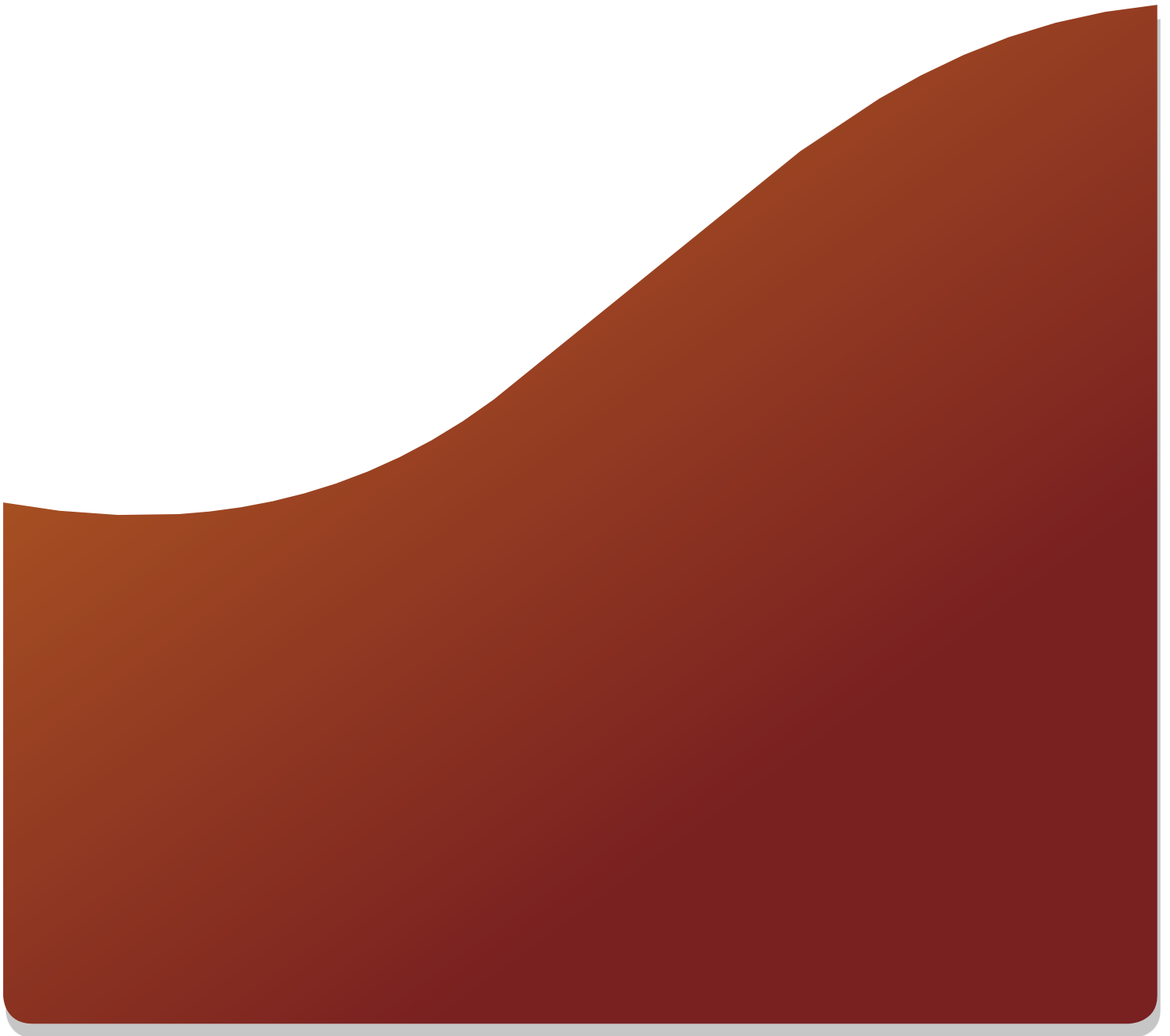


Planning Delegated Committee Meeting Agenda

Planning Delegated Committee Meeting
Wednesday 8 May 2024 at 7:00 PM
Held online and livestreamed at mrsc.vic.gov.au



**Notice is hereby given that a Planning Delegated Committee Meeting will be held in the Held online and livestreamed at mrsc.vic.gov.au on:
Wednesday 8 May 2024 at 7:00 PM**

Order Of Business

1	Acknowledgement of Country	5
2	Recording and livestreaming of this Committee Meeting	5
3	Present	5
4	Apologies	5
5	Conflicts of interest	5
6	Purpose of Planning Delegated Committee	5
7	Adoption of minutes	5
8	Hearing of submitters	6
8.1	Combined Planning Scheme Amendment C154macr and Planning Permit Application PLN2022/198 - Hearing of Submitters	6

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, and present.

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.

2 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.

7 ADOPTION OF MINUTES

Recommendation

That the Committee confirm the minutes of the Planning Delegated Committee of Macedon Ranges Shire Council held on 13 March 2023, as circulated.

8 HEARING OF SUBMITTERS

8.1	COMBINED PLANNING SCHEME AMENDMENT C154MACR AND PLANNING PERMIT APPLICATION PLN2022/198 - HEARING OF SUBMITTERS
Officer:	Daniel Hall, Strategic Planner
Attachments:	↓C154macr - Exhibition - Submissions - Redacted

Summary

To hear from submitters in relation to Combined Planning Scheme Amendment C154macr and Planning Permit Application PLN/2022/198 for 1 Wills Street, Malmsbury.

Recommendation

That the Committee:

- 1. Notes the submissions received in relation to Amendment C154macr and PLN2022/198; and**
- 2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the next Planning Delegated Committee Meeting on 12 June 2023.**

Background

An application under Section 96A of the *Planning and Environment Act 1987* (the Act) was received on 22 November 2019 for the land at 1 Wills Street, Malmsbury. At the request of the landowners Deborah Barton and Steven Waldron, Council prepared Amendment C154macr which included concurrent planning permit application PLN/2022/198.

On 16 June 2023 the Department of Transport and Planning authorised the amendment subject to five conditions. Council met all conditions for authorisations and the amendment and permit were exhibited for five weeks between 26 February and 1 April 2024.

Council received a total of four submissions with one submission in support and three submissions objecting to the amendment and permit or parts thereof as contained in Attachment One.

Summary of proposal

Amendment C154macr seeks to rezone the land from the Farming Zone (FZ) to the Neighbourhood Residential Zone – Schedule 13 (NRZ13) and remove the Heritage Overlay 148 (HO148) from the site. NRZ13 introduces planning controls to ensure that any residential development on the site responds to the specific neighbourhood, environmental or landscape character values of the surrounding area. Under NRZ13 minimum lot sizes are limited to 2,000 square metres, minimum street setbacks of 12 metres, a limit in site coverage to 20 percent and landscaping requirements that provide for at least two canopy trees within the front setback.

Concurrent planning permit application PLN/2022/198 seeks to subdivide the land into nine lots ranging in size from 2,000 to 2,182 square metres in accordance with proposed NRZ13. The draft planning permit conditions advertised as part of the amendment/permit exhibition

process address landscaping, building envelopes, the content of a proposed Section 173 Agreement and conditions in addition to all relevant referral authority conditions.

Summary of submissions

A total of three objections were received to this application. They are summarised as follows:

Objection/concern regarding application
<ul style="list-style-type: none">• Concerned there is a lack of strategic work that justifies the need for the amendment.
<ul style="list-style-type: none">• Concerned with the rezoning of agricultural land for residential purposes.
<ul style="list-style-type: none">• Concerned with how the site manages storm water run-off.
<ul style="list-style-type: none">• Concerned with the removal of the heritage overlay from the site and its impact on Malmsbury more broadly

Officer declaration of conflicts of interest

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


Submission 1



CAUTION: This email originated from outside of Council. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Notice of Submission Against Amendment C154macr and Planning Permit Application PLN/2022/198

To Whom It May Concern,

 hereby submit my objections against Amendment C154macr and Planning Permit Application PLN/2022/198 proposed by Deborah Barton and Steven Waldron, which seeks to rezone land from Farming Zone to Neighbourhood Residential Zone and delete the Heritage Overlay (HO148) in Malmsbury for the purpose of facilitating a residential subdivision.

Grounds for Objection:

1. **Preservation of Agricultural Heritage:** The proposed rezoning of farmland to residential zones disregards the intrinsic value of agricultural land. Malmsbury's agricultural heritage is a vital component of its identity, providing sustenance, preserving open green spaces, and fostering a connection to nature. Subdividing valuable farmland threatens food security, compromises agricultural viability, and erases the rural landscape that defines our community.
2. **Heritage Conservation:** The removal of the Heritage Overlay (HO148) undermines efforts to protect and celebrate Malmsbury's cultural heritage. Heritage sites and landmarks contribute to the town's character, reflecting its history and identity. Deleting the overlay disregards the significance of these structures and paves the way for unchecked development, resulting in the loss of irreplaceable historical assets.
3. **Environmental Impact:** Converting farmland to residential subdivisions has profound environmental consequences. It disrupts natural ecosystems, fragments habitats, and exacerbates issues such as soil erosion and loss of biodiversity. Increased urbanization strains resources, intensifies pollution, and compromises the sustainability of our environment, jeopardizing the well-being of current and future generations.
4. **Community Cohesion and Quality of Life:** Residential subdivisions alter the social fabric of our community, introducing transient populations and diminishing the sense of belonging and cohesion that characterize rural life. Moreover, unchecked development strains existing infrastructure, leading to congestion, reduced public amenities, and increased social inequalities, thereby eroding the quality of life for residents.

Conclusion: Considering the aforementioned concerns, I urge the Macedon Ranges Shire Council to reject Amendment C154macr and Planning Permit Application PLN/2022/198. Instead, I implore the council to uphold the integrity of our agricultural heritage, preserve our cultural identity, and prioritize sustainable development that ensures the well-being of current and future generations.

I respectfully request that my objections be considered during the decision-making process, and I am available to provide further information or participate in any relevant

proceedings.





Department of Transport
and Planning

Submission 2

GPO Box 2392
Melbourne, VIC 3001 Australia
www.transport.vic.gov.au

Ref: PPR 45491/24

Macedon Ranges Shire Council
129 Mollison Street
Kyneton VIC 3444

Dear Sir/Madam

PLANNING APPLICATION NO.: **PLN/2022/198**
DEPARTMENT REFERENCE NO: **PPR 45491/24**
PROPERTY ADDRESS: **MITCHELL AND WALSH STREET, MALMSBURY. STREET,
MALMSBURY VIC 3446**

Re: Amendment C154macr is a combined planning scheme amendment and planning permit application PLN/2022/198 that affects land located at 1 Wills Street and parts of the road reserves of Wills, Mitchell and Walsh Street, Malmsbury. The amendment seeks to rezone the land from the Farming Zone (FZ) to the Neighbourhood Residential Zone – Schedule 13 (NRZ13) and remove the heritage overlay (HO148) from the site. The planning permit application seeks approval to subdivide the land into nine lots ranging in size from 2,000 to 2,182 square metres in accordance with NRZ13

Section 52 – Proposed amendment is supported and planning permit application assessed as no objection

Thank you for forwarding planning permit application PLN/2022/198 pursuant to Section 52 of the *Planning and Environment Act 1987*.

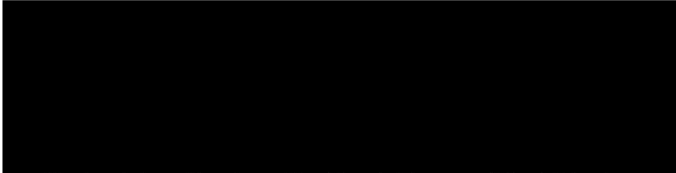
The Head, Transport for Victoria has considered the application and has no objection to the proposal.

The Head, Transport for Victoria consents to the plan of subdivision being submitted directly to the Responsible Authority for certification and statement of compliance being issued at an appropriate time.

Should you have any enquiries regarding this matter, please contact [REDACTED]

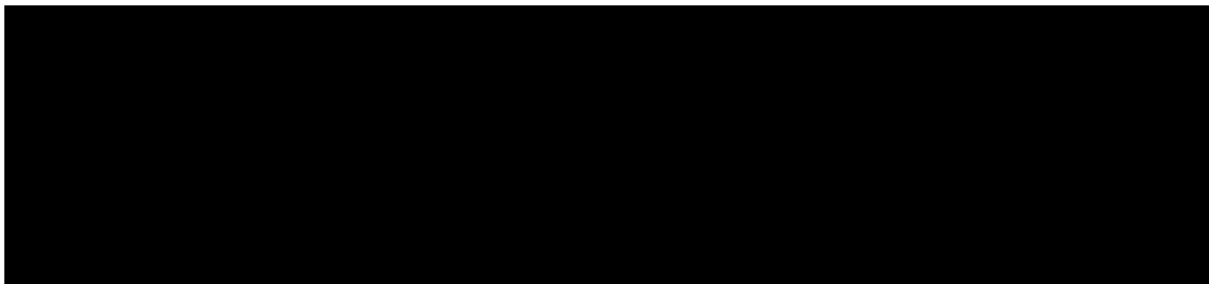


Yours sincerely



Under delegation from the Head, Transport for Victoria
5/3/2024

Cc: permit applicant



Submission
1 April, 2024

Submission 3

Amendment C154macr – Macedon Ranges Planning Scheme

1 The Amendment Lacks Strategic Justification

The Macedon Ranges planning scheme at Clause 02.03 Strategic Directions – Settlement : Small Towns, Villages and Hamlets states:

“Malmsbury is a local service centre for township residents and community in the surrounding agricultural area with a rural village character. Given the level of existing services and infrastructure, as well as the low historical demand, Malmsbury is expected to retain its role as a small town. There is sufficient land available in Malmsbury to accommodate limited growth within the township boundary and surrounding area.”

*“The strategic direction for Malmsbury is to: Provide for the **orderly development** of Malmsbury having regard to **the constraints of the area.**”*

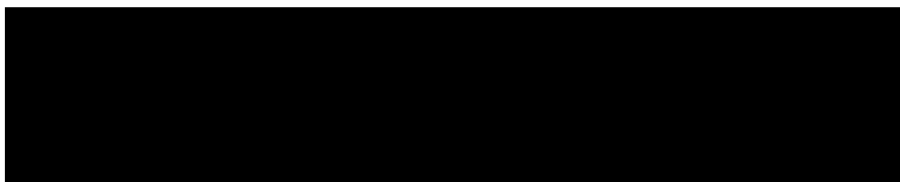
The most outstanding feature of Amendment C154macr is its lack of strategic justification for the *ad hoc* rezoning and removal of HO148 it proposes. This does not constitute the proper or orderly planning which the planning scheme (and the Planning and Environment Act) requires.

The amendment is privately sought by (presumably) the landowners. The changes are not being made in response to strategic or policy directions but because they are desired. The surprise is that Council has supported the amendment to this stage, despite the Explanatory Report admitting there is no supporting strategic basis in the Shire’s Settlement Strategy for the rezoning. A similar lack of strategic context is inherent in the removal of HO148. It is considered that if approved the amendment would set an ugly and dangerous precedent for future privately-sponsored *ad hoc* and piecemeal amendments.

The amendment is accompanied by an application for a planning permit for residential subdivision of the Farming zone land. However the permit application is subservient to the amendment. If the amendment’s rezoning is not approved, the permit cannot issue.

The Association concludes that the amendment’s rezoning is inappropriate and significantly in advance of any strategic basis for it and that similarly the removal of HO148 has also not been strategically justified.

The Association requests that the amendment be set aside and not progressed further. The basis for this position is put forward in the following sections.



2 Concerns With Rezoning of Farming Zone Land

2.1 C154macr Explanatory Report – Why Is The Amendment Required?

The amendment fails to provide necessary information to justify rezoning Farming zoned land for residential purposes, and instead goes with a “one more won’t matter” approach:

The Explanatory Report notes that Malmesbury had a population of some 900 persons in 2021 (ABS SAL), and that the Settlement Strategy found that existing land supply in Malmesbury has potential to accommodate up to 1,200 persons. Like the Malmesbury Urban Design Framework and the Small Towns Study before it, the Settlement Strategy concluded that no further rezoning was required in Malmesbury (up to 2036).

The amendment documentation includes an Instruction Sheet which refers to but fails to provide formal planning scheme mapping of the proposed rezoning (and HO148 overlay removal). The land to be rezoned is not clearly identified in the amendment. This situation is not assisted by the Explanatory Report’s ambiguous statement that:

“The proposed combined amendment/permit facilitates a modest residential subdivision on the eastern edge of Malmesbury that seeks to rezone some of the last remaining land parcels zoned FZ within the township boundary.”

The Farming zone is applied to several areas of land inside the town boundary, all proximate to the town’s important eastern gateway which the Malmesbury Township Framework Plan identifies for enhancement (Clause 11.01-1L). See Figure 1, below.

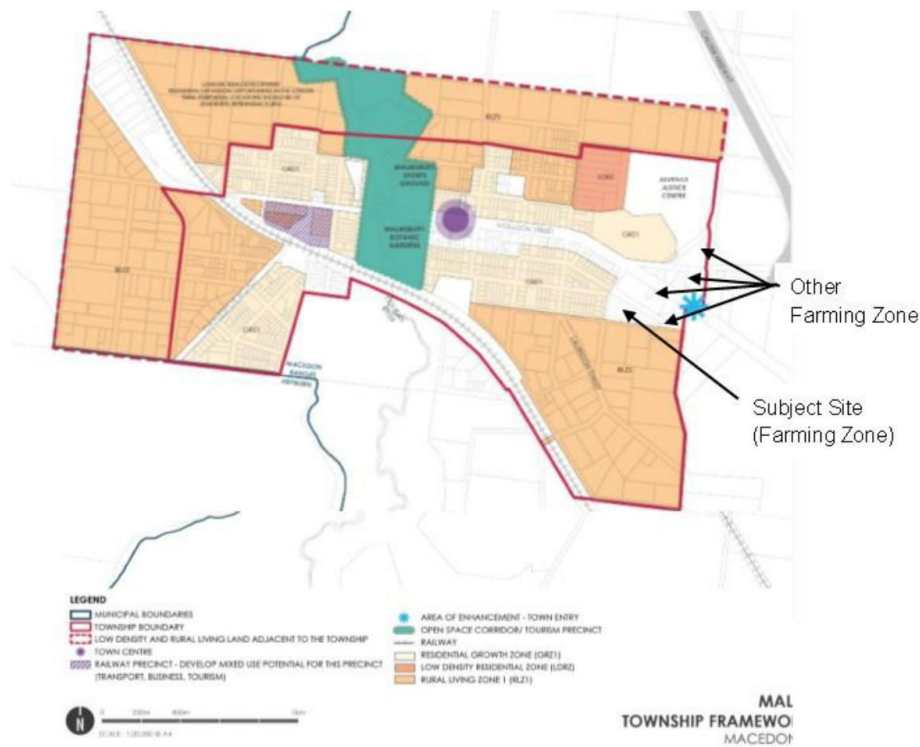


Figure 1 Malmesbury Township Framework Plan - Farming Zone and Eastern Gateway

Macedon Ranges: an ENDANGERED environment



The Explanatory Report states "it is considered that the addition of nine residential lots is not excessive and provides a limited increase in the amount of available residential land in Malmesbury." However, the Explanatory Report also states that "The Macedon Ranges Shire Settlement Strategy (July 2012) (sic) estimated that there were theoretically 230 vacant lots in Malmesbury, but a more recent land supply figure is unknown."

The obvious questions are why is this figure unknown, and why is adding additional supply desirable?

The need for the rezoning of Farming zoned land proposed in C154macr is not established or justified, and most certainly is not articulated in the Explanatory Report.

The 2011 Macedon Ranges Settlement Strategy's land supply assessment identified potential for an additional 290 lots (high end potential Appendix 4, page 14). However, as shown in Figure 2 below the Malmesbury Study Area did not include the subject site or any Farming zoned land.

C154macr is therefore creating new residential supply additional to that already available and identified by the Settlement Strategy. This is also additional to Amendment C157macr creation of 12 new residential lots along Mollison Street and undeveloped GRZ zoned land north of Mollison Street near the Youth Justice Centre, and in advance of determination of future use of the future use of the now defunct Youth Justice Centre site.

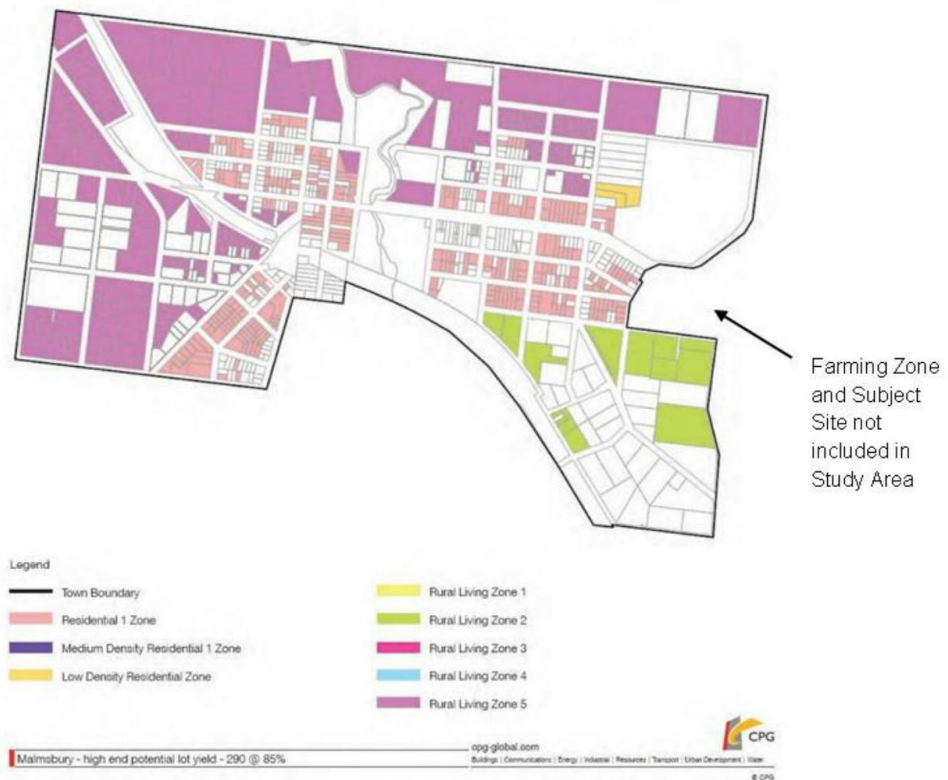


Figure 2 Settlement Strategy's Malmesbury Study Area - land included in land supply assessment

2.2 Planning For Melbourne's Green Wedges and Agricultural Land

In March 2024, the Victorian government published its Action Plan for Green Wedges and Melbourne's Agricultural Land. Agricultural land includes Farming zoned land within 100 km of Melbourne's CBD, which includes all of Macedon Ranges Shire. The government's position is that Melbourne's agricultural land is to be protected, and strengthened agricultural planning policy will better protect agricultural land within 100km of Melbourne. The right to farm is also strengthened and the agent of change principle expanded.

The Landscape Assessment Plan provided in support of C154macr identifies at Recommendations that the subject site's soil *"would be an excellent substrate to a market garden, tree crops or sustaining perennial pasture for grazing. However the presence of the igneous rock throughout the soil profile is a significant limiting factor to the successful cultivation of the site. The rocks and boulders sit throughout the soil profile and are a major obstacle to mechanical cultivation or manageable grazing"*. 'Only' 0.7ha of the 1.9ha site is the most suitable for productive cultivation due to the basalt rocks present.

It is noted that the basalt rocks don't appear to be equally considered a negative factor or expense for residential development of the site, which doesn't appear to address this or the consequences of substantial earthworks.

The Explanatory Report does not provide insight into how the rezoning is consistent or compatible with State policy requirements for protecting agricultural land within 100km of Melbourne's CBD.

3 Concerns With Removal of Heritage Overlay HO148

3.1 Explanatory Report

The amendment's Explanatory Report (at Why Is The Amendment Required) says:

"The Shire of Kyneton Conservation (Heritage) Study (1990) says that the intention was to capture the natural heritage of the course of the Campaspe River, but also an amount of open farmland at the edges of the township. In effect, HO148 is operating as a de facto neighbourhood character control in this area of the township, which is an inappropriate use of the Heritage Overlay."

The deletion of HO148 from the subject site simply creates a large hole in the overlay, which would remain applied to all surrounding properties. See Figure 3, below.

If the Heritage Overlay is considered to be inappropriately applied to this site why then is it also not considered to be inappropriately applied elsewhere across the town and also deleted from those areas?

Where is the additional strategic character work to *"provide greater detail regarding the opportunities for developing Malmsbury within town character constraints"* recommended at page 50 of the Settlement Strategy, and a cultural landscape study with recommendations for alternative planning controls (such as a Significant Landscape Overlay) to replace the Kyneton Conservation Study's requirements?

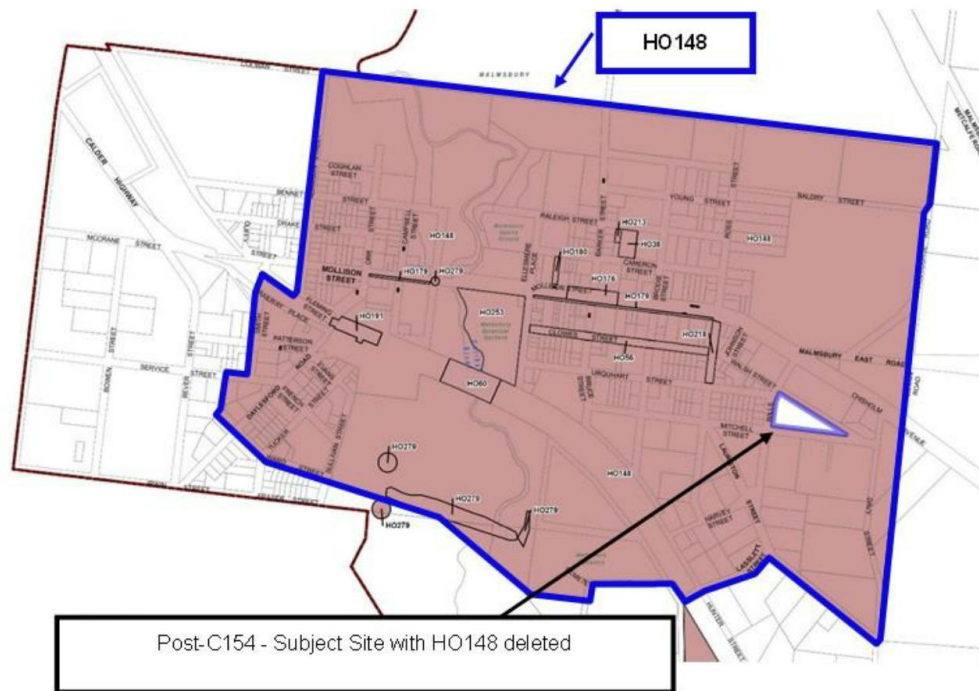


Figure 3 The effect of deleting HO148 from the subject site

Removing a heritage overlay should require as much strategic justification as applying it – none is provided for the *ad hoc* removal of HO148 from the subject site.

The amendment ignores reference after reference in background, strategic and policy work that Malsbury’s cultural and rural landscapes are critically important and are to be enhanced and protected.

3.1.1 **Landscape Character (Malsbury Urban Design Framework, 3.2 Framework, page 19)**

“The landscape character is defined by the Coliban River and its valley which traverses the village **and the undulating surrounding rural landscape.**” The valley setting and valley and village views are contributory landscape character elements. **“The need to further enhance and maintain the landscape character is crucial to the township of Malsbury”**, and is identified as a key issue.

3.1.2 **Context (Small Towns Study, 4.7 Malsbury, page 33)**

“Malsbury lies in a valley of the Coliban River. The town is known for its bluestone heritage buildings **and cultural landscapes.**”

3.1.3 **Town Centre (Small Towns Study, 4.7 Malsbury, Key Issues, page 33)**

“The rural village atmosphere of the town centre will be enhanced with completion of the freeway by-pass and the consequent reduction in heavy traffic in the town centre. This provides an opportunity to further build on the unique qualities of the town, with its particular blend of bluestone heritage, extensive open spaces **and scenic topography.**”



“Physical improvements that would enhance the town centre include: **gateway landscape treatments at the new freeway access connection point at Malmsbury East Road**, and at the western (Taradale) entrance to town.”

3.1.4 **Future Character Statement (Small Towns Study, 4.7 Malmsbury, page 33)**

“Malmsbury will be a viable and sustainable township, which protects and builds upon its rural village character. Precious bluestone and natural assets are to be preserved and enhanced. **The future objectives are to protect scenic and rural landscapes** and promote heritage protection in local residential neighbourhoods.”

3.1.5 **Residential Development (Small Towns Study, 4.7 Malmsbury, page 34)**

“The town of Malmsbury generally sits within a broader rural landscape of undulating hills and deeply incised valleys on the Colliban River. **The protection of this juxtaposition of town and landscape will require protection of key view lines and prevention of development on visually sensitive surrounding ridgelines.**”

Other difficulties arise from the failure to implement the Small Towns Study’s findings (Form of Development, page 34 and Residential Development, recommendations page 36) to undertake a neighbourhood character study of areas in the Residential 1 zone (now GRZ) and prepare a Neighbourhood Character Overlay, and to “*apply the findings of the Kyneton Shire Heritage Study 1991 in consideration of development proposals and works in public areas.*” This last requirement was included in the Macedon Ranges Planning Scheme at Clause 21.13-9 but appears to have been deleted by C150macr.

4 Concerns With Unannounced Policy Changes - Amendment C150macr

C150macr’s supposedly policy-neutral translation of the Macedon Ranges planning scheme has in fact made many unannounced policy changes. The following have been noted as affecting Malmsbury, the second of which is relied upon in the Explanatory Report to argue in support of Amendment C154macr.

a) Clause 21.13-9 Local Areas – Malmsbury, Strategy 1.2

“Restrict new development to within the town boundary and the township sewerage district.”

C150 changes this to: **“Restrict development to within the town boundary.”** Clause 11.01-1L Settlement - Malmsbury

b) Clause 21.13-9 Local Areas – Malmsbury, Strategy 2.7

“Ensure residential development on the periphery of the town within the township boundary, is of a semi-rural residential form with larger lots, significant landscaping and generous setbacks.”

C150 changes this to: **“Facilitate residential development on the periphery of the town within the township boundary, featuring larger lots, significant landscaping and generous setbacks.”** 11.01-1L Settlement – Malmsbury

c) Clause 21.13-9 Local Areas – Malmsbury, Specific Implementation

“Implement the Kyneton Shire Heritage Study, 1991”

C150 appears to delete this.

It is also noted that the post-C150 version of Malmesbury Township Framework Plan (at Clause 11.01-1L) incorrectly identifies the town's Rural Living Zone as RLZ1 (40ha) when RLZ5 (8ha) and RLZ2 (2ha) are applied in the town.

5 Concerns with Proposed Development Standards

The Neighbourhood Residential Zone has a default maximum height of 2 storeys (9 metres). There is nothing limiting future residential development to more typically 'rural' single storey development.

The amendment does not address the Victorian government's new planning controls which allow for a Small Second Dwelling on a lot (this has potential to double the intensity of the proposed development).

The NRZ13 Schedule does not make any specific requirements for private open space to be provided.



Submission 4

CAUTION: This email originated from outside of Council. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good afternoon Daniel,

Please find in writing my formal objection to the amendment C154macr and associated planning permit application PLN/2022/198 (1 Wills Street, Malmesbury) .


The supporting amendment and permit documents go some way to outlining the application, but don't provide enough detail for me to be comfortable with the proposal as presented.

This relates to a number of issues around the intended development and extension to Walsh street to service to proposed lots of the subdivision of land.

The current documents do not note any natural water course that run across the road reserve and the potential impact of eight addition dwellings and possible outbuilding and how will this be managed.

The proposed road and services commencing at Wills Street comes up a rise that is a rock reef how will the road, storm water, sewer, power, and water provision noted be delivered to the proposed subdivision and how will it be managed.

I will provide further information to support the objection within the week and look forward to further detail being made available.



This e-mail and any attachments, contain RSP Automotive & Industrial confidential information that is proprietary, privileged, and protected by applicable laws. If you have received this message in error and are not the intended recipient, you should not retain, distribute, disclose or use any of this information and you should destroy this e-mail, any attachments or copies therein forthwith. Please notify the sender immediately by e-mail if you have received this e-mail in error.