



Southern Grampians
SHIRE COUNCIL

Planning Committee

Minutes

16 September 2024

Meeting held at 10.30 am in the
Martin J Hynes Auditorium
5 Market Place, Hamilton

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1. PRESENT

Councillors

Cr Mary-Ann Brown (Chair)
Cr Fran Malone

Officers

Mr Rory Neeson, Director Wellbeing Planning and Regulation
Ms Marg Scanlon, Director Infrastructure and Sustainability

Daryl Adamson Manager Shire Strategy and Regulation
Anita Collingwood Senior Statutory Planner
Rhys Oatley, Statutory Planner

Mark Dore, Brayley and Hayes
Noel Mibus, Applicant TP-29-2024 for 89 Bellicourt Road and 225 Sturgeon Lane, Dunkeld

Mark Uebergang, Mackkcon Homes
Kaine Millard TP-44-2024 for 27 Dennerts Road, Hamilton
Kelly Millard TP-44-2024 for 27 Dennerts Road, Hamilton

Minutes

Sharon Clutterbuck, Executive Assistant - Director Wellbeing Planning and Regulation

2. WELCOME

Cr Brown welcomed everyone to the meeting and introductions were made.

3. APOLOGIES

4. CONFIRMATION OF MINUTES

Minutes of the Meeting held on 24 July 2024 have been circulated.

RECOMMENDATION

That the Minutes of the Planning Committee meeting held on 24 July 2024 be confirmed as a correct record

RESOLUTION

That the Minutes of the Planning Committee meeting held on 24 July 2024 be confirmed as a correct record

Moved **R Neeson**
Seconded **F Malone**

Carried

5. DECLARATION OF INTEREST

Nil

6. MATTERS FOR DECISION

6.1 Planning Application TP-29-2024 for 89 Bellicourt Road and 225 Sturgeon Lane, Dunkeld

Summary

Planning application TP-29-2024 seeks a permit under Clause 35.07 Farming Zone for the re-subdivision of land at 89 Bellicourt Road and 225 Sturgeon Lane, Dunkeld. The application presents a dwelling excision and consolidation of the original three lots into two lots. 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.

Officer assessment

Application Details

Application Reference:	TP-29-2024
Application Received:	09 May 2024
Applicant:	Brayley & Hayes
Proposal:	Re-subdivision of land (from three lots to two)
Land / Address:	225 Sturgeon Lane DUNKELD VIC 3294 89 Bellicourt Road DUNKELD VIC 3294
Title Restrictions:	Nil
Zoning:	Farming Zone
Overlays:	Nil
Under what clause(s) is a permit required?	Clause 35.07-3 (FZ) – to subdivide land.
Current Use & Development:	Agriculture, Residential / Accommodation

Proposal

The proposal relates to the re-subdivision of land (from three lots to two):

To facilitate this the proposal is to re-subdivide the three existing parcels into two being the house Lot (proposed Lot 1 with an area of 1.359ha) and the balance lot – Lot 2 with an area of 56.72ha.

Proposed Lot 1 includes the dwelling, associated improvements, septic system and driveway/access, while the balance lot is vacant farmland. There is an existing developed access point to the dwelling opposite the end of Recreation Road as shown on the plan of Proposed Subdivision. Lot 2 is usually accessed through Lot 1 and other land in the same ownership to the east. There is an existing access point directly onto Lot 2 at the intersection of Wigans and Sturgeon Lanes.

It is noted that as an amended plan (RFI response) the southern boundary of Lot 1 was moved 4.5m south to minimise impact on planted trees along the southern boundary.

Subject Site & Locality

The proposed subdivision involves three existing parcels: Crown Portion 72 (58.92 acres/23.84 hectares), and Subdivisions A and B of Crown Allotment 49 (each 42.30 acres/17.12 hectares), totalling 143.53 acres/58.08 hectares and held in Certificate of Title Volume 8262 Folio 704. The land is bordered by Sturgeon Lane to the north, Wigans Lane to the west, Tip Lane to the south, and other farmland in the same ownership to the east, extending to Bellicourt Road. The site is approximately 900 metres south of the Dunkeld urban edge.

The land is entirely within the Farming Zone and abuts this zone on all sides, except for the northeastern side of the Recreation Road and Sturgeon Lane intersection, which falls under the Rural Living Zone (RLZ).

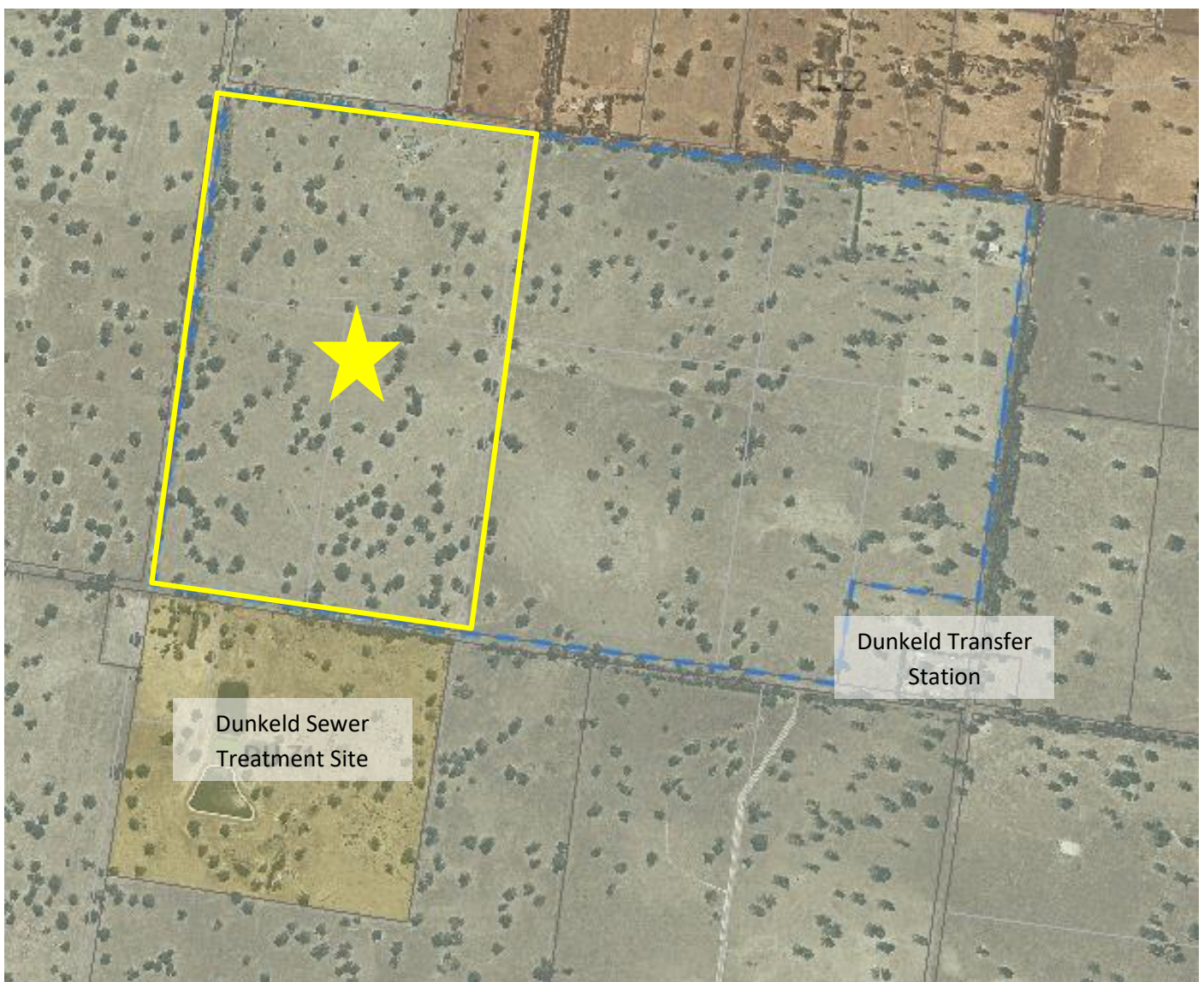


Figure 1: Subject site

The Dunkeld transfer station is located at 7 Bellicourt Road, approximately 880 metres to the east of the edge of parcels included within this planning application.

The Dunkeld transfer station operates as follows:

- Wednesday: 1pm-5pm
- Sunday 1pm-5pm
- Closed on public holidays and on extreme or catastrophic fire danger rating days.

The Dunkeld Sewer Treatment Plant (Lagoon based treatment) is also located within the PUZ1 immediately to the south of the subject site (Tip Lane).

Sewage from Dunkeld flows to the primary lagoon where aerobic bacteria consume any remaining organic matter, neutralising pollutants and assisting the treatment process.

After this primary treatment, the water flows to a maturation lagoon to settle, with sunlight (UV rays) killing harmful bacteria over time.

Site History

There is no relevant site history.

Public Notification

The application was notified correctly for a minimum of 14 days, through to 4 July 2024. No objections were received during the notification process.

Referrals

The application was referred to Agriculture Victoria, where it was noted that they do not provide for responses for dwellings or subdivision within the farming zone; however, noted that Council should consider the potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses, including encroachment on required separation distances.

Planning Framework

Clause 00 Purpose and Vision

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

- Clause 02.01 Context

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

- Clause 02.02 Vision

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

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

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

- Clause 02.03 Strategic directions

o Clause 02.03-1 Settlement Managing Growth

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

In effectively planning for future urban growth, Council will:

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

Bushfire

The majority of the Shire is designated as a Bushfire Prone Area.

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

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

In managing bushfire risk, Council will:

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

Agriculture

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

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

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

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

In supporting agriculture, Council will:

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

- Clause 02.04 Strategic framework plan

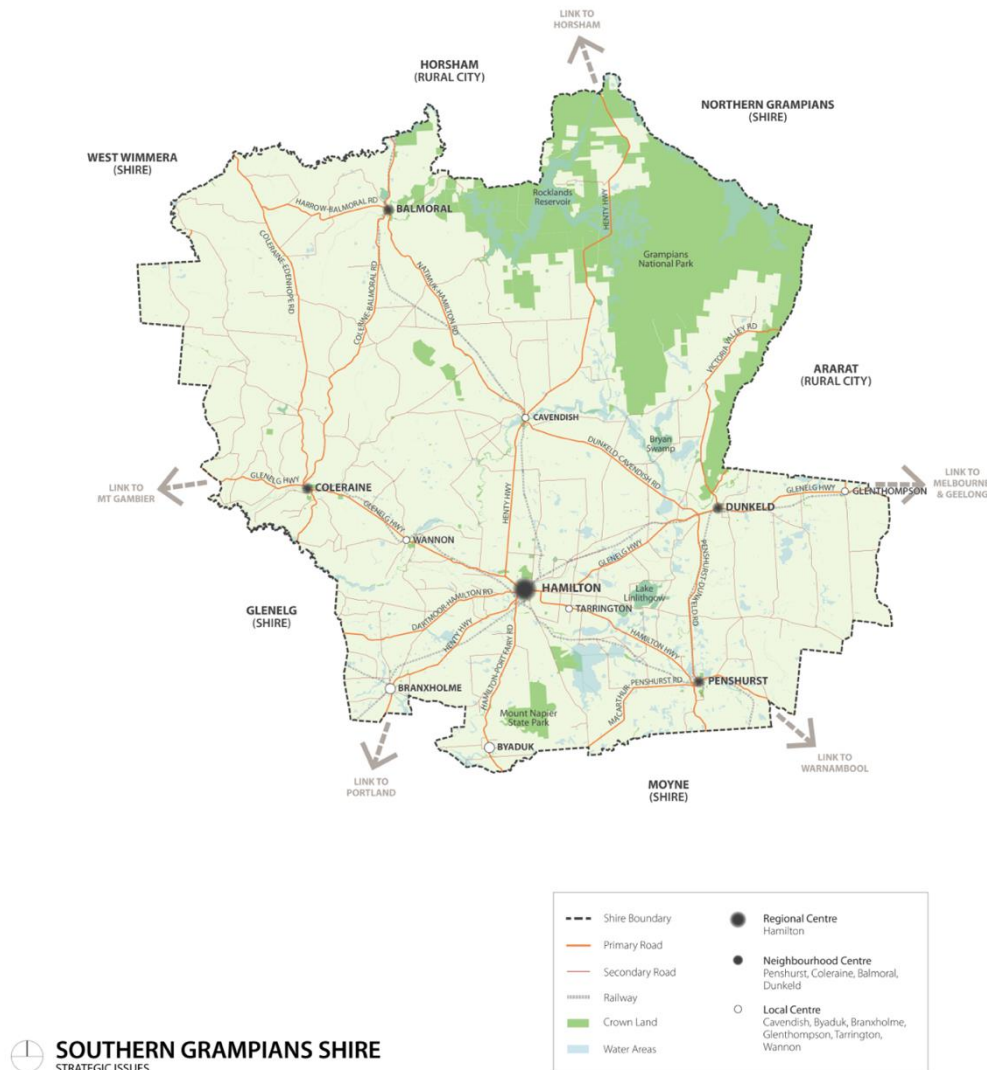


Figure 1: Strategic Framework Plan
Clause 10 Planning Policy Framework

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

- Clause 11.01-1S Settlement – seeks to facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.
- Clause 13.02-1S Bushfire planning – aims to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.
- Clause 13.06-1S Air quality management – to assist in the protection and improvement of air quality.
- Clause 13.07-1S Land use compatibility – seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.
- Clause 14.01-1S Protection of agricultural land – aims to protect the state’s agricultural base by preserving productive farmland.
 - Strategies 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 Energy, Environment and Climate Action 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.
- Clause 14.01-1L Small lot subdivisions, house lot excisions and dwellings – seeks to ensure that subdivision and accommodation do not compromise the existing and ongoing agricultural use of land.
- Strategies include:
 - Discourage subdivision and accommodation that do not relate to or directly support the use of land for agriculture.
 - Retain agricultural land in parcels of sufficient size that can allow viable agriculture.
 - Discourage subdivision unless it is to excise an existing dwelling that is excess to the requirements of a rural use.
 - Site and design dwellings to minimise impacts on agriculture.
 - Provide adequate separation distances from dwellings to agriculture.
 - Restructure lots to create a smaller lot for a dwelling instead of creating additional lots.
 - Policies guidelines:
 - Encouraging the consolidation of titles prior to any dwelling excision.
 - Requiring any lots created for an existing dwelling to have a maximum size of 2 hectares unless any of the following apply:
 - It can be demonstrated that this is not practical.

- A larger lot is needed to provide for the on-site collection of water for a dam for domestic purposes.
 - It can be demonstrated that the lot is to be used for agricultural purposes.
 - Requiring any lots created for an existing dwelling to contain a dwelling that is in a habitable condition that complies with the Building Code of Australia.
 - The need to provide for the upgrading of roads and drainage to ensure that traffic and run-off generated by the development is effectively managed.
- Clause 14.01-2S Sustainable agricultural land use – aims to encourage sustainable agricultural land use.
 - Clause 14.01-2L Sustainable agricultural land use.

Strategies include:

- 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.

Zoning

Farming Zone

The Site is located within the Farming Zone (Clause 35.07). The purposes of the Farming Zone include:

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

Pursuant to Clause 35.07-3 a permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to the zone (40 hectares).

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

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

There are no specific application requirements for subdivision under the Zone. Decision guidelines are listed at Clause 35.07-6.

Overlays

The land is not affected by any planning overlays.

Relevant Particular Provisions

There are no relevant provisions to this planning application.

Other Considerations

Title Restrictions

There are no relevant title restrictions.

Bushfire Prone Area

The site is within a mapped BPA.

Cultural Heritage

The site is not within a mapped area of cultural heritage sensitivity.

Summary of Key Issues

The key issues for consideration are:

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

Assessment

In assessing the planning application for the re-subdivision of land at 225 Sturgeon Lane, Dunkeld, which proposes a house lot excision on a farming allotment, it is essential to consider the proposal against the relevant provisions of the Southern Grampians Planning Scheme, particularly those concerning agricultural land use.

While the application meets some requirements for house lot excision, including the 2-hectare maximum size for the proposed smaller parcel, the broader purpose of the subdivision raises concerns. The justification provided for the subdivision appears primarily driven by personal motives and accommodation needs rather than any substantive contribution to agricultural activities. Notably, the existing dwelling on Crown Portion 72 (23.84 hectares) is a relatively recent construction, suggesting an intent to create a rural living arrangement rather than supporting productive farming operations.

Although the re-subdivision might meet the current landowner's preferences, personal circumstances should not carry significant weight in planning decisions. The proposal creates a situation where the balance allotment exceeds 40 hectares, allowing for a dwelling to be constructed as-of-right. This raises an issue, being the potential for two dwellings across the planning unit instead of one. Typically, dwellings on small allotments are discouraged, particularly with the recent construction raising questions about the genuine agricultural need for further subdivision. In this case, the small lot is to be created in the reverse, via excision.

From a planning perspective, an as-of-right dwelling on the balance allotment poses amenity risks due to its proximity to the local transfer station and sewer treatment site. Allowing this subdivision would result in council losing control over the siting of future dwellings, which could lead to negative impacts amenity (Clause 13.06-1S Air quality management and Clause 13.07-1S Land use compatibility). This is not aligned with the principles of orderly planning and introduces risks that could have been controlled or avoided under the current configuration.

Moreover, permitting this subdivision could set a precedent for similar applications in the future, where successive excisions are justified. This may further undermine the agricultural integrity of the land and increase the risk of sensitive uses conflicting with nearby agriculture (if land is sold), infrastructure and land uses (sewer and transfer station).

In summary, the proposed subdivision 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. As such, it is recommended that the application be refused.

Conclusion

To conclude, this delegate report has assessed the proposal against the relevant provisions of the planning scheme and has deemed the proposal an inappropriate outcome for the following reasons:

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

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

MEETING PROCESS

The meeting was held in accordance with standard meeting procedures.

Senior Planner outlined details of application and reasons for refusal. Planning application TP-29-2024 seeks a permit under Clause 35.07 Farming Zone for the re-subdivision of land at 89 Bellicourt Road and 225 Sturgeon Lane, Dunkeld. The application presents a dwelling excision and consolidation of the original three lots into two lots. 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.

Mark Dore from Brayley and Hayes spoke in support of the application as outlined in Attachment to these minutes.

RECOMMENDATION

That Council having caused notice of Planning Application No. TP-29-2024 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 issue a Notice of Decision to Refuse to Grant a Permit in respect of the land known and described as 225 Sturgeon Lane, Dunkeld for the subdivision of land, based on the following grounds:

Grounds of Refusal:

1. The application is contrary to the purpose of Clause 35.07 – Farming Zone.
2. The application is contrary to the decision guidelines of Clause 35.07 – Farming Zone.
3. The application is contrary to the objectives and strategies of the Planning Policy Framework and Municipal Planning Strategy of the Southern Grampians Planning Scheme.
4. The application does not satisfy the decision guidelines set out in Clause 65 of the Southern Grampians Planning Scheme.

RESOLUTION

That Council having caused notice of Planning Application No. TP-29-2024 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 Grant a Permit in respect of the land known and described as 225 Sturgeon Lane, Dunkeld for the subdivision of land.

The following conditions apply to this permit:

ENDORSED AND FURTHER PLANS

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

SUBDIVISION

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

EXPIRY AND TIME LIMITS

5. This permit will expire if one of the following circumstances applies:
- a. The plan of subdivision is not certified within two years of the date of the permit.
 - b. The certified plan is not registered at Land Use Victoria within five years of the date of the plan of subdivision being certified by Council.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be made to the Responsible Authority to extend the periods referred to in this condition. The Responsible Authority may extend the time if a request is made before the permit expires, or within six months of the permit expiry date.

Permit Notes

- A Works within Road Reserve Permit must be obtained from Council's Infrastructure Department prior to any work occurring in the road reserves. This includes any work to existing or for proposed crossovers. Crossovers must be constructed in accordance with the permit to the standards and satisfaction of the Responsible Authority.
- The commencement of a subdivision is regarded by Section 68(3A) of the Planning and Environment Act 1987 as the certification of a plan under Section 6 of the Subdivision Act 1988. Completion is regarded as registration of the subdivision.
- A planning permit is required to remove, destroy or lop native vegetation on the land, except in accordance with an exemption specified in the Southern Grampians Planning Scheme.

Moved: Cr Malone
Seconded Marg Scanlon

Carried

6.2 Planning Application TP-44-2024 for 27 Dennerts Road, Hamilton

Summary

Planning application TP-44-2024 seeks a permit under Clause 35.07 Farming Zone for the use and construction of a second dwelling on land at 27 Dennerts Road, Hamilton. The application presents a second dwelling sited on the western side of the lot with access from Robsons Road. The land is located outside of the urban boundary defined in the Hamilton Structure Plan and is currently used for a single dwelling and agriculture (grazing). 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). The application does not demonstrate the necessity of a second dwelling on the land or how the dwelling supports the existing agricultural use. It is recommended the Planning Committee refuse the application for a planning permit.

Officer assessment

Application Details

Application Reference:	TP-44-2024
Application Received:	17 June 2024
Applicant:	Pierrepoint Planning
Proposal:	Use and Development of the land for a Second Dwelling
Land / Address:	27 Dennerts Road Hamilton Vic 3300 Crown Allotment: 1 Section: E Parish: HAMILTON SOUTH
Title Restrictions:	None
Zoning:	Farming Zone
Overlays:	None
Under what clause(s) is a permit required?	Clause 35.07-1: Use of the land for Dwelling (other than Bed and breakfast) – if the Section 1 condition is not met. Clause 35.07-4: To construct a building or construct or carry out works associated with a Section 2 use
Current Use & Development:	Agriculture, Residential (single dwelling)

Proposal

The application proposes the use of the land for and construction of a second dwelling. The original dwelling is intended to be retained.

The proposed dwelling comprises three bedrooms and an additional office/guest room, along with a laundry, bathroom and separate powder room, linen room, pantry, kitchen, open plan meals and living area, outdoor living and kitchen, two porches and front verandah. The total floor area occupies a near-rectangular space of 361.31 square metres (sqm). The dwelling is single storey with a maximum height of 5.48m above ground level. The external walls are to be brick veneer and the roof metal sheeting. Annotations of other materials, such as that for verandah posts, are included on the elevations drawing (Sheet 03 prepared by Mackkcon Homes, 9 May 2024).

The proposed dwelling is situated on the western side of the subject site, setback 25 metres (m) east of Robsons Road and 230m north of Dennerts Road. An associated wastewater system is proposed to the north of the dwelling and comprises a septic tank and effluent disposal field with distribution pit and agricultural cut-off drain. Access to the dwelling is proposed from Robsons Road, with a concrete apron proposed to the front of the built-in garage on the north-western side of the dwelling. A 22,500L water tank

Subject Site & Locality

The subject site is Crown Allotment 1 Section E Parish of Hamilton South, a 58.2 hectare lot located at the northeast corner of Dennerts Road and Robsons Road. The Grange Burn runs roughly east-west at the northern boundary and a tributary from the river is mapped running roughly south-southeast through the site in the north-eastern corner, as seen in the map below (blue line) –

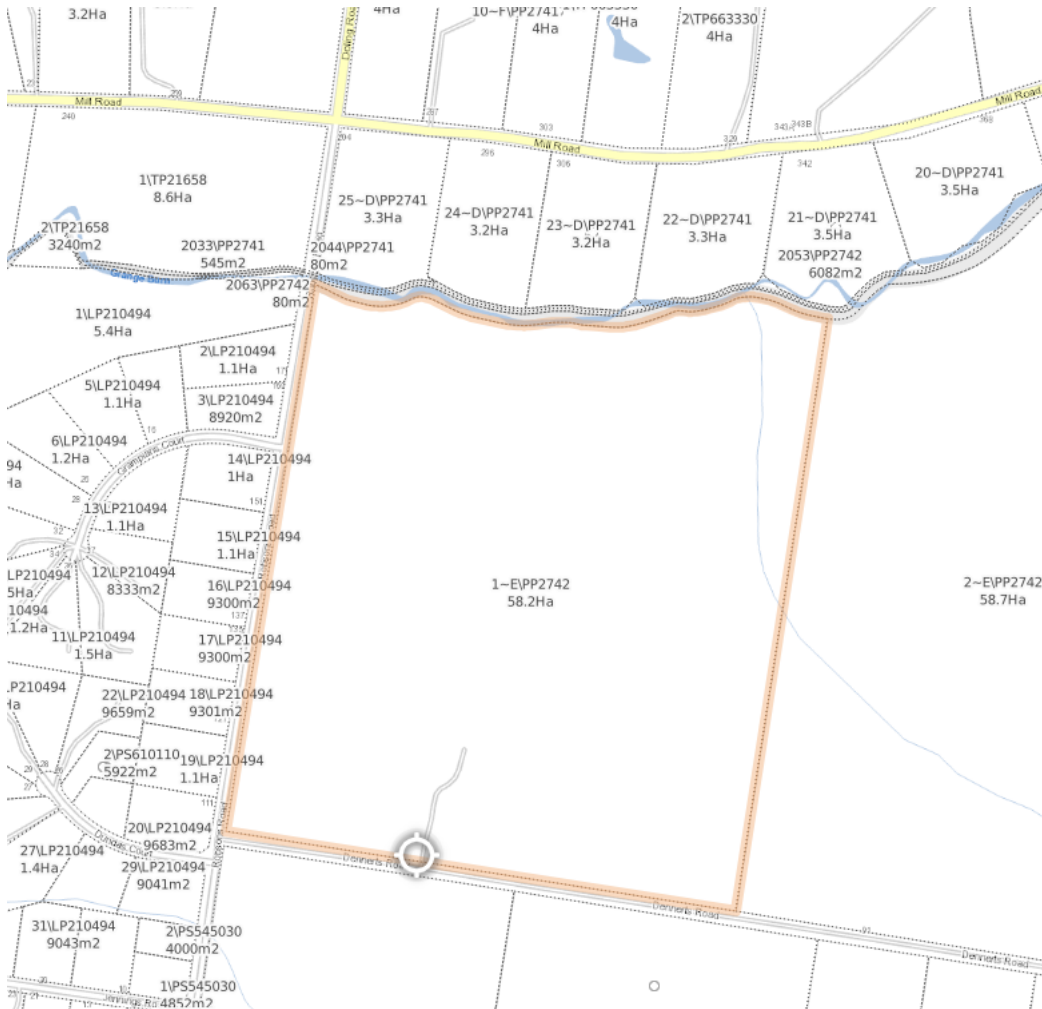


Figure 2 Site map with waterways shown in blue

The site is currently developed with a single dwelling to the south of the site, roughly central to the side boundaries. The subject site is mostly cleared of vegetation, with the aerial photo in Pozi currently showing scattered trees around the dwelling to the central south of the site and a row of trees along the western boundary in the northwest corner of the site.

The site is mapped within the Farming Zone and is, according to the application, used for agriculture (grazing) and a single dwelling. Surrounding properties to the north, east and south are mapped within the Farming Zone and a clear boundary is evident in the layout and use of the land and distribution of utilities between the neighbouring zones. Land to the west is zoned Low Density Residential and is developed with smaller residential lots. According to Pozi, reticulated water is provided to these lots via assets on Robsons Road. It appears the nearest sewer node is some 1.65 kilometre (km) to the southwest on Hamilton-Chatworth Road.

The size of lots in the surrounding area range from around 3ha to 75ha, with the smaller lots being found immediately adjoining Mill Road on the northern side of the Grange Burn and Glenelg Highway to the south.

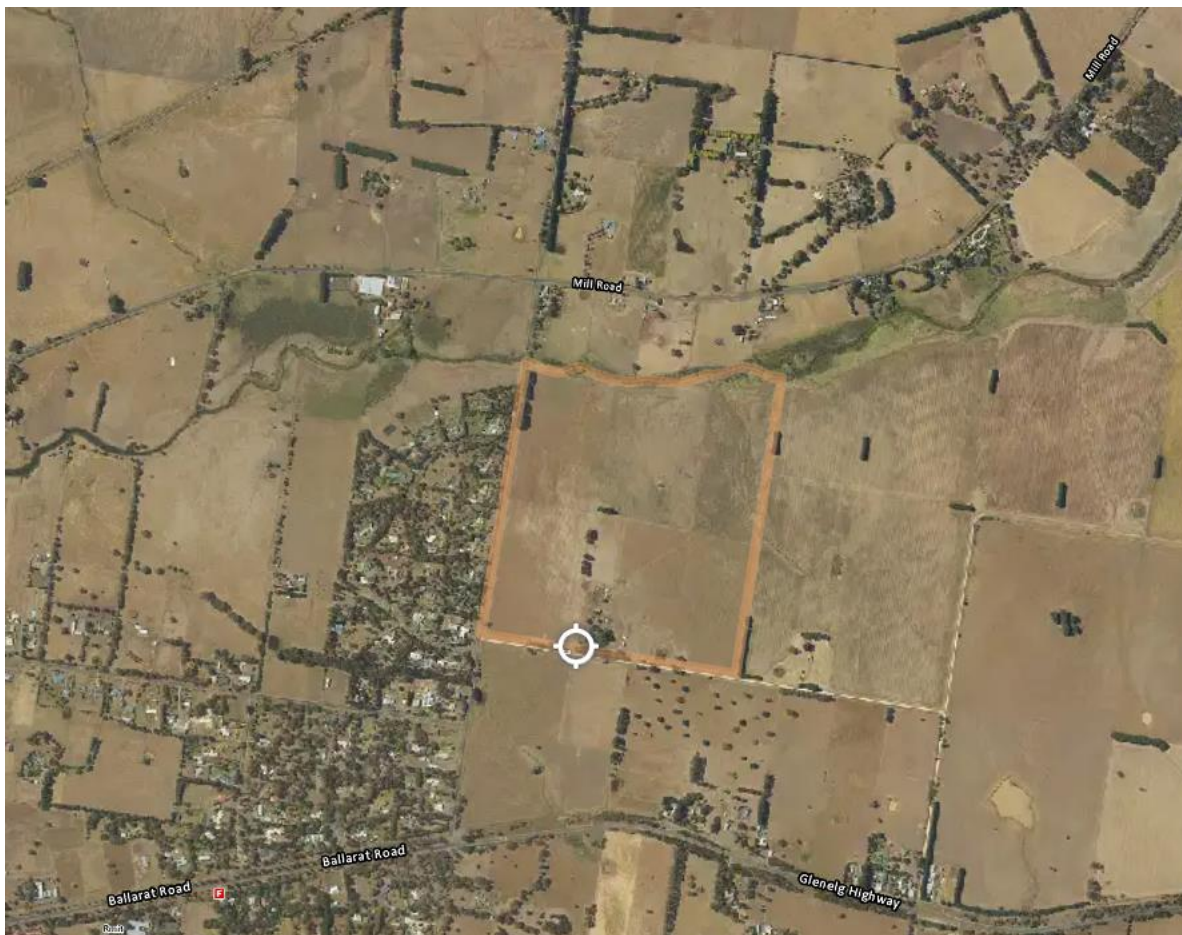


Figure 3 Site context

Site History

No previous planning applications are recorded on file.

Public Notification

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

- Sending notices to the owners and occupiers of adjoining land.
- Placing (a) sign(s) on site, and
- SGSC website.

The notification has been carried out correctly.

No objections have been received to date.

Referrals

External

The planning scheme does not stipulate any external referral requirements for this application.

Internal

Department

Environmental Health Department (EHO)

Response

Environmental Health Coordinator discussed Planning Application with Anita.

Land Capability Assessment (LCA) report required prior to Environmental Health can assess Planning Permit application. LCA report requires to contain the land capability analysis for the proposed dwelling and existing dwelling onsite wastewater management.

If the applicant considers keeping the existing dwelling onsite wastewater management system, a plumbing report required to determine whether the onsite wastewater management system has been maintained and meet current standards.

Environmental Health have been unable to locate any onsite wastewater management system information for the existing dwelling, including pump out and permit documentation. It should be noted that the dwellings onsite wastewater management system is likely to be more than 40 years old (life span of an onsite wastewater management system is around 30 years).

The Grange Burn waterway runs along the allotments northern boundary.

Planner's note: A Land Capability Assessment (LCA) and related wastewater information was requested on 25 July 2024 and later waived on 13 August 2024. As such, no LCA has been submitted and the application has not been re-referred to Council's EHO.

Planning Framework

Clause 00 Purpose and Vision

Clause 00 Purpose and Vision

Clause 01 Purposes of this Planning Scheme

Clause 02 Municipal Planning Strategy

Clause 10 Planning Policy Framework

Clause 10 Planning Policy Framework

Clause 12 Environmental and Landscape Values

- Clause 12.01 Biodiversity

Clause 13 Environmental Risks and Amenity

- Clause 13.02 Bushfire Planning
- Clause 13.03 Floodplains

Clause 14 Natural Resource Management

- Clause 14.01 Agriculture

Clause 15 Built Form and Heritage

- Clause 15.01 Built Form

Clause 20

This section no longer exists in the Southern Grampians Planning Scheme following the gazettal of planning scheme amendment C59sgra on 16 July 2020.

Clause 30 Zones

Clause 35.07 Farming Zone

Pursuant to Clause 35.07-1 a permit is required to use the land for a dwelling when the conditions of Section 1 are not met.

Pursuant to Clause 35.07-4 a permit is required to construct a building and carry outworks associated with a Section 2 use (Dwelling).

Clause 40 Overlays

No overlays apply to the land.

Clause 50 Particular Provisions

Clause 52.06 Car Parking

Clause 52.06 applies to new land uses and extension or intensification of existing land uses.

Clause 52.06-5 sets out that a dwelling with three or more bedrooms requires two car parking spaces, one of which must be covered. Internal parking dimensions and access requirements are listed in the provision.

Clause 60 General Provisions

Clause 64 General Provisions for Use and Development of Land

Clause 64.01 sets out that if land is used for more than one use and one is not ancillary to the other, each use must comply with this scheme.

Clause 70 Operational Provisions

Clause 73.03 Land Use Terms

' Dwelling ' is defined as:

A building used as a self-contained residence which must include:

- a) a kitchen sink;
- b) food preparation facilities;
- c) a bath or shower; and
- d) a toilet and wash basin.

It includes outbuildings and works normal to a dwelling.

Other Considerations

Bushfire Prone Area

The entire site and surrounding area are within the designated bushfire prone area.

Bushfire planning policy at Clause 13.02 must be applied to all planning and decision making under the *Planning and Environment Act 1987* relating to land that is (as applicable):

- Within a designated bushfire prone area.

Cultural Heritage

As per the Aboriginal Victoria map provided by the applicant dated 13 June 2024 (within Attachment 4), the northern section of the site which abuts the Grange Burn is subject to cultural heritage sensitivity. The proposed buildings and works are located outside of this area and a proposal for two dwellings is exempt from requiring a Cultural Heritage Management Plan under Regulation 9 of the *Aboriginal Heritage Regulations 2018*.

Other Policy Documents

Rural Land Use Strategy 2022 ('RLUS'), Southern Grampians Shire Council

The RLUS "aims to retain residential growth and rural living within established townships to create a network of integrated and prosperous settlements" (page 3). The Farming Zone (FZ) is primarily used for retaining productive agricultural land. Figure 2: Rural Zones on page eight of the RLUS shows the areas of the shire mapped within the FZ. Much of the shire is within the FZ, which is reflective of the leading primary production industry which is crucial to the shire's economy and that of Victoria more broadly.

Hamilton Structure Plan 2011, Hansen Partnership for Southern Grampians Shire Council

The subject site is clearly defined within farming land to the east of Hamilton and outside of identified residential growth and consolidation areas. The land use map found on page 12 of the structure plan is provided as Attachment 5.

Assessment

Land use

Section 2 of the table of uses in the zone identifies land uses that may be appropriate for the zone. The permit requirement is intended to ensure a full assessment of the use is conducted to determine the appropriateness of the use and any associated development. Assessments are site-specific and consider the context of the site and future land use conflicts that could amount.

The subject site is already used for a dwelling and the dwelling appears to date back seven decades (1950s). No records of planning, building or environmental health permits have been found in Council's electronic archive.

The land is also used for agriculture, though no additional information has been supplied with the applicant to detail the extent and spatial or other requirements of this use at the site. As such, the potential effects of the dwelling on this use is uncertain.

The site already has provision of one dwelling which is expected to be sufficient for the farm and overall landholding. The proposed dwelling is not proposed to support the ongoing use of land for agriculture, but rather to provide additional housing for the owners' extended family. While this is a legitimate desire for a family, it does not promote the purpose of the zone for retaining productive agricultural land and will, through the repurposing of space for the dwelling, accessway, on-site wastewater treatment field, septic tank and any future garden and outdoor living areas, reduce the land available for grazing or other agricultural use.

Page 5 of the Planning Report (Pierrepoint Planning, 2024) submitted with the application provides the following commentary around the current and potential use of the existing dwelling:

The land accommodates a habitable dwelling (currently occupied by extended family of the owners of the land), together with an array of outbuildings and rural infrastructure which are clustered around the existing dwelling, located centrally in the south segment of the application site.

In the longer term, if the existing dwelling is not required by family members it is intended to use the dwelling for short term tourism accommodation, for example Air B & B or Farm Stay accommodation, to complement the Millard's motel business.

The existing dwelling may also be used to accommodate staff associated with the Goldsmith Motel, as rental accommodation is difficult to secure within Hamilton.

Figure 4 Planning Report extract, Pierrepoint Planning 2024

From this commentary, it is apparent that the existing dwelling is habitable and can be retained and used. The necessity for a new dwelling is not justified and the potential for one of the two dwellings to be disused in future is possible, given no decisive plan is laid for the existing dwelling once the new dwelling is built (should a permit be granted). Consistent with the current use rights of the planning scheme (Clause 63 Existing Uses), should a dwelling not be used for two or more years the use rights will lapse and the building rendered unusable for that purpose until a new permit is granted to re-establish the use under the planning scheme (subject, of course, to any change to the planning scheme and/or zoning of the land).

While the dwelling is proposed close to Robsons Road (setback 25m) and near land zoned for rural residential purposes, the integrity and purposes of the Farming Zone

should be prioritised. The subject site is identified in the *Hamilton Structure Plan 2011* as being outside the urban boundary and the low-density residential zone to the west of the site is in place to protect existing agricultural land and provide the necessary transition from more intensive residential land within the township and provide for long-term future expansion opportunities on the periphery. The farming land is set aside for farming and should not be used for further residential development.

Consistent with the land use zoning, reticulated water and electricity are available to lots west of the subject but no sewer facility is established in the immediate area. The subject site is located outside of Wannon Water's sewer district, the boundary of which is Robsons Road. Expansion of sewer systems is greatly restrained due to current installation costs and therefore sewerage infrastructure may not be provided in this area for some time. Settlement land uses, such as residential accommodation, should not be encouraged outside of residential zones where they can be better serviced and connected to services and utilities.

Clause 35.07-2 requires that land used for a dwelling meet the requirements listed below –

- Access to the dwelling, small second dwelling or rural worker accommodation must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- Each dwelling, small second dwelling or rural worker accommodation must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.
- The dwelling, small second dwelling or rural worker accommodation must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- The dwelling, small second dwelling or rural worker accommodation must be connected to a reticulated electricity supply or have an alternative energy source.

Access can be provided to the dwelling from Robsons Road and therefore no new roads are required to be constructed. A new driveway must be designed to meet the requirements of Clause 52.06-9 if the proposal is supported.

No sewer is available and therefore the dwelling, if approved, must have its own wastewater treatment system.

According to the mapping in Pozi, water is provided via a reticulated pipeline on Robsons Road. It is assumed the development would be able to connect to that source of reticulated water. A water tank is also proposed, as shown on the site plan.

Pozi also shows that power poles are located along Robsons Road and therefore it is assumed the development would be able to connect to that source of reticulated electricity.

Each of these requirements, therefore, can be met. Relevant permit conditions should be included on any permit issued to ensure the requirements are fulfilled by the developer before the dwelling is occupied.

Development

The decision guidelines of Clause 35.07-6 seek to cluster buildings in one area of the site to avoid any adverse impacts on surrounding agricultural uses and minimise loss of productive agricultural land. The proposed dwelling is sited away from the existing buildings and would have its own access from Robsons Road and is therefore quite separate from the existing dwelling and other buildings.

The proposed development is sited 25m from the nearest road which provides a suitable buffer to the roadway whilst also making a convenient distance for residents and guests to access the dwelling. The accessway dimensions and materials are not noted on the site plans (save for the concrete garage apron) but it is anticipated all-weather access with a minimum width of 3.0m (required by Clause 52.06-9, Design standard 1) can be constructed, due to the lot size.

The land undulates but is not particularly steep and minimal earthworks are required to accommodate the dwelling foundation and a practical driveway gradient.

The dwelling itself is of a modest size and scale and would not be overwhelming on the rural landscape. Noting the arguments mentioned above around the intended use and loss of agricultural land, the site has sufficient space to accommodate the dwelling and its services. The dwelling is well setback from the nearest waterway and sufficient setbacks are maintained for the proposed wastewater disposal field.

Should a permit be granted for the proposal, permit conditions should be included to require access details which meet Clause 52.06-9 and more information to demonstrate compliance with current wastewater treatment requirements. A permit will also be required from Council's Environmental Health department for the new wastewater treatment system. A building permit will also be required for the dwelling.

Wastewater treatment for the existing dwelling

Given no records are available for the site, it is assumed the existing on-site wastewater treatment system for the existing dwelling – whatever it might be – is non-compliant with current requirements and in need of upgrading. Typically, on-site wastewater treatment systems have a lifespan of up to 30 years. The existing dwelling is apparently a 1950s build and as such it is likely the wastewater treatment system is as or nearly as old.

Should a permit be granted for the second dwelling, it is recommended that a permit condition be included to require the upgrade of the wastewater treatment system for the existing dwelling to bring it into compliance.

Conclusion

The application proposes the intensification of the existing use of the land for a dwelling by introducing a second, single storey dwelling to the site. The dwelling proposed is setback a considerable distance from other buildings on the site and will have separate access from Robsons Road and therefore appears to be quite detached from the current dwelling.

A clear plan for the use of the proposed and existing dwellings is not provided in the application, with the submitted planning report presenting some options, such as tourist accommodation, for the existing dwelling if it is no longer wanted by the family. The application presents little justification for the dwelling or evidence to show the

dwelling is necessary or beneficial to the running of the agricultural activities of the site.

Additionally, no evidence is provided to show what the needs of the farm are or whether the dwelling would impede the success or productivity of the farm. The application fails to demonstrate the use and construction of a second dwelling will have negligible impact on existing agricultural use of the site and surrounding farmland and fails to demonstrate why a permit should be granted.

It is therefore recommended that the application be refused.

MEETING PROCESS

The meeting was held in accordance with standard meeting procedures.

Senior Planning Officer

Planning application TP-44-2024 seeks a permit under Clause 35.07 Farming Zone for the use and construction of a second dwelling on land at 27 Dennerts Road, Hamilton. The application presents a second dwelling sited on the western side of the lot with access from Robsons Road. The land is located outside of the urban boundary defined in the Hamilton Structure Plan and is currently used for a single dwelling and agriculture (grazing). 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). The application does not demonstrate the necessity of a second dwelling on the land or how the dwelling supports the existing agricultural use. It is recommended the Planning Committee refuse the application for a planning permit.

Kaine Millard Application is for a new dwelling and does not going to believe there will be any adverse impact on the farming enterprise. There will be no downsizing in the agriculture enterprise.

Question – how much land is to be excised for second dwelling.

Answer will be less than 1 acre.

RECOMMENDATION

That council's delegate, having given notice of planning application TP-44-2024 under section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Act, resolves to issue a Notice of Decision to Refuse to Grant a Permit under the provisions of Clause 35.07 of the Southern Grampians Planning Scheme in respect of the land known and described as 27 Dennerts Road Hamilton, Victoria 3300 Crown Allotment 1 Section E Parish of HAMILTON SOUTH for Use and Development of the land for a Second Dwelling, with the application dated 17 June 2024.

Grounds for Refusal:

1. The application provides insufficient justification for the use and construction of a second dwelling on the land and does not demonstrate the proposed dwelling will have an acceptable impact on the existing use for agriculture.
2. The application is inconsistent with the purpose and decision guidelines of Clause 35.07 of the Southern Grampians Planning Scheme.
3. The application does not have regard to Clause 65 of the Southern Grampians Planning Scheme which seeks to achieve orderly planning outcomes.

RESOLUTION

That council's delegate, having given notice of planning application TP-44-2024 under section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Act, resolves to issue a Notice to Grant a Permit under the provisions of Clause 35.07 of the Southern Grampians Planning Scheme in respect of the land known and described as 27 Dennerts Road Hamilton, Victoria 3300 Crown Allotment 1 Section E Parish of HAMILTON SOUTH for Use and Development of the land for a Second Dwelling, with the application dated 17 June 2024.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

ENDORSED AND FURTHER PLANS

1. Before the commencement of the use and/or development, amended plans must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale and dimensioned and must be generally in accordance with the plans submitted with the application, but modified to show:
 - a. Clear delineation of land set aside for each dwelling and for agricultural purposes.
 - b. The location and type of any new fencing to delineate the dwelling yards.
 - c. The minimum width of access for each dwelling notated as 3.0 metres, plus suitable turning areas as necessary.
 - d. The location of the new wastewater system for the existing dwelling, and
 - e. The location of and notation regarding the removal of the existing wastewater system for the existing dwelling.
2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

USE

3. Before occupation of the dwelling hereby approved, access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.

4. Before occupation of the dwelling hereby approved, all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system.

5. Before occupation of the dwelling hereby approved, the dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.

6. Before occupation of the dwelling hereby approved, the dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

EXPIRY AND TIME LIMITS

7. This permit will expire if one of the following circumstances applies:

- a. The development and/or use has not commenced within two years of the date of this permit.
- b. The development is not completed within four years of the date of this permit.
- c. The use ceases for two years.

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

Permit Notes

- This permit does not authorise the commencement of any building works. Building approval must be obtained prior to the commencement of any approved works.
- This site is located within a designated Bushfire Prone Area. Compliance with AS3959 is required.
- A planning permit is required to remove, destroy or lop native vegetation on the land, except in accordance with an exemption specified in the Southern Grampians Planning Scheme.
- A Works within Road Reserve Permit must be obtained from Council's Infrastructure Department prior to any work occurring in the road reserves. This includes any work to existing or for proposed crossovers. Crossovers must be constructed in accordance with the permit to the standards and satisfaction of the Responsible Authority.

Moved **Cr Malone**
Seconded **Marg Scanlon**

Carried

7. NEXT MEETING

Next meeting will be scheduled following election of new Council

Cr Brown thanked staff for work that is put into applications.

Rory Neeson thanked Cr Brown for her role as Chair of the Committee.

8. CLOSE OF MEETING

Meeting closed at 11.57am.