



3 August 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 4 August 2021 commencing at **3:00pm**.



Greg Wood
Chief Executive Officer

AGENDA

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 VicSmart Report and Planning Applications Approved Under CEO Delegation
- 8.2 Planning Permit Application PA1698-2020 – Development of Three Dwellings at the rear of the Existing Dwelling, Vegetation Removal, Construction of Fences and a Four Lot Subdivision at 32 Rockley Street, Nhill, VIC 3418
- 8.3 Planning Permit Application PA1721-2021 — Use of the Land to Sell Liquor under a Packaged Liquor Licence for Offsite Consumption - 49 Victoria Street Nhill VIC 3418

9. Reports Requiring a Decision

- 9.1 Draft Council Plan 2021-2025, Incorporating the Health and Wellbeing Plan, and Community Vision 2040
- 9.2 Domestic Animal Management Plan
- 9.3 Procurement Policy
- 9.4 Hindmarsh Shire Council Staff Delegations
- 9.5 Council Plan 2017-2021 Progress Report
- 9.6 Financial Report for the period ending 30 June 2021
- 9.7 Road Management Plan Review
- 9.8 Gazetting of Roads for B Double Use
- 9.9 Deviation of Antwerp-Woorak Road, Glenlee and Exchange of Land
- 9.10 Rainbow Rises Events Association
- 9.11 Sale of Discontinued Road in Whitton Street Dimboola

10. Council Committees

- 10.1 Yurunga Committee of Management
- 10.2 Dimboola Town Committee
- 10.3 Jeparit Town Committee
- 10.4 Rainbow Town Committee

11. Late Reports

- 11.1 Amended Application for Planning Permit PA633-2019 – Use and Development for a Place of Assembly - 116-120 Lloyd Street Dimboola VIC 3414
- 11.2 Planning Permit Application PA1715-2021 – Construct Buildings and Works for Alterations to the Existing Motel and for Use for an Ancillary Restaurant and a Bottle Shop and to Use the Land for the Sale and Consumption of Liquor at 7291 Western Highway, Nhill, VIC 3418

12. Notice of Motion

13. Other Business

14. Confidential Matters

14.1 Councillor Development

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 July 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 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: JULY 2021

Cr ISMAY, MAYOR

Date	Meeting	Location	Comments
01/07/2021	Opening of Dimboola Civic Hub	Dimboola	
05/07/2021	Rainbow Enduro Meeting	Rainbow	
07/07/2021	Briefing Meeting	Nhill	
	Council Meeting		
	Meeting with Humphreys Group	Microsoft Teams	
09/07/2021	Mayoral Gathering	Horsham	
14/07/2021	Planning / Vision Meeting	Nhill	
20/07/2021	WMT Meeting	Zoom	
21/07/2021	Facilitation Meeting	Zoom	

Cr ALBRECHT, DEPUTY MAYOR

Date	Meeting	Location	Comments
01/07/2021	Meet Dr Anne Webster	Nhill	Discussed advocacy of connectivity across Hindmarsh.
07/07/2021	Council Briefing	Nhill	
	Council Meeting		
08/07/2021	Wimmera Development Association Board Executive Committee Meeting	Nhill	Key business: review of draft budget.
13/07/2021	Wimmera Development Association Board Meeting	Zoom	Key business: Budget presentation.

14/07/2021	Council Plan & Council Vision – Councillor Development Session	Nhill	
14/07/2021	Hindmarsh Landcare Network	Dimboola	
19/07/2021	Nhill Town Committee	Zoom	Progression of key projects including Dog Park survey, upcoming events and Welcome to Nhill packs.
21/07/2021	Community Satisfaction Survey Results briefing session	Zoom	Explanation of the key findings and opportunities that were identified.
21/07/2021	Meeting with Mayor	Zoom	

Cr GERSCH

Date	Meeting	Location	Comments
01/07/2021	Dimboola Civic Hub Opening	Dimboola	
02/07/2021	Waste Meeting		
	Nhill Fire Brigade AGM		
07/07/2021	Council Briefing and Meeting	Nhill	
	Nhill Lake Committee AGM		
11/07/2021	Meeting re Truck Parking Glenferness Street		
12/07/2021	Meeting with EO		
13/07/2021	Personal Vaccination		
14/07/2021	Council Plan Update		
16/07/2021	Meeting with resident re draining issue		
23/07/2021	Wimmera Regional Roads Meeting	Zoom	
	RCV Board Meeting	Zoom	

Cr IRELAND

Date	Meeting	Location	Comments
01/07/2021	Opening of Dimboola Community Civic Hub by Dr Anne Webster MP	Dimboola	In the AM
	Community Consultation with Dr Anne Webster	Jeparit Supermarket	In the PM
07/07/2021	Council Briefing Meeting 1-3pm	Nhill	
	Council Meeting 3-5pm		
12/07/2021	Jeparit Town Committee Meeting 7-9:30pm		
15/07/2021	Yurunga Homestead Meeting 7:30-9:30pm	Rainbow	

Cr NELSON

Date	Meeting	Location	Comments
01/07/2021	Official Opening of Dimboola Community Civic Hub	Dimboola	
05/07/2021	Dimboola Town Committee Meeting		

07/07/2021	Briefing Meeting	Nhill	
	Council Meeting		
14/07/2021	Council Plan Meeting	Nhill	
20/07/2021	Wimmera Southern Mallee LLEN Finance Meeting		
21/07/2021	Community Satisfaction Survey Meeting		

Cr BYWATERS

Date	Meeting	Location	Comments
01/07/2021	Refurbished Old Dimboola Shire Hall Official Opening	Dimboola	
07/07/2021	Council Briefing and Council Meeting	Nhill	
14/07/2021	Meeting with Upper House MP Stuart Grimley about returning passenger rail to the Wimmera at the WDA offices	Horsham	

7. CORRESPONDENCE

7.1 GENERAL CORRESPONDENCE

Responsible Officer: Chief Executive Officer

Attachment Numbers: 2 – 13 and 36

Introduction:

The following correspondence is tabled for noting by Council.

Inwards:

- 09/07/2021 – Letter to Mayor from Stuart Grimley MP regarding Victoria's Big Housing Build Program
- 12/07/2021 – Letter to Council from Anne Simms regarding Public Consultation of Road Gazetting of B Double Routes
- 13/07/2021 – Letter to Council from Carol Paech regarding Western Beach Road B Double Use and Road Management Plan 2021-2023
- 15/07/2021 – Letter to Council from Wendy Werner regarding Wimmera River Discovery Trail
- 19/07/2021 – Letter to CEO from Dr Anne Webster on behalf of Roy Dickinson regarding B Double Access on Local Roads in the Hindmarsh Shire
- 22/07/2021 – Letter to Mayor from Barengi Gadjin Land Council regarding Request to close Ebenezer Mission Road and Transfer of Ownership

Outwards:

- 08/07/2021 – Council Response to Dimboola Town Committee regarding Event Funding Submission
- 12/07/2021 – Letter of Congratulations from Council to John and Alex O'Halloran Dimboola Store
- 12/07/2021 – Letter of Congratulations from Council to Tori Lehmann and Linda Millane Dimboola Store
- 22/07/2021 – Council Response to Carol Paech regarding Western Beach Road B Double Use and Road Management Plan 2021-2023
- 22/07/2021 – Council Response to Anne Simms regarding B Double Use on Taverner Street, Rainbow
- 23/07/2021 – Council Response to Dr Anne Webster regarding Roy Dickinson's Request
- 02/08/2021 – Letter of Congratulations to Lucy Stephan regarding Gold Medal at Tokyo Olympics 2020

RECOMMENDATION:

That Council notes the attached correspondence.

Attachment Numbers: 2 – 13 and 36

8. PLANNING PERMITS

8.1 VICSMART REPORT AND PLANNING APPLICATIONS APPROVED UNDER CEO DELEGATION

Responsible Officer: Director Infrastructure Services

Introduction:

This report is presented to provide an update on VicSmart permits processed by Council for the period 01 April 2021 to 30 June 2021.

This report also lists the Planning Applications approved under delegation by the CEO for the same period.

Discussion:

The VicSmart planning permit process is a statutory process that was introduced to streamline 'simple' planning permit applications.

Key features of VicSmart include:

- A 10 business day permit process
- Applications are not advertised
- Information to be submitted with applications and what Council can consider is pre-set
- The CEO or his delegate decides the application.

The table below lists the VicSmart permit that has been approved within this period.

Permit No.	Address	Proposal	Date Lodged	Trigger	Date approved	Statutory Days
VS1728-2021	24 Tarranyurk East Rd Tarranyurk	Development of an agricultural outbuilding	25/06/2021	Clause 35.07 – Farming Zone - A permit is required to construct a building within 100m of a waterway (Environmental Significance Overlay 2 – Channel) 59.13 (Vicsmart) - Buildings and works in a Rural Zone	30/06/2021	3

In addition, the following Planning Permit Applications were approved under delegation by the Chief Executive Officer.

Permit No.	Address	Proposal	Date Lodged	Trigger	Date Approved	Statutory Days
PA1710-2021	2657 Dimboola-Rainbow Rd Rainbow	Development of an agricultural building (farm machinery shed)	19/03/2021	Clause 32.05 – Township Zone - Permit is required to construct Buildings and Works for Section 2 use & Clause 35.07 Farming Zone – A Permit is required as the minimum setbacks specified in 35.07 have not been met.	01/04/2021	12
PA1711-2021	748 McKenzie Rd Antwerp	Construction of workshop & machinery shed	22/03/2021	Clause 35.07 – Farming Zone for a building which is within 100m from a waterway. 42.01 – Environmental Significance Overlay 2 (Channel Protection) - To construct buildings and works.	15/04/2021	24
PA1705-2021	291 Lorquon Station Rd Netherby	Use and development of a second dwelling in the Farming Zone	28/01/2021	Clause 35.07 – Farming Zone. A Planning Permit is required for Use as a second dwelling	23/04/2021	6
PA1717-2021	2A Railway St Rainbow	Native vegetation removal – 2 large trees	19/05/2021	Clause 52.17 – Native Vegetation - A permit is required to remove vegetation if there is no exemption for the proposal	16/06/2021	28
PA1720-2021	2653 Dimboola-Rainbow Rd Tarranyurk	Construction of a new storage building and works and reduce the required number of car parking spaces	19/05/2021	Clause 35.07 (FZ) - A permit is required for Buildings and Works associated with a Section 2 use (being Trade Supplies in the Farming Zone) and also for a building (a) less than 100m from Road Zone Category 1 and (b) less than 100m from a dwelling not in the same ownership.	28/06/2021	31

Options

N/A

Link to Council Plan:

- Strategic Objective 1.1 An actively engaged community.
- Strategic Objective 2.1 Well-maintained physical assets and infrastructure to meet community and organisational needs.
- Strategic Objective 3.1 A strong rural economy and thriving towns

- Strategic Objective 4.2 Quality customer services
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:

Fees associated with planning permit applications and amendments are set by the State in accordance with the Planning and Environment (Fees) Regulations 2016. These fees are currently being applied to all applications received by Council.

Risk Management Implications:

Risk is managed appropriately by adhering to the VicSmart process.

Conflict of Interest:

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

Author – Janette Fritsch, Manager Development

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

Officer Responsible – Angela Hoy, Director Infrastructure

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

Communications Strategy:

Nil

Next Steps:

Next Report to be provided October 2021.

RECOMMENDATION:

That Council notes the:

- *VicSmart permit issued; and*
 - *Planning Applications approved under delegation by the Chief Executive Officer as listed above, for the period 01 April 2021 to 30 June 2021.*
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8.2 PLANNING PERMIT APPLICATION PA1698-2020 – DEVELOPMENT OF THREE DWELLINGS AT THE REAR OF THE EXISTING DWELLING, VEGETATION REMOVAL, CONSTRUCTION OF FENCES AND A FOUR LOT SUBDIVISION AT 32 ROCKLEY STREET, NHILL, VIC 3418

Responsible Officer:	Director Infrastructure Services
File:	Planning – Applications
Assessment:	146960
Application No:	PA1698-2020
Applicant:	Wendy Azzopardi, Dreamworx Drafting and Design Pty Ltd
Owner:	Nicolas and Aisawan Morton
Subject land:	32 Rockley Street, Nhill, VIC 3418 (Lot 12 Section 25 Plan of Subdivision 008462)
Proposal:	Development of three dwellings at the rear of the existing dwelling, vegetation removal, construction of fences and a four lot subdivision
Zoning and Overlays:	General Residential Zone Schedule 1 Environmental Significance Overlay Schedule 6 <ul style="list-style-type: none">• Clause 32.08-3 - Subdivision• Clause 32.08-6 - Building and Works associated with construction of three dwellings• Clause 42.01-2 - Subdivision
Attachments:	14 - 16

Summary

This report recommends that Council approve Planning Permit PA1698-2020 for the development of three dwellings at the rear of the existing dwelling, vegetation removal, construction of fences and a four lot subdivision at 32 Rockley Street, Nhill VIC 3418 (Lot 12 Section 25 Plan of Subdivision 008462), subject to standard conditions.

Background

Planning Application PA1698-2020 was lodged with Council on 23 December 2020 for the development of two new single storey dwellings, retention of the existing dwelling and a three lot subdivision. The application was amended on 26 April 2021, 7 May 2021 and 12 May 2021 to propose the development of three new single storey dwellings, retention of the existing dwelling, the inclusion of vegetation removal and the construction of fences and a four lot subdivision.

Proposal

Subdivision

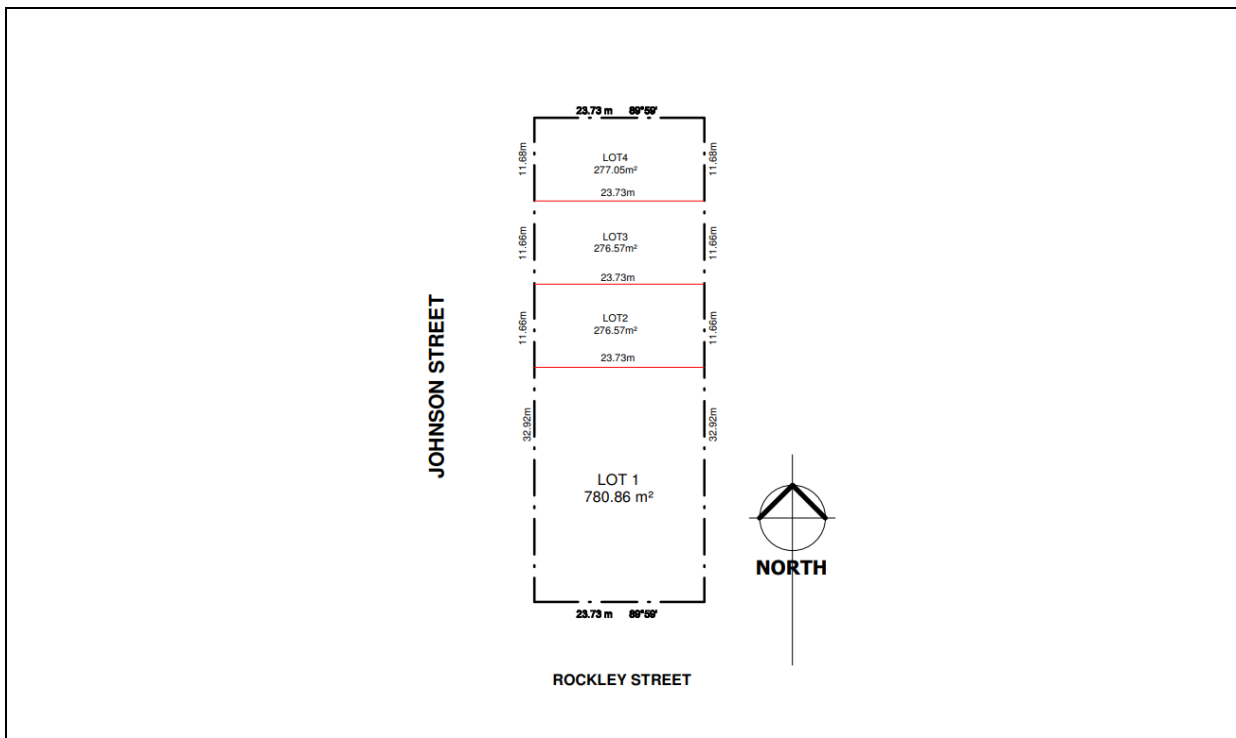
The application proposes the subdivision of the existing 1611m² site into a total of four (4) lots, as follows:

- Lot 1 – 780.86m²
- Lot 2 – 276.57m²

- Lot 3 – 276.57m²
- Lot 4 – 277.05m²

Lot 1 will retain the existing dwelling and carport. Lot 2, Lot 3 and Lot 4 will each be developed with a single storey dwelling. The lots will be connected to the required services.

Proposed Plan of Subdivision below:



Development

Lot 1 - Existing dwelling

The existing single storey dwelling and adjacent carport will be retained. The existing dwelling will be setback 3.775 metres from the northern boundary of Lot 2. Vehicle access to Lot 1 will be from an existing single width vehicle crossover from Rockley Street.

Lot 2, Lot 3 and Lot 4 – new single storey dwelling on each lot

Lots 2, 3 and 4 will each be developed with a single storey detached dwelling setback 6.0 metres from the front walls of the dwellings to the western boundary along Johnston Street. The front porches of the dwellings will extend 1 metre forward of the front façades to be 5 metres from the title boundary with side setbacks of between 1.4 metres to 1.47 metres in between the dwellings and from the northern wall of Dwelling 3 and the northern boundary.

Each dwelling will be provided with three bedrooms, an open plan living, kitchen and meals area, bathrooms and laundry and a single garage with a tandem car space in accordance with the car parking requirements of Clause 52.06 Car Parking. Vehicle

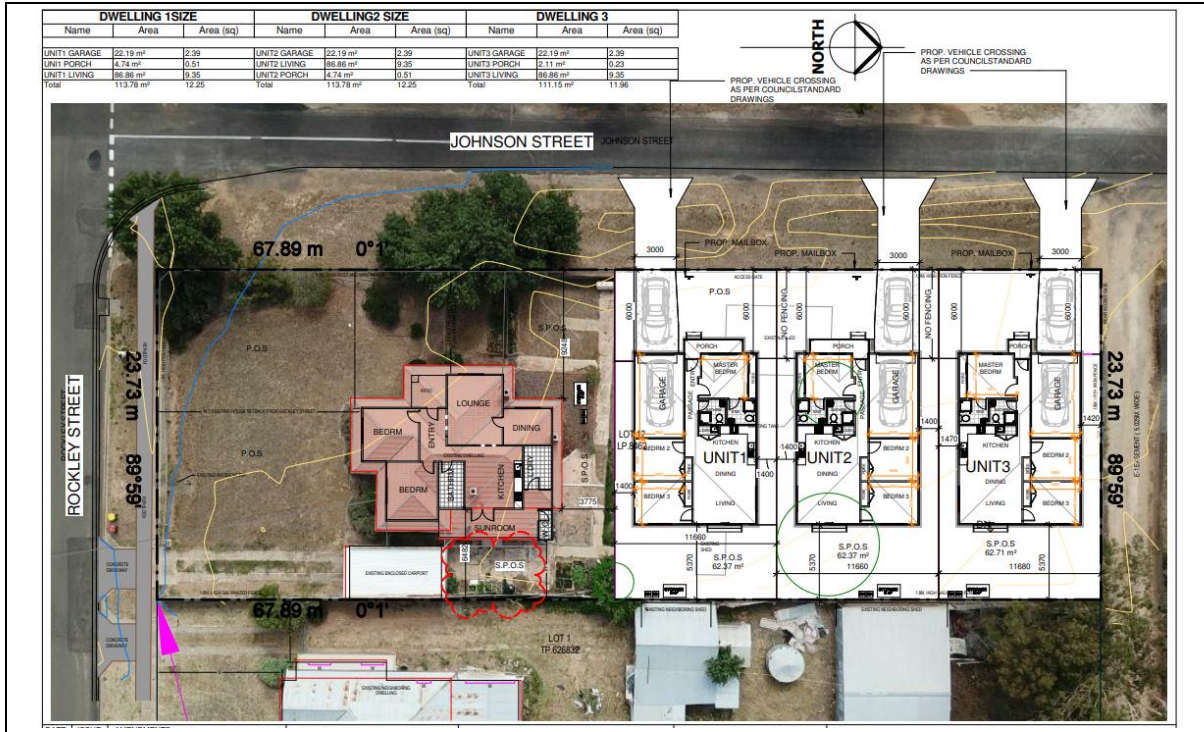
access to the three new dwellings on Lots 2, 3 and 4 will be from Johnson Street. Council's Engineers also require that each vehicle cross over has a minimum width of 3 metres as measured from the boundary of the respective lots.

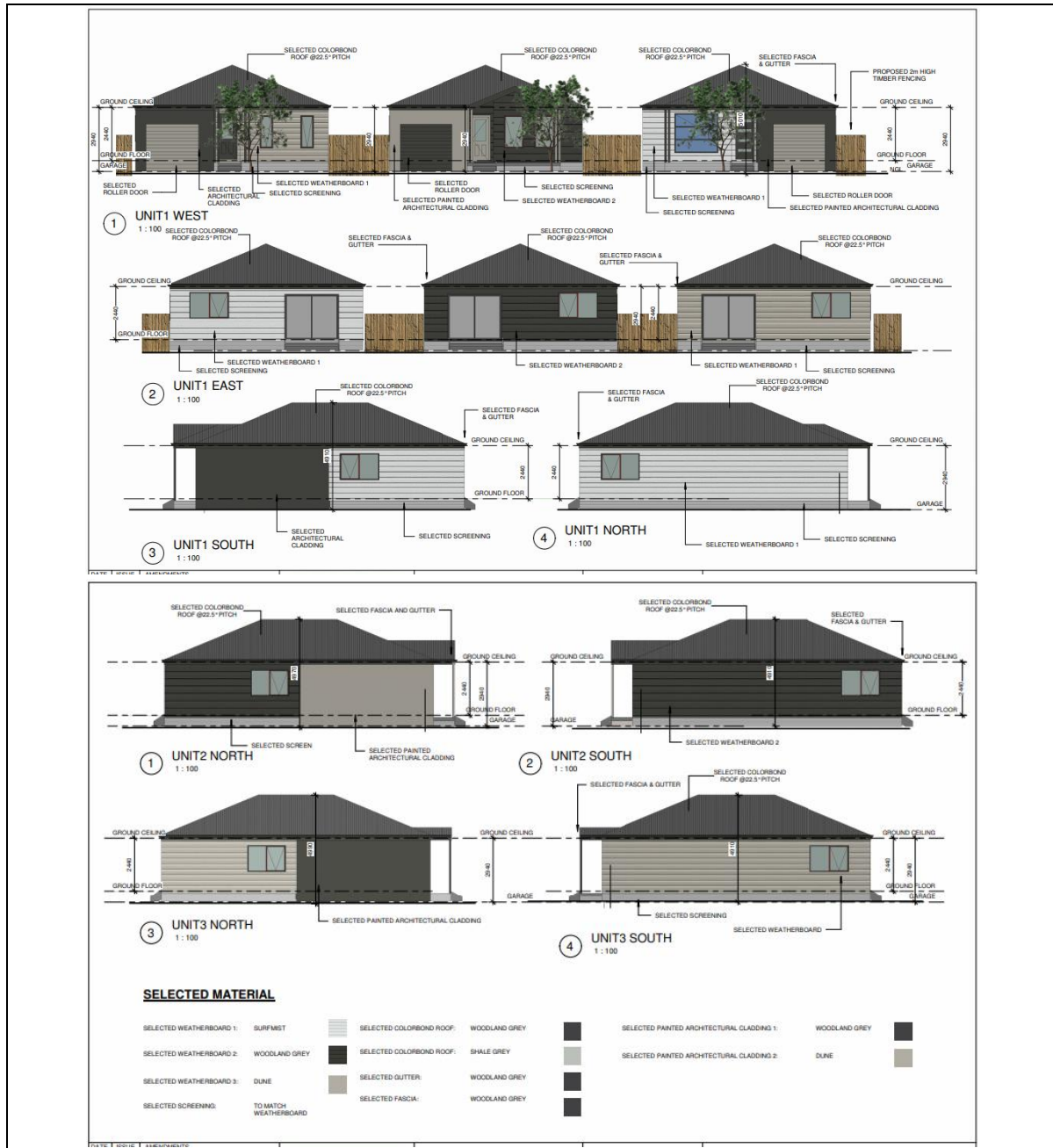
The application proposes the construction of new fences in between the four lots and in between the three new dwellings. There is existing vegetation to also be removed which consists of three existing trees in the rear yard of the site.

Demolition plan showing the trees to be removed below:



Proposed Ground Floor Plan and Elevations of the dwellings below:





Requirement for Permit:

The subject land is located within the General Residential Zone Schedule 1 and the Environmental Significance Overlay Schedule 6.

A planning permit is required to subdivide land under Clause 32.08-3 Subdivision of the General Residential Zone. A planning permit is also required under the Environmental Significance Overlay Schedule 6 for vegetation removal and construction of fences.

Subject Site and Locality

The subject site is located on the northern side of Rockley Street, Nhill and the eastern side of Johnston Street, Nhill. The site has a total area of approximately 1611m². The site contains a single storey weatherboard dwelling, a carport and a shed.

The site is within an established residential area within Nhill. The commercial centre of Nhill is located approximately 800 metres to the east of the site.

The adjacent property to the east at 30 Rockley Street is developed with a single storey weatherboard dwelling. A rear laneway and the rear yard of the adjoining property to the north at 193 Nelson Street adjoins the northern boundary of the site and is developed with a single storey detached dwelling and shed. To the west on the opposite side of Johnston Street is single storey detached dwelling and extensive vegetation. There are a variety of detached dwellings located on the southern side of Rockley Street on similar sized lots.

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 as the proposal is not within land affected by Aboriginal Cultural Heritage Sensitivity pursuant to the *Aboriginal Heritage Regulations 2018*.

Advertising

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 public notices on site, with one sign fronting Rockley Street and one sign fronting Johnston Street for a period of 14 days.
- The application being made available for public viewing on Council's website.

The notification has been carried out correctly by Council on behalf of the applicant.

Two submissions were received from neighbours in relation to queries about contributions to any future road upgrades, but written confirmation has been received from the submitters that they are not objecting to the application.

Council has therefore not received any objections to date.

Referrals

External Referrals

Section 55

Powercor Australia

The application was referred to Powercor Australia who advised:

- No objection subject to conditions. The Powercor Australia conditions are detailed in the report.

GWM Water

The application was referred to GWM Water who advised:

- No objection subject to conditions. The GWM Water conditions are detailed in the report.

Wimmera Catchment Management Authority (Wimmera CMA)

The application was referred to WCMA who advised:

- No objection. Note provided about potential flooding larger in height and extent than a 1% AEP flood may occur in the future.

Internal Referrals

The application was referred internally to the following Departments:

- Engineering – No objection to the development subject to conditions requiring:
 - Three new 3.0 metre wide single crossovers shall be constructed as per IDM-255 standard and at a location and of a size to the satisfaction of the Responsible Authority.
 - The existing culvert crossing in Johnston Street to be removed and drain re-installed to satisfaction of the Responsible Authority.
 - The vehicle crossings must be constructed at the applicant's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority.
 - A consent to works within road reserve permission is required prior to construction of each crossover.
 - Drainage to the western side of the property to the open table drain in the Johnston Street road reserve.

Planning Scheme:

Planning Scheme Requirements:

Municipal Planning Strategy (MPS)

Clause 02.02 Vision

Clause 02.03 Strategic Directions

Clause 02.03-1 Settlement and housing

Clause 02.03-2 Environmental and landscape values

Clause 02.03-3 Environmental risks and amenity

Clause 02.03-5 Building Environment and heritage

Council's strategic directions for built environment and heritage includes the need to:

- *Promote urban design and architecture that reflects the characteristics, aspirations and cultural identity of the community.*

Clause 02.04 Strategic Framework Plans

Nhill Framework Plan

Planning Policy Framework (PPF)

Clause 11.01-1S Settlement

Clause 11.01-1R Settlement- Wimmera Southern Mallee includes:

Support the ongoing growth and development of Edenhope, Hopetoun, Nhill, St Arnaud, Stawell and Warracknabeal as the key service hubs in their sub-regional communities of interest.

Clause 11.02-1S Supply of urban land

To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

Clause 15.01 Built Environment

Clause 15.01-2S Building Design objective is:

To achieve building design outcomes that contribute positively to the local context and enhance the public realm.

Clause 15.01-3S Subdivision design objective is:

To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.

Clause 15.01-4S Healthy neighbourhoods

Clause 15.01-5S Neighbourhood character

Clause 16.01 Residential Development

Clause 16.01-1S Housing Supply

To facilitate well-located, integrated and diverse housing that meets community needs.

Clause 19.03-2S Infrastructure design and provision objective is:

To provide timely, efficient and cost-effective development infrastructure that meets the needs of the community.

Clause 19.03-3S Integrated water management objective is:

To sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach.

Planning Response:

The proposed subdivision and development of three single storey dwellings located in proximity to existing services and facilities is supported by the relevant planning policies in the MPS and PPF relating to Settlement, Built Environment, Housing, Infrastructure and Urban Development. The proposal will provide a range of housing and accommodation options and will allow infill development to be accommodated within the town, which is encouraged in Clauses 02.03-1 Settlement and housing.

Clause 32.08 – General Residential Zone

The objectives of the General Residential Zone are contained in Clause 32.08 (relevant to the application):

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*

Clause 32.08-3 Subdivision

Permit requirement

A permit is required to subdivide land.

An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 and:

- Must meet all of the objectives included in the clauses specified in the following table.
- Should meet all of the standards included in the clauses specified in the following table.

Class of subdivision	Objectives and standards to be met
3 – 15 lots	All except Clauses 56.02-1, 56.03-1 to 56.03-4, 56.05-2, 56.06-1, 56.06-3 and 56.06-6

Clause 32.08-6 Construction of two or more dwellings on a lot

Permit requirement

A permit is required to:

- Construct a dwelling if there is at least one dwelling existing on the lot.
- Construct two or more dwellings on a lot.

This Clause requires applications under this provision to be assessed against the requirements of Clause 55. The application complies with the provisions of Clause 55 as detailed later in this report.

Planning Response:

The application is consistent with the Municipal Planning Strategy and Planning Policy Framework as discussed above. The development will respect the neighbourhood character of the area. The development will encourage a diversity of housing types and housing growth particularly in this location with good access to services and transport in Nhill. The proposal will therefore comply with the objectives of the zone.

An amended Demolition Plan is required to fully remove the existing smaller shed and the existing water tank that are not relocated anywhere on the development plans. An amended Landscape Plan is also required to ensure the three trees to be removed on the Demolition Plan are also shown to be removed on the Landscape Plan. A condition is required for amended plans to address the above issues.

A Section 173 Agreement is required to ensure that the permit holder/owner agrees to construct the proposed development in accordance with the plans endorsed to the permit before the subdivision to be finalised, which can be addressed as a condition.

Clause 42.01 Environmental Significance Overlay Schedule 6 (ESO6)

42.01-2 Permit requirement

A permit is required to:

- Construct a fence if specified in a schedule to this overlay.
- Subdivide land. This does not apply if a schedule to this overlay specifically states that a permit is not required.

42.01-5 Decision guidelines

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

- The Municipal Planning Strategy and Planning Policy Framework.
- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.
- The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.
- Any other matters specified in a schedule to this overlay

Schedule 6 to the ESO – Catchments of Wetlands Conservation Value

3.0 Permit requirement (relevant to application)

A permit is required for:

- Vegetation removal
- Construction of a fence that may obstruct the flow of water

A permit is not required for:

- Construction of a building

Planning Response:

The application is consistent with the Municipal Planning Strategy and Planning Policy Framework as discussed above. The application complies with the environmental objectives of Schedule 6 of the ESO.

The demolition plan shows the existing vegetation to be removed consists of three planted trees, which are not significant species, and their removal will not affect the primary catchment area for the wetlands of conservation value within the surrounding area of Nhill. The landscape plan shows that two of the trees will be retained, which is an inconsistency and is impractical due to the location of new internal fencing between Lot 1 and Lot 2 and the location of the new dwellings. A condition is required to amend the landscape plan to show the existing trees will be removed to be consistent with the demolition plan.

The construction of the fences between the lots and in between the dwellings will not adversely impact on the flow of water into the water catchment within the area. The Wimmera CMA has also advised they have no objections to the proposal.

Particular Provisions

Clause 52.06 Car Parking

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

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

Table 1: Car parking requirement

<u>Use</u>	<u>Rate</u>	<u>Car Parking Measure</u>
Dwelling	2	To each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedroom)

Planning Response:

The four dwellings each have a single garage and space in front for a tandem car space to provide the two car spaces required for the dwellings to comply with this Clause.

Clause 53.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the *Subdivision Act 1988*.

53.01-1 Exemption from public open space requirement specified in the scheme

A subdivision is exempt from a public open space requirement specified in this scheme if:

- *It is one of the following classes of subdivision:*
 - *Class 1: The subdivision of a building used for residential purposes provided each lot contains part of the building. The building must have been constructed or used for residential purposes immediately before 30 October 1989 or a planning permit must have been issued for the building to be constructed or used for residential purposes immediately before that date.*
 - *Class 2: The subdivision of a commercial or industrial building provided each lot contains part of the building. It is for the purpose of excising land to be transferred*

to a public authority, council or a Minister for a utility installation. It subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided.

Planning Response:

The proposed three lot subdivision does not meet either of the exemptions under Clause 53.01-1. Therefore, a 5% public open space contribution to the value of the land is required in accordance with this Clause.

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

The application has been assessed against the requirements of Clause 55 and complies with the objectives and standards of the relevant Clauses.

Clause 55.02 Neighbourhood character

The existing single storey detached weatherboard dwelling is to be retained. The proposed construction of three single storey weatherboard dwellings is to the north of the existing dwelling. The three new dwellings will be oriented towards Johnston Street and share similar scale, setbacks and heights as the existing dwelling. The new dwellings will be setback a minimum of 5 metres for the porches and 6 metres for the front walls from Johnston Street. The front setbacks of the new dwellings will be landscaped.

Clause 55.03 Site Layout and Building Massing

The proposed dwellings will have lesser front and side setbacks than the existing dwelling, however, the building height and design features are in keeping with the scale and height of the existing dwelling. The landscape plan shows new planting of trees and shrubs for landscaping on the site.

Clause 55.04 Amenity Impacts

The proposed development will not cause any adverse amenity impacts on the adjoining properties. The development will not create overlooking or overshadowing issues. The three new dwellings will face towards existing sheds at the rear of the adjoining property to the east, so there are limited views into this property. The proposal will not impact on solar access to existing habitable room windows of dwellings on the neighbouring properties.

Clause 55.05 On Site Amenity and Facilities

The three new dwellings will be oriented toward Johnston Street. Private open space is located at the rear of each dwelling and faces east. The living areas and secluded private open space areas of the proposed dwellings generally have a north-eastern orientation.

Proposed Dwelling 1 has north and east facing living areas which results in good northern orientation. Proposed Dwelling 2 and 3 only have east facing living areas, which is not ideal but this is acceptable as there will be adequate exposure to northern sunlight in the secluded open space areas. Storage areas of 6m³ are provided for each dwelling in the rear private open space areas. Bin storage areas and letterbox areas are detailed on the plans.

Clause 55.06 Detailed Design

The design detail of the three new weatherboard dwellings is respectful of the existing neighbourhood character due to their single storey detached building form and hipped roof form.

Clause 56 – Residential Subdivision

The application has been assessed against the requirements of Clause 56 and complies with the relevant objectives and standards of the Clause.

The subdivision will respect the existing neighbourhood character (Standard C6) and is consistent with the relevant provisions of the Municipal Planning Strategy and the Planning Policy Framework. The subdivision achieves a good lot diversity for the overall area in compliance with Standard C7 (Lot diversity and distribution). All lots are oriented towards the street to comply with Standard C10 (Street orientation).

The new crossovers for access to the lots from Johnston Street will need to be 3.0 metres and constructed to IDM-255 standard to comply with Standard C21. The new crossovers must be constructed before the issue of a Statement of Compliance or before the occupation of the dwellings in accordance with Council's design standards. The construction of the crossovers to Council's design standards will be addressed as condition.

The site has access to existing infrastructure in the area including reticulated water, sewer and electricity connections to comply with Standards C22, C24 and C25. Comments have been received from all referral authorities including Council's Engineers who require conditions for access and drainage. Conditions will be placed on the permit for the provision of suitable infrastructure on the site.

Conditions in relation to site management will be required to ensure that the site and surrounding area is protected from degradation and nuisance before and during the construction of the subdivision works to comply with Standard C26.

General Provisions

Clause 65 - Decision Guidelines

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

Clause 65.01 Approval of an application or plan (relevant to the application)

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

- *The matters set out in Section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the environment, human health and amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

Clause 65.02 Approval of an application to subdivide land

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

- *The suitability of the land for subdivision.*
- *The existing use and possible future development of the land and nearby land.*
- *The availability of subdivided land in the locality, and the need for the creation of further lots.*
- *The effect of development on the use or development of other land which has a common means of drainage.*
- *The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.*
- *The density of the proposed development.*
- *The area and dimensions of each lot in the subdivision.*
- *The layout of roads having regard to their function and relationship to existing roads.*

- *The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.*
- *The provision and location of reserves for public open space and other community facilities.*
- *The design and siting of buildings having regard to safety and the risk of spread of fire.*
- *The provision of off-street parking.*
- *The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.*

Planning Response:

The application complies with the relevant decision guidelines as outlined above. The proposal is supportive of and complies with the Municipal Planning Strategy and Planning Policy Framework, having regard to the benefit the proposal will have for the infill development of the site for residential purposes and the related subdivision of the lots.

The three new dwellings will contribute to the diversity of housing stock in Nhill. The proposed development and subdivision will not affect the environment and will not impact on the amenity of the area and facilitates the orderly planning of the area.

The subdivision and the area and dimension of the lots to be created are appropriate in conjunction with the proposed development. The density of the proposed development is reasonable within this residential area in Nhill. The subdivision will be connected to the required services, which will be included as conditions.

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Municipal Planning Strategy and Planning Policy Framework, the General Residential Zone and the Environmental Significance Overlay Schedule 2, Clause 52.06, Clause 55, Clause 56 and Clause 65 of the Hindmarsh Planning Scheme.

Report to Council:

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

Processing Times:

23/12/2020	Application lodged
25/01/2021	Fee received
04/02/2021	Further information requested
26/04/2021	Response to further information and amended plans received pursuant to Section 50 of the <i>Planning and Environment Act 1987</i>
07/05/2021	Further information email sent to the applicant
12/05/2021	Subsequent further information email sent to the applicant
12/05/2021	Response to further information and amended plans received pursuant to Section 50 of the <i>Planning and Environment Act 1987</i>
14/05/2021	Further information email sent to the applicant
14/05/2021	Response to further information and consent to amend the application received pursuant to Section 50 of the <i>Planning and Environment Act 1987</i>
20/05/2021	Public Notice instructions sent to applicant
25/05/2021	Applicant requested HSC undertake notification on their behalf
25/05/2021	Public notification commenced – letters sent
26/05/2021	Public notice – sign erected by Council on site
27/05/2021	Internal referrals to Engineering and Building sent
03/06/2021	External referrals sent
10/06/2021	Advertising period ends.
11/06/2021	Advertising fee paid to Council
22/06/2021	Responses all received to external and internal referrals
04/08/2021	Presented to Council for approval

The report is being presented to Council for approval at the meeting held 04 August 2021 (61 statutory days).

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

Link to Council Plan:

Strategic Objective 3.1.6 Encourage investment in housing stock to address housing shortages.

Financial Implications:

The development and subdivision will have positive financial implications through a potential increase in Rates income to Council.

Risk Management Implications:

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

Conflict of Interest:

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

Officer Responsible – 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 interests to disclose.

Communications Strategy:

Advise the applicant of the Councils decision

Next Steps:

Issue planning permit and endorse the plans if approved by Council

RECOMMENDATION:

That Planning Permit PA1698-2020 be approved, to allow the Development of three dwellings at the rear of the existing dwelling, vegetation removal, construction of fences and a four lot subdivision at 32 Rockley Street, Nhill VIC 3418 (Lot 12 Section 25 Plan of Subdivision 008462), subject to the following conditions:

Amended Plans

- 1. Before the commencement of the development, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but amended to show:***
 - a) An amended Demolition Plan (TPO4) to fully remove the existing smaller shed and the existing water tank from the site.***
 - b) An amended Landscape Plan (TP11) to show all three trees to be removed to be consistent with the Demolition Plan (TPO4).***

Endorsed Plans

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

3. ***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 or Construction of Dwellings to Occupancy Permit

4. ***Before the plan of subdivision is certified under the Subdivision Act 1988, the owner must either:***

- a) ***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 that:***

- i) ***The development of the lots will be constructed in accordance with the plans endorsed to Planning Permit PA1698-2020.***

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

OR

- b) ***Provide evidence to the responsible authority that the approved dwellings have been constructed in accordance with the plans endorsed to Planning Permit PA1698-2020 and an occupancy permit has been issued.***

General Requirements

5. ***Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.***
6. ***All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.***
7. ***External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.***
8. ***The exterior colour and cladding of the buildings must be of a non-reflective nature and / or either painted or have a pre-painted finish in natural, muted toning (or such other colour as is approved by the Responsible Authority) to the satisfaction of the Responsible Authority.***

Landscaping

9. ***Before the occupation of the dwellings approved by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority.***
10. ***The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.***

Waste management

11. ***Provision must be made on the land for the storage of waste bins and recycling bins in a location that is not visible from the street to the satisfaction of the Responsible Authority.***

Engineering Conditions

Access/Vehicle Crossovers

12. ***Before the occupation of the dwellings approved by this permit, the existing culvert crossing in Johnston Street must be removed and the drain re-installed to the satisfaction of the Responsible Authority.***
13. ***Before the occupation of the dwellings approved by this permit, new crossovers must be constructed to each of Lot 2, Lot 3 and Lot 4 from Johnston Street to the satisfaction of the Responsible Authority.***
14. ***The crossovers must be constructed as per IDM- 255 standard and at a location and of a size to the satisfaction of the Responsible Authority.***
15. ***The vehicle crossovers must be constructed at the permit holder's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority.***

Drainage

16. ***All stormwater and surface water discharging from the site for the approved development must be directed to the legal point of discharge (LPD) being the western side of the property to the table drain in the Johnston Street road reserve to the satisfaction of the Responsible Authority.***
17. ***No effluent or polluted water or any type may be allowed to enter the Council's Stormwater drainage system.***

Public Open Space Contribution for Subdivision

18. ***Before the issue of a Statement of Compliance under the Subdivision Act 1988, the permit holder must pay a Public Open Space Contribution to the Responsible Authority of 5% of the site value. Such payment will satisfy in full***

any Public Open Space requirement under the Planning Scheme. The payment must be made no less than seven (7) days before the issue of a Statement of Compliance for the subdivision.

Mandatory Telecommunications Conditions

19. The owner of the land must enter into an agreement with:

- a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and**
- b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.**

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

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

Grampians Wimmera Mallee Water Conditions

21. The owner / applicant must provide individually metered water services to each lot in accordance with GWMWater's requirements.

22. The owner / applicant must install sewerage mains and associated works to individually serve each lot of the proposed development, at the owner's cost, in accordance with GWMWater's specifications and requirements.

23. The owner / applicant must provide individual sewer services to each lot in accordance with GWMWater's requirements.

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

Powercor Australia Conditions

- 34. The letter dated 4 June 2021 shall be supplied to the applicant in its entirety.**
- 35. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.**

36. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributors requirements and standards.

Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.

37. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).

Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.

Development Expiry

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

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

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 months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

Subdivision Expiry

39. 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:

Building

- This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained.**

Planning

- ***A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site so they are aware of the conditions to which this approval applies.***

Engineering

- ***Legal Point of Discharge (LPD) can be applied for with the dwellings building permit application.***
- ***A Consent to Works within Road Reserve Permit must be obtained from Council's Engineering Department (Phone: 03 5391 4444) for the construction or alteration of any vehicle crossovers prior to the construction of each crossover.***
- ***Standard designs / drawings of vehicle crossings can be obtained from Council's Engineering Department.***
- ***Any proposed crossover shall have satisfactory clearance to any side entry pit, power or telecommunications pole, manhole cover or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant authority and shall be at the permit holder's expense.***

Powercor

- ***It is recommended that applications for electricity supply to each lot be submitted at the earliest opportunity so that precise requirements of the Distributor can then be determined and accommodated. Applications for electricity supply shall be submitted via the Distributors web portal, "mySupply" which can be accessed via the following link: <https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator>***

Wimmera CMA

- ***The 1% AEP flood is not the maximum possible flood. A flood larger in height and extent, than the 1% AEP flood, may occur in the future.***
- ***Should you require further information please contact Wimmera CMA Floodplain Officer, on (03) 5382 1544. To assist Wimmera CMA in handling any enquiries please quote WCMA-F-2021-00115 in your correspondence with us.***

Attachment Numbers: 14 - 16

8.3 PLANNING PERMIT APPLICATION PA1721-2021 — USE OF THE LAND TO SELL LIQUOR UNDER A PACKAGED LIQUOR LICENCE FOR OFFSITE CONSUMPTION - 49 VICTORIA STREET NHILL VIC 3418

Responsible Officer: Director Infrastructure Services
File: Planning – Applications – PA1721-2021
Assessment: 130400
Applicant: Mr Robin Barber (Building Design Consultant)
Owner: Mrs Zeenath Kottakuth
Subject Land: 49 Victoria Street, Nhill VIC 3418
Proposal: Use of the land to sell liquor under a packaged liquor licence for offsite consumption
Zoning & Overlays: Commercial 1 Zone (C1Z)
Environmental Significance Overlay - Schedule 6 (ESO6)
Attachment Number: 17

Summary:

This report recommends that Council approve Planning Permit PA1721-2021 for the use of the land to sell liquor under a packaged liquor license for offsite consumption at 49 Victoria Street, Nhill 3418, formally described as Lot 1 on LP15179 (refer to figure 1). The current use is as a grocery store (named “Nhill Mart”) that specialises in Indian produce offering Indian spices, soft drinks, fresh fruits and vegetables and frozen fruits and vegetables, canned food, dairy products, chips, baked items, and cigarettes for sale to the general public. There is no change sought to the current use.

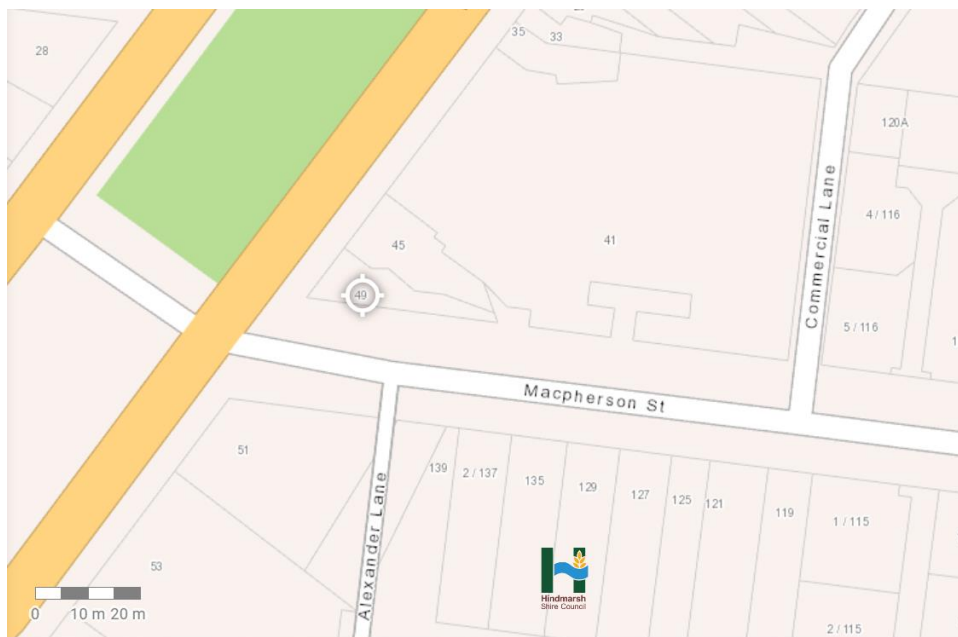


Figure 1: Sites Location (source: Council Community Maps)

Background:

The application has been lodged by Mr Robin Barber (Building Design Consultant) on behalf of Mrs Zeenath Kottakuth for the use of the land to sell liquor under a packaged

liquor licence at 49 Victoria Street Nhill, for offsite consumption. The application was received on 11 May, 2021 with a request for further information sent to the applicant on the 24 May, 2021 requiring better and further particulars in relation to a written assessment against Councils Planning Scheme Clause 52.27, category of licence being sought, clarity on the interpretation of the proposal and payment of the outstanding lodgement fee. It should be noted that the property has recently transacted to Mrs Zeenath Kottakuth on 7 May 2021 (refer to attachment 2 for recent copy of title).

The applicant provided a response on 1 June 2021 which was acceptable, noting however that Council made a determination of the category of licence after discussions with the Victorian Commission for Gambling and Liquor Licence (VCGLR) wherein it was determined that the sale of packaged liquor was to be consumed off site (this will be a permit condition if a permit is to be issued).

Permit History:

The Permit Applicant had submitted an application over the subject site on 22 February, 2021 for a reduction in the Statutory Car Parking Requirement to Zero (Planning Permit PA1708-2021) associated with her retail premises (grocery store). Whilst the proposed use was not subject to a planning permit (a retail premises is a Section 1 Use – no Planning Permit required), the reduction in parking to zero did require a planning permit under Clause 52.06-5 (Car Parking) of the Hindmarsh Shire Planning Scheme. That application was exempt from public notification under Clause 52.06-4 of the Hindmarsh Planning Scheme, wherein:

An application under Clause 52.06-3 is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act if:

- *the application is only for a permit under Clause 52.06-3*

As the only permit trigger to that application was Clause 52.06-3, the proposal was not required to be publicly notified.

Councils Planning Officers and Engineers assessed the application which was referred to the Department of Transport (VicRoads), who had no objections to the application, subject to conditions namely:

- 1. The use and development as shown on the endorsed plan Drawing SK-001, dated 22/02/2021 prepared by Robin L Barber must not be altered without the written consent of the Responsible Authority*
- 2. All deliveries and pick up of goods associated with the business must take place in adjacent existing loading zone in Macpherson Street.*
- 3. The use of shopping trolleys or carts are prohibited.*

A report was prepared and considered/approved by the CEO under delegation on 25 March 2021.

Proposal Details:

The proposal seeks to obtain a planning permit to allow for the of the land to sell liquor under a packaged liquor license for offsite consumption as nominated by the proposed red line plan (refer to figure 2). The application for a Planning Permit is required under Clause 52.27 of the Hindmarsh Shire Planning Scheme whereby:

A permit is required to use land to sell or consume liquor if any of the following apply:

- *A licence is required under the Liquor Control Reform Act 1998.*

It is intended that packaged liquor (the applicant has advised that the store will provide a range of alcoholic choices to service the area) is sold within the red line area (i.e. that the area where liquor can be supplied and sold) of the shop, in addition to the grocery items of the current retail premises use. It is important to note that consumption is for offsite and not consumed on premises. Whilst the red line plan includes the entire shop area, Council Officers have been verbally advised by VCGLR that storage of liquor is to be included within the red line plan. On this advice, Council Officers were satisfied that the coverage of the entire shop was suitable and acceptable.

The trading hours of sale of liquor is controlled by the *Liquor Control Reform Act 1998*, namely referred to in the Act as “ordinary trading hours” which for this application will have the following trading controls (section 3(1) (c) of the Act) :

- (c) *in relation to a packaged liquor licence or late night (packaged liquor) licence—*
- (i) *the hours between 9 a.m. and 11 p.m. on each day, other than Sunday, Good Friday, ANZAC Day or Christmas Day; and*
 - (ii) *the hours between 10 a.m. and 11 p.m. on Sunday; and*
 - (iii) *the hours between 12 noon and 11 p.m. on ANZAC Day.*

The grocery shop presently operates from 7am to 9pm Monday through to Sundays. The Applicant has indicated that the proposed hours they will sell liquor are:

Monday – Saturdays: 9:00am – 9:00pm.
Sundays: 10:00am – 9:00pm.
ANZAC Day: 12noon – 8:00pm
No sales on Good Friday or Christmas.

Such hours proposed are well within the “Ordinary Trading Hours” of the *Liquor Control Reform Act 1998*. A condition of the permit will bind the sale of liquor to the above hours, noting that should the Operator wish to extend these hours, an amendment to the Planning Permit is required under Clause 52.27 of the Hindmarsh Planning Scheme.

It should be noted that obtaining a liquor licence is a two part process. The first is to obtain Council’s approval via the planning permit stage, the second is that once approval

has been obtained, an application needs to be made to the VCGLR wherein the application is more rigorously assessed against the Act and other State based policies.

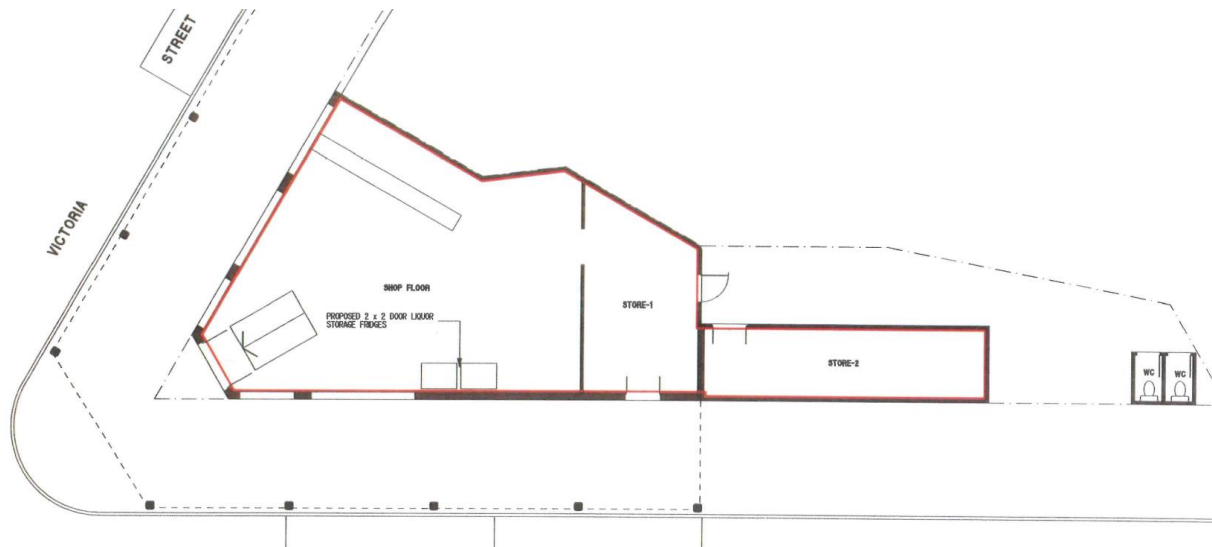


Figure 2: Proposed Redline Plan as provided by the Permit Applicant.

Requirement for Permit:

A planning permit is required under the following clause of the Hindmarsh Planning Scheme:

- Clause 52.27 (Liquor Licence) – a permit is required to use land to sell or consume liquor if a licence is required under the *Liquor Control Reform Act 1988*.

Definitions:

The current use of the subject site is a “grocery store”. Under Clause 73.03 of the Hindmarsh Shire Planning Scheme, a grocery store is considered to be a “Retail Premises” defined as:

Land used to:

- a) Sell goods by retail, or by retail and wholesale.*
- b) Sell services; or*
- c) Hire goods.*

Within the definition, a retail premises also includes a shop.

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 proposed development is not within part of the land that is affected by an Aboriginal Cultural Heritage Sensitivity Area.

Subject Site & Locality:

The subject site is located on the corner of Macpherson and Victoria Streets and has an approximate frontage to Macpherson Street of 36.09 metres and a frontage to Victoria

Street of approximately 12.01 metres (as shown on the Plan of Subdivision). Directly west (across Victoria Street) is Goldsworthy Park and land directly north, south and east is zoned Commercial 1 with uses comprising a mix of offices, the Union Hotel, bakery, cafes, pharmacy, banks and other retail uses.

The subject site is considered to be “within the heart” of the Nhill commercial township and the proposed use will be complementary to the existing businesses.

Advertising

Section 52 Notice of application

Under Clause 52.06-4 of the Hindmarsh Planning Scheme, the application was not exempt from public notification. Advertising commenced on 8 June, 2020 and comprised of notification by way of letters to properties within the area identified in figure 3 below and the placement of 2 signs for a period of 14 days (one facing Victoria Street, the other to Macpherson Street). An advertisement was also placed in the Nhill Free Press on 09 June 2021.



Figure 3: Properties notified by way of letters to planning application PA1721-2021

A total of three objections were initially received, with all being withdrawn prior to the finalisation of this report.

Two of the three asked that it be noted in the Council report that their main concerns related to the following:

- The town's population is suitably catered to by the current licences held by the IGA & liquor store and the two hotels.
- The granting of this permit would mean a fourth business selling packaged liquor within 200 metres proximity to an objectors place of work,
- The required cleaning to the external commercial premises caused by intoxicated persons.

In response to the concerns raised above the following is noted:

The sale of packaged liquor is a not in the same league as a vertical drinking bar, night club or tavern. It is at the lower end of the scale for potential impacts to the surrounding area. Liquor purchased is to be consumed off site. As a retail supplier, the shop cannot control how or where the liquor will be consumed. If it is in a public park or space, this is a matter for the police or one controlled by Councils Local Laws (Hindmarsh Municipal Local Laws, Division 9.3, clause 60 "Consumption of Alcohol").

To ensure full compliance with the provisions of *The Liquor Control Reform Act (1998)*, the Licensee will ensure that the Responsible Service of Alcohol provisions of the Act are adhered to with all staff involved in the sale/supply of liquor to be over the age of 18 and RSA trained. An appropriate RSA training registrar will also be maintained as required by the Act. Staff will also be subject to an appropriate staff induction program upon commencement. The sale of alcohol to intoxicated persons is a serious offence that carries heavy fines and cancellation of a licence.

Referrals:

External Referrals/Notices Required by the Planning Scheme:

Section 52 Referrals:

The application was referred to both the Nhill Police and to the VCGLR on 10 June, 2021. The Horsham Local Area Commander (liquor licensing Inspector for the Hindmarsh area) had no objection to the granting of the application and no response was received from the VCGLR. As highlighted above, the application is formally assessed by the Commission once a planning permit has been issued by Council. This may require, at the discretion of the VCGLR, further advertising.

Planning Assessment:

Planning Scheme Requirements:

State Planning Policy Framework

Clause 17-01-1S – Diversified Economy.

The objective of this policy is to strengthen and diversify the economy by supporting rural economies to grow and diversify as well as facilitate growth in the retail sector.

Local Planning Policy Framework

The proposal is not at odds with Clauses 02-02 (Vision) and 02-03-6 (Economic Development) of the Hindmarsh Shire Planning Scheme, noting that a key Strategic

Direction for Economic Development is to promote service industries within the existing towns, which this proposal seeks to achieve.

Zoning and Overlay Provisions

A planning permit is not triggered for the use of the land for the sale of liquor under a packaged liquor license for offsite consumption by either the Commercial 1 Zone or the Environmental Significance Overlay (Schedule 6), rather a permit is triggered under the requirements of Clause 52.27 (Liquor License) of the Shire of Hindmarsh Planning Scheme.

Clause 52.27 (Liquor Licence)

The purpose of Clause 52.27 is:

- To ensure that licensed premises are situated in appropriate locations.
- To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

As a requirement to considering liquor licensing applications, both the Applicant and Council are required to address the Decision Guidelines of Clause 52.27. Those decision guidelines include:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The impact of the sale or consumption of liquor permitted by the liquor license on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

Based on the following assessment, it is not considered that the use of the land for the sale of packaged liquor for offsite consumption will result in any adverse impacts on the town center's character or identity.

- The Municipal Planning Strategy and the Planning Policy Framework.

Addressed above with the proposal not considered to be at odds with the planning policies of Councils Planning Scheme.

- *The impact of the sale or consumption of liquor by the liquor license on the amenity of the surrounding area.*

The retail premise is set amongst other retail shops. An additional packaged liquor license is considered acceptable at this location, even in the context of the existing liquor license at the Union Hotel located 2 doors down. This is primarily due to the commercial setting and low number of packaged liquor licenses in the immediate area. It is not considered that an additional packaged liquor outlet will have a detrimental impact on the local amenity nor create greater social concerns for the community. If all licensed premises

operate concurrently there will be a slightly higher availability of liquor however potential competition could also lead to lower prices and greater consumer choice.

Whilst it is intended that this premises is to supply alcohol, consumption is not permitted on-site. Furthermore, consumption of liquor off-site is governed by Local Laws and the Police. The consumption of alcohol, rather than the supply of liquor, is considered to have a greater impact on the immediate amenity of the area due to noise, and perceived anti-social behaviour. The proposed packaged liquor outlet would be a retail supplier, which cannot control how or where customers consume alcohol, and the ability to purchase liquor cannot be solely attributed to anti-social behaviours. Packaged liquor can be purchased for consumption in a private capacity and it is unreasonable to suggest that all packaged liquor sold, will be consumed in a public space. However, as public consumption does occur, local laws are in place to prohibit the consumption of alcohol in public places. Furthermore, liquor licensing legislation ensures that liquor is not sold to minors or those already intoxicated.

- *The impact of the hours of operation on the amenity of the surrounding area.*

As highlighted above, the proposed hours to which liquor is to be sold is proposed to be:

Monday – Saturday: 9:00am – 9:00pm
 Sunday: 10:00am – 9:00pm
 Anzac Day: 12noon – 8:00pm
 Good Friday and Christmas no trade

These operating hours are inside the existing trading hours of the grocery shop, and are also inside of the operating hours of nearby Union hotel and other licensed premises in Nhill.

The table below outlines the existing premises nearby the Subject Site with liquor licenses and their respective trading times:-

Licenses Venue	Licence Type and Number	Licensed hours allowed under the Victoria Commission for Gambling and Liquor Regulation
The Union Hotel	Late night (general) Licence No. 31915070	<p><i>For Consumption Off the License Premises:</i> Sunday:- Between 10 am and 11 pm. Good Friday & Anzac Day: - Between 12 noon and 11 pm On any other day: - Between 7 am and 11 pm</p> <p><i>For consumption on the Licensed Premises (beer garden, balcony and carport):</i> Sunday: - Between 10 am and 11 pm. Good Friday & Anzac Day: -</p>

		<p>Between 12 noon and 11 pm On any other day: - Between 7 am and 1 am the following morning except for the morning of Good Friday.</p> <p><i>In the remainder of the premises:</i> Sunday: - Between 10 am and 11 pm. Good Friday & Anzac Day: - Between 12 noon and 11 pm Monday to Thursday: - Between 7am and 1 am the following morning. Friday and Saturday: - 7 am and 3 am the following morning.</p>
Farmers Arm Hotel (Denbake Holdings)	General Licence Licence No. 31909671	<p><i>For Consumption Off the License Premises:</i> Sunday:- Between 10 am and 11 pm. Good Friday & Anzac Day: - Between 12 noon and 11 pm On any other day: - Between 7 am and 11 pm</p> <p><i>For Consumption On the License Premises:</i> Sunday:- Between 10 am and 11 pm. Good Friday:- Between 12 noon and 11 pm ANZAC Day (Sunday):- Between 12 noon – 11 pm. ANZAC Day (Monday – Saturday):- Between 12 noon and 1 am the following morning. On any other day:- Between 7 am and 1 am the following morning except for the morning of Good Friday.</p>
Nhill Bowling Club	Full Club Licence Licence No. 32120505	<p>At any time on any day other than Sunday, Good Friday or ANZAC Day:- Sunday:- Between 10 am and 11 pm. Good Friday and ANZAC Day: Between 12 noon and 11 pm.</p>
Nhill & District Sporting Club	Limited Licence Licence No. 36122876 (licence in force during March to October only)	<p>Sunday:- Between 2 pm and 8 pm. Monday to Friday:- Between 4.30 and 1 pm. Saturday:- Between 3 pm and 1 am the following morning.</p>

Supa IGA Plus Liquor	Packaged Liquor Licence Licence No. 32021549	On any day other than Sunday, Good Friday, ANZAC Day or Christmas Day:- Between 9 am and 11 pm. Sunday:- Between 10 am and 11 pm. ANZAC Day: Between 12 noon and 11 pm.
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Table 1: Source VCGLR

The wider township contains a diverse range of land uses that have various opening hours to suit their business offerings. Small retail shops and small commercial businesses such as an accounting and real-estate firms are typically open during normal business hours of 8.30 am to 5:30 pm (Monday through to Saturdays). Within the township there are a number of restaurants and take away options that have later opening hours with the majority closing around 9pm.

- The impact of the number of patrons on the amenity of the surrounding area.

Unlike a restaurant, tavern or bar, retail outlets do not have patrons but customers. Consumption is not permitted on site and therefore it is unlikely that the size/scale of the area assigned to packaged liquor will have any impact on the amenity of the area. The grocery shop currently acts like any other retail outlet in terms of customers entering the site, purchasing the product and exiting and the sale of liquor will not alter that balance. Behaviour and consumption off the premises is managed through other legislation such as the VCGLR, Victoria Police, and Council compliance and local laws.

- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

A cumulative impact as it relates to liquor licenses is defined by the Department of Environment, Land, Water and Planning Practice Note 61 (June 2015) as:

Cumulative impact refers to both positive and negative impacts that can result from clustering a particular land use or type of land use. Potential cumulative impact from a cluster of licensed premises will vary between locations, depending on the mix and number of venues and whether the area is a destination for activities associated with the supply of alcohol. Cumulative impact is a product of the number and type of venues present, the way they are managed, and the capacity of the local area to accommodate those venues.

A “cluster” is defined by the Practice Note as:

As a general guide, a cluster would occur where there are:

- *three or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land; or*

- *15 or more licensed premises (including the proposed premises) within a radius of 500 metres from the subject land*

According to VCGLR Interactive Map, there is 1 other licensed premises which sells packaged liquor for off-site consumption within 100 metres of the subject site (the Union Hotel). Additionally there are 2 licensed premises within a 500 metres that have a permit to sell packaged liquor (The Farmers Arm and Supa IGA Plus). Within this 500 metre setting, it should be noted one premises has a limited licence whilst another has a club licence.

In this context, there are three other premises that are permitted to sell packaged liquor and it is not considered that the addition of a fourth will cause a 'tipping point' or saturation level resulting in an unreasonable cumulative/amenity impact.

Relevant VCAT Decision

Given the limited scope offered within the planning scheme to assess packaged liquor proposals, it is beneficial to review and consider the outcomes of some of the relevant Victorian Civil Administrative Tribunal (VCAT) decisions. The Tribunal has made several decisions on applications for Packaged Liquor Licences, with the following case being pertinent and relevant to this application:

- ***Tonlan Pty Ltd v Kingston CC [2015] VCAT 277 (17 March 2015) (Refer to Attachment 4 Tonlan vs Kingston)***

This application for review sought to challenge the council's decision to refuse the use of the land for a large format liquor shop within a small strip shopping centre. The decision of the Responsible Authority to refuse the permit application was overturned by the Tribunal who directed that a permit be granted.

The Tribunal member's analysis of the hearing is as follows at paragraphs 21-24:

(21) I consider the most relevant commentary on these types of applications regarding how planning requirements are to be considered regarding the relevant clause 52.27 is The Hunt Club Commercial Pty Ltd v City of Casey CC decision by Deputy President Mark Dwyer of the Tribunal. In part of the decision that is relevant in this application he said:

"as a matter of general principle a broad concern about the social harm caused by alcohol, the accessibility of alcohol in the community generally, or the potential for the abuse or misuse of alcohol, will rarely (if any) be a relevant planning consideration in the exercise of discretion for a particular licensed premises under clause 52.27.

Town planning is not a panacea for all perceived social ills, nor is planning decision making a forum for addressing all issues of social or community concern. At its heart

planning is about the use, development and protection of land. It has a spatial context that is primarily concerned with the fair, orderly, economic and sustainable use and development of land. Town planning does not involve itself in moral judgements nor, subject to this locational or spatial perspective in the operation of a competitive market economy in which certain goods and services are lawfully made, sold or consumed. While town planning seeks to secure a pleasant, efficient and safe working, living and recreational environment it is not the role of town planning to address all issues of public health, nor to regulate the pricing or general availability of a product to manage the health and wellbeing of a society.”

(22) I have taken the comments in Deputy President Dwyer’s decision on board in making the assessment of this application. I am satisfied that the proposed package liquor outlet is in compliance with the relevant planning policies particularly at the state and local level and I am further satisfied that the factors required for consideration under section 60(1) of the Act have been assessed.

(23) The objectors and Council, in its grounds of refusal raised the issue of there being no need or benefit from approval of the package liquor premises in the centre. I cannot find any reference in the Kingston Planning Scheme that requires that a proposal is to result in public benefit, apart from a general reference but not a mandatory reference in Cl 10 that refers to balance “in favour of net community benefit” however the enhanced offer on the supermarket site and the businesses ongoing viability could be put as a net community benefit.

(24) I am satisfied that the proposed use is appropriate for the site in that it complies with the provisions of a Commercial 1 zoning. I have not been provided with any evidence that the proposal would have a detrimental amenity impact on surrounding properties and the proposal satisfies the requirement of the Kingston Planning Scheme and its various parts. On this basis it is appropriate to grant a permit subject to appropriate conditions that are set out in Appendix A.”

From the above deliberations of VCAT, it is evident that packaged liquor licences have a lower potential to create adverse amenity impacts. In regards to cumulative impacts, the negative impacts associated with packaged liquor licences diminish greatly after the first licence in an area, as the first licence provides convenient access to liquor.

It is considered that the proposed liquor licence would not increase the access or convenience of purchasing package liquor within Nhill, simply the proposal will provide greater choice to customers.

General Provisions

Clause 65 - Decision Guidelines

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

Clause 65.01– Approval of an application or plan

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

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

Response:

It is considered that the application complies with the relevant decision guidelines as outlined. The proposal is supportive of, and complies with the Planning Policy Framework having regard to the benefit the proposal will cause in providing retail diversity opportunities within the township of Nhill.

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 and Clause 52.27 (Liquor Licence) in the Hindmarsh Planning Scheme.

Report to Council:

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

Processing Times:

11/05/2021	Application was received
27/05/2021	Fee Paid
24/05/2021	Request for Further Information issued
27/05/2021	Amended Application & partial response to RFI received
01/06/2021	Letter to the Permit Applicant advising that red line proposed is acceptable and the correct category of licence.
08/06/2021	Advertising commenced.
24/06//2021	Advertising ceased.
30/06/2021	Letters sent to objectors responding to non-town planning matters raised in their objections.
23/07/2021	All objections withdrawn.
04/08/2021	Presented to Council for approval

The report is being presented to Council for approval at the meeting held 04 August 2021 (43 statutory days).

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

Link to Council Plan:

Strategic Objective 3.1 A strong rural economy and thriving towns.

Financial Implications:

There are no financial implications anticipated.

Risk Management Implications:

There are no anticipated risks to be managed by Council.

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 – Stephen Michael O’Brien, Consultant Town Planner, on behalf of Janette Fritsch, Manager Development.

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

Communications Strategy:

Advise the applicant and objectors of Councils decision.

Next Steps:

Issue the planning permit and endorse the plan if approved.

RECOMMENDATION:

That Council approves Planning Application PA1721-2021 for the use of the land to sell liquor under a packaged liquor licence for offsite consumption on land known as 49 Victoria Street, Nhill, 3418, subject to the following conditions:

- 1. The sale of packaged liquor for offsite consumption is to only occur within the redline endorsed plan, referred to as “proposed liquor licensed area” and must not be altered without the written consent of the Responsible Authority.***
- 2. The sale of liquor is for offsite consumption only and must not be consumed on premises***
- 3. The sale of liquor must only occur between the hours of:***
 - Monday – Saturday: 9:00am – 9:00pm***
 - Sunday: 10:00am – 9:00pm***
 - ANZAC Day: 12noon – 8:00pm***

No sale of liquor is permitted on Christmas day or Good Friday.

- 4. The permitted hours must not be altered without the written consent of the Responsible Authority.**
- 5. At all times during the operation of the use there must be present on the premises a person over the age of 21 years who is responsible for ensuring that the activities on the premises and the conduct of the persons attending the premises do not have a detrimental impact on the amenity of the locality to the satisfaction of the Responsible Authority (referred to in this permit as “the Manager”).**
- 6. The Manager must be authorised by the operator under this permit to make statements at any time on his/her behalf to any Officer of the Responsible Authority and the Victorian Police and/or Liquor Licensing Victoria authorised under Section 129 of the Liquor Control Reform Act 1998; and/or to take action on his/her behalf in accordance with a direction by such Officer.**

Time Limit

- 7. This permit will expire if one of the following circumstances applies:
 - a) The use does not start within two years of the date of this permit.**
 - b) The use is not completed within four years of the date of this permit.****

The Responsible Authority may extend the periods referred to above if a request is made in writing before the permit expires or within 6 months afterwards if the development has not commenced or 12 months after if the development has commenced but is not yet completed.

****End of Conditions****

Notes

- Any request for a variation of this Permit shall be lodged with the relevant fee as determined under the Planning & Environment (Fees) Regulations 2016.**

Attachment Number: 17

9. REPORTS REQUIRING A DECISION

9.1 DRAFT COUNCIL PLAN 2021-2025, INCORPORATING THE HEALTH AND WELLBEING PLAN, AND COMMUNITY VISION 2040

Responsible Officer: Director Corporate and Community Services

Attachment Number: 18

Introduction:

The report presents the Draft Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, and Community Vision 2040 in accordance with the *Local Government Act 2020*. The report includes a recommendation that Council adopt the draft Council Plan and Community Vision and invite community submissions.

Discussion:

Under section 90 of the *Local Government Act 2020* council must prepare and adopt a Council Plan for a period of at least the next 4 financial years after the general election. Council is also required under section 88 of the *Local Government Act 2020* to maintain a Community Vision that has been developed with its community for the period of at least the next 10 financial years.

Both the Council Plan and Community Vision are required to be adopted by 31 October 2021.

The draft Council Plan 2021-2025 incorporates the Community Vision and Public Health and Wellbeing Plan. In developing the Vision, Council Plan and Health and Wellbeing Plan Council has taken into account the needs and aspirations raised by our communities. Council engaged with the community by conducting an online survey and holding in person community conversation sessions where round table discussions were held with Councillors and officers.

Our Vision for Hindmarsh is:

Working together to be a connected, inclusive and prosperous community.

Council will achieve the vision through values with transparent and accountable actions and decisions; inclusion and collaboration with residents; showing respect and integrity to all; and being proactive and responsible encouraging innovation.

The Community Vision and Council Plan follows four key themes:

- Our Community
- Built and Natural Environment
- Competitive and Innovative Economy
- Good Governance and Financial Sustainability.

The Health and Wellbeing Plan will focus on four key areas:

- Healthy Eating
- Active Living
- Social Connectivity
- Improving Mental Health.

The plan has been prepared as a living document that will be reviewed and updated annually. The plan contains annual actions, allowing Council to adapt to our changing environment and inform the budget for each financial year.

The draft Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, and Community Vision 2040 will be made available for public inspection and the receiving of submissions for the period Monday 9 August 2021 to Friday 10 September 2021. Council will be advised of any submissions received at the 22 September 2021 Council meeting.

Community drop in sessions will be held throughout August 2021 (subject to COVID-19 restrictions) to enable our community the opportunity to meet with Council on the Council Plan and Community Vision. Session dates and times will be advertised in local newspapers and Council's e-newsletter.

The Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, and Community Vision 2040 will be available for public inspection at Council Customer Service Centres (subject to COVID-19 restrictions) and online on Council's website.

Options:

Council must prepare and advertise its Council Plan 2021-2025 and Community Vision 2040 pursuant to the *Local Government Act 2020*. The Health and Wellbeing Plan must be prepared pursuant to the *Public Health and Wellbeing Act 2008*.

Link to Council Plan:

The Council Plan is the overarching plan that sets the strategic objectives for Council over the four-year term and provides initiatives and activities under the four key themes.

Financial Implications:

Initiatives and activities within the Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, will be contained within the annual budget and long term financial plan.

Risk Management Implications:

The preparation of the Council Plan, incorporating the Health and Wellbeing Plan, and Community Vision is a statutory requirement.

Relevant legislation:

Local Government Act 2020

Public Health and Wellbeing Act 2008

Community engagement:

The Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, and Community Vision 2040 were developed following consultation with the community through an online survey and in person community conversation sessions.

Community conversation sessions included round table discussions where participants were asked to consider and discuss a series of questions with Councillors and staff members.

Gender equality implications:

No gender impact assessment is required.

Conflict of Interest:

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

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

Communications Strategy:

It is proposed the draft Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, and Community Vision 2040 will be made available to allow for submissions for the period Monday 9 August 2021 to Friday 10 September 2021. Submissions will be considered at the Council meeting on Wednesday 22 September 2021.

Copies of the draft Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, and Community Vision 2040 will be available at Council's Customer Service Centres (subject to Covid-19 restrictions) and on Council's website.

RECOMMENDATION:

That Council:

- 1. Approves the draft Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, and Community Vision 2040 for the purposes of public consultation in accordance with the Local Government Act 2020,***
- 2. Gives public notice of the preparation of the draft Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, and Community Vision 2040 inviting written submissions from the public for the period Monday 9 August 2021 to Friday 10 September 2021, and***
- 3. Considers public submissions from those who have requested that they be heard in support of their submission and the formal adoption of the Council Plan 2021-2025, incorporating the Health and Wellbeing Plan, and Community Vision 2040 at the Council meeting held on Wednesday 22 September 2021.***

Attachment Number: 18

9.2 DOMESTIC ANIMAL MANAGEMENT PLAN

Responsible Officer: Director Corporate and Community Services
Attachment Number: 19

Introduction:

This report presents the draft Domestic Animal Management Plan 2021-2025 in accordance with the *Domestic Animals Act 1994*. The report includes a recommendation that Council adopt the draft plan and invite community submissions.

Discussion:

The *Domestic Animals Act 1994* (Act) requires council to prepare a Domestic Animal Management Plan (Plan) every four years. The plan must set out a method for evaluating whether the animal management services provided by council are adequate to give effect to requirements of the Act and the *Domestic Animal Regulations 2015* (Regulations). Council's current Domestic Animal Management Plan was for the period 2017 – 2021.

Council Officers have prepared the draft Domestic Animal Management Plan 2021 – 2025 in line with the requirements outlined in the Act and the Regulations.

The Plan's overarching objectives of the plan are to:

1. Promote and encourage responsible pet ownership in the Hindmarsh Shire Community;
2. Contribute to the health and wellbeing of pets and people in the Hindmarsh Shire Community; and
3. Reduce domestic animal nuisance issues and dog attacks.

The Plan outlines programs for the training of authorised officers along with programs, services and strategies to:

- ensure that people comply with the Act, the regulations and any related legislation;
- minimise the risk of attacks by dogs on people and animals;
- address any over-population and high euthanasia rates for dogs and cats;
- encourage the registration and identification of dogs and cats;
- minimise the potential for dogs and cats to create a nuisance;
- effectively identify all dangerous dogs, menacing dogs and restricted breed dogs in that district and to ensure that those dogs are kept in compliance with this Act and the regulations;
- provide for the review of existing orders made under this Act and local laws that relate to the Council's municipal district with a view to determining whether further orders or local laws dealing with the management of dogs and cats in the municipal district are desirable;
- provide for the review of any other matters related to the management of dogs and cats in the Council's municipal district that it thinks necessary; and

- provide for the periodic evaluation of any program, service, strategy or review outlined under the plan.

Options:

1. Council can endorse that the draft Domestic Animal Management Plan 2021 – 2025 be made available to the community for public submissions; or
2. Council can make changes to the draft Domestic Animal Management Plan 2021 – 2025 and then endorse that the draft Domestic Animal Management Plan be made available to the community for public submissions.

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:

The plan makes commitments to ensuring Council's Local Law Officers have the appropriate training to enable them to safely and competently do their job. These costs are allocated in Council's annual budget for training.

Risk Management Implications:

Council's Domestic Animal Management Plan is an important part of the risk management process associated with domestic animals in the Shire. The plan sets out strategies and actions that aim at reducing the risk of issues that domestic animals can cause in the community including:

- overpopulation of cats;
- domestic animal businesses operating outside of the law;
- dog attacks;
- nuisance issues such as barking dogs and dog faeces; and
- threats to native wildlife.

Relevant legislation:

Local Government Act 2020
Domestic Animal Management Act 1994
Domestic Animal Regulations 2015

Community engagement:

Council Officers have completed a community engagement plan which will involve making the draft plan available to community from 05 August 2021 until 6 September 2021 and inviting submissions.

Gender equality implications:

A Gender Impact Assessment was undertaken on the plan. The Plan does not include gender stereotypes and uses inclusive non-gendered language.

Confidential Declaration:

N/A

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

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

Communications Strategy:

Council Officers will make the draft plan available on Council's website and will advertise the draft plan's availability by way of Social Media posts including Council's e-newsletter.

Next Steps:

1. engage with the community on the Domestic Animal Management Plan 2021 – 2025
2. review the Domestic Animal Management Plan 2021 – 2025 based on feedback from the community
3. bring the Domestic Animal Management Plan 2021 – 2025 to the September Council Meeting for final endorsement from Council.

RECOMMENDATION:

That Council:

1. ***approves the draft Domestic Animal Management Plan 2021-2025 in accordance with the Domestic Animal Management Act 1994,***
2. ***gives public notice of the preparation of the draft Domestic Animal Management Plan inviting written submissions from the public for the period Thursday 5 August 2021 to Monday 6 September 2021, and***
3. ***considers public submissions from those who have requested to be heard in support of their submission and the formal adoption of the Domestic Animal Management Plan 2021-2025 at the Council meeting held on Wednesday 22 September 2021.***

Attachment Number: 19

9.3 PROCUREMENT POLICY

Responsible Officer: Director Corporate and Community Services
Attachment Number: 20

Introduction:

This reports seeks Council adoption of the Hindmarsh Shire Council Procurement Policy.

Discussion:

The *Local Government Act 2020* section 108 requires Council to prepare and adopt a Procurement Policy. The Policy must specify the principles, processes and procedures applying in respect of the purchase of goods and service by Council, including the carrying out of works.

The policy applies to all contracting and procurement activities at Council and is binding upon Councillors, Council staff and temporary employees, contractors and consultants while engaged by Council.

The purpose of this Policy is to:

- provide policy and guidance to Council to allow consistency and control over Procurement activities;
- demonstrate accountability to rate payers;
- provide guidance on ethical behaviour in public sector purchasing;
- demonstrate the application of elements of best practice in purchasing; and
- increase the probability of obtaining the right outcome when purchasing goods and services.

Thresholds for quotations and tendering:

Thresholds have not been amended since the adoption of the Procurement Policy in July 2015. A review was conducted on the current thresholds and it was determined to recommend the threshold for tendering of all goods, services, building and construction at \$200,000 (exclusive of GST). There was no justification for splitting these being goods and services \$150,000 (inclusive of GST) / construction works \$200,000 (inclusive of GST). As Council budget for expenditure exclusive of GST the thresholds have been amended to be exclusive of GST for consistency.

Following the review thresholds for quotations are as follows:

Procurement Value (excluding GST)	Minimum Market Engagement	Payment Method	Record Keeping
\$0 to \$1,000	1 Verbal Quotation	Petty Cash (\$100 limit) Purchase Order \$100	No purchase order required for amounts under \$100 however

		and above	tax invoice essential
\$1,000 to \$10,000 (previously \$8,000)	1 Written Quotation	Purchase Order	Written Quote/s must be saved in Council's records system for Audit purposes
\$10,001 to \$30,000 (previously \$8,001 to \$25,000)	2 Written Quotations		
\$30,001 to \$125,000 (previously \$30,001 to \$100,000)	3 Written Quotations		
\$125,001 to \$200,000 Previously (\$100,001 to \$149,999 / \$199,999)	Public Advertising unless approval from CEO for 3 Written Quotations		In accordance with Council's Procurement Procedure
\$200,001 and over	Public Advertising and Tenders		

Local Price Preference and Local Supply/Local Jobs First

Council wishes to maintain and encourage the development of local industry and commerce including local employment. Council's preference is to source goods locally from suppliers and contractors within the Prescribed Local Area and Prescribed Regional Area and will provide a price weighting preference for Local Supply/Local Jobs First.

A price preference will apply to quotations and tenders invited by the Hindmarsh Shire Council, for the supply of goods, services and works, unless Council Officers decide that this does not apply to a particular quotation or tender.

Criteria	Description	Weighting
Local Supply / Local Jobs First	Percentage of Goods, Services or Works sourced from within the Prescribed Area*	2.5%
	Permanent staff based within the Prescribed Local Area	1.5%

	Employment of trainees and apprentices from within the Prescribed Local Area	1.0%
Prescribed Contractor/Supplier	Principal Place of Business (permanent office in the Prescribed Local Area for a period of at least 6 months)	2.5%
	Principal Place of Business (permanent office in the Prescribed Regional Area for a period of at least 6 months)	2.5%

The policy definitions are as follows:

- Prescribed Local Area is defined as the municipal area of Hindmarsh Shire Council.
- Prescribed Regional area is defined as the municipal areas of Hindmarsh Shire, Yarriambiack Shire, Horsham Rural City, Northern Grampians Shire, West Wimmera Shire and Buloke Shire.

Options:

Under the Local Government Act 2020 Council is required to adopt a Procurement Policy by 31 December 2021.

Link to Council Plan:

Strategic Objective 4.1 Long-term financial sustainability
Strategic Objective 4.6 An organisation that takes risk management responsibilities seriously and embeds a culture of risk management throughout the organisation.

Financial Implications:

The Procurement Policy provides the processes to be followed when receiving quotations and tendering for goods and services. Financial delegations are assigned to positions and authorise limits for signing purchase orders and authorising invoices.

Risk Management Implications:

Strong purchasing procedures and processes reduce the risk of fraud. The finance team regularly review purchase and payments to ensure compliance with the policy.

Relevant legislation:

Local Government Act 2020

Gender equality implications:

A gender impact assessment was not completed.

Conflict of Interest:

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

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

Communications Strategy:

The Procurement Policy is available on Council's website.

RECOMMENDATION:

That Council adopts the Hindmarsh Shire Council Procurement Policy.

Attachment Number: 20

9.4 HINDMARSH SHIRE COUNCIL STAFF DELEGATIONS

Responsible Officer: Director Corporate & Community Services

Attachment Numbers: 21 - 23

Introduction:

This report presents the Instrument of Delegation from Council to the Chief Executive Officer, Instrument of Delegation from Council to Council staff and Instrument of Sub-Delegation from Council to Council staff (collectively, Delegations) to Council for review and approval.

Discussion:

Delegations from Council to the Chief Executive Officer and Council staff are essential to ensure day to day decisions and operations of Council are undertaken efficiently and effectively.

The *Local Government Act 2020* (Act), requires Council to review instruments of delegation within 12 months of a general election. Council officers have reviewed and prepared the Delegations and recommend that Council approves them in their current form.

CEO Delegation

The Act gives Council a power of delegation under section 11, which provides that Council may by instrument of delegation delegate to members of a delegated committee or to the Chief Executive Officer.

The Instrument of Delegation to the CEO authorises the power to determine any issues; take any action; or do any act or thing arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act. This authority is restricted

by stating a number of actions, acts of things that the CEO cannot undertake, without Council resolution. These limitations are outlined in the Instrument of Delegation to the CEO.

Council last reviewed the Council Delegations to the CEO 19 August 2020. This report recommends a change to Instrument of Delegation to the CEO relating to financial delegation.

During the COVID-19 pandemic and Council not being guaranteed to be able to hold Council meetings the CEO delegation was increased to \$600,000 to ensure continuity of business. Council is now in a position to reduce the CEO financial delegation to \$200,000 in line with the draft procurement policy which is being presented to this Council meeting.

Council to staff delegation

There is no formal requirement in the Act for Council to delegate powers to staff. However to ensure good governance, Council should have an Instrument of Delegation from Council to staff for legislation that does not contain a specific power of sub-delegation.

Council's Instrument of Delegation to Council staff was last reviewed on 19 August 2021. Changes made to the Instrument of Delegation to Council staff include:

- updates to position titles;
- some delegations to Council staff have been restricted to the Chief Executive Officer;
- ss 15(1) and (2) of the *Cemeteries and Crematoria Act 2003* have been removed.
- the *Environment Protection Act 1970* has been removed.
- ss 36A, 36B, 38G(1), 38G(2) and 40F of the Food Act 1984 have been inserted.
- s 181H of the Local Government Act 1989 (LGA 1989) has been removed. With the repeal of s 181H(2) of the LGA 1989, the CEO may now sub-delegate the power to enter into an environmental upgrade agreement and declare and levy an environmental upgrade charge to a member of Council staff pursuant to s 181H of the LGA 1989 and s 47 of the Local Government Act 2020 (LGA 2020).
- ss 4H, 4I, 18, 21(2), 26(1), 26(2), 28(1), 28(2), 28(4), 41(1), 41(2), 42(2), 49(2), 51, 57(5), 70, 97G(6), 179(2) of the Planning and Environment Act 1987 have been amended to reflect the changes made under the Planning and Environment Amendment Act 2021, in particular the new requirement to make certain information/documents available in accordance with the public availability requirements.
- ss 91ZU(1), 91ZZC(1), 91ZZE(1), 91ZZE(3), 206AZA(2), 207ZE(2) of the Residential Tenancies Act 1997 are now in force.
- s 42A of the Road Management Act 2004 has been updated. The reference to VicRoads has been removed and replaced with Head, Transport of Victoria.
- the *Residential Tenancies Regulations 2021* has been inserted and is in force.

Environment Protection Act 2017

The Environment Protection Act 2017 (EPA Act) was updated and took effect on 1 July 2021. The update to the EPA Act made Councils joint regulators of the EPA Act and corresponding regulations. Council will now have a role in regulating residential noise complaint, litter and other waste complaints and on-site wastewater management systems. Specific new powers for Councils include:

- the power to issue improvement notice under the EPA Act;
- the power to issue prohibition notice under the EPA Act;
- the power to amend a notice;
- the functions and powers of the environment protection authority; and
- the power to give advice to persons with duties or obligations.

Council is required to delegate the powers to Council staff to enable Council to meet its obligations under the EPA Act.

Options:

Council can:

1. approve the delegations outlined in the attached Instrument of Delegation to the Chief Executive Officer;
2. approve the delegations outlined in the attached Instrument of Delegation to members of Council staff;
3. approve the *Environment Protection Act 2017* Instrument of Delegation to members of Council staff;
4. modify the delegations outlined in the attached Instrument of Delegation to the Chief Executive Officer;
5. modify the delegations outlined in the attached Instrument of Delegation to members of Council staff;
6. modify the *Environment Protection Act 2017* Instrument of Delegation to members of Council staff.

Link to Council Plan:

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

Financial Implications:

There are no financial implications.

Risk Management Implications:

Reviewing Council's Instrument of Delegations is important for Council to maintain good governance practices.

Relevant legislation:

Cemeteries and Crematoria Act 2003

Cemeteries and Crematoria Regulations 2015
Domestic Animals Act 1994
Environment Protection Act 1970
Environment Protection Act 2017
Food Act 1984
Heritage Act 2017
Local Government Act 1989
Local Government Act 2020
Planning and Environment (Fees) Regulations 2016
Planning and Environment Act 1987
Planning and Environment Regulations 2015
Residential Tenancies (Caravan Parks And Movable Dwellings Registration And Standards) Regulations 2020
Residential Tenancies Act 1997
Road Management (General) Regulations 2016
Road Management (Works And Infrastructure) Regulations 2015
Road Management Act 2004

Community engagement:

N/A

Gender equality implications:

N/A

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

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

Communications Strategy:

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

A copy of the Instrument of Delegation to the Chief Executive Officer will be placed on Council's website. The Instruments of Delegation to staff will be placed on Council's website in a summarised form.

RECOMMENDATION:

(A) DELEGATION TO THE CHIEF EXECUTIVE OFFICER

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

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

(B) DELEGATION TO COUNCIL STAFF

In the exercise of the power conferred by the legislation referred to in the attached instrument of delegations, Hindmarsh Shire Council (Council) resolves that –

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

(C) SUB – DELEGATION TO COUNCIL STAFF

In the exercise of the power conferred by the legislation referred to in the attached instrument of sub-delegation, Hindmarsh Shire Council (Council) resolves that –

- (1) There be delegation to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instrument of Sub-Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.*
- (2) The Instrument comes into force immediately when the Resolution is*

passed.

(3) *The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*

Attachment Numbers: 21 - 23

9.5 COUNCIL PLAN 2017-2021 PROGRESS REPORT

Responsible Officer: Director Corporate and Community Services

Introduction:

This report provides Council with a progress update on the actions taken against the Council Plan 2017-2021.

Discussion:

Council's main strategic document the Council Plan 2017-2021 was developed and adopted in August 2017. The document contains strategic objectives under four Key Result Areas (KRA) Community Liveability; Built and Natural Environment; Competitive and Innovative Economy; and Our People, Our Processes with agreed initiatives on how Council will achieve the objective of the plan.

Quarterly progress reports have been presented to Council throughout the duration of the plan.

Further to progress reported to Council on Wednesday 9 June 2021, progress has been made on the following objectives:

Strategic objective 1.1.6 – Continue to engage with our farming community on road and road related infrastructure maintenance and improvements.

Council's Road Management Plan has been reviewed with the draft plan currently out for public consultation. The plan has been altered to clearly define the land owners responsibility and Council's responsibility with pictures to make the plan more user friendly.

Strategic Objective 2.1.1 – Re-develop and maintain attractive streetscapes, open spaces and public places.

Council has installed new street furniture in each of the four towns as part of the outdoor dining grant received. Pods have been placed in each town, along with picnic tables and chairs outside cafes, takeaway businesses and hotels in each town.

Anderson Street, Dimboola is currently being developed with new kerb and channel, underground drainage, road surface constructed and trees to be planted.

Strategic Objective 2.1.2 – Encourage and support residents and ratepayers to maintain the cleanliness and good order of the properties for which they are responsible

Council has prepared a Nature strip policy. The Road Management Plan also addresses responsibilities with regards to nature strips, road verges, and crossovers. Additional hard stands will be constructed at Council transfer stations to encourage increased recycling.

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.

Work has begun on identifying future strategic routes within the Shire to allow for future B Double truck movements both local and non-local throughout the shire to address the drop off and pick up issues with regards to permits being required. The identification and planning for future strategic routes will enable more accessible farm to paddock access on roads not classed for heavy vehicle use.

A condition audit on Council's road related assets has been awarded. The audit will include proposed infrastructure renewal plans for Council based on the condition of the road.

Strategic objective 2.1.5 – Continue to implement the Nhill Aerodrome Master Plan
Council has been successful in obtaining funding to implement a concrete hard stand for use by emergency services. The hardstand will provide a safer and more efficient re-filling site for the CFA fire bombers.

Strategic objective 2.1.8 – Explore alternative road base treatments that will reduce long term maintenance cost

A trial of PolyCom polymer stabilizer on Perenna Road intersection has been recently undertaken. This intersection will be monitored for performance over the coming years.

Strategic objective 3.3.1 – Advocate for appropriate NBN coverage

NBN has recently been installed at the Dimboola library and Riverside Holiday Park Dimboola. The improved coverage will result in better connectivity and less down time through internet drop out.

Strategic objective 3.1.9 – Review Hindmarsh Planning Scheme, including Municipal Strategic Statement (MSS), with a focus on industrial and residential development. Success measured by Hindmarsh Planning Scheme and MSS adopted.

The project to translate the Local Planning Policy Framework including the Municipal Strategic Statement was undertaken in the first half of 2020/2021 with the Amendment gazetted and operational on 10 June 2021.

Strategic objective 3.3.3 – Advocate for improved mobile phone coverage

An assessment has been undertaken identifying black spots for mobile phone coverage. Council will advocate for coverage for the identified black spots.

Strategic objective 4.1.1 – An equitable, efficient and transparent rating strategy

As part of the 2021/2022 budget process Council developed a Revenue and Rating

Strategy. The strategy will be reviewed annually as part of each annual budget process.

Strategic Objective 4.1.4 – Build strong relationships with upper and lower house representatives at a state and federal level

Council recently met with Beverly McArthur MP to discuss important issues for Hindmarsh. Council's CEO and Director Corporate and Community Services met with Stuart Grimley MP on Wednesday 14 July 2021. Discussion was held regarding the importance of improved public transport including passenger rail, Nhill Historical Society building, State and Federal government grants available to businesses, State government emergency orders and Davis Park.

Strategic objective 4.2.1 – Develop and implement a customer service strategy

The Customer Service Charter has recently been updated following a review. The review identified the charter spelt out the expectations of Council, but did not include expectations of community members. The charter now includes the following:

What do we ask of you?

- To treat our staff with mutual respect
- To respect the rights of other customers
- To provide accurate and complete information in your dealings with us
- To respect the community in which we live
- To work with us to solve problems
- To submit ALL customer requests / feedback to Council via phone, email, website or via written correspondence
- To respect Council Officers private lives and allow Council Officers to enjoy community events or functions in a personal capacity.

Strategic objective 4.3 – An actively engaged, skilled workforce capable of meeting community needs.

Council is currently completing a Gender Equality Action Plan 2021 – 2025 as per the *Gender Equality Act 2020* (GEAP). The primary focus of the GEAP is to set strategies and measures for Council's workforce that promote gender equality. To inform the GEAP, Council participated in the Victorian Public Sector People Matter Survey in June of this year. The survey asked employees about their experience as an employee of Hindmarsh Shire Council. Council officers are also undertaking a workplace gender audit to see if there are areas where gender inequality is persisting. The GEAP is due to be submitted to the Gender Equality Commissioner on 1 December 2021.

Link to Council Plan:

The Council Plan is the overarching plan that sets the strategic objectives for Council over the four-year term and provides initiatives and activities under the four key themes.

Financial Implications:

Council's annual budget allocates funding to complete initiatives.

Risk Management Implications:

The preparation of the Council Plan, incorporating the Health and Wellbeing Plan, and Community Vision is a statutory requirement

Relevant legislation:

The Council Plan was developed under the Local Government Act 1989 and Public Health and Wellbeing Act 2008

Community engagement:

Community engagement was undertaken as part of the development and adoption of the Council Plan 2017-2021.

Gender equality implications:

A gender impact assessment was not required.

Conflict of Interest:

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

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

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

RECOMMENDATION:

That Council receives the Council Plan 2017-2021 update.

9.6 FINANCIAL REPORT FOR THE PERIOD ENDING 30 JUNE 2021

Responsible Officer: Director Corporate and Community Services

Attachment Number: 24

Introduction:

The Financial Report for the fourth quarter of 2020/2021 financial year has been prepared. Including explanations of variances where applicable, and is presented for the information of Council.

RECOMMENDATION:

That Council notes the Financial Report for the period ending 30 June 2021 as presented.

Attachment Number: 24

9.7 ROAD MANAGEMENT PLAN REVIEW

Responsible Officer: Director Infrastructure Services

Attachment Number: 25

Introduction:

This report recommends Council adopts the Road Management Plan 2021-2023 (as required by Section 54(5) of the *Road Management Act 2004*) and gives notice of the adoption in the Victorian Government Gazette and local newspapers.

Discussion:

At the Council meeting held on Wednesday 9 June 2021, Council endorsed for public consultation the draft Road Management Plan (as required by Section 54(5) of the Road Management Act 2004) and to undertake public consultation for a minimum period of 28 days.

Notice was given in the Herald Sun, Victorian Government Gazette and local newspapers on the 16 June 2021 on the draft Road Management Plan requesting written feedback be received by 19 July 2021.

At the time of writing this report no submissions were received.

With no submissions received Council can now consider adopting the Road Management Plan. Following approval, notices of adoption will be given and formally gazetted in the Victorian Government Gazette and advertised in local newspapers.

Options:

1. Council can adopt the draft Road Management Plan as required by the Road Management Act 2004.
2. Council can not the Draft Road Management Plan, and adopt the existing Road Management Plan contained in the 2017 document.

Link to Council Plan:

Strategic Objective 3.2 Well-maintained physical assets and infrastructure to meet community and organisational needs.

Financial Implications:

The Road Management Plan has no direct impact on Council's budget, however, the changes made on service levels may have an impact on Council's future budgets.

Risk Management Implications:

The review of the Road Management Plan addresses risk across the municipal road network by placing roads of similar risk into urban and rural road classes, which are then allocated corresponding levels of service and defect inspection regimes.

Relevant legislation:

Road Management Act 2004

Communications Engagement:

Hindmarsh Shire Council is required under Section 54 of the *Road Management Act 2004* to give notice in the Government Gazette and a local newspapers regarding the adoption of the Road Management Plan 2021-2023 for a period of 28 days. This requirement has been met with no submissions received at the closing of the submission date.

Gender equality implications:

A gender Impact assessment was completed and found that there will be no gender specific impact.

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 Responsible – Joe Scimone, Development Engineer

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

Next Steps:

A notice of the Adopted Road Management Plan will be placed in the Victorian Government Gazette and local newspapers as soon as practicable after the August Council meeting.

RECOMMENDATION:

That Council

- 1. adopts the Road Management Plan 2021-2023 (as required by Section 54(5) of the Road Management Act 2004), and***
- 2. gives notice of the adoption of the Road Management Plan 2021-2023 in the Victorian Government Gazette and local newspapers.***

Attachment Number: 25

9.8 GAZETTING OF ROADS FOR B DOUBLE USE

Responsible Officer: Director Infrastructure Services

Attachment Number: 26

Introduction:

This report seeks Council approval on the roads mentioned in table 1 to be gazetted for HML, Grain Harvest Management Scheme (GHMS) - B-Doubles, Grain Harvest Management Scheme (GHMS) - Rigid trucks & Semi-Trailers, PBS Level 1 & PBS Level 2A with some conditions between full and local access only.

Discussion:

At the Council Meeting held on Wednesday 9 June 2021 Council resolved that Council:

1. ***approves and authorises the Chief Executive Officer to publish the proposed changes to road use for B Doubles access in Table 1 as above for public consultation.***
2. ***considers public submissions in relation the proposed changes to road use for B Doubles at the August 2021 Council meeting.***

Table 1 was advertised for public consultation.

Table 1

Option D

Road Name	Comments & Traffic Data	Recommendation to Open to full B Double with no conditions	Recommendation to Open to Local B Double Access with conditions
Janetzki Rd	18 ADT per week – non peak season - Only leads to windfarm	No - as limestone road only	Yes should be for local traffic only, Dry weather
Coker Dam Rd	Already a B double Gazetted Route	n/a From Dimboola to Kiata South	n/a
Winiam East Road	ADT per Week 100 non peak	No - Mainly 4m seal some 6.2, 8m corner to be upgraded next year. Once fully upgraded could be opened for all traffic	Yes should be for local traffic only
Sandsmere Rd	ADT week unknown	No- straight Rd, repaired under flood recovery, limestone and earth	Yes should be for local traffic only, Dry weather
Yanac South Road	21 ADT per week non peak	No- Upgraded under flood recovery, straight road. Alternative Route is	Yes should be for local traffic only, Dry weather

		Broughton Rd which is already a B Double Gazetted	
Winiam Road	61 ADT per week peak/non peak	No - Narrow 4m x seal alternative routes are Nhill Harrow road, Western Highway	Yes should be for local traffic only.
Nhill Diapur Rd	Already a B Double Gazetted Route	n/a	n/a
Tarranyurk East Rd	26 ADT per week – non peak	No- Partly sealed, turns to limestone. Short staking issues	Yes should be for local traffic only, Dry weather. Limit to 22m short stacking issues
Aubrey Rd	ADT unknown – Yarriambiack Shire	n/a	n/a
O'Reilly	Suggested by Council Officers ADT unknown links Diapur Yanac	No - Narrow 4m seal	Yes should be for local traffic only
Ellam-Willenabrina	Suggested by Council Officers	No – narrow seal and Limestone links to Geodetic	Yes should be for local traffic only, Dry weather
King Road	ADT Unknown	No - Mix of limestone and earth	Yes should be for local traffic only, Dry weather
Drendel Rd	Suggested By Council Officers Currently B double Gazetted – 43 ADT per week peak	No – limestone road	Yes portion of road only should be for local traffic only, Dry weather, Northern end of road is very narrow and will need widening at some point if the whole road is to be opened to B Doubles. Amend NHVR map portion only
Werner Road	15 ADT per week	No - Mix of limestone and earth	Yes should be for local traffic only, Dry weather
Solly Rd	Suggested By Council Officers 26	No – limestone	Yes should be for local traffic only, Dry

	ADT per week peak		weather
Stasinowskys Rd	Suggested By Council Officers 31 ADT per week peak	No – limestone	Yes should be for local traffic only, Dry weather
Katyil/Wail between Antwerp Warracknabeal to Borong Highway	Suggested By Council Officers 42 ADT per week peak	No - Narrow seal	Yes should be for local traffic only
Tarranyurk West Rd	46 ADT per week – non peak	No - Narrow seal then limestone	Yes should be for local traffic only, Dry weather
Rainbow-Nhill Road	Construction Complete, trafficable width suitable	Yes - 8m sealed	n/a
Mt Elgin Rd	35 ADT per week – non peak	No - Narrow seal	Yes should be for local traffic only
Boyeo-Tarranginnie Rd	unknown	No - Limestone	Yes should be for local traffic only, Dry weather
Kinimakatka Rd (North South)	41 ADT per week Non Peak	No - limestone	Yes should be for local traffic only, Dry weather
Kinimakatka Rd (East West)	61 ADT per week – Non Peak	No - Narrow seal - limestone	Yes should be for local traffic only, Dry weather
Heinrich Rd	Suggested by Council Officers 14 ADT per week non peak links Burma Rd & Pigick Bus route	No – Limestone	Yes should be for local traffic only, Dry weather
Burma Rd	Suggested by Council Officers 9 ADT per week links to Heinrich	No – Lime stone	Yes should be for local traffic only, Dry weather
Pigick Kurnbrunin	Suggested by Council Officers 9 ADT per week links to North and South of Pigick Bus Route	No – Lime stone	Yes should be for local traffic only, Dry weather

Western Beach Rd	Unable to open as this road is not owned by HSC 23 non peak – 185 peak per week	n/a - Narrow seal if Shire acquires Road the Yes for all traffic in future	n/a
Perenna Rd	Suggested by Council Officers 41 ADT per week - peak	No - Seal and Limestone	Yes should be for local traffic only, Dry weather
Netting Fence From Perenna Rd	Suggested by Council Officers	No - Limestone links to Rainbow Nhill	Yes should be for local traffic only, Dry weather

At the closing of submissions, six (6) submissions were received. Four (4) were in support of table 1, and 2 were against table 1. A copy of the submissions received have been consolidated and attached to the Council agenda for Councillors information.

The B Double working group has continued to meet on a regular basis and are recommending the following definitions of local road use under the *Road Management Act*, road rules 104. The adoption of the definition of local road use with specific conditions will be subject to a future Council report.

A road deemed for local use only may be accessed by a B-double

- If the destination of the B-double is on the specific road for the purposes of loading and unloading; or
- If the B-double's depot is located on the road; or
- If there is no alternative route for the B-double to reach its final destination.

The definition of local road use means that an un-laden vehicle that has dropped off a load anywhere in the Shire (or outside the Shire) should not be using a local use road as a short-cut. Only vehicles that have dropped off a load on a local use road should be allowed to use that same road to make their return journey.

Approval of Table 1 to be opened to B Double access as well as another 5 truck classes including HML, Grain Harvest Management Scheme (GHMS) - B-Doubles, Grain Harvest Management Scheme (GHMS) - Rigid trucks & Semi-Trailers, PBS Level 1 & PBS Level 2A with some conditions between full and local access only, this will allow increased farm access to paddocks for pickup and delivery.

Options

Council can:

1. Approve the recommendations as per the attached Table 1.
2. Not approve or amend the recommendations as per the attached Table 1.

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:

Approval of the recommendations 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. Farmers and transport companies will also have increased farm access to paddocks for pickup and delivery.
2. Reduce the number of permits issued by Council staff, and allow the current local transport operators to operate within the law.
3. Have an effect on residents and non-heavy vehicle road users, which needs to be taken into account when making assessments and enforcing conditions.

Relevant legislation:

Road Management Act 2004.

Community engagement:

Council advertised for public feedback and submissions from 16 June 2021 until 16 July 2021.

Gender equality implications:

Gazetting of Table 1 for B Doubles does not have any gender specific impact.

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:

Advise the submissions received and interested parties of council's decision.

Next Steps:

Contact National Heavy Vehicle Regulator, and B Double Working Group to advise them of Council's decision with regards to Table 1.

RECOMMENDATION:

That Council approves the recommendations as per the attached Table 1.

Attachment Number: 26

9.9 DEVIATION OF ANTWERP-WOORAK ROAD, GLENLEE AND EXCHANGE OF LAND

Responsible Officer: Director Infrastructure Services

Attachment Number: 27 - 29

Introduction:

This report proposes that Council finalise the statutory procedures to deviate part of Antwerp-Woorak Road, Glenlee, exchange the land and finalise compensation negotiations with the adjoining land owner.

Discussion:

At the Council meeting held on 19 December 2018, Council resolved commence the process of undertaking a land exchange and deviation on Antwerp-Woorak Road, Glenlee to allow for the road re-alignment. Council resolved to bring an update on the land exchange to a future Council meeting.

Since the council meeting held 19 December 2018, the following has occurred:

- Road works have been completed including discontinuation of use of existing road, and deviation of road onto proposed reserve with approval from landowner as per Attachment 28
- Minister consent to the proposed deviation, Attachment 29
- Council advertised its intention to deviate the road and to transfer to the owners of the adjoining land the land from the Existing Road in exchange for the owners of the adjoining land transferring to Council the land for the New Road in local newspapers

in June 2021. The notice also stated that Council proposes to pay to the owners of the adjoining land an amount representing the difference in the current market value between the two parcels of land.

- At the close of submissions, no submissions were received.
- Council commissioned a valuation on the property. The valuation was undertaken by Preston Rowe Patterson (PRP) in June 2021. This is in accordance with the following:

Under clause 2 of Schedule 10 of the *Local Government Act 1989 (Act)* Power to deviate roads

- (1) *A Council may deviate a road through private land, Crown land or land held by licensees under the Land Act 1958*
- (2) *However, in the case of a proposed deviation-*
 - (a) *through Crown land; or*
 - (b) *which would result in the vesting of land in a Council under section 207B(2A)- this power may only be exercised after the Council has obtained the consent of the Minister administering the Land Act 1958.*

Under section 189 of the *Local Government Act 1989 (Act)* Restrictions on power to sell land

- (2) *Before selling or exchanging the land the Council must –*
 - (a) *ensure that public notice of intention to do so is given at least 4 weeks prior to selling or exchanging the land; and*
 - (b) *obtain from a person who holds the qualifications or experience specified under section 13DA(2) of the **Valuation of Land Act 1960** a valuation of land which is made not more than 6 months prior to the sale or exchange.*
- (3) *A person has a right to make a submission under section 223 on the proposed sale or exchange.*

- The valuation found that a rate of \$9,390 per hectare would be appropriate for the arable land component. Calculations were also undertaken to determine appropriate compensation, given the acquired land is greater in area than the land disposed of. The calculations were completed as follows:

CALCULATIONS			
Value of Crown Allotment 57 Before Acquisition	81.078 ha @ \$9,390 per ha	\$761,322	
Value of Crown Allotment 57 After Acquisition	77.67 ha of arable land @ \$9,390 per ha	\$729,321	
Difference		Loss	(\$32,001)
Value of Crown Allotment 46 Before Acquisition	31.918 ha of arable land @ \$9,390 per ha	\$299,710	
	16.50 ha of timber @ \$1,483 per ha	\$24,470	
	Total	\$324,180	
Value of Crown Allotment 46 After Acquisition	34.4837 ha of arable land @ \$9,390 per ha	\$323,802	
	16.50 ha of timber @ \$1,483 per ha	\$24,470	
	0.7963 ha of former road considered non-arable for 4-6 years @ \$2,348 per ha	\$1,870	
	Total	\$350,142	
Difference		Increase	\$25,962
		Difference	(\$6,039)
Total Compensation	(rounded for practical purposes)		\$7,500

All legal costs, fencing, access and gateways area to be re-instated and met by the acquiring authority.

Options:

1. Council can choose to proceed and finalise the road deviation and land exchange as proposed and compensate the land owner \$7,500 for the difference in land valuation.

Link to Council Plan:

- 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.

Financial Implications:

Council will incur survey and legal costs associated with amending the title to the adjoining owner's land and gaining the title to the new road, as well as the compensation to be paid.

Upon the exchange of the land rates and charges will be levied.

Risk Management Implications:

There are risk management implications from the process of the exchange, should the interested parties withdraw from the process, which would affect the completion of the project.

Relevant legislation:

Local Government Act 1989 (Act).

Local Government Act 2020.

Land Act 1958

Community engagement:

Council advertised its intention to deviate the road and to transfer to the owners of the adjoining land the land from the Existing Road in exchange for the owners of the adjoining land transferring to Council the land for the New Road in local newspapers in June 2021.

Gender equality implications:

No gender impact assessment was required as there are no gender specific impacts with the land exchange

Conflict of Interest:

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

Officer Responsible: Angela Hoy, Director Infrastructure Services

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

Author: Daniel Griffiths, Manager Capital Works

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

Communications Strategy:

Council will notify the ratepayer of the private land with of the outcome of this report.

RECOMMENDATION:

That Council, having given public notice of its intention to deviate part of Antwerp-Woorak Road, Glenlee, and exchange the land, as shown on the Plan for Road Exchange contained within Attachment 27, and having received no submissions in respect of the proposal under section 223 of the Local Government Act 1989 (the Act):

- a. deviates the road under clause 2 of Schedule 10 of the Act and exchanges the land under section 189 of the Act,**
- b. directs that a notice of the deviation be published in the Victoria Government Gazette,**
- c. directs that the owners of the adjoining land be paid the sum of \$7,500 representing the difference in the current market value between the exchanged land; and**
- d. authorises the Chief Executive Officer to sign all documents relating to the land exchange.**

Attachment Numbers: 27 - 29

9.10 RAINBOW RISES EVENTS ASSOCIATION

Responsible Officer: Director Corporate and Community Services

Introduction:

This report seeks a Council resolution in relation to the Rainbow Rises Events Association Incorporated.

Discussion:

In 2017, the Rainbow Town Committee formed a sub-committee called the Rainbow Desert Enduro Working Group. The purpose of the Working Group was to plan, organise and run the Rainbow Desert Enduro in collaboration with the Victorian Off Road Racing Association. As a sub-committee of the Rainbow Town Committee, the Working Group's funds were held by Council and Council had ultimate ownership and responsibility of the Rainbow Desert Enduro.

On 6 July 2021, the Working Group became the Rainbow Rises Events Association Incorporated (Association). The Association is seeking to have the portion of money held in the Rainbow Town Committee's funds for the Rainbow Desert Enduro released to the Association.

According to Council's records, the portion of the Rainbow Town Committee's funds allocated to the Rainbow Desert Enduro is as follows:

Opening Balance 16/09/2020	\$16,652.09
Funds received 22/04/2021	\$18,984.78
Expenses to date	\$8,926.30
Commitments	\$84.00
Closing balance	\$26,626.57

This report recommends that Council release \$26,626.87 to the Association as per their request.

Event ownership and funding allocation

The Rainbow Desert Enduro is scheduled for 27-29 August 2021. Given that the Enduro is to be held in four weeks' time, it is not practicable for the Association to obtain new permits under the new entity. As a result of this, Council will need to retain overall ownership of the event and enter into an agreement with the Association for the running of the 2021 Enduro Event.

Council's 2021/2022 budget has \$12,000.00 allocated to the Rainbow Desert Enduro broken into \$5,500 for advertising and \$6,500 for in-kind expenses. This report recommends that Council fund the advertising for the 2021 event subject to forming an agreement with the Association. The Agreement will outline Council's responsibilities, the Association's responsibilities and will appoint a Council liaison officer to assist with organising the event.

Options:

1. Council can release \$26,626.57 to the Rainbow Rises Events Association Incorporated subject to an agreement formed between Council and the Association.
2. Council can retain the \$26,626.57 and not enter into an agreement with the Rainbow Rises Events Association.

Link to Council Plan:

Strategic Objective 3.1 A strong rural economy and thriving towns

Strategic Objective 3.1.1 Market the Shire's livability, its stunning environment, relaxed country living, and unique business opportunities

Strategic Objective 3.1.8 Work regionally/collaboratively with other organisations

Strategic Objective 3.2: A thriving tourism industry

Strategic Objective 3.2.3: Support innovative community-driven events and festivals that stimulate tourism and growth

Financial Implications:

This report recommends that Council release the funds held in the Rainbow Town Committee ledger for the Rainbow Desert Enduro to the Association. This is not a significant financial implication for Council as the funds were already set aside for the Rainbow Desert Enduro.

In addition to releasing the Working Group's funds to the Association. This Council Report is recommending that Council enter into a three year sponsorship arrangement with the Association for the Enduro event. A budget allocation of \$12,000.00 (\$5,500 cash and \$6,500 in-kind) would be committed to the Enduro in each annual budget from 2022/23 until 2025/26.

Risk Management Implications:

The Rainbow Desert Enduro 2021 poses a significant public safety risk to Council. As

part of the agreement with the Association, Council will appoint a Council Officer to liaise with the Association to ensure that the Rainbow Desert Enduro has the appropriate risk management controls in place.

Relevant legislation:

Local Government Act 2020.

Community engagement:

N/A

Gender equality implications:

N/A

Confidential Declaration:

N/A

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 will communicate the outcome of this Council Report to the Rainbow Rises Events Association Incorporated and Rainbow Town Committee.

Next Steps:

Council will liaise with the Rainbow Rises Events Association Incorporated for planning the Rainbow Desert Enduro 2021.

RECOMMENDATION:

That Council:

- 1) notes the formation of the Rainbow Rises Events Association Incorporated;***
- 2) transfer \$26,626.57 (less any expenditure prior to transfer) from the Rainbow Town Committee funds to the Rainbow Rises Events Association Incorporated;***
- 3) enters into an agreement with the Rainbow Rises Events Association Incorporated to run the Rainbow Desert Enduro 2021;***
- 4) authorises the CEO to liaise with DELWP to gain ministerial approval to enter into a lease agreement with Rainbow Rises Events Association Incorporated***

for Crown Parcels 10~B\PP5664 (P006233) and 9~B\PP5664 (P006232), Rainbow Rises Road Rainbow.

9.11 SALE OF DISCONTINUED LAND IN WHITTON STREET DIMBOOLA

Responsible Officer: Director Infrastructure Services

Introduction:

This report seeks Council approval to sell the previously discontinued road in Whitton Street, Dimboola to the adjoining land owners.

Discussion:

On 21 January 2021, Council received correspondence from Ferguson and Perry, acting on behalf of their client who owns lots 15 to 23 on LP11511 in Whitton Street Dimboola.

The correspondence advised that in 1989, Dimboola Shire Council initiated a road discontinuance in Whitton Street Dimboola and that this land was to be sold to abutting owners by private treaty. The correspondence further advised that this sale was never completed. It was requested that Council investigate their records and expedite the sale to their clients to ensure they that prospective purchasers have rightful access to Whitton Street.

Council's investigations have revealed that in 1988, the Dimboola Shire Council received a request from the owner of land at the corner of Lloyd and Whitton Street Dimboola, to purchase a portion of the road reserve as their property encroached on to the road reserve.

Minutes of the 16 August 1988 Council Meeting document that Council decided to approach all the landowners on this side of Whitton Street to ascertain whether they were interested in purchasing six feet of Whitton Street, adjacent their properties, at a cost of \$10.00 per frontage.

Three of the four owners responded that they wished to proceed and the Minutes of the Council Meeting held 20 September 1988 contained the following motion.

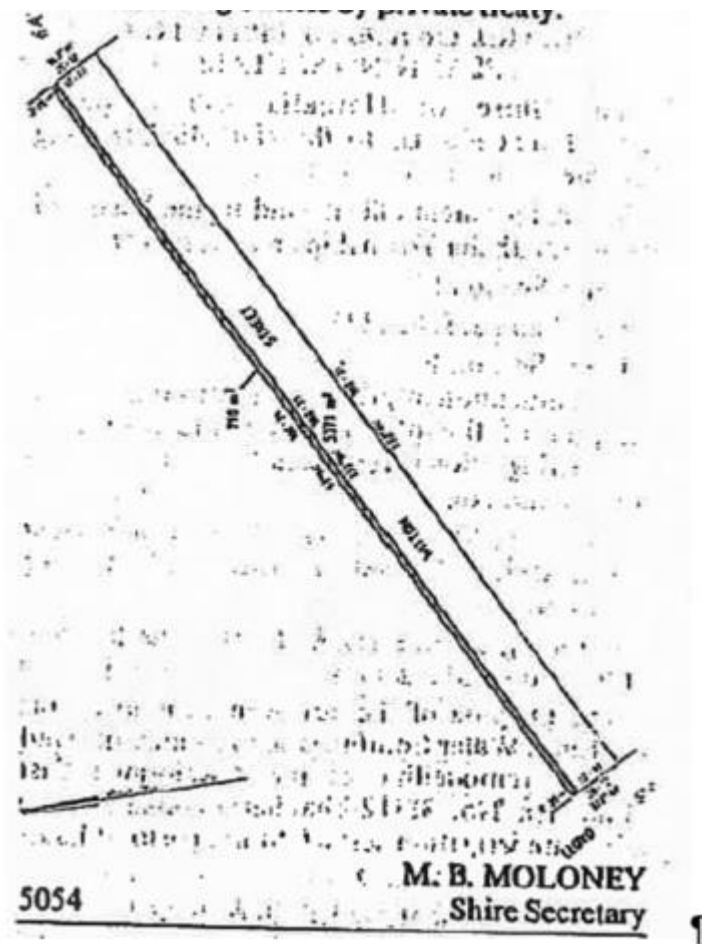
1. "The Council in accordance with Section 528 (2) of the Local Government Act proceed to reduce the width of Whitton Street 6 feet along the properties being Lots 24-28.
2. That Messrs Guy and Ferguson be instructed to prepare the necessary documentation.

The Government Gazette of 03 May 1989 contained the following notice:

"Pursuant to section 528 (2) of the *Local Government Act 1958* it is resolved that this Council being of the opinion that the part of the road shown hatched on the plan hereunder

is not reasonably required as a road for public use, having consulted with any relevant public statutory authority, having published and given the notices required by section 528 (2) of the *Local Government Act 1958*, and not having received any objections to the proposal does hereby resolve and direct that:

- (a) Such parts be discontinued;
- (b) Publication of this resolution be effected in the Government Gazette;
- (c) Thereafter the said part to be sold to abutting owners by private treaty."



Source: Government Gazette 03 May 1989.

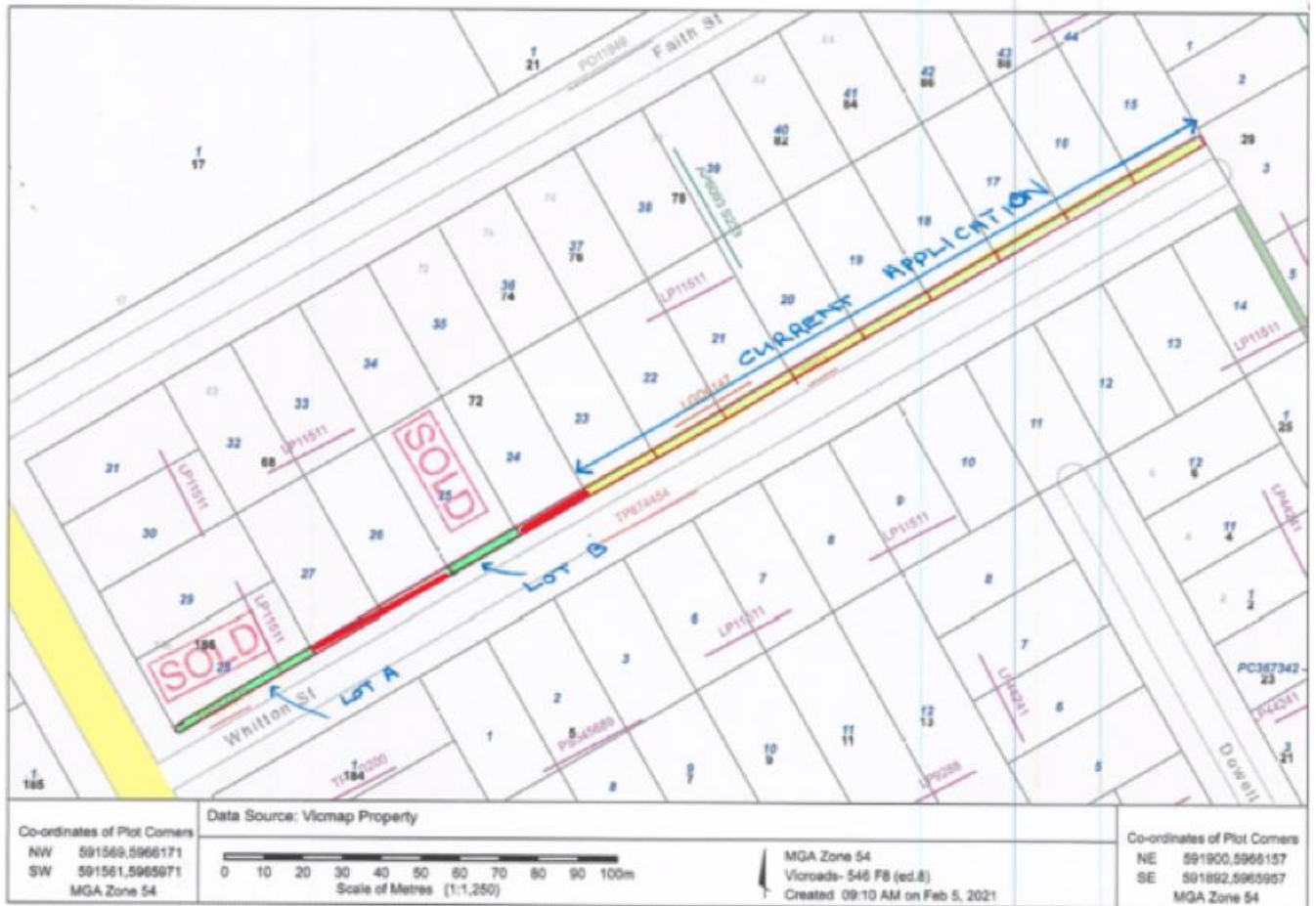
The portion of road was formally discontinued and Council sold the section of road shown as Lot A (green) on the plan below, to the owner of 186 Lloyd Street Dimboola around August 1989 (Lot 1 TP654071P).

Council gained Title to the remaining lots, 1-13 in 1991 and in May 1991 Council sold the section of road shown as Lot B (green) on the plan below to the abutting owner (Lot 3 TP64L).

The application from Ferguson and Perry is for the section of discontinued road shown yellow, adjacent lots 15 to 23.

The remaining lots shown in red on the plan below, adjacent lots 24, 26 and 27, should

also be sold to the adjoining owners to ensure they enjoy legal access to Whitton Street and to complete the project commenced in 1988.



Given the length of time from the original decision and the fact there have been two new acts (1989 and 2020) since the proposed sale was advertised in the Government Gazette, it is deemed appropriate to abide by the current requirements.

Section 114 of the 2020 Act sets out the following requirements for the selling of land.

1. Council Report authorising the Chief Executive Officer to complete the sale of land process.
2. Gain a valuation of the property.
3. Advertise Council's intention to sell the land in the local papers and on the website for 4 weeks.
4. Complete the sale of land.

Options:

1. Council can authorise the Chief Executive Officer to complete the sale of land in Whitton Street Dimboola.
2. Council may choose not to complete the sale of land in Whitton Street Dimboola.

Link to Council Plan:

Strategic Objective 3.1.6 Encourage investment in housing stock to address housing shortages.

Financial Implications:

A formal valuation has been obtained. The total Market Value of all the lots comprising 614.57 m² of undeveloped and discontinued road, is \$4,000.

Council sold the land, shown as lots 15 to 23, adjacent the yellow sliver of Whitton Street in 2006.

Given the decision in 1989 to discontinue the portion of road, in order to ensure that the land sold by Council enjoyed legal access to Whitton Street, the discontinued road should have been part of the 2006 sale / acquisition.

In order to rectify this oversight, Council should expedite a transfer of the former road to the current owners as requested by Ferguson and Perry. It is suggested that a nominal consideration of \$1.00, with each party bearing its own costs, is appropriate.

In relation to the remaining three portions of discontinued road (shown as red on the map above) it is recommended that these be offered to the current owners at market value with each party bearing its own legal costs.

Risk Management Implications:

Given the decision to discontinue a portion of the road and sell this land to the adjacent land owners was made in 1989 it would be wise to expedite and complete the sale of this land.

Relevant legislation:

Local Government Act 2020 - Section 114 – Restriction on power to sell or exchange land.

Community engagement:

In accordance with Section 114 of the *Local Government Act 2020*, Council must at least 4 weeks prior to selling or exchanging the land, publish notice of intention to do so –

- (1) on the Council's Internet site; and
- (2) in any other manner prescribed by the regulation for the purposes of this subsection; and
- (3) undertake a community engagement process in accordance with its community engagement policy.

Gender equality implications:

Not deemed applicable.

Confidential Declaration:

Not applicable.

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 – Janette Fritsch, Manager Development

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

Communications Strategy:

Council will undertake the notification as required under the *Local Government Act 2020*

Next Steps:

1. Undertake the notification process as required by the Act.
2. At the conclusion of this period, engage Conveyancing Lawyer to undertake the sales process.

RECOMMENDATION:

That Council authorises the Chief Executive Officer to undertake the sale of discontinued road in Whitton Street Dimboola to the adjacent landowners in accordance with the Local Government Act 2020.

Further, that the terms of sale be offered as follows:

- ***\$1 for the land shown as yellow***
 - ***Market Value for the land shown as red***
 - ***Each party to pay their own legal costs.***
-

10. COUNCIL COMMITTEES

10.1 YURUNGA COMMITTEE OF MANAGEMENT

Responsible Officer: Director Corporate and Community Services
Attachment Number: 30

Introduction:

The Yurunga Committee of Management held its meetings on 22 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 Yurunga Committee of Management meeting held on 22 April 2021.

Attachment Number: 30

10.2 DIMBOOLA TOWN COMMITTEE

Responsible Officer: Director Corporate and Community Services
Attachment Number: 31 and 36

Introduction:

The Dimboola Town Committee held its meetings on 5 July 2021 and 2 August 2021. The purpose of this report is to note the minutes from these meetings. A copy of these minutes are included as an attachment for the information of Council.

RECOMMENDATION:

That Council:

- 1. notes the minutes of the Dimboola Town Committee meetings held on 5 July 2021 and 2 August 2021, and***
- 2. approves expenditure of up to \$15,000 (ex gst) for the Dimboola Steam Punk event on Saturday 4 September 2021 to cover lighting, COVID safe materials, advertising and incidentals.***

Attachment Number: 31 and 36

10.3 JEPARIT TOWN COMMITTEE

Responsible Officer: Director Corporate and Community Services
Attachment Number: 32

Introduction:

The Jeparit Town Committee held its meetings on 12 July 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 Jeparit Town Committee meeting held on 12 July 2021,**
- 2. notes that Cheryl Quinn is the Secretary appointed by the Committee, and**
- 3. approves the appointment of Rebecca Schultz as a new Committee member.**

Attachment Number: 32

10.4 RAINBOW TOWN COMMITTEE

Responsible Officer: Director Corporate and Community Services

Attachment Number: 33

Introduction:

The Rainbow Town Committee held its meetings on 26 July 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. Matters arising from the meeting are dealt with in a separate report on this agenda (Item 9.10)

RECOMMENDATION:

That Council notes the minutes of the Rainbow Town Committee meeting held on 26 July 2021.

Attachment Number: 33

11. LATE REPORTS

11.1 AMENDED APPLICATION FOR PLANNING PERMIT PA1633-2019 – USE AND DEVELOPMENT FOR A PLACE OF ASSEMBLY - 116-120 LLOYD STREET DIMBOOLA VIC 3414

Responsible Officer: Director Infrastructure Services

File: Planning – Applications

Assessment: 25220

Planning Permit No: PA1633-2019

Applicant: Mr John Nichols, Dimboola Art Inc.

Owner:	Graeme Schneider
Subject Land:	116-120 Lloyd Street Dimboola VIC 3414 (Lot 1 PS803114J)
Proposal:	Use and development for a Place of Assembly
Zoning & Overlays:	Commercial 1 Zone (C1Z) Environmental Significance Overlay Schedule 6 (ESO6) Heritage Overlay Schedule 34 (HO34) Road Zone Category 1 (RDZ1) adjacent to Lloyd Street
Attachment Number:	34

Summary:

This report recommends that Council approve amended development plans and an amended planning permit to allow the use and development of a Place of Assembly. Amended conditions are required to address heritage considerations and landscaping and to manage the use within the definition of a Place of Assembly.

Background:

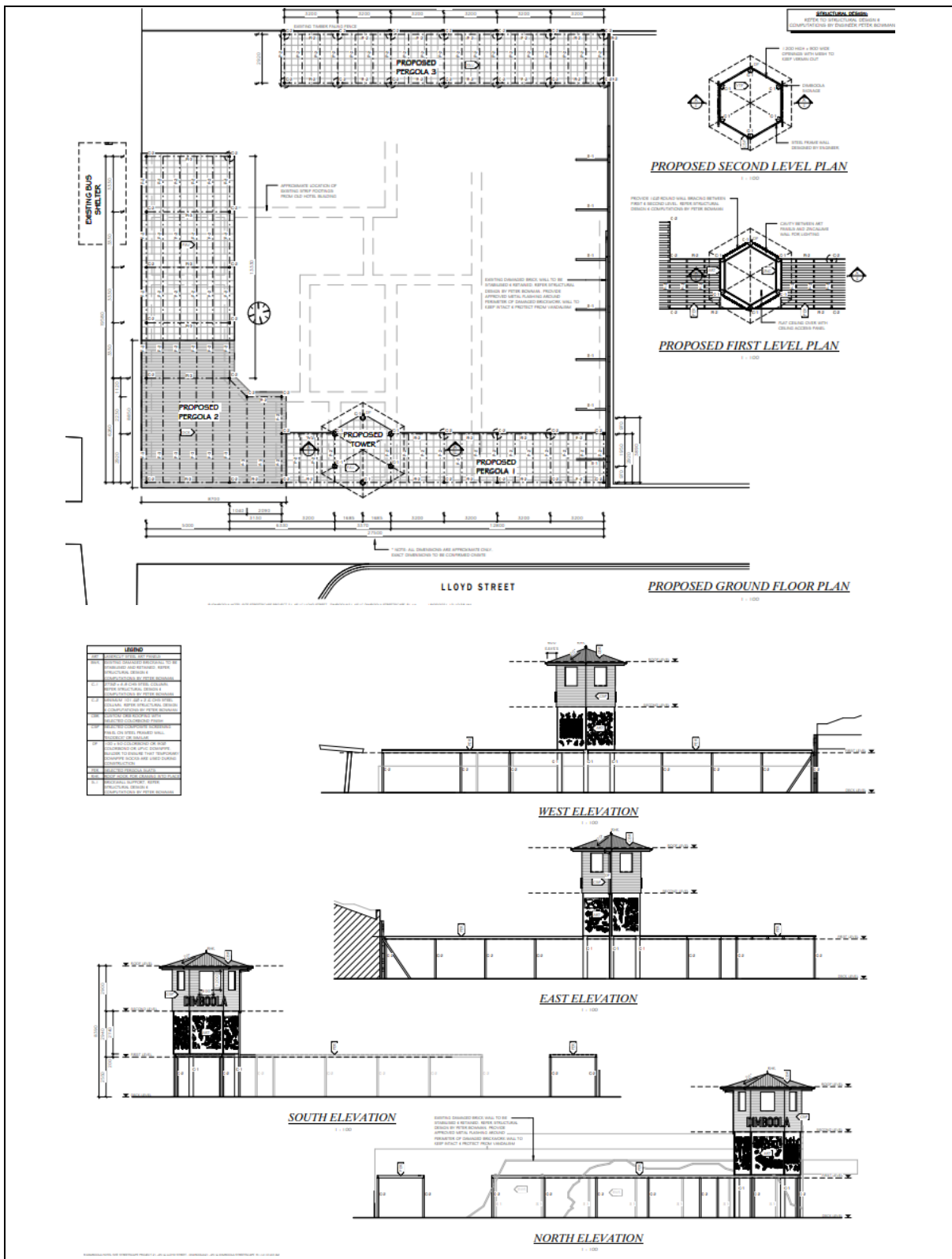
The site was previously occupied by the Dimboola Hotel which has been demolished. The proposal is to utilise this vacant parcel of land for arts related and community projects which originally received funding from 'Pick My Project - Open Community Arts & Reflection Space', a State Government funding program. An amended design concept is proposed to relocate the proposed tower and the proposed pergolas and to revise the layout of pathways and gardens for landscaping on the site.

Proposal Details:

The amended proposal is for the proposed use and development for a Place of Assembly on the site, which will include arts and cultural events for the community and provide a space for community events including fundraising events. The Dimboola Art Inc. Committee are proposing a visual arts and crafts display, community markets and outdoor community-based activities to be held on the site. The development will no longer be constructed in stages.

The amended proposal includes the relocation of the new tower building and changes to dimensions, materials and colours, alter the pergola structures and materials, the removal of kiosk, outdoor seating in different locations to define areas, gravel pathways along the footings of the former hotel and garden areas for landscaping. Local native plants are proposed in garden areas to define the separate spaces. The artistic feature tower is proposed to be relocated away from the corner of Lloyd Street and Lochiel Street due to structural issues with the existing underground cellar of the former hotel. There are no buildings or works proposed on the Council footpaths.

Amended ground floor plan and amended elevations below:



Requirement for Permit:

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

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

An Art and Craft Centre, and Exhibition Centre and a Market use which is under the definition of Retail Premises, do not specifically require a planning permit as these uses are listed as Section 1 Uses under the C1Z.

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

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

Subject site & locality:

The site is located at 116-120 Lloyd Street Dimboola, being Lot 1 on PS803114J and is vacant land within the commercial centre of Dimboola. The subject land fronts Lloyd Street to the west and Lochiel Street to the north.

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

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

Aerial Map below – Hindmarsh POZI



Advertising

Section 52 Notice of amended application

The amended application was advertised by sending notices as follows:

- Notices to the Adjoining Neighbours (including Council).
- Two (2) public notices on the land – one (1) sign fronting Lloyd Street and one (1) sign fronting Lochiel Street.
- Public notice in the Dimboola Banner newspaper.
- Public notice on Council's website.

As a result of the advertising, no objections were received.

Referrals:

No External Referrals/Notices were required by the Planning Scheme.

Internal Referrals:

- Engineering: Comments provided about the following:
Drainage
 - Should be to the Western side of the property to the drain in the Lloyd Street road reserve.
 - Legal Point of Discharge (LPD) can be applied for with the building permit application.

- A Consent to Works within Road Reserve permit is required for any works conducted in the road reserve.
- Heritage Adviser: Comments provided below by David Helms:

The loss of the Dimboola Hotel had a significant impact upon the integrity of the Dimboola Town Centre Heritage Precinct. It was one of several key landmark buildings on street corners that defined the identity and historic character of the centre. Because of this, this project provides an important opportunity to remember and interpret the history of this important building.

I am pleased that the history of the site is to be interpreted through features such as the gravel pathways, which are positioned above the surviving strip footings of the hotel, as well as the tower feature. However, I believe more could be done and the following changes are suggested to mitigate potential heritage impacts:

- *Relocate the tower to the corner of Lloyd and Lochiel streets. As the form and detailing of the tower feature makes a direct reference to the original tower it should also be in the same location. This is important not only for historic reasons, but also in urban design terms, as it will better address this corner by providing a visible and prominent marker visible when viewed along both streets.*
- *Include an interpretation sign. The history of the site and significance of features such as the tower and the gravel paths over the hotel footings may not be fully understood or appreciated without some on-site information about the history of this site. This would be in a form of a simple information board/sign that could include an historic image of the hotel, some details of its history (including Traditional Owner history), and an explanation of some of the interpretive features (paths, tower) and the artwork on the tower. This could be developed in association with the local historical society and Traditional Owner groups.*

The above are the key recommended changes to mitigate potential heritage impacts. Other changes that could be considered (subject to cost) are an additional gravel path along the remaining north-south building footing and extending the pergola structure over the footpath so as to interpret the original hotel – this does not have to be the full length of the frontage and could be contained to a small sections on either side of the corner. I appreciate the above changes may have cost implications for the project and I'm happy to discuss them further to find appropriate solutions.

Planning Scheme Requirements:

Municipal Planning Strategy (MPS):

Clause 02.02 Vision

Clause 02.03 Strategic Directions

Clause 02.03-5 Building Environment and heritage

Clause 02.03-6 Economic Development

Clause 02.04 Strategic Framework Plans - Dimboola Framework Plan

Planning Policy Framework (PPF):

Clause 11.01-1S Settlement

Clause 11.01-1R Settlement – Wimmera Southern Mallee

Clause 13.05-1S Noise abatement

Clause 13.07-1S Land use compatibility

Clause 15.03-1S Heritage conservation

Clause 17.01-1S Diversified economy

Clause 17.01-1R Diversified economy - Wimmera Southern Mallee

Clause 17.04-1S Facilitating tourism

Clause 17.04-1R Tourism - Wimmera Southern Mallee

Clause 19.02-3S Cultural facilities

Clause 19.02-4S Social and cultural infrastructure

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

Zoning Provisions:

Clause 34.01 – Commercial 1 Zone (C1Z)

34.01-1 Table of uses

Section 1 – Permit not required

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

Section 2 – Permit required

Place of Assembly (other than Exhibition centre)

34.01-4 Buildings and works

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

This does not apply to (relevant):

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

34.01-8 Decision guidelines

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

General

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

Use

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

Building and works

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.

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

Overlay Provisions:

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

43.01-1 Permit requirement

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

43.01-8 Decision guidelines

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

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

Schedule 34 to the HO - Dimboola Town Centre Heritage Precinct

- External paint controls apply

The Dimboola Town Centre Heritage Precinct does not have a specific heritage citation dating back from when the existing Heritage Overlay and Schedules were translated into the new format Hindmarsh Planning Scheme on 6 January 2000.

The heritage significance of the Dimboola Town Centre Heritage Precinct has recently been assessed in a Heritage Assessment and external painting guidelines by David Helms dated 29 June 2019, which has not been adopted by Council. In this heritage

assessment of the Dimboola Town Centre, its historical significance, representativeness and aesthetic significance have been identified. The following comments are noted:

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

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

Particular Provisions:

Clause 52.05 Signs

52.05-11 Category 1 – Commercial areas

Minimum limitation

Section 1 - Permit not required

A Business Identification Sign, a Direction Sign and a Promotion sign are Section 1 signs – no permit required - provided the total display area of all signs to each premises does not exceed 8 sqm.

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

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

Planning Response:

The revised tower art works are not considered signs and do not require a planning permit. The Dimboola sign on the tower does not require a planning permit provided the total area is less than 8sqm.

Clause 52.06 – Car Parking

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

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

Table 1: Car parking requirement

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

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

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

Planning Response:

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

The absence of car parking for the amended application is the same as the original application, which was assessed under Clause 52.06-6 and was deemed to be satisfactory within this commercial area.

General Provisions

Clause 65 - Decision Guidelines, states that:

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

Clause 65.01 Approval of an application or plan

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

Discussion:

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

The amended proposal will continue to facilitate the use and development of an underutilised parcel of land within the commercial area of Dimboola for a community-based space. The proposed Place of Assembly will reactivate this part of Dimboola and encourage cultural diversity, tourism and economic development opportunities.

The amended proposal will comply with the relevant decision guidelines of the MPS and LPPF, with conditions requiring details of heritage colours and an additional pathway along the eastern footings of the former hotel to protect and enhance the heritage values of the site.

Commercial 1 Zone (C1Z)

The proposed Place of Assembly use and associated uses will have a positive impact on the adjoining commercial uses and will have adequate separation from the closest residential areas to minimise any potential noise and amenity impacts.

The revised design and layout of the tower building and the pergolas with timber batten screening will enhance the appearance of the site within the streetscape and activate the street frontages. The relocation of the tower further south is required to avoid the structural issues associated with the existing underground cellar which was part of the former hotel on the corner of Lloyd Street and Lochiel Street. The amended development will still encourage appropriate pedestrian access, the provision of direction signs and suitable lighting. The revised pergola structures will extend along most of the two street frontages and will also provide for solar access and shading. The provision of new landscaping will improve the presentation of the site to the street frontages.

There is no vehicle access proposed to the site from Lloyd Street and Lochiel Street, which is acceptable in this instance due to the nature of the uses and activities and the availability of car parking and public transport adjacent to the site.

The amended proposal complies with the relevant decision guidelines of the Commercial 1 Zone.

Heritage Overlay Schedule 34 (HO34)

Although Council's Heritage Adviser comments are warranted in terms of heritage matters, the proposed tower cannot be relocated to the front corner due to structural issues with the existing underground cellar of the former Dimboola Hotel on the corner of the site. The design and proportions of the proposed relocated tower are respectful of the former tower and provides an interpretative presentation of key attributes of the former hotel.

The inclusion of an interpretative sign for the former hotel is a positive recommendation from Council's Heritage Adviser. An interpretative sign will be a required condition within six (6) months of the commencement of the use. This timeframe will allow the development to proceed and the use to commence first to activate this vacant site within the commercial centre of Dimboola.

The addition of a gravel pathway along the south-eastern footings of the former hotel is also required as a condition. The proposed pergolas will not be extended over the footpath so that Council is not required to maintain such structures within the road reserve along Lloyd Street.

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

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

Clause 52.06 Car Parking

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

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

Clause 65 Decision Guidelines

The amended proposal will comply with the MPS and PPF and outlined above. The amended proposal will enable the redevelopment of this vacant commercial site and will enhance the economic development of the township of Dimboola.

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

The amended application will comply with the relevant decision guidelines of Clause 65.

Amended Description

The description of the permit will be simplified to refer to the 'Use and development for a Place of Assembly' and to not refer to the Art Gallery, Cinema and Market to provide more flexibility for the extent of uses on the site.

Amended Conditions

There are several conditions that will be deleted and replaced with new conditions for the amended application. Condition 1 will be revised to remove the colours, landscaping and stormwater conditions and to require an additional pathway along the south-eastern footings of the former hotel for heritage reasons. Condition 2 for the staging of the development will be deleted as this is no longer proposed. Two conditions will be added for interpretative signage to be designed and approved by Council within six (6) months of the commencement of the use and to be erected on site within six (6) months of the approval of the plans. The renumbering of the remaining conditions will also occur.

Strategic, Statutory and Procedural Requirements:

The amended proposal is consistent with the Municipal Planning Strategy and Planning Policy Framework, the Commercial 1 Zone, the Heritage Overlay Schedule 34 and Clause 65 of the Hindmarsh Planning Scheme.

Report to Council:

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

Processing Times:

29/06/2021	Application to Amend Permit PA1633-2019 lodged
09/07/2021	Amended Application and correct Title received pursuant to Section 50 of the <i>Planning and Environment Act 1987</i>
09/07/2021	Public Notice instructions sent to applicant
12/07/2021	Public notification commenced – letters sent
12/07/2021	Public notice – signs erected by Applicant on site
14/07/2021	Public notice – Advertisement appears in the Dimboola Banner
19/07/2021	Amended Landscape Plan received pursuant to Section 50 of the <i>Planning and Environment Act 1987</i>
19/07/2021	Internal referrals to Engineering and Building sent
28/07/2021	Advertising period ends
30/07/2021	Statutory declaration returned by the Applicant
29/07/2021	Responses all received to internal referrals
30/07/2021	Fee Payment – Journal to be undertaken by Council
04/08/2021	Presented to Council for approval

This report is being presented to Council for approval at the meeting held 04 August (6 statutory days).

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

Link to Council Plan:

- Strategic Objective 1.1 An actively engaged community.
Strategic Objective 1.3 A community that is physically active with access to a wide range of leisure, sporting and recreation facilities.
Strategic Objective 2.1.1 Re-develop and maintain attractive streetscapes, open spaces and public places.

Financial Implications:

The development will be funded by the grant monies the Dimboola Art Inc. received through the Pick My Project Fund.

Risk Management Implications:

The responsibility for on-going maintenance costs has not been established.

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 to disclose.

Author: Bernadine Pringle, Consultant Town Planner

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

RECOMMENDATION:

That Council approves Amended Planning Application PA1633-2019 for Use and development for a Place of Assembly at 116-120 Lloyd Street Dimboola VIC 3414 (Lot 1 on PS803114J), subject to the amended permit description and the following amended conditions:

Amended Permit Description:

'Use and development for a Place of Assembly'

Amended Conditions:

Amended Plans

1. Before the construction for the development and use commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. Three copies must be provided. The plans must be generally in accordance with the amended plans dated 18 May 2021 but modified to show:

- a) The addition of a gravel pathway along the south-eastern footings of the former hotel.**

Endorsed Plans

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

Heritage

Interpretation signage

3. Within six (6) months from the commencement of the use, plans for an interpretation sign that includes an historic image of the former Dimboola Hotel, details of its history (including Traditional Owner history) and an explanation of some of the interpretive features (paths, tower) and the artwork on the tower, must be submitted to and approved by the Responsible Authority.

Installation of Interpretation signage

4. This signage must be installed within six (6) months of the approval the plans by the Responsible Authority to the satisfaction of the Responsible Authority.

Amenity

5. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:

- a) transport of materials, goods or commodities to or from the land.**
- b) appearance of any building, works or materials.**
- c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.**
- d) presence of vermin.**
- e) others as appropriate.**

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

Stormwater

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

Time Limit

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

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

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

Notes:

Planning

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

Building

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

Engineering

Drainage required to the south-western side of the property to the drain in the Lloyd Street road reserve.

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

A Consent to Works within Road Reserve permit is required for any works conducted in the road reserve.

Attachment Number: 34

11.2 PLANNING PERMIT APPLICATION PA1715-2021 – CONSTRUCT BUILDINGS AND WORKS FOR ALTERATIONS TO THE EXISTING MOTEL AND FOR USE FOR AN ANCILLARY RESTAURANT AND A BOTTLE SHOP AND TO USE THE LAND FOR THE SALE AND CONSUMPTION OF LIQUOR AT 7291 WESTERN HIGHWAY, NHILL, VIC 3418

Responsible Officer: Director Infrastructure Services
File: Planning – Applications
Assessment: 131060
Application No: PA1715-2021
Applicant: Robin Barber
Owner: VS Group of Companies Pty Ltd
Subject land: 7291 Western Highway, Nhill, VIC 3418 (Lot 1 on PS067881)
Proposal” Construct buildings and works for alterations to the existing Motel and for use for an ancillary restaurant and a bottle shop and to use the land for the sale and consumption of liquor
Zoning and Overlays Commercial 1 Zone (C1Z)

- Clause 34.01-4 of the C1Z - Buildings and works for Section 2 Use
- Clause 52.27-1 – Licensed Premises – Use the land for the sale and consumption of liquor

Attachment Number: 35

Summary

This report recommends that Council approve Planning Permit PA1715-2021 to construct buildings and works for alterations to the existing Motel and for use for an ancillary restaurant and a bottle shop and to use the land for the sale and consumption of liquor at 7291 Western Highway, Nhill, VIC 3418 (Lot 1 on PS067881), subject to standard conditions.

Background

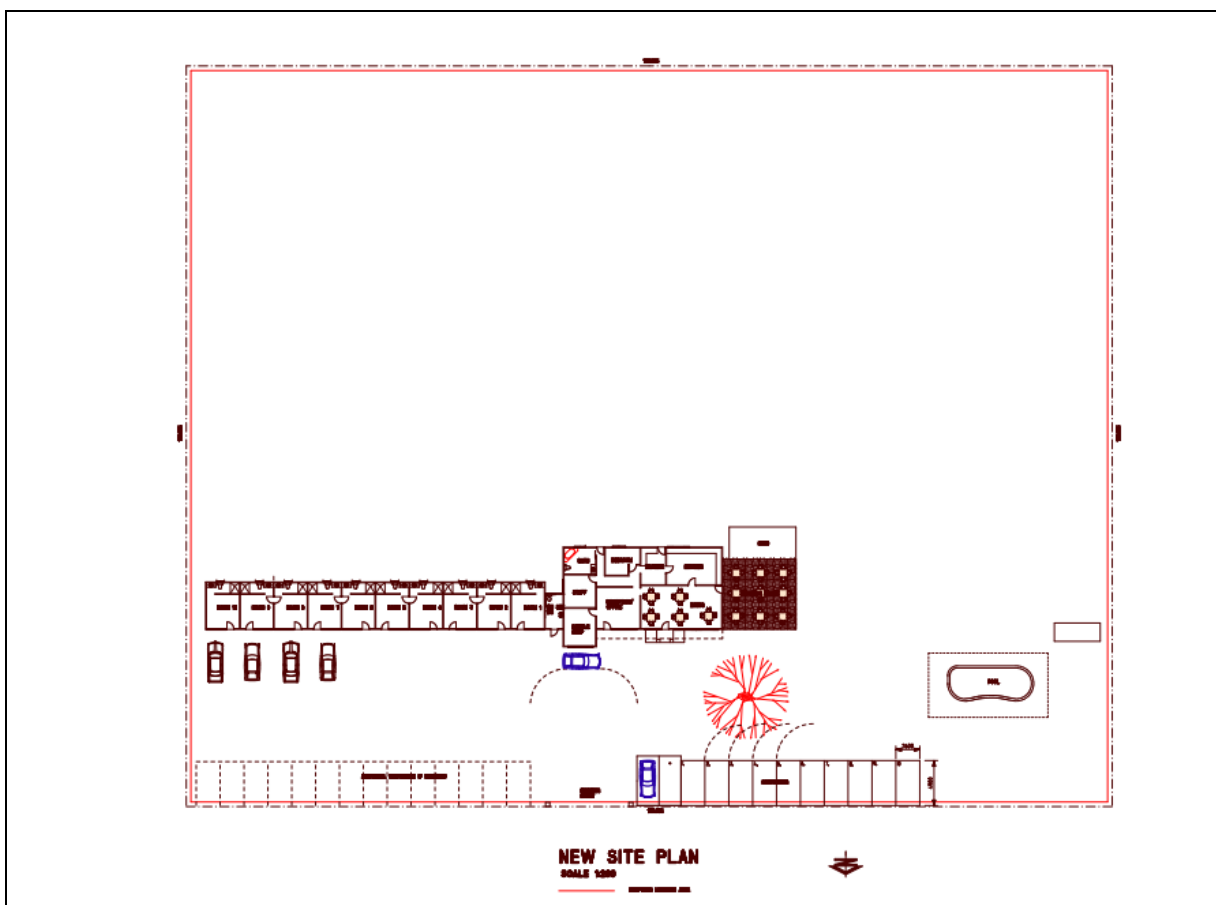
Planning Application PA1715-2021 was lodged with Council on 19 April 2021 and the application fee was paid on 29 April 2021. Amended plans were submitted on 13 May 2021 and the application form was amended on 3 June 2021 pursuant to Section 50 of the *Planning and Environment Act 1987*.

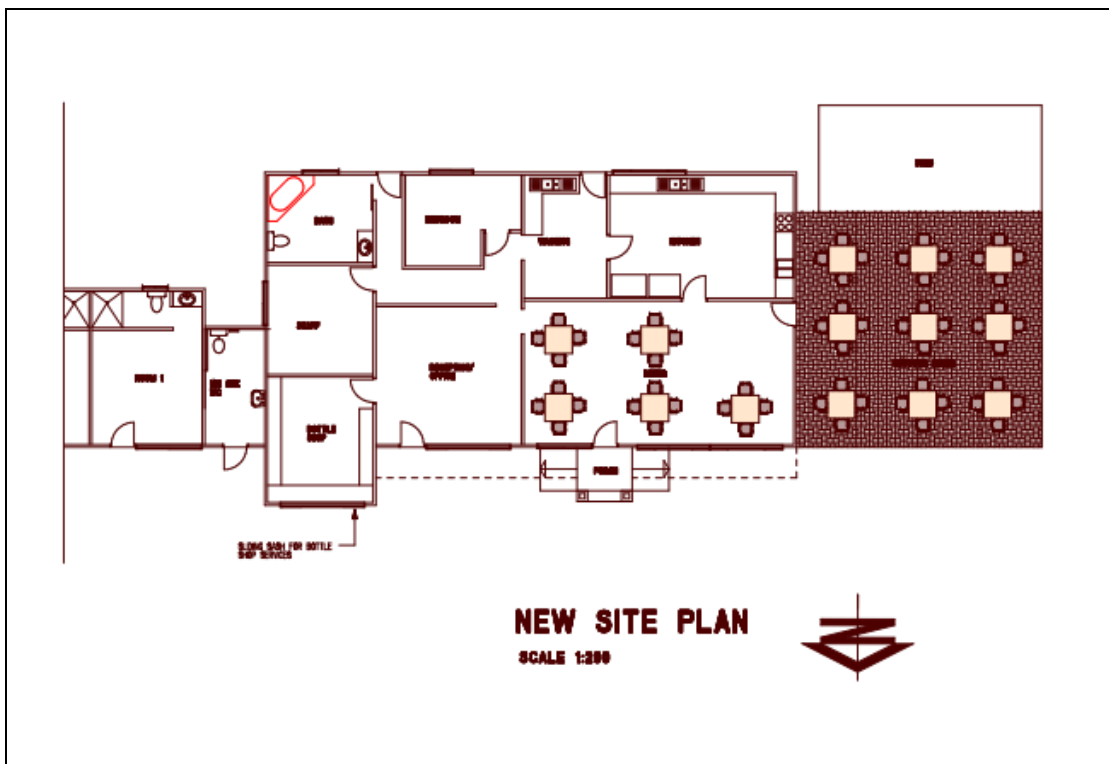
Proposal

The application proposes to construct buildings and works for alterations to the existing Motel and for use for an ancillary restaurant and a bottle shop and to use the land for the sale and consumption of liquor. The proposal consists of the following:

- A new entry porch in front of the restaurant and a new sliding sash front window for the proposed Bottle Shop.
- A new outdoor dining area for the existing restaurant to increase the number of seats from the seven (7) existing seats to the 56 seats proposed. The proposed dining hours in restaurant will be 5am to 11pm.
- The new outdoor dining area will not be undercover.
- The proposed liquor licence hours for the Motel and Restaurant will be 10am to 11pm.
- Conversion of one bedroom of the existing manager dwelling into a Bottle Shop with the replacement sliding sash window.
- The proposed Bottle Shop liquor licence hours will be 10am to 11pm.
- The proposed red line area is to extend over the entire site under a General Liquor Licence, which is to be separately assessed by the VCGLR.
- The construction of eleven (11) additional car parking spaces adjacent to the entry to the site and an overflow car parking area to the east.
- The retention of the ten existing Motel rooms on the site, with space for future expansion at the rear of the site which would be subject to a further planning permit application.
- No proposed changes to the existing vehicle access from Western Highway to the north.

Proposed Site Plans x 2 below:





Requirement for Permit:

The subject land is located within the Commercial 1 Zone. There are no Overlays applying to the land.

A planning permit is required to construct buildings and works under Clause 34.01-4 of the Commercial 1 Zone.

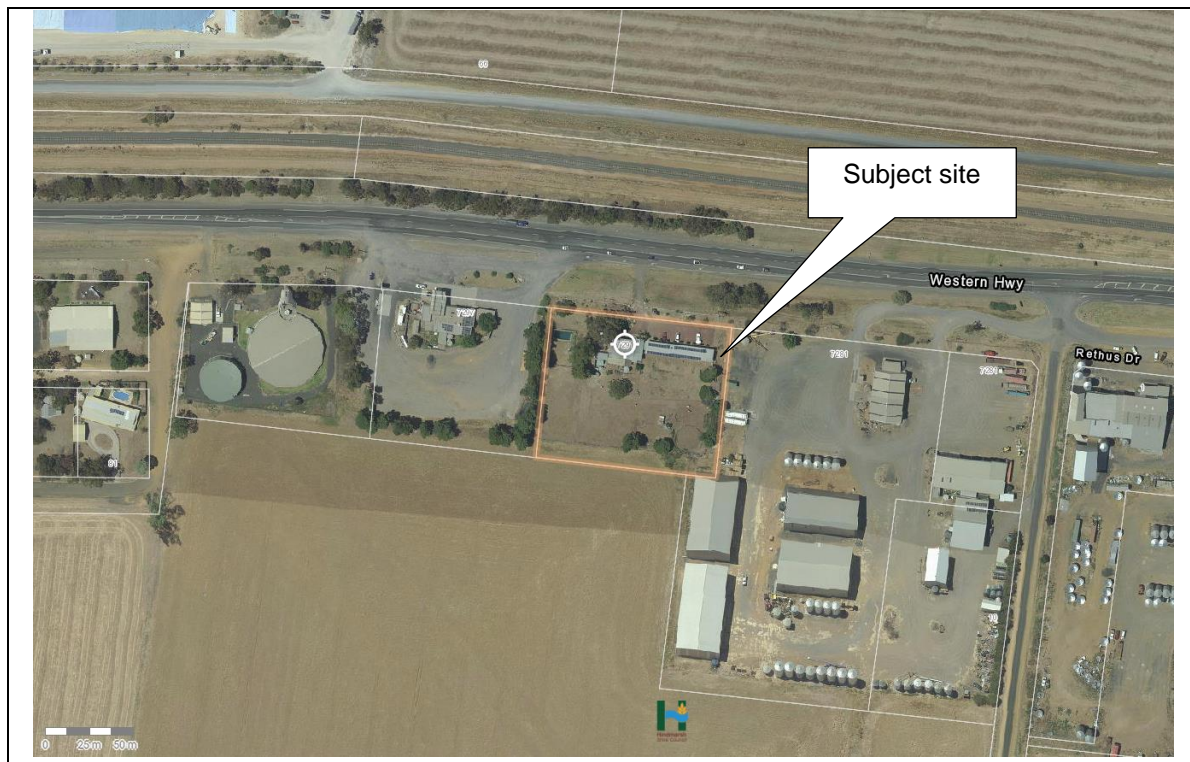
A planning permit is also required under Clause 52.27-1 Licensed Premises to use the land for the sale and consumption of liquor (General Liquor Licence).

Subject Site and Locality

The subject site is located on the southern side of Western Highway, Nhill and is situated approximately 2km to the east of the commercial centre of Nhill. The site has a total area of approximately 8136m². The site contains an existing Motel and an associated restaurant for Motel patrons.

The site is located within commercial area on the southern side of the highway and adjoins a service station to the west and a grain storage and handling facility to the east. There is farming land located to the south of the site.

Aerial Photo below (Hindmarsh POZI)



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 as the proposal is not within land affected by Aboriginal Cultural Heritage Sensitivity pursuant to the *Aboriginal Heritage Regulations 2018*.

Advertising

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 one public notice on site fronting Western Highway for a period of 14 days.
- Placing the public notice in the local newspaper, The Nhill Free Press.
- The application being made available for public viewing on Council’s website.

A statutory declaration was received from the applicant. The notification has been carried out correctly by the applicant.

Council has not received any objections to date.

Referrals

External Referrals

Section 55

Nil

Section 52

Department of Transport – No response received.

Victorian Commission for Liquor and Gambling Regulation (VCGLR) – Comments provided - Does not intend to offer any comment or submission on the above application.

Internal Referrals

The application was referred internally to the following Departments:

Engineering

- No objection to the development subject to a condition for Car Parking Spaces:
The patrons of the motel complex, who attend the premise must use the allocated Car Parking Spaces provided and not overflow onto the Road Reserve.

Environmental Health

- Comments provided:
*The current registration under the Food Act 1984 is Class 3, therefore he has to change it to Class 2 to run a restaurant.
I conducted on-site inspection earlier this year, and the kitchen needs to be built to meet the Food Safety Standards. Several emails were sent in early February. Please see the attached.
I can only issue Food Act registration once Planning, Building permits have been issued to run the food business and also, he has complied with the Food Act 1984 and Food Standards Australia New Zealand.*

Building

- Comments provided
A building permit is required for the proposed alteration and additions.

Planning Scheme:

Planning Scheme Requirements:

Municipal Planning Strategy (MPS)

Clause 02.02 Vision

Clause 02.03 Strategic Directions

Clause 02.03-1 Settlement and housing

Nhill has an important role as a service and business centre for the local community, travellers along the Western Highway and the surrounding rural hinterland.

Council's strategic directions for settlement includes to:

- *Promote the development of Nhill as the major service and business centre in the Shire providing a range of economic and community opportunities.*

Clause 02.03-5 Building Environment and heritage

Council's strategic directions for built environment and heritage includes the need to:

- *Promote urban design and architecture that reflects the characteristics, aspirations and cultural identity of the community.*

Clause 02.03-6 Economic Development

Council's strategic directions for economic development include to:

- *Develop new activities that are economically, environmentally and socially sustainable.*
- *Facilitate increased employment opportunities within and adjacent to the towns.*

Clause 02.04 Strategic Framework Plans

Nhill Framework Plan

Planning Policy Framework (PPF)

Clause 11.01-1S Settlement

Clause 11.01-1R Settlement- Wimmera Southern Mallee includes:

Support the ongoing growth and development of Edenhope, Hopetoun, Nhill, St Arnaud, Stawell and Warracknabeal as the key service hubs in their sub-regional communities of interest.

Clause 15.01 Built Environment

Clause 15.01-2S Building Design

Objective - To achieve building design outcomes that contribute positively to the local context and enhance the public realm.

Clause 15.01-5S Neighbourhood character

Objective - To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

Clause 17.01-1S Diversified economy

Objective - To strengthen and diversify the economy.

Clause 17.01-1R Diversified economy - Wimmera Southern Mallee

Strategies include - Capitalise on economic development opportunities through building on the region's assets, particularly agriculture, energy, mining and tourism.

Clause 17.02-1S Business

Objective - To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

Clause 19.03-2S Infrastructure design and provision objective is:

Clause 19.03-3S Integrated water management objective is:

Planning Response:

The proposed development on the existing Motel site will enhance the existing services and facilities provided and encourage employment and economic opportunities, which is supported by the relevant planning policies in the MPS and PPF relating to Settlement, Built Environment and Economic Development.

In particular, the proposal will encourage new retail activities and economic development in accordance with Clause 02.03-6 of the MPS. The proposal will support and protect the commercial character of the area and encourage development to meet the community's needs for retail uses in accordance with Clauses 15.01-S and 17.02-1S of the PPF.

Clause 34.01 – Commercial Zone

34.01-1 Table of uses

Section 1 – Permit not required

- Retail premises (other than Shop) - includes Restaurant
- Shop – includes Bottle Shop

Section 2 - Permit required

- Accommodation - includes Motel – The frontage at ground level exceeds 2 metres. This is an existing use.

34.01-4 Buildings and works

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

34.01-8 Decision guidelines (relevant to the application)

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

General

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

Use

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

Building and works

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

Planning Response:

The application is consistent with the Municipal Planning Strategy and Planning Policy Framework as discussed above. The site adjoins land that is within the Commercial 1 Zone (C1Z) and the Farming Zone (FZ) and will not impact on these surrounding areas. The development will respect and enhance the commercial activities of this part of Nhill and will respect the character of the surrounding area.

The existing Motel use will operate in conjunction with the Restaurant and Bottle Shop uses and will have a positive effect on these two new as-of-right uses within the C1Z. The development will be connected to existing services and the kitchen of the Restaurant will need to be upgraded to current food safety standards. The proposal is unlikely to have any impact on traffic along Western Highway provided all car parking for the uses are contained on the site.

There will be no impact to the movement of pedestrians, cyclists, and vehicles as a result of the proposal. There are adequate car parking spaces to be provided on the site. The streetscape will not be adversely impacted by the proposed development.

A condition is required to ensure the provision of the required number of car spaces for the Restaurant use and the total number of car spaces for all uses. A condition is also required to ensure that rubbish is suitably screened on site and disposed of off the site. The buildings, landscaping and paved areas will be easily maintained.

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

Particular Provisions

Clause 52.06 Car Parking

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

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

Table 1: Car parking requirement

<u>Use</u>	<u>Rate</u>	<u>Car Parking Measure</u>
Motel	1	To each unit, and one to each manager dwelling, plus 50 per cent of the relevant requirement of any ancillary use
Restaurant	0.4	To each patron permitted
Shop	4	To each 100 sq m of leasable floor area this table

Planning Response:

The existing Restaurant of the Motel currently has seven (7) seats indoors as advised by the applicant. This is proposed to increase to 56 seats as a result of the alterations to the Motel and the outdoor dining area, which will be open to the public. This is an increase of 49 seats for the Restaurant.

The applicant has advised that approximately half of the seats within the Restaurant, which is 28 seats, will be available to the public and the remaining 28 seats will be utilised by Motel guests.

The existing Motel use generates a requirement for 14 car spaces, which is comprised of 10 car spaces for the units, one (1) car space for the manager dwelling and three (3) car spaces for the Restaurant with seven (7) seats as an ancillary use.

There are a sufficient number of car parking spaces available in front of the Motel units, the managers dwelling and the ancillary restaurant to accommodate the existing car parking demand.

The proposed expansion of the Restaurant as a separate use that is open to the public and the public will contribute to half of the seating capacity. This will effectively result in a net increase of 28 patrons to the site at any given time. The additional 28 patrons will generate a requirement for 11 car parking spaces for the Restaurant. The site plan submitted by the applicant shows the provision of 11 new car spaces including 10 standard car spaces and one (1) accessible car space along the front boundary of the site. An overflow car parking area is also noted to the east of the existing entrance to the site.

The new Bottle Shop use will result in the removal of one bedroom of the manager dwelling for the Motel. The site plan shows a drive through area in front of the Bottle Shop. The leasable floor area of the Bottle Shop will be approximately 25m², which generates a requirement for one (1) car space. Customers to the bottle shop may either drive through or park on the site.

A total of 26 car parking spaces are required for the existing and proposed uses and can be accommodated within the frontage of the site. Conditions are required to ensure the provision of a minimum of 26 car parking spaces before the new uses commence and that car parking areas and access is kept available and accessible at all times.

The proposal will therefore comply with the car parking rates required in this Clause.

Clause 52.27 Licensed Premises

Permit required

A permit is required to use land to sell or consume liquor if any of the following apply:

- A licence is required under the Liquor Control Reform Act 1998.
- A different licence or category of licence is required from that which is in force.
- The hours of trading allowed under a licence are to be extended.

- The number of patrons allowed under a licence is to be increased.
- The area that liquor is allowed to be consumed or supplied under a licence is to be increased

Decision guidelines

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

- The Municipal Planning Strategy and the Planning Policy Framework.
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

Planning Response:

The application is consistent with the Municipal Planning Strategy and Planning Policy Framework as discussed above. The proposed sale and consumption of liquor to Motel guests, to Restaurant patrons and to Bottle Shop customers within this commercial area is appropriate and will not impact on the amenity of the surrounding area.

The proposed hours of operation for the liquor licence from 10am to 11pm for the Motel, Restaurant and Bottle Shop use are acceptable within this commercial area provided the hours are limited to be from 12noon to 11pm on Good Friday and Anzac Day, which is consistent with VCGLR hours required on those public holidays.

The existing Motel can accommodate 20 guests and the proposed Restaurant will accommodate up to 56 patrons. The number of patrons for the liquor licence is acceptable within this commercial area. The proposed liquor licence will not adversely impact on the amenity of the area. There are no existing licensed premises within close proximity to the site and no cumulative impacts.

Conditions are required to manage the hours of operation of the liquor licence.

The proposal will therefore comply with the decision guidelines of this Clause subject to conditions.

General Provisions

Clause 65 - Decision Guidelines

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

Clause 65.01 Approval of an application or plan (relevant to the application)

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

- *The matters set out in Section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the environment, human health and amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

Planning Response:

The application complies with the relevant decision guidelines as outlined above. The proposal complies with the Municipal Planning Strategy and Planning Policy Framework, having regard to the benefit the proposal will have to enhance the commercial activities on the site and the associated economic development opportunities.

The proposed development will not affect the environment and will not impact on the amenity of the area. The proposal enables the orderly planning of the area. There is adequate space on the site for loading and unloading facilities for the Motel, Restaurant and Bottle Shop uses. There are not likely to be any traffic flow and road safety impacts.

Strategic, Statutory and Procedural Requirements:

The proposal is consistent with the Municipal Planning Strategy and Planning Policy Framework, the Commercial 1 Zone, Clause 52.27 and Clause 65 of the Hindmarsh Planning Scheme.

Report to Council:

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

Processing Times:

19/04/2021 Application lodged

29/04/2021	Fee received
12/05/2021	Further information requested
13/05/2021	Response to further information and amended plans received pursuant to Section 50 of the <i>Planning and Environment Act 1987</i>
21/05/2021	Further information email sent to the applicant
21/05/2021	Response to further information received
21/05/2021	Further information email sent to the applicant
03/06/2021	Response to further information and an amended application received pursuant to Section 50 of the <i>Planning and Environment Act 1987</i>
03/06/2021	Public Notice instructions sent to applicant and letters sent
10/06/2021	External referrals sent
10/06/2021	Internal referrals to Engineering, Environmental Health and Building sent
21/06/2021	Statutory declaration for advertising received.
02/07/2021	Responses received to most external referrals and internal referrals
07/07/2021	Advertising fee paid to Council
04/08/2021	Presented to Council for approval

The report is being presented to Council for approval at the meeting held 04 August 2021 (44 statutory days).

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

Link to Council Plan:

Strategic Objective 3.1 A strong rural economy and thriving towns.

Financial Implications:

The development will have positive financial implications through a potential increase in Rates income to Council.

Risk Management Implications:

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

Conflict of Interest:

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

Officer Responsible – 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 interests to disclose.

Communications Strategy:

Advise the applicant of the Council's decision.

Next Steps:

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

RECOMMENDATION:

That Planning Permit PA1715-2021 be approved, to allow the buildings and works for alterations to the existing Motel and for use for an ancillary restaurant and a bottle shop and to use the land for the sale and consumption of liquor at 7291 Western Highway, Nhill, VIC 3418 (Lot 1 on PS067881), subject to the following conditions:

Amended Plans

1. Before the development and use starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

a) A north elevation to provide details of the following:

i) The maximum height of the new entry porch, and

ii) A notation for the sliding sash front window of the Bottle Shop to be a replacement window.

Unless otherwise approved, in writing, by the Responsible Authority.

Endorsed Plans

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

General Requirements

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

Hours of Liquor Licence

4. The sale and consumption of liquor for the Motel, Restaurant and Bottle Shop uses must not occur outside the following hours:

- Sunday to Thursday: between 10.00am-11.00pm.***
- Friday and Saturday: between 10.00am-11.00pm.***
- Good Friday and Anzac Day: between 12.00pm-11.00pm.***

Unless otherwise approved in writing by the Responsible Authority.

Amenity

5. ***The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:***
 - a) ***Transport of materials, goods or commodities to or from the land.***
 - b) ***Appearance of any building, works or materials.***
 - c) ***Artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.***
 - d) ***Presence of vermin.***
6. ***The owner/operator must take all responsible measures to ensure that patrons consuming alcohol remain within the licensed area, so as not to breach conditions of the liquor licence, and that patrons' behaviour is acceptable, so as not to create a nuisance to pedestrians or road users, all to the satisfaction of the Responsible Authority.***
7. ***External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.***

Access and Car Parking

8. ***A minimum of twenty-six (26) car spaces must be provided on the land for the Motel, Restaurant and Bottle Shop uses, including the provision of an adequate number of accessible car spaces with dimensions and layout to comply with the Australian Standards, to the satisfaction of the Responsible Authority.***
9. ***Before the use commences, the car parking spaces must be provided on site, with all car parking, access lanes and driveways as shown on the plans to remain unobstructed and available for their intended use at all times, unless otherwise approved in writing by the Responsible Authority.***
10. ***Car spaces and parking areas, access lanes and driveways must be maintained in a good condition to the satisfaction of the Responsible Authority.***

Engineering Condition

Car Parking

11. ***The patrons of the motel use and visitors who attend the site must use the allocated car parking spaces provided on the site and car parking must not overflow onto the Road Reserve along the Western Highway to the satisfaction of the Responsible Authority.***

Environmental Health Condition

12. Before the commencement of the Restaurant use, the required food registration must be approved by Council's Environmental Health Department and the upgrade of the kitchen must be approved and constructed, all to the satisfaction of the Responsible Authority.

Waste Management

13. Provision must be made on the land for the storage of waste bins and recycling bins in a location that is not visible from the street to the satisfaction of the Responsible Authority.

Permit Expiry

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

- a) The development is not started within two years of the date of this permit**
- b) The development is not completed and the use is not commenced within four years of the date of this permit.**

In accordance with Section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

Notes:

Planning

- A copy of this permit and endorsed plans must be provided to all builders and contractors who are to work on site, so they are aware of the conditions to which this approval applies.**

Environmental Health

- The current registration under the Food Act 1984 is Class 3, therefore the registration has to be changed to Class 2 to run a restaurant.**
- The kitchen must be built to meet the Food Safety Standards. Previous advice was sent by Council's Environmental Health Officer about the upgrades to the kitchen that are required.**
- A Food Act registration cannot be issued until the Planning permit and Building permit have been issued to run the food business and not until the permit holder/owner has complied with the Food Act 1984 and Food Standards Australia New Zealand.**

Building

- ***This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained.***
- ***Note:
Adequate sanitary facilities must be provided on site for the restaurant patrons and must comply with the relevant Building Regulations.***

Attachment Number: 35

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 COUNCILLOR DEVELOPMENT – this report contains “Council business information, being information that would prejudice the Council’s position in commercial negotiations if prematurely released” insofar as it pertains to contractual matters;

15. MEETING CLOSE
