



Southern Grampians
SHIRE COUNCIL

Planning Committee

Minutes

24 July 2024

Meeting held at 9.30 am in the
Martin J Hynes Auditorium
5 Market Place, Hamilton

Contents

1. PRESENT.....	3
2. WELCOME.....	3
3. APOLOGIES.....	3
4. CONFIRMATION OF MINUTES.....	3
5. DECLARATION OF INTEREST.....	4
6. MATTERS FOR DECISION.....	5
6.1 TP-01-2024 394 Hartwicks Road, Hamilton	5
6.2 TP-101-2023 24 Griffin Street, Hamilton	16
7. NEXT MEETING	25
8. CLOSE OF MEETING.....	25

1. PRESENT

Councillors

Cr Mary-Ann Brown (Chair)

Officers

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

Daryl Adamson, Manager Shire Strategy and Regulation
Andrew Nield, Planning Coordinator
Anita Collingwood, Senior Statutory Planner
Tendai Mhasho Statutory Planner

Trudy Rickard, Planning Consultant

Andrew Lacey (Applicant)
Kath and Tim Hartwich (owners 394 Hartwichs Road)

Minutes

Sharon Clutterbuck, Executive Assistant - Director Wellbeing Planning and Regulation

2. WELCOME

Cr Mary-Ann Brown welcomed everyone

3. APOLOGIES

Cr Fran Malone

4. CONFIRMATION OF MINUTES

Minutes of the Meeting held on 20 May 2024 have been circulated.

RECOMMENDATION

That the Minutes of the Planning Committee meeting held on 20 May 2024 be confirmed as a correct record

COMMITTEE RESOLUTION

That the Minutes of the Planning Committee meeting held on 20 May 2024 be confirmed as a correct record

Moved: R Neeson
Seconded M Scanlon

Carried

5. DECLARATION OF INTEREST

Nil

6. MATTERS FOR DECISION

6.1 TP-01-2024 394 Hartwicks Road, Hamilton

Summary

Planning application TP-01-2024 seeks a permit for the subdivision of land at 394 Hartwicks Road, Hamilton into two lots, excising the existing dwelling on an 8.549ha lot and leaving the remainder as a farming lot of 48.26 hectares.

A permit is required under Clause 35.07-3 (Farming Zone) to subdivide land. Lots which have an area of less than 40 hectares may be created, provided the subdivision is to create a lot for an existing dwelling and the subdivision is a two-lot proposal. The proposal meets this nominal requirement but does not advance the purpose of the Farming Zone and is therefore recommended for refusal.

A permit is also required to subdivide land in the Heritage Overlay pursuant to Clause 43.01-1. The proposed boundary traverses this heritage place (HO467) and therefore does not support the ongoing conservation, maintenance and protection of the heritage place.

The Planning Committee is the delegate for planning applications recommended for refusal.

Proposal

The application proposes a two-lot dwelling excision with Lot 1 comprising an area of 8.549ha and containing the heritage place HO467 Wattle Park (German Cottage). Lot 1 has a frontage of 724.20 to Hartwicks Road and no change is proposed to the current road access. Lot 2 is proposed with an area of 48.26ha and a frontage to Hartwicks Road of 194.2m.

The cottage and associated heritage buildings are clustered in a garden setting with mature trees and hedgerows in the northwest corner of the site. Proposed Lot 1 includes these features, as well as the wastewater treatment system of the dwelling. The dam to the east of the dwelling is also proposed to be included in Lot 1, thereby separating it from the remaining Lot 2 farmland. Water from the dam is proposed to be continually used for the irrigation of the European garden around the cottage and is supplied with a pump and underground electricity supply on the western side of the dam.

According to the Applicant's written submission (Pierrepoint Planning, 2024, page 7), the area of land between the cottage (dwelling) and dam is low lying and has heavy soils which are not agriculturally productive. The land area is irrigated during summer to provide a green fire break on the eastern side of the dwelling. The land is within the Bushfire Prone Area and therefore subject to a bushfire hazard.

Lot 2 is vacant of any development save an old horse shelter setback approximately 32m from Hensley Park Road. The land has been used for sheep grazing, with the ground being sown with pasture grass and benefitting from wind buffers.

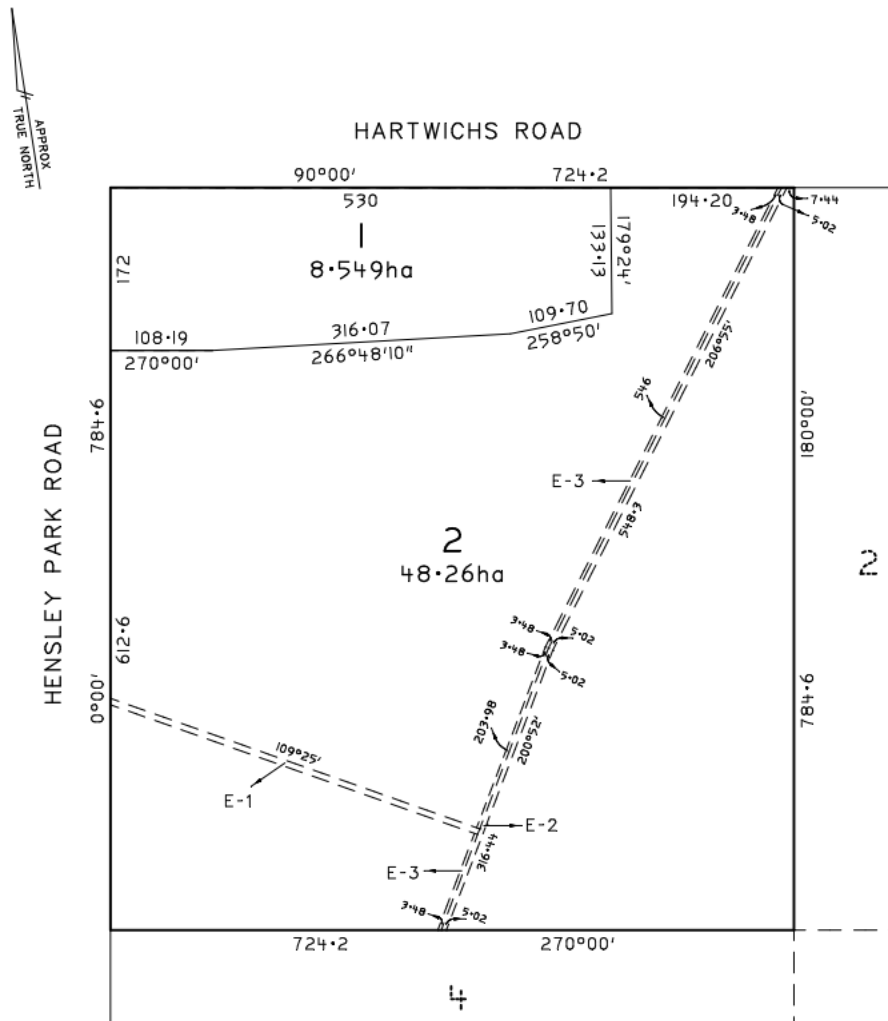


Figure 1 Proposed subdivision layout

Subject site and surrounding locality

The subject site is situated north of the Hamilton township at the corner of Hartwicks Road and Hensley Park Road. The site is known on title as Crown Allotment 1 Section 11 Parish of Hamilton North. The lot has no encumbrances other than two easements in favour of the Hamilton Waterworks Trust, as shown on the title plan.

The land has access via Hartwicks Road to the north. A dwelling (German cottage) and associated outbuildings, gardens and wastewater treatment system are located in the north-western corner of the site. The site has one dam and associated drainage lines. As per the further information provided by the applicant on 22 March 2024 (on page 48 of the Attachment 1), a disused pony stable and water tank are to be removed from the site.

The northwest corner of the site is mapped within the Heritage Overlay, as shown in pink on the map at Figure 4 below. The Heritage Place is defined as all the house, the lehmwickle bar, the timber stables, the timber barn and all of the land within 25 metres of the significant buildings. The proposed new boundary will traverse this heritage place as mapped in the Planning Scheme.

The surrounding area is used primarily for sheep grazing, with some scattered dwellings and contiguous land to the south and east being in the same ownership as the subject site.



Figure 2 Site map including contiguous land in common ownership, Pozi

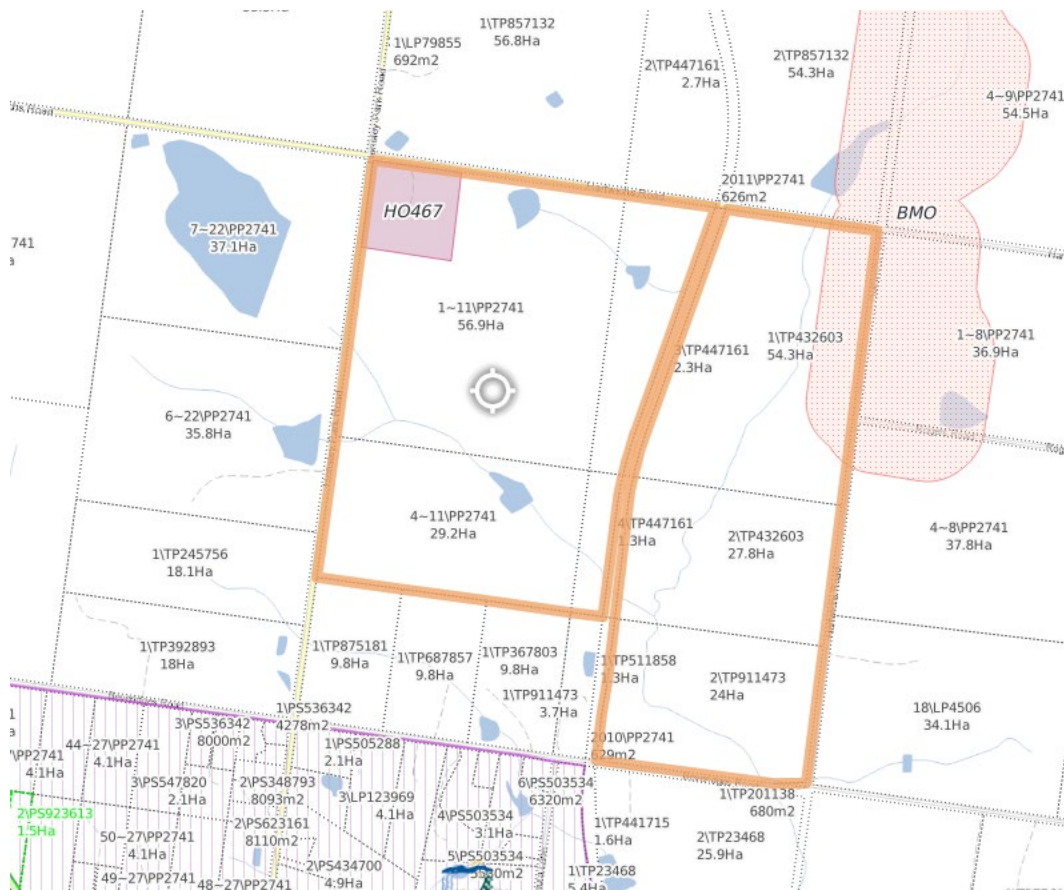


Figure 3 Site map showing planning overlays

Site history

Planning advice was given in 2020 relating to the construction of a shed which required a permit due to the shed being within a nominated setback of the Farming Zone.

The heritage place is of historical and architectural significance to the Southern Grampians Shire and is known for its ownership by the Hartwich family, with the fifth generation currently owning the land. Johann Carl Hartwich and his wife Anna Rosina, nee Raschke were German Lutheran immigrants who purchased the land in 1855 and constructed the early buildings. Johann and Anna's son Johann ('John') became known as one of the best farmers and graziers in the Hamilton District and continued to develop Wattle Park.

The current dwelling appears to be a late 19th-century structure and may not have been the original dwelling. The dwelling has been modified at various times, with the replacement of the original verandah being an evident change. The dwelling remains in good condition. A section of the original barn survives and features a traditional lehmwickle construction method. The barn was in poor condition at the time of the statement of significance (Attachment 2) being written in March 2004. The timber stables and barn are weatherboard framed and appear to date from the 1860s. These structures were, at the time of assessment, in fair condition and had only minor alterations to their original form. The established European style garden contributes to the significance and appeal of the heritage place.

Referrals

External: No referrals are required by the Planning Scheme.

Internal: The application was referred to Council's Environmental Health department. A response has not been received to date.

Public notice

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 signs (two) on site facing each road abuttal, and
- SGSC Website

The notification has been carried out correctly.

Council has received no objections to date, though one submission has been received.

Land to the west of the subject site (415 Hensley Park Road) is owned and managed by Wannon Water and is used for the Hartwichs Reservoir. Notice of the application was given to Wannon Water who has written to Council (17 June 2024, Attachment 3) to say the authority has no objection to the granting of a permit. Wannon Water requests the inclusion of a condition on any permit granted, though the authority is not a referral authority. The condition requires the plan of subdivision submitted for certification to be referred to Wannon Water in accordance with Section 8 of the *Subdivision Act 1988*. This is a requirement of the Act in any case and a permit would require such a condition to be included in accordance with Clause 66.01-1 of the Planning Scheme (*Mandatory conditions for subdivision permits*).

Planning framework

- Clause 10 Planning Policy Framework
- Clause 11 Settlement
 - Clause 11.01 Victoria
 - Clause 11.03 Planning for Places
- Clause 13 Environmental Risks and Amenity
 - Clause 13.02 Bushfire
- Clause 14 Natural Resource Management
 - Clause 14.01 Agriculture
- Clause 15 Built Environment and Heritage
 - Clause 15.01 Built Environment
 - Clause 15.03 Heritage

Clause 30 Zones

- Clause 35.07 Farming Zone

A permit is required to subdivide land pursuant to Clause 35.07-3.

Each lot must be at least 40 hectares. A permit may be granted to create smaller lots if any of the following apply:

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

A permit cannot be granted which would allow a separate lot to be created for land containing a small second dwelling (N/A).

Clause 40 Overlays

- Clause 43.01 Heritage Overlay

A permit is required to subdivide land pursuant to Clause 43.01-1.

Clause 50 Particular Provisions:

- None apply to this provision.

Clause 60 General Provisions:

- Clause 65 Decision Guidelines

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

- Clause 66.01 Subdivision Referrals

The proposed subdivision does not require referral to any external agency, as per the provisions of this clause. Mandatory conditions do apply, should a permit be granted for the application.

Other Considerations

Title Restrictions: None

Aboriginal Cultural Heritage: None mapped

Bushfire Prone Area: Yes, entire site is mapped.

Summary of key issues

1. Creation of a lot less than 40 hectares in area within the Farming Zone and on land that could readily be used for farming purposes.
2. Excision of a dwelling within close proximity of farming activities and with the potential to have no connection to farm activities once the land is sold on.
3. Creation of a lot boundary within close proximity of a dam.
4. Creation of a lot boundary within close proximity of heritage buildings and which traverses HO467 as mapped in the Planning Scheme.

Assessment

The application has been assessed against the relevant planning policy and provisions of the Southern Grampians Planning Scheme.

Clause 13.02-1S requires consideration of bushfire risk to people and property due to the site being within a bushfire prone area and the land being used for Accommodation. The proposed subdivision is unlikely to have a significant impact on the bushfire safety of the dwelling, although the reduced setback to the south would mean any future landowner or resident would have less defensible space which they can manage themselves and would rely on the owner of Lot 2 maintaining the grass on the southern side of the new boundary. The landscaped garden, absence of large native trees (which can lead to ember attack) and the availability of water from the dam for fire fighting and fire preparedness offer some protection for the dwelling and therefore the proposal is considered to maintain a suitable level of mitigation for bushfire risks.

Clause 14.01-1L seeks to ensure that subdivision and the use of land for accommodation do not compromise the existing and ongoing agricultural use of land. Strategies employed to achieve this objective 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.

Further policy guidelines of this clause which are of relevance are the requirement for a newly created lot for an existing dwelling to have a maximum size of 2ha unless this is not practical, a greater area is required for a dam for domestic purposes and/or the land is demonstrably to be used for agricultural purposes. Any lot created for an existing dwelling must also be habitable, compliant with the Building Code of Australia. In response to this guidance, it is noted that the proposed lot for the existing dwelling exceeds 2ha, having an area of 8.549ha, and is designed to include the cluster of buildings, on-site wastewater treatment infrastructure and the large dam which is used for irrigating the garden surrounding the dwelling. The dwelling, too, is in a habitable condition as determined by Council's assessing planner upon inspection on 12 February 2024 and therefore these preliminary expectations are met.

With regard to the purpose and strategies of Clause 14.01-1L and the purposes and decision guidelines of the Farming Zone (Clause 35.07) and Heritage Overlay (Clause 43.01), the application does not demonstrate the proposed dwelling excision is appropriate for the site. As discussed in the assessment below, the application does not meet the key objectives and is not considered to be orderly planning as required by Clause 65 Decision Guidelines.

The subject site has been used by a grazier family for several generations and the dwelling on-site is still owned and inhabited by members of that family. The application does not demonstrate that the dwelling is surplus to the needs of the farm, and the proposed Lot 1 will result in a small, eight-hectare lot being created that has no association with farmland or farming activities.

Aerial photographs of the locality indicate adjoining land owned by the family have dwellings and other buildings, however should the land be excised and sold-on, Lot 1 could be purchased and inhabited by residents with no association to the surrounding farmland. Such an arrangement has the potential to lead to land use conflicts and environmental impacts, such as spray drift, mechanical noise and animal noise and odour from farming operations so close. The proposed southern boundary for Lot 1 encircles the southern-most hedgerow but provides no meaningful buffer for the dwelling from current or future farm activities to the south.

A further consequence of house lot excisions is the unintended impact to land values. In considering subdivision proposals, Clause 14.01-1S requires the responsible authority to consider the impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production. The creation of small residential lots in non-residential areas alters the value of surrounding land and gradually transforms the rural character and viability of the farming zone. Small residential lots attract investment, such as the installation of telecommunications connections, rubbish collection and other utilities and services, thereby increasing the value of the land, enticing non-farmer

settlement and manipulating neighbouring land prices. Farmland prices increase, making the market increasingly difficult for new farmers to find affordable land. Additionally, the presence of scattered dwellings, particularly on small lots, sets a precedent and example for neighbouring landowners to construct dwellings, further fragmenting farmland and taking it permanently away from primary production. Gradually the landscape is transformed and the ability for Council to uphold and ability for farmers to benefit from the purpose of the Farming Zone becomes increasingly difficult.

Another land use concern is the proposed separation of the dam in the northeastern part of the site from the remaining land on Lot 2. The dam is of a substantial size and can be used, if not already, for irrigation of the land to support grazing and alternative farm activities (such as horticulture or the production of hay, pasture grass or other supplementary food). Currently, the dam is used to support the European style garden around the dwelling. It is acknowledged that the garden forms an important component of the heritage place and should be maintained, however the capacity of the dam should be sufficient to support the garden, bushfire prevention and farm needs of the land forming the subject site.

Another concern with the proposed subdivision layout is the proposed boundary skims the southern edge of the dam and appropriate setbacks have not been provided to ensure the dam can be easily repaired, maintained and drained by the landowner. The State of Victoria Department of Environment, Land, Water and Planning *Guidance Note on Setbacks near Dams 2022* document (Attachment 4) provides hydrological and geotechnical advice on dams and sets out setbacks for dams based on the size and design of dams, applying to dams with an embankment height of between 0.5m and 15m and sloping land downstream of dams of up to 10 degrees. Under this guidance note, a setback of up to 30 metres could be required. The applicant's marked up aerial photo (Attachment 5) indicates the boundary proposed will touch the southern embankment of the dam and therefore no setback is provided at all. No guarantee can be given that Lots 1 and 2 would be owned by the same person/s in perpetuity and therefore ongoing maintenance and repair of the dam may not be easily conducted without neighbourly issues. The proposal presents various safety and practical risks and therefore is not satisfactory.

A further concern with the proposed subdivision layout is the alignment of the proposed boundary which traverses the Heritage Place mapped in the Planning Scheme. Lot 1 would, as shown on the plans and marked up aerial photograph, include the buildings and garden but provides no buffer to ensure the land can be easily protected and maintained. Splitting the area of the overlay across two lots which can be sold to different owners will likely cause confusion for maintenance and future planning applications and is not orderly planning. Should a permit be granted for the dwelling excision, the southern boundary should be realigned to ensure the whole HO467 overlay area is located in a single lot to provide a better buffer and clear ownership obligations.

The proposed boundary does ensure the current wastewater system for the dwelling is included within the lot boundaries of the dwelling lot and is provided with a 20m setback for ease of maintenance. The marked up aerial photo shows the approximate location of the septic tank and pipeline, east of the dwelling. Whilst advice has not been given by Council's Environmental Health officer, the 8.549ha would be capable of accommodating an upgraded wastewater treatment system which will be required to bring the site up to compliance.

Conclusion

The proposed subdivision presents two new lots, one which would contain the existing historical residence and its associated buildings, garden, Hartwich Road access and dam, the other containing grazing land with two road frontages for new access. The northwest corner of the site is subject to the Heritage Overlay which covers the German cottage, stables and barns, as well as a well-kept European garden. Key concerns resulting from the creation of a small 8.5ha lot in an established farming zone include land use conflicts which may lead to

environmental and human harm, alteration of land values and permanent loss of viable agricultural land, including that on proposed Lot 2 due to necessary setbacks for the heritage place, on-site wastewater treatment infrastructure and dam. The proposed lot boundary traverses the Heritage Overlay, as mapped in the Planning Scheme, and provides little buffer for the ongoing protection and maintenance of the heritage place. Likewise, the subdivision provides no setback to the southern end of the dam and will result in future difficulties for the management and repair of the dam. The proposed subdivision is not supported by Council's assessing planning officer and therefore recommended for Refusal by the Planning Committee, delegate of the Responsible Authority.

MEETING PROCESS

The meeting was held in accordance with standard meeting procedures

Andrew Lacey, Planning Consultant

Mr Lacey attended the meeting speaking in support of the application on behalf of the owners of the land at 394 Hartwicks Road.

Prior to the meeting an email from Mr Lacey highlighting concerns about the references to the heritage overlay throughout the report. Planning Scheme maps seem to indicate the heritage overlay affected the application being discussed but the citation relates to a second property.

Director Rory Neeson responded and advised that Senior Planning Officer would provide a response in her presentation. Appears to be a mapping error.

Consultant report should have acknowledged the mapping error when it was written in December 2023.

Application lodged in December 2023 and was delayed in part due to requests for further information.

Kath Hartwich, Owner 394 Hartwicks Road

Hartwich Farm was purchased in mid 1850s. The house where the owners currently live is part of the original purchase. Hartwicks wish to keep original farm in family due to historical significance to the family. The intention is to still live in the present home but wish to proceed with subdivision to include the dam and the original farm in the excision and retain the majority of the original farm as a separate lot. The original homestead is currently being maintained with the intention that it be fully restored and lived in. It is the main home on the property. To ensure the viability of property the best outcome would be to excise the house and dam, rather than sell the whole 140 acres on the current title. Farm currently has 5 titles.

By subdividing house and retaining the rest of the farm it is felt that the Southern Grampians Planning Scheme requirements will be fulfilled by retaining agricultural land and parcels of land of significant size.

Tim Hartwich, Owner 394 Hartwicks Road

It is felt that the application would be best for the rest of the family farm as excision would assist in allowing the rest of the farm to be kept as a whole parcel of farming ground.

Andrew Lacey – Planning Consultant

Acknowledgement of Planning Policy and controls encourage protection of broadacre agricultural land right across the state.

Proposal is for 8.5 hectares excision which is slightly larger than usual. However this is because the dam is also part of the proposal which is relied on for domestic purposes.

Farming Zone provisions encourage protection of agricultural land but the application is made under Clause 35.07.0s which caters for small lot subdivisions. Planning Scheme provides the opportunity to make these sort of applications

Proposed boundary has been altered in response to concerns about the proximity of effluent lines and amended plans have been submitted to address that.

Meeting held with Planning Officer and in lieu of having a building assessment it was agreed that the house was habitable.

Encouraged committee to support the application. Planning Scheme provides ability for proposal to be approved.

Question – Cr Brown application is for 8.5 hectares which is quite large and asked if the reason was so that the dam could be included. Mr Lacey confirmed that this was the reason for the slightly larger size than usual as there is no real opportunity to build another dam closer to the house. The gardens rely on the dam for water.

Plan for 2 hectare subdivision was prepared by Brayley and Hayes but owners did not wish to pursue that due to loss of dam. Garden relies on water as well as for fire protection. Garden also provides fire break. No other opportunity to build another dam due to location of optic fibres.

Anita Collingwood, Senior Statutory Planner

Regarding Bushfire planning – planning scheme requires the application to give consideration to bushfire safety.

Clause 13.021s of the Planning Scheme – must be applied to all applications within a designated bushfire prone area. Subdivision applications are not exempt from this.

Under Clause 14.01 local policy – a requirement that any subdivision that creates a lot for an exiting dwelling then it is a requirement that the house needs to be habitable which is why the inspection was undertaken.

Dam setback could be up to 30 metres. Guidelines in attachments provide details of how that is calculated.

RECOMMENDATION

That Council, having given notice of planning application TP-01-2024 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 Refuse to Grant a Permit under the provisions of Clauses 35.07 and 43.01 of the Southern Grampians Planning Scheme in respect of the land known and described as 394 Hartwicks Road, Hamilton, Crown Allotment 1 Section 11 Parish of Hamilton North for the subdivision of land into two lots for a dwelling excision with the application dated 21 December 2023, subject to the following grounds of refusal:

1. The application is inconsistent with the purpose and outcomes sought by Clause 14.01-1S, Clause 14.01-1L and Clause 35.07 as it proposes a house lot excision that is not demonstrably necessary and which is likely to negatively impact primary production, land values and orderly use of the land within a Farming Zone.
2. The application is inconsistent with the purpose and outcomes sought by Clause 15.03-1S, Clause 15.03-1L and Clause 43.01 as it does not promote the ongoing protection and maintenance of a Heritage Place.

COMMITTEE RESOLUTION

That Council, having given notice of planning application TP-01-2024 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 Refuse to Grant a Permit under the provisions of Clauses 35.07 and 43.01 of the Southern Grampians Planning Scheme in respect of the land known and described as 394 Hartwicks Road, Hamilton, Crown Allotment 1 Section 11 Parish of Hamilton North for the subdivision of land into two lots for a dwelling excision with the application dated 21 December 2023, subject to the following grounds of refusal:

1. The application is inconsistent with the purpose and outcomes sought by Clause 14.01-1S, Clause 14.01-1L and Clause 35.07 as it proposes a house lot excision that is not demonstrably necessary and which is likely to negatively impact primary production, land values and orderly use of the land within a Farming Zone.

Moved: R Neeson
Seconded: M Scanlon

Carried

6.2 TP-101-2023 24 Griffin Street, Hamilton

Executive summary

Planning Application TP-101-2023 seeks a permit for the demolition of the heritage dwelling and associated sheds and garage on the land at 24 Griffin Street, Hamilton and construction of a replacement dwelling, together with garage and carport.

The land is located within the Neighbourhood Residential Zone and subject to the Heritage Overlay (HO), heritage place HO347 Church Hill Precinct Hamilton. A permit is required under Clause 43.01-1 (HO) for demolition of buildings, construction of buildings and the carrying out of works.

The application is recommended for Refusal on grounds of the demolition of the existing dwelling being inconsistent with the purpose of the Heritage Overlay and a poor planning outcome within a heritage precinct. The Planning Committee is delegated to determine an application where refusal to grant a permit is recommended by the planning officer.

Proposal

The application proposes the demolition of the existing early-20th-century dwelling and construction of a new dwelling in its position. Associated buildings and works, including a carport, garage, driveway, retaining wall and fences and tree removal are also proposed.

The existing single storey dwelling and its associated outbuildings, comprising two sheds and a large garage, are proposed to be demolished.

A total of fourteen tree and shrubs are proposed to be removed from the site, according to the submitted plans. Tree controls apply to the property under the Heritage Overlay Schedule 347. The proposed dwelling occupies a larger area than the existing dwelling and has a single storey form. A front setback of 5.67m is provided and a rear setback of 21.5m. The dwelling is setback 4.0m from the south-western boundary to accommodate a driveway and the proposed carport and a 3.02m setback to the north-western side boundary. The carport and garage are both setback 200mm from the side boundary and the garage setback 1.0m from the rear boundary. The dwelling has an alfresco to the rear and a landscaped garden with retaining walls and aggi drains for drainage. A new timber picket fence is proposed at the front boundary, with a gate and path providing pedestrian access. The existing vehicle crossing is to be retained.

Subject Site

The subject site is known as Crown Allotment 6 Section 16B Township of Hamilton Parish of Hamilton North. The lot has a rectangular shape oriented to the northwest and fronting Griffin Street. The lot has an area of 910.63 square metres.

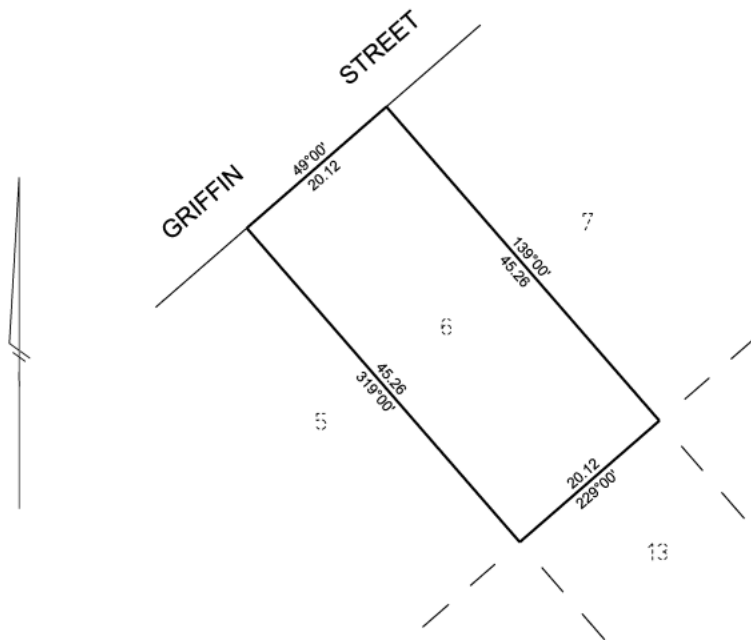


Figure 4 Title Plan

The site is developed with an early 20th-century dwelling with weatherboard cladding, tiled roof and a complex roof room. An open metal fence is erected along the street boundary and is a cream-white colour which coordinates with the white colour of the dwelling cladding. The site also has two sheds to the rear and an established garden.

The site is located southwest of the St Andrews Presbyterian church complex at the corner of McIntyre and Griffin Streets and is one of six residential lots on the south-western side of Griffin Street which feature heritage dwellings.

Council’s planner viewed the site from Griffin Street on 12 February 2024. The photo below was taken on that occasion.



Figure 5 Site photograph taken from Griffin Street 12 February 2024

Site history

Church Hill is known for its two towering church buildings, being the Christ Church Co Cathedral and St Andrew's Presbyterian Church, and prestigious residences. This precinct, as the name suggests, is elevated on a hill and is prominent from the surrounding area. Avenue tree planting, cottage gardens hedges and ornate fences also characterise the area and provide on-site and street amenity.

The subject site has remained relatively unaltered as far as Council's planning records show, with no recent planning applications or permits being found on file and no obvious additions being made to the site in recent years.

Public notice

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 one sign on site facing Griffin Street,
- SGSC Website.

The notification has been carried out correctly.

No objections have been received.

Referrals

External: No referrals are required by the Planning Scheme.

Internal: The application was referred to Council's Heritage Advisor who responded on 13 June 2024. The response has been included as Attachment 2 and is summarised as follows:

- The proposed dwelling is slightly larger than the existing dwelling and a modest dwelling designed in accordance with six points of advice provided previously.
- The demolition of the existing dwelling is not supported.

- The existing dwelling is reasonably intact and could be reasonably adapted to increase its liveability and improve energy ratings.
- The Heritage Overlay has been applied to ensure that the temptation to expediently replace dwellings which require maintenance and upgrades does not decimate the heritage character of our historic built environment.

Planning framework

Clause 10 Planning Policy Framework

- Clause 10 Planning Policy Framework
- Clause 11 Settlement
 - Clause 11.01 Victoria
 - Clause 11.01-1S Settlement
 - Clause 11.01-1R Settlement – Great South Coast
 - Clause 11.03 Planning for Places
 - Clause 11.03-1S Activity centres
 - Clause 11.03-6S Regional and local places
 - Clause 11.03-6L Hamilton
- Clause 15 Built Environment and Heritage
 - Clause 15.01 Built Environment
 - Clause 15.03 Heritage
- Clause 16 Housing
 - Clause 16.01 Residential Development

Clause 20 Local Planning Policy Framework

Planning Scheme Amendment C59sgra was gazetted on 16 July 2020. PSAC59 replaces the Local Planning Policy Framework of the Southern Grampians Planning Scheme with a new Municipal Planning Strategy, a modified Planning Policy Framework and local schedules to overlays and operational provisions as part of the Smart Planning Rules and Policy Program.

Clause 30 Zone

Clause 32.09 Neighbourhood Residential Zone

Pursuant to Clause 32.09-5, a permit is required to construct or extend one dwelling on a lot less than 300 square metres. As the lot is greater than 300sqm and there is only one dwelling on the lot, a permit is not required for the proposed dwelling extension.

Clause 40 Overlays

Clause 43.01 Heritage Overlay

Pursuant to Clause 43.01-1, a permit is required to:

- Demolish or remove a building,
- Construct a building or construct or carry out works,
- Remove trees where tree controls apply.

Clause 43.01-8 sets out decision guidelines to be considered.

Clause 50 Particular Provisions

No Particular Provisions apply.

Clause 60 General Provisions

Clause 65 Decision guidelines

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

Other Considerations

Title Restrictions: None

Aboriginal Cultural Heritage: None

Bushfire Prone Area: Not applicable

Summary of key issues

1. Demolition of an intact heritage building for the purpose of redevelopment of the land.
2. Construction of a new building in a heritage precinct.

Assessment

The purpose of the Heritage Overlay is –

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

Clause 15.03-1S seeks to ensure the conservation of places of heritage significance. Significant sites are included in the planning scheme for the purpose of protection, maintenance and enhancement. As articulated in the opening page of 'The Burra Charter', The Australia ICOMOS Charter for Places of Cultural Significance, 2023, "places of cultural significance enrich people's lives, often providing deep and inspirational sense of connection to community and landscape, to the past and to lived experiences". Buildings and other places of historical significance, such as the churches and residences within the Church Hill Precinct, are historical records and provide us a standing monument of Hamilton's past and continue to provide beauty and a sense of belonging for the township. These buildings are irreplaceable and therefore any proposed demolition of buildings and other contributory features must be weighed up carefully.

The Church Hill precinct has regional significance, as detailed in the Statement of Significance (Attachment 3 provided), and the residences in the precinct were constructed primarily for leading business and professional men and required squatters. The dwellings have been continuously surrounded and enhanced by planted trees and gardens, including strategic street tree planting. Griffin Street is in an older part of the precinct and Hamilton township and features bluestone cobble gutters and grass nature strips. The precinct reminds us of days past, of prominent townsmen and pastoralists and graziers of the Western District in Victoria.

The residence at 24 Griffin Street is one of six dwellings on the south-eastern side of Griffin Street from the corner of McIntyre Street that are mapped within the Heritage Overlay and is located in the middle of that row of properties. As such, the dwelling cannot easily be discarded without leaving a noticeable gap in the streetscape. Furthermore, the dwelling, which is an intact early 20th-century free-standing house significant to the precinct and, according to Council's heritage advisor, "makes a strong contribution to the heritage character of the place". The Heritage Overlay has been applied to prevent replacement of this and other significant dwellings in the precinct.

The dwelling has been modified previously to have a metal tiled roof and enclosed front verandah but is otherwise reasonably intact and maintains its historical integrity. The building could be carefully adapted to improve internal amenity and energy ratings rather than replaced altogether and thereby maintain its place in the precinct whilst being liveable for residents. Council's heritage advisor and assessing planning officer are of the opinion such a

modification would be a much better outcome for the heritage place. This opinion is reflective of the Burra Charter which, as articulated on page one, “advocates a cautious approach to change: do as much as necessary to care for the place and to make it useable, but otherwise change it as little as possible so that its cultural significance is retained”.

The overall development cost estimated by the applicant is \$500,000, for both the demolition and redevelopment and it is anticipated that the retention and adaptation of the dwelling, as an alternative approach to replacing the dwelling entirely, should not be cost-prohibitive for the landowner/s.

The proposed demolition will diminish the heritage place rather than maintain and enhance it and therefore is not supported by heritage principles and planning policy.

Tree removal:

Limited detail has been provided around the age, species and health of trees to be removed, however from the street view of the site it appears the trees are of good condition and contribute to the garden setting of the subject site and its surrounding landscape. The applicant has provided photos of trees and other vegetation on the Demolition Site Plan (Shape Building Design, no date). Though the trees to be removed appear well established, some are small species which do not significantly add to the garden character of the street. At a minimum, the two trees shown on the plan which are immediately in front of the dwelling should be retained as they provide mature greenery and appear healthy.

Development:

The proposed development, which comprises a new single storey dwelling, garage and carport, would be a sensitive addition to the site and heritage precinct were the existing dwelling not worthy of retention. The proposed dwelling is of a modern design but evidently inspired by the surrounding characteristics of the heritage place with the inclusion of a steeply pitched hip roof and horizontal cladding to match the existing dwelling's cladding. A front verandah with timber posts and gable roof also reflects the early-20th-century dwelling entryway of the existing and surrounding dwellings.

The proposed carport, to the south-western side of the dwelling, has a roof extension from the dwelling to tie in with the dwelling and provides a practical parking space for residents. The garage to the rear would provide further covered parking and storage space for residents and is setback from the street sufficiently to reduce its impact to the streetscape.

The erection of a timber fence to the north-eastern side of the dwelling facing the street is not supported the fence will obstruct the side view of the dwelling and reduce the ability of the site to contribute to the garden character of the street by having a visible side garden.

Indigenous flora is included in landscape plan and is supported.

Overall, the proposed development is considered to be appropriate for the Church Hill Precinct, being of a sympathetic design and a similar scale to neighbouring dwellings. Should a permit be granted for the demolition of the existing dwelling and construction of a replacement dwelling, a condition of the permit should require the establishment of a side garden and omission of the side front fence, or a minimum setback for the fence to ensure a side garden is established which can be viewed from the street.

Conclusion

The proposal includes two components, the demolition of the existing buildings on the subject site, including a heritage-protected early-20th-century dwelling which contributes to the Church Hill precinct, and the construction of a replacement dwelling and outbuildings to provide a new residence. The proposed development in itself is acceptable in a heritage place, however the loss of the existing heritage dwelling would diminish the heritage place rather than maintain and enhance it.

Church Hill is regionally significant for its architectural and social history, such as the two churches, and its prestigious and largely intact early 20th century and inter-war residences with their gardens and established street tree planting. The demolition of the dwelling from the site would create a noticeable impact on the street character, particularly as the dwelling is situated centre of a row of heritage houses and so close to St Andrew's Presbyterian Church.

The proposed dwelling and associated buildings and works, though well-designed and appropriate for the site in of themselves, cannot be supported as it relies on the destruction of the existing heritage protected dwelling. Heritage places are irreplaceable and are a living record of times and people past. For the Southern Grampians Shire, Church Hill Precinct is a reminder of prominent businessmen, graziers and squatters in Hamilton's early history.

It is recommended that the application be refused as it is inconsistent with planning and heritage principles, guided by the Burra Charter and explicitly managed by the Southern Grampians Planning Scheme, which seek to protect places of historical importance.

MEETING PROCESS

Anita Collingwood, Senior Statutory Planner

Application is for demolition of the existing dwelling at 24 Griffin Street and replacement with a new dwelling.

When there is a heritage building that is protected, the heritage overlay is there to protect. Planning Scheme is looking for enhancement of heritage places, keeping them in good condition and maintaining their use. Concern is that the proposal would allow demolishing a building that is integral to the precinct and is contained in a row of heritage houses.

While design of new house is respectful for a heritage precinct, it does provide a gap Existing house appears to be in good condition. The cost of adapting would likely be less than a new build cost.

Recommending refusal due to losing an intact heritage style in the precinct.

RN – Question on front extension on original house. Front verandah looks like it has been built in.

Heritage adviser believes verandah hasn't been built on, rather it has been built in. No aerial photos have been looked for that might help clarify that further.

No building report on condition of building has been received.

Looks like there has been a number of changes to the building – roof, extensions. In regard to the timber, Cr Brown wondered how much of the heritage character has been preserved. It's a very mixed precinct.

Heritage adviser provided advice to applicants about ways to keep the original building but no further advice was sought.

Design of proposed house appears to be in keeping with the character of the area.

RECOMMENDATION**Refusal**

That Council, having given notice of planning application TP-101-2023 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 Refuse to Grant a Planning Permit under the provisions of Clause 43.01 of the Southern Grampians Planning Scheme in respect of the land known and described as 24 Griffin Street, Hamilton, for Demolition and Buildings and Works subject to the following grounds:

Grounds of Refusal

1. The proposed demolition of the dwelling is inconsistent with the purpose of Clause 15.03 and Clause 43.01 of the Southern Grampians Planning Scheme which seek to conserve, maintain and enhance places of heritage significance.

COMMITTEE RESOLUTION

That Council, having given notice of planning application TP-101-2023 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 Grant a Permit under the provisions of Clause 43.01-1 of the Southern Grampians Planning Scheme in respect of the land known and described as 24 Griffin Street, Hamilton, for Demolition and Buildings and works in accordance with the endorsed plans, with the application dated 4 December 2024 subject to the following conditions.

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. Any side and front fencing designed to complement the heritage character of the site and maintain views to the garden.
 - b. An amended landscape plan showing the following details:
 - i. A survey of all existing vegetation to be retained and/or removed, including the botanical name of each species.
 - ii. A description of the landscape character of the Church Hill heritage Precinct and a Design Response for the landscaping of the site which is consistent with this landscape character.
 - iii. Details of surface finishes of pathways and driveways, consistent with any other plans showing this information.
 - iv. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant. The Plan must not include the use of any

- environmental or declared noxious weeds and all plant species selected must be to the satisfaction of the Responsible Authority.
- v. Landscaping and planting within all open areas of the site where practicable.
2. The demolition and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

LANDSCAPING AND NATIVE VEGETATION

3. Within three (3) months of the completion of the dwelling or within the next applicable planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. The landscaping must thereafter be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

DRAINAGE

4. All runoff from stormwater, including overflow from water storage, must be directed to a legal point of discharge to the satisfaction of the Responsible Authority.

EXPIRY AND TIME LIMITS

5. This permit will expire if one of the following circumstances applies:
- The demolition, development or tree removal is not started within two years of the date of this permit.
 - The demolition, development and tree removal is not completed within four years of the date of this permit.

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

Permit Notes

- This permit does not authorise the commencement of any building works. Building approval must be obtained under the Building Regulations 2018 prior to the commencement of any approved works.
- The existing street tree/s must not be removed or damaged.

Moved: Marg Scanlon
Seconded Cr Brown

Carried

7. NEXT MEETING

28 August, 2024

16 September, 2024

8. CLOSE OF MEETING

Meeting closed at 10.49am