



27 February 2019

To Councillor,  
"as addressed"

NOTICE is hereby given that an **ORDINARY MEETING** of the Hindmarsh Shire Council will be held at the Council Chamber, 92 Nelson Street, Nhill on Wednesday 6 March 2019, commencing at **3:00pm**.

A handwritten signature in black ink, appearing to read 'gwood', written over a horizontal line.

Greg Wood  
**Chief Executive Officer**

**AGENDA**

1. **Acknowledgement of the Indigenous Community and Opening Prayer**

2. **Apologies**

3. **Confirmation of Minutes**

4. **Declaration of Interests**

5. **Public Question Time**

6. **Deputations**

7. **Correspondence**

**8. Assembly of Councillors**

8.1 Record of Assembly

**9. Planning Permit Reports**

9.1 Application for Planning Permit PA1614-2018 – 957 Western Highway, Nhill

**10. Reports Requiring a Decision**

No report

**11. Special Committees**

No report

**12. Late Reports**

No report

**13. Other Business**

**14. Confidential Matters**

- 14.1 Hindmarsh Shire Council Business Assistance Grants Program 2018/19 - Round 2
- 14.2 Tender for Design and Construction of E-Waste Sheds at Nhill (Contract No. 2018-2019-11) and Dimboola (Contract No. 2018-2019-12) Transfer Stations

**15. Meeting Close**

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**1. ACKNOWLEDGEMENT OF THE INDIGENOUS COMMUNITY AND OPENING PRAYER**

***Acknowledgement of the Indigenous Community***

*We acknowledge the Shire's Indigenous community as the first owners of this country. We recognise the important ongoing role that indigenous people have in our community and pay our respects to their elders and people both living and past.*

***Opening Prayer***

*Dear Lord,*

*We humbly request your blessing upon this Council and welcome your guiding presence among us.*

*May our decisions be taken wisely and in good faith, to your glory and the true welfare of the citizens of the Hindmarsh Shire.*

**2. APOLOGIES**

**3. CONFIRMATION OF MINUTES**

***RECOMMENDATION:***

***That the Minutes of the Ordinary Council Meeting held on Wednesday 20 February 2019 at the Memorial Hall, Roy Street, Jeparit as circulated to Councillors be taken as read and confirmed.***

*Attachment: 1*

**4. DECLARATION BY COUNCILLORS OR OFFICERS OF ANY DIRECT OR INDIRECT INTEREST IN ANY ITEM ON THE AGENDA.**

- Direct; or
- Indirect interest
- a ) by close association;
- b ) that is an indirect financial interest;
- c ) because of conflicting duties;
- d ) because of receipt of an applicable gift;
- e ) as a consequence of becoming an interested party; or
- f ) because of an impact on residential amenity.

Declaration of direct or indirect interest must also be advised by Councillors at the commencement of discussion of the specific item.

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**5. PUBLIC QUESTION TIME**

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**6. DEPUTATIONS**

No deputations

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**7. CORRESPONDENCE**

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**7.1 GENERAL CORRESPONDENCE**

**Responsible Officer:** Chief Executive Officer

**Attachment:** 2

**Introduction:**

The following correspondence is tabled for noting by Council,

Inwards:

- Nil

Outwards:

- Invitation to Minister Pakula to officially open the Nhill Skate Park

**RECOMMENDATION:**

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

*Attachment: 2*

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**8. ASSEMBLY OF COUNCILLORS**

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**Responsible Officer:** Chief Executive Officer

**Attachment:** 3

**Introduction:**

The attached Assembly of Councillors Records are presented as an attachment to the Council agenda for the information of Councillors and recorded at the Council meeting as required under s80A Local Government Act 1989.

**Options:**

1. That Council accepts the Assembly of Councillors Records as presented.

**RECOMMENDATION:**

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

*Attachment: 3*

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**9. PLANNING PERMITS**

**9.1 APPLICATION FOR PLANNING PERMIT PA1614-2018 – 957 WESTERN HIGHWAY, NHILL**

<b>Responsible Officer:</b>	Acting Director Infrastructure Services
<b>File:</b>	Planning – Applications
<b>Assessment:</b>	148840
<b>Applicant:</b>	Ms Tracey Bell
<b>Owner:</b>	Robert & Tracey Bell
<b>Subject Land:</b>	CA 7 Psh Kinimakatka (957 Western Highway Nhill)
<b>Proposal:</b>	Building and works for the construction of a replacement dwelling
<b>Zoning &amp; Overlays:</b>	<ul style="list-style-type: none"><li>• Farming Zone (FZ)</li><li>• No Overlays</li></ul>
<b>Attachment:</b>	4

**Summary:**

This report recommends that Council approve planning permit PA1614-2018 for the construction of a replacement dwelling located at 957 Western Highway Nhill.

**Background:**

The proposal seeks a permit for buildings and works to construct a replacement dwelling on land 138.02 ha in area.

**Proposal Details:**

The proposal is to construct a single storey dwelling to replace an existing farm dwelling on the land.

The dwelling is to be constructed to the north of the existing dwelling as per plans supplied, however, no elevations have been supplied. Supply of these elevations can be conditioned, as well as conditions relating to colour palette and materials. The nearest dwelling to this proposal is 2.15 kilometres to the north.

**Requirement for Permit:**

A Planning permit is triggered for this application pursuant to Clause 35.07 – Farming Zone of the Hindmarsh Planning Scheme for Buildings and Works associated with the construction of a dwelling. As a dwelling already exists on the land a replacement dwelling is classified as a Section 2 use under the provisions of the Farming Zone, and therefore the VicSmart process could not be applied in this instance.

It is proposed to condition the permit requiring the owner to demolish the existing dwelling within three months of the owner receiving an Occupancy Permit as per the Building Regulations 2018 for the new dwelling.

**Subject site & locality:**

The subject site is known as 957 Western Highway Nhill, and is currently used for agriculture, comprising multiple farm buildings / shedding. The property (and surrounds) has been extensively cleared with little established vegetation remaining.

The proposal does not impact on any existing native vegetation and no native vegetation is proposed to be removed.

**Public Notification**

Section 52 of the Planning and Environment Act 1987 prescribes the requirements relating to giving notice as such:

**s52 Notice of application**

(1) *Unless the responsible authority requires the applicant to give notice, the responsible authority must give notice of an application in a prescribed form—*

(a) *to the owners (except persons entitled to be registered under the **Transfer of Land Act 1958** as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the responsible authority is satisfied that the grant of the permit would not cause material detriment to any person.*

The application is not required to be publicly notified under the provisions of the Planning and Environment Act 1987 as the proposal is not deemed to cause material detriment to any person for the following reasons:

- The permit is to be conditioned that the existing dwelling will be removed and therefore the proposal will not result in any net increase in dwelling density;
- The proximity to dwellings on neighbouring properties, the layout and siting of the proposed dwelling will not adversely impact upon the landscape and general amenity of the area;
- The proposed dwelling is not considered to negatively impact on the agricultural productivity of the subject and surrounding land in the area.

It is therefore determined that the proposal will not cause material detriment to any person.

**Referrals**

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals: Not required

Section 52 Notices: Not required

Internal Referrals: Not required

**Planning Assessment:**

Permit Requirement:

A Planning permit is required under Clause 35.07 – Farming Zone of the Hindmarsh Planning Scheme for Buildings and Works associated with the construction of a dwelling.

Planning Scheme Requirements:

**Planning Policy Framework**

Clause 11 - Settlement

Clause 11.01 - Victoria

Clause 11.01-1R Settlement - Wimmera Southern Mallee

Clause 13.02 - Bushfire

Clause 17.01-1R Diversified economy - Wimmera Southern Mallee

**Local Planning Policy Framework**

Clause 21 – Municipal Strategic Statement

**Zoning Provisions**

Clause 35.07 Farming Zone

**Overlay Provisions**

None

**Particular Provisions:**

None applicable.

**General Provisions**

Clause 65 – Decision Guidelines, states that:-

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

The decision guidelines relevant to this application are stated within Clause 65.01 of the Hindmarsh Planning Scheme – 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.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

This clause does not apply to a VicSmart application.

It is considered that the application complies with the relevant decision guidelines as outlined.

#### **Discussion:**

The application has been assessed against the State Planning Policy Framework and the Local Planning Policy Framework, and it is considered that the proposed use is consistent with relevant policies contained within this section of the Hindmarsh Planning Scheme.

Clause 35.07 – Farming Zone states that before deciding on an application, in addition to the decision guidelines in Clause 65 the Responsible Authority must consider, as appropriate (as outlined in detail within the Planning Scheme):

#### **Decision Guidelines**

A lot used for a dwelling must meet the following requirements:

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

It is considered the proposed replacement dwelling meets these requirements subject to appropriate conditions being applied to the permit.

### **General Issues**

- The State Planning Policy Framework and the Local Planning Policy.
- Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.

Planning response:

The proposed building and works is considered to meet the applicable decision guidelines as outlined above.

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

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

Planning response:

The proposed buildings and works is considered to meet the applicable decision guidelines with regard to agricultural considerations outlined above and does not require an integrated land management plan to be prepared for the site.

### **Dwelling issues**

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.

- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

Planning response:

The proposed buildings and works is considered to comply with the dwelling issues and considerations as listed above. The proposed dwelling does not:

- Result in the loss or fragmentation of productive agricultural land as the permit will be conditioned to have the existing dwelling removed within three months of the owner having received Occupancy Permit as per the Building Regulations 2018 for the new dwelling.
- Adversely affect agricultural activities on adjacent and nearby land.
- Adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- Lead to a concentration or proliferation of dwellings in the area and does not negatively impact on the use of the land for agriculture.

### **Environmental issues**

- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.
- The impact of the use or development on the flora and fauna on the site and its surrounds.
- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

Planning Response:

The proposed building and works is considered to:

- Not negatively impact on the natural physical features and resources of the area.
- Not negatively impact on the flora and fauna on the site and its surrounds as no native vegetation is proposed to be removed.
- Not negatively impact upon biodiversity of the area.

### **Design and siting issues**

- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, water, drainage, telecommunications and sewerage facilities.
- Whether the use and development will require traffic management measures.

#### **Planning Response:**

The proposed location of the dwelling is considered to accord with the above decision guidelines, having regard to the siting, design, and bulk, with minimal impact on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.

The proposal will not adversely impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.

The applicable location and design of existing and proposed infrastructure including roads, water, drainage, telecommunications and sewerage facilities supports the proposed buildings and works.

The proposed dwelling is serviced by the Western Highway, via an existing vehicle crossing.

This planning application is for buildings and works for a replacement dwelling on a parcel of land over 40 hectares in area, which is an 'as of right use' in the Farming Zone, and is a Section 2 use in this instance, as there is an existing dwelling on the land .

#### **Strategic, Statutory and Procedural Requirements:**

The proposal is consistent with the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

#### **Report to Council:**

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

**Processing Times:**

The application was received on 4 February 2019. The report is being presented to Council at its meeting on 6 March 2019 (31 days). The statutory processing time requirements of the Planning and Environment Act 1987 have been satisfied in this instance.

**Conflict of Interest:**

Under section 80c of the Local Government Act 1989 officers providing advice to Council must disclose any interests, including the type of interest.

Officer Responsible – Janette Fritsch, Acting Director Infrastructure Services

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

Author – Andre Dalton, Coordinator Planning and Development

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

**RECOMMENDATION:**

***That Council approve an application to construct a replacement dwelling on CA7 Psh Kinimakatka, 957 Western Highway Nhill, subject to the following conditions:***

**Amended Plans**

- 1. Prior to works commencing, three (3) copies of 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 must be generally in accordance with the plans submitted with the application but modified to show:***
  - a) A site plan showing the location of the proposed dwelling, drawn to scale, with a north point, relative to all existing buildings on the subject land, showing distances to boundaries and the Western Highway, and***
  - b) Elevations of the proposed dwelling, drawn to scale, showing colours and materials proposed.***

**Amenity**

- 2. The construction of the dwelling must be managed so that the amenity of the area is not detrimentally affected through the:***
  - (a) Transport of materials, goods or commodities to or from the land;***
  - (b) Appearance of any buildings, works or materials;***
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;***
  - (d) Presence of vermin; or***

**(e) In any other way.**

- 3. The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.**
- 4. All loading and unloading of vehicles and delivery of goods to and from the premises must occur on site.**

**General**

- 5. The dwelling must be connected to a potable water supply with adequate storage for domestic use as well as for fire-fighting purposes.**

**Environmental Health**

- 6. The wastewater from the dwelling must be connected to an approved septic system and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.**

**Decommissioning of Existing Dwelling**

- 7. The existing dwelling on the subject land must be appropriately decommissioned to the satisfaction of the Responsible Authority within three (3) months of an Occupancy Certificate being issued for the new dwelling.**

**Permit Lapse/Extension**

- 8. The development approved by this permit will expire if one of the following circumstances applies:**
  - (a) Construction is not commenced within two years of the date of this permit.**
  - (b) Construction is not completed within four years of the date of this permit.**

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

- (a) Within six months afterwards for commencement, or**
- (b) Within twelve months afterwards for completion.**

**Notes:**

- (1) This permit is not a Building Permit. Please consult a Building Surveyor and ensure a Building Permit is obtained.**
- (2) Approval must be obtained from Council's Engineering Department (Phone: 03**

***5391 4444) for the construction or alteration of any vehicle crossings within 14 days of the date of this permit, should this be required.***

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

*Attachment: 4*

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**10. REPORTS REQUIRING A DECISION**

No report

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**11. SPECIAL COMMITTEES**

No report

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**12. LATE REPORTS**

No report

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**13. OTHER BUSINESS**

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**14. CONFIDENTIAL REPORTS**

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In accordance with Section 89 (2) of the *Local Government Act 1989*, Council may close the meeting to the public if items to be discussed are deemed confidential, that is, if the items to be discussed relate to:

- a) Personnel matters;
- b) The personal hardship of any resident or ratepayer;
- c) Industrial matters;
- d) Contractual matters;
- e) Proposed developments;
- f) Legal advice;
- g) Matters affecting the security of Council property;
- h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person;
- (i) a resolution to close the meeting to members of the public.

***RECOMMENDATION:***

***That the meeting be closed in accordance with Section 89 of the Local Government Act 1989, to consider:***

- 14.1 Hindmarsh Shire Council Business Assistance Grants Program 2018/19 - Round 2***
- 14.2 Tender for Design and Construction of E-Waste Sheds at Nhill (Contract No. 2018-2019-11) and Dimboola (Contract No. 2018-2019-12) Transfer Stations***

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**15. MEETING CLOSE**

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