



Southern Grampians

SHIRE COUNCIL

Planning Committee

Agenda

18 December 2024

To be held at 10.00 am in the
Martin J Hynes Auditorium
5 Market Place, Hamilton

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1. MEMBERSHIP

Councillors

Cr Jayne Manning
Cr Katrina Rainsford

Officers

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

Minutes

Sharon Clutterbuck, Executive Assistant - Director Wellbeing Planning and Regulation

2. WELCOME AND ELECTION OF CHAIR

3. APOLOGIES

Marg Scanlon, Director Infrastructure and Sustainability

4. CONFIRMATION OF MINUTES

Minutes of the Meeting held on 16 September, 2024 have been circulated.

The minutes of the previous meeting held on 16 September, 2024 were confirmed as being a true record of the meeting by the previous Planning Committee.

5. DECLARATION OF INTEREST

6. MATTERS FOR DECISION

6.1 TP-33-2024 Application for Subdivision of land into two lots (dwelling excision) and creation of an easement - 198 Partridges Road, Hamilton

Attachment 1 – Planning Perming Application

Attachment 2 – Vegetation Assessment

Summary

Planning application TP-33-2024 seeks a permit under Clause 35.07 Farming Zone for the subdivision of land at 198 Partridges Road Hamilton, and the creation of an easement. The application presents a dwelling excision from the existing parcel of land. The proposal is inconsistent with policy objectives related to the protection of agricultural land (Clause 14.01-1S Protection of agricultural land and Clause 14.01-1L Small lot subdivisions, house lot excisions and dwellings) and is inconsistent with the purposes of the Farming Zone (Clause 35.07). It does not adequately support or promote the use of the land for agriculture and presents a risk in terms of environmental and amenity impacts. It is recommended the Planning Committee refuse the application for a planning permit.

Proposal

The proposal seeks to excise the existing dwelling, dam, and several outbuildings from the surrounding land by way of a two-lot subdivision. The proposed subdivision will result in Proposed Lot 1 (house lot) of 5.29 hectares and the balance of land known as Proposed Lot 2 of 49.4 hectares.

The proposed Lot 1 subdivision layout provides for a 20-metre-wide frontage to Partridges Road; however, it is also proposed that the creation of a carriageway easement following the existing driveway layout will provide legal ongoing access in favour of Lot 1.

Subject Site and Locality

The site currently comprises of one parcel, known as Lot 4 on Plan of Subdivision 115656, and is 54.69 hectares in area. The lot is rectangular in shape, with the southern boundary fronting Partridges Road. The land is entirely within the Farming Zone and is abutted on all sides by Farming Zone land. The site is located approximately 3.54 kilometres (as the crow flies) north-west of the established township boundary of Hamilton, which is identified by the change in zoning – see *Figure 1*.

The site itself consists of agricultural land, currently used for broadacre animal grazing and hay production. The existing dwelling is located approximately 220 metres from the front boundary. Three additional outbuildings and sheds are located proximate to the dwelling, as is a large dam which is intercepted by a natural watercourse (Mckinnon Creek) which runs diagonally through the site – see *Figure 2*:

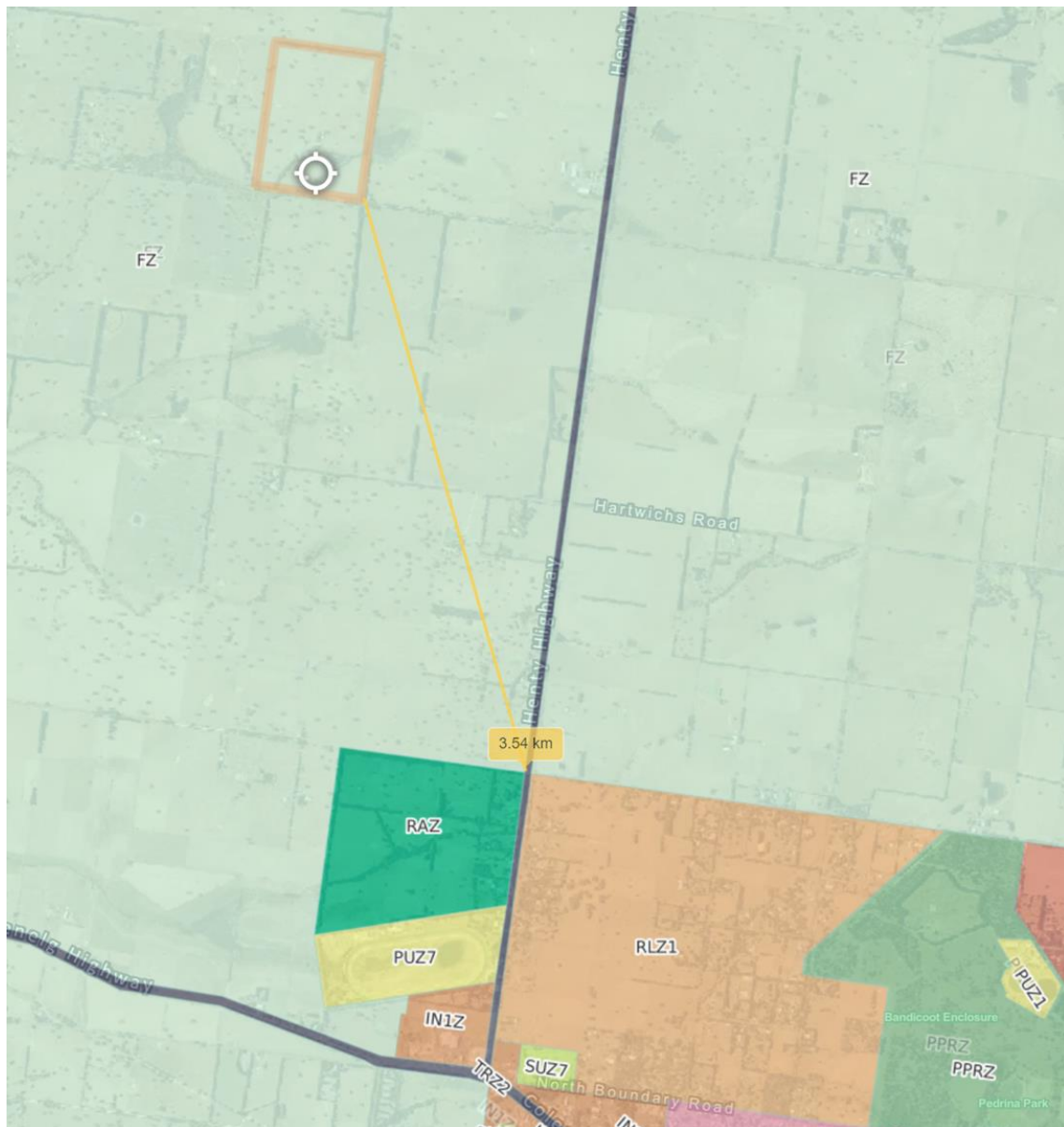


Figure 1: Subject site, shown in relation to the township of Hamilton.

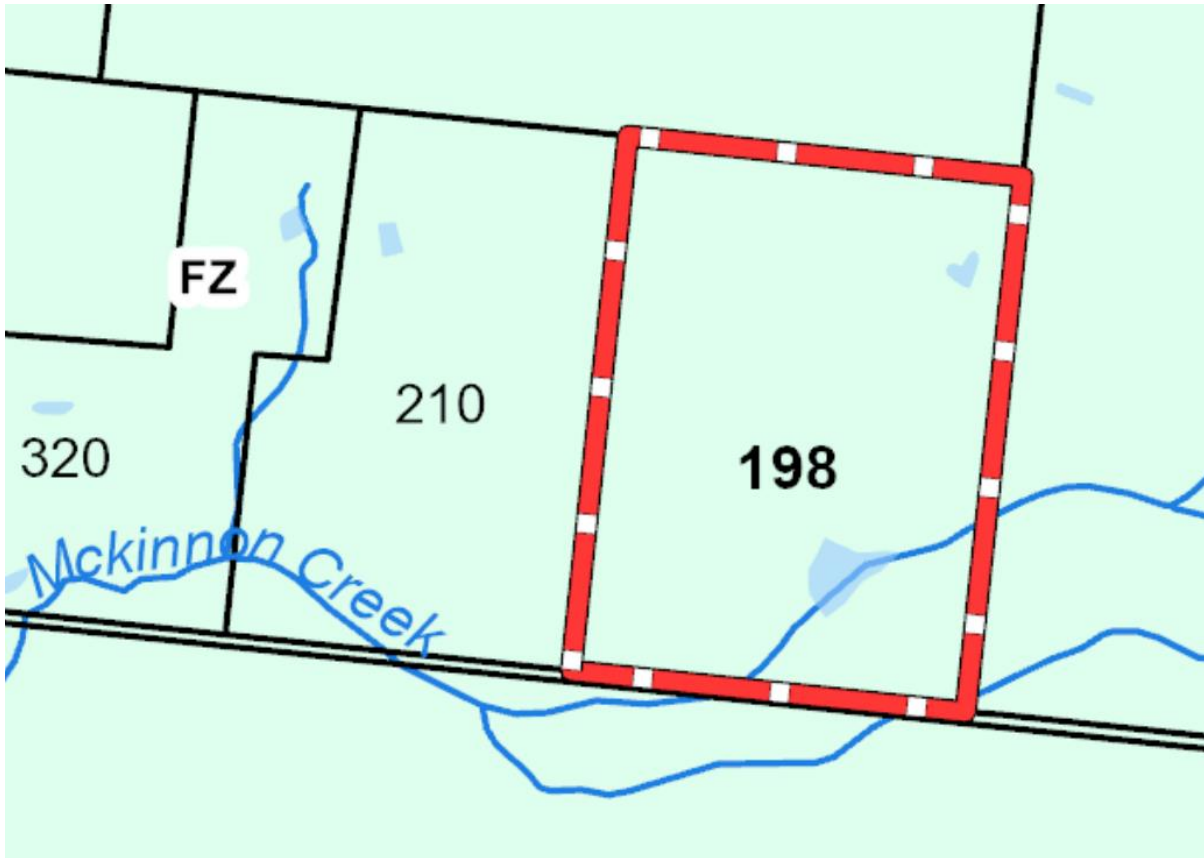


Figure 2: Subject site shown bordered in red, showing watercourses.

Site History

There is no relevant site history.

Public Notification

The application underwent a minimum 14-day public notification process which concluded on 24th September 2024. One (1) letter of support was received.

Referrals

The application was referred to the following internal departments and external authorities:

Glenelg Hopkins Catchment Management Authority	<p>Pursuant to Section 56 of the Planning and Environment Act 1987, the CMA does not object to the granting of a permit. The CMA has no flooding information for this property. This does not mean that the property will not flood. The CMA recommends that council's infrastructure dept. records be checked for any historical record of flooding of the subject land. The CMA can make further recommendations regarding the proposal if any historical information is discovered.</p> <p>The proposed carriageway easement in favour of Lot 1 allows for access to the existing dwelling that does not cross the waterway on the property.</p>
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	<p>Please include the following notation on a permit should one be granted.</p> <p>“Note: A Designated Waterway passes through the property. Any future works in, on or around a designated waterway require a licence from the Glenelg Hopkins CMA. Please visit their website at www.ghcma.vic.gov.au for more information.”</p>
<p>Biodiversity Department</p>	<p>No response received.</p>

Assessment

Zone

Clause 25.07 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.

Response

The purposes of the zone do not align with the proposal in this instance.

The creation of the rural residential lot results in it being removed from agricultural use and does not encourage the retention of productive agricultural land.

Furthermore, the site includes a large dam which currently facilitates agricultural pursuits on the land. The proposal results in this dam being located within the rural residential lot, removing it from the remaining agricultural portion of the site. This directly contradicts the purpose of the zone.

The layout of the proposed subdivision creates a residential lot which is surrounded on all sides by the agricultural lot, which increases the potential for future conflicts between the two land uses, hindering the ability of the agricultural land to be utilised.

The layout of the subdivision results in the residential lot being closely located to the two existing agricultural buildings, which will adversely affect and limit the use of land for agriculture. The higher amenity requirements and expectations for quiet enjoyment which the occupants of the dwelling lot should expect will be in direct conflict with the amenity impacts caused by agricultural uses.

It is important to consider that while the dwelling and farm buildings are all currently in situ, while they remain within the one lot it is expected that the occupants are directly involved with the agricultural uses of the land, and in control of their level of amenity, whereas the subdivision must consider the potential that separate ownership will have on the future dynamic between the two land uses.

The easement is proposed to provide legal access rights to the proposed residential lot. The interception of the easement through the agricultural land creates additional complications to the ability for ongoing agricultural use.

Permit trigger: Clause 35.07-3 Subdivision

A permit is required to subdivide land.

Each lot must be at least 40 hectares.

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

Response

Importantly, just because a permit may be granted does not mean a permit should be granted. The proposed subdivision is not 'as of right'. It is considered that the application has failed to demonstrate that the re-subdivision will achieve an appropriate planning outcome as measured against the planning policy framework and the relevant provisions of the zone.

Planning must consider the merits of the proposal and whilst it is for a subdivision of an existing dwelling, the layout and positioning of the dwelling lot within the wider site and the potential for land use conflict as explained above do not result in an appropriate planning outcome.

Clause 35.07-6 Decision guidelines

Before deciding on an application, in addition to the decision guidelines at Clause 65, the responsible authority must consider the decision guidelines of the zone. Each of the relevant decision guidelines have been considered as follows:

General issues

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

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. These policies are responded to in detail in the policy section below.

Any Regional Catchment Strategy and associated plan applying to the land.

Not relevant to the proposal.

The capability of the land to accommodate the proposed use or development, including the disposal of effluent.

The rural residential lot includes an existing dwelling, and it is expected that this dwelling includes an existing septic system. This has not been identified on the plans, and as such any permit issued will require amended plans which demonstrate that the septic system is to be located within the proposed dwelling lot.

How the use or development relates to sustainable land management.

Clause 73.01 of the Scheme defines sustainable agriculture as, 'the use of farming practices and systems which maintain or enhance:

- a) The economic viability of agricultural production;*
- b) The natural resource base; and*
- c) Other ecosystems which are influenced by agricultural activities.'*

The Southern Grampians Planning Scheme provides that in a Farming Zone a permit is required for a dwelling on lots under 40 hectares. Although no land management plan was submitted with the application it is clear that the small lot is unable to produce a farming outcome. The small lot has the potential to restrict the agricultural use of the balance lot.

Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

The site is located within an established agricultural area, with all surrounding land zoned Farming Zone. 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. A rural residential use is not compatible with adjoining or nearby land uses. The nearest dwelling is approximately 500m (west) from the subject dwelling site. There are a total of six dwellings within 2kms of the site. All nearby dwellings are used in association with agriculture. There are no rural residential lots nearby, with all surrounding dwelling being sited on large parcels.

The proposed subdivision layout in this instance will result in the rural residential lot being surrounded almost entirely by the agricultural lot. The expectation of the residential lot to have quiet enjoyment of the site is compromised by the surrounding agricultural uses.

How the use and development make use of existing infrastructure and services.

It is proposed that the large dam, machinery shed and shearing shed will be included within the rural residential lot, while the remaining shedding will be included in the agricultural lot.

The removal of the dam from the agricultural land in particular is a poor outcome for the ongoing use of the land for agriculture.

The proposed access point to Partridges Road has not demonstrated any clear way of providing access to the existing dwelling. From this location, any proposed driveway would need to cross McKinnon Creek.

Agricultural issues and the impacts from non-agricultural uses

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

While the existing format of the land includes both agricultural land and an associated dwelling, this layout supports agricultural land through providing the land holder accommodation to facilitate ease of management of the land by residing directly on the land. The proposed subdivision seeks to separate these two functions. This acts to inhibit agricultural production, as it provides the opportunity for the rural residential lot to be sold to occupants with no direct connection to the surrounding agricultural land. It further results in the balance lot of agricultural land having no dwelling. It is noted that upon subdivision, the balance agricultural lot will be greater than 40 hectares, and being so, no planning permission is required for a dwelling on this land.

Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.

The use of the land for a rural residential lot as the applicant proposes, permanently removes the land from agricultural production. There will be flow on effects for the balance lot with the need to provide buffers from the residential use.

The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.

There is real potential that the rural residential use will lead to land use conflict that would see limitations placed on operation and expansion of the adjoining and nearby agricultural Uses.

There are two large outbuildings on the balance lot that are within 40 metres of the dwelling. It is unlikely that future occupants would be satisfied with the amenity impacts of heavy machinery operating in such close proximity.

The capacity of the site to sustain the agricultural use.

The small rural lot has no capacity to sustain an agricultural use and the balance lot would be compromised with the establishment of a rural residential lot. It is understood that farming activity would continue on the large lot. It is reasonable to expect a future dwelling and other infrastructure would be constructed on the balance lot that would result in a further reduction of productive land.

The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.

The agricultural qualities of the land outweigh the need to establish a separate rural residential lot.

The main objective of this policy, as it applies to this application, is to ensure that the subdivision of land is required to increase the productive use of land for agricultural purposes and to ensure that subdivision will not result in the fragmentation or loss of good quality agricultural land. In this instance, the proposal will lead to the loss of a key water supply (dam) from the agricultural land and loss of existing agricultural infrastructure which will be included in the rural residential lot. The removal of the dwelling from the existing agricultural lot increases the chances of a further dwelling being constructed on the balance lot.

Any integrated land management plan prepared for the site.

The application has not been supported by a land management plan that would demonstrate any benefits that might be gained from the subdivision. It is clear that the small lot would not support agricultural uses and would be used for rural residential purposes with land use conflict a reality at some point.

Dwelling issues

Whether the dwelling will result in the loss or fragmentation of productive agricultural land.

The proposal will result in the fragmentation of productive agricultural land through the excision of the house lot from the surrounding agricultural land and facilitates the further development of a dwelling on the balance agricultural lot.

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

All adjacent and nearby land is used for agriculture. It is foreseeable that adverse amenity impacts; dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation will occur as a result of legitimate farming activities. These impacts would not be in keeping with the amenity expectations of future residents.

Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

There is real potential that the dwelling will lead to future land use conflict that would see limitations placed on operation and expansion of the adjoining and nearby agricultural uses.

Regardless of whether the dwelling is initially occupied by occupants related to the operators of the surrounding land, the subdivision creates future opportunity and risk for occupants who are unrelated to the surrounding farming enterprise.

There are two large outbuildings on the balance lot that are within 40 metres of the dwelling. It is unlikely that future occupants would be satisfied with the amenity impacts of heavy machinery operating in such close proximity.

The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

There are several large holdings adjacent and nearby that include parcels that could be seen as attractive for rural lifestyle opportunities that would impact on the use of the land for agriculture. The excision would result in a small lot or rural living dwelling in the Farming Zone surrounded by large, productive farms. There are a number of impacts the dwelling on a small lot may have on the adjoining agricultural uses.

Firstly, a permit may now be triggered for previous as-of-right buildings and works given a setback if 100 m is required from a dwelling not in the same ownership otherwise a permit is triggered. This can also impact on uses including primary produce sales and rural industry which also requires setbacks from dwellings not in the same ownership.

Productive working farms result in a number of by-products impacting amenity including dust, noise, and smells from animals, cropping, spraying etc. This can often be at odds with the amenity expectations of people residing in rural lifestyle allotments as detailed within the VCAT cases below. It is a common occurrence for lifestyle allotments to raise concerns or object to non-conventional agricultural applications e.g., chicken farms, intensive animal husbandry, solar farms etc.

The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.

The introduction of this rural residential use would have minimal impact. The applicant has not provided any detail as to how the excision would result in a more comprehensive and sustainable land management model. Council therefore cannot determine if the proposal would result in agricultural and productive rural land use activities that are managed to maintain a long-term sustainable use and management of existing natural resources of the area.

The impact of the use or development on the flora and fauna on the site and its Surrounds.

No impact is anticipated, save from the introduction of weeds or noxious plants from unsympathetic residents occupying the dwelling.

The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.

The proposed boundaries pass within proximity of a number of clusters of native vegetation. However, it remains unclear whether, and to what extent the impact is, as limited information has been provided to council to date.

The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

It is understood that the on-site effluent disposal system is existing, and there would be no additional impact on the nutrient loads on waterways directly as a result of this proposal.

Design and siting issues

The decision guidelines relating to design and siting issues have not been considered as the development is for a subdivision only and no buildings are proposed.

Planning Policy Framework**Clause 11 Settlement**

Clauses 11.01-1S Settlement, 11.01-1R Great South Coast, 11.03-5R Great South Coast Region, 11.03-6S Regional and local places.

It is policy that planning prevents environmental and amenity problems created by siting incompatible land uses close together.

Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social and commercial infrastructure and services.

Response

Fragmentation of farmland occurs when traditional farming areas are broken up by the introduction of alternative, predominately non-farming. Uses such as lifestyle dwellings and rural residential subdivisions, tourism and boutique industries. These changes may limit agricultural intensification, diversification or expansion and restrict current farming practices or even make them untenable. This may result in irreversible land use change.

Introduction of sensitive uses, such as housing, can compromise opportunities for growth and investment in productive rural areas. Conflicts can arise as a result of noise, dust, spray drift, water usage and odours from farming activities. Considering the right to farm in these areas and providing for strategically located rural residential developments many help to minimise conflict between sensitive land uses and agricultural activities in rural areas.

Non-agricultural uses unproductive rural areas need to be managed to minimise biosecurity risks and support ongoing agricultural production.

Clause 14 Agriculture**Clause 14.01-1S Protection of agricultural land**

The objective of this clause is 'to protect the state's agricultural base by preserving productive farmland'

Relevant strategies to achieve this are:

Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.

Protect productive agricultural land from unplanned loss due to permanent changes in land use.

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.

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.

Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.

Response

State planning policy is very clear on the need to protect agricultural land and on when small lot excision could be considered.

The proposed subdivision lot does not directly relate to or support the use of the land for agriculture and there is a real concern that agricultural activities will be detrimentally impacted on should a rural residential lot be created. It is relevant that the lot will be surrounded by farming activities on three sides. The most sensible outcome in avoiding land use conflict is to avoid creation of a smaller dwelling lot.

In consideration of local policy objectives and strategies, on balance, there is a lack of support for the application.

Clause 14.01-1L Small lot Subdivisions, house lot excisions and dwellings

Policy application

This policy applies to an application for subdivision or accommodation in the Farming Zone.

Objective

To ensure that subdivision and accommodation do not compromise the existing and ongoing agricultural use of land.

Strategies

Discourage subdivision and accommodation that do not relate to or directly support the use of land for agriculture.

Response: *If supported, this proposal will establish a rural residential land use that will fragment rural land and permanently remove that land from agricultural use.*

Retain agricultural land in parcels of sufficient size that can allow viable agriculture.

Response: *The proposed subdivision would not facilitate a viable agricultural use and is most likely to be used for lifestyle property.*

Discourage subdivision unless it is to excise an existing dwelling that is excess to the requirements of a rural use.

Response: *House lot excision is strongly discouraged in the Farming Zone. If approved the proposal would potentially set a precedent for surrounding parcels of land and potentially lead to a further proliferation of dwellings in the Farming Zone. This can occur indirectly through balance lots created greater than 40 hectares not requiring planning permission for dwellings.*

Site and design dwellings to minimise impacts on agriculture.

Response: *The proposed subdivision results in the existing dwelling being located in close proximity to the surrounding agricultural land, including agricultural shedding which will be within 40 metres of the dwelling.*

Provide adequate separation distances from dwellings to agriculture.

Response: *There are two large outbuildings on the balance lot that are within 40 metres of the dwelling. It is unlikely that future occupants would be satisfied with the amenity impacts of heavy machinery operating in such close proximity. The dwelling could be used by the farm owner or staff with reasonable amenity impacts since they would be familiar with those impacts.*

Restructure lots to create a smaller lot for a dwelling instead of creating additional lots

Response: The proposed subdivision creates a lot for an existing dwelling.

Policy guidelines

Consider as relevant:

Encouraging the consolidation of titles prior to any dwelling excision.

Response: *The site is currently one (1) title and so further consolidation is not considered an option in this proposal.*

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.

Response: *The proposal seeks a rural residential lot of 5.29 hectares in size. This is due partly to the proposed subdivision seeking to include the dam and nearby shedding within the residential lot. It has not been sufficiently justified why the lot could not have been proposed to include an alternative layout, which could have been closer to 2 hectares in area. It has also not been 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.

Response: *The existing dwelling is understood to be in habitable condition.*

The need to provide for the upgrading of roads and drainage to ensure that traffic and runoff generated by the development is effectively managed.

Response: *There is no need for upgrading of any road or drainage associated with the proposed re-subdivision.*

The need to require any roads created in association with a subdivision or dwelling to allow all weather access to the following standards:

- Formation width of 6 metres or passing bays every 200 metres.
- Pavement width of 4 metres.
- Pavement depth of 150 millimetres of compacted road making gravel.

– Minimum grade of 1 in 8, unless sealed.

Response: No roads are being created by the proposed subdivision.

Clause 14.01-2s Sustainable Agricultural land uses

Objective

To encourage sustainable agricultural land use.

Assessment of Clause 14.01-2s Sustainable Agricultural land uses

Strategies to achieve the above objective relate to the agricultural land use activities, including intensive animal husbandry, and are not relevant to a subdivision application.

Clause 14.01-2L Sustainable agricultural land use

Strategies

Support intensive and productive use of rural land for higher value products, including timber plantations, horticulture, intensive animal industries and agroforestry.

Encourage use and development that value adds to local produce and creates local employment opportunities.

Assessment of Clause 14.01-2L Sustainable Agricultural land uses

The agricultural use of the land is not proposed to change. No development is being Proposed

Clause 16 Housing

Clause 16.01-3S Rural residential development

This objective of this clause is 'to identify land suitable for rural residential development'.

Relevant strategies to achieve this are:

Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.

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. The proposal creates a small lot with an incompatible use.

Encourage consolidation of existing isolated small lots in rural zones. The proposed subdivision would create an isolated small lot.

Clause 16.01-3R Rural residential development – Great South Coast

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’.



Response

It is noted that while the application does not seek to develop a new dwelling as such, the separation of the existing dwelling from the lot through subdivision will allow further development of the balance lot for a dwelling, and introduces a separate dwelling use that is not directly connected to the surrounding agricultural use of the land. This is not supported by the above state or regional planning policy.

Relevant policy as detailed above provides clear guidance on preferred development outcomes for rural residential development and the protection of agricultural land and this application is contrary to those directions.

It is considered that there is sufficient policy to support a recommendation for refusal of the Application.

RELEVANT PARTICULAR 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 that 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.

Response to the decision guidelines:

The proposal is not consistent with the purpose of the zone and the risk is that potential land use conflicts will occur. The primacy of the land for agricultural activities should be maintained and the opportunity for enhancement retained.

A review of relevant VCAT cases have also been undertaken to determine any relevant case applies for dwelling excisions within the Farming Zone which are detailed below. There is a VCAT case law precedent to prevent new housing on small lots within the Farming Zone where it cannot be demonstrated that a house is required to support the agricultural activities on the land.

Alford v Corangamite SC [2018] VCAT 853 (12 June 2018)

The application for review proposed a two-lot subdivision to excise a dwelling resulting in Lot 1 being 3.01ha and Lot 2 being 286.6ha. Whilst a slightly different proposal as consolidation of adjoining land was not proposed, it is considered the application had many similar elements to the proposal before Council.

In her findings to refuse the application Member Carew stated:

At the outset, I do not consider the personal circumstances of the applicant are a relevant planning consideration. While the sale of the dwelling may be more convenient than continuing the leasing arrangement, it is not a key planning consideration... The excision is not required to support the existing farming operation and merely allows the sale of a separate asset.

This is relevant in the current proposal as the permit application has stated the dwelling is surplus to the farming practices and the sale of the land would allow funds to be reinvested back into the farm. It is clear from Member Carew that Council cannot take into consideration the personal circumstances of the land owner and whether the dwelling is surplus or not, it is not a valid planning consideration.

Furthermore, use of land for farming is well established, and noting the above, the excision is not required to support or assist the farming enterprise.

The proposal also allows for the construction of a new dwelling on the remnant larger lot, potentially without planning approval. The Section 173 requirement is intended to prevent further dwelling excisions from this larger lot in the future, but the proposal would still allow an increase in the number of dwellings on the land. While the permit applicant indicated that their intention was not to construct a new dwelling but to continue farming as at present, there is nothing to require this.

The above extract also provides a level of certainty for Council and the use of Section 173

Agreements. Whilst a permit could be imposed requiring an agreement prevent excisions, the consolidated lot would total 107.8ha and could have a dwelling as-of-right, increasing the number of dwellings on the land.

Member Carew also noted that the permit applicant owns adjoining land within a separate title however this land was not included in this permit application.

King v Murrindindi SC [2017] VCAT 298 (7 March 2017)

This application related to a farm with a total of 26.76ha that contained two dwellings with the proposal to excise off one dwelling on a 3,242sqm lot with the remaining lot containing the other dwelling and used for agriculture. In this case Member Birtwistle upheld Councils decision and found:

The applicant asserts that the excision of the “house lot” from the “farm lot” is merely a form of “paper subdivision”, as in real terms two dwellings exist on the land, and the dwelling on the “house lot” is currently not functionally linked to the “farm lot” as it is occupied by a tenant with no relationship to the land.

Be that as it may, I cannot find support in the provisions of the Scheme for the proposed subdivision and indeed there is express support for avoidance of fragmentation of the land. I find that the proposal fails to respond appropriately to the Scheme as:

a. The subdivision, as acknowledged by the applicant, is not required to increase agricultural productivity of the land and will not support or enhance agricultural production, which are outcomes sought by the Planning Scheme. The subdivision will merely allow a small lot to be excised and sold separately with no ongoing potential for it to be used for agricultural purposes. In my view this is a determinative issue, given the zoning of the land and policy as expressed in Clause 21.03-2.

b. The subdivision is likely to have negative impacts on primary production on adjacent land, a relevant consideration under State Policy. Conflict between farming operations and residential amenity expectations are a frequent issue that are expressly identified in Council’s policy support of the need to protect the ‘right to farm’.

c. I agree with the findings of the Tribunal in McGrath v Mornington Peninsula SC that: Excisions that create rural residential type lots not only contribute to a shift away from the rural land use, they also heighten expectations and pressure for this to occur on other land. As noted by Senior Member Byard, this expectation works towards inflating land values so that farming becomes unviable.

d. While the approval for the second dwelling on the land has to some extent removed the “house lot” from potential agricultural production, a subdivision that will permanently remove the land from agricultural production is contrary to the clear direction of the Scheme to protect productive farmland.

e. I agree with Council that the subdivision will allow for a new landowner in a Farming Zone and this has the potential to result in land use conflict with nearby agricultural uses based on perceived residential amenity rights, an outcome that is less likely if the land remains in one

Ownership.

f. The “house lot” excision has no relationship with, or is required for, the continuing operation of the agricultural use of the land. It will merely allow the lot to be sold to another unrelated party.

This is considered extremely relevant as in the current proposal excises a 1.885ha allotment which does not support or enhance agricultural production on the site noting this proposed allotment would also contain a Goulburn Murray Water main channel which occupies approximately 0.6ha of the 1.885ha. The excised lot would not have any relationship with agriculture or contribute to the production of the surrounding area but has the potential to create conflict with the adjoining farm use.

Whilst it is difficult to measure as it depends on the future owner/residents of the excision, there may be conflict between the rural residential use and ongoing farming practices through noise, odour, spray drift, lights and vehicle access.

*The Council disputes that the subdivision will not impact on the agricultural production that is capable on the land, and considers that the creation of a rural residential lot has the potential to limit the operation of the adjoining and nearby agricultural uses... They similarly provided a number of Tribunal decisions that dealt with these issues. In *Graham v Surf Coast SC*, the Tribunal found:*

The planning loss in this case is less about the loss of productive land, because the proposed house lot is relatively small (and even though it may be cropped/grazed). Rather, the loss relates to the creation of a small house lot that can only be used for rural living or lifestyle purposes. It is not proposed to contribute to agricultural production and is not intended to have any link with the balance lot that will continue in agricultural production. The current owners may have no issue with farming on abutting land because of their own experience but that is not necessarily the case for new occupants. Mr Forbes acknowledges issues can and do arise when “urban romantics” take issue with agricultural activities even though his evidence is that the impacts are not significant and the concerns were not well founded.

The exert above reinforces the need for excised dwellings or small lots in farming areas to contribute to agricultural as detailed previously.

I agree that the subdivision as proposed will not assist in supporting the continued viability of surrounding agricultural land as strongly supported by policy. The creation of a small rural residential lot will allow its occupation by persons that do not reside there for a farming purposes and likely result in conflict between its occupation and surrounding farming practices, such as through spraying, dust, noise and the movement of machinery.

I find that the subdivision does not encourage the retention of productive agricultural land as:

a. There was no evidence put to me that the subdivision will result in any additional enhancement to the existing agricultural land, through either reinvestment in infrastructure or alternative farming practices.

b. The creation of a rural residential type lot (with its consequent occupation by a person with a different amenity expectation) will introduce the potential to limit or impact upon nearby agricultural operations.

c. The creation of a rural residential type lot will permanently remove it from any future agricultural production.

I find that the Farming Zone purposes are clearly not directed at facilitating non-agricultural uses. While two dwellings exist, these clearly relate to the sites use for farming purposes. The creation of a separate "house lot" will permanently remove this land from agricultural production. It will also allow the sale of the "house lot", as expressly sought by the applicant, to an individual that has no relationship to the agricultural nature of the land or its surrounds. To support the subdivision will be viewed as support for fragmentation of farming land and diminish the Council's resolve to retain land in larger holdings that are desirable for agricultural production.

As part of the currently application, concerns were put to the applicant as part of the Further Information Request and no further justification was put forth and without further justification Council cannot conclude that the proposal would enhance the existing agricultural land. The applicant has stated that the funds from the sale would be reinvested into the farming enterprise but no detail was provided of what this would entail and there is no way to ensure this would occur.

This VCAT case found that the excision of the dwelling does not support or facilitate agriculture and would permanently remove land from agricultural purposes and would ultimately result in the fragmentation of farming land and be counterintuitive to the retention of agricultural land as supported by the Planning Policy.

Zandstra v Greater Shepparton CC [2016] VCAT 1900 (10 November 2016)

The application involved the re-subdivision of four allotments totalling 49ha and containing two dwelling to create two allotments of a 46.6ha farm and a 0.72ha excised lot containing one dwelling.

It is considered a similar application to the current proposal as Greater Shepparton has also adopted the Regional Rural Land Use Strategy similar to Moira. The hearing was presided by Member Bennett who set aside Council's decision and granted a permit.

It is considered important to understand why this excision was support and why it differs from the proposal currently being assessed. In the Zandstra v Greater Shepparton CC decision, Member Bennett concluded:

The existing dwelling is not required by Mr Zandstra or his family as they occupy other houses at the southern end of the property.

The dwelling to be excised has been rented for the past 15 years to the Thomas family. The reason behind the consolidation and excision is to allow the house to be sold to the Thomas family.

I acknowledge that there can be no guarantee that the dwelling when excised will be retained by the Thomas family. However, ownership is not relevant to my consideration of whether the land should be consolidated and resubdivided based on the controls and policies of the Shepparton Planning Scheme.

Member Bennett placed significant emphasis and weighting on the occupation of the excised dwelling and the purchases that had lived within that dwelling for over 15 years but determined that the ongoing occupation was not a relevant consideration.

This is a different approach to the more recent decision of Alford v Corangamite SC which found the personal circumstances of the application are irrelevant which is considered a more appropriate response as there is no sensible or practical way of ensuring the owner or occupier of the excised dwelling does not create conflict resulting from the agricultural uses. The minimum subdivision lot size and minimum size for dwellings in the Farming Zone 1 are aimed at protecting land from smaller lot subdivision and the use of land for rural residential or rural lifestyle purposes. However the subdivision provisions at clause 35.07-3 do allow for a two lot subdivision to create a lot for an existing dwelling or for the resubdivision of existing lots provided the number of lots is not increased. Decision Guidelines at clause 35.07-6 provide a list of issues to consider. These are largely worded to be of relevance to the consideration of new use and development, rather than a small lot subdivision for an existing dwelling where the impacts, and potential conflicts, of the dwelling on nearby agricultural uses are already known.

As detailed within the assessment against the Farming Zone, the provision that allows dwelling excisions is a mechanism and doesn't result in these application being supported – the proposal must still comply with the relevant Planning Policy Framework.

It is also considered, and reinforced by more recent VCAT cases, that the existence of a dwelling on a small lot in the Farming Zone does not limit conflicts between the agricultural and rural living uses which is determined by future occupants. Member Bennett determined that the future owners of the excision were unlikely to complain about the adjoining agricultural operation as they had rented the dwelling for 15 years however it could be argued that given their landlords were undertaking the farming use, they expected a lower level of amenity then as opposed to owning the land.

Given the amenity expectation of rural residential allotments is solely reliant on the residents of the dwelling, it is not a relevant consideration as there is no way to understand or control future residents as the excised dwelling could be on sold at any time. This is a well established VCAT principal, particularly in apartment or townhouse development cases, whereby objectors raise concerns about future residents and potential or increased crime. Clause 21.06-1 makes reference to the Regional Rural Land Use Strategy 2008 (RRLUS) and notes that the RRLUS has identified three new categories of farming areas in the municipality – Growth Areas, Consolidation Areas and New Areas. The review site and the area around Ardmona, west of Mooroopna is in a Consolidation Area. As the name suggests, these are areas that were subdivided into relatively small lots as former closer settlement areas, where lot sizes are no longer reflective of current farm sizes and where consolidation of lots will provide opportunities for the expansion of continuing agricultural businesses.

My assessment of the proposal against these strategies is as follow:

It results in a restricting of four lots into two.

Subject to the inclusion of a permit condition preventing construction of a dwelling on the large balance lot, there are no new opportunities for additional dwellings below the as-of-right minimum of 60 hectares specified within the Farming Zone 1.

This is another significant area where the proposal differs from the VCAT case, whilst this application proposes the excision of a 1.885ha parcel and the consolidation of two allotments to total 107.8ha, the number of allotments remains unchanged. Member Bennett considered the consolidation of four allotments into two as appropriate as it resulted in two less allotments in the area.

Both the consolidated and excised allotments in the Zandstra case contained dwellings and would therefore need a planning permit for an additional dwelling on either allotment and is unlikely to be further developed with an additional dwelling. In the current proposal before Council, the consolidated allotment would total 107.8ha and could therefore construct a dwelling without the need for a planning permit (minimum lot size of 80ha for an as-of-right dwelling) and it is considered inappropriate to impose a condition or Section 173 restricting the development beyond the scope of the Planning Scheme.

Whilst there is an orchard to the north of the existing dwelling, I have not been provided with any information to suggest that conflict exists between the occupiers of the dwelling and the orchard operations. Indeed, the Thomas family have provided a letter dated 19 August 2015 which state that they have never complained to Council about orchard operations including spraying, gas guns, mowing, picking or pruning.

This is once again not considered a relevant matter as whilst the current land holder has no concerns with the agricultural use, there is no way to ensure future occupants have no concerns or expect a higher level of amenity.

I accept Mr Zandstra's submission that excising the existing dwelling assists in the use, sale and reduction in the number of lots and preserves the balance lot for agricultural purposes. In practical terms, it removes an unnecessary asset from the land being used for agricultural purposes. To that extent, it responds to one of the aims for consolidated areas which is:

The use of re-subdivision and excisions within consolidation areas will be considered in recognition that the excision of a dwelling from a farm can provide businesses an opportunity to consolidate property holdings based on the value of the land for agriculture.

As noted within the response to this VCAT case, the application does not result in a lesser amount of allotments within the Farming Zone and whilst the RRLUS applies in both applications, the Growth Area is distinctly different to the Consolidated Area and the strategy encourages larger landholdings. Furthermore, whilst the applicant has stated the funds generated by the sale of the excision would be reinvested into the larger allotment, no evidence has been supplied to substantiate this claim.

Summary of key issues

Land use

The current and preferred use of the land is Agriculture, specifically broad acre animal grazing. Agriculture is a Section 1 use in the Farming Zone, meaning it is as of right. By introducing a rural residential lot, a fundamental change will occur that is not consistent with planning policy.

Land fragmentation and permanent removal of agricultural land

If supported, this proposal will establish a rural residential land use that will fragment rural land and permanently remove that land from agricultural use. The amenity impacts on future residents will cause detriment to the operation of adjacent and nearby farms.

Rural residential development

It is reiterated that subdivision is development. State and Local policies 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.

Conclusion

The applicant has submitted that the proposed subdivision will allow for a family member to reside in the excised dwelling lot. In the short term, there is no clear justification why this cannot occur while retaining the dwelling within the existing lot. There may be no direct conflict whilst the dwelling is occupied by an occupant directly related to the surrounding operator, however the act of subdivision facilitates the opportunity for the dwelling lot to be sold and occupied by occupants unrelated to the wider farming enterprises. It is this opportunity which presents the greater risk of land use conflict.

The proposal is completely contrary to explicit planning policy that discourages rural residential development and lot sizes below the minimum 40 hectares in a Farming Zone.

The risk of land use conflict together with the fact that the development will lead to fragmentation and additional rural lifestyle dwellings in the area would result in a poor planning outcome. To introduce a rural residential lot does not represent the highest and best use of the land.

For the reasons detailed in this report, the application should not be supported.

RECOMMENDATION

That Council having caused notice of Planning Application TP/33/2024 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 Refuse to Grant a Permit under the provisions of Southern Grampians Planning Scheme in respect of 198 Partridges Road, Hamilton ; Lot: 4 PS: 115656 for a two-lot subdivision and creation of an easement for the following reasons:

Reasons for refusal

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 subdivision to create a rural residential lot is contrary to state planning policy, particularly Clause 14.01-1S protection of agricultural land as it relates to rural residential development and the protection of farming land.

The separation of the dwelling from the balance agricultural land increases the risk of an additional dwelling being proposed on the balance lot, thus further affecting the productivity of the remaining agricultural land.

A rural residential lot with no connection to the balance lot does not produce a suitable planning outcome and will permanently remove land from agricultural Production.

The rural residential use will limit the operation and expansion of adjoining and nearby agricultural activities and there will be land use conflict.

7. NEXT MEETING

22 January 2025 (tbc)

8. CLOSE OF MEETING



Planning Enquiries
Phone: (03) 5573 0444
Web:
www.sthgrampians.vic.gov.au

Office Use Only

VicSmart:

No

Specify class of VicSmart application:

Application No:

Date Lodged: 7/05/2024

Application for Planning Permit

If you need help to complete this form, read [How to complete the Application for Planning Permit form](#).

! Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any concerns, please contact Council's planning department.

! Questions marked with an asterisk (*) are mandatory and must be completed.

! If the space provided on the form is insufficient, attach a separate sheet.

Application type

Is this a VicSmart Application?*

No

If yes, please specify which VicSmart class or classes:

! If the application falls into one of the classes listed under Clause 92 or the schedule to Clause 94, it is a VicSmart application

Pre-application meeting

Has there been a pre-application meeting with a Council planning officer?

If 'yes', with whom?:

Date:

day / month / year

The Land

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address*

Unit No:

St. No: 198

St. Name: Partridges Road

Suburb/Locality: Hamilton

Postcode: 3300

Formal Land Description*

Complete either A or B

! This information can be found on the certificate of title.

A

Lot No: 4

Lodged Plan

Title Plan

Plan of Subdivision

No: 115656

OR

B


Crown Allotment No:

Section No:

Parish/Township Name: HAMILTON NORTH


If this application relates to more than one address, please attach details.

The Proposal

 You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.


① For what use, development or other matter do you require a permit?*

Two Lot Subdivision to create a Lot for an Existing Dwelling pursuant to Clause 35.07-3 of the Southern Grampians Planning Scheme

 Provide additional information on the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

① Estimated cost of development for which the permit is required*

Cost **\$0.00**

 You may be required to verify this estimate
Insert '0' if no development is proposed


Insert '0' if no development is proposed (eg. change of use, subdivision, removal of covenant, liquor licence)

Existing Conditions

Describe how the land is used and developed now*

Eg. vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

The land is used for agriculture (extensive animal husbandry) and accommodates agricultural machinery sheds; and a single dwelling and associated outbuildings

 Provide a plan of the existing conditions. Photos are also helpful.


Title Information

Encumbrances on title*

If you need help about the title, read: [How to complete the Application for Planning Permit form](#)

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- Yes. (if 'yes' contact Council for advice on how to proceed before continuing with this application.)
- No
- Not applicable (no such encumbrance applies).

 Provide a full, current copy of the title for each individual parcel of land forming the subject site. (The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments' eg restrictive covenants.)

Applicant and Owner Details

Provide details of the applicant and the owner of the land.

Applicant *

The person who wants the permit

Name:		
Title:	First Name: Andrew	Surname: Lacey
Organisation (if applicable): Pierrepoint Planning		
Postal Address		If it is a PO Box, enter the details here:
Unit No:	St. No:	St. Name: PO Box 5003
Suburb/Locality: Tarrington		State: VIC
		Postcode: 3301

Owner *

The person or organisation who owns the land

Name:		
Title:	First Name: Victoria	Surname: Hoffman
Organisation (if applicable): Green and Gold Nominees Pty Ltd		

Where the owner is different from the applicant, provide the details of that person or organisation.

Postal Address		If it is a PO Box, enter the details here:	
Unit No.:	St. No.: 877	St. Name: Henty Highway	
Suburb/Locality: Hamilton		State: Vic	Postcode: 3300
Owner's Signature (optional):		Date:	
		day / month / year	

Information Requirements


Is the required information provided?

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist.

- Yes
 No

Declaration

This form must be signed by the applicant*

 Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit

I declare that I am the applicant; and that all the information in this application is true and correct and the owner (if not myself) has been notified of the permit application.

Signature:
Electronically Signed.



Date: 7 May 2024

day / month / year

This application has been lodged online. The declaration has been electronically signed.

Checklist

Have you:

<input type="checkbox"/>	Filled in the form completely?	 Most applications require a fee to be paid. Contact Council to determine the appropriate fee.
<input type="checkbox"/>	Paid or included the application fee?	
	Provided all necessary supporting information and document?	
<input type="checkbox"/>	A full and current copy of the information for each individual parcel of land forming the subject site.	
<input type="checkbox"/>	A plan of existing conditions.	
<input type="checkbox"/>	Plans showing the layout and details of the proposal.	
<input type="checkbox"/>	Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.	
<input type="checkbox"/>	If required, a description of the likely effect of the proposal (eg traffic, noise, environmental impacts).	

Lodgement

Lodge the completed and signed form and all documents with:

Southern Grampians Shire Council
111 Brown St, Hamilton VIC 3300
Telephone: (03) 5573 0444

Contact information:
Telephone: (03) 5573 0444
Email: council@sthgrampians.vic.gov.au

PPP Ref: 2023-055

8 May 2024

Mr. Andrew Nield
Planning Coordinator
Southern Grampians Shire
Locked Bag 685
HAMILTON VIC 3300

Dear Andrew,

**PLANNING APPLICATION
TWO (2) LOT SUBDIVISION
198 PARTRIDGES ROAD HAMILTON**

Please find attached the following documentation associated with the planning application for the two (2) lot subdivision of the above property.

1. Current Certificate of Title
2. Planning Report
3. Cultural Heritage Management Plan Form and Process List
4. Proposed Plan of Subdivision

Please email Pierrepoint Planning an invoice for the planning application fee.

Please contact me if you have any questions in relation to the above or if you require any further information.

Yours sincerely



**ANDREW LACEY
PRINCIPAL**

Encl.

Providing Planning Services throughout South West Victoria Since 2006

PLANNING REPORT 2 LOT SUBDIVISION 198 PARTRIDGES ROAD HAMILTON



May 2024

Prepared by:

ANDREW LACEY
B.App. Sci (Planning) Grad. Dip. U & R Planning
MPIA
A.B.N. 89 811 694 075

Client: GGC Pty Ltd.

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Appendices

Appendix A – Certificate of Title

Appendix B – Proposed Plan of Subdivision

Appendix C – Photographs of the Application Site

1 Introduction

This planning report has been prepared to accompany a planning application to subdivide known as 198 Partridges Road being Lot 4\LP115656.

The application site accommodates an existing dwelling and associated rural infrastructure. The land is used for agricultural purposes in association with the family's broader farming enterprise, which also includes appurtenant parcels of land being Lots 1 - 4 on PS818709, which adjoin the application site to the east; and having frontages to the Henty Highway.

It is proposed to excise the existing dwelling on land known as 198 Partridges Road from the balance of the land.

Proposed Lot 1 will be owned and occupied by a member of the family.

Proposed Lot 2 will continue to be farmed as part of the overall farming enterprise.

The application is made pursuant to Clause 35.07-3 of the Southern Grampians Planning Scheme, which provides the ability to create a smaller lot than specified by the Farming Zone if the subdivision creates a lot for an existing dwelling.

The application has regard to planning policy, and particularly Clause 14.01-1L small lot subdivisions.

2 Description of the Land

The land is contained within Certificate of Title Vol 09099 Fol 897 (being Lot 4 LP115656).

Lot 4 LP115656 has an area of 54.69 hectares.

A copy of title plans follows:

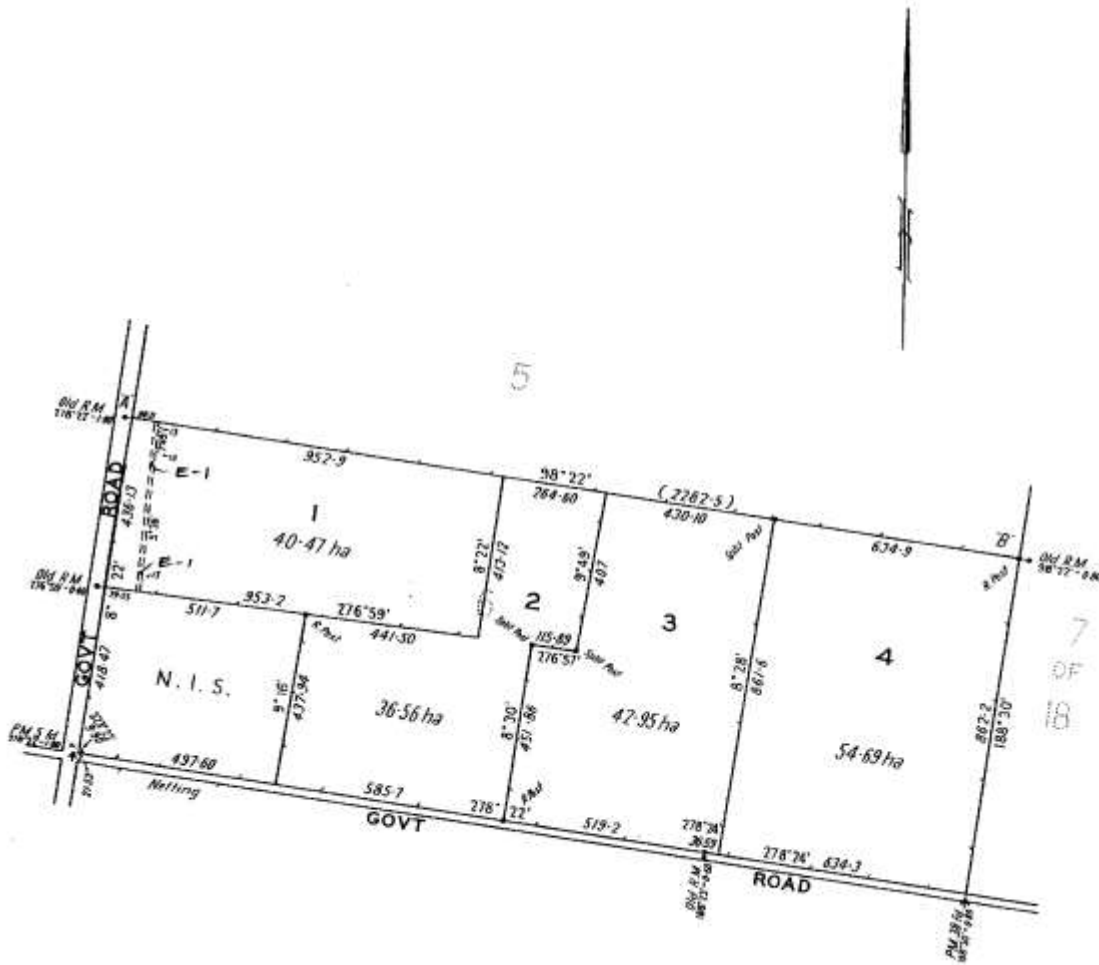


Figure 1 - Title Plan Lot 4 LP115656

A copy of the certificate of Title is attached. Refer to **Appendix A**.

3 The Proposal

The proposal is to create a small allotment to accommodate an existing dwelling and associated outbuildings, and to create a large balance allotment, which will continue to be used for sustainable agricultural purposes in association with the family agricultural enterprise.

The subdivision has been instigated for agricultural purposes.

An extract of the proposed plan of subdivision follows:

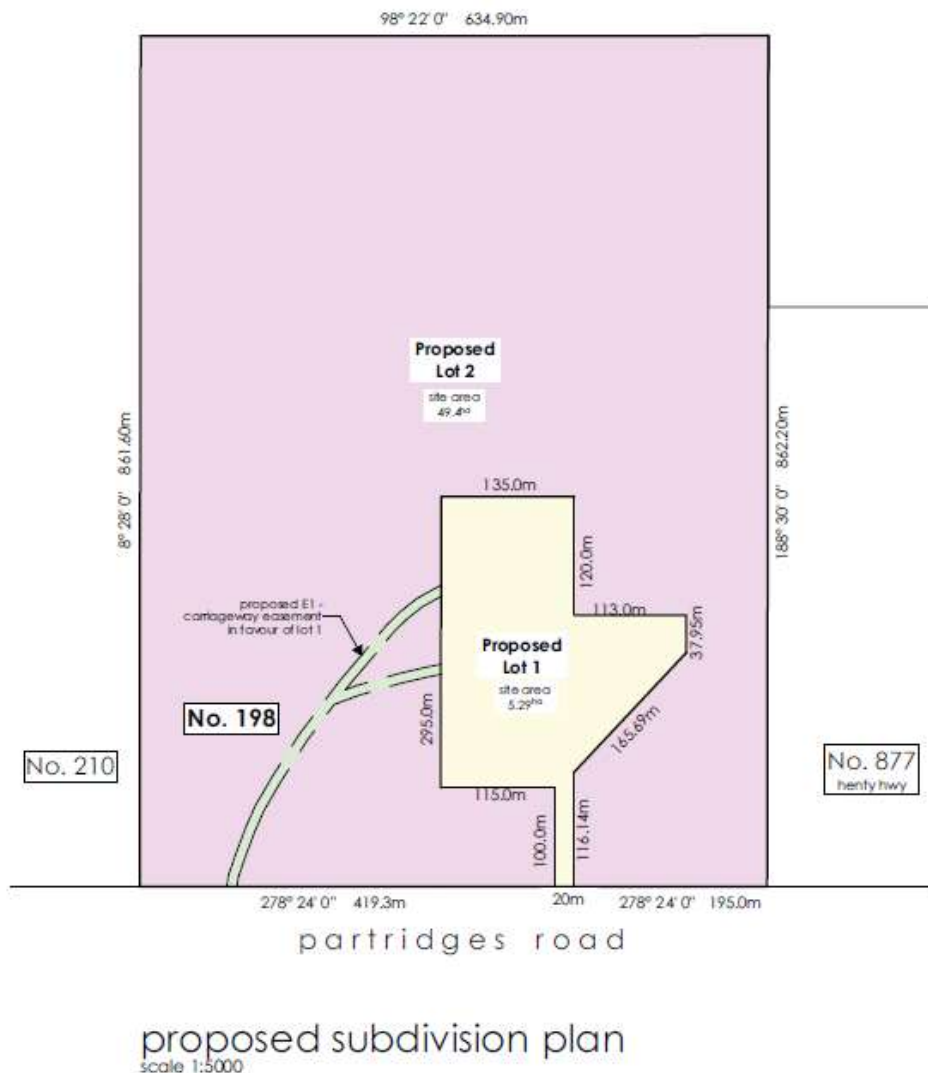


Figure 2: Proposed Plan of Subdivision

The proposed Plan of Subdivision overlaid on an aerial of the application site follows:



Figure 3: Proposed Subdivision Over Aerial

The Proposed Plan of Subdivision is attached. Refer to **Appendix B**.

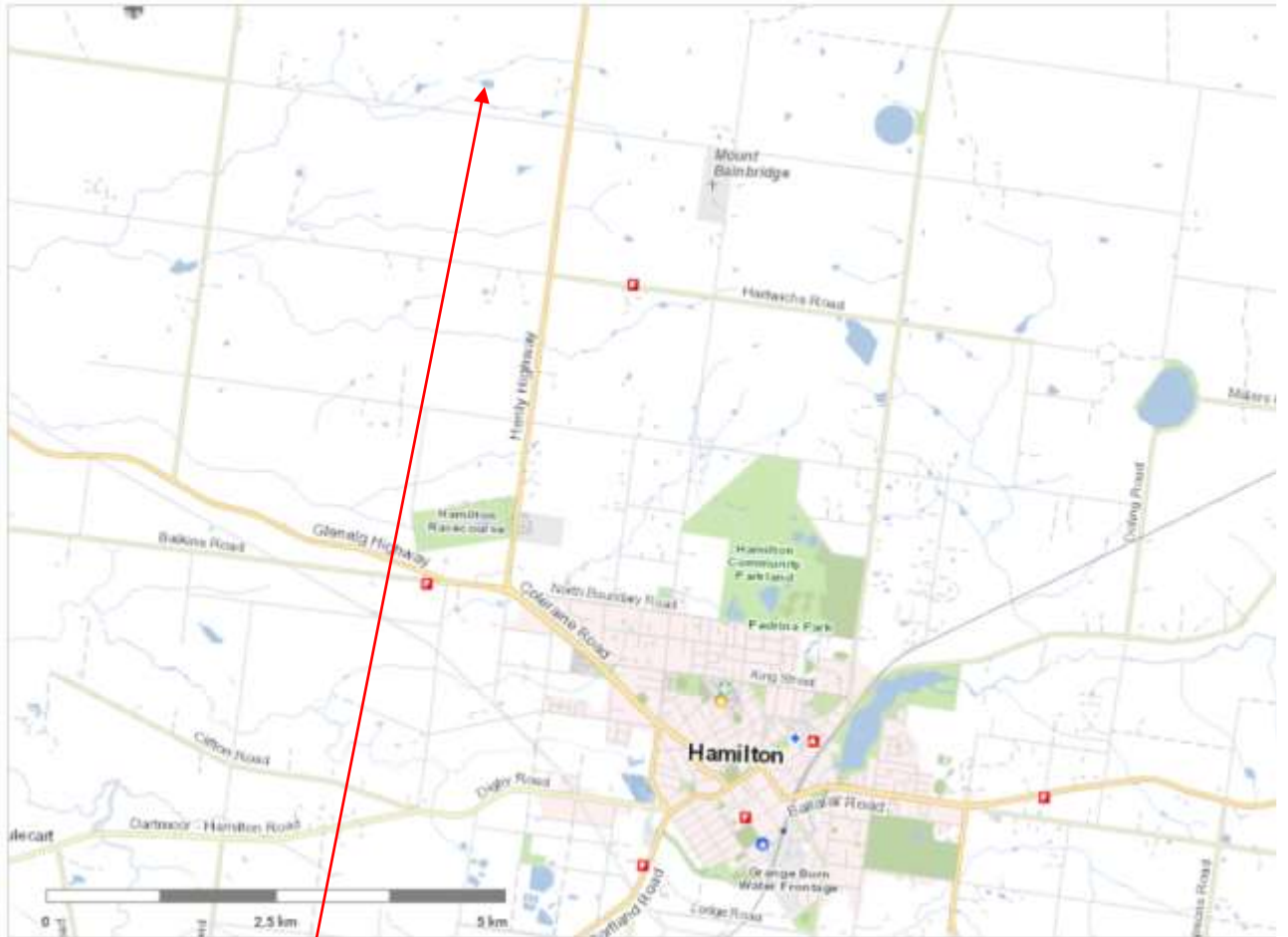
Proposed Lot 1 accommodates an existing dwelling and has an area of 5.29 hectares.

Proposed Lot 2 also accommodates the balance of the land and has an area of 49.4 hectares.

4 Site Location

The application site is located on the north side of Partridges Road, 1436 metres west of the Henty Highway.

The application site is located 5 kilometres north of the intersection of the Henty Highway and the Glenelg Highway, on the northern perimeter of Hamilton.



Application Site

Figure 4: Locality Plan

5 Site Description

198 Partridge Road

The property known as 198 Partridges Road accommodates a dwelling and a series of outbuildings.

The existing dwelling on Proposed Lot 1 is sited in close proximity to the existing dam.

The proximity of the dam to the dwelling, together with the setback of the dwelling from Partridges Road has in part determined the size of proposed Lot 1.

The configuration of the subdivision is to the effect that the substantial buildings are sited within the boundaries of Proposed Lot 2, whilst the minor outbuildings associated with the dwelling are within the boundaries of the proposed Lot 1, i.e. retained with the dwelling.

Vehicle Accessway

The existing vehicle accessway servicing the property falls within proposed Lot 2.

It is proposed to create a carriage way easement over the existing accessway within proposed Lot 2 in favour of Proposed Lot 1 (i.e., the dwelling lot).

An existing gateway from Partridges Road is proposed to be utilised as a secondary access point to the existing dwelling sited within proposed Lot 2

Description of Land Form

The application site is characterised by a gently undulating land form used for broad acre animal grazing and hay production.

A natural drainage line runs diagonally through the south east quadrant of the application site.

The following aerial photograph shows the location of the existing dwelling and associated outbuildings, in relation to the proposed boundaries of Lot 1.



proposed lot 1 over aerial
scale 1:2500

Figure 5: Existing dwelling and outbuildings within Proposed Lot 1

A series of photographs of the application site are included as **Appendix C** to this report.

6 Surrounding Land Use

The surrounding land use is broad acre agricultural, predominantly being extensive animal husbandry, the grazing of sheep and cattle.

The following aerial photograph indicates the extent of the surrounding broad acre agricultural activities surrounding the application site.

2 Lot Subdivision 198 Partridges Road Hamilton



Application Site: ——— Owners Broader Landholdings: ———

Figure 6: Aerial of surrounding agricultural land use

7 Planning Policy Framework

The Planning Policy Framework includes the following relevant clauses;

Clause 14.01-1S Protection of Agricultural Land seeks to protect the state's agricultural base by preserving productive farmland.

Strategies to preserve productive farmland include:

- Identify areas of productive agricultural land, including land for primary production and intensive agriculture.
- Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.
- Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.
- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.
- Prevent inappropriately dispersed urban activities in rural areas.
- Protect strategically important agricultural and primary production land from incompatible uses.
- 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 Economic Development, Jobs, Transport and Resources and using available information.

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.
- Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.
 - Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.
 - Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinization) against the benefits of the proposal.

Assessment of Clause 14.01-1S Protection of Agricultural Land

The proposed will not remove productive agricultural land from the state's agricultural base. The land use is not proposed to change. Primary production will continue on the balance allotment.

The subdivision of the existing allotments provides the opportunity for the existing dwelling which is not required for agricultural purposes to be occupied and maintained; and also provides for the balance allotment to be used sustainably and productively for agricultural purposes in association with the owners larger land holdings adjoining the application site to the east.

Clause 14.01-1L Small lot Subdivisions, house lot excisions and dwellings

Policy application

This policy applies to an application for subdivision or accommodation in the Farming Zone.

Objective

To ensure that subdivision and accommodation do not compromise the existing and ongoing agricultural use of land.

Strategies

The strategies associated with small lot subdivisions, house lot excisions and dwellings within the farming zone include:

- Discourage subdivision and accommodation that do not relate to or directly support the use of land for agriculture.

Response: *The proposed subdivision effectively supports the use of land for agriculture as the balance allotment which will continue to be used for sustainable agricultural purposes in association with the owners' larger land holdings adjoining the application site to the east.*

- Retain agricultural land in parcels of sufficient size that can allow viable agriculture.

Response: *The balance allotment will be farmed in association with the owners' adjoining landholdings which when farmed together will facilitate viable agriculture production.*

- Discourage subdivision unless it is to excise an existing dwelling that is excess to the requirements of a rural use.

Response: *The proposed dwelling is excess to the requirements of a rural use. However, the dwelling is occupied and is an asset in a sound condition. The proposed creation of a lot for the dwelling will ensure the dwelling is retained and will continue to provide accommodation options for the local farming community.*

- Site and design dwellings to minimise impacts on agriculture.

Response: *The proposal is not for development of a dwelling.*

- Provide adequate separation distances from dwellings to agriculture.

Response: *Proposed Lot 1 has been configured to ensure that there is a generous setback between the dwelling and boundaries of adjoining agricultural properties, including proposed Lot 2.*

- Restructure lots to create a smaller lot for a dwelling instead of creating additional lots

Response: *The proposal does not involve the restructure of allotments, given that the balance allotment is more than 40 hectares in area (i.e., 49.4ha).*

Policy guidelines

Consider as relevant:

- Encouraging the consolidation of titles prior to any dwelling excision.

Response: *No consolidation of titles is proposed. It should be noted that the proposed balance allotment is more than 40 hectares in area (i.e., 49.4ha).*

- 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.

Response: *Proposed Lot 1 (having an area of 5.854 ha) accommodates an existing dwelling. The area of proposed Lot 1 exceeds 2 hectares in area on the basis that the dwelling is well setback into the property and the dwelling and extensive gardens have been established around a large dam. Further, configuration of the allotment provides for retention of outbuildings and established gardens with the dwelling, and a buffer around the dwelling to adjoining agricultural uses is provided.*

- 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.

Response: *The existing dwelling is in a habitable condition and is currently occupied*

- 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.

Response: *There is no need for upgrading of any road or drainage associated with the proposed resubdivision*

- The need to require any roads created in association with a subdivision or dwelling to allow all weather access to the following standards:
 - Formation width of 6 metres or passing bays every 200 metres.
 - Pavement width of 4 metres.
 - Pavement depth of 150 millimetres of compacted road making gravel.
 - Minimum grade of 1 in 8, unless sealed.

Response: *No roads are being created by the proposed resubdivision*

Clause 14.01-2s Sustainable Agricultural land uses

Objective

To encourage sustainable agricultural land use

Assessment of Clause 14.01-2s Sustainable Agricultural land uses

Strategies to achieve the above objective relate to the agricultural land use activities, including intensive animal husbandry, and are not relevant to a resubdivision application.

Clause 14.01-2L Sustainable agricultural land use

Strategies

- Support intensive and productive use of rural land for higher value products, including timber plantations, horticulture, intensive animal industries and agro-forestry.
- Encourage use and development that value adds to local produce and creates local employment opportunities.

Assessment of Clause 14.01-2L Sustainable Agricultural land uses

The agricultural use of the land is not proposed to change. No development is being proposed

Clause 16.01-3S Rural Residential Development seeks to identify land suitable for rural residential development.

Strategies include managing development in rural areas to protect agriculture and avoid inappropriate rural residential development.

Assessment of Clause 16.01-3S Rural Residential Development

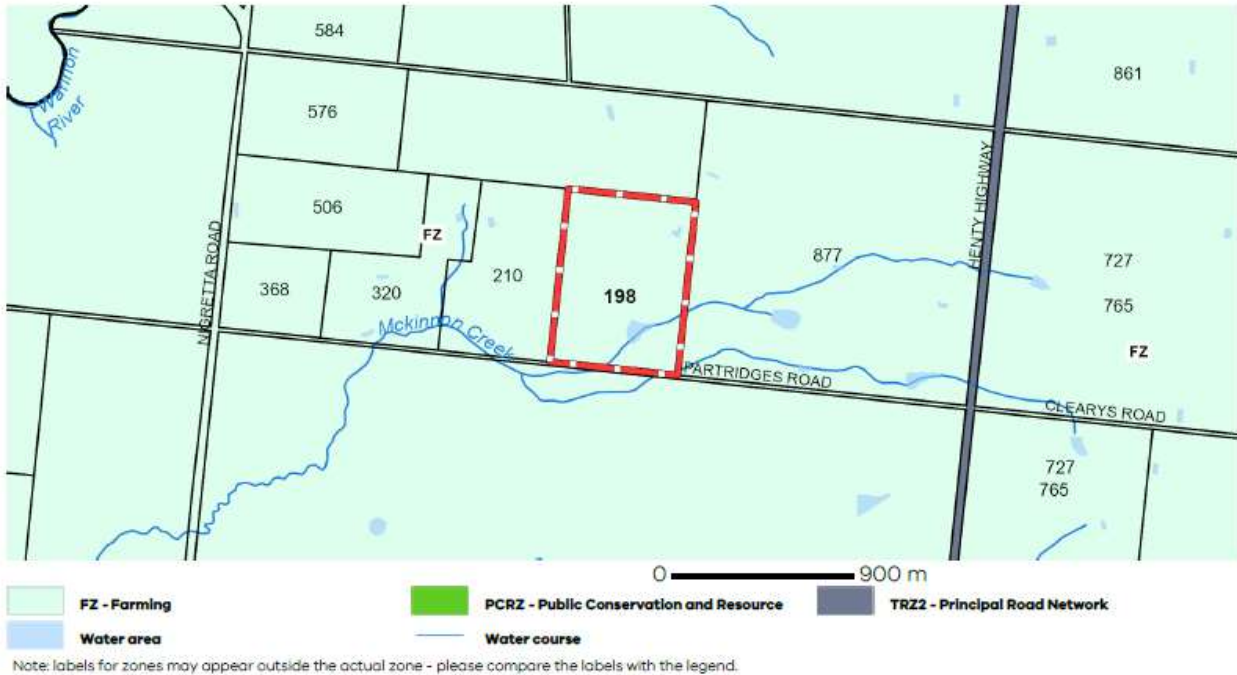
Clause 16.01-5S Rural Residential Development is not relevant in that the application does not seek to develop a dwelling, but rather seeks to create a small lot for an existing dwelling.

8 Zoning

The subject land falls within the Farming Zone.

FARMING ZONE (FZ)

SCHEDULE TO THE FARMING ZONE (FZ)



Application Site - Farming Zone (FZ)

Figure 7: Zoning Map

8.1 Purpose of the Zone

The purposes of the Farming zone (Clause 35.07) are as follows:

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

- To provide for the use and development of land for the specific purposes identified in a schedule to this zone

Clause 35.07-3 Subdivision

Within the Farming zone a permit is required to subdivide land. The minimum lot size is 40 hectares however a permit can be granted to create smaller lots if the subdivision is to create a lot for an existing dwelling.

The application is made under dot point one (1) of Clause 35.07-3 as the subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.

8.2 How the proposed subdivision responds to the decision guidelines in the zone (Clause 35.07-6)

The following guidelines must be considered, as appropriate:

General issues

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

Assessment

Planning Policy Framework has been addressed in Section 7 of this report.

Agricultural issues

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

Assessment

The proposed subdivision enhances agricultural production by effectively providing for the balance of the land to be used for sustainable and productive agricultural purposes whilst effectively excising a dwelling on a small allotment which is not required as part of the owners overall farming enterprise. The subdivision will have no effect on the agricultural qualities of the land or surrounding land..

Dwelling issues

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

Assessment

No new dwelling is being proposed. The subdivision proposes to create a smaller allotment for an existing dwelling.

Environmental issues

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

Assessment

The proposed subdivision will have no impact on environmental issues. The proposed subdivision does not involve the development of any new buildings or works.

Design and siting issues

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

Assessment

The proposed subdivision does not involve the development of any new buildings on the application site and the design and siting issues are therefore not applicable.

9 Overlays

No planning overlays affect the application site.

10 Conclusion

The nature of the subdivision being proposed is contemplated and supported by the provisions of the Southern Grampians Planning Scheme as detailed in this report.

The application is made under the provisions of Clause 35.07-3 to create a Lot for an existing dwelling.

The subdivision has been instigated for agricultural purposes.

This report addresses the Planning Policy Framework, the provisions of the Farming Zone and finds that the subdivision to create a small allotment for an existing dwelling and a large allotment for sustainable agricultural purposes is justified having regard to the relevant planning controls.

2 Lot Subdivision 198 Partridges Road Hamilton

The subdivision satisfies the objective of Clause 14.01-1L Small lot subdivisions, house lot excisions and dwellings, in that the subdivision will not compromise the existing and ongoing agricultural use of land. The existing dwelling is excess to the requirements for the ongoing agricultural use of the land and will ultimately deteriorate if it remains as part of the agricultural enterprise.

The balance allotment will continue to be used for sustainable and productive agricultural purposes in association with the owners broader and adjoining landholdings.

APPENDIX A – CERTIFICATE OF TITLE

2 Lot Subdivision 198 Partridges Road Hamilton



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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

Page 1 of 1

VOLUME 09099 FOLIO 897

Security no : 124114720488V
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LAND DESCRIPTION

Lot 4 on Plan of Subdivision 115656.
PARENT TITLE Volume 09070 Folio 861
Created by instrument LP115656 02/09/1975

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
GREEN & GOLD NOMINEES PTY LTD of 877 HENTY HIGHWAY HAMILTON VIC 3300
AX828800D 19/03/2024

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AX828801B 19/03/2024
AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD

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DIAGRAM LOCATION

SEE LP115656 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER		STATUS	DATE
AX828799J (E)	DISCHARGE OF MORTGAGE	Registered	19/03/2024
AX828800D (E)	TRANSFER	Registered	19/03/2024
AX828801B (E)	MORTGAGE	Registered	19/03/2024

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 198 PARTRIDGES ROAD HAMILTON VIC 3300

ADMINISTRATIVE NOTICES

NIL

eCT Control 16165A AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
Effective from 19/03/2024

DOCUMENT END



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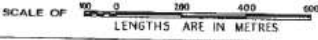
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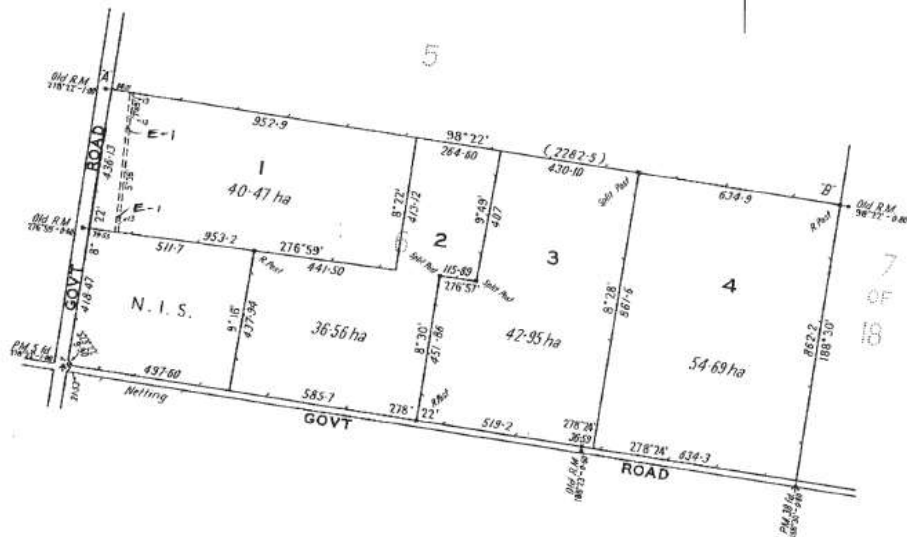
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2 Lot Subdivision 198 Partridges Road Hamilton

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LP115656
EDITION 1
APPROVED 30/7/15

PLAN OF SUBDIVISION OF: PART OF CROWN ALLOTMENT 6 SECTION 6A PARISH: BOCHARA COUNTY: DUNDAS SCALE OF  LENGTHS ARE IN METRES	APPROPRIATIONS	ENCUMBRANCES & OTHER NOTATIONS <i>The land coloured Blue is a S.E.C. easement VAB (T. No. 8876 Fol-283)</i> <i>Datum "A-B-88-22"</i> DEPTH LIMITATION: 15.24m COLOUR CONVERSION E-1 = BLUE
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FOR APPROPRIATIONS, ETC,
SEE BACK HEREOF

2 Lot Subdivision 198 Partridges Road Hamilton

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SUBDIVISIONAL
CERTIFICATE OF TITLE V. 9070 F. 861

LP ...115656...
BACK OF SHEET ...1...

FOR TITLE REFERENCES TO LOTS
SEE PARCELS INDEX

LODGED BY CAMERON AND LOWENSTERN
DEALING No. DATE 3RD/JUNE/1975
DECLARED BY DONALD RODERICK HAYES
ON 18TH/NOV/1974
COUNCIL SHIRE OF DUNDAS

DATE OF CONSENT 25TH/MAR/1975
PLAN MAY BE LODGED / /
PLAN APPROVED. DATE 30TH/JULY/1975 TIME 3.05^{PM} P.M.

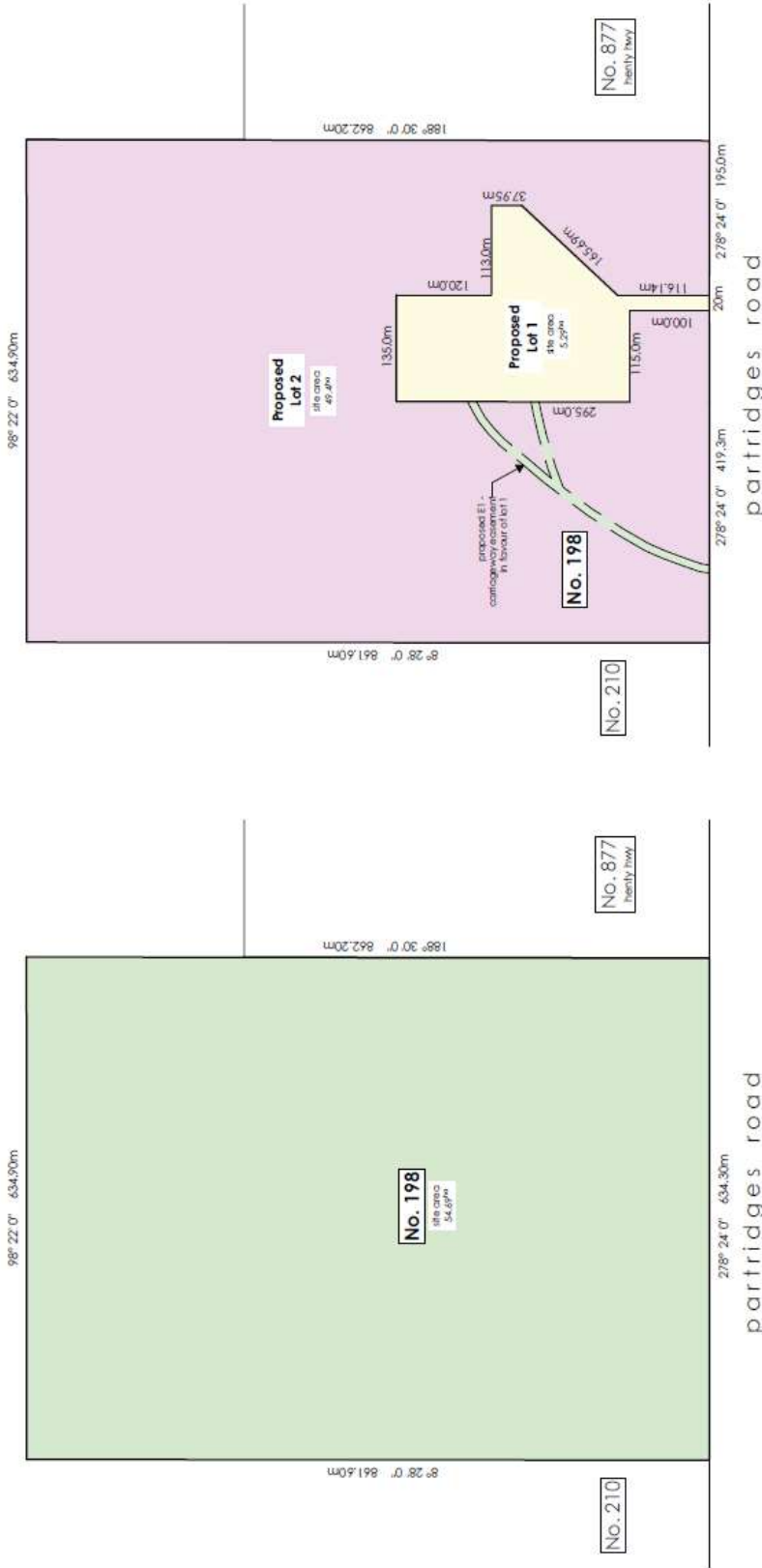
ENCUMBRANCES AND OTHER NOTATIONS.

THE LAND COLOURED BLUE IS AN S.E.C.
EASEMENT VIDE C/T VOL 8876 FOL ~ 293

DATUM "A-B" 98° 22'

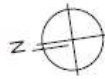
APPENDIX B – PROPOSED PLAN OF SUBDIVISION

2 Lot Subdivision 198 Partridges Road Hamilton



existing site plan
scale 1:5000

proposed subdivision plan
scale 1:5000



PROJECT NO.
PPP 2023-065
DATE
19/04/24
SHEET
1 / 2

PROJECT
PROPOSED SUBDIVISION
SITE ADDRESS
198 PARTRIDGES RD
HAMILTON



Location: 271 Pierrepoint Road Tarrington
Correspondence: PO Box 5003 Tarrington Vic 3301
Mobile: 0429439083 Phone: 03 5572 5558
Fax: 03 5572 5558
Email: alacey@pierrepointplanning.com

2 Lot Subdivision 198 Partridges Road Hamilton



proposed lot 1 over aerial
scale 1:2,500



proposed subdivision plan over aerial
scale 1:5,000



Location: 271 Pierrepoint Road Tarrington
Correspondence: PO Box 5003 Tarrington Vic 3301
Mobile: 0429439033 Phone: 03 5572 5558
Fax: 03 5572 5558
Email: alacey@pierrepointplanning.com



PROJECT NO.
PPP 2023-065
DATE
16/04/24
SHEET
2 / 2

PROJECT
PROPOSED SUBDIVISION
SITE ADDRESS
198 PARTRIDGES RD
HAMILTON

APPENDIX C – Photographs of the Application Site

2 Lot Subdivision 198 Partridges Road Hamilton

**Site and Context Photographs
Proposed Two Lot Subdivision
198 Partridges Road Hamilton**



Photograph 1: Vehicle entrance to the application site from Partridges Road



Photograph 2: Machinery Sheds sited on proposed Lot 2

Pierrepoint Planning PO Box 5003 Tarrington Vic. 3301. M: 0429 439083

2 Lot Subdivision 198 Partridges Road Hamilton

Site and Context Photographs
Proposed Two Lot Subdivision
198 Partridges Road Hamilton



Photograph 3: Former wool shed located on proposed Lot 1



Photograph 4: North side of existing dwelling and associated outbuildings

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2 Lot Subdivision 198 Partridges Road Hamilton

Site and Context Photographs
Proposed Two Lot Subdivision
198 Partridges Road Hamilton



Photograph 5: Front (west) elevation of existing dwelling



Photograph 6: Rear (east) elevation of existing dwelling

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2 Lot Subdivision 198 Partridges Road Hamilton

Site and Context Photographs
Proposed Two Lot Subdivision
198 Partridges Road Hamilton



Photograph 7: Gardens and dam viewed to the east from existing dwelling.



Photograph 8: Existing gateway from Partridges Road – secondary vehicle access to proposed Lot 1

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Aboriginal Heritage Act 2006 Cultural Heritage Management Plan

- Changes to the Aboriginal Heritage Act 2006 were introduced on 28 May 2007
- The purpose of the Act is to provide for the protection of Aboriginal Cultural Heritage in Victoria
- You must find out if a CHMP is required under the Aboriginal Heritage Act.
- Information in relation to the Aboriginal Heritage Act and requirements can be found at www1.dvc.vic.gov.au/heritage and CHMP self assessment at www.aav.nrms.net.au/aavQuestion1.aspx

Information to be submitted with an application

The following information must be provided when lodging a planning application.

It is the responsibility of the applicant as the proponent of the activity requiring approval to determine if a Cultural Heritage Management Plan is required

Please advise which is applicable to your planning application:

A Cultural Heritage Management Plan is **NOT** required:
(a copy of the cultural heritage self assessment is attached)

An **approved** Cultural Heritage Management Plan IS attached:

A Cultural Heritage Management Plan is required and has **NOT** been approved. Refer note 1.

Note 1. Under Section 52 (1) of the Aboriginal Heritage Act 2006 the responsible authority must not grant a planning permit without an approved CHMP.

Under Section 52 (4) of the Aboriginal Heritage Act 2006 until the responsible authority has received a copy of the approved CHMP the time required for the responsible authority to make a decision is deemed **NOT** to have commenced.

<p>This form must be signed</p> <p>Remember it is against the law to provide false or misleading information which could result in the planning permit being invalid.</p>	<p>I declare that the above information is true and correct and the owner (if not myself) has been advised.</p> <p>Name <input type="text" value="Andrew Lacey"/></p> <p>I am the: (tick all that apply)</p> <table><tr><td><input type="checkbox"/></td><td>Owner</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Applicant</td></tr></table> <p>Signature <input type="text" value="Andrew Lacey"/></p> <p>Date <input type="text" value="17 April 2024"/></p>	<input type="checkbox"/>	Owner	<input checked="" type="checkbox"/>	Applicant
<input type="checkbox"/>	Owner				
<input checked="" type="checkbox"/>	Applicant				

- SUBMIT THIS COMPLETED FORM TO COUNCIL ALONG WITH YOUR PLANNING PERMIT APPLICATION -

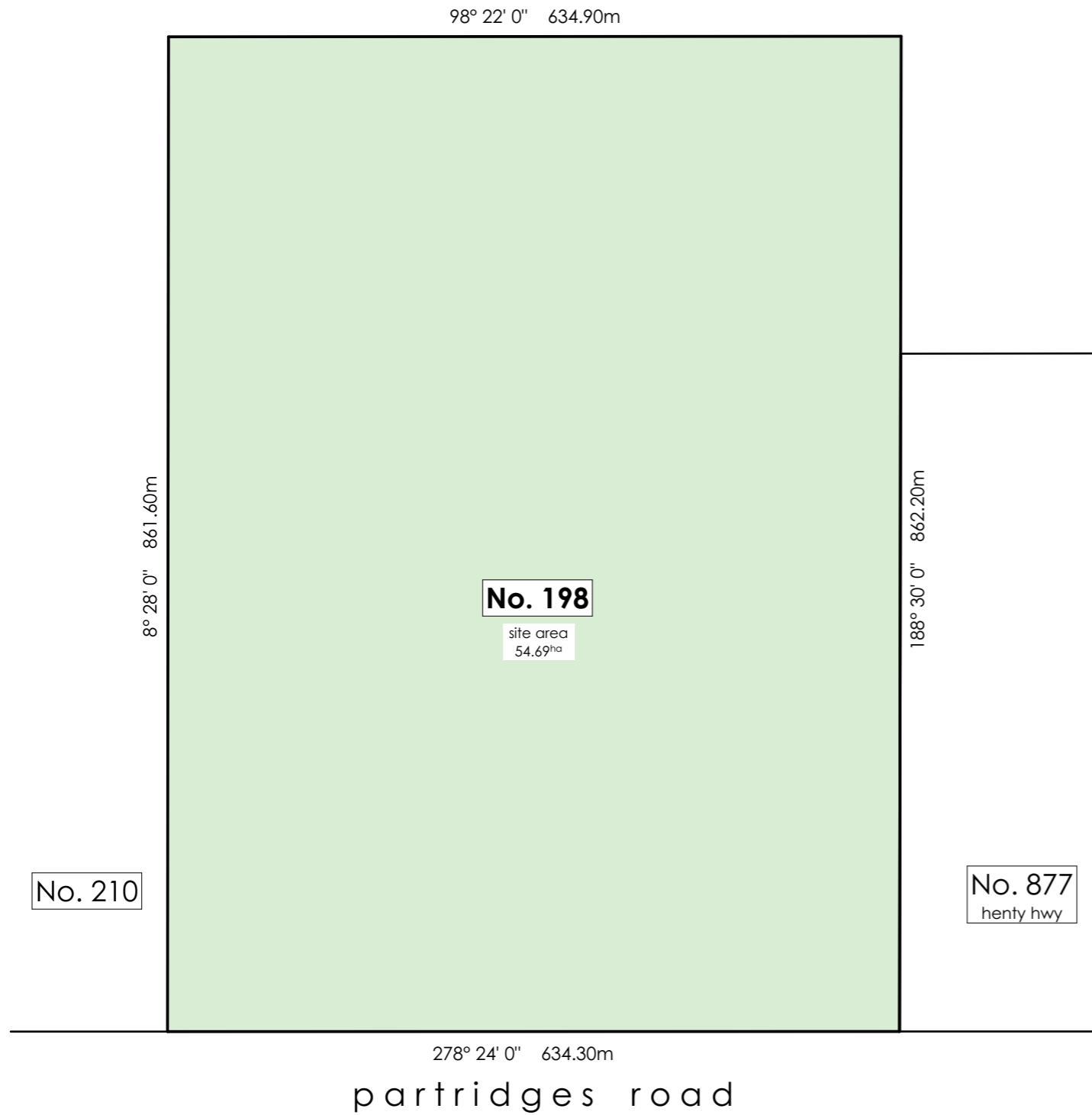
Process List

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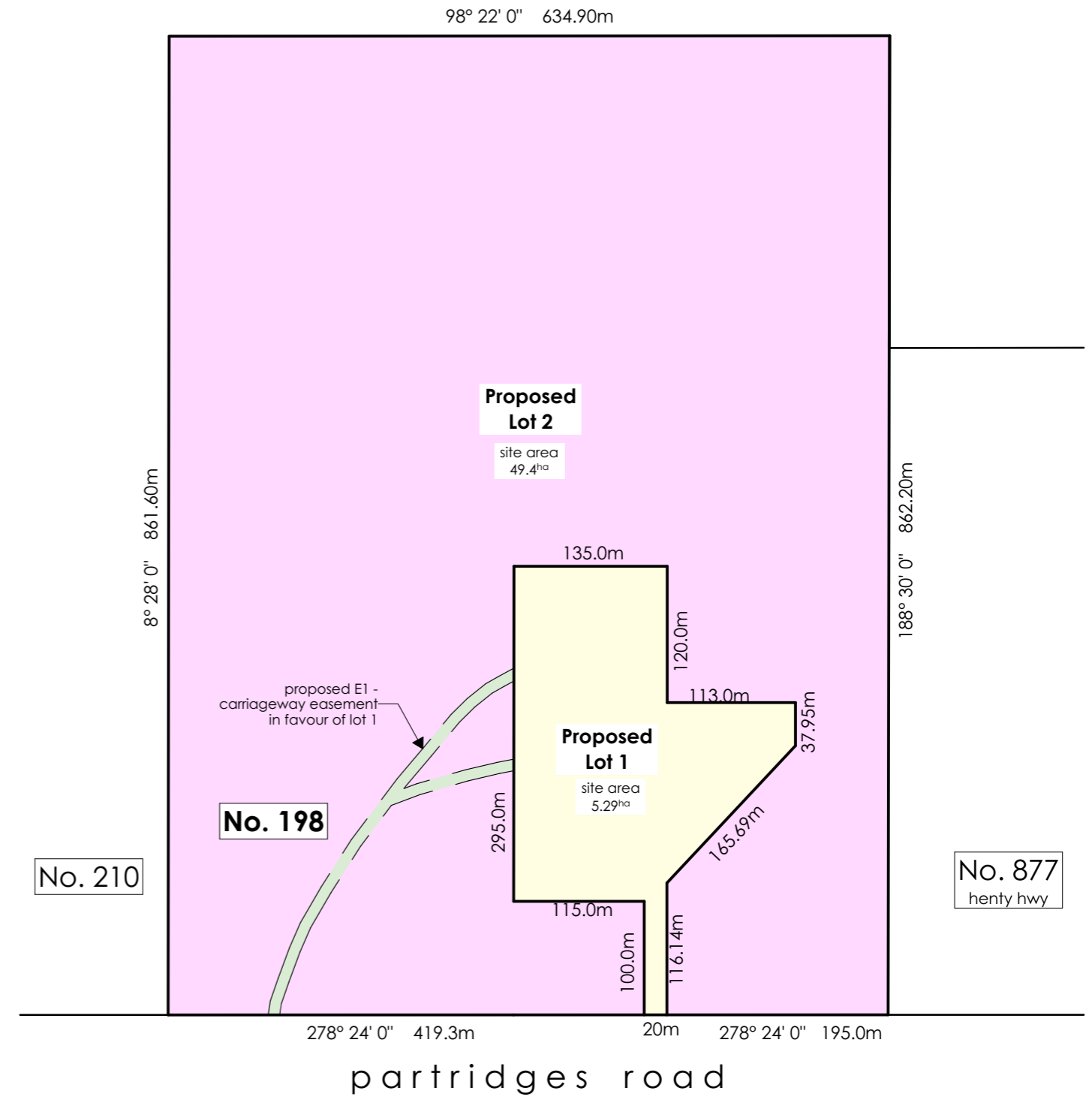
Project Location: 198 Partridge Road Hamilton

Date: 16-Apr-2024

	QUESTION	ANSWER
Question 1	Is the proposed activity , or all the proposed activities, exempt?	No
Question 2	Are you undertaking a High Impact Activity as listed in the Aboriginal Heritage Regulations?	No
Answer:	<p><u>ON THE BASIS OF THE ANSWERS YOU HAVE ENTERED</u></p> <p>YOU ARE NOT REQUIRED BY THE REGULATIONS TO PREPARE A CULTURAL HERITAGE MANAGEMENT PLAN FOR THIS PROJECT</p>	
	<p>This process list is for information purposes only; the result must not be relied upon by a statutory authority in deciding whether a cultural heritage management plan is required for a proposed activity.</p>	



existing site plan
scale 1:5000

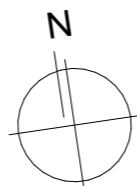


proposed subdivision plan
scale 1:5000

PROJECT
PROPOSED SUBDIVISION

SITE ADDRESS
198 PARTRIDGES RD
HAMILTON

PROJECT NO.
PPP 2023-055
DATE
16/04/24
SHEET
1 / 2



Location: 271 Pierrepoint Road Tarrington
Correspondence: PO Box 5003 Tarrington Vic 3301
Mobile: 0429439083 **Phone:** 03 5572 5558
Fax: 03 5572 5558
Email: alacey@pierrepointplanning.com



proposed subdivision plan over aerial
scale 1:5000

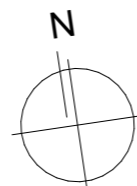


proposed lot 1 over aerial
scale 1:2500

PROJECT
PROPOSED SUBDIVISION

SITE ADDRESS
198 PARTRIDGES RD
HAMILTON

PROJECT NO.
PPP 2023-055
DATE
16/04/24
SHEET
2 / 2



Location: 271 Pierrepoint Road Tarrington
Correspondence: PO Box 5003 Tarrington Vic 3301
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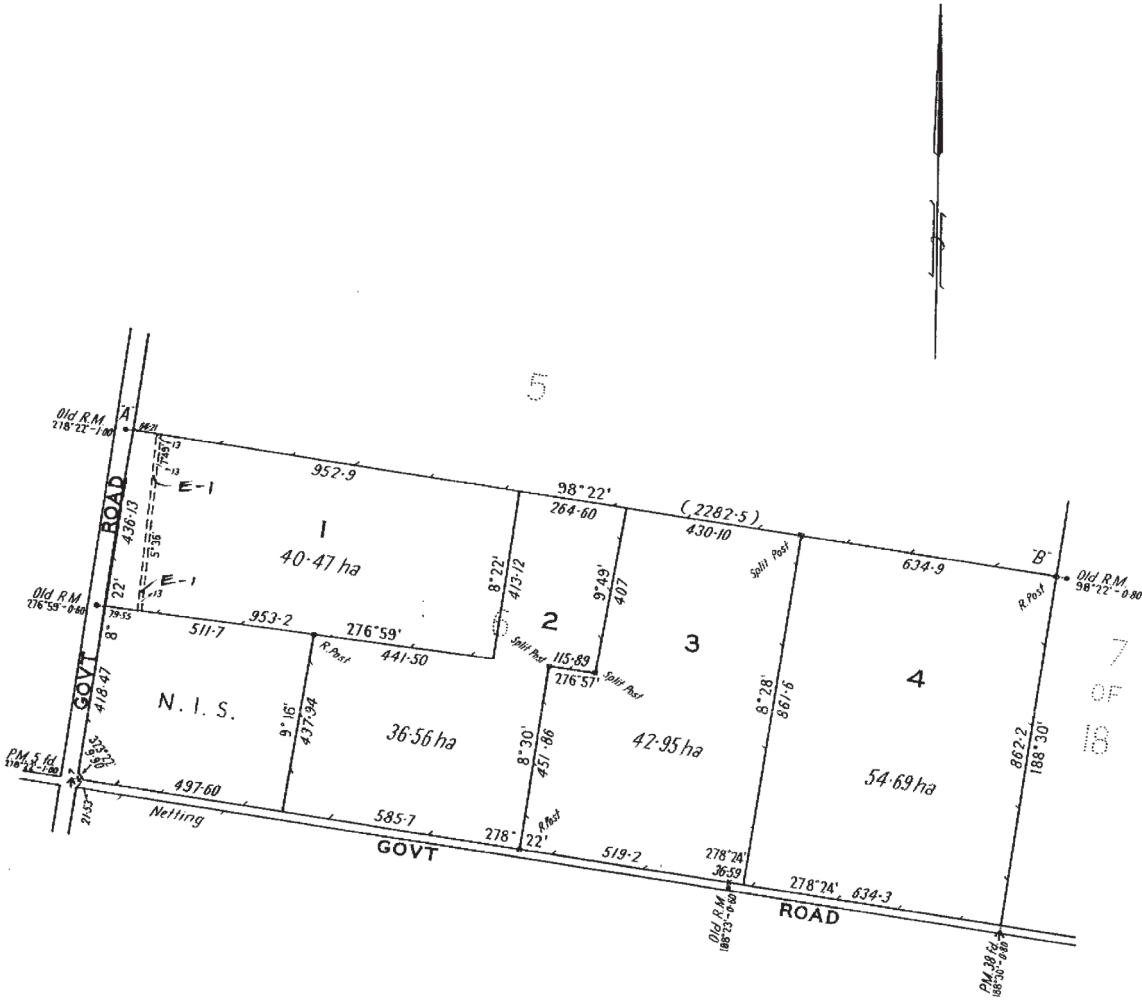
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LP115656
EDITION 1
 APPROVED 30/7/75

PLAN OF SUBDIVISION OF:	APPROPRIATIONS	ENCUMBRANCES & OTHER NOTATIONS
PART OF CROWN ALLOTMENT 6 SECTION 6A PARISH: BOCHARA COUNTY: DUNDAS SCALE OF  LENGTHS ARE IN METRES		The land coloured Blue is a S.E.C. easement vide C/I Vol 8876 fol-293. Datum "A-B" 98°22' DEPTH LIMITATION: 15.24m COLOUR CONVERSION E-1 = BLUE



FOR APPROPRIATIONS, ETC,
 SEE BACK HEREOF

SUBDIVISIONAL
CERTIFICATE OF TITLE V. 9070 F. 861

LP115656.....
BACK OF SHEET1....

**FOR TITLE REFERENCES TO LOTS
SEE PARCELS INDEX**

LODGED BY CAMERON AND LOWENSTERN

DEALING No. DATE 3RD/JUNE/1975

DECLARED BY DONALD RODERICK HAYES

ON 18TH/NOV/1974

COUNCIL SHIRE OF DUNDAS

DATE OF CONSENT 25TH/MAR/1975

PLAN MAY BE LODGED/...../.....

PLAN APPROVED. DATE 30TH/JULY/1975 TIME 3:05^{5:00}_{p.m.}

ENCUMBRANCES AND OTHER NOTATIONS.

THE LAND COLOURED BLUE IS AN S.E.C.
EASEMENT VIDE C/F VOL. 8876 FOL ~ 293

DATUM "A - B" 98° 22'



**REGISTER SEARCH STATEMENT (Title Search) Transfer of
Land Act 1958**

VOLUME 09099 FOLIO 897

Security no : 124114720488V
Produced 06/05/2024 01:48 PM

LAND DESCRIPTION

Lot 4 on Plan of Subdivision 115656.
PARENT TITLE Volume 09070 Folio 861
Created by instrument LP115656 02/09/1975

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
GREEN & GOLD NOMINEES PTY LTD of 877 HENTY HIGHWAY HAMILTON VIC 3300
AX828800D 19/03/2024

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AX828801B 19/03/2024
AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE LP115656 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER		STATUS	DATE
AX828799J (E)	DISCHARGE OF MORTGAGE	Registered	19/03/2024
AX828800D (E)	TRANSFER	Registered	19/03/2024
AX828801B (E)	MORTGAGE	Registered	19/03/2024

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 198 PARTRIDGES ROAD HAMILTON VIC 3300

ADMINISTRATIVE NOTICES

NIL

eCT Control 16165A AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
Effective from 19/03/2024

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**REGISTER SEARCH STATEMENT (Title Search) Transfer of
Land Act 1958**

VOLUME 09099 FOLIO 897

Security no : 124114720488V
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LAND DESCRIPTION

Lot 4 on Plan of Subdivision 115656.
PARENT TITLE Volume 09070 Folio 861
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GREEN & GOLD NOMINEES PTY LTD of 877 HENTY HIGHWAY HAMILTON VIC 3300
AX828800D 19/03/2024

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AX828801B 19/03/2024
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-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 198 PARTRIDGES ROAD HAMILTON VIC 3300

ADMINISTRATIVE NOTICES

NIL

eCT Control 16165A AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
Effective from 19/03/2024

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PPP Ref: 2023-055

16 August 2024

Mr. Andrew Nield
Planning Coordinator
Southern Grampians Shire
Locked Bag 685
HAMILTON VIC 3300

Dear Andrew,

**FURTHER INFORMATION RESPONSE PLANNING APPLICATION TP-33-2024
TWO (2) LOT SUBDIVISION – DWELLING EXCISION
198 PARTRIDGES ROAD HAMILTON**

I refer to your request for further information in relation to the above planning application dated 11 June 2024 and provide you with the following response.

1. Location of Existing Septic Tank System.

The existing septic tank system and associated effluent lines are located immediately to the east of the existing dwelling.

The septic tank system and effluent lines are contained within the boundaries of Proposed Lot 1.

The western boundary of proposed Lot 1 is the closest boundary to the effluent drains which is a minimum of 50 metres down slope from that boundary.

The proposed dwelling excision has no impact upon the existing waste water disposal arrangements associated with the existing dwelling.

2. Plan of Existing Farm infrastructure

Please see attached Plan depicting the use of each of the buildings located on the application site. Refer to **Appendix A**.

Providing Planning Services throughout South West Victoria Since 2006

3. Request for Arborist Report – Consequential loss of Native Vegetation

I refer to your request for an Arborist report in relation to trees within 10 metres of the proposed boundary of Lot 1, and request that this requirement be dismissed on the following basis.

My understanding, following recent discussions with you, is that Council's motivation for this request is to assess the **consequential loss of native vegetation** that could be removed in the future without a planning permit under Clause 52.17 if the subdivision proceeded.

I note that pursuant to Clause 52.17 a permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

This does not apply if the table to Clause 52.17-7 specifically states that a permit is not required.

The table of Exemptions at Clause 52.17-7 includes the following exemptions:

- Planted vegetation: Native vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding.
- Fences: Native vegetation that is to be removed, destroyed, or lopped to the minimum extent necessary to enable:
 - the operation or maintenance of an existing fence; or
 - the construction of a boundary fence between properties in different ownership.

The clearing along both sides of the fence when combined must not exceed 4 metres in width, except where land has already been cleared 4 metres or more along one side of the fence, then up to 1 metre can be cleared along the other of the fence.

The proposed boundaries of Lot 1 have been determined having regard to the location of scattered red gum trees across the application site. The proposed boundaries of Lot 1 are clear beyond the drip line of all red gum trees.

Approval of the proposed subdivision will not facilitate the removal of any native vegetation via the Table Exemptions at Clause 52.17-7.

The proposed plan of subdivision overlaid on an aerial of the site indicates the only conflict between the proposed boundary and existing vegetation is where the boundary traverses the existing driveway immediately to the west of the existing dwelling.

At this location the vegetation is planted as an avenue along the driveway, and the removal of planted vegetation is exempt from requiring a planning permit. In any event there is sufficient gaps in the planted vegetation for a fence line to be established without the need to remove planted vegetation.

No objection is offered to a planning permit condition to the effect that the proposed boundary must be 10 metres from any red gum tree.

Could you please advise me as soon as possible whether you accept the content of the letter as satisfying Councils request for further information, particularly given that I have not provided you with an arborists report.

Please contact me if you have any questions in relation to the above or if you require any further information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'A. Lacey', with a long horizontal flourish extending to the right.

**ANDREW LACEY
PRINCIPAL**

Existing Rural Infrastructure 198 Partridges Road Hamilton



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**Vegetation Assessment
Proposed Two Lot Subdivision
198 Partridges Road Hamilton**



Vegetation Locations

Vegetation Location 1



Photograph 1: Proposed boundary crossing of existing driveway through planted vegetation, viewed from north side of driveway facing south



Photograph 2: Proposed boundary crossing of existing driveway through planted vegetation, viewed from south side of driveway facing north

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Photograph 3: : Proposed boundary crossing of existing driveway through planted vegetation , viewed from south side of driveway facing north

Vegetation Location 2



Photograph 4: West side of planted vegetation

Vegetation Location 3



Photograph 5: Southern end of pine plantation west side of shearing shed. Book marked by a red gum tree at both south and north ends of plantation



Photograph 6: Pine plantation west side of shearing shed.

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Photograph 7: Red gum tree at north end of pine plantation

Vegetation Location 4



Photograph 8: Planted trees viewed from north side

Vegetation Location 5



Photograph 9: Redgum tree

Vegetation Location 6



Photograph 9: Redgum tree

Vegetation Location 7



Photograph 10: Redgum tree