



4 May 2021

To Councillor,  
"as addressed"

NOTICE is hereby given that an **ORDINARY MEETING** of the Hindmarsh Shire Council will be held at the Nhill Memorial Community Centre, 77-79 Nelson Street Nhill on Wednesday 5 May 2021 commencing at **3:00pm**.



Greg Wood  
Chief Executive Officer

**AGENDA**

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1. Acknowledgement of the Indigenous Community and Opening Prayer

2. Apologies

3. Declaration of Interests

4. Confirmation of Minutes

5. Public Question and Submission Time

6. Activity Reports

7. Correspondence

**8. Planning Permit Reports**

- 8.1 Application for Planning Permit PA1675-2020 – Two Lot Subdivision – 320 Horseshoe Bend Road Dimboola Vic 3414 (Lot 1 on Title Plan 599194b)

**9. Reports Requiring a Decision**

- 9.1 Draft 2021/2022 Budget and Draft Revenue and Rating Plan  
9.2 Local Law Review  
9.3 Risk Management Policy  
9.4 Mayoral and Councillor Allowances Adoption  
9.5 Guideline Standards and Processes for Gazetting of B Double Roads

**10. Council Committees**

- 10.1 Jeparit Town Committee  
10.2 Dimboola Town Committee  
10.3 Rainbow Town Committee

**11. Late Reports**

- 11.1 Planning Permit Application PA1707-2021 – Two Lot Subdivision (Re-Subdivision of Two Existing Lots) – Horsedip Road Glenlee Vic 3418 (Crown Allotment 105 & Crown Allotment 8, Parish of Ni Ni)  
14.4 In confidential matters

**12. Notice of Motion**

**13. Other Business**

**14. Confidential Matters**

- 14.1 Hindmarsh Shire Council Business Assistance Grants Round 3  
14.2 Request for Tender - Award for Demolition and New Construction of Albacutya Bridge  
14.3 Request for Quote - Award for Purchase of a Wheel Loader  
14.4 Regional Infrastructure Fund (Late Report)  
14.5 Chief Executive Officer Re-appointment

**15. 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. DECLARATION BY COUNCILLORS OR OFFICERS OF ANY MATERIAL OR GENERAL INTEREST IN ANY ITEM ON THE AGENDA.**

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

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

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

**4. CONFIRMATION OF MINUTES**

***RECOMMENDATION:***

***That the Minutes of the Ordinary Council Meeting held on Wednesday 7 April 2021 at the Nhill Memorial Community Centre as circulated to Councillors be taken as read and confirmed.***

*Attachment Number: 1*

**5. PUBLIC QUESTION AND SUBMISSION TIME**

Community members wishing to ask questions at council meetings may do so, in writing, at least 24 hours prior to the council meeting. Both the question and answer will be read out at the meeting. Questions may be submitted by mail, email [info@hindmarsh.vic.gov.au](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. ACTIVITY REPORTS****COUNCILLOR ACTIVITIES: APRIL 2021****Cr ISMAY, MAYOR**

Date	Meeting	Location	Comments
31/03/2021	Meeting with Deputy Mayor and CEO	Nhill	
	Community Consultation		
06/04/2021	Corella Management Meeting	Online	Via Microsoft Teams
07/04/2021	Briefing Meeting	Nhill	
	Council Meeting		
	Councillor Meeting		
10/04/2021	Nhill Aviation Heritage Centre Start Up Day		
12/04/2021	Meeting with VORRA / Russell Eckermann		
13/04/2021	Interview with Flow FM		
14/04/2021	Gender Equality Training	Nhill	
20/04/2021	WMT Meeting	Edenhope	
	Discussion with Dimboola Imaginarium		Book Launch
21/04/2021	Budget Review / Council Plan Meeting	Nhill	
25/04/2021	Anzac Day Service	Rainbow	

26/04/2021	Vorra Meeting	Rainbow	
27/04/2021	Media Training	Warracknabeal	
	Rainbow Town Committee Meeting		

**Cr ALBRECHT, DEPUTY MAYOR**

Date	Meeting	Location	Comments
31/03/2021	Community Consultation Session	Nhill	Thank you to those that attended and provided great ideas.
07/04/2021	Council Briefing		
	Council Meeting		
13/04/2021	Wimmera Development Association Board Induction	Online	Key business: Presentation by HALT (Hope Assists Local Tradies) Partnership
14/04/2021	Act @ Work Training – Gender Equality	Nhill	Presentation by Women’s Health Grampians on Gender Equality legislation.
19/04/2021	Nhill Town Committee Meeting	Nhill	
20/04/2021	Wimmera Development Association Board Induction	Online	Overview of strategic objectives and key projects.
21/04/2021	Council Plan and Council Vision Development Session	Nhill	Commencement of discussions for four year Council Plan and 15 year Council Vision.

**Cr NELSON**

Date	Meeting	Location	Comments
07/04/2021	Council Briefing	Nhill	
	Council Meeting		
12/04/2021	Dimboola Town Committee Meeting	Dimboola	
14/04/2021	Gender Equity Training	Nhill	
21/04/2021	Council Plan Meeting	Nhill	

**Cr GERSCH**

Date	Meeting	Location	Comments
31/03/2021	Community Consultation	Nhill	
06/04/2021	Meeting re Corella Problem	Online	Via Zoom
07/04/2021	Council Briefing and Meeting	Nhill	
09/04/2021	RCV Board Meeting		
10/04/2021	Nhill Aviation Start Up Day		
14/04/2021	Gender Equality Training	Nhill	
	Councillor Meeting re CEO		
20/04/2021	Community Care Luncheon		
21/04/2021	Council Draft Budget Discussion		
	Council Plan Meeting		

25/04/2021	Anzac Day Dawn Service		
	MC Anzac Day Service		

**Cr IRELAND**

Date	Meeting	Location	Comments
02/04/2021	Meeting with Business Owner of Hopetoun House Hotel		RE Streetscape Grants and Outdoor Furniture Placement in Outdoor Furniture Grant
07/04/2021	Council Briefing Meeting	Nhill	
	Council Meeting		
12/04/2021	Jeparit Town Committee Meeting		
14/04/2021	Gender Equality Training (Council Requirement)		
20/04/2021	Wimmera Pioneer Museum Meeting		
21/04/2021	Meeting with Council re Council Plan		
	Jeparit Historic Society Meeting	Civic Hall	RE Damage by water, general rubbish, etc
22/04/2021	Yurunga Homestead Meeting		
23/04/2021	Jeparit New Residents BBQ	Bowling Club	
25/04/2021	Dawn Wreath laying Ceremony	Jeparit Cenotaph	

**Cr BYWATERS**

Date	Meeting	Location	Comments
31/03/2021	Community Consultation Session	Online	
03/04/2021	Easter Egg Hunt	Nhill	
	Jeparit Fishing Competition Trophy Presentation	Jeparit	Well done to everyone who participated on the day, the sponsors, the volunteers and the Jeparit community. A list of results is available on the Jeparit Anglers Club website at <a href="http://www.jeparitanglersclub.com">www.jeparitanglersclub.com</a> .
	Easter Eggstravaganza	Dimboola	Easter bunny came to Dimboola, with the community enjoying the Easter Eggstravaganza organised by the Dimboola Town Committee. I had the very hard task of choosing the winners of the Easter bonnet competitions and every child received a prize. Thanks to Council for the \$500 community grant, the sponsors, the volunteers and most of all, to the community for coming out and enjoying the wonderful family friendly event.
06/04/2021	Meeting with DELWP and Ian Temby		Ian has been engaged to prepare a Corella strategy. - Online The strategy is aimed at guiding Corella management approaches in Victoria into the future.

07/04/2021	Briefing Meeting, Council Meeting and Councillor Only Meeting	Nhill	
12/04/2021	Dimboola Town Committee Meeting	Dimboola	Minutes will be attached to council agenda for the community to read.
13/04/2021	Wild Action School Holiday Activity	Nhill Memorial Community Centre	Over 40 children attended at Nhill and 23 children attended at the Dimboola Library. These were school holiday activities and FreeZa funded events.
14/04/2021	Councillor Gender Equity Training	Nhill	HSC has a commitment to gender equality through the CoRE Alliance and other initiatives Gender Equality Act obligations will provide an opportunity to showcase and achieve – systematically across Victoria As Councillors and leaders – understand gender equality obligations and challenge gender inequality, sexual harassment and other forms of discrimination Opportunity to lead the local community – as a respectful workplace modelling gender equality
17/04/2021	Park Run	Jaypex Park / Nhill Lake	Well done to the Parkrun volunteers
	Unwind at the Lodge, Markey	Little Desert Nature Lodge	
20/04/2021	Community Care Services Presentation and Lunch	Nhill	
21/04/2021	Draft Budget Briefing / Council Plan and Council Vision / Councillor Development Session	Nhill	
25/04/2021	Anzac Day Dawn Service, March, Wreath Laying and Morning Service	Dimboola Memorial Secondary College	This was a very inspiring and memorable morning. Guest speaker was Sergeant Robyn Bosworth who served 23 years in the navy, air force and air force reserves. DMSC college captains Macey Lavety and Jack Kalms gave speeches about their reflections on Anzac Day and their privilege of attending a memorial school. The Nhill-Dimboola Band played and Ian Lehmann played the 'Last Post' and 'The Rouse' on the bugle.
	Anzac Service	Nhill	Nhill is home to a large population of Myanmar's

			Karen people. The Karen community appreciated the significance of Anzac Day. The migrant community proudly participated in the Anzac Day march. Many residents have family members caught up in the ongoing military conflict in Burma.
27/04/2021	Meet and Greet with Emma Kealy MP, Member for Lowan	Mr Le's Vietnamese Restaurant, Nhill	

**7. CORRESPONDENCE**

**7.1 GENERAL CORRESPONDENCE**

**Responsible Officer:** Chief Executive Officer

**Attachment Numbers:** 2 and 3, 19 and 20

**Introduction:**

The following correspondence is tabled for noting by Council.

**Inwards:**

- 06/04/2021 – Letter to Mayor and Councillors from Joan Bennett RE Reappointment of CEO
- 14/04/2021 – Letter to CEO from Julie Reid RE 2020-21 Living Libraries Infrastructure Program Grant for Nhill Library
- 30/04/2021 – Letter to Mayor from Rev. Lucas Matuschka RE Opposition to Flying of Rainbow Flag
- 30/04/2021 – Membership Invitation for Victorian Local Government Association 2021

**RECOMMENDATION:**

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

*Attachment Numbers: 2 and 3, 19 and 20*



**8. PLANNING PERMITS**

**8.1 APPLICATION FOR PLANNING PERMIT PA1675-2020 – TWO LOT SUBDIVISION – 320 HORSESHOE BEND ROAD DIMBOOLA VIC 3414 (LOT 1 ON TITLE PLAN 599194B)**

**Responsible Officer:** Director Infrastructure Services  
**File:** Planning – Applications  
**Assessment:** 096240  
**Application No.** PA1675-2020  
**SPEAR Ref. No.** S162372T  
**Applicant:** Mr Graeme Schneider, Peter Richards Surveying  
**Owner:** Christopher Darren Schneider and Cheree Schneider  
**Subject Land:** 320 Horseshoe Bend Road Dimboola VIC 3414  
(Lot 1 on Title Plan 599194B)  
**Proposal:** Two lot subdivision  
**Zoning & Overlays:** Rural Living Zone  
Environmental Significance Overlay Schedule 1, Schedule 3  
and Schedule 6, Bushfire Management Overlay, Land  
Subject to Inundation  
**Attachment Numbers:** 4 – Proposed Site Context Plan and Design Response  
(Version 1)  
5 – Proposed Plan for Endorsement (Version 1)  
6 – Bushfire Management Plan (in the Bushfire Management  
Statement Report Version C)

**Summary:**

This report recommends that Council approve Planning Permit PA1675-2020 for a two lot subdivision at 320 Horseshoe Bend Road Dimboola VIC 3414 (Lot 1 on Title Plan 599194B), subject to standard conditions.

**Background:**

The eastern half of the site has been used for agricultural purposes as an olive farm for a long time and the current owners are seeking to improve the olive oil yield from the farm. The existing dwelling and farm sheds in the north-east part of the site are used in conjunction with the farming operation. The south-western half of the site contains native vegetation and has not been developed. The current owners are applying to subdivide the bush lot from the olive farm along existing fence lines and to retain the undeveloped nature of the bush lot by preventing it from being developed for accommodation uses in the future.

**Proposal Details:**

The application proposes the two lot subdivision of the subject land. Proposed Lot 1 will be 64.72ha and proposed Lot 2 will be 53.69ha. Proposed Lot 1 contains the existing

dwelling, farm sheds, and an olive plantation. Proposed Lot 2 contains native vegetation and is a bush block.

The Proposed Plan of Subdivision (Version 1) submitted with the application was amended by the applicant on 4 January 2021 to include two carriageway easements to access proposed Lot 2 over proposed Lot 1 from Horseshoe Bend Road pursuant to Section 50 of the *Planning and Environment Act 1987*.

Following discussions with DELWP and Council about the proposed access and the intended protection of proposed Lot 2 from any future development, the Proposed Plan of Subdivision (Version 2) was amended and replaced by the previous Proposed Plan of Subdivision (Version 1) on 3 February 2021 pursuant to Section 50 of the *Planning and Environment Act 1987*. This amended proposal relies on the existing access arrangements to both lots.

Vehicle access to proposed Lot 1 is from the existing crossover and driveway to Horseshoe Bend Road. Vehicle access to proposed Lot 2 is from the existing crossover and driveway to Stringybark Road.

The applicant has stated the following about the proposed subdivision:

- *Lot 1 will contain the existing dwelling, associated infrastructure and olive plantation which form the operational agricultural business activity. Services are provided to the parcel and this lot will be a total 64.7ha in size.*
- *Lot 2 will be a total 53.7ha in size and enclose the area of bushland located at the western side of the property which is not used for any productive agricultural purposes. This area is considered superfluous to use of the land for olive oil production. Some neighbouring properties are used for apiary and beekeeping storage areas. It is anticipated the excised bushland may be used for a similar purpose or retained for those who may have freehold bushland preservation interests. This lot will be extremely suitable for either important purpose. Retention of this area for maintaining extant indigenous vegetation reserves is considered an important aspect of the proposal. To achieve this objective, the existing fences will be used for the common boundary between parcels and no vegetation loss will occur. Importantly, it is also proposed to introduce a restriction on title which will entirely remove the ability to use this parcel for dwelling purposes, subject to Council approval to the concept.*
- *No changes will occur to the provision of services which are presently available to each of the proposed allotments.*
- *Two critical aspects to the proposal are vegetation management and preservation, and bushfire protection.*

An updated Planning Report and Bushfire Management Report were submitted by the applicant in support of the amended proposal received on 3 February 2021.

**Requirement for Permit:**

The subject land is located within the Rural Living Zone and is affected by the Environmental Significance Overlay Schedule 1, Schedule 3 and Schedule 6, the Land Subject to Inundation Overlay and the Bushfire Management Overlay.

A planning permit is required to subdivide land under Clause 35.03-3 (Subdivision) of the Rural Living Zone. A planning permit is also required to subdivide land under Clause 42.01-2 (Permit requirement) of the Environmental Significance Overlay, Clause 44.04-3 of the Land Subject to Inundation Overlay and Clause 44.06-2 of the Bushfire Management Overlay.

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not burdened by a Restrictive Covenant or Section 173 Agreement.

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

The subject land is affected by an Aboriginal Cultural Heritage Sensitivity Area. The two lot subdivision is an exempt activity pursuant to Regulation

**Subject site & locality:**

The subject site is located on the western side of Horseshoe Bend Road and the eastern side of Stringybark Road, Dimboola and is known as Lot 1 on Title Plan 599194B. The site has a total area of approximately 118.5ha.

The site contains an olive plantation and an associated dwelling and farm sheds in the north-eastern part of the site and native vegetation with some scattered olive trees in the south-west part of the site. The site has an extended 1360m frontage to Horseshoe Bend Road along the eastern boundary and a 794m frontage to Stringybark Road at the western boundary.

Access to the site is from existing crossovers on Horseshoe Bend Road to the east and on Stringybark Road to the west. There is overhead electricity line located in Horseshoe Bend Road to provide electricity services, which is located within an electricity easement (E-1).

The site adjoins Horseshoe Bend Road and the Wimmera River to the east, the Wimmera River Heritage Area Park to the north-east and the Wail State Forest further east. To the west of the site are similar size parcels of land containing native vegetation and some cleared areas.

The site and the adjoining land are within the Rural Living Zone (RLZ). The Wimmera River and adjacent Parks to the east are within the Public Conservation and Resource Zone (PCRZ). The three Overlays affect different parts of the site and the surrounding land.

Aerial Photo below (POZI)



**Consultation:**

Consultation was undertaken and included:

- Three requests for further information were sent to the applicant via SPEAR on 2 September 2020, 7 November 2020 and 19 January 2021.
- The further information and amended plans were received in SPEAR on 23 September 2020, by email on 10 October 2020, and in SPEAR on 4 January 2021 and 3 February 2021.

**Section 52 Notice of application:**

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

- Sending notices to the owners and occupiers of the adjoining land.
- Placing two (2) notices on site, including one (1) notice on Horseshoe Bend Road to the east and one (1) notice on Stringybark Road to the west.

A statutory declaration form for the public notice was submitted to Council on 13 April 2021. The notification has been carried out correctly. Council has not received any objections to date.

**Referrals:**

External Referrals/Notices were required by the Planning Scheme:

**Section 55 Referrals:**

CFA

The CFA does not object to the grant of a permit for the above proposal subject to any mandatory conditions specified within the planning scheme; and the following conditions being included on any planning permit that may be issued.

Conditions

1. Prior to statement of compliance the owners of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 with the purpose of prohibiting the development of Lot 2 for accommodation.

*Further Comments*

*CFA note previous correspondence with the applicant regard the unsuitable nature of the access provided to the proposed Lot 2 from Stringybark Road in the context of creating a new residential lot in the BMO. Pre-referral advice to the applicant was that the subdivision in its current form would only be supported by CFA on the basis of a s.173 agreement which prohibited future development of the proposed Lot 2 for a dwelling/ accommodation.*

*A s.173 agreement for the purposes of restricting the use of the land for accommodation negates the need for a s.173 agreement to address the requirements of Clause 44.06-5. Further, a s. 173 agreement for the purposes of Clause 44.06-5 is not required where: "the relevant fire authority states in writing that the preparation of an agreement ... is not required for the subdivision."*

*Please accept this correspondence as 'agreement in writing' from the relevant fire authority for the purposes of Clause 44.06-5.*

Powercor

No objections.

Wimmera CMA

No objections. Note about maximum possible flood.

**Section 52 Referrals:**

DELWP

No response received.

**Internal Referrals:**

Engineering

Comments provided, and condition required as detailed below.

- *We have conducted a site visit on 17/03/2021. The following conditions need to be applied to the permit. The current location of accesses at Lot 1 main entrance will need to be upgraded or a new drainage pipe and crossovers will need to be constructed as per IDM-255 Standard. The current location of access at Lot 2 must be clearly signed with the address of the property to be easily identifiable by emergency services to RA satisfaction.*

[https://www.designmanual.com.au/assets/files/documents/Standard\\_Drawings/DM\\_STANDARD\\_DRGS\\_SET\\_2020-03-24.pdf](https://www.designmanual.com.au/assets/files/documents/Standard_Drawings/DM_STANDARD_DRGS_SET_2020-03-24.pdf)

### **Planning Scheme:**

#### Planning Scheme Requirements:

#### **Planning Policy Framework (PPF):**

The following relevant Clauses in the PPF have been considered for the application.

Clause 11.01-1S – Settlement

Clause 11.01-1R – Settlement – Wimmera Southern Mallee

Clause 11.03-5S – Distinctive areas and landscapes

Clause 11.03-6S – Regional and local places

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

Clause 12.01-2S – Native vegetation management

Clause 13.02-1S – Bushfire planning

Clause 13.03-1S – Floodplain management

Clause 14.01-1S – Protection of agricultural land

Clause 14.01-1R – Agricultural productivity – Wimmera Southern Mallee

Clause 14.01-2S – Sustainable agricultural land use

Clause 19.03-2S – Infrastructure design and provision

#### **Local Planning Policy Framework (LPPF):**

The following relevant Clauses in the LPPF have been considered for the application.

Clause 21.00 – Municipal Strategic Statement

Clause 21.02 Vision – Strategic Framework

Clause 21.03 Objectives – Strategies – Implementation

Clause 21.03-2 – Economic Development

Clause 21.03-3 – Agriculture

Clause 21.03-4 – Environment

Clause 21.03-10 – Flora and Fauna

#### Planning Response:

The proposed subdivision will allow the olive plantation and the associated dwelling and sheds to be on a separate lot to the bush lot containing indigenous vegetation. The proposed subdivision will allow the owner/operator of the olive farm to have the option to sell the bush lot (proposed Lot 2) and to focus on improving olive oil yields to enhance the productive capacity of the farm.

The proposed subdivision will comply with the relevant objectives of the PPF, particularly in regard to protecting agricultural land, protecting native vegetation and flora and fauna, and minimising bushfire risk and potential land use conflicts with the adjacent rural residential uses.

A Section 173 Agreement is required to prevent the future development of Lot 2 for accommodation, which will also protect remnant native vegetation on the site and minimise bushfire risk.

The proposed subdivision will comply with the relevant provisions of the PPF and LPPF including the relevant local planning policies in Clause 21.03-3 Agriculture, Clause 21.03-4 Environment and Clause 21.03-10 Flora and Fauna, subject to conditions.

### **Zoning Provisions:**

#### **Clause 35.03 Rural Living Zone:**

##### **35.03-3 Subdivision:**

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 2 hectares.

##### **Clause 35.03-5 Decision Guidelines:**

Before deciding on an application to use or subdivide land, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate, matters under the following relevant headings:

- General issues
- Agricultural issues
- Environmental issues
- Design and siting issues

##### Planning Response:

The proposed subdivision complies with the relevant decision guidelines in the zone for the following reasons:

##### General issues

- The proposal will comply with the MPS in the LPPF and PPF as discussed above.
- The proposal will be consistent with the current Wimmera Regional Catchment Strategy 2013-2019 and will not affect the Wimmera River.
- The subdivision of the land will create two lots that well exceed the minimum of 2ha.
- The proposal will be compatible with the adjoining and nearby land uses.

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

- The subdivision will allow the existing agricultural activities on proposed Lot 1 as an olive plantation to be retained and the agricultural productivity is likely to be enhanced.
- There is no applicable land management plan for the site.
- There is potential for increased olive oil yields with the focus of the owners/operators on the olive plantation on proposed Lot 1.

### Environmental issues

- The proposal is unlikely to have an adverse impact on soil and water quality, noise, dust and odours and any other natural physical features and resources.
- The proposal will protect the flora, fauna and landscape features on the site and in the locality.
- The proposal will assist to protect and enhance the biodiversity of the area, including the retention of native vegetation and faunal habitat on proposed Lot 2.
- The on-site effluent disposal area for the existing dwelling will not impact the nutrient loads on the adjacent Wimmera River and native vegetation.

### Design and siting issues

- The proposal will have a positive impact on the natural environment by preventing further development of proposed Lot 2 for accommodation.
- The subdivision will not impact on the character and appearance of the area and features of natural scenic beauty along the Wimmera River.
- The existing infrastructure on proposed Lot 1 will be retained. Council's Engineers have required the existing crossovers for the main entrance to proposed Lot 1 to be upgraded or a new drainage pipe and crossovers to be constructed to IDM-55 Standard, which will be included as a condition.
- In terms of traffic management measures, Council's Engineers have required a new farm gate for the access to proposed Lot 2 with clear signage to be easily identifiable by emergency services, which will also be included as a condition.

### **Overlay Provisions:**

#### **Clause 42.01-2 Environmental Significance Overlay Schedules 1, 3 and 6 (ESO1, ESO3 and ESO6)**

#### **42.01-2 Permit requirement**

A permit is required to:

- Subdivide land.

#### **42.01-5 Decision guidelines**

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

#### **Schedule 1 to the Environmental Significance Overlay (ESO1) Sewerage Treatment Plant Buffer Area**

The environmental objective in Schedule 1 of the ESO is not relevant to the application as there is no development of a dwelling proposed.

#### **Schedule 3 to the Environmental Significance Overlay (ESO3) Wimmera River Protection**

#### **2.0 Environmental objective to be achieved**



- To maintain the quality and quantity of water within the Wimmera River.
- To maintain the ability of the Wimmera River to carry natural flows.
- To protect and encourage the long-term future of fauna and fauna habitats along the Wimmera River, and where appropriate to allow for regeneration of habitats.
- To prevent increased surface run-off or concentration of surface water run-off leading to erosion of the banks and streambed or siltation.
- To prevent pollution and increased turbidity of the water in the Wimmera River.
- To protect the Wimmera River watercourse and its environs as a significant natural landscape.

#### **4.0 Decision guidelines**

The responsible authority is to give consideration to the following matters prior to making a decision on a planning permit application:

- Existing use of the land and the reason for the development in relation to that use.
- Possible effect of the development on the quality and quantity of water.
- Conservation of natural habitats and the preservation of native fauna, fish and other aquatic life.
- Preservation of and the impact on soils and the need to prevent erosion.
- Protection of recreational and landscape values.
- Proper management of the land as a watercourse area.
- Need for fencing off waterways and other land management measures.
- Need to maintain or plant vegetation in order to protect water quality.
- Any management plan prepared by the Wimmera Catchment Authority, Department of Natural Resources and Environment or water supply authority.
- Comments of the Wimmera Catchment Authority, Department of Natural Resources and Environment and relevant water supply authority.

#### **Schedule 6 to the Environmental Significance Overlay (ESO6) Catchments of Wetlands of Conservation Value**

The environmental objectives in Schedule 6 of the ESO is not relevant to the application as there is no specific permit trigger to subdivide land under this Schedule.

#### Planning Response:

The proposal will not allow the development of any accommodation on Lot 2, which will be required by a condition for a Section 173 Agreement. The proposal will not alter the existing uses and development on the lots, will protect landscape values and will not affect the Wimmera River. The WCMA does not object to the subdivision and has not required any conditions. The proposal complies with the relevant decision guidelines in the ESO and Schedule 3.

#### **Clause 44.04 Land Subject to Inundation Overlay (LSIO)**

#### **44.04-3 Subdivision**

A permit is required to subdivide land.

#### **44.04-8 Decision guidelines**

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

#### Planning Response:

The site is only affected by a small part of the LSIO in the south-east corner of proposed Lot 1 near Horseshoe Bend Road. The WCMA have provided referral response advising they do not object to the grant of a permit and have not required any conditions. The proposal complies with the relevant decision guidelines in the LSIO.

### **Clause 44.06 Bushfire Management Overlay (BMO)**

#### **44.06-2 Permit requirement**

##### **Subdivision**

A permit is required to subdivide land. This does not apply if a schedule to this overlay specifically states that a permit is not required.

#### **44.06-5 Mandatory condition**

##### **Subdivision**

A permit which creates a lot for a single dwelling on land zoned for residential or rural residential purposes must include the following condition:

*“Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must:*

*State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the [\*insert name of applicable planning scheme] Planning Scheme. Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.*

*State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis. The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.”*

This does not apply:

- If a schedule to this overlay specifies that a Section 173 Agreement is not required.
- Where the relevant fire authority states in writing the preparation of an agreement under Section 173 of the Act is not required for the subdivision.
- For the subdivision of the land into lots each containing an existing dwelling or car parking space.

A permit to subdivide land must include any condition specified in a schedule to this overlay.

#### **44.06-8 Decision guidelines**

Before deciding on an application, in addition to the decision guidelines in Clause 53.02 and Clause 65, the responsible authority must consider, relevant matters, as appropriate.

##### Planning Response:

The CFA has advised in the referral response that the mandatory condition for a Section 173 Agreement in Clause 44.06-5 is not required as a Section 173 Agreement is required to prevent development of Lot 2 for accommodation.

The Section 173 Agreement requirement was discussed between the applicant, DELWP, the CFA and Council in regard to the future use of proposed Lot 2, to minimise bushfire risk and protect remnant native vegetation, and is an appropriate planning outcome.

#### **Particular Provisions**

##### **Clause 53.02 Bushfire Planning**

##### **53.02-4 Bushfire protection objectives**

##### **53.02-4.4 Subdivision objectives**

##### **53.02-4.5 Decision guidelines**

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

##### Planning Response:

The requirements of this Clause have been met in accordance with the Bushfire Management Statement Report and the requirements of the CFA for a Section 173 Agreement condition as outlined above.

#### **General Provisions**

##### **Clause 65 - Decision Guidelines**

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

##### **65.01 Approval of an application or plan**

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

##### **65.02 Approval of an application to subdivide land**

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

##### Planning Response:

The application complies with the relevant decision guidelines as outlined above. The proposal is supportive of, and complies with the PPF and LPPF, having regard to the protection of agricultural land, preventing land use conflicts, protecting native vegetation and flora and fauna, minimising bushfire risk and not impacting on the amenity of the area. The proposed subdivision will enable the orderly planning of the area. The proposal therefore complies with Clause 65.

**Discussion:**

The proposed subdivision will satisfy the relevant planning policies in the PPF and LPPF and will comply with the relevant decision guidelines of the Rural Living Zone, the Environmental Significance Overlay and Schedule 3 of the ESO, the Land Subject to Inundation Overlay and the Bushfire Management Overlay as outlined above.

A Section 173 Agreement is required as a condition to prevent development of proposed Lot 2 for accommodation as detailed above.

The proposal will not adversely impact on the amenity of the area and will enable the orderly planning of the area in accordance with Clause 65.

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

**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, the Rural Living Zone, the Environmental Significance Overlay and Schedule 3 of the ESO, the Land Subject to Inundation Overlay, the Bushfire Management Overlay and Clause 65.

**Report to Council:**

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

**Processing Times:**

11/08/2020 – Application lodged  
02/09/2020 – Further information requested  
23/09/2020 – Partial response to further information requested.  
27/09/2020 – Application fee paid  
10/10/2020 – Response to further information received and an amended plan received  
07/11/2020 – Second further information request sent to the applicant  
04/01/2021 – Response to further information received and an amended plan received  
19/01/2021 – Third further information request sent to the applicant  
03/02/2021 – Response to further information received and an amended plan received  
26/02/2021 – External and internal referrals sent  
04/03/2021 – Advertising instructions sent

18/03/2021 – Responses received to Section 55 external referrals and internal referrals  
13/04/2021 – Statutory declaration for advertising received in SPEAR  
05/05/2021 – The report is being presented as a late report to Council at the meeting held 05 May 2021 (51 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 130(2) of the Local Government Act 2020, officers providing advice to Council must disclose any conflict of interest, including the type of interest.

Officer Responsible – Angela Hoy, Director Infrastructure Services

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

Author: Bernadine Pringle, Consultant Town Planner.

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

**Communications Strategy:**

Advise the applicant of Council's decision.

**Next Steps:**

Issue the planning permit and endorse the plans if approved by Council.

**RECOMMENDATION:**

***That Council approves planning application PA1675-2020 for a Two lot subdivision on the subject land at 320 Horseshoe Bend Road Dimboola VIC 3414 (Lot 1 on Title Plan 599194B), subject to the following conditions:***

**Conditions:**

***Endorsed Plans***

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

***Section 173 Agreement***

- 2. Before the plan of subdivision is certified under the Subdivision Act 1988, the owner must enter into an agreement with the responsible authority made***

***pursuant to Section 173 of the Planning and Environment Act 1987 (the Act) and make application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act, which specifies:***

***a) The use and development of Lot 2 for accommodation is prohibited.***

**The owner/operator must pay the reasonable costs of preparation, execution and registration of the Section 173 Agreement.**

***Wastewater system on Lot 1***

***3. The existing wastewater system on Lot 1 must contain all effluent from the existing buildings within the lot and the system must comply with the Environment Protection Act 1970, the State Environment Protection Policy (Waters of Victoria) and the EPA Code of Practice 891.4 (2016) for On-Site Wastewater Management or relevant alternative, to the satisfaction of the Responsible Authority.***

***Access***

***4. Before the issue of a Statement of Compliance under the Subdivision Act 1988, the existing crossovers and main entrance to Lot 1 must be upgraded or a new drainage pipe and crossovers must be constructed in accordance with the IDM-255 Standard, to the satisfaction of the Responsible Authority.***

***5. Before the issue of a Statement of Compliance under the Subdivision Act 1988, the existing access to Lot 2 must be clearly signed with the address of the property, to be easily identifiable to emergency services, to the satisfaction of the Responsible Authority.***

***6. The crossovers and access to the two lots must be constructed to an all-weather standard and must have a minimum trafficable width to accommodate emergency vehicles, to the standards and satisfaction of the Responsible Authority or as otherwise agreed to writing by the Responsible Authority.***

***CFA Condition***

***7. Prior to statement of compliance the owners of the land must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 with the purpose of prohibiting the development of Lot 2 for accommodation.***

***Subdivision Conditions in Clause 66.01***

- 8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**
- 9. 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.**
- 10. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**

#### **Subdivision Expiry**

**11. The subdivision will expire if:**

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

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

**Notes:**

#### **CFA**

**CFA notes previous correspondence with the applicant regard the unsuitable nature of the access provided to the proposed Lot 2 from Stringybark Road in the context of creating a new residential lot in the BMO. Pre-referral advice to the applicant was that the subdivision in its current form would only be supported by CFA on the basis of a s.173 agreement which prohibited future development of the proposed Lot 2 for a dwelling/ accommodation.**

**A s.173 agreement for the purposes of restricting the use of the land for accommodation negates the need for a s.173 agreement to address the requirements of Clause 44.06-5. Further, a s. 173 agreement for the purposes of Clause 44.06-5 is not required where: "the relevant fire authority states in writing that the preparation of an agreement ... is not required for the subdivision."**

**Wimmera CMA**

***The 1% AEP flood is not the maximum possible flood. A flood larger in height and extent, than the 1% AEP flood, may occur in the future.***

**Infrastructure**

- ***The upgraded access or new drainage pipe and crossover for Lot 1 on Horseshoe Bend Road must be constructed as per IDM-255 Standard.  
[https://www.designmanual.com.au/assets/files/documents/Standard\\_Drawing\\_s/IDM\\_STANDARD\\_DRGS\\_SET\\_2020-03-24.pdf](https://www.designmanual.com.au/assets/files/documents/Standard_Drawing_s/IDM_STANDARD_DRGS_SET_2020-03-24.pdf)***
- ***A Consent to Works Within Road Reserve Permit must be obtained from Council's Infrastructure Department (Phone: 03 5391 4444) for the construction or alteration/upgrade of any vehicle crossovers or any works conducted in the road reserve.***

*Attachment Numbers: 4, 5 and 6*

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**9. REPORTS REQUIRING A DECISION**

**9.1 DRAFT 2021/2022 BUDGET AND DRAFT REVENUE AND RATING PLAN**

**Responsible Officer:** Director Corporate and Community Services  
**Attachment Number:** 7 – Hindmarsh Shire Council Draft Budget 2021/2022

**Introduction:**

This report presents the draft 2021/2022 Annual Budget incorporating the draft Revenue and Rating Plan in accordance with the Local Government Act 2020. The report includes a recommendation that Council adopt the draft the draft 2021/2022 Annual Budget incorporating the draft Revenue and Rating Plan and invites community submissions.

**Discussion:**

Council is required under section 94 of the *Local Government Act 2020* to prepare a budget for each financial year and the subsequent 3 financial years by:

- (a) 30 June each year; or
- (b) any other date fixed by the Minister by notice published in the Government Gazette.

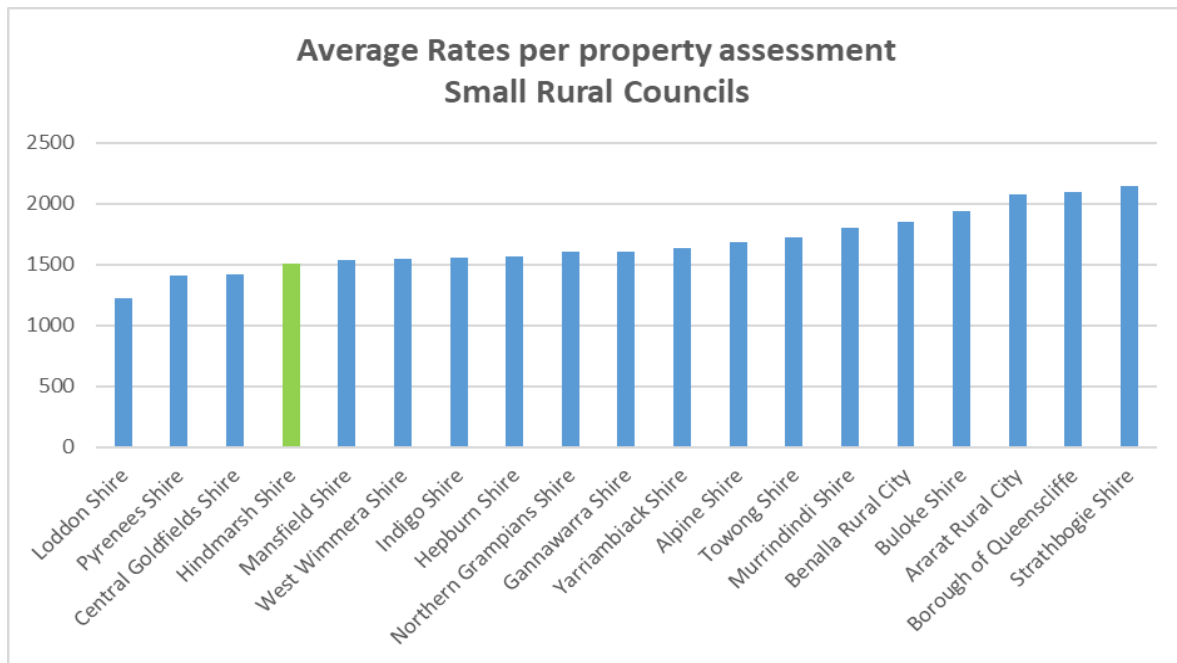
The draft budget has been prepared in accordance with relevant statutory requirements, including the *Local Government Act 2020* (Act) and *Local Government (Planning and Reporting) Regulations 2014*.

A requirement of the new Local Government Act 2020 is that all Victorian Local Governments are required to adopt a Revenue and Rating Plan by 30 June 2021.

The draft Revenue and Rating Plan has been developed to retain the current differentials for farm and commercial/industrial properties (10 percent discount), recreational properties (50 percent discount), and non-farm vacant land (100 percent penalty).

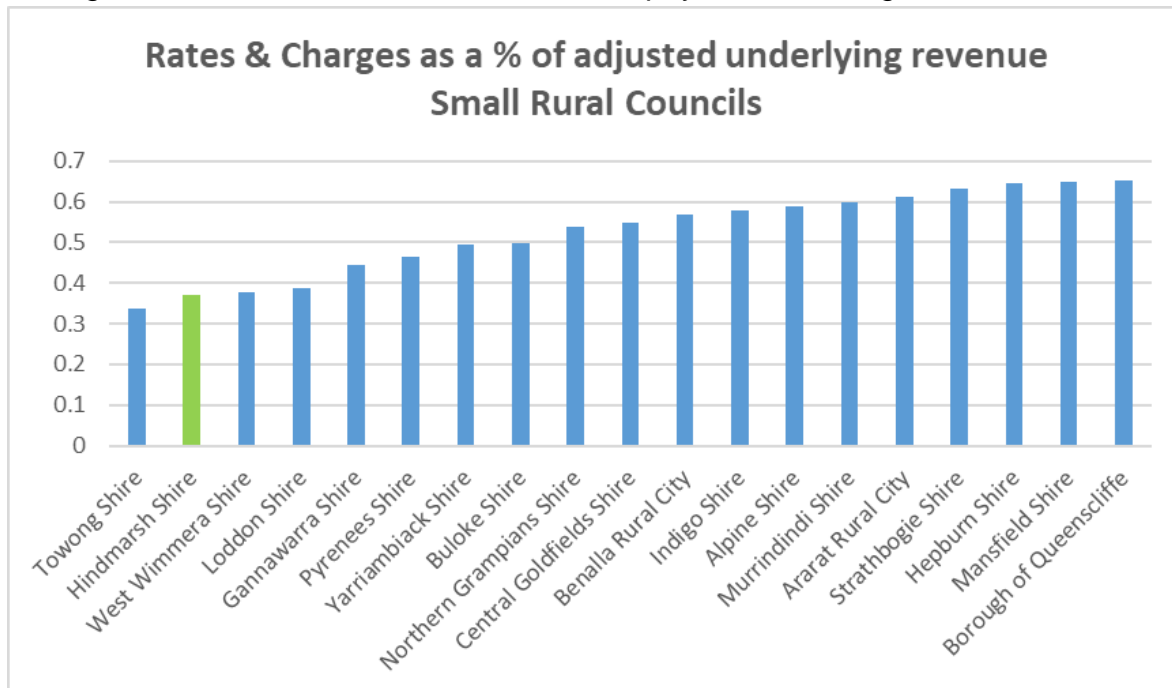
When developing the plan, consideration was given to current rates per and benchmarking against similar councils was undertaken.

On a rates per assessment basis, Hindmarsh Shire was well within the average for the group of small rural Council's in the 2019/2020 financial year.



\*source Know Your Council, 2019/20 Annual Reporting data

The graph below, showing that Council is at the lower end of its peer group in terms of rates as a percentage of overall revenue, is an indication of the focus Council places on raising revenue from sources other than rate payers, such as grant revenue.



\*source Know Your Council, 2019/20 Annual Reporting data

The draft 2021/22 budget has been developed to balance the retention of existing community service levels, maintenance and renewal of assets, and new initiatives to improve amenity and make Hindmarsh a better place to live. It replicates the format of the four Key Result Areas used in the 2017-2021 Council Plan, namely:

- Community Liveability;
- Built and Natural Environment;

- Competitive and Innovative Economy; and
- Our People, Our Processes.

The budget has been prepared based on available information to inform forecasts and assumptions. At the time of preparation, the Victorian state government and federal government 2021/2022 budgets have not been released.

### **Rates and Charges**

The rates and charges calculated for 2021/22 are based on revaluation figures as at 1 January 2021. The draft Revenue and Rating Plan includes differentials for farms and commercial/industrial properties (10 percent discount), recreational properties (50 percent discount), and non-farm vacant land (100 percent penalty).

The Victorian State Government rate cap increase for 2021/2022 has been set at 1.5%. The cap, in line with the Essential Services Commission (ESC) calculation method, applies the increase to the average rates payable per assessment.

The total amount to be raised by general rates and charges in 2021/2022 is \$9.21m, which is an increase of \$0.12m from 2020/2021.

### **Capital Works**

The draft 2021/2022 budget includes capital works expenditure of \$14.09m. A number of larger grant funded projects are budgeted to be completed during 2021/2022 including:

- Albacutya Bridge \$3.3m and Albacutya Road widening \$509,923.
- Davis Park redevelopment \$3.58m (subject to successful grant application).
- Cabins at Dimboola, Jeparit and Rainbow Caravan Parks \$600,000 (subject to successful grant application).
- Nhill Library upgrade \$110,000.

### **Key Initiatives**

The proposed key initiatives for the 2021/22 financial year are outlined below. Further details are included in the relevant sections of the budget document.

### **Community Infrastructure**

- Funding obtained through the Local Roads and Community Infrastructure Round 2 funding will enable Council to undertake works on Community Infrastructure including:
  - Jeparit Camp Kitchen;
  - Nhill Tennis Club Rooms;
  - Rainbow Library Park linking Rainbow Library and Oasis;
  - Rainbow Lake; and
  - Davis Park.

- \$10,000 in recurrent and \$50,000 in capital as seed funding for grant opportunities arising during the year.
- \$6,500 to install pedestrian safety fencing at the Nhill Early Years Centre to reduce the risk of a child running directly onto the road.
- \$60,000 to install new solar heating at the Rainbow Swimming Pool due to the existing solar heating not working.

### **Tourism Development**

- \$12,000 to support the Rainbow Desert Enduro in August 2021.
- \$10,000 to support the Peter Taylor Memorial Barefoot Tournament in February 2022.
- \$15,500 Advertising and Marketing.
- \$21,000 implementation of Nhill Streetscape Master Plan initiatives.
- \$20,000 to update the ensuites at the Riverside Holiday Park in Dimboola.

### **Economic Development:**

- Business Assistance Grants. The Business Assistance Grants Program (BAGP) aims to support local businesses expanding their operations or new businesses, large and small, to establish in the Shire. It will provide assistance to offset costs associated with expanding or establishing a business in Hindmarsh Shire. \$20,000 has been included in the 2021/22 budget for this project.

### **Empowered Communities**

- \$7,500 to each of the Shire's four Town Committees. This funding can be used as seed funding for grants that will fund works important to the community in each town. In its fourth year, this funding has enabled some fantastic projects in our towns since its inception.
- Hindmarsh Youth Council funding of \$10,000 to allow this successful initiative to continue.
- \$20,000 to its Community Action Grants which will enable community groups to apply for funding for events, minor facility upgrades, small equipment and community assistance.
- \$2,000 to support the Nhill Friday Fiestas in February 2022.

### **Infrastructure**

- Kerb & Channel: Western Highway Median Maintenance Nelson Street \$57,925; Elgin Street, Nhill \$150,227; Scott Street, Jeparit \$128,076; Park Street, Nhill (\$219,569)
- Reseals and Final Seals: Council will undertake reseal and final seal projects totalling \$787,722 in 2021/22. These include: Lorquon Palm Road, Lorquon; Antwerp Woorak Road, "S Bend"; Antwerp Warracknabeal Road, Antwerp; Charles Street, Jeparit; Netherby Baker Road, Netherby; Jeparit East Road, Jeparit; Hindmarsh Street, Dimboola; Salisbury Woorak Road, Nhill.

- Sealed Road Construction: Council will undertake sealed road construction projects totalling \$1.066m in 2021/22. These include Wimmera Street, Dimboola; Antwerp Woorak Road, Nhill; Kiata North Road, Kiata; Albacutya Road, Rainbow.
- Road Resheet Projects: Council will undertake 7 resheet projects during 2021/22 totalling \$493,729. These include Boundary Road in conjunction with West Wimmera Shire; Lorquon Cemetery Road, Nhill; Horsham Road, Dimboola; Arkona Katyil Road, Dimboola; Propodollah Road, Nhill; Stasinowsky Road, Rainbow; Antwerp Katyil Road, Dimboola.
- Footpaths: Footpath projects totalling \$179,525 will be undertaken during 2021/22. These include Lake Street, Rainbow; Wimmera Street, Dimboola; Roy Street, Jeparit; Nelson Street, Nhill; Railway Street, Rainbow; Hindmarsh Street, Dimboola.

The draft 2021/2022 budget incorporating the draft Revenue and Rating Plan have been prepared for approval by Council. Under Council's Community Engagement Policy, the draft budget and draft Revenue and Rating Plan will be made available for public inspection and the receiving of submissions for the period Monday 10 May 2021 to Friday 4 June 2021. Council will be advised of any submissions received at the 23 June 2021 Council meeting.

The draft 2021/2022 budget incorporating the draft Revenue and Rating Plan will be available for public inspection at Council Customer Service Centres or online on Council's website.

**Options:**

Council must formally prepare and advertise its 2021/22 budget pursuant to sections 94 and 96 of the *Local Government Act 2020*. The draft Revenue and Rating Plan must be prepared pursuant to section 93 of the *Local Government Act 2020*.

**Link to Council Plan:**

The 2021/22 Budget provides the funding for Council to undertake its initiatives and activities proposed in the Council Plan's four key result areas. Each program in the Budget contains a statement about how the program will contribute to the initiatives and strategies detailed in the Council Plan 2017-2021.

**Financial Implications:**

The 2021/22 Budget is consistent with the parameters set out in Council's ten-year financial plan.

**Risk Management Implications:**

The preparation of the Budget is a statutory requirement.

**Conflict of Interest:**

Under section 130(2) of the *Local Government Act 2020* 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 and Officer Responsible, I have no interests to disclose.

**Communications Strategy:**

In line with Council's Community Engagement Policy, it proposed that the draft budget be made available to allow for submissions for the period Monday 10 May 2021 to Friday 4 June 2021. Submissions will be considered at the Council meeting on Wednesday 23 June 2021.

Copies of the draft 2021/2022 budget, including the Revenue and Rating Plan will be available at Council's Customer Service Centres and on Council's website.

**RECOMMENDATION:**

**That Council:**

- 1. approves the draft 2021/22 Budget incorporating the draft Revenue and Rating Plan for the purposes of public consultation in accordance with the Local Government Act 2020,**
- 2. gives public notice of the preparation of the draft Budget incorporating the draft Revenue and Rating Plan inviting written submissions from the public for the period Monday 10 May 2021 to Friday 4 June 2021,**
- 3. considers public submissions from those who have requested that they be heard in support of their submission and the formal adoption of the draft budget incorporating the draft Revenue and Rating Plan at the Council meeting on Wednesday 23 June 2021, and**
- 4. authorises the Chief Executive Officer to undertake minor changes to the proposed budget 2021/22 incorporating the draft Revenue and Rating Plan if required.**

Attachment Number: 7

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## 9.2 LOCAL LAW REVIEW

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

**Attachment Numbers:** 8 – Hindmarsh Municipal Local Law

9 – Hindmarsh Governance Local Law

**Introduction:**

This Council Report seeks Council adoption of the Hindmarsh Governance Local Law No. 1 2014 and Hindmarsh Municipal Local Law No. 2 2014.

**Discussion:**

At the meeting held on Wednesday 3 March 2021 Council resolved to approve the statutory process to make the Governance Local Law No. 1 and Hindmarsh Municipal Local Law No. 2 (collectively **Local Laws**), and give public notice stating the purpose of the proposed Local Laws and invite written submissions under s223 of the *Local Government Act 1989*.

Both proposed Local Laws were made available for public inspection and submissions from Thursday 11 March 2021 until Wednesday 14 April 2021.

### **1. Relevant legislation to be considered in Local Law review**

The relevant legislation to comply with in the review of the Local Laws is Part 5 of the *Local Government Act 1989*. The provisions of the *Local Government Act 2020* pertaining to the development of Local Laws do not come into effect until 1 July 2021. While the review on these documents will be done under the *Local Government Act 1989*, Council will not have to re-do a review on the documents again after 1 July 2021. Section 71(6) of the *Local Government Act 2020* provides that “despite the repeal of Part 5 of the *Local Government Act 1989*, a local law made under that Act continues in force as if that Part had not been repealed and may be amended or revoked by a local law made under this Act”.

### **2. Community Consultation**

The process for community consultation in the development of Local Laws is legislated by sections 119 and 223 of the *Local Government Act 1989*.

Both proposed Local Laws were available for public inspection and submissions from Thursday 11 March 2021 until Wednesday 14 April 2021. A public notice was placed in the local papers and the Government Gazette advising that the draft Local Laws were available to peruse at all Council Offices and online on the Hindmarsh Shire website. This period for submission was open from Thursday 11 March 2021 until Wednesday 14 April 2021.

Council officers included the draft Local Laws in the Community Consultation sessions undertaken as part of the development of the Council Plan throughout March.

### **3. Governance Local Law (previously named Meeting Procedure Local Law)**

The meeting procedure was reviewed due to the implementation of the Governance Rules that were approved by Council in August 2020, which replaced a substantial amount of the Meeting Procedure Local Law. The Governance Local Law provides for the use of the common seal and offences in the event of inappropriate conduct at Council meetings and meetings of delegated committees, which could not be included in the Governance Rules.

#### **3.1 Public submissions**

Council received one submission relating to the Governance Local Law.

Name	Feedback	Officer response
<b>Bryson Ingamells</b>	<i>The Hindmarsh Governance Local Law No 1 (2021) appears to be a good law. I hope it facilitates good governance.</i>	The aim of the Hindmarsh Governance Local Law No 1 (2021) is to provide good governance. The positive feedback in relation to the Hindmarsh Governance Local Law No 1 (2021) is welcomed.

A copy of the Hindmarsh Governance Local Law No 1 is attached to this Report.

#### 4. Municipal Local Law

The Municipal Local Law has been re-formatted and all cross-referencing errors contained within the previous Municipal Local Law have been corrected. The contents of the Municipal Local Law largely remain the same.

A loophole in relation to Part 2 – Camping was closed by inserting the phrase ‘in a calendar year’ in clause 8.2.3. In the previous Municipal Local Law, the clarification of the three-month period being in a calendar year was not included. This resulted in Authorised Officers advising people to move on and then having them come back a few days later.

Division 9.3 - Other Provisions Relating To Streets, Roads and Public Places, clause 59.1 Consumption of Alcohol has been updated to include:

- Goldsworthy Park, Nhill;
- Nine Creeks Reserve barbeque area and the rear of the Dimboola Library, Dimboola;
- Riverbank precinct barbeque area, Jeparit; and
- Jeparit Recreation Reserve, Jeparit.

#### 4.1 Public submissions

Council received two submissions relating to the Municipal Local Law.

Name	Feedback	Officer response
<b>Bryson Ingamells</b>	<i>The use of am and pm in Part 60.1 The American Heritage Dictionary of the English Language states "By convention, 12 am denotes midnight and 12 pm denotes noon. Because of the potential for confusion, it is advisable to use 12 noon and 12 midnight."</i>	60.1 of the Municipal Local Law has been updated to now reference 12noon for clarity. A search of the document has been done to ensure this is the only clause this applies to.



Name	Feedback	Officer response
<b>Bryson Ingamells</b>	<i>My problem with Part 37. Dogs and cats. The wording implies two dogs or two cats but not both. In other words, an occupier can't have a dog and a cat. I'm all in favour. Dogs and cats are trouble for me: dogs bark and howl all days all hours; cats – worse: yowling, fighting, using my place as a toilet and killing my birds - not to mention the intractable problem of feral cats.</i>	37.1.3 has been included to clarify that a person can own a combination of two cats and two dogs without obtaining a permit from Council.
<b>Graham Blair</b>	<i>28 Directive Powers 28.1 If in the opinion of an authorised officer of a member of the Victoria Police Guessing that is 'or'</i>	Clause 28.1 has been updated to reflect this.
<b>Graham Blair</b>	<i>76 about cranes. It repeats 75.6 &amp; has nothing to do with cranes.</i>	Clause 76.1 has been updated to include the correct wording.
<b>Graham Blair</b>	<i>25.1 Fires in open So we're standing around at home after a family BBQ on a Saturday evening &amp; we can't throw a few sticks of wood into a Bunnings Fire Pit to keep warm &amp; have a chat. But if we're at the local football ground it's okay to do this in some 44 gallon drums because they obviously get a permit for each match? I reckon there needs to be some sort of exemption size/type or whatever as this is not complied with almost every winter weekend.</i>	Council officers recommend that clause 25.1 remain as presented in the draft Municipal Local Law. The changed recommended by Mr Blair would be a significant change to the Municipal Local Law and without extensive consultation on the change it is not recommended that we make such a significant change.

A copy of the Hindmarsh Municipal Local Law No 2 is attached to this Report.

## 5. Next steps

Following this meeting, Council Officers will place a notice in local papers and the Government Gazette specifying the title of the local law, the purpose and general purport of the local law and that a copy of each local law may be inspected at any Council office. A copy of both Local Laws will also be forwarded to the Minister. Upon publication in the Government Gazette, the Local Laws will come into effect.

**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.”*

**Financial Implications:**

N/A

**Risk Management Implications:**

No risk management implications.

**Conflict of Interest:**

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

Officer Responsible – Monica Revell, Director Corporate and Community Services  
In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

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

**Communications Strategy:**

As per above.

**RECOMMENDATION:**

**That Council:**

- 1. adopts the Governance Local Law No 1 – 2020, as amended;**
- 2. notes that the Governance Local Law No 1 – 2020 will come into effect on the day following the day on which notice of the making of the Local Law is published in the Government Gazette;**
- 3. pursuant to s119(2) of the Local Government Act 1989, gives notice in the Government Gazette and a public notice in the local papers stating the title of the Local Law, the purpose and general purport of the Local Law and that a copy of the Local Law may be inspected at the Council office;**
- 4. pursuant to s119(4) of the Act, forwards a copy of the adopted Governance Local Law No 1 – 2020 to the Minister for Local Government.**

**RECOMMENDATION:**

**That Council:**

- 1. adopts the Municipal Local Law No 2 – 2020, as amended;**
- 2. notes that the Municipal Local Law No 2 – 2020 will come into effect on the day following the day on which notice of the making of the Local Law is**

*published in the Government Gazette;*

3. *pursuant to s119(2) of the Local Government Act 1989, gives notice in the Government Gazette and a public notice in the local papers stating the title of the Local Law, the purpose and general purport of the Local Law and that a copy of the Local Law may be inspected at the Council office;*
4. *pursuant to s119(4) of the Act, forwards a copy of the adopted Municipal Local Law No 2 – 2020 to the Minister for Local Government.*

*Attachment Numbers: 8 and 9*

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### 9.3 RISK MANAGEMENT POLICY

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

**Attachment Number:** 10 – Risk Management Policy

#### **Introduction:**

This report seeks Council adoption of the Hindmarsh Shire Council Risk Management Policy.

#### **Discussion:**

Risk management is an important component of strategic decision-making. Council's risk management framework is currently guided by the following documents:

- Risk Management Policy;
- Risk Strategy; and
- Fraud Prevention Policy and Plan.

Council officers have conducted a review on Hindmarsh Shire Council's Risk Management Policy. The policy has not been reviewed since June 2013. The review was prompted by the internal audit into risk management which recommended that Council review the Risk Management Policy. The audit findings recommended that Council's Risk Management Policy be reviewed with reference to the AS/NZS ISO 3100: 2018 Risk Management –Guidelines (**Standards**).

The changes made to the Risk Management Policy are outlined as follows:

- ***The purpose of the policy***  
The purpose of the policy is clearly outlined at the beginning.
- ***A commitment to upholding an effective risk management system***  
An explicit commitment to upholding an effective risk management system has been included in the policy
- ***Inclusion of Risk Management Principles outlined in the Standards***  
Commitment to the risk management principles included in the Standards has been included in the policy.

- **Updated terminology**

Outdated terminology and references to Committees that no longer operate at Council have been removed from the policy and replaced with current terminology and references.

The reviewed Risk Management Policy is attached to this Council Report.

**Options:**

1. Council can approve that the Risk Management Policy.
2. Council can amend the Risk Management Policy and then approve Risk Management Policy.

**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.

**Financial Implications:**

Nil.

**Risk Management Implications:**

The Risk Management Policy sets out Council's commitment to risk management principles to:

- increase the likelihood of achieving objectives;
- encourage proactive management;
- establish a reliable basis for decision making and planning;
- improve operational effectiveness and efficiency and improve organisational resilience;
- enhance health and safety performance as well as environmental protection;
- improve the identification of opportunities and threats;
- improve financial reporting and governance;
- comply with relevant legal and regulatory requirements.

**Conflict of Interest:**

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

Officer Responsible – Monica Revell, Director Corporate and Community Services  
In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

Author – 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 officers will upload the Risk Management Policy on Council's website and circulate the Risk Management Policy to all and Councillors and staff.

**Next Steps:**

Council Officers will undertake the following steps moving forward:

- Follow the communication strategy as outlined above.

**RECOMMENDATION:**

***That Council adopts the Risk Management Policy.***

*Attachment Number: 10*

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## 9.4 MAYORAL AND COUNCILLOR ALLOWANCES ADOPTION

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

**Introduction:**

The purpose of this report is to adopt the Mayoral and Councillor Allowances following the public consultation period between 10 February 2021 and 8 April 2021.

**Discussion:**

At the Council meeting held on Wednesday 3 March 2021 Council resolved to consider the review of the Mayoral and Councillor Allowances and advertise for public submissions in relation to its intention to set the Mayoral and Councillor Allowances at the meeting on Wednesday 5 May 2021.

The *Local Government Act 2020* has established a new way of setting Councillor and Mayoral Allowances. However, Local Government Victoria has advised that this will not be implemented before 30 June 2021. Council must therefore review and determine the Mayoral and Councillor allowances within the framework established by the *Local Government Act 1989*.

Councillors are democratically elected by the residents and ratepayers of Hindmarsh municipality. Once elected, Councillors are required to carry out various roles and functions impartially, to the best of their ability, and in the best interests of the municipality. This includes providing community leadership and guidance through attendance at various Council and community meetings, and setting the strategic direction for the municipality. In recognition of this, Councillors and the Mayor are entitled to receive an allowance.

Under the *Local Government Act 1989* framework, the Victorian Government sets upper and lower limits for all allowances paid to Councillors and Mayors. For the purpose of

these allowance limits, councils are divided into three categories based on the income and population of each council. Each council is required to determine the precise annual amount that will be paid to its Mayor and Councillors, within the limits of the categories set by the Victorian Government.

Section 74(1) of the *Local Government Act 1989* requires that councils must review and determine the level of Mayoral and Councillor Allowances within six months after a general election or by the next 30 June, whichever is later. The allowance levels determined apply from the time of Council making a resolution after conducting a review of its allowances and remain in effect until the next election.

The following allowances were gazetted on 13 November 2019. No CPI increases were applied for 2020, so the amount gazette in 2019 remain valid at this point in time.



## Victoria Government Gazette

No. S 459 Wednesday 13 November 2019  
By Authority of Victorian Government Printer

### Local Government Act 1989

#### MAYORAL AND COUNCILLOR ALLOWANCES ADJUSTMENT

Pursuant to section 73B(4)(a) of the **Local Government Act 1989**, notice is hereby given that an adjustment factor of two per cent applies to Mayoral and Councillor allowances.

Pursuant to section 73B(4)(b) of the **Local Government Act 1989**, the new limits and ranges of Mayoral and Councillor allowances, adjusted in accordance with the adjustment factor, are:

Category 1	Councillors: \$8,833–\$21,049 per annum	Mayors: up to \$62,884 per annum
Category 2	Councillors: \$10,914–\$26,245 per annum	Mayors: up to \$81,204 per annum
Category 3	Councillors: \$13,123–\$31,444 per annum	Mayors: up to \$100,434 per annum

This notice does not apply to the Lord Mayor, Deputy Lord Mayor and Councillors of the Melbourne City Council, and the Mayor and Deputy Mayor of the Greater Geelong City Council.

The new adjusted limits and ranges take effect on 1 December 2019.

Dated 12 November 2019

ADEM SOMYUREK MP  
Minister for Local Government

The relevant allowance range limit that applies to Hindmarsh Shire Council (as a Category 1 Shire) from 13 November 2019 (subject to an additional amount equivalent to the superannuation guarantee of 9.5%) are:

- An allowance paid to Councillors for performing their duties – minimum \$8,833, maximum \$21,049 (subject to any amendments by Order in Council).
- An allowance paid to the Mayor for performing their mayoral duties – maximum amount \$62,884 (subject to any amendments by Order in Council).

Hindmarsh Shire Council, like many of its peers in Category 1, has historically opted for the maximum allowance.

### Community Consultation

Council provided the community with 28 days' notice of its intention to set Councillor

Allowances and invited public submissions on the allowances up until 8 April 2021.

Advertisements were placed in the Dimboola Courier, Dimboola Banner, Nhill Free Press, Rainbow Jeparit Argus and Wimmera Mail Times from 10 February 2021 through 12 February 2021. The notice was also published on Council's website.

At the time of closing, no submissions were received in relation to Council's intention to set the Mayoral and Councillor Allowances.

**Options:**

Council may determine to pay allowances anywhere within the range of \$8,833.00 to \$21,049.00 and up to \$62,884.00 for the Mayor.

Under the *Local Government Act 2020*, Section 39(5) Councillors may choose to do the following:

A Mayor, Deputy Mayor or Councillor may elect:

- (a) to receive the entire allowance to which they are entitled; or
- (b) to receive a specified part of the allowance to which they are entitled; or
- (c) to receive no allowance.

**Link to Council Plan:**

Strategic Objective 4.1 Long term financial sustainability.

**Financial Implications:**

Council Officers have included Councillor and Mayoral allowances in the Annual budget.

**Risk Management Implications:**

No risk management implications.

**Conflict of Interest:**

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

Officer Responsible – Monica Revell, Director Corporate and Community Services  
In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

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

**Communications Strategy:**

N/A

**Next Steps:**

Councillors should notify the chief executive officer if they are wanting to receive less

than the set Mayoral and Councillor Allowances.

**RECOMMENDATION:**

***That Council, having considered the community submissions;***

- 1. set the Mayoral Allowance per annum at \$62,884 plus 9.50% Statutory Superannuation; and***
- 2. set the Councillors Allowance per annum at \$21,049 plus 9.50% Statutory Superannuation per Councillor;***

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## **9.5 GUIDELINE STANDARDS AND PROCESSES FOR GAZETTING OF B DOUBLE ROADS**

**Responsible Officer:** Director Infrastructure Services  
**Attachment Numbers:** 11 – Draft HSC Guidelines and Processes for Gazetting of B Double Roads  
12 – B Double Working Group Minutes  
13 – B Double Submissions

**Introduction:**

The purpose of this report is to adopt the guidelines, standards and processes in principal for Gazetting of B Double Routes within the Hindmarsh Shire Municipality based on the Australian Road Research Board (ARRB) Report

**Discussion:**

At the Ordinary Council Meeting held 3 March 2021, Council resolved to publish the proposed guidelines for community consultation and hold a meeting of interested Councillors, representative groups and Council staff:

***That Council publish the proposed guidelines for community consultation and subsequently a meeting be held of interested Councillors, representative groups and Council staff to return the guidelines to the 5 May 2021 Council meeting.***

Following the previous decisions at the 16 December 2020 Ordinary Council Meeting stating that:

- *Council reply to the Victorian Farmers Federation (VFF) that it understands the need to improve road transport efficiency, but Hindmarsh Shire Council is unable at this point in time to extend the access to all local roads in the Hindmarsh Shire Municipality for A- Double Access as requested; and*
- *Officers undertake a review of the current roads hierarchy system and roads management plans and begin to re-enter community discussions with key stakeholders on existing road networks within the Hindmarsh Shire Municipality for the purpose of increasing A-Double and B-Double access.*



Hindmarsh Shire Council formed a B-double Working Group and held their first meeting on 23 March 2021. The minutes of the meeting have been provided as an attachment to this Council report. The working group comprised the following members:

- Ms Annabel Mactier (Victorian Farmers Federation Grains Group)
- Mr Ben Anderson (National Heavy Vehicle Regulator)
- Mr Paul Tindal (Mass Management)
- Mr David Moore (Department of Transport)
- Mr Ian Mond (Department of Transport)
- Mr David Rogers (Livestock and Rural Transporters Association Victoria)
- Community Members: Mr Brett Wheaton, Mr Roy Dickinson, Mr Matthew Staples, Mr Fred Saul, Mr Rob Cole, Mr David Reichelt, Mr Gary Taylor and Mr Russell Eckermann
- Cr Ron Ismay (Mayor)
- Cr Melanie Albrecht (Deputy Mayor)
- Hindmarsh Shire Council staff: Ms Angela Hoy (Director Infrastructure Services), Mr Paul Spencer (Senior Assets Engineer) and Mr Joe Scimone (Development Engineer)
- Mr Jose Arredondo (National Heavy Vehicle Regulator)

All members a chance to make their views known at the meeting. The general consensus of the group was that there is an acceptable level of risk that can be applied, such as:

- local access to roads with no through access to non-local road users;
- speed reduction;
- increased signage; and
- dry weather access only.

This would ensure local access to all roads within the Hindmarsh Shire Municipality be placed on the National Heavy Vehicle Regulator (NHVR) website with conditions which are enforceable and can be amended at any point in time. However, more in-depth discussion is required before making any changes.

Council Officers will present a report at a June 2021 Council meeting to consider providing local access and thoroughfare for B-doubles and other vehicle configurations throughout the municipality. A public consultation period will follow afterwards to allow all members of the community the opportunity to provide their input. The B-double Working group will continue to meet to address access issues, and council officers will continue to review the current roads hierarchy list, strategic transport routes and road management plan.

The working group had minimal discussion about the draft guidelines and processes based on the ARRB Report. Council officers maintain the view that the AARB guidelines are best suited to local government, and allows for different swept paths based on traffic counts, line marking and other data, than the NHVR guidelines. See the attached Draft

HSC Guidelines and processes for Gazetting of B Double Routes. It is important to note that they are guidelines and processes and refer to delegations, which would allow some council officers to make decisions on a case-by-case basis as they arise.

Council also invited submissions from other road users over a four-week period. 17 submissions were received and are attached. Only one comment was received on the adoption of the proposed guidelines.

An adoption of the guidelines will:

1. Ensure openness and transparency for customers wishing to use, or request Council's consideration to open a route to B Doubles and assist Council Officers in determining strategic freight routes going forward.
2. Reduce the number of permit applications processed by Shire Officers and assist Council Officers in determining strategic freight routes going forward.
3. Assist with determining which roads should have priority upgrades for budget purposes.

### **Options**

Council can:

1. Approve the adoption of the Guidelines and Processes for Gazetting B Double Routes within the Hindmarsh Shire Municipality based on the ARRB Report.
2. Amend the Guidelines and Processes for Gazetting B Double Routes within the Hindmarsh Shire Municipality based on the ARRB Report.

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

Strategic Objective 1.1	An actively engaged community.
Strategic Objective 1.1.6	Continue to engage with our farming community on road and road related infrastructure maintenance and improvements.
Strategic Objective 2.1	Well-maintained physical assets and infrastructure to meet community and organisational needs.
Strategic Objective 2.1.3	Develop and prioritise detailed plans relating to new infrastructure, infrastructure upgrade and renewal (including roads, bridges, drains, footpaths and buildings) for each town.
Strategic Objective 3.4	Transport solutions that support the needs of our communities and businesses.
Strategic Objective 3.4.1	Advocate for flexible and responsive public and freight transport.
Strategic Objective 3.4.2	Investigate innovative transport solutions and facility upgrades.

### **Financial Implications:**

N/A

### **Risk Management Implications:**

An adoption of the guidelines will:

1. Increase access and heavy vehicle use by responsible vehicle operators and thus increase the numbers of heavy vehicles currently on the roads, which will initially increase council's maintenance costs. The costs in time will balance out as there will be less vehicle movements, with vehicle configurations able to take more loads.
2. Have an effect on residents and non-heavy vehicle road users, which needs to be taken into account when making assessments and enforcing conditions. Significant community consultation will be required to educate those who may not support the use of heavy vehicles on local roads.

**Conflict of Interest:**

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

Officer Responsible/Author – Angela Hoy, Director Infrastructure Services

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

**Communications Strategy:**

Advertise Council's new guidelines

**Next Steps:**

Publish the new guidelines and link on the Shire's Website.

**RECOMMENDATION:**

***That Council approves the adoption of the Guidelines and Processes for assessing the suitability of B Double Routes within the Hindmarsh Shire Municipality based on the Australian Road Research Board Report.***

*Attachments Numbers: 11, 12 and 13*

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## 10. COUNCIL COMMITTEES

### 10.1 JEPARIT TOWN COMMITTEE

**Responsible Officer:** Director Corporate & Community Services  
**Attachment Number:** 14

**Introduction:**

The Jeparit Town Committee held its meeting on 12 April 2021. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

**RECOMMENDATION:**

***That Council notes the minutes of the Jeparit Town Committee meeting held on 12 April 2021.***

*Attachment Number: 14*

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### 10.2 DIMBOOLA TOWN COMMITTEE

**Responsible Officer:** Director Corporate & Community Services  
**Attachment Number:** 15

**Introduction:**

The Dimboola Town Committee held its meeting on 12 April 2021. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an attachment for the information of Council.

**RECOMMENDATION:**

***That Council notes the minutes of the Dimboola Town Committee meeting held on 12 April 2021.***

*Attachment Number: 15*

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### 10.3 RAINBOW TOWN COMMITTEE

**Responsible Officer:** Director Corporate & Community Services  
**Attachment Number:** 16

**Introduction:**

The Rainbow Town Committee held its meeting on 30 March 2021. The purpose of this report is to note the minutes from this meeting. A copy of the minutes is included as an

attachment for the information of Council.

**RECOMMENDATION:**

**That Council:**

1. **notes the minutes of the Rainbow Town Committee meeting held on 30 March 2021;**
2. **approves payment of \$8,916.60 to Norelle Eckermann for expenditure incurred in relation to the Rainbow Rises 240 event in March 2021,**
3. **approves transfer of Rainbow Recreation Reserve Committee camping fees collected by the Enduro Working Group to Recreation Reserve Committee; and**
4. **approves the appointment of Alison Ey as a member of Rainbow Town Committee.**

Attachment Number: 16

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**11. LATE REPORTS**

**11.1 PLANNING PERMIT APPLICATION PA1707-2021 – TWO LOT SUBDIVISION (RE-SUBDIVISION OF TWO EXISTING LOTS) – HORSEDIP ROAD GLENLEE VIC 3418 (CROWN ALLOTMENT 105 & CROWN ALLOTMENT 8, PARISH OF NI NI)**

**Responsible Officer:** Director Infrastructure Services  
**File:** Planning – Applications  
**Assessment:** 076400  
**Application No.** PA1707-2021  
**SPEAR Ref. No.** S169770M  
**Applicant:** Simone Dorrington, C/- Angela Plazzer, Ferguson Perry Pty Ltd  
**Owner:** Simone Dorrington and Bryce Dorrington  
**Subject Land:** Horsedip Road Glenlee VIC 3418 (Crown Allotment 105 and Crown Allotment 8, Parish of Ni Ni)  
**Proposal:** Two lot subdivision (Re-subdivision of two existing lots)  
**Zoning & Overlays:** Farming Zone  
No Overlays  
**Attachment Number:** 21 – Plan for Endorsement (Version 1) - Plan of Subdivision and Plan of Subdivision Showing Existing Features

**Summary:**

This report recommends that Council approve Planning Permit PA1707-2021 for a two lot subdivision (Re-subdivision of two existing lots) at Horsedip Road Glenlee VIC 3418

(Crown Allotment 105 and Crown Allotment 8, Parish of Ni Ni), subject to standard conditions.

**Background:**

The site has been mostly cleared and used for agricultural purposes, being cropping, for a long time. There is a flat area on the eastern side of the site which is surrounded by a tree plantation. The applicant states this area used to contain a dwelling, which has been demolished. There are also scattered remnant trees located to the west of this cleared area on the site.

**Proposal Details:**

The application proposes a two lot subdivision (re-subdivision of two existing lots). It is noted that the two existing lots are approximately 65.8ha (CA105) and 47.0ha (CA8) in area.

The plan of subdivision (Version 1) proposes the following:

- Proposed Lot 1 with an area of 22.69ha that contains the cleared area and tree plantation, the scattered remnant trees and cropping land.
- Proposed Lot 2 with an area of 90.19ha that contains cropping land and several scattered remnant trees.

Vehicle access to proposed Lot 1 is proposed from the existing crossover on Brown Road to the east. Vehicle access to proposed Lot 2 is proposed by the Applicant from the existing crossover on Horsedip Road to the south. The Engineering Team have requested that existing crossovers and vehicle access on Brown Road, to Lots 1 and 2, be upgraded to current standards.

The applicant has stated the following about the proposal:

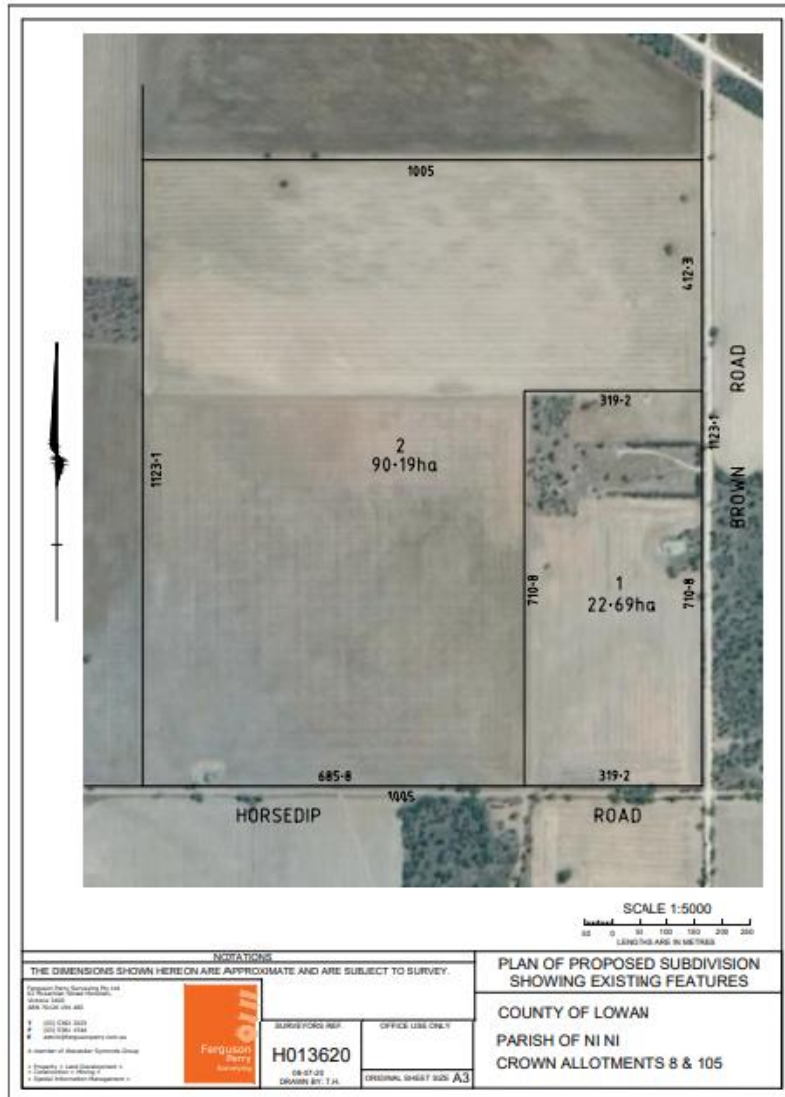
*'The application proposes a two-lot subdivision of CA105 and CA8 in order to restructure the farming operation by implementing the farm succession plan. Proposed Lot 1 will have an area of 22.69ha and proposed Lot 2 will have an area of 90.19ha. The land on both lots will continue to be used for cropping.'*

The Farm Management Plan submitted with the application states:

*To start the process of 'succession planning', the land in question, being Crown Allotments 8 and 105 Parish of Ni Ni needs to go through the subdivision process and have the internal boundaries re-aligned. This process is required so that one of the two sons can purchase the smaller lot (known as Lot 1) which will contain 22.69ha. The realignment will also follow existing fence lines that have been there for decades. By allowing the subdivision, the son will continue to crop and graze the subject land in a more efficient and viable manner...'*

Proposed Plan of Subdivision (Version 1) & Proposed Plan of Subdivision showing existing features (Version 1) below:





**Requirement for Permit:**

The subject land is located within the Farming Zone and is not included in any Overlays.

A planning permit is required under Clause 35.07-3 Subdivision of the Farming Zone, which states that a permit is required to subdivide land.

**Restrictive Covenant or Section 173 Agreement:**

The subject site is not burdened by a Restrictive Covenant or Section 173 Agreement.

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

The proposal is exempt from requiring a CHMP pursuant to the *Aboriginal Heritage Regulations 2018* as the site is not within an Aboriginal Cultural Heritage Sensitivity Area, and a two lot subdivision is an exempt activity in any case.

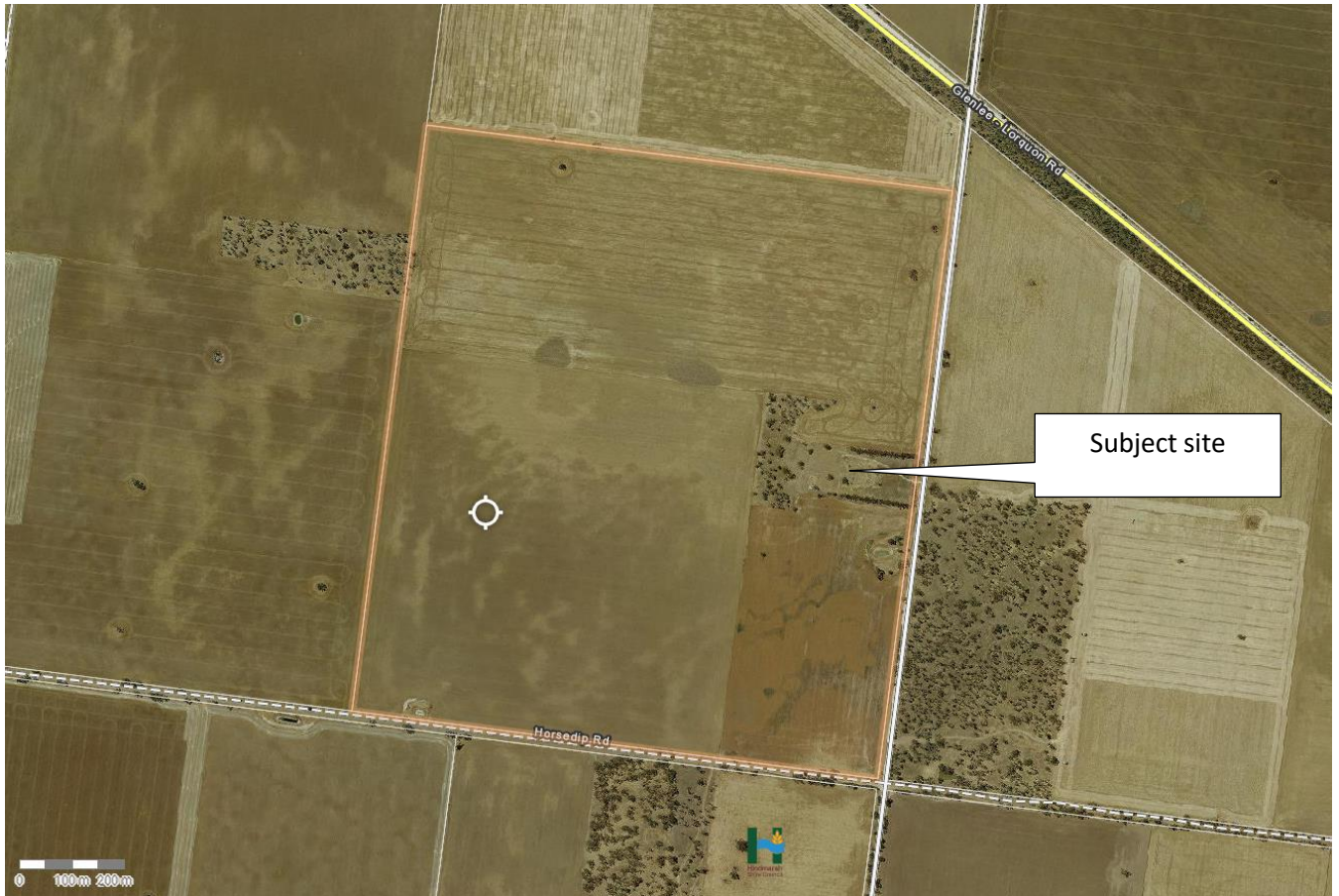
**Subject site & locality:**

The subject site is located on the northern side of Horsedip Road and the western side of Brown Road and consists of Crown Allotments 105 (CA105) and 8 (CA8) Parish of Ni



Ni. The site has a total area of approximately 112.8ha. CA105 has an area of approximately 65.8ha and consists of land used for cropping, a cleared area and tree plantation, and scattered remnant native trees. CA8 has an area of approximately 47.0ha and contains land used for cropping and several scattered remnant native trees. Access to CA105 is from Brown Road and access to CA8 is from Horsedip Road. The site and all the surrounding land are within the Farming Zone (FZ).

Aerial Photo of the site and surrounding area below (POZI)



**Consultation:**

Consultation was undertaken and included:

- Preliminary discussions with the applicant about lodging this application due to the same application PA1674-2020 having lapsed.
- A request for further information was sent to the applicant via SPEAR on 3 February 2021.
- The further information including a Farm Management Plan and an amended Planning Report were received in SPEAR on 10 March 2021.

**Section 52 Notice of application:**

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

- Sending notices to the owners and occupiers of the adjoining land.

- Placing two (2) public notices on site, one (1) sign fronting Horsedip Road and one (1) fronting Brown Road.

A statutory declaration form for the public notice was submitted to Council on 15 April 2021. The notification has been carried out correctly. Council has not received any objections to date.

**Referrals:**

External Referrals/Notices were required by the Planning Scheme:

**Section 55 Referrals**

Nil

**Section 52 Referrals**

Nil

**Internal Referrals:**

- Engineering: Comments provided, and condition required as detailed below.
  - *We have conducted a site visit on 12 March 2021*
  - *The following conditions need to be applied to the permit. The current locations of access at Lot 1 marked 3 on the site plan and Lot 2 marked 6 which is approx. 150m further North, will need to be upgraded or a new drainage pipe and crossover will need to be constructed as per IDM SD-255 Standard, with a new fence and gate with recommended setback on Brown Road.*  
[https://www.designmanual.com.au/assets/files/documents/Standard\\_Drawings/IDM\\_STANDARD\\_DRGS\\_SET\\_2020-03-24.pdf](https://www.designmanual.com.au/assets/files/documents/Standard_Drawings/IDM_STANDARD_DRGS_SET_2020-03-24.pdf)

**Planning Scheme:**

Planning Scheme Requirements:

**Planning Policy Framework (PPF)**

The following relevant Clauses in the PPF have been considered for the application.

Clause 11.01-1S – Settlement

Clause 11.01-1R – Settlement – Wimmera Southern Mallee

Clause 11.03-6S – Regional and local places

Clause 14.01-1S – Protection of agricultural land

Clause 14.01-1R – Agricultural productivity – Wimmera Southern Mallee

Clause 14.01-2S – Sustainable agricultural land use

Clause 19.03-2S – Infrastructure design and provision

**Local Planning Policy Framework (LPPF)**

The following relevant Clauses in the LPPF have been considered for the application.

Clause 21.00 – Municipal Strategic Statement

Clause 21.02 Vision – Strategic Framework

Clause 21.03 Objectives – Strategies – Implementation

Clause 21.03-2 Economic Development

Clause 21.03-3 Agriculture

Objective

*To maintain a viable and sustainable agricultural industry to ensure the future well-being of the Shire and its residents.*

Strategies (relevant to application)

*To promote and support the traditional rural industries such as cropping, livestock and wool production.*

*To promote effective land management and the integration of economic and environmental needs through sustainable agricultural practices.*

*To recognise and protect farmland as an important resource through the development and implementation of appropriate provisions in the planning scheme.*

*Limit the fragmentation of productive agricultural land to maintain sustainable holdings.*

*Ensure that new development does not limit the viability of surrounding enterprises and reflects the optimum use of land.*

Planning Response:

The proposed subdivision will comply with the relevant objectives of the PPF by protecting and enhancing valuable agricultural land and retaining sustainable agricultural uses that will not create any conflicts with surrounding agricultural uses.

The subdivision to realign the existing two lots for the purpose of farm succession planning will not result in the loss of any productive agricultural land and will protect and enhance the cropping activities carried out by the existing family farming operation.

A Section 173 Agreement is not required in this instance as the subdivision will make one lot larger and one lot smaller than at present and the two lots will be retained as productive land holdings as part of the current family farming operation.

The proposed subdivision will therefore comply with the relevant provisions of the LPPF including the MSS and the local planning policies including Clause 21.03-3 Agriculture subject to conditions.

## **Zoning Provisions**

### **Clause 35.07 Farming Zone (FZ)**

#### **35.07-3 Subdivision**

A permit is required to subdivide land.

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

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

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

### **35.07-6 Decision Guidelines**

Before deciding on an application to use or subdivide land, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate, matters under the following relevant headings:

- General issues
- Agricultural issues and the impacts from non-agricultural uses
- Environmental issues
- Design and siting issues

#### Planning Response:

The proposed subdivision complies with the relevant decision guidelines in the zone for the following reasons:

#### General issues

- The proposal will comply with the LPPF and PPF as discussed above.
- The proposal will be consistent with the current Wimmera Regional Catchment Strategy 2013-2019.
- The subdivision will encourage sustainable land management by increasing the area of one lot from 65.8ha to 90.19ha, while allowing a reduction in the area of the other lot from 47.0ha to 22.69ha to allow family members to be financially part of the family farming operation.
- The subdivision will result in some of the cropping land and the cleared area, tree plantation and scattered trees to be located on a smaller lot and the majority of cropping land to be retained on the larger lot. The proposal will be compatible with the adjoining and nearby agricultural land uses.
- The proposal makes use of existing infrastructure and services. The existing vehicle crossovers for access to both lots are required to be upgraded to ensure the crossovers, drainage pipes and access are constructed to Council standards. Standard conditions will be included for services to be connected as required by the relevant authorities in accordance with the conditions listed in Clause 66.01.

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

- The subdivision will not have an adverse impact on the existing cropping activities on the land, which will be retained on both lots as part of a family farming operation.
- The subdivision will not have in any adverse effect on soil quality and does not remove any land from agricultural production.
- The subdivision is unlikely to limit the operation and expansion of adjoining and nearby agricultural uses.
- The proposal will enable the productive agricultural use to be retained.

- The subdivision is unlikely to adversely affect the current agricultural activities and associated infrastructure.
- There is no applicable land management plan for the site.

#### Environmental issues

- The proposal is unlikely to have an adverse impact on soil and water quality and any other natural physical features and resources.
- The site and surrounding land have been largely cleared of native vegetation due to historical broad acre cropping and other farming activities. The scattered trees on the site will not be affected by the subdivision.
- The subdivision will not have impacts on flora and fauna in the locality.

#### **Overlay Provisions**

Nil

#### **Particular Provisions**

Nil

#### **General Provisions**

##### **Clause 65 - Decision Guidelines**

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

##### **65.01 Approval of an application or plan**

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

##### **65.02 Approval of an application to subdivide land**

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

#### Planning Response:

The proposal complies with the relevant decision guidelines as outlined above. The proposal is supportive of, and complies with the PPF and LPPF, having regard to the reconfiguration of the two land parcels used for agriculture for farm succession purposes. The proposal will not impact on the amenity of the area. The proposed subdivision will enable the orderly planning of the area. The proposal therefore complies with Clause 65.

#### **Discussion:**

The proposal will reconfigure the layout and the area of the two lots to enable farm succession by family members in a manner that will protect the existing agricultural use of the land. The proposed subdivision will satisfy the relevant planning policies in the

PPF and LPPF and will comply with the relevant decision guidelines of the FZ as outlined above.

The proposal will not adversely impact on the amenity of the area and will enable the orderly planning of the area in accordance with Clause 65.

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

**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, the Farming Zone and Clause 65.

**Report to Council:**

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

**Processing Times:**

02/02/2021 – Application submitted in SPEAR.

02/02/2021 – Fee waived

03/02/2021 – Further information requested

22/02/2021 – Response to further information received and amended plans received

10/03/2021 – Referral to Infrastructure sent

16/03/2021 – Response received from Infrastructure

17/03/2021 – Advertising directions and letters sent

18/03/2021 – Public notice erected on the site (as per the statutory declaration)

15/04/2021 – Statutory declaration for advertising received

05/05/2021 – The report is being presented as a late report to Council at the meeting held 05 May 2021 (43 statutory days)

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

**Conflict of Interest:**

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

Officer Responsible – Angela Hoy, Director Infrastructure Services

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

Author: Bernadine Pringle, Consultant Town Planner.

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

**Communications Strategy:**

Advise the applicant of Council's decision.

**Next Steps:**

Issue the planning permit and endorse the plans if approved.

**RECOMMENDATION:**

***That Council approves Planning Application PA1707-2021 for a Two lot subdivision (Re-subdivision of two existing lots) on the subject land at Horsedip Road Glenlee VIC 3418 (Crown Allotment 105 and Crown Allotment 8, Parish of Ni Ni), subject to the following conditions:***

**Conditions:**

***Endorsed Plans***

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

***Access***

- 2. Before the issue of a Statement of Compliance under the Subdivision Act 1988, the existing crossovers for access to Lot 1 and Lot 2 must be upgraded or a new crossover and new drainage pipes must be constructed, with a new fence and gate with recommended setback on Brown Road, to the satisfaction of the Responsible Authority.***
- 3. The crossovers and access to the two lots must be constructed to an all-weather standard and must have a minimum trafficable width to accommodate emergency vehicles, to the standards and satisfaction of the Responsible Authority or as otherwise agreed to writing by the Responsible Authority.***

***Subdivision Conditions in Clause 66.01***

- 4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.***

5. **All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**
6. **The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**

**Subdivision Expiry**

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

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

**Notes:**

**Infrastructure**

- **The existing crossovers must be upgraded or new drainage pipes and crossovers for Lot 1 and Lot 2 (approximately 150m further north) on Brown Road must be constructed as per IDM-255 Standard, with a new fence and gate with recommended setback on Brown Road.**  
[https://www.designmanual.com.au/assets/files/documents/Standard Drawings/IDM STANDARD DRGS SET 2020-03-24.pdf](https://www.designmanual.com.au/assets/files/documents/Standard_Drawings/IDM_STANDARD_DRGS_SET_2020-03-24.pdf)
- **A Consent to Works Within Road Reserve Permit must be obtained from Council's Infrastructure Department (Phone: 03 5391 4444) for the construction or alteration/upgrade of any vehicle crossovers or any works conducted in the road reserve.**

Attachment Number: 21

12. NOTICES OF MOTION

13. OTHER BUSINESS

14. CONFIDENTIAL REPORTS



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

- a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released;
- b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
- c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values;
- d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;
- e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;
- f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
- g) private commercial information, being information provided by a business, commercial or financial undertaking that—
  - i. relates to trade secrets; or
  - ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
- h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);
- i) internal arbitration information, being information specified in section 145;
- j) Councillor Conduct Panel confidential information, being information specified in section 169;
- k) information prescribed by the regulations to be confidential information for the purposes of this definition;
- l) information that was confidential information for the purposes of section 77 of the *Local Government Act 1989*

**RECOMMENDATION:**

***That the meeting be closed in accordance with section 66 (2) (a) of the Local Government Act 2020, to consider reports that contain confidential information as defined by section (3) of the Local Government Act 2020:***

- 14.1 Hindmarsh Shire Council Business Assistance Grants Round 3 – this report contains “personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs” insofar as it contains personal business information of applicants;***
- 14.2 Request for Tender - Award for Demolition and New Construction of Albacutya Bridge – this report contains “Council business information, being information that would prejudice the Council's position in***

- commercial negotiations if prematurely released” insofar as it pertains to contractual matters;*
- 14.3** *Request for Quote – Award for Purchase of a Wheel Loader - this report contains “Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released” insofar as it pertains to RFQ Award for Purchase of a Wheel Loader.*
- 14.4** *Regional Infrastructure Fund – this report contains “Council business information, being information that would prejudice the Council’s position in commercial negotiations if prematurely released” insofar as it pertains contractual matters; and*
- 14.5** *Chief Executive Officer Re-appointment – this report contains “personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs” insofar as it contains personal information about the Chief Executive Officer.*

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<b>15. MEETING CLOSE</b>
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