

# COUNCIL MEETING AGENDA



**6:00 pm on Monday January 29, 2024**

Location: Bendigo Bank Theatre, The Capital – 50 View Street Bendigo.

Livestreaming at <https://www.bendigo.vic.gov.au/about-us/council/council-meetings#live-stream>  
Broadcast live on Phoenix FM 106.7 \*\*\*

If you would like to attend, please register your interest through the following link:  
<https://www.bendigo.vic.gov.au/about-us/council/council-meetings#register-attend-meeting>

or call the box office on 5434 6100 no later than 5pm on the day of the meeting.

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## COMMUNITY VISION 2021–2031

*Greater Bendigo celebrates our diverse community.*

*We are welcoming, sustainable and prosperous.*

*Walking hand-in-hand with the Traditional custodians of this land.*

*Building on our rich heritage for a bright and happy future.*

The community vision is underpinned by five values –  
Transparency, sustainability, inclusion, innovation and equity.

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## COUNCIL PLAN (MIR WIMBUL) – OUTCOMES

The [Council Plan](#) (Mir wimbul) is based on seven outcomes, which are the main focus of the Council Plan.

Each outcome has a set of goals, objectives and actions that will help to achieve the community vision, and indicators to measure achievement against each goal:

1. Lead and govern for all
  2. Healthy, liveable spaces and places
  3. Strong, inclusive and sustainable economy
  4. Aboriginal reconciliation
  5. A climate-resilient built and natural environment
  6. A vibrant, creative community
  7. A safe, welcoming and fair community
- 

## STAFF VALUES AND BEHAVIOURS

The City of Greater Bendigo's [values and behaviours](#) describe how Councillors and staff will work together to be the best we can for our community.

They are aligned to our strategic documents, such as the Council Plan, which ensure they are meaningful for Council and the organisation.

A shared commitment to living our values and behaviours will help us to build the type of culture we need to be able to work together and support each other to deliver the best possible outcomes for the community.



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This Council Meeting is conducted in accordance with the

- Local Government Act 2020
- [Governance Rules](#)

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- 1. ACKNOWLEDGEMENT OF COUNTRY**
- 2. TRADITIONAL LANGUAGE STATEMENT**
- 3. OPENING STATEMENT**
- 4. MOMENT OF SILENT REFLECTION**
- 5. ATTENDANCE AND APOLOGIES**
- 6. LEAVE OF ABSENCE**

Council resolved (**Resolution No. 2023-181**) to grant Cr Rod Fyffe OAM leave of absence for the Nov 2023-Jan 2024 Council Meetings.

## **7. SUSPENSION OF STANDING ORDERS**

### **RECOMMENDED MOTION**

That Standing Orders be suspended to allow the conduct of the Community Recognition Section and Public Question Time.

## **8. COMMUNITY RECOGNITION**

## 9. PUBLIC QUESTION TIME

Council allows up to 30 minutes for question time on any matter except for planning items that are on the agenda tonight or anything that is defamatory, otherwise inappropriate or outside the scope of Council.

If your question is about routine or operational Council requests, you should instead make a request through our [Customer Request system](#).

[Pre registering questions](#) is recommended as this provides more time for a more detailed response to be provided to you at question time. Pre registered questions will also be given priority in accordance with the Governance rules. If a question is asked on the night and we don't have the answer immediately available we may need to take it on notice, and provide a response later.

Regardless, any member of the community may ask a question in person. The preferred format is to state your name, suburb and briefly identify your topic (ie parking or Lake Weeroona Playspace, etc). Then, without preamble or statements, please ask one relevant question only.

To ensure fairness, given time constraints, only one question per community member will be accepted each month, inclusive of pre-registered questions, and questions on the night.

Public Question time is only one of many ways the community is able to communicate with Council, other options include:

- [Customer Request system](#)
- [Let's Talk Greater Bendigo](#)
- [Feedback and complaints process](#)
- [Petitions and joint letters](#)
- [Invitations to the Mayor](#) (and other Councillors)
- [Presentations to Councillors](#)
- Councillor Ward Engagements events, generally held monthly
- Councillor attendance at many and varied events across the Municipality and over the year
- [Councillor committee membership](#)
- Various methods of contacting the [City](#) and individual [Councillors](#)

Public Question Time is not a requirement of Council under the Local Government Act. This Council has provides for Public Question Time in the Governance Rules adopted by the Council to ensure greater public transparency and accountability. The Council asks that the opportunity to ask a question of the Council in this forum is treated respectfully and within these rules.

## 10. RESUMPTION OF STANDING ORDERS

### RECOMMENDED MOTION

That Standing Orders be resumed.

## 11. WARD REPORTS

### 11.1. Eppalock Ward - Cr O'Rourke

### 11.2. Lockwood Ward - Cr Alden

### 11.3. Whipstick Ward - Cr Fagg

## 12. DECLARATIONS OF CONFLICT OF INTEREST

Section 130 of the *Local Government Act 2020* (Vic) (**the Act**) provides that a relevant person must disclose a conflict of interest in respect of a matter and exclude themselves from the decision making process in relation to that matter including any discussion or vote on the matter at any Council meeting or delegated committee meeting and any action in relation to that matter.

The procedure for declaring a conflict of interest at a Council Meeting is set out at rule 18.2.4 of the Governance Rules.

Section 126 of the Act sets out that a relevant person (Councillor, member of a delegated Committee or member of Council staff) has a conflict of interest if the relevant person has a **general conflict of interest** or a **material conflict of interest**.

A relevant person has a **general conflict of interest** in a matter if an impartial, fair minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

A relevant person has a **material conflict of interest** in a matter if an *affected person* would gain a benefit or suffer a loss depending on the outcome of the matter.

## 13. CONFIRMATION OF PREVIOUS MINUTES

### RECOMMENDED MOTION

That the Minutes of the Council Meeting held on December 11, 2023, as circulated, be taken as read and confirmed.

Previous minute location:

<https://www.bendigo.vic.gov.au/about-us/council/council-meetings#past-meetings>

## **14. PETITIONS AND JOINT LETTERS**

### **14.1. Response to petition calling for installation of virtual fencing on roads**

|                       |   |
|-----------------------|---|
| Author:               | Ian McLauchlan, Manager Engineering             |
| Responsible Director: | Brian Westley, Director Presentation and Assets |

#### **Purpose**

To respond to a recent petition calling for installation of virtual fencing along several roadside areas to protect wildlife.

#### **Recommended Motion**

That Council:

1. Note that the City of Greater Bendigo Road Safety Action Plan 2023-2027 (the Plan) identifies the opportunity to explore the trial of emergent technologies such as virtual fencing to reduce the likelihood of crashes involving animals, the comparatively lower priority of this action within the Plan and that such implementation is subject to external funding being secured.
2. Advise the lead petitioner that:
  - a. In principle the City supports the requested installation of virtual fencing, subject to external funding being secured to deliver a trial of this technology.
  - b. Officers will continue to monitor funding opportunities to enable installation of virtual fencing on a trial basis along a suitable section of the municipal road network.
  - c. The request for installation of virtual fencing on roads controlled by the Department of Transport and Planning will need to be referred to them.

#### **Executive Summary**

A petition calling for installation of virtual fencing has been received, with the aim of reducing the risk of vehicle collisions with local wildlife. The petition nominated several roads across the City of Greater Bendigo (CoGB) for installation of this technology, with purported high frequency of animal strikes. Virtual fencing systems have been trialled by several other road managers across the country, with some positive results beginning to emerge via subsequent research documentation.

The cost of installing a virtual fence system is estimated to be approximately \$20,000 per km. The cost to implement the system along the sections of CoGB controlled roads identified within the petition would therefore be in the order of \$340,000.

The City maintains a Road Safety Action Plan 2023-2027 (RSAP) which identifies and prioritises various actions in the context of improving safety for road users. The current focus of the RSAP is road infrastructure improvements (e.g. raised pedestrian crossings) and traffic management interventions (speed zone changes). Use of virtual fencing to reduce the likelihood of animal strikes is included within the RSAP, however maintains a comparatively lower priority against other identified actions.

Given its priority and estimated cost, it is proposed that installation of any virtual fencing be subject to external funding. It is further recommended that should funding be available, the trial of virtual fencing should be implemented on a limited basis prior to any broader deployment across the road network (e.g. select 2 to 5 km of high priority local road such as Heathcote - North Costerfield Road).

## Background

A petition calling for installation of virtual fencing, such as the product offered by Wildlife Safety Solutions, was received by Council in November 2023. This petition requested that this technology be deployed on several arterial and local roads based upon purported history of animal strikes.

Specific roads identified within the petition are shown in table 1 below. Some of the roads identified within the petition are controlled and managed by the Department of Transport and Planning / VicRoads (DTP). As such, the petitioners request for virtual fencing along these roads will need to be directed to DTP for their response.

Table 1: Identified road segments, lengths and responsible authority as per the petition.

| Road Name                      | Section                    | Section Length (km) | Responsible Road Authority |
|--------------------------------|----------------------------|---------------------|----------------------------|
| Heathcote-North Costerfield Rd | Mt Ida Ln to Scullys Ln    | 2.6                 | CoGB                       |
| Axe Creek Rd                   | Houlihan's Rd to Patons Rd | 1.6                 | CoGB                       |
| Patons Rd                      | Mannes Ln to Lyell Rd      | 12.8                | CoGB                       |
| Strathfieldsaye Rd             | Guys Hill Rd to Osborne Ln | 1.3                 | DTP                        |
| Bendigo Pyramid Rd             | Camp Rd to Bayliss Rd      | 5.0                 | DTP                        |
| <b>Total</b>                   |                            | <b>23.3</b>         |                            |

Roadside virtual fence is a system comprised of interspersed sensors every 25 metres attached to dedicated guideposts, which are activated by the headlights of

approaching vehicles. The integrated sensor modules operate from dusk to dawn and are triggered by approaching headlights (up to 300m). Once activated the sensor modules emit both a flashing led light and audible tone, which is intended to alert nearby wildlife of the approaching vehicle.

Given the detection/activation distance and audible functionality, use of virtual fence is most effective when the speed limit is 80 km/hr or less and is not considered suitable in urban locations or near residential areas/development.

The premise of this system is that by providing advance warning of an approaching vehicle, animals will be encouraged to move away from the roadside area, thus reducing the potential risk of collision.

Previous Council decision dates: The petition calling for installation of virtual fencing along the above roads, was tabled at the Council meeting on 20 November 2023, with a resolution that the petition be received and that a response be prepared within two (2) meetings.

## **Report**

This technology has been trialled by several councils, government agencies and private companies across Australia, targeting different wildlife species and roadside environments. Success of these trials has been mixed, with current documentation generally indicating that use of virtual fencing can result in a reduction in the frequency of vehicles colliding with wildlife, however the degree of benefit varies between species.

Crashes involving wildlife and vehicles rarely result in Fatal or Serious Injuries (FSI), however frequently result in damage to vehicles/property and loss of wildlife. Accordingly, animal/wildlife collision is identified as a low to medium priority within the recently adopted RSAP.

Actions currently prioritised under the RSAP are focused upon implementation of infrastructure improvements and traffic management interventions, which seek to reduce the likelihood and/or severity of FSI crashes (e.g. raised pedestrian crossings, intersection realignment, speed zone reductions and traffic calming measures). Similarly, current road safety funding programs (e.g. Blackspot, TAC grants and Safe Local Road Infrastructure Program) are focused upon demonstrable actions which will result in a reduction in FSI's involving road users (e.g. drivers, riders, cyclists, pedestrians) as opposed to protection of wildlife.

As such the installation of the requested virtual fencing is not eligible for funding via current road safety funding sources, nor is it considered to be a priority under the RSAP or the City's road related capital works programs. Installation of the requested

virtual fencing would therefore require a dedicated grant being secured or separate funding being provided beyond current road safety and renewal program allocations within the City's annual budget.

A summary of estimated cost of installation of virtual fencing on roads listed within the petition, along with available data from the City's customer request and works management system indicating the number of recorded animal strikes during the last 10 years within these sections is provided in table 2 below. Data is only available for those roads under the control and management of the City.

Available data also excludes those instances where animals may be struck, injured and retreat into the surrounding bushland and subsequently expire or when non-council agencies, individuals or groups (e.g. WRES) may recover wildlife from the roadside (i.e. where council officers are not required to recover deceased animals).

Table 2: Estimated cost and supporting data for identified road sections in Table 1.

| Road Name                         | Estimated cost of installation | Recorded number of Animal collections over the past 10 years | Current posted / default Speed limit |
|-----------------------------------|--------------------------------|--|--------------------------------------|
| Heathcote North<br>Costerfield Rd | \$52,000                       | 12   | 80 km/hr                             |
| Axe Creek Rd                      | \$32,000                       | 4  | 100 km/hr                            |
| Patons Rd                         | \$256,000                      | 14   | 100 km/hr                            |
| <b>Total</b>                      | <b>\$340,000</b>               | <b>30</b>  |                                      |

Note: The above animal collection figures only reflect recorded collections within the specific sections of each road identified within the petition. Additional records of animal collections are noted on the balance of Axe Creek Road (total of 49 over the full 13.5 km of road) during this the 10-year period.

As opposed to the petitioner's request for broad deployment of virtual fencing along nominated roads, the current action identified within the RSAP recommends that should external funding be secured, an initial trial of virtual fencing should be undertaken on a limited basis, along targeted sections of the local road network. This also recognises the relatively low number of animal strikes/collections recorded annually.

### ***Priority/Importance***

The installation of virtual fencing maintains a lower comparative priority when assessed against other actions identified within the RSAP. Deployment of this technology also maintains a low priority when assessed against other road improvement and renewal projects identified for delivery as part of foreseeable road infrastructure renewal and upgrade capital works programs.

### ***Options Considered***

For each of the options identified below, it is recommended that delivery be subject to external funding being secured.

Option 1 - Install virtual fencing as requested by the petitioners: This option represents a significant investment in an emergent technology. It is unclear from available data that the roads nominated within the petition represent those within the municipality with the highest instances of animal strikes.

Option 2 – Trial of virtual fence technology: This option would seek to secure external funding to conduct a small-scale trial on a suitable section of the local road network (e.g. targeted section with demonstrated high rate of wildlife collisions). Baseline data would first be collected leading into a 2-to-3-year implementation and monitoring program.

Option 3 – Do nothing: This option would defer any action regarding both grant seeking and subsequent installation of requested virtual fencing.

### ***Timelines***

It is anticipated that subject to funding being secured and supplier availability, installation of virtual fencing could be undertaken within a relatively short period (e.g. 3 to 6 months). Installation of these units is relatively straightforward and requires minimal design.

Trial of virtual fencing technology would likely span a period of 2 to 3 years to provide a suitable dataset for comparison to historical observations.

### ***Communications/Engagement***

During development of the RSAP, broad community consultation was undertaken to gather input regarding road safety issues and priorities across Greater Bendigo. This included listening posts and an on-line questionnaire. Animal strikes were not identified as a priority area of focus by the community.

The RSAP was also subject to internal review and development involving several departments within the City with the predominant input provided by the Engineering unit.

## **Financial Sustainability**

The estimated capital cost to deliver virtual fencing as requested by the petitioners is in the order of \$340,000. The estimated unit rate for virtual fencing is in the order of \$20,000 per km (covers installation of units on both sides of the road).

Further to the upfront capital cost of this system, ongoing operational costs would be incurred for its inspection, maintenance and monitoring. Specific operational costs are associated with replacement of the internal sensor battery packs every three years as well as reactive replacement of posts or sensors in the event of damage. It is estimated that this additional operational cost could be in the order of \$600 to \$900 per annum / per km.

Further costs would be incurred in the use of operational resources to co-ordinate and monitor the trial of this technology. This would be undertaken using existing internal staff resources and/or contributions by volunteers or special interest groups/agencies.

## **Risk Assessment**

Collisions between animals and vehicles rarely involve FSI's however frequently result in damage to property/vehicles and loss of wildlife. Accordingly, when assessed using the RSAP risk matrix, this action is classified as having a low to moderate risk rating.

## **Policy Context**

### ***Primary Council Plan Reference***

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025

Outcome 1 - Lead and govern for all

Outcome 5 - A climate resilient and healthy landscape

### ***Secondary Council Plan Reference(s)***

Goal 2 - Commitment to innovation, systems improvement and learning

Goal 3 - Thriving landscapes and ecosystems

### ***Other Reference(s)***

City of Greater Bendigo Road Safety Action Plan 2023-2027

### **Conflict of Interest**

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

### **Attachments**

1. 20240117 Pages from Petition calling for virtual fence installation (redacted)  
[14.1.1 - 1 page]

Council Meeting Minutes - Monday November 20, 2023

**Vyonne McLelland-Howe**

We, the undersigned residents and ratepayers of Greater Bendigo City Council formally request Council to erect Virtual Fencing (see Wildlife Safety Solutions [Wildlife Safety Solutions | Virtual Fencing | Australia & Tasmania](#)) on designated roads surrounding the City where it has been identified that there have been significant incidents of roadkill by vehicles. These roads are: Heathcote-North Costerfield Road, between Mt Ida Lane and Scullys Lane; Anywhere along Axe Creek Road, specifically between Houlihan's Road and Patons Road, Axe Creek and also along Patons Road, Axe Creek; Strathfieldsaye Road, between Guys Hill Road and Osborne Land, Strathfieldsaye; Bendigo-Pyramid Hill Road, Prairie, specifically between Camp Road Bayliss Road.

[illegible]

## 14.2. Response to Petition Received - Ross Park

|                       |   |
|-----------------------|---|
| Author:               | Chris Mitchell, Manager Parks and Open Space    |
| Responsible Director: | Brian Westley, Director Presentation and Assets |

### Purpose

To respond to a recent petition calling for installation of Rubbish bins and a water bubbler/ pet water station within Ross Park Reserve.

### Recommended Motion

That Council advise the lead petitioner that:

Assessing the requests against the 2019 Public Space Plan (PSP), installation of Rubbish bins and a water bubbler/ pet water station within Ross Park Reserve has been judged as unnecessary at this time.

### Executive Summary

Our Municipality has an abundance of diverse public spaces spread across its urban and rural landscape. This diversity is important and an aspect to further strengthen overtime.. However, whilst having a large volume of public spaces has some advantages, such as creating a feeling of openness across the Municipality, this is not necessarily conducive to optimising the quality of our public spaces. In 2019, Council endorsed the Public Space Plan (PSP) which consists of a strategic hierarchical approach, based on location and use of public spaces, to determine the amenities, facilities and infrastructure that are appropriate to meet allocated budget and available resources.

Council has received a petition to increase the amenity at a *neighbourhood location* (refer definition on page 55 in PSP link) public space. This request for an increase in amenity is an overservice against the PSP for the location requested being Ross Park Reserve, and any other *neighbourhood location* defined spaces.

### Background

Our Municipality is well-served by public space, not only in terms of the amount of public space available (covering almost a quarter of the municipality) but also the range of public space environments, assets and experiences that are available to residents. Opportunities to access and enjoy public space are different across the Municipality, changing with the nature of the landscape and the size of communities and population.

Recognising that the large overall quantity of public open spaces available within the Municipality means that:

- All spaces cannot be treated equally in terms of investment in planning, design, infrastructure and amenities provision and maintenance.
- Some spaces will have a greater importance and benefit - in the present and/or future - than others.

A combination of different standards and types of public spaces are to be provided across the Municipality and within individual communities. A hierarchy of public space was adopted by Council in the 2019 PSP, which provides the framework to guide public space service.

The hierarchy is derived from that of the previous Strategy 2009-2014, with modifications to align with the current Public Space document Key objectives of the strategy are as follows:

Walkable access to spaces is a key aspect of their planning and ultimately their use. A balance needs to be struck between the quality of play experience provided and the distance to be walked to enjoy this:

- For Neighbourhood spaces, a walking distance catchment of 500 metres (around 5-6 minutes) has been applied.
- For Suburb and Township spaces, a walking distance catchment of 1 kilometre (around 10-15 minutes) has been applied, noting that some users will travel further to use these spaces, usually by car.
- Slightly different approaches are required in each community, depending on existing conditions (i.e. the type, number and location of play spaces, and the structure and capacity of the local public space network).

### **Municipal Level Description (MLD – refer to page 55 of PSP)**

These spaces attract visitation primarily from residents across the City of Greater Bendigo. MLD spaces tend to occupy strategically important and highly accessible locations and are more often found within or close to the Bendigo urban area. They are unique in the experience and service that they offer within Greater Bendigo. The catchment indicator for MLD spaces is up to a 10km travel distance (around 15-minutes average driving time) for residents of urban Bendigo.

For residents of rural areas, travel distances will be significantly larger. Access to Regional-ranked public spaces must also be accounted for in assessing access to Municipal spaces. Examples of these spaces are:

- Civic Gardens / Library Gardens
- Canterbury Park
- Harcourt Dog Park

- Gateway Park / Gurri Wanyarra Wellbeing Centre
- Kennington Reservoir / Strathdale Park
- Spring Gully Creek Reserve

### **Suburb/Township Level Description** (refer to page 55 of PSP)

These spaces support the open space needs of whole communities, whether a suburb of urban Bendigo or a rural township. They are likely also be used by residents of surrounding areas (i.e. a wider district). The catchment indicator is up to a 2km travel distance (around a 25-minutes average walking time) for residents within a particular suburb or township.

Examples of these spaces are:

- Barrack Reserve, Heathcote
- Campaspe Run, Elmore
- Kangaroo Flat Botanical Gardens
- Malone Park, Marong
- Morshead Park, Raywood
- Redesdale Public Hall and Recreation Reserve

### **Neighbourhood Level Description** (refer to page 55 of PSP)

These spaces which are intended primarily for local area use by residents within close walking distance that are within the urban area. They often occur as smaller-scale open spaces and as local links. The catchment indicator is up to a 500m travel distance (around 6-minutes average walking time) for residents of urban Bendigo and residents of rural townships. Access to Suburb- or Township-ranked spaces must also be accounted for in assessing access to Neighbourhood spaces.

Examples of these spaces are:

- Magellan Crescent, Kangaroo Flat
- Oasis Gardens Reserve, Spring Gully
- Manning Reserve, Junortoun
- Brentwood Boulevard Reserve, Strathfieldsaye
- Manchester Arms Corner, Long Gully
- Doc Smith Swamp, Huntly
- Holly Street Reserve, Golden Square

### **Report**

Recognising the structured nature of the hierarchy, together with the highly diverse and variable nature of our public spaces may create the need for exceptions in certain situations, there is a focused effort do deliver appropriate service to ensure the hierarchy of service is consistently applied across the Municipality.

Ross Park Reserve is defined as per the conditions of the PSP as a neighbourhood level public space. Based on this definition for Ross Park Reserve and the approved strategic approach for these spaces to determine the kinds of amenities, facilities and infrastructure required, it has been determined the requested amenities are not required for this site at this time (see APPENDIX 3. Amenities, Facilities and Infrastructure Framework of PSP).

The petition references two public space locations in Ewing Park and Wolstencroft Play space. This reference highlights the service difference in park hierarchy as these two parks are considering Suburban level public space which require a higher level of amenity, in contrast to Ross Park as a neighbourhood level public space.

Rubbish bins within neighbourhood level public spaces are identified as optional or unsuitable within the framework. The desire to not have bins located within these locations is due to the quantity of these spaces within the Municipality and the associated cost of servicing. With cost being one part, the other consideration is that neighbourhood locations are designed to be used by residents primarily within a 500m travel distance and therefore it has been deemed appropriate that users remove their rubbish with them on departure.

Drinking fountain facilities are considered where a reliable and cost-efficient water supply is available. At this time the cost efficiency is not appropriate for this site as the drinking fountain will require installation of reticulated water infrastructure.

Kennington Reservoir / Strathdale Park is located within the Ross Park Reserve catchment area. This Municipal open space offers the highest level of service against the hierarchy and users wishing to have access to the requested facilities can access these amenities at this location.

It is for the above reasons Officers consider it outside of the current service requirements for a neighbourhood level location such as Ross Park Reserve, to have the requested amenities installed.

## **Policy Context**

### ***Primary Council Plan Reference***

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025  
Outcome 2 - Healthy, liveable spaces and places

### ***Secondary Council Plan Reference(s)***

Goal 1 - Strengthened community health and wellbeing

***Other Reference(s)***

[Greater Bendigo Public Space Plan | City of Greater Bendigo](#)

**Conflict of Interest**

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

**Attachments**

1. Petition Ross Park [**14.2.1** - 10 pages]

Tony & Dodie Bischoff



2/11/2023

Bendigo City Council  
Bendigo Gov Hub  
189-229 Lyttleton Terrace  
Bendigo, Vic, 3550

**Subject: Ross Park – Kennington, Amenities request.**

Dear Councillors,

I hope this letter and accompanying petition finds you all in good health. We would like to start this request with a 'thank you' for the recent works carried out at Ross Park, Kennington. Prior to the recent upgrade of the park this was a neglected local asset, seldom visited by anyone, but in the past 2 years it has become a very well used park space by our local community. The basketball area, playground, footy posts are all busy and families taking the time to picnic in the park, hold birthday parties & exercise their pets is now a familiar routine for many in the area. The 'off leash' dog permissions have been a great boon for making the park a dog friendly environment and provides a wonderful space for our dogs to exercise & socialise with their own kind in a friendly environment. I personally have met more local people & their children & pets in the past 2 years than I ever had in the previous 14 years that I have been using the park. So well done & thanks.

However, recently, conversations at the park have repeatedly mentioned a lack of amenities originally requested during the park renovation 4 years ago. In particular, the absence of rubbish bins and a dedicated drinking tap for both dogs and humans. These essential facilities contribute significantly to the cleanliness and accessibility of the park, ensuring that it remains a safe and pleasant place for residents to enjoy. Additionally, such amenities promote responsible waste disposal and hydration, thereby contributing to the overall well-being of our community. When the locals were first asked by the parks department during a consultation meeting prior to the upgrade, these amenities were requested by all attendees but were never implemented/installed. (despite there being water infrastructure previously behind the old cricket nets)

During the petitioning it was often vocalised that nearby parks, such as Ewing Park and Wolstencroft Reserve have each been equipped with suitable rubbish bins and water facilities. (see attached photographs) This stark contrast in facilities has left our neighbourhood feeling unheard and neglected. We believe that every community should have access to comparable amenities, regardless of its location within Bendigo.

We hope that our concerns are taken seriously, and we kindly urge the Bendigo City Council to consider our request. All petitioners would be available should the council wish to hold a

further consultation meeting regarding these concerns. We believe that working together will not only address the issues we face with Ross Park but also foster a stronger sense of community and collaboration.

Thank you for your attention to this matter. We look forward to a positive response and the opportunity to engage in a meaningful dialogue regarding the future of Ross Park.

Yours sincerely,

Tony & Dodie Bischoff



02/11/2023

Attachments

3 pages of signatures from local residents / Park users

4 pages of Photos from nearby parks.














## PETITION TO GREATER BENDIGO CITY COUNCIL

### ROSS PARK – KENNINGTON.

We the undersigned residents and rate payers of Greater Bendigo  
City Council formally request council to:

**Supply & install a water bubbler/pet water station, provide rubbish  
bins at each park entrance to discourage littering within the park &  
maintain Ross Park as an 'off leash' community park.**

Each petitioner/signatory below has volunteered their Name, Address and signature in agreeance  
with the above request of Bendigo City Council.

| NAME             | ADDRESS | SIGNATURE   |
|------------------|---------|---|
| Tony Bischoff    |         |   |
| M MAETIER        |         |  |
| GREG HELLSTEN    |         |  |
| MICHAEL SCOBE    |         |  |
| KRISTY EASTMAN   |         |  |
| Dodie Bischoff   |         |  |
| Hannah Wedgman   |         |  |
| ANDREW WILKINSON |         |  |
| LAW WATSON       |         |  |
| LUKE GRAY        |         |  |
| DAVID HUGHES     |         |  |
| DBLOWNBILL       |         |  |
| K. THORBURN      |         |  |
|                  |         |   |

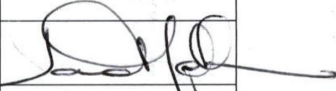




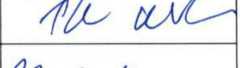






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Each petitioner/signatory below has volunteered their Name, Address and signature in agreeance  
with the above request of Bendigo City Council.

| NAME             | ADDRESS | SIGNATURE   |
|------------------|---------|---|
| Jane Hellsten    |         |   |
| Wendy Wood       |         |  |
| Tyler McEwen     |         |  |
| Tom Morris       |         |  |
| Alice Haggard    |         |  |
| Travis Matheson  |         |  |
| Megan Matheson   |         |  |
| Maree Eaton      |         |  |
| Jessica Lapthorn |         |  |
| Cathal Weber     |         |  |
| Tara Weber       |         |  |
| Jordy Philbrick  |         |  |
|                  |         |   |
|                  |         |   |

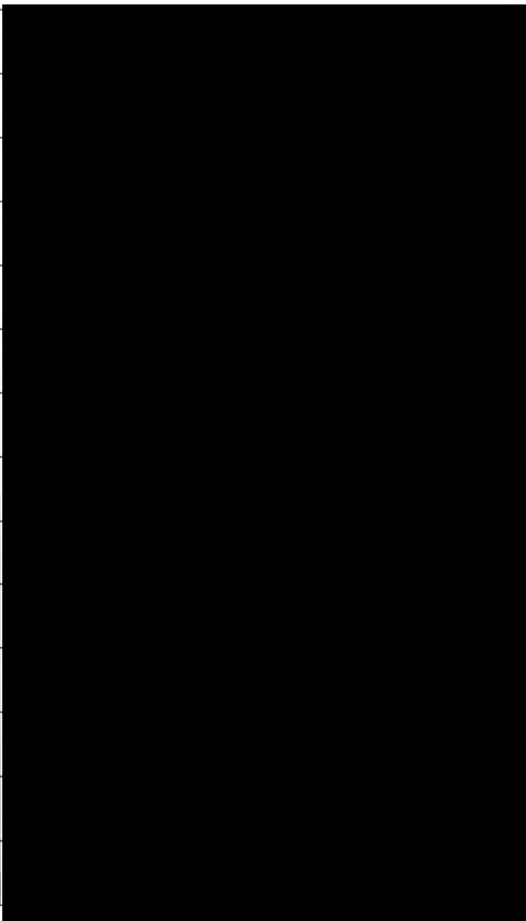
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| NAME    | ADDRESS   | SIGNATURE   |
|---------|---|-------------|
| Uisle   |  | Uisle       |
| Jess    |   | John        |
| Charlie |   | Charlie B   |
| Sam     |   | Sam         |
| Charlie |   | C Bomba     |
| Jack    |   | Jack O      |
| John    |   | John        |
| Tara    |   | T. W        |
| Anne    |   | Anne        |
| Jules   |   | Jules       |
| Sian    |   | S. Badretti |
| Katrina |   | K. Glorias  |
| Vin     |   | V. Wally    |
| Nick    |   | Nick        |

Bendigo

## PETITION TO GREATER BENDIGO CITY COUNCIL ROSS PARK – KENNINGTON.

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City Council formally request council to:

**Supply & install a water bubbler/pet water station, provide rubbish  
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Each petitioner/signatory below has volunteered their Name, Address and signature in agreeance  
with the above request of Bendigo City Council.

| NAME         | ADDRESS | SIGNATURE  |
|--------------|---------|--|
| WARREN SMITH |         |  |
|              |         |  |
|              |         |  |
|              |         |  |
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## **15. LEAD AND GOVERN FOR ALL**

### **15.1. Contracts Awarded Under Delegation**

|                       |   |
|-----------------------|---|
| Author:               | Corinne Fisher, Procurement Officer         |
| Responsible Director: | Jess Howard, Director Corporate Performance |

#### **Purpose**

To inform Council of contracts signed under Delegation.

#### **Recommended Motion**

That Council note the contracts awarded under delegation during the previous reporting period.

#### **Policy Context**

#### ***Primary Council Plan Reference***

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025  
Outcome 1 - Lead and govern for all

#### ***Secondary Council Plan Reference(s)***

Goal 1 - Accountable, financially responsible, equitable, transparent decision making

#### **Conflict of Interest**

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

#### **Attachments**

1. Contracts Awarded Under Delegation Council Report December 2023 [**15.1.1** - 1 page]

| Capital Contracts            |  |  |                   |             |                   |  |              |
|------------------------------|--|--|-------------------|-------------|-------------------|--|--------------|
| Contract No                  | Project  | Successful Contractor                            | Delegated Officer | Date Signed | Price (ex GST)    | Practical Completion                           | Budget       |
| CT000690                     | Municipal Baths - Irrigation                       | Midland Irrigation (Aust) Pty Ltd                | Brian Westley     | 27-Nov-23   | \$338,350.00      | 12-Apr-24                                      | \$365,000.00 |
| Service Contracts            |  |  |                   |             |                   |  |              |
| Contract No                  | Project  | Successful Contractor                            | Delegated Officer | Date Signed | Price (ex GST)    | Contract Term & Options                        | Budget       |
| CT000686                     | Provision of Tree Stump Removal and Re-Instatement | Hickmans Pty Ltd                                 | Brian Westley     | 15-Dec-23   | Schedule of Rates | 3 Years with the option of 2 x 1 years         | \$140,000.00 |
| Contracts Awarded at Council |  |  |                   |             |                   |  |              |
| Contract No                  | Project  | Successful Contractor                            | Delegated Officer | Date Signed | Price (ex GST)    | Practical Completion / Contract Term & Options | Budget       |
| CT000627                     | Provision of Landscape Services Panel Contract     | The Trustee for Djandak Fixed Trust T/as Djandak | Brian Westley     | 15-Dec-23   | \$289,785.50      | 20-Dec-24                                      | \$295,000.00 |

## 15.2. Election Period Policy Review

|                       |  |
|-----------------------|--|
| Author:               | Gabrielle Gadsden, Governance Officer          |
| Responsible Director: | Jessica Howard, Director Corporate Performance |

### Purpose

The purpose of this report is to seek Council approval of the reviewed *Election Period Policy*.

### Recommended Motion

That Council adopt the updated *Election Period Policy*.

### Executive Summary

Section 69 of the *Local Government Act 2020* requires the Council to include an Election Period Policy in its Governance Rules to be applied by Council during the election period to ensure that general elections and by-elections for the Council are conducted in a manner that is ethical, fair and equitable, and are publicly perceived as such. Bendigo's Governance Rules incorporate the Election Period Policy by reference.

Note: preliminary advice from VEC is election period will be midday September 24, 2024 – 6pm October 26, 2024.

### Background

The Election Period Policy was adopted by Council on August 19, 2020 with a review period of Once Per Council Term set. The Policy is due for review now, and there have been minor changes suggested for approval by Council.

Previous Council decision dates: August 19, 2020.

### Report

The Election Period Policy applies to the Council, Councillors, Council Committees, the CEO and City employees during the election period for a general election, a by-election and at other times as specified in the policy.

The policy:

- Ensures that general and by-elections for Council are conducted in an ethical, fair and equitable manner and are publicly perceived as such.

- Facilitates the continuation of the ordinary business of local government in the Council throughout the Election Period in a responsible and transparent manner.
- Prevents the Council from making inappropriate decisions, taking inappropriate actions or using resources inappropriately during the election period.
- Ensures the authority of an incoming council is not restricted by decisions to which it may find itself unreasonably bound and unable to change, including significant contractual matters.
- Requires that materials produced by the Council and the City must not contain matter that will affect voting at the election.

The Policy was originally developed drawing on the model policy prepared by the former Department of Environment, Land, Water and Planning in collaboration with the local government sector during the first stage of the local government reforms in 2020.

A benchmarking exercise of Election Period policies developed by other councils indicates that the City's policy is broadly similar in terms of content and structure.

### ***Communications/Engagement***

The updated draft Election Period Policy was publicly exhibited on [Let's Talk Greater Bendigo](#) from November 8 to December 5, 2023. Nil community feedback was received.

### **Policy Context**

#### ***Primary Council Plan Reference***

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025  
Outcome 1 - Lead and govern for all

#### ***Secondary Council Plan Reference(s)***

Goal 1 - Accountable, financially responsible, equitable, transparent decision making  
Goal 4 - Leadership that sets a standard for good governance and integrity in action, working in partnership with regional Councils

#### ***Other Reference(s)***

1. [Gannawarra Shire Council Election Period Policy](#)
2. [Campaspe Shire Council Election Period Policy](#)

3. [City of Ballarat Election Period Policy](#)

**Conflict of Interest**

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

**Attachments**

1. Election Period Policy - Jan 2024 [**15.2.1** - 11 pages]



## ELECTION PERIOD POLICY

|  |  |
|--|--|
| <b>Approval Level:</b>                 | Council  |
| <b>Policy Type:</b>                    | Council  |
| <b>Approval Date:</b>                  | 20/11/2023   |
| <b>Review cycle:</b>                   | Within 12 months prior to the commencement of an election period.                      |
| <b>Review Date:</b>                    | 1/05/2027  |
| <b>Responsible Officer:</b>            | Manager Governance   |
| <b>Owner:</b>                          | Governance   |
| <b>Responsible Director:</b>           | Corporate Performance  |
| <b>Relevant Legislation/Authority:</b> | <i>Local Government Act 2020 (Vic)</i><br><i>Freedom of Information Act 1982 (Vic)</i> |
| <b>DOCSETID:</b>                       | 3281558  |

### 1. PURPOSE

- 1.1 This Policy has been developed to ensure that general elections and by-elections for the Council are conducted in a manner that is ethical, fair and equitable, and are publicly perceived as such.
- 1.2 It specifies procedures intended to prevent the Council and City from making inappropriate decisions, taking inappropriate actions or using resources inappropriately during the Election Period before a general election, a by-election and at other times as specified in this Policy.
- 1.3 Further, this Policy:
  - 1.3.1 Facilitates the continuation of the ordinary business of local government in the municipality throughout the Election Period in a responsible and transparent manner.
  - 1.3.2 Ensures the authority of an incoming Council is not restricted by decisions to which it may find itself unreasonably bound and unable to change. This could include significant contractual matters.
  - 1.3.3 Requires that Council and City materials produced and/or publicly available during the Election Period must not contain matters that will affect voting at the election.

### 2. BACKGROUND

- 2.1 This Policy has been prepared in accordance with the *Local Government Act 2020 (Vic)* which requires Council to include an Election Period policy in its Governance Rules to be applied by Council during the Election Period for a general election, a by-election and at other times as specified in this Policy.



### 3. SCOPE

- 3.1 This Policy applies to the Council, Councillors, Council Committees, the CEO and City employees.
- 3.2 This Policy replaces and overrides any previous policy that refers to the Election Period.

### 4. DEFINITIONS

In this Policy:

**Act** means the *Local Government Act 2020* (Vic).

**Candidate** means a person who is nominated to stand for a Federal, State or Local election, including a current Councillor.

**Chief Executive Officer (CEO)** means the person appointed by Council to be its Chief Executive Officer, or any person acting in that position.

**City** means the Greater Bendigo City organisation, being a body corporate constituted under section 14 of the Act.

**City Employee** means a natural person appointed by the Chief Executive Officer (other than an independent contractor under a contract for services or a volunteer) to enable:

- a) the functions of the Council and City to be carried out; and
- b) the CEO to carry out their functions;

The CEO is also a City employee.

**Community Consultation** means the process in which the City and/or Council and municipal community connect with each other to exchange views, ideas and information to:

- a) inform decisions;
- b) build capacity; and
- c) strengthen relationships.

**Council** means the Greater Bendigo City Council being all of the Councillors operating collectively in accordance with section 59 of the Act.

**Councillor** means a person holding the office of member of Greater Bendigo City Council.

**Councillor Candidate Information Kit** means the Councillor Candidate Information Kit provided by the Victorian Electoral Commission.

**Council Meeting** means a Council Meeting that complies with section 61 of the Act.

**Delegate:**

- a) of the CEO means the Director, Corporate Performance and/or another Director or Manager as appointed.
- b) of the Manager Communications means another City employee as appointed.

**Election Day** means the day of an election as determined under the Act.

**Election Period** has the same meaning as 'election period' in the Act.



**Electoral advertisement, handbill, pamphlet or notice** means any document that is produced for the purpose of communicating with the community and which contains electoral matter, such as:

- a) newsletters and other circulars (including those sent by email);
- b) media releases;
- c) leaflets, pamphlets, handbills, flyers, magazines and brochures;
- d) any new email, web-based publications or social media posts; and
- e) mailouts to multiple addresses

**Electoral Material** means an advertisement, handbill, pamphlet or notices that contains Electoral Matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.

**Electoral Matter** means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election. Electoral matter is taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on:

- a) the election; or
- b) a Candidate in the election; or
- c) an issue submitted to, or otherwise before, the voters in connection with the election

**Information Request Register** this Information Request Register will be a public document that records all requests relating to Electoral Matters and non-routine requests for information by Councillors and Candidates, and the responses given to those requests.

**Publish** means publish by any means including by publication on the internet.

## 5. PRINCIPLES

The City is committed to fair, transparent and democratic elections and therefore adopts and endorses the legislative requirements.



## **6. POLICY**

### **6.1 Role of Councillors**

6.1.1 During the Election Period, Councillors will:

- a) be supported to continue to undertake their role as Councillor;
- b) continue to fulfil their Councillor duties (unless granted a leave of absence); and
- c) continue to engage and communicate with the community in their Councillor role.

### **6.2 Role of the Chief Executive Officer (CEO)**

6.2.1 In addition to the CEO's statutory responsibilities, the CEO has the following responsibilities:

- a) to inform all Councillors and City employees of this Policy 30 days prior to the commencement of the Election Period;
- b) to support all Councillors and City employees in the application of this Policy during the Election Period; and
- c) to reschedule matters of Council business requiring decisions prohibited during the Election Period by this Policy or the Act to Council Meetings before or after the Election Period, as appropriate.

### **6.3 Decision making**

6.3.1 In accordance with section 69(2) of the Act, Council and the City are prohibited from making any decision during the Election Period for a general election that:

- a) relates to the appointment or remuneration of the CEO, but not to the appointment or remuneration of an acting CEO;
- b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year;
- c) the Council considers could be reasonably deferred until the next Council is in place; or
- d) the Council considers should not be made during an Election Period.

6.3.2 In accordance with Section 69(3) of the Act, Council and the City are prohibited from making any decision during the Election Period for a general election or a by-election that would enable the use of City resources in a way that is intended to influence, or is likely to influence, voting at the election.

6.3.3 During the Election Period, a Councillor, the Council, a Committee of Council, the CEO or a City employee acting under delegation will not:

- a) approve, amend or repeal any policy, plan or strategy, including those contained in or related to the Greater Bendigo Planning Scheme, which has been adopted by Council; or
- b) use their position to influence City employees, or access City resources of information, in support of any election campaign or candidacy.

6.3.4 A Council decision made in contravention of subsection 6.3.1 (a) or (b) above is invalid under the Act.



- 6.3.5 Under the Act, any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of this clause is entitled to compensation for that loss or damage.

#### **6.4 Council Meetings**

- 6.4.1 Council Meetings will continue to take place during the Election Period. However, the following adjustments will be made to the Agenda:

- a) Public Question Time will be suspended and Petitions may be tabled, but not debated;
- b) Mayoral Reports, Councillor Ward Reports and Notices of Motion will be suspended;
- c) Councillors will limit their discussion during debate to the topic under consideration and will avoid raising an Electoral Matter;
- d) The Chair, and all Councillors, will monitor each other's discussion during debate and raise any Points of Order, as appropriate under the [Governance Rules](#).
- e) Reports for the consideration of Council will be referred to the CEO for approval before inclusion on the meeting agenda.

#### **6.5 Application of Resources**

- 6.5.1 The use of City resources including, but not limited to, vehicles, staff, services, property, equipment, stationery, websites, social media and hospitality for any Federal, State or Council election campaign purposes is prohibited.
- 6.5.2 Where the use of City resources appears to relate to the election campaign of a Councillor standing for re-election, the matter must be referred to the Chief Executive Officer or delegate.
- 6.5.3 In accordance with section 304 of the Act, a Councillor or City employee must not use City resources in a way that is intended to or is likely to affect the result of an election under this Act.
- 6.5.4 A Councillor or City employee must not use City resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the Election Period on behalf of, or purporting to be on behalf of, the Council or City unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

#### **6.6 Use of City Equipment by Councillors**

- 6.6.1 Councillors may continue to use any City equipment provided to them to facilitate their performance of normal Councillor duties, subject to existing protocols and terms of use.
- 6.6.2 Councillors must not use City equipment as a resource to assist with election campaigns. Specifically, City resources, including (but not limited to) fleet vehicles, computers, tablets, mobile phones, offices, IT, meeting rooms, support staff, hospitality services, photographs, equipment and stationery will be used exclusively for normal Council business during the Election Period and will not be used in connection with any election campaign.



## **6.7 Councillor Allowance and Reimbursement**

- 6.7.1 Payment of Councillor allowances continues during the Election Period.
- 6.7.2 Reimbursements of Councillors' out-of-pocket expenses during the Election Period will only apply to costs that have been incurred in the performance of normal Councillor business, in accordance with the Councillor Expenses and Support Policy and not for expenses that support or relate to a Candidate's election campaign.

## **6.8 Community engagement**

- 6.8.1 Councillor community consultation/engagement activity or event attendance will be suspended during the Election Period and/or organised so as not to fall within this period.
- 6.8.2 Some City community consultation activities may be necessary during the Election Period to facilitate the day-to-day business of the City and must be approved by the CEO or their Delegate.
- 6.8.3 Any such City community consultations will avoid express or implicit links to the election or an Electoral Matter. The City will not continue or commence public consultation on any contentious or politically sensitive matter after the commencement of the Election Period.
- 6.8.4 In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the Election Period, the CEO reserves the right to postpone a matter if the issue is likely to become an Electoral Matter.
- 6.8.5 The requirements of this clause do not apply to community consultation required under the *Planning and Environment Act 1987* (Vic).

## **6.9 Council Publications**

- 6.9.1 Council and City employees are prohibited from printing, publishing or distributing any advertisement, handbill, pamphlet or notice during an Election Period unless it has been approved by the CEO, the Manager Communications (or the equivalent) or their respective delegates.
- 6.9.2 The publication of any material containing Electoral Matter is prohibited unless that material is only about the election process.
- 6.9.3 Publications which require approval include:
  - a) Brochures, pamphlets, handbills, flyers, magazines and books;
  - b) Reports (other than agenda papers and minutes);
  - c) Advertisements, newsletters and notices except newspaper notices of meetings;
  - d) New website material;
  - e) Social media publications (which includes Facebook and Twitter posts);
  - f) Emails with multiple addresses, used for broad communication with the community;
  - g) Mass mail outs or identical letters sent to many people by or on behalf of Council;
  - h) Media releases;
  - i) Material to publicise a function or event; and
  - j) Any publication or distribution of speeches.



6.9.4 A publication is taken to contain Electoral Matter if it contains an express or implicit reference to, or comment on:

- a) The election; or
- b) A Candidate in the election; or
- c) An issue submitted to, or otherwise before, the voters in connection with the election.

#### **6.10 Media Releases**

6.10.1 Media releases must be approved by the CEO or the Manager Communications or their respective Delegates.

#### **6.11 Councillor Information**

6.11.1 Any Council or City publications printed, published or distributed during an Election Period must not include text that promotes Councillors re-standing for election.

#### **6.12 Website**

6.12.1 Material published on the City's website in advance of the Election Period is not subject to approval as set out above, however, existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that could be considered Electoral Matter, were it to be published during the Election Period.

6.12.2 Councillor contact information will remain available on the website during the Election Period, but Councillors' profiles will be removed.

6.12.3 Any material published on the City's website during the Election Period must be approved by the CEO or the Manager Communications (or equivalent) or their respective Delegates.

#### **6.13 Annual Report**

6.13.1 Council is required by the Act to produce and publish an Annual Report. The Annual Report must, in the year of a general election, be presented at a Council meeting open to the public on a day not later than the day before election day (section 100 of the Act).

6.13.2 The Annual Report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

#### **6.14 Ward Specific Publications**

6.14.1 Ward-specific publications, or Councillor profiles and articles in the Council Newsletter, will be suspended during the Election Period.

#### **6.15 Council and Committee Agendas and Minutes**

6.15.1 Agendas and minutes of Council and Committee meetings do not require approval by the CEO or the Manager Communications (or equivalent) or their respective delegate unless they are printed or published for a wider distribution than normal.

**6.16 Social Media**

- 6.16.1 Any publication on social media sites including Facebook, Twitter, Instagram, blogs and Wikipedia pages during the Election Period must be approved by CEO or the Manager Communications (or equivalent) or their respective Delegates.
- 6.16.2 Staff responsible for administering individual social media sites will monitor their respective sites during the Election Period and use moderation features where available to ensure no Electoral Matter is posted.

**6.17 Council Branding**

- 6.17.1 No City logos, letterheads, or other corporate branding will be used for, or linked in any way to, a Candidate's election campaign.

**6.18 Photographs and Images**

- 6.18.1 Photographs and images paid for by the City or taken by City employees are not to be used in electoral material for any Candidate. This includes images of Councillors, Council events and Council owned or maintained infrastructure.

**6.19 City spokesperson**

- 6.19.1 It is recognised that during the Election Period it may be necessary to release information on the day-to-day business and events of the City.
- 6.19.2 During an Election Period the primary spokesperson for the City will be the CEO.
- 6.19.3 Only the CEO or their Delegate will speak on behalf of the City on matters relating to the election process.
- 6.19.4 Media releases and speeches issued/delivered by the CEO will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election Candidate.
- 6.19.5 During the Election Period no City employee may make any public statement that relates to an Electoral Matter unless prior approval has been obtained by the CEO or their Delegate.

**6.20 Council Advisory and Reference Committees and Working Groups**

- 6.20.1 With the exception of the Audit and Risk Committee, the operation of Council Advisory and Reference Committees and Working Groups shall be suspended upon the commencement of the Election Period ahead of a general election.
- 6.20.2 Any outstanding Delegate's Reports may still be reported to a Meeting of Council during this period.
- 6.20.3 Such Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.



### **6.21 Access to Information & Candidate Information**

- 6.21.1 A Councillor may continue to access City information only as it is necessary for them to perform their role as Councillor and in accordance with the Councillor Communication and Information Policy.
- 6.21.2 As a member of the public, all election Candidates have equal rights to City information relevant to their election campaigns from the City in accordance with the Public Transparency Policy and the *Freedom of Information Act 1982* (Vic).
- 6.21.3 Neither Councillors nor Candidates will receive information or advice from a City employees that may improperly advantage Candidates in the elections.
- 6.21.4 The City will provide Candidates with a copy of a Councillor Candidate Information Kit (if any) produced by the Victorian Electoral Commission to assist them in running and nominating for Council.
- 6.21.5 The City will provide Candidates with a copy of this Policy. A copy of this Policy will be available publicly online.

### **6.22 Information Request Register**

- 6.22.1 The Governance unit will maintain an Information Request Register during the Election Period.

### **6.23 City employees**

- 6.23.1 City employees are discouraged from engaging with candidate hosted on-line media platforms including, but not limited to, websites and all forms of social media.

### **6.24 City employees as a candidate**

- 6.24.1 Section 34 of the Act prohibits a person who is a City employee serving as a Greater Bendigo City Councillor.
- 6.24.2 Under section 256(8) of the Act a City employee is not prevented from nominating as a Candidate at an election if, for the duration of the Election Period for that election:
  - a) the person has taken leave from that office or position; and
  - b) the person does not perform any of the duties of that office or position.
- 6.24.3 A City employee cannot take the oath or affirmation of office as a Greater Bendigo City Councillor unless they resign from that office or position before taking the oath or affirmation of office.
- 6.24.4 If a City employee nominates as a candidate for a Federal, State or Local election, they need to immediately notify their manager in writing, with a copy to the Manager Governance. On receiving such notice, the relevant manager will enter into an agreed work plan with the City employee to ensure:
  - a) There is no conflict of interest between their duties as a City employee or access to information and his/her role as an election Candidate;
  - b) They do not have access to information that would place them at an advantage over other candidates in the election; and
  - c) No City resources are used in support of their candidacy.



6.24.5 The agreed work plan must be:

- a) Approved by the relevant Director;
- b) Forwarded to the CEO and Manager Governance for noting.

## 7. ROLES AND RESPONSIBILITIES

As set out in clause 6.

## 8. RELATED DOCUMENTS

Readers are encouraged to access relevant documents and/or resources which are available as per the below.

These include:

- Local Government Act 2020 (Vic)
- Freedom of Information Act 1982 (Vic).
- City's Public Transparency Policy
- City's Community Engagement Policy
- Councillor Candidate Information Kit, Victorian Electoral Commission

Further information or advice on this policy should be directed to Governance

## 9. HUMAN RIGHTS COMPATIBILITY

The implications of this policy have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

## 10. ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively. Examples include a change to the name of a City unit, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be made through consultation with the staff Consultative Committee and with the approval of EMT or where required, resolution of Council.

## 11. DOCUMENT HISTORY

| Date Approved | Responsible Officer | Unit       | Change Type          | Version | Next Review Date |
|---------------|---------------------|------------|----------------------|---------|------------------|
| 18/09/2019    | Manager Governance  | Governance | Review (significant) | 1       | August 2023      |
| 19/08/2020    | Manager Governance  | Governance | Review (significant) | 2       | August 2023      |
|               | Manager Governance  | Governance | Election 2024        | 3       | 2028             |

**APPENDIX 1*****Relevant sections from the Local Government Act 2020 (Vic)******Section 69 – Governance Rules to include election period policy***

- (1) A Council must include an election period policy in its Governance Rules.
- (2) An election period policy must prohibit any Council decision during the election period for a general election that –
  - (a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
  - (b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
  - (c) the Council considers could be reasonably deferred until the next Council is in place; or
  - (d) the Council considers should not be made during an election period.
- (3) An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.
- (4) A Council decision made in contravention of subsection (2)(a) or (b) is invalid.
- (5) Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of subsection (4) is entitled to compensation from the Council for that loss or damage.

***Section 304 – Prohibition on Councillor or member of Council staff***

- (1) A Councillor or member of Council staff must not use Council resources in a way that –
  - (a) Is intended to; or
  - (b) Is likely to –

Affect the result of an election under this Act.
- (2) A Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

### 15.3. North Central Goldfields Regional Library Agreement 2024

|                       |   |
|-----------------------|---|
| Author:               | Stacy Williams, Director Healthy Communities and Environments       |
| Responsible Director: | Richie Evans, Acting Director, Healthy Communities and Environments |

#### Purpose

To update Council on the public consultation undertaken and seek endorsement to sign and seal the North Central Goldfields Regional Library Agreement 2024 (The agreement).

#### Recommended Motion

That Council authorise the Chief Executive Officer (CEO), or delegate, to undertake the necessary administrative steps to execute the North Central Goldfields Regional Library Agreement 2024 (**Attachment 1**).

#### Executive Summary

The current North Central Regional Library Agreement approved by the Minister in 2019 has been reviewed by the CEO and Board of Goldfields Library Corporation (GLC) and there are no proposed changes to the Agreement.

The Agreement outlines:

- The role of the Corporation,
- Membership of the Corporation,
- Meeting procedures,
- Requirements for strategic planning, budgeting and financial contributions, and
- Entry, exit and dissolution provisions as per section 196 and 197 of the Local Government Act 1989.

The agreement public submission period commenced on 13 November 2023 to 10 December 2023. No submissions were received, and the agreement is now recommended for endorsement.

#### Background

The North Central Goldfields Regional Library Corporation has involved four Councils since its inception in 1996. The Corporation consists of member Councils, City of Greater Bendigo, and the Shires of Loddon, Macedon Ranges and Mount Alexander. The Corporation provides library services to the member Municipalities.

The Regional Library Corporation was created in 1996 and is designated a body corporate with perpetual succession under the Local Government Act, insofar as the Corporation remains in place for perpetuity until such time as there is a voluntary winding up of the Regional Library Corporation.

The Regional Library Agreement provides the terms under which the Corporation and member Councils act and contribute to the library services and the Regional Library Agreement is required to be approved by the Minister for Local Government.

The last Goldfields Library Corporation Regional Library Agreement was approved by the Minister for Local Government in 2019 and this report follows a review of that current agreement.

It should be noted that the agreement proposed for Ministerial approval in 2024 is expected to be the final agreement before the voluntary winding up of the Corporation as per requirements of Section 330 of the Local Government Act 2020. The Act states that all Regional Library Corporations must either be voluntarily wound up before 2030 or they will be wound up by the Minister for Local Government in 2030. The wording of the section is provided below.

### **330 Specific provisions apply to existing regional libraries**

- (1) This section applies to a regional library that exists under section 196 of the **Local Government Act 1989** (an *existing regional library*) immediately before the repeal of sections 196 to 197G of the **Local Government Act 1989**.
- (2) Subject to this section, sections 196 to 197G of the **Local Government Act 1989** and any sections of the **Local Government Act 1989** incorporated by reference in sections 196 to 197G of the **Local Government Act 1989** and the provisions of any other Act that apply to an existing regional library, continue to apply to an existing regional library as if all of those sections had not been repealed.
- (3) Despite subsection (2)—
  - (a) no new regional library can be formed; and
  - (b) no additional Council may become a member of an existing regional library; and
  - (c) a Council that is a member of an existing regional library may cease to be a member of that existing regional library before it is wound up.
- (4) An existing regional library must be wound up in accordance with section 197G of the **Local Government Act 1989** before the expiry of the period of 10 years after the commencement of section 110.

- (5) If an existing regional library has not been wound up in accordance with subsection (4), the Minister must appoint a liquidator under section 197G of the Local Government Act 1989 to wind up the existing regional library in accordance with that section.

## **Report**

The current Regional Library Agreement approved by the Minister in 2019 has been reviewed by the CEO and Board of GLC and there are no proposed changes to the Agreement.

The Agreement outlines:

- The role of the Corporation,
- Membership of the Corporation,
- Meeting procedures,
- Requirements for strategic planning, budgeting and financial contributions, and
- Entry, exit and dissolution provisions as per section 196 and 197 of the Local Government Act 1989.

With no amendments proposed to the conditions of the current agreement, the GLC CEO and Board believe clarity for all member Councils will be provided by signing and sealing a 2024 Agreement that effectively provides a continuation of the arrangement for shared library services for the four member Councils that will remain, as Councils move toward the voluntary winding up of the Corporation.

Section 197 of the Local Government Act 1989 requires that Council advertise its intention to sign and seal a Regional Library Agreement.

Advertising this intent to sign and seal the Regional Library Agreement, 2024 allows any person to make a submission and be heard in respect to their submission. The exhibition period for the proposed Regional Library Agreement is 28 days.

The agreement was exhibited for public submission from 13 November 2023 to 10 December 2023 and no submission were received.

The process of review and adoption of a new Regional Library Agreement involves the following steps.

1. Review and approval by the Board (completed).

2. Advertising for 28 days that invites public submissions on Council's intention to sign and seal the Agreement. (completed).
3. A report to Council following the 28 days, allowing for the hearing of any submissions for Council discussion and any further modification to the Regional Library Agreement.
4. If there are no submissions, or if submissions are resolved, Council approves the signing and sealing of the new Agreement. (this report)
5. GLC will set meeting times with each Council to apply the Council Seal and signatures on the Agreement from the member Councils.
6. GLC will submit the Agreement to the Minister for Local Government for approval and gazettal.

The Regional Library Agreement aligns with the current practice of the Regional Library Corporation and represents good governance through the provision of an Agreement that clearly specifies the responsibilities of all parties.

The current Agreement has been reviewed and no conditions have been changed in any way.

This process represents a continuation of current services utilising the same arrangements as they currently exist.

The intent is that this agreement will be the final agreement between member Councils before a new service model is proposed and the Goldfields Library Corporation is voluntarily wound up, in line with the requirements of Section 330 of the Local Government Act 2020.

### **Communications/Engagement**

The Agreement was placed on public exhibition for four weeks (13 November to 10 December) and the community was invited to provide comment in person at the City of Greater Bendigo Office in Galkangu, or online via the Let's Talk Website.

Zero (0) submissions were received during this engagement period.

An update regarding engagement will be provided to community via the Let's Talk website in early 2024.

## **Financial Sustainability**

Funding for the Regional Library Corporation is provided for in the current budget and each year agreement is reached on an equal per capita contribution based on an annual budget and 10-year financial plan developed by the Goldfields Regional Library Corporation.

## **Policy Context**

### ***Primary Council Plan Reference***

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025

Outcome 1 - Lead and govern for all

### ***Secondary Council Plan Reference(s)***

Goal 1 - Accountable, financially responsible, equitable, transparent decision making

Goal 4 - Leadership that sets a standard for good governance and integrity in action, working in partnership with regional Councils

## **Conflict of Interest**

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

## **Attachments**

1. Regional Library Agreement For NCGRL 2024 [**15.3.1** - 12 pages]

*North Central Goldfields Regional Library Corporation trading as Goldfields Library Corporation  
Regional Library Agreement 2024*

# Continuation of Agreement For North Central Goldfields Regional Library Corporation

Trading as  
Goldfields Library Corporation

2024

Regional Library Agreement



*North Central Goldfields Regional Library Corporation trading as Goldfields Library Corporation  
Regional Library Agreement 2024*

**This AGREEMENT is made on the.....**

**BETWEEN :**

**Greater Bendigo City Council, a Body Corporate established under an Order-in- Council made pursuant to the *Local Government Act 1989*, of Lyttleton Terrace, Bendigo:**

**Mount Alexander Shire Council, a Body Corporate established under an Order-in-Council made pursuant to the *Local Government Act 1989*, of 25 Lyttleton Street, Castlemaine:**

**Macedon Ranges Shire Council, a Body Corporate established under an Order-in-Council made pursuant to the *Local Government Act 1989*, of 129 Mollison Street, Kyneton:**

**Loddon Shire Council, a Body Corporate established under an Order-in-Council made pursuant to the *Local Government Act 1989*, of 41 High Street, Wedderburn.**

## **RECITALS**

- a. The Councils have entered into an agreement to operate a Regional Library, under section 196 of the *Local Government Act, 1989*, to service the area comprising their municipal districts.
- b. The Councils have agreed on the assets they will provide for the use of, or, transfer to the ownership of, the Regional Library.
- c. The Councils have agreed to contribute certain sums of money annually for the purposes of the Regional Library.
- d. This Agreement should be read in conjunction with the NCGRL's Service and Funding Agreement, 2023-2025.
- e. The- Revised Agreement dated 2019 is amended by this Agreement.

## **AGREEMENT**

### **1. DEFINITIONS**

In the interpretation of this Agreement, including the Recitals, except where the context otherwise requires -

- a. the following words shall have the following meaning -  

"Act" means the *Local Government Act 1989*;

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"Asset" means defined resources made available to the Corporation by member Councils to assist in the provision of library services and consisting of such items as real property, machinery, furniture, fittings and equipment.

"Board" means the governing body of the Regional Library established under clause 3.1;

"Chief Executive Officer" means the person appointed in accordance with the Act;

"Council" means a party to this Agreement;

"Local Law" means a Local Law made in accordance with Part 5 of the Act;

"Minister" means the Victorian Government Minister responsible for administering *Local Government Act 1989*;

"Regional Library" means the regional library corporation established under this Agreement;

- b. words denoting the singular shall include the plural and vice versa;
- c. words denoting any gender include all genders;
- d. headings are for convenience only and shall not affect the interpretation of this Agreement.

## **2. CREATION OF THE REGIONAL LIBRARY**

The North Central Goldfields Regional Library Corporation (Trading as Goldfields Library Corporation) has been constituted as a regional library corporation for the purposes of section 196 of the Act to -

- a. provide, subject to any conditions attached to any State government library subsidies and grants to the Regional Library or the Councils, a regional library service for Councils' municipal districts as determined by the Board;
- b. make Local Laws relating to the Regional Library;
- c. perform any other functions which are conferred on the Regional Library under this Agreement or the Act, including defining overall policy objectives, developing strategic policy and approving a Library Plan and an Annual Operating Plan; and
- d. to do all things necessary or expedient in accordance with this Agreement and the Act for the carrying out of its functions.

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### **3. MEMBERSHIP OF THE BOARD**

- 3.1 The Board of the Regional Library shall consist of the following members –
- (a) One (1) Councillor appointed by each Council
  - (b) One (1) other person appointed by each Council
- 3.2 A Council may appoint a councillor, or other person to act as deputy in place of its appointed members.
- 3.3 A member and deputy shall hold office until the term of his/her appointment expires, until removed or the person resigns or ceases to be a councillor or member of council staff, whichever occurs first.
- 3.4 A Council may remove from office its appointed member or deputy.
- 3.5 A Council must fill a vacancy in its members as soon as possible and notify the Board in writing of the new member.
- 3.6 The office of a member automatically becomes vacant if he/she is absent for three consecutive meetings without the leave of the Board.

### **4. PROCEEDINGS OF THE BOARD**

- 4.1 The Board shall hold an ordinary meeting at least once in every three months.
- 4.2 If a special meeting is called, it must be called by the Chief Executive Officer on the request of the Chairperson or three members of the Board.
- 4.3 The Board shall elect a member to be Chairperson and a member to be Deputy Chairperson of the Board and they shall hold office for twelve months, unless they go out of office earlier in accordance with Clause 3.3 of this Agreement.
- 4.4 a. The election for the Chairperson and Deputy Chairperson of the Board shall be held by the Board at its first meeting after the general election of councillors for a Council and will be for a period of one year.
- b. Where there is no general election of Council, the election for the Chairperson and Deputy Chairperson of the Board shall be held by the Board at its first meeting after the Statutory Meetings of the Councils each year and will be for a period of one year.

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- 4.5 The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson shall preside at a meeting of the Board.
- 4.6 In the absence of the Chairperson and Deputy Chairperson from a Board meeting, the remaining members of the Board may elect one of their number to preside at that meeting.
- 4.7 If a Member is unable to attend a Board meeting, he or she may delegate a proxy for that Member. The proxy is entitled to vote on behalf of that Member.
- 4.8 An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it.
- 4.9 Any five members of the Board constitute a quorum to allow the transaction of business at a meeting of the committee.
- 4.10 If a quorum is present at the beginning of a meeting it is taken to be present throughout the meeting unless the Chairperson of the meeting on their own motion or at the request of a Member, proxy who is present, declares otherwise.
- 4.11 If within thirty minutes after the time appointed for a general meeting a quorum is not present, the meeting:
  - a. if convened by, or on requisition of, Members is dissolved; and
  - b. in any other case stands adjourned to the next meeting, or to such other day, time and place as the Chairperson appoints by notice to the Members and others entitled to notice of the meeting.
- 4.12 Notice of motion to recommend amendment of this Agreement and notice of motion for the adoption or amendment of Local Laws by the Board shall be given in writing to Councils at least one month before the meeting of the Board at which the motion is to be discussed.
- 4.13 Each Council agrees to indemnify the Regional Library in respect of any liability incurred as a consequence of the operation of section 76 of the Act in relation to each of its appointed members.

**5. CHIEF EXECUTIVE OFFICER**

- 5.1 The Board shall appoint a Chief Executive Officer of the Regional Library.
- 5.2 In addition to any responsibilities imposed on a Chief Executive Officer in the Act, the Chief Executive Officer shall be responsible to the Board for the finances and administration of the Regional Library including the implementation of the Library Plan, delivery of the service and administrative

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support for the Board, employment and management of staff and any other duties specified by the Board subject to CEO delegation.

**6. EQUITY AND OPERATING COSTS**

- 6.1 The Chief Executive Officer shall maintain a register of the assets provided for the use of the Regional Library by Councils. This register must indicate which Council owns each asset.
- 6.2 The Chief Executive Officer shall maintain a register of assets owned by the Regional Library.
- 6.3 Respective Asset Registers must be updated by 1 March each year.
- 6.4 A Council must, unless otherwise agreed by Councils, give one clear financial year's notice in writing to the Chief Executive Officer of its intention to withdraw assets from the use of the Regional Library.
- 6.5 The Regional Library shall, unless otherwise agreed by Councils, be responsible for the maintenance, repair, replacement and operating costs of assets owned by the Regional Library.
- 6.6 Each Council shall, unless otherwise agreed by Councils, be responsible for the maintenance, repair, replacement and operating costs of assets owned by it but provided for the use of the Regional Library.
- 6.7 The Regional Library shall, unless otherwise agreed by Councils and subject to clauses 6.5 and 6.6, be responsible for its own operating costs.

**7. STRATEGIC PLANNING**

- 7.1 The Chief Executive Officer shall be responsible for preparing a Library Plan for approval by the Board within six months of each general election at member Councils in accordance with section 125 of the Local Government Act.
- 7.2 The Chief Executive Officer shall by 1 June each year prepare and provide each Council with a proposed Annual Operating Plan for the financial year commencing 1 July.
- 7.3 The Annual Operating Plan shall include a program for the delivery of services by the Regional Library which identifies the nature and extent of proposed services and an estimate of the costs of the provision of those services.
- 7.4 The Regional Library must adopt a Library Plan and an Annual Operating Plan by the date specified in the Act for the adoption of its annual Budget.

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- 7.5 The Corporation must consider whether the Library Plan requires any adjustment at least once a year.

**8. ANNUAL BUDGET**

- 8.1 The Chief Executive officer shall by 1 June each year provide each Council with a copy of the Regional Library's proposed annual Budget prepared in accordance with section 127 of the Act.
- 8.2 The proposed annual Budget shall include -
- a. the amount of funds currently held by the Regional Library;
  - b. the amount of each Council's proposed financial contribution to the Regional Library for the financial year commencing 1 July;
  - c. the amount of funds to be received from any other source by the Regional Library in the financial year commencing 1 July;
  - d. standard statements and description of activities and initiatives to be funded in the budget;
  - e. a statement as to how activities and initiatives will contribute to the achievement of strategic objectives in the Library Plan; and
  - f. key strategic activities and performance targets and measures.

**9. ANNUAL FINANCIAL CONTRIBUTIONS**

- 9.1 The amount to be contributed to the Regional Library by each Council during each financial year shall be the sum of -
- a. the amount specified in the Regional Library's adopted annual budget;
  - b. all State Government library subsidies and grants received by the Council for the library services; and
  - c. funds received by the Council from any other source for library services.
- 9.2 The Councils must agree on a funding formula for the purpose of making annual financial contributions to the Regional Library under clause 9.1 (a).
- 9.3 Each Council's financial contribution to the Regional Library shall be paid in quarterly instalments on the first day in July, October, January and April of each year.
- 9.4 All instalments shall be paid in equal instalments.

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- 9.5 All other Council contributions under clause 9.1 shall be paid within one month of receipt of a tax invoice from the Regional Library.
- 9.6 In addition to the contributions payable under this clause, a Council shall be responsible for the Regional Library's costs in providing any additional service or resources requested by the Council and such costs are to be paid within 30 days of the Council receiving an invoice from the Regional Library.
- 9.7 Interest shall be paid on any amount payable under clause 9 which is not received by the Chief Executive Officer within 14 days of the due date at the rate fixed by the Governor in Council for the purposes of section 172 of the Act and calculated monthly from the date the amount became due until the date it is received by the Chief Executive Officer.

**10. ANNUAL REPORTING AND ACCOUNTS**

- 10.1 The Chief Executive Officer shall, within three months of the end of the financial year, provide each Council with a copy of the Regional Library's Annual Report prepared in accordance with section 131 of the Act.
- 10.2 The books of accounts and all other financial records of the Regional Library shall be available for inspection at all reasonable times by any councillor, or person authorised by a Council, or, by any person authorised by the Secretary of the Department responsible for administering State Government library subsidies and grants from which the Regional Library or Councils receive funds.

**11. ENTRY AND EXIT OF PARTIES**

- 11.1 A Council which is not a party to this Agreement may, by supplementary agreement with the Councils, be admitted as a party to this Agreement and subject to the provisions of the supplementary agreement, shall have the same rights, duties and obligations of the Councils under this Agreement.
- 11.2 A Council may withdraw from this Agreement having given not less than one clear financial year's notice in writing to the Chief Executive Officer of its intention to do so.
- 11.3 A Council which has given notice under clause 11.2 must, unless otherwise agreed by the Councils, withdraw from this agreement on 30 June in any year.
- 11.4 A Council which withdraws from this Agreement shall be entitled to a portion of the net assets of the Regional Library as at the date of its withdrawal from the Agreement, less an amount which represents the full costs to the Regional Library of the withdrawal.
- 11.5 The portion of net assets to which a Council is entitled under clause 11.4 -

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- a. shall be calculated according to the value of the assets as disclosed by the relevant audited financial statements;
  - b. shall be in the same proportion as its financial contribution to the Regional Library bears to all the member Councils' financial contributions to the Regional Library over the duration of this Agreement;
  - c. may be taken in such combination of property and cash as agreed between the Council and the Board, and if it is agreed that a Council is entitled to library materials, the cost of removing them shall be paid for by the Council.
- 11.6 A Council which withdraws from this Agreement shall be liable for a portion of the liabilities, including contingent liabilities, of the Regional Library as at the date of its withdrawal from the Agreement.
- 11.7 The portion of the liabilities and contingent liabilities to which a Council is liable under clause 11.6 -
- a. shall be calculated according to the liabilities and contingent liabilities as disclosed by the relevant audited financial statements and reports, and any notes attached to them;
  - b. shall be in the same proportion as its financial contribution to the Regional Library bears to all the member Council's financial contributions to the Regional Library over the duration of this Agreement; and
  - c. in the event of the withdrawal resulting in staff redundancies the cost of such redundancies will be paid for by the withdrawing Council or Councils.

## **12. DISSOLUTION OF REGIONAL LIBRARY**

- 12.1 Subject to section 197G of the Act, the Regional Library may be dissolved by agreement of at least three quarters of the parties to this Agreement including those admitted as a party by supplementary agreement.
- 12.2 If the Regional Library is dissolved under this clause -
- a. each Council shall be entitled to a portion of the Regional Library's assets in the same proportion as its financial contribution to the Regional Library bears to all the member Councils' financial contributions to the Regional Library over the duration of this Agreement; and
  - b. each Council shall be liable for a proportion of the liabilities and contingent liabilities of the Regional Library in the same proportion as

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its financial contribution to the Regional Library bears to all member Councils' financial contributions to the Regional Library over the duration of this agreement.

### **13. DISPUTE RESOLUTION**

- 13.1 If there is any dispute or difference between a Council and the Regional Library or between any of the Councils which arises out of this Agreement or concerns the Regional Library; the matter shall be determined as a dispute under the *Commercial Arbitration Act 1984* and the arbitrator's decision shall be final and binding on the parties to the dispute.
- 13.2 The parties to the arbitration shall -
- a. be responsible for their own arbitration costs; and
  - b. unless otherwise determined by the arbitrator, share the arbitrator's costs equally.

### **14. AGREEMENT AMENDMENT**

An amendment to this Agreement has no effect unless it is -

- a. in writing and signed by all parties to the Agreement; and
- b. approved by the Minister by notice published in the Government Gazette.

### **15. AGREEMENT REVIEW**

The parties shall, together with the Board, review the operation of this Agreement at least once every four years.

### **16. CONDITIONS PRECEDENT**

This Agreement has no effect as between the parties unless it is approved by the Minister in accordance with section 196(2) of the Act.

*North Central Goldfields Regional Library Corporation trading as Goldfields Library Corporation  
Regional Library Agreement 2024*

EXECUTED AS AN AGREEMENT

**IN WITNESS WHEREOF**

THE COMMON SEAL of the Greater Bendigo City Council

was hereunto affixed on this

.....day of ..... in the presence of -

Councillor : .....

Councillor : .....

Chief Executive Officer: .....

Date: .....

In accordance with a resolution of the Council made on.....

THE COMMON SEAL of the Mount Alexander Shire Council

was hereunto affixed on this

.....day of ..... in the presence of -

Councillor : .....

Councillor : .....

Chief Executive Officer: .....

Date: .....

In accordance with a resolution of the Council made on.....

*North Central Goldfields Regional Library Corporation trading as Goldfields Library Corporation  
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THE COMMON SEAL of the Macedon Ranges Shire Council

was hereunto affixed on this

.....day of ..... in the presence of -

Councillor : .....

Councillor : .....

Chief Executive Officer: .....

Date: .....

In accordance with a resolution of the Council made on.....

THE COMMON SEAL of the Loddon Shire Council

was hereunto affixed on this

.....day of ..... in the presence of -

Councillor : .....

Councillor : .....

Chief Executive Officer: .....

Date: .....

In accordance with a resolution of the Council made on.....

## 15.4. Resource Recovery & Education (Waste) Charges Policy

|                       |  |
|-----------------------|--|
| Author:               | Brooke Pearce, Manager Resource Recovery and Education |
| Responsible Director: | Brian Westley, Director Presentation and Assets        |

### Purpose

The purpose of the report is to:

- Provide Council an updated Resource Recovery & Education (Waste) Charges policy which has been amended to meet fair and equitable policy conditions due to the recent kerbside service changes such as the rural organics roll out (November 2023) and general waste frequency change (February 2024).
- Provide Council information on the proposed consolidation of the kerbside collection charges on residential rates notices from 2024/2025 onwards.

### Recommended Motion

Council to approve:

1. The updated Resource Recovery & Education (Waste) Charges Policy (**Attachment 1**); and
2. The consolidation of kerbside collection charges on residential rates notices for the upcoming 2024/2025 financial year (as outlined in this report).

### Background

At the January 2023 Council meeting, Council approved two significant services changes to the City's provided kerbside collection services:

- The change of frequency for the general waste and organic bins commencing February 5<sup>th</sup>, 2024.
- The allocation of 5,500 organic bins to rural properties to expand the service municipality wide in line with the Victorian Governments mandated kerbside reforms.

It was noted at the time of the January Council meeting that the existing Resource Recovery & Education (Waste) Charges Policy would be amended to include the approved service changes as well as updated conditions within the policy to ensure fairness and equity for community members where exceptional circumstances require specific waste management needs.

Previous Council decision dates: 30<sup>th</sup> January 2023.

## Report

### ***Resource Recovery & Education (Waste) Charges Policy***

This report includes an updated version of the Resource Recovery & Education (Waste) Charges policy for Council to review. The main changes are as follows:

- An updated policy name to include 'Resource Recovery & Education' within the title to align with organisational structure.
- The update of commercial organics and recycling now being available to eligible properties in designated CBD areas across the municipality.
- Updated eligible exemption conditions such as:

***Medical Exemptions*** – applicable to the general waste collection. A ratepayer may apply for an upsize to a 240L general waste bin free of charge or be excluded from the general waste collection where a letter can be provided from a medical practitioner or specialist.

***Private business located at a residential property exemption*** – applicable to the general waste collection where a ratepayer may conduct a business from home which generates excess nappies or incontinence products and requires an alternative collection frequency that meets the business needs.

- Updated policy, acts, and relevant regulations.

### ***Consolidation of Resource Recovery & Education residential rates charges***

For many years the City has itemised a general waste & landfill; recycling; and in recent years organics charge on rates notices where charges were applicable. However, waste services are a full cost recovery program and the current itemisation of three specific kerbside services does not provide a clear picture of the other included services which are delivered to the community that are provided within this fee structure.

The waste charges are levied annually under the *Local Government Act 1989* (the Act) to fund a number of services such as domestic and commercial kerbside collections, cartage and disposal of collected material, the operation of landfills and transfer stations, the management and governance of waste contracts, street

cleaning, community behaviour change programs and resource recovery strategic planning including local circular economy solutions.

Benchmarking completed by the Resource Recovery & Education Team identifies that 68 local government authorities in Victoria (over 85%) have a consolidated waste management charge.

It is proposed that the three categories of charges are consolidated to one, and the name of this consolidated charge is **'Bins and Waste Services Charge'**. If approved this change would be effective to all rates notices (where applicable) for the 2024/2025 financial year once confirmed in the upcoming 2024/2025 budget. These fees only recoup the costs involved in providing essential waste management services, and are often impacted by external factors that are beyond our control, including the landfill levy set by the [Environmental Protection Authority \(EPA\)](#).

Waste expenditure and revenue is also regulated by the [Essential Services Commission \(ESC\)](#). As part of the engagement process the proposed changes to the Waste charges line were discussed with the [ESC](#) in December 2023 to ensure the City were following any other required regulations.

An **example** representation of the most common current vs new charges is included in the table below – ***please note this is not the proposed 2024/2025 rates charges***. As detailed in the following table, the consolidated charge does not change what is being charged – but consolidates line items. The actual charge amounts will be declared as part of the 2024/2025 budget adoption later this year.

|  |            |
|--|------------|
| <b>Current waste charges on Rates Notice</b>   | \$         |
| General Waste & Landfill Charge 140 L bin<br>(property located within Organic Waste collection area) | 213        |
| Recyclable Waste Charge  | 113        |
| Organics Waste Charge  | <u>101</u> |
|  | <u>427</u> |
| <br><b>Proposed waste charges on Rates Notice</b>  | <br>\$     |
| <i>Bins and Waste Services Charge (with Organics)</i>  | 427        |

## Communications/Engagement

The following have been engaged regarding the service changes, amendments to policy and consolidation of the rates charge.

Resource Recovery & Education  
Financial Strategy  
Customer Experience and Corporate Planning

---

Communications  
Essential Services Commission

## **Policy Context**

### ***Primary Council Plan Reference***

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025  
Outcome 1 - Lead and govern for all

### ***Secondary Council Plan Reference(s)***

Goal 1 - Accountable, financially responsible, equitable, transparent decision making

## **Conflict of Interest**

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

## **Attachments**

1. Resource Recovery Education Waste Charges Policy 2023 [15.4.1 - 5 pages]



## RESOURCE RECOVERY AND EDUCATION (WASTE) CHARGES POLICY

|  |  |
|--|--|
| <b>Approval Level:</b>                 | Council  |
| <b>Policy Type:</b>                    | Council  |
| <b>Approval Date:</b>                  | TBC  |
| <b>Review cycle:</b>                   | 4 Years  |
| <b>Review Date:</b>                    | TBC  |
| <b>Responsible Officer:</b>            | Manager Resource Recovery and Education  |
| <b>Owner:</b>                          | Resource Recovery and Education  |
| <b>Responsible Director:</b>           | Presentation and Assets  |
| <b>Relevant Legislation/Authority:</b> | <i>Local Government Act 2020</i><br><i>Local Government Act 1989</i><br><i>The Circular Economy (Waste Reduction and Recycling) Act 2021</i><br><i>Environment Protection Act 2017</i> |
| <b>DOCSETID:</b>                       | 3759834  |

### 1. PURPOSE

This policy relates to the bins and waste services charge levied by City of Greater Bendigo (the City) on all tenements where the service is available. The purpose of this policy is to detail the services provided to the community within the charges and conditions regarding eligible exemption criteria.

### 2. BACKGROUND

The City provides bins for general waste, recycling and organics collections to tenements within the Municipality. Charges are levied annually under the *Local Government Act 1989* (the Act) to fund a number of services such as domestic and commercial kerbside collections, cartage and disposal of collected material, the operation of landfills and transfer stations, the management of waste contracts, street cleaning, community behaviour change programs and resource recovery strategic planning including local circular economy solutions. The charges are compulsory for residential tenements, other than where exemptions, as set out in this policy, apply.

### 3. SCOPE

This policy applies to all resource recovery charges levied by council (as represented on the annual rates notices).

User fees and charges relating to cost recovery for disposal of waste at transfer stations and landfills are not in the scope of this policy, these are set in accordance with the City's Pricing Policy.



#### 4. DEFINITIONS

N/A

#### 5. PRINCIPLES

To ensure consistency in applying Resource Recovery and Education (waste) charges to properties within the Municipality and applying the required equity lens for specific household conditions where specific policy conditions may apply to support unique collection needs.

#### 6. POLICY

##### 6.1 RESOURCE RECOVERY AND EDUCATION (WASTE) CHARGES

The charges are set annually and published in the City's budget. The City utilises the revenue received from the charges to provide a range of services including:

- collection and disposal services to the residents of the Municipality
- street cleaning
- community behaviour-change programs
- operation and remediation of landfills and transfer stations
- governance of waste management contracts
- resourcing for long term strategic planning, which includes compliance with the The Circular Economy (Waste Reduction and Recycling) Act 2021 and implementing initiatives in line with State Government (Recycling Victoria) reforms and internal policies (Climate Change and Environment Policy).

The charges are set out in Schedule A – these will be updated annually when the City's Budget is adopted by Council.

##### 6.2 COMMERCIAL RESOURCE RECOVERY CHARGES

The City levies a 'fee for service' option for commercial and non-residential properties, known as the Commercial General waste/Recycling or Organic Charge for all commercial and non-residential properties.

As an extension to this service, an optional multi-day collection service of one, two, three, five, six or seven days per week collection and disposal of contents of bins from properties zoned as or used for commercial purposes in the Bendigo Central Business District, Kangaroo Flat, Eaglehawk, Golden Square, Strath Hill/Strath Village and Woodbury Court Shopping Centres is offered. The details for these charges, as per other changes, is confirmed each year in the City's annual budget.

Commercial properties can have multiple bins of all three kerbside streams at their request based on the agreement to pay the required City collection fees. Any request for alteration to the number or size of bins or to the frequency of collection in the six multiple day collection areas for a property must be made/authorised by the property owner; their representative; or the nominated ratepayer (for commercial leases).

The charges are set out in Schedule A – these will be updated annually when the City's Budget is adopted by Council.

##### 6.3 APPLICATION OF CHARGES

In accordance with Section 162 of *the Act*, council may declare a service rate or an annual charge or any combination of such for the collection and disposal of refuse (S162(1)(b)). The service rate or charge may be declared on the basis of any criteria specified by the council (S162(2)).



Annual charges are levied from the date of occupancy of any tenement. On delivery of the initial kerbside bin, and any additional general waste kerbside bins, maintenance services over and above one bin of each service per tenement, a one-off bin supply and ongoing maintenance charge is levied.

Charges for commercial and non-residential properties and general waste supply & maintenance charges are subject to the appropriate amount payable pursuant to *A New Tax System (Goods and Services Tax) Act 1999 (CTH)*.

#### **6.4 RESOURCE RECOVERY FINANCIAL RESERVE**

Waste related fees and charges are only utilised to support waste and resource recovery related expenditure. This reserve is a part of the mechanism employed by the City to ensure this utilisation. Funds held will take account of the City's annual kerbside and waste charge fees. Long term, the reserve enables peaks and troughs related to waste expenditure to be managed efficiently and transparently.

#### **6.5 SETTING CHARGES**

Resource recovery charges and supply & maintenance charges will be adopted annually by Council as part of the budget process in line the City's Revenue and Rating Plan 2021-2025 and Pricing Policy and in accordance with *the Act*.

#### **6.6 ELIGIBLE EXEMPTIONS TO CHARGES**

Under the circumstances set out below an application may be made for an exemption from receiving the general waste, recycling or organic kerbside collection services and be exempt from the charge at the discretion of the Manager Resource Recovery and Education or their delegate.

The following process will be followed for an application for exemption:

1. An application must be made to the Manager Resource Recovery and Education using the appropriate form and attaching required supporting documentation. Applications must be made by the property owner or by a person acting on behalf of the property owner, where the property owner is unable to make an application for medical reasons.
2. The request will be reviewed by the Manager Resource Recovery and Education, or their delegate.
3. The property owner will be notified in writing of outcome of the application.

##### **6.6.1 General waste charges**

##### **a) Residential General Waste Charge Waiver**

An exemption to general waste kerbside collection and charges may be granted:

Where it is established that the garbage truck cannot reasonably access a legal property entrance to empty bins from the roadside; and

- it is deemed by the Manager Resource Recovery and Education to be a burdensome imposition for the bins to be taken to the nearest collection point; and
- the property owner elects not to take bins to a collection point.

Where a dependant persons unit is erected as a second dwelling on a property; and

- is occupied by an immediate family member; and
- the property owner elects to not take delivery of an additional bin.

Where a development approval is issued which requires the property owners make private arrangements for the collections of domestic refuse.

##### **b) General Waste Bin Upsize Fee Waiver (Medical Exemptions)**

A ratepayer may apply for an upsize to a 240L general waste bin free of charge or be excluded from the general waste collection where:



- the fortnightly general waste collection is not suitable for the needs of the ratepayer; and
- a ratepayer can provide a letter from a general practitioner or specialist advising that the fortnightly kerbside collection of general waste is not suitable for the needs of the ratepayer.

If the ratepayer chooses to be excluded from the kerbside collection service, they must organise a private collection that meets the needs of the resident.

#### **c) Private business located at residential property**

A ratepayer may apply to be excluded from the general waste collection service where:

- a ratepayer runs a service from their private residence, such as a family day care, or child-minding service; and
- the service creates a larger than usual quantity of nappies or incontinence products.

If the ratepayer chooses to be excluded from the kerbside collection service, they must organise a private collection that meets the needs of the resident.

#### **d) Commercial and other non-residential**

An exemption may be granted where a ratepayer or their agent informs the City in writing, to the effect that other arrangements have been made for the collection and disposal of refuse in respect of that ratepayer's property.

### **6.6.2 Organic Waste Charge**

Residents may make an application to be exempt from the Organics kerbside collection service in accordance with the City's Kerbside Organics Exemption Policy.

### **6.6.3 Exceptional Circumstances**

If exceptional circumstances apply, and an application for exemption does not fit the criteria within this policy, then approval for an exemption may be granted by the Director Presentation & Assets.

## **7. ROLES AND RESPONSIBILITIES**

Manager Resource Recovery and Education is responsible for adhering and overseeing the implementation of this policy and assessing applications for exemptions.

Council is required to approve the annual charges (refer Schedule A) through the Budget adoption process in accordance with Section 162 of *the Act*

The Financial Strategy Unit is responsible for overseeing and managing the Waste Reserve Fund and issuing the annual charges on rates notices.

## **8. RELATED DOCUMENTS**

Readers are encouraged to access relevant documents and/or resources which are available as per the below.

These include:

- *Local Government Act 2020*
- *Local Government Act 1989*
- *The Circular Economy (Waste Reduction and Recycling) Act 2021*



- *Environment Protection Act 2017*
- Revenue and Rating Plan 2021-2025
- Financial Reserves Management Policy
- Complaint Handling Policy
- Pricing Policy
- Climate Change and Environment Strategy
- Circular Economy and Zero Waste Policy
- Kerbside Organics Exemption Policy

Further information or advice on this policy should be directed to Resource Recovery and Education

## 9. HUMAN RIGHTS COMPATIBILITY

The implications of this policy have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

## 10. ADMINISTRATIVE UPDATES

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this, such a change may be made administratively. Examples include a change to the name of a City unit, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be made through consultation with the staff Consultative Committee and with the approval of EMT or where required, resolution of Council.

## 11. DOCUMENT HISTORY

| Date Approved | Responsible Officer             | Unit                          | Change Type   | Version | Next Review Date |
|---------------|---------------------------------|-------------------------------|---|---------|------------------|
| 24/01/2018    | Leesa Mein                      | Financial Strategy            | Review and update   | 1       | 23/01/2022       |
| 10/10/2019    | Nathan Morsillo                 | Financial Strategy            | Minor administrative update to enable agents (as needed) process relevant requests. | 9       | 23/01/2022       |
| TBC           | Nathan Morsillo & Katelyn Stone | Financial Strategy            | Carriage of policy and detail of exemptions to sit with Manager RR&E.               |         |                  |
| January 2024  | Brooke Pearce                   | Resource Recovery & Education | Review and update to accommodate service change.                                    | 10      | January 2027     |

## 16. HEALTHY, LIVEABLE SPACES AND PLACES

### 16.1. 561 Pethericks Road, Goornong 3557 - 2 Lot Subdivision

|                       |  |
|-----------------------|--|
| Author:               | Rees May, Senior Statutory Planner       |
| Responsible Director: | Rachel Lee, Director Strategy and Growth |

#### Summary/Purpose

|                       |   |
|-----------------------|---|
| Application No:       | DS/740/2022   |
| Applicant:            | Bendigo Planning Services   |
| Land:                 | 561 Pethericks Road, GOORNONG 3557  |
| Zoning:               | Farming Zone  |
| Overlays:             | None  |
| No. of objections:    | 0   |
| Consultation meeting: | Not required  |
| Key considerations:   | <ul style="list-style-type: none"> <li>Whether the proposed subdivision of agricultural land is supported by the Municipal Planning Strategy, Planning Policy Framework and Farming Zone.</li> <li>Whether the proposal is consistent with decisions made by the Victorian Civil and Administrative Tribunal.</li> </ul>  |
| Conclusion:           | <p>The application proposes the subdivision of the land which is contrary to planning policies relating to subdivision, rural dwellings and the Farming Zone. The proposal would create an undersized residential lot and create an additional dwelling entitlement within the Farming Zone that is inconsistent with the Planning Policy Framework.</p> <p>The Greater Bendigo Planning Scheme recognises that agricultural land is a valuable and finite resource that must be protected from fragmentation and encroachment by conflicting land uses. The proposed subdivision fails to protect productive agricultural land that is of strategic significance, would diminish the long-term productive capacity of the land and would create an additional dwelling entitlement that would not support the agricultural use of the land. All of these factors are contrary to planning policy objectives.</p> <p>It is recommended that Council refuse to grant a permit as the proposal presents an unacceptable outcome with regards to the purposes of the Farming Zone and broader planning policy framework relating to rural subdivisions, dwellings and the protection of agricultural land. Refusal of this application will ensure that the viability of the City's agricultural industry is supported and protected from encroachment from non-agricultural intrusions.</p> |

## **Recommended Motion**

That Council issue a Notice of Decision to Refuse to Grant a Permit for a 2 lot subdivision at 561 Pethericks Road, GOORNONG, on the following grounds:

1. The proposal is inconsistent with policy for agriculture and rural dwellings at clause 14.01-1S and 14.1-1L and the purpose and decision guidelines of the Farming Zone, in the following manner:
  - (a) The subdivision would create an undersized lot, contributing to the fragmentation of agricultural land by restraining the ability of the lot to consolidate with adjoining or nearby land.
  - (b) The subdivision would create an as-of-right dwelling entitlement which would encourage the proliferation/spread of dwellings in the rural landscape and contribute to the incremental loss of agricultural land.
  - (c) The subdivision would support rural residential land use within the Farming Zone which would potentially stymie genuine agricultural activities on surrounding land.
  - (d) The proposal does not support or enhance agriculture.

## **Report**

### Subject Site and Surrounds

The site is formally described as Lot 1 on Title Plan 911179M. The site is generally rectangular in shape and has an overall area of 48.46 hectares. The site has a northern frontage onto Sharkey Road of 603.5 metres, an eastern frontage onto Goornong-Fosterville Road of 754.33 metres and a southern frontage onto Pethericks Road of 603.5 metres.

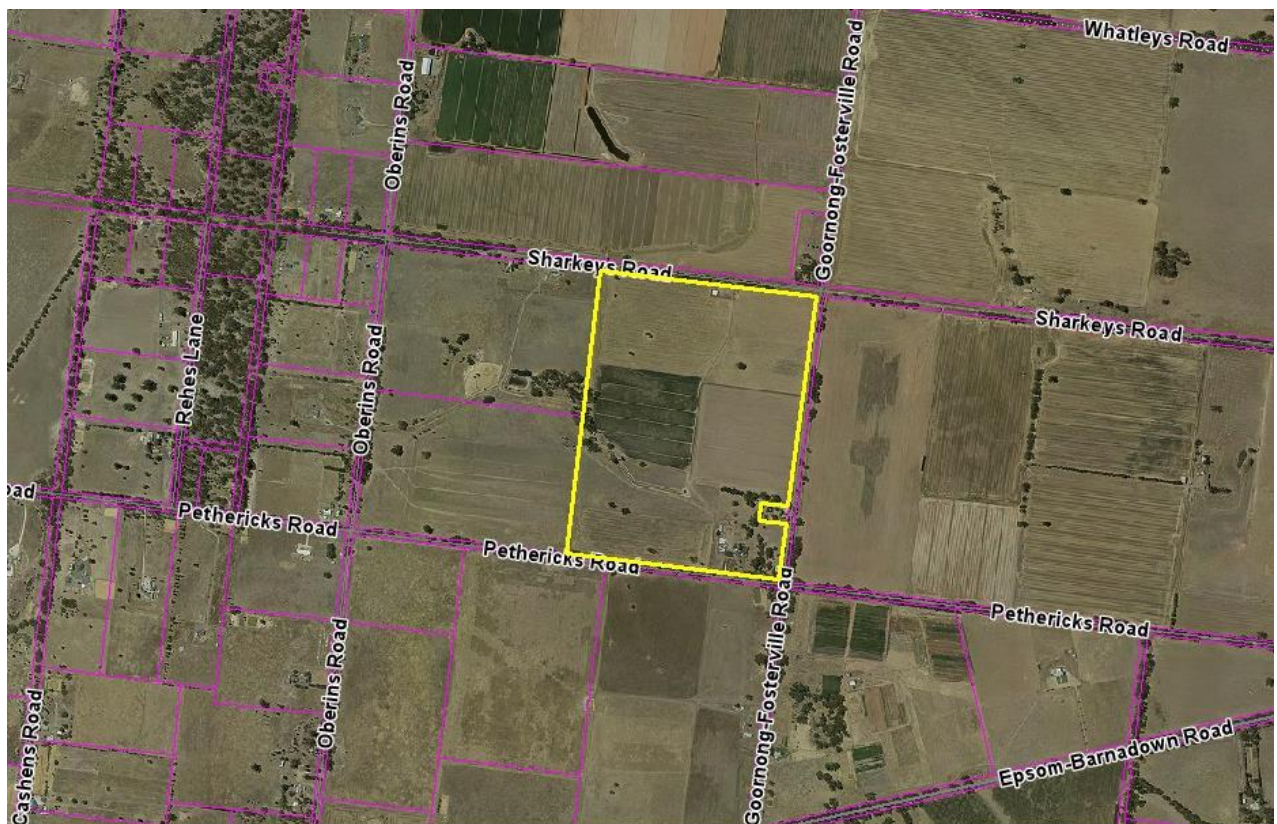
The site currently contains a dwelling and associated shedding that is located in the south-eastern corner of the site, along with a large dam. A small shed is located in the northern portion of the site near the Sharkey Road boundary. Portions of the site are used for cropping and some scattered native trees are found throughout the site. A watercourse/drainage depression traverses through the central portion of the site.

The site and immediate surrounding area are located within the Farming Zone and are not affected by any overlays. Surrounding land within the Farming Zone is primarily used for agriculture (cropping and grazing), with lot sizes predominantly ranging from 14 – 129 hectares in size. Some lots contain dwellings. Whilst there are three instances of smaller lot sizes within the surrounding Farming Zoned land these are inconsistent with the predominant character of lot sizes within the immediate surrounding area.

Further west (approximately 290 metres), primarily west of Oberins Road is land within the Rural Living Zone which is characterised by rural residential land use and development.

The site adjoins Sharkeys Road to the north, Goornong-Fosterville Road to the east and Pethericks Road to the south. A small (approximately 4,000 square metre) lot is located Goornong-Fosterville Road to the east of the site and contains a dwelling and is used for residential purposes.

West of the site are two lots within common ownership creating a larger land parcel with an area of approximately 48 hectares. The land is used for agricultural purposes and contains a dwelling and associated outbuildings.



**Figure 1: Aerial image of the site and surrounds - Exponare.**

Figures 2 to 4 below include photographs of the subject site.



**Figure 2: View of the site from Pethericks Road looking towards the north.**



**Figure 3: View of the existing dwelling at 561 Pethericks Road.**



**Figure 4: View of the site from Goornong-Fosterville Road.**



**Figure 5: View of the existing dwelling at 350 Goornong-Fosterville Road**

### Proposal

The application seeks approval for a two lot subdivision as to allow for the excision of the existing dwelling on proposed Lot 1 and the balance of land to be a part of Lot 2 as follows:

#### *Lot 1*

- 4.183 hectares in size.
- Located in the south-eastern portion of the site, with a frontage onto both Pethericks Road and Goornong-Fosterville Road.
- Contain the existing dwelling, associated agricultural buildings and the existing dam.
- The existing planted and remnant vegetation on this lot is proposed to be retained.
- Accessed via the existing vehicle crossover onto Pethericks Road.

#### *Lot 2*

- 44.28 hectares in size (containing the balance of the land).
- With a frontage onto Pethericks Road, Goornong-Fosterville Road and Sharkeys Road.
- Contain an existing agricultural building located in the northern portion of the site.

- Accessed via the existing vehicle access onto Sharkeys Road.

The proposed subdivision layout is shown below in Figure 6.



Figure 6: Proposed subdivision layout

## Planning Controls - Greater Bendigo Planning Scheme

Why is a planning permit needed?

| Clause                         | Permit Trigger  |
|--------------------------------|---|
| Clause 35.07-3<br>Farming Zone | <p>A permit is required to subdivide land.</p> <p>Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.</p> |

|  |  |
|--|--|
|  | <p>A permit may be granted to create smaller lots if any of the following apply:</p> <ul style="list-style-type: none"> <li>○ The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.</li> </ul> |
|--|--|

The following clauses are relevant in the consideration of this proposal:

#### Municipal Planning Strategy

|                |                             |
|----------------|-----------------------------|
| Clause 02.01   | Context                     |
| Clause 02.02   | Vision                      |
| Clause 02.03-1 | Settlement                  |
| Clause 02.03-4 | Natural resource management |
| Clause 02.03-6 | Housing                     |
| Clause 02.03-7 | Economic development        |

#### Planning Policy Framework

|                 |   |
|-----------------|---|
| Clause 11.01-1S | Settlement  |
| Clause 13.07-1S | Land use compatibility                            |
| Clause 14       | Natural resource management                       |
| Clause 14.01-1S | Protection of agricultural land                   |
| Clause 14.01-1L | Protection of agricultural land – Greater Bendigo |
| Clause 16.01-3S | Rural residential development                     |
| Clause 16.01-3L | Rural residential development – Greater Bendigo   |

#### Other Provisions

|              |  |
|--------------|--|
| Clause 35.07 | Farming Zone                                 |
| Clause 65.02 | Approval of an application to subdivide land |

### **Policy Context**

#### ***Primary Council Plan Reference***

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025

Outcome 2 – Healthy, liveable spaces and places

#### ***Secondary Council Plan Reference(s)***

Goal 7 – Sustainable population growth is planned for

### **Consultation/Communication**

#### Referrals

The following internal unit has been consulted on the proposal:

| Referral  | Comment  |
|---|--|
| Environmental Health - Investigations (Septics) | No objection - requested a note be included on any permit relating to onsite wastewater management requirements should development occur on the newly created lot. |

### Public Notification

The application was advertised by way of notices on the site and letters to adjoining and nearby owners and occupiers.

As a result of advertising, no objections were received.

### **Planning Assessment**

The planning assessment for an application of this nature requires consideration of a broad range of matters. The key matters for consideration are:

- Whether the proposed subdivision of agricultural land is supported by the Municipal Planning Strategy, Planning Policy Framework and Farming Zone.
- Whether the proposal is consistent with decisions made by the Victorian Civil and Administrative Tribunal.

### The relevant Planning policy context

The Municipal Planning Strategy through Clause 02.03-4 identifies the protection of agricultural land and sustainable agricultural land use as being the key natural resource management issues for Greater Bendigo. The Planning Scheme recognises that Greater Bendigo's rural areas support a diverse agricultural base, with the municipality generating nearly \$200 million of agricultural product each year. The policy states that:

*There are areas where agricultural activities are potentially compromised by a fragmented subdivision pattern and isolated dwellings in rural areas have the potential to disrupt agricultural activities. Ongoing agricultural production depends, in part, upon maintaining a mass of productive agricultural land, which excludes concentrations of residential type uses.*

Strategic directions relevant to the proposal include:

- Protecting agricultural land as a valuable and finite resource from fragmentation and encroachment by competing uses.
- Supporting the sustainable growth of agriculture by:
  - Assisting the sector to adapt to the impacts of climate change.

- Continuing to invest in infrastructure, processing and value adding businesses.
- Protecting from incompatible uses.
- Broadening the range of agricultural businesses.
- Avoiding subdivision of agricultural land to maintain it as a food and fibre resource to meet population growth demand.
- Managing competing land uses in order to facilitate the growth of agricultural uses while maintaining the amenity of more sensitive uses, particularly in the areas of a concentration of intensive animal industries as shown in the Rural strategic framework plan in Clause 02.04.

Clause 14.01-1S Protection of agricultural land seeks to protect the state's agricultural base by preserving productive farmland and includes the following strategies relevant to the proposal:

- *Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.*
- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
- *Prevent inappropriately dispersed urban activities in rural areas.*
- *Limit new housing development in rural areas by:*
  - *Directing housing growth into existing settlements.*
  - *Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.*
  - *Encouraging consolidation of existing isolated small lots in rural zones.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
  - *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
  - *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
  - *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
- *Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.*

Clause 14.01-1L Protection of agricultural land – Greater Bendigo includes the following strategies relevant to the proposal:

- *Avoid subdivisions that:*
  - *Do not support the agricultural use of land in the Farming Zone.*
  - *Result in the fragmentation of agricultural land in the Farming Zone and Rural Conservation Zone.*

- Avoid subdivisions in the Farming Zone that create additional dwelling entitlements that are not required for the agricultural use of the land.
- Avoid the excision of existing dwellings unless the excision will:
  - Facilitate productive and efficient agricultural outcomes, particularly farm consolidation.
  - Minimise the loss of productive agricultural land.
  - Support the viability of agricultural land for agricultural purposes.
  - Provide for an excised dwelling that will not impact adjoining agricultural activities.
- Discourage serial excisions and further subdivision after reconfiguration of existing titles.
- Avoid dwelling excisions on parcels greater than two hectares to minimise the impacts of fragmentation unless required because of natural or public infrastructure constraints or it supports efficient agricultural practices.
- Avoid subdivisions that may create rural living enclaves remote from urban infrastructure.
- Avoid subdivision that is likely to lead to such a concentration of lots as to change the general use and character of the rural area.

Clause 14.01-1L requires consideration to be given to the following policy guidelines:

- Whether the subdivision creates an additional lot where a dwelling can be constructed without a permit.
- Whether the subdivision or excision supports productive and efficient agricultural outcomes.
- Whether an agreement under Section 173 of the Planning and Environment Act 1987 should be utilised at the time of subdivision to prevent the fragmentation of agricultural land as a result of:
  - Further subdivision.
  - Construction of a dwelling.
- Whether there will be an impact on the viability of adjoining agricultural land uses.
- Whether there is a demonstrated need to reside on the site to support the agricultural land use.
- Whether the subdivision will change the character of the area.
- Whether there is a need to allow an excision of greater than 2 hectares in area to take account of natural or public infrastructure or to provide a farm boundary configuration that supports efficient agricultural practices.
- Whether the excised dwelling is in a habitable condition.

An application under the provisions of the Farming Zone must address the purpose of the zone. This is the primary basis for any decision-making process for the responsible authority. The purposes of the Farming Zone are as follows:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.

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

The provisions of the Farming Zone also direct that consideration must also be given to a number of decision guidelines which consider the question of how rural subdivisions fit within these purposes. The decision guidelines provide a means by which to assess such applications. The decision guidelines include the following matters that are relevant to this application:

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

The Farming Zone specifies that all lots created by subdivision should be at least the area specified in the zone. The Zone does, however, allow for a permit to be granted to create smaller lots if the subdivision is to create a lot for an existing dwelling. Under these circumstances the subdivision must be a two lot subdivision. This is more commonly referred to as a dwelling excision. Just because a person is able to apply for a permit, does not imply that a permit should or will be granted. An assessment of the proposal against the relevant planning policy framework is outlined below.

Assessment of the proposal against the Municipal Planning Strategy, Planning Policy Framework and Farming Zone.

### *Land fragmentation*

The site and surrounding area is characterised by larger land holdings, with very few examples of small lots. Land fragmentation is the splitting up of land available for use as farmland through activities like subdivision and residential development. Land fragmentation is a key threat to continued agricultural use, inhibiting the ability to utilise economically efficient and sustainable farm practices. Fragmentation also increases the population density in rural areas, which often imposes constraints on farming operations due to concerns about the use of farm equipment, the use of fertilizers, the introduction of dogs and pests etc. In addition, the breaking up of rural land holdings raises expectations of further residential encroachment, potentially increasing rural land prices and increasing pressures for further residential and rural residential sprawl - leading to further land fragmentation.

In *McGrath v Mornington Peninsula SC [2003] VCAT 1816 (3 December 2003)*, the Victorian Civil and Administrative Tribunal discussed the issue of land fragmentation extensively in the context of rural subdivisions. In doing so, Member Cimino acknowledged that:

*“This cycle of fragmentation can only be broken by planning controls that stabilise both the development of housing in rural areas and subdivision expectations, combined with practical support for the sustainable management of land as farmland.”*

As outlined above, there is clear policy direction within the planning scheme to prevent the fragmentation of agricultural land. The policy framework seeks to protect agricultural land as a valuable and finite resource from fragmentation and to prevent encroachment by competing uses, recognising that the productivity of agricultural land is reduced through fragmentation. The City’s local agricultural land policy underpins this policy approach, with the policy discouraging subdivisions that do not support the agricultural use of land in the Farming Zone and result in the fragmentation of agricultural land.

It should be noted from the outset that whilst the City’s local agricultural policy states that dwelling excisions on lots greater than two hectares in size should be avoided (unless required because of natural or public infrastructure constraints or it supports efficient agricultural practices), this recommendation for refusal is not based on the proposed lot size. The proposal would result in the loss of productive agricultural land and the 4.183 hectares of land that would make up Lot 1 and would be used entirely for residential purposes.

Whilst the lot sizing proposed is inconsistent with the policy objective, the lot sizing itself is not the key issue. The proposed subdivision is fundamentally inconsistent with policy objectives and the purpose and decision guidelines of the Farming Zone.

Whilst the Planning Scheme does allow for small lot subdivisions (dwelling excisions), in doing so it provides clear direction on the exceptional circumstances in which this would be appropriate; with potential adverse impacts on the agricultural use of the land being the primary consideration. The cumulative effects of individual decisions must be acknowledged.

The Victorian Civil and Administrative Tribunal (VCAT) provides guidance on how the relevant policy should be considered and applied. In *Niven v Greater Bendigo CC [2023] VCAT 1133 (October 2023)* the Tribunal considered a 2 lot subdivision (dwelling excision) in the Farming Zone in Elmore, affirming Council's decision to refuse to grant a permit. In this decision Senior Member Potts states that:

*"The subdivision indeed allows separate disposal of the land in a farming zone that has the potential to divorce it from any connection with or support of agricultural activity. As such it raises a potential planning outcome that is contrary to the purposes of the FZ and associated objectives and strategies of the PPF and MPS.*

*A further excised dwelling lot would, albeit incrementally, add to the development of a cluster of such lots in the area and contribute to a gradual incursion of non-agricultural land uses into the area. This is an outcome that planning policy seeks to avoid."*

The application material states that the balance of the land is currently leased to a local farming enterprise as an extension to their current operation. The applicant has failed to produce a compelling argument as to why the subdivision is required. The application material states that Lot 1 will continue its residential based use and Lot 2 will be utilised for ongoing cropping production and stock keeping. It must be acknowledged that there is no guarantee that this would occur. If this is what the applicant intended to do, then it is unclear as to why the land needs to be subdivided. Whilst it is acknowledged that there may be some personal circumstances at play, these should not form the basis of decision making. This has been reiterated by the Tribunal on several occasions including in *Liprino v Wangaratta Rural CC [2006] VCAT 841 (12 May 2006)* where Member Naylor concluded that personal and financial reasons for subdivision do not outweigh planning policy, stating the following:

*"Whilst it is acknowledged and accepted that there are personal reasons in support of a proposed subdivision, they are different and carry less weight than the planning reasons about the appropriateness of a proposed subdivision.*

*I find the subdivision will contribute to a change to the general character of this rural area and may add to the pressure for this rural area to change by*

*contributing to the fragmentation of rural land, which is detrimentally to the purpose of land zoned for rural purposes.”*

Planning policy would support relocation to a more appropriate zone (such as the Rural Living Zone) as opposed to a dwelling excision/creating a small residential lot in an area which is intended to be utilised for agricultural purposes.

The subdivision, if approved, would create an undersized residential lot within the Farming Zone; inconsistent with the purpose of the zone. Whilst it is acknowledged that the portion of the overall site where the dwelling is located has already been taken out of agriculture, the use of the land for a dwelling has always been in association with the agricultural use of the land. The subdivision, if approved, would contribute to the fragmentation of agricultural land by restraining the ability of the lot to consolidate with adjoining or nearby land, and creating the potential for a further dwelling (as discussed in greater detail below). It would remove the agricultural association with the existing dwelling and cement a rural residential outcome which planning policy specifically seeks to avoid. Allowing the current proposal could lead to serial excisions and further subdivision proposals after the current subdivision and lead to the land never being used for agricultural purposes again.

Land fragmentation is a key threat to continued agricultural land use, which cannot be disregarded. The relevant policy framework is clear and unambiguous in its discouragement for this type of subdivision in this location.

#### *The creation of an ‘as of right’ dwelling entitlement*

Planning approval for the use of the land for a dwelling is not required on a lot of 40 hectares or more in the Farming Zone. The subdivision would create a lot greater than 40 hectares in size (the balance lot), meaning that the future owner could construct a dwelling without requiring any planning approval. This is referred to as the creation of an ‘as of right’ dwelling entitlement’, which would encourage the proliferation/spread of dwellings in the rural landscape and contribute to the incremental loss of agricultural land. If the subdivision is approved, this land could be completely lost from agricultural production and used entirely for residential purposes. This aids the continued urbanisation of rural areas which contributes to land fragmentation (as outlined above), and a change in character.

The City’s local agricultural policy at Clause 14.01-1L seeks to avoid subdivisions in the Farming Zone that create additional dwelling entitlements that are not required for the agricultural use of the land.

The applicant has failed to provide a compelling argument as to why the subdivision is required, stating that *“the creation of two separate lots would not impact upon or diminish the capacity of the land from an agricultural perspective”*. This is an empty

statement (with no evidence provided to support it) and one which the City does not support. This argument fails to acknowledge the additional as-of-right dwelling entitlement which is fundamental to the consideration of this application.

Whilst the application is for a two lot subdivision, this is not just a subdivision application. The proposal essentially approves a new dwelling without providing the City with an opportunity to consider whether a future dwelling is required to support or enhance agriculture (in accordance with planning policy directions).

This matter has been discussed by the Tribunal on many occasions, including in *Niven v Greater Bendigo CC [2023] VCAT 1133* (referenced above) where Senior Member Potts refers to the mischief that arises from small-lot subdivisions in the Farming Zone, stating the following:

*“The policies I have summarised earlier and the purposes and decision guidelines of the Farming Zone all seek to address a mischief that may arise from small lot subdivisions or dwelling excisions. That mischief is the incremental loss of agricultural land, particularly high value land, the potential for sensitive non-farming residential land uses to encroach into such areas and become a source of reverse-amenity conflict. Such outcomes place pressure on valuable and important agricultural activity that supports Victoria’s capability for growing and generating its own food and fibre and the wider economic and social benefit that arise from these activities. The high agricultural capability and value of this land reinforces and supports the need to protect it from such mischief”.*

The proposal is not an improvement on the current agricultural land use and there is no ability to control how Lot 2 would be used in the future with the proposal providing an ‘as or right’ dwelling entitlement on Lot 2.

The subdivision would permanently remove land for agricultural production, will likely result in both lots being used entirely for rural residential purposes and potentially prevent genuine agricultural activities on this land as well as surrounding land which is at odds with the purpose of the Farming Zone. The outcome of this proposal is one which planning policy unequivocally seeks to avoid.

#### *Impact on adjoining and surrounding agricultural land uses*

Land use compatibility is a key consideration, as non-residential land use and development has the potential to adversely impact on adjoining and surrounding agricultural land uses. The subdivision would support rural residential land use within the Farming Zone which would potentially stymie genuine agricultural activities on surrounding land.

It is evident from a review of the relevant policy relating to rural subdivisions and the protection of agricultural land that there is a clear desire within the Planning Policy Framework to ensure that agricultural land is carefully managed and protected. It is no wonder, given the importance of agricultural production to our region.

Relevant policies seek to prevent inappropriately dispersed urban activities in rural areas and limit new housing development in rural areas by encouraging consolidation of existing isolated small lots in rural zones. The proposal would facilitate an outcome that is completely at odds with this policy direction.

Incompatible land uses create conflict with primary agricultural land uses envisaged for this land, degrading the ability of the land to be productive and therefore resulting in lost agricultural revenue for the Greater Bendigo region. This is another form of 'mischief' which must be managed. Further, as shown in the Rural Strategic Framework Plan at Clause 02.04 (below), the subject site is located within an area designated as containing a concentration of Intensive Animal Industries.

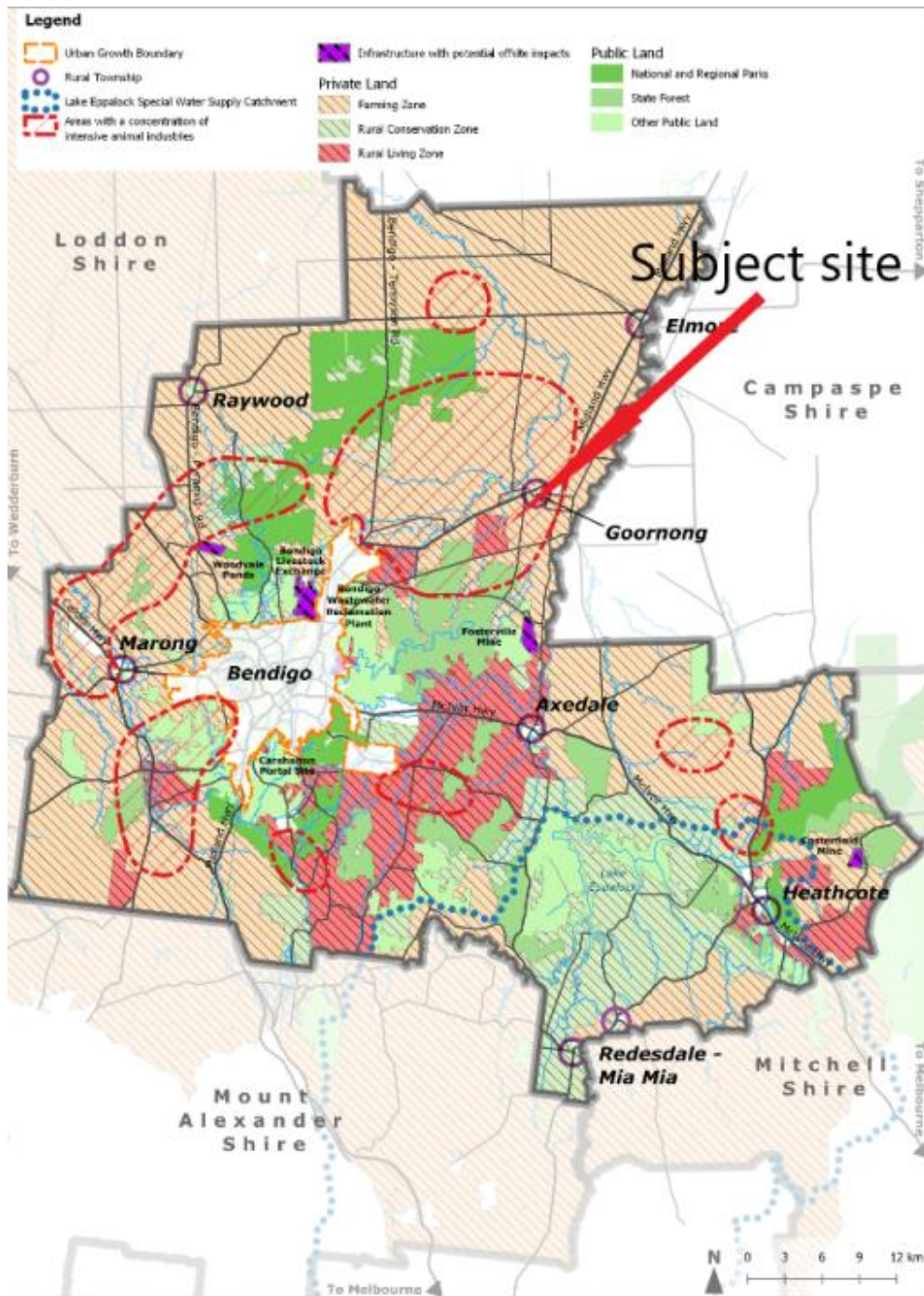


Figure 7 Extract from the Rural Strategic Framework Plan outlined in Clause 02.04.

The subject site is productive agricultural land, as illustrated in both the historical and current agricultural land practices that have and are still occurring. The site is leased to a local farming enterprise as an extension to their current operation and, put simply, the site can continue to be used in this way without the need for a subdivision. The site and surrounds are not in an area within the Farming Zone (like some parts of the municipality), where the Farming Zone has become a rural residential enclave (with a rural residential character). This is not the case with the subject site as the area is still very much agricultural in nature as reflected by current land use, development and lot sizes.

This proposal is seeking planning approval to move away from a well-established and most productive agricultural land use and the application has failed to provide a compelling argument as to why the current arrangement cannot continue without the need for the subdivision. The application material also fails to give any consideration to potential adverse impacts on adjoining and surrounding agricultural land uses.

As outlined above, land fragmentation and additional dwellings do impact adjoining and surrounding land uses. The proposal would exacerbate the potential for land use conflict due to the presence of an entirely residential lot (and likely 2 residential lots) within the Farming Zone. The presence of additional dwellings within the Farming Zone can impact on the operation and expansion of genuine agricultural activities by way of potential for offsite amenity impacts, agricultural production being unable to meet required buffer distances (for intensive animal industries) and increased land values which can affect the viability of farming enterprises. These are real issues that threaten and compromise the agricultural industry

The applicant has stated that the landowners (proposed to reside in the dwelling on Lot 1), have an understanding of potential disruptions and impacts from these associated activities. Whilst this may be the case, if the land is to be sold in the future, the new landowner may have different expectations of acceptable amenity and be adversely affected by the agricultural activity. Planning policy seeks to minimise land use compatibility issues through land use and development.

Agricultural land is a valuable and finite resource that can be impacted by the encroachment of competing land uses. The proposal does not support or enhance agricultural productivity and results in the potential to create land use conflicts. It is important that agricultural land is managed to facilitate the growth of agricultural uses. Intensifying residential land uses in this area will limit the operation and expansion of agricultural productivity. Overall, the proposal does not support or enhance agriculture.

## **Conclusion**

The application proposes the subdivision of the land, which is contrary to planning policies relating to subdivision, rural dwellings and the Farming Zone. The proposal will create an undersized residential lot and an additional dwelling entitlement within the Farming Zone that is inconsistent with the Planning Policy Framework.

The Greater Bendigo Planning Scheme recognises that agricultural land is a valuable and finite resource that must be protected from fragmentation and encroachment by conflicting land uses. The proposed subdivision fails to protect productive agricultural land that is of strategic significance, would diminish the long-term productive capacity of the land and would create an additional dwelling

entitlement that would not support the agricultural use of the land. All of these factors are contrary to planning policy objectives.

It is recommended that Council determine to refuse to grant a permit as the proposal presents an unacceptable outcome with regards to the purposes of the Farming Zone and broader planning policy framework relating to rural subdivisions, dwellings and the protection of agricultural land. Refusal of this application will ensure that the viability of the City's agricultural industry is supported and protected from encroachment from non-agricultural intrusions.

### **Options**

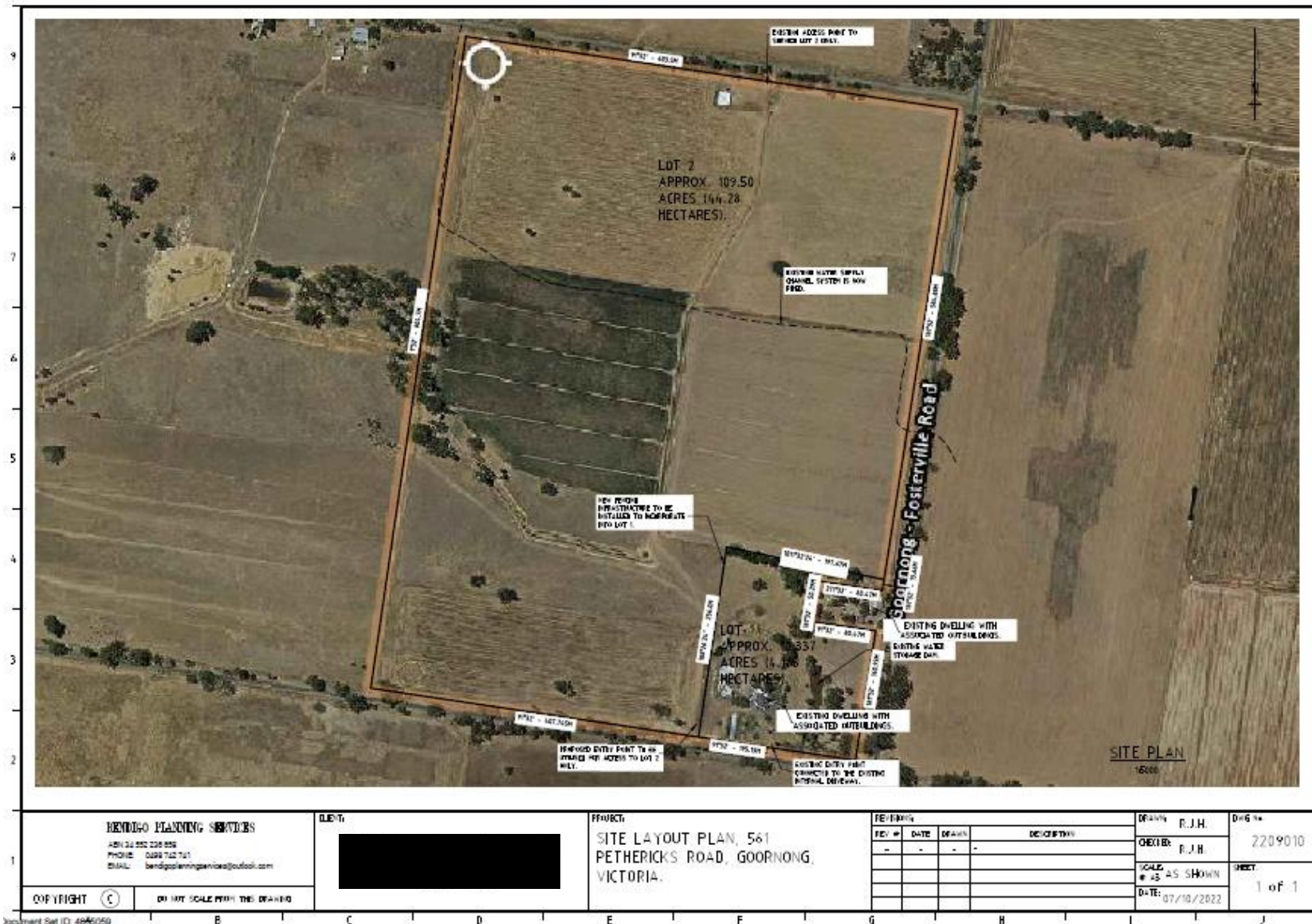
Council, acting as the responsible authority for administering the Greater Bendigo Planning Scheme, may resolve to refuse to grant a permit; grant a permit; or grant a permit with conditions.

### **Conflict of Interest**

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

### **Attachments**

1. Plan of Subdivision - 561 Pethericks Road Goornong [**16.1.1** - 1 page]
2. Planning Report - 561 Pethericks Road Goornong [**16.1.2** - 17 pages]
3. Planning Property Report - 561 Pethericks Road Goornong [**16.1.3** - 3 pages]





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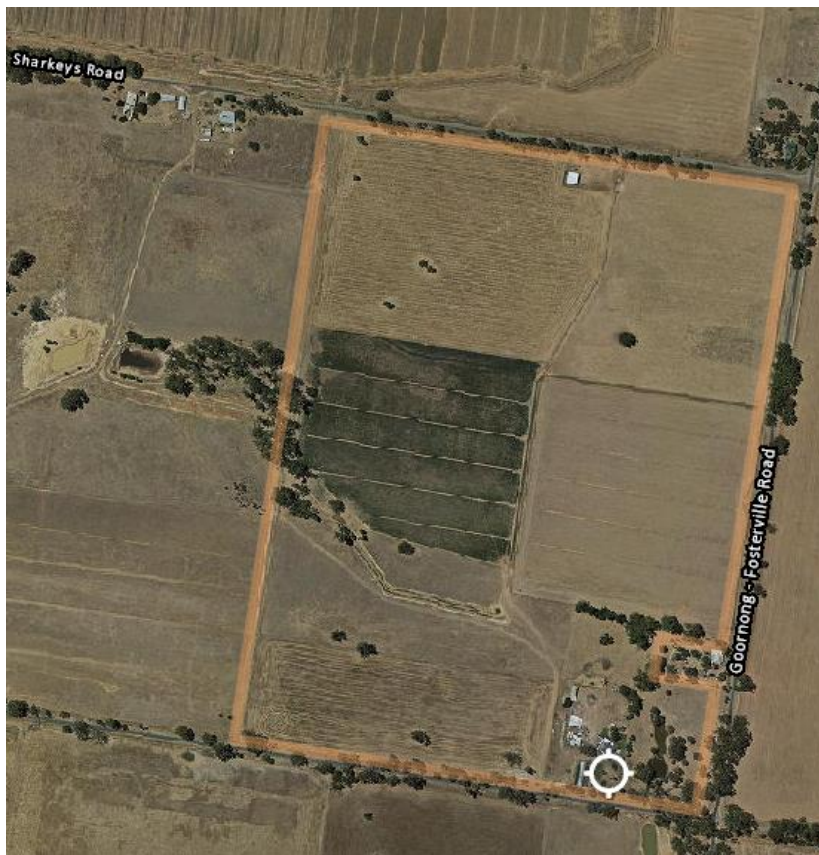
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# Planning Report

City of Greater Bendigo.

Proposal: Rural subdivision.



Address: 561 Pethericks Road (Lot 1, TP911179),  
Goornong, Victoria.

Report No: PR/2209010  
Date: 02/10/2023 amended

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**Mobile:** 0498 742 741

ABN 34 552 236 658

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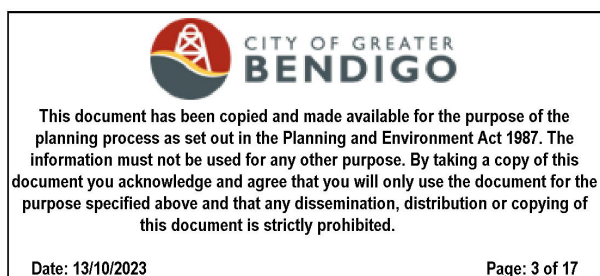
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| Client:              |  |
| Email:               |  |

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|---------------------|-------------------------------------|
| <b>Prepared by:</b> |                                     |
| Consultant:         | Bendigo Planning Services           |
| Telephone:          | 0498 742 741                        |
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| Rev | Date       | Details                   |
|-----|------------|---------------------------|
| A   | 07/10/2022 | Initial draft             |
| B   | 19/10/2022 | Submission draft          |
| C   | 02/10/2023 | Amended – Policy response |



(Signed)

**Rod Hinton**, BUREP (HONS), MACPD  
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02<sup>nd</sup> October 2023  
Date: .....



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## 1.0 Introduction.

**Client:** [REDACTED]

**Proposal:** Rural subdivision

**Property address:** 561 Pethericks Road, Goomong, Victoria

**Land parcel:** Lot 1, TP911179), Parish of Goomong

**Property number:** 187814

**Existing and/or previous land use:** Residential and agricultural use or development.

Bendigo Planning Services has been commissioned by [REDACTED] to produce documentation that supports a planning permit application for rural subdivision at 561 Pethericks Road (Lot 1, TP911179), Goomong, Victoria.

The site is controlled by the following Greater Bendigo Planning Scheme provisions:

- Clause 35.07 - Farming Zone (FZ)

The following is considered applicable:

- Planning approval is required under Clause 35.07 - Farming Zone (FZ) for the proposed subdivision of the site into multiple Lots.

### Note.

Under the Schedule to Clause 35.07 - Farming Zone the minimum Lot size for subdivision within the Goomong area is 40 hectares. However, under Clause 35.07-3 there is an option to create Lots smaller than the indicated Schedule size if the subdivision is for two Lots only and one Lot carries an existing dwelling.

The proposal incorporates the following:

- It is proposed to subdivide the site into two separate Lots.
  - Lot 1 = ~10.33 acres (~4.183 hectares) containing the existing dwelling, outbuildings, water storage dam, different vegetation species, a section of the watercourse/drainage line linked to the water storage dam, and a post and wire separation fence line (Western boundary).
  - Lot 2 = 109.5 acres (44.28 hectares) being wholly irrigated and non-irrigated agricultural land.
- The current agricultural activities undertaken on the site will continue.

### Water and sewer.

A reticulated water and sewer supply is currently not available or connected to the site. All the existing wastewater and potable water services will continue to support the existing dwelling, with no works indicated or required.

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**Stormwater.**

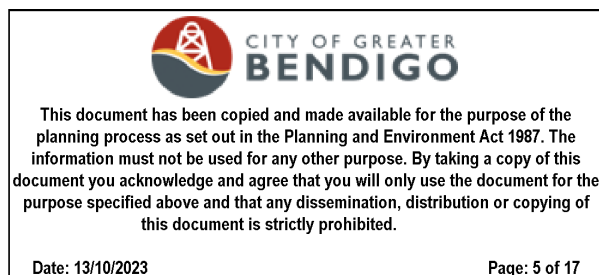
Stormwater dispersal for Lot 2 would be via a legal point of discharge to the satisfaction of the Responsible and/or appropriate Referral Authority or to the existing identified drainage line upon the site. The existing setup upon Lot 1 will continue with no works proposed for the indicated vacant Lot.

**Power, telecommunications and gas.**

A reticulated power and telecommunication supply is available to the locality, and currently connected to the site. Reticulated gas supply is currently not available to the site, with no supply or connection indicated as part of this application. All existing connections will continue with no new connections indicated for the vacant lot.

The proposal has factored in the livelihood, financial and social investment, functionality of the existing dwelling and associated infrastructure, and the agriculturally based land capability to provide a sustainable economic return. The sizing of Lot 1 allows for the retention of all the existing rural residential infrastructure, with the land around the dwelling providing a buffer/separation to Lot 2 operations, with areas for selected non-residential use to occur. The sizing does not impact on the capacity of Lot 2 as it is currently out of the productive area.

The long-term goals are based on strategies to maintain economic stability and a safe rural living environment, with an integral part being the ongoing agricultural productivity. It gave consideration to the many different elements and is deemed to provide use and development consistent with the local area; therefore, it is considered that a positive planning outcome could be achieved.



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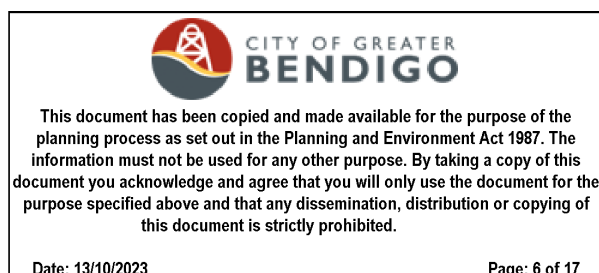
## 2.0 Site and locality details.

561 Pethericks Road is a long standing agriculturally based land parcel of ~49.06 hectares located on the North/West corner of the intersection of Pethericks Road and the Goornong-Fosterville Road, Goornong, ~3.00 kilometres South from the Goornong township area. It currently holds an existing dwelling, multiple outbuilding, a greenhouse structure, access point to Pethericks Road, water storage dam, various native vegetation species, grass coverage and post and wire fencing, all contained within the area at the intersection point. Further out from there, the site holds a single outbuilding, areas set aside for irrigation, feed production and stock keeping (currently on-site) a water supply channel system with a small water storage dam, scattered vegetation, an identified watercourse/drainage line traversing East/West through the centre section along with boundary post and wire fencing.

In its current configuration the site has the capacity of supporting the current and ongoing economically viable mixed agricultural activities, as the available cleared land is seen adequate and the economic investment to sustain such would not be prohibitive. Due to the condensed nature of the existing development on-site, the removal of this section of the land would not result in a fall of productivity for the balance of the site (separate proposed Lot). The area containing the dwelling etc abuts a residential developed site directly to the North with the balance of the site abutting Pethericks Road to the South, the Goornong-Fosterville Road to the East, Sharkeys Road to the North and an agriculturally based site to the West. Within a 1.0 kilometre radius of the site there are ~21 properties with residential development present.

The area directly to the North on an East/West arc has traditionally been an area with agricultural enterprises, environmental land holdings, lower density rural residential development, and the allocated township area of Goornong, with the area to the South on an East/West arc has more lower density residential development associated with various agricultural and non-agricultural land (Wellsford State Forest, Fosterville Mine). The existing agricultural properties are used for a range of activities, such as stock grazing, stock feed production and cropping, with the size of the agricultural holdings varying in relation to the activity and historical development.

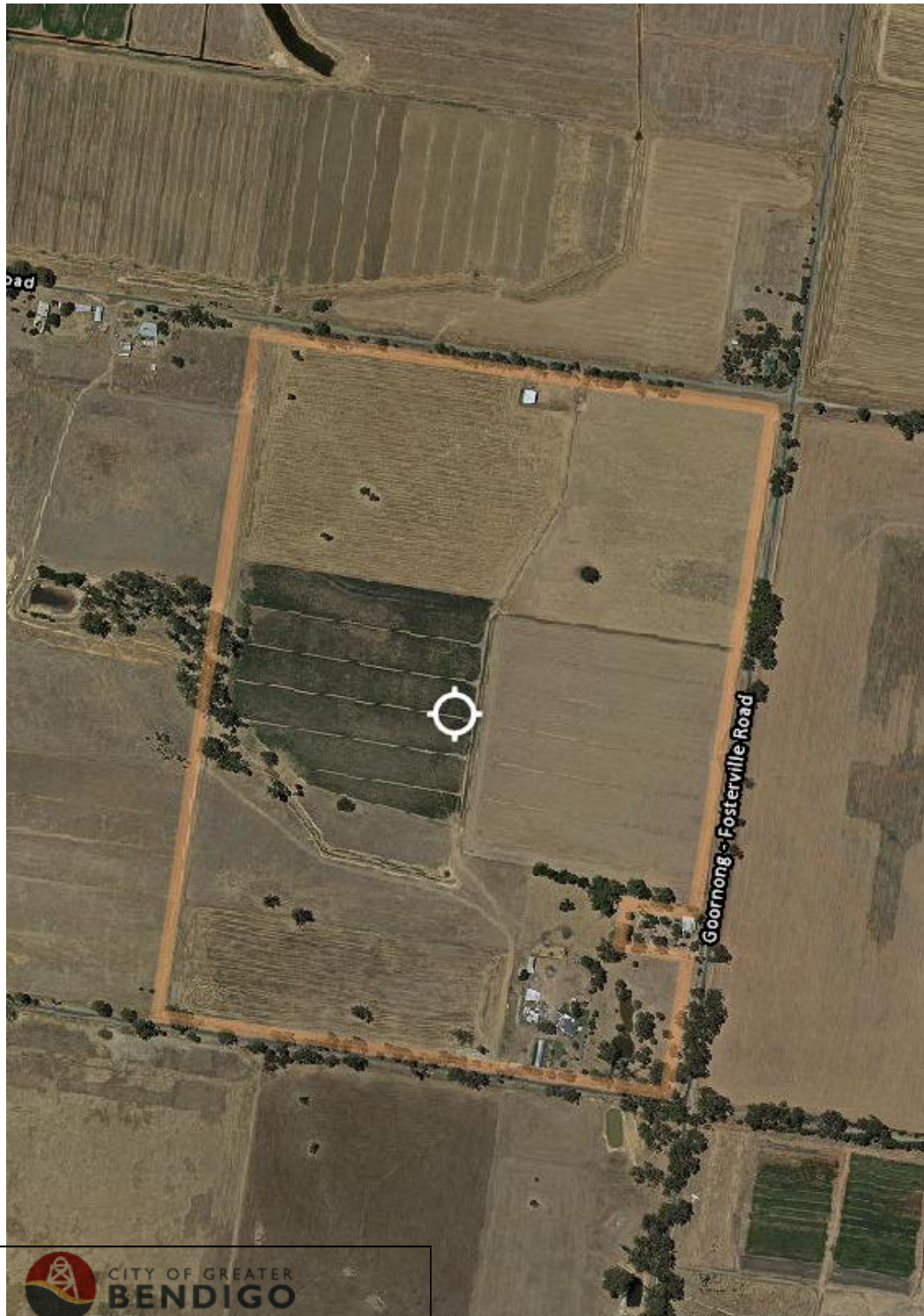
Some of the existing rural residential based sites typically follow the main road-ways with some dispersed upon large land holdings. These areas are somewhat separated to high value productive agricultural land by designated bushland reserves and parklands, small land holdings, and other land uses.



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Figure 1 - Site aerial view.

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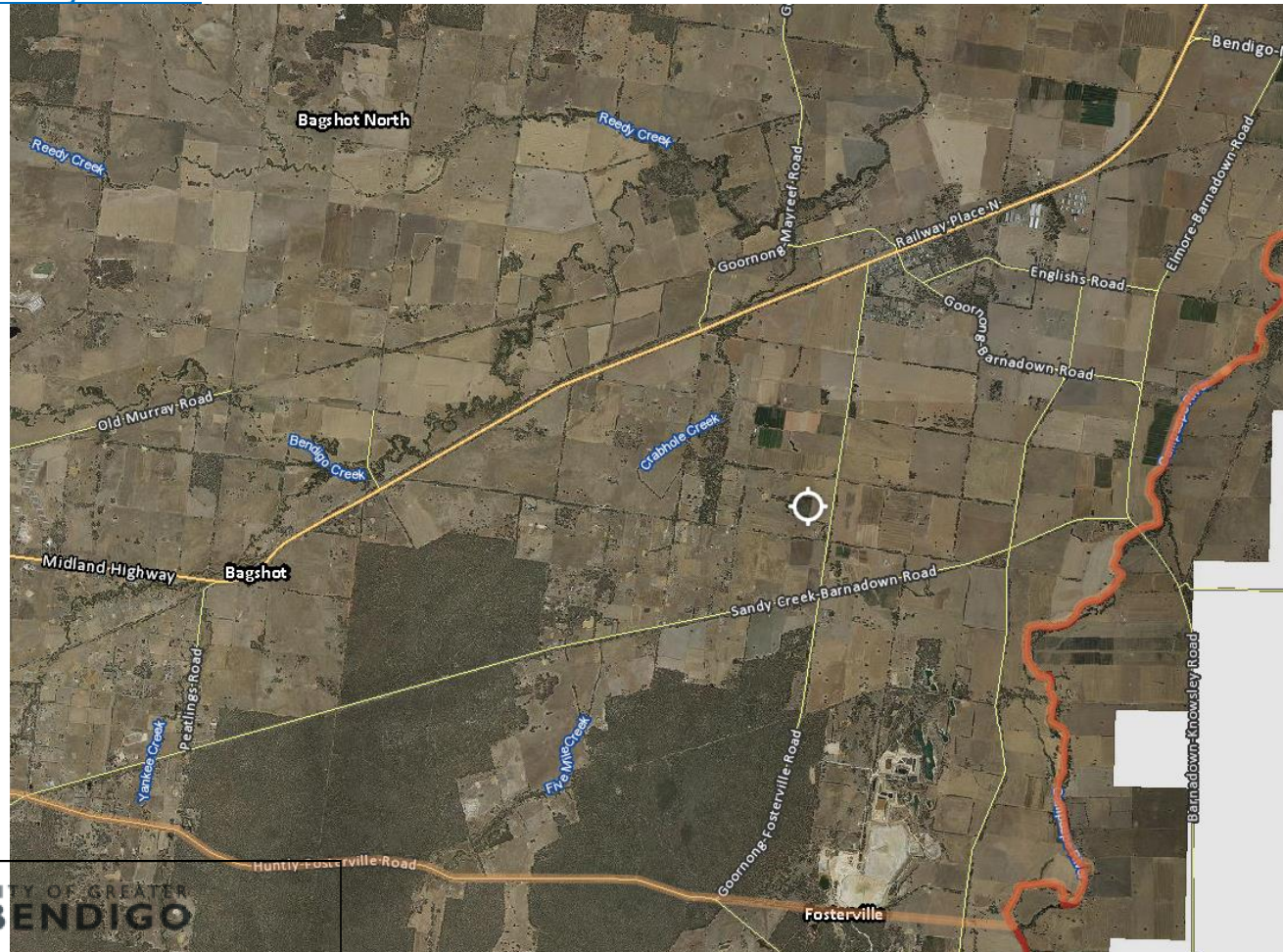
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**Figure 2 - Locality aerial view.**

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### 3.0 Greater Bendigo Planning Scheme.

From the Greater Bendigo Planning Scheme, the following section will identify the relevant policies and the main objective of each.

#### VPP. 02.03-1 – Settlement.

Greater Bendigo has experienced strong population growth. This growth is supported by State Government strategies and is forecast to continue.

The strategic directions for settlement are:

- Contain most of Greater Bendigo's growth within the Bendigo Urban Growth Boundary.
- Facilitate 10 minute neighbourhoods that:
  - Enable people to spend less income on the combined cost of housing and transport.
  - Minimise environmental impacts associated with transport.
  - Promote a healthy lifestyle through active transport choices.
  - Increase neighbourhood safety through activation of the public realm.
  - Increase community interaction.
  - Support the local economy.

#### VPP. 02.03-5 - Built environment and heritage.

The key built environment and heritage issues for Greater Bendigo are:

- Creating healthy environments.
- Protecting neighbourhood character and heritage assets while encouraging infill development.
- Supporting environmentally sustainable development.

#### LPP. 11.01-1L-01 – Settlement – Greater Bendigo.

##### Policy application.

This policy applies to land identified for residential growth on the Bendigo urban area residential framework plan that forms part of this clause and the rural townships of Heathcote, Elmore, Goomong, Marong, Redesdale-Mia Mia and Axedale.

##### Objective.

To manage Greater Bendigo's outward growth and avoid further sprawl by directing growth to identified locations.

#### LPP. 11.02-2L – Structure planning – Greater Bendigo.

##### Strategies.

- Facilitate the orderly development of large and neighbourhood activity centres, rural townships and growth areas by preparing structure plans that:
- Consider heritage values and neighbourhood character.
- Protect and strengthening biodiversity assets.

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#### **VPP. 11.03-6S – Regional and local places.**

The objective is to facilitate integrated place-based planning.

#### **VPP. 13.02-1S – Bushfire planning**

To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

#### **VPP. 14.01-1S – Protection of agricultural land.**

To protect the state's agricultural base by preserving productive farmland.

#### **VPP. 14.01-1L – Protection of agricultural land – Greater Bendigo.**

Policy application.

This policy applies to all applications to use, develop and subdivide land in the Farming Zone and Rural Conservation Zone.

Strategies.

Avoid subdivisions that:

- Do not support the agricultural use of land in the Farming Zone.
- Result in the fragmentation of agricultural land in the Farming Zone and Rural Conservation Zone.
- Support subdivisions that facilitate productive and efficient agricultural outcomes, particularly farm consolidation.

Avoid subdivisions in the Farming Zone that create additional dwelling entitlements that are not required for the agricultural use of the land.

Avoid the excision of existing dwellings unless the excision will:

- Facilitate productive and efficient agricultural outcomes, particularly farm consolidation.
- Minimise the loss of productive agricultural land.
- Support the viability of agricultural land for agricultural purposes.
- Provide for an excised dwelling that will not impact adjoining agricultural activities.

#### **Response.**

With the current overall site configuration, allowing the subdivision would not alter or impact the potential use of the farmable land as the two separate sections of the farm (the area around the dwelling and the irrigated land section) are currently, and previously for an extended period of time, been used as totally separate entities, each with totally separate infrastructure. The proposed Lot 2 of the overall site is currently leased to a local farming enterprise as an extension to their current operation. The proposed Lot 1 is currently used, and will continue to be used, by the landowner for its current activities.

The concern of possible adverse impacts upon occupants of the proposed Lot 1 from future use and development upon Lot 2, can be addressed by the fact that there is a reasonable parcel of land (buffer strip) upon the proposed Lot 1 currently utilised for an agricultural activity. As the dwelling upon Lot 1 is associated with an agricultural use and the balance of the land is currently used for an agricultural use, the landowners have an understanding of potential disruptions and impacts from these associated activities. It must be noted that there are existing dwellings (282 and 350 Goomong-Fosterville Road and 359 Sharkeys Road) which have direct connection to the farmable land with no concerns raised by the occupants as the activities currently undertaken are seen as part of living in a farming rural community.

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The sizing of Lot 2 (>40 hectares) was established under the reasoning that although a possible future dwelling would fall under a Section 1 Use of the Farming Zone (no planning permit required) the site could continue to be used as to support the existing lease practice or create new farming enterprise by new settlers to the Goornong area. It is believed that this proposed subdivision would not decrease farmable land as both proposed Lot 1 and Lot 2 are at this time farmed very separately with no reasoning why this shouldn't continue.

It is the belief that the subdivision could provide a valuable expansion to a local farming enterprise via the addition of irrigatable land to their current farming operation, or allow the establishment of a completely new farming enterprise on land with sustainable and productive capacity. In its current form, the farm holding (in particular the proposed Lot 1 – irrigated section) has been used in conjunction with other family-owned farmland as part of a whole farm operation. The current landowners are passionate in regard to maintaining farm land in farmers ownership and with these beliefs in mind, it is considered that the proposal would substantially benefit the local community not create a negative flow on.

**VPP. 15.01-5S – Neighbourhood character.**

This focuses on recognizing, supporting, and protecting neighbourhood character, cultural identity and sense of place.

**VPP. 15.01-6S – Design for rural areas.**

The key objective is to ensure development respects valued areas of rural character.

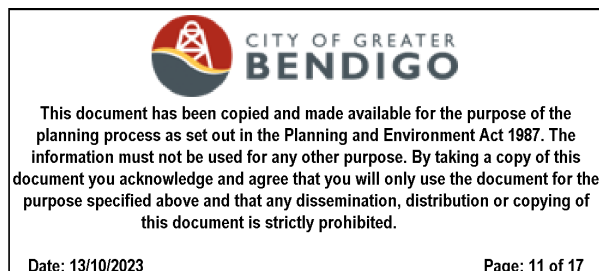
**17.01-1L – Diversified economy – Greater Bendigo.**

The objective is to support development that maintains Bendigo as the key regional city and economic growth hub for the Loddon Mallee South region.

**Response.**

The proposal has considered the above planning policies objectives and strategies, the local agricultural businesses with supportive residential development, suitable land size for agricultural production (Lot 2), impacts upon the operational capacity of Lot 1 and the environmental characteristics and potential hazards of the local and wider area. By doing so it is thought that the proposal would produce an acceptable planning outcome and one that will not negatively impact upon or remove viable agricultural land from productivity.

Sustainability in the broader term, would relate to maintaining and the promotion of the cultural (rural residential and environmental appeal), physical (open space and connectivity provisions), economic (viable economic return) and well-being (mental and physical) of the future occupants of the property in question. As well as the above, the size and layout of the proposal allows for design parameters which promote levels of construction sustainability.



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**4.0 - Zone, Overlay and particular provisions.**

The subject applicable planning controls are as follows:

**Clause 35.07 – Farming Zone (FZ).**

The purpose of Clause 35.07 – Farming Zone is as follows:

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

**Subdivision.**

A permit is required to subdivide land.

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

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

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

**Response.**

Planning approval is required under Clause 35.07 - Farming Zone (FZ) for the proposed subdivision of the site into multiple Lots.

**Note.**

Under the Schedule to Clause 35.07 - Farming Zone the minimum Lot size for subdivision is 40 hectares. Under Clause 35.07-3 there is an option to create Lots smaller than the indicated Schedule size if the subdivision is for two Lots only and one Lot carries an existing dwelling.

**Note.**

Existing rights can be established under Clause 63 – Existing use as the occupancy of the dwelling could satisfy the listed elements. The establishment of existing use rights does not remove the proposal from planning approval for the proposed subdivision.



CITY OF GREATER  
**BENDIGO**

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**35.07-6 Decision guidelines.**

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

**General issues.**

- The Municipal Planning Strategy and the Planning Policy Framework.
  - The provisions of each have been addressed previously within this report.
- Any Regional Catchment Strategy and associated plan applying to the land.
  - The North Central Regional Catchment Strategy 2021-2027 applies, with the intended continuous agricultural and residential usage not conflicting with the goals of the strategy.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
  - The land is capable of holding and sustaining the overall proposal as Lot 1 will continue its residential based use and Lot 2 will be utilised for ongoing cropping production and stock keeping. The soil can accommodate the current mixed agri uses with the existing wastewater treatment system and the other existing infrastructure provisions not being interrupted.
- How the use or development relates to sustainable land management.
  - Sustainable land management could occur with the agricultural employed processes ensuring good soil, water and weed management is achieved along with continuous economic returns. It is thought that the subdivision would have minimal impact upon the operational capacity of Lot 2, or the capacity of the dwelling and the associated buildings and designated land of Lot 1.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
  - The subdivision of the site would retain the current development configuration upon Lot 1 and would see the continuous use of Lot 2, which is consistent with the existing adjoining ag based land holdings and the provisions of the Farming Zone.
- How the use and development make use of existing infrastructure and services.
  - The existing residency will utilise the current connection provisions and adjoining road network, with Lot 2 not requiring any additional infrastructure provisions other than new Lot internal boundary fencing delineating the two sites.

**Agricultural issues and the impacts from non-agricultural uses.**

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

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- It is thought that the creation of the two separate Lots would not diminish the capacity of the current and future agricultural production undertaken on the property.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
  - The proposed subdivision will not impact the soil quality or remove viable agricultural land due to the condensed nature of the development and the allocated land size for Lot 1.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
  - The proposal would not limit the current or future agricultural production on the site or on nearby land.
- The capacity of the site to sustain the agricultural use.
  - The creation of the two separate Lots would not impact upon or diminish the capacity of the land from an agricultural perspective.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
  - The soil of the area, being shallow stony uniform and gradational soil with red and/or yellow duplex soils dispersed, has traditional qualities that supports current agricultural activity within the wider locality. The proposal can utilise the existing rural infrastructure with alternative provisions implemented with no adverse effect on agricultural qualities.
- Any integrated land management plan prepared for the site.
  - No integrated land management plan has been produced for the subject Lot.

#### **Environmental issues.**

- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.
  - The proposal would have minimal impact on the natural physical features, soil and water quality or the natural or invested resources of the site and surrounding area.
- The impact of the use or development on the flora and fauna on the site and its surrounds.
  - The proposed subdivision is deemed to not detrimentally affect the flora or fauna on the site or the habitat values of the land or the immediate surroundings. Any vegetation associated with both Lots would not be impacted upon by the overall proposal.

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- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The proposal would not adversely affect the biodiversity of either the site or the surrounding land, with no specific protection measures thought to be required.

### Particular provisions.

After reviewing the Greater Bendigo Planning Scheme, it is considered that there are no specific particular provisions applicable to the application.

## 5.0 Decision Guidelines.

### 65.01 – Approval of an application or plan.

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

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

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

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

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.

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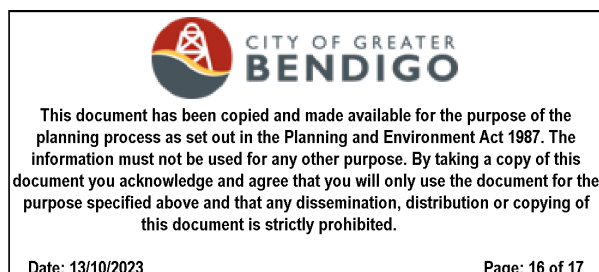
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.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

**Response.**

The proposal has considered and addressed the above identified factors where appropriate. It has addressed the natural and built characteristics and limitations of the site and of the surrounding landscape, and as such will have minimal impact on the productivity and amenity of the site and locality. It is thought to be in line with the direction and objectives for rural areas of the City of Greater Bendigo and the Greater Bendigo Planning Scheme.

**6.0 Conclusion.**

The proposal is considered to address and be in accordance with the applicable provisions, therefore planning approval is sought under the provisions of the Greater Bendigo Planning Scheme.



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## PLANNING PROPERTY REPORT



Environment,  
Land, Water  
and Planning

From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 11 December 2023 10:13 AM

### PROPERTY DETAILS

Address: **561 PETHERICKS ROAD GOORNONG 3557**  
 Lot and Plan Number: **Lot 1 TP911179**  
 Standard Parcel Identifier (SPI): **1\TP911179**  
 Local Government Area (Council): **GREATER BENDIGO**  
 Council Property Number: **187814**  
 Planning Scheme: **Greater Bendigo**  
 Directory Reference: **Vicroads 44 J4**

[www.bendigo.vic.gov.au](http://www.bendigo.vic.gov.au)

[Planning Scheme - Greater Bendigo](#)

### UTILITIES

Rural Water Corporation: **Goulburn-Murray Water**  
 Urban Water Corporation: **Coliban Water**  
 Melbourne Water: **Outside drainage boundary**  
 Power Distributor: **POWERCOR**

### STATE ELECTORATES

Legislative Council: **NORTHERN VICTORIA**  
 Legislative Assembly: **BENDIGO EAST**

### OTHER

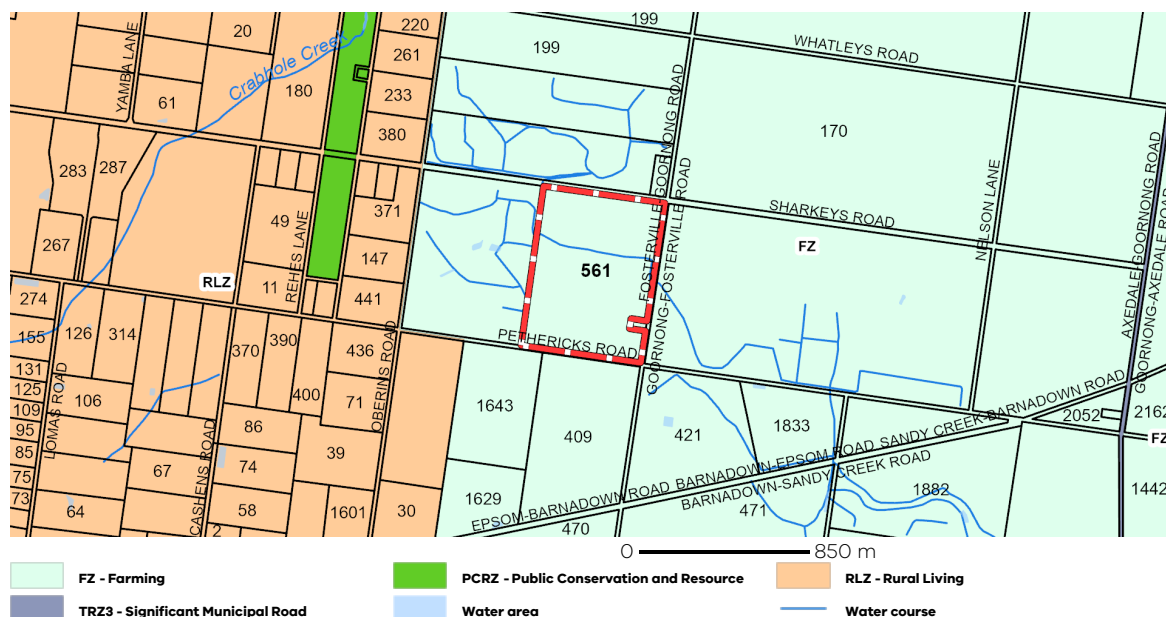
Registered Aboriginal Party: **Dja Dja Wurrung Clans Aboriginal Corporation**

[View location in VicPlan](#)

### Planning Zones

[FARMING ZONE \(FZ\)](#)

[SCHEDULE TO THE FARMING ZONE \(FZ\)](#)



Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

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PLANNING PROPERTY REPORT: 561 PETHERICKS ROAD GOORNONG 3557

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## PLANNING PROPERTY REPORT



Environment,  
Land, Water  
and Planning

### Planning Overlay

None affecting this land - there are overlays in the vicinity

#### OTHER OVERLAYS

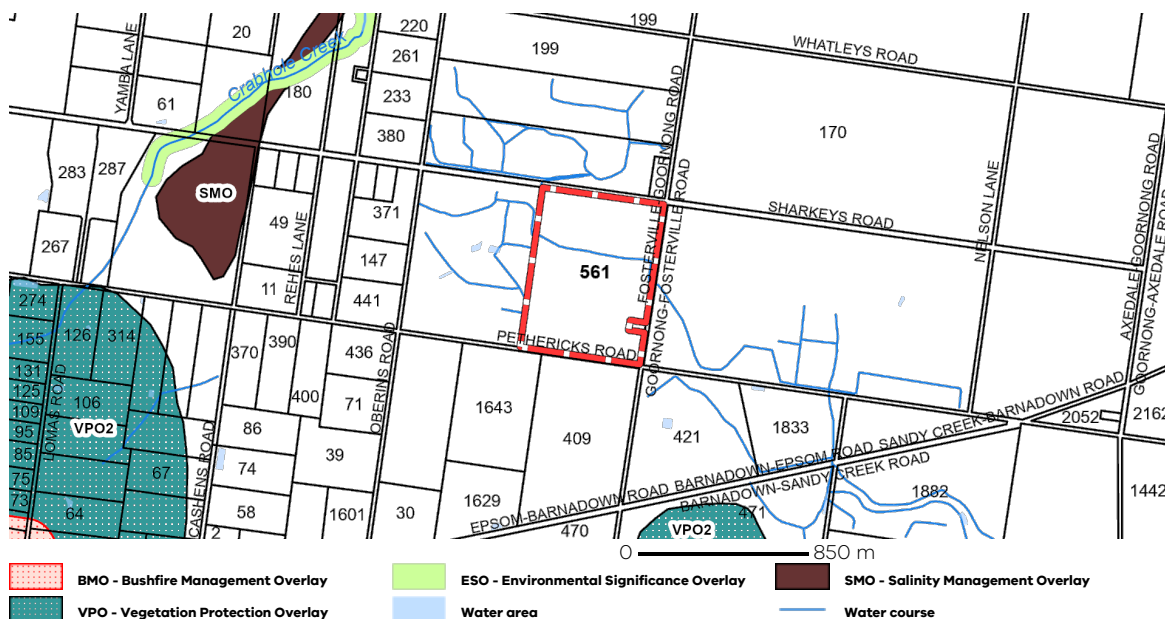
Other overlays in the vicinity not directly affecting this land

[BUSHFIRE MANAGEMENT OVERLAY \(BMO\)](#)

[ENVIRONMENTAL SIGNIFICANCE OVERLAY \(ESO\)](#)

[SALINITY MANAGEMENT OVERLAY \(SMO\)](#)

[VEGETATION PROTECTION OVERLAY \(VPO\)](#)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

### Further Planning Information

Planning scheme data last updated on 7 December 2023.

A **planning scheme** sets out policies and requirements for the use, development and protection of land.

This report provides information about the zone and overlay provisions that apply to the selected land.

Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**.

It does not include information about exhibited planning scheme amendments, or zonings that may affect the land.

To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit

<https://mapshare.maps.vic.gov.au/vicplan>

For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

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## PLANNING PROPERTY REPORT

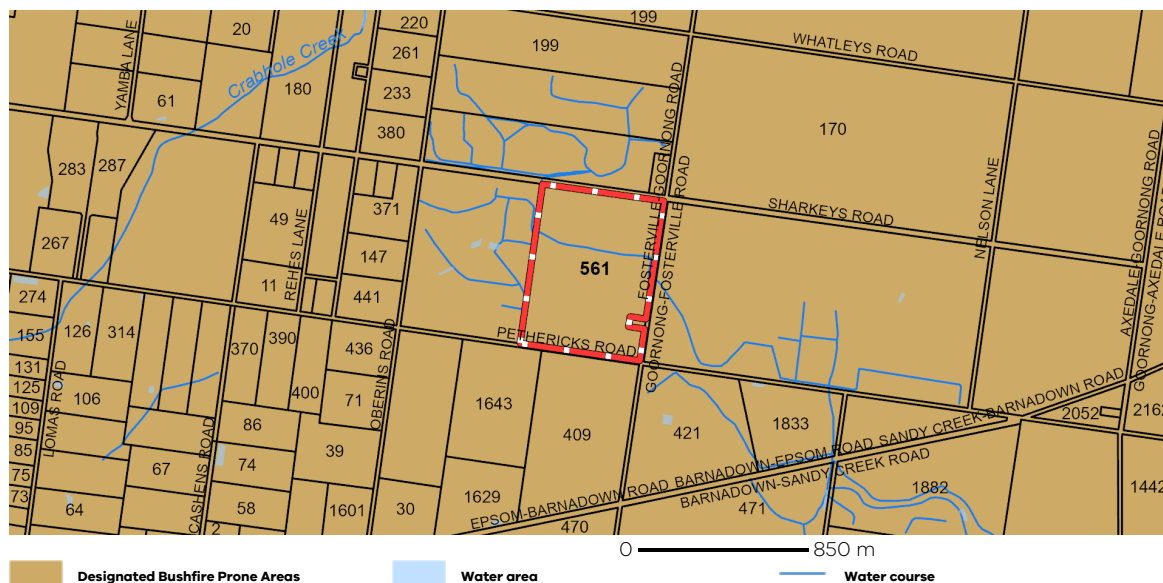


### Designated Bushfire Prone Areas

**This property is in a designated bushfire prone area. Special bushfire construction requirements apply to the part of the property mapped as a designated bushfire prone area (BPA). Planning provisions may apply.**

Where part of the property is mapped as BPA, if no part of the building envelope or footprint falls within the BPA area, the BPA construction requirements do not apply.

Note: the relevant building surveyor determines the need for compliance with the bushfire construction requirements.



Designated BPA are determined by the Minister for Planning following a detailed review process. The Building Regulations 2018, through adoption of the Building Code of Australia, apply bushfire protection standards for building works in designated BPA.

Designated BPA maps can be viewed on VicPlan at <https://mapshare.vic.gov.au/vicplan/> or at the relevant local council.

Create a BPA definition plan in [VicPlan](https://mapshare.vic.gov.au/vicplan/) to measure the BPA.

Information for lot owners building in the BPA is available at <https://www.planning.vic.gov.au>.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>. Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>. For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>.

### Native Vegetation

Native plants that are indigenous to the region and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#).

To help identify native vegetation on this property and the application of Clause 52.17 please visit the Native Vegetation Information Management system <https://nvim.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](https://nativevegetation.environment.vic.gov.au/) or please contact your relevant council.

You can find out more about the natural values on your property through NatureKit [NatureKit \(environment.vic.gov.au\)](https://naturekit.environment.vic.gov.au/)

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## 16.2. 172-178 High Street, BENDIGO 3550 - Development of Land for a Convenience Restaurant, Use of Land for Sale and Consumption of Liquor, Display of Signage, Reduction in Car Parking Requirements and Create or Alter Access to a Road in the TRZ2

|                       |  |
|-----------------------|--|
| Author:               | Shannon Rosewarne, Senior Planner        |
| Responsible Director: | Rachel Lee, Director Strategy and Growth |

### Summary/Purpose

|                       |  |
|-----------------------|--|
| Application No:       | DC/37/2023   |
| Applicant:            | Habitat Planning Pty Ltd   |
| Land:                 | 172-178 High Street, BENDIGO 3550  |
| Zoning:               | Commercial 1 Zone  |
| Overlays:             | Nil  |
| No. of objections:    | 10   |
| Consultation meeting: | A consultation meeting was not held.   |
| Key considerations:   | <ul style="list-style-type: none"> <li>• The scope of considerations for this application;</li> <li>• Whether the proposed development is consistent the objectives and purpose of the Commercial 1 Zone;</li> <li>• Whether the proposal achieves an acceptable built form and urban design outcome;</li> <li>• Whether the proposal provides for an acceptable level of on-site car parking;</li> <li>• Whether the proposal to sell and serve alcohol from the premises will result in unreasonable amenity impacts; and</li> <li>• Objections received.</li> </ul> |
| Conclusion:           | The proposal, on balance, is an acceptable planning outcome for the site with regards to the relevant provisions of the Greater Bendigo Planning Scheme. It is recommended that Council approve this application.  |

### Recommended Motion

That Council issue a Notice of Decision to Grant a Permit for Development of Land for a Convenience Restaurant, Use of Land for Sale and Consumption of Liquor, Display of Signage, Reduction in Car Parking Requirements and Create or Alter Access to a Road in the TRZ2 at 172-178 High Street, BENDIGO 3550 subject to the conditions at the end of this report.

### Background Information

The initial plans submitted with the application were not supported. These initial plans showed the proposed building sited close to the boundaries with the adjoining dwellings, with a setback of approximately 14 metres to High Street; a drive through

lane adjacent to the north western and north eastern boundaries; a loading bay on the front façade and additional signage. The plan provided for a total of 14 car spaces.

The application was formally amended in October 2023 to address these urban design concerns raised in relation to the site layout and application documents were updated to reflect the amended proposal. It is the amended application documents that have been considered in this assessment.

## Report

### Subject Site and Surrounds

The subject site is located on the corner of Violet Street and High Street, Bendigo. High Street is a major transport route through Bendigo and is zoned Transport Zone 2. The site is approximately 900 metres from the Bendigo City Centre.

The site has an area of 1,775 square metres and is currently developed with a restaurant building dating to the 1970s, formerly occupied by Pizza Hut, sited in the middle of the property with car parking and accessways around it. The site has a frontage of 59.87 metres to High Street and 51.24 metres to Violet Street. It is irregular in shape and slopes down from the north western corner towards the south east corner. There is an anomaly in the title boundaries with a small sliver of land forming part of the site located between 80 Violet Street and 170 High Street. This sliver is affected by Heritage Overlay 11, however no part of the development is proposed within this part of the site.



**Figure 1:** Extract from title plan for the site showing anomaly in boundary line along northern boundary.

Vehicle access to the site is currently via crossovers on Violet and High Streets. Some mature trees are planted along the north eastern boundary.

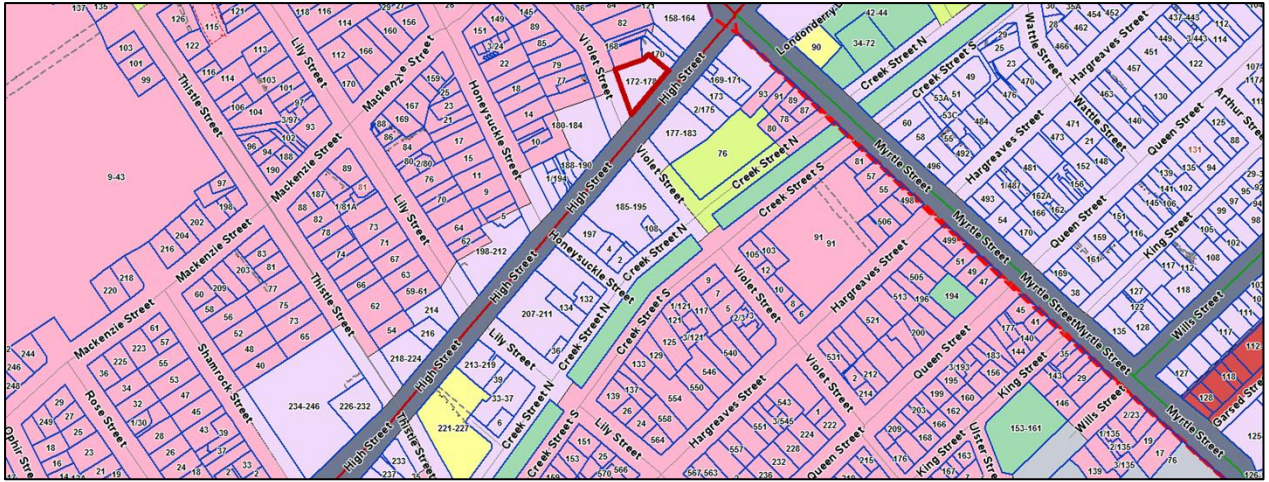
The adjoining land to the north at 80 Violet Street is developed with a single dwelling and associated outbuilding and is zoned General Residential Zone, whilst the adjoining land to the north east is developed with a single dwelling and is zoned Commercial 1 Zone.

The National Hotel complex is situated on the opposite side of Violet Street, on the corner of High Street, and is zoned Commercial 1 Zone. The remainder of Violet Street is characterised by detached dwellings which are within a Heritage Overlay precinct.

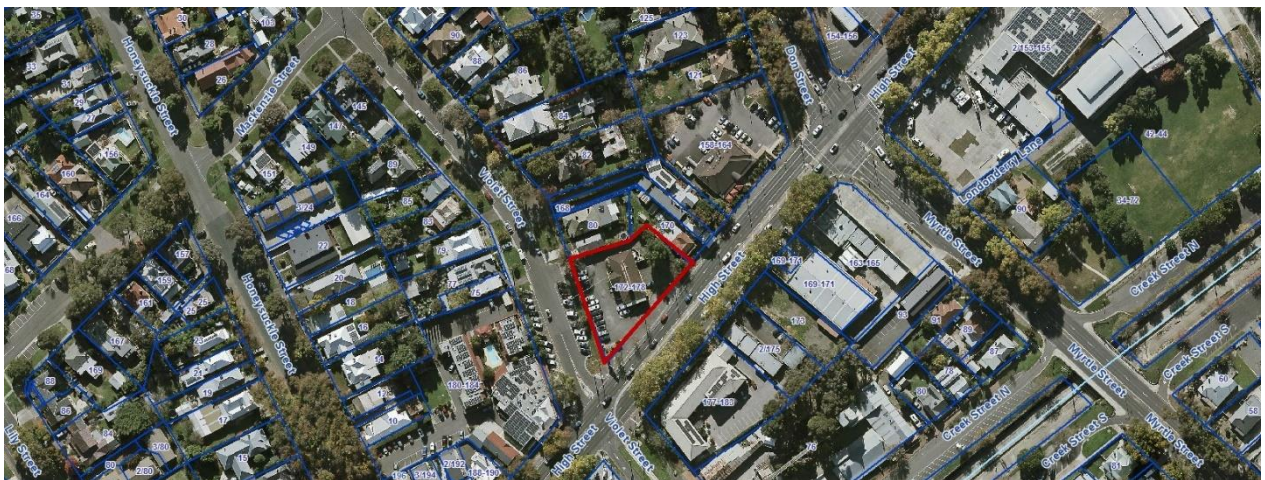
Both sides of High Street from Shamrock Street to Don Street contain a range of land uses including school campuses, food and drink premises (including convenience restaurants), motor vehicle sales, offices, retail premises, service stations, dwellings, motels, a police station and a supermarket.



**Figure 2:** Location map showing subject site. Objectors' properties in proximity to the site marked with a star.



**Figure 3.** Zoning map showing subject site (marked with a red outline) in the context of High Street and the surrounding area.



**Figure 4.** Aerial photograph showing subject site (marked with a red outline) in the context of the surrounding area.

## Proposal

The application proposes the development of the land with a convenience restaurant, associated drive through bays, car parking and the display of advertising signage.

The development would be constructed of painted fibre cement sheet cladding, painted grooved fibre cement sheet cladding, timber look aluminium cladding, metal mesh cladding and recycled brick.

The development would have a floor area of 295 square metres and a maximum height of 7.2 metres. The building would be oriented to High Street with a setback of approximately 1.4 metres to this road, and setback of approximately 14.4 metres to Violet Street at the intersection.

Access to and egress from the site would be via High Street and Violet Street. The proposal would provide for 11 on site car spaces. The drive-through would allow for queuing of 14 vehicles within the site. Landscaping is proposed along the Violet Street boundary, the north western and north eastern boundaries, part of the High Street boundary and centrally within the site adjacent to the drive through.

Signage would comprise a 12 metre high electronic pylon sign, directional signage within the car park, business identification and promotion signage on the building and a banner sign.

The proposal seeks approval for a liquor licence for the sale and consumption of alcohol on the premises. The proposed licensed hours would be:

- Sunday 10am to 11pm
- Good Friday 12 noon to 11pm
- Anzac Day (not being Sunday) 12 noon to 1am the following morning
- On any other day 10am to 1am the following morning

The convenience restaurant would have seating capacity for 60 patrons.



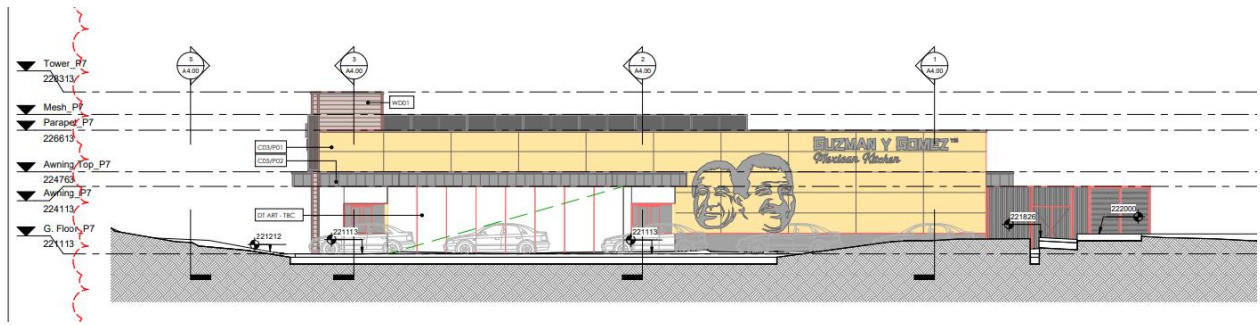


Figure 7. Proposed north west (rear) elevation



Figure 8. Proposed north east elevation

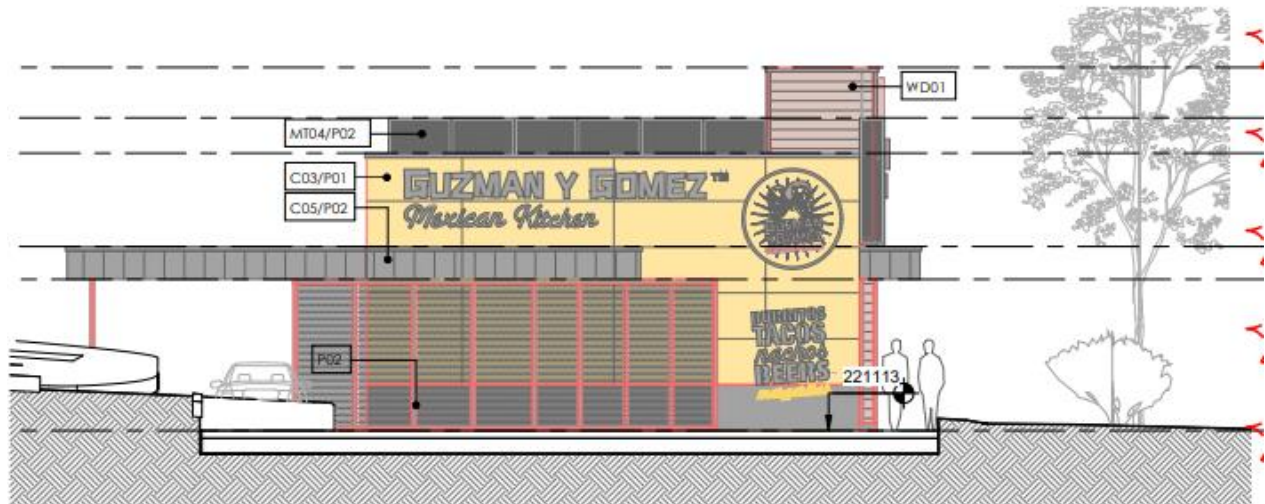


Figure 9. Proposed Violet Street (south west) elevation





| PAINT | P01/GYG YELLOW  | P02/GYG BLACK   | CLADDING  | C03/FC SHEET - PAINTED  | C05/GROVVED FC SHEETING - PAINTED  | WD1/ALUMINUM CLADDING   |
|-------|---|---|---|---|--|---|
|       |  |  |  |  |  |  |
| OTHER | MT4/ EXPANDED MESH  | MT6/ REINFORCED CONST.MESH  | BRICK   | BR1/ RECYCLED BRICK   |  |   |
|       |  |  |  |  |  |   |

Figure 10. Proposed materials and finishes schedule



Figure 11. Proposed landscape plan



**Figure 12.** Proposed sign structures and sign locations

## Planning Controls - Greater Bendigo Planning Scheme

### Why is a permit needed?

The need for a planning permit is triggered by:

- Clause 34.01-4 of the Commercial 1 Zone which states a permit is required to construct a building or carry out works.
- Clause 52.05-11 of the Sign provisions which states that a permit is required for business identification signage exceeding 8sqm, internally illuminated signs more than 3.7 metres above pavement level and within 30 metres of a residential zone and electronic signs in Category 1 – Commercial areas.
- Clause 52.06-3 of the Car parking provisions which states that a permit is required to reduce the number of car parking spaces required under clause 52.06-5.
- Clause 52.27 of the Licensed premises provisions which states that a permit is required to use land to sell or consume liquor if a licence is required under the Liquor Control Reform Act 1988.
- Clause 52.29 of the Land adjacent to the principal road network provisions which states that a permit is required to alter access to road in a Transport Zone 2.

The proposed land use is classed as a convenience restaurant, which is defined in the Planning Scheme as *land used to prepare and sell food and drink for immediate consumption, where substantial provision is made for consumption both on and off the premises.*

Convenience restaurant falls under the broader definition of Food and Drink Premises, which is nested under Retail Premises in the land use terms at Clause 73.03. Retail premises is a Section 1 (permit not required) use in Commercial 1 Zone.

The following clauses are relevant in the consideration of this proposal:

#### Municipal Planning Strategy

- Clause 02.01 Context
- Clause 02.03-3 Environmental risks and amenity
- Clause 02.03-5 Built environment and heritage
- Clause 02.03-7 Economic development
- Clause 02.03-8 Transport
- Clause 02.04 Strategic framework plans

#### Planning Policy Framework

- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement – Loddon Mallee South
- Clause 11.01-1L-01 Settlement – Greater Bendigo
- Clause 11.01-1L-02 10 Minute neighbourhoods – Greater Bendigo
- Clause 13.05-1S Noise management
- Clause 13.07-1L Licensed premises – Greater Bendigo
- Clause 15.01-1S Urban design
- Clause 15.01-1L-01 Landscaping – Greater Bendigo
- Clause 15.01-1L-03 Signs
- Clause 15.01-2S Building design
- Clause 17.01-1L Diversified economy – Greater Bendigo
- Clause 17.02-1S Business
- Clause 17.02-1L Business – Greater Bendigo
- Clause 18.01-1S Land use and transport integration
- Clause 18.01-3L Sustainable personal transport – Greater Bendigo
- Clause 18.02-4S Roads
- Clause 18.02-4L-01 Highways and boulevards – Greater Bendigo
- Clause 18.02-4L-03 Car parking – Greater Bendigo

### Other Provisions

- Clause 34.01 Commercial 1 Zone
- Clause 52.05 Signs
- Clause 52.06 Car parking
- Clause 52.27 Licensed premises
- Clause 52.29 Land adjacent to the principal road network
- Clause 52.34 Bicycle facilities
- Clause 53.18 Stormwater management in urban development
- Clause 65.01 Decision guidelines
- Clause 66 Referrals
- Clause 71.02-3 Integrated decision making

### **Policy Context**

#### ***Primary Council Plan Reference***

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025

Outcome 2 – Healthy, liveable spaces and places

#### ***Secondary Council Plan Reference(s)***

Goal 7 – Sustainable population growth is planned for

### **Consultation/Communication**

#### Referrals

The following authorities and internal departments have been consulted on the proposal:

| Referral                             | Comment  |
|--------------------------------------|--|
| Department of Transport and Planning | No objection subject to the following conditions:<br><br>1. Vehicles must only access the site from High Street in left in/left out movements.<br><br>2. Prior to commencement of the buildings and/or works amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible |

| Referral          | Comment   |
|-------------------|---|
|                   | <p>Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be modified to show:</p> <p>(a) Sign No Right Turn R2-6 must be provided at the High Street access point to the development.</p> <p>3. Prior to commencement of the use the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.</p> <p>4. Prior to commencement of the use the access lanes, driveways, crossovers and associated works must be provided and available for use and be:</p> <p>(a) Generally in accordance with the endorsed plan</p> <p>(b) Formed to such levels and drained so that they can be used in accordance with the endorsed plans.</p> <p>(c) Treated with an all-weather seal or some other durable surface.</p> <p>5. Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway).</p> <p>6. Prior to commencement of the use the following roadworks on High Street must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria:</p> <p>(a) Left-in left-out access.</p> |
| Drainage Engineer | No objection. No conditions were requested; however it is recommended that a standard condition requiring drainage to the satisfaction of the responsible authority be included in the permit.  |

| Referral         | Comment   |
|------------------|---|
| Traffic Engineer | <p>No objection. The following comments were made:</p> <ul style="list-style-type: none"> <li>• Accessible parking bays, where required by the BCA, must be provided in accordance with AS/NZ 2890.6-2009, section 2 and must be signed in accordance with AS/NZ 1742.11-1999 and line marked in accordance with AS/NZ 2890.6-2009, section 3.</li> <li>• The entry/exit, the internal roadway and the parking areas must be sealed and the car parking spaces line marked and maintained to Council's satisfaction. (Clause 52.06-11)</li> <li>• The carpark must be provided with public lighting in accordance with AS/NZ 1158.3.1 with fittings to minimise spill lighting on to neighbouring property (including road reserves) in accordance with AS/NZ 4282-1997.</li> <li>• The development must ensure sight lines at the exit driveway comply with Clause 52.06-9.</li> <li>• Any alterations to the driveways between the property boundary and the kerb must be constructed in accordance with the Infrastructure Design Manual.</li> <li>• A "Works Within Road Reserve Permit" must be obtained from Council's Engineering Department prior to commencing any work outside the property boundary on the road reserve in Violet Street.</li> </ul> |
| Urban Designer   | <p>Initial comments on the proposal:</p> <p>Supported locating a convenience restaurant on this site as it is appropriate for the urban context. Adoption of acoustic treatments on the Violet Street boundary increases the protection of the neighbouring occupants amenity.</p> <p>The following concerns were raised in relation to the design:</p> <p>Building location:</p> <ul style="list-style-type: none"> <li>• Locating the restaurant building in the north corner of the site is not an appropriate response to the urban context. Please relocate the building as close to the south corner of the site as possible whilst</li> </ul>  |

| Referral | Comment   |
|----------|---|
|          | <p>aligning to the setbacks of High Street and Violet Street.</p> <p>Car parking and vehicle access:</p> <ul style="list-style-type: none"> <li>• Car parking and vehicle queuing areas to be located to the rear of the site.</li> <li>• Relocate loading to Violet Street.</li> </ul> <p>Pedestrian access:</p> <ul style="list-style-type: none"> <li>• Ensure pedestrian access within site connects to the existing footpaths.</li> <li>• Maximise the number of pedestrian entries along street frontages to provide for public interaction and long-term flexibility of tenancy.</li> </ul> <p>Street activation:</p> <ul style="list-style-type: none"> <li>• Locate restaurant entrance and outdoor dining on a street frontage to maximise opportunity for street activation.</li> <li>• Provide weather protection to footpaths and outdoor dining where possible.</li> </ul> <p>Façade articulation:</p> <ul style="list-style-type: none"> <li>• Please provide plans and elevations showing the location of selected materials, heights of screens/fences, heights of parapets and heights of canopies</li> <li>• Please provide photographs of specified materials nominating a supplier and product name where possible.</li> <li>• All visible elevations are to be designed to a high standard and in response to the street context.</li> </ul> <p>Materials:</p> <ul style="list-style-type: none"> <li>• Ensure metal decking to roof areas is a light colour to reduce the heat island effect and the heat load of the building fabric.</li> <li>• Ensure material selection responds to the urban context.</li> </ul> <p>Landscape Design:</p> |

| Referral           | Comment   |
|--------------------|---|
|                    | <ul style="list-style-type: none"> <li>Greening Greater Bendigo requires 15% site area landscaping and 50% tree canopy coverage of car park area.</li> </ul> <p>Waste management:</p> <ul style="list-style-type: none"> <li>Increase the size of the bin storage area to allow for food organics bins.</li> </ul> <p>Signage:</p> <ul style="list-style-type: none"> <li>Integrate signage into the building design.</li> <li>Minimise the use of free-standing signage.</li> </ul> <p><i>The applicant subsequently consulted further with the City's Urban Designer on an amended design before formally amending the application.</i></p> <p>The amended application was re-referred for comment. The City's Urban Designer advised there were generally no concerns with the amended design but recommended that:</p> <ul style="list-style-type: none"> <li>Fencing materials around the bin area be confirmed</li> <li>Sign ES-3 on Violet Street be relocated to within the title boundary</li> <li>Confirmation be sought on whether the digital screen to Sign PS-1 is static or flashing</li> <li>That Sign PS-1 be reduced in height to not exceed 9 metres.</li> </ul> |
| Strategic Planning | <p>The following comments were received in relation to the initial design.</p> <p>The Golden Square Structure Plan boundary and the City Centre Urban Design Framework boundary are in very close proximity to the subject site.</p> <p>The proposal has the following positive aspects:</p> <ul style="list-style-type: none"> <li>The site in its current form is underutilised, the proposal creates economic growth and job opportunities.</li> <li>The development is good incentive to the growth of Golden Square and adds to the proximity of the</li> </ul>  |

| Referral | Comment  |
|----------|--|
|          | <p>vibrant town centre.</p> <ul style="list-style-type: none"> <li>• The subject site is on a commercial zone interfaced with residential properties, the lower scale development protects and respects the residential interface.</li> <li>• Acoustic screening between the drive through lane and the residential property minimises the noise impact.</li> </ul> <p>Noted that there were potential improvements in relation to:</p> <p>Orienting the development towards High street:</p> <ul style="list-style-type: none"> <li>• The subject site should support and enhance High Street as a key boulevard entrance into central Bendigo.</li> <li>• The built form should be oriented towards High Street (front boundary), along with provision for public realm/ landscaped space. Provide active ground level street frontage along High Street.</li> <li>• Limit vehicle access to High Street and provide access via Violet Street.</li> <li>• The placement of the building towards high street will enable informal surveillance with windows overlooking the street.</li> </ul> <p>Car park:</p> <ul style="list-style-type: none"> <li>• Proposed car parking area is a dominant feature to High Street.</li> <li>• Car parking should be sited to the rear of the building and should have minimal visual impact on the streetscape.</li> </ul> <p>Pedestrian and active transport:</p> <ul style="list-style-type: none"> <li>• The site plan does not facilitate provision for pedestrian pathways and is dominated by fast moving vehicular traffic.</li> <li>• Provide dedicated, safe, and efficient cycling and walking pathways, connected with the street network. This provides an option for residents to access the restaurant safely on foot and bike.</li> <li>• Design access areas for shared use where practical.</li> </ul> |

| Referral | Comment  |
|----------|--|
|          | <p>Signage and materials:</p> <ul style="list-style-type: none"> <li>• While we acknowledge the importance of signs for businesses, the signage and façade materials need to be sympathetic to the adjoining buildings within the heritage overlay.</li> <li>• The proposed signage is dominated by the colour that does not complement the heritage values and the existing streetscape.</li> <li>• Use materials that create a strong visual connection to the streetscape and public domain.</li> <li>• The colours used on the blank walls should be consistent with the use of the building and street character.</li> </ul> <p>Built form:</p> <ul style="list-style-type: none"> <li>• The proposed materials do not reflect the established rhythm of the street. Provide building façade to reflect the lot pattern and complement the established rhythm of the street.</li> <li>• Building facade design elements should support casual public use or gathering, such as stall riser ledges and recessed benching.</li> <li>• Incorporate greening or artistic treatments to facades.</li> <li>• As a step towards environmentally sustainable design, avoid dark-coloured roof materials and exterior finishes.</li> </ul> <p>Service vehicle access:</p> <ul style="list-style-type: none"> <li>• Proposed service vehicle location is in direct conflict with pedestrians and other vehicles and is visible from the High Street.</li> <li>• Minimise the visibility of the service vehicles from the street and avoid conflicts with the vehicular and pedestrian movement.</li> </ul> <p>Waste Management Plan:</p> <ul style="list-style-type: none"> <li>• The proposed waste storage area is overlooking high street. Conceal waste storage areas as much as possible.</li> </ul> |

| Referral             | Comment  |
|----------------------|--|
|                      | <p>Landscape:</p> <ul style="list-style-type: none"> <li>• The current landscape plan lacks opportunities to enhance the aesthetics of the area.</li> <li>• The landscape design should provide provision to canopy trees along the streetscape and at car parks to reduce the impact of the urban heat island.</li> </ul> <p><i>As noted above, the plans were subsequently amended.</i></p>  |
| Environmental Health | <p>No objection, the proposal is generally suitable. Recommended the following notes be included on the permit:</p> <ul style="list-style-type: none"> <li>• The facility must register with the City of Greater Bendigo under the Food Act 1984 if any beverages or foodstuffs are to be sold, stored, prepared or provided at the facility. Application for registration must include a copy of the Food Safety Program.</li> <li>• The food premises must be constructed and maintained in accordance with the Food Act 1984 and Food Standards Code. It is strongly recommended that a plan of the proposed food premises be submitted to City of Greater Bendigo Environmental Health Department for assessment prior to commencement of construction and/or fit out.</li> <li>• Coliban Water must be contacted to determine whether a Grease Trap will need to be installed.</li> </ul> |

### Public Notification

The application was advertised by way of notice on the site and letters to adjoining and nearby owners and occupiers and two signs displayed on the site. As a result of advertising, 10 objections were received. The grounds of objection are summarised as follows:

#### *Amenity concerns relating to the land use*

- Hours of operation are not compatible with the residential area.
- Delivery times between 7am and 10pm are unsuitable as they will negatively impact nearby residents.

- Concerns about noise, including from ordering points early in the mornings and late at night, patrons congregating within the car park and leaving the premises, vehicles, mechanical plant, delivery and waste collection vehicles, banner signage flapping in the wind.
- Concern that compared to the previous development on the site, the proposal will be more constant noise, over much longer hours with many more nuisance peaks of excessive background noise.
- Traffic report states waste and delivery vehicles will be 8.8m long vehicles whereas the acoustic report states modelling has been based on 6.4m light rigid vehicles. Concern that the acoustic modelling is therefore inaccurate.
- Proposed landscaping and fencing does not provide an adequate buffer to residences in Violet Street who will be impacted by noise.
- The noise assessment does not consider other receivers of noise in Violet Street.
- Another business will put undue pressure on general liveability.
- Overlooking/loss of privacy due to additional traffic and security cameras on site.
- Concerns the proposal will result in an increase in anti-social behaviour.
- Concerns about litter.
- Concerns about amenity impacts from lighting, including from illuminated signage.
- Acoustic screening on the road and residential property sides should be provided for the outdoor ordering area.

#### *Car parking & Bicycle facilities*

- Insufficient parking – 18 spaces required under the Planning Scheme. Only 6 of the 11 spaces proposed will be for dine in customers for the 60 seat restaurant as 3 spaces will be for staff and 2 will be waiting bays.
- The proposal will result in a loss of car spaces on site.
- Insufficient staff parking provided.
- Concern about car parking impacts on Violet Street which is already at capacity during meal times, seven days a week.
- The existing bus service stops at approximately 8pm, so should not be relied upon as a reason to reduce parking requirements.
- No provision for electric vehicle (car and bike) charging facilities.
- Additional bicycle parking should be provided.

### *Traffic impacts*

- Traffic impacts – Violet Street is narrow, congested and dangerous when car spaces are occupied on both sides of the street. Additional traffic will impact on residents' access to their properties.
- The access point on High Street should be limited to exit only and left turn only for cyclist safety. Allowing vehicles to turn into the premises from High Street compromises the safety of cyclists.
- Concerns about how delivery and waste trucks would access the site.
- Concerns about queuing of vehicles in Violet Street during busy periods.
- Traffic calming, directing and signage measures are urgently required as part of any planning permit approval and put in place prior to the opening of the convenience restaurant.

### *Built form and layout*

- Site is not large enough to accommodate a convenience restaurant.
- The development is too small, not dense enough and dedicates too much of the site to vehicles in this inner urban location. The development is focused around the drive through aspect.
- The site would lend itself to a two storey development with the main part of the building located and focused on High Street with car parking underneath.
- The frontage to Violet Street will be focused on motor vehicles, bin storage and deliveries which is not desirable for this corner. The corner is not being activated to the street frontage.
- Residential interface with dwelling opposite the site has not been adequately addressed.
- High acoustic walls on boundaries creates an unacceptable impact on the properties and is imposing on an entrance into town.
- Car parking layout is an inefficient use of space.

### *Signage*

- Proposed signage is excessive, will be a traffic distraction and the colour scheme does not relate to the heritage context.
- The excessively high corner structure for signage is not appropriate for an entry to town or in character with the low scale historic hotel, Heritage Overlay area and nearby Central Deborah Gold Mine.
- A 12 metre high sign is excessive for a single storey development of 7.2 metres height and will result in light disturbance impacts to residents and passing traffic.

- Extent of signage on the boulevard into Bendigo, as corporate paint colouring is considered part of the signage area.

#### *Liquor licence*

- Operator is not a signatory to Bendigo Liquor Accord.
- Proposed liquor licence is within 100 metres of a residential area.
- The proposal will result in a clustering of licensed premises which should be avoided outside the entertainment precinct.
- Amenity concerns regarding the liquor licence.

#### *Planning policy*

- The proposal is not consistent with the City's Highways and Boulevards policy.

The applicant provided a written response to the objections received, which was circulated to objectors. Objectors were given the right of reply. None of the objections were withdrawn through this process and the objections are discussed further within the planning assessment below.

### **Planning Assessment**

#### Relevant Planning Policy

The following clauses of the State and local planning policy framework are relevant in the consideration of this proposal:

Clause 02.01 (Context) of the Municipal Planning Strategy identifies that Greater Bendigo performs a regional service role, with retail being a significant contributor to the economy.

Clause 02.03-3 (Environmental risks and amenity) notes that licensed venues can have considerable social impact on communities and the amenity of areas surrounding venues and need to be appropriately managed. Strategic directions include directing licenced venues to locations that minimise their impact on the amenity of surrounding areas.

Clause 02.03-1 (Settlement) states that 10 minute neighbourhoods are promoted. The Municipal Planning Strategy also promotes Bendigo city centre as the highest order retail and commercial centre servicing northern and central Victoria recognising it is Greater Bendigo's primary employment area, providing a full range of higher order commercial, retail, visitor, social, civic, cultural, tourist and entertainment activities.

Clause 02.03-5 (Built environment and heritage) seeks to implement the principles of 10 minute neighbourhoods, facilitate active transport and compact and sustainable urban forms, and facilitate a safe, pleasant, comfortable and visually appealing urban environment.

Clause 02.03-7 (Economic development) recognises the City's significant retail base and notes that significant demand for commercial floor space is expected until 2035. Strategic directions for economic development include directing commercial growth to activity centres.

Clause 02.03-8 (Transport) contains strategic directions which seek to maximise access to goods, services and facilities by supporting a compact Greater Bendigo and 10 minute neighbourhoods, and move away from private motor vehicles as the dominant form of transport and prioritise active transport.

The site is located on the fringe of the Bendigo city centre activity centre as shown within the Urban Activity Centre Hierarchy Framework Plan at Clause 02.04 (Strategic framework plans).

Clauses 11.01-1S (Settlement) and 11.01-1R (Settlement – Loddon Mallee South) recognise Bendigo as a major regional city and economic hub for the Loddon Mallee Region, offering a range of employment and services. Strategies include promoting and capitalising on opportunities for urban renewal and infill development.

Clause 11.01-1L-02 (10 minute neighbourhoods – Greater Bendigo) seeks to develop a network of attractive neighbourhoods that allow most people to access location facilities and services within a 10 minute walk or cycle from their home.

Clause 11.03-1L (Activity centres – Greater Bendigo) contains a strategy to support convenience restaurants to locate adjacent to or within existing activity centres.

Clause 13.05-1S (Noise management) aims to assist the management of noise effects on sensitive land uses. Strategies include minimising the impact on human health from noise exposure to occupants of sensitive land uses through suitable building siting and design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

The objective of Clause 13.07-1L (Licensed premises – Greater Bendigo) is to provide a safe and vibrant environment for social interaction at live music, food and entertainment venues and protect the amenity of surrounding areas.

Strategies include:

- Avoiding clustering of licensed premises outside the entertainment precinct
- Protecting the amenity of surrounding areas by:

- Managing the location, patron capacity and hours of operation of licensed premises
- Locating licensed premises to minimise detriment to residential properties

Policy guidelines include:

- Considering whether the licensed premises are a signatory to the Bendigo Liquor Accord
- Avoiding the location of new licensed premises in a residential zone or within 100 metres of a residential zone
- Supporting the following hours of operation outside the entertainment precinct:
  - Sunday 10am to 11pm
  - Good Friday 12 noon to 11pm
  - Anzac Day (not being Sunday) 12 noon to 1am the following morning
  - On any other day 10am to 1am the following morning

Clause 15.01-1S (Urban design) aims to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. Strategies include:

- Requiring development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.
- Ensuring development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness.
- Ensuring the interface between the private and public realm protects and enhances personal safety.
- Ensuring development supports public realm amenity and safe access to walking and cycling environments and public transport.
- Ensuring that the design and location of publicly accessible private spaces, including car parking areas, forecourts and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use.
- Ensuring that development provides landscaping that supports the amenity, attractiveness and safety of the public realm.
- Ensuring that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.
- Promoting good urban design along and abutting transport corridors.

Clause 15.01-1L-03 (Signs) contains strategies to:

- Design signs to:
  - Complement the surrounding area
  - Be proportional to the frontage of the site and building
  - Avoid bright or fluorescent block colouring
  - Respect sensitive areas and the heritage significance of buildings
  - Complement the building and surrounds through appropriate colours, lettering and styles
- Ensure illuminated signs automatically turn off overnight or during closed hours when adjoining residential areas.
- Locate signs to:
  - Maintain views and vistas along streetscapes

- Minimise visual distraction and saturation of advertising in public areas
- Avoid the following types of signs:
  - Stand-alone pole signage that is not in proportion and scale with the surrounding building height and form.
  - Lifestyle advert or large graphic signs that occupy more than 50 percent of a wall, fence or building that is visible from the public realm, whichever is the lesser, in locations which amongst other things are outside of activity centres
  - Illuminated signs in or near residential areas
  - Animated or electronic signs including messages, LED and digital displays on sites outside of activity centres and industrial precincts, and along road zones.

Clause 15.01-2S (Building design) seeks to achieve building design and siting outcomes that positively contribute to the local context, enhance the public realm and support environmentally sustainable development. Strategies include:

- Ensuring development responds and contributes to the strategic and cultural context of its location
- Minimising the detrimental impact of development on neighbouring properties, the public realm and the natural environment.
- Ensuring the form, scale and appearance of development enhances the function and amenity of the public realm.
- Ensuring development considers and responds to transport movement networks and provides safe access and egress for pedestrians, cyclists and vehicles.
- Ensuring buildings and their interface with the public realm support personal safety, perceptions of safety and property security.
- Ensuring development provides landscaping that responds to its site context, enhances the built form, creates safe and attractive spaces and supports cooling and greening of urban areas.

Clause 17.01-1L (Diversified economy – Greater Bendigo) contains the objective of supporting development that maintains Bendigo as the key regional city and economic growth hub for the Loddon Mallee South region.

Clause 17.02-1S (Business) seeks to encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

Clause 18.01-1S (Land use and transport integration) contains the objective to facilitate access to social, cultural and economic opportunities by effectively integrating land use and transport.

Clause 18.01-3L (Sustainable personal transport – Greater Bendigo) contains a strategy to promote development that is linked to the bicycle and pedestrian network and provides walking and cycling infrastructure.

Clause 18.02-4L-01 (Highways and boulevards – Greater Bendigo) seeks to protect the public realm significance of the city's highways and boulevards and ensure that

the use and development of adjoining land does not lessen the service, safety, role and amenity of highways and boulevards. Relevant strategies include:

- Designing development to be of a scale, intensity and quality that enhances the appearance, presentation and sense of entry to Bendigo along highways and boulevards.
- Limiting the number of access points to highways and boulevards.
- Avoiding development and vehicular access that compromises the safety and efficiency of highways and boulevards.
- Avoiding unplanned linear or ribbon development along highways and boulevards to create safer environments for people.
- Design developments to protect existing areas of vegetation and maintain or enhance the value of existing landscapes along and adjacent to highways and boulevards.

Clause 18.02-4L-03 (Car parking – Greater Bendigo) contains a strategy to reduce car parking requirements where it is appropriate to facilitate the transition to sustainable methods of travelling. Policy guidelines include:

- Consider reducing (including reduce to zero) car parking requirements on sites where:
  - The 10 minute neighbourhood principles set out in Clause 02.03-1 are met.
  - There are off-site car parking alternatives.
  - Bicycle parking and end of trip facilities are provided above the rates specified in Clause 52.34.
  - The site is highly accessible, safe and functional.
  - Pedestrian or cycling infrastructure is provided.
  - Car parking demand will be managed through a transport management plan.
  - The proposal enables the reuse of a heritage building.

Clause 71.02-3 (Integrated decision making) of the Planning Scheme states that planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

### Policy Assessment

From a strategic planning perspective, the development is appropriately located on the fringe of the Bendigo city centre within an established commercial strip along High Street, which is a major transport route. The land is zoned for commercial use and development. Convenience restaurants adjacent to activity centres are specifically encouraged under Clause 11.03-1L (Activity centres – Greater Bendigo).

The proposed site layout has considered urban design principles, including the site's prominent corner location on a major transport route as well as its residential interface. The development will provide for an active presentation to High Street. The

building is sited away from its residential neighbours as far as practicable and the design has addressed impacts such as noise, with measures such as an acoustic fence proposed.

With regards to the City's Highway and Boulevards Policy, the development is of an appropriate scale and the design utilises a range of materials and finishes which will enhance the appearance of the site. The number of accesses onto High Street have been limited to one and the Department of Transport and Planning is satisfied that the access will not compromise the safety and efficiency of this road. The site is located within an established commercial area existing along High Street and will replace an existing restaurant on the site, therefore the proposal does not constitute unplanned linear or ribbon development. It should be reasonably expected that the existing restaurant development could be replaced with another type of food and drink premises given the commercial zoning of the land.

The proposal provides for appropriate vehicle access and a reasonable level of on-site parking. Whilst the proposal is deficient in providing all the required car spaces for the use, this should be balanced against the locational advantages of the site and the benefits the proposal would provide with regard to the 10 minute neighbourhood concept. Bicycle parking is proposed as part of the development and the site is highly accessible for pedestrian and cyclist access.

Proposed signage is generally consistent with the City's Advertising Sign Policy, although some changes are recommended as conditions of permit. Whilst the policy discourages internally illuminated signage near residential areas and electronic signs, the type and extent of signage proposed for the site is generally consistent with the site's context and commercial zoning. Provided the electronic sign is reduced in height, the signage will be proportionate to the scale of the development.

With regards to the proposed liquor licence, the site is within 100 metres of a residential area, however the proposed licensed hours are acceptable given the site's context, the nature of the use and serving of alcohol in conjunction with meals. The proposed licensed hours are consistent with the City's policy for areas outside of the city's entertainment precinct. Patron capacity and hours of service can be controlled by way of permit conditions. As noted previously, acoustic fencing along boundaries with adjoining dwellings will assist in minimising noise impacts to acceptable levels.

Whilst the applicant has indicated that the operator is not a signatory to the Bendigo Liquor Accord, this document largely relates to the city's entertainment precinct. It is not intended that the premises operate as a nightclub or hotel and many of the commitments within the accord are requirements a licensee would need to meet under a liquor licence issued by the Victorian Liquor Commission. As such, it is considered that this is not a sufficient reason to refuse to grant a permit for a liquor licence. It is, however, recommended that a Patron Management Plan be required to

be developed and implemented as a condition of the permit to ensure amenity impacts arising from patron behaviour can be minimised.

Taking into account the relevant State and local planning policies, the proposal represents an acceptable planning outcome.

### Zone Considerations

Under the provisions of the Commercial 1 Zone, planning approval is not required for the use of the land for a convenience restaurant. This is because convenience restaurant sits under the broader heading of retail premises within the Planning Scheme land use terms, and retail premises is a section 1 – permit not required use in this zone. This means that the use is ‘as of right’ and cannot be considered in the assessment of the application. Only the development component relating to this use triggers a permit under the zone. As such, the assessment of the proposal against the Zone is confined to the proposed buildings and works.

Objections received relating to the proposed convenience restaurant land use and associated amenity impacts are therefore outside the scope of considerations for this application under the Zone. As such, matters relating to the proposed hours of operation, delivery and waste collection times and amenity impacts such as traffic, noise, antisocial behaviour and litter, insofar as they relate to the convenience restaurant use, are not able to be controlled.

It is noted that the operators will still have a duty to comply with the relevant noise limits under EPA legislation, as per the *Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues* (Publication 1826, Environment Protection Authority, May 2021).

Matters relating to amenity in relation to the proposed liquor licence can be considered under a separate provision of the Scheme (Clause 52.27 Licensed premises), whilst traffic impacts as they relate to access via High Street are a consideration under Clause 52.29 (Land adjacent to the principal road network). These matters are discussed later in this report.

The purposes of the Commercial 1 Zone include creating vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. The proposed development will provide for suitable premises for a convenience restaurant and is consistent with the purposes of the Zone.

The proposed building would be sited adjacent to High Street, with a setback of approximately 1.4 metres to the High Street boundary. A canopy is proposed along part of this façade and will wrap around the north eastern side of the building. The

entrances to the restaurant will be via High Street. The front façade will feature extensive glazing, providing for an active presentation to High Street.

The application states that security lighting will be installed. A condition of the permit can require lighting to be suitably baffled to minimise light spill.

The proposed site layout provides for a screened bin storage area which is integrated with the design of the building, set back behind the main wall and softened by landscaping.

The interface with the adjoining dwellings has been considered and addressed as part of the design. Landscaping and acoustic fencing are proposed along these boundaries.

An adjoining objector at 170 High Street is concerned about the removal of large trees along the fence line for the construction of car parking, citing privacy concerns, the need for a barrier from fumes and odours and a loss of habitat for wildlife.

A planning permit is not required to remove the existing trees on the site and the trees are proposed to be removed to facilitate car parking and accessways on the site. The proposed landscape plan shows planting of two new trees adjacent to the High Street vehicle crossover and shrubs up to 1 metre at full height along the eastern boundary line. To address this concern, the landscape plan could be amended to ensure a suitable screening species is planted along the eastern boundary which will achieve a greater height. An acoustic fence is also proposed along this boundary which will also serve as a barrier.

The proposed development provides for the efficient movement of pedestrians and cyclists, waste removal vehicles and emergency services. The traffic report prepared for the application included swept path assessments for an 8.8 metre long service vehicle. The development provides for sufficient bicycle spaces, a loading area and bin storage.

The proposal provides for 11 car spaces on site which is considered acceptable. The proposed parking layout meets the design requirements of Clause 52.06 (Car parking) of the Planning Scheme. The requirements under the car parking provisions are discussed further below.

The development would be connected to the existing stormwater drainage system. A construction management plan can be required as a condition of the permit to ensure amenity impacts during the construction phase are managed.

Overall, the proposal is an acceptable planning outcome with respect to the relevant planning considerations under the zone.

Whilst objectors have stated that the site would be better suited to other types of development such as offices, Council must consider the proposal before it. Objectors have also stated that the proposal should be redesigned to achieve a different built form outcome. However, there is no Design and Development Overlay or strategic plan applicable to the land which direct specific design objectives to be achieved for this site. VCAT has previously held that all developments can be open to criticism, but it is not the role of decision makers to pursue a design outcome that responds to all criticisms and seeks perfection.

### Signage

Proposed signage for the development would comprise a range of signage outlined in the table below and shown within the application plans at Figure 12 in this report.

| Signage Identification | Permit Required | Sign Type  | Size   | Illumination Type      |
|------------------------|-----------------|--|--|------------------------|
| PS-1                   | Permit required | Business identification sign<br>Sky sign<br>Internally illuminated sign<br>Electronic sign | Height (pole): 12m<br>Width (main message face): 3m<br>Length (main message face): 3m<br>Total area: 11.65m <sup>2</sup> | Internally illuminated |
| ES-1                   | Permit required | Business identification sign   | Height: 2.3m<br>Width: 0.75m<br>Total area: 1.725m <sup>2</sup>  | None                   |
| ES-2                   | Permit required | Business identification sign   | Height: 2.3m<br>Width: 0.75m<br>Total area: 1.725m <sup>2</sup>  | None                   |
| ES-3                   | Permit required | Business identification sign   | Height: 2.3m<br>Width: 0.75m<br>Total area: 1.725m <sup>2</sup>  | None                   |

| Signage Identification | Permit Required | Sign Type                    | Size  | Illumination Type |
|------------------------|-----------------|------------------------------|---|-------------------|
| ES-5                   | Permit required | Business identification sign | Height (pole): 1.2m<br>Height (sign): 0.35m<br>Width: 0.35m<br>Total area: 0.13m <sup>2</sup> | None              |
| ES-6                   | Permit required | Promotion sign               | Height (post): 2.4m<br>Height (sign): 1m<br>Width: 3m<br>Total area: 3m <sup>2</sup>          | None              |
| Building wall signage  | Permit required | Business identification sign | Total area: 77.6m <sup>2</sup> (approx.)  | None              |

Objectors have raised concerns about the extent and type of the signage and its appearance within the streetscape.

The site falls within Category 1 (Commercial areas) of the Sign provisions at Clause 52.05 of the Planning Scheme. Signs in this category are subject to minimum limitation and the purpose is to provide identification and promotion signs that add vitality and colour to commercial areas.

The built form character along High Street varies, however it is generally commercial in nature in this location. Despite objector concerns about the impact of proposed signage on the heritage precinct, the subject site is not affected by a Heritage Overlay.

The signage proposed for the building is proportionate and well spaced on the building elevations and includes the company logos, business name and descriptions of meals available. Sign structures within the site would comprise a 12 metre high electronic pylon sign, a series of directional signs for the drive-through and waiting bay areas, and a promotional banner sign to be displayed adjacent to the Violet Street frontage. The extent of signage proposed in the amended plans has been reduced from the initial proposal.

While the corporate colour, yellow, would be used as background to signs displayed on the building, the size of the lettering and images are not overly dominant features on the High and Violet Street façades and the signs would be located below the roofline of the building. The proposed mix of materials in the building design also provides further articulation in relation to the impact of the signage on the streetscape.

The City's Urban Designer has recommended that the proposed 12 metre electronic pylon sign at south west corner of the site be reduced in height to 9 metres so it is

generally in keeping with the height of other pylon signs in the nearby area. This change can be required as a condition of the permit.

The sign marked as ES-3 on the plans is located within the Violet Street naturestrip. This location will not be permitted and the sign should be relocated to within the boundaries of the site. This change can be required as a condition of permit.

Given the site is within a commercial area, it is reasonable to allow a higher level of signage than would be permitted within a residential area.

### Traffic Impacts

Vehicle access points for the site are proposed via Violet Street and High Street. Violet Street is a local street while High Street is zoned Transport Zone 2 and is under the management of the Department of Transport and Planning.

A number of objections relate to traffic impacts and raise concerns about existing traffic issues within Violet Street, largely stemming from a high demand for on street parking. Concerns about how existing traffic problems in the street network should be resolved are outside the scope of this application.

Under the Commercial 1 Zone, the effect of traffic to be generated on roads is a 'use' consideration, therefore it is outside the scope of considerations for this application, except as it relates to Clause 52.29 which triggers a permit for alteration of an access to a road in a Road Zone 2 under clause 52.29 of the Planning Scheme. Applications under this clause are exempt from notice and review. As such, any objections in relation to the proposed access arrangements to High Street cannot be considered by Council.

A Traffic Impact Assessment report was submitted as part of the application. The application was referred to the Department of Transport and Planning (as required under clause 52.29), and the City's Traffic Engineer.

The Department had no objection to the application, subject to conditions on the permit that included that vehicles must only access the site from High Street in left in/left out movements.

The City's Traffic Engineer did not raise any concerns about the capacity of Violet Street to cater for the anticipated level of traffic movements.

A loading bay is provided on site. Swept path assessments have been provided as part of the application. Waste collection will be undertaken on site.

The application has satisfactorily demonstrated that traffic movements to enter and exit the site and vehicle movements within the site will be functional and efficient.

### Car Parking

The majority of objections received are critical of the amount of parking provided on site and do not support a reduction in the required number of car spaces.

The convenience restaurant would provide seating for up to 60 patrons. Under the Planning Scheme, the applicable car parking rate for convenience restaurant is 0.3 spaces per patron. This would generate a requirement for 18 car spaces to be provided on site. The proposal would provide for 11 spaces, leaving a shortfall of 7 spaces.

The Traffic Impact Assessment noted that on street car parking in the vicinity of the site is typically heavily utilised. A total of 24 angle parking spaces are located either side of Violet Street, immediately adjacent to the site. Beyond the subject site, there are parallel line marked spaces within Violet Street. No parking is available along the western side of High Street, but parallel parking is available along the eastern side.

The site has access to public transport with bus stops located within walking distance of the site in High Street.

There is a requirement for 6 bicycle spaces to be provided in accordance with the requirements of clause 52.34 (Bicycle facilities). The proposal would satisfy this requirement with bicycle spaces shown on the plans in the south west corner of the site. There is no statutory requirement for end of trip facilities for this proposal under the Planning Scheme.

The report stated that the use will generate a demand for both short stay car spaces for patrons and long stay car spaces for staff. A car parking demand assessment indicates that the proposal will generate a likely parking demand of:

#### Weekdays:

- 9 car spaces during lunch time
- 18 car spaces during dinner time

#### Weekends:

- 9 car spaces during lunch time
- 11 car spaces during dinner time

The report concluded that it is expected that the only time parking demand will exceed the provision is during the evening period on weekdays. It is expected that

additional on-street parking will become available outside of business hours, which would cater for the increased demand during this period.

Objectors are critical of the assessment as the plans show that 3 of the spaces are to be reserved for staff parking and 2 spaces will be reserved as waiting bays, therefore resulting in only 6 spaces being available for patrons dining within the restaurant. They have also raised that the existing on street parking is at capacity and that hotel patrons will be competing for on street parking.

The Planning Scheme provisions do not specify that all on-site parking must be made available to dine in patrons for a convenience restaurant. The three spaces adjacent to the drive-through lane are likely to be less desirable to customers dining in as they may be blocked by vehicles accessing the drive through during busy periods. Therefore, it is considered appropriate that they be utilised for staff parking. Given the nature of fast-food premises, it is also appropriate for dedicated waiting bays to allow for other vehicles to exit the premises when orders are filled.

In this case, the subject site has locational attributes that weigh in favour of supporting a reduction in parking and policies within the Planning Scheme encourage a transition to sustainable modes of travel and developments which support 10 minute neighbourhoods. The shortfall of 7 spaces during the anticipated peak evening periods on weekdays is likely to be found within the surrounding streets. This demand for on street parking is not likely to result in unreasonable amenity impacts on the surrounding area. There are also established pedestrian and cycling networks available to the site and bicycle spaces are proposed to be provided on site.

### Liquor Licence

An on-premises liquor licence is sought as part of the application.

Whilst the operating hours for the premises would be:

- Sunday to Wednesday 6.00am to 11.00pm; and
- Thursday to Saturday 6.00am to 2.00am.

The proposed licensed hours sought are:

- Sunday 10.00am to 11.00pm
- Good Friday 12 noon to 11.00pm
- Anzac Day (not being a Sunday) 12 noon to 1.00am the following morning
- On any other day 10.00am to 1.00am the following morning

The proposed licensed hours are consistent with the City's policy at Clause 13.07-1L (Licensed premises – Greater Bendigo) for areas outside the City's entertainment precinct. The site also has a main road location and is within a Commercial 1 Zone.

The site has a residential interface and objectors have raised concerns about various noise impacts. An acoustic assessment was undertaken as part of the application. Noise impacts are only a relevant consideration for this application in relation to the liquor licence component of the proposal. The proposed acoustic fencing along the boundaries with the adjoining dwellings will assist in minimising noise impacts arising from the licensed premises to an acceptable level for these properties.

Cumulative impacts of licensed premises on the amenity of the surrounding area have been considered. No significant impacts are envisaged. There is only one other licensed premises within a 100 metres radius of the site, being the National Hotel. The hotel has similar licensed hours to those proposed but is able to serve and sell alcohol from 7.00am on 'any other day' other than Sundays, Anzac Day and Good Friday. The patron capacity for the proposed convenience restaurant is significantly smaller than the hotel.

In response to concerns raised about a potential increase in anti-social behaviour, the applicant has advised that the sale of alcohol on the premises is to complement the food offerings of the restaurant only and not operate as a late night liquor venue such as a hotel or bar. Indoor seating will be provided for patrons and meals are to be served. The plans do not show any provision for outdoor seating areas, which will further minimise noise impacts.

The applicant further advised that an ongoing Patron Management Plan is typically implemented at other franchise locations to ensure staff have procedures to respond to situations as they arise. It is recommended that a condition be included on the permit requiring a Patron Management Plan to be prepared and implemented by the operator.

The proposal will contribute to the diversity in land uses and vibrancy of this part of High Street.

For the reasons outlined above, the proposed liquor licence is considered acceptable.

#### Cultural Heritage Management Plan (CHMP)

The site lies within an area of cultural heritage sensitivity; however, the applicant has adequately demonstrated that the site has been the subject of significant ground disturbance. Therefore, the proposal does not trigger the need for the preparation of a CHMP under the Aboriginal Heritage Regulations 2018.

## **Conclusion**

The proposed development is well located on a major transport route in a Commercial 1 Zone, on the fringe of the city centre. The proposal is consistent with the purposes of the zone and planning policy which supports the establishment of new businesses to meet the community's need for retail and convenience services.

The amended site layout and built form provide an acceptable planning outcome. The proposal is respectful of its context in terms of the siting of the building and its scale, and the design has sought to address the prominence of the site's corner location.

The proposed convenience restaurant will contribute to the vibrancy of the city centre and is supported by the 10 minute neighbourhood objective which seeks to allow people to access local facilities and services within 10 minutes walking or cycling from their home.

There is sufficient availability within the surrounding streets to cater for the shortfall in car parking, with the site well located for patrons and staff to also utilise alternative modes of transport such as walking, cycling and public transport.

It is therefore recommended that Council support the proposal and issue a Notice of Decision to Grant a Permit, subject to conditions.

## **Options**

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to: grant a permit, grant a permit with conditions, or refuse to grant a permit.

## **Conflict of Interest**

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

## **Proposed Notice of Decision Conditions**

### **1. MODIFIED PLAN REQUIRED**

Before the use or development 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 two copies

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

- (a) Site layout plan fully dimensioned with setbacks to boundaries shown
- (b) Details of the proposed fencing material around the bin storage area
- (c) Relocate sign ES-3 on Violet Street to within the title boundary
- (d) Sign PS-1 reduced in height to a maximum height of 9m
- (e) Red line plan for the building indicating the licensed area
- (f) Lighting plan indicating the location of any proposed lighting for the building and car park and measures to baffle light spill.

2. NO LAYOUT ALTERATION

The use and/or development permitted by this permit as shown on the endorsed plan(s) and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the responsible authority.

3. LICENSED HOURS

Except with the prior written consent of the responsible authority, the sale, service and consumption of alcohol permitted by this permit must only be available to dine in patrons between the following times:

- Sunday 10.00am to 11.00pm
- Good Friday 12 noon to 11.00pm
- Anzac Day (not being a Sunday) 12 noon to 1.00am the following morning
- On any other day 10.00am to 1.00am the following morning

No alcohol is to be served or sold via the drive through.

4. RED LINE PLAN FOR LICENSED AREA

Alcohol may only be sold, served and consumed within the licensed area in accordance with the red line plan approved under this permit.

5. NUMBER OF SEATS

No more than 60 seats may be made available at any one time to patrons on the premises, without the prior written consent of the responsible authority.

6. PATRON MANAGEMENT PLAN

Prior to the occupation of the development, a Patron Management Plan must be prepared to the satisfaction of the responsible authority and submitted for approval. The approved Patron Management Plan must be implemented to the satisfaction of the responsible authority.

7. LIQUOR LICENCE DOCUMENT

The applicant must provide (for Council records) an original copy of any new

liquor licence within 1 month of issued by the Victorian Liquor Commission.

8. LANDSCAPE PLAN

Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The landscaping plan must be generally in accordance with the landscape concept plan dated 28/8/2023 prepared by The Garden Planners but modified to show:

- (a) A survey (including botanical names) of all existing vegetation to be retained and/or removed
- (b) Details of surface finishes of pathways and driveways
- (c) Planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
- (d) Replacement of *Nandina domestica* 'Moonbay' along the eastern boundary of the site with a suitable screening plant species to a minimum height of 3 metres at maturity.

All species selected must be to the satisfaction of the responsible authority.

9. COMPLETION OF LANDSCAPING

Before the development is occupied, or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

10. LANDSCAPING MAINTENANCE

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including replacing any dead, diseased or damaged plants.

11. FENCING

Prior to the commencement of the use, an acoustic fence must be constructed along the north eastern and north western site boundaries in accordance with the recommendations of the Acoustic Assessment prepared by Clarity Acoustics (reference R02 22107, dated 12 September 2023) to the satisfaction of the responsible authority.

12. GENERAL EXTERIOR TREATMENT

The exterior treatment of the building including all exterior decoration, materials, finishes and colours must be to the satisfaction of the responsible authority. The exterior treatment of the building must be maintained to the satisfaction of the

responsible authority.

13. BAFFLED LIGHTING

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.

14. DRAINAGE

The proposed building and works must be drained to the satisfaction of the City of Greater Bendigo as the responsible drainage authority.

15. SIGHT LINES

The development must ensure sight lines at the exit driveway comply with Clause 52.06-9.

16. CAR PARK CONSTRUCTION

Before the occupation of the development, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be constructed to meet the following requirements and standards:

- (a) Properly formed to such levels that they can be used in accordance with the plans;
- (b) Surfaced with an all-weather-seal coat;
- (c) Drained;
- (d) Line marked to indicate each car space and all access lanes;
- (e) Clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the responsible authority;
- (f) Provided with public lighting in accordance with AS/NZ 1158.3.1 with fittings to minimise the spill of lighting onto neighbouring properties (including road reserves) in accordance with AS/NZ 4282-1997.
- (g) Provided with disabled persons parking bays where required by the Building Code of Australia in accordance with AS/NZ 2890/6-2009, section 2 and must be signed in accordance with AS/NZ 1742.11-1999 and line marked in accordance with 2890.6-2009, section 3;
- (h) Provided with appropriate signage.

The car parking and access areas must comply with the requirements of clause 52.06 of the Greater Bendigo Planning Scheme and meet all other applicable Australian and New Zealand Standards unless otherwise agreed in writing with the responsible authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

17. ACCESS

Any alterations to the driveways between the property boundary and the kerb must be constructed in accordance with the Infrastructure Design Manual.

18. CONSTRUCTION MANAGEMENT PLAN

Before the development starts, a detailed Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority. Once approved, the Construction Management Plan will be endorsed and will then form part of the permit. All construction must be carried out in accordance with the approved Construction Management Plan. The Construction Management Plan must include at a minimum the following items:

- (a) Proposed operating hours, noise and vibration monitoring and controls;
- (b) Dust management;
- (c) Traffic management including loading and unloading provision for construction materials;
- (d) Proposed parking provision during the construction phase and how this will be managed;
- (e) Details of notification process for noisier related activities such as excavation to affected neighbours (this should include giving as much notice as possible);
- (f) Details of the extent of periods of noise activities and how they will be undertaken to minimise impact on nearby neighbours;
- (g) Appointment of principal contact person on-site for community enquiries;
- (h) A site specific plan showing proposed erosion and sedimentation control works;
- (i) Techniques and intervention levels to prevent a dust nuisance;
- (j) Techniques to prevent mud and dirt being transported from the site to adjacent streets;
- (k) The protection measures to be taken to preserve any vegetation identified for retention; and
- (l) Delineation of any Crown land adjacent to the site prior to commencement of works, including the adjoining road reserve.

19. LOADING AND UNLOADING

The loading and unloading of goods from vehicles must only be carried out on the land.

20. SIGNS NOT TO BE ALTERED

The location and details of the sign(s), and any supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the responsible authority.

21. SPECIFIED ILLUMINATION HOURS

The internally illuminated sign(s) permitted by this permit may only be illuminated between the hours of:

- Sunday to Wednesday 6.00am to 11.00pm; and
- Thursday to Saturday 6.00am to 2.00am.

22. MAINTENANCE OF SIGNS

The signs permitted by this permit must be maintained in good condition to the satisfaction of the responsible authority.

23. SIGN EXPIRY AS PART OF DEVELOPMENT

Approval for signage permitted as a part of this permit expires 15 years after the date of issue of the permit.

24. REMOVAL OF SIGNS UPON EXPIRY

Upon the expiry date for the signs approved under this permit, the sign(s) and structure(s) built specifically to support and illuminate must be removed to the satisfaction of the responsible authority.

25. DEPARTMENT OF TRANSPORT AND PLANNING

- (a) Vehicles must only access the site from High Street in left in/left out movements.
- (b) Prior to commencement of the buildings and/or works amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be modified to show:
  - i. Sign No Right Turn R2-6 must be provided at the High Street access point to the development.
- (c) Prior to commencement of the use the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
- (d) Prior to commencement of the use the access lanes, driveways, crossovers and associated works must be provided and available for use and be:
  - i. Generally in accordance with the endorsed plan.
  - ii. Formed to such levels and drained so that they can be used in accordance with the endorsed plans.
  - iii. Treated with an all-weather seal or some other durable surface.
- (e) Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway). 6. Prior to commencement of the use the following roadworks on High Street must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria:
  - i. Left-in left-out access.

26. LICENSED PREMISES EXPIRY

This permit will expire if the licensed premises use permitted by this permit is not commenced within 2 years from the date hereof or is discontinued for a period of 2 years. The time within which the use must commence may be extended by the responsible authority, on written request, if made before or within 6 months after the expiry of this permit.

27. PERMIT EXPIRY DATE - DEVELOPMENT

This permit will expire if:

- (a) The development is not completed within 2 years of the date of this permit.

In accordance with section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

**Note:**

Noise limits apply to this proposal in accordance with *Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues* (Publication 1826, Environment Protection Authority, May 2021).

**City of Greater Bendigo Environmental Health Unit Notes:**

The facility must register with the City of Greater Bendigo under the Food Act 1984 if any beverages or foodstuffs are to be sold, stored, prepared or provided at the facility. Application for registration must include a copy of the Food Safety Program.

The food premises must be constructed and maintained in accordance with the Food Act 1984 and Food Standards Code. It is strongly recommended that a plan of the proposed food premises be submitted to City of Greater Bendigo Environmental Health Department for assessment prior to commencement of construction and/or fit out.

Coliban Water must be contacted to determine whether a Grease Trap will need to be installed.

**City of Greater Bendigo Engineering Unit Note:**

**CONSENT FOR WORK ON ROAD RESERVES**

The applicant must comply with;

- The Road Management Act 2004,
- Road Management (Works and Infrastructure) Regulations 2005 and
- Road Management (General) Regulations 2005

with respect to any requirements to notify the Coordinating Authority and/or seek consent from the Coordinating Authority to undertake “works” (as defined in the Act) in, over or under the road reserve. The Responsible Authority in the inclusion of this condition on this planning permit is not deemed to have been notified of, or to have given consent to undertake any works within the road reserve as proposed in this permit.

**Department of Transport and Planning Notes:**

To assist in the approvals process required for the construction of the access works and associated roadworks, the following guidance is provided:

Any planning permit approval received in accordance with a municipal planning scheme does not constitute consent to conduct the works under the Road Management Act 2004. Any works in the arterial road reserve designated as Transport Zone 2 (TRZ2) require a Works Within Road Reserve Permit from the Department of Transport and Planning. Section 63 and clause 16 of Schedule 7 of the Road Management Act 2004 require any person proposing to carry out works in, on, under or over an arterial road in Transport Zone 2, to obtain the consent of the Department of Transport and Planning, except where exemptions under the Act, or its Regulations (Road Management (Works and Infrastructure) Regulations 2005), apply. For the purposes of this application, the works will include the provision of:

- i. Left-in; left-out access.
- ii. Crossover reconstruction works.

Please contact the Department of Transport and Planning prior to commencing any works on [nr.admin@roads.vic.gov.au](mailto:nr.admin@roads.vic.gov.au).

For more information regarding working within the road reserve please visit the VicRoads website:

<https://www.vicroads.vic.gov.au/business-and-industry/design-andmanagement/working-within-the-road-reserve>, and  
<https://www.vicroads.vic.gov.au/traffic-and-road-use/road-access-permits-portal>

**Attachments**

Nil

**16.3. 39 Patas Road, MAIDEN GULLY 3551 - Construct a Building and Carry Out Works (Stage 4 of Marist College Development) (Amend Conditions 2 and 3)**

|                       |  |
|-----------------------|--|
| Author:               | Ross Douglas, Manager Statutory Planning |
| Responsible Director: | Rachel Lee, Director Strategy and Growth |

**Purpose**

The purpose of this Report is to update Council on the 39 Patas Road, Maiden Gully Construct a Building and Carry Out Works (Stage 4 of Marist College Development) (Amend Conditions 2 and 3) planning application.

**Recommended Motion**

That Council further defer consideration of a Notice of Decision on the 39 Patas Road, Maiden Gully planning application.

**Background**

At the December 11, 2023 Council Meeting the City recommended that pursuant to section 61 of the Planning and Environment Act (1987) Council resolve to issue a Notice of Decision to Grant an Amendment to a Planning Permit.

Council resolved to defer the matter until the January 29, 2024.

Previous Council decision dates: [December 11, 2023](#)

**Report**

Since the previous Council Meeting the City has been consulting with various affected community representatives and relevant agencies, with the Department of Transport and Planning requesting additional time to consider the matter. As such, the City is seeking further deferral of consideration by Council until such time as this application is ready for resubmission.

**Priority/Importance**

It is anticipated that deferral could lead to a better negotiated outcome for the community.

### ***Options Considered***

Council could alternatively resolve to issue a Notice of Decision to:

- Grant an Amendment to a Planning Permit
- Not grant an Amendment to a Planning Permit

The [Report](#), and the City recommendation to Grant (subject to conditions), has not altered since the December 2023 Council Meeting.

### ***Timelines***

The City will resubmit this decision to Council at such time as is appropriate.

### ***Communications/Engagement***

The City has consulted with various affected community representatives and relevant agencies.

### ***Policy Context***

#### ***Primary Council Plan Reference***

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025  
Outcome 2 - Healthy, liveable spaces and places

#### ***Secondary Council Plan Reference(s)***

Goal 7 - Sustainable population growth is planned for

### ***Conflict of Interest***

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

### ***Attachments***

Nil

**17. STRONG, INCLUSIVE AND SUSTAINABLE ECONOMY**

Nil

**18. ABORIGINAL RECONCILIATION**

Nil

**19. A CLIMATE-RESILIENT BUILT AND NATURAL ENVIRONMENT**

Nil

**20. A VIBRANT, CREATIVE COMMUNITY**

Nil

**21. A SAFE, WELCOMING AND FAIR COMMUNITY**

Nil

**22. URGENT BUSINESS**

Nil

**23. NOTICES OF MOTION**

Nil

**24. MAYOR'S REPORT**

**25. CHIEF EXECUTIVE OFFICER'S REPORT**

**26. CONFIDENTIAL (SECTION 66) REPORTS**

**RECOMMENDED MOTION**

That Council close the meeting to members of the public pursuant to Section 66(2)(g) of the Local Government Act 2020, to consider a report relating to;

(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.