



Macedon Ranges Shire Council

Dear Ms Robson,

Via Email: [mrsc@mrs.vic.gov.au](mailto:mrsc@mrs.vic.gov.au) [ujpearce@mrsc.vic.gov.au](mailto:ujpearce@mrsc.vic.gov.au) [REDACTED]

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[REDACTED]

Re: Objection to PLN2020/52

We would like to submit and object to this application on the following grounds:

- The application contains numerous major inconsistencies, inaccuracies and omissions which appear to be deliberately misleading. We would refer you to the detailed objection submitted by [REDACTED], for further information. We would expect that the MRSC performs due diligence on the factual veracity of any application prior to distributing for comment, but this does not appear to have happened in this case and unfairly burdens those living near the property.
- The property has an area of 40 acres and no existing residential building. This is well under the current 40 hectare minimum subdivision area for the zone and overlays relevant to this land. Approval to build a residential property on a small block with no existing residential property would seem to be inconsistent with the guidance provided by the Macedon ranges planning scheme. Approval would also set a worrying precedent for further applications for residences on properties which also currently fall outside the guidance.
- There are eight pre-existing dwellings (three with a second dwelling), within a 1km radius of the proposed residence. This equates to housing density of 11. As such we would urge the MRSC decision-makers to adopt the Precautionary Principle as per *State Environment Protection Policy (Waters of Victoria) 2018* regarding the potential risk to the environment from cumulative detrimental effects to surface/ground water. VCAT and the Courts have denied permits on this basis alone due to the weight of research presented by Western Water. An increase in the housing density will also increase traffic in an area of environmental significance.

We submit the development is not only inappropriate but presents a threat to public health and to the health of the residents down slope on the adjacent land.

Due to the controversial and complex nature of the permit we request the permit be called in and that decision-making be made by the Mayor et al.

[REDACTED]

Macedon Ranges Shire Council

05 May 2020

Dear Ms Robson,

Via Email: [mrsc@mrsc.vic.gov.au](mailto:mrsc@mrsc.vic.gov.au) [angelahughes@mrsc.vic.gov.au](mailto:angelahughes@mrsc.vic.gov.au)

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[REDACTED]

Submission 2

D20-44684

D20-49297

D20-104504

D20-107158

Re: Objection to PLN2020/52

The following document provides strong evidence that the Land Capability Assessment [LCA] within the permit application fails to meet EPA Code of Practice, Best Practice<sup>1</sup> for LCA as well the minimum standards set out in the current Municipal Association of Victoria [MAV] Model LCA 2014<sup>2</sup>. It can be demonstrated that it does however, contain **fabricated and misleading information** in order to prevent the **Land Capability Class Rating** for Land Features and General Site Characteristics from attracting the highest assessed level of constraints for the site **Very Poor (5) Major**.

Table 1 and Table 2 (page 2,3) provide a snapshot of **13 Points** which highlight the gross flaws in the LCA, the more significant of which are then addressed fully in the body of the document.

Further, as stated on page three of the Permit Declaration *next to the applicant's signature*, it is against the law to provide false and misleading information which we submit now taints the entire proposal allowing if not obligating MRSC to reject it outright. Especially when consideration is given

[REDACTED]

Important to note, a Conservation Zone, like that of the outstandingly beautiful Kerrie valley with its significant landscapes and elevated backdrops visible to all who enter the shire, where the block lies *is not a Residential Zone* and therefore no obligation burdens council to grant a permit especially one which has no net community benefit but singularly benefits the applicant through a significant inflation of the impending sale price with a permit as opposed to selling the land as is.

The permit argues that a dwelling is required to support and improve management of the environmental attributes of the land, an empty promise as the [REDACTED] wish to sell and none of whom intend to build or live in the proposed dwelling, have shamefully neglected the upkeep of the land for the last 23 years so it is now severely overrun by introduced species of noxious weeds. We submit, that a Direction Notice or Land Management Notice served on the owners for 23 years of non-compliance with s20 of the *Catchment and Land Protection Act 1994* would achieve the same outcome without need of an invasive and inappropriate residential development in a twice declared area both Catchment & Landscape.

Important to note, the elevated block lies not only within two open, potable water supply catchments (a major constraint we will address) but is also **within the State Government's first** Declared Area of Significant Landscapes, *Macedon Ranges Statement of Policy 2019*, of which its guaranteed protection is embedded in state legislation of the *Planning and Environment Act of Victoria 1987*.

<sup>1</sup> <https://ref.epa.vic.gov.au/your-environment/water/onsite-wastewater> Ref. Publication 891.4 Jul 2016 p.35

<sup>2</sup> <https://www.mav.asn.au/what-we-do/policy-advocacy/environment-water/on-site-domestic-wastewater-management>

The Act provides for a distinctive direction to all Responsible Public Entity's [RPE's] to protect the areas biodiversity, water supply catchments and landscapes;

Landscape is to take priority over development

We note that on page three of the Statement of Planning Policy Mayor Janet Pearce states:

We will now work to integrate the objectives and strategies into future decision-making reflecting the intentions of this statement

Macedon Ranges Planning Scheme Ordinance 22.01 which is a Restatement of Policy No.8 - Macedon Ranges and Surrounds reiterates this and is policy primarily directed to planning and conservation management which states:

All development in proclaimed catchment areas and in elevated areas must be strictly limited and regulated to protect water quality and maintain and enhance natural systems and landscape character.

Table.1

ASPECT TO CONSIDER	LCA	RATING	EVIDENCE
Mapping  EPA requirement all maps are to a scale of 1:500 or 1:250	Claims Scale of 1:250 p2 Fig 2 p.4 Air Photo Fig 3 p.8: Reproduces A3 Drafting SHT 1, App 2, Permit Fig 4 p.9 Reproduces A3 Drafting SHT 2 Appx 2, Permit Fig 5 p.10 Air photo [No Scale FilterLayers Source]		All Spatial Maps offered as supporting evidence provide for Scale, Filter Layer and Source - DELWP <a href="http://mapshare.vic.gov.au">mapshare.vic.gov.au</a> and <a href="http://vvg.org.au">vvg.org.au</a> Scale 1:500, 1:250 Displayed on Maps  1
Catchment/Boundary  IMPORTANT TO NOTE: Western Water base their approval on the proposed dwelling being in Charlies Creek Catchment [unused] rather than Main Creek Catchment [in use for drinking]	Property lies within part of Sunbury (Charlies Creek) catchment [p.7]  [No Catchment Boundary Map]		Proposed Building Env. [BE] & Waste Water Envelope [WWE] lies within Main Creek Catchment DELWP <a href="http://vvg.org.au">vvg.org.au</a> Spatial Map  2
Land System, Soil Descriptions	Rockford Land System [p.6] [Undulating low hills]  [located 22km North of Kerrie]		Mt Charlie Land System [Jeffrey 1981, p24 Steep hills]  [located 1km from block]  3
Site Drainage	Moderate Drains to the south and west [Main Creek] towards Charlies Creek about 700m east p.7  [No analytical data supplied]	Fair (3)	Rapid [Jeffrey 1981, p.17 & 24] High rainfall, steeply sloping land drainage both surface and through the soil, rapid] MAJOR CONSTRAINT  4
Slopes	Gentle, 8-12%  [No technical data supplied]	Fair (3)	Steep, > 20% DELWP <a href="http://vvg.org.au">vvg.org.au</a> Spatial Map Run/Rise formula  5
Bedrock-Granodiorite [Soil Depth refers to the distance to solid rock, Jeffrey 1981 p.23]	To a depth of over 1m [p.1]  [No analytical data supplied]		0.5 to 1m [Jeffrey 1981 p.66] 3 x Visible on surface horizon 1000's Excavated on adjacent Block  6

Table. 2

ASPECT TO CONSIDER	LCA	RATING	EVIDENCE
Surface Drainage	A [1] drainage swale* extends towards East through South of the block p.1 (*shallow depression)		2 Drainage Channels to protect down slope residence from inundation: NW-SE & SW-NE 2.5m Wide x ≈1m Deep <b>7</b>
Inundation  80m RUN OFF: Elevation: 690m NW - 610m SE	Never  [No analytical data supplied]	Very Good (1)	>1 in 20 Very Poor (5)  Lived experienced Historic Rainfall Data: 1991-93, 1995, 96, 2011, 2016, 2019 2 x Drainage Channels dug by 30t excavator supports this <b>8</b>
Rainfall (mm per year) Block Elevation: 610-690	Macedon Forestry P.4 Elevation: <u>505m</u>  750-1000  Water/Nitrogen Balance P. 14 Rainfall Station: <u>Trentham</u> Elevation: 695m	851.7mm  Poor (4)	<u>Trentham</u> Mean: 1062.9mm Elevation: 695m  >1000 Very poor (5)  <b>9</b>
Soil Profile Depth  IMPORTANT TO NOTE: p6 Hand dug 'Auger' holes to a depth of 96cm EPA minimum req depth to 2m	0.8-1m, Moderate p.16  Plate 1 p.6 & Plate 2 p.7, <u>Auger holes</u> 2 photos in LCA are of the same hole <u>No Open Pit Photo</u>  [No analytical data supplied]	Fair (3)	0.8 -1m, Weak Very Poor (5)  [EPA Example LCA; Summary of Aspects to be Considered] Land Capability Class Rating of 1.5 - 2m is Moderate not 1m  <b>10</b>
Nature of Development (% of the allotment)	>80% 12ha	Very Good (1)	<50% Very Poor (5)  >80% of 15.4ha Block Equates to a Land Application Area [BE/WWE] of >12ha Nonsense BE&WWE equate to 700sqm <b>11</b>
Water Supply	Tank P. 16	Fair (3)	Very Poor (5)  No <u>domestic water tank</u> storage areas mapped in entire Permit  <b>12</b>
Open, potable water Less than <300m Downslope to East	Constraint not addressed [AS/NZS STDS1547:2000]		Waste Water Evelope less than 300m 176m open, in-ground spring used for drinking water on adjacent land ,12% slope  <b>13</b>



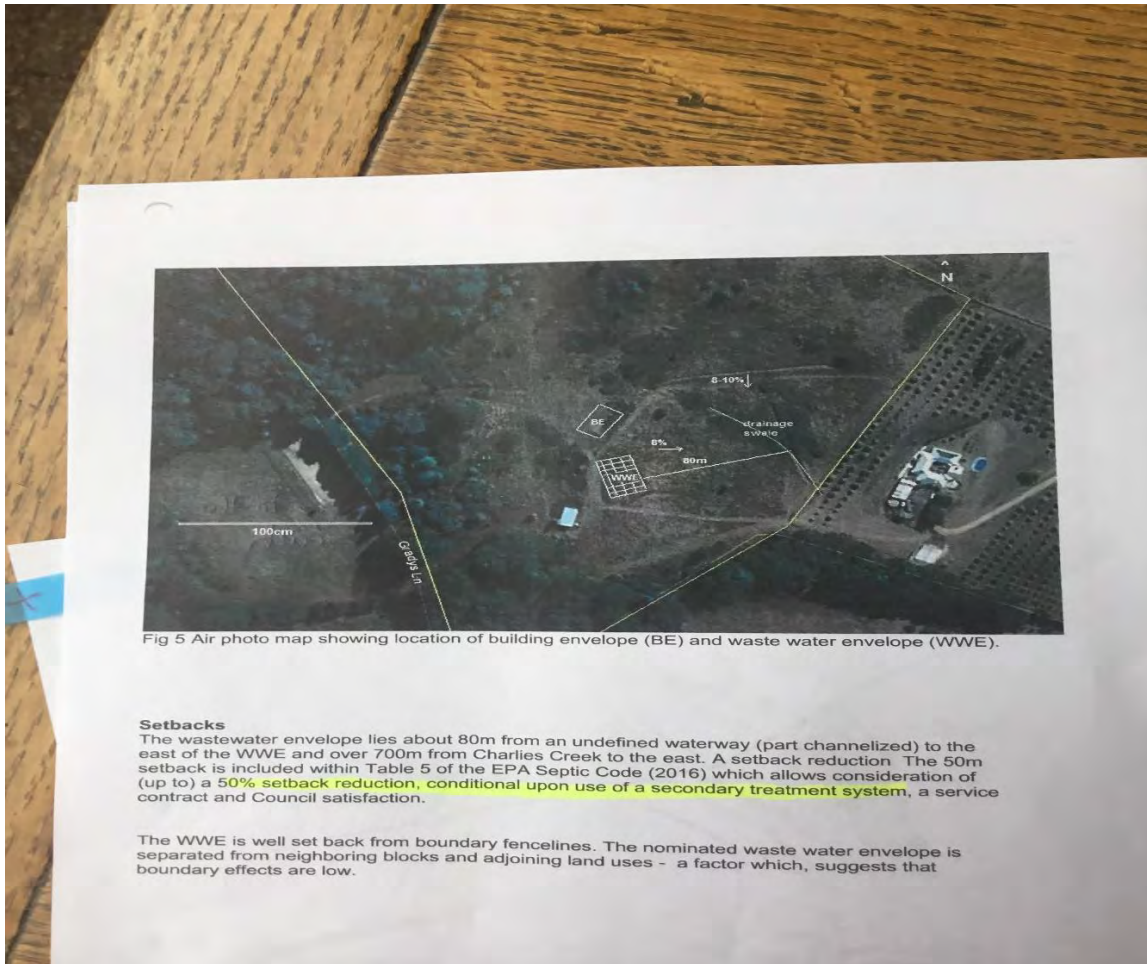
Refer: LCA 2.2 DATA SCOPE AND LIMITATIONS

Mapping and assessment has been conducted at a scale of 1:250 FALSE

1. LCA FAILS TO MEET MINIMUM STDS OF EPA CODE & MAV

Fig.3 & 4 of the LCA site the location of proposed dwelling between the 620m and 630m contour lines. Both are reproductions of A3 drafting sheets from Appendix 2 and therefore are not to scale.

Fig.5 Air photo **calibrates** (below) of **base map fails to apply layer filters of contour lines, catchment boundaries. The 100cm (sic: metre) line marked on photo (left of Grady Lane label) when measured = 3.8cm** which calibrates an irregular scale of 1:2631.6 rendering the map useless



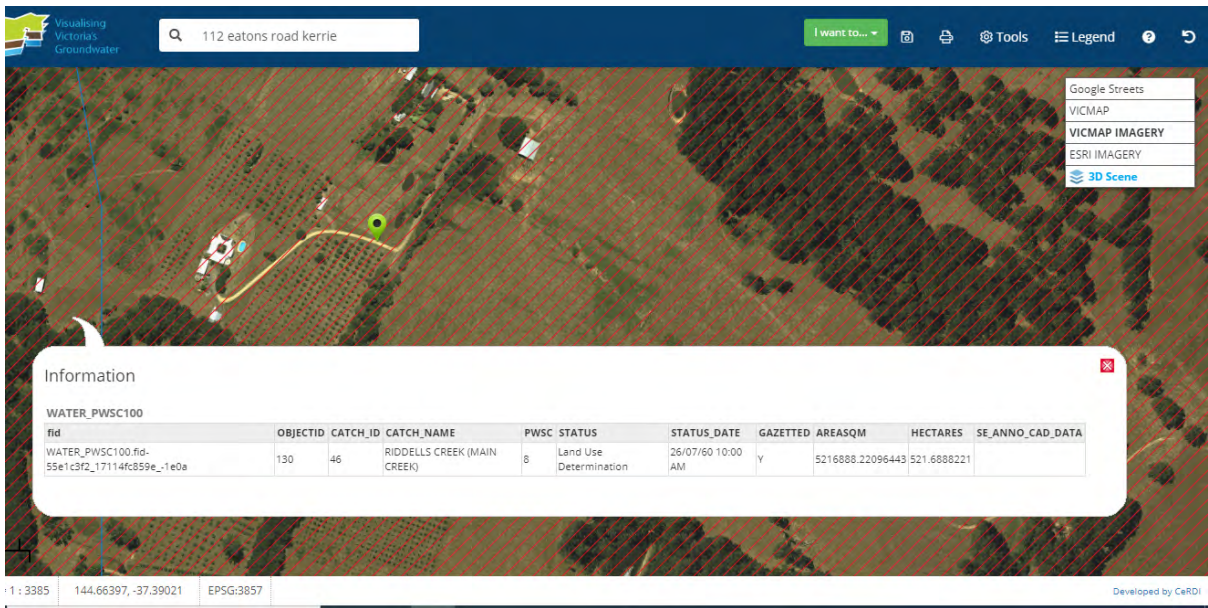
4.5 SURFACE DRAINAGE

The property lies within part of the Sunbury (Charlies Creek) catchment - a Proclaimed Water Supply Catchment (not in use) FALSE

2. EVIDENCE LAND APPLICATION AREA [LAA] LIES WITHIN MAIN CREEK CATCHMENT

Important to note, all VVG maps submitted in this document are intersected by a [blue line](#) which denotes the open potable supply catchment boundary of **Main Creek (West, in-use)** and Charlies Creek (East, **un-used**) as evidenced below in Plate.1

Plate.1

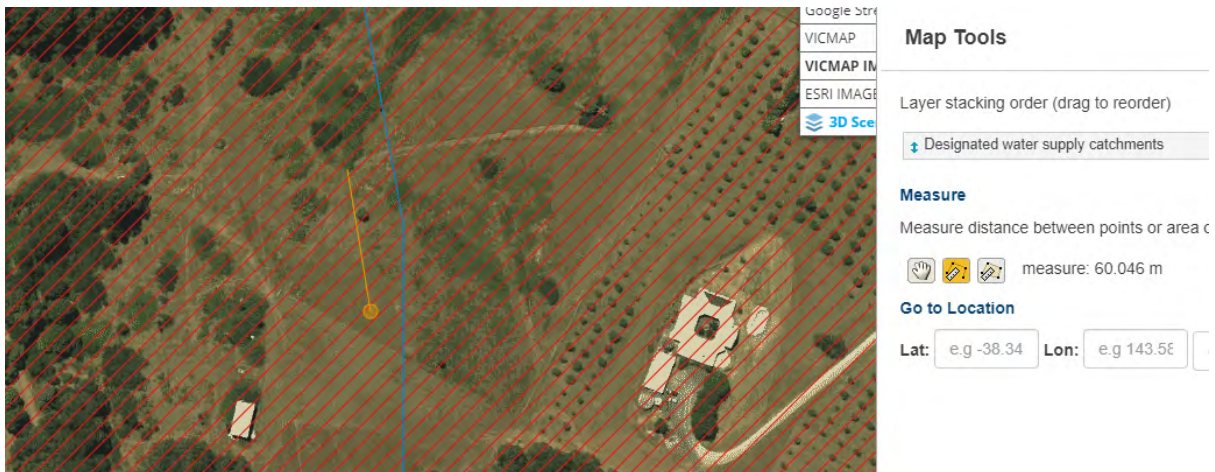


LCA SUMMARY (P.1, Paragraph 3) state:

An area suitable for waste water disposal lies about 60m to the south of the proposed dwelling

The orange line measures 60m from the Building Envelope clearly locating both well to the left of the blue line and therefore well within the Main Creek Catchment boundary

Plate.2





**3.& 4. LAND SYSTEM & SITE DRAINAGE FALSE**

The question must be asked why the author of the LCA holding a doctorate in Archaeology including 12 years with DSE then chooses to mislead MRSC Planning by basing his land and soil descriptions on the Rockford [sic: Rochford] Land System which is located 22km North of the subject land in Kerrie when the real Mt. Charlie lies within 1km of the subject land thus unequivocally placing the block within the Mt. Charlie Land System as documented in the 1981 PJ Jeffrey Survey which he references?

Comparison of the two systems taken from the PJ Jeffrey Study 1981 (Table.3) provides that the: **Mt Charlie Land System holds Major Constraints**

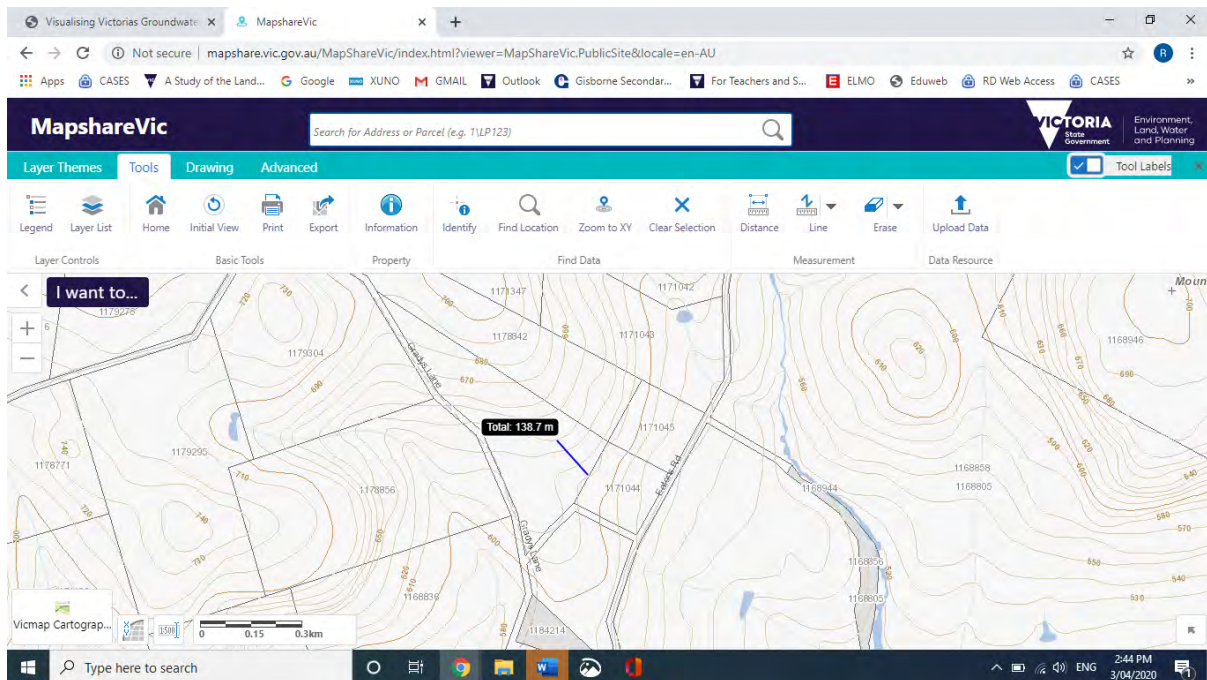
Table.3

Rockford p.17,24,28,75,76	Mt. Charlie p.17,24, 27,65,66
Lower rainfall, elevation & topography	High rainfall
Gentle slopes, undulating plain, gentle hills	Steeply sloping land, steep hills
Permeability Moderate - Low	Permeability High - Moderate Drainage both surface and through the soil is rapid
Yellow brown sodic duplex, variable brown gradational, dark duplex	Kerrie conglomerate-friable reddish duplex, Mottled yellow duplex
Strongly structured, heavy clay subsoil	Fine structure

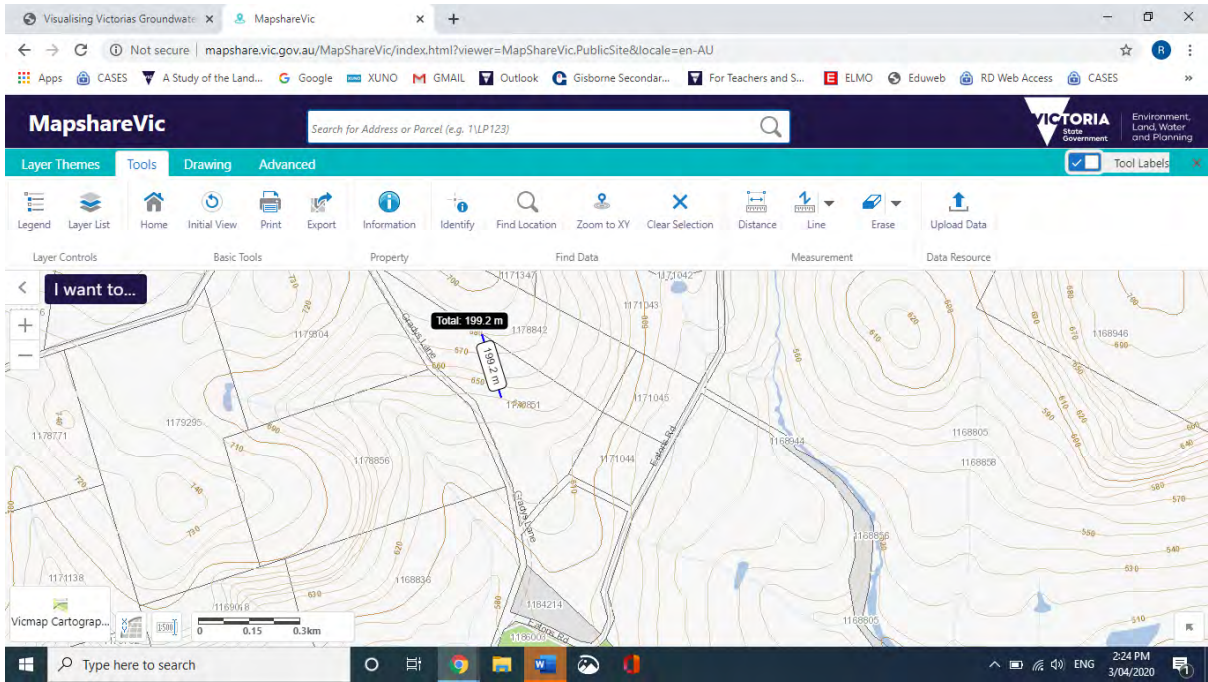
**5.SLOPES ON SUBJECT LAND 8-12% - UNSUPPORTED CLAIM FALSE**

Evidence Slopes on subject land equate to >20% and not 8-12% as LCA claims which equates to **Very Poor (5) MAJOR CONSTRAINT** and not the rating the LCA awards, Fair (3)

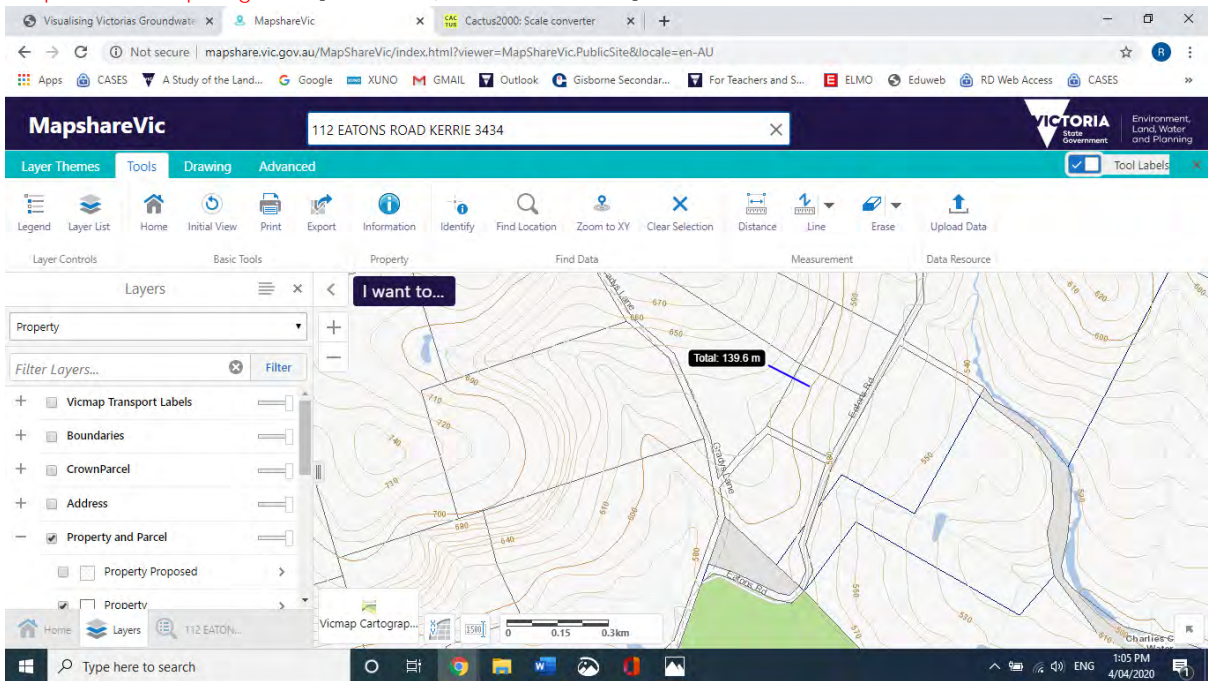
**EVIDENCE >20%** Rise 30m/Run 139m x 100 = **22%**



**EVIDENCE >20%** Example of Slope 20% [Rise40m/Run199 x 100]



**Slope above Spring 21%** [Rise 30m/Run140m x 100]

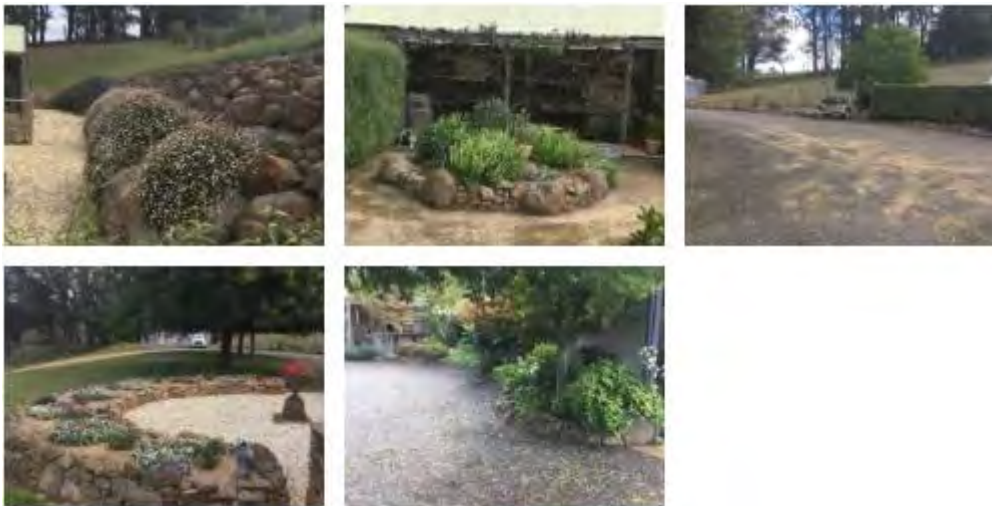


BEDROCK CLAIMED AT DEPTH OF OVER 1M - UNSUPPORTED CLAIM FALSE

6. EVIDENCE OF MUCH HIGHER ENVIRONMENTAL IMPACT - BEDROCK AT DEPTH 0.5 -1M

If we refer to Agriculture Victoria, PJ Jeffrey Land System Survey 1981<sup>3</sup> Chapter 4; Soils, Tabular Descriptions p.23, Soil Depth refers to the distance to solid rock or to a cemented layer which severely restricts root penetration and water movement. Chapter 6.18 Mt Charlie Land System state soil depth to be 0.5 to 1m. MAV Model LCA p25 class bedrock <1m as being a **MAJOR CONSTRAINT**

The shallow depth to granodiorite is in further evidence when we have regard to the site-cut on the **adjacent land to the East which turned up 1,000's of granodiorite rocks of varying size which have** been re-used extensively throughout as retaining walls/garden-beds, evidence that allowing the proposed development to proceed would have a much more significant environmental impact and disruption to soil sub-structure than that which was reported and glossed over in the LCA



7. SURFACE DRAINAGE contradicts INUNDATION NEVER FALSE

Evidence of inundation to the block is the fact that it was necessary for two drainage channels, visible <60M from on the majority of maps submitted (Refer P8) which run NW-SE and SW- NE to be **installed by the applicant's brother, owner of the adjacent residence to the East, after the historic floods of January 2011.** Using the bucket of a 30tonne excavator said channels were dug to a width of 2.5m and are ≈1m deep which means the diminished label of swale does not apply.

**IMPORTANT TO NOTE, WWE (site of alleged Soil Inspection Pit) is <60m FROM OPEN DRAIN NOT 80m**

8. EVIDENCE OF INUNDATION THROUGH HIGH STORM WATER RUNOFF

Source: BOM Trentham Rain Station – Historic Rainfall data Monthly Totals Exceeding 200mm

YEAR	JAN	APR	JUN	JUL	AUG	SEP
1991			219.6			
1992						209.4
1993						265.2
1995			208.0			
1996			233.2			
2011	236.6					
2016				257.0		210.1
2019			224.9			
2020		200+				

<sup>3</sup> [http://vro.agriculture.vic.gov.au/dpi/vro/portreg.nsf/pages/port\\_land\\_systems\\_nth\\_melb](http://vro.agriculture.vic.gov.au/dpi/vro/portreg.nsf/pages/port_land_systems_nth_melb)



9. AVERAGE RAINFALL UNDER 1000mm FALSE

Important to note, the Grady Lane Lot Elevation runs from NW 690m to SE 610, 80m Run-Off

The Table below demonstrates the differences in elevation and the impact elevation has on average rainfall totals.

Source: BOM APR 2020	Macedon Forestry (P6)	Trentham (P14)	Block
Elevation	505m	695m	610-690
Average Yearly Rainfall	851.7mm	1062.9mm	>1000mm

By actively choosing to report the Average Rainfall data from the significantly lower site elevation of Macedon (p6) whilst holding the knowledge that Specialist Consultant Geologist Paul Williams calculated the Water Nitrogen Balance using the equivalently elevated Trentham Rainfall Station(p14), Dr Day avoids having to award a Very Poor (5) class rating of Average Yearly Rainfall >1000mm which would have highlighted YET ANOTHER MAJOR LAND CONSTRAINT

We and the other residents can attest to a lived history of inundation of our properties.

EPA CODE OF PRACTICE - Onsite Waster Water management p35:

Soil that is frequently or seasonally waterlogged is a good indication the land is not capable of dispersing wastewater and therefore must not have wastewater applied to it

10. SOIL DEPTH RATING OF GOOD (2) (0.8-1m) FALSE

Important to note, the current Municipal Association of Victoria [MAV] Land Capability Assessment Framework - Appendix 3, Model Land Capability Assessment Report demonstrates that the LCA Matrix used on page 16 in the Permits LCA is out-dated and no longer the model to be guided by. However, if we compare a Model LCA from a similar vintage as per South Gippsland Water, Model Land Capability Assessment Report 2006, LCA Matrix p16-17<sup>4</sup> the Soil Depth of the Permit LCA would attract a class rating of VERY POOR (5) or MAJOR CONSTRAINT as demonstrated below.

Soil Depth	Very Good (1)	Good (2)	Fair (3)	Poor (4)	Very Poor (5)
LCA Matrix (2006)	>2	1.5-2m	-	1.5-1.0	<1
LCA 2019	>2	0.8-1m	-	1.5-1.0	<1 [80cm-96cm p5]

<sup>4</sup> <http://www.sgwater.com.au/wp-content/uploads/2014/03/Model-land-capability-assessment-report-Feb-2006.pdf>

Dr Chris Day (4.2 SOILS p5): A site inspection was made of soils within WWE FALSE

Photo #1 - Soil Profile p5 - Image of 2metres of soil sprinkled beside a 3m long surveyor pole with metal spike lying horizontally to the ground

Photo #2 - Auger Hole Location p6 - Image of same soil sprinkled beside full 3m vertical pole

Photo #3 - p9 - is a different angle and distance but of same site as Photo #2

EVIDENCE THAT THERE WAS NO PIT DUG:

Only the metal spike is in-ground 3metres of pole exposed above-ground photo evidence (2.)

A site inspection was carried out with [REDACTED] [REDACTED] [REDACTED] with no visible disturbance of the paddock horizon in existence at the alleged auger hole location as per photo evidence (1.)

The argument that evidence of a pit of that depth and size would disappear after 6months is absurd

(1.) [REDACTED]

(2.) [REDACTED]



[REDACTED] claims soil properties were observed from hand excavated auger holes including road cuttings, tree throw profiles and exposures (plural) on the block (p6) yet he provides no photo evidence of even ONE OPEN pit. Nor does his assessment report include soil logs or any analytical data. The LCA fails again to meet the minimum standards as set out in the *Code*.

Further, we challenge any person to come out on-site and perform the impossible:

- hand dig a 2metre deep pit [height of average man] in compacted earth
- return all of the excavated earth after it doubling in size back into the same pit
- leave no sign of the excavated pit on the land what so ever
- Repeat

The Soil Profile [taken from an excavation site unknown] p5 also appears *contradictory* while the Percolation Rate p16 is *an estimate p6*:

4.2 p5 Soils - Mottled Yellow-Brown Stony Clays\*: 80cm

Table 1. p5 - Reddish-Brown Light Clay: 70cm - 96cm+

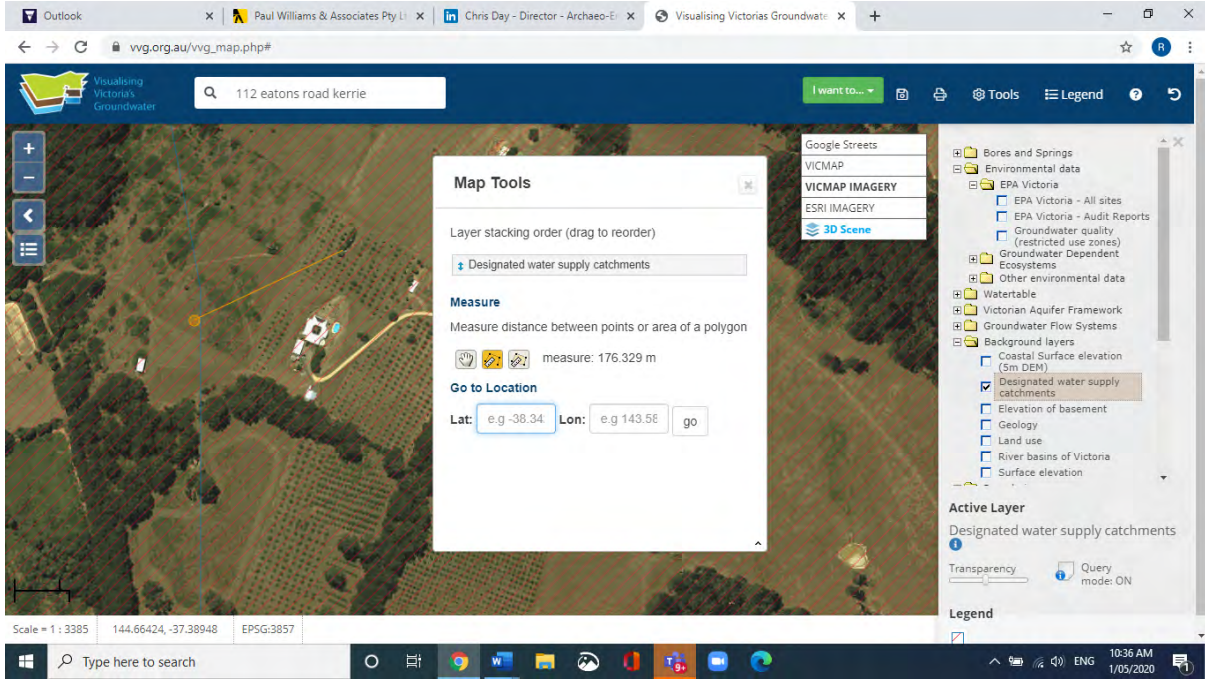
Important to note, Land Systems Victoria 2000 (Ed 3) Table 6 p8, 2.1 Mg7- Granite Hills as Duplex, Sands whereas PJ Jeffrey 1981, sites Mottled Yellow duplex

Mottling\* generally indicates poor aeration and impeded drainage which is a **MAJOR CONSTRAINT**

**13. OPEN POTABLE WATER LESS THAN 300M MAJOR CONSTRAINT**

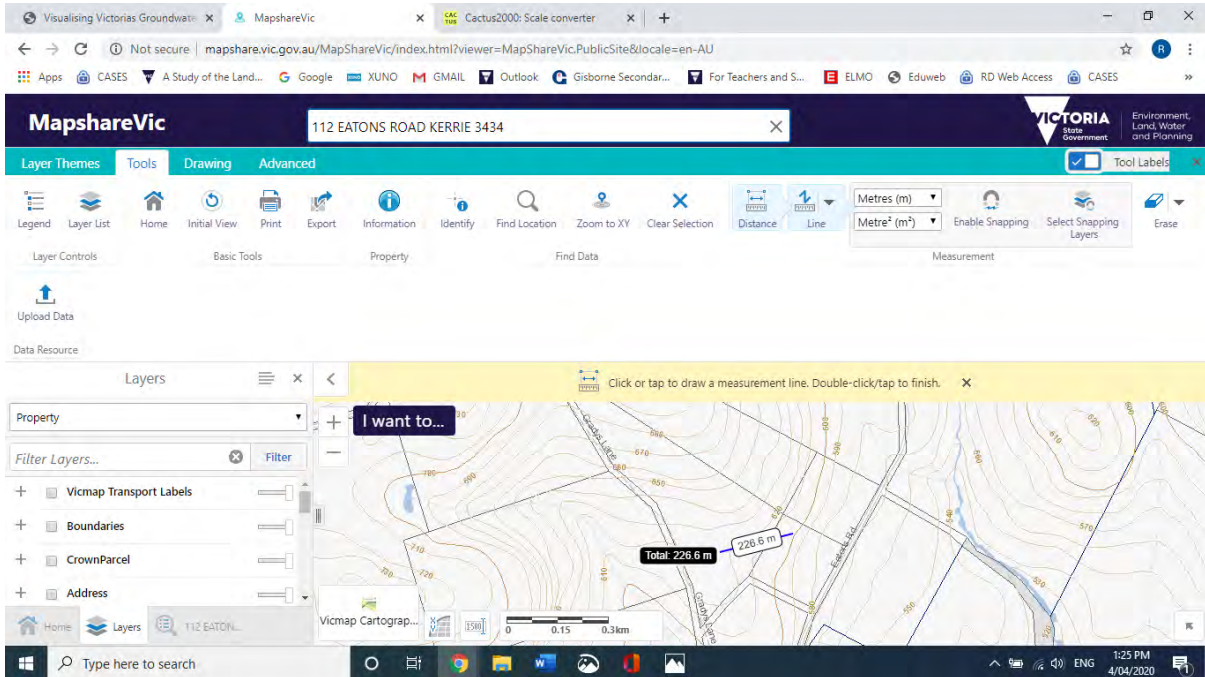
Map A below is evidence that the proposed septic tank and secondary treatment system is less than the regulation 300m [Ref: EPA COP - AS/NZS STDS 1547:2000] from an open, in ground natural spring, approximately 17m in length used for drinking water and pool water located on the adjacent property *down 11% slope* to the East.

Map A. - Auger Hole Site to **Open Potable Water Supply 176m**



**Compounding this Major Constraint is the severity of the slope as evidenced below:**

**WWE to Adjacent Open Potable Water Slope: 11% [Rise 25m/Run 226 x 100]**





We are aware that a Land Capacity Assessment is meant to imbue council with a high degree of confidence and certainty of the investigation and conclusions but it is obvious to even the common man that the extent of the evidence presented undermines the conclusion of low risk and demonstrates the land has major constraints impacting capacity to assimilate waste water. The MRSC Domestic Wastewater Management Plan 2019 [DWMP] Table 3. Risk Matrix recognises those same constraints such as Inundation, Yellow Duplex Soils, Slopes >20% and Dwellings Density >1:40 as high risk.

14.

In reference to the *Catchment and Land Planning Act 1994*, and the guidelines it references Planning Permit Applications in Open Potable Supply Catchment Areas, Guideline 1.

- The density of dwelling should be no greater than one dwelling per 40 ha (1:40)

As the minimum lot size in the zone is 40ha and the subject lot size is 15ha guideline 1. must be addressed.

In order not to address this major constraint the Permit (Appendix 1) falsely claims there are 5 existing dwellings in a 1km radius when there are actually 8 with 3 properties within the radius having a second dwelling equating to an **existing housing density of 11** making it imperative for MRSC decision-makers and the Water Authorities to adopt the precautionary principle as per *State Environment Protection Policy (Waters of Victoria) 2018* in regards to **potential** risk to the environment and beneficial uses of surface and ground water from the cumulative detrimental effects of **12 septic systems**, most of which are aging, within such close proximity to two gazetted Open Potable Supply Catchments and a private open potable fresh water spring.

Onus of proof lies with the proponent to convince the decision-makers that there is no risk to public health and to the health of the residents down slope on the adjacent land. Should the Permit be granted we request for that proof to be made available to all stakeholders including objectors. The objections raised in this document are genuine and significant.

Please be aware [REDACTED] and I have no objection to owners profiting from sale of their land provided there is due consideration to benefiting the agricultural values of the landscape as well as enhancing the quality and quantity of catchment yield and the biodiverse systems that depend on it.

In conclusion, due the controversial and complex nature of the permit and the detail of objection it necessitates we request *the permit be called in* and that decision-making be made by the Mayor et al.

Please be advised a second submission documenting our objection to the false and misleading content pertaining to [REDACTED] section of the Application [P1-37 and Appendices] as well as Catchment, Conservation, Loss of Amenity and Precedent concerns will forthcoming.

Please acknowledge receipt of this correspondence and thank you for your time and consideration.

Yours sincerely,

[REDACTED]

Macedon Ranges Shire Council

Via Email (19.05.20): MRSC Mayor, Deputy Mayor Councillors, Director of Planning

20 May 2020

Dear Ms Robson et al,

**Re: PLN/2020/52 Grady's Lane, Kerrie**

This document serves to demonstrate that [REDACTED] 'detailed' proposal is no less a fabrication than the Land Capacity Assessment it so heavily relies on [Please refer evidence Objection [REDACTED] 5/5/20]. For example;

Oriented Due East: Views equate to Land Value

The applicant in person and the permit itself assures us that care has been taken to minimise overlooking [REDACTED] but in actuality the permit documents, as too the pegged-out site on the land, orients the house true due East not North East as claimed. This is exactly the same orientation as [REDACTED]. The permit itself admits the 4-bedroom two bathroom, two-storey dwelling, has been *oriented on the land to take advantage of stunning views*, thus land value is automatically exponentially increased, reinforcing the driving force behind the permit application - views equal \$\$\$, cash grab, forthcoming auction, watch this space.

Agricultural not Residential

Despite the fact that the five adjacent and bordering neighbours farm sheep, raise angus or highland cattle, crop hay or grow olives used in oil production as well there are two 500 acres plus angus breeding farms in Eaton's road, [REDACTED] wishes us to believe the land is more residential than agricultural. Evidently it is not, indeed, even the Land Management Plan (LMP) [REDACTED] commissioned contradicts him; **"olives and stock grazing are the dominant agricultural uses here"**

We are a small tightknit community proud of our agricultural heritage evident in the number of objections raised against a wholly inappropriate and wholly residential development.

The permit itself admits that *there is no agricultural enterprise proposed* but argues the dwelling is necessary to *improve the quality of land management*, which it must be noted, is a legislated obligation and the responsibility of all land owners, one which the four owners have ignored for more than a quarter of a century and which council might wish to address.

Agricultural productivity is vital to the Macedon Ranges bringing net community benefit fiscally, culturally and through local employment.

False Claims

**There is an existing dwelling on the land well screened from the subject land**

**The old cottage was vacated in the 1960's and burnt down in the Braemar fires in the days leading up to the Ash Wednesday fires of 1983.**

**The site is fenced along the boundaries**

**The site's fencing is non-existent on Grady's Lane in the SW corner and the far NW boundaries, again mainly as a result of the fires, as is the majority of the one internal paddock.**

**There are two fenced separate paddocks**

The Land Management Plan within the submission once again contradicts [REDACTED] stating **"much of the fencing both internal and boundary fencing is dilapidated"** [Fig 4. Page 20]

**The subject land is cleared and used for limited grazing**

The subject land is unusable containing no fences and covered in huge swathes of noxious weeds (blackberry, broom) and was last used as agistment for 2 horses 20 years ago.

It is a truly desperate soul who cannot resist overstating every single aspect of their proposal in order to present it in a better light, I mean really [REDACTED] the allotment is 15.4 hectares not 15.5!

False Claim: Extensive Area of Revegetation Planting

The permit claims that the LMP *provides for an extensive area of revegetation (particularly understorey vegetation) planting and extensive management techniques for the regeneration of vegetation and soil quality but it doesn't*. Once again proving the devil is in the detail of this submission as the following paragraphs make evident and not in the unsupported grandiose statements that flow so eloquently from the author(s).

The LMP contains no planting plan but instead makes common-sense recommendations in reference to conservation of approximately 10 hectares of forest through ceasing the collecting of fire-wood, fencing *if stock is to graze* (there is to be no agricultural enterprise) and weed eradication at the perimeters. **Therefore, it's basically a weeding job along the edges of the bush, a day's work at best for the [REDACTED]**. Poison and repeat once a year, job done.

Subsequently, it is evident that [REDACTED] has been caught out in yet another lie as the LMP does not contain the extensive schedule of re-planting or list of extensive techniques which he makes claim, instead it contains a common-sense straightforward plan for ongoing weed eradication, pest control and pasture maintenance again something the landholder is mandated to do.

No Fauna Study: LMP identifies High Habitat Values & Rare and Endangered Species

It must be noted despite there being rare and endangered indigenous species in the immediate vicinity as listed in the LMP, no fauna survey was commissioned indicating perhaps that the applicant feared refusal of [REDACTED] permit on the basis of conservation as there is a high probability that a rare species will be officially identified as inhabiting the allotment since it has been left to return to nature for the last two decades.

The LMP notes *the habitat values on this property are high* which my family and I can attest to as we know where each wombat burrow lies, where the two pairs of black wallaby sleep and roughly whereabouts the eagles **have likely nested for 100's of years**. We too have witnessed the powerful owl leaving the old forest on more than one occasion as well as caring for the poor creature when it flew into our windows one dawn. The barking owl is still heard but sadly seems to have lessened as have the number of koalas over the years. We ask that consideration please be given to protecting the rare and endangered creatures that inhabit the forest and to the maintenance and enhancement of the existing entrenched native habitat corridors passing through the proposed development site. Quite the reverse of intensive excavation and significant land disturbance.

False Claim: No Vegetation Removal

It is peculiar that the LMP instructs on protecting one remnant gumtree when there appear to be four plus no mention is made of the 5m tall young gum immediately to the left of said remnants at the site marked as an existing track/new driveway.

Further, both [REDACTED] and the LMP are completely silent regarding the unmissable, repeat unmissable 8m tall ≈15-year-old native blackwood tree growing two metres from, and in the middle of, the façade of the proposed dwelling.

Applicants False Declaration: No Vegetation Removal

The applicants signed declaration of no vegetation removal makes a mockery of the weighty restraints of VPO9 which has been placed upon this unique parcel of conservation land for good reason.

The Bushfire Management Statement to which [REDACTED] vigorously points require that plants greater than 10cm in height must not be placed within 3m of a window or glass feature of the building which means both the VPO and the BMO constraints prevent the proposed dwelling from being built on the site where it has been pegged out unless the old blackwood tree is removed.

Significant Land Disturbance: No Existing Track New Driveway 150m Up Hill

[REDACTED] intentionally glosses over the invasive, potentially root destroying, 150 metres of up-hill excavation works equating to significant land disturbance which will be needed to create a new driveway **as there is no existing 'track'** just paddock with visible bedrock scattered at the surface and great stands of blackberry bushes, broom, young gums and native blackwood that force those entering the block to weave their way through up to the site. The tip-truckloads of foreign material/road base that will need to be carted onsite to create an all-weather driveway may threaten the rare dwarf silver wattle discovered by the LMP consultant growing in the open areas adjoining the forest. It would be tragic if this was the same area as the proposed significant land disturbance not to mention scaring off the protected species of animals and birds that inhabit the land.

Proposal Not Consistent with RCZ

All of the aforementioned make it apparent the dwelling's primary existence is for rural lifestyle or rural living purposes, a land use which is not encouraged within the Rural Conservation Zone and which is directed towards the townships and areas specifically zoned for this. The proposal is not consistent with the purposes of the Rural Conservation Zone.

Development Visually Fragments and Detracts from Landscape

Allowing this dwelling will serve to further visually fragment and detract amenity from our open, elevated and scenic *agricultural* landscapes which are of immense significance as declared in Victorian governments Macedon Ranges Statement of Planning 2019. It only serves to make rich the **owners and inflate the value of land which was settled in the early 1800's for agricultural** purposes.

The introduction of residential built form, even a relatively conventional single storey dwelling, which this is not, into the open farmland slopes would not be consistent with planning policy and the natural setting. Even though it would be possible to select muted exterior colours, the built form of any dwelling is one that will be visually juxtaposed against the natural setting.

[REDACTED] and whose site cut was well over 5m deep (as opposed to the 2m deep site cut proposed in the permit) can be [REDACTED]

[REDACTED] Therefore, it is evident that a two-storey house oriented exactly the same way [REDACTED] metres higher in open paddocks will present a visual scar on the landscape for all those entering the beautiful Macedon Ranges and the Kerrie Valley from the East.

### Owners Retain Opportunities to Sell for Profit Without a Dwelling

The owners have the opportunity to advertise sale of their land by promoting its conservation and/or agricultural values which will still nett them all good profit and more probable than not bring a truly passionate local **'greenie' or 'farmer' into our area who will be buying with eyes wide open** to the work ahead, who will therefore then gladly work to clear, restore, rejuvenate and conserve their very own unique parcel in Kerrie. Positive environmental outcomes can be achieved without the need for development of a dwelling on this site.

### Community Opinion BAL Understated

It is the opinion of our neighbourhood that the BAL rating has been intentionally understated but due to the time constraint of 14 days to object it is not within the scope of this documents review.

However, important to note, subsequent to my research which reveal shocking proof of omissions and misleading and false content within the Planning Application, LCA and the LMP, the odds of the BAL Assessment report being any different are slim. Especially when full consideration is given to the lowest possible BAL rating of 12 awarded to the site compared with the historical evidence of the razing to the ground of the old cottage that existed inside and to the right of the South West entry gate during the deadly Ash Wednesday fire season *and* the fact that the 15.4ha allotment is covered by 10ha of steep sloping forest to the North West and South West both which have high connectivity to further large tracts of forest like the Mount Charlie Nature Reserve which is approximately 1km down **Grady's Lane** to the South West.

**Further, it is absurd that the Camberwell(?) based BAL assessors claim any potential threat will come from grassfire and not the forest canopy or the deep fuel load below which seems to contradict the following excerpt from the Macedon Ranges Statement of Planning Bushfire;**

Major bushfire tragedies on Ash Wednesday 1983 and Black Friday 1939. The large bushfire catchment and the location of settlements near large areas of forest make communities in the area particularly vulnerable. A number of areas are characterised by steep terrain with tall eucalypt forests and bark fuels. This results in high-intensity fires that are difficult to suppress, with high levels of embers and convection generating spot fires significant distances from fire fronts. The risk of bushfire makes it essential that all possible steps are taken to reduce risks for people in **the area, and to increase communities' resilience to bushfire event**

### BAL Ignores Historical Evidence and Lived Experience

My lived experience at the subject land a couple of days prior to Ash Wednesday as we were trying to catch, load then relocate a ram and flock of sheep to safety, the Braemar fire as it was called headed towards us from the North West fortunately eventually turning away to the West. Later that evening it returned from the South West, the fireballs landing in the paddocks were miles ahead of the fire front, burning embers which caught alight the old cottage near the entrance gate causing its immediate destruction. Luckily for us when the inferno of Ash Wednesday erupted there were large tracts of burnt out land between it and us which actually saved the Kerrie community and helped to contain the fire.

### Permit and LMP Both Silent on Water Supply/Water Storage

It is pertinent but perplexing **to note that both [REDACTED] submission and the LMP omit any reference to water supply except in reference to the 10,000 litre tank reserved for fire-fighting.** Although the level of success one would have defending 10 hectares of remnant forest or a burning two-storey dwelling with an amount of water better suited to holding off a small fire in a suburban backyard while waiting for the MFB, is unclear.



- The proposal was inconsistent with the Guidelines.
- The dwelling density proposed was not consistent with development expectations of 1 dwelling per 40 hectares embodied in relevant planning policy, in particular the objectives of the Rural Conservation Zone and the Guidelines.
- The proposal did not accord with the precautionary principle.
- The proposal was contrary to the policies and procedures of the Planning Scheme, which specifically provides for the protection of proclaimed catchments.

#### MRSC Ordinary Council Meeting 27.02.2019

These decisions demonstrate that the current policies within the Macedon Ranges contain clear support for water quality protection. The importance of ensuring the cumulative impact of development proposals does not compromise the quality of potable water is contained in Clause 21.07 and ESOs which seeks to reinforce the importance of limiting development which poses a risk to catchments.

#### Western Water Approval: Basis of Reasoning 1. Development inside Charlies Creek Catchment

Evidence presented in Objection 1. Dated 5/05/2020 refutes this: Development is within Main Crk

My record of conversation with Western Water' [REDACTED] on 6 March 2020 is:

I was stunned that [REDACTED] remembered me from a phone call I made to [REDACTED] [REDACTED] [REDACTED]. During the conversation in 2014 he explained the 1:40 rule to me and said on that basis a permit would be refused me as there were already too many septic tanks in our catchment, he rightly recalled me being not happy about this news

I asked how [REDACTED] had got approval for a septic tank based on what he had told me 6 years earlier

#### Western Water Approval: Basis of Reasoning 2. Charlies Creek No Longer a Catchment

[REDACTED] always visits to run things by relating to catchment and showed him a map pertaining to the proposal. He informed me based on the placement of the proposed dwelling and the fact Charlies Creek is no longer being used by Western Water he had no problem with the permit and had much less of a concern for it (Charlies Creek)

I asked what year between 2014 and 2019 the harvesting ceased?  
Astonishingly for a man with a phenomenal memory [REDACTED] could not recall  
[I have since emailed him a formal request for information but have been ignored, it is my intent to next communicate with the Secretary of the Board asking same, if FOI is required so be it]

**I pointed out [REDACTED] Land Channel Map on page 1** of the Permit shows a hand drawn line approximating the catchment boundary which is inaccurate. I referred him to DELWP vvvv.org.com spatial mapping which provides evidence the dwelling and septic are actually sited within Main Creek which Western Water still harvest potable water for Wright Reservoir.

[REDACTED] replied that government maps are wrong and he would walk the land and decide where the boundary runs.

It is important to note, Catchment boundaries are decided by Ministerial decree with an overall view to the contour of the land of the entire catchment not on a fragmented, property to property basis by a Water Authority employee as per below;

#### CATCHMENT AND LAND PROTECTION ACT 1994 - SECT 10

##### Areas and boundaries of catchment and land protection regions

(1) The Governor in [Council](#), on the recommendation of the Minister, may by Order—

(a) determine the areas of Victoria which are [catchment](#) and [land protection regions](#) and define their boundaries; or

(b) vary the boundaries of an existing [region](#); or

(c) abolish a [region](#).

(2) The Minister must cause a copy of an Order under subsection (1) to be published in the Government Gazette and in a newspaper circulating generally within the relevant [region](#) as soon as possible after making the Order.

**Both Main Creek and Charlie's Creek have not been abandoned or decommissioned by the government and remain gazetted thereby legally binding Western Water to continue to fulfil their responsibilities, set out below, to the fullest letter of the law until such time as the Catchments are no longer gazetted. There remains a significant obligation on PPWP CMA and thereby Western Water as the RPE as per section 21AA of *Catchment Land and Planning Act 1994 (CALP)*;**

#### CATCHMENT AND LAND PROTECTION ACT 1994 - SECT 12AA

##### Obligations of Catchment Management Authorities in relation to declared areas

(1) A [Catchment Management Authority](#), when performing a function or duty or exercising a power under this Act in relation to a [declared area](#)—

(a) must not act inconsistently with any part of a Statement of Planning Policy that is expressed to be binding on the [Catchment Management Authority](#); and

(b) must have regard to those parts of the Statement of Planning Policy not expressed to be binding on the [Catchment Management Authority](#); and

(c) must have regard to the principles set out in section 46AZL of the [Planning and Environment Act 1987](#) .

#### Western Water Obligations Do Not Cease when Harvesting Ceases

Nowhere in the regulatory framework, policy and controls governing Water Catchment and Land **Management is there a section or clause that stipulates that the obligations of RPE's like Western Water cease when the Catchment is no longer used to supply drinking water. The only way obligation is terminated is if/when, by Ministerial Order, the Catchment is abandoned or decommissioned.**



This means Main Creek and Charlies Creek are of equal value in the eyes of the law and thereby necessitating RPE decisionmakers to apply all framework policy and controls when considering planning permit applications. This includes the quality, quantity and sustainable health of the waterways within the catchment and the plants and animals that in-turn sustain them.

Precautionary Principle

Further, it should be noted that *State Environment Protection Policy, Waters Of Victoria (SEPP)* adopts the Precautionary Principle as the principle that should guide decisions about protection and **management of Victoria's surface waters when considering a permit for a septic tank.**

Western Water Approval: Basis of Reasoning 2. Septic Drains towards Unused Catchment

Ignores the Cumulative Impacts

The proposed dwelling site is within a Rural Conservation Zone which specifies a 40hectare allotment size.

The 15.4ha of subject land is dissected by two declared open potable water supply catchments Main Creek and Charlies Creek approx. 80/20% respectively, both gazetted.

Using DELWP vvg.org.au mapping tool when applying the 1km radius equating to 314ha as per guideline one Guidelines to Permit Applications in Open Potable Supply Catchments 2012, the radius contains three catchments; Main Creek 146ha, Charlies Creek 146ha and Bolinda Creek (Upper) 22ha. As per Vic Water Guidance Note to calculating Dwelling Density the results for allowing one more dwelling in either catchment is set out below:

Charlies Creek 146ha

Dwelling Density

[REDACTED]

[REDACTED]

= 6     146 ÷ 6 = 1:24

Proposed Dwelling

= 7     146 ÷ 6 = 1:21

Main Creek 146ha

Dwelling Density

[REDACTED]

[REDACTED]

= 4     146 ÷ 4 = 1:36

[REDACTED]

= 5     146 ÷ 5 = 1:29

Proposed Dwelling

= 6     146 ÷ 6 = 1:24

Proposal Claims to Add to Health of Water Catchment

If as per the *MRSC Domestic Wastewater Management Plan 2019 - Risk Assessment Framework*, a Housing Density of 8 equates to High Risk to water quality then regard must surely be given to the possible impact which **13 Septic Tanks** could have on both catchments no matter which way the gradient of the land drains. Charlies Creek and the plant and animal species associated with it, especially in the Mount Charlie Flora Reserve whose close proximity is threatened by any further residential development in these two catchments.

Evidence Continuance of Dangerous Precedent Set in Kerrie 2019

This is not the first time [REDACTED] visited [REDACTED] at Western Water to attain prior approval for a development in a gazetted catchment.

He sought approval for a permit comparable on its merits to this current proposal on behalf of the land owner of [REDACTED] Kerrie which slipped through unnoticed by the community and was granted. Having said that, the community was shocked that a development was permitted on the dying and irresponsibly abused and neglected Bolinda Creek. The platypus are all long dead.

This dangerous precedent was cemented in December 2019 when the poorly situated 6 hectare parcel at [REDACTED] well over its worth, setting an inflated benchmark for future sales of fragmented parcels of agricultural land within the Macedon Ranges, while at the same time inhibiting the opportunity for their consolidation.

[REDACTED] success was all the encouragement land owners of similar parcels needed to decide to cash in and follow suit.

This latest [REDACTED] permit application for a two-storey, urban-style dwelling with no associated agricultural productivity only a few kilometers up the road from where precedent was set is sad testament that Pandoras Box has been opened through the relevant Responsible Public Entities failure to apply due consideration to all State Government and their own regulatory framework. Please, this cannot be allowed to be repeated.

Loss of Amenity, Financial Loss

**Our family's personal loss of amenity seems to pale in comparison to** what allowing this development will mean in regards to future loss of amenity for the entire shire. However, it is real and has placed great duress upon ourselves. Due the design and size of the building proposed and the orientation and placement so [REDACTED]s it will loom large into every aspect of [REDACTED] [REDACTED]. The value of this privacy and therefore the value of our property itself will be greatly devalued by its proximity.

Out of Character

It is quite unusual to be able to claim that each of the 11 existing homes, in our shut-off little corner tucked away within the broader Kerrie community, do not overlook the other. We are all good mates, as is necessary in times of fire, drought and storms etc., when you live in the bush especially with livestock, but greatly respect each-others privacy. We are elevated above [REDACTED] [REDACTED] but not one of our windows look into any of their private spaces. If we sit on the very edge of our lawn, we can just see the back of [REDACTED].

This is just yet another aspect of this crazy inappropriate proposal that has shocked us all, the siting of the permits dwelling.

Logically if you were going to build on farmland you would rebuild on the site of the old cottage and not in the middle of open paddocks still viable for agricultural enterprise and on top of your neighbour downslope. This would also mean that all the excavation works for the house site and driveway would no longer be needed and the proposed dwelling would be invisible to all including the house across the road hidden behind a huge cypress hedge. The view instead would be to the forest and an internal valley, still laconically picturesque but not the money spinner the owners seek.

Thank you for your time and hopefully favorable reconsideration to reject the application outright.

Sincerely,

[REDACTED]  
[REDACTED]

Macedon Ranges Shire Council  
Via Email: MRSC

01 October 2020

Dear Jackie, Mayor, Deputy Mayor, Councilors

Re: PLN/2020/52 Amended **Grady's Lane, Kerrie**

In reference to PLN/2020/52 as amended and the prior ten plus individual varied and detailed objections relating to the original permit submitted to council by myself and other members of the local community, which outlined concerns both significant in number and gravitas, the amended permit **by its own admission of 'minor alterations'** in its opening statement addresses but a few with all but one token positive:

- Dropping the height of the proposed structure by one storey which conversely and negatively substantially expands the footprint of the development subsequently intensifying the land disturbance in a declared water supply catchment and sensitive conservation zone
- Moving the building envelope up-hill towards the western boundary which only serves to bite deeper into the open potable catchment of Mains Creek
- Moving the proposed dwelling 20m closer to now be within 69m of the allotments 8hectares of true forest which contains a 150-year-old fuel load underneath a dense canopy of 30m tall eucalypts and an under-storey of blackwood directly to the North West, which also happens to be the direction of main fire weather according to the amended BAL assessment
- Providing a planting plan [not just falsely claiming to as did the original application]

This objection seeks to highlight critical issues for consideration; Truth, Water, Views, Due COVID and lack of quality digital access to the Amended Permit documentation and only receiving paper plans on 29<sup>th</sup> Sept this document seeks to highlight but a few critical issues requiring consideration but does not retract or replace our original points of concern contained in Objection 1, 05/05/2020 and Objection 2, 20/05/2020 which remain unanswered when all things are considered. Of particular note is our distress at the willingness of the applicant to submit false and misleading information with the intention to mislead, seemingly without consequence.

Permit sought solely to raise value of land

We allege that the permit and all of the aforementioned amendments are empty promises given by the applicant on behalf of the four owners whom have no intention of poisoning one blackberry or planting one seedling let alone planting 300 or actually building the house despite signing the declaration that all the information in the application is true and correct.

The permit is sought exclusively to raise the value of the land for impending sale and financial gain. The facts speak for themselves in title deed and in census records; [REDACTED]

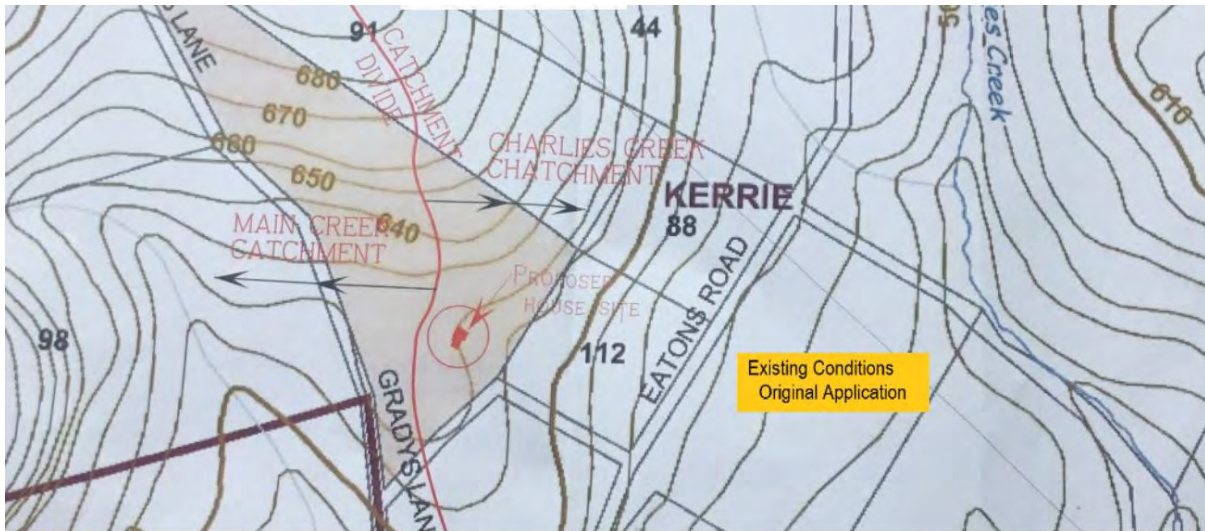
[REDACTED] the amended permit remains silent regarding our loud allegations on this matter.

Earlier in July this year Macedon Ranges Shire Council backed the [REDACTED] at VCAT against the Department of Treasury and Finances when it was discovered that their bid for a permit to build on agricultural land was clearly sought to raise the value of the land for sale. The subject land at [REDACTED] was a mere 4048sqm, way less than the 40ha zone requirement thereby granting a permit would be in contradiction to the states own policy to prevent fragmentation and loss of agricultural land solely for the introduction of rural living especially without evidence of a legitimate agricultural pursuit, three circumstance also ringing true for the proposed **development at Grady's Lane** Kerrie which the applicant does not dispute nor address. Important to note, it was this same set of mitigating circumstance which prompted VCAT senior member [REDACTED] to deny the permit.

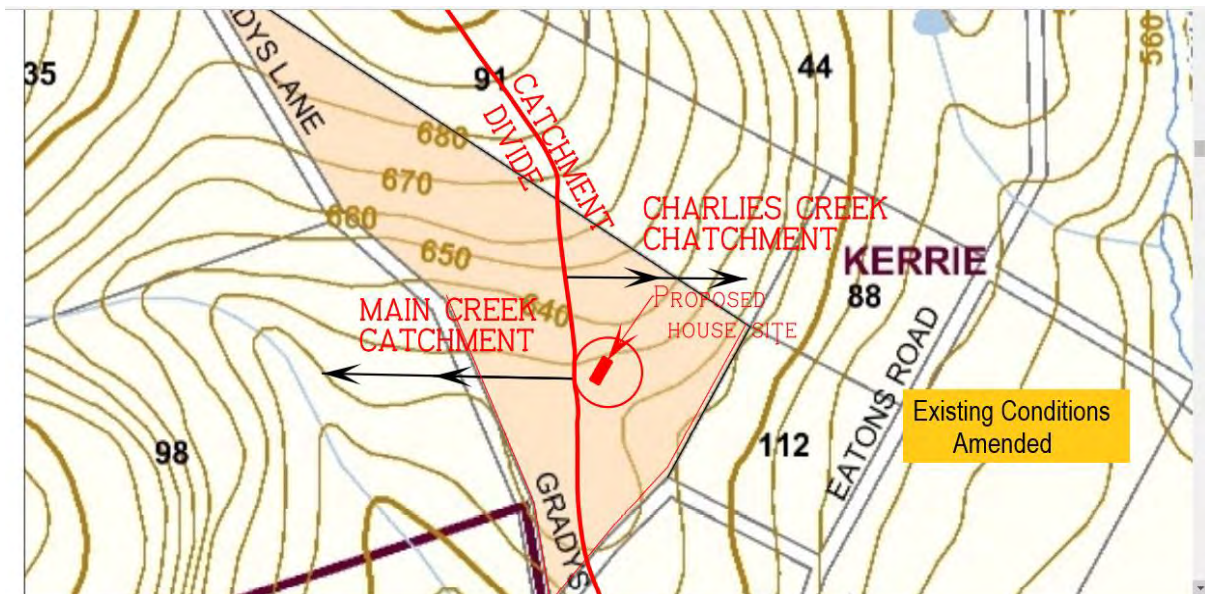
Willingness of applicant to submit false and misleading information using decommissioned maps with arbitrary hand drawn catchment line VPP VC148 14.02-2S Water Quality, instructs use of DELWP MAPS

An example of this, previously raised, is the use of decommissioned Land Channel maps throughout the original and amended permits, as evidenced below, which depict a hand drawn catchment boundary line evidently shaped, situated and re-situated at the whim of **the applicant's consultant** [REDACTED].

Evidence of false and misleading information - Catchment Boundary Divide (below)



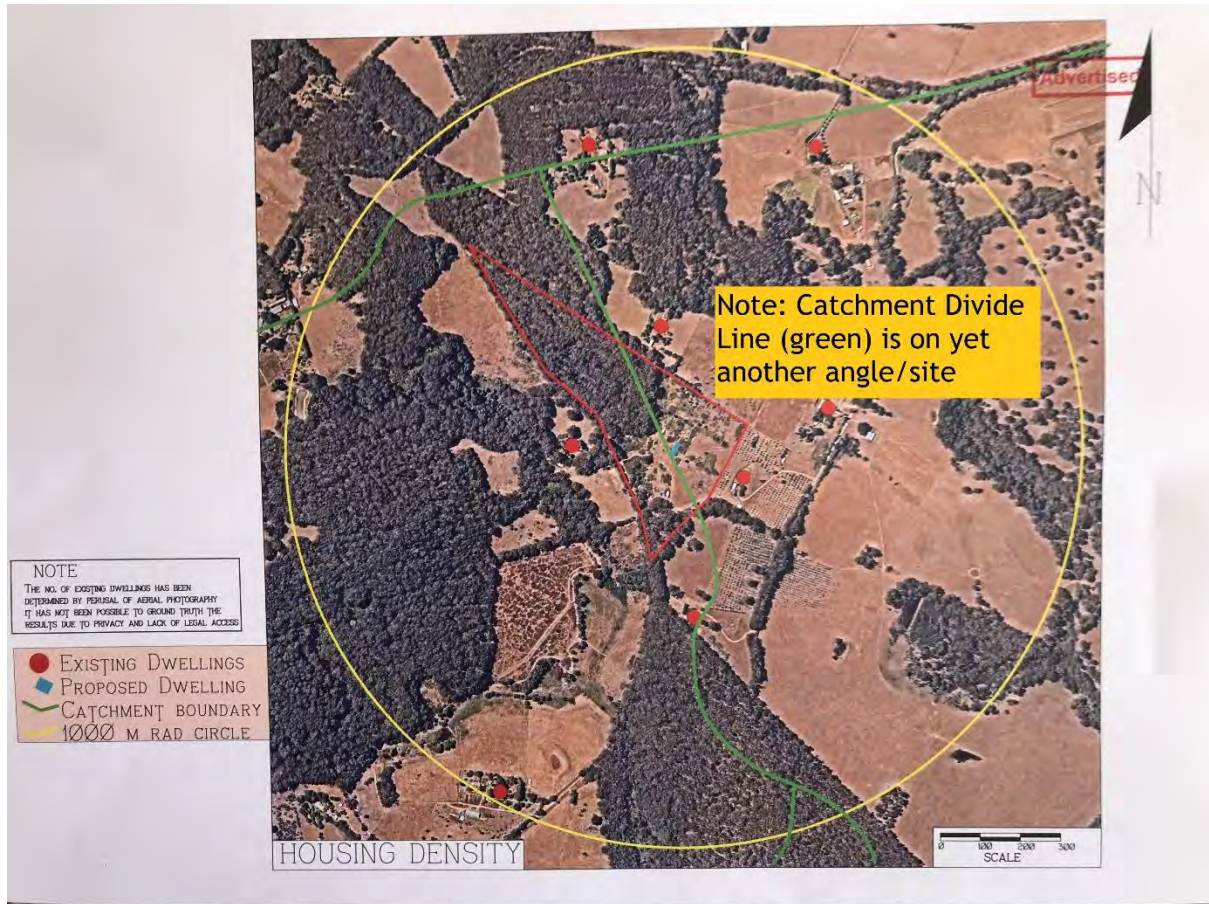
Note: fluidity of the hand drawn red catchment divide in shape and location, not from DELWP



Current DELWP Map taken from spatial mapping tool vvg.org.au (below) show subject parcel and catchment boundary line in blue. Divide shows bulk of the block is within catchment to left, Main Creek, in use for drinking water the remaining small triangular corner of land is situated in Charlies Creek *also* in use for irrigation *both* are Declared Water Supply Catchments, govt gazetted since the 60's.



Important to note, no 'source' is ever provided by [REDACTED] but this time (below) the catchment divide is a green line on a much steeper angle than those above

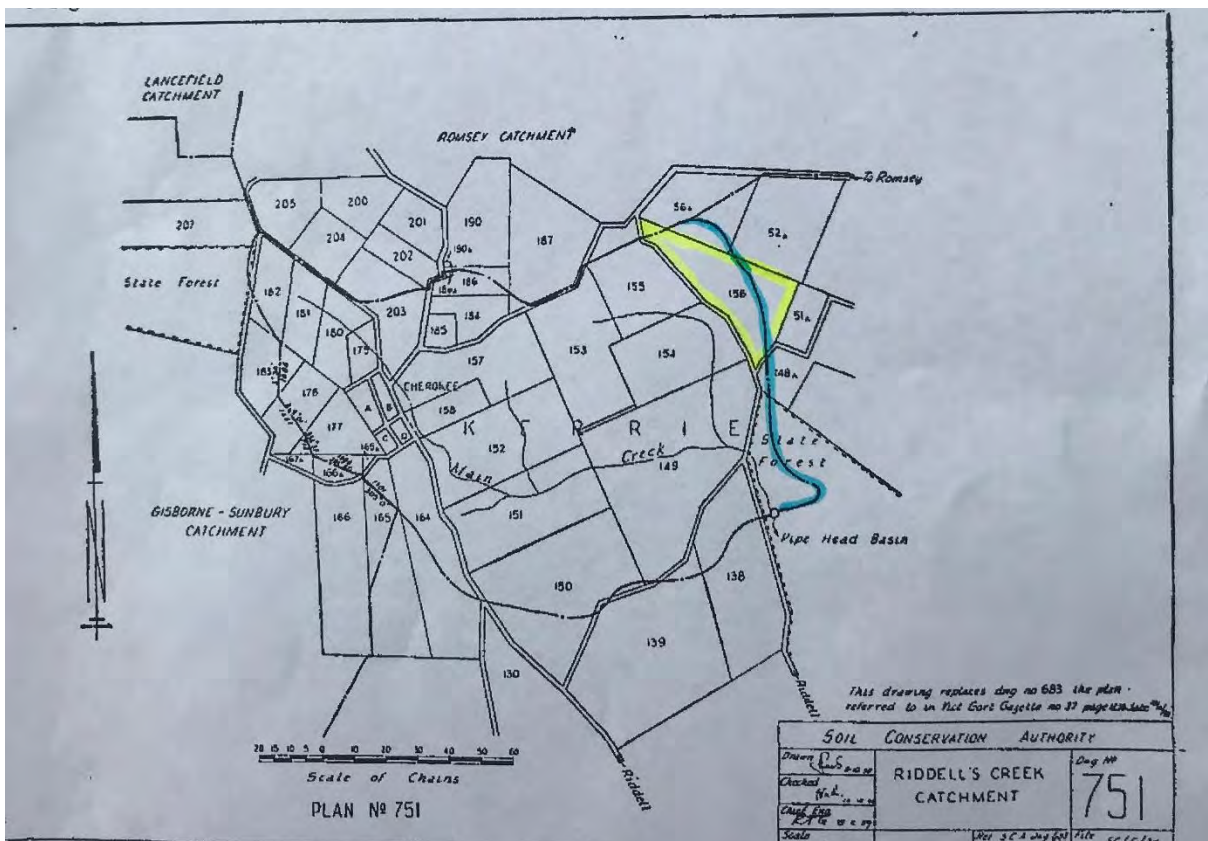
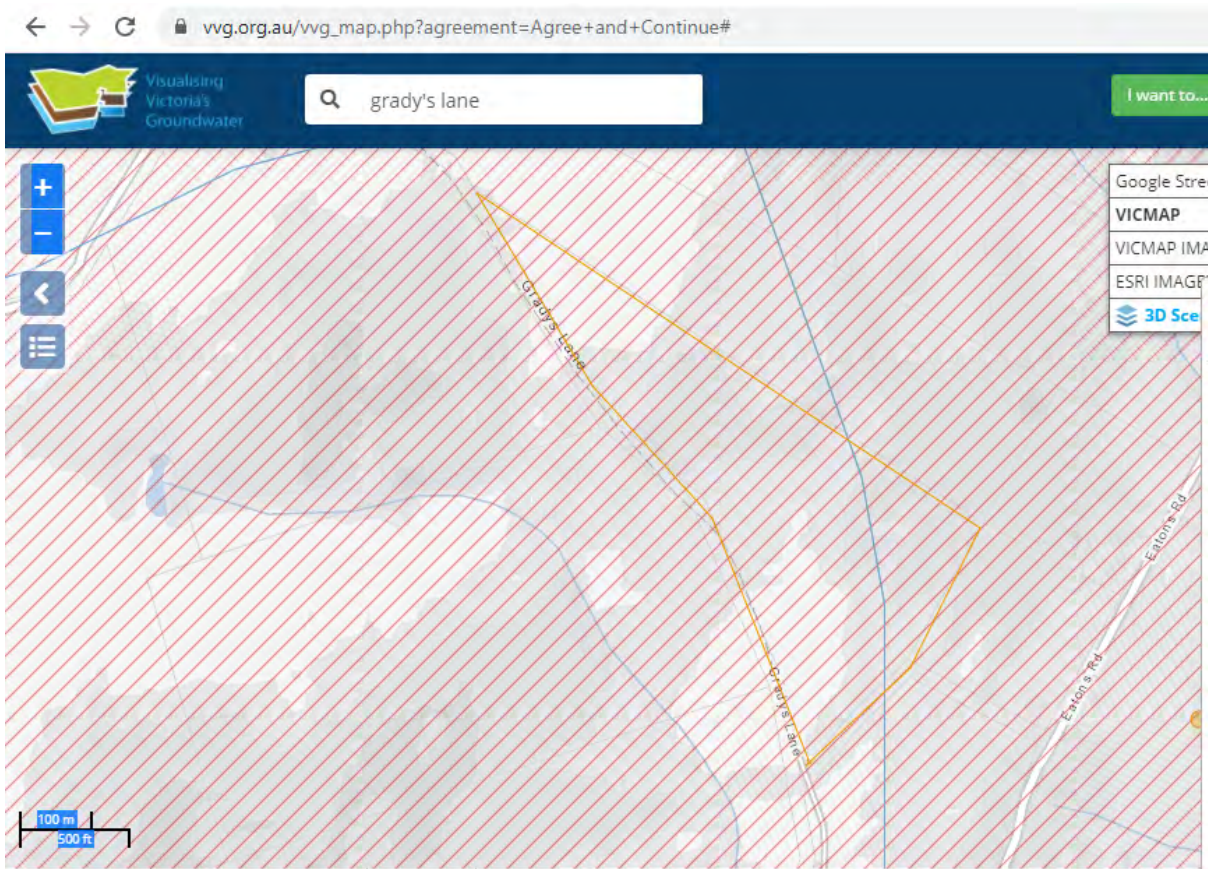


Note: Amended Existing Conditions show dwelling ABOVE mowed track to blackberries





DELWP data is based on survey Plan 751(below) in Vic Govt Gazette #4,13Jan1960 the original of which is held in DELWP archived from former Soil Conservation Authority





Ministerial Order of divide between Gisborne-Sunbury & Riddell's Creek Water Supply Catchment - Supplied by VVG Portal and Associated Data Researcher [REDACTED], Fed Uni who can attest the original survey data has been meticulously translated from chains/miles,yards and inches scale into metres and centimetres scale then faithfully transcribed into DELWP spatial mapping tool

No. 4.—January 13, 1960

Victoria Gazette 105

**Soil Conservation and Land Utilization Act 1958 (No. 372)** do by this Proclamation define the water supply catchment area to be known as The Riddell's Creek Water Supply Catchment as follows:—

Commencing at the pipe head basin in Main Creek in the Parish of Kerrie in the State Forest Reserve east of Crown allotment 138; thence along the line of watershed in a south-westerly direction through and including parts of the State Forest, Crown allotments 138, 139, 149, 150 and 139 again; thence in a westerly and north-westerly direction through and including parts of Crown allotments 150, 164, to a point on the eastern boundary of Crown allotment 165; thence along the line of watershed between the Gisborne-Sunbury and Riddell's Creek catchments by a line bearing 305 deg. 0 min. for a distance of 1,301 links to the north-west corner of Crown allotment 165; thence across the road forming the northern boundary of Crown allotment 165 to the south-eastern corner of Crown allotment 166A; thence by a line bearing 291 deg. 40 min. for a distance of 1,696 links to the north-west corner of Crown allotment 166A; thence by a line bearing 334 deg. 37 min. for a distance of 714 links through Crown allotment 177 to the north-west boundary of that allotment; thence by a line bearing 325 deg. 1 min. for a distance of 1,441 links through Crown allotment 178 to the north-west boundary of that allotment; thence by a line bearing 3 deg. 34 min. for a distance of 1,686 links through Crown allotment 183 to the most southerly angle of Crown allotment 182; thence north-westerly across Crown allotment 182 and into a State Forest Reserve; thence northerly through the Forest Reserve and road reserve to the northern corner of Crown allotment 182; thence south-easterly along the road between Crown allotments 205, 204, 203 and Crown allotments 182, 181, 180 to a point approximately 10 chains from the western corner of Crown allotment 203; thence north-easterly across Crown allotment 203 and along the road to the east of Crown allotment 202 through Crown allotments 186A and 186; thence south-easterly across the southern part of Crown allotment 187; thence north-easterly along the road to the north of Crown allotment 153, to its most northerly angle; thence north-easterly across Crown allotments 155, 156 and into Crown allotment 56A to a point where the line of watershed to Main Creek in the Riddell's Creek Catchment leaves the line of watershed to Bolinda Creek; thence in an easterly and south-easterly direction through Crown allotments 56A, 52A, 156, 148A and the State Forest; thence westerly in the State Forest to the commencing point on Main Creek.

The area described is more particularly defined on Plan No. 751 hereunder, the original of which is lodged at the Head Office of the Soil Conservation Authority, 378 Cotham-road, Kew.

PLAN No 751

SOIL CONSERVATION AUTHORITY		
Drawn <i>W.S.</i>	RIDDELL'S CREEK CATCHMENT	Dwg No <b>751</b>
Checked <i>H.L.</i>		
Comp. <i>J.P.</i>		
Scale 20 chains to 1 inch	Per S.C.A. and for Parish plan	File SC/C/22

Given under my Hand and the Seal of the State of Victoria aforesaid, at Melbourne, this twelfth day of January, in the year of our Lord One thousand nine hundred and sixty, and in the

(L.S.)  
By His Excellency's Command,  
**HENRY E. BOLTE.**

E. F. HERRING.



Important to note, *not one* of the Amended Permit plans or aerial photos show the blue DELWP catchment boundary line plus why is dwelling site 10-15m further East in Appendix 9?

NOTE: I have added yellow labels to assist locating site of proposed works on DELWP vvg map (overleaf p.7)

Fig.1 Permit Appendix.1-Proposed Dwelling Aerial Photo-Dwelling site in red is above mowed track

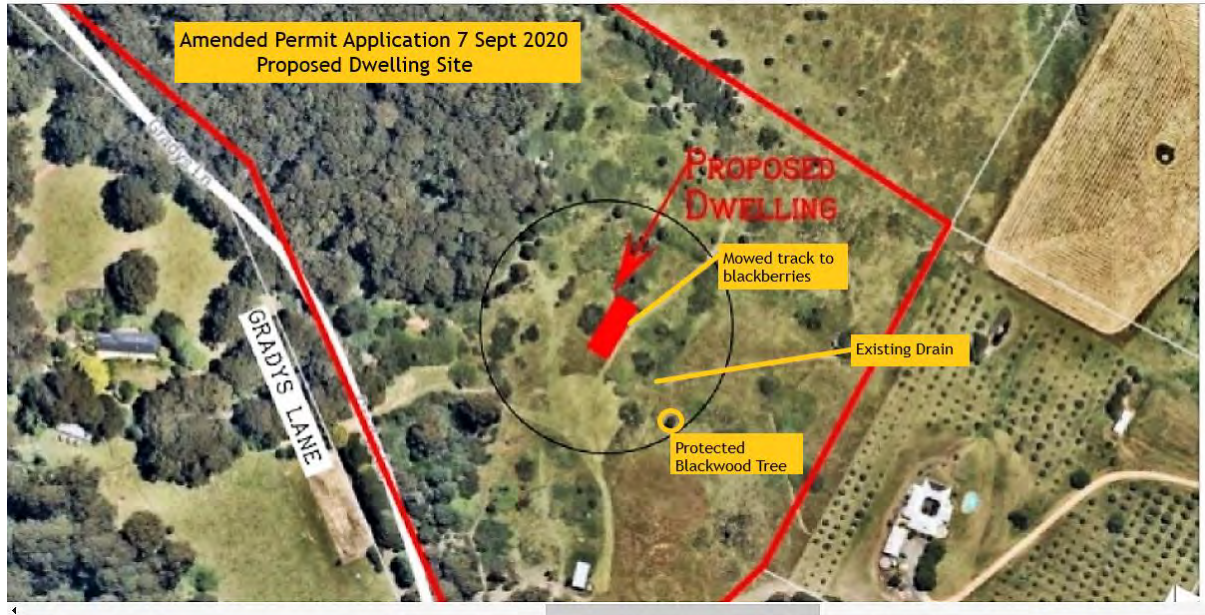


Fig.2 Permit Appendix 9-Driveway Layout Note: Dwelling now 10-15m further East?

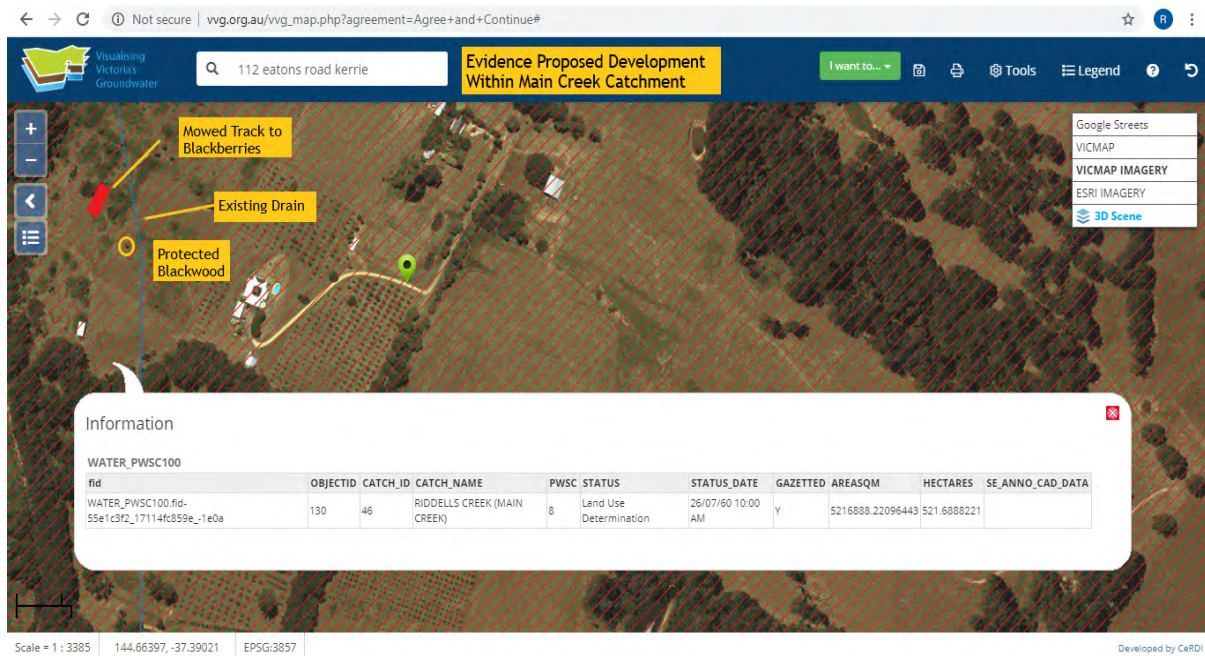


Fig 3 Air photo map showing location of building envelope (BE) and waste water envelope (WWE) with general lot features and location of proposed dwelling.



Placing the proposed dwelling (red box) in exact site as per Permits Appendix 1, demonstrates *if* Mr. Banon had used DELWP vvg.org.au spatial mapping tool switching on Base Map mode enabling Catchment Boundary data (blue line) the dwelling and septic are wholly in Main Creek

Fig.3 Evidence development is wholly in Main Creek, left of blue DELWP Catchment Divide



Important to note, the permit does not make any reference to the original 1960 survey plan (No. 751) which maps the catchment divide nor does the permit dispute its accuracy as depicted on current DELWP Visualising Victoria's Groundwater portal. The applicant instead, quietly chooses to keep reinventing their own catchment divide. This clearly demonstrates that the permits omission **of DELWP maps is intentional, in order to mislead council, thereby tainting the entire permit's** information as suspect as well the applicants sworn declaration of truth re: the permit's supporting documentation.

Victorian Planning Policy VC148 14.02-2S Water Quality, instructs planners to make use of mapped information available from DELWP

In order to satisfy Victorian Planning Policy VC148 14.02-2S Water Quality, which instructs planners to make use of mapped information available from DELWP with the objective to have regard to potential impacts on water resources from proposed land use and development; DELWP points to MapShare and VVG portals (**only Visualising Victoria's Groundwater depicts Catchment Divide**)

In the quest for clarity and transparency, we ask that MRSC require the applicant to provide vvg.org.au aerial map(s) of clearly legible scale which depict both the official Victorian Government DELWP Catchment Divide in blue and the locations of the following proposed sites:

- Building Envelope (including extent of excavation site, not just dwelling)
- Waste Water Envelope (including secondary above ground dripper system)
- Driveway (including 16m x 4m Emergency Vehicle Turning Space)
- 10,000L Emergency Bushfire Water Tank
- Domestic Water tanks ??? Conspicuously absent so far
- 69m radius of Defendable Space

Please include: Distance Measurements to Existing Drains and East & West boundaries  
With all maps clearly depicting DELWP Source and Scale

Permit (p36) claims Charlies Creek is Not an Open Potable Water Supply Catchment  
 It appears [redacted] intentionally undermines the importance of Charlies Creek to council by his failure to apply any substance to the footnote which is included on page 1 of the *Guidelines: Planning Permit Applications in Open, Potable Water Supply Catchment Areas*. [The Guidelines], whose heading and footnote reads as follows:

What Is an **open potable water supply catchment**?

**Footnote 1:**

The catchment and/or reservoir or water storage **may also be used for irrigation purposes.**

Evidence the Guidelines apply equally to both catchments constraining subject land  
 Irrigation

Currently there are three Charlies Creek Crown Water Frontage Licenses issued to local Kerrie landowners in the immediate vicinity of the permit subject land in use for irrigation purposes:

'Kerrie Valley' located at [redacted]


'Spendthrift' located at [redacted]

Both of the aforementioned properties holding Charlies Creek water frontage usage rights are located within a 1km and 2km distance to the proposed dwelling and septic tank, respectively.

[redacted] will swear an affidavit that it was common practice for water to be pumped directly from Bolinda Creek into domestic water supply tanks for use in the office and in the onsite staff quarters as well as around the park for irrigation.

Further, the reference in the form of the footnote, being located within the body of the terms defining 'open potable water supply catchments' within the Guidelines, by its mere existence and placement **appears to intentionally 'bring in or add'** catchments used for irrigation purposes to the definition of open potable water supply catchments in order to communicate their equal importance to planners and water referral authorities thereby ensuring the Guidelines are indeed applied to all declared special water supply catchments in use for either irrigation or domestic water supply which is in further evidence in the documents title.

The Guidelines title contains **the word 'Open Potable Water Supply Catchment' AREAS**  
 The statement on page 1 "**These guidelines apply to all** open potable water supply catchments [plural] declared to be special water supply catchment **areas**" **under** the Catchment and Land Protection Act 1994, Schedule 5 which makes clear the overarching protection provisions in the guidelines are not directed at individual catchments for planners and water authorities to include or exclude at will but rather at the whole of the catchment area. In the case of the subject land that area is named Sunbury encompassing Bolinda, Cherlies [sic] & Main Creek:

 <b>Port Phillip Catchment Management Region</b>						
River Basin	PWSC No.	Catchment Name	Status <sup>1</sup>	Area(ha)	Date	Gazetted
Maribyrnong	17	Sunbury (Bolinda, Cherlies & Main Creek Creek)	D*	1,812.0	10/6/64	Y

**<sup>1</sup>Status:**

D ~ Declared Special Water Supply Catchment Areas

D\* - Declared Special Water Supply Catchments (formerly with Land Use Determinations or Notice)

Important to note, that the Victorian Water Authority *Guidance Note for Determining Dwelling Density when Assessing Planning Permit Applications, Dec 2012* [the Guidance Note] developed by the Vic Water **Open Potable Water Supply Catchment Management Working Group** in December 2012 to ensure consistent interpretation of the default density requirements in the Guidelines for Planning Permit Applications in Open Potable Water Supply Catchment Areas by water corporations, planning and referral authorities and other interested stakeholders it provides for:

Definitions on page 4 (below)

Definitions and abbreviations Within this document, the following terms have the meanings given:

Term	Meaning
Special Water Supply Catchment Areas	Specified under Schedule 5 - Special Water Supply Catchment Areas of the Catchment and Land Protection Act 1994

MRSC and Western Water take special note  
 All of the above presents solid legal argument that the wording in the Guidance Note and the Guidelines mandate their application to ALL declared Catchments in use for drinking water and/or irrigation making Charlies Creek no less important

Permit claims the Guidelines have no relevance or weight [Pages 36-39]

Further, [REDACTED] insists that Guidelines are not mandatory, binding or a requirement of law.

The following is evidence that refutes the permits ludicrous claim:

Pulis v Macedon Ranges SC [2012] VCAT 1457 (26 September 2012)

**Catchment Guidelines are not mere 'informal policy'. Nor is it a general or abstract guideline. The purposes of this guideline are clear and by way of 60(1A)(g) of the Planning and Environment Act 1987 it has the force of a policy adopted by the Minister for Planning.**

Rozen v Macedon Ranges VSC (includes Summary) (Red Dot) [2009] VCAT 2746

Any risk to human health must be regarded as serious. We consider this is implicit in the terms of the Safe Drinking Water Act 2003 and the Australian Drinking Water Guidelines. Therefore, when considering development in open potable water supply catchment areas, risk to human health is highly relevant and, because of its serious nature, must be given priority over other planning objectives. This priority is recognised in the planning policy context of the planning scheme.

**...Thus I find that the combination** of the zoning, strategic planning policy and the state and local planning policies weigh against allowing a land use on the site that presents a risk to water quality. The Catchment Guideline provides added emphasis to the need to be more vigilant to the cumulative risk to potable water quality, however incrementally small that risk may be, in accord with the precautionary principles, as set out under this guideline.

Western Water maintained its objection to the Rozen proposal on grounds which included that:

- Onsite wastewater treatment plants pose a risk to water quality.
- The greater the density of dwellings (and associated onsite wastewater treatment plants) the greater risk to drinking water quality.
- The proposal was inconsistent with the Guidelines.

- The dwelling density proposed was not consistent with development expectations of 1 dwelling per 40 hectares embodied in relevant planning policy, in particular the objectives of the Rural Conservation Zone and the Guidelines.
- The proposal did not accord with the precautionary principle.
- The proposal was contrary to the policies and procedures of the Planning Scheme, which specifically provides for the protection of proclaimed catchments.

MRSC Ordinary Council Meeting 27.02.2019

These decisions demonstrate that the current policies within the Macedon Ranges contain clear support for water quality protection. The importance of ensuring the cumulative impact of development proposals does not compromise the quality of potable water is contained in Clause 21.07 and ESOs which seeks to reinforce the importance of limiting development which poses a risk to catchments.

### Catchment Boundary determined and/or varied by Ministerial Order ONLY

CATCHMENT AND LAND PROTECTION ACT 1994 - SECT 10

Areas and boundaries of catchment and land protection regions

- (1) The Governor in [Council](#), on the recommendation of the Minister, ~~may by Order—~~
- (a) ~~determine the areas~~ of Victoria which are [catchment](#) and [land protection regions](#) and define their boundaries; or
  - (b) ~~vary the boundaries~~ of an existing [region](#); or
  - (c) abolish a [region](#).
- (2) The Minister must cause a copy of an Order under subsection (1) to ~~be published in the Government Gazette~~ and in a newspaper circulating generally within the relevant [region](#) as soon as possible after making the Order.

**Both Main Creek and Charlie's Creek have not been abandoned or decommissioned by the** government and remain gazetted thereby legally binding Western Water to continue to fulfil their responsibilities, set out below, to the fullest letter of the law until such time as the Catchments are no longer Declared/gazetted. There remains a significant obligation on PPWP CMA and thereby Western Water as the RPE as per section 12AA of CALP (also below);

CATCHMENT AND LAND PROTECTION ACT 1994 - SECT 12AA

Obligations of Catchment Management Authorities in relation to declared areas

- (1) A [Catchment Management Authority](#), when performing a function or duty or exercising a power under this Act in relation to a ~~declared area—~~
- (a) ~~must not act inconsistently~~ with any part of a Statement of Planning Policy that is expressed to be binding on the [Catchment Management Authority](#); and
  - (b) must have regard to those parts of the Statement of Planning Policy not expressed to be binding on the [Catchment Management Authority](#); and







Proposed Dwelling

$$= 7 \quad 146 \div 6 = 1:21$$

MAIN CREEK CATCHMENT (below)



Main Creek 146ha

Dwelling Density Calculation

[REDACTED]

[REDACTED]

$$= 4 \quad 146 \div 4 = 1:36$$

[REDACTED]

$$= 5 \quad 146 \div 5 = 1:29$$

Proposed Dwelling

$$= 6 \quad 146 \div 6 = 1:24$$

Proposal Claims to Add to Health of Water Catchment

If as per the *MRSC Domestic Wastewater Management Plan 2019 - Risk Assessment Framework*, a Housing Density of 8 equates to High Risk to water quality then regard must surely be given to the possible impact which **13 Septic Tanks** [when consideration is also given to the Kerrie School at 109 Cherokee Road within the 1km radius used weekly for yoga, art classes, music practice and book club and with ancient septic tank] could have on both catchments no matter which way the gradient of the land drains. Charlies Creek and the rare plant and animal species which depend on it for survival, especially in the Mount Charlie Flora Reserve whose close proximity is threatened by any further residential development in either of these two catchments.

We ask that MRSC require the Applicant to please provide a report specifically detailing how the proposed development and associated works and water capture and storage for domestic purposes will improve catchment water quality and yield?

Precautionary Principle must be applied

It is Victorian Planning Policy [VPP] set out in *Technical Guidelines for Waterway Management (Department of Sustainability and Environment, 2007) at Clause 14.02-1S (Catchment Planning and Management)* that planning authorities must consider as relevant the Guidelines.

Further, it should be noted that *State Environment Protection Policy, Waters Of Victoria (SEPPvic)* adopts the Precautionary Principle as the principle that should guide decisions about protection and **management of Victoria's surface** and ground waters when considering a permit for a septic tank.

VCAT has ruled that any built structure placed in the natural environment will be visible as not naturally belonging to that environment no matter what shade of charcoal grey you may choose for the roof and walls. This is evident in [REDACTED]

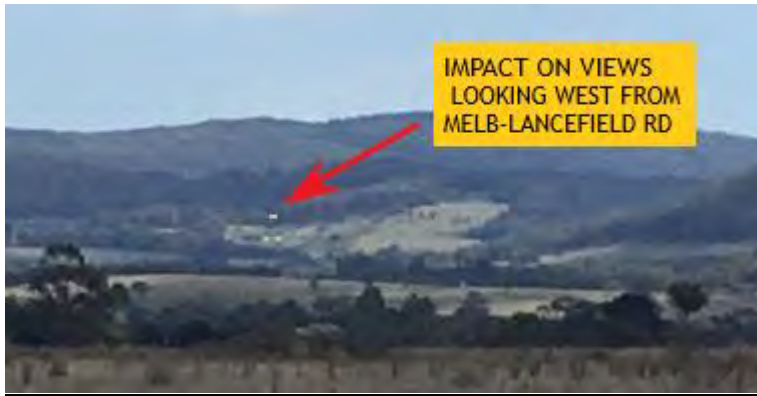
[REDACTED] as [REDACTED]

[REDACTED] The following photos simulate how the proposed dwelling will be viewed by those travelers entering the ranges from the East and how closely it sits in relation [REDACTED]

Impact on Views in elevated areas protected under Macedon Ranges Statement of Planning



Macedon Ranges Statement of Planning Policy embedded in State Legislation objective is to limit development in elevated areas of declared significant landscapes



Evidence Continuance of Dangerous Precedent Set in Kerrie 2019 continues in 2020

This is not the first time [REDACTED] to attain prior approval for a development in a gazetted catchment.

He sought approval for a permit comparable on its merits to this current proposal on behalf of the land owner of [REDACTED] which slipped through unnoticed by the community and was granted. Having said that, the community was shocked that a development was permitted on the dying and irresponsibly abused and neglected Bolinda Creek. The platypus are all long dead.

This dangerous precedent was cemented in December 2019 when the poorly situated 6 hectare parcel at [REDACTED] well over its worth, setting an inflated benchmark for future sales of fragmented parcels of agricultural land within the Macedon Ranges, while at the same time inhibiting the opportunity for their consolidation.

[REDACTED] success was all the encouragement land owners of similar parcels needed to decide to cash in and follow suit.

This latest [REDACTED] permit application for an extremely long, urban-style dwelling with no associated agricultural productivity only a few kilometers up the road from where precedent was set is sad testament that Pandoras Box has been opened through the relevant Responsible Public Entities failure to apply due consideration to all State Government and their own regulatory framework.

I note that the [REDACTED]

[REDACTED]  
(Lower) Catchments used for irrigation. It appears the stunning Kerrie valley is to carved up by fragmented residential developments and not protected at all by MRSC!

Loss of Amenity, Financial Loss

**Our family's personal** loss of amenity seems to pale in comparison to what allowing this development will mean in regards to future loss of amenity for the entire shire. However, it is real and has placed great duress upon ourselves. Due the design, length and size of the building including the significant size of the West North and East facing decks proposed and the orientation and placement [REDACTED] aspect of our private outdoor spaces. The value of this privacy and therefore the value of our property itself will be greatly devalued by its design and proximity.

Out of Character

It is quite unusual to be able to claim that each of the 11 existing homes, in our shut-off little corner tucked away within the broader Kerrie community, do not overlook the other. We are all good mates, as is necessary in times of fire, drought and storms etc., when you live in the bush especially with livestock, but greatly respect each-others privacy. We are [REDACTED]



[REDACTED]. If we sit on the very edge of our lawn, we can just see the back of their [REDACTED]

I shall submit Objection No 4 Re: BMP Report inconsistencies ASAP

Your Sincerely,

[REDACTED]  
[REDACTED]

To MRSC Planning, Mayor, Deputy Mayor, Councillors,  
Via email

10 OCT 2020

Dear Jackie, Janet, Jennifer et al,

RE: Objection PLN/2020/52 Amended

### Defendable Space does not meet the Vegetation Management Requirements

Once again, I have need to demonstrate the hijinks of the applicant and her consultants. This time in relation to the Bushfire Management Overlay Assessment [BMO], hijinks that could prove fatal to the unfortunate persons left to defend themselves against a forest fire within a Defendable Space that does not meet the Vegetation Management requirement set out in VPP 53.02 Table 6 and as per the last page of the permits own Bushfire Management Plan[BMP], specifically:

- Individual and clumps of shrubs should not exceed 5 square metres in area and must be separated by at least 5 metres
- The canopy of trees must be separated by at least 5 metres
- There must be a clearance of at least 2 metres between the lowest tree branches and the ground

### BMO Report false and misleading, BMP lacking detail

Important to note, the BMO report omits inclusion of any aerial photo or scaled drawing detailing the defendable space measurements but instead provides two very basic vague little diagrams on page one of the BMP, *not drawn to scale*, which show an arrow pointing *slightly off true West to ever so slightly NW* extending outwards from first the NW corner of the dwelling and then the NE(?) corner towards the *only hazard* annotated on the diagram:

DRIPLINE OF CLOSEST FOREST TYPE VEGETATION AS SURVEYED

██████ tells an outright lie on the first page of his report to intentionally draw our focus away from the 8 hectares of forest to the north-west by falsely claiming that the nearest hazard other than grassland is a small patch of remnant forest 69 metres to the west which he reassures us he only includes to be conservative as it links with true forest further west.

In truth when you stand at the SW corner survey peg the **'small patch'** he points to is the old remnant in the track from the gate which has a smaller young gum and young blackwood to the left and ≈60 metres past them further west **across Grady's lane** is a large cypress wind-break then the neighbours open paddocks and 120m long driveway with a scattering of European trees and gums, the link from the **'small patch'** on the subject land to any true forest appears tenuous.

Conversely, ██████ works very hard to down-play any fire hazard from the main direction of fire weather, again the north west. Page one seems to intentionally omit any mention of the fact that the whopping 8 hectares/20 acres of true remnant forest is also 69m, but to the high-risk NW of the proposed dwelling. Instead ██████ writes vaguely that **it 'extends for some distance'** and is **'outside the Defendable Space'** which is a bit of floss to fill the sentence and totally inane as all four hazards listed in the report lie outside of the defendable space which is exactly the point of the defendable space.

The 8 hectares of forest to the north west is never referred to again in the report except to list it on the Bushfire Hazard Site Assessment tucked away on page 22 as: ≈NW, Forest, Upslope, 69m.

The only other hazard ██████ mentions on page one is **'a similar storey applies'** which he down-plays once again by not even referring to it as forest but as **'a small patch of canopy'** **'relatively benign'** **'107m to the south'**. This too is false, as the permits own LMP consultant holding a Master of Environmental Science classified this **'small patch of canopy'** as actually being 1.34 hectares or

3.3 acres of Herb Rich Foothills Forest [EVC 23] with a canopy density of <50-150%, downslope and contiguous with other areas of vegetation which make up a very large core of vegetation.

Interesting to note, even though the land rises from 610m above sea level to 710m [redacted] civil engineer, contradicts the LMP expert and instead classifies the **'small patch of canopy'** to the SW as EVC 16 - Lowland Forest which the BMO Page 14 Site Maps list as having a canopy of just 30%. Once again evidence the authors intent, allegedly, is to minimise both hazards in the high-risk direction of main fire weather, the NW and SW.

#### Applying Defendable Space Distances to Site\*

The Australian Institute of Building Surveyors link below

[https://aibs.com.au/Public/Training\\_Resources/NCC2019ChangesAS3959BushfireVerificationMethod.aspx](https://aibs.com.au/Public/Training_Resources/NCC2019ChangesAS3959BushfireVerificationMethod.aspx) provides verification methods for determining Defendable Space and instructs that the specific measurement is taken on the horizontal plane from:

- Point A. The façade of the asset facing the hazard to
- Point B. The hazard (edge)

Each separate hazard facing towards the house from the four separate quadrants of the compass then has a defendable space distance calculated using Table 2 of the standard

These distances are then applied from each façade or exterior wall of the entire structure. Important to note, this means that if the space required is determined to be 69m from the north South East and West, as does the BMP page 2, it will not equate to a 69m radius with a diameter of 138m due to factoring in the:

- Length of house - 30m North/South
- Width of house - 11m East/West

The BMP page 2 **states rather vaguely that the Defendable Space is 69m 'around' the house?**

Note; Appendix 1 to this document provides for an example of BMP Defendable Space Diagram

#### BMO Report fails to consider **'view factor' from fire front run from NW 8ha old forest**

The BMO report page 18 informs us that the main fire weather comes from the North West followed by the South West which is indeed correct from both historical evidence and lived experience.

Therefore, due the subject land being a 15.4 hectare parcel covered by approximately 2 hectares of forest to the South West and 8 hectares of forest to the North West being just 69m upslope from the proposed dwelling, it is likely that the forest to the NW potentially presents the biggest and closest fire risk even though fires travel faster upslope the **'view factor'**, essentially a model which **estimates how much of the fire is 'seen' by the structure** thus influencing radiant heat, significantly increases when a fire proceeds down slope (Physics-based simulation of heat load on structures for improving construction standards in Bushfire Prone Areas- Khan et al June 2019, Ref Fig.1 below).

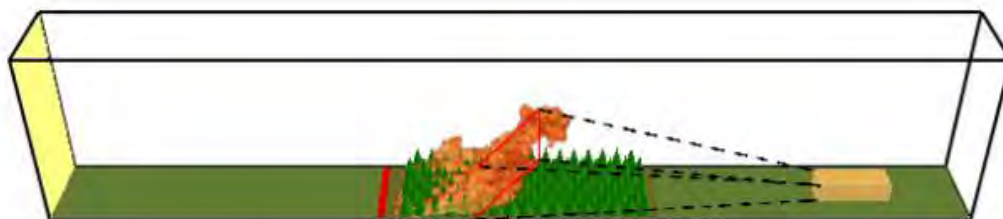


Figure 1: Rendering of the domain, with the fire at 34 s from ignition. The structure is shown as a brown rectangular prism. The trees are rendered as green cones. The flame is visualised through isosurfaces of heat release rate per unit volume (>100 kW/m<sup>3</sup>). A sketch illustrating the view factor model is imposed on the drawing. The red line indicates a modelled rectangular flame and the black dashed lines indicate how much of the radiation from the flame arrives at the receiving surface on the structure.



AS3959 assumes linear 100m fire front yet forest to the NW is <260m

AS 3959 assumes (among other idealisations) a straight-line fire of 100m width with a constant flame temperature of 1090 K, and seeks to maximize the view factor by varying the flame angle. In reality, flame temperatures can exceed 1200 K (Worden et al. 1997) and the flame angle is determined by the interaction of the buoyant fire plume and the driving background wind hence affecting the view factor [Simulations of radiation heat flux on a structure from a fire in an idealised shrubland Moinuddin & Sutherland, December 2019]

AS 3959 lacks consideration of flame geometry, modelling on ember attack intensity

**AS3959 Method 1, used in the permit BMP, provides a basic 5 step approach to determining the Bushfire Attack Level in order to then select the corresponding construction standard which uses none of the physics algorithms or current science-based modelling. C3595 Method 2 is based on antiquated empirical modelling to simulate a 'design fire'. AS 3959 itself lacks any consideration of flame geometry as well it omits any modelling on ember attack risk and/or intensity for given fire conditions.**

AS 3959 uses outdated Fire Danger Index of 100

The Fire Danger Index [FDI] is a scaled version of the quasi-steady rate of fire spread on flat ground expected under the weather and fuel conditions. The McArthur FDI has a reference value set to 100 for the 1939 *Black Friday* bushfire (McArthur, 1967). There are many instances where this reference value was breached, for example, the *Black Saturday* bushfire of 2009, where FDI value for forest was more than 172 and 241 for grass lands (Tollhurst, 2009). Empirically-based operational fire models struggle to account for extreme and dynamic bushfire behaviour and existing operational fire models show significant difference in predicting the bushfire propagation (Cruz and Alexander, 2013).

Permit BMO Report consultants un-registered

**The seemingly cherry-picked consultants with a head office in Toorak Road advertise no boots on the ground CFA experience on their website or degree in Environmental Science or Post Graduate degree in Bushfire Protection. Nor do they hold current Bushfire Planning and Design [BPAD] or Fire Protection Association [FPA] registration, which can't simply be bought you are required to be suitably accredited. We note that there are eight BPAD accredited consultants throughout Victoria, one as close as Daylesford within our own fire district.**

We would request that MRSC require BAL Assessments to explain why the BMO Report fails to address the elephant in the room and articulates nothing of the risk that the 8ha of old forest 69m in the path of the main direction of fire weather potentially presents?

**Why does the permits BMO look instead to the West 'a small patch of forest-type vegetation' and to the South West 'a small patch of canopy'?**

We ask that MRSC have the CFA Referral Authority investigate why the BMP understates the fire risk to the south west and totally ignores the risk 69m to the north west from 20 acres of mature trees with heavy fuel loads beneath, both horizontal and vertical, which has remained unmanaged for the last 150 years by discounting the fires runs in these directions as fragmented which historical evidence of the parcel having been burnt and the previous dwelling destroyed in 1983 seems to contradict?

We believe the Black Range to the North should also be considered for potential fire risk due the nearness of the April 2013 fires to the subject land.

BHL2 recommends Ember Protection Buffer Zones of 150m/300m

The Vic Planning/DELWP Bushfire Mapping and Methodology Criteria Fact Sheet, December 2019 in reference to Bushfire Prone Areas where there is very high to extreme bushfire hazard such as **Grady's Lane** Kerrie, classifies forests greater than 4ha in size whether they be joined (contiguous) to larger forests or not, as a Bushfire Hazard Level 2 [BHL2].

BHL2 recommends ember protection buffer zones of 150m from the edge of the vegetation or 300m in forested areas - Mount Charlie State Forest 18.8km in length [322ha] is just 600m to the SW from the proposed dwelling with the Macedon **Regional Park's [2,379ha]** Eastern border less than 10km to the West. The Wombat-Macedon Fire Catchment is over 380,000 ha in total.

BMO Report Bushfire Hazard Landscape Aerial Photo show 1.5km and 6km, no scale

The Technical Guide to Planning Permit Bushfire Management Overlay (Sept 2017) page 12 recommends the Bushfire Hazard Landscape Assessment is best demonstrated by showing two annotated, to scale aerial photos to a distance of 20km and 50-100km from the proposed site.

Why then do the two aerial photos on page 18 of the BMO report show 1.5km and 6km and no scale?

Defendable Space Aerial [Appendix 10] supplied by LMP Consultant not BAL Assessor?

Oddly the Defendable Space Aerial photo is:

Supplied by the Land Management Plan consultant instead of BAL Assessments

Is in Appendix 10

Displays a 69m radius?

Highlights but 3 native trees within the defendable space

By erroneously using a 69m radius [as demonstrated this document page 1\* and Appendix 1] the aerial photo does not show the true number of protected native trees within 69m of the proposed structures 4 facades instead it falls short in North/South directions by 15 metres and East/West by 5.5 metres. Which actually places the European tree in the old stock yards and the old remnant in the proposed driveway within the defendable space as well as a considerable number of large blackwood trees singularly spaced and in clumps.

Vegetation Report [Appendix 10] claims no requirement in BMP to Modify/Clear Trees

The Tree Wishes Vegetation Report in regard to the Defendable Space, Appendix 11 claims:

**....no native vegetation impacts will occur**, para.2

*This area supports some occasional scattered native trees and patches, however there is no requirement within the Bushfire Management Plan to modify or clear these remnants*, para.3

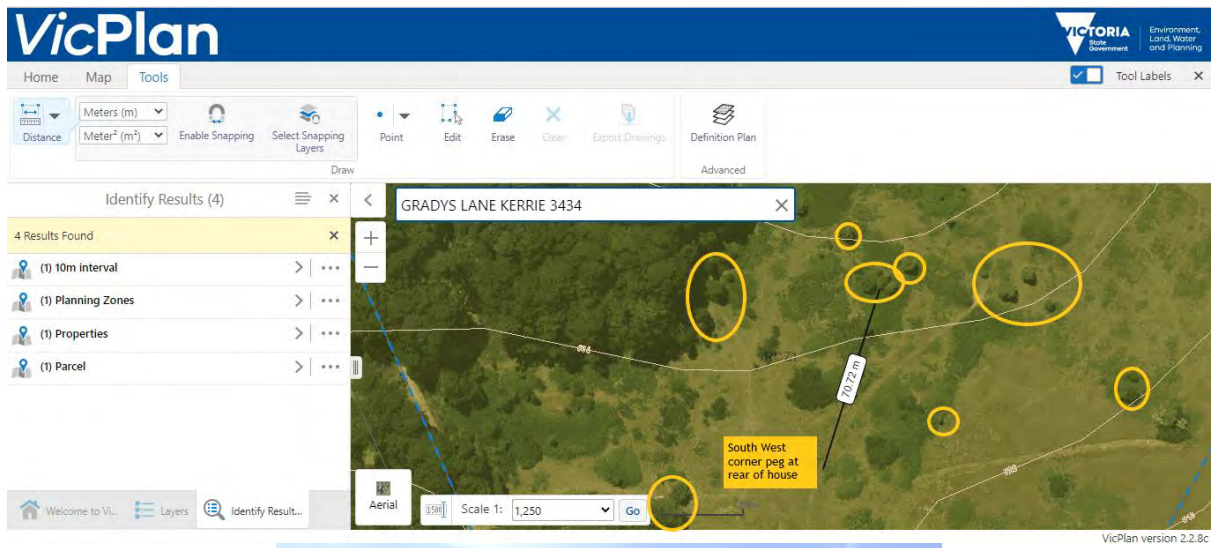
BMP Page 2 contradicts Vegetation Report Appendix 11, Defendable Space is a HAZARD

Defendable space **to a distance of 69m around the proposed dwelling** is provided and is managed in accordance with the following requirements

- Shrubs must not be located under the canopy of trees
- Individual and clumps of shrubs must not exceed 5 sq metres in area and must be separated by at least 5 metres
- The canopy of trees must be separated by at least 5 metres
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level

The following aerial map shows the number of blackwood trees contained within 70m of the rear South West corner survey peg and when subtracting 30m for the length of the proposed dwelling as per the permit house plans the area within view is just 40m of the proposed North façade another 29 further would encompass even more native trees. The defendable space is a hazard.

Aerial Photo demonstrates Defendable Space contains multiple protected trees that are hazards





Just one of the dozen or more native trees that would need to be cleared in order to meet the requirements in AS3959 and VPP 53.02 Table 6 but must not because RCZ1 is not covered by the exemptions



Blackwood is within 25m of the proposed dwellings Eastern façade

[https://www.planning.vic.gov.au/\\_data/assets/pdf\\_file/0028/482176/Fact-Sheet.Vegetation-Exemptions-Bushfire-Protection.pdf](https://www.planning.vic.gov.au/_data/assets/pdf_file/0028/482176/Fact-Sheet.Vegetation-Exemptions-Bushfire-Protection.pdf) 05 August 2020

### **Exemptions for defendable space around dwellings under clause 44.06 Bushfire Management Overlay (BMO)**

#### **What are the exemptions?**

The exemptions facilitate the clearing of vegetation to create defendable space for dwellings considered under the Bushfire Management Overlay.

#### **When do the exemptions apply?**

The exemptions only apply if land is in the BMO and in one of the following zones: General Residential Zone, Residential Growth Zone, Neighbourhood Residential Zone, Urban Growth Zone, Low Density Residential Zone, Township Zone, Rural Living Zone, Farming Zone or Rural Activity Zone

**DOES NOT INCLUDE CONSERVATION ZONES**

Permit BMO Report determines the site as being in Type 3 Landscape Guideline Applying the Bushfire Hazard Landscape Assessment in a Bushfire Management Overlay v3 September 2018 "is most relevant to Type 3 & 4"

The guidelines agree with the latest science that I have quoted that:

Page.1

**AS 3959 models radiant heat from a potential fire front. This is often referred to as the 'design fire'. The accuracy of the design fire in reflecting the level of exposure to bushfire at a site varies. It is dependent on the potential size or scale to which a bushfire can grow before impacting**

*The broader landscape and the potential scale and size of a bushfire are important considerations in the assessment and planning application*

*To consider the suitability and accuracy of the standard design fire of AS3959, judging the size to which a fire can grow and develop before impacting is crucial. This is because the scale of a bushfire and therefore its destructive power is driven by the characteristics of the broader landscape, rather than those assessed immediately around the site*

Page.3

*In landscape types 3 or 4 it is important defensible space provides an adequate safety zone. To appropriately meet the States bushfire planning objectives in the higher risk landscape defensible space should be provided based on the worst case, to all aspects of the building*

**For Bal 12.5 and 19 decks, eaves and fascia should be constructed to comply with BAL29**

Page. 4

**For applications in landscape types 3 and 4 it would be expected that the Bushfire Management Statement clearly articulates and explains the landscape fire behaviour and provides mitigating measures that reduce the bushfire risk to an acceptable level.**

Permit Bushfire Management Statement:

Page. 6

**It is considered that the fire risk from the wider landscape is no greater than assumed by AS 3959 and therefore adequately dealt with by the VPP defensible space tables**

Permit Bushfire Landscape Hazard Assessment

Page. 18

**The main fire risk in this case is from forest fires spotting causing a grassland fire**

**The landscape risk to site is not extreme and is less than large parts of Vic with the required measures in place development is appropriate**

### **Technical Guide | Planning Permit Applications - Bushfire Management Overlay Page 15** Broader Landscape Type Three

- The type and extent of vegetation located more than 150 metres from the site may result in neighbourhood-scale destruction as it interacts with the bushfire hazard on and close to a site.
- Bushfire can approach from more than one aspect.
- The site is located in an area that is not managed in a minimum fuel condition.
- Access to an appropriate place that provides shelter from bushfire is not certain.

SPPF requires the Precautionary approach to decision-making in BMO

The State Planning Policy Framework (SPPF) at Clause 13.02 requires a 'precautionary' or cautious approach to decision making in the BMO. The likely size and scale of a bushfire should directly inform how 'cautiously' the bushfire provisions should be applied.

BOM Report fails to address Intensity of Ember Attack and House Loss Statistics

Excerpt taken from CFA Plan Prepare for How Fire Behaves

The three main ways a bushfire can impact a structure are ember attack, radiant heat and direct flame contact. Each of these elements can impact a structure at different distances beyond vegetation itself. Bushfire mapping takes this variable distance into account. Ember attack is the most common way houses catch fire during a bushfire. Ember attack occurs when small burning twigs, leaves and bark are carried by the wind, landing in and around houses and their gardens. If they land on or near flammable materials, such as leaf litter and dead plant matter, they can develop into spot fires. Embers can also ignite a house if they land on or near vulnerable parts of the building (such as decks). Embers can travel several kilometres ahead of the fire front. However, the most intense ember attack occurs within 150 metres of the fire. Ember attack will have the most significant impact on the extent of the BMO map because radiant heat and direct flame contact impact at a much shorter distance.



Figure 2 – Ember attack on a structure.

Source: <https://www.cfa.vic.gov.au/plan-prepare/how-fire-behaves>

Important to note, the proposed dwelling has a significant deck to the North

Bushfire Management Overlay Information for Landowners Fact Sheet, December 2019

- Areas of contiguous vegetation less than 4ha do not generate a fire intensity that warrants the BMO.
- adding an ember protection buffer of 150m. This distance is based on research on house loss which indicates that 92% of house loss occurs within 150m of the bushfire hazard.

VPP Planning notice NO 64

Directing development to the lowest risk locations is the most effective way to prioritise the protection of human life. This should be the key strategy to enhance resilience to bushfire. Alongside this is the need to avoid future development in extreme risk locations. Due to the devastating impacts of bushfire there are some locations where the bushfire risk cannot be reduced to an acceptable level.

A local planning policy cannot modify a measure in Clause 52.47. Only a schedule to the Bushfire Management Overlay can modify a measure in Clause 52.47, where justified. A local policy can support the exercise of discretion in decision making.



13.02-1S 31/07/2018 VC148 Bushfire planning

Objective To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

Strategies Protection of human life give priority to the protection of human life by:

Prioritising the protection of human life over all other policy considerations

Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire

Areas of biodiversity conservation value

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

Distance Discrepancies throughout entire Amended Permit (Metres)

How do you move the site 29m from the East boundary but only move 15m from the neighbour's house, East?

How do you move 29m further from the East boundary and not move 29m closer to the West?

If you move the site 29m closer to the Western boundary, why isn't the hazard in the west now 40m not 69m?

Distance (m) Original v Amended Permit	EAST			WEST		
	FEB	SEPT	Diff	FEB	SEPT	Diff
Setbacks to Neighbours	P.4 145	P.3 160	+15			
Boundary to Proposed Site	97	125	+29	125	124	-1
Bushfire Hazard Site Assess [p.22]	25	25	?	69	69	?

How do you move the proposed structure 11m closer to the fire hazard in the north but then move 20m further from the fire hazard in the south?

Distance (m) changes Original permit v Amended Permit	North			South		
	FEB	SEPT	Diff	FEB	SEPT	Diff
Bushfire Hazard Site Assess [p.22]	80	69	-11	87	107	+20
Defendable Space Outer [BMP p.2]	98	69	-29	98	69	-29

Proposal Summary [REDACTED] p.1- No Vegetation Removal is required is FALSE

The evidence presented in this document regarding the excessive number, sheer size and type of native vegetation within the defendable space as well the permits own BMO report page 1 re-enforces that the 69metre proscribed zone is indeed a zone "where all but grass mowing defendable space conditions have to be met" as outlined on page 2 of the BMP

- Individual and clumps of shrubs should not exceed 5 square metres in area and must be separated by at least 5 metres
- The canopy of trees must be separated by at least 5 metres
- There must be a clearance of at least 2 metres between the lowest tree branches and the ground

makes a mockery of the permits claim that no vegetation is required for the proposed development and that the granting of a permit will improve ecological values of the site. Clearly if some-how the applicant is afforded special treatment and exemptions are made the impact on native vegetation and the habitat it provides will be horrific and a visible scar on the greater landscape.

We seek open honest transparent decision-making based on sound reasoning, adherence to the policy and State Planning Protection Framework whilst following the technical guidelines. We ask that the applicant please address all of the concerns documented in my [REDACTED] detailed submissions outlining our objections and those of:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

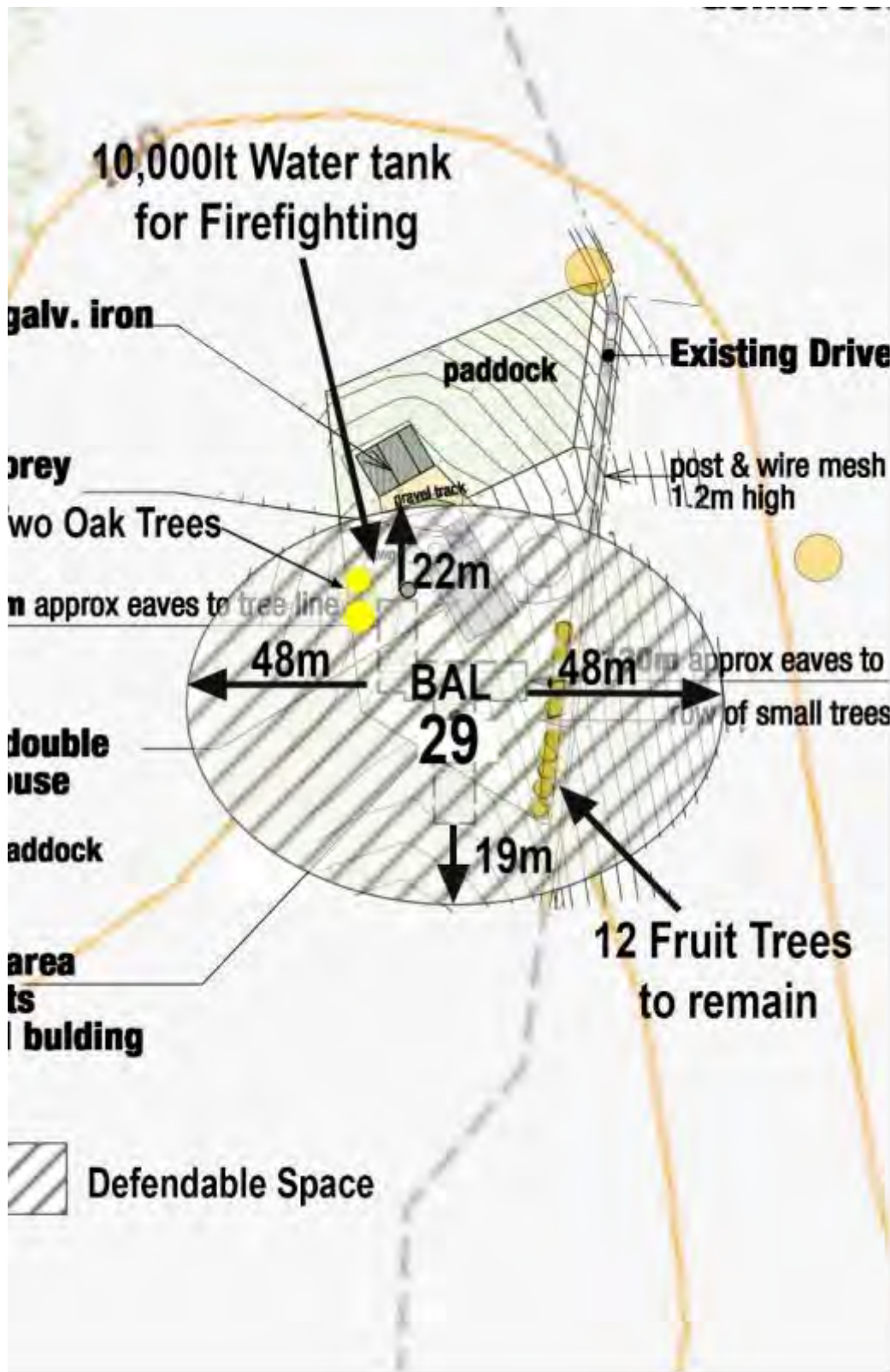
We are seriously distressed at the potential impact the close proximity of the development will have on our spring water. We trust that planning policy ensures that developments in water catchment, forested, elevated-picturesque agricultural and conservation landscapes of significant biodiversity should only ever enhance catchment yield and quality, the forest mosaic, agricultural enterprise, community benefit and ecological values not detract from them. We trust that Bushfire Protection Areas are there to protect lives not add to the future risk of individuals or further burden the community. With all that in mind we ask that the permit be rejected.

Thank you for your commitment to upholding policy and to the betterment of our precious environment and all its assets.

Yours sincerely

[REDACTED]  
[REDACTED]

Appendix 1 Example of BMP Defendable Space Diagram, DELWP





**From:**  
**Sent:**  
**To:**  
**Subject:**

[REDACTED]  
Saturday, 7 March 2020 9:54 AM  
Macedon Ranges Shire Council  
Development of Lot 1 TP 681509U Grady's Lane, Kerrie

Submission 3  
D20-23337

Dear Council,

It has come our attention that an application has been made to develop a vacant block of land in Grady's Lane, Kerrie. (PLN/2020/52 lodged 26/2/202).

As the land in question is well under the legislated 40 hectare rule, we would like to object to this development unless council is considering to change the ruling, so other landowners in the area can do the same.

We would also like to point out, that there is considerable fire risk in the area as the property is within 500 metres of Mount Charlie Flora Reserve.

As [REDACTED] of the MRSC we would appreciate to be informed about any changes to the planning laws and new developments in our immediate vicinity.

Kind regards,

[REDACTED]

Sent from [Mail](#) for Windows 10

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Sunday, 8 March 2020 7:56 PM  
**To:** Macedon Ranges Shire Council  
**Subject:** Objection to planning permit PLN/2020/52 Lot 1 TP681509U

Dear MRSC,

We would like to object to this planning permit for the following reasons:

- There was no advertising or information circulated to [REDACTED] of the proposed planning permit location.
- The planning permit property size is less than 40Ha which is in breach of MRSC Rural Conservation Zoning (RCZ).
- At least six (possibly seven) dwellings have been omitted from the application in the 1:40 radius. This will have a huge impact of the number of septic tanks estimated in this area.
- Inaccuracies in land description – there is no existing dwelling on this property, and all fencing is dilapidated state.
- Loss of privacy for existing full time residential dwellings at [REDACTED]

Regards,

[REDACTED]

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, 8 May 2020 10:45 AM  
**To:** Macedon Ranges Shire Council  
**Subject:** Fw: Objection to planning permit PLN/2020/52 Lot 1 TP681509U

Dear MRSC,

Further to our initial email (see below), we wish to request for this permit to be called in due to the significant complexities and concerns surrounding this application.

We believe the dwelling in the planning permit is suited to an urban environment, as it is out of character to the immediate area, and leads to a loss of privacy due to the proximity to [REDACTED].

We are concerned about the health of the creek with another septic tank added to the area. [REDACTED] that is proposed to be impacted by this planning permit, and it would be very upsetting to see the water quality and the delicate ecosystem of the creek decline.

We also request that [REDACTED] objections are addressed when accepting our objections.

Regards,

----- Forwarded message -----

**From:** [REDACTED]  
**To:** Macedon Ranges Shire Council  
**Sent:** Sunday, 8 March 2020, 07:55:30 pm AEDT  
**Subject:** Objection to planning permit PLN/2020/52 Lot 1 TP681509U

Dear MRSC,

We would like to object to this planning permit for the following reasons:

- There was no advertising or information circulated to [REDACTED] of the proposed planning permit location.
- The planning permit property size is less than 40Ha which is in breach of MRSC Rural Conservation Zoning (RCZ).
- At least six (possibly seven) dwellings have been omitted from the application in the 1:40 radius. This will have a huge impact of the number of septic tanks estimated in this area.
- Inaccuracies in land description – there is no existing dwelling on this property, and all fencing is dilapidated state.
- Loss of privacy for existing full time residential dwellings at [REDACTED].

Regards,





Macedon Ranges Shire Councilors

Attention: Jackie Robson

8 May 2020

**Re: PLN/2020/52 Lot 1 TP/681509 Grady's Lane Kerrie**

Dear Ms. Robson,

I hereby lodge my objection to the aforementioned application.

My grounds for objection are simple; it would appear that a question of integrity hangs over this application.

I am under the impression that in regard to any parcel of land within a Conservation Zone a permit to erect a dwelling on land holdings of less than 40 hectares requires diligent proof of due care for the effect of such a dwelling and ancillary works upon the natural landscape including water flow, water catchment and inherent conservation and biodiversity values. It would appear that this application may have been designed to circumvent some of these considerations.

I am familiar with the detailed information held in a submission prepared by [REDACTED] in regard to the review of the Land Capacity Assessment within the permit. Her research reveals significant anomalies, apparent falsification of facts and a presentation of misleading information in maps, diagrams and photos presented therein.

May I highlight the importance for Macedon Ranges councilors to take the opportunity to acquaint themselves with objections to this permit and to consider the application within light of the existing laws, regulations and policies alongside vital considerations for the conservation values which they are designed to protect.

I therefore request that the permit be called in for full council review.

Sincerely,

[REDACTED]  
[REDACTED]

Dear Jackie

Objection: PLN/2020/52

As [REDACTED] in Kerrie I feel it is important to speak out against the proposed development in Grady's Lane for the sake of preserving for [REDACTED] [REDACTED] the charming rural character and beautiful natural landscapes of our small yet unique corner of the Macedon Ranges.

I have been able to read through the application which on first appearance presents as thorough, detailed and professional. However, after comparing it to [REDACTED] Objection document dated [REDACTED] [REDACTED] pertaining to her close inspection of the Land Capability Assessment it is apparent that the application is all smoke and mirrors in order to give the illusion of correctness so that a box may be quickly ticked and a permit granted.

The proposal offers no net community benefit by requesting to add yet one more house to a thrice protected zone (conservation/water catchment/landscape). A zone which specifies its objectives as being to restrict residential development and look after the natural landscape, waterways, flora and fauna.

The promised payoff of land management must be viewed with the same level of suspicion as the entire disingenuous application especially when knowing the owners have no intention to live there but every intention is to sell.

Nor does the development add to the agri-business aspect of the agricultural landscape it is located within.

Instead I see loss of amenity to the rate paying residents it significantly overlooks and to all those travelling to Kerrie as it will be clearly visible from the Melbourne-Lancefield Road.

I believe there are exceptional circumstances surrounding this permit application which require councillors to apply considerable scrutiny, checks and balances in order to demonstrate all facts and circumstance have been judiciously and fairly considered.

Yours sincerely

[REDACTED]

**From:** Planning  
**Sent:** Tuesday, 12 May 2020 3:32 PM  
**To:** [REDACTED]  
**Subject:** Fw: Objection: PLN/2020/52 Lot1/TP 681509 Grady's Lane Kerrie

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** [REDACTED]  
**Sent:** Tuesday, 12 May 2020 12:22 PM  
**To:** Planning  
**Subject:** Objection: PLN/2020/52 Lot1/TP 681509 Grady's Lane Kerrie

**From:** [REDACTED]  
**Sent:** Tuesday, 12 May 2020 12:12 PM  
**To:** Macedon Ranges Shire Council <[mrscmail@mrsc.vic.gov.au](mailto:mrscmail@mrsc.vic.gov.au)>; [angela.hughes@mrsc.vic.gov.au](mailto:angela.hughes@mrsc.vic.gov.au); Cr Janet Pearce <[jpearce@mrsc.vic.gov.au](mailto:jpearce@mrsc.vic.gov.au)>; [REDACTED]  
[REDACTED] r Bill West <[bwest@mrsc.vic.gov.au](mailto:bwest@mrsc.vic.gov.au)>; Cr Jennifer Anderson <[janderson@mrsc.vic.gov.au](mailto:janderson@mrsc.vic.gov.au)>; [REDACTED]  
**Subject:** Objection: PLN/2020/52 Lot1/TP 681509 Grady's Lane Kerrie

Please find attached my objection to the proposed development. Feel free to contact me if you have any questions. Thank you for your time and attention to this matter.

I wish to lodge an objection the the planning application on the basis of:

I have also seen the concerns of [REDACTED] and would like the points 1 to 15 addressed with respect to the inaccuracies and omissions contained in the land capability assessment. Having conducted several of these over the years on [REDACTED] [REDACTED] I note that there are several inconsistencies in the mapping, slope measurements and soil sampling.

The land capability study was not properly conducted which makes it difficult to judge the application on its merits. Specifically referring to the lack of a soil sample, the inaccurate BAL rating - we were given a rating of 19 where we are a rating of 12 in the native bush seems highly improbable. This site would appear to bear the highest land risk capability assessment not the risk rating of fair. In this area it is not unusual to have over 1200mm of rain per annum.

There is no previous existing dwelling, if they are to build a house it should be on the *site of the previous dwelling* which would not be visible to any of the neighbours.

The site is rural conservation, the 1 in 40 rule needs to be strictly adhered to as the block is highly sloping i.e. over 20% slope and on two separate water catchments; Mains Creek and Charlie's Creek.

There are 11 dwellings within the radius for septic tanks which makes this a high risk application - open potable supply catchments, many ageing septic systems. Duty to protect all of the waterways in the area. The council needs to exercise caution when reviewing permit applications. In addition, the septic weeping bed will be within 300 metres of potable water.

The residents of the area will be highly affected by this deviation from the usual planning regulations with the massive land works, huge drainage trenches required to divert the water flow, as well as the improbability of pumping waste water from the proposed dwelling uphill to a sloping site to get rid of the waste water from the dwelling. The proposed dwelling is within meters of the neighbours dwelling, overlooking their residence and would tower over their house and the landscape which is of a rural nature with hundreds of metres and even kilometres of each other.



I note with concern that this is the third such application in our area for fragmented block of less than 40 Ha in our area. If the MRSC is now allowing for small blocks, breaches of the one in 40 rule, thus creating a precedent which would allow anyone apply to sub-divide and apply for a building permit. In the immediate area there would be over 7 more additional dwellings and additional septic tanks.

I fail to see the net community benefit in this application and how this dwelling would enhance the nature of conservation of the rural nature of the landscape.

Finally, I strongly encourage any and all parties to visit said block and see for yourself that:

The block is steeply sloped i.e. over 20% slope;

Sits across two water catchments;

There is no evidence of an LCA soil sampling program being conducted;

The proposed wastewater envelope sits uphill from the proposed new dwelling site;

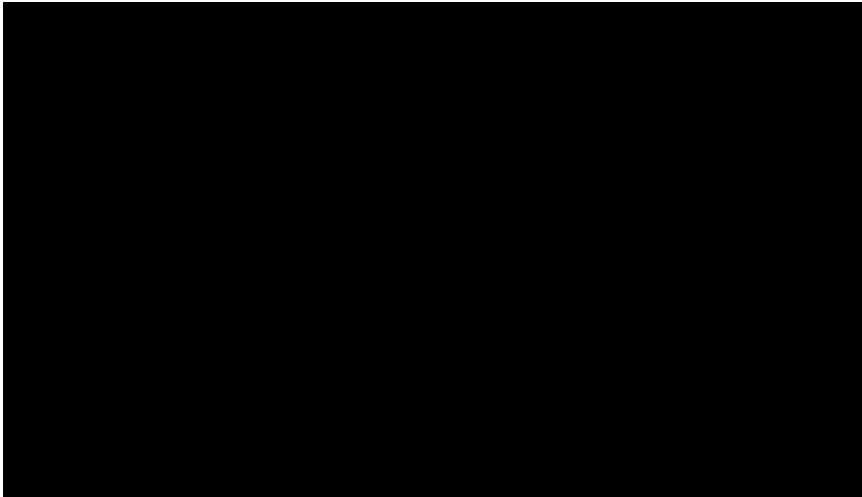
Is within less than 300m of an open spring used for potable water;

Is completely overgrown and neglected and remains a largely native bush block;

Has poor drainage and will create ongoing inundation downslope;

The proposed new dwelling would sit overlooking the neighbours within 140m of their house in order to maximise the views of the valley whereas in our area it is rare to even see any neighbouring dwelling.

Regards,



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**From:**  
**Sent:**  
**To:**  
**Subject:**

[REDACTED]  
Monday, 21 September 2020 9:37 PM  
[REDACTED]  
Re: HPE CM: Fw: Objection: PLN/2020/52 Lot1/TP 681509 Grady's Lane Kerrie

**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.

Hi [REDACTED] I note that the applicants have amended their application please find attached my amended objection which in no way serves to withdraw my original objection.

Warm Regards,  
[REDACTED]

## New Objection Lot 1 TP681509U Grady's Lane

I wish to lodge an objection the the planning application on the basis of:

Firstly I see no net community or conservation benefit in this application and how this dwelling would enhance the nature of conservation of the rural nature of the landscape. Making the dwelling single story doesn't mitigate this.

There has been no land capability assessment, flora and fauna assessment or soil sampling done at the site. The information contained in the application has been falsified and the application should be rejected based on this fraudulent activity. Having conducted several of these over the years on [REDACTED] I note that there are several inconsistencies in the mapping i.e. hand drawn lines to suit the application , slope measurements and no evidence on the site of any soil sampling as there are no bore holes or disturbed soil in the area at all.

The land capability study was not properly conducted which makes it difficult to judge the application on its merits. Specifically IN reference to the lack of a soil sample, the inaccurate BAL rating - we were given a rating of 19 and are 180m away from the nearest native bush; in Kerrie a rating of 12 in the native bush seems highly improbable. The dwelling is less than 150m away from the native old growth forest which would make the house and substantial decking vulnerable to ember attack. This site would appear to bear the highest land risk capability assessment not the risk rating of fair.

There is no existing dwelling, if they are to build a house it should be on the **site** of the *previous dwelling* which would not be visible to any of the neighbours and would be in keeping with the offsets from all of the other dwellings in the neighbourhood and would not involve the significant soil disturbance required for the house, tanks, septic, rainwater tanks and driveway..

The site is rural conservation, the 1 in 40 rule needs to be strictly adhered to as the block is highly sloping i.e. over 20% slope and on two seperate water catchments; Mains Creek and Charlie's Creek.

There are 11 dwellings within the radius for septic tanks which makes this a high risk application - open potable supply catchments, many ageing septic systems. Duty to protect all of the waterways in the area. The council needs to exercise caution when reviewing permit applications. In addition, the septic weeping bed will be within 300 metres of potable water.

The residents of the area will be highly affected by this deviation from the usual planning regulations with the massive land works all within Charlies Creek and Main Creek. The huge drainage trenches required to divert the water flow, as well as the improbability of pumping waste water from the proposed dwelling uphill to a sloping site to get rid of the waste water from the dwelling. The proposed dwelling is within meters of the neighbours dwelling, overlooking their residence and would tower over their house and the landscape which is of a rural nature with hundreds of metres and even kilometres of each other.

If the MRSC is now allowing for fragmented blocks, breaches of the one in 40 rule, then this precedent should allow anyone with more than 40 ha to apply for a building permit to have another dwelling or to sell at a later point. In the immediate area there would be over 7 more additional dwellings and additional septic tanks.

Again I must reiterate that I fail to see the net community benefit in this application and how this dwelling would enhance the nature of conservation of the rural nature of the landscape. I also find it quite shocking that on a block that large they feel that it is

appropriate to locate the new dwelling within [REDACTED] in order to maximise the views and that the planning department would entertain an application which manipulates the facts as well as the process that we all have to follow.



On Wed, May 13, 2020 at 10:30 AM [REDACTED]:

Hi [REDACTED]

Please find attached Acknowledgment Letter in relation to your objection regarding PLN/2020/52 – Gradys Lane, Kerrie.

Thanks very much and kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**From:** [REDACTED]  
**Sent:** Tuesday, 12 May 2020 12:12 PM  
**To:** Macedon Ranges Shire Council <[mrscmail@mrsc.vic.gov.au](mailto:mrscmail@mrsc.vic.gov.au)>; [angela.hughes@mrsc.vic.gov.au](mailto:angela.hughes@mrsc.vic.gov.au); Cr Janet Pearce <[jpearce@mrsc.vic.gov.au](mailto:jpearce@mrsc.vic.gov.au)>; [REDACTED]  
[REDACTED] Cr Bill West <[bwest@mrsc.vic.gov.au](mailto:bwest@mrsc.vic.gov.au)>; Cr Jennifer Anderson <[janderson@mrsc.vic.gov.au](mailto:janderson@mrsc.vic.gov.au)>; [REDACTED]  
[REDACTED]  
**Subject:** Objection: PLN/2020/52 Lot1/TP 681509 Grady's Lane Kerrie

Please find attached my objection to the proposed development. Feel free to contact me if you have any questions. Thank you for your time and attention to this matter.

I wish to lodge an objection the the planning application on the basis of:

I have also seen the concerns of [REDACTED] and would like the points 1 to 15 addressed with respect to the inaccuracies and omissions contained in the land capability assessment. Having conducted several of these over the years on 42 Turners Track, Cherokee and at 43 Chintin Road, Monegeetta I note that there are several inconsistencies in the mapping, slope measurements and soil sampling.

The land capability study was not properly conducted which makes it difficult to judge the application on its merits. Specifically referring to the lack of a soil sample, the inaccurate BAL rating - we were given a rating of 19 where we are a rating of 12 in the native bush seems highly improbable. This site would appear to bear the highest land risk capability assessment not the risk rating of fair. In this area it is not unusual to have over 1200mm of rain per annum.

There is no previous existing dwelling, if they are to build a house it should be on the *site of the previous dwelling* which would not be visible to any of the neighbours.

The site is rural conservation, the 1 in 40 rule needs to be strictly adhered to as the block is highly sloping i.e. over 20% slope and on two seperate water catchments; Mains Creek and Charlie's Creek.



There are 11 dwellings within the radius for septic tanks which makes this a high risk application - open potable supply catchments, many ageing septic systems. Duty to protect all of the waterways in the area. The council needs to exercise caution when reviewing permit applications. In addition, the septic weeping bed will be within 300 metres of potable water.

The residents of the area will be highly affected by this deviation from the usual planning regulations with the massive land works, huge drainage trenches required to divert the water flow, as well as the improbability of pumping waste water from the proposed dwelling uphill to a sloping site to get rid of the waste water from the dwelling. The proposed dwelling is within meters of the neighbours dwelling, overlooking their residence and would tower over their house and the landscape which is of a rural nature with hundreds of metres and even kilometres of each other.

I note with concern that this is the third such application in our area for fragmented block of less than 40 Ha in our area. If the MRSC is now allowing for small blocks, breaches of the one in 40 rule, thus creating a precedent which would allow anyone apply to sub-divide and apply for a building permit. In the immediate area there would be over 7 more additional dwellings and additional septic tanks.

I fail to see the net community benefit in this application and how this dwelling would enhance the nature of conservation of the rural nature of the landscape.

Finally, I strongly encourage any and all parties to visit said block and see for yourself that:

The block is steeply sloped i.e. over 20% slope;

Sits across two water catchments;

There is no evidence of an LCA soil sampling program being conducted;

The proposed wastewater envelope sits uphill from the proposed new dwelling site;

Is within less than 300m of an open spring used for potable water;

Is completely overgrown and neglected and remains a largely native bush block;

Has poor drainage and will create ongoing inundation downslope;

The proposed new dwelling would sit overlooking the [REDACTED] of their house in order to maximise the views of the valley whereas in our area it is rare to even see any neighbouring dwelling.

Regards,

[REDACTED]



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14 May 2020

Good morning,

In relation to the proposed application for planning permit for:

**PLN/2020/52**

**PT CA 156TP 681509 Parish of Kerrie**

**Construction of a Dwelling and Associated Works**

As a [REDACTED] we object to the proposed construction and associated works at this stage of the aforementioned planning/building permit application.

Firstly, we will not appreciate having a two-storey house looking [REDACTED] [REDACTED] Situated where it is proposed a two-storey house will completely impact the view driving towards and entering into the beautiful landscape of Kerrie while the suburban architectural style will not fit in with the character and existing dynamics of our unique, underdeveloped locality. We are equally concerned that this will set a dangerous precedent for other property owners to subdivide, overdevelop and build on top of each other especially as we live in such a high-risk fire area.

Some examples of inaccuracies found which we believe further verification is required please:

The number of septic tanks stated in the application is intentionally inaccurate as the Murray's 2 septic systems at [REDACTED] were not included in the housing density report.

[REDACTED] arranged for a geologist to dig a number of soil bore holes 2 meters deep with a hand auger – there is no evidence of this in the paddock and hard to believe anyone could dig that deep with a hand auger especially through bedrock and earth filled with Granodiorite such as ours.

The Bushfire Attack Level Rating is also questionable as it awards the property the lowest score possible (something that the suburb of Sunbury might rate) and is much lower for this particular development than other works at properties in the immediate heavily forested area.

Loss of vegetation is inaccurate as there are more gum trees in the driveway right beside the big old gum tree plus a very large old blackwood right in front of the proposed house site which aren't mentioned as being protected.

In our high rainfall area how will the development impact drainage and excessive stormwater runoff onto the three adjacent properties downslope?

Is all the information provided in the reports to council in line with EPA standards and the local planning scheme for conservation zone, water catchment and agricultural landscape?

Along with our concerns mentioned above the extent of the inaccuracies throughout the application pointed out in our neighbour [REDACTED] [REDACTED] [REDACTED] cast doubt on validity of the entire proposal.

Could the planning application be thoroughly and independently checked for compliance and risk assessment prior to full council consideration. We would like to request for the actual facts to be verified against the data portrayed in the planning application. [REDACTED]

[REDACTED] [REDACTED] [REDACTED] raising a number of serious concerns in relation to the application and [REDACTED] seemed very unsure, vague even when attempting his responses which is very alarming and of does not inspire confidence in the appropriateness of the development or the accuracy of any information he may provide in the future.

Thank you,

[REDACTED]  
[REDACTED]

**From:** [REDACTED]  
**Sent:** Friday, 15 May 2020 6:10 AM  
**To:** Macedon Ranges Shire Council; angelahughes@mrsc.vic.gov.au; Cr Janet Pearce; [REDACTED]  
[REDACTED] Cr Bill West; Cr Jennifer  
Anderson; [REDACTED]  
**Subject:** Re: Objection to PLN2020/52

Dear Jackie, Angela, Janet, [REDACTED] Jennifer, [REDACTED] and Bill,

I am writing to you regarding the planning application PLN2020/52 on Gradys Lane. I have had several dealings with the council since moving to the Macedon Ranges in 2005. I have received 7 planning permits in [REDACTED]. Although I wouldn't say I have a great understanding of land use planning, I know a lot more than I did [REDACTED].

I take very seriously making an objection to a planning application. I have felt the brunt of objections and would not even consider objecting unless it was significantly inappropriate and seriously threaten the uniquely special ecosystem we live in. Everyday I am grateful for living and working in the Macedon Ranges.

I have two main concerns:

1. The application does not accurately reflect reality

In the LCA, there is either incorrect data presented or there is no data. The rainfall, bedrock, elevation and soil data has been drawn from a different landscape/climate and ecosystem to the one we live in. [REDACTED] has spent hours and hours teasing apart how the applicant proves that the rating for the LCA is satisfactory. Please will you refer to her document as it clearly outlines where there are serious inadequacies. They have either made mistakes or are trying to use standards that are not for our area and therefore false and misleading. Before this application goes any further, I believe the applicant needs to be requested to use the standards that are relevant to our ecosystem. The property is very steep with shallow soils and bedrock. Based on the rainfall we receive in the area and where they want to locate the dwellings there will be massive inundation and soil erosion.

Main creek [REDACTED]. We have spent tens of thousands of dollars removing the willows, and blackberries and planting native species. [REDACTED] revegetation program, stated when he saw our creek area, it was the most regenerated creek he had ever seen. After 23 years of neglect we now have species here unique to our area. When he visited he was so amazed to see what was growing here. We see koalas, echidnas, possums, wedge tails, wallabies, wombats, possums. We see them everyday. After the desolate landscape of pine trees across our entire farm, we now 14 years later have dense pasture, and a beautiful winding creek area and wetlands. When we [REDACTED] Main Creek was dry every summer. In 2012 Main Creek did something amazing, it flowed all year! And since then it flows all year every year. It may not be the direct result of our management but we definitely contributed to a healthier Main Creek. Main Creek then runs the length of Mount Charlie Flora Reserve. [REDACTED] [REDACTED] It is a very special place with ever increasing fauna and a diverse range of native flora, some endemic to our area.

According to the Ministerial boundaries, the applicant would like to build the house within the Main Creek catchment. There is confusion as they have drawn the catchment boundary further down the hill and thus been able to situate the house in the Mount Charlie catchment. Mount Charlie is not considered potable, they therefore assert they are thus allowed a septic tank. Although I would argue the health of all our creeks should be considered critical irrespective of whether water is taken (natural flora and fauna depend on unpolluted water), the location of the catchment line should be verified by the state authority. In addition the location of the dwelling being on the side of a steep hill, just above [REDACTED], has been chosen because of the view. If they located the house on the other side of the hill, it would be much more appropriate and have much less impact on the land. However there is now view there and the view is what elevates the value of the land.



I understand the 1 in 40 rule is used to prevent the overpopulation or overdevelopment of an ecosystem that should be protected and not resilient enough to deal with too much human activity. In this area there are 8 dwellings, 3 with second dwellings, so 11 septic tanks. Over 8 is high risk. The application asserts that there are only 5 dwellings in the area. Can this be verified please?

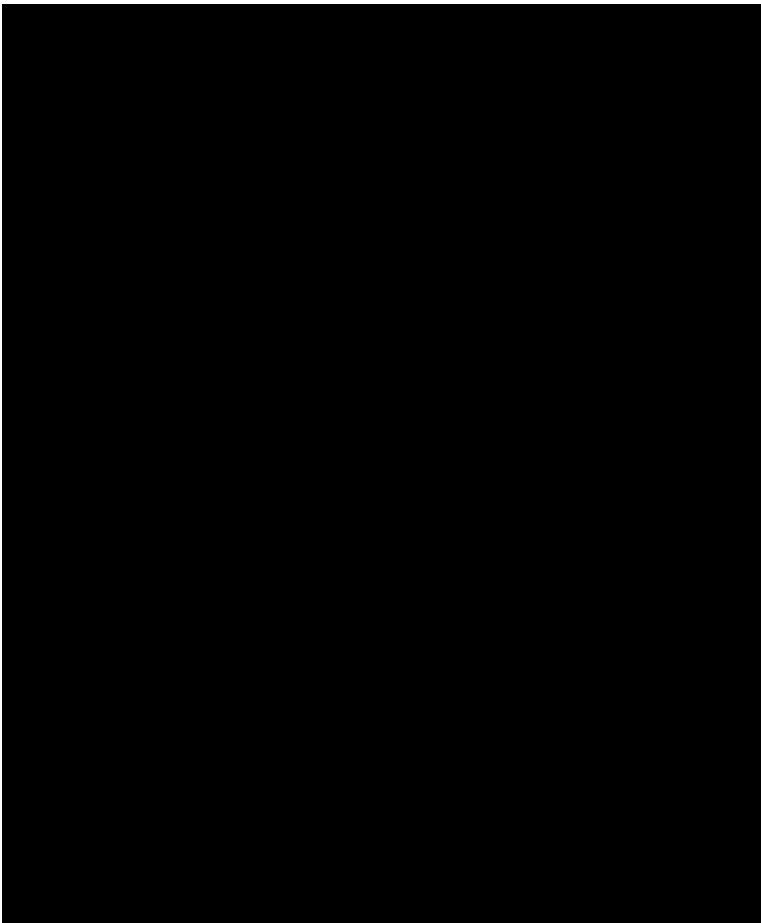
2. There is no net community benefit

The landscape in our neighbourhood is an agricultural landscape. We have sheep, cows, horses, olives, and forest. My understanding of the 40ha limit for a dwelling was to avoid land development and marked inflation of land prices because of wealth coming in from outside the shire from people who are not “working” the land. If land prices are based on land use, ie. grazing or cropping, then land is affordable and can be bought for agricultural use. The applicant is applying for a planning permit for a large out of character house with an incredible view. This will turn what was an inexpensive parcel of land, best suited to be used by a local primary producer who could increase their commercial viability, into an expensive property most likely bought by someone from the city. This property has been neglected by the applicant for decades. It is covered in blackberries and there are many foxes living there, foxes that kill our lambs and also native wildlife. This is not an easy property to maintain let alone regenerate. It requires someone who is emotionally invested, with local knowledge and who cares about the land. Building an expensive big house on the top of the hill is not what the land can deal with and detracts from our community of both humans, plants and animals.

A permit given to this property needs to facilitate land use that enhances the land and the lives of all its inhabitants. I don't believe what is being proposed does this.

I appreciate your time

Many thanks,



[REDACTED]

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**From:** [REDACTED]  
**Sent:** Saturday, 26 September 2020 11:44 AM  
**To:** Cr Janet Pearce; Cr Jennifer Anderson; angelahughes@mrc.vic.gov.au; Macedon Ranges Shire Council; [REDACTED]  
Cr Bill West; Cr Andrew Twaits; [REDACTED]  
**Subject:** Objection to PLN Grady's Lane  
**Attachments:** PastedGraphic-1.tiff

Dear Jackie, Angela, Janet, [REDACTED] Jennifer, [REDACTED] and Bill,

I am aware that the previous planning application was retracted and there is an amended application. I have read this new application. The changes are cosmetic and do not address the critical issues of developing a property in our neighbourhood with its unique characteristics and environmental constraints. It unfortunately changes nothing with respect to my objections so I have outlined below my previous objections.

Re: PLN: Grady's Lane

I have had several dealings with the council since moving to the Macedon Ranges in 2005. I have received 7 planning permits in [REDACTED]. Although I wouldn't say I have a great understanding of land use planning, I definitely know a lot more than I did [REDACTED]. Making an objection to a planning application I take very seriously. I have felt the brunt of objections and would not even consider objecting unless it was significantly inappropriate and seriously threaten the uniquely special ecosystem we live in.

I have two main concerns:

1. The application does not accurately reflect reality

In the LCA, there is either incorrect data presented or there is no data. The rainfall, bedrock, elevation and soil data has been drawn from a different landscape/climate and ecosystem to the one we live in. [REDACTED] [REDACTED] has spent hours and hours teasing apart how the applicant proves that the rating for the LCA is satisfactory. Please will you refer to her document as it clearly outlines where there are serious inadequacies. They have either made mistakes or are trying to use standards that are not for our area and therefore false and misleading. Before this application goes any further, I believe the applicant needs to be requested to use the standards that are relevant to our ecosystem. The property is very steep with shallow soils and bedrock. Based on the rainfall we receive in the area and where they want to locate the dwellings there will be massive inundation and soil erosion.

Main creek runs [REDACTED] We have spent tens of thousands of dollars removing the willows, and blackberries and planting native species. [REDACTED] [REDACTED] revegetation program, stated when he saw our creek area, it was the most regenerated creek he had ever seen. After 23 years of neglect we now have species here unique to our area. When he visit he was so amazed to see what was growing here. We see koalas, echidnas, possums, wedge tails, wallabies, wombats, possums. We see them everyday. After the desolate landscape of pine trees across our entire farm, we now [REDACTED] later have dense pasture, and a beautiful winding creek area and wetlands. When [REDACTED] Main Creek was dry every summer. In 2012 Main Creek did something amazing, it flowed all year! And since then it flows all year every year. It may not be the direct result of our management but we definitely contributed to a healthier Main Creek. Main Creek then runs the length of

Mount Charlie Flora Reserve. [REDACTED] It is a very special place with ever increasing fauna and a diverse range of native flora, some endemic to our area.

According to the Ministerial boundaries, the applicant would like to build the house within the Main Creek catchment. There is confusion as they have drawn the catchment boundary further down the hill and thus been able to situate the house in the Mount Charlie catchment. Mount Charlie is not considered potable, they therefore assert they are thus allowed a septic tank. Although I would argue the health of all our creeks should be considered critical irrespective of whether water is taken (natural flora and fauna depend on unpolluted water), the location of the catchment line should be verified by the state authority. In addition the location of the dwelling being on the side of a steep hill, [REDACTED], has been chosen because of the view. If they located the house on the other side of the hill, it would be much more appropriate and have much less impact on the land. However there is now view there and the view is what elevates the value of the land.

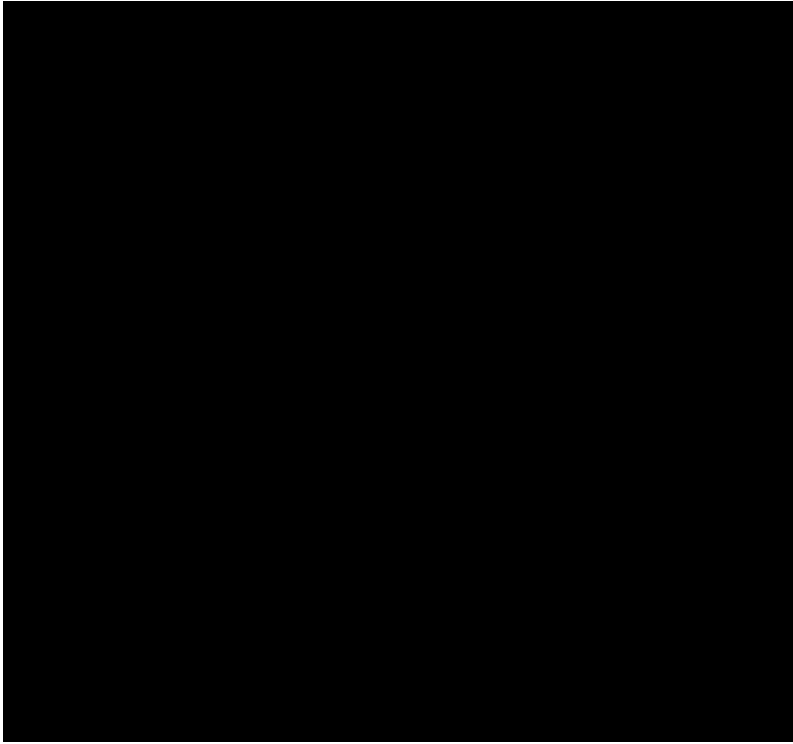
I understand the 1 in 40 rule is used to prevent the “overpopulation” or overdevelopment of an ecosystem that should be protected and not resilient enough to deal with too much human activity. In this area there are 8 dwellings, 3 with second dwelling, so 11 septic tanks. Over 8 is high risk. Application asserts that there are only 5 dwellings in the area. Can this be verified please?

2. There is no net community benefit

The landscape in our neighbourhood is an agricultural landscape. [REDACTED] have sheep, cows, horses, olives, and forest. My understanding of the 40ha limit for a dwelling was to avoid land development and marked inflation of land prices because of wealth coming in from outside the shire from people who are not “working” the land. If land prices are based on land use, ie. grazing or cropping, then land is affordable and can be bought for agricultural use. The applicant is applying for a planning permit of a large out of character house with an incredible view. This will turn what was an inexpensive parcel of land, best suited to be used by a local primary producer who could increase their commercial viability, into an expensive property most likely bought by someone from the city. This property has been neglected for decades. It is covered in blackberries and there are many foxes living there. This is not an easy property to maintain let alone regenerate. It requires someone who is emotionally invested, with local knowledge and who cares about the land. Building an expensive big house on the top of the hill is not what the land can deal with and detracts from our community of both humans, plants and animals.

I appreciate you taking the time to read this.

Many thanks,





[REDACTED]

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**From:** [REDACTED]  
**Sent:** Wednesday, 20 May 2020 8:39 AM  
**To:** Macedon Ranges Shire Council  
**Cc:** [REDACTED]  
**Subject:** PLN/2020/52 Application

Submission 10  
D20-49494  
D20-101449

To the responsible person.

Regarding planning permit application PLN/2020/52 Gradys Lane, Kerrie

I am objecting to the granting of a planning permit.

- The application is not consistent with the Macedon Ranges Shire, land use overlays.
- There is no existing dwelling for continuity of use.
- This small parcel of land is used by native wildlife as a sanctuary and land bridge.
- Access to Gradys Lane from Cherokee Road is problematic, it is not capable of supporting regular traffic in its current state and has caused erosion of my property's access.

I would be impacted directly by this development with noise and visual impact on my residence.

When purchasing my property I contacted Council to understand the RCZ zoning and made my purchasing decision based on the understanding this small parcel of land could not be built on.

Yours respectfully

[REDACTED]

[REDACTED]

Jackie Robson

25<sup>th</sup>, September 2020

Statutory Planning Officer

Macedon Ranges Shire Council

Re Planning Permit PLN/2020/52

Dear Jackie,

Regarding the subject application.

The revised application does not answer the previous objection I made to the original application.

Impact on native animals and fauna.

Furthermore, there is great effort to document and substantiate the application on the basis that it is technically allowed to proceed

Technicality is not a sufficient reason to cause the amount of impact this development would force on the residents and wildlife.

Looking at the revised proposal, it is clear that some pertinent scientific information has been overlooked.

The worst bushfires in Australian documented history occurred in Victoria and New South Wales at the start of this year and the severity of these fires was directly attributed to Climate Change.

This was supported by senior fire fighters across all regions and senior climatologist [REDACTED], working for the U.N. Amongst many experts.

The results of climate change are, extended fire seasons of greater ferocity, which devastate vast amounts of bush.

Impacting on regions, townships, wildlife and ultimately human life.

This year resulting in 33 direct deaths and a further 445 indirect deaths due to the resultant poor air quality

As supplied in evidence to the Royal Commission into Natural Disaster Arrangements.

The council's own website and climate policy statement makes direct reference to this risk.

The MRSC planning guidelines.

Give priority to the protection of human life by: • Prioritising the protection of human life over all other policy considerations. • Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire. • Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision-making at all stages of the planning process.

I say the approval of this application would be in direct conflict with both the MRSC planning policy and its climate change policy.

This proposed development would increase risk to the existing residents

Also putting greater pressure on the volunteer fire fighting service to protect life and property.

More development and people mean increased ignition risk. The location could hardly be more dangerous. In a fire the only narrow access road would be impassable with smoke and fallen trees.

Access for the CFA trucks would most likely be deemed an unacceptable risk to the volunteer fire fighters.

The approval of the CFA mentioned in the application is subjective. I could get a different answer on safety and survivability from every brigade chief.

Requirements detailed in this document do not guarantee survival of the buildings or the occupants in a bushfire event for reasons including, as detailed in the foreword to AS3959 Construction of Buildings in Bushfire-prone Areas, the degree of {future} vegetation management, the unpredictable nature and behaviour of fire, and extreme weather conditions. The occupants are strongly encouraged to develop and practice a bushfire survival plan and in accordance with CFA advice a policy of "leave early" is always recommended.

This paragraph from the BAL report which reads as a disclaimer. Does not acknowledge climate change and ignores it as an ongoing and increasing factor.

It would be remiss of decision makers to accept this application and move on, leaving residents to live with the increased risk.

On these grounds I would ask you to reject this application.

Yours Sincerely

[REDACTED]

[REDACTED]

Macedon Rangers Shire Council

23/09/2020

Via Email

Attention Planning: J Robson, Mayor, Deputy Mayor, Councillors et al

Re: Objection to PLN/2020/52 as Amended

My residence is at [REDACTED] and I received a registered letter from [REDACTED] on the [REDACTED] in regards to the above amended planning application for the development of a dwelling and associated site earth works at Grady's lane in Kerrie which adjoins my properties boundary to the West.

Having studied the online documents included in the amended permit I once again strongly object to the development and have found the application once again contains false and erroneous claims which appear intended to mislead the decision-makers but above all I object because the proposal is out of character and not fitting for the particular picturesque Agricultural Landscape which happens to also be protected by state planning policy as well being in a Rural Conservation Zone in a Bushfire Prone Area.

The permit raises far too many concerns for far too many people within the community so I ask that the permit be *brought in* and for council to address *all of our concerns both to the original permit which remain unaddressed* and to my concerns to the amended permit as follows:

**Permit sought to raise land value No nett community benefit No conservation values of applicant**

The land was [REDACTED], has not visited or shown any interest in the maintenance of it for about the same length of time. In fact, it can be said that in the last two decades *none* of the owners have demonstrated any conservation or land management practices towards their parcel of land that has [REDACTED].

It is common knowledge that the [REDACTED] have all agreed it is time to sell the property and having long established their [REDACTED] around regional Victoria and NSW none would be willing or able to stand up in VCAT and swear an oath that the building and land conservation/rehabilitation will actually be brought to fruition by any one of them.

The sole motive for seeking a planning permit is to increase land value for their personal financial gain bringing no nett community benefit and no foreseeable reparation to the dire state of the allotment. I will make sworn declaration that the applicant has flippantly remarked that by the time they find a buyer for the land we (at the property most potentially overlooked) will most likely have downsized and moved from the area before the house actually gets built. I care deeply about this land while the applicant's only interest is money.

**RCZ1 40hectare requirement not met, Fragmentation of Agricultural Land, No Agricultural Enterprise**

The proposed development is on 15.4 hectares well short of the 40ha requirement for subdivision in RCZ1. It is after all one of MRSC objectives not to further fragment or lose agricultural land nor to simply grant permits on small parcels already subdivided which are scattered throughout the picturesque conservation areas and rolling farmland in the foothills of the ranges, resulting in further fragmentation of the wide-open landscape and impacting the views to both residence and the multitude of tourists that visit the area each year. Subsequently earlier in July this year Macedon Ranges Shire Council backed the [REDACTED] of the agricultural community of Springfield at VCAT against the Department of Treasury and Finances when it was discovered that their bid for a permit to build was clearly sought to raise the value of the land for sale. The subject land at [REDACTED] was a mere 4048sqm, also way less than the 40ha zone requirement thereby granting a permit would be in contradiction to the states own policy to prevent fragmentation and loss of agricultural land solely for the introduction of rural living especially without evidence of a legitimate agricultural pursuit, three circumstance also ringing true for the proposed development at Grady's Lane Kerrie which the applicant does not dispute nor address. Important to note, it was this same set of mitigating circumstance which prompted VCAT senior member [REDACTED] to deny the permit; precedent set.

### **State Legislation Macedon Ranges Statement of Planning Policy: Limits development in Elevated Areas**

The proposed dwelling in the picturesque elevated Kerrie valley will be highly visible from major access roads into the Shire such as the Melbourne-Lancefield Rd and the high points from Mt Eliza Rd and is therefore in direct contradiction to the objective to direct rural living to the rural living and residential zones and limit development in picturesque elevated areas in the Macedon Ranges Statement of Planning State Policy.

### **Less than 8 dwellings in 1km radius in water catchment requirement not met-Precautionary Rule Must Apply**

The permit does not meet the 1 in 40 policy guidelines for risk assessment for planning a septic tank system in a gazetted water supply catchment of less than 8 houses within a 1km radius. It can be demonstrated that there are actually 11 existing dwellings each with associated septic tank systems many of them aging within a one-kilometre radius from the proposed dwelling. The question remains unanswered if the applicants expert experienced consultant intentionally blurred out and omitted 6 houses from his Dwelling Density Aerial Map in the original application in order to mislead council into believing the proposal would meet the 1:40 criteria what else has he been willing to doctor in this amended permit submission? I request the permit documents be held to the tightest of scrutiny by the decision-makers as we will be doing the same even after the 14-day deadline.

I specifically request that consistent decision-making and the precautionary rule be applied by MRSC and Western Water when considering this permit as the Catchment and Land Protection Act directs.

### **BAL-12.5 Report fails to consider Historical Evidence of Ember Attack destroying previous dwelling**

In 1983 I witnessed bushfire, later called the Braemar fire, sweep in from the North West through the subject land owned by my mother at the time. Burning embers flying in on gale force winds pushed also by the radiant heat generated by the burning forest kilometres ahead of the fire front caused the destruction of the cottage and hundreds of metres of boundary fencing. The cottage was over 125m from the 9 hectares of native forest so it is therefore ridiculous that the Permit Bushfire Attack Level rating awarded to the proposed development is 12, a rating suited to the suburbs of Romsey rather than in a heavily forested agricultural hamlet, especially as the proposed dwelling is just 69m from this same forest, now with even heavier fuel loads per tonne per hectare. Plus, the 69m of defendable space includes clumps of Blackwood trees less than 5m apart with canopies less than 2m from the ground as well as huge Blackwood trees far greater in area than the requisite 5m. The defendable face appears to be another furphy in a desperate bid to gain a permit at all costs.

### **No Water Tanks shown on plan, Proposed dwelling to negatively impact Water Supply Catchment Yield**

The amended permit states the proposed dwelling will capture roof rainwater and store it in tanks for domestic purposes but does not show the size or placement of these tanks any-where on its plans which will have a significant impact on enlarging the building envelope footprint as they will be required to be located upslope and in relative close proximity to the dwelling in order to harvest the rainfall from the structures roof. Logically the best location would be to the North of the site which would entail a far deeper site cut than the 2metres claimed in the permit due to the steep slope of the land to the North. There would most probably need to be two tanks with a capacity of approximately 50,000 litres to supply the house and gardens which will nearly double the size of the earthworks and once again footprint of the whole development which will equate to significant land disruption to this sensitive conservation site. The bulk of which will be min Mains creek.

### **Permit False Claim of Enhancing Water Supply Catchment Yield**

I believe the omission of the water tanks has been intentional in order *not* to highlight the fact that the proposed dwelling will in fact take away from catchment yield by interrupting and capturing the natural flows of rainwater that would normally flow on to Main Creek and Charlies Creek thereby significantly impacting catchment yield contrary to the objectives in the Water Supply Catchment Protection legislative framework and contrary to the empty promises in the permit spouting enhancement of water catchment yield.

### **Consideration should be given to evidence of bedrock less than 1m below ground**

Consideration should be given to the evidence of bedrock less than one metre under the surface and which can also actually be seen on the surface within the proposed excavation area, by looking to our adjoining



property to the East and the huge amount of bedrock we dug out of our site cut which we then used as landscaping material. Photo evidence of which has already been provided to council. Once again, I believe this has been glossed over in the amended permit and remains totally unaddressed.

#### **Significant Land Disruption in Construction of All-Weather Up Slope Drive in Mains Creek Supply Catchment**

Once again, the substantial earthworks it will take to install an all-weather 150m long driveway up slope to the dwelling incorporating the required emergency vehicle turning circle which must be of significant size, 16m in diameter, is all glossed over and omitted from the proposed dwellings to scale plans. The driveway is solely in Mains Creek open potable water supply catchment and will require substantial quantities of all-weather road base to be trucked up Grady's Lane and onto this sensitive conservation site where the construction zone for the driveway will be adjacent to the rare silver acacia highlighted in the Land Management Plan to be just North of the proposed drive on the edge of the remnant forest.

#### **One access point only to Grady Lane\* Dry weather 4WD fire access track only Nth of Subject Land Crossover**

It should be noted that council garbage trucks do not enter Grady Lane but make their collection at the end of Eaton's Road at the point of access into Grady's Lane *after first having turned around* at the intersection of Mt Charlie Road and Turner's Track due to the fact that the Grady's Lane is so narrow, steep and has low tree canopy clearance. It is also a laneway without proper road base, just dirt without the turning circle for a garbage truck let alone a fully loaded tip truck to turn around after reaching the subject lands crossover, the same point at which the lane becomes a council declared No Road and a 4WD dry weather Fire Track. Important to note the only fires truck that would be able to access the property would be a small one and not an 8.8m semi.

#### **\*No turning access for articulated/semi-trailer vehicles at intersection of Eaton's Rd & Grady's Ln entrance**

The turning point from Eaton's Road into Grady's Lane is a tight right angle bend to the left which due the large remnant gums growing in close proximity on the edge of both roads any truck the size needed to cart a 30tonne excavator will not make this tight turn and will only damage the protected native trees which happen to also be on a small parcel of crown land maintained by Parks Victoria adjacent to the Mt Charlie Flora Reserve. Important to also note, Eaton's Road is not much more than a lane also and unloading a 30tonne excavator in Eaton's Road and then driving it over and up both council dirt roads to the site will potentially damage their dirt bases which are graded just once per year. Who will pay for the cost of grading and repair? Plus, this is all a couple of metres from Main Creek Open Potable Supply Catchment.

#### **Previous Concerns of Contamination to Neighbours Drinking Water Supply/Open Spring Not Addressed**

The amended permit does not address our serious concerns that the open spring we use throughout summer and in times of drought to top up our water tank which supplies drinking water to our home is potentially at risk of being contaminated by the close proximity of the proposed septic tank and secondary above ground waste water dripper lines upslope which is proposed to less than 150m upslope.

#### **Western Water evidence of cumulative impacts of septic tanks sets precedent in MRSC v Rozen, Fed Court**

Combine the aforementioned and the proposal adding the 12<sup>th</sup> septic tank system within a 1km radius with the precedent set by evidence provided by Western Water to the federal court of the cumulative impacts of having greater than 8 septic tank systems in a 1km radius in the MRSC v Rozen case and the matter needs serious urgent redress by which I mean the permit must be denied.

#### **Concerns raised over No Fauna survey conducted remain ignored in amended permit**

I feel compelled to reiterate the following; [REDACTED] worked in the sawmills of Kerrie and saw on a day to day basis the destruction of ancient gums cut down for domestic use. He saw the native animals killed lose their habitat which lead him to conserving the 10 hectares that remain on the land today. Much of Kerrie and the Cherokee area suffered major destruction from the many saw mills in the area. This led to a significant decline in native animal populations in the area. This parcel of native forest was reserved David Grady for the preservation of the varying species of native animals, some rare and endangered, that have

always inhabited Kerrie before the destruction. We enjoy regular sightings of wombats, black wallabies, greater glider possums, sugar gliders, pigmy possums and the rare but treasured glimpse of the endangered lead beater possum whose image [REDACTED] managed to capture on his iphone one day in Mt Charlie. There is an abundant bird life inhabiting this old forest which includes a breeding pair of wedge tail eagles, tawny frog mouth owls and the rare powerful owl.

The site of the proposed development of the land and dwelling is less than 69m away from this remnant forest and if allowed to proceed then some if not all of the rare wildlife that has been inhabiting it, thriving and breeding for decades will not survive or up and leave its protection only to be runover or killed by feral domestic pets and foxes.

### **Loss of amenity causing financial loss**

The dwelling will not only be a scar on the pristine Kerrie agricultural landscape but will dominate over our private outdoor spaces causing us loss of privacy and financial loss if we were ever going to sell. It continues to be a stressful time fo [REDACTED]

### **MRSC required to act as independent decision-maker, Request for answers to the following:**

How is it that....

1. [REDACTED] receives privileged treatment able to obtain provisional approval from Western Water and the CFA the same RPA's MRSC use when the average applicant has no such access?
2. After multiple evidence was provided to MRSC proving that [REDACTED] original application report and expert consultant reports contained intentionally false and misleading information the permit was not summarily rejected?
3. [REDACTED] was afforded the opportunity to make amendments to what was alleged to be a fundamentally fraudulent application?
4. The Amended Land Capability Assessment claiming to meet MAV standards yet again contains pictures of dirt sprinkled on the ground along-side a surveyor's pole which claim to be the soil log dug by an auger when augers in fact drill a solid core of soil out of the ground just like an apple corer once again proving the permit bases its claims on false and misleading information subsequently the whole permit is suspect so why hasn't it been summarily rejected?

### **Environmental impact out-weigh an empty promise of conservation**

I believe the environmental impacts to the land through massive earthworks for the house, water tanks, driveway and emergency vehicle turning circle plus the taking away of large volumes of water from not one but two gazetted catchments and the natural flows into them rare native flora and fauna need to sustain them will far outweigh the small amount of weed eradication at the forest borders that the permit promises. A land Management Notice would achieve the same result. As for the promise to plant hundreds of saplings the applicant has not pulled one weed or planted one blade of grass in two decades who will ensure the promised planting of hundreds of saplings receive the care and sustenance required to attain maturity and who will monitor this as it takes years? What is the consequence to the land owner should they die? Promises of enhanced conservation in return for a dwelling remain flimsy in the best-case scenario but in the worst case if the land is to be immediately sold then the applicants promises of conservation are empty.

Yours faithfully

[REDACTED]

Macedon Rangers Shire Council

19/05/2020

Via Email

Attention Planning: J Robson

Re: Objection to PLN/2020/52

My residence is at [REDACTED] documents in regards to the above planning application for the development of a dwelling and associated site earth works.

I strongly object to this planning permit at Grady's Lane Kerrie and have found the application is misleading, lacks supporting documentation / evidence and is not fitting for the Agricultural Landscape and Rural Conservation Zone.

The proposed application put forward by [REDACTED] on behalf of applicant [REDACTED] raises far too many concerns for far too many people and I ask for full council review and request a response to my concerns (below) and those contained within the two weighty Objection Docs researched and written by my partner Rose McClean dated 5/5 and 19/5/2020.

This proposed development on only 15.4 hectares less than the 40ha requirement for subdivision in this zone RCZ1 and is not in line with the objectives in the Macedon Ranges Statement of Planning State Policy for limiting residential development in picturesque elevated areas visible from major access roads into the Shire.

It does not meet the 1 in 40 policy guidelines for risk assessment for planning a septic tank system in a gazetted water catchment. It can be demonstrated that there are actually 11 dwellings each with associated septic tank systems many of them aging within a one-kilometre radius from the proposed dwelling. [REDACTED] has intentionally misled council by omitting 6 houses from his Appendix 6 Dwelling Density in order to claim he has met the criteria.

The submission references that there is an existing dwelling on the property but this is a total fabrication by [REDACTED] and the applicant knows better than to lie about this. [REDACTED]

[REDACTED] and abandoned in the early 1960's, later destroyed in 1983 when bush fires swept through the region. No structure was ever rebuilt at the site.

This 1983 bush fire I am referring was called the Braemar fire and I was on the subject land owned [REDACTED] the fire came in from the North West. Burning embers flying gale force winds pushed also by the radiant heat generated by the burning forest caused the destruction of the cottage as well as kilometres of fencing. This cottage was over 100m from the 9 hectares of native forest so it is therefore ridiculous that the Permit Bushfire Attack Level rating awarded to the proposed development is 12, the lowest possible rating, when this proposal dwelling is under 100m from this same forest, now with even heavier fuel loads within. The BMO Report seems to be as creatively drafted as the Land Capacity Assessment.

Why is there is no mention anywhere in the permit of domestic water tank or tanks? Obviously they will be required to be located close to the proposed dwelling in order to harvest the rainfall from the buildings rooves. There would need to be two tanks with a capacity of 50,000 litres to supply the house and gardens which will nearly double the size of the earthworks. Equalling significant soil disturbance when you take into account the amount of bedrock we dug out of our site cut down slope and sloping hillside the proposed dwelling has been sited.

There is a large protected blackwood tree in the middle of the proposed site that is only metres away from where the earthworks would be done. Obviously, having a 30 tonne excavator making the site cut in such close proximity would damage the root system and the tree. The applicant has sworn a declaration that no vegetation removal is needed. The Land Management Plan does not mention this tree. Also doesn't mentions how this tree would be protected along with 3 other mature gum trees along the proposed driveway which will also be heavily impacted by any earth works.

The applicant's submission fails to identify the land in the area of the proposed house, septic and the 150-metre-long driveway is filled with granodiorite. These small to large, mostly round granodiorite boulders are embedded in the subsoil and you can actually see them as you walk from the gate to the site. These are also visible along the road cuttings along Eaton's road, scattered on all the land bordering Eaton's road, Grady's lane. The proposed site is 30 metres above our house with a steep hill between and I have grave fears that if this proposal is approved any earthworks would dislodge these round boulders that would [REDACTED]

[REDACTED] If this application is approved and some of these boulders weighing up to a couple of tons were dislodged then who would be liable for the harm they may cause? The council for approving the application, [REDACTED] for failing to identify the granodiorite or the applicant [REDACTED] A judge would be deciding that but my thoughts are all 3 would be sued.

Why hasn't a detailed Fauna survey been conducted?

[REDACTED] worked in the saw mills of Kerrie and saw on a day to day basis the destruction of ancient gums cut down for domestic use. He saw the native animals killed lose their habitat which lead him to conserving the 10 hectares that remain on the land today. Much of Kerrie and the Cherokee area suffered major destruction from the many saw mills in the area. This led to a significant decline in native animal populations in the area. This parcel of native forest was reserved [REDACTED] for the preservation of the varying species of native animals, some rare and endangered, that have always inhabited Kerrie before the destruction. We enjoy regular sightings of wombats, black wallabies, greater glider possums, sugar gliders, pigmy possums and the rare but treasured glimpse of the endangered lead beater possum whose image [REDACTED] managed to capture on his iphone one day in Mt Charlie. There is an abundant bird life inhabiting this old forest which includes a breeding pair of wedge tail eagles, tawny frog mouth owls and the rare powerful owl.

The site of the proposed development of the land and dwelling is less than 100m away from this bushland and if allowed to proceed then some if not all of this wildlife that has been thriving and breeding will not survive or up and leave.

The lack of agricultural enterprise with what is purely a residential development offers no net community benefit and benefits only the owners when they sell for far more profit than the farmland is worth. The dwelling will not only be a scar on the pristine Kerrie agricultural landscape but will loom large over our private indoor and outdoor spaces causing us loss of privacy and financial loss if we were ever going to sell. It has been a stressful time for [REDACTED]. Just as the quarter century of neglect that has been imposed on this special piece of conservation land has depressed me for a long time now.

I believe the environmental impacts to the land through massive earthworks for the house and driveway plus the taking away of water from the catchment and natural flows that the plants and animals need to live will far outweigh the small amount of weed eradication at the forest borders that the permit offers in return. A land Management Notice would achieve the same result.

A house should never be allowed to be built in the middle of the open paddocks and only rebuilding on the old cottage site within the footprint should be ever considered.

Yours faithfully

[REDACTED]  
[REDACTED]  
[REDACTED]



[Redacted]

**From:** [Redacted]  
**Sent:** Wednesday, 20 May 2020 1:51 PM  
**To:** Macedon Ranges Shire Council; Jacqueline Robson  
**Subject:** Objection to PLN/2020/52

**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.

Hello Jackie

Further to my objection I want to point out that [Redacted] has under stated the area pegged out for the proposed dwelling at Gradys Lane.

The pegged area is 24m in length and 14m deep and does not estimate the areas needed front back and each side to enable a 45 degree site batter into the hill nor does the pegged out area include the water tank pad.

I note the plan shows the house faces South East but the pegged site is due East

The plan drawings actually show a 26.8 length and a 17m depth

I also note that the adjoining garage is lower than the hill for entry into the garage from the south yet there is no mention of how much site will need to be cut and what measures will be taken for drainage as storm water runoff will flow freely into the garage.

Regards,

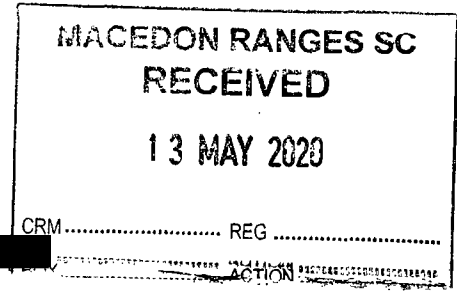
[Redacted signature]

[Redacted]

[Redacted]

Macedon Ranges Shire Council  
Attention Planning: Jackie Robson

7 May 2020



**Notice of Objection – Permit Application Ref: PLN/2020/52** [REDACTED]

Good morning

I am a [REDACTED] of over 500 acres, which I have owned and farmed for more than [REDACTED].

I have been forwarded documents in regards to the above planning application for development of a dwelling and ancillary works.

[REDACTED] and I strongly object to this planning application for the following reasons:

[REDACTED] not counted on the Permit Housing Density 3D map even though its driveway is clearly visible on the map and the cottage cannot be missed when [REDACTED] drove up Grady's Ln to enter inspect the permit site. This has been done deliberately as well as not counting 3 other dwellings [REDACTED]. Too many hoses and septic tanks already in a water catchment.

I am aware of another development [REDACTED] gained a Permit for which was sold in just [REDACTED] [REDACTED] which was under the same council protective overlays and was just **6 hectares** in size setting the **dangerous precedent** and opening the door to the fragmented and inappropriate urbanisation of Kerrie, therefore, I insist that the permit be called in and rejected.

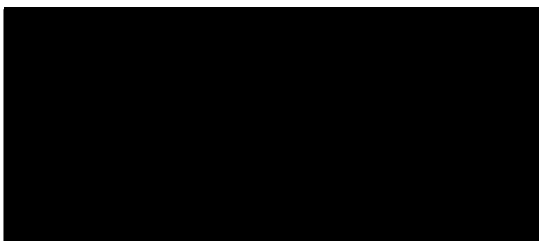
Granting the owners of little parcels of land permits in order for them to look after their land and eradicate all the massive amounts of blackberry bushes invading it and blowing into neighbouring properties is an inadequate reason to base the decision on. As a [REDACTED] I believe the owners should be instructed by council to clean up the Grady's lane block which is a disgrace and has been for years.

There is absolutely no need for invasive degrading building and ancillary works on steep rocky slopes which would drastically offset the meagre environmental land management improvement 'promises' the permit makes while causing severe loss of amenity to the area and significant loss of privacy for the 3 houses in Eaton's Road.

Kerrie is a beautiful place to live mainly because it is made up of large farms and enormous horse studs. The land the applicant is wanting to sell is too rocky, too steep, too covered in forest and too small to try to farm after building a big two storey house that looks like it should be in a bayside suburb of Melbourne but is plonked nearly on top of the house in front. It will be an eyesore to anyone driving into the ranges from the East or driving up Mt Eliza Rd to visit the Mt Charlie Flora and Fauna Reserve and is not in character with the low sited, far apart cottages and farms and farm-lets in the area.

Small fragmented blocks would be better off consolidated into another farm rather than be sold off to urbanites with no Knowledge of how to work or care for the land subsequently there is no net community benefit and an overburdening of septic tanks that may leak into the waterways and pollute the water our cattle and all the native plants and animals need to survive.

The development must not be allowed or there will be a public fiasco for the council.



RECEIVED  
09 OCT 2020

Macedon Ranges Shire Council  
Attention Planning: Jackie Robson & Councillors

30 Sept 2020

**Notice of Objection – Permit Application Ref: PLN/2020/52 AMENDED [REDACTED]**

Good morning

I am a [REDACTED] of over 500 acres, which I have owned and farmed for more than [REDACTED] for this land.

I have once again been forwarded documents in regards to the above planning application for development of a dwelling and ancillary works as I have also once again not received a registered letter as yet.

[REDACTED] and I strongly object to this planning application for the following reasons:

[REDACTED] not counted on the Permit Housing Density on the original permit 3D map even though its driveway is clearly visible on the map and the cottage could not be missed when [REDACTED] drove up Grady's Ln to enter and inspect the permit site. This was done deliberately as well as not counting 3 other dwellings [REDACTED] which demonstrates a willingness to lie and points to the obvious that [REDACTED] knows but is trying to hide the fact that there are too many houses and septic tanks already in the special declared area catchment known as #17 Sunbury.

I am aware of another development [REDACTED] gained a Permit for which was sold in just [REDACTED] [REDACTED] which was under the same council protective overlays and was just **6 hectares** in size setting the **dangerous precedent** and opening the door to the fragmented and inappropriate urbanisation of Kerrie, therefore, I insist that the permit be called in and rejected. Planners should direct rural living to rural living zones and not allow wholly residential development on conservation land especially when that land is also in such stunning landscape so obviously agricultural in character. I note there is no agricultural enterprise partnering the proposed dwelling so no net benefit to our shire at all.

Granting the owners of little parcels of land permits in order for them to look after their land and eradicate all the massive amounts of blackberry bushes invading it and blowing into neighbouring properties is an inadequate reason to grant a permit. As a responsible neighbouring land-owner I believe the owners should be instructed by council to clean up the Grady's lane block which is a disgrace and has been for years. I also note that the eradication of weeds in the Land Management Plan is only directed at the edge of both forest conservation areas but no mention is made about cleaning up the open pasture land where most of the weeds actually are located.

There is absolutely no need for invasive degrading building and ancillary works up steep slopes filled with bedrock (for proof of this just look at the rocks dug out and used for landscaping at the neighbouring property down-hill to the East!) which would drastically offset the meagre environmental land management improvement 'promises' the permit makes while causing severe loss of amenity to the area and significantly overcrowding the 2 houses below it in Eaton's Road invading their private outdoor spaces.

Kerrie is a beautiful place to live mainly because it is made up of large farms and enormous horse studs. The 15.4 hectares of land the applicant is wanting to sell is too rocky, too steep, too covered in 9.21 hectares of forest leaving just 6 hectares, to fit a long wide house whose design looks like it should be in a bayside suburb of Melbourne but is plonked nearly on top of the house in front plus a 16m round emergency vehicle turning circle and 10,000L water tank plus the huge domestic water tanks not shown anywhere on the plan which leave nothing to graze even a horse on or farm. Not to mention the 69m Bushfire Defendable Space that can't be used for anything, it will be an eyesore to anyone driving into the ranges from the East from the Melbourne-Lancefield Rd or driving up Mt Eliza Rd to visit the Mt Charlie Flora and Fauna Reserve and is not in character with the modest, far apart cottages and farms and farm-lets embedded into the hills most of which are totally inconspicuous to visitors entering the area.



Small fragmented blocks would be better off consolidated into another farm rather than be sold off to urbanites with no Knowledge of how to work or care for the land subsequently there is no net community benefit just like the property a [REDACTED] that VCAT denied in March this year. Plus it is well under the 40 hectares which make the septic tank planning Guidelines apply. Allowing a permit will simply create an over accumulation of septic tanks in a 1km radius that may leak into the waterways and pollute the water our cattle and all the native plants and animals need to survive. Not to mention the potable water in Main Creek and the water used for irrigation in Charlies Creek. Your obligation is to protect our special catchment areas.

I understand the precautionary rule regarding septics in water catchment areas and I insist it must be applied in decision-making when considering this inappropriate development. It must not be allowed or there will be a public fiasco for the council.

