



**Southern Grampians**  
SHIRE COUNCIL

# Planning Committee

## Minutes

3 July 2023

To be held at 12:15pm in the  
Martin J Hynes Auditorium  
5 Market Place, Hamilton

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**1. PRESENT**

**Councillors**

Cr Mary Ann Brown  
Cr Albert Calvano

**Officers**

Ms Susannah Milne, A/g Director Wellbeing Planning and Regulation  
Ms Marg Scanlon Director Infrastructure and Sustainability  
Mr Andrew Nield, Acting Manager Shire Strategy and Regulation

**Minutes**

Ms Sharon Clutterbuck, Executive Assistant – Director Wellbeing Planning and Regulation

**2. WELCOME**

**3. APOLOGIES**

Mr Rory Neeson Director, Wellbeing Planning and Regulation

**4. CONFIRMATION OF MINUTES**

Minutes of the Meeting held on 14 June 2023 have been circulated

<b>RECOMMENDATION</b>
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That the Minutes of the Planning Committee meeting held on 14 June 2023 be confirmed as a correct record.

**COMMITTEE RESOLUTION**

That the Minutes of the Planning Committee meeting held on 14 June 2023 be confirmed as a correct record.

**Moved:** Ms Marg Scanlon  
**Seconded** Cr Calvano

**Carried**

**5. DECLARATION OF INTEREST**

Nil

**6. MATTERS FOR DECISION****6.1 Planning application TP/133/2022 for 111 Bell Street, Peshurst**

Attachment 1 – Planning Report

Attachment 2 – Southern Grampians Domestic Wastewater Plan

Attachment 3 – Form 4 Planning Permit

Attachment 4 – Adaptive Wastewater Solutions for Peshurst

**Summary**

Planning application TP/133/2022 proposes the re-alignment of a boundary at 111 Bell Street, Peshurst. Pursuant to Clause 32.05-5 (Township Zone), a permit is required to subdivide land. The application proposes the existing dwelling be located on proposed Lot 1 which has an area of 1,106 square metres (sqm) and the existing sheds to be located on proposed Lot 2 with an area of 1,948sqm. One shed, which would straddle the proposed boundary is proposed to be removed from the land. Due to the size of the lots, insufficient space is available for the continual storage and treatment of wastewater generated by the dwelling. The existing sheds, too, would not be able to have any toilets, wash facilities or other water fixtures as there is insufficient space to accommodate wastewater within the lot. The application fails to demonstrate that wastewater can be stored and treated according to current industry standards and therefore it is recommended that the application be refused.

**Context**

The subject site is located on the southern side of Bell Street, at the corner of Burchette Street. The surrounding area comprises lots of around 1,000-2,500sqm, with some smaller lots, such

as 31 Burchett Street having a smaller area of around 630sqm (this particular lot appears to be developed with a shed). Lots are typically of a rectangular shape, fitting the grid-like pattern delineated by the road network. Road reserves are wider than average and Bell Street, to the front of the site, is sealed and has angled parking.

The subject site is a near-rectangular shaped site comprising of two lots. Both lots are in common ownership. An existing dwelling is situated on the western side of the site, within what is currently Crown Allotment 9 Section 13 Township of Peshurst Parish of Boramboram. Five sheds and a cellar are also established on this lot. This shed is used for storage of materials and equipment associated with the owner's carpentry business. The lot to the east is known as Lot 1 on Plan of Subdivision 348776T and contains two drainage easements which run north-south along the western boundary (the eastern edge of the largest shed).

The owner lives nearby but not on the subject site and would like to sell the dwelling on what is proposed to be Lot 1 and continue to access the sheds on proposed Lot 2.

There are two existing vehicle crossovers at Bell Street which could be used for access for the respective lots proposed.



Figure 1 Site within context, Pozi

### Site History

Planning permit TP/102/2015 was issued on 9 March 2016 for the re-subdivision of two lots (boundary realignment). Condition 1 of the permit required the owner/applicant to submit a Land Capability Assessment for approval by the responsible authority prior to a statement of compliance being issued for the submission. This condition was not satisfied and the permit has since expired.

### Planning requirements

Pursuant to Clause 32.05-5, a permit is required to subdivide land. This includes changes to boundary alignments where the number of lots is not increased. An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 and must meet all the relevant objectives in the table at Clause 32.05-5 and should meet all of the specified standards. The application has been accompanied by a response to each of these matters and generally the proposal is compliant.

No overlays apply to the land.

Clause 66.01 Subdivision Referrals specifies that a boundary re-alignment does not require external referrals but sets out requirements for permits where granted. Clause 66.01-1 specifies that an application that does not require referral under Clause 66.01 must contain conditions relating to the supply of water, drainage and sewerage facilities, electricity and gas (where proposed). The plan of subdivision must also be referred to the relevant authorities for such utilities and easements, roads and sites for utility services must be set aside on the plan.

### Discussion

The subject site has a total area of 3,055sqm and is developed by a dwelling on the western side of the site and multiple sheds. Lot 2 proposed would have the largest and second largest sheds established on it. A third shed, shown on the proposed subdivision plan to the south of the site, straddles the proposed boundary line and would need to be removed to ensure there is no future conflict with ownership. The western wall of the largest shed abuts the proposed boundary line and would require the installation of a fire rating wall to meet current building regulations. The shed appears to be well worn and the cost effectiveness to bring the building into compliance with the building regulations may be prohibitive.

A further issue with the location of the sheds is the potential for land use conflicts. If the realignment were approved, the main shed would be located on the boundary to the lot with the existing dwelling. The dwelling could be sold to a new owner and this owner may be unaware of the use of the shed. Whilst the shed is currently used for storage of goods, it could be used for other purposes that could impact future residents of the dwelling.

The key issue for this proposal, however, is the inability of the site to meet current wastewater requirements. Penshurst currently has no reticulated water services and is not located within a Wannon Water sewer district. This means that despite Lot 2 having an existing sewerage easement (E-1), wastewater from each property must be retained and treated within the boundaries of the lot. The implication of this is that properties, such as the subject site, have limited capacity for intensified use or for changes to the lots.

Lot 1 proposed has an area of 1,106sqm and Lot 2 an area of 1,948sqm. The *Southern Grampians Shire Domestic Wastewater Management Plan (2019)* (the 'Wastewater Management Plan') identifies onsite wastewater management systems are unable to maintain long term sustainability on unsewered allotments of less than 2,000sqm. This is regardless of the land capability. The Wastewater Management Plan details a minimum lot size of 4,000sqm for long term sustainable management of wastewater. Given the total lot size is less than 4,000sqm (being 2,008sqm), the site is highly constrained and unlikely to be capable of safe and sustainable, long term onsite wastewater management.

It is proposed that the lot comprising the existing dwelling would be reduced from 2,023sqm to 1,106sqm, significantly reducing the area available for wastewater requirements of that dwelling. Retention of the outbuildings on that lot would further reduce the area of available land, and wastewater system have setbacks that need to be met.

The application has been accompanied by a Land Capability Assessment (LCA) from 2016 and no recent information has been supplied to demonstrate that the site can accommodate wastewater sustainably. The LCA report proposes the use of an Environment Protection Authority (EPA) -approved secondary treatment plan with subsurface drip irrigation directed to the lawn. This irrigation area would use essentially all the 'backyard' space of the lot and wrap around the eastern side and back of the sheds. Lot 2 would be provided with a 3,000 litre (L) septic tank with waste treated and directed to a Evopotranspiration trenches east of the lot.

The application has been referred to Council's Environmental Health Officer (EHO) who has provided advice around the wastewater requirements that apply in the Southern Grampians. The EHO has identified issues with the proposal, summarised as follows:

- Both proposed lots are less than 2,000sqm and are therefore highly constrained and unlikely to be capable of safe and sustainable on-site wastewater management in the long term.
- The site generally does not have sufficient available area to fit an adequately sized onsite wastewater system, whilst meeting recommended setback distances to waterways, ground water bores and other sensitive receiving environments.
- High hazard sites, such as the subject site, are problematic as individual and/or cumulative hazards significantly elevate the likelihood and/or consequences of septic system failure.
- Minimum lot size for long term sustainable onsite wastewater management is 4,000sqm of useable land (area free from dams, watercourses and other such constraints).
- Penshurst has shallow permeable soils and sensitive groundwater environment beneath the town (see *Adaptive Wastewater Solutions for Small Towns – Penshurst and Cudgee Options Analysis Report (2020)*).
- Generally, a dwelling generates more wastewater than a shed and therefore the proposed boundary re-alignment, which seeks to reduce the area of land for the dwelling, is not appropriate.
- The application, including the LCA, has not addressed –
  - How the proposal will prevent impacts on human health and the environment (specifically the environmental protection principles in the *Environment Protection Act 2017*) ('EPA 2017').
  - How the proposal is consistent with the *EPA 2017* and *Environmental Protection Regulations 2021* ('EP Regulations 2021') requirements.
  - How the proposal meets guidance and good industry practices for managing and minimising public health and environmental risks, noting the LCA report from 2016 predates Council's Wastewater Management Plan, the *EPA 2017* and *EP Regulations 2021*.

The deficiencies of the application and the constraints of the site have been communicated to the permit application leading up to this recommendation, with sufficient time being provided

for an up to date LCA or other assessments to be provided. The application fails to demonstrate that, in the absence of reticulated sewers, the wastewater generated from each lot can be safely and sustainably treated and retained within each lot.

### MEETING PROCESS

The meeting was held in accordance with standard meeting procedures.

### RECOMMENDATION

That the Committee Refuse planning application TP/133/2022 for a Boundary re-alignment at 111 Bell Street on the grounds set out as follows:

1. The application fails to demonstrate that each lot can safely and sustainably accommodate on-site wastewater systems, in accordance with the Southern Grampians Shire Domestic Wastewater Management Plan (2019) and Environmental Protection Authority Code of Practice for On-site Wastewater Management.

### COMMITTEE RESOLUTION

That the Committee Refuse planning application TP/133/2022 for a Boundary re-alignment at 111 Bell Street on the grounds set out as follows:

1. The application fails to demonstrate that each lot can safely and sustainably accommodate on-site wastewater systems, in accordance with the Southern Grampians Shire Domestic Wastewater Management Plan (2019) and Environmental Protection Authority Code of Practice for On-site Wastewater Management.

**Moved:** Marg Scanlon  
**Seconded:** Susannah Milne

**Carried**



## **7. CLOSE OF BUSINESS**

Meeting closed at 12.48pm