



Southern Grampians
SHIRE COUNCIL

Planning Committee

Minutes

20 May 2024

To be held at 1.00 pm in the
Martin J Hynes Auditorium
5 Market Place, Hamilton

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1. PRESENT

Councillors

Cr Mary-Ann Brown
Cr Fran Malone

Officers

Rory Neeson, Director Wellbeing Planning and Regulation
Darren Barber, Director, People and Performance

Daryl Adamson, Manager, Shire Strategy and Regulation
Anita Collingwood, Senior Statutory Planner
Pauline Porter, Environmental Health Coordinator
Tendai Mhasho, Planner

Steve Myers (Applicant)
Tom Barber (landowner, 306 Mill Road Hamilton)

Minutes

Sharon Clutterbuck, Executive Assistant - Director Wellbeing Planning and Regulation

2. WELCOME

3. APOLOGIES

Marg Scanlon, Director Infrastructure and Sustainability

4. CONFIRMATION OF MINUTES

Minutes of the Meeting held on 6 May 2024 have been circulated.

RECOMMENDATION

That the Minutes of the Planning Committee meeting held on 6 May 2024 be confirmed as a correct record

COMMITTEE RESOLUTION

That the Minutes of the Planning Committee meeting held on 6 May 2024 be confirmed as a correct record

Moved: Cr Malone
Seconded: R Neeson

Carried

5. DECLARATION OF INTEREST

Nil

6. MATTERS FOR DECISION

6.1 Planning application Planning application TP-06-2024 – 306 Mill Road, Hamilton

Executive Summary

This planning application is for the use and development of a second dwelling at the subject site at 306 Mill Road, Hamilton. A shed is also proposed, however insufficient information has been provided to assess this component.

The subject site is zoned Farming Zone and has no overlays affecting it. The site has a total area of approximately 3.2 hectares and currently contains a three-bedroomed dwelling and some outbuildings. The existing dwelling is to be retained while some outbuildings are proposed for removal. The proposal is for an additional four-bedroomed dwelling on the site and an additional shed.

The assessment of the planning application for a second dwelling on a Southern Grampians farming allotment highlights the inconsistency of the proposal with zoning provisions and policy objectives of the Planning Scheme. Such a development on a 3.2-hectare lot raises compatibility concerns with intended land use and zoning goals.

The applicant's justifications do not adequately address the potential negative impacts of an additional dwelling in a rural area. The proposal for a second dwelling is problematic with respect to the Farming Zone's purpose and an approval may set a precedence, risking the proliferation of dwellings in farming areas and will result in the permanent loss of productive agricultural land. Largely, the proposal focuses on the personal motivations for the activity, rather than agricultural needs and broader community good.

Given that the proposal lacks a strategic basis and does not comply with the provisions of the Farming Zone, as well as agricultural policy at state and local levels, the application is recommended for refusal.

Proposal

The application proposes the use and development of the subject land for a second dwelling. The existing dwelling is proposed to be retained. The applicant wishes to construct a family residence and use the existing dwelling at the site to house employees from his earthworks business.

The existing dwelling comprises three bedrooms, bathroom, a kitchen, living area and laundry. The site also contains several outbuildings, troughs and water storage tanks, a few paddocks and sheep yards.

Second dwelling

The applicant is proposing a second dwelling consisting of an open plan living area, dining and kitchen area, four bedrooms, parents' retreat, study, alfresco and a single garage to be built within a 55m x 20m proposed building envelope. A new crossover to Mill Road is proposed with a separate 3.5m wide all-weather access driveway for the second dwelling. It is apparent from an inspection of the site that preparatory work has already been completed for this new accessway.

Setbacks of the proposed second dwelling include:

- 77.31 metres from Mill Road
- 58.42m from the west/side boundary
- 41.5m from the east/side boundary
- 112.41m from the Grange burn river/south boundary

The applicant proposes to connect both the existing dwelling and the proposed second dwelling to two primary treatment septic tanks or one 4500L septic tank with 152m of 1.6m wide effluent wick trenches. It is proposed the site will have a 35m x 35m wastewater envelope east of the existing dwelling and north of the proposed second dwelling.

Both dwellings will be connected to a reticulated electricity supply, and an alternative potable water supply will be provided through rainwater tanks, ensuring sufficient storage for domestic use and fire-fighting purposes. These are requirements of the zone which can be met.

The proposal also includes a 144sqm shed 10m west of the proposed new dwelling. It is proposed to be setback approximately 32.42m from the west/side boundary and 141.98m from the Grange Burn river/south boundary. No plans have been provided for the shed and therefore this component cannot be properly assessed.

The application also proposes earthworks to create a level building site for both the proposed dwelling and the outbuilding. Following a recent site inspection, Council officers note that the applicant has already commenced earthworks at the site without planning permission.



Figure 1: showing earthworks that have commenced at the site.

It is also proposed to demolish several outbuildings at the site. A planning permit is not required for demolition works.

The applicant has provided the following information which summarises the intent of the owner:

'Our client owns and operates Walkers Earthworks, a locally run family business. The company, employing up to 12 staff, with an additional 3-4 seasonal workers during dry months,

is a significant business in the Southern Grampians municipality. The primary activities of Walkers Earthworks include operating a bluestone quarry at Harmans Road and providing diverse civil contracting services such as road making, driveways, and hardstand areas.

Our client's motivation for acquiring the Subject Site is twofold: to construct a family residence and to offer housing for their company's employees'.

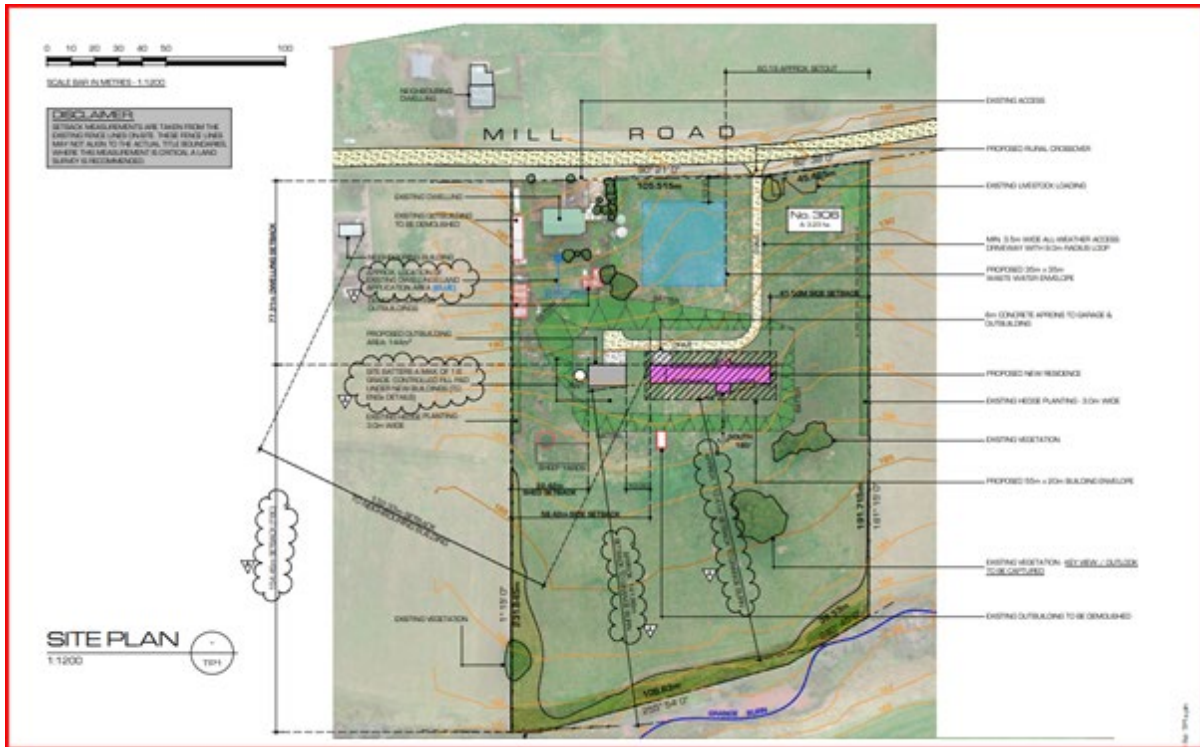


Figure 2: Proposed Site Plan

Refer to submitted plans for full details.

Subject Site & Locality

The land is contained within Certificate of Title Volume 08477 Folio 873, identified as Crown Allotment 23, Section D, Parish of Hamilton North.

The subject site has an approximate area of a total 3.2 hectares.

The site has access from Mill Road on the northern boundary of the site. The land gently slopes from the north boundary (Mill Road) towards the Grange Burn River in the south.

There are no encumbrances stated on the title documents.

The subject site has mature vegetation along the Grange Burn River and scattered around the site but has very few mature trees.

Although the site contains sheeyards and paddocks, the site is not currently used for any agricultural production.

The existing dwelling and outbuildings are located in the northwest corner of the site and can be accessed through a driveway from the northern boundary (Mill Road).

Neighbouring properties along Mill Road are of similar size, all zoned Farming Zone (FZ) and each contain a single dwelling. No neighbouring properties contain two or more dwellings.



Figure 3: Subject site highlighted

Permit/Site History

The following planning permits are associated with the site:

- TP/115/2019 – Building and works to construct a Shed – this permit expired on 2 December 2021.

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* by sending notices to the owners and occupiers of adjoining land. No objections were received.

Referrals

Referrals were undertaken for this planning application pursuant to Section 52 of the *Planning and Environment Act 1987*.

Referrals/Notice	
Section 52 Notice	Comment
Country Fire Authority	No objection.
Glenelg Hopkins CMA	No objection.

DEECA – Department of Energy, Environment & Climate Action	No response.
Internal Council Referrals	Comments
SGSC Environmental Health	Recommends refusal. Comments are below.

The following comments were provided by Council's Environmental Health Officer:

It is recommended that Town Planning Permit TP-06-2024 be refused, due to the following summarised reasons:

Refusal Reasons:

- Proposed development and its onsite wastewater management system is unsuitable and poses an unacceptable risk of harm to the environment and human health (refer to the below email for further details).
- *Holmes Mcleod Consulting Engineers Pty Ltd Land Capability Assessment Report no. V23-174 dated 22 August 2023* (LCA report) not to a standard acceptable to the Responsible Authority.
 - The LCA report does not adequately identify or assess the development of 2 dwellings and sites environmental and public health limitations.
 - The LCA report does not detail appropriate measures to mitigate proposed developments negatively impacting on the sites and area environmental and public health limitations.
 - LCA report does not detail the cumulative impact of treating sewage from 2 dwellings in a primary treatment onsite wastewater management system on allotment classified [Southern Grampians Shire Domestic Wastewater Management Plan \(2019\)](#). High hazard on-site (CoS) onsite wastewater management system Land Capability Hazard Classification.
 - The proposed primary treatment onsite wastewater treatment system is inconsistent with [Southern Grampians Shire Domestic Wastewater Management Plan \(2019\)](#). High hazard on-site (CoS) onsite wastewater management system requirements; High hazard on-site (CoS) require onsite wastewater management systems to have higher level of treatment, best practice design, construction, maintenance, and oversight essential to manage risk and meet health and environmental protection requirements.
 - The allotment's High Hazard on-site (CoS) is likely to increase as the development proposal of 2 dwellings with a combined 7 bedrooms reduces the available land of the onsite wastewater management system effluent area, increase sewage and effluent compared to one 4–5-bedroom dwelling on which the onsite wastewater management risk management modelling is based on.

Planning Framework

Clause 00 Purpose and Vision

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

- Clause 02.01 Context

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

- Clause 02.02 Vision

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

The Council Plan (2021-2025) identifies five priority areas. Those relevant to land use and development are to:

- Grow the regional economy.
- Maintain and renew the infrastructure.
- Protect the natural environment.

- Clause 02.03 Strategic directions

- o Clause 02.03-1 Settlement

Hamilton (pop 8,888 (ABS, 2017)) is the major urban centre in the Shire. It contains a strong service sector, including health, education and administrative services, as well as an established and thriving central business district serving a regional and local role.

Housing consists predominantly of conventional detached dwellings. Hamilton has two key areas of industrial land: to the south-west and to the north-east, around Coleraine Road.

The landscape and environment in and around Hamilton exerts a strong influence on the city. It has a wealth of heritage buildings and precincts, including numerous churches, and 19th century civic, commercial and residential buildings.

- o Clause 02.03-3 Environmental risk and amenity

Floodplains

Parts of the Shire are affected by flooding, and there is a need to protect floodplains from inappropriate development. The protection of life and property from flood events is also an important issue for the Shire.

In managing flooding, Council will:

- Ensure urban development seeks to mitigate flooding risks.

- Apply the precautionary principle to development within flood prone areas.
 - Plan for the protection of life, property and community infrastructure from flood hazard.
 - Maintain the natural flood carrying and storage capacity of floodplains and waterways.
 - Avoid intensifying the impacts of flooding through inappropriately located uses and developments.
- Clause 02.03-4 Natural resource management

Agriculture

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

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

Agriculture is supported by established infrastructure and services, scientific research and development, and training and professional services. Dwellings and small lot subdivision in the Farming Zone can impact detrimentally on agriculture and the rural character of an area.

In supporting agriculture, Council will:

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

- Clause 02.04 Strategic framework plan



Figure 4: Strategic Framework Plan

Clause 10 Planning Policy Framework

The Planning Policy Framework includes a number of policies that relate to this proposal. The Planning Policy Framework (PPF) and the Local Planning Policy Framework give direction supporting the objectives of planning in Victoria (as set out in Section 4 of the *Planning and Environment Act 1987*) and are fostered through appropriate land use and development policies and practices.

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

Clause 11.01-1S Settlement – seeks to facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

Clause 11.03-6S Regional and local places – seeks to facilitate integrated place-based planning.

Clause 11.03-6L Hamilton – this policy applies to all land shown in the Hamilton Structure Plan and Hamilton City Centre Urban Design Framework maps (Hansen Partnership, 2011).

Clause 12 Environmental and Landscape Values

Planning should help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values.

Planning must implement environmental principles for ecologically sustainable development that have been established by international and national agreements. Foremost amongst the national agreements is the Intergovernmental Agreement on the Environment, which sets out key principles for environmental policy in Australia. Other agreements include the National Strategy for Ecologically Sustainable Development, National Greenhouse Strategy, the National Water Quality Management Strategy, Australia's Strategy for Nature 2019-2030, the National Forest Policy Statement and National Environment Protection Measures.

Planning should protect, restore and enhance sites and features of nature conservation, biodiversity, geological or landscape value.

Clause 12.03-1S River and riparian corridors, waterways, lakes, wetlands and billabongs – seeks to protect and enhance waterway systems including river and riparian corridors, waterways, lakes, wetlands and billabongs.

Clause 13 Environmental risks and amenity

Planning should strengthen the resilience and safety of communities by adopting a best practice environmental management and risk management approach.

Planning should identify, prevent and minimise the risk of harm to the environment, human health, and amenity through:

- Land use and development compatibility.
- Effective controls to prevent or mitigate significant impacts.

Planning should identify and manage the potential for the environment and environmental changes to impact on the economic, environmental or social wellbeing of society.

Planning should ensure development and risk mitigation does not detrimentally interfere with important natural processes.

Planning should prepare for and respond to the impacts of climate change.

Clause 13.03-1S Floodplain management

To assist the protection of:

Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows.

The natural flood carrying capacity of rivers, streams and floodways.

The flood storage function of floodplains and waterways.

Floodplain areas of environmental significance or of importance to river, wetland or coastal health.

Clause 14.01-1S Protection of agricultural land – aims to protect the state's agricultural base by preserving productive farmland.

Strategies include:

Identify areas of productive agricultural land, including land for primary production and intensive agriculture.

Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.

- Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.
- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.
- Prevent inappropriately dispersed urban activities in rural areas.
- Protect strategically important agricultural and primary production land from incompatible uses.
- Limit new housing development in rural areas by:
 - Directing housing growth into existing settlements.
 - Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
 - Encouraging consolidation of existing isolated small lots in rural zones.
- Identify areas of productive agricultural land by consulting with the Department of Energy, Environment and Climate Action and using available information.
- In considering a proposal to use, subdivide or develop agricultural land, consider the:
 - Desirability and impacts of removing the land from primary production, given its agricultural productivity.
 - Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
 - Compatibility between the proposed or likely development and the existing use of the surrounding land.
 - The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
 - Land capability.
- Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.
- Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.
- Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.

- Clause 14.02-1S Catchment planning and management – aims to assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment.
- Clause 14.02-2S Water quality – aims to protect water quality.

Farming Zone

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

Pursuant to Clause 35.07-1 a planning permit is required use the land for a second dwelling (Section 2). A planning permit is also required for the buildings and works of the dwelling under Clause 35.07-4 as it is in association with a Section 2 Use.

Pursuant to Clause 35.07-2 a lot used for a dwelling must meet the following requirements:

Access to the dwelling, small second dwelling or rural worker accommodation must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.

Each dwelling, small second dwelling or rural worker accommodation must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.

The dwelling, small second dwelling or rural worker accommodation must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.

The dwelling, small second dwelling or rural worker accommodation must be connected to a reticulated electricity supply or have an alternative energy source.

The Schedule to the Farming Zone notes that the minimum lot size for when a dwelling can be constructed without a planning permit is 40 hectares. The subject lot is less than 40 hectares and more than one dwelling is proposed so a permit is required.

Further, the decision guidelines outlined at Clause 35.07-6 must be considered by the responsible authority.

Overlays

The land is not affected by any planning overlays.

Relevant Particular Provisions

Clause 52.06 Car Parking

Clause 52.06 applies to new uses.

Car parking and access can be provided in accordance with the requirements of Clause 52.06-5 and Clause 52.06-9.

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 65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider this clause.

Summary of Key Issues

The key issues for consideration are:

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

Assessment

An evaluation of the planning application for a second dwelling has been carried out to weigh the proposal against the provisions of the Southern Grampians Planning Scheme. While recognising that the development of a second dwelling within the Farming Zone is a Section 2 use that can be considered, it is evident that the proposed second dwelling, situated on a relatively small lot of approximately 3.2 hectares, is incompatible with the overarching objectives of the zoning regulations.

The Farming Zone decision guidelines underscore the significance of sustainable land management for proposed use and development. This entails careful consideration of how the proposed second dwelling aligns with agricultural activities, whether it contributes to the fragmentation of productive agricultural land, and its potential to proliferate dwellings that might impede ongoing agricultural operations in the region.

The local and state policies explicitly seek to restrict new housing in rural areas, reflecting a commitment to preserve the integrity of agricultural land and maintain the rural character of the region. This commitment extends to limiting housing development to instances where it demonstrably supports and enhances agricultural land utilisation. The existing zoning specifications and the Planning Policy Framework (PPF) reaffirm this stance, emphasising that any proposed housing must unequivocally demonstrate its essential connection to agricultural needs. Furthermore, the proliferation of dwellings in non-residential areas, such as the Farming Zone, creates a need for additional infrastructure and servicing, such as rubbish collection, telecommunications connections and utilities infrastructure. Residential zones are carefully planned and managed to provide adequate amenity and access to services which rural zones do not afford.

The applicant has failed to demonstrate the necessity of a second dwelling to facilitate or enhance agricultural practices on the land or surrounding area. The presented arguments fall short of justifying the adverse consequences of introducing an additional dwelling on this small rural lot. Instead, the applicant has focused more on the provision of employee accommodation for his business and the provision of a family home both of which are not agriculturally related nor, make use of rural land for its preferred purpose. The proposal could negatively impact the farming viability of the area and set a precedence in the surrounding Farming Zone.

The application lacks a farm management plan that highlights how the land will be used for agricultural or farming purposes instead the applicant notes that the subject site has long been removed from agricultural production and that it is not of a size that can be used for any meaningful agriculture. The applicant has focused on a transition of the Mill Road area into tourist and accommodation uses though this area is wholly within the Farming Zone and similar sized neighbouring properties are primarily used for agriculture.

A further evaluation of the proposal reveals that the justifications provided for the use and development of a second dwelling at the site primarily centres on a vision for tourist orientated uses and personal needs with no demonstratable links to agriculture. The applicant has included the following statement, *'The proposal supports this by offering additional accommodation along Mill Road. While initially intended for worker accommodation, it remains flexible for potential alternative uses, including short-term accommodation.'* Both State and local policy presents a strong desire to ensure continuing agricultural productivity by limiting the permanent loss of productive agricultural land and the proliferation of dwellings in the Farming Zone. This means that the continued future expansion of multiple dwellings in the surrounding area is unlikely to be supported from a policy perspective. Additionally, the

allotment size in the Mill Road locale predominantly features lots that are approximately 3ha to 4ha in size and there are no examples of multiple dwellings. Allowing such an arrangement outside of an existing settlement without substantial justification is inappropriate and not an acceptable planning outcome.

Rural Land Use Strategy

The proposal is inconsistent with the *Rural Land Use Strategy* adopted 10 May 2023, which seeks to protect agricultural land and environmental assets by establishing town growth boundaries to avoid urban sprawl. Dwellings for accommodation purposes should be located within identified settlement boundaries of townships, rather than in rural areas. The background report recommended the following principles within the Farming Zone:

- Rural residential development will be discouraged on productive agricultural land.
- Existing townships and settlements including land within the residential zones, will remain the focus for new dwelling development to avoid further fragmentation of rural land and land use conflicts.
- Rural residential development will not impede the long-term urban growth of Southern Grampians' settlements.
- Rural residential development will be located in areas serviced by physical and social infrastructure, or in locations where infrastructure improvements can be undertaken without significant cost or environmental impacts.
- The location of rural residential development will seek to avoid or minimise adverse impacts on the environment, native vegetation and biodiversity.
- Rural residential development will be discouraged in areas prone to environmental hazards, and where the risk or environmental cost of making people safe is too high.

Furthermore, it is recommended in the *Rural Land Use Strategy* that policy should continue to support the position where productive agricultural land is unencumbered by unwanted dwellings and where small lots already exist, the ongoing use of the land for agriculture will be the primary consideration in the assessment of permits for dwellings.

Hamilton Structure Plan

The *Hamilton Structure Plan 2012* currently has no plans to rezone this land from the Farming Zone to a less restrictive zone that allows for residential use.

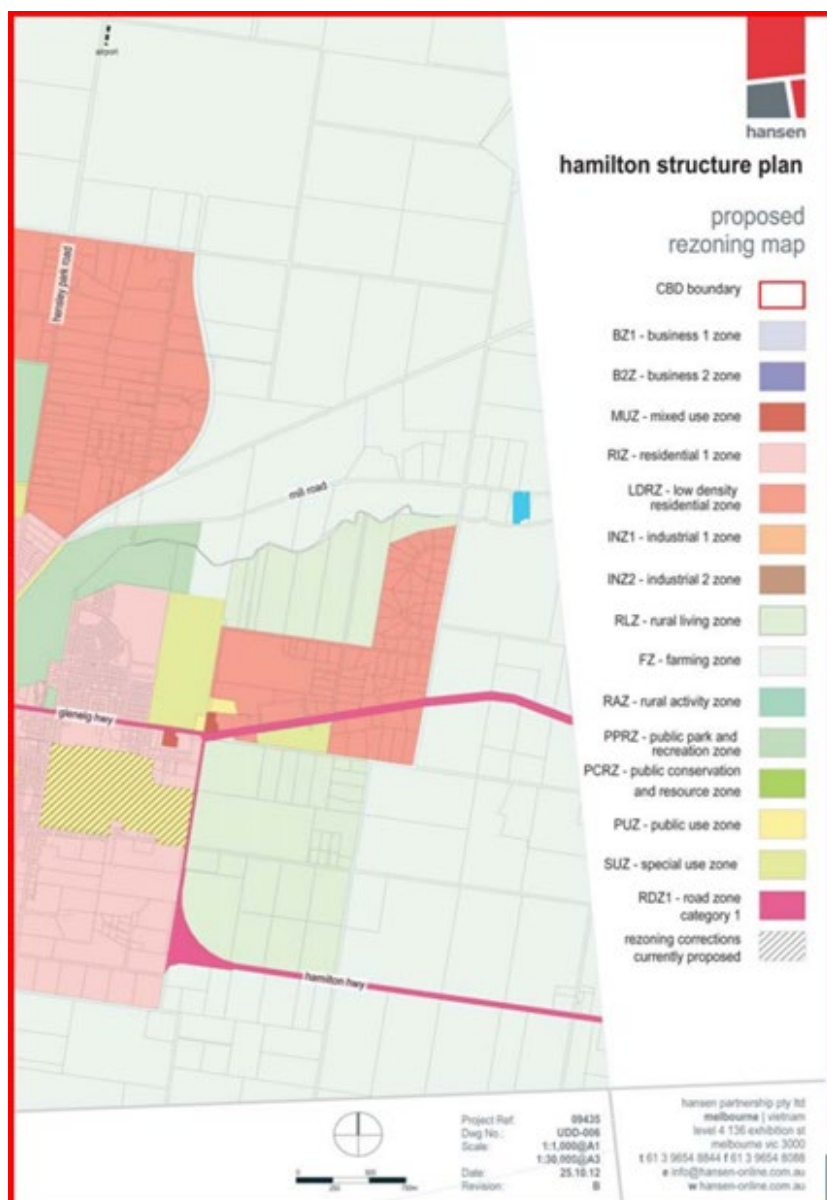


Figure 5: Hamilton Structure Plan proposed rezoning map showing 306 Mill Road in the colour blue.

Wastewater Management

The applicant has provided a Land Capability Assessment Report no. V23-174 dated 22 August 2023 (LCA report) prepared by *Holmes Mcleod Consulting Engineers Pty Ltd* which proposes the two dwellings to be connected to two primary treatment septic tanks or one 4500L septic tank with 152m of 1.6m wide effluent wick trenches. Council’s Environmental Health Officer has provided comments that this proposed development and its onsite wastewater management system is unsuitable and poses an unacceptable risk of harm to the environment and human health. The on-site (CoS) hazard is likely to increase as the development proposal of two dwellings, with a combined seven bedrooms, reduces the available land for the onsite wastewater management system effluent area and increases sewage and effluent compared to one four-to-five-bedroom dwelling on which the onsite wastewater management risk management modelling is based on. The Land Capability Report submitted by the applicant has not addressed the environmental protection risk. The Grange Burn waterway and riparian zone is a sensitive receiving environment. Therefore, for these reasons she recommends refusal as the proposed on-site wastewater management system is not to a standard acceptable to the Responsible Authority.

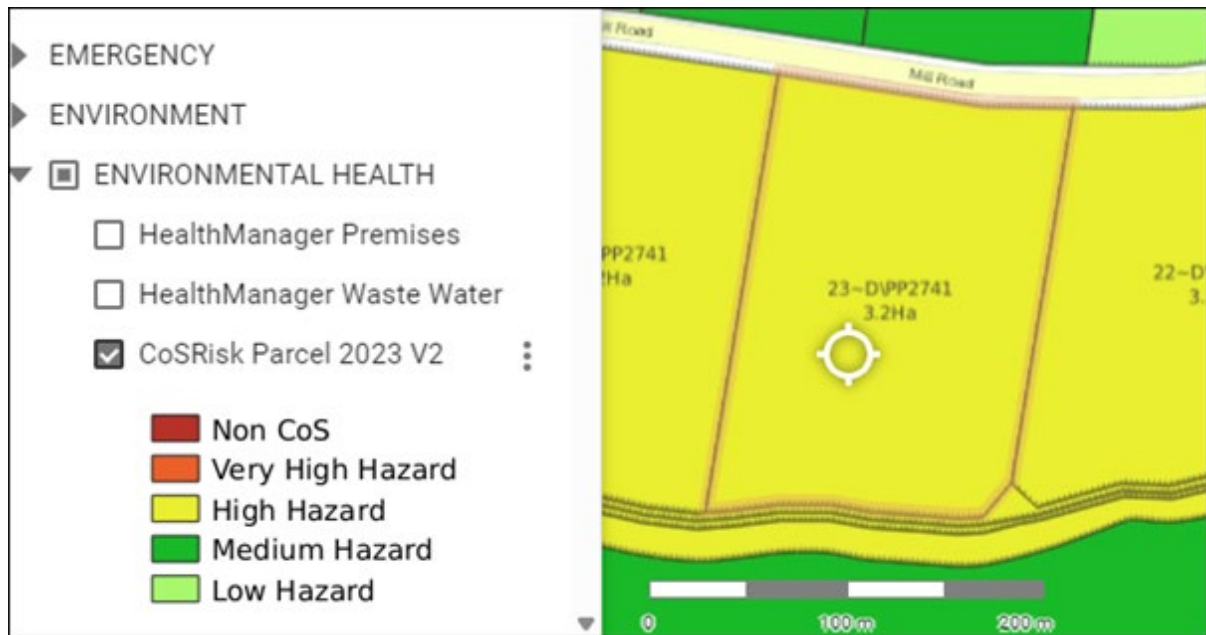


Figure 6: showing that the onsite wastewater management system Land Capability Hazard Classification for the subject property is High Hazard on-site (CoS) for (1) contemporary dwelling (e.g. 4-5 bedroomed house) as per the Southern Grampians Shire Domestic Wastewater Management Plan (2019).

In addition, the LCA report identifies the overall Land Capability risk as poor but inadequately addressed the risk by just recommending effluent wick trenches to be installed in clay soil. The LCA report does not discuss the reasons why primary wastewater treatment was selected instead of secondary or advanced secondary wastewater treatment. The Grange Burn is the receiving water of Lake Hamilton, which regularly experiences algal blooms from high nutrients levels (including elevated phosphorus, nitrogen and E.coli as per the *Victorian Environmental Reference Standard*. Lake Hamilton experienced its most recent algae blue in March 2024 where warning signs were erected on Lake Hamilton foreshore to inform people to avoid swimming, water skinning and any form of direct contact with the water as per the *Blue Green Algae Regional Coordination Plan* and the *Victorian Blue Green Algae Circular*. Exposure to elevated blue green algae can cause skin irritation and result in premature death of humans. During the winter and spring, the Grange Burn waterway is observed to increase in width, greater than its normal width and the waterway also fans out into the land, picking up nutrients and faecal matter not normally in the waterway’s reach during the other times of the year. Presently the Flood study data is available up to Robson Road, Hamilton and no further west along the Grange Burn. The Planning Scheme indicates Flood Overlay (FO) and Land Subject to Inundation (LSI01) north and south of the Grange Burn as far as the flood study reaches which is consistent to the flooding observed by the Grange Burn west of Robson Road, Hamilton.



Figure 7: shows the Flood Overlay (FO) and Land Subject to Inundation (LSI01) on and along the Grange Burn to Robsons Road Hamilton where the flood study finishes, up stream of Lake Hamilton.

In conclusion, the current application for a second dwelling does not align with the core objectives of the Farming Zone as outlined in Clause 35.07 and is inconsistent with planning policy at Clause 14.01-1S. The absence of a detailed farm management plan or an agricultural productivity report, prepared by a qualified expert, further weakens the application's foundation. Ultimately, the proposed second dwelling fails to deliver an orderly planning outcome for the locality and threatens the agricultural integrity of the site. Given these considerations, the application for a second dwelling on the specified property should be refused.

Conclusion

This report has assessed the proposal against the relevant provisions of the planning scheme and demonstrates the proposal presents an inappropriate outcome for the following reasons:

- The application is contrary to the purpose of:
 - o Clause 35.07 – Farming Zone.
 - o Clause 14.01-1S - Protection of agricultural land.
 - o Clause 14.02-1S - Catchment planning and management.
 - o Clause 14.02-2S Water quality.
- The application does not demonstrate how the wastewater requirements of Clause 35.07-2 can be met.
- The application is contrary to the objectives and strategies of the Planning Policy Framework and Municipal Planning Strategy.
- Having regard to Clause 65 of the Southern Grampians Planning Scheme, the proposal is not in line with the existing dwelling pattern or orderly planning of the area.

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

References

1. [Victorian Environmental Reference Standard](#).
2. [Blue Green Algae Regional Coordination Plan](#)
3. [Victorian Blue Green Algae Circular](#)
4. [Southern Grampians Shire Domestic Wastewater Management Plan \(2019\)](#)

MEETING PROCESS

The meeting was held in accordance with standard meeting procedures.

Tenda Mhasho, Planning Officer

This planning application is for the use and development of a second dwelling at the subject site at 306 Mill Road, Hamilton. A shed is also proposed, however insufficient information has been provided to assess this component.

The subject site is zoned Farming Zone and has no overlays affecting it. The site has a total area of approximately 3.2 hectares and currently contains a three-bedroomed dwelling and some outbuildings. The existing dwelling is to be retained while some outbuildings are proposed for removal. The proposal is for an additional four-bedroomed dwelling on the site and an additional shed.

Given that the proposal lacks a strategic basis and does not comply with the provisions of the Farming Zone, as well as agricultural policy at state and local levels, Officers are recommending refusal of the permit application.

Steve Myers, Planning Consultant

Mr Myers attended the meeting speaking in support of the application on behalf of the owners of the land at 306 Mill Road Hamilton.

Applicant disagrees with the grounds for refusal and believes the proposal aligns with the strategic objectives of the Farming Zone.

Owners of land operate a local earthworks business.

Property purchased in 2023 with intention of building a replacement house

Currently site has 3 bedroom house.

Land is not large enough to support agricultural activity.

Intention to use second dwelling in part to address shortage of housing in the region.

Submission by Applicant distributed to Committee members.

Cr Brown asked a question – asked for clarification on installation of advance secondary treatment onsite wastewater management system. Applicant confirmed that is the case.

Question around drainage and asked what the planis. Culvert leads to almost the centre of the block which has been drained to eastern side of land and would drain towards the creek and avoid the building parcel

Anita Collingwood, Senior Statutory Planner

Clarified that a small secondary dwelling is not as of right unless land is over 40 hectares. On this particular size lot a permit is required as would a second dwelling or new dwelling.

Question to Planning Consultant asked if township was 6 minutes away, why do workers need to be accommodated on this particular site in the farming zone?

Response – primarily looking for a permit to build a new home. Existing home doesn't suit owners. Ordinarily the existing dwelling would be decommissioned however in this instance owners feel that while it is not suitable for their needs, could be suitable for someone else.

Cr Malone asked a question where workers were currently living.

Response – Previous employee of Earthworks business has expressed an interest in working for the company again but is unable to find any suitable housing in Hamilton.

Daryl Adamson, Manager, Shire Strategy and Regulation asked a question about erection of shed and purpose. Response is that it is not intended to be used for business purposes.

Committee members felt that as long as water and septic issues are addressed adequately there is no issue with issuing permit for second dwelling.

Important to include a Section 173 Agreement in alternative motion stipulating that land can not be further subdivided and the owner acknowledges agricultural activities in the vicinity of the land at 306 Mill Road.

Applicant needs to demonstrate the land application in addressing wastewater concerns.

Separate application for permit for wastewater would be required if alternate motion was accepted.

RECOMMENDATION

That Council having caused notice of Planning Application No. TP-06-2024 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to issue a Notice of Decision to Refuse to Grant a Permit in respect of the land known and described as 306 Mill Road, Hamilton for the Use and Development of the land for a dwelling (Second dwelling), based on the following grounds:

Grounds for Refusal:

1. The application is contrary to the purpose of:
 - a. Clause 35.07 – Farming Zone.
 - b. Clause 14.01-1S - Protection of agricultural land.
 - c. Clause 14.02-1S - Catchment planning and management.
 - d. Clause 14.02-2S Water quality.
2. The application does not demonstrate how the wastewater requirements of Clause 35.07-2 can be met.
3. The application is contrary to the objectives and strategies of the Planning Policy Framework and Municipal Planning Strategy.
4. Having regard to Clause 65 of the Southern Grampians Planning Scheme, the proposal is not in line with the existing dwelling pattern or orderly planning of the area.

COMMITTEE RESOLUTION

That the Planning Committee decide to issue a planning permit for planning application TP-06-2024 for land known and described as 306 Mill Road, Hamilton, for Use and Development of the land for a dwelling (Second dwelling) subject to the following conditions:

Amended Plans

1. Before the commencement of the buildings and works, 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. Omission of the outbuilding.
 - b. The location and dimensions of existing and proposed onsite wastewater management treatment tank, effluent areas and sewerage pipes in relation to the buildings, driveways, watercourse, dams, rainwater tanks, stormwater drains, water pipe, fences and allotment boundaries.
 - c. A landscape plan showing the following details:
 - i. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, sizes at maturity, and quantities of each plant. It is required that the species are native and indigenous to the Southern Grampians Shire.
 - ii. Re-establishment of vegetation in cleared area around the approved dwelling where practicable including irrigation method and mulching.
 - iii. Location of existing trees.

Landscaping needs to support ground stability and be designed to prevent erosion into the Grange Burn. The Plan must not include the use of any environmental or declared noxious weeds. All species selected must be to the satisfaction of the Responsible Authority.

Endorsed Plans

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Section 173 Agreement

3. Before the commencement of the development, an Agreement under Section 173 of the *Planning and Environment Act 1987* must be entered into with the owner of the lot. The Agreement must set out the following obligations:

- a. The land may not be further subdivided so as to create a lot for the new second dwelling.
- b. The owner acknowledges and accepts the possibility of nuisance from agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic, and hours of operation.

The Agreement must be registered on title pursuant to Section 181 of the *Planning and Environment Act*. The agreement must be registered prior to the commencement of works associated with the construction of the approved dwelling.

All costs relating to the preparation and registration of the Agreement must be borne by the applicant.

Environmental Health

4. Stormwater discharge must only be distributed across the property by sheet flow (i.e. along a contour). No sheet flow discharge point may occur within five (5) metres of the lowest property boundaries and any discharge point must not be located so as to surcharge the onsite wastewater management system.

Wastewater management

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

Drainage

6. The approved dwelling must be drained to the satisfaction of the Responsible Authority and no concentrated stormwater may drain or discharge from the land to adjoining properties or the Grange Burn.

Access

7. A new crossover from the Mill Road, road reserve must be constructed in accordance with the Infrastructure Design Manual (IDM) Standard drawing (SD) 255 with an unsealed surface. A Working Within Road Reserves Permit will be required.

Permit Expiry

8. This permit will expire if one of the following circumstances applies:
 - a. The development is not started within two years of the date of this permit.
 - b. The development is not completed within four years of the date of this permit.
 - c. The development is not used for two continuous 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.

Notes:

- This permit does not authorise the commencement of any building works including demolition. Building approval must be obtained prior to the commencement of any works.
- Before the development is approved by this permit is occupied, Certificate of Use of an On-site Wastewater Management System must be issued as required under the Environment Protection Act 2017, to the satisfaction of the Responsible Authority.
- A planning permit will be required for the proposed outbuilding or any other buildings and works except where relevant exemptions apply under the Planning Scheme.
- An advance secondary treatment onsite wastewater management system with nutrient reduction must be constructed concurrently with the dwelling/building works hereby permitted, so that all liquid waste is at all times contained within the curtilage of the lot. The design and installation of any wastewater disposal system for any building on the land must comply with Southern Grampians Shire Domestic Wastewater Management Plan (2019), Victorian EPA Code of Practice Onsite Wastewater Management 891.4 and Municipal Association of Victorian Land Capability Assessment Framework (January 2014) and Australian Standards 1547: On-site domestic wastewater management, as updated.
- As part of the septic permit an Amended Land Capability Assessment (LCA) will be required. The LCA must detail the management of all onsite wastewater in a manner that sustainably minimises risk to human health and the environment and effluent is maintained within the allotment boundaries in accordance with Southern Grampians Shire Domestic Wastewater Management Plan (2019), Victorian EPA Code of Practice Onsite Wastewater Management 891.4, Municipal Association of Victorian Land Capability Assessment Framework (January 2014) and *Australian Standards 1547: On-site domestic wastewater management*, as updated.

Moved: Cr Malone
Seconded: D Barber

Carried

7. NEXT MEETING

Next meeting is scheduled for 26 June, 2024 between 9.00-11am.

8. CLOSE OF MEETING

Meeting closed at 1.45pm