



17 November 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 23 November 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:

1. Ordinary Council Meeting held on Wednesday 26 October 2022 at the Nhill

Memorial Community Centre Nhill, and
2. Annual Statutory Meeting held on Wednesday 9 November 2022 at the Nhill
Memorial Community Centre Nhill,
as circulated to Councillors be taken as read and confirmed.

Attachment Numbers: 1 – 2

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 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: 19 October – 15 November 2022

Cr IRELAND, MAYOR

Date	Meeting	Location	Comments
22/10/2022	Meeting at WMPM to assess rising water levels due to river flows	Jeparit	It was decided to explore and adopt a risk management plan for the museum in the advent that things had to be moved that were in danger. Council have since furnished us with the relevant flood level documents
26/10/2022	Council briefing	Nhill	
26/10/2022	Council meeting	Nhill	
27/10/2022	Yurunga Homestead meeting		
03/11/2022	Newspaper interview at Lake Hindmarsh with Weekly Advertiser		
05/11/2022	Rainbow Twilight Market	Oasis	
07/11/2022	Jeparit Kindergarten AGM		

09/11/2022	Annual Statutory Meeting	Nhill	
10/11/2022	Complete written interview for submission to Argus newspaper on mayor's role		
11/11/2022	Phone interview Weekly Advertiser		
13/11/2022	Complete written response to Nhill free press on mayor's role		
14/11/2022	Jeparit town meeting		
15/11/2022	Wimmera Mallee Pioneer Museum meeting		

Cr ALBRECHT, DEPUTY MAYOR

Date	Meeting	Location	Comments
26/10/2022	Council Briefing	Nhill	
26/10/2022	Council Meeting	Nhill	
09/11/2022	Council meeting prior to Statutory meeting	Nhill	
09/11/2022	Council Statutory meeting 2022	Nhill	Congratulations Cr Brett Ireland who was elected as the new Mayor
14/11/2022	Nhill & District Sporting Club Annual General Meeting	Nhill	Congratulations to the new Executive and Committee members.

Cr BYWATERS

Date	Meeting	Location	Comments
19/10/2022	Community consultation	Dimboola Library	
20/10/2022	Grampians tourism industry Forum	Barangaroo Boutique Wines, Lower Norton	
23/10/2022	Nhill Lions Club, Garden Walk	Nhill and Winiam	
25/10/2022	Nhill Homework club	The Patch	
26/10/2022	Council briefing, council meeting and council only time meeting		
28/10/2022	Hindmarsh Visitor	Nhill	

	information Centre Volunteer		
03/11/2022	Oaks Day ladies' luncheon, fundraiser for the Jeparit kindergarten	Jeparit	
04/11/2022	Goolum Goolum Wimmera River challenge	Dimboola	
04/11/2022	Saint Kilda film Festival	Nhill Cinema	
05/11/2022	Wimmera River challenge Day 2	Dimboola	
05/11/2022	Rainbow market	The Oasis Rainbow	
05/11/2022	Dimboola Twilight riverfront market	Wimmera River Dimboola	
08/11/2022	West Vic Business Master Class with Amanda Stevens and West Vic Business AGM	Online	
09/11/2022	Hindmarsh Shire Council, statutory meeting	Online due to Covid-19	
15/11/2022	Nhill Homework club	The Patch	

Cr GERSCH

Date	Meeting	Location	Comments
26/10/2022	Council meeting		
28/10/2022	RCV board meeting		
02/11/2022	NWMA Zoom meeting re MAV regions		
09/11/2022	Pre-Statutory meeting		
09/11/2022	Statutory meeting		
11/11/2022	Remembrance Day service		
11/11/2022	RCV. Board meeting re flood funding		
14/11/2022	AGM Nhill Sporting Club		

Cr NELSON

Date	Meeting	Location	Comments
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19/10/2022	Community consultation	Dimboola	
26/10/2022	Briefing meeting		
26/10/2022	Council meeting	Nhill	
03/11/2022	Oaks Day function	Jeparit	
04/11/2022	Wimmera River Challenge	Dimboola	
05/11/2022	Twilight market	Dimboola	
09/11/2022	Statutory meeting	Nhill	
11/11/2022	Remembrance service	Dimboola	
15/11/2022	Wimmera Southern Mallee LLEN Finance Meeting		

Cr ISMAY

Date	Meeting	Location	Comments
25/10/2022	WMT Meeting	Edenhope	
26/10/2022	Council Briefing meeting	Nhill	
26/10/2022	Council Meeting	Nhill	
27/10/2022	Info and inspection of Llew Schilling Silo		
27/10/2022	Rainbow Rises PCG meeting		
28/10/2022	Western Highway Action Group meeting		
09/11/2022	Pre-Statutory meeting	Nhill	
09/11/2022	Annual Statutory meeting	Nhill	
14/11/2022	Rainbow new resident's welcome BBQ		
15/11/2022	Llew Schilling silo PCG meeting		

7 CORRESPONDENCE

No general correspondence.

8 PLANNING PERMITS

8.1 APPLICATION FOR PLANNING PERMIT PA1722-2021 – USE AND DEVELOPMENT OF A SERVICE STATION, CONSTRUCT AND DISPLAY SIGNS INCLUDING AN INTERNALLY ILLUMINATED ELECTRONIC PYLON SIGN AND ALTER ACCESS TO A TRANSPORT ZONE 2 – 56-58 VICTORIA STREET, NHILL, VIC 3418 (LOT 1 ON PS 070675)

Responsible Officer:	Director Infrastructure Services
File:	Planning – Applications
Assessment:	148080
Application Number:	PA1722-2021
Applicant:	Mr Michael Badaoui, C/- Courtney Campbell, Development Solutions Victoria Pty Ltd (DSV)
Owner:	Better Service Stations Pty Ltd
Subject Land:	56-58 Victoria Street Nhill VIC 3418 (Lot 1 on PS 070675)
Proposal:	Use and development of a Service Station, construct and display signs including an internally illuminated electronic pylon sign and alter access to a Transport Zone 2
Zoning & Overlays:	Commercial 1 Zone (C1Z) <ul style="list-style-type: none">• Clause 34.01-1 of the C1Z – Use for a Service Station (Section 2 non-specified use)• Clause 34.01-4 of the C1Z - Buildings and works for Section 2 Use Bushfire Management Overlay (BMO) <ul style="list-style-type: none">• No works within a very small area of the BMO in south-east corner of the site
Other Permit Requirements:	<ul style="list-style-type: none">• Clause 52.05 – Construct and display signs• Clause 52.29 – Alter access to a Transport Zone 2
Attachment Numbers:	3 – 4

Summary

This report recommends that Council approves Planning Permit Application PA1722-2021 and issue a Notice of Decision to Grant a Planning Permit for Use and development of a Service Station, construct and display signs including an internally illuminated electronic pylon sign and alter access to a Transport Zone 2, on the land at 56-58 Victoria Street Nhill VIC 3418 (Lot 1 on PS 070675), subject to standard conditions.

Background

The site has been vacant for some time and contains vacant buildings that were formerly used as a service station, motor vehicle repairs and a caretaker's residence many years ago.

Proposal

The application proposes the use and development of a service station, construct and display signs including an internally illuminated electronic pylon sign and alter access to a

Transport Zone 2. The amended proposal involves the construction of one new canopy building.

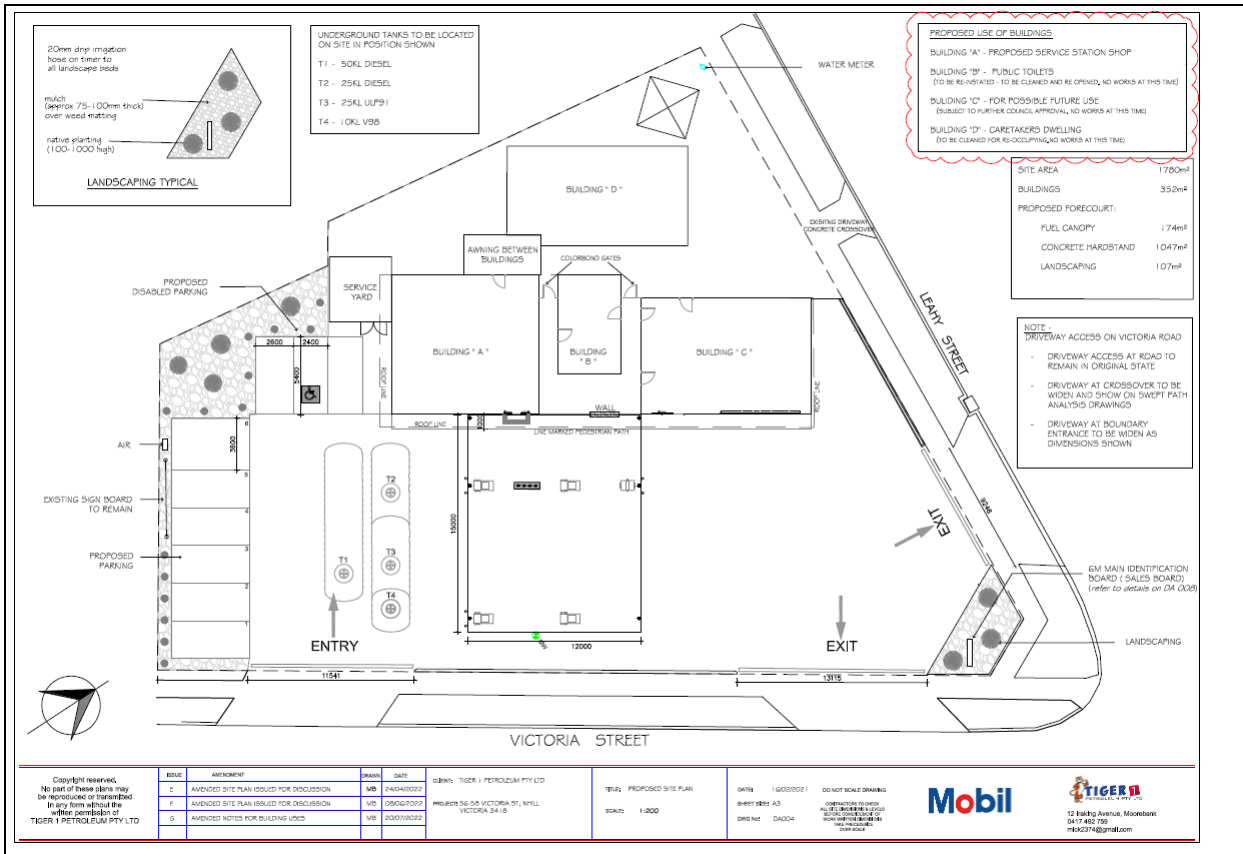
The applicant states that *'The proposal is to create a modern, functional and attractive service station. The proposal includes:*

- *2 new canopies (1 canopy proposed on amended plans).*
- *4 new fuel bowsers.*
- *50,000 litre underground diesel tank.*
- *25,000 litre underground diesel tank.*
- *ULP91 underground tank.*
- *V98 underground tank.*
- *Landscaping.*
- *Car parking.*
- *Upgrade of the sales board (signage).*
- *Upgrading of access to Victoria Street.*
- *One exit access point to Leahy Street.*

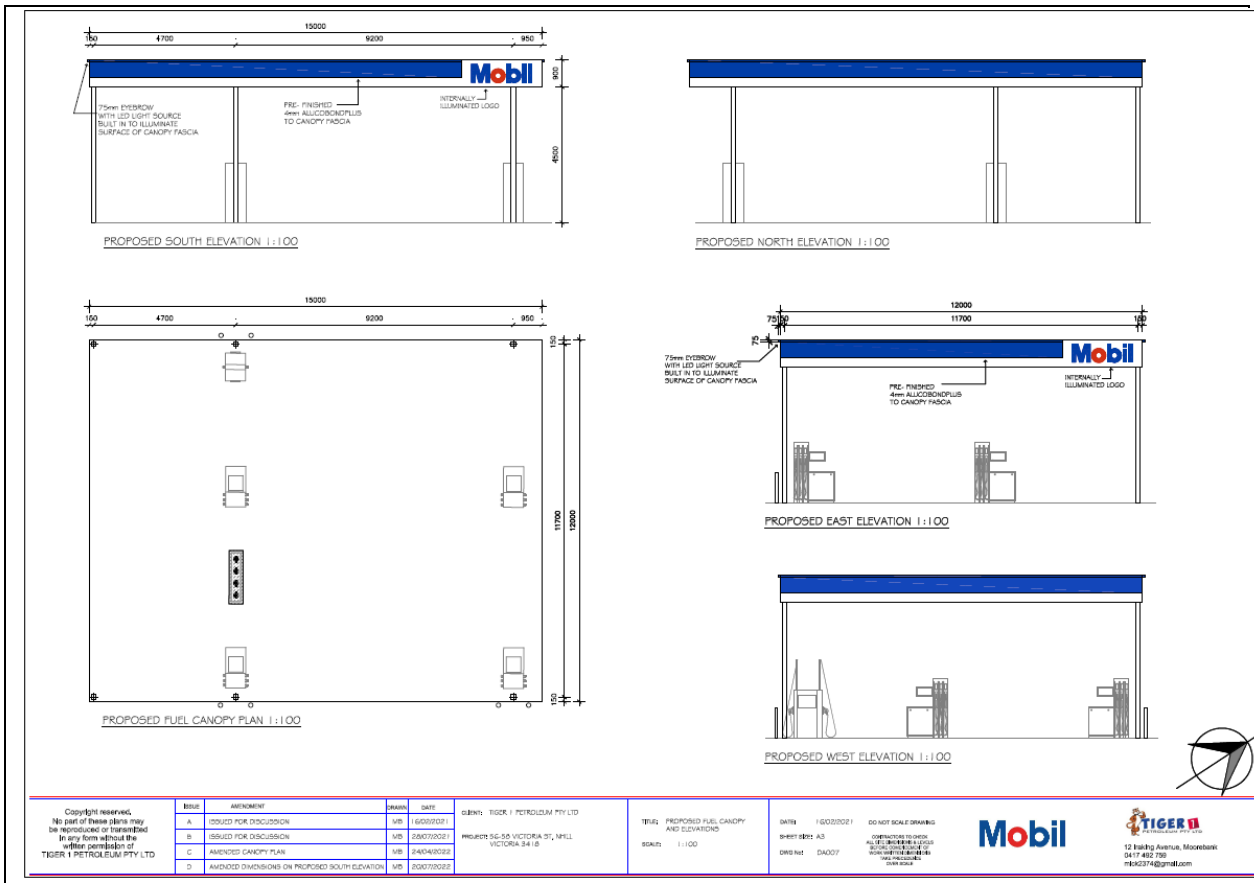
The proposal will utilise the existing building as shown on the development plans. The existing access to and from the site will be upgraded and will include traffic direction and control measures to ensure functional traffic movement to, from and within the site. The building colours and signage will be blue, red and white consistent with the Tiger 1 branding. The proposal is seeking to create a development that is to be visually appealing and purposeful by including upgraded illuminated sales board, fuel canopies, new fuel bowsers, upgraded fuel storage capacity, car parking spaces.

The proposed service station will operate 7 days a week from 5:30am – 9:30pm.'

Proposed Site Plan below:

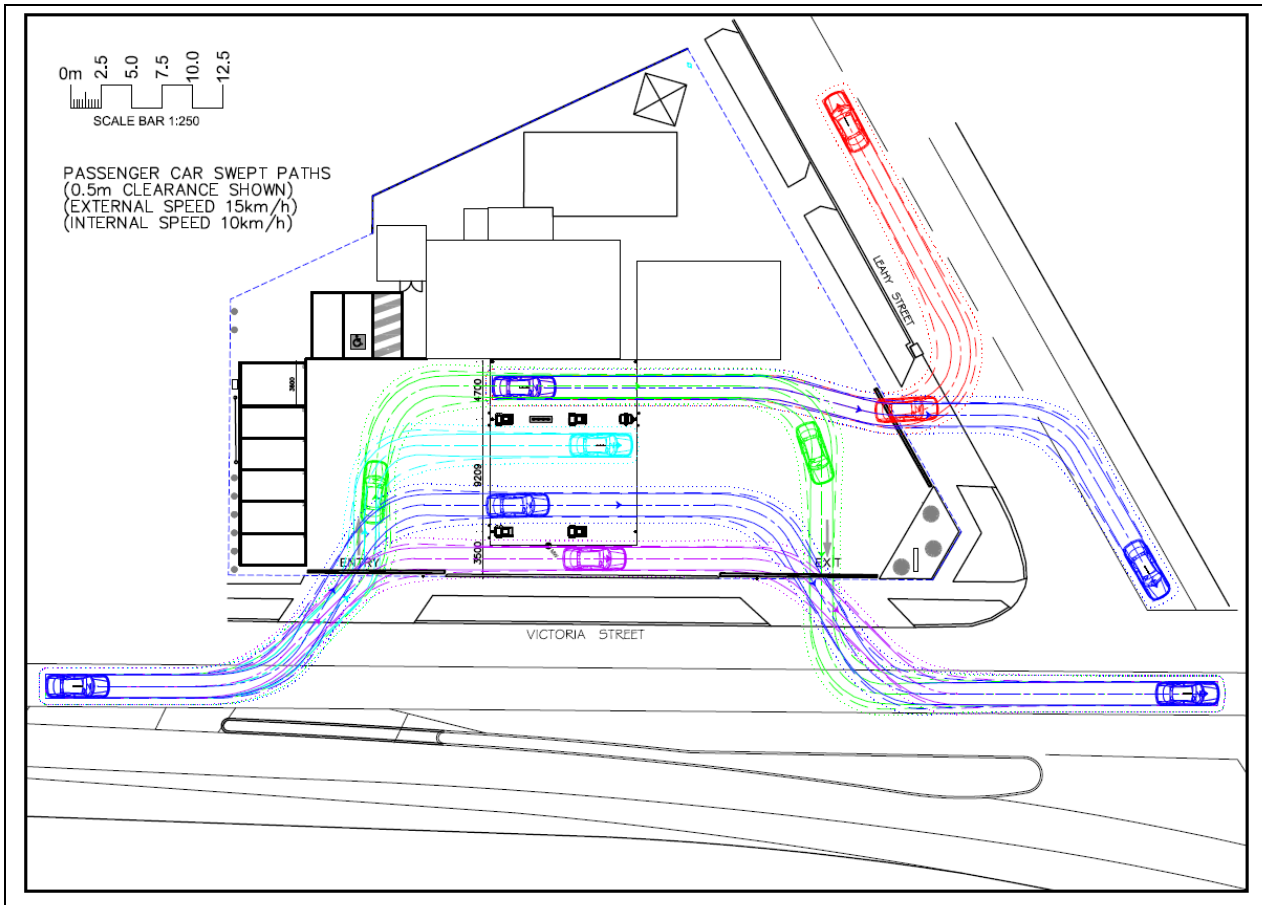


Proposed Elevations below:

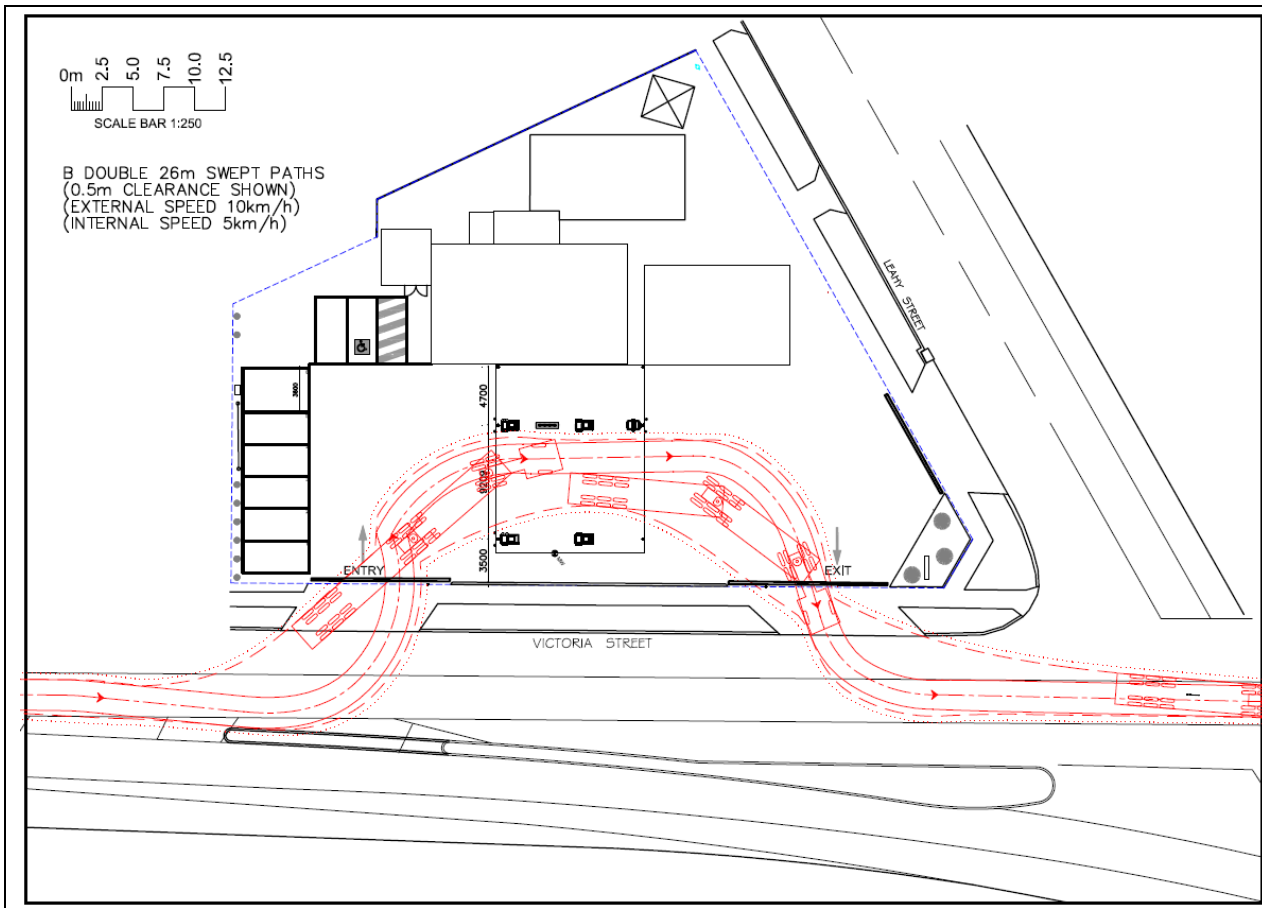


Proposed Signs below:

Proposed Passenger Car Swept Paths Plan below:



Proposed B-Double 26m Swept Paths below:



Requirement for Permit:

The subject land is located within the Commercial 1 Zone. The Bushfire Management Overlay is located on a very small part of the land in the south-east corner. There are no other Overlays on the land.

- A planning permit is required for use of a service station under Clause 34.01-1 and to construct buildings and works under Clause 34.01-4 of the Commercial 1 Zone.
- A planning permit is not required to construct buildings and works under Clause 44.06-2 of the Bushfire Management Overlay
- A planning permit is required under Clause 52.05-2 to construct or put up for display signs in Section 2 of Clause 52.05-11.
- A planning permit is required under Clause 52.29 to alter access to a Transport Zone 2 (previously known as a Road Zone Category 1).

Subject Site and Locality

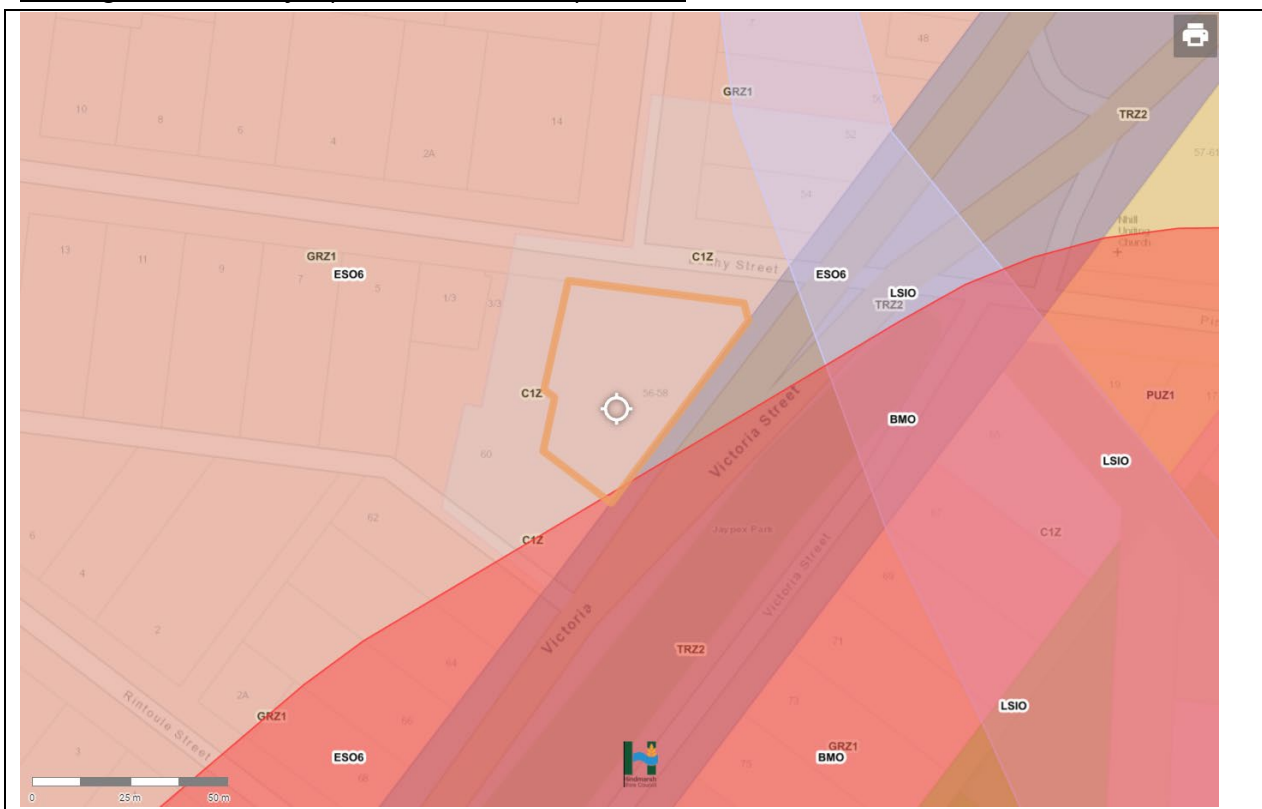
The subject site is located at 56-58 Victoria Street (Western Highway), Nhill and is located on the western side of Victoria Street, which is on the corner of Leahy Street and Victoria Street (Western Highway), being one of the main roads extending through the town. The subject lot is legally known as Lot 1 on Plan of Subdivision 070675 on Volume 085992 Folio 002. The site contains vacant buildings that were formerly used as a service station, motor vehicle repairs and a caretaker's residence a long time ago.

The immediate area comprises commercial development, residential development and community facilities including public open space (Jaypex Park) located within the centre median of Victoria Street in front of the site. The closest residential land is approximately 15m to the west of the closest part of the site within the General Residential Zone.

Aerial Photo below (Hindmarsh POZI) below:



Zoning and Overlays (Hindmarsh POZI) below:



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 original application was 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 two public notices on site with one notice fronting Victoria Street and one notice fronting Leahy Street for a period of 28 days over the Christmas/New Year period.
- Placing the public notice in the local newspaper, The Nhill Free Press.
- The application was made available for public viewing on Council's website.

The notification has been carried out correctly.

Council received three objections to the original application based on concerns about noise, vehicle access by trucks along Leahy Street and other general loss of amenity issues.

Section 57B Notice of Amended Application

The amended application was advertised pursuant to Section 57B of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of the adjoining land.
- Placing two public notices on site with one notice fronting Victoria Street and one notice fronting Leahy Street for a period of 14 days.
- Placing the public notice in the local newspaper, The Nhill Free Press.
- The application was made available for public viewing on Council's website.

The notification has been carried out correctly.

Council received one objection to the amended application from one of the objectors to the original application. The objector's concerns are summarised as follows:

- Noise in a residential area.
- Insufficient space for B-Double trucks.
- Increase in traffic in a congested area where there is local traffic, school children and other pedestrians.
- There are already adequate service stations in more appropriate areas.

The objector has reiterated their concerns and advised that their concerns have not been addressed and that their objection still stands.

The applicant has provided a written response to the objections.

As a result of the revised site layout on the amended plans and further correspondence with the three objectors, two of the original objectors have advised Council that they formally withdrawn their objections to the application.

Referrals

External Referrals

Section 55

Department of Transport (on behalf of Head, Transport Victoria):

The amended and current referral response received on 9/11/2022 advised that there are:

- No objections subject to conditions for the construction of the access crossovers, the signs to not distract or dazzle road users and to impact on road safety and a note requiring a works agreement with the Head, Transport for Victoria, confirming design plans and works approvals processes for the centre median.

Section 52

GWM Water

The referral response received on 2/09/2022 advised that there are:

- No objections subject to conditions for a Trade Waste Agreement and a financial contribution that may be required for any works associated with the development if deemed to increase the risk of its assets failing, necessitating replacement of the asset and before end-of-life.

Internal Referrals

The application was referred internally to the following Departments:

Engineering

- Comments provided - site visit on 21/12/2021, 18/05/2022 and 21/09/2022 at 56-58 Victoria Street Nhill. Engineering requirements/comments.
 - Engineering Conditions required for access, drainage and signage.

Environmental Health

- Comments provided about the premises to be constructed in compliance with the Food Standards Code, the required Food Premises Registration and relevant Tobacco Act signs/posters to be displayed and recommended Planning consider controls around noise.

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

Nhill has an important role as a service and business centre for the local community, travellers along the Western Highway and the surrounding rural hinterland.

Council's strategic directions for settlement includes to:

- *Promote the development of Nhill as the major service and business centre in the Shire providing a range of economic and community opportunities.*

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 02.03-6 Economic Development

Council's strategic directions for economic development include to:

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

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 13.05-1S Noise management

Objective - *To assist the management of noise effects on sensitive land uses.*

Clause 13.07-1S Land use compatibility

Objective - *To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.*

Clause 15.01-2S Building Design

Clause 15.01-5S Neighbourhood character

Clause 17.01-1S Diversified economy

Objective - *To strengthen and diversify the economy.*

Clause 17.01-1R Diversified economy - Wimmera Southern Mallee

Clause 17.02-1S Business

Objective - *To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.*

Clause 18.01-1S Land use and transport integration

Clause 18.01-2S Transport system

Clause 18.02-4S Roads

Clause 19.03-2S Infrastructure design and provision

Clause 19.03-3S Integrated water management

Planning Response:

The proposal will provide a new service station and associated retail facilities within Nhill, which will encourage employment and economic development opportunities in the town. The proposal will support and protect the commercial character of the area and encourage development to meet the community's needs for retail uses.

The proposal is supported by the relevant planning policies in the MPS and PPF relating to Settlement, Built Environment and Economic Development. The proposal will be consistent with the local policies in the MPS, in particular Clause 02.03-6 Economic Development.

The proposal will be consistent with the state policies in the PPF, in particular Clause 15.01-2S Building Design, Clause 17.02-1S Business, Clause 18.02-4S Roads and Clause 19.03-2S, subject to conditions for the construction of the required vehicle access crossovers and signs to manage truck and vehicle movements to prevent adverse impacts on the adjacent residential area to the west of the site.

Clause 34.01 – Commercial Zone

34.01-1 Table of uses

Section 2 - Permit required

- Service Station (non-specified use).

34.01-4 Buildings and works

A permit is required to construct a building or construct or carry out works.

34.01-8 Decision guidelines (relevant to the application)

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

General

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

Use

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

Building and works

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.
- The storage of rubbish and materials for recycling.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.

Planning Response:

The application is consistent with the Municipal Planning Strategy and Planning Policy Framework as discussed above. The proposal will respect and enhance the commercial activities of this part of Nhill and will generally respect the broader commercial and residential character of the surrounding area subject to conditions.

The proposed Service Station will operate between 5.30am and 9.30pm seven (7) days a week, which is regarded as a reasonable breadth of hours for a commercial use within a Commercial 1 Zone.

The amended proposal has been designed to reduce the impact of traffic movements on Leahy Street and to prevent truck access to Leahy Street and direct trucks to enter and exit the site via the Western Highway. The site layout has been redesigned to improve the movement of vehicles, pedestrians and cyclists. There are adequate car parking spaces provided on the site for customers and staff. The streetscape will not be adversely impacted by the proposed development. The adjacent residential area to the west on Leahy Street and the adjacent streets is unlikely to be adversely impacted by the use and development.

Conditions are required to provide measures for the protection of the amenity of the area. A condition is required to ensure that external lighting is baffled to prevent off-site impacts. A condition is also required to ensure that rubbish and waste disposal areas are suitably screened on the site and that waste is regularly disposed of off the site.

The proposed buildings, landscaping and paved areas will be easily maintained. The proposed access and car parking areas are required to be constructed and maintained to the satisfaction of Council and DoT, which will be addressed as conditions.

The proposal will therefore comply with the decision guidelines of the zone subject to conditions.

Particular Provisions

Clause 52.05 Signs

52.05-2 Requirements

Section 2

A permit is required to construct or put up for display a sign in Section 2.

52.05-8 Decision guidelines

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

All signs

- The character of the area including:

- The sensitivity of the area in terms of the natural environment, heritage values, waterways and open space, rural landscape or residential character.
- The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.
- The cumulative impact of signs on the character of an area or route, including the need to avoid visual disorder or clutter of signs.
- The consistency with any identifiable outdoor advertising theme in the area.
- Impacts on views and vistas:
 - The potential to obscure or compromise important views from the public realm.
 - The potential to dominate the skyline.
 - The potential to impact on the quality of significant public views.
 - The potential to impede views to existing signs.
- The relationship to the streetscape, setting or landscape:
 - The proportion, scale and form of the proposed sign relative to the streetscape, setting or landscape.
 - The position of the sign, including the extent to which it protrudes above existing buildings or landscape and natural elements.
 - The ability to screen unsightly built or other elements.
 - The ability to reduce the number of signs by rationalising or simplifying signs.
 - The ability to include landscaping to reduce the visual impact of parts of the sign structure.
- The relationship to the site and building:
 - The scale and form of the sign relative to the scale, proportion and any other significant characteristics of the host site and host building.
 - The extent to which the sign displays innovation relative to the host site and host building.
 - The extent to which the sign requires the removal of vegetation or includes new landscaping.
- The impact of structures associated with the sign:
 - The extent to which associated structures integrate with the sign.
 - The potential of associated structures to impact any important or significant features of the building, site, streetscape, setting or landscape, views and vistas or area.
- The impact of any illumination:
 - The impact of glare and illumination on the safety of pedestrians and vehicles.
 - The impact of illumination on the amenity of nearby residents and the amenity of the area.
 - The potential to control illumination temporally or in terms of intensity.
- The impact of any logo box associated with the sign:
 - The extent to which the logo box forms an integral part of the sign through its position, lighting and any structures used to attach the logo box to the sign.
 - The suitability of the size of the logo box in relation to its identification purpose and the size of the sign.
- The need for identification and the opportunities for adequate identification on the site or locality.

- The impact on road safety. A sign is a safety hazard if the sign:
 - Obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property.
 - Obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background that may reduce the clarity or effectiveness of a traffic control device.
 - Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.
 - Is at a location where particular concentration is required, such as a high pedestrian volume intersection.
 - Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.
 - Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.
 - Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.
 - Is within 100 metres of a rural railway crossing.
 - Has insufficient clearance from vehicles on the carriageway.
 - Could mislead drivers or be mistaken as an instruction to drivers.

52.05-11 Category 1 - Commercial areas

Minimum limitation

Purpose

To provide for identification and promotion signs and signs that add vitality and colour to commercial areas.

Planning Response:

The proposed signage package consisting of business identification signs, direction signs not requiring a permit, and illuminated signs including a pylon sign requiring a permit are suited to the proposed service station use within this commercial area. The proposed signs will add vitality and colour and will be designed to not distract road users or adversely impact the amenity of the adjacent residential area.

The proposed signs will respect the character of the area, will not unreasonably reduce views or vistas and are appropriate within the streetscape along Victoria Street and Leahy Street within the Commercial 1 Zone. The proposed signs relate directly to the site and the purpose of the buildings. The extent of illumination of the signs is acceptable and is unlikely to impact on road safety. Conditions are required by DoT to limit to likely impact of the signs on road users.

The proposal satisfies the decision guidelines of this Clause.

Clause 52.06 Car Parking

52.06-3 Permit requirement

A permit is required to reduce (including to reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.

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.

52.06-10 Decision guidelines

Before deciding that a plan prepared under Clause 52.06-8 is satisfactory the responsible authority must consider, 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 workability and allocation of spaces of any mechanical parking arrangement.
- 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.
- 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 plans show the provision of eight (8) car spaces on the site including two (2) accessible car spaces. The access aisles to the car spaces are adequate in width to allow for vehicles to enter and exit the car spaces in a safe and efficient manner. Passenger vehicles will be able to exit the site via Victoria Street and Leahy Street, while delivery trucks and larger trucks including 19m prime movers, 19m truck and dog trailers and 26m B-Double trucks will be required to enter and exit the site via Victoria Street.

Conditions are required to ensure the vehicle access arrangements are constructed and maintained to meet the requirements of DoT and Council.

The proposal will provide adequate car parking for customers and staff to meet the decision guidelines of this Clause.

Clause 52.29 Land Adjacent to the Principal Road Network

52.29-2 Permit requirement

A permit is required to:

- Create or alter access to:
 - A road in a Transport Zone 2.

52.29-6 Decision guidelines

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

- The Municipal Planning Strategy and the Planning Policy Framework.
- The views of the relevant road authority.
- The effect of the proposal on the operation of the road and on public safety.
- Any policy made by the relevant road authority pursuant to schedule 2, clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.

Planning Response:

The proposal will comply with the Municipal Planning Strategy and the Planning Policy Framework as discussed above. The proposed altered access to the Transport Zone 2 (Victoria Street) has been designed on the amended site plans to provide safe and efficient access to and from the site from the TZ2. The swept path plans show ingress and egress for passenger vehicles and for trucks and other larger vehicles in a forward direction and in accordance with the Traffic Management Plan.

The Department of Transport has provided referral comments advising no objections subject to specific conditions for the construction of the access crossovers, the signs to not distract or dazzle road users and do not impact road safety. Council's Engineering team have also required conditions for access to be constructed to the required standards. The conditions required by DoT and Engineering will be included in the decision.

The proposal satisfies the decision guidelines of 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.

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 adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

Planning Response:

The application complies with the relevant decision guidelines as outlined above. The proposal complies with the Municipal Planning Strategy and Planning Policy Framework, having regard to the benefit the proposal will have to enhance the commercial activities on the site and the associated economic benefits.

The proposed development is unlikely to adversely affect the environment, human health and the amenity of the area. The proposal will enable the orderly planning of the area. There is a service area and adequate space for loading and unloading facilities on the site. There is unlikely to be traffic flow and road safety impacts on and off the site, subject to the conditions required by the DoT and Council to be met.

Response to Objection

A planning response to the objection is below.

- *Noise in a residential area.*

The site is within a commercial area and is adjacent to a residential area, which is approximately 15m (one property) to the west of the western part of the site. Although the site is in proximity to residential properties, the proposed service station use and development is an expected commercial use on this commercially zoned land.

The potential impacts of noise on the adjacent residential area can be appropriately managed by conditions. The operator of the service station will be required to

minimise noise to ensure it complies with the relevant EPA noise protocols under the *Environment Protection Act 2017*.

- *Insufficient space for B-Double trucks.*

The Traffic Management Plan submitted with the amended application states that *'The ingress movements on to the subject site for semi-trailers and b-doubles from Victoria Street utilise the area under the canopy and to the north of the subject site for the preparation of egress onto Victoria Street. As indicated in the amended plans there is sufficient space for the movement of b-doubles and semi-trailers without impacting the existing traffic management of the area. Heavy vehicles of this size can adequately enter and exit the site without mounting the kerb or traffic island as indicated on the amended plans.'*

A review of the swept paths submitted with the amended plans for the revised site layout with the Traffic Management Plan shows that B-Doubles will be able to enter and exit the site in a forward direction to Victoria Street and will be prohibited from exiting the site to Leahy Street.

- Increase in traffic in a congested area where there is local traffic, school children and other pedestrians.

There will be an increase in traffic on the site and surrounding area, but this will be concentrated towards Victoria Street due to the vehicle access arrangements for small and larger trucks to enter and exit via Victoria Street. There will be passenger vehicles allowed to exit to Leahy Street, but the potential volume of passenger vehicles expected in the local street can be accommodated into the local street network. Most traffic movements will be along Victoria Street, which is a main road in the Transport Zone 2.

- There are already adequate service stations in more appropriate areas.

The proposal to construct a service station on the site is a decision of the owner who would have researched the demand for fuel within this rural town and the broader area. There is no limit on the number of service stations within any town.

The site is within a Commercial 1 Zone and commercial uses such as a service station are appropriate in this location, subject to conditions to protect the environment and the amenity of the area.

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Municipal Planning Strategy and Planning Policy Framework, the Commercial 1 Zone, Clause 52.05, Clause 52.29 and Clause 65 of the Hindmarsh Planning Scheme.

Report to Council:

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

Processing Times:

21/05/2021 Application lodged
11/06/2021 Fee paid
16/06/2021 Further information request sent to the applicant
16/08/2021 Response to further information and amended plans received pursuant to Section 50 of the *Planning and Environment Act 1987*
03/09/2021 Further information request for amended plans sent to the applicant
11/10/2021 Response to further information received and amended plans received pursuant to Section 50 of the *Planning and Environment Act 1987*
25/10/2021 Further information request sent to the applicant
24/11/2021 Response to further information and an amended plans received pursuant to Section 50 of the *Planning and Environment Act 1987*
10/12/2021 Further information request sent to the applicant
10/12/2021 Response to further information and an amended plans received pursuant to Section 50 of the *Planning and Environment Act 1987*
13/12/2021 Advertising instructions sent to the applicant and letters sent to neighbours
13/12/2021 External referrals sent to DoT and GWM Water
13/12/2021 Internal referrals sent to Engineering, Environmental Health and Building sent
17/12/2021 Advertising signs erected on site by Council on behalf of the applicant
20/12/2021 Request for further information to correct amended proposal
20/12/2021 Response from applicant received
20/12/2021 First objection received
21/12/2021 Referral response from Engineering received
10/01/2022 Second objection received
11/01/2022 Advertising fee paid to Council
13/01/2022 Third objection received
13/01/2022 Public notice period ended
20/01/2022 Reminder sent to DoT
11/02/2022 Referral response from DoT received
11/02/2022 Responses received from all external referrals and internal referrals
23/02/2022 Further information request sent to applicant to amend the plans to show revised site layout as per DoT requirements
13/05/2022 Amended application for amended plans for revised site layout received under Section 57A of the *Planning and Environment Act 1987*
08/06/2022 Further information request sent to the applicant to correct plans and clarify uses
01/07/2022 Response to further information and an amended plans received pursuant to Section 57A of the *Planning and Environment Act 1987*
19/07/2022 Further information request for outstanding matters and corrections required to plans sent to the applicant

- 28/07/2022 Response to further information and an amended plans received pursuant to Section 57A of the *Planning and Environment Act 1987*
- 10/08/2022 Re-Referrals sent externally to DoT and GWM Water
- 11/08/2022 Re-Referral sent internally to Engineering
- 11/08/2022 Re-Advertising instructions sent to the applicant and letters sent to neighbours
- 17/08/2022 Email sent to applicant about missing details in Planning Report noted by neighbours
- 17/08/2022 Amended Planning Report received confirming details
- 18/08/2022 Advertising signs erected on the site by Council on behalf of the applicant
- 23/08/2022 Re-Referral internally to Environment Health
- 23/08/2022 Environmental Health referral response received
- 01/09/2022 Objection received from one of the original objectors for the amended proposal
- 02/09/2022 Referral response from GWM Water received
- 05/09/2022 Amended Planning Report received in response to correction queries from objector
- 08/09/2022 Re-Referral internally to Engineering
- 13/09/2022 Response from the applicant to the objection
- 20/09/2022 Re-advertising fee paid
- 21/09/2022 Referral response from Engineering received
- 28/09/2022 Referral response from DoT received
- 30/09/2022 Request for clarification and amended response sent to DoT
- 30/09/2022 Objection sent to the applicant
- 03/10/2022 Response to the objection received from the applicant
- 04/10/2022 Two objections were formally withdrawn
- 17/10/2022 Confirmation from one remaining objection that objection stands
- 09/11/2022 Amended referral response received from DoT
- 23/11/2022 Presented to Council at Council Meeting for a recommendation for approval by way of a Notice of Decision (NOD)

The report is being presented to Council for approval at the meeting held on 23 November 2022 (79 statutory days).

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

Link to Council Plan:

Facilitating and supporting economic development.

Financial Implications:

The development 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 a Notice of Decision to Grant a Planning Permit is not issued, 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 a Notice of Decision to Grant a Planning Permit if supported by Council.

RECOMMENDATION:

That a Notice of Decision to Grant a Planning Permit PA1722-2021 be issued, for the Use and development of a Service Station, construct and display signs including an internally illuminated electronic pylon sign and alter access to a Transport Zone 2, on the land at 56-58 Victoria Street Nhill VIC 3418 (Lot 1 on PS 070675), subject to the following conditions:

Endorsed Plans

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

General Requirements

- 2. 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.***

Hours of Operation

- 3. The use must not occur outside the following hours:***
 - 5.30 am to 9.30pm seven (7) days a week.***
Unless otherwise approved in writing by the Responsible Authority.

Amenity

4. ***The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:***
 - (a) ***Transport of materials, goods or commodities to or from the land.***
 - (b) ***Appearance of any building, works or materials.***
 - (c) ***Artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.***
 - (d) ***Presence of vermin.***
5. ***Noise generated from the site must comply with the relevant noise requirements in accordance with the Environment Protection Regulations under the Environment Protection Act 2017, to the satisfaction of the Responsible Authority.***

The use and development must also comply with the Noise Limit and Assessment Protocol for the Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826, Environment Protection Authority, May 2021.

6. ***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.***

Waste Management

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

Car Parking

8. ***Before the use commences, the car parking spaces must be provided on site, with all car parking, access lanes and driveways as shown on the plans to remain unobstructed and available for their intended use at all times, unless otherwise approved in writing by the Responsible Authority.***
9. ***Car spaces and parking areas, access lanes and driveways must be maintained in a good condition to the satisfaction of the Responsible Authority.***

Engineering

Access

10. ***Access to the approved development on the site must be from the existing crossovers. Crossovers must be upgraded to the satisfaction of the Responsible Authority.***
11. ***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.***

12. ***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.***
13. ***Any redundant crossovers must be removed and the kerb and channel reinstated to the satisfaction of the Responsible Authority.***
14. ***Vehicles must enter and exit the site in a forward direction at all times.***
15. ***No trucks are permitted to exit into Leahy St and must exit via Victoria St (Western Hwy) in accordance with plan DA004 and DA010.***

Drainage

16. ***Before the development starts, 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 by underground drainage system to the Council drainage network (nearest drainage pit is located at the corner of Victoria St and Leahy St), all at the expense of the owner or permit holder and the report must be submitted to the satisfaction of the Responsible Authority.***
17. ***The permit holder must meet storm water quality requirements and ensure that storm water discharged to the Council drainage system meets the quality standard specified in Clause 20.3.1 of the IDM.***
18. ***No effluent or polluted water of any type may be allowed to enter the Council's Storm water drainage system.***
19. ***Before the development starts, Drainage Design Plans for the underground drainage system for the development must be submitted to and approved by the Responsible Authority.***
20. ***Stormwater drainage must be constructed and connected to the Legal Point of Discharge to the satisfaction of the Responsible Authority.***

Signage

21. ***All advisory traffic signage for the proposed development must be per the application, and in accordance with plan DA010 to the satisfaction of the Responsible Authority.***

Environmental Health

22. ***The premises must be constructed in compliance with the Food Standards Code, ensuring all materials used are fit for purpose, can be easily and effectively cleaned and sanitised, and prevent contamination from dust, pests and other contaminants, to the satisfaction of the Responsible Authority.***

Department of Transport

23. ***The access crossovers shall be constructed to the satisfaction of the Responsible Authority and at no cost to the Department of Transport.***
24. ***Illuminated signing pylons must not dazzle or distract road users due to its colouring.***

25. The signs must not display content, images or text:

- i. Giving the illusion of continuous movement.*
- ii. Capable of being mistaken for traffic signals or traffic control devices, including red, amber or green circles, octagons, crosses or triangles.*
- iii. Capable of being mistaken as an instruction to a road user, including the wording stop, give way, slow down, turn left or turn right.*
- iv. With a flashing background, flashing text, flashing images, blinking or fading elements that create the illusion of movement.*
- v. Contain any animation.*
- vi. Capable of being interpreted as projections beyond the face of the advertising screen such as through 3D technology.*
- vii. Consisting of present time or other contemporary update information relating to news, weather or time.*
- viii. Containing video, movie or television broadcasts.*

Please note: Prior to the works commencing on the Western Highway, the applicant must enter into a works agreement with the Head, Transport for Victoria, confirming design plans and works approvals processes for the centre median, including the determination of fees and the level of the Department of Transport's service obligations. Please contact western.mail@roads.vic.gov.au.

GWM Water

- 26. A Trade Waste Agreement is required to be completed to GWMWater's satisfaction in accordance with the relevant Trade Waste By Law, and any associated requirements, prior to commencement of any new or altered Trade Waste discharge to GWMWater's sewerage system.**
- 27. The owner/ applicant may be responsible for a financial contribution to GWMWater where any works associated with the development are deemed by GWMWater to increase the risk of its assets failing, necessitating replacement of the asset before end-of-life.**

Permit Expiry

- 28. 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 and 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 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 5391 4444) 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 Northern side of the property into the existing kerb and channel of the Leahy Street road reserve.*

Environmental Health

- *An application for Food Premises registration must be lodged and approved before food is prepared and sold from the premises.*
- *All relevant Tobacco Act signs/posters must be displayed.*

Attachment Numbers: 3 – 4

9 REPORTS REQUIRING A DECISION

9.1 GOVERNANCE UPDATES

Responsible Officer: Director Corporate and Community Services

Attachment Numbers: 5 – Financial Hardship Policy
6 – Councillor Code of Conduct
7 – Advisory Committee Terms of Reference
8 – Advisory Committee Policy

Introduction:

This report seeks Council endorsement for the draft revised Financial Hardship Policy to be made available to the public for consultation for the period between 24 November 2022 and 15 December 2022, as well as presenting the revised Advisory Committee Terms of Reference, Advisory Committee Policy and Councillor Code of Conduct for adoption.

Discussion:

Financial Hardship Policy

Section 171A of the *Local Government Act 1989* (Vic) provides the following:

(1) A person who -

(a) is suffering financial hardship; or

(b) would suffer financial hardship if that person paid the full amount of a rate or charge for which he or she is liable—

may apply to a Council for the waiver of the whole or part of any rate or charge or of any interest imposed for late payment.

Council has had a Financial Hardship Policy since June 2016 to ensure that decisions pertaining to financial hardship applications are made fairly and consistently.

In August 2022, the Victorian Government passed the *Local Government Legislation Amendment (Rating and Other Matters) Act 2022*, making a number of amendments regarding ratepayers experiencing hardship and the way that rates are collected by Council. The changes prescribed under this Act, and the resultant changes to Council's Financial Hardship Policy, are described below.

- *Payment Plans*

The amendments formalise payment plans as an alternative means of payment for those experiencing financial hardship or family violence. When a ratepayer enters into a payment plan, Council cannot sell or transfer land to recover unpaid rates and charges if the payment plan is being complied with. If the ratepayer fails to adhere to the payment plan, then Council may cancel it, but must wait two years from the date of cancellation before undertaking legal proceedings for recovery of amounts outstanding.

While payment plans as an alternative method for paying rates are already included in Council's procedures, the scope of entitlement for claiming financial hardship has been strengthened and additional clarity has been added to section 4.10 (Commencing Proceedings for Recovery of Unpaid Rates and Charges Debts) and 4.7 (Payment Plans).

- *Notice of Amount Owed*

Council will be required to ensure ratepayers have written notice of any amount owed before taking any steps to recover outstanding amounts. It will then be open to Council to enter into payment plans with ratepayers but, if no payment plan is entered into or no deferral of the amount due is granted, no recovery proceedings can be commenced for at least two years from the date of the written notice.

This provision has been included in section 4.10 (Commencing Proceedings for Recovery of Unpaid Rates and Charges Debts).

Additional changes include provisions around informal referrals to financial counselling services, rights of appeal, conflict of interest management and detailed provisions on the three relevant sections of the *Local Government Act 1989*; Deferment of Rates and Charges, Waiver of Rates and Charges and Waiver of Interest and Legal Charges.

The update to the policy reflects current legislative requirements and is in line with Council's current practices.

A report seeking to adopt the Financial Hardship Policy will be brought the December Council meeting.

Councillor Code of Conduct

Section 139 of the *Local Government Act 2020* states that a Council must develop a Councillor Code of Conduct. The purpose of the Councillor Code of Conduct is to include the standards of conduct expected to be observed by Councillors in the course of performing their duties and functions as Councillors, including prohibiting discrimination, harassment (including sexual harassment) and vilification.

Council's Code of Conduct has been reviewed and updated as described below.

- ***Child Safe Standards***

The introduction of the new Victorian Child Safe Standards has required a review of a number of Council's policies, including its Employee and Councillor Codes of Conduct. Relevant Council policies must affirm Council's commitment to Child Safety and provide clear guidance as to appropriate interaction with children both in person and online, as well as around reporting requirements for Councillors, staff and volunteers.

Amendments have been made to section 6.5 (Child Safe Standards) and section 6.7 (Social Media).

- ***Councillor Candidacy during State and Federal Elections***

The provisions in the Code of Conduct have been expanded to provide clear guidance for when a Councillor is a candidate in a State or Federal election. Additions have been informed by best practice guidelines produced by MAV. Ensuring that there is a clear process to be followed when a Councillor is a candidate prevents any occurrences of conflict of interests, misuse of position or misuse of Council resources. New provisions include guidance around declarations of candidacy, leaves of absence, improper use of position, improper use of Council resources and activities and resignation of office upon successful candidacy.

Changes have been included in section 6.10 (Elections).

Advisory Committee Terms of Reference

The Local Government Act 2020 (Act) required Council to make significant changes to the function and form of its community committees. As a result of the exclusion of section 86 Committees in the new Act, existing Town Committees were re-formed as Advisory Committees. The Advisory Committees were established by way of Council Resolution on 19 August 2020, along with a Terms of Reference to govern their functioning.

The Terms of Reference are subject to periodic review and have been updated by Council Officers to reflect feedback received by Committee members, improve administrative

processes and to ensure effective Committee functioning throughout member's period of service.

The sections of the Terms of Reference with major amendments include:

- *Change of Membership Period*

Amendments to the Terms of Reference change the period of membership to a financial year rather than calendar year period, as well as extending the period of membership from one year to two years. Current members would have their term extended to 30 June 2023. This will ensure that there is a standing Committee over the Christmas, New Year and Australia Day period, meaning that running events and activities does not coincide with a changeover of membership. This change also allows for clearer reporting periods and shifts the transitional period to a more sensible time of year.

- *Membership Approvals Outside of the Formal Nomination Period*

Where a Committee does not have the maximum number of members, the Terms of Reference now formally allow for new members to be appointed via a resolution at a Committee meeting (to then be endorsed by Council).

- *Attendance Requirements*

The Terms of Reference now allow for non-attendance at 2 consecutive meetings (without prior communication with the Chairperson) as grounds for disqualification from membership. This aims to ensure that Committees are able to obtain a quorum at meetings and continue to make decisions in a timely and effective manner.

Council officers forwarded the draft Policy to Town Committees on 12 October 2022, requiring feedback to be received by 1 November 2022. One submission was received from Bill Hutson of the Jeparit Town Committee who noted that "all updates suggested so far are sensible."

The revised Terms of Reference will ensure that Council's Advisory Committees continue to function effectively and provide timely and relevant advice to Council.

Advisory Committee Policy

The Advisory Committee Policy has been updated to more effectively provide for the management of conflict of interest declarations by Committee Members. Conflict of interest management is prescribed in the *Local Government Act 2020*, and the amendments more appropriately appertain to the function, operation and context of community Advisory Committees. Changes include:

- The management of conflicts of interest where the matter is an ongoing activity, event or program; and
- The addition of a 'interests in common' exemption which provides for an exemption where the interest is equitably held in common with other residents, ratepayers business owners, or any other large class of persons within the community.

The amended policy will ensure that Advisory Committees can continue to operate efficiently and transparently.

Options:

1. Council can choose to approve the draft Financial Hardship Policy for release to the public for the specified consultation period for comment, and to adopt the Councillor Code of Conduct and Advisory Committee Terms of Reference and Advisory Committee Policy;
2. Council can choose to amend the draft Financial Hardship before releasing the draft to the public for the specified consultation period for comment, and/or amend the Councillor Code of Conduct and/or Advisory Committee Terms of Reference and/or the Advisory Committee Policy; or
3. Council can choose to not approve the draft Financial Hardship for release to the public for the specified consultation period for comment, and/or to not adopt the Councillor Code of Conduct and/or Advisory Committee Terms of Reference and/or the Advisory Committee Policy.

Link to Council Plan:

Strong governance practices

Financial Implications:

Financial Hardship Policy

A successful application for waiver or deferment of rates and charges will impact Council's cumulative rates and charges for relevant periods. Additionally, the period for recovery of charges through legal processes will be in excess of two years.

Councillor Code of Conduct

N/A

Advisory Committee Terms of Reference

N/A

Advisory Committee Policy

N/A

Risk Management Implications:

Financial Hardship Policy

The Financial Hardship Policy provides clear guidance around the objective, fair and consistent evaluation of financial hardship applications, ensuring that the risk of Council waiving rates in unnecessary circumstances, or failing to appropriately give due consideration to a legitimate application, is minimised.

Councillor Code of Conduct

The revisions to the Councillor Code of Conduct ensure that Council is complying with the Child Safe Standards, and that any risks for children and young people participating in Council activities are mitigated.

The addition of guidance around Councillor Candidacy in State and Federal elections ensures that any risks relating to reputational damage or financial loss to Council that may occur through inappropriate Councillor conduct during election periods are managed appropriately.

Advisory Committee Terms of Reference

Revisions ensure the clear, transparent and appropriate operation of Council's Advisory Committees.

Advisory Committee Policy

The changes provide for the continued effective and appropriate management of declared conflicts of interest. This ensures that Council continues to comply with the requirements of the *Local Government Act 2020* and prevents any reputational or material damage incurred through inappropriate conduct of committee members.

Relevant legislation:

Local Government Legislation Amendment (Rating and Other Matters) Act 2022

Local Government Act 2020

Local Government Act 1989

Community engagement:

The report recommends a consultation period for the Financial Hardship Policy, whereby the community will be able to provide feedback to Council regarding the revised policy. Feedback was sought by the Advisory Committees in relation to the changes in the Advisory Committee Terms of Reference.

Gender equality implications:

A Gender Impact Assessment was conducted on the updated Financial Hardship Policy as per the *Gender Equality Act 2020*. The inclusion of family violence clauses and strengthened protections for those experiencing financial hardship ensures that the policy is equitable and responds to the needs of those experiencing gender-based violence.

Conflict of Interest:

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

Officer Responsible – Monica Revell, Director Corporate and Community Services

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

Author – Petra Croot, Manager Governance and Human Services

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

Communications Strategy:

Financial Hardship Policy

Community consultation will be conducted in accordance with Council's Community Engagement Policy. Council will publish the draft Financial Hardship Policy on the Council website from 24 November 2022 to 15 December 2022. The public will be able to make submissions on the Financial Hardship Policy until the close of the exhibition period.

Council will run regular social media posts throughout the exhibition period.

Advertisements will be placed into the local newspaper advising the community that documents will be available for viewing.

Councillor Code of Conduct

The Code of Conduct will be distributed to Councillors and staff, as well as placed on Council's website for public access.

Advisory Committee Terms of Reference

The Terms of Reference will be distributed to Advisory Committees and Council staff, as well as placed on Council's website for public access.

Advisory Committee Policy

The Policy will be distributed to Advisory Committees and Council staff, as well as placed on Council's website for public access.

Next Steps:

As above.

RECOMMENDATION:

That Council:

- 1. endorses the draft Financial Hardship Policy to be available for public consultation from 24 November 2022 to 15 December 2022;***
- 2. adopts the Councillor Code of Conduct;***
- 3. adopts the Advisory Committee Terms of Reference; and***
- 4. adopts the Advisory Committee Policy.***

Attachment Numbers: 5 – 8

9.2 DISCONTINUATION OF EBENEZER MISSION ROAD (PART) TO RETURN TO STATE GOVERNMENT FOR THE PURPOSE OF TRANSFER THROUGH TO BARENGI GADJIN LAND COUNCIL (BGLC)

Responsible Officer: Director Infrastructure Services

Attachment Number: 9

Introduction:

The purpose of this report is to recommend closing a section of the Ebenezer Mission Road and returning the unencumbered land to the State Government for transfer to BGLC whom have requested the land due to its significant cultural and historical value.

Discussion:

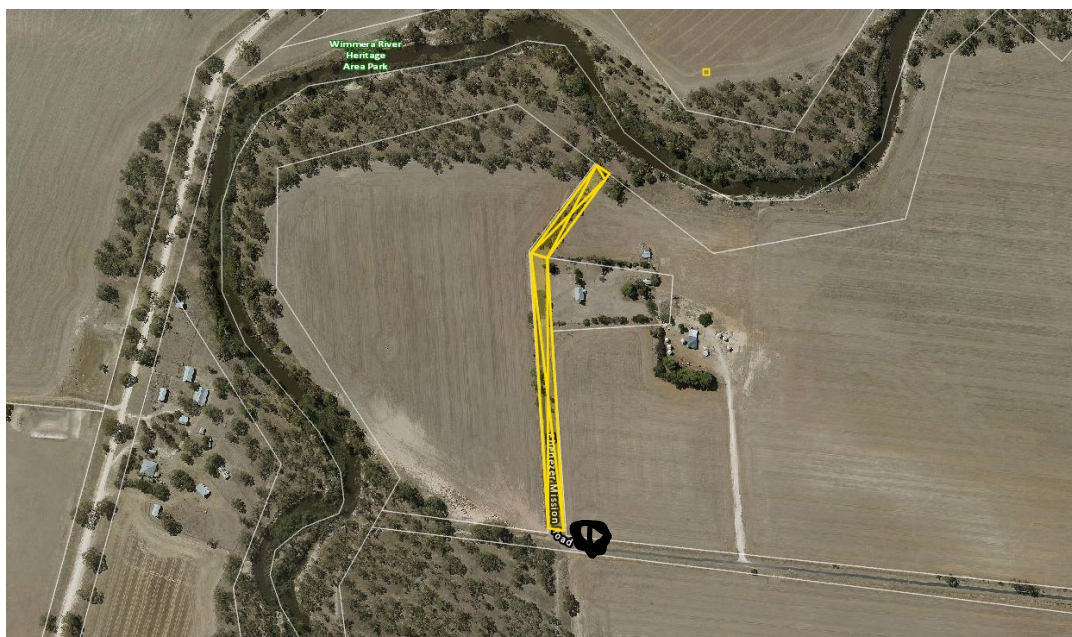
A request was made to Hindmarsh Shire Council on 22 July 2021 for consideration of Council to close a section of the Ebenezer Mission Road and transfer ownership to Barengi Gadjin Land Council (BGLC).

The section of the road proposed to be discontinued is 425 meters in length and a standard 20-meter road reserve width. The northern 150m is not formed and has significant vegetation growth. The road is sealed to the entrance of the Ebenezer Mission allotment (275m) and is a 5R all-weather seal – rural in Councils Road hierarchy. The discontinued road would commence 18 meters back from the intersection to allow for the existing farm gate access to remain and to allow for a turning area for any vehicles that make their way to that location.

Ebenezer Mission is of significant cultural and historical importance to the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk Peoples. It is the place where many of our ancestors were forcibly removed to and holds deep emotional and spiritual significance that is still keenly felt by all Wotjobaluk People today. Stories suggest that there may be unmarked graves from the current fenced off cemetery to under the current paved carpark and road and as such BGLC seeks the closure of Ebenezer Road, and transfer of ownership of the entirety of the road. It would then be our intention to install an access gate at that location so as to enable access to the site, and for BGLC as the land manager to then undertake necessary cultural heritage inspections.

Section 206 of the *Local Government Act 1989* gives Council powers over roads in its Municipal District, including powers set out in Schedule 10 of the Act. Schedule 10 (3) provides that a Council may discontinue a road, or part of a road, by notice published in the Government Gazette.

Following discontinuance, the land from the road, the land may be held by the State Government for any purpose they see fit unless it is owned by Council or available for sale. This section of land is crown land and would be returned to the Department of Environment, Land, Water and Planning.



Options:

1. Council follows the Officer recommendation to discontinue the highlighted section of the road.
2. Council alters the area to be discontinued
3. Council refuses the request to discontinue the highlighted section of Ebenezer Mission Road.

Link to Council Plan:

Recognise and respect and support Traditional Owners.

Financial Implications:

There may be minimal costs involved in ensuring that there is an adequate turning circle at the T intersection to accommodate a caravan park turning as this usually takes place at the Mission car park area. Local Traffic only signs will be placed along Ebenezer Mission Road to dissuade traffic.

Risk Management Implications:

There are minor administration risks associated with the discontinuation of the last section of Ebenezer Mission Road including removing it from a number of asset management documents and external reporting documents including the Victorian Grants Commission road length submissions.

Relevant legislation:

Section 206 of the *Local Government Act 1989* gives Council powers over roads in its Municipal District, including powers set out in Schedule 10 of the Act. Schedule 10 (3) provides that a Council may discontinue a road, or part of a road, by notice published in the Government Gazette.

Community engagement:

Councils are required to undertake deliberative engagement as per the adopted Council Engagement Policy, this requires that we engage with community members impacted by potential decisions of Council.

The discontinuation of this section of Ebenezer Mission Road impacts on one property owner. That property owner was contacted on 21 September 2022 about the proposal and following discussion requested that the gate start a small way up the northern part of the road to accommodate the caravan traffic that frequents the site and ensure that their existing gate access to their farming property remains. They have no objections to the remainder of the road being closed and returned to the Crown for transfer to BGLC.

Gender equality implications:

The proposal to discontinue the last section of Ebenezer Mission Road has no gender equality impacts.

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.

Communications Strategy:

Councils decision will be communicated to the impacted property owner and BGLC as well as to the State Government. A decision to discontinue the road, if made, will result in a notice being made in the publicly available Government Gazette.

Next Steps:

If Council decides to discontinue the last section of Ebenezer Mission Road, Council staff will gazette the decision in the next available edition of the government gazette

RECOMMENDATION:

That Council gazette the formal discontinuation of Ebenezer Mission Road (part) and return the road to the State Government for the purpose of transferring it to Barengi Gadjin Land Council.

Attachment Number: 9

9.3 ADOPTION OF HEAVY TRANSPORT AND FREIGHT WORKING GROUP DRAFT TERMS OF REFERENCE

Responsible Officer: Director Infrastructure Services

Attachment Number: 10

Introduction:

The purpose of this report is to recommend adopting the Hindmarsh Heavy Transport and Freight Working Group Draft Terms of Reference.

Discussion:

Hindmarsh Council has had a B Double Working Group for the last few years with a focus on transport routes and access across the Shire. At the request of the working group – following recent adoption by Council of a B Double network - the scope of the working group is recommended to be increased to include heavy transport and freight for the purpose of more strategic forward planning by the attendees.

The draft Heavy Transport and Freight Working Group Terms of Reference attached – widens the objectives to include:

- Provide a representative sample of independent and authentic voices of people from the Heavy Transport and Freight users with an ability to advise on current and emerging issues and priorities;
- Provide feedback and advice to Council on broader policy issues;
- Assist Council to promote the benefits and enhance understanding about the barriers for Heavy Transport and Freight user.

The meetings include stakeholders from transport logistics, Department of Transport and Mass Management, Victoria Farming Federation as well as a number of local operators from Hindmarsh and assist with prioritising the limited operational resources Council has in this area to deliver the most effective outcomes for facilitating safe and efficient Heavy Transport and Freight outcomes.

Options:

1. Council follows the Officer recommendation to adopt the Draft Terms of Reference
2. Council alters the Terms of Reference and adopts the altered version.
3. Council refuses to adopt the Terms of Reference.

Link to Council Plan:

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

Financial Implications:

There are minimal costs involved in the hosting of meetings and internal operational resources allocated to the administrative tasks of the Heavy Transport and Freight Working Group.

Risk Management Implications:

There are minor administration risks associated with the role of the Working Group on operational matters however the Terms of Reference clearly seeks to manage the expectations of the working group through the authority section of the terms of reference.

Relevant legislation:

The *Local Government Act 2020* allows for Council to undertake deliberative community engagement with constituents and stakeholders on matters that impact upon them.

Community engagement:

Councils are required to undertake deliberative engagement as per the adopted Council Engagement Policy, this requires that we engage with community members impacted by potential decisions of Council.

The working group allows for a cross section of local constituents and industry stakeholders to provide input into Councils knowledge around Heavy Transport and Freight across the Hindmarsh Shire.

Gender equality implications:

The proposal has no gender equity impacts.

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.

Communications Strategy:

The Heavy Transport and Freight Working Group Terms of Reference will be made available on Councils website.

Next Steps:

If Council adopts the draft terms of reference, this will be communicated to the B Double Working Party and the changes in scope for the working party will come in to affect from the next meeting.

RECOMMENDATION:

That Council adopts the Draft Heavy Transport and Freight Working Party Terms of Reference.

Attachment Number: 10

10 COUNCIL COMMITTEES

10.1 JEPARIT TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer
Attachment Number: 11

Introduction:

The Jeparit Township Advisory Committee held a meeting on 10 October 2022. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Jeparit Township Advisory Committee meeting held on 10 October 2022.

Attachment Number: 11

10.2 RAINBOW TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer
Attachment Number: 12

Introduction:

The Rainbow Township Advisory Committee held a meeting on 17 October 2022. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Rainbow Township Advisory Committee meeting held on 17 October 2022.

Attachment Number: 12

10.3 YURUNGA HOMESTEAD COMMUNITY ASSET COMMITTEE

Responsible Officer: Chief Executive Officer
Attachment Numbers: 13 – 14

Introduction:

The Yurunga Homestead Community Asset Committee held a meeting on 18 August 2022 and 27 October 2022. The purpose of this report is to note the minutes from these meetings. A copy of these minutes are 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 18 August 2022 and the DRAFT minutes of the Yurunga Homestead Community Asset Committee meeting held on 27 October 2022.

Attachment Numbers: 13 – 14

10.4 WIMMERA MALLEE PIONEER MUSEUM COMMUNITY ASSET COMMITTEE

Responsible Officer: Chief Executive Officer

Attachment Numbers: 15 – 17

Introduction:

The Wimmera Mallee Pioneer Museum Community Asset Committee held its annual general meeting on 18 October 2022. The purpose of this report is to note the minutes from this meeting and corresponding documents. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council:

- 1. notes the minutes of the Wimmera Mallee Pioneer Museum Community Asset Committee annual general meeting held on 18 October 2022;***
- 2. notes the Committee's Report and Financial Report for 2021-2022; and***
- 3. approves the following as members of the Wimmera Mallee Pioneer Museum Community Asset Committee:***
 - Chairperson – Wendy Werner***
 - Vice Chairperson – Peter Pumpa***
 - Secretary – Craige Proctor***
 - Treasurer – MaryAnne Paech***
 - Committee Members – Clem Paech and Tige Mannington.***

Attachment Numbers: 15 – 17

10.5 RAINBOW CIVIC CENTRE COMMUNITY ASSET COMMITTEE

Responsible Officer: Chief Executive Officer

Attachment Numbers: 18 – 24

Introduction:

The Rainbow Civic Centre Community Asset Committee held a general meeting on 31 March 2021, and its annual general meeting and a general meeting on 30 August 2022. The purpose of this report is to note the minutes from these meetings and their corresponding documents. A copy of these minutes are included as an attachment for the information of Council.

RECOMMENDATION:

That Council:

1. **notes the minutes of the Rainbow Civic Centre Community Asset Committee general meeting held on 31 March 2021, annual general meeting held on 30 August 2022 and general meeting held on 30 August 2022;**
2. **notes the Chairperson's Report for 2022;**
3. **notes the Committee's Balance Sheets for the periods 2019-2020, 2020-2021 and 2021-2022; and**
4. **approves the following as members of the Rainbow Civic Centre Community Asset Committee:**
 - **Chairperson – Bill Hutson**
 - **Secretary – Shirley Petschel**
 - **Treasurer – Shirley Petschel**
 - **Committee Members – Michael Sullivan, Kate Hutson, Graham Petschel and Rob Koning.**

Attachment Numbers: 18 – 24

10.6 DIMBOOLA TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer

Attachment Number: 25

Introduction:

The Dimboola Township Advisory Committee held a meeting on 2 November 2022. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Dimboola Township Advisory Committee meeting held on 2 November 2022.

Attachment Number: 25

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 TRANSFER OF PROPERTY FOR UNPAID RATES – 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 property value information; and**
- 14.2 EXTENSION OF CONTRACT 2018-2019-07A PROVISION OF PLANT, LABOUR AND EQUIPMENT HIRE RATES – 1 YEAR EXTENSION – 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.

15 LATE CONFIDENTIAL REPORTS

16 MEETING CLOSE
