

Agenda

Planning Delegated Committee Meeting
Thursday 9 March 2023 at 7pm
Held online and livestreamed at [mrsc.vic.gov.au](https://www.mrsc.vic.gov.au)

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1 **ACKNOWLEDGEMENT OF COUNTRY**

Macedon Ranges Shire Council acknowledges the Dja Dja Wurrung, Taungurung and Wurundjeri Woi Wurrung Peoples as the Traditional Owners and Custodians of this land and waterways. Council recognises their living cultures and ongoing connection to Country and pays respect to their Elders past, present and emerging.

Council also acknowledges local Aboriginal and/or Torres Strait Islander residents of Macedon Ranges for their ongoing contribution to the diverse culture of our community.

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RECORDING AND LIVESTREAMING OF THIS COMMITTEE MEETING

This meeting is being recorded and streamed live on the internet, in accordance with Council's 'Live Streaming and Publishing Recordings of Meetings' policy, which can be viewed on Council's website.

3

PRESENT

4

APOLOGIES

5

CONFLICTS OF INTEREST

6

PURPOSE OF PLANNING DELEGATED COMMITTEE

Council established the Planning Delegated Committee to provide a regular forum for hearing from people who have made a submission to Council or who are an applicant or objector in relation to a planning permit application.

The Committee is authorised to determine statutory planning applications and Planning Scheme amendments only in relation to the Planning and Environment Act 1987. Its purpose is to hear from applicants/land owners and objectors/submitters on statutory and strategic planning matters, planning applications and to determine other planning matters.

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ADOPTION OF MINUTES

Recommendation

That the Committee confirm the minutes of the Planning Delegated Committee of Macedon Ranges Shire Council held on 8 February 2023, as circulated.

8 REPORTS

8.1	FOR DECISION - MISCELLANEOUS CONSENT MCA/2022/29 - DEVELOPMENT OF AN OUTBUILDING, EFFLUENT DISPOSAL AND MINOR WORKS ASSOCIATED WITH THE DWELLING OUTSIDE THE BUILDING AND DRIVEWAY ENVELOPES - 12 CORNISH ROAD, RIDDELLS CREEK
Officer:	Awais Sadiq, Coordinator Statutory Planning
Council Plan relationship:	3. Improve the built environment
Attachments:	Plan ↓
Applicant:	Gary Burns and Sarah Burns
Date of receipt of application:	19 July 2022
Trigger for report to the Committee	Councillors Call-in

Summary

The application is for the development of an outbuilding, effluent disposal works and some minor works in association with the dwelling outside the building and driveway envelopes.

The application was advertised and one (1) objection has been received to date.

Key issues to be considered relate to the appropriateness of the proposal in relation to the Section 173 Agreement registered on the title.

The application has been assessed against the requirements of the Section 173 Agreement and is considered contrary to the intent of the Section 173 Agreement. It is recommended that a Refusal to Grant a Miscellaneous Consent be issued.

Recommendation

That Committee issues a Refusal to Grant a Miscellaneous Consent for the development of an outbuilding, effluent disposal works and some minor works in association with the dwelling outside the building and driveway envelopes for the land at LOT 2 PS 830906U P/Kerrie 12 Cornish Road RIDDELLS CREEK VIC 3431.

Existing conditions and relevant historySubject land

Subject site is located on the north-eastern side of Cornish Road, Riddells Creek, approximately 125m north from its intersection with Whittakers Lane. The site is rectangular in shape having an area of 4001m² and is currently vacant in terms of buildings and works. The current access to the site is via Cornish Road. A large native tree is located on the site approximately 50m from the street frontage.

Surrounds

The surrounding properties vary in size to the subject site. The properties to the immediate north and west are similar sized properties that contain a single dwelling. To the east are

smaller sized low density zoned properties that contain a single a dwelling and to the south are smaller again residential properties. The majority of properties have been cleared of native vegetation.

Registered restrictive covenants and/or Section 173 Agreements affecting the site

The title provided with the application shows the property is encumbered by a Section 173 Agreement and Covenant. Details of the encumbrances' registered on title are as follows:

Covenant L932299N

- (i) Shall not erect a dwelling or dwellings on the said land hereby transferred or any part of it unless the exterior walls of such dwelling or dwellings are substantially of brick or brick veneer and unless the floor area of such dwelling (excluding carports, garages, external eaves, external verandahs and outbuildings) is not less than 140 square metres.
- (ii) Shall not use the said land hereby transferred for any purpose other than rural residential purposes with ancillary grazing and agricultural pursuits.

Section 173 Agreement AV651068C

The owner covenants with the responsible authority that, before the certification of the plan of subdivision:

- (a) No buildings and works must be constructed outside the dwelling and driveway envelopes on Lots 1 to 3, as shown on the endorsed plans to Planning Permit PLN/2016/137, unless with the prior written consent of the responsible authority. This excludes any outbuildings on Lot 3 in existence at the time of execution of this agreement.
- (b) Any new fencing erected along the boundaries of Lots 1 to 3 must be only post and wire and which may include wire mesh infill of an open design to prevent the passage of domestic pets and the like, unless with the prior written consent of the responsible authority.
- (c) Vegetation located outside the building envelopes and driveway envelopes shown on the endorsed plans to Planning Permit PLN/2016/137 must not be removed, destroyed or lopped, unless with the prior written consent of the responsible authority. Any request for consent must have regard to the arborist report endorsed under Condition 1 of Planning Permit PLN/2016/137.
- (d) The owner will implement the Bushfire Management Plan endorsed under Condition 1 of Planning Permit PLN/2016/137, to the satisfaction of the Responsible Authority.

The proposal does not contravene the covenant as the dwelling will have brick façade. In relation to Section 173 Agreement, the applicant has applied for miscellaneous consent to build outside the building and driveway envelopes.

Previous planning permit history

No relevant planning permit history for the subject property has been found.

Proposal

The applicant is seeking miscellaneous consent for the development of an outbuilding, effluent disposal works and some minor works in association with the dwelling outside the building and driveway envelopes on Lot 2, PS 830906U P/Kerrie. An effluent disposal field having an area of 400m² will be located to the north of the building envelope (entirely outside), having a setback of 3m from the front boundary and 1.5m from the side boundary. An outbuilding associated with the dwelling will be located to the south of the building envelope (entirely outside) having a setback of 1.5m from the side boundary and 36m from the rear boundary. The outbuilding will be 12m long and 7m wide and will be made from Colorbond in “Monument” colour. Minor earthworks in association with the construction of the dwelling will occur outside the building envelope. Minor works in association with the construction of driveway will also be carried outside the driveway envelope.

Relevant Macedon Ranges Planning Scheme controls

Section 46AZK of the Planning and Environment Act 1987

Section 46AZK of the Planning and Environment Act 1987 and Clause 51.07 of the Macedon Ranges Planning Scheme require Council as a Responsible Public Entity to not act inconsistently with any provision of the Statement of Planning Policy (SOPP) in exercising decision making powers. Attachment 1 contains the officer assessment against the SOPP.

Planning Policy Framework

Local Planning Policy Framework

Zoning

Clause no.	Clause name
32.03	Low Density Residential Zone (Schedule)

Overlay

Particular provisions

General provisions

Cultural Heritage Management Plan assessment

	Assessment criteria	Assessment response
1	Is the subject property within an area of cultural heritage sensitivity as defined within the cultural heritage sensitivity mapping or as defined in Part 2 Division 3 or 4 of the <i>Aboriginal Heritage Regulations 2018</i> ?	Yes
2	Does the application proposal include significant ground disturbance as defined in Part 1 Regulation 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	No
3	Is the application proposal an exempt activity as defined in Part 2 Division 2 of <i>Aboriginal Heritage Regulations 2018</i> ?	Yes

	Assessment criteria	Assessment response
4	Is the application proposal a high impact activity as defined in Part 2 Division 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	No

Based on the above assessment, a cultural heritage management plan is not required in accordance with Part 2 Division 1 of *Aboriginal Heritage Regulations 2018*.

The process to date

Referral

Comments	Response
MRSC Health	No objection.

Advertising

There is no formal mechanism for advertising miscellaneous consent applications. The proposal was advertised informally to adjoining landowners/occupiers by sending letters. One (1) objection was received and following are the concerns raised by the objector:

- Buildings and works should be inside the building envelope;
- Impact on views;
- Installation of septic system outside the building envelope.

Officer assessment

What is the intent of the restriction?

The restriction was created to give effect to planning Permit PLN/2016/137 which permitted the 4 lot subdivision of land. The restriction includes building and driveway envelopes, restrictions in relation to removal of vegetation outside the building and driveway envelopes, fencing requirements and bushfire management requirements. The decision was issued on the basis that all lots will be connected to reticulated sewerage and therefore there was no requirement for the effluent envelopes.

The Permit was subsequently amended to reduce the lots to 3 and the lots were approved to have an on-site wastewater system rather than being connected to reticulated sewerage. Moreover, the building envelopes that were approved had setbacks from the front, side and rear boundaries to allow for any future landscaping.

Is there opportunity to achieve the outcome within the restriction?

There is sufficient space within the building envelope to allow for development. There is an opportunity to better achieve the outcome within the restriction. The building envelope is of a reasonable size that can accommodate a dwelling with its associated domestic shed.

The applicant has amended the proposal to locate the outbuilding adjacent to the building envelope to avoid the sprawl of buildings on the land however this will result in a reduced setback from the side boundary.

Does the proposal maintain the intent of the restriction?

The original planning permit for the subdivision was issued on the basis that the lots will be connected to reticulated sewerage. No effluent envelopes were created as part of the permit. The applicant is now proposing to have onsite wastewater system and has submitted a Land Capability Assessment to support the proposal.

The development will be of unreasonable scale with reduced setbacks that will be unable to retain the low density residential characteristics of the subject site. The reason for the building envelope to be registered on title was to make future owners aware of the existence of encumbrances on the land in relation to future development.

This is the first miscellaneous consent application and if approved the proposal will set the precedence for other lots having the same Section 173 Agreement to seek consent to have development outside the building and driveway envelopes.

Would an allowance outside of the restriction cause material detriment to those benefiting from the restriction?

The outbuilding will have a setback of 1.5m from side boundary which could potentially cause detriment to the adjoining landowner. The applicant is also proposing on site wastewater system and the effluent disposal works outside the building envelope will cause amenity impacts to the surrounding land owners as the subdivision was issued on the basis that the lot was required to be connected to reticulated sewerage. The effluent disposal field and the outbuilding will have small setback from the respective side boundaries that will affect the amenity of the adjoining land owners.

It is also noted that Council's Miscellaneous Consent application process is for consideration of applications where the circumstances have changed since the lot was created. This is not the case in this circumstance as nothing has been changed that could warrant a support.

The approval of the MCA could potentially result in setting a precedence for variations on other lot forming part of the same subdivision.

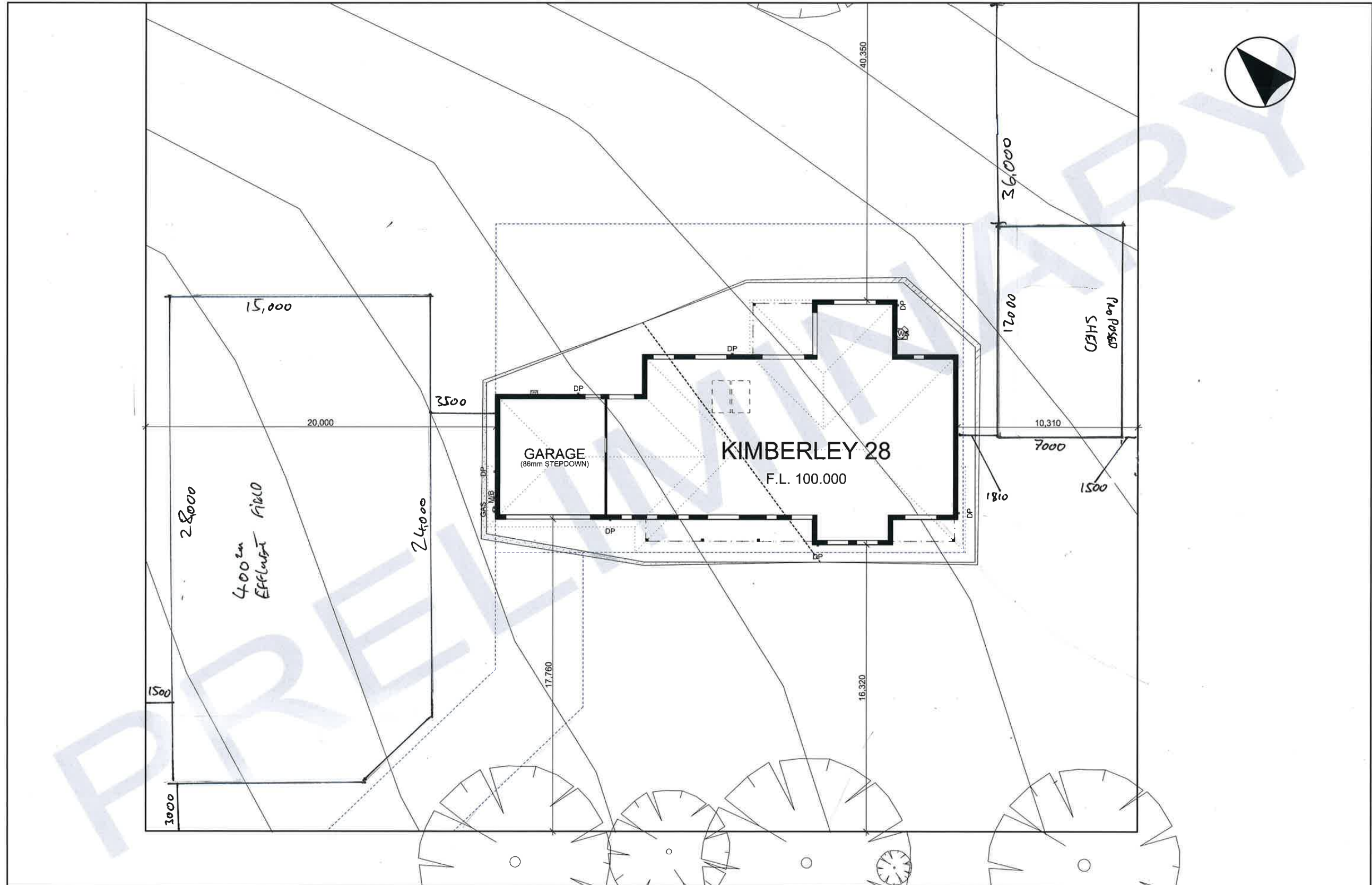
Would an allowance outside of the restriction have a negative implication to the general character or amenity of the area?


The development proposal outside the building and effluent envelopes will be of unreasonable scale with reduced setbacks that will be unable to retain the low density residential characteristics of the subject site. There are examples of large outbuildings in the area however the outbuilding location on the site in this instance will detract from the general character of the area. The proposed development seeks to encroach into space that is located outside of building envelope registered on the lot. For this reason, the proposal is considered to be out of character within the area and will result in a sprawl of buildings on the site.

Overall it is considered the proposal will detract from the existing character and amenity of the area; it will cause detriment to those benefiting from the restriction and is therefore recommended for refusal.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.



 <p>www.dennisfamily.com.au ABN 83 056 254 249 VIC REG No. CDB-U 49195 NSW REG No. NSW-173511C.</p>	SIGNATURE/S This is the drawing referred to in our contract dated / / OWNERS _____ Builder _____	PROPOSED RESIDENCE FOR OWNERS CLIENT NAME 1 & CLIENT NAME 2 ADDRESS JOB ADDRESS CITY STATE POSTCODE MAP MAP REF. JOB NO JOB NUM DRN JOB DRAWN BY	HOUSE TYPE KIMBERLEY 28 MILA TITLE SITE PLAN-SETOUT AND LEVELS SPEC ASPIRATIONS MST AT 04/11/20 SCALE 1:200 SHEET 2 OF 16

8.2	APPLICATION FOR EXTENSION OF TIME FOR PLANNING PERMIT PLN/2015/204 - 2-4 DAVY STREET WOODEND. CONSTRUCTION OF FOURTEEN (14) DOUBLE STOREY DWELLINGS, CONSTRUCTION OF ASSOCIATED BUILDINGS AND WORK (EARTHWORKS, ROADWORKS AND FENCING), AND REMOVAL OF VEGETATION INCLUDING TWO (2) NON-NATIVE TREES WITHIN THE DAVY STREET ROAD RESERVE, CONSTRUCTION OF WORKS WITHIN THE BLACK GUM RESERVE (OUTLET DRAINS AND RESERVE)
Officer:	John Perry, Statutory Planning Officer
Council Plan relationship:	3. Improve the built environment
Attachments:	Nil
Applicant:	Fastnet Consulting Pty Ltd
Date of receipt of application:	26 October 2022
Trigger for report to the Committee	Councillor call-in

Summary

The applicant has applied for an Application to Extend a Planning Permit for the Construction of fourteen double storey dwellings, construction of associated buildings and work (earthworks, roadworks and fencing), and removal of vegetation including two (2) non-native trees within the Davy Street road reserve, construction of works within the Black Gum Reserve (outlet drains and reserve) in relation to Planning Application PLN/2015/204, for a period of one year.

An application for failure to determine the application has been lodged at the Victorian Civil and Administrative Tribunal (VCAT) and Council is required to form a position to present at VCAT. It is deemed reasonable to support an extension to the Planning Permit for a period of one (1) year for the completion of works pursuant to Section 69 of the Planning and Environment Act 1987 and that VCAT be advised accordingly.

Recommendation

That the Committee advises the Victorian Civil and Administrative Tribunal it would have granted an extension of time for one (1) year for the completion of works pursuant to Section 69 of the Planning and Environment Act 1987.

Existing conditions and relevant history

Subject land

The subject site is located on the northwest side of High Street, bounded by Davy Street to the northwest and an unnamed fire track to the southeast. It directly abuts the Five Mile Creek corridor and a range of recreational facilities to the north of the creek.

The land is currently vacant and has a fall towards Five Mile Creek.

Surrounds

The site has the following interfaces:

- To the southeast of the site is High Street. Adjacent to the site, High Street is an elevated two lane highway ramping down from the historic Woodend Bridge. Davy Street serves as an unmade service lane extending off the Highway at the grade of the review site. High Street is the main road into and out of the township. Across High Street is the Woodend Primary School and associated sporting grounds, with further residential subdivision abutting the Creek behind a levy bank to the south-east.
- The south-western boundary of the site abuts an unmade fire track and a recreation reserve which forms part of a broad open space and recreation link along Five Mile Creek. Within this space, and immediately abutting the site is Davy Street, which is an unmade road, used to access sporting grounds to the east. Beyond the carriageway is a bitumen strip (and double storey structures) used for CFA training, with an open landscape leading to Five Mile Creek.
- The north-western boundary of the site is again defined by the unmade Davy Street (which is planted with scattered native trees on the road reserve) and the formal sporting ground used by the local football and cricket clubs. Low scale community and sporting buildings occur within this setting with open parkland extending beyond the oval to the west.
- The site's north-eastern boundary is shared with two (2) residential lots that address Davy Street, to the east and west (at Lot 19 and 4). Lot 19 on the northeast contains an historic double storey dwelling, which is known as Islay House. Further north along Davy Street and High Street is traditional single storey cottages set close to the frontages and other more recent dwellings of 1 and 2 storey, setback behind garden frontages.

Registered restrictive covenants and/or Section 173 Agreements affecting the site

The current copy of the title shows no Covenants, Section 173 Agreements or restrictions have been registered on the title to this property.

Previous planning permit history

A search of Council's records has found the following permit history:

Permit No.	Description
PLN/2015/204	Construction of fourteen double storey dwellings, construction of associated buildings and work (earthworks, roadworks and fencing), and removal of vegetation including two (2) non-native trees within the Davy Street road reserve, construction of works within the Black Gum Reserve (outlet drains and reserve) in relation to Planning Application PLN/2015/204, for a period of one year.
PLN/2013/75	Development of twenty-three (23) double storey dwellings, construction of associated buildings and works (earthworks and roadworks), variation of car parking design requirements under Clause 52.06-8 and removal of vegetation including two (2) non-native trees within the Davy Street road reserve Construction of twenty (20) dwellings & creation of access to a road in a Road Zone Category 1
PLN/2010/210	Construction of twenty (20) dwellings & creation of access to a road in a Road Zone Category 1

PLN/2000/279	25 LOT UNIT DEVELOPMENT
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Proposal

The proposal is for an extension to the planning permit PLN/2015/204 for the completion of the development.

Relevant Macedon Ranges Planning Scheme controls

Planning Policy Framework

Clause no.	Clause name
N/A	N/A

Local Planning Policy Framework

Clause no.	Clause name
N/A	N/A

Zoning

Clause no.	Clause name
N/A	N/A

Overlay

Clause no.	Clause name
N/A	N/A

Particular provisions

Clause no.	Clause name
N/A	N/A

General provisions

Clause no.	Clause name
N/A	N/A

Cultural Heritage Management Plan assessment

	Assessment criteria	Assessment response
1	Is the subject property within an area of cultural heritage sensitivity as defined within the cultural heritage sensitivity mapping or as defined in Part 2 Division 3 or 4 of the <i>Aboriginal Heritage Regulations 2018</i> ?	N/A
2	Does the application proposal include significant ground disturbance as defined in Part 1 Regulation 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	N/A
3	Is the application proposal an exempt activity as defined in Part 2 Division 2 of <i>Aboriginal Heritage Regulations 2018</i> ?	N/A

	Assessment criteria	Assessment response
4	Is the application proposal a high impact activity as defined in Part 2 Division 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	N/A

A cultural heritage management plan approved under Part 4 of the Aboriginal Heritage Act 2006 has been submitted and has formed part of the overall assessment of this application.

The process to date

A permit was issued as a result of the VCAT order P960/2016 for the proposal and issued on 11 January 2017.

The first Extension of Time request was made 8 May 2020 for the permit.

This first Extension of Time request was then considered at the Tribunal and an extension of time was issued for the development to be completed pursuant to Condition 70(b) of the Permit by 11 January 2023.

Referral

Authority (Section 55)	Response
N/A	N/A

Authority (Section 52)	Response
N/A	N/A

Advertising

Not Applicable

Officer assessment

As set out in Supreme Court Decision of Ashley J in *Kantor v Shire of Murrindindi (1997)* the relevant matters to be considered are as follows. Officers have assessed this request against the below criteria:

Whether there has been a change of planning policy.

The zoning of the land has been changed from GRZ to NRZ, however while granting the last extension for the permit, the Member made following comments in relation to this matter:

“I note that the change in zoning and policy do not result in prohibition of a development such as what has been permitted and the likelihood of approval if a fresh application were to be made would be a discretionary one. The Tribunal in 2016 considered that the proposal achieved a built form outcome consistent with the strategic objectives for Woodend as outlined in C98, which appear to be generally consistent with what is now in the Macedon Ranges Planning Scheme. A large part of the site, to remain undeveloped as open space, is proposed on the site closer to High Street that is associated with the floodplain of the Five Mile Creek. This enhances the prospect of built form nestled within a landscaped and open environment and makes a significant contribution to preserving the landscape qualities of the neighbourhood and sense of openness of the neighbourhood character of the area. The location of the site close to sporting and recreational open space also assists in respecting neighbourhood character as was determined when the permit was granted.”

Whether the land owner is seeking to ‘warehouse’ the permit.

The applicant is not seeking to 'warehouse' the permit given the extension relates to completion, as distinct from commencement. The Member in the last decision made following comments in relation to this matter:

“Arguments about the site being on the market and demonstrable of warehousing have little weight in my considerations as it is speculative of what may or may not happen.”

Any intervening circumstances bear upon grant or refusal.

Restrictions in relation to COVID -19 pandemic have made it more difficult to commence and complete development projects within the same timeframes that apply when such restrictions do not apply. In addition to this the applicant has stated that the delays have been caused in relation to securing builders and some issues in relation to the ownership of the land.

The total elapse of time between the permit issuing and the request.

This is not relevant in this case as the development has been commenced.

Whether the time limit originally imposed was adequate.

The development has been commenced, and the applicant has made the request to extend the life of the permit to complete the works. Delays to the fulfilment of the completion have been caused due to the reasons mentioned in the officer's recommendation.

The economic burden imposed on the landowner by the permit.

No other than some extra works in relation to flooding and stormwater management.

The probability of a permit issuing should a fresh application be made.

This has been discussed above.

The comments of any relevant referral authorities, if consultation considered appropriate.

Flooding is not an issue based on the response from the NCCMA as per the last appeal. VCAT member was satisfied by the evidence provided for the last extension of time appeal.

Previous VCAT decision for extension of time:

The previous decision was appealed, with the decision of the Responsible Authority later being set aside at the hearing on 3 June 2021.

In *Rite Track Pty Ltd v Macedon Ranges SC [2021] VCAT 580*, Member Chris Harty included the following reasons in the corresponding order while approving the first extension of time on the site (some of which have been previously discussed in the assessment of this Extension of Time request):

- The change in zoning and policy does not result in prohibition of a development such as what has been permitted and the likelihood of approval if a fresh application were to be made would be a discretionary one.
- The applicant is not seeking to 'warehouse' the permit given that this is the first extension of time request and one that relates to completion, as distinct from commencement.
- Restrictions that have been put in place during the COVID -19 pandemic have made it more difficult to commence and complete development projects within the same timeframes that apply when such restrictions do not apply.
- The permit has technically commenced, and the applicant made the request to extend the life of the permit promptly, as was the lodging of this application for review.

- The original time frame for the commencement and completion of development as set out in Condition 70 is not unusual for a permit of this type, but neither is the granting of the first extension of time.
- The approved development will support other provisions in the planning scheme including the purposes of the zone and policies around residential development given the location of the site close to recreational, natural and town centre services in Woodend.

It is considered that the new extension of time request can be supported in light of the previous reasons given as:

- There has been no changes to the zoning and changes to the policy are considered as inconsequential to this permit and that it would be likely that approval would be given were a fresh application to be made;
- Given the scale of the development as well as the socio-economic impacts of the COVID-19 pandemic it is still considered that the ability to complete development projects is more difficult than prior to the declaration of the pandemic;
- The proposal is still considered as having commenced as mentioned in the prior hearing;

An application for failure to determine the application has been lodged at VCAT and Council is required to form a position to present at VCAT. It is deemed reasonable to support an extension to the Planning Permit for a period of one (1) year for the completion of works pursuant to Section 69 of the Planning and Environment Act 1987 and that VCAT be advised accordingly.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

8.3	FOR DECISION - PLN/2021/587 - 1164 KYNETON SPRINGHILL ROAD, KYNETON SPRINGHILL ROAD AND 535 SHEPHERDS HILL ROAD SPRING HILL - RESUBDIVISION OF FOUR (4) LOTS INTO FOUR (4) LOTS
Officer:	John Perry, Statutory Planning Officer
Council Plan relationship:	3. Improve the built environment
Attachments:	<ol style="list-style-type: none"> 1. Assessment against the Statement of Planning Policy ↓ 2. Agriculture Victoria Response - Planning Advice ↓ 3. Agriculture Victoria Response - Farm Report ↓ 4. Farm Report ↓ 5. Sequencing Plans ↓ 6. Plan of Subdivision ↓
Applicant:	R L Turner
Date of receipt of application:	10/12/2021
Trigger for report to the Committee	Councillors call-in

Summary

The proposal is for the Resubdivision of Four (4) Lots into Four (4) Lots. The application was advertised, with no objections having been received to date. The key issues to be considered relates to the impact of the proposal on the agricultural land and the genuine need for the proposed subdivision to facilitate or enhance the existing agricultural operation. The application has been assessed against the Macedon Ranges Shire Planning Scheme and the proposal has been deemed as not being in accordance with the aforementioned Planning Scheme. It is recommended that a Notice of Decision to Refuse to Grant a Permit be issued.

Recommendation

That Council issues a Notice of Decision to Refuse to Grant a Permit for the Resubdivision of Four (4) Lots into Four (4) Lots for the land at Kyneton Springhill Road and 535 Shepherds Hill Road Spring Hill on the following grounds:

- 1) The proposal is contrary to Clause 14 of the Planning Policy Framework as it does not protect productive farmland due to inappropriate fragmentation which will compromise the long term capacity of the land to be used for agriculture.**
- 2) The proposal is contrary to Clause 21.07-1 of the Local Planning Policy Framework as it fails to demonstrate and provide adequate justification that the resubdivision is required for sustainable agricultural pursuits.**
- 3) The proposal is contrary to Clause 21.09 of the Local Planning Policy Framework as it is considered that the proposal will likely facilitate inappropriate development in a rural area not designated for residential use and development.**

- 4) The proposal is contrary to the purposes and decision guidelines of the Farming Zone as the resubdivision will further solidify the fragmentation of existing farming land and holdings, remove land from agricultural use, and facilitate an opportunity of a non-agricultural use (dwelling) that would be incompatible with and adversely affect the adjoining and nearby land uses for agriculture.
- 5) The proposal will contribute to the fragmentation of agricultural land which is valuable to the Shire.
- 6) The proposal will result in a creation of a lot with as-of-right use for dwelling which demonstrates that the subdivision will not support or enhance the agricultural use.

Existing conditions and relevant history

Subject land

The subject site comprises four contiguous allotments having a total area of approximately 206.69 hectares. It is located in Springhill, approximately 3.5 km away from the Shire's border with Hepburn to the west. The site is currently used for mixed farming and grazing uses. A single dwelling with associated agricultural buildings are located on each of the three allotments forming part of the site. Majority of the site is clear of native vegetation with the provision of mature vegetation along the boundaries and scattered within the site.

Surrounds

The majority of the surrounding properties are mixed farming and grazing sites, with some residential rural/rural lifestyle houses to the east.

Registered restrictive covenants and/or Section 173 Agreements affecting the site

A current copy of title has been provided with the application which shows no Covenants, Section 173 Agreements or restrictions have been registered on the title to this property.

Previous planning permit history

A search of Council's records has found the following permit history:

Permit No.	Description
PLN/1997/314	2 LOT SUBDIVISION
PLN/2005/589	DWELLING EXTENSION
PLN/1997/313	2 LOT SUBDIVISION

Proposal

The proposal is for the Resubdivision of Four Lots into Four Lots (see Attachment 5). Following will be the area of each of the lot:

- LOT 1 ON PS 900305K having an area of 86.23ha comprising an existing dwelling with associated infrastructure.
- LOT 1 ON PS 900306K having an area of 40.33ha comprising an existing dwelling with associated infrastructure.
- LOT 2 ON PS 900306K having an area of 40.01ha.
- LOT 3 ON PS 900306K having an area of 40.12ha.

Relevant Macedon Ranges Planning Scheme controls

Section 46AZK of the Planning and Environment Act 1987

Section 46AZK of the Planning and Environment Act 1987 and Clause 51.07 of the Macedon Ranges Planning Scheme require Council as a Responsible Public Entity to not act inconsistently with any provision of the Statement of Planning Policy (SOPP) in exercising decision making powers. Attachment 1 contains the officer assessment against the SOPP.

Planning Policy Framework

Clause no.	Clause name
11	Settlement
11.03-3S	Peri-Urban Areas
14	Natural Resource Management
14.01-1S	Protection of Agricultural Land
14.01-2S	Sustainable Agricultural Land Use
16	Housing
16.01-3S	Rural residential development

Local Planning Policy Framework

Clause no.	Clause name
21	Municipal Strategic Statement (MSS)
21.01	Municipal Profile
21.02	Key Issues and Influences
21.03	Vision-Strategic Framework Plan
21.04	Settlement
21.07	Natural Resource Management
21.09	Housing
21.13	Local Areas and Small Settlements

Zoning

Clause no.	Clause name
35.07	Farming Zone, Schedule 1

Overlay

Clause no.	Clause name
42.01	Environmental Significance Overlay, Schedule 4
44.06	Bushfire Management Overlay

Particular provisions

Clause no.	Clause name
51.07	Statement of Planning Policy

General provisions

Clause no.	Clause name
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65.02	Approval of an Application to Subdivide Land
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Cultural Heritage Management Plan assessment

	Assessment criteria	Assessment response
1	Is the subject property within an area of cultural heritage sensitivity as defined within the cultural heritage sensitivity mapping or as defined in Part 2 Division 3 or 4 of the <i>Aboriginal Heritage Regulations 2018</i> ?	No
2	Does the application proposal include significant ground disturbance as defined in Part 1 Regulation 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	Not Applicable
3	Is the application proposal an exempt activity as defined in Part 2 Division 2 of <i>Aboriginal Heritage Regulations 2018</i> ?	Not Applicable
4	Is the application proposal a high impact activity as defined in Part 2 Division 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	Not Applicable

Based on the above assessment, a cultural heritage management plan is not required in accordance with Part 2 Division 1 of *Aboriginal Heritage Regulations 2018*.

The process to date

Referral

Authority (Section 55)	Response
Goulburn Murray Water (determining)	No objection subject to conditions
Coliban Region Water Authority (determining)	No objection

Notice of application was given to:

Authority (Section 52)	Response
Agriculture Victoria	Comments provided
Country Fire Authority	No objection

Advertising

The application was advertised pursuant to Section 52 of the Planning and Environment Act 1987.

No objections for the application have been received.

Officer assessment

The key matter requiring consideration in this case is whether the proposal is consistent with the aims of State and local planning policy frameworks, as well as the zone itself in relation to natural resource management. Noting that the proposal is for the resubdivision of land

which is zoned FZ1, the resulting outcomes of the proposal with respect to agricultural land are important in the Officers assessment.

The application has been assessed against the Environmental Significance Overlay, Schedule 4, which covers all lots which are to be considered as part of this application, as well as the Bushfire Management Overlay, which affects part of Lot 1 on Title Plan 082048V as well as parts of Lots 5 and 6 of Plan of Subdivision 202559J.

As a result, referrals were made to Goulburn Murray Water, Coliban Water and the Country Fire Authority. Goulburn Murray did not object to the proposal subject to the inclusion of certain conditions. Both the CFA and Coliban Water did not object to the proposal.

The majority of discussion around this application will focus on the issues of settlement, housing and natural resource management as the main reasons as to why the proposal is being recommended for refusal.

Planning Policy Framework

In both direct and indirect references, the Planning Policy Framework (PPF) strongly discourages the fragmentation and loss of productive agricultural land, aiming instead to protect Victoria's agricultural base as an important component of the State's economy.

There is a theme throughout the PPF seeking to prevent dispersed settlement in rural areas, limiting or reducing fragmentation of agricultural land, and discouraging incompatible land uses with agriculture.

Policy relating to settlement as found in Clause 11 is considered as appropriate for assessment. It is noted that:

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

With the Macedon Ranges Shire Council considered as being a peri-urban area, Clause 11.03-3S 'Peri Urban Areas' can be considered. It aims to manage growth in peri-urban areas to protect and enhance their identified valued attributes. In considering the objective and strategies within this Clause, it is considered that the proposal does not accord with this policy as the proposal will not help protect an area which is strategically important with respect to agriculture, with the fragmentation of agricultural land potentially occurring as result of the proposed resubdivision.

At Clause 14 of the Macedon Ranges Planning Scheme, it is written that:

Planning is to assist in the conservation and wise use of natural resources including energy, water, land, stone and minerals to support both environmental quality and sustainable development, and;

Planning should ensure agricultural land is managed sustainably, while acknowledging the economic importance of agricultural production.

Clause 14.01-1S of the Planning Policy Framework aims to protect the state's agricultural base by preserving productive farmland.

The proposal in this regard is not considered to being consistent with or supported by such policy in relation to rural and regional development. In particular, the proposal and its result in the ability for additional dwellings to be built on agricultural land is considered as failing to meet a number of strategies in addition to the objective itself, with productive agricultural land considered as being removed from the state's agricultural base and the resulting of an unplanned loss due to permanent changes in land use (potentially new dwellings), and the removal of land from primary production.

Clause 14.01-2S of the Planning Policy Framework aims to encourage sustainable agricultural use.

The proposal fails to meet the objective and strategies listed within this Clause as the proposal does not sufficiently justify how the resubdivision of lots as applied for is required to ensure that the agricultural and productive rural land use activities on the sites can be managed and maintained to achieve the long-term sustainable use and management of existing resources.

As the proposed resubdivision can allow for the newly reshaped lots to have the use and development of dwellings as-of-right, the Planning Policy's Framework guidance on housing can be considered.

Clause 16.01-3S considers rural residential development. In this instance, it is noted that residential development is generally not to be encouraged in zones other than the Rural Living Zone or other residential zones, in order to protect productive agricultural land.

On balance of the PPF, the proposal overall, does not comply with the PPF. The PPF, amongst other things, seeks appropriately located accommodation which is considerate of a number of factors, including a high standard of environmental sustainability, urban design, and amenity. Further, the items relating to agriculture in the PPF give high importance to the protection of agricultural land and sustainable agricultural land use. It is not considered that the resubdivision of the land will be primarily focused towards these achievements.

In *Stewart v Alpine SC [2009] VCAT 1559*, Member Naylor made the following remarks in relation to consolidation and fragmentation of farming land for an application to subdivide seven existing lots into five lots, varying in size from 1 hectare to 130 hectares (in two parts):

"I agree with the Council that the proposed lots do create a level of fragmentation that is contrary to the objectives of the Subdivision in Rural Areas local planning policy [...] Rather, I am of the opinion the approach taken [...] of reviewing the subdivision and/or consolidation of the lots that make up this land holding in totality is the right one. The strong planning policy support for the retention of rural land in units capable of sustaining rural activities and not threatening or reducing the agricultural capability of land through subdivision needs to be considered in determining what a suitable subdivision of this land should be."

In this instance, the Planning Policy Framework has emphasised the need to protect agricultural land, particularly from encroachment of urban development and further fragmentation for the purpose of rural lifestyle living.

Local Planning Policy Framework

The Local Planning Policy Framework specific to the Macedon Ranges Shire Council also echoes the sentiments of appropriate settlement and protection of agricultural land. Past inappropriate subdivisions are raised as a contributing factor to the removal of land from productive agriculture to the detriment of both landscape character and the Shire's economy.

A look at Councils Municipal Profile at Clause 21.01 finds that there is a part of this Clause relating to natural resource management. It partially notes that:

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.

New land uses and development must not compound the decline of viable agricultural activities. To ensure that this does not occur, local policy includes Land Use Visions (Clause 21.03.2) and outlines clear tests to be met for future development in agricultural areas and the Farming Zone in particular. One of the guiding principles which is relevant to this application under Clause 21.03-2 states the following:

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

The site is zoned Farming Zone, and Clause 21.04 limits residential development of rural balance that is not in a Rural Living Zone, unless related to the use of land for agriculture or other appropriate economic development activities.

Clause 21.04 includes a discussion of the overview and issues relating to settlement, and provides local content to support Clause 11 of the Planning Policy Framework.

One of the strategies listed under Objective 1 of this Clause notes that residential development of rural balance not in a Rural Living Zone is to be limited, unless related to the use of land for agriculture or other appropriate economic development activities. It is considered that the proposal's need to alter the shaping of lots so that they can meet the minimums for as-of-right dwelling permissions will be at the expense of agricultural productivity and the fragmentation of agricultural land.

Clause 21.07 includes considerations of agriculture and sustainable land management at a local scale to support Clause 14 of the Planning Policy Framework.

Clause 21.07-1 has several objectives which are important for consideration here. The discouragement of conversion of productive agricultural land is noted here, with the proposal under consideration arguably resulting in the ability for dwellings to be created in the future, permanently resulting in the loss of land which could be used for agricultural purposes. Policy here also recommends the discouraging of subdivision which does not support the continued use of the land for productive, sustainable agriculture.

It is considered that the resubdivision is not appropriate in this nature, particularly given the proposed size of the lots, and would result in fragmentation of land which is contrary to the objectives and strategies of Clause 21.07-1. It is not considered that the application has demonstrated that the agricultural outcome of the resubdivision under assessment would improve on the existing agricultural use and management of the land.

As previously discussed in the section of this report relating to housing policy, it is considered that the proposal will be contrary to Clause 21.09-2 as it will impact the agricultural capability of the land.

In summation of the policy respective of the Local Planning Policy Framework (LPPF), it is considered that the proposal overall does not comply with the LPPF. The subdivision, and its future for potential dwellings on each of the proposed 40 hectare FZ lots, is not considered as taking into account the valuation of farming land as mentioned in Councils Municipal Profile. The proposal does not appear to be beneficial in supporting or enhancing the agricultural potential of the site in comparison to the potential loss of productive land which may occur from the future use and development of dwellings or other accommodation uses, in addition to the fact that the subdivision may see residential development on a rural zone (not RLZ) or not being in a residential zone.

Farming Zone

The general purposes of the Farming Zone are to provide for the use of land for agriculture, to encourage the retention of productive agricultural land and to ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture. It is considered that the resubdivision of the land proposed fails to satisfactorily address the decision guidelines of the zone, as well as being contrary to the stated purposes of the zone.

Additional case law relevant in this instance is the VCAT decision of Member Graeme David in *Gibson v. Bass Coast SC [2015] VCAT 857*. When considering the potential impact to agricultural expansion of existing proximate farms or bona fide farmers wishing to relocate, the Member stated that:

“I accept that the creation of smaller lots of 40 ha on which dwellings are permitted as of right will increase the value of the land. This can render it more difficult for bona fide farmers wishing to relocate or expand their holdings, where the land is also attractive to other potential non-farming purchasers. Where agriculture is out competed due to land prices, this can contribute to ‘death by a thousand cuts’ to the local or regional scale and efficiency of agriculture.”

In this instance it is considered that this concept of a ‘death by a thousand cuts’ to the scale and efficiency of agriculture is pertinent when considering an application of this nature, which complies with the minimum lots size requirement, but is considered as failing to meet the provisions of the Scheme in relation to the future use of the land for productive agriculture. It is considered that the proposal at-hand is relevant in this instance.

Further, the proposal is contrary to the above purposes and decision guidelines of the Farming Zone as it will further solidify the fragmentation of existing farming land and holdings, remove land from agricultural use, and facilitate an opportunity of a non-agricultural use (dwellings) that would be incompatible with and adversely affect the adjoining and nearby land uses for agriculture.

It is considered that the proposal fails to meet the following decision guidelines:

- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*

With regard to the fragmentation of the land it is considered that the resubdivision would lead to the fragmenting of existing land on which productive agriculture could be undertaken.

In this instance it is useful to heed the comments of Senior Member Byard in *Greg Chalmers Pty Ltd v Greater Geelong CC [2007] VCAT 292* in relation to fragmentation of rural land as a result of subdivision:

“Generally speaking, the more rural land is fragmented into smaller pieces the less useful and useable it is for farming purposes. It has long been recognised in rural planning, indeed for decades that fragmentation of rural land, with or without a proliferation of non-farm rural houses not required for farming purposes are a very serious threat to the continued usefulness and useability of farming land. Fiddly bits of land are less useful, particularly if of an appropriate shape and location, than larger areas. The whole trend of farming practice has been to increase areas required for farming enterprises whilst there has been continuing pressure to cut land up into smaller amounts to exploit its residential value. Good town and country planning looks for residential uses to be located in or on the edge of towns, or at least in areas planned for that purpose, rather than spread over rural zoned areas.”

Further supporting the above, Senior Member Russell Byard in *Smith v Baw Baw SC [2016] VCAT 611* made following comments in relation to the proliferation of the rural houses:

“There is now, and for decades past has been, a desire by some people to capitalise on the residential value of farming land but this is to the detriment of farming purposes. It is thus that policies against the fragmentation of farming land by subdivision into small less useful or useless pieces (useless, that is to say from a farming point of view) have been formulated. Indeed, the tendency over 50 years or so has been for the areas needed for viable farming to increase rather than decrease, notwithstanding the advantages of advanced farming techniques, machinery, fertiliser and so on.

I should add, that it is not a question of every piece of land being a viable farm, standing alone. Substantial pieces of land can be aggregated to be the basis of viable agricultural activities. To do that it is convenient but not always necessary for pieces of land being used to be contiguous. A piece of land, not sufficient for a viable farm in itself, is still valuable farm land that can be owned, leased or used for agistment in association with other farm land. However, fragmentation into little bits is strongly contraindicated.”

It is considered that the proposal would limit the expansion and operation of adjoining and nearby agricultural uses and it is argued that any potential additional dwellings are not reasonably required to support and enhance agricultural production.

For the reasons discussed above, the proposal would incrementally further fragment the agricultural landscape character, lead to a concentration or proliferation of dwellings in the area, impinge the opportunity to use this land for more productive, sustainable agriculture, and could possibly have an adverse impact on use of the land for agriculture.

Overall, it is not considered that the proposal satisfactorily meets the decision guidelines of the zone. The proposal has the potential to permanently remove land from agricultural production and is not considered to support and enhance the agricultural production which can be undertaken on the site.

Environmental Significance Overlay

The site is affected by Environmental Significance Overlay Schedule 4. This overlay applies to properties within the Eppalock Proclaimed Catchment and aims to ensure the protection and maintenance of water quality and water yield within the Eppalock Water Supply Catchment Area.

The statement of significance for the Environmental Significance Overlay Schedule 4 is that the Lake Eppalock is a major water storage and recreational facility located within the Campaspe River catchment. It is a major source of water for irrigation, stock and domestic and urban water supplies for towns within the municipality.

The decision guidelines specified in the planning scheme require Council to consider the impact of the use and development on the water catchment; the need to protect or retain vegetation; and any land capability study.

The above policies seek to discourage development within the Special Water Supply Catchment area. The proposal will be unable to meet these policies as it would create lots within the Special Water Supply Catchment area that can be developed for residential purposes resulting in waste generation which the above policies seek to discourage.

The application has been referred to Coliban Water and Goulburn-Murray Water, who both have responsibilities for water management and protection in the area. No objection was received from Coliban Water and Goulburn-Murray Water have no objection to the proposal subject to the inclusion of conditions.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

Conclusion

In summary, it is considered that planning policies, as well as the guidance in the Farming Zone points to the importance of retaining land which could be used for farming purposes. It is considered that this application would result in the resubdivision of lots which will allow for additional residential development at the cost of the ability for land to be used and developed upon for productive agricultural purposes.

The protection of Farming Zone land is of paramount importance to the policy contained within the planning scheme and to the local and wider community. It is considered that this application does not justify a need for subdivision and that the application should be refused.

Consistency of the proposal with the Statement of Planning Policy (SOPP):

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
1	To ensure the declared area's natural and cultural landscapes are conserved and enhanced.				N/A	
		Manage land use, development and infrastructure to ensure that significant landscapes, views and vantage points are conserved and enhanced.			N/A	
		Encourage retention of native vegetation and revegetation that contributes to significant landscapes, particularly on escarpments and ridgelines and along riparian areas.			N/A	
		Manage development around significant landscapes of visual, scientific or education value, including along ridgelines and at vantage points.			N/A	
		Manage development and infrastructure provision to ensure sequences of views from key road and rail corridors are maintained for current and future users.			N/A	
2	To ensure the significant biodiversity, ecological and environmental values of the declared area are conserved and enhanced		✓			No native vegetation will be removed to facilitate the proposal.
		Conserve and enhance high-value native vegetation and biodiversity and their ecological integrity by undertaking responsible environmental management, planning, procedures and practices.			N/A	
		Utilise appropriate historical ecological knowledge and practices from Traditional custodians of the land in the management of biodiversity and ecological and environmental values.			N/A	
		Encourage ecological restoration works in areas of identified state, regional and locally significant biodiversity value			N/A	

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Establish and improve bio links to connect high-value ecological areas, including areas along waterways and areas within and between towns.			N/A	
		Minimise the effects of weeds and pest animals on biodiversity values by establishing and implementing best practice land management plans.			N/A	
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.		✓			The subject site is located with Special Water Supply Catchment Area. The application was referred to relevant water authorities and no objection has been raised, subject to conditions being included by Goulburn Murray Water.
		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.			N/A	
		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.			N/A	
		Review and improve regulation and monitoring of groundwater licences and surface water diversions.			N/A	
4.	To recognise, protect, conserve and enhance the declared area's Aboriginal cultural and spiritual heritage values and				N/A	The subject site(s) are not located within an area of Aboriginal cultural sensitivity.

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
	work in partnership with Traditional Owners in caring for Country.					
		With Traditional Owners, identify, protect, conserve and enhance sites, landscapes and views of Aboriginal cultural significance, consistent with the Aboriginal Heritage Act 2006 and Cultural Heritage Management Plans.			N/A	
		With Traditional Owners, acknowledge, protect, promote and interpret tangible and intangible Aboriginal cultural values, heritage and knowledge when planning and managing land use and development, water and other environmental resources.			N/A	
5.	To recognise, conserve and enhance the declared area's significant post-contact cultural heritage values.				N/A	
		Conserve and enhance the character of state and/or nationally significant post-contact cultural heritage values (including aesthetic, historic, scientific, social and spiritual values) in the declared area's heritage places, precincts and landscapes, including sequences of views along main road and rail routes.			N/A	
		Acknowledge, promote and interpret significant post-contact cultural heritage values in the planning, design, development and management of land uses, including infrastructure.			N/A	
6.	To support and encourage agricultural land uses that strengthen the declared area's economy and contribute to the rural landscape.			X		<p>The proposal does not meet this objective it is considered that the proposed subdivision will allow for future residential development on agricultural land, and that the proposal is not specifically aimed at enhancing the agricultural capacity of the land.</p> <p>The proposal demonstrates no nexus between agricultural land use and the necessity of a dwelling as well as how a dwelling would be ancillary or secondary to agricultural pursuits on the land.</p>

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Encourage the use of rural-zoned land for agricultural purposes and encourage the use of high-quality soils for soil-based agriculture.		X		The proposal is not considered as being able to meet this strategy as it is argued that the resubdivision will allow for the as-of-right use and development of the land for a dwelling on the resubdivided lots of over 40ha in size. A farm management plan has been submitted to justify the resubdivision which was referred to the Department of Agriculture. The existing agricultural uses are considered as being able to be operated without having a dwelling on any of the sites.
		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).		X		
		Support agricultural practices that improve soil health and respond to and encourage adaptation to climate change.		X		
		Encourage measures to ensure agricultural practices protect and enhance soil quality, water quality, biodiversity and native plants and animals.		X		
		Manage the effects of rural land use and development on important environmental and cultural values.			N/A	
		Restrict the supply of rural-living-zoned land to conserve and protect agricultural practices.		X		The proposal will likely result in a permanent land use change on multiple agricultural sites which is considered as contrary to this strategy.
		Protect strategic extractive resource areas and existing quarry operations from encroachment from inappropriate development.			N/A	
		Proposals to establish an extractive industry must adhere to best practice measures to avoid and minimise impacts on significant environments and landscapes.			N/A	
7.	To provide for a diverse and sustainable visitor economy compatible with the natural and cultural values of the area.				N/A	

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Support and facilitate sustainable and responsible tourism and recreation-related land uses and developments (such as agritourism) in keeping with the declared area's significant landscapes, environmental and cultural values.			N/A	
		Facilitate tourism-related land use and development that encourages people to recognise and understand Aboriginal and post-contact cultural heritage.			N/A	
		Ensure the conservation and enhancement of Declared Water Supply Catchment Areas of regional or state significance in the planning of tourism and recreational land uses.			N/A	
		Protect the unique rural character of towns in the declared area.			N/A	
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.				N/A	The site is not considered as being located near any significant landscape features, and no vegetation is proposed to be removed as a result of the proposal.
		Direct urban development to a hierarchy of settlements identified for growth, through clearly defining long-term settlement boundaries.			N/A	
		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).			N/A	
		Encourage infill development that respects the townships' character.			N/A	
		Limit the expansion of settlements in high risk locations, actively reducing the risks associated with natural hazards.			N/A	
		Encourage a range of housing types within settlement boundaries to support a diverse range of housing needs.			N/A	

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Encourage provision of an adequate supply of well-serviced employment land within settlement boundaries to support local and regional jobs and services.			N/A	
		Encourage the use of voluntary Cultural Heritage Management Plans.			N/A	
9.	To manage the provision of infrastructure consistent with protection of the area's significant landscapes and protection of environmental values to support the social and economic needs of communities and increase resilience to climate change effects.				N/A	
		Provide timely infrastructure and services to meet community needs in sequence with development.			N/A	
		Maintain and enhance transport connections that provide links between and within regional communities and to major cities.			N/A	
		Reduce use of fossil fuels and reduce greenhouse gas emissions by prioritising active transport and public transport modes.			N/A	
		Maintain view lines of state-significant landscape features from the main road and rail transport corridors.			N/A	
		Ensure the future operation and development of major transport linkages and rail corridors and upgrading and improved management of freight routes are considered when managing the growth of settlements.			N/A	
		Ensure equitable access to community infrastructure.			N/A	
		Encourage the use of active and public transport by planning infrastructure and facilities in accessible locations, and improve walking and cycling routes.			N/A	

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
10.	Respond to the challenges and threats of climate change and natural hazards with careful planning and mitigation strategies.		✓			
		Support community and government planning for disaster preparedness and climate resilience.			N/A	
		Manage bushfire risks while also retaining valued biodiversity and landscape character.	✓			The proposal has been assessed by the Country Fire Authority whom in this instance did not object to the proposal.
		Plan for more renewable energy generation and distribution.			N/A	
		Ensure proposals to establish renewable energy facilities adhere to best practice measures to avoid and minimise impacts on significant environments and landscapes.			N/A	
		Ensure planning for future use and development of land prone to flooding minimises the consequences of inundation.			N/A	



Agriculture Victoria

Department of Jobs, Precincts and Regions

OFFICIAL

23 August 2022

John Perry
Planning Department
Macedon Ranges Shire Council
PO Box 151,
KYNETON VIC 3444

Email: mrsc@mrsc.vic.gov.au

Dear John,

RE: Planning permit Application Referral – PLN/2021/587 Subdivision of the land into three (3) lots (consolidation and re-subdivision of existing lots)

**Land at: 1164 Kyneton-Springhill Road, SPRING HILL 3444
Lot 1 TP516297, Lot 6 LP202559 and Lot 1 TP82048**

Your Ref: PLN/2021/587

Thank you for the opportunity to provide comment pursuant to a notice of application under Section 52 of the *Planning and Environment Act, 1987*.

The advice provided in this letter relates to:

1. Planning context.
 2. Supporting documents
 3. Strategic objectives and protection of agricultural lands.
- 1. Planning context.**

The subject land is zoned Farming Zone (FZ), under Clause 35.07 of the Macedon Ranges Planning Scheme, and is affected by:

- Environmental Significance Overlay – Schedule 4 (ESO4) Eppalock Proclaimed Catchment.
- Bushfire Management Overlay (BMO).
- Waterways.

Under Schedule 1 to Clause 35.07 Farming Zone, the subject lots are within the area designated by Map 1 to this Clause, making the minimum subdivision area of 100 ha and the minimum area for which no permit is required to use land for a dwelling is 40 hectares.

The application is seeking permission for the consolidation of lots to create three (3) lots over 40 hectares which will provide one additional dwelling entitlement.

Clause 35.07-3 Subdivision states that *a permit is required to subdivide land*.

- *Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.*
- *A permit may be granted to create smaller lots if any of the following apply:*

1

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- *The subdivision is the re-subdivision of existing lots and the number of lots is not increased.*

The proposed Plan of Subdivision PS 900306H consists of;

- Proposed Lot 1 with an area of 40.33 ha
- Proposed Lot 2 with an area of 40.01 ha
- Proposed Lot 3 with an area of 40.12 ha

Environmental Significance Overlay – Schedule 4 (ESO4) to Clause 42.01, states as the environmental objectives to be achieved:

- *To ensure the protection and maintenance of water quality and water yield within the Eppalock Water Supply Catchment Area as listed under Section 5 of the Catchment and Land Protection Act 1994.*

A permit is required for Accommodation (including a Dwelling) which is not connected to reticulated sewerage.

2. Supporting documents.

Agriculture Victoria has reviewed the application documents and provides a summary of the relevant points:

Planning Report

Agriculture Victoria notes that document titled; *Subdivision Planning Application 1164 Kyneton Springhill Road, Springhill*, Ref No: 8668P prepared by Stephen Bitmead of Fastnet Consulting, dated 9 December 2021, states the following:

- *Subdivide the following lots to create three (3) rural lots of 40 hectares. No additional lots will be created (three (3) lots involved, 3 lots maintained). The subdivision does provide one additional farm dwelling entitlement.*
- *The subject land involved in the subdivision is made up of the following titles:*
 - *1. Turner Land made up of two (2) titles being Certificate of Title Certificate of Title 2924/704 which contains an existing dwelling and farm structure comprising 53.6ha – Title 1 and Certificate of Title T10100/688 – Title 2 comprising 62.8ha.*
 - *2. The Cudlipp land to the north made up of three (3) properties being Certificate of Title 10908/892, Certificate of Title 10948/278 and Certificate of Title 11079/379.*
 - *3. The Taylor land being Lot 6 Certificate of Title 9670/816. (Copy of titles attached) (Page 1)*
- *In order to generate sufficient overall minimum 3 x 40 ha, Roslyn Turner is to purchase approximately 6.3 ha from Cudlipp and Lot 6 from Taylor comprising 16.3 ha. (Page 2)*
- *To the immediate north is the Cudlipp farm and Taylor farms which are also used for the purpose of prime beef and lamb production and managed by the Turner family. (Page 3)*
- *The subdivision will not be at the expense of a viable farming practice as the existing farming enterprises is to be maintained and enhanced by the increase in the number of skilled farmers on site. (Page 7)*

Request for further information re; Proposed Re-subdivision of 5 Lots

Agriculture Victoria notes further that the applicant has provided further information, including addressing staged subdivision, farm reports and the strategic objectives of the planning scheme and VPPs in a letter from Stephen Bitmead of Fastnet Consulting to Council Ref No.8668P, dated 8 June 2022 stating that:

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- *The proposal will create one additional dwelling entitlement that will allow an additional family member to live on the farm. The additional dwelling entitlement is directly link to the ongoing and enhancement of the existing agricultural use. (Page 3)*

Farm Report

Agriculture Victoria notes that document titled; *Farm Report 1164 Kyneton Springhill Road, Spring Hill*, prepared by AJ Forbes and Associates, Agricultural Consultants, dated 27 May 2022, states the following:

- *This report has been prepared in support of Ms Roslyn Turner's Application to the Macedon Ranges Council, to grant a Permit to construct two dwellings on her property at 1164 Spring Hill-Kyneton Road. (Page i)*
- *The farm is a family farm based on prime lamb and beef production on their 95.4-hectare freehold property, which contains the farm dwelling and the necessary sheep and cattle handling and farming infrastructure. (Page i)*
- *Over recent years the farm viability has been supported by leasing land from the surrounding district giving opportunity to grazing, cropping and hay, to give the necessary economies of scale. (Page i)*
- *Mrs Turner has recently entered a Contract to Purchase on two adjacent properties (Taylor's and Cudlipp's) conditional on a successful application to build an additional dwelling on it. This will then result in the consolidation of their properties and give certainty of tenure that will allow Turners to build further on their existing highly productive prime lamb and beef farming. (Page i)*
- *The consolidation and subdivision will lead to three rural Lots of 40 hectares, and will lead to not only maintain the existing farming use and productivity, but will also bring about significant increases in production. (Page i)*
- *In particular, the consolidation and subdivision on the site will lead to:*
 - *significant increases in lamb survival to the point of sale, from the current level of 130 per cent in excess of 200 per cent.*
 - *expansion of the flock of breeding ewes from current 600 to 800-1000 ewes.*
 - *Significant increases in calf production.*
- *Note that these changes and the increased lamb and beef production, can only be gained by increased on-going management that can only be achieved by an increased on-site presence. (Page i)*
- *The consolidation of land, linked with the dwelling rights on the Turner site will lead to significant increases in lamb survival to the point of sale, providing there is a parallel increase in management over the operation and the neonatal care centre. (Page 1)*
- *The Turners graze:*
 - *600 ewes and lambs at circa ~2.0-2.5 DSE1/breeding ewe with a lamb at foot;*
 - *Cattle 100 cows and calves at 10--16 DSEs per breeding cow and calf; and*
 - *Produce their own hay, silage and oats and other fodder crops.*
- *This equates to a carrying capacity of 1000 ewes with a lamb at foot of 800-1000 ewes without reducing the cattle numbers on farm. (Page 3)*
- *However, the Turners Farm's actual Lambing Percentage of 170 - 180 % (measured in utero by Ultrasound) is not maintained to the point of sale, but is in the order of 130 percent still alive at point of sale². (Page 5)*
- *This discrepancy can be largely explained by - limitations of lack of onsite living arrangements by other family members. Page 5)*
- *The newly acquired farmland will have the gullies and drainage ways fenced and planted with native trees. (Page 8)*
- *The additional fencing required with subdivision will create smaller paddocks to allow for increased rotational grazing. (Page 8)*
- *The Turners are proposing to consolidate and subdivide their existing farm with portions of the adjoining farms that they currently manage to enhance and continue*

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their agriculture operations and improve the productivity of the farm with increased presence of family members on site. (Page 10)

- *If this fails to proceed, the management and operations of Cudlipp and Taylor properties will cease as Ms Turner can no longer physically keep up with the work demands without additional family members availability and support on site. (Page 10)*

3. Strategic objectives and protection of agricultural lands.

The following clauses of the Macedon Ranges Planning Scheme are relevant to this application:

- Clause 14.01-1S Protection of agricultural land:
 - Objective: To protect the state's agricultural base by preserving productive farmland, and strategies to:
 - *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
 - *Prevent inappropriately dispersed urban activities in rural areas.*
 - *Limit new housing development in rural areas by:*
 - *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.*
 - *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.*
 - *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.*
- Clause 16.01-3S Rural residential development:
 - Strategies to:
 - *Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.*
 - *Discourage development of small lots in rural zones for residential use or other incompatible uses.*
 - *Encourage consolidation of existing isolated small lots in rural zones.*
- Clause 21.07-1 Agriculture:
 - Objective 1; *To protect agricultural land:*
 - *Strategy 1.1 Support the continuation of agricultural activity.*
 - *Strategy 1.3 Discourage conversion of productive agricultural land to non-productive uses.*
 - *Strategy 1.4 Ensure proposed development demonstrates how it relates to the ongoing productive use of the land for agricultural purposes and does not promote rural lifestyle development.*
 - Objective 2: *To provide for sustainable, productive agriculture within the Northern Catchments and Agricultural Landscapes areas identified on the Rural Framework Plan in Clause 21.03, discourage land use and development that is contrary to the vision for these areas and limit expectations of land use change and speculation:*

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- *Strategy 2.1 Discourage the creation of additional lots in the area as fragmentation of existing lots and an increased density of lots would threaten the vision for these areas to maintain agricultural productivity.*
- *Strategy 2.2 Avoid subdivision, excision of a house lot or construction of a dwelling that does not support the continued use of the land for productive, sustainable agriculture.*
- *Strategy 2.3 Ensure development, including dwellings, relates to agricultural production and is supported by land capability assessments.*
- *Objective 4: To maximise benefit from high value agriculture:*
 - *Strategy 4.1 Maintain productive farm sizes.*
- *Objective 6: To facilitate productive agricultural activity and ensure new development is related to the ongoing, productive use of the land for agriculture.*
 - *Strategy 6.1 Discourage re-subdivision, excision of a house lot or construction of a dwelling unless it can be demonstrated it is required to facilitate or enhance the ongoing primary use of the land for productive, sustainable agriculture.*
 - *Strategy 6.3 Ensure any use of the land for residential activity is secondary or ancillary to the primary agricultural use of the land.*

Conclusion:

Macedon Ranges Shire Council as the responsible authority will have to make a determination as to whether the application for re-subdivision of land, approximately eight (8) kilometres from Kyneton, enhances the agricultural potential and the productive capacity of the land, and generally meets the purpose of the Farming Zone, and the objectives and strategies of the Macedon Ranges Planning Scheme.

The purpose of the Farming Zone includes:

- *To provide for the use of the 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.*

Caselaw that may be considered includes the Victorian Civil and Administrative Tribunals (VCAT) rulings within *Estate of JE Walker v Wangaratta RCC [2021] VCAT 125*. The case addresses:

- The purpose of the Farming Zone.
- What constitutes productive use of agricultural land.
- Subdivision and the potential to diminish the long-term agricultural productive capacity of the land.
- The potential for lifestyle use of the land, with the presumption of a dwelling.

Within *Estate of JE Walker v Wangaratta RCC [2021] VCAT 125*, the Member Martin discusses the purpose of the Farming Zone and specifically the three (3) points above in: *“The last three purposes are very on point here - a focus on protecting/retaining productive agricultural land and avoiding non-agricultural uses which would undermine such productive agricultural focus”* and *“the planning policy framework is also promoting the productive agricultural use of land zoned Farming Zone and discouraging subdivision that would compromise same”*. [41]

The same case comments on the site being in close proximity to a major town, in that instance Wodonga; *“I do see a major prospect that if the three lot subdivision went ahead, the new lots would be attractive to use as lifestyle properties”*. [46] *The inclusion of “the word ‘productive’ as pointing to a desire that the farming activity not be token, but be meaningful/genuine. Or*

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to put this another way, the word 'productive' in the relevant text in the Planning Scheme must be given work to do, not just 'wished away' or inappropriately 'read down'". [47]

The above case dealt with the question of the subdivision of land which would create an 'as of right' for further dwellings based on a minimum lot size. In this proposal for a three (3) lot re-subdivision, the Applicant appears to put forward the presumption of further dwellings as a consequence of an approved re-subdivision, stating: *The proposal will create one additional dwelling entitlement that will allow an additional family member to live on the farm.*

Stoll v Baw Baw SC [2018] VCAT 603 references Pincott & Ors v Baw Baw SC [2012] VCAT 1137 in a consideration of the merits of applications purporting to the creation of lots with a dwelling to accommodate family members.

Stoll v Baw Baw SC [2018] VCAT 603 notes: It was stated the smaller lot was to be used for the purpose of a dwelling for a member of the landholder family, from which the property could be managed.[49]

The Member Gaschk states that: *In setting aside the council's decision to issue a permit for the proposed subdivision, Member David made the following statement that is relevant to the matter before me [50]:*

- *The Tribunal must take a long-term view. It is not influenced by the potentially short-term stated needs of a particular landowner over and above the longer-term community interest as expressed through the planning scheme, and the interpretation of policies and strategies within it, including those for land use zones and overlays.*

The Member Gaschk follows up with: *In this regard the creation of a separate title for the dwelling on lot 1 at 2.1ha, simply enables the future sale of that title to another party without any connection or interest to the adjoining farm activity. In my view, the complications observed by Member David at paragraph 60 of his decision could also become an issue for the adjoining farm operations. [51]*

Pincott & Ors v Baw Baw SC [2012] VCAT 1137, Member David made the following statement: I have previously identified that it has been regularly stated and inferred that the purpose of the small realignment lot is to provide for a dwelling for a member of the Toscano family. However, despite this stated intent, the allotment would be a separate entity in its own right that could be on-sold at any time in the future as a small rural residential lot located in the Farming Zone. This is not encouraged in the planning scheme, and the planning system is regularly complicated by objections against farming and associated activity in the rural zones by rural-living residents who appear to have limited understanding of or tolerance for surrounding uses for which the land is specifically zoned. [60]

Agriculture Victoria notes that:

- The current stated and proposed primary use of the land is for a lamb and beef enterprise (grazing animal production).
- The stated increase in agricultural production is contingent on providing accommodation for family members.
- None of the noted infrastructure and environmental improvements in the Farm Plan are shown on a site plan which could be endorsed and form part of any permit.

Agriculture Victoria considers that:

- The proposal and the presumption of further dwellings has the potential to diminish the long-term agricultural productive capacity of the land.
- The proposed ongoing agricultural production (lamb and beef production) could be carried without the presence of a dwelling, but regular visits would be required to ensure animal health and welfare.
- The stated requirement for on-farm accommodation could be achieved without the creation of separately saleable lots.

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VCAT examples cited concluded that by satisfying the requirements for subdivision of land in the Farming Zone doesn't mean it is an acceptable planning outcome in terms of the broader planning framework. In addition, given the proximity to urban centres and services, if the proposal was approved, it is likely that the proposed lots will lead to the potential for viable holdings being reduced to hobby farm or lifestyle blocks, a divergence from productive farming and the purpose of the Farming Zone.

Recommendations

Agriculture Victoria considers that the proposed three (3) lot re-subdivision will set the presumption for the subsequent approval of dwellings that has the potential to diminish the long-term agricultural productive capacity of the land and will lead to a proliferation of dwellings in the Farming Zone.

The refusal of the application appears supported by the VCAT decisions cited above.

If Council were to consider that the proposal meets the purpose of the Farming Zone, and the strategic objectives of the Macedon Ranges Planning Scheme and if Council determines a permit was to be granted to allow the three (3) lot re-subdivision, Agriculture Victoria makes the following recommendations:

- That conditions be placed on the permit to protect agricultural land through a binding agreement on title which ensures:
 - That any permit issued that allows the use and development of a dwelling in the Farming Zone is in association with agricultural production, protects against the potential for further subdivision of the land and ensures the use does not compromise farming activity in the area.
 - That the domestic development be contained within an envelope minimising the domestic use of the land, whilst maximising and maintaining the agricultural use of the land and is shown on any approved plan as part of any permit issued.
 - The existing dwellings and future dwellings must not be subdivided from the lot in the future, and the lots must not be subdivided to increase the number of lots, by excision or otherwise.
 - That the owner acknowledges and accepts the possibility of nuisance from adjoining agricultural operations including animal production, spray drift, agricultural machinery use, pumps and associated hours of operation necessary for agricultural production.

This letter of advice is provided to Council to assist their assessment of the above planning permit application and any requirement in seeking further information from the applicant as part of its assessment process. The information provided should be considered as advisory in nature to inform Council's determination as the Responsible Authority.

Please provide a copy of the outcome for our records.

Please contact me if you require any further clarification.

Regards



Steve Hicks

Agriculture Victoria Planning and Advisory Service
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Agriculture Victoria

Department of Jobs, Precincts and Regions

21 September 2022

John Perry
Planning Department
Macedon Ranges Shire Council
PO Box 151,
KYNETON VIC 3444

Email: mrsc@mrsc.vic.gov.au

Dear John,

RE: Planning permit Application Referral – PLN/2021/587 Subdivision of the land into three (3) lots (consolidation and re-subdivision of existing lots)

**Land at: 1164 Kyneton-Springhill Road, SPRING HILL 3444
Lot 1 TP516297, Lot 6 LP202559 and Lot 1 TP82048**

Your Ref: PLN/2021/587

Thank you for the opportunity to provide comment pursuant to a re-referral of a notice of application under Section 52 of the *Planning and Environment Act, 1987*.

Agriculture Victoria notes that at the request of the applicant, Council is seeking an additional response from Agriculture Victoria particularly on technical advice with regard to the farm management report submitted to Council 27 May 2022.

This letter of advice must be read in conjunction with Agriculture Victoria advice given in the letter dated 23 August 2022.

Farm Report

Agriculture Victoria comments are in reference to the document titled; *Farm Report 1164 Kyneton Springhill Road, Spring Hill*, prepared by AJ Forbes and Associates, Agricultural Consultants, dated 27 May 2022.

The farm report includes statements as to:

- Livestock stocking rates with a view to improved agricultural productivity.
- Security of tenure for the ongoing agricultural business.
- The creation of three (3) separately saleable lots each containing a dwelling.

Carrying capacity of the land

In response to the livestock stocking rates with a view to improved productivity, Agriculture notes the following:

- 1164 Spring Hill-Kyneton Road, Springhill:
 - BOM data: Kyneton 775 mm average annual rainfall figure.
 - $(775 - 250)/25 = 21$ DSE/ha

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- Currently the property comprises 2 lots of 53.6 ha and 42.8 ha (96.4 ha x 21 = 2,024 total DSE).
- Proposal is to create 3 lots of approximately 40 ha (120 ha x 21 = 2,520 total DSE).
- *600 ewes and lambs at circa ~2.0-2.5 DSE/1/breeding ewe with a lamb at foot:*
 - Lifetime Wool provides a DSE rating per weight of animal at 60 kg = 2 DSE, 70 kg = 2.2 DSE
 - 2.2 DSE x 600 = 1,320 (1,320/21 = 62 ha).
- *Expansion of the flock of breeding ewes from current 600 to 800-1000 ewes:*
 - 2.2 DSE x 1000 = 2,200 (2,200/21 = 105 ha).
- *Cattle 100 cows and calves at 10--16 DSEs per breeding cow and calf:*
 - Assumes a cow body weight of between 350 and 500 kg.
 - MLA provides a DSE rating per weight of animal at 400 kg = 12.5 DSE, 500 kg = 15.6 DSE, & 600 kg = 18.6 DSE
 - 16 DSE x 100 = 1,600 (1,600/21 = 76 ha).
- 1000 breeding ewes @ 2,200 + 100 cows & calves @ 1,600 = 3800 DSE (3800/21 = 181 ha required).

Agriculture Victoria considers that:

- Based on 120 ha, there would not be enough available land to; *Produce their own hay, silage and oats and other fodder crops.*
- Based on the above the stocking rate of the land the proposed increase in productivity based on grazing animal production would not appear to be sustainably achievable.
- The actual available productive land would be subject to a more detailed assessment as to losses due to the area of three (3) domestic envelopes, and the exclusion of waterways and remnant vegetation.

Security of tenure for the ongoing agricultural business and the creation of three (3) separately saleable lots each containing a dwelling

The Farm Report makes the following statements:

- *Mrs Turner has recently entered a Contract to Purchase on two adjacent properties (Taylor's and Cudlipp's) conditional on a successful application to build an additional dwelling on it.*
- *This will then result in the consolidation of their properties and give certainty of tenure that will allow Turners to build further on their existing highly productive prime lamb and beef farming.*
- *The consolidation and subdivision will lead to three rural Lots of 40 hectares, and will lead to not only maintain the existing farming use and productivity, but will also bring about significant increases in production.*

Agriculture Victoria has considered the above statements and the likelihood of the three (3) proposed separately saleable lots each with a dwelling remaining in the same ownership in the long term. Regardless of current ownership, business plans or succession planning intentions the tenure of the land is not considered binding into the future. All of which is set out in the reasons given by the cited VCAT decisions in Agriculture Victoria advice dated 23 August 2022.

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Agriculture Victoria also reiterates that the claimed agricultural production improvements are contingent on additional family members residing on the land does not require the creation of separately saleable lots and could be achieved via an application for additional dwellings.

Conclusion:

Agriculture Victoria considers that any claimed agricultural productivity improvements combined with an apparent intent to provide a security of tenure for the agricultural business does not align with the objective of the proposal to create three (3) separately saleable lots each with a dwelling or an 'as of right' for a dwelling.

Agriculture Victoria's recommendations to Council remain as per the Agriculture Victoria letter dated 23 August 2022.

This letter of advice is provided to Council to assist their assessment of the above planning permit application and any requirement in seeking further information from the applicant as part of its assessment process. The information provided should be considered as advisory in nature to inform Council's determination as the Responsible Authority.

Please provide a copy of the outcome for our records.

Please contact me if you require any further clarification.

Regards



Steve Hicks

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Farm Report

1164 Spring Hill–Kyneton Road

Spring Hill

Prepared by

A J Forbes and Associates, Agricultural Consultants

27th May 2022

Abstract

This report has been prepared in support of Ms Roslyn Turner's Application to the Macedon Ranges Council, to grant a Permit to construct two dwellings on her property at 1164 Spring Hill-Kyneton Road.

The Turners have been farming within Spring Hill since 1856 and on this site since first settling there in 1921, and have farmed and cared for it continually as a family since that time.

The farm is a family farm based on prime lamb and beef production on their 95.4-hectare freehold property, which contains the farm dwelling and the necessary sheep and cattle handling and farming infrastructure.

Over recent years the farm viability has been supported by leasing land from the surrounding district giving opportunity to grazing, cropping and hay, to give the necessary economies of scale.

Mrs Turner has recently entered a *Contract to Purchase* on two adjacent properties (Taylor's and Cudlipp's) conditional on a successful application to build an additional dwelling on it. This will then result in the consolidation of their properties and give certainty of tenure that will allow Turners to build further on their existing highly productive prime lamb and beef farming.

The consolidation and subdivision will lead to three rural Lots of 40 hectares, and will lead to not only maintain the existing farming use and productivity, but will also bring about significant increases in production.

In particular, the consolidation and subdivision on the site will lead to

- significant increases in lamb survival to the point of sale, from the current level of 130 per cent in excess of 200 per cent
- expansion of the flock of breeding ewes from current 600 to 800-1000 ewes.
- Significant increases in calf production

Note that these changes and the increased lamb and beef production, can only be gained by increased on-going management that can only be achieved by an increased on-site presence.



Jock Forbes

A.J. Forbes and Associates

Drysdale

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1 Introduction

The Turners have been farming on this Spring Hill land since they first settle on this block in 1921, and have farmed and cared for it continually as a family since that time.

The Turner’s family farm is based on prime lamb and beef production supported by leasing nearby land to give the necessary economies of scale and giving opportunity grazing, cropping and hay

A number of family members are active on the farm, bringing considerable farming experience. However, their contribution to the running of the farm is significantly limited by the travel to and from the farm during the annual -demands of farming activity (i.e. mating, lambing, calving, baling, supplementary feeding, shearing, crop sowing, spraying, harvesting, and cattle and sheep work).

Mrs Turner has now lodged a planning application to consolidate titles of the Turner’s Farm with the Taylors adjoining farm, and to also acquire 6.3 hectares from Cudlipp’s to create three lots of 40 hectares which will allow the additional dwelling right.

The consolidation of land, linked with the dwelling rights on the Turner site will lead to significant increases in lamb survival to the point of sale, providing there is a parallel increase in management over the operation and the neonatal care centre.

A J Forbes and Associates has been asked to respond to Council’s Request for further information which specifically states the following as relevant:

2. *A report that comprehensively justifies the proposed development is required for the continuation or enhancement of the agricultural use of the land. This justification must include how the land is to be used for sustainable, productive agriculture, including details of the proposed stock or crop, stocking rates, type and location of fencing, paddock rotations, pasture species, weed control and other management activities, as appropriate.*
3. *A ‘whole farm plan’. This plan must demonstrate how the land is to support sustainable agriculture as the primary land use. The plan must include such initiatives as fencing that relates to land units, fencing of remnant vegetation, fencing of gullies and waterways, revegetation of hill tops, gullies and waterways, revegetation of areas prone to erosion and revegetation of areas prone to groundwater discharge, as appropriate.*

The Report is structured in two phases:

- | | |
|---------|--|
| Phase 1 | Existing Farming Operations

describes the operations and productivity and problems in the existing farm |
| Phase 2 | Proposed Farming Operations

This second phase outlines the Proposed Farming Operation, with the productivity increases, resource and management requirements. |

Phase 1 Existing Farming Operation

2 Existing Farming Operation

The Turners existing farm comprises two titles, one lot comprising an area of 53.6 ha containing an existing dwelling and farm structures and the other comprising 42.8 ha.

The Turner's also manage and farm two adjoining properties (owned by Cudlipp and Taylor).

The Turner's farm is located on good soils based on permeable clay soils and red soils of good drainage. The farm is highly productive, within the limits of sustainable farming.

Ms Turner has been a prominent member of the local Land Care Australia group for 20 years, and has established record of involvement in land management and care for the broader environment and community focused groups.

3 Farm Status

The Turner farm is well maintained, and cared for, and has supported a high and sustainable level of production over many years.

On farm improvements include:

- Well established improved pastures across all arable grazing land on the property including rotational crops and sowing down of improved rye grasses.
- All fences are in good stockproof condition appropriate for sheep and cattle.
- The periphery of these paddocks which protect the dams and natural drainage ways have been fenced off and planted with native vegetation, including ~ 5000 eucalypts.
- Complete renovation of both the two major leaking dams on the farm; now completely cleaned out and lined with bentonite clay sealant
- Each dam has been fenced off from stock, to preserve water quality and dam walls.
- Yearly weed control including gorse, blackberry, thistle and Paterson's Curse eradication using selective sprays and family expertise on appropriate times of the year and weather conditions.
- Annual fertilisers are applied according to results of annual soil tests.
- Soil conditions are well evidenced in annual soil tests have been taken every year from 1996 up to current. All soil test consistently shows positive results; as below.
 - low dispersion indices
 - low salinity
 - low sodicity

- elevated Ca:Mg (highly satisfactory)
- mildly acid – satisfactory
- adequate levels of phosphate, potassium and nitrogen

Soils are in excellent condition and comprehensive soil test results are seen in Appendix 1. The quality of the soils of the Turner farm combined with the farming expertise demonstrated by the family has resulted in high productivity which can be further enhanced by the advantages brought about by the consolidation and subdivision. This will result in a substantial increase in farm productivity, which cannot be delivered under the current arrangements.

Areas of gullies and drainage ways are comprised of clays and silt, which are prone to soil dispersion after heavy rain. When this occurs, topsoils (and ultimately subsoils) progressively lose soil structure and become waterlogged.

These soils become an impermeable boggy quagmire in winter and rock-hard in summer. This process is accentuated when cattle are on site. Hence, these areas have been fenced off to deny cattle access, but which allow access for (lighter) sheep grazing only.

This problem with the stream-side soils limits areas where cattle can graze, and the Turners knowledgeable management means that some cows are relocated to the leasehold areas on other properties.

The Turner's success in managing these quagmires by the combination of isolating cattle from the soils prone to clay dispersion, and the management of soil sodium with gypsum and lime is a management achievement of some magnitude.

4 Livestock Numbers

The Turners graze

- 600 ewes and lambs at circa ~2.0-2.5 DSE¹/breeding ewe with a lamb at foot;
- Cattle 100 cows and calves at 10--16 DSEs per breeding cow and calf; and
- Produce their own hay, silage and oats and other fodder crops.

This equates to a carrying capacity of 1000 ewes with a lamb at foot of 800-1000 ewes without reducing the cattle numbers on farm.

¹ DSE is short for a Dry Sheep Equivalent. A DSE is a measure of the energy required to sustain an adult wether at a constant weight of 50 kg. This can then be used as a standard measure of land productivity; and of stocking rate.

5 Prime Lamb Production

Prime lamb production is the mainstay of the farm. The ewes on the property are run in two separate flocks in preparation for mating season based on ewe body weight, age and birth history. In short this allows different management approaches to be applied to the different flocks during this period.

More specifically: -

- Mature ewes are mated to rams selected on producing higher birth weight lambs. Birth weight is polymorphic, but is heritable, and results in ongoing higher growth rates from birth to their sale into the prime lamb market.
- Maiden ewes, having their first lambs are mated with rams selected on siring lambs of *lower birth size/weight*, and minimises perinatal lamb mortalities from dystocia.

5.1 Maximising Reproductive Performance

In a farm environment many factors are needed to substantially increase level of multiple ovulations on each oestrous cycle and to maximize twin and triplet ovulations; -these are

- (1) Selection of breeds which have multiple ovulations. British breeds have a higher reproductive rate than Australian merinos: - i.e. they have a significantly more twins and triplets than do merino ewes.
- (2) Optimising the diet and increasing both the quantum and protein level before and during the mating season

On Turner's farm

- (1) all ewes are of descendant British breeds (Border Leicester/first cross bred).
- (2) Increased ovulation counts are achieved by providing high protein supplementary feed prior to and during mating.

In this district the existing pregnancy rate and percent live lambs at marking is approximately 85-90%.

In sharp contrast with this district average, Turners Farm pregnancy rate (as measured by Ultrasound) is in the order of 170-180 % -double the district figure.

This increase in the level of fertility across both flocks is a reflection of

- the Turner's high level of sheep fertility management.
- their genetic selection for lamb size and milk yield within their existing stocks is also a strong indicator of the level of the Turners animal husbandry skills and commitment.

However, the Turners Farm's actual Lambing Percentage of 170 - 180 % (measured *in utero* by Ultrasound) is not maintained to the point of sale, but is in the order of 130 percent still alive at point of sale².

This discrepancy can be largely explained by

- limitations of lack of onsite living arrangements by other family members
- the heavy predation by foxes and feral dogs in heavily wooded areas surrounding the property, and (perhaps ironically) in the Turners significant areas re-forestation of five thousand native trees along the creeks.
- losses due to mismothering of lambs – which is a common occurrence when predation is a problem
- deaths due to exposure to both rain and wind.

5.2 Flock Management

In utero Ultrasound is performed yearly, which individually scans each ewe to identify the expected pregnancy (singleton, twin, triplet or quadruplet). The ewes are then further divided depending on age/mothering experience and expected pregnancy into as many as nine flocks. This has many benefits to manage:

- Restriction of feed to singleton pregnancies especially maiden ewes as a prevention of lamb dystocia.
- An increase of feed to ewes expecting multiple pregnancies to accommodate the increased nutritional demands.
- Ability to provide individualised mineral supplements to prevent complications at birth and with lactation as young and mature ewes have differing needs of minerals.
- Greater space for bonding during the newborn period.

This division is necessary for the wellbeing for the animals, although adds a further intensity to management of these flocks and increases the management requirements of the farm. The current level of sustainable production is high. In large part, this is the result of the long-term family commitment to the farm over generations, and on the focus of good management.

5.3 Regular Neo-natal Management of Ewes and Lambs

During the peak of the lambing season the ewes require up to eight trips daily across the nine lambing flocks, and an evening inspection to deal with foxes and feral dogs.

² In making this observation, it should be noted that the level of 130 % at lamb marking would be considered acceptable for most farms in the district.

The purpose of these rounds is to:

- Monitor lambing dystocia due to inexperience, exhaustion, impaction and/or abnormal presentation.
- Monitoring for mis-mothering as poor bonding periods increase the risk of starvation resulting in higher perinatal deaths.
- Identifying possible orphans and monitoring over the day before nightfall and taking to the nursery prior to death from exposure and predation.

This requires the constant presence of experienced family members to be able to identify the above issues. This cannot be achieved by absentee farmers and requires experienced presence at all times.

6 Existing Husbandry Practices for Lamb Survival

6.1 Surrogacy

This practice is to replace a ewe's dead lamb with an orphan or another ewe's triplet. It is a very effective practice that benefits the surrogate ewe, by creating productivity out of misfortune and retains good breeding stock, benefiting the orphaned lamb by better quality milk than what is available to bottle feed and reduces the strain on the triplets' mother now feeding only two lambs. Again, constant supervision is required as this is not always well received by the surrogate ewe.

7 Prime Beef Production

The family also have a large cattle breeding herd situated on multiple lease properties within very close proximity to the property. Similarly, these herds are divided for management purposes into mobs of 30-40 cattle with calves at foot.

The mobs are comprised of similarly considered cattle depending on age and birth history. This allows for:

- Mature cows to be mated to the Charolais bull selected on producing higher birth weight calves and results in ongoing higher growth rates from birth to their sale.
- Heifers, having their first calves and second-time calving cows are mated with the Charolais Bull selected on siring calves of lower birth size/weight, to minimise issues from dystocia.

The cattle undergo in utero scanning at just 5 weeks after the bull is removed from mating to determine the pregnancy status and gestation of the cow. This allows a reduced turn around with non-pregnant cattle and the ability to re-mate alongside the upcoming mob or be sold at market if infertility issues are identified.

7.1 Regular Neo-natal Management of Cows and Calves

Similarly, to the sheep, the cattle are closely monitored through calving with several rounds daily and more assistance required in the heifer/ lesser experienced mother's mobs.

The purpose of these rounds is to:

- Monitor for calving dystocia due to inexperience, exhaustion, impaction and/or abnormal presentation. Due to the increased difficulty in birthing larger animals the mother is required to be moved to the cattle yards and a large presence is required to assist with the birth.
- Monitor for mis-mothering as poor bonding periods increase the risk of starvation resulting in higher perinatal deaths.
- Identify twins, whom may need increased assistance/ milk supplementing.
- Move calved cows into better feed and allow more space for upcoming births.

7.2 Surrogacy

In the unfortunate situation where a calf death at birth, and the availability of a twin calf, the Turner family have fostered calves onto mothers to improve both the calf's wellbeing with an increased milk supply and retain the cow for future breeding stock. Once again, this needs to be closely supervised as cattle are very protective mothers and do not easily foster another's calf.

7.3 Adequate Shelter

Providing shelter for newborn lambs and calves exposed to inclement weather, wind and rain plays a major role in survival rates. Severe incoming weather can require additional hay to be placed at differing angles for protection. Mobs may also need to be shifted to alternate paddocks based on incoming weather direction for differing shelter in wooded areas.

7.4 Adequate Nutrition

Summer crops of turnips and rape are grown on the property for summer fodder. Oats are grown on the property, to feed as grain to lactating ewes and lambs. Pasture hay is also grown cut, raked and rolled by the Turners. Fodder rolls and silage are stored in the highly productive time of spring and then fed out to fatten lambs and calves and optimise ewe and cow condition for mating and birth. Fodder rolls play a dual role during lambing and calving; as feed for ewes and cows and for very effective shelter for lambs and calves. Feeding out directly from on-site storage in close proximity to their sheep and cattle is cost and time effective. These crops and fodder are all grown on the Turner's farm, and lease properties using their own equipment.

Phase 2 Future Developments

8 Proposed On-Farm Changes

The newly acquired farmland will have the gullies and drainage ways fenced and planted with native trees. This has a two-fold productivity benefit by providing additional shelter for birthing mothers and newborns and also reduces the cold winds, increasing the temperature over the farm and prolonging the grass growing period.

The additional fencing required with subdivision will create smaller paddocks to allow for increased rotational grazing.

Given the demonstrated level of the Turners skilled husbandry, the increased dwellings and family members onsite will:

1. increase the lambs' survival from birth through to point-of-sale through the enhanced predator management, improved mismothering intervention, reduction of exposure, and increased identification of orphaned lambs requiring timely fostering or sole bottle feeding.
2. Increase the amount of cropping and fodder able to be baled and in turn provide additional feed for lactating ewes and cows and shelter for newborn lambs and calves.
3. Increase the amount of cattle to be kept onsite and in turn enhance the management and closer supervision of calving stock.
4. Improve the ability to provide an increased hay contracting service to accommodate the wider community.
5. Allow the establishment of a dedicated shed with pens inside to serve multiple purposes.
 - (1) to house "problem" ewes and their own newborn lambs
 - (2) Mother surrogate ewes whom have miscarried or suffered a lamb loss to orphaned lambs while the ewe lets down the milk and the ewes smell transcends through the lamb.
 - (3) House orphaned lambs whom are unable to be re-mothered in the new neonatal unit.
 - (4) To conduct embryo scans in an improved facility than exists at present.

Current operation utilises such practices, however the available facilities have minimal protection from weather and could be enhanced by such a facility. Planning and costing this facility is proceeding

at present, but is not anticipated to be unduly costly, as it will be serviced by existing electricity and water supply.

Having achieved the outstanding conception rate the Turner's view is that to do nothing and to ignore the losses between conception, weaning and market, is untenable, and thus requires the additional onsite family members available to continue operation and increase the efficiency of this highly productive farm.

In exploring how to resolve these issues, and to develop options for remedy, extensive further advice from ovine fertility experts³ indicate that further increases in pregnancy rates to above 200 per cent can be achieved, providing the level of management is increased over the pre-mating and prenatal period and that existing dedicated paddocks, yards and associated infrastructure on Turner's farm are enhanced.

In summary these challenges are best managed by round the clock surveillance.

This increased management is necessary to handle ewes, leading to successful pregnancy and resulting to increased numbers of lambs on the ground to the time of sale.

None of these husbandry techniques can be effective in the existing leased farm locations. Additionally, with increased number of lambs taking to sale, the workload of fattening the lambs will intensify and require increased efforts, resources and management on-farm. Hence the need for additional dwellings on-site at Turners farm.

9 Summary and Conclusion

The existing Turner farm is comprised of one lot of an area of 53.6 ha containing an existing dwelling and farm structures and the other comprising 42.8ha. The Turner's also manage and farm adjoining properties referred to as Cudlipp and Taylors properties, portions of which are to be purchased to consolidate the overall farm holding to enable the three lot subdivision (referred to as the Turner's farm).

The Turners have farmed on this site since they first settled on this site in 1921, and have farmed and cared for it continually as a family since that time.

³ Mr G B Hayes, (BSc Agr and M Sc in and fertility management in sheep and cattle) who has post graduate ...qualifications and experience in ovulation and embryo transfer.
... Dept of Agriculture Victoria

Primarily the Turners are fat lamb and beef producers, farming productively, who seek to further increase production, by increasing freehold and by increasing prime lamb and calf production and by reducing lamb losses.

The Turner's farm has a strong focus on breeding good numbers of prime lambs, and breeding cows, supported by on-site cropping and hay production.

The Turner's farm is neighboured by two adjacent farms; Cudlipp and Taylor, of which Ms Turner and family currently manage and operate.

The Turners are proposing to consolidate and subdivide their existing farm with portions of the adjoining farms that they currently manage to enhance and continue their agriculture operations and improve the productivity of the farm with increased presence of family members on site.

If this fails to proceed, the management and operations of Cudlipp and Taylor properties will cease as Ms Turner can no longer physically keep up with the work demands without additional family members availability and support on site.

These changes will significantly boost their prime lamb output, and will also open a range of improvements which will reduce neonatal lamb deaths, and will also open opportunities to expand their lamb and beef production.

However, these increases cannot be implemented without more resources and the constant supervision and management of more family members on site.

10 Appendix Soil Tests

Pasture: Soil Analysis Report – Topsoil

Page (1)

R TURNER
R D S 1164
SPRING HILL ROAD
SPRING HILL 3444

Phone No:
Fax No:
Email:

Customer No: 62129
Sample No: 10175680
Sample Taken: 08/01/2002
Reported: 22/01/2002
Order No:

Paddock Name	BACK PDK	Size	15 ha	Paddock dGPS Ref	
Sample Name		Depth	0 to 10	Northing	
Paddock Location	SPRING HILL	Easting			

TEST	RESULT	VERY	MARGINAL	OPTIMAL	HIGH	EXCESS	OPTIMAL RANGE
		LOW					
Phosphorus – Olsen (P)	7 mg/kg ^A		###				12-30
Available Potassium (K)	440 mg/kg ^E				###		200-350
Available Sulphur – KCl (S)	6.2 mg/kg ^A		###				10-25
Electrical Conductivity (EC)	0.07 dS/m			###			<0.2
EC of saturated extract (ECe)	0.70 dS/m			###			<1.9
Organic Carbon (OC)	7.10 %				###		1.7-2.6
Phosphorus – Colwell (P)	27 mg/kg						
pH water	5.10 ^A		Highly Acidic				5.8-7.0
pH CaCl2	4.30						
Soil Texture	Loam						
Soil Colour	Brown						
Total Cation Exchange Capacity	8.43 meq/100gm						
Aluminium (Al)	2.44 ^{29%}					###	<5 %
Calcium (Ca)	3.70 ^{44%}		###				60-85%
Magnesium (Mg)	1.21 ^{14%}			###			6-18%
Sodium (Na)	0.07 ^{1%}			###			<6%
Potassium (K)	1.00 ^{12%}				###		0.5-0.9meq
Calcium to Magnesium Ratio	3.06			###			2-6
Potassium to Magnesium Ratio	0.83			###			0.5-1

This sample was taken by
DELLAVEDOVA, FERTILISER SERVICE

Pivot Limited
ABN 42 004 080 264
Analysis performed by
Pivotest Laboratory
Wilson Avenue
Werribee Victoria

Enterprise	
Expected stocking rate/yield	15.0 dse/ha
Average annual rainfall	
Irrigation	No
Paddock use this year	Existing pasture
Legume % in pasture	
Method of sowing	
Paddock HISTORY	
Lime applied	n/a
Gypsum applied	n/a



Nutrient Advantage®

Nutrient Advantage Advice® Recommendation Report

Squires Product Applicators Pty Ltd
 100 Hoppers Lane

 WERRIBEE SOUTH
 VIC 3030

Report Print Date: 20/03/2019
 Agent/Dealer:
 Advisor/Contact: Ken Orr
 Phone: 0428 502 936
 Purchase Order No: TURNER

Grower Name: SQUIRES PRODUCT APPLICATORS P-L Nearest Town: KYNETON
 Sample No: 022090208 Test Code: E22
 Paddock Name: TURNER Sample Type: Soil
 Sample Name: ALISHA Sampling Date: 04/03/2019
 Sample Depth (cm) 0 To 10

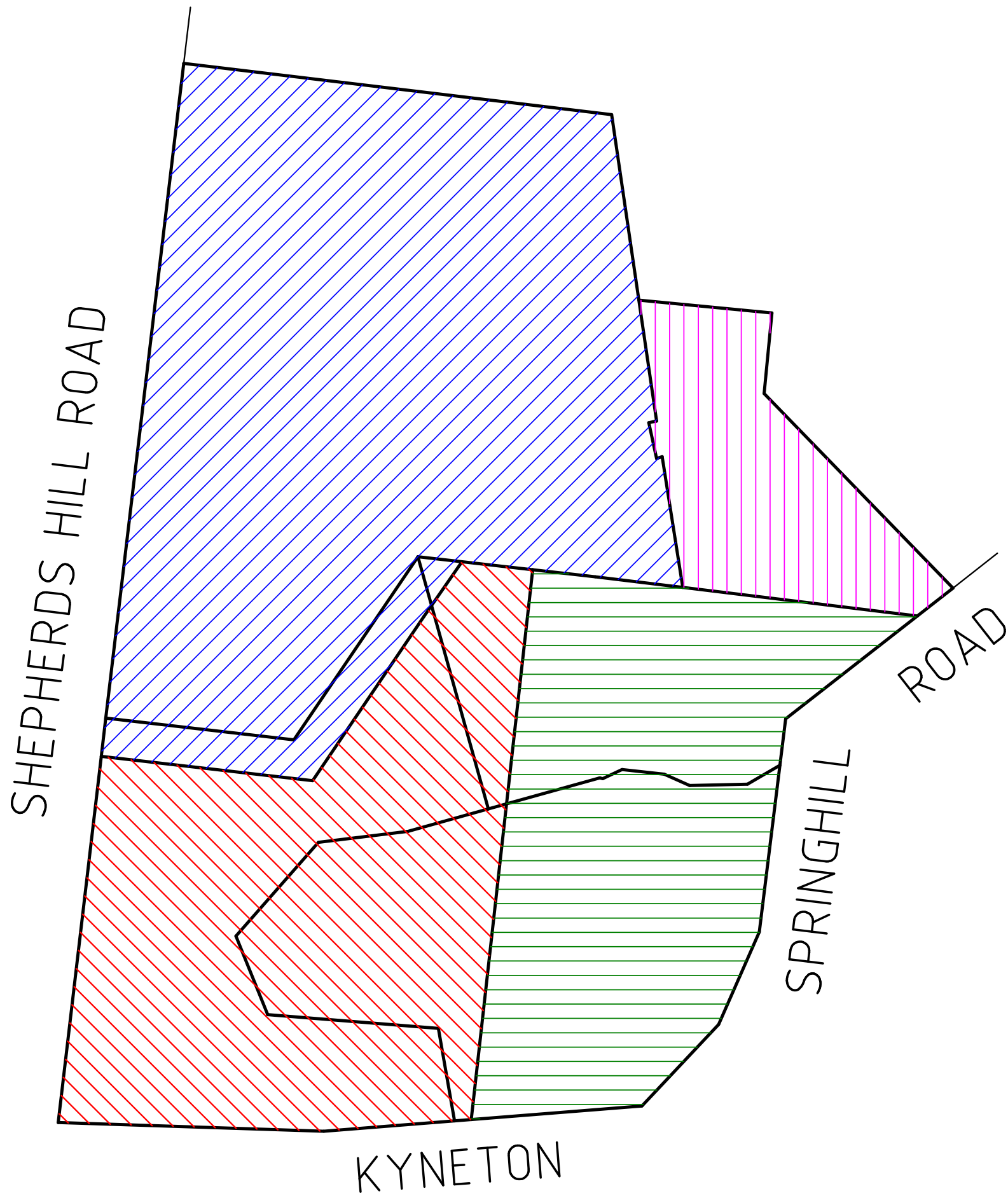
Analyte / Assay	Unit	Value	Very Low	Marginal	Optimum	High	Excess	Optimal
Soil Colour		Brown						
Soil Texture		Clay Loam						
pH (1:5 Water)		5.3	Strongly acidic					6.0 - 7.0
pH (1:5 CaCl2)		4.8	May vary depending on plant species					5.2 - 6.0
Electrical Conductivity (1:5 water)	dS/m	0.21	Not saline.					< 0.29
Electrical Conductivity (Sat. Ext.)	dS/m	1.7	Potential reduction in pasture growth					< 1.5
Chloride	mg/kg	53	Low and harmless to plant growth.					< 180
Organic Carbon (W&B)	%	6.2						2.3 - 5.3
Nitrate Nitrogen	mg/kg	55						>20
Ammonium Nitrogen	mg/kg	35						
Phosphorus (Olsen)	mg/kg	28						>
Phosphorus (Colwell)	mg/kg	87						44 - 57
Phosphorus Buffer Index		270	Moderate phosphorus fixation capacity					
Phosphorus Environmental Risk Index		0.32	Low risk of P loss to the environment					
Potassium (Colwell)	mg/kg	670						170 - 220
Sulphur (KCl40)	mg/kg	17						9 - 12
Cation Exch. Cap. (CEC)	cmol(+)/kg	10.5						
Calcium (Amm-acet.)	cmol(+)/kg	7.5						3 - 5
Magnesium (Amm-acet.)	cmol(+)/kg	1.1						1 - 2
Sodium (Amm-acet.)	cmol(+)/kg	0.16	Low risk of being harmful to plant growth					< 0.7
Potassium (Amm-acet.)	cmol(+)/kg	1.40						
Aluminium (KCl)	cmol(+)/kg	0.3						
Aluminium % of Cations	%	2.9	There are no problems with Aluminium toxicity					<= 15
Grass Tetany Risk Index		0.16						







Analyses conducted by Nutrient Advantage Laboratory Services

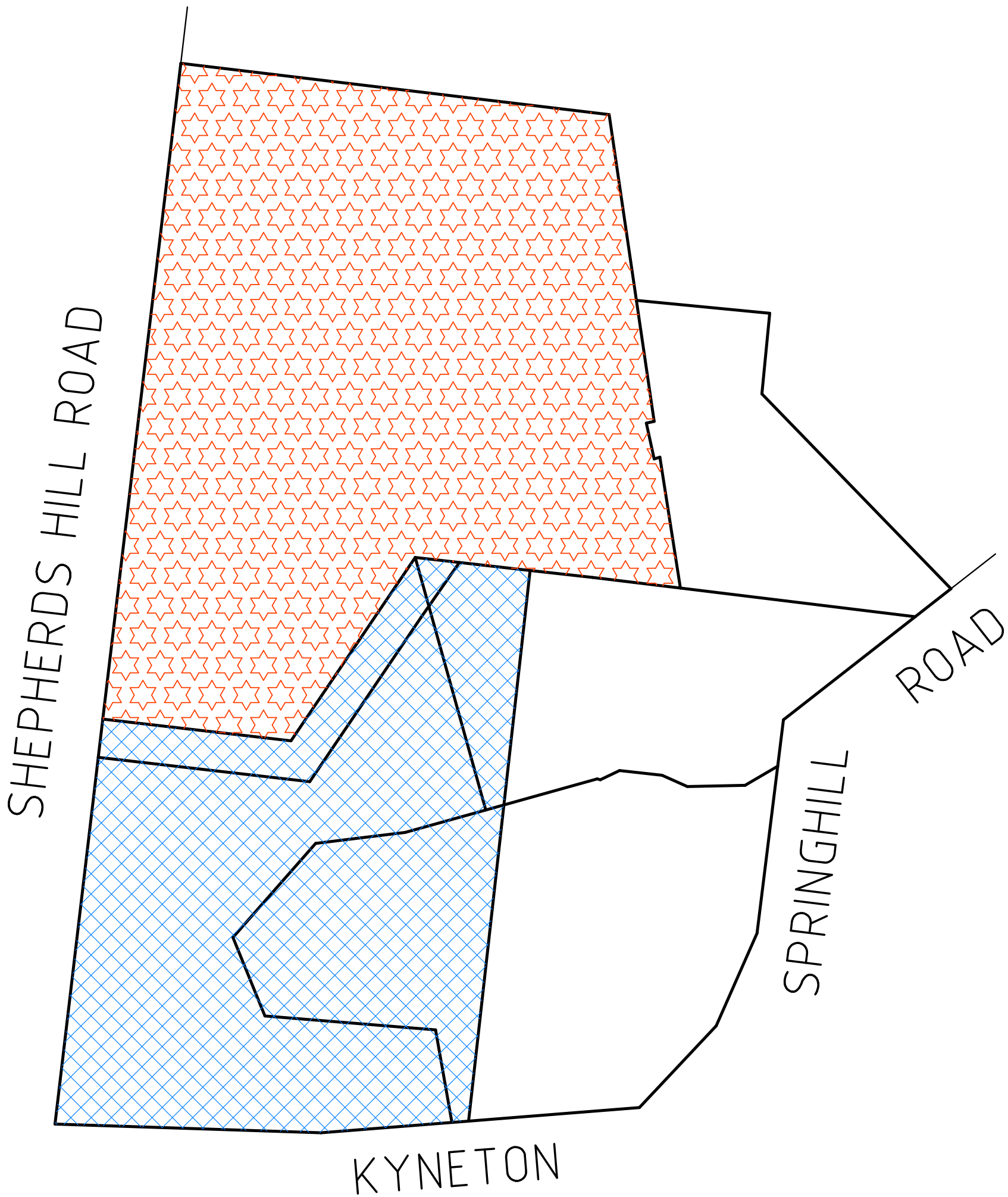


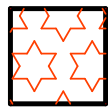
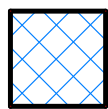
EXISTING TITLES PLAN



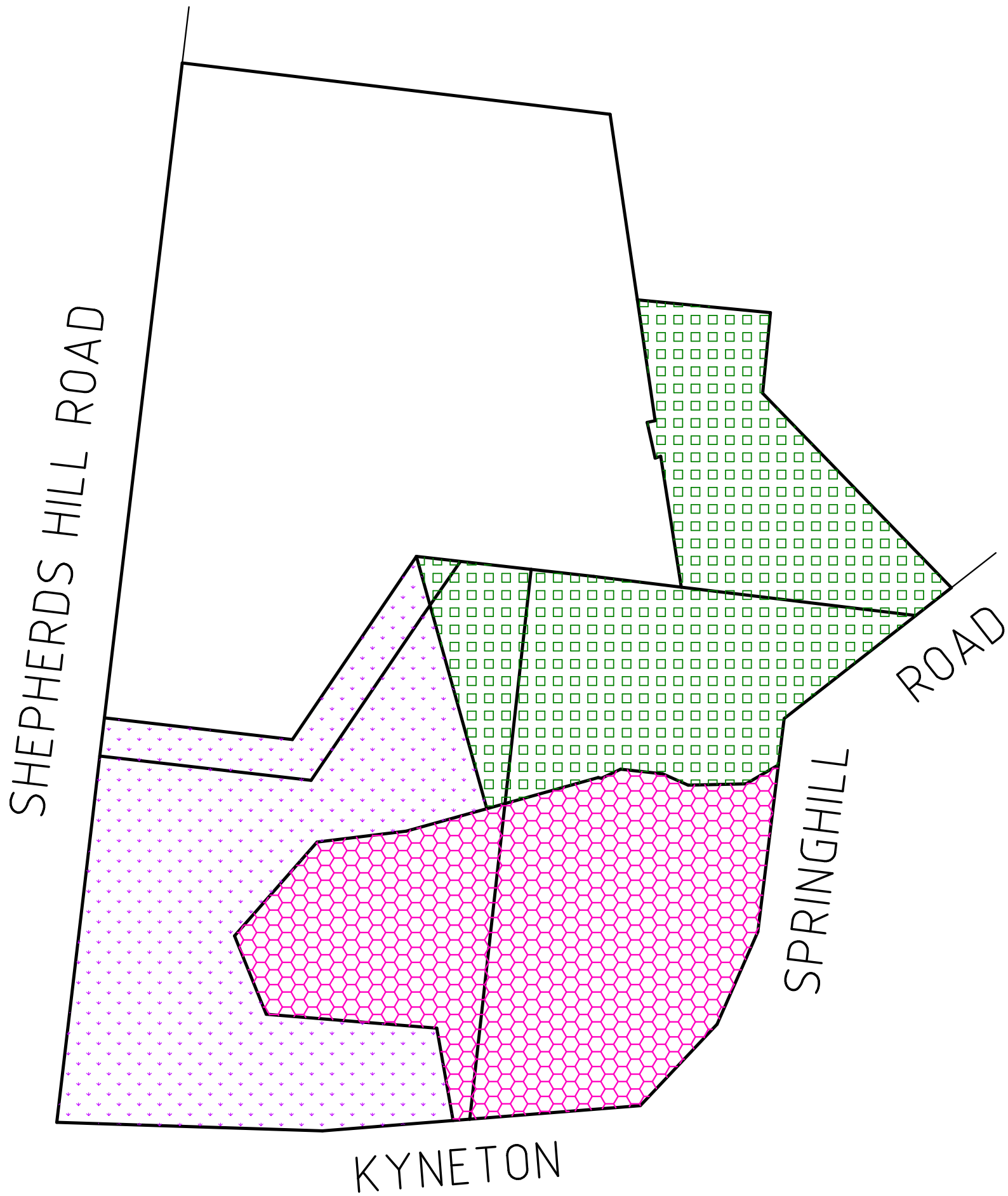
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-  Volume 2924 Folio 704
-  Volume 10100 Folio 688
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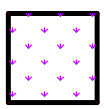
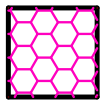
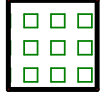
FIRST SUBDIVISION - PS 900305K



-  LOT 1 ON PS 900305K
-  LOT 2 ON PS 900305K

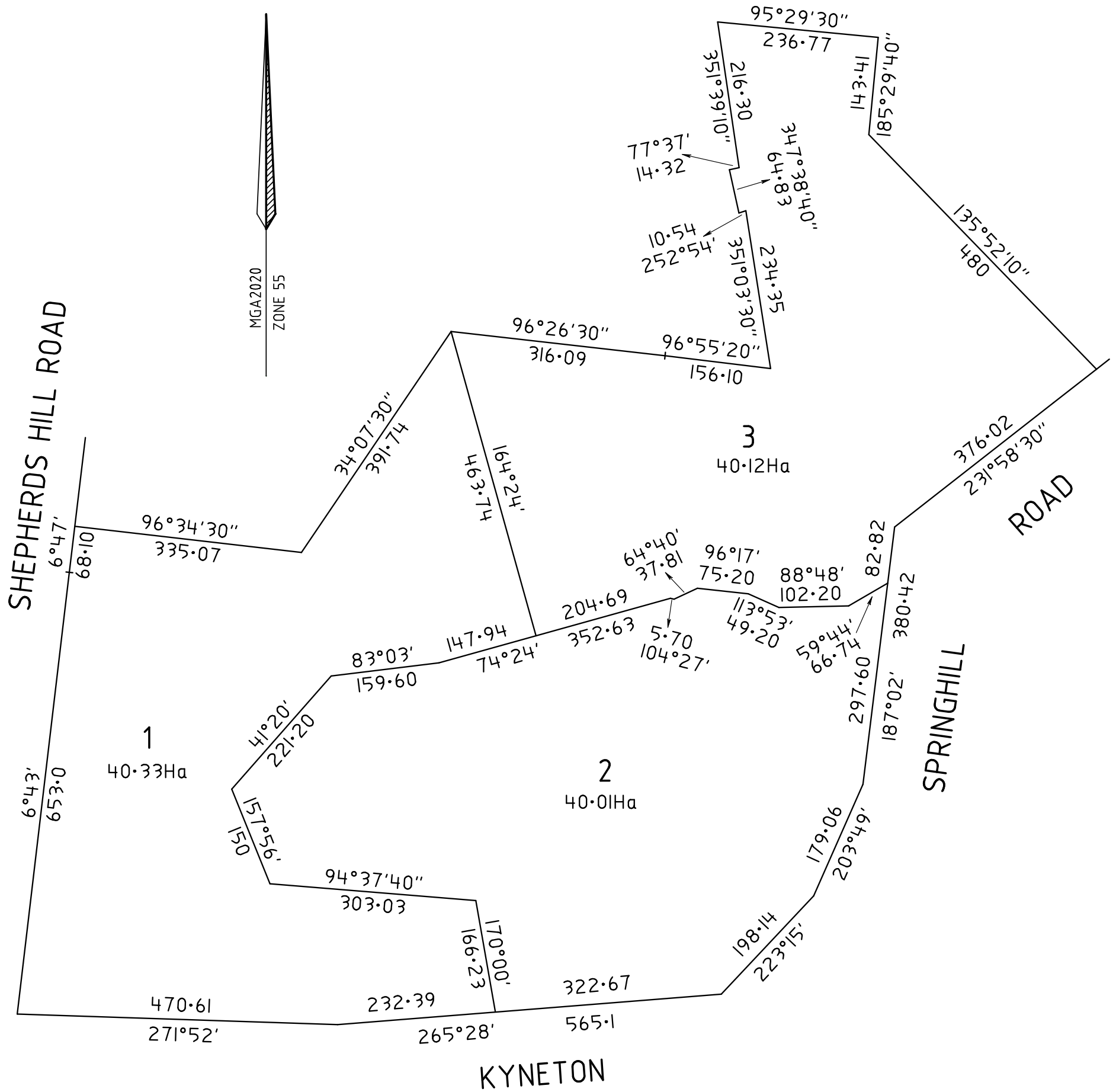
FINAL SUBDIVISION - PS 900306H



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-  LOT 2 ON PS 900306K
-  LOT 3 ON PS 900306K

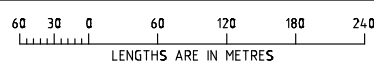
PLAN OF SUBDIVISION		EDITION 1	PS 900306H					
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IDENTIFIER	COUNCIL/BODY/PERSON							
NIL	NIL							
EASEMENT INFORMATION								
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)								
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of				
<p>M. J. PARSONS AND ASSOCIATES LAND SURVEYORS P. O. Box 932, ELTHAM, Vic., 3095 Tel: 03 9712 0692 Mob: 0412 388 274 Email: max.parsons@mjpsurveys.com.au</p>		SURVEYORS FILE REF: 6306A MAXWELL JAMES PARSONS / VERSION No. 01		ORIGINAL SHEET SIZE: A3 SHEET 1 OF 2				

PS 900306H



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 LAND SURVEYORS
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SCALE
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ORIGINAL SHEET
 SIZE: A3

SHEET 2

MAXWELL JAMES PARSONS / VERSION No. 01

8.4	AMENDMENT C145MACR - ENVIRONMENTAL SIGNIFICANCE OVERLAY SCHEDULE 4
Officer:	Louise Dewberry, Senior Strategic Planner
Council Plan relationship:	2. Healthy environment, healthy people 4. Delivering strong and reliable government
Attachments:	1. Amendment C145macr – Submission summary table ↓ 2. Amendment C145macr – Amendment documentation ↓

Summary

The purpose of this report is for Council to consider all submissions made to the exhibition of Macedon Ranges Planning Scheme Amendment C145macr and have the matter proceed to an independent Planning Panel.

Recommendation

the Committee

- 1. Adopts the post-exhibition changes to Amendment C145macr as set out in Attachment 2;**
- 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; and**
- 5. Notifies all submitters to Amendment C145 of Council's decision.**

Background

Council on behalf of Coliban Water has prepared Amendment C145macr, which seeks to amend Schedule 4 of the Environmental Significance Overlay in the Macedon Ranges Planning Scheme. This action implements the Upper Coliban Integrated Catchment Management Plan, 2019 (UCICMP) which was prepared by the North Central Catchment Management Authority (NCCMA) and Coliban Water.

On 10 March 2022 Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit Amendment C145macr.

The amendment was authorised with five conditions on 22 July 2022 and was publicly exhibited from 13 October to 24 November 2022.

Submissions

Council received 16 submission in response to the exhibition process. 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. Issues raised by submitters include:

- That the proposed amendment does not adequately protect the environment with concerns raised regarding:
 - Allowing fencing up to 10m and within 30m of a defined waterway.
 - Removing the permit trigger for non-native vegetation removal more than 30m from a defined waterway.
 - Coliban Water's status as the determining referral authority for matters relating to the Special Water Supply Catchment, with concerns relating to previous environmental track record.
- That the amendment will negatively impact agricultural uses, with concerns raised regarding:
 - Requiring permits for fences within 10m of a defined waterway – affecting access to water and imposing additional economic costs on landholders / agricultural producers.
 - Requiring a permit to remove vegetation within 30m of a defined waterway claiming this may influence bushfire risk within these areas.
 - The broadening of the environmental objectives of ESO4, with concern that this constitutes “over-reach” that will reduce the ability of land within this area to be farmed.
 - The definition of a waterway, specifically that it is unclear and that the definition may include surface run-off.

In addition:

- One submission objected to the amendment due to an error in the advertised material.
- One submission supports protecting the environment but cannot support this Amendment until previous issues relating to their property have been resolved.

Discussion

Council and Coliban Water (as the proponent) have reviewed all of the submissions and provided a position on specific items as outlined in **Attachment 1**. A number of unresolved items are recommended to be further reviewed at the Panel hearing scheduled for May 2023. Council's response to the main themes in the submissions are outlined below.

Fencing

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

Council officer recommendation: Remove the permit trigger from the draft ESO4 and present this as Council's position at the upcoming Planning Panel.

Errors in exhibited documents

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;

- 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.

Council Officer Recommendation: Amend the proposed schedule to Clause 66.04 as shown in Attachment 2 to list Coliban Water as the 'determining referral authority'.

Vegetation removal

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.

Council Officer Recommendation: Council officers do not believe that any changes are required to the amendment in relation to this issue. This matter can be considered further by the Planning Panel.

Coliban Water's role as a determining referral authority.

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.

Council Officer Recommendation: Council officers do not believe that any changes are required to the amendment in relation to this issue.

Definition of a waterway

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:

- 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—
 - (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.

Given the above, Council officers believe no change should be made to draft ESO4 or other planning scheme amendment documentation in relation to this matter.

Council Officer Recommendation: Council officers do not believe that any changes are required to the amendment in relation to this issue.

Next Steps

Council will seek to have the matter reviewed by an independent Planning Panel scheduled for May 2023. The Panel recommendations will be brought to Council for consideration at a future Council Meeting.

Consultation and engagement

The amendment underwent public exhibition from 13 October 2022 to 24 November 2022. Council considered all submissions received on this amendment and submitters were afforded the opportunity to present their submission at the Planning Delegated Committee of 8 February 2023. All submitter will be notified of the resolutions of this meeting.

Collaboration

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*.

Innovation and continuous improvement

The proposed amendment updates the ESO4 to implement the UCICMP. Given the significant amount of time that has elapsed since the introduction of the existing ESO4, the amendment contributes to continuous improvement by updating the Macedon Ranges Planning Scheme to reflect current best practice in the catchment management space.

Relevant law

The requirements for planning scheme amendments are set out in the *Planning and Environment Act 1987* and its regulations.

This report does not have any direct or indirect human rights implications under the *Charter of Human Rights and Responsibilities Act 2006*.

In accordance with the *Gender Equality Act 2020*, a Gender Impact Assessment was not required in relation to the subject matter of this report.

Relevant regional, state and national plans and policies

As noted above, the proposal implements the UCICMP, which applies on a regional scale to the Upper Coliban catchment.

The Macedon Ranges Statement of Planning Policy (SPP) notes that “The declared area’s natural environment and location between Melbourne, Bendigo and Ballarat makes it an essential component of Victoria’s water supply system, which is vital to the health and wellbeing of Victorians” (p. 25). The proposed amendment implements Objective 3 of the SPP, which is:

- 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.

Relevant Council plans and policies

The proposed amendment implements the Macedon Ranges Council Plan 2021-2031, and the strategic objective ‘Healthy environment, healthy people’. Specifically it helps to deliver the following strategic priorities:

- Protect the natural environment and enhance biodiversity
- Improve the management of water, including flooding risk, water quality of creeks and waterways, and the efficient use of water

The proposed amendment also aligns with the objectives of the Macedon Ranges Environment Strategy, specifically the objective, “To improve the quality of water entering local waterways and water storages.” (p. 30)

Financial viability

The *Planning and Environment Act 1987* Regulations set out fees to be paid at each step of the Amendment.

Council's fact sheet, 'Private Sponsored Planning Scheme Amendments' sets out Council's expectation that all costs associated with the amendment will be payable by the applicant (Coliban Water).

Sustainability implications

The amendment relates directly to the environmental management and sustainability of the water catchment. The purpose of the amendment is to ensure the ongoing viability of the catchment in terms of both its intrinsic environmental value and its vital role as a resource for human settlement in the catchment.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

**Attachment One
Amendment C145macr submission summaries and officer response**

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
1	Department of Environment Land, Water and Planning Support	State	Support in full	Submission noted. Officer response: No change required
2	Stephen Daunt Objection	Kyneton	Does not support MRSC working closely with Coliban Water. Has provided newspaper clippings outlining previous environmental issues.	Coliban Water is the appropriate authority to protect the Eppalock Special Water Supply Catchment and are the proponent for the amendment. Officer response: changes not recommended in response to this submission. Refer submission for consideration by the independent Planning Panel.
3	Peter Crabbe Objection	Lauriston	<ol style="list-style-type: none"> 1. Questions if farm-critical infrastructure – e.g. pump/shed/slab is exempt from triggering a permit. 2. Questions the inclusion of fencing 3. Queries definition of a waterway particularly surface runoff – is concerned this would affect entire property. 4. Questions the use of potable water as a goal when water is treated for public use. 5. Believes that unfettered human activity is more detrimental to water quality than individual septic systems. 6. Suggest focusing on the water released from town treatment plants as a priority in maintaining water quality. 7. Interference with farm layout via permit trigger for 	<ol style="list-style-type: none"> 1. Pump/shed/slab are only exempt if located 30 metres from a waterway and a number of conditions are met. 2. Coliban Water revised their position and support the removal of the fencing trigger. 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. 3. The definition of a waterway is defined by the <i>Water Act 1989</i> which is the standard definition. The State Government have also produced Waterway Identification Guidelines (2022) to help decision

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
			fencing will have significant impact on "The Right to Farm".	<p>makers in relation to waterways under the <i>Water Act 1989</i>.</p> <p>4. Acknowledged-Healthy Waterways and catchments are vital for high quality water that can be treated to drinking water standard, used for domestic and stock purposes or to provide benefit to the environment.</p> <p>5. Acknowledged –Septic tanks and other types of sewage management systems need to be properly located , well-constructed and maintained to enquire that don't pollute waterways and groundwater supplies</p> <p>6. Acknowledged - outside the scope of the amendment</p> <p>7. Support for agriculture remains the primary purpose of the Farming Zone. The proposed controls seek to protect the health of the Eppalock Special Water Supply Catchment (SWSC) by requiring permits for development that may impact the SWSC. It does not prohibit development, and farmers will still have the right to use their land for agricultural purposes (subject to permit in some instances). It should be noted that ESO4 already exists and triggers permits for development.</p> <p>Officer response: support change to proposed schedule to remove permit trigger for a fence. Recommend refer other matters for consideration by the independent Planning Panel.</p>
4 (3 emails)	James Walsh Objection	Pipers Creek	<ol style="list-style-type: none"> 1. Questions if farm critical infrastructure such as a pump/shed/slab is exempt from triggering a permit? 2. Supports a 10m buffer to a waterway as defined 	<ol style="list-style-type: none"> 1. Pump/shed/slab are only exempt if located 30 metres from a waterway and a number of conditions are met 2. The definition of a waterway is defined by the <i>Water Act 1989</i> which is the standard definition. The State

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
			<p>('named' river, creek, lake) but does not support if defined as 'run off'.</p> <p>3. Opposes permits for fencing as it limits 'right to farm' - fencing is essential for rotational grazing and farm management of livestock. Believes councils should not have the ability to affect primary production processes through permit triggers for agricultural fencing.</p> <p>4. Does the proposed revised ESO4 exempt replacement of existing fence lines?</p> <p>5. Does the exclude specific materials or types of fences?</p> <p>6. Material on the MRSC website was lacking in detail – was there scientific studies/ reports justifying he amendment.</p> <p>7. Was there a financial impact study into what financial impact this will have on Fencing Contractor businesses in MRSC and also financial impact on Farming businesses?</p>	<p>Government have also produced Waterway Identification Guidelines (2022) to help decision makers in relation to waterways under the <i>Water Act 1989</i>.</p> <p>3. Coliban Water revised their position and support the removal of the fencing trigger. 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 ESO.</p> <p>4. Any existing fence line can be like for like replaced, repaired or maintained without the need for a planning permit. This sits in Clause 62.02-2 of the Planning Scheme and states: states that "Repairs and routine maintenance to an existing building or works" does not require a permit.</p> <p>5. This schedule does not explicitly state the specific type or material one is required to use or for that matter excluded from using regarding fencing. That being said, there may be additional planning controls in the form of Zones, Overlays and agreements on title applied to a parcel/area that does outline material requirements for fencing.</p> <p>6. All key documents were included in the MRSC website including the Upper Coliban Integrated Catchment Management Strategy and Riparian Fire Risk Report.</p> <p>7. No financial impact assessment has been undertaken. Section 12 of the <i>Planning and Environment Act 1987</i> requires the planning authority to consider social and economic effects of</p>

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
				<p>an amendment.</p> <p>Officer response: support change to proposed schedule to remove permit trigger for a fence. Recommend refer other matters for consideration by the independent Planning Panel.</p>
5	Ben Gill Objection	Tylden	<ol style="list-style-type: none"> 1. States that Council must remain the Responsible Authority for permit applications and Coliban Water the referral authority. 2. Takes issue with Coliban Water being the determining authority across the whole of the Eppalock Special Water Catchment Area. 3. Takes issue with the removal of permit triggers for: <ul style="list-style-type: none"> - Building and works associated with dwellings more than 30m from a waterway. - Subdivisions of land greater than 40 hectares. - Removal, destruction, and the lopping of any trees within 30m of a waterway. 4. Requests that Deliberative Engagement strategies be employed by Council to ensure that planning scheme amendments are in the best interest of the residents and conducted openly and transparently. 5. Does not agree that Coliban Water is best placed to ensure protection of waterways. 	<ol style="list-style-type: none"> 1. The proposed ESO4 changes keep Council as a responsible authority and Coliban Water a determining referral authority. 2. The relevant water authority is always a determining water authority for SWSCs under Clause 66.02-5 of the planning scheme, and relevant legislation including the <i>Catchment and Land Protection Act 1994</i> and the <i>Water Act 1989</i>. 3. The purpose of the amendment is to remove planning permit triggers for matters that are not anticipated to affect river health. It should be noted that the permit trigger relates to the removal of native vegetation within 30 metres of a waterway. It should be noted other planning controls protecting trees and vegetation such as Clause 52.17 (Native Vegetation), Environmental Significance Overlay, Vegetation Protection Overlays, Significant Landscape Overlays may apply to the ESO4 area. These matters can be further considered by the Planning Panel. 4. The planning scheme amendment process is governed by the requirements of the <i>Planning and Environment Act 1987</i>, which includes requirements for the public exhibition process. 5. Noted.

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
				Officer response: no changes recommended to amendment in response to this submission. Refer issues raised to the Panel.
6	Nicholas Rush Objection	Malmsbury	<ol style="list-style-type: none"> 1. Objects to the inclusion of a permit trigger for the construction of a fence within 10 metres of a water way. 2. Objection to the permit requirement to remove, destroy or lop native vegetation, and queries how this applies in relation to storm damage. Concerned that this may deter landowners from planting native vegetation if a permit is required to manage it in future. 3. Property valuations – suggests that there should be a reduction of rates if portion of the property is used for conservation. 4. Queries requirement to consider stormwater reduction to reduce water volume (as opposed to velocity) flowing into catchment as run- off. Claims this direction may be contrary to the requirements of section 8 of the Water Act. 5. States that the aim to protect natural systems is an over reach from the intent of the original ESO which was to protect the quality and yield of water - not biodiversity 6. States the proposed measures will reduce land available for agricultural use. 	<ol style="list-style-type: none"> 1. Coliban Water revised their position and support the removal of the fencing trigger. 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 ESO. 2. Officers have considered this matter and believes no change is required to the draft ESO4, given the importance of maintaining native vegetation along waterways. 3. This matter does not relate to the amendment. 4. This matter can be further considered by the Planning Panel. 5. Protection and enhancement of biodiversity is an important way to protect river health and thereby improve water quality. In current ESO4, current 'Decision Guidelines' require consideration of protection of biodiversity and native vegetation in decision making. 6. The proposed ESO4 does not seek to reduce land available for agricultural use. <p>Officer response: support change to proposed schedule to remove permit trigger for a fence. Recommend refer other matters for consideration by the independent Planning Panel.</p>

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
7	Putá Vaclav Objection	Kyneton	Supports protection of the environment but cannot support this Amendment due to unresolved matters pertaining to their property. Claims that an external water source 'run-off' has been diverted onto their property.	The matters raised in this submission is not relevant to this amendment and can be addressed outside of this amendment process. Officer recommendation: no change.
8	Helen Buchanan Objection	Carlsruhe	<ol style="list-style-type: none"> 1. Objection based on need for further information. Questions if farm-critical infrastructure – e.g. pump/shed/slab is exempt from triggering a permit. 2. Supports a 10m buffer to a waterway as defined ('named' river, creek, lake). Not seasonal unnamed areas/creeks. 3. Queries whether MRSC will reimburse landowners for a loss of agricultural farming land as a result of 10m buffer requirement. 4. Asks for further questions to be answered <u>if</u> definition of a waterway includes 'runoff' <ul style="list-style-type: none"> - Are boundary fences exempt from planning permits should they intersect a waterway? - Are pre-existing fence lines exempt from triggering a planning permit when replacement fencing is required? - Will MRSC reimburse costs for loss of agricultural land within the buffer. 5. Interference with farm layout via permit trigger for fencing will have significant impact on "The Right to Farm". 	<ol style="list-style-type: none"> 1. Pump/shed/slab are only exempt if located 30 metres from a waterway and a number of conditions are met. 2. The definition of a waterway is defined by the <i>Water Act 1989</i> which is the standard definition. The State Government have also produced Waterway Identification Guidelines (2022) to help decision makers in relation to waterways under the <i>Water Act 1989</i>. 3. Protection of riparian waterways is important step in protecting our catchments and drinking water. Reimbursement is non-planning matter. 4. Any existing fence line can be like for like replaced, repaired or maintained without the need for a planning permit. This sits in Clause 62.02-2 of the Planning Scheme and states: states that "Repairs and routine maintenance to an existing building or works" does not require a permit. 5. Coliban Water revised their position and support the removal of the fencing trigger. 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 ESO.

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
				<p>Officer response: support change to proposed schedule to remove permit trigger for a fence. Recommend refer other matters for consideration by the independent Planning Panel.</p>
9	<p>Macedon Ranges Residents' Association</p> <p>Objection</p>	Shire Wide	<ol style="list-style-type: none"> 1. Questions the justification for the extent of changes proposed. States that the basis for the proposed changes – the <i>Upper Coliban Integrated Catchment Management Plan</i> - does not evaluate, address, or provide future actions for the Campaspe River catchment component of Eppalock catchment. 2. Argues proposed measures do not adequately protect the catchment. See points below <ul style="list-style-type: none"> - This catchment is excluded from the revegetation, monitoring and other management plan actions provided for the Coliban catchment. - Believes that there has not been enough done to determine possible risk and effects of proposed changes. - Concerned with the vegetation removal. - Concerned how council will manage both soil erosion and vegetation removal. 52.17 Native Vegetation, does not address non-native vegetation removal - - Changes - Vegetation appears inconsistent with the Macedon Ranges Statement of Planning Policy, Objective 3 - potentially 1 and 2 3. Claims there are transparency issues regarding Proposed Clause 42.01-4-3 regarding the removal of a permit trigger for buildings and works, fences, removal of any vegetation or subdivision by an 	<ol style="list-style-type: none"> 1. Noted. This matter can be further considered by the Planning Panel. 2. It should be noted other planning controls protecting trees and vegetation such as Clause 52.17 (Native Vegetation), Environmental Significance Overlay, Vegetation Protection Overlays; Significant Landscape Overlays, Erosion Management Overlays may apply to the ESO4 area. These matters can be further considered by the Planning Panel. 3. Noted. Council officers have considered this matter and believe no change to the draft ESO4 is required. Council Officers believes this matter can be referred to the Panel for further consideration. 4. The proposed controls apply to development that proposal within 30 metres away of a waterway and produces additional wastewater unless it is connected to the reticulated sewage system. These matters can be further considered by the Planning Panel. 5. Purpose of the controls is to protect waterways from unsewered development within close proximity. 6. This mater can be considered by planning Panel. 7. Under the <i>Building Act 1993</i> and Building Regulation 2018, as part of the building permit application landowners are required a “Legal Point of Discharge” report from Council/ Stormwater that falls on a

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
			<p><u>authority</u></p> <p>4. Objects to the decision to remove matters from the decision guidelines 42.01-4-5 – relating to the removal of <u>considerations for</u> "vegetation retention in recharge areas, septic tanks within 100 metres of a watercourse, existing degradation, density of septic tanks in the area, litter traps and local Landcare policies"</p> <p>Submitter questions / raises points regarding:</p> <p>5. Do these changes capture wastes produced from new agricultural, commercial, and industrial activities in un-sewered areas, road making, and tourism (accommodation)?</p> <p>6. Is "street drainage system" a reticulated street drainage system, or any drain within a street (or road)?</p> <p>7. Is "legal point of discharge" an approved legal point of discharge, or any point someone determines?</p> <p>8. How (or where) is "waterway" defined?</p> <p>9. There is no clarity regarding permit requirements for outbuildings.</p>	<p>property is collected and drained to what is usually the lowest point on the property, which is known as the 'legal point of discharge'.</p> <p>This collected stormwater is then 'discharged' or released to the Council stormwater system, which is usually an underground drain in the street or in a property easement.</p> <p>8. The definition of a waterway is defined by the <i>Water Act 1989</i> which is the standard definition. The State Government have also produced <i>Waterway Identification Guidelines (2022)</i> to help decision makers in relation to waterways under the <i>Water Act 1989</i></p> <p>9. Under the proposed controls, a permit is required for outbuildings are within 30 metres of waterway and meet all the conditions outlined in Schedule 4 for clause 42.01</p> <p>Officer response: changes not recommended in response to this submission. Refer submission for consideration by the independent Planning Panel.</p>
10	Karan Hayman Objection	Kyneton	<p>1. Macedon Ranges must remain as the responsible authority for assessing any applications within the Eppalock catchment area Coliban should remain the referral authority only.</p> <p>2. Take issue with the errors in the advertisement of the amendment</p> <ul style="list-style-type: none"> - 30m exclusion zone - removal of vegetation within 30 metres of waterway - should be outside of waterway. 	<p>1. The proposed ESO4 changes keep Council as a responsible authority and Coliban Water a determining referral authority.</p> <p>2. Errors in the supporting document (<i>C145macr - Amendment fact sheet</i>) were amended.</p> <p>3. The proposed ESO4 changes keep Council as a responsible authority and Coliban Water a determining referral authority.</p> <p>4. Matter can be further considered by Planning Panel.</p>

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
			<ol style="list-style-type: none"> 3. Objects to Coliban becoming the determining authority over the entirety of the ESWC catchment. 4. Objects to all of the proposed exemptions outlined in the schedule. 5. Does not have confidence in Coliban Water to protect the health of the waterways. 	<p>5. Noted</p> <p>Officer response: changes not recommended in response to this submission. Recommend refer other matters for consideration by the independent Planning Panel.</p>
11	<p>Dennis Butler</p> <p>Objection</p>	Lauriston	<p>Has concerns that the amendment:</p> <ol style="list-style-type: none"> 1. Increased restrictions for some areas - specifically buildings and works within 30 metres from a waterway. 2. Impacts ability to graze cattle/livestock. 3. Increases bushfire risk and reduces access to waterways by introducing a permit requirement to remove vegetation within 30 metres of waterway. 4. Increased burden associated with increased regulatory requirements. 5. Is vague resulting in uncertainty on what it requires. 	<ol style="list-style-type: none"> 1. Coliban Water revised their position and support the removal of the fencing trigger. 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 ESO. 2. Support for agriculture remains the primary purpose of the Farming Zone. The proposed controls seek to protect the health of the Eppalock Special Water Supply Catchment (SWSC) by requiring permits for development that may impact the SWSC. It does not prohibit development, and farmers will still have the right to use their land for agricultural purposes (subject to permit in some instances). It should be noted that ESO4 already exists and triggers permits for development. 3. Bushfire report as part of the background documents. Matter can be further considered by Planning Panel. 4. Matter can be further considered by Planning Panel. 5. Noted. It is the view of officers that the proposed amendment strikes the appropriate balance between

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
				<p>protection of waterway health and regulatory requirements for landowners.</p> <p>Officer response: support change to proposed schedule to remove permit trigger for a fence. Recommend refer other matters for consideration by the independent Planning Panel.</p>
12	Graham Connell Support	Not specified	<ol style="list-style-type: none"> 1. Supports the amendment but takes issue with Coliban Water and their management of sewage outflows into the river. Concerned meter readings for Kyneton are not publicly available (gauging station). Concerned with the sewage release into Five Mile Creek. 2. Concerned with illegal stormwater connections entering the sewer system. (Overloading system) 3. Concerned with continued development without appropriate sewage infrastructure. 	<ol style="list-style-type: none"> 1. Matters do not related to purpose of this amendment 2. Matters do not related to purpose of this amendment 3. Legislation allows unsewered development to occur subject to certain rules and regulations <p>Officer response: Changes not recommended in response to this submission. Refer submission for consideration by the independent Planning Panel.</p>
13	Department of Transport Supports	State	Supports the Amendment in full	<p>Submission noted</p> <p>Officer response: no changes required.</p>
14	Goulburn Murray Water Supports		<ol style="list-style-type: none"> 1. Initially Goulburn -Murray Water opposed the amendment on basis of buffers in regards to vegetation removal along 'heritage rivers'. 2. Coliban Water have advised that there are no 'heritage rivers' within the Macedon Ranges Shire Council. 3. Coliban Water and Goulburn-Murray Water have met about this issue and have resolved this matter. 4. Goulburn-Murray have now adding to their 	<p>Coliban Water and Goulburn Murray Water met to resolve concerns raised in their initial submission. Goulburn Murray Water is now in support of the amendment.</p> <p>Officer response: no changes required.</p>

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
			submission supporting the amendment now.	
15	Lenka Thompson Objection	Kyneton	<ol style="list-style-type: none"> 1. Opposes Coliban Water being the determining authority across the whole of the Eppalock Special Water Catchment Area maintains that this role should sit with MRSC 2. Opposes the removal of permit triggers for: <ul style="list-style-type: none"> - Building and works associated with dwellings more than 30m from a waterway. - Subdivisions of land greater than 40 hectares. - Removal, destruction, and the lopping of any trees within 30m of a waterway. 3. Deliberative Engagement strategies to be employed by council to ensure these planning scheme amendments are in the best interest of the residents and it is an open and transparent process. 4. States that the proposed changes do not offer sufficient protection to the waterway. 5. Does not agree that Coliban Water is best placed to ensure protection of waterways. 	<ol style="list-style-type: none"> 1. The relevant water authority is always a determining water authority for SWSCs under Clause 66.02-5 of the planning scheme, and relevant legislation including the <i>Catchment and Land Protection Act 1994</i> and the <i>Water Act 1989</i>. 2. The purpose of the amendment is to remove planning permit triggers that will not in itself potentially effect river health. It should be noted that permit trigger relates to the removal native vegetation within 30 meters of a waterway. It should be noted other planning controls protecting trees and vegetation such as Clause 52.17 (Native Vegetation), Environmental Significance Overlay, Vegetation Protection Overlays, Significant Landscape Overlays may apply to the ESO4 area. These matters can be further considered by the Planning Panel. 3. The planning scheme amendment process is governed by the requirements of the <i>Planning and Environment Act 1987</i>, which includes requirements for the public exhibition process. 4. Noted. 5. Noted <p>Officer response: changes not recommended in response to this submission. Refer submission for consideration by the independent Planning Panel.</p>
16	Victorian Farmers Federation (VFF)	N/A	<ol style="list-style-type: none"> 1. Concerned that it was not directly consulted. 2. Broader concerns with the role and function of an Overlay more generally “in relation to the Manual on 	<ol style="list-style-type: none"> 1. Local farmers and agricultural producers were consulted as part of this amendment. The VFF were not directly consulted.

Sub. #	Name of Submitter and Status on Amendment	Locality	Summary of Submission	MRSC Response
	<p>Objection</p>		<p>the VPPs and the relevant heads of power of the Planning and Environment Act and the Catchment and Land Protection Act”</p>	<p>2. Coliban Water revised their position and support the removal of the fencing trigger. 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 ESO. Other matters considered by the Planning Panel.</p> <p>Officer response: support change to proposed schedule to remove permit trigger for a fence. Recommend review other above matters by the independent Planning Panel.</p>

MACEDON RANGES PLANNING SCHEME

--/---
Proposed C145macr

SCHEDULE 4 TO CLAUSE 42.01 ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as **ESO4**.

EPPALOCK SPECIAL WATER SUPPLY CATCHMENT

1.0 Statement of environmental significance

--/---
Proposed C145macr

The cumulative impacts of development in declared special water supply catchments has the potential to gradually diminish the quality and quantity of water in the catchments. Diminished water quality also increases the risk to human health and the health of all communities that rely on water from the catchment.

The protection, restoration and enhancement of all waterways (as defined by section 3 of the *Water Act 1989*) within the catchment is an essential component in ensuring the continued availability of water quantity and quality, while also protecting and restoring the health of the natural resources and environmental systems within the catchment.

The management of land in the catchment must:

- Focus on the long-term protection of the natural resources and environmental systems.
- Encourage the implementation of measures to minimise detrimental impacts on the quality and quantity water within a declared special water supply catchment.

2.0 Environmental objective to be achieved

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Proposed C145macr

To ensure development protects, restores and enhances natural resources and environmental systems and minimises detrimental impacts on the quality and quantity of water in the catchment.

3.0 Permit requirement

--/---
Proposed C145macr

A permit is not required to:

- Construct a building or construct or carry out works that is connected to a reticulated sewerage system and located more than 30 metres from a waterway for:
 - A dwelling.
 - An extension to an existing dwelling.
- Construct a building or construct or carry out works that are located more than 30 metres from a waterway, if all of the following are met:
 - The building and works do not generate any additional wastewater unless it is connected to a reticulated sewerage system,
 - Any site cut required is less than one metre in depth.
 - Any site cut required is less than 300 square metres in area.
 - No stormwater is discharged within 100 metres from a waterway unless it is discharged into the street drainage system or into a legal point of discharge.
 - The buildings and works are an extension to an existing building and the extension does not encroach on the capacity of the existing effluent disposal field.
- Remove, destroy, or lop vegetation including dead vegetation unless the removal, destruction or lopping involves native vegetation on land within 30 metres of a waterway.

MACEDON RANGES PLANNING SCHEME

- Subdivide land for either:
 - An existing building or into two lots connected to a reticulated water and reticulated sewerage system.
 - A lot of 40 hectares or greater.
- Construct a building, construct or carry out works, construct a fence the removal, destruction or lopping of any vegetation, or to subdivide land that is undertaken by or on behalf of a Minister, government department, public authority or municipal council.
- Construct a building or construct or carry out of works associated with any activities conducted on public land by or on behalf of the public land manager under the relevant provisions of the *Crown Land (Reserves) Act 1978*, *Fisheries Act 1995*, *Forests Act 1958*, *Land Act 1958*, *Local Government Act 1989*, *National Parks Act 1975*, *Reference Areas Act 1978*, *Water Act 1989* or *Wildlife Act 1975*.
- Construct a fence.

4.0 Application requirements

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Proposed C145macr

The following application requirements apply to an application for a permit under Clause 42.01, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A scaled and dimensioned site context plan showing the site and surrounding land including the location of all waterways, drainage lines, water bodies, water supply channels or springs and vegetation.
- A scaled and dimensioned plan showing the location and use of existing and proposed buildings and works, including proposed or existing waste water disposal areas and vehicle access.
- A geotechnical report and land capability assessment prepared by a suitably qualified person(s) demonstrating:
 - Details of degree and direction of slope, soil type, vegetation and drainage systems on the site.
 - That the land is capable of absorbing effluent generated on the lot.
 - The likely impact of any on-site wastewater treatment system on surface and ground water resources and how such impact is to be mitigated.
- A plan to be implemented as part of the development outlining measures to protect and enhance the natural environment of the area, including:
 - Stormwater treatment and management including how the development plans reduce the volume and velocity of storm water exiting the property.
 - Proposed vegetation retention and revegetation including native vegetation buffers along waterways, drainage lines and property boundaries.

5.0 Decision guidelines

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Proposed C145macr

The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- The potential impact of the development on the quantity and quality of water in waterways, drainage lines, water supply reservoirs and springs.
- Whether the development provides buffers to and from waterways, drainage lines, gullies, property boundaries and any existing or new disposal areas or systems.

MACEDON RANGES PLANNING SCHEME

- Whether the development minimises the detrimental impacts of nutrient loads, turbidity and siltation in waterways, drainage lines and water supply reservoirs through improving the filtration and infiltration of water.
- How the development decreases or reduces the velocity of stormwater into waterways, drainage lines and water supply reservoirs.
- Whether the development provides measures to prevent erosion of natural features, including banks, streambeds and adjoining land.
- Whether sewage, sullage, stormwater and other wastes can be treated on site without polluting waterways or ground water.

MACEDON RANGES PLANNING SCHEME

24/11/2017
GC49

SCHEDULE TO CLAUSE 66.04 REFERRAL OF PERMIT APPLICATIONS UNDER LOCAL PROVISIONS

1.0

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Proposed C145macr

Referral of permit applications under local provisions

Clause	Kind of application	Referral authority	Referral authority type
Schedule 4 to Clause 42.01	All applications that are not exempt under clause 3.0 of Schedule 4 to Clause 42.01	Relevant water authority	Determining referral authority
Clause 3.0 of Schedule 5 to Clause 42.01 (ESO)	An application to subdivide land to create lots smaller than 40 hectares, which are not connected to reticulated sewerage An application to use land for Intensive animal husbandry An application to use or develop land within 100 metres from Pipers Creek, Coliban River, Campaspe River, Lauriston Reservoir, Malmsbury Reservoir and Upper Coliban Reservoir	Relevant water authorities	Determining referral authority
Clause 3.0 of Schedule 7 to Clause 42.01 (ESO)	Any application to subdivide land, or construct a building or construct or carry out works associated with Accommodation	Relevant water authority	Determining referral authority
Clause 4.0 of Schedule 8 to Clause 42.02 (VPO)	Any application to remove, destroy or lop native vegetation	Secretary to the Department of Environment, Land, Water and Planning	Recommending referral authority
Clause 4.0 of Schedule 9 to Clause 42.02 (VPO)	Any application to remove, destroy or lop vegetation	Secretary to the Department of Environment, Land, Water and Planning	Determining referral authority
Clause 2.0 of Schedule 14 to Clause 43.02 (DDO)	Any application to construct a building or to construct or carry out works.	Secretary to the Department of Health	Determining referral authority
Clause 2.0 of Schedule 15 to Clause 43.02 (DDO)	Any application to construct a building or to construct or carry out works.	Secretary to the Department of Health	Determining referral authority

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Clause	Kind of application	Referral authority	Referral authority type
Schedule to Clause 45.12 – Hospital Emergency Medical Services – Helicopter Flight Path Protection Areas Incorporated Document, June 2017	Any application to construct a building or to construct or carry out works.	Department of Health	Determining referral authority
Schedule 2 to Clause 45.02 (AEO)	Uses listed in Schedule 2 to clause	Airport owner	Determining referral authority

MACEDON RANGES PLANNING SCHEME

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Proposed C145macr

SCHEDULE TO CLAUSE 72.08 BACKGROUND DOCUMENTS

1.0

Background documents

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Proposed C145macr

Name of background document	Amendment number - clause reference
<i>Upper Coliban Integrated Catchment Management Plan (North Central Catchment Management Authority and Coliban Region Water Corporation, 2019)</i>	C145macr - Clause 42.01

Planning and Environment Act 1987

**MACEDON RANGES PLANNING SCHEME
AMENDMENT C145MACR**

EXPLANATORY REPORT

Who is the planning authority?

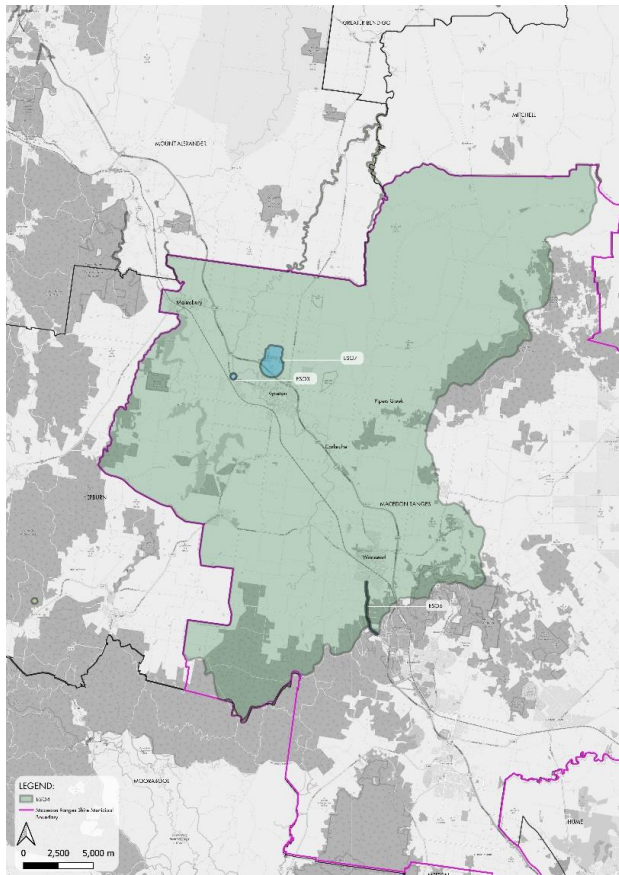
This amendment has been prepared by the Macedon Ranges Shire Council, which is the planning authority for this amendment.

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

Land affected by the 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 applies to the extent of Eppalock Special Water Supply Catchment (ESWSC), including the Malmsbury, Lauriston and Upper Coliban Reservoirs within the Upper Coliban Catchment area, 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– Please see Figure 1 below. The ESWSC provides raw water for drinking water purposes for over 130,000 people.

Figure 1 –Extent of the ESO4 in Macedon Ranges



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What the amendment does

The amendment proposes to:

- 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.
- 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

Strategic assessment of the amendment**Why is the amendment required?**

The amendment is required to balance the reasonable needs of development with the effective protection, enhancement and management of the catchment.

The ESWSC is an important source of potable water for the region as well as being of environmental and cultural significance. In response to the threats facing the catchment, Coliban Water and the North Central Catchment Management Authority undertook a comprehensive analysis of the benefits and costs of protecting and enhancing the Upper Coliban Catchment. As a result, the *Upper Coliban Integrated Catchment Management Plan* (North Central Catchment Management Authority and Coliban Region Water Corporation, 2019) was prepared. According to the Plan, Macedon Ranges Shire is experiencing growth in residential development increasing the density of unsewered dwellings existing in the catchment. The potential for further development, with associated impacts including disposal of domestic wastewater and the range of diffuse pollutants resulting from development, will put further pressure on the resources of the catchment.

The existing ESO4 only requires planning permission for accommodation uses (including dwellings) not connected to reticulated sewerage and buildings and works for Intensive animal husbandry (now known as Intensive animal production). While these requirements were likely appropriate at the time of gazettal, the increase in development and other pressures in the Catchment means that the provision is no longer fit for purpose.

The proposed schedule therefore increases the number of matters that require planning permission more broadly to applications for buildings and works in addition to dwellings. However, the schedule now also includes a number of exemptions that focusses requiring planning permission for development that has the potential to impact the health of the catchment. Matters that are exempt include:

- All fences
- Buildings and works associated with dwellings located more than 30 metres from a waterway and connected to reticulated sewerage.
- Buildings and works (general) that are located more than 30 metres from a waterway and meet other specific conditions.
- Subdivide land into lots of 40 hectares or greater
- Subdivide an existing building connected to reticulated water and sewerage.
- Remove, destroy or lop vegetation unless it is native vegetation within 30 metres of a waterway. Please note that the ability to remove of vegetation for fire protection purposes is not affected by this.

Please refer to the proposed Schedule for more detail.

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Referral authorities under the Schedule to Clause 66.04 for the Catchment are Coliban Water and Goulbourn-Murray Water. They are both determining authorities and that is not proposed to change with the amendment.

The matters that are referred to the authorities in the existing schedule include subdivision of lots under 40 hectares not connected to reticulated sewerage, applications to use land for Intensive animal husbandry (Intensive animal production) and applications for use or development of land within 100m of Lake Eppalock.

The amended schedule to 66.04 intends for any application that requires planning permission under the ESO4 to be referred to the authorities. Special Water Supply Catchments typically form part of drinking water supply systems. Therefore, it is important that development that has the potential to impact on the health of the catchment be referred to the relevant water authorities and that those authorities be determining authorities.

The amendment does not seek to alter the land affected by the current Schedule 4 to the Environmental Significance Overlay as it is considered necessary in maintaining the health of the catchment. The proposed changes to the Schedule are intended to better balance the needs of the catchment with the needs to landowners.

How does the amendment implement the objectives of planning in Victoria?

The amendment implements the objectives of planning in Victoria, contained in Section 4 of the *Planning and Environment Act 1987*, in the following ways:

- Objective A: the amendment provides for the fair, orderly, economic and sustainable use and development of land. The amendment seeks to better protect the Catchment which is a vital water asset for the region. It also seeks to balance that with the reasonable needs for development in the area.
- Objective B: the amendment will assist in the protection of the natural resource that is the Catchment. The catchment is a significant natural resource that provides raw water for drinking water purposes for over 130,000 people and must be protected. Protecting the health of the riparian environments in the Catchment also aids in the maintenance of ecological processes and genetic diversity (biodiversity).
- Objective C: the amendment will assist to secure and provide a pleasant, amenable, and safe living environment by protecting the Catchment so that it can continue to provide safe drinking water.
- Objective D: the Catchment is not considered to be a place of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value that would be protected under the planning scheme.
- Objective E: the amendment will assist in protecting the Catchment enabling the provision of drinking water for the benefit of the community. Protection of the riparian environments within the Catchment also provides for ecological and environmental benefits that ultimately benefit the community.
- Objective F: the application of the ESO will facilitate development that does not compromise the objectives set out above.
- Objective Fa: the amendment does not affect the provision of affordable housing.
- Objective G: the amendment seeks to balance the present and future interests of all Victorians by protecting water quality and the environmental qualities of the catchment.

How does the amendment address any environmental, social and economic effects?

The amendment positively addresses environmental effects by:

- Prioritising human health and wellbeing, and
- Protecting environmental and cultural values of the catchment.

The amendment positively addresses social effects by:

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- Prioritising human health through the application of the ESO, in order to manage development with the potential to adversely affect water quality.
- Protecting the environmental values of the catchment will also protect its cultural values and contribute to social wellbeing. As the catchment is an open catchment it has recreational as well as environmental and cultural value.

With respect to economic effects, the amendment is expected to:

- Reduce the potential costs to the region by protecting water quality in the catchment rather than having to spend additional resources in treating water that has been contaminated.
- In a broader sense, reduce health costs associated with treating preventable water-borne illnesses through the provision of clean drinking water.
- Not place significant financial burden on landowners beyond that which is expected in developing land in an environmentally sensitive area. The permit exemptions in the ESO4 have been targeted so that only matters that are directly relevant to waterway health and enhancement are considered. Many of the requirements relating to drainage and land capability are already a requirement under other planning scheme provisions and legislation when developing land in rural areas. Any additional cost in relation to the protection or enhancement of the waterway and riparian areas are offset against the overall benefit to the wider community (that includes landowners).

Does the amendment address relevant bushfire risk?

Clause 71.02-3 (Integrated decision making) states that the role of planning and responsible authorities is to balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. It then goes on to state that in bushfire affected areas the protection of human life must be prioritised over all other policy considerations.

The objective of Clause 13.02-1S (Bushfire planning) relates (rightly) to the protection of human life, however, one of the underpinning strategies also seeks to: *Ensure settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts...*

The protection and regeneration of riparian areas is significant in protecting both the health of waterways and as habitat. Riparian land is often the only area of remnant vegetation in predominantly cleared agricultural landscapes (*Riparian Land and Bushfire Resource Document* page 6). In a Special Water Supply Catchment the protection of waterway/body health is vital in maintaining a clean water supply which protects human health.

The *Riparian Land and Bushfire Resource Document* states that given the nature of riparian areas fire is less likely to start in those areas as they tend to have higher moisture levels and are sheltered from wind and sun (Page 26). However, it is noted that this may not apply in extreme bushfire events, as in those events, all vegetation can burn.

While the ESO4 affects a significant area of the Shire the provisions within Schedule 4 exempts most buildings and works other than where they are within 30 metres of a waterway (buildings) or within 10 metres of a waterway (fencing). Therefore, the ESO has been specifically targeted to the locations that need protection and guidance. This greatly minimises the area where riparian and waterway health need to be considered in relation to bushfire risk.

In addition, Clause 42.01 (ESO) specifically exempts the removal of vegetation for fire protection purposes and the decision guidelines in the revised ESO4 specifically ask the decision maker to consider:

The need to retain and increase native vegetation to prevent or limit adverse effects on waterways, drainage lines and water supply reservoirs other than where works are necessary for fire protection.

On balance, given the clear priority placed on the protection of human life in the provisions of the planning scheme (that this amendment will not alter), the importance of maintaining and enhancing riparian areas to protect waterway health and the targeted nature of the revised control with specific exemptions and considerations in relation to fire protection measures this amendment has adequately addressed bushfire risk.

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Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The proposed ESO4 is consistent with the Ministerial Direction - The Form and Content of Planning Schemes under Section 7(5) of the *Planning and Environment Act 1987* and meets the requirements of other relevant Ministerial Directions as follows:

- Ministerial Direction No. 11 – Strategic Assessment Guidelines

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The Amendment upholds the principles and objectives of the Planning Policy Framework (PPF). In particular, the amendment implements following relevant strategies contained in the PPF:

Clause 11.03-5S (Identified distinctive areas and landscapes)

- *Protect the identified key values and activities of these areas.*
- *Enhance conservation of the environment, including the unique habitats, ecosystems and biodiversity of these areas.*

The *Macedon Ranges Statement of Planning Policy* (Victorian Government, 2019) contains the following objective that is most relevant to the amendment:

- *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.*

The revision of the ESO4 implements the relevant objective of the Macedon Ranges Localised Planning Statement (Statement of Planning Policy), by seeking to better protect water quality and the environmental values of the catchment.

Clauses 12.01-1S (Biodiversity)

- *Assist in the establishment, protection and re-establishment of links between important areas of biodiversity, including through a network of green spaces and large-scale native vegetation corridor projects.*

Clause 13.02-1S (Bushfire planning)

- *Ensure settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts by discouraging settlement growth and development in bushfire affected areas that are important areas of biodiversity.*

Clause 14.02-1S (Catchment management and planning)

- *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.*
- *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.*
- *Ensure planning is coordinated with the activities of catchment management authorities.*

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Clause 14.02-2S (Water quality)

- *Protect reservoirs, water mains and local storage facilities from potential contamination.*
- *Ensure that land use activities potentially discharging contaminated runoff or wastes to waterways are sited and managed to minimise such discharges and to protect the quality of surface water and groundwater resources, rivers, streams, wetlands, estuaries and marine environments.*

Clause 19.03-1S (Integrated water management)

- *Ensure that the use and development of land identifies and appropriately responds to potential environmental risks, and contributes to maintaining or improving the environmental quality of water and groundwater.*

The Amendment also implements the *Loddon Mallee South Regional Growth Plan 2014* (the Plan) as follows:

The Plan generally looks to support the economic and lifestyle needs of the Loddon Mallee South Region (the Region) with the protection of the natural environment from both a visual heritage and environmental asset perspective. In addition, the careful management of catchments to protect both water quality and water supply is acknowledged as being of great importance to the Region.

The Plan outlines a number of principles to direct the future use and development of the Region.

Principle 7 is to: *Ensure our food, water and energy security.*

Two of the future directions that underpin this principle are (among others):

- *Support the sustainable use of rural land, including the development of regional catchment strategies and other suitable tools.*
- *Protect water quality and quantity.*

The amendment implements directions from the PPF and the *Loddon Mallee South Regional Growth Plan 2014* through creating a strategy and proposed planning scheme provisions that protect water quality and quantity while balancing the reasonable needs of land owners. Protecting the health of waterways also has benefits for protecting biodiversity through the careful management of riparian areas.\

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The amendment implements the objectives and strategies of the Macedon Ranges Local Planning Policy Framework.

Local policy in the Macedon Ranges Planning Scheme places a strong emphasis on protecting the environmental and ecological qualities of the catchment and well as water quality. It further contains strategies that relate to the regulation of use and development and support the regeneration of riparian areas all for the protection of catchment and waterway health.

In particular Clause 21.07-3 Water has the following objective:

To retain and improve water quality and yield in the Special Water Supply Catchments, waterways and groundwater.

Does the amendment make proper use of the Victoria Planning Provisions?

The Upper Coliban Integrated Catchment Management Plan (North Central Catchment Management Authority & Coliban Water, 2017 p 7) notes that activities that pose the greatest risk to the catchment are:

- Agriculture - in particular, uncontrolled livestock access.
- Unmanaged development that includes the disposal of domestic wastewater and other pollutants associated with development.

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Where a permit is required for use, existing policy emphasises the need for the protection of both water quality and the catchment itself. However, the majority of the catchment is contained within the Farming Zone where the use of land for agriculture is as-of-right. The most prevalent zones in the catchment that allow residential uses are the Rural Living Zone and Low Density Residential Zone. In those zones dwellings are also as-of-right (subject to conditions).

Therefore, the introduction of a control tailored to the specific requirements of the catchment is the most appropriate mechanism. It allows for the control of relevant buildings and works regardless of whether the use itself is as-of-right.

In addition to existing policy, targeted drafting of the objective, statement of significance and decision guidelines in the proposed ESO4 will direct decision makers to consider the most relevant matters for the protection of the catchment.

PPN55 Planning in Open Drinking Water Catchments recommends the introduction of the Environmental Significance Overlay to tailor environmental objectives, permit requirements referrals and decision guidelines in open drinking water catchments.

How does the amendment address the views of any relevant agency?

This amendment has originated from the Agencies most affected by the proposed ESO being North Central Catchment Management Authority and Coliban Water. The work underpinning the amendment, however, (such as the *Upper Coliban Integrated Catchment Management Plan* (North Central Catchment Management Authority and Coliban Region Water Corporation, 2019)) was undertaken in consultation with key stakeholders such as the Hepburn and Macedon Ranges Shire Councils, Victorian Government agencies, Goulburn-Murray Water, local land owners and community groups all of whom understand the importance of the nature of the work.

The ICMP recognises that:

'Working in collaboration with other catchment stakeholders is crucial to protecting the catchments values into the future. Collaborative partnerships with landholders and community groups such as local Landcare networks are critical to achieve integrated catchment management outcomes.'

Goulburn Murray Water is considered one of the most affected authorities as they are the other referral authority under the Schedule to Clause 66.04. As such, their views are important in the management of the Catchment. In addition to being consulted as part of the preparation of the *Upper Coliban Integrated Catchment Management Plan* (North Central Catchment Management Authority and Coliban Region Water Corporation, 2019) Goulburn Murray Water has also been directly consulted on the proposed ESO4.

Other relevant agencies will be engaged during the exhibition period of the amendment.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The amendment does not have any significant impact on the transport system and does not trigger any requirements of the *Transport Integration Act 2010*.

Resource and administrative costs

The implementation of the amendment is not anticipated to give rise to any unreasonable resource or administrative costs for the relevant responsible authority.

The catchment area is already affected by ESO4 in the Macedon Ranges Planning Scheme.

The proposed modifications to the ESO4 may result in some additional permit applications being assessed by the responsible authority. However, the risk to human health and potential costs to the community from the consequences of not approving the amendment outweigh any potential, minor, additional cost to the responsible authority.

The ESO has been drafted so that matters that will not significantly affect the health of the catchment are exempt, minimising any potential burden. Additionally, the ICMP that underpins this amendment

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was prepared in consultation with the Macedon Ranges Shire Council (as well as other relevant stakeholders).

Where you may inspect this amendment

The amendment can be inspected free of charge at the Macedon Ranges Shire Council website at <https://www.mrsc.vic.gov.au/Build-Plan/Planning-For-Our-Future/Planning-Scheme-and-Amendments>

The amendment is available for public inspection, free of charge, during office hours at the following places:

- Gisborne Administration Centre 40 Robertson Street, Gisborne (opposite the police station)
- Kyneton Administration Centre 129 Mollison Street, Kyneton
- Woodend Service Centre Corner Forest and High Streets, Woodend

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection.

Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by [insert submissions due date].

A submission must be sent to:

Strategic Planning and Environment team
Macedon Ranges Shire Council
PO Box 151
KYNETON VIC 3444

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: 24 April 2023
- panel hearing: 22 May 2023

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8.5	DP/2021/1 - 89 ROSS WATT ROAD, GISBORNE - DEVELOPMENT PLAN & PLN/2021/616 - 89 ROSS WATT ROAD, GISBORNE - PLANNING PERMIT
Officer:	Jack Wiltshire, Strategic Planner
Council Plan relationship:	3. Improve the built environment
Attachments:	<ol style="list-style-type: none"> 1. Attachment 1 - DP-2021-1 - 89 Ross Watt Road Gisborne - Development Plan documents (under separate cover) 2. Attachment 2 - PLN-2021-616 - 89 Ross Watt Road Gisborne - Subdivision Permit (under separate cover) 3. Attachment 3 - DP-2021-1 - 89 Ross Watt Road Gisborne - Consolidated submissions (under separate cover) 4. Attachment 4 - DP-2021-1 - 89 Ross Watt Road Gisborne - Statement of Planning Policy Assessment ↓
Applicant:	ID Ross Watt Road Pty Ltd
Date of receipt of application:	19 November 2021 (DP/2021/1) and 23 December 2021 (PLN/2021/616)
Trigger for report to the Committee	Decision on a development plan application and its associated planning permit

Summary

The application is for a development plan (DP) for land known as 89 Ross Watt Road, Gisborne (DP/2021/1). The application has been appealed at the Victorian Civil and Administrative Tribunal (VCAT) due to Council not having made a decision within a reasonable time. A Council decision is required in order to formalise Council’s position and provide direction to Council’s legal representation and officers at an upcoming VCAT hearing.

A planning permit application PLN/2021/616 has also been submitted, but a permit cannot be granted before a development plan has been prepared to the satisfaction of the responsible authority.

The development plan application, DP/2021/1 is provided at Attachment One. The planning permit application, PLN/2021/616 is provided at Attachment Two. Redacted submissions to the development plan application are attached at Attachment Three.

The application was advertised to adjoining landowners in accordance with the Development Plan Overlay Schedule 4 – Gisborne Residential Areas (DPO4) at the direction of VCAT.

Key issues to be considered relate to the appropriateness of lot sizes, traffic considerations, subdivision layout, response to the Macedon Ranges Statement of Planning Policy, landscape considerations, open space provision and design, cultural heritage considerations and native vegetation impact. A number of referral authorities including Melbourne Water (MW), Greater Western Water (GWW), Southern Rural Water (SRW), Department of Transport (DoT), and Department of Energy, Environment and Climate Action (DEECA) (formerly DELWP) have reviewed the proposals.

Recommendation**That the Committee**

1. Notes that the application for approval of Development Plan DP/2021/1 is subject to VCAT proceedings to be determined in 2023.
2. Resolves to advise VCAT that Council opposes the approval of the Gisborne Area 1 Development Plan (3 February 2023) prepared by Collie Pty Ltd covering the Development Plan Overlay area affecting the land at Ross Watt Road Gisborne, prepared to meet the requirements of Clause 43.04, Schedule 4 of the Macedon Ranges Planning Scheme.
3. Resolves to advise VCAT that it opposes the Development Plan on the following grounds:
 - (a) The Development Plan is an unacceptable response to:
 - (i) The following provisions within the Planning Policy Framework and the Local Planning Policy Framework:
 - i. Clause 12.01 (Biodiversity)
 - ii. Clause 12.03 (Waterways and wetlands);
 - iii. Clause 13.02 (Bushfire)
 - iv. Clause 14.02-1S (Catchment planning and management)
 - v. Clause 15.01 (Built Environment)
 - vi. Clause 21.05 (Environment and Landscape Values)
 - vii. Clause 21.06 (Environmental Risks)
 - viii. Clause 21.08-3 (Built Environment)
 - ix. Clause 21.12 (Community Development and Infrastructure)
 - x. Clause 21.13-1 (Gisborne and New Gisborne)
 - xi. Clause 15 (Urban design)
 - (ii) The key principles and objectives of the Development Plan Overlay Schedule 4;
 - (iii) The natural environment and landscape character of the area; and
 - (iv) The interface to the Jacksons Creek, Rosslynne Reservoir and Calder Freeway;
4. Resolves to oppose the grant of planning permit application PLN/2021/616 for the following reasons:
 - (a) The proposed subdivision is not generally in accordance with an approved development plan;
 - (b) The subdivision responds poorly to the DPO4 for the same reasons that the proposed development plan is opposed;
 - (c) The proposal responds poorly to policy for urban design and neighbourhood character at clauses 13.02, 15.01, 18, 21.05, 21.06 and 21.13-1 of the Macedon Ranges Planning Scheme.
 - (d) The proposal fails to provide the adequate retention of large scattered trees.

- (e) The proposal fails to meet some the objectives and standard of Clause 56.
5. Allows officers and Council's representative delegation to represent Council at the upcoming VCAT hearing and advocate Council's position.
-

Existing conditions and relevant history

Subject land

The subject land comprises three parcels of land in Gisborne:

- 89 Ross Watt Road, Gisborne (PT LOT 14 LP 5226 P/Gisborne (TP 844764W)),
- LOT A PS 318022T P/Gisborne,
- Ross Watt Road, Gisborne (PT LOT 14 LP 5226 P/Gisborne).

The site comprises an area of approximately 94.1ha bound by Ross Watt Road to the north, Swinburne Avenue to the east, Rossllynne Reservoir to the west and Jacksons Creek to the south. The site is to the north-west of the Gisborne town centre.

The site comprises mostly open paddocks currently used to graze cattle. A single dwelling is located on the northern Ross Watt Road frontage. A former quarry site owned by Southern Rural Water is located on the western portion of the site (PT LOT 14 LP 5226 P/Gisborne).

The site contains a section of the Jacksons Creek escarpment landscape, and has two dams. Current access to the site is from Ross Watt Road via a gravel driveway.

A number of native trees are located within the site, particularly within the northern section of the site and towards the Jacksons Creek escarpment. Other native grasses and vegetation are dispersed throughout the site. Areas of Cultural Heritage Sensitivity are located along Jacksons Creek and a number of other points within the site.

The land is generally flat to undulating, with steep gradients around Jacksons Creek and the former quarry site.

Surrounds

The land surrounding the site comprises:

- Gisborne Racecourse Marshland Reserve (Gisborne Nature Conservation Reserve) to the north-east across Ross Watt Road.
- Rossllynne Reservoir to the west of the site.
- Established residential development to the east and south-east of the site. These areas have an open, semi-rural character with large lots ranging from 2,000 - 4,000m² containing single, detached dwellings with low site coverage, generous setbacks and established tree plantings in a garden setting.
- Jacksons Creek and the Jacksons Creek escarpment to the south.
- Agricultural grazing/farming paddocks to the north.

There are significant views to the site from the Calder Freeway, Bacchus Marsh Road and from numerous locations within the Gisborne town centre.

The site is accessed by Ross Watt Road and Swinburne Avenue to its north and east. Cherry Lane runs from Swinburne Avenue to Station Road which is the main north-south connector road in Gisborne. The Calder Freeway is located north of Ross Watt Road.

The closest train station is located in New Gisborne approximately 1.7km to the north-east. The nearest commercial centre is within the Gisborne town centre and is approximately 1.1km to the south-east.

The Swinburne Avenue Children’s Centre (a two-room kindergarten) is located on the intersection of Swinburne Avenue and Cherry Lane adjacent to the south-east boundary of the site.

The nearest primary schools include New Gisborne Primary School which is approximately 1.3km north of the site, Gisborne Primary School which is approximately 1.3km to the south-east, and St Brigid’s Catholic Primary School which is approximately 1.4km to the south-east. Gisborne Secondary Collage is 1.7km to the south.

Registered restrictive covenants and/or Section 173 Agreements affecting the site

No restrictions are currently listed on the titles to the land.

A two metre wide transmission of electricity easement is located on the eastern boundary of Lot 1 / TP844764W.

Previous planning permit history

A search of Council’s records has found the following recent permit history:

Permit No.	Description
Nil.	

Proposal

The proposal is seeking approval of a development plan (DP/2021/1) under DPO4 for Area 1 on Map 1 of the schedule.

Under the Development Plan Overlay, a permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority.

The development plan proposes approximately 790 lots with an average lot size of 562m², a local neighbourhood activity centre, open spaces and a childcare centre.

The development plan includes the description of a potential ‘residential retirement living community area’ within the eastern side of the site. The layout of this facility is not detailed within the development plan. The detail within the provided traffic report by One-Mile-Grid suggests a figure of 180-190 ‘lifestyle dwellings’ that would replace 100 standard dwelling lots.

A planning permit has also been lodged (PLN/2021/616) which seeks permission for subdivision in stages, construction of dwellings on lots under 300m², vegetation removal and other associated buildings and works.

The subdivision component is for 314 lots that are generally in accordance with the development plan dated 3 February 2023. Removal of 12 larger native trees and patches of vegetation required to accommodate the 314 lots is also proposed.

All relevant authorities are aware of the proposed development plan and were served notice of the development plan application as directed by VCAT. Referrals under the planning permit PLN/2021/616 have also occurred.

Council is required to refuse to grant a permit for subdivision in the absence of an approved Development Plan.

Relevant Macedon Ranges Planning Scheme controls

Section 46AZK of the Planning and Environment Act 1987

Section 46AZK of the Planning and Environment Act 1987 and Clause 51.07 of the Macedon Ranges Planning Scheme require Council as a Responsible Public Entity to not act inconsistently with any provision of the Macedon Ranges Statement of Planning Policy (SOPP) in exercising decision-making powers. Attachment Four contains the officer assessment against the SOPP.

Planning Policy Framework

Clause no.	Clause name
11	Settlement
12	Environment and Landscape Values
13	Environmental Risks and Amenity
14	Natural Resource Management
15	Built Environment and Heritage
16	Housing
17	Economic Development
18	Transport
19	Infrastructure

Local Planning Policy Framework

Clause no.	Clause name
21	Municipal Strategic Statement
21.03	Vision – Strategic Framework Plan
21.04	Settlement
21.05	Environment and Landscape Values
21.06	Environmental Risks
21.07	Natural Resource Management
21.08	Built Environment and Heritage
21.09	Housing
21.10	Economic Development and Tourism
21.11	Transport
21.12	Community Development and Infrastructure
21.13-1	Local Areas and Small Settlements – Gisborne

Zoning

Clause no.	Clause name
32.08	General Residential Zone Schedule 1

Overlay

Clause no.	Clause name
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43.04	Development Plan Overlay Schedule 4
44.04	Land Subject to Inundation Overlay
45.06	Development Contributions Plan Overlay Schedule 2

Particular provisions

Clause no.	Clause name
51.07	Macedon Ranges Statement of Planning Policy
52.17	Native Vegetation
53.01	Public Open Space Contributions
53.02	Bushfire Planning
53.18	Stormwater Management in Urban Development
55	Two or More Dwellings on a lot and Residential Buildings
56	Residential Subdivisions

General provisions

Clause no.	Clause name
65	Decision Guidelines
66	Referral and Notice Provisions

Cultural Heritage Management Plan assessment

	Assessment criteria	Assessment response
1	Is the subject property within an area of cultural heritage sensitivity as defined within the cultural heritage sensitivity mapping or as defined in Part 2 Division 3 or 4 of the <i>Aboriginal Heritage Regulations 2018</i> ?	Yes
2	Does the application proposal include significant ground disturbance as defined in Part 1 Regulation 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	Yes
3	Is the application proposal an exempt activity as defined in Part 2 Division 2 of <i>Aboriginal Heritage Regulations 2018</i> ?	No
4	Is the application proposal a high impact activity as defined in Part 2 Division 5 of <i>Aboriginal Heritage Regulations 2018</i> ?	Yes

Based on the above assessment, a Cultural Heritage Management Plan (CHMP) is required in accordance with Part 2 Division 1 of *Aboriginal Heritage Regulations 2018*.

Although the Applicant does not agree that a CHMP is mandated, it has elected to prepare voluntary CHMPs.

A CHMP approved under Part 4 of the *Aboriginal Heritage Act 2006* has been submitted for the area subject to PLN/2021/616 only and has formed part of the overall assessment of this application.

The process to date

- A development plan application was lodged with Council on 19 November 2021. This application was referred to relevant authorities and considered by officers.
- A planning permit application was lodged with Council on 23 December 2021.
- A request for further information (RFI) regarding the development plan was sent to the applicant on 23 December 2021 and a further letter on 28 February 2022 following additional referral requests.
- An RFI regarding the planning permit was sent on 19 January 2022. This included a requirement for an approved development plan and a CHMP.
- Council was informed on 23 May 2022 that an appeal to VCAT had been lodged by the applicant due to Council not having made a decision on the development plan within a reasonable time and for not making a decision on the planning permit within the prescribed time.
- The applicant provided a response to Council's planning permit RFI on 11 February 2022.
- The applicant provided a response to Council's development plan RFI on 8 June 2022, after the appeal was lodged through VCAT.
- Subsequent VCAT practice day hearings and directions required the revised development plan documents to be publically advertised to all relevant referral authorities and some of the surrounding landholders including residents along Ross Watt Road and Cherry Lane.
- Council had a submitters hearing on 12 September 2022 at its Planning Delegated Committee meeting.
- Council made a decision at its Planning Delegated Committee on 12 October 2022. The decision of the Committee was to not support the development plan and planning permit application.
- A VCAT Compulsory Conference occurred on 10 November 2022 and 5 December 2022.
- VCAT directions were circulated on 8 December 2022 required the applicant to amend any plans by 3 February 2023. The applicant amended its plans and undertook notice of the revised development plan documents.
- Notice occurred on the amended plans between 3 February and 24 February 2023. A total of 52 submissions were received and are discussed further below.
- Internal and external referrals have occurred on the amended plans and are discussed below.
- Council have engaged PE Law to represent Council in these proceedings.
- A full hearing is listed from 20-30 March 2023.

Referral

Authority (Section 55)	Response
Melbourne Water (determining)	No objection subject to conditions.
Greater Western Water (determining)	No response prior to finalisation of report. Greater Western Water is a party to the VCAT proceedings.
Department of Environment, Land, Water and Planning (Department of Energy, Environment and Climate Action) (determining)	No response prior to finalisation of report. Department of Energy, Environment and Climate Action is a party to the VCAT proceedings.
Department of Transport (Department of Transport and Planning) (determining)	No response prior to finalisation of report. Department of Transport and Planning is a party to the VCAT proceedings.
Tenix (Downer) (determining)	No response prior to finalisation of report. Tenix (Downer) is not a party to the VCAT proceedings. No objection has been raised previously.
Powercor (determining)	No objection.

Council notified the following authorities and departments of the application:

Authority (Section 52)	Response
Country Fire Authority	No objection, with suggested changes.
Southern Rural Water	No response prior to finalisation of report. Southern Rural Water is a party to the VCAT proceedings.
Internal Referral	Response
MRSC Engineering Unit	Concerns raised.
MRSC Environment Unit	Concerns raised.
MRSC Open Space Unit	No objection, subject to conditions.

Advertising

DPO4 requires public notice of the development plan for a period of two weeks prior to approval. The Responsible Authority must take into account any comments received when considering the development plan or any amendment to that plan. Adjoining and surrounding landholders and occupiers were informed of the application in accordance with a direction of VCAT from 8 July 2022 to 26 July 2022. A total of twenty-eight (28) objections were received to this application.

The applicant formally amended documents on 3 February 2023 in accordance with VCAT orders from 8 December 2022. Adjoining and surrounding landholders and occupiers were informed of the application in accordance with VCAT orders.

A total of fifty-two (52) objections were received to this application.

They are summarised as follows:

Objection/concern regarding application

- Traffic, including internally and externally of the development plan area. This includes staging of works, existing traffic levels and proposed outcomes. This includes overall impact on Gisborne's traffic network.
- The proposal does not meet the requirements of the Macedon Ranges Planning Scheme includes Statement of Planning Policy.
- Extent of growth proposed and the impact this will have on the town due to the lack of services and infrastructure.
- Impact on local waterways including Jacksons Creek, Racecourse Marshland Reserve and water quality at the Rosslynne Reservoir.
- Concern with the proposed dwelling density including that some lots are under 300m².
- Impact on the Jacksons Creek escarpment, landscape values and semi-rural character of Gisborne.
- Concern with the lack of pedestrian and cycling connections.
- Lack of schools within the proposed development and distance to the local schools.
- Concerns regarding stormwater drainage and location of stormwater infrastructure.
- Amenity, noise, disruption and risk concerns during development of the site.
- Concern with the neighbourhood character response and design outcomes.
- Impact on adjoining rural land uses.
- Concern with the loss of native vegetation and linkages for animals.
- Concern with response to climate change.
- Failure to meet key principles of the DPO4.
- The development's interface with the Calder Freeway.
- Community and open space concerns.
- Extent of notice to the community.
- The landscaping and open space response.
- Concern that the development plan does not address Gisborne Futures or its recommendations including a western bypass option for Gisborne.

Officer assessment

Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

Clause 11 outlines the objectives of Settlement within the Loddon Mallee South region and settlement growth in Victoria. It includes direction to manage and support growth in Gisborne as an employment and service hub that reinforces the network of communities in the region.

Clause 12.01 outlines the need to protect and enhance Victoria's biodiversity, and the need to ensure there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. Clause 12.03-1S outlines the need to protect and enhance river corridors, waterways, lakes and wetlands. Clause 12.05-1S outlines the need to protect and conserve environmentally sensitive areas which includes the Macedon Ranges. Clause

12.05-2S outlines the need to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.

Clause 13.01-1S outlines the need to minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.

The site is located in a designated bushfire prone area and therefore under Clause 13.02-1S the bushfire risk must be considered when assessing planning applications for subdivisions of more than 10 lots and more broadly a development plan application. The CFA have no objection, subject to the consideration of amended plans.

Clause 13.03-1S outlines the floodplain management objectives and strategies. These are considered applicable to the subject development plan due to its interface with Jacksons Creek.

Clause 14 outlines the need to protect the state's agricultural base by preserving productive farmland and the need to assist in the protection and restoration of catchments, waterways, estuaries, water bodies, groundwater and the marine environment. This includes the need to ensure the continued availability of clean, high-quality drinking water by protecting water catchments and water supply facilities, impact on drainage corridors and vegetated buffers along each side of waterways.

Clause 15 outlines the need to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. Clause 15 also outlines the need to achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development. It also outlines the need to ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.

Clause 16.01-1S outlines the need to facilitate well-located, integrated and diverse housing that meets community needs. This includes providing a mix of housing types and higher density housing development on sites that are well located in relation to jobs, services and public transport.

Clause 17 outlines relevant economic development strategies. This includes Clause 17.02-1S which outlines the encouragement of development that meets the community's needs for retail, entertainment, office and other commercial services.

Clause 18 outlines strategies regarding transport including walking, cycling, public transport, roads and freight. Clause 19 outlines strategies regarding infrastructure, including social and cultural infrastructure and open space.

Clause 21 comprises the Local Planning Policy Framework. Clause 21.04 outlines the settlement principles which are aligned with Clause 21.09 – Housing and Clause 21.13 – Local Areas and Small Settlements. It notes that Gisborne is expected to become a regional centre with a population greater than 10,000 people by 2036. Objective 2 of Clause 21.14 seeks: 'To provide for development which maximises the benefits of established and proposed urban infrastructure'. It also outlines within its strategies that some areas within the defined town boundaries may not be suitable for urban development.

Clause 21.05-1 (Biodiversity and native vegetation management) outlines the Shire's rich native biodiversity and that it is also at risk, with threats including poorly planned urban residential developments. Clause 21.05-2 (Significant environments and landscapes) notes that Macedon Ranges Shire has many and varied rural and township landscapes which are highly valued by residents and visitors. The landscape character within the Macedon Ranges Shire is in part defined by:

- Heritage gardens with native vegetation, exotic species, hedgerows, managed plantations and pastoral qualities.
- Significant views and vistas from and to the undulating wooded hills, which also form major visual edges to the Shire.
- Distinctive settlements set within a rural environment.

Important objectives include maintaining and enhancing the existing rural landscapes by encouraging sensitive subdivision designs, with use of larger lots and building envelopes to minimise landscape and environmental impacts for land supporting areas of vegetation or adjacent to waterways or the Calder Freeway (Objective 1, Strategy 1.3).

Objective 4, Strategy 4.3 seeks to “avoid development on prominent ridgelines and hilltops and ensure development within viewsheds to the Shire’s backdrop of ranges, hills and ridges does not detract from their significance as a land range feature”. Objective 6 outlines the need to protect the character of visually sensitive areas such as roadsides, rail corridors and water courses. This is to be achieved by ensuring buildings and works are designed and sited so that landscape values, natural features and important vistas including significant stands of cypress hedges are not degraded (Strategy 6.1) but also by ensuring building siting, form and design is sympathetic to the landscape character of the surrounding areas (Strategy 6.2).

Lastly, Objective 7 outlines the need to preserve significant exotic and native vegetation as a fundamental component of the Shire’s character and landscape.

Clause 21.06 outlines environmental risks which include bushfire and flooding.

Clause 21.07-3 seeks to outline the protection of water quality as a significant issue. This consideration includes the Rosslynne Reservoir (Jacksons Creek). Strategies including larger lots where there are drainage lines, waterways and steep slopes; it also recommends on-site property works to enhance water quality. Another strategy is a requirement for commercial and residential uses to demonstrate the activity will provide a net benefit to the health of the waterway.

Clause 21.08-2 (Aboriginal Cultural Heritage) seeks to protect Aboriginal cultural heritage places and values within the Shire. This includes identifying and protecting Aboriginal cultural heritage values by working with traditional owners, and ensure that development and land use appropriately protects and manages Aboriginal cultural heritage places and values. It also identifies the need to consider Aboriginal cultural heritage in any aspect of land use planning that may impact on Aboriginal cultural heritage (Strategies 1.1, 1.2 and 1.3).

Clause 21.08-3 (Built Environment) seeks to ensure the high landscape qualities of the Shire and built form of its towns are appropriately controlled, and to ensure development is sustainable and respects existing character. Of note are the strategies under Objective 2 including:

- Strategy 2.1 – Encourage new extensions to residential areas to reflect existing street patterns and sub-division layouts and to harmonise with the surrounding environment.
- Strategy 2.2 – Encourage development that respects the distinctive character and defining attributes of each settlement.
- Strategy 2.3 – Ensure development in sensitive areas respects its context and the preferred character of the area.
- Strategy 2.4 – Identify appropriate locations for higher density urban development in town centre structure plans and outline development plans to not detrimentally affect

the heritage values, preferred neighbourhood character or landscape character of the Shire's towns.

- Strategy 2.5 – Ensure the planning density and design of new residential development recognises the environmental and infrastructure constraints and preserves the distinctive characters of the Shires various communities and individual towns and settlements.

Objective 3 is to ensure development and built form occurs in a sustainable manner. Strategy 3.2 seeks to ensure subdivisions and development add to the walkability and accessibility of townships.

Clause 21.09-1 outlines the need to provide affordable housing and a diversity of lot sizes and styles to meet the requirements of all age groups, household types and lifestyles. This includes by facilitating aging in place by identifying suitable locations for medium density development in structure plans and outline development plans which provide good access to services.

Clause 21.11 outlines transport considerations and local support to Clause 18. This notes that Gisborne has excellent transport infrastructure in the form of the Calder Freeway and Bendigo Railway line.

Clause 21.12 provides local context to Clause 19. It includes the need for new development to strengthen community connections and create public spaces for use by people of all ages and abilities. Clause 21.12-2 outlines the need to provide adequate infrastructure, services and community facilities.

Clause 21.13-1 provides policy context for Gisborne and New Gisborne in the context of Clause 11 of the PPF. It notes that a key issue for Gisborne and New Gisborne is balancing township growth and development densities against the community's desire to maintain the semi-rural and established village character of Gisborne and New Gisborne, whilst also providing for sustainable development in one of the Shire's major urban centres with good commercial and community services/facilities, and transport options. It discusses Gisborne's character elements and includes strategies that implement the Gisborne/New Gisborne Outline Development Plan 2009.

Settlement and housing objectives include:

- Objective 1 – To reinforce the key urban functions and role of Gisborne and New Gisborne as the major urban centre in the southern end of the Shire.
- Objective 2 – To maintain Gisborne and New Gisborne as distinctive semi-rural settlements with clear limits to population and physical urban growth.
- Objective 3 – To manage urban growth and development in Gisborne in a co-ordinated and environmentally sustainable manner that ensures Gisborne remains a semi-rural township that respects the established village character, natural setting, topography and view lines of the area.
- Objective 4 – To establish New Gisborne as a transit orientated settlement, building on the educational, public transport, local commercial and employment opportunities in the area, and sustainable development principles.
- Objective 5 – To ensure future urban growth in New Gisborne respects the township's semi-rural character, heritage streetscapes, view lines to the Macedon Ranges and significant natural environmental assets, including Gisborne Racecourse Marshlands Reserve.

Particularly relevant strategies include:

- Strategy 1.5 - Encourage short to medium term (0-10 years) development within the existing growth area west of Gisborne. This area has good proximity to services, alternative forms of transport, infrastructure and limited exposure to the freeway corridor and key road entrances.
- Strategy 1.8 – Encourage, in appropriate locations, medium density housing within 400 metres walking distance of the Gisborne town centre as designated on the Gisborne /New Gisborne Framework Plan. Appropriate locations are those areas where slope and access to services are favourable for medium density development and where such development is compatible with established landscape and township character, and places of heritage significance. Medium density housing may be appropriate in locations outside designated areas if all of the following apply:
 - The site is located near public open space or a local neighbourhood activity centre;
 - A site responsive and high quality built form outcome is achieved, and generous landscaping that contributes to the local neighbourhood character is provided;
 - Amenity impacts on adjoining residential properties are minimised; and
 - The intensity and scale of development is in keeping with the character of the area.
- Strategy 1.9 – Provide a range of conventional residential development opportunities and densities in other residential areas that is cognisant of the semi-rural character and village setting of Gisborne / New Gisborne. Within the context of Gisborne and New Gisborne conventional residential development includes lots ranging between 500-1,500m² in area (with an average lot size not less than 800m² in any new subdivision).
- Strategy 1.10 – Encourage wide lot frontages in residential developments to provide space between buildings and a high quality landscaped setting for new development.
- Strategy 1.11 – Require larger residential lot sizes (greater than 1,500 square metres), and sensitive siting and design of new development in areas that are visually sensitive, support remnant flora and fauna, are constrained by land slope or where they abut existing larger lots of rural or low density residential development.

Economic Development objectives include:

- Objective 1 – To retain Gisborne town centre as the primary activity centre for Gisborne and New Gisborne.
- Objective 2 – To encourage the establishment of local neighbourhood activity centres that is well designed, sustainable, attractive and accessible in residential areas.
- Objective 3 – To provide for future employment, and industrial and commercial development opportunities that complement Gisborne and New Gisborne's role as one of the Shire's major urban centres, whilst maintaining the semi-rural nature of the township environs.

Strategy 1.4 includes the desire for two local neighbourhood activity centres to the south and west of the Gisborne area to service new residential areas with basic convenience needs.

Natural environment and open space objectives include:

- Objective 1 – To protect and improve areas of remnant vegetation, fauna habitat, natural drainage corridors, Gisborne Racecourse Marshlands Reserve and the

landscape and open space corridor along Jacksons Creek as essential elements of Gisborne and New Gisborne's natural setting.

- Objective 2 – To create an attractive urban environment with a strong sense of place that contributes to Gisborne and New Gisborne's natural setting through provision of a range of open space areas.
- Objective 3 – To ensure open space areas meet the active and passive needs of the community, in conjunction with required drainage infrastructure, areas of flora and fauna, and linkages to key destinations.

Relevant strategies include:

- 1.1 – Provide buffer areas between new residential development and vegetated public and recreation land areas, such as Gisborne Racecourse Marshlands Reserve and Golf Course.
- 1.2 – Require new development to front public open space areas with roads or lots with open-style fencing to encourage use and safety through passive surveillance and active frontages, where relevant.
- 1.3 – Ensure open space and buffer areas provided along waterways and drainage corridors are wide enough to accommodate drainage functions, riparian buffers and shared pedestrian / cycling paths.

Heritage, landscape and township character objectives include:

- Objective 1 – To maintain and improve key urban and landscape elements, and cultural heritage assets that contribute to the established semi-rural township and village character of Gisborne and New Gisborne.
- Objective 2 – To protect and improve the appearance of the semi-rural landscape along the Calder Freeway, railway corridors and key township entrances.
- Objective 3 – To ensure that changes in built form within established township areas are sympathetic with any heritage significance or the valued character of the area.

Relevant strategies include:

- 1.1 – Maintain an open landscaped setting for land adjoining key township entrances, the Calder Freeway and railway corridor by limiting development opportunities and minimising the visual appearance of development.
- 1.2 – Protect and reinforce view lines between Gisborne / New Gisborne and Mount Gisborne, Mount Aitken, the Macedon Ranges and Magnet Hill, and parts of Gisborne to Bullengarook.
- 1.3 – Limit the visual intrusion of development around Rosslynne Reservoir and Jacksons Creek escarpment.
- 1.5 – Recognise and protect cultural heritage assets, including the Station Road, New Gisborne streetscape and the Gisborne town centre residential and commercial areas.
- 1.6 – Ensure that new development responds to key features of existing streetscapes including building materials, colours, height, setbacks, bulk, articulation, significant vegetation, site coverage and density, particularly within established township areas and areas of landscape sensitivity.
- 1.7 – Ensure new urban development is of a low profile and compatible with the landscape qualities of the area.

- 1.8 – Protect and replace when necessary with similar species, significant exotic trees that line streets within the Gisborne town centre and Station Road, New Gisborne.

Infrastructure objectives include:

- Objective 1 – To provide a sustainable transport network that reduces dependence on car use and encourages public transport, walking and cycling within and between neighbourhoods.
- Objective 2 – To create sustainable and liveable residential areas that provide a healthy environment and enable opportunities for social interaction and access to services and facilities for all residents.
- Objective 3 – To optimise the use of existing infrastructure, particularly the New Gisborne railway station.
- Objective 4 – To ensure residential development occurs in a sequential manner allowing for the efficient and timely provision of social and physical infrastructure, and integration with existing development.

Relevant strategies include:

- 1.1 – Develop safe, attractive and efficient bicycle and pedestrian networks using public open spaces, linear links and road networks through all urban areas.
- 1.2 – Give priority to connecting new residential areas to the town centre, local neighbourhood centres, community facilities, open space, public transport and the railway station when planning and designing pedestrian and bicycle paths.
- 1.3 – Encourage the continued improvement of public transport services within and between Gisborne and New Gisborne.
- 1.4 – Ensure new development is designed to accommodate future bus routes, including suitable road widths and intersection treatments to enable the safe and efficient operation of bus movements.
- 1.5 – Retain and protect Station Road as the key north-south road between Gisborne and New Gisborne.
- 1.8 – Ensure new residential development addresses issues relating to the sequence of development and timely provision of physical and social infrastructure, including connecting roads, open space and walking / cycling paths.
- 1.9 – Discourage residential development that requires ‘leapfrogging’ of services or cannot be fully serviced or interface with existing development at the time of development.

Clause 13.01-1 includes a policy to exercise discretion to: Ensure development adjacent to the Calder Freeway, Jacksons Creek escarpment, the railway corridor and in areas identified as visually sensitive on the Gisborne / New Gisborne Framework Plan protects landscape values by consideration of:

- Lower density lots;
- Building setbacks, heights and orientation;
- Suitable landscaping and screening, such as wide landscaped buffers;
- Noise attenuation matters; and
- Use of colours and material that are reflective of the natural surrounds.

Discussion

Relevant state and local policy outline a range of objectives and strategies which must be balanced in the consideration of a proposal under the Macedon Ranges Planning Scheme.

The subject land is acknowledged within local policy as an area for residential growth to contribute to housing supply within the Macedon Ranges and particularly Gisborne. It also seeks to support a local activity centre to cater to local residents. Within this, the landscape values, environmental risks, environmental values, character, cultural heritage and infrastructure context must be balanced with providing housing including at a range of densities to provide for various needs within the community. This would include aging in place, first home buyers and single income households.

The report accompanying the application places great emphasis on housing supply, but argues that Council's local character provisions and other requirements are 'contrary' to this objective. Officers note in response that, aside from the bushfire provisions which sit above other policy objectives, a balance must be sought between competing objectives of the planning scheme. It is argued that Council's local policy does provide for housing supply, affordability and housing options which must be balanced with environmental, landscape and neighbourhood character considerations. Local policy acknowledges the need to develop greenfield development sympathetic to the cherished values of Gisborne, and enhance the landscape and natural values which are paramount.

It is considered the proposed development plan does not sufficiently respond to the provisions of the PPF and LPPF in key areas.

Landscape Character

The extent of development on the escarpment is not supported. The site is located within a broad landscape area which includes the Jacksons Creek escarpment, Mount Gisborne, Mount Bullengarook and Little Bullengarook to the south-west and sweeping views towards the Macedon ranges to the north. Views are available to Magnet Hill to the east of the site. Saunders Road and Station Road are also important connections within this area of Gisborne.

The Calder Freeway is an important corridor with significant sequences of views which abuts the site north of Ross Watt Road. Bacchus Marsh Road is also of lesser note than the Calder but provides an important entrance into Gisborne from Bacchus Marsh.

The residential development to the east includes Frith Road and Skyline Drive estates developed from 1985. Gisborne town centre is located as close as 800m from the site but the Jacksons Creek and steep escarpment currently encompasses a significant barrier for easy access. Cherry Lane provides the most direct route to the town centre which requires crossing Station Road and heading south at a distance of approximately 1450m.

The site has a number of sensitive interfaces acknowledged in policy including the Racecourse Marshland Reserve (also known as Gisborne Nature Conservation Reserve) to the north, Rossllynne Reservoir to the south-west and Jacksons Creek and escarpment to the south of the site. Within the site there are a number of sensitive vegetation features including old native trees and patch vegetation.

The area is acknowledged as an important link between the Gisborne Nature Conservation Reserve and Jacksons Creek and Rossllynne Reservoir by the submitted Flora and Fauna assessment (January 2023). Many of the identified swamp gums are noted as being very old and providing important hollow nesting and roosting habitat. Secondly the aquatic habitat including several dams and Plains Grassy Wetland were considered important links between Jacksons Creek and northern wetland.

Sensitive landscape interfaces are acknowledged in the LPPF. The need to provide larger lots and building envelopes along areas with native vegetation, adjacent to waterways or the Calder Freeway are all applicable to this site. Furthermore development along prominent ridgelines must be avoided to ensure development within view sheds to the Shire's backdrop of ranges, hills and ridges does not detract from their significance. The road layout of the estate pushes lots onto the escarpment and does not provide sufficient sizing of these lots to appropriately address landscape values. This is further complicated by bushfire risk from Jacksons Creek which may limit the ability to include landscaping some of these smaller lots.

The character and visual quality of the Jacksons Creek escarpment has been protected from development through various mechanisms in the planning scheme as Gisborne has developed. The avoidance of development on prominent ridgelines and hilltops is required to ensure it does not detract from their significance as a land range feature. The visual sensitivity of roadsides and water courses is relevant to the site.

The response to the Jacksons Creek escarpment is not appropriate given the viewsheds to this section from Gisborne township. Buildings and works should be located to ensure the landscape values, natural features and important vistas are not degraded. Building siting is addressed through setbacks within the guidelines in part but the form and design has not been address sufficiently to protect the visual significance of the Jacksons Creek escarpment and landscape character. Limited 10m setbacks with the potential of an 11m or three storey building on the escarpment ridge would cause a built form presence not characteristic of this section of the escarpment and an outcome not supported in policy. Ideally all lots should be single storey on the escarpment setback from the break of slope.

This requirement for low scale buildings should be carried along rural interfaces and the Calder Freeway interface to ensure a reduction of built form in visually recessive in the landscape. These settings and allow vegetation to form prominence in the landscape.

Protection of water quality

The protection of water quality is also of importance and given the site adjoins three highly significant water areas. Greater Western Water and Southern Rural Water had originally raised issues with the proposal but to date the applicant has address these in regards to Rosslynne Reservoir and Jacksons Creek have opted to remain parties to the upcoming VCAT hearing but have not provided comments to Council prior to this report being written. Melbourne Water is further now satisfied with the revised plans.

Environmental Values

Ongoing management of the conservation reserve along Jacksons Creek and the northern reserve to permit fauna access between these areas will be very important. Retaining large gum trees with hollows and indigenous plantings will contribute to these current linkages which will be partly disrupted by residential development.

Medium density development

The LPPF provides clear guidance on the location of conventional and medium density development in support of the PPF. It outlines that any development should respond to the environmental, landscape and semi-rural and village character of Gisborne.

The policy gives direction for the type of development expected to inform the creation of development plans. It is acknowledged a local activity centre does provide for consideration of higher densities than what would be considered within the conventional development areas of Gisborne. The centralisation of the local activity centre within the site opens up greater connections within the development and avoids abutting low density development

to the east and south of the subject site. Bus connections and linkages to existing pedestrian and cycling links on Station Road can be achieved.

The average lot size across the Development Plan area is 562m². This is a significant reduction from the minimum average of 800m² set out in clause 21.13-1.

81.2% of all proposed lots will range between 300-800m², with 18.8% of lots between 800-1,500m² and above. However, this density makeup does vary depending on distance from the NAC. The average lot sizes according to proximity to the NAC are:

- 367m² within 200m distance.
- 561m² within 400m distance.
- 717m² for areas beyond a 400m distance.

Medium density is described in the ODP as being between 300m² and 500m², as well as integrated housing sites. Terrace/townhouse, 'cottage lots' and retirement villages are all included within this definition.

The proposal however fails to provide detail on how high quality built form outcomes are achieved, and how generous landscaping will be provided. Officers support the smaller lots in close proximity to the NAC. However, further nuance regarding interfaces and landscape is required. However, further detail on how a high quality built form outcome with generous landscaping as required by Clause 20.13-1 is required.

The ODP outlines that sites with an interface to lower density development should be cognisant of the identified constraints, and range between 1500-2500m².

Elsewhere, townhouse lots are proposed in areas which do not actively front open space or the NAC and are in the view of officers considered inappropriate. These lots border larger lots ranging between 800-1,500m², and the minimal built form and landscaping transitions proposed which is of concern.

Lot density transition should occur along rear boundaries rather than road frontage. Furthermore, proximity to open space is not the only criteria in local policy regarding the location of medium density. It also is also required to achieve requires that good quality design outcomes, generous landscaping and a positive contribution to local neighbourhood and landscape character is achieved. The current plans do not demonstrate how these are to be achieved.

The central townhouse cluster is an example of this in which the layout of lots results in narrow lots with double garages fronting the main corridor. The landscaping plans shows approximately 12m of hard driveway spaced by 12m of garden area on lots 12.5m wide. This does not lend itself to generous landscaping outcomes.

Retirement Living

The "potential retirement living community" has been moved to the south-eastern portion of the site. There is an improvement having the retirement living option on a public transport connection as opposed to its previous position and having it closer to community facilities and Gisborne town centre. It is noted as being further away from bushfire risk which is supported. Retirement living options are supported provided the activity centre is delivered, however no detail has been provided on the design or layout to assess whether it is appropriate.

The traffic report by One-Mile-Grid outlines 180-190 lifestyle dwellings that would replace 100 standard lots which is a much higher density outcome.

The current established character of the local area ranges from lots between 2,000m² along Skyline Drive, to 4,000m² along Swinburne Avenue and Cherry Lane. Some of these lots are even larger and include parts of the Jacksons Creek escarpment which is zoned for Rural Conservation.

The location of the retirement community abutting these lower density lots will not accord with this character.

Response to existing residential character

The extent of the development on the escarpment landscape is not supported. The guidelines prepared by the applicant do not provide adequate built form guidance controls to achieve an appropriate response to the existing landscape and the character values from the adjoining Skyline Drive development and is therefore at odds with local policy.

Bushfire constraints

Constraints to the site are also required to be addressed within the design of the plan. By way of example, lots fronting the southern drainage reserve require setback distances to meet BAL 12.5 building requirements. On the revised plan lots with bushfire setbacks protrude into residential lots. In some cases this setback requirement is 28m from a reserve, where a 14m wide road reserve and a 10m dwelling setback would still trigger higher building requirements of BAL 19 with 4m within the BAL 19 space. Lots fronting the southern drainage reserve have a 22m setback requirement. With a road reserve of 14m and a 7m setback – most dwellings would still trigger a BAL 19 setback. These are also landscaping considerations to this such as the type of vegetation permitted to maintain defensible space. Lots should be provided on this interface to ensure BAL 12.5 can be achieved or a reduction of the number of lots in this location. It is argued that in the context of a greenfield development, a better overall response to bushfire risk can be achieved. The design guidelines setbacks should ensure appropriate setbacks and overall subdivision design response. This consideration must be balanced with landscape considerations.

On the southern boundary, the Development Plan Area intersects with land owned by Southern Rural Water. This area has been excavated in the past and contains a large void. The proposed Development Plan includes an indicative subdivision layout for this area. The development plan has an expectation of vegetation in this area being managed to reduce bushfire risk. It is also not clear that this area is suitable for development, or that the area abutting the title is geotechnically stable.

Native Vegetation

The extent of native vegetation removal is now reduced and provided with additional protections including retaining trees that are 'lost' from an offset sense being kept to provide habitat. The arborist report has also provided additional detail on habitat qualities to inform decision making. Park areas have been revised to retain additional trees in open space and improvements will be made to the proposed Jacksons Creek conservation reserve.

A number of large scattered trees are located within road reserves but identified for removal. A greater design response to retain these trees should be considered. Furthermore tree retention in tree reserves must include space to allow tree protection fencing off but permit pedestrian walking areas to ensure risk is minimised around large old trees.

General Residential Zone Schedule 1

The General Residential Zone 1 (GRZ1) seeks to encourage development which respects the neighbourhood character and provide for residential developments at a range of densities with a variety of dwellings to meet the housing needs of all households.

A permit is required to subdivide land, develop dwellings on land under 300m² and associated building and works under the GRZ1.

The GRZ1 requires a subdivision to meet the objectives and standards of Clause 56.

An application for a planning permit under the GRZ1 must be in accordance with the provisions of Clauses 54, 55 and 56.

Vacant lots created under 400 square metres must be capable of development for a dwelling and contain at least 25 percent as garden area. However, an exemption applies if there is an approved development plan.

Given there is no support for the proposed development plan the planning permit application is considered not able to be supported under the provisions of the DPO4.

Concern is raised that the suggested response to garden area provision is to rely on an exemption but not clarify or provide detail within the submitted development plan on how lots under 300m² will provide good landscaping outcomes sought in local policy, ODP and DPO4 schedule. Building envelopes meeting minimal building standards will not provide for generous landscaping where the proposal does not seek to meet even the minimum standards expressed in the planning scheme. The use of building envelopes could be supported with robust and clear design guidelines that meet the policy objectives of the LPPF, OPD and DPO4.

Development Plan Overlay Schedule 4

The DPO4 states that a permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority.

The DPO4 outlines the subject land as within the Development Area 1 on Map 1 of the clause. DPO4 references the Gisborne / New Gisborne Outline Development Plan Revised Final Report, September 2009 (ODP) as its basis.

The DPO4 includes the following key principles:

- Encouraging housing choice and the development of a variety of lot sizes and types within the context of a semi-rural township.
- Establishing open space networks that provide both pedestrian and cycling link, passive and active recreation needs, and protection of environmental features and drainage functions.
- Limiting the visual intrusion of development around key township entrances, the Calder Freeway, Jacksons Creek escarpment and Rosslynne Reservoir.
- Protecting areas of remnant indigenous and significant exotic vegetation.
- Recognising and protecting cultural, environmental, landscape and heritage assets.
- Increasing stormwater capture and reuse to reduce water usage and impacts on existing drainage infrastructure.
- Providing for physical and social infrastructure and the orderly staging of development.
- Encouraging current sustainable development principles and high quality urban design.

The DPO4 contains a number of requirements for Area 1 which go above the standard requirements for a GRZ1 subdivision, including that a development plan must be consistent with the provisions of Clause 21.13-1 and have regard to the ODP.

Neighbourhood Activity Centre (NAC)

DPO4 requires a conceptual urban design for the Local NAC that integrates with active and passive open space and the childcare facility on Swinburne Avenue.

However, the proposed central location of the local NAC shown on the amended development plan is supported as it provides greater walkability and servicing for the development plan area.

Activity centres are usually located on collector or arterial roads where they benefit from custom as a result of exposure to passing traffic as well as serving an immediate catchment. The activity centre and escarpment open space have potential to attract visitors from outside the development, activating the open space and drawing additional custom to the activity centre from outside the immediate catchment. To support this, the activity centre design must deliver a high quality public realm that attracts businesses and is an attractive place that people want to spend time in. This includes:

- The proposed 2-2.5m footpath external to activity centre site is not wide enough to support outdoor dining or additional seating or streetscape elements that encourage people to spend time in the space.
- Having car park access across the 'pedestrian focused' street is not ideal. This should be located to the rear of the site.
- The 'pedestrian zone' should be 2m in width, with an additional 2-3m (minimum) to support street activity.
- The concept should include consideration of floor area, building heights and car park provision estimates, as well as trees and pedestrian access to car park.
- Evidence needs to be provided that streetscape elements, including raised thresholds and roundabouts, are accessible for delivery trucks and service vehicles.
- The streetscape design should include bus stops and show how these are integrated into the streetscape design and accessible.

Layout, urban design, density and built form

The uneven distribution of lot sizes runs the risk of creating a confused or inconsistent neighbourhood character. This is especially the case where rows of townhouses are located opposite larger lots. Densities should be reviewed so that typologies are more consistent, and change in density and character should occur along the rear property boundaries rather than the street edge.

The distribution of lots less than the 800 sqm average called for by policy is extensive. The Development Plan is characterised by a majority of developable land designated for lots less than 800 sqm, which is not responsive to the semi-rural character called for by policy. Coupled with five separate lot designations, the amended Development Plan lacks a cohesive or consistent approach to density. This will be challenging to implement successfully. A rationalisation of the lot size categories may assist in achieving a more cohesive character outcome that respects the semi-rural character called for by policy.

Along the Ross Watt Road frontage, the juxtaposition of conventional density directly behind large lots is also questioned. The conventional density lot roof forms may be prominent when viewed from Ross Watt Road.

For lot categories proposed as 800-1500 sqm, it should be assumed that the market will deliver lots at the lower end of the range. In this context the Development Plan lacks certainty as to how the minimum average lot size called for by policy is achieved.

Large lot interfaces on edges (>1500 sqm), as visible externally to the site and along entrance roads to strengthen the semi-rural character are supported. Proposed lot interfaces provided along the western edge of the Swinburne Ave (800-1500 sqm) drainage reserve and townhouse lots that will be visible from Swinburne Avenue will adversely impact on its character.

The location of medium density and townhouse lots should be appropriate in the context of abutting lot densities, avoiding blank walls fronting key streets, protruding built form along key streets and providing guidelines that establish landscaping areas to reflect and enhance neighbourhood character. The design of these lots need to have consideration of the transition between areas of differing lot sizes with attention on how front and side setbacks meet and landscaping is provided.

Building design is intended to be informed by the draft Design Guidelines. The guidelines provide greater detail on design outcomes which were previously not detailed within the development plan. The Design Guidelines do not apply to general lots between 300 and 800m² in area besides those over 800sqm abutting Skyline Drive. The means of achieving the asserted high-quality built form outcomes with generous landscaping outcomes are not explained or outlined within the guidelines in support for policy under clause 21.13-1 and the basis for including medium density development.

The planning permit application provides limited detail and relies on conditions ensuring the buildings meet minimum siting standards under parts 4 and 5 of the building regulations. This fails to demonstrate how a high quality built form outcome is achieved and how generous setbacks and landscaping that contributes to the local neighbourhood and semi-rural character is to be achieved.

Landscaping should exceed minimum standards with enough area clearly set aside to provide for services, canopy tree plantings, garden areas and permeability. Guidelines should direct these outcomes to assist in assessment of future building approvals.

The proposed central road spine running from Ross Watt Road to the proposed Jacksons Creek Conservation Reserve provides a shared path network which is supported. However this road reserve narrows at the NAC and open space intersection before running by townhouse lots. The lots on this southern side are front loaded which achieves a poorer interface and should have a rear laneway to present a consistent interface with lots on the northern side of the road. Concern is raised that there is insufficient space for the proposed tree plantings internal to the site. Increased landscaping should be included along the shared pathway to provide for shade and improve the key pedestrian and cyclist route.

Streetscape controls regarding the location of crossovers to allow street landscaping should also be considered. Fence height controls should also be considered where visibility can be reduced and landscaping increased to recede built form into the landscape rather than purely relying on setbacks. Prescriptive controls regarding fence height should also be used to address rural interfaces. It is preferred that no fencing extends beyond the building line to extend the perception of width in the streetscape and contribute to a semi-rural character.

Lack of private landscaping to laneways and guidance regarding backyard open space facing laneways to provide passive surveillance over blank walls of garages is not detailed but would provide an improved outcome.

Interfaces with adjoining land

The vacant land owned by Southern Rural Water to the east of the site has been addressed in consultation with SRW to require a 2m high boundary fence, rearranged access and a future road connection point to the south of the land. The provided Bushfire Report outlines that ongoing vegetation management will need to occur on this land until future development

occurs. Stormwater runoff has also been diverted south to avoid any untreated stormwater entering Rosslynne Reservoir.

Assessment of concerns regarding bushfire setbacks has also been provided within the state and local policy consideration.

The impact on the Jacksons Creek escarpment landscape is of concern due to two main points. The proposed design response and layout and the application has not appropriately responded to the distinctive area and landscape context. The proposal provides a relatively stark built form edge that is not appropriate to the significant landscape setting and ensure streetlights at the top of the escarpment will be visible. This is out of character for adjoining residential development in Skyline Drive. Lots should be removed to north of the southern drainage basin extent and remove the southern-most road interface instead having large lots back onto this reserve or maintain building form away from the escarpment. The final design of the drainage basin is also likely to impact on the escarpment edge.

It is noted that no landscaping response applies to Swinburne Avenue. This planting schedule should be responsive to the existing Swinburne Avenue character.

Environment response

The conservation reserve along Jacksons Creek and on the northern boundary is supported provided appropriate works prior to handover. Council's Environment Unit has raised concern in some of the residential lots being of sufficient size to retain large trees. No detail within the planning permit application details building envelopes or controls regarding tree retention on these lots. It will be expected a Section 173 Agreement would be applied to the land in which sufficient space for a dwelling is provided along with sufficient room to ensure services and other works avoid the tree protection zone. Given the reasons above it is considered the proposed layout is not acceptable to provide guidance and deliver a high quality urban design outcome, provide appropriate neighbourhood and landscape character outcomes, requires extensive vegetation removal and in its whole fails to meet the wider objectives of the PPF and LPPF outlined above.

Concern was also raised as to why the Gang-Gang cockatoo has not been listed within the revised environmental survey report.

Development Contributions Plan Schedule 2 (DCPO2) Development contributions in accordance with the DCPO2 would be required if Council was of the view of approving the subdivision permit. However, there is no support for the development plan in its current form and therefore the planning permit will also be refused.

Movement network

Council's Engineering Unit has responded to the amended plans outlining ongoing concerns around the shared path network, road layout and the drainage response on Cherry Lane. The position of the Department of Transport and Planning is currently outstanding regarding intersection upgrades for Station Road.

Clause 51.07 – Macedon Ranges Statement of Planning Policy

Clause 51.07 purpose is to ensure that a decision made under this planning scheme by a responsible public entity:

- Is consistent with the parts of the Macedon Ranges Statement of Planning Policy that are binding on the public entity.
- Has regard to the parts of the Macedon Ranges Statement of Planning Policy that are in the nature of recommendations to which the public entity is required to have regard.

Among the objectives of the Macedon Ranges Statement of Planning Policy include:

- Objective 1 - To ensure the declared area's natural and cultural landscapes are conserved and enhanced.
- Objective 2 - To ensure the significant biodiversity, ecological and environmental values of the declared area are conserved and enhanced. 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.
- Objective 4 - To recognise, protect, conserve and enhance the declared area's Aboriginal cultural and spiritual heritage values and work in partnership with Traditional Owners in caring for Country.
- 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.
- Objective 9 - To manage the provision of infrastructure consistent with protection of the area's significant landscapes and protection of environmental values to support the social and economic needs of communities and increase resilience to climate change effects.
- Objective 10 - Respond to the challenges and threats of climate change and natural hazards with careful planning and mitigation strategies.

It is considered the proposal is not consistent with the objectives of the Macedon Ranges Statement of Planning Policy by not ensuring the protection and enhancement of natural landscapes, the extent of native vegetation removal, potential impacts on catchments and waterways, and the proposed development being inconsistent with the area's significant landscapes, protection of catchments, biodiversity, ecological and environmental values. It is further not consistent by not providing sufficient guidance on how development will complement the unique semi-character of Gisborne.

The protection of the landscape, resilience to climate change effects and responding to climate change challenges are also not demonstrated by the proposal.

Clause 52.17 – Native Vegetation

The purpose of Clause 52.17 is to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is undertaken by following a three step approach in accordance with the guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):

- (1) Avoid the removal, destruction or lopping of native vegetation.
- (2) Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- (3) Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

It also seeks to manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

It is considered the proposal has not demonstrated compliance with the provisions of clause 52.17 including how vegetation has sufficiently been avoided or minimised, there is concern about the extent of native vegetation to be removed including large and hollow bearing trees.

There is inadequate information provided showing timing, location, weather and number of visits for targeted surveys, both flora and fauna. Concern has been raised regarding the extent of vegetation removal required along road reserves and for intersection treatments along Ross Watt Road, Station Road and Cherry Lane.

Clause 53.18 - Stormwater management in urban development Clause 53.18 seeks to ensure stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety and to provide cooling, local habitat and amenity benefits.

Clause 53.01 – Public Open Space Contribution and Subdivision

A total of 3.279ha is to be provided as unencumbered open space and 16.985ha of encumbered open space will also be provided which is mainly conservation reserve and drainage reserve. The amount of unencumbered open space proposed as part of the development is less than the 5% required by the planning scheme if calculated from the total overall site area. This shortfall could be addressed through either a cash contribution or changes to the current development plan.

Clause 56 - Missing assessment for the proposed subdivision

In summary of the review of development plan in relation to Clause 56, it is considered the proposal does not meet:

- Clause 56.01-2 – Subdivision design response. It is considered the proposal fails to appropriately respond to the local policy direction regarding neighbourhood character and context regarding environmental constraints, landscape and natural features.
- Clause 56.03-5 – Neighbourhood character objective. It is considered as discussed above that the proposal does not meet the direction outlined within the ODP, SPP and LPPF regarding neighbourhood character and has failed to appropriately integrate with the surrounding urban environment or adequately retain significant vegetation.
- Clause 56.04-1 – Lot diversity and distribution objectives. The location of the bus capable connector road leaves more than 5% of dwellings outside of 400m distance from the nearest bus stop. A central bus capable route through the north-south section of the site looping back into the wider network would resolve this issue.
- Clause 56.04-2 - The applicant has only provided comment that dwellings on lots under 300sqm will meet standard C8 without demonstration. Wider building guidelines talk to meeting standards under building regulations. Concern is raised on how these will provide high quality outcomes and generous landscaping spoken to in local policy.
- Clause 56.05-1 – Integrated urban landscape objectives. There has been limited integrated water management systems proposed within the application. Concern with the response in relation to shared paths, retention of significant vegetation and landscape response have been listed previously within this report.
- Clause 56.06-3 – Public transport network objectives. Concern that sections of the site are not conveniently located in bus capable connector streets.
- Clause 56.06-4 – Neighbourhood Street network objective. Concern that the north-south road between Jacksons Creek and Ross Watt Road does not provide appropriate bus capability, adequate space for suitable tree landscaping and responses to shared pedestrian and cycling corridors.

Officer declaration of conflicts of interest

All officers involved in the preparation of this report have declared that they do not have a conflict of interest in relation to the subject matter.

PLANNING DELEGATED COMMITTEE MEETING AGENDA

Consistency of a proposal with the Statement of Planning Policy: DP/2021/1 – Ross Watt Road Development Plan.

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
1	To ensure the declared area's natural and cultural landscapes are conserved and enhanced.					
		Manage land use, development and infrastructure to ensure that significant landscapes, views and vantage points are conserved and enhanced.		✓		There is concern with how the proposal will impact on the Jacksons Creek escarpment, viewing from the Calder Freeway and wider landscape of Gisborne..
		Encourage retention of native vegetation and revegetation that contributes to significant landscapes, particularly on escarpments and ridgelines and along riparian areas.		✓		Noting some vegetation has been retained on site, particularly within the Jacksons Creek escarpment, many paddock trees on the site are to be removed. This will irreparably change the native vegetation character of the site by removing these old trees. More retention could be done along road reserves.
		Manage development around significant landscapes of visual, scientific or education value, including along ridgelines and at vantage points.		✓		Concern with how the proposed development responds to and addresses the Jacksons Creek escarpment including providing little direction on built form outcomes. Views from the Calder Freeway are also important and there is minimal direction on how built form or landscaping will ensure a positive outcome.
		Manage development and infrastructure provision to ensure sequences of views from key road and rail corridors are maintained for current and future users.		✓		Key views from the Calder Freeway are available to the site. Some vegetation is present within this view. Development density and landscaping response within these viewsheds are considered to be of concern.
2	To ensure the significant biodiversity, ecological and environmental values of the declared area are conserved and enhanced					
		Conserve and enhance high-value native vegetation and biodiversity and their ecological integrity by undertaking responsible environmental management, planning, procedures and practices.		✓		The proposal provides some retention of older, hollow bearing trees. Further retention of these hollow bearing trees is considered appropriate. Hollow trees are of habitat value which would be greatly reduced within the area.
		Utilise appropriate historical ecological knowledge and practices from Traditional custodians of the land in the management of biodiversity and ecological and environmental values.		✓		No response has been provided.

PLANNING DELEGATED COMMITTEE MEETING AGENDA

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Encourage ecological restoration works in areas of identified state, regional and locally significant biodiversity value	✓			The applicant has advised that there is good potential to undertake restoration works on the Jacksons Creek escarpment and this management could be conditioned as part of any planning permit. Retention of hollow bearing trees, domestic landscaping and street reserves
		Establish and improve bio links to connect high-value ecological areas, including areas along waterways and areas within and between towns.				The Jacksons Creek escarpment is being retained as an open space area along with a reserve along the northern boundary. Pockets of trees are being retained. Street tree choice, domestic landscaping and open space can contribute to it. Wetland habitat linkages have not been provided but drainage reserves could contribute.
		Minimise the effects of weeds and pest animals on biodiversity values by establishing and implementing best practice land management plans.	✓			Applicant is seeking to undertake weed and pest management within conservation reserve and open space areas.
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.					
		Protect water quality and natural systems by discouraging development that contributes to the degradation of water quality and quantity.		✓		Southern Rural Water and Greater Western Water have not advised they are satisfied at this stage. Works at Jacksons Creek escarpment reserve is likely to improve water quality in this area.
		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.		✓		Southern Rural Water and Greater Western Water have raised concern with the proposal and its potential impact on the Rosslynne Reservoir. No resolution has occurred to date however the applicant has sought to respond to these authorities' concerns.
		Reinforce the role of waterways as biodiversity Linkages and as corridors for native plants and animals.	✓			Jacksons Creek will retain its function. Land would be vested to Council.
		Ensure water supply and land use planning policies are integrated, to realise efficiencies in		✓		No WSUD is outlined within DP. Applicant has advised a report will be provided after planning

PLANNING DELEGATED COMMITTEE MEETING AGENDA

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		regional catchment management and best practice, water-sensitive urban design.				permit approvals. How these fit into wider layout is uncertain.
		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.		✓		No specific area within the DP addresses climate change directly. Melbourne Water have no objected as the floodplain manager. Works are sought to avoid stormwater runoff entering water supply catchment.
		Review and improve regulation and monitoring of groundwater licences and surface water diversions.			N/A	
4.	To recognise, protect, conserve and enhance the declared area's Aboriginal cultural and spiritual heritage values and work in partnership with Traditional Owners in caring for Country.					
		With Traditional Owners, identify, protect, conserve and enhance sites, landscapes and views of Aboriginal cultural significance, consistent with the Aboriginal Heritage Act 2006 and Cultural Heritage Management Plans.	✓			Applicant has provided one CHMP however another is to be provided. Areas identified are to be retained and protected.
		With Traditional Owners, acknowledge, protect, promote and interpret tangible and intangible Aboriginal cultural values, heritage and knowledge when planning and managing land use and development, water and other environmental resources.	✓			This should be able to be met including future works along Jacksons Creek and other identified areas.
5.	To recognise, conserve and enhance the declared area's significant post-contact cultural heritage values.					
		Conserve and enhance the character of state and/or nationally significant post-contact cultural heritage values (including aesthetic, historic, scientific, social and spiritual values) in the declared area's heritage places, precincts and landscapes, including sequences of views along main road and rail routes.			N/A	No significant post-contact heritage has been identified.
		Acknowledge, promote and interpret significant post-contact cultural heritage values in the			N/A	

PLANNING DELEGATED COMMITTEE MEETING AGENDA

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		planning, design, development and management of land uses, including infrastructure.				
6.	To support and encourage agricultural land uses that strengthen the declared area's economy and contribute to the rural landscape.					
		Encourage the use of rural-zoned land for agricultural purposes and encourage the use of high-quality soils for soil-based agriculture.			N/A	
		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).			N/A	
		Support agricultural practices that improve soil health and respond to and encourage adaptation to climate change.			N/A	
		Encourage measures to ensure agricultural practices protect and enhance soil quality, water quality, biodiversity and native plants and animals.			N/A	
		Manage the effects of rural land use and development on important environmental and cultural values.			N/A	
		Restrict the supply of rural-living-zoned land to conserve and protect agricultural practices.			N/A	
		Protect strategic extractive resource areas and existing quarry operations from encroachment from inappropriate development.			N/A	
		Proposals to establish an extractive industry must adhere to best practice measures to avoid and minimise impacts on significant environments and landscapes.			N/A	
7.	To provide for a diverse and sustainable visitor economy compatible with the natural and cultural values of the area.					
		Support and facilitate sustainable and responsible tourism and recreation-related land uses and developments (such as agritourism) in keeping with the declared area's significant landscapes, environmental and cultural values.			N/A	

PLANNING DELEGATED COMMITTEE MEETING AGENDA

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Facilitate tourism-related land use and development that encourages people to recognise and understand Aboriginal and post-contact cultural heritage.			N/A	
		Ensure the conservation and enhancement of Declared Water Supply Catchment Areas of regional or state significance in the planning of tourism and recreational land uses.			N/A	
		Protect the unique rural character of towns in the declared area.		✓		As nominated in the main report, the proposal has not adequately demonstrated how the proposal adequately meets the Gisborne township character and its rural interfaces.
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.					
		Direct urban development to a hierarchy of settlements identified for growth, through clearly defining long-term settlement boundaries.	✓			The DP directs development within the existing Gisborne township area.
		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).			N/A	
		Encourage infill development that respects the townships' character.			N/A	The DP area is for greenfield development.
		Limit the expansion of settlements in high risk locations, actively reducing the risks associated with natural hazards.		✓		Flood risk is considered adequately responded to and Melbourne Water has raised no objection. Bushfire risk including lot setbacks and separation from risk can be improved.
		Encourage a range of housing types within settlement boundaries to support a diverse range of housing needs.	✓			The proposal nominates a range of housing types within the proposed DP area including townhouse sites to large lots.
		Encourage provision of an adequate supply of well-serviced employment land within settlement boundaries to support local and regional jobs and services.			N/A	

PLANNING DELEGATED COMMITTEE MEETING AGENDA

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Encourage the use of voluntary Cultural Heritage Management Plans.	✓			The applicant is seeking to provide two CHMP for the subdivision.
9.	To manage the provision of infrastructure consistent with protection of the area's significant landscapes and protection of environmental values to support the social and economic needs of communities and increase resilience to climate change effects.					
		Provide timely infrastructure and services to meet community needs in sequence with development.	✓			
		Maintain and enhance transport connections that provide links between and within regional communities and to major cities.	✓			
		Reduce use of fossil fuels and reduce greenhouse gas emissions by prioritising active transport and public transport modes.	✓			
		Maintain view lines of state-significant landscape features from the main road and rail transport corridors.	✓			
		Ensure the future operation and development of major transport linkages and rail corridors and upgrading and improved management of freight routes are considered when managing the growth of settlements.		✓		DOT is seeking further clarity regarding upgrades and the data behind these assumptions.
		Ensure equitable access to community infrastructure.	✓			
		Encourage the use of active and public transport by planning infrastructure and facilities in accessible locations, and improve walking and cycling routes.	✓			
10.	Respond to the challenges and threats of climate change and natural hazards with careful planning and mitigation strategies.					
		Support community and government planning for disaster preparedness and climate resilience.	✓			

PLANNING DELEGATED COMMITTEE MEETING AGENDA

Objective number	Objective in the SoPP (Direct quote)	Strategies to deliver the objective (Direct quote)	Meets	Does not meet	N/A	Planner's Comment
		Manage bushfire risks while also retaining valued biodiversity and landscape character.	✓			Limited biodiversity and landscape impact in preparing for bushfire risk.
		Plan for more renewable energy generation and distribution.		✓		There is no inclusion of any standalone renewable energy generation within the proposal.
		Ensure proposals to establish renewable energy facilities adhere to best practice measures to avoid and minimise impacts on significant environments and landscapes.			N/A	
		Ensure planning for future use and development of land prone to flooding minimises the consequences of inundation.			N/A	