



26 February 2020

To Councillor,
"as addressed"

NOTICE is hereby given that an **ORDINARY MEETING** of the Hindmarsh Shire Council will be held at the Council Chamber, 92 Nelson Street, Nhill on Wednesday 4 March 2020, commencing at **3:00pm**.

A handwritten signature in black ink, appearing to read 'Greg Wood', written over a horizontal line.

Greg Wood
Chief Executive Officer

AGENDA

1. Acknowledgement of the Indigenous Community and Opening Prayer

2. Apologies

3. Confirmation of Minutes

4. Declaration of Interests

5. Public Question Time

6. Deputations

7. Correspondence

8. Assembly of Councillors

8.1 Record of Assembly

9. Planning Permit Reports

9.1 No Reports

10. Reports Requiring a Decision

10.1 Hindmarsh Shire Council Conflict of Interest Policy (Councillors)

11. Special Committees

- 11.1 Nhill Town Committee
- 11.2 Dimboola Town Committee
- 11.3 Yurunga Committee of Management
- 11.4 Rainbow Town Committee
- 11.5 Wimmera Mallee Pioneer Museum

12. Late Reports

- 12.1 Application for Planning Permit PA1657-2020 – Subdivision of Land into Two Lots – Boundary Realignment - 2657 Dimboola-Rainbow Road, Tarranyurk
- 12.2 Application for Planning Permit PA1633-2019 – Use and Development for a Place of Assembly Including Art Gallery Cinema and Market - 116-120 Lloyd Street, Dimboola
- 12.3 Application for Planning Permit PA 1651-2019 – Use and Development of Land (Including Buildings and Works) for the Construction of a Dwelling within 100m of a Road Zone Category 1 on Lot 1 PS638849B, Nhill-Netherby Road, Nhill

13. Other Business

14. Confidential Matters

- 14.1 Hindmarsh Shire Council Business Assistance Grants Program 2019 – 2020 Round 2

15. Meeting Close

1. ACKNOWLEDGEMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER

Acknowledgement of the Indigenous Community

We acknowledge the Shire's Indigenous community as the first owners of this country. We recognise the important ongoing role that indigenous people have in our community and pay our respects to their elders and people both living and past.

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. CONFIRMATION OF MINUTES

RECOMMENDATION:

That the Minutes of the Ordinary Council Meeting held on Wednesday 5 February 2020 at the Council Chambers, 92 Nelson Street Nhill as circulated to Councillors be taken as read and confirmed.

Attachment: 1

4. DECLARATION BY COUNCILLORS OR OFFICERS OF ANY DIRECT OR INDIRECT INTEREST IN ANY ITEM ON THE AGENDA.

Direct; or

Indirect interest

- a) by close association;
- b) that is an indirect financial interest;
- c) because of conflicting duties;
- d) because of receipt of an applicable gift;
- e) as a consequence of becoming an interested party; or
- f) because of an impact on residential amenity.

Declaration of direct or indirect interest must also be advised by Councillors at the commencement of discussion of the specific item.

5. PUBLIC QUESTION TIME

6. DEPUTATIONS

No deputations.

7. CORRESPONDENCE

7.1 GENERAL CORRESPONDENCE

Responsible Officer: Chief Executive Officer

Attachment: 2

Introduction:

The following correspondence is tabled for noting by Council,

Inwards:

- Nil

Outwards:

- Rainbow Lions Club Citizen of the year: Don Fischer
- Jeparit Town Committee Citizens of the year: Clem and Maryanne Paech
- Dimboola Town Committee awards:
 - Young Citizen of the Year: Jack Kalms
 - Citizens of the Year: Des and Robyn Lardner
 - Event of the Year: Recreation of the 1909 Photo of Opening of National Bank
- Bob Blackwood for 60 years' service with Victorian Bands League
- Dimboola Boat and Water Ski Club wishing them well for their Water Ski Tournament & Night
- Australia Day Ambassador Letter of Appreciation.

RECOMMENDATION:

That Council notes the attached correspondence.

Attachment: 2

8. ASSEMBLY OF COUNCILLORS

Responsible Officer: Chief Executive Officer

Attachments: 3

Introduction:

The attached Assembly of Councillors Records are presented as an attachment to the Council agenda for the information of Councillors and recorded at the Council meeting as required under s80A Local Government Act 1989.

Options:

1. That Council accepts the Assembly of Councillors Records as presented.

RECOMMENDATION:

That Council accepts the Assembly of Councillors Records as presented.

Attachment:

9. PLANNING PERMITS

No Report

10. REPORTS REQUIRING A DECISION

10.1 HINDMARSH SHIRE COUNCIL CONFLICT OF INTEREST POLICY (COUNCILLORS)

Responsible Officer: Director Corporate & Community Services

Attachment: 4

Introduction:

This report seeks Council adoption of the Hindmarsh Shire Council Conflict of Interest Policy (Councillors) (**Policy**).

Discussion:

It was identified that Council did not have a Conflict of Interest Policy.

The purpose of the Policy is to:

- guide Councillors and Section 86 Committees on what a conflict of interest is;
- guide Councillors and Section 86 Committees on when they are required to disclose conflicts of interest;
- ensure Council's organisational and decision making processes are transparent; and
- ensure that Council is compliant with the *Local Government Act 1989*.

The update to this Policy primarily consisted of:

- reviewing Council's current processes and documenting them into this Policy.
- consulting with Senior Management and relevant stakeholders; and
- revising the draft Policy after feedback from relevant stakeholders.

Conclusion

This Policy will assist Council in ensuring that its decision-making processes are transparent and irrefutable.

Options:

1. Council can choose to adopt the Conflict of Interest Policy;
2. Council can choose to make amendments to the Conflict of Interest Policy; or
3. Council can choose not to adopt the Conflict of Interest Policy.

Link to Council Plan:

Strategic Objective 4.6.2: An organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation by developing a governance and compliance framework within Council.

Financial Implications:

Nil.

Risk Management Implications:

This Policy will assist Council in the handling conflicts of interest appropriately to maintain its governance responsibilities and ensure that all decisions are made transparently and irrefutably.

Conflict of Interest:

Under section 80C of the *Local Government Act 1989* officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible— Monica Revell, Director Corporate & Community Services

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

Author—Helen Thomson, Manager Governance and Human Services

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

Communications Strategy:

Council will post the Hindmarsh Shire Council Conflict of Interest Policy on Council's website and ensure the Policy is circulated to all relevant staff.

RECOMMENDATION:

That Council adopts the Hindmarsh Shire Council Conflict of Interest Policy (Councillors).

Attachment: 4

11. SPECIAL COMMITTEES

11.1 NHILL TOWN COMMITTEE

Responsible Officer: Director Corporate and Community Services

Attachment: 5

Introduction:

The Nhill Town Committee held its general meeting on 20 January 2020. The purpose of this report is to note the minutes from the meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Nhill Town Committee meeting held on 20 January 2020 and accepts the resignation of Brian McGennissen.

Attachments: 5

11.2 DIMBOOLA TOWN COMMITTEE

Responsible Officer: Director Corporate and Community Services

Attachment: 6

Introduction:

The Dimboola Town Committee held its general meeting on 3 February 2020. The purpose of this report is to note the minutes from the meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Dimboola Town Committee meeting held on 3 February 2020.

Attachments: 6

11.3 YURUNGA COMMITTEE OF MANAGEMENT

Responsible Officer: Director Corporate and Community Services

Attachment: 7

Introduction:

The Yurunga Committee of Management held its general meeting on 24 October 2019. The purpose of this report is to note the minutes from the meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the minutes of the Yurunga Committee of Management meeting held on 24 October 2019.

Attachments: 7

11.4 RAINBOW TOWN COMMITTEE

Responsible Officer: Director Corporate and Community Services

Attachment: 8

Introduction:

The Rainbow Town Committee held its general meeting on 27 January 2020. The purpose of this report is to note the minutes from the 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 Town Committee meeting held on 27 January 2020.

Attachments: 8

11.5 WIMMERA MALLEE PIONEER MUSEUM

Responsible Officer: Director Corporate and Community Services

Attachment: 9

Introduction:

The Wimmera Mallee Pioneer Museum held its general meeting on 19 November 2019. The purpose of this report is to note the amended minutes from the meeting. A copy of the minutes is included as an attachment for the information of Council.

RECOMMENDATION:

That Council notes the amended minutes of the Wimmera Mallee Pioneer Museum meeting held on 19 November 2019.

Attachments: 9

12. LATE REPORTS

12.1 APPLICATION FOR PLANNING PERMIT PA1657-2020 – SUBDIVISION OF LAND INTO TWO LOTS – BOUNDARY REALIGNMENT - 2657 DIMBOOLA-RAINBOW ROAD, TARRANYURK

Responsible Officer: Director Infrastructure Services

File: Planning – Applications

Assessment: 077500 / 078160

Applicant: Mr Adrian Jaeschke

Owner: Maurice and Kaye Jaeschke
Adrian Jaeschke

Subject Land: Lot 2 PS 627993F and Lot 1 TP 218817V

Proposal: Two Lot Subdivision (Re-subdivision of two lots)

Zoning & Overlays: Township Zone (TZ), Farming Zone (FZ)

Bushfire Management Overlay; Land Subject to Inundation Overlay; Environmental Significance Overlay – Schedule 6

Attachments: 11

Summary:

This report recommends that Council issue a planning permit to allow the subdivision of land into two lots at Lot 2 PS 627993F and Lot 1 TP 218817V. The purpose of the subdivision is to increase the size of the property at 2657 Dimboola Rainbow Road for the expansion of the engineering business that operates from the site. The remaining land will continue to be used for cropping / grazing land.

Background:

Planning permit application PA1657-2020 was lodged with Council on the 21 January 2020 for the purpose of increasing the land used for an existing engineering business via the two lot subdivision.

Proposal Details:

The proposal is to create 2 parcels of land as follows:

- Proposed Lot 1 – approximately 2.54 ha in size, consisting of the existing engineering business, and
- Proposed Lot 2 – approximately 206.55 ha in size, being the residual balance lot containing agricultural land and a dwelling.

The land is currently located in two zones. The property at 2657 Dimboola Rainbow Road is located in the Township Zone, while the rest of the land is located in the Farming Zone.

It is considered that approval of the subdivision will facilitate the growth of an existing local business and will not remove a significant amount of agricultural land from production. The balance of the land (proposed Lot 2) to be retained for agricultural purposes.

The application does not propose any new access to the Dimboola Rainbow Road, nor does it propose to change the existing access arrangements for any of the properties.

The applicant also proposes to plant native plants around the boundary of proposed lot 1 to promote biodiversity in the area.

Requirement for Permit:

A planning permit is required under Clause 35.07-3 – Farming Zone of the Hindmarsh Planning Scheme to subdivide land. Each lot must be at least the area specified for the land in a schedule to this zone (40 hectares). If no area is specified, each lot must be at least 40 hectares. A permit may be granted to create smaller lots if the subdivision is the re-subdivision of existing lots and the number of lots is not increased.

Definitions:

Section 3 of the Planning and Environment Act 1987 defines ‘subdivision’ as “the division of land into two or more parts which can be disposed of separately”.

‘Subdivision’ is not defined within the Hindmarsh Planning Scheme.

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 2007, as the proposal is not within land affected by the Aboriginal Cultural Heritage Overlay.

Subject site & locality:

The subject land is located at the northern edge of Tarranyurk. The site is located on the western side of the Dimboola Rainbow Road, approximately 200 metres north of its intersection with Tarranyurk West Road.

The subject land is primarily flat. The agricultural land includes a dwelling, associated sheds, silos, and dams. Land within the vicinity of the site is primarily used for agriculture (cropping and grazing).

The proposed subdivision has been designed to minimize the amount of agricultural land that is being removed from production. It is considered that this design achieves the best outcome in terms of ensuring agricultural land remains in production, and the existing business has land to grow.

s52 Notice of application

(1) Unless the Responsible Authority requires the applicant to give notice, the Responsible Authority must give notice of an application in a prescribed form—

*(a) to the owners (except persons entitled to be registered under the **Transfer of Land Act 1958** as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the Responsible Authority is satisfied that the grant of the permit would not cause material detriment to any person.*

The application is not exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act and pursuant to Section 52 of the Planning and Environment Act 1987 the following forms of advertising were undertaken:

- Notices were sent to owners and occupiers of adjoining land; and
- The application was made available for public exhibition at Council's Nhill Office.

No objections have been lodged with Council.

Referrals:

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals: Not required. The land adjoins the Dimboola Rainbow Road which is a Road Zone Category 1, however as no access is proposed to be constructed onto the road a referral to the Department of Transport (Regional Roads Victoria) was not required.

Section 52 Notices: Not required. Although a portion of the land is affected by the Bushfire Management Overlay, Land Subject to Inundation Overlay, and the Environmental Significance Overlay – Schedule 6, the area of the subdivision is outside the Overlay areas.

Internal Referrals:

- Engineering: See condition applied.
- Environmental Health: Not required.
- Building: Not required.
- Economic Development and Tourism: Not required.

Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework

Clause 11.01 - Victoria

Clause 11.01-1S - Settlement

Clause 11.01-1R - Settlement - Wimmera Southern Mallee

Clause 14.01 - Agriculture

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

Local Planning Policy Framework

Clause 21 - Municipal Strategic Statement

Zoning Provisions

Clause 32.05 – Township Zone

Clause 35.07 - Farming Zone

Overlay Provisions

Nil. The Bushfire Management Overlay, the Land Subject to Inundation Overlay, and the Environmental Significance Overlay apply to the land, however the area of the subdivision is outside all of the overlays listed.

Particular Provisions

None applicable.

General Provisions

Clause 65 - Decision Guidelines, states that:

“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”.

The decision guidelines relevant to this application are stated within Clause 65.01 of the Hindmarsh Planning Scheme – Approval of an application or plan.

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

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy.
- Framework, including the Municipal Strategic Statement and local planning policies.

- 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.
- 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 storm water 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.

This clause does not apply to a VicSmart application.

It is considered that the application complies with the relevant decision guidelines as outlined. The proposal is supportive of, and complies with the Planning Policy Framework, having regard to the benefit the proposal will cause regarding appropriate use of land for agriculture.

Discussion:

The application has been assessed against the Planning Policy Framework and the Local Planning Policy Framework, and it is considered that the proposed use is consistent with relevant policies contained within this section of the Hindmarsh Planning Scheme.

Clause 35.07 – Farming Zone states that before deciding on an application, in addition to the decision guidelines in Clause 55 the Responsible Authority must consider, as appropriate (as outlined in detail within the Planning Scheme):

Decision Guidelines

General Issues:

- The State Planning Policy Framework and the Local Planning Policy.
- Framework, including the Municipal Strategic Statement and local planning policies.
- 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.

Planning response:

The proposal is considered to meet the applicable decision guidelines as stated. The site is appropriate for the proposed subdivision, having regard to the size of the land, the design of the proposed lots, the purpose of the subdivision, and the ability of the land to continue to be used for agriculture. Access to the site is provided by all-weather roads, and the proposal will not significantly impact on other forms of infrastructure in the area.

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.

Planning response:

The proposal to subdivide is considered to meet the applicable decision guidelines with regard to agricultural considerations outlined above and does not require an integrated land management plan to be prepared for the site.

The proposal is not considered to limit the operation and expansion of adjoining and nearby agricultural uses and the site is considered appropriate for the subdivision, given the design of the proposed subdivision.

The facility enjoys broad and strong policy support both within State sections of the Planning Policy Framework along with specific policy support within the Local Planning Policy Framework.

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 proposal is considered not to impact on the natural features on the site, or neighbouring sites. The proposal does not include the removal of any native vegetation.

The applicant has identified their intention to plant native plants around the boundary of lot 1

to promote biodiversity in the area.

Design and siting issues:

- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.
- Whether the use and development will require traffic management measures.

Planning Response:

Not applicable. No buildings or works are proposed as a part of this application. Any new buildings associated with the engineering business will be subject to further approvals by Council.

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

Report to Council:

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

Processing Times:

The application was received on 21 January 2020. The report is being presented to Council at its meeting on the 4 March 2020 (43 statutory days). The statutory processing time requirements of the Planning and Environment Act 1987 have been satisfied in this instance.

Conflict of Interest:

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services

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

Author: Adam Moar, Consultant Town Planner, on behalf of Janette Fritsch, Manager Strategic Assets and Planning.

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

RECOMMENDATION:

That Council approves planning application PA1657-2020 to allow the subdivision of land into two lots at Lot 2 PS 627993F and Lot 1 TP 218817V to increase the size of the property at 2657 Dimboola-Rainbow Road, Tarranyurk subject to the following conditions:

- 1. The formal plan of subdivision lodged with Council for certification must be in accordance with the endorsed plan and must not be modified except to comply with the statutory requirements or with the written consent of the Responsible Authority.***
- 2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***
- 3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.***
- 4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.***
- 5. No new access is permitted to be created to the Dimboola – Rainbow Road without further written approval from the responsible authority.***

Permit Expiry

- 6. This permit will expire if:***
- a) The plan of subdivision is not certified within three years of the date of this permit;***
 - or***
 - b) is not completed within five years of the date of the certification of the plan of subdivision.***

The Responsible Authority may extend the permit if a request is made in writing before the permit expires or within six months afterwards.

Attachment: 11

12.2 APPLICATION FOR PLANNING PERMIT PA1633-2019 – USE AND DEVELOPMENT FOR A PLACE OF ASSEMBLY INCLUDING ART GALLERY CINEMA AND MARKET - 116-120 LLOYD STREET DIMBOOLA

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 25220
Applicant: Mr Stoph Philmore, Dimboola Art Inc.

Owner: Graeme Schneider
Subject Land: 116-120 Lloyd Street Dimboola VIC 3414 (Lot 1 PS748665)
Proposal: Use and development for a Place of Assembly including Art Gallery Cinema and Market
Zoning & Overlays: Commercial 1 Zone (C1Z)
Environmental Significance Overlay Schedule 6 (ESO6)
Heritage Overlay Schedule 34 (HO34)
Road Zone Category 1 (RDZ1) adjacent to Lloyd Street
Attachments: 12 & 13

Summary:

This report recommends that Council approve a planning permit to allow 'The use and development of a Place of Assembly including Art Gallery Cinema and Market on the site. Conditions are required to manage the nature and extent of the use within the definition of Place of Assembly.

Background:

The site was previously occupied by the Dimboola Hotel which has been largely demolished. The proposal to utilise this vacant parcel of land for arts related and community projects has received funding from 'Pick My Project - Open Community Arts & Reflection Space', a State Government funding program. The funding from 'Pick my Project' must be utilised within one year of the award of the funding awarded in April 2019.

Proposal Details:

The proposed use and development for a Place of Assembly on the site will include Arts and cultural events for the community and provide a space for community events including fundraising events. The Dimboola Art Committee are proposing an outdoor cinema, a visual arts and crafts display, community markets, outdoor movement such as yoga and tai chi and other community-based activities to be held on the site. The development will be constructed in several stages.

The proposal includes the construction of a kiosk building and two pergola structures, and the installation of a mobile movie screen. Outdoor seating will be placed in different locations to define areas and separate functions. Timber and glazed bricks will be used. Local native plants are proposed to be placed in garden areas to define separate spaces. An artistic feature tower is proposed as part of Stage 2 to mark the corner of the site as detailed on version 2 of the plans and more specific details of dimensions are to be provided. There are no buildings or works proposed on the Council footpath.

The applicant has advised that the majority of events will occur during the day and are unlikely to create excessive noise within this largely commercial area and that occasional evening events including the Cinema are also unlikely to create noise issues. The applicant has also advised there is adequate on street parking on Lloyd Street, Lochiel Street and Victoria Street to support the maximum numbers of people to attend the site.

Vehicle access will not be required to the site once the construction of the buildings on the site has been finalised. Temporary access will be available from the rear of the site via adjoining titles to Lochiel Street and Victoria Street, but this a private arrangement while the adjoining land is in the same ownership.

Requirement for Permit:

A planning permit is required for Use for a Place of Assembly pursuant to Clause 34.01-1 and

for Buildings and works for a Section 2 (permit required) Use pursuant to 34.01-4 of the Commercial 1 Zone (C1Z).

It is noted that a Cinema use and Exhibition Centre (including an Art Gallery) use are both included under the definition of Place of Assembly, and a Market use is included under the definition of Retail Premises, which do not specifically require a planning permit as they are listed as Section 1 Uses under the C1Z. Given there are other community related activities akin to a Place of Assembly that are proposed to occur on the site, a planning permit is still required for this overall use and development.

A planning permit is also required for buildings and works pursuant to Clause 43.01-1 of the Heritage Overlay Schedule 34.

There is no planning permit trigger under the Environmental Significance Overlay Schedule 6, as there is no vegetation to be removed and no earthworks proposed.

Definitions:

Place of Assembly is defined as ‘Land where people congregate for religious, spiritual or cultural activities, entertainment, or meetings’.

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 subject land is not within an area of Aboriginal Cultural Heritage Sensitivity.

Subject site & locality:

The site is located at 116-120 Lloyd Street Dimboola, being Lot 1 on PS748665 and is vacant land within the commercial centre of Dimboola. The subject land fronts Lloyd Street to the west and Lochiel Street to the north.

The surrounding land is currently used for shops and offices, with the Dimboola RSL, the Dimboola CFA and the Dimboola Library situated on the western side of Lloyd Street.

The closest dwellings within residential zoned land are located approximately 75 metres to the north and approximately 100 metres to the east of the site.

Aerial Map below – Hindmarsh POZI (2016)



Section 52 Notice of application

- (2) *Unless the Responsible Authority requires the applicant to give notice, the Responsible Authority must give notice of an application in a prescribed form—*
- (b) *to the owners (except persons entitled to be registered under the Transfer of Land Act 1958 as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the Responsible Authority is satisfied that the grant of the permit would not cause material detriment to any person.*

The application was advertised by sending notices as follows:

- Notices to Adjoining Neighbours (including Council).
- Notices to VicRoads / Public Transport Victoria (PTV) / WCMA.
- Signs on land (2).
- Advertisement in the Dimboola Banner.

As a result of the advertising one (1) objection was received, but the objection was subsequently withdrawn.

Referrals:

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals:

Nil

Section 52 Notices:

Wimmera Catchment Management Authority (WCMA) – No objection.
Regional Roads Victoria – No response.
Public Transport Victoria – No response.

Internal Referrals:

- Engineering: Comments provided about the following:
 - All structures to be designed to meet the relevant Building Codes.
 - The road side car parking on Lochiel Street to be converted to a bus stop and is not available for on street parking.
 - Noted that no vehicle access proposed.
 - A storm water run-off plan is required.
- Environmental Health: No action required.
- Building: A building permit is required for the proposed buildings and works.
- Economic Development and Tourism: No objections to the proposal and supported the development of the site but queried the correct version of the plans.

Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework:

Clause 11.01-1S Settlement

Clause 11.01-1R Settlement – Wimmera Southern Mallee

Clause 13.05-1S Noise abatement

Clause 13.07-1S Land use compatibility

Clause 15.03-1S Heritage conservation

Clause 17.01-1S Diversified economy

Clause 17.01-1R Diversified economy - Wimmera Southern Mallee

Clause 17.04-1S Facilitating tourism

Clause 17.04-1R Tourism - Wimmera Southern Mallee

Clause 19.02-3S Cultural facilities

Clause 19.02-4S Social and cultural infrastructure

Clause 19.02-4R Social and cultural infrastructure - Wimmera Southern Mallee

Local Planning Policy Framework:

Clause 21.00 Municipal Strategic Statement

Clause 21.02 Vision – Strategic Framework

Clause 21.03 Objectives – Strategies – Implementation

Zoning Provisions:

Clause 34.01 – Commercial 1 Zone (C1Z)

34.01-1 Table of uses

Section 1 – Permit not required

- Art and Craft Centre, Cinema and Exhibition Centre - includes Art Gallery
- Retail Premises (other than Shop) – includes Market

Section 2 – Permit required

Place of Assembly (other than Cinema and Exhibition centre)

34.01-2 Use of land

A use must not detrimentally affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.
- Appearance of any building, works or materials.
- Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.

34.01-4 Buildings and works

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

This does not apply to (relevant):

An awning that projects over a road if it is authorised by the relevant public land manager.

34.01-8 Decision guidelines

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

General

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

Use

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

Building and works

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

Overlay Provisions:

Clause 43.01 – Heritage Overlay Schedule 34 (HO34) - Dimboola Town Centre Heritage Precinct

43.01-1 Permit requirement

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

43.01-8 Decision guidelines

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

- The Municipal Planning Strategy and the Planning Policy Framework.
- The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.
- Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.
- Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.
- Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.
- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.

Schedule 34 to the HO - Dimboola Town Centre Heritage Precinct

- External paint controls apply

Particular Provisions:

Clause 52.05 Signs

52.05-11 Category 1 – Commercial areas

Minimum limitation

Section 1 - Permit not required

A Promotion sign is a Section 1 sign – no permit required - provided the total display area of all signs to each premises does not exceed 8 sqm.

Note:

Direction signs and Business identification signs are also Section 1 signs – no permit required - if the total display area of all signs to each premises does not exceed 8sqm.

Internally illuminated signs are also Section 1 signs - no permit required – if the conditions listed below are met:

- The total display area to each premises must not exceed 1.5 sqm.
- No part of the sign may be above a verandah or, if no verandah, more than 3.7 m above pavement level.
- The sign must be more than 30 m from a residential zone or pedestrian or traffic lights.

Comments:

The large 'Dimboola' sign on the roof of the front pergola structure fronting Lloyd Street is regarded as a Promotion sign as it promotes the town of Dimboola. The dimensions of this promotion sign have not been detailed on the plans, but it appears to not require a planning permit provided the area is less than 8sqm as it is the only sign proposed. A condition is required to confirm the dimensions and materials and colours of this sign.

Clause 52.06 – Car Parking

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

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

Table 1: Car parking requirement

- Place of Assembly – 0.3 car spaces to each patron permitted
- Art & Craft Centre – 4 car spaces to each 100 sqm of net floor area.
- Art Gallery – No set rate.
- Cinema – No set rate.
- Exhibition Centre – No set rate.
- Market – 8 car spaces to each 100 sqm of site area

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

Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme, before a new use commences, car parking spaces must be provided to the satisfaction of the responsible authority.

Comments:

Although the overall use is a Place of Assembly, the more specific uses under this broader definition have different car parking rates or no set rate under Clause 52.06-5.

As such, the car parking has been assessed under Clause 52.06-6.

General Provisions

Clause 65 - Decision Guidelines, states that:

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

Discussion:

Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

The proposal will facilitate the use and development of an underutilised parcel of land within the commercial area of Dimboola for a community-based space under the ‘Pick My Project’ funding program. The various cultural and art activities to occur under the broader use as a Place of Assembly will reactivate this part of Dimboola and encourage cultural diversity, tourism and economic development opportunities.

The proposal generally complies with the relevant decision guidelines of the PPF and LPPF, with conditions required for heritage colours, the dimensions, materials and colours of the promotion sign, the plant species for the landscaping and a stormwater run-off design to ensure the proposal is appropriate within this commercial heritage area of Dimboola.

Commercial 1 Zone

The proposed uses will have a positive impact on the adjoining commercial uses and will be adequately separated by the adjoining allotments from the adjacent residential areas to minimise any potential noise and amenity impacts. The design and layout of the kiosk building and the steel framed pergolas with timber batten screening that are sited within the lot boundaries will enhance the appearance of the site within the streetscape and activate the street frontages. The development will allow for pedestrian access and safety with the provision of direction signs and suitable lighting. The proposed pergola structures will allow solar access and shading. The proposed boundary fencing at the rear of the site is appropriate.

The retention of two (2) existing trees and the provision of new landscaping will improve the presentation of the site to the street frontages. A condition is required for specific details of appropriate plant species to be provided on the landscaping plan. There is no vehicle access needed or proposed to the site from Lloyd Street and Lochiel Street which is acceptable in this instance given the nature of the uses and activities and the availability of car parking and public transport adjacent to the site.

The proposal is consistent with the purpose and decision guidelines of the Commercial 1 Zone.

Heritage Overlay Schedule 34

The Dimboola Town Centre Heritage Precinct does have a specific heritage citation dating back from when the existing Heritage Overlay and Schedules were translated into the new format Hindmarsh Planning Scheme on 6 January 2000.

The heritage significance of the Dimboola Town Centre Heritage Precinct has recently been assessed in a Heritage Assessment and external painting guidelines by David Helms dated 29 June 2019, which has not been adopted by Council. In this heritage assessment of the Dimboola Town Centre, its historical significance, representativeness and aesthetic significance have been identified. The following comments are noted:

- *The Dimboola Town Centre is historically significant for evidence of the development of Dimboola into an important commercial and civic centre in the Wimmera region from the late nineteenth century.*
- *The Dimboola Town Centre is a representative example of a typical country town civic and commercial centre.*
- *The Dimboola Town Centre has aesthetic significance for the consistency and integrity of the streetscapes, which comprise commercial buildings of related scale and form, many with original or typical post-supported verandahs or suspended awnings. Interspersed among these buildings are some impressive civic and commercial buildings including the Post Office, former Court House, former Shire Hall, which are local landmarks and add to the distinctive historic character. The mature Fig and Pepper trees in Lochiel Street are landmarks due to their size and frame the view toward the Wimmera River.*
- *The HO34 Dimboola Town Centre Precinct is of local historic and aesthetic significance to Hindmarsh Shire.*

The Dimboola Town Centre Precinct Statement of Significance of the Heritage Assessment identifies the site (Dimboola Hotel site) as '*Non-contributory*' to the precinct.

This is reflective of the fact that the former Dimboola Hotel has been demolished and the site is vacant.

External Painting Guidelines of the Heritage Assessment notes that '*These guidelines are intended to encourage and support the conservation of the historic character of the Dimboola Town Centre heritage precinct*' and '*The purpose of the Guidelines is to provide assistance to both Council and property owners or occupiers with choosing appropriate colour schemes for historic buildings within the Dimboola Town Centre*'.

The proposal complies with the relevant decision guidelines of the HO for the following reasons:

- The proposal will not affect the significance of the heritage place and will not adversely affect the natural or cultural significance of the place.
- The site is Non-contributory according to the Statement of Significance attached to the Heritage Assessment for HO34.
- The location, bulk, form or appearance of the proposed buildings will not adversely affect the significance of the heritage place, subject to details of colours.
- The location, bulk, form and appearance of the proposed buildings will respect the character and appearance of adjacent buildings and the heritage place, subject to

details of colours.

- The proposed works will not adversely affect the significance, character or appearance of the heritage place.

A condition is required to ensure the colours of the proposed buildings and supporting structures are consistent with the Heritage Colour Chart in the Heritage Colour Guidelines for the HO34 heritage precinct – see Attachment.

Clause 52.06 Car Parking

Although there is no car parking proposed on site, there is ample on-street car parking in front of the site and within walking distance to the site to accommodate any likely car parking demand generated by the proposal. There are likely to be multi-purpose trips within the locality which would be combined with a trip to the site. There will also be a variation in car parking demand for the proposed uses depending on the time of day and the day of the week. The majority of car parking demand will be short stay and some long stay for the operators of the businesses. There are public transport buses available in the locality and convenient pedestrian and cyclist access to the site. The proposal warrants a reliance on on-street parking to be approved.

The proposal is therefore to the satisfaction of Council in accordance with Clause 52.06-6.

Clause 65 Decision Guidelines

The proposal is supportive of and complies with the Planning Policy Framework, having regard to the positive impacts the proposal will have to the redevelopment of this vacant commercial site and will enhance the economic development of the township of Dimboola.

The proposal will not adversely impact on the amenity of the area and will enable the orderly planning of the area. The proposal will not adversely impact on adjacent public land. The proposed development will be required to be designed to maintain or improve the quality of stormwater within and exiting the site. There are no loading and unloading facilities on the site, but any such facilities can be accommodated on the street frontages and there are unlikely to be any associated amenity, traffic flow and road safety impacts.

The application complies with the relevant decision guidelines of Clause 65.

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

Report to Council:

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

Processing Times:

The application was received on 8 July 2019.

The application was amended on 11 December 2019 pursuant to Section 50 of the *Planning and Environment Act 1987*.

Notification instructions were given on 06 January 2020 with the following required:

Letters to adjoining owners and occupiers, two public notices on the land and a notice in the Dimboola Banner on 15 January 2020.

The statutory declaration for the public notice was received on 22 January 2020.

One objection was received on 22 January 2020.
A telephone meeting was held with the objector on 11 February 2020.
The one (1) objection was withdrawn in writing on 11 February 2020.

The report is being presented to Council at its meeting on the 04 March 2020.

Total: 68 Statutory Days.

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

Conflict of Interest:

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services_
In providing this advice as the Officer Responsible, I have no disclosable interests to disclose.

Author: Bernadine Pringle, Consultant Town Planner, on behalf of Janette Fritsch, Manager Strategic Assets and Planning.
In providing this advice as the Author, I have no interests to disclose.

RECOMMENDATION:

That Council approves planning application PA1633-2019 for Use and development for a Place of Assembly including Art Gallery Cinema and Market at 116-120 Lloyd Street Dimboola VIC, subject to the following conditions:

Amended Plans

1. Before the construction for the development and use commences, 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 form part of the permit. Three copies must be provided. The plans must be generally in accordance with the amended plans dated 10 December 2019 but modified to show:

- a) The colour of all buildings and structures, which must be consistent with the Heritage Colour Chart in the draft HO34 Dimboola Town Centre Heritage Assessment, unless otherwise approved by the Responsible Authority.***
- b) The dimensions and the materials and colours of the 'Dimboola' promotion sign on the roof of the pergola structure adjacent to Lloyd Street.***
- c) The dimensions of all other buildings and structures including the Kiosk building.***
- d) A list of plant species on the Landscaping Plan.***
- e) A Stormwater run-off plan for the proposed development.***

Stage 2 of Development

2. Before the commencement of Stage 2 of the development approved by this permit, amended plans showing the design details including dimensions, materials, finishes and colours of the proposed feature tower must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. Three copies must be provided.

Endorsed Plans

3. The use and development as shown on the endorsed plan 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.

Amenity

- 4. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:**
- a) transport of materials, goods or commodities to or from the land.**
 - b) appearance of any building, works or materials.**
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.**
 - d) presence of vermin.**
 - e) others as appropriate.**
- 5. The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.**

Storm water

- 6. Storm water drainage from the approved development must be designed appropriately to be diverted to the legal point of discharge and/or contained on site to the satisfaction of Responsible Authority.**

Time Limit

- 7. This permit will expire if the development and use is not started within two years of the date of this permit and if the development is not completed within four years of the date of this permit.**

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- a) within six months of the expiry date, where the use allowed by the permit has not yet started; and**
- b) within 12 months of the permit expiry date, where the use has lawfully started before the permit expires.**

Notes:

Planning

The 'Dimboola' promotion sign must not exceed 8sqm or the total area of all signs must not exceed 8sqm to not require a planning permit. Further planning approval is required for any signs that are not exempt from requiring a planning permit under the relevant clauses of the Hindmarsh Planning Scheme.

Building

A building permit is required for the kiosk building, pergolas and other supporting structures.

Attachment: 12 & 13

-
- 12.3 APPLICATION FOR PLANNING PERMIT PA1651-2019 – USE AND DEVELOPMENT OF LAND (INCLUDING BUILDINGS AND WORKS) FOR THE CONSTRUCTION OF A DWELLING WITHIN 100m OF A ROAD ZONE CATEGORY 1 ON LOT 1 PS638849B, NHILL-NETHERBY ROAD, NHILL**

Responsible Officer:	Director Infrastructure Services
File:	Planning – Applications
Assessment:	200441
Applicant:	Southern Cross Town Planning Pty Ltd
Owner:	Golden Grange Super Fund Pty Ltd
Subject Land:	Lot 1 (PS638849B) Nhill-Netherby Road, Nhill
Proposal:	To use and develop land (including buildings and works) for the construction of a dwelling within 100m of a road Zone Category 1.
Zoning & Overlays:	Farming Zone (FZ) (Adjacent Land) Road Zone Category 1 (RDZ1)
Attachment:	14

Summary:

This report recommends that Council approve planning permit PA1651-2019 for the use and development of land (including buildings and works) for the construction of a dwelling within 100m of a Road Zone Category 1 on land located at Nhill-Netherby Road, Nhill.

Background:

The proposal seeks a permit to use and develop land (including buildings and works) to construct a dwelling on land 6.15 ha in area. The land is currently occupied by two sheds, used for the intensive raising of ducks for commercial purposes as part of the “Luv-a-Duck” franchise.

Proposal Details:

The proposal is for the construction of a small, single storey two-bedroom dwelling on the subject site. The dwelling will be of a contemporary design, with two bedrooms and attached carport. External materials will be Colourbond and limestone cladding, with aluminium windows and a metal roof. The building will measure 24 metres by 9.9 metres. The dwelling will be located towards the north-western corner of the site, 70 metres from the Nhill-Netherby road frontage, and 22 metres from the northern boundary. The existing internal road will be extended to provide access to the dwelling. No vegetation is proposed to be removed as part of this proposal.

No access is proposed to Nhill-Netherby Road. There is an existing informal access point to Bywater’s Road which will need to be upgraded to facilitate access to the proposed dwelling. The current access point is approximately 75 metres from the corner of Nhill-Netherby Road and Bywater’s Road.

The property has no access to reticulated sewer or water therefore a waste system and greywater management system will need to be installed to treat the wastewater from the dwelling. The applicants have submitted a farm management plan in support of this application, showing the dwelling has a legitimate connection to the ongoing use of the land for commercial duck farming.

Requirement for Permit:

A Planning permit is triggered for this application pursuant to the following provisions of the Hindmarsh Planning Scheme;

- Clause 35.07 – Farming Zone - Use and development of land (including buildings and works) for the construction of a dwelling.

As the dwelling is proposed on a lot under 40 hectares as specified within the scheme, the proposal is classified as a Section 2 use under the provisions of the Farming Zone.

- Clause 35.07 – Farming Zone – Schedule – Minimum setback from a road in Road Zone Category 1 – 100 metres.

Definitions:

The proposal is for a dwelling, defined as “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 closet pan and wash basin.

It includes out-buildings and works normal to a dwelling”.

Restrictive Covenant or Section 173 Agreement:

The subject site is subject to a Section 173 Agreement (AH610567L. This agreement was entered into as a condition of Planning Permit PA1248/2010 for a two lot subdivision. The agreement stipulates that the land cannot be further subdivided to create a smaller lot for an existing dwelling.

The requirements of this Section 173 Agreement do not preclude the issue of a permit for the use and development of a dwelling on the lot.

Cultural Heritage Management Plan (CHMP):

The proposal is exempt from requiring a CHMP pursuant to the Aboriginal Heritage Regulations 2007, as the proposal is not within land affected by the Aboriginal Cultural Heritage Overlay.

Subject site & locality:

The subject site is located on the eastern side of the Nhill-Netherby Road, on the corner of Bywater’s Road, approximately 6km north of the Nhill township. The site is irregular in shape and has an area of 6.15ha. The site is 170 metres deep and 364 metres wide on its longest boundary. The site was subdivided from a parent farming lot to the north which is 176.3ha in area.

The site is currently occupied by two sheds. The larger shed (constructed in 2010) is used for the intensive raising of ducks for commercial purposes as part of the “Luv a Duck” franchise. This shed measures 108 metres by 20 metres and can hold up to 16,000 at a time. There is also a 10 metre by 15 metre machinery and storage shed.

The proposal does not impact on any existing native vegetation and no native vegetation is proposed to be removed.

s52 Notice of application

- (3) *Unless the Responsible Authority requires the applicant to give notice, the Responsible Authority must give notice of an application in a prescribed form—*
- (c) *to the owners (except persons entitled to be registered under the **Transfer of Land Act 1958** as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the Responsible Authority is satisfied that the grant of the permit would not cause material detriment to any person.*

Notification was given to adjoining landowners, with no objections raised to the proposal.

Referrals:

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals: VicRoads: VicRoads supports the proposal with no conditions to be applied.

Section 52 Notices: Adjoining Landowners – No objections have been received.

Internal Referrals:

- Engineering: Conditions to be applied.
- Environmental Health: Any septic tank is to be installed on site in accordance with Code of Practice: EPA Code of Practice Onsite Wastewater Management.

Planning Assessment:

Planning Scheme Requirements:

Planning Policy Framework:

Clause 11 - Settlement

Clause 11.01 - Victoria

Clause 11.01-1R - Settlement - Wimmera Southern Mallee

Clause 13.02 – Bushfire

Clause 14.01 - Agriculture

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 (PDF 790.7 KB)

Clause 14.02-2S - Water quality

Clause 17.01-1R - Diversified economy - Wimmera Southern Mallee

Local Planning Policy Framework:

Clause 21.01 - Municipal Profile

Clause 21.03 – Objectives – Strategies - Implementation

Zoning Provisions:

Clause 35.07 – Farming Zone (FZ)

Particular Provisions:

Clause 52.29 – Land Adjacent to a Road Zone Category 1, or a Public Acquisition Overlay for a Category 1 Road

General Provisions:

Clause 65 - Decision Guidelines, states that:

“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”.

The decision guidelines relevant to this application are outlined within Clause 65.01 of the Hindmarsh Planning Scheme – Approval of an application or plan.

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

- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy.*
- *Framework, including the Municipal Strategic Statement and local planning policies.*
- *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.*
- *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.*

This clause does not apply to a VicSmart application.

It is considered that the application complies with the relevant decision guidelines as outlined. The proposal is supportive of, and complies with the Planning Policy Framework, having regard to the benefit the proposal will cause regarding appropriate use of land for agriculture.

Discussion:

The application has been assessed against the State Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF), and it is considered that the proposed use is consistent with relevant policies contained within this section of the Hindmarsh Planning Scheme.

Clause 35.07 – Farming Zone states that before deciding on an application, in addition to the decision guidelines in Clause 65 the Responsible Authority must consider, as appropriate (as outlined in detail within the Planning Scheme):

Decision Guidelines:

General:

1. *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

The development and proposed use of this property is in keeping with the planning scheme, and is supported by state policy. There is an existing agricultural use of the site which will be maintained as a result of approval of this dwelling. The application has been submitted with a supporting Farm Management Plan.

2. *Any Regional Catchment Strategy and associated plan applying to the land.*

The proposal will not compromise the quality of the water catchment from the allotment as the dwelling and wastewater disposal is over 60m from the closest waterways and dams.

3. *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*

The location of the development and effluent disposal is on a level section of the property with good drainage, therefore a septic system will perform satisfactorily on this site with low risk to the environment. Storm water will be collected to be used on site. Diversion drains will be installed to divert any excess storm water, and a condition will be applied requiring compliance with the EPA's Code of Practice for Septic Tanks.

4. *How the use or development relates to sustainable land management.*

The design of the farm has taken into consideration the size of the allotment, which is quite small in farming terms. The dwelling is modest in size and is located towards the corner of the site so as not to impact on the existing commercial duck farming operation. A Farm Management Plan (FMP) has been submitted in support of the application justifying the construction of a dwelling in respect to the existing farming operation.

The existing contract for the Duck Farm has been extended for a further 5 years based on its success thus far, with the contract contingent on the construction of a farm manager's residence to ensure all terms of the contract can be complied with in respect of the supervision of the farm operations.

5. *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*

The surrounding farming zone allotments contain variously sized freehold farms with grazing or crop production. The proposed development and use is in keeping with the adjoining and nearby land uses as the existing use of the land is to be maintained in addition to the proposed dwelling.

6. *How the use and development makes use of existing infrastructure and services.*

The proposed dwelling will be designed to utilize the existing dam on the site for storm water management and drainage purposes. The existing vehicle access point is to be formalized to cater for access to the dwelling, and it will also use existing driveways.

Agricultural:

1. *Whether the use or development will support and enhance agricultural production.*

The dwelling will enhance agricultural production on the land by more efficiently managing ducks on the site. The establishment of the dwelling on the site will satisfy a condition of the contract extension with the franchisee "Luv a Duck" which now requires ongoing supervision of the ducks from a farm manager on site. This will lead to an expansion of the current agricultural production on the site, with more duck sheds planned in the near future.

2. *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*

A septic system will perform satisfactorily on this site with low risk to the environment and will not interfere with the ongoing commercial duck farming operation.

3. *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*

This property is not adjacent to any large scale farms which may be seeking to expand.

4. *The capacity of the site to sustain the agricultural use.*

The existing farming operation on the site has been very successful for the operator, and there is room for production expansion on the farm, with the possibility of up to four duck sheds, subject to further Council approval. The establishment of the dwelling on the site will not inhibit the future expansion of the duck farm; with the potential future sheds able to be located on the site in addition to the proposed dwelling.

5. *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*

The soil quality is good and is able to sustain the proposed use of a dwelling and associated effluent area. The water for the ducks and the misting system for cooling in the summer is supplied from a bore connected to a 90,000 litre storage tank. The property is set up with twin pressure pumps and fogger pumps to provide backup systems in the event of a pump failure. The duck shed is fitted with a misting system to cool the ducks in hot weather and gas heating for winter. Three-phase power is supplied to the property from the mains supply and supported by a backup generator. Water will be available to the dwelling from tanks and the existing dam.

6. *Any integrated land management plan prepared for the site.*

A Land Capability Report has been submitted with the application even though this is not required as part of the application.

Dwelling:

1. *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*

The dwelling will not affect the functionality of the farm and has been placed in the north western corner of the site in an area which is separated from the ongoing farming operations by planted vegetation, creating a "domestic envelope area" for the location of the dwelling. The majority of the site is still available for the ongoing commercial duck farming operation.

2. *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odor, use of chemicals and farm machinery, traffic and hours of operation.*

The dwelling has sufficient set back and distance from the farming operation on the site and therefore is unlikely to be negatively impacted.

3. *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*

This property is not adjacent to any large scale farms which may be seeking to expand.

4. *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.*

This property is in keeping with the area. The proposal will not lead to any further development in the area as the zoning would prohibit further subdivision or development.

Environmental:

1. *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*

The proposed area for the dwelling is a relatively flat area covered by pasture. The construction of the dwelling will not adversely affect the physical features of the land or its flora and fauna. The soil and water quality will not be affected by the construction of the dwelling as the proposed septic system will process the effluent before it is released into the soil. It has also been sited clear of the man-made informal drainage line on the site.

2. *The impact of the use or development on the flora and fauna on the site and its surrounds.*

The proposed site for the dwelling doesn't contain any flora or fauna of note. Areas of native vegetation and animal habitats will not be affected by the proposed dwelling.

3. *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.*

All existing vegetation on the property is to be retained. All farming practices are currently in keeping with the natural environment as much as is possible.

4. *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

The proposed septic system will be located to the south of the dwelling and will process wastewater on site, ensuring minimum impact on waterways and the surrounding environment.

Design and siting:

1. *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*

There is no loss of productive land besides the footprint of the dwelling. The area where the dwelling is located is surrounded by planted vegetation, thus separating it from the farming operations being undertaken on the site.

2. *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*

The proposed development will not affect the natural environment, major roads or water features. The design of the house is in keeping with the rural environment. The materials

used will not impact the natural environment, its flora, fauna or waterways.

3. *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*

Not applicable.

4. *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*

The property will be accessed via Bywater's Road by formalizing the existing access. This is an unsealed road located to the south of the proposed dwelling. There is access to reticulated water, telecommunications and electricity on the site. Gas and sewerage are unavailable.

5. *Whether the use and development will require traffic management measures.*

Not applicable.

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and Councils Local Planning Policies.

Report to Council:

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

Processing Times:

The application was received on 13 December 2019. The report is being presented to Council at its meeting on the 04 March 2020 (45 statutory days). The statutory processing time requirements of *The Planning and Environment Act 1987* have been satisfied in this instance.

Conflict of Interest:

Under section 80C of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible: Angela Hoy, Director Infrastructure Services.

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

Author: Stephen O'Brien, Consultant Town Planner, on behalf of Janette Fritsch, Manager of Strategic Assets & Planning.

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

RECOMMENDATION:

That Council approves planning application PA1651-2019 for the use and development of land (including buildings and works) for the construction of a dwelling within 100m of a road Zone Category 1 on Lot 1 PS638849B, Nhill-Netherby road, Nhill, subject to the following conditions:

Endorsed Plans:

1. ***The location and design of the 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.

Amenity:

2. The construction of the dwelling must be managed so that the amenity of the area is not detrimentally affected through the:

- (a) Transport of materials, goods or commodities to or from the land;***
- (b) Appearance of any buildings, works or materials;***
- (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;***
- (d) Presence of vermin; or***
- (e) In any other way.***

3. The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.

4. All loading and unloading of vehicles and delivery of goods to and from the premises must occur on site.

General:

5. The dwelling must be connected to a potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.

Environmental Health:

6. The wastewater from the dwelling must be connected to an approved septic system and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.

7. Animal wastes on the property must be treated or dispersed in such a manner to ensure that:

- (a) Offensive odors are reduced to a minimum; and***
- (b) The wastes are not a nuisance as described in the Publish Health and Well Being Act 2008 and are contained within the boundaries of the site to the satisfaction of the Responsible Authority.***

Engineering:

8. Prior to the commencement of construction of the dwelling, the applicant shall at their cost:

- a) Engage a suitably qualified contractor to construct a crossover in accordance with the Infrastructure Design Manual Standard Drawing 255. A Consent to Works permit must be obtained from Council before commencement of works.***
- b) Upgrade the un-named road heading south to Nhill Netherby Road to a 5R all-weather standard to the satisfaction of the Responsible Authority. The road must be upgraded for a length of approximately 200 metres when measured from the intersection of Nhill-Netherby Road to Bywaters Road. A Consent for Works permit must be obtained from Council and a Memorandum of Authorisation obtained from Regional Roads Victoria prior to the works being carried out.***

Permit Lapse/Extension:

9. The development approved by this permit will expire if one of the following circumstances applies:

- (a) Construction is not commenced within two years of the date of this permit.**
- (b) Construction is not completed within four years of the date of this permit.**

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- (a) Within six months afterwards for commencement, or**
- (b) Within twelve months afterwards for completion.**

Notes:

- 1. This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained.**
- 2. While the current gate entrance is setback a sufficient distance for cars, should the applicant wish to use this access for trucks they should consider setting the gate back to a sufficient distance.**
- 3. A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval is subject.**

Attachment: 14

13. OTHER BUSINESS

14. CONFIDENTIAL REPORTS

In accordance with Section 89 (2) of the *Local Government Act 1989*, Council may close the meeting to the public if items to be discussed are deemed confidential, that is, if the items to be discussed relate to:

- a) Personnel matters;
- b) The personal hardship of any resident or ratepayer;
- c) Industrial matters;
- d) Contractual matters;
- e) Proposed developments;
- f) Legal advice;
- g) Matters affecting the security of Council property;
- h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person;
- (i) a resolution to close the meeting to members of the public.

RECOMMENDATION:

That the meeting be closed in accordance with Section 89 of the Local Government Act 1989, to consider:

- 14.1 Hindmarsh Shire Council Business Assistance Grants Program 2019 – 2020 Round 2**
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RECOMMENDATION:

That Council resumes in open session, releasing the details of items 14.1 as deemed appropriate by the CEO.

15. MEETING CLOSE
