

Assessment Against Planning Scheme



Planning Application No. P095-24

Responsible Officer: Claire Wilkinson – Senior Statutory Planner

Existing - Dependent Persons Unit

Council's electronic records for the subject site indicate that a Planning Permit was not required under the exemptions of the Planning Scheme at the time of construction of the Dependent Persons Unit (DPU). At the time of those works, former Clauses 62.02-1 and 62.02-2 exempt DPU's requiring a planning permit for 'building and works' unless specifically stated. The development file for the property contains the requisite Building Permit and Certificate of Final Inspection for the DPU located directly east of the existing dwelling. The DPU has a floor area of approximately 54sqm and is located towards the front of the allotment near an outbuilding on site. A site inspection confirmed that there is additional landscaping which has been planted along the front property boundary near Loyola Drive. In time, as the vegetation establishes it is anticipated that this landscaping will screen the DPU and associated water tank from view from the road.

Mansfield Planning Scheme and Context Assessment

Planning Policy Framework (PPF)

The Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

The following Planning Policies and Objectives are relevant to this application:

Clause 02.03-4 Natural resource management

Water and Declared Special Water Supply Catchments

Council's strategic directions for catchment planning and management are to:

- *Protect the environmental significance and visual amenity of local water sources and Special Water Supply Catchments.*
- *Avoid development in catchments that is detrimental to water quality.*
- *Minimise the cumulative impact of onsite wastewater treatment systems on the water quality of Declared Special Water Supply Catchments.*

Officer Response: The subject site is located within a declared catchment area. The dwelling and dependant persons unit have been built approximately 175 metres from the full supply line of Lake Eildon, further east of the site on neighbouring properties. The proposed habitable outbuilding is 100 metres from the nearest dwelling to the north at 11 Loyola Drive. It is considered that the proposal for the habitable is within an area that is predominantly

characterised by rural residential development on allotments with significant amenity value on the lakeside. It is considered that the applicant has obtained an approval to use septic tank system Permit issued 22/060, 13 September 2023.

Clause 12.05-1S Environmentally sensitive areas

The objective of the Clause is:

- *To protect and conserve environmentally sensitive areas.*

Planning must protect environmentally sensitive areas with significant recreational value from development which would diminish their environmental conservation or recreation values.

Officer response: The applicant has obtained an approval for wastewater treatment in accordance with the EPA requirements. It is considered that the existing siting, size and height of the outbuilding will not have a detrimental impact on the natural or environmental character of the area. It is also considered the scope of works respects the rural character of the area and provides for generous setbacks from any surrounding water features.

Clause 14.02-1S Catchment planning and management

The objective of the Clause is:

- *To assist the protection and restoration of catchments, water bodies, groundwater, and the marine environment.*

Strategies to address this objective include to:

- *Ensure the continued availability of clean, high-quality drinking water by protecting water catchments and water supply facilities.*
- *Consider the impacts of catchment management on downstream water quality and freshwater, coastal and marine environments.*
- *Retain natural drainage corridors with vegetated buffer zones at least 30 metres wide along each side of a waterway*

Officer Response: The subject site is located within a declared catchment area. It is considered that the proposal for a detached one-bedroom habitable outbuilding an area identified for residential development whereby the proposed development is on a site that has sufficient area to accommodate secondary wastewater treatment infrastructure. The applicant has submitted and obtained consent to for all existing wastewater infrastructure and dispersal areas on site.

Clause 14.02-1L Catchment planning and management

Policy application

This policy applies to land within a Declared Special Water Supply Catchment Area, as shown on the Mansfield Shire catchments map

Strategies

- *Minimise adverse impacts from wastewater management systems (both individually and cumulatively) on catchment health and water quality.*
- *Support new development only where connection to reticulated sewerage infrastructure can be provided or it will not have a cumulative impact on nutrient and pathogen loads.*
- *Support redevelopment and extensions of existing unsewered dwellings only if an incremental cumulative benefit will be gained by way of upgrading the existing system.*

Officer response: The proposed development has addressed any incremental increase to the load on the existing onsite wastewater management systems.

Zoning

Clause 35.03 – Rural Living Zone – Schedule 1 (RLZ1)

Purpose

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

Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*

Agricultural issues

- *The capacity of the site to sustain the agricultural use.*
- *Any integrated land management plan prepared for the site.*
- *The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agricultural and other land uses.*

Environmental issues

- *The impact on the natural physical features and resources of the area and in particular any impact caused by the proposal on soil and water quality and by the emission of noise, dust and odours.*
- *The impact of the use or development on the flora, fauna and landscape features of the locality.*
- *The need to protect and enhance the biodiversity of the area, including the need to retain vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

Design and siting issues

- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*
- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*
- *Whether the use or development will require traffic management measures.*

Officer response:

A permit is required for buildings and works associated with a Section 2 Use (dwelling for sites below 4ha). The subject site is 2.632ha. The purpose of the RLZ to provide for *residential use in a rural environment*, the use of land for a habitable outbuilding is still in keeping with this typology is supported and envisaged by the Mansfield Planning Scheme. The habitable outbuilding has been constructed in muted tones, and the siting blends in with the visual amenity of the valued rural landscape and character of the area. The modest structure is not visible from the road or surrounding neighbours.

Overlays

Clause 42.01 – Environmental Significance Overlay – Schedule 2 (ESO2)

Purpose

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values.*

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The statement of environmental significance and the environmental objective contained in a schedule to this overlay.*
- *The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.*
- *Any other matters specified in a schedule to this overlay.*
- *The comments of the relevant water authority.*
- *Whether the application meets the requirements of Clause 22.04 Managing Water Quality in Special Water Supply Catchments.*
- *Whether wastewater can be treated and contained within site boundaries in accordance with the standards of the Code of Practice- Onsite Wastewater Management, Environment Protection Authority Victoria Publication 891.4 July 2016 (as amended).*
- *If the setback requirements of the North East Planning Referral Committee Guidelines for the Protection of Water Quality 2016 (as amended), are met or if they are not met, whether the land capability assessment identifies mitigation measures to justify a reduced setback.*
- *If an incremental benefit is gained through the proposal by way of upgrades to existing onsite wastewater management systems.*
- *If the land capability assessment supports a variation of one or more standards of the Code of Practice-Onsite Wastewater Management, Environment Protection Authority Victoria Publication 891.4 July 2016 (as amended) where infill development or extensions or alterations to existing dwellings is proposed.*
- *Whether measures have been included to prevent increased surface water run-off or concentration of surface water run-off leading to increased nutrient loads, erosion, siltation, pollution of waterways, drains and other features.*
- *Whether a section 173 Agreement is necessary to secure ongoing maintenance or management of a wastewater system or impose limitations on development such as number of habitable rooms in a dwelling or restricting further subdivision.*
- *The potential for the proposed development to reduce water yields within the catchment.*

Officer response: The subject land is within the Environmental Significance Overlay (ESO2). A permit is triggered for the buildings or works that are associated with the proposal. The proposed development will generate new wastewater.

The application has been suitably assessed by Councils Environmental Health Officer and Goulburn Murray Water in relation to onsite wastewater treatment and disposal. The supporting Tier 2 risk-based Land Capability Assessment determines that the land is capable of the proposal in accordance with the relevant Guidelines and requirements.

General Provisions

Clause 65.01 – Approval of an Application or Plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- *The matters set out in Section 60 of the Act.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the environment and amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

Officer response: The proposed use will be generally in accordance with the relevant matters in this Clause. As explored through this report, matters relating to water quality, and siting of dwelling are suitably addressed as part of the application. No native vegetation removal will be involved, and no unreasonable amenity impacts to adjoining or nearby public or private land are expected.