



**Southern Grampians**  
SHIRE COUNCIL

# Planning Committee Minutes

18 September 2023

Held at 10:00am in the  
Martin J Hynes Auditorium  
5 Market Place, Hamilton

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**1. PRESENT**

**Councillors**

Cr Mary-Ann Brown  
 Cr Albert Calvano

**Officers**

Mr Rory Neeson, Director Wellbeing Planning and Regulation  
 Mr Juan Donis, A/g Director Infrastructure and Sustainability

Mr Daryl Adamson, Manager Shire Strategy and Regulation  
 Ms Anita Collingwood, Senior Statutory Planner  
 Mr Parvesh Siroha, Senior Strategic Planner

Andrew Lacey (applicant)  
 Mick Alderman (landowner, 513 Old Ararat Road Dunkeld)  
 Edward Connelly (landowner Lot 1, 136 West Boundary Road Tabor)

**Minutes**

Sharon Clutterbuck, Executive Assistant - Director Wellbeing Planning and Regulation

**2. WELCOME**

**3. APOLOGIES**

Marg Scanlan, Director Infrastructure and Sustainability

**4. CONFIRMATION OF MINUTES**

Minutes of the Meeting held on 30 August 2023 have been circulated.

**RECOMMENDATION**

That the Minutes of the Planning Committee meeting held on 30 August 2023 be confirmed as a correct record.

**COMMITTEE RESOLUTION**

That the Minutes of the Planning Committee meeting held on 30 August 2023 be confirmed as a correct record.

**Moved: Cr Calvano**  
**Seconded R Neeson**

**Carried**

## **5. DECLARATION OF INTEREST**

Nil

## **6. MATTERS FOR DECISION**

### **6.1 Planning application TP/26/2023 for 513 Old Ararat Road, Dunkeld**

#### **Executive Summary**

This planning application seeks a two (2) lot subdivision to excise an existing dwelling from the agricultural land. The house lot (Lot 2) is proposed to be 1.5 hectares with frontage to Old Ararat Road and the balance allotment (Lot 1) has an area of approximately 128.7 hectares. Lot 1 will retain some agricultural buildings in close proximity to the Lot 2.

The location of the house-lot and agricultural infrastructure poses a risk of land use conflict. Additionally, the subdivision does not adhere to the surrounding subdivision pattern, which could negatively impact land values and farming viability. There is also a potential for unplanned residential development on Lot 1 due to the subdivision.

Given that the proposal lacks a strategic basis and does not comply with the provisions of the Farming Zone, as well as agricultural policy at state and local levels, the application is recommended for refusal.

#### **Proposal**

The proposal is for a two (2) lot subdivision to excise the existing dwelling on the land from the balance of the farm. Key details include the following:

**Lot 1** – is to be the balance land at 128.7 hectares in size which wraps around Lot 2. Proposed Lot 1 is to be farming land containing several agricultural buildings in close proximity to Lot 2.

**Lot 2** – is to contain the existing dwelling and its curtilage, including outbuildings. Proposed Lot 2 is to be 1.5 hectares in size, with a frontage of approximately 145 metres to Old Ararat Road and a depth of approximately 105 metres.

Refer to submitted plans for full details.

#### **Subject Site & Locality**

The land is encompassed within Certificate of Title Volume 10461 Folio 653, identified as Crown Allotment 5, Section C, Parish of Adzar.

The subject site spans a total of 130.2 hectares.

Facing Old Ararat Road, the southern boundary of the application site stretches over a length of 1.575km, while the eastern boundary adjoins Mahoneys Lane with a span of 1.084km.

There are no encumbrances indicated on the title plan.

The subject site is characterised by a mostly level terrain primarily used for expansive animal grazing.

Numerous dispersed redgum trees are growing throughout the property.

Situated in the southern sector of the allotment, the dwelling and accompanying structures are present. Access to the dwelling is established through a driveway originating from Old Ararat Road.

The land is currently used for the grazing of ewes.

The neighbouring land is predominantly utilised for extensive animal husbandry, involving the grazing of sheep and cattle as part of a broader agricultural context.

Allotments are large, with limited examples of smaller historical subdivisions. There is a house lot excision example as shown within the image below to the north-west of the subject site along Mahoneys Lane.



**Figure 1: Subject site**

### **Permit/Site History**

There is no relevant planning permit or site history.

### **Public Notification**

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987*. No objections were received.

### **Referrals**

No referrals were required to be undertaken for this planning application.

### **Planning Framework**

#### **Clause 00 Purpose and Vision**

The following clauses are the most recent to the planning application, particularly within the Municipal Strategic Statement:

- Clause 02.01 Context

The Shire is located at a major highway junction and has good connections to the southeast of South Australia, as well as to agricultural regions. Primary production and conservation are the main land uses, followed by forestry and extractive industry. The Shire is known for its quality health and education sector, and has strengths in mineral sands processing, cutting tool manufacturing, and agricultural and building materials manufacturing. Fine wool production is famous in the Shire, but large-scale cropping, hay production, and horticulture are now bigger parts of the primary industry sector. Agro-forestry, mining, and renewable energy are expected to grow.

- Clause 02.02 Vision

The Shire's vision is to be a well-connected, dynamic regional centre, supporting a vibrant, healthy, and inclusive community.

The Council Plan (2017-2021) identifies five fundamental priority areas. Those relevant to land use and development are to:

- Develop the regional economy and businesses.
- Plan for the built environment and infrastructure.
- Promote the natural environment.

- Clause 02.03 Strategic directions

- Clause 02.03-3 Environmental risk and amenity

Bushfire

Most of the Shire is designated as a Bushfire Prone Area.

Approximately a quarter of the Shire is affected by the Bushfire Management Overlay. The most significant urban interfaces to areas prone to bushfire are in the towns of Balmoral and Dunkeld. The Shire has a long history of major bushfire damage. The Grampians is particularly prone to bushfires because of its significant vegetation cover and steep slopes.

The design, location and operation of development can place the community at risk from uncontrolled fire.

In managing bushfire risk, Council will:

- Direct development away from areas prone to significant bushfire risk.
- Manage the interface of towns in areas prone to bushfire risk, particularly Balmoral and Dunkeld.
- Prioritise the protection of life and property from bushfire events.
- Require fire protection measures that relate to the level of fire risk, particularly in the Grampians.
- Ensure that land use and development does not unreasonably increase the fire risk.
- Apply the precautionary principle approach to development within areas prone to bushfire risk.



- Clause 02.03-4 Natural resource management

### Agriculture

The Shire's economy is primarily built upon the agricultural sector. Fertile and arable soils, together with a very reliable rainfall, provide a natural advantage. The Shire is renowned for producing fine wool; however, through diversification into meat production, the Hamilton Regional Livestock Exchange (saleyards) has risen to become Victoria's third largest. The Shire's agricultural base also includes large-scale cropping, hay production and horticulture.

Significant growth is expected in agro forestry, together with mining and renewable energy. Newer industries such as viticulture and olives, and value adding of primary produce, provide significant potential.

Agriculture is supported by established infrastructure and services, scientific research and development, and training and professional services. Dwellings and small lot subdivision in the Farming Zone can impact detrimentally on agriculture and the rural character of an area.

In supporting agriculture, Council will:

- Support use and development that maintains the significance of agriculture and protects the Shire's agricultural capacity.
- Protect agriculture from use and development that is inconsistent with farming practices, recognising the 'right to farm'.
- Minimise the impact and area of any non-agricultural development in agricultural areas.
- Minimise the impacts of dwellings and small lot subdivisions in farming areas.
- Support use and development that efficiently use and manage land, water and other finite resources.
- Encourage agricultural diversity, particularly adding value to primary products through processing, distribution, research and marketing, and new agricultural industries like horticulture and timber.
- Protect natural resources important to agriculture from soil decline, dryland salinity, water quality decline, erosion, pest plants and animals, loss of native vegetation and inappropriate land management practices.

- Clause 02.04 Strategic framework plan



Figure 2: Strategic Framework Plan

### Clause 10 Planning Policy Framework

The following clauses within the Planning Policy Framework are the most relevant to the planning application:

- Clause 11.01-1S Settlement – seeks to facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.
- Clause 12.01-2S Native Vegetation Management – seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

- Clause 13.02-1S Bushfire planning – aims to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.
- Clause 14.01-1S Protection of agricultural land – aims to protect the state’s agricultural base by preserving productive farmland.
- Clause 14.01-1L Small lot subdivisions, house lot excisions and dwellings – seeks to ensure that subdivision and accommodation do not compromise the existing and ongoing agricultural use of land.
  - o Strategies include:
    - Discourage subdivision and accommodation that do not relate to or directly support the use of land for agriculture.
    - Retain agricultural land in parcels of sufficient size that can allow viable agriculture.
    - Discourage subdivision unless it is to excise an existing dwelling that is excess to the requirements of a rural use.
    - Site and design dwellings to minimise impacts on agriculture.
    - Provide adequate separation distances from dwellings to agriculture.
    - Restructure lots to create a smaller lot for a dwelling instead of creating additional lots.
  - o Policies guidelines:
    - Encouraging the consolidation of titles prior to any dwelling excision.
    - Requiring any lots created for an existing dwelling to have a maximum size of 2 hectares unless any of the following apply:
      - It can be demonstrated that this is not practical.
      - A larger lot is needed to provide for the on-site collection of water for a dam for domestic purposes.
      - It can be demonstrated that the lot is to be used for agricultural purposes.
      - Requiring any lots created for an existing dwelling to contain a dwelling that is in a habitable condition that complies with the Building Code of Australia.
      - The need to provide for the upgrading of roads and drainage to ensure that traffic and run-off generated by the development is effectively managed.
- Clause 14.01-2S Sustainable agricultural land use – aims to encourage sustainable agricultural land use.
- Clause 14.01-2L Sustainable agricultural land use.

## Zoning

### Farming Zone

The subject site is within the Farming Zone. The purpose of the Farming Zone is:

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

Pursuant to Clause 35.07-3 a planning permit is required to subdivide land. Under this clause it is specified that each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.

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

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

Further, the decision guidelines outlined at Clause 35.07-6 must be considered.

### **Overlays**

The land is not affected by any planning overlays.

### **Relevant Particular Provisions**

There are no Particular Provisions relevant to this planning application.

### **General Provisions**

#### **Clause 65 Decision guidelines**

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

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

Before deciding on an application or approval of a plan, the responsible authority must consider this clause.

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

Before deciding on an application to subdivide land, the responsible authority must consider this clause.

### **Summary of Key Issues**

The key issues for consideration are:

- Is the proposal consistent with the objectives and strategies of the Municipal Planning Strategy and the Planning Policy Framework?
- Is the proposal consistent with the Farming Zone?
- Does the proposal provide for an orderly planning outcome?

### **Assessment**

An assessment of this proposal against the relevant provisions of the Southern Grampians Planning Scheme has been undertaken.

Upon evaluating the planning proposal in alignment with the planning scheme, a series of pivotal considerations emerge in determining its appropriateness:

- Does the subdivision align with its zoning and policy context?
- Might the separation of the dwelling impact the agricultural productivity of the land?
- Is the proposed subdivision consistent with the prevailing subdivision pattern in the vicinity?
- Could the subdivision potentially trigger conflict between residential and agricultural land uses?

The application seeks to make use of the house lot excision provisions outlined in the Southern Grampians Planning Scheme, notably Clause 14.01-1L and the subdivision clauses within Clause 35.07-3, which cater to the establishment of smaller-than-prescribed lots (below the minimum of 40 hectares).

The applicant contends that Lot 1 could remain in agricultural use by the current proprietors, with intentions to sell the surplus dwelling on Lot 2 as the family does not require it.

Although proposed Lot 2, at 1.5 hectares for the existing dwelling, does not exceed the maximum lot size of 2 hectares under the policy guidelines within Clause 14.01-1L, Clause 14.01-1S requires consideration of the potential impact of the subdivision on land values and the sustainability of production infrastructure. There is a concern that such excisions contribute to escalating land values, often rendering farming unviable, an aspect discussed in the case of *McGrath v Mornington Peninsula SC* [2003] VCAT 1816.

This locale's existing settlement and subdivision pattern predominantly features lots greater than 100 hectares, up to 400 hectares. Instances of allotments below two hectares for dwellings are scant. Irrespective of any isolated cases, perpetuating such a pattern is both ill-advised and unsupportable.

The decision guidelines of the Farming Zone necessitate consideration of whether the dwelling will be negatively affected by agricultural operations or the expansion of neighbouring farming uses. Furthermore, Clause 14.01-1L asserts that the smaller lot should be established in a manner that doesn't encumber adjacent agricultural activities.

Acknowledging the presence of agricultural infrastructure on Lot 1, especially in close proximity to the proposed Lot 2 and existing dwelling, it's plausible that excising the dwelling might trigger new permit requisites if new infrastructure is planned within 100 metres of a non-associated dwelling. This regulatory burden underscores the argument that the excision could impede farming viability and exacerbate land use conflicts given the proximity of the dwelling to the farming infrastructure.

The potential land use and development resulting from the proposed subdivision require consideration as well. Given that the balance allotment (Lot 1) surpasses 40 hectares, a new dwelling could be constructed without a planning permit. The proponent, however, has overlooked this aspect in the submitted planning report, which could inadvertently encourage the proliferation of dwellings in the vicinity.

An analysis of the planning scheme, encompassing local policies concerning house lot excisions, zoning specifications, Planning Policy Framework (PPF), and Municipal Planning Strategy (MPS), underscores the prevailing consensus against small lot subdivisions within rural areas.

The rationale presented within the submitted planning report, advocating for the removal of the existing dwelling from the agricultural property, lacks a strategic foundation in an area not designated for future residential development.

All factors considered, the provided circumstances and justifications fail to align with the enumerated objectives of the Farming Zone as outlined in Clause 35.07 and it is inconsistent with Clause 14.01-1S.

Conclusively, the proposed subdivision doesn't promise an orderly planning outcome for the locality of the subject site.

### **Conclusion**

This report has assessed the proposal against the relevant provisions of the planning scheme and has deemed the proposal an inappropriate outcome for the following reasons:

- The application is contrary to the purpose of Clause 35.07 – Farming Zone.
- The application is contrary to the objectives and strategies of the Planning Policy Framework and Municipal Planning Strategy.
- Having regard to Clause 65 of the Southern Grampians Planning Scheme, the proposal is not in line with the existing subdivision pattern or orderly planning of the area.

It will therefore be recommended that Council refuse the planning application.

## MEETING PROCESS

The meeting was held in accordance with standard meeting procedures

### **Anita Collingwood Senior Statutory Planner**

The application seeks a two lot subdivision to excise an existing dwelling from the agricultural land. The house lot is proposed to be 1.5 hectares and the balance allotment will be approximately 128.7 hectares. Officers are recommending refusal due to no strategic basis for the excision and does not comply with the provisions of the Farming Zone.

### **Andrew Lacey, Planning Consultant**

Flagged concerns around timeliness – Initial applicant lodged on 8 March 2023.

The provisions of the farming zone do provide the ability to apply for rural lot excision. Council's local policy has some guidelines for small lot excisions. Planning Scheme does provide the ability to apply for proposals like this.

List of similar subdivision applications were provided to the Committee for information where Council has approved the proposal.

Question. Is there a dwelling on the larger allotment? Confirmed that there was.

### **Mick Alderman, Landowner**

New house has been built where landowners live. House has been rented since land was purchased.

Is currently surplus to requirements and funds would go towards improvements into other land acquired at Karabeal.

There appears to be a need for housing in and around Dunkeld to enable people to stay in the town.

There have been no objections from neighbours to proposal.

### **Daryl Adamson, Manager Shire Strategy and Regulation**

Understand the concerns with timing. There are complex issues with applications in farming zones. Officers with delegations cannot approved these permits which is why they are referred to the Planning Committee. There is considerable time which is required to process these types of applications. Excising in the farming zone is a contentious issue in Victoria.

### **Anita Collingwood Senior Statutory Planner**

The ability to get a permit for the dwelling excision as previously mentioned is correct however this does not necessarily mean it should be issued. Each permit application is assessed on its merits. Planning Policy Clause 14.01S discourages development on isolated small lots. The farming zone is provided for farming and we need to be careful in approving smaller lots for possible non farming families to move who may then have their lifestyle and amenity impacted.

Landowner wants to keep as much of the land available for farming (which is why application is on 1.5 hectares rather than 40).

### RECOMMENDATION

That Council having caused notice of Planning Application No. TP/26/2023 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to **issue a Notice of Decision to Refuse to Grant a Permit** in respect of the land known and described as 513 Old Ararat Road, Dunkeld for a two (2) lot subdivision (dwelling excision), based on the following grounds:

Grounds of Refusal:

1. The application is contrary to the purpose of Clause 35.07 – Farming Zone.
2. The application is contrary to the objectives and strategies of the Planning Policy Framework and Municipal Planning Strategy.
3. Having regard to Clause 65 of the Southern Grampians Planning Scheme, the proposal is not in line with the existing subdivision pattern or orderly planning of the area.

### COMMITTEE RESOLUTION

That the Planning Committee decide to issue a planning permit for planning application TP/26/2023 for land known and described as 513 Old Ararat Road, Dunkeld for a two (2) lot subdivision (dwelling excision) subject to the following conditions:

#### Endorsed Plans

1. The layout and site dimensions of the subdivision hereby permitted, as shown on the endorsed plan/s, must not be altered, or modified without the written consent of the Responsible Authority.

#### Section 173 Agreement

2. Prior to the issue of a Statement of Compliance under the *Subdivision Act 1988*, the owner must enter into an agreement with the responsible authority pursuant to Section 173 of the *Planning and Environment Act 1987*, and submit the application to the Registrar of Titles to have the agreement registered on title to the land under Section 181 of the *Act*, which will provide that:
  - a. The owner of Lot 2 acknowledges and accepts the possibility of nuisance from agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic, and hours of operation.



All costs relating to the preparation and registration of the Agreement must be borne by the applicant.

### **Environmental Health Conditions**

3. Prior to the issue of a Statement of Compliance, the permit holder must demonstrate that the wastewater system associated with the existing dwelling on Lot 2 complies with the relevant EPA Code of Practice for On-site Wastewater Management. The landowner must provide:
  - a. A site plan showing the location of the existing onsite wastewater system and effluent disposal layout, including measurements from the building and from the wastewater system to the effluent disposal area, sand filters, pumps and valves.
  - b. A floor plan of the existing dwelling, including notation of bedrooms.
  - c. A written report from a registered plumber that certifies the existing onsite wastewater system treats and retains wastewater within the lot boundaries in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.

If the system is found to be non-compliant, a compliant system must be installed to the satisfaction of the Responsible Authority.

### **Subdivision Conditions**

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

### **Permit Expiry**

7. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if any of the following circumstances applies:
  - a. The subdivision is not certified within two (2) years of the date of this permit; or
  - b. The registration of the subdivision is not completed within five (5) years of the date that the plan of subdivision is certified.

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

**Moved: Cr A Calvano**  
**Seconded: Mr J Donis**

**Carried**

## **6.2 Planning application TP/135/2022 for 136 West Boundary Road, Tabor**

### **Executive Summary**

The proposal seeks approval for the use and development of a second dwelling on the land at 136 West Boundary Road, Tabor. The existing dwelling is proposed to be retained.

The second dwelling is of a single storey design by Mackkcon Homes Hamilton and is to be constructed of mixed materials.

The dwelling is proposed within a newly created fenced area, separate from the balance of the land.

Setbacks of the second dwelling include:

- 70 metres from West Boundary Road
- 158 metres from Gellerts Road, and
- The proposed effluent field 82 metres from a dam.

The dwelling is proposed to be serviced by a septic tank system to deal with wastewater to the northwest and is to provide a potable water supply via rainwater tanks. The dwelling will obtain access from a new proposed driveway and crossover at West Boundary Road.

The assessment of the planning application for a second dwelling on a Southern Grampians farming allotment highlights the proposal's inconsistency with zoning provisions and policy objectives. The proposal's location on a 9.22-hectare lot raises compatibility concerns with intended land use and zoning goals.

The applicant's justifications fall short of countering the potential negative impacts of additional residential development in a rural area. The dwelling's placement is problematic with respect to the Farming Zone's purpose and an approval may set a precedent, risking the proliferation of dwellings in farming areas. Largely, the proposal focuses on the personal motivations for the activity, rather than agricultural needs and broader community good.

It is recommended the planning application be refused as it is inconsistent with the Planning Scheme policy and objectives.

### **Proposal**

The proposal seeks the use and development of land for a second dwelling. The existing dwelling is proposed to be retained.

### Second dwelling

The second dwelling is of a single storey design by Mackkcon Homes Hamilton and is to be constructed of mixed materials, including block veneer, *hardigroove* cladding and sheet roofing.

The dwelling will be contained within a newly created fenced area, separate from the balance of the land.

Setbacks include:

- 70 metres from West Boundary Road
- 158 metres from Gellerts Road, and
- The proposed effluent field 82 metres from a dam.

The floor plan of the second dwelling includes the following spaces:

- Meals
- Living
- Kitchen
- Butler's Pantry
- Games Room
- Study/Guest Room
- Master Bedroom (Ensuite and Walk-in-Robe (WIR))
- Bedroom 2, 3 and 4 (with WIR)
- Bathroom
- Laundry
- Storage
- Entry
- Double Carport

The dwelling is proposed to be serviced by a septic tank system to deal with wastewater to the northwest and is to provide a potable water supply by rainwater tanks. The dwelling will obtain access from a new proposed driveway through to West Boundary Road.

The applicant has provided the following information which summarises the intent of the owner:

*The proposed second dwelling will provide contemporary accommodation for the owners of the land who have a young family.*

*The owner of the property is a local veterinarian who's extended family are based in Denmark. Retention of the dwelling provides the opportunity for extended family, who are regular visitors, to be provided with short term accommodation on site; and provides the opportunity in the longer term to be used as permanent accommodation for elderly parents of the owners.*

*The existing dwelling is a modest timber framed building clad with Hardie planks (or similar) estimated to have been constructed in the 1980's.*

*The dwelling does not meet the needs of the owners of the property, who have owned the land since January 2013.*

Refer to submitted plans for full details.

### **Subject site & locality**

Location and title details:

- The land falls within Certificate of Title Volume 10608 Folio 410, specifically identified as Lot 1 on Plan of Subdivision 446172G.
- The land has an area of approximately 9.22 hectares, equivalent to around 22 acres.
- The southern boundary spans 2090.47 metres along Gellerts Road, while the eastern boundary extends 535.1 metres along West Boundary Road.
- The site occupies the northwest corner of Gellerts Road and West Boundary Road in Tabor.
- The site is positioned 1 kilometre south of the Hamilton Highway.
- The site is located 16 kilometres east of Hamilton, accessible via the Hamilton Highway.

Existing Features:

- **Southern Part:** The southern portion of the site accommodates a well-established dwelling, complemented by ancillary outbuildings and mature landscaping.
- **Dam:** Positioned on the eastern side, the property features a dam situated towards the northern area.
- **Cattle Grazing:** The northern expanse of the land serves as a designated area for cattle grazing.
- **Tree Plantation:** There is a tree plantation adjacent to the western boundary and to approximately midway along it. There are also scattered trees across the site close to the dwelling.
- **Existing Crossover:** The current dwelling benefits from an existing crossover accessible from West Boundary Road.



including greywater and septic systems not indicated on plan.

ii. Verification on whether the existing on-site wastewater management systems are suitably sized, meets current standard, in good working order to prevent harm to human health, and the environment.

iii. Confirm whether the existing on-site wastewater management systems are located within the allotment boundary and effluent is able to be sustainably maintained within the allotment and not pollute waterbodies and waterways.

iv. Jamie Lowes Consulting Land Capability Assessment Report for 136 West Boundary Road Tabor report no. 222138 dated 24 August 2022 (LCA) is NOT of an ACCEPTABLE STANDARD.

LCA does not comply with:

- a. Australian Standards 1547: On-site domestic wastewater management
- b. Southern Grampians Shire Domestic Wastewater Management Plan (2019),
- c. Victorian EPA Code of Practice Onsite Wastewater Management 891.4,
- d. MAV Victorian Land Capability Assessment Framework 2014.

LCA documents the soil depth as to be very poor and the soil depth is 0.8m due to impassable basalt.

Australian Standards 1547: On-site domestic wastewater management requires a soil depth for onsite wastewater management trench system depth to be greater than 1.2m for trenches for final effluent treatment and to store effluent during periods of wet weather and low evapotranspiration. The AS 1547 require absorption trenches and evapotranspiration trenches/beds are required to be at least 0.6m of unsaturated soil below the base of the effluent trenches, the LCA report proposed to be 0.47m between bottom of trench and basalt.

MAV Victorian Land Capability Assessment Framework 2014 and Southern Grampians Shire Domestic Wastewater Management Plan (2019) require land capability assessment that identify a major constraint to address them and to investigate in depth a suitable onsite wastewater management system that will mitigate the major constraint. In this case the soil shallow depth and AS 1547 class 5 medium clay soil.

The applicant had provided a response to Council's RFI but subsequent correspondence from the Environmental Health Unit confirms that the same issues as abovementioned remain outstanding (14/4/23).

Permit conditions:

Should a permit be granted the following conditions were offered:

1. Before the commencement of the development, amended plans 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 and dimensioned and must be generally in accordance with the plans submitted with the application, but modified to show:

- a. The location and dimensions of existing and proposed onsite wastewater management treatment tank, effluent areas and sewerage pipes in relation to the buildings, driveways, watercourse, rainwater tanks, stormwater drains, water pipe, fences and allotment boundaries.

2. Before the commencement of the development, submit the following to the satisfaction of the Responsible Authority:

- a. A written report from a licenced plumber to verify the existing on-site wastewater management system:

- i. Location and dimensions;
- ii. Have been pumped out within the last 3 years;
- iii. Verify whether the existing on-site wastewater management system meets current standards, including the steps taken to ensure the existing/proposed system are maintained in good working order. to minimise risk to human health, and the environment within the allotment boundary.

- b. Amended Land Capability Assessment that details the management of all onsite wastewater in a manner that sustainably minimises risk to human health and the environment and effluent is maintained within the allotment boundaries in accordance with Southern Grampians Shire Domestic Wastewater Management Plan (2019), Victorian EPA Code of Practice Onsite Wastewater Management 891.4 and Municipal Association of Victorian Land Capability Assessment Framework (January 2014) as updated.

Add as note:

In the event the onsite wastewater management system is not contained entirely within the allotment and/or does not meet current standard and/or is a risk to human health and/or environment, an application to alter or construct or install onsite wastewater management system to meet Southern Grampians Shire Domestic Wastewater Management Plan (2019) and Victorian EPA Code of Practice Onsite Wastewater Management 891.4 and Australian Standards 1547: On-site domestic wastewater management Must be submitted to Council's Environmental Health.

## **Planning Framework**

### **Clause 00 Purpose and Vision**

The following clauses are the most recent to the planning application, particularly within the Municipal Strategic Statement:

- Clause 02.01 Context

The Shire is located at a major highway junction and has good connections to the southeast of South Australia, as well as to agricultural regions. Primary production and conservation are the main land uses, followed by forestry and extractive industry. The Shire is known for its quality health and education sector, and has strengths in mineral sands processing, cutting tool manufacturing, and agricultural and building materials manufacturing. Fine wool production is famous in the Shire, but large-scale cropping, hay production, and horticulture are now bigger parts of the primary industry sector. Agro-forestry, mining, and renewable energy are expected to grow.

- Clause 02.02 Vision

The Shire's vision is to be a well-connected, dynamic regional centre, supporting a vibrant, healthy and inclusive community.

The Council Plan (2017-2021) identifies five fundamental priority areas. Those relevant to land use and development are to:

- Develop the regional economy and businesses.
- Plan for the built environment and infrastructure.
- Promote the natural environment.

- Clause 02.03 Strategic directions

- Clause 02.03-1 Settlement  
Managing Growth

The Southern Grampians Shire Council Strategic Framework Plan at Clause 02.04 illustrates the location and hierarchy of the towns and settlements in the Shire.

In effectively planning for future urban growth, Council will:

- Provide and enforce clear settlement boundaries.
- Clause 02.03-3 Environmental risk and amenity

### **Bushfire**

Most of the Shire is designated as a Bushfire Prone Area.

Approximately a quarter of the Shire is affected by the Bushfire Management Overlay. The most significant urban interfaces to areas prone to bushfire are in the towns of Balmoral and Dunkeld. The Shire has a long history of major



bushfire damage. The Grampians is particularly prone to bushfires because of its significant vegetation cover and steep slopes.

The design, location and operation of development can place the community at risk from uncontrolled fire.

In managing bushfire risk, Council will:

- Direct development away from areas prone to significant bushfire risk.
  - Manage the interface of towns in areas prone to bushfire risk, particularly Balmoral and Dunkeld.
  - Prioritise the protection of life and property from bushfire events.
  - Require fire protection measures that relate to the level of fire risk, particularly in the Grampians.
  - Ensure that land use and development does not unreasonably increase the fire risk.
  - Apply the precautionary principle approach to development within areas prone to bushfire risk.
- Clause 02.03-4 Natural resource management

### Agriculture

The Shire's economy is primarily built upon the agricultural sector. Fertile and arable soils, together with a very reliable rainfall, provide a natural advantage. The Shire is renowned for producing fine wool; however, through diversification into meat production, the Hamilton Regional Livestock Exchange (saleyards) has risen to become Victoria's third largest. The Shire's agricultural base also includes large-scale cropping, hay production and horticulture.

Significant growth is expected in agro-forestry, together with mining and renewable energy. Newer industries such as viticulture and olives, and value adding of primary produce, provide significant potential.

Agriculture is supported by established infrastructure and services, scientific research and development, and training and professional services.

Dwellings and small lot subdivision in the Farming Zone can impact detrimentally on agriculture and the rural character of an area.

In supporting agriculture, Council will:

- Support use and development that maintains the significance of agriculture and protects the Shire's agricultural capacity.
- Protect agriculture from use and development that is inconsistent with farming practices, recognising the 'right to farm'.
- Minimise the impact and area of any non-agricultural development in agricultural areas.
- Minimise the impacts of dwellings and small lot subdivisions in farming areas.
- Support use and development that efficiently use and manage land, water and other finite resources.

- Encourage agricultural diversity, particularly adding value to primary products through processing, distribution, research and marketing, and new agricultural industries like horticulture and timber.
- Protect natural resources important to agriculture from soil decline, dryland salinity, water quality decline, erosion, pest plants and animals, loss of native vegetation and inappropriate land management practices.

- Clause 02.04 Strategic framework plan



Figure 4: Strategic Framework Plan

Clause 10 Planning Policy Framework

The following clauses within the Planning Policy Framework are the most relevant to the planning application:

- Clause 11.01-1S Settlement – seeks to facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

- Clause 13.02-1S Bushfire planning – aims to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.
- Clause 14.01-1S Protection of agricultural land – aims to protect the state’s agricultural base by preserving productive farmland.
  - o Strategies include:
    - o Identify areas of productive agricultural land, including land for primary production and intensive agriculture.
    - o Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.
    - o Avoid permanent removal of productive agricultural land from the state’s agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.
    - o Protect productive farmland that is of strategic significance in the local or regional context.
    - o Protect productive agricultural land from unplanned loss due to permanent changes in land use.
    - o Prevent inappropriately dispersed urban activities in rural areas.
    - o Protect strategically important agricultural and primary production land from incompatible uses.
    - o Limit new housing development in rural areas by:
      - Directing housing growth into existing settlements.
      - Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
      - Encouraging consolidation of existing isolated small lots in rural zones.
      - Identify areas of productive agricultural land by consulting with the Department of Energy, Environment and Climate Action and using available information.
    - o In considering a proposal to use, subdivide or develop agricultural land, consider the:
      - Desirability and impacts of removing the land from primary production, given its agricultural productivity.
      - Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
      - Compatibility between the proposed or likely development and the existing use of the surrounding land.
      - The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
      - Land capability.
- Clause 14.01-1L Small lot subdivisions, house lot excisions and dwellings – seeks to ensure that subdivision and accommodation do not compromise the existing and ongoing agricultural use of land.
  - o Strategies include:
    - Discourage subdivision and accommodation that do not relate to or directly support the use of land for agriculture.
    - Retain agricultural land in parcels of sufficient size that can allow viable agriculture.
    - Discourage subdivision unless it is to excise an existing dwelling that is excess to the requirements of a rural use.
    - Site and design dwellings to minimise impacts on agriculture.
    - Provide adequate separation distances from dwellings to agriculture.

- Restructure lots to create a smaller lot for a dwelling instead of creating additional lots.
- Policies guidelines:
  - Encouraging the consolidation of titles prior to any dwelling excision.
  - Requiring any lots created for an existing dwelling to have a maximum size of 2 hectares unless any of the following apply:
    - It can be demonstrated that this is not practical.
    - A larger lot is needed to provide for the on-site collection of water for a dam for domestic purposes.
    - It can be demonstrated that the lot is to be used for agricultural purposes.
    - Requiring any lots created for an existing dwelling to contain a dwelling that is in a habitable condition that complies with the Building Code of Australia.
    - The need to provide for the upgrading of roads and drainage to ensure that traffic and run-off generated by the development is effectively managed.
- Clause 14.01-2S Sustainable agricultural land use – aims to encourage sustainable agricultural land use.
- Clause 14.01-2L Sustainable agricultural land use.
- Clause 16.01-3S Rural Residential Development – to identify land suitable for rural residential development.

Strategies include:

- Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.
- Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.
- Demonstrate need and identify locations for rural residential development through a housing and settlement strategy.
- Ensure planning for rural residential development avoids or significantly reduces adverse economic, social and environmental impacts by:
  - Maintaining the long-term sustainable use and management of existing natural resource attributes in activities including agricultural production, water, mineral and energy resources.
  - Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.
  - Minimising or avoiding property servicing costs carried by local and state governments.
  - Maintaining an adequate buffer distance between rural residential development and animal production.
- Discourage development of small lots in rural zones for residential use or other incompatible uses.

## **Zone**

### Clause 35.07 - Farming Zone

The subject site is within the Farming Zone. The purpose of the zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.

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

Pursuant to Clause 35.07-1 a planning permit is required use the land for a second dwelling (Section 2). A planning permit is also required for the 'buildings and works' of the dwelling under Clause 35.07-4 as it is in association with a Section 2 Use.

For dwellings, under Clause 35.07-2, 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.
- Each dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system.
- 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

The Schedule to the Farming Zone notes that the minimum lot size for when a dwelling can be constructed without a planning permit is 40 hectares.

Further, the decision guidelines outlined at Clause 35.07-6 must be considered.

### **Overlays**

The land is not affected by any planning overlays.

### **Relevant Particular Provisions**

There are no Particular Provisions relevant to the planning application.

### **General Provisions**

#### **Clause 65 Decision guidelines**

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

### Clause 65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider this clause.

### **Summary of Key Issues**

The key issues for consideration are:

- Is the proposal consistent with the objectives and strategies of the Municipal Planning Strategy and the Planning Policy Framework?
- Is the proposal consistent with the Farming Zone?
- Does the proposal provide for an orderly planning outcome?

### **Assessment**

In conducting a thorough evaluation of the planning application for a second dwelling on a farming allotment within the Southern Grampians Shire, it is essential to weigh the proposal against the pertinent provisions of the Southern Grampians Planning Scheme. While recognising that the development of a second dwelling within the Farming Zone is a Section 2 Use that can be considered, it is evident that the proposed second dwelling, situated on a relatively small lot of approximately 9.22 hectares, is incompatible with the intended land use and the overarching objectives of the zoning regulations.

The Farming Zone decision guidelines underscore the significance of sustainable land management for proposed use and development. This entails careful consideration of how the proposed second dwelling aligns with agricultural activities, whether it contributes to the fragmentation of productive agricultural land, and its potential to proliferate dwellings that might impede ongoing agricultural operations in the region.

The local and state policies explicitly seek to restrict new housing in rural areas, reflecting a commitment to preserve the integrity of agricultural land and maintain the rural character of the region. This commitment extends to limiting housing development to instances where it demonstrably supports and enhances agricultural land utilisation. The existing zoning specifications and the Planning Policy Framework (PPF) reaffirm this stance, emphasising that any proposed housing must unequivocally demonstrate its essential connection to agricultural needs.

Consequently, the onus lies with the applicant to provide a compelling rationale for the necessity of a second dwelling to facilitate or enhance agricultural practices on the land. However, the presented arguments fall short of justifying the adverse consequences of introducing an additional dwelling on this small rural lot. Notably, the proposed dwelling and associated internal fencing would permanently remove a portion of land from agricultural production. This action poses a risk to the overall sustainability and productivity of the agricultural use, which stands in contradiction to the primary purpose of the Farming Zone.

Furthermore, granting approval for a second dwelling on this parcel could establish an unfavourable precedent, potentially encouraging further development of dwellings on similarly small rural allotments within the area. Such a trend could lead to the undesirable proliferation of dwellings and consequently undermine the intended agricultural character of the Farming Zone.

In evaluating the application, it becomes apparent that the justifications provided for the second dwelling primarily centre around personal motivations and accommodation needs, rather than a demonstrable linkage to agricultural enhancement. While the applicant asserts that the additional dwelling would benefit the family's farming practices (or a neutral impact on the number of cattle), this argument does not sufficiently counterbalance the negative implications of deviating from the established policies that aim to discourage such development.

Regarding the proposed land allocation, the siting of the second dwelling is problematic. Its central location on the property fails to account for an arrangement that could minimise the impact on farming activities. A more strategic positioning, perhaps in a cluster of buildings, could have mitigated some of the adverse effects on land usability.

Additionally, the allotment size in the locality is mixed, with no examples of multiple dwellings. Therefore, the proposal is inconsistent with settlement policy, where dwellings for accommodation purposes should be located within identified settlement boundaries of townships, rather than in rural areas.

In conclusion, the current application for a second dwelling does not align with the core objectives of the Farming Zone as outlined in Clause 35.07 and is inconsistent with planning policy at Clause 14.01-1S. The absence of a detailed farm management plan or an agricultural productivity report, prepared by a qualified expert, further weakens the application's foundation. Ultimately, the proposed second dwelling fails to deliver an orderly planning outcome for the locality and threatens the agricultural integrity of the site. Given these considerations, the application for a second dwelling on the specified property should be refused.

### **Conclusion**

This report has assessed the proposal against the relevant provisions of the planning scheme and has deemed the proposal an inappropriate outcome for the following reasons:

- The application is contrary to the purpose of Clause 35.07 – Farming Zone.
- The application is contrary to the objectives and strategies of the Planning Policy Framework and Municipal Planning Strategy.
- Having regard to Clause 65 of the Southern Grampians Planning Scheme, the proposal is not in line with the existing settlement pattern or orderly planning of the area.

It will therefore be recommended that Council refuse the planning application.

## MEETING PROCESS

The meeting was held in accordance with standard meeting procedures

### **Andrew Lacey, Pierrepont Planning**

Application was lodged in December 2022.

Farming zone provisions give the ability to apply for multiple dwellings in the farming zone, acknowledging the previous comments made from the Senior Statutory Planner that just because a permit is applied for does not mean that one will automatically be issued. Consultant acknowledges application site is small (9 hectares).

Planning officers report refers to referral from Environmental Health Officer. Was not aware of concerns about Land Capability Assessment report.

Regarding concerns about proliferation of dwellings and further fragmentation of farming zone. Applicant can't see that this will occur in this area.

### **Ed Connelly, landowner**

Currently live in small residence with wife and two children. Would like to update living arrangements

Landowner would like to preserve the structurally sound house they currently live in and also provide a place for family members visiting from overseas and provide a place for elderly parents.

If residence had to be demolished to building new house landowner would need to remove a number of established trees which would not be prepared. No impact on grazing.

Cr Calvano queried if the existing house could be extended to accommodate parent.

Landowner advised that it would be difficult to renovate existing home as it has been built onto previously with a concrete slab and end walls added on. The landowner's parent would also prefer to live independently for as long as possible (in the existing house rather than with the landowner's family).

### **Anita Collingwood, Senior Statutory Planner**

Similar to previous application. Application seeks approval for the use and development of a second dwelling on the land at 136 West Boundary Road, Tabor. The existing dwelling is proposed to be retained.

Some alternative recommendations have been prepared and distributed to Committee members.

If approval is granted for the application the recommendation to have a Section 173 agreement in place to ensure later subdivision cannot take place.

The application is not supported by the Farming zone or planning policy and so Officers are recommending refusal.



## RECOMMENDATION

That Council having caused notice of Planning Application No. TP/135/2022 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to **issue a Notice of Decision to Refuse to Grant a Permit** in respect of the land known and described as 136 West Boundary Road, Tabor for the use and development of land for a second dwelling on a lot, based on the following grounds:

Grounds of Refusal:

1. The application is contrary to the purpose of Clause 35.07 – Farming Zone.
2. The application is contrary to the objectives and strategies of the Planning Policy Framework and Municipal Planning Strategy.
3. Having regard to Clause 65 of the Southern Grampians Planning Scheme, the proposal is not in line with the existing settlement pattern or orderly planning of the area.

## COMMITTEE RESOLUTION

That the Planning Committee decide to issue a planning permit for planning application TP/135/2022 for land known and described as 136 West Boundary Road, Tabor for the use and development of land for a second dwelling on the lot subject to the following conditions:

### Amended Plans

1. Before the commencement of the use/development, amended plans 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 and dimensioned and must be generally in accordance with the plans, but modified to show:
  - a. The location and dimensions of existing and approved onsite wastewater management treatment tank, effluent areas, and sewerage pipes in relation to the buildings, driveways, watercourse, rainwater tanks, stormwater drains, water pipes, fences, and allotment boundaries.
  - b. An amended Land Capability Assessment that details the management of all onsite wastewater in a manner that sustainably minimises risk to human health and the environment and effluent is maintained within the allotment boundaries in accordance with Southern Grampians Shire Domestic Wastewater Management Plan (2019), Victoria EPA Code of Practice Onsite

Wastewater Management 891.4 and Municipal Association of Victorian Land Capability Assessment Framework (January 2014) as updated.

### **Endorsed Plans**

2. The development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.

### **Section 173 Agreement**

3. Before the commencement of the development, an Agreement under Section 173 of the *Planning and Environment Act 1987* must be entered into with the owner of the lot which ensures that the land may not be further subdivided so as to create a smaller lot for the new second dwelling.

The Agreement must be registered on title pursuant to Section 181 of the *Planning and Environment Act*. All costs relating to the preparation and registration of the Agreement must be borne by the applicant. The agreement must be registered prior to the commencement of works associated with the construction of the approved dwelling.

### **Environmental Health Conditions**

4. Before the commencement of the development, submit a written report from a registered plumber that certifies the existing onsite wastewater system treats and retains wastewater within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.

If the existing system is found to be non-compliant, a compliant system must be installed to the satisfaction of the Responsible Authority.

### **Permit Expiry**

5. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if any of the following circumstances applies:
  - a. The development is not commenced within two (2) years of the date of this permit; or
  - b. The development is not completed within four (4) years of the date of this permit; or
  - c. The use of the land for a second dwelling is not commenced within four (4) years of the date of this permit; or
  - d. The use of the land for a second dwelling ceases for more than two (2) years.

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

**Moved:** Cr Calvano  
**Seconded:** Mr J Donis

**Carried**

### **6.3 Planning application TP/68/2023 for 68 Elijah Street, Hamilton**

#### **Executive Summary**

The proposal seeks a planning permit for the development of a shed on land at 68 Elijah Street, Hamilton. The shed is required for an existing waste transfer station facility in Hamilton which is operated by Southern Grampians Shire Council. A permit is required pursuant to Clause 42.01-2 - Environmental Significance Overlay. As the estimated cost of development exceeds \$1,000,000 (\$1,300,000), a decision must be made by the Planning Committee rather than under delegation.

Setbacks of the proposed shed include:

- 73 metres from Elijah Street
- 43 metres from Dale Street
- 35 metres from the dam near the northern boundary of the site.

The proposed shed is appropriately located and is required to facilitate the existing waste transfer station facility in Hamilton. The siting minimises the effects that the building may have on nearby areas and any detrimental impact on the Eastern Barred Bandicoot habitat in the surrounding areas by achieving the required separation distances.

It is recommended that the application should be approved subject to conditions.

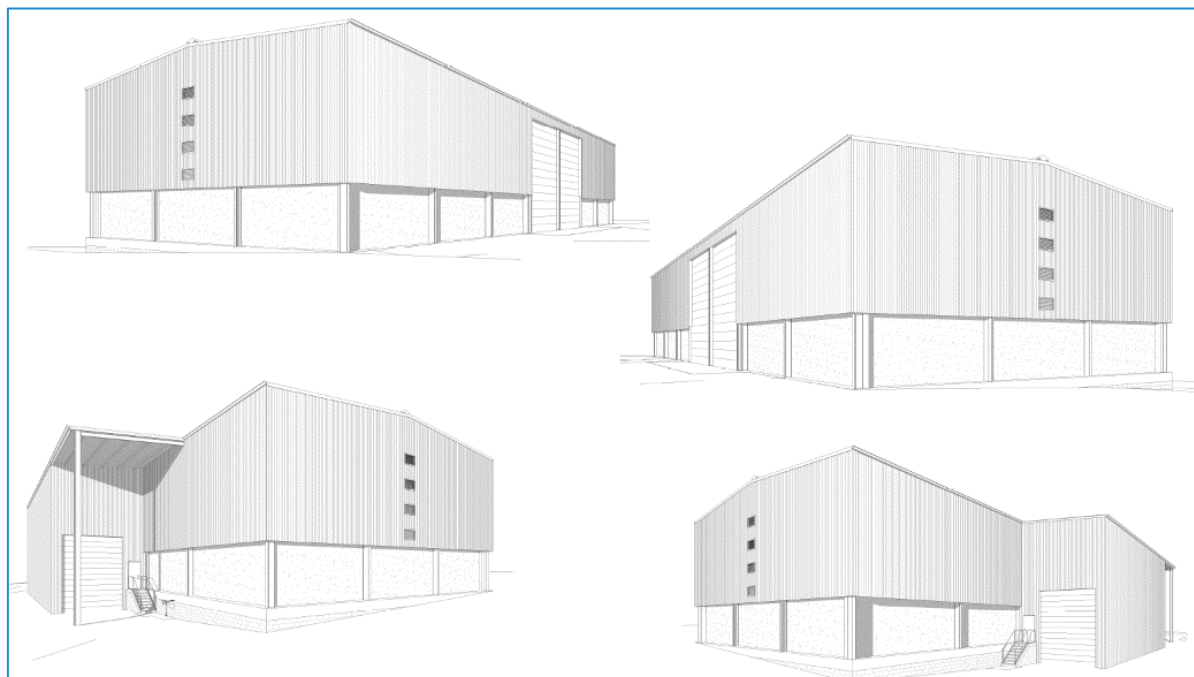
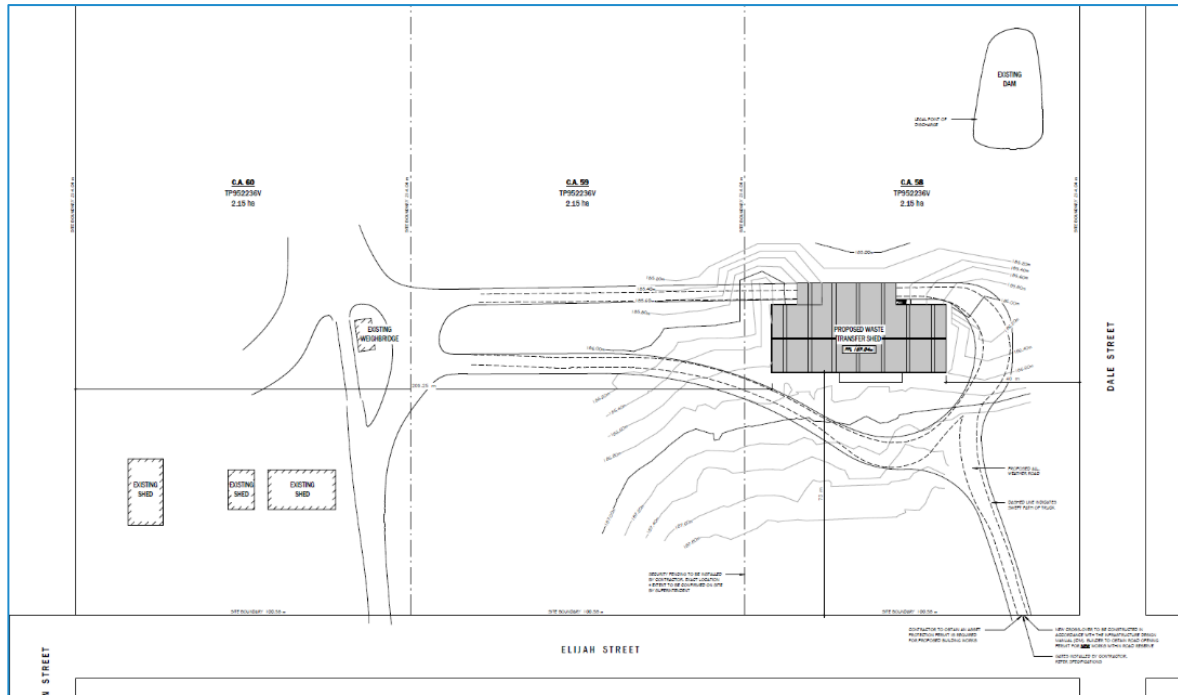
#### **Proposal**

The proposed shed occupies an area of 1166m<sup>2</sup> and will be constructed of concrete tilt panel walls, shed girt walls, and clad in corrugated iron. The dimensions of the shed are: 52.51m in length, 26.76m in width and 11.7m in height.

There is a vehicle loading bay of 100m<sup>2</sup> attached to the proposed shed. Engineering details are provided for the proposed shed. A new crossover is proposed to be constructed on Elijah Street in accordance with the Infrastructure Design Manual (IDM). An all-weather road is to be constructed to the proposed shed to provide access to the shed and the existing weighbridge. The proposed shed achieves front setback of 73m from Elijah Street, 40m from Dale Street, 214m from western and 209m from southern property boundaries.

The proposed shed is to be used for aggregation and temporary storage of waste from across the Southern Grampians Shire before it is reloaded for delivery to a regional landfill. The waste is a mixture of putrescible household waste, construction and demolition waste and other solid commercial waste.

The material is mixed and compacted slightly by use of a wheel loader then reloaded into a walking floor truck or B-double for removal to a regional landfill. No one will occupy the building, except for when the truck drivers are loading and unloading trucks which is for a very limited time period.



**Subject site & locality**

The subject site is a Crown Allotment lot of 16.6 ha and is zoned Public Use Zone. The site is currently used for the purposes of a licensed landfill. The land is owned by Southern Grampians Shire Council.

The subject site is accessible via a sealed road - Elijah Street.

Land on the north is in private ownership and zoned Rural Activity Zone; land on the east is zoned Public Conservation and Resource Zone, land on the west is zoned Farming Zone; and land on the south is zoned Public Use Zone 1 which is also owned by SGSC.



### **Site history**

A permit was issued in 2005 for construction of a waste transfer skip wall and landfill equipment shed. Various building permit has been issued on the land.

### **Public notification**

The proposal was not given public notice as the nearest dwellings are 150m distant and the use of the shed is unlikely to cause any detriment to adjoining and surrounding land uses.

### **Referrals**

The application was referred to DEECA pursuant to Section 3.0 of the Schedule 1 to Clause 42.01 Environmental Significance Overlay. A response has not been received to date and the allowed 28 days have elapsed since the referral was sent. It is then assumed the department has no objection to the proposal.

The application was referred to Council's Engineering Services. The following conditions were provided:

1. A Project management plan must be developed and submitted for Council approval prior to beginning construction, the plan must include:
  - Construction management plan.
  - Environmental management plan
  - Traffic Management Plan
  - Construction site layout plan
2. Stormwater management plan for the site including all drainage to the legal point of discharge must be developed and submitted for approval of the Responsible Authority (Council).
3. The proposed new driveway (Elijah St) must be constructed to comply with the Infrastructure Design Manual (IDM) Standard Drawing (SD) 255 with a sealed driveway.

## **Planning Framework**

### Planning Policy Framework

#### Clause 11.01-1R Settlement Central Highlands

The responsible authority should direct growth to well serviced settlements with good access to Melbourne or Ballarat particularly Bacchus Marsh and Ballan

#### Clause 12.01-1S Protection of Biodiversity

The responsible authority should ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity including consideration of cumulative impacts; fragmentation of habitat; and the spread of pest plants, animals, and pathogens into natural ecosystems.

#### Clause 15.01-1S Urban Design

The responsible authority should require development to respond to its site context in terms of character, cultural identity, natural features, surrounding landscape, and climate.

#### Clause 15.01-2S Building Design

The responsible authority should minimize the detrimental impact of development on neighboring properties, the public realm, and the natural environment.

#### Clause 17.03-2S Industrial Development Siting

The responsible authority should minimise inter-industry conflict and encourage like industries to locate within the same area.

#### Clause 19.03-5S Waste and Resource Recovery

To reduce waste and maximise resource recovery to reduce reliance on landfills and minimise environmental, amenity and public health impacts.

## **Clause 30 Zone**

The subject site is zoned Public Use Zone, Schedule 1 in Southern Grampians Planning Scheme.

The purpose of the Public Use Zone:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To recognise public land use for public utility and community services and facilities.*
- *To provide for associated uses that are consistent with the intent of the public land reservation or purpose.*

A permit is not required under this zone.

## **Clause 40 Overlays**

### Environmental Significance Overlay – Schedule 1

The key objectives of the Environmental Significance Overlay, relevant to this application are:

- *To protect the habitat significance of vegetation.*
- *To provide for appropriate development of land within 100 meters of either side of a waterway.*
- *To prevent pollution and increased turbidity of water in natural waterways.*
- *To prevent increased surface runoff or concentration of surface water runoff leading to erosion or siltation of waterways.*

The site is affected by the Environmental Significance Overlay – Schedule 1 – Eastern Barred Bandicoot Area. In accordance with Clause 42.01-2, a planning permit is required to construct a building or construct or carry out works.

## **Clause 60 General Provisions**

### **Clause 62.02 Building and Works**

Clauses 62.02-1 and 62.02-2 set out exemptions from permit requirements in the scheme relating to the construction of a building or the construction or carrying out of works.

Clause 62.02-1 of the Southern Grampians Planning Scheme provides the following exemption:

*No planning approval is required (except if removing any vegetation) pursuant to Clause 62.02-1 in the Planning Scheme if the buildings and works have an estimated cost of \$1,000,000 or less carried out or on behalf of a municipality.*

The proposed shed exceeds the estimated cost of \$1,000,000 and therefore a planning permit is still required under the ESO1.

## **Clause 65 Decision guidelines**

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

### Clause 65.01 Approval of An Application or Plan

Before deciding on an application or approval of a plan, the responsible authority must consider relevant points of this clause.

### **Summary of Key Issues**

The key issues for consideration are:

- Is the proposal consistent with the objectives and strategies of the Municipal Planning Strategy and the Planning Policy Framework?
- Is the proposal consistent with the Environmental Significance Overlay?
- Does the proposal provide for an orderly planning outcome?

### **Assessment**

The application proposes to construct a shed and carry out associated works associated with an existing waste transfer station currently operated and managed by Council. The proposed buildings and works would facilitate the existing waste transfer station.

The proposal is consistent with the purpose of the Public Use Zone (PUZ1) and does not require a permit under the zone as the land will continue to be used for public utility purposes as intended in purpose of the zone and is operated by Council. The required threshold distances from the abutting lots for approved use have been maintained and the use should not have an impact on nearby existing or proposed uses which are sensitive to off-site effects.

Pursuant to Clause 36.04-1 the Decision Guidelines for PUZ1, it is considered that the proposed shed is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines. The proposed shed would facilitate continued use of the existing waste transfer station facility and minimises the effects that the use may have on nearby areas by achieving the required separation distances.

#### Environmental Significance Overlay – Schedule 1

The construction of proposed shed for the waste transfer station has taken into account the habitat of the Eastern Barred Bandicoot and includes measures to protect this habitat. The proposed shed achieves front setback of 73m from Elijah St and 43m from Dale Street. The site is proposed approximately 35m from the dam on northern boundary. The location of the proposed shed is void of any vegetation and is currently being used for transfer station purposes. The presence of Eastern Barred Bandicoot habitat is highly unlikely at the proposed location of the shed. It is considered that the proposal would not have any detrimental impact on the Eastern Barred Bandicoot habitat which the ESO seeks to protect.



## MEETING PROCESS

The meeting was held in accordance with standard meeting procedures.

Parvesh Siroha, Senior Strategic Planning

The proposal seeks a planning permit for the development of a shed for an existing waste transfer station at 68 Elijah Street Hamilton. The shed will provide space for temporary storage of waste material.

Shed is appropriately located and the application Officers recommended approval subject to conditions.

## RECOMMENDATION

That Council having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Grant a Permit under the provisions of the Southern Grampians Planning Scheme in respect of the land known and described as 68 Elijah Street, Hamilton, for application TP-68-2023 for Construction of a Shed in accordance with the endorsed plans, with the application dated 28 July 2023, subject to the following conditions:

### Endorsed Plans

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

### Engineering

2. Prior to the commencement of work, a Project Management Plan must be submitted to and approved by the Responsible Authority. The plan must include:
  - a. Construction Management Plan.
  - b. Environmental Management Plan
  - c. Traffic Management Plan
  - d. Construction Site Layout Plan
3. Prior to the commencement of work, a Stormwater Management Plan must be submitted to and approved by the Responsible Authority. The Plan must include show and facilitate stormwater runoff directed to a legal point of discharge.
4. Prior to occupation of the approved development, a new vehicle crossover must be constructed at Elijah Street to comply with the Infrastructure Design Manual (IDM) Standard Drawing (SD) 255 with a sealed driveway for a distance of 20 metres from the front boundary. The existing vehicle crossover must also be upgraded to comply with IDM SD255 and have a sealed driveway for 20 metres from the front boundary.

### External Lighting

5. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

**Expiry**

6. This permit will expire if one of the following circumstances applies:
  - a. The development is not started within two years of the date of this permit.
  - b. The development is not completed within four years of the date of this permit.

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

**Note**

- This permit does not authorise the commencement of any building works. Building approval may be required to be obtained prior to the commencement of any approved works.

**COMMITTEE RESOLUTION**

That Council having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Grant a Permit under the provisions of the Southern Grampians Planning Scheme in respect of the land known and described as 68 Elijah Street, Hamilton, for application TP-68-2023 for Construction of a Shed in accordance with the endorsed plans, with the application dated 28 July 2023, subject to the following conditions:

**Endorsed Plans**

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

**Engineering**

2. Prior to the commencement of work, a Project Management Plan must be submitted to and approved by the Responsible Authority. The plan must include:
  - a. Construction Management Plan.
  - b. Environmental Management Plan
  - c. Traffic Management Plan
  - d. Construction Site Layout Plan
3. Prior to the commencement of work, a Stormwater Management Plan must be submitted to and approved by the Responsible Authority. The Plan must include show and facilitate stormwater runoff directed to a legal point of discharge.
4. Prior to occupation of the approved development, a new vehicle crossover must be constructed at Elijah Street to comply with the Infrastructure Design Manual (IDM) Standard Drawing (SD) 255 with a sealed driveway for a distance of 20 metres from the front boundary. The existing vehicle crossover must also be upgraded to comply with IDM SD255 and have a sealed driveway for 20 metres from the front boundary.

**External Lighting**

5. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

**Expiry**

6. This permit will expire if one of the following circumstances applies:
  - a. The development is not started within two years of the date of this permit.
  - b. The development is not completed within four years of the date of this permit.

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

**Note**

- This permit does not authorise the commencement of any building works. Building approval may be required to be obtained prior to the commencement of any approved works.

**Moved:** Cr Calvano  
**Seconded:** Mr R Neeson

**Carried**

**7. NEXT MEETING**

There was initial discussion about the next meeting date to consider Application TP-58-2023 for a medical centre at 122 and 124 Lonsdale Street, Hamilton. However the Committee requested that this application be considered at a future Council Meeting.

**8. CLOSE OF MEETING**

The Meeting closed at 11.21am