



MINUTES OF THE COUNCIL MEETING OF HINDMARSH SHIRE COUNCIL HELD WEDNESDAY 5 APRIL 2023 AT THE NHILL MEMORIAL COMMUNITY CENTRE, 77-79 NELSON STREET NHILL, COMMENCING AT 3:00PM.

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CRS B Ireland (Mayor), M Albrecht (Deputy Mayor), D Nelson, W Bywaters, R Gersch, R Ismay.

In Attendance:

Mr Greg Wood (Chief Executive Officer), Ms Jessie Holmes (Director Infrastructure Services) via Zoom, Ms Monica Revell (Director Corporate and Community Services), and Ms Shauna Johnson (Executive Assistant).

1 ACKNOWLEDGMENT OF THE INDIGENOUS COMMUNITY

Cr B Ireland opened the meeting at 3:00pm by acknowledging the Indigenous Community.

2 APOLOGIES

No 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.

Cr R Gersch declared a general conflict of interest in item 7.1 as he is a life member of the Nhill & District Sporting Club, and a general conflict in item 14.1 as one of the applicants is a family member.

Cr M Albrecht declared a general conflict of interest in item 7.1 as she is a club member of the Nhill & District Sporting Club.

Cr R Ismay declared a general conflict of interest in item 14.1 confidential item.

Cr B Ireland declared a material conflict of interest in item 9.2 as the report is about him.

Cr W Bywaters declared a general conflict of interest in item 14.1 confidential item.

Mr G Wood declared a material conflict of interest in item 14.3 as the report is from the CEO Employment and Remuneration Committee.

4 CONFIRMATION OF MINUTES

RECOMMENDATION:

That the Minutes of the Ordinary Council Meeting held on Wednesday 1 March 2023 at the Nhill Memorial Community Centre Nhill, as circulated to Councillors be taken as read and confirmed.

MOVED: CRS R Gersch/R Ismay

That the Minutes of the Ordinary Council Meeting held on Wednesday 1 March 2023 at the Nhill Memorial Community Centre Nhill, as circulated to Councillors be taken as read and confirmed.

CARRIED

Attachment Number: 1

5 PUBLIC QUESTION AND SUBMISSION TIME

Community members wishing to ask questions at council meetings may do so, in writing, at least 24 hours prior to the council meeting. Both the question and answer will be read out at the meeting. Questions may be submitted by mail, email info@hindmarsh.vic.gov.au or delivered in person to a council customer centre but are limited to two questions and 100 words including any pre-ambule. 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.

Wendy Werner, Jeparit:

The Jeparit Community Plan and Economic Development Plan consultation was held in Jeparit on April 3 2023. Thankyou to Phil King for facilitating this meeting and Mayor Brett Ireland and Director of Infrastructure Jesse Holmes for attending. The community plans are one of the most important meetings in the calendar providing a chance to engage with residents who are passionate about their community but this opportunity was lost. Can the CEO, Director of Corporate and Community services and the other Councillor for the North Ward Ron Ismay explain why this meeting was not of adequate significance to attend?

Response, Director Corporate and Community Services:

The Community Plan sessions are being held in each location, with Officers and Councillors attending sessions where they do not have other commitments. Each session will have at least one Councillor and one Senior Officer in attendance.

Councillors and Officers also have access to all information documented on the worksheets during the sessions for consideration and discussions.

6 ACTIVITY REPORTS

COUNCILLOR ACTIVITIES: 21 February 2023 – 27 March 2023

Cr IRELAND, MAYOR

Date	Meeting	Location	Comments
21/02/2023	Wimmera Mallee Pioneer Museum Meeting		
22/02/2023	Mayors Regional Lunch	White Hart Hotel	
26/02/2023	Guest Speaker Nhill Aviation Centre		What an impressive tourist attraction this has turned into and a very strong active committee they have in place.
27/02/2023	Guest Speaker Rainbow P-12 Leadership Awards at Morning Assembly		I was impressed how they give many student roles in the school to help with their development... not just captains but media roles, bus captains, fund raising etc.
01/03/2023	Guest Speaker at WWHS Health and Wellbeing Profiles Launch		
01/03/2023	Council Plan Meeting		
01/03/2023	Council Briefing Meeting		
01/03/2023	Council Meeting		
02/03/2023	Volunteered at Yurunga Homestead to prepare outside deck for oiling		
02/03/2023	Mayoral Matters Column to Newspapers		
08/03/2023	Audit and Risk Committee Meeting	Zoom	
11/03/2023	Volunteered on Gate		

	at Rainbows Off Road Race Event		
11/03/2023	Attended Dimboola Tower Park Opening and Twilight Market		
13/03/2023	Jeparit Town Meeting		
15/03/2023	Guest Speaker at Dimboola Tree Planting Event at the Recreation Reserve		This was due to a grant received federally to commemorate the passing of Queen Elizabeth the Second.
15/03/2023	Hindmarsh Business Networking Session	Dimboola	
16/03/2023	Volunteered and applied the 1 st coat of oil on the deck at Yurunga Homestead		
17/03/2023	Guest Speaker at Rainbow's Debutante Ball		This event was well run and presented and had over 100 people in attendance.
19/03/2023	Complete CEO Review and liaise numerous times with Salcorp		
21/03/2023	Harmony Day and Citizenship Ceremony at Nhill Community Centre		
21/03/2023	Wimmera Mallee Pioneer Museum Meeting		
22/03/2023	CEO Mid Term Review	Nhill	
22/03/2023	Meeting with CEO and 2 Directors on Council Updates		
23/03/2023	Yurunga Homestead Meeting		
25/03/2023	Finished Report to Friends of Lake Albacutya		Report on water levels, GWM meeting results in November and current levels in water storages in the Grampians and also lake Hindmarsh to table at their AGM the next day.
27/03/2023	Dimboola Community Plan Meeting		

Cr ALBRECHT, DEPUTY MAYOR

Date	Meeting	Location	Comments
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01/03/2023	Launch of West Wimmera Health Service Community Health Profiles	Nhill	Very interesting and alarming health statistics for our four towns. Worthy of a close read.
01/03/2023	Council Plan Actions & Capital Budget draft	Nhill	
01/03/2023	Council Briefing	Nhill	
01/03/2023	Council Meeting	Nhill	
20/03/2023	Nhill Town Advisory Committee Meeting		
21/03/2023	Harmony Day and Australian Citizenship Ceremony	Nhill	Congratulations to our newest Hindmarsh citizens and well done to everyone involved in the Harmony Day celebrations. It was a wonderful event showcasing many cultures in Hindmarsh.
22/03/2023	CEO Employment and Remuneration Committee Meeting	Nhill	

Cr ISMAY

Date	Meeting	Location	Comments
24/02/2023	WHAG Meeting	Zoom	
01/03/2023	WWHS Info Session		
01/03/2023	Council Briefing	Nhill	
01/03/2023	Council Meeting	Nhill	
07/03/2023	Grampians Tourism Info Session		
09/03/2023	Working Bee for Enduro Event		
10/03/2023	Scrutineer for Enduro Event		
11/03/2023	Volunteer Official for Enduro		
12/03/2023	Volunteer Official for Enduro		
13/03/2023	Pack Up Catering/Fencing Enduro Site		
19/03/2023	Summer Live Music	Oasis Rainbow	
20/03/2023	Rainbow Town Committee Meeting		
22/03/2023	CEO Mid Term Review	Nhill	

Cr GERSCH

Date	Meeting	Location	Comments
24/02/2023	RCV Board Meeting	Zoom	
26/02/2023	Aviation Volunteers Update		
01/03/2023	WWHS Medical Update		
01/03/2023	Council Planning		
01/03/2023	Council Meeting		
09/03/2023	Wimmera Machinery Field Days		
15/03/2023	Don and Janette Fritsch Send Off		
17/03/2023	Nhill Information Centre Volunteer		
21/03/2023	Harmony Day and Citizenship		
21/03/2023	Complete Police Children Check		
21/03/2023	Westvic Spares Expo		
22/03/2023	CEO Review		
23/03/2023	Future Drought and Innovation Seminar Bendigo (RCV)		
24/03/2023	RCV Board Meeting	Zoom	

Cr BYWATERS

Date	Meeting	Location	Comments
23/02/2023	ALGWA Code of Conduct Training	Online	2023 Refresh/Reset
28/02/2023	Meeting with Emma Kealy, State Member for Lowan		Advocacy on some of my priorities for Hindmarsh and the region. Information sharing and chat.
01/03/2023	CoRE Leadership Group Meeting	Online	My first meeting as a member of the Women's Health Grampians, CoRE Leadership Group.
01/03/2023	Budget/Council Planning Meeting, Council Briefing and Council Meeting	Nhill	
02/03/2023	Cynthia Mahoney – The Future of Leadership	Federation University, Horsham	
06/03/2023	New Purple Rubbish Bin Video	Nhill	
07/03/2023	Homework Club	The Patch, Nhill	

08/03/2023	Grampians, Regional Advisory Council (RAC) Meeting	Zoom	This was my first meeting as a member of the Grampians RAC.
11/03/2023	The Dimboola Tower Park Official Opening and Tower Market	Dimboola	Congratulations to the Dimboola Art Inc. Committee, Dimboola Town committee and everyone involved. It was wonderful to see hundreds of people come out and celebrate this State Government "Pick Your Project" and community funded project, that is extremely important to the Dimboola community.
14/03/2023	Volunteer for WDA's Migrant Services, Homework Club	The Patch, Nhill	
15/03/2023	Don and Janette's Farewell	Nhill Bowling Club	
15/03/2023	Hindmarsh Chapter (West Vic Business) Business Networking Session	Dimboola	
20/03/2023	Steampunk Volunteer Meeting	Old Shire Hall, Dimboola	
21/03/2023	Hindmarsh Harmony Day	Nhill Community Centre	
21/03/2023	Nhill Homework Club	The Patch, Nhill	
22/03/2023	CEO Six Months Review EAO Committee Meeting with Independent Chair, Christine Mileham	Nhill Memorial Community Centre	
25/03/2023	Sionnach Rua's Great Irish Songbook, live at the Hindmarsh Hotel	Jeparit	
27/03/2023	Dimboola Community Plan, and Economic Development Plan, Community Consultation Session	Dimboola	

Cr NELSON

Date	Meeting	Location	Comments
24/02/2023	Summer Music Sessions	Dimboola	

01/03/2023	Council Plan Meeting	Nhill	
01/03/2023	Council Briefing Meeting	Nhill	
01/03/2023	Council Meeting	Nhill	
07/03/2023	Dimboola Town Advisory Committee Meeting		
08/03/2023	Audit and Risk Committee Meeting	Online	
11/03/2023	Tower Park Official Opening	Dimboola	
14/03/2023	WSMLLEN Finance Committee Meeting	Dimboola	
15/03/2023	Business Information Network Meeting	Dimboola	
17/03/2023	Dimboola Urban Landcare Meeting		
20/03/2023	Steampunk Volunteers Meeting		
21/03/2023	Mates Mentoring	DMSC Dimboola	
21/03/2023	Employment and Remuneration Committee Meeting	Nhill	
23/03/2023	WSMLLEN Committee of Management Meeting	Horsham	
27/03/2023	Community Consultation Meeting	Dimboola	
27/03/2023	Steampunk Volunteers Meeting		

7 CORRESPONDENCE

Crs R Gersch and M Albrecht declared conflicts of interests and left the room at 3:25pm.

7.1 GENERAL CORRESPONDENCE

Responsible Officer: Chief Executive Officer

Attachment Numbers: 2 – 4

Introduction:

The following correspondence is attached for noting by Council.

Inwards:

- 2023/03/28 – Letter from Nhill and District Sporting Club RE Davis Park Redevelopment Priorities

Outwards:

- 2023/03/02 – Letter to Rainbow Town Committee RE Solar Lighting Project Expenditure
- 2023/03/02 – Letter to Dimboola Town Committee RE Steampunk Festival Expenditure

RECOMMENDATION:

1. *That Council notes the attached correspondence; and*
2. *That Council requests a report be presented at the May Council meeting in relation to the Davis Park redevelopment priorities.*

MOVED: CRS D Nelson/W Bywaters

1. *That Council notes the attached correspondence; and*
2. *That Council requests a report be presented at the May Council meeting in relation to the Davis Park redevelopment priorities.*

CARRIED

Attachment Numbers: 2 – 4

Crs R Gersch and M Albrecht returned to the room at 3:26pm.

8 PLANNING PERMITS

8.1 APPLICATION FOR PLANNING PERMIT 1794-2022 – USE AND DEVELOPMENT OF THE LAND FOR RURAL INDUSTRY AND REDUCTION OF CAR PARKING REQUIREMENTS – BYWATERS ROAD, NHILL, VIC, 3418

Responsible Officer:	Director Infrastructure Services
File:	Planning – Applications
Assessment:	101380
Application Number:	PA1794-2022
Application Received:	2 November 2022 (amended 23 January 2023)
Applicant:	Matthew Koop C/- Jodie Senior
Owner:	Matthew Koop
Subject Land:	Bywaters Road, Nhill, VIC, 3418 (Crown Allotment 61A Parish of Balrootan)
Proposal:	Use and development of the land for Rural Industry and reduction of car parking requirements
Zoning & Overlays:	Farming Zone (TZ)
Attachment Numbers:	5 – 7

Summary:

This report recommends Council approves Planning Permit PA1794-2022 for the Use and development of the land for Rural Industry and reduction of car parking requirements on the subject land known as Bywaters Road, Nhill, VIC, 3418 (Crown Allotment 61A Parish of Balrootan).

Background:

On 2 November 2022, Jodie Senior on behalf of the property owner Matthew Koop lodged a planning application to the Responsible Authority for the Use and development of the land for Rural Industry at Bywaters Road, Nhill. Following an initial assessment and discussion with the applicant, the application was amended on 23 January 2023 to include a reduction of car parking requirements.

Proposal Details:

The permit applicant, Jodie Senior seeks approval for the Use and development of the land for Rural Industry and reduction of car parking requirements.

The subject land is currently used as a small horticultural business for the cultivation and harvesting of native plants and seeds such as Quandongs, Muntries and Wattles. The proposed rural industry will support the agricultural use of the land and will be situated in the north western corner of the site, approximately 220m from the northern boundary and 178.7m from the western boundary. The rural industry will consist of one building with a footprint measuring 44.9m by 24.5m (total floor area of approx. 1103sqm). It is proposed that the building be constructed in stages as follows:

Stage 1 – The entire superstructure and internal floor slabs will be constructed and used as an agricultural machinery and fodder storage shed whilst site development works are in progress and cropping matures (approx. 3 years).

Stage 2 – The remainder of works will be completed including internal fit out, amenities, office and cool rooms. At the completion of stage 2, the building will be suitable for use by employees for the purpose of cleaning and packing harvested produce.

The maximum height of the building is 7.7m at the apex and will be clad in zincalume metal sheeting. There will be a number of roller doors and PA doors and windows on the northern, eastern and western elevations. To achieve the proposed bench level of 170.0m, a maximum cut of 700mm and a maximum fill of 900mm is proposed.

Ten on-site car parking spaces are proposed (subject to an amended site plan) as well as an internal accessway to an existing crossover. The existing crossover provides access to a rural road known as Road 240 F03 along the western boundary of the site. As the proposal does not meet the car parking requirements under Clause 52.06-5 of the Planning Scheme, a reduction of car parking requirements is also proposed.

A partial site plan, staging floor plan and elevations of the proposed rural industry are contained within Figure's 1 to 3 on the following pages.

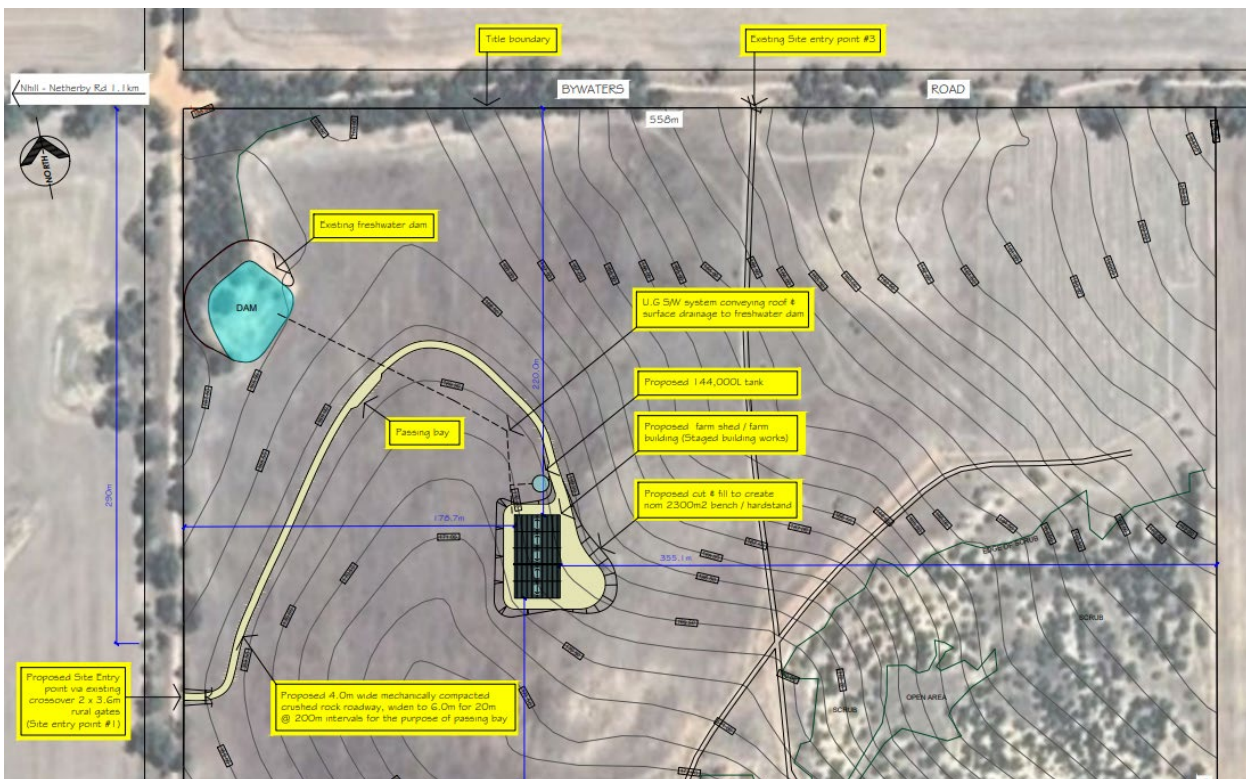


Figure 1 – Partial Site Plan

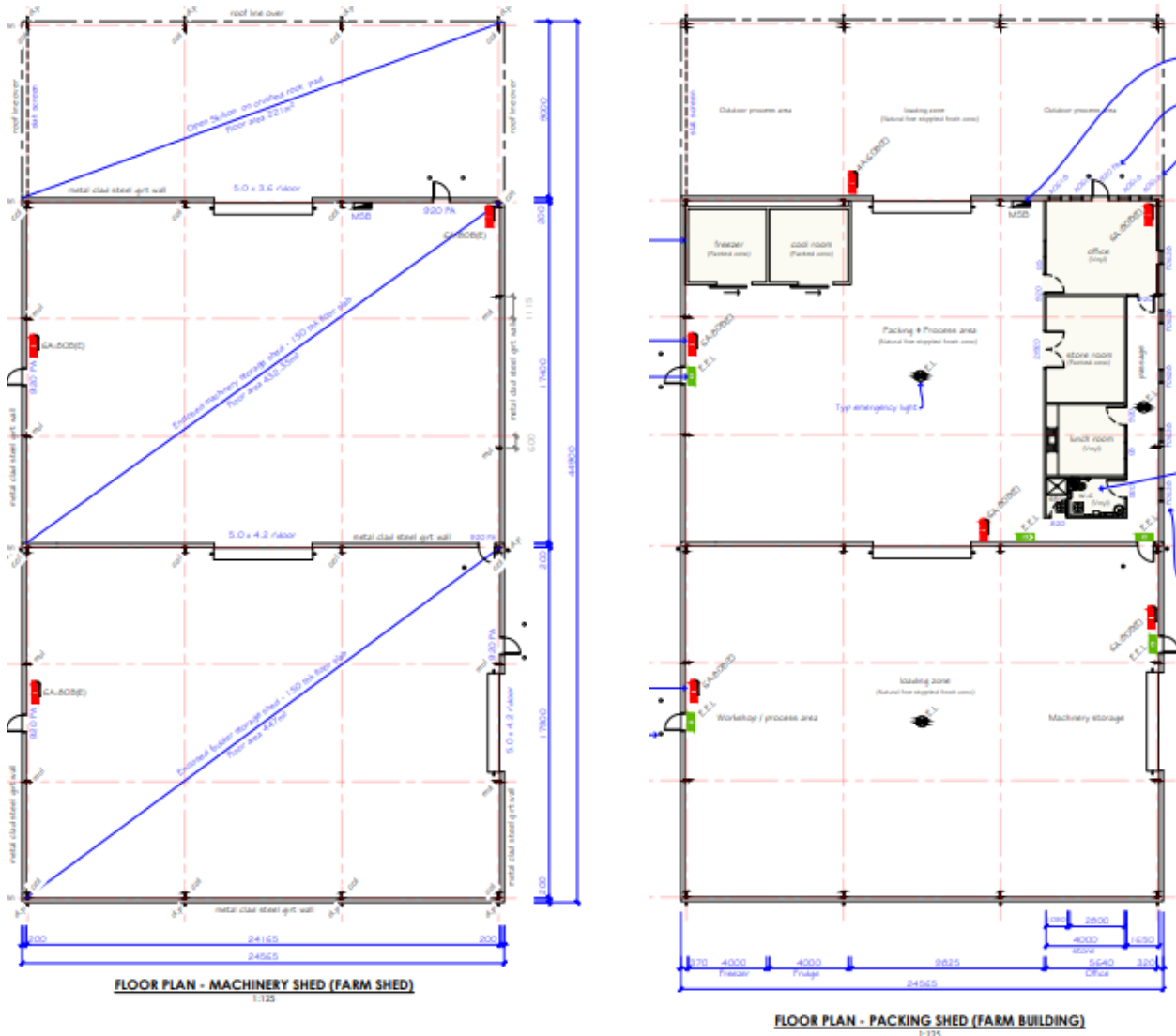


Figure 2 – Staging floor plan

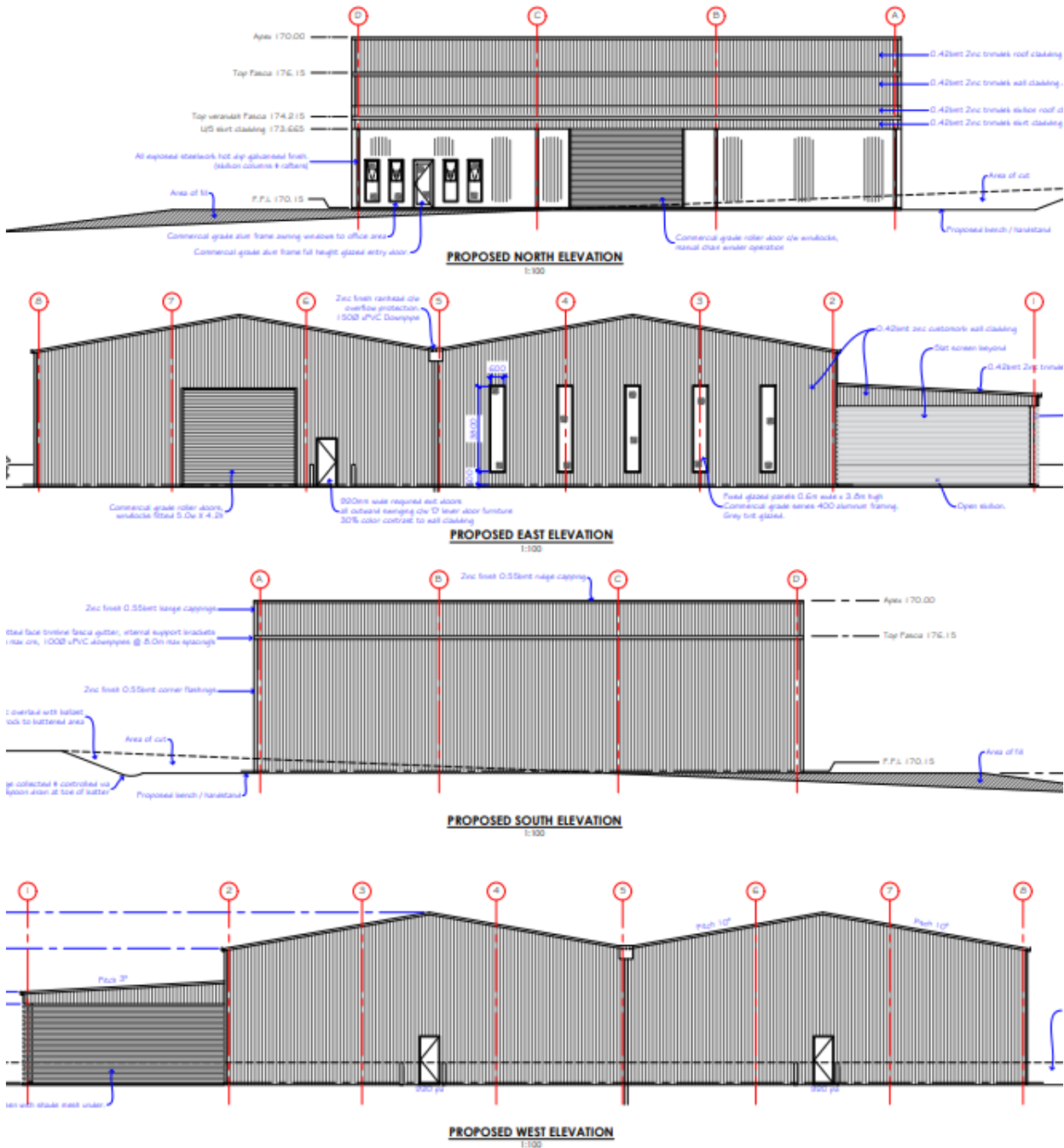


Figure 3 – Elevations

Requirement for Permit:

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

- Clause 35.07-1 (Farming Zone) – A permit is required to use the land for a Section 2 Use (Rural Industry) as the floor area exceeds the Section 1 condition requirement.
- Clause 35.07-4 (Farming Zone) – A permit is required to construct a building or to construct or carry out works associated with a Section 2 Use.
- Clause 52.06-3 (Car Parking) - A permit is required to reduce the number of car parking spaces required under Clause 52.06-5.

Definitions:

The Rural Industry is defined within the Hindmarsh Planning Scheme as follows:

Land used to:

- a) handle, treat, process, or pack agricultural produce;*
- b) service or repair plant, or equipment, used in agriculture; or*
- c) manufacture mud bricks.*

Restrictive Covenant or Section 173 Agreement:

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

Cultural Heritage Management Plan (CHMP):

Regulation 7 of the *Aboriginal Heritage Regulations 2018* states:

A cultural heritage management plan is required for an activity if—

- (a) all or part of the activity area for the activity is an area of cultural heritage sensitivity and*
- (b) all or part of the activity is a high impact activity.*

Although, industry is a high impact activity, a Cultural Heritage Management Plan is not required as the subject site is not within an area of cultural heritage sensitivity.

Subject site & locality:

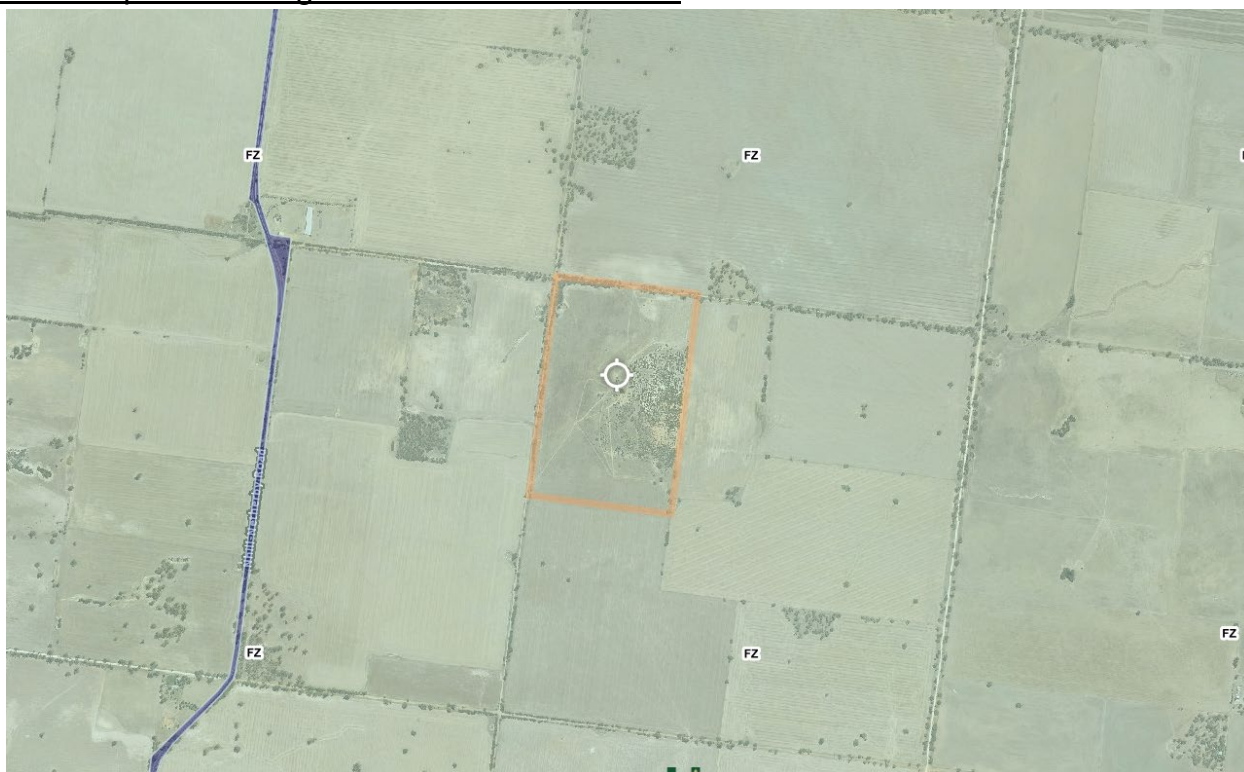
The subject site is known as Bywaters Road, Nhill (Crown Allotment 61A Parish of Balrootan), which comprises a single title of approximately 48 hectares. The site has a frontage of approximately 558m to Bywaters Road and 860m to a rural road known as Road 240 F03. The land is undulating with the highest point located relatively central to the site. The land is currently used for horticulture and does not contain any existing buildings. There are two existing access points to Road 240 F03 and one existing access point to Bywaters road. Native vegetation covers approximately a quarter of the site adjacent to the eastern boundary and surrounding an existing dam in the north-western corner of the site. Due to the rural locale, the site would not have access to reticulated services. The site is within a bushfire prone area but otherwise is not subject to natural hazards and there are no heritage or cultural sensitivities.

The site is located approximately 4.5km to the north east of the Nhill Town Centre. The surrounding area predominantly consists of productive agricultural land used for broadacre farming. An aerial map of the site and a zoning map is contained below.

Aerial Map below – Hindmarsh POZI



Aerial Map with Zoning below – Hindmarsh POZI



Section 52 Notice of Application

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

- Letters to adjoining and nearby property owners; and
- A notice in the 'Nhill Free Press'.

No objections were received.

Referrals:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	
Nil	

Section 52 and Internal Notices	
Engineering	<p>No objection to the development subject to conditions:</p> <p>Access:</p> <p><i>Access to the Proposed development shall be from the existing entrance at the West side of the lot on Road 240 F03.</i></p> <p>Road Access and upgrade:</p> <p><i>All vehicles that attend the Proposed Business premise must be via Piggery Lane from the Nhill - Netherby Road to the entrance of property / business and depart the premise via the reversal.</i></p> <p><i>The section of Road 240 F03 from Piggery Lane to the entrance of property / Proposed business is classified a 6R earth road and Piggery Lane is a 6S - Strategic earth road, as per our Road Management Plan.</i></p> <p><i>Under the Road Management Plan – this is defined as:</i></p> <p>6 - Property (Secondary) Access Roads <i>Rural roads which provide access to non-residential property. They are not necessarily all - weather roads. Urban roads or laneways which provide secondary access to residential, commercial or industrial property.</i></p> <p><i>Whilst Council supports the proposal from an Engineering perspective, we cannot guarantee access at all-times, due to the current hierarchy of the roads.</i></p> <p><i>At any stage of the proposed development / operation of the business - Should the applicant require all - weather access, the Roads must be lifted to a higher hierarchy, by upgrading to a gravelled 5R all - weather Road to Council Standard at the applicants cost.</i></p>

	<p>Car Parking:</p> <p><i>The car park must be constructed to a min. 150mm deep and 100mm compacted gravel with edge runoff all around for drainage, with an accessway width of 6.4m and the car park space dimension of 4.9m x 2.6m (at 90°) as per the Hindmarsh Planning scheme - Car Parking - Clause 52.06 to the satisfaction of the Responsible Authority at the applicants cost.</i></p> <p><i>The reduction of car park spaces to 10 for the Proposed Business is adequate.</i></p> <p>Drainage:</p> <p>a. <i>The LPD is to be made away from any structure and Storm water should be collected from the shed and harvested into the rainwater tanks with overflow directed, downhill and away from the structure.</i></p> <p>b. <i>LPD can be applied with the building permit application.</i></p> <p>Note:</p> <p><i>Damage to existing Council infrastructure is to be minimised during construction of the Proposed development.</i></p> <p><i>Any damage to Council infrastructure must be reinstated to original state, to the satisfaction of the Responsible Authority and at the applicant's expense.</i></p> <p>Response received 2 February 2022.</p> <p>NOTE: As per email from Madan Dhungel dated 12 January 2023, Council does not wish to place a condition on the permit requiring road upgrades.</p>
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Planning Assessment:

Planning Scheme Requirements:

Municipal Planning Strategy and Planning Policy Framework:

Clause 02.03-4 – Natural Resource Management

Clause 14.01-1S – Protection of Agricultural Land

Clause 14.01-2S – Sustainable Agricultural Land Use

Clause 14.01-2R – Agricultural Productivity – Wimmera South Mallee

Clause 02.03-6 – Economic Development

Clause 17.03-2S – Sustainable Industry

Planning Response:

The broad policy basis of Clause 14.01-1S seeks to ensure that the use and development of land does not detract from agriculture or remove productive agricultural land. It is recognised that there is a need to pursue improved and alternative agricultural activities, diversify the agricultural base and develop additional local value adding opportunities within the Municipality (Clause 02.03-4).

As discussed previously, the subject land is currently used for agricultural purposes for the cultivation and harvesting of native plants and seeds such as Quandongs, Muntries and Wattles. This is a relatively niche market and is considered to provide an alternative agriculture venture to standard broadacre cropping typically found within the surrounding area.

As there are no existing buildings on the land, there is a clear need for both storage and processing facilities to support the agricultural venture, which the proposal will provide for. As there is a direct link to agriculture, the proposal is not seen as removing productive agricultural land. Rather the proposal will facilitate the sustainable operation and expansion of agriculture, as sought by Clauses 14.01-2S and 14.01-2S.

It is recognised under Clause 02.03-6 that the local economy is based on agricultural production, particularly cropping, grazing and wool. The strategic directions seek to support manufacturing and processing industries in rural areas that could not be accommodated in or close to existing urban areas. Further, Clause 17.03-2S seeks to facilitate the sustainable operation of industry in appropriate locations. As the proposed rural industry is directly linked to the agricultural use of the land, it is appropriately located on the site and not in an urban area or industrial zone.

Taking into consideration the above, the proposal is appropriate taking in the context of the Municipal Planning Strategy and Planning Policy Framework.

Zoning Provisions:

Clause 35.07 – Farming Zone (FZ)

Clause 35.07-1 Table of uses

A permit is required to use the land for a Section 2 Use (Rural Industry)

Clause 35.07-4 Buildings and works

A permit is required to construct a building or construct or carry out works associated with a use in Section 2 of Clause 35.07-1.

35.07-6 Decision guidelines (relevant to the application)

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:

General issues

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

Agricultural issues and the impacts from non-agricultural uses

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

Environmental issues

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

Design and siting issues

- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*
- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*

- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*

Planning Response:

The proposal is considered to support the Municipal Planning Strategy and Planning Policy Framework, having particular regard to the protection of agricultural land and development for rural areas as discussed above. There are no known land management or capability constraints that would restrict the ability of the site to contain the proposed rural industry. There are no natural hazards that affect the site and bushfire risk will be considered as part of the building permit process. The site does not have access to reticulated services, as such, alternative means of water and electricity supply and wastewater management will be adopted. These include a 144,000L water tank for water supply, an existing dam for stormwater management, a solar system for electricity and a septic system for wastewater.

The proposal is considered to meet the applicable decision guidelines with regard to agricultural considerations outlined above. The proposed rural industry will support the agricultural use of the land by providing an essential storage and processing facility for agricultural produce. Given that the facility is intrinsically linked to agriculture occurring on the site, it is not seen as removing productive agricultural land. Rather, the facility will contribute to the sustainable operation and expansion of agriculture. Given the agricultural affiliation, the proposal is compatible with surrounding land uses which are also agricultural in nature.

The proposal will not negatively impact on the natural physical features and resources of the area. The building and accessway will be positioned over a cleared portion of the site to ensure that no negative impacts on flora and fauna will occur. No native vegetation is proposed to be removed and the biodiversity of the area will not be affected as no works are to be undertaken in areas where such impacts could result.

There are no concerns raised in terms of the design and siting considerations listed above. The building is appropriately positioned in a central location to be accessible from all planted areas on the site. The proposed building is considered to be compatible with the rural landscape character of the area and typical of such buildings found on other rural properties. The site is surrounded by broadacre cropping properties and does not have any heritage or cultural sensitivities. Furthermore, there are no important natural landscapes, vistas or views that will be impacted.

The proposal makes use of an existing crossover to a rural public road. The engineering department have confirmed that there is no need to upgrade this road as part of this planning permit application and will not impose conditions in this regard. The proposed use is unlikely to require traffic management measures as most vehicle movements will be contained within the site, with external vehicle movements limited to workers and deliveries arriving and departing, predominantly during harvest.

For these reasons, the proposal is considered acceptable against the matters to be considered under the Farming Zone.

Overlay Provisions:

There are no Overlays that apply to the land.

Particular Provisions:

Clause 52.06 - Car Parking

Table 1 to Clause 52.06-5 outlines the required number of car parking spaces for various land uses. The following extract of the table is applicable to the proposal.

Use	Rate Column A	Rate Column B	Car Parking Measure Column C
Industry	2.9	1	To each 100 sq m of net floor area

The proposed rural industry has a net floor area of 1103sqm and as such, 31 on site car parking spaces are required pursuant to Table 1 to Clause 52.06-5. The applicant has agreed to provide 10 on-site car parking spaces and an amended site plan will be required to show the on-site car parking spaces as per Condition 1. A reduction of the remaining car parking spaces has been sought.

The provision of car parking (10 spaces) is considered to be adequate for the proposed Rural Industry. The measure specified within Table 1 to Clause 52.06-5 is considered to be overly onerous in this instance as a portion of the building will be used only for storage purposes. The provision of car parking is sufficient to accommodate the anticipated number of staff working from the facility at any given time and there is additional space on the site to accommodate additional car parking if the need arises. As such, a reduction to the car parking requirements is acceptable in this instance.

Conditions will be included on any permit issued to ensure that the accessway and car parking areas are designed and constructed in accordance with Clause 52.06-9 and Clause 52.06-11.

General Provisions:

Clause 65 - Decision Guidelines

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

Clause 65.01– Approval of an application or plan

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

- *The matters set out in section 60 of the Act.*
- *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 degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

Planning Response:

The proposal is appropriate, taking into account the matters set out in Section 60 of the Planning and Environment Act 1987. Namely, the proposal satisfies the relevant provisions of the Hindmarsh Planning Scheme, notification and referrals were undertaken, no issues were raised, and there are no significant environmental, social or economic effects.

As deliberated throughout this report, the proposal is consistent with the Planning Policy Framework, the purpose of the Farming Zone and other relevant provisions of the Hindmarsh Planning Scheme. The proposal results in an orderly and desirable planning outcome as it supports and enhances agricultural production on the land which in turn will strengthen the local economy. The proposal will not impact the character and amenity of the surrounding area which is rural/agricultural in nature and no native vegetation will be removed.

The site is not within an area of cultural or heritage sensitivity and is not prone to natural hazards. The proposal is unlikely to cause or contribute to land degradation, salinity or reduce water quality as stormwater and wastewater will be appropriately managed on-site. As discussed previously, the proposal is unlikely to require traffic management measures and loading and unloading can be accommodated on-site.

Discussion:

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

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

Clause 35.07 – Farming Zone (FZ)

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

Clause 52.06 – Car Parking

The proposal complies with the purpose and decision guidelines of Clause 52.06 for the reasons outlined in the planning response discussed above.

Clause 65 Decision Guidelines

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

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Planning Policy Framework, the Farming Zone and Clause 52.06 of the Hindmarsh Planning Scheme.

Report to Council:

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

Processing Times:

02/09/2022 The application was received.
05/09/2022 Additional documents provided to Council.
14/09/2022 Informal referral to Engineering.
06/10/2022 The fee was paid.
28/11/2022 Engineering RFI sent.
07/12/2022 Response to Engineering RFI received.
09/12/2022 Engineering referral response received.
23/01/2023 Applicant amended application to include reduction of car parking.
30/01/2023 Notification instructions sent to applicant.
31/03/2023 Re-referral to engineering.
01/02/2023 Advertisement in Nhill Free Press
02/02/2023 Engineering re-referral response received.
17/02/2023 Notification concluded.
05/04/2023 The report is being presented to Council on 05 April 2023 (54 days).

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

Conflict of Interest:

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

Officer Responsible: Jessie Holmes, Director Infrastructure Services.

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

Author: Ebony Cetinich, Consultant Town Planner, on behalf of Janette Fritsch, Manager Development.

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

Link to Council Plan:

Facilitate and support economic development.

Financial Implications:

Nil

Risk Management Implications:

Nil

Communications Strategy:

Advise the Applicant of Council's decision.

Next Steps:

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

RECOMMENDATION:

That Council approves planning application PA1794-2022 for Use and development of the land for Rural Industry and reduction of car parking requirements on the subject land known as Bywaters Road, Nhill, VIC, 3418 (Crown Allotment 61A Parish of Balrootan), subject to the following conditions:

Amended Plans Required

- 1. Before the endorsement of any plans, 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 and be generally in accordance with the plans submitted but modified to show:
 - (a) 10 on-site car parking spaces that comply with the Design Standards under Clause 52.06-9 of the Hindmarsh Planning Scheme, as per Condition 14.******

Endorsed Plans

- 2. 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.

Use Conditions

3. *The loading and unloading of goods must be carried out wholly within the title boundaries of the land.*
4. *All storage of agricultural produce associated with the use must occur within the confines of the approved building.*
5. *Before the commencement of the use for Rural Industry, the areas set aside for car parking, loading and unloading of vehicles and internal access lanes as shown on the endorsed plans must be:*
 - (a) *Constructed in an all-weather surface (as per Condition 14);*
 - (b) *Properly formed to such levels that they can be used in accordance with the endorsed plans;*
 - (c) *Drained; and*
 - (d) *Clearly marked to show each car parking space and the direction of traffic flow along access lanes and driveways in accordance with the design standards of Clause 52.06-9 of the Hindmarsh Planning Scheme;**to the satisfaction of the Responsible Authority. Car parking spaces, loading bays, access lanes and driveways must be kept available for these purposes at all times.*
6. *The use must be conducted to the satisfaction of the Responsible Authority so that the amenity of the area is not detrimentally affected by the use or development, through the:*
 - (a) *Transport of materials, goods or commodities to or from the land;*
 - (b) *Appearance of any buildings, works or materials;*
 - (c) *Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or*
 - (d) *Presence of vermin.*
7. *Except with the written consent of the Responsible Authority, the developed approved by this permit must not be used for the purpose of a Rural Industry until such time as the development has been completed to the satisfaction of the Responsible Authority, in accordance with the permit and endorsed plans (including, but not limited to built form and layout, car parking and access lanes, landscaping and drainage).*
8. *Waste materials must be disposed of in such a manner as to render such material harmless and inoffensive to the satisfaction of the responsible authority.*
9. *Before the commencement of the use for Rural Industry, a sewerage disposal system must be approved by the Responsible Authority, installed and operational. Once installed, the sewerage disposal system must be maintained to the satisfaction of the Responsible Authority.*

Development Conditions

10. *Upon completion of the works, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.*

- 11. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.**

Engineering Conditions

Access:

- 12. Access to the Rural Industry hereby approved must be from the existing entrance at the West side of the lot on Road 240 F03.**

Road Access:

- 13. All vehicles that attend the Rural Industry hereby approved must be via Piggery Lane from Nhill - Netherby Road to the entrance of property as described under Condition 12 and depart the premise via the reversal.**
- 14. If traffic volumes triple from those estimated by the Applicant by email of 07/12/2022, Council will require the access as described in Condition 13 above to be upgraded to all-weather standard (gravelled 5R) to service the Rural Industry. Such upgrade will be at the Applicant's cost.**
- 15. If access issues are raised by or on behalf of the Applicant, any upgrade of the access will be at the Applicant's expense.**

Car Parking:

- 16. The car park must be constructed to a min. 150mm deep and 100mm compacted gravel with edge runoff all around for drainage, with an accessway width of 6.4m and the car park space dimension of 4.9m x 2.6m (at 90°) as per the Hindmarsh Planning scheme - Car Parking - Clause 52.06 to the satisfaction of the Responsible Authority at the applicants cost.**

Drainage:

- 17. Before the commencement of the use for Rural Industry, all stormwater and surface water discharging from the site for the approved development must be directed to the legal point of discharge (LPD) to the satisfaction of the Responsible Authority.**

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

LPD can be applied with the building permit application.

Time Limit

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

permit; or

- (c) The use is not started within two (2) years after the completion of the development; or*
- (d) The use is discontinued for a period of two (2) or more years.*

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

Notes:

- Damage to existing Council infrastructure is to be minimised during construction of the Proposed development.*
- Any damage to Council infrastructure must be reinstated to original state, to the satisfaction of the Responsible Authority and at the applicant's expense.*

MOVED: CRS W Bywaters/R Ismay

That Council approves planning application PA1794-2022 for Use and development of the land for Rural Industry and reduction of car parking requirements on the subject land known as Bywaters Road, Nhill, VIC, 3418 (Crown Allotment 61A Parish of Balrootan), subject to the following conditions:

Amended Plans Required

- 1. Before the endorsement of any plans, 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 and be generally in accordance with the plans submitted but modified to show:
 - (a) 10 on-site car parking spaces that comply with the Design Standards under Clause 52.06-9 of the Hindmarsh Planning Scheme, as per Condition 14.**

Endorsed Plans

- 2. 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.*

Use Conditions

- 3. The loading and unloading of goods must be carried out wholly within the title boundaries of the land.*
- 4. All storage of agricultural produce associated with the use must occur within the confines of the approved building.*

5. ***Before the commencement of the use for Rural Industry, the areas set aside for car parking, loading and unloading of vehicles and internal access lanes as shown on the endorsed plans must be:***
- (a) ***Constructed in an all-weather surface (as per Condition 14);***
 - (b) ***Properly formed to such levels that they can be used in accordance with the endorsed plans;***
 - (c) ***Drained; and***
 - (d) ***Clearly marked to show each car parking space and the direction of traffic flow along access lanes and driveways in accordance with the design standards of Clause 52.06-9 of the Hindmarsh Planning Scheme;***
- to the satisfaction of the Responsible Authority. Car parking spaces, loading bays, access lanes and driveways must be kept available for these purposes at all times.***
6. ***The use must be conducted to the satisfaction of the Responsible Authority so that the amenity of the area is not detrimentally affected by the use or development, through the:***
- (a) ***Transport of materials, goods or commodities to or from the land;***
 - (b) ***Appearance of any buildings, works or materials;***
 - (c) ***Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or***
 - (d) ***Presence of vermin.***
7. ***Except with the written consent of the Responsible Authority, the developed approved by this permit must not be used for the purpose of a Rural Industry until such time as the development has been completed to the satisfaction of the Responsible Authority, in accordance with the permit and endorsed plans (including, but not limited to built form and layout, car parking and access lanes, landscaping and drainage).***
8. ***Waste materials must be disposed of in such a manner as to render such material harmless and inoffensive to the satisfaction of the responsible authority.***
9. ***Before the commencement of the use for Rural Industry, a sewerage disposal system must be approved by the Responsible Authority, installed and operational. Once installed, the sewerage disposal system must be maintained to the satisfaction of the Responsible Authority.***

Development Conditions

10. ***Upon completion of the works, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.***
11. ***All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.***

Engineering Conditions

Access:

12. ***Access to the Rural Industry hereby approved must be from the existing entrance at the West side of the lot on Road 240 F03.***

Road Access:

13. **All vehicles that attend the Rural Industry hereby approved must be via Piggery Lane from Nhill - Netherby Road to the entrance of property as described under Condition 12 and depart the premise via the reversal.**
14. **If traffic volumes triple from those estimated by the Applicant by email of 07/12/2022, Council will require the access as described in Condition 13 above to be upgraded to all-weather standard (gravelled 5R) to service the Rural Industry. Such upgrade will be at the Applicant's cost.**
15. **If access issues are raised by or on behalf of the Applicant, any upgrade of the access will be at the Applicant's expense.**

Car Parking:

16. **The car park must be constructed to a min. 150mm deep and 100mm compacted gravel with edge runoff all around for drainage, with an accessway width of 6.4m and the car park space dimension of 4.9m x 2.6m (at 90°) as per the Hindmarsh Planning scheme - Car Parking - Clause 52.06 to the satisfaction of the Responsible Authority at the applicants cost.**

Drainage:

17. **Before the commencement of the use for Rural Industry, all stormwater and surface water discharging from the site for the approved development must be directed to the legal point of discharge (LPD) to the satisfaction of the Responsible Authority.**

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

LPD can be applied with the building permit application.

Time Limit

18. **The above-mentioned planning permit will expire if either of the following circumstances arise:**
 - (a) **The development is not started within two (2) years of the date of this permit; or**
 - (b) **The development is not completed within five (5) years of the date of this permit; or**
 - (c) **The use is not started within two (2) years after the completion of the development; or**
 - (d) **The use is discontinued for a period of two (2) or more years.**

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

Notes:

- ***Damage to existing Council infrastructure is to be minimised during construction of the Proposed development.***
- ***Any damage to Council infrastructure must be reinstated to original state, to the satisfaction of the Responsible Authority and at the applicant's expense.***

CARRIED

Attachment Numbers: 5 – 7

8.2 PLANNING PERMIT APPLICATION PA1790-2022 – USE AND DEVELOPMENT OF A DWELLING AND ALTER ACCESS TO A ROAD IN A TRANSPORT ZONE 2 – 3751 NHILL-JEPARIT ROAD JEPARIT VIC 3423

Responsible Officer:	Director Infrastructure Services
File:	Planning – Applications
Assessment:	78910
Application No.	PA1790-2022
Applicant:	Andrew Lacey, Pierrepoint Planning
Owner:	Valerie Hatfield
Subject Land:	3751 Nhill-Jeparit Road Jeparit VIC 3423 (Lot 1 on Plan of Subdivision 139201)
Proposal:	Use and development of a dwelling and alter access to a road in a Transport Zone 2
Zoning & Overlays:	Farming Zone (FZ) Environmental Significance Overlay Schedule 6 (ESO6)
Attachment Number:	8

Summary:

This report recommends Council approves Planning Permit PA1790-2022 for the Use and development of a dwelling and alter access to a road in a Transport Zone 2 on the land at 3751 Nhill-Jeparit Road Jeparit VIC 3423 (Lot 1 on Plan of Subdivision 139201), subject to standard conditions.

Background:

The site is marginal quality agricultural land that has been used for the grazing of two horses for 23 years.

Proposal Details:

The application proposes the use and development of a dwelling and alter access to a road in a Transport Zone 2.

The proposed dwelling will contain three bedrooms, an open plan living, dining and kitchen with walk in pantry, bathroom, laundry, and a verandah under the same roof form on the north and east sides of the dwelling. The dwelling will have setbacks of 84.29m from the south boundary adjoining the Transport Zone 2, 109.94m from the west boundary, 142.22m from the east boundary and 219.84m from the rear north boundary.

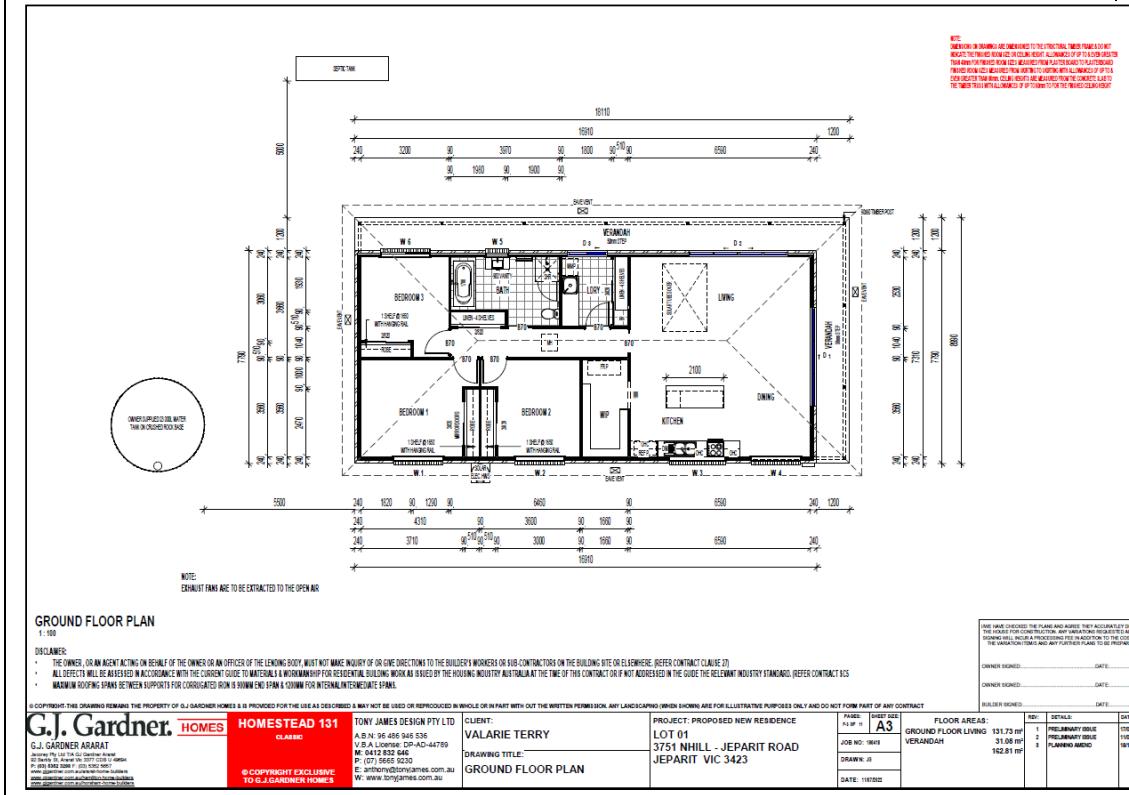
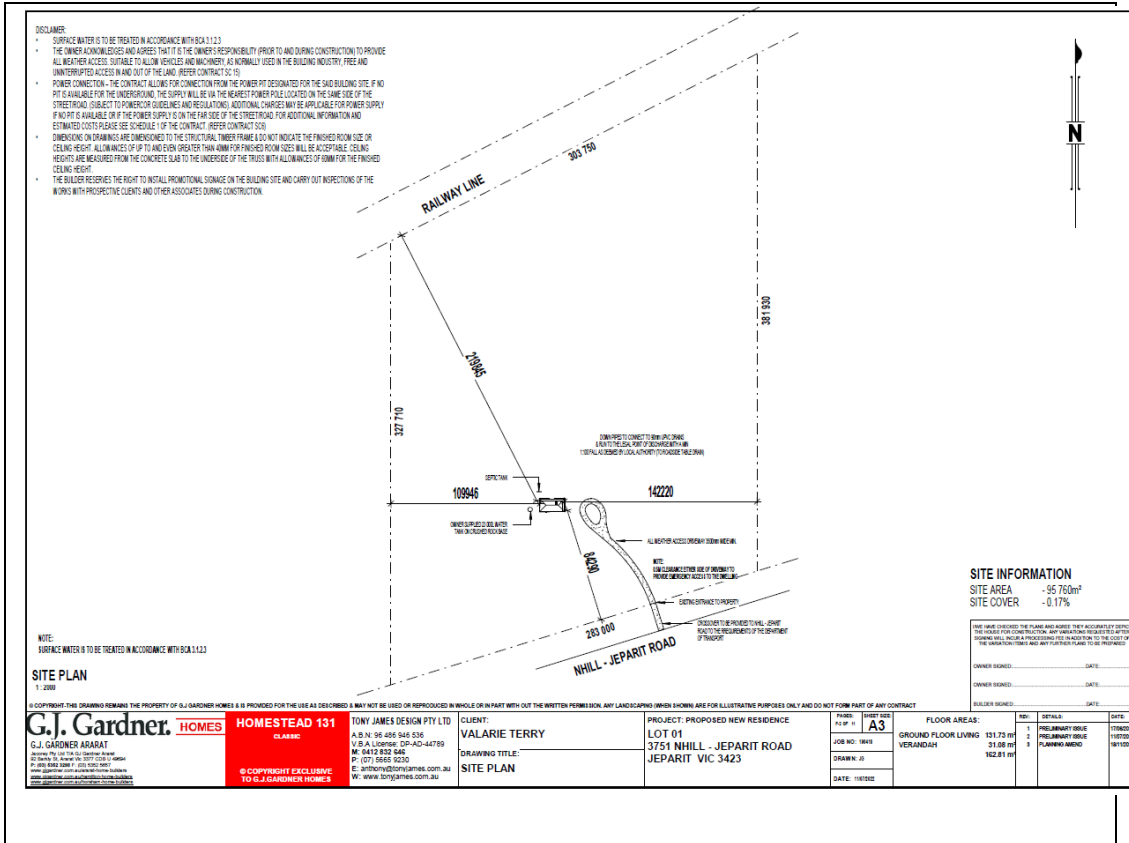
The dwelling will have a floor area of 162.81m² and will be constructed in brick for the external walls, Colorbond roof sheeting for the roof, powder coated aluminium windows and doors. The external colours will be subdued and non-reflective as detailed on the plans. A 23,000litre water tank is proposed to be sited 5.5m to the west of the western side of the dwelling, A septic tank and effluent disposal area will be located a minimum of 5.5m to the north of the northern side of the dwelling.

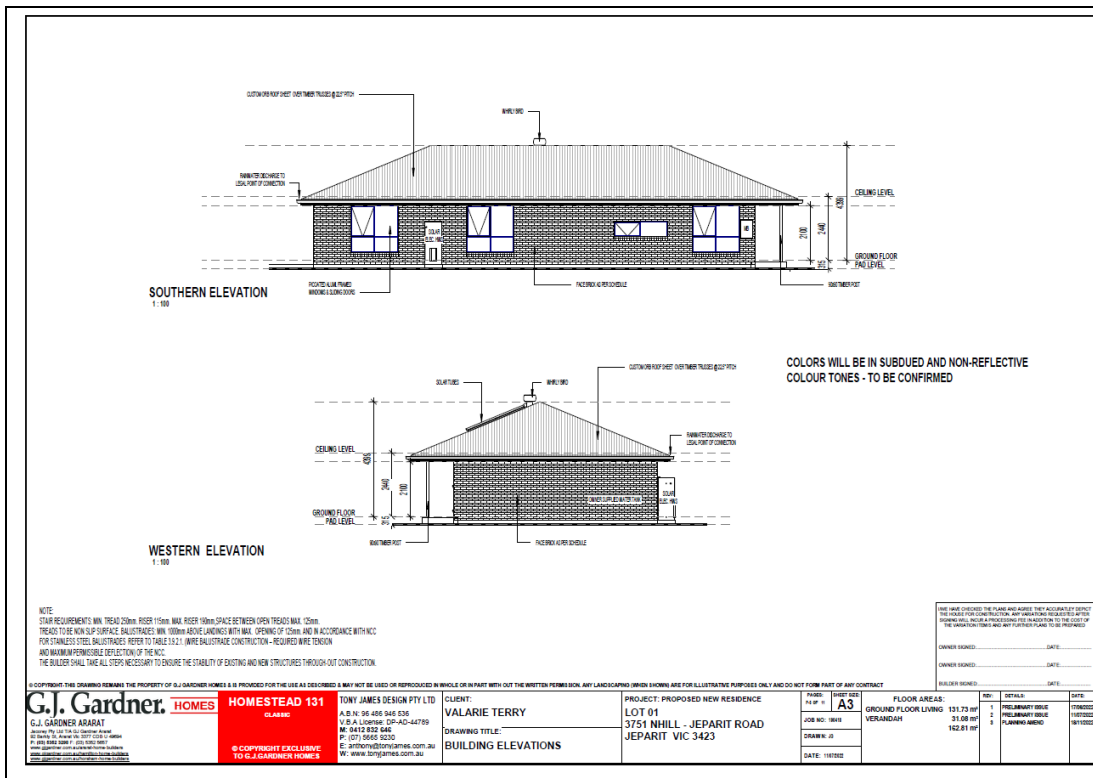
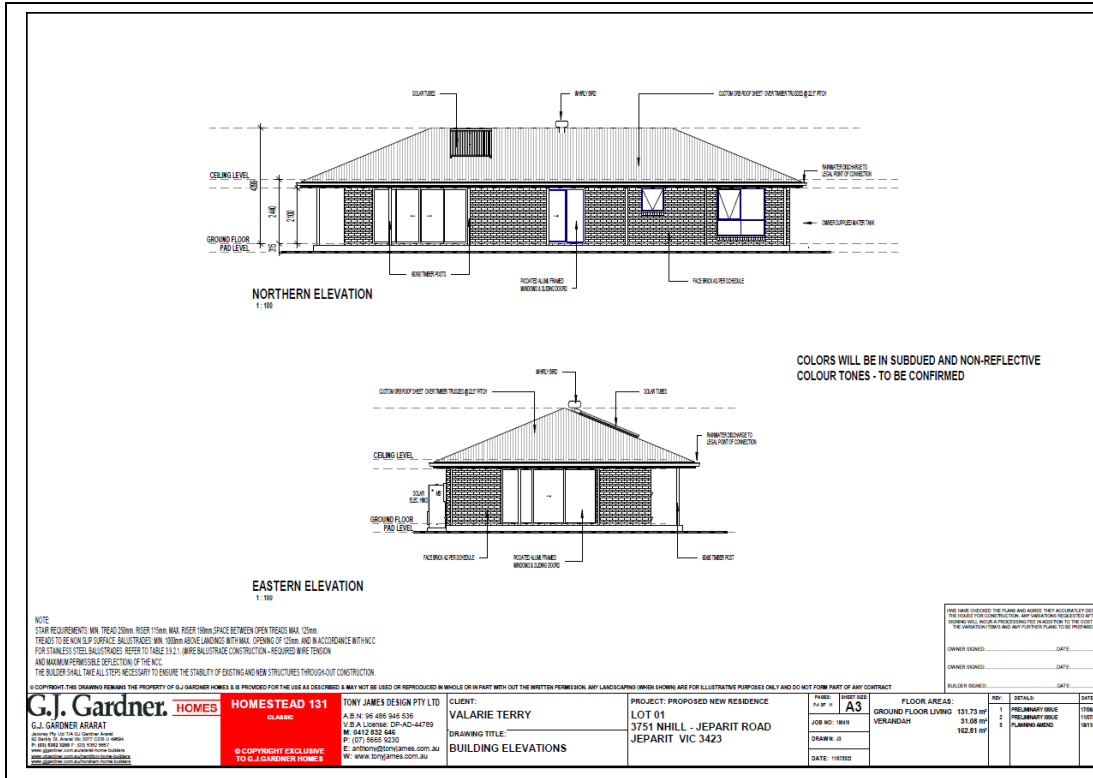
Vehicle access to the dwelling will be via a 3.5m wide all-weather access driveway from Nhill-Jeparit Road to the south and the alterations required for the access to this Transport Zone 2 also require a permit.

The applicant provided justification of the proposal including the following:

- *The dwelling is proposed to be setback 84.29 metres from the Nhill-Jeparit Road for the following reasons:*
 - *Proximity to the existing reticulated electricity supply which traverses through the application site.*
 - *The nominated dwelling site is marginally higher than the surrounding land form.*
 - *The proposed 84.29 metre setback is beyond the setback of the adjoining dwelling to the west (i.e., 60 metres) to protect the privacy of that dwelling and to reduce any effects from the proposed dwelling onto the horse yards which adjoin the west boundary of the application site.*
 - *The setback will reduce the possible impact of passing traffic noise upon the proposed dwelling.*
 - *The setback will provide a degree of privacy from passers-by.*
- *The registered proprietor of the application site acquired the property in January 2000. The land has been used over the past 20 years by the current owner for the keeping of one or two horses. In the event a permit is granted to use and develop the property for a dwelling the keeping of horses on the land will continue, together with the possible introduction of a few donkeys, goats and poultry.*
- *The introduction of a dwelling will not change the limited or modest agricultural use of the land for extensive animal husbandry.*
- *Adjoining properties to the east and west both accommodate dwellings. The highway to the south and the railway reserve to the north provide a buffer from broad acre land holdings, typically used for cropping purposes.*
- *The surrounding district is renowned for extensive broad acre cropping. The application site is too small to be used for viable cropping purposes.*
- *The agricultural qualities of the land are poor, having light sandy soils, which are not suitable for intensive agricultural practices and access to water is poor.*
- *The proposed dwelling will not result in the land use changing from agricultural purposes. There will be no loss or fragmentation of productive agricultural land.*
- *The dwelling will not be impacted upon by surrounding agricultural activities and will not adversely affect any surrounding land use activities.*
- *The approval of a dwelling in this location will not result in the proliferation of dwellings in this area. As described in Section 5 the surrounding properties are used and developed with dwellings.*
- *There is no native vegetation proposed to be removed associated with the development of a dwelling on the land. The proposed dwelling will have no impact on soil and water quality. The site is sufficiently large enough to treat and retain waste water within the curtilage of the property.*

Proposed Plans below:





Requirement for Permit:

The subject land is located within the Farming Zone. The land also adjoins the Transport Zone 2 (Nhill-Jeparit Road) to the south.

A planning permit is required for use and development of a dwelling under Clause 35.07-1 and Clause 35.07-4 of the Farming Zone. A planning permit is also required to alter access to a road in a Transport Zone 2 (Nhill-Jeparit Road) under Clause 52.29-2.

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. The use and development of one dwelling on each lot are exempt activities in any case.

Subject site & locality:

The subject site is located on the north side of the Nhill-Jeparit Road, which is within the Transport Zone 2. The site is approximately 2.5km west of the Wimmera River and 3.0km west of the township of Jeparit. The site has a total area of 9.576 hectares (ha). The site contains a small shed at the rear adjacent to the north title boundary. There are some scattered native trees at the northern end of the site that are unaffected by the application.

To the north is an unused railway reserve that abuts the northern boundary of the property. There is vacant land to the north of the unused railway reserve and Lake Hindmarsh is located further to the north approximately 600m from the northern boundary of the site.

The applicant has provided details of the surrounding land uses to provide an understanding of the land uses and settlement pattern within proximity to the site. The applicant has provided a summary of surrounding land uses on the north side of the Nhill-Jeparit Road, between Four Mile Beach Road and the Wimmera River crossing to the east, as listed below.

Address	Description of Land Use
3661 Nhill-Jeparit Road	Dwelling
3693 Nhill-Jeparit Road	Shed
3723 Nhill-Jeparit Road	Dwelling
3751 Nhill-Jeparit Road	Application for Dwelling
3861 Nhill-Jeparit Road	Dwelling
CA 17C Nhill-Jeparit Road	Former Abattoir

Aerial Photo of the site and surrounding area with zone (FZ) below (POZI):



Photo of the existing vehicle access to the site below:



Consultation:

Consultation was undertaken and included:

- A request for further information was sent to the applicant on 9 September 2022.
- A request for an extension of time to provide the further information was submitted on 3 November 2022.
- An extension of time to provide the further information was approved on 4 November 2022.
- The further information including amended plans were received in SPEAR on 8 June 2022.
- A response to further information and consent to amend application was received from the applicant on 21 November 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 road frontage of the site.
- 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

Department of Transport (DoT):

No objections, subject to conditions for the driveway and crossover to be constructed to DOT standards and for vehicles to enter and exit in a forward direction.

Section 52 Referrals

Agriculture Victoria:

Agriculture Victoria considers that:

- The application does not support and enhance agricultural production.
- The land's agricultural productivity is not necessarily limited by soil quality or property size, etc. In many cases the main obstacles to land being agriculturally productive are the ability to achieve environmental buffers and amenity separation distances to sensitive uses such as dwellings.
- The spread of rural living properties in the farming zone has the potential to limit future development or expansion of agricultural activities including Intensive animal production, Pig farms and Poultry farms in an area otherwise suited to the purpose.
- The approval of a dwelling would have the potential to set a precedent for further dwellings in the surrounding area given the pattern of small lots without dwellings which appear to be currently used for broad scale agriculture.

- The location given the proximity to urban centres and services, if the proposal was approved, it is likely that the approval of a dwelling will lead to the potential for viable holdings being reduced to hobby farm or lifestyle blocks, a divergence from productive farming and the purpose of the Farming Zone.
- The approval of a dwelling on the currently vacant land would permanently remove the ability of the land to be incorporated into surrounding agricultural enterprises and has the potential to limit the operation and expansion of adjoining and nearby agricultural uses.
- The proposal does not appear to effectively establish a domestic building envelope to minimise the domestic use impact on the land and, ensure maximising and maintaining the use of the land for agriculture.
- That without the establishment of a domestic building envelope there is a risk of further loss to available productive land over time.
- The area set aside for the domestic envelope, including the dwelling, should include any domestic outbuildings, yards, pool, garden, primary and secondary wastewater envelopes etc. and accessway.
- That the primary and secondary wastewater areas for the dwelling be appropriately buffered and fenced to exclude stock, in accordance with any land capability report recommendations.

Recommendations

Agriculture Victoria considers that the proposed use and development of a dwelling for rural residential purposes on the land does not meet the strategic objectives of the Hindmarsh Planning Scheme, with particular reference to Clause 14.01-1S Protection of agricultural land.

In addition, the approval of the dwelling would potentially set a precedent for surrounding parcels of land and potentially lead to a proliferation of dwellings in the Farming Zone.

The refusal of the application would appear supported by the VCAT cases cited above.

If Council considers that the proposal meets the strategic objectives of the Hindmarsh Planning Scheme, and Council determines a permit for a dwelling was to be approved, Agriculture Victoria makes the following recommendations:

- That any permit issued that allows the use and development of a dwelling in the Farming Zone is in association with agricultural production, protects against the potential for further subdivision of the land and ensures the use does not compromise farming activity in the area.
- That the domestic development be contained within a defined envelope that minimises the loss of agricultural land, shown on any approved plan as part of any permit issued.
- That conditions be placed on the permit to protect agricultural land through a binding agreement on title which ensures:
 - That any permit issued that allows the use and development of a dwelling in the Farming Zone is in association with the primary use of the land for agricultural production, protects against the potential for further subdivision of the land and ensures the ancillary use of a dwelling does not compromise farming activity in the area.

- That any domestic development be contained within an envelope minimising the domestic use of the land, whilst maximising and maintaining the agricultural use of the land and is shown on any approved plan as part of any permit issued.
- The dwelling must not be subdivided from the lot in the future, and the lot must not be subdivided to increase the number of lots, by excision or otherwise.
- That the primary and secondary wastewater areas for the dwelling be appropriately buffered and fenced to exclude stock, in accordance with any land capability report recommendations.
- That the owner acknowledges and accepts the possibility of nuisance from adjoining agricultural operations including animal production, spray drift, agricultural machinery use, pumps and associated hours of operation necessary for agricultural production.

The applicant has provided a response to the comments provided by Agriculture Victoria and advised as follows:

- *It is acknowledged that in principle Agriculture Victoria seeks to protect land which falls within the farming Zone for productive agricultural purposes.*
- *The Planning Report that accompanied the planning application includes the following statements with respect to the use of the land for agricultural purposes:*
 - *The registered proprietor of the application site acquired the property in January 2000. The land has been used over the past 20 years by the current owner for the keeping of one or two horses. In the event a permit is granted to use and develop the property for a dwelling the keeping of horses on the land will continue, together with the possible introduction of a few donkeys, goats and poultry.*
 - *The introduction of a dwelling will not change the limited or modest agricultural use of the land for extensive animal husbandry.*
 - *Adjoining properties to the east and west both accommodate dwellings. The highway to the south and the railway reserve to the north provide a buffer from broad acre land holdings, typically used for cropping purposes.*
 - *The surrounding district is renowned for extensive broad acre cropping. The application site is too small to be used for viable cropping purposes.*
 - *The agricultural qualities of the land are poor, having light sandy soils, which are not suitable for intensive agricultural practises and access to water is poor.*
 - *It is most unlikely that the use of the application site for a dwelling will lead to a proliferation of dwellings within the area. For example, the property holding on the south side of the Nhill Jeparit Road has an area of 767.5 hectares and is used for broad acre cropping, whilst properties on the north side of the Nhill Jeparit Road are significantly smaller land holdings, several of which are used and developed with dwellings.*

Wimmera Catchment Management Authority (WCMA):

Does not object to the granting of a permit. Note provided about flooding risks in the future.

Internal Referrals:

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

Access:

As Nhill-Jeparit Rd is an arterial road, we will await for DOT'S response with regards to the access requirements (please provide a copy of their response when available).

If no response is received from DOT- the following shall apply:

- *The current access location at the South side of the lot on Nhill-Jeparit Rd, must be upgraded to the current standard, with a new 375mm drainage pipe and crossover will need to be constructed as per IDM SD-255 standard (pasted below) to the satisfaction of the Responsible Authority.*
- *The vehicle crossing must be constructed at the applicant's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority.*

Note:

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

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

Drainage:

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

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

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 15.01-2S Building design

Clause 15.01-5S Neighbourhood character
Clause 15.01-6S Design for rural areas
Clause 16.01-3S Rural residential development
Clause 19.03-2S Infrastructure design and provision

Planning Response:

The proposed dwelling will be used in conjunction with the current agricultural use of the land for animal husbandry for horses and other animals. The proposal will result in the loss of a small area of agricultural land. The area for dwelling and associated domestic activities should be contained within a designated envelope area of approximately 1.0ha to minimise the potential loss of the agricultural activities on the land. It is noted that the site has not been used for productive grazing and cropping for over 23 years due to the limited site area. There are also three existing dwellings on the same section on the north side of Nhill-Jeparit Road on similar sized allotments.

Having regard to the site context, the current small scale agricultural activities on the land to be retained and the separation provided by Nhill-Jeparit Road and the unused railway reserve from the adjacent broad scale cropping land to the south and further west, the proposal will satisfy the strategic policy objectives on balance subject to conditions to the limit the extent of the site used for rural residential purposes.

Agriculture Victoria has provided comments and recommended that conditions be placed on any permit to protect agricultural land through a binding agreement on title, which can be addressed as a condition for a Section 173 Agreement. The agreement can require the dwelling to be contained to a designated envelope area of 1.0ha to ensure the removal of only approximately 1ha of the 9.576ha of agricultural land for a rural residential purpose. The dwelling will be required to be used in conjunction with the small scale animal grazing agricultural activities that are currently carried out and will be continued on the site, which will be included as part of a Section 173 Agreement. It is agreed that there is also a need to prevent any further subdivision of the land and to ensure future owners acknowledge and accept the possibility of nuisance from the adjacent under a Section 173 Agreement condition.

The proposed dwelling will therefore 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.

35.07-2 Use of land for a dwelling

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

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- Each dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

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
- Accommodation issues
- Environmental issues
- Design and siting issues

Schedule to the Farming Zone

1.0 Subdivision and other requirements (Permit triggers)

- Minimum area for which no permit is required to use land for a dwelling (hectares) - All other land – 40 hectares.
- Minimum setback from a road – Transport Zone 2 – 100 metres.

Planning Response:

The proposal will comply with the relevant decision guidelines in the zone for the following reasons (as listed under the relevant headings):

General issues

- The proposal will comply with the relevant policies in the MPS and PPF on balance as discussed above.
- The proposal will be consistent with the current Wimmera Regional Catchment Strategy 2021-2027.
- The proposal will encourage small-scale sustainable land management by retaining the animal husbandry agricultural activities that have occurred on the land for the past 23 years, while allowing a 1.0ha area of the dwelling to be used in conjunction with agricultural activities on the land.
- The proposal will be compatible with the adjoining residential land uses and will retain the small scale agricultural activities on the land, which will not adversely impact on the adjacent larger scale agricultural land uses for cropping and grazing.
- The proposal will require the upgrade of the existing crossover on Nhill-Jeparit Road to meet the conditions that are required by the Department of Transport for suitable access from the Transport Zone 2. An all-weather access driveway to the dwelling, potable water supply and appropriate drainage will need to be constructed to Council requirements in accordance with conditions. Standard conditions will be required for services to be connected as required in Clause 35.07-2 of the Farming Zone.

Agricultural issues and the impacts from non-agricultural uses

- The proposal will allow the dwelling in conjunction with the small scale animal husbandry agricultural activities on the land that have occurred for 23 years, and on land which is marginal in quality and is not highly productive agricultural land.
- The proposal will remove approximately 1.0ha of land from small scale agricultural production and this will be limited to this extent by requiring conditions to require the dwelling and associated domestic outbuilding and infrastructure to be contained within a designated envelope area to ensure the agricultural productivity on the land, albeit modest in scale, is retained and is not permanently removed.
- The proposal is unlikely to limit the operation and expansion or adversely impact the adjacent broad scale agricultural uses to the south on the opposite side Nhill-Jeparit Road. This main road provides a reasonable buffer in terms of distance and visual impact from the existing dwellings on the north side of Nhill-Jeparit Road to the closest broad scale cropping agricultural uses to the south.
- A Land Management Plan is required as a condition to provide details of the proposed activities and infrastructure for the dwelling use in conjunction with the animal husbandry agricultural use.

Accommodation issues

- The proposed dwelling will result in the loss of marginally productive agricultural land for approximately 1.0ha by limiting the designated domestic envelope area to 1.0ha by a condition. This will result in only a loss of only 10.4% of the site for domestic residential purposes and will enable to balance of the land to be used for small scale animal husbandry agricultural uses. The proposal is unlikely to cause fragmentation of agricultural land as the adjoining land is used for dwellings and sheds and the closest productive cropping land is located to the south of Nhill-Jeparit Road.

- The dwelling is not likely to be adversely affected by agricultural activities on the adjacent farming land due to the separation distances as discussed above.
- The dwelling will not adversely affect the operation and expansion of adjoining and nearby agricultural uses as discussed above.
- The proposal will result in a modest increase to the concentration of one dwelling in this area to the west of the Jeparit Township, which is an acceptable planning outcome due to the site area, the site context and the conditions required to ensure the retention of agricultural activities in the long term for the dwelling to be located on the land.

Environmental issues

- The proposal is unlikely to have an adverse impact on soil and water quality and any other natural physical features and resources.
- There are native trees adjacent to the northern boundary of the site that will not be affected by the development of the dwelling and associated vehicle access and wastewater management areas.
- The proposal is unlikely to have impacts on the flora and fauna in the locality.

Design and siting issues

- The proposed dwelling will be setback 84.29m from the southern boundary to Nhill-Jeparit Road, which is acceptable and is unlikely to have adverse impacts on the adjacent agricultural uses. Conditions are required for a Land Management Plan and a Section 173 Agreement to ensure the ongoing management and use of the dwelling in conjunction with agricultural activities on the land.
- The dwelling will have appropriate siting, design, height, minimal bulk, colours and materials and is unlikely to have any adverse impacts on the environment.
- The proposed dwelling is unlikely to have any detrimental impact on the character and appearance of the area.
- The proposed dwelling is required to be connected to the required infrastructure to provide a crossover and all-weather access to the dwelling to comply with the conditions required by the Department of Transport and the requirements of Clause 35.07-2 of the Farming Zone. The wastewater management system will need to be designed to ensure compliance with the *Environment Protection Act 2017* and the relevant EPA Protocols. A potable water supply is also required for the dwelling. Standard conditions are required to provide the necessary infrastructure for the dwelling within a designated envelope area.
- The traffic management measures required relate to the upgrade of the crossover to meet the requirements of the Department of Transport and the construction of all-weather access to be constructed to Council standards, which will be addressed by conditions.

Overlay Provisions

Environmental Significance Overlay Schedule 6

There are no permit triggers to construct buildings and works under this Overlay.

Particular Provisions

Clause 52.06 Car Parking

52.06-5 Number of car parking spaces required under Table 1

- Dwelling – 2 car spaces - To each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms)

52.06-9 Design standards for car parking

Design standard 2 – Car parking spaces

Car parking spaces and accessways must have the minimum dimensions as outlined in Table 2.

Car spaces in garages or carports must be at least 6 metres long and 3.5 metres wide for a single space and 5.5 metres wide for a double space measured inside the garage or carport.

Planning Response:

There is adequate space to provide two car parking spaces for the three bedroom dwelling on the site to comply with the car parking requirements of this Clause.

Clause 52.29 Land Adjacent to a 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 existing crossover on Nhill-Jeparit Road will need to be upgraded in accordance with the requirements of DoT, which will be included as conditions, to ensure safe and efficient vehicle movements in and out of the site from the adjoining Transport Zone 2. The upgrades to the crossover for access will ensure the operation of the road is enhanced and public safety is protected.

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 site has been used for small-scale animal husbandry agricultural activities for 23 years and is located adjacent to three dwellings on the northern side of Nhill-Jeparit Road. The proposal will on balance comply with relevant planning policies in the MPS and PPF. The proposal is unlikely to impact on the environment, human health, and the amenity of the area. The proposal will, on balance, 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 the dwelling on the lots is an acceptable planning outcome having regard to the small scale of animal grazing agricultural activities on the land by the same owner for the past 23 years and the site context. There are three existing dwellings in the same section of road along Nhill-Jeparit Road, together with the marginal agricultural quality and limited agricultural productivity of this relatively small allotment of 9.576ha compared to the broad scale cropping land of between approximately 2000ha and 4000ha that is used for more productive agricultural purposes within the Jeparit area.

The proposal will result use and development of a dwelling for rural residential purposes in conjunction with a low scale extensive animal husbandry agricultural use. Although there will be an increase in the number of dwellings by one dwelling, this is unlikely to lead to the proliferation of dwellings in the area due to the existence of dwellings on the smaller lots on the north side of Nhill-Jeparit Road within the immediate area.

The proposal is unlikely to cause land use conflicts with the adjacent agricultural land to the south due to the separation provided by Nhill-Jeparit Road to the broad scale cropping land to the south. The adjoining land to the west, north and east contains dwellings or is in common ownership with land containing dwellings on the adjoining land. The proposal is also unlikely to limit the agricultural activities that occur on the surrounding rural land due to the proposed setbacks from the title boundaries. A designated building envelope around the dwelling is required as a condition to ensure the loss of agricultural land is limited to no more than 1.0ha to encourage the retention of the existing low scale extensive animal husbandry that occurs on the land at present.

The proposal, on balance, will satisfy the competing objectives and strategies of the relevant planning policies in the MPS and PPF, the relevant decision guidelines of the FZ, Clause 52.06 and Clause 52.29. The proposal will generally enable the orderly planning of the area in accordance with Clause 65 subject to conditions.

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

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Municipal Planning Strategy and the Planning Policy Framework, the Farming Zone, Clause 52.06 Car Parking, Clause 52.29 Land Adjacent to the Principal Road Network 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:

09/08/2022 Application submitted.
05/09/2022 Fee paid
05/09/2022 Further information required
03/11/2022 Request for an extension of time
04/11/2022 Extension of time approved
21/11/2022 Response to further information and consent to amend application received
22/12/2022 Advertising directions and letters sent
03/01/2023 External referrals sent to Department of Transport (S55), Agriculture Victoria (S52) & Wimmera CMA (S52)
03/01/2023 Internal referrals to Engineering and Environmental Health sent
10/01/2023 Referral response received from Wimmera CMA.
12/01/2023 Referral response received from Agriculture Victoria
17/01/2023 Referral response received from DoT
20/01/2023 Response received from Engineering
23/01/2023 Response received from Environmental Health
13/02/2023 Statutory declaration received for public notice requirements completed
13/02/2023 Response from the applicant to Agriculture Victoria's comments
05/04/2023 The report is being presented to Council at the meeting held 5 April 2023 (82 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:

A well-planned Council.

Financial Implications:

There are no financial implications.

Risk Management Implications:

There are unlikely to be any risks to be managed by Council above the ordinary Planning Enforcement provisions allowed for in the staffing salary.

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 require amended plans if approved.

RECOMMENDATION:

That Council approves Planning Permit Application PA1790-2022 for the Use and development of a dwelling and alter access to a Transport Zone 2, on the subject land at 3751 Nhill-Jeparit Road Jeparit VIC 3423, subject to the following conditions:

Conditions:

Amended Plans

- 1. Before the commencement of any development, amended plans must be submitted to the satisfaction of the Responsible Authority to show:**
 - (a) A defined domestic envelope area for the dwelling, any associated outbuildings, garden, pools, yards, primary and secondary wastewater areas, accessways and perimeter fencing to enclose the envelope to be approximately 1.0 hectare in area.**
 - (b) The layout of the paddocks and perimeter fencing for the animal husbandry agricultural activities to be separated from the defined domestic envelope area.**
 - (c) A Land Management Plan for the dwelling to provide details of how the dwelling will be used in conjunction with the animal husbandry agricultural activities in accordance with Condition 3.**

All the above must be submitted to the satisfaction of the Responsible Authority.

Endorsed Plans – Use and Development

2. *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.*

Land Management Plan

3. *Before the commencement of any development, the proposed activities and infrastructure required for the dwelling use to be carried out in conjunction with the animal husbandry agricultural use must be detailed in a Land Management Plan or equivalent document and must be submitted to, approved by and completed to the satisfaction of the Responsible Authority.*

Section 173 Agreement

4. *Before the issue of an occupancy permit for the dwelling, the owner of the land must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the responsible authority. The agreement must be in a form to the satisfaction of the responsible authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the responsible authority's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the land and must provide for the following:*
 - (a) *The owner acknowledges that the use and development of the dwelling in the Farming Zone will be used in association with the animal husbandry agricultural activities on the land in accordance with the endorsed Land Management Plan or approved alternative.*
 - (b) *Any domestic development must be contained within a designated envelope to minimise the domestic use of the land, whilst maximising and maintaining the agricultural use of the land and shown on any approved plan as part of the planning permit issued.*
 - (c) *If the use of land for a dwelling associated with agricultural activities ceases, the dwelling must be removed from the site, except with the further written consent of the Responsible Authority.*
 - (d) *The dwelling must not be subdivided from the land in the future, and the land must not be subdivided to increase the number of lots, by excision or otherwise.*
 - (e) *The primary and secondary wastewater areas for the dwelling must be appropriately buffered and fenced to exclude stock, and in accordance with any land capability report recommendations, EPA Protocols for on-site wastewater management and the Environment Protection Act 2017 or alternative.*

- (f) The owner acknowledges and accepts the possibility of nuisance from adjoining agricultural activities on adjacent land including animal production, agricultural machinery use, pumps, use and chemicals including spray drift, any dust, noise, odour, traffic and associated hours of operation necessary for agricultural production.**

A registered copy of the agreement with a dealing number must be provided to the responsible authority before the issue of an occupancy permit for the dwelling to the satisfaction of the Responsible Authority.

General Requirements

- 5. The dwelling must be constructed in subdued tones and non-reflective materials to the satisfaction of the Responsible Authority.**
- 6. 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.**
- 7. Care must be taken to ensure that the construction of the development and any ancillary works does not cause erosion or degradation of the subject site or surrounding land to the satisfaction of the Responsible Authority.**

Use for Dwelling

- 8. Access to the dwelling must be provided via an upgraded crossover and all-weather access with dimensions adequate to accommodate emergency vehicles to the satisfaction of the Responsible Authority.**
- 9. The wastewater from the dwelling must be treated and retained on-site by a secondary treatment system required by a Land Capability Assessment or alternative approved by the Responsible Authority in accordance with the Environment Protection Act 2017. In this regard, the wastewater system must be designed, approved and constructed in accordance with the relevant EPA Protocols for On-site Wastewater Management, or a relevant alternative to the satisfaction of the Responsible Authority.**
- 10. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.**
- 11. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.**

Department of Transport

- 12. Prior to the occupation of the development allowed under this permit, the driveway and crossover must be shaped and constructed to the satisfaction of the Responsible Authority and at no cost to the Responsible Authority and the Head, Transport for Victoria. The crossover must be general in accordance with Councils Infrastructure Design Manual or VicRoads Guideline Drawing GD4010 Typical Access to Rural Properties (designed for passenger vehicles in a design speed of 80km/hr).**

13. All vehicles must enter and exit the site in a forward direction at all times.

Drainage

14. All stormwater and surface water discharging from the site for the approved development must be collected and harvested in rainwater tanks and overflow directed downhill and contained on site, to the satisfaction of the Responsible Authority.

Permit Expiry - Use and Development

15. 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:

Engineering

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

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-2023-00001 in your correspondence with us.**

MOVED: CRS R Ismay/M Albrecht

That Council approves Planning Permit Application PA1790-2022 for the Use and development of a dwelling and alter access to a Transport Zone 2, on the subject land at 3751 Nhill-Jeparit Road Jeparit VIC 3423, subject to the following conditions:

Conditions:

Amended Plans

- 1. Before the commencement of any development, amended plans must be submitted to the satisfaction of the Responsible Authority to show:**

- (a) A defined domestic envelope area for the dwelling, any associated outbuildings, garden, pools, yards, primary and secondary wastewater areas, accessways and perimeter fencing to enclose the envelope to be approximately 1.0 hectare in area.*
- (b) The layout of the paddocks and perimeter fencing for the animal husbandry agricultural activities to be separated from the defined domestic envelope area.*
- (c) A Land Management Plan for the dwelling to provide details of how the dwelling will be used in conjunction with the animal husbandry agricultural activities in accordance with Condition 3.*

All the above must be submitted to the satisfaction of the Responsible Authority.

Endorsed Plans – Use and Development

- 2. 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.*

Land Management Plan

- 3. Before the commencement of any development, the proposed activities and infrastructure required for the dwelling use to be carried out in conjunction with the animal husbandry agricultural use must be detailed in a Land Management Plan or equivalent document and must be submitted to, approved by and completed to the satisfaction of the Responsible Authority.*

Section 173 Agreement

- 4. Before the issue of an occupancy permit for the dwelling, the owner of the land must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the responsible authority. The agreement must be in a form to the satisfaction of the responsible authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the responsible authority's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the land and must provide for the following:*
 - (a) The owner acknowledges that the use and development of the dwelling in the Farming Zone will be used in association with the animal husbandry agricultural activities on the land in accordance with the endorsed Land Management Plan or approved alternative.*
 - (b) Any domestic development must be contained within a designated envelope to minimise the domestic use of the land, whilst maximising and maintaining the agricultural use of the land and shown on any approved plan as part of the planning permit issued.*

- (c) If the use of land for a dwelling associated with agricultural activities ceases, the dwelling must be removed from the site, except with the further written consent of the Responsible Authority.**
- (d) The dwelling must not be subdivided from the land in the future, and the land must not be subdivided to increase the number of lots, by excision or otherwise.**
- (e) The primary and secondary wastewater areas for the dwelling must be appropriately buffered and fenced to exclude stock, and in accordance with any land capability report recommendations, EPA Protocols for on-site wastewater management and the Environment Protection Act 2017 or alternative.**
- (f) The owner acknowledges and accepts the possibility of nuisance from adjoining agricultural activities on adjacent land including animal production, agricultural machinery use, pumps, use and chemicals including spray drift, any dust, noise, odour, traffic and associated hours of operation necessary for agricultural production.**

A registered copy of the agreement with a dealing number must be provided to the responsible authority before the issue of an occupancy permit for the dwelling to the satisfaction of the Responsible Authority.

General Requirements

- 5. The dwelling must be constructed in subdued tones and non-reflective materials to the satisfaction of the Responsible Authority.**
- 6. 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.**
- 7. Care must be taken to ensure that the construction of the development and any ancillary works does not cause erosion or degradation of the subject site or surrounding land to the satisfaction of the Responsible Authority.**

Use for Dwelling

- 8. Access to the dwelling must be provided via an upgraded crossover and all-weather access with dimensions adequate to accommodate emergency vehicles to the satisfaction of the Responsible Authority.**
- 9. The wastewater from the dwelling must be treated and retained on-site by a secondary treatment system required by a Land Capability Assessment or alternative approved by the Responsible Authority in accordance with the Environment Protection Act 2017. In this regard, the wastewater system must be designed, approved and constructed in accordance with the relevant EPA Protocols for On-site Wastewater Management, or a relevant alternative to the satisfaction of the Responsible Authority.**
- 10. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.**

- 11. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.**

Department of Transport

- 12. Prior to the occupation of the development allowed under this permit, the driveway and crossover must be shaped and constructed to the satisfaction of the Responsible Authority and at no cost to the Responsible Authority and the Head, Transport for Victoria. The crossover must be general in accordance with Councils Infrastructure Design Manual or VicRoads Guideline Drawing GD4010 Typical Access to Rural Properties (designed for passenger vehicles in a design speed of 80km/hr).**
- 13. All vehicles must enter and exit the site in a forward direction at all times.**

Drainage

- 14. All stormwater and surface water discharging from the site for the approved development must be collected and harvested in rainwater tanks and overflow directed downhill and contained on site, to the satisfaction of the Responsible Authority.**

Permit Expiry - Use and Development

- 15. 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:

Engineering

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

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-2023-00001 in your correspondence with us.**

CARRIED

Attachment Number: 8

9 REPORTS REQUIRING A DECISION

9.1 GOVERNANCE UPDATES

Responsible Officer: Director Corporate and Community Services

Attachment Numbers: 9 – 11

Introduction:

This report seeks Council adoption of the Public Interest Disclosure Policy and the Fraud Prevention and Control Policy and Plan. This report also seeks the endorsement for the draft Public Art Policy to be made available to the public for consultation for the period between Thursday 6 April 2023 and Thursday 20 April 2023.

Discussion:

Public Interest Disclosure Policy

This policy fulfils Councils requirement to establish and publish procedures under s 58 of the *Public Interest Disclosures Act 2012* and in accordance with the Guidelines of the IBAC published under s 57 of the same Act.

Council's Public Interest Disclosure Policy has been reviewed and updated as described below.

- ***Definitions and Terms***

The policy's definitions have been reviewed and updated for clarity and accuracy against the PID Act and guidance materials, including the meaning of corrupt conduct and improper conduct. Additionally, terms relating to the *Local Government Act 1989* (i.e. S86 Committees) have been amended to reflect the *Local Government Act 2020*. The policy has also been amended to ensure the use of gender-neutral language.

- ***Broadening the explanation of who can make a disclosure***

This section has been updated to more comprehensively reflect the PID Act and ensure that anyone accessing the policy is provided detailed and clear information around making a Public Interest Disclosure.

The Public Interest Disclosure Policy was made available for public consultation from Thursday 2 March 2023 to Thursday 16 March 2023, no submissions were received.

Fraud Prevention and Control Policy and Plan

Council's Fraud Prevention and Control Policy and Plan demonstrates Council's commitment to the prevention, detection and investigation of all instances of fraud and corrupt activity. The policy and plan subject to a biennial review process to ensure that the provisions and measures that have been put in place are robust and relevant. Minor amendments have been made to ensure that definitions and processes are aligned with

recent changes in legislation and to ensure that defined processes for reporting and disclosure are clear. The policy and plan did not require substantive updates.

The Fraud Prevention and Control Policy and Plan was provided to Council's Audit and Risk Committee for review. At the meeting held on Wednesday 8 March 2023 the Audit and Risk Committee endorsed the revised policy to be presented to Council for adoption.

Public Arts Policy

Hindmarsh Shire Council's Public Art Policy aims to support the delivery of dynamic, contemporary public art to our diverse communities in a creative celebration of place, culture, heritage and environment. The first and current iteration of this policy was developed in 2018, and the review undertaken incorporated learnings from the application period of the document and additional principles that align with the ongoing values and goals of Council. New provisions within the Policy include –

- Amendments and additions to the guiding principles of the policy, including climate considerations and supporting local artists and businesses; and
- Increased emphasis on community consultation and engagement with all aspects of the public art project.

The Public Art Policy is to be made available for public consultation from Thursday 6 April to 2023 to Thursday 20 April 2023.

Options:

1. Council can choose to adopt the Public Interest Disclosure Policy and Fraud Prevention and Control Policy and Plan and endorse the Public Art Policy for release to the public for the specified consultation period;
2. Council can choose to make amendments to the Public Interest Disclosure Policy, Fraud Prevention and Control Policy and Plan and/or the Public Art Policy prior to adoption and, for the latter, release to the public for the specified consultation period.
3. Council can choose to not adopt the Public Interest Disclosure Policy and/or Fraud Prevention and Control Policy and Plan, and endorse the Public Art Policy for release to the public for the specified consultation period.

Link to Council Plan:

Strong governance practices

Financial Implications:

NIL

Risk Management Implications:

Public Art Policy

Maintaining a clear and comprehensive Public Art Policy provides for the transparent and effective use of public funds to enhance the aesthetic and livability of Hindmarsh Shire Council. Strengthening the guiding principles ensure that any action taken is aligned with the strategic direction of Council and Council's values.

Fraud Prevention and Control Policy and Plan

Establishing an effective and comprehensive mechanism for fraud identification and response ensures that the inherent and severe risks of fraudulent activity are minimised.

Public Interest Disclosure Policy

Council's Public Interest Disclosure Policy ensures that employees, Councillors and the public are provided a clear mechanism through which they can access and understand the process of making a Public Interest Disclosure. Such a mechanism provides for Council to effectively and appropriately respond to conduct that may impact Council's reputational and financial position.

Relevant legislation:

Public Interest Disclosure Act 2012

Interdependent Broad-based Anti-Corruption Commission Act 2011

Local Government Act 2020

Local Government Act 1989

Community engagement:

The report recommends a consultation period for the Public Art Policy, whereby the community will be able to provide feedback to Council regarding the revised policy.

Gender equality implications:

A Gender Impact Assessment has been conducted against the Public Art Policy as its implications have a direct and significant impact on the public.

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:

All policies will be placed on Council's website, will be available for public viewing on request and will be distributed to Council staff.

Next Steps:

As above.

RECOMMENDATION:

That Council:

- 1. adopts the Public Interest Disclosure Policy and Fraud Prevention and Control Policy and Plan; and***
- 2. endorses the Public Art Policy for release to the public for consultation from Thursday 6 April to Thursday 20 April 2023.***

MOVED: CRS R Gersch/W Bywaters

That Council:

- 1. adopts the Public Interest Disclosure Policy and Fraud Prevention and Control Policy and Plan; and***
- 2. endorses the Public Art Policy for release to the public for consultation from Thursday 6 April to Thursday 20 April 2023.***

CARRIED

Attachment Numbers: 9 – 11

Cr B Ireland declared a conflict of interest and left the room at 3:36pm.

9.2 NATIONAL GENERAL ASSEMBLY OF THE LOCAL GOVERNMENT ASSOCIATION

Responsible Officer: Chief Executive Officer

Introduction:

This report seeks approval for the Mayor to attend the Australian Local Government Association (ALGA) Annual Conference in Canberra from Tuesday 13 to Friday 16 June 2023.

Discussion:

The National General Assembly of the Local Government is due to be held in Canberra from 13 to 16 June. The theme of the assembly is Our Communities, Our Future with the aim of building stronger communities in the future.

The National General Assembly is attended by Council's from across Australia and provides an opportunity for Hindmarsh to network with other Local Government leaders. The program includes an address from the Prime Minister and various keynote speakers.

Council's Councillor Expense Entitlements Policy requires any interstate travel by Councillors be approved by a resolution of Council. At the Statutory Meeting in November 2022 Council nominated the Mayor as the delegate for the Australian Local Government Association (ALGA), but did not reference expenses for attending the conference. It is recommended future statutory meetings include approval of expenses for the ALGA when nominating the delegate.

Options:

1. Council can approve the attendance at the National General Assembly of Local Government from 13 to 16 June 2023 for the Mayor.
2. Council can decide not to send a delegate to the National General Assembly of Local Government from 13 to 16 June 2023.

Link to Council Plan:

Strong governance practices

Financial Implications:

Council budgets annually for costs for the delegate to attend the ALGA in Canberra. Council will incur costs associated with conference registration (\$1,070), airfares (approximately \$800), accommodation (\$1,050) and incidentals for the delegate attending.

Risk Management Implications:

No Risk Management Implications.

Relevant legislation:

Local Government Act 2020

Community engagement:

N/A

Gender equality implications:

Not 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 & Officer Responsible – Greg Wood, Chief Executive Officer

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

RECOMMENDATION:

That:

- 1. Council approves costs associated for the Mayor to attend the National General Assembly of Local Government in Canberra from 16 – 19 June 2023 including conference registration, airfares, accommodation and incidentals; and**
- 2. approval of expenses is explicit in appointment of the delegate at the next statutory meeting.**

MOVED: CRS R Ismay/W Bywaters

That:

- 1. Council approves costs associated for the Mayor to attend the National General Assembly of Local Government in Canberra from 16 – 19 June 2023 including conference registration, airfares, accommodation and incidentals; and**
- 2. approval of expenses is explicit in appointment of the delegate at the next statutory meeting.**

CARRIED

Cr B Ireland returned to the room at 3:39pm.

10 COUNCIL COMMITTEES

10.1 AUDIT AND RISK COMMITTEE

Responsible Officer: Chief Executive Officer

Attachment Number: 12

Introduction:

The Audit and Risk Committee held a meeting on 8 March 2023. 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 Audit and Risk Committee meeting held on 8 March 2023.

MOVED: CRS M Albrecht/D Nelson

That Council notes the minutes of the Audit and Risk Committee meeting held on 8 March 2023.

CARRIED

Attachment Number: 12

10.2 DIMBOOLA TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer
Attachment Number: 13

Introduction:

The Dimboola Township Advisory Committee held a meeting on 7 March 2023. 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 7 March 2023; and***
- 2. notes the resignation of Heidi Bruce from the Committee.***

MOVED: CRS D Nelson/W Bywaters

That Council:

- 1. notes the minutes of the Dimboola Township Advisory Committee meeting held on 7 March 2023; and***
- 2. notes the resignation of Heidi Bruce from the Committee.***

CARRIED

Attachment Number: 13

10.3 JEPARIT TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer
Attachment Numbers: 14 – 15

Introduction:

The Jeparit Township Advisory Committee held meetings on 13 February 2023 and 13 March 2023. The purpose of this report is to note the minutes from these meetings. Copies of these minutes are included as attachments for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Jeparit Township Advisory Committee meetings held on 13 February 2023 and 13 March 2023.

MOVED: CRS R Gersch/M Albrecht

That Council notes the minutes of the Jeparit Township Advisory Committee meetings held on 13 February 2023 and 13 March 2023.

CARRIED

Attachment Numbers: 14 – 15

10.4 NHILL TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer
Attachment Number: 16

Introduction:

The Nhill Township Advisory Committee held a meeting on 20 March 2023. 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 Nhill Township Advisory Committee meeting held on 20 March 2023.

MOVED: CRS M Albrecht/R Gersch

That Council notes the minutes of the Nhill Township Advisory Committee meeting held on 20 March 2023.

CARRIED

Attachment Number: 16

10.5 RAINBOW TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer
Attachment Number: 17

Introduction:

The Rainbow Township Advisory Committee held a meeting on 20 March 2023. 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 20 March 2023.

MOVED: CRS R Ismay/R Gersch

That Council notes the minutes of the Rainbow Township Advisory Committee meeting held on 20 March 2023.

CARRIED

Attachment Number: 17

10.6 WIMMERA MALLEE PIONEER MUSEUM COMMUNITY ASSET COMMITTEE

Responsible Officer: Chief Executive Officer

Attachment Numbers: 18 – 19

Introduction:

The Wimmera Mallee Pioneer Museum Community Asset Committee held meetings on 16 December 2022 and 21 February 2023. The purpose of this report is to note the minutes from these meetings. Copies of these minutes are included as attachments for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Wimmera Mallee Pioneer Museum Community Asset Committee meetings held on 16 December 2022 and 21 February 2023.

MOVED: CRS W Bywaters/D Nelson

That Council notes the minutes of the Wimmera Mallee Pioneer Museum Community Asset Committee meetings held on 16 December 2022 and 21 February 2023.

CARRIED

Attachment Numbers: 18 – 19

10.7 YURUNGA HOMESTEAD COMMUNITY ASSET COMMITTEE

Responsible Officer: Chief Executive Officer

Attachment Numbers: 20 – 22

Introduction:

The Yurunga Homestead Community Asset Committee held meetings on 24 November 2022, 30 January 2023 and 20 February 2023. The purpose of this report is to note the minutes from these meetings. Copies of these minutes are included as attachments for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Yurunga Homestead Community Asset Committee meetings held on 24 November 2022, 30 January 2023 and 20 February 2023.

MOVED: CRS R Gersch/D Nelson

That Council notes the minutes of the Yurunga Homestead Community Asset Committee meetings held on 24 November 2022, 30 January 2023 and 20 February 2023.

CARRIED

Attachment Numbers: 20 – 22

11 LATE REPORTS

No late reports.

12 NOTICES OF MOTION

No notices of motion.

13 OTHER BUSINESS

No other business.

14 CONFIDENTIAL REPORTS

Cr W Bywaters declared a general conflict of interest in item 14.1 as one of the applicants is a family member.

Cr R Ismay declared a general conflict of interest in item 14.1 in confidential item.

Cr R Gersch declared a general conflict of interest in item 14.1 in confidential item.

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 CONTRACT AWARD 2022-2023-02 PANEL OF APPROVED SUPPLIERS – GOODS AND SERVICES – 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 TO UPLIFT ASSETIC MYDATA TO SOFTWARE AS A SERVICE (CLOUD) AND IMPLEMENT THE WORKS MODULE – 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 CEO EMPLOYMENT AND REMUNERATION COMMITTEE – this report contains “personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs” insofar as it pertains to employment matters.**

MOVED: CRS M Albrecht/R Gersch

That the meeting be closed in accordance with section 66 (2) (a) of the Local Government Act 2020, to consider reports that contain confidential information as defined by section (3) of the Local Government Act 2020, and/or Part IV of the Freedom of Information Act 1982:

- 14.1 CONTRACT AWARD 2022-2023-02 PANEL OF APPROVED SUPPLIERS – GOODS AND SERVICES – 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 TO UPLIFT ASSETIC MYDATA TO SOFTWARE AS A SERVICE (CLOUD) AND IMPLEMENT THE WORKS MODULE – 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 CEO EMPLOYMENT AND REMUNERATION COMMITTEE – this report contains “personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs” insofar as it pertains to employment matters.

CARRIED

15 LATE CONFIDENTIAL REPORTS

16 MEETING CLOSE

There being no further business, Cr B Ireland declared the meeting closed at 4:13pm.
