



8 December 2022

To Councillor,
"as addressed"

NOTICE is hereby given that an **ORDINARY MEETING** of the Hindmarsh Shire Council will be held at the Nhill Memorial Community Centre, 77-79 Nelson Street Nhill, on Wednesday 14 December 2022 commencing at **3:00pm**.



Greg Wood
Chief Executive Officer

AGENDA

1	ACKNOWLEDGMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER	4
2	APOLOGIES	4
3	DECLARATION OF INTERESTS	4
4	CONFIRMATION OF MINUTES	4
5	PUBLIC QUESTION AND SUBMISSION TIME	5
6	ACTIVITY REPORTS	5
7	CORRESPONDENCE	8
7.1	GENERAL CORRESPONDENCE	8

8 PLANNING PERMITS 9

- 8.1 PLANNING PERMIT APPLICATION PA1784-2022 – TWO LOT SUBDIVISION (DWELLING LOT EXCISION) – 1451 JEPARIT-WARRACKNABEAL ROAD JEPARIT (CROWN ALLOTMENT 28 PARISH OF BATYIK) 9
- 8.2 APPLICATION FOR PLANNING PERMIT 1801-2022 – DEVELOPMENT OF TWO (2) ADDITIONAL DWELLINGS, SUBDIVISION OF LAND INTO THREE (3) LOTS, FENCING AND REMOVAL OF VEGETATION – 5 GLENFERNESS STREET NHILL VIC 3418 23
- 8.3 APPLICATION FOR PLANNING PERMIT 1805-2022 – USE OF LAND FOR A PLACE OF ASSEMBLY (PARENTING CENTRE) AND ALTERATION OF ACCESS TO A ROAD IN A TRANSPORT ZONE 2 – 79 VICTORIA STREET NHILL VIC 3418 54
- 8.4 APPLICATION FOR PLANNING PERMIT 1770-2022 – SUBDIVISION OF LAND INTO TWO (2) LOTS – 240 MARSHALLS ROAD NETHERBY VIC 3418 63
- 8.5 APPLICATION FOR PLANNING PERMIT 1792-2022 – USE AND DEVELOPMENT OF LAND FOR A 10,000 HEAD CATTLE FEEDLOT AND ASSOCIATED BUILDINGS AND WORKS – 277 ALBRECHT ROAD, GERANG GERUNG VIC 3418 79

9 REPORTS REQUIRING A DECISION 100

- 9.1 DECLARATION OF SEVERAL ROADS IN THE EASTERN AREA OF THE NHILL TOWNSHIP TO BE PUBLIC HIGHWAYS TO BE OPEN TO THE PUBLIC AND TRANSFERRED INTO COUNCIL OWNERSHIP 100
- 9.2 DIMBOOLA-MINYIP ROAD HEAVY VEHICLE SAFETY AND PRODUCTIVITY PROGRAM GRANT APPLICATION 105
- 9.3 PROPOSED AMENDMENTS TO THE ADOPTED 2022-2023 BUDGET CAPITAL WORKS PROGRAM 107
- 9.4 COUNCIL MEETING DATES 2023 109

10 COUNCIL COMMITTEES 111

- 10.1 DIMBOOLA TOWNSHIP ADVISORY COMMITTEE 111
- 10.2 JEPARIT TOWNSHIP ADVISORY COMMITTEE 111
- 10.3 RAINBOW TOWNSHIP ADVISORY COMMITTEE 112

11 LATE REPORTS 112

12 NOTICES OF MOTION 112

13 OTHER BUSINESS 112

14 CONFIDENTIAL REPORTS 112

- 14.1 CONTRACT NO 2022-23-01 DEMOLITION AND CONSTRUCTION OF
RETAINING WALL AND VIEWING DECK AT JEPARIT SWIMMING HOLE -
VARIATION REQUEST
- 14.2 HARDSHIP APPLICATION
- 14.3 2023 HINDMARSH YOUTH COUNCIL NOMINATIONS
- 14.4 AUSTRALIA DAY AWARDS 2023

15 LATE CONFIDENTIAL REPORTS

114

- 15.1 TENDER FOR CONTRACT 2022-2023-103 CONSTRUCTION OF ACCESS
ROAD AND PIT / HARDSTAND AREA FOR THE RAINBOW RISES EVENTS
CENTRE

16 MEETING CLOSE

114

1 ACKNOWLEDGMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER

Acknowledgement of the Indigenous Community

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

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

Opening Prayer

Dear Lord,

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

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

2 APOLOGIES

3 DECLARATION OF INTERESTS

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

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

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

4 CONFIRMATION OF MINUTES

RECOMMENDATION:

That the Minutes of the Ordinary Council Meeting held on Wednesday 23 November 2022 at the Nhill Memorial Community Centre Nhill, as circulated to Councillors be

taken as read and confirmed.

Attachment Number: 1

5 PUBLIC QUESTION AND SUBMISSION TIME

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

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

6 ACTIVITY REPORTS

COUNCILLOR ACTIVITIES: 16 November – 6 December 2022

Cr IRELAND, MAYOR

Date	Meeting	Location	Comments
16/11/2022	Meeting with CEO and staff		
16/11/2022	Written interview with ABC re Allambie sent		
20/11/2022	Nhill Community Market		
23/11/2022	Council Briefing		
23/11/2022	Council Meeting		
24/11/2022	Yurunga meeting and Xmas dinner following		
24/11/2022	ABC radio interview re agenda and projects		
24/11/2022	Mayoral matters article for website and papers		
26/11/2022	Met with Leanne and John Pumpa and discussed reforming		Public interest is quite high in reforming this group which does tree plantings, working bees and general maintenance.

	Friends of lake Hindmarsh committee		
28/11/2022	Emailed personally all 12 youth council applicants congratulating them on their nominations		
29/11/2022	Inspected toilets at Schulzes beach		A group of farmers are keen to form a group revolving around waterskiing and have carried out some maintenance on water tank attached to toilets. This toilet block is under threat of demolition
01/12/2022	16 Days of Activism Brazen Hussies	NMCC	
02/12/2022	2 youth council interviews	Menzies Square Jeparit	

Cr ALBRECHT, DEPUTY MAYOR

Date	Meeting	Location	Comments
21/11/2022	Nhill Town Committee Meeting	Nhill	Join us for the Nhill Christmas Carols on 17 December from 6pm at Jaypex Park, Nhill
23/11/2022	Council Briefing	Nhill	
23/11/2022	Council Meeting	Nhill	
29/11/2022	Wimmera Development Association (WDA) Board meeting	Horsham	Focus on legal issues with the Wimmera Housing Innovations Pty Ltd (WHIP) through presentation by Colin Biggers & Paisley law firm.
29/11/2022	Wimmera Development Association (WDA) Annual General Meeting	Horsham	Guest speaker Andrew Logie-Smith, Chair, National Trust of Australia (Victoria) Board of Directors presented on how heritage can be utilised in small communities.

Cr GERSCH

Date	Meeting	Location	Comments
23/11/2022	Council meeting		
25/11/2022	Wimmera regional roads meeting		
23/11/2022	RCV board meeting		
01/12/2022	Nhill late night shopping and Xmas		
01/12/2022	16 days of activism and movie		
01/12/2022	Xmas morning tea and thank you		

02/12/2022	RCV webinar on transport		
03/12/2022	Farewell for Max Cartland		
07/12/2022	Opening Rainbow lake		

Cr ISMAY

Date	Meeting	Location	Comments
23/11/2022	Briefing meeting	Nhill	
23/11/2022	Council meeting	Nhill	
29/11/2022	WMT Meeting	Jeparit	

Cr NELSON

Date	Meeting	Location	Comments
16/11/2022	WSMLLEN finance meeting		
16/11/2022	Soundshell project meeting	Dimboola	
18/11/2022	Hindmarsh Landcare Network AGM		
22/11/2022	Mates Mentoring information session	Dimboola	
23/11/2022	Council briefing meeting	Nhill	
23/11/2022	Council meeting	Nhill	
23/11/2022	WSMLLEN committee of management meeting	Horsham	
25/11/2022	Working bee, Lloyd St Christmas decorations		
25/11/2022	Late night shopping	Dimboola	
26/11/2022	Town Committee working bee		
29/11/2022	Mates mentoring training session	Dimboola	
02/12/2022	Town Committee Christmas Carols event		
06/12/2022	Disability day	Dimboola Croquet Club	
06/12/2022	Town Committee meeting	Dimboola	

Cr BYWATERS

Date	Meeting	Location	Comments
18/11/2022	Hindmarsh Landcare AGM and Thai dinner	Horsham	
19/11/2022	New House blessing and birthday celebrations- Karen Family	Nhill	
19/11/2022	Wimmera	Dimboola	
20/11/2022	Equestrian event was cancelled due to wet weather		
20/11/2022	Nhill Market	Goldsworthy Park Nhill	
22/11/2022	JP information Session	Online Zoom	
25/11/2022	Dimboola late night shopping	Dimboola	
26/11/2022	Karen Concert and Fundraiser	Nhill Memorial Community Centre	Venue sponsored by Hindmarsh Shire Council. Proceeds of funds for the Karen New Year in Horsham on the 10th of December 2022
01/12/2022	Hindmarsh tourist information Centre, morning tea	Lion's Den, Nhill	
01/12/2022	Christmas Late night shopping	Nhill	
01/12/2022	Wimmera Women Connect Dinner	Dimboola	
02/12/2022	Market, Christmas carols and concert	Dimboola	
06/12/2022	National Day for People with A Disability	Dimboola Croquet Club	

7 CORRESPONDENCE

7.1 GENERAL CORRESPONDENCE

Responsible Officer: Chief Executive Officer

Attachment Numbers: 2 – 4

Introduction:

The following correspondence is attached for noting by Council.

Inwards:

- 17/11/2022 – Congratulatory Letter from Bev McArthur to Mayor
- 17/11/2022 – Congratulatory Letter from Bev McArthur to Deputy Mayor
- 02/12/2022 – Congratulatory Letter from Dr Anne Webster to Mayor

RECOMMENDATION:

That Council notes the attached correspondence.

Attachment Numbers: 2 – 4

8 PLANNING PERMITS

8.1 PLANNING PERMIT APPLICATION PA1784-2022 – TWO LOT SUBDIVISION (DWELLING LOT EXCISION) – 1451 JEPARIT-WARRACKNABEAL ROAD JEPARIT (CROWN ALLOTMENT 28 PARISH OF BATYIK)

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 72440
Application No. **PA1784-2022**
SPEAR Ref. No. S194609T
Applicant: Matt Jackson, Hatch Planning Pty Ltd acting for Mr Mark Laney
Owner: Mr Mark Laney
Subject Land: 1451 Jeparit-Warracknabeal Road Jeparit VIC 3423 (Crown Allotment 28 Parish of Batyik)
Proposal: Two lot subdivision (dwelling lot excision)
Zoning & Overlays: Farming Zone (FZ)
Environmental Significance Overlay Schedule 2 (ESO2) – part
Attachment Number: 5

Summary:

This report recommends that Council approve Planning Permit PA1784-2022 for a two lot subdivision (dwelling lot excision) on the subject land at 1451 Jeparit-Warracknabeal Road Jeparit VIC 3423 (Crown Allotment 28 Parish of Batyik), subject to standard conditions.

Background:

The site comprises one parcel of land where the eastern part has been used for productive agricultural purposes for some time and the western part contains farm sheds, an existing dwelling and outbuildings and native vegetation adjacent to the Pepper Plains Bushland Reserve.

Proposal Details:

The application proposes a two lot subdivision (dwelling lot excision). The subdivision consists of proposed Lot 1 with an area of 7.76ha and proposed Lot 2 with an area of 18.83ha.

The applicant has stated the following about the proposed subdivision:

'The subject land is owned and occupied by our clients, with the land currently used for agricultural production, save for the western portion containing scattered native vegetation. The proposal seeks to subdivide the site, to provide a lot exclusively for the native vegetation and dwelling on the site, and a balance lot comprising exclusively land used for agricultural production.

The proposed subdivision comprises the following characteristics:

Lot 1 (dwelling lot)

- *Total area – 7.76 hectares.*
- *Contains the remnant vegetation and land west of the existing dam.*
- *Will contain the dwelling as described above with access to the Jeparit-Warracknabeal Road via the existing crossover.*

Lot 2 (agricultural lot)

- *Total area – 18.83 hectares;*
- *Comprises vacant agricultural land and the existing dam in a generally rectangular shape with access to Geodetic Road; and*
- *No buildings or works are proposed to occur on this property, with the intention that it be sold as an agricultural property.*

This application seeks to subdivide native vegetation from land that cannot be used for agriculture onto a separate holding, ensuring that all agricultural land is retained in one parcel, that can be separately sold unencumbered by dwellings and vegetation.

The existing dwelling is appropriately setback from proposed new boundaries to ensure no adverse impact from agricultural production.'

Proposed Plan for Endorsement (Version 2) below:



Requirement for Permit:

The subject land is located within the Farming Zone and is partly within the Environmental Significance Overlay Schedule 2 – Channel and Reservoir Protection.

A planning permit is required to subdivide land under Clause 35.07-3 Subdivision of the Farming Zone and to subdivide land under Clause 42.01-2 of the Environmental Significance Overlay Schedule 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. A two lot rural subdivision is an exempt activity in any case.

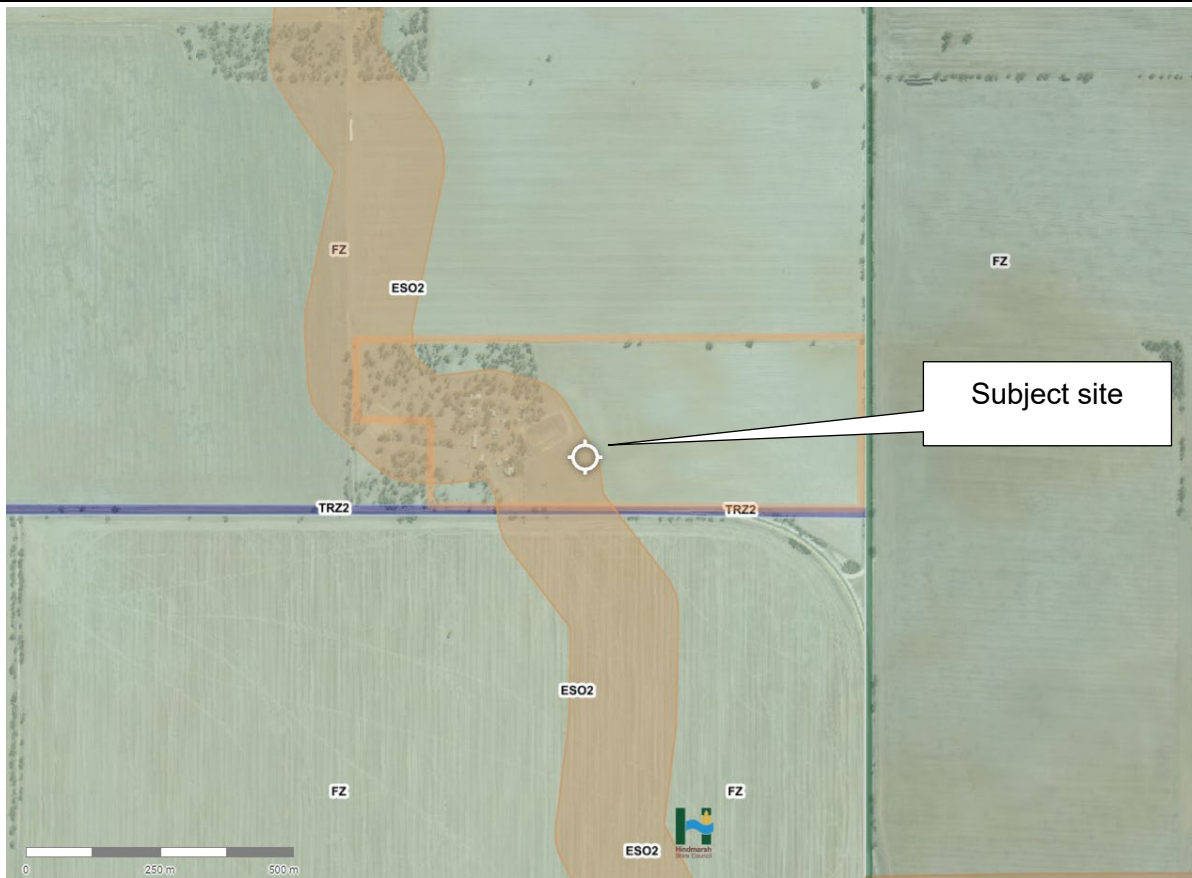
Subject site & locality:

The subject land is comprised of a parcel with a total area of 26.59ha that is located on the northern side of Jeparit-Warracknabeal Road, Jeparit. The subject land is generally rectangular in shape, except for the south-western corner adjacent to the Pepper Plains Bushland Reserve. The majority of the land is used for broad scale cropping, except for approximately 7.76 hectares of the land, which contains farm sheds, an existing dwelling, associated outbuildings and native vegetation. The subject land has access to reticulated power, telecommunications, potable water and an on site wastewater system for the existing dwelling. The site is not connected to reticulated water or sewer.

The land is located approximately 15km east of the Jeparit township and 24km north-west of the Warracknabeal township, with the municipal boundary of Yarriambiack Shire to the immediate east.

The surrounding area generally comprises a broad scale cropping agricultural area with limited development due to agricultural land use. There are scattered rural residential properties in the wider surrounding area, but this is generally where there is remnant native vegetation surrounded by dwellings that are used in conjunction with the agricultural activities in the surrounding land.

Aerial Photo of the site and surrounds with zone (FZ) and overlay (ESO6) below (POZI):



Photos of the existing dwelling and driveway below:





Consultation:

Consultation was undertaken and included:

- A request for further information was sent to the applicant via SPEAR on 21 July 2022.
- The further information response including amended plans were received in SPEAR on 18 September 2022.
- A subsequent further information request was sent to the applicant via SPEAR on 21 September 2022.
- The further information response including amended plans was received in SPEAR on 28 September 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 a public notice on the road frontage of the site to Jeparit-Warracknabeal Road (carried out by Council on behalf of the applicant).
- Placing a public notice on Council's website.

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

Referrals:

External Referrals/Notices were required by the Planning Scheme:

Section 55 Referrals

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

Section 52 Referrals

GWM Water - No response received.

Internal Referrals:

Engineering

Comments provided – No Engineering requirements.

Environmental Health

Comments provided, and condition required as detailed below.

The permit will need to have a condition placed on it that the existing septic must be inspected by Council's EHO prior to Certification and Statement of Compliance.

When we inspect these types of subdivisions, we are looking at whether the system is in good condition and that there are no obvious signs of failure and to ensure that the septic tank and disposal area is within the boundary of the new allotments.

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 12.01-1S Protection of biodiversity

Clause 12.01-1R Protection of biodiversity – Wimmera Southern Mallee

Clause 14.01-1S Protection of agricultural land

Clause 14.01-2S Sustainable agricultural land use

Clause 14.02-1S Catchment planning and management

Clause 14.02-2S Water quality

Clause 14.03-2S Protection of declared irrigation districts

Clause 19.03-2S Infrastructure design and provision

Planning Response:

The proposal will protect agricultural land by retaining existing agricultural activities on proposed Lot 2 and creating a separate lot for the existing dwelling and native vegetation on proposed Lot 1, which is unlikely to create any conflicts with the surrounding agricultural uses. The proposal will not impact the Pepper Plains Channel easement as this channel has been decommissioned due to the Wimmera-Mallee Pipeline that has been constructed underground, part of which extends underground along Jeparit-Warracknabeal Road adjacent to the site.

The proposal will be consistent with the relevant planning policies listed above relating to the protection of biodiversity, agriculture and catchment management. The proposal will therefore comply with the relevant provisions of the MPS and PPF.

Zoning Provisions

Clause 35.07 Farming Zone (FZ)

35.07-3 Subdivision

A permit is required to subdivide land.

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

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

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.

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 subdivision area – All other land – 40 hectares.

Planning Response:

A permit is required for the subdivision to create a lot for the existing dwelling.

The proposed subdivision complies 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 MPS and PPF as discussed above.
- The proposal will be consistent with the current Wimmera Regional Catchment Strategy 2021-2027.
- The subdivision will result in the existing dwelling and associated septic system to be well contained within the boundaries of proposed Lot 1. Environmental Health has required a condition for the septic system to be inspected for compliance before any Certification and Statement of Compliance, which will be included as a condition.

- The proposal will encourage sustainable land management by removing the existing dwelling and native vegetation onto a separate lot of 7.76ha and retaining the existing agricultural land on the balance lot of 18.83ha, which is likely to be used in conjunction with the adjacent agricultural activities and rural land holdings in the surrounding area.
- The proposal will be compatible with the adjoining and nearby agricultural land uses.
- The proposal will utilise an existing crossover and all-weather access from Jeparit-Warracknabeal Road to the dwelling on proposed Lot 1 and a rural crossover and access from Geodetic Road to proposed Lot 2. Engineering has no requirements for the subdivision. Standard conditions will be included for services to be connected as required by the relevant authorities in accordance with the mandatory conditions listed in Clause 66.01.

Agricultural issues and the impacts from non-agricultural uses

- The proposal will support and enhance agricultural production and, except for the farm sheds on proposed Lot 1, will not result in the loss of any current agricultural activities on the subject land.
- The proposal will not have any adverse effect on soil quality and will not permanently remove any land from agricultural production.
- The proposal will not limit the operation and expansion or adversely impact the adjacent agricultural uses.
- The existing uses of the land will not be altered. The capacity of the current agricultural use on proposed Lot 2 is unchanged.
- The rural infrastructure including farm sheds and access tracks is predominantly located on proposed Lot 1 for the dwelling and native vegetation. However, the existing cropping land on proposed Lot 2 is likely to continue to be used in conjunction with adjacent cropping land within the surrounding area where other rural infrastructure such as farm sheds will be accessible.

Accommodation issues

- The existing dwelling and surrounding native vegetation will be retained on one lot and there is no loss of agricultural land due to the subdivision.

Environmental issues

- The proposal is unlikely to have an adverse impact on soil and water quality and any other natural physical features and resources.
- The existing stands of native vegetation on proposed Lot 1 will be able to be retained and further vegetation removal would be subject to planning approval unless exemptions for fences including the existing fence line between proposed Lot 1 and Lot 2 are applied.
- The proposal will protect the flora and fauna on the site and in the locality.

Design and siting issues

- There are no proposed changes to the existing dwelling and other buildings on the land.
- The proposal will not affect the rural character and appearance of the surrounding area.

- The existing dwelling is connected to reticulated power, telecommunications, potable water and an existing septic system, which will need to be inspected by Environmental Health to ensure compliance with current standards. Standard conditions are required.
- There are no specific traffic management measures for access to the two proposed lots. The existing crossover and access to proposed Lot 1 from Jeparit-Warracknabeal Road will be retained and the 4.8m wide rural crossover will provide access to proposed Lot 2 from Geodetic Road.

Overlay Provisions

Clause 42.01-2 Environmental Significance Overlay (ESO2)

42.01-2 Permit requirement

A permit is required to:

- Subdivide land.

Schedule 2 to the Environmental Significance Overlay

Channel and Reservoir Protection

2.0 Environmental objective to be achieved

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

3.0 Decision guidelines (relevant to the application)

- The responsible authority is to give consideration to the following matters prior to making a decision on an application:
 - The comments of Wimmera Mallee Water or any other relevant authority.
 - The need to prevent the contamination of water supply.
 - The need to protect water supply resources.
 - The diversion of water into or from channels will not be allowed unless approved by Wimmera Mallee Water or other relevant authority.

Planning Response:

The proposed subdivision will not affect the existing Pepper Plains Channel easement within the ESO2 as this channel has been decommissioned due to the construction of the Wimmera Mallee Pipeline. GWM Water did not provide any referral comments.

The proposal complies with the relevant decision guidelines in the overlay.

Particular Provisions

Clause 52.17 Native Vegetation

52.17-1 Permit requirement

A permit is required to remove, destroy or lop native vegetation, including dead native vegetation. This does not apply:

- If the table to Clause 52.17-7 specifically states that a permit is not required.

52.17-7 Table of exemptions

Fences

Native vegetation that is to be removed, destroyed, or lopped to the minimum extent necessary to enable:

the operation or maintenance of an existing fence; or

the construction of a boundary fence between properties in different ownership.

The clearing along both sides of the fence when combined must not exceed 4 metres in width, except where land has already been cleared 4 metres or more along one side of the fence, then up to 1 metre can be cleared along the other side of the fence.

Planning Response:

This Clause provides an exemption for vegetation removal to the minimum extent necessary to enable the operation or maintenance of an existing fence. This mirrors exemptions in Clause 52.12-2 of the Scheme for bushfire prone areas.

The proposed subdivision seeks to subdivide an existing dwelling and native vegetation onto a separate parcel of land. Given that the proposed lot boundary between Lot 1 and Lot 2 follows an existing fence line, there is no consequential loss of native vegetation, as the operation of the exemption at Clause 52.17-7 is applicable whether or not the land is to be subdivided.

Clause 52.29 Land Adjacent to the Principal Road Network

52.29-2 Permit requirement

A permit is required to create or alter or to alter access to a road in a Transport Zone 2 and to subdivide land adjacent to a road in a Transport Zone 2.

52.29-3 Permit not required (*relevant to the application*)

A permit is not required to:

- Subdivide land into two lots, provided no new access is required.

Planning Response:

Given that Proposed Lot 1 will utilise the existing crossover and access to the Jeparit-Warracknabeal Road in a Transport Zone 2 and proposed Lot 2 will have new access from Geodetic Road, which is not a road in a Transport Zone 2, no planning permit is required under this Clause.

General Provisions

Clause 63 Existing Uses

63.01 Extent of Existing Use Rights

An existing use right is established in relation to use of land under this scheme if any of the following apply:

- The use was lawfully carried out immediately before the approval date.
- A permit for the use had been granted immediately before the approval date and the use commences before the permit expires.
- A permit for the use has been granted under Clause 63.08 and the use commences before the permit expires.
- Proof of continuous use for 15 years is established under Clause 63.11.
- The use is a lawful continuation by a utility service provider or other private body of a use previously carried on by a Minister, government department or public authority, even where the continuation of the use is no longer for a public purpose.

63.06 Expiration of Existing Use Rights

An existing use right expires if either:

- The use has stopped for a continuous period of 2 years, or has stopped for two or more periods which together total 2 years in any period of 3 years.
- In the case of a use which is seasonal in nature, the use does not take place for 2 years in succession.

63.11 Proof of Continuous Use

If, in relation to an application or proceeding under the Act or this scheme, including an application for a certificate of compliance under Section 97N of the Act, the extent of any existing use right for a period in excess of 15 years is in question, it is sufficient proof of the establishment of the existing use right if the use has been carried out continuously for 15 years prior to the date of the application or proceeding.

An existing use right may be established under this clause even if the use did not comply with the scheme immediately prior to or during the 15 year period, unless either:

- At any time before or after commencement of the 15 year period the use has been held to be unlawful by a decision of a court or tribunal.
- During the 15 year period, the responsible authority has clearly and unambiguously given a written direction for the use to cease by reason of its non-compliance with the scheme.

Planning Response:

The applicant has provided written evidence and photos demonstrating that the existing dwelling has been located on the subject land and used for that purpose for a continuous period of greater than 15 years without ceasing for any period of more than two years.

The existing dwelling on the land is therefore afforded existing use rights pursuant to this Clause.

Clause 65 - Decision Guidelines

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

65.01 Approval of an application or plan

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

65.02 Approval of an application to subdivide land

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

Planning Response:

The proposal complies with the MPS and PPF, having regard to the dwelling lot that has not been used for productive agriculture and the balance lot that will continue to be used for productive agricultural purposes for broad scale cropping. The proposal will protect native vegetation and will not adversely impact the environment, human health and the amenity of the area. The proposal will enable the orderly planning of the area. The proposal complies with the relevant decision guidelines of Clause 65.

Discussion:

The proposed subdivision will create a new 7.76ha lot for the existing dwelling and native vegetation and a balance lot of 18.83 ha which will be retained for productive agricultural purposes and will most likely be used in conjunction with adjacent agricultural activities and nearby farming enterprises. The proposal will not result in the loss of any agricultural land as the dwelling lot has not been used for productive agricultural purposes due to the native vegetation coverage. The proposal is unlikely to cause land use conflicts with the adjacent agricultural land due to the setbacks of the dwelling from the lot boundaries and the native vegetation that provides some protection from views of the adjacent agricultural activities.

The proposal will comply with the planning policies in the MPS and PPF, the relevant decision guidelines of the Farming Zone and the Environmental Significance Overlay Schedule 2. The proposal will protect the environment and the amenity of the area and will enable the orderly planning of the area in accordance with Clause 65.

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

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Municipal Planning Strategy and the Planning Policy Framework, the Farming Zone, the Environmental Significance Overlay Schedule 2 and 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:

17/06/2022 Application submitted in SPEAR
05/07/2022 Fee paid
21/07/2022 Further information requested
18/09/2022 Response to further information received and amended plans received
21/09/2022 Further information requested
28/09/2022 Response to further information received and amended plans received
03/11/2022 External S52 Referral sent to GWM Water and Internal referral sent to Engineering
09/11/2022 Advertising directions and letters sent
09/11/2022 Internal referral sent to Environmental Health at Horsham City Council (assisting Hindmarsh Shire Council)
15/11/2022 Public notices erected on site by Council on behalf of the applicant
18/11/2022 Response received from Environmental Health
29/11/2022 Notification period ended
30/11/2022 Response received from Engineering
14/12/2022 The report is being presented to Council at the meeting to be held on 14 December 2022 (57 statutory days)

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

Link to Council Plan:

N/A.

Financial Implications:

There are no financial implications to Council.

Risk Management Implications:

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

Conflict of Interest:

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

Officer Responsible – Ms Jessie Holmes, Director Infrastructure Services

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

Author – Bernadine Pringle, Consultant Town Planner.

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

Communications Strategy:

Advise the applicant of Council's decision.

Next Steps:

Issue the Planning Permit and endorse the plans if approved.

RECOMMENDATION:

That Council approves Planning Application PA1784-2022 for a Two lot subdivision (dwelling lot excision), on the subject land at 1451 Jeparit-Warracknabeal Road Jeparit VIC 3423 (Crown Allotment 28 Parish of Batyik), subject to the following conditions:

Conditions:

Endorsed Plans - Subdivision

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

Access

- 2. The crossovers and access to the two lots must be constructed and maintained to the satisfaction of the Responsible Authority.*

Environmental Health

- 3. Before the issue of a Statement of Compliance, the septic system for the existing dwelling must be inspected by Council's EHO or a plumber's report must be submitted to demonstrate how the system complies with the relevant EPA Protocols and the Environment Protection Act 2017, to the satisfaction of the Responsible Authority.*

Subdivision Conditions in Clause 66.01

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

Subdivision Expiry

7. The subdivision will expire if:

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

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

Attachment Number: 5

8.2 APPLICATION FOR PLANNING PERMIT 1801-2022 – DEVELOPMENT OF TWO (2) ADDITIONAL DWELLINGS, SUBDIVISION OF LAND INTO THREE (3) LOTS, FENCING AND REMOVAL OF VEGETATION – 5 GLENFERNESS STREET NHILL VIC 3418

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 121620
Application Number: **PA1801-2022**
Application Received: 12 October 2022 (19 October 2022 fee paid)
Applicant: Hargreaves Design Group
Owner: Sai Leela Investments No. 1 Pty Ltd
Subject Land: 5 Glenferness Street Nhill Vic 3418 (Lot 87 on Lodged Plan 11688)
Proposal: Development of two (2) additional dwellings, subdivision of land into three (3) lots, fencing and removal of vegetation
Zoning & Overlays: General Residential Zone – Schedule 1 (GRZ1)
Environmental Significance Overlay – Schedule 6 (ESO6)
Attachment Number: 6

Summary:

This report recommends that Council approve Planning Permit PA1801-2022 for the development of two (2) additional dwellings, subdivision of land into three (3) lots, fencing and removal of vegetation on the subject land known as 5 Glenferness Street Nhill Vic 3418 (Lot 87 on Lodged Plan 11688).

Background:

On 12 October 2022, Hargreaves Design Group on behalf of Sai Leela Investments No. 1 Pty Ltd lodged a planning application to the Responsible Authority for the development of

two (2) additional dwellings, subdivision of land into three (3) lots, fencing and removal of vegetation at 5 Glenferness Street Nhill.

Proposal Details:

The permit applicant, Hargreaves Design Group seeks approval for the development of two (2) additional dwellings, subdivision of land into three (3) lots, fencing and removal of vegetation. The subject land contains an existing dwelling in the western half of the site which will remain on the land. The subdivision will create three lots, one of which will contain the existing dwelling (466.152m²) and the remaining two will each contain a new dwelling proposed as part of this application (244.612m² and 250.278m²). The proposed dwellings have an identical floor plan with a total floor area 127.60m² containing:

- Three bedrooms (master with walk in robe and ensuite);
- Open plan kitchen, dining and living area;
- Bathroom;
- Built in cupboard laundry; and
- Single garage.

The dwellings are single storey with a pitched roof and a gable front porch. External wall cladding consists of a mix of weatherboard and rendered cement sheet and the roof will consist of Colorbond sheeting.

To accommodate the development, two existing planted trees will be removed as well as two outbuildings associated with the existing dwelling. Dividing fencing is proposed between the existing and proposed dwellings.

A site plan and elevations of the proposed dwellings are contained within Figure 1 and 2 below and the plan of subdivision is contained within Figure 3.

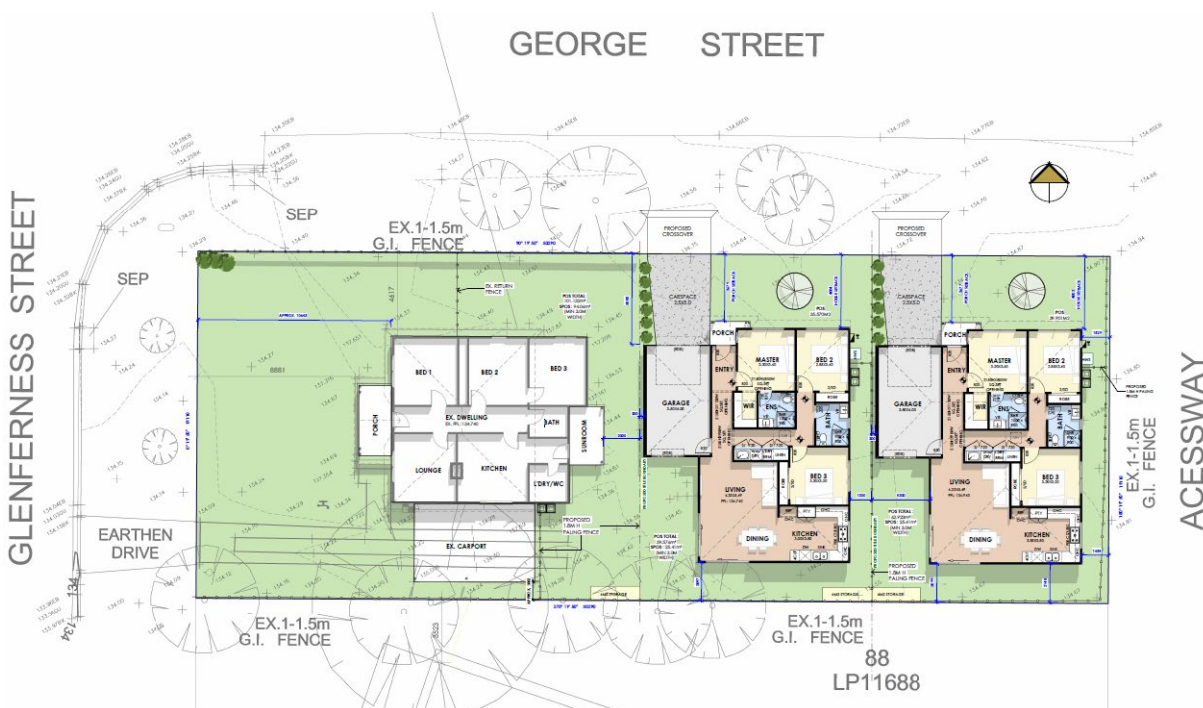


Figure 1 – Site Plan

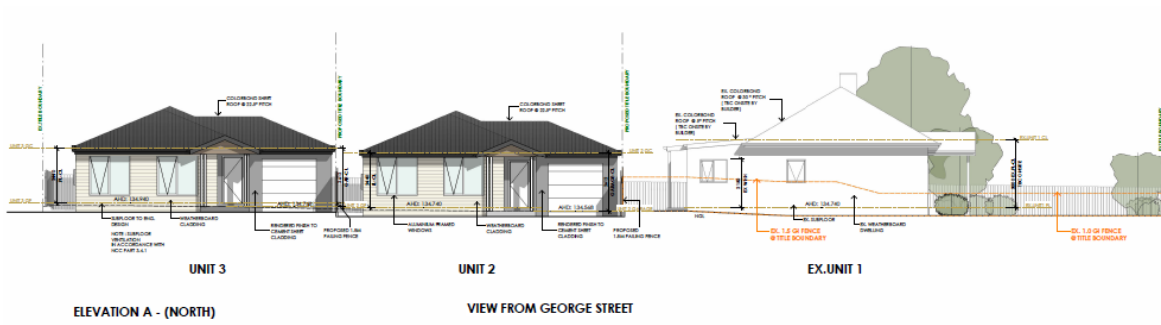


Figure 2 – Elevations

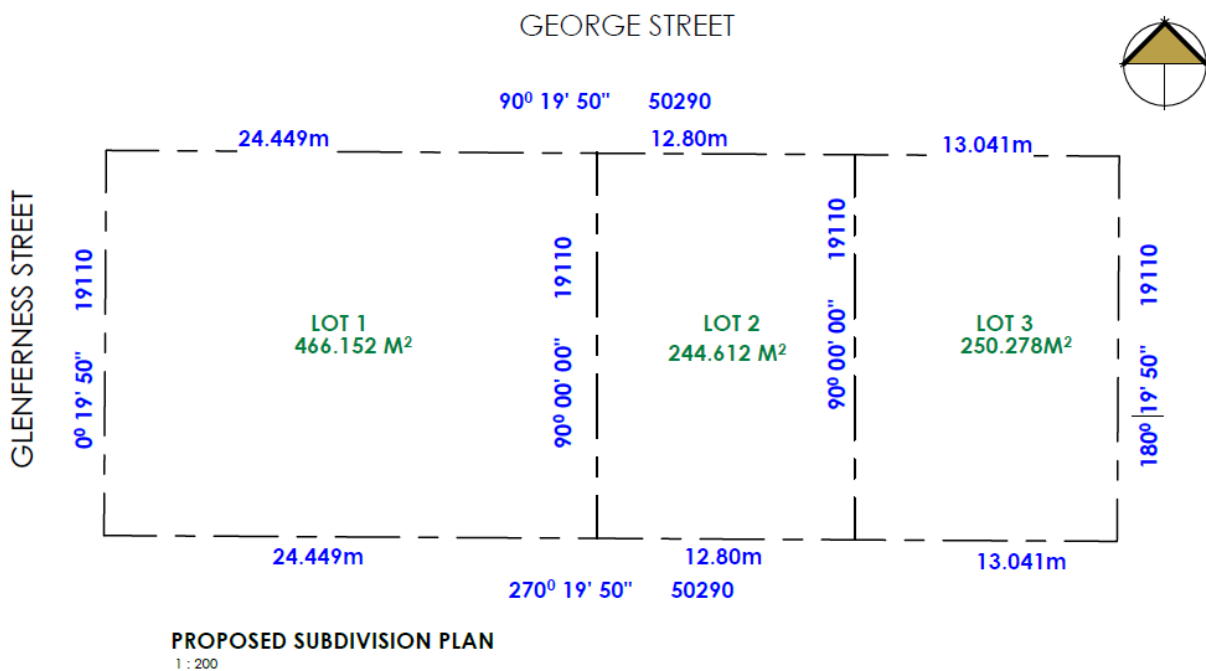


Figure 3 – Plan of proposed subdivision

Requirement for Permit:

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

- Clause 32.08-3 (General Residential Zone) – A permit is required to subdivide land.
- Clause 32.08-6 (General Residential Zone) – A permit is required to construct a dwelling if there is at least one dwelling existing on the lot.
- Clause 42.01-2 (Environmental Significance Overlay) – A permit is required to construct a fence that may obstruct the flow of water.
- Clause 42.01-2 (Environmental Significance Overlay) – A permit is required for vegetation removal.
- Clause 42.01-2 (Environmental Significance Overlay) – A permit is required to subdivide land.

Definitions:

Dwelling – *A building used as a self-contained residence which must include:*

- a) a kitchen sink;*
- b) food preparation facilities;*
- c) a bath or shower; and*
- d) a toilet and wash basin.*

It includes outbuildings and works normal to a dwelling.

Restrictive Covenant or Section 173 Agreement:

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

Cultural Heritage Management Plan (CHMP):

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

Subject site & locality:

The subject site is known as 5 Glenferness Street Nhill VIC 3418 (Lot 87 on Lodged Plan 11688), which comprises a single title of approximately 980m². The land is generally flat, with minimal fall across the site. The land currently contains an existing dwelling and two associated outbuildings with access from both Glenferness Street and George Street.

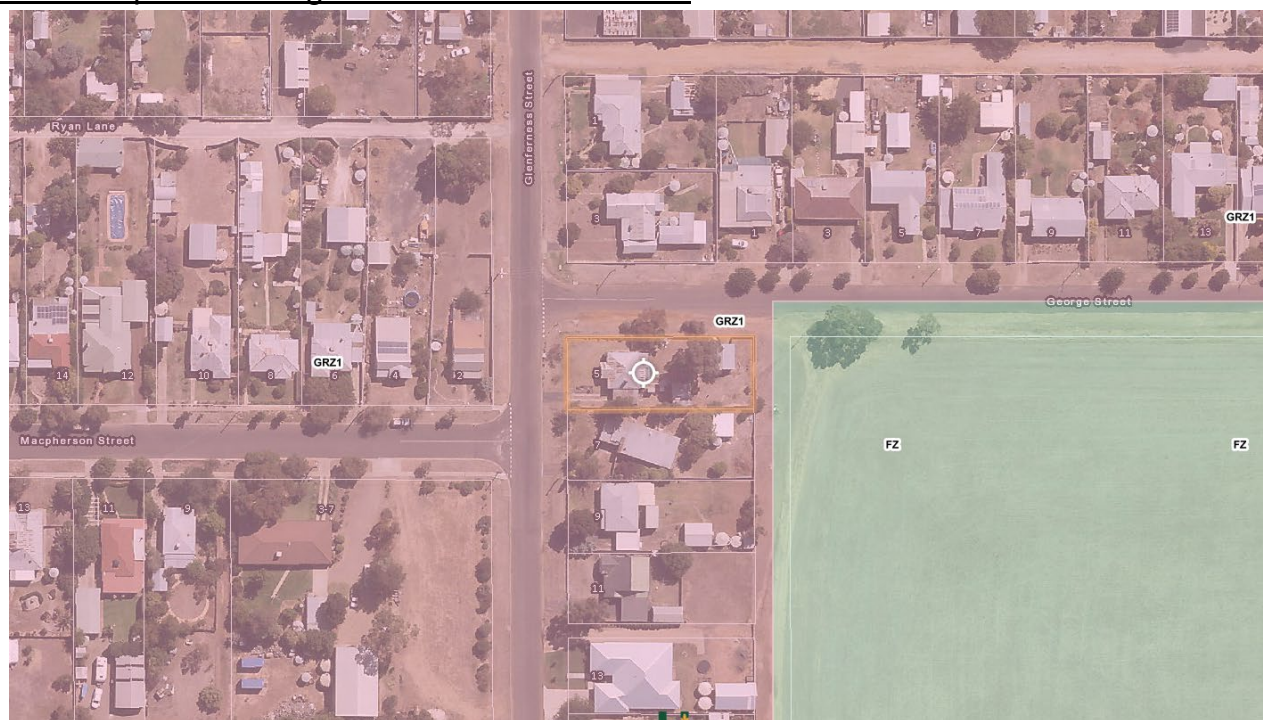
The subject site adjoins residential zoned land to the north, south and west, with land in the Farming Zone (FZ) to the east. Land within the General Residential Zone generally comprises lots of between 800-2,000m² allotments, with some larger land holdings with across multiple parcels evident. Immediately adjoining the subject land are single storey detached dwellings and broadacre farming land.

The site appears to have access to reticulated power, telecommunications, water and sewer.

Aerial Map below – Hindmarsh POZI



Aerial Map with Zoning below – Hindmarsh POZI



Section 52 Notice of Application

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

- Letters to adjoining and nearby property owners;
- Erection of a sign on site; and
- A notice in the 'Nhill Free Press'

No objections or submissions have been received in relation to the application.

Referrals:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	
Wimmera Catchment Management Authority	<p>No objection subject to conditions listed below.</p> <ol style="list-style-type: none"> 1. Vegetation removal should not degrade the ecological condition of areas covered by ESO 5. 2. The material used in the construction of a fence should not act as a barrier that would redirect surface water flow. Any mounding of soil associated with the construction of a fence should not result in the redirection of surface water flow. <p>Response received 2 November 2022.</p>
Powercor	<p>No objection subject to conditions listed below.</p> <ol style="list-style-type: none"> 1. This letter shall be supplied to the applicant in its entirety. 2. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act. 3. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards. 4. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR). <p>Response received 17 November 2022.</p>
Grampians Wimmera Mallee Water	<p>No objection subject to conditions.</p> <p>Response received 06 December 2022.</p>

Section 52 and Internal Notices	
Engineering	<p>No objection to the development subject to conditions:</p> <p>Access:</p> <ol style="list-style-type: none"> 1. Access to the existing dwelling (Lot 1) shall be from the existing entrance (see below). 2. Prior to issue of Statement of Compliance, a new crossover must be constructed, to each lot (lots 2 & 3) to have independent access as per IDM SD-255 standard (see attached) at the North side of the lots on George St - (refer below proposed plan) to the satisfaction of the Responsible Authority.

	<p>3. The vehicle crossing(s) must be constructed at the applicant's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority.</p> <p>Note: A consent to works within road reserve permission is required prior to construction if working in road reserve. https://www.hindmarsh.vic.gov.au/register-for-permits</p> <p>Drainage:</p> <p>4. All stormwater and surface water discharging from the site for the approved development must be directed to the legal point of discharge (LPD) being the Northern side of the property to the table drain in the George Street road reserve to the satisfaction of the Responsible Authority.</p> <p>5. LPD can be applied with the building permit application.</p>
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Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework:

Clause 11.01-1L Settlement – Hindmarsh

Clause 13.02-1S Bushfire planning

Clause 15.01-1S Urban design

Clause 15.01-2S Building design

Clause 15.01-3S Subdivision design

Clause 15.01-5S Neighbourhood character

Clause 16.01-1S Housing supply

Zoning Provisions:

Clause 32.08 – General Residential Zone (GRZ)

32.08-3 Subdivision

A permit is required to subdivide land.

32.08-6 Construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings

A permit is required to construct a dwelling if there is at least one dwelling existing on the lot.

Planning Response:

The key considerations applying to this application and the application of policy relate to the level of intensity of development in the GRZ and ResCode compliance, with the overwhelming policy direction being to intensify residential development in such areas in close proximity to jobs, transport and services.

When assessing the application against the state policies in the PPF, there is clear support for the proposed increase in density on the site as the site is well serviced by infrastructure and community services. This ensures efficient use of infrastructure and supports the usual preference that established residential areas experience residual increase in population and density. State policy also encourages new medium density housing to respect neighbourhood character, to which the proposal responds satisfactorily encouraging housing diversity in established areas with access to services.

The built form of the development will achieve architectural and urban design outcomes that contribute positively to the local urban character as required by Clause 15.01-1S of the Scheme given scale, bulk and mass in relation to the adjoining sites. The built form of the dwellings and the area of secluded private open space for each dwelling is appropriate, there are ample landscaping opportunities within the site. The intensity of the development is consistent with relevant Planning Policy.

As a permit was not sought under Clause 32.08-5 (one dwelling on a lot less than 300m²), Conditions will be included on the planning permit to ensure that the dwellings are completed prior to the issue of Statement of Compliance.

The development achieves a garden area of 56.58%, well above the 35% required by Clause 32.08-4.

The proposal will not affect rooftop solar systems and meets the relevant objectives of Clause 55 as applicable to this proposal.

Overlay Provisions:

The subject land is encumbered by Clause 42.01 - Environmental Significance Overlay - Schedule 6 (ESO6). A permit is required for vegetation removal, including planted vegetation and fencing that may obstruct the flow of water and to subdivide land.

Planning Response:

It is considered that the proposed works and subdivision would not impact the objective of ESO6 which aims to protect the catchment area of significant wetlands.

The Shire of Hindmarsh, Wetlands and Catchments of Conservation Value (WCMA 2007) Decision Guidelines provides Matrix and Criteria to establish if the proposed removal of vegetation is appropriate.

The below criteria has been identified as relevant to the proposal to remove vegetation:

Criteria for Matrix 2 ESO6:

Vegetation removal should not degrade the ecological condition of areas covered by ESO 5. Vegetation within ESO 6 plays a number of different roles depending on the proximity of the vegetated land to the high value wetland.

(Refer to Appendix 5, Table 3 of buffer distances applicable to vegetation removal).

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

The proposed development is situated approximately 850 metres from the Nhill Lake (closest point of the PPRZ boundary). Appendix 5, Table 3 outlines that the role of the vegetation to be removed contributes to protection from rising salinity (being greater than 250m but less than 2000m from the Nhill Lake). Based on this criteria, a desktop assessment has been undertaken to ascertain the level of risk likely to occur from the proposed development, including vegetation removal and boundary fencing.

Given the location of the subject land in the Nhill Urban Area, stormwater discharge from the site will be diverted to the existing table drain in George Street and into the Council drainage system. Similarly, wastewater will be directed to existing public sewerage infrastructure and will not be retained and treated on-site. The removal of two trees and solid boundary fencing may marginally alter stormwater flows off the site, however, any such increase is unlikely to result in adverse impacts to the water quality of the Nhill Lake. The subdivision has no effect on water flows or quality. The Wimmera CMA have reviewed the application and did not object to the granting of a permit subject to conditions.

On this basis, the proposal is considered to be acceptable.

Particular Provisions:

Clause 52.06 – Car Parking

Clause 52.06-5 – Number of Car Parking Spaces

Table 1 of this clause provides that two (2) car parking spaces are required for each dwelling having 3 or more bedrooms, one of which must be covered.

Planning Response:

The existing dwelling contains an existing carport and driveway which accommodates one covered car parking space and two uncovered car parking spaces. The proposed dwellings each contain a single garage and a tandem car parking space in front of the garage, achieving one covered car parking space and one uncovered car parking space for each dwelling. The tandem car parking space does not meet the minimum dimensions required by Design Standard 2 of Clause 52.06-9 (5.4m long x 2.6m wide). A condition will be added to any permit issued for amended plans to rectify this. As such, the proposal meets the requirements of the Scheme in relation to car parking numbers and design standards for car parking.

Clause 53.01 – Public Open Space Contribution and Subdivision

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

contribution for public open space may still be required under section 18 of the Subdivision Act 1988.

Section 18(1) of the Subdivision Act 1988 states:

A Council acting as a responsible authority or a referral authority under the Planning and Environment Act 1987 may require the applicant who proposes to create any additional separately disposable parcel of land by a plan of subdivision to—

- (a) set aside on the plan, for public open space, in a location satisfactory to the Council, a percentage of all of the land in the subdivision intended to be used for residential, industrial or commercial purposes, being a percentage set by the Council not exceeding 5 per cent; or*
- (b) pay or agree to pay to the Council a percentage of the site value of all of the land in the subdivision intended to be used for residential, industrial or commercial purposes, being a percentage set by the Council not exceeding 5 per cent; or*
- (c) do a combination of (a) and (b) so that the total of the percentages required under (a) and (b) does not exceed 5 per cent of the site value of all the land in the subdivision.*

Further, Section (1A), of the Subdivision Act 1988 states:

The Council may only make a public open space requirement if it considers that, as a result of the subdivision, there will be a need for more open space, having regard to—

- (a) the existing and proposed use or development of the land;*
- (b) any likelihood that existing open space will be more intensively used after than before the subdivision;*
- (c) any existing or likely population density in the area of the subdivision and the effect of the subdivision on this;*
- (d) whether there are existing places of public resort or recreation in the neighbourhood of the subdivision, and the adequacy of these;*
- (e) how much of the land in the subdivision is likely to be used for places of resort and recreation for lot owners;*
- (f) any policies of the Council concerning the provision of places of public resort and recreation*

Planning Response:

The proposed subdivision does not provide any land for the purposes of public open space. As such, a public open space contribution is required to be paid in accordance with 18(1)(b) of the Subdivision Act 1988. The proposed subdivision creates an additional two lots within Nhill which places increased demand on existing public open spaces within the township. As such, the full 5% contribution will be required as per conditions.

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

Provisions in this clause apply to an application to:

- Construct a dwelling if there is at least one dwelling existing on the lot, in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone.

Planning Response:

The development comprises the construction of two dwellings with at least one dwelling existing on the lot, and therefore the provisions of Clause 55 apply. An assessment against the relevant objectives and standards of Clause 55 is provided below.

55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE				
55.02-1 Neighbourhood Character	Met?	Standard B1	Met?	Comments
<p><i>To ensure that the design respects the existing neighbourhood character or contributes to neighbourhood character.</i></p> <p><i>To ensure that development responds to the features of the site and the surrounding area</i></p>	Yes	<p><i>The design response must be appropriate to the neighbourhood and the site.</i></p>	Yes	<p>As discussed through this report, the character of the area primarily consists of single storey residences on typically 1,000sqm lots with various outbuildings and varied setbacks. Dwelling age, typology and form is also variable in the surrounding area.</p> <p>The proposal represents a small infill development of existing residential allotment, serviced for such purposes. The proposal provides for two new dwellings with conventional built form with appropriate setbacks to George Street, while retaining the existing dwelling fronting Glenferness Street. This development form is consistent with the broader character despite comprising smaller lots/open space than typically found in the streetscape.</p> <p>For these reasons, it is considered that the proposal is an appropriate intensification in the GRZ having regard to the context of the subject land and surrounding area.</p>
		<p><i>The proposed design must respect the existing or preferred neighbourhood character and respond to the features of the site</i></p>	Yes	
55.02-2 Residential Policy	Met?	Standard B3	Met?	Comments
<p><i>To ensure that residential development is provided in accordance with any policy for housing in the</i></p>	Yes	<p><i>An application must be accompanied by a written statement to the satisfaction of the responsible authority that describes how the development is consistent with any relevant policy for housing</i></p>	Yes	<p>A response to relevant Planning Policy has been provided with the application, and applicable policy has been assessed in this report.</p>

<i>Municipal Planning Strategy and the Planning Policy Framework.</i>		<i>in the Municipal Planning Strategy and the Planning Policy Framework.</i>		
<i>To support medium densities in areas where development can take advantage of public transport and community infrastructure and services</i>				
55.02-3 Dwelling Diversity	Met?	Standard B3	Met?	Comments
<i>To encourage a range of dwelling sizes and types in developments of ten or more dwellings</i>	N/A	<i>Developments of ten or more dwellings should provide a range of dwelling sizes and types, including:</i> <ul style="list-style-type: none"> • <i>Dwellings with a different number of bedrooms.</i> • <i>At least one dwelling that contains a kitchen, bath or shower, and a toilet and wash basin at ground floor level.</i> 	N/A	The development is for two (2) additional dwellings only.
55.02-4 Infrastructure	Met?	Standard B4	Met?	Comments
<i>To ensure development is provided with appropriate utility services and infrastructure.</i>	Yes	<i>Development should be connected to reticulated services, including reticulated sewerage, drainage, electricity and gas, if available.</i>	Yes	All reticulated services are available to the land and will be connected per the requirements of the relevant authority.
<i>To ensure development does not unreasonably overload the capacity of utility services and infrastructure.</i>		<i>Development should not unreasonably exceed the capacity of utility services and infrastructure, including reticulated services and roads.</i>	Yes	The development will not unreasonably impact service capacity.
		<i>In areas where utility services or infrastructure have little or no spare capacity, developments should provide for the upgrading of or mitigation of the impact on services or infrastructure.</i>	Yes	As above.
55.02-5 Integration With The Street	Met?	Standard B5	Met?	Comments
<i>To integrate the layout of development with the street</i>	Yes	<i>Developments should provide adequate vehicle and pedestrian links that maintain or enhance local accessibility.</i>	Yes	Each dwelling is provided with individual vehicular and pedestrian access.

		<i>Development should be oriented to front existing and proposed streets</i>	Yes	The existing dwelling is orientated to Glenferness Street and the two proposed dwellings are oriented to George Street.
		<i>High fencing in front of dwellings should be avoided if practicable</i>	N/A	No front fencing is proposed
		<i>Development next to existing public open space should be laid out to complement the open space.</i>	N/A	Not applicable.

55.03 SITE LAYOUT AND BUILDING MASSING				
55.03-1 Street Setback	Met?	Standard B6	Met?	Comments
<i>To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</i>	Yes	<i>The site is on a corner.</i> <ul style="list-style-type: none"> <i>Min front setback if there is no building on the abutting allotment facing the front street, 6 metres for streets in a Road Zone, Category 1, and 4 metres for other streets.</i> 	Yes	The proposed dwellings are setback 4m from the George Street boundary.
		<i>Porches, pergolas and verandahs that are < 3.6m high and eaves may encroach ≤ 2.5m into the setbacks of this standard</i>	Yes	The front porch of the proposed dwelling encroaches 0.325m into the front setback.
55.03-2 Building Height	Met?	Standard B7	Met?	Comments
<i>To ensure that the height of buildings respects the existing or preferred neighbourhood character</i>	Yes	<i>The maximum building height should not exceed 9 metres, unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the maximum building height should not exceed 10 metres.</i>	Yes	The dwellings are less than 9m in height.
		<i>Changes of building height between existing buildings and new buildings should be graduated.</i>	Yes	Both dwellings are single storey, consistent with the surrounding streetscape.
55.03-3 Site Coverage	Met?	Standard B8	Met?	Comments
<i>To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site</i>	Yes	<i>The site area covered by buildings should not exceed 60 per cent</i>	Yes	Building site coverage = 40.07%
55.03-4 Permeability	Met?	Standard B9	Met?	Comments

<p><i>To reduce the impact of increased stormwater run-off on the drainage system</i></p> <p><i>To facilitate on-site stormwater infiltration</i></p>	Yes	<p><i>The site area covered by the pervious surfaces should be at least 20% of the site</i></p>	Yes	Permeable area = 56.58%
		<p><i>The stormwater management system should be designed to:</i></p> <ul style="list-style-type: none"> • <i>Meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999).</i> • <i>Contribute to cooling, improving local habitat and providing attractive and enjoyable spaces.</i> 	Yes	All stormwater will be directed to the existing table drain within George Street as per the referral response from the Engineering Department.
55.03-5 Energy Efficiency	Met?	Standard B10	Met?	Comments
<p><i>To achieve and protect energy efficient dwellings and residential buildings</i></p> <p><i>To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy</i></p>	Yes	<p><i>Buildings should be:</i></p> <ul style="list-style-type: none"> • <i>Orientated to make appropriate use of solar energy</i> • <i>Sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced.</i> • <i>Sited and designed to ensure that the performance of existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Neighbourhood Residential Zone or Township Zone are not unreasonably reduced. The existing rooftop solar energy system must exist at the date the application is lodged.</i> 	Yes	The existing dwelling orientation and solar access opportunities are not changing. The new dwellings have north, east and west facing windows to all habitable rooms to allow for appropriate solar access. The height and form of the new dwellings will not unreasonably affect solar access on other existing dwellings.
		<p><i>Living areas and private open space should be located on the north side of the development if practicable</i></p>	Yes	The SPOS for the proposed dwellings is located on the western side of the proposed dwellings but has a northerly aspect behind the garage.
		<p><i>Developments should be designed so that solar access to north-facing windows is maximised</i></p>	Yes	The proposed dwellings maximise the extent of north facing windows by providing two large windows on the

				front façade to two bedrooms.
55.03-6 Open Space	Met?	Standard B11	Met?	Comments
<i>To integrate the layout of the development with any public and communal open space provided in or adjacent to the development</i>	N/A	<i>If any public or communal open space is provided on site, it should:</i> <ul style="list-style-type: none"> • <i>Be substantially fronted by dwellings, where appropriate</i> • <i>Provide outlook for as many dwellings as practicable</i> • <i>Be designed to protect any natural features on the site</i> • <i>Be accessible and useable</i> 	N/A	N/A
55.03-7 Safety	Met?	Standard B12	Met?	Comments
<i>To ensure the layout of development provides for the safety and security of residents and property</i>	Yes	<i>Entrances to dwellings should not be obscured or isolated from the street and internal accessways</i>	Yes	The entrances to each dwelling are readily identifiable from the street.
		<i>Planting which creates unsafe spaces along streets and accessways should be avoided</i>	Yes	No such plantings proposed.
		<i>Developments should be designed to provided good lighting, visibility and surveillance of car parks and internal accessways</i>	Yes	Each car parking space is either contained within a secure garage or in front of the garage which is afforded good passive surveillance from the dwellings and the public realm.
		<i>Private spaces within developments should be protected from inappropriate use as public thoroughfares</i>	Yes	The development does not present opportunity for inappropriate use as a public thoroughfare.
55.03-8 Landscaping	Met?	Standard B13	Met?	Comments

<p><i>To encourage development that respects the landscape character of the neighbourhood</i></p> <p><i>To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance</i></p> <p><i>To provide appropriate landscaping</i></p> <p><i>To encourage the retention of mature vegetation on the site</i></p>	<p>Yes</p>	<p><i>The landscape layout and design should:</i></p> <ul style="list-style-type: none"> • <i>Protect any predominant landscape features of the neighbourhood</i> • <i>Take into account the soil type and drainage patterns of the site</i> • <i>Allow for intended vegetation growth and structural protection of buildings</i> • <i>In locations of habitat importance, maintain existing habitat and provide for new habitat for plants and animals</i> • <i>Provide a safe, attractive and functional environment for residents</i> <p><i>Development should provide for the retention or planting of trees, where these are part of the character of the neighbourhood</i></p> <p><i>Development should provide for the replacement of any significant trees that have been removed in the 12 months prior to the application being made</i></p> <p><i>The landscape design should specify landscape themes, vegetation (location and species), paving and lighting</i></p>	<p>Yes</p>	<p>A concept landscape plan is provided in the overall site plan, which shows that meaningful landscaping can be provided on site. A detailed landscaping plan will be required by conditions.</p>
<p>55.03-9 Access</p>	<p>Met?</p>	<p>Standard B14</p>	<p>Met?</p>	<p>Comments</p>
<p><i>To ensure the number and design of vehicle crossovers respects the neighbourhood character</i></p>	<p>Yes</p>	<p><i>The width of accessways or car spaces should not exceed:</i></p> <ul style="list-style-type: none"> • <i>33% of the street frontage, or</i> • <i>if the width of the street frontage is less than 20m, 40% of the street frontage</i> <p><i>No more than one single-width crossover should be provided for each dwelling fronting a street</i></p> <p><i>The location of crossovers should maximize the retention of on-street car parking spaces</i></p> <p><i>The number of access point to a road in a Transport Zone 2 should be minimised</i></p> <p><i>Developments must provide access for service, emergency and delivery vehicles</i></p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>	<p>Complies (less than 33%)</p> <p>Complies.</p> <p>Crossover locations are designed to minimise impacts on on-street car parking.</p> <p>The site does not abut a Transport Zone 2.</p> <p>Easy access to each dwelling is provided from the street.</p>

55.03-10 Parking Location	Met?	Standard B15	Met?	Comments
<p>To provide convenient parking for resident and visitor vehicles</p> <p>To protect residents from vehicular noise within developments</p>	Yes	<p>Car parking facilities should:</p> <ul style="list-style-type: none"> • Be reasonably close and convenient to dwellings and residential buildings • Be secure • Be well ventilated if enclosed 	Yes	As above, car parking is provided within garages and in front of garages which is close, convenient and secure for future residents.
		<p>Shared accessways or car parks of other dwellings and residential buildings should be located at least 1.5m from the windows of habitable rooms. This setback may be reduced to 1m where there is a fence at least 1.5m high or where window sills are at least 1.4m above the accessway</p>	N/A	No shared accessways or car parking spaces are proposed.

55.04 AMENITY IMPACTS				
55.04-1 Side And Rear Setback	Met?	Standard B17	Met?	Comments
<p>To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</p>	Yes	<p>A new building not on or within 200mm of a boundary should be set back from side or rear boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.</p>	Yes	The dwellings are setback a minimum distance of 1.4m from side boundaries.
		<p>Sunblinds, verandahs, porches, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may encroach not more than 0.5m into the setbacks of this standard</p>	N/A	None of these elements encroach within the setbacks required by this standard.
		<p>Landings having an area of not more than 2sqm and less than 1m high, stairways, ramps, pergolas, shade sails and carports may encroach into the setbacks of this standard</p>	N/A	No landings are proposed within the side setback area.
55.04-2 Wall On Boundaries	Met?	Standard B18	Met?	Comments
<p>To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on</p>	N/A	<p>A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of a lot should not abut the boundary for a length of more than:</p> <ul style="list-style-type: none"> • 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot, or 	N/A	No walls on boundaries are proposed.

the amenity of existing dwellings		<ul style="list-style-type: none"> Where there are existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot, the length of the existing or simultaneously constructed walls or carports, whichever is the greater. 		
		A new wall or carport may fully abut a side or rear boundary where slope and retaining walls or fences would result in the effective height of the wall or carport being less than 2 metres on the abutting property boundary.	N/A	N/A
		The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metre of a side or rear boundary should not exceed an average of 3.2 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.	N/A	N/A
55.04-3 Daylight To Existing Windows	Met?	Standard B19	Met?	Comments
To allow adequate daylight into existing habitable room windows	Yes	Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3sqm and minimum dimensions of 1m clear to the sky. The calculation of the area may include land on the abutting lot	Yes	All existing habitable room windows will have access to the requisite light court.
		Walls or carports more than 3m in height opposite an existing habitable room window should be set back from the window at least 50% of the height of the new wall if the wall is within a 55° arc from the centre of the existing window. The arc may be swung to within 35° of the plane of the wall containing the existing window. Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window Refer to Diagram B2	N/A	Not applicable to this development.

55.04-4 North Facing Windows	Met?	Standard B20	Met?	Comments
<i>To allow adequate solar access to existing north-facing habitable room windows</i>	Yes	<p><i>If a north-facing habitable window of an existing dwelling is within 3m of a boundary on an abutting lot, a building should be setback from the boundary 1m, plus 0.6m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m, for a distance of 3m from the edge of each side of the window.</i></p> <p><i>A north-facing window is a window with an axis perpendicular to its surface oriented north 20 degrees west to north 30 degrees east.</i></p> <p><i>Refer to Diagram B3</i></p>	N/A	There are no north facing windows of existing dwellings within 3m of a boundary on an adjoining lot.
55.04-5 Overshadow Open Space	Met?	Standard B21	Met?	Comments
<i>To ensure buildings do not significantly overshadow existing secluded private open space</i>	Yes	<i>Where sunlight to secluded private open space of an existing dwelling is reduced, at least 75%, or 40sqm with minimum dimension of 3m, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September</i>	Yes	The proposed development will not result in any additional overshadowing to existing areas of private open space.
		<i>If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced</i>	N/A	Not applicable.
55.04-6 Overlooking	Met?	Standard B22	Met?	Comments
<i>To limit views into existing secluded private open space and habitable room windows</i>	Yes	<i>A habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45° angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7m above the floor level</i>	Yes	As the dwellings are single storey and the land is relatively flat, overlooking will not occur from the proposed dwellings and will be suitably mitigated by existing and proposed boundary fencing.

		<p><i>A habitable room window, balcony, terrace, deck or patio with a direct view into a habitable room window of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio should be either:</i></p> <ul style="list-style-type: none"> • <i>offset a minimum of 1.5m from the edge of one window to the edge of the other</i> • <i>have sill heights of at least 1.7m above floor level</i> • <i>have fixed, obscure glazing in any part of the window below 1.7m above floor level</i> • <i>have permanently fixed external screens to at least 1.7m above floor level and be no more than 25% transparent</i> 	N/A	As above.
		<p><i>Obscure glazing in any part of the window below 1.7m above floor level may be openable provided that there are no direct views as specified in this standard</i></p>	N/A	As above.
		<p><i>Screens used to obscure a view should be:</i></p> <ul style="list-style-type: none"> • <i>perforated panels or trellis with a maximum of 25% openings or solid translucent panels</i> • <i>permanent, fixed and durable</i> • <i>designed and coloured to blend with the development</i> 	N/A	As above.
55.04-7 Internal Views	Met?	Standard B23	Met?	Comments
<i>To limit views into the secluded private open space and habitable room windows of dwellings and residential buildings within a development</i>	Yes	<i>Windows and balconies should be designed to prevent overlooking of more than 50% of the secluded private open space of a lower-level dwelling or residential building directly below and within the same development</i>	Yes	As above, boundary fencing is proposed to limit internal views between dwellings.
55.04-8 Noise Impacts Objective	Met?	Standard B24	Met?	Comments
<i>To contain noise sources in developments that may affect existing dwellings</i>	Yes	<i>Noise sources, such as mechanical plant, should not be located near boundaries of immediately adjacent existing dwellings</i>	Yes	Standard domestic equipment such as air conditioners and hot water tanks will be suitably located to minimise noise.
		<i>Noise sensitive rooms and secluded private open spaces of new dwellings and residential</i>	Yes	The site is located in a typical residential area with typical noise sources and emissions.

<i>To protect residents from external noise</i>		<i>buildings should take account of noise sources on immediately adjacent properties</i>		
		<i>Dwellings and residential buildings close to busy roads, railway lines or industry should be designed to limit noise levels in habitable rooms</i>	Yes	The subject land is not located near a busy road or industry.

55.05 ON-SITE AMENITY AND FACILITIES				
55.05-1 Accessibility	Met?	Standard B25	Met?	Comments
<i>To encourage the consideration of the needs of people with limited mobility in the design of developments</i>	Yes	<i>The dwelling entries of the ground floor of dwellings and residential buildings should be accessible or able to be easily made accessible to people with limited mobility.</i>	Yes	Each dwelling entry is at ground level and accessible to persons with limited mobility.
55.05-2 Dwelling Entry	Met?	Standard B26	Met?	Comments
<i>To provide each dwelling or residential building with its own sense of identity</i>	Yes	<i>Entries to dwellings and residential buildings should:</i> <ul style="list-style-type: none"> • <i>be visible and easily identifiable from streets and other public areas</i> • <i>provide shelter, a sense of personal address and a transitional space around the entry</i> 	Yes	Each entry is readily identifiable and visible from the street and provides a porch/verandah as a transitional space to same.
55.05-3 Daylight To New Windows	Met?	Standard B27	Met?	Comments
<i>To allow adequate daylight into new habitable room windows</i>	Yes	<i>A window in a habitable room should be located to face:</i> <ul style="list-style-type: none"> • <i>an outdoor space or a light court with a minimum area of 3sqm and minimum dimension of 1m clear to the sky, not including land on an abutting lot, or</i> • <i>a verandah provided it is open for at least one third its perimeter, or</i> • <i>a carport provided it has two or more open sides and is open for at least one third of its perimeter</i> 	Yes	All new habitable room windows are provided with the requisite light courts.
55.05-4 Private Open Space	Met?	Standard B28	Met?	Comments
<i>To provide adequate private open space for the reasonable recreation and</i>	Yes	<i>A dwelling or residential building should have private open space:</i> <ul style="list-style-type: none"> • <i>an area of 40sqm, with one part secluded at the side or rear with a min area of 25sqm, a min dimension of 3m and</i> 	Yes	Each dwelling has a total POS area of 46m with SPOS equating to 25.4m ² with a minimum dimension of 3.2m and direct access from a living room.

<i>service needs of residents</i>		<p><i>convenient access from a living room, or</i></p> <ul style="list-style-type: none"> <i>• a balcony of 8sqm with a min width of 1.6m and convenient access from a living room, or</i> <i>• a roof-top area of 10sqm with a min width of 2m and convenient access from a living room</i> 		
55.05-5 Solar Access To Open Space	Met?	Standard B29	Met?	Comments
<i>To allow solar access into the secluded private open space of new dwellings and residential buildings</i>	Yes	<p><i>The private open space should be located on the north side of the dwelling or residential buildings</i></p>	No	<p>Whilst the area of SPOS is located to the west of the proposed dwellings, it still achieves a northerly aspect behind the garage. As the overshadowing diagrams demonstrate, the area of SPOS achieves direct sunlight between the hours of 11am to 3pm to varying degrees.</p>
		<p><i>The southern boundary of secluded private open space should be set back from any wall on the north of the space at least $(2 + 0.9h)$ metres, where 'h' is the height of the wall</i></p> <p>Refer to Diagram B29</p>	Yes	Complies.
55.05-6 Storage	Met?	Standard B30	Met?	Comments
<i>To provide adequate storage facilities for each dwelling</i>	Yes	<i>Each dwelling should have convenient access to at least 6m³ of externally accessible, secure storage space</i>	Yes	Each dwelling is provided external storage of the requisite size.

55.06 DETAILED DESIGN				
55.06-1 Design Detail	Met?	Standard B31	Met?	Comments
<i>To encourage design detail that respects the existing or preferred neighbourhood character</i>	Yes	<p><i>The design of buildings, including:</i></p> <ul style="list-style-type: none"> <i>• Facade articulation and detailing,</i> <i>• Window and door proportions,</i> <i>• Roof form, and</i> <i>• Verandahs, eaves and parapets,</i> <p><i>should respect the existing or preferred neighbourhood character.</i></p>	Yes	<p>The existing and proposed dwelling are single storey, commensurate with the prevailing streetscape of a scale and intensity appropriate for the location for the reasons discussed in this assessment.</p>
		<i>Garages and carports should be visually compatible with the development and the existing or preferred neighbourhood character</i>	Yes	The garage for each dwelling integrates with the built form of the respective dwellings, and will not dominate the

				streetscape from George Street.
55.06-2 Front Fences	Met?	Standard B32	Met?	Comments
<i>To encourage front fence design that respects the existing or preferred neighbourhood character</i>	N/A	<i>The design of front fences should complement the design of the dwelling and any front fences on adjoining properties</i>	N/A	No front fencing proposed.
		<i>A front fence within 3m of a street should not exceed:</i> <ul style="list-style-type: none"> • Streets in a Road Zone – 2m • Other Streets – 1.5m 	N/A	No front fencing proposed.
55.06-3 Common Property	Met?	Standard B33	Met?	Comments
<i>To ensure that communal open space, car parking, access lanes and site facilities are practical, attractive and easily maintained</i> <i>To avoid future management difficulties in areas of common ownership</i>	N/A	<i>Developments should clearly delineate public, communal and private areas</i>	N/A	No common property is proposed
		<i>Common property, should be functional and capable of efficient management</i>	N/A	No common property is proposed.
55.06-4 Site Service	Met?	Standard B34	Met?	Comments
<i>To ensure that site services can be installed and easily maintained</i> <i>To ensure that site facilities are accessible, adequate and attractive</i>	Yes	<i>The design and layout of dwellings and residential buildings should provide sufficient space (including easements where required) and facilities for services to be installed and maintained efficiently and economically</i>	Yes	The design of the dwellings provides sufficient space for all services to be accommodated and maintained efficiently and economically, including in easements if required.
		<i>Bin and recycling enclosures, mailboxes and other site facilities should be adequate in size, durable, waterproof and blend in with the development</i>	Yes	All such site facilities are of appropriate size, sited appropriately and integrate with the development.
		<i>Bin and recycling enclosures should be located for convenient access</i>	Yes	Bin storage is readily accommodated at the side of each dwelling, easily accessible and moveable to the street frontage and not visible from the street.
		<i>Mailboxes should be provided and located for convenient access</i>	Yes	Mailboxes are appropriately located, clearly identifiable for each dwelling and conveniently accessible.

Clause 56 – Residential Subdivision

Provisions in this clause apply to an application to subdivide land in a General Residential Zone.

These provisions do not apply to an application to subdivide land into lots each containing an existing dwelling or car parking space.

Planning Response:

The proposed subdivision is sought in conjunction with an application for development where each lot will contain an existing or approved dwelling. As such, an assessment against Clause 56 is not required to be undertaken.

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.

Clause 65.02– Approval of an application to subdivide land

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

Planning Response:

As previously discussed, it is considered that the proposal is supported by the relevant provisions of the Municipal Planning Strategy and the Planning Policy Framework. As explored through this report, the development provides for a diversity in housing types and housing options in an area well connected to private and public services. No natural hazards issues are identified in relation to the site and no staging is required. The application is therefore considered to be reflective of orderly planning.

Discussion:

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

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

Clause 32.08 General Residential Zone

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

Clause 42.01 Environmental Significance Overlay – Schedule 6

The proposal complies with the purpose and decision guidelines of Clause 42.01 for the reasons outlined in the planning response to the overlay as discussed above.

Clause 55 Two or More Dwellings on a Lot and Residential Buildings

The proposal complies with the relevant objectives and decision guidelines of Clause 55 for the reasons outlined in the planning response to this clause as discussed above.

Clause 65 Decision Guidelines

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

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Planning Policy Framework and the Municipal Planning Strategy, including the General Residential Zone, Environmental Significance Overlay – Schedule 6 and Clause 55 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:

- 12/10/2022 The application was received.
- 19/10/2022 The fee was paid.
- 24/10/2022 Application referred to Wimmera CMA, GMW Water, Powercor and Engineering.
- 26/10/2022 The application was notified.
- 10/11/2022 Notification of the application was completed.
- 2/11/2022 Wimmera CMA referral response received.
- 17/11/2022 Powercor referral response received.
- 24/11/2022 Engineering referral response received.
- 14/12/2022 The report is being presented to Council at the meeting held 14 December 2022 (39 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:

Support healthy living and provide services and activities for people of all ages and abilities. Develop and promote local tourist opportunities that attract visitation.

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 PA1801-2022 for the Development of two (2) additional dwellings, subdivision of land into three (3) lots, fencing and removal of vegetation on the subject land known as 5 Glenferness Street Nhill Vic 3418 (Lot 87 on Lodged Plan 11688), subject to the following conditions:

Amended Plans Required

- 1. Before the commencement of any works hereby permitted or prior to the certification of the plan of subdivision under the Subdivision Act 1988 (whichever is earlier), 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 three copies must be provided.***

The plans must be generally in accordance with the plans submitted but modified to show:

- (a) *The tandem car parking space for unit 2 and unit 3 having minimum dimensions of 5.4m long and 2.6m wide in accordance with Design Standard 2 of Clause 52.06-9 of the Hindmarsh Planning Scheme.*
- (b) *In addressing point (a), secluded private open space must meet Standard B28 of Clause 55.05-4 of the Hindmarsh Planning Scheme.*
- (c) *Amended landscaping in accordance with Condition 3 of this permit.*

Endorsed Plans

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

Landscaping

3. *Concurrent with the plans required by Condition 1 of this permit, an amended landscaping plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the plan will be endorsed and will then form part of the permit.*

The plan must be drawn to scale and must show the following:

- (a) *Details of surface finishes of pathways and driveways;*
 - (b) *A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant;*
 - (c) *Landscaping within all open areas of the site to the satisfaction of the Responsible Authority;*
 - (d) *Pot sizes to be a minimum of 250mm for canopy trees and 200mm for shrubs; and*
 - (e) *Installed height of canopy trees to be at least 1.5 metres.*
4. *All landscaping shown on the endorsed plans must be established on the site prior to the occupation of the development.*

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, and any dead, dying, diseased or damaged plants are to be replaced with like for like replacements of the same or greater size.

Development Conditions

5. *Once building works have commenced they must be completed to the satisfaction of the Responsible Authority.*
6. *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.*
7. *All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.*

8. ***The exterior colour and cladding of the buildings must be of a non-reflective nature and / or either painted or have a pre-painted finish in natural, muted toning (or such other colour as is approved by the Responsible Authority) to the satisfaction of the Responsible Authority.***

Subdivision Conditions

9. ***Before the issue of Statement of Compliance, the construction of the dwellings approved under this permit (PA1801-2022) must be substantially commenced to the satisfaction of the Responsible Authority.***
10. ***Before the issue of a Statement of Compliance, the permit holder must pay a public open space contribution of 5 per cent of the site value of all of the land in the subdivision intended to be used for residential purposes, in accordance with Section 18 of the Subdivision Act 1988.***
11. ***The owner of the land must enter into an agreement with:***
- (a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and***
 - (b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.***

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- (c) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and***
- (d) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.***

Engineering Conditions

12. ***Prior to the issue of a Statement of Compliance, a new crossover must be constructed, to each new lot (lots 2 & 3) as per IDM SD-255 standard drawing at the North side of the lots on George Street to the satisfaction of the Responsible Authority.***

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

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

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

- 13. All stormwater and surface water discharging from the site for the approved development must be directed to the legal point of discharge (LPD) being the Northern side of the property to the table drain in the George Street road reserve to the satisfaction of the Responsible Authority.***

Wimmera Catchment Management Authority

- 14. Vegetation removal should not degrade the ecological condition of areas covered by ESO 5.***
- 15. The material used in the construction of a fence should not act as a barrier that would redirect surface water flow. Any mounding of soil associated with the construction of a fence should not result in the redirection of surface water flow.***

Powercor

- 16. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.***
- 17. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.***
- 18. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).***

GMMWater

- 19 The owner/applicant must enter into a Developer Agreement with GMMWater for the supply of sewerage to each lot of the subdivision.***
- 20. The owner/ applicant must provide individually metered water services to each dwelling in accordance with GMMWater's requirements.***
- 21. The owner/applicant must install sewerage mains and associated works to individually serve each lot/dwelling of the proposed development, at the owner's cost, in accordance with GMMWater's specifications and requirements.***
- 22. The owner/applicant must provide individual sewer services to each lot/dwelling in accordance with GMMWater's requirements.***
- 23. The owner/applicant is responsible for verifying the condition of any existing sewer connection point/s to determine their suitability for use.***

24. ***The owner/ applicant must provide plans and estimates of all proposed sewerage works prior to commencement for GMMWater's approval.***
25. ***The owner/applicant must pay to GMMWater a fee of 3.25% of the total cost of construction (including design and supervision) for its review of design documentation and supervision of works. This fee relates to checking that the works are designed and constructed in accordance with GMMWater's requirements and does not relieve the developer from ensuring proper design and appropriate supervision***
26. ***The owner/applicant must provide three metre wide easements in favour of GMMWater over all existing and proposed sewers located within private land.***
27. ***The owner/applicant must provide written notification of commencement of the works to enable GMMWater to organise inspections and coordinate with its staff.***
28. ***The owner/applicant must ensure all infrastructure is tested in accordance with the relevant WSA and GMMWater standards. This includes compaction, air and hydrostatic pressure testing as directed by GMMWater.***
29. ***The owner/applicant must provide "as constructed" plans and a schedule of final asset costs at the level identified in GMMWater's asset register for all sewerage works upon completion.***
30. ***The plan of subdivision submitted for certification must be referred to GMMWater in accordance with Section 8 of the Subdivision Act.***
31. ***The owner/applicant must provide GMMWater with an updated drainage plan for each lot/dwelling submitted by a qualified plumber.***
32. ***The owner/applicant must ensure any existing water or sewer services and GMMWater assets made redundant by this development are abandoned, at the owner's cost, in accordance with GMMWater's standards.***

Time Limit

33. ***The above-mentioned planning permit as it relates to development 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 four (4) years of the date of this permit.***

The above-mentioned planning permit as it relates to subdivision will expire if either of the following circumstances arise:

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

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

Attachment Number: 6

8.3 APPLICATION FOR PLANNING PERMIT 1805-2022 – USE OF LAND FOR A PLACE OF ASSEMBLY (PARENTING CENTRE) AND ALTERATION OF ACCESS TO A ROAD IN A TRANSPORT ZONE 2 – 79 VICTORIA STREET NHILL VIC 3418

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 130620
Application Number: **PA1805-2022**
Application Received: 2 November 2022 (Paid 06 December 2022)
Applicant: West Wimmera Health Service
Owner: West Wimmera Health Service
Subject Land: 79 Victoria Street Nhill Vic 3418 (Crown Allotment 9, Section 9, Township of Nhill, Parish of Balrootan)
Proposal: Use of land for a place of assembly (parenting centre) and alteration of access to a road in a Transport Zone 2
Zoning & Overlays: General Residential Zone – Schedule 1 (GRZ1)
Environmental Significance Overlay – Schedule 6 (ESO6)
Bushfire Management Overlay (BMO)
Attachment Number: 7

Summary:

This report recommends that Council approve Planning Permit PA1805-2022 for the use of land for a place of assembly (parenting centre) and alteration of access to a road in a Transport Zone 2 on the subject land known as 79 Victoria Street Nhill Vic 3418 (Crown Allotment 9, Section 9, Township of Nhill, Parish of Balrootan).

Background:

On 2 November 2022, West Wimmera Health Service lodged a planning application to the Responsible Authority for the use of land for a place of assembly (parenting centre) and alteration of access to a road in a Transport Zone 2 at 79 Victoria Street Nhill.

Proposal Details:

Requirement for Permit:

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

- Clause 32.08-2 (General Residential Zone) – A permit is required to use the land for a Place of Assembly (other than Amusement parlour, Carnival, Cinema based entertainment facility, Circus, Nightclub and Place of worship).

Definitions:

Place of assembly - *Land where people congregate for religious, spiritual or cultural activities, entertainment, or meetings.*

Restrictive Covenant or Section 173 Agreement:

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

Cultural Heritage Management Plan (CHMP):

The proposal is exempt from requiring a CHMP pursuant to the *Aboriginal Heritage Regulations 2018*, as the proposal is identified as an exempt activity under Regulation 14 of the Regulations.

Subject site & locality:

The subject site is known as 79 Victoria Street Nhill Vic 3418 (Crown Allotment 9, Section 9, Township of Nhill, Parish of Balrootan) which comprises a single title of approximately 966m². The land is generally flat, with minimal fall across the site. The land currently contains an existing building used for accommodation purposes and an existing vehicle access point to Victoria Street at the northern end of the lot. The site appears to have access to reticulated power, telecommunications, water and sewer.

The subject site is surrounded by dwellings on similar sized allotments to the north east, Jaypex Park to the north west and further recreation land to the south, including the Nhill Lake Reserve.

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
- Erection of a sign on site.

No objections or submissions have been received in relation to the application.

Referrals:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	
Department of Transport	No objection or conditions. Response received 15 November 2022.

Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework:

- Clause 11.01-1S Settlement
- Clause 11.01-1L Settlement – Hindmarsh
- Clause 13.02-1S Bushfire planning
- Clause 13.07-1S Land use compatibility
- Clause 18.02-4S Roads
- Clause 19.02-4S Health facilities

Zoning Provisions:

Clause 32.08 – General Residential Zone (GRZ)

Clause 32.08-2 Table of uses

A permit is required to use the land for a Place of assembly (other than Amusement parlour, Carnival, Cinema based entertainment facility, Circus, Nightclub and Place of worship)

Planning Response:

The key considerations applying to this application and the application of policy relate to the appropriateness of the proposed land use in the GRZ in terms of land use compatibility and amenity impacts. There is clear support within the provisions of the GRZ and the PPF for small scale non-residential uses that serve local community needs to be appropriately located within the Zone.

It is evident that the proposed land use serves the needs of the local community by providing parental education services that are often lacking in small regional towns. The site is ideally positioned on a main road and is predominantly surrounded by recreation land except for the adjoining allotment to the northeast which contains an existing dwelling. The proposed land use is relatively minor in scale, has standard weekday operating hours and is unlikely to result in unreasonable noise emissions. As such, the proposed place of assembly is considered to be compatible with surrounding land uses and unlikely to impact the amenity of existing dwellings within the surrounding area.

The existing built form will remain largely intact with only fencing, paths and an access ramp proposed to be constructed. As such, the proposed place of assembly will not impact the existing character of the surrounding area and will appear as a dwelling from the public

realm. No changes are proposed to existing access arrangements which has the support of the Department of Transport and the small-scale nature of the land use ensures that traffic levels will be kept to a minimum. Areas of landscaping will remain unaltered with the exception of new paths and the existing carport and driveway will be used for on-site car parking which will be discussed further below. The scale and type of land use is unlikely to warrant any additional waste storage and collection arrangement other than those already in place for the existing dwelling.

Conditions will be included on the planning permit to restrict operating hours and maximum patron numbers to ensure that the land use does not bring rise to amenity or road safety concerns.

Clause 13.02-1S requires consideration as the site is within a Bushfire Prone Area and involves the use of the land for a place of assembly. Particular bushfire protection measures are not considered to be required for this application due to the small scale nature of the land use and a permit is not triggered under the BMO for any buildings and works (exempt under Clause 62.02). The proposed place of assembly will have a maximum of 7 people on site at any given time which is comparable to the number of people which would have been on site when the building was used for accommodation purposes.

Overlay Provisions:

Not applicable. A permit is not triggered for any buildings and works under the BMO or ESO.

Particular Provisions:

Clause 52.06 – Car Parking

Clause 52.06-5 – Number of Car Parking Spaces

Table 1 of this clause provides that 0.3 car parking spaces are required for each patron permitted.

Planning Response:

A maximum number of seven patrons will be permitted on site (one staff member and six family members) at any given time. As such, the proposal generates a car parking demand of two on-site spaces. The existing dwelling contains an existing carport and driveway which accommodates two car parking spaces. As such, the requirements of the Scheme in relation to car parking numbers has been met.

Clause 52.29 – Land Adjacent to the Principal Road Network

Clause 52.29-2 – Permit Requirement

A permit is required to create or alter access to a road in a Transport Zone 2.

Planning Response:

No physical changes are proposed to the existing vehicle access point, however, given that the proposed land use is likely to change the nature of movement through the existing access point, it triggers a permit under Clause 52.29. The scale of the proposed land use is relatively minor with only one staff member and one family attending the premises per day.

As such, the proposal is unlikely to impact the operation of Victoria Street and public safety. The Department of Transport have reviewed the application and did not object or have any Conditions to add.

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.

The Municipal Planning Strategy and Planning Policy Framework have been addressed in the body of the report. The land is appropriately zoned for a small scale non-residential land

use that serves the local community. The proposed land use provides essential parental services to support the community of Nhill and surrounding towns.

The proposal respects the existing neighborhood character and is unlikely to result in any unreasonable amenity issues. The site is situated within the BMO, however, a permit is not triggered for the proposal under the Overlay. Bushfire risk has been addressed earlier in this report. The site is not prone to any other natural hazards and does not contain any native vegetation or other environmental constraints. The site is within an area of Aboriginal Cultural Sensitivity but a CHMP is not required. The proposal will not cause or contribute to land degradation, salinity or reduced water quality, no changes are proposed to existing servicing arrangements. As discussed in detail above, the proposal is unlikely to impact the future development and operation of the transport system.

Discussion:

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

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

Clause 32.08 General Residential Zone

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

Clause 52.29 Land Adjacent to the Principal Road Network

The proposal complies with the purpose and decision guidelines of Clause 52.29 for the reasons outlined in the planning response under the Particular Provisions as discussed above.

Clause 65 Decision Guidelines

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

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Planning Policy Framework and the Municipal Planning Strategy, including the General Residential Zone, Environmental Significance Overlay – Schedule 6 and Clause 55 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:

02/11/2022 The application was received.

09/11/2022 Application referred to Department of Transport.

10/11/2022 The application was notified.

29/11/2022 Notification of the application was completed.

15/11/2022 Department of Transport referral response received.
06/12/2022 The fee was paid.
14/12/2022 The report is being presented to Council at the meeting held 14 December 2022 (8 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:

Support healthy living and provide services and activities for people of all ages and abilities. Develop and promote local tourist opportunities that attract visitation.

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 PA1805-2022 for the use of land for a place of assembly (parenting centre) and alteration of access to a road in a Transport Zone 2 on the subject land known as 79 Victoria Street Nhill Vic 3418 (Crown Allotment 9, Section 9, Township of Nhill, Parish of Balrootan), subject to the following conditions:

Endorsed Plans

1. ***The use 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.***

Land Use Conditions

2. ***Except with the written consent of the Responsible Authority, the number of people (staff and patrons) utilising the place of assembly must not exceed 7 at any given time.***
3. ***Except with the written consent of the Responsible Authority, the place of assembly must only operate between the following hours:***
 - (a) ***Monday to Friday - 9a.m. to 4p.m. inclusive***

Time Limit

4. ***The above-mentioned planning permit as it relates to development will expire if either of the following circumstances arise:***
 - (a) ***The use is not started within two (2) years of the date of this permit; or***
 - (b) ***The use is discontinued for a period of two (2) years or more.***

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

Attachment Number: 7

8.4 APPLICATION FOR PLANNING PERMIT 1770-2022 – SUBDIVISION OF LAND INTO TWO (2) LOTS – 240 MARSHALLS ROAD NETHERBY VIC 3418

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 72380
Application Number: **PA1770-2022**
Application Received: 21 February 2022 (Fee paid 22 February 2022)
Applicant: Angela Plazzer - Ferguson Perry Surveying Pty Ltd
Owner: Peter Marshall
Subject Land: 240 Marshalls Road Netherby VIC 3418 (Lot 1 318702G Parish of Lorquon)
Proposal: Subdivision of land into two (2) lots
Zoning & Overlays: Farming Zone (FZ)
Environmental Significance Overlay – Schedule 6 (ESO6)
Attachment Numbers: 8 – 10

Summary:

This report recommends that Council refuse Planning Permit PA1770-2022 for the subdivision of land into two (2) lots on the subject land known as 240 Marshalls Road,

Netherby VIC 3418 (Lot 1 318702G Parish of Lorquon) for the reasons discussed in this report.

Background:

On 21 February 2022, Ferguson Perry Surveying Pty Ltd on behalf of Mr Peter Marshall lodged a planning application to the Responsible Authority for the subdivision of land into two (2) lots at 240 Marshalls Road, Netherby.

Proposal Details:

The permit applicant, Ferguson Perry Surveying Pty Ltd seeks approval for the subdivision of land into two (2) lots on the subject land at 240 Marshalls Road, Netherby. The subject land comprises a broadacre cropping allotment with an area of approximately 470.4 hectares and is currently improved by an existing residential dwelling setback approximately 350 metres from the Marshalls Road boundary. Save for 3 large patches of scattered vegetation and smaller scattered trees, the balance of the site is used for broadacre cropping.

It is proposed to excise the existing dwelling from the land, and retain a balance agricultural parcel. A domestic curtilage area and vegetation patch is delineated in aerial imagery around the existing dwelling, of which 2.9 hectares is proposed to be excised into the proposed house lot. The balance lot will retain the vegetation stands and cropping land on the site.

Proposed Lot 1 (the house lot) will be approximately 2.9ha in area, and contain the dwelling and scattered domestic outbuildings. Proposed Lot 2 (the balance lot) will comprise agricultural outbuildings, vegetation patches and cropping land. Access to each lot will be maintained by the existing access to Marshalls Road, which is proposed to have a carriageway easement created to allow shared access.

Plans of the proposed subdivision are provided below:



Image 1: Proposed plan of subdivision. Source: Application documents.

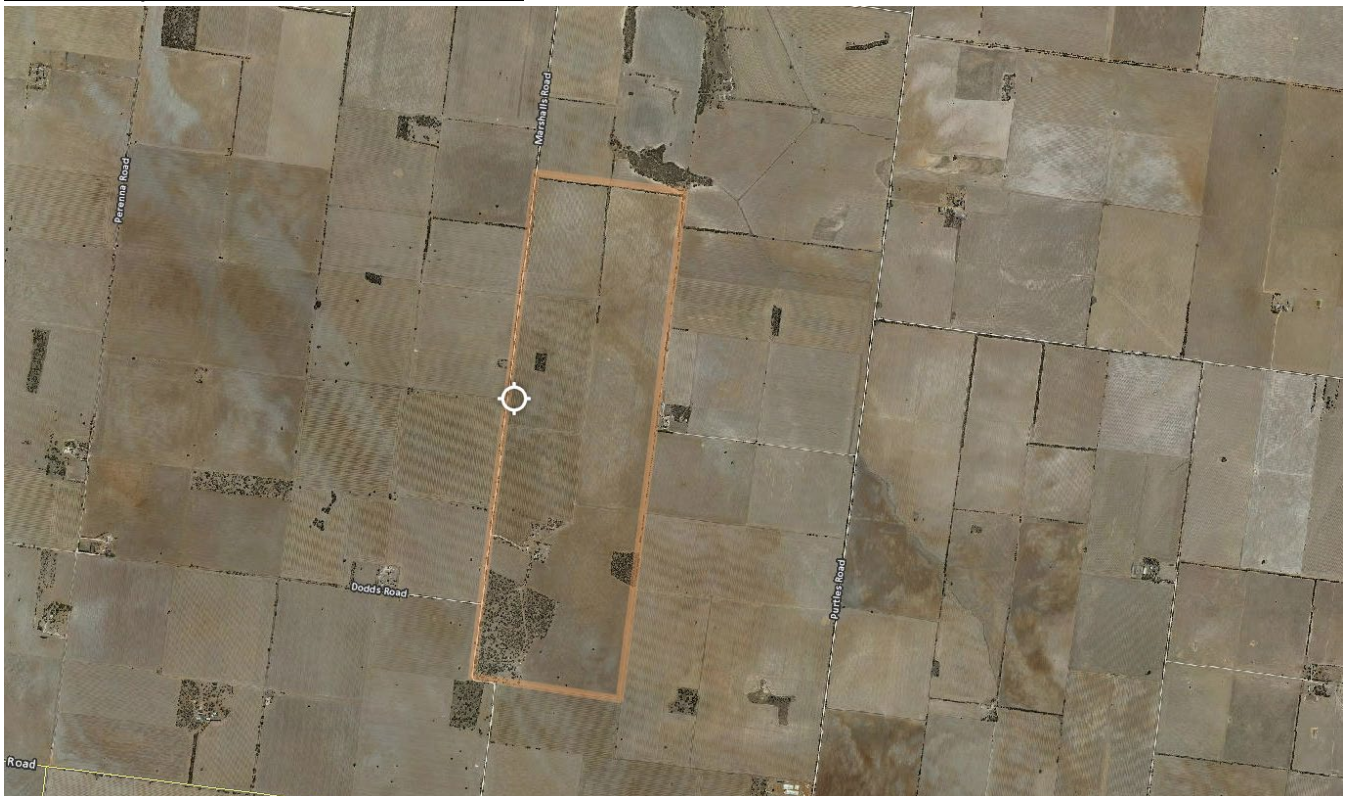
Subject site & locality:

The subject site is known as 240 Marshalls Road, Netherby (Lot 1 318702G Parish of Lorquon), which comprises a single title of approximately 470.4 hectares bounded by Marshalls Road on the western boundary (and a small portion of the southern boundary), with other abuttals comprising broadacre cropping land. The land is generally flat, with minimal fall across the site. The land is currently improved by an existing dwelling centrally sited and accessed from Marshalls Road, which is proposed to be excised onto a separate lot under this application. The dwelling is setback approximately 355 metres from the Marshalls Road Road Reserve at its closest point (as the crow flies).

The subject site adjoins farming zoned land in all directions, and is approximately 23km west of the Jeparit Town Centre and 27km north of the Nhill town centre. Land in the surrounding area comprises a large amount of broadacre farming activities, with minimal /no land fragmentation or rural lifestyle lots evident. Immediately adjoining the subject land are farming blocks of a similar size and configuration to the subject land.

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

Aerial Map below – Hindmarsh POZI



Aerial Map with Zoning below – Hindmarsh POZI



Section 52 Notice of Application

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

- Letters to adjoining and nearby property owners.

No objections or submissions have been received to the proposal.

Referrals:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	
Wimmera Catchment Management Authority	Consent, no conditions. Response received 24 February 2022. Response received 22 August 2022.

Section 52 and Internal Notices	
Engineering	Conditional consent. Response received 18 August 2022.

Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework:

Clause 02.03-4 Natural resource management
 Clause 11.01-1L Settlement – Hindmarsh

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

Zoning Provisions:

Clause 35.07 – Farming Zone (FZ)

Clause 35.07-3 Subdivision

A permit is required to subdivide land. Clause 35.07-3 provides that a permit may be applied for to create 1 lot smaller than the minimum lot size (40 hectares) if it is to create a smaller lot for an existing dwelling and the subdivision is a 2 lot subdivision.

Clause 35.07-6 Decision Guidelines

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

General issues

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

Agricultural issues and the impacts from non-agricultural uses

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

Accommodation issues

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

Environmental issues

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

Planning Response:

The site is zoned Farming Zone (FZ). The purpose of this zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

As noted above, the decision guidelines of the Zone (Clause 35.07-6) require consideration of a number of matters.

These matters are now considered (as applicable) in turn.

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

The consideration of such matters is aided by relevant State and Local Planning Policy. Relevant policies relating to agricultural land emphasise the need to protect agricultural land from loss due to permanent changes in land use, in large part by limiting the use and development of non-agricultural uses in rural areas and the creation of rural-residential activities with no connection to agriculture (Clause 02.03-4, Clause 14.01-1S and Clause 14.01-2S). This is encapsulated by the decision guidelines of the Farming Zone and the elevated weight that agricultural factors carry in deciding on an application. The planning scheme is unequivocal in ensuring that productive agricultural land is protected from continued encroachment of non-agricultural uses.

The underlying (and explicit) point of the Farming Zone and associated planning policy is to ensure that such land is available for agricultural use for those who wish to conduct such an activity. Introducing non-agricultural land uses to such land defeats this purpose.

The issue of non-agricultural land use in the Farming Zone has been well agitated at the Victorian Civil and Administrative Tribunal (VCAT) previously. In matters with issues comparable to this application¹, the Tribunal has consistently applied relevant state and local planning policy as described earlier, and the decision guidelines of the Farming Zone in finding such proposals unacceptable.

In the VCAT decision of *Alford v Corangamite SC*, the Tribunal found in relation to a 3.1ha house lot excision on a 289.7ha allotment the following:

23. *The proposal will create a small lot within a Broadacre farming area. The larger Lot 2 will comprise the farming activity, while the dwelling is excised. While the land is north of the area identified in the Shire's framework plan as the most significant agricultural land, the area forms part of the rural assets of the Shire as well as part of the lakes landscape.*
24. **I accept that the land uses that presently exist will not alter on the land because of this subdivision. I also find that the dwelling is habitable, waste water can be managed and the lot is close to the preferred size set out in the local policy. I also accept that the excision will not necessarily lead to a proliferation of dwellings in the area and there is no existing clustering of dwellings, although I note that there is a small title associated with a former school site opposite the review site.**
25. **These positive aspects must be weighed against the overall objectives of policy and the zone to protect agricultural land and to prevent land use conflict. I find that the proposal is not supported by the State and local policy relating to agriculture or the objectives of the Farming Zone as set out below.**
26. **At the outset, I do not consider the personal circumstances of the applicant are a relevant planning consideration.** While the sale of the dwelling may be more convenient than continuing the leasing arrangement, it is not a key planning consideration. This may allow the applicant to focus on their main business of farming but I am not persuaded that this is a reason to support a dwelling excision in a broadacre rural area. **The excision is not required to support the existing farming operation and merely allows the sale of a separate asset.** As set out by the Tribunal in *Widdicombe v Colac Otway SC [2010] VCAT 1595*:

Applicants no longer wish to have what they submitted was the problems associated with non-farm related tenants in the dwelling on the subject land. Their solution to that problem is the excision of the dwelling. It is a poor response to policy.

¹ Such as *Alford v Corangamite SC [2018] VCAT 853* (12 June 2018) and *Rossi v South Gippsland SC [2019] VCAT 964* (1 July 2019)

27. **Council and the applicant submit that the proposal will provide accommodation for agricultural workers within the farming area as the review site is some distance from Camperdown. As set out in present policy and outlined in the policy basis as proposed for C45, the excision of dwellings can result in land use conflicts. While the present tenant (a rural contractor) may be familiar with the potential land use conflicts, there is no certainty that the purchaser would be the current tenant, or that the land would not be subsequently on-sold in the future to an occupant who was not so familiar with the rural environment.**
28. **I find that the excision does create the potential for land use conflict. The dwelling, while close to Steeles Road is surrounded by Lot 2 and is only about 65 metres from the larger shed and other agricultural assets to be retained on the farming lot.** I am not persuaded that Council's conditions reconfiguring the allotment and placing the larger shed with the dwelling is the solution which will protect a dwelling from the activities that may occur within this farming zone. In addition, the reconfiguration would remove the southern existing vegetation buffer.
29. The solution proposed by Council removes assets including the yards and staging area from the broader agricultural land holding. This would potentially reduce the viability of the larger holding or result in such facilities needing to be replicated. No consideration in this application has been given to the provision of access to the larger holding or these sheds. **The permit application as lodged with Council says that the existing access through the dwelling site would be used.** This is not provided for in the plan of subdivision, **nor would it be sustainable in the longer term.**
30. **The proposal also allows for the construction of a new dwelling on the remnant larger lot, potentially without planning approval.** The Section 173 requirement is intended to prevent further dwelling excisions from this larger lot in the future, but **the proposal would still allow an increase in the number of dwellings on the land. While the permit applicant indicated that their intention was not to construct a new dwelling but to continue farming as at present, there is nothing to require this.**

[emphasis added]

The above Tribunal decision is quite analogous to this application, in that:

- It represented the excision of approximately 3ha of land in a broadacre agricultural area from a large cropping property;
- The site was removed from township areas and was well into the rural environment;
- Shared access between the house lot and farming lot was proposed;
- The proposal is not advanced to support agriculture and it is stated that the owners are *not interested in maintaining the dwelling as a rental*. As extracted at paragraph 27 of the above decision, this is a poor response to policy.

There are no factors at play in this application, that warrant a different decision being reached to the one that VCAT made in Alford.

It is noted that the application has not been supported by an agricultural assessment which demonstrates that the land is not productive agricultural land. This would appear to be acknowledging, on any objective basis, the subject land is productive agricultural land (and indeed the applicant states that it is). The relevance of land being productive agricultural land was discussed in the Tribunal's decision in Rossi, where SM Hewet relevantly stated:

20. **Significantly, I have not been presented with any information that demonstrates to my satisfaction that the review site and the surrounding area is not productive agricultural land. I am entitled to infer therefore that the land and the surrounding area is productive. The facts appear to support the inference I have drawn. I was advised that the land was until very recently and in conjunction with abutting land intensively farmed for snow pea production. The Applicant advised that the land had not been cropped for twelve months although the circumstances surrounding the cessation of the cropping were not provided to me.**
21. **My conclusion about the productive capacity of the land is especially relevant because the zone purpose and the applicable policy framework is primarily concerned with the protection of productive agricultural land.**
22. *To some extent the Applicant's submission recognised the shortcomings in the application because it submits that permit conditions can reasonably be applied to require the submission of a farm management plan that is to the satisfaction of the responsible authority.*
23. *This is not a case in which the shortcomings of the application can be appropriately addressed by permit conditions. **The consideration of the supporting documentation is most appropriately undertaken as part of the decision as to whether a permit should be issued in the first instance.***

[emphasis added]

A significant part of the agricultural and economic base of the Hindmarsh Shire is agricultural production. Planning recognises that the trend of agriculture (particularly broadacre agriculture) is that farm expansions are required to provide competitive economic units of production, and provides tools to facilitate this (such as excisions). However, based on the applicants own submissions, this is not an application made in pursuit of agricultural expansion; but rather one that simply seeks to achieve a financial gain by disposing of the dwelling with no agricultural benefit.

It is noted the applicant has resisted any potential for an agreement on title for no dwelling to be constructed on the balance lot in the event a permit were granted, which suggests that there is an actual need for a dwelling to be placed on the land, either now or in the future. It

is counter productive to suggest that a dwelling is not required for agriculture, but to create future 'as of right' opportunities for a new dwelling to be created later (as recognised by the Tribunal in Alford). Were this logic to be applied generally to the Farming Zone, the provisions of the zone seeking to avoid dwelling proliferation and land use conflict would be unachievable.

Finally, the permit applicant submits that the proposal will assist in addressing a housing shortage. Planning Policy and the scheme directs housing growth to townships/established residential areas, and in the context of rural housing options, directs them to rural living zones which have been identified as suitable for rural-residential use and development without an agricultural connection. Hindmarsh Shire contains ample vacant Rural Living Zone lots around Nhill and Dimboola, which are located to provide good access to townships and not impact on agricultural activity. The planning scheme specifically seeks to discourage dwellings in the Farming Zone with no agricultural connection, as the Farming Zone is not a residential zone and should not be used exclusively for residential purposes. This argument is considered to have no support in the Hindmarsh Planning Scheme and as discussed, if accepted, would ultimately undermine the purpose of the zone and agricultural activity in the area.

For these reasons, it is considered that the proposal is contrary to the purpose and decision guidelines of the Farming Zone, and should be refused on this basis.

Design and siting issues

The subject land is located in an active, working Farming Zone area, with agriculture being the primary land use activity in the surrounding area. There is minimal land fragmentation in the surrounding area and virtually no 'rural living' type dwellings within the surrounding context.

The proposal is challenged by the location of the existing dwelling. At 350+ metres from the frontage with Marshalls Road, there is no 'clean' way to seek to excise the dwelling without creating in effect, an 'island lot'² on the site.

It is acknowledged that the applicant has attempted to shape the lot around existing domestic curtilage and infrastructure, and to attempt to provide a buffer from the surrounding balance farm lot. However, given the nature of the agricultural use occurring on the farm (and other agricultural uses that may reasonably occur in future), noise, odour and dust emissions are a pertinent consideration when considering the excision, as discussed in the agricultural response above. The poor original siting of the dwelling compounds any potential for a 'clean' excision that may, with appropriate justification, provide reasonable buffers without removing substantive agricultural land. Suffice to say however, that the justification provided here is still considered insufficient given the reasons provided.

² In this context, being a lot which is surrounded by agriculture and not having direct abuttal to a road.

It is considered that the proposal, for the above reasons will not support or enhance agricultural production (as sought by the Farming Zone and Planning Policy), will create a rural-residential property in an isolated rural area contrary to Planning Policy direction for such activities, and despite the submissions of the permit applicant, creates a real potential for land use conflict that that Farming Zone seeks to avoid. The subdivision is therefore not an appropriate outcome for the subject land and should be refused.

Overlay Provisions:

Clause 42.01 – Environmental Significance Overlay – Schedule 6 (ESO6)

Clause 42.01-2 Subdivision

A permit is required to subdivide land.

Clause 5.0 to Schedule 6 of Clause 42.01-2 Decision guidelines (relevant to the application)

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

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

Planning Response:

It is considered that the proposed subdivision would not impact the objective of ESO6 which aims to protect the catchment area of significant wetlands. The proposal does not include any works elements; rather it creates a new lot located outside of the ESO6 area. Any future works that trigger permits under these Clauses will be assessed on their merits at the appropriate time.

Particular Provisions:

No relevant Particular Provisions are identified.

General Provisions

Clause 65 - Decision Guidelines

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

Clause 65.01– Approval of an application or plan

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

- The matters set out in Section 60 of the Act.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.

- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

Clause 65.02– Approval of an application to subdivide land

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

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

Planning Response:

As previously discussed, it is considered that the proposal is not supported by the relevant provisions of the Municipal Planning Strategy and the Planning Policy Framework. As explored through this report, the subdivision seeks to excise a dwelling in circumstances where there is no agricultural benefit resulting from the excision, where a new dwelling could be constructed as of right, and where the creation of a rural residential lot (where none

currently exist for some distance) all are likely to undermine the purpose and intent of the Farming Zone in the surrounding area. As a result, the proposal is not considered to be orderly planning.

Discussion:

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

The proposal does not meet the objectives of the relevant provisions of the PPF and MPS for the reasons discussed earlier in this report.

Clause 35.07 Farming Zone

The proposal does not comply with the purpose and decision guidelines of Clause 35.07 for the reasons outlined in the planning response as discussed above.

Clause 42.01 Environmental Significance Overlay Schedule and 6

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

Clause 65 Decision Guidelines

The proposal does not comply with the relevant decision guidelines of Clause 65 as discussed above.

Strategic, Statutory and Procedural Requirements:

The proposal is inconsistent with the Planning Policy Framework and the Municipal Planning Strategy, including the Farming Zone of the Hindmarsh Planning Scheme. The proposal is consistent with the Environmental Significance Overlay – Schedule 6.

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:

21/02/2022 The application was received.

22/02/2022 The fee was paid.

22/02/2022 The application was referred.

24/02/2022 Referral response received from Wimmera CMA

23/03/2022 Further information was requested from the applicant.

06/04/2022 Further information was received.

01/07/2022 The application was amended by the applicant.

04/08/2022 The application was notified.

08/08/2022 Amended Planning Report received from the applicant.

11/08/2022 Amended application re-referred to WCMA

18/08/2022 Engineering referral response received.

22/08/2022 Amended WCMA referral response received.

23/08/2022 Applicant request for assessment to be held pending further discussions with their clients.

28/09/2022 Application amended to change plan of subdivision
12/10/2022 The application was amended by the applicant.
24/11/2022 Meeting held on-site with Applicant and Owners.
30/11/2022 The application was amended by the applicant
14/12/2022 The report is being presented to Council at the meeting held 14 December 2022 (14 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 – Tim Berger, Consultant Town Planner, on behalf of Janette Fritsch, Manager Development.

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

Link to Council Plan:

N/A.

Financial Implications:

Nil

Risk Management Implications:

Nil

Communications Strategy:

Advise the Applicant of Council's decision.

Next Steps:

Issue the Notice of Refusal to the permit applicant.

RECOMMENDATION:

That Council issues a Notice of Refusal to Grant a Permit in relation to planning application PA1770-2022 for the subdivision of land into two (2) lots on the subject land known as 240 Marshalls Road Netherby VIC 3418 (Lot 1 on Title Plan 318702G Parish of Lorquon), for the following reasons:

- 1. The proposal is inconsistent with the Planning Policy Framework in relation to agricultural land and rural subdivision and development, specifically Clauses***

14.01-1S and 14.01-2S, which aim to manage development in rural areas to protect and enhance agriculture. The proposed subdivision provides no agricultural benefit to the Hindmarsh Shire, creates potential for dwelling proliferation by creating as-of right dwelling opportunities on the balance lot and introduces potential for land use conflict between rural-residential use of the house lot and agricultural use of the balance lot that can not be appropriately mitigated.

- 2. The proposal is inconsistent with the Municipal Planning Strategy in relation to agricultural land, specifically Clause 02.03-4, which seeks to protect and diversify agricultural activity in Hindmarsh Shire and prevent inappropriate small lot subdivisions. The proposed subdivision creates a small rural-residential lot in an active agricultural area, surrounded by actively used productive agricultural land with minimal opportunity to provide an appropriate buffer to prevent land use conflict without removing unreasonable amounts of agricultural land from production.**
- 3. The proposal is inconsistent with the objectives and decision guidelines of the Farming Zone, which seek to encourage the retention of productive agricultural land and to ensure that non-agricultural uses do not adversely affect the use of the land for agriculture. The proposal would result in the creation of a rural residential dwelling lot in an active working agricultural area and could constrain adjoining and nearby agricultural activities due to land use conflict resulting from its creation.**

Attachment Numbers: 8 – 10

8.5 APPLICATION FOR PLANNING PERMIT 1792-2022 – USE AND DEVELOPMENT OF LAND FOR A 10,000 HEAD CATTLE FEEDLOT AND ASSOCIATED BUILDINGS AND WORKS – 277 ALBRECHT ROAD, GERANG GERUNG VIC 3418

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 91600
Application Number: **PA1792-2022**
Application Received: 17 August 2022 (Amended application)
Applicant: Anthony Fellows - Harmony Feedlot Services Pty Ltd
Owner: Harmony Feedlot Services Pty Ltd
Subject Land: 277 Albrecht Road, Gerang Gerung Vic 3418
(CA90, Parish of Gerang Gerung)
Proposal: Use and development of land for a 10,000 head cattle feedlot and associated buildings and works
Zoning & Overlays: Farming Zone (FZ)
Environmental Significance Overlay – Schedule 6 (ESO6)
Attachment Numbers: 11 – 12

Summary:

This report recommends that Council issue a Notice of Decision to Grant a Permit in relation to PA1792-2022 for the use and development of land for a 10,000 head cattle feedlot and associated buildings and works on the subject land known as 277 Albrecht Road, Gerang Gerung Vic 3418 (CA90, Parish of Gerang Gerung).

Background:

On 6 June 2007, a planning permit was issued for the use and development of a 4999 head cattle beef feedlot on the subject land (PA1079/06). Only two of the four rows of pens were constructed and as a result, the permit expired. There have been a number of pens constructed in the northern portion of the site without a valid planning permit.

On 17 August 2022, Harmony Feedlot Services Pty Ltd lodged a planning permit application to the Responsible Authority for the use and development of land for a 10,000 head cattle feedlot and associated buildings and works on the subject land to remedy the unauthorised works to bring the site into compliance and also expand the capacity of the feedlot previously authorised.

Proposal Details:

The permit applicant, Harmony Feedlot Services Pty Ltd seeks approval for the use and development of land for a 10,000 head cattle feedlot and associated buildings and works.

As mentioned above, the application seeks to remedy unauthorised works previously undertaken on the site and expand the capacity of the feedlot to 10,000 standard cattle units (SCU), with three additional rows of pens proposed to the east of the existing feedlot pens. The applicant advised that some of the backgrounding pens are not constructed to the relevant standards and will be replaced with properly constructed feedlot pens. Specific details of the proposed feedlot are contained below:

- A block of six rows of production pens on the southern side (existing feedlot extended by the addition of three rows to the east of the existing rows) and a block of six rows of production pens on the northern side of the existing pens (replacing the existing backgrounding pens). The total pen area will be 254,281m². Hence, with 10,000 SCU capacity, the space provided is ~ 25.4m²/SCU.
- Manure composting pad (existing) to the east of the northern block of pens.
- Sedimentation basins and effluent holding ponds: existing system to south of southern block of pens to be expanded, new sedimentation pond on northern end of northern pens, holding pond on eastern side of northern pens.
- Existing stock handling / induction facilities.
- Existing commodities shed, mill, grain storage and silage bunk.
- Horse yards.

A site layout plan is contained within Figure 1 on the following page.

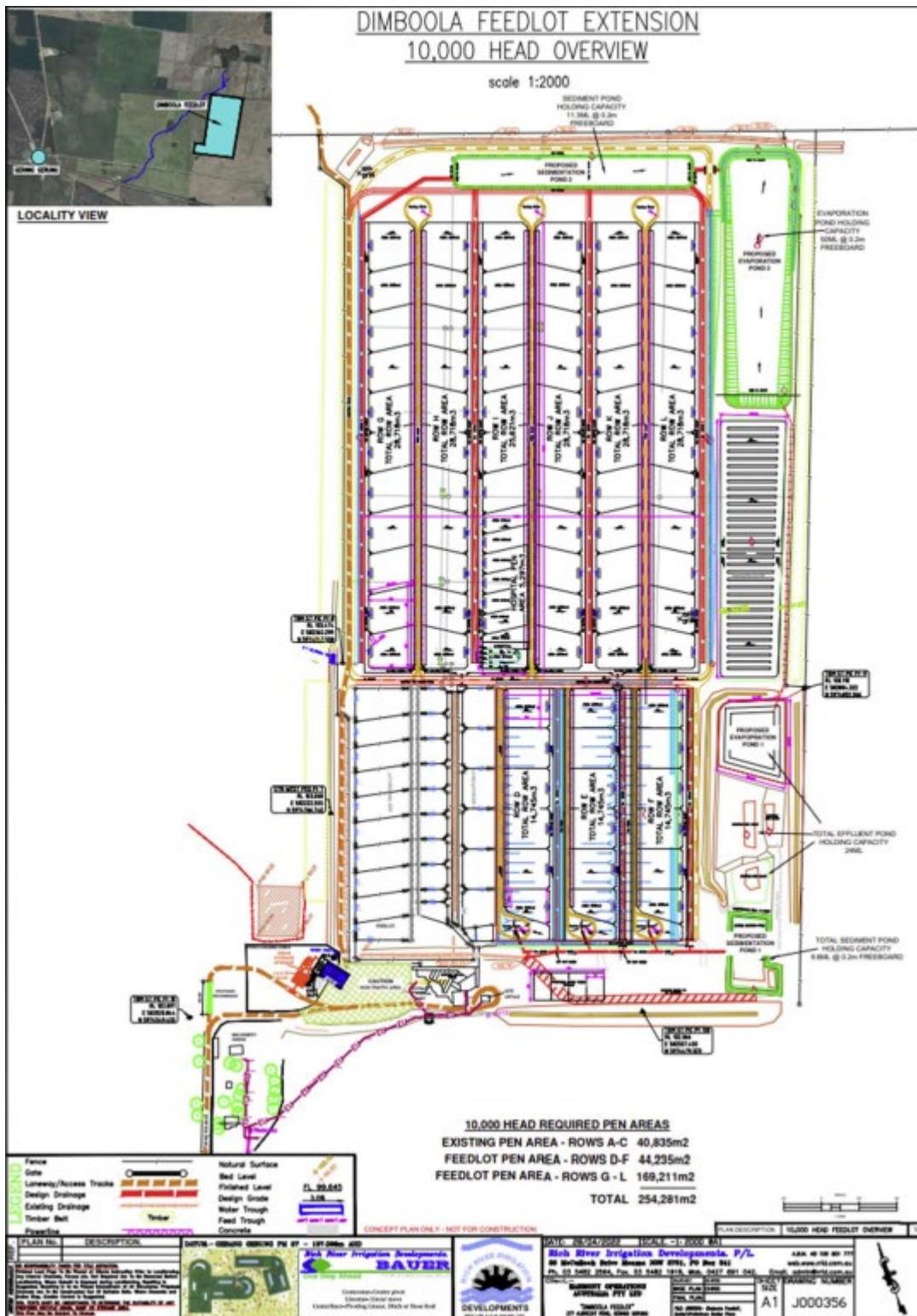


Figure 1 – Site Layout Plan

Requirement for Permit:

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

- Clause 35.07-1 – A permit is required to use the land for a Section 2 Use (Cattle Feedlot).
- Clause 35.07-4 – A permit is required for buildings and works associated with a Section 2 Use (Cattle Feedlot).

- Clause 42.01-2 – A permit is required to construct or carry out works.

Definitions:

Cattle feedlot - *Land used for a cattle feedlot as defined by the Victorian Code for Cattle Feedlots 1995.*

Restrictive Covenant or Section 173 Agreement:

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

Cultural Heritage Management Plan (CHMP):

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

Subject site & locality:

The subject site is known as 277 Albrecht Road, Gerang Gerung Vic 3418 (CA90, Parish of Gerang Gerung) which comprises a single title of approximately 255 hectares. The site is relatively flat, sloping gradually down towards the east. The land currently contains a cattle feedlot with associated buildings and infrastructure and vacant land for grazing. There is one primary vehicle access point to Albrecht Road, approximately 425m from the western boundary of the site. The entire property has been fully cleared of native vegetation to allow for cropping and the development of the feedlot and backgrounding pens.

The subject site is situated approximately 2km to the east of the Gerang Gerang township and 13 km to the north-west of Dimboola. The site is surrounded by rural land used for dryland farming with sporadic pockets of native vegetation. The nearest dwelling is situated approximately 1.5km to the south of the site, on the opposite side of the Western Highway.

An aerial map and a zoning map is contained within Figure 2 and 3 on the following page.

Figure 2 - Aerial Map below – Metromap



Figure 3 - 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;
- Displaying a sign on site; and
- A notice in the 'Nhill Free Press' and the 'Dimboola Banner'.

Two (2) objections to the application were received. The objections raise the following concerns:

- Dust and noise from trucks;
- Destruction of road surface from trucks;
- Soil and groundwater pollution;
- Odour from cattle; and
- Disease spread from cattle.

A mediation meeting was held on 11 October 2022 between Council and the objectors. Subsequently, one objection was withdrawn on 16 November 2022.

The concerns raised by the objectors will be discussed further in the assessment below.

Referrals:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	
Minister for Agriculture	No objection subject to the following conditions: <ol style="list-style-type: none"> 1. <i>Prior to the use and development for the cattle feedlot, the applicant must provide to the satisfaction of the responsible authority:</i> <ol style="list-style-type: none"> a) <i>An amended response to Element 1 to show compliance with AM 1 Separation Distance of the Victorian Code for Cattle Feedlots – August 1995.</i> 2. <i>The use and development of the cattle feedlot must comply with the Victorian Code for Cattle Feedlots – August 1995 to the satisfaction of the responsible authority.</i> Response received 12 October 2022 .
Environment Protection Authority	No objection or conditions. Response received 12 July 2022 .
Wimmera Catchment Management Authority	No objection or conditions. Response received 21 September 2022 .

Section 52 Notices and Internal Referrals	
Agriculture Victoria	No objection or conditions. <i>The application provides a detailed assessment of the proposed cattle feedlot expansion and how the operation would address Class A standards for design, construction and management outlined in the Code. The application needs to demonstrate compliance with the Code through meeting the Approved Measures (deemed to comply provisions) or the provision of</i>

	<p><i>suitable Alternative Solutions that can achieve the Objectives and Approved Standards.</i></p> <p><i>Agriculture Victoria, in reviewing the feedlot proposal documentation, considers that the application demonstrates conditional compliance with the Code regards Elements 1, 2, 3, 4, 5, and 8, subject to amendment of the response to Element 1. Agriculture Victoria recommends that Council assess and determine compliance with Elements 6 – Traffic and parking and Element 7 – Landscaping.</i></p> <p><i>This letter of advice is provided to Council to assist their assessment of the above planning permit application and any requirement in seeking further information from the applicant as part of its assessment process. The information provided should be considered as advisory in nature to inform Council's determination as the Responsible Authority.</i></p> <p>Response received 30 September 2022.</p>
<p>Department of Transport</p>	<p>No objection subject to the following conditions:</p> <ol style="list-style-type: none"> <i>1. The main access route for trucks or heavy vehicles from Western Freeway shall be from Glenlee-Gerang Road/ Western Fwy intersection.</i> <p>Response received 21 September 2022.</p>
<p>Grampians Wimmera Mallee Water</p>	<p>No objection or conditions.</p> <p>Response received 29 September 2022.</p>
<p>Engineering</p>	<p><i>The following conditions need to be applied to the permit:</i></p> <p>Access:</p> <ul style="list-style-type: none"> <i>• Access to the Proposed development shall be from the existing entrance of the property.</i> <i>• Damage to existing Council infrastructure is to be minimised during construction of the Proposed development.</i> <i>• Any damage to Council infrastructure must be replaced to original state, to the satisfaction of the Responsible Authority and at the applicants expense.</i> <p>Road Access:</p> <ul style="list-style-type: none"> <i>• All vehicles that attend the Business premise must be via Albrecht Road from the Gerang - Glenlee Road to the entrance of property / business and depart the premise via the reversal.</i> <i>• Prior to the commencement of the proposed development, the section of limestone road - from the edge of seal at</i>

Gerang - Glenlee Road must be upgraded and pavement sealed for a distance of 300m to Council standard at the Applicant's cost (see below).

*Note: A consent to works within road reserve permission is required prior to construction if working in road reserve.
<https://www.hindmarsh.vic.gov.au/register-for-permits>*



Signage:

- *New signage "TRUCKS AVOID USING ENGINE BRAKES" to be installed prior to entering residential township area on Albrecht Road and Gerang – Glenlee Road (location to be determined by Council) and to Council standard at the Applicant's cost.*

Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework:

- Clause 11.01-1L Settlement – Hindmarsh
- Clause 13.05-1S Noise Management
- Clause 13.06-1S Air Quality Management
- Clause 13.07-1S Land Use Compatibility
- Clause 14.01-1S Protection of agricultural land
- Clause 14.01-2S Sustainable agricultural land use
- Clause 14.01-2R Agricultural productivity – Wimmera Southern Mallee
- Clause 17.01-1S Diversified Economy
- Clause 17.01-1R Diversified Economy – Wimmera Southern Mallee
- Clause 18.02-4S Roads
- Clause 19.03-3S Integrated Water Management

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 (Cattle Feedlot)

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.

Planning Response:

The key considerations applying to this application and the application of policy relate to the sustainable agricultural land use, environmental impacts and off-site amenity impacts. There is clear support within the provisions of the FZ and the PPF for agricultural land uses, such as the proposed cattle feedlot, provided that they are operated in a controlled and sustainable manner.

The proposal is for the use and development of a cattle feedlot, with capacity for up to 10,000 SCU. A cattle feedlot is a form of agricultural land use which is sought within the Farming Zone. Small scale feedlots typically do not require a planning permit within the Farming Zone (less than 1000 SCU). Larger scale feedlots, such as the proposal, have the potential to bring rise to social and environmental implications and require important consideration. *The Victorian Code for Cattle Feedlots - August 1995* applies to this application and aims to assist in the orderly development of a cattle feedlot industry in Victoria and provide a set of standards that are compatible with the economic operation of the industry as well as ensuring that community expectations of environmental protection are achieved.

The application is accompanied by a detailed and thorough report which examines all facets of the proposed cattle feedlot ranging from wastewater management and soil quality to odour, noise and operational management. This report provides a response to the *Victorian Code for Cattle Feedlots - August 1995* and offers confidence that the proposed cattle feed lot will be operated in an environmentally sustainable manner with measures in place to minimise amenity impacts such as odour and noise. The *Victorian Code for Cattle Feedlots - August 1995* will be discussed further under a separate subheading below.

The proposal is considered to be compatible with surrounding land uses, typically being use for dryland agriculture. There are a number of dwellings scattered within the broader region, with the nearest dwelling situated approximately 1.5km to the south of the proposed cattle feed lot. It is considered that the report provided by the applicant suitably addresses the potential amenity impacts resulting from the proposed cattle feedlot and conditions will be placed on any permit issued to reinforce the mitigation methods specified within the report.

To ensure the longevity of the public road network and to reduce amenity impacts associated with noise and dust from trucks, Councils engineering department have requested that a

portion of Albrecht Road within the Gerang Gerung township be upgraded to Council's standards.

The proposal will not notably alter existing built elements on the land other than the establishment of an additional three rows of holding pens which will be situated approximately 740m from the eastern property boundary and 470m from the southern property boundary (public road interfaces). Due to the separation distance, topography of the land and an existing landscape buffer, the additional works will not be notably visible from the public realm or adjoining properties. The site is not located in area identified as being of special landscape value (i.e. through application of a Significant Landscape Overlay, Design and Development Overlay or the like) that would warrant specific visual considerations.

As discussed above, environmental issues that may arise from the works will be managed by the detailed report provided by the applicant; and no vegetation will be removed to accommodate the proposal.

Based on the above factors, the proposal is considered to be acceptable and will facilitate a suitable agricultural land use within the Farming Zone.

Overlay Provisions:

The subject land is partially encumbered by Clause 42.01 - Environmental Significance Overlay - Schedule 6 (ESO6). A permit is required to construct a building or construct or carry out works.

Planning Response:

It is considered that the proposed works would not impact the objective of ESO6 which aims to protect the catchment area of significant wetlands.

The Shire of Hindmarsh, Wetlands and Catchments of Conservation Value (WCMA 2007) Decision Guidelines provides Matrix and Criteria to establish if the proposal is appropriate in the context of ESO6.

The below criteria has been identified as relevant to the proposal:

Criteria for Matrix 2 ESO6:

- Waste water must be treated such that nutrients and pollutants do not enter areas covered by ESO 6.

On-site wastewater and stormwater retention is proposed. The applicant has provided a detailed report which addresses matters relating to wastewater and stormwater management which includes extensive soil testing to establish the most suitable methods/locations of on-site retention and effluent ponds. Wastewater and stormwater management is also regulated by the *Victorian Code for Cattle Feedlots - August 1995* which the proposed cattle feedlot must adhere to at all times (as per Conditions).

The Wimmera CMA have reviewed the application and did not object to the granting of a permit or have any conditions to add.

On this basis, the proposal is considered to be acceptable in light of the ESO6.

Particular Provisions:

Clause 53.08 Cattle Feedlot

Purpose

To facilitate the establishment and expansion of cattle feedlots in Victoria in a manner which is consistent with orderly and proper planning and the protection of the environment.

Requirements to be met

- *All use and development of cattle feedlots must comply with the Victorian Code for Cattle Feedlots - August 1995.*
- *The Code must be complied with to the satisfaction of the responsible authority.*

Planning Response:

The Code consists of eight key elements for which Objectives, Accepted Standards and Approved Measures are specified. The elements are explored below.

1. Location and Size

Cattle feedlots must be located in a way and be of a size that takes into account the location of existing housing, other sensitive uses and land zoned for residential or urban purposes. Criteria have been determined, based on potential odour production, which relate the size of feedlot, cattle density and the class of feedlot to the distance to all sensitive uses.

The objective of this element is:

The development of feedlots on appropriate sites having regard to existing and foreseeable residential development and urban communities.

The applicant has provided calculations (in consultation with Agriculture Victoria) to establish the separation distances required based on this proposed development to houses as follows:

- *Minimum separation distance to houses: 800m required*
The proposed feedlot is located 1500m from the nearest dwelling, therefore exceeding the minimum separation distance required.

The applicant has provided calculations (in consultation with Agriculture Victoria) to establish the separation distances required based on this proposed development to the closest township (Gerang Gerung) as follows:

- *Minimum separation distance to Gerang Gerung: 2160m required (Agriculture Victoria recommends a separation distance of 2400m)*

The proposed feedlot is located approximately 2490m from the Gerang Gerung township, therefore exceeding the minimum separation distance required by the Code.

2. Design and Construction

The design should provide the optimal layout in response to the site conditions.

The objective to this element is:

A coherent layout that provides an efficient design which minimises the impact on the environment, and allows the collection and treatment of all wastes in a manner that does not give rise to any off-site detriment.

The applicant provided a detailed response to the Approved Measures under this element including pen floor management, external surface runoff control, laneways, cattle handling facilities, water supply, internal pen drainage control, feed troughs, water troughs, fencing, aprons, drains and surface roads. This demonstrates compliance with the objective and standards of this element, as supported by Agriculture Victoria.

3. Odour;

Feedlots must be designed and operated so as not to produce any odour which gives rise to material detriment to any person {i.e. so as not to interfere with the normal use and enjoyment of life and property to an extent which is more than of a trivial or minor nature}.

The relevant objectives include:

- *Protection from amenity-reducing off-site odour effects of cattle feedlots by recognising the need for a buffer separation.*
- *Best practice emission control technology is used to ensure that routine emissions satisfy the requirements of State Environment Protection Policy - The Air Environment.*

The proposal meets the separation distance under Element 1 and as such, the objective and standards of this element has been met.

4. Noise

Noise is unlikely to be a major problem except for residents nearby and in relation to truck movements.

The objective to this element is:

Noise levels generated by the feedlot do not cause any material detriment to nearby residents or persons affected by transport of cattle and feed associated with the operation of the feedlot.

The applicant addressed the Approved Measures by restricting hours of operation for feed processing, mixing, feeding and on-site plant operation. Further, exhaust mufflers will be fitted to all on-site machinery as well as vehicles operated by contract drivers. The separation distance between the access point to the site and the nearest dwelling is greater than 250m. As such, Element 4 has been satisfied.

5. Waste Storage, Treatment and Reuse

Feedlots produce large quantities of liquid and solid by-products through runoff from the feedlot area and manure from the cattle. These by-products must be disposed of and used in a manner that will not cause contamination of land and surface or underground water supplies nor cause offence to people. They can most beneficially be used in a manner that obtains the maximum benefit from the nutrients they contain.

The waste system should be designed to be simple and require minimal maintenance input. It shall be an integral part of the feedlot complex.

The objectives to this element include:

- *No liquid or solid wastes from the feedlot shall be allowed to enter into any stream or watercourse, ground water or to contaminate any land so as to render it unfit for future farming activities.*
- *The waste treatment system is designed and operated in such a manner as to minimise the likelihood of odour and to allow the maximum recovery of material from the waste stream.*
- *Waste products are incorporated into a crop production system so that a balance between nutrients applied and nutrients removed through the crop is achieved.*

The applicant provided a response to this element including an analysis and modelling of soil condition, anticipated rainfall and run off, anticipated manure loads, basin volumes, manure, irrigation and crops for waste and water re-use to inform a detailed waste management plan (Section 8 of the report). Matters such as soil contamination, salinity and disposal of animal carcasses was also addressed.

Agriculture Victoria are supportive of the alternative solution proposed in AM3 and considers that the application demonstrates compliance with Element 5.

6. Traffic and Parking

This element covers vehicle movement to and from the site and the provision of accommodation for stationary vehicles on site. Access to the site must be designed so that there is no interference with the function of State Highways and Main Roads and so that there is minimal off-site impact on adjoining residents.

The objectives to this element are:

- *Efficient operation and function of arterial and local roads and appropriate access to the site.*
- *Sufficient and convenient parking for employees, visitors, delivery and service vehicles.*
- *Sufficient area set aside within the site to accommodate all vehicle movements associated with the delivery of cattle and goods to and from the premises.*
- *Detrimental impacts of vehicle accommodation and access on the amenity of nearby residents and population centres is minimised.*

The applicant has addressed on-site parking, access and transport routes, expected vehicle movements, internal driveways and access roads, maintenance, loading ramps and surface treatment within their report.

There is ample space on-site to accommodate parking for employees as well as truck loading, unloading and parking. Access routes will be restricted as per the DOT conditions and a condition will be added to any permit issued to ensure that land is available for employee and truck parking at all times in accordance with AM5 of the Code. As such, the proposal demonstrates suitable compliance with this element.

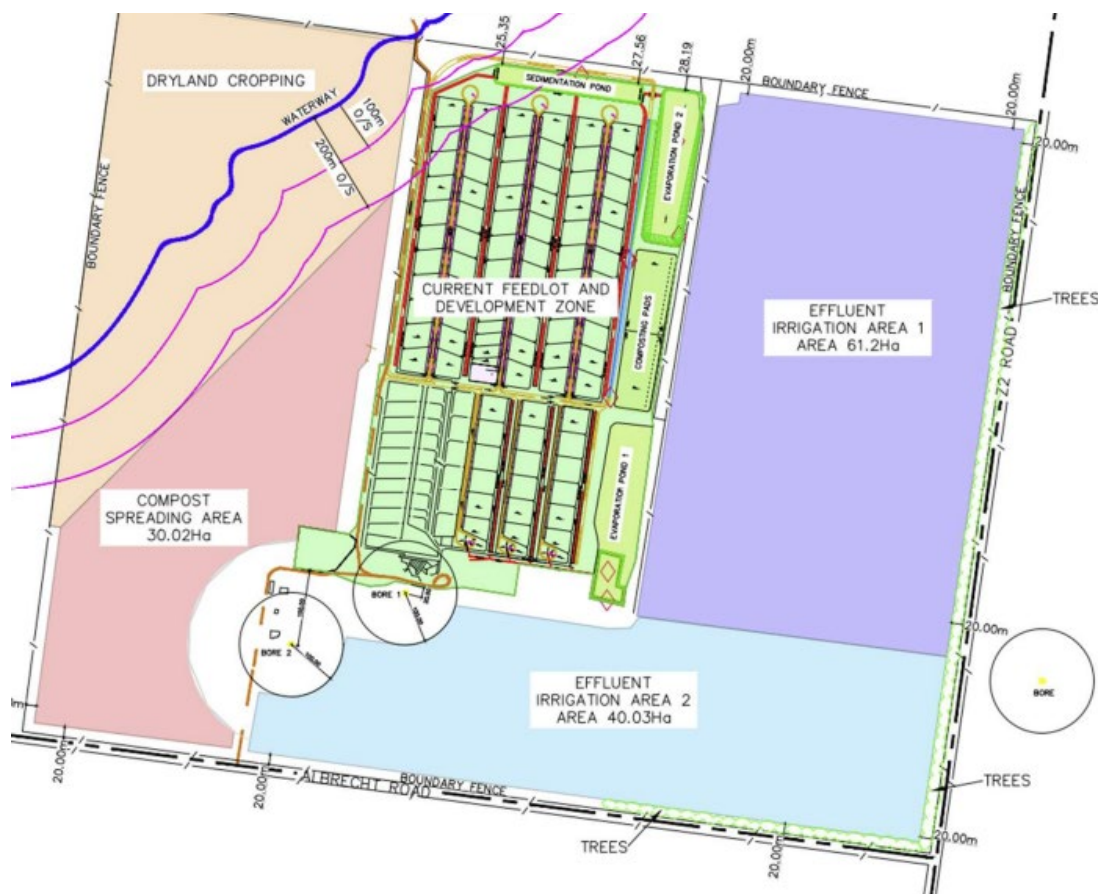
7. Landscaping

Landscaping plays an important part in softening the visual impact of the feedlot. Belts of landscaping should be provided around the entire area which is used for the feedlot with a mixture of local species being selected to provide a heavy visual screen and inclusion of species which will mature into taller trees where the feedlot works area is visible from roads, other public areas and adjoining properties

The objectives to this element include:

- *A visual screen to the major buildings, handling area and pens from surrounding properties and roads.*
- *Assistance with the takeup of any waterborne nutrients that have escaped from the waste system.*

There are some existing landscaping buffers surrounding the existing cattle pens. Indigenous tree plantings are proposed along the eastern boundary of the farm and the eastern section of the southern boundary (see image below). Existing trees, including those planted along the western side of the access road, will be retained. The proposed plantings are considered to be suitable taking into account the central location of the proposed feedlot and the location of public roads and the nearest dwellings. Conditions will be included on any permit issued to provide a timeframe for planting and ongoing maintenance of the landscape buffer.



8. Operations and Management

The operation and management of a cattle feedlot has a critical bearing on whether or not environmental problems arise.

The objectives to this element are:

- *Circumstances leading to odour production and other detriment due to the operation of the feedlot are avoided.*
- *Appropriate operations and maintenance related to the class of feedlot.*

The applicant provides a detailed response to feeding and watering, routine cleaning and maintenance, mounding, pack removal, pad renovation, manure stockpile, run off and manure disposal, vermin and weed control and cessation of operations addressing the Approved Measures of this element. Agriculture Victoria advised that all feedlots are required to provide independent audit statements which verify compliance with the construction and operational requirements of the Code to ensure that the approved standards are maintained. The following was recommended should a planning permit be granted:

- *Agriculture Victoria could complete the pre-operational audit to confirm compliance with the Code's design and construction standards related to the feedlot works area.*

- *A copy of the annual National Feedlot Accreditation Scheme audit should be provided to responsible authority and Agriculture Victoria to satisfy the Code's requirement for an annual audit.*

Appropriate conditions will be included on any permit issued.

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, referrals were undertaken, no issues were raised, and there are no significant environmental, social or economic effects. Two objections (one

withdrawn) were received during the notification process. The issues raised in the objection has been addressed throughout the assessment as well as specifically below.

The Municipal Planning Strategy and Planning Policy Framework have been addressed in the body of the report. The land is appropriately zoned for an agricultural use of this nature which supports the local economy. Detailed information was provided by the applicant in relation to the operation of the cattle feedlot and compliance with *the Victorian Code for Cattle Feedlots - August 1995*. Provided that the feedlot is operated in accordance with the applicant's submission and *the Victorian Code for Cattle Feedlots - August 1995*, environmental issues and unreasonable amenity impacts are unlikely to arise.

The site is not subject to any natural hazards or cultural sensitivities and no vegetation is required to be removed to accommodate the proposal. The proposal is unlikely to impact the future development and operation of the transport system with the appropriate conditions being included on any permit issued for road upgrades and select transport routes to be utilised.

Based on the assessment above, the proposal is considered to be an example of orderly planning.

Response to Objections:

(Objection in italics, response in standard text)

Dust and noise from trucks;

Response: A portion of Albrecht Road will be required to be upgraded within the Gerang Gerang township to minimise dust created by trucks associated with the proposed cattle feedlot. Engine break signage is required to be installed to reduce noise created by trucks travelling through the Gerang Gerang township.

Destruction of road surface from trucks;

Response: A portion of Albrecht Road will be required to be upgraded within the Gerang Gerang township to minimise the destruction of road surface by trucks associated with the proposed cattle feedlot.

Soil and groundwater pollution;

Response: As discussed under Clause 53.08 above, waste, wastewater and stormwater run off will be suitably managed and reused on-site. Conditions will be included on any permit issued to ensure that the use operates in accordance with the *Victorian Code for Cattle Feedlots - August 1995* and applicants detailed submission to ensure that the likelihood of soil and groundwater pollution is kept to a minimum.

Odour from cattle

Response: As discussed under Clause 53.08 above, the proposed cattle feedlot meets the minimum separation distance from houses to allow for the dispersion of odour. Conditions will be included on any permit issued to ensure that the use operates in accordance with the

Victorian Code for Cattle Feedlots - August 1995 and applicants detailed submission to ensure that odour is minimised.

Disease spread from cattle.

Response: Provided that the use operates in accordance with the *Victorian Code for Cattle Feedlots - August 1995* and applicants detailed submission, the likelihood of disease spread to humans in the local area is unlikely. The applicant addresses matters such as general cleaning, removal of waste feed, removal of animal carcasses, pest control and the like to assist in the control any potential disease outbreaks.

Discussion:

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

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

Clause 35.07 - Farming Zone

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

Clause 42.01 – Environmental Significance Overlay Schedule 6

The proposal complies with the purpose and decision guidelines of Clause 42.01 (ESO6) for the reasons outlined in the planning response to the overlay as discussed above.

Clause 53.08 – Cattle Feedlot

The proposal complies with the purpose and decision guidelines of Clause 53.08 for the reasons outlined in the planning response under the Particular Provisions as discussed above.

Clause 65 Decision Guidelines

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

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Planning Policy Framework and the Municipal Planning Strategy, including the Farming Zone, Environmental Significance Overlay – Schedule 6, Clause 53.08 and Clause 65 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:

17/08/2022 The application was received.

21/07/2022 The fee was paid (transferred from earlier application).

03/09/2022 The application was notified.

15/09/2022 Application referred to internal and external authorities.
15/09/2022 Objection Received.
16/09/2022 Objection Received.
17/09/2022 Notification of the application was completed.
21/09/2022 28/11/2022 - Referral responses received.
11/10/2022 Mediation meeting held.
16/11/2022 One objection withdrawn.
14/12/2022 The report is being presented to Council at the meeting held 14 December 2022 (102 days).

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

Conflict of Interest:

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

Officer Responsible – 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:

Support healthy living and provide services and activities for people of all ages and abilities. Develop and promote local tourist opportunities that attract visitation.

Financial Implications:

Nil

Risk Management Implications:

Nil

Communications Strategy:

Advise the Applicant of Council's decision.

Next Steps:

Issue the Notice of Decision to grant a Planning Permit if approved by Council.

RECOMMENDATION:

That Council issues a Notice of Decision to grant a Planning Permit in relation to planning application PA1792-2022 for the use and development of land for a 10,000

head cattle feedlot and associated buildings and works on the subject land known as 277 Albrecht Road, Gerang Gerung Vic 3418 (CA90, Parish of Gerang Gerung), subject to the following conditions:

Endorsed Plans

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

Land Use

- 2. The use authorised by this permit must at all times operate in accordance with the endorsed report prepared by LEAP Livestock Environmental and Planning (Dated 28 April 2022), to the satisfaction of the Responsible Authority.**

Landscaping

- 3. Within three months of the issue date of this permit, all trees within the landscape buffer along the eastern boundary and the eastern section of the southern boundary must be planted to the satisfaction of the Responsible Authority, in accordance with Figure 20 contained within the endorsed report prepared by LEAP Livestock Environmental and Planning (Dated 28 April 2022).**
- 4. All landscaping within designated landscape buffers must be maintained to the satisfaction of the Responsible Authority, and any dead, dying, diseased or damaged plants are to be replaced with like for like replacements of the same or greater size.**

Car Parking

- 5. On-site parking must be provided in accordance with Approved Measure 5 of the Victorian Code for Cattle Feedlots (August 1995), with at a rate of:
 - (a) one car space per employee plus three visitor car spaces;**
 - (b) one truck loading bay;**
 - (c) one truck parking space plus one truck parking space per 5000 SCU for cattle trucks; and**
 - (d) one truck parking space for feed trucks;**to the satisfaction of the responsible Authority.**
- 6. On-site parking must be provided on-site at all times, in accordance with the Design Standards listed under Clause 52.06-9 of the Hindmarsh Planning Scheme and must not be used for any other purpose.**

Lighting:

- 7. All external lighting installed on the site shall be fitted with suitable shields and baffles so that no direct light is omitted which causes a nuisance to adjoining properties, to the satisfaction of the Responsible Authority.**

Engineering Department

8. ***Access to the proposed development must be from the existing entrance of the property.***
9. ***Any damage to Council infrastructure must be replaced to original state, to the satisfaction of the Responsible Authority and at the applicants expense.***
10. ***Within 12 months of the issue date of this permit, the section of limestone road - from the edge of seal at Gerang - Glenlee Road must be upgraded and pavement sealed for a distance of 300m to Council standards at the full cost of the permit holder.***

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

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

11. ***Within three months of the issue date of this permit, "TRUCKS AVOID USING ENGINE BRAKES" signage must be installed prior to entering residential township area on Albrecht Road and Gerang – Glenlee Road (location to be determined by Council) and to Council standard at the Applicant's cost.***

Agriculture Victoria

12. ***Within three months of the completion of the development authorised by this permit, an independent audit statement which verifies compliance with the construction and operational requirements of the Victorian Code for Cattle Feedlots – August 1995 (the Code) must be provided to the Responsible Authority and Agriculture Victoria.***
13. ***Twelve months after the issue date of this permit and on an annual basis thereafter, a copy of the annual National Feedlot Accreditation Scheme audit must be provided to Responsible Authority and Agriculture Victoria to satisfy the Code's requirement for an annual audit.***

Head, Transport for Victoria

14. ***The main access route for trucks or heavy vehicles from Western Freeway shall be from Glenlee-Gerang Road/ Western Fwy intersection.***

Minister for Agriculture

15. ***Prior to the use and development for the cattle feedlot, the applicant must provide to the satisfaction of the responsible authority:***
 - (a) ***An amended response to Element 1 to show compliance with AM 1 Separation Distance of the Victorian Code for Cattle Feedlots – August 1995.***
16. ***The use and development of the cattle feedlot must comply with the Victorian Code for Cattle Feedlots – August 1995 to the satisfaction of the responsible authority.***

Time Limit

17. ***This permit will expire if one of the following circumstances applies:***

- (a) *The development is not started within two (2) years of the date of this permit;*
- (b) *The development is not completed within four (4) years of the date of this permit;*
- (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.

Attachment Numbers: 11 – 12

9 REPORTS REQUIRING A DECISION

9.1 DECLARATION OF SEVERAL ROADS IN THE EASTERN AREA OF THE NHILL TOWNSHIP TO BE PUBLIC HIGHWAYS TO BE OPEN TO THE PUBLIC AND TRANSFERRED INTO COUNCIL OWNERSHIP

Responsible Officer: Director Infrastructure Services

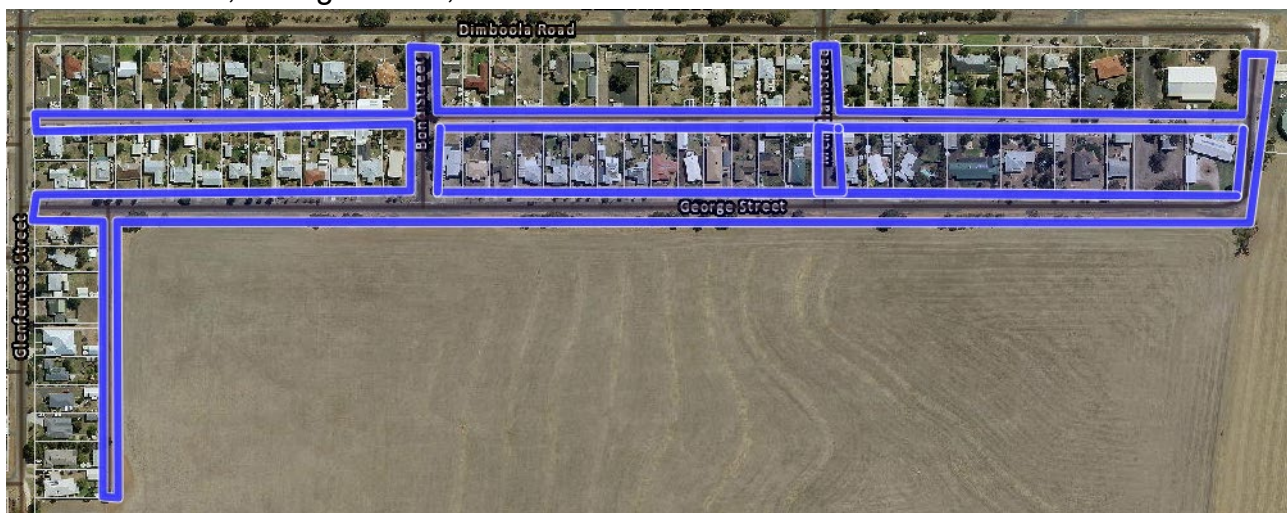
Introduction:

This report seeks approval from Council to declare several road reserves in Nhill as Public Highways that are reasonably required for public traffic under the *Local Government Act 1989* and transfer the road reserves to Council.

Discussion:

Council has been approached by two property ownership groups seeking the transfer of road reserves from their Property Titles to Council.

The first property is Road Reserve 2 on Plan of Subdivision 011688 known as Bond Street, McMillan Street, George Street, D'Alton Land and Unnamed Lane as show below:



Bond Street, McMillan Street and George Street are all currently listed on Councils road register as Class 5 Residential Primary Access category roads.

D'Alton Lane is currently listed on Councils Road Register as Class 6 Property Secondary Access category Road.

The land at the rear of the properties on the eastern side of Glenferness Street (George Lane) is listed on Council's Road register but without a classification attached. This report recommends it be registered as Class 6 Property Secondary Access category.

The second property is made up of two parcels – The first parcel is Road Reserve 1 on Lodged Plan 11688 known as:

- Bone Lane (portion between Nairn and William Streets) which is currently listed on Councils Road Register as a Class 5 Residential Primary Access Road; and
- Bone Lane Ext (portion between William and Glenferness Streets) which is currently listed on Council's Road Register as an 8 (Paper Road).

These road reserves are shown below:



The second parcel is known as Reserve 1 on Lodged Plan 11688 and shown on Council's Road Register as:

- Nairn Street – Nhill Pt 2 for 60m at the north end and is a Class 5 Residential Primary Access Road; and
- Nairn Lane Ext for the last 89m at the south end and is classified as a Paper Road (Class 8).

The road reserve is shown below:



It is recommended that Reserve 1 on Lodged Plan 11688 be split to allow for the first length of 70 meters south of Townsend Street to be declared a road that is reasonable required for public use and to maintain road access to Lot 1 of Title Plan 336757 – being the vacant land behind 43,45 and 47 Townsend Street.

It is proposed that the area shown in green below be consolidated into Lot 2 of Plan of Subdivision 905903 so that it can continue to be utilised as farming land and Council will not need to enter into a lease for its ongoing use.



The *Local Government Act 1989*, Section 204 allows for Council to declare a road to be a public highway or open to the public.

Part 2 of section 204 provides that 'A Council may, by, resolution, declare that a road is reasonably required for public use to be open to the public' without declaring it a public highway.

Section 205 provides that 'A Council has the care and management of (b) all roads that are the subject of a declaration under Section 204 (2).

This report recommends that for clarity, the road reserves be declared Public Highways under Section 205 of the *Local Government Act 1989*.

The current title owners of the Road reserves and Reserve 1 have both lodged written requests to Council for the land to be transferred into Council ownership by agreement at an agreed consideration of \$1.00 with legal costs borne by Council.

Options:

1. Council declares the roads to be a public highway or to be open to the public and transfers the road reserves into their ownership.
2. Council does not make a declaration on the reserves and does not accept the transfer of the relevant reserves into their ownership.

Link to Council Plan:

Built and Natural Environment – *Well maintained assets and infrastructure:*

- Regularly review Councils Asset Plans and Asset Registers

Financial Implications:

Initial quotes for the conveyancing process are between \$7,000- 9,000 with the adopted Council budget making provision for legal costs associated with Asset Management. Currently that advice is based on surveying not being required- should the Victorian Surveyor Generals office determine surveying is required – an additional fee of \$1,400 will apply

Risk Management Implications:

The land referred to in this report is currently on property titles in private ownership however as the land was never vested or transferred into Council ownership at the time of subdivision in 1962. Despite this the land is being used as a public highway and open to public traffic.

Council has the majority of the land referred to in this report on their road register and it is reasonably required for public use.

The insurance implications for incidents that occur on the land referred to in this report for both Council and the current title owners is complicated by the status of the land. This report recommends making the necessary administrative changes to provide clarity and reduce the risk of future joined claims should any event occur on the road reserves.

Relevant legislation:

Local Government Act 1989

Community engagement:

There has been no community engagement undertaken as the request is administrative in nature and does not prohibit the continued use of the roads for the purpose of public traffic- it only seeks to ensure that Council has the care and management of the roads as Council owned land.

Gender equality implications:

There are no gender equality implications for public traffic continuity.

Confidential Declaration (where applicable):

This Council report does not consider confidential information as defined by section 3 (1) of the *Local Government Act 2020*.

Conflict of Interest:

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

Officer Responsible – Jessie Holmes, Director Infrastructure Services

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

Communications Strategy:

Council will liaise with the relevant property owners who have requested the transfer of the road reserves to Council.

Next Steps:

If Council approves the declaration of several road reserves in Nhill reasonably required for public traffic under the *Local Government Act 1989* and transfer the road reserves into Council ownership, then Council staff will engage lawyers to undertake the necessary conveyancing.

RECOMMENDATION:

1) That Council approves the declaration of:

(a) Road Reserve 2 on Plan of Subdivision 011688 known as:

- **Bond Street, McMillan Street and George Street, Nhill as a Public Highway and open to the public at a Classification 5 (Residential Primary Access Road) and;**
- **D’Alton Lane and George Lane at the rear of properties on the east side of Glenferness Street as a Public Highway and open to the public at a Classification 6 (Property Secondary Access)**

(b) Road Reserve 1 on Lodged Plan 11688 known as Bone Lane and Bone

Lane Ext Nhill as a Public Highway and open to the public at a Classification 6 (Property Secondary Access)

(c) Reserve 1 on Lodged Plan 11688 (Immediately East of 43 Townsend Street, Nhill) for a length of 70 meters as a Public Highway and open to the public at a Classification 6 (Property Secondary Access)

(d) Reserve 1 on Lodged Plan 11688 remaining length of 75 meters to be consolidated into Lot 2 of Plan of Subdivision 905903L, and that

2) Council authorises the above Public Highways to be transferred into its ownership, for the purchase fee of \$1.00.

9.2 DIMBOOLA-MINYIP ROAD HEAVY VEHICLE SAFETY AND PRODUCTIVITY PROGRAM GRANT APPLICATION

Responsible Officer: Director Infrastructure Services

Attachment Number: 13

Introduction:

This report seeks Council approval to apply for a Heavy Vehicle Safety and Productivity (HVSPP) grant for the Dimboola-Minyip Road, and refer \$343,650 for a 30% council contribution for consideration in the 2023/24 budget towards the project should the grant application be successful.

Discussion:

Above average rainfall in 2022 has significantly deteriorated Dimboola-Minyip Road resulting in potholing, polishing, pavement deformation in outer wheel paths, areas of minimal cross fall, seal degradation, large drop offs from the edge of seal and pavement failure. An engineering report has been produced, with results showing at least 2.5km requires full reconstruction at an estimated cost of \$1,145,500 exc. GST.

Officers have investigated funding options to rectify these issues. The HVSPP from the Australian Government is open for applications, accepting proposals up to \$5,000,000 with a maximum 80% government contribution.

Should Council resolve to apply for the grant, in order to maximize the chances of being successful, a 30% Council contribution of \$343,650 would likely be seen by the grant body as that the project is being taken seriously, and may increase the chances of success with funding.

Options:

1. Council makes amendments to the Officers recommendation for the Dimboola-Minyip Road HVSPP application.
2. Council does not approve the Officers recommendation for the Dimboola-Minyip Road HVSPP application.

Link to Council Plan:

Well-maintained physical assets and infrastructure to meet community and organisational needs: Maintain the condition of our existing local road network prioritising capital works investment into renewal on roads and road related infrastructure

Financial Implications:

This proposal requires Council to contribute \$343,650 from the 2023/24 capital works budget towards the project in order to achieve a 30% contribution.

Risk Management Implications:

Without directing funding to the Dimboola-Minyip Road, the condition will deteriorate further.

Relevant legislation:

Road Management Act 2004

Local Government Act 1989

Community engagement:

The Dimboola-Minyip Road has been identified by assessments undertaken by staff, professional engineering reporting and information gathered by conversations had with community members.

Gender equality implications:

There are no gender equality implications for the grant application and commitment to the capital works program.

Confidential Declaration:

This Council report does not consider confidential information as defined by section 3 (1) of the *Local Government Act 2020*.

Conflict of Interest:

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

Officer Responsible – Jessie Holmes, Director Infrastructure Services

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

Author – Daniel Griffiths, Manager Capital Works

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

Communications Strategy:

Council officers will liaise with the grant body and prepare an application for submission.

Next Steps:

If Council approves the recommendation, Council officers will submit an application for the

reconstruction of a section of Dimboola-Minyip Road through the HVSPP grant program and report back to Council the outcome of the application.

RECOMMENDATION:

That Council approves an application for the HVSPP grant for the Dimboola-Minyip Road, and refers a \$343,650 council contribution for consideration in the 2023/24 budget towards the project should the grant application be successful.

Attachment Number: 13

9.3 PROPOSED AMENDMENTS TO THE ADOPTED 2022-2023 BUDGET CAPITAL WORKS PROGRAM

Responsible Officer: Director Infrastructure Services

Introduction:

This report seeks approval from Council to amend the capital works program that was adopted in the 2022-2023 Hindmarsh Shire Council Budget to account for the impact of the flood and storm damage that occurred throughout October and November 2022.

Discussion:

The 2022-2023 Budget was adopted by Council at a meeting on 29 June 2022 and included a Capital Works Program in Roads, Footpaths, Bridges and Drainage of \$ 2,320,487 with carry forwards of \$2,183,380

Reseals:

Reseals – Inroads are preparing a quotation to assist Council with patching for the reseal contract so that internal staff do not need to be allocating to preparatory works and staff are expecting inflation on materials used by Inroads.

Current budget with carry forward \$ 639,000

New proposed budget: \$ 899,000

Sealed Reconstruction:

Current budget with carry forward \$ 893,000

New proposed budget: \$ 633,000

The sealed reconstruction saving is achieved by rescheduling Woorak Ni Ni Lorquon Road for future budget consideration as the allocation of \$ 260,716 in the 22/23 adopted budget was earmarked for a 20% contribution towards federal heavy vehicle funding program and Council has been advised they were not successful in this round.

Based on current deliverables, Councils infrastructure team is forecasting completion of 14 of the 15 carry forward jobs – with Livingston Road reseal needing to be programmed into future works programs following kerb and channel repairs.

Of the 37 jobs in this year's program, Councils Infrastructure team is forecasting completion of 33 jobs with the two Nhill Diapur Road Major Culverts heavily dependent on the moisture of the soils following the recent rain events. Woorak Ni Ni Lorquon Road will be referred for future budget considerations.

Options:

1. Council makes amendments to the Officers recommendation and adopt and amended capital works program.
2. Council does not approve the Officers recommendation for amending the capital works program.

Link to Council Plan:

Built and Natural Environment – *Well maintained assets and infrastructure:*

Financial Implications:

This proposal is a costs neutral amendment to the adopted Capital Works Budget.

Risk Management Implications:

The current adopted Capital Works Program was set in early 2022 based on 2021 condition assessments. Subsequent to the adoption of the budget, significant flood, storm and rain events have impacted on Council infrastructure significantly as well as impacting on staff availability to complete particular works.

Relevant legislation:

Local Government Act 1989

Community engagement:

The changes reflect condition assessments undertaken by staff alongside information gathered from Customer Action Requests which have been lodged by community members with Council.

The only capital works job being deferred from this financial year is Woorak Ni Ni Lorquon Road as a result of Council being unsuccessful with a federal grant for that section of road and Dimboola-Minyip Road becoming a higher priority due to recent condition deterioration.

Gender equality implications:

There are no gender equality implications for the amendment of the capital works program.

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 and Officer Responsible – Jessie Holmes, Director Infrastructure Services

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

Next Steps:

If Council approves the amendments to the adopted 2022-2023 Budget Capital Works Program, Infrastructure staff will act on the changes immediately.

RECOMMENDATION:

That Council approves the following amendments to the adopted 2022-2023 Budget Capital Works Program:

- 1) The reseal budget increased from \$639,000 to \$899,000***
- 2) The sealed reconstruction budget decreased from \$893,000 to \$633,000 and refer Woorak Ni Ni Lorquon Road for future budget consideration.***

9.4 COUNCIL MEETING DATES 2023

Responsible Officer: Chief Executive Officer

Introduction:

This report seeks approval from Council for the 2023 meeting dates and their advertisement in the local media.

Discussion:

Each year Council advertises the meeting dates for the upcoming 12 months in the local newspapers. The advertised dates are for the Council meetings and the Annual Statutory Meeting.

It is proposed that Council hold one meeting per month, commencing at 3:00pm, except for May having two meetings due to legislative requirements to advertise and adopt the annual budget.

Council will continue to live stream Council meetings throughout 2023, which will mean that all meetings will need to be held in Nhill.

It is proposed that in keeping with practice of other councils around the state, Council does not meet in January.

It is the officers' recommendation to hold Briefing meetings prior to the ordinary Council meetings, commencing at 1:00pm.

The proposed dates below have also taken into consideration external organisations conferences and forums such as Municipal Association of Victoria conferences, Rural

Council Victoria conferences, National General Assembly conference and LGPro conferences, to avoid clashes where possible.

Options:

Council may choose to adopt the recommended timing and location for Ordinary Council Meetings and Council Briefings or select alternative dates, times, or locations to hold its meetings.

Link to Council Plan:

Strong governance practices.

Financial Implications:

Nil

Risk Management Implications:

Not applicable

Relevant legislation:

Local Government Act 2020

Community engagement:

Council will continue to livestream meetings to allow community members who are unable to attend in person the opportunity to view Council meetings.

Gender equality implications:

A gender assessment was completed for the 2023 Council meetings.

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 – Greg Wood, Chief Executive Officer

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

Author – Monica Revell, Director Corporate & Community Services

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

Communications Strategy:

Council meeting dates will be published in local newspapers, on Council's website and through Council's social media platforms.

RECOMMENDATION:

That Council holds Council meetings at the Nhill Memorial Community Centre, 77-79 Nelson Street Nhill and sets the following times and dates for 2023:

WEDNESDAY	TIME
1 February 2023	3:00pm
1 March 2023	3:00pm
5 April 2023	3:00pm
3 May 2023	3:00pm
31 May 2023	3:00pm
28 June 2023	3:00pm
26 July 2023	3:00pm
30 August 2023	3:00pm
27 September 2023	3:00pm
25 October 2023	3:00pm
8 November 2023 (Annual Statutory Meeting)	6:00pm
22 November 2023	3:00pm
13 December 2023	3:00pm

10 COUNCIL COMMITTEES

10.1 DIMBOOLA TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer
Attachment Number: 14

Introduction:

The Dimboola Township Advisory Committee held a meeting on 6 October 2022. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council:

- 1. notes the minutes of the Dimboola Township Advisory Committee meeting held on 6 October 2022;**
- 2. notes and accepts the resignation of Bill Eldridge from the Committee; and**
- 3. conditionally endorses Chan Uoy as a new member of the Committee.**

Attachment Number: 14

10.2 JEPARIT TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer
Attachment Number: 15

Introduction:

The Jeparit Township Advisory Committee held a meeting on 14 November 2022. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Jeparit Township Advisory Committee meeting held on 14 November 2022.

Attachment Number: 15

10.3 RAINBOW TOWNSHIP ADVISORY COMMITTEE

Responsible Officer: Chief Executive Officer

Attachment Number: 16

Introduction:

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

RECOMMENDATION:

That Council notes the minutes of the Rainbow Township Advisory Committee meeting held on 21 November 2022.

Attachment Number: 16

11 LATE REPORTS

12 NOTICES OF MOTION

13 OTHER BUSINESS

14 CONFIDENTIAL REPORTS

In accordance with Section 66 (2) (a) of the *Local Government Act 2020*, Council may close the meeting to the public to consider confidential information. Confidential information is defined by part IV of the *Freedom of Information Act 1982*, and by Section 3 of the *Local Government Act 2020* as being:

- a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- b) security information, being information that if released is likely to endanger the

- security of Council property of 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 NO 2022-23-01 DEMOLITION AND CONSTRUCTION OF RETAINING WALL AND VIEWING DECK AT JEPARIT SWIMMING HOLE - VARIATION REQUEST – 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 HARDSHIP APPLICATION – this report contains “personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs” insofar as it pertains to personal matters;**
- 14.3 2023 HINDMARSH YOUTH COUNCIL NOMINATIONS – this report contains “personal information, being information that which if released would result**

in the unreasonable disclosure of information about any person or their personal affairs” insofar as it pertains to personal matters;

14.4 AUSTRALIA DAY AWARDS 2023 – this report contains “personal information, being information that which if released would result in the unreasonable disclosure of information about any person or their personal affairs” insofar as it pertains to personal matters;

15.1 TENDER FOR CONTRACT 2022-2023-013 CONSTRUCTION OF ACCESS ROAD AND PIT / HARDSTAND AREA FOR THE RAINBOW RISES EVENTS CENTRE – this report contains “Council business information, being information that would prejudice the Council’s position in commercial negotiations if prematurely released” insofar as it pertains to contractual matters.

15 LATE CONFIDENTIAL REPORTS

16 MEETING CLOSE
