



Southern Grampians
SHIRE COUNCIL

Council Meeting Agenda

Council Meeting
12 April 2023

To be held in MJ Hynes Auditorium,
5 Market Place, Hamilton
at 5:30pm.

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1. Membership

Councillors

Cr David Robertson, Mayor
Cr Helen Henry, Deputy Mayor
Cr Albert Calvano
Cr Bruach Colliton
Cr Greg McAdam
Cr Katrina Rainsford

Officers

Mr Tony Doyle, Chief Executive Officer
Mr Kevin Leddin, Acting Director Community and Corporate Services
Ms Marg Scanlon, Director Infrastructure and Sustainability
Ms Belinda Johnson, Acting Director Planning and Development
Ms Tania Quinn, Acting Governance Coordinator

2. Welcome and Acknowledgement of Country

The Mayor, Cr Robertson will read the acknowledgement of country:

“Our meeting is being held on the traditional lands of the Gunditjmarra, Tjap Wurrung and Bunganditj people.

I would like to pay my respects to their Elders, past and present, and the Elders from other communities who may be here today.”

Please note: All Council meetings will be audio recorded, and may be livestreamed to Council’s social media platform, with the exception of matters identified as confidential items in the Agenda.

By participating in open Council meetings, individuals consent to the use and disclosure of the information they share at the meeting (including any personal and/or sensitive information).

Other than an official Council recording, no video or audio recording of proceedings of Council Meetings will be allowed without the permission of Council.

3. Prayer

Cr Rainsford will lead the meeting in a prayer.

”Almighty god, we humbly beseech thee to vouchsafe thy blessing upon this council.

Direct and prosper its deliberations to the advancement of thy glory and the true welfare of the people of the Southern Grampians shire.”

4. Apologies

Cr Mary-Ann Brown

RECOMMENDATION

That in accordance with section 35(4) of the *Local Government Act 2020*, Council grant a leave of absence to Councillor Albert Calvano for all meetings held from 4 June 2023 to 20 September 2023 inclusive.

5. Confirmation of Minutes

RECOMMENDATION

That the Minutes of the Council Meeting held on 8 March 2023 be confirmed as a correct record of business transacted.

That the Minutes of the Unscheduled Meeting held on 24 March 2023 be confirmed as a correct record of business transacted.

That the Minutes of the Unscheduled Meeting held on 5 April 2023 be confirmed as a correct record of business transacted.

6. Declaration of Interest

7. Questions on Notice

Questions from the public must be submitted prior to the commencement of Council Meetings.

All questions must be submitted through completion of the Public Question Time form, and be forwarded to the Chief Executive Officer at 111 Brown Street, Hamilton. All questions must be received by no later than 5pm on the Monday before the Council Meeting.

Questions must:

1. Not pre-empt debate on any matter listed on the agenda of the Council Meeting at which the question is asked
2. Not refer to matters designated as confidential under the *Local Government Act 2020*.
3. Be clear and unambiguous and not contain argument on the subject.
4. Not be derogatory, defamatory or embarrassing to any Councillor, member of staff, ratepayer or member of the public, nor relate to a matter beyond the power of Council.

If the member of the public is in attendance at the Council Meeting the Mayor will read the question aloud and provide a response. If a question cannot be answered at the meeting, a written response will be prepared and forwarded to the person raising the question.

Residents do not need to attend the meeting for a question to be answered. If they do not attend the meeting a written response will be provided.

There are no Questions on Notice listed on tonight's agenda.

8. Public Deputations

Requests to make a Public Deputation to Council must be submitted prior to the commencement of the Council Meeting.

Anyone wishing to make a deputation to Council must complete the Request to Make a Deputation form and forward it to the Chief Executive Officer at 111 Brown Street, Hamilton by no later than 5pm on the Monday before the Council Meeting.

Speaking time is limited to 3 minutes per person. Organisations may be represented at the deputation to Council by not more than 4 representatives. The names of the representatives to attend must be advised in writing to the Chief Executive Officer and 1 of the representatives to attend must be nominated as the principal spokesperson for the deputation.

Deputations wishing to make a written submission to the Council must a copy either electronically or hard copy of the submission to the Chief Executive Officer prior to the Council Meeting. One copy will be made available to the local media representative, if requested.

All members of the public addressing the Council must extend due courtesy and respect to the Council and the processes under which it operates. If a member of the public fails to do this the Chairperson can remove them from the Chambers. All members of the public must also comply with Council's Council Meetings policy in relation to meeting procedures and public participation at meetings.

There are no Public Deputations listed on tonight's agenda.

9. Informal Meetings of Councillors

The Southern Grampians Shire Council Governance Rules require that records of Informal Meetings of Councillors that meet the following criteria:

If there is a meeting of Councillors that:

- a) took place for the purpose of discussing the business of Council or briefing Councillors;
- b) is attended by at least one member of Council staff; and
- c) is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting;

be tabled at the next convenient Council meeting and recorded in the minutes of that Council meeting.

An Informal Meeting of Councillors record was kept for:

- 14 February – Audit and Risk Committee Meeting
- 1 March – Briefing Session
- 8 March – Briefing Session
- 15 March – Briefing Session and Industry Visit
- 22 March – Briefing Session
- 29 March – Briefing Session

This agenda was prepared on 5 April 2023. Any Informal Meeting of Councillors between that date and the date of tonight's Meeting will appear in the agenda for the next Ordinary Meeting of Council.

Southern Grampians Shire Council

INFORMAL MEETING OF COUNCILLORS

ASSEMBLY DETAILS	
Title:	Audit & Risk Committee Meeting
Date:	14 February 2023
Location:	Martin J Hynes Auditorium/Teams Meeting
Councillors in Attendance:	Cr David Robertson, Mayor Cr Helen Henry, Deputy Mayor
Council Staff in Attendance:	Mr Tony Doyle, CEO Mr Peter Brown, Acting Director People & Performance Mr Jason Cay, Acting Financial Sustainability Coordinator Mrs Tahlia Homes, Manager Organisational Development Ms Marg Scanlon, Director Infrastructure & Sustainability Ms Karly Saunders, Governance Coordinator Mr Mike Shanahan, Health & Safety Coordinator Ms Nadine Rhook, EA to Director People & Performance

The Assembly commenced at 2.00pm

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Welcome	Nil
2	Apologies	Nil
3	Conflict of Interest	Nil
4	Confirmation of Previous Minutes	Nil
5	CEO Report	Nil
6	Governance & Risk Management Disclosures	Nil
7	Summary Table of Outstanding Matters	Nil

8	External Audit - Progress Report of Current Actions	Nil
9	Audit Strategy	Nil
10	Internal Audit – Progress Overall & Updated Internal Audit Plan 2022-2022	Nil
11	Progress Report of Internal Audit Actions (Interplan) – Data Security Protection (VPDSS) & Data Analysis – Accounts Payable & Procurement	Nil
12	Internal Audit – Asset Management Framework – Final Report	Nil
13	Internal Audit – Service Planning	Nil
14	Internal Audit – Project Management Framework – Draft Scope	Nil
15	VAGO, Ombudsman & IBAC Reports	Nil
16	Review Internal Audit Charter	Nil
17	Excess Leave Update	Nil
18	Compliance Framework	Nil
19	OHS Report – Detailed Summary	Nil
20	Councillor Expenses Quarterly Report (July 2022 – September 2022)	Cr Robertson & Cr Henry declared an indirect conflict at the ARC Meeting at Item 12.1
21	Finance Reports to 31 December 2022	Nil
22	Review Audit & Risk Committee – Annual Plan 2023	Nil
23	Other Items	Nil
24	Next Meeting	Nil

The Assembly concluded at 3.55pm

Southern Grampians Shire Council

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session
Date:	1 March 2023
Location:	Virtual Via Teams
Councillors in Attendance:	Cr David Robertson, Mayor Cr Helen Henry, Deputy Mayor Cr Mary-Ann Brown Cr Albert Calvano Cr Bruach Colliton Cr Greg McAdam Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Darren Barber, Director People and performance Marg Scanlon, Director Infrastructure and Sustainability Rory Neeson, Director Wellbeing, Planning and Regulation Bill Scott, Manager Project Management Office Jason Cay, Acting Sustainable Finance Coordinator

The Informal Meeting commenced at 3:15pm.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Flood Recovery Report	Nil
2	Melville Oval Tender	Nil
3	Budget 2023-24 and Pricing Register (Fees & Charges)	Nil

The Informal Meeting concluded at 5:00pm.

Southern Grampians Shire Council

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session
Date:	8 March 2023
Location:	MJ Hynes Auditorium
Councillors in Attendance:	Cr David Robertson, Mayor Cr Helen Henry, Deputy Mayor Cr Mary-Ann Brown Cr Albert Calvano Cr Bruach Colliton Cr Greg McAdam Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Darren Barber, Director People and performance Marg Scanlon, Director Infrastructure and Sustainability Rory Neeson, Director Wellbeing, Planning and Regulation Susannah Milne, Manager Community Wellbeing Roger Rook, Recreation Services Coordinator Karly Saunders, Governance Coordinator

The Informal Meeting commenced at 3:00pm.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Councillor Only Meeting	Nil
2	Matters Raised by Councillors	Nil
3	Health and Wellbeing Plan	Nil
4	S6 Instrument of Delegation	Nil

The Informal Meeting concluded at 5:00pm.

Southern Grampians Shire Council

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session and Industry Visit
Date:	15 March 2023
Location:	MJ Hynes Auditorium
Councillors in Attendance:	Cr David Robertson, Mayor Cr Helen Henry, Deputy Mayor Cr Albert Calvano Cr Bruach Colliton Cr Greg McAdam Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Darren Barber, Director People and performance Marg Scanlon, Director Infrastructure and Sustainability Rory Neeson, Director Wellbeing, Planning and Regulation Juan Donis, Sustainable Community Lead Karly Saunders, Governance Coordinator
External Presenters:	Natalie Collard, Jamie Pepper

The Informal Meeting commenced at 11:30am.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Sustainable Workshop	Nil
2	Governance Rules	Nil
3	Food and Fibre Presentation	Nil
4	Rural Industries Skills Training Industry Visit	Nil

The Informal Meeting concluded at 5:00pm.

Southern Grampians Shire Council

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session and Industry Visit
Date:	22 March 2023
Location:	MJ Hynes Auditorium
Councillors in Attendance:	Cr David Robertson, Mayor Cr Helen Henry, Deputy Mayor Cr Albert Calvano Cr Bruach Colliton Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Darren Barber, Director People and performance Marg Scanlon, Director Infrastructure and Sustainability Rory Neeson, Director Wellbeing, Planning and Regulation Bill Scott, Manager Project Management Office Susannah Milne, Manager Community Wellbeing Roger Rook, Recreation Services Coordinator
External Presenters:	Marc Sleeman

The Informal Meeting commenced at 1:45pm.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Councillor and CEO Only Meeting	Nil
2	Matters Raised by Councillors	Nil
3	Melville Oval Tender	Nil
4	Glenelg Regional Hockey Assoc. MoU	Nil
5	Grampians Tourism	Nil

The Informal Meeting concluded at 5:00pm.

Southern Grampians Shire Council

Informal Meeting of Councillors

ASSEMBLY DETAILS	
Title:	Briefing Session
Date:	29 March 2023
Location:	MJ Hynes Auditorium
Councillors in Attendance:	Cr David Robertson, Mayor Cr Helen Henry, Deputy Mayor Cr Albert Calvano Cr Bruach Colliton Cr Katrina Rainsford
Council Staff in Attendance:	Tony Doyle, Chief Executive Officer Darren Barber, Director People and performance Marg Scanlon, Director Infrastructure and Sustainability Rory Neeson, Director Wellbeing, Planning and Regulation Alison Quade, Manager Communications and Engagement Jane Coshutt, Community Engagement Coordinator Andrew Nield, Planning Coordinator Anita Watapuluwa, Senior Statutory Planner Anja Johnson, Acting Manager Strategy and Regulation Belinda Johnson, Manager Finance

The Informal Meeting commenced at 11:00am.

MATTERS CONSIDERED		CONFLICTS OF INTEREST DECLARED
1	Round two Community Partnership Grants	Nil
2	135 Fairburn Street Dunkeld – TP/143/2022 and TP/144/2022	Nil
3	Lakes Edge – Appointment of Real Estate Agent	Nil
4	Pools Discussion	Nil

5	Place of Last Resort – Penshurst	Nil
6	Budget 2023-24, Opex Review	Nil

The Informal Meeting concluded at 5:00pm.

10. Management Reports

10.1 Planning application TP/143/2022 for 135 Fairburn Street, Dunkeld

Directorate: Rory Neeson, Director Wellbeing, Planning and Regulation
Author: Anita Collingwood, Senior Statutory Planner
Attachments: Application Documents, Permit Conditions, Clause 43.02 Design and Development Overlay and Schedule 6 to Clause 43.02

Executive Summary

The application proposes the construction of four self-contained group accommodation dwellings on the eastern portion of the land at 135 Fairburn Street, Dunkeld. The proposal is to be concurrently assessed with that of planning application TP/144/2022 which seeks approval for the use of the land for Group accommodation and the associated development under the Rural Living Zone and Environmental Significance Overlay that apply to the land.

The proposed development has been assessed against the objectives of the Design and Development Overlay and is found to be an acceptable outcome for the site. Specifically, the built form is of a high quality, low height, with a non-obtrusive design suitable for the sensitive landscape in which it is to be built.

Notice of this application has not been given to adjoining land owners and occupiers as it is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the *Planning and Environment Act 1987*.

The estimated cost of the development exceeds the delegation of Planning officers and, as the outcome of this application relies on the outcome of application TP/144/2022, it is being heard by the Council.

As the development represents an acceptable planning outcome, it is recommended that this application be approved, subject to the issue of a permit for application TP/144/2022, the inclusion of suitable permit conditions and the endorsement of plans.

Discussion

Proposal

The application proposes the construction of four self-contained cabins and associated works in a Design and Development Overlay.

The proposed accommodation is intended to provide accommodation for tourists visiting the area, with the site being within proximity of Dunkeld township and having views to Mount Sturgeon, Mount Abrupt, the Grampians and Wannon River.

The cabins are arranged in a linear formation, situated side-by-side in an east-west alignment. Each cabin proposed is provided with a kitchenette, bathroom, sleeping space, living space, courtyard and outdoor deck. A separate fifth building comprising sauna, plunge pool and change area is proposed to the southwest of the cabins. A laundry is proposed to the south of the water tank nestled with Cabin B, to provide further amenity to all guests. Cabin A is designed to accommodate guests with limited mobility, with the cabin having a flat floor area, and provision of an accessibility car parking space to the front.

The built form proposed has a total roofed area of 302.5 square metres and a maximum height of 4.94 metres with each building having a single storey. Materials proposed to be used for the exterior of the cabins include unpainted timber cladding, galvanised roof sheeting, metal flashing in Basalt (black). The proposed accessway and parking spaces are proposed to be compacted gravel. A stormwater swale is proposed between Cabins B and C and a berm is proposed to be form near the front boundary.

The site gains access from Fairburn Street, an unfinished local road on the outskirts of Dunkeld township. A new vehicle crossover is proposed towards the northern end of the frontage to serve the development. The crossover has been site to avoid native vegetation, notably a large tree, thereby minimising impact to the road reserve and biodiversity values of the site.

The application proposes the delineation of an activity area for the accommodation use with a post-and-wire fence behind the 'activity area'. The remainder of the site, to the west of the development, is to be left untouched, maintaining the current conditions and integrity of the land.

Land Description

The land is formally known as Lot 2 on Plan of Subdivision 716420L and is allocated the street address of 135 Fairburn Street, Hamilton. A section 173 agreement is registered to the title and obligates the landowner to implement specified bushfire mitigation measures and design perimeters when the land is developed. Aside from the bushfire mitigation measures, such as the provision of defendable space, water supply and access, development on the site must not exceed one storey and be restricted to the building envelope. Any new structures must utilise colours and finishes that best immerse the building within the landscape and minimise contrast with the surrounds to the satisfaction of the responsible authority. Reflective materials must not be used for the external walls and roof of any dwelling or outbuilding, with the exception of glass.

The lot has a near-rectangular shape and an area of 1.585 hectares. The site is relatively flat across the front (east) where the building envelope is located. The site has a rocky outcrop towards the western end of the building envelope. The site slopes gently west until approximately halfway and the remaining area of the site to the west slopes more dramatically. The site has a total fall of approximately 45.5 metres from east to west. The site is vacant of development and comprises scattered trees.

Site context

The site is located to the northwest of the Dunkeld township and southeast of Mount Sturgeon. Adjoining land is vacant of development, with the broader area being used for rural residential purposes. Northeast of the site, approximately within 400 metres, sits the Dunkeld Consolidated School and Southern Grampians Cricket Club and grounds. The Wannon River and Grampians Peak Trail are located close-by, to the west. Buildings in the surrounding area are primarily single storey and modest in size, allowing for views towards the mountain range and maintaining a sense of openness across the landscape. Fencing is mostly absent or unobtrusive across the surrounding landscape, with the exception of land girded by Macarthur, Myers, Fairburn and Taylor Streets to the southeast (comprising several lots) which features a solid stone wall around its perimeter.

Processing of the application

The use of the land requires a permit in the Rural Living Zone (RLZ) and the development requires under a permit in the RLZ and in the Environmental Significance Overlay (ESO) which applies to the land. Assessment of the proposal against this provisions is being done via a separate application, TP/144/2022, as proposed by the Applicant. The reason for this is that the RLZ and ESO require public notice, pursuant to section 52 of the *Planning and*

Environment Act 1987, whereas there are no notice requirements for applications made under the DDO. The complexity of this approach is that a permit cannot be granted under one or more provisions and not the others and therefore the two applications rely on each other. Whilst this is considered to be a piece-meal and inappropriate approach to managing permit applications, Council is obliged to assess applications as they are made to Council.

Planning Policy

Clause 15.01 of the Planning Scheme sets out policy for Built Form, including (as relevant) urban design, building design, neighbourhood character and design for rural areas. The proposal is consistent with this policy as it provides high quality built form, with low visual impact on the public realm, modern amenities, materials and design features that help the development blend into the natural environment (as much as built form reasonably can achieve). The inclusion of an all-abilities cabin and parking space ensures the development can accommodate people with limited mobility. The proposed accessway and location of parking is convenient for users, cleaners and other people visiting the site. No signs are proposed as part of this application.

Design and Development Overlay

The land is located within the Design and Development Overlay (DDO) and Schedule 6 applies. Schedule 6 applies to the Dunkeld larger lot residential areas and sets out a number of design objectives for development. These objectives include:

- To ensure that the design of buildings within low-density and rural-residential areas is responsive to the visual sensitivity of the setting from the public and private realms, and respects the pastoral landscape, aspects to the town on approach and long-range views across the town towards Mount Sturgeon and Mount Abrupt.
- To support highly integrated design within low density and rural-residential areas that reflects a transition between township and rural conditions and provides an appropriate response to agricultural interfaces.
- To encourage new development to be subservient to the broader landscape character.
- To encourage view sharing across the township, towards the Grampians National Park and the pastoral surrounds.
- To encourage generous front and side setbacks so that meaningful landscaping can be provided in these areas, where this will not compromise key views.
- To ensure site design avoids the removal of native canopy vegetation, including established River Red Gums, wherever possible.
- To encourage high quality architectural design and development that adopts a design theme and palette drawn from the town's rural character and landscape setting.

The application proposes the construction of four single-storey, fully serviced cabins towards the front (east) of the subject site. A fifth building is proposed slightly southwest of the proposed cabins, accessed by a narrow, winding footpath, to accommodate a plunge pool and sauna with views to the mountains. Cabin B includes a 10,000L water tank for fire-fighting purposes and a small laundry to the front of the courtyard to service the entire development. Minor earthworks are proposed towards the west of the development area to assist the development in integrating with the natural slope of the land and minimise visual impact from the public realm and adjacent private land.

Each cabin is setback from the site boundaries, road and other buildings enough to allow views through the development and to accommodate landscaping. The development is

appropriately sited within a building envelope (a restriction registered to the land title) towards the front of the site, away from the river downslope and where a short accessway can provide connectivity from Fairburn Street. Much of the site will be retained in its natural state.

The building design reflects the sensitive nature of the surrounding landscape and protects the vista towards Mount Sturgeon from the public realm to a reasonable extent. The buildings are well under the maximum allowable height of 8 metres, being a maximum of 4.94m from natural ground level, and the buildings utilise a flat roof form to minimise the interruption of views to Mount Sturgeon. The external materials of the building include timber cladding, galvanised roof sheeting and metal flashing (in a black colour). The use of timber cladding for the walls contributes to a site-responsive design as it is a natural material that will blend with the surrounding landscape. The use of circular edges to the buildings creates a contemporary aesthetic whilst minimising the appearance of bulk.

The development does not require the removal of any native vegetation and, importantly, no River Red Gum trees are affected by the proposal.

The site and adjacent lots are vacant and therefore any development on the land will change the appearance of the site and surrounds, but this does not mean that the development is unacceptable or would cause unreasonable detriment. Schedule 6 to the overlay sets out requirements for buildings and works and the proposed development is compliant with those requirements. Of note, the development –

- Comprises a single storey of less than 8 metres.
- Includes fencing that is open rural-style (constructed of posts and wire).
- Is responsive to the topography and natural features of the site.
- Provides a 14.35-metre minimum front setback, which is marginally less than the 15 metre setback sought (and only Cabin D).
- Side setbacks of more than 5 metres are maintained.
- Each building is separated, thereby allowing for sightlines and landscaping through the site.
- The built form utilises timber and corrugated metal which provide a suitable aesthetic and minimise visual impact to the landscape.
- The built form is architecturally designed to respond to the site topography and landscape character of the site.

Due to the need for parking for all cabins (as opposed to one dwelling) and the natural constraints of the site, the frontage of the site will be used for car parking purposes. This, however, does not include garages, carports or other structural works which would dominate the frontage and therefore is acceptable.

Should a permit be granted under this application, the approval would be contingent on a permit also being issued under the DDO.

Bushfire Planning

The western portion of the site is located within the Bushfire Management Overlay (BMO) and the whole site is located within the designated Bushfire Prone Area (BPA). No buildings or works are proposed within the BMO and therefore a permit is not required under that overlay. Policy at Clause 13.02 -1S specifies that bushfire risk should be considered when assessing planning applications for accommodation.

Policy at Clause 13.02-1S requires the responsible authority to prioritise the protection of human life over all other policy considerations. Strategies to achieve this include directing development to low-risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire. The front portion of the subject site is located in the bushfire prone area but not within the Bushfire Management Overlay, signifying that the bushfire hazard is not high or extreme. The site has access directly from a public road, Fairburn Street, and the on-site accessway can be constructed to the required standard for emergency vehicle access. Static water supply can be provided on-site, with the necessary Country Fire Authority (CFA) fittings (proposed to the front of Cabin B), and defensible space can be provided around the development. No native vegetation or other biodiversity values are affected by the implementation of these mitigation measures.

Context of this application

This application has been lodged with Council for assessment against the provisions of the Design and Development Overlay at Clause 43.02 of the Planning Scheme. Pursuant to Clause 2.0 to Schedule 6 of the Overlay, an application to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

A separate application, TP/144/2022, has been submitted to and lodged by Council for assessment of the proposal against the provisions of the Rural Living Zone and Environmental Significance Overlay. These provisions are not exempt from the notice requirements and appeal rights of the Act and therefore notice has been given to surrounding land owners and occupiers.

A previous application for a permit, TP/127/2020, was approved by Council and varied by the Victorian Civil and Administrative Tribunal (VCAT) in 2022 for the Use and Development of the land for Group Accommodation (Myers v Southern Grampians SC (Red Dot) [2022] VCAT 695 (24 June 2022)). The application was assessed by Council under all applicable provisions of the Planning Scheme and notice of the application was given pursuant to the Act. A question of law was raised in the VCAT hearing and subsequently the matter is being reviewed by the Supreme Court. This matter relates to the Tribunal's jurisdiction over matters relating to the Design and Development Overlay, which has no notice requirements or appeal rights under the Act, and the extent to which a matter exempted from notice and review under section 82 of the Act is relevant to the Tribunal's consideration of the review application.

Background strategic work

In 2010, Southern Grampians Shire Council initiated an assessment of significant landscapes in the Shire. The project is referred to as the 'Grampians Significant Landscape Assessment'. Following a tender process, planning consultancy Planisphere was appointed on 27 April 2011 to undertake this assessment. Initial literature and policy reviews, fieldwork and community and stakeholder consultation was completed before the finalisation of a draft Grampians Landscape Assessment Report. The key objective of this work was to identify and protect viewing corridors for significant landscapes in the Shire. Options explored for statutory implementation of these protection measures included:

- Implementing the recommendations of the study through the Municipal Strategic Statement;
- Including the Study and Character Area 'papers' as Incorporated or Reference Documents;
- Amending the Schedule to the Farming Zone;
- Introducing a local policy at Clause 22 (now absent from the current Planning Scheme format) to provide guidance in the assessment and determination of planning permit applications for development, and/or

- Introducing the Significant Landscape Overlay to the Grampians (Gariwerd) Surrounds Landscape Area.

The subject site is located within Character Area 1: Grampians (Gariwerd) & Surrounds.

The Draft report dated January 2012, on page 173, states that the introduction of a Significant Landscape Overlay on the studied land, applying the tested method of demonstrating the significance of a landscape, is 'justifiable'. Council was briefed on 24 April 2013, with a recommendation for public exhibition of the Draft Grampians Landscape Assessment report carried. The report was exhibited in August 2013. Feedback from community members was also sought on the South West Victoria Landscape Assessment Study on 3 December 2012 via Community Bulletin no. 3.

Following the public exhibition of the draft report, it is unclear what decisions were made in relation to the project. No planning scheme amendments have been gazetted and therefore none of the protection measures have been implemented.

Financial and Resource Implications

Should a permit be granted, the developer will bear the cost of the development in its entirety. This includes the cost of plans checking, other approvals (such as Building permit), the cost of upgrading the intersection at Dickie Street and Victoria Valley Road, and installing or upgrading utility infrastructure.

Legislation, Council Plan and Policy Impacts

Section 61 of the *Local Government Act 2020* sets out the requirements for Council meetings.

Part 4 of the *Planning and Environment Act 1987* sets out the requirements for the processing of planning permit applications, amendments and related matters.

The planning application is subject to the relevant policy and provisions of the Southern Grampians Planning Scheme, including:

- Clause 11.01 Victoria
- Clause 11.03 Planning for Places
- Clause 13.02 Bushfire
- Clause 15.01 Built Environment
- Clause 17.04 Tourism
- Clause 35.03 Rural Living Zone and Schedule 1 to Clause 35.03
- Clause 42.01 Environmental Significance Overlay and Schedule 3 to Clause 42.01
- Clause 42.02 Vegetation Protection Overlay and Schedule 1 to Clause 42.02
- Clause 43.02 Design and Development Overlay and Schedule 6 to Clause 43.02
- Clause 44.06 Bushfire Management Overlay
- Clause 52.06 Car Parking
- Clause 65.01 Approval of an application or Plan

Note: A permit is only sought under the Design and Development Overlay.

Risk Management

The land is located within a bushfire prone area and therefore there is a risk to future residents. This risk can be minimised through the provision of defensible space, access for emergency vehicles, fire-fighting water supply and implementation of an Emergency Management Plan.

A similar application has previously been approved by Council and upheld by the Victorian Civil and Administrative Tribunal (VCAT). Council is not legally bound to approve this application on account of that previous approval, but would need to have strong grounds to refuse the application given the Planning Scheme has not been substantially changed since the previous application was assessed.

Environmental and Sustainability Considerations

The development has been designed to have minimal impact on the surrounding environment. Wastewater from the development can be contained and treated at a Wannon Water treatment plant and therefore removed safely from the site via plumbing. Stormwater will be retained on-site to ensure stormwater runoff does not affect neighbouring properties.

Community Consultation and Communication

Clause 43.02-2 states that a schedule to this overlay may specify that an application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act. Clause 2.0 of Schedule 6 specifies that an application to construct a building or construct or carry out works is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act. This application, therefore, has not been publicly advertised.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

It is recommended that Council:

1. Resolve to grant a Planning Permit for the application, with all of the conditions and notes included on the Conditions document attached to this report, to ensure the use and development is appropriately managed.
2. Concurrently issue a Notice of Decision to Grant a Planning Permit for application TP/144/2022, subject to the granting of a permit for TP/144/2022. Once a Planning Permit is issued, it will be read in conjunction with the permit (TP/144/2022) and the endorsed plans to that permit.

10.2 Planning application TP/144/2022 for 135 Fairburn Street, Dunkeld

Directorate: Rory Neeson, Director Wellbeing, Planning and Regulation
Author: Anita Collingwood, Senior Statutory Planner
Attachments: Application Documents, Redacted Objections, Permit Conditions, Planning Scheme Information

Executive Summary

The application proposes the use and development of the land for the purpose of Group Accommodation. A permit is required under the Rural Living Zone, Environmental Significance Overlay and Design and Development Overlay that apply to the land. The permit Applicant has submitted two applications, one for the use and development approval required under the Rural Living Zone and Environmental Significance Overlay, and the other for the development under the Design and Development Overlay.

Notice of the application has been given to the owners and occupiers of adjoining land in accordance with Section 52 of the *Planning and Environment Act 1987* and ten objections have been received. Due to the number of objections, the application must be determined by the Council rather than under officer delegation.

As the proposed land use and development represents an acceptable planning outcome, it is recommended that this application be approved, subject to the issue of a permit for application TP/143/2022, the inclusion of suitable permit conditions and the endorsement of plans.

Discussion

Proposal

The application proposes the construction of four self-contained cabins and the use of the land for group accommodation.

The proposed accommodation is intended to provide accommodation for tourists visiting the area, with the site being within proximity of Dunkeld township and having views to Mount Sturgeon, Mount Abrupt, the Grampians and Wannon River.

Each cabin proposed can accommodate up to four adults, though it proposed that a maximum of eight people be accommodated at any given time across the site. Bookings for the accommodation are to be made via phone and internet. The applicant proposes to manage the number of guests through the booking system.

The cabins are arranged in a linear formation, situated side-by-side in an east-west alignment. Each cabin proposed is provided with a kitchenette, bathroom, sleeping space, living space, courtyard and outdoor deck. A separate fifth building comprising sauna, plunge pool and change area is proposed to the southwest of the cabins. A laundry is proposed to the south of the water tank nestled with Cabin B, to provide further amenity to all guests. Cabin A is designed to accommodate guests with limited mobility, with the cabin having a flat floor area, and provision of an accessibility car parking space to the front.

The built form proposed has a total roofed area of 302.5 square metres and a maximum height of 4.94 metres with each building having a single storey. Materials proposed to be used for the exterior of the cabins include unpainted timber cladding, galvanised roof sheeting, metal flashing in Basalt (black). The proposed accessway and parking spaces are proposed to be compacted gravel. A stormwater swale is proposed between Cabins B and C and a berm is proposed to be form near the front boundary.

The site gains access from Fairburn Street, an unfinished local road on the outskirts of Dunkeld township. A new vehicle crossover is proposed towards the northern end of the frontage to serve the development. The crossover has been sited to avoid native vegetation, notably a large tree, thereby minimising impact to the road reserve and biodiversity values of the site.

The application proposes the delineation of an activity area for the accommodation use with a post-and-wire fence behind the 'activity area'. The remainder of the site, to the west of the development, is to be left untouched, maintaining the current conditions and integrity of the land.

Land Description

The land is formally known as Lot 2 on Plan of Subdivision 716420L and is allocated the street address of 135 Fairburn Street, Hamilton. A section 173 agreement is registered to the title and obligates the landowner to implement specified bushfire mitigation measures and design perimeters when the land is developed. Aside from the bushfire mitigation measures, such as the provision of defendable space, water supply and access, development on the site must not exceed one storey and be restricted to the building envelope. Any new structures must utilise colours and finishes that best immerse the building within the landscape and minimise contrast with the surrounds to the satisfaction of the responsible authority. Reflective materials must not be used for the external walls and roof of any dwelling or outbuilding, with the exception of glass.

The lot has a near-rectangular shape and an area of 1.585 hectares. The site is relatively flat across the front (east) where the building envelope is located. The site has a rocky outcrop towards the western end of the building envelope. The site slopes gently west until approximately halfway and the remaining area of the site to the west slopes more dramatically. The site has a total fall of approximately 45.5 metres from east to west. The site is vacant of development and comprises scattered trees.

Site context

The site is located to the northwest of the Dunkeld township and southeast of Mount Sturgeon. Adjoining land is vacant of development, with the broader area being used for rural residential purposes. Northeast of the site, approximately within 400 metres, sits the Dunkeld Consolidated School and Southern Grampians Cricket Club and grounds. The Wannon River and Grampians Peak Trail are located close-by, to the west. Buildings in the surrounding area are primarily single storey and modest in size, allowing for views towards the mountain range and maintaining a sense of openness across the landscape. Fencing is mostly absent or unobtrusive across the surrounding landscape, with the exception of land girded by Macarthur, Myers, Fairburn and Taylor Streets to the southeast (comprising several lots) which features a solid stone wall around its perimeter.

Planning Policy

Clause 15.01 of the Planning Scheme sets out policy for Built Form, including (as relevant) urban design, building design, neighbourhood character and design for rural areas. The proposal is consistent with this policy as it provides high quality built form, with low visual impact on the public realm, modern amenities, materials and design features that help the development blend into the natural environment (as much as built form reasonably can achieve). The inclusion of an all-abilities cabin and parking space ensures the development can accommodate people with limited mobility. The proposed accessway and location of parking is convenient for users, cleaners and other people visiting the site. No signs are proposed as part of this application.

Clause 17.04 sets out policy for Tourism and encourages services and infrastructure that supports key tourism attractions. The policy seeks to encourage tourism development which

maximises the economic, social and cultural benefits of developing the state as a competitive tourist destination. The site provides for a unique form of accommodation for people visiting the region and is in an ideal location for accommodating travellers wanting to explore the Grampians range and surrounding townships, waterfalls and other attractions. Within a short distance of the site, via Victoria Valley Road, tourists have direct access to multiple bushwalks leading to and at the foot of Mount Sturgeon. The proposed development is modern, has a low-key design and practical layout, and provides quality amenities for guests without any excessiveness. The accommodation is designed to allow the enjoyment of the Grampians, with direct views to the mountains, river escarpment and surrounding landscape, while minimising impacts to existing residents and the landscape.

Rural Living Zone

The land is located within the Rural Living Zone. The purpose of this zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for residential use in a rural environment.
- To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.
- To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

Group accommodation is defined in the Clause 73.03 as land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence. Group accommodation sits within section two of the table of uses at Clause 35.03-1, which means a permit must be granted for the land to be used for that purpose.

Clause 35.03-2 sets out requirements for dwellings and, since Group accommodation comprises a cluster of dwellings, by extension the dwelling provisions must be applied. These requirements include provision of utilities and access for emergency vehicles. These basic requirements can be met, with the site being within Wannon Water's sewer and water districts and suitable infrastructure being available, the site being within an electricity distribution area and the site being able to be serviced for vehicles from Fairburn Street.

In addition to the use requirements of the zone, a permit is required to construct buildings and carry out works associated with Group accommodation. One exemption to this is the installation of water tanks, which is specifically exempt from requiring a permit pursuant to Clause 35.03-4.

When considered against the decision guidelines of the zone at Clause 35.03-5, the following points are pertinent –

- The land is of a size, configuration and gradient that can accommodate the proposed development and provide adequate access, amenity and services.
- Minor earthworks are proposed towards the east of the building envelope to create a suitable gradient for the accessway and parking. This will not substantially alter the character of the place, particularly the significance of the escarpment.
- Adjoining land is vacant and therefore there is no immediate impact on adjoining dwellings or land users.
- The frequency and number of additional car movements to and from the site may be more than a single dwelling but is not considered to be so significant to adversely impact road functionality, safety or amenity (including noise levels).

- No impact is likely to occur to soil or water quality, providing the construction process is managed appropriately.
- The development is setback from the riparian corridor of Wannon River and no vegetation is proposed to be removed, therefore ensuring the biodiversity and environmental values of the site and locality are protected.
- Effluent generated by the use is to be processed via the reticulated sewer system and therefore creates no impact to the site or surrounding environment.
- The built form, include scale, height, spacing, colours and materials are appropriate for the rural setting and ensure the visual impact of the development is minimal.
- The proposed development does not dominate the landscape.

It is considered that the proposed use and development form an acceptable outcome for this site, with minimal impact on surrounding land uses, residents and landscape.

Environmental Significance Overlay

The land is located within the Environmental Significance Overlay (ESO), Schedule 3. Schedule 3 applies to the area of the Wannon River Escarpment for its protection. Given the environmental character of the escarpment, it is necessary to reduce erosion, maintain vegetation and habitat, improve water quality and ensure development is not visually intrusive.

A permit is required under Clause 42.01-2 for the construction of buildings and the carrying out of works. A permit is not required for the proposed post-and-wire fence to the rear of the activity area. In assessing the application against the objectives of Schedule 3 to the overlay, the following points are made:

- The proposal includes excavation into part of the escarpment to enable the built form to be integrated into the topography of the site and reduce the overall height and prominence of the built form when viewed from the public realm.
- No impact to water quality is likely to occur due to the setback to the river, the provision of on-site stormwater management and the connection of reticulated water supply and sewerage management.
- To maintain consistency with the VCAT decision for the previous application and ensure revegetation contributes to the local vegetation community and habitat, a seed mix of indigenous grass species will be required for new grassed areas.
- The development is modest in scale, having a maximum height of less than five metres, and maintains space between each building, thereby ensuring the development is responsive to the environmental and landscape values of the escarpment.
- The development is sited close to the frontage of the site –
 - minimising encroachment into the escarpment itself
 - where the land is relatively flat where erosion and runoff is minimised, and
 - where access and egress for bushfire safety is optimised.
- The proposal does not prevent or inhibit the continual planting and establishment of revegetation on or near the escarpment.
- No vegetation on the escarpment is proposed to be removed or otherwise impacted.
- The proposal will not cause or exacerbate the spread of weeds, providing no weed species are introduced to the site.

- Measures required to ensure reasonable bushfire safety can be implemented without vegetation loss or other substantial impacts.
- A condition of approval would include the requirement for external building materials and surfaces to be non-reflective and of colours that are complementary to the landscape.

The land has an area of approximately 1.6 hectares, most of which is protected due to the development being situated near the front of the site. Siting options are limited due to the natural features of the site, the location of road access and the restriction of a building envelope on the title.

The proposal has been referred to the Glenelg Hopkins Catchment Management Authority (GHCMA) in accordance with the schedule to Clause 66.04. The authority has raised no objections to the proposal and advised that the development site is unlikely to experience flooding, due to the elevation of the development site, compared to the river level, and the distance to that waterway.

Considering the constraints of the site and the various hazards and values of the locality, the proposal is considered to form a reasonable outcome.

Design and Development Overlay

The land is located within the Design and Development Overlay (DDO) and Schedule 6 applies. The applicant has applied for a permit under this provision via a separate application, TP/143/2022. Should a permit be granted under this application, the approval would be contingent on a permit also being issued under the DDO.

Vegetation Protection Overlay

Clause 42.02 Vegetation Protection Overlay and Schedule 1 to the overlay apply to the land. A permit is not required under this provision.

Bushfire Planning

The western portion of the site is located within the Bushfire Management Overlay (BMO) and the whole site is located within the designated Bushfire Prone Area (BPA). No buildings or works are proposed within the BMO and therefore a permit is not required under that overlay. Policy at Clause 13.02 -1S specifies that bushfire risk should be considered when assessing planning applications for accommodation.

Policy at Clause 13.02-1S requires the responsible authority to prioritise the protection of human life over all other policy considerations. Strategies to achieve this include directing development to low-risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire. The front portion of the subject site is located in the bushfire prone area but not within the Bushfire Management Overlay, signifying that the bushfire hazard is not high or extreme. The site has access directly from a public road, Fairburn Street, and the on-site accessway can be constructed to the required standard for emergency vehicle access. Static water supply can be provided on-site, with the necessary Country Fire Authority (CFA) fittings (proposed to the front of Cabin B), and defensible space can be provided around the development. No native vegetation or other biodiversity values are affected by the implementation of these mitigation measures. Advice has been sought from the CFA and that authority has no objection to the proposal. It is considered that the development is appropriately sited to minimise bushfire risk and that the risk can be appropriately mitigated.

Car Parking and Access

Clause 52.06 of the Planning Scheme sets out nominal requirements for car parking and access for new land uses. Table 1 of Clause 52.06 sets out the car parking requirement that applies to a use listed in the Table. Table 1 does not specifically set out a rate for Group accommodation, but it does require one car parking space to be provided for a one or two-bedroom dwelling. Each of the proposed cabins has a single bedroom / sleeping space and therefore one space is appropriate for each cabin.

Council's engineer has assessed the proposal and advised the proposed crossover can be unsealed and must be constructed to comply with Infrastructure Design Manual (IDM) Standard Drawing (SD) 255.

The section 173 agreement also sets out requirements for accessways, which link to the bushfire provisions of Clause 53.02 *Bushfire Planning*. Emergency vehicle access must be provided to the static water supply (water tank) to the minimum requirements. The cover sheet for the plans submitted with the application (Revision D dated 21/10/2021) includes these requirements as written notes.

Aboriginal Cultural Heritage

The site backs on to the Wannon River and therefore the area within 200m of the river is covered by the *Aboriginal Heritage Regulations 2018*. No buildings, works or other activities are proposed in this setback and therefore a cultural heritage management plan is not required.

Referrals

The application has been referred according to the Planning Scheme to the water catchment authority, Glenelg Hopkins Catchment Management Authority (GHCMA), the water and sewerage management authority, Wannon Water, and a notice sent to the Country Fire Authority (CFA) as the site is located within a BPA. The application has also been referred to internal council departments, including Engineering and Building. None of these parties have objected to the proposal. Each party has provided advice and conditions to be included on any permit granted. A summary of each response is provided below –

Authority or Department	Reason for referral	Response
CFA	S52 notice – voluntary notice as the site is within the designated BPA.	Received 24 February 2023 – no objection. Condition proposed by applicant regarding 'Code red' days to be updated to reflect new terminology.
GHCMA	S55 – mandatory referral pursuant to Clause the buildings and works are located within Schedule 3 of the Environmental Significance Overlay.	Received 24 March 2023 – no objection.
Wannon Water	S52 – voluntary notice to determine if reticulated water and sewerage is available.	Received 17 February 2023 – no objection. Conditions and accompanying notes to be included.
Engineering	Internal referral – advice sought for access, parking and stormwater design.	Received 23 March 2023 – no objections.

		Conditions to be included, including the requirement to upgrade the Dickie Street-Victoria Valley Road intersection.
Building	Internal referral – advice sought to confirm there are no significant issues relating to the issue of a building permit later.	No response received to date.

Objections

Ten submissions have been received in relation to the application, objecting to the proposal. These objections are summarised as follows:

- Overall planning strategy for Dunkeld and previous decisions by Council.
- Development on the escarpment.
- Cost of the ongoing dispute on the ratepayer.
- Various strategies and plans have identified the need to protect key views and vistas to the Grampians National Park and the rural surrounds and this application does not satisfy those documents and desired outcomes.
- Other development initiatives in Dunkeld have been unsuccessful.
- The proposal does not preserve the heritage and tourist values of the area.
- Section 1 of the Zone requires only one dwelling on the lot and four are proposed for group accommodation.
- Each cabin should have more than one car space to prevent over-flow parking in the street.
- Group accommodation is not an appropriate use in a low-density location.
- The development will impact the enjoyment and use of neighbouring land.
- The development will detrimental impact the significant landscape.
- The landscape response will not soften the visual impact of the development.
- A cultural heritage management plan may be required due to the proximity of the site to the Wannon River.
- The proposed construction has not accounted for the sensitive nature of the subject land.
- Increased traffic will impact Fairburn and surrounding streets.
- Visitors to the site would not be residents and therefore would not share the same respect and commitment to the community.
- The development does not protect the town's relationship with the scenic landscape.
- The cabins are oriented northwest and therefore oriented toward neighbouring land in private ownership. Cabin A has direct views into the building envelope registered to that neighbouring lot.
- Noise from the Cabin A bath will impact the neighbour to the north (currently vacant).
- The development would compromise the escarpment for a 'few entitled guests'.

Context of this application

This application has been lodged with Council for assessment against the provisions of the Rural Living Zone and Environmental Significance Overlay, which require notice to be given to surrounding land owners and occupiers, in accordance with Section 52 of the *Planning and Environment Act 1987*. A separate application, TP/143/2022, has been submitted to and lodged by Council for assessment of the proposal against the provisions of the Design and Development Overlay, which has no notice requirements or appeal rights for third parties.

A previous application for a permit, TP/127/2020, was approved by Council and varied by the Victorian Civil and Administrative Tribunal (VCAT) in 2022 for the Use and Development of the land for Group Accommodation (Myers v Southern Grampians SC (Red Dot) [2022] VCAT 695 (24 June 2022)). The application was assessed by Council under all applicable provisions of the Planning Scheme and notice of the application was given pursuant to the *Act*. A question of law was raised in the VCAT hearing and subsequently the matter is being reviewed by the Supreme Court. This matter relates to the Tribunal's jurisdiction over matters relating to the Design and Development Overlay, which has no notice requirements or appeal rights under the *Act*, and the extent to which a matter exempted from notice and review under section 82 of the *Act* is relevant to the Tribunal's consideration of the review application.

Background strategic work

In 2010, Southern Grampians Shire Council initiated an assessment of significant landscapes in the Shire. The project is referred to as the 'Grampians Significant Landscape Assessment'. Following a tender process, planning consultancy Planisphere was appointed on 27 April 2011 to undertake this assessment. Initial literature and policy reviews, fieldwork and community and stakeholder consultation was completed before the finalisation of a draft Grampians Landscape Assessment Report. The key objective of this work was to identify and protect viewing corridors for significant landscapes in the Shire. Options explored for statutory implementation of these protection measures included:

- Implementing the recommendations of the study through the Municipal Strategic Statement;
- Including the Study and Character Area 'papers' as Incorporated or Reference Documents;
- Amending the Schedule to the Farming Zone;
- Introducing a local policy at Clause 22 (now absent from the current Planning Scheme format) to provide guidance in the assessment and determination of planning permit applications for development, and/or
- Introducing the Significant Landscape Overlay to the Grampians (Gariwerd) Surrounds Landscape Area.

The subject site is located within Character Area 1: Grampians (Gariwerd) & Surrounds.

The Draft report dated January 2012, on page 173, states that the introduction of a Significant Landscape Overlay on the studied land, applying the tested method of demonstrating the significance of a landscape, is 'justifiable'. Council was briefed on 24 April 2013, with a recommendation for public exhibition of the Draft Grampians Landscape Assessment report carried. The report was exhibited in August 2013. Feedback from community members was also sought on the South West Victoria Landscape Assessment Study on 3 December 2012 via Community Bulletin no. 3.

Following the public exhibition of the draft report, it is unclear what decisions were made in relation to the project. No planning scheme amendments have been gazetted and therefore none of the protection measures have been implemented.

Financial and Resource Implications

Should a permit be granted, the developer will bear the cost of the development in its entirety. This includes the cost of plans checking, other approvals (such as Building permit), the cost of upgrading the intersection at Dickie Street and Victoria Valley Road, and installing or upgrading utility infrastructure.

Legislation, Council Plan and Policy Impacts

Section 61 of the *Local Government Act 2020* sets out the requirements for Council meetings.

Part 4 of the *Planning and Environment Act 1987* sets out the requirements for the processing of planning permit applications, amendments and related matters.

The planning application is subject to the relevant policy and provisions of the Southern Grampians Planning Scheme, including:

- Clause 11.01 Victoria
- Clause 11.03 Planning for Places
- Clause 13.02 Bushfire
- Clause 15.01 Built Environment
- Clause 17.04 Tourism
- Clause 35.03 Rural Living Zone and Schedule 1 to Clause 35.03
- Clause 42.01 Environmental Significance Overlay and Schedule 3 to Clause 42.01
- Clause 42.02 Vegetation Protection Overlay and Schedule 1 to Clause 42.02*
- Clause 43.02 Design and Development Overlay and Schedule 6 to Clause 43.02**
- Clause 44.06 Bushfire Management Overlay***
- Clause 52.06 Car Parking
- Clause 65.01 Approval of an application or Plan
- Clause 66.04 Referral of Permit Applications under Local Provisions and the Schedule to Clause 66.04
- Clause 73.03 Land Use Terms

*This overlay applies to the land, but a permit is not required under this provision.

** This overlay applies to the land and the applicant has submitted a separate application (TP/143/2022) for Council to consider the proposal against the specific provisions of this overlay.

***This overlay applies to the western portion of the land, but a permit is not required under this provision.

Australian Standard *AS 3959-2018 Construction of Buildings in Bushfire-prone Areas*

Risk Management

Several members of the community have objected to the application on grounds of material detriment. Reasons for the objections are summarised as follows:

- The proposed use being inappropriate for the Rural Living Zone.

- The proposed development being inappropriate for the landscape and community.
- The ongoing cost of disputes relating to this project.

The land is located within a bushfire prone area and therefore there is a risk to future residents. This risk can be minimised through the provision of defensible space, access for emergency vehicles, fire-fighting water supply and implementation of an Emergency Management Plan.

A similar application (TP/127/2020) has previously been approved by Council and upheld by the Victorian Civil and Administrative Tribunal (VCAT). Council is not legally bound to approve this application on account of that previous approval, but would need to have strong grounds to refuse the application given the Planning Scheme has not been substantially changed since the previous application was assessed.

Environmental and Sustainability Considerations

The application does not propose or require the removal of any native vegetation. Protection measures will be required as a condition of approval, if granted, to ensure construction work and ongoing use of the site does not impact established vegetation.

The development has been designed to have minimal impact on the surrounding environment. Wastewater from the development can be contained and treated at a Wannon Water treatment plant and therefore removed safely from the site via plumbing. Stormwater will be retained on-site to ensure stormwater runoff does not affect neighbouring properties.

Community Consultation and Communication

Notice of the application has been given in accordance with the requirements of section 52 of the *Planning and Environment Act 1987*. Notices were sent via post to the owners and occupiers of surrounding land, a notice was erected on the front boundary of the land for a minimum of 14 days, and copies of the application documents were published on Council's website for the duration of the 14-day notice period.

Ten objections have been received in relation to the application and each of these submissions have been acknowledged in writing. A redacted copy of the submissions have been sent to the permit Applicant to review, and the Applicant has provided a written response for Council and the objectors to review.

Council has offered to the permit Applicant the opportunity of having a community consultation meeting to better understand the issues raised in the submissions and this offer has been declined.

Once a decision is made by Council, the decision will be recorded in the Council Meeting Minutes which is published to Council's website. The decision will also be sent in the form of a Notice of Decision to Grant a Permit (NOD) or Refusal to Grant a Permit, according to the decision, to each person who submitted objections in relation to the application. The notice of decision is also sent to referral authorities. If a NOD is issued, this is also sent to VCAT and a 28-day time period commences for parties to appeal the decision to the Tribunal. If an appeal is not sought, Council will proceed to issue a Planning Permit. A decision to Refuse the application can be appealed to VCAT by the permit Applicant within 60 days of the decision.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

It is recommended that Council:

1. Resolve to grant a Notice of Decision to Grant a Planning Permit, with the conditions and notes included on the Conditions document attached to this report, to ensure the use and development is appropriately managed.
2. Concurrently issue a Planning Permit for application TP/143/2022 and endorse plans once amended in accordance with condition one. Once a Planning Permit is issued for TP/144/2022, the permit is read in conjunction with the secondary permit (TP/143/2022) and endorsed plans.

10.3 Community Partnership Grants

Directorate: Tony Doyle, Chief Executive Office
Author: Alison Quade, Manager Communications and Engagement
Attachments: None

Executive Summary

This report provides Council with information regarding community grant applications (Tourism and Events, Sustainability, Community Strengthening, Community Infrastructure, Arts and Culture and Heritage categories) that have been recommended for Community Partnership Grants program funding.

Discussion

The Community Partnership Grants program was established to deliver Council grants that are responsive to the needs and opportunities of the community, inclusive and equitable to all, and one that facilitated the flexible delivery of key strategies identified within the Council Plan 2021 - 25 across the social, economic and environmental spectrum.

This program consolidates Council's extensive range of grant opportunities into one program to enable better integration and co-ordination of grant administration and improved marketing of those grant opportunities.

Community Partnership Grants assistance is considered for organisations, groups, committees and individuals with proposals that directly benefit the Southern Grampians Shire region. Applications are assessed using pre-determined evaluation criteria, taking into consideration strategic objectives within the Council Plan, Health and Wellbeing Plan, other Council Strategies and Community Plans.

The current round of grants includes 11 grants approved over \$2500 totalling \$92,880 and 15 grants approved for \$2500 and under, totalling \$31,952.82.

Below is the summary of the approved grant applications, which requested funds above \$2,500. The applications total is \$92,880.

Category	Applicant	Project	Ask Amount	Funding Amount	Total Project Cost
Arts and Culture	Dunkeld Writers Festival	Venue Hire & Author Fees	7900	7900	25300
Tourism and Events	Peaks and Trails	Signage	7000	7000	14900
Tourism and Events	Hamilton Eisteddfod	Marketing	4200	3350	6700
Tourism and Events	Hamilton Basketball assoc.	Junior Tournament	15000	15000	30000
Tourism and Events	Serra Terror Inc.	Serra Terror Hike	15000	15000	107570.2
Tourism and Events	3 peaks Festival	Entertainment	4500	4500	9000
Heritage	Mrs. Lynne Brown	Ansett House	15000	15000	42000
Community Infrastructure	Byaduk Rec Reserve	Air Conditioning	7000	3500	10000
Community Infrastructure	Penshurst Football Netball Club	Digital Screen	15000	15000	30380

Community Infrastructure	Glenthompson Football Netball club	Digital honour Boards	6653	3330	6653
Community Infrastructure	HIRL	BBQ	3647	3300	7294
Total			\$100,900	\$92,880	\$262,797.20

Below is the summary of grant applications approved, which requested funds of \$2,500 and under. The applications total is \$31,952.82.

Category	Applicant	Project	Ask amount	Funding amount	Total Project Cost
Community Strengthening	Friends Of Hamilton Botanic Gardens	High Vis Vests	2031	2031	2031
Community Strengthening	Hamilton Little Athletics	Community Coaching Program	2500	2500	2500
Community Strengthening	Glenthompson Football Netball club	Mental Health and Wellbeing program	2200	2200	2200
Arts and Culture	Trax Big Band	Big Band Music	1200	1200	1200
Arts and Culture	Coleraine Art and Photography show	Advertising and Promotion	1800	1800	9000
Arts and Culture	Wannon Nigretta Community Group	Thomas Clarke Viewing area Interpretation Sign	1470	1470	1470
Sustainability	Dunkeld Arboretum	Spatial Database	2490	2490	2490
Heritage	John Kane	Blacksmith shop	2500	2500	13000
Heritage	Hamilton History Centre	Chairs	1794	1794	1794
Community Infrastructure	Hamilton Rowing Club	Boat Revamp	2432.82	2432.82	2432.82
Community Infrastructure	Penshurst Progress Assoc. (Men's Shed)	Tools	1874	1874	1874
Community Infrastructure	Hamilton P&A Society	Fridge	2500	2500	2636
Community Infrastructure	Mulleraterong	Access Path	2500	2500	2810
Community Infrastructure	Karate Hamilton Dojo	Safety Equipment	2500	2500	2500
Community Infrastructure	Byaduk Cricket Club	Pitch Mower	2161	2161	4322
Total			\$31,952.82	\$31,952.82	\$52,259.82

Financial and Resource Implications

The collaborative approach across Council grant categories opens opportunities for Council to work with the community to broaden the scope of ideas identified within applications to position these projects and or events to leverage external funding.

Applications for \$2,500 or greater must demonstrate cash contributions and must provide evidence of cash held, or applicants must be able to demonstrate their financial capacity to complete the project.

The grant amount approved by Council cannot be increased post-funding approval. In the case of a funding shortfall, funding will not be made available by way of a Council loan.

Legislation, Council Plan and Policy Impacts

The Community Partnership Grants Program Policy was adopted in December 2022.

Each Grant category requests that applicants ensure that their project or idea demonstrates a link to the Council Plan, Health and Wellbeing Plan or other endorsed Strategic Plans of Council.

The Community Partnership Grants program assists Council to deliver on key outcomes of the Council Plan 2021 - 25. The Council Plan establishes that we will:

- Support our Community
- Develop our Regional Economy
- Maintain and Renew our Infrastructure
- Protect our Natural Environment, and
- Provide Strong Governance and Leadership

Risk Management

There is a predetermined eligibility and assessment criteria with a set weighting, to identify and assess the risk exposure within each application. The assessment criteria ensure that projects and events have adequate control measures in place to ensure their successful and safe delivery.

Each grant applicant must also demonstrate that they comply with any legal or statutory regulations relevant to the project which they are seeking Community Partnership Grants funding. This includes (where relevant) appropriate insurances, food handling permits, liquor licences etc.

Environmental and Sustainability Considerations

No Environmental and Sustainability Considerations identified.

Community Consultation and Communication

Various Council staff engage with the community in relation to the Community Partnership Grants program at a range of meetings and workshops (including Councillor Engagement, Progress Association, club and user groups and event organiser meetings, etc). Staff also engage with applicants on a 1:1 basis and in group workshops, to provide support through the Community Partnership Grants process.

Grant recipients across all categories are required to complete a grant acquittal report. As part of the acquittal, Council seeks feedback from the grant recipient on ways in which the delivery of grants to the community could be improved.

The decision will be communicated through a media release to the general public, social media posts, via letters to the Grant recipients and through Council's Community E-Newsletter and township newsletters. The successful applicants will be notified by phone call and mail, and successful projects will be promoted on Council's website.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no direct or indirect interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That Council:

1. Notes \$31,952.82 of Community Partnership Grants of \$2500 and under approved under delegation.
2. Notes \$92,880 of Community Partnership Grants over \$2500 approved under delegation.

10.4 Community Public Health and Wellbeing Plan Annual Review

Directorate: Rory Neeson, Director Wellbeing, Planning and Regulation
Author: Roger Rook, Recreation Services Coordinator
Attachments: Annual Review – Southern Grampians CHWB Plan 2021-2025

Executive Summary

The Annual Review – Southern Grampians Community Public Health and Wellbeing Plan (CPHW) and the Southern Grampians CPHW Action Plan 2021-22 have been prepared to provide information regarding the performance of the community against the Southern Grampians Shire Council Community Public Health and Wellbeing Plan 2021-2025.

Discussion

The Southern Grampians CPHW Plan 2021-2025 was developed, in consultation with the community, to focus on the strategic health and wellbeing priorities for our community, while realising Council's vision of a growing, inclusive and connected community that fosters sustainability, diversity and innovation.

The Action Plan sets out the specific actions and includes a detailed list of community activities and projects that are being undertaken within various organisations within the Shire. These activities and projects have been identified during consultation with various partnership organisations and are intended to attain important outcomes for the strategic health and wellbeing priorities for our community.

A review on the progress of the Action Plan and key community public health and wellbeing indicators are reported to Council annually. This allows Council to receive timely, relevant and measurable information about how the community is performing. The Annual Review also provides an opportunity to realign the CPHW Plan if required.

The CPHW Plan includes two focus areas with 13 outcomes and 53 priorities. Of these 53 priorities:

- 37 priorities have actions that have been completed.
- six priorities have actions that are in development.
- 10 priorities are yet to have actions identified.

Details about the specific performance of the Annual Plan actions is detailed in the attached CHWB Action Plan.

Legislation, Council Plan and Policy Impacts

Council is required to prepare a Municipal Public Health and Wellbeing Plan in accordance with section 26 of the *Public Health and Wellbeing Act 2008* and subsequently undertake an annual review and if appropriate amend it.

This Plan is supported by the development of an Action Plan which details the actions that are being undertaken throughout the community by various organisations and Council departments to achieve the strategic objectives in the CHWB Plan.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That Council receive for information the Annual Review – Southern Grampians Shire Council Community Health and Wellbeing Plan Review and Action Plan for 01 July 2021 – 31 June 2022.

10.5 Peshurst Bushfire Place of Last Resort

Directorate: Rory Neeson, Director Wellbeing, Planning and Regulation
Author: Anja Johnsen - Acting Manager of Shire Strategy and Regulation
Attachments: None

Executive Summary

The Peshurst Progress Association submitted a petition in 2022 to Council to change the location of the Bushfire Place of Last Resort (BPLR) from 71 Bell Street to Peshurst Memorial Hall.

Several actions have been taken in response, including an inspection of the hall by the CFA and support from the Municipal Emergency Management Planning Committee. If Council approves the change, significant budget and work will be required, including removing vegetation, installing fire-safe mesh, and providing 24/7 access to the building. The hall has social and cultural significance but not architectural significance, and changes should be readily reversible. The hall is not Council-owned, all initial and ongoing costs required to meet the requirements of a BPLR will be at the cost of Council. The community of Peshurst needs a community hub, but a BPLR is not suitable for this purpose.

Council officers recommend keeping the BPLR in its current location and continuing education with the community on the role of a BPLR and how to better support the community's preparedness for fires.

Discussion

How did the issue come to the attention of the organisation?

The issue came to the attention of the organisation when the Peshurst Progress Association submitted a petition to Council on 28 January 2022, signed by 106 individuals, requesting a change to the Bushfire Place of Last Resort (BPLR) from its current location at 71 Bell Street to the Peshurst Memorial Hall located at 21 Martin Street.

What is the issue?

The issue is whether the Peshurst Memorial Hall is a suitable location for a Bushfire Place of Last Resort (BPLR) and what changes would be required to make the building safe and compliant with BPLR standards. The Peshurst Progress Association are requesting a change to the BPLR location from its current location at 71 Bell Street to the Peshurst Memorial Hall located at 21 Martin Street.

What options are available?

The options available are to either approve the Peshurst Hall as the new BPLR location or to keep the BPLR in its current location at 71 Bell Street. If Council approves the Peshurst Hall as the new BPLR location, changes will be required including removing vegetation and trees around the building, covering gutters and gaps with fire-safe mesh, installing a better air ventilation system, covering floating blue glass windows with fire safety mesh, supplying a water tank and firefighting hose, and providing 24/7 access to the hall for all community members.

What is being recommended and why?

Officers are recommending keeping the BPLR in its current location but continue to complete education with the community on the role of a BPLR and how they can better support the community in preparedness for fires. This is because the Peshurst Memorial Hall is owned by the State Government (DEECA) and is not Council owned. A significant budget would

also be required to complete the works required to make the building safe and compliant with BPLR standards. Additionally, the community of Penshurst needs a community hub where safety briefings ahead of extreme fire danger days, high heat days, and other potential emergencies can be held, which is not the purpose of a BPLR. Instead, Council has secured grant funding through the Safer Together Grant funding program to support community members in building resilience tailored to the specific needs of communities

Financial and Resource Implications

The Council incurred no expenses in preparing this report other than officer time, and there were no legal or specialised costs associated with its development. Additionally, there are no known financial risks associated with implementing the recommendations outlined in the report. The Safer Together Grant Funding has provided external funding of \$80,000 for community education and emergency evacuation planning in Penshurst.

Legislation, Council Plan and Policy Impacts

Section 66 of the Local Government Act 2020 empowers a council to establish, maintain, and manage a bushfire place of last resort in its municipal district. This includes the power to approve or deny the relocation of a bushfire place of last resort to a new location within the municipal district. The section also outlines the responsibilities of the council in managing and maintaining a bushfire place of last resort, including ensuring that it is adequately equipped and maintained, and that information about the location and use of the facility is made available to the public.

Risk Management

The following benefits/risks should be considered:

Benefits:

- Parties involved: The Penshurst Progress Association would benefit from having their petition addressed and the community would benefit from having a safer and more accessible BPLR location.

Risks:

- Community: The potential risks to the community include the cost of the required works, ongoing maintenance costs, and the loss of character of the building due to the necessary changes, such as the installation of fire-safe mesh and removal of vegetation.
- Parties involved: There are no significant risks to the parties involved.
- Other risks: There is a risk that the required changes to the building could result in a loss of cultural and social significance. There is also a risk that the building's ownership by DEECA could complicate matters and cause delays.

Mitigation:

The risks to the community could be mitigated by providing financial assistance for the required works and ongoing maintenance costs, and by ensuring that the changes made to the building are reversible where possible. Council could also work with DEECA to ensure that the necessary permissions are obtained in a timely manner.

The potential loss of cultural and social significance could be mitigated by ensuring that any changes to the building are sensitive to its historical and cultural context.

The risks associated with the ownership of the building could be mitigated by working closely with DEECA to ensure that all necessary permissions and agreements are in place before proceeding with any changes.

Environmental and Sustainability Considerations

The decision to make Penshurst Hall a potential BPLR involves an environmental consideration, as it will require the removal of vegetation, including large trees, to create a defensible space around the building. This action could have an impact on the local environment and wildlife, and any potential environmental risks should be carefully evaluated and mitigated.

Community Consultation and Communication

The Penshurst Progress Association was kept informed and engaged throughout the process of assessing Penshurst Hall as a potential BPLR, as demonstrated by the following actions. In January 2022, the association submitted a petition with 106 signatures to Council requesting a change in the BPLR location. Subsequently, the CFA conducted an inspection of the hall in August 2022, which was supported by the Municipal Emergency Management Planning Committee in December 2022. Council corresponded with the association on 12 December 2022, to provide updates on the issue, and a briefing was received by Council on 13 January 2023. Finally, council officers attended the Penshurst Progress Association on 22 February 2023, to provide an update on BPLR issue.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report have nothing to disclose.

RECOMMENDATION

That Council keeps the Bushfire Place of Last Resort in its current location in Penshurst and continues its education program with the community around fire preparedness.

10.6 Review of s11A Instrument of Appointment and Authorisation

Directorate: Tony Doyle, Office of the CEO
Author: Karly Saunders, Governance Coordinator
Attachments: s11A Instrument of Appointment and Authorisation

Executive Summary

Council appoints many powers to its staff through instruments of delegation and authorisation.

The s11A Instrument of Appointment and Authorisation appoints Council staff to be authorised under the *Planning and Environment Act 1987* and allows them to fully discharge their duties and responsibilities under that Act.

The s11A Instrument of Appointment and Authorisation has been updated to reflect recent staffing changes and is attached for Council consideration.

Discussion

The Act, and a variety of other legislation, makes express provision for the appointment of delegates to act on behalf of Councils and delegation of powers is essential to enable day to day decisions to be made and for the effective operation of the organisation.

The Instruments of Delegation and Appointment and Authorisation are prepared for Council by Maddocks Lawyers.

S11A Instrument of Appointment and Authorisation

The s11A Instrument of Appointment and Authorisation:

- Appoints the officers to be authorised officers for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
- Authorises the officers to institute proceedings for offences against the *Planning and Environment Act 1987* and the regulations made under that Act.

The previous Authorisation needs to be updated due to an additional staff member commencing in the Planning Team.

As with the delegations under the *Planning and Environment Act 1987* these appointments and authorisations must be made by Council and are not delegated by the CEO.

It is recommended that Council adopts the s11A Instrument of Appointment and Authorisation.

Financial and Resource Implications

Council subscribes to the Delegations and Authorisations service provided by Maddocks Lawyers, the cost of which is provided for in Council's budget.

There are no other financial implications in reviewing the Instruments of Delegation.

Legislation, Council Plan and Policy Impacts

Objective 5.1 – Provide transparent and responsible governance.

Risk Management

The use of the Maddocks service alleviates the potential risk of staff not being appropriately authorised in the exercise of various powers and functions. The updates are done regularly and capture any legislative changes. The service is available to all Victorian Councils which enables consistency

Environmental and Sustainability Considerations

Many of the activities undertaken by staff on behalf of Council have social, economic, or environmental effects, including many of the powers included in the instruments of delegation. The Instruments of Delegation ensure that the decisions are made by the most appropriate person or persons with the organisation.

Community Consultation and Communication

There is no requirement for community consultation in relation to the review of the Instrument.

Affected staff will be provided with confirmation of the amendments to the Instrument.

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

In the exercise of the powers conferred by the legislation referred to in the attached instrument, Council resolves that:

1. Council adopt the attached s11A Instrument of Appointment and Authorisation for the members of Council staff set out in the instrument.
2. The s11A Instrument of Appointment and Authorisation comes into force immediately the common seal of Council is affixed to the instrument and remains in force until Council determines to vary or revoke it, and on coming into force all previous s11A instruments are revoked.

10.7 Audit & Risk Committee - Minutes

Directorate: Darren Barber, Director People and Performance
Author: Darren Barber, Director People and Performance
Attachments: Minutes – 14 February 2023

Executive Summary

The Minutes from the November meeting as endorsed by the Audit and Risk Committee (ARC) are presented to Council for adoption.

Discussion

The Audit and Risk Committee, as an Advisory Committee of Council, fulfils both a statutory and consultative function. It provides feedback, advice and direction to Council. The intention is not to focus on financial risk which is adequately addressed by the external auditors, but rather to review internal processes in line with the culture of continuous improvement.

Legislation, Council Plan and Policy Impacts

The Local Government Act 2020 (Section 53).

Disclosure of Interests

All Council Officers involved in the development and advice provided in this Report affirm that no general or material interests need to be declared in relation to any matters in this Report.

RECOMMENDATION

That the Minutes for the Audit and Risk Committee meeting held on 14 February 2023 be noted.

11. Notices of Motion

There are no Notices of Motion listed on tonight's agenda.

12. Delegated Reports

Reports on external Committees and Representative Bodies for which Councillors have been appointed as a representative by Council.

13. Mayors and Councillors Reports

Address from the Mayor and Councillors in relation to matters of civic leadership and community representation, including acknowledgement of community groups and individuals, information arising from internal Committees, advocacy on behalf of constituents and other topics of significance.

14. Confidential Matters

There are no Confidential Matters listed on tonight's agenda.

15. Close of Meeting

This concludes the business of the meeting.