



21 September 2022

To Councillor,  
"as addressed"

NOTICE is hereby given that an **ORDINARY MEETING** of the Hindmarsh Shire Council will be held at the Nhill Memorial Community Centre, 77-79 Nelson Street Nhill, on Wednesday 28 September 2022 commencing at **3:00pm**.



Greg Wood  
**Chief Executive Officer**

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## 1 ACKNOWLEDGMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER

### ***Acknowledgement of the Indigenous Community***

*Hindmarsh Shire Council acknowledges that this meeting is being held on the lands of the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagalk Nations and we acknowledge them as Traditional Owners of Country.*

*We recognise the important ongoing role that Indigenous people have in our community and pay our respects to their Elders, past and present.*

### ***Opening Prayer***

*Dear Lord,*

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

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

## 2 APOLOGIES

## 3 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.

## 4 CONFIRMATION OF MINUTES

### **RECOMMENDATION:**

***That the Minutes of the Ordinary Council Meeting held on Wednesday 31 August 2022 at the Nhill Memorial Community Centre Nhill, as circulated to Councillors be taken***

**as read and confirmed.**

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.

## 6 ACTIVITY REPORTS

**COUNCILLOR ACTIVITIES:** 24 August – 20 September 2022

### Cr ALBRECHT, MAYOR

Date	Meeting	Location	Comments
30/08/2022	Wimmera Development Association (WDA) Workshop	Horsham	It was a pleasure to meet the new WDA Board Directors.
30/08/2022	Wimmera Development Association (WDA)	Horsham	The new WDA Board is now full with 11 Directors and we look forward to progressing the strategic planning work, to set the future direction of the organisation.
31/08/2022	Council Briefing	Nhill	
31/08/2022	Council Meeting	Nhill	
2/09/2022	Rural Councils Victoria Forum	Daylesford	<p>The forum provided an opportunity for all Victorian rural councils to be updated on key issues facing the sector. The Hon Melissa Horne MP, Minister for Local Government presented, outlining her approach to the role, which was the first time many of us had heard Minister Horne, given she was only six weeks into the new portfolio.</p> <p>Paul Younis presented on the transformation of the Department of Transport (DoT)</p>

			<p>emphasising how the new model will support local government in dealing with all elements of transport. The Rural Housing Panel, showcased the Wimmera Development Association (WDA) Housing Blueprint and the approach to address the housing shortage in Wimmera council areas.</p> <p>Emma Kealy, Deputy Leader of the National Party outlined the National Party's view on policies, both current and future, which was informative given the upcoming state election. Other presenters covered topics on biosecurity, climate change, leadership training and financial sustainability.</p> <p>Rural Councils Victoria launched at the forum their State Election Platform 2022 which represents challenging issues for all rural councils. It covers funding for key services, housing issues, emergency management and tourism activation funding.</p>
14/09/2022	Hindmarsh Shire Quarterly Business Networking Session	Rainbow	Thank you to the guest speakers Mick Parry and Kirsty Daniels that shared their business wisdom and expertise. It was extremely interesting.
15/09/2022	Freight and Heavy Transport Working Group	Nhill	Formerly known as the B Double working group, the Freight and Heavy Transport working group endorsed terms of reference and will continue to strengthen strategy and advocate as required to address issues across the shire.
15/09/2022	Kane's Run – A night with Kane and TJ	Nhill	Well done to the Nhill & District Sporting Club for another wonderful night promoting Nhill and the sporting club.
16/09/2022	Municipal Association Victoria (MAV) Special State Council	Melbourne	The meeting adopted the new rules, with the most substantial change being that all Victorian Councils will have equal votes, rather than metro councils having 2 votes to regional 1 vote.

**Cr IRELAND, DEPUTY MAYOR**

Date	Meeting	Location	Comments
30/08/2022	Visit by Menzies university Melbourne to Jeparit	Jeparit	Initial meeting and tour of museum, Menzies Square and the Jeparit Historical Society
30/08/2022	Rainbow Civic Centre AGM		
31/08/2022	Council Briefing		

31/08/2022	Council Meeting		
05/09/2022	CFA Rainbow Counselling / Debriefing Meeting		Regarding tragedy at Rainbow Rises off-road event. A well-run night by professionals attended by around 40 volunteers who were given opportunity to express their feelings and also information on contacts if they are feeling affected by the trauma.
12/09/2022	Jeparit Town Committee Meeting		
14/09/2022	West Vic Business Meeting	Rainbow Civic Centre	
20/09/2022	Wimmera Mallee Pioneer Museum Meeting		

**Cr GERSCH**

Date	Meeting	Location	Comments
23/08/2022	Grants Commission Update	Zoom	
31/08/2022	Council Meeting	Nhill	
01/09/2022	RCV Dinner	Daylesford	
02/09/2022	RCV Summit	Daylesford	
15/09/2022	Nhill Sporting Club Kane Cornes Support		

**Cr ISMAY**

Date	Meeting	Location	Comments
31/08/2022	Toby Price visit to Rainbow		
31/08/2022	Council Briefing	Nhill	
31/08/2022	Council Meeting	Nhill	
01/09/2022	Working bee Rainbow Rises Events		
02/09/2022	Scrutineering / Street Parade Enduro 560		
03/09/2022	Rainbow Enduro Day One		
04/09/2022	Rainbow Enduro Day two. Postponed.		
05/09/2022	CFA Debrief	Rainbow	
09/09/2022	Western Highway Action Group Meeting	Zoom	

14/09/2022	Business Networking Session	Rainbow	
15/09/2022	Oasis AGM	Rainbow	
16/09/2022	Various site inspections with Director Infrastructure Services		
19/09/2022	Rainbow Town Committee Meeting		

**Cr BYWATERS**

Date	Meeting	Location	Comments
30/08/2022	Hindmarsh tourist information Centre volunteer	Nhill	
30/08/2022	Nhill homework club	The Patch	
31/08/2022	Council briefing and Council meeting	Nhill Memorial Community Centre	
01/09/2022	Dimboola Probus meeting	Dimboola RSL	
01/09/2022	Dimboola Cuppa connections	Dimboola Library	
06/09/2022	Nhill homework club	The Patch	
08/09/2022	Nhill Lutheran School production "Porridge"	Nhill Memorial Community Centre	
10/09/2022	Dimboola Tower Park market	Dimboola Tower Park	The inaugural Dimboola Art Inc. market to be held on the second Saturday of every month from 9 am to 1 pm - Tower Park, Dimboola
13/09/2022	Nhill homework club	The Patch	
14/09/2022	Hindmarsh Business networking meeting	Rainbow	
15/09/2022	WSMLLEN General meeting	Online	
15/09/2022	ALGWA "Thinking of being a Mayor or Deputy Mayor" workshop	Online	

**Cr NELSON**

Date	Meeting	Location	Comments
31/08/2022	Council briefing		
31/08/2022	Council meeting		

06/09/2022	Dimboola Town Committee meeting		
08/09/2022	Wimmera Southern Mallee LLEN finance meeting		
08/09/2022	Wimmera Southern Mallee HR Committee meeting		
15/09/2022	Wimmera Southern Mallee COM meeting		

## 7 CORRESPONDENCE

### 7.1 GENERAL CORRESPONDENCE

**Responsible Officer:** Chief Executive Officer

**Attachment Numbers:** 2 – 4

**Introduction:**

The following correspondence is attached for noting by Council.

**Inwards:**

- 07/09/2022 – Letter from Anne Simms RE Taverner Street Rainbow
- 12/09/2022 – Letter from City of Boroondara RE State Government Cost Shifting

**Outwards:**

- 21/09/2022 – Letter to Anne Simms RE Taverner Street Rainbow

**RECOMMENDATION:**

***That Council notes the attached correspondence.***

***Attachment Numbers: 2 – 4***

## 8 PLANNING PERMITS

### 8.1 PLANNING PERMIT APPLICATION PA1781-2022 – DEVELOPMENT OF SEVEN DWELLINGS, CONSTRUCT FENCES, REDUCE THE NUMBER OF CAR PARKING SPACES AND A NINE LOT SUBDIVISION – 77-79 LEAHY STREET NHILL VIC 3418 (LOT 1 AND LOT 2 ON TITLE PLAN 160459P)

**Responsible Officer:** Director Infrastructure Services

**File:** Planning – Applications

**Assessment:** 200635 & 200446



<b>Application No.</b>	PA1781-2022
<b>Applicant:</b>	Inception Planning
<b>Owner:</b>	Troy Rhonner & May Joy Toke-Naw Nyo & Gay Nay Soe Naw Nyo
<b>Subject Land:</b>	77-79 Leahy Street Nhill VIC 3418 (Lot 1 and Lot 2 on Title Plan 160459P)
<b>Proposal:</b>	Development of seven dwellings, construct fences, reduce the number of car parking spaces and a nine lot subdivision
<b>Zoning &amp; Overlays:</b>	General Residential Zone Schedule 1 (GRZ1) Environmental Significance Overlay Schedule 6 (ESO6)
<b>Attachment Numbers:</b>	5 – 7

**Summary:**

This report recommends that Council issues a Notice of Decision to grant Planning Permit PA1781-2022 for the development of seven dwellings, construct fences, reduce the number of car parking spaces and a nine lot subdivision at 77-79 Leahy Street Nhill VIC 3418 (Lot 1 and Lot 2 on Title Plan 160459P), subject to standard conditions.

**Background:**

The site is vacant residential land comprising two separate lots within the Nhill Township.

Preliminary discussions were held with the prospective owners/developers about a proposed development of multiple dwellings and subdivision of lots and preliminary advice was subsequently provided.

**Proposal Details:**

The application proposes the Development of seven dwellings, construct fences, reduce the number of car parking spaces and a nine lot subdivision.

The proposed seven dwellings will each have one bedroom, an open plan living, meals and kitchen area, bathroom/laundry and an outdoor decked area at the rear of each dwelling. The built form comprises a contemporary design for the seven dwellings with a mono-pitched roof form. The external finishes and materials comprise a mix of contemporary finishes including vertical timber cladding, Colorbond orb cladding in a dark grey colour 'Monument' and James Hardie Scyon Axon wall cladding. The front setbacks of the dwellings from Leahy Street will be staggered and varied at 5.4m, 6.15m, 6.9m and 7.65m.

One uncovered car space is proposed within the front setbacks of each dwelling on Lots 1 to 7. A reduction is sought for one visitor car space that is required for five or more dwellings and cannot be provided on the site.

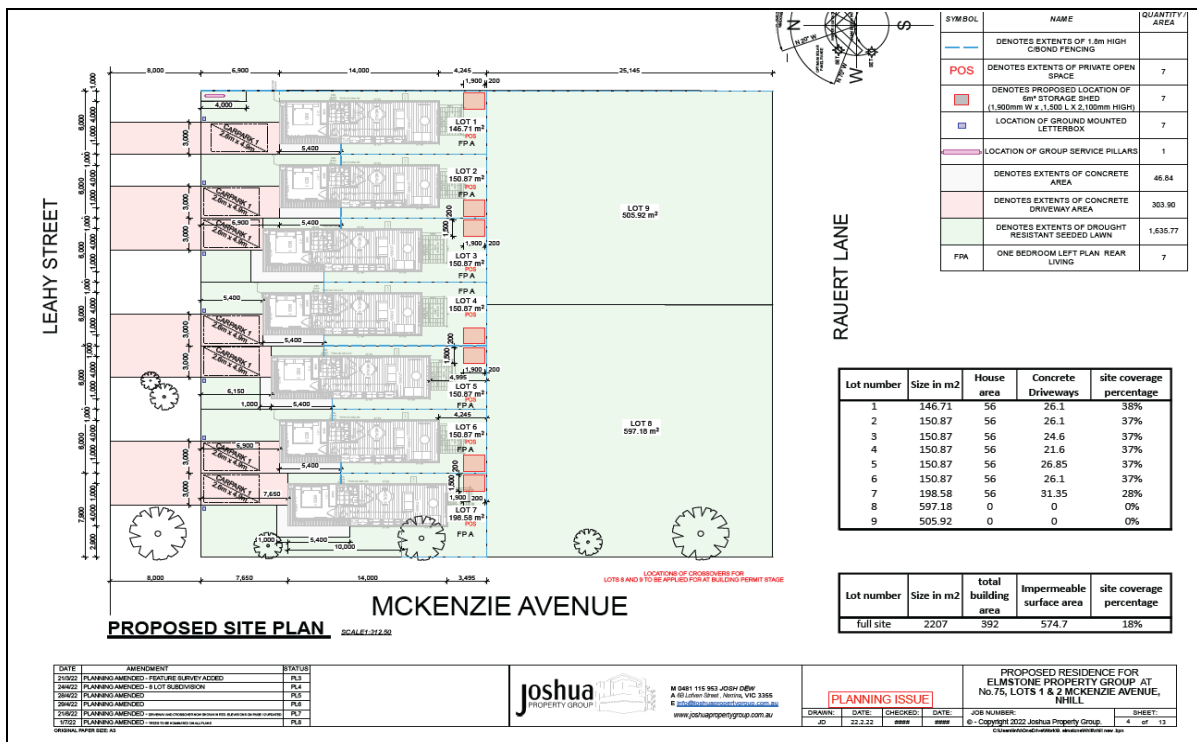
Secluded private open space areas will be provided to each dwelling and located at the rear of each dwelling, which will have a minimum width of between 3.495m and 4.995m. Each lot incorporates external 6m<sup>3</sup> storage sheds in the rear gardens. Each dwelling will have its own letterbox and bin store area and there will be a Group Services Pillar located in the

north-eastern corner of the site adjacent to the eastern boundary within the front setback of Dwelling 1.

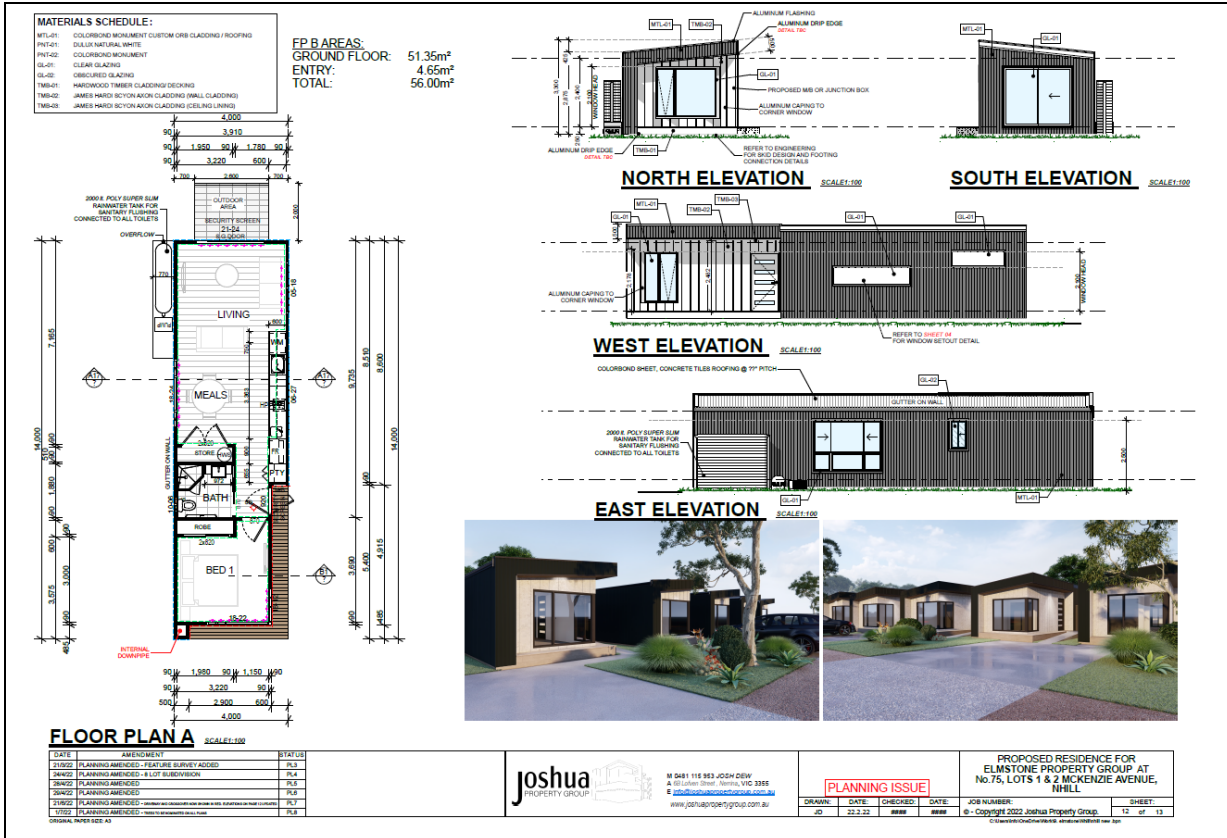
The proposed fences consist of 1.8m high Colorbond fences to be constructed along the eastern boundary, as well as along the rear part of the dwellings on each lot, in between the dwellings on each lot and along the shared rear boundary between Dwellings 1 to 7 on Lots 1 to 7 and Lots 8 and 9.

The subdivision of the nine lots comprises seven lots containing seven dwellings and two vacant lots. Proposed Lot 1 will be 146.7m<sup>2</sup>, Lots 2 to 6 will be 150.87m<sup>2</sup>, Lot 7 will be 198.58m<sup>2</sup>, Lot 8 597.18m<sup>2</sup> and Lot 9 will be 505.92m<sup>2</sup>. Proposed Lots 1 to 7 will front Leahy Street.

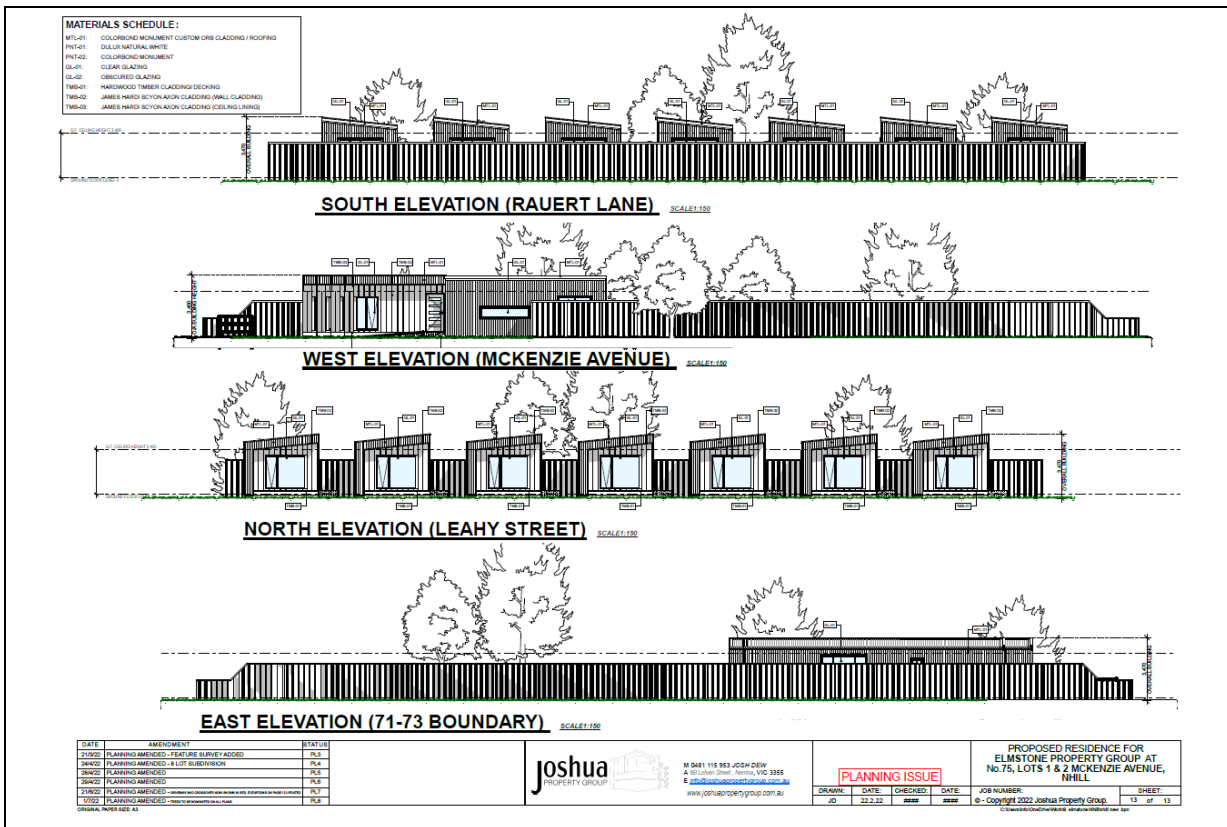
Proposed Site Plan below:



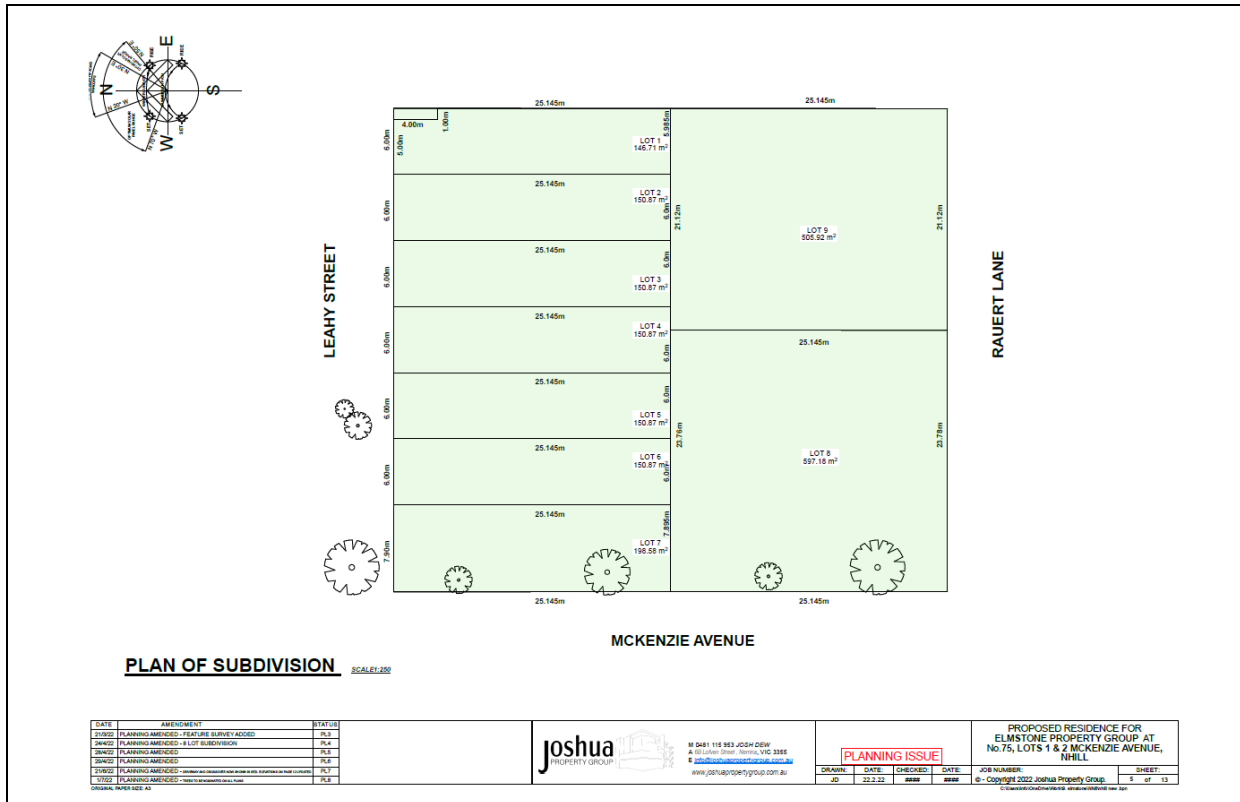
Proposed Floor Plan below:



Proposed Elevations below:



Proposed Plan of Subdivision below:



**Requirement for Permit:**

The subject land is located within the General Residential Zone Schedule 1 (GRZ1) and the Environmental Significance Overlay Schedule 6 (ESO6).

A planning permit is required to subdivide the land under Clause 32.08-3 and to construct seven dwellings on a lot under Clause 32.08-6 of the General Residential Zone. There are no specific requirements in Schedule 1 of the Zone.

A planning permit is also required to construct fences and subdivide land under Clause 42.01-2 of the Environmental Significance Overlay and Schedule 6 to the Overlay (ESO6), but a planning permit is not required to construct buildings and works in the ESO6. There is no vegetation removal proposed so this is not a permit trigger under the ESO6.

**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 site is not within an Aboriginal Cultural Heritage Sensitivity Area.

**Subject site & locality:**

The subject land is located on the southern side of Leahy Street, the eastern side of McKenzie Avenue and the northern side of Johnston Lane. The subject land comprises two existing lots being Lot 1 and Lot 2 on Title Plan 160459P and is rectangular in shape. Lot 1 has an area of 1195m<sup>2</sup> and Lot 2 has an area of 1012m<sup>2</sup>. The subject land has a total area of 2207m<sup>2</sup>. The site is largely vacant with only some small trees located along McKenzie Avenue adjacent to the western boundary.

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 on 20 June 2022.
- The further information including an amended application form to include the construction of fences, amended plans and an amended planning report were received on 12 July 2022.

**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 and adjacent land.
- Placing public notices on the three road frontages of the site.
- Placing a public notice on Council's website.
- Placing a public notice in the newspaper, the Nhill Free Press.

The notification has been carried out correctly. Council has received one submission to date.

The submission states that the neighbour 'does not have any objection to the development', but also raised concerns about the seven dwellings, the location not having curb and channel or on-street parking and request for the reduction in parking, as well as drainage impacts.

### **Submission**

Discussions were held between the submitter and Council Officers about the submission received, which had to be taken as an objection due to the fact that concerns were raised about the development.

As a result of the discussions the submitter has advised "as long as Council is satisfied that all requirements are met for the proposed area, I have no objections."

This is not unconditional consent so the submission should be considered as an objection to the proposed development as the submission has not been formally withdrawn.

### **Referrals:**

External Referrals/Notices were required by the Planning Scheme:

#### **Section 55 Referrals**

##### Powercor Australia

The application was referred to Powercor Australia who advised:

- No objection subject to conditions.  
*The Powercor Australia conditions are detailed in the report.*

##### GWM Water

The application was referred to GWM Water who advised:

- No objection subject to conditions.  
*The GWM Water conditions are detailed in the report.*

##### Wimmera Catchment Management Authority (Wimmera CMA)

The application was referred to WCMA who advised:

- No objection. Note provided about potential flooding larger in height and extent than a 1% AEP flood may occur in the future.

#### **Section 52 Referrals**

Nil

### **Internal Referrals:**

#### Engineering:

Comments provided, and conditions required as detailed below.

*We have conducted a site visit on 06/04/2022 and 09/08/2022 at 77-79 Leahy St Nhill.  
The following conditions need to be applied to the permit.*

*Drainage:*

*Before the issue of a Statement of Compliance for the subdivision, the permit holder or owner must engage a Qualified Engineer to prepare a Drainage Plan/Assessment Report which addresses, at an appropriate level of detail, the arrangements for collecting, conveying, storing and discharging stormwater from the planned development by underground drainage system to the Council drainage network (nearest drainage pit is located at the corner of Johnston St and Leahy St), all at the expense of the permit holder or owner and the report must be submitted to the satisfaction of the Responsible Authority.*

*Before the issue of a Statement of Compliance for the subdivision, the Drainage Design Plans for the underground drainage system for the entire development must be submitted to and approved by the Responsible Authority.*

*Before the issue of Occupancy Certificates for the Dwellings for the approved development, the construction of the approved Drainage Design must be completed at the expense of the permit holder or owner to the satisfaction of the Responsible Authority.*

*No effluent or polluted water of any type may be allowed to enter the Council's Storm water drainage system to the satisfaction of the Responsible Authority.*

*The LPD can be applied with the building permit application.*

*Access/Vehicle crossovers:*

*Before the issue of a Statement of Compliance for the subdivision, a new crossover must be constructed to each lot to have independent access as per IDM SD-240 standard (single crossover) or IDM SD-245 (double/shared crossover) at the North side of each of the lots on Leahy Street to the satisfaction of the Responsible Authority.*

*Before the issue of a Statement of Compliance for the subdivision, a new crossover must be constructed to each lot to have independent access as per IDM SD-255 standard (see attached) at the South side of the lot on Rauert Lane (Johnstone Lane) to the satisfaction of the Responsible Authority.*

*The vehicle crossing(s) must be constructed at the expense of the permit holder or owner 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 if working in road reserve.*

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

*Road Upgrading*

*Before the issue of a Statement of Compliance for the subdivision, the section of Leahy Street from Mackenzie Avenue to the Eastern boundary of the proposed development site must be upgraded with sealed shoulders, kerb and channel (including drainage) and any associated roadworks to service the properties to the Council Standard all at the expense of the permit holder or owner to the satisfaction of the Responsible Authority.*

*Before the issue of a Statement of Compliance, the section of Rauert Lane (Johnstone Lane) from Mackenzie Avenue to the Eastern side of the proposed crossover for Lot 9, must be upgraded to a gravelled 5U all - weather Road to the Council Standard all at the expense of the permit holder or owner to the satisfaction of the Responsible Authority.*

Building:

Comment provided - Building Permit required.

**Planning Scheme:**

Planning Scheme Requirements:

**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 02.03-5 Building Environment and heritage

*Council's strategic directions for built environment and heritage includes the need to:*

- *Promote urban design and architecture that reflects the characteristics, aspirations and cultural identity of the community.*

Clause 02.04 Strategic Framework Plans

Nhill Framework Plan

**Planning Policy Framework (PPF)**

Clause 11.01-1S Settlement

Clause 11.01-1R Settlement - Wimmera Southern Mallee includes:

Clause 11.01-1L Settlement – Hindmarsh includes strategies to:

*Retain existing residential zones and promote residential development within these zones*

Clause 11.02-1S Supply of urban land objective is:

*To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.*

Clause 15.01-2S Building Design objective is:

*To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*

Clause 15.01-3S Subdivision design objective is:



*To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.*

Clause 15.01-5S Neighbourhood character objective is:

*To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

Clause 16.01-1S Housing Supply

*To facilitate well-located, integrated and diverse housing that meets community needs.*

Clause 16.01-2S Housing Affordability objective is:

*To deliver more affordable housing closer to jobs, transport and services.*

Clause 19.03-2S Infrastructure design and provision objective is:

*To provide timely, efficient and cost-effective development infrastructure that meets the needs of the community.*

Clause 19.03-3S Integrated water management objective is:

*To sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach.*

#### Planning Response:

The proposed development will result in a contemporary dwelling design and layout that is a higher density than the adjacent established residential development. Conversely the proposed development introduces a new built form and layout that will address housing supply shortages in Nhill and a diversity of housing to meet community needs. The proposed subdivision and development of seven single storey dwellings will encourage housing diversity and affordability in a residential zone that is in proximity to existing services and facilities.

The proposal will allow infill residential development to be accommodated within the town settlement boundary, which is encouraged in Clause 11.01-1L Settlement and Clause 02.03-1 Settlement and housing. The proposed development will adequately respect the character of the surrounding area in accordance with Clause 15.01-5S. The subdivision will require new infrastructure to be connected to service the lots. The proposed dwellings on Lots 1 to 7 will require services and infrastructure to be constructed in accordance with Clauses 19.03-2S and 19.03-3S.

The proposal will comply with the relevant planning policies in the MPS and PPF relating to Settlement, Built Environment, Housing, Infrastructure and Urban Development.

### **Clause 32.08 – General Residential Zone**

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

##### **Permit requirement**

A permit is required to subdivide land.

An application to subdivide land that would create a vacant lot less than 400 square metres capable of development for a dwelling or residential building, must ensure that each vacant lot created less than 400 square metres contains at least 25 percent as garden area. This does not apply to a lot created by an application to subdivide land where that lot is created in accordance with:

- An approved precinct structure plan or an equivalent strategic plan;
- An incorporated plan or approved development plan; or
- A permit for development.

An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 and:

- Must meet all of the objectives included in the clauses specified in the following table.
- Should meet all of the standards included in the clauses specified in the following table.

Class of subdivision	Objectives and standards to be met
3 – 15 lots	All except Clauses 56.02-1, 56.03-1 to 56.03-4, 56.05-2, 56.06-1, 56.06-3 and 56.06-6

### **32.08-4 Construction or extension of a dwelling or residential building**

#### **Minimum garden area requirement**

An application to construct or extend a dwelling or residential building on a lot must provide a minimum garden area of 35% of a lot if the lot is above 650 sqm.

#### Comments:

The garden areas exceed the 35% requirement on each lot to be developed (Lots 1-7).

### **Clause 32.08-6 Construction of two or more dwellings on a lot**

#### **Permit requirement**

A permit is required to:

- a) Construct two or more dwellings on a lot.

This Clause requires applications under this provision to be assessed against the requirements of Clause 55. The application complies with the provisions of Clause 55 as detailed later in this report.

#### Planning Response:

The application is consistent with the Municipal Planning Strategy and Planning Policy Framework as discussed above. The proposed development will change the appearance of the existing neighbourhood character in the immediate area. However, the contemporary building design, height and form will add visual interest and integrate with the streetscape and will adequately respect the neighbourhood character of the area. The development will encourage a diversity of housing types and housing growth in this location with good access to services and transport in Nhill. The proposal will comply with the purpose and objectives of the zone.

A Section 173 Agreement is required to ensure that the permit holder/owner agrees to construct the proposed development in accordance with the plans endorsed to the permit or alternatively, the approved dwellings are constructed in accordance with the plans endorsed to the permit before the subdivision is finalised, which can be addressed as conditions.

## **Overlay Provisions**

### **Clause 42.01 Environmental Significance Overlay Schedule 6 (ESO6)**

#### **42.01-2 Permit requirement** (relevant to application)

A permit is required to:

- Construct a fence if specified in a schedule to this overlay.
- Subdivide land. This does not apply if a schedule to this overlay specifically states that a permit is not required.

#### **42.01-5 Decision guidelines**

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 Planning Policy Framework.
- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.
- The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.
- Any other matters specified in a schedule to this overlay

### **Schedule 6 to the ESO – Catchments of Wetlands Conservation Value**

#### **3.0 Permit requirement** (relevant to application)

A permit is required for:

- Construction of a fence that may obstruct the flow of water

A permit is not required for:

- Construction of a building

#### Planning Response:

The applicant has stated there is no vegetation removal and the Landscape Plan shows that no vegetation will be removed that would otherwise require a permit under the ESO6. There is a small street tree in proximity to one crossover for Dwellings 4 and 5, but this street tree it is unlikely to need to be removed.

The Landscape Plan shows the planting of some trees, shrubs and ground covers on the site which will adequately landscape the site and protect the catchment management significance of the area.

The construction of the fences in between the proposed dwellings and proposed lots will not adversely impact on the flow of water into the water catchment within the area. The

Wimmera CMA has also advised they have no objections to the proposal and have required a condition for the fence and notes.

The application is consistent with the Municipal Planning Strategy and Planning Policy Framework subject to conditions as discussed above. The application complies with the environmental objectives of Schedule 6 of the ESO.

## **Particular Provisions**

### **Clause 52.06 Car Parking**

#### **52.06-2 Provision of car parking spaces**

Before a new use commences, the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority.

#### **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 car parking spaces required under Table 1**

Dwelling – 1 car space to each one or two bedroom dwelling

#### **52.06-9 Design standards for car parking**

##### **Design standard 1 – Accessways**

Accessways must:

- Be at least 3 metres wide.

##### **Design standard 2 – Car parking spaces**

Car parking spaces and accessways must have the minimum dimensions as outlined in Table 2, which specifies the proposed car spaces must be 4.9m long by 2.6m wide.

Where two or more car parking spaces are provided for a dwelling, at least one space must be under cover.

#### **Planning Response:**

The proposed seven one bedroom dwellings are each provided with a single uncovered car space. There is no specific requirement for the car spaces for the dwellings to be undercover where only one car space is provided per dwelling. There is no visitor space provided on site as required for five or more dwellings in Clause 52.06-5. The application seeks to reduce the one (1) visitor car space under Clause 52.06-3.

Although there are four (4) new crossovers proposed on Leahy Street that will reduce the availability of on street car parking, there is still adequate space for on street parking on the north side of Leahy Street. Council's Engineers have not raised concerns with the location of the crossovers, access driveways and car spaces for the proposed development.

Given that the reduction sought is only one visitor car space, on balance, this is an acceptable outcome in this residential area where on street car parking demand is low and the road reserve along Leahy Street is wide enough to accommodate two way traffic with vehicles parked on one side of the street.

### **Clause 53.01 Public Open Space Contribution and Subdivision**

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the *Subdivision Act 1988*.

#### **53.01-1 Exemption from public open space requirement specified in the scheme**

*A subdivision is exempt from a public open space requirement specified in this scheme if:*

- *It is one of the following classes of subdivision:*
  - *Class 1: The subdivision of a building used for residential purposes provided each lot contains part of the building. The building must have been constructed or used for residential purposes immediately before 30 October 1989 or a planning permit must have been issued for the building to be constructed or used for residential purposes immediately before that date.*
  - *Class 2: The subdivision of a commercial or industrial building provided each lot contains part of the building. It is for the purpose of excising land to be transferred to a public authority, council or a Minister for a utility installation. It subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided.*

#### **Planning Response:**

The proposed nine lot subdivision does not meet either of the exemptions under Clause 53.01-1. Therefore, a 5% public open space contribution to the value of the land is required in accordance with this Clause. This will be addressed as a condition.

### **Clause 55 – Two or more Dwellings on a lot and Residential Buildings**

The application has been assessed against the requirements of Clause 55 and generally complies with the objectives and standards of the relevant Clauses.

A variation to the access Standard B14 and Objective in Clause 55.03-9 has been sought by the applicant for the width of the four accessways, which are proposed to be 3m wide for a single crossover and access (Dwelling 1) and 6m wide for a double crossover and access (Dwellings 2 to 7) with a total width of 21m along the Leahy Street frontage. This equates to about 50% of the width of the frontage of the dwellings fronting Leahy Street, which exceeds the 33% width of the frontage requirement in the standard. There is landscaping proposed and no front fences along Leahy Street, which will assist to reduce the visual impact of access to the development from the street.

Having regard to the intent of the design and type of dwelling proposed with one bedroom and more affordable type housing, the varied front setbacks of the dwellings, no front fencing and proposed landscaping, the higher percentage of crossovers and access to the development and lots along Leahy Street is on balance an acceptable outcome.

A full assessment table as it relates to Clause 55 has been completed and is attached to the report (Attachment 2).

### **Clause 56 – Residential Subdivision**

The application has been assessed against the requirements of Clause 56 and complies with the relevant objectives and standards of the Clause. The variation to the standards and objectives are discussed below. A full assessment table as it relates to Clause 56 has been completed and is attached to the report (Attachment 3).

### **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 MPS and PPF as discussed above. The proposal will not adversely impact on the environment, human health and the amenity of the area. The proposal will enable the orderly planning of the area.

The proposal generally complies with the relevant decision guidelines of Clause 65.

The proposal should therefore be supported, and a Notice of Decision to Grant a Planning Permit be issued subject to conditions as outlined below.

**Strategic, Statutory and Procedural Requirements:**

The proposal will be consistent with the Municipal Planning Strategy and Planning Policy Framework, the General Residential Zone and the Environmental Significance Overlay Schedule 2, Clause 52.06, Clause 53.01, Clause 55, Clause 56 and Clause 65 of the Hindmarsh Planning Scheme subject to conditions.

**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:**

24/05/2022 Application submitted in SPEAR.  
14/06/2022 Fee paid  
20/06/2022 Further information requested  
12/07/2022 Response to further information received and amended plans received  
15/08/2022 Advertising directions sent to applicant and letters sent by registered post  
17/08/2022 Advertising in the newspaper, the Nhill Free Press.  
18/08/2022 Public notices erected on site by representatives of Council on behalf of the applicant  
18/08/2022 Submission received  
23/08/2022 Internal referrals to Engineering and Building (GovSS) sent  
24/08/2022 External referrals to WCMA, GWM Water and Powercor  
31/08/2022 Council response sent to submitter  
31/08/2022 Submitter response that if Council accepts the proposal they accept the proposal  
07/09/2022 External referral response received from Powercor  
09/09/2022 Notification period ended  
13/09/2022 Referral response received from Building (GovSS)  
13/09/2022 Referral response received from Engineering  
28/09/2022 The report is being presented to Council at the meeting held 28 September 2022 (60 statutory days)

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

**Link to Council Plan:**

N/A.

**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 – Ms Janette Fritsch, Manager Development

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 Notice of Decision to grant a Planning Permit, if approved.

**RECOMMENDATION:**

***That Council issues a Notice of Decision to grant a Planning Permit for Planning Application PA1781-2022 for the Development of seven dwellings, construct fences, reduce the number of car parking spaces and a nine-lot subdivision on the subject land at 77-79 Leahy Street Nhill VIC 3418 (Lot 1 and Lot 2 on Title Plan 160459P), subject to the following conditions:***

**Conditions:**

***Amended Plans***

- 1. Before the commencement of the development, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but amended to show:***
  - a) Amended plans to refer to the site as 77-79 Leahy Street, Nhill, on each page, (not No. 75, Lots 1 & 2 McKenzie Avenue).***
  - b) An amended Proposed Site Plan (TP05) to reword the notation about the location of crossovers to be constructed before the issue of Statement of Compliance for the subdivision or occupation of the development (whichever occurs first).***



- c) ***An Amended Plan of Subdivision to provide common property or a pedestrian access easement to the shared Group Service Pillars for the lots from the road reserve.***

***Endorsed Plans – Development***

2. ***The 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***

3. ***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.***

***Section 173 Agreement or Construction of Dwellings to Occupancy Permit***

4. ***Before the plan of subdivision is certified under the Subdivision Act 1988, the owner must either:***

- a) ***Enter into an agreement with the responsible authority made pursuant to Section 173 of the Planning and Environment Act 1987 (the Act) and make application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act, which specifies that:***
- i. ***The development of the lots will be constructed in accordance with the plans endorsed to Planning Permit PA1781-2022.***

***The owner/operator must pay the reasonable costs of preparation, execution and registration of the Section 173 Agreement.***

***OR***

- a) ***Provide evidence to the Responsible Authority that the approved dwellings have been constructed in accordance with the plans endorsed to Planning Permit PA1781-2022 and an occupancy permit has been issued.***

***Landscaping***

5. ***Before the occupation of the dwellings approved by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority.***
6. ***The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***

***Public Open Space Contribution for Subdivision***

7. ***Before the issue of a Statement of Compliance under the Subdivision Act 1988, the permit holder must pay a Public Open Space Contribution to the Responsible***

**Authority of 5% of the site value. Such payment will satisfy in full any Public Open Space requirement under the Planning Scheme.**

#### **General Requirements**

- 8. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.**
- 9. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.**
- 10. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.**
- 11. The exterior colour and cladding of the buildings must be of a non-reflective nature and / or either painted or have a pre-painted finish in natural, muted toning (or such other colour as is approved by the Responsible Authority) to the satisfaction of the Responsible Authority.**
- 12. 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.**
- 13. Provision must be made on the land for the storage of waste bins and recycling bins in a location that is not visible from the street to the satisfaction of the Responsible Authority.**

#### **Engineering**

##### **Drainage**

- 14. Before the commencement of the development or before certification of the plan of subdivision (whichever occurs first), the permit holder or owner must engage a Qualified Engineer to prepare a Drainage Plan/Assessment Report which addresses, at an appropriate level of detail, the arrangements for collecting, conveying, storing and discharging stormwater from the planned development by underground drainage system to the Council drainage network (nearest drainage pit is located at the corner of Johnston St and Leahy St), all at the expense of the permit holder or owner and the report must be submitted to the satisfaction of the Responsible Authority.**
- 15. Before the commencement of the development or before certification of the plan of subdivision (whichever occurs first), the Drainage Design Plans for the underground drainage system for the entire development must be submitted to and approved by the Responsible Authority.**
- 16. Before the issue of Occupancy Certificates for the Dwellings for the approved development or a Statement of Compliance, the construction of the approved Drainage Design must be completed at the expense of the permit holder or owner to the satisfaction of the Responsible Authority.**
- 17. No effluent or polluted water of any type may be allowed to enter the Council's Storm water drainage system to the satisfaction of the Responsible Authority.**

**Access/Vehicle crossovers:**

18. ***Before the issue of a Statement of Compliance for the subdivision or occupation of the development (whichever occurs first), a new crossover must be constructed to each lot to have independent access as per IDM SD-240 standard (single crossover) or IDM SD-245 (double/shared crossover) at the North side of each of the lots on Leahy Street to the satisfaction of the Responsible Authority.***
19. ***Before the issue of a Statement of Compliance for the subdivision or occupation of the development (whichever occurs first), a new crossover must be constructed to each lot to have independent access as per IDM SD-255 standard (see attached) at the South side of the lot on Rauert Lane (Johnstone Lane) to the satisfaction of the Responsible Authority.***
20. ***The vehicle crossing(s) must be constructed at the expense of the permit holder or owner to provide ingress and egress to the site to the satisfaction of the Responsible Authority.***

**Road Upgrading:**

21. ***Before the issue of a Statement of Compliance for the subdivision or occupation of the development (whichever occurs first), the section of Leahy Street from Mackenzie Avenue to the Eastern boundary of the site must be upgraded with sealed shoulders, kerb and channel (including drainage) and any associated roadworks to service the properties to the Council Standard all at the expense of the permit holder or owner to the satisfaction of the Responsible Authority.***
22. ***Before the issue of a Statement of Compliance, the section of Rauert Lane (Johnstone Lane) from Mackenzie Avenue to the Eastern side of the proposed crossover for Lot 9, must be upgraded to a gravel 5U all - weather Road to the Council Standard all at the expense of the permit holder or owner to the satisfaction of the Responsible Authority.***

**Mandatory Telecommunications Conditions**

23. ***The owner of the land must enter into an agreement with:***
  - a) ***a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and***
  - b) ***a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.***
24. ***Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:***
  - a) ***a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services***

*in accordance with the provider's requirements and relevant legislation at the time; and*

- b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*

#### **Wimmera CMA**

- 25. The material used in the construction of a fence should not act as a barrier that would redirect surface water flow. Any mounding of soil associated with the construction of a fence should not result in the redirection of surface water flow.**

#### **GWM Water**

- 26. The owner/ applicant must enter into a Developer Agreement with GWMWater for the supply of water and sewerage to each lot of the subdivision.**
- 27. The owner/ applicant must install water mains and associated works to serve each lot/ dwelling of the proposed development, at the owner's cost, and in accordance with GWMWater's specifications and requirements.**
- 28. The owner/ applicant must provide plans and estimates of all proposed water supply works prior to commencement, for GWMWater's approval.**
- 29. The owner/ applicant must provide individually metered water services to each lot/ dwelling in accordance with GWMWater's requirements.**
- 30. The owner/ applicant must install sewerage mains and associated works to individually serve each lot/ dwelling of the proposed development, at the owner's cost, in accordance with GWMWater's specifications and requirements.**
- 31. The owner/ applicant must provide individual sewer services to each lot/ dwelling in accordance with GWMWater's requirements.**
- 32. The owner/ applicant is responsible for verifying the condition of any existing sewer connection point/ s to determine their suitability for use.**
- 33. The owner/ applicant must provide plans and estimates of all proposed sewerage works prior to commencement for GWMWater's approval.**
- 34. The owner/ applicant must pay to GWMWater a fee of 3.25% of the total cost of construction (including design and supervision) for its review of design documentation and supervision of works. This fee relates to checking that the works are designed and constructed in accordance with GWMWater's requirements and does not relieve the developer from ensuring proper design and appropriate supervision.**
- 35. The owner/ applicant must provide three metre wide easements in favour of GWMWater over all existing and proposed sewers located within private land.**
- 36. The owner/ applicant must provide written notification of commencement of the works to enable GWMWater to organise inspections and coordinate with its staff.**
- 37. The owner/ applicant must ensure all infrastructure is tested in accordance with the relevant WSA and GWMWater standards. This includes water quality, compaction, air and hydrostatic pressure testing as directed by GWMWater.**

38. ***The owner/ applicant must provide "as constructed" plans and a schedule of final asset costs at the level identified in GWMWater's asset register for all water and sewerage works upon completion.***
39. ***The plan of subdivision submitted for certification must be referred to GWMWater in accordance with Section 8 of the Subdivision Act.***
40. ***The owner/ applicant must provide GWMWater with an updated drainage plan for each lot/ dwelling submitted by a qualified plumber.***
41. ***The owner/ applicant must ensure any existing water or sewer services and GWMWater assets made redundant by this development are abandoned, at the owner's cost, in accordance with GWMWater's standards.***

**Powercor**

42. ***This letter (dated 7 September 2022) shall be supplied to the applicant in its entirety.***
43. ***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.***
44. ***The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's 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.***
45. ***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.***
46. ***The applicant shall, when required by the Distributor, set aside areas with the subdivision for the purposes of establishing a substation or substations.***  
***Notes: Areas set aside for substations will be formalised to the Distributor's requirements under one of the following arrangements:***
  - ***RESERVES established by the applicant in favour of the Distributor.***
  - ***SUBSTATION LEASE at nominal rental for a period of 30 years with rights to extend the lease for a further 30 years. The Distributor will register such leases on title by way of a caveat prior to the registration of the plan of subdivision.***
47. ***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>Power Line</b>		<b>Section 88 - Electricity Industry Act 2000</b>	<b>Powercor Australia Ltd</b>

**Development Expiry**

**48. The 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.**

**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**

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

- **The plan of subdivision is not certified within two (2) years of the date of this permit.**
- **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 before construction of crossovers in the road reserve and must be obtained from Council's Infrastructure Department (Phone: 03 5391 4444).**

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

**The Legal Point of Discharge (LPD) can be applied with the building permit application/s.**

**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.**

**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-**

2022-00225 in your correspondence with us.

GWM Water

Should you have any queries, please contact our Development Services Officer, Kerrie Duxson.

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).

Attachment Numbers: 5 – 7

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**8.2 PLANNING PERMIT APPLICATION PA1782-2022 – DEVELOPMENT OF ALTERATIONS AND EXTENSIONS TO AN EXISTING RESIDENTIAL AGED CARE FACILITY INCLUDING CONSTRUCTION OF A FENCE, VEGETATION REMOVAL AND REDUCE THE NUMBER OF CAR PARKING SPACES REQUIRED AT 68-72 MACPHERSON STREET, NHILL, VIC 3418 (LAND IN PLAN OF CONSOLIDATION 362462C)**

<b>Responsible Officer:</b>	Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	123550
<b>Application No:</b>	PA1782-2022
<b>Applicant:</b>	Respect Group Ltd, C/- G2 Urban Planning
<b>Owner:</b>	Respect Group Ltd
<b>Subject land:</b>	68-72 Macpherson Street Nhill VIC 3418 (Land in Plan of Consolidation 362462C)
<b>Proposal:</b>	Development of alterations and extensions to an existing residential aged care facility including the construction of a fence, vegetation removal and reduce the number of car parking spaces required
<b>Zoning and Overlays:</b>	Public Use Zone 3 (PUZ3) Environmental Significance Overlay Schedule 6 (ESO6) <ul style="list-style-type: none"><li>• Clause 36.01-2 of the PUZ3 – Construct Buildings and Works for Section 2 Use</li><li>• Clause 42.01-2 of the ESO and Schedule 6 – Construction of a fence that may obstruct the flow of water and Vegetation Removal</li></ul>
<b>Attachment Number:</b>	8

## Summary

This report recommends that Council approve Planning Permit PA1782-2022 for the Development of alterations and extensions to an existing residential aged care facility including the construction of a fence, vegetation removal and reduce the number of car parking spaces required, for the subject land at 68-72 Macpherson Street Nhill VIC 3418 (Land in Plan of Consolidation 362462C), subject to standard conditions.

## Background

Planning Application PA1782-2022 was lodged with Council on 25 June 2021 and the application fee was paid on 2 July 2021. An amended application form was submitted on 17 August 2021 and an amended application form and amended plans were submitted on 3 September 2021 pursuant to Section 50 of the *Planning and Environment Act 1987*.

## Proposal

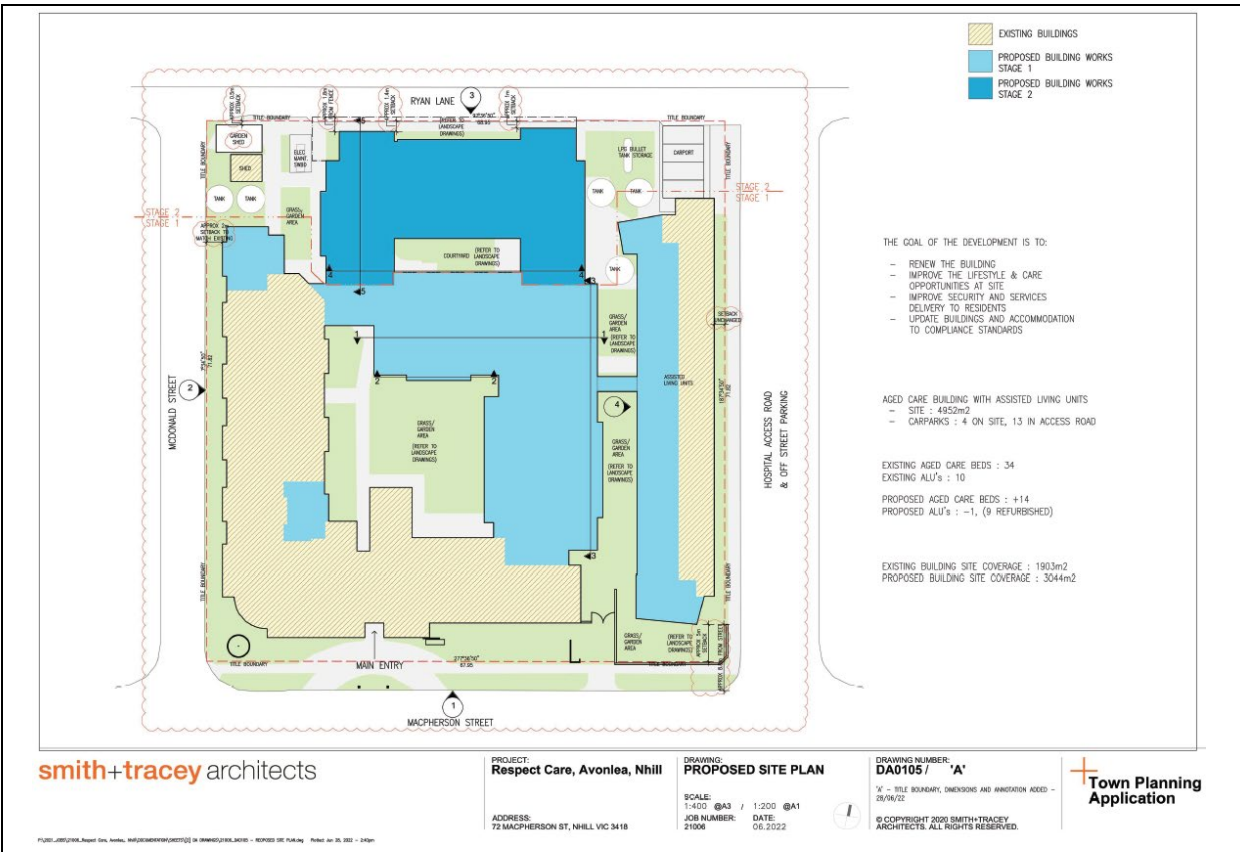
The application proposes the development of alterations and extensions to an existing residential aged care facility including the construction of a fence, vegetation removal and reduce the number of car parking spaces required.

The proposal consists of the following:

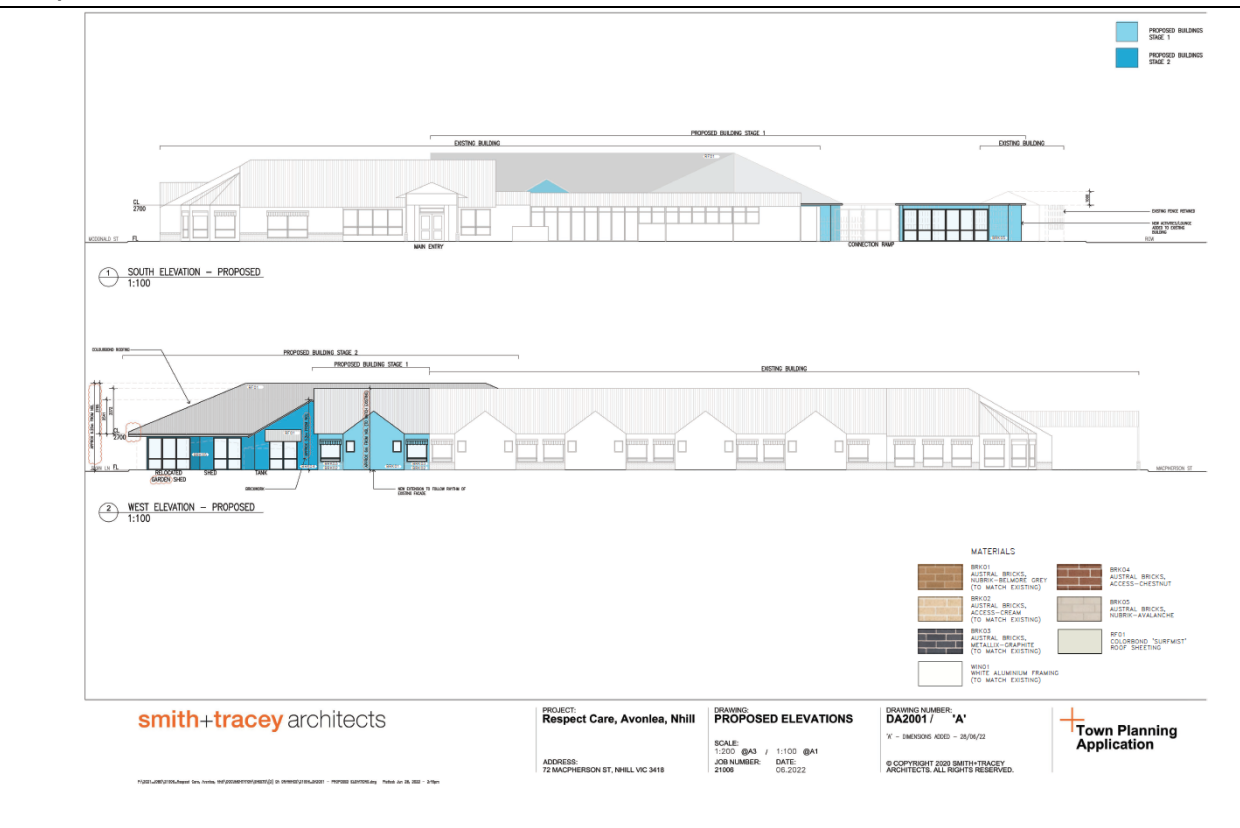
- The construction of alterations and additions to the existing Residential Aged Care Facility in two stages, Stage 1 and Stage 2. The redevelopment over two stages will result in an increase of the total number of beds from 34 to 48 on the site and enlarging and enhancing the assisted living units with a decrease from 10 to 9 units, which is a net increase of 13 units.
- The applicant has provided the following summary of the two stages:
- *Stage 1*
  - *10 existing under-sized age care rooms shall be demolished and replaced with 20 larger rooms with an overall greater site coverage as a result*
  - *1 assisted living unit removed and 9 units modified and refurbished to include an additional lounge to the west*
- *Stage 2*
  - *12 existing under-sized aged care rooms shall be demolished and replaced with 16 larger rooms with an overall greater site coverage as a result.*
- The applicant has also advised that *'The additions shall be constructed in two stages to designate that the two different components will be constructed separately, however both are proposed to be completed within the time frame of the sought planning permit.'*
- The retention of four (4) existing car spaces on the site and a reduction of three (3) car spaces for the 13 additional residential aged car facility units on the site.
- The construction of a boundary fence along part of the rear northern boundary adjoining Ryan Lane.
- The removal of existing trees and the planting of new landscaping on the site. A detailed Landscape Plan has been submitted with the application.

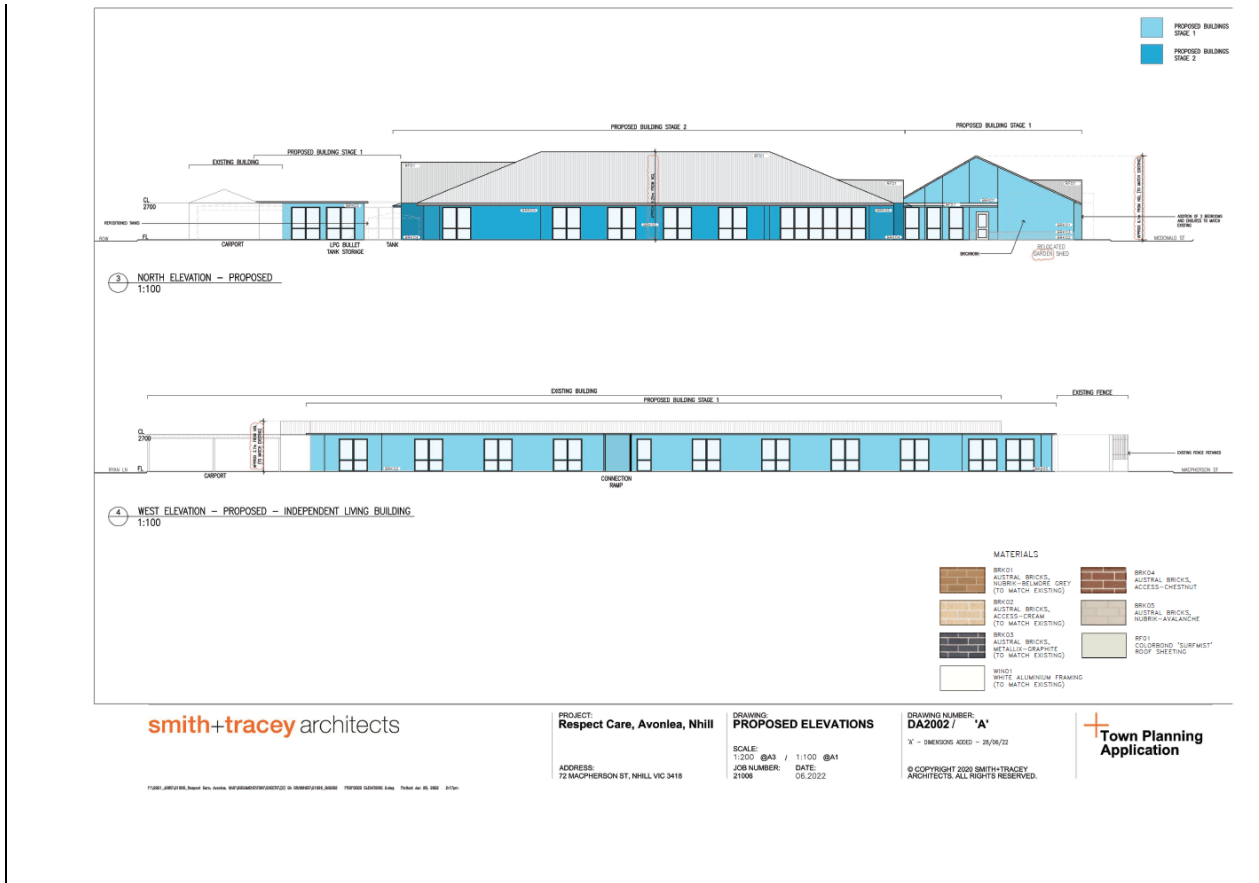


Proposed Site Plan showing Stage 1 and Stage 2 below:



Proposed Elevations below:





### Requirement for Permit:

The subject land is located within the Public Use Zone 3 (Heath and Community) and the Environmental Significance Overlay Schedule 6.

A planning permit is required to construct buildings and works for the existing Section 2 (permit required) use for a residential aged care facility under Clause 36.01-2 of the Public Use Zone 3. A planning permit is also required for the construction of a fence and vegetation removal under Clause 42.01-2 of the Environmental Significance Overlay and Schedule 6 of the Overlay.

### Subject Site and Locality

The subject site is located on the northern side of Macpherson Street, Nhill and adjoins McDonald Street to the west and Ryan Lane to the north. The site contains an existing Residential Aged Care Facility known as Avonlea. The site has a total area of 4952m<sup>2</sup>. There is an existing 2.0m wide powerline easement (E-1) extending along the western boundary of the site adjacent to the road reserve along McDonald Street.

The site is located to the south of the West Wimmera Health Service (Nhill Hospital) which is also within the Public Use Zone 3 and is approximately 500m to the east of the commercial centre of Nhill along Nelson Street and Victoria Street. There is a private access road and car park for 13 car spaces to the immediate east of the site, which is owned and used by the West Wimmera Health Service. There are residential properties to the west, south and further east of the site on the opposite sides of McDonald Street and Macpherson Street.

Aerial Photo below (Hindmarsh POZI)



**Photos of the site below:**



*Photo above taken from the frontage to Macpherson Street above*



*Photo above taken facing the eastern boundary of the site from Macpherson Street at the intersection with the private access road and car park*



*Photos above of rear of site and the footpath that is mostly within the site*

**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 as the proposal is not within land affected by Aboriginal Cultural Heritage Sensitivity pursuant to the *Aboriginal Heritage Regulations 2018*.

**Advertising**

**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 site fronting Macpherson Street, McDonald Street and Ryan Lane for a period of 14 days.
- Placing the public notice in the local newspaper, The Dimboola Banner.
- The application being made available for public viewing on Council's website.

A statutory declaration was received from the applicant. The notification has been carried out correctly by the applicant.

Council initially received one objection, which has since been withdrawn. The objection was withdrawn following discussions and clarification about the car parking reduction to be sought in the planning report, with an amended planning report being submitted to Council by the applicant.

## **Referrals**

### **External Referrals**

#### Section 55

*Wimmera Catchment Management Authority (WCMA) – Clause 66.04 Schedule – application pursuant to Clause 42.01-2 of the ESO and Schedule 6 to the ESO:*

- Does not object to the granting of a permit to the proposal as submitted and notes details about the maximum possible flood.

*Section 55 – Powercor - Clause 66.02-4 (Powerline easement within 60m)*

- No response received.

#### Section 52

Nil

### Internal Referrals

The application was referred internally to the following Department:

#### Engineering

Comments provided and conditions required are as follows:

#### Access:

Access to the Proposed development shall be from the existing entrances (see below).

Damage to existing Council infrastructure is to be minimised during construction of the Proposed development.

Any damage to Council infrastructure shall be replaced to original state, to the satisfaction of the Responsible Authority and at the applicant's expense.

#### Note:

A consent to works within road reserve permission is required prior to construction if working in the road reserve.

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

*Drainage:*

The applicant should engage a Qualified Engineer to prepare a drainage study/assessment which addresses, at an appropriate level of detail, the arrangements for collecting, conveying, storing and discharging stormwater from the planned development to drainage network to the satisfaction of the Responsible Authority and at the applicant's expense.

Should the drainage network require an upgrade, this shall be to the satisfaction of the Responsible Authority and at the applicant's expense.

No effluent or polluted water of any type may be allowed to enter the Council's Storm water drainage system.

*Car parking*

As per the application, the existing Car parking spaces provided is satisfactory and the three additional parking spaces are waived.

**Planning Scheme:**

Planning Scheme Requirements:

**Municipal Planning Strategy (MPS)**

Clause 02.02 Vision

Clause 02.03 Strategic Directions

Clause 02.03-1 Settlement and housing

Clause 02.03-5 Building Environment and heritage

Clause 02.03-6 Economic Development

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

- *Facilitate increased employment opportunities within and adjacent to the towns.*

Clause 02.03-8 Infrastructure

*The Shire is served by a range of community services that are integral to maintaining the communities.*

Clause 02.04 Strategic Framework Plans

- *Nhill Framework Plan*

**Planning Policy Framework (PPF)**

Clause 11.01-1S Settlement

Clause 11.01-1R Settlement- Wimmera Southern Mallee

Clause 15.01-2S Building Design

*Objective - To achieve building design outcomes that contribute positively to the local context and enhance the public realm.*

Clause 15.01-5S Neighbourhood character

*Objective - To recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

Clause 16.01-5S Residential aged care facilities

Objective - *To facilitate the development of well-designed and appropriately located residential aged care facilities.*

Clause 17.01-1S Diversified economy

Clause 17.01-1R Diversified economy – Wimmera Southern Mallee

Clause 19.03-2S Infrastructure design and provision

Clause 19.03-3S Integrated water management

Planning Response:

The proposed development will enhance the appearance of the site and the construction of an additional 13 residential aged care facility units will serve the needs of the community. The building design and landscaping will also protect and enhance the neighbourhood character and sense of place.

The proposal complies with the relevant policies in the MPS and PPF.

**Clause 36.01 – Public Use Zone 3 – Heath and Community**

**36.01-1 Table of uses**

The existing use of the land for a Residential Aged Care Facility is a Section 2 (Permit required) use in the zone.

**36.01-2 Permit requirement**

A permit is required to:

- Construct a building or construct or carry out works for any use in Section 2 of Clause 36.01-1.

**36.01-4 Decision guidelines**

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, 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.
- The comments of any Minister or public land manager having responsibility for the care or management of the land or adjacent land.
- Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines.

Planning Response:

The application is consistent with the Municipal Planning Strategy and Planning Policy Framework as discussed above. The site is within the Public Use Zone 3 (PUZ3) and although the subject land is privately owned, the proposal will expand this associated use that is consistent with the purpose and intent of the zone.

The proposed use and development will allow for the expansion and upgrades to the existing accommodation, facilities and services within this existing residential aged care facility in Nhill. There is some vegetation removal required to enable the extensions to the facility, but this existing vegetation is not significant and will be replaced by new landscaping that is proposed on the site. The plans will need minor revisions to ensure the new landscaping and fence along the northern boundary are contained within the title boundaries and do not encroach into Ryan Lane to the north.

The proposal will therefore comply with the purpose and decision guidelines of the zone.

### **Clause 42.01 Environmental Significance Overlay Schedule 6**

#### **42.01-2 Permit requirement**

A permit is required to:

- Construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.
- Construct a fence if specified in a schedule to this overlay.

#### **42.01-5 Decision guidelines**

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 Planning Policy Framework.
- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.
- The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.
- Any other matters specified in a schedule to this overlay

### **Schedule 6 to the ESO – Catchments of Wetlands Conservation Value**

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

- To ensure that land use and development within the primary catchment areas (ESO6) of wetlands of conservation value (ESO5), does not impact on the ecological condition of these wetlands.
- To prevent waste discharge, nutrients, other pollutants and increased turbidity of water within the primary catchment areas (ESO6) from degrading the ecological condition of wetlands of conservation value (ESO5).
- To ensure that changes to the biological, physical and chemical quality and quantity of water entering wetlands of conservation value (ESO5) from the primary catchment area (ESO6) does not degrade its ecological condition.
- To ensure that the increase or decrease of surface runoff or concentration of surface water runoff from primary catchment areas (ESO6) does not lead to erosion and siltation of conservation value wetlands (ESO5).
- To prevent changes in surface water flow within primary catchment areas (ESO6) from degrading the ecological condition of wetlands of conservation value (ESO5).



- To ensure that any land use and development within a primary catchment area (ESO6) is consistent with maintaining the existing ecological condition of the wetlands of conservation value (ESO5).

### **3.0 Permit requirement** (relevant to application)

A permit is required for:

- Construction of a fence that may obstruct the flow of water.
- Vegetation removal.

A permit is not required for:

- Construction of a building

### **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*.

#### Planning Response:

The vegetation removal is acceptable due to the existing vegetation having been planted that is not regarded as significant in terms of height and type of species. The new landscaping proposed on the Landscape Plan will enhance the external appearance of the facility with the planting of new trees, shrubs and ground covers.

The construction of the new fence along part of the northern boundary is necessary due to the new units in Stage 2 having windows facing directly onto Ryan Lane that require privacy and security measures along this boundary. The height and details of the fence are not shown on the site plans, elevations and landscape plan, which is required as part of an amended plans condition. The details of the fence are required to ensure the new fence does not adversely impact the flow of water into the water catchment within the area within the ESO6.

The Wimmera CMA has also advised that they have no objections to the proposal and required a note about flooding.

The proposal will therefore comply with the decision guidelines of the ESO and Schedule 6 of the ESO subject to conditions.

### **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 car parking spaces required under Table 1**

Table 1 of this clause sets out the car parking requirement that applies to a use listed in the Table.

- Residential Aged Care Facility – 0.3 car spaces to each lodging room

### **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:

- The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.
- The ease and safety with which vehicles access and circulate within the parking area.
- The provision for pedestrian movement within and around the parking area.
- The provision of parking facilities for cyclists and disabled people.
- The protection and enhancement of the streetscape.
- The provisions of landscaping for screening and shade.
- The measures proposed to enhance the security of people using the parking area particularly at night.
- The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.
- The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.
- The type and size of vehicle likely to use the parking area.
- Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.
- The need for the required car parking spaces to adjoin the premises used by the occupier/s, if the land is used by more than one occupier.
- Whether the layout of car spaces and accessways are consistent with Australian Standards AS2890.1-2004 (off street) and AS2890.6-2009 (disabled).

### Planning Response:

The submitted plans show the provision of four (4) existing car parking spaces on the site. The addition of 13 residential units will generate a requirement for three (3) additional car parking spaces on the site (3.9 car spaces is rounded down under this Clause). As there is no available space for the three (3) additional car parking spaces on the site, a reduction has been sought under Clause 52.06-3 listed above. The applicant has provided an updated car parking assessment in the amended planning report seeking approval for reducing the three (3) new car spaces required and noted the access road and car parking area to the east is separately owned and will not be used by staff and visitors to the site.

The proposed reduced rate of car spaces required is acceptable in this case for the following reasons:

- The existing use for 44 units would have generated a requirement for 13 car spaces and with four (4) car spaces on site, there is a reliance on off-site parking for staff, residents and visitors.
- The additional reduction of three (3) spaces is not likely to have adverse impact to the availability of on-street car parking and this demand can be reasonably well absorbed by the immediate road network. There are no parking restrictions on the adjacent streets. The adjacent roads appear to have sufficient width to provide for car parking spaces on both sides of the road without impeding traffic flow. The exception is Ryan Lane where no parking is possible due to shared vehicle and pedestrian access along this laneway.
- The demand for car parking spaces by residents is relatively low due to the nature of the use for a residential aged care facility and a high proportion of residents that do not drive. The main demand for car parking spaces is that of staff and visitors to the residents of the units.
- The reduced rate of car parking is unlikely to have a detrimental impact on the character and amenity of the area.
- The pedestrian movements at the rear of the site will be altered by the proposal. However, the narrow footpath at the rear of the existing building seems to be mostly contained within the lot boundaries and cannot be reasonably retained. The shared access for pedestrians and vehicles along Ryan Lane is acceptable due to the low volume and speed of vehicles likely to be travelling along the lane. A condition for lighting for security purposes is required.

### **Clause 53.17 Residential Aged Care Facility**

#### **53.17-1 Application**

This clause applies to an application to construct a building or construct or carry out works for a residential aged care facility in the General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.

#### Planning Response:

The subject site is within a Public Use Zone 3 and is not within any of the zones listed above. Therefore, this clause does not technically apply to the application.

### **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 (relevant to the application)

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.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *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 environment, human health and amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

Planning Response:

The proposal complies with the Municipal Planning Strategy and Planning Policy Framework and the Public Use Zone 3, particularly having regard to the community and economic benefit the proposal will have by improving the residential aged care accommodation and community services on the site and may also enhance employment opportunities. The proposal is unlikely to impact catchment management and further details of the new northern boundary fence will be required as a condition for amended plans to ensure the design, location and height of the fence do not affect the shared vehicle and pedestrian access along Ryan Lane to the north and to protect the environment.

The proposed development is unlikely to impact the amenity of the area. The proposal will enable the orderly planning of the area. A detailed stormwater drainage design plan for the development will be required as a condition to ensure stormwater is designed appropriately to Council standards. The existing vegetation on the site has been planted and is not significant, hence the vegetation removal is acceptable. There is adequate space on the site for loading and unloading facilities. The existing crossovers and access will be retained, and the proposal will not create any traffic flow and road safety impacts, not impact on the operation of the transport system surrounding the site.

The proposal will therefore comply with the relevant decision guidelines of this Clause.

**Strategic, Statutory and Procedural Requirements:**

The proposal is appropriate having regard to the Municipal Planning Strategy and Planning Policy Framework, the Public Use Zone 3, the Environmental Significance Overlay Schedule 6, Clause 52.06 and Clause 65 of the Hindmarsh Planning Scheme.

**Report to Council:**

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

**Processing Times:**

30/05/2022 Application lodged  
20/06/2022 Further information requested  
24/06/2022 Fee received  
01/07/2022 Response to further information and amended application form and amended plans received pursuant to Section 50 of the *Planning and Environment Act 1987*  
02/08/2022 Public notice instructions sent to applicant.  
03/08/2022 Letters and public notice sent by registered post to the adjacent owners and occupiers and public notice appeared in the Nhill Free Press  
17/08/2022 Objection received  
17/08/2022 Amended planning report received from applicant to update car parking assessment  
19/08/2022 Public notices erected on the three frontages in the correct locations  
22/08/2022 Objection sent to the applicant for a response  
22/08/2022 Objector advised by Director Infrastructure Services of the updated planning report  
23/08/2022 External referrals and internal referrals sent  
24/08/2022 Referral response from Wimmera CMA received  
30/08/2022 Applicant response to Objector concerns received  
02/09/2022 Objection withdrawn  
05/09/2022 Reminder sent to Powercor for referral response  
06/09/2022 Reminder sent to Engineering for referral response  
09/09/2022 Statutory declaration for advertising received from the applicant  
20/09/2022 Response received from WCMA following re - referral  
21/09/2022 Powercor referral response was not received  
28/09/2022 Presented to Council for approval

The report is being presented to Council for approval at the meeting held on 28 September 2022 (51 statutory days).

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

**Link to Council Plan:**

A range of effective and accessible services to support the health and wellbeing of our community.

**Financial Implications:**

There are unlikely to be financial implications for 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 – Jessie Holmes, 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 interests to disclose.

**Communications Strategy:**

Advise the applicant of the Council's decision.

**Next Steps:**

Issue Planning Permit if approved by Council.

**RECOMMENDATION:**

***That Planning Permit PA1782-2022 be approved, to allow the Development of alterations and extensions to an existing residential aged care facility, the construction of a fence, vegetation removal and reduce the number of car parking spaces required, for the subject land at 68-72 Macpherson Street Nhill VIC 3418 (Land in Plan of Consolidation 362462C), subject to the following conditions:***

**Amended Plans**

- 1. Before the commencement of the development, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but amended to show:***
  - a) Amended Proposed Site Plans and an Amended Landscape Plan to show the location of the proposed northern boundary fence and landscaping to be contained within the title boundary and to not encroach onto Ryan Lane to the immediate north.***
  - b) An Amended North Elevation or Fence Elevation to show the location,***

*height and design of the proposed boundary fence adjacent to the northern title boundary adjoining Ryan Lane.*

**Endorsed Plans**

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

**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.*

**Amenity**

4. *The 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.*
5. *External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.*

**Access and Car Parking**

6. *Car spaces and parking areas, access lanes and driveways must be constructed and maintained in a good condition to the satisfaction of the Responsible Authority.*

**Waste Management**

7. *Provision must be made on the land for the storage of waste and recycling bins in a location that is not visible from the street to the satisfaction of the Responsible Authority.*

**External Lighting**

8. *External lighting must be provided and must be designed, baffled, and located to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.*

**Engineering Conditions**

**Access**

9. *Access to the approved development on the site must be from the existing crossovers and entrances to the satisfaction of the Responsible Authority.*
10. *During the construction of the development, damage to existing Council*

***infrastructure must be minimised to the satisfaction of the Responsible Authority. If any damage to Council infrastructure occurs it must be replaced to original state at the expense of the owner or permit holder, to the satisfaction of the Responsible Authority.***

- 11. The vehicle crossovers must be constructed at the permit holder's expense to provide ingress and egress to the site, to the satisfaction of the Responsible Authority.***
- 12. Any redundant crossovers must be removed, and the kerb and channel reinstated to the satisfaction of the Responsible Authority.***

#### **Drainage**

- 13. Before the commencement of the development, the owner or permit holder must engage a Qualified Engineer to prepare a Drainage Plan/Assessment Report, which addresses, at an appropriate level of detail, the arrangements for collecting, conveying, storing and discharging stormwater from the planned development to drainage network, all at the expense of owner or permit holder and the report must be submitted to the satisfaction of the Responsible Authority and must be approved by the Responsible Authority.***

***Should the drainage network be required to be upgraded, this must be constructed in accordance with an approved Drainage Plan at the expense of the owner or permit holder to the satisfaction of the Responsible Authority.***

- 14. Stormwater drainage must be constructed and connected to the Legal Point of Discharge to the satisfaction of the Responsible Authority.***
- 15. No effluent or polluted water of any type may be allowed to enter the Council's Storm water drainage system to the satisfaction of the Responsible Authority.***

#### **Permit Expiry**

- 16. 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.***

***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 months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.***

#### **Notes:**

##### **Planning**

- A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site, so they are aware of the conditions to which this***



*approval applies.*

### **Engineering**

- A consent to works within road reserve permission must be obtained from Council's Engineering Department (03 53914444) before construction if working in the road reserve.  
<https://www.hindmarsh.vic.gov.au/register-for-permits>
- The Legal Point of Discharge (LPD) is to be made at the southern side of the property into the existing kerb and channel of the Macpherson Street road reserve or an alternative LPD as confirmed by Council's Engineering Department.

### **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.
- 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-2022-00219 in your correspondence with us.

*Attachment Number: 8*

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## **8.3 PLANNING PERMIT APPLICATION PA1777-2022 – USE AND DEVELOPMENT OF AN AIRFIELD (PRIVATE RUNWAY) – 64 TARRANYURK WEST ROAD TARRANYURK VIC 3414 (LOT 2 ON PLAN OF SUBDIVISION 839026D)**

<b>Responsible Officer:</b>	Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	77500
<b>Application No.</b>	PA1777-2022
<b>Applicant:</b>	Mr Mark Carter, Price Merrett Consulting P/L
<b>Owner:</b>	Mr Maurie Jaeschke
<b>Subject Land:</b>	64 Tarranyurk West Road Tarranyurk VIC 3414 (Lot 2 on Plan of Subdivision 839026D)
<b>Proposal:</b>	Use and development of an airfield (private runway) and associated earthworks
<b>Zoning &amp; Overlays:</b>	Farming Zone (FZ) Environmental Significance Overlay Schedule 6 (ESO6) - part
<b>Attachment Number:</b>	9

### **Summary:**

This report recommends that Council approve Planning Permit PA1777-2022 for the use and development of an airfield (private runway) on the land at 64 Tarranyurk West Road Tarranyurk VIC 3414 (Lot 2 on Plan of Subdivision 839026D), subject to standard conditions.

### **Background:**

The site is currently used for agricultural purposes, mainly for cropping and the southern part of the land also contains an existing dwelling, farm sheds, shelterbelt vegetation and access driveways from Tarranyurk West Road.

**Proposal Details:**

The application proposes the use and development of an airfield (private runway) and associated earthworks on the subject land. The airfield is proposed to be used as a private runway for the owner of the land. The applicant has described the proposal as follows:

*'The landowner wishes to create the runway for private use in the Farming Zone. The associated earthworks will require a planning permit in the Farming Zone. The Environmental Significance Overlay Schedule 6 is imposed over the site and the earthworks also trigger the need for the permit.*

*The runway will assume similar construction to a sealed road. Earthworks will level and compact the surface so it can be sealed to provide an all-weather runway tarmac. The dimensions will be 25m wide and approximately 1 km long. The construction will strip 200mm of topsoil from the alignment which will be reused on the batters. Cropping of the remaining paddock area will still take place beyond the runway footprint.*

*Access to the runway will be from the existing farm entrance on the property along a farm track.*

*Fuel will not be stored onsite.*

*The existing powerline will be removed as it transects the alignment of the proposed runway. Upgraded underground power has been connected to the dwelling.'*

In regard to potential, noise, dust, site amenity and environmental values, and fire risk, the applicant has stated in the Planning Report that:

*'The land is zoned farming and is exposed to existing noise from surrounding farming activities in the vicinity. The intermittent take off and landing of small aircraft at the airstrip is not anticipated to impact neighbouring landowners significantly. The closest nearby offsite residence is 400m to the east.*

*The proposal does not create any changes to the existing site amenity and environmental values.*

*The proposal does not create any changes to the existing fire risk. Earthworks are limited to some cut and fill and the sealing of the surface for the tarmac.'*

Aerial Maps of the Development Area from the Planning Report by Price Merrett Consulting below:

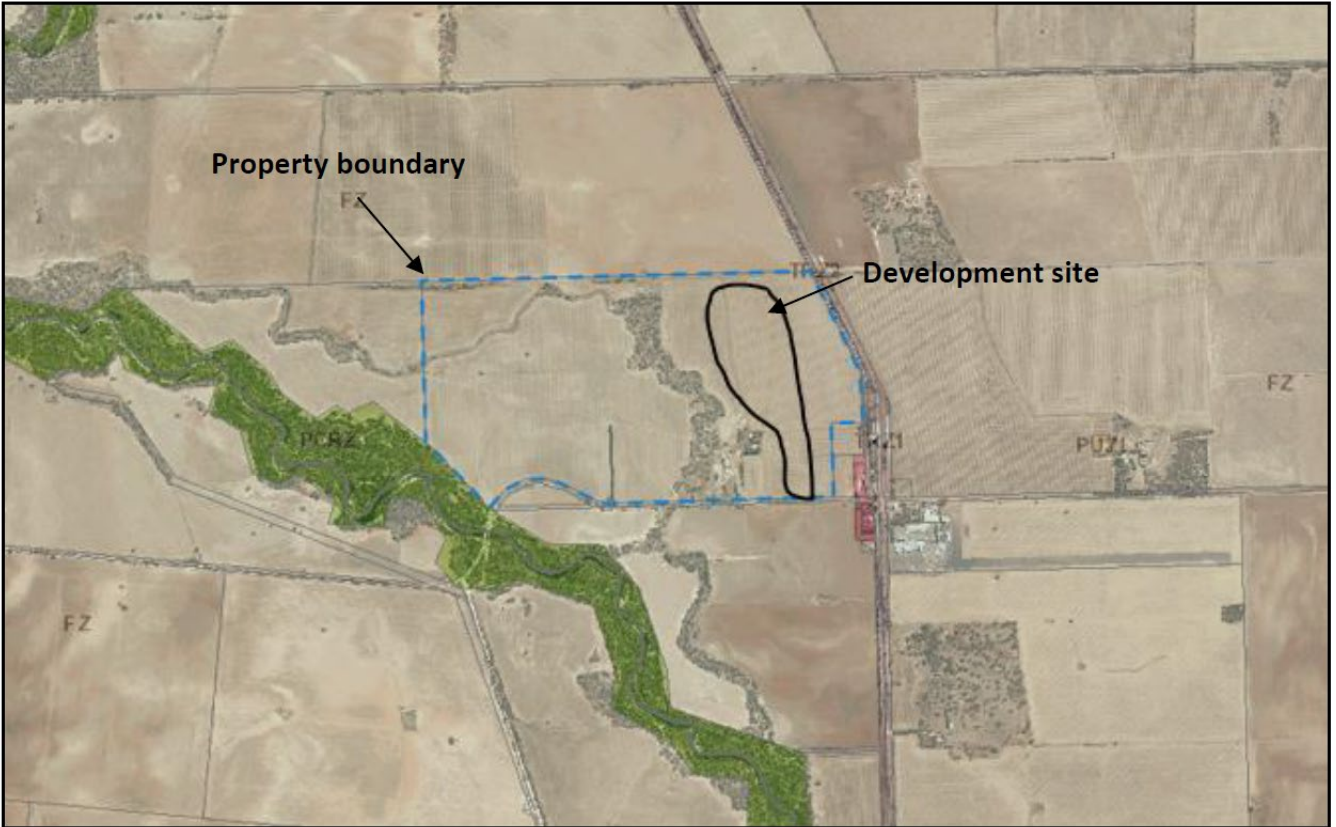


Figure 1: Proposed development Site

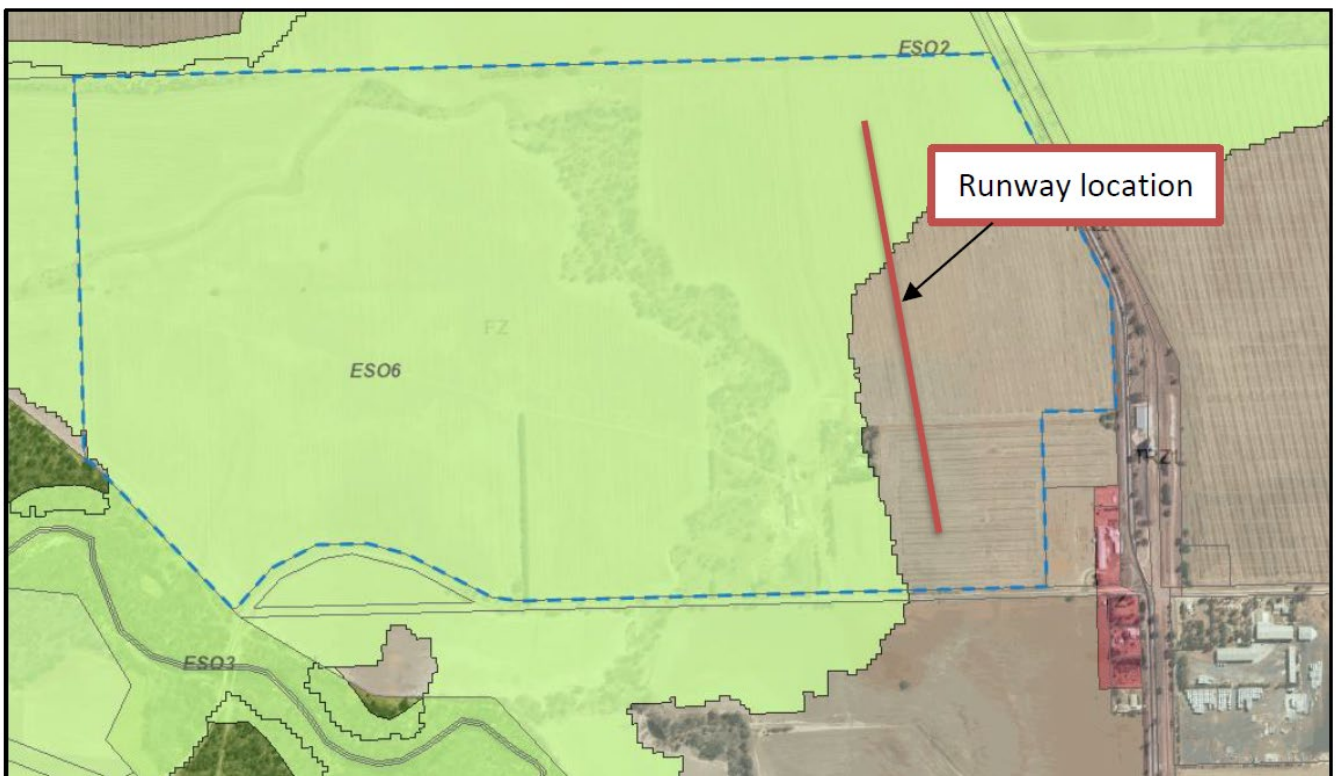
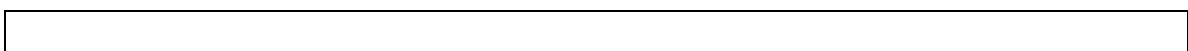
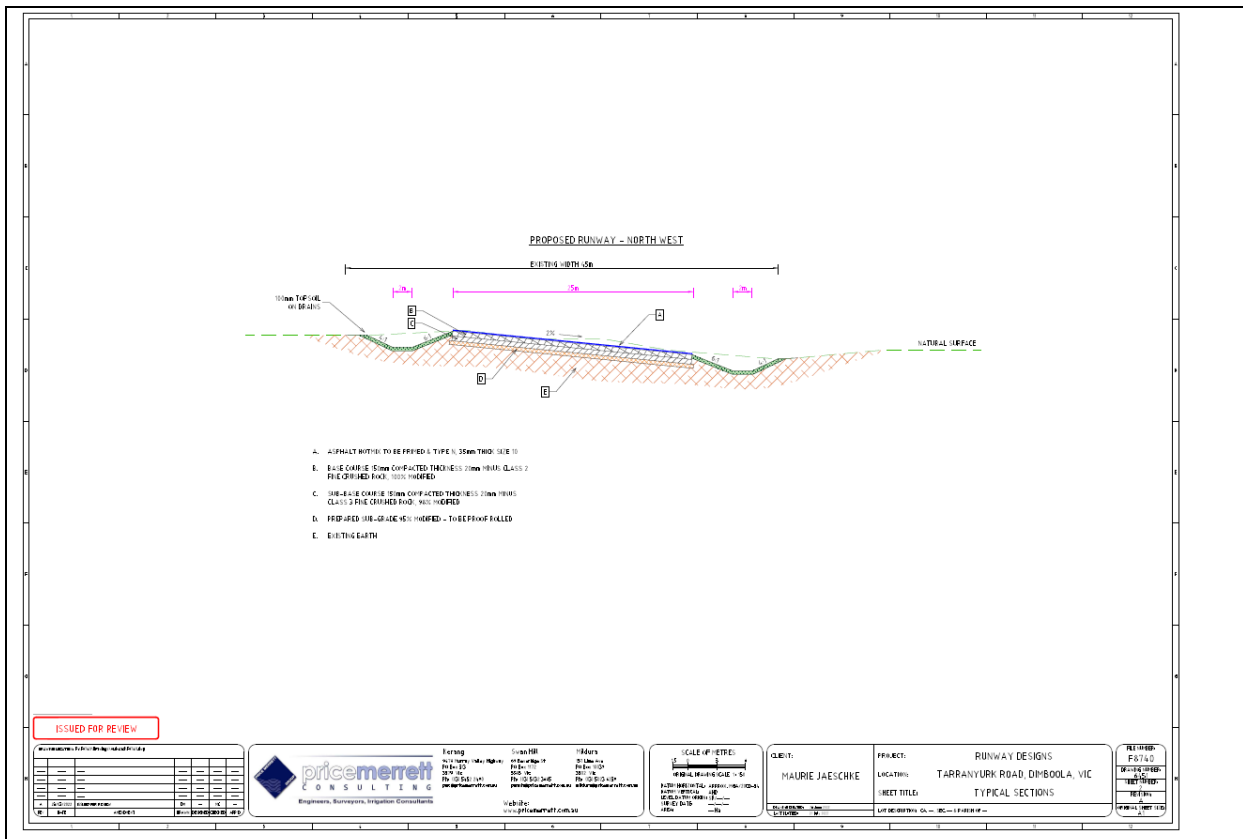
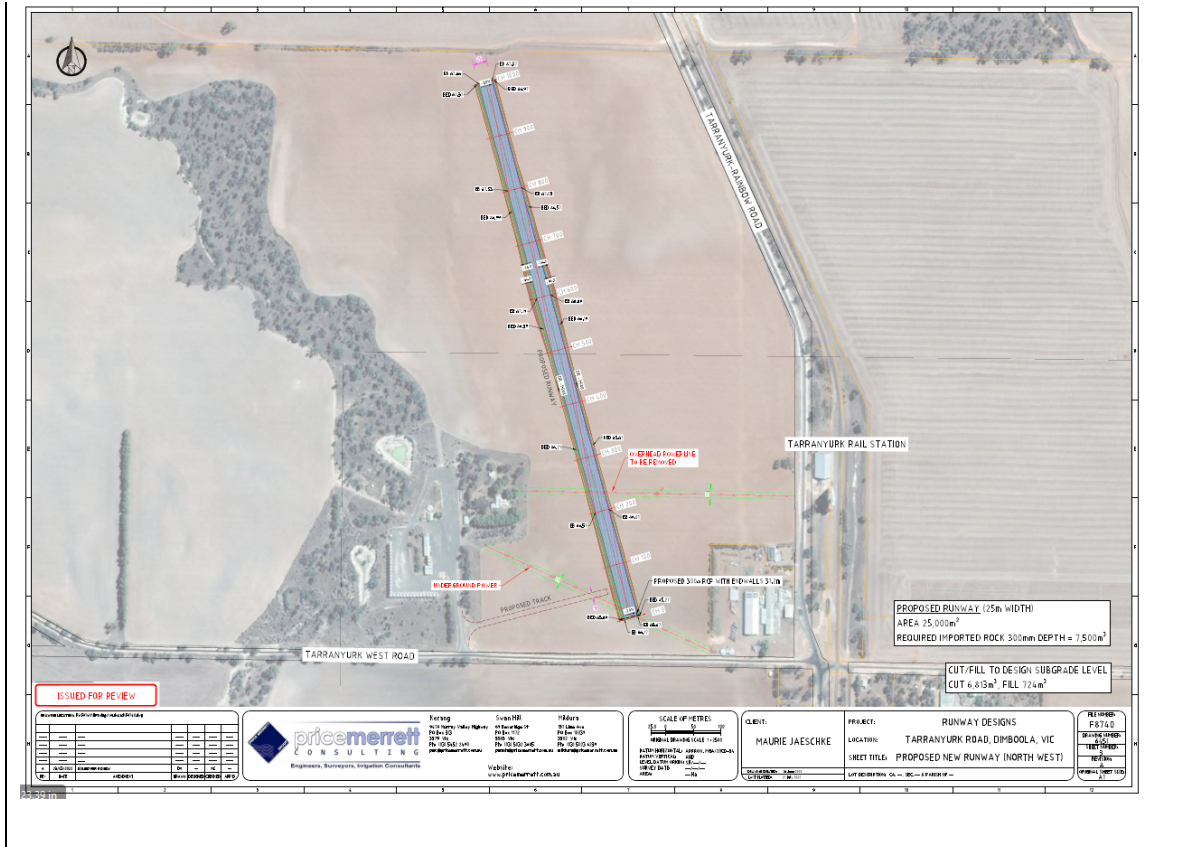


Figure 4: Location of runway in relation to ESO

Proposed Site Plan and Cross-Section below:





**Requirement for Permit:**

The subject land is located within the Farming Zone and the Environmental Significance Overlay Schedule 6.

A planning permit is required for use of the land for an airfield (non-specified Section 2 use) under Clause 35.07-1 of the Farming Zone. A planning permit is also required to construct works under Clause 35.07-4 of the Farming Zone.

A planning permit is required for earthworks associated with the construction of the runway under the Environmental Significance Overlay Schedule 6. There is no vegetation removal within the area covered by the overlay.

**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):**

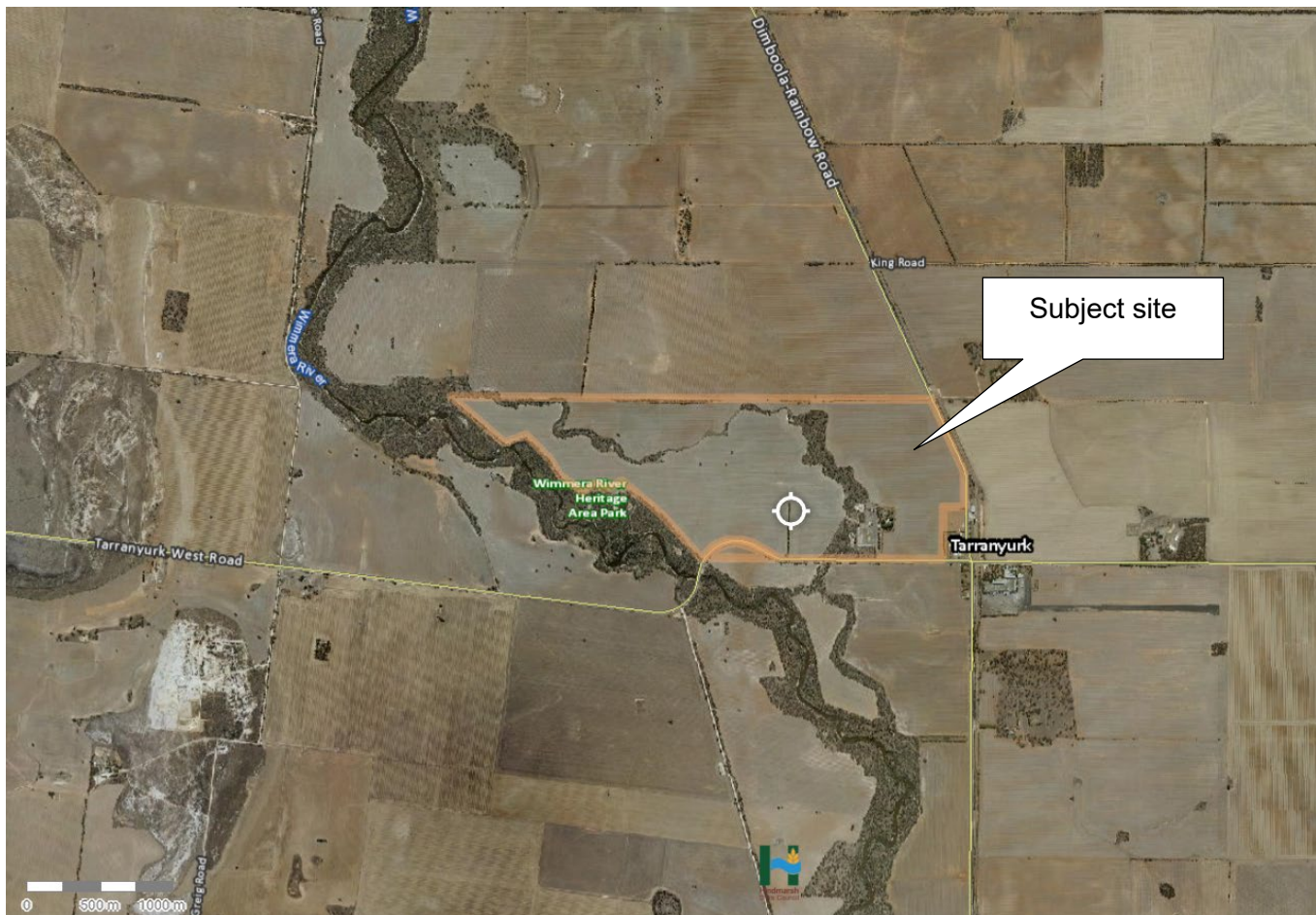
The proposal is exempt from requiring a CHMP pursuant to the *Aboriginal Heritage Regulations 2018* as the site is not within an Aboriginal Cultural Heritage Sensitivity Area.

**Subject site & locality:**

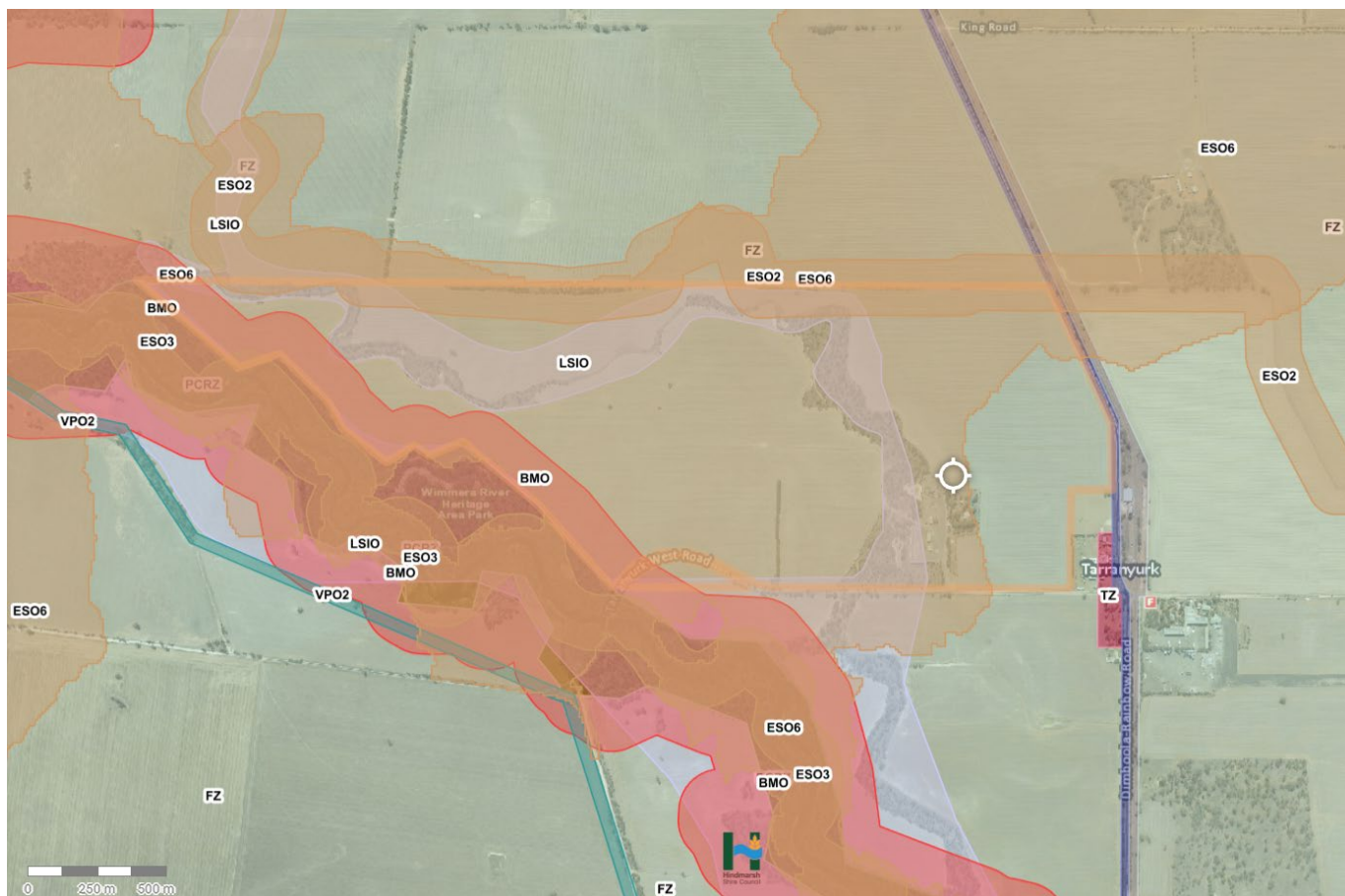
The subject land is located on the northern side of Tarranyurk West Road in Tarranyurk. The proposed runway will be located on Lot 2 PS839026D, which is a 207ha parcel located approximately 200m from the centre of the rural small settlement of Tarranyurk. The land is generally flat and is used for agriculture. The land is held in common ownership with various allotments and is used for cropping. The land contains the land owner's existing dwelling and farm sheds and the owner operates as a broad scale cropping enterprise. The site contains scattered vegetation and planted vegetation in proximity to the existing dwelling. There is a 12m wide powerline easement listed as E-2 on the title for the land. The applicant has advised that the *'original overhead power has been upgraded and is now underground.... however this is not listed on title. Removal of the overhead powerline is scheduled to be removed by PowerCorp'*.

The surrounding land is also used largely for cropping. The Wimmera River extends along the south-western side of the lot. The site and surrounding area is within the Farming Zone (FZ) and is also affected the Environmental Significance Overlays Schedule 2 and Schedule 6 (ESO2 & ESO6) and closer towards the Wimmera River there are also the Land Subject to Inundation Overlay (LSIO). The proposed runway is not within the area affected by the LSIO. The Bushfire Management Overlay (BMO) also affects the far south-west corner of the land and is well away from the area for the proposed runway.

Aerial Photo of the site and the surrounding area with farmland and the Wimmera River below:



Aerial Photo of the site and surrounding area with Zone (FZ) and Overlays (ESO2 & ESO6) for the area shown below (POZI):



**Consultation:**

Consultation was undertaken and included:

- A request for further information was sent to the applicant on 25 May 2022.
- A response to the further information including amended plans was received on 30 June 2022.
- A second request for further information was sent to the applicant on 22 July 2022.
- A second response to the further information including amended plans and an amended planning report was received on 27 July 2022.

**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 and adjacent land.
- Placing one public notice on the front boundary of the site.
- Placing a public notice in Dimboola Banner and Rainbow Jeparit Argus.
- 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**

Wimmera CMA – Does not object subject to conditions to manage the earthworks proposed.

Powercor – No response within the required timeframe of 28 days.

### **Section 52 Referrals**

Civil Aviation Safety Authority (CASA) – No concerns regarding the proposal.

GWM Water – No objection to the grant of a permit subject to conditions.

### **Internal Referrals:**

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

#### *Access:*

Access to the Proposed Airfield is to be from the existing entrance at 64 Tarranyurk West Road.

#### *Drainage:*

The applicant should engage a Qualified Engineer to prepare a drainage study/assessment which addresses, at an appropriate level of detail, the arrangements for collecting, conveying, storing and discharging stormwater from the planned development (stormwater runoff from the runway to table drains) to drainage network, to the satisfaction of the Responsible Authority and at the applicants expense.

Storm water system should be installed so that there is minimal chance of erosion.

The land owner is responsible for ensuring water does not flow onto neighbouring properties or out into Council's road reserve.

No effluent or polluted water of any type may be allowed to enter the Council's Storm water drainage system.

### **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

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 11.01-1L 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 15.01-6S Design for rural areas  
Clause 18.02-7S Airports and airfields  
Clause 19.03-2S Infrastructure design and provision

Planning Response:

The proposed development of a private runway on the land will be limited for use by the land owner and will not be accessible by the public. Noise generated from small aircraft will be intermittent and given that the nearest neighbouring properties are not in the direct flight path, with the closest being approximately 400m east of the runway, the siting and layout of the airfield are acceptable.

The existing overhead powerline will be moved underground and Powercor have not required specific conditions for this work to be carried out. Aviation fuel will not be stored on site which prevents any potential fire risk.

The proposal will comply with the relevant provisions of the MPS and PPF 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 on each lot which is a Section 2 Use (Permit required) under this Clause.

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

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

- A building or works associated with a use in Section 2 of Clause 35.07-1.
- A building which is within any of the following setbacks:
  - The setback from any other road or boundary specified in a schedule to this zone.
  - The setback from a dwelling not in the same ownership specified in a schedule to this zone.

#### **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

### **Schedule to the Farming Zone**

There are no relevant requirements in the Schedule.

#### Planning Response:

The proposed earthworks for the runway will be designed to ensure the rate of flow or the discharge point of water across the property boundary will not change. The eastern part of the land is suitable for the proposed runway.

The proposed airfield for the private runway will result in the modest loss of some cropping land, however, there are various allotments in common ownership that are part of the existing farming enterprise operated by the owner of the land. The construction of the runway will provide an all-weather surface for aircraft operated by the owner to travel between various land holdings to manage farming operations, which is an efficient mode of travel in this rural location due to the long travel distances required. The runway will also enable the use of the runway for aircraft for crop dusting/spraying purposes which will enhance the agricultural productivity of the balance of the land and surrounding land. The proposal will not limit or adversely impact the agricultural activities on the surrounding land.

The proposed earthworks will be required to be constructed to prevent adverse impacts on the environment and the adjacent Wimmera River. Conditions are required to provide a detailed drainage plan of the level of detail for collecting, conveying, storing and discharging stormwater from the planned development to ensure the stormwater runoff from the runway is to table drains and does not discharge across the site towards the Wimmera River.

### **Overlay Provisions**

#### **Clause 42.01 Environmental Significance Overlay Schedule 6 (ESO6)**

##### **42.01-2 Permit requirement** (relevant to application)

A permit is required to:

- Construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.

##### **42.01-5 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 Planning Policy Framework.
- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.

- Any other matters specified in a schedule to this overlay

## **Schedule 6 to the ESO – Catchments of Wetlands Conservation Value**

### **3.0 Permit requirement** (relevant to application)

A permit is required for:

- Earthworks.

#### Planning Response:

The proposed earthworks for the runway will be designed to ensure the rate of flow or the discharge point of water across the property boundary will not change. Conditions will be required for a drainage plan, stormwater discharge and runoff is directed to table drains and does not flow towards the Wimmera River, onto neighbouring land or Council's road reserve.

## **Particular Provisions**

### **Clause 52.06 Car Parking**

#### **52.06-2 Provision of car parking spaces**

Before a new use commences, the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority.

#### **52.06-6 Number of car parking spaces required for other uses**

Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority. This does not apply to the use of land for a temporary portable land sales office located on the land for sale.

#### Planning Response:

The proposal does not generate any additional demand for car parking as this is a private runway for the owner of the land. There is no need to provide car parking on site for the private runway under Clause 52.06-6. The proposal complies with this Clause.

## **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.

Planning Response:

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

**Discussion:**

The proposed use and development of an airfield for private runway for the land owner will result in the loss of some cropping land, but this is balanced with the continued agricultural use of the western part of the land and the ability of the owner to use cropping and spraying aircraft to improve agricultural productivity and to fly to other land parcels in common ownership.

The potential impact of any earthworks will be managed by conditions to prevent changes to drainage patterns and other relevant drainage conditions required by Council's Engineering team. The proposal will comply with the relevant planning policies in the MPS and PPF, the relevant decision guidelines of the FZ and Clause 65.

The proposal should therefore be approved, and a Planning Permit is issued subject to conditions 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 Decision Guidelines.

**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:**

29/04/2022 Application submitted in SPEAR.  
24/05/2022 Fee paid  
25/05/2022 Further information requested  
29/06/2022 Partial response to further information received  
30/06/2022 Amended plans received  
22/07/2022 Second further information request sent  
27/07/2022 Final response to further information received  
15/08/2022 Advertising directions and letters sent.  
17/08/2022 Public notice in the Dimboola Banner  
18/08/2022 Public notice in the Rainbow Jeparit Argus  
18/08/2022 Public notice erected on site  
23/08/2022 Referral to Engineering sent  
24/08/2022 External referrals sent  
31/08/2022 Response to some referrals received

02/09/2022 Statutory declaration form returned and notification period ended  
09/09/2022 Response received from Engineering  
28/09/2022 The report is being presented to Council at the meeting held 28 September 2022 (63 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:**

N/A.

**Financial Implications:**

There are no financial implications 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 – Ms Jessie Holmes, 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 PA1777-2022 for the Use and development of an airfield (private runway) and associated earthworks on the land at 64 Tarranyurk West Road Tarranyurk VIC 3414 (Lot 2 on Plan of Subdivision 839026D, 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.***

***Wimmera CMA***

2. ***Earthworks should not degrade the ecological condition of areas covered by ESO5. This may result through:***
  - a) ***Changes to surface drainage patterns, leading to altered hydrology.***
  - b) ***Water entering the ground water aquifer, or the increase in sediments entering areas covered by ESO 5.***
3. ***No earthworks that alter the natural alignment of waterways will be permitted.***

***Powercor***

4. ***The existing powerline within the powerline easement must be constructed underground as required by Powercor to the satisfaction of the Responsible Authority.***

***Engineering***

**Access:**

5. ***Access to the Proposed Airfield is to be from the existing entrance at 64 Tarranyurk West Road.***

**Drainage:**

6. ***Before the commencement of the development, the permit holder or owner must engage a Qualified Engineer to prepare a Drainage Plan/Assessment Report which addresses, at an appropriate level of detail, the arrangements for collecting, conveying, storing and discharging stormwater from the planned development (stormwater runoff from the runway to table drains) to drainage network, all at the expense of the permit holder or owner and the report must be submitted to the satisfaction of the Responsible Authority.***
7. ***The Storm water system must be installed to ensure there is minimal chance of erosion to the satisfaction of the Responsible Authority.***
8. ***The land owner is responsible for ensuring water does not flow onto neighboring properties or out into Council's road reserve to the satisfaction of the Responsible Authority.***
9. ***No effluent or polluted water of any type may be allowed to enter the Council's Storm water drainage system to the satisfaction of the Responsible Authority.***

***Use and Development – Permit Expiry***

10. ***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.*

**Notes:**

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.*

*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-2022-00226 in your correspondence with us.*

*Attachment Number: 9*

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## **9 REPORTS REQUIRING A DECISION**

### **9.1 ANNUAL FINANCIAL STATEMENTS AND PERFORMANCE STATEMENT FOR THE YEAR ENDED 30 JUNE 2022**

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

**Attachment Numbers:** 10 – 11

**Introduction:**

The purpose of this report is to provide Council with the audited Annual Financial Statements and Performance Statement for the year ended 30 June 2022 and for Council to adopt the statements pending no material change to the reports presented.

**Discussion:**

The *Local Government Act 2020* (Act) requires a resolution of Council to adopt the In-Principle Financial Statements and In-Principle Performance Statement. The Act also requires a resolution of Council to appoint two Councillors to sign these documents in their final form on behalf of Council, under Section 99 (2) and (3) of the Act.

The Financial and Performance Statements were prepared in accordance with the requirements of the Act and the applicable accounting standards. Copies of the Statements were provided to Crowe (external auditor acting for the Victorian Auditor-General's Office). The audit of the Statements has now been completed.

The Financial and Performance Statements were presented to Council's Audit and Risk Committee meeting on Wednesday 21 September 2022 with the recommendation being, pending no material change to the Statements, that Council approve principle the Financial Statements and Performance Statement for the year ended 30 June 2022 and authorise any two Councillors to sign the Financial Statements and Performance Statement in their final form.

At the time of preparing this report, the Audit and Risk Committee meeting had not been held. A verbal update will be provided at the Council meeting on the Audit & Risk Committee's recommendation.

Once finalised and certified by Council, the Auditor General will prepare the formal report on the Financial and Performance Statements for inclusion in Council's Annual Report 2021/22.

The 2021/22 Financial Statements show a comprehensive surplus of \$8.349 million compared to \$2.399 million in 2020/2021.

Total revenue for the financial year was \$26.373m, an increase of \$3.371 from the previous financial year. The increase is largely due to the recognition of grant income carried forward from 2020/2021 as well as the early receipt of the Grants Commission funding.

Total expenditure for the financial year was \$18.024m a decrease of \$2.579m from the previous financial year. The decrease is largely due to the adjustment in depreciation as well as reclassification of income from recoverable costs to expenses.

At 30 June 2022 Council held \$8.980m cash at bank as well as \$6.0m in term deposits greater than 90 days. This is largely due to a number of grants for the 2022/23 financial year being received prior to 30 June 2022 including 75% if the Grants Commission funds.

Capital works expenditure was \$12.180m for 2021/22, an increase of \$5.685m from 2020/21. The increase is due to a number of items of plant being ordered in 2020/21 but received in 2021/2022 as well as the construction of the Albacutya Bridge.

**Options:**

Council must comply with its obligations under the *Local Government Act 2020* by passing the resolutions required by Section 99. Council has the option of nominating which Councillors certify the Financial Statements and the Performance Statements or appoint all Councillors to certify with any two Councillors to sign.

**Link to Council Plan:**

Strong governance practices  
Long-term financial sustainability  
Ensure responsible risk management principles

**Financial Implications:**



There are no financial implications in this process. The statements outline financial performance for the previous year but costs for their production are part of normal operating expenditure.

**Risk Management Implications:**

Management of risks will minimise Council's exposure to adverse financial impacts, improve effectiveness and generate efficiencies.

**Relevant legislation:**

*Local Government Act 2020*

**Community engagement:**

Not applicable

**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.

Author – Heather Boyd, Manager Finance and Customer Services

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

Officer Responsible – Monica Revell, Director Corporate & Community Services

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

**Communications Strategy:**

Following signing of the final form of the Statements, the Statements will be included in Council's Annual Report for 2021/22 as well as being available on Council's website.

**RECOMMENDATION:**

***That, pending no material changes to the Statements, Council:***

- 1. Approves in principle the Financial Statements and Performance Statement for the year ended 30 June 2022; and***
- 2. Authorises Mayor and Deputy Mayor to sign the Financial Statements and Performance Statement in their final form.***

*Attachment Numbers: 10 – 11*

### 10.1 DIMBOOLA TOWNSHIP ADVISORY COMMITTEE

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

**Introduction:**

The Dimboola Township Advisory Committee held a meeting on 6 September 2022 (no quorum). 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:***

- 1. notes the minutes of the Dimboola Township Advisory Committee meeting held on 6 September 2022 (no quorum); and***
- 2. notes the resignation of Louie Catania from the Committee.***

*Attachment Number: 12*

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### 10.2 NHILL TOWNSHIP ADVISORY COMMITTEE

**Responsible Officer:** Director Corporate and Community Services  
**Attachment Numbers:** 13 – 16

**Introduction:**

The Nhill Township Advisory Committee held meetings on 22 February 2022, 16 May 2022, 20 June 2022 and 18 July 2022. The purpose of this report is to note the minutes from these meetings. A copy of these minutes are included as attachments for the information of Council.

**RECOMMENDATION:**

***That Council notes the minutes of the Nhill Township Advisory Committee meetings held on 22 February 2022, 16 May 2022, 20 June 2022 and 18 July 2022.***

*Attachment Numbers: 13 – 16*

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### 10.3 YURUNGA HOMESTEAD COMMUNITY ASSET COMMITTEE

**Responsible Officer:** Director Corporate and Community Services  
**Attachment Number:** 17

**Introduction:**

The Yurunga Homestead Community Asset Committee held a meeting on 28 July 2022. The purpose of this report is to note the minutes from this meeting. A copy of these minutes is included as an attachment for the information of Council.

**RECOMMENDATION:**

***That Council notes the minutes of the Yurunga Homestead Community Asset Committee meeting held on 28 July 2022.***

*Attachment Number: 17*

**11 LATE REPORTS**

**12 NOTICES OF MOTION**

**13 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 part IV of the *Freedom of Information Act 1982*, and 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, and/or Part IV of the Freedom of Information Act 1982:***

- 14.1 REQUEST FOR QUOTE – AWARD FOR PURCHASE OF ONE (1) MOTOR GRADER – 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;**
- 14.2 CONTRACT AWARD 2022-2023-01 DEMOLITION AND CONSTRUCTION OF RETAINING WALL AND VIEWING DECK AT JEPARIT SWIMMING HOLE – 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; and**
- 14.3 REQUEST FOR QUOTATION - ELECTRICAL UPGRADE RAINBOW CARAVAN PARK & RECREATION RESERVE - 2022-2023-Q06 – 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.**

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**15 LATE CONFIDENTIAL REPORTS**

**16 MEETING CLOSE**

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