

Agenda

**Planning Delegated Committee Meeting
Wednesday 14 September 2022 at 7pm
Held online and livestreamed at [mrsc.vic.gov.au](https://www.mrsc.vic.gov.au)**

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1 ACKNOWLEDGEMENT OF COUNTRY

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

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

2 RECORDING AND LIVESTREAMING OF THIS COMMITTEE MEETING

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

3 PRESENT

4 APOLOGIES

5 CONFLICTS OF INTEREST

6 PURPOSE OF PLANNING DELEGATED COMMITTEE

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

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

7 ADOPTION OF MINUTES

Recommendation

That the Committee confirm the minutes of the Planning Delegated Committee of Macedon Ranges Shire Council held on 13 July 2022, as circulated.

8 HEARING OF SUBMITTERS

8.1	DP/2021/1 - 89 ROSS WATT ROAD GISBORNE - DEVELOPMENT PLAN
Officer:	Jack Wiltshire, Strategic Planner
Attachments:	DP/2021/1 - Planning Delegate Committee - 89 Ross Watt Road Gisborne - Attachment 1 - redacted submissions (under separate cover)

Summary

To hear from submitters in relation to Development Plan Application DP/2021/1.

Recommendation**That the Committee:**

- 1. Notes the submissions received in relation to DP/2021/1; and**
- 2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the next Planning Delegated Committee Meeting on 12 October 2022.**

Background

Application DP/2021/1 seeks the approval of a Development Plan for Area 1 under the Development Plan Overlay Schedule 4 (DPO4) for the land at 89 Ross Watt Road, Gisborne.

An appeal was lodged by the applicant with Victorian Civil and Administrative Tribunal (VCAT) on Council's failure to determine the application within the prescribed time. An upcoming compulsory conference is scheduled for 10 November 2022 and an eight day hearing scheduled for March 2023.

A requirement of DPO4 is that the development plan is publically exhibited for a period of two weeks prior to approval. The Responsible Authority must take into account any comments received when considering the development plan or any amendment to that plan. Adjoining and surrounding landholders and occupiers were informed of the application by a direction of VCAT from 8 July 2022 to 26 July 2022. Twenty-eight (28) submissions have been received.

Summary of proposal

The development plan proposes a residential estate comprising approximately 769 lots with an average lot size of 573m², including a local convenience centre, childcare centre and various open spaces. A number of 'superlots' and a 'potential residential retirement living community (6.71 Ha)' are also proposed. It is unclear the density proposed for these two components.

Lot sizes are to range from under 300m² and up to and beyond 1500m². 3.74Ha of open space is proposed along with a 10.12Ha reserve along Jacksons Creek.

The Development Plan and associated information can be found on Council's website at www.mrsc.vic.gov.au/89RW.

Planning permit trigger/s

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

A permit granted must:

- Be generally in accordance with the development plan.
- Include any conditions or requirements specified in a schedule to this overlay.

The development plan may consist of plans or other documents and may with the agreement of the responsible authority, be prepared and implemented in stages.

The development plan may be amended to the satisfaction of the responsible authority.

The applicant has submitted a development plan for consideration by Council.

Summary of submissions

A total of twenty-eight (28) objections were received to this application. The objections have been placed on Council’s website (redacted to remove all personal information) at www.mrsc.vic.gov.au/89RW. They are summarised as follows:

Objection/concern regarding application
<ul style="list-style-type: none"> • Traffic Concerns including internally and externally of the development plan area. This includes staging of works, existing traffic levels and proposed outcomes.
<ul style="list-style-type: none"> • Extent of growth proposed and the impact this will have on the town due to the lack of services and infrastructure.
<ul style="list-style-type: none"> • Impact on local waterways including Jacksons Creek, Racecourse Marshland Reserve and water quality at the Rosslyn Reservoir.
<ul style="list-style-type: none"> • Concern with the proposed dwelling density including its location and that lots are under 300m².
<ul style="list-style-type: none"> • Impact on the Jacksons Creek escarpment, landscape values and semi-rural character of Gisborne.
<ul style="list-style-type: none"> • Development will be out of character for Gisborne and the local area.
<ul style="list-style-type: none"> • Concern with pedestrian and cycling connections.
<ul style="list-style-type: none"> • Lack of schools within the proposed development or the location of the development in proximity to the local schools.
<ul style="list-style-type: none"> • Concerns regarding stormwater drainage and location of stormwater infrastructure.
<ul style="list-style-type: none"> • Amenity, noise, disruption and risk concerns during development of the site.
<ul style="list-style-type: none"> • Extent of notice undertaken.
<ul style="list-style-type: none"> • Concern with the neighbourhood character response and design outcomes.
<ul style="list-style-type: none"> • Impact on adjoining rural land uses.
<ul style="list-style-type: none"> • Concern with the loss of native vegetation and linkages for animals.

<ul style="list-style-type: none"> • Concern with response to climate change.
<ul style="list-style-type: none"> • Fails to meet key principles of the DPO4.
<ul style="list-style-type: none"> • Concern with the development’s interface with the Calder Freeway.
<ul style="list-style-type: none"> • Concern with the impact.
<ul style="list-style-type: none"> • Lack of details regarding “medium density lots”, Residential Retirement Living Community, open space and traffic.
<ul style="list-style-type: none"> • Concern with landscaping and open space response.
<ul style="list-style-type: none"> • Concern development plan does not address Gisborne Futures or its recommendations including a western bypass option for Gisborne.

Officer declaration of conflicts of interest

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

8.2	DP/2019/1 - BENNETT ROAD, GISBORNE - DEVELOPMENT PLAN
Officer:	Jack Wiltshire, Strategic Planner
Attachments:	DP/2019/1 - Planning Delegate Committee submitters - Bennett Road Gisborne Development Plan - Attachment 1 - Redacted submissions ↓

Summary

To hear from submitters in relation to Development Plan application DP/2019/1.

Recommendation

That the Committee:

- 1. Notes the submissions received in relation to the Development Plan Application DP/2019/1; and**
- 2. Requests that recommendations be prepared, based on all relevant information, including the submissions received, for consideration and determination at the next Planning Delegated Committee Meeting on 12 October 2022.**

Background

Application DP/2019/1 seeks the approval of a Development Plan for under the Development Plan Overlay Schedule 18 (DPO18) for the land at:

- 88 Bennett Road (Lot 1, PS343448)
- 128 Bennett Road (Lot 1, PS343449)
- 168 Bennett Road (Lot 2, PS627007)
- 15 McGregor Road (Lot 1, TP886104)
- 94 McGregor Road (Lot 1, LP134525)
- 134 McGregor Road (Lot 1, PS633404)

Whilst the DPO18 does not require notice to be given, public notice of the development plan was undertaken from 13 April 2022 to 27 April 2022.

Adjoining and surrounding landholders and occupiers were informed of the application. Four (4) submissions have been received.

Summary of proposal

The development plan proposes a rural living subdivision of approximately 53 lots with the possibility of further subdivision of a 12.35Ha super lot.

The development plan outlines a linear waterway corridor along Djirri Djirri Creek running between Coney Court and Bennett Road. Lots fronting Djirri Djirri Creek have indicative building envelopes to ensure suitable setbacks of development.

Lot sizes are to range from 2Ha up to 3.23Ha (excluding a 12.35Ha super lot). No open space is proposed within the development, however a maintenance track on the northern

side of Djirri Djirri Creek and some rural pedestrian/bike paths will be provided within the development plan area.

Planning permit trigger/s

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

A permit granted must:

- Be generally in accordance with the development plan.
- Include any conditions or requirements specified in a schedule to this overlay.

The development plan may consist of plans or other documents and may with the agreement of the responsible authority, be prepared and implemented in stages.

The development plan may be amended to the satisfaction of the responsible authority.

The applicant has submitted a development plan for consideration by Council.

Summary of submissions

A total of four (4) objections were received to this application. They are summarised as follows:

Objection/concern regarding application
• Concern with proposed internal road layout and other traffic concerns.
• Concern with proposed Djirri Djirri Creek reserve and why this land cannot be incorporated into residential lots.
• Concern with providing infrastructure and the equity of the proposed arrangement.
• Concern regarding the reserve encompassing Djirri Djirri Creek rather than retaining it in private ownership with an easement.
• Proposed an alternative arrangement from the proposed layout.
• Concern with condition of Bennett Road and the impact of development.
• Concern with the proposed layout, building envelopes and access of 88 Bennett Road, Gisborne.
• Concern with drainage from the site onto nearby properties.
• Concern with proposed setbacks and building envelopes.

Officer declaration of conflicts of interest

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



Hi Jack Wiltshire,

My name is [REDACTED] and I own the property [REDACTED] I have had a look at the planned subdivision documents and I'm concerned due to a few aspects.

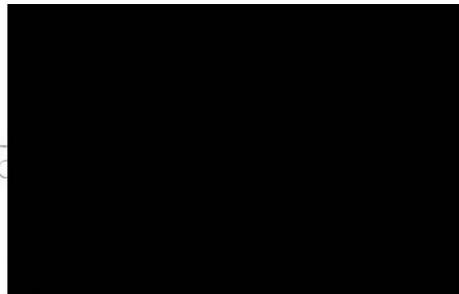
I have only lived here for a short period of time and I wasn't aware that there was a plan of subdivision around the property. The property has some nice views looking down the creek area at the rear of property. I'm concerned that a dwelling on the rear of our property(block 2) the blocks envelope will affect our views, the envelope comes extremely close to our rear fence. If the new dwelling is built near our back boundary fence this will affect our privacy and also block our views. My preference is that there is no subdivision around my block. If it's going to happen id like to see envelope pushed well away from our boundary and also would like some commitment of limited height on the dwelling on block 2.

I have also have an issue with block 4 not having an envelope, ideally an envelope that would restrict any development close to our boundary fence would help with privacy. We moved into this area for the peace and quiet as we have an [REDACTED] that doesn't cope well with noise and his development has progressed exceptionally since moving into our new place. This notification ending up in the letter box has given us a lot of concern.

Kind Regards



D22-52674



03/05/2022

To the Responsible Authority, Macedon Ranges Shire Council

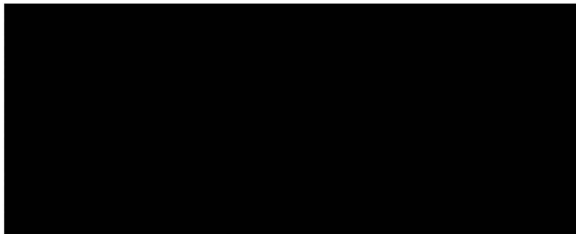
OBJECTION TO:

Development Plan DP/2019/1-Bennett Road, Gisborne, Rural Living Area (DP018)

We wish to object to the above Development Plan as follows,

1. Condition of Bennett Road. At 6.3 meters wide it is narrower than the proposed new roads within the development, yet it will carry most of the traffic. It is also full of pot holes and is one of the worst maintained roads in the Macedon Ranges. This will get worse with the heavy earth moving machinery required to make the subdivision.
2. Access to lot 4 at 88 Bennett Road is limited. Being a Battle axe block a road or driveway would be necessary. The slope along that part of land would be too steep and require a lot of cut and fill.
3. Size of building envelopes. The current plans for building envelopes are too general and broad. On a 2-hectare property a building envelope within 10m of the neighbouring property is too close.
4. The terrain at Lots 3 and 4, 88 Bennett Road is too steep to satisfactorily cope with wastewater disposal. The wastewater could also end up in the waterway.
5. A dwelling built at Lot 4, 88 Bennett Road could potentially block the views of the Macedon Ranges from the dwelling already built at 40 Bennett Road.

We would be grateful if the Council would take our objections into consideration when making a decision on the Development Plan.



[REDACTED]

To: Macedon Ranges Shire Council
Subject: RE DEVELOPMENT PLAN DP/2019/1 BENNETT RD + MCGREGOR RD SUBDIVISIONS
Categories: Planning

Jack Wiltshire,

Strategic Planner MRSC

Hi Jack,

The plan for extra housing raises 2 problems for residents of McGregor Rd.

1 Drainage .. The whole development area in wet weather is covered in a sheet of water flowing northwards onto McGregor Rd. The road since it has been resurfaced twice has a lot of loose fill which has slid down and filled in the drains. My street frontage at [REDACTED] had the drains re-dug by council, and the loose road fill has filled in the drain again since. A steep roadside ditch is not ideal anyway, and would quickly fill in.

As it is now the water overflows what's left of the shallow roadside drain into my driveway and through my property. If a 10 inch high clay barrier was put on my fence line and connecting to the driveway crossover drain ends, the same as your engineer arranged as a drainage solution at the rear of my property when a nearby subdivision was done, that would work perfectly. A simple fix.

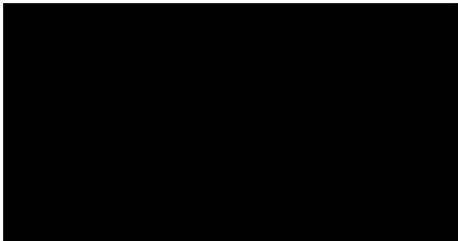
2 Traffic .. Bennett Rd 200 metres at the north end has been neglected for a long time. It's been crumbling for years, it is potholed and corrugated, is given a few dabs of tar every 6 months and breaks up again. Resurface 200m at the north end please, it's a disgrace. I did report it, and someone got their wires crossed and did a completely unnecessary SECOND resurfacing on McGregor Rd.

I OBJECT TO THE PLAN UNLESS A DRAINAGE BARRIER IS INSTALLED ON MY FENCELINE/CROSSOVER AT [REDACTED], AND RESURFACING IS DONE OF THE WORST 200 METRES OF BENNETT RD.

Thank You.

Best Regards,

█



UrbanDesign
and managementLand Development | Project Management
Planning | Urban Design | Civil EngineeringProject No: 22032
Your Reference:

27 May 2022

Jack Wiltshire
Macedon Ranges Shire Council
PO Box 151
KYNETON VIC 3444By email: mrsc@mrsc.vic.gov.au

Dear Jack

**Re: Bennett Road Development Plan
Development Plan DP/2019/1 – Bennett Road, Gisborne, Rural Living Area (DPO18)**

We advise that we act for [REDACTED] in relation to this matter. We advised Council recently that we have only just been engaged by our clients and appreciate the opportunity to provide a submission on their behalf.

Our clients had some contact with both the proponents and Council in 2019/2020 regarding the proposed plans. Since that time, there had been no further advice on progress of the DP until it was provided to them as part of the public notification process for the DP. As such, it came as somewhat of a surprise that it had progressed further given the time that had passed without contact.

Our clients own 2 of the 6 parcels included in the Bennett Road Development Plan area. Whilst it is our client's intentions to remain on their properties and not develop them in the foreseeable future, they do not wish to prevent other landowners in the area from developing and are supportive of them progressing the DP. It is therefore their main concern that the DP as provided does not offer them a fair and equitable outcome if they (or another party) were to develop their land in accordance with the DP in the future.

The DPO18 in the Macedon Ranges Planning Scheme, which is for the Bennett Road rural living area, includes objectives concerning:

- Coordinating development and integrating it with the surrounds.
- Providing for a range of lot densities to respond to site features.
- Strategically manage the natural features, including the sloping land and drainage lines.
- To protect and manage waterways.
- Provide sustainable access to water supplies.

We agree that the proposed DP achieves some of these objectives, although when reviewing the map to Schedule 18 it could be read that there are also other ways to achieve these objectives.



Figure 1: Map 1 from DPO18

The key concerns we have with the DP as presented can be summarised under the following key issues:

Road Network

Brooking Road construction

It appears in reviewing the DPO18 that the connection of Brooking Road through to Coney Court/ Rockglen Way along the unmade government road to the east of the creek was not envisaged as an essential infrastructure item in the Schedule. Rather, it was intended that Brooking Road link back to the north to McGregor Road via a suitable route. In reading the traffic report submitted with the DP, it appears that whilst the need for a creek crossing is referenced, it is on the assumption that the road is required as part of the network, rather than any analysis of its need being undertaken. We note earlier in the Traffic Management and Impact Plan that given the site’s good access to both Dalrymple Road and the Calder Freeway, it is questioned whether an expensive piece of infrastructure such as a culvert crossing and construction of a road over a waterway is warranted to be constructed.

In addition to whether it is required at all, the additional question of fairness is whether that cost should be borne by the one landowner as referenced in both the DP and the Traffic report.

Internal road network – 94 McGregor Road

We note that the road network shown on the DPO18 map and the proposed DP are generally consistent internal to the site, noting that the road intersecting with Panorama Drive has been relocated to avoid a roundabout, which is supported.

On 94 McGregor Road, the road network proposed creates a significant amount of single sided road for one landowner to provide. In the case of the northern extent of this road, it is provided for the advantage of access for the owners of 134 McGregor Road, and provides no benefit to the development of 94 McGregor Road. Assuming the owners of 134 McGregor Road wish to develop their land, how are they supposed to gain access to their proposed subdivision without our client providing them the road? Surely a more reasonable and equitable solution would be to either:

1. Place the road within their land parcel along this extent; or
2. Consider alternatives for their access, and a lot layout and density that suits that.

With regard to the southern extent, approximately 550m of road is required to be built that provides access/ frontage to only 3 lots, as shown on the Subdivision Concept Plan. This is not a feasible development option.

Alternative arrangements that provide a more equitable outcome for the landowner of 94 McGregor Road could include:

- to place the road more centrally located within the property, allowing development both sides of the road; or
- to consider having a shared road between boundaries (similar to what is proposed between 128 and 168 Bennett Road) that could provide the connection between Brooking Road and McGregor Road envisaged by the DPO18. That way, the second north south link to McGregor Road will not be required and would create a more efficient layout.

Waterway reserve and sloping land

Waterway Reserve/ Djirri Djirri Creek

The proposed DP indicates that the entire waterway corridor (30m either side of the Djirri Djirri Creek) is to be *'vested in Council as a minimum 60m wide reserve, 30m to each side of the waterline and wider where shown with a Council maintenance and fire protection access track on the north side.'*¹ We note that in Map 1 to schedule 18 to the DPO, that the land is not shown as a reserve, just comment made that the escarpment is to be protected, along with improved vegetation management.

The wording in the DPO schedule under both 4.0 Requirements for a Development Plan, and 3.0 Conditions and Requirements for Permits also indicates that whilst there is a focus on protecting and excluding stock from the waterway corridor, there is no reference to any requirement for it to be vested in Council or any other authority.

The Djirri Djirri Creek is an important feature of the landscape and can be adequately and suitably managed within private property. It is a seasonal creek, there is no need for it be transferred into public ownership for appropriate ongoing management to occur. Have Melbourne Water been consulted in this process? We are not aware of them coming to site to look at the waterway and provide comment but would appreciate being made aware of any referral advice received in relation to the waterway corridor. We have been involved with projects in the Macedon Ranges Shire (eg. PLN/2017/499 – 206 & 207 McGeorge Rd, Gisborne), as well as other peri-urban municipalities whereby rural living style subdivisions have occurred that retain waterways within an easement on title, with stringent Melbourne Water requirements for fencing, weed control and revegetation prior to Statement of Compliance being issued, and then ongoing obligations for the future landowners via Land Management Plans that need to be secured to the land via a Section 173 Agreement. These requirements ensure that:

1. Stock are excluded from waterways.
2. Vermin and weed management controls are implemented in an ongoing way via the Land Management Plan.
3. Both Council and Melbourne Water can oversee the land management requirements.

Mechanisms such as these ensure that the appropriate land management occurs and ensures that the obligations are managed in line with Council's overall strategic objectives for environmental assets within their region.

It is not evident in any of the available strategic planning documentation from Council (ie. Open Space Strategy, Walking and Cycling Strategy, draft Gisborne Futures, In the Rural Living Zone Strategy) that the Djirri Djirri Creek corridor has been identified as an environmental and open space network that Council wish to acquire and focus on as part of a broader trails network. We note that given the western extent of the DP area ends at the Calder Freeway, and there is no safe access available through to the other side of the freeway where the creek continues, it is hard to understand why there is a demand/ need for such a large public reserve in an area focussed on rural living style of development.

Steep land

We recognise that there is an area of 'low to moderate' slope identified on 94 McGregor Road, Gisborne alongside the eastern boundary, adjacent to the creek. This area looks to range from approximately 1:6 to around 1:10, which is, as referenced on the plan, low to moderate and not significant slope. Whilst it is recognised it is not suitable for building on, there is no reason why it could not be contained within a 2ha

¹ DP page 10

minimum lot and be retained and maintained outside of a building envelope provided. This land does not become usable open space regardless of its relationship to the waterway corridor.

Development Contributions and equity

Infrastructure

It is recognised that in general, most infrastructure will be provided by the developer providing it. As mentioned earlier in this submission, this becomes more challenging for example on the north-south road in 94 McGregor Road, where 134 McGregor may wish to develop, yet the road that provides them with access is on the adjoining property. Earlier comments in our submission about this should be considered to provide a more equitable outcome to these landowners.

The construction of Brooking Road by abutting landowners as development occurs is also reasonable. The construction of a culvert crossing over the Djirri Djirri Creek is a significant construction item that is not required for development of any of the abutting parcels (134, 94 McGregor, or 88 Bennett Road). The requirement for construction of this crossing should be reconsidered as to its necessity for the efficient functioning of the transport network. Alternatively, if it is to be provided, it should be an infrastructure item that is cost shared between landowners that front Brooking Road.

Open space

We note that in the Development Plan report, where it discusses development contributions, that it states "*The Djirri Djirri Creek waterway is designated on the Development Plan as a waterway reserve to be vested in Council and so its transfer would not form part of any open space contribution. The reserve improvements including landscaping, paths and fencing will be undertaken by the affected lot under subdivision applications. An open space contribution from those subdivisions may include capital works reserve improvements, to be considered at the subdivision stage.*"

We note that in our experience, it is Council's practice to require a 5% public open space contribution on Rural Living zoned land. Should the DP proceed as exhibited, the landowners at 88 Bennett Road and 94 McGregor Road, as well as the landowners at 134 McGregor Rd, will all be required to both gift the waterway reserve and sloping land reserve to Council, provide improvements to them in accordance with Melbourne Water requirements and Council conditions (ie. Weed control, revegetation), and then on top of that, provide a cash contribution for open space. It is clear in the exhibited DP that this land will not be considered an open space contribution.

The DP should be more specific about open space contributions, as it does not clearly state that an open space contribution will be taken as a condition of permit. If this is Council's intention, then assuming the waterway corridors are public land, the money levied could be well utilised in funding the improvements to the waterway corridor, alleviating some of the impost on the landowners of those parcels. If Council are really wanting to take over the management and maintenance of the approximately 1.6km of waterway and its adjoining corridor, then open space contribution monies would provide a small contribution to its ongoing upkeep and maintenance responsibilities.

Alternative plan

In reviewing the DP and plans, we have considered what an alternative plan that reflects our client's aspirations would look like and attach it for your consideration. It provides a more equitable outcome for our clients and maintains the development aspirations of the DP proponents. We would be happy to discuss it in further detail.

We appreciate the opportunity to provide a thorough submission for your consideration and would be happy to meet with Council and the proponents to discuss our concerns. As stated at the front of our submission, we support the progress of our neighbours to develop and subdivide their land but want to make sure that is done in a fair and equitable way in relation to our land.

Should you wish to contact me, I can be reached on [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



