



11 December 2024

AGENDA

Notice of Ordinary Council Meeting

Date: Wednesday 18 December 2024

Time: Commencing at 3:00pm

Venue: Council Chamber
92 Nelson Street, Nhill

Council: Cr Ron Ismay – Mayor
Cr Chan Uoy – Deputy Mayor
Cr Roger Aitken
Cr Rosie Barker
Cr James Barry
Cr Tony Clark

Officers: Monica Revell – Chief Executive Officer
Petra Croot – Director Corporate & Community Services
Peter Brown – Acting Director Infrastructure Services

Acknowledgement of Indigenous Community

Hindmarsh Shire Council acknowledges the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagalk Nations as Traditional Owners of Country.

We recognise the important ongoing role that Indigenous people have in our community and pay our respects to their Elders, past and present.



Public Access

This meeting is open to members of the public and will be livestreamed from Council's Facebook page at www.facebook.com/hindmarshshirecouncil

Live Streaming Statement

This meeting will be streamed live on the internet and the recording of this meeting will be published on Council's website and/or social media pages after the meeting.

Members of the public attending this meeting may be filmed. By remaining in the public gallery once the meeting commences, members of the public give their consent to being filmed, and for the recording of them to be made publicly available and used by Council.

Information about the broadcasting and publishing recordings of Council meetings is available in the Council's Live Streaming and Publishing Recordings of Council Meetings Policy is available on the Council's website.

Statement of Values

Our commitment is to come prepared to every meeting, fostering a respectful and inclusive environment where accountability and approachability are at the core of our actions. We value and encourage innovation, collaboration, and open communication, always keeping in mind the well-being and needs of our community. Together, we stand united as one, working towards shared goals with mutual respect and consideration.

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1 ACKNOWLEDGMENT OF THE INDIGENOUS COMMUNITY, LIVE STREAMING STATEMENT AND STATEMENT OF VALUES

Acknowledgement of the Indigenous Community

Hindmarsh Shire Council acknowledges that this meeting is being held on the lands of the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagalk Nations and we acknowledge them as Traditional Owners of Country.

We recognise the important ongoing role that Indigenous people have in our community and pay our respects to their Elders, past and present.

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A copy of the Council's Live Streaming and Recording of Council Meetings Policy is available at the back of this room and on the Council's website. Please speak with one of our staff members if you have any questions.

Statement of Values

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2 APOLOGIES

Nil.

3 DECLARATION OF INTERESTS

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

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

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

4 CONFIRMATION OF MINUTES AND BUSINESS ARISING

4.1 CONFIRMATION OF MINUTES

RECOMMENDATION:

That the Minutes of the Ordinary Council Meeting held on Wednesday 27 November 2024 at the Council Chamber, 92 Nelson Street Nhill, as circulated to Councillors be taken as read and confirmed.

Attachment Number: 1

4.2 BUSINESS ARISING FROM PREVIOUS MINUTES

Council Meeting	Recommendation Action	Action Taken	Complete / In Progress / Delayed
27 November Item 9.1	That the Council notes the reviewed Domestic Animal Management Plan 2021-2025 with minor editorial changes and receives the detailed outcomes achieved during 2023/2024.	The Domestic Animal Management Plan has been lodged and approved by DEECA. Implementation of the Plan will be ongoing during 2024/2025.	Complete
27 November Item 9.2	That Council approves the application under Safer Local Road and Infrastructure Program for Dimboola-Minyip Road and Lorquon Netherby & Lorquon Road upgrades and refers an allocation of \$287,843 comprising Council's co-contribution, to the 2025/2026 draft budget.	Officers are currently preparing the application through the Safer Local Road and Infrastructure Program	In Progress

Council Meeting	Recommendation Action	Action Taken	Complete / In Progress / Delayed
27 November Item 9.3	<p>That Council approves the fees for Hindmarsh Outdoor Pools use as listed below:</p> <ol style="list-style-type: none"> 1. \$5.00 charge (incl GST) for lap swimming or swimming outside of public opening hours (single occasion); 2. \$52.50 (excl GST) per hour per lifeguard for School Swimming activities; and 3. \$25.00 (excl GST) for paid lessons/groups (single occasion). 	<p>Fees and Charges amendment published on Council's website. Process in place for requesting out of hours use.</p>	Complete
27 November Item 9.4	<p>In the exercise of the powers conferred by the legislation referred to in the attached S18 Instrument of Sub-Delegation under the Environmental Protection Act 2017, S11A Instrument of Delegation under the Planning and Environment Act 1987 and S5 Instrument of Delegation from Council to the Chief Executive Officer, Council resolves that:</p> <ol style="list-style-type: none"> 1. the financial limitation in Section 1.1 and 1.2 of the Instrument of Delegation to the Chief Executive Officer be amended to \$250,000 (excluding GST); 2. there be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached Instruments of Delegation to members of Council staff, the powers, duties and functions set out in each Instrument, subject to the conditions and limitations specified in that Instrument; 3. the S11A Instrument of Delegation under the Planning and Environment Act 	<p>Updated delegations published on Councils website and communicated to relevant staff.</p>	Complete

Council Meeting	Recommendation Action	Action Taken	Complete / In Progress / Delayed
	<p>1987 comes into force immediately when the common seal of Council is affixed to the Instrument;</p> <p>4. the S18 Instrument of Sub-Delegation under the Environmental Protection Act 2017 and S5 Instrument of Delegation from Council to the Chief Executive Officer come into force immediately upon the resolution being passed and having been signed;</p> <p>5. on the coming into force of the Instruments all previous delegations to members of Council staff (other than the Chief Executive Officer) pertaining to the same legislated powers, duties and functions are revoked; and</p> <p>6. the duties and functions set out in the instrument must be performed, and the powers set out in the Instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.</p>		
27 November Item 9.5	That Council adopts the Councillor Interaction with Staff Policy.	Policy has been published on Councils website and communicated to all staff.	Complete
27 November Item 9.7	That Council receives the Council Plan Action Plan 2024/2025 first quarter update	Media release prepared with update on Council Plan Actions	Complete
27 November Item 14.1 (confidential)	Contract Award 2024-2025-20 Emulsion Tank	Contract documents prepared and signed. Awaiting delivery.	In Progress

5 PUBLIC QUESTION AND SUBMISSION TIME

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

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

6 ACTIVITY REPORTS

COUNCILLOR ACTIVITIES: 12 November 2024 – 9 December 2024

6.1 Cr ISMAY, MAYOR

Date	Meeting/Event	Location	Comments
12-11-2024	Issue of IT Equipment and Briefing	Council Chamber, Nhill	
13-11-2024	Annual Statutory Meeting	Council Chamber, Nhill	
18-11-2024	Rainbow Town Committee Meeting		
20-11-2024	Councillor Induction	Little Desert Nature Lodge	
21-11-2024	Councillor Induction	Little Desert Nature Lodge	
22-11-2024	Official Opening of Rainbow Hostel Garden	Rainbow	
23-11-2024	Official opening of Dimboola Soundshell	Dimboola	
25-11-2024	16 Days of Activism Walk	Nhill	
26-11-2024	Heavy Vehicle Safety Event	Nhill	
27-11-2024	Council Briefing	Council Chamber, Nhill	
27-11-2024	Council Meeting	Council Chamber, Nhill	
28-11-2024	St Kilda Film Festival	Nhill	
29-11-2024	Christmas get together with Emma Kealy		
02-12-2024	16 Days of Activism Walk	Rainbow	
04-12-2024	Land Use Planning Induction Session	Zoom	

6.2 Cr UOY, DEPUTY MAYOR

Date	Meeting/Event	Location	Comments
20-11-2024	Councillor Induction	Little Desert Nature Lodge	Learning heaps
21-11-2024	Councillor Induction	Little Desert Lodge	Exciting times
23-11-2024	Soundshell Opening	Dimboola	
26-11-2024	Walk Against Domestic Violence	Dimboola	

Date	Meeting/Event	Location	Comments
27-11-2024	Council Briefing & Meeting	Nhill	
2-12-2024	Bendigo Bank 20th Anniversary	Dimboola	
3-12-2024	Walk Against Domestic Violence	Jeparit	
4-12-2024	Nhill Visitor Info Centre Volunteer Lunch	Nhill	
4-12-2024	Land Use Planning Induction Session	Via Teams	

6.3 Cr AITKEN

Date	Meeting/Event	Location	Comments
12-11-2024	Distribution of IT Equipment	Council Chamber, Nhill	Was given new tablet and telephone.
13-11-2024	Statutory Meeting	Council Chamber, Nhill	Swearing in of counsellors
18-11-2024	Rainbow Town Committee	Rainbow	Phil King took all the notes needed
19-11-2024	Pioneer Museum	Jeparit	Had a good look around started at 1:00pm and finished at 6:30pm. Mark and Jeff took all notes needed.
20-11-2024 21-11-2024	Councillor Induction	Little Desert Nature Lodge	Had a great time.
22-11-2024	Visited Rainbow Men's Shed	Rainbow	
23-11-2024	Dimboola Opening of Soundshell	Dimboola	A little bit damp but very impressed by what has been put together.
27-11-2024	Council Meeting	Council Chamber, Nhill	Meeting Via teams which went well.
4-12-2024	Land Use Planning Induction Session	Via Teams	

6.4 Cr BARKER

Date	Meeting/Event	Location	Comments
13-11-2024	Annual Statutory Meeting	Council Chamber, Nhill	Swearing in of Councillors and election of Mayor & Deputy Mayor.
19-11-2024	Nhill Town Committee	Senior Citizens Hall, Nhill	Collaboration on organising Christmas Festivities including the

Date	Meeting/Event	Location	Comments
			Nhill Street Party on 6 th December and the Nhill Corals Night on 4 th December.
20-11-2024	Councillor Induction	Little Desert Nature Lodge	Induction process presented by Tony Raunic was highly informative and gave an opportunity for Councillors and Council Team to form a closer collaboration and understanding.
22-11-2024	Visit Nhill Businesses to promote Nhill Christmas Street Party	Victoria Street	Discussion with proprietors and listening to their reflections generally and encourage involvement with the Street Party.
22-11-2024	Visit "I Love Nhill" Day with 101.3 MixxFM and Lions BBQ	Goldsworthy Park, Nhill	Met with community and MixxFM staff.
23-11-2024	Dimboola Soundshell Opening	Dimboola	Official opening BBQ celebration and entertainment.
25-11-2024	16 Days of Activism	Nhill	Many from the Nhill Community turned out to show their support for Gender inequity, meeting at the NMCC and walking through the Main Street to the Nhill Lake for a BBQ provided by the local CFA.
27-11-2024	Council Briefing and Council Meeting	Council Chamber, Nhill	First Council meeting of this term.
28-11-2024	St Kilda Film Festival	Nhill Memorial Community Centre	7 short films presented to the community. A great turn out by the Nhill community and supper supplied by the Council. A great presentation of films that created giggles in the audience.

Date	Meeting/Event	Location	Comments
3-12-2024	International Day of Persons with Disabilities	Tiny Goats and Co	Attended this event and met with Youth Officer and groups attending.
4-12-2024	Volunteers from Information Centre Nhill Christmas Lunch	Farmers Arms Hotel	30 plus volunteers attended.
4-12-2024	Land Use Planning Induction	Via Teams	Online induction meeting with explanation of land use planning rules and processes.
5-12-2024	ALGWA Meeting	Via Zoom	Met with numerous other female councillors online to discuss their election process and what they had been experiencing since their election.
6-12-2024	WWHS AGM	Via Zoom	Listened to speeches and meeting process.
6-12-2024	Nhill Christmas Street Party	Goldsworthy Park	Nhill Town Committee event. Local traders, market stalls, Santa and BBQ.
6-12-2024	Radio Interview for Nhill Christmas Street Party	ABC Wimmera Radio	Promotion of the Nhill Christmas Street Party and reflected HSC Pools are available for FREE attendance.

6.5 Cr BARRY

Date	Meeting/Event	Location	Comments
13-11-2024	Annual Statutory Meeting	Council Chambers, Nhill	
20-11-2024	Councillor Induction	Little Desert Nature Lodge	Had a great time.
21-11-2024	Councillor Induction	Little Desert Nature Lodge	Finished off Induction as well as met council managers where they explained what their roll in council is, all presented themselves very well.
26-11-2024	Heavy Vehicle Safety Demonstration	Nhill Trailer Exchange	Well organised presentations, lots going on.

Date	Meeting/Event	Location	Comments
26-11-2024	16 Days of Activism Walk	Dimboola	Walk to create awareness on gender-based violence.
27-11-2024	Council Briefing	Council Chamber, Nhill	
27-11-2024	Council Meeting	Council Chamber, Nhill	
02-12-2024	Dimboola community Bendigo Bank 20 year anniversary	Dimboola	Great to see the Community Bank going strong after 20 years.
04-12-2024	Land use planning induction	Online	Very informative and well presented.

6.6 Cr CLARK

Date	Meeting/Event	Location	Comments
13-11-2024	Annual Statutory Meeting	Council Chamber, Nhill	Enjoyable.
20-11-2024 21-11-2024	Councillor Induction	Little Desert Nature Lodge	Enjoyable, very informative.
23-11-2024	Dimboola Soundshell Opening	Dimboola	Enjoyable.
26-11-2024	16 Days of Activism Walk	Dimboola	Enjoyable.
27-11-2024	Council Briefing and Council Meeting	Council Chambers	First meeting was intense.
02-12-2024	16 Days of Activism Walk	Rainbow	Enjoyable.
03-12-2024	16 Days of Activism Walk	Jeparit	Enjoyable.
04-12-2024	Land Use Planning Induction	Online	Enjoyable.

7 CORRESPONDENCE

Responsible Officer: Chief Executive Officer

Attachment Numbers: 2 – 8

Introduction:

The following correspondence is attached for noting by Council.

Inwards:

- 2024/11/08 – Letter from Port Hedland re ToPH Resolution – Covid19 Vaccinations (Attachment 2)
- 2024/11/26 – Letter from Leonie Miller re Letter to all local councillors from Port Hedland (Attachment 3)
- 2024/11/26 – Letter from Sharon Bone re Letter to all local councillors from Port Hedland (Attachment 4)
- 2024/12/04 – Letter from Terry and Lois Miller re Suspension of the mRNA Covid Shots (Attachment 5)

Outwards:

- 2024/11/26 – Letter to Leonie Miller re Covid19 Vaccinations (Attachment 6)
- 2024/11/26 – Letter to Sharon Bone re Covid19 Vaccinations (Attachment 7)
- 2024/12/04 – Letter to Terry and Lois Miller re Covid19 Vaccinations (Attachment 8)

RECOMMENDATION:

That Council notes the attached correspondence.

Attachment Numbers: 2 – 8

8 ASSEMBLY OF COUNCILLORS RECORDS

Responsible Officer: Chief Executive Officer

Attachment Number: 9

Introduction:

As required under Section 33(9) of Hindmarsh Shire Council's Governance Rules, the attached Assembly of Councillors Records are presented as attachments to the Council Agenda for the information of Councillors.

RECOMMENDATION:

That Council notes the Assembly of Councillor Records as presented.

Attachment Number: 9

9 PLANNING PERMITS

9.1 PLANNING PERMIT APPLICATION PA1841-2023 – 368 DIMBOOLA-JEPARIT ROAD DIMBOOLA

Responsible Officer: Acting Director Infrastructure Services

Attachment Number: 10

Application No:	PA1841-2023
Subject land:	368 Dimboola Rainbow Road, Dimboola VIC 3414 (Crown Allotment 167, Parish of Dimboola)
Proposal:	Subdivide the land into two (2) lots (excision of two (2) dwellings) and creation of a carriageway easement
Assessment Number:	33820
Zone:	Farming Zone (FZ)
Overlays:	Environmental Significance Overlay Schedule 6 (ESO6) Transport Zone 2 (TZ2) adjacent to the land to the west
Permit Trigger:	Clause 35.07-3 (FZ) – Subdivide land Clause 42.01-2 (ESO6) – Subdivide land
Covenant:	None shown on Title
Site History:	No relevant site history

Proposal:

The application proposes subdivision within the farming zone (FZ). The proposal includes subdivision of one (1) existing lot into two (2) lots and the creation of a carriageway easement for shared access over an existing access/driveway (refer to figures 2 and 3).

Proposed lot one (1) (4.859 Ha) will contain two (2) dwellings, house-yard vegetation, a shearing shed, machinery shed and scattered native vegetation, all are existing site features. Lot one (1) will be encumbered by the carriageway easement.

Proposed lot two (2) (308.6 Ha) will contain productive cropping land and scattered patches of remnant native vegetation. Proposed lot two (2) will have access rights over the carriageway easement within lot one (1). The access rights allow lot two (2) to use the existing access which crosses the railway line and abuts Dimboola-Jeparit Road, the railway area is within Transport Zone 2 (TZ2). Lot two (2) will also retain existing access to Lil Lil Dam Road.

The proposed lot boundaries generally follow existing fence lines except for the proposed eastern boundary between lots one (1) and two (2). The lot boundary here allows for an adequate turning area for truck movements from the machinery shed.

Figure 3 – Proposed Plan of Subdivision



Cultural Heritage Management Plan (CHMP):

The site is partially covered by a Cultural Heritage Sensitivity Area. The proposal is exempt from requiring a CHMP pursuant to Regulation 49 of the *Aboriginal Heritage Regulations 2018*, because it is not a high impact activity.

Section 52 Notice of Application (Advertising):

The application was advertised pursuant to Section 52 of the *Planning and Environment Act*.

Three (3) submissions (objections) to the application were received, two (2) withdrawn and one (1) responded to by a Solicitor. The submission raised concerns about inadequate access, power and water for lot two (2), devaluation of property and the removal of boundary fences without permission and generally opposed the subdivision.

Planning Response (by solicitor):

The concerns raised about the access and power and water to lot two (2) will be addressed by conditions required by VicTrack and standard conditions for services if required for two (2) lot subdivisions. It is noted that the electricity authority would determine through the certification process for a two (2) lot subdivision if power is required. There is no reticulated water and the provision of water for lot two (2) would be the responsibility of future owner of the lot.

The devaluation of property is not a relevant planning consideration as supported by several VCAT decisions.

The removal of boundary fences is a civil matter and is not a relevant planning consideration for this subdivision.

Referrals:

Section 55:

Wimmera Catchment Management Authority (Wimmera CMA)

The proposed allotment is covered by the Environmental Significance Overlay - Schedule 6 (ESO6) of the Hindmarsh Shire Planning Scheme: Catchments of Wetlands of Conservation Value, refer to Figure 2. The area is within the catchment area of ESO6 Catchment Number 247 which has the following recorded conservation values:

- Depleted Wetland type:
 - Based on the information you have provided, our assessment is that the proposed development will result in the following development:
- Subdivision:
 - Based on the information provided, Wimmera CMA does not object to the granting of a permit.

Please Note:

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

- Subdivision associated with this development will not impact conservation values identified in the Environmental Significance Overlay - Schedule 6 (ESO6) in the Hindmarsh Shire Council planning scheme.

Section 52:

VicTrack – Four (4) Conditions Recommended

- Prior to the issue of a Statement of Compliance, a Traffic Engineering report and accompanying design plans must be prepared by a suitably qualified consultant and be to the satisfaction of VicTrack, the rail operator V/Line and the Responsible Authority. The report and accompanying plans shall provide for compliant traffic design and controls to ensure safe vehicle crossing of the rail corridor and vehicle access to Dimboola Road. The report must include:
 - 1:100 design plans of all new access lanes and traffic controls
 - Details of all proposed signage, lighting and controls such as bells
 - A schedule of colours materials and finishes
 - A risk assessment that demonstrates that the final design and suite of safety controls has been resolved in consultation with and approved by relevant transport agencies including VicTrack and V/Line.
- Prior to the Statement of Compliance, the design and safety controls recommended by the Traffic Engineering report must be implemented to the satisfaction of VicTrack, V/Line and the Responsible Authority. All costs associated with implementation of the rail crossing must be borne by the owner and at no cost to VicTrack and V/Line.
- Prior to the Statement of Compliance, the owner must enter into an access license agreement with V/Line. All costs associated with implementation of the license agreement must be borne by the owner and at no cost to VicTrack and V/Line.
- No drainage, effluent, waste, soil or other materials must enter, be stored or be directed to the railway land.

Internal Referrals

The application was referred internally to the following Departments:

Engineering – Two (2) conditions and two (2) notes provided:

- **Access/Vehicle Crossovers:**
 - The existing access for lot one (1) and the proposed carriageway easement in order to provide access for lot two (2) on the Dimboola-Rainbow Road is under the control of the DTP (Department of Transport and Planning).
 - The vehicle crossing(s) must be constructed at the applicant's expense to provide ingress and egress to the site to the satisfaction of the Responsible Authority.
- **Road Access and Upgrade Note:**
 - The section of Borgelt Road and Lil Lil Dam Road from Dimboola - Rainbow Road to the proposed entrance of lot two (2) is classified a 6R earth road, as per our Road Management Plan and hence the access will be limited to Dry Weather only. Council cannot guarantee access to this point at all-times. If the applicant ever requires all-weather access, they must seek approval from Council to lift the

hierarchy of the road to the higher standard (subject to Council approval). Any associated costs will be borne by the applicant.

- **Consent to works within road reserve note:**

- A consent to works within road reserve permission is required prior to construction of the crossovers.

Environmental Health – One (1) note:

- **Septic Tanks Code of Practice**

- All sewage and sullage waters shall be treated in accordance with the requirements of the *Environment Protection Act 2017*. All wastewater shall be disposed of within the curtilage of the land and sufficient area shall be kept available for the purpose of wastewater disposal to the satisfaction of the Responsible Authority. No wastewater shall drain directly or indirectly onto an adjoining property, street or any watercourse or drain to the satisfaction of the Responsible Authority.

Planning Scheme:

Planning Scheme Requirements

- **Municipal Planning Strategy (MPS):**

- Clause 02.02 Vision
- Clause 02.03 Strategic Directions
- Clause 02.03-1 Settlement and housing
- Clause 02.03-2 Environmental and landscape values
- Clause 02.03-3 Environmental risks and amenity
- Clause 02.03-5 Building Environment and heritage
- Clause 02.03-6 Economic Development

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

- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement - Wimmera Southern Mallee
- Clause 11.01-1L Settlement – Hindmarsh
- Clause 14.01-1S Protection of agricultural land
- Clause 14.01-2S Sustainable agricultural land use
- Clause 14.01-2R Agricultural productivity – Wimmera Southern Mallee
- Clause 15.01 Built Environment
- Clause 15.01-3S Subdivision design objective is:
 - *To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.*
- Clause 19.03-2S Infrastructure design and provision objective is:
 - *To provide timely, efficient and cost-effective development infrastructure that meets the needs of the community.*
- Clause 19.03-3S Integrated water management objective is:
 - *To sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach.*

Planning Response:

This proposal seeks to excise dwelling(s) and associated structures from land used primarily for agriculture. This results in agricultural land use being separated from residential land use. This is supported by agriculture provisions to protect productive land and ensure a suitable distance between dwellings and agriculture. The boundaries are setback from the dwellings for a distance which ensures no adverse impact from agriculture activities. The proposal is not contrary to planning policies listed above relating to the protection of biodiversity, agriculture and catchment management. The proposed subdivision has the support of the relevant provisions of the Planning Policy Framework and Municipal Planning Strategy.

Zone Provisions:

Clause 35.07-3 – Farming Zone (FZ) – Subdivision

Permit Requirement:

A permit is required to subdivide land.

Each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if the subdivision is to create a lot for an existing dwelling. The subdivision must be a two (2) lot subdivision.

Relevant Decision Guidelines:

- General Issues: *Capability of land to accommodate subdivision (including disposal of effluent), sustainable land management, site suitability for subdivision and compatibility surrounding land use, existing infrastructure and services.*
- Agricultural issues and the impacts from non-agricultural uses: *Whether subdivision supports and enhances agricultural production, impacts on soil quality, potential to permanently remove land from agricultural production, impacts on nearby agricultural uses, capacity of the site to sustain the agricultural use, agricultural qualities of the land (soil quality, access to water, infrastructure).*
- Accommodation Issues: *Loss or fragmentation of productive agricultural land, adverse effects from surrounding agricultural activities, impact on operation and expansion of adjoining and nearby agricultural uses, potential for consequential proliferation of dwellings in the area.*
- Environmental issues: *Impacts on natural physical features and resources of the area (soil and water quality), impacts on the flora and fauna on the site and its surrounds, the need to protect and enhance the biodiversity of the area.*
- Design and Siting Issues: *Impact on the character and appearance of the area or features, location and design of existing and proposed infrastructure.*

Planning Response:

General Issues:

- The subdivision will result in effluent drainage being contained within the lot it serves. The site is suitable for the subdivision of the existing dwelling and native vegetation onto a separate lot and retains the agricultural land on the balance lot. The use of the

balance lot is compatible with the surrounding agricultural uses. The proposal will utilise an existing crossover and all-weather access from Dimboola-Jeparit Road and an existing secondary access to Lil Lil Dam Road. The proposal will utilise existing services and will not adversely impact on infrastructure.

Agricultural issues and the impacts from non-agricultural uses:

- There are no proposed changes to the agricultural use as a result of sub-division. The farm sheds will be retained within the residential use lot, this does not impact on the useability of the balance land for ongoing agricultural purposes. Sub-division will not have an adverse effect on soil quality. The proposal will not limit the operation and expansion or adversely impact the surrounding agricultural uses.

Accommodation Issues:

- The existing dwellings and surrounding native vegetation will be retained within lot one (1), no consequential loss of native vegetation or agricultural land will occur. The proposal is unlikely to lead to a proliferation of dwellings in the area.

Environmental Issues:

- The proposal is unlikely to have an adverse impact on soil and water quality and any other natural physical features and resources. The existing stands of native vegetation on proposed lot two (2) will be able to be retained and further vegetation removal would be subject to planning approval unless exemptions for fences including the existing fence line between proposed lot one (1) and lot two (2) are applied. The existing dwellings will treat and retain wastewater through the existing on-site effluent disposal system which is located a sufficient distance from all proposed boundaries. The proposal will protect the flora and fauna on the site and in the locality.

Design and Siting Issues:

- There are no proposed changes to the existing dwellings and other buildings on the land. The proposal will not affect the rural character and appearance of the surrounding area. The subject land has access to reticulated power, telecommunications and potable water, but not reticulated sewer. Standard conditions are applied to determine if additional services such as power to lot two (2) is required by the relevant authority. Access to lot two (2) from the Dimboola-Rainbow Road frontage is proposed via a carriageway easement (E-1) over lot one (1). The access location appears to be acceptable, however, VicTrack have recommended conditions for a Traffic Engineering Report to be assessed, approved and constructed, and a licence agreement for the existing access to be formalised under the current requirements.

Overlay Provisions:

Clause 42.01 – Environmental Significance Overlay – Schedule 6 (ESO6)

The subject land is slightly affected by ESO6, which relates to the protection of catchments of wetlands of conservation value. A permit is required under Clause 42.01-2 and Schedule 6 of the ESO.

Permit Requirement:

A permit is required to subdivide land.

Environmental Objectives to be Achieved:

- To ensure that land use and development within the primary catchment areas (ESO6) of wetlands of conservation value (ESO5), does not impact on the ecological condition of these wetlands.
- To prevent waste discharge, nutrients, other pollutants and increased turbidity of water within the primary catchment areas (ESO6) from degrading the ecological condition of wetlands of conservation value (ESO5).
- To ensure that changes to the biological, physical and chemical quality and quantity of water entering wetlands of conservation value (ESO5) from the primary catchment area (ESO6) does not degrade its ecological condition.
- To ensure that the increase or decrease of surface runoff or concentration of surface water runoff from primary catchment areas (ESO6) does not lead to erosion and siltation of conservation value wetlands (ESO5).
- To maintain or enhance the ability of wetlands of conservation value (ESO5) to carry natural flows.
- To prevent changes in surface water flow within primary catchment areas (ESO6) from degrading the ecological condition of wetlands of conservation value (ESO5).
- To protect, conserve and encourage the long-term future of fauna and flora habitats in wetlands of conservation value.
- To protect threatened wetland flora and fauna within wetlands of conservation value.
- To ensure that any land use and development within a primary catchment area (ESO6) is consistent with maintaining the existing ecological condition of the wetlands of conservation value (ESO5).
- To recognise the significance of wetlands identified under the Ramsar treaty and support the strategic management of Ramsar sites.
- To protect or enhance the ecological condition of wetlands that have low levels of modification from further modification.
- To identify wetlands listed on the Directory of Significant Wetlands and support the implementation of the recommendations of the Directory.
- To protect the ecological condition of wetland types, identified in Wimmera Catchment Management Authority Wetland Mapping (2004). as depleted since Corrick Wetland Mapping (1994) from further loss.
- To identify and support the management of wetlands protected under the *Flora and Fauna Guarantee Act (1988)*.
- To ensure that the natural alignment of waterways is not altered.

Relevant Decision Guidelines (ESO6):

- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.
- Any other matters specified in a schedule to this overlay.
 - The Incorporated Document titled Shire of Hindmarsh, Wetlands and Catchments of Conservation Value (WCMA 2007) Decision Guidelines.

Planning Response:

The proposal is consistent with the environmental objectives and decision guidelines. It will not significantly impact the ecological condition the primary catchment areas, increase surface runoff, cause changes to the quality and quantity of water from the primary catchment area, compromise the long-term future of fauna and flora habitats in wetlands of conservation value or alter the natural alignment of the waterway. The proposal provides an acceptable outcome with regards to the Incorporated Document titled Shire of Hindmarsh, Wetlands and Catchments of Conservation Value (WCMA 2007) Decision Guidelines, and unconditional consent has been provided by the Wimmera CMA.

Particular Provisions:

Clause 52.02 Easements, Restrictions and Reserves

Purpose:

To enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.

Permit Requirement:

A permit is required before a person proceeds:

- Under Section 23 of the *Subdivision Act 1988* to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant.

Clause 52.29 Land Adjacent to the Principal Road Network

52.29-2 Permit Requirement

A permit is required to:

- Subdivide land adjacent to:
 - A road in a Transport Zone 2 (TZ2)

A permit is not required to:

- Create or alter access to:
 - A road in a Transport Zone 2 (TZ2)

as there is no new or altered access proposed for the two (2) lots from the Transport Zone 2 (TZ2) as part of this application.

52.29-3 Permit not required (relevant to the application)

A permit is not required to:

- Subdivide land into two (2) lots, provided no new access is required. As there is no

new access a permit is not required under this Clause.

Planning Response:

Given that proposed lot one (1) and two (2) will utilise the existing crossover and access to the Dimboola-Jeparit Road in a Transport Zone 2 (TZ2), no planning permit is required under this Clause.

General Provisions:

Clause 63 Existing Uses

Establishing existing use rights is necessary for this proposal to determine whether the houses on proposed lot one (1) have been used as dwellings for the purpose of assessing the lot size under clause 35.07-5 Farming Zone (FZ).

63.01 Extent of Existing Use Rights

An existing use right is established in relation to use of land under this scheme if any of the following apply:

- Proof of continuous use for 15 years is established under Clause 63.11.

63.06 Expiration of Existing Use Rights

An existing use right expires if either:

- The use has stopped for a continuous period of two (2) years or has stopped for two (2) or more periods which together total two (2) years in any period of three (3) years.

63.11 Proof of Continuous Use

If, in relation to an application or proceeding under the Act or this scheme, including an application for a certificate of compliance under Section 97N of the Act, the extent of any existing use right for a period in excess of 15 years is in question, it is sufficient proof of the establishment of the existing use right if the use has been carried out continuously for 15 years prior to the date of the application or proceeding.

Planning Response:

The applicant has provided written evidence and photos demonstrating that the existing dwellings have been located on the subject land and used for that purpose for a continuous period of greater than 15 years without ceasing for any period of more than two (2) years. The existing dwellings on the land are therefore afforded existing use rights pursuant to this Clause.

Clause 65 - Decision Guidelines

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

65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the Responsible Authority must consider, relevant matters, as appropriate. These matters have been considered throughout this report.

65.02 Approval of an application to subdivide land

Before deciding on an application to subdivide the land, the responsible authority must also consider relevant matters, as appropriate. These matters have been considered throughout this report.

Planning Response:

The matters set out in Section 60 of the Act have been considered. As discussed in this report, the Municipal Planning Strategy, the Planning Policy Framework, the purpose of the Farming Zone (FZ), purpose of the Environmental Significance Overlay Schedule 6 (ESO6) and particular provisions have been considered. The proposal does not present any environmental, economic, health or amenity impacts. It generally enables the orderly planning of the area. The proposal will result in the loss of a small area of land that has not been used for productive agricultural purposes due to the existing dwellings and the existing vegetation coverage. The proposal is unlikely to cause land use conflicts with the adjacent agricultural land due to the setbacks of the dwellings from the lot boundaries and the vegetation that provides some protection from views of the adjacent agricultural activities.

Strategic, Statutory and Procedural Requirements:

The proposal has been assessed against the Hindmarsh Planning Scheme in accordance with the *Planning and Environment Act 1987*.

Statutory Days:

24/10/2023 Application lodged
15/11/2023 Payment received
28/11/2023 Further information requested
26/03/2024 External referral sent to Wimmera CMA, and internal referrals sent
05/04/2024 Further information received and amended application
05/04/2024 Wimmera CMA referral response received
08/04/2024 External S52 referrals sent to VicTrack and DTP
08/04/2024 Advertising period commenced
21/05/2024 VicTrack referral response received
01/07/2024 Statutory Declaration received
16/08/2024 Amended plan of subdivision for endorsement received from applicant
05/09/2024 Amended plan and updated planning report received from the applicant
02/10/2024 Re-advertising of amended application commences
16/10/2024 Re-advertising is completed (14 days after notices sent)
29/10/2024 Amended application form received from the applicant at their request with updated owner details

13/11/2024 Further information requested to correct the owner details on the form
04/12/2024 Amended application form received with the correct owner details listed
18/12/2024 Presented to the Council at the Council Meeting on 18 December 2024 (15 statutory days).

The statutory processing time of the *Planning and Environment Act 1987* (15 statutory days) have been satisfied in this instance.

Conflict of Interest:

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

Officer Responsible – Cherylee Shandley, Manager of Planning and Environment
In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

Author – Bernadine Pringle, Consultant Town Planner
In providing this advice as the Author, I have no disclosable interests to disclose.

Link to Council Plan:

Community Vision

Safe and accessible communities.

A strong competitive agricultural industry

Sustainable practices that preserve our landscapes and open spaces for our future generations to enjoy.

Council Mission

Foster a sustainable and diversified local economy where economic growth is encouraged and supported.

Financial Implications:

Nil

Risk Management Implications:

Nil

Communications Strategy:

Advise the applicant and objector of Council's decision.

Next Steps:

Issue the Notice of Decision to Grant a Planning Permit if approved by Council.

RECOMMENDATION:

That Council issues a Notice of Decision to Grant a Permit in relation to planning application PA1841-2023 for the subdivision of land into two (2) lots (excision of two

(2) dwellings) and creation of a carriageway easement at 368 Dimboola Rainbow Road Dimboola VIC 3414 (Crown Allotment 167 Parish of Dimboola) subject to the following: (Conditions 1 – 10)

THIS NOTICE OF DECISION TO GRANT A PERMIT ALLOWS

Planning Scheme Clause No.	Description of what is allowed
35.07-3 (FZ)	Subdivide land
42.01-2 (ESO6)	Subdivide land
52.02	Create an easement (carriageway)

CONDITIONS

Endorsed Plans

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

Mandatory Conditions in Clause 66.01

- 2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas (where it is proposed to be connected) services to each lot shown on the endorsed plan in accordance with the authority’s requirements and relevant legislation at the time.**
- 3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**
- 4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**

VicTrack

- 5. Prior to the issues of a Statement of Compliance, a Traffic Engineering report and accompanying design plans must be prepared by a suitably qualified consultant to the satisfaction of VicTrack, the rail operator V/Line and the Responsible Authority. The report and accompanying plans shall provide for compliant traffic design and controls to ensure safe vehicle crossing of the rail corridor and vehicle access to Dimboola Road. The report must include:**
 - 1:100 design plans of all new access lanes and traffic controls.**
 - Details of all proposed signage, lighting and controls such as bells.**
 - A schedule of colours materials and finishes.**
 - A risk assessment that demonstrates that the final design and suite of safety controls has been resolved in consultation with and approved by relevant transport agencies including VicTrack and V/Line.**
- 6. Prior to the issue of a Statement of Compliance, the design and safety controls recommended by the Traffic Engineering report must be implemented to the satisfaction of VicTrack, V/Line and the Responsible Authority. All costs associated with the implementation of the licence agreement must be borne by the owner and at no cost to VicTrack and V/Line.**

- 7. Prior to the Statement of Compliance, the owner must enter into an access licence agreement with V/Line. All costs associated with the implementation of the licence agreement must be borne by the owner and at no cost to VicTrack and V/Line.**
- 8. No drainage, effluent, waste, soil or other materials must enter, be stored or be directed to the railway land.**

Engineering

Access

- 9. The vehicle crossovers must be constructed at the expense of the owner to provide adequate ingress and egress to the site to the satisfaction of the Responsible Authority.**

Subdivision Expiry

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

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

Notes:

Access

- **Road Access and Upgrade:**

If any alterations to the existing crossover and access to Dimboola-Rainbow Road are required by the Traffic Engineering Report as required by VicTrack, further approval is required from the Department of Transport and Planning and a planning permit is required to alter the access to a road in a Transport Zone 2 (Dimboola-Rainbow Road) under Clause 52.29-2 of the Hindmarsh Planning Scheme.

The section of Borgelt Road and Lil Lil Dam Road from Dimboola - Rainbow Road to the entrance of Lot 2 is classified a 6R earth road, as per our Road Management Plan and hence the access will be limited to Dry Weather only. The Council cannot guarantee access to this point at all times. If the applicant ever requires all-weather access from Lil Lil Dam Road, they must seek approval from Council to lift the hierarchy of the road to the higher standard (subject to Council approval). Any associated costs will be borne by the owner.

- **Consent to works within road reserve:**

A consent to works within road reserve permission is required from Council prior to construction of new or upgraded crossovers (not applicable for any works within the Transport Zone 2 which is the responsibility of the Department of Transport and Planning).

Environmental Health

- **All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Act 2017. All wastewater shall be disposed of within the curtilage of the land and sufficient area shall be kept available for the purpose of wastewater disposal to the satisfaction of the Responsible Authority. No wastewater shall drain directly or indirectly onto an adjoining property, street or any watercourse or drain to the satisfaction of the Responsible Authority.**

Attachment Number: 10

10 REPORTS REQUIRING A DECISION

10.1 AGREEMENT UNDER SECTION 173 OF THE *PLANNING AND ENVIRONMENT ACT 1987*

Responsible Officer: Director Infrastructure Services

Attachment Number: 11 (Confidential Attachment)

Introduction:

This report recommends that Council authorises the Chief Executive Officer to sign the Section 173 Agreement under the Common Seal of the Hindmarsh Shire Council. The Section 173 Agreement is proposed in accordance with Condition Four (4) on the approved Planning Permit PA1718-2021, for the subject land 1 Dimboola Road Nhill VIC 3418 (lot one (1) and lot two (2) on Title Plan 536925S).

Background:

Planning Permit PA1718-2021 was approved by Council on 11 January 2022 for the 'development of two (2) dwellings at the rear of the existing dwelling, vegetation removal, construction of fences and a three (3) lot subdivision of two (2) existing lots' at 1 Dimboola Road Nhill VIC 3418. Condition One (1) plans were endorsed to the Planning Permit on 31 January 2022. On 16 April 2024, a planning permit extension was granted for a period of two (2) years.

Condition Four (4) on Planning Permit PA1718-2021 states the following:

4. *Before the plan of subdivision is certified under the Subdivision Act 1988, the owner must either:*
 - a. *Enter into an agreement with the responsible authority made pursuant to Section 173 of the Planning and Environment Act 1987 (the Act) and make application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act, which specifies that:*
 - i. *The development of the lots will be constructed in accordance with the plans endorsed to Planning Permit PA1718-2021.*

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

OR

- b. *Provide evidence to the Responsible Authority that the approved dwellings have been constructed in accordance with the plans endorsed to Planning Permit PA1718-2021 and an occupancy permit has been issued.*

Following approval of PA1718-2021, the applicant engaged Provey Conveyancing to prepare the Section 173 Agreement, indicating their choice of option A (detailed above). The consultant Town Planner, on behalf of Council, negotiated and reviewed the terms of the agreement.

Discussion:

After negotiation and review of the Section 173 agreement conditions by Council and the landowner, a final version of the agreement was prepared by Provey Conveyancing. A copy of the Section 173 agreement has been provided for signing under the Common Seal.

A Section 173 Agreement sets out conditions and restrictions on the use and development of the land. It is legally binding for current and future landowners and is recorded on the title to the land. In the case of PA1718-2021, it is required to ensure the use and development of the land is carried out in accordance with the approved planning permit.

S173 Agreements are defined in *Planning and Environment Act 1987* as follows:

173 Responsible authority may enter into agreements

- (1) A responsible authority may enter into an agreement with an owner of land in the area covered by a planning scheme for which it is a responsible authority.*
- (1A) Without limiting subsection (1), a responsible authority may enter into an agreement with an owner of land for the development or provision of land in relation to affordable housing.*
- (2) A responsible authority may enter into the agreement on its own behalf or jointly with any other person or body.*
- (3) A responsible authority may enter into an agreement under subsection (1) or (1A) with a person in anticipation of that person becoming the owner of the land.*

Despite anything in this Division, if an agreement entered into with a purchaser in anticipation of the purchaser becoming owner is recorded by the Registrar of Titles, it does not bind the vendor unless the vendor assumes the purchaser's rights and obligations under the agreement.

Link to Council Plan:

Strong Governance Practices
Facilitating and Supporting Economic Development

Financial Implications:

There are no financial implications for Council. The owner/operator must pay the reasonable costs of preparation, execution and registration of the Section 173 Agreement in accordance with Condition Four (4) of Planning Permit PA1718-2021.

Risk Management Implications:

Strategic Risk Description	Risk Management Discussion
Financial Sustainability	There are fees and charges associated with a Section 173 agreement, as part of the Condition of Approval Council has imposed costs associated with the agreement to be borne by the applicant. The imposition in the condition releases Council from financial loss in relation to the matter.

Strategic Risk Description	Risk Management Discussion
Community Needs	Should Council not sign the Section 173 Agreement this would prevent the property owner from completing their development. Signing the agreement will allow the property owner to proceed with their application and achieve certification necessary to complete the development.

Relevant Legislation:

This Section 173 Agreement has been considered under the requirements of the *Planning and Environment Act 1987*.

Conflict of Interest:

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

Officer Responsible – Peter Brown, Acting Director of Infrastructure Services

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

Author – Mikayla Mackley, Planning Officer

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

Communications Strategy:

N/A

Next Steps:

Chief Executive Officer, Monica Revell to sign the Section 173 Agreement.

RECOMMENDATION:

That Council authorises the use of the Common Seal, in compliance with the Hindmarsh Shire Council Governance Local Law, in the execution of the Section 173 Agreement for 1 Dimboola Road Nhill VIC 3418, in accordance with Condition 4 of PA1718-2021.

Attachment Number: 11 (Confidential Attachment)

10.2 2025 COUNCIL MEETING DATES

Responsible Officer: Chief Executive Officer

Introduction:

This report seeks a Council decision regarding the setting of dates for meetings of Hindmarsh Shire Council in 2025.

Discussion:

Each year Council advertises the meeting dates for the upcoming 12) months in the local newspapers. The advertised dates are for the Council meetings and the Annual Statutory meeting. It is proposed that Council hold one (1) meeting per month, commencing at 3:00pm, except for May where there will be two (2) meetings due to legislative requirements to advertise and adopt the annual budget.

Council will continue to livestream Council meetings throughout 2025, which will mean that all meetings will need to be held in Nhill. It is proposed that in keeping with practice of other Councils around the state, Council does not meet in January.

It is recommended that Briefing meetings be held twice per month, two (2) weeks prior to the Council meeting at a time to be determined, and prior to the ordinary Council meetings, commencing at 1:00pm.

The proposed dates have also taken into consideration external organisation's conferences and forums such as Municipal Association of Victoria conferences, Rural Council Victoria conferences, the National General Assembly conference and LGPro conferences, to avoid clashes where possible.

Link to Council Plan:

Strong governance practices.

Financial Implications:

Nil.

Risk Management Implications:

Strategic Risk Description	Risk Management Discussion
Governance	This decision supports the holding of Council meetings and the making of Council decisions in a manner compliant with the <i>Local Government Act 2020</i> and the Hindmarsh Shire Council Governance Rules.

Relevant Legislation:

Local Government Act 2020

Community Engagement:

Council will continue to livestream meetings to allow community members who are unable to attend in person the opportunity to view Council meetings.

Gender Equality Implications:

Council has previously completed a Gender Impact Assessment regarding the holding of Council meetings and ensuring that participation in Council meetings is considered against common barriers to participation and access. No updates have been made.

Conflict of Interest:

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

Author and Officer Responsible – Monica Revell, Chief Executive Officer

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

Communications Strategy:

Council meeting dates will be published in local newspapers, on Council’s website and through Council’s media and social media platforms.

RECOMMENDATION:

That Council holds Council meetings at the Hindmarsh Shire Council Chamber, 92 Nelson Street Nhill, and sets the following times and dates for 2025:

<i>DATE (Wednesday)</i>	<i>Time</i>
<i>5 February 2025</i>	<i>3:00pm</i>
<i>5 March 2025</i>	<i>3:00pm</i>
<i>2 April 2025</i>	<i>3:00pm</i>
<i>7 May 2025</i>	<i>3:00pm</i>
<i>28 May 2025</i>	<i>3:00pm</i>
<i>18 June 2025</i>	<i>3:00pm</i>
<i>23 July 2025</i>	<i>3:00pm</i>
<i>27 August 2025</i>	<i>3:00pm</i>
<i>24 September 2025</i>	<i>3:00pm</i>
<i>29 October 2025</i>	<i>3:00pm</i>
<i>26 November 2025</i>	<i>3:00pm</i>
<i>17 December 2025</i>	<i>3:00pm</i>

10.3 INTERNAL RESOLUTION PROCEDURE

Responsible Officer: Director Corporate and Community Services

Attachment Number: 12

Introduction:

This report seeks Council adoption of the Internal Resolution Procedure in accordance with Section 140 of the *Local Government Act 2020* and the *Local Government (Governance and Integrity) Regulations 2020*.

Discussion:

With amendments to the *Local Government (Governance and Integrity) Regulations 2020* and the *Local Government Act 2020* that came into effect in October 2024, Councillors must abide by the Model Councillor Code of Conduct and Council must adopt an internal resolution procedure for dealing with alleged breaches of the Model Councillor Code of Conduct by 1 July 2025 (Regulation 12A). The aim of the Internal Resolution Procedure is to address any alleged breaches of the Model Councillor Code of Conduct before they are escalated to formal processes like internal arbitration.

A draft Internal Resolution Procedure is attached to this report, detailing:

- How a matter that is an alleged breach of the Model Councillor Code of Conduct is to be dealt with;
- The purpose of conciliation and how a Councillor can initiate a request to have a matter addressed through this process; and
- Who can perform the role of conciliator.

It is recommended that the existing Councillor Code of Conduct (inclusive of internal resolution procedures) adopted by Council 23 November 2022 be revoked upon adoption of this procedure, as it has legislatively been replaced by the Model Councillor Code of Conduct and this Internal Resolution Procedure.

Link to Council Plan:

Strong governance practices.

Financial Implications:

Expenses incurred in dispute resolution are accounted for in the annual Council Budget as adopted.

Risk Management Implications:

Strategic Risk Description	Risk Management Discussion
Governance	Adopting the Internal Resolution Procedure ensures that Council is not in breach of its legislative obligations. Having a clear procedure also supports good governance through establishing consistent and effective processes for the

Strategic Risk Description	Risk Management Discussion
	management of disputes and breaches of the Model Council Code of Conduct.

Relevant Legislation:

Local Government Act 2020

Local Government (Governance and Integrity) Regulations 2020

Community Engagement:

In accordance with the Hindmarsh Shire Council Community Engagement Policy, community engagement in relation to this decision was not required as this procedure addresses a legislative requirement rather than an initiative of Council.

Gender Equality Implications:

This policy has an indirect impact on the public and the impact has been determined to not be significant enough to warrant a GIA under the *Gender Equality Act 2020*. The primary focus of this policy is Council and Councillors rather than the public.

Conflict of Interest:

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

Officer Responsible – Petra Croot, Director Corporate and Community Services

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

Author – Janelle Reichelt, Manager People and Performance

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

Communications Strategy:

If adopted, the Councillor Internal Resolution Procedure will be published on Council’s website and made available to Councillors via Sharepoint.

Next Steps:

As above.

RECOMMENDATION:

That Council

- 1. adopts the Internal Resolution Procedure; and***
- 2. revokes the Hindmarsh Shire Council Councillor Code of Conduct, adopted 23 November 2022.***

Attachment Number: 12

10.4 PARKING AND PEDESTRIAN ACCESS AT NHILL KINDERGARTEN

Responsible Officer: Acting Director Infrastructure Services

Attachment Number: 13

Introduction:

This report presents proposed works for parking and pedestrian access at the Kindergarten in Nhill (Whitehead Avenue) and recommends approval for the completion of the proposed works.

Discussion:

Council is responsible for the delivery of Early Years Services throughout the Shire. Currently, Council engages Emerge to deliver these services, operating Kindergartens in Nhill, Dimboola, Rainbow and Jeparit, along with long daycare in Nhill and Dimboola.

Earlier this year, Council received confirmation from the Victorian School Building Authority (VSBA) that an application for the supply of a new 33 space Modular Kindergarten in Nhill was successful. Ownership of the Kindergarten is retained by the Victorian School Building Authority, with a proposed long-term lease with Council in development.

Installation of the new Kindergarten commenced in June 2024 and was completed in late November. Council also obtained funding to assist with the fit out of the Kindergartens in both Nhill and Dimboola.

The Nhill Modular Kindergarten project includes external playground equipment within a fenced, landscaped setting and parking for several vehicles. It is located on Department of Education land adjacent to Nhill College on Whitehead Avenue, Nhill.

Access is provided via a bitumen paved area between the new Kindergarten and the Nhill Swimming Pool. The condition of the bitumen has been assessed by Council's engineering staff as poor, dangerous, and requiring replacement in the longer term.

To sustain the current surface in the medium term (approximately five (5) years), Council's engineering staff propose to undertake works including:

- Construction of a new concrete double crossover
- Trimming / removing tree branches and shrubs for site distance requirements when exiting the site
- Removal of concrete blocks / footings from previous infrastructure
- Patching / repair of cracks in paving
- Flattening out of areas impacted by tree roots
- Trimming of lower tree branches within parking area
- Clearing debris in the parking and garden area
- Installing bollards to prevent vehicles accessing prohibited areas

- Line marking as necessary
- Installing a gravel pedestrian path from proposed bus drop off and pick up point

The total cost for the above works is estimated at approximately \$40,000 excl GST. The recommendation of \$50,000 excl GST ensures an allowance for contingencies that may arise during works is allowed for.

The works have not been allocated a budget in the 2024/2025 financial year, but due to the current unsafe state of car parking and pedestrian access cannot wait until the 2025/2026 budget. Financial implications are discussed in the relevant section of this report.

Link to Council Plan:

Built & Natural Environment - Well maintained physical assets and infrastructure to meet community and organisational needs.

Financial Implications:

Although there is no budget for these works, interest income received to 30 November is higher than budget due to Council receiving the Financial Assistance Grants in July and interest rates remaining higher than budgeted.

Year to date (YTD) interest income as at 30 November \$232,531 against YTD budget \$166,000. It is not anticipated approval of this expenditure will impact on the delivery of Councils 2024/2025 budgeted projects.

Risk Management Implications:

Strategic Risk Description	Risk Management Discussion
Financial Sustainability	This project hasn't been budgeted for and will need to be sourced from outside this project which may impact the delivery of other works.
Community Needs	If works are not undertaken to improve access to the new Kindergarten it may result in negative community feedback or worse, injury due to the existing condition of the site.
Asset Management	If works are not undertaken prior to this area being used to access the Kindergarten it may result in more expensive works needing to be undertaken within the near future.

Relevant Legislation:

Local Government Act 2020
Road Management Act 2004

Community Engagement:

Engagement with Nhill College has been undertaken, identifying vehicle free zones and bus drop off points.

Gender Equality Implications:

A gender impact assessment has not been undertaken as there is no gender implications on the essential infrastructure works planned.

Conflict of Interest:

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

Officer Responsible – Peter Brown, Acting Director Infrastructure Services

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

Author – Daniel Griffiths, Manager Works and Operations

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

Communications Strategy:

Officers will liaise with Nhill College and Department of Education to provide update of works and anticipated completion date.

Next Steps:

Works will be scheduled to be completed prior to Kindergarten commencing in 2025.

RECOMMENDATION:

That Council approves \$50,000 excl GST to undertake the following works at the new Nhill Kindergarten site:

- 1. Construction of a new concrete double crossover;***
- 2. Removal of necessary vegetation and trimming;***
- 3. Necessary basic maintenance on the in/out track;***
- 4. Clear debris in the parking and garden area;***
- 5. Install bollards; and***
- 6. Install a gravel pedestrian path to and from the bus point.***

Attachment Number: 13

10.5 AQUATIC FACILITIES GRANT APPLICATION

Responsible Officer: Acting Director Infrastructure Services

Introduction:

This report requests council endorsement for a funding application under Regional Community Sports Infrastructure Fund for upgrade of Dimboola Swimming Pool with the total project cost of approximately \$1.1M and Council contribution of up to \$275,000.

Discussion:

In 2023 Council commissioned aquatic engineering reports on the condition of all four pools. The combined reports show that a significant amount of work and funding is required to keep the pools operational as they are predominantly at end-of-life stage in the asset cycle.

In recent years, funding has only been available for change room upgrades and the pools themselves have been considered council maintenance budget responsibility. However, after effective lobbying from many councils and other bodies – this year in the community infrastructure funding guidelines, outdoor aquatic facilities including pool shells have been included as an option for funding.

Each Council is permitted one application in the outdoor aquatic stream and there are approximately 16 requirements to apply for funding.

A significant amount of investment in Councils pools has been made in the past few years. The list below summarises items of work undertaken at each pools.

Rainbow Pool:

- New solar heating
- New filter system
- New dosing unit
- Automatic dosing control system
- Pool sealing
- Pool painting.

Jeparit Pool:

- New dosing unit
- Automatic dosing control system
- Pool sealing
- Pool painting.

Dimboola Pool:

- New dosing unit
- Automatic dosing control system

- Pool sealing
- Pool painting.
- Solar heating system

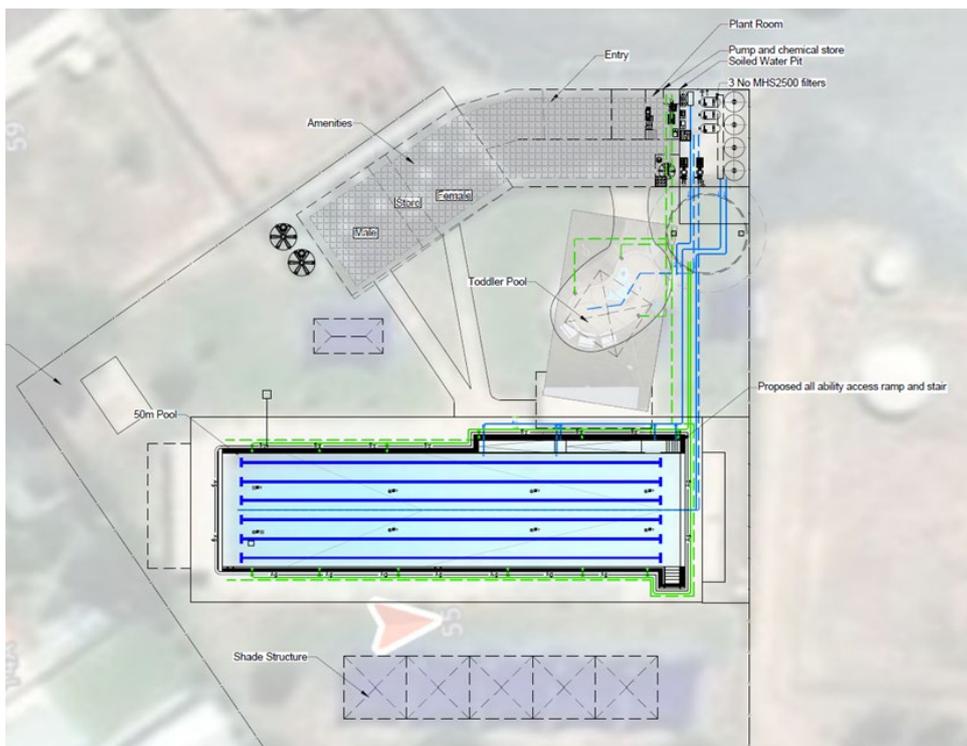
Nhill Pool:

- Solar upgrade
- New filtration system
- Pump replacement
- New dosing unit
- Automatic dosing control system

Further investment is required to ensure all four pools remain open into the future. Obtaining grant funding to undertake the above works would address the major concerns raised in the Dimboola aquatic engineers report ensuring the longevity of the pool and improved access for users.

Dimboola Swimming Pool is the only 50 metre pool in the Shire and meets the criteria for funding the most closely of all four pools as it has nearly 50% more attendance than the next pool (Nhill) and has an engineering report that best supports a pool shell replacement. The grant application would include:

1. Wet deck conversion to the pool including a balance tank and in pool hydraulics;
2. Expansion joint repairs;
3. Construction of an all abilities access ramp; and
4. Filtration upgrade to meet Department of Health and Human Services (DHHS) requirements.



Link to Council Plan:

A Built Environment that has suitable and sustainable infrastructure to meet community needs.

Financial Implications:

The budget for these works is approximately \$1.1M, meaning Council would need to contribute up to \$275,000 which will be referred to in 2025/2026 draft capital works program.

Risk Management Implications:

Strategic Risk Description	Risk Management Discussion
Asset Management	Council has the four pool engineering reports that prioritise funding required to keep the pools operational and safe. This is the first time that Sport and Recreation Funding has allowed for pool shell applications, and it is a 3:1 ratio meaning a substantial amount of the Dimboola report priorities could be met.
Community Needs	All four pools require substantive structural work and are of importance to the their communities, however Dimboola is the most used pool by a significant margin and the funding requires usage as a criteria.
Financial Sustainability	The combined pool reports require significant investment in the structural integrity of the pool shells and this is a grant with a strong funding ratio that could address a costly investment.

Relevant Legislation:

Under Section 116 of the *Local Government Act 2020* Council has objectives to consider the economic, environmental and community needs in their decision making.

Community Engagement:

Pools and their conditions as well as operations have continued to be raised throughout community consultation and the Dimboola Pool was ranked as medium to high priority in the community plans adopted by Council in February 2024.

Community consultation is one of the key requirements of this funding stream and carries 20% weight in the evaluation criteria. Further community engagement will be undertaken prior to the submission of a grant application.

Gender Equality Implications:

Improvements to the pool will remove barriers for people to access the water, a detailed gender impact assessment will be undertaken as part of the grant application. The pools are used by a range of demographics and the proposed Sport and Recreation Strategy will look at the gender equality implications across all sporting and aquatic facilities.

Conflict of Interest:

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

Officer Responsible – Peter Brown, Acting Director Corporate & Community Services.
In providing this advice as the Officer Responsible, I have no disclosable interests in this report.

Author – Monica Revell, Chief Executive Officer
In providing this advice as the Author, I have no disclosable interests in this report.

Next Steps:

Council Officers will undertake community consultation in accordance with Council's Community Engagement Policy in relation to this project. Feedback will inform the content of the application and delivery of the proposed works. Applications for this grant are due on 17 March 2025.

RECOMMENDATION:

That Council

- 1. submits a funding application through the Regional Community Sports Infrastructure Fund to undertake upgrades to the Dimboola Swimming Pool including wet deck conversion including a balance tank and in-pool hydraulics, expansion joint repairs, construction of an all-abilities access ramp, and filtration upgrades to meet DHHS requirements, with the total project cost of approximately \$1.1m; and***
- 2. refers the Council contribution of up to \$275,000 to the draft 2025/2026 capital works budget.***

11 COUNCIL COMMITTEES

11.1 ADVISORY COMMITTEES

Responsible Officer: Chief Executive Officer

Attachment Number: 14

Introduction:

One (1) Hindmarsh Shire Council Advisory Committee held a meeting on the following date:

- **Rainbow Township Advisory Committee**
General Meeting on 18 November 2024

A copy of the minutes for the Rainbow Township Advisory Committee meeting held on 18 November 2024 are included as an attachment for the information of Council.

Next Steps:

Advisory Committee Minutes will be published on Council's website.

RECOMMENDATION:

That Council notes the minutes of the Rainbow Township Advisory Committee meeting held on 18 November 2024.

Attachment Number: 14

11.2 COMMUNITY ASSET COMMITTEES

Nil.

12 LATE REPORTS

13 NOTICES OF MOTION

14 OTHER BUSINESS

15 CONFIDENTIAL REPORTS

In accordance with Section 66(2)(a) of the *Local Government Act 2020*, Council may close the meeting to the public to consider confidential information. Confidential information is defined by part IV of the *Freedom of Information Act 1982*, and by Section 3 of the *Local Government Act 2020* as being:

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

RECOMMENDATION:

That the meeting be closed in accordance with Section 66(2)(a) of the Local Government Act 2020, to consider reports that contain confidential information as defined by Section 3 of the Local Government Act 2020, and/or Part IV of the Freedom of Information Act 1982:

15.1 2025 Hindmarsh Shire Youth Council Nominations – this report contains “personal information, being information that which if released would result in

the unreasonable disclosure of information about any person or their personal affairs”.

15.2 Australia Day Awards – this report contains “personal information, being information that which if released would result in the unreasonable disclosure of information about any person or their personal affairs”, insofar as it pertains to personal matters.

16 LATE CONFIDENTIAL REPORTS

17 MEETING CLOSE
