



Southern Grampians
SHIRE COUNCIL

Planning Committee Minutes

7 November 2019

Held at 3.30pm in the
Martin J Hynes Auditorium
5 Market Place, Hamilton

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1. PRESENT

Cr Colin Dunkley, Chair
Cr Katrina Rainsford
Mr Andrew Goodsell, Director Planning and Development
Mr David Moloney, Director, Shire Infrastructure
Mr Rhassel Mhasho, Manager, Planning and Regulatory Services
Ms Ros Snaauw, Coordinator Planning

Sue McLure
Malcolm McLure
Anglea Plazzer, planning consultant

Minutes

Sharon Clutterbuck, Executive Assistant – Director, Planning and Development

2. WELCOME – CHAIR

Introductions were made by those present

3. APOLOGIES**4. CONFIRMATION OF MINUTES**

Minutes of the Meeting held on 13 August, 2019 have been circulated

RECOMMENDATION

Moved: Cr Katrina Rainsford

Seconded: Andrew Goodsell

That the Minutes of the Planning Committee meeting held on 13 August, 2019 be confirmed as a correct record.

Carried

5. DECLARATION OF INTEREST

Nil

6. MATTERS FOR DECISION

6.1 TP/62/2019 Two lot subdivision 538 Tarrayoukyan Road, TARRAYOUKYAN Crown Allotments 47B and 48 on TP368154E and Crown Allotment 49 on TP559993U Parish of Moorwinstowe.

Author: Roslyn Snaauw, Coordinator Planning

Attachments:

1. Application package including amended plans
2. Copy of the Farming Zone pursuant to the Planning Scheme
3. Copy of Clause 21.06-1 of the Planning Scheme

Executive Summary

Council has received a planning permit application for a two (2) lot subdivision at 538 Tarrayoukyan Road, Tarrayoukyan.

Council officers are recommending to Refuse to Grant a Permit as the proposal does not respond to state and local planning policy that requires sustainable use of land for agricultural purposes.

Council's Instrument of Delegation requires that the application be referred to the Planning Committee for a decision.

It is proposed to re-subdivide agricultural land from an initial three (3) lots into two (2) lots resulting in a proposed rural residential lot and a balance agricultural lot used for grazing purposes.

Proposed Lot 1 will have a total area of 4.773 hectare and will contain the existing dwelling, sundry shedding, water tanks and a large dam which is located to the east, close to the eastern boundary. It is the only substantial farm dam on the property.

Proposed Lot 2 will have a total lot area of 106 hectare and will contain a smaller dam located centrally to the property. This lot will comprise three (3) pieces. The southern piece is north of the dwelling and will have a total area of 73.58 hectare. The middle piece is centrally located and is north of Govt. Road and will have a total area of 8.840 hectare. The third piece is north of Pigeon Ponds Creek. This piece will have a total area of 24.22 hectare and has no formal access.

A planning permit is required to subdivide land pursuant to Clause 35.07-3 of the Farming Zone and each lot must be at least 40 hectares in area. Council may consider the grant of permit to create smaller lots if the subdivision is the re-subdivision of existing lots and the number of lots is not increased, subject to satisfactory assessment against the relevant provisions of the Southern Grampians Planning Scheme.

The first section of the report outlines the development proposal and introduces the subject land. The report contains an assessment section that measures the proposal against planning policy and provisions. The application has been assessed against the purpose and relevant decision guidelines of the Farming Zone and Clause 65 and the planning policy framework as it relates to sustainable agriculture and non-agricultural uses in farming areas and small rural lot excision with the recommendation that the Planning Committee Refuse to Grant a Permit for the proposal.

Proposal

An application was lodged by Ferguson Perry Surveying on the 18 June 2019 with the Southern Grampians Shire Council for a two (2) lot subdivision.

Lot 1, which included the dwelling and large dam, had a proposed total lot area of 7.73 hectare. Lot 2 had a proposed total lot area of 106.6 hectare and included a small dam. It should also be noted that Lot 2 will consist of three (3) pieces.

Amended plans were received on the 1 October 2019 which showed a changed lot design as per **Figure 1**. The subdivision is proposed to facilitate a restructure of the property and to excise the land used for the existing dwelling as it is surplus to the owners needs. The dwelling on Lot 2 will have a 33 metre buffer to the western boundary to assist in the separation and possible amenities impacts from farming activities.

Lot 1 will now have a total area of 4.773 hectare and will contain the existing dwelling, water tanks and a large dam which is located toward the eastern boundary.

Lot 2 will now have a total lot area of 106 hectare and will contain a smaller dam located centrally to the property. Again, Lot 2 will be in three (3) pieces. The southern piece is north of the dwelling and will have a total area of 73.58 hectare. The middle piece is centrally located and is north of Govt. Road and will have a total area of 8.840 hectare. The third piece will be to the north, and north of Pigeon Ponds Creek. This piece will have a total area of 24.22 hectare and has no formal access.

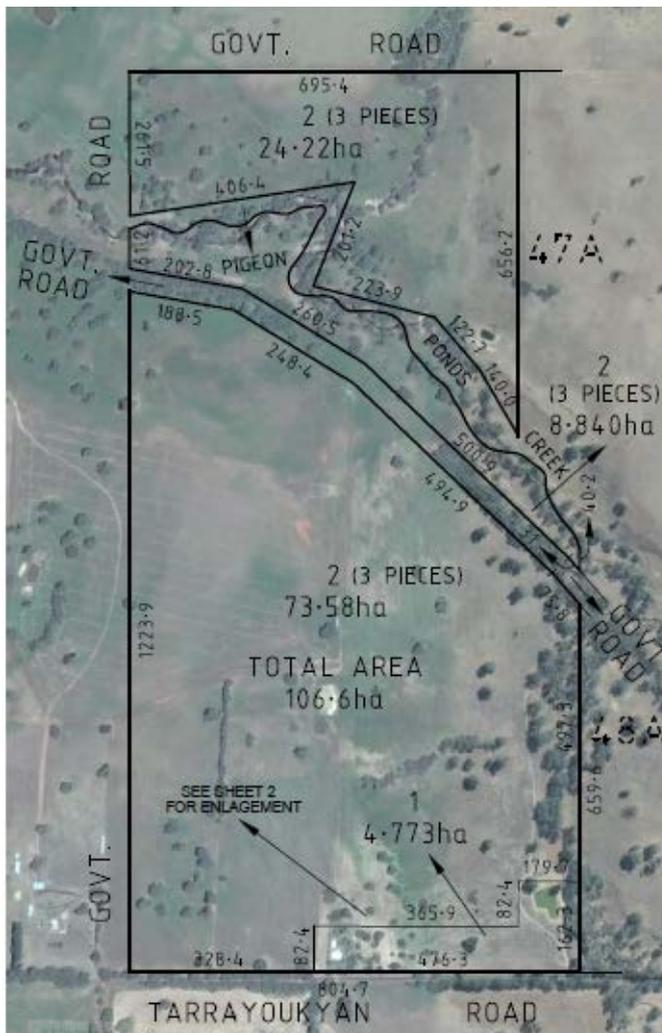


Figure 1 above – proposed amended subdivision plan

Subject site and locality

An inspection of the site and the surrounding area has been undertaken.

The subject site and surrounding land are located within the Farming Zone with no overlays and are used for agricultural purposes.

The parcels of land relating to this application are:

- Crown Allotment 47B on TP368154E which has a total lot area of 24.56 hectare and does not have legal access (located to the north).
- Crown Allotment 48 on TP368154E which has a total lot area of 41.78 hectare which has access available from Tarrayoukyan Road and has a government road cutting through the northern section of the lot (located to the east).
- Crown Allotment 49 on TP559993U which has a total lot area of 49.39 hectare which has access available from Tarrayoukyan Road and has Govt Road cutting through the northern section of the lot (located to the west).

The total site area incorporating all of the lots specific to this application is approximately 115.73 hectare and are north of Tarrayoukyan Road in Tarrayoukyan.

The titles have an irregular configuration and gently undulate to the north east toward Pigeon Ponds Creek and to a smaller subsidiary Creek which branches from Pigeon Ponds Creek and runs along the eastern boundary. Two Govt Roads are located on site. One is located along the western boundary of the proposed Lot 2 and the other is to the north, being south of Pigeons Ponds Creek.

The subject site contains a dwelling and shed with access to the land from Tarrayoukyan Road to the south. A number of water tanks are provided close to a dwelling which is contained within a fenced area of approximately 2508 square metres. A large 20,000 litre water tank is used for domestic purposes with a smaller 5,000 litre tank storing water that has been pumped up from the large dam, to the east, and used to water the garden. Another tank located on site is not being used. The dwelling has a setback from Tarrayoukyan Road of approximately 30 metres.

The sites contains scattered remnant native vegetation and a couple of small dams are located throughout the lots with a larger dam located toward the south east boundary.



Figure 2 –Subject sites highlighted in orange and red

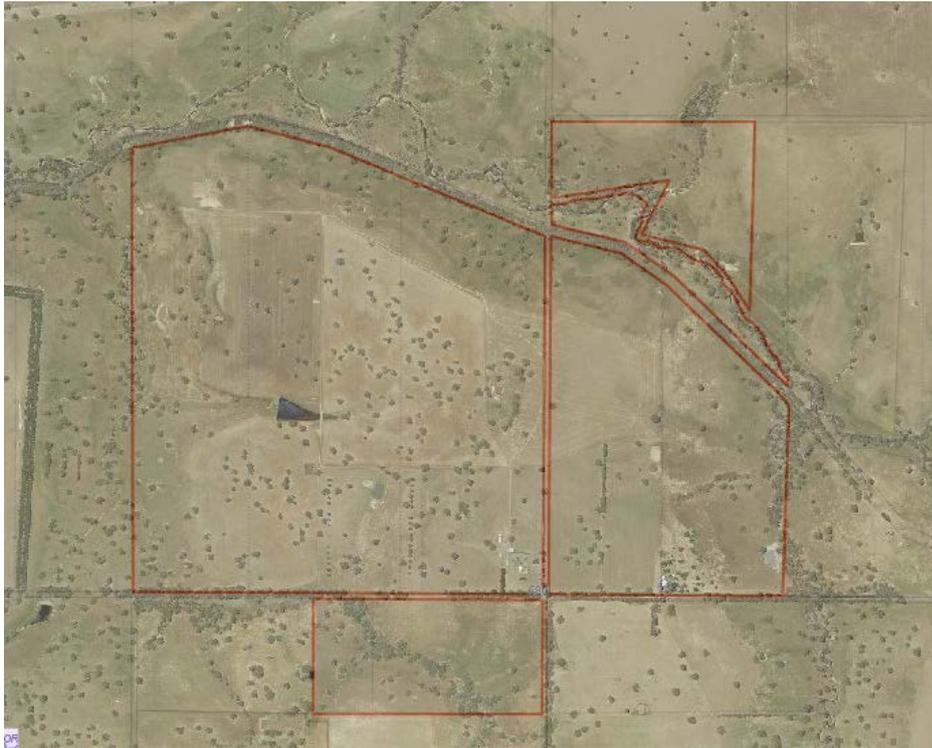


Figure 3 - adjoining land owned by owner of the subject site

Permit/Site History

A search of Council's electronic records show the following previous planning approvals for the land above include:

- Planning Permit TP/125/2016 for the *use and development for Stone Extraction (Gravel Pit)*. This permit was issued on 31 March 2017.
- Planning Permit TP/87/2016 for an *extension to an existing dwelling*. This permit was issued on 15 December 2017.

Planning Controls

Planning Policy Framework (PPF) Southern Grampians Planning Scheme

The Planning Policy Framework includes a number of policies that apply to this proposal as follows:

Clause 11 Settlement

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Planning is to recognise the need for, and as far as practicable contribute towards economic viability.

Clause 14 Natural Resource Management

Planning is to assist in the conservation and wise use of natural resources including energy, water, land, stone and minerals to support both environmental quality and sustainable development.

Planning should ensure agricultural land is managed sustainably, while acknowledging the economic importance of agricultural production.

Clause 16 Housing

Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure.

Clause 19 Infrastructure

To sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach (Clause 19.03-3S).

Local Planning Policy Framework including the Municipal Strategic Statement

The following components of the Southern Grampians Planning Scheme Local Planning Policy Framework are relevant to this proposal:

Clause 21.00 Municipal Strategic Statement**Clause 21.02-2 Urban growth**

Planning for urban growth in the Shire must take account of various opportunities and constraints, and seek to provide effective and efficient development outcomes.

Clause 21.04-1 Agricultural and rural land use**Key issues**

- Maintaining the significance of agriculture to the local economy.

It is the objective *'to support agricultural production'*.

Clause 21.06-1 Small lot subdivisions, house lot excisions and dwellings in the Farming Zone

Agriculture is fundamentally important to the economic wellbeing of the Shire. Dwellings and small lot subdivision in the Farming Zone can impact detrimentally on agricultural activity. They can also be incompatible with the agricultural function and rural character of an area.

Key issues

- Protecting the on-going operation of agriculture.
- Protecting the character of rural and farming areas.
- Responding to the increasing emphasis on the 'right to farm'.
- Minimising the impacts of dwellings and small lot subdivisions in rural and farming areas.

Objective 1 - To ensure that residential development in the Farming Zone does not compromise the existing and on-going agricultural use of land.

Strategies

- Prevent residential development and subdivision that will be incompatible with the utilisation of land for sustainable agriculture.
- Discourage subdivision that is not for the purposes of excising an existing dwelling that is excess to the requirements of a rural use, following the consolidation of titles.

Objective 2 - To ensure that dwellings which are constructed on small lots in the Farming Zone are properly sited and designed.

Strategies

- Ensure that lots created under the provisions of Clause 35.07-3 have a maximum size of 2 hectares unless;
 - it can be demonstrated this is not practical; or
 - a larger lot is needed to provide for the on-site collection of water for a dam for domestic purposes; or
 - it can be demonstrated it is to be used for agricultural purposes.
- Preference will be given to restructuring of lots to create a smaller lot for a dwelling to avoid creation of additional lots.

Zone

Clause 35.07 Farming Zone

It is the purpose of the zone:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- 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.

Pursuant to Clause 35.07-3 of this zone, a permit is required to subdivide land. Each lot must be at least 40 hectare.

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

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.
- The subdivision is the re-subdivision of existing lots and the number of lot is not increased.

Relevant General Provisions

The decision guidelines of Clause 65

Clause 65 states that, *'because a permit can be granted does not imply a permit should be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of the clause'*. The decision guidelines of this clause include section 60 of the *Planning and Environment Act 1987*, planning policy and decision guidelines among other matters. It should be noted that subdivision is a form of development.

Clause 65.01 Approval of an application or a 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.

Clause 65.02 Approval of an application to subdivide land

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

- The suitability of the land for subdivision
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.

Relevant incorporated or reference documents

- Great South Coast Regional Growth Plan
- Hamilton Structure Plan (2012)

Relevant Planning Scheme amendments

- VC103 Amendment to Farming Zones

Summary of Key Issues

- Will the proposal impact on the use of the land for Agriculture?
- Will the proposal create land fragmentation?

Assessment

This application is for a two (2) lot subdivision of existing three (3) lots.

Proposed Lot 1 will have a total area of 4.773 hectare and will contain the existing dwelling, water tanks and a large dam which is located toward the eastern boundary.

Proposed Lot 2 will have a total lot area of 106 hectare and will contain a smaller dam located centrally to the property.

It is important to remember that, pursuant to Clause 65 Decision Guidelines of the Planning Scheme, just 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. It is considered that the proposal with the subdivision/excision of the dwelling and the removal of a large dam from agricultural use, does not accord with the state and local planning policy framework or the Farming Zone as will be detailed below.

The applicant has stated in their Planning Report that the purpose of the subdivision is to *facilitate a restructure of the property and to excise the land used for the existing dwelling* with justification for the inclusion of the large dam into the dwelling lot - for the purpose of domestic use – a garden water supply. The separation distance between the dam and the dwelling denotes the applicants requirement for an excision in excess of 2 hectare to incorporate the infrastructure that takes the water from the dam to the dwelling.

Planning is to assist in the conservation and wise use of natural resources including water to support both environmental quality and sustainable development to ensure agricultural land is managed sustainably acknowledging the economic importance of agricultural production.

This is to ensure the protection of agricultural land with the objective *to protect the state's agricultural base by preserving productive farmland.*

Planning is to also ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.

The proposed small lot has the potential to restrict the agricultural use of the larger lot used for agricultural purposes. The primary purpose of the land is to provide for agricultural uses and to ensure that dwellings do not adversely affect the use of the land for agriculture.

Policy discourages development (which includes subdivision) of isolated small lots in the rural zones for the use for dwellings and it also directs to avoid the subdivision of productive agricultural land from diminished the long-term productive capacity of the land. The proposal is not consistent with planning policy frameworks and it is contrary to Council's Municipal Strategic Statement. The proposal is an unsatisfactory planning outcome that is not supported at Clause 11, Settlement, Clause 14, Agriculture and Clause 16, Housing. The proposal is inconsistent with local policy at Clause 21.04 that seeks to limit development incompatible with agriculture, Clause 21.04 that seeks to discourage rural residential development and Clause 21.06 that specifically emphasises 'right to farm' and to minimise impacts from inappropriate small lot excisions.

The Planning Report and further correspondence from the applicant focuses on Clause 21.06-1 Small lot subdivisions, house lot excisions and dwellings in the Farming Zone. This clause focusses on key issues such as protecting the on-going operation of agriculture, protecting the character of rural and farming areas, the right to farm and minimising the impacts of dwellings and small lot subdivisions in rural and farming areas. The second objective to this clause has a strategy to ensure that lots created under the provisions of Clause 35.07-3 have a maximum size of 2 hectare unless it can be demonstrated that:

- this is not practical or
- a larger lot is needed to provide for the on-site collection of water for a dam for domestic purposes
- or it can be demonstrated it is to be used for agricultural purposes.

What is proposed is a lot layout distinctly different to that which policy supports.

The proposed subdivision into a lot that has a total area of 4.773 hectare for the dwelling and dam is not supported with the dam to be removed from the agricultural purpose. This does not protect the state's agricultural base and does not support the conservation, protection and wise use of natural resources for the sustainability of agricultural use which will impact on the primary production on the land and thus be inconsistent with normal farming practices.

It is considered that the removal of the dam for the purpose of a domestic garden and because of existing infrastructure to the dam, does not have sufficient justification nor policy support. Currently the dwelling has an existing 20,000 litre water tank on site that is for the domestic service to the dwelling. A small 5,000 litre water tank is also used for watering of the domestic garden. This water is pumped up from the large dam to the east. It was also noted on a site inspection that there is another, unused, water tank on the site. It is suggested that the owner investigate an integrated water management approach in which water can be facilitated through the further use of water tanks and/or a recycled water system (grey water).

Regional strategy provides that rural residential development can be supported in locations that are '*adjacent to towns with limited growth demand to sustain population levels and communities*', and that '*are not strategically identified for standard density urban growth*'.

In facilitating an approach where any existing dwelling, no matter where located on a property can be severed, may generate further interest in similar patterns in future across the wider area (where houses were genuinely built for farm owners) thereby achieving an outcome contrary not only to the planning scheme as well as Council's goal of facilitating agricultural investment.

There is a distinct trend towards farms increasing in size, for economies of scale for example, and when the land is valued for the home and not the farming output the 'right to farm' is diminished and the opportunity to consolidate reduced.

Agriculture and forestry industries are key elements in Council's plan for stimulating growth, attracting investment and retaining population. Support for the industry includes 'protecting agricultural land to provide confidence for industry to invest in new technology and respond to market trends and to recognise the trend towards increased farm sizes.

Council has recently prepared a shire-wide Rural Land Use Strategy (RLUS) that states, 'unfettered dwelling development in rural areas can have a number of significant consequences on agriculture including increased land prices and land use conflicts'. Whilst the RLUS is yet to be formally adopted, some weight must be given to this contention.

It is reiterated that subdivision is development. Local policies (Clauses 21.02-2, 21.04-1 and 21.06-1) explicitly discourage rural residential development that does not directly support the use of the land for agriculture and planning is directed to protect land in agricultural production *'that are inconsistent with normal farming practices'*. Discussions were held with the applicant with the suggestion to reduce the excision of the dwelling lot down to 2 hectare and remove the dam from the house excision. Amended plans submitted showed the excision of the dwelling on a lot size of 4.773 hectare with the large dam to be retained with the dwelling on this lot.

The proposed subdivision of the dwelling lot does not directly relate to or support the use of the land for agriculture. The owners do not currently reside in the dwelling which is fenced off from the farming activities with the applicant advising that the subdivision is being submitted to facilitate a restructure of the property and the large dam located to the east is required to water the garden. It is considered for the reasons provided above, that agricultural activities will be detrimentally impacted should a rural residential use be introduced which includes the removal of a significant dam which is the primary on site storage for the farming operations and as such it is recommended that a Refusal to Grant a Permit be supported.

Financial and Resource Implications

Nil

Legislation, Council Plan and Policy Impacts

Planning and Environment Act 1987

- (1) The objectives of planning in Victoria are:
 - (a) To provide fair, orderly, economic and sustainable use, and development of land;
 - (b) To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
 - (c) To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
 - (d) To conserve and enhance those [buildings](#), [areas](#) or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
 - (e) To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;

- (f) To facilitate [development](#) in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);

To support the application would be counter to the objectives of planning in Victoria.

Environmental and Sustainability Considerations

This is relevant to this application as the removal of a large dam from the sustainable operation of a farm will have a detrimental impact on a viable water source for the productive rural land use and grazing of stock.

Community Consultation and Communication

A pre-application meeting between the applicant and Council was not requested.

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjacent and proximate land.
- Placing one sign on site.
- SGSC website

Notification has been carried out correctly and no objections have been received.

It must be noted that the amended subdivision plan was not placed on further public notice as it was considered that the reduction in the lot size would not create any further amenity impact to adjacent or adjoining neighbours.

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Comments
Section 55 Referrals	Not required.

Internal Council Referrals	Comments
Environmental Health	Who has not provided a response.

Disclosure of Interests

All Council Officers involved in preparing this Report affirm that no direct or indirect interests are held in relation to this application.

MEETING PROCESS

The meeting was held in accordance with standard meeting procedures.

The Planning Consultant was invited to speak first of behalf of the applicant. Council officers were then invited to present their report. It was advised that the decision would be made in camera and notification made following that decision.

Applicant

The application relates to a two lot subdivision of the land at 538 Tarrayoukyan Road Tarrayoukyan. The land is currently comprised of 3 lots and the total site has a size of 114.38 hectares. The land is in the farming zone, not affected by any overlays it contains a single dwelling and a few sheds and the remainder of the land is used for farming.

The proposed 2 lot subdivision will allow for a restructure of the farming operation by excising the existing dwelling from the farm land. Lot one is proposed to have a total area of 4.773 hectares and will contain the dwelling the shed and the dam.

The only permit trigger for the application was clause 35.073 in the farming zone to subdivide land. Minimum subdivision area for land in the farming zone is 40 hectares, however a permit may be granted to create smaller lots if there are certain provision that apply. Applicant stated that the following provisions applied in respect of the application:

- Proposal was consistent with clause 11 as it will provide a small lot for an existing dwelling in a remote rural location.
- Dwelling is no longer needed for the farming operation but is still valuable as existing housing stock, particularly for the current tenants who work in the rural industry.
- Proposal will consolidate 3 lots into 2 including an existing isolated small lot. There will be negligible impact on removing the lot from primary production.
- Location is isolated and not a hotspot for rural development.
- Inclusion of dam is required for upkeep of garden around house as well as fire protection.
- Dwelling wont have an impact on the farming land, buffer is provided to further minimise.

Council Officer

Planning Coordinator, Roslyn Snaauw summarised report presented in the meeting Agenda.

Council officers are recommending refusal on the following grounds

- The proposal does not comply with the purpose and provisions of Clause 35.07 Farming Zone in that the development will introduce a change in use from agriculture to rural residential and it does not maintain or enhance the sustainability of agriculture on the land. It will increase the risk of land use conflict and adversely impact surrounding agricultural practices. Future occupants will have vastly different amenity expectations than those that will be experienced in an agricultural setting.

- The re-subdivision to create a rural residential lot is contrary to state planning policy, particularly Clause 14.01-1S protection of agricultural land and Clause 21.04-1 agriculture and rural land use, and local policy as it relates to rural residential development and the protection of farming land at Clauses 21.02-2, 21.04-1 and in particular Clause 21.06-1.
- A rural residential lot will permanently remove land from agricultural production.

The second objective to Clause 21.06-1 states that lots created under Clause 35.07-3 have a maximum size of 2 hectares unless it can be demonstrated that:

- This is not practical or
- A larger lot is needed to provide for the onsite collection of water for a dam for domestic purposes
- Or it can be demonstrated it is to be used for agricultural purposes.

Council officers believe that what is proposed is a lot layout distinctly different to that which policy supports.

Discussion

The permit application has some merit, though not necessarily well argued in the written material by the proponent. The existing house is occupied by those that work in the agricultural industry in the area (wool sorter etc) - in short it serves a legitimate rural purpose. It is not used for rural living and whether subdivided or not, this purpose is likely reasonable and likely to continue (use is not changing).

Proposal is not a hotspot for rural living, so it is not expected to create a precedent. The only issue is a 4 ha lot versus a 2 ha lot. A refusal may be difficult to defend at VCAT.

Presentation from consultant and site visit has illustrated link between dam and house. This includes significant infrastructure – pumps, power supply etc. There is no history of use of water supply for the farm and it is not a significant determinant of whether the larger farm lot can be used for this purpose now or into the future given its river frontage and other on-site dams (which could also be further developed).

The proponent argued under 21.06-1 objective 2 subclause 2 as to the merit of the proposal based on it being not practical to sever the house from the dam. Fire management and use of water was also mentioned. This may be an argument, though the dam is some distance away. But the more persuasive provision is likely subclause 1 which states that 'it can be demonstrated this is not practical'. The word 'Practical' raises the issue of reasonableness and given the history of relationship between the house and the dam it is not practical to sever the two with undue impact on the house users who are legitimate rural workers.

Finally, whether the lot is 2 ha or 4 ha, given the size of the farm and lack of evidence of use in the immediate area of the dam, would seem to have little or no effect on the farm lot and becomes something of a numbers game. If 2 ha is better than 4 ha, then 1 ha is better than 2 and so forth. In practical terms, given the broadacre and cropping on the farm property and given the dam and house being near the boundary fence a subdivision as proposed can only have limited if any impact on the farm. Fettering arguments are not strong in this case. In this sense, the modified proposal before Council is superior to that first lodged and can be supported with conditions.

RECOMMENDATION

That Council having caused notice of Planning Application No. TP/62/2019 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 Grant a Permit under the provisions of the Southern Grampians Planning Scheme in respect of the land known as 538 Tarrayoukyan Road, Tarrayoukyan and described as Crown Allotments 47B and 48 on TP368154E and Crown Allotment 49 on TP559993U, for a *two (2) lot subdivision*, subject to the following standard conditions:

Subdivision 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. There are no requirements to alter or modify the endorsed plan if a plan is certified under the provisions of the Subdivision Act 1988 that is generally in accordance with the endorsed plan/s.

Section 173 Agreement

2. Before the plan of subdivision is certified under the *Subdivision Act 1988*, the owner of the land must enter into an agreement under Section 173 of the *Planning and Environment Act 1987* with the Responsible Authority. The agreement must be in a form to the satisfaction of the Responsible Authority, and the applicant must be responsible for the expense of the preparation and registration of the agreement, including the Responsible Authority's reasonable costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement. The agreement must contain covenants to be registered on the Title of the property so as to run with the land, and must provide for the following:
 - a) The owner and all future owners and occupiers of the dwelling on Lot 1 acknowledges and accepts that the possibility of nuisance from adjoining or nearby agricultural operations may occur. The possible off site impacts include, but are not limited to, (dust, noise, odour, waste, vibration, soot, smoke or the presence of vermin), from animal husbandry, animal waste, spray drift, agricultural machinery use, pumps, trucks and associated hours of operation. In acknowledging the existence of the agricultural operations being conducted from adjoining or nearby land, the owner will not make complaint against lawful agricultural activities on the adjoining or nearby land.

The agreement will be registered on Title in accordance with Section 181 of the *Planning and Environment Act 1987*.

Agreements with Servicing Authorities

3. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.

Easements

4. 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.

Referral of Plan

5. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.

Permit Expiry Subdivision

6. This permit will expire if one of the following circumstances applies:
 - a) The plan of subdivision is not certified within two years of the date of the permit.
 - b) A statement of compliance is not issued within five years of the date of certification of the Plan.In accordance with section 69 of the Planning and Environment Act 1987, an application may be made to the Responsible Authority to extend the periods referred to in this condition. The Responsible Authority may extend the time if a request is made before the permit expires, or within six months of the permit expiry date.

Moved Cr Rainsford**Seconded David Moloney****Carried****7. CLOSE OF BUSINESS**