit is required to subdivide land.

**Planning Response:**

A portion of the subject land adjacent to the Nhill Lake is covered by the LSIO; the area of which is not changing as part of this proposal. The application was referred to the Wimmera CMA as the relevant floodplain management authority, who did not object to the grant of a permit or require any conditions to be imposed. The proposal is therefore considered to be consistent with the LSIO.

**Clause 44.06 – Bushfire Management Overlay (BMO)**

**44.06-2 Subdivision**

A permit is required to subdivide land.

**Planning Response:**

A portion of the subject land adjacent to the Nhill Lake is covered by the BMO; the area of which is not changing as part of this proposal. The application was referred to the CFA, who did not object to the grant of a permit or require any conditions to be imposed. The proposal is therefore considered to be consistent with the BMO.

**Particular Provisions:**

**Clause 52.29 – Land Adjacent to the Principal Road Network**

**52.29-1 Application**

This clause applies to land adjacent to a road in the Transport Zone 2 or land in a Public Acquisition Overlay if a transport manager (other than a municipal council) is the acquiring authority, and the purpose of the acquisition is for a road.

Clause 52.29-2 provides a permit is not required to subdivide land adjacent to a road in a Transport Zone 2 where it is a 2 lot subdivision that does not require new access.

**Clause 53.02 – Bushfire Planning**

**53.02-1 Application**

This clause applies to an application under Clause 44.06 - Bushfire Management Overlay.

**Planning Response:**

Given the assessment of the proposal against the BMO (specifically that the proposal is of no consequence to the BMO and the CFA have provided unconditional consent), detailed assessment against the approved measures of this clause is not considered warranted in this case.

**General Provisions**

**Clause 64.03 – Subdivision of land in more than one zone**

If a provision of this scheme provides that a permit is required to subdivide land and the land is in more than one zone a permit may be granted even if one of the lots does not comply with the minimum lot size requirements of a zone

**Planning Response:**

The subject properties are located across 3 zones, and Clause 64.03 must therefore be assessed. The proposal complies with the subdivision triggers in each of the applicable zones (GRZ, C1Z and FZ), as:

- There is no minimum lot size in the GRZ or C1Z; and
- The proposal is a resubdivision of existing lots, where no minimum lot size applies in the FZ.

Clause 64.03 exists to allow for subdivisions that would, but for this clause, be prohibited under the Scheme due to split zoning. As the proposal is already permissible under the zones, Clause 64.03 is satisfied and the proposal can be considered.

**Clause 65 - Decision Guidelines**

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.

**Clause 65.01– Approval of an application or plan**

Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate (relevant to the application):

- The matters set out in Section 60 of the Act.
- The Municipal Planning Strategy and the Planning Policy Framework.
- 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.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- 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.

**Clause 65.02– Approval of an application to subdivide land**

Before deciding on an application or approval of a plan, the Responsible Authority must consider, as appropriate (relevant to the application):

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of anybody corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not seweraged and no provision has been made for the land to be seweraged, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas

**Planning Response:**

As previously discussed, it is considered that the proposal is supported by the relevant provisions of the Municipal Planning Strategy and the Planning Policy Framework. As explored through this report, the subdivision provides for the expansion of the West Wimmera Baling operations, without detriment to the balance land or surrounding land uses (noting that future development will trigger a Planning Permit and will be assessed against the scheme at that point). No natural hazards issues are identified in relation to the site and no staging or common property is required. The application is therefore considered to be reflective of orderly planning.

**Discussion:**

**Planning Policy Framework (PPF) and Municipal Planning Strategy (MPS)**

The proposal meets the objectives of the relevant provisions of the PPF and MPS for the reasons discussed earlier in this report.

**Clause 32.08 General Residential Zone**

The proposal complies with the purpose and decision guidelines of Clause 32.08 for the reasons outlined in the planning response as discussed above.

**Clause 34.01 Commercial 1 Zone**

The proposal complies with the purpose and decision guidelines of Clause 34.01 for the reasons outlined in the planning response as discussed above.

**Clause 35.07 Farming Zone**

The proposal complies with the purpose and decision guidelines of Clause 35.07 for the reasons outlined in the planning response as discussed above.

**Clause 42.01 Environmental Significance Overlay Schedules 5 and 6**

The proposal complies with the purpose and decision guidelines of Clause 42.01 (Schedules 5 and 6) for the reasons outlined in the planning response as discussed above.

**Clause 44.04 Land Subject to Inundation Overlay**

The proposal complies with the purpose and decision guidelines of Clause 44.04 for the reasons outlined in the planning response as discussed above.

**Clause 44.06 Bushfire Management Overlay**

The proposal complies with the purpose and decision guidelines of Clause 44.06 for the reasons outlined in the planning response as discussed above.

**Clause 65 Decision Guidelines**

The proposal complies with the relevant decision guidelines of Clause 65 as discussed above.

**Strategic, Statutory and Procedural Requirements:**

The proposal is consistent with the Planning Policy Framework and the Municipal Planning Strategy, including the General Residential Zone, Commercial 1 Zone, Farming Zone, Environmental Significance Overlay, Land Subject to Inundation Overlay and Bushfire Management Overlay of the Hindmarsh Planning Scheme.

**Report to Council:**

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

**Processing Times:**

25/11/2021 The application was received.  
08/12/2021 The fee was paid.  
08/12/2021 The application was referred.  
13/12/2021 Referral response received from Wimmera CMA.  
17/12/2021 Referral response received from Powercor.  
20/12/2021 Referral response received from GMW Water.  
04/01/2022 Further information sought from CFA.  
11/01/2022 Unconditional consent received from CFA.  
12/01/2022 Referral response received from Engineering.  
13/01/2022 The application was notified.  
02/03/2022 The report is being presented to Council at the meeting held 02 March 2022 (65 statutory 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 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services

In providing this advice as the Officer Responsible, I have no interests to disclose.

Author: Tim Berger, Consultant Town Planner, on behalf of Janette Fritsch, Manager Development.

In providing this advice as the Author, I have no interests to disclose.

**Link to Council Plan:**

Objective – Facilitating and supporting economic development.

**Financial Implications:**

Nil

**Risk Management Implications:**

Nil

**Communications Strategy:**

Advise the Applicant of Council's decision.

**Next Steps:**

Issue the Planning Permit and endorse the plans if approved by Council.

**RECOMMENDATION:**

***That Council approves planning application PA1758-2021 for the subdivision of land into two (2) lots on the subject land known as 7281 Western Highway and 29 Glenferness Street Nhill VIC 3418 (Lot 1 on Plan of Subdivision 522695Y and Lot 2 on Plan of Subdivision 449846L Parish of Balrootan), subject to the following conditions:***

**Endorsed Plans**

- 1. The subdivision as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.***

**Subdivision Conditions**

- 2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***
- 3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.***
- 4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.***

**GMW Water Conditions**

- 5. The plan of subdivision submitted for certification must be referred to GMW Water in accordance with Section 8 of the Subdivision Act.***

**Powercor Conditions**

- 6. This letter shall be supplied to the applicant in its entirety.***
- 7. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.***
- 8. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).***
- 9. The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new power lines to service the lots or adjust the positioning existing easements.***

**Time Limit**

- 10. The above-mentioned planning permit will expire if either of the following circumstances arise:***
  - (a) The plan of subdivision is not certified within two (2) years of the date of this permit; or***
  - (b) The subdivision is not completed within five (5) years of the date of certification.***



*The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.*

**MOVED: CRS R Gersch/W Bywaters**

*That Council approves planning application PA1758-2021 for the subdivision of land into two (2) lots on the subject land known as 7281 Western Highway and 29 Glenferness Street Nhill VIC 3418 (Lot 1 on Plan of Subdivision 522695Y and Lot 2 on Plan of Subdivision 449846L Parish of Balrootan), subject to the following conditions:*

**Endorsed Plans**

- 1. The subdivision as shown on the endorsed plans shall not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.*

**Subdivision Conditions**

- 2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.*
- 3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.*
- 4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.*

**GMW Water Conditions**

- 5. The plan of subdivision submitted for certification must be referred to GMW Water in accordance with Section 8 of the Subdivision Act.*

**Powercor Conditions**

- 6. This letter shall be supplied to the applicant in its entirety.*
- 7. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.*
- 8. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).*
- 9. The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new power lines to service the lots or adjust the positioning existing easements.*

**Time Limit**

**10. The above-mentioned planning permit will expire if either of the following circumstances arise:**

- (a) The plan of subdivision is not certified within two (2) years of the date of this permit; or**
- (b) The subdivision is not completed within five (5) years of the date of certification.**

**The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.**

**CARRIED**

Attachment Number: 5

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Cr R Ismay declared a general conflict of interest and left the room at 3:21pm.

**8.4 PLANNING PERMIT APPLICATION PA1747-2021 – USE AND DEVELOPMENT FOR A DWELLING AND TRADE SUPPLIES WITH AN ASSOCIATED SHED, A REDUCTION IN CAR PARKING SPACES REQUIRED AND A TWO LOT SUBDIVISION (RE-SUBDIVISION OF TWO EXISTING LOTS) AT RAINBOW-NHILL ROAD RAINBOW VIC 3424**

**Responsible Officer:** Director Infrastructure Services  
**File:** Planning – Applications  
**Assessment:** 15920 & 16800  
**Application No:** **PA1747-2021**  
**SPEAR Ref. No:** S172122H  
**Applicant:** Gregory John Heinrich, C/- Angela Plazzer, Ferguson Perry Pty Ltd  
**Owner:** Gregory John Heinrich and Debra Kaye Heinrich  
**Subject Land:** Rainbow-Nhill Road Rainbow VIC 3424 (Crown Allotment 25 Parish of Werrap Crown Allotment 5 Section B Township of Rainbow Parish of Werrap)  
**Proposal:** Use and development for a Dwelling and Trade Supplies with an associated shed, a reduction in car parking spaces required and a Two Lot Subdivision (re-subdivision of two existing lots)  
**Zoning & Overlays:** Farming Zone (FZ)  
No Overlays  
**Attachment Numbers:** 6 – 7

**Summary:**

This report recommends that Council approves Planning Permit PA1747-2021 for the Use and development for a Dwelling and Trade Supplies with an associated shed, a reduction in car parking spaces required and a Two Lot Subdivision (re-subdivision of two existing lots),

at Rainbow-Nhill Road Rainbow VIC 3424 (Crown Allotment 25 Parish of Werrap Crown Allotment 5 Section B Township of Rainbow Parish of Werrap), subject to standard conditions.

**Background:**

The two lots comprising the site have been largely cleared and used for agricultural purposes for a long time, namely for cropping purposes. The north-east part of the site contains scattered trees, several dams and an existing informal access track from Kruger Road, while there are several farm sheds and grain silos in the centre of the existing larger allotment (Crown Allotment 25, Parish of Werrap). The second lot being Crown Allotment 5 Section B Township of Rainbow Parish of Werrap is in common ownership with Crown Allotment 25, Parish of Werrap.

**Proposal Details:**

The application proposes the use and development for a Dwelling and Trade Supplies with an associated shed, a reduction in car parking spaces required and a Two Lot Subdivision (re-subdivision of two existing lots). It is noted that the two existing lots are approximately 165.8ha (CA25) and 0.85ha (CA5) in area.

The applicant has applied for the use and development for a Dwelling and Trade Supplies and has stated the following about the proposal:

*‘A two-lot subdivision of the land is proposed to consolidate the farmland on CA5 and CA25 into a single lot and provide a small lot for the use and development of a dwelling and shed which will be used for trade supplies, as defined under Clause 73.03.*

*It is proposed that the trade supplies use will operate during the hours of 7am to 6pm on Monday to Friday and between 9am and 4pm on Saturday and Sunday. The proposed site is considered ideal for the proposed trade supplies use because it will allow for a separation distance of more than 250m between the shed and the nearest sensitive use (dwelling) in separate ownership.*

*The owner/operators of the proposed business also intend to live on-site in the proposed dwelling. The proposed dwelling will have 5 bedrooms and will be constructed from brick with a rendered front facade. It will also have an office (identified as “library” on the floor plan) where administration for the business will be carried out. It will have a hipped Colorbond roof with a 22.5° pitch.’*

*Proposed Lot 2 will have an area of 159.9ha and will continue to be used for agriculture.’*

The plan of subdivision (Version 3) proposes the following:

- Proposed Lot 1 will have an area of 6.842ha that contains the scattered native trees, access tracks and an area of cropping land, which is where the proposed Dwelling and Trade Supplies use will be located.

- Proposed Lot 2 will have an area of 159.9ha that contains cropping land, several farm sheds, grain silos and several native trees.

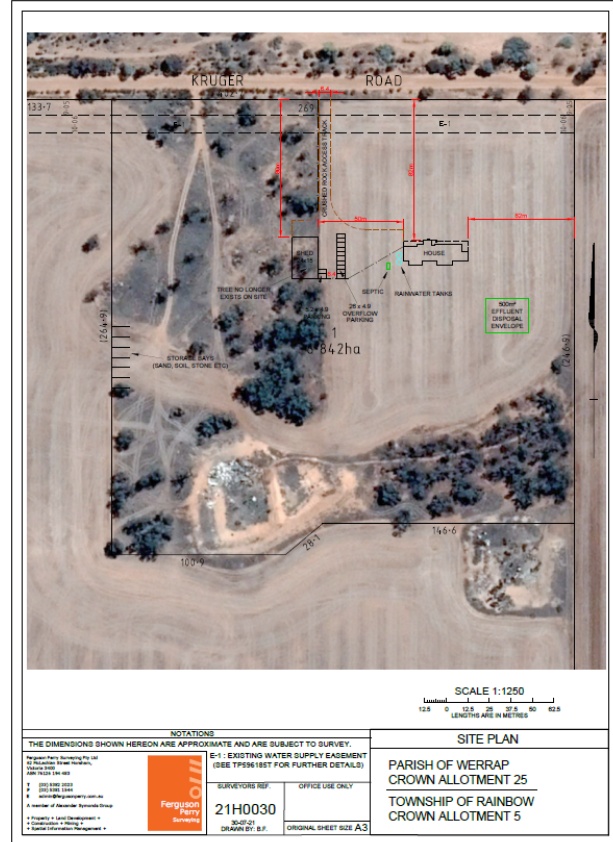
Vehicle access to proposed Lot 1 is proposed by the applicant from the existing crossover on Kruger Road for access to the storage bays for the trade supplies use and a new crossover on Kruger Road for access to the dwelling and the shed for the trade supplies use.

Vehicle access to proposed Lot 2 is proposed by the applicant from the existing crossover on Rainbow-Nhill Road.

The Engineering Team have requested that proposed vehicle access to Lot 1 will need to be via an all-weather access road from Kruger Road to Rainbow-Nhill Road to the two entrances to Lot 1 and that the road access to Lot 1 is required to be upgraded to current standards.

A Planning Report and a Land Capability Assessment were submitted in support of the proposal.

Proposed Plan of Subdivision showing existing features (Version 3) and Site Plan below:



**Requirement for Permit:**

The subject land is located within the Farming Zone and is not affected by any Overlays.

A planning permit is required for use for a Dwelling and Trade Supplies under Clause 35.07-1 and to construct buildings and works (development) under Clause 35.07-4 of the Farming Zone.

A planning permit is also required to subdivide land under Clause 35.07-3 of the Farming Zone.

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not burdened by a Restrictive Covenant or Section 173 Agreement.

**Cultural Heritage Management Plan (CHMP):**

The proposal is exempt from requiring a CHMP pursuant to the *Aboriginal Heritage Regulations 2018* as the area of the site for activities is not within an Aboriginal Cultural Heritage Sensitivity Area, and a two lot subdivision (a low impact activity) is not a high impact activity.

**Subject site & locality:**

The subject site is located on the southern side of Kruger Road and the eastern side of Rainbow-Nhill Road in Rainbow and consists of Crown Allotment 25, Parish of Werrap (CA25) and Crown Allotment 5 Section B Township of Rainbow Parish of Werrap (CA5). The site has a total area of approximately 166.7ha and is irregular in shape. The north-east part of the site contains scattered trees, several dams and an existing informal access track from Kruger Road, while there are several farm sheds and grain silos in the centre of the existing larger allotment (Crown Allotment 25, Parish of Werrap).

Access to CA25 is from Kruger Road to the north. Access to CA5 is via undesignated crown land that connects to the intersection of Kruger Road and Rainbow-Nhill Road. The two subject lots are in common ownership. The adjoining land to the east of CA5 and west of CA25 is Crown Land that is leased by the same owners as part of the same farming enterprise. The surrounding farming land comprises predominantly medium to large sized lots ranging from approximately 80ha to 250ha in area. The Rainbow Golf Club and the Rainbow Airport are located to the north of the site adjacent to Rainbow-Nhill Road.

The site and all the surrounding land are within the Farming Zone (FZ) and there are no Overlays.

Aerial Photo of the site and surrounding area below (POZI)





**Consultation:**

Consultation was undertaken and included:

- A request for further information was sent to the applicant via SPEAR on 4 October 2021.
- A revised request for further information was sent to the applicant via SPEAR on 22 October 2021.
- The response to the further information including an amended plans and an amended Planning Report V2 were received in SPEAR on 1 December 2021.
- A subsequent request for further information was sent to the applicant via SPEAR on 20 December 2021.
- The remaining further information including an amended site plan was received in SPEAR on 23 December 2021.

**Section 52 Notice of application:**

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of the adjoining land.
- Placing public notices on the site including one notice fronting Kruger Road and one notice fronting Rainbow-Nhill Road.
- Placing a public notice on Council’s website.

The notification has been carried out correctly. Council has not received any objections to date.

**Referrals:**

External Referrals/Notices were required by the Planning Scheme:

**Section 55 Referrals**

Nil – Standard Conditions required for a two lot subdivision in accordance with Clause 66.01.

**Section 52 Referrals**

GWM Water – No objection subject to a condition.

Powercor – No objection subject to conditions.

Wimmera CMA – No objections and note about flood levels.

**Internal Referrals:**

- Engineering: Comments provided, and condition required as detailed below.

*We have conducted a site visit on 13/01/2022 at Rainbow - Nhill Road.*

*The following conditions need to be applied to the permit.*

Property Access:

*The access to proposed Lot 1 on Kruger Road, will need to be upgraded to the current standard, with a new 375mm drainage pipe and crossover is to be constructed as per IDM SD-255 standard to RA satisfaction and at applicants cost.*

*The access to proposed Lot 2 on Rainbow - Nhill Road, will need to be upgraded to the current standard, with a 375mm drainage pipe and crossover is to be constructed as per IDM SD-255 standard to RA satisfaction and at applicants cost.*

*The vehicle crossing(s) must be constructed at the applicant's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority.*

Road Access:

*The section of Kruger Road from Rainbow - Nhill Road to the entrance of proposed Lot 1, must be upgraded to a gravelled 5R all - weather Road to Council Standard at the applicant's cost.*

*The intersection of Rainbow - Nhill Road and Kruger Road to be upgraded and sealed, to allow a better turn in of vehicles into Kruger Road to Council Standard at the applicants cost.*

Traffic Management:

*The operator of the proposed business must ensure that customers and contractors are informed that the all-weather route to and from the site must be used and this is via the Rainbow-Nhill Road direct to Kruger Road and they should refrain from utilising Kruger Road to the east of the property, which is not all-weather and classified a paper road only.*

Note:

*A consent to works within road reserve permission is required prior to construction of crossovers.*

*<https://www.hindmarsh.vic.gov.au/register-for-permits>*

Drainage:

*a. The LPD is to be made away from any structure and Storm water should be collected from the house / shed and harvested into the rainwater tanks with overflow directed, downhill and away from the structure.*

*b. LPD can be applied with the house building permit application.*

Vegetation:

*This permit does not permit the removal of any native vegetation.*

**Planning Scheme:**

Planning Scheme Requirements:

**Municipal Planning Strategy (MPS)**

The following relevant Clauses in the MPS have been considered for the application.

Clause 02.02 Vision

Clause 02.03 Strategic Directions

Clause 02.03-4 Natural Resource Management

*Council's strategic directions for natural resource management include to:*

- *Support traditional rural industries such as cropping, livestock and wool production.*
- *Promote the expansion or establishment of agricultural and horticultural activities, having regard to potential impacts on natural resources.*
- *Adopt minimum lot sizes that allow farmers to diversify while preventing inappropriate small lot subdivision.*
- *Protect and enhance the integrity, security of supply and water quality in the catchment area.*

Clause 02.03-6 Economic Development

*Council's strategic directions for economic development include to:*

- *Retain and develop agricultural activities.*
- *Develop new activities that are economically, environmentally and socially sustainable.*
- *Facilitate increased employment opportunities within and adjacent to the towns.*

**Planning Policy Framework (PPF)**

The following relevant Clauses in the PPF have been considered for the application.

Clause 11.01-1S Settlement

Clause 11.01-1R Settlement – Wimmera Southern Mallee

Clause 11.01-1L Hindmarsh

Clause 11.03-6S Regional and local places

Clause 14.01-1S Protection of agricultural land



Clause 14.01-2S Sustainable agricultural land use  
Clause 14.01-2R Agricultural productivity – Wimmera Southern Mallee  
Clause 15.01-2S Building design  
Clause 15.01-3S Subdivision design  
Clause 17.01-1S Diversified economy  
Clause 17.01-1S Diversified economy – Wimmera Southern Mallee  
Clause 18.01-1S Land use and transport integration  
Clause 18.02-4S Roads  
Clause 19.03-2S Infrastructure design and provision

Planning Response:

The proposal will protect and enhance valuable agricultural land and sustainable agricultural uses by re-subdividing two lots to allow a separate 0.85ha parcel of land to become part of the balance proposed Lot 2 for agriculture and creating a 6.84ha proposed Lot 1 for a Dwelling and Trade Supplies that will support the surrounding and nearby agricultural activities near Rainbow and further away. The proposal is unlikely to create any conflicts with surrounding agricultural uses due to the separation distances of the dwelling and trade supplies activities from the proposed lot boundaries and the closest agricultural activities not in common ownership. The proposal is also unlikely to impact on the water supply pipeline within the E-1 easement that extends across the front part of proposed Lot 1.

The proposal will result in the loss of approximately 3.0ha of productive cropping land in the north-east corner of the site, but this area of land is separated from the majority of the farming land by areas of native vegetation. In addition, there is about 3.0ha of land containing native vegetation and access tracks that is not used for cropping and will be located on proposed Lot 1. The loss of some agricultural land will be partially offset by the gaining of a separate 0.85ha lot as part of the balance of the land on proposed Lot 2. The proposal will enhance employment opportunities for trade supplies activities in the region that will support associated agricultural activities that are likely to be economically viable. There will also be increased opportunities to protect and enhance the cropping activities carried out on the 159.9ha of proposed Lot 2 as part of an existing farming enterprise comprising multiple allotments within the area.

The provision of all-weather access to the proposed Lot 1 from Kruger Road via Rainbow-Nhill Road is the key issue to be addressed. Kruger Road will need to be upgraded to provide an all-weather access road frontage for the proposed dwelling and trade supplies uses on this lot. The access to proposed Lot 1 will need to be upgraded and constructed to current Council standards to provide an all-weather access road via the required upgrade of Kruger Road via Rainbow-Nhill Road to the two entrances to the lot where the trade supplies and dwelling will be located. The access to proposed Lot 2 from Rainbow-Nhill Road will also need to be upgraded to current Council standards.

The reduction of car parking for the trade supplies use will not impact on availability of car parking for customers and staff as there will be adequate car parking spaces provided adjacent to the proposed trade supplies building.

The proposed dwelling and trade supplies uses and development, the reduction of car parking and the re-subdivision of two lots will comply with the relevant provisions of the MPS and PPF listed above subject to conditions.

## **Zoning Provisions**

### **Clause 35.07 Farming Zone (FZ)**

#### **35.07-1 Table of Uses**

A permit is required for the use of a Dwelling and Trade Supplies which are both Section 2 Uses (Permit Required) under this Clause.

#### **35.07-2 Use of land for a dwelling**

A lot used for a dwelling must meet the following requirements:

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the *Environment Protection Act 1970*.
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

#### **35.07-3 Subdivision**

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots as the following applies:

- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.

#### **35.07-4 Buildings and works**

A permit is required to construct or carry out the following:

- A building or works associated with a use in Section 2 of Clause 35.07-1.

#### **35.07-6 Decision Guidelines**

Before deciding on an application to use or subdivide land, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate, matters under the following relevant headings:

- General issues
- Agricultural issues and the impacts from non-agricultural uses
- Environmental issues

- Design and siting issues

Planning Response:

The proposed dwelling, trade supplies and subdivision complies with the relevant decision guidelines in the zone for the following reasons:

General issues

- The proposal will comply with the MPS and PPF as discussed above.
- The proposal will be consistent with the current Wimmera Regional Catchment Strategy 2021-2027.
- The proposal will not unreasonably impact on sustainable land management by enabling a smaller 0.85ha parcel of land to form part of the balance farming lot for cropping but will remove approximately 3.0ha of cropping areas from the balance lot to create the smaller lot of 6.84ha for the proposed trade supplies and dwelling.
- The subdivision will result in the proposed dwelling, trade supplies and associated sheds and scattered trees being located on a smaller lot and most of the cropping land and shed will be retained on the larger lot. The proposal will be compatible with the adjoining and nearby agricultural land uses.
- The proposal makes use of existing infrastructure and services. The existing access to both lots is required to be upgraded to ensure the crossovers, drainage pipes and access are located and constructed to Council standards and provide of all-weather access along Kruger Road via Rainbow-Nhill Road to proposed Lot 1 for the trade supplies and dwelling. Standard conditions will be included for services to be connected as required by the relevant authorities in accordance with the conditions listed in Clause 66.01.

Agricultural issues and the impacts from non-agricultural uses

- The proposal will not have an unreasonable adverse impact on the existing cropping activities on the land. Although there will be a net loss of about 6.0ha from current cropping activities, most of the cropping land will be retained on the balance lot of 159.9ha as part of an existing farming enterprise.
- The proposal is unlikely to have in any adverse effect on soil quality. Although the proposal does remove some land from agricultural production, this is offset by the addition of a trade supplies use to support to agricultural activities within the area around Rainbow and the surrounding region.
- The proposal is unlikely to limit the operation and expansion of adjoining and nearby agricultural uses.
- The proposal will enable the productive agricultural use to be retained on the balance of the land on proposed Lot 2.
- The proposal is unlikely to adversely impact on the current agricultural activities and most of the infrastructure except for the road access and lot access, which is required to be upgraded and constructed to current Council standards.
- There is no applicable land management plan for the site.

Dwelling issues

- The proposed dwelling will result in the loss of approximately 3.0ha productive agricultural land in the north-east corner of the site. However, this loss will be partly offset by the addition of 0.85ha of productive agricultural land within the same balance farming lot.
- The dwelling will not be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation due to the separation distances to the lot boundaries and other agricultural uses not in common ownership.
- The dwelling will support a trade supplies business that in turn will support agricultural activities in the area. The dwelling is unlikely to adversely affect the operation and expansion of adjoining and nearby agricultural uses due to the separation distances to the lot boundaries.
- The proposal will result in a marginal increase in dwellings but will not lead to a concentration or proliferation of dwellings in the area and will not adversely impact on the use of much of the subject land and the surrounding land for agricultural purposes.

#### Environmental issues

- The proposal is unlikely to have an adverse impact on soil and water quality and any other natural physical features and resources.
- The site and surrounding land have been largely cleared of native vegetation due to historical broad acre cropping and other farming activities. The inclusion of the two areas of native vegetation on the site within proposed Lot 1 containing the dwelling should assist to protect and enable this vegetation from agricultural activities to allow the trees to be retained and not be affected by the proposal.
- The proposal is unlikely to have adverse impacts on flora and fauna in the locality.

#### Design and siting issues

- The proposed buildings will be in one area on proposed Lot 1 away from the lot boundaries to minimise any adverse impacts on the existing vegetation and the surrounding agricultural uses.
- The proposed dwelling will be single storey and have a front setback 82m from the northern boundary and the proposed shed for the trade supplies will be setback 80m from Kruger Road. The location of the dwelling closer to the frontage would have been preferred, however, the occupants of the dwelling will support the trade supplies use and there may be opportunities for smaller scale agricultural activities to occur to the north and east of the dwelling due to the substantial setbacks to the lot boundaries. There are no design, height or bulk issues. The development of the dwelling, shed, all-weather access and car parking areas are unlikely to impact on the natural environment, major roads, vistas and water features and are well separated from existing trees to minimise any adverse impacts on the native vegetation on proposed Lot 1.
- The proposed dwelling and trade supplies shed will not adversely impact on the rural character and appearance of the area.
- The proposed dwelling will need to be connected to the required infrastructure to comply with current standards. The access to the dwelling and trade supplies on

proposed Lot 1 will need to be constructed as an all-weather access road to comply with the minimum requirements of Clause 35.07-2. The Land Capability Assessment submitted indicates that there is adequate space for a conventional septic treatment system for the dwelling. A condition is required to ensure that the septic system complies with the *Environment Protection Act 2017* and the relevant regulations. A potable water supply will be required for the dwelling on proposed Lot 1. Conditions will be included to ensure the necessary infrastructure for the dwelling, trade supplies and subdivision is provided.

- The use for the dwelling and trade supplies on proposed Lot 1 and development will require some traffic management measures including the construction of an all-weather access on Kruger Road to the lot via Rainbow-Nhill Road and the upgraded access for two crossovers and access driveways to provide all-weather access to the lot. There are also traffic management measures required to direct customers and contractors in trucks and other vehicles to access the trade supplies business from Rainbow-Nhill Road to the west to Kruger Road and to not access the site from the eastern end of Kruger Road. Conditions are required for access to be constructed to current Council standards and the required traffic management measures.

### **Overlay Provisions**

Nil

### **Particular Provisions**

#### **Clause 52.06 Car Parking**

##### **52.06-3 Permit requirement**

A permit is required to:

- Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.

##### **52.06-5 Number of carparking spaces required under Table 1**

Table 1 of this clause sets out the car parking requirement that applies to the increase of the floor area of an existing use listed in the Table.

##### Table 1: Carparking requirement

Dwelling – 2 car spaces to each three or more bedroom dwelling

Trade Supplies – 10 per cent of site area

##### **52.06-10 Decision guidelines**

Before deciding that a plan prepared under Clause 52.06-8 is satisfactory the responsible authority must consider, relevant matters, as appropriate.

##### Planning Response:

The proposed dwelling will have five (5) bedrooms and a double garage under the one roof form. The provision of two car spaces within the garage complies with the car parking required for a dwelling in Clause 52.06-5.

The proposed building for the Trade Supplies business will have a floor area of 360m<sup>2</sup>. Given the site area for proposed Lot 1 will be 6.84ha, there would need to be 10% of that lot area, which is 0.684ha set aside for car parking which is excessive for the location. A car parking area for the provision of 14 car spaces has been detailed in front of the proposed building has been designated on the amended plans submitted on 23 December 2021. This car parking area will provide a sufficient number of car spaces on the site to cater for the likely demand from customers and contractors that may visit the site.

Therefore, a reduction of car parking on the site is acceptable and the proposal satisfies the decision guidelines in Clause 52.06-10.

## **General Provisions**

### **Clause 65 - Decision Guidelines**

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.

#### **65.01 Approval of an application or plan**

Before deciding on an application or approval of a plan, the Responsible Authority must consider, relevant matters, as appropriate.

#### **65.02 Approval of an application to subdivide land**

Before deciding on an application to subdivide land, the responsible authority must also consider, relevant matters, as appropriate.

#### Planning Response:

The proposal generally complies with the relevant decision guidelines as outlined above. The proposal is supportive of, and complies with the MPS and PPF, having regard to the resubdivision of two existing lots used for agriculture to combine a smaller 0.85ha parcel with a balance lot with a total area of 159.9ha that will continue to be used for farming purposes and to create a dwelling and trade supplies lot of 6.84ha. The proposal is unlikely to adversely impact on the environment and the amenity of the area. The proposal will enable the orderly planning of the area. The proposal therefore complies with Clause 65.

#### **Discussion:**

The proposed re-subdivision of the two lots will enable a separate lot of 0.85ha to be combined with a balance farming lot to protect the balance of the existing agricultural use of the land. There will be net loss of approximately 3.0ha of cropping land to create the dwelling and trade supplies lot, but this is acceptable on balance as the trade supplies use will create economic benefits and will support the agricultural activities on the balance lot and the farming enterprises on the surrounding land within the broader region.

The proposed use of part of proposed Lot 1 for a dwelling will support the trade supplies use and the proposed buildings and sheds will be located in one area. The proposed dwelling

will result in a small loss of agricultural land, but this is offset by the addition of 0.85ha to proposed Lot 2 that will enhance the cropping activities on the balance of this agricultural land. The road access on Kruger Road and the property access to proposed Lot 1 will need to be upgraded and constructed to all-weather access and current Council standards, which will be addressed as conditions. Furthermore, the operation of the trade supplies use will be managed by conditions to restrict the hours of operation and minimise potential noise impacts, and to protect the environment and the amenity of this rural area.

The proposal will, on balance, satisfy the relevant planning policies in the MPS and PPF and will generally comply with the relevant decision guidelines of the FZ and Clause 65 subject to conditions.

The proposal should therefore be approved, and a Planning Permit be issued subject to conditions as outlined below.

**Strategic, Statutory and Procedural Requirements:**

The proposal is consistent with the Municipal Planning Strategy and the Planning Policy Framework, the Farming Zone and Clause 65.

**Report to Council:**

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

**Processing Times:**

10/09/2021 Application submitted  
22/09/2021 Fee paid  
04/10/2021 Further information letter issued  
22/10/2021 Revised further information letter issued  
01/12/2021 First response to further information received and amended plans and amended planning report received  
20/12/2021 Subsequent request for further information  
23/12/2021 Second response to further information received and amended plans received  
12/01/2022 External Section 52 Referrals sent to GWM Water and Powercor and Internal Referral sent to Infrastructure  
13/01/2022 Wimmera CMA Referral Response received  
20/01/2022 GWM Water Referral Response received  
24/01/2022 Wimmera CMA Referral Response updated  
27/01/2022 Advertising directions and letters sent  
30/01/2022 Public notices erected on site  
04/02/2022 Powercor Referral Response received  
12/02/2022 Notification period ended  
15/02/2022 Response received from Infrastructure  
18/02/2022 Updated response received from Infrastructure  
22/02/2022 Statutory declaration form received  
02/03/2022 The report is being presented to Council at the meeting held 2 March 2022 (43 statutory days)

The statutory processing time requirements of the *Planning and Environment Act 1987* have been satisfied in this instance.

**Link to Council Plan:**

Facilitating and supporting economic development.

**Financial Implications:**

The proposal will have positive financial implications through a potential increase in Rates income to Council.

**Risk Management Implications:**

There are no risks to be managed by Council, except if the planning permit is not approved, Council could be seen to be holding up development within the municipality.

**Conflict of Interest:**

Under section 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Officer Responsible – Angela Hoy, Director Infrastructure Services

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

Author: Bernadine Pringle, Consultant Town Planner.

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

**Communications Strategy:**

Advise the applicant of Council's decision.

**Next Steps:**

Issue the Planning Permit and endorse the plans if approved.

**RECOMMENDATION:**

***That Council approves Planning Application PA1747-2021 for the use and development for a Dwelling and Trade Supplies with an associated shed, a reduction in car parking spaces required and a Two Lot Subdivision (re-subdivision of two existing lots) at Rainbow-Nhill Road Rainbow VIC 3424 (Crown Allotment 25 Parish of Werrap Crown Allotment 5 Section B Township of Rainbow Parish of Werrap), subject to the following conditions:***

**Conditions:**

***Endorsed Plans – Use and Development***



- 1. The use and development as shown on the endorsed plans must not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.***

#### ***Endorsed Plans - Subdivision***

- 2. The layout and site dimensions of the subdivision hereby permitted, as shown on the endorsed plan/s, must not be altered or modified without the written consent of the Responsible Authority. There are no requirements to alter or modify the endorsed plan if a plan is certified under the provisions of the Subdivision Act 1988 that is generally in accordance with the endorsed plan/s.***

#### ***General Requirements***

- 3. The buildings and the site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area to the satisfaction of the Responsible Authority.***
- 4. Care must be taken to ensure that the construction of the development and any ancillary works does not cause erosion or degradation of the subject site or surrounding land to the satisfaction of the Responsible Authority.***

#### ***Use for Dwelling and Trade Supplies***

- 5. The use for Trade Supplies must not operate outside the following hours:***

- Monday to Friday: between 7.00am-6.00pm.***
- Saturday and Sunday: between 9.00am-4.00pm.***
- Good Friday: between 12.00noon-6.00pm.***
- ANZAC Day (not being a Saturday or Sunday): between 12.00noon-6.00pm.***

***Unless otherwise approved in writing by the Responsible Authority.***

- 6. The wastewater from the dwelling must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 2017. In this regard, the wastewater system must be designed, approved and constructed in accordance with the relevant EPA Protocols or Code of Practice for On-site Wastewater Management or a relevant alternative, to the satisfaction of the Responsible Authority.***
- 7. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.***
- 8. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.***
- 9. 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) Artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.***

**(d) Presence of vermin.**

**Road Access**

- 10. Before the commencement of the uses approved by this permit, the section of Kruger Road from Rainbow-Nhill Road to the entrance of proposed Lot 1, must be upgraded to a gravelled 5R all-weather Road to Council Standard at the permit holder/owner's cost to the satisfaction of the Responsible Authority.**
- 11. Before the commencement of the uses approved by this permit, the intersection of Rainbow-Nhill Road and Kruger Road must be upgraded and sealed, to allow a better turn in of vehicles into Kruger Road to Council Standard at the permit holder/owner's cost, to the satisfaction of the Responsible Authority.**

**Traffic Management**

- 12. The operator of the proposed business for the trade supplies use must ensure that customers and contractors are informed that the all-weather route to and from the site must be used and this must be via the Rainbow-Nhill Road direct to Kruger Road and they must refrain from utilising Kruger Road to the east of the property, which is not an all-weather access and is classified a paper road only, to the satisfaction of the Responsible Authority.**

**Property Access**

- 13. Before the issue of a Statement of Compliance under the Subdivision Act 1988, the existing location of access to proposed Lot 1 must be upgraded with new 375mm drainage pipes and crossover to be constructed as per IDM SD-25 and the new crossover and new drainage pipes must be constructed with a new 375mm drainage pipe and crossover to be constructed as per IDM SD-255 all at the permit holder/owner's cost, to the satisfaction of the Responsible Authority.**
- 14. Before the issue of a Statement of Compliance under the Subdivision Act 1988, the access to proposed Lot 2 on Rainbow-Nhill Road must be upgraded to the current Council Standard with a new 375mm drainage pipe and crossover to be constructed as per IDM SD-255 at the permit holder/owner's cost, to the satisfaction of the Responsible Authority.**
- 15. The vehicle crossings must be constructed at the permit holder/owner's expense to provide ingress and egress to the site, to the satisfaction of the Responsible Authority.**

**Car Parking**

- 16. Before the use for Trade Supplies commences, the car parking spaces must be constructed on site in accordance with the endorsed plans, to the satisfaction of the Responsible Authority.**
- 17. Car spaces and parking areas and associated access lanes and driveways must be maintained in a good condition and must remain unobstructed and available for their intended use at all times, to the satisfaction of the Responsible Authority.**

**Subdivision Conditions in Clause 66.01**

- 18. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**
- 19. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**
- 20. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**

#### **GWM Water Condition**

- 21. The plan of subdivision submitted for certification must be referred to GWMWater in accordance with Section 8 of the Subdivision Act.**

#### **Powercor Conditions**

- 22. The letter (dated 4 February 2022) shall be supplied to the applicant in its entirety.**
- 23. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.**
- 24. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributors requirements and standards.**

**Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.**

- 25. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).**

**Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.**

- 26. The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.**

#### **Notes:**

- Existing easements may need to be amended to meet the Distributor's requirements**
- Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:**

<b>Easement Reference</b>	<b>Purpose</b>	<b>Width (Metres)</b>	<b>Origin</b>	<b>Land Benefited / In Favour Of</b>
	<b>Powerline</b>		<b>Section 88 – Electricity Industry Act 2000</b>	<b>Powercor Australia Ltd</b>

**Use and Development Expiry**

**27. The use and development approved by this permit will expire if one of the following circumstances applies:**

- (a) The development is not started within two years of the date of this permit.**
- (b) The development is not completed within four years of the date of this permit.**
- (c) The use is not commenced within four years of the date of this permit.**

**In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six (6) months of the permit expiry date.**

**Subdivision Expiry**

**28. The subdivision will expire if:**

- (a) The plan of subdivision is not certified within two (2) years of the date of this permit.**
- (b) The registration of the subdivision is not completed within five (5) years of the date of certification of the plan of subdivision.**

**In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six (6) months of the permit expiry date.**

**Notes:**

**Infrastructure**

*A consent to works within road reserve permission is required prior to construction of crossovers.*

<https://www.hindmarsh.vic.gov.au/register-for-permits>

**Drainage:**

- a. The LPD is to be made away from any structure and Storm water should be collected from the house / shed and harvested into the rainwater tanks with overflow directed, downhill and away from the structure.*
- b. LPD can be applied with the house building permit application.*

**Vegetation:**

*This permit does not permit the removal of any native vegetation. Further planning approval is required to remove or destroy any native vegetation on the site or road reserve.*

*Environmental Health*

A Septic Tank Permit is required from Council before commencement of any development for the dwelling and required septic system.

*Powercor*

*It is recommended that applications for electricity supply to each lot be submitted at the earliest opportunity so that the precise requirements of the Distributor can then be determined and accommodated. Applications for electricity supply shall be submitted via the Distributor's web portal, "mySupply" which can be accessed via the following link: <https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator>*

*Queries about this subdivision may be directed to the Customer Requests Team on 1800 771 434 or [crr@powercor.com.au](mailto:crr@powercor.com.au)*

*Wimmera CMA*

*Please Note:*

*The 1% AEP flood is not the maximum possible flood. A flood larger in height and extent, than the 1% AEP flood, may occur in the future.*

*Should you require further information please contact Wimmera CMA Floodplain Officer, on (03) 5382 1544. To assist Wimmera CMA in handling any enquiries please quote WCMA-F-2022-00008 in your correspondence with us.*

***MOVED: CRS B Ireland/W Bywaters***

***That Council approves Planning Application PA1747-2021 for the use and development for a Dwelling and Trade Supplies with an associated shed, a reduction in car parking spaces required and a Two Lot Subdivision (re-subdivision of two existing lots) at Rainbow-Nhill Road Rainbow VIC 3424 (Crown Allotment 25 Parish of Werrap Crown Allotment 5 Section B Township of Rainbow Parish of Werrap), subject to the following conditions:***

***Conditions:***

***Endorsed Plans – Use and Development***

- 1. The use and development as shown on the endorsed plans must not be altered or modified, whether or not in order to comply with any statute or statutory rule or local law or any other reason without the written consent of the Responsible Authority.***

***Endorsed Plans - Subdivision***

2. ***The layout and site dimensions of the subdivision hereby permitted, as shown on the endorsed plan/s, must not be altered or modified without the written consent of the Responsible Authority. There are no requirements to alter or modify the endorsed plan if a plan is certified under the provisions of the Subdivision Act 1988 that is generally in accordance with the endorsed plan/s.***

#### ***General Requirements***

3. ***The buildings and the site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area to the satisfaction of the Responsible Authority.***
4. ***Care must be taken to ensure that the construction of the development and any ancillary works does not cause erosion or degradation of the subject site or surrounding land to the satisfaction of the Responsible Authority.***

#### ***Use for Dwelling and Trade Supplies***

5. ***The use for Trade Supplies must not operate outside the following hours:***

- ***Monday to Friday: between 7.00am-6.00pm.***
- ***Saturday and Sunday: between 9.00am-4.00pm.***
- ***Good Friday: between 12.00noon-6.00pm.***
- ***ANZAC Day (not being a Saturday or Sunday): between 12.00noon-6.00pm.***

***Unless otherwise approved in writing by the Responsible Authority.***

6. ***The wastewater from the dwelling must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 2017. In this regard, the wastewater system must be designed, approved and constructed in accordance with the relevant EPA Protocols or Code of Practice for On-site Wastewater Management or a relevant alternative, to the satisfaction of the Responsible Authority.***
7. ***The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.***
8. ***The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.***
9. ***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) Artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.***
  - (d) Presence of vermin.***

#### ***Road Access***

10. ***Before the commencement of the uses approved by this permit, the section of Kruger Road from Rainbow-Nhill Road to the entrance of proposed Lot 1, must be***

*upgraded to a gravelled 5R all-weather Road to Council Standard at the permit holder/owner's cost to the satisfaction of the Responsible Authority.*

- 11. Before the commencement of the uses approved by this permit, the intersection of Rainbow-Nhill Road and Kruger Road must be upgraded and sealed, to allow a better turn in of vehicles into Kruger Road to Council Standard at the permit holder/owner's cost, to the satisfaction of the Responsible Authority.**

#### **Traffic Management**

- 12. The operator of the proposed business for the trade supplies use must ensure that customers and contractors are informed that the all-weather route to and from the site must be used and this must be via the Rainbow-Nhill Road direct to Kruger Road and they must refrain from utilising Kruger Road to the east of the property, which is not an all-weather access and is classified a paper road only, to the satisfaction of the Responsible Authority.**

#### **Property Access**

- 13. Before the issue of a Statement of Compliance under the Subdivision Act 1988, the existing location of access to proposed Lot 1 must be upgraded with new 375mm drainage pipes and crossover to be constructed as per IDM SD-25 and the new crossover and new drainage pipes must be constructed with a new 375mm drainage pipe and crossover to be constructed as per IDM SD-255 all at the permit holder/owner's cost, to the satisfaction of the Responsible Authority.**
- 14. Before the issue of a Statement of Compliance under the Subdivision Act 1988, the access to proposed Lot 2 on Rainbow-Nhill Road must be upgraded to the current Council Standard with a new 375mm drainage pipe and crossover to be constructed as per IDM SD-255 at the permit holder/owner's cost, to the satisfaction of the Responsible Authority.**
- 15. The vehicle crossings must be constructed at the permit holder/owner's expense to provide ingress and egress to the site, to the satisfaction of the Responsible Authority.**

#### **Car Parking**

- 16. Before the use for Trade Supplies commences, the car parking spaces must be constructed on site in accordance with the endorsed plans, to the satisfaction of the Responsible Authority.**
- 17. Car spaces and parking areas and associated access lanes and driveways must be maintained in a good condition and must remain unobstructed and available for their intended use at all times, to the satisfaction of the Responsible Authority.**

#### **Subdivision Conditions in Clause 66.01**

- 18. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**

19. *All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.*
20. *The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.*

**GWM Water Condition**

21. *The plan of subdivision submitted for certification must be referred to GWMWater in accordance with Section 8 of the Subdivision Act.*

**Powercor Conditions**

22. *The letter (dated 4 February 2022) shall be supplied to the applicant in its entirety.*
23. *The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.*
24. *The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributors requirements and standards.*

*Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.*

25. *The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).*

*Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.*

26. *The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.*

**Notes:**

- *Existing easements may need to be amended to meet the Distributor's requirements*
- *Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:*

<b>Easement Reference</b>	<b>Purpose</b>	<b>Width (Metres)</b>	<b>Origin</b>	<b>Land Benefited / In Favour Of</b>
	<i>Powerline</i>		<i>Section 88 – Electricity Industry Act 2000</i>	<i>Powercor Australia Ltd</i>



### ***Use and Development Expiry***

***27. The use and development approved by this permit will expire if one of the following circumstances applies:***

- (a) The development is not started within two years of the date of this permit.***
- (b) The development is not completed within four years of the date of this permit.***
- (c) The use is not commenced within four years of the date of this permit.***

***In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six (6) months of the permit expiry date.***

### ***Subdivision Expiry***

***28. The subdivision will expire if:***

- (a) The plan of subdivision is not certified within two (2) years of the date of this permit.***
- (b) The registration of the subdivision is not completed within five (5) years of the date of certification of the plan of subdivision.***

***In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six (6) months of the permit expiry date.***

### ***Notes:***

#### ***Infrastructure***

***A consent to works within road reserve permission is required prior to construction of crossovers.***

***<https://www.hindmarsh.vic.gov.au/register-for-permits>***

#### ***Drainage:***

***a. The LPD is to be made away from any structure and Storm water should be collected from the house / shed and harvested into the rainwater tanks with overflow directed, downhill and away from the structure.***

***b. LPD can be applied with the house building permit application.***

#### ***Vegetation:***

***This permit does not permit the removal of any native vegetation. Further planning approval is required to remove or destroy any native vegetation on the site or road reserve.***

#### ***Environmental Health***

***A Septic Tank Permit is required from Council before commencement of any development for the dwelling and required septic system.***

Powercor

*It is recommended that applications for electricity supply to each lot be submitted at the earliest opportunity so that the precise requirements of the Distributor can then be determined and accommodated. Applications for electricity supply shall be submitted via the Distributor's web portal, "mySupply" which can be accessed via the following link: <https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator>*

*Queries about this subdivision may be directed to the Customer Requests Team on 1800 771 434 or [crr@powercor.com.au](mailto:crr@powercor.com.au)*

Wimmera CMA

*Please Note:*

*The 1% AEP flood is not the maximum possible flood. A flood larger in height and extent, than the 1% AEP flood, may occur in the future.*

*Should you require further information please contact Wimmera CMA Floodplain Officer, on (03) 5382 1544. To assist Wimmera CMA in handling any enquiries please quote WCMA-F-2022-00008 in your correspondence with us.*

**CARRIED**

*Attachment Numbers: 6 – 7*

Cr R Ismay returned to the room at 3:25pm.

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**9 REPORTS REQUIRING A DECISION**

**9.1 NHILL TRANSMITTER STATION NAVIGATION FACILITY**

**Responsible Officer:** Director Infrastructure Services

**Introduction:**

This report recommends that Council approves the request from the Nhill Aviation Heritage Centre Inc. for Council to take ownership of the Nhill Transmitter Station navigation facility and the Very High Frequency Omni-Directional Range (VOR) and that Council enters into a user agreement with the Nhill Aviation Heritage Centre Inc. in the event the land transfer is successful for the above-mentioned facilities and grounds.

**Discussion:**

At the Council Meeting held on Wednesday 15 December 2021 Council requested officers to review the Nhill Aviation Heritage Centre Incorporated request for Council to take ownership of the Nhill Transmitter Station Navigation Facility following determination of costs associated with the transfer of ownership. A report was to be prepared for the 2 February 2022 Council meeting. An extension to the timeline was granted by Council on 2 February

2022 as requested by officers to allow for further discussions with Air Services Australia.

Officers contacted Air Services on numerous occasions (via email and phone calls) requesting they contact Council in regard to the above matters. Officers received correspondence dated 14 February 2022 from the Senior Property Manager Air Services Australia advising they are currently undertaking internal processes for approval to transfer of the site.

It should be noted that there is no guarantee that Air Services internal processes will result in the transfer of ownership.

Subsequent to Council's decision on 2 February 2022 Air services have also advised that they would consider transferring ownership of the VOR which is an important part of history together with the Nhill Transmitter Station.

Should council approve the transfer of ownership it should be noted that Council does not intend to make any improvements to the buildings/structures and any improvements would be the responsibility of the Nhill Aviation Heritage Centre Inc. A user agreement will be prepared between Council and Nhill Aviation Heritage Centre Inc.

Councillors and Officers attended a site meeting with the Nhill Aviation Heritage Centre members on Thursday 24 February 2022 to view the above mentioned facilities.

**Options:**

1. Can approve the request from the Nhill Aviation Heritage Centre Inc. to take ownership of the Nhill Transmitter Station navigation facility and the VOR and enter into a user agreement with the Nhill Aviation Heritage Centre Committee outlining Council's responsibilities and the club's responsibilities to be determined by the CEO; or
2. Not approve the request from the Nhill Aviation Heritage Centre Inc. to take ownership of the Nhill Transmitter Station navigation facility and the VOR.

**Link to Council Plan:**

Well-maintained physical assets and infrastructure to meet community and organisational needs.

Promote Hindmarsh as a tourism destination to stop, stay and play.

Long-term financial sustainability.

**Financial Implications:**

The full financial implications are unknown at this time, however legal costs for transfer of land/buildings could be up to \$2,000. Insurance costs are estimated at approximately \$500 per year for both facilities. There will be no maintenance costs associated with the ownership as this will be the responsibility of the club by way of a user agreement.

**Risk Management Implications:**

Should Council choose not to accept the offer of transfer of ownership of the Nhill Transmitter Station navigation facility and the VOR then Air Services may demolish the

buildings and structures removing a significant part of Nhill's aviation heritage history.

Should the Nhill Aviation Heritage Centre Inc. cease to operate then Council may become responsible for ongoing maintenance of the land and buildings. Should this occur costs will need to be budgeted for in future Council budgets.

**Relevant legislation:**

*Local Government Act 2020*

*Transfer of Land Act 1958*

**Community engagement:**

Discussions have taken place with the Nhill Aviation Heritage Centre Inc.

Council officers, and Councillors have inspected the above named facilities/structures on the 24 February 2022.

**Gender equality implications:**

N/A

**Confidential Declaration:**

N/A

**Conflict of Interest:**

Under section 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Officer Responsible – Angela Hoy, Director Infrastructure Services

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

Author – Michael Henderson, Acting Manager Operations

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

**Communications Strategy:**

Officers will continue to make contact with Air Services and will advise Council of the outcome of their discussions.

**Next Steps:**

Interested parties will be informed of the Officers progress with regards to this matter, and if approved appropriate legal work and user agreements will be undertaken

**RECOMMENDATION:**

**That Council:**

- 1. continues to liaise with Air Services and agrees to transfer ownership of the Nhill Transmitter Station navigation facility and the Very High Frequency Omni-**

- Directional Range (VOR) from Air Services to Council; and*
- 2. following the transfer enter into a user agreement with the Nhill Aviation Heritage Centre Inc. for the above-mentioned facilities and grounds.*

**MOVED: CRS R Ismay/W Bywaters**

**That Council:**

- 1. continues to liaise with Air Services and agrees to transfer ownership of the Nhill Transmitter Station navigation facility and the Very High Frequency Omni-Directional Range (VOR) from Air Services to Council; and*
- 2. following the transfer enter into a user agreement with the Nhill Aviation Heritage Centre Inc. for the above-mentioned facilities and grounds.*

**CARRIED**

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## **9.2 RESIDENT CONCERN TAVERNER STREET, RAINBOW**

**Responsible Officer:** Director Infrastructure Services

**Attachment Number:** 2

**Introduction:**

This report provides Council with information addressing the correspondence received from Anne Simms regarding Taverner Street, Rainbow.

**Discussion:**

Correspondence via letter was received from Anne Simms on 12 February 2022 requesting that the letter be tabled at the next Council Meeting to be read and fully discussed. The letter has been included as an attachment to this agenda.

The letter raises a number of concerns which have been addressed below.

**Excerpt 1 from Letter**

*“The last four letters sent to the Council on this subject, and that have never appeared in the minutes of the Shire’s meetings, and if were discussed, it must have been behind closed doors”.*

All letters received from Ms Simms have been presented to Council. The following three items of correspondence were noted as Inward Correspondence in the following Council Meetings:

1. Letter received by Council on 14 May 2021 was presented to Council on Wednesday 9 June 2021 under item 7.1 Inwards Correspondence (page 8).  
The letter was available for public viewing under ‘Attachments’ (page 76), and noted as received in the ‘Minutes’ as incoming correspondence (page 8).
2. Letter received by Council on 12 July 2021 was presented to Council on Wednesday

4 August 2021 under item 7.1 Inwards Correspondence (page 8).

The letter was available for public viewing under 'Attachments' (page 37), and noted as received in the 'Minutes' as incoming correspondence (page 8), and

3. Letter received by Council on 30 August 2021 was presented to Council on Wednesday 8 September 2021 under item 8.1 Inwards Correspondence (page 12).

The letter was available for public viewing under 'Attachments' (page 142), and noted as received in the 'Minutes' as incoming correspondence (page 13).

Council meeting agendas, attachments and minutes are available on the Hindmarsh Shire website at [www.hindmarsh.vic.gov.au/council-meetings](http://www.hindmarsh.vic.gov.au/council-meetings).

### **Excerpt 2 from letter**

*"Municipal Local Law 2", Section B, C, D, H"*

Council has no control over roads that are not Council Owned and operated. This includes emissions and noise. The Environmental Protection Authority (EPA) holds this responsibility as does the Road Owner. Taverner Street Rainbow is a Vic Roads road.

With respect to other issues raised in the letter, Council can advocate for changes to Regional Roads Victoria (RRV) speed limits and request no engine breaking signs be erected within town limits. Officers have advocated to RRV with limited success.

### **Excerpt 3 from letter**

*"Heavy Vehicles ignoring speed restrictions and unsafe actions"*

The Victorian Police are responsible for such matters. Data collected as shown below trends towards light vehicles speeding rather than heavy vehicles.

Recent traffic data compiled over a three (3) week period from 6 October 2021 onwards by Council Officers found the following:

#### **Taverner Street North (100km speed limit)**

- There were a total of 7,940 vehicles recorded from the traffic count during a 3-week period from 6 October onwards. This was an average of 498 vehicles per day, of which 125 were Heavy vehicles (25.2%).
- The maximum speed recorded was 126.5 km/h and the average speed was 83.2 km/h.
- 70 vehicles were recorded speeding of which only 2 were heavy vehicles.

#### **Taverner Street South (100km speed limit)**

- There was a total of 7,352 vehicles recorded from the traffic count during a 3-week period from 6 October onwards. This was an average of 434 vehicles per day, of which 93 were Heavy vehicles (21.6%).
- The maximum speed recorded was 131.1km/h and the average speed was 75.1 km/h.
- 15 vehicles were recorded speeding and none were heavy vehicles.

**Excerpt 4 from letter**

*“Alternative Route – 3 x Chain Road etc “.*

We advise that Ms Simms suggested alternative route in its current form is not suitable for heavy vehicle truck movements. Whilst it may be earth and somewhat similar to other Shire roads, it is not considered suitable for wet weather. Council is still investigating other alternative routes that VicRoads may wish to take into consideration if a bypass is considered to be appropriate by them. Council will not be undertaking any bypass works as they would be the responsibility of VicRoads not the Hindmarsh Shire Council.

**Excerpt 5 from letter**

*“Mr Ireland would be contacting me to discuss the situation”*

Council Officers have spoken to Cr Ireland with regards to the meeting. Unfortunately due to the COVID-19 pandemic restrictions Cr Ireland has been unable to meet with Ms Simms. A meeting will be scheduled now that restrictions are easing.

**Excerpt 6 from letter**

*“damage to our homes”*

With regards to the allegation of property damage, Council again recommends that Ms Simms contact Regional Roads Victoria (RRV) with regards to property damage as Council is not the responsible road authority for Taverner Street, Rainbow.

**Options:**

1. Council can note the correspondence and officers responses with no further Action.
2. Council can further request that the CEO write to Ms Simms advising her that the letter has been tabled and discussed as requested.

**Link to Council Plan:**

Strong governance practices – Provide range of engagement and communication methods to ensure open, easily available and transparent communication between Council and the community

**Financial Implications:**

N/A

**Risk Management Implications:**

N/A

**Relevant legislation:**

*Local Government Act 2020*

*Road Management Act 2004*

**Community engagement:**

Discussions have taken place by various Councillors direct with Ms Simms

**Gender equality implications:**

N/A

**Confidential Declaration:**

N/A

**Conflict of Interest:**

Under section 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Officer Responsible/Author – Angela Hoy-Director Infrastructure Services

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

**Communications Strategy:**

Officers will continue discussions with the road owners, Vic Roads, in regards to the matters that Ms Simms has raised.

**Next Steps:**

Interested Parties will be advised of Council's decision in regards to this matter.

**RECOMMENDATION:**

***That Council:***

- 1. notes the correspondence received by Anne Simms dated 12 February 2022 with regards to Taverner St, Rainbow and notes the Officers response in this report to questions raised in the letter;***
- 2. requests officers notify Anne Simms in writing that her letter has been tabled and discussed as requested.***

**MOVED: CRS B Ireland/W Bywaters**

***That Council:***

- 1. notes the correspondence received by Anne Simms dated 12 February 2022 with regards to Taverner St, Rainbow and notes the Officers response in this report to questions raised in the letter;***
- 2. requests officers notify Anne Simms in writing that her letter has been tabled and discussed as requested.***

**CARRIED**

Attachment Number: 2



### 9.3 HEAVY VEHICLE SAFETY AND PRODUCTIVITY PROGRAM GRANT APPLICATION

**Responsible Officer:** Director Infrastructure Services

#### **Introduction:**

This report seeks Council's approval for the submission of a grant application for Woorak-Ni Ni-Lorquon Road sealed road reconstruction works through the Heavy Vehicle Safety and Productivity Program (HVSPP).

#### **Discussion:**

In November 2021 the Heavy Vehicle Safety and Productivity Program (HVSPP) and the Bridges Renewal Program (BRP) was announced open to new applications.

Council officers have assessed the guidelines and recommend that an application for the sealed road reconstruction of a section of Woorak-Ni Ni-Lorquon Road be submitted. The section is from the Nhill Jeparit Road intersection heading North for 3.8km.

The basis of this reasoning is due to its important classification, being a class S/3R (transport/link route) that provides residential access and important heavy vehicle commercial links at a regional level. It is a direct heavy vehicle link to the arterial network and provides a link from district to district (Rainbow to Nhill).

The section of road intended to be reconstructed is in poor condition, with significant areas of patching due to pavement failure, roughness and poor formation. The section of road would likely need significant Council investment in the near future regardless of whether the grant application is successful or not.

Council officers have undertaken a cost estimate which found a \$1,303,580 budget would be required to complete the works. The grant guidelines stipulate a 1:4 Council to grant contribution. The breakdown therefore would be required at a \$260,716 Council contribution, and a \$1,042,864 grant contribution.

The Council contribution of \$260,716 has been referred to the draft 2022/23 Capital Works budget, but should the grant application be unsuccessful this money would be able to be utilised to reconstruct a shorter length of the road.

The guidelines also outline that Council would have two years to complete the project should an application be approved.

#### **Options:**

1. Council can authorise a grant application to be submitted for the to Upgrade Woorak-Ni Ni-Lorquon Road through the HVSPP for a total project cost of \$1,303,580, committing to a \$260,716 Council funded contribution.
2. Alternatively, Council can authorise officers to submit an application through the

HVSPP for an alternative road project for a total project cost of \$1,303,580, committing to a \$260,716 Council funded contribution.

**Link to Council Plan:**

Well maintained physical assets and infrastructure to meet community and organisational needs.

Long-term financial sustainability.

**Financial Implications:**

A required contribution of \$260,716 from Council and \$1,042,864 from HVSPP will result from a successful application.

**Risk Management Implications:**

If Council elects not to submit an application, there is a risk that future grant opportunities of this scale may not be available in the near future.

By submitting a thorough grant application Council will reduce the risk of not being successful and missing this opportunity to renew and upgrade a significant strategic road on Council's road network.

**Relevant legislation:**

*Local Government Act 2020*

*Road Management Act 2004*

**Community Engagement:**

Discussions have taken place with various interested parties with regards to the freight network, which have identified Woorak-Ni Ni-Lorquon road as a strategic freight route.

**Gender equality implications:**

N/A

**Conflict of Interest:**

Under section 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Officer Responsible – Angela Hoy, Director Infrastructure Services

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

Author – Daniel Griffiths, Manager Capital Works

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

**Communications Strategy:**

Interested parties will be informed of Councils decision.

**Next Steps:**

If approved Council Officers will submit a grant application to the HVSP.

**RECOMMENDATION:**

*That Council submits a grant application for Woorak-Ni Ni-Lorquon Road sealed road reconstruction works through the Heavy Vehicle Safety and Productivity Program (HVSP) and to refer the Council contribution of \$260,716 to the 2022/2023 draft budget.*

**MOVED: CRS R Ismay/D Nelson**

*That Council submits a grant application for Woorak-Ni Ni-Lorquon Road sealed road reconstruction works through the Heavy Vehicle Safety and Productivity Program (HVSP) and to refer the Council contribution of \$260,716 to the 2022/2023 draft budget.*

**CARRIED**

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#### 9.4 AUDIT AND RISK COMMITTEE REPORT

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

**Attachment Number:** 8

**Introduction:**

This report presents to Council the Audit and Risk Committee report for the period ending 28 February 2022.

**Discussion:**

Under section 54(5) of the *Local Government Act 2020* an Audit and Risk Committee must prepare a biannual audit and risk report that describes the activities of the Audit and Risk Committee and includes its findings and recommendations. The report is provided to the Chief Executive Officer for tabling at the next Council meeting.

The report has been prepared and is attached for Council information.

**Link to Council Plan:**

Good Governance & Financial Sustainability: Long-term financial sustainability.

**Financial Implications:**

Nil

**Risk Management Implications:**

The Audit and Risk Committee is an independent advisory committee of Council and assist

to strengthen Council to ensure Council's commitment to good governance, public transparency, and accountability.

**Relevant legislation:**

*Local Government Act 2020*

**Gender equality implications:**

Not applicable

**Conflict of Interest:**

Under section 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Author & Officer Responsible – Monica Revell, Director Corporate & Community Services  
In providing this advice as the Author and Officer Responsible, I have no disclosable interests in this report.

**Communications Strategy:**

Not applicable

**RECOMMENDATION:**

***That Council notes the Audit and Risk Committee report to 28 February 2022.***

***MOVED: CRS R Gersch/D Nelson***

***That Council notes the Audit and Risk Committee report to 28 February 2022.***

**CARRIED**

*Attachment Number: 8*

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## **9.5 HINDMARSH SHIRE COUNCIL BUSINESS ASSISTANCE GRANTS PROGRAM 2021 – 2022 ROUND 2**

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

**Attachment Number:** 9

**Introduction:**

This report seeks approval from Council to provide funding through Round 2 of the Business Assistance Grants 2021/2022 program to eligible businesses as outlined in the following report.

**Discussion:**

The Business Assistance Grants program (BAGs) was established in July 2016 to support

local business to expand their operations or for new businesses, large and small, to establish themselves in the shire. It provides assistance to offset costs associated with expanding or establishing a business in Hindmarsh Shire.

This program addresses the ongoing need to attract new business and support existing business in our towns, as more and more small businesses close their doors.

Council has allocated \$20,000 towards the 2021/22 Business Assistance Grants program in the 2021/2022 Annual Budget along with an additional one off COVID-19 recovery allocation of \$20,000.

Total funding of \$40,000 has been allocated to the program from the 2021/22 annual budget and, categorised into two tiers:

- Tier One
- Tier Two

Funding of \$27,936.20 was granted in Round 1 of the program leaving a balance of \$12,063.80 for Round 2.

Category	Number of Applicants	Funding Available	Total Amount Requested
Tier One	0	<b>Round 2</b> <b>\$12,063.80</b>	\$0
Tier Two	2		\$6,000
<b>TOTAL</b>	<b>2</b>		<b>\$6,000</b>

Criteria for Round 2 of the BAG's 2021/2022 program was amended in order to encourage business owners to identify the individual needs of their business in accordance with the eligibility criteria and then prepare an appropriate proposal to suit that need.

Applications for the Round 2 of the Business Assistance Grants Program closed at 5.00pm on Friday 11 February 2022 with two (2) applications received for funding totalling \$6,000.

Applications must meet the following criteria in order to be eligible for a Business Assistance Grant:

**All applications must:**

- Have a registered ABN,
- Provide evidence that the business is currently operating in the Hindmarsh Shire (for businesses relocating to Hindmarsh provide evidence of premises relocating too),
- Demonstrate an economic benefit and value for money,
- The project will result in the creation and / or retention of employment,
- Demonstrate a financial viability of the business,
- Submit only one application per business/property owner,
- Obtain written consent from property/building owner for any structural alterations,
- Only be applying for one category per funding round, and

- Obtain all relevant permits from Council / other authorities as required.

***Ineligible Applications***

Applications by, or for, the following purposes will not be eligible for funding:

- General business operating expenses including salaries, wages, overheads, general business material expenses, rental costs, utility usage costs etc.,
- Legal and financial advice or market research,
- Applications made by small businesses that have outstanding amounts owing to Council (rates, permit payments etc.),
- Schools and their Parents and Friends organisations,
- Businesses owned/operated by Council staff or Councillors or relatives that prompt a perceived or actual conflict of interest,
- Projects that are clearly a duplication of an existing service,
- Retrospective funding (projects that have commenced or have been completed will not be funded),
- Payment of commercial rates,
- Purchase of land,
- Projects that require ongoing funding or support beyond the initial grant,
- Repair of facilities damaged by vandalism, fire or other natural disasters where the damage should be covered by insurance, and
- Businesses that have previously failed to complete projects funded by Council.

**Assessment Criteria**

Applications have been assessed against a set of Assessment Criteria:

<p><b>Why?</b> 30%</p>	<ul style="list-style-type: none"> <li>• Explain the demonstrated need for the project</li> <li>• How will the project improve the business operations and economic situation?</li> </ul>
<p><b>What?</b> 30%</p>	<ul style="list-style-type: none"> <li>• Provide a brief summary of what you are going to do.</li> <li>• Complete and submit a Risk Assessment for the project</li> <li>• Provide detail on how Hindmarsh Shire Council's contribution will be recognised and acknowledged.</li> </ul>
<p><b>How?</b> 40%</p>	<ul style="list-style-type: none"> <li>• Provide quotes/ information on specific item(s) that funds will be used to purchase.</li> <li>• Provide the organisations banking details and evidence that the organisation can complete the project on time and within budget.</li> <li>• Complete the budget and in-kind contribution templates</li> <li>• How will your projects success be measured? (including number of employment opportunities gained)</li> <li>• Provide a copy of a bank statement to demonstrate financial viability</li> <li>• If the property is leased or rented provide written consent from property owners for streetscape applications.</li> </ul>
<p><b>Finally</b></p>	<ul style="list-style-type: none"> <li>• Complete eligibility and submissions checklist.</li> </ul>

**Tier One:**

Tier One grants aim to assist existing businesses to undertake small projects/initiatives (with a value up to \$1,000 without a co-contribution).

***Applications:***

There were no applications for Tier One in this round of Business Assistance Grants.

**Tier Two:**

Tier Two grants aim to assist existing businesses to undertake larger projects (from above \$1,001 up to \$3,000 with a 1:3 cash ratio). For every \$1 cash contribution from businesses, Council will contribute \$3 up to a maximum of \$3,000.

***Applications:***

1. **Andrew Berteluit Photography** seeks funding of \$3,000 for a drone. The drone will be used to take aerial photographs for a book the business is producing, which promotes Hindmarsh Shire's unique landscape and points of interest. Based on the application, the recommendation is to grant funding of \$3,000.
  
2. **BP Roadhouse Nhill** seeks funding of \$3,000 towards the repair of their walk in freezer. Based on the application, the recommendation is to grant funds of \$3,000.

<b>Applicant</b>	<b>Amount Requested</b>	<b>Total Project Cost</b>	<b>Recommended Allocation</b>
<b><i>Tier Two</i></b>			
Andrew Berteluit Photography	\$3,000	\$4,200	\$3,000
BP Roadhouse Nhill	\$3,000	\$6,000	\$3,000
<b>TOTAL</b>	<b>\$3,000</b>	<b>\$10,200</b>	<b>\$6,000</b>

**Options**

Council can choose to support some or all, partly or in full, or none of the applications to the Hindmarsh Shire Council Business Assistance Grants 2021/2022.

Successful applicants would be required to complete their projects and acquit the funds received by 30 June 2022.

**Link to Council Plan:**

Facilitating and supporting economic development: Provide support to Hindmarsh businesses through buy local campaigns Council purchasing locally and promote business assistance grants.

**Financial Implications:**

Total funding available for 2021/22 Business Assistance Grants is \$40,000. This is made up of the 2021/2022 budget allocation of \$20,000 and an additional, one off COVID-19 recovery allocation of \$20,000.

Available funding for Round 2 is \$12,063.80.

**Risk Management Implications:**

Each applicant has been requested to complete a project risk assessment as part of the application process. Further development of these risk assessments will be completed upon the outcome of each application.

**Relevant legislation:**

Local Government Act 2020

**Community engagement:**

The Business Assistance Grants 2021/2022 program has been widely publicised through media releases, social media and Council's website.

**Gender equality implications:**

No gender impact assessment is required.

**Conflict of Interest:**

Under section 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Officer Responsible – Monica Revell, Director Corporate and Community Services.

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

Author – Phil King, Manager Economic and Community Development.

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

**Communications Strategy:**

The Business Assistance Grants Program has been promoted through the following channels:

- Council's Facebook Page
- Council's website
- Media release distribution
- E-marketing to local businesses

Following Council's endorsement of the allocation of funding, further media releases and promotion of outcomes will be undertaken.

**RECOMMENDATION:**

***That based on the eligibility and assessment criteria Council:***

***a) approves the following successful round 2 Business Assistance Grants:***

***Tier One***

***1. No applications***



**Tier Two**

1. \$3,000 to Andrew Berteluit Photography
2. \$3,000 to BP Roadhouse Nhill

- b) allocates the balance of funding available through the Business Assistance Grants of \$6,063.80 to fund the over subscription of round 2 applications through the 2021/2022 Community Assistance Grants program.

**TOTAL RECOMMENDED FUNDING ALLOCATED ROUND TWO: \$6,000.00.**

**MOVED: CRS W Bywaters/R Ismay**

**That based on the eligibility and assessment criteria Council:**

- a) approves the following successful round 2 Business Assistance Grants:

**Tier One**

1. No applications

**Tier Two**

1. \$3,000 to Andrew Berteluit Photography
2. \$3,000 to BP Roadhouse Nhill

- b) allocates the balance of funding available through the Business Assistance Grants of \$6,063.80 to fund the over subscription of round 2 applications through the 2021/2022 Community Assistance Grants program.

**TOTAL RECOMMENDED FUNDING ALLOCATED ROUND TWO: \$6,000.00.**

**CARRIED**

Attachment Number: 9

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Ms S Johnson declared a general conflict of interest and left the room at 4:00pm.

## **9.6 HINDMARSH SHIRE COUNCIL COMMUNITY ACTION GRANTS 2021 – 2022 ROUND 2**

**Responsible Officer:** Director Corporate and Community Services  
**Attachment Number:** 10

**Introduction:**

This report seeks approval from Council to provide funding through round 2 of the 2021/2022 Community Action Grants Program to eligible community organisation's/groups.

**Discussion:**

The Community Action Grants Program was established to support communities with funds to provide services, self-help and assist with community development, social action, and connectedness.

Total annual funding of \$20,000 has been allocated to the program and categorised into three areas:

- Community Assistance
- Event Sponsorship
- Small Equipment

Round two of the 2021/2022 Community Action Grants Program was promoted through direct emailing to community groups; media releases on Council’s website and local media; advertisements in local media as well as Facebook promotions on Council’s Facebook page.

A total of \$13,956.85 was granted in Round 1 of the 2021/2022 Community Action Grants Program, leaving \$6,043.15 for Round 2.

At the time of closing on Friday 18 February 2022, fifteen (15) applications were received requesting funds totaling **\$14,585.02**.

Category	Number of Applications	Funding Available	Total Amount Requested
Community Assistance	Three (3)	<b>Round 2</b> \$6,043.15	\$3,000.00
Event Sponsorship	One (1)		\$500.00
Small Equipment	Eleven (11)		\$11,085.02
<b>TOTAL</b>	<b>Fifteen (15)</b>		<b>\$14,585.02</b>

As Round 2 of 2021/2022 Business Assistance Grants Program was under subscribed, this report recommends that the \$6,063.80 balance of funds from the Business Assistance Grants program be reallocated to Round 2 of the 2021/2022 Community Action Grants to assist in funding eligible initiatives.

**Funding applications have been assessed against the following eligibility criteria:**

***All applications must:***

- Demonstrate direct economic and social benefit to the community;
- Not already receive substantial support from Hindmarsh Shire Council;
- Be made by an incorporated community group or not-for-profit organisation or auspiced by such a group;
- Apply for one category per funding round; and
- Obtain any/all relevant permits required to host an event within Hindmarsh Shire Council.

**Ineligible Applications:**

Applications by, or for, the following purposes will not be eligible for funding:

- Community organisations who do not provide direct benefit to the Hindmarsh Shire community;
- Individuals;
- Applicants who have successfully obtained funding of \$500.00 or more for Community Assistance, Small Equipment and Minor Facility grant through the Community Action Grants Program in the current or previous financial year (organisations can only apply for funding every *two* years) are ineligible to apply. The exception is for community groups and organisations seeking Event Sponsorship for annual events (given they have acquitted any previous funding);
- Capital works on major facility maintenance;
- Funding to groups for purposes already significantly supported by Hindmarsh Shire Council (e.g. groups that use a Council facility free of charge and pay no utility or operating costs);
- Programs considered the major responsibility of the State or Federal Government;
- Schools;
- Projects that are clearly a duplication of an existing service;
- Retrospective funding (projects that have commenced or have been completed will not be funded); and
- Clubs / organisations that have received funds from a successful application through a sub-committee of the club / organisation.

**Assessment Criteria**

Applications will be assessed against a set of Assessment Criteria.

Applications scoring highly against the criteria detailed below are more likely to receive funding.

<b>Why? 40%</b>	<ul style="list-style-type: none"> <li>- Explain the demonstrated community need.</li> <li>- How will the project improve social connections and build community wellbeing?</li> <li>- How will the project achieve economic benefit for the community?</li> <li>- Has the project been identified in a Community Plan?</li> </ul>
<b>What? 40%</b>	<ul style="list-style-type: none"> <li>- Provide a brief summary of what you are going to do.</li> <li>- How will your project increase community participation?</li> <li>- Complete and submit a Risk Assessment for any Event.</li> <li>- Provide details on how Hindmarsh Shire Council's contribution will be recognised and acknowledged.</li> </ul>
<b>How? 20%</b>	<ul style="list-style-type: none"> <li>- Provide quotes/ information on specific item(s) funds will be used to purchase.</li> <li>- Provide a copy of the applying organisation's most recent bank statement and banking details.</li> <li>- Complete the budget and in-kind contribution templates.</li> </ul>

	<ul style="list-style-type: none"> <li>- Provide details on how your event's success will be measured?</li> <li>- Provide a copy of public liability insurance (events only).</li> <li>- Applicants must have obtained any/all relevant permits required to host an event within the shire.</li> </ul>
<b>Finally</b>	<ul style="list-style-type: none"> <li>- Complete eligibility and submissions checklist.</li> </ul>

**Community Assistance**

The **Community Assistance** Program offers grants of up to a **\$1,000.00** to assist with valuable projects that do not fit under the two other categories of the Community Action Grants Program.

There were three (**3**) applications in this category for this round, requesting a total of \$3,000. As Round 2 of the Community Assistance Grants was over-subscribed this report will recommend funding to a maximum of \$900.00 per eligible applicant in lieu of the requested maximum amount of \$1,000.

**Applicants:**

1. **RSL Nhill** seeks funding of \$1,000 towards the cost of a display cabinet for their Anzac Day Poppy Mannequin. The display case will be built by the local Men’s Shed group at a total cost of \$2,400.00. The Mannequin is an impressive work of collaborative art and will be displayed over the Anzac Day and Remembrance Day periods. Based on the application, the recommendation is to grant funding of \$900.
  
2. **Dimboola Bowling Club** seeks funding of \$1,000 towards the purchase of new bench seating for the club. The bench seating will provide extra seating alongside the greens and will be of particular benefit to aging members of the club. Based on the application, the recommendation is to grant funding of \$900.
  
3. **Winiam Hall Inc.** seeks funding of \$1,000 towards the cost of painting the main hall room of Winiam Hall. The hall will be painted professionally by a local painting business. The painting is much needed as paint is currently peeling off the ceiling and causing OH&S issues for hirers. Based on the application, the recommendation is to grant funding of \$900.

**Event Sponsorship**

**Event sponsorships** offer grants of up to **\$500.00** to assist with an event within Hindmarsh Shire which demonstrates social and economic benefit. For events with a regional impact, Council may allocate an increased sponsorship amount.

There was one (**1**) application with a total funding request of \$500.

**Applicants:**

1. **Milk Blossom** seeks funding of \$500 to assist in overheads for a family fun day at Jaypex Park which will raise money for the Leukemia Foundation. The event is part

of the Foundation's World's Greatest Shave initiative.

Milk Blossom is not an incorporated association, therefore based on the eligibility requirements, the recommendation is **not** to grant funding.

### **Small Equipment**

**Small Equipment** grants provide funding assistance of up to **\$1,000.00** towards the purchase of small equipment items.

There were eleven (**11**) applications with funding requests totaling \$11,085.02.

As Round 2 of the Community Assistance Grants was over-subscribed this report will recommend funding to a maximum of \$900.00 per eligible applicant in lieu of the requested maximum amount of \$1,000.

### **Applicants:**

1. **Gallery Central** seeks funding of \$1,000 towards a laptop computer for staff administrative use and for the promotion of the gallery on websites and social media. Based on the application, the recommendation is to grant funding of \$900.
2. **Rainbow Rises Events Association Inc.** seeks funding of \$1,000 towards the purchase of a laptop and printer for members of the association to use. Currently members are using their own equipment in the running of the association and would like the association to have its own equipment for members to share. Based on the application, the recommendation is to grant funding of \$900.
3. **St. John's Lutheran Church Pella** seeks funding of \$1,000 towards the purchase of a new public address system. The old system was installed over twenty years ago and no longer works. Based on the application, the recommendation is to grant funding of \$900.
4. **Nhill and District Historical Society** seeks funding of \$500 towards a multifunction printer. The society is not eligible for funding however, due to receiving funding in Round One of the current Community Action Grants Program. Based on the application, the recommendation is to **not** grant funding.
5. **Nhill Urban Fire Brigade** seeks funding of \$1,000 towards the purchase of driving lights for their 4.4C Tanker and Brigade Support Vehicle. Based on the application, the recommendation is to grant funding of \$900.
6. **Rainbow Men's Shed** seeks funding of \$1,000 towards the purchase of a table saw which will be very useful in the completion of a number of community projects the club has planned. Based on the application, the recommendation is to grant funding of \$900.
7. **Nhill Bowling Club** seeks funding of \$1,000 towards the replacement of rink numbers and the purchase of ditch markers for the club facility. Based on the application, the recommendation is to grant funding of \$900.

8. **Rainbow Recreation Reserve Committee** seeks funding of \$1,882.21 to purchase crockery and cutlery for the facility. Although the requested amount is above the \$1000 limit, the facility is used by multiple community groups in Rainbow and all of these groups would be making use of the purchased items. Therefore, the recommendation is to grant funding of \$900.
9. **Rainbow Innovation Centre** Seeks funding of \$1,000 for materials needed to build pipe instruments which will be used for therapeutic workshops at the centre. Based on the application, the recommendation is to grant funding of \$900.
10. **St. Stephen's Lutheran Church Rainbow** seeks funding of \$894.01 to purchase two soup kettles and mugs. Based on the application, the recommendation is to grant funding of \$894.01
11. **Hindmarsh Ski Club** seeks funding of \$808.80 for portable shade cloths. Based on the application the recommendation is to grant funding of \$808.80.

**Application summary:**

<b>Applicant</b>	<b>Amount Requested</b>	<b>Total Project Cost</b>	<b>Recommended Allocation</b>
<b>Community Assistance - \$1000</b>			
RSL Nhill	\$1,000.00	\$2,400.00	\$900.00
Dimboola Bowling Club	\$1,000.00	\$1,757.00	\$900.00
Winiam Hall Inc.	\$1,000.00	\$6,780.00	\$900.00
<b>TOTAL</b>	<b>\$3,000.00</b>	<b>\$10,937.00</b>	<b>\$2,700.00</b>
<b>Event Sponsorship - \$500</b>			
Milk Blossom	\$500.00	\$3,456.00	\$0.00
<b>TOTAL</b>	<b>\$500.00</b>	<b>\$3,456.00</b>	<b>\$0.00</b>
<b>Small Equipment - \$1,000</b>			
Gallery Central	\$1,000.00	\$1,186.85	\$900.00
Rainbow Rises Events Association	\$1,000.00	\$1,459.00	\$900.00
St. John's Lutheran Church Pella	\$1,000.00	\$1,200.00	\$900.00
Nhill & District Historical Society	\$500.00	\$1,066.50	\$0.00
Rainbow Men's Shed	\$1,000.00	\$1,539.23	\$900.00
Nhill Urban Fire Brigade	\$1,000.00	\$985.00	\$900.00
Nhill Bowling Club	\$1,000.00	\$1,672.00	\$900.00
Rainbow Recreation Reserve	\$1,882.21	\$1,882.21	\$900.00

Rainbow Innovation Centre	\$1,000.00	\$5,600.00	\$900.00
St. Stephen's Lutheran Church Rainbow	\$894.01	\$1,194.01	\$894.01
Hindmarsh Ski Club	\$808.80	\$808.80	\$808.80
<b>TOTAL</b>	<b>\$11,085.02</b>	<b>\$16,771.39</b>	<b>\$8,902.81</b>
<b>FULL TOTAL</b>	<b>\$14,585.02</b>	<b>\$31,104.39</b>	<b>\$11,602.81</b>

### Options

Council can choose to support some or all, partly or in full, or none of the applications to Round Two of the Hindmarsh Shire Council Community Action Grants 2021/2022.

### Link to Council & Community Plans:

The Community Action Grants relate to Council's Vision of "a caring, active community enhanced by its livability, environment and economy".

Strategic Objectives:

#### Theme One - Our Community

- A community well informed and engaged
- Communities that feel safe and are resilient
- Provide arts and cultural activities that strengthen social connection
- A range of effective and accessible services to support the health and wellbeing of our community
- Support healthy living and provide services and activities for people of all ages and abilities.
- Assist our Community to recover from COVID-19
- Digital connectivity to support learning and work

#### Theme Two – Built and Natural Environment

- Well-maintained physical assets and infrastructure to meet community and organisational needs

#### Theme Three – Competitive and Innovative Economy

- Develop and promote local tourism opportunities that attract visitation

### Financial Implications:

Council allocated \$20,000 to the Community Action Grants Program for the 2021/2022 financial year.

As Round 2 of 2021/2022 Community Assistance Grants has been over-subscribed, this report recommends the balance of funds from the Business Assistance Grants Round 2 be re-allocated to the Community Assistance Grants program.

Community Assistance Grants – available funds	\$6,043.15
Business Assistance Grants – available funds	\$6,063.80

**Total available funds** **\$12,106.95**

**Conflict of Interest:**

Under section 130(2) of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible – Monica Revell, Director Corporate and Community Services.  
In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

Author – Phil King, Economic and Community Development Manager  
In providing this advice as the Author, I have no disclosable interest in this report.

**Risk Management Implications:**

Risks are to be managed by the successful applicants.

**Communications Strategy**

Successful and unsuccessful applicants will be notified of Council's decision by phone and via letter correspondence regarding application outcomes.

**RECOMMENDATION:**

- a) ***That Council re-allocates the balance of funds - \$6,063.80 available from the 2021/2022 Business Assistance Grants program to the 2021/2022 Community Assistance Grants program.***
- b) ***That based on the eligibility and assessment criteria, Council approves the following funding allocations:***

***Community Assistance***

1. ***A grant of \$900 – RSL Nhill***
2. ***A grant of \$900 – Dimboola Bowling Club***
3. ***A grant of \$900 – Winiam Hall Inc.***

***Small Equipment***

1. ***A grant of \$900 – Gallery Central***
2. ***A grant of \$900 – Rainbow Rises Events Association***
3. ***A grant of \$900 – St. John's Lutheran Church Pella***
4. ***A grant of \$900 – Nhill Urban Fire Brigade***
5. ***A grant of \$900 – Rainbow Men's Shed***
6. ***A grant of \$900 – Nhill Bowling Club***
7. ***A grant of \$900 – Rainbow Recreation Reserve***
8. ***A grant of \$900 – Rainbow Innovation Centre***
9. ***A grant of \$894.01 – St. Stephen's Lutheran Church Rainbow***
10. ***A grant of \$808.80 – Hindmarsh Ski Club***



- c) *That based on the eligibility and assessments criteria, Council do not approve the following funding allocations:*

**Small Equipment**

1. *A grant of \$500 – Nhill and District Historical Society*

**Event Sponsorship**

1. *A grant of \$500 – Milk Blossom*

**TOTAL RECOMMENDED FUNDING ALLOCATED: \$11,602.81**

**MOVED: CRS R Ismay/W Bywaters**

- a) *That Council re-allocates the balance of funds - \$6,063.80 available from the 2021/2022 Business Assistance Grants program to the 2021/2022 Community Assistance Grants program.*
- b) *That based on the eligibility and assessment criteria, Council approves the following funding allocations:*

**Community Assistance**

1. *A grant of \$900 – RSL Nhill*
2. *A grant of \$900 – Dimboola Bowling Club*
3. *A grant of \$900 – Winiam Hall Inc.*

**Small Equipment**

1. *A grant of \$900 – Gallery Central*
2. *A grant of \$900 – Rainbow Rises Events Association*
3. *A grant of \$900 – St. John's Lutheran Church Pella*
4. *A grant of \$900 – Nhill Urban Fire Brigade*
5. *A grant of \$900 – Rainbow Men's Shed*
6. *A grant of \$900 – Nhill Bowling Club*
7. *A grant of \$900 – Rainbow Recreation Reserve*
8. *A grant of \$900 – Rainbow Innovation Centre*
9. *A grant of \$894.01 – St. Stephen's Lutheran Church Rainbow*
10. *A grant of \$808.80 – Hindmarsh Ski Club*

- c) *That based on the eligibility and assessments criteria, Council do not approve the following funding allocations:*

**Small Equipment**

1. *A grant of \$500 – Nhill and District Historical Society*

**Event Sponsorship**

1. *A grant of \$500 – Milk Blossom*

**TOTAL RECOMMENDED FUNDING ALLOCATED: \$11,602.81**

**CARRIED**

Attachment Number: 10

Ms S Johnson returned to the room at 4:10pm.

## 10 COUNCIL COMMITTEES

### 10.1 NHILL TOWN COMMITTEE

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

**Attachment Number:** 11

**Introduction:**

The Nhill Town Committee held a meeting on 21 February 2022. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

**RECOMMENDATION:**

**That Council:**

- (a) notes the minutes of the Nhill Town Committee meeting held on 21 February 2022;**
- (b) endorses new committee members:**
  - **Pauline McCracken;**
  - **Vicki Natt; and**
- (c) notes the resignation of Leith Dean from the committee and thank Leith for her service.**

**MOVED: CRS W Bywaters/R Gersch**

**That Council:**

- (a) notes the minutes of the Nhill Town Committee meeting held on 21 February 2022;**
- (b) endorses new committee members:**
  - **Pauline McCracken;**
  - **Vicki Natt; and**
- (c) notes the resignation of Leith Dean from the committee and thank Leith for her service.**

**CARRIED**

Attachment Number: 11

## 10.2 DIMBOOLA TOWN COMMITTEE

**Responsible Officer:** Director Corporate and Community Services  
**Attachment Number:** 12

### **Introduction:**

The Dimboola Town Committee held a meeting on 7 February 2022. The purpose of this report is to note the minutes from this meeting. 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 meeting held on 7 February 2022.*

**MOVED: CRS D Nelson/W Bywaters**

*That Council notes the minutes of the Dimboola Town Committee meeting held on 7 February 2022.*

**CARRIED**

*Attachment Number: 12*

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## 10.3 YURUNGA COMMITTEE OF MANAGEMENT

**Responsible Officer:** Director Corporate and Community Services  
**Attachment Number:** 13

### **Introduction:**

The Yurunga Committee of Management held a meeting on 28 October 2021. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

### **RECOMMENDATION:**

*That Council notes the minutes of the Yurunga Committee of Management meeting held on 28 October 2021.*

**MOVED: CRS B Ireland/R Ismay**

*That Council notes the minutes of the Yurunga Committee of Management meeting held on 28 October 2021.*

**CARRIED**

Attachment Number: 13

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## 11 LATE REPORTS

No late reports.

## 12 NOTICES OF MOTION

No notices of motion.

## 13 OTHER BUSINESS

No other business.

## 14 CONFIDENTIAL REPORTS

In accordance with Section 66 (2) (a) of the *Local Government Act 2020*, Council may close the meeting to the public to consider confidential information. Confidential information is defined by Section 3 of the *Local Government Act 2020* as being:

- a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
- c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;
- d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;
- e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;
- f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- g) private commercial information, being information provided by a business, commercial or financial undertaking that—
  - i. relates to trade secrets; or
  - ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
- h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);
- i) internal arbitration information, being information specified in section 145;
- j) Councillor Conduct Panel confidential information, being information specified in section 169;
- k) information prescribed by the regulations to be confidential information for the purposes of this definition;

- l) information that was confidential information for the purposes of section 77 of the Local Government Act 1989

**RECOMMENDATION:**

***That the meeting be closed in accordance with section 66 (2) (a) of the Local Government Act 2020, to consider reports that contain confidential information as defined by section (3) of the Local Government Act 2020:***

- 14.1 2022 YOUTH COUNCIL NOMINATIONS – this report contains “personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs” insofar as it pertains to personal information; and**
- 14.2 TENDER FOR CONTRACT 2021-2022-13 CONSTRUCTION OF NHILL TENNIS CLUB ROOM – this report contains “council business information, being information that would prejudice the Council’s position in commercial negotiations if prematurely released’ insofar as it pertains to contractual matters.**

**MOVED: CRS R Ismay/R Gersch**

***That the meeting be closed in accordance with section 66 (2) (a) of the Local Government Act 2020, to consider reports that contain confidential information as defined by section (3) of the Local Government Act 2020:***

- 14.1 2022 YOUTH COUNCIL NOMINATIONS – this report contains “personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs” insofar as it pertains to personal information; and**
- 14.2 TENDER FOR CONTRACT 2021-2022-13 CONSTRUCTION OF NHILL TENNIS CLUB ROOM – this report contains “council business information, being information that would prejudice the Council’s position in commercial negotiations if prematurely released’ insofar as it pertains to contractual matters.**

**CARRIED**

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**15 MEETING CLOSE**

There being no further business, Cr M Albrecht declared the meeting closed at 4:37pm.

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