

## MACEDON RANGES PLANNING SCHEME

### AMENDMENT C145MACR

#### EXPLANATORY REPORT

##### Who is the planning authority?

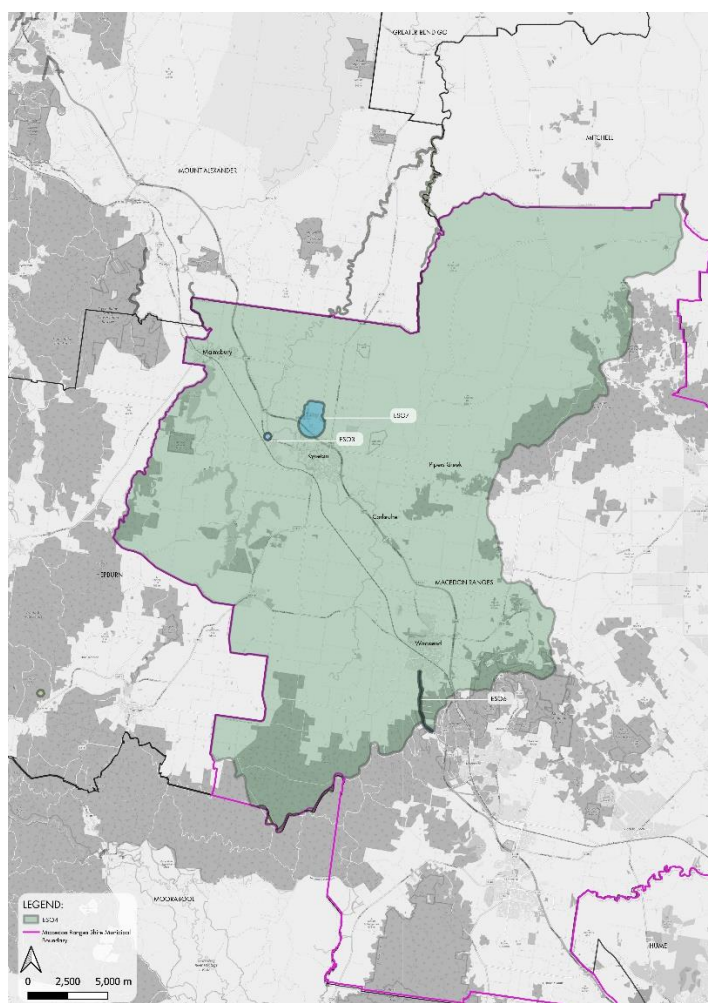
This amendment has been prepared by the Macedon Ranges Shire Council, which is the planning authority for this amendment.

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

##### Land affected by the amendment

The amendment applies to all land affected by Schedule 4 to the Environmental Significance Overlay shown as ESO4 in the Macedon Ranges Planning Scheme mapping. The ESO4 applies to the extent of Eppalock Special Water Supply Catchment (ESWSC), including the Malmsbury, Lauriston and Upper Coliban Reservoirs within the Upper Coliban Catchment area, a designated open water supply catchment in the southwest portion of the Campaspe River basin in central Victoria and includes land within the Macedon and Hepburn Shires– Please see Figure 1 below. The ESWSC provides raw water for drinking water purposes for over 130,000 people.

Figure 1 –Extent of the ESO4 in Macedon Ranges



## What the amendment does

The amendment proposes to:

- Replace Schedule 4 to Clause 42.01 Environmental Significance Overlay – Eppalock Proclaimed Catchment with the proposed new Schedule 4 to Clause 42.01 Environmental Significance Overlay – Eppalock Special Water Supply Catchment to modify the number of matters that require planning permission, focussing development that has the potential to impact the health of the catchment.
- Amend the Schedule to Clause 66.04 Referral of permit applications under local provisions to replace the existing referral requirements under Schedule 4 to the Environmental Significance Overlay with a requirement for all applications not exempt under the revised Schedule 4 to the Environmental Significance Overlay to be referred to the relevant water authority.
- Replaces the Schedule to Clause 72.08 Background documents to include the *Upper Coliban Integrated Catchment Management Plan* (North Central Catchment Management Authority and Coliban Region Water Corporation, 2019) as a background document supporting the amended Schedule 4 to Clause 42.01

## Strategic assessment of the amendment

### Why is the amendment required?

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

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

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

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

- Fences that are more than 10 metres away from a waterway
- Temporary fencing to protect vegetation
- Buildings and works associated with dwellings located more than 30 metres from a waterway and connected to reticulated sewerage.
- Buildings and works (general) that are located more than 30 metres from a waterway and meet other specific conditions.
- Subdivide land into lots of 40 hectares or greater
- Subdivide an existing building connected to reticulated water and sewerage.

- Remove, destroy or lop vegetation unless it is native vegetation within 30 metres of a waterway. Please note that the ability to remove of vegetation for fire protection purposes is not affected by this.

Please refer to the proposed Schedule for more detail.

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

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

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

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

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

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

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

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

The amendment positively addresses environmental effects by:

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

The amendment positively addresses social effects by:

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

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

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

### **Does the amendment address relevant bushfire risk?**

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

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

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

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

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

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

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

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

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

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

- Ministerial Direction No. 11 – Strategic Assessment Guidelines

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

The Amendment upholds the principles and objectives of the Planning Policy Framework (PPF).

In particular, the amendment implements following relevant strategies contained in the PPF:

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

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

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

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

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

Clauses 12.01-1S (Biodiversity)

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

Clause 13.02-1S (Bushfire planning)

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

Clause 14.02-1S (Catchment management and planning)

- *Retain natural drainage corridors with vegetated buffer zones at least 30 metres wide along each side of a waterway to:*
  - *Maintain the natural drainage function, stream habitat and wildlife corridors and landscape values,*
  - *Minimise erosion of stream banks and verges, and*
  - *Reduce polluted surface runoff from adjacent land uses.*
- *Require appropriate measures to filter sediment and wastes from stormwater prior to its discharge into waterways, including the preservation of floodplain or other land for wetlands and retention basins.*

- *Ensure that development at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses.*
- *Ensure land use and development minimises nutrient contributions to water bodies and the potential for the development of algal blooms.*
- *Ensure planning is coordinated with the activities of catchment management authorities.*

Clause 14.02-2S (Water quality)

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

Clause 19.03-1S (Integrated water management)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The ICMP recognises that:

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

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

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

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

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

#### **Resource and administrative costs**

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

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

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

The ESO has been drafted so that matters that will not significantly affect the health of the catchment are exempt, minimising any potential burden. Additionally, the ICMP that underpins this amendment was prepared in consultation with the Macedon Ranges Shire Council (as well as other relevant stakeholders).

### **Where you may inspect this amendment**

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

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

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

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

### **Submissions**

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

A submission must be sent to:

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

### **Panel hearing dates**

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

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