



Macedon Ranges Planning Scheme Amendment C145macr: Environmental Significance Overlay Schedule 4

Planning Panels Submission PART A

Prepared on behalf of Macedon Ranges Shire Council

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1. INTRODUCTION

This submission is made on behalf of Macedon Ranges Shire Council in relation planning scheme amendment C145macr to the Macedon Ranges Planning Scheme.

The proposed amendment applies to all land currently affected by Schedule 4 to the Environmental Significance Overlay (ESO4). The ESO4 applies to the Eppalock Special Water Supply Catchment and there are no proposed changes to the area affected by the ESO4.

This amendment has been prepared by the Macedon Ranges Shire Council (Council), which is the planning authority for this amendment.

The amendment has been prepared at the request of Coliban Water Corporation.

The amendment proposes to:

- Replace the ESO4 with a new ESO4 to modify the number of matters that require planning permission. The changes proposed by the amendment seek to ensure that the need for a planning permit is required where there is greater potential to impact the health of the catchment. The net result of this change is that there will be less circumstances where a planning permit is needed.
- Modify referral requirements to require all planning permit applications made pursuant to ESO4 are referred to the relevant water authority. Currently, applications are only referred to the relevant water authority (as a Determining Authority) in specific circumstances.
- Include the *Upper Coliban Integrated Catchment Management Plan, North Central Catchment Management Authority and Coliban Region Water Corporation, 2019* as a background document in the Planning Scheme, to support the revised ESO4.

Public consultation on the proposed amendment commenced on 13 October 2022 and concluded on 24 November 2022. A total of 16 submissions were received.

At its meeting on 9 March 2023, Council's Delegated Planning Committee resolved to:

- Adopt post exhibition changes to the amendment (ESO4).
- Request that the Minister appoint an independent Planning Panel to consider the submissions to the amendment.
- Refer all submissions to the Planning Panel.

1.1 Planning Panels Directions Hearing

A Directions Hearing was held on Wednesday, 26 April 2023. The Panel Directions outlined a number of matters for Council and other parties to address, and confirmed the date for the Planning Panels Hearing for 23 May 2023, for an estimated duration of one day.

Council was directed by the Panel to circulate Council's proposed post-exhibition version of the Environmental Significance Overlay Schedule 4 to parties on the distribution list by 12 noon on Tuesday, 2 May 2023. This document was circulated on 28 April 2023.

2. BACKGROUND

2.1 Context

This amendment has been prepared by the Macedon Ranges Shire Council, the planning authority for this amendment. The amendment was prepared at the request of the Coliban Water Corporation.

The purpose of Amendment C145macr is to provide an improved balance between the needs of the catchment with the needs of landowner and occupiers by:

- Amending ESO4 to ensure that the need for a planning permit has a clearer relationship to the need to protect the health of the catchment.
- Increasing the number of matters that are exempt from requiring planning permission.
- Providing clearer application requirements.
- Updating referral requirements to the determining authority so that all planning permit applications are referred to the relevant water authority as a Determining referral Authority.

2.2 Land Subject to the Proposed Amendment

The amendment applies to all land affected by Schedule 4 to the Environmental Significance Overlay shown as ESO4 in the Macedon Ranges Planning Scheme mapping. The ESO4 covers approximately a third of the Macedon Ranges region including the townships of Woodend, Kyneton, Malmsbury and Lauriston, as well as all the rural land within the Upper Coliban Catchment area (refer to Figure 1).

Additionally, the ESO4 applies to the extent of Eppalock Special Water Supply Catchment (ESWSC), including the Malmsbury, Lauriston and Upper Coliban Reservoirs within the Upper Coliban Catchment areas, a designated open water supply catchment in the southwest portion of the Campaspe River basin in central Victoria, and includes land within the Macedon and Hepburn Shires.

ESO4 aims to protect the ESWSC from inappropriate development, and the proposed changes will not seek to alter the extent of land affected by the ESO4.

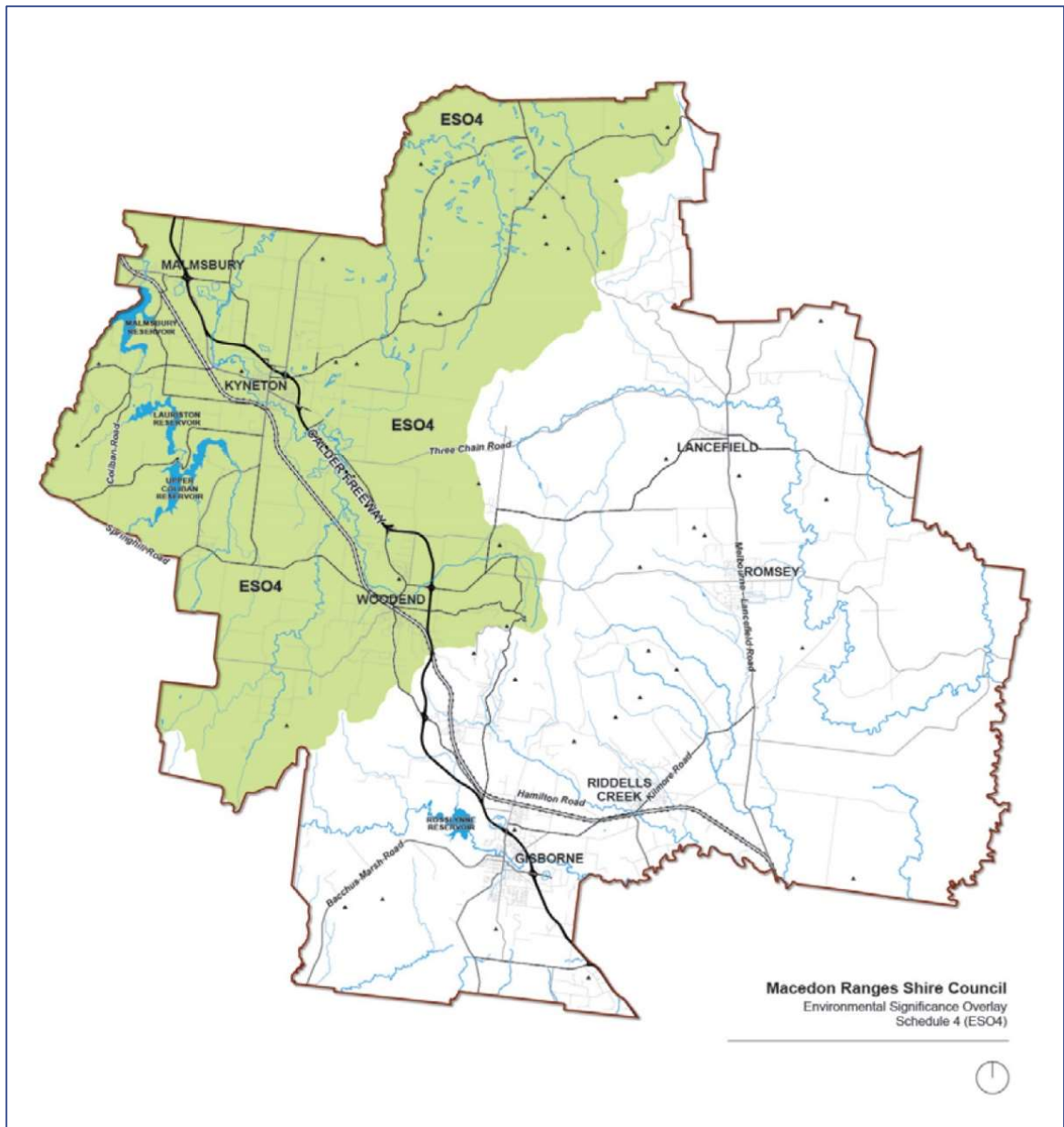


Figure 1: Map depicting land subject to ESO4 within Macedon Ranges Shire municipality.

2.3 Key Features

The Campaspe River Basin occupies 417,914 hectares of north central Victoria. It extends 150km south from the Murray River to the Great Dividing Range and is 45km wide at the widest point. The Coliban River contains the Malmsbury, Lauriston and Upper Coliban Reservoirs in the south, and flows north to meet the Campaspe River just south of Lake Eppalock.

Situated in the south-east of the Basin on the Coliban River are three storages owned and operated by Coliban Water including:

- Malmsbury: 18,000 ML
- Lauriston: 20,000 ML
- Upper Coliban: 31,500 ML

This catchment area of the Eppalock Special Water Supply Catchment (ESWSC) provides raw water for drinking water purposes for over 130,000 people.

2.4 Chronology of Events

The following provides a timeline for the preparation of amendment to the Macedon Ranges Planning Scheme:

Prior to March 2022: Project Commencement

- Preparation of preliminary background and site-context studies – *Upper Coliban Integrated Catchment Management Plan, 2019* (UCICMP).
- External public consultation undertaken on management plan.
- Approval from Council to proceed with the proposed amendment.

10 March – 22 July 2022: Amendment Preparation and Drafting

- Council seeks authorisation from the Minister of Planning to prepare and exhibit amendment.
- Council prepares and draft proposed amendment.

22 July 2022: Minister Authorisation

- Confirmation of amendment request.
- Issue of authorisation to prepare amendment subject to conditions.

20 October 2022 – 24 November 2022: Exhibition

- Proposed amendment exhibited and submissions received.

8 February 2022: Planning Delegate Committee Meeting – submitters

- Submitters given the opportunity to present their submissions to the Committee.

November 2022 - March 2023: Submissions Review Analysis

- Council reviewed all submissions received, confirmed submissions were captured correctly and resolved items where possible.

- Amendment redrafted based on submissions received from public exhibition process.

9 March 2023: Planning Delegate Committee Meeting

- Resolved to make post exhibition changes to the amendment and to refer all submissions to Planning Panels Victoria.

24 April 2023: Directions Hearing

- Date for the Planning Panels Hearing was confirmed for 22 May 2023.

22 May 2023: Planning Panel Hearing

2.5 Background Documents

The following list of background studies and reports were prepared to inform the drafting of this proposed amendment:

- **Riparian Land and Bushfire: Resource Document, 2017**
Prepared for the Country Fire Authority and Department of Environment, Land, Water and Planning.
- **Upper Coliban Integrated Catchment Management Plan, 2019**
Prepared by the Northern Central Catchment Management Authority (NCCMA) and Coliban Water.

These documents are provided at **Attachment A** to this submission.

2.6 Proposed Amendment

Amendment C145macr proposes to update the ESO4 overlay, modify existing permit referral requirements, and update background documents within the Macedon Ranges Planning Scheme.

More specifically, the amendment proposes the following changes to the Macedon Ranges Planning Scheme:

- Replace Schedule 4 to Clause 42.01 Environmental Significance Overlay – Eppalock Proclaimed Catchment with the proposed new Schedule 4 to Clause 42.01 Environmental Significance Overlay – Eppalock Special Water Supply Catchment to modify the number of matters that require planning permission, focussing development that has the potential to impact the health of the catchment. Specifically, the changes seek to:
 - Remove permit requirements for various buildings and works, not within 30m of a waterway.
 - Remove permit requirements for the removal of native vegetation, not within 30m of a waterway. Note, that native vegetation protection is still provided by Clause 52.17 of the scheme.
 - Include references to updated reference documents.

- Clarify the information that needs to be submitted with an application, by rephrasing some decision guidelines as application requirements.
 - A new planning permit requirement for fencing within 10m of a waterway was also proposed by the amendment but was later removed upon the review of issues raised in submissions to the amendment.
- Amend the Schedule to Clause 66.04 Referral of permit applications under local provisions to replace the existing referral requirements under Schedule 4 to the Environmental Significance Overlay with a requirement for all applications not exempt under the revised Schedule 4 to the Environmental Significance Overlay to be referred to the relevant water authority.
- Replaces the Schedule to Clause 72.08 Background documents to include the *Upper Coliban Integrated Catchment Management Plan* (North Central Catchment Management Authority and Coliban Region Water Corporation, 2019) as a background document supporting the amended Schedule 4 to Clause 42.01 in the Macedon Ranges Planning Scheme.

3. STRATEGIC CONTEXT

The application of overlay controls within the Victorian regulatory framework is managed by the *Planning and Environment Act 1987* and administered by the responsible authority. In this case, the responsible authority is Macedon Ranges Shire Council.

3.1 Policy

3.1.1 Statement of Planning Policy

A Statement of Planning Policy has been prepared and implemented for the Macedon Ranges Region in accordance with the *Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018*.

The following provides key information contained within the Statement that is considered to be of relevance to this amendment. A copy of the Statement is also provided at **Attachment B**.

Vision

The Statement provides a vision to guide the further use and development of land within the Macedon Ranges Shire Council for 50 years, to 2068. Of note, the vision includes the following statement that is of significance this this amendment:

Strategic water resources flow from the many mountainous and forested areas of the declared area. These form impressive riparian landscapes and biodiversity corridors, and they also provide drinking water for local people, regional and metropolitan Melbourne use.

Objectives & Strategies

The following objectives and strategies are also of relevance to the proposed planning scheme amendment:

Objective 1: *To ensure the declared area's natural and cultural landscapes are conserved and enhanced.*

Strategies to implement this objective include:

- *Manage land use, development and infrastructure to ensure that significant landscapes, views, and vantage points are conserved and enhanced.*
- *Encourage retention of native vegetation and revegetation that contributes to significant landscapes, particularly on escarpments and ridgelines and along riparian areas.*
- ...

Objective 2: *To ensure the significant biodiversity, ecological and environmental values of the declared area are conserved and enhanced.*

Strategies to implement this objective include:

- *Conserve and enhance high-value native vegetation and biodiversity and their ecological integrity by undertaking responsible environmental management, planning, procedures and practices.*
- *Utilise appropriate historical ecological knowledge and practices from Traditional Custodians of the land in the management of biodiversity and ecological and environmental values.*
- *Encourage ecological restoration works in areas of identified state, regional and locally significant biodiversity value.*
- *Establish and improve biolinks to connect high-value ecological areas, including areas along waterways and areas within and between towns.*
- *Minimise the effects of weeds and pest animals on biodiversity values by establishing and implementing best practice land management plans.*

Objective 3: *To prioritise the conservation and use of the declared area's water catchments to ensure a sustainable local, regional and state water supply, and healthy environment.*

Strategies to implement this objective include:

- *Protect water quality and natural systems by discouraging development that contributes to the degradation of water quality and quantity.*
- *Manage land use and development, including dams, in Declared Water Supply Catchments to retain and improve water quality and improve yield to support regional water needs and to increase system-wide capacity to respond to demand.*
- *Reinforce the role of waterways as biodiversity linkages and as corridors for native plants and animals.*
- *Ensure water supply and land use planning policies are integrated, to realise efficiencies in regional catchment management and best practice, water-sensitive urban design.*
- *Address the expected impacts of climate change, including changes in the duration and frequency of rainfall events and changes in the intensity and frequency of bushfire events.*
- *Review and improve regulation and monitoring of groundwater licences and surface water diversions.*

Objective 6: *To support and encourage agricultural land uses that strengthen the declared area's economy and contribute to the rural landscape.*

Strategies to implement this objective include:

- *Encourage the use of rural-zoned land for agricultural purposes and encourage the use of high-quality soils for soil-based agriculture.*
- *Encourage and support innovations in agricultural practices (such as sustainable farming, water reuse, technologies to enable farming to adapt and respond to emerging and niche markets).*
- *Support agricultural practices that improve soil health and respond to and encourage adaptation to climate change.*
- *Encourage measures to ensure agricultural practices protect and enhance soil quality, water quality, biodiversity and native plants and animals.*

- *Manage the effects of rural land use and development on important environmental and cultural values.*
- *Restrict the supply of rural-living-zoned land to conserve and protect agricultural practices.*
- *Protect strategic extractive resource areas and existing quarry operations from encroachment from inappropriate development.*
- *Proposals to establish an extractive industry must adhere to best practice measures to avoid and minimise impacts on significant environments and landscapes.*

Objective 8: *To plan and manage growth of settlements in the declared area consistent with protection of the area's significant landscapes, protection of catchments, biodiversity, ecological and environmental values, and consistent with the unique character, role and function of each settlement.*

Strategies to implement this objective include:

- *Direct urban development to a hierarchy of settlements identified for growth, through clearly defining long-term settlement boundaries.*
- *Direct rural residential development to rural-living-zoned land as provided for in the Macedon Ranges Council's rural living strategy, In the Rural Living Zone – Strategic Direction (2015).*
- *Encourage infill development that respects the townships' character.*
- *Limit the expansion of settlements in high risk locations, actively reducing the risks associated with natural hazards.*
- *Encourage a range of housing types within settlement boundaries to support a diverse range of housing needs.*
- *Encourage provision of an adequate supply of well-serviced employment land within settlement boundaries to support local and regional jobs and services.*
- *Encourage the use of voluntary Cultural Heritage Management Plans.*

3.1.2 Planning Policy Framework (State)

The planning policy framework provided at Clause 10 of the Macedon Ranges Planning Scheme (the Scheme), includes the following policy objectives and strategies that are relevant to this amendment.

Clause 12.03-1S – River and riparian corridors, waterways, lakes, wetlands and billabongs

The objective of this policy is *to protect and enhance waterway systems including river and riparian corridors, waterways, lakes, wetlands and billabongs*. Strategies that support this objective that are also relative to the amendment include:

- *Sensitively design and site development to maintain and enhance the waterway system and the surrounding landscape setting, environmental assets, and ecological and hydrological systems.*
- *Address the impacts of use and development on drought and flooding events at a catchment and site scale to protect the health and natural function of waterway systems and their surrounding landscape and environment.*

- *Protect geomorphology, bank stability and flood management capacity to strengthen the environmental value and health of waterway systems by:*
 - *Limiting earthworks in proximity to waterway systems to minimise alterations to geomorphology, natural drainage, natural flows and water quality.*

To guide implementation of this policy as relevant to the amendment, the following should be considered as relevant:

- *Locating earthworks, including dams, a minimum of 30 metres from waterway systems.*
- *Locating development a minimum of 30 metres from the banks of waterway systems.*
- *The views of floodplain and waterway managers.*
- *Any regional catchment strategy and related plans approved under the Catchment and Land Protection Act 1994.*

Clause 12.05-1S Environmentally sensitive areas

The objective of this policy is *to protect and conserve environmentally sensitive areas*. Strategies that support this objective that are also relative to the amendment include:

- *Protect environmentally sensitive areas with significant recreational value from development that would diminish their environmental conservation or recreational values. These areas include the Dandenong and Macedon Ranges.*

Clause 12.05-2S Landscapes

The objective of this policy is *to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments*. Strategies that support this objective that are also relevant to the amendment include:

- *Ensure development does not detract from the natural qualities of significant landscape areas.*
- *Improve the landscape qualities, open space linkages and environmental performance in significant landscapes and open spaces, including green wedges, conservation areas and non-urban areas.*
- *Ensure important natural features are protected and enhanced.*

Clause 13.03-1S Floodplain management

The objective of this policy is *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.*

Strategies that support the objectives of this policy that are also relevant to the amendment include:

- *Avoid intensifying the impact of flooding through inappropriately located use and development.*
- *Plan for the cumulative impacts of use and development on flood behaviour.*
- *Locate use and development that involve the storage or disposal of environmentally hazardous industrial and agricultural chemicals or wastes and other dangerous goods (including intensive animal industries and sewage treatment plants) outside floodplains unless site design and management is such that potential contact between such substances and floodwaters is prevented, without affecting the flood carrying and flood storage functions of the floodplain.*
- *Ensure land use on floodplains minimises the risk of waterway contamination occurring during floods and floodplains are able to function as temporary storage to moderate peak flows and minimise downstream impacts.*

To guide implementation of this policy as relevant to the amendment, the following should be considered as relevant:

- *Regional catchment strategies and special area plans approved by the Minister for Environment or Minister for Water.*

Clause 14.02-1S Catchment planning and management

The objective of this policy is to assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment. Strategies that support the objectives of this policy that are also relevant to the amendment include:

- *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 to:*
 - *Maintain the natural drainage function, stream habitat and wildlife corridors and landscape values,*
 - *Minimise erosion of stream banks and verges, and*
 - *Reduce polluted surface runoff from adjacent land uses.*
- *Undertake measures to minimise the quantity and retard the flow of stormwater from developed areas.*
- *Require appropriate measures to filter sediment and wastes from stormwater prior to its discharge into waterways, including the preservation of floodplain or other land for wetlands and retention basins.*

- *Ensure that development at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses.*
- *Ensure land use and development minimises nutrient contributions to water bodies and the potential for the development of algal blooms.*
- *Require appropriate measures to restrict sediment discharges from construction sites.*
- *Ensure planning is coordinated with the activities of catchment management authorities.*
- *Ensure that water quality infrastructure is designed to minimise risk of harm to surface waters and groundwater.*

To guide implementation of this policy as relevant to the amendment, the following should be considered as relevant:

- *Any regional catchment strategy and related plans approved under the Catchment and Land Protection Act 1994.*
- *Any applicable implementation strategy approved by a catchment management authority or waterway management authority.*

3.1.3 Local Planning Policy Framework

The Municipal Strategic Statement at Clause 21 of the Scheme includes the following policy objectives and strategies that are relevant to this amendment.

Clause 21.01 – Municipal Profile

Natural resource management issues are identified in clause 21.01 and the following statements are of relevance to this amendment:

The Shire is within the catchments of the Campaspe and Coliban Rivers and Five Mile, Deep and Jacksons Creeks. Extensive areas are declared Special Water Supply Catchments.

High quality soils are situated between Lancefield, Heskett and Romsey; between Macedon and Riddells Creek; east and west of Kyneton; and north-east of Gisborne due to the existence of granitic soils round Romsey.

A significant portion of the Macedon Ranges Shire is designated for agricultural purposes. Large farm holdings are predominantly located in the northern part of the Shire. Farming areas make a valuable contribution to the Shire's economy and include broad acre cropping and grazing, as well as specialist activities such as viticulture, timber plantations and the equine industry. Traditional farming activities are declining in favour of more intensive agriculture, such as vineyards and other horticultural pursuits.

Clause 21.02-2 – Environmental and Landscape Values

The key influences identified in clause 21.02-2 that are of relevance to this amendment include:

The presence of open potable water catchments in the Shire highlights the need for land use and development planning to address the important regional issue of maintenance of and improvement to water quality and quantity.

Clause 21.02-3 – Environmental Risk

The key influences identified in clause 21.02-3 that are of relevance to this amendment include:

Inappropriate subdivision and development of rural land, particularly native vegetation removal and development for rural living purposes, is the major cause of fragmentation and loss of landscape values.

Much of the Shire is at risk from wildfire and has a history of severe bushfires. Land use and development planning in the Shire must minimise the level of fire risk and level of development in areas of fire risk, and recognise the potential conflict between protecting the natural environment and providing for appropriate fire protection measures.

Clause 21.03-1 – Municipal vision

The key influence identified through clause 21.03-1 that is of relevance to this amendment includes:

We aspire to provide leadership in this inspiring region by providing the opportunity for all to live a fulfilling life, while continuing to protect our heritage, environment and sense of community through our shared commitment to a sustainable Macedon Ranges.

Clause 21.03-2 – Land use vision

The key influences identified through clause 21.03-2 that are of relevance to this amendment include:

Agriculture remains an important part of the character and economy of the Shire, especially the high quality soils in the east of the Shire and in the north where there has been less land fragmentation. Effective land management is a key priority.

Protection of water quality, especially potable water supply, is fundamental. Land use and development, particularly un-serviced development in open water supply catchments, is minimised and managed to ensure water quality is not compromised.

Native vegetation is retained and enhanced, balanced with fire protection considerations. Native vegetation is vital for the environmental health of the Shire and is a significant component of the Shire's character.

Clause 21.03-3 Strategic framework plans

The key influences identified through clause 21.03-3 that are of relevance to this amendment include:

The vision and strategic direction for the identified rural area types shown on the rural framework plan is:

- **Living forests:** *Enhance the significant and sensitive environmental assets - including Mount Macedon, forested areas around Woodend, the Cobaw Ranges and special water supply catchments. Limit residential development on existing lots where positive environmental outcomes are achieved and existing vegetation will not be compromised by requirements for dwelling sites, fire protection buffers and other associated infrastructure.*

- **Northern and southern catchments:** *Protect water quality and quantity, agricultural productivity in the northern catchment and encourage rural residential only in the more fragmented southern catchment where detailed land capability studies demonstrate there is no negative impact on water quality or agricultural uses.*

These areas are not mutually exclusive and overlap; where conflicts are present, the catchment provisions prevail.

Clause 21.04 Settlement

The key context identified through clause 21.04 that is of relevance to this amendment include:

The high bushfire risk and other environmental constraints affect the potential for growth in Macedon, Mount Macedon, Riddells Creek and Woodend. Development will be restricted and discouraged in the rural areas and small, unsewered settlements in order to protect water quality, agricultural activities and environmental and landscape values.

The objectives include the following, of relevance to this amendment:

- *To ensure land use and development in settlements have regard for environmental assets, hazards and constraints.*

Strategies that support this objective that are also relevant to this amendment include:

- *Strategy 3.3: Avoid growth outside of township boundaries in Special Water Supply Catchment areas.*

Clause 21.05-2 Significant environments and landscapes

The objectives of this policy relevant to this amendment is *to maintain and enhance the existing rural landscapes*. The relevant strategy that supports this objective in relation to this amendment is:

- *Protect the landscape, environmental and scenic qualities of the Macedon Ranges.*

Clause 21.06-2 Soil degradation and contamination

The objectives of this policy relevant to this amendment is *to avoid significant land disturbance*. The relevant strategy that supports this objective in relation to this amendment is:

- *Ensure waste water management systems are only located on land with appropriate capability.*

Clause 21.07-2 Sustainable rural land management

The objectives of this policy relevant to this amendment is *to ensure land in rural areas is managed in a sustainable manner to improve the condition of the environment*. The relevant strategy that supports this objective in relation to this amendment is:

- *Encourage use and development that enhances the condition of the natural resource base and provides positive environmental outcomes.*

In terms of specific implementation under this policy with relation to this amendment, the following is provided:

- *Consider approved local land care policies and plans in the assessment of development applications.*
- *Utilise appropriate environmental and landscape overlays in rural areas that will support sustainable rural land management.*

Clause 21.07-3 Water

The overview of this clause states:

The protection of water quality is a significant issue in the Shire. Extensive areas of the Shire fall within proclaimed local and regional water catchments (Special Water Supply Catchments) which supply drinking water. Water supply within the Shire is subject to increasing demand and development pressures which can affect quality through the intensification of wastewater and septic discharges, and changing land management practices. A number of the Shire's unsewered settlements are in catchment areas, which also contributes to water quality issues.

Inappropriate management may cause a decline in water quantity and quality, leading to increased treatment costs (and higher water tariffs) as well as a loss of recreation opportunities in reservoirs and watercourses.

There are 24 proclaimed water supply catchments, including the headwaters of the Campaspe, Coliban, Maribyrnong and Werribee Rivers. Special Water Supply Catchments wholly or partly within the Macedon Ranges Shire include: Djerrivarrh, Eppalock, Eppalock (Kyneton), Eppalock (Woodend), Lake Merrimu, Lake Merrimu (Goodmans Creek), Lake Merrimu (Lerderderg River), Lancefield (Deep Creek), Macedon (Bawden Creek), Mollison Creek (Pyalong), Monument Creek, Romsey (Upper Bolinda Creek), Rosslyne Reservoir (Jackson Creek), Rosslyne Reservoir (Riddell Creek), Sunbury (Cherlies Creek), Sunbury (Main Creek).

The objectives of this policy that are relevant to this amendment are:

- *To retain and improve water quality and yield in the Special Water Supply Catchments, waterways and groundwater.*
- *To ensure the development and use of agricultural land does not adversely impact water quality in the catchments.*

The strategies that support this objective that are relevant to this amendment are:

- *Promote the development of reticulated sewerage systems for towns within the Special Water Supply Catchments.*
- *Direct development to settlements where reticulated sewer systems are available.*
- *Discourage uses and development in Special Water Supply Catchments and elevated areas that have the potential to reduce water quality.*
- *Ensure use and development, including dwellings, on land which cannot be serviced by a reticulated sewerage system is designed, sited, managed and maintained to prevent the contamination of water supplies in the catchment.*

- *Ensure the design of effluent disposal systems is suitable to the soil type and topography of the site and land capability assessments demonstrate development and use will not compromise water quality.*
- *Encourage larger lots where there are drainage lines, waterways and steep slopes.*
- *Require on site property works that enhance water quality. These works may include fencing of gullies and waterways and revegetation of gullies and waterways.*
- *Ensure the natural drainage functions are retained in the development of land for residential purposes.*
- *Protect waterways from erosion and other water pollution sources, such as intensive animal husbandry, by the provision of appropriate buffers.*
- *Require commercial, residential or industrial uses to demonstrate the activity will provide a net benefit to the health of the waterway.*
- *Consider agricultural land use and development proposals relative to land capability.*
- *Require a land capability assessment to support development proposals.*

Applications to use or develop land in a Special Water Supply Catchment under Clause 21.07-3 must be accompanied by a report from an appropriately qualified person demonstrating that the proposal will not compromise water quality and is consistent with any land use determination on the land.

In terms of exercise of discretion and decision guidelines relevant to the amendment under this policy, the following is provided:

Exercise of discretion

It is policy to:

Not support the clearance of vegetation within 20 metres of a watercourse without the consent of the relevant water authority.

Decision guidelines

When deciding on an application to use or develop land in a Special Water Supply Catchment, the following matter will be considered, as appropriate:

Any relevant catchment management strategy for the area.

Specific implementation direction from this policy relevant to the amendment is:

- *Apply the Environmental Significance Overlay (ESO4) to protect and maintain water quality and yield in the Eppalock Proclaimed Catchment.*

Clause 21.09-2 Rural residential

The objective of this policy relevant to this amendment is *to ensure rural residential development is sustainable and gives priority to the environment and landscape*. The relevant strategies that support this objective in relation to this amendment are:

- *Avoid further creation of rural residential lots, particularly in catchment areas, due to the potential impact on water quality.*
- *Ensure any rural residential development promotes and reflects the rural character and activities of the area, responds to landscape values and environmental constraints including potential impacts on water quality, adds to the attractiveness of the area and minimises the visual prominence of buildings in the landscape.*
- *Ensure rural residential development does not adversely impact current and future agricultural and economic activities and demonstrates site specific sustainability, including waste water treatment.*

Clause 21.12-3 Rural infrastructure

The objective of this policy relevant to this amendment is *to protect rural and agricultural infrastructure such as roads and water supply*. The relevant strategy that supports this objective in relation to this amendment is:

- *Ensure rural land use and development does not adversely impact on the water supply network and its capacity.*

3.1.4 Local Planning Policies

The scheme does not provide any local policies that have specific relevance to the amendment.

3.2 Provisions

3.2.1 Environmental Significance Overlay

The Environmental Significance Overlay (Schedule 4) is the primary planning provision that provides protection for the water catchment. The proposed amendment seeks to retain this provision, while ensuring that planning applications are only needed for development that is more likely to have an impact on the catchment.

3.2.1 Native Vegetation

The scheme retains its protection of native vegetation through the planning provision at clause 52.17. While the amendment proposed to reduce the instances where a planning permit is needed for the removal of vegetation (now limited to native vegetation within 30m of a waterway), the default requirement for a planning permit to remove native vegetation provided by clause 52.17 will continue to apply.

3.3 Other Amendments in Progress

The following amendments to the scheme are currently at various stages of the amendment process:

- **C153macr**: A rezoning amendment, under Section 96A of the Planning Scheme to rezone 101-105 Willowbank Road, Gisborne from General Residential Zone 1 to Commercial 1 Zone to facilitate development of a Local Activity Centre.
- **C154macr**: A combined planning scheme amendment and planning permit application (Section 96A of the Planning and Environment Act 1987).
- **C157macr**: A amendment that seeks to rezone all remaining C2Z along Mollison Street, Malsbury to NRZ.

4. CONDITIONS OF AUTHORISATION

Under delegation from the Minister of Planning, Emma Bryant (State Planning Services - Manager Grampians and Loddon Mallee Regions) authorised Council to prepare amendment C145macr in accordance with Section 8A of the *Planning and Environment Act 1987*, on 22 July 2022.

The authorisation was subject to the following conditions:

1. *In the Explanatory Report:*
 - *Consider using a map to identify the area covered by the ESO4 under 'Land affected by the amendment'*
 - *Include only the description of the amendment changes under 'What the amendment does' and move any explanatory commentary to 'Why is the amendment required'.*
 - *Explain under 'Why the amendment is required' that the amendment includes new permit triggers as well as exemptions, such as development of fences within 10m of a waterway and dwellings and extensions with reticulated sewerage within 30m of a waterway.*
 - *Ensure reference to the most recent version (2019) of the Upper Coliban Integrated Catchment Management Plan is used.*
 - *Discuss under 'Why is the amendment required' who is/are the relevant water authority/authorities and why they remain a determining authority.*
 - *Include further explanation of how the amendment addresses the objectives of planning in Victoria.*
 - *Remove reference to Ministerial Direction 17 – Localised Planning Statements as it is not relevant.*
 - *Consider whether Goulburn Murray Water should be described as one of the agencies most affected by the amendment in its role as a referral authority for the Eppalock catchment.*
2. *In the Instruction Sheet:*
 - *Delete reference to Planning Scheme Maps.*
3. *Include the Upper Coliban Integrated Catchment Management Plan (North Central Catchment Management Authority and Coliban Water, 2019) as a Background Document in Schedule to Clause 72.08 (Background Documents).*
4. *Provide a copy of the Riparian Land and Bushfire Resource Document identified in the Explanatory Report as a supporting document for exhibition of the amendment.*
5. *Give notice to relevant water authorities, including Goulburn Murray Water, and the Dja Dja Warrung and Taungurung as the traditional owners of the land.*

It is understood that all conditions of the authorisation were addressed.

5. EXHIBITION PROCESS

5.1 Consultation and Engagement

Community feedback on the amendment was invited from 13 October 2022 to 24 November 2022, all affected by property owners and occupiers were notified by mail.

Council considered all submissions received on this amendment and submitters were afforded the opportunity to present their submission at the Planning Delegated Committee Meeting on 8 February 2023. A range of external government and statutory bodies were notified of amendment C145macr including relevant Ministers, referral bodies and other stakeholders in accordance with the *Planning and Environment Act 1987*.

5.2 Planning Delegated Committee Meeting

At the Planning Delegated Committee of 9 March 2023, Committee members deliberated on the consultation findings and to determine if a Planning Panel is required to resolve any issues raised.

Council provided a written response to each submitter in **Attachment C** of the Planning Delegated Committee Meeting Agenda.

Section 6 provides a summary of the submissions categorised by issue.

In response to the submissions received through the consultation period, it was resolved that the Committee:

1. Adopts the post-exhibition changes to Amendment C145macr as set out in **Attachment D**.
2. Requests the Minister for Planning to appoint an independent Planning Panel under Part 8 of the Planning and Environment Act 1987 to consider the submissions to Amendment C145macr to the Macedon Ranges Planning Scheme.
3. Refers all submissions to Amendment C145macr to the Panel, in accordance with section 23 of the Planning and Environment Act 1987.
4. Authorises Council officers, under section 22(2) of the Planning and Environment Act 1987, to consider any late submissions to Amendment C145 received in advance of the Panel Hearing and to refer those submissions to the Panel in accordance with item 1 above.
5. Notifies all submitters to Amendment C145 of Council's decision.

The Amendment included post exhibition changes made by Coliban Water, which removed the permit trigger for the construction of a fence within 10m of a waterway outlined in Schedule 4 to Clause 42.02.

5.3 Post – Exhibition Changes

The following list provides a summary of the proposed changes to the planning scheme ordinance, in response to the submissions post-exhibition.

- **Schedule 4 To Clause 42.01 Environmental Significance Overlay**

Under the schedule sub-section 3.0 Permit requirement:

- Removal of permit trigger requirement

A permit is required to construct or carry out works for a fence.

This does not apply to a fence that is either:

- *Greater than 10 metres away from the nearest edge of a waterway.*
- *A temporary fence of post and wire construction being used to protect any vegetation, work site or waterway where it will not remain in place for longer than 12 months.*

- Under "A permit is not required", include "Construct a fence".

- **Schedule To Clause 66.04 Referral of Permit Applications Under Local Provisions**

- Amend the referral for Schedule 4 to Clause 42.01 to list Coliban Water (relevant water authority) as the 'determining referral authority' instead of 'determining authority'.

6. SUMMARY OF SUBMISSIONS

Council received sixteen (16) submissions in response to the public exhibition process. Submissions were received from a range of parties including:

- State Agencies
- Landowners
- Community Groups
- Residents
- Goulburn Murray Water
- Victorian Farmers Federation (VFF)

Four submissions (including DELWP, DoT, Goulburn Murray Water and one resident) are in support of the amendment. It is noted that following further consultation with Coliban Water, Goulburn Murray Water formally revised their original objection in favour of supporting the amendment.

12 submissions were received objecting to the amendment.

Council sequentially numbered each submission, the table of submissions and submitter number can be found in **Attachment E**.

The following table describes the matters raised by the exhibited submissions.

Table 1: Summary of Main Issues

ISSUE	SUBMISSION NO.
<p>FENCING</p> <ul style="list-style-type: none"> • A number of submissions object to the inclusion of a permit trigger for permanent fencing within 10 metres of a waterway. Some submitters misinterpreted the fencing permit trigger as a requirement to fence waterways, rather than a requirement to seek a planning permit. • Conversely some submitters stated that the 10m fencing trigger was too close to waterways and did not offer adequate protection from stock. • Coliban Water revised their position and support the removal of the fencing trigger altogether. It was noted that if included, the trigger could act to impede current riparian revegetation efforts. It was considered that requiring a planning permit might discourage landowners from erecting fences to protect riparian areas due to the cost, time and uncertainty in obtaining planning approval. Council officers support Coliban Water's position to remove the permit trigger for fences from draft ESO4. 	<p>3, 4, 6, 8, 11 & 16</p>

ISSUE	SUBMISSION NO.
<p>Vegetation Removal</p> <ul style="list-style-type: none"> A number of submissions were concerned that the deletion of the permit trigger for vegetation removal for areas more than 30 metres from a waterway would lead to greater vegetation loss in areas not covered by Clause 52.17. It is noted that the ESO4 has functionally acted as an incidental trigger for planning permits for native and non-native vegetation in instances where a vegetation removal permit is exempt under 52.17. Council's Biodiversity Strategy (2018) suggested that ESO4 should only apply to vegetation removal that is likely to affect water quality and supply, and not in other instances. 	<p>5, 6, 9, 10, 11, 14, 15 & 16</p>
<p>Coliban Water's Role as a Determining Referral Authority</p> <ul style="list-style-type: none"> A number of submissions raised concerns that Coliban Water's role as a determining referral authority for ESO4 may lead to negative environmental outcomes and inappropriate development. Under Clause 66.02-5 of the planning scheme, and relevant legislation including the Catchment and Land Protection Act 1994 and the Water Act 1989, the relevant water authority is always a determining referral authority for Special Water Supply Catchments. Council officers believe this designation is appropriate and in accordance with the relevant legislation. Council's role as a responsible authority under the Planning and Environment Act 1987 affords council the ability to refuse a permit even when that permit has sustained no objections from the determining referral authority. 	<p>2, 5, 10, 12 & 15</p>

ISSUE	SUBMISSION NO.
<p>Definition of a Waterway</p> <ul style="list-style-type: none"> • A number of submitters requested Council provide a clear definition for 'waterway'; a lack of certainty on this point formed the basis for their objection. The Planning and Environment Act 1987 and Victorian Planning Provisions do not provide a clear definition of a waterway. Similar planning matters have sought to rely on the definition provided by Section 3 of The Water Act 1989, which defines a waterway as: <ul style="list-style-type: none"> a) a river, creek, stream or watercourse; or b) a natural channel in which water regularly flows, whether or not the flow is continuous; or c) a channel formed wholly or partly by the alteration or relocation of a waterway as described in paragraph (a) or (b); or d) a lake, lagoon, swamp or marsh, being— <ul style="list-style-type: none"> (i) a natural collection of water (other than water collected and contained in a private dam or a natural depression on private land) into or through or out of which a current that forms the whole or part of the flow of a river, creek, stream or watercourse passes, whether or not the flow is continuous; or (ii) a collection of water (other than water collected and contained in a private dam or a natural depression on private land) that the Governor in Council declares under section 4(1) to be a lake, lagoon, swamp or marsh; or e) land on which, as a result of works constructed on a waterway as described in paragraph (a), (b) or (c), water collects regularly, whether or not the collection is continuous; or f) land which is regularly covered by water from a waterway as described in paragraph (a), (b), (c), (d) or (e) but does not include any artificial channel or work which diverts water away from such a waterway; or g) if any land described in paragraph (f) forms part of a slope rising from the waterway to a definite lip, the land up to that lip; • Coliban Water notes that in addition to this definition, the document 'Waterway Identification Guidelines 2022' (DELWP) provides further assistance to support decision-making.. 	<p>3, 4, 8 & 9</p>

ISSUE	SUBMISSION NO.
<p>Errors in Exhibited Documents</p> <ul style="list-style-type: none"> • There were a number of objections based on two exhibited documents containing errors relating to Coliban water’s status as a determining referral authority and the removal of native vegetation. More specifically; <ul style="list-style-type: none"> ○ The document ‘C145 – Amendment fact sheet’ contained an error regarding vegetation removal, which exempted a permit to remove native vegetation within 30 metres of a waterway. It should have stated beyond 30 metres of a waterway. ○ The proposed schedule to Clause 66.04 Referral of permit applications under local provisions, incorrectly listed Coliban Water as the ‘determining authority’ and should have stated ‘determining referral authority’. • Council officers were made aware of the issues early in the consultation period and took immediate steps to provide corrections. 	<p>5, 10 & 15</p>

7. List of Attachments

Attachment A: Background Documents

Attachment B: Statement of Planning Policy

Attachment C: Planning Delegated Committee Meeting Agenda (including attachments and minutes)

Attachment D: Post Exhibition Changes to Schedule 4 of the Environmental Significance Overlay.

Attachment E: Submissions to the amendment (numbered)