



12 August 2020

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 on Wednesday 19 August 2020 commencing at **3:00pm**.



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. **Correspondence**

7. **Assembly of Councillors**

7.1 Record of Assembly

8. **Planning Permit Reports**

8.1 Application for Planning Permit PA1673-2020 – Two Lot Subdivision in a Farming Zone at 200 E Judds Road, Yanac VIC 3418

- 8.2 Application for Planning Permit PA1671-2020 – Use for a Place of Assembly (Silos Viewing Area, Car Park and Access Track) – Albacutya Road Rainbow VIC 3424 (Crown Allotment 3M, Parish of Albacutya)

**9. Reports Requiring a Decision**

- 9.1 Governance Rules  
9.2 Draft Public Transparency Policy  
9.3 Councillor Expense Entitlements Policy  
9.4 Conflict of Interest Policy  
9.5 Section 86 Committee Transition  
9.6 Delegations  
9.7 Financial Report for the Period Ending 30 June 2020  
9.8 Domestic Animal Management Plan 2017-2021 Annual Review  
9.9 Planning Policy Framework Translation

**10. Special Committees**

- 10.1 COVID-19 Revitalization Reference Group Minutes

**11. Late Reports**

**12. Urgent Business**

**13. Confidential Matters**

- 13.1 Hardship Application  
13.2 Contract No. 2020-2021-01 – Panel for the Provision of Town Planning and Associated Services  
13.3 Chief Executive Officer Appraisal 2019/20

**14. Meeting Closed**

**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 15 July 2020 at the Nhill Memorial Community Centre, 77-79 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

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

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

## 6. CORRESPONDENCE

### 6.1 GENERAL CORRESPONDENCE

**Responsible Officer:** Chief Executive Officer  
**Attachment Numbers:** 2 & 3

#### **Introduction:**

The following correspondence is tabled for noting by Council

#### **Inwards:**

- 30/07/2020 – Letter received from Dr Anne Webster Re: Letter to The Hon Alan Tudge
- 06/08/2020 – Letter received from the Hon Ben Morton MP on behalf of the Prime Minister Scott Morrison Re: Australian Government's Stimulus Packages
- 07/08/2020 – Letter received from Emma Kealy Re: Medical and Immigration Examination Testing
- 10/08/2020 – Letter to The Hon David Coleman MP from West Wimmera Health Service Re: Medical and Immigration Examination Testing in Victoria's Wimmera Region
- 10/08/2020 – Letter to Dr Anne Webster from West Wimmera Health Service Re: Medical and Immigration Examination Testing in Victoria's Wimmera Region

#### **Outwards:**

- 28/07/2020 – Letter to Wimmera Health Care Group Re: Medical and Immigration Examinations in Wimmera
- 28/07/2020 – Letter to Wimmera Development Association Re: Medical and Immigration Examinations in Wimmera
- 28/07/2020 – Letter to West Wimmera Health Service Re: Medical and Immigration Examinations in Wimmera
- 28/07/2020 – Letter to Nhill Neighbourhood House Re: Medical and Immigration Examinations in Wimmera
- 28/07/2020 – Letter to Luv-A-Duck Re: Medical and Immigration Examinations in

Wimmera

- 28/07/2020 – Letter to The Hon David Coleman MP Re: Medical and Immigration Examinations in Wimmera
- 28/07/2020 – Letter to Dr Anne Webster MP Re: Medical and Immigration Examinations in Wimmera
- 28/07/2020 – Letter to Emma Kealy Re: Medical and Immigration Examinations in Wimmera
- 28/07/2020 – Letter of congratulations to the Wimmera Mail-Times

**RECOMMENDATION:**

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

*Attachments: 2 & 3*

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**7. ASSEMBLY OF COUNCILLORS**

**Responsible Officer:** Chief Executive Officer

**Attachment Number:** 4

**Introduction:**

The attached Assembly of Councillors Record is 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.

**RECOMMENDATION:**

***That Council accepts the Assembly of Councillors Record as presented.***

*Attachment: 4*

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**8. PLANNING PERMITS**

**8.1 APPLICATION FOR PLANNING PERMIT PA1673-2020 – TWO LOT SUBDIVISION IN A FARMING ZONE AT 200 E JUDDS ROAD, YANAC VIC 3418**

<b>Responsible Officer:</b>	Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	163600
<b>Applicant:</b>	Chris Jarred
<b>Owner:</b>	Jarred Pty Ltd
<b>Subject Land:</b>	Lots 1 and 2 on Title Plan 005119K, 200 E Judds Rd Yanac
<b>Proposal:</b>	2 lot subdivision in the Farming Zone
<b>Zoning &amp; Overlays:</b>	Farming Zone (FZ) No Overlays.
<b>Attachment Number:</b>	5 - Plan of Proposed Subdivision and aerial

**Summary:**

This report recommends that Council approve planning application PA1673-2020 to allow for a two lot subdivision at Lots 1 and 2 on Title Plan 005119K, 200 E Judds Road, Yanac, VIC 3418.

**Background:**

Planning permit application PA1673-2020 was lodged with Council on 24 July 2020 with payment made on 03 August 2020. The application was assessed on its Town Planning and Engineering merits and no further information was required from the applicant.

**Proposal Details:**

The application proposes a 2 lot subdivision of the land in order to excise the dwelling and sheds from the farmland.

Proposed Lot 1 has an area of 4.77ha and will contain the existing dwelling and sheds. Access to proposed Lot 1 will be taken from the existing crossover to E Judds Road to the south.

Proposed Lot 2 has an area of 124.7ha and will contain farmland used for cropping. A condition will be applied to the permit that access to proposed Lot 2 is to be taken from the all-weather road being E Judds Road to the south.

The applicant has advised that the proposed subdivision does not propose any new development and no vegetation will be removed to facilitate the proposed subdivision. All of the proposed lots will be serviced by existing infrastructure and utilities.

**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. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation

**Definitions:**

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

The term ‘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:**

The proposal is exempt from requiring a Cultural Heritage Management Plan 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 comprises Lots 1 and 2 on TP5119K also known as 200 E Judds Road, Yanac. The site has a total area of 129.47ha and is rectangular in shape with east and west boundaries each 2,011.60 metres and north and south boundaries each being 643.70 metres.

Lot 1 on TP5119K has an area of approximately 64.74ha and contains farmland used for cropping. Access to Lot 1/TP5119K is via K Judds Road to the north. Lot 1/TP5119K contains a small amount of scattered remnant native vegetation most of which is near the northern boundary.

Lot 2 on TP5119K has an area of approximately 64.74ha and contains farmland used for cropping as well as a dwelling and sheds. Access to Lot 2/TP5119K is taken from a crossover to E Judds Road to the south. Lot2/TP5119K contains a small amount of scattered remnant native vegetation most of which is surrounding the dwelling and sheds

The site abuts farmland zoned to the east and west, K Judds Road to the north and E Judds Road to the south. The area surrounding the site comprises land in the Farming Zone used for cropping interspersed with dwellings and farm sheds across each lot. The township of Yanac is located approximately 5.17km south of the subject site.

**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 proposes a 2-lot subdivision of the land in order to excise the dwelling and sheds from the farmland and will not cause material detriment to any person or result in an unacceptable planning outcome. As such, the application was not advertised.

**Referrals:**

External Referrals/Notices Required by the Planning Scheme:

Section 66.01 Referrals: Not required. As a two-lot subdivision, the application is exempt from being referred to Referral Authorities.

Section 52 Notices: Not required.

Internal Referrals:

- Engineering: No objection, subject to one condition relating to access.
- 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

### **Local Planning Policy Framework**

Clause 21 - Municipal Strategic Statement

### **Zoning Provisions**

Clause 35.07 – Farming Zone

### **Overlay Provisions**

None

### **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 65.02 of the Hindmarsh Planning Scheme – Approval of an application to Subdivide Land.

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

- 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.

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 (and future use) of the 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.

Whilst Lot 1 creates a lot size less than 40ha, the requirements of Clause 35.07-3 have been met, in that:-

*a permit may be granted to create smaller lots if any of the following apply:*

- *The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision;*
- *The subdivision is the re-subdivision of existing lots and the number of lots is not increased.*

The applicant has justified the reasoning of the subdivision by:

*The proposed 2-lot subdivision will excise the existing dwelling sheds from the farmland. The dwelling and sheds on proposed Lot 1 are considered surplus to the needs of the farming operation on proposed Lot 2.*

It is considered that the application is consistent with relevant Decision Guidelines of the Farming Zone, in particular, it provides for the ongoing use of the land for agriculture.

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):

**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. The site can accommodate the proposed subdivision having regard to the size of the land, the layout of the proposed subdivision boundaries and the ability of the land to continue to be used for agriculture. The proposal will not impact on other forms of agriculture activities 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 will not have any impact on the agricultural capability of the land and does not limit the operation and expansion of adjoining and nearby agriculture uses. An integrated land management plan does not need to be prepared for the site.

**Environmental issues:**

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*

- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

**Planning Response:**

The proposal will not impact on the natural features of the site, or any adjoining sites. The proposal does not include the removal of any native vegetation. There will be no change to the physical features and resources of the area that would impact on soil and water quality.

**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 part of this application.

**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 Contracts and Development 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 24 July 2020. Payment was made on 3 August 2020. The report is being presented to Council at its meeting on the 19 August 2020 (16

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.

Co-Author: Stephen Michael O'Brien, Consultant Town Planner.

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

Co-Author: Janette Fritsch, Manager Contracts and Development.

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

**RECOMMENDATION:**

***That Council approves planning application PA1673-2020 to allow for a 2 lot subdivision at Lots 1 and 2 on Title Plan 005119K, 200 E Judds Road, Yanac VIC 3418 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 the Act.***

**Engineering - Access**

- 5. A new crossover is to be installed from E Judd's Rd to provide access to Lot 2. This crossover shall be constructed as per IDM-255 standard and at a***

***location and of a size to the satisfaction of the Responsible Authority. The vehicle crossing must be constructed at the applicant's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority. A Consent for Works within Road Reserve is required prior to construction.***

***6. This permit will expire if:***

- a. The plan of subdivision is not certified within three years of the date of this permit;***
- 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: 5***

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**8.2 APPLICATION FOR PLANNING PERMIT - PA1671-2020 – USE FOR A PLACE OF ASSEMBLY (SILOS VIEWING AREA, CAR PARK AND ACCESS TRACK) – ALBACUTYA ROAD RAINBOW VIC 3424 (CROWN ALLOTMENT 3M, PARISH OF ALBACUTYA)**

<b>Responsible Officer:</b>	Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	10602
<b>Applicant:</b>	Mr Jeff Woodward, Hindmarsh Shire Council
<b>Owner:</b>	A & T Gould Holdings Pty Ltd
<b>Subject Land:</b>	Albacutya Road Rainbow VIC 3424 (Crown Allotment 3M, Parish of Albacutya)
<b>Proposal:</b>	Use for a Place of Assembly (Silos viewing area, car park and access track)
<b>Zoning &amp; Overlays:</b>	Farming Zone (FZ) No Overlays
<b>Attachment Number:</b>	6 – General Site Layout

**Summary:**

This report recommends that Council approve Planning Permit PA1671-2020 for the 'Use for a Place of Assembly (Silos viewing area, car park and access track)' on the subject land known as Albacutya Road Rainbow VIC 3424 (Crown Allotment 3M, Parish of Albacutya).

**Background:**

The site has previously been used as a grain bunker, which is currently unused.

Discussions have recently been held with the applicant about the planning permit requirements for the proposed Silos viewing area and car park to be constructed on the site.

**Proposal Details:**

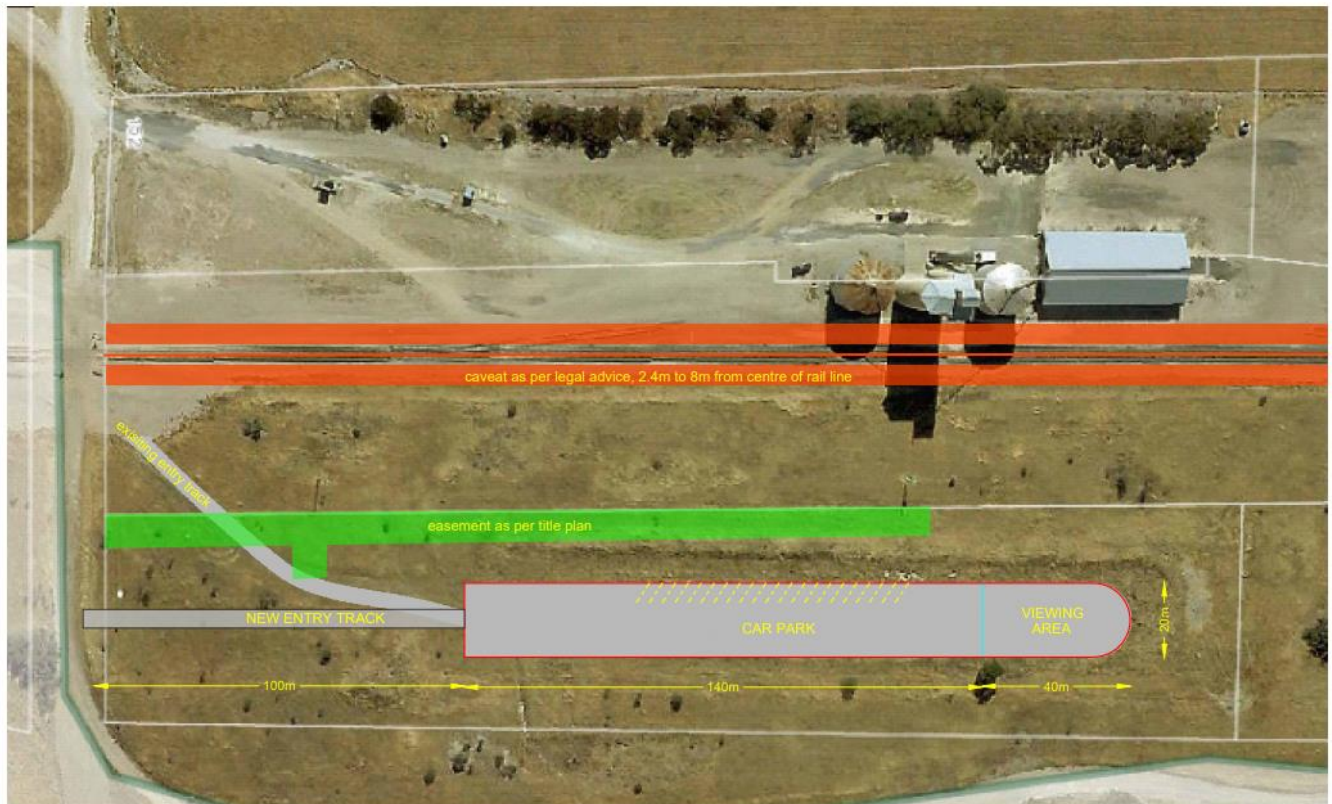
The proposal is for the Use for a Place of Assembly (Silos viewing area, car park and access track) on the site. The proposed use will enable visitors to the site to view the artwork to be painted on the Silos on the adjacent site as part of renowned 'Silos Art Trail' in the Region.

The site will be open 24 hours a day, but the proposed hours of operation to view the artwork will be during daylight hours. The viewing area and car park and the artwork on the adjacent Silos will not be illuminated. It is estimated that up to 20 people will be on site viewing the artwork on the adjacent Silos at any one time, with stays likely to average 20 minutes per visit. A minimum of six (6) car spaces will be provided on the site within the proposed car park. Access to the car park will be from a new entry point directly south of the site from Albacutya Road.

There are no toilet facilities proposed on site given there are toilet facilities within close driving distance at Lake Albacutya (5km) and Rainbow (10km). There will be signs and marketing material stating 'no toilet facilities at site' and direction signs to the closest toilet facilities.

The development part of the proposal for the construction of a viewing area, information signs and car park are exempt from a planning permit as discussed below.

Proposed site layout below:



**Requirement for Permit:**

A planning permit is required for the following:

- Use of the land for a Place of Assembly, which is a Section 2 Use (Permit required) pursuant to Clause 35.07-1 of the Farming Zone.

A planning permit is NOT required for the following:

- Buildings and works for this Section 2 Use under Clause 35.07-4 of the Farming Zone given that Clause 62.02-1 provides an exemption for:
  - Buildings or works with an estimated cost of \$1,000,000 or less carried out by or on behalf of a municipality.

**Definitions:**

Place of Assembly:

Land where people congregate for religious, spiritual or cultural activities, entertainment, or meetings.



**Restrictive Covenant or Section 173 Agreement:**

There is a Principal Agreement (Agreement) dated 4 October 1994 affecting the subject land being described as Crown Allotment 3M, Vol. 11843 / Fol. 857. The Agreement continues to apply to the Land as a consequence of the Deed of Novation that was entered into by the current owner A & T Gould Holdings Pty Ltd (Owner) following the purchase of the Land.

The subject site is burdened by a Restrictive Covenant AN855854M and an Easement AN855855K, which are the two Caveats on the title. The site is not affected by any Section 173 Agreement.

Council has obtained legal advice about the two Caveats on the title. The legal advice states that the works will not encroach within the 8.0m distance from the centreline of the track and that the Caveats place no limitations on the proposal.

The Covenant AN855854M restricts the owner to not use the land within 8.0 metres of the centreline of the adjacent rail track, other than for a purpose related to grain handling. In addition, the Owner must not make any improvement, alteration or addition:

- to any land between 2.4m and 8m from the centreline of a rail track;
- that will interfere with the operation of VicTrack solar panels; or
- that may obstruct or impede lines of sight at a grade crossing (noting that this only applies to a development over 1.2m).

The Easement AN855855K is generally 9.0m wide with an additional 9.0m width (18.0m wide in total) for a length of 9.0m, with a total length of 224.98m and extends along the western boundary.

It is noted that the site plan shows there are no works within the required distances from the centreline of the track. The applicant has also confirmed that the proposed viewing area, associated signs and car park will not exceed 1.2m above ground level.

The proposal is therefore consistent with the Restrictive Covenant as part of the Caveats on the title.

**Cultural Heritage Management Plan (CHMP):**

The north-west part of the subject land is affected by an Area of Aboriginal Cultural Heritage Sensitivity. The proposal is a high impact activity but is exempt from requiring a CHMP as the site has previously been significantly disturbed pursuant to the *Aboriginal Heritage Regulations 2018*.

**Subject site & locality:**

The subject site is located on the northern side of Albacutya Road, Rainbow. The site has an area of 1.912ha and contains an unused grain bunker and surrounding wire fences. There is currently an informal access track to the site from Albacutya Road to the south-west over the adjoining railway reserve.

The site adjoins the VicTrack rail reserve to the west which contains a single railway line. The existing Silos on which the artwork will be displayed are located to the west of the site on the western side of the VicTrack rail reserve. The adjoining land to the east is agricultural land which is situated within Yarriambiack Shire Council.

Site Photos below:

IMAGES OF EXISTING SITE CONDITION



Image 1: Western fence line (looking North)



Image 2: proposed viewing area



Image 3: bunker site looking South



Image 4: bunker site looking North

Aerial Photo below (POZI/VicMap):



## **Advertising**

### **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 not advertised as it was determined that the proposal would not cause material detriment to any person.

### **Referrals:**

External Referrals/Notices were not required by the Planning Scheme.

Internal Referrals were 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 11.03-6S Regional and local places

Clause 12.05-2S Landscapes

Clause 13.07-1S Land use compatibility

Clause 14.01-1S Protection of agricultural land

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 18.02-4S Car parking

Clause 19.02-4S Social and cultural infrastructure

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

#### **Local Planning Policy Framework**

Clause 21.01 Municipal Profile

Clause 21.02 Vision – Strategic Framework

Clause 21.03 Objectives – Strategies – Implementation

#### **Clause 21.03-2 Economic Development**

#### **Objective**

To support economic growth through both the retention and development of agricultural activities and through the development of new activities which are economically, environmentally and socially sustainable.

**Strategies** (relevant to application)

To encourage new and existing economic and industrial activity in the Shire.

To promote tourism throughout the Shire.

To attract both visitors and permanent residents to the Shire, to widen its economic base and increase employment opportunities.

Clause 21.03-3 Agriculture

Clause 21.03-4 Environment

Clause 22.02 Fire Protection

**Zoning Provisions**

**Clause 35.07 Farming Zone**

**35.07-1 Table of uses**

Section 2 – Permit required - Place of Assembly

**35.07-4 Buildings and works**

A permit is required to construct or carry out building or works associated with a use in Section 2 of Clause 35.07-1. However, Clause 62.02-1 provides an exemption to this permit trigger as discussed below.

**35.07-6 Decision Guidelines**

Before deciding on an application to use 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.
- Environmental issues.
- Design and siting issues.

**Particular Provisions**

**Clause 52.05 Signs**

**52.05-1 Application**

This clause applies to the development of land for signs.

Planning Response:

The development of signs on the viewing area to provide information about the artwork on the adjacent Silos is exempt from a planning permit as it is included in the exemption under Clause 62.02-1 for buildings and works under \$1M for a municipality.

**Clause 52.06 Car Parking**

**52.06-5 Number of carparking 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: Carparking requirement**

Place of Assembly – 0.3 car spaces to each patron permitted

Planning Response:

The estimated maximum of 20 people on site at any given time will generate a requirement for six (6) car spaces to be provided on the site.

The site plan submitted shows there is ample space within the proposed car park for at least 20 car spaces.

**General Provisions**

**Clause 62 General Exemptions**

**Clause 62.02 Buildings and Works**

**62.02-1 Buildings and works not requiring a permit**

Any requirement in this scheme relating to the construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone, does not apply to:

- Buildings or works with an estimated cost of \$1,000,000 or less carried out by or on behalf of a municipality.

**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:

- 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.
- 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 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.

Planning Response:

The proposal will comply with the relevant provisions of the Planning Policy Framework and Local Planning Policy Framework and the Farming Zone. The proposed use will not detract from the amenity of the area and will facilitate the orderly planning of the area. The proposed use will not affect the quality of the land and any stormwater from the viewing area and car park will be contained on site. There are unlikely to be any flood and erosion hazards and measures will be taken to minimise fire hazards. The new access point from Albacutya Road will provide direct vehicle access to the site and will not have any traffic flow and road safety impacts.

**Discussion:**

**Planning Policy Framework and the Local Planning Policy Framework**

The proposed Place of Assembly will comply with the Planning Policy Framework and Local Planning Policy Framework, particularly in regard to the relevant planning policies about encouraging tourism opportunities and economic development.

The provision of a viewing area, car park and new access track will encourage visitors to the area to see the artwork on the Albacutya Silos and to potentially visit other local attractions including Lake Albacutya.

The proposed use is consistent with relevant planning policies of the Hindmarsh Planning Scheme.

**Clause 35.07 Farming Zone**

The proposal has been assessed against the relevant decision guidelines of Clause 35.07-6 of the Farming Zone as detailed below:

General issues

- The proposal will comply with the Municipal Planning Strategy and the Planning Policy Framework as discussed above.
- The subject land can readily accommodate the proposed use and associated development. Given the existing grain bunker on the site is currently unused, the proposal will not affect sustainable land management.
- The site is suitable for the use and associated development and will be compatible with adjoining and nearby land uses.
- The proposal will utilise a new access point from Albacutya Road.

Agricultural issues

- The existing grain bunker is currently unused, so there will be no loss of agricultural productivity on the land.

- If the site is required to be reused as a grain bunker by the owner at some stage in the future, further negotiations with the owner will need to be done by Council.
- The proposal will not adversely impact upon the continued agricultural viability of the adjoining land.

#### Environmental issues

- The proposal will not adversely impact on the natural physical features and resources of the area.
- The proposal will not adversely impact on the flora and fauna on the surrounding land as no native vegetation is to be removed.
- The proposal will not adversely impact on the biodiversity of the area.

#### Design and siting issues

- The viewing area and car park will be in a central area on the site with a new access track constructed from the Council managed Albacutya Road to the south. The proposal will not have any adverse impacts on surrounding agricultural uses or cause any loss of productive agricultural land.
- The proposal will not have adverse impacts on the natural environment.
- The proposal will not affect the character and appearance of the area.
- The new vehicle access point from Albacutya Road will provide direct vehicle access to the car park on the site.
- The proposal will not require any traffic management measures.

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

#### **Clause 52.06 Car Parking**

The proposed car park will provide sufficient space for the minimum of six (6) car spaces required for the use based on a maximum of 20 patrons visiting the site. The site plan shows the ability to provide at least 20 car spaces, thus the site can realistically accommodate up to 66 patrons on the site if the popularity of this proposed tourist attraction increases.

There will be adequate provision of car parking to accommodate the likely demand from visitors to the site and to comply with this Clause.

#### **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 Contracts and Development 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 24 July 2020.
- Further information was requested on 4 August 2020 and the additional information including a site plan was received on 5 August 2020.
- The report is being presented to Council at its meeting on the 19 August 2020 (15 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 disclosable interests to disclose.

Author: Bernadine Pringle, Consultant Town Planner, on behalf of Janette Fritsch, Manager Contracts and Development.

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

**RECOMMENDATION:**

***That Council approves planning application PA1671-2020 for a Planning Permit to be issued for Use for a Place of Assembly (Silos viewing area and car park) on the subject land known as Albacutya Road, Rainbow VIC 3424 (Crown Allotment 3M, Parish of Albacutya), subject to the following conditions:***

**Endorsed Plans**

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

**Car Parking and Access**

- 2. Adequate provision of car parking for patrons must be provided on the site and must be maintained to the satisfaction of the Responsible Authority.***
- 3. The internal access road must be maintained to the satisfaction of the Responsible Authority.***

**Amenity of the area**



- 4. The use 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 to the satisfaction of the Responsible Authority.**

**Stormwater**

- 6. Any stormwater must be contained on site to the satisfaction of the Responsible Authority.**

**Permit Expiry**

- 7. The use approved by this permit will expire if the following circumstance applies:**
- (a) The use is not started within two years of the date of this permit.**
  - (b) The use is discontinued for a period of more than two years.**

Attachment: 6

## 9. REPORTS REQUIRING A DECISION

### 9.1 GOVERNANCE RULES

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

**Attachment Number:** 7

**Introduction:**

This report seeks Council adoption of the Governance Rules.

**Discussion:**

Under Section 60 of the Local Government Act 2020 (**Act**), Council is required to adopt and maintain Governance Rules by 1 September 2020.

Section 60 of the Act requires that a Council maintains Governance Rules with respect to the following:

- the conduct of Council meetings;
- the conduct of meetings of delegated committees;
- the form and availability of meeting records;
- the election of Mayor and Deputy Mayor;
- the appointment of an Acting Mayor;
- an election period policy in accordance with section 69 of the Act;
- the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130 of the Act;
- the procedure for the disclosure of a conflict of interest by a Councillor under section 131;
- the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126 of the Act; and
- any other matter prescribed by the regulations.

Section 60 also provides that the Governance Rules are also required to provide for Council to consider and make decisions on any matter fairly and on the merits and institute decisions making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.

The draft Governance Rules and Election Period Policy were brought to Council on 15 July 2020 for consideration before being made publically available for submissions from the Hindmarsh Community as is required by s60(4) of the Act. Council received no submissions from the public. Two Councillors provided feedback to the draft Governance Rules.

Councillor Schneider provided the following feedback:

	<b>OFFICER RESPONSE</b>
<b>Clause 15: no 'd' needed on change</b>	Clause 15 has been amended to reflect this suggestion.
<b>Clause 20(1): has a reference error</b>	Cross referencing error has been removed
<b>Clause 49: should probably say "The provisions of clauses under Part 6 of the Act apply....."</b>	The reference to Part 6 is reference to Part 6 of the Governance Rules. I have removed the word 'clauses' as it was a typographical error.
<b>Clause 51(1) should probably now say "These Rules" instead of "This procedure"</b>	Clause 51(1) has been amended to reflect this suggestion.
<b>Clause 103(1): no 'd' needed on demonstrated</b>	Clause 103(1) has been updated to reflect this suggestion.
<b>Clause 104(7): no 's' needed on motions</b>	Clause 104(7) has been updated to reflect this suggestion.
<b>Clause 16 Special Meetings (provided 'sufficient time' has been provided to give 'reasonable' notice). These are very broad terms that can be arbitrarily interpreted, likely to expose a CEO to claims of political manoeuvring. I think they should be more specific.)</b>	Council Officers recommend that this clause remains flexible as there may be urgent matters that need to be dealt with in a short time frame. Placing a time limitation on this clause may place Council in a precarious position where a decision needs to be made expeditiously.
<b>Clause 17(1)(a) Notice of Meeting/Agenda for an Ordinary Meeting (48 hours minimum is too little, doesn't leave a Councillor sufficient time to prepare or have discussions with officers or other Councillors. Cr Nelson raised this previously and it was discussed at a meeting, but on reflection I agree now more fully with view. If Councillors are to exercise our responsibilities appropriately, two days' notice isn't enough to prepare properly.)</b>	Council Officers recommend that this clause remains at 48 hours' notice. Current practice is to try and provide at least one weeks' notice. However, sometimes there isn't the opportunity to give one weeks' notice. If more than 48 hours is mandated then it is likely to lead to more late reports or reports unnecessarily held over.
<b>Clause 19 Postponement of meeting for an Emergency (it's unreasonable for the the CEO to have that power for themselves, to cancel a meeting. In my view it should only be a power available after consultation with the Mayor, especially now that the Act specifically provides that the CEO must consult with the Mayor on the agenda.)</b>	Clause 19 has been amended to include a requirement to consult with the Mayor before postponing a meeting due to an emergency.
<b>Clause 39: an agenda item needs to be included for Addresses to Council. A person may wish to speak to Council on an issue, which is a different thing to asking a question, which is provided for</b>	This change is not recommended by Council Officers. People who wish to address Council can do so in Briefing or may pose a question or

<p><b><i>under Clause 93. In fact, Clause 93(1) refers to the allocation of time for any member of the community to address the Council, then refers and deals with questions as a separate matter in 93(3)-(10), so that clause acknowledges that addressing the council and questions are two different things, so the agenda needs to reflect that.</i></b></p>	<p>make a submission during public question and submission time. Clause 93 has been amended to refer to Public Question or Submission Time so that a member of the public can make a submission to Council without asking a question. Council Officer recommend that the requirement to ask the question or make the submission in writing prior to the Council Meeting remains in the Governance Rules to ensure that Council Officers and Councillors are in a position to answer the question fully, this would make for a more efficient and effective public participation in Council Meetings. The number of questions is now limited to 2 questions and 1 general submission per person per meeting</p>
<p><b><i>In clause 93 I believe it should clearly state what might occur if, having asked a question of council, but a person hasn't physically been at the meeting to clarify any concerns at the time (eg. their question has been misunderstood), what course of action they should take to follow up if they would like.</i></b></p>	<p>Clause 93 has been amended to include (11) which reads: If a person who asked a question or made a submission is not satisfied with the answer given, they may follow the question up with the relevant Council Officer by emailing <a href="mailto:info@hindmarsh.vic.gov.au">info@hindmarsh.vic.gov.au</a></p>
<p><b><i>I believe clause 80 Procedural Motions should make some reference to clauses 81 and 82 which follow, because if you read clause 80 on its own and without such references then the logical question is "what is a procedural motion"?</i></b></p>	<p>Clause 81 and 82 of the Governance Rules are not specific to motions procedural. The clauses have been re-ordered with Procedural Motions coming at the end of Part 8 Division 4 to make that clearer. The end of Part 8 Division 4 now reads: 80 – The Closure, 81 – Adjourning the Debate and 81 – Procedural Motions. Procedural motion is defined in clause 9. Council Officers have updated the definition to be clearer. The definition previously read 'procedural motion means a motion which relates to a procedural matter only and which is not designed to produce any substantive result but used merely as a formal procedural measure'. The definition now reads as 'procedural motion means a motion dealing with the conduct of the Meeting as referred to in clause 82'.</p>
<p><b><i>Clause 82 Adjourning the Debate should say what happens if the motion is lost, as clause 81(2)(c) does.</i></b></p>	<p>Amended clause 82 to include same provision as clause 81(2)(c).</p>

<p><b><i>Clause 92: The heading is ‘Urgent and Other Business’. If the final version of the rules end up only allowing Urgent Business (and I’m speaking against that, with others, separately), then this heading would only need to be ‘Urgent Business’, because there wouldn’t be scope to bring up ‘Other Business’ at the meeting</i></b></p>	<p>Heading of clause 92 has been updated to remove reference to ‘other business’. Council Officers recommend that Councillors are able to raise matters of general business through the notice of motion provision, anything that misses the notice of motion deadline can be raised through the urgent business provision. Raising items of general business through the notice of motion provision allows it to be published on the Council Meeting Agenda for the Community to see. This in turn ensures Council is being transparent with its decision making process and meeting Council’s obligations under s58 (a) of the Act which requires Council to ensure that decision making processes are transparent to the municipal community.</p>
<p><b><i>Clause 92(3)(i): I’m speaking with others about (against) the restriction on spending more than \$2,000 in Urgent Business.</i></b></p>	<p>Council Officers recommend that the restriction on spending more than \$2,000.00 is maintained because good governance requires advice from Officers via a report for significant expenditure.</p>
<p><b><i>In relation to clause 36, my view is that the initialing of all pages of the page-numbered minutes by the Mayor is a very good practice, ensuring that pages can’t be later swapped or changed. This was common local government practice in the past and protected the integrity of the documents.</i></b></p>	<p>Council Officers recommend that the requirement of the Mayor to initial every page of Council Meeting Minutes is not included in the Governance Rules due to the administrative burden it places on Council Officers, the difficulty in ensuring that the Mayor is able to initial the pages in person particularly given the current circumstances and the fact that Council is moving away from paper based copies of documents. Adopted minutes are published on Council’s website which means that final versions are available for all to see.</p>
<p><b><i>As mentioned, I’m speaking with the Councillors about Clause 39 The order of Business which I believe should include “General/Other Business” as has been Hindmarsh convention for many years.</i></b></p>	<p>Council Officers recommend that Councillors are able to raise matters of general business through the notice of motion provision, anything that misses the notice of motion deadline and is urgent can be raised through the urgent business provision. Raising items of general business through the notice of motion provision allows it to be published on the Council Meeting Agenda for the Community to see. This in turn ensures Council is being transparent with its decision making process and meeting Council’s obligations under s58 (a) of the Act which requires Council to ensure that decision</p>

	making processes are transparent to the municipal community. A Notice of Motion provision has been included in clause 39.
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Councillor Nelson provided the following feedback:

	<b>OFFICER RESPONSE</b>
<b><i>Clause 17(1)(a) – 48 hours prior to a meeting is not enough time to expect councillors to read what is sometimes hundreds of pages of information and make enquiries or seek clarification on matters related to agenda items</i></b>	Council Officers recommend that this clause remains at 48 hours' notice. Current practice is to try and provide at least one weeks' notice. However, sometimes there isn't the opportunity to give one weeks' notice.
<b><i>Is there any scope to include timelines for Briefing meetings as well</i></b>	Council Briefings are not included in Section 60 of the Act which specifics what should be covered by the Governance Rules.
<b><i>Clause 39 – I also believe that general business rather than urgent business should stay on the agenda. This is a time when councillors can bring forward issues related to their community and potentially ask for reports to council on matters. While some of the matters raised during this time may not seem like urgent business they will be important to our communities that we represent and are here to serve. I think that this is even more important now that with live streamed meetings we are reaching a wider audience than before.</i></b>	Council Officers recommend that Councillors are able to raise matters of general business through the notice of motion provision, anything that misses the notice of motion deadline can be raised through the urgent business provision. Raising items of general business through the notice of motion provision allows it to be published on the Council Meeting Agenda for the Community to see. This in turn ensures Council is being transparent with its decision making process and meeting Council's obligations under s58 (a) of the Act which requires Council to ensure that decision making processes are transparent to the municipal community.

### ***Administrative changes***

Some further administrative changes were made to the Governance Rules:

- alphabetising of definitions;
- inclusion of Delegated Committee in definitions;
- full stop included at the end of clause 12(2);
- consistency in capitalisation of 'Councillors';
- consistency in reference to 'Chief Executive Officer';
- clause 53 – replaced reference to 'this procedure' with 'these Rules';
- clarifying that police may remove a person in breach of the rules at the request of the Chairperson;
- clause 95 – included the word 'Council' when referring to the Council Chamber; and
- merging the Governance Rules Meeting Procedure and Governance Rules Election Period Policy into the one document.

**Conclusion:**

The Governance Rules will enable Council to conduct its business in an effective, transparent and accountable way in accordance with the legislative requirements provided by the Act.

**Options:**

1. Council can choose to adopt the Governance Rules
2. Council can choose to amend the Governance Rules

**Link to Council Plan:**

Strategic Objective 1.1 an actively engaged community.  
Strategic Objective 4.6 an organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation  
Strategic Objective 4.6.2 Develop a governance and compliance framework within Council

**Financial Implications:**

No financial implications.

**Risk Management Implications:**

The Governance Rules will ensure that Council maintains its governance and community engagement obligations under the Act.

**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 publish the Governance Rules on the Council website and make it available to all employees and Councillors.

**RECOMMENDATION:**

***That Council adopts the Governance Rules.***

*Attachment: 7*

## 9.2 DRAFT PUBLIC TRANSPARENCY POLICY

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

**Attachment Number:** 8

### **Introduction:**

This report seeks Council adoption of the Public Transparency Policy (**Policy**).

### **Discussion:**

Section 57 of the Local Government Act 2020 (**Act**) requires that a Council adopts and maintains a Public Transparency Policy (**Policy**). The deadline for adopting the Policy is 1 September 2020.

Section 57 of the Act provides the following:

- (1) A Council must adopt and maintain a public transparency policy.
- (2) A public transparency policy must –
  - (a) give effect to the public transparency principles; and
  - (b) describe the ways in which Council information is to be made publicly available; and
  - (c) subject to section 58(b), specify which Council information must be made publicly available, including all policies, plans and reports required under this Act or any other Act; and
  - (d) include any other matters prescribed by the regulations.

The public transparency principles listed in s58 of the Act are as follows:

- (1) Council decision making processes must be transparent except when the Council is dealing with information that is confidential by virtue of the Act or any other Act;
- (2) Council information must be publicly available unless –
  - (a) the information is confidential by virtue of the Act or any other Act; or
  - (b) public availability of the information would be contrary to the public interest;
- (3) Council information must be understandable and accessible to members of the municipal community;
- (4) public awareness of the availability of Council information must be facilitated.

The Public Transparency Policy has been developed based on information provided by Local Government Victoria and the relevant provisions of the Local Government Act 2020. The Senior Management Team and relevant Council staff have been consulted during the development of the Policy.

The Policy was made available to the public for consultation for the period between 16 July and 6 August. Council received 1 submission from the public.

### **Submission 1: Sally Gilleece – Dimboola**

*re public transparency, I hope that the relationship of staff to family and friends is disclosed so that the public can see where nepotism is evident. small towns are*



*restricted in the choice of staff, so employees are more prone to social connections than in a city, but it should not effect the way they carry out duties - mates rates is not acceptable from employees of the shire. If workers are underperforming they should be dealt with according to due process, not hold onto positions they are not performing well at because an authority figure doesn't want to offend a mate or relative. These relationships should be transparent.*

**Submission 1: Response**

Council Employees are required to disclose conflict of interests in accordance with the Local Government Act 2020, Council's Conflict of Interest Policy and the Employee Code of Conduct.

Council is bound by strict procurement responsibilities under the Local Government Act 2020 and under Council's own Procurement Policy. 'Mates Rates' is not acceptable, if anyone in the community is concerned about Council offering 'mates rates' they are able to report this in accordance with Council's Public Interest Disclosure Policy.

Instances of underperforming employees are managed through Council's Complaints Handling Procedure, Council's Employee Code of Conduct and, if required, Council's Disciplinary Procedure.

**Conclusion**

Adoption of the Public Transparency Policy will ensure compliance with the Local Government Act 2020.

**Options:**

1. Council can adopt the Public Transparency Policy.
2. Council can choose to amend the Public Transparency Policy prior to adopting.

**Link to Council Plan:**

Strategic Objective 1.1	an actively engaged community.
Strategic Objective 4.6	an organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation
Strategic Objective 4.6.2	Develop a governance and compliance framework within Council

**Financial Implications:**

No financial implications.

**Risk Management Implications:**

The Policy will ensure Council is compliant with the public transparency obligations and principles as outlined by sections 57 and 58 of the Local Government Act 2020.

**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 publish the Policy on the Council website and make it available to all employees and Councillors.

**RECOMMENDATION:**

***That Council adopts the Public Transparency Policy.***

*Attachment: 8*

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**9.3 COUNCILLOR EXPENSE ENTITLEMENTS POLICY**

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

**Attachment Number:** 9

**Introduction:**

This report seeks Council adoption of the Councillor Expense Entitlements Policy (**Policy**) as per the requirements of the *Local Government Act 2020 (Act)*.

**Discussion:**

Section 41 of the Act requires that a Council adopts and maintains a Councillor Expense Entitlements Policy. The deadline for adopting the Policy is 1 September 2020.

S41 stipulates that

- (1) A Council must adopt and maintain an expenses policy in relation to the reimbursement of out-of- pocket expenses for Councillors and members of delegated committees.
- (2) A policy adopted by a Council under this section must—
  - (a) specify procedures to be followed in applying for reimbursement and in reimbursing expenses; and
  - (b) comply with any requirements prescribed by the regulations in relation to the reimbursement of expenses; and
  - (c) provide for the reimbursement of child care costs where the provision of child care is reasonably required for a Councillor or member of a delegated committee to perform their role; and
  - (d) have particular regard to expenses incurred by a Councillor who is a carer in a care relationship within the meaning of section 4 of the **Carers Recognition Act 2012**.

- (3) A Council must adopt the first expenses policy under this section on or before 1 September 2020.
- (4) Until a Council adopts a policy under this section, the policy adopted by the Council under section 75B of the **Local Government Act 1989** applies as if it had been adopted under this Act.

Council Officers have drafted the Policy with reference to section 41 of the Act to ensure that the Policy is compliant with the legislative requirements.

### **Conclusion**

This Policy will ensure compliance with the Act and will ensure that:

- (a) there are clear guidelines for Councillors to follow when claiming reimbursement; and
- (b) ensure that spending of public funds is done in an accountable and transparent way.

### **Options:**

1. Council can choose to adopt the Councillor Expense Entitlements Policy;
2. Council can choose to amend the Councillor Expense Entitlements Policy prior to adoption.

### **Link to Council Plan:**

Strategic Objective 4.6 an organisation that takes its risk management responsibilities seriously and embeds a culture of risk management throughout the organisation

Strategic Objective 4.6.2 Develop a governance and compliance framework within Council

### **Financial Implications:**

No financial implications.

### **Risk Management Implications:**

The Policy will ensure Council is compliant with the 41 of the Local Government Act 2020.

### **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:**

The Policy will be made available to Councillors via Docs on Tap. The Policy will also be published on Council's website.

**RECOMMENDATION:**

***That Council adopts the Councillor Expense Entitlements Policy.***

*Attachment: 9*

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**9.4 CONFLICT OF INTEREST POLICY**

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

**Attachment Number:** 10

**Introduction:**

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

**Discussion:**

The Local Government Act 2020 has introduced new requirements for conflict of interest declarations and a new classification system of conflict of interests. As a result of these changes, Council has updated its Conflict of Interest Policy to be consistent with the new legislative framework.

The Local Government Act 2020 describes two classes of interests:

- Section 127 of the Act – General conflict of interest; and
- Section 128 of the Act – Material conflict of interest.

A general conflict of interest is defined in section 127 of the Act as “a relevant person has a general conflict of interest in a matter if an impartial, fair minded person, would consider that the person’s private interests could result in that person acting in a manner that is contrary to their public duty.

A material conflict of interest is defined in section 128 of the Act as “a relevant person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

Section 129 of the Act provides for exemptions to the conflict of interest provisions. A conflict of interest does not arise if any of the following arises:

- the conflict of interest is so remote or insignificant that it could not be reasonably regarded as capable of influencing the actions or decisions of the relevant person in relation to the matter;

- the interest that would give rise to a conflict of interest is held in common with a substantial proportion of the residents, ratepayers or electors of the municipal district and does not exceed the interests held by the other residents, ratepayers or electors.
- the relevant person does not know the circumstances that give rise to the conflict of interest, and could not be reasonably expected to know those circumstances;
- the interest only arises because the relevant person is the representative of the Council on a not-for-profit organisation that has an interest in the matter and the relevant person receives no personal advantage from the not-for-profit organisation;
- the interest only arises because a family member of the relevant person is a member but not an office-holder of a not-for-profit organisation;
- the interest only arises because the relevant person is a member of a not-for-profit organisation that has expressed an opinion or advocated for an outcome in regard to the matter;
- the interest arises in relation to a decision by a Councillor on a matter or in a circumstance that is prescribed to be exempt by the regulations.

The purpose of the Policy is to:

- guide Councillors, delegated committee members and staff on what a conflict of interest is;
- guide Councillors, delegated committee members and staff 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 2020 (Act)*.

The Policy will sit alongside Council's Governance Rules and Employee Code of Conduct which stipulate how conflicts of interest are to be declared for Councillors, Delegated Committee Members and Council staff.

### **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; or
2. Council can choose to make amendments to the Conflict of Interest Policy prior to adopting.

### **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 Councillors, Delegated Committee Members and employees.

**RECOMMENDATION:**

***That Council adopts the Hindmarsh Shire Council Conflict of Interest Policy.***

*Attachment: 10*

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**9.5 SECTION 86 COMMITTEE TRANSITION**

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

**Attachment Number:** 11

**Introduction:**

This report seeks approval from Council to form Advisory Committees and Community Asset Committees, and adopt Terms of reference for Town Committees.

**Discussion:**

The Local Government Act 2020 (**Act**) received royal assent on 24 March 2020 requiring Council's across Victoria to undergo significant changes. Some of those changes relate to the formation of Section 86 Committees, which will need to be implemented before 1 September 2020.

Committees established by delegation from Council under Section 86 of the *Local Government Act 1989* (**s86 Committees**) will lapse as of 1 September 2020. Council currently has 15 s86 Committees including:

- Antwerp Hall Committee
- Diapur Hall Committee
- Dimboola Town Committee
- Gerang Hall Committee
- Jeparit Memorial Hall Committee
- Jeparit Town Committee
- Lorquon Memorial Hall Committee
- Nhill Sun Moth Reserve Committee
- Nhill Town Committee
- Rainbow Civic Centre Committee
- Rainbow Recreation Reserve Committee of Management
- Rainbow Town Committee
- Wimmera Mallee Pioneer Museum Committee
- Yanac Hall and Recreation Reserve Committee
- Yurunga Homestead Committee of Management

The Act provides for two types of committees which can be established in place of s86 Committees:

- Delegated Committees; and
- Asset Management Committees.

While not provided for in the Act, Council may also put in place 'Advisory Committees'.

A proposal was discussed with Councillors during briefing on 15 July 2020 recommending the following formations for Council's current s86 Committees:

<b>Committee</b>	<b>Proposed form</b>	<b>Instrument</b>	<b>Council delegate</b>
Antwerp Hall Committee	Community Asset Committee	Instrument of delegation from CEO	No
Diapur Hall Committee	Community Asset Committee	Instrument of delegation from CEO	No
Dimboola Town Committee	Advisory Committee	Terms of Reference	1 Councillor and 1 staff member
Gerang Hall Committee	Community Asset Committee	Instrument of delegation from CEO	No
Jeparit Memorial Hall Committee	Community Asset Committee	Instrument of delegation from CEO	No

Committee	Proposed form	Instrument	Council delegate
Lorquon Memorial Hall Committee	Community Asset Committee	Instrument of delegation from CEO	No
Nhill Sun Moth Reserve Committee	Advisory Committee	Terms of reference	No
Nhill Town Committee	Advisory Committee	Terms of Reference	1 Councillor and 1 staff member
Rainbow Civic Centre Committee	Community Asset Committee	Instrument of delegation from CEO	No
Rainbow Recreation Reserve	Community Asset Committee	Instrument of delegation from CEO	No
Rainbow Town Committee	Advisory Committee	Terms of Reference	1 Councillor and 1 staff member
Wimmera Mallee Pioneer Museum Committee	Community Asset Committee	Instrument of delegation from CEO	1 Councillor and 1 staff member
Yanac Hall and Recreation Reserve Committee	Community Asset Committee	Instrument of delegation from CEO	No
Yurunga Homestead Committee of Management	Community Asset Committee	Instrument of delegation from CEO	1 Councillor and 1 staff member

### **Consultation**

Following the discussion with Councillors, meetings / phone calls with s86 Committees were held during the week of 20 July 2020 – 25 July 2020 to discuss the upcoming changes and workshop any foreseeable issues that will arise due to the changes.

Common issues that were identified during these meetings included:

- returning of finances to Council for Advisory Committees;
- authorising expenditure for Advisory Committees;
- the connotations associated with the term ‘Advisory Committee’;
- reduction of the autonomy of the Committees;
- surplus of community committees in small towns;
- difficulties in attracting new committee members;
- aging committee members; and
- frustrations with bureaucratic decision making processes.

Follow up correspondence was sent to the Committees confirming the discussions in the meetings.



***Nhill Sun Moth Reserve Committee***

Council Officers attempted to contact the Nhill Sun Moth Reserve Committee on several occasions and through various possible committee members. Council Officers were unable to ascertain who the current committee membership consisted of or when the committee last met. It is for this reason that this report recommends that the Nhill Sun Moth Reserve Committee is not re-established as an advisory committee at this stage.

***Instruments of Delegation***

Instruments of Delegation from Council will no longer be required for Advisory Committees or Community Asset Committees. Advisory Committees will be governed by Terms of Reference as presented to Council today and Community Asset Committees will be governed by a delegation from the CEO.

**Options:**

1. Council can choose to create the following Advisory Committees:
  - a. Dimboola Town Committee
  - b. Jeparit Town Committee;
  - c. Nhill Town Committee;
  - d. Rainbow Town Committee; and
2. Council can choose to endorse the Terms of Reference for Town Committees as presented;
3. Council can choose to modify the Terms of Reference for Town Committees as presented.
4. Council can endorse that the CEO establishes the following Community Asset Committees:
  - Antwerp Hall Committee
  - Diapur Hall Committee
  - Gerang Hall Committee
  - Jeparit Memorial Hall Committee
  - Lorquon Memorial Hall Committee
  - Rainbow Civic Centre Committee
  - Rainbow Recreation Reserve Committee
  - Wimmera Mallee Pioneer Museum Committee
  - Yanac Hall and Recreation Reserve Committee
  - Yurunga Homestead Committee

**Link to Council Plan:**

- 1.1 An actively engaged community
- 1.3 A community that is physically active with access to a wide range of leisure, sporting and recreation facilities
- 3.2 a thriving tourism industry
- 4.6 An organisation that takes its risk management responsibilities seriously

**Financial Implications:**

No financial implications arise.

**Risk Management Implications:**

Both Community Asset Committees and Advisory Committees pose governance and public liability risks to Council.

**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, Governance and Human Services  
In providing this advice as the Author, I have no disclosable interests in this report.

**Communications Strategy:**

N/A.

**RECOMMENDATION:**

**ADVISORY COMMITTEES**

**1) Council resolves**

**a. that the following Advisory Committees are established:**

**1. Nhill Town Committee comprising of:**

- 1. Ross Barker (Chairperson);**
- 2. Pauline McCracken;**
- 3. Catherin Bates;**
- 4. Leith Dean;**
- 5. Helen Woodhouse – Herrick;**
- 6. David Colbert;**
- 7. Joanne Hayes; and**
- 8. David Colbert (Councillor Representative)**

**2. Dimboola Town Committee comprising of**

- 1. Kaylene Pietsch (Chairperson);**
- 2. Phil Colquhoun;**
- 3. Amanda Ingeme;**
- 4. Jan Ballard;**
- 5. Ron Donaldson;**
- 6. Tony Schneider;**
- 7. Jo Donnelly;**

8. **Bill Eldridge;**
9. **Emma Clark;**
10. **Chris Johnson;**
11. **Sharyn Cook; and**
12. **Debra Nelson (Councillor Representative)**

**3. Jeparit Town Committee comprising of**

1. **Jason Hutson (Chairperson);**
2. **Brett Ireland;**
3. **Teresa Smith;**
4. **Cheryl Quinn;**
5. **Wendy Werner;**
6. **Mel Wagener;**
7. **Graham Blair;**
8. **Ron Lowe (Councillor Representative)**

**4. Rainbow Town Committee comprising of**

1. **Leonie Clarke (Chairperson);**
2. **Adrian Bennett;**
3. **Bill Hutson;**
4. **Roger Aitkin;**
5. **Peta Bennett;**
6. **Greg Roberts;**
7. **Ross Heinrich;**
8. **Michael Sullivan;**
9. **Julie McLean;**
10. **Alison Ey; and**
11. **Ron Ismay (Councillor Representative)**

- b. **that the Advisory Committees must report to Council annually.**
- c. **that the Terms of Reference for the Town Committees as presented be adopted.**
- d. **that the Nhill Sun Moth Reserve Committee is not re-established as an advisory committee at this time.**

**COMMUNITY ASSET COMMITTEES**

**2) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**

- a. **From the date of this resolution, there be established as a Community Asset Committee the Antwerp Hall Community Asset Committee (Committee).**
- b. **The purpose of the Committee is to manage the Antwerp Hall.**
- c. **The members of the Committee are:**
  1. **Shane Bond;**
  2. **Jo Hornby;**

3. **Heather Jorgenson;**
4. **Tim Jorgensen;**
5. **Ivan Polack;**
6. **Peta Foster;**
7. **Nathan Albrecht;**
8. **Rebecca Albrecht;**
9. **Alex Jupp;**
10. **Jamie-Lee Jupp; and**
11. **Dianne Bond**

**d. The Chairperson of the Committee is Shane Bond.**

**e. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**

**f. All members of the Committee have voting rights on the Committee.**

**3) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**

**a. From the date of this resolution, there be established as a Community Asset Committee the Diapur Hall Community Asset Committee (Committee).**

**b. The purpose of the Committee is to manage the Diapur Hall.**

**c. The members of the Committee are:**

1. **Peter Duperouzel;**
2. **Julie Duperouzel;**
3. **Dean Honeyman;**
4. **Colleen Smith;**
5. **Des Smith;**
6. **Steven Alexander;**
7. **Trish Alexander;**
8. **Shirley Honeyman;**
9. **Tom Cook;**
10. **Hannah Craig;**
11. **Graeme Jago; and**
12. **Anthony Honeyman.**

**d. The Chairperson of the Committee is Peter Duperouzel.**

**e. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**

**f. All members of the Committee have voting rights on the Committee.**

**4) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**

**a. From the date of this resolution, there be established as a Community Asset Committee the Gerang Hall Committee Community Asset Committee (Committee).**

**b. The purpose of the Committee is to manage the Gerang Hall.**

- c. The members of the Committee are:**
- 1. Donna Krelle;**
  - 2. Susan Menzel;**
  - 3. Rosie Clark;**
  - 4. Shirley Avery;**
  - 5. Kaylene Schultz; and**
  - 6. Jemma Schultz.**
- d. The Chairperson of the Committee is Donna Krelle.**
- e. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**
- f. All members of the Committee have voting rights on the Committee.**
- 5) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**
- a. From the date of this resolution, there be established as a Community Asset Committee the Jeparit Memorial Hall Community Asset Committee (Committee).**
  - b. The purpose of the Committee is to manage the Jeparit Memorial Hall.**
  - c. The members of the Committee are:**
    - 1. Amanda King;**
    - 2. Debra Schumann;**
    - 3. Campbell McKenzie;**
    - 4. Sheryl McKenzie;**
    - 5. Alicia Rosewall;**
    - 6. Maxine Spokes;**
    - 7. Ebony Spokes; and**
    - 8. Mel Wagner.**
  - d. The Chairperson of the Committee is Amanda King.**
  - e. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**
  - f. All members of the Committee have voting rights on the Committee.**
- 6) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**
- a. From the date of this resolution, there be established as a Community Asset Committee the Lorquon Memorial Hall Community Asset Committee (Committee).**
  - b. The purpose of the Committee is to manage the Lorquon Memorial Hall.**
  - c. The members of the Committee will be confirmed following the Council Meeting.**
  - d. The Chairperson of the Committee will be confirmed following the Council Meeting.**
  - e. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**
  - f. All members of the Committee have voting rights on the Committee.**

**7) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**

- a. From the date of this resolution, there be established as a Community Asset Committee the Rainbow Civic Centre Community Asset Committee (Committee).**
- b. The purpose of the Committee is set out in the Schedule to this resolution.**
- c. The members of the Committee are:**
  - 1. Bill Hutson;**
  - 2. Graham Petschel;**
  - 3. Ross Heinrich;**
  - 4. Michael Sullivan;**
  - 5. Shirley Petschel;**
  - 6. Kate Hutson; and**
  - 7. Rob Koning.**
- d. The Chairperson of the Committee is Bill Hutson.**
- e. A quorum of the Committee is whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**
- f. All members of the Committee have voting rights on the Committee.**

**8) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**

- a. From the date of this resolution, there be established as a Community Asset Committee the Rainbow Recreation Reserve Community Asset Committee (Committee).**
- b. The purpose of the Committee is to manage the Rainbow Recreation Reserve.**
- c. The members of the Committee are:**
  - 1. Graeme Nuske;**
  - 2. Michael Parry;**
  - 3. Colleen Petschel;**
  - 4. Lynne McKenzie; and**
  - 5. Jacinta Cocks.**
- d. The Chairperson of the Committee is Michael Parry**
- e. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**
- f. All members of the Committee have voting rights on the Committee.**

**9) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**

- a. From the date of this resolution, there be established as a Community Asset Committee the Wimmera Mallee Pioneer Community Asset Committee (Committee).**
- b. The purpose of the Committee is to manage the Wimmera Mallee Pioneer Museum.**

**c. The members of the Committee are:**

- 1. Peter Pumpa;**
- 2. Aaron McClean;**
- 3. Wendy Werner;**
- 4. Mary Anne Paech;**
- 5. June Gawith;**
- 6. Jim Gawith;**
- 7. Tige Mannington;**
- 8. Trevor Chilton;**
- 9. Merylyn Lowe;**
- 10. Greg Schwedes; and**
- 11. Yvonne Dippel**

**d. The Chairperson of the Committee is Peter Pumpa.**

**e. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**

**f. All members of the Committee have voting rights on the Committee.**

**10) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**

**a. From the date of this resolution, there be established as a Community Asset Committee the Yanac Hall and Recreation Reserve Community Asset Committee (Committee).**

**b. The purpose of the Committee is to manage the Yanac Hall and Recreation Reserve Committee.**

**c. The members of the Committee are:**

- 1. Susanne Beattie;**
- 2. Shaun Alexander;**
- 3. Jenny Smith;**
- 4. Jay Fischer;**
- 5. Jim Fischer;**
- 6. Bruce Beattie;**
- 7. Craig Smith;**
- 8. Terry Miller;**
- 9. Erin Alexander;**
- 10. Mick Dart;**
- 11. Rebecca Dart;**
- 12. Raelene Dart; and**
- 13. Steve Thompson.**

**d. The Chairperson of the Committee is Susanne Beattie.**

**e. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**

**f. All members of the Committee have voting rights on the Committee.**

**11) In exercise of the power conferred by s 65 of the Local Government Act 2020 (the Act), Council resolves that:**

- a. From the date of this resolution, there be established as a Community Asset Committee the Yurunga Homestead Community Asset Committee (Committee).**
- b. The purpose of the Committee is to manage the Yurunga Homestead.**
- c. The members of the Committee are:**
  - 1. Jennifer Solly;**
  - 2. Peter Solly;**
  - 3. Helen Fisher;**
  - 4. Lou Ravenhorst;**
  - 5. Samantha Smith; and**
  - 6. Helen Heinrich**
- d. The Chairperson of the Committee is Jennifer Solly.**
- e. A quorum of the Committee is a whole number that is an absolute majority, which is greater than half the total number of members of the Committee.**
- f. All members of the Committee have voting rights on the Committee.**

Attachment: 11

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## 9.6 DELEGATIONS

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

**Attachment Number:** 12 & 13

### **Introduction:**

This report seeks Council approval for the Instrument of Delegation from Council to the Chief Executive Officer, and Instrument of Delegation from Council to Council staff to comply with the Local Government Act 2020.

### **Discussion:**

With the introduction of the Local Government Act 2020 (**Act**), Council is required to review and update the Instrument of Delegation from Council to the CEO and the Instrument of Delegation from Council to Council staff. The power of delegation is considered essential to enable day to day decisions to be made to ensure the operations of Council are enacted efficiently and effectively. Delegations are standard practice across all Councils.

### **CEO Delegation**

As was the case with the Local Government Act 1989 (**1989 Act**), the Local Government Act 2020 (**Act**), gives Council a power of delegation under section 11 of the Act. Section 11 of the Act outlines that Council may by instrument of delegation delegate to members of a delegated committee or to the Chief Executive Officer.

The Instrument of Delegation to the CEO authorises the power to determine any issues; take any action; or do any act or thing arising out of or connected with any duty imposed,



or function or power conferred on Council by or under any Act. This authority is restricted by stating a number of actions, acts of things that the CEO cannot undertake, without Council resolution. These limitations are outlined in the Instrument of Delegation to the CEO.

Council last reviewed the Council Delegations to the CEO 18 March 2020. This review formed the bases for the attached Instrument of Delegation to the CEO. The only changes made to the Instrument of Delegation to the CEO is the change from reference to the 1989 Act the 2020 Act.

### ***Council to staff delegation***

While there is no mention of delegating powers to Council staff as was contained in section 98 of the 1989 Act, it has been recommended to Council that an Instrument of Delegation from Council to staff still be completed for some pieces of legislation where there is no specific power of sub-delegation contained within that legislation.

At its meeting on 21 February 2018 Council approved the current Instrument of Delegation to members of Council staff under the Local Government Act 1989 (**2018 Delegations to staff**). The 2018 Delegations to staff provided the basis for the current review.

Aside from the changes made to the Local Government legislative references, there are no major changes to the Delegations from Council to staff aside from an update to position titles.

### **Options:**

Council can:

1. approve the delegations outlined in the attached Instrument of Delegation to the Chief Executive Officer;
2. approve the delegations outlined in the attached Instrument of Delegation to members of Council staff, OR
3. modify the either delegations or consider other options prior to adoption.

### **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:**

There are no financial implications.

### **Risk Management Implications:**

There are risk management implications if Council does not complete a review of the delegations. Without delegations, the decision-making processes would be subject to

extreme delays and impose an untenable burden on the Council reporting and meeting system.

**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:**

Relevant staff will be provided with confirmation of the amendments to the Instruments of Delegation.

A copy of the Instrument of Delegation to the Chief Executive Officer and Instrument of Delegations to Council staff will be place on Council's website.

**RECOMMENDATION:**

**(A) DELEGATION TO THE CHIEF EXECUTIVE OFFICER**

***In the exercise of the power conferred by section 11(1)(b) of the Local Government Act 2020 (the Act), Hindmarsh Shire Council (Council) resolves that –***

- 1) There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument.***
- 2) The instrument comes into force immediately when the Resolution is passed.***
- 3) On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.***
- 4) The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.***

**(B) DELEGATION TO COUNCIL STAFF**

***In the exercise of the power conferred by the legislation referred to in the attached***

*instrument of delegations, Hindmarsh Shire Council (Council) resolves that –*

- 1) *There be delegation to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.*
- 2) *The instrument comes into force immediately when the Resolution is passed.*
- 3) *On the coming into force of the instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.*
- 4) *The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*

*Attachment: 12 & 13*

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## 9.7 FINANCIAL REPORT FOR THE PERIOD ENDING 30 JUNE 2020

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

**Attachment Number:** 14

### **Introduction:**

The Financial Report for the fourth quarter of 2019/20 financial year has been prepared, including explanations of variances where applicable, and is presented for the information of Council.

### **RECOMMENDATION:**

*That Council notes the Financial Report for the period ending 30 June 2020 as presented.*

*Attachment: 14*

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## 9.8 DOMESTIC ANIMAL MANAGEMENT PLAN 2017-2021 ANNUAL REVIEW

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

**Attachment Number:** 15

### **Introduction:**

Council is required to review the Domestic Animal Management Plan on an annual basis and report on the performance measures against the identified actions in the current plan.

**Discussion:**

Under Section 68A of the *Domestic Animals Act* (1994), every Council in Victoria must prepare a Domestic Animal Management Plan every four years in consultation with the Secretary of the Department of Environmental and Primary Industries.

Council's Domestic Animal Management Plan 2017-2021 (the Plan) was adopted by Council on 25 October 2017. The purpose of the Plan is to provide Hindmarsh Shire Council with a strategic framework that delivers policy direction and action plans for animal management over a four-year period.

Council is required to review the plan annually and publish a review on the performance measures against the actions under Section 68A(3). The list of activities in the current Plan and achievement to date has been updated and provided as an attachment. Minor editorial changes have been made to the plan to update the number of animals registered, municipal population and update the logo throughout the document.

**Options**

Council can review the current achievements contained within the plan.

**Link to Council Plan**

Strategic Objective 1.2: A range of effective and accessible services to support the health and wellbeing of our community.

**Financial Implications:**

There are no financial implications from the review of the Plan.

**Risk Management Implications:**

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

**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.

Author & Officer Responsible – Monica Revell, Director Corporate & Community Services

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

**Communications Strategy:**

Under the Domestic Animals Act 1994, there is no requirement for the plan to be advertised for public comment following annual reviews.

**RECOMMENDATION**

***That having reviewed the Domestic Animal Management Plan 2017 – 2021 receive the detailed outcomes achieved during 2019/2020 and note the minor editorial changes.***

*Attachment: 15*

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**9.9 PLANNING POLICY FRAMEWORK TRANSLATION**

**Responsible Officer:** Director Infrastructure Services

**Attachment Numbers:** 16, 17 & 22

1 – John Keaney peer review

2 – Draft Translation

3 – Summary of relocation of local planning policy content

**Introduction:**

This report recommends that Council endorse the Planning Policy Framework Translation of the Hindmarsh Shire Planning Scheme prepared by the Smart Planning Team of the Department of Environment, Land, Water and Planning (DELWP) in association with Council's Contracts and Development Manager.

**Discussion:**

Smart Planning is a reform program to make Victoria's Planning System more efficient, accessible and transparent.

As part of the program, a revised policy structure, the Planning Policy Framework (PPF), was introduced into all Victorian planning schemes by Amendment VC148 and gazetted on 31 July 2018.

The PPF is the policy content of planning schemes. It includes part of the Victoria Planning Provisions (VPP) in the form of state and regional planning policies. The PPF enables the integration of local content in the form of local planning policies. The policies are grouped by themes with directly relevant regional and local policies 'nested' under the corresponding state planning policy.

Amendment VC148 did not make any changes to existing local planning policies. However, transitional provisions were introduced to enable the integration of local policy into the PPF.

The table below shows the changes to the policy structure following the VC148 amendment and what the structure will be once the integration of local policy is complete.

Table 1 - Policy Structure of a Planning Scheme		
Before VC148 A planning scheme before Amendment VC148 includes:	After VC148 - transitional A planning scheme after VC148, but before the local content is integrated includes:	After VC148 - integrated A fully-integrated PPF, with local content includes:
Clauses 9-19 - SPPF Clauses 20-22 - LPPF • Clause 21 - MSS (including information required under Section 12A(3)(c) of the Act) • Clause 22 - LPP (as relevant)	Clauses 10-19 - PPF Clauses 20-23 - LPPF • Clause 21 - MSS • Clause 22 - LPP (as relevant) • Clause 23 - LPPF Operation (transitional)	Clause 02 - Municipal Planning Strategy Clauses 10-19 - PPF (including state, regional and local planning policy) Clause 74.01 - Application of Zones, Overlays and Provisions (including schedule) Clause 74.02 - Further Strategic Work (including schedule, as relevant)

(Source: *LPPF Translation Manual* (DELWP, March 2020))

DELWP's Smart Planning Team is leading the implementation of the reforms at a local level. This includes working with councils to translate existing local policy content into the PPF.

An advantage of the revised Framework is the consolidation of state, regional and local policy content within a single area, providing ease of access for scheme users. Areas of duplication between state and local planning policy content have been removed and the size of the scheme has been reduced.

The draft Translation of the Hindmarsh local planning policies into the PPF was provided to Council in the first half of this year. Council's nominated Officer has reviewed the translated content (including a consolidation and update of the associated background documents and maps) in consultation with a Senior Planner from the Smart Planning Team.

The local policy content has been translated in a policy neutral manner in accordance with principles set out in *A Practitioner's Guide to Victorian Planning Schemes* to ensure policy content is:

- Within the scope of the Planning and Environment Act 1987 and strategically justified.
- Drafted to be clear and unambiguous.

Feedback from Council Officers has been incorporated into the final draft. The draft Translation has also been reviewed by project adviser John Keaney (Director, Keaney Planning) who was involved in the development of the Smart Planning policy reforms. This review has been attached to this report for Councillors' information.

The benefits of the Translation are:

- Integrated state, regional and local policy are read together
- Policy on each theme is in one place
- More concise without repeats

- Standardised format

**Options:**

Council can:

- 1.1 endorse the restructuring of the Hindmarsh Planning Scheme as proposed by the Department of Environment, Land, Water and Planning
  - 1.2 consent under Section 20(5) of the *Planning and Environment Act 1987* (the Act) to the Minister for Planning preparing and approving an amendment to the Hindmarsh Planning Scheme without exhibition under Section 20(4) of the Act to approve the revised planning scheme format.
2. not endorse the translated version of PPF of Hindmarsh Shire Planning Scheme.

**Link to Council Plan:**

- 3.1.8 – Work regionally/ collaboratively with other organisations.  
3.1.9 – Review Hindmarsh Planning Scheme

**Financial Implications:**

There are no financial implications associated with the planning scheme reformatting. The State Government is fully funding this project through DELWP.

**Risk Management Implications:**

It is considered there are no risks in endorsing this Translation as the Translation has been policy neutral and simply creates a smaller document that is easier to use and understand.

**Conflict of Interest:**

Under section 80C of the LGA 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: Janette Fritsch, Manager Contracts and Development

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

**Communications Strategy:**

The DELWP Smart Planning Team will be advised in writing of Council's endorsement of the Translation.

**RECOMMENDATION:**

**That Council:**

1. **endorse the restructure of the Hindmarsh Planning Scheme as proposed by the Department of Environment, Land, Water and Planning**
2. **consent under Section 20(5) of the *Planning and Environment Act 1987* (the Act) to the Minister for Planning preparing and approving an amendment to the Hindmarsh Planning Scheme without exhibition under Section 20(4) of the Act to approve the revised planning scheme format.**

Attachments: 16 & 17

**10. SPECIAL COMMITTEES**

**10.1 COVID-19 REVITALISATION REFERENCE GROUP**

**Responsible Officer:** Director Corporate & Community Services  
**Attachment Numbers:** 18 & 19

**Introduction:**

The Hindmarsh Shire Council COVID-19 Revitalisation Reference Group held meetings on 28 July and 11 August 2020. The purpose of this report is to note the minutes from these meetings. A copy of the minutes is included as an attachment for the information of Council.

**RECOMMENDATION:**

***That Council notes the minutes of the Hindmarsh Shire Council COVID-19 Revitalisation Reference Group meetings held on 28 July and 11 August 2020.***  
*Attachment: 18 & 19*

**11. LATE REPORTS**

**12. URGENT BUSINESS**

**13. 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:*

**13.1** *Hardship Application*

**13.2** *Contract No. 2020-2021-01 – Panel for the Provision of Town Planning and Associated Services*

**13.3** *Chief Executive Officer Appraisal 2019/20*

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<b>14. MEETING CLOSE</b>
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