



# LATROBE CITY COUNCIL

**AGENDA FOR THE  
COUNCIL MEETING**

**TO BE HELD IN NAMBUR WARIGA MEETING ROOM  
CORPORATE HEADQUARTERS, MORWELL AND  
VIA AUDIO-VISUAL LINK  
AT 6:00PM ON  
06 MARCH 2023  
CM588**

***Please note:***

*Opinions expressed or statements made by participants are the opinions or statements of those individuals and do not imply any form of endorsement by Council.*

*By attending a Council Meeting via audio-visual link those present will be recorded or their image captured. When participating in the meeting, consent is automatically given for those participating to be recorded and have images captured.*

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## COUNCILLOR AND PUBLIC ATTENDANCE

### **PLEASE NOTE**

TO ENSURE LOCAL GOVERNMENT DECISION-MAKING CAN CONTINUE DURING THE CORONAVIRUS PANDEMIC, MECHANISMS FOR VIRTUAL COUNCIL MEETINGS HAVE BEEN INTRODUCED INTO THE LOCAL GOVERNMENT ACT 2020.

PURSUANT TO SECTION 394 OF THE LOCAL GOVERNMENT ACT 2020, A COUNCILLOR MAY ATTEND THIS COUNCIL MEETING REMOTELY BY ELECTRONIC MEANS OF COMMUNICATION; AND

PURSUANT TO SECTION 395 OF THE LOCAL GOVERNMENT ACT 2020 THIS COUNCIL MEETING MAY BE CLOSED TO IN PERSON ATTENDANCE BY MEMBERS OF THE PUBLIC PROVIDED THE MEETING IS AVAILABLE THROUGH LIVE STREAM ON COUNCIL'S INTERNET SITE.

### **1. ACKNOWLEDGEMENT OF THE TRADITIONAL OWNERS OF THE LAND**

*I would like to acknowledge that we are meeting here today on the traditional land of the Brayakaulung people of the Gunaikurnai nation and I pay respect to their elders past and present.*

*If there are other Elders present I would also like to acknowledge them.*

### **2. THE PRAYER**

*Our Father who art in Heaven, hallowed be thy name. Thy kingdom come, thy will be done on earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us, and lead us not into temptation but deliver us from evil. For the kingdom, the power, and the glory are yours now and forever. Amen.*

### **3. APOLOGIES AND LEAVE OF ABSENCE**

### **4. ADOPTION OF MINUTES**

#### **Proposed Resolution:**

**That Council confirm the minutes of the Council Meeting held on 6 February 2023.**

### **5. DECLARATION OF INTERESTS**

## **6. PUBLIC PARTICIPATION TIME**

### **Public Questions on Notice**

In Accordance with the Council Meeting Policy, members of the public can lodge a question on notice before 12noon on the Friday before the day of the Council meeting in order for the question to be answered at the meeting.

### **Public Speakers**

An opportunity for members of the public to speak to an item on the agenda will be made available by necessary means. To participate, members of the public must have registered before 12noon on the day of the Council meeting.

# **STRATEGIC ITEMS FOR DECISION**

## 7. STRATEGIC ITEMS FOR DECISION

Item Number 7.1

06 March 2023

Regional City Planning and Assets

# TRARALGON FLOOD RECOVERY PROJECT-FUNDING

## PURPOSE

To seek endorsement for the Traralgon Flood Recovery Project funding and proposed way forward in the event no further funds are obtained.

## EXECUTIVE SUMMARY

- The Traralgon Flood Recovery Project (TFRP) was originally estimated at \$10M, however inflation and material supply costs have led to escalation of this estimate to approximately \$11.6M.
- To date Council has committed \$2M to the project along with the remaining insurance monies from the flood, which is in the order of \$250k after provision of the temporary facilities for the Traralgon Football Netball Club.
- The State Government has also contributed \$4.75M to the overall project, being \$2.75M for the Multi Use Pavilion at the Reserve, and \$2M for the Indoor Multi Sports Hall at Glenview Park (for Roller Derby and Dodgeball).
- Council currently does not have the required funds to complete the entire project and will need to consider staging of the works to ensure the funding that has been secured to date is not withdrawn.
- It is officer's opinion that the Traralgon Men's Shed and the Traralgon Bridge Club should be removed from stage 1 of this project as the funding secured has not been allocated towards these specific groups and are the logical elements to be removed from the scope.
- To ensure the Multi Use Pavilion and Indoor Multi Sports Hall projects can commence in a timely manner, Council may also wish to allocate the funds provided by the Federal Government as part of Phase 4 of the Local Roads and Community Infrastructure Program (LRCIP4). The amount of funding currently available is \$1.7M.
- Officers are of the opinion that Council should split the project for delivery purposes into stages, with Stage 1 being:
  - Multi Use Pavilion at the Traralgon Recreation Reserve; and
  - Indoor Multi Sports Hall at Glenview Park, Traralgon.
- As demonstrated by the increase in the project estimates over the last 12 months, Council should consider commencing design work on the Stage 1 projects shortly in order to limit further exposure to cost escalations, which could be in the order of 10-20% over the next 12 months.

## OFFICER'S RECOMMENDATION

### **That Council:**

- 1. Endorses the allocation of \$1.7 Million from the Federal Government's Local Roads and Community Infrastructure Program - Phase 4 for the Traralgon Flood Recovery Project;**
- 2. Prioritises the delivery of the following projects as Stage 1 of the overall Traralgon Flood Recovery Project for delivery with the allocated funds:**
  - a. Multi Use Pavilion at the Traralgon Recreation Reserve; and**
  - b. Indoor Multi Sports Hall at Glenview Park, Traralgon.**
- 3. Endorses the allocation of \$1.6 Million from Council's Unallocated Cash Reserve towards the projects listed in Point 2;**
- 4. Endorses the allocation of \$25,000 from Council's Unaccumulated Cash Reserve towards the development of concept plans for the Traralgon Men's Shed as a stand-alone building;**
- 5. Refers an allocation of \$650,000 to the 2022/2023 End of Year Budget Process for consideration to fund the Men's Shed project; and**
- 6. Continues to advocate to the State and Federal Governments for the additional funding required to deliver Stage 2 of the Traralgon Flood Recovery Project.**

## BACKGROUND

The Traralgon Recreation Reserve is located within a floodway and has been impacted by multiple flood events in recent history. The June 2021 flood event caused considerable damage to a number of buildings within the Traralgon Recreation Reserve, and as a result Council has been provided \$4.75M by the State Government for the following projects:

1. Traralgon Recreation Reserve Flood Remediation Project (Multi Use Pavilion) – \$2.75M; and
2. Traralgon Indoor Multi Sports Hall Project at Glenview Park (Roller Derby) – \$2M.

Council also previously resolved to contribute \$2M to the overall project, without specific allocation of the funds.

## ANALYSIS

The overall Traralgon Flood Recovery Project (TFRP) is now anticipated to cost in the order of \$11.6M to deliver, an increase of \$1.6M within the last 12 months, mainly due to inflation and material supply costs.

Officers have previously met with State Government representatives to discuss the funding provided by the State and how best to develop a funding agreement with appropriate milestones and deliverables, whilst also ensuring ample time remains for Council to further advocate for and seek other contributory funds. These agreements were signed prior to the commencement of the caretaker period for the 2022 State Government election.

To date Council is yet to receive any form of commitment or funds from the Federal Government specifically for this project.

Council received a \$574,801.09 ex GST settlement from its insurer for the existing football changerooms, canteen and Bridge Club buildings at the Reserve following the June 2021 flood, which was paid to Council instead of completing repairs on buildings that could easily be inundated again by future flood event.

Of this amount, approximately \$250k remains after the purchase and installation of temporary change and canteen facilities for the Traralgon Football Netball Club. These funds can also be contributed to the TFRP and could likely fund detailed design and further detailed site investigations for the project.

Currently the \$4.75M of State funds alongside Council's contribution of \$2.25M (including insurance monies) leaves the overall project, which was originally estimated at \$10M, but is now more likely to cost \$11.6M, short by \$4.6M.

The following options are recommended to Council as the best course of action:

### **Option 1 – Contribute Local Roads and Community Infrastructure Program Phase 4 (LRCIP4) Funds**

One option that is available to Council is to commit the funds available through the Local Roads and Community Infrastructure Program offered by the Federal Government, to the TFRP. The amount of funding to be provided to Council in this phase is \$1.7M, with the possibility of a further allocation being made in addition to this, however this possible additional amount is not yet known.

It is possible that any future advocacy with the Federal Government could result in Council being directed to use these funds as the Federal contribution to the project.

It is worth noting that these funds are only able to be spent from 1 July 2023 until 30 June 2025 and would require endorsement from the Federal Government's Infrastructure Department.

### **Option 2 – Continue to Advocate for Further Funding**

Officers view the likelihood of obtaining a further State Government contribution towards the project to be highly unlikely based on discussions at officer level. Federal Government funding will continue to be sought, and where grant funding opportunities arise such as through programmes that have ran previously such as the *National Flood Mitigation Infrastructure Program*, an application could be made.

### **Option 3 – Reduce the Scope of the Project (Remove the Men's Shed and Pavilion at Glenview Park)**

This option is one of last resort in the opinion of Officers, however, it is now required to be considered by Council, particularly if no further contributory funds can be obtained.

Officers suggest that the optimal way to reduce the scope would be to remove entire pieces of infrastructure from the overall project, instead of scaling back all pieces of infrastructure to provide all groups with individual facilities that may not meet their current and/or future needs.

Officers therefore propose the deferral of the following from the overall scope of the project and deferring them to future stages of the Traralgon Flood Recovery Project:

- Men's Shed at Glenview Park
  - Estimate of \$0.65M.
- Community Pavilion at Glenview Park (future home of the Bridge Club, Agricultural Society {should they formally declare their interest} and Equestrian Club).
  - Estimate of \$0.65M.

The only groups currently continuing to operate without any major impact are the Traralgon Men's Shed and the Model Makers Club, and as a result if elements of the project need to be removed, it is considered that these groups would not be provided a new building as part of Stage 1 of TFRP, if the total \$11.6M cannot be obtained.

The Bridge Club currently has temporary accommodation that is being provided at Latrobe Valley Masonic Centre, whilst the Agricultural Society appear to be inactive and are still yet to formally commit to the idea of relocating to Glenview Park. The Ravens Equestrian Club is already housed at Glenview Park with appropriate infrastructure for their current operations, noting that they would use the pavilion in the future for a meeting and gathering space if constructed.

Officers note that of the above groups, the Men's Shed, has been a strong contributor to the advocacy campaign for the TFRP to date and whilst it is difficult to leave groups out of the project's first stage, there would still be opportunity to seek funding for the future Men's Shed and Community Pavilion facility at the Glenview Park Community Hub.



#### Option 4 – Council Provides Further Funding

Council could seek to allocate further funds to the TFRP from unallocated cash reserves noting funding of other projects or services within Council’s budget.

#### Option 5 – Council Prioritises or Redirects Funding Contribution

Council did not explicitly provide direction for the use of the \$2M it resolved to contribute to the TFRP at the 8 November 2021 Council Meeting, based on the officer’s recommendation at the time, the \$2M commitment was made to the entire project, not a specific element or location.

#### Current Funding Summary

Implementing the above options would result in the funding shown in the tables below show the proposed staging of the TFRP as well as the current funding available and the associated shortfalls. For reference, Officers have shown the entire allocation of Council funds (including insurance monies) against the Multi Use Pavilion at Traralgon Recreation Reserve.

<b>TFRP Stage 1</b>	
<b>Project</b>	<b>Amount</b>
<b>Estimated Costs</b>	
Multi Use Pavilion at Traralgon Recreation Reserve	\$6.7M
Traralgon Indoor Multi Sports Hall	\$3.6M
<i>SUB TOTAL</i>	<i>\$10.3M</i>
<b>Confirmed Funding</b>	
State Gov Funding - Multi Use Pavilion at Traralgon Recreation Reserve	\$2.75M
State Gov Funding - Traralgon Indoor Multi Sports Hall	\$2M
Council Funds (incl Insurance)	\$2.25M
<i>SUB TOTAL</i>	<i>\$7M</i>
<b>Proposed Additional Funding</b>	
<i>LRCIP4 Funds Allocation</i>	<i>\$1.7M</i>
<i>Additional Council Allocation</i>	<i>\$1.6M</i>
<i>SUB TOTAL</i>	<i>\$3.3M</i>
<b>TOTAL</b>	<b>\$0M</b>

<b>TFRP Stage 2</b>	
<b>Project</b>	<b>Amount</b>
<b>Estimated Costs</b>	
Men’s Shed	\$0.65M
Community Pavilion	\$0.65M
<i>SUB TOTAL</i>	<i>\$1.3M</i>
<b>Confirmed Funding</b>	
<i>SUB TOTAL</i>	<i>\$0</i>
<b>Proposed Additional Funding</b>	
<i>SUB TOTAL</i>	<i>\$0</i>
<b>TOTAL</b>	<b>-\$1.3M</b>

Officers propose that value management of Stage 1 would be undertaken to reduce either the overall building footprints, or other alternatives such as change of materials or fixtures and fittings to reduce the overall costs via the detailed design and construction tender process associated with each of the projects, should the need arise.

#### RISK ASSESSMENT

RISK	RISK RATING	TREATMENT
<p>COMPLIANCE (LEGAL, CONTRACTUAL, OHS, SAFETY AND FINANCIAL)</p> <p>Withdrawal of State Government funding</p>	<p><b>Medium</b></p> <p><i>Unlikely x Major</i></p>	<p>Funding agreements have been entered in to with the State Government prior to the State Government election caretaker period commencing.</p>
<p>SERVICE DELIVERY</p> <p>If the total funding is not secured, this will impact the deliverables and outcomes that are achievable.</p>	<p><b>Medium</b></p> <p><i>Possible x Moderate</i></p>	<p>Continue to advocate for additional funding from State and Federal Governments.</p> <p>Undertake preliminary scope reduction and value management where possible</p> <p>Remove infrastructure from the project scope</p>
<p>FINANCIAL</p> <p>1. Proceeding with the entire project without the appropriate funding.</p> <p>2. Inflation and high project related costs</p>	<p><b>High</b></p> <p><i>Possible x Major</i></p>	<p>Continue to advocate for additional funding from State and Federal Governments.</p> <p>Remove infrastructure from the project scope</p> <p>Undertake preliminary scope reduction and value management where possible</p>

#### CONSULTATION

Officers have engaged with the directly impacted user groups, outlining the recommendation presented within this report.

These user groups are as follows:

- Traralgon Mens Shed;
- Traralgon Bridge Club;
- Traralgon Football and Netball Club;
- Ex Students Cricket Club;
- Traralgon Amateur Boxing Club; and
- Gippsland Ranges Roller Derby.

Feedback from the groups invested in the projects which have been funded as part of Stage 1 was generally positive, however most are wary that the amount of funding available may not be enough to deliver the size of buildings they were originally hoping for.

Feedback from the groups removed from Stage 1 of the project (Men's Shed and Bridge Club) was mostly about their disappointment, however there was also an understanding of the predicament Council is in.

The Men's Shed asked for assistance with preparing concept plans for a stand-alone shed for them to start seeking funding themselves and the Bridge Club asked to ensure that the Indoor Sports Hall is designed in a way that will allow for an easy/cheap extension at a later date, to build the room originally planned for them in the 'community hub'.

Officers have also engaged with the wider Traralgon Showgrounds and Recreation Reserve Advisory Committee which had similar feedback, in that they are happy the projects are progressing however are concerned the funding available will not be enough to build the ideal buildings.

#### COMMUNICATION

Further advocacy and discussions with elected members and government departments may be required of Councillors and Officers moving forward to fund Stage 2 of the TFRP.

#### DECLARATIONS OF INTEREST

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

## APPENDIX 1 IMPACT ASSESSMENT

### **Social**

If the total funding required to deliver the entire TFRP is not obtained it is highly likely the entire project remains undeliverable. Instead, Officers propose the removal of some of the infrastructure to reduce the scope of the project, whilst still committing to securing funds in the long term for delivery of the entire TFRP. This may prove to be an impact to some of the community groups and the wider community in general, however Council would commit to continue to seek and advocate for funds to deliver the project in full, albeit in a staged manner as outlined in the analysis section of this report.

### **Cultural**

There are no known cultural impacts in relation to this report.

### **Health**

The TFRP project will provide new and improved infrastructure that will allow the community to engage in social, cultural and physical activities, which in turn will improve the health and wellbeing of the community.

### **Environmental**

Removing the buildings within the flood overlay would improve environmental flows during future flood events.

### **Economic**

Economic impacts have not been considered as part of this report as it is unlikely any direct impacts can be determined until such time that the direction of Council and all funding outcomes are known.

### **Financial**

The entire TFRP is now estimated to cost in the order of \$11.6 million, of which \$4.75M of State funding is secured, with \$2M currently being contributed by Council. The \$1.7M of funds from Phase 4 of the Local Roads and Community Infrastructure Program could also be allocated to the project should Council support this option.

If the State and Federal Governments do not provide further financial support for the overall project, the current funding would likely only allow for the construction of a smaller than desired Multi-Use Pavilion at the Traralgon Recreation Reserve, and the Indoor Multi Sports Hall at Glenview Park.

Maintenance costs associated with new infrastructure constructed as part of this project are considered to be comparable to the costs of maintaining the current buildings owned by Council.

### **Attachments**

Nil

# HENRY STREET, TRARALGON PARKING TRIAL EVALUATION EXTENSION

## PURPOSE

For Council to consider extending the evaluation reporting of the Henry Street, Traralgon, Resident Exempt parking zone trial.

## EXECUTIVE SUMMARY

- Council resolved at its 6 December 2021 meeting to implement a 12-month Resident Exempt parking zone on Henry Street, Traralgon, and receive a report on the results of the trial by the March 2023 Council Meeting.
- Council officers acknowledge that there was delay in implementing the Resident Exempt parking zone due to a significant backlog in traffic related workload following the pandemic. The new zone was installed in October 2022, and a subsequent delay in the evaluation reporting is required so that a 12-month sample period can be considered.
- Evaluation reporting will include longitudinal parking occupancy data and property owners' feedback from within and outside of the zone.

## OFFICER'S RECOMMENDATION

**That Council receives a further report outlining the results of the Henry Street resident parking zone trial by no later than the March 2024 Council Meeting.**

## BACKGROUND

Council resolved to trial a Resident Exempt 2P parking zone on Henry Street Traralgon, shown as proposed in the following figure:



**Figure 1 – New 2P resident exempt area in yellow**

In the development of the scheme residents within the zone and surrounding areas were surveyed for their feedback. It received a response rate of 39% and support was aligned with areas of potential benefit and dis-benefit.

Previous parking occupation surveys have revealed an average weekday parking occupancy of 32% and peak of 60%. Parking was consistently available within 50-meters of residential properties.

Parking permits were provided to properties and parking signs erected in October 2022. The Council resolution called for an evaluation report no later than the March 2023 Council meeting, which does not consider a full 12-months of data to evaluate the trial.

## ANALYSIS

The new parking scheme has been in operation for four months which included the end of year holiday period. To adhere to the resolution a 12-month period needs to be considered.

Further data will also be collected regarding:

- Issuing of any infringements within the zones
- Longitudinal parking occupation pre and during trial

Finally, resident feedback from within and surrounding the new zone will also be sought.

## RISK ASSESSMENT

RISK	RISK RATING	TREATMENT
STRATEGIC Conducting trial evaluation without sufficient data	<b>Low</b> <i>Possible x Insignificant</i>	Continue trial for 12-month period.

## CONSULTATION

Community feedback has been sought and considered during the development of the parking trial.

## COMMUNICATION

At the conclusion of the trial, Officers will engage with relevant stakeholders requesting feedback for its evaluation for inclusion in the evaluation report to Council.

## DECLARATIONS OF INTEREST

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

## APPENDIX 1 IMPACT ASSESSMENT

### **Social**

Nil

### **Cultural**

Nil

### **Health**

Nil

### **Environmental**

Nil

### **Economic**

Nil

### **Financial**

Nil

### **Attachments**

Nil



# DISASTER READY FUND APPLICATIONS

## PURPOSE

To seek retrospective endorsement from Council for the applications lodged by officers to the Federal Government's Disaster Ready Fund.

## EXECUTIVE SUMMARY

- The Disaster Ready Fund (DRF) is a new Australian Government disaster risk reduction initiative which will fund a diverse set of large scale and long-term resilience projects in partnership with states and territories.
- The four applications lodged with Emergency Management Victoria (EMV) by Council officers are as follows:
  - Urban Flood Study and Drainage Strategy
  - Traralgon Creek Retarding Basin Feasibility Study
  - Glengarry Flood Mitigation Design and Construction - Stage 1
  - Moe North-West Flood Mitigation Works
- The above projects were nominated as those as the most shovel ready, that would assess the most flood risks and prioritise the infrastructure response, whilst also taking into consideration projects that would not normally attract this type of funding.
- Unfortunately, the funding application timelines and the requirement to lodge applications to Emergency Management Victoria (EMV) prior to applications progressing to the Federal Government's National Emergency Management Agency (NEMA) for consideration, required officers to make the applications prior to receiving Council endorsement.
- Although the applications have been submitted to meet the deadline, should Councillors consider that these are inappropriate they can be withdrawn.

## OFFICER'S RECOMMENDATION

**That Council endorses the below applications submitted to the Disaster Ready Fund:**

- 1. Urban Flood Study and Drainage Strategy**
- 2. Traralgon Creek Retarding Basin Feasibility Study**
- 3. Glengarry Flood Mitigation Design and Construction - Stage 1**
- 4. Moe North-West Flood Mitigation Works**

## BACKGROUND

The Disaster Ready Fund (DRF) is a new Australian Government disaster risk reduction initiative which will fund a diverse set of large scale and long-term resilience projects in partnership with states and territories.

The DRF commits up to \$200 million per year nationally for disaster risk mitigation projects, to improve Australia's natural disaster resilience and risk reduction capabilities. The Australian Government has announced that up to \$1 billion will be committed through the DRF over 5 years, from 1 July 2023 to 30 June 2028.

The primary objectives of the DRF are to:

- increase the understanding of natural hazard disaster impacts, as a first step towards reducing disaster impacts in the future
- increase the resilience, adaptive capacity and/or preparedness of governments, community service organisations and affected communities to minimise the potential impact of natural hazards and avert disasters, and
- reduce the exposure to risk, harm and/or severity of a natural hazard's impacts, including reducing the recovery burden for governments and vulnerable and/or affected communities.

The Australian Government has advised that only Australian state and territory governments are eligible to apply for funding in Round One, 2023-24. Emergency Management Victoria (EMV) is coordinating project proposals for inclusion in a single over-arching Victorian application.

Officers submitted four applications under Stream 1 of the program to EMV on 16 February 2023.

## ANALYSIS

The Federal Government will contribute up to 50% of the project costs for successful project applications. Council will be required to also provide 50%, however the following can be considered as contributions to a successful project application:

- a direct (cash) funding contribution provided at the time of project commencement;
- funds the Applicant has already invested in a program or project on or any time after 1 July 2019, and only where the Australian Government contribution from the DRF is expected to extend or enhance that program or project subject to alignment with the DRF Objectives of the Australian Government guidelines. The Australian Government will not fund project cost overruns;
- any costs associated with the Applicant's delivery of the project, for example construction or project delivery; and

- other in-kind costs, such as wages directly attributable to the delivery of the project, and/or supplies, materials, and specific equipment required to execute the project.

A copy of the guidelines is provided at Attachment 1 for reference.

As a requirement of the DRF, each State was required to nominate a lead agency, for which they were to be considered the Applicant and were responsible for coordinating proposals and then submission to the National Emergency Management Agency (NEMA) which manages the DRF. Victoria's nominated lead agency was EMV, which will review Council's applications prior to submitting those they deem suitable to NEMA.

The deadline for applications to EMV was 16 February 2023, which meant that due to the deadlines for Council reports, officers were unable to seek Council endorsement prior to the deadline and instead emailed Councillors to advise of the applications being made.

If any of the applications are successful a future report will be presented to Council to confirm support and the required contributing funds.

A brief outline of each of the four project applications is provided as Attachment 2.

Whilst there are other drainage issues officers are aware of within the municipality the four applications nominated were determined as those as the most shovel ready, will assess the most flood risks and prioritise the infrastructure response, whilst also taking into consideration projects that would not normally attract this type of funding

#### RISK ASSESSMENT

RISK	RISK RATING	TREATMENT
<b>REPUTATIONAL</b> Council receives negative publicity for not making applications to the Disaster Ready Fund.	<b>Medium</b> <i>Minor x Possible</i>	Council provides endorsement of the applications submitted.

#### CONSULTATION

Officers obtained letters of support from the West Gippsland Catchment Management Authority as part of the application process for each of the four submissions. If any of the applications were successful and accepted by Council, officers would conduct the necessary consultation with impacted stakeholders.

#### COMMUNICATION

Communication has been limited to discussions between Council departments on the proposals.

DECLARATIONS OF INTEREST

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

## APPENDIX 1 IMPACT ASSESSMENT

### **Social**

Whilst no direct social impacts are associated with this report, if any of the applications are successful it is anticipated that the outcomes would produce a positive social impact with regards to either improvement of flood protection or identifying risks and provision of a strategy to implement flood mitigation infrastructure.

### **Cultural**

There are no cultural impacts directly associated with this report, however one of the applications if successful would require a Cultural Heritage Management Plan to be undertaken before any construction works took place.

### **Health**

There are no direct health impacts associated with this report.

### **Environmental**

There are no environmental impacts directly associated with this report, however if any of the applications were successful due and proper environmental assessments would be completed as required by appropriately qualified consultants.

### **Economic**

There are no economic impacts associated with this report.

### **Financial**

Whilst no direct impact exists in relation to this report, as discussed in the analysis section there is a required 50% contribution for each application, if any application were to be successful officers would present a further report to Council to confirm acceptance and to confirm funding contribution requirements.

### **Attachments**

- ↓1.  Attachment 1: DRF Guidelines
- ↓2.  Attachment 2: Brief Application Summaries

# 7.3

## Disaster Ready Fund Applications

1	Attachment 1: DRF Guidelines .....	25
2	Attachment 2: Brief Application Summaries .....	66



**Australian Government**  
**National Emergency Management Agency**

## Disaster Ready Fund (DRF) Guidelines

<b>Funding round:</b>	<b>Round 1, 2023-24</b>
<b>Opening date:</b>	<b>Tuesday 10 January 2023</b>
<b>Closing date and time:</b>	<b>5.00pm AEDT on Monday 6 March 2023</b>
<b>Commonwealth policy entity:</b>	National Emergency Management Agency
<b>Administering entity</b>	National Emergency Management Agency
<b>Enquiries:</b>	If Applicants have any questions, contact <a href="mailto:disaster.ready@nema.gov.au">disaster.ready@nema.gov.au</a>  <b>Questions should be sent no later than Thursday 23 February 2023</b>
<b>Date Guidelines released:</b>	<b>Tuesday 10 January 2023</b>
<b>Type of opportunity:</b>	<b>Closed-Competitive</b>

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## 1 Disaster Ready Fund Processes

### **The Disaster Ready Fund is designed to achieve Australian Government objectives**

The Disaster Ready Fund (DRF) will be funded from the Disaster Ready Fund Special Account. Under the *Disaster Ready Fund Act 2019 (DRF Act)* up to \$200 million will be available per annum from 1 July 2023.

### **DRF applications open**

The National Emergency Management Agency (the **Agency**) publishes a copy of the Disaster Ready Fund Guidelines (**DRF Guidelines**) inviting Applicants to submit applications. The DRF Guidelines are published on the Agency's website: [www.nema.gov.au](http://www.nema.gov.au).

### **Applicants complete and submit applications**

Applicants consult with local governments, communities and implementing partners and submit applications in accordance with the requirements set out in the DRF Guidelines.

### **A DRF Assessment Panel assesses applications**

The Agency establishes a DRF Assessment Panel (**Panel**) which assesses and scores each application in accordance with the DRF Guidelines. The Panel will give consideration to value for money and alignment with the DRF's Objectives, at a minimum. The Panel will also give consideration to equity across the Applicants, noting the DRF is intended to achieve national outcomes as articulated in the National Disaster Risk Reduction Framework (**NDRRF**).

### **Advice to the Coordinator-General of the Agency**

The Agency provides advice to the Coordinator-General of the Agency with recommendations for funding in accordance with the Panel's assessment.

### **Funding decisions are made**

The Coordinator-General makes recommendations to the Minister for Emergency Management regarding applications (the Minister). The Minister, as the final decision maker, decides which applications will be funded. The Minister seeks approval from Government for the total amount to be committed from the DRF Special Account. The Agency advises Applicants of the outcomes of their applications.

### **Announcement of projects to be funded**

The Minister announces the projects to receive funding under the DRF. The Agency publishes the set of successful projects on its website.

### **Establishing a Funding Agreement with each Applicant that is to receive funding**

The Agency negotiates funding agreements with successful Applicants, including reporting milestones. The Minister together with the relevant minister(s) in that Australian state or territory co-signs the Schedule.

### **Delivery of Funding**

The Commonwealth Department of Treasury transfers funding to successful Applicants as a single, upfront payment in accordance with the requirements of the DRF Act.

### **Endorsement of Implementation Plans**

The Agency receives completed Implementation Plans from successful Applicants for their projects, which includes a plan for project management and risk mitigation. The Agency reviews and endorses the Implementation Plan. Works formally commence. The Agency will then monitor project delivery through agreed reporting mechanisms.

### **Publication of Outcomes and Evaluation of the DRF.**

The Agency publishes an annual report on any funding decisions made. The Agency evaluates the specific projects and the DRF as a whole.

## 2 About the Disaster Ready Fund

### 2.1 About the National Emergency Management Agency

The National Emergency Management Agency (the **Agency**) was established on [1 September 2022](#) to drive a more coordinated approach to preparing for and responding to disasters, across all hazards. The Agency's priorities include continuing to deliver strong national leadership over the High Risk Weather Season, streamlining and delivering large-scale recovery initiatives and an increased focus on disaster risk reduction.

### 2.2 About the Disaster Ready Fund (DRF)

Australia's exposure to disaster risk continues to increase, and new risks continue to emerge at an accelerated pace. Extreme heat, heavy rainfall and coastal inundation, and bushfires will increasingly impact the wellbeing and functioning of our communities, our environment and our economy.

The Australian Government has announced up to \$200 million per financial year for the DRF over five years, from 1 July 2023 to 30 June 2028 (up to \$1 billion total). The DRF is the Australian Government's flagship disaster resilience and risk reduction initiative which will fund a diverse set of projects in partnership with Australian state, territory and local governments to deliver medium-term and long-term outcomes that support Australians to manage the physical, social and economic impacts of disasters caused by climate change and other natural hazards.

The DRF is intended to be an enduring fund, to provide all levels of government and affected stakeholders the certainty they need to plan for robust investments in resilience projects to reduce the impacts of disasters predicated by natural hazards.

The DRF will be established under the *Disaster Ready Fund Act 2019* (**DRF Act**), following passage of the Emergency Response Fund Amendment (Disaster Ready Fund) Bill 2022 on

23 November 2022, to implement the Australian Government's commitment to establish a dedicated fund for disaster resilience and risk reduction.<sup>1</sup>

**The DRF's Objectives are to:**

- 1. increase the understanding of natural hazard disaster impacts**, as a first step towards reducing disaster impacts in the future;
- 2. increase the resilience, adaptive capacity and/or preparedness** of governments, community service organisations and affected communities to minimise the potential impact of natural hazards and avert disasters; and
- 3. reduce the exposure to risk, harm and/or severity of a natural hazard's impacts**, including reducing the recovery burden for governments and vulnerable and/or affected communities.

These DRF Guidelines will give effect to the recommendations of the *Royal Commission into National Natural Disaster Arrangements* and the National Disaster Risk Reduction Framework's (NDRRF) national priorities.

### 3 How to apply

Before applying, Applicants **must** read and understand these DRF Guidelines and review the application form. The application form is in two parts:

- the overarching cover sheet; and
- the individual project application/s.

An online application form will be circulated to Applicants when invited to apply in accordance with section 3.2. Applicants should submit their overarching application cover sheet, individual project applications and supporting documentation via the online application form.

Applicants **must** have consulted with relevant local governments and First Nations communities before submitting any project with a *place-based focus* (i.e. practical on the

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<sup>1</sup> Note that the Bill amends the existing *Emergency Response Fund Act 2019* (Cth) to deliver this commitment. The key amendments (in Schedule 1 of the Bill) will take effect once proclaimed, which is expected to occur in March 2023.

ground impacts in one or more local government areas, where those entities are impacted, for example an infrastructure project).

The Applicant will be required to disclose any financial assistance previously or currently sought or provided through Commonwealth, State/Territory or other initiatives to support proposed projects.

The Agency's website is the authoritative source for information on the DRF. Any amendments will be published on the Agency's website. Applicants are encouraged to check the website for updates.

Applicants are responsible for ensuring their applications are complete and accurate. Giving false or misleading information is a serious offence under the *Criminal Code Act 1995* (Cth) and the Agency will investigate any false or misleading information and may exclude the application from further consideration.

If Applicants find an error in their application after submitting it, they should contact the Agency immediately at [disaster.ready@nema.gov.au](mailto:disaster.ready@nema.gov.au). The Agency is not obligated to accept any additional information, nor requests from Applicants to correct their application after the closing date.

If the Agency finds an error, inconsistency or omission, the Agency may ask for clarification or additional information from Applicants that will not materially change the nature of their application in fairness to other Applicants.

Applicants should keep a copy of their application and any supporting documents.

The Agency will acknowledge that it has received applications within three (3) working days.

If Applicants need further guidance around the application process or if they are unable to submit an application online they should contact the Agency at [disaster.ready@nema.gov.au](mailto:disaster.ready@nema.gov.au).

### 3.1 Who is eligible to apply under the DRF?

Only Australian state and territory governments are eligible to apply for funding in Round One 2023-24.

The Agency **can only accept one overarching application cover sheet per Applicant** encompassing all project proposals. In preparing the cover sheet, Applicants:

- **may** propose to engage third parties to deliver services on their behalf for any projects awarded DRF funding;
- **must** prioritise project proposals; and
- **must** provide endorsement (i.e. agreement in writing) from the relevant minister(s)<sup>2</sup> in that Australian state or territory.

### 3.2 Invitations to apply

The Agency has sought the details of one government agency (referred to herein as ‘**the lead agency**’) in each state and territory (jurisdiction). The lead agency is considered the Applicant and has responsibility for coordinating proposals throughout that jurisdiction, and submitting the applications to the Agency on behalf of that jurisdiction. The details of the lead agencies will be published on the Agency’s website, to enable relevant stakeholders in those states and territories the ability to contact lead agencies in the preparation of applications.

The Agency will write to lead agencies and provide them with access to the online application form, including relevant registration credentials.

### 3.3 Timing of processes

Applicants must submit an application between the published opening and closing dates specified on the cover page of these DRF Guidelines. The Agency will only accept a late application where an Applicant can demonstrate exceptional circumstances prevented them from submitting the application by the closing date. Agreement to extensions are at the discretion of the **Program Delegate**, who will only consider exercising this discretion if it would be fair to allow the application to be provided late. The Agency will notify an Applicant as soon as practicable if a late application is accepted.

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<sup>2</sup> The Agency considers the relevant Minister to be the minister with portfolio responsibility for the agency charged with coordinating and submitting applications on behalf of that state or territory (the lead agency). Please refer to section 3.2 of these DRF Guidelines.

### 3.4 Questions during the application process

If Applicants have any questions during the application open period, contact [disaster.ready@nema.gov.au](mailto:disaster.ready@nema.gov.au). Questions should be sent no later than Thursday 23 February 2023. Responses to questions will be provided within five (5) working days. If applicable, answers to questions will be posted in the Frequently Asked Questions sheet on the Agency's website: [www.nema.gov.au](http://www.nema.gov.au).

## 4 Eligibility criteria

Project applications will not be considered if they do not satisfy all eligibility criteria.

### 4.1 Eligible Hazard Types

Project activities can target any, or multiple, **Natural Hazards** (as defined in the Glossary), including:

- Geological hazards, such as, but not limited to:
  - Avalanches, mudslides and landslides
  - Earthquakes
  - Volcanic eruptions
  - Sinkholes
  - Tsunamis
  
- Extreme weather and climate-driven hazards, such as but not limited to:
  - Bushfires/wildfires
  - Heatwaves
  - Damaging wind incidents, including but not limited to dust storms and tornados
  - Storms and tropical cyclones
  - Severe thunderstorms, hailstorms and blizzards
  - Floods, flash flooding, including storm surges
  - Coastal erosion, and coastal inundation
  - Sea level change
  - Pollen storms
  - East Coast lows
  - Geomagnetic solar storms (X or M Class)

## 4.2 Ineligible Hazard Types

Drought is excluded as an eligible hazard type. The Australian Government's [Future Drought Fund](#) provides \$100 million each year to support initiatives that build drought resilience.

## 4.3 Eligible DRF project activity types

**Stream One: Infrastructure** projects which are directed at achieving any or all of the following:

- resilience to a future natural disaster that could affect an area (whether directly or indirectly);
- preparedness for a future natural disaster that could affect an area (whether directly or indirectly); and
- reduction of the risk of a future natural disaster that could affect an area (whether directly or indirectly).

Stream One projects must fall into one or more of the following categories:

1. investment in grey infrastructure;
2. investment in green-blue infrastructure (including nature based solutions);
3. investment in hazard monitoring infrastructure; and/or
4. business case development for future infrastructure (including investigation, modelling, concept and detailed design activities).

*Stream One examples<sup>3</sup> might include, but are not limited to: the construction of flood levees, fire breaks or cyclone shelters, the construction of artificial reefs or sand nourishment on vulnerable coastlines, tsunami warning systems, bushfire warning systems, and investigation, planning and design to resolve emerging risks.*

**Stream Two: Systemic risk reduction** projects that build the long term sustainability of a community or communities in an area that is at risk of being affected (whether directly or indirectly) by a future natural disaster.

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<sup>3</sup> These are examples only. Applicants are encouraged to explore the full range of options available to them, including developing innovative solutions against each of the four activity types under Stream One.



Stream Two projects must fall into one or more of the following categories:

1. supporting a better understanding of risk, through a better evidence base to understand and raise awareness of risk – to improve understanding of natural hazards and their potential impacts over time (i.e. hazard mitigation plans and resilience strategies);
2. strengthening decision making by enhancing governance networks and communities of practice, including the development and/or alignment of resilience and risk reduction strategies;
3. adaptation projects that improve land use planning and development practice projects, including but not limited to the preparation of regional or local plans and updating land use planning instruments and building codes;
4. projects that build the capacity and capability of businesses, community sector organisations and/or at-risk communities to improve their preparedness and resilience to the impacts of future disasters; and/or
5. projects that enable and incentivise private investment in disaster risk reduction.

*Stream Two examples<sup>4</sup> might include, but are not limited to: the establishment of jurisdiction-wide hazard based information systems, updating state and/or creating local government hazard resilience strategies, hazard research to assist states and developers eliminate inappropriate land sources ahead of construction, and supporting community sector organisations to develop systems, train staff or have materials in place prior to the impact of a natural hazard.*

Applicants are able to deliver a project that encompasses one or more eligible activity types.

#### 4.4 Eligible locations

Projects **must** be delivered within the Applicant's respective jurisdiction/s or area of operation. Areas of operation may include a multi-jurisdictional project. Applicants may partner with one another and deliver projects across multiple jurisdictions with the lead jurisdiction specifying how they will split the funds.

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<sup>4</sup> These are examples only. Applicants are encouraged to explore the full range of options available to them, including developing innovative solutions against each of the five activity types under Stream Two.

## 5 What Commonwealth funding can be used for

Applicants can only spend the Commonwealth's funding on eligible expenditure incurred on eligible project activities, for eligible hazard types.

To be classified as eligible expenditure, the expenditure must:

- be a direct cost of the project; and
- be incurred by the Applicant (inclusive of implementing partners) between the project start date and end date, as nominated in the Schedules (required for audit purposes).

### 5.1 Eligible expenditure

Eligible expenditure refers to costs directly associated with delivering either an eligible activity which the Commonwealth has agreed to provide financial assistance for under the DRF or a matter that is incidental or ancillary to the agreed activity. This could include, for example:

- construction and/or procurement of materials, including supply costs, in order to deliver the project;
- staff (incl. contractor and consultancy) salaries and on-costs, including administration costs such as training, utilities and travel that are directly attributed to the provision of the project;
- writing, reporting, consultation and engagement costs insofar as they are directly relevant to the delivery of the project;
- upgrading of existing materials and assets so long as the upgrades meet the intent of the DRF Objectives (see section 2.2);
- community engagement and communications initiatives directly related to the delivery of the project; and/or
- the development of the Implementation Plan (see section 13.2) up to and not more than \$50,000 (per jurisdiction, encompassing all project proposals).

Contingency costs to account for unforeseen financial circumstances, such as increased labour and supply costs, can be included and should be factored into proposals by Applicants. These costs should be detailed in an Applicant's budget for each application, and be commensurate with the size and complexity of the proposed project.

## 5.2 Ineligible expenditure

Applicants cannot spend the Commonwealth's funding on ineligible expenditure incurred, including:

- projects that have already received full funding or a commitment of full funding, including projects that have received funding from another source for the same purpose, as articulated in the application (i.e. 'double-dipping');
- wages that are not related to the direct delivery of the funded activities;
- road infrastructure works that does not have the primary purpose of reducing community exposure to risk, harm and/or severity of a natural hazard's impacts;
- road maintenance;
- retrospective costs, including costs incurred by the Applicant and/or implementation partners prior to the endorsement of the Implementation Plan;
- costs incurred in the preparation of an application, other than costs incurred to complete and submit the Implementation Plan (see section 13.2);
- activities conducted outside of Australia;
- subsidy of general ongoing administration of an organisation;
- overseas travel;
- interstate travel, where that interstate travel is not undertaken as part of a multi-jurisdictional project (see section 4.3); and
- the introduction of plants, animals or other biological agents known to be, or that could become, environmental or agricultural weeds and pests.

The Program Delegate will make the final decision on ineligible expenditure. If the Applicant is in doubt they should email [disaster.ready@nema.gov.au](mailto:disaster.ready@nema.gov.au).

The Agency will **not** support proposals which include activities with the potential to adversely impact on a matter of national environmental significance, including but not limited to activities which fail to be approved under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

An Applicant may elect to commence its project from the date the Agency notifies the Applicant that its application for that project is successful. However, the Commonwealth is not responsible for any expenditure that Applicants (including implementing partners) incur, until

such time as the Implementation Plan is endorsed. The Commonwealth will not be liable, and should not be held as being liable, for any activities undertaken before the Implementation Plan is endorsed, other than part of the costs incurred by the Applicant to complete and submit their Implementation Plan (see section 13.2). If in doubt, please discuss with the Agency before incurring expenditure.

## 6 Co-contributions

**Applicants must contribute at least 50 per cent of eligible project expenditure towards each project.** Co-contribution costs can include, but are not limited to:

- a direct (cash) funding contribution provided at the time of project commencement;
- funds the Applicant has already invested in a program or project on or any time after 1 July 2019, and only where the Commonwealth's contribution from the DRF is expected to extend or enhance that program or project subject to alignment with the DRF Objectives (see section 2.2). The Commonwealth will not fund project cost overruns;
- any costs associated with the Applicant's delivery of the project, for example construction or project delivery; and
- other in-kind costs, such as wages directly attributable to the delivery of the project, and/or supplies, materials, and specific equipment required to execute the project.

Commonwealth funding from any source (including historical) cannot be used by an Applicant to cover their co-contribution, either fully or in-part.

### 6.1 In-principle co-contributions

Applicants are permitted to provide an in-principle co-contribution (i.e. a co-contribution pending formal approval) when submitting the application, while the Applicant goes through formal internal governmental approval processes to secure the formal (actual) co-contribution. Applicants must be able to commit to the formal co-contribution prior to the signing of Funding Agreements (see section 11.1). If an in-principle co-contribution does not result in the actual co-contribution prior to the signing of Funding Agreements, the Minister may withdraw the Commonwealth's offer of funding for the project/s.

## 6.2 Requests for co-contribution waivers or co-contribution reductions

Applicants are expected to provide co-contributions. Requests for waivers or co-contribution reductions will only be considered in rare and exceptional circumstances at the discretion of the Program Delegate. Recent natural disasters or high recent disaster expenditure will not qualify as exceptional circumstances.

Applicants should discuss any proposed waivers or reductions by emailing [disaster.ready@nema.gov.au](mailto:disaster.ready@nema.gov.au) before submitting an application.

The Program Delegate reserves the right to request additional information (including a business case) from the Applicant in considering any requests.

The Program Delegate will make a recommendation to the Minister, as the final decision-maker, in the final assessment report as to whether exceptional circumstances apply.

If the Program Delegate considers the additional information (including business case) to be insufficient, the project application will be deemed ineligible and there will be no opportunity to resubmit the project application in the same funding round.

The Minister will be the final decision-maker on the request for waivers or reductions, and may review decisions on exceptional circumstances, as required on a case-by-case basis.

## 7 Arrangements for Funding Round 1 (2023-24)

Applicants can only apply for funding allocated in 2023-24.

The first funding round under the DRF will support an initial tranche of projects and form an iterative approach to delivering project funding that will inform subsequent funding rounds.

The Minister reserves the right to open subsequent funding rounds in any financial year. The decision to open subsequent funding rounds is a matter for the Australian Government.

### 7.1 Funding per project, per application

There is no minimum or maximum amounts of Commonwealth funding per project, within the total allocated for 2023-24 of up to \$200 million. There is no limit to the number of project applications an Applicant may submit.

**Each Applicant will be allocated a baseline funding allocation of \$7.5 million under Round 1, to support equitable distribution.**<sup>5</sup> Projects will still need to meet all eligibility requirements and achieve a minimum rating of 'suitable' to secure baseline funding allocations (see sections 4, 5 and 6). If Applicants submit applications with a cumulative total project value of less than \$7.5 million for all applications (including where the projects found suitable carry a total project value of less than \$7.5 million), any residual funding will be reallocated. The Panel will have discretion not to recommend the baseline funding allocation, if it would undermine value for money considerations or DRF objectives.

### 7.2 Project period

The maximum project period is three (3) years from the Agency's written endorsement of the Implementation Plans completed by the Applicant/s after Schedule(s) have been signed.

### 7.3 Application timelines

Applicants will be given from Tuesday 10 January 2023 to 5.00pm AEDT Monday 6 March 2023 to submit applications for the DRF in 2023-24.

*Table 1 – Key Dates*

Item	Date
Applications Open	Tuesday 10 January 2023
Applications Close	Monday 6 March 2023
Relevant Ministerial Endorsement Due	Friday 17 March 2023
Announcements Made	From May 2023

<sup>5</sup> The baseline funding allocation for an Applicant's total set of proposals under Round One. The baseline amount is *not* per project. The baseline funding allocation is only the Commonwealth's component of funding, and does not include a state and territory's co-contribution.

Funding Delivered <sup>6</sup>	From 1 July 2023
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The above timeline is provided as a guide only and subject to change.

## 8 Selection Criteria

Applicants **must** address all three of the following selection criteria for each project application.

### 8.1 Criterion One – project details

*Weighted 40 per cent (i.e. scored out of 0 to 40)*

Your response **must** include statements on:

- the level(s) of disaster risk prior to and upon conclusion of the proposed project;
- how the project will deliver lasting benefits and enable adaptation to future climate and disaster impacts; and
- how the project will avoid and manage the potential for maladaptation (including any potentially negative social, environmental or economic outcomes).

### 8.2 Criterion Two – the likelihood of project success

*Weighted 30 per cent (i.e. scored out of 0 to 30)*

Your response **must** include evidence of:

- capacity to complete the project in adherence with relevant industry and legislative standards;
- capability (including previous experience in undertaking similar scale projects), including confirmation of the ability to deliver this project within the agreed maximum three (3) year timeframes; and
- value for money.

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<sup>6</sup> Subject to the joint-signing of Schedules

### 8.3 Criterion Three – alignment with existing plans and strategies

*Weighted 30 per cent (i.e. scored out of 0 to 30)*

Your response **must** include:

- detail on the extent to which the project meets the DRF Objectives (see section 2.2);
- evidence the project is supported by local government[s] and/or relevant communities, including First Nations stakeholders where relevant;
- detail on how the project aligns with any existing state, territory or local government disaster risk reduction policies, risk assessments; and
- detail regarding why this project is not able to be funded through other potentially more appropriate sources.

## 9 Attachments

### 9.1 Required Attachments

Applicants are **required** to provide the following **two (2)** attachments for each project, at the time of submission. Failure to provide this information may result in the application not being recommended for funding:

1. A Project Logic
2. An Indicative Budget, including co-contribution details

Templates will be provided for the Project Logic and the Indicative Budget as part of the online application form.

Applicants will be required to submit additional items for successful projects as part of an Implementation Plan after the signing of Schedules occurs (see section 13.2).



## 9.2 Ministerial endorsement

The Applicant **must** provide written endorsement (i.e. agreement in writing) from the relevant minister(s)<sup>7</sup> in that state or territory (ministerial endorsement). Ministerial endorsement **should** include the titles of each of the projects submitted, for ease of reference.

Relevant ministerial endorsements **can** be submitted at the time of application, but **must** be submitted by email to [disaster.ready@nema.gov.au](mailto:disaster.ready@nema.gov.au) by no later than 5.00pm AEDT Friday 17 March 2023 (i.e. two weeks after the close of applications). Any additional extensions to provide ministerial endorsement must be sought in writing by no later than 5.00pm AEDT Friday 17 March 2023. Any decision to grant additional extensions for this endorsement beyond Friday 17 March 2023 are the discretion of the Program Delegate.

## 9.3 Optional Attachments

Applicants may provide up to five (5) additional attachments they believe support their applications. This may include further information about the proposed project and any strategies or policies the proposed project may relate to. The maximum file size in the application form is 20 megabytes per file.

# 10 Review and Assessment Process

## 10.1 Review of eligibility

An initial eligibility check will be undertaken by the Agency's Pre-Assessment Review Team. Any applications that do not meet all the eligibility criteria may be excluded from further consideration in accordance with Section 4.

## 10.2 Who will assess applications?

The Agency will establish and chair a DRF Assessment Panel (**Panel**), comprising members agreed by the Program Delegate.

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<sup>7</sup> The Agency considers the relevant minister to be the minister with portfolio responsibility for the agency charged with coordinating and submitting applications on behalf of that state or territory (the lead agency). See section 3.2 of these DRF Guidelines.

Panel members may be drawn from relevant Commonwealth agencies including but not limited to:

- Australian Climate Service;
- Bureau of Meteorology;
- CSIRO;
- Department of Agriculture, Fisheries and Forestry;
- Department of Climate Change, Energy, the Environment and Water;
- Department of Infrastructure, Transport, Regional Development, Communications and the Arts;
- Department of Home Affairs; and
- the Agency.

Panel members may also be drawn from non-Commonwealth entities where conflict of interest is managed.

The Agency may seek advice from Commonwealth agencies and non-Commonwealth entities where that advice would support the Panel in its deliberations, in advance of the Panel's meetings.

Based on advice from the Panel, the Agency's Coordinator-General will recommend projects to the Minister for funding approval. The Coordinator-General may delegate to a Commonwealth Official the responsibility to make recommendations to the Minister regarding any funding allocations to projects under the DRF, in accordance with the DRF Act. This includes delegating decisions to the Program Delegate.

The Minister may take into account other advice or considerations in making a final determination on successful projects.

The Minister is the final decision maker.

### 10.3 Assessment of applications

The Panel will consider eligible responses (refer Section 4) against the three selection criteria for each application individually (Section 8), culminating with each application receiving an

overall rating in accordance with Table 2 below. Ratings will be based on a total score out of 100, and applications will be ranked.

*Table 2 – Application rating matrix*

<b>Rating Title</b>	<b>Description</b>
<b>Highly Suitable</b>  Score of 80 or above, out of 100 overall.	An excellent quality application addressing each of the selection criteria comprehensively. The case is clearly articulated with well-defined objectives and a strong data driven evidence base. Reliable and convincing evidence has been provided. Some risks may be present, but are minor and can be managed.
<b>Suitable</b>  Score of 50 or above, up to less than 80 overall.	A satisfactory quality response with data and analysis that is reliable and relevant, addressing key information in the selection criteria. Logical reasons that indicate why the project will have a positive impact for identified communities. Some risks may be present, but are moderate and can be managed.
<b>Not Recommended</b>  Score of less than 50 overall.	An unsatisfactory response with uncertainty as to the project's feasibility, including inadequate links to the DRF's Objectives and value for money considerations. May contain risks that prevent the project from succeeding.

In assessing each application, the Panel will give specific consideration to:

- the relative merit of the project, including how well the project delivers against the DRF's objectives;
- whether the project provides value with relevant money, including but not limited to whether the project will prevent or mitigate the degree of impacts relating to cascading and systemic risks.
- the extent to which the project aligns with the intent of the National Disaster Risk Reduction Framework's (NDRRF);
- the relative priority of the project for the Applicant (i.e. the ranking applied to the project by the Applicant);

- whether the project can commence quickly and is of tangible benefit to the community
- the extent to which Applicants have consulted with, and have buy-in from, affected community stakeholders including relevant local government/s and First Nations communities; and
- any national interest, financial, legal, regulatory, governance or other issue or risk that is identified during any due diligence processes conducted in respect of the project.

The Panel may give consideration to equity with respect to the types of projects and the appropriateness of the geographic and thematic split of projects, in acknowledgement that the DRF is national in scope with a variety of project activity types, and has an annual funding allocation. ‘Equity’ does not mean an equal split of funding. Where necessary, the Panel may seek additional information from Applicants to substantiate claims.

Noting the annual funding allocation (up to \$200 million for Commonwealth funding), the Panel may recommend partial funding where required for projects.

The Panel reserves the right to batch the assessment of applications by activity type, hazard type or by Applicant.

#### 10.4 Who will approve DRF funding?

In accordance with the DRF Act, the Minister is responsible for deciding which projects to fund. In making these decisions, the Minister may take into account the findings of the Panel, in conjunction with any other advice or recommendations provided by the Agency.

The Minister’s decision is final in all matters, including:

- the approval of the funding;
- the funding amount to be awarded; and
- the terms and conditions of the funding agreement.

Projects may be approved for full or part funding from the DRF. Any funding shortfall either due to the funding approved or by the budget being exceeded during the life of the project is the responsibility of that Applicant. Successful Applicants may request in writing a reduction in scope for a project in the event only part funding is approved (see section 11.3).

## 10.5 Announcement and notification of application outcomes

The Agency will advise Applicants of the outcomes of their applications in writing. Written feedback will be provided upon request.

The Minister will make the first announcement about successful projects, and may undertake announcements in a staged approach across jurisdictions, recognising that certain applications may be more technical in nature and require more comprehensive validation as part of the assessment process.

## 11 Successful applications

### 11.1 The Funding Agreement

Successful Applicants must enter into a funding agreement with the Commonwealth.

Following the Minister's decision, and after Applicants have been notified of the Minister's decision on projects to be funded and the quantum of funding allocated, Schedules will be developed under the [Federation Funding Agreement - Environment](#) between the Commonwealth and each relevant state or territory government (the **Funding Agreement** or **Schedule**).

The Schedule will detail the project delivery, reporting and milestone requirements, and other relevant considerations. States and territories who are successful will be consulted on the detail in the Audit and Reporting Framework ahead of the signing of the Schedule.

The Schedule must be finalised before any payments are made. The Agency is not responsible for any expenditure incurred until the Funding Agreement (Schedule) is finalised and executed. If Applicants choose to start their projects before they have an executed Funding Agreement (Schedule), they do so at their own risk.

### 11.2 Multicultural Access and Equity

The Australian Government's Multicultural Access and Equity Policy obliges Australian government agencies to ensure their policies, programs and services - including those provided by contractors and service delivery partners - are accessible to, and deliver equitable outcomes for, people from culturally and linguistically diverse (**CALD**) backgrounds.

Applicants should consider how they will ensure their services will be accessible to people from CALD backgrounds. For example, service delivery partners may require cultural competency skills. In addition, services, projects, activities or events may require the use of professional translating or interpreting services in order to communicate with clients who have limited English proficiency. Based on an assessment of the client target group, costs for translating and interpreting services should be factored into project applications.

### 11.3 How we pay the funding

The Schedule will state:

- the total funding amount to be paid, exclusive of GST;
- any financial contributions jurisdictions must make;
- any in-kind contributions jurisdictions will make; and
- any financial contribution to be provided by a third party.

Once the Schedule has been finalised, the Commonwealth Department of Treasury will transfer the funding allocation as a single payment through the normal monthly payment mechanisms. Successful Applicants will be required to report how the funding has been spent in accordance with the reporting milestones outlined in the Schedule.

The Minister has the authority to agree amendments to Schedules, project scope and project timeframes, where requested in writing by the responsible state or territory minister. This may include agreement to extending project timeframes beyond three years where the Minister considers that there are reasonable grounds, or reducing the scope of works in the event only partial funding is offered or costs unexpectedly exceed the indicative budget at the time of application. The Minister may choose to delegate authority to amend project scope and project timeframes to the Program Delegate where the matter/s have no financial impacts. The Minister will have complete discretion to accept or refuse amendments to the Schedule as proposed by successful Applicants.

## 12 Announcement of successful applications

If successful, the project and approved funding amount will be listed on the Agency website ([www.nema.gov.au](http://www.nema.gov.au)). The Minister for Emergency Management will make the first

announcement about successful projects. An Applicant may request to have this announcement managed jointly with the Commonwealth.

Separately, the Agency will publish a report once per year (annual report) that details financial decisions made in the previous financial year. The annual report will include, but not be limited to, amounts paid and payable under grants and/or other arrangements as well as the names of Applicants (recipients) for both successful and unsuccessful projects. Applicants responsible for unsuccessful projects will be given the opportunity to opt out of having their details (including project details) published in the annual report.

## 13 Monitoring and evaluation of projects

### 13.1 Keeping us informed

Applicants **must** let the Agency know if anything is likely to affect their funded projects as soon as possible.

The Agency needs to know of any key changes to organisations or business activities, particularly if they affect the successful Applicant's ability to fulfil the terms of the Funding Agreement, carry on business and pay debts due.

If Applicants become aware of a breach of terms and conditions under the Schedule, they **must** contact the Agency immediately.

Applicants **must** notify the Agency in a timely manner of events relating to their projects and provide an opportunity for the Minister or their representative to attend.

### 13.2 Reporting

The Agency will establish an Audit and Reporting Framework for DRF projects.

The objectives of the Audit and Reporting Framework are to:

- provide the Agency with reasonable assurance regarding implementation of each successful Applicant's projects;
- provide the Agency with reasonable assurance regarding the successful Applicant's expenditure included in the Financial Statement Form;
- inform the Agency's biannual reporting through interim and performance reporting; and

- direct successful Applicants to engage the services of an appointed auditor to undertake the assurance activities.

Applicants who receive funding for projects under the DRF will be required to provide the below reports. Due dates for the reports will be stated in the Schedule.

**1. Implementation Plan** for each project – which will require:

- a) a project management plan including details on implementation timeframe milestones, a comprehensive itemised budget, risk and risk management/mitigation strategies and project monitoring; and
- b) documentary evidence of consultation with the community, including local government, First Nations communities and any other relevant (impacted) stakeholders.

The Implementation Plan/s must be provided to the Agency **as soon as possible, but no later than three months after the commencement of the Schedule** unless otherwise agreed by the Commonwealth. Formal commencement of project/s cannot occur until the Agency has endorsed the Implementation Plan, in writing.

- 2. A Performance Report** encompassing all successful projects – which includes progress against agreed project milestones, outcomes and detailed expenditure as outlined in the Implementation Plan. The first Performance Report should be submitted three months after Commonwealth approval/endorsement of the Implementation Plan and then every three months thereafter until the completion of all projects under the Schedule.
- 3. A Final Report** encompassing all successful projects – which must identify if and how outcomes have been achieved and identify the total eligible expenditure incurred and submitted no later than six months from the date that the project was completed.
- 4. An Audit Report** encompassing all successful projects of all actual project expenditure for each project, at the end of each project. These reports must be completed by an appointed auditor and submitted no later than six months from the end of the financial year in which the project was completed.
  - a) The audit must comply with the requirements of ASA 800 Special Considerations-Audits of Financial Reports Prepared in Accordance with Special Purpose Frameworks. The auditor’s opinion is to be based on the indicative total actual expenditure that the successful Applicant has set out in



the Final Report. The audit report must cover the total actual costs of the project, including any additional costs incurred against the project above the estimated project cost. Where more than one project has been completed within the same financial year the appointed auditor may report on all applicable projects within a single report.

#### Important notes regarding financial expenditure

- Successful Applicants **must** keep an accurate audit trail for **seven (7)** years from the date the Audit Report is accepted by the Agency. This must include written records that correctly record and explain expenditure claimed for all eligible measures against the Schedule.
- In the event where efficiencies or overspends are identified, successful Applicants will need to outline the jurisdiction's approach for determining how to reallocate funds. Section 20 of the *Federal Financial Relations Act 2009* (Cth) and subsection 21(4) of the DRF Act provides the Agency with discretion to determine that a successful Applicant repay DRF funding to the Agency where the successful Applicant does not meet a condition of the relevant agreement (see section 11).
- The Agency will determine whether an amount should be repaid, and if so, how much should be repaid, with regard to the circumstances of each individual matter. The agreement will set out the circumstances in which the successful Applicant must repay amounts to the Agency (see section 11).

### 13.3 Financial declaration

The Agency may ask successful Applicants to provide a declaration that the funding was spent in accordance with the Funding Agreement and to report on any underspends of the funding.

### 13.4 Project visits

The Agency may visit Applicants during, or at the completion of, their project(s). The Agency will provide successful Applicants with reasonable notice of any visit.

### 13.5 Evaluation

The Agency will establish a Monitoring and Evaluation Framework to evaluate the DRF to measure how well the outcomes and objectives of the projects have been achieved to ensure iterative and adaptive learning, informing future Australian Government actions.

As part of the Monitoring and Evaluation Framework, the Agency will initiate an internal evaluation of the DRF upon the conclusion of each Funding Round. As part of the internal evaluation, the Agency may:

- use information from applications and Reporting (see section 13.2); and
- interview successful Applicants, including downstream partners and local governments.

The Australia-New Zealand Emergency Management Committee (ANZEMC), as the peak government committee responsible for emergency management will be given the opportunity to participate in the internal evaluation.

### 13.6 Acknowledgement

The Agency logo should be used on all public materials related to all projects funded under the DRF. If successful Applicants make a public statement about a project funded under the DRF, the Agency requires them to acknowledge the funding by using the following:

*'This [name of project] received funding from the Australian Government.'*

Successful Applicants should nominate a point of contact to liaise with the Commonwealth on any media or announcements relating to the DRF. Successful Applicants should notify the Agency and the Minister of Emergency Management's Office regarding any planned announcements relating to the DRF and each project.

First announcements relating to individual projects must be managed jointly with the Commonwealth (see Section 12).

## 14 Probity and Privacy

The Australian Government is committed to ensuring that application assessment and selection processes under the DRF are fair, performed according to these DRF Guidelines, incorporate appropriate safeguards against fraud, unlawful activities and other inappropriate conduct and are otherwise consistent with relevant legislation.

These DRF Guidelines may be updated from time-to-time by the Agency. When this happens the revised guidelines will be published on the Agency's website at <http://www.nema.gov.au>. Applicants will be advised in writing of changes to the Guidelines within 10 business days of the changes having been approved by the Minister.

For the purposes of transparency, the annual report will include details of unsuccessful projects (see Section 12). Applicants will be provided the opportunity to opt out of having their details (including project details) published.

### 14.1 Enquiries and feedback

The Agency's complaints procedures are published on the Department of Home Affairs (**Home Affairs**) website: <https://www.homeaffairs.gov.au/help-and-support/departamental-forms/online-forms/complaints-compliments-and-suggestions>. These procedures apply to complaints about the DRF. All complaints about a grant process must be provided in writing.

Any questions Applicants have about decisions under the DRF should be sent to the Agency at [disaster.ready@nema.gov.au](mailto:disaster.ready@nema.gov.au).

If Applicants do not agree with the way their complaint is handled, they may complain to the [Commonwealth Ombudsman](#). The Ombudsman will not usually look into a complaint unless the matter has first been raised directly with the Agency.

The Commonwealth Ombudsman can be contacted on:

Phone (Toll free): 1300 362 072

Email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

## 14.2 Conflicts of interest

Any conflicts of interest could affect the performance or integrity of the DRF. There may be an actual, potential or perceived conflict of interest if Agency staff, members of a committee (including the Panel) or advisor thereof and/or Applicants if their personnel:

- has a professional, commercial or personal relationship with a party who is able to influence the application selection process, such as an Australian Government official or member of an external committee (including the Panel);
- has a relationship with, or interest in, an organisation which is likely to interfere with or restrict an applicant from carrying out the proposed activities fairly and independently, or
- has a relationship with, or interest in, an organisation from which they will receive personal gain because the organisation receives some form of benefit (for example, funding) under the DRF.

Applicants will be asked to declare, as part of their application, any perceived or existing conflicts of interests or that, to the best of their knowledge, there is no conflict of interest.

If Applicants later identify an actual, potential or perceived conflict of interest, they must inform the Agency in writing immediately at [disaster.ready@nema.gov.au](mailto:disaster.ready@nema.gov.au).

Conflicts of interest for Australian Government officials will be handled as set out in the Australian [Public Service Code of Conduct \(Section 13\(7\)\)](#) of the [Public Service Act 1999 \(Cth\)](#). Panel members and other officials including the decision maker (the Minister) must also declare any conflicts of interest.

## 14.3 Privacy

The Agency treats personal information according to the [Privacy Act 1988 \(Cth\)](#) and the [Australian Privacy Principles](#). This includes letting Applicants know:

- what personal information we collect;
- why we collect personal information;
- how we use personal information; and
- who we give personal information to and why.

Personal information can only be used or disclosed to someone else for the primary purpose for which it was collected, unless an exemption applies.

The Australian Government may also use and disclose information about funding Applicants and recipients under the DRF as part of any other Australian Government business or function. This includes disclosing grant information on the Agency website as required for reporting purposes and giving information to the Australian Taxation Office for compliance purposes.

The Agency may share the information Applicants give the Agency with other Commonwealth entities for purposes including government administration, research or service delivery, according to Australian laws.

As part of the application, Applicants must declare their ability to comply with the *Privacy Act 1988* (Cth) and the Australian Privacy Principles, as if they were an agency for the purposes of that Act and impose the same privacy obligations on officers, employees, agents and subcontractors that they engage to assist with the activity, in respect of personal information collected, used, stored, or disclosed in connection with the activity. Accordingly, Applicants must not do anything, which if done by the Agency would breach an Australian Privacy Principle as defined in the Act.

#### 14.4 Confidential Information

Other than any information available in the public domain, Applicants agree not to disclose to any person, other than the Agency, any confidential information relating to the DRF, without the Agency's prior written approval. The obligation will not be breached where Applicants are required by law, Parliament or a stock exchange to disclose the relevant information or where the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation).

The Agency may, at any time, require Applicants to arrange for Applicants' employees, agents or subcontractors to give a written undertaking relating to non-disclosure of our confidential information in a form we consider acceptable.

The Agency will keep any information in connection with the Funding Agreement confidential to the extent that the Agency is satisfied it meets all of the three conditions below:

1. The Applicant has clearly identified the information as confidential in the application and explain why the Agency should treat it as confidential;
2. the information is commercially sensitive; and
3. revealing the information would cause unreasonable harm to the Applicant or someone else.

The Agency will not be in breach of any confidentiality obligation if the information is disclosed to:

- the Panel and other Commonwealth employees and contractors to help the Agency administer or manage the DRF effectively;
- employees and contractors of the Agency so the Agency can research, assess, monitor and analyse its programs and activities;
- employees and contractors of other Commonwealth agencies for any purpose, including government administration, research or service delivery;
- other Commonwealth, state, territory or local government agencies in DRF reports and consultations;
- the Auditor-General, Ombudsman or Privacy Commissioner;
- the responsible Minister or Parliamentary Secretary; or
- a House or a Committee of the Australian Parliament.

#### 14.5 Freedom of information

All documents in the possession of the Australian Government, including those about the DRF, may be subject to the [Freedom of Information Act 1982 \(Cth\)](#) (FOI Act).

The purpose of the FOI Act is to give members of the public rights of access to information held by the Australian Government and its entities. Under the FOI Act, members of the public can seek access to documents held by the Australian Government. This right of access is limited only by the exceptions and exemptions necessary to protect essential public interests and private and business affairs of persons in respect of whom the information relates.

All Freedom of Information requests must be referred to the Freedom of Information Coordinator in writing.

By mail: Freedom of Information Coordinator

National Emergency Management Agency

PO Box 6500

Canberra ACT 2602

By email: [FOI@nema.gov.au](mailto:FOI@nema.gov.au)

## 15 Glossary

Term	Definition
Adaptation	The process of adjustment to actual or expected climate and its effects. In human systems, adaptation seeks to moderate or avoid harm or exploit beneficial opportunities. In some natural systems, human intervention may facilitate adjustment to expected climate and its effects. Includes adaptation for hazards, vulnerability, exposure risk and capacity to respond to natural hazards.
Administration costs	The administration costs associated with managing a successful project under the Program, will fall to the Applicant to manage. These costs may form part of the application for funding and could include costs such as training, utilities and travel, so long as they can be directly attributed to the provision of the project.
Agency	The National Emergency Management Agency, which has responsibility for administering the Program.
Applicant	Australian state or territory governments, applying for funding under the Program.
Application	The form and accompanying documentation that must be completed by an Applicant seeking funding under the Program.
Application cover sheet	The coversheet which is submitted by each applicant and which encompasses all project proposals for which the Applicant is applying for funding. The Agency may only accept one overarching cover sheet per Applicant.
At-risk communities	Communities which are disproportionately affected by the impacts of a disaster. This could be, but isn't limited to, communities in an area at high-risk of a future disaster, have greater exposure to disasters due to climate change, or have higher vulnerability to disasters which may include Aboriginal and Torres Strait Islander communities, Culturally and Linguistically Diverse communities, persons with disability, individuals over the age of 65, and communities in low socio-economic status environments.



Term	Definition
Audit report	The audit report required to be undertaken against actual (not estimated) project costs at the end of each project. The audit report must be completed by an appointed auditor. The audit report must comply with the requirements of ASA 800 Special Considerations–Audits of Financial Reports Prepared in Accordance with Special Purpose Frameworks.
Bilateral Agreement	For states and territories, a Schedule under the Federation Funding Agreement – Environment, to which only the Commonwealth and the relevant state or territory government are parties for the purposes of the Program.
Cascading and systemic risks	A set of systemic risks that stem from the consequence of the direct impact of a hazard – materializing as a chain, or cascade, of impacts. Cascading and systemic risks are often compounding and impact a whole system, including people, infrastructure, the economy, societal systems and ecosystems
Climate risk-informed actions	Actions which guide decision makers to develop effective solutions under conditions of future climate uncertainty.
Council of Australian Governments (COAG)	Primary Australian intergovernmental forum operating from 1992 to 2020.
Commencement date	The expected start date for the project. Also known as the project start date.
Commonwealth entity	A Department of State, or a Parliamentary Department, or a listed entity or a body corporate established by a law of the Commonwealth. See subsections 10(1) and (2) of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth).
Completion date	The expected date that the project must be completed. Also known as the project end date.
Coordinator-General	The Head of the National Emergency Management Agency.
Date of effect	The date on which a Funding Agreement is signed by both parties or a specified starting date.
Decision maker	The person who makes a decision to award funding. The <i>Disaster Ready Fund Act 2019</i> (Cth) mandates the decision maker for funding as the Commonwealth Minister responsible for emergency management.

Term	Definition
Disaster Ready Fund	<p>The Disaster Ready Fund (DRF) is provided for under the <i>Disaster Ready Fund Act 2019</i> (Cth), with operational guidance provided in the Disaster Ready Fund Program Guidelines (DRF Guidelines).</p> <p>The DRF makes available up to \$200 million annually to build resilience to, prepare for, or reduce the risk of future disasters, or build the long-term sustainability of communities that are at risk of being affected by a future disaster.</p>
<i>Disaster Ready Fund Act 2019</i> (Cth) (the DRF Act)	The legislation that will established the Disaster Ready Fund, which will begin formal operation from 1 July 2023.
Disaster Recovery Funding Arrangements 2018	The arrangements under which the Australian Government provides financial assistance to state and territory governments to assist relief and recovery activities following an eligible disaster.
Disaster risk	The potential loss of life, injury, or destroyed or damaged assets caused by a disaster, which could occur to a system, society or a community.
Disaster Risk Reduction	Disaster risk reduction is aimed at preventing new disasters, reducing existing disaster risk and managing residual disaster risk, all of which contribute to strengthening resilience and therefore work toward the achievement of sustainable development.
Eligibility criteria	The mandatory criteria which must be met to qualify for funding under the Program. Selection criteria applies in addition to eligibility criteria.
Federation Funding Agreements (FFA) Framework	The FFA Framework can be conceived as comprising five elements: the Intergovernmental Agreement on Federal Financial Relations (IGA FFR); the Council on Federal Financial Relations (CFFR) and its role as gatekeeper; the FFA architecture; the FFA Principles; and the administrative arrangements.
Federation Funding Agreement – Environment	An agreement between the Commonwealth of Australia and the states and territories.
First Nations organisation	An entity that is 50 per cent or more Indigenous owned. It may take the form of an Aboriginal Land Council, a Prescribed Body Corporate, a community services organisation, or similar.
Formal (actual) co-contributions	A co-contribution which has gone through the formal internal governmental approval process for securing funding.

Term	Definition
Funding Agreement	The agreement that sets out the relationship between the parties to the agreement, and specifies the details of the funding.
Funding Shortfall	Project funding required that exceeds the funding allocated to a project under the Program. A funding shortfall will not be met by the Commonwealth and is the responsibility of the Applicant.
Green-Blue Infrastructure	For the purposes of this Program, Green-Blue Infrastructure is infrastructure reduces risk of hazards for a particular community or communities, by delivering a strategically planned network of natural and semi-natural areas with other environmental features designed and managed to deliver a wide range of ecosystem services. It incorporates green spaces (or blue if aquatic ecosystems are concerned) and other physical features in terrestrial (including coastal) and marine areas. This includes, for example but not limited to, mangrove reforestation, greenways along floodplains or nature planning for heat management.
Grey Infrastructure	For the purposes of this Program, Grey Infrastructure involves engineered assets that reduce the risk of hazards for a particular community or communities. This includes for example but not limited to levies or cyclone shelters.
Head Agreement	The Federation Funding Agreement – Environment.
In-principle co-contributions	Co-contributions which are pending formal approval from the internal governmental approval process for securing funding. Where an in-principle co-contribution does not result in the actual co-contribution prior to the signing of FFA Schedules, the Minister may withdraw the Commonwealth's offer of support for the relevant project/s.
Maladaptation	Where intervention in one location or sector could increase the vulnerability of another location or sector, or increase the vulnerability of the target group to future climate change.
Minister	The Commonwealth Minister for Emergency Management.

Term	Definition
Minister for Emergency Management	The Minister whose title includes “Emergency Management”—that Minister; or otherwise—the Minister declared by the Prime Minister, by notifiable instrument, to be the Minister for Emergency Management for the purposes of the <i>Disaster Ready Fund Act 2019</i> (Cth).
Natural Disaster	A serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic or environmental losses and impacts (National Disaster Risk Reduction Framework). As predicated by a Natural Hazard.
National Disaster Risk Reduction Framework (NDRRF)	Developed by the Australian Government and endorsed at the Council of Australian Governments meeting held on 13 March 2020, the Framework outlines the strategic priorities, drivers for action and guiding principles for national disaster risk reduction activities. It sets out the foundational work required nationally across all sectors, to reduce disaster risk, minimise new disaster risk, and deliver better climate and disaster risk information.
National Emergency Management Agency (NEMA)	Referred to in this Program Guidelines as ‘the Agency’. NEMA is the Commonwealth Agency with responsibility for preparing for and coordinating the Australian Government’s response to disasters, across all hazards.
Nature-based solutions	Actions to protect, sustainably manage and restore natural or modified ecosystems that address societal challenges effectively and adaptively, simultaneously providing human well-being and biodiversity benefits. In the context of this Program, nature-based solutions refers to actions to protect, sustainably manage, conserve and restore natural or modified ecosystems to reduce disaster risk, with the aim to achieve sustainable and resilient development.
Natural hazard	A natural process or phenomenon that may cause loss of life, injury or other health impacts, property damage, social and economic disruption or environmental degradation.
Place-based focus	Projects with a focus on practical on the ground impacts in one or more local government areas that align with Program Objectives.

Term	Definition
Program	The 'Program' is the Disaster Ready Fund (DRF), administered by the Agency.
Program Delegate	A manager within the Agency with the responsibility for the program. The Program Delegate for the program is the Agency's Assistant Coordinator General, Resilience and Community Programs Branch.
Outcome Notification	The Commonwealth decision notification provided to an Applicant jurisdiction; notifies the applicant of projects to be funded under the Program and the amount of Commonwealth funding allocated to each.
Start Date	Date on which a Bilateral Agreement or Schedule under the FFA – Environment has been signed by both the Commonwealth and a jurisdiction.
End Date	Date a Bilateral Agreement expires between the Commonwealth and a state or territory. This is taken to occur when all performance reporting and final milestone payments for all Projects funded within a jurisdiction have been satisfied.
DRF Assessment Panel (Panel)	The expert panel established to ensure the success of the DRF through impartial assessment of applications against the assessment criteria and development of evidence-based recommendations for the Minister.
Scaling / Scope	Process to reconfigure a successful project that can no longer be delivered to the outcomes agreed in the relevant Bilateral Agreement under the FFA – Environment. This requires a business case submitted to Agency for review and agreement.
Project	A single project for which an Applicant seeks funding under the Program; submitted with other projects as part of a single comprehensive state or territory application.
Project application	The individual project applications contained under the overarching application cover sheet which contains supporting documentation for the project. Which is submitted via the online application form.
Project proposals	The details of what the projects are which are contained under the overarching application coversheet and for which and Applicant is making a project application.
Publicly-funded research organisation	Publicly-funded research organisations such as universities or the Commonwealth Scientific and Industrial Research Organisation (CSIRO)
Recipient	A state or territory government allocated program funding for a project or projects under this Program.

Term	Definition
Resilience	The ability of a system, community or society exposed to hazards to resist, absorb, accommodate, adapt to, transform and recover from the effects of a hazard in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions through risk management.
Schedules	Agreements under the FFA – Environment.
Sector/s	All sectors of society including government, industries, business, not-for-profit, communities and individuals.
Selection criteria	The specified principles or standards, against which applications will be judged. These criteria are also used to assess the merits of proposals and, in the case of the Program, to determine application rankings.
Selection process	The method used to select projects to fund under the Program in accordance with these Guidelines.
State Appointed Auditor	An auditor appointed and funded by a jurisdiction to conduct audit and assurance activities as prescribed in the relevant Bilateral Agreement.
Unspent Funds	Funds remaining from the actual cost of a project under the Program, which, at project completion as per the relevant Bilateral Agreement, have not been transferred to a third party account.

Term	Definition
Value for money	<p>Value for money in this document refers to ‘value with relevant money’ which is a judgement based on the application representing an efficient, effective, economical and ethical use of public resources and determined from a variety of considerations.</p> <p>Assessing value with relevant money involves consideration of when administering the Program, an official should consider the relevant financial and non-financial costs and benefits of each project proposal including, but not limited to:</p> <ul style="list-style-type: none"> <li>• the quality of the project proposal and activities;</li> <li>• fitness for purpose of the project proposal in contributing to and achieving Program government objectives;</li> <li>• that the absence of funding is likely to prevent the applicant’s and Australian Government’s outcomes being achieved; and</li> <li>• any relevant risks to the Agency, for example, arising from the applicant’s relevant experience and performance history.</li> </ul>
Vulnerability	The conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, community, assets or systems to the impacts of hazards.
Vulnerable cohorts	<p>Includes but is not limited to:</p> <ul style="list-style-type: none"> <li>• Aboriginal and Torres Strait Islander communities;</li> <li>• Culturally and Linguistically Diverse (CALD) communities;</li> <li>• migrant and refugee communities;</li> <li>• people with a disability;</li> <li>• LGBTQIA+ community;</li> <li>• children and young people;</li> <li>• people over the age of 65; and</li> <li>• those experiencing homelessness, unemployment or poverty.</li> </ul>

## **Attachment 2 – Application Summaries**

### **1. Urban Flood Study and Drainage Strategy**

- a. This application will seek funds from DRF to allow officers to engage an appropriate consultant to undertake a flood study (including flood mapping) and then develop a drainage strategy to identify and prioritise areas of concern with appropriate mitigation options for consideration. The drainage strategy is proposed to be adopted by Council and form the basis of future investment into infrastructure to improve flood protection for residences, whilst also providing Council with a good basis to develop and undertake pro-active risk based maintenance. Please note this will cover the three major towns Moe/Newborough, Morwell and Traralgon - there was not enough background data to include other towns at this time

### **2. Traralgon Creek Retarding Basin Feasibility Study**

- a. This application will seek funds for Council to investigate the options to provide a standalone piece of infrastructure to improve flood protection for the residents of Traralgon that live along or are impacted by the flooding of the Traralgon Creek. A previous flood study completed suggested the most beneficial infrastructure improvement could be provided by installing a basin and embankment as part of the future Traralgon Bypass, but this is possibly many years away. Officers propose investigating the feasibility of Council constructing and maintaining similar infrastructure which doesn't hinge on the bypass being constructed in the future. This may require the acquisition of land, which will need to be investigated as part of this study.

### **3. Glengarry Flood Mitigation Design and Construction - Stage 1**

- a. This application will seek funds to undertake the development of a design to provide improved flood protection for the residents of Glengarry, as well as construction of the mitigation infrastructure. The works are proposed to take place along Brooks Lane and also Traralgon-Maffra Road. Previous flood study and flood mapping undertaken by Council shows these works would significantly improve flood protection for a large section of the Glengarry township and residences.

### **4. Moe North-West Flood Mitigation Works**

- a. This application will seek funds to undertake the construction of additional piped underground stormwater infrastructure in the Moe North West precinct, culminating in a 1200 diameter pipe system that would outfall to the creek to the north of the township. This work will provide improved flood protection for the residents of the Moe North West area, particularly those in Austin Avenue. Previous flood study and flood mapping undertaken by Council shows these works would provide an improved level of flood protection for residences in the area. Detailed design and consultation would commence once funding is confirmed.



# **STATUTORY PLANNING**

## **8. STATUTORY PLANNING**

**Agenda Item: 8.1**

**Agenda Item: Amendment C126 - Consideration of Panel Report and Adoption**

**Sponsor: General Manager, Regional City Planning and Assets**

### **That Council:**

- 1. Having considered the Planning Panel report and the Panel recommendations for Amendment C126latr, endorses the response to the issues and recommendations as outlined in Attachment 1- Amendment C126latr ‘Panel Recommendations and Planning Officer Comment’;**
- 2. Adopts Amendment C126latr in accordance with section 29 of the *Planning and Environment Act 1987*, with changes reflected in the final Amendment C126latr documentation provided at Attachment 2;**
- 3. Adopts the final Toongabbie Structure Plan (2020) and Toongabbie Structure Plan Background Reports (2020) as provided at Attachment 3;**
- 4. Submits adopted Amendment C126latr, together with the prescribed information, to the Minister for Planning for approval, in accordance with section 31 of the *Planning and Environment Act 1987*; and**
- 5. Advises those persons who made written submissions to Amendment C126latr of Council’s decision.**

### **Executive Summary:**

- Amendment C126 implements the findings of the draft *Toongabbie Structure Plan Report* and Background Reports, and the recommendations from the *West Gippsland Catchment Management Authority 2016 Flood Study for Toongabbie* into the Latrobe Planning Scheme.
- Council has previously considered submissions to Amendment C126 at the 4 July 2022 Council Meeting and resolved to proceed to a planning panel.
- Amendment C127 (Bushfire and Rural Rezoning) and Amendment C126 (Toongabbie Structure Plan) have been run concurrently, and accordingly, had a combined Planning Panel Hearing which was conducted from 11-14 October 2022.
- The Panel Report for Amendment C126 and C127 was received on 15 December 2022, recommending that Amendment C126 be adopted subject to minor changes. Officers have proposed changes to the Amendment documents based on Panel recommendations. The Panel recommendations for Amendment C127 are currently being considered and will proceed to a future Council Meeting.

- The Panel Report recommends changes to Amendment C126 including removal of properties from first stage Low Density Residential Zone (LDRZ) rezoning due to flooding risk, and revising first and second stage Rural Living Zone (RLZ) land as being subject to a future bushfire risk assessment.

### **Background:**

The Amendment is required to implement the strategic directions set out within the draft *Toongabbie Structure Plan Report (2020)* in relation to identifying areas for future residential growth, protecting public waterways and roadside vegetation, and identifying land constraints that will impact sensitive land uses.

Following Authorisation and Exhibition of Amendment C126, Council resolved at the 4 July 2022 Council Meeting, having considered all written submissions received to the Amendment, to request a Planning Panel and prepare a report.

The following steps were undertaken following the Council resolution:

- A request to appoint the Planning Panel was made on 13 July 2022;
- A Planning Panel was appointed on 18 July 2022;
- The Directions Hearing was held on 29 August 2022;
- The Panel Hearing ran for four days from 11–14 October 2022.

To achieve the strategic directions within the draft *Toongabbie Structure Plan (2020)*, new zones, updated and new overlays and local planning policy are proposed to be introduced into the Latrobe Planning Scheme. These changes will also improve clarity and certainty for landowners about the development potential of their land, along with a vision for how Toongabbie will grow into the future.

The Planning Panel has considered these changes and made recommendations to facilitate the Amendment progressing to Council for consideration, and the minor changes are discussed in detail in the below section.

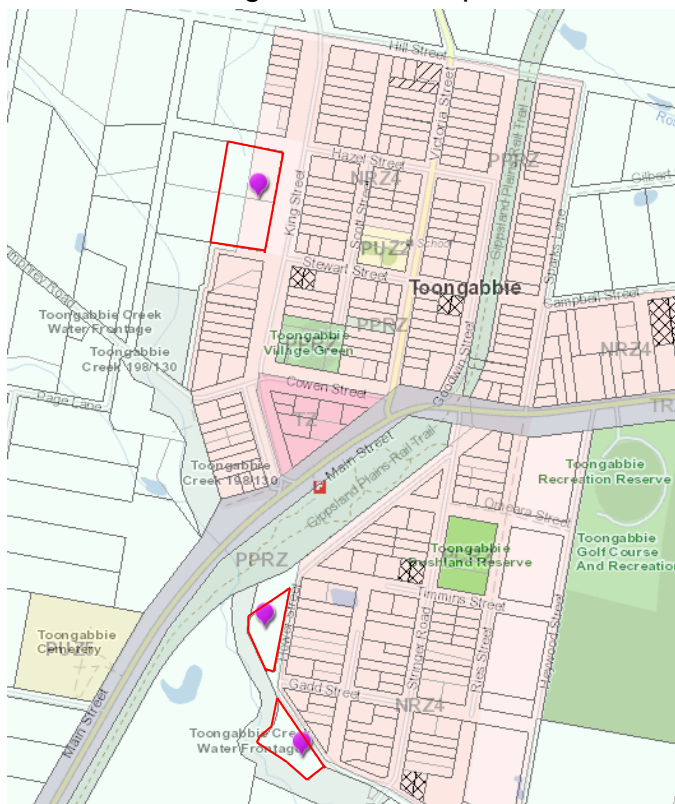
The Panel Report was received on 15 December 2022 (Attachment 4). The Panel concluded that Amendment C126 was strategically justified and recommended that Council adopt the amendment subject to changes, with the following recommendations:

*Make the following changes to Amendment C126:*

- a.** *Amend Clause 11.01-1L (Toongabbie) to:*
  - *Amend the strategies and Toongabbie Town Structure Plan map to designate ‘First stage future rural living’ and ‘Second stage future rural living’ areas as ‘Potential future growth areas subject to bushfire risk assessment’*
  - *Amend the Toongabbie Town Structure Plan map to remove the Low Density Residential Zone designation from:*
    - *9-17 Hower Street, Toongabbie;*
    - *19-29 Hower Street, Toongabbie; and*
    - *land in King Street, Toongabbie.*

- b.** Amend Clause 16.01-1L (Housing supply) to:  
Update the Housing Framework Plan map to correct the housing change designation to land no longer proposed for rezoning to Low Density Residential Zone
- c.** Delete the Low Density Residential Zone from:
- 9-17 Hower Street, Toongabbie
  - 19-29 Hower Street
  - land in King Street.

The properties recommended for removal from LDRZ are located adjacent to Toongabbie Creek at Hower Street, and a designated waterway to the north of the study area at King Street identified as CA 2 Section 3A Toongabbie and CA 4 Section 3A Toongabbie, see map below.



**Image 1:** Properties recommended for removal from proposed LDRZ.

Following receipt of these recommendations, Planning Officers generally supported these, as detailed in the Panel Recommendations and Planning Officer Comment document (see attachment 1). These changes have been included within the final amendment documentation contained within the attachments to this report (see attachment 3 and 4).

An explanation of each issue identified by Panel, which relates to these recommendations, is detailed below.

## Bushfire Considerations

- The Panel were not satisfied that the draft Municipal Bushfire Risk Assessment (MBRA), prepared under Amendment C127, was fit for purpose to inform settlement decisions, including designation of land for rural living rezonings in Toongabbie.
- The Panel were concerned that the draft *Toongabbie Bushfire Risk Assessment (2020)* was not based on an adequate assessment of bushfire risk and had not sufficiently assessed directing growth for Latrobe to lower risk locations, such as the larger towns.
- Therefore, the Panel recommended that the draft structure plan be updated to identify future Rural Living Zone area/s be subject to a bushfire risk assessment.
- Further discussion of bushfire and proposed rural living rezonings will be discussed at an upcoming Council Meeting, at which point the Panel recommendations received for Amendment C127 will be considered.

## LDRZ Rezoning

- The proposed application of LDRZ was selected to provide orderly planning for the township of Toongabbie. The draft *Infrastructure and Servicing Strategy Background Report (2020)* identified any infrastructure constraints that would inhibit potential growth. A key recommendation from this report directs that zones be explored which can sustainably manage the infrastructure requirements of the town. Given the flooding land constraints and sewer connection limitations in Toongabbie, the LDRZ provides clear identification of the development and growth capacity of lots.
- The LDRZ is one of only two zones that provide alternative options where there is limited access to connect to reticulated sewer, water and electricity. This is why it is considered to be a suitable zone to facilitate growth in Toongabbie.
- Panel identified that some Stage 1 areas proposed for rezoning to LDRZ are significantly affected by the Land Subject to Inundation Overlay (LSIO) and Floodway Overlay (FO), and that this is inconsistent with the Toongabbie Structure Plan Report which directs that LDRZ should not be applied to lots affected by the FO and LSIO, specifically:
  - 9-17 Hower Street, Toongabbie;
  - 19-29 Hower Street, Toongabbie; and
  - Land in King Street, Toongabbie.
- Further, Panel advised that directing development to sites where secondary treatment plants will probably be required in order to gain EPA approval will add cost and time delay to residential development.

- Therefore, the land at 9-17 and 19-29 Hower Street, Toongabbie will remain as Farming Zone Schedule 1. The land in King Street, Toongabbie will remain a split zone as a Neighbourhood Residential Zone and Farming Zone Schedule 1.

### **Contamination**

- Panel generally supported Councils consideration of potential contamination at the Toongabbie General Store, located at 43 Main Street, Toongabbie, and does not make any recommendations to apply an Environmental Audit Overlay (EAO) through Amendment C126.

### **Issues:**

#### *Strategy Implications*

Latrobe City Council Plan 2021-2025

#### Healthy

- Ensure health and wellbeing planning to the centre of council planning in promoting safe communities, positive mental and physical health programs, resilience and connection to natural and built environments.
- Support community preparedness aligned to growing responsibilities for Local government in emergency management systems, response and recovery.

#### *Communication*

During Stage 1 of the project, consultation was undertaken with internal and external stakeholders to assist with the development of the draft *Toongabbie Structure Plan Background Reports (2020)*.

Consultation with stakeholders was undertaken in two stages: a survey with 26 questions relating to Toongabbie was open between 25 March 2019 and 5 April 2019; and community workshops were held on 12 September 2019 and 8 October 2019.

As part of the Planning Panel Hearing for Amendment C126, all submitters were notified and invited to participate in the proceedings, and following receipt of the Panel Report, parties to the hearing were notified and a copy was made available on the project webpage.

Amendment C126 is subject to the prescribed process in accordance with the public notice and consultation requirements of section 19 of the *Planning and Environment Act 1987*, and this process has been complied with during the duration of the Amendment.

### *Financial Implications*

The prescribed fees for planning scheme amendments are detailed in the *Planning and Environment (Fees) Regulations 2016*. The costs associated with a planning scheme amendment include: considering a request to amend a planning scheme, consideration of submissions, providing assistance to a panel and adoption and approval of an amendment.

The planning scheme approval fee is currently \$496.90. Funds have been allocated in the current 2022/2023 budget year to enable the planning scheme amendment to proceed.

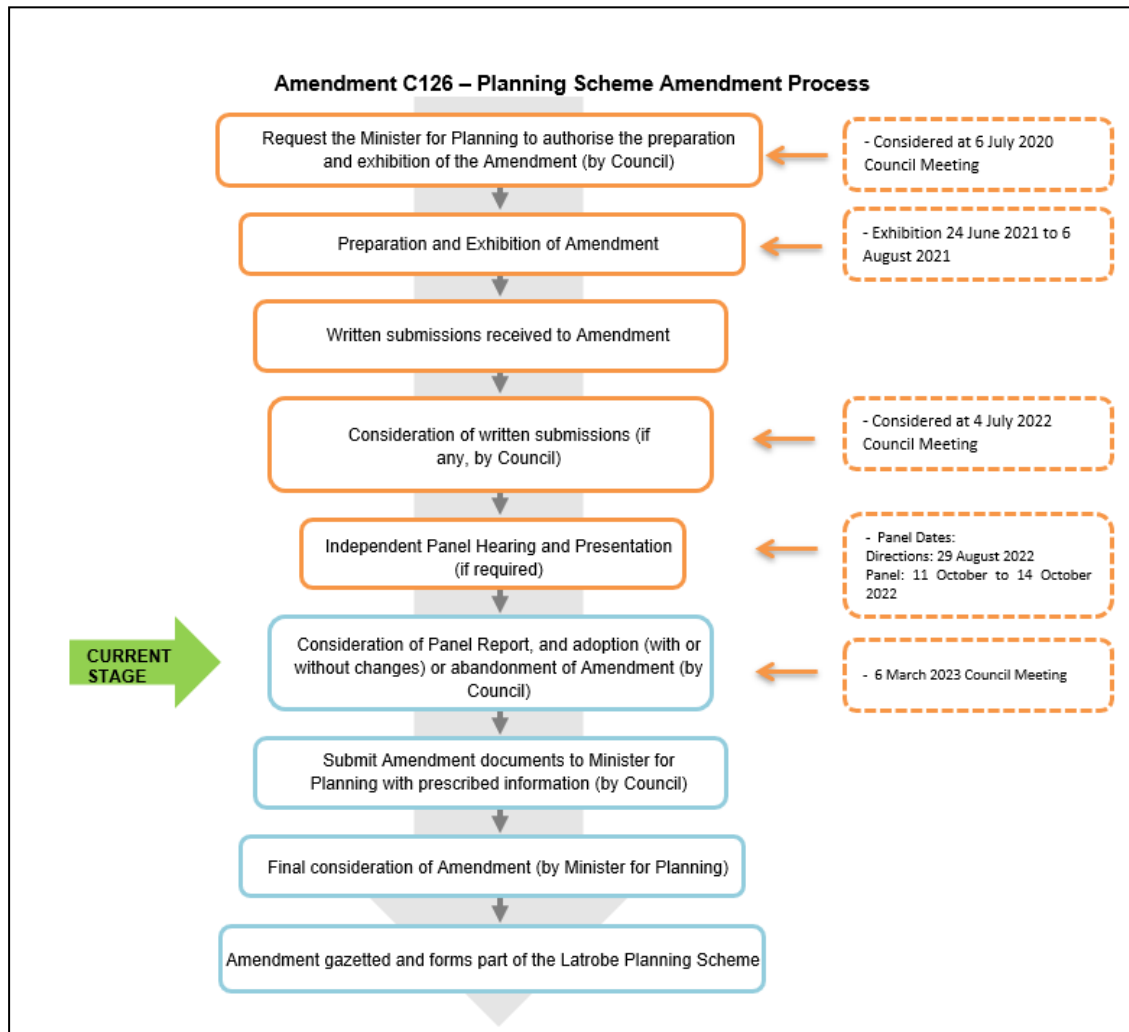
### *RISK ASSESMENT*

RISK	RISK RATING	TREATMENT
REPUTATIONAL RISK Not delivering new Rural Living Areas to Toongabbie, after two Planning Scheme Amendments attempting to do so (Amendment C105, and C127) may reduce community trust in Council delivering new growth areas.	<b>Medium</b> <i>Possible x Moderate</i>	Council will be presented with the opportunity to consider undertaking further work for bushfire risk when it considers Amendment C127 Panel Recommendations at a future meeting. At that time, further work will facilitate some Rural Living Areas to go ahead.  Submitters have been contacted and provided with notice of the Panel Report, and will be communicated with next steps going forward.

### *Legal and Compliance*

The planning scheme amendment process is shown in Figure 1 below, which identifies the current stage Amendment C126 is at in the process.

Figure 1 – Amendment C126 Planning Scheme Amendment Process



Council, as a planning authority, has a number of duties and powers, which are listed at Section 12 of the Act. Under Section 12(2) Council must have regard to:

- The Minister’s directions;
- The Victoria Planning Provisions;
- Any strategic plan, policy statement, code or guideline which forms part of the Latrobe Planning Scheme;
- Any significant effects which it considers a planning scheme amendment might have on the environment or which it considers the environment might have on any use or development envisaged in Amendment C126.
- Any social and economic effects.



### *Community Implications*

The Amendment is considered to have a positive social effect by implementing the findings of the draft *Toongabbie Structure Plan (2020)* which responds to the community's cultural and social needs and preferences in accordance with the draft *Toongabbie Structure Plan - Background Consultation Report (2020)*. The Amendment seeks to protect the character of Toongabbie that the community values. For example, the town has largely retained its original layout with larger allotments a feature. Consultation with the community identified a key strategic direction to retain larger block sizes within Toongabbie. Through the application of zones and overlays, the larger lot sizes and the smaller scale of housing can be maintained, ensuring that Toongabbie does not lose its sense of character over time even with the availability of a diversity of lot sizes. Specifically, the Neighbourhood Residential Zone Schedule 5 (NRZ5) has been created and applied to the Toongabbie residential area, and achieves the above by:

- Reinforcing the spacious character and 'rural' feel of existing residential areas through generous setbacks, and no or low open style front fences.
- New development to have regard to the existing street pattern and strengthen vistas and views to distinctive and heritage features.
- Specify a minimum lot size for subdivision of 1000 square metres.

The draft *Toongabbie Structure Plan (2020)* has also considered built and cultural heritage, including Aboriginal Cultural Heritage, when developing its recommendations.

### *Health Implications*

The Amendment meets the objective of securing a pleasant, efficient and safe working, living and recreational environment through careful consideration of land supply and demand, economic growth and community needs for open space and infrastructure. This detailed assessment is included within the draft *Toongabbie Structure Plan (2020)* and draft *Toongabbie Structure Plan Background Report (2020)*. The Amendment has considered the bushfire risk in directing growth and development within the Toongabbie Township. The draft *Toongabbie Structure Plan (2020)* is informed by the draft *Municipal Bushfire Risk Assessment 2020* and the draft *Toongabbie Bushfire Risk Assessment (2020)*.

### *Environmental Implications*

The Amendment adequately addresses any potential environmental effects by considering topographical, ecological and hydrological systems to determine the most appropriate locations for residential, rural residential, recreational and agricultural land uses. The Amendment has considered any environmental risks associated with flooding and bushfires, and the cost of delivering services over longer distances and broader areas. As such, it seeks to establish clearer township boundaries.

The Amendment introduces environment-related local policy at Clause 12.01-1L to protect high-value environmental assets and biodiversity in areas such as immediate creek environments, Gippsland Plains Rail Trail, Toongabbie Cemetery and road reserves with remnant native vegetation in accordance with draft *Toongabbie Structure Plan – Flora and Fauna Background Report (2020)*. Toongabbie's agricultural capability was considered as part of the municipal-wide *Rural Land Use Strategy (2019)*, and this Amendment does not impact any intensive or productive agricultural land.

A site history review has also been undertaken to identify any potentially contaminated land in the land affected by the Amendment in accordance with *Planning Practice Note 30: Potentially Contaminated Land*. EPA were consulted and their views have been considered in finalising the draft *Toongabbie Potentially land Contamination Report (2021)*.


#### **Declaration of Interests:**

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

#### **Supporting Documents:**

Toongabbie Potentially Contaminated Land Report

#### **Attachments**

1.  Attachment 1 - Panel Recommendations and Planning Officer Comment
2.  Attachment 2 - Amendment Documents
3.  Attachment 3 - Background Reports (Published Separately)
4.  Attachment 4 - Panel Report

# 8.1

## Amendment C126 - Consideration of Panel Report and Adoption

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**ATTACHMENT 1**  
**Amendment C126 (Toongabbie Structure Plan) – Panel Recommendations and Officer Response**

Recommendation No	Panel Recommendation	Council Response	What change has been made	Post Panel Change	Related Submission
<b>In Clause 11.01-1L (Toongabbie)</b>					
<b>Panel Ref:</b> 7. Toongabbie growth areas and bushfire risk (v) a) - Page 53	Amend Clause 11.01-1L (Toongabbie) to: <ul style="list-style-type: none"> <li>Amend the strategies and Toongabbie Town Structure Plan Map to designate '<i>First stage rural living</i>' and '<i>Second stage future rural living</i>' areas as '<i>Potential future growth areas subject to bushfire risk assessment</i>'.</li> </ul>	We agree with the panel recommendation but have slightly altered the wording to be more specific to the wording in the panel report section 5(v), second paragraph at page 53. We believe that this wording is more specific as it designates what we want the growth area to be and removes any uncertainty in the future. The recommendation should also be extended to first and second stage Low Density Residential Zone, for consistency and clarity on rezoning requirements.	Amended Clause 11.01-1L (Toongabbie) to: <ul style="list-style-type: none"> <li>Amend the strategies and Toongabbie Town Structure Plan Map to designate '<i>Potential Rural Living Subject to Bushfire Risk Assessment</i>' to Clause 11.01-1L strategies.</li> <li>Amend the strategies and Toongabbie Town Structure Plan Map to designate '<i>Low Density Residential Subject to Bushfire Risk Assessment</i>'.</li> </ul>	<input checked="" type="checkbox"/>	Submission #10 (CFA)
<b>Panel Ref:</b> 8.1 Flood study and land rezoning (v) b)– Page 59	Amend the Toongabbie Structure Plan map to remove the Low Density Residential Zone (LDRZ) designation from the following properties: <ul style="list-style-type: none"> <li>9-17 Hower Street, Toongabbie</li> <li>19-29 Hower Street, Toongabbie</li> <li>King Street, Toongabbie (CA 2 Section 3A, CA 4 Section 3A Toongabbie)</li> </ul>	Supported in principle due to the land being subject to flooding.	' <i>Potential Rural Living Subject to Bushfire Risk Assessment</i> ' words have been added to Clause 11.01-1L Toongabbie Structure Plan Map.	<input checked="" type="checkbox"/>	Submission #5 (withdrawn)
<b>In Clause 16.01-1 (Housing supply)</b>					

## ATTACHMENT 1

## Amendment C126 (Toongabbie Structure Plan) – Panel Recommendations and Officer Response

<b>Panel Ref:</b> 8.1 Flood study and land rezoning (v) c)– Page 59	Update the Housing Framework Plan map to correct the housing change designation to land no longer proposed for rezoning to Low Density Residential Zone: <ul style="list-style-type: none"> <li>• 9-17 Hower Street, Toongabbie</li> <li>• 19-29 Hower Street, Toongabbie</li> <li>• Land in King Street, Toongabbie (CA 2 Section 3A, CA 4 Section 3A Toongabbie)</li> </ul>	Supported due to the land being subject to flooding.	Amend Clause 16.01-1 Toongabbie Housing Framework Plan (HPF) to reflect change over subject sites.	<input checked="" type="checkbox"/>	Submission #5 (withdrawn)
Recommendation No	Panel Recommendation	Council Response	What change has been made	Post Panel Change	Related Submission
<b>In Planning Maps</b>					
<b>Panel Ref:</b> 8.1 Flood study and land rezoning (v) a) – Page 59	Delete the Low Density Residential Zone (LDRZ) from the following properties: <ul style="list-style-type: none"> <li>• 9-17 Hower Street, Toongabbie</li> <li>• 19-29 Hower Street, Toongabbie</li> <li>• King Street, Toongabbie (CA 2 Section 3A, CA 4 Section 3A Toongabbie)</li> </ul>	Supported due to the land being subject to flooding.	Planning Map 6 and 8 amended to reflect change on subject sites.	<input checked="" type="checkbox"/>	Submission #5 (withdrawn)
<b>Panel Ref:</b> 8.2 Submissions regarding rezoning (iv) a) Conclusions and recommendation Page 61	Delete the Low Density Residential Zone from 9-17 Hower Street, Toongabbie and retain this property in the Farming Zone.	Supported. This was suggested by Council as a post exhibition change in response to the submission.	Planning Map 8 updated to reflect change on subject site.	<input checked="" type="checkbox"/>	Submission #5 (withdrawn)

## ATTACHMENT 2

*Planning and Environment Act 1987*

**LATROBE PLANNING SCHEME**  
**AMENDMENT C126**  
**TOONGABBIE STRUCTURE PLAN**  
**EXPLANATORY REPORT**

**Who is the planning authority?**

This Amendment has been prepared by Latrobe City Council, which is the planning authority for this Amendment.

The Amendment has been made at the request of Latrobe City Council.

**Land affected by the Amendment**

The Amendment applies to approximately 850 Hectares of land in Toongabbie within the Toongabbie Township Boundary defined on the Toongabbie Structure Plan. It is bounded by Harris Lane, Guyatts Road, Antons Lane, Traralgon-Maffra Road, Afflecks Road, Hill Street and Gippsland Plains Rail Trail as shown in Figure 1 (the blue line represents the Toongabbie Township Boundary in the Toongabbie Structure Plan 2020).

The Amendment also applies to specific adjacent properties to the west and the north-west of the area shown in Figure 1 concerning changes in Land Subject to Inundation Overlay (LSIO) and introduction of Floodway Overlay (FO) within Latrobe City Council (refer land shown as FO and LSIO in Figure 2 in Attachment 1).

**Figure 1: Land generally affected by the Amendment****What the Amendment does**

## ATTACHMENT 2

The Amendment implements the findings of the Toongabbie Structure Plan report, background reports and the recommendations from the West Gippsland Catchment Management Authority 2016 Flood Study for Toongabbie into the Latrobe Planning Scheme.

The Amendment:

- Rezones residential (land shown as NRZ5 on Figure 3 in Attachment 2) from Neighbourhood Residential Zone – Schedule 4 to Neighbourhood Residential Zone – Schedule 5.
- Rezones land at 52 Ries Street (CA 1A Section A Toongabbie), 49-57 Heywood Street (CA 1B Section A Toongabbie), 23-33 Heywood Street (L 2 PS 330744), 21 Heywood Street (L1 PS 330744), 81 Main Street (L1 PS 711191), 79 Main Street (L2 PS 711191), and 77 Main Street (CA 2 Section 29 Toongabbie) from Neighbourhood Residential Zone – Schedule 4 to Low Density Residential Zone.
- Corrects the split zoning at 15-25 Victoria Street (CA 1 Sect 20, CA 2 Sect 20, CA 3 Sect 20, CA 10 Sect 20, CA 4 Sect 20) from Public Use Zone – Schedule 2 and Neighbourhood Residential Zone – Schedule 4 to Public Use Zone – Schedule 2.
- Rezones land at 15 Cowen Street (only L1 LP 116911), 17 Cowen Street (L2 LP 116911), 11 Victoria Street (CA 6 Section 17 Toongabbie), 12 Victoria Street (CA 6 Section 16 Toongabbie), 8 Victoria Street (CA 4 Section 16 Toongabbie), 6 Victoria Street (L1 PS 423649), 4 Victoria Street (L2 PS 423649), 2 Victoria Street (CA 10 Section 16 Toongabbie) and 1-5 Goodwin Street (L3 PS 423649) from Neighbourhood Residential Zone – Schedule 4 to General Residential Zone – Schedule 4.
- Rezones Main Street Toongabbie (CA 85A Toongabbie), Traralgon-Maffra Road (CA 9A Section A Toongabbie), Traralgon-Maffra Road (CA 32C Toongabbie), Russells Road (CA 5A Section 3A Toongabbie), Russells Road (CA 5 Section 3A Toongabbie), Humphrey Road (CA 2004 Toongabbie) and Hower Street (CA 2005, CA 2006 Toongabbie) from Farming Zone - Schedule 1 to Public Conservation and Resource Zone (PCRZ).
- Amends Clause 11.01-1L (Local Areas) to include the Toongabbie Structure Plan, insert key strategies and policy documents.
- Amends Clause 12.01-1L (Protection of Biodiversity) to include key strategies and policy documents for Toongabbie.
- Amends Clause 16.01-1L (Housing supply) to include the amended Toongabbie Housing Framework Plan.
- Amends Clause 72.08 (Operational Provisions) to include the Toongabbie Structure Plan Report, and Toongabbie Structure Plan Background Reports as background documents.
- Inserts a new Schedule 5 to Clause 32.09 Neighbourhood Residential Zone.
- Amends Schedule 4 to Clause 32.08 General Residential Zone to change the title from 'District Town' to 'District and Small Towns'.
- Amends the Land Subject to Inundation Overlay to include areas identified within the Floodplain Mapping for Toongabbie Township (West Gippsland Catchment Management Authority (WGCMA, 2016) to land shown as LSIO in Figure 2 in Attachment 1.
- Introduces the Floodway Overlay to areas identified within the Floodplain Mapping for Toongabbie Township (WGCMA, 2016) to land shown as FO in Figure 2 in Attachment 1.

### Strategic assessment of the Amendment

#### Why is the Amendment required?

The Amendment was required to implement and facilitate the recommendations of the Toongabbie Structure Plan (2020). Objective 3 of the Council Plan is to *'improve liveability and connectedness of Latrobe City'*. To meet this objective, Council must ensure that there is enough suitably-zoned land within the municipality to facilitate development and provide direction on how the town of Toongabbie will grow, look and feel in the next 15 to 20 years.

Toongabbie was one of four small towns in Latrobe that did not have a Structure Plan within the Latrobe Planning Scheme. The Toongabbie Structure Plan (2020) provides a clear framework to support growth in Toongabbie by providing a diversity of housing and lifestyle choices while protecting natural resources. The structure plan enables informed decision making in regards to residential and rural living development opportunities.

## ATTACHMENT 2

The Amendment is a result of the phased strategic planning process from 2018 to 2020 which included consultation with stakeholders, landowners and agencies and detailed analysis of background information- infrastructure and servicing assessment, land supply and demand assessment, ecological assessment, socio-economic and community infrastructure assessment, and assessment of potentially contaminated land.

A Toongabbie Housing Framework Plan was introduced to the Latrobe Planning Scheme as part of Amendment C105, which implemented the findings of the Live Work Latrobe Housing Strategy (2019) into the Planning Scheme. The current Amendment amends the Toongabbie Housing Framework Plan in the Latrobe Planning Scheme in response to community needs and directions in the Toongabbie Structure Plan (2020).

The Amendment amended the Land Subject to Inundation Overlay (LSIO) and introduces the Floodway Overlay (FO) to Toongabbie Planning Scheme Maps based on the flood layers produced by the Floodplain Mapping for Toongabbie Township (WGCMA, 2016). The Amendment was required to manage flood risk based on current information and guide planning decisions. The Toongabbie Structure Plan (2020) has considered this Floodplain Mapping and consulted with WGCMA in locating future land uses and development. The Schedules to the Floodway Overlay (FO) and Land Subject to Inundation Overlay (LSIO) have been amended as part of Amendment C122 and will apply to Toongabbie.

The Amendment will achieve a net community benefit.

**How does the Amendment implement the objectives of planning in Victoria?**

The Amendment meets the following objectives of Planning in Victoria set out in section 4(1) of the Planning and Environment Act 1987:

- (a) *to provide for the fair, orderly, economic and sustainable use, and development of land;*
- (b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
- (c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; and*
- (f) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), and (e).*

The Amendment implements these objectives by providing strategic directions within the Planning Policy Framework of the Latrobe Planning Scheme. The Toongabbie Structure Plan (2020) provides strategic direction for the town's future growth, ensuring that there is a fair, orderly, economic and sustainable use and development of land.

The Toongabbie Structure Plan (2020) is informed by a Flora and Fauna Assessment. Consultation was also undertaken with the WGCMA to identify and protect significant vegetation, develop waterway management plans, and create vegetation corridors through the town to increase habitation areas and fauna mobility while providing opportunities for future growth.

The Amendment provides for the protection of natural and human-made resources and the maintenance of ecological processes by applying flood provisions in the Planning Scheme according to the findings of the WGCMA flood studies for Toongabbie. The Amendment has sought to protect the natural environment and natural processes by rezoning Rosedale and Toongabbie creek frontages from Farming Zone (FZ) to Public Conservation and Resource Zone (PCRZ).

The Amendment, in particular, protects the natural and built environment of the town through implementing town-specific local policies and a neighbourhood residential zone schedule specific for the town's cultural, historical and environmental needs.

The Amendment meets the objective of securing a pleasant, efficient and safe working, living and recreational environment through careful consideration of land supply and demand, economic growth and community needs for open space and infrastructure. This detailed assessment is included within the Toongabbie Structure Plan (2020) and Toongabbie Structure Plan background report. It builds on the Live Work Latrobe Housing and Rural Land Use Strategy (2019), which were implemented through Amendment C105.



## ATTACHMENT 2

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

The Amendment achieves balanced growth and development and has appropriately addressed any environmental, social and economic effects that may result from future residential development.

*Environmental Effects*

The Amendment adequately addresses any potential environmental effects by considering topographical, ecological and hydrological systems to determine the most appropriate locations for residential, rural residential, recreational and agricultural land uses. The Amendment has considered any environmental risks associated with flooding and bushfires, and the cost of delivering services over longer distances and broader areas. As such, it seeks to establish clearer township boundaries.

The Amendment introduced environment-related local policy at Clause 12.01-1L to protect high-value environmental assets and biodiversity in areas such as immediate creek environments, Gippsland Plains Rail Trail, Toongabbie Cemetery and road reserves with remnant native vegetation in accordance with Toongabbie Structure Plan –Flora and Fauna Background Report. Toongabbie's agricultural capability was considered as part of the municipal-wide Rural Land Use Strategy (2019), and this Amendment does not impact any intensive or productive agricultural land.

A site history review has also been undertaken to identify any potentially contaminated land in the land affected by the Amendment in accordance with Planning Practice Note 30: Potentially Contaminated Land (PPN30). EPA has been consulted and their views have been considered in finalising the Potential Land Contamination Report. DELWP requested that a number of public rezonings be undertaken as part of this amendment, essentially as correction rezonings. These sites were each reviewed under PPN30 and given their extensive public ownership history and previous land uses (or essentially, in many cases, lack thereof) it is clear that the sites proposed to be rezoned to Public Conservation and Resource Zone, specifically creek frontage land within Rosedale and Toongabbie Creek from Farming Zone, do not meet the definition of 'potentially contaminated land'.

*Social Effects*

The Amendment has a positive social effect by implementing the findings of the Toongabbie Structure Plan (2020) which responds to the community's cultural and social needs and preferences in accordance with the Toongabbie Structure Plan- Background Consultation Report. The Amendment seeks to protect the character of Toongabbie that the community values.

The Structure Plan and the amended Housing Framework Plan provide a clear land use planning and development framework for the Toongabbie Township. The Amendment will facilitate greater housing choice and diversity through the application of appropriate residential and rural residential zones, such as General Residential Zone Schedule 4 (GRZ4) within 200m of the town centre, Toongabbie-specific Neighbourhood Residential Zone Schedule 5 (NRZ5) in most of the township, and Low-Density Residential Zone (LDRZ) in larger peripheral lots to allow for low detached housing as per land capability.

The Toongabbie Structure Plan (2020) has also considered built and cultural heritage, including Aboriginal Cultural Heritage, when developing its recommendations.

*Economic Effects*

The Amendment has a beneficial economic effect by providing a clear land use planning and development framework for the Toongabbie Township. The Amendment facilitates residential development in areas where key development opportunities have been identified and promote efficient use of existing physical and community infrastructure. The Amendment inserts local policy that provides clear direction for expansion and development of commercial and mixed-use activity.

**Does the Amendment address relevant bushfire risk?**

In preparing the Toongabbie Structure Plan (2020), a Municipal Bushfire Risk Assessment 2020 was undertaken to inform the decision making of the Toongabbie Structure Plan (2020) and assess appropriate bushfire mitigation tools. An assessment against Clause 13.02-1S (Bushfire Planning) was undertaken as a part of the Bushfire Risk Assessment. The CFA were consulted with throughout the development of the draft Latrobe City Municipal Bushfire Risk Assessment 2020. The Amendment is consistent with Clause 13.02-1S and has been considerate of the CFA's feedback. Further consultation was undertaken throughout the Amendment process.

## ATTACHMENT 2

The Amendment is also consistent with the Design Guidelines – Settlement Planning at the Bushfire Interface (DELWP, July 2020.) The Toongabbie Structure Plan (2020) has considered the bushfire hazard in directing growth and distribution of uses. It also contains recommendations for mitigation measures along King Street where the risk interfaces with the development through the application of controls at the time of rural rezoning (not part of this Amendment) and subsequent planning permit application processes.

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

The Amendment is consistent with:

- The Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.
- Ministerial Direction No. 11 – Strategic Assessment of Amendments.
- Ministerial Direction No. 15 - The Planning Scheme Amendment Process.
- Ministerial Direction No. 1 - Potentially Contaminated Land and Direction No. 19 - The Preparation and Content of Amendments that may Significantly Impact the Environment, Amenity and Human Health.

A Potentially Contaminated Land Report (Latrobe City Council, 2020) has been prepared in accordance with Ministerial Direction 1 and 19, but does not form part of the Toongabbie Structure Plan Background Reports. Further environmental assessment is recommended for the areas assessed as having a moderate to a high potential for contamination as part of any future redevelopment and through the planning application process. Further consultation with EPA was undertaken as part of the Amendment process.

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

The Amendment directly supports the following Clauses of the Planning Policy Framework:

- Clause 11 (Settlement)

Clause 11.01-1S (Settlement) and Clause 11.01-1R (Settlement – Gippsland) seek to promote sustainable growth and development whilst providing choice and opportunity.

Clause 11.01-1L (Latrobe settlement patterns) contains strategies to discourage the fragmentation of rural land adjoining township boundaries until land is required for long term (15 or more years) urban development.

Clause 11.02-1S (Supply of Urban Land) seeks to ensure sufficient supply of land for uses, including residential land uses.

Clause 11.03-6S (Regional and local places) facilitates integrated place-based planning with planning considerations to provide specific direction for the planning of towns.

The Amendment supports the relevant policies at Clause 11 by supporting Toongabbie's growth and ensuring that there is enough land supply over the next 15-20 years. The Amendment implements local policies that consider Toongabbie's distinctive characteristics and respond to the needs of the community through the provision of housing, recreation, open spaces, commercial land, and community infrastructure.

- Clause 12 (Environmental and Landscape Values)

Clause 12.01-1S (Protection of Biodiversity) and Clause 12.01-2S (Native Vegetation management) seek to protect and conserve Victoria's biodiversity and native vegetation. Impacts from land use and development should be avoided or minimised where possible, and any removal of native vegetation should result in no net loss to the state's biodiversity.

Clause 12.03-1S (River corridor, waterways, lakes and wetlands) seeks to protect and enhance river corridors, waterways, lakes and wetlands. The Amendment does not propose to impact on

## ATTACHMENT 2

any waterways, with further consideration to be given during the assessment of any subsequent planning permit applications.

Clause 12.05-2S (Landscapes) seeks to protect and enhance significant landscapes and open spaces that contribute to the character, identity and sustainable environments.

The Amendment supports the relevant policies at Clause 12 by implementing local policy for protecting biodiversity and the remnant native vegetation, protecting waterways through the application of the Public Conservation and Resource Zone (PCRZ), enhancing open space linkages and ensuring development responds to the landscape character.

- Clause 13 (Environmental Risks and Amenity)

Clause 13.02-1S (Bushfire planning) seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

Clause 31.02-1L (Bushfire prone Areas) seeks to ensure developments, subdivisions and uses identified in Clause 13.02-1S incorporate measures to mitigate bushfire risk. The Amendment implements the Toongabbie Structure Plan (2020), which is informed by proper bushfire risk assessments and includes appropriate bushfire protection measures.

Clause 13.03-1S (Floodplain management) seeks to protect life and property from flood hazard.

Clause 13.03-1L (Floodplain management) discourages residential development on 1:100-year floodplains.

The Amendment supports the relevant policies at Clause 13 by mitigating the impact of flooding, including land inundated by the 1 in 100-year flood event, by identifying land affected by flooding in the Planning Scheme following WGCMA flood studies for Toongabbie.

Land constraints such as flooding have been considered during the assessment of land identified for rezoning from Neighbourhood Residential Zone Schedule 4 (NRZ4) to General Residential Zone Schedule 4 (GRZ4), from NRZ4 and Farming Zone (FZ) to Low Density Residential Zone (LDRZ) within the Township.

Clause 13.04-1S (Contaminated and potentially contaminated land) seeks to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

The Amendment has considered the potential for land contamination.

Clause 14 (Natural Resource Management)

Clause 14.01-1S and Clause 14.1-1L (Protection of agricultural land) seeks to protect the state's agricultural base by preserving productive farmland.

Municipal-wide agricultural capability was considered as part of the Live Work Latrobe Rural Land Use Strategy (May 2019). Land of a high agricultural class was omitted from rural residential considerations. The Toongabbie Structure Plan (2020) is consistent with the Rural Land Use Strategy (May 2019) implemented through Amendment C105.

This Amendment further supports the relevant policies at Clause 14 by protecting agricultural lands within the study area and reducing the impact on the productive agricultural areas outside the study area by directing residential growth in the preferred locations within the existing settlement.

Clause 14.02-1S (Catchment Planning and management) seeks to help protect and restore catchments, water bodies, groundwater, and the marine environment. The Amendment rezones creek frontage land to Public Conservation and Resource zone (PCRZ), which will help in protecting natural drainage corridors. The Amendment has considered the development potential, the land capability and WGCMA recommendations of any land located in the floodplain.

- Clause 15 (Built Environment and Heritage)

Clause 15.01-1S (Urban Design) seeks to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. The

## ATTACHMENT 2

Amendment supports the policy through implementing the Toongabbie Structure Plan (2020) and encouraging development to respond to Toongabbie's character and identity. The Amendment is consistent with the relevant objectives of Urban Design Guidelines Victoria.

Clause 15.01-2S (Building Design) seeks to achieve building design outcomes that contribute positively to the local context and enhance the public realm. The Amendment inserts a new Neighbourhood Residential Zone Schedule 5 (NRZ5) for Toongabbie to support development that responds to Toongabbie's character and protects significant views and vistas. The Toongabbie Structure Plan (2020) also contains strategies for achieving appropriate commercial built form and design.

Clause 15.01-3S (Subdivision Design) seeks to ensure the design of subdivisions achieve attractive, safe, accessible, diverse and sustainable neighbourhoods. The Toongabbie Structure Plan (2020) has considered future subdivision potential, subject to land constraints and community aspirations, and supports the 'neighbourhood objectives' mentioned in the policy above. There is a consideration for a range of housing types and sizes, optimum use of services, walkability and open space links.

Clause 15.01-5S (Healthy neighbourhoods) seeks to achieve neighbourhoods that foster healthy and active living and community wellbeing. The Amendment supports the policy by encouraging shared path links through open spaces and important places.

Clause 15.01-5L (Neighbourhood character) seeks to encourage the retention of intact, older buildings and features that contribute to the character of an area. It also seeks to encourage residential allotment sizes that respect the existing subdivision pattern in district and small towns. The amendment inserts a new Schedule 5 to Clause 32.09 Neighbourhood Residential Zone (NRZ5) to implement the objectives of the above policy.

Clause 15.01-6S (Design of rural areas) seeks to ensure development respects valued areas of rural character. The Amendment supports the policies by protecting rural areas from inappropriate development. It also supports the policy by encouraging residential development within the existing township to respond to Toongabbie's 'rural' character.

Clause 15.02-1S (Energy and resource efficiency) encourages land use and development that is energy and resource-efficient, supports a cooler environment and minimises greenhouse gas emissions. The Amendment supports the policy by promoting clear township boundaries, encouraging retention of existing vegetation and planting canopy trees in front yards as part of the residential development process.

Clause 15.03-1S (Heritage conservation) seeks to ensure the conservation of places of heritage significance. The Amendment supports the policies by encouraging development that respects the heritage values of the township through applying appropriate planning scheme tools such as amending local policy and inserting the new Neighbourhood Residential Zone Schedule 5 (NRZ5).

Clause 15.03-2S (Aboriginal culture heritage) seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance. The Toongabbie Structure Plan (2020) has considered aboriginal cultural significance when forming its recommendations. It recommends further discussions with landowners concerning a Cultural Heritage Management Plan (CHMP) for the Toongabbie Study Area. Development may require a CHMP to be prepared as part of the planning permit process.

- Clause 16 (Housing)

Clause 16.01-1S (Housing supply) seeks to facilitate well-located, integrated and diverse housing that meets community needs. The Amendment supports the policy at Clause 16 by facilitating diverse housing types- including areas of future growth, aged care facilities and rural residential development in a manner which responds to the community needs and the town's character.

Clause 16.01-2S (Housing affordability) seeks to deliver more affordable housing closer to jobs, transport and services. The Amendment improves housing affordability by ensuring that residential supply continues to be sufficient to meet demand.

Clause 16.01-2L (Location of residential development) applies to all land identified in the Housing Framework Plan and encourages a diverse range of housing in locations with access to community services, activity centres and public transport in accordance with the Plans in this clause. Amendment C126 amends the Toongabbie Housing Framework Plan to include a 200m catchment

## ATTACHMENT 2

boundary from the local activity centre in Toongabbie and by making provision for incremental housing change areas at appropriate locations within this catchment.

Clause 16.01-3S (Rural residential development) seeks to identify land suitable for rural residential development. The Amendment implements the Toongabbie Structure Plan (2020) which has identified appropriate locations for rural residential development. The Amendment is supported by an infrastructure and servicing assessment, land supply and demand assessment, ecological assessment, socio-economic and community infrastructure assessment, agricultural capability, bushfire assessment, and potentially contaminated land assessment.

Clause 16.01-5S (Residential aged care facilities) seeks to facilitate the development of well-designed and appropriately located residential aged care facilities. The Amendment rezones land free of flooding constraints within 200m of the Toongabbie Township 'core' from NRZ4 to GRZ4. The rezoning will encourage infill development of aged care facilities as desired by the community.

- Clause 17 (Economic Development)

Clause 17.02-1S (Business) seeks to encourage development that meets the community's needs for retail, entertainment, office and other commercial services. The Amendment supports the policy by identifying areas for future commercial and mixed-use development within the Toongabbie town centre core to meet the community's need.

Clause 17.04-1S (Facilitating tourism) and Clause 17.04-1R (Tourism-Gippsland) seek to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination. The Amendment implements the Toongabbie Structure Plan (2020) which seeks to encourage nature-based tourism focussed on the Gippsland Plains Trail and access to Cowwarr Weir. The Structure Plan also aims to improve the township's entrance gateways.

- Clause 18 (Transport)

Clause 18.02-1S (Sustainable personal transport) seeks to promote the use of sustainable personal transport. The Amendment supports the policy by building upon existing links within the town to create a core movement network for pedestrians and cyclists.

Clause 18.02-3S (Road system) seeks to manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure. The Amendment supports the policy by limiting access points onto Traralgon-Maffra Road to ensure the arterial road's functionality. It also encourages new development to respond to the existing street network to achieve optimal use of existing infrastructure.

- Clause 19 (Infrastructure)

Clause 19.02-2S (Education facilities) seeks to assist in integrating education and early childhood facilities with local and regional communities. The Amendment supports the policy by correcting the split zoning at Toongabbie Primary School from Public Use Zone Schedule 2 (PUZ2) and Neighbourhood Residential Zone Schedule 4 (NRZ4) to Public Use Zone Schedule 2 (PUZ2). The Toongabbie Structure Plan (2020) has considered future educational requirements for Toongabbie. The Structure Plan encourages co-locating future identified facilities with the existing school or using existing community facilities. Shared path links around the school are also encouraged.

Clause 19.03-2S (Infrastructure design and provision) seeks to provide timely, efficient and cost-effective development infrastructure that meets the community's need. The Toongabbie Structure Plan (2020) has considered infrastructure and capacity of services, including reticulated services, drainage, electricity, gas and telecommunications to land that can sustainably manage the town's infrastructure requirements. The Amendment promotes sustainable development by directing an appropriate form of housing in areas with and without servicing constraints.

Clause 19.02-4S (Social and cultural Infrastructure) seeks to provide a fairer distribution of, and access to, social and cultural infrastructure. The Amendment has considered the social and cultural infrastructure requirements for Toongabbie. It encourages the protection and enhancement of existing community infrastructure.

Clause 19.02-6S (Open spaces) seeks to establish, manage and improve a diverse and integrated network of public open space that meets the community's need. The Toongabbie Structure Plan (2020) does not identify any additional land for public open space. The Amendment encourages

## ATTACHMENT 2

shared path links, connecting places of natural and community interest such as Toongabbie Recreation Reserve with the town centre and the Toongabbie Primary School. It also ensures the conservation of creek-side open spaces.

Clause 19.03-3S (Integrated Water Management) seeks to sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach. The Amendment supports the policy by rezoning crown land fronting the Rosedale and Toongabbie Creeks as Public Conservation and Resource Zone (PCRZ) to effectively manage and conserve natural creek environments. The Amendment has considered the sewerage capacity and land capability to rezone land to appropriate residential zones.

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

Not applicable.

**How does the Amendment support or implement the Municipal Planning Strategy?**

The Amendment seeks to implement and support the Municipal Planning Strategy (MPS) by supporting the future growth of Toongabbie as a small town in accordance with Clause 02.04-1 Strategic Framework Plan and Clause 02.04-2 Settlement plan.

It is also consistent with the following strategies outlined in Clause 02.03:

Clause 02.03-1 (Settlement) identifies Toongabbie as a small town providing a limited range of educational, retail and recreational services for residents and the surrounding rural areas. The Amendment identifies opportunities for future growth and development within the town in accordance with the settlement hierarchy and provides an attractive lifestyle and housing choice within the municipality. It defines clear settlement boundaries to consolidate development.

Clause 02.03-1 (Settlement) identifies the Toongabbie town centre as providing limited convenience retailing to the immediate surrounding township and rural areas. These centres are important focal points for the community and, where appropriate, may include tourism-related retailing in addition to convenience retail, small town centres also provide a limited range of commercial, community (e.g. community hall/centre), and personal services (e.g. post office). The Amendment supports the growth of Toongabbie Town centre consistent with this policy.

**Clause 02.03-2 (Environmental and Landscape Values)** seeks to enhance Latrobe's native vegetation, biodiversity, habitats and natural ecosystems, and balance development with the protection of the natural environment.

The Amendment supports the policies at Clause 02.03-2 by including environment-related policies for Toongabbie in the Latrobe Planning Scheme. The Toongabbie Structure Plan (2020) is informed by Flora and Fauna assessments. Two potential patches of critically endangered ecological vegetation class have been identified and proposed to be protected through local policy until formally identified. The Amendment also seeks to protect remnant vegetation in roadside reserves and other roadside vegetation that links between public and private native vegetation through amended local policy. The Amendment protects the rural landscape's values by applying a Toongabbie specific neighbourhood residential zone (NRZ5) and directing residential growth in appropriate locations.

**Clause 02.03-3 (Environmental risks and amenity)** includes strategies for planning for climate change, bushfire and floodplain management.

The Amendment implements the new WGCMA 2016 Flood Study findings for Toongabbie by introducing the Floodway Overlay (FO) and amending the Land Subject to Inundation Overlay (LSIO). The WGCMA has also been consulted about the Schedules being amended through Amendment C122 and applied to Toongabbie. The Toongabbie Structure Plan (2020) has considered this updated information in identifying areas for growth and development. The Amendment discourages urban development on flood-prone land, except where agreed with the West Gippsland Catchment Management Authority (WGCMA).

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The Amendment seeks to minimise the risk to life, property, the environment and biodiversity from bushfire. The Amendment has considered the bushfire risk in directing growth and development within the Toongabbie Township. The Toongabbie Structure Plan (2020) is informed by the Municipal Bushfire Risk Assessment 2020 and the Toongabbie Bushfire Risk Assessment. Consultation with the CFA has also occurred. The Amendment is consistent with Latrobe City Municipal Fire Management Plan and is further supported by proposed Amendment C127 (Bushfire and Rural Rezoning), which seeks to implement a bushfire-specific Design and Development Overlay (DDO) to areas identified for future rural residential.

**Clause 02-03-4 (Natural Resource Management)** includes strategies for planning for agriculture, intensive agriculture, timber, water and coal. Planning for agriculture seeks to enhance the viability of agriculture and discourage the establishment of sensitive or non-agricultural related land uses on high quality agricultural land.

The Amendment supports the Latrobe City Rural Framework Plan in Clause 02.04 which provides guidance on the location of productive agricultural land in the Latrobe City Council. The Rural Framework Plan does not identify any potential intensive agriculture land in the Toongabbie Township area. The Farming Zone Schedule 1 (FZ1) lands in the south-east, northeast and the southwest corners of the Toongabbie township area are protected from loss of agricultural use by directing growth in more appropriate locations.

Application of the amended FO and LSIO in accordance with WGCMA Toongabbie flood study will encourage the improvement of water quality and environmental values of waterways as sought in the planning policy for water at Clause 02-03-4.

**Clause 02.03-5 (Built Environment and Heritage)** includes strategies for planning for heritage and neighbourhood character.

Clause 02.03-5 (Heritage) seeks to protect places of heritage, cultural and social significance. The Heritage Overlay (HO) protects heritage places identified in the Latrobe City Heritage Study (2010) within the Toongabbie study area. The Amendment supports the existing policy by ensuring future development respects the heritage character of the township and heritage values of the identified places.

Clause 02.03-5 (Neighbourhood Character) acknowledges the distinctive features of regional development in the Latrobe City Council. It also acknowledges special character areas within the Latrobe City Council, namely Garden Suburban, Lifestyle Suburban and Bush Suburban. A detailed neighbourhood character assessment for Toongabbie has not been undertaken. The neighbourhood character objectives for the Toongabbie existing residential area have been identified based on community consultations' findings. The amendment supports the local policy by retaining the character of the town while balancing development objectives.

Clause 02.03-6 (Housing) seeks to encourage housing growth in accordance with the Housing Framework Plans and provides direction regarding the extent and location of future growth and housing change, categorising residential land into four broad categories of change including Substantial Change, Incremental Change, Limited Change and Minimal Change. It also supports infill development in all main urban settlements as a priority. The Amendment supports the policy by amending the Toongabbie Housing Framework Plan in accordance with the Toongabbie Structure Plan (2020) and allowing for residential growth within 200m of the Toongabbie town centre.

Clause 02.03-6 also seeks to support rural living and associated land use that does not compromise agricultural productivity. The Amendment supports this policy by identifying areas for the short to long term for rural living and low density residential in suitable locations.

Clause 02.03-7 (Economic Development) seeks to facilitate tourism in rural areas that respect existing settlement patterns, landscape, amenity and environmental values. The Amendment supports the

## ATTACHMENT 2

policy by protecting natural features within the Toongabbie township that could support nature-based tourism.

Clause 02.03-8 (Transport) seeks to consolidate urban areas to provide for shorter travel distances, walking, cycling and access to public transport. The Amendment supports the objective of the clause.

Clause 02.03-9 (Infrastructure) contains strategies for infrastructure assets, community infrastructure and open space. Planning for open space seeks to encourage the development of linear parks, habitat corridors and linkages between key open spaces, community destinations and employment precincts to improve connectivity. The Amendment supports the policy by amending Clause 12.01-1L and inserting strategies that support the creation of open space linkages.

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

The Amendment makes proper use of the Victoria Planning Provisions, mainly, through using appropriate residential zones and their key features as per the Toongabbie Structure Plan (2020). Low Density Residential Zone is seen as an appropriate zone to mitigate the physical infrastructure constraints and the Neighbourhood Residential Zone Schedule 5 (NRZ5) is considered an appropriate zone to achieve neighbourhood character objectives of the existing Toongabbie Township. The General Residential Zone Schedule 4 (GRZ4) is applied to areas around the activity centre and is consistent with its application in other towns in Latrobe City Council and the Latrobe City Housing Strategy.

Amendment C126 implements the findings of the Toongabbie Structure Plan (2020) through amending the Local Policy Framework at Clause 21.09, which is considered the most appropriate tool.

The Amendment is generally consistent with the following relevant planning practice notes and Planning Advisory Notes:

- PPN02: Public Land Zones
- PPN07: Vegetation Protection in Urban Areas
- PPN10: Writing Schedules
- PPN12: Applying Flood Provisions in Planning Schemes
- PPN28: Using the Neighbourhood Character Provisions in Planning
- PPN30: Potentially Contaminated Land
- PPN37: Rural Residential Development
- PPN42: Applying the Rural Zones
- PPN43: Understanding Neighbourhood Character
- PPN46: Strategic Assessment Guidelines
- AN48: Ministerial Direction No. 15 – The Planning Scheme Amendment Process
- PPN64: Local Planning for Bushfire Protection
- PPN90: Planning for Housing
- PPN91: Using the Residential Zones
- AN68: Bushfire State Planning Policy VC140

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

The following agencies have been consulted in the preparation of the Toongabbie Structure Plan Background Reports:

- Department of Environment, Land, Water and Planning;
- Country Fire Authority;
- Department of Transport (Regional Roads Victoria);
- West Gippsland Catchment Management Authority;
- Gippsland Water;
- SP Ausnet;
- APA Gas – Networking; and
- Telstra.

EPA has been consulted as part of the authorisation process following the Ministerial Direction No. 1 and Direction No. 19.



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

The Amendment addresses the requirements of the Transport Integration Act 2010.

The Amendment is consistent with the transport system objectives of the Act, in particular those contained in Section 11 – Integration of transport and land use. This section requires a focus on maximising access to residences, employment, services and recreation, and reducing the need for private motor vehicle transport and the extent of travel. The Amendment has considered the Department of Transport's views in the development of the Toongabbie Structure Plan (2020). It has recommended that new access points onto the arterial road, Traralgon-Maffra Road, be limited.

**What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The Amendment will have a negligible impact on the Latrobe City Council's resource and administrative costs.

**Where you may inspect this Amendment**

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

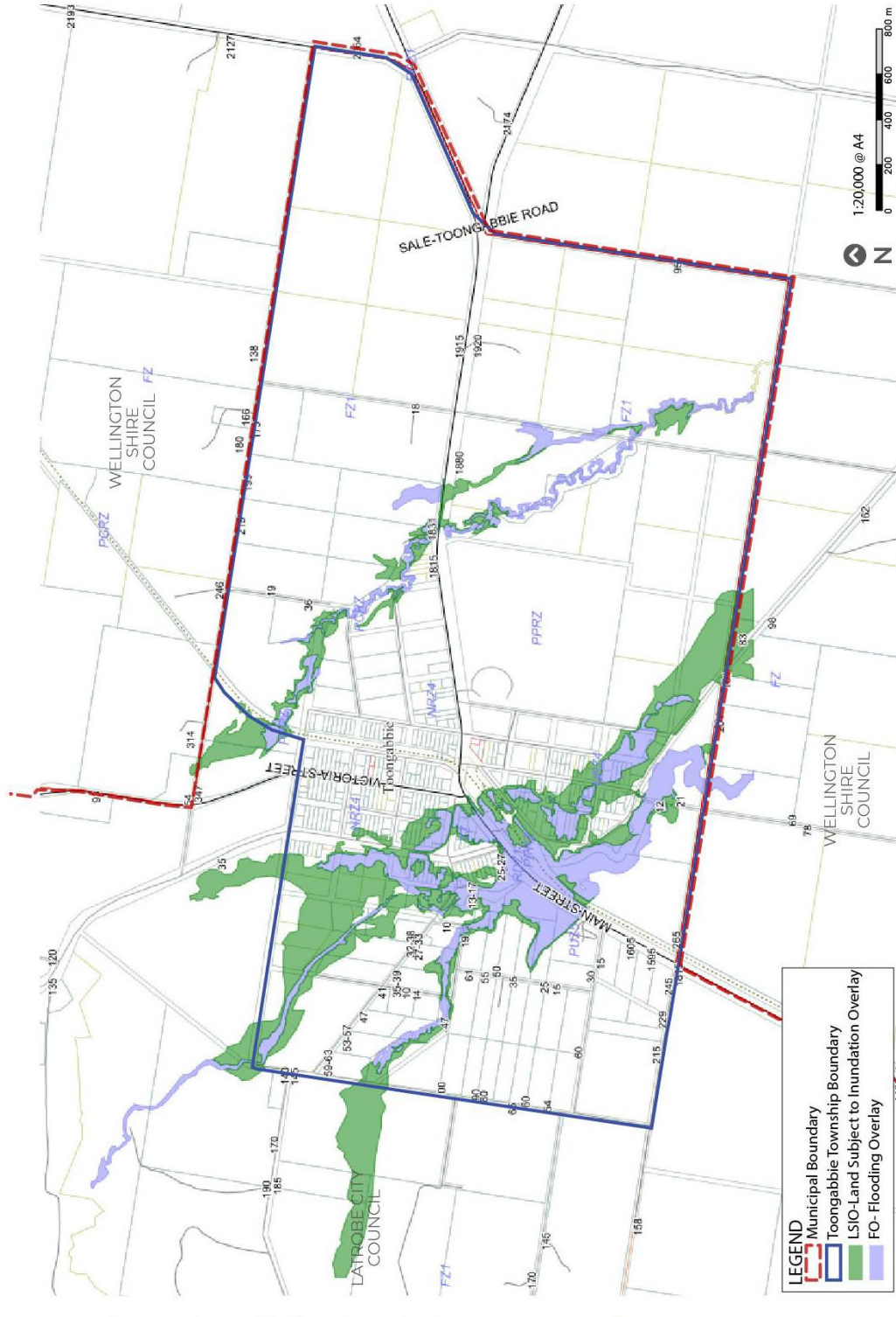
- The service centres of the planning authority Latrobe City Council located at:
  - 141 Commercial Road, Morwell Vic 3840;
  - 34-38 Kay Street, Traralgon Vic 3844;
  - 9-11 Philip Parade, Churchill Vic 3842; and
  - 1-29 George Street, Moe Vic 3825.
  
- Latrobe City's website: [www.latrobe.vic.gov.au/C126](http://www.latrobe.vic.gov.au/C126)

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) or by contacting 1800 789 386 to arrange a time to view the amendment documentation.

ATTACHMENT 2

ATTACHMENT 1

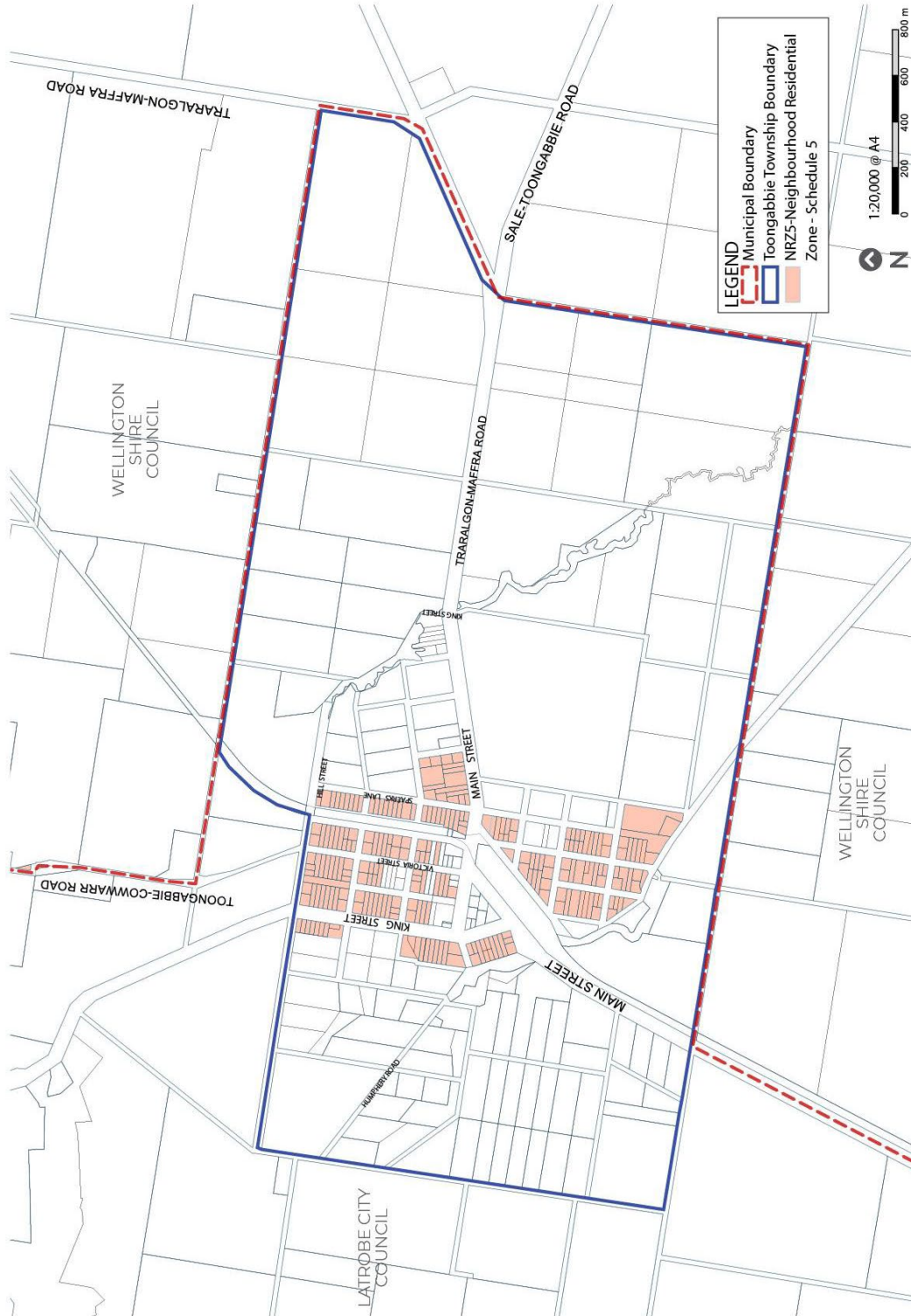
Figure 2: Map showing land affected by Land Subject to Inundation Overlay (LSIO) and Floodway Overlay (FO):



ATTACHMENT 2

ATTACHMENT 2

Figure 3: Map showing land rezoned from Neighbourhood Residential Zone - Schedule 4 (NRZ4) to Neighbourhood Residential Zone - Schedule 5 (NRZ5):



## ATTACHMENT 2

*Planning and Environment Act 1987***LATROBE PLANNING SCHEME****AMENDMENT C126****INSTRUCTION SHEET**

The planning authority for this amendment is Latrobe City Council.

The Latrobe Planning Scheme is amended as follows:

**Planning Scheme Maps**

The Planning Scheme Maps are amended by a total of 10 attached map sheets.

**Zoning Maps**

1. Amend Planning Scheme Map Nos. 6, 7, 8, 9 in the manner shown on the 4 attached maps marked "Latrobe Planning Scheme, Amendment C126".

**Overlay Maps**

2. Amend Planning Scheme Map Nos. 05lsio-fo, 06lsio-fo, 07lsio-fo, 08lsio-fo, 09lsio-fo, 10lsio-fo in the manner shown on the 6 attached maps marked "Latrobe Planning Scheme, Amendment C126".

**Planning Scheme Ordinance**

The Planning Scheme Ordinance is amended as follows:

3. In **Planning Policy Framework** - replace Clause 11.01-1L with a new Clause 11.01-1L in the form of the attached document.
4. In **Planning Policy Framework** - replace Clause 12.01-1L with a new Clause 12.01-1L in the form of the attached document.
5. In the **Planning Policy Framework** - replace Clause 16.01-1L with a new Clause 16.01-1L in the form of the attached document.
6. In **Zones** – Clause 32.08, replace Schedule 4 with a new Schedule 4 in the form of the attached document.
7. In **Zones** – Clause 32.09, insert a new Schedule 5 in the form of the attached document.
8. In **Operational Provisions** – Clause 72.08, replace the Schedule with a new Schedule in the form of the attached document

End of document

LATROBE PLANNING SCHEME  
ATTACHMENT 2

**11.01**  
31/07/2018  
VC148

**VICTORIA**

~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

**11.01-1S**

10/06/2022  
VC216

**Settlement****Objective**

To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

**Strategies**

Develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities.

Focus investment and growth in places of state significance in Metropolitan Melbourne and the major regional cities of Ballarat, Bendigo, Geelong, Horsham, Latrobe City, Mildura, Shepparton, Wangaratta, Warrnambool and Wodonga.

Support sustainable development of the regional centres of Ararat, Bacchus Marsh, Bairnsdale, Benalla, Castlemaine, Colac, Echuca, Gisborne, Hamilton, Kyneton, Leongatha, Maryborough, Portland, Sale, Swan Hill, Warragul/Drouin and Wonthaggi.

Ensure regions and their settlements are planned in accordance with their relevant regional growth plan.

Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.

Create and reinforce settlement boundaries.

Provide for growth in population and development of facilities and services across a regional or sub-regional network.

Plan for development and investment opportunities along existing and planned transport infrastructure.

Promote transport, communications and economic linkages between settlements through the identification of servicing priorities in regional land use plans.

Strengthen transport links on national networks for the movement of commodities.

Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:

- Building on strengths and capabilities of each region across Victoria to respond sustainably to population growth and changing environments.
- Developing settlements that will support resilient communities and their ability to adapt and change.
- Balancing strategic objectives to achieve improved land use and development outcomes at a regional, catchment and local level.
- Preserving and protecting features of rural land and natural resources and features to enhance their contribution to settlements and landscapes.
- Encouraging an integrated planning response between settlements in regions and in adjoining regions and states in accordance with the relevant regional growth plan.
- Providing for appropriately located supplies of residential, commercial, and industrial land across a region, sufficient to meet community needs in accordance with the relevant regional growth plan.
- Improving transport network connections in and between regional cities, towns and Melbourne.
- Integrating the management of water resources into the urban environment in a way that supports water security, public health, environment and amenity outcomes.

~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

- Minimising exposure to natural hazards, including increased risks due to climate change.
- Contributing to net zero greenhouse gas emissions through renewable energy infrastructure and energy efficient urban layout and urban design.

Encourage a form and density of settlements that supports healthy, active and sustainable transport.

Limit urban sprawl and direct growth into existing settlements.

Promote and capitalise on opportunities for urban renewal and infill redevelopment.

Develop compact urban areas that are based around existing or planned activity centres to maximise accessibility to facilities and services.

Ensure retail, office-based employment, community facilities and services are concentrated in central locations.

Ensure land that may be required for future urban expansion is not compromised.

Support metropolitan and regional climate change adaption and mitigation measures.

**Policy documents**

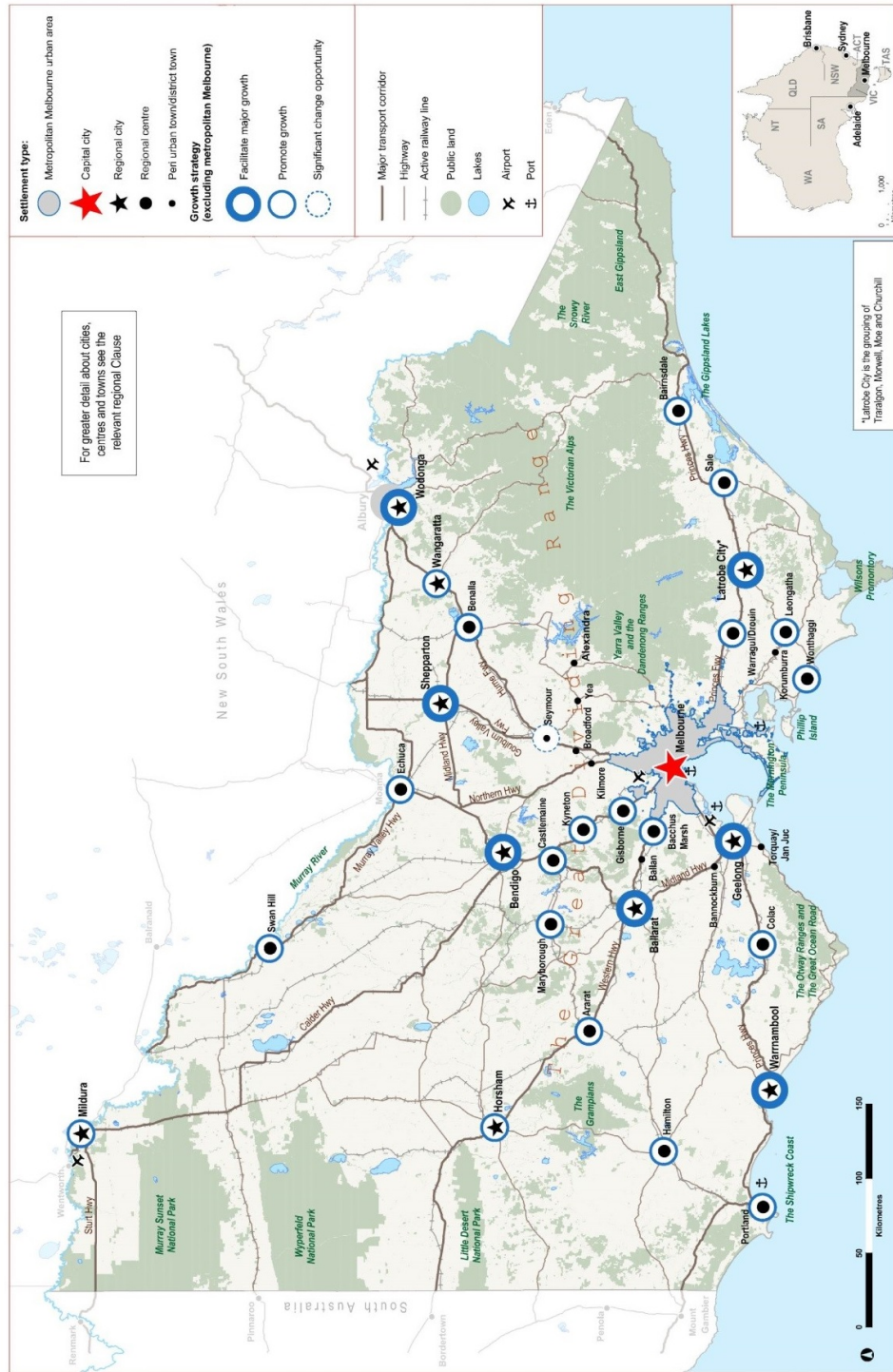
Consider as relevant:

- *Central Highlands Regional Growth Plan* (Victorian Government, 2014)
- *G21 Regional Growth Plan* (Geelong Region Alliance, 2013)
- *Gippsland Regional Growth Plan* (Victorian Government, 2014)
- *Great South Coast Regional Growth Plan* (Victorian Government, 2014)
- *Hume Regional Growth Plan* (Victorian Government, 2014)
- *Loddon Mallee North Regional Growth Plan* (Victorian Government, 2014)
- *Loddon Mallee South Regional Growth Plan* (Victorian Government, 2014)
- *Wimmera Southern Mallee Regional Growth Plan* (Victorian Government, 2014)
- *Plan Melbourne 2017-2050: Metropolitan Planning Strategy* (Department of Environment, Land, Water and Planning, 2017)
- *Plan Melbourne 2017-2050: Addendum 2019* (Department of Environment, Land, Water and Planning, 2019)



LATROBE PLANNING SCHEME  
ATTACHMENT 2

Victoria Settlement Framework





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LATROBE PLANNING SCHEME  
ATTACHMENT 2

**11.01-1R**

31/07/2018  
VC148

**Settlement - Gippsland****Strategies**

Support urban growth in Latrobe City as Gippsland's regional city, at Bairnsdale, Leongatha, Sale, Warragul/Drouin and Wonthaggi as regional centres, and in sub-regional networks of towns.

Support new urban growth fronts in regional centres where natural hazards and environmental risks can be avoided or managed.

Support the continuing role of towns and small settlements in providing services to their districts, recognising their relationships and dependencies with larger towns.

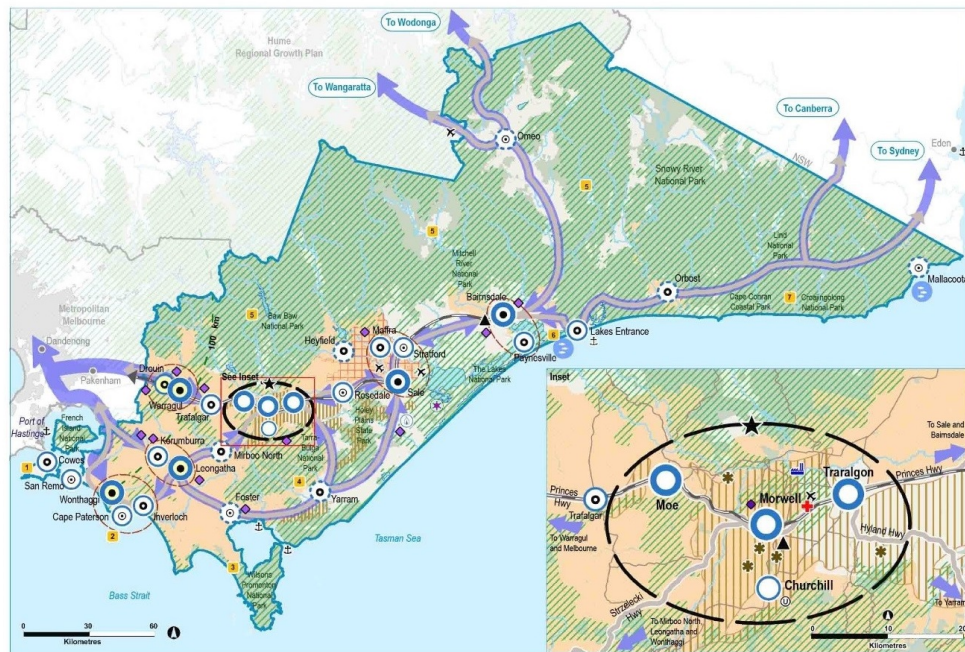
Create vibrant and prosperous town centres that are clearly defined and provide commercial and service activities that respond to changing population and market conditions.

Provide regional social infrastructure in the regional city and regional centres.

Plan for increased seasonal demand on services and infrastructure in towns with high holiday home ownership.

LATROBE PLANNING SCHEME  
ATTACHMENT 2

Gippsland Regional Growth Plan



SETTLEMENTS

- Regional city - Latrobe City\*
  - Regional centre
  - Town
  - Small town
  - Promote growth
  - Support growth
  - Sustainable change
  - Designated identified growth centre in Plan Melbourne<sup>(1)</sup>
  - Sub regional network
  - Areas within 100 km of central Melbourne
  - Melbourne's urban area
- \*Latrobe City is the grouping of Traralgon, Morwell, Moe and Churchill*

<sup>(1)</sup> Plan Melbourne (Chapter 6 – State of Cities) identifies Warragul/Drouin, Wonthaggi and Leongatha as peri-urban towns with potential to attract housing and population growth out of Melbourne

CONNECTIVITY AND TRANSPORT

- Networks supporting movement and access
- Potential freight and logistics precincts
- Key road corridor
- Key rail corridor
- Arterial road (insert map only)
- Airport
- Port

ECONOMIC DEVELOPMENT

- Food manufacturing hubs
- Key agriculture and forestry land
- Macalister Irrigation District
- Brown coal reserves
- Power station
- Longford gas plant
- Australian Paper Maryvale
- Organic recycling facility
- University
- Hospital
- Fishing port

STRATEGIC TOURISM INVESTMENT AREAS

- 1** Phillip Island
- 2** Bunurong Coast
- 3** Wilsons Promontory National Park
- 4** Tarra-Bulga National Park
- 5** Australian Alps
- 6** Gippsland Lakes
- 7** Croajingolong National Park

ENVIRONMENT

- Areas containing high value terrestrial habitat
- Public land
- Lakes
- Rivers

~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

**11.01-1L**

28/05/2021  
C122latr

**Latrobe settlement patterns****Strategies**

Maintain a clear separation between urban settlements, other than the Morwell to Traralgon Employment Corridor linking the urban areas of Morwell and Traralgon.

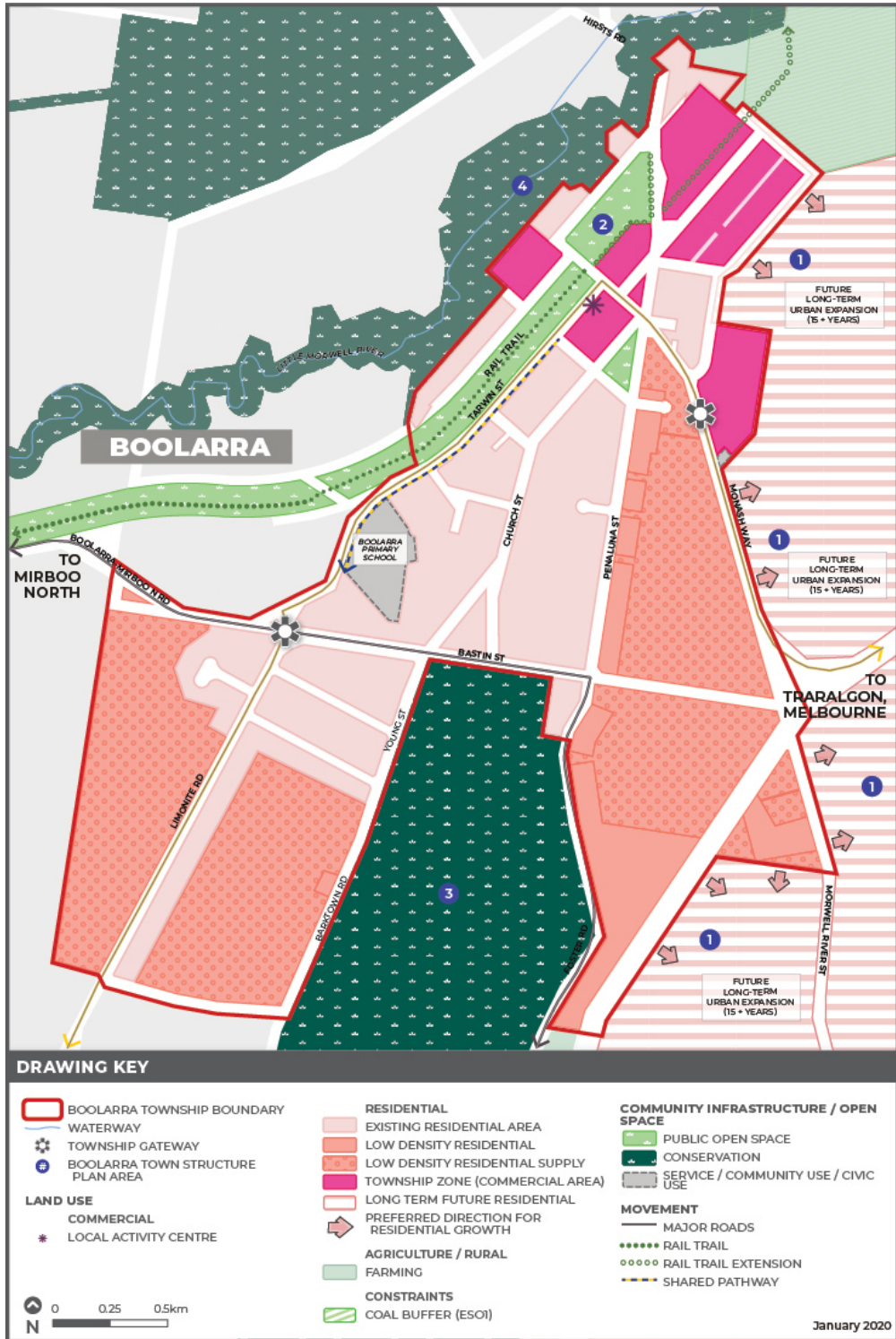
Discourage the fragmentation of rural land adjoining township boundaries until land is required for long term (15 or more years) urban development, including:

- Land southeast to the existing Churchill Township in Area 1 of the Churchill Town Structure Plan in Clause 11.01-1L (east of Northways Road and South of Lawless Road).
- Land along the eastern, north-western and western sides of the Moe-Newborough town boundary (Area 7 of the Moe-Newborough Town Structure Plan in Clause 11.01-1L).
- Land to the east of the existing urban area of Traralgon (Areas 9, 10 and 11 of the Traralgon Town Structure Plan in Clause 11.01-1L).
- Land to the east of Boolarra township (Area 1 in the Boolarra Township Structure Plan in Clause 11.01-1L).
- Land to the north, east and south of the Glengarry township (Areas 1, 2, 3, 4, and 7 of the Glengarry Town Structure Plan in Clause 11.01-1L).
- Land to the east and south of Mays Road in the Tyers Township (Area 5 of the Tyers Town Structure Plan in Clause 11.01-1L).

Manage growth in rural living precincts by discouraging further rezoning of land.

LATROBE PLANNING SCHEME  
ATTACHMENT 2

Boolarra Town Structure Plan (BTSP)



~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2**11.01-1L**28/05/2021  
C122latr**Churchill****Policy application**

This policy applies to land within the Churchill Town Structure Plan (CTSP) in this clause.

**Strategies**

Encourage development of CTSP Area 2 for medium density residential, research or education purposes.

Encourage university accommodation or medium density residential development on the residential land directly east of Eel Hole Creek and west of Northways Road (CTSP Area 3).

Encourage a Local Activity Centre at 2-4 Acacia Way, Churchill.

**Policy documents**

Consider as relevant:

- *Churchill Town Centre Plan* (Beca Pty Ltd, July 2007)
- *Churchill East West Link: Master Plan and Urban Design Framework* (Spiire Australia Pty Ltd, 2013)
- *Latrobe City Council Retail Strategy* (Essential Economics, 2019)
- *Latrobe Structure Plans – Churchill* (Beca Pty Ltd, August 2007)



LATROBE PLANNING SCHEME  
ATTACHMENT 2

Churchill Town Structure Plan (CTSP)



~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2**11.01-1L**28/05/2021  
C122latr**Moe-Newborough****Policy application**

This policy applies to land within the Moe-Newborough Town Structure Plan (MNTSP) in this clause.

**Strategies**

Encourage residential development along Narracan Drive (MNTSP Area 6).

Discourage retail and office development outside of the Primary Activity Centre (MNTSP Area 1), other than office developments at the former Moe Hospital at Ollerton Avenue, Newborough (MNTSP Area 2).

Design industrial development in MNTSP Area 3 to protect any adjoining native vegetation in MNTSP Area 4.

Encourage a 'landmark use', such as a convention centre, at MNTSP Area 5 that complements the Botanical Gardens.

Provide for public open space connections from Narracan Drive through MNTSP Area 8 and connecting to John Field Reserve.

Encourage a Neighbourhood/ Local Activity Centre at 1 Waterloo Road, Becks Bay Village Centre and Fernlea Village Centre, Lake Narracan.

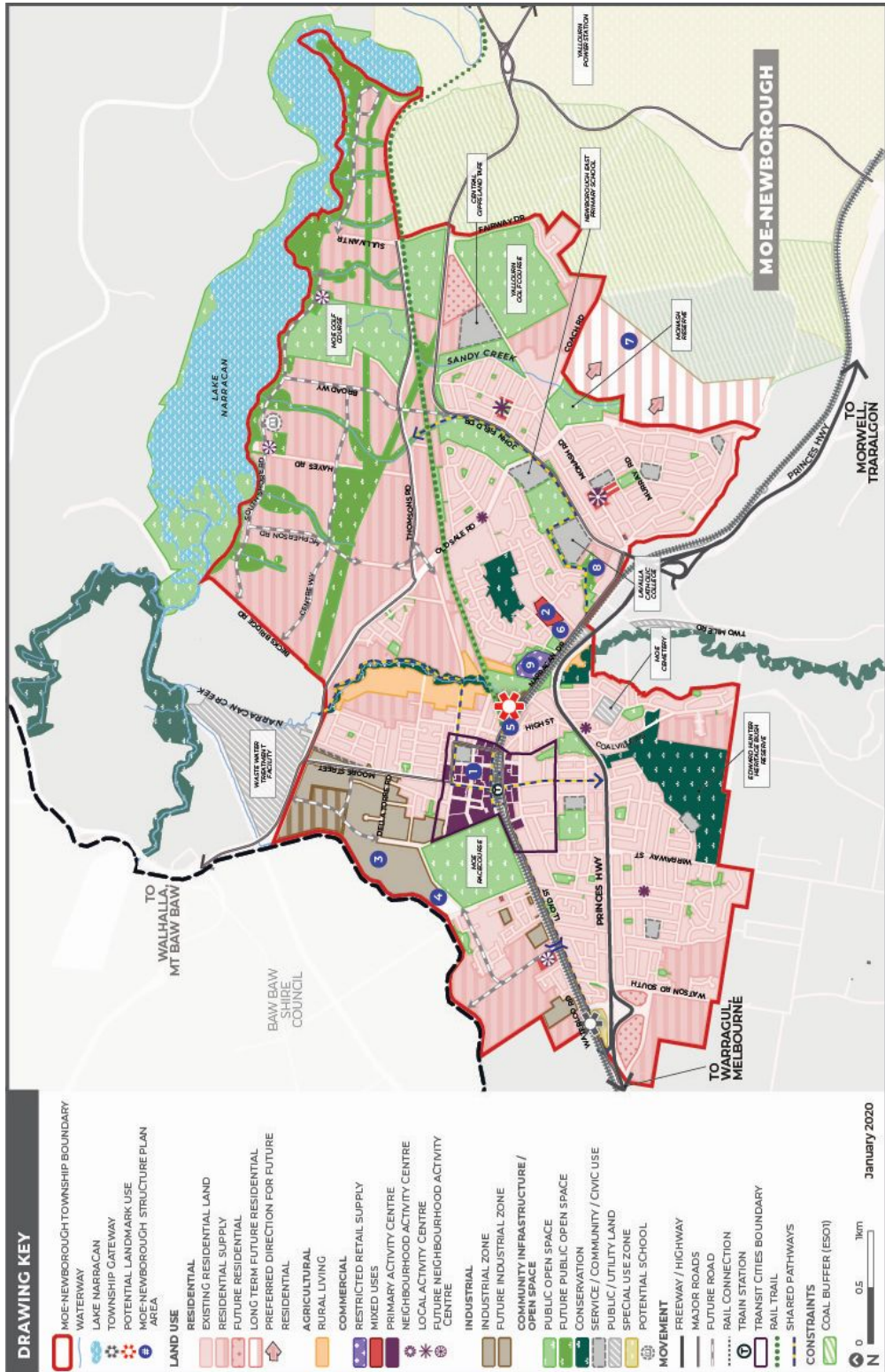
**Policy documents**

Consider as relevant:

- *Latrobe Structure Plan – Moe and Newborough* (Beca Pty Ltd, 2007)
- *Latrobe City Council Retail Strategy* (Essential Economics, 2019)
- *Strategic Outlook for Moe-Newborough and Lake Narracan* (Growth Areas Authority, 2013)

LATROBE PLANNING SCHEME  
ATTACHMENT 2

Moe-Newborough Town Structure Plan (MNTSP)





~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2**11.01-1L**27/08/2021  
C130latr**Morwell****Policy application**

This policy applies to land within the Morwell Town Structure Plan (MTSP) in this clause.

**Strategies**

Encourage residential development within MTSP Areas 1 and 2.

Discourage increased housing densities south of Commercial Road (Area 3), until the completion of rehabilitation works to northern batter of the Hazelwood mine area.

Encourage retail, office and residential mixed use developments within Morwell Primary Activity Centre (MTSP Area 4) and Mid-Valley Primary Activity Centre (MTSP Area 10).

Discourage retail and office development outside of the Morwell Primary Activity Centre (MTSP Area 4), Mid-Valley Primary Activity Centre (MTSP Area 10) and Princes Drive, Morwell (MTSP Area 6).

Screen industry in MTSP Area 7 from residential areas along the western boundaries of the industrial precinct by providing a buffer of open space and vegetation.

Encourage a Local Activity Centre at Heritage Boulevard, Morwell.

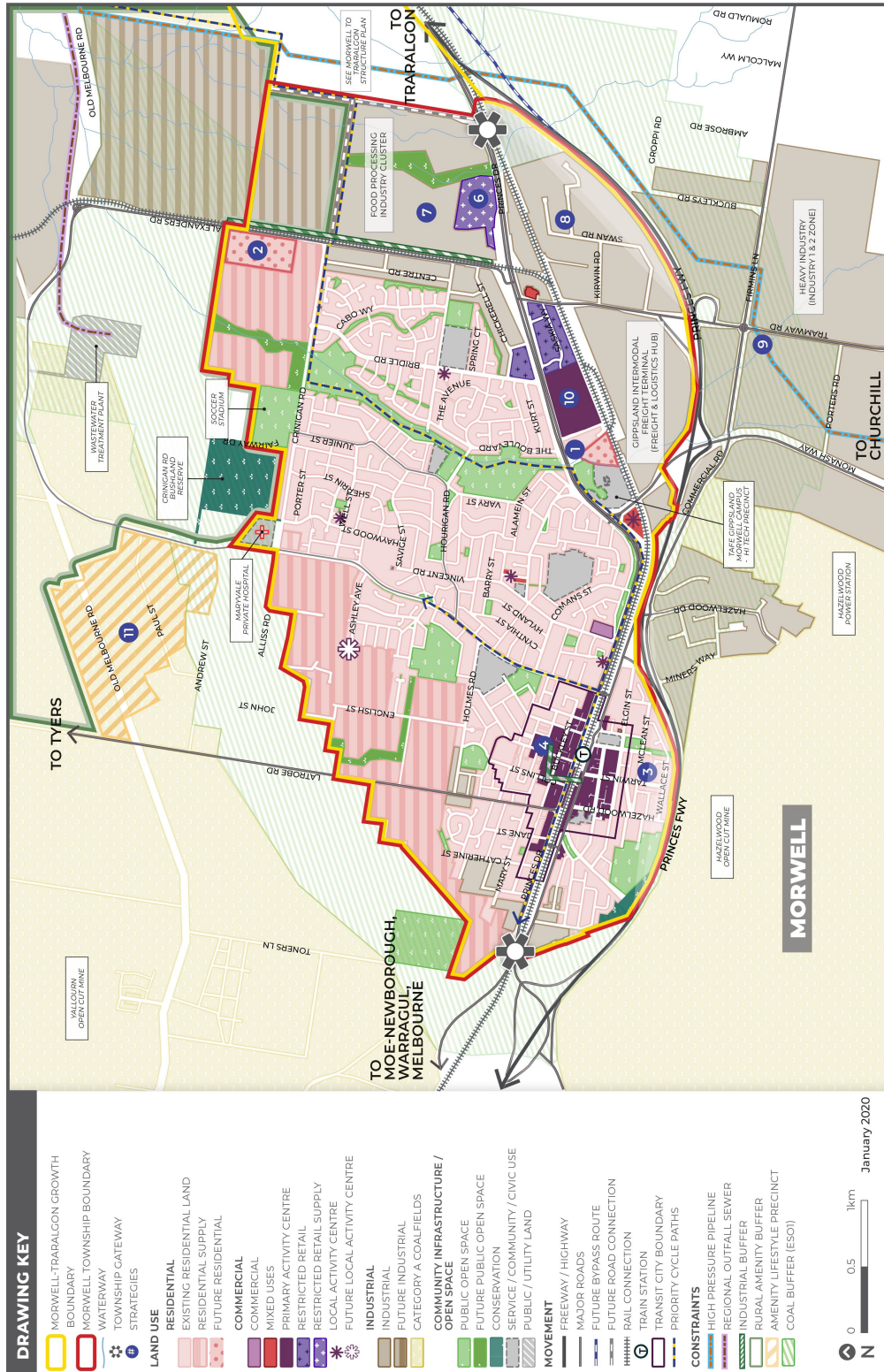
**Policy documents**

Consider as relevant:

- *Latrobe City Council Retail Strategy* (Essential Economic, 2019)
- *Latrobe Structure Plans - Morwell* (Beca Pty Ltd, 2007)

LATROBE PLANNING SCHEME  
ATTACHMENT 2

Morwell Town Structure Plan (MTSP)



~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

**11.01-1L**

27/08/2021  
C130latr

**Traralgon****Policy application**

This policy applies to land shown on the Traralgon Town Structure Plan (TTSP) in this clause.

**Strategies**

Encourage short to medium term (within 0-15 years) residential development in TTSP Areas 1, 2 and 13.

Encourage long term (15 or more years) residential intensification of land zoned rural living and farming in TTSP Areas 9, 10 and 11.

Encourage the long term development of Rural Living Area 12.

Encourage the development of retail, office and residential mixed use developments within Argyle Street (TTSP Area 4).

Direct retail and office development that is significant in floor size and economic impact to the Traralgon Primary Activity Centre (TTSP Area 3), Argyle Street (TTSP Area 4) and Princes Highway and Stammers Road (TTSP Area 5).

Discourage dispersion of the office sector outside of TTSP Area 3.

Support industrial uses with limited off site amenity impacts and other compatible uses within the Janette Street Industrial precinct (TTSP Area 6) as a buffer between the lime batching facility and nearby residential and mixed uses.

Design and site development in residential or mixed use zones that are within the 500 metre buffer of the lime batching facility to mitigate noise impacts from the operation of the facility.

Provide a buffer to protect industry in TTSP Area 7 from encroachment of sensitive uses, particularly from the north and east.

Design development in TTSP Areas 10, 11 and 12 to address any impact of the proposed Traralgon Highway Bypass and Bypass Ramps.

Support development of residential and community facilities to the east and west of the Southside commuter car park at Traralgon Train Station.

Support the construction of a new bus interchange, plaza and station building at the Traralgon Train Station.

Support works to develop the Southside commuter car park, Southern Plaza and VRI Hall as community facilities.

Establish Neighbourhood and Local Activity Centres in the following locations:

- Corner Marshalls Road and Traralgon-Maffra Road, Traralgon
- Melrossa Road West, Traralgon
- Princes Highway, Traralgon East
- Dranes Road, Traralgon
- Cross's Road, Traralgon
- Princes Highway/Airfield Road, Traralgon West
- Bradford Drive/Princes Highway, Traralgon West
- Traralgon Golf Course.

**Policy documents**

Consider as relevant:

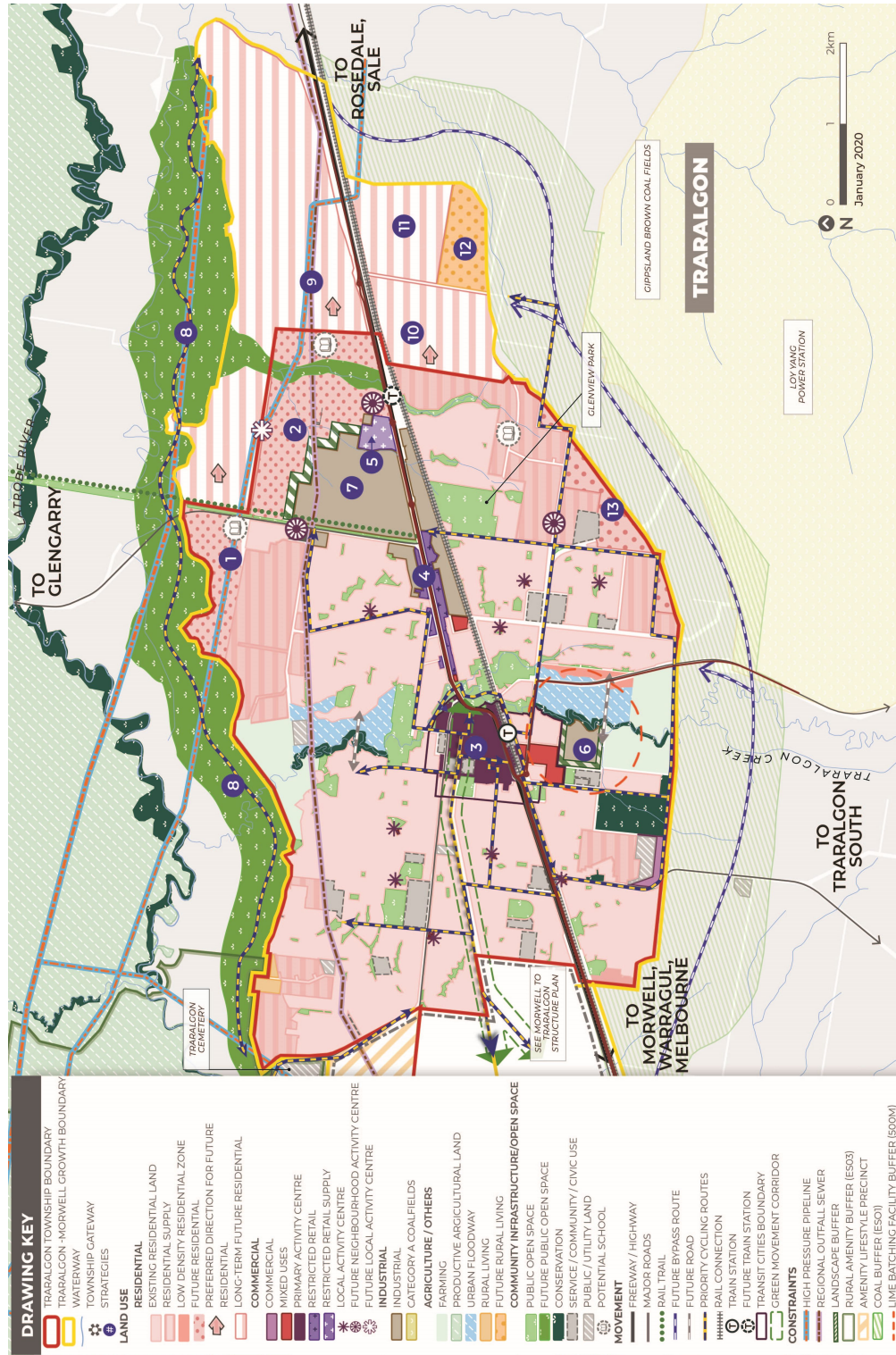
- *Latrobe Structure Plans – Traralgon* (Beca Pty Ltd, August 2007)



LATROBE PLANNING SCHEME  
ATTACHMENT 2

- *Latrobe City Council Retail Strategy* (Essential Economics 2019)
- *Traralgon Station Precinct Master Plan* (Hansen Partnership, 2011)
- *Traralgon Growth Area Framework* (Hansen Partnership, 2013)

**Traralgon Town Structure Plan (TTSP)**



~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2**11.01-1L**28/05/2021  
C122latr**Glengarry****Policy application**

This policy applies to land within the Glengarry Town Structure Plan (GTSP) in this clause.

**Strategies**

Support Glengarry's role as a dormitory suburb of Traralgon.

Encourage development in GTSP Areas 1, 2, 3 and 4 that is sensitive to the Eaglehawk Creek environment and floodplains.

Encourage low density residential development in GTSP Area 5.

Encourage development of large allotments within existing residential areas GTSP Area 6.

Protect public open space areas including the Gippsland Rail Trail (GTSP Areas 8 & 9).

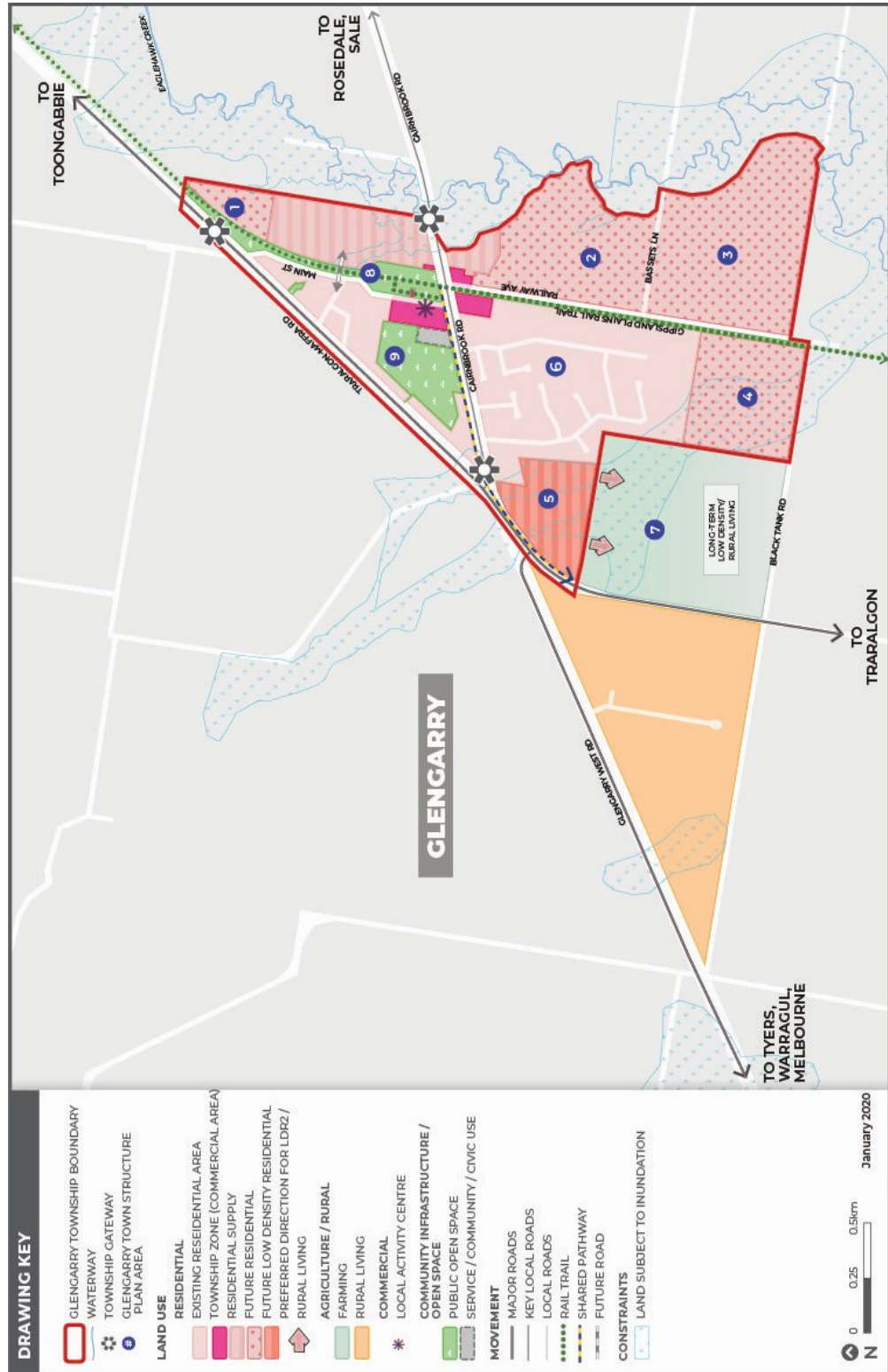
**Policy documents**

Consider as relevant:

- *Small Town Structure Plans: Boolarra, Glengarry & Tyers* (NBA Group Pty Ltd, 2009)
- *Traralgon Growth Area Framework* (Hansen Partnership, 2013)

LATROBE PLANNING SCHEME  
ATTACHMENT 2

Glengarry Town Structure Plan (GTSP)



~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2**11.01-1L**28/05/2021  
C122latr**Tyers****Policy application**

This policy applies to land within the Tyers Town Structure Plan (TYTSP) in Clause 11.01-1L.

**Strategies**

Encourage increased diversity in residential allotment sizes, subject to availability of sewerage infrastructure.

Limit access from development and individual allotments to the Main Road (Moe-Glengarry Road) and Tyers Walhalla Road.

Encourage a shared path link between future low density and rural living development (TYTSP Area 1 & 2) and the town centre (TYTSP Area 4).

Protect road reserves, such as Hinde Road (TYTSP Area 4), to allow for future access to proposed development areas.

**Policy documents**

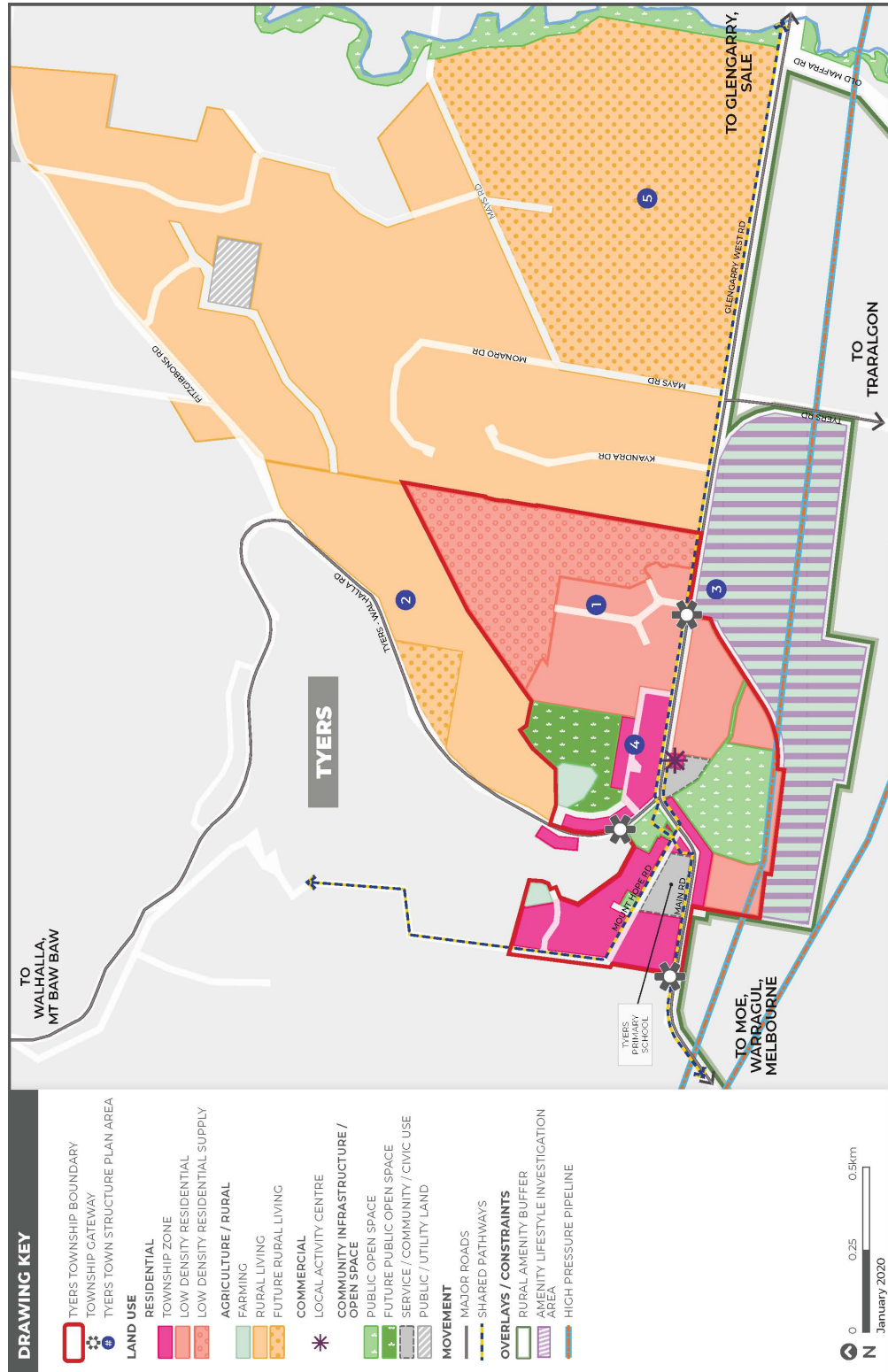
Consider as relevant:

- *Small Town Structure Plans: Boolarra, Glengarry & Tyers* (NBA Group Pty Ltd 2009)
- *Traralgon Growth Area Framework* (Hansen Partnership, 2013)



LATROBE PLANNING SCHEME  
ATTACHMENT 2

Tyers Town Structure Plan (TYTSP)





LATROBE PLANNING SCHEME  
ATTACHMENT 2**11.01-1L**Proposed C126latr**Toongabbie****Policy application**

This policy applies to land within the Toongabbie Town Structure Plan (ToonTSP) in Clause 11.01-1L.

**Strategies**

Encourage low density residential development in Toongabbie Town Structure Plan (ToonTSP) Area 1 in the medium term (10 to 15 years) subject to bushfire risk assessment.

Encourage low density residential development in ToonTSP Area 2 in the long term (15 years or more) subject to bushfire risk assessment.

Encourage future potential rural residential land in ToonTSP Areas 12, 13 and 14 in the short to medium term (0-15 years) subject to bushfire risk assessment.

Encourage future potential rural residential land zoned farming in ToonTSP Area 3 and Area 4 in the long-term (15 years or more) subject to bushfire risk assessment.

Encourage the development of large allotments within existing residential ToonTSP Area 5 subject to flooding constraints.

Facilitate the restructuring of old and inappropriate subdivisions in Area 6.

Enforce clear settlement boundaries that consider local character, bushfire risk, infrastructure capacity, and the impacts on other land uses, particularly agriculture.

Encourage the development of retail, office and residential mixed use developments within the Toongabbie Local Activity Centre (ToonTSP Area 7).

Facilitate Cowen Street as the town centre hub (ToonTSP Area 8).

Support the further expansion of retail uses by extending commercial activity west along Cowen Street.

Encourage shared path links between Toongabbie Recreation Reserve, the town centre (ToonTSP Area 7), and around Toongabbie Primary School.

Limit access from development and individual allotments to Main Street (Traralgon-Maffra Road).

Protect road reserves, such as Ries Street, Russell Street, and Hill Street (ToonTSP Area 9, and 10), to allow for future access to proposed development areas.

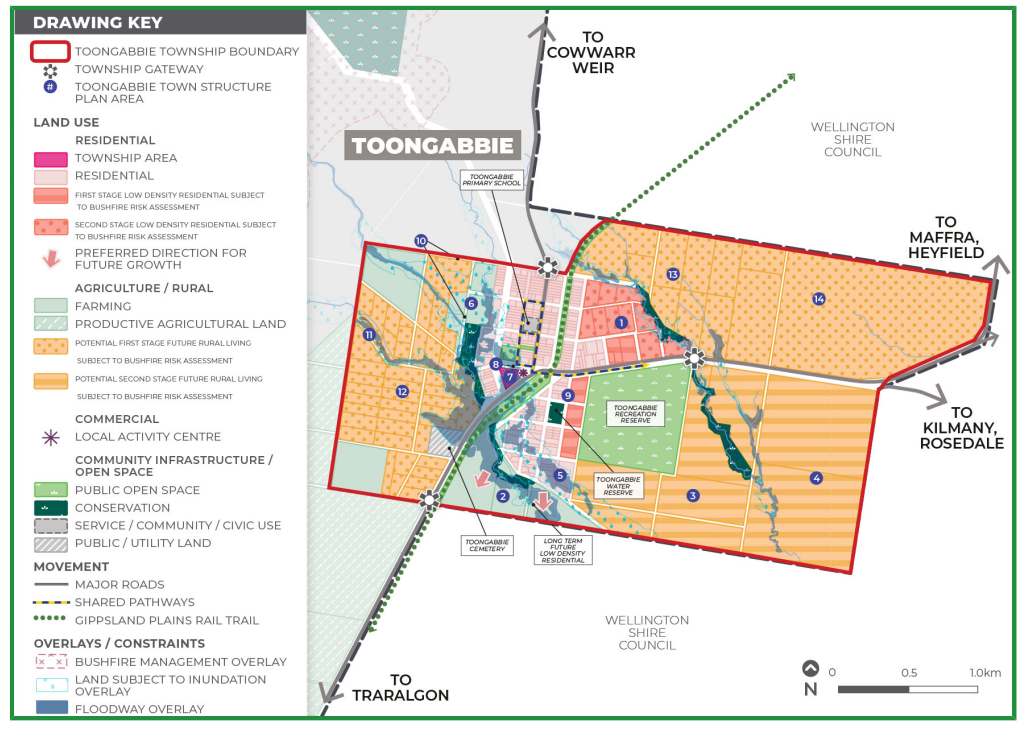
**Policy documents**

Consider as relevant:

- Toongabbie Structure Plan (Latrobe City Council, 2020)
- Toongabbie Structure Plan – Background Reports (Latrobe City Council, 2020)

LATROBE PLANNING SCHEME  
ATTACHMENT 2

**Toongabbie Town Structure Plan (ToonTSP)**



LATROBE PLANNING SCHEME  
ATTACHMENT 2

**12.01**  
31/07/2018  
VC148

**BIODIVERSITY**

LATROBE PLANNING SCHEME  
ATTACHMENT 2**12.01-1S**14/07/2022  
VC213**Protection of biodiversity****Objective**

To protect and enhance Victoria's biodiversity.

**Strategies**

Use biodiversity information to identify important areas of biodiversity, including key habitat for rare or threatened species and communities, and strategically valuable biodiversity sites.

Strategically plan for the protection and conservation of Victoria's important areas of biodiversity.

Ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity, including consideration of:

- Cumulative impacts.
- Fragmentation of habitat.
- The spread of pest plants, animals and pathogens into natural ecosystems.

Avoid impacts of land use and development on important areas of biodiversity.

Consider impacts of any change in land use or development that may affect the biodiversity value of national parks and conservation reserves or nationally and internationally significant sites; including wetlands and wetland wildlife habitat designated under the Convention on Wetlands of International Importance (the Ramsar Convention) and sites utilised by species listed under the Japan-Australia Migratory Birds Agreement (JAMBA), the China-Australia Migratory Birds Agreement (CAMBA), or the Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA).

Assist in the identification, protection and management of important areas of 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.

Support land use and development that contributes to protecting and enhancing habitat for indigenous plants and animals in urban areas.

**Policy guidelines**

Consider as relevant:

- State biodiversity information maintained by the Department of Environment, Land, Water and Planning.

**Policy documents**

Consider as relevant:

- *Any applicable biodiversity strategies, including the relevant Regional Catchment Strategy (prepared under Part 4 of the Catchment and Land Protection Act 1994)*
- *Biodiversity Conservation Strategy for Melbourne's Growth Corridors* (Department of Environment and Primary Industries, 2013)
- *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017)
- *Protecting Victoria's Environment – Biodiversity 2037* (Department of Environment, Land, Water and Planning, 2017)
- *Victorian Waterway Management Strategy* (Department of Environment and Primary Industries, 2013)

LATROBE PLANNING SCHEME  
ATTACHMENT 2**12.01-1L Protection of biodiversity**28/05/2024  
6422latr Proposed C126latr**Strategies**

Adopt the precautionary principle where there are threats of environmental damage, such as damage or destruction of habitat.

Protect habitats that contain indigenous flora and fauna, particularly where those species are threatened.

Ensure that the enhancement of biodiversity outcomes does not pose an unacceptable increase in bushfire risk to community and infrastructure.

Facilitate the creation of a biolink from the Strzelecki Ranges bioregion to the Southern Fall bioregion, as shown on the Rural Framework Plan in Clause 02.04.

Protect the environmental features and habitat values of the Boolarra-Mirboo North Rail Trail (Areas 2, 3 & 4 of the Boolarra Town Structure Plan in Clause 11.01-1L).

Protect roadside vegetation, especially in the Strzelecki Ranges from Boolarra to Gormandale, that provides linkages between public and private remnant native vegetation.

Retain native vegetation on roadsides, waterways and public and private land to facilitate healthy habitats to improve biodiversity.

Protect the environmental features and habitat values of the Gippsland Plains Rail Trail, Toongabbie Cemetery and rear of 53-57 Humphrey Road (Areas 11 of the Toongabbie Structure Plan in Clause 11.01L).

Protect roadside vegetation that provides linkages between public and private remnant native vegetation in Toongabbie, especially along:

- Traralgon-Maffra Road,
- Old Walhalla Road,
- Harris Lane between Cemetery Road and Guyatts Road, and
- The north of Sparks Lane.

Protect remnant vegetation in roadside reserves in Toongabbie, especially along:

- Hill Street west of King Street,
- Page Lane at the rear of 53-57 Humphrey Road, and
- The unnamed road reserve abutting the eastern boundary of the Toongabbie Golf Course.

Enhance Toongabbie Creek and Rosedale Creek corridors by linking them to adjacent open spaces

**Policy guideline**

Consider as relevant:

- Encouraging rural landholders to pursue a target of 30 per cent of native vegetation coverage across their properties and the landscape as a critical threshold for biodiversity conservation, particularly within the Strzelecki – Alpine bio-link.

■ Toongabbie Structure Plan (Latrobe City Council, 2020)

■ Flora and Fauna Assessment -Toongabbie Structure Plan Background Report (Latrobe City Council, 2020)

~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2**12.01-2S**31/07/2018  
VC148**Native vegetation management****Objective**

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

**Strategies**

Ensure decisions that involve, or will lead to, the removal, destruction or lopping of native vegetation, apply the three-step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017):

- Avoid the removal, destruction or lopping of native vegetation.
- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

**Policy guidelines**

Consider as relevant:

- State biodiversity information maintained by the Department of Environment, Land, Water and Planning.

**Policy documents**

Consider as relevant:

- *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017)
- *Assessor's handbook – applications to remove, destroy or lop native vegetation* (Department of Environment, Land, Water and Planning, 2017)

~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

LATROBE PLANNING SCHEME  
ATTACHMENT 2

**16.01**  
31/07/2018  
VC148

**RESIDENTIAL DEVELOPMENT**



~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2**16.01-1S**20/12/2021  
VC174**Housing supply****Objective**

To facilitate well-located, integrated and diverse housing that meets community needs.

**Strategies**

Ensure that an appropriate quantity, quality and type of housing is provided, including aged care facilities and other housing suitable for older people, supported accommodation for people with disability, rooming houses, student accommodation and social housing.

Increase the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.

Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.

Identify opportunities for increased residential densities to help consolidate urban areas.

Facilitate diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types.

Encourage the development of well-designed housing that:

- Provides a high level of internal and external amenity.
- Incorporates universal design and adaptable internal dwelling design.

Support opportunities for a range of income groups to choose housing in well-serviced locations.

Plan for growth areas to provide for a mix of housing types through a variety of lot sizes, including higher housing densities in and around activity centres.

**Policy documents**

Consider as relevant:

- *Homes for Victorians - Affordability, Access and Choice* (Victorian Government, 2017)
- *Apartment Design Guidelines for Victoria* (Department of Environment, Land, Water and Planning, 2021)

LATROBE PLANNING SCHEME  
ATTACHMENT 2**16.01-1L Housing Supply**08/09/2022  
6433latr Proposed C126latr**Policy Application**

This policy applies to all land identified in the Housing Framework Plans in this clause.

**General Strategies**

Encourage and concentrate a diverse range of housing in locations with access to community services, activity centres and public transport in accordance with the Housing Framework Plans in this Clause.

Support lot consolidation to maximise opportunities for increased residential yield and integrated development in locations identified for Substantial and Incremental Change in the Housing Framework Plans in this Clause.

Encourage the development of smaller housing types, particularly one and two bedroom dwellings in Substantial Change Areas and Incremental Changes Areas as indicated on the Housing Framework Plans for each town in this Clause.

Support development that is flexible for different age groups and abilities without the need for major adaptation post construction.

**General policy guidelines**

Consider as relevant:

- Encouraging medium and high density housing typologies within 400 metres of the Primary Activity Centres of Moe, Morwell, Churchill and Traralgon.
- Supporting infill development within 200 metres of existing or planned Neighbourhood Activity Centres and Local Activity Centres and the retail centres of District and Small Towns.

**Substantial change area strategies**

Encourage multi-level residential development in the form of low scale apartments, townhouses, shop tops and units.

Discourage housing intensification in areas identified for 'Future Substantial Change' south of Shakespeare Street, Traralgon, until existing industrial development located to the south (Area 6 of the Traralgon Township Structure Plan in Clause 11.01-1L) transitions to light industrial or other non - sensitive uses.

**Incremental change areas strategies**

Encourage higher density housing in the form of townhouses, units and dual occupancies that are sensitive with adjoining streetscapes, buildings and residential areas.

Discourage housing intensification south of Commercial Road, Morwell until rehabilitation works to the northern extent of the Hazelwood open cut brown coal mine area are complete (Area 3 on the Morwell Town Structure Plan in Clause 11.01-1L).

Facilitate the development of streetscape character that contains:

- Private gardens in front yards.
- Space between buildings.
- Views to local landmarks.
- Natural shade.

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~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

**Limited change areas strategy**

Support the development of detached dwellings and dual occupancies that reinforce the spacious regional suburban character.

**Limited change areas policy guidelines**

Consider as relevant:

- Encouraging smaller and diverse housing types, including units and townhouses, within 200 metres of existing or planned Neighbourhood and Local Activity Centres and where public transport is accessible.
- Discouraging units ~~efor~~ townhouses beyond 200 metres from an existing or planned Neighbourhood Activity Centre ~~andor~~ Local Activity Centre, except on Strategic Development Sites identified on the Housing Framework Plans.
- Discouraging higher densities unless a lot is greater than 1500 square metres and is:
  - Within 400 metres walking distance from a public transport network.
  - Consistent with the average lot size of density development of residentially zoned land that is within a 150 metre radius (excluding the subject site in the calculation).
  - Not constrained by an overlay that affects the development potential of the lot (heritage, bushfire or flooding overlay).

**Minimal change areas strategies**

Support minimal change in the form of detached houses and dual occupancies in locations with distinct character attributes, such as heritage, neighbourhood character, environmental or amenity values or infrastructure limitations.

Encourage the retention and provision of vegetated areas including canopy trees and large garden spaces.

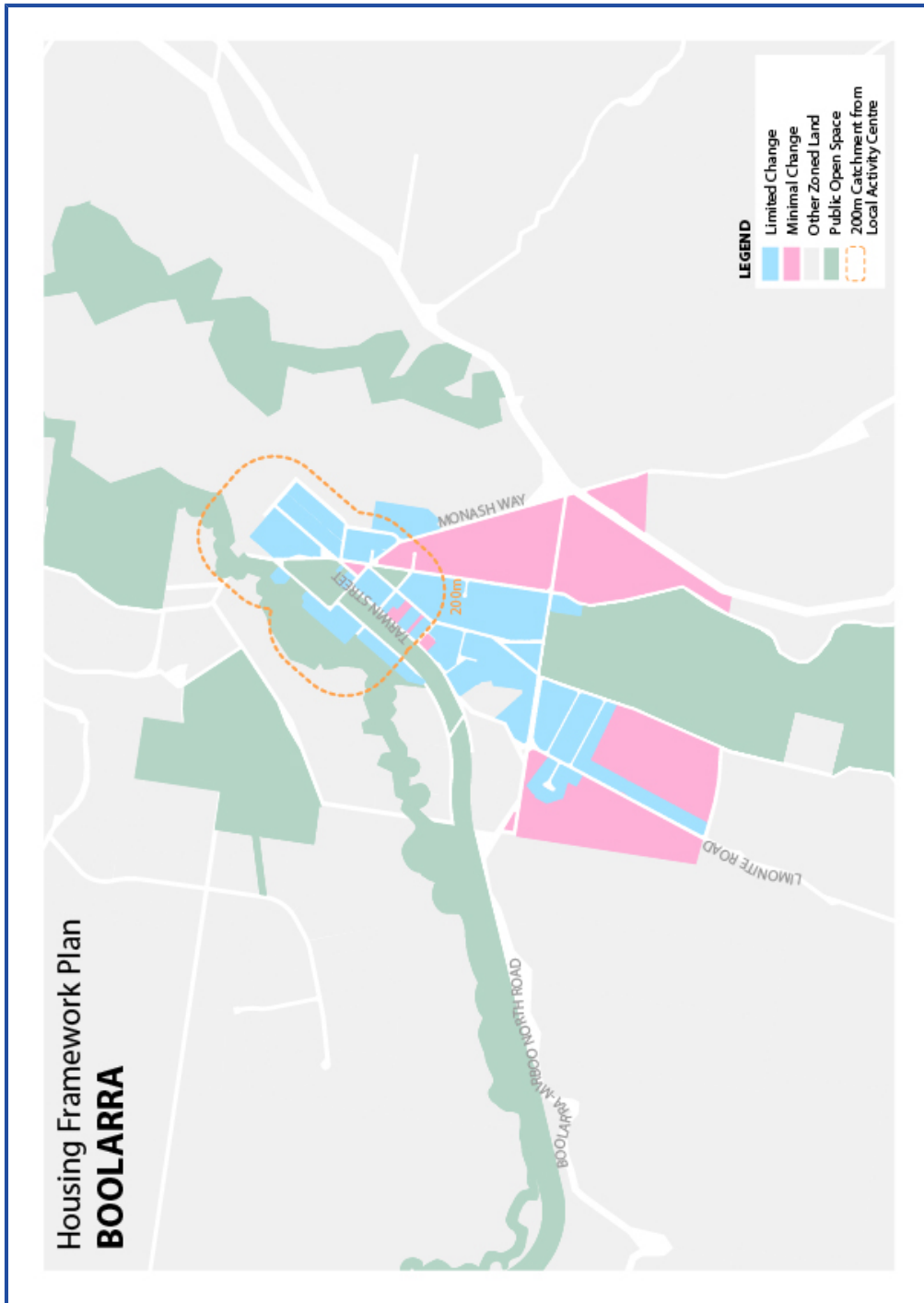
**Policy document**

Consider as relevant:

- *Live Work Latrobe Housing Strategy* (Latrobe City Council, MacroPlan Dimasi, RMCG and Planisphere, 2019)

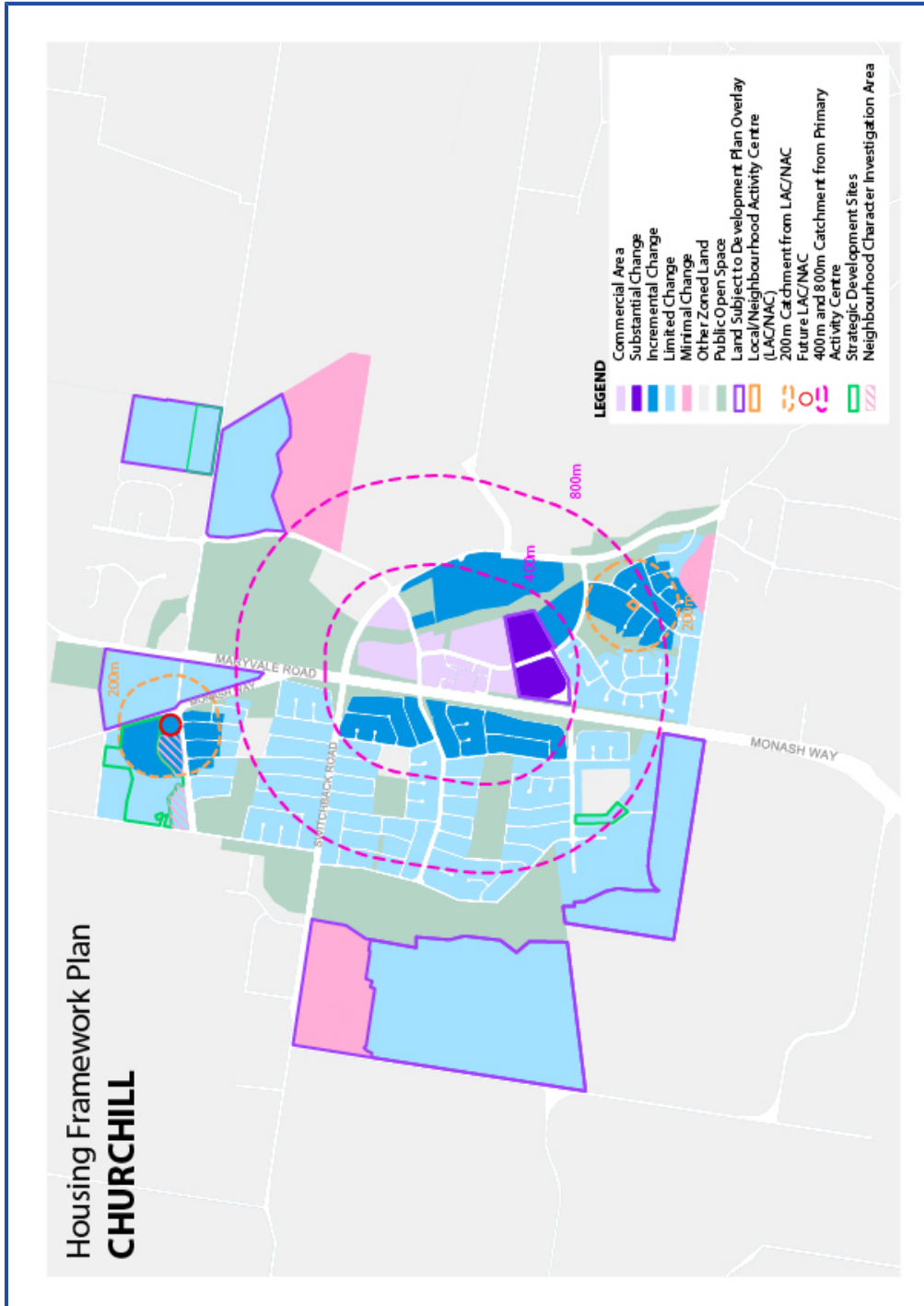
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ATTACHMENT 2

Boolarra Housing Framework Plan



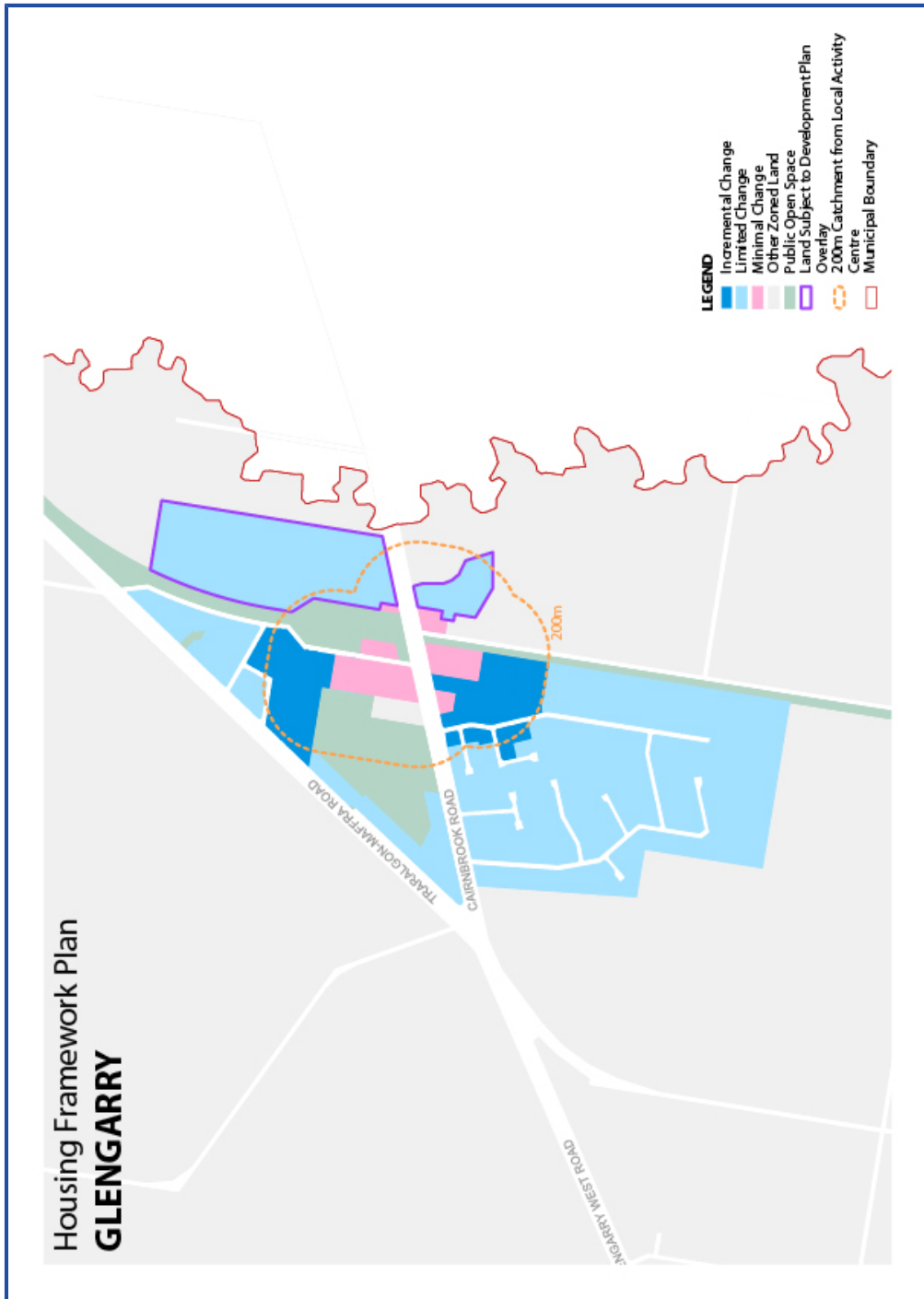
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Churchill Housing Framework Plan



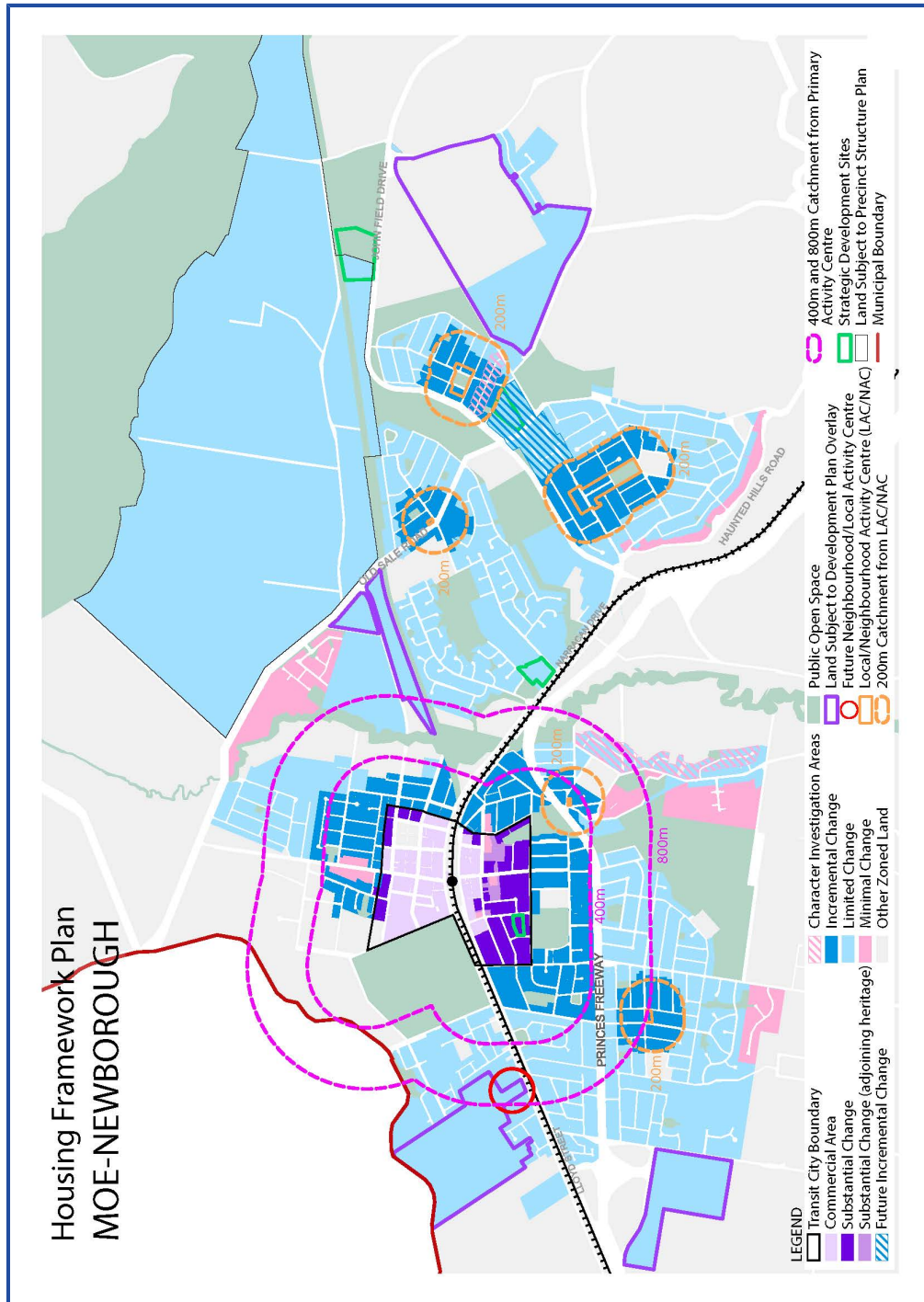
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Glengarry Housing Framework Plan



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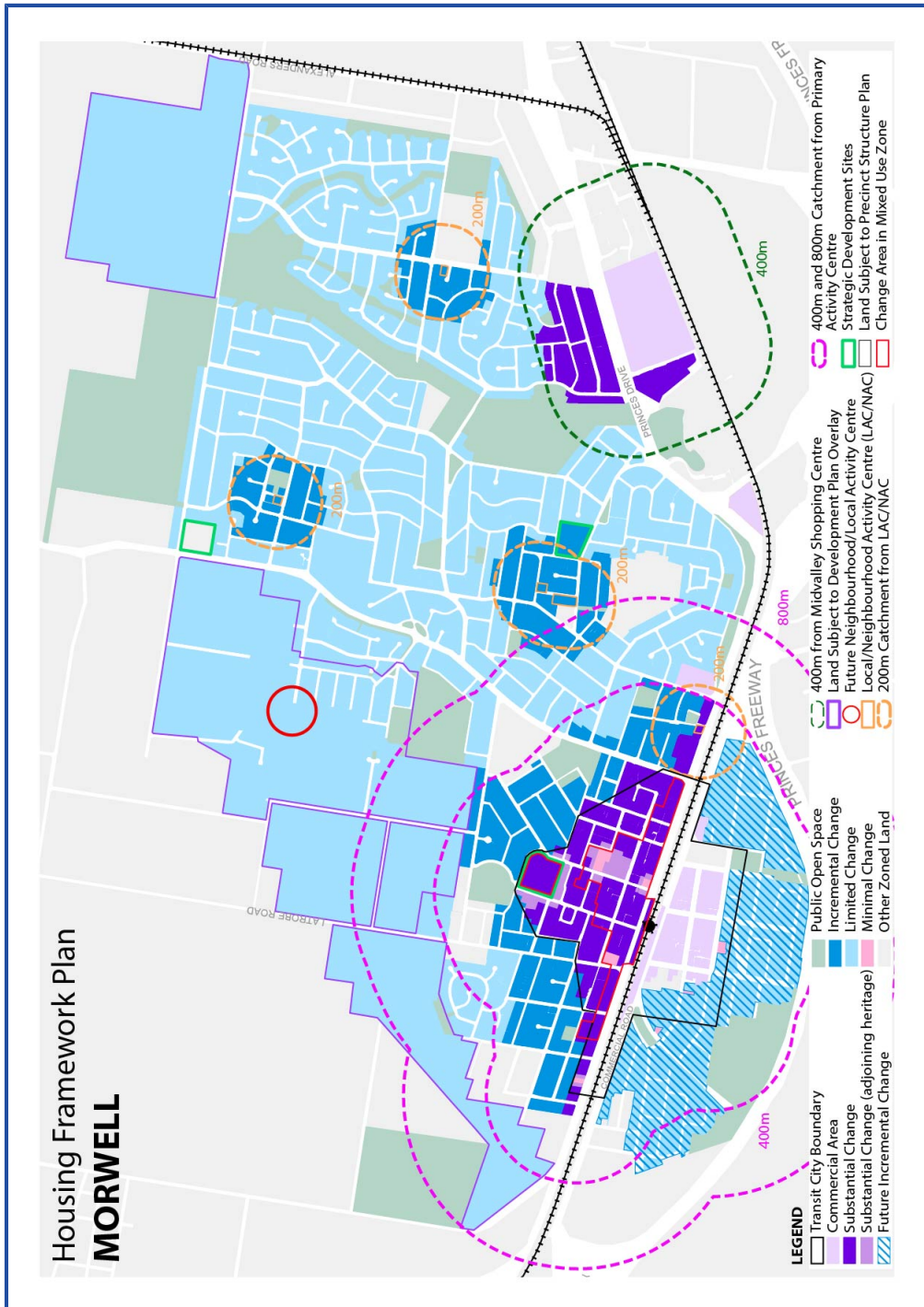
Moe - Newborough Housing Framework Plan





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Morwell Housing Framework Plan



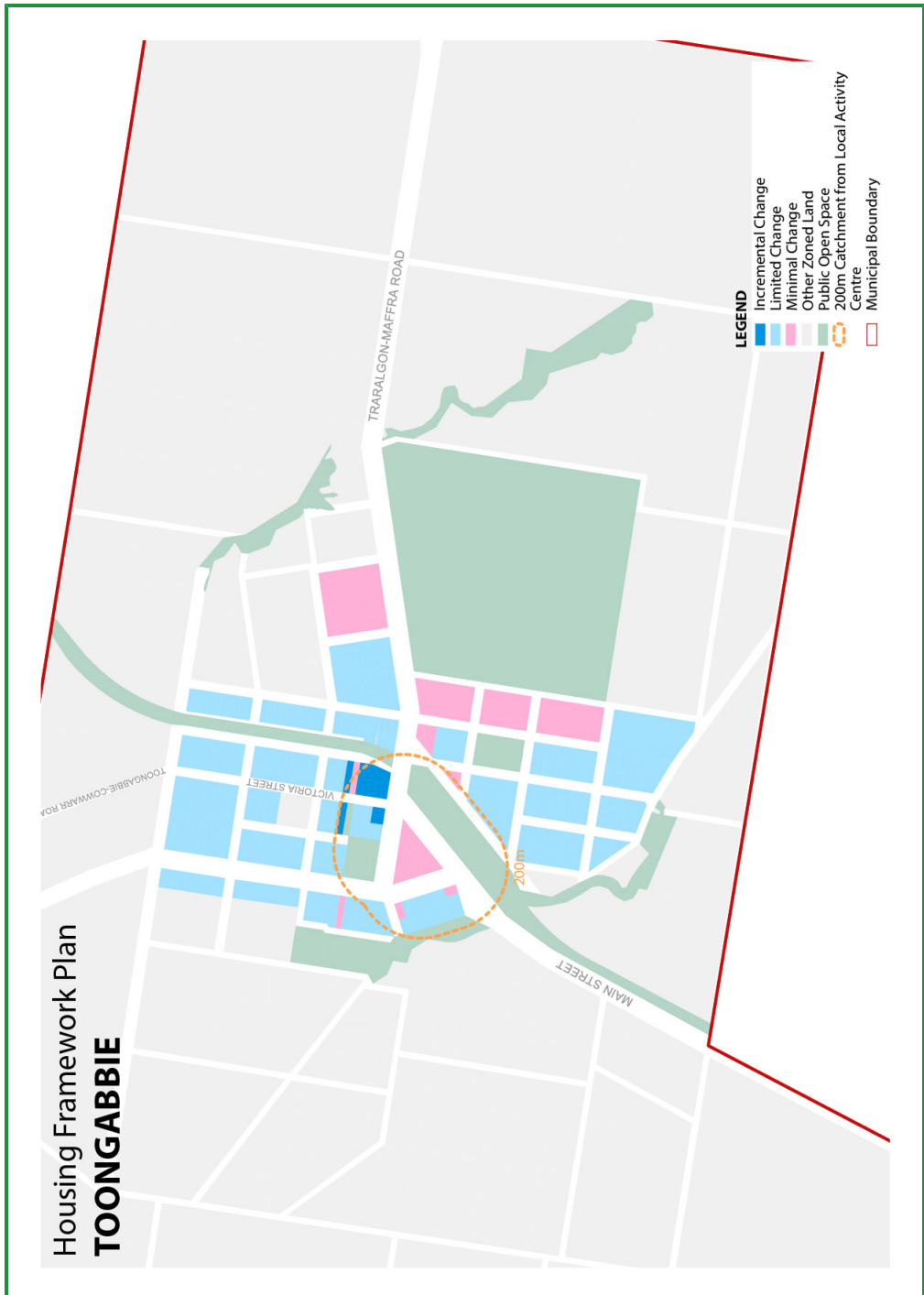


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Toongabbie Housing Framework Plan

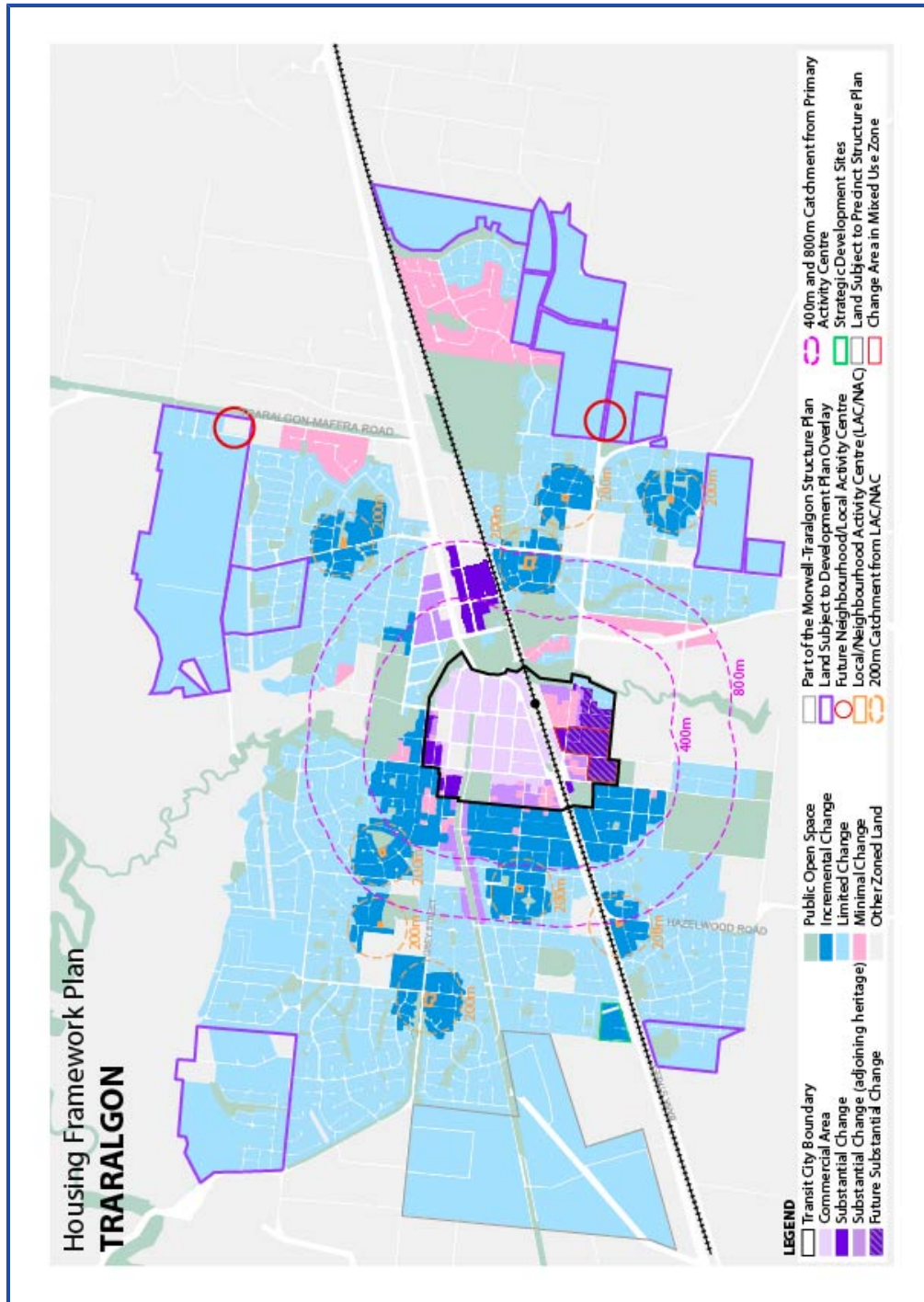


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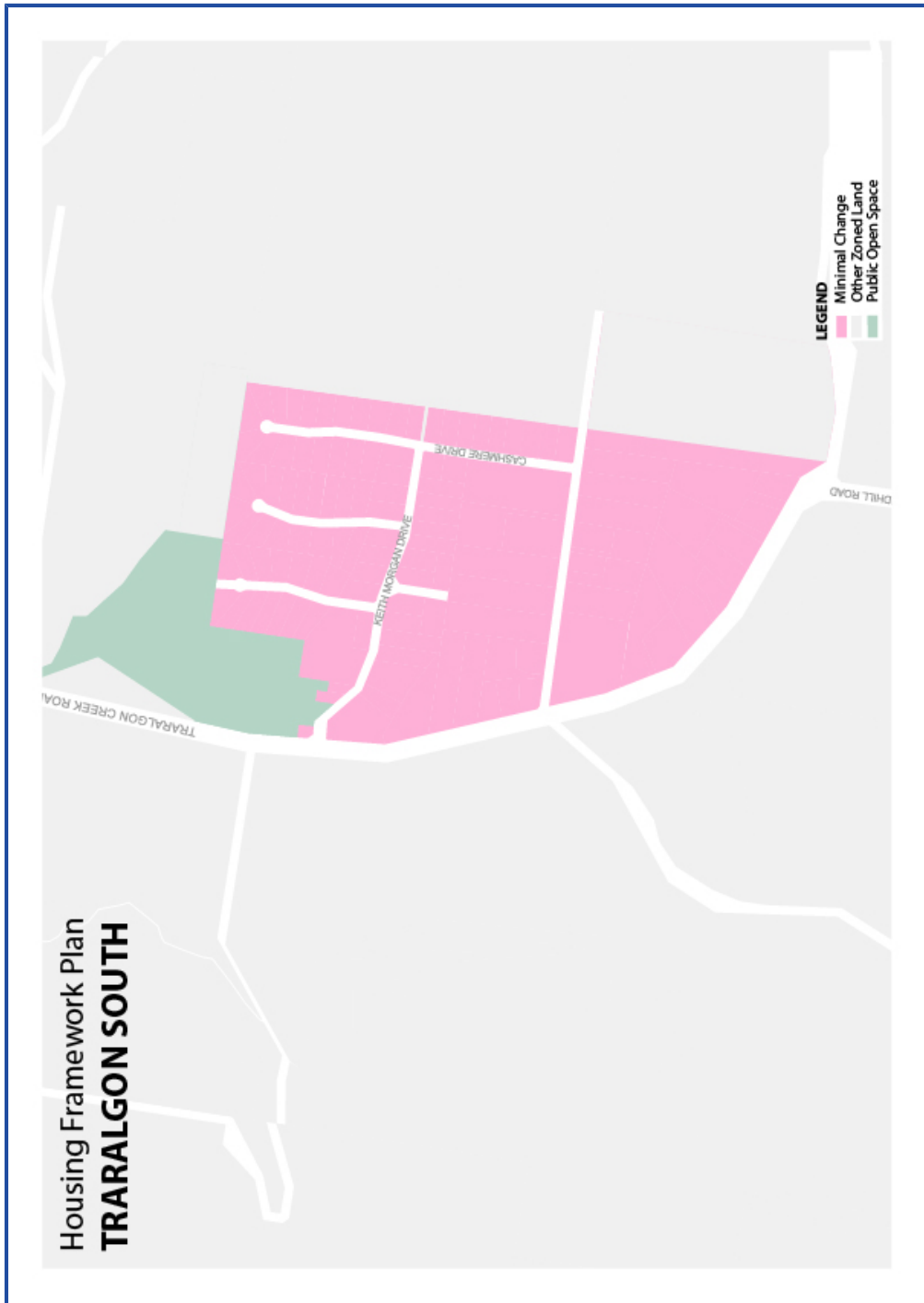
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Traralgon Housing Framework Plan



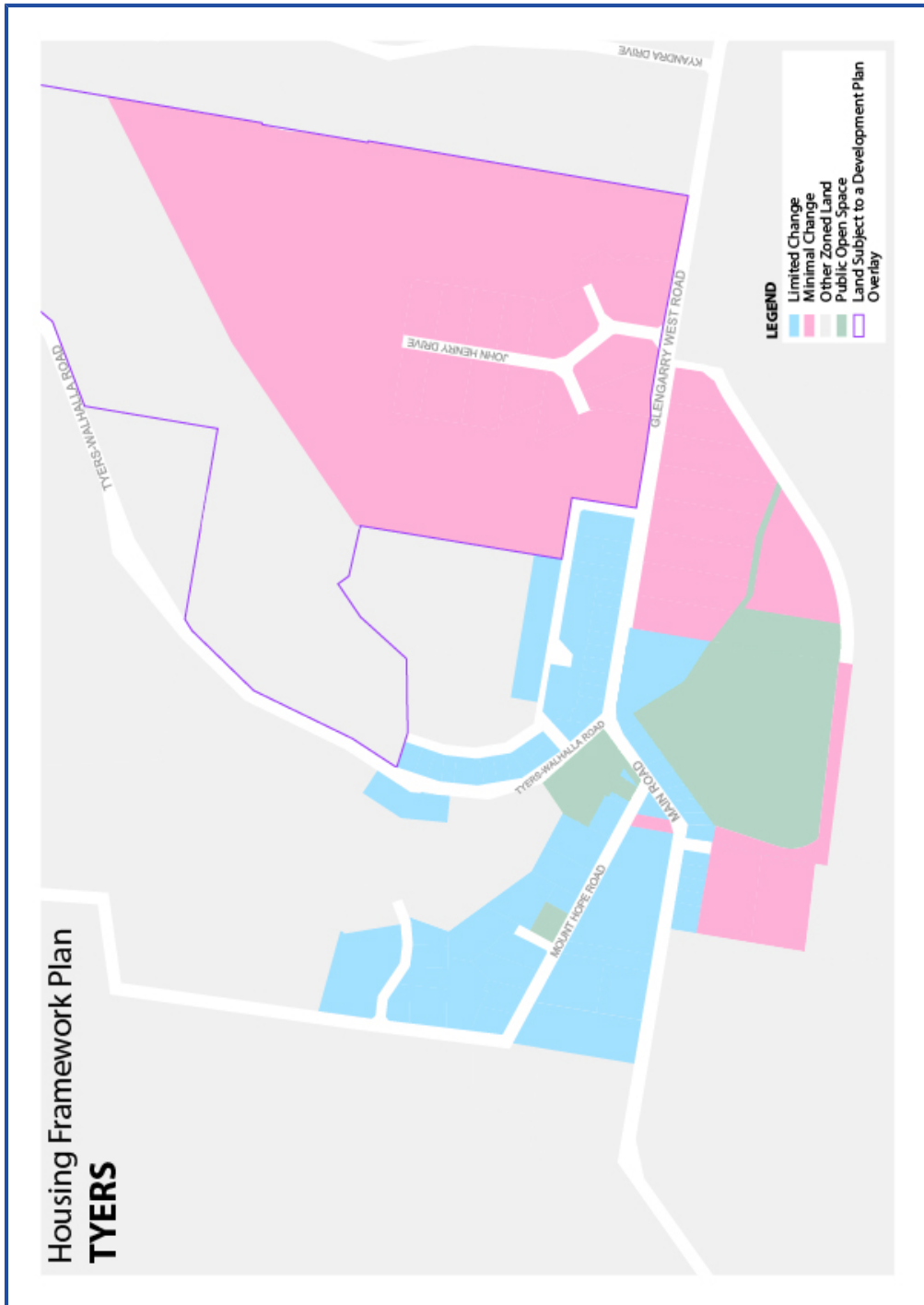
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Traralgon South Housing Framework Plan



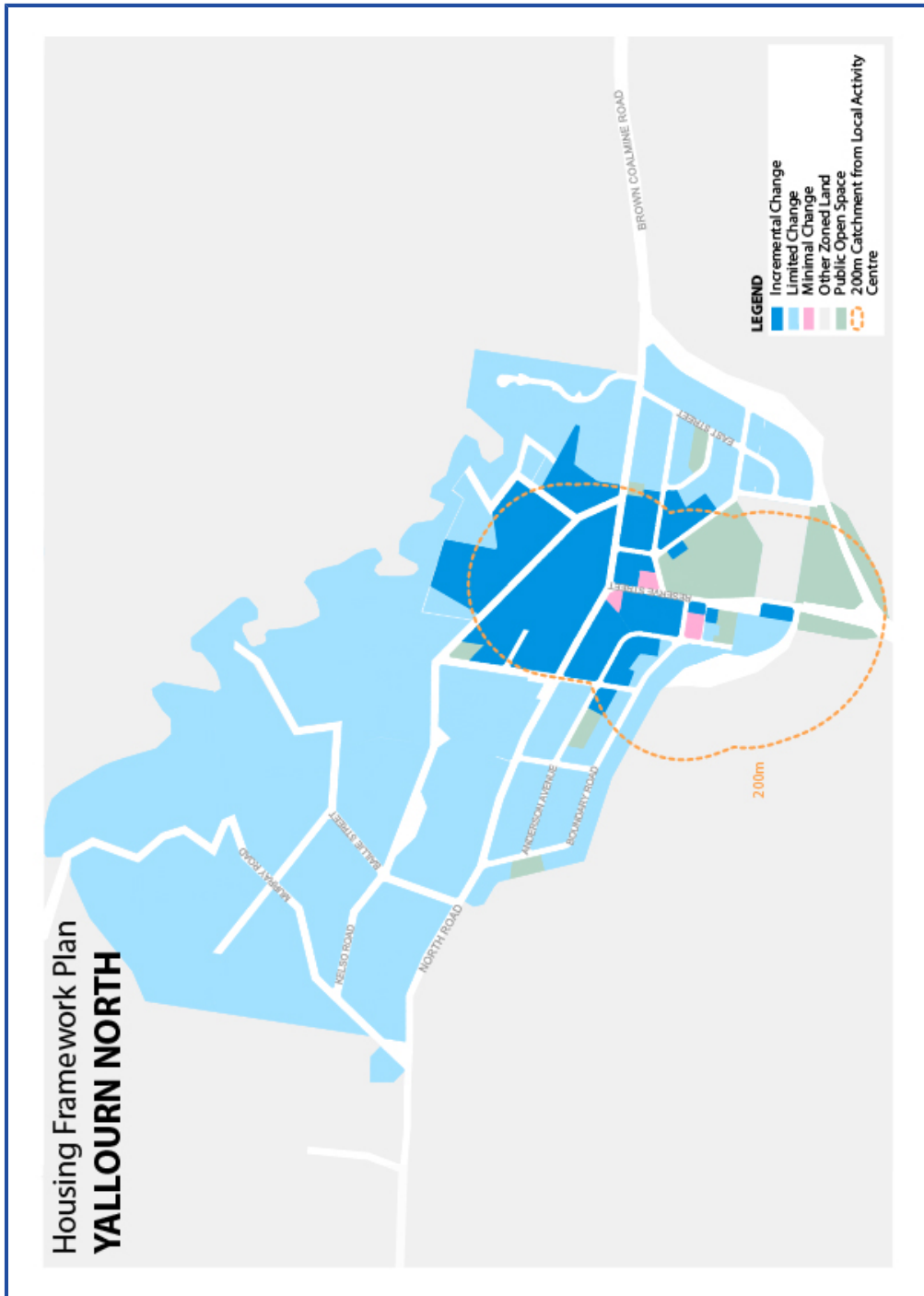
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ATTACHMENT 2

Tyers Housing Framework Plan



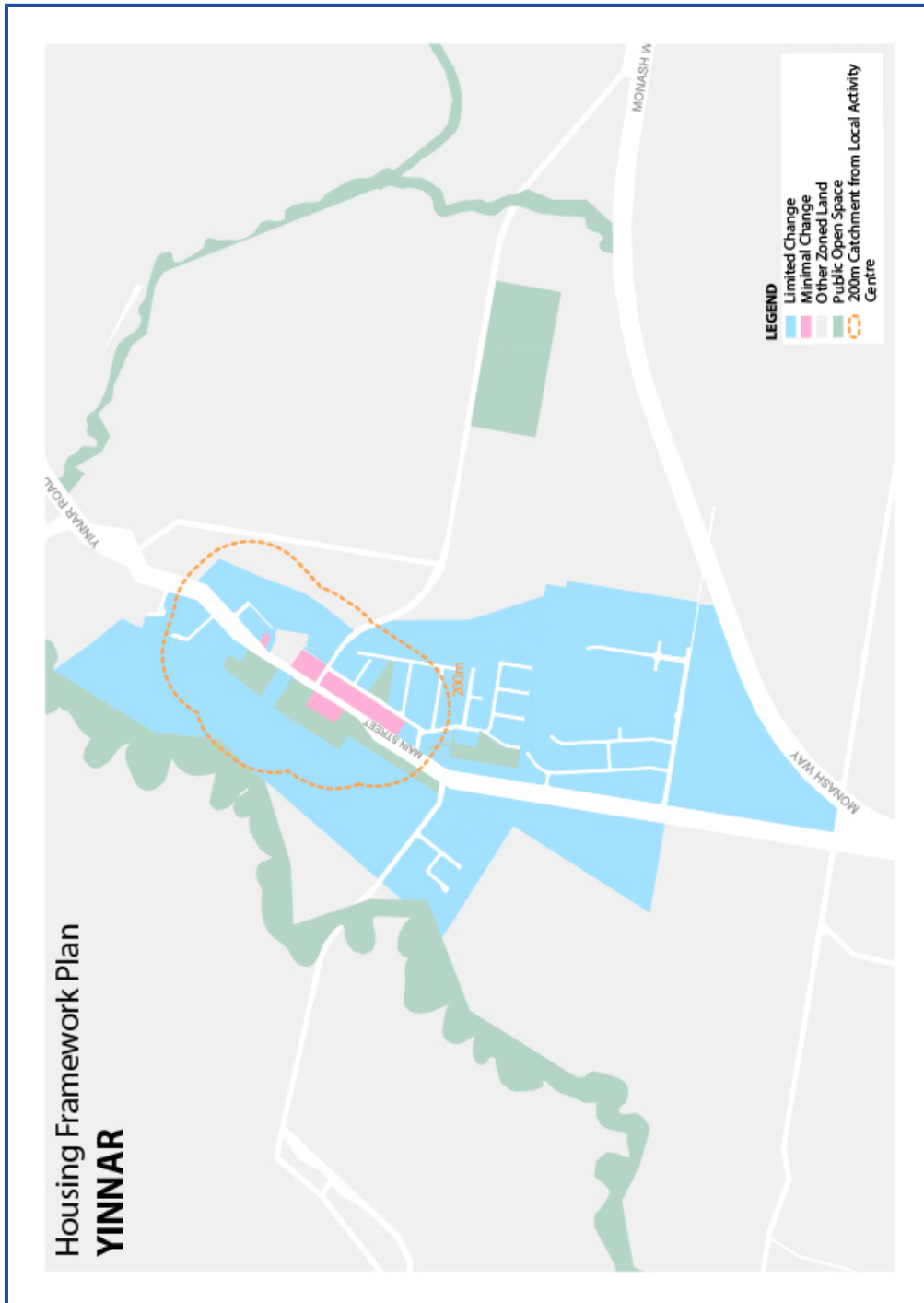
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ATTACHMENT 2

Yallourn North Housing Framework Plan



LATROBE PLANNING SCHEME  
ATTACHMENT 2

Yinnar Housing Framework Plan



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ATTACHMENT 2**16.01-2S**09/10/2020  
VC169**Housing affordability****Objective**

To deliver more affordable housing closer to jobs, transport and services.

**Strategies**

Improve housing affordability by:

- Ensuring land supply continues to be sufficient to meet demand.
- Increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.
- Promoting good housing and urban design to minimise negative environmental impacts and keep costs down for residents and the wider community.
- Encouraging a significant proportion of new development to be affordable for households on very low to moderate incomes.

Increase the supply of well-located affordable housing by:

- Facilitating a mix of private, affordable and social housing in suburbs, activity centres and urban renewal precincts.
- Ensuring the redevelopment and renewal of public housing stock better meets community needs.

Facilitate the delivery of social housing by identifying surplus government land suitable for housing.

**Policy documents**

Consider as relevant:

- *Homes for Victorians - Affordability, Access and Choice* (Victorian Government, 2017)



~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

**16.01-3S**

09/10/2020  
VC169

**Rural residential development****Objective**

To identify land suitable for rural residential development.

**Strategies**

Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.

Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.

Demonstrate need and identify locations for rural residential development through a housing and settlement strategy.

Ensure planning for rural residential development avoids or significantly reduces adverse economic, social and environmental impacts by:

- Maintaining the long-term sustainable use and management of existing natural resource attributes in activities including agricultural production, water, mineral and energy resources.
- Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.
- Minimising or avoiding property servicing costs carried by local and state governments.
- Maintaining an adequate buffer distance between rural residential development and animal production.

Ensure land is not zoned for rural residential development if it will encroach on high quality productive agricultural land or adversely impact on waterways or other natural resources.

Discourage development of small lots in rural zones for residential use or other incompatible uses.

Encourage consolidation of existing isolated small lots in rural zones.

Ensure land is only zoned for rural residential development where it:

- Is located close to existing towns and urban centres, but not in areas that will be required for fully serviced urban development.
- Can be supplied with electricity, water and good quality road access.

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ATTACHMENT 2

**16.01-3L**

28/05/2021  
C122latr

**Rural residential development****Strategies**

Encourage rural living where there will be minimal negative environmental impact or conflict with commercial agriculture.

Support rural living where it will result in improved land management outcomes.

Encourage facilities and services required by rural residents to locate in existing townships.

Discourage rural living or low density residential use and development on the fringes of major towns where land is designated as a long-term urban growth corridor.

Discourage domestic animal husbandry and racing dog husbandry in rural living areas.

Discourage rural living on existing timber haulage routes to avoid road safety and amenity issues.

Support rural living in low bushfire risk locations or where bushfire risk can be reduced to an acceptable level.

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~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

**16.01-4S**

04/11/2022  
VC226

**Community care accommodation****Objective**

To facilitate the establishment of community care accommodation and support their location being kept confidential.

**Strategies**

Planning schemes should not require a planning permit for or prohibit the use of land in a residential area for community care accommodation provided no more than 20 clients are accommodated and the use is funded by, or carried out by or on behalf of, a government department or public authority, including a public authority established for a public purpose under a Commonwealth Act.

Facilitate the confidential establishment of community care accommodation through appropriate permit, notice and review exemptions.

~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2**16.01-5S**09/10/2020  
VC169**Residential aged care facilities****Objective**

To facilitate the development of well-designed and appropriately located residential aged care facilities.

**Strategies**

Recognise that residential aged care facilities contribute to housing diversity and choice, and are an appropriate use in a residential area.

Recognise that residential aged care facilities are different to dwellings in their purpose and function, and will have a different built form (including height, scale and mass).

Ensure local housing strategies, precinct structure plans and activity centre structure plans provide for residential aged care facilities.

Ensure that residential aged care facilities are located in residential areas, activity centres and urban renewal precincts, close to services and public transport.

Encourage planning for housing that:

- Delivers an adequate supply of land or redevelopment opportunities for residential aged care facilities.
- Enables older people to live in appropriate housing in their local community.

Provide for a mix of housing for older people with appropriate access to care and support services.

Ensure that proposals to establish residential aged care facilities early in the life of a growth area are in locations that will have early access to services and public transport.

Ensure that residential aged care facilities are designed to respond to the site and its context.

Promote a high standard of urban design and architecture in residential aged care facilities.

**Policy guidelines**

Consider as relevant:

- The Commonwealth Government's Responsible ratios for the provision of aged care places under the *Aged Care Act 1997*.

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~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

**16.01-5L Residential aged care facilities**

28/05/2021  
C122latr

**Strategy**

Locate specialised aged care facilities in sites that are:

- Close to retail, community and recreational facilities.
- Serviced by public or community transport.
- Generally flat without significant obstacles to accessing facilities, services and transport (e.g. main roads without safe pedestrian crossing points).
- Not prone to natural hazards such as bushfire and flooding.

LATROBE PLANNING SCHEME  
ATTACHMENT 224/11/2019  
C105latr Proposed C126latr**SCHEDULE 4 TO CLAUSE 32.08 GENERAL RESIDENTIAL ZONE**Shown on the planning scheme map as **GRZ4**.**DISTRICT AND SMALL TOWNS****1.0**21/11/2019  
C105latr**Neighbourhood character objectives**

To retain the character of established neighbourhoods, whilst accommodating modest housing growth in the form of multi level residential developments, townhouses and units within walking distance of the Activity Centres of District Towns.

To ensure new medium density development provides a sensitive and appropriate interface with adjoining streetscapes, buildings and residential areas.

To ensure upper levels of buildings, are set back to minimise dominance within the streetscape.

To encourage walls on boundaries to be setback from the building façade to provide space for landscaping, building articulation and space between dwellings.

**2.0**21/11/2019  
C105latr**Construction or extension of a dwelling or residential building - minimum garden area requirement**

**Is the construction or extension of a dwelling or residential building exempt from the minimum garden area requirement?**

No

**3.0**21/11/2019  
C105latr**Permit requirement for the construction or extension of one dwelling or a fence associated with a dwelling on a lot**

**Is a permit required to construct or extend one dwelling on a lot of between 300 and 500 square metres?**

Yes

**Is a permit required to construct or extend a front fence within 3 metres of a street associated with a dwelling on a lot of between 300 and 500 square metres?**

No

**4.0**21/11/2019  
C105latr**Requirements of Clause 54 and Clause 55**

	Standard	Requirement
<b>Minimum street setback</b>	A3 and B6	None specified
<b>Site coverage</b>	A5 and B8	None specified
<b>Permeability</b>	A6 and B9	None specified
<b>Landscaping</b>	B13	One canopy tree in front setback garden area with no less than 50% planted or grassed landscape area
<b>Side and rear setbacks</b>	A10 and B17	None specified
<b>Walls on boundaries</b>	A11 and B18	None specified
<b>Private open space</b>	A17	None specified
	B28	None specified
<b>Front fence height</b>	A20 and B32	1.2 metres

~~LATROBE PLANNING SCHEME~~  
ATTACHMENT 2

**5.0**

21/11/2019  
C105latr

**Maximum building height requirement for a dwelling or residential building**

None specified.

**6.0**

21/11/2019  
C105latr

**Application requirements**

None specified.

**7.0**

21/11/2019  
C105latr

**Decision guidelines**

The following decision guidelines apply to an application for a permit under Clause 32.08, in addition to those specified in Clause 32.08 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the design of new developments exceeding nine metres above natural surface level provides a stepped or graduated elevation treatment to adjoining Neighbourhood Residential Zone.
- Whether new buildings are set back from an adjoining heritage building.
- Whether vehicle access points are safe and accessible and promote a walkable neighbourhood by ensuring space for car parking is provided in front of garages and carports within the property boundary.
- Whether the building façade provides articulation and appearance of space between dwellings.
- Whether space is provided within the front setback for landscaping.
- Whether the new development reinforces a wide streetscape and garden character.

LATROBE PLANNING SCHEME  
ATTACHMENT 2--/--/----  
Proposed C126latr**SCHEDULE 5 TO CLAUSE 32.09 NEIGHBOURHOOD RESIDENTIAL ZONE**Shown on the planning scheme map as **NRZ5**.**TOONGABBIE RESIDENTIAL AREA****1.0 Neighbourhood character objectives**--/--/----  
Proposed C126latr

To reinforce the spacious character and 'rural' feel of existing residential areas through generous setbacks, and no or low open style front fences.

To encourage new development to have regard to the existing street pattern and strengthen vistas and views to distinctive natural and heritage features.

To avoid sitting garages, carports and outbuildings in front of the predominant wall of the front facade of the dwelling and setback walls on the boundary behind the predominant front façade line.

To provide adequate space for vegetated front gardens that include canopy trees, and maintain the landscape character of streetscapes by retaining significant trees on private land, wherever possible.

To maximise the use of permeable surfaces for driveways and car parking areas, where practical.

**2.0 Minimum subdivision area**--/--/----  
Proposed C126latr

The minimum lot size for subdivision is 1000 square metres.

**3.0 Permit requirement for the construction or extension of one dwelling or a fence associated with a dwelling on a lot**--/--/----  
Proposed C126latr

	Requirement
Permit requirement for the construction or extension of one dwelling on a lot	1000 square metres
Permit requirement to construct or extend a front fence within 3 metres of a street associated with a dwelling on a lot	1000 square metres

**4.0 Requirements of Clause 54 and Clause 55**--/--/----  
Proposed C126latr

	Standard	Requirement
<b>Minimum street setback</b>	A3 and B6	Walls of buildings should be set back from streets at least 7.5 metres.  When porches, pergolas and verandahs are less than 3.6 metres high, eaves may encroach not more than 2.5 metres into the setbacks of this standard.
<b>Site coverage</b>	A5 and B8	The site area covered by buildings should not exceed 40 percent.
<b>Permeability</b>	A6 and B9	At least 50 per cent of the site should not be covered by impervious surfaces.
<b>Landscaping</b>	B13	The landscape layout and design should provide for at least one canopy tree in the front setback garden area per dwelling facing the street.
<b>Side and rear setbacks</b>	A10 and B17	Side setbacks  A new building not on or within 200 mm of a boundary should be setback from side boundaries 1.5 metres, plus 0.3m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre over 6.9m.  Rear Setbacks



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ATTACHMENT 2

	Standard	Requirement
		A new building not on or within 200 mm of a boundary should be setback from rear boundaries at least 5 metres.
<b>Walls on boundaries</b>	A11 and B18	None specified
<b>Private open space</b>	A17	None specified
	B28	None specified
<b>Front fence height</b>	A20 and B32	A front fence within 3 metres of a road in a Transport Zone Category 1 should not exceed 1.5 metres in height, or 1.2 metres for all other streets.

### 5.0 **Maximum building height requirement for a dwelling or residential building**

~~---/---/---~~  
Proposed C126latr

None Specified

### 6.0 **Application requirements**

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Proposed C126latr

The following application requirements apply to an application for a permit under Clause 32.09, in addition to those specified in Clause 32.09 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A landscape plan specifying:
  - Existing and proposed features and vegetation,
  - Hardscape and softscape finishes,
  - Location of informal car parking and storage, and
  - Safe access and egress for pedestrians, cyclists and vehicles.

### 7.0 **Decision guidelines**

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Proposed C126latr

The following decision guidelines apply to an application for a permit under Clause 32.09, in addition to those specified in Clause 32.09 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the proposal will adversely affect the significance, character or appearance of an adjacent heritage place.
- Whether the development minimises access from development and individual allotments to the Main street (Traralgon-Maffra Road).
- Whether the proposal has regard to the Latrobe City Council Urban Design Guidelines.
- Whether the form, scale and massing of a new development ensures the appearance of space between dwellings.
- Whether the design and material palette respects the neighbourhood character.
- Whether the design and setback of upper storey minimise the dominance of buildings within the streetscape.
- Whether the walls on boundaries ensure a complimentary streetscape rhythm and equitable development outcome.
- Where an increased side setback is provided on one side boundary, the side setback on a second side may be reduced.

**LATROBE PLANNING SCHEME**  
**ATTACHMENT 2**

- Whether development encourages retention of existing native vegetation and significant canopy trees.
- Whether the development responds appropriately to any identified environmental constraints and service limitations.

LATROBE PLANNING SCHEME  
ATTACHMENT 231/07/2018  
VC148

## SCHEDULE TO CLAUSE 72.08 BACKGROUND DOCUMENTS

## 1.0

## Background documents

28/05/2024  
6+22latr Proposed C126latr

Name of background document	Amendment number - clause reference
<i>Assessment of Agricultural Quality of Land in Gippsland (Ian R Swan and Andrew G Volum, August 1984)</i>	C97 Clause 02 and 14
<i>Australian Paper: Maryvale Pulp Mill Buffer Requirements (GHD Pty Ltd, July 2011)</i>	C87pt1 Clause 02, 13 and 14
<i>Car Parking Framework Review Traralgon &amp; Morwell (Traffix Group, August 2014)</i>	C105 Clause 45.09s 1 and 2
<i>Churchill East West Link: Master Plan and Urban Design Framework (Spiire Australia Pty Ltd, October 2013)</i>	C97 Clause 02 and 11
<i>Churchill Town Centre Plan (Beca Pty Ltd, July 2007)</i>	C62 Clause 02, 11, 19 and Schedule 9 to Clause 43.02
<i>Clifton Street Precinct Urban Design Guidelines (Tract Consultants, September 2008)</i>	C76 Clause 02, 11 and 15
<i>Cultural Diversity Action Plan 2020-2024 (Latrobe City Council, October, 2019)</i>	C97 Clause 02
<i>Economic Development Strategy 2016-2020 (Latrobe City Council, May 2016)</i>	C97 Clause 02 and 17
<i>Framework for the Future (Latrobe Region, October 1987)</i>	C97 Clause 02
<i>Gippsland Logistics Precinct Project (Latrobe City Council, April 2009)</i>	C97 Clause 02 and 18.05-1L
<i>Hazelwood Mine Fire Inquiry Report (Hazelwood Mine Fire Inquiry, 2014)</i>	C105 Clause 02 and 14.03-1L
<i>Healthy Urban Design Good Practice Guideline (Latrobe City Council, June 2008)</i>	Clause 02, 11, 15 and Schedules 4, 5 and 6 to Clause 43.04
<i>Infrastructure Design Manual (Local Government Infrastructure Design Association, 2019)</i>	Clause 02 and 19
<i>Land Over Coal and Buffer Area Study (Ministry for Planning and Environment, February 1988)</i>	Clause 02 and 14.03-1L
<i>Latrobe City Bicycle Plan 2007-2010 (Latrobe City Council, December 2007)</i>	C97 Clause 02, 18.02-1L and Schedules 5, 6,7 and 9 to Clause 43.04

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Name of background document	Amendment number - clause reference
<i>Latrobe City Council Bulky Good Retail Sustainability Assessment</i> (Macroplan Australia Pty Ltd, March 2009)	C39 Clause 02, 11, 17 and Schedules to Clause 43.04
<i>Latrobe City Council Disability Action Plan 2018-2020</i> (Latrobe City Council, 2018)	C97 Clause 02
<i>Latrobe City Council Residential and Rural Residential Land Assessment</i> (Essential Economics Pty Ltd, March 2009)	C97 Clause 02, 11 and 16
<i>Latrobe City Council Urban Design Guidelines</i> , (Hansen Pty Ltd in association with Latrobe City Council, May 2019)	C105 Clause 02, 11 and 15
<i>Latrobe City Council Waste Management Strategy (2010-2017)</i> (Meinhardt Infrastructure and Environment Pty Ltd, 2010)	C97 Clause 02, 13 and 19
<i>Latrobe City Council Retail Strategy Review Background Research and Analysis (2019)</i> <i>Latrobe City Council Retail Strategy - Strategy and Implementation Plan (2019)</i>	
<i>Latrobe City Evens and Tourism Strategy 2018-2022</i> (Latrobe City Council, 2018)	Clause 02 and 17
<i>Latrobe City Heritage Study</i> (Context Pty Ltd 2010)	C14 Clause 02, 15, Schedule 2 to Clause 32.07 and Schedule to Clause 43.01
<i>Latrobe City Municipal Fire Management Plan 2018</i> (Latrobe City Council, 2018)	C97 Clause 02 and 13.02-1L
<i>Latrobe City Older Persons Strategy 2007-2021</i> (Latrobe City Council, 2007)	C62 Clause 02, 16 and 19
<i>Latrobe City Play Space Improvement Plan 2016-2021</i> , (Latrobe City, 2016)	C91 Clause 02 and 19.02-6L
<i>Latrobe Regional Airport Master Plan 2015 (Updated 2019)</i> (Rehbein Airport Consulting, 2019)	C92 Clause 02, 11, 17 and 18
<i>Latrobe Structure Plans Background Report</i> (Beca Pty Ltd, August 2007)	C97 Clause 02, 11 to 19 and Schedules to Clause 43.04
<i>Latrobe Structure Plans - Churchill</i> (Beca Pty Ltd, August 2007)	C97 Clause 02, 11 to 19 and Schedules to Clause 43.04
<i>Latrobe Structure Plans - Moe and Newborough</i> (Beca Pty Ltd, August 2007)	C97

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Name of background document	Amendment number - clause reference
	Clause 02, 11 to 19 and Schedules to Clause 43.04
<i>Latrobe Structure Plans - Morwell</i> (Beca Pty Ltd, August 2007)	C97 Clause 02, 11 to 19 and Schedules to Clause 43.04
<i>Latrobe Structure Plans - Traralgon</i> (Beca Pty Ltd, August 2007)	C97 Clause 02, 11 to 19 and Schedules to Clause 43.04
<i>Latrobe Transit Centred Precincts</i> (David Lock Associates, SGS Economics and Planning PBAI Australia, December 2004)	C50 Clause 02 and 11
<i>Live Work Latrobe Housing Strategy</i> (Latrobe City Council, MacroPlan Dimasi, RMCG and Planisphere, May 2019)	C105 Clause 02, 11, 15 and 16
<i>Live Work Latrobe Industrial and Employment Strategy</i> (Latrobe City Council, MacroPlan Dimasi, RMCG and Planisphere, May 2019)	C105 Clause 02, 11 and 17
<i>Live Work Latrobe Rural Land Use Strategy</i> (Latrobe City Council, MacroPlan Dimasi, RMCG and Planisphere, May 2019)	C105 Clause 02, 14 and 16
<i>Moe Activity Centre Plan</i> (Tract Consultants, December 2007)	C62 Clause 02, 11 and 17
<i>Moe and Newborough Structure Plan</i> (Metropolitan Planning Authority, March 2015)	C62 Clause 02, 11 and 17
<i>Moe Rail Precinct Revitalisation Project Master Plan</i> (SJB Urban, SJB Architects, McCormick Rankin Cagney, Slattery Australia, November 2009)	C79 Clause 02, 11 and 36.01
<i>Morwell Logistics Precinct Master Plan</i> (Beca Pty Ltd, Meyrick and Associates, and Traffix Group, 2005)	Clause 02, 17 and 18
<i>Morwell to Traralgon Employment Corridor Precinct Masterplan</i> (Urban Enterprise, 2020)	C115 Clause 02, 11 and 17
<i>Municipal Domestic Waste Water Management Plan</i> (Infocus Management Group, WDMS Pty Ltd, Municipal Domestic Wastewater Management & Latrobe City Council, December 2006)	C97 Clause 02, 19 and 42.01s5
<i>Municipal Emergency Management Plan 2019</i> (Latrobe City Council, 30 July 2019)	C97 Clause 02 and 13
<i>Natural Environment Sustainability Strategy 2014-2019</i> (Latrobe City Council, 2014)	C97 Clause 02, 12, 15 and 19
<i>Planning for Intensive Agriculture in Gippsland - Regional Development Australia Gippsland</i> (RMCG, 24 August 2016)	C105

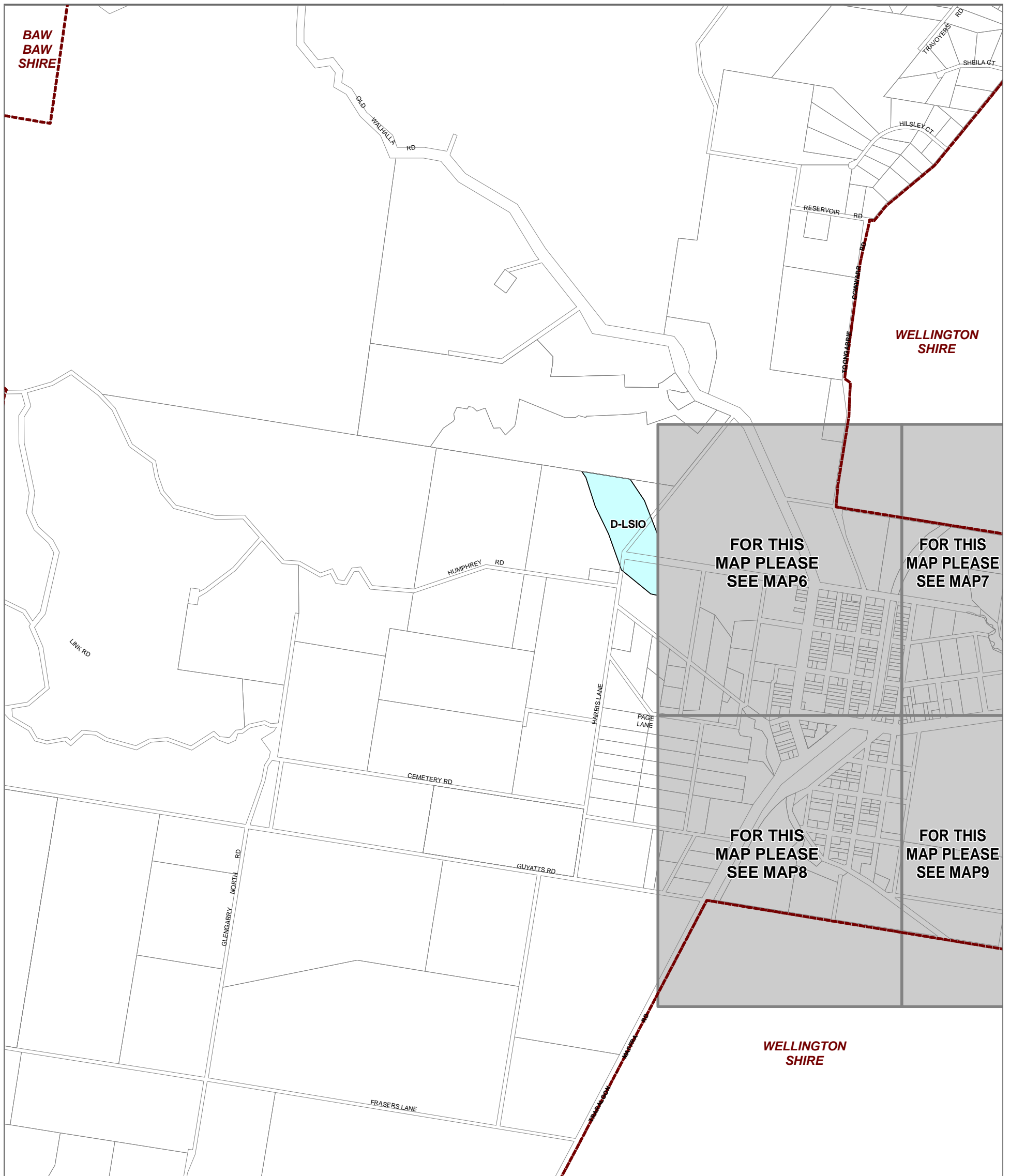
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ATTACHMENT 2

Name of background document	Amendment number - clause reference
	Clause 02, 14 and 16
<i>Positioning Latrobe City for a Low Carbon Emission Future</i> (MWH, 2010)	C97 Clause 02, 15, 17, 18 and 19
<i>Project Implementation Plan - Gippsland Logistics Precinct Project</i> (Latrobe City Council, April 2009)	C97 Clause 02, 15, 17, 18 and 19
<i>Public Art Policy 2018</i> (Latrobe City Council - City Development Division, November 2018)	C91 Clause 02
<i>Public Open Space Strategy Volume 1: Strategy and Recommendations</i> (Latrobe City Council, Insight Leisure Planning, Davis Planning Solutions, FFLA, March 2013)	C91 Clause 02, 19.02-6L and Schedules 5, 6, 7 and 9 to Clause 43.04
<i>Public Toilet Plan 2010-2014</i> (Latrobe City Council, July 2010)	C91 Clause 02
<i>Retail Advice - Lake Narracan Structure Plan</i> (SGS Economics and Planning, July 2013)	C97 Clause 02, 11 and 17
<i>Review of Proposed Public Open Space Contributions Rates</i> (Urban Enterprise, October 2016)	C97 Clause 02 and 19
<i>Small Town Structure Plans: Boolarra, Glengarry and Tyers</i> (NBA Group Pty Ltd, April 2009)	C024pt2 Clause 02, 11 to 19
<i>Strategic Outlook for Moe - Newborough and Lake Narracan</i> (Growth Areas Authority, 2013)	<a href="#">Clause 02 and 11 to 19</a>
<i>Toongabbie Structure Plan Report</i> (Latrobe City Council, 2020)	<a href="#">C126</a>
<i>Toongabbie Structure Plan Background Reports</i> (Latrobe City Council, 2020)	<a href="#">Clause 11, 12 and 16</a> <a href="#">Schedule 5 to Clause 32.09</a> <a href="#">C126</a> <a href="#">Clause 11, 12 and 16</a> <a href="#">Schedule 5 to Clause 32.09</a>
<i>Tracks, Trails and Paths Strategy</i> (Planisphere, April 2016)	C91 Clause 02, 18 and 19
<i>Traralgon Activity Centre Plan</i> (Victorian Planning Authority and Latrobe City Council, September 2018)	C106pt1 Clause 02, 11 and Schedule 1 to Clause 37.08
<i>Traralgon Activity Centre Plan Background Reports</i> (Hansen Partnership Pty Ltd, July 2010)	C106pt1 Clause 02, 11 and Schedule 1 to Clause 37.08
<i>Traralgon Background Report: Traralgon Growth Areas Review</i> (Hansen Partnership and Parsons Brinkerhoff, August 2013)	C87pt2 Clause 02 and 11 to 19

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Name of background document	Amendment number - clause reference
<i>Traralgon Growth Area Framework Plan</i> (Hansen Partnership, August 2013)	C97 Clause 02 and 11 to 19
<i>Traralgon Station Precinct Master Plan</i> (Hansen Partnership and CPG Australia, April 2011)	C97 Clause 02, 11 and Schedule 2 to Clause 32.07
<i>Traralgon West Structure Plan</i> (Hansen Partnership, August 2013)	C97 Clause 02 and 11 to 19
<i>Wood Encouragement Policy</i> (Latrobe City Council, 2014)	C97 Clause 02 and 14

ATTACHMENT 2  
**WELLINGTON PLANNING SCHEME - LOCAL PROVISION  
 AMENDMENT C126latr**

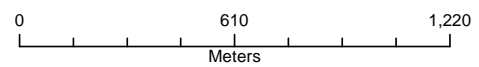


**LEGEND**

- D-LSIO - Area to be deleted from a Land Subject to Inundation Overlay
- Municipal Boundary

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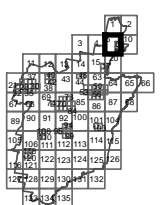
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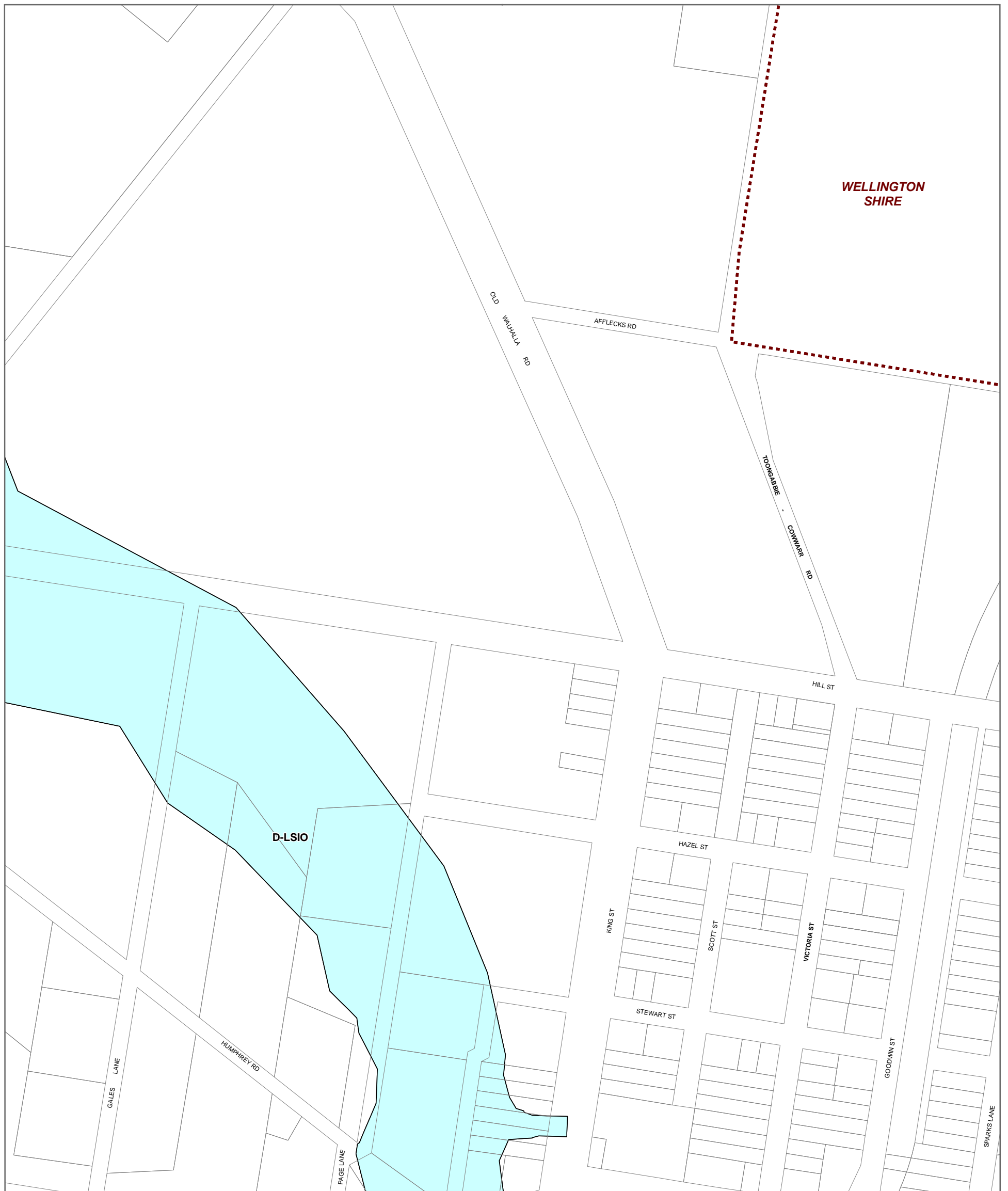


**AREA TO BE DELETED FROM A LAND SUBJECT TO INUNDATION OVERLAY/FLOODWAY OVERLAY**

**MAP No 5LSIO-FO**



ATTACHMENT 2 LATROBE PLANNING SCHEME - LOCAL PROVISION  
**AMENDMENT C126latr**

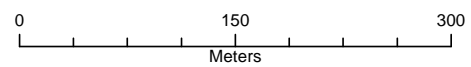


**LEGEND**

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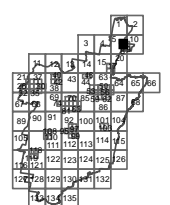
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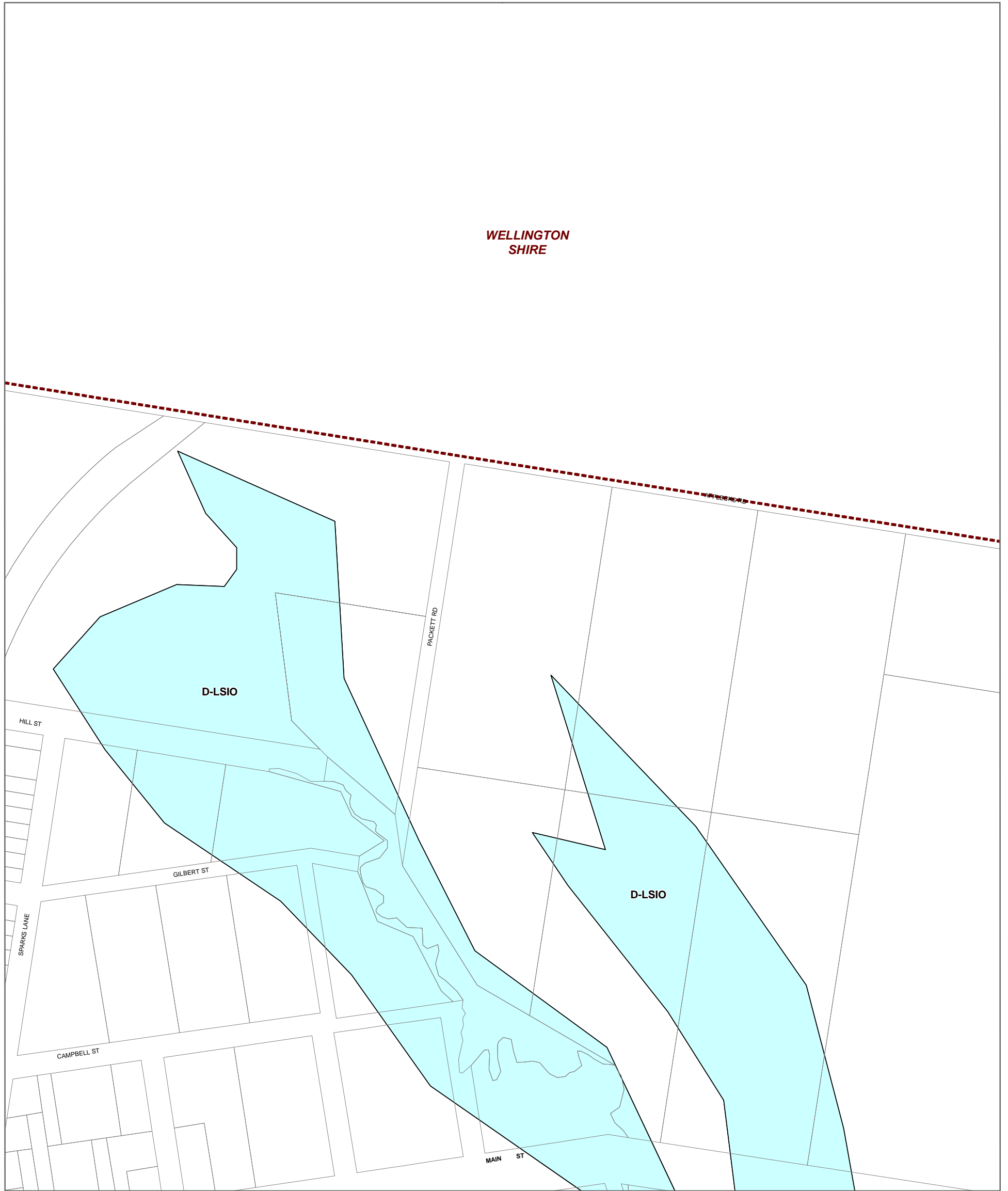
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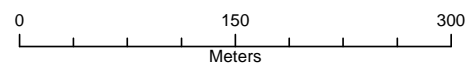
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AMENDMENT C126latr**



**LEGEND**

- D-LSIO - Area to be deleted from a Land Subject to Inundation Overlay
- Municipal Boundary

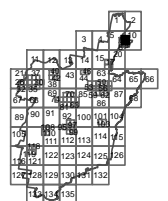
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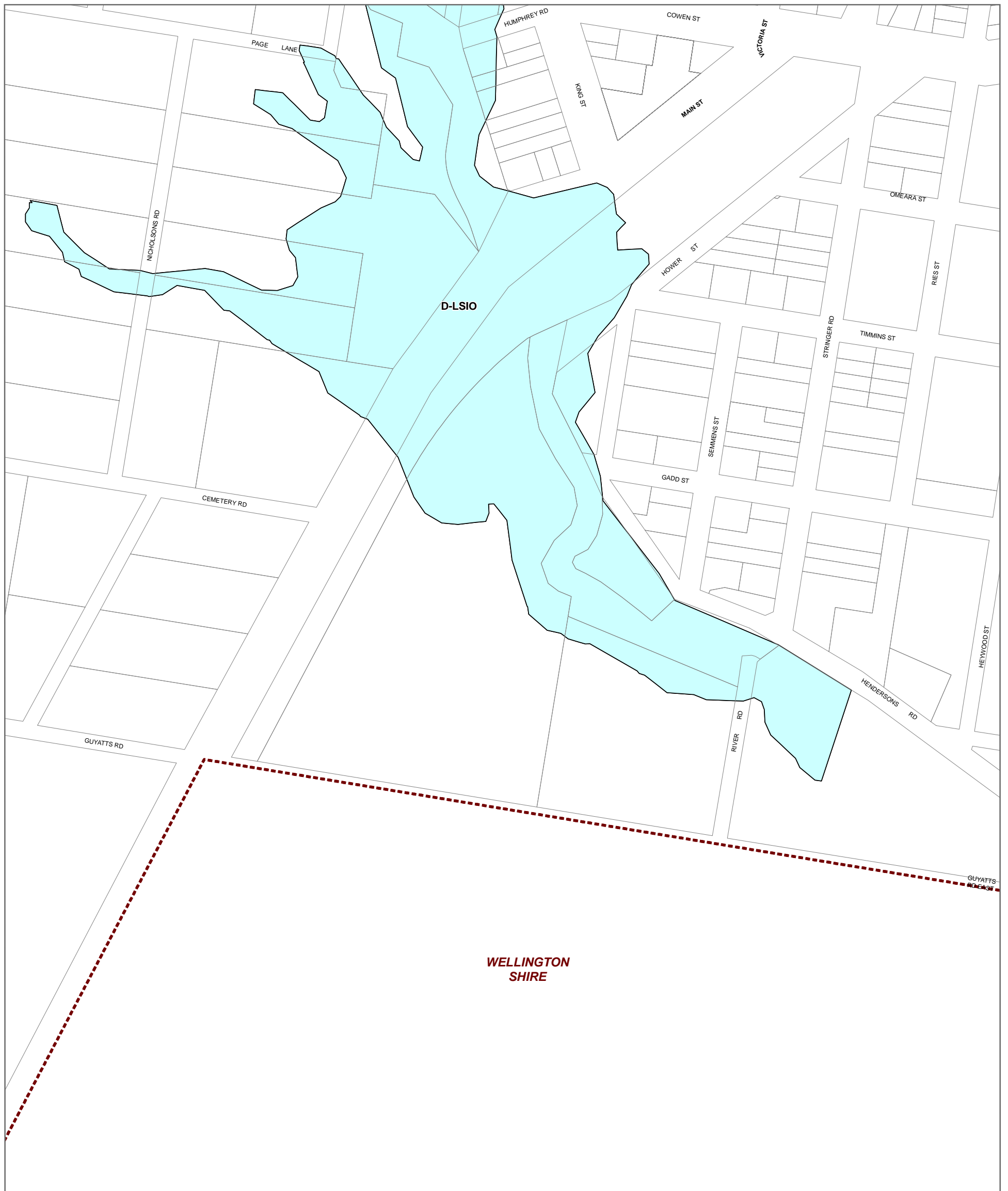
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**MAP No 7LSIO-FO**

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AMENDMENT C126latr

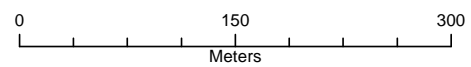


LEGEND

- D-LSIO - Area to be deleted from a Land Subject to Inundation Overlay
- Municipal Boundary

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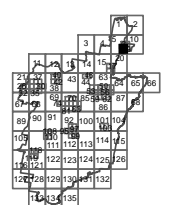
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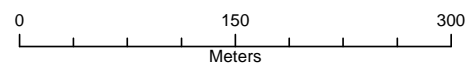


**LEGEND**

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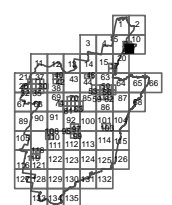


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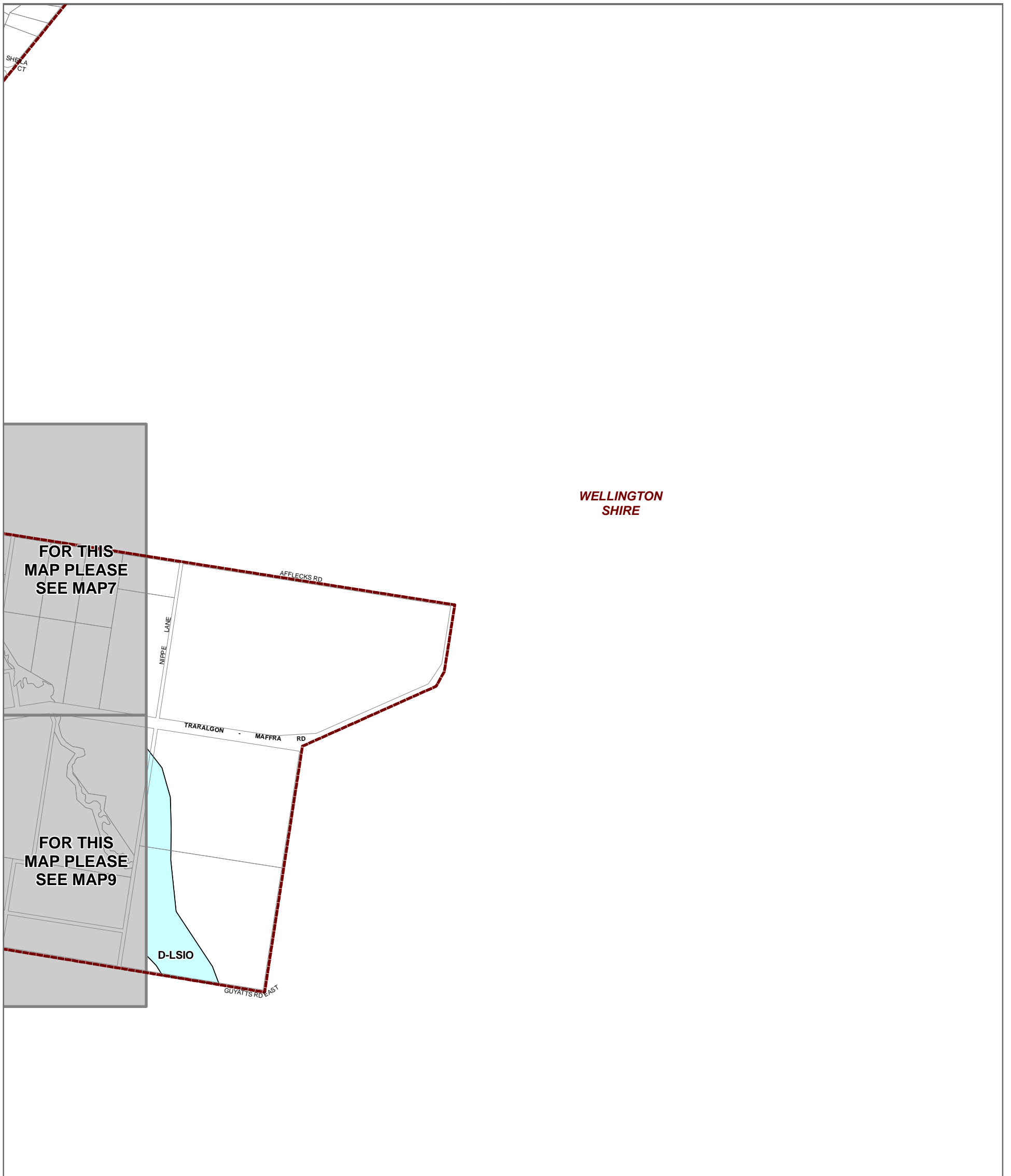
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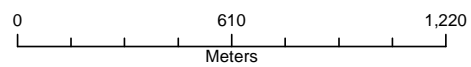


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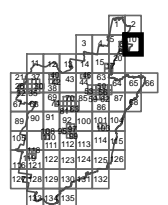
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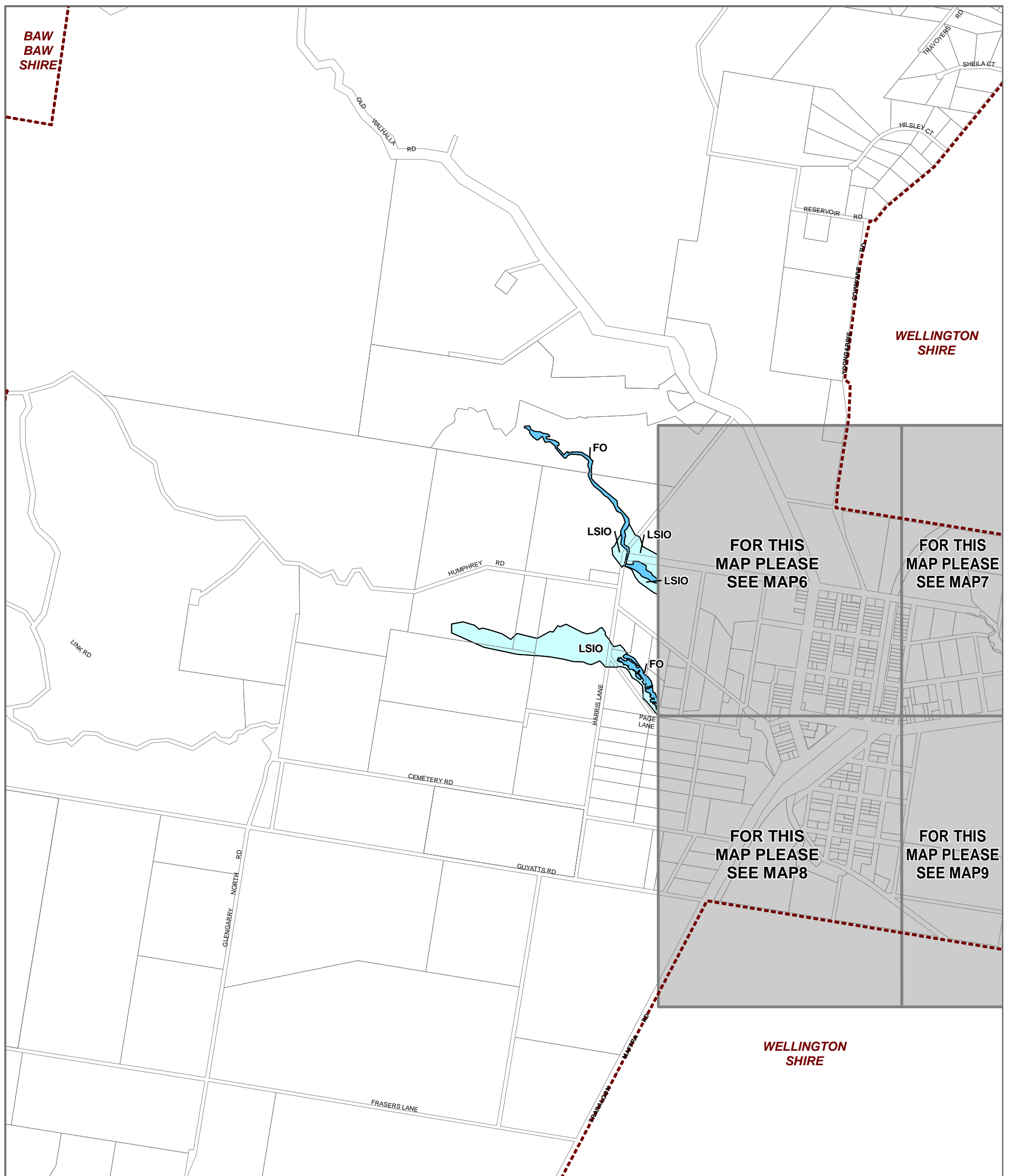
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**MAP No 10LSIO-FO**

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**AMENDMENT C126latr**



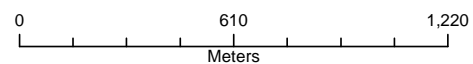
**LEGEND**

- FO - Floodway Overlay
- LSIO - Land Subject to Inundation Overlay

Municipal Boundary

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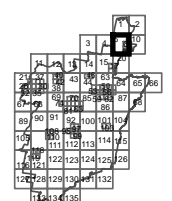
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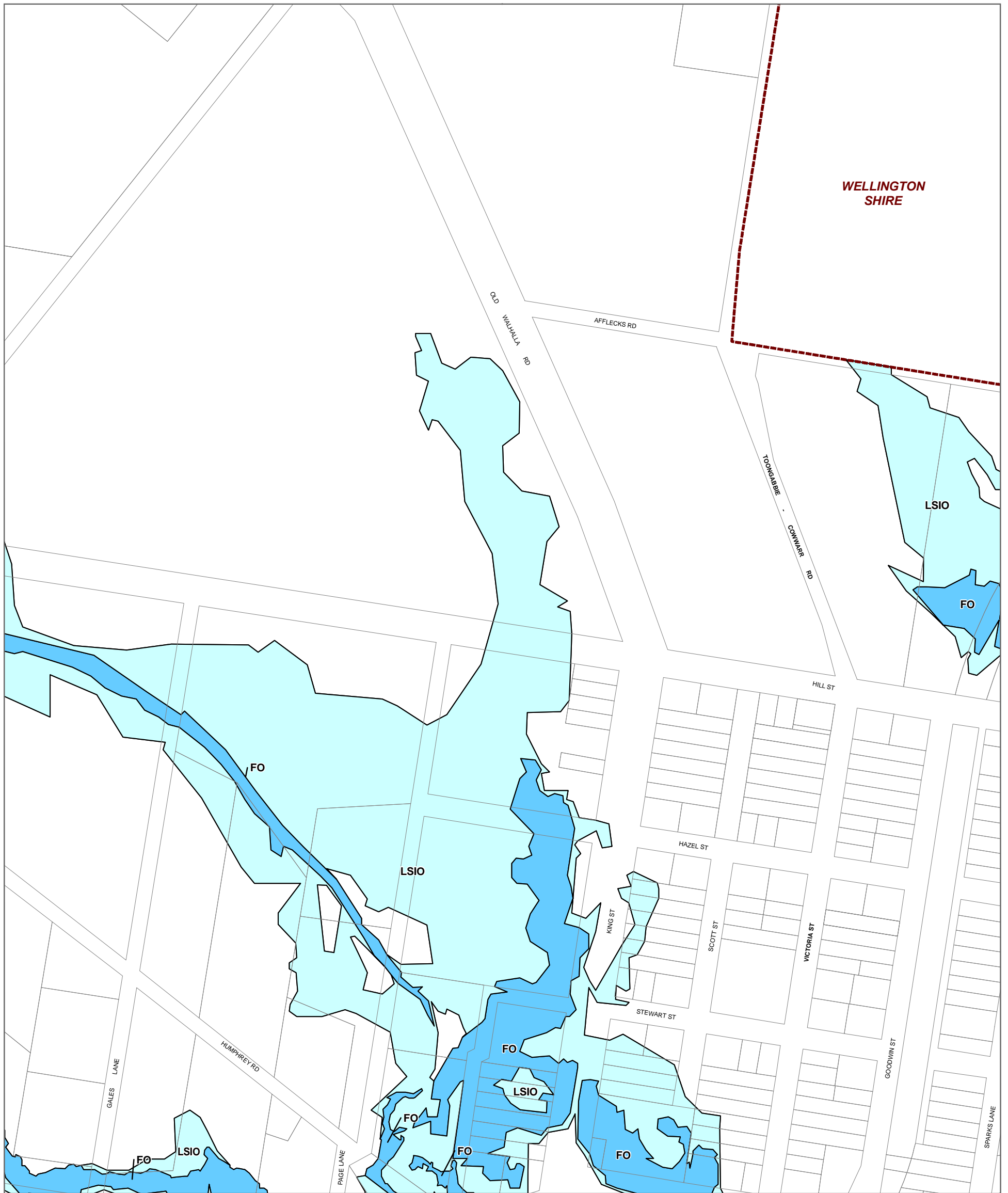


**LAND SUBJECT TO INUNDATION OVERLAY/FLOODWAY OVERLAY**

**MAP No 5LSIO-FO**



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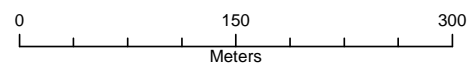
LEGEND

- FO - Floodway Overlay
- LSIO - Land Subject to Inundation Overlay

Municipal Boundary

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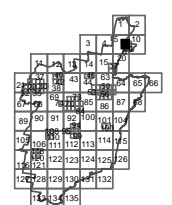
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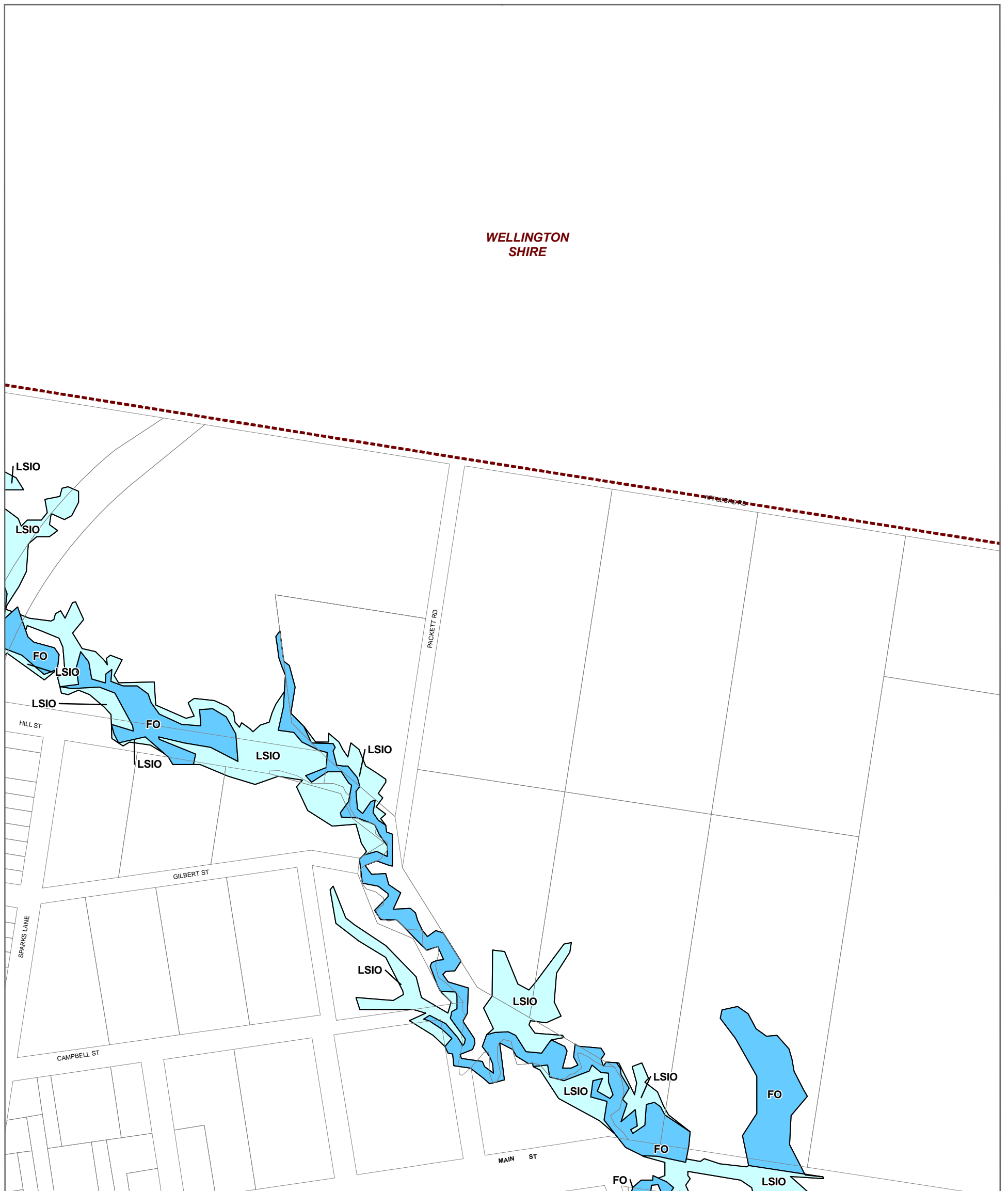
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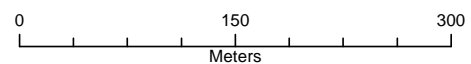
LEGEND

- FO - Floodway Overlay
- LSIO - Land Subject to Inundation Overlay

Municipal Boundary

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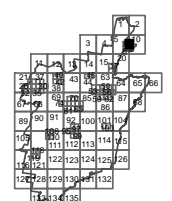
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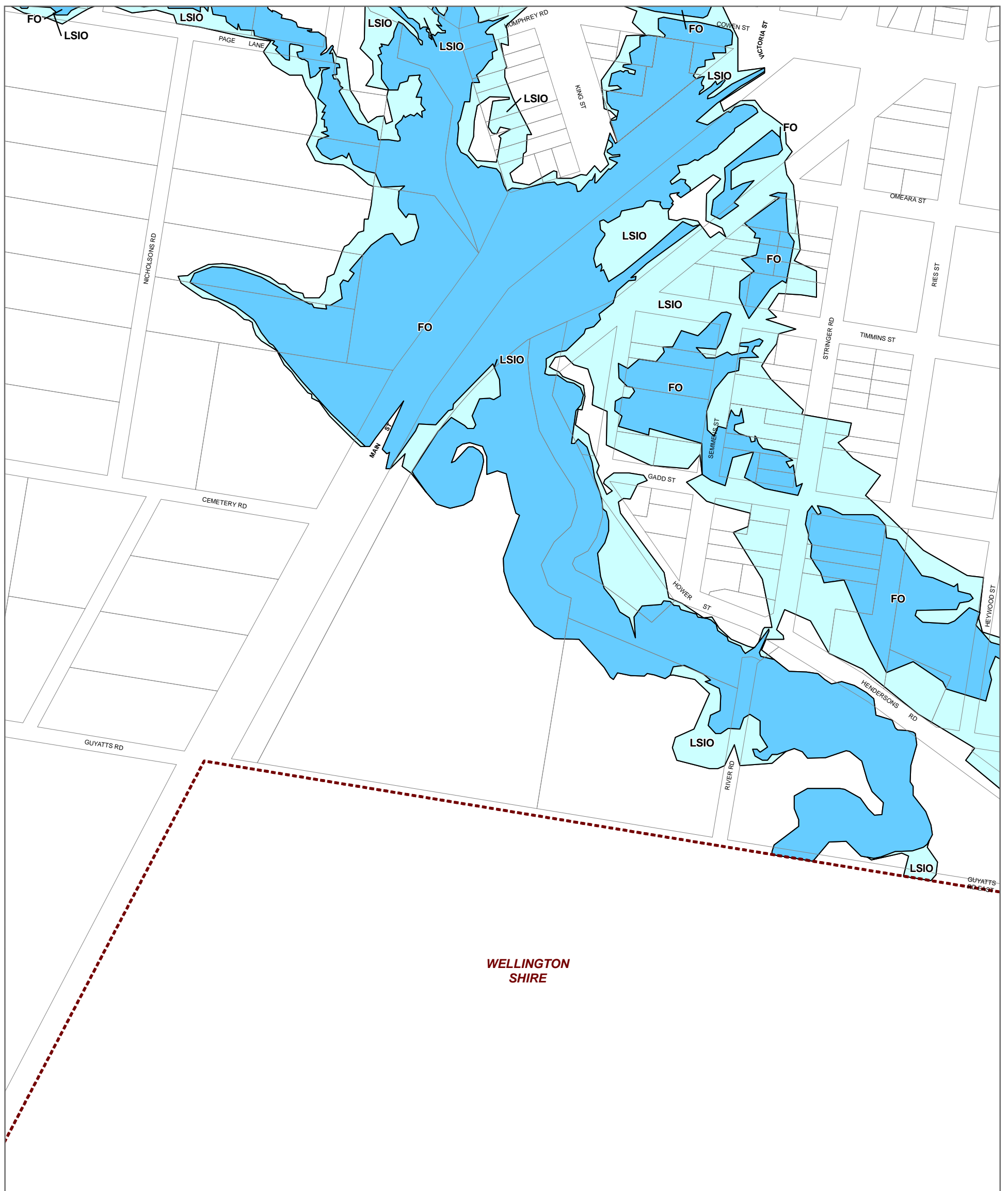


LAND SUBJECT TO INUNDATION OVERLAY/FLOODWAY OVERLAY

MAP No 7LSIO-FO



ATTACHMENT 2  
**LATROBE PLANNING SCHEME - LOCAL PROVISION  
 AMENDMENT C126latr**



**WELLINGTON  
 SHIRE**

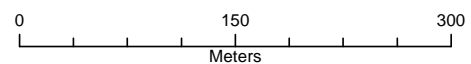
**LEGEND**

- FO - Floodway Overlay
- LSIO - Land Subject to Inundation Overlay

- - - Municipal Boundary

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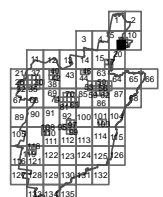
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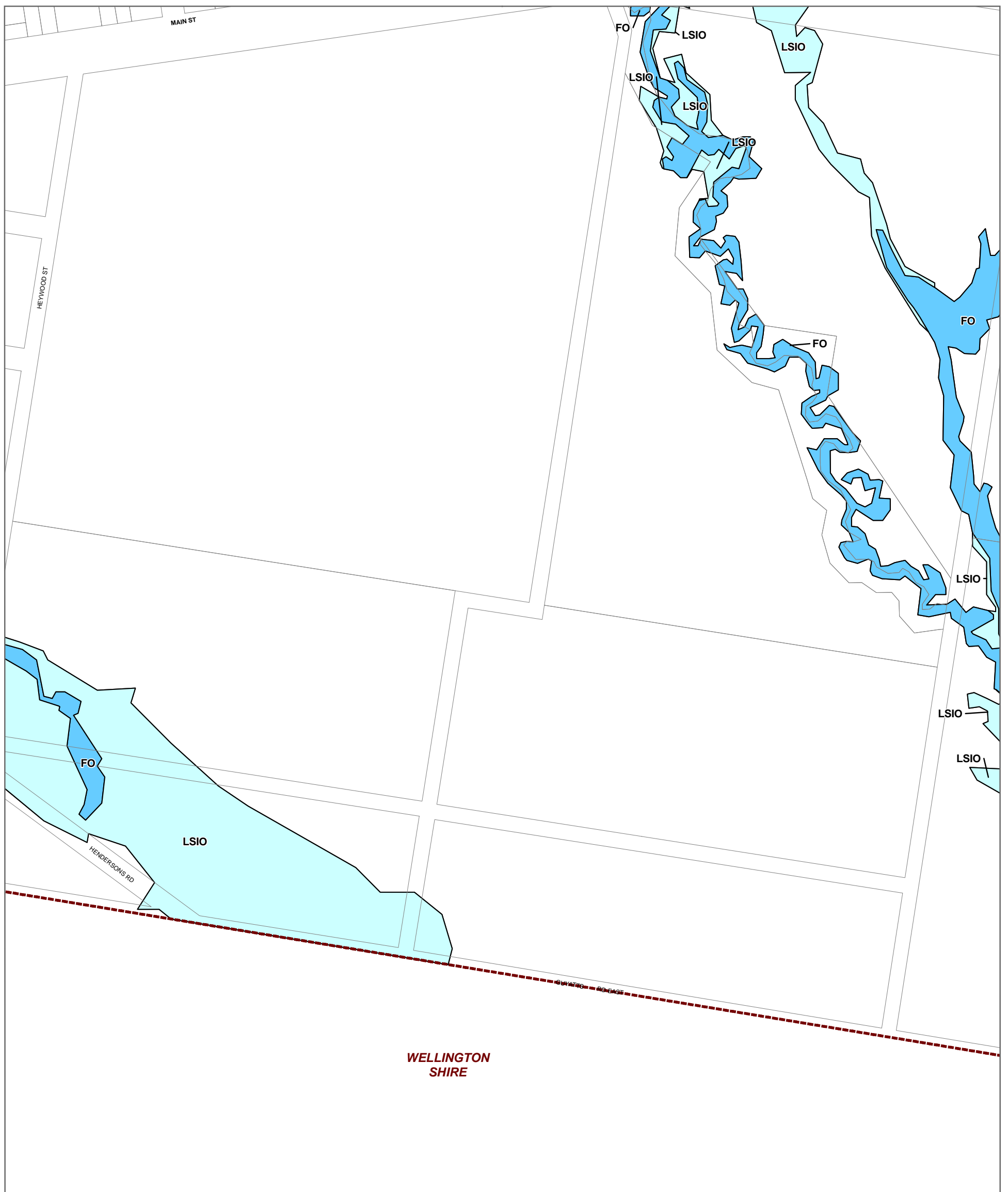
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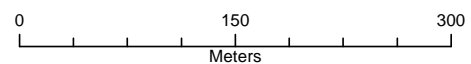
**LEGEND**

- FO - Floodway Overlay
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Municipal Boundary

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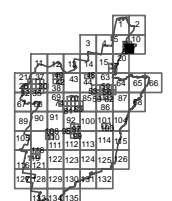
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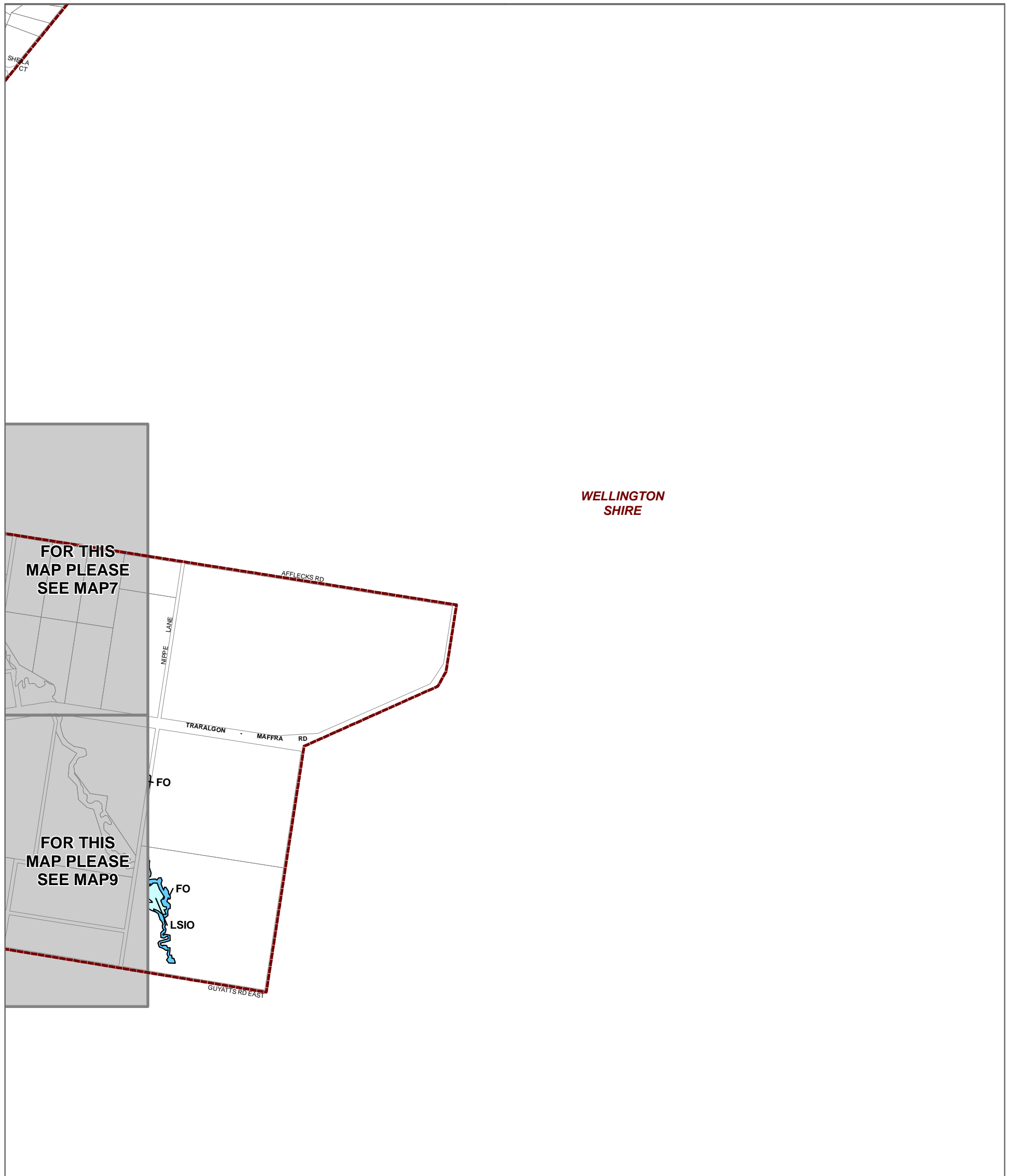
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**MAP No 9LSIO-FO**

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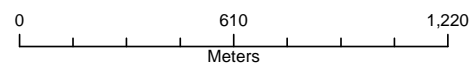
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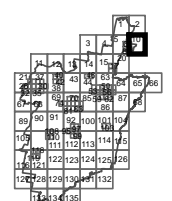
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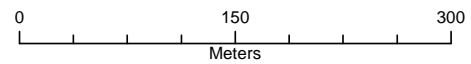
**LEGEND**

- FZ - Farming Zone
- GRZ - General Residential Zone
- NRZ - Neighbourhood Residential Zone
- PCRZ - Public Conservation and Resource Zone
- PUZ2 - Public Use Zone - Education

Municipal Boundary

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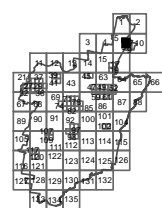
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**ZONES**

**MAP No 6**

ATTACHMENT 2 LATROBE PLANNING SCHEME - LOCAL PROVISION  
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WELLINGTON  
SHIRE



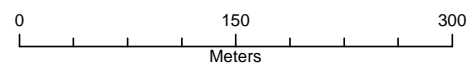
LEGEND

- LDRZ - Low Density Residential Zone
- NRZ - Neighbourhood Residential Zone
- PCRZ - Public Conservation and Resource Zone

Municipal Boundary

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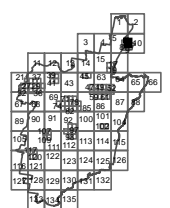
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ZONES

MAP No 7

WELLINGTON SHIRE  
LANTROBE PLANNING SCHEME - LOCAL PROVISION  
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WELLINGTON SHIRE

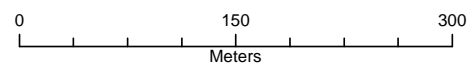
LEGEND

- FZ - Farming Zone
- GRZ - General Residential Zone
- LDRZ - Low Density Residential Zone
- NRZ - Neighbourhood Residential Zone
- PCRZ - Public Conservation and Resource Zone

Municipal Boundary

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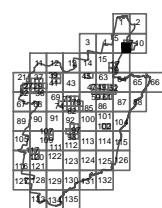
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ZONES

MAP No 8



ATTACHMENT 2  
**TRARALGON PLANNING SCHEME - LOCAL PROVISION  
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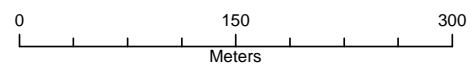


- LEGEND**
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  - NRZ - Neighbourhood Residential Zone
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Municipal Boundary

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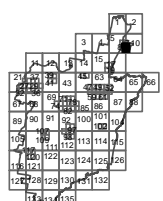
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**ZONES**

**MAP No 9**

ATTACHMENT 4

**Planning  
Panels  
Victoria**

Latrobe Planning Scheme Amendment C126latr –  
Toongabbie Structure Plan  
Latrobe Planning Scheme Amendment C127latr –  
Bushfire and Rural Rezonings

**Interim Panel Report**

*Planning and Environment Act 1987*

**15 December 2022**





## ATTACHMENT 4

**How will this report be used?**

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.  
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

*Planning and Environment Act 1987*

Interim Panel Report pursuant to section 25 of the PE Act

Latrobe Planning Scheme Amendment C126latr – Toongabbie Structure Plan

Latrobe Planning Scheme Amendment C127latr – Bushfire and Rural Rezonings

**15 December 2022**



Lisa Kendal, Chair



Geoffrey Carruthers, Member

## ATTACHMENT 4

Latrobe Planning Scheme Amendments C126latr and C127latr | Interim Panel Report | 15 December 2022

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**Glossary and abbreviations**

Amendment C105latr	Latrobe Planning Scheme Amendment C105latr - Live Work Latrobe
Amendment C126latr	Latrobe Planning Scheme Amendment C126latr – Toongabbie Structure Plan
Amendment C127latr	Latrobe Planning Scheme Amendment C127latr – Bushfire and rural rezonings
BMO	Bushfire Management Overlay
BPA	Bushfire Prone Area
Bushfire Design Guidelines	<i>Design Guidelines: Settlement Planning at the Bushfire Interface</i> (DELWP and CFA, 2020)
Bushfire Risk Map	Municipal Landscape Bushfire Risk Map
CFA	Country Fire Authority
CFA Fire Service Guideline	CFA Guideline <i>FSG LUP 008 – Strategic Land Use Planning – Bushfire</i>
Contamination Report	<i>Potentially Contaminated Land Report</i> (Latrobe City Council, 2020)
Council	Latrobe City Council
DELWP	Department of Environment, Land, Water and Planning
DDO12	Design and Development Overlay – Schedule 12
DoT	Department of Transport
DPO10	Development Plan Overlay – Schedule 10
EAO	Environmental Audit Overlay
EPA	Environment Protection Authority Victoria
Flood Study	<i>Floodplain mapping for Toongabbie township</i> report (West Gippsland Catchment Management Authority, 2016)
FO	Floodway Overlay
FZ1	Farming Zone – Schedule 1
FZ2	Farming Zone – Schedule 2
GRGP	Gippsland Regional Growth Plan
GRZ4	General Residential Zone – Schedule 4
HVP	Hancock Victoria Plantations Pty Ltd
LDRZ	Low Density Residential Zone
LSIO	Land Subject to Inundation Overlay
MBRA	Draft Latrobe City Municipal Bushfire Risk Assessment (Fire Risk Consultants, 2020)
MPS	Municipal Planning Strategy

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NRZ4	Neighbourhood Residential Zone – Schedule 4
PCRZ	Public Conservation and Resource Zone
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Latrobe Planning Scheme
PPN	Planning Practice Note
PPRZ	Public Park and Recreation Zone
PUZ2	Public Use Zone – Schedule 2
RLZ1	Rural Living Zone – Schedule 1
RLZ2	Rural Living Zone – Schedule 2
Rural Living Strategy	draft <i>Latrobe City Rural Living Strategy</i> (Latrobe City Council, 2020)
SUZ6	Special Use Zone – Schedule 6
Toongabbie Background Reports	<i>Toongabbie Structure Plan Background Reports</i> (Latrobe City Council, 2020)
Toongabbie Structure Plan Report	<i>Toongabbie Structure Plan Report</i> (Latrobe City Council, 2020)
Toongabbie TSP	Toongabbie Town Structure Plan
WGCMA	West Gippsland Catchment Management Authority

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## Overview

Amendment summary	
The Amendment	Amendment C127latr
Common name	Bushfire and Rural Rezoning
Brief description	Implement the findings of the <i>Latrobe City Municipal Bushfire Risk Assessment 2020</i> and the <i>Latrobe City Rural Living Strategy 2020</i> , through the application of local policy and overlays and rezoning of land
Subject land	Municipal wide
Planning Authority	Latrobe City Council
Authorisation	30 April 2021
Exhibition	24 June to 6 August 2021
Submissions	46 (six in support, three in support subject to changes and 37 objecting)

Amendment summary	
The Amendment	Amendment C126latr
Common name	Toongabbie Structure Plan
Brief description	Implements the recommendations of the <i>Toongabbie Structure Plan Report, 2020</i> and the <i>Floodplain mapping for Toongabbie township</i> report prepared by the West Gippsland Catchment Management Authority in 2016
Subject land	Toongabbie township and surround land (see Figure 3)
Planning Authority	Latrobe City Council
Authorisation	28 January 2021
Exhibition	24 June to 6 August 2021
Submissions	12 (six in support, five objecting and one withdrawn)

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## Panel process

The Panel	Original appointment 18 July 2022: Lisa Kendal (Chair), Geoffrey Carruthers and Sally Conway Reconstituted Panel 30 August 2022: Lisa Kendal (Chair) and Geoffrey Carruthers
Directions Hearing	29 August 2022
Panel Hearing	11-14 October 2022
Site inspections	10 October 2022 (unaccompanied)
Parties to the Hearing	Latrobe City Council, represented by Miriam Turner and Kristy Crawford of Council and Jess Orsman of Maddocks, called bushfire evidence from Mark Potter of Fire Risk Consultants Country Fire Authority, represented by Kevin Hazell, Consultant Town Planner Delburn Wind Farm Pty Ltd, represented by Peter Marriot of OSMI Australia Geoffrey and Suzanne Somerville, represented by David Somerville Stuart Strachan Tristan Stewart Vic Sabrinskas Hancock Victoria Plantations, represented by John Carey of MinterEllison Submitters 31-45, represented by Christopher Constantine of Millar Merrigan Nick Anderson of NBA Group
Citation	Latrobe PSA C126latr and C127latr [2022] PPV
Date of this report	15 December 2022

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## Executive summary

Latrobe City is a diverse municipality located in the Gippsland region between the Strzelecki Ranges and Baw Baw Plateau, approximately two hours east of Melbourne. It consists of a network of large, district and small towns, extensive areas of native and plantation forest and farmland.

Latrobe City is a high risk bushfire area. Bushfires have been a regular occurrence in the area for many years, some of which have caused major damage to property and loss of life. In the context of climate change, it is expected bushfires will occur more frequently and for longer periods.

Latrobe City Council proposes to amend the Latrobe Planning Scheme (Planning Scheme) to guide appropriate rural residential growth across the municipality, and specifically in Toongabbie, in response to bushfire risk. This is proposed through two concurrent amendments:

- Planning Scheme Amendment C127latr – Bushfire and rural rezonings (Amendment C127latr)
- Planning Scheme Amendment C126latr – Toongabbie Structure Plan (Amendment C126latr).

As Amendment C127latr sets the scene and context for Amendment C126latr, the Panel has considered the matters in that order.

### Amendment C127latr

Planning Scheme Amendment C127latr seek to implement recommendations of the draft *Latrobe City Municipal Bushfire Risk Assessment 2020* (MBRA) and draft *Latrobe City Rural Living Strategy 2020* (Rural Living Strategy) by:

- introducing the Municipal Landscape Bushfire Risk Map in the Municipal Planning Strategy
- introducing new local policy
- rezoning land in accordance with the Rural Living Strategy
- applying overlays to increase bushfire protection.

Of the 46 submissions received, six supported the Amendment, three supported it subject to changes and 37 objected.

The Amendment was opposed by the Country Fire Authority (CFA) who considered the MBRA has understated risk and failed to adequately respond to the requirements of Clauses 13.02 and 71.02-3 of the Planning Scheme, including to prioritise the protection of human life above all other policy considerations. At the core of the CFA's opposition is a serious concern about the methodology.

Council engaged Terramatrix to undertake an independent peer review of the MBRA. Terramatrix also identified significant concerns with the MBRA methodology, and concluded it may be better used to support a risk assessment process required by Clause 13.02-1S rather than be considered a risk assessment in its own right. Council's expert witness Mr Potter (who was also an author of the MBRA) agreed that the MBRA should not be considered or described as a bushfire risk assessment.

The lack of agreement between Council and the CFA is problematic and presents a significant dilemma. Consistent with bushfire planning guidance, the Panel considers it is important for the CFA to support the bushfire risk assessment approach.



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Clause 13.02-1S (Bushfire planning) requires the relative risk of different locations to be assessed and growth directed to lower risk locations. This has not occurred as part of the MBRA or Rural Living Strategy, and therefore they should not be relied upon as a basis for settlement planning or decisions to rezone land.

Further work should be undertaken to the satisfaction of the CFA before Amendment C127latr proceeds, including:

- preparation of a bushfire risk assessment that responds to Clause 13.02-1S (Bushfire planning)
- consequential changes to update the Rural Living Strategy, based on the findings of the bushfire risk assessment
- consequential changes to the zones, overlays and polices proposed by the Amendment based on the findings of the bushfire risk assessment and updated Rural Living Strategy.

The Panel recognises the commitment of Council to enhance guidance relating to bushfire risk in the Planning Scheme. The Panel acknowledges the intent of MBRA, and considers it contains a significant amount of valuable information that provides the foundations for further work.

Given the Panel's finding that further work is required before Amendment C127latr proceeds, it is premature for the Panel to form a view on issues relating to drafting or to determine whether the requested rezonings are appropriate. In view of the CFA's comments on drafting, the Panel strongly encourages Council to consider how the content may be simplified and streamlined to avoid unnecessary complexity.

For the reasons set out in Chapter 3, the Panel considers this to be an interim report pending the completion of the further work recommended by the Panel. A final report will be prepared after that work has been undertaken.

### Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1. Undertake the following further work in consultation with, and to the satisfaction of, the Country Fire Authority prior to progressing Planning Scheme Amendment C127latr:**
  - a) prepare a bushfire risk assessment that responds to Clause 13.02-1S (Bushfire planning)**
  - b) based on the findings of the bushfire risk assessment, make consequential changes to update the *Latrobe City Rural Living Strategy 2020***
  - c) based on the findings of the bushfire risk assessment and updated *Latrobe City Rural Living Strategy*, make consequential changes to Planning Scheme Amendment C127latr, including (as relevant) planning policy, proposed rezonings and overlay controls.**
- 2. Delete the Rural Living Zone – Schedule 1 from 106 Tyers-Walhalla Road, Tyers.**

### Amendment C126latr

Toongabbie is the northern most settlement in the municipality located 17 kilometres north of Traralgon and close to the Great Dividing Range, the Cowwarr Weir and Wellington Shire Council. Toongabbie is a small and relatively compact town providing limited services.

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Amendment C126latr seeks to implement findings of the *Toongabbie Structure Plan Report* (Toongabbie Structure Plan) and *Toongabbie Structure Plan Background Reports and Floodplain mapping for Toongabbie Township* report by:

- introducing new local policy including the Toongabbie Town Structure Plan and Toongabbie Housing Framework Plan
- rezoning land for residential and public purposes
- amending the existing Land Subject to Inundation Overlay and introducing the Floodway Overlay to include areas identified as subject to flooding.

Of the 12 submissions received, six supported Amendment C126latr, five objected and one was withdrawn.

Toongabbie is located in a high bushfire risk area. The CFA raised the critical issue of whether the Toongabbie Structure Plan Report adequately considers bushfire risk and policy relating to bushfire planning. It considers the Toongabbie Structure Plan Report should not be relied on as it relates to growth areas. Other issues raised related to rezonings and contaminated land. No issues were raised regarding strategic justification of the Amendment.

The Toongabbie Structure Plan Report and *Toongabbie Bushfire Risk Assessment* (included in the *Toongabbie Structure Plan Background Reports*) rely on the MBRA. As discussed above, the Panel is not satisfied the MBRA is fit for purpose to inform planning decisions and settlement planning, including designation of land for rural living purposes. Accordingly, the Panel is concerned the *Toongabbie Bushfire Risk Assessment* is not based on an adequate assessment of bushfire risk and has not sufficiently assessed lower risk locations.

Consistent with its findings about the Rural Living Strategy, the Panel considers the bushfire risk assessment that has informed designation of growth areas in Toongabbie does not satisfy the requirements of Clause 13.02-1S and Clause 71.02-3, and has not given adequate weight to policy considerations which prioritise protection of life.

For Amendment C126latr to proceed, nominated growth areas should be designated 'potential growth areas subject to further bushfire risk assessment'. The further work recommended for Amendment C127latr should be completed before the Toongabbie growth areas are confirmed and progressed as part of a separate planning scheme amendment process.

The Panel identified inconsistencies between the Toongabbie Structure Plan Report and proposed application of the Low Density Residential Zone to land subject to inundation and flooding which should be resolved.

### Recommendations

Based on the reasons set out in this Report, the Panel recommends that Planning Scheme Amendment C126latr be adopted as exhibited subject to the following:

#### 3. Make the following changes to Amendment C126latr:

##### a) amend Clause 11.01-1L (Toongabbie) to:

- amend the strategies and Toongabbie Town Structure Plan map to designate 'First stage future rural living' and 'Second stage future rural living' areas as 'Potential future growth areas subject to bushfire risk assessment'
- amend the Toongabbie Town Structure Plan map to remove the Low Density Residential Zone designation from:

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**9-17 Hower Street, Toongabbie**

**19-29 Hower Street**

**land in King Street**

- b) amend Clause 16.01-1L (Housing supply) to:**
- **update the Housing Framework Plan map to correct the housing change designation to land no longer proposed for rezoning to Low Density Residential Zone**
- c) delete the Low Density Residential Zone from:**
- 9-17 Hower Street, Toongabbie**  
**19-29 Hower Street**  
**land in King Street.**

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# PART A INTRODUCTION AND PLANNING CONTEXT

## ATTACHMENT 4

Latrobe Planning Scheme Amendments C126latr and C127latr | Interim Panel Report | 15 December 2022

# 1 Introduction and context

Latrobe City Council (Council) is seeking to amend the Latrobe Planning Scheme (Planning Scheme) to introduce enhanced bushfire provisions, update policy and rezone land to guide appropriate rural residential growth across the municipality.

Planning Scheme Amendment C127latr (Amendment C127latr) is a municipal wide amendment which seeks to implement the recommendations of the draft *Latrobe City Municipal Bushfire Risk Assessment 2020* (MBRA) and draft *Latrobe City Rural Living Strategy 2020* (Rural Living Strategy) into the Planning Scheme.

Planning Scheme Amendment C126latr (Amendment C126latr) relates to the small rural township of Toongabbie and seeks to implement the findings of the *Toongabbie Structure Plan Report* (Council, 2020) (Toongabbie Structure Plan Report) and *Toongabbie Structure Plan Background Reports* (Council, 2020) (Toongabbie Background Reports). It also implements recommendations of the *Floodplain mapping for Toongabbie Township* report (Flood Study) prepared in 2016 by the West Gippsland Catchment Management Authority (WGCMA).

Council is running the Amendments concurrently. As Amendment C127latr provides the bushfire risk and settlement planning context for Amendment C126latr, the Panel has considered the Amendments in this order.

Figure 1 shows the location of Latrobe City and Toongabbie.

Figure 1 Location of Latrobe City (outlined in white) and the small town of Toongabbie (marked in orange)



Source: Toongabbie Township Plan, page 11

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## 1.1 Amendment C127latr description

Amendment C127latr is a municipal wide amendment which seeks to implement the introduce new local policy, rezone land to allow for rural living and apply overlays to increase bushfire protection.

Specifically, Amendment C127latr proposes to change the Municipal Planning Strategy (MPS) and local policy to:

- amend Clause 02.03 (Strategic directions) to include strategies relevant to bushfire risk
- amend Clause 02.04 (Strategic framework plans) to introduce the Municipal Landscape Bushfire Risk Map (Bushfire Risk Map) (see Figure 2)
- insert a new Clause 13.02-1L (Municipal landscape bushfire risk areas)
- amend Clause 11.01-1L (Tyers) to update the Tyers Town Structure Plan to remove an area from 'Future rural living'
- amend the following local policy provisions to include strategies relevant to bushfire risk:
  - Clause 12.03-1L (Rivers and Waterways)
  - Clause 14.01-1L (Subdivision in Farming Zone Schedule 1)
  - Clause 14.01-3L (Forestry and Timber Production)
  - Clause 15.01-3L (Subdivision Design)
  - Clause 17.04-1L (Major Attractions and Commercial Tourism in Latrobe)
  - Clause 17.04-1L (Facilitating Rural Tourism)
- amend Clause 16.01-3L (Rural Residential Development) to support further analysis of areas identified for future rural living in the Rural Framework Plan at Clause 02.04-5.

Amendment C127latr proposes to rezone:

- land in Boolarra Precinct C, Boolarra Precinct E, Moe South Precinct A, Traralgon South Precinct E, Traralgon South Precinct F, Tyers Precinct D, Yinnar Precinct B and privately owned land in Koornalla Precinct A from Farming Zone 1 (FZ1) to Farming Zone – Schedule 2 (FZ2)
- publicly owned land in Koornalla Precinct A that does not abut Traralgon Creek from FZ1 to Public Park and Recreation Zone (PPRZ)
- publicly owned land in Koornalla Precinct A that abuts Traralgon Creek from FZ1 to Public Conservation and Resource Zone (PCRZ)
- Hazelwood North Precinct F, Toongabbie Precinct C, Toongabbie Precinct D, a portion of Toongabbie Precinct H and privately owned land in Flynn Precinct A from FZ1 to Rural Living Zone – Schedule 1 (RLZ1)
- 106 Tyers-Walhalla Road, Tyers from Special Use Zone Schedule 6 (SUZ6) to RLZ1
- a portion of Toongabbie Precinct H from FZ1 to Rural Living Zone – Schedule 2 (RLZ2)
- publicly owned land in Flynn Precinct A from FZ1 to PPRZ
- various parcels of land to fix anomalies.

It proposes to introduce and apply the following overlay controls:

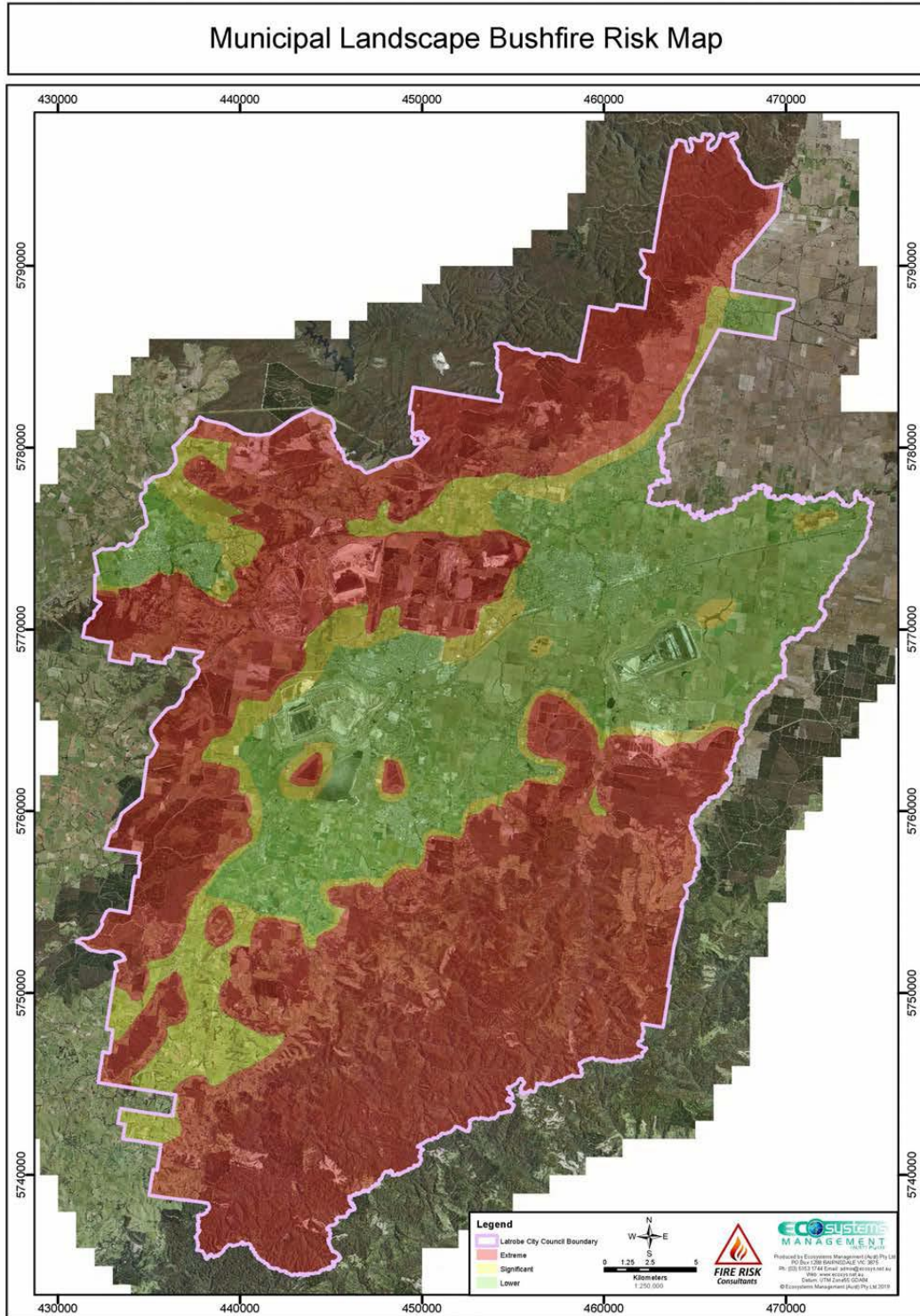
- Design and Development Overlay – Schedule 12 (DDO12) relating to development of residential land at significant bushfire risk and apply it to Boolarra Precinct F, Boolarra Precinct G and Toongabbie Precinct H
- Development Plan Overlay – Schedule 10 (DPO10) relating to future planning of precincts with consideration to the bushfire risk and apply it to new greenfield rural living precincts C and D in Toongabbie.



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Figure 2 Bushfire Risk Map



Source: MBRA

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Amendment C127latr seeks to make a range of changes to the operational provisions of the Planning Scheme, including to:

- update the Schedule to Clause 72.03 (What does this planning scheme consist of?)
- amend the Schedule to Clause 72.08 (Background documents) to include the MBRA, the Rural Living Strategy and the *Design Guidelines: Settlement Planning at the Bushfire Interface 2020* (Bushfire Design Guidelines) prepared by Department of Environment, Land, Water and Planning (DELWP) and Country Fire Authority (CFA)
- amend the Schedule to Clause 74.01 (Application of Zones, Overlays and Provisions)
- amend the Schedule to Clause 74.02 (Further Strategic Work).

## 1.2 Amendment C126latr description

Amendment C126latr applies to land in and around Toongabbie (see Figure 3) and seeks to amend local policy and introduce background documents. Specifically, it proposes to:

- insert a new Clause 11.01-1L (Toongabbie), including key strategies, policy documents and the Toongabbie Town Structure Plan (Toongabbie TSP) (see Figure 4)
- amend Clause 12.01-1L (Protection of biodiversity) to include key strategies and policy guidelines
- amend Clause 16.01-1L (Housing supply) to include the amended Toongabbie Housing Framework Plan
- amend Clause 72.08 (Operational provisions) to include the Toongabbie Structure Plan Report and Toongabbie Background Reports as background documents.

Figure 3 Toongabbie township boundary shown in blue



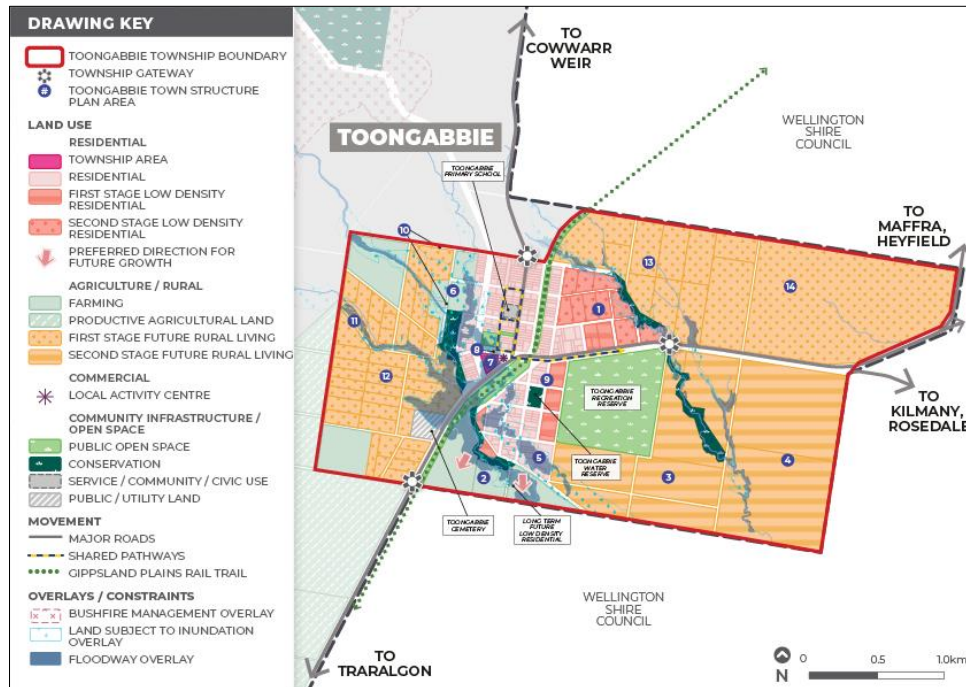
Source: Exhibited C126latr Explanatory Report



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Figure 4 Toongabbie Town Structure Plan



Source: Exhibited Clause 11.01-1L (Toongabbie)

Amendment C126latr proposes to rezone land in and around Toongabbie, including:

- extensive areas of existing residential land from Neighbourhood Residential Zone – Schedule 4 (NRZ4) to a new Neighbourhood Residential Zone – Schedule 5 (Toongabbie Residential Area) (NRZ5)
- land at 52 Ries Street, 49-57 Heywood Street, 21-33 Heywood Street, 77-81 Main Street from NRZ4 to Low Density Residential Zone (LDRZ)
- land in King Street from split zoned FZ1 and NRZ4 to LDRZ
- 9-17 Hower Street and 19-29 Hower Street from FZ1 to LDRZ
- 15-25 Victoria Street from split zoned Public Use Zone – Schedule 2 (PUZ2) and NRZ4 to PUZ2
- 15-17 Cowen Street, 2-8 Victoria Street, 11 Victoria Street, 12 Victoria Street and 1-5 Goodwin Street from NRZ4 to General Residential Zone – Schedule 4 (GRZ4)
- parts of Main Street, Traralgon-Maffra Road, Russells Road, Humphrey Road and Hower Street from FZ1 to PCRZ.

Amendment C126latr also amends the Land Subject to Inundation Overlay (LSIO) and introduces the Floodway Overlay (FO) to include areas identified within the Flood Study.

### 1.3 Strategic studies and background documents

#### (i) Municipal Bushfire Risk Assessment

The MBRA was prepared as a multi-purpose document to assess bushfire risk and assist with long term strategic land use planning across the municipality. The MBRA underpins the proposed Planning Scheme changes relating to bushfire through both Amendments.

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The MBRA seeks to inform land use outcomes in combination with fuel management prioritisation. It has three key objectives:

- prepare a Municipal Bushfire Risk Profile Report to inform future land use planning and decision making
- undertake detailed assessments of bushfire risk for selected precincts
- translate necessary bushfire risk considerations into recommendations.

Council explained it had developed the MBRA following extensive stakeholder engagement with government agencies, including the CFA, and key landowners and community associations across the small town and rural communities in high risk landscapes.

The MBRA contains:

- a detailed assessment of 13 small towns and rural localities surrounding existing settlements that may have the ability to be rezoned for rural living purposes
- a municipal wide bushfire risk assessment to identify locations with higher and lower bushfire risk to inform settlement planning.

Bushfire risk is assessed with consideration of 13 risk indicators:

- overall fuel hazard
- proximity to dwellings
- ignition history
- Phoenix impact risk
- political/social
- access/egress
- demographics/vulnerability
- bushfire attack potential
- topographical influence
- landscape risk assessment
- Victorian Fire Risk Register
- Bushfire Management Overlay mapping
- Bushfire Prone Area mapping.

The risk level of each small town/locality was assessed by scoring each of the risk indicators, and determining an aggregate score to assess the overall risk level of each precinct. The findings are extrapolated into the municipal wide Bushfire Risk Map, proposed for inclusion in the Planning Scheme (see Figure 2). The map shows the municipality is divided into three risk levels; extreme (red), significant (yellow) and lower (green) (see Figure 5).

The MBRA contains 24 recommendations to Council to support community safety, preparedness and resilience, eleven of which relate to land use planning. It recommends the Bushfire Management Overlay (BMO) be applied to all locations identified as extreme (red) risk level, and fire management and planning treatments for the 13 localities. The report explains when the municipal wide fire management and planning treatments are applied together, it is expected communities will be safer.

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Figure 5 Fire risk levels

Risk level	Description
Extreme	<ul style="list-style-type: none"> <li>Pose an extreme risk to lifesafety</li> <li>Limited access and egress options available.</li> <li>Vegetation close to the site.</li> <li>Significant ember attack would impact the area.</li> </ul>
Significant	<ul style="list-style-type: none"> <li>Pose a significant risk to lifesafety</li> <li>Mitigation options are available.</li> <li>Development will likely reduce the risk to adjoining land and on the site.</li> <li>Access and egress options</li> </ul>
Lower	<ul style="list-style-type: none"> <li>Pose a lower risk to life safety</li> <li>Little Vegetation is present.</li> <li>Excellent access and egress is available.</li> </ul>

Source: MBRA, page 40

**(ii) Rural Living Strategy**

The Rural Living Strategy provides a preliminary assessment of locations considered suitable for rezoning rural land to RLZ and FZ2, including corrections rezoning opportunities.

It includes 13 detailed precinct assessments and specific rezoning recommendations informed by:

- the *Latrobe City Rural Land Use Strategy 2019*
- Latrobe Planning Scheme Amendment C105latr - Live Work Latrobe (Amendment C105latr) submissions and panel process
- policy and directions in the Planning Scheme, particularly the small town structure plans
- relevant planning practice notes
- bushfire risk assessment in the MBRA
- rural living land supply and demand.

The land supply and demand forecasts (based on 2019 data) indicate under a high growth scenario, 7,322 additional dwellings will be needed in Latrobe by 2036 of which 10 per cent is estimated to be demand for rural living. Accounting for land constraints that may prevent some existing RLZ lots from being developed, it is estimated there is a shortfall of 102 lots to meet the forecast 15 year demand. Council noted it was likely the COVID-19 pandemic had further increased demand for rural living lots.

In summary, the Rural Living Strategy recommends the following Planning Scheme changes:

- application of the BMO, consistent with the MBRA
- rezoning of rural land to FZ2 and RLZ, including rezoning to 'fix anomalies'
- applying a DDO to some precincts zoned RLZ
- applying a DPO to new greenfield rural living precincts
- corrections rezoning of public land to PPRZ and PCRZ
- introducing a new local bushfire policy at Clause 13.02-1L that incorporates the Bushfire Risk Map
- introducing the MBRA and Rural Living Strategy as background documents.

**(iii) Toongabbie Structure Plan Report and Toongabbie Background Reports**

The Toongabbie Structure Plan Report seeks to inform strategic planning decision making to accommodate growth and development in Toongabbie for the next 15 to 20 years. It builds on the strategic work undertaken by Council for *Live Work Latrobe* implemented through Amendment

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C105latr. It was developed through preparation of various studies which collectively form the Toongabbie Background Reports, including:

- Consultation Report
- Context Report
- Infrastructure and Servicing Assessment
- Flora and Fauna Assessment
- Toongabbie Bushfire Risk Assessment.

The Toongabbie Structure Plan Report includes the Toongabbie TSP (see Figure 4) and strategic directions to:

- maintain the historic, cultural and historic values of the town
- retain the quiet, rural atmosphere
- improve infrastructure
- maintain key views and vistas
- provide for open space and community infrastructure
- enhance the town centre core.

It includes a range of actions for implementation, including Planning Scheme recommendations to introduce new local policy including the Toongabbie TSP, and to rezone residential land to LDRZ, NRZ5 and GRZ4 and rural residential land to RLZ.

#### (iv) Toongabbie Flood Study

The Flood Study is intended to be used for statutory and strategic planning processes and emergency management and determines the nature and extent of flooding in Toongabbie through modelling of design flood flows, levels and velocities.

Amendment C126latr proposes to update the extent of the LSIO and introduce the FO. The Toongabbie TSP has relied on this information in identifying areas for growth and development. Urban development on flood-prone land is discouraged except when agreed with the WGCMA.

#### (v) Potentially Contaminated Land Report

The *Potentially Contaminated Land Report* (Contamination Report) prepared by Council in 2020 includes the overall objective to identify potentially contaminated land in Toongabbie. It informed Amendment C126latr but is not included Toongabbie Background Reports. The Contamination Report was prepared in accordance with Planning Practice Note 30 (PPN30) and Ministerial Directions 1 and 19 and in consultation with the Environment Protection Authority Victoria (EPA).

Amendment C126latr proposes to rezone two properties from FZ to a zone allowing sensitive use, both of which were assessed as low contamination potential. The only site identified as potentially contaminated is the Toongabbie General Store at 43 High Street, Toongabbie. This site is zoned Township Zone, which does allow for sensitive uses, however the land is not proposed for rezoning through the Amendment.

## 1.4 Background and chronology

### (i) Chronology

Council provided a detailed chronology of Amendment C127latr and C126latr in its Part A submissions, which the Panel has summarised in Tables 1 and 2 respectively.

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**Table 1** C127latr chronology of events

Date	Event
September 2018	Rural rezonings proposed through Amendment C105latr placed on hold due to Amendment VC140
April 2019	Council commissioned the MBRA
6 May 2019	Council resolved to submit Amendment C105latr to Minister for Planning for approval, with the component relating to rural land rezoning removed while Council prepared the MBRA
10 September 2019	Preliminary engagement on the MBRA methodology and preliminary recommendations to 12 stakeholders, including the CFA
April 2020	Draft MBRA and Rural Living Strategy completed
May – July 2020	Engagement with external stakeholders, other Council teams and DELWP on the draft MBRA and Rural Living Strategy
7 September 2020	Council resolved to seek authorisation to prepare Amendment C127latr
October 2020 – March 2021	Ongoing engagement with CFA and lodgement of request for authorisation of Amendment C127latr
30 April 2021	Council received authorised to prepare the Amendment, with conditions
24 June to 6 August 2021	Amendment C127latr was exhibited alongside Amendment C126latr
August 2021 – July 2022	Consideration of submissions, and continued post exhibition engagement with submitters to resolve issues including CFA and EPA
4 July 2022	Council resolved to request a Panel to consider submissions
11 July 2022	Panel requested
11-14 October 2022	Public Hearing

**Table 2** C126latr chronology of events

Date	Event
2019-2020	Stakeholder engagement was undertaken, including a survey from 25 March – 5 April 2019 and workshops from 12 September – 8 October 2019. Toongabbie Background Reports were completed
6 July 2020	Council resolved to endorse draft Toongabbie Structure Plan Report and Background Report for public exhibition and to seek authorisation to prepare an amendment. Exhibition was delayed pending gazettal of Amendment C122latr (Planning Policy Framework Translation) and authorisation of Amendment C127latr
28 January 2021	Council received authorisation to prepare an amendment, with conditions
28 May 2021	Amendment C122latr was gazetted
24 June to 6 August 2021	Amendment C127latr was exhibited alongside Amendment C126latr
August 2021 – July 2022	Consideration of submissions, including those received for C127latr
4 July 2022	Council resolved to request a Panel to consider submissions
11 July 2022	Panel requested

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Date	Event
11-14 October 2022	Public Hearing

**(ii) Authorisation of Amendment C127latr**

The authorisation of Amendment C127latr included conditions relating to:

- removing the proposed application of the BMO and the BMO – Schedule 2
- amending the suite of local policy ordinance consistent with DELWP feedback
- reviewing the DDO12 and DPO10, including removal of the reference to referral of all applications to the relevant fire authority in the DDO12, and allowing DELWP officers further review before exhibition
- removing changes to Clause 66.04
- the CFA being notified during exhibition of the Amendment.

Regarding removal of the BMO and Schedule 2, the letter stated:

Regarding Conditions 1 and 2, I note that officers of the Department of Environment, Land, Water and Planning advised council officers via email on 13 October 2020 that DELWP would not support the proposal to introduce additional Bushfire Management Overlay areas. This advice was given on the basis that the risk-based methodology used to inform the proposal is inconsistent with DELWP's methodology, which is based on an assessment of existing hazards.

**1.5 Procedural issues****(i) CFA representation**

Before the Directions Hearing, the Panel received correspondence from the CFA advising it intended to engage bushfire and planning consultant Mr Hazell to represent it as an advocate at the Hearing. The CFA noted Mr Hazell had previously worked for Council in preparing background work for the Toongabbie Structure Plan Report. CFA advised it did not believe this created a conflict of interest as Council had not relied on this work, and due to the amount of time that had passed since the work had been completed. The Panel provided parties an opportunity to comment on this matter, and no concerns were raised.

**(ii) Joint Statement**

The Panel issued a direction for Council and the CFA to meet and prepare a Joint Statement before the Hearing that sets out the issues in agreement and issues in dispute (as relevant to both Amendments), relating to:

- accuracy and recommendations of the MBRA
- the Amendments, including proposed policy, rezonings and overlay provisions.

The Panel issued a direction for Council to include in its Part B submission:

... a detailed response to submissions and evidence, including any unresolved issues raised in submissions by the Country Fire Authority/identified in the Joint Statement between Council and the Country Fire Authority.

At the Hearing, the Panel asked the CFA to provide a detailed position on each unresolved issue during its submission to the Panel.

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**(iii) Millar Merrigan submissions**

Millar Merrigan, representing submitters 31 – 45, advised it would table documents relating to a separate 96A combined permit and planning scheme amendment application for development of land at Clarkes Road, Hazelwood North, by way of background.

To ensure the Panel and parties would have sufficient understanding of the issues to be raised by Millar Merrigan, the Panel directed Council to provide a summary of the 96A application, a chronology of events and summary of key issues as relevant to C127latr. This information was provided through Council's Part A Submission for Amendment C127latr.

**(iv) Without prejudice drafting session and further material**

A without prejudice drafting session was held on the final day of the Hearing. The Panel agreed to accept further written material from Dr Strachan (Submitter 15) documenting his suggested changes to Amendment C127latr, as discussed during the drafting session. In closing, the Panel issued directions for distribution of this material and providing time for Council to respond.

Council considered some of this material to be new content, and sought clarification from the Panel on whether it would accept the material circulated by Dr Strachan. The Panel determined to accept the further material on the basis that it provided written documentation of Dr Strachan's comments on the Amendment documents, and would explain and provide context to his suggested changes. The Panel invited Council to comment on what it considered to be new material in its reply submissions. Council provided final comments on the material on 18 October 2022.

**1.6 Summary of issues raised in submissions****(i) Amendment C127latr**

Council advised that of the 46 submissions received, six supported Amendment C127latr, three supported it subject to changes and 37 objected.

DELWP (Gippsland Region) and WGCMA did not object to the Amendment. The Department of Transport (DoT) did not object to the Amendment but made requests for particular items relating to transport to be included in the requirements for a development plan under DPO10.

Threshold issues raised by the CFA and a number of submitters are whether:

- the underlying strategic work, specifically the MBRA, was 'fit for purpose' to inform changes to the Planning Scheme
- the Rural Living Strategy is appropriate to guide rural rezonings, given its reliance on the MBRA.

Other key issues are whether:

- the MBRA, Bushfire Risk Map and Rural Living Strategy should be included as background documents in the Planning Scheme
- bushfire should be the primary consideration for rezonings, and whether the nominated level of bushfire risk in the MBRA is accurate and appropriate
- specific requests for rezoning rural land are appropriate
- fragmentation of farmland has been adequately considered
- 'corrections' rezonings are strategically justified



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- proposed local policy relating to managing bushfire risk in timber coups is appropriate.

The Panel has not addressed issues relating to approval of Delburn Wind Farm as this is subject to a separate approvals process.

**(ii) Amendment C126latr**

Council advised that of the 12 submissions received, six supported Amendment C126latr, five objected and one was withdrawn.

DELWP and DoT made supportive submissions with clarification sought on the protection of waterways and green corridors and high value habitats in roadside verges respectively.

A critical issue raised by the CFA was whether bushfire hazard and risk has been adequately assessed in accordance with planning policy, and designated growth areas are appropriate with regard to bushfire risk.

Other key issues are whether:

- the Toongabbie Structure Plan Report and Toongabbie Background Reports are appropriate to inform changes to the Planning Scheme, and should be included as background documents
- the land rezoning adequately considers flooding
- specific requests for rezoning rural land are appropriate.

EPA submitted the Environmental Audit Overlay (EAO) should be applied to 43 High Street, Toongabbie (the Toongabbie General Store).

**1.7 The Panel's approach**

The Panel has assessed the Amendments against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendments, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and has had to be selective in referring to the more relevant or determinative material in this Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in this Report.

As the MBRA and Rural Living Strategy proposed for introduction through Amendment C127latr provide the bushfire risk and settlement planning context for Amendment C126latr, the Panel has considered the Amendments in this order in this Report.

The Report is structured under the following headings:

- Part A: Introduction and planning context
- Part B: Amendment C127latr
  - Threshold issues and strategic justification
  - Hancock Victoria Plantations
  - Rural rezonings
- Part C: Amendment C126latr
  - Toongabbie growth areas and bushfire risk



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- Other issues.

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## 2 Planning context

Table 3 below identifies planning context relevant to the Amendments. Appendix A provides further details regarding relevant provisions and policies.

**Table 3** Planning context

	Relevant references
<b>Victorian planning objectives</b>	Section 4 of the <i>Planning and Environment Act 1987</i> (PE Act) including: <ul style="list-style-type: none"> <li>- providing for the fair, orderly, economic and sustainable use, and development of land</li> <li>- protecting resources and maintain ecological processes</li> <li>- securing a pleasant, efficient and safe working, living and recreational environment</li> <li>- facilitating development in accordance with the objectives of planning</li> <li>- balancing the present and future interests of all Victorians</li> </ul>
<b>Municipal planning strategy</b>	Clause 02.03-1 (Settlement) Clause 02.03-2 (Environmental and landscape values) Clause 02.03-3 (Environmental risks and amenity) Clause 02.03-4 (Natural resource management) Clause 02.03-5 (Built environment and heritage) Clause 02.03-6 (Housing) Clause 02.03-7 (Economic development) Clause 02.03-9 (Infrastructure)
<b>Planning policies</b>	Clause 11 (Settlement) Clause 12 (Environmental and landscape values) Clause 13 (Environmental risks and amenity), in particular Clause 13.02-1S (Bushfire planning) and Clause 13.02-1L (Bushfire prone areas) Clause 14 (Natural resource management) Clause 15 (Built environment and heritage) Clause 16 (Housing) Clause 17 (Economic development) Clause 18 (Transport) Clause 19 (Infrastructure)
<b>Other planning strategies and policies</b>	Gippsland Regional Growth Plan
<b>Planning scheme provisions</b>	Clause 32.09 (Neighbourhood Residential Zone) Clause 32.05 (Township Zone) Clause 35.03 (Rural Living Zone) Clause 35.07 (Farming Zone) Clause 43.02 (Design and Development Overlay) Clause 43.04 (Development Plan Overlay)

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	<p>Clause 44.03 (Floodway Overlay)</p> <p>Clause 44.30 (Land Subject to Inundation Overlay)</p> <p>Clause 53.02 (Bushfire Planning)</p> <p>Clause 71.02-3 (Integrated decision making)</p>
<b>Planning scheme amendments</b>	<p>Amendment VC140: Bushfire State Planning Policy</p> <p>Amendment VC203: Update to Victoria Planning Provisions to align with the <i>Environment Protection Act 2017</i></p> <p>Amendment C105latr: Live Work Latrobe</p> <p>Amendment C122latr: Planning Policy Framework Translation and Planning Scheme Review</p> <p>Amendment C131latr: Flood Mapping Update (in progress)</p>
<b>Ministerial directions</b>	<p>Ministerial Direction 1: Potentially Contaminated Land</p> <p>Ministerial Direction 11: Strategic Assessment of Amendments</p> <p>Ministerial Direction 19: Preparation and content of amendments that may significantly impact the environment, amenity and human health</p>
<b>Planning practice notes and other guides</b>	<p>The following Planning Practice Notes (PPN) apply:</p> <ul style="list-style-type: none"> <li>- PPN02: Public Land Zones</li> <li>- PPN07: Vegetation Protection in Urban Areas</li> <li>- PPN10: Writing Schedules</li> <li>- PPN12: Applying Flood Provisions in Planning Schemes</li> <li>- PPN28: Using the Neighbourhood Character Provisions in Planning</li> <li>- PPN30: Potentially contaminated land</li> <li>- PPN37: Rural Residential Development</li> <li>- PPN42: Applying the Rural Zones</li> <li>- PPN43: Understanding Neighbourhood Character</li> <li>- PPN46: Strategic assessment guidelines, 2018</li> <li>- PPN64: Local Planning for Bushfire Protection</li> <li>- PPN90: Planning for Housing</li> <li>- PPN91: Using the Residential Zones</li> </ul> <p>Other relevant guidance includes:</p> <ul style="list-style-type: none"> <li>- Planning Advisory Note 68: Bushfire State Planning Policy</li> <li>- Design Guidelines: Settlement Planning at the Bushfire Interface, 2019</li> <li>- Planning Permit Applications in the Bushfire Management Overlay: Technical Guide (DELWP, 2017) (BMO Technical Guide)</li> </ul>

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## PART B AMENDMENT C127LATR

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## 3 Threshold issues and strategic justification

### 3.1 Background

Council explained the MBRA and Rural Living Strategy were prepared to inform Amendment C127latr. The Latrobe *Planning Scheme Review* 2014 identified the need for strategic planning to better reflect the new requirements of the Victorian Bushfires Royal Commission 2009 and to identify where development is not appropriate. Amendment C127latr proposes new rural living in locations with a lower bushfire risk profile as informed by the Bushfire Risk Map.

Two key Planning Scheme provisions guide bushfire planning:

- Clause 13.02-1S (Bushfire Planning) includes an objective to strengthen the resilience of communities to bushfire through risk-based planning that prioritises the protection of human life. Strategies relate to:
  - protection of human life
  - bushfire hazard identification and assessment
  - settlement planning
  - areas of biodiversity conservation value
  - use and development control in a Bushfire Prone Area (BPA).
- Clause 71.02-3 (Integrated decision making) requires integrated decision making to address aspects of economic, environmental and social wellbeing affected by land use and development. Within this context, the clause requires planning authorities to balance conflicting objectives in favour of net community benefit and sustainable development, however in bushfire affected areas the clause requires the protection of human life over all other policy considerations.

Council considered Amendment C127latr was consistent with and directly responded to Clause 13.02-1S (Bushfire planning), as it seeks to:

- provide an adequate supply of land for rural living housing to meet the forecast needs of the community for the next 15 years and with consideration of PPN37
- consider environmental values and avoid negative environmental impacts as a result of land rezoning
- rezone land with appropriate consideration of environmental risk, specifically bushfire and priority for protection of human life
- protect agricultural land, and facilitation of rural tourism in appropriate locations
- protect cultural heritage
- ensure appropriate provision and sequencing of infrastructure and services.

### 3.2 Municipal Bushfire Risk Assessment and Bushfire Risk Map

#### (i) The issues

The issues are whether the:

- MBRA is fit for purpose for Planning Scheme decision making
- MBRA should be included in the Planning Scheme as a background document
- Bushfire Risk Map should be included in the Planning Scheme.

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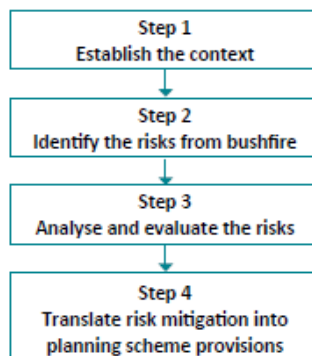
**(ii) Evidence and submissions****Council**

Council submitted the MBRA provided a sound assessment of bushfire risk at a municipal wide and township scale, and represented the most comprehensive view of bushfire risk and hazard across the municipality. The MBRA was prepared as a multi-purpose, multi-disciplinary document to be used for bushfire planning and management across all the functions of Council. It was intended to inform long term strategic land use planning in combination with fuel management prioritisation and decision making. Council considered it appropriate for the MBRA to be introduced to the Planning Scheme as a background document.

Council submitted the MBRA responded to Clause 13.02-1S, with its purpose to provide a picture of the municipality's landscape bushfire risk that would assist land use planning decisions. The MBRA has been prepared with PPN64 and the associated four step approach as a central guide for the project's methodology and objectives (see Figure 6). Consistent with PPN64, the MBRA sought to provide a spatial representation of municipal-wide bushfire risk and to apply relevant local bushfire policy.

Figure 6 PPN64 Four step approach to considering bushfire

Four-step approach to considering bushfire



Council explained the MBRA was prepared in consultation with a wide range of key stakeholders, including community, agency, and government stakeholders, including the CFA and the Municipal Fire Management Planning Committee. Council also consulted with communities in identified high risk locations. Council provided extensive details of its engagement process.

Council provided an overview of the purpose and methodology used to compile the Bushfire Risk Map. It was prepared with consideration of CFA Guideline *FSG LUP 008 – Strategic Land Use Planning – Bushfire* (CFA Fire Service Guideline), and amongst other things, it intends to identify areas of the municipality “*where development should be avoided, where development can proceed following in-depth analysis of bushfire risk and areas where development can proceed with no or little restrictions*”.

The three risk levels on the Bushfire Risk Map are specified in the policies included in Amendment C127latr, generally directing growth towards the green areas, and only allowing for growth in higher risk areas if a site specific assessment demonstrates the risk is acceptable or can be managed to an acceptable level.

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Council noted the Bushfire Risk Map showed an increase in the bushfire risk profile when compared to previous information available on bushfire risk in the municipality.

Council was of the view that the MBRA, Bushfire Risk Map, and the precinct scale bushfire risk assessments in combination respond to the requirements of Clause 13.02, Planning Practice Notes and relevant guidelines.

Council emphasised there were no existing precedents for landscape-scale bushfire risk assessments elsewhere, and *“in the absence of an established method to follow, Council made extensive efforts to collaborate and consult with the CFA and other government agencies to draw on their bushfire expertise in preparing the MBRA”*.

Council considered the CFA had confused the role of the MBRA and misunderstood that planning decisions need to be made in the context of residential growth and other policy considerations.

Council emphasised that while the CFA was not comfortable with the MBRA, it had generally agreed that the Bushfire Risk Map is generally reflective of areas of risk at a wider scale. The Bushfire Risk Map was not intended to replace the need for site based assessments where these are triggered by the BMO. Council considered the CFA had incorrectly concluded implementation of the MBRA into local policy would negate the need for a full assessment of bushfire risk for each development.

Council stressed it was *“extremely keen and eager to work with the CFA to refine amendment documentation prior to having these documents adopted by Council and progressing the Amendment”*, however *“repeated efforts to engage with the CFA and obtain meaningful, detailed feedback in an effort to develop a document that they were comfortable with”* had failed.

Council engaged Terramatrix to undertake a peer review of the MBRA, in response to submissions from the CFA on Amendment C127latr. Council provided a copy of the Terramatrix peer report *Review of the Municipal Bushfire Risk Assessment* (November, 2021) with its Part B submission. The Terramatrix report found:

The methodology for creating the whole-of-municipality risk map and its relationship to the precinct-scale assessments is not clear, and it is noted that the two scales of assessment give different risk ratings for some precincts. The traffic light assessments and map are easily communicable risk information products.

The development of an effective risk assessment process or tool is a difficult undertaking, that needs to bring together complex concepts of bushfire hazard, the risk management process and statistical and spatial analysis. There are significant methodological limitations with the [MBRA], that detract from the underlying usefulness of the component risk and hazard information it incorporates. The attempt to quantify the diverse ‘risk indicators’ and aggregate them into numerical risk scores is particularly problematic.

While Terramatrix agreed with the CFA that the Bushfire Risk Map was *“generally reflective of areas of risk at a wider scale”* it noted that establishing the context of the assessment is inherently subjective and can be difficult to draw boundaries on a map that satisfies all stakeholders. A map in the Planning Scheme can become out of date over time.

The peer review concluded:

- the MBRA is best described as an aggregate of bushfire hazard and risk information products
- the development of an effective risk assessment process or tool is a difficult undertaking that needs to bring together complex concepts of bushfire hazard, risk management process and statistical and spatial analysis

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- the MBRA exhibits significant methodological limitations – in particular, the attempt to quantify the diverse risk indicators and aggregate them into a numerical risk score is problematic
- the discrepancy between locality assessments and the municipal wide Bushfire Risk Map is confusing
- the traffic light system is an easily communicable approach that could be adjusted to better align with the CFA's approach
- it agreed with the CFA that the MBRA is better as a supporting tool for a risk assessment required by Clause 13.02-1S, rather than being considered a risk assessment in its own right, which can justify development, development controls or specific bushfire protection measures.

In that context, Terramatrix proposed to identify how the Amendments “*can incorporate at least some elements*” of the MBRA analysis and findings in a way that addresses the CFA's concerns. Council relied on the Terramatrix suggested changes to the Amendment and decided to proceed to the Panel process for Amendment C127latr without resolving the remaining outstanding matters directly with the CFA.

In its verbal submissions at the Hearing, Council explained the Terramatrix report:

- is in a draft form and was never finalised
- it should be read in the context of qualifications in the report and the context that it was a critique of another consultant's report and “*came from a negative position*”
- focusses on acceptable levels of risk, stating:
  - Planning Practice Note 64 states that ‘central to local planning for bushfire is determining the level of risk and whether the risk has been reduced to an acceptable level’ but also states that ‘directing development to the lowest risk locations is the most effective way to prioritise the protection of human life’ (DELWP, 2015)
- assessment of lowest risk areas would require a different approach depending on the geographic assessment
- Clause 13.02-1S requires the broader landscape to be considered but provides no equivalent metrics for this – there is inherent ambiguity in applying the policy.

Council suggested extensive post-exhibition changes to Amendment C127latr as a result of submissions and the Terramatrix advice.

#### Mr Potter

Mr Potter, one of the authors of the MBRA, gave evidence for Council. Mr Potter provided an overview of bushfire history in the municipality, and the scope and method used for preparing the MBRA, including the stakeholder engagement process. He noted the municipality was one of only a handful in Victoria that has the real possibility of being impacted by a campaign (long duration) fire event, due its proximity to the Great Dividing Range to the north and the Strzelecki Ranges in the south.

Mr Potter emphasised the importance of the planning system for managing bushfire risk. He referred to the Commonwealth of Australian Governments report prepared in 2002, *Natural disasters in Australia – Reforming mitigation, relief and recovery arrangements*, which stated:

Land use planning which takes into account natural hazard risks has been identified as the single most important mitigation measure in preventing future disaster losses in areas of new development.

He explained this view is supported by the 2009 Victorian Bushfires Royal Commission.



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Mr Potter was of the view the MBRA appropriately identifies the level of bushfire risk across the municipality, with a strong focus on the 13 localities selected by Council. He considered the MBRA:

- defines the importance of considering the integration between fire prevention treatments and the strategic management of bushfire risk through the Planning Scheme
- includes recommendations across both fire prevention treatments and planning provisions, which would assist with managing bushfire risk, directing population growth to safer areas, and ensuring the fire prevention treatments are addressing bushfire risk now and into the future.

Mr Potter considered the thirteen bushfire risk indicators combined formed a full picture of bushfire risk across the municipality. Quoting from the MBRA, he stated:

The background to each of the indicators is varied with some being developed through detailed scientific research while others utilise expert judgement. When these indicators are aligned, a determination of bushfire risk can be made to inform treatment planning.

Mr Potter gave evidence that the three risk levels on the Bushfire Risk Map are guided by the CFA Fire Service Guideline. It was intended to assist decision makers in their consideration and consistent application of Clause 13.02-1S.

Mr Potter explained, when the MBRA was developed, introduction and implementation of Clause 13.02-1S was still considered new (introduced in late 2017 through Amendment VC140) and there was uncertainty as to how to apply the policy. While the MBRA does not provide a specific response to all the policy requirements, the report does contain information relevant to the objectives of Clause 13.02-1S. He was satisfied Council had adequately assessed each precinct against the objectives of Clause 13.02-1S in its preparation of the Rural Living Strategy.

Mr Potter rejected the majority of issues raised in the CFA submission (discussed below). He was of the view the MBRA had adequately considered safer locations and that safer locations could be identified for each locality. He explained the MBRA used the following hierarchy to consider safer locations:

- Within the locality, are there areas considered as 'safer' when compared with other areas within the locality? If so, direct development towards these locations.
- If there are no areas considered safer, direct development away from the locality or identify landscape altering solutions that will enable the landscape risk to be reduced to then create safer areas.
- This process is developed in line with the concept that safer areas can be within an existing locality and through carefully planned developments, may reduce the risk of bushfire to the existing community.

Under cross examination by the CFA, Mr Potter:

- explained he was inclined to assess relative risk of locations, starting at the local level to see what management techniques can be used to achieve acceptable risk or to provide safe areas, rather than taking a regional approach
- agreed the scoring for several of the risk assessment indicators was subjective
- agreed there were some discrepancies between the interactive Bushfire Risk Map and the precinct assessments in the MBRA, and some variability in application of the buffers around bushfire hazards.

In response to questions from the Panel, Mr Potter:

- stated an agreed State government methodology for a municipal wide bushfire assessment would have been useful

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- explained if the project started now it would be *“done completely differently”*, specifically by directly addressing the elements of Clause 13.02-1S, and the layout of the report would be different
- suggested the map may be better renamed as a ‘spatial map of bushfire considerations’ rather than a ‘risk map’.

**CFA**

The CFA submitted the most directive Planning Scheme provision relating to bushfire was Clause 71.02-3 (Integrated decision making) which states *“in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations”*. Further, there are three key policies in Clause 13.02-1S (Bushfire planning) central to the decision making framework:

- 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.

It submitted Clause 13.02-1S strategies required:

- hazard identification and assessment by applying the best available science to identify conditions (vegetation, topography and climate) that create bushfire hazard
- consideration of hazard at a range of scales and locational factors to assess *“alternative low risk locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis”*
- *“achieving no net increase in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reducing bushfire risk overall”*.

The CFA acknowledged municipal scale bushfire risk assessment is complex and presents a number of challenges; it is a dynamic hazard where modelling has significant limitations. It stated this was:

... why there are currently no land use planning based landscape bushfire mapping available and why there is such a strong emphasis on undertaking assessments of bushfire in the landscape over such significant distances within existing bushfire planning policy. It is an area of research that continues.

The CFA attached to its submission correspondence between the CFA and Council relating to the draft MBRA and the Amendments. It explained the CFA had consistently communicated its concerns regarding the MBRA and the associated settings for direction of growth within certain localities. The CFA sought substantial changes to both the draft MBRA and Rural Living Strategy before it would be comfortable supporting their adoption for Planning Scheme purposes.

During the preparation of Amendment C127latr, the CFA advised Council the:

- purpose of the document is unclear, specifically:
  - whether it was a risk document, fire prevention aid, planning report or combination and associated concerns with how it would be used
  - how Clauses 13.02-1S (Bushfire planning) and 71.02-3 (Integrated decision making) had been addressed
- risk framework and language is confusing

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- approach to risk assessment may result in an inappropriate risk profile not suited to planning.

Other concerns related to:

- reliance on detailed bushfire risk assessment at the planning permit application stage rather than at the planning scheme amendment stage
- suitability of the Bushfire Risk Map
- consideration of practical implementation of fire prevention activities
- reliance on data outside of the planning system
- the lack of demographic profile assessment
- planning for vulnerable populations
- consideration of fire history and all relevant data in framing future settlement growth
- objection to the reliance on the CFA Fire Service Guideline which has since been withdrawn.

CFA strongly recommended “*reframing the report to clearly address each relevant policy*” in Clause 13.02-1S.

The CFA was concerned that while the MBRA is intended to be a municipal wide assessment and produces a Bushfire Risk Map for the entire municipality, it only considers 13 locations in detail. It excludes large parts of the municipality, including the larger townships of Moe, Morwell, and Traralgon, and extensive parts of the rural hinterland, while reaching conclusions on their level of bushfire risk. This may result in unintended consequences with the MBRA and Bushfire Risk Map guiding and directing development into areas that have had minimal assessment.

The CFA was concerned the MBRA relied too heavily on fire prevention works, and considered the MBRA had taken a fire management planning approach. Many of the ‘bushfire risk indicators’ are more commonly found in fire prevention planning activities. These ‘bushfire risk indicators’ do not give effect to the considerations in Clause 13.02-1S (Bushfire planning), and there was no certainty these can be delivered. The CFA stated it could not commit to the level of works anticipated in the MBRA at this stage. The consequences are that the assessment “*underplays potential fire behaviour and relies heavily on assumptions that fire authority interventions are likely*”.

Further, the CFA was concerned about the scoring of the proposed ‘bushfire risk indicators’ with many attributes. It considered the thresholds between the different risk levels had no described logic or evidentiary basis and the use of a score is of limited utility to planning decision making.

While the CFA acknowledged that fire prevention and planning outcomes must have greater integration, ultimately there are three determinative factors used in land use planning decisions:

- landscape bushfire considerations
- alternative locations for growth
- a greater emphasis on existing low fuel areas for shelter.

The CFA expressed concerns with the legacy that would be created if the MBRA is referenced in the Planning Scheme. It considered that it was unclear how the Planning Scheme would operate in the context of the MBRA, and was concerned there may be unintended consequences.

While the CFA agreed the Bushfire Risk Map was generally reflective of areas of risk as a wider scale, it did not support its inclusion in the Planning Scheme on the basis:

- it was unclear if assessments informing the Bushfire Risk Map were undertaken of the whole municipality

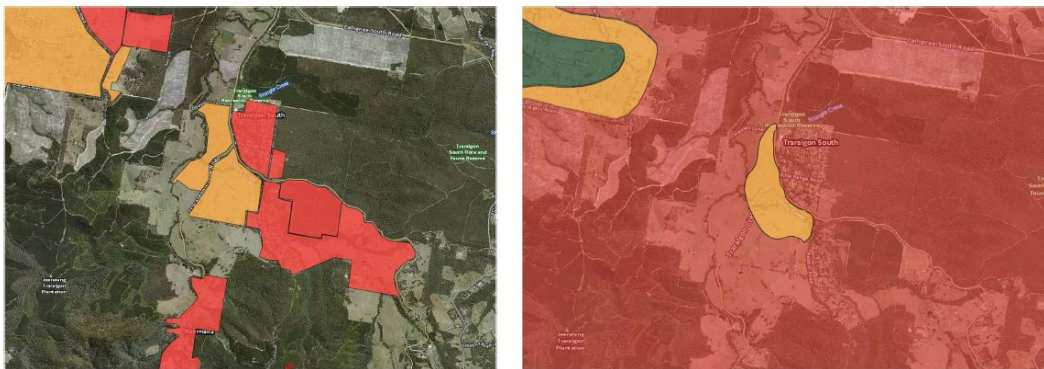
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- the use of the three tiered traffic light system invites Planning Scheme users to conclude that:
  - green areas equate to low risk, when the entirety of the green area is not low risk, and in fact includes high risk areas
  - yellow areas equate to an undefined risk, when the yellow is a high risk area
  - red areas generally equate to non-grassland hazards
- Amendment C127latr proposed the green areas for growth, whilst concurrently directing development to the yellow and red areas
- there were inconsistencies between the MBRA and Bushfire Risk Map (for example see Figure 7).

**Figure 7** Traralgon South - example of inconsistencies between precinct assessment (left) and municipal Bushfire Risk Map (right)

Traralgon South



Source: CFA submissions

The CFA did not consider Clause 02.04-9 an appropriate location for the Bushfire Risk Map as this part of the Planning Scheme is for strategic directions and not for contextual information.

Further, the CFA was concerned the post exhibition changes proposed by Council (which the CFA understood resulted from the Terramatrix peer review of the MBRA) introduced another spatial framework which contradicts the Bushfire Risk Map.

The CFA provided without prejudice advice on what the Panel may recommend if it supported proceeding with implementing the MBRA and Bushfire Risk Map through Amendment C127latr:

- changing the name of the map so no reference is made to 'risk'
- removing the traffic light colour system, and consideration of a 'non-emotive' approach, for examples Areas A, B and C with associated hazard descriptions
- relocating the map from the MPS to Clause 13.02-1L
- removing all language from policy that purports to direct or minimise future assessments, or that does not prejudice Clause 13.02-1S assessments or suggest a meaningful reliance on the MBRA

The CFA also put forward without prejudice changes to elements of the DDO and DPO.

### Joint Statement

The Joint Statement prepared by Council and the CFA in response to Panel directions identified 24 issues, of which 14 remained unresolved prior to the Hearing. The Joint Statement identified areas

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of agreement and disagreement in relation to the specific policy, rezoning and overlay provisions of both Amendments.

Regarding the accuracy and recommendations in the MBRA, Council and the CFA only agreed on one issue:

- the three spatial areas identified from the MBRA and shown on the Bushfire Risk Map can be generally used in the Planning Scheme, subject to proposed changes. CFA expanded on these changes in its submission, and fundamentally it did not support directing development based on the findings of the MBRA.

Areas of disagreement relate to:

- whether the methodology of the MBRA was appropriate, including:
  - consistency with the assessment required under Clause 13.02-1S (Bushfire planning)
  - whether it is fit for purpose for Planning Scheme decision making
- the approach to consideration of fire management treatments was appropriate, and if they need to be relied on for the conclusions of the assessment
- how the MBRA should be used in the Planning Scheme, including specificity of recommendations and use as a background document
- whether the three spatial areas required adjustments from what was exhibited, including changing their names and clarification of their purpose for land use decision making
- whether the Amendment precludes the need for further planning assessment, including consideration of Clause 13.02-1S (Bushfire planning)
- whether grassland areas in proximity to landscape scale forest hazards are high risk and not appropriate to be designated as lower risk.

#### Other submitters

Several submitters raised issues with the MBRA, in particular:

- whether it appropriately considers and responds to the findings of the 2009 Bushfires Royal Commission
- it is flawed because it should consider proposed conditions resulting from a development proposal, not only current conditions
- the scoring which put land in a different risk category by only one point was not an appropriate measure of risk
- the approach to safer areas in each locality, as explained by Mr Potter, was unacceptable and not consistent with Clause 13.02-1S
- the Terramatrix report provides many opinions on the MBRA that should be tested, discussed and alternatives proposed
- there should be greater community representation and consultation.

#### Council closing submission

The Panel sought to understand Council's views if it were to recommend references to the Bushfire Risk Map be removed from the Amendment, as suggested by the CFA. Council responded that inclusion of the Bushfire Risk Map sought to achieve the directions of PPN64, and Council considered *"it is appropriate to provide a spatial representation of bushfire considerations in the Planning Scheme with associated local policy"*.

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Council explained it had originally intended to implement the findings of the MBRA through expansion of the BMO, however this was not supported by DELWP as the mapping methodology was not consistent with guidance.<sup>1</sup> It explained:

Given the removal of the BMO as an option, pursuant to PPN64, local policy drafting was seen as a solution.

Three Clause 13.02-1L policies were originally drafted. One for each level of risk. The CFA were not supportive of this approach and extensive amendments were then made to drafted 13.02-1L policies, including the combination of the three policies into one Clause 13.02-1L.

The Panel sought further information about the Joint Statement process, including why further explanation of each party's position, and a history of these positions was not included. Council explained the meetings with the CFA to prepare the Joint Statement, and that two versions of the Joint Statement were prepared – the first version with commentary on the issues. It stated:

At this point, the CFA made the decision to remove all commentary, and the next version sent to Council for review was a bare list of issue statements with little-to-no context. This version was difficult to understand and was inconsistently worded. Council reviewed this, making extensive changes to grammar to make the issues clearer to the panel – but where Council could not understand the CFA's points, they sent back their reviewed version with comment boxes seeking clarification.

CFA accepted all changes but deleted comment boxes and did not reply to Council's questions for clarification.

Given the statement was directed to be a joint statement signed by Council and the CFA, the version provided to Panel under Directions 21, 22 and 23 was limited in detail as this was the version to which the CFA would agree to be a signatory.

Council disagreed with the CFA that the State planning policy was clear with regard to landscape scale bushfire risk assessment requirements, stating:

As the author of that policy, perhaps the policy is clear to Mr Hazel and that is why in his own words, he has no difficulty applying it. Respectfully Council disagrees, and we concur with the ambiguities in Clause 13.02-1S as outlined by Terramatrix in their report. Nonetheless, we are not here to criticise the drafting of Clause 13.02-1S as that is not productive.

Council referenced Planning Advisory Note 68 which explains the requirements of new bushfire settlement planning strategies, which states "*The settlement planning strategy requires authorities to address bushfire risk at the settlement scale rather than delaying bushfire protection until the subdivision and/or construction phase*". It considered this guidance and PPN64 clearly support the need and purpose of the MBRA and Bushfire Risk Map by addressing bushfire risk through a strategic and spatial tool.

Regarding whether the MBRA is fit for purpose, Council submitted:

- the MBRA and Bushfire Risk Map satisfies its primary purpose of providing strategic guidance for settlement growth and development
- the MBRA satisfactorily guides appropriate and safe rezoning and development
- the Rural Living Strategy satisfies the locality level assessment with respect to areas proposed for rezoning at this stage.

While the traffic light colour system on the Bushfire Risk Map (red, yellow and green) is consistent with a universal representation of bushfire danger, and was proposed in response to early feedback from the CFA, it would be content to use alternative descriptors as suggested by the CFA. It noted:

<sup>1</sup> Planning Advisory Note 46: Bushfire Management Overlay Mapping Methodology and Criteria

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However, it is worth noting the use of “traffic light” colouring systems in the context of bushfire risk. Bushfire danger is almost universally represented using these colouring systems. Therefore, [Council] says that the colouring used on the map would be read with this context in mind.

In response to the CFA’s submission that it will not commit to fire prevention requirements outlined in the MBRA, Council submitted there is no basis to doubt that fire prevention activities/management interventions will continue to be required and carried out in Latrobe into the future, and are relevant as part of site context when considering bushfire risk.

Council emphasised that no other party had brought expert evidence to the Panel Hearing to contest the MBRA.

**(iii) Panel discussion****Background and CFA concerns**

There is little doubt that the City of Latrobe presents a comparatively unique high bushfire risk scenario within a State-wide context. The MBRA describes the history of experience of bushfire and that bushfires have destroyed or threatened land and property in the municipality for many years. Major bushfires including those in 1939, 1944, 1983, 2006-07, 2009, 2014 and 2019 have resulted in the loss of life and property. Since 2011 there has been a major bushfire every 3 to 4 years.

The landscape is conducive to the ongoing threat of major bushfires every fire season due to the large tracts of forest and plantations intermingled with residential developments and townships. Large areas of farmland also contribute to the risk of bushfires and may allow for rapid spread of bushfires towards community assets. The ‘precautionary principle’ should be applied to bushfire planning in Latrobe, given its history of campaign bushfires and ongoing risk.

The 2009 Victorian Bushfire Royal Commission clearly directed that protection of human life is paramount. The MBRA acknowledges “*the primacy of life is a key Planning Scheme focus*”.

As identified by Mr Potter, the planning system is an extremely important tool for managing bushfire risk. Consequently, this is an important Amendment which seeks to update the Planning Scheme to better manage bushfire risk in Latrobe City. In this context, submitters including the CFA were generally of the view Council’s intention to better reflect bushfire risk considerations in the Planning Scheme was commendable.

The Panel acknowledges the efforts of Council to establish an understanding of bushfire risk across the municipality and to introduce appropriate planning provisions in response.

Despite extensive engagement over several years, Council and the CFA have not reached agreement on whether the MBRA is fit for purpose to guide Planning Scheme decision making and inform appropriate settlement planning. Both parties expressed frustration they had not been able to engage productively on the matter. This culminated in a Joint Statement that included minimal information and was of little assistance to the Panel. The Panel subsequently sought further clarification from Council and the CFA to better understand the history and their position on unresolved issues. It was apparent to the Panel that further collaboration between the parties was unlikely during the Hearing process.

As the Panel sees it, Council and the CFA have essentially reached an impasse – the CFA fundamentally disagrees with the methodology of the MBRA as it relies on fire prevention and

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management interventions that are subjective and not guaranteed. Regardless, Council has persisted with the MBRA and Amendment C127latr despite explicit lack of support from the CFA.

The Panel acknowledges Mr Potter's expertise in bushfire protection and emergency management. While Mr Potter was able to explain many aspects of the MBRA process and assessment indicators, he advised the Panel his expertise was not in the planning system and he was not able to speak in detail to the response to bushfire planning policy. As a co-author of the MBRA he was not able to provide an independent peer review of the report.

The Panel has given significant weight to Mr Potter's evidence that:

- had the report been prepared now with a methodology based on Clause 13.02 requirements it is likely to be considerably different report
- there are inconsistencies between the municipal wide Bushfire Risk Map and detailed locality/precinct assessments
- several indicators and the associated scoring system is subjective
- with reference to PPN64, the MBRA and associated Bushfire Risk Map should be renamed a 'spatial map of bushfire considerations' rather than 'bushfire risk assessment'.

The Panel accepts the Terramatrix report as an independent review of the MBRA tabled by Council.<sup>2</sup> Terramatrix identified significant concerns with the MBRA methodology, and concluded it may be better used to support a risk assessment process required by Clause 13.02-1S rather than be considered a risk assessment in its own right. This is consistent with Mr Potter's evidence at the Hearing that the name should change from 'bushfire risk' to 'bushfire considerations'. The Bushfire Risk Map is a 'spatial map of bushfire considerations'.

The Panel has given significant weight to the submissions of the CFA. While CFA did not call an expert witness, the Panel notes its advocate at the Hearing was acknowledged by Council as the author of the State bushfire planning policy and an expert in bushfire planning.

The lack of agreement between Council and the CFA is problematic and presents a significant dilemma. The Panel considers it is important for the CFA to support the bushfire risk assessment approach. This is consistent with:

- Clause 13.02-1S which directs early consultation with relevant fire authorities to receive their recommendations and implement appropriate bushfire protection measures
- PPN64 which states engagement with the relevant fire authority is essential when considering bushfire as part of a strategic planning exercise.

**Is the MBRA fit for purpose?**

The following Panel discussion of the MBRA is in the context that:

- Latrobe City has high bushfire risk and the strategic planning work relating to bushfire is important
- the CFA considers the Amendment has merit and supports "*its underlying intent and much of its justification*", but strongly objects the MBRA in its current form.

Council stressed to the Panel this is the first municipal wide bushfire risk assessment intended for implementation into a planning scheme, and is of interest to several local government authorities.

<sup>2</sup> Document 22, Attachment 6



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Endorsement of the background work and Amendment is likely to set precedent for future projects.

While there is no agreed State government methodology for a municipal wide bushfire risk assessment, useful guidance exists including:

- the BMO Technical Guide which explains the approach to a bushfire hazard landscape assessment. It states a landscape assessment:
  - provides factual information on the bushfire hazard (vegetation extent and slope)
  - provides information on key features of the general locality that are relevant to better understanding the protection provided by the location
  - provides contextual information on a site.
- PPN64 which explains how to identify bushfire hazard. It states:
  - identifying bushfire hazard is a factual and evidence-based process
  - local planning for bushfire protection should consider all bushfire hazards that can be potentially harmful, including grasslands and vegetation outside of land subject to the BMO
  - bushfire hazard should be considered when undertaking strategic planning and when considering development proposals
  - considering bushfire during strategic planning ensures that strategies and direction embed bushfire considerations.

The Panel notes the CFA's advice that planning based landscape scale bushfire mapping is an evolving area of research.

The Panel accepts the CFA's advice that there are three determinative factors in land use planning decisions:

- landscape bushfire considerations – the scale of bushfire anticipated and the effect this may have on future development
- alternative locations for growth – a critical consideration for land use planning considerations but less relevant to fire prevention planning as the risk is already present
- a greater emphasis on existing low fuel areas for shelter (safe areas) when identifying acceptable locations for growth.

The Panel has address each of these factors below.

#### ***Landscape bushfire considerations***

In determining landscape bushfire considerations, the MBRA is based on an integrated approach which includes a range of scientific indicators as required by policy, including bushfire hazard considerations such as vegetation, topography and climate and subjective, plus variable indicators such as community awareness and preparedness and Socio Economic Indexes for Areas (SEIFA), which measures the relative level of socio-economic disadvantage. The MBRA justifies this approach on the basis:

- there are a "*range of tools, systems and risk assessment processes*" used in Victoria, some of which are aligned and others used for very specific purposes, and relying on "*one area is a flawed approach*"
- these indicators are combined to form a full picture of bushfire risk.

This approach is confusing and does not align with strategic planning guidance which requires application of the "*best available science*" to identify bushfire hazard and undertake appropriate risk assessment.

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The Panel agrees with the CFA that the combined evidenced-based and subjective indicators may have resulted in the level of risk being understated. The assessment of fire management and prevention indicators may indicate risk is reduced, however ongoing implementation cannot be guaranteed. The CFA explicitly stated it could not commit to the level of anticipated works.

According to Clause 13.02-1S a bushfire risk assessment intended to be relied on in directing future growth must be based on an assessment of hazard and risk using the best information and science available at the time. The Panel is concerned the inclusion of subjective and variable indicators, including of fire management and prevention indicators, is not consistent with planning policy requirements and should not be relied on for bushfire planning purposes.

Additionally, as acknowledged by Mr Potter, the scoring of many of the indicators is subjective. The Panel is concerned the scores and thresholds between different risk levels has no evidentiary base and are therefore unreliable. The Panel is also concerned there are discrepancies in the MBRA between allocated risk levels for the detailed locality risk assessments and the municipal wide Bushfire Risk Map, as was demonstrated during the Hearing by the CFA and agreed by Mr Potter.

The MBRA should be based on evidence based indicators, ideally agreed with the CFA, and a consistent approach to risk assessment to avoid discrepancies between local and municipal scale assessment. Before Amendment C127latr proceeds, further work should be undertaken to the satisfaction of the CFA that is consistent with Clause 13.02 bushfire hazard identification and assessment requirements.

**Alternative locations for growth**

Regarding the policy requirement to direct *“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”*:

- Council relies on the combined assessment of the MBRA and Rural Living Strategy to assess alternative locations for growth. As the MBRA may have underestimate bushfire risk, it does not, in the Panel’s view, provide a satisfactory basis to assess *“alternative low risk locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis”*. This is discussed further in Chapter 3.3.
- Mr Potter explained that safe locations could be identified for each locality, but no assessment had been undertaken to ensure that safe areas are available. As a critical policy requirement this assessment should be an integral part of the MBRA and used to inform its recommendations and any future settlement planning decisions.

The CFA strongly opposed the MBRA on the basis the methodology is not sound and does not reflect the best information and science available to understand bushfire hazard and assess risk. The Panel has similar concerns to the CFA - the implications of getting this wrong may present an unacceptable risk and lead to potentially catastrophic outcomes.

The Panel notes Council initially intended to use the MBRA as the basis for introducing extended areas of BMO. This approach was rejected by DELWP and the CFA as the methodology was not consistent with guidance. Consequently, the MBRA contains recommendations to extend the BMO which adds to confusion about the purpose of the document.

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While the MBRA may be a useful document for other functions of Council and other agencies, in its current form it is not a suitable guide for settlement planning that prioritises the protection of human life.

In summary, the Panel is not satisfied the MBRA has adequately addressed the three determinative factors identified by the CFA in land use planning decisions, or adequately considered and responded to the requirements of Clause 13.02-1S (Bushfire planning). The methodology based on combined risk indicators is confusing and the purpose of the MBRA is unclear; it is not clear what is intended or how it should be implemented, particularly how it should be applied to planning decision making.

The MBRA is not strategically justified with regard to planning policy and is not suitable to include in the Planning Scheme. That said, it contains a significant amount of valuable information that would be useful in developing a bushfire risk assessment that responds to Clause 13.02-1S (Bushfire planning). This should be done before the Amendment proceeds.

#### **Is the Bushfire Risk Map appropriate to include in the Planning Scheme?**

The Bushfire Risk Map is derived from the MBRA. Based on the combination of evidence based and variable indicators, the Panel accepts the Bushfire Risk Map may represent a general picture of bushfire risk at 'a moment in time', however it should not be relied on as an enduring assessment suitable to underpin settlement planning and planning provisions. Further it may become outdated as conditions change.

The Panel has a number of other concerns relating to the Bushfire Risk Map:

- the methodology for the municipal wide map is not clear, as described above, and there are some discrepancies and inconsistencies in the mapping in the MBRA and Bushfire Risk Map
- the CFA Fire Service Guidelines relied on for methodology are no longer current
- the proposed traffic light colour system is problematic and potentially confusing with consideration of State-wide risk rating categories used for other purposes.

The Panel is not satisfied the Bushfire Risk Map in its current form is appropriate to inform a planning scheme amendment or for inclusion in the Planning Scheme.

### **3.3 Rural Living Strategy**

#### **(i) The issues**

The issues are whether the Rural Living Strategy:

- adequately responds to bushfire planning policy by "*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*"
- should be included in the Planning Scheme as a background document.

#### **(ii) Submissions**

##### **Council**

Council was satisfied the policy requirements relating to bushfire planning were satisfied through the combined assessment of the MBRA and the Rural Living Strategy. Council relied on the Bushfire Risk Map to direct growth and development to low risk locations.

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Council detailed the process of strategic assessment to identify suitable rural living rezonings in the Rural Living Strategy, including:

- initial identification of possible land for rezoning
- assessment against the bushfire risk in the MBRA
- directing growth to 'green' areas on the Bushfire Risk Map and undertaking due diligence for those areas
- assessment against PPNs 37, 42 and 64 (see Appendix A)
- for all precincts that meet the due diligence assessments, final assessment involved a determination of risk acceptability against Clause 13.02 (Bushfire).

The Rural Living Strategy includes recommendations to:

- rezone land from FZ to FZ2 and RLZ for rural living purposes
- apply overlay provisions to afford protection from bushfire risk, including:
  - applying the DDO12 to:
    - existing LDRZ areas in Boolarra that have been identified as being outside of the green bushfire risk area, and not BMO, that are yet to be developed to the density allowed by the zone; and
    - Precinct H in Toongabbie that is in not in the green bushfire risk area, and not the BMO, and is already fragmented in a manner that sees it operate as a defacto rural living precinct (note, this is a precinct that is proposed to be correction rezoned from Farming Zone to Rural Living Zone).
  - applying the DPO10 to:
    - Precincts C and D in Toongabbie that are proposed to be rezoned from FZ1 to RLZ1, where the BMO doesn't apply, and green bushfire risk has been identified.

Council explained the overlay provisions are intended to:

...inform safe layout and design and are limited to locations with lower bushfire risk, being locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre under AS 3959-2009 as required by Clause 13.02.

Council considered a critical question for the Panel is *"what is the risk and is it acceptable?"*. It considered the concept of acceptable risk is important, and in line with PPN64 *"the Amendment does not need to achieve a scenario where there is 'no' risk, but rather the bar is whether the risk is acceptable"*.

It submitted:

- the 'corrections' rezonings do not introduce new bushfire risk
- the new rural living locations are accompanied by planning provisions to inform safe layout and design, and are limited to locations with lower bushfire risk
- the rural rezonings and overlay controls will ensure protection of human life, coupled with land management interventions to maintain and lower residual risk; *"together these actions have the opportunity to create a net reduction in fire risk to these locations"*
- further site by site assessment under Clause 13.02-1S will be required for development proposals where bushfire risk exists.

Council submitted when taking account of measures for fire prevention outside of the Planning Scheme in conjunction with controls in the Planning Scheme *"the risk introduced by the Amendment by allowing new development is acceptable"*.

The Terramatrix peer review explained it understood the CFA's views were that application of the Clause 13.02-1S settlement planning strategy requiring assessment of *"alternative low risk"*

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*locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis*” meant population growth should be directed to the lowest risk locations, not just low risk locations (noting there was no definition). It stated this strategy of risk avoidance is valid, however usually pursued if the activity is totally discretionary.

Terramatrix noted that PPN64 references both acceptable and lowest risk, noting acceptable risk is hard to define. It stated:

*If ‘lowest’ risk, what should be the context of the assessment?*

If we accept that Clause 13.02-1S requires population growth and development to be directed to the lowest risk area, then the strategic planning context and geographic context of the risk assessment are of fundamental importance.

It considered it a dilemma that the geographic context and scale (such as township scale assessment versus a municipal or Statewide assessment) will influence determination of what is considered lowest risk.

**CFA**

The CFA did not support including the Rural Living Strategy as a background document in the Planning Scheme. During preparation of the strategic work the CFA had advised Council it would not support the document in its current form. Its primary concern was reliance of the Rural Living Strategy on the MBRA to direct growth across the municipality. The CFA explained:

The Rural Living Strategy takes the MBRA and the MBRA map [Bushfire Risk Map] and uses it, with limited further or meaningful assessment, to confirm a level of c13.02-1S Bushfire Planning consistency. Where a c13.02-1S Bushfire Planning analysis is necessary, the Rural Living Strategy cross-references back to the MBRA, where the relevant information is not always found.

This circular but inconclusive process leaves critical considerations unanswered, including policies on directing development to low risk locations, assessing alternative locations for growth and assessing whether low fuel areas are available and there is safe access to them.

The CFA disagreed with the methodology used to prepare the Rural Living Strategy, and considered it may potentially create real risks to life and property, stating:

It appears that the 'short falls' of the [Municipal] Bushfire Risk Assessment have attempted to be fixed in the draft Rural Living Strategy. This however results in a strategic document relying on an inadequate bushfire risk assessment and therefore the recommendations are not likely to be supported by CFA, regardless of the content of the finalised strategy.

The CFA submitted the Rural Living Strategy, founded on the flawed MBRA, does not satisfactorily achieve the requirements of settlement planning guidance in Clause 13.02-1S. It was concerned alternative lower risk locations had not been adequately assessed and considered. For example:

... the policy seems to support directing development to townships such as Glengary, Boolarra and Toongabbie, where nearby landscape risks are high to extreme.

There are a number of larger and more suitable locations to encourage growth that are at a lower risk of bushfire. Rural residential areas or the implementation of older planning policies should not be developed/undertaken at the expense of community or life safety.

The CFA explained it had been advocating to planning authorities over many years that bushfire risk avoidance in settlement planning should be considered and resolved as the basis for an amendment being approved. It is difficult to retrospectively apply bushfire planning policy after land has been rezoned.

While in its original submission the CFA considered the Amendment had failed to provide any supporting bushfire information to justify rezoning the sites that had been grouped under the

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'anomalies' banner, in its Hearing submission the CFA clarified it had no concern with rezonings of land from FZ1 to FZ2. It accepted Council's advice that the:

- existing lot sizes are unlikely to result in new entitlements for subdivision
- change is driven by planning policy intended to facilitate rural tourism.

**Other submitters**

Dr Strachan was concerned Amendment C127latr was out of step with the general principles of the ensuring the protection of human life. He considered greater consideration should be given to restructuring the whole municipality to reduce the population exposed to natural disasters and bushfire risk. He submitted:

- it may be the more appropriate planning solution will allow for greater intensification of population and services but in safer locations
- if compliance with Section 13.02 means there is a cap on population growth in Latrobe City there may be a need to consider the strategic geographical structure of the municipality.

He suggested relocating entire township populations is not impossible, if the bushfire risk to human life is unacceptable. He explained several towns in Australia have been relocated to reduce the flood risk, and the townships of Traralgon South and Yallourn were previously relocated to permit coal mining.

Dr Strachan raised specific concerns regarding Koornalla, citing it as an example of quasi-rural living reinforced by rezoning to RLZ or FZ2. He considered Koornalla needed further consideration to manage environmental risks and to assess its suitability for subdivision and land use.

Dr Strachan was concerned that 'discretionary approvals' issued by Council over the past ten years had resulted in a large number of lots under the minimum lot size. This resulted in an increase to population in these areas, and risk to community that was not based on a considered assessment of the impacts. He submitted subdivision and dwellings on lots below 40 hectares should be prohibited throughout the Koornalla, Callignee and Traralgon South districts.

In the context of prioritising protection of life above all other policy considerations, Nick Anderson of NBA Group advocated for accelerated development of his client's land at Moe-Newborough for rural living purposes. He submitted:

A vast majority of the existing urban areas of Moe-Newborough are not within a BPA and are capable of providing a BAL-LOW to ensure that a place where human life can be better protected from the effects of bushfire is readily available. These areas are within 100-200m of the subject land.

He considered the proposal:

- would reduce fire risk to existing communities by removing any grassland threat
- may take the pressure off demand for land in higher risk areas.

He did not consider this option had been adequately considered in the Rural Living Strategy.

**Council closing submissions**

In closing Council stressed that a full Clause 13.02-1S assessment would be required for each precinct identified in the MBRA has having potential for growth, as well as considering other relevant considerations such as demand and infrastructure.

Regarding rezonings in Koornalla, Callignee and Traralgon South districts, Council responded to Dr Strachan's concerns stating:

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.. it is pertinent for Council to confirm that no zoning changes are proposed in Koornalla, Traralgon South or Callignee that would increase the development potential of land beyond what already exists. The CFA have confirmed this and do not object to any rezonings proposed by Council as part of this Amendment in these locations.

Council was satisfied the Rural Living Strategy included adequate assessment of environmental and landscape constraints as required by PPN37 and PPN42.

**(iii) Discussion**

PPN64 states:

Central to local planning for bushfire is determining the level of risk and whether the risk has been reduced to an acceptable level.

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.

...

Due to the devastating impacts of bushfire there are some locations where the bushfire risk cannot be reduced to an acceptable level. Decision making for other areas should be informed by a thorough understanding of bushfire as part of local planning activities.

The Panel report for Amendment C105latr states:

- the location of any future rural living areas will require careful analysis to ensure that future development is not enabled in areas that have an unacceptable level of bushfire risk and where objective relating to the primacy of human life cannot be achieved.

The Rural Living Strategy relies on the MBRA to guide suitable locations for growth. The MBRA assesses relative risk within each locality, and relies on a combination of landscape and management treatments to understand and manage relative risk.

As discussed in Chapter 3.2, the Panel does not accept the methodology underpinning the MBRA is appropriate for settlement planning purposes. The MBRA directs growth to 'green' areas, and the CFA was not satisfied the 'green' areas represent lower risk areas. It provided examples where 'green' areas may be higher risk. The Panel agrees with the CFA the risk level assessment of the MBRA is inconsistent and not suitable to direct where growth should occur.

Bushfire history and anticipated future trends for Latrobe City necessitates a more elevated and demonstrable level of protection of human life outcomes. A settlement strategy that responds to a strategic bushfire landscape risk assessment and directs growth to the lower risk areas across the municipality may require a rethink of priority and sequencing of growth areas.

In the context of the known bushfire risk and the requirement for planning authorities to prioritise protection of life above all other planning policy considerations, it is important to take a precautionary approach and ensure that risk has been appropriately assessed prior to rezoning land, and not rely on assessment at the planning permit application stage. The Panel agrees with the CFA it can be difficult to retrospectively apply Clause 13.02-1S when land has been rezoned.

Council suggested the Panel consider whether Amendment C127latr achieves an acceptable level of risk. With the high level of uncertainty around the findings and recommendations of the MBRA and the Rural Living Strategy, the Panel is not able to confidently determine whether Amendment C127latr achieves an acceptable level of risk. In its current form, the Panel is concerned the Amendment may direct growth to areas that are not lower risk, which may result in unintended and potentially catastrophic consequences.

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In order to prioritise protection of human life, a relative assessment of risk areas must be undertaken in accordance with an accepted landscape scale bushfire risk assessment. Clause 13.02-1S settlement planning strategy requires assessment of alternative lower risk locations for settlement growth at a range of scales. As discussed in Chapter 3.2, a bushfire risk assessment that responds to Clause 13.02-1S is needed to determine acceptable risk, and to inform settlement planning, development controls and specific bushfire protection measures if required.

This has not occurred as part of the MBRA or the Rural Living Strategy, which have missed the opportunity to strategically plan for settlement growth across Latrobe that directs development to the lowest risk locations based on a proper risk assessment. This is an important step in assessing acceptable risk.

The lower risk locations within the municipality need to be properly identified on the basis of a proper bushfire risk assessment that responds to the requirements of Clause 13.02. Further consideration should also be given to identifying alternative locations for growth and directing development toward lower risk locations within the municipality. As discussed in Chapter 3.2, this requires a greater emphasis on existing low fuel areas for shelter when identifying acceptable locations for growth.

The rural living zone rezonings should not proceed without further work relating to a strategic settlement plan in the context of a municipal wide bushfire risk assessment.

### 3.4 Conclusions and recommendations

For the reasons discussed above, and as set out in the following chapters, the Panel concludes:

- The Amendment is not adequately strategically justified in the absence of a proper bushfire risk assessment prepared to the satisfaction of the CFA.
- The MBRA:
  - does not adequately respond to the requirements of Clause 13.02-1S (Bushfire planning) and its purpose is not clear
  - is not 'fit for purpose' to inform changes to the Planning Scheme.
- It is not appropriate to rely on the MBRA for settlement planning and rural rezoning decisions.
- Consequently, the Rural Living Strategy does not adequately respond to bushfire planning policy, and it is not clear whether it directs growth to lower risk locations or ensures availability and access to safe areas.
- The MBRA, Bushfire Risk Map and Rural Living Strategy in their current forms should not be included in the Planning Scheme.
- Further work should be undertaken to the satisfaction of the CFA and Council before Amendment C127latr proceeds.

The Panel recommends:

**Undertake the following further work in consultation with, and to the satisfaction of, the Country Fire Authority prior to progressing Planning Scheme Amendment C127latr:**

- a) **prepare a bushfire risk assessment that responds to Clause 13.02-1S (Bushfire planning)**
- b) **based on the findings of the bushfire risk assessment, make consequential changes to update the *Latrobe City Rural Living Strategy 2020***



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- c) **based on the findings of the bushfire risk assessment and updated *Latrobe City Rural Living Strategy*, make consequential changes to Planning Scheme Amendment C127latr, including (as relevant) planning policy, proposed rezonings and overlay controls.**

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## 4 Hancock Victoria Plantations

### (i) What is proposed?

The Amendment includes:

- Clause 02.03-4 (Natural resource management):  
Timber  
Encourage the establishment of new timber coup operations in locations where there is no increase in the level of bushfire risk to existing development, and where any associated risk can be acceptably mitigated.
- Clause 14.01-3L (Forestry and timber production):  
Ensure the establishment of new timber production facilities does not increase the level of bushfire risk on surrounding vulnerable land uses.

### (ii) Issues

The issue is whether the policy changes proposed by Hancock Victoria Plantations Pty Ltd (HVP) are appropriate.

### (iii) Submissions

In its original submission, HVP submitted it was concerned with the wording of Clause 14.01-3L as it *“could be used to limit the establishment of new plantations in Gippsland, which is inconsistent with current Government policy”*.

Council submitted a post exhibition change for Clause 14.01-3L to state:

Ensure [the establishment of new](#) timber production [facilities](#) does not increase the level of bushfire risk on surrounding [vulnerable](#) land uses.

Council explained the proposed policy change:

... to read so as to apply to proposals to establish new timber production facilities, as opposed to established facilities. However, it is in the interest of the community for harvesting activities and timber coup operations to have regard to reducing bushfire risk. It is also noted that existing use rights will apply.

In its Hearing submission, HVP objected to inclusion of policy content relating to timber coups in both Clause 02.03-4 and the amended Clause 14.01-3L.

HVP provided further context in relation to its timber coups and operations. It explained it is one of Australia's largest private timber plantation companies, managing approximately 240,000 ha of land across Victoria, from Gippsland in the east through to the border with South Australia, and extending up to the northeast of the State. Approximately 165,000 hectares are pine and eucalypt plantations managed for timber production. HVP is also the custodian of 50,000 ha of native forest which, as a matter of policy and practice, is not harvested but managed for environmental and conservation values.

In Latrobe City, 38,570 hectares of land is under its management, which represents 27 per cent of the 142,600 hectares of the plantations in the municipality. HVP has just entered an agreement with the Victorian Government to expand its operations. This involves acquiring new land, preparing sites, and planting and managing the plantations.

HVP explained how bushfire management was ‘front and centre’ for planning and management of its operations.

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It considered the drafting which includes the words 'no increase' and 'does not increase' is problematic as it can be read, and potentially interpreted, as absolute. There is no sense of balance in the wording, and the wording sits at odds with other Planning Scheme provisions that seek to grow and support expansion of the industry.

HVP submitted that in reality new timber plantations are likely to be developed on cleared land, and this is explicitly supported in planning policy at Clause 14.01-3S. HVP explained:

It could easily be said that simply planting one tree in a cleared location, let alone an entire plantation, will 'increase' the bushfire risk. Such an interpretation could lead to an application being refused on policy grounds irrespective of the extent of that risk or any measures which might be implemented to mitigate those risks.

HVP explained that its concerns are not theoretical in the context of its expansion plans.

It was not satisfied that the post exhibition changes proposed by Council resolved its concerns, noting the proposed change is superfluous as the ongoing use and development of existing plantations is already protected by existing use rights. HVP submitted:

- the wording creates potential impediments to any future timber plantation within the municipality, irrespective of its scale
- deleting these MPS and policy clauses will not mean the issue of bushfire risks will not be considered as part of any planning permit application for a timber plantation, as this is required through Clause 13.02-1S.

It submitted without prejudice alternative drafting for consideration of the Panel that referenced the CFA Forest Industry Guidelines.

Council did not propose further changes in response to HVP's submissions in the drafting session.

#### **(iv) Discussion and conclusions**

The Panel agrees with HVP that the wording in the proposed clauses may give rise to uncertainty in assessing permit applications for its operations. The proposed clauses do not address the balance of policy considerations or apply the nuance required to assess the impacts of timber operations and associated bushfire management strategies.

Planning permit applications for expansion of timber operations will need to be assessed with consideration to Clause 13.02-1S which requires consideration of human life over all other policy considerations. The Panel does not consider the required planning assessment of bushfire risk is diminished in the absence of the proposed clauses. Further, the proposed clauses are not necessary, as consideration of the matters referred to in the proposed clauses is already required under Clause 13.02.

The Panel concludes the following changes should be made to Amendment C127latr:

- Amend Clause 02.03-4 (Natural resource management) to remove the clause:  
*Encourage the establishment of new timber coup operations in locations where there is no increase in the level of bushfire risk to existing development, and where any associated risk can be acceptably mitigated.*
- Amend Clause 14.01-3L (Forestry and timber production) to remove the clause:  
*Ensure the establishment of new timber production facilities does not increase the level of bushfire risk on surrounding vulnerable land uses.*

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## 5 Rural rezonings

### 5.1 Requests for rezoning

#### (i) The issue

The issue is whether the proposed site specific requests for rezoning are appropriate.

#### (ii) Submissions

Many submitters requested their land to be rezoned to RLZ.<sup>3</sup> Council did not support these requests, and provided reasons including lack of strategic justification and inconsistency with the MBRA and Rural Living Strategy findings. A summary of submissions requesting rezoning and Council's response is provided at Appendix E.

Council indicated it would support a post exhibition change to rezone land in Pincini Court, Boolarra to RLZ if the CFA was supportive, on the basis it would not increase subdivision or development potential of the land. The CFA did not comment on the rezoning of Pincini Court, and generally did not support the rezonings in the absence of further work (see Chapter 3.3).

Submitter 15 requested Traralgon Creek/Road be retained in FZ1 rather than rezoned to FZ2 based on potential for fire, flood and landslip. Council regarded the area appropriate for FZ2 based on the area currently operating as a defacto rural living area.

Submitter 30 requested 219 Afflecks Road, Toongabbie, not be rezoned from FZ to RLZ. The submitter was concerned the rezoning would impact on gun licences and have other impacts on the rural amenity and lifestyle of the area. Further, the area is not sufficiently serviced in terms of roads, drainage and an increase in population would place greater demands on town services. Council considered the land was suitable for rezoning to RLZ based on the assessment in the Toongabbie Town Structure Plan.

#### (iii) Discussion and conclusion

Consistent with the findings of Chapter 3, in the absence of an acceptable bushfire risk assessment and updates to the Rural Living Strategy, it is premature for the Panel to form a view on whether the requested rezonings are appropriate.

The Panel concludes:

- The further work recommended in Chapter 3 of this Report should be completed prior to reviewing requests for rezoning.

### 5.2 106 Tyers - Walhalla Road, Tyers

#### (i) The issue

The issues is whether the property at 106 Tyers-Walhalla Road, Tyers should be rezoned from SUZ6 to RLZ1 as proposed by the Amendment.

<sup>3</sup> Submitter 2, 5, 8, 9, 10, 11, 12, 14, 19, 20, 21, 22, 23, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45

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**(ii) Submissions**

Submitter 46 requested the property at 106 Tyers-Walhalla Road, Tyers be removed from the Amendment, due to high potential for contamination and the family's uncertainty as to how to proceed at this point in time. Council supported this request and proposed a post-exhibition change to delete the property from the Amendment.

**(iii) Discussion and conclusion**

Council supported the request from Submitter 46. The Panel accepts the landowner is not currently seeking to rezone the land and this is supported by Council, and it is appropriate to remove the property from the Amendment. This would allow further work to be undertaken to understand the constraints in the context of a specific proposal.

The Panel concludes:

- The property at 106 Tyers-Walhalla Road, Tyers, should be removed from Amendment C127latr.

**(iv) Recommendation**

The Panel recommends:

**Delete the Rural Living Zone – Schedule 1 from 106 Tyers-Walhalla Road, Tyers.**

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## PART C AMENDMENT C126LATR

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## 6 Strategic justification

### (i) Submissions

Council explained that Amendment C126latr would provide a clear land use planning and development framework for Toongabbie and would facilitate greater housing choice and diversity.

Council's Part A submission explained the strategic context and assessment of the Amendment, with consideration of planning policies, Ministerial Directions, planning guidance and background reports. It also explained the rationale for proposed planning provisions.

There were no submissions objecting to the intent or strategic justification of the Amendment.

### (ii) Discussion and conclusions

The Panel agrees with Council Amendment C126latr is strategically justified. The Toongabbie Structure Plan Report provides a framework for orderly planning of the growth and development of Toongabbie. Its strategic directions are sound and identifies and implements important environmental controls, such as flooding overlays, and seeks to enhance township values and assets.

Issues raised in relation to the Amendment primarily focussed on bushfire risk, but did not raise concern with the underlying intent or strategic directions. Other chapters of this Report address issues relating to proposed rezoning of land, application of the LDRZ on land subject to flooding and potentially contaminated land.

The Toongabbie Structure Plan Report and Toongabbie Background Reports are appropriate to include as background documents, subject to the recommendations of this Report.

For the reasons set out in this report, the Panel concludes that the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

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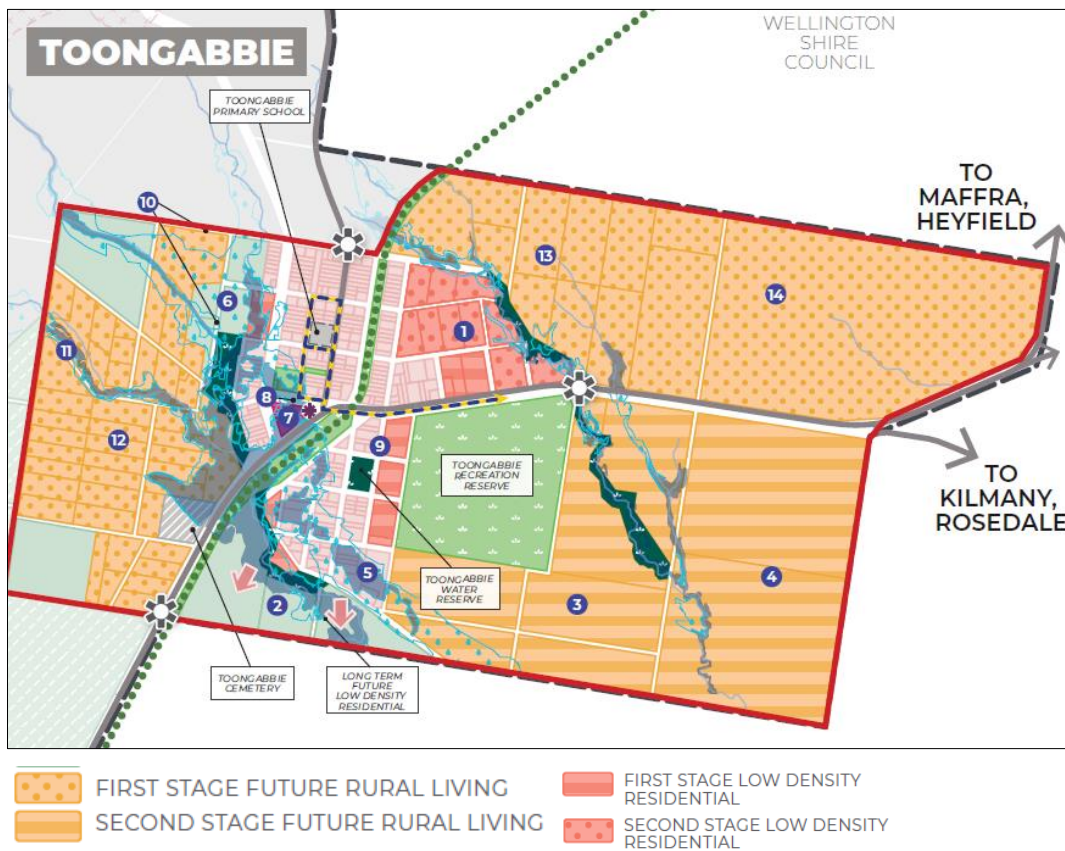
# 7 Toongabbie growth areas and bushfire risk

## (i) Context

The Toongabbie TSP proposes future rural living growth areas (Figure 8). Areas designated as:

- First Stage Low Density Residential are proposed for rezoning to LDRZ through Amendment C126latr
- First Stage Future Rural Living Zone are proposed for rezoning to RLZ through Amendment C127latr.

Figure 8 Toongabbie future rural living growth areas



Source: Toongabbie Structure Plan Report (enlarged by the Panel)

## (ii) The issues

The issues are whether:

- the Toongabbie Structure Plan Report adequately considers bushfire risk and policy relating to bushfire planning
- extent and location of growth areas is appropriate, with consideration of demand, infrastructure provision, protection of agricultural land and bushfire risk.



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**(iii) Submissions**

The Toongabbie TSP proposed for inclusion in local policy shows areas for growth around the town (see Figure 8).

Council explained the Toongabbie Structure Plan Report was informed by both the municipal wide MBRA proposed through Amendment C127latr and the Toongabbie Bushfire Risk Assessment:

The Toongabbie Background Report was influenced by the MBRA, but also contained assessments of bushfire risk under Clause 13.02S for particular residential growth areas in Toongabbie, which determined the rezoning in this Amendment and future potential growth/rezoning identified in the Structure Plan at Clause 11.01.

Council acknowledged the CFA's concerns with the Toongabbie Structure Plan Report recommendations relating to growth areas. On matters of bushfire risk, Council deferred to its submissions on Amendment C127latr.

Council was of the view the Amendment is consistent with the DELWP Bushfire Design Guidelines, stating the Structure Plan has "*considered bushfire hazard in directing growth and distribution of uses based on outcomes of a thorough risk assessment, developed in consultation with relevant authorities including the CFA*".

Regarding protection of agricultural land, Council submitted the Toongabbie Structure Plan Report was consistent with the municipal-wide agricultural capability assessment undertaken as part of Live Work Latrobe Rural Land Use Strategy (May 2019). Accordingly, land of high agricultural class was omitted from rural residential considerations.

Council rejected the CFA's submission to the Panel regarding the suitability of growth areas for rural living, in the context of bushfire risk. Council submitted the CFA had not provided any evidence in support of its position, nor did it test its views with Council's expert Mr Potter.

Council did not call evidence from Mr Potter in relation to bushfire risk associated with the Toongabbie Structure Plan. He only addressed the assessment of municipal wide bushfire risks.

The CFA did not support the introduction of the Toongabbie Structure Plan Report or Toongabbie Background Reports to the Planning Scheme on the basis of bushfire risk. It objected to the inclusion of local policy under Clause 11.01-1L (Toongabbie) which relates to future rural residential development in Areas 4, 12 and 14, and reference to these areas on the Toongabbie Structure Plan. It did not support the rezoning of land to RLZ in Areas 12 or 14 proposed through Amendment C127latr.

The CFA submitted that Toongabbie is a high risk settlement, which may be subject to bushfires and grassfires. The risk of bushfire is increased due to its geographic location and proximity to forested areas to the north west and south west. It noted existing and proposed settlement areas would be subject to extended periods of ember attack in a bushfire event and that grassfire will impact the edges and may penetrate settlement areas. It submitted that while the central, lower density part of the town has a low fuel area, the township has limited access to places of absolute or enhanced safety as roads are extensively affected by grasslands and may themselves be affected by fire.

The CFA considered the rural living style of growth proposed for Toongabbie presents unique bushfire risks, as set out the DELWP Bushfire Design Guidelines. It submitted the promotion of large lots is problematic from a fire risk perspective as it creates a 'soft edge' which is least helpful to risk management and creates an enlarged settlement edge that will require defending.

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The CFA did not object to Toongabbie growing, however submitted that full consideration of Clause 13.02-1S is critical. The CFA submitted that while there is no evidentiary basis to justify the proposed growth in Toongabbie, regarding the proposed growth areas (the Area numbers relate to areas shown on Figure 8):

- Areas 3 and 13 (east of Toongabbie) – these may be suitable for rural living if comprehensively assessed against Clause 13.02-1S (which has not yet occurred). The area is a short distance from the centre of Toongabbie, is on the side of Toongabbie away from the forest fire hazard and interface treatments may provide protection or allow for movement to low fuel areas in proximity. Area 13 may also provide some protective benefit for development to the south which may be taken into consideration.
- Area 12 (west of Toongabbie) – intensifying development on the west is highly problematic and is not likely to be a preferred area for growth from a bushfire perspective. There are alternative and better locations for growth around Toongabbie and across the municipality.
- Areas 4 and 14 (far east of Toongabbie) – the areas are distant from low fuel areas in the centre of town and may be exposed to grassfires. Development of the areas would result in an extended settlement edge that would require ongoing management and fire mitigation. The land abuts an adjacent municipality and would rely on another planning authority for fire mitigation measures. While the risk may be able to be managed, it is important to ask why the risk needs to be created.

The CFA did not raise concerns with other parts of Amendment C126latr, including the proposed rezoning of land to NRZ5 and LDRZ in the four areas immediately adjoining the existing town.

Other submitters raised concerns relating to the Toongabbie Structure Plan Report including:

- protection of agricultural land
- whether the projected demand for LDRZ land is likely to be understated in the land supply and demand analysis, and further rezoning may be required to meet demand
- whether township infrastructure will be adequate to support projected growth.

**(iv) Discussion**

The Panel acknowledges the substantial work undertaken by Council to inform the Toongabbie Structure Plan Report and associated Toongabbie Background Reports. Introducing a town structure plan for Toongabbie to the Planning Scheme will help provide certainty about growth, associated provision of infrastructure and services and management of environmental risks.

The Panel accepts the CFA's advice that Toongabbie is located in a high bushfire risk area. An appropriate bushfire risk assessment is essential to meet planning policy requirements and ensure acceptable outcomes for the community.

The Toongabbie Bushfire Risk Assessment explains, following Amendment VC140 the rezoning of rural living precincts was deferred until the bushfire risk had been determined on a municipal level, to inform the best locations for new rural living precincts.

The Toongabbie Structure Plan Report and Toongabbie Bushfire Risk Assessment rely on the MBRA. As discussed in Chapter 3.2, the Panel is not satisfied the MBRA is fit for purpose to inform settlement planning decisions, including designation of land for rural living rezonings in Toongabbie. The Panel is concerned the Toongabbie Bushfire Risk Assessment is not based on an

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adequate assessment of bushfire risk and has not sufficiently assessed lower risk locations, noting it states:

- directing population growth and new settlements to low risk locations... is only achievable at a neighbourhood scale for a town structure plan.

Consistent with its concerns about the Rural Living Strategy, the Panel considers the bushfire risk assessment undertaken to date does not satisfy the requirements of Clause 13.02-1S and Clause 71.02-3, and is not suitable for informing the growth areas proposed in the Toongabbie Structure Plan Report and Toongabbie TSP.

The Toongabbie Bushfire Risk Assessment states:

In the context of strategic planning decisions, these strategies need to be balanced and consider the 'net increase in risk to existing and future residents'. While it is necessary to ensure that the protection of human life is prioritised when decisions are made, the strategies are not 'mandatory requirements' in Clause 13.02-1S in the Planning Scheme and as each situation varies, each strategy needs to be considered as appropriate to ensure that decisions are consistent with the State policy objectives and that planning decisions are integrated.

While the Panel accepts that Clause 13.02 is a policy and does not impose mandatory requirements, the Panel is concerned the assessment may not have given adequate weight to policy considerations which prioritise protection of life above other policy drivers.

The Panel accepts the CFA's concerns regarding the proposed growth areas, and notes while it considers Areas 3 and 13 may be suitable for growth, this needs to be confirmed following further bushfire risk assessment.

For these reasons, the Panel does not support the designation of growth areas as currently portrayed in the Toongabbie Structure Plan and as identified in local policy at Clause 11.01-1L (Toongabbie). Instead, the potential growth areas should be identified as 'subject to further bushfire risk assessment'. As noted by the CFA, the risk assessment should include consideration of alternative lower risk growth locations within the locality and across the municipality.

Consistent with the Panel's recommendations in Chapter 3, before growth areas for Toongabbie can be confirmed, further work should be undertaken to the satisfaction of the CFA to prepare a bushfire risk assessment that responds to Clause 13.02.1S (Bushfire planning) and associated settlement planning.

Regarding other submitter concerns:

- the Panel accepts Council's submission that township planning has been undertaken in the context of its Rural Land Strategy and has adequately considered protection of agricultural land
- the Panel is satisfied the land supply and demand assessment and infrastructure needs have been taken into consideration in the Toongabbie Structure Plan Report. An update of the Rural Living Strategy as recommended will consider distribution of land supply across the municipality in response to bushfire risk.

#### (v) Conclusions and recommendation

The Panel concludes:

- While the Toongabbie TSP is generally strategically justified, the Structure Plan does not adequately consider bushfire risk of growth areas.

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- Proposed growth areas in the Toongabbie Structure Plan Report and Toongabbie TSP should be designated as ‘potential rural living subject to bushfire risk assessment’.
- Further work should be undertaken to the satisfaction of the CFA before growth areas in Toongabbie are confirmed, consistent with the Panel’s recommendations in Chapter 3 of this Report.

The Panel recommends:

**Make the following changes to Amendment C126latr:**

**a) amend Clause 11.01-1L (Toongabbie) to:**

- **amend the strategies and the Toongabbie Town Structure Plan map to designate ‘First stage future rural living’ and ‘Second stage future rural living’ areas as ‘Potential future growth areas subject to bushfire risk assessment’.**

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## 8 Other issues

### 8.1 Flood Study and land rezoning

#### (i) Context

Clause 02.03 (Strategic directions) states:

##### **Floodplain management**

Flooding is a natural hazard that can severely disrupt communities and may cause extensive damage, stock loss and, in extreme cases, loss of life.

Planning for flooding seeks to:

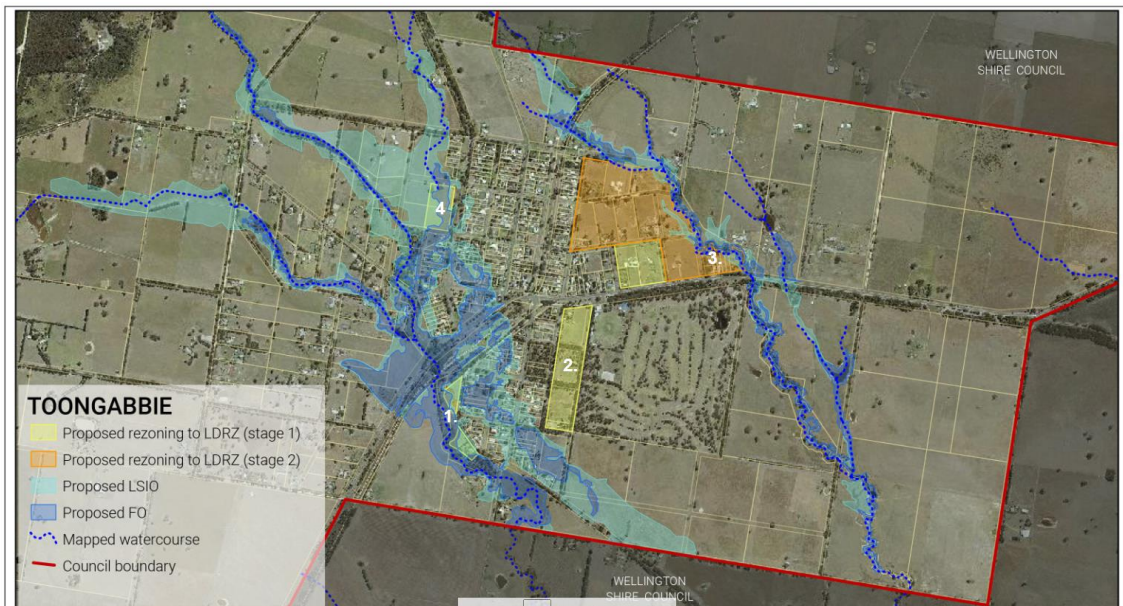
- Reduce the damage and costs associated with flood events.

Amendment C126latr proposes to introduce the FO to Toongabbie, based on the flood layers in the Flood Study. The Toongabbie Structure Plan Report states the LDRZ should only be applied to lots “not affected by the FO or LSIO”.<sup>4</sup>

The Panel observed that land proposed for rezoning is affected, in some areas, extensively by the expanded LSIO and new FO, and sought clarification from Council on how flooding had been considered with regard to land proposed for rezoning. The Panel considered this issue in the context of understanding strategic justification of the rezonings proposed in the Amendment.

Council provided a map showing the combined proposed rezonings and the LSIO and FO (see Figure 9).

**Figure 9 Toongabbie proposed rezonings and LSIO – FO overlays**



Source: Document 40

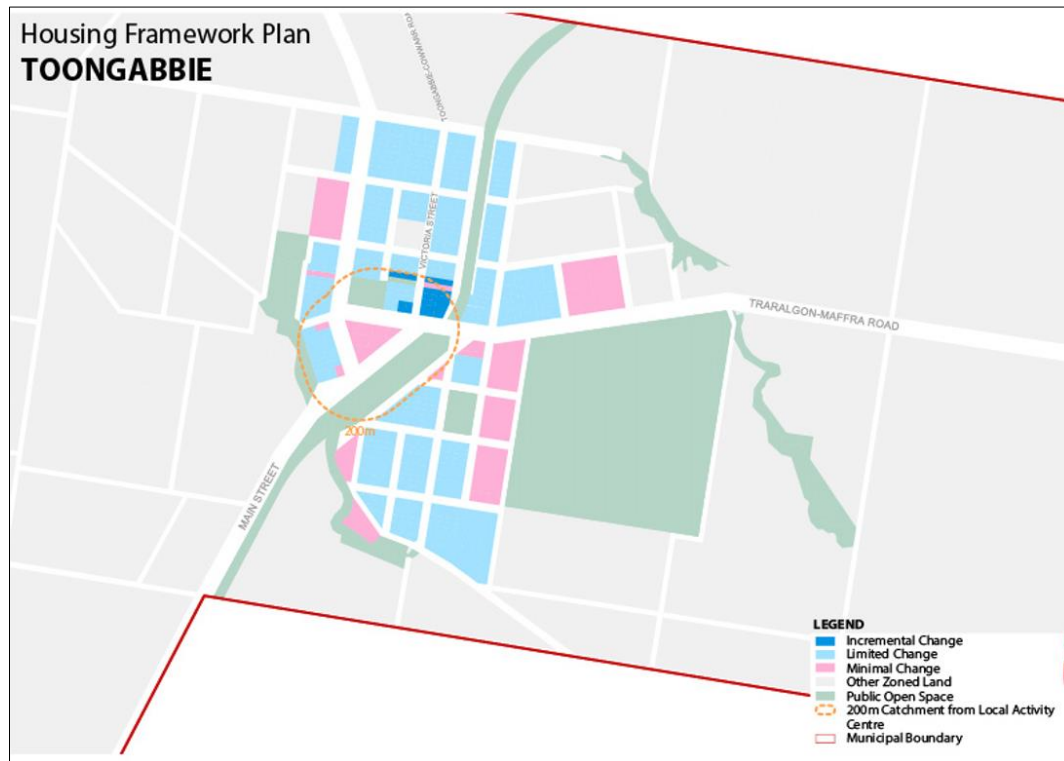
<sup>4</sup> Toongabbie Structure Plan Report, page 63

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The areas proposed for LDRZ are shown on the Housing Framework Plan as 'minimal change areas' in proposed Clause 16.01-1L (Housing supply) (see Figure 10).

**Figure 10 Toongabbie Housing Framework Plan**



**(ii) The issue**

The issue is whether the proposed rezoning to LDRZ in areas subject to inundation or flooding is appropriate.

**(iii) Submissions**

Council submitted implementation of the Flood Study in the Planning Scheme was supported by planning policy, specifically:

- Clause 13-03-1S (Floodplain management), by mitigating flood risk by applying planning controls to land identified as liable to inundation by a 1 in 100 year flood event
- Clause 14.02-1S (Catchment planning and management), by rezoning Toongabbie Creek frontage land to PCRZ to protect natural drainage corridors.

Council explained:

- the Amendment accounted for development potential, land capability, floodplain land and PPN12: Applying Flood Provisions in the Planning Scheme
- the LSIO, last updated in 2012, applies to the Toongabbie Creek as a designated waterway
- Toongabbie has large sections of land covered by the LSIO predominantly on FZ1 land to the east and west of the study area, descending from the north to the south in a curved, vertical direction

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- applying the updated flood modelling to the study area would manage flood risk based on current information and to guide planning decisions
- Amendment C126latr discourages urban development on flood-prone land, except when agreed with the WGCMA.

Regarding lot size and waste water treatment, Council explained:

- the LDRZ directs a minimum lot size is 0.2 hectares where reticulated sewerage can service the lot, and a minimum 0.4 hectares with no reticulated sewerage
- the minimum lot size ensures the lot is large enough to treat and retain all wastewater, but small enough to be maintained without the need for agricultural techniques or equipment
- it is responsible for the approval and on-going oversight of on-site wastewater management systems, which are described as septic tanks and secondary treatment systems.

Council described the process of assessing flood constraints when identifying land for rezoning to GRZ4 and LDRZ. Lots proposed for first stage rezoning to LDRZ located to the south and west of the study area are proposed to have LSIO and FO applied over large portions of the lots, resulting in reduced development potential. Council submitted LDRZ was a suitable zone to mitigate physical infrastructure constraints. It advised:

The Amendment rezones land free of flooding constraints within 200m of the Toongabbie Township 'core' from NRZ4 to GRZ4. The rezoning will encourage infill development of aged care facilities as desired by the community.

Council advised the WGCMA was consulted during the drafting of the Amendment, and its referral response was supportive. The LSIO and FO would require a planning permit application for most buildings and works, and referral to the WGCMA.

In response to a question from the Panel, Council sought updated advice from its Coordinator Health Services and Municipal Recovery Manager in relation to sewerage treatment in land subject to inundation.<sup>5</sup> In summary, the advice was:

- Stage 1 land proposed for rezoning:
  - The land at Howard Street and Main Street Toongabbie would be able to treat and contain waste on site and meet required setbacks with secondary treatment.
  - The land at Hower street would be classed as high risk and would be limited in meeting the minimum of 30 metre setbacks to waterway, and this would only be achieved if secondary treatment systems were installed. Effluent disposal areas would be constrained. A land capability assessment would need to be undertaken for rezoning and sizing for the lots.
  - The land at Semmens Road would have trouble treating and containing wastewater and meeting setbacks for new developments outside the overlay.
  - Some of the lots along Howe street will have trouble meeting the setbacks to waterways and having sufficient land available for on-site wastewater disposal.
- Stage 2 land proposed for rezoning:

<sup>5</sup> Document 40, dated 12 October 2022

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- There are serious concerns for lots to the north of the township closest to the waterway and flood overlay area. There is evidence of inundation nearby, and appropriate setbacks will not be able to be achieved.
- The other proposed lots in Stage 2 could treat and contain wastewater on site. All systems being installed must be secondary treatment.
- Land Capability Assessments must be provided to develop each lot and there may be restrictions on the size of development permitted for each lot to allow for wastewater envelopes to be accommodated.

Gippsland Water advised Council in its referral response that servicing areas outside of the current sewer district in Toongabbie did not meet the financial criteria for servicing land. This would mean that any new LDRZ areas must be serviced by septic tanks and secondary treatment plants.

A new wastewater treatment plant for Toongabbie would require buffers, and EPA approvals. Lagoon based treatment and discharge to farmland, golf course, recreation reserve or similar may be worth investigating if there is a future trigger to replace the rising main between Toongabbie and Glengarry and will result in a lower lifecycle cost than upgrading the current system.

Council regarded this as a long term consideration, as there is still capacity in the sewer district, and growth can be managed through low density housing options which do not have to be connected to reticulated services. Council's position was that the LDRZ is an appropriate zone to mitigate the physical infrastructure constraints within Toongabbie, for land on the fringe of the residential area, allowing for subdivision into lots which are large enough to contain all wastewater on site.

#### (iv) Discussion

Implementation of the Flood Study into the Planning Scheme is an important component of Amendment C126latr. Introduction of flooding overlay controls will help ensure the community is protected and environmental risks are managed.

The consequential implications for land rezoning must be considered. Flood prone land should not be rezoned for residential purposes unless there is a compelling reason to do so in the context of strategic directions and planning policy.

In reviewing the map provided by Council, the Panel observes the following Stage 1 areas proposed for rezoning to LDRZ are significantly affected by the LSIO and FO (the area numbers below relate to Stage 1 areas shown on Figure 9):

- Area 1 – 9-17 Hower Street and 19-29 Hower Street from FZ1 to LDRZ
- Area 4 – land in King Street proposed for rezoning from FZ1 and NR4 to LDRZ.

This is inconsistent with the Toongabbie Structure Plan Report which directs the LDRZ should not be applied to lots affected by the FO and LSIO.

Gippsland Water does not consider it viable to service these areas with reticulated sewer mains. Council's Coordinator Health Services identifies major development constraints and concerns about treating wastewater onsite for some of the land proposed to be rezoned LDRZ.<sup>6</sup> Septic tanks and secondary treatment plants would have to be sited completely outside the LSIO and FO

<sup>6</sup> Note: the Panel has retained street names as written in the email from Council's Coordinator Health Services, which differs at times from the property addresses and streets referred to in the Amendment documents.



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boundaries in order to ensure no pollution risk to the waterways and neighbouring properties. Whether this approach can comply with the Septic Code of Practice on a 0.4 hectare lot to the satisfaction of Council's Engineers cannot be determined by the Panel, based upon the information submitted.<sup>7</sup>

The advice of Gippsland Water and Council's Coordinator Health Services in relation to the treatment of sewerage and wastewater in a floodplain has been significant in informing the Panel's opinion.

For these reasons, the Panel was not persuaded that rezoning land for residential development within designated flood prone areas is appropriate or consistent with planning policy. Council should discourage development on flood-prone land, even when WGCMA might agree, and should only advance rezonings where Clause 02.03 is satisfied. Directing development to sites where secondary treatments plants will probably be required in order to gain EPA approval will add cost and time delay to residential development.

In the context of updated advice from the Coordinator Health Services, servicing restrictions and the Toongabbie Structure Plan Report which directs not to rezone flood prone land to LDRZ, the Panel finds that properties subject to the LSIO and FO should not be rezoned to LDRZ.

Regarding the land at 9 – 17 Hower Street, Council proposed a post exhibition change to retain FZ1 in response to a submission (see Chapter 8.2). The Panel supports retaining the FZ1 on this land, which resolves the issue relating to flooding.

If the properties in Areas 1 and 4 are not rezoned LDRZ, consequential changes will need to be made to the:

- Toongabbie TSP in Clause 11.01-1L (Toongabbie)
- Housing Framework Plan in Clause 16.01-1L (Housing supply).

The Panel notes there appears to be a discrepancy with the exhibited Toongabbie TSP at Clause 11.01-1L (Toongabbie), which does not show Area 4 for Stage 1 LDRZ (see Figure 11), and the Town Structure Plan map in the Toongabbie Structure Plan Report. The exhibited Clause 11.01-1L (Toongabbie) is consistent with the Panel recommendations to remove the LDRZ from this land.

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<sup>7</sup> EPA Publication 891.4, July 2016

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Figure 11 Area 4 – Stage 1 LDRZ not shaded



Source: Panel modified Toongabbie TSP, exhibited Clause 11.01-1L

**(v) Conclusions and recommendations**

The Panel concludes:

- The following properties should not be rezoned to LDRZ (area reference see Figure 9):
  - Area 1 – 9-17 Hower Street and 19-29 Hower Street proposed for rezoning from FZ1 to LDRZ
  - Area 4 – land in King Street proposed for rezoning from FZ1 and NRZ4 to LDRZ.
- Consequential changes will be required to the Toongabbie TSP at Clause 11.01-1L (Toongabbie) and Housing Framework Plan at Clause 16.01-1L (Housing supply), to remove the properties no longer to be zoned LDRZ and show appropriate housing change area designation.

The Panel recommends:

**Make the following changes to Amendment C126latr:**

- a) delete the Low Density Residential Zone from the following properties:
  - 9-17 Hower Street, Toongabbie
  - 19-29 Hower Street
  - land in King Street
- b) amend Clause 11.01-1L (Toongabbie) to:
  - amend the Toongabbie Town Structure Plan map to remove the Low Density Residential Zone designation from the following properties:
    - 9-17 Hower Street, Toongabbie
    - 19-29 Hower Street
    - land in King Street
- c) amend Clause 16.01-1L (Housing supply) to:
  - update the Housing Framework Plan map to correct the housing change designation to land no longer proposed for rezoning to Low Density Residential Zone.

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## 8.2 Submissions regarding rezoning

### (i) The issue

The issue is whether the proposed site specific requests for rezoning are appropriate.

### (ii) Submissions

The following table provides a summary of submitter requests relating to rezoning as part of Amendment C126latr and Council's response.

**Table 4** Amendment C126latr submissions regarding rezoning

Submissions	Council response
<p>Submitter 5</p> <p>Requested to retain 9 – 17 Hower Street as FZ rather than rezone to LDRZ as proposed.</p>	<p>Council submitted a post exhibition change to remove the LDRZ from the property. It agreed it was not appropriate to rezone the property to LDRZ as part of the Amendment and advised the Panel this issue had been resolved.</p>
<p>Submitter 6</p> <p>Requested 18 – 34 Sparks Lane, Toongabbie be included in the first stage rezoning of LDRZ rather than the second stage.</p>	<p>No change proposed. Council submitted this would be out of sequence and would cause servicing and infrastructure issues.</p>
<p>Submitter 9</p> <p>Objected to the Amendment on the basis its land at 215 Guyatts Rd, Toongabbie was not proposed for rezoning.</p>	<p>No change proposed. The submitter made submission in relation to Amendment C127latr and C126latr. Submission 9 does not provide adequate justification for the land in question to be reconsidered for rural rezoning, largely due to the bushfire risk identified, nor have changes to the Bushfire Risk Map been justified.</p>
<p>Submitter 12</p> <p>Requested 219 Afflecks Road, Toongabbie, not be rezoned from FZ for rural living purposes.</p>	<p>No change proposed. The submitter made submission in relation to Amendment C127latr and C126latr. The Toongabbie Town Structure Plan is being implemented as part of Amendment C126latr, and has assessed and identified the needs for Toongabbie in relation to land use and services. The site is appropriate for rural living and is designated as a growth area.</p>

### (iii) Discussion

Council supported the request of Submitter 5 to retain 9 – 17 Hower Street as FZ instead of rezoning to LDRZ. The Panel supports this request and post exhibition change proposed by Council, noting the property is affected by the LSIO and FO. This is consistent with the Panel's recommendation in Chapter 8.1 to not rezone land subject to inundation and flooding.

The Panel supports Council's position in relation to 18 – 34 Sparks Lane, Toongabbie and 215 Guyatts Road. The property at 18 – 34 Sparks Lane, Toongabbie is identified for rezoning to LDRZ in the future. It is centrally located and may be suitable for rezoning when servicing and other strategic considerations have been assessed, particularly in light of the Panel's recommendations

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relating to growth areas (see Chapter 6). The property at 215 Guyatts Road is well outside of the township boundary and is not appropriate to rezone for residential purposes.

The Panel has recommended in Chapter 6 that the proposed rural living growth areas for Toongabbie are designated as 'potential' growth areas, subject to an appropriate bushfire risk assessment. The property at 219 Afflecks Road, Toongabbie is included in one of the growth areas that is subject to this recommendation.

**(iv) Conclusions and recommendation**

The Panel concludes:

- Consistent with the submitter's request, the property at 9 – 17 Hower Street, Toongabbie which is subject to inundation should not be rezoned to LDRZ and should be retained in FZ1.
- The properties at 18 – 34 Sparks Lane and 215 Guyatts Road, Toongabbie should be retained in FZ as exhibited.
- The property at 219 Afflecks Road, Toongabbie is included in one of the growth areas proposed for rural living, and consequently further bushfire risk assessment is required to determine suitability for future rezoning. The land should be retained in the FZ in the short term, as exhibited in the Amendment.

The Panel recommends:

**Make the following changes to Amendment C126latr:**

- a) **delete the Low Density Residential Zone from 9 – 17 Hower Street, Toongabbie and retain this property in the Farming Zone.**

**8.3 Environmental Audit Overlay****(i) The issue**

The issue is whether the EAO should be applied to 43 High Street, Toongabbie.

**(ii) Submissions**

EPA submitted the EAO should be applied to the property at 43 High Street, Toongabbie as it was identified by Council as having a high potential for contamination. EPA understood it was not proposed for rezoning, however it is currently zoned to allow sensitive uses.

Council submitted:

The Toongabbie General Store at 43 Main Street, Toongabbie (Site) is potentially contaminated due to petrol bowsers on-site. Should the use change, the Structure Plan identifies that risk should be managed by undertaking the following measures:

- Identification on Council's potentially contaminated land register;
- Apply the EAO to the land; and
- For any planning permit for a sensitive use and development, a list of mandatory permit conditions.

Council relied on the requirements of Ministerial Direction 1, stating as the site is not proposed to be rezoned for sensitive uses it is not necessary to apply the EAO, noting sensitive uses are already permitted on the site under the existing TZ provisions.

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**(iii) Discussion and conclusion**

The Panel considers it appropriate to apply the EAO to land known to be potentially contaminated and when its zone will allow sensitive uses. Application of the EAO is recommended by EPA, and is consistent with MD1 and PPN30 Structure Plan Report.

However, as this proposal was not exhibited with the Amendment, the Panel accepts Council's decision to not introduce the EAO as part of the Amendment. Council will need to engage with affected landowners and satisfy itself that notice requirements have been met before proceeding with applying the EAO.

The Panel concludes:

- It is appropriate to apply the EAO to the land through a separate planning scheme amendment process.

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## Appendix A Planning context

### Victorian Planning Objectives

The amendments seek to implement State policy objectives set out in section 4 of the PE Act through the application of updated policy, zones and overlays to reflect the key strategic directions of the municipality. The amendments seek to facilitate provision of rural living land to meet forecast demand over 15 years while taking into account bushfire and flood risk.

The exhibited Explanatory Report for C126latr identified relevant objectives relating to:

- providing for the fair, orderly, economic and sustainable use, and development of land
- providing for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity
- securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- facilitating development in accordance with the objectives of planning in Victoria.

The exhibited Explanatory Report for C127latr identified relevant objectives relating to:

- providing for the fair, orderly, economic and suitable use, and development of land
- securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- facilitating development in accordance with the objectives of planning in Victoria
- balance the present and future interests of all Victorians.

### Bushfire and settlement planning policy and guidance

#### Municipal Planning Strategy

The MPS (Clause 02.01) states the municipality is set to grow by approximately 8,560 to a total of 82,460 people by 2030. It also states that the municipality is experiencing a period of economic restructuring with a change in traditional employment sectors supporting Victoria's power production. Other major economic activities include retail, services, forestry, food processing, engineering, health, education and agriculture.

Clause 02.031- (Strategic directions) explains the settlement hierarchy including:

Latrobe's smaller towns and rural living settlements provide diversity in housing and lifestyle choice that is alternative to options available in the main towns. Some are also service centres with commercial and community facilities.

Toongabbie is identified as one of a number of small towns providing:

... a limited range of educational, retail and recreational services for residents and the surrounding rural areas. Urban infill and diversification of housing choice in small towns make efficient use of existing infrastructure so residents can remain in the town whatever their housing need.

Rural living precincts are identified which:

... comprise clusters of housing on small rural lots and have limited services. These areas support farming and rural living communities, providing an attractive lifestyle choice in a rural setting.

Settlement planning seeks to:

- Support growth in district towns that reinforces their role as key retail and service centres for a moderate population base and the hinterland.

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- Support growth in small towns to provide a limited range of services for residents and the surrounding rural areas.
- Facilitate the growth of towns to be commensurate with access to services, infrastructure, transport and the protection of natural resources.

The strategic directions in the MPS (Clause 02.03) in relation to environmental risks state:

Planning for climate change seeks to:

- Support use and development that can adapt to the impacts of climate change and seeks to minimise its negative impacts.
- Encourage energy-efficient building design including the incorporation of energy efficient technologies.

Planning for bushfire seeks to:

- Reduce bushfire risk through various bushfire protection measures.
- Decrease the level of risk to life, property, the environment and biodiversity from bushfire.

Planning for flooding seeks to:

- Reduce the damage and costs associated with flood events.

Clause 02.03-6 (Housing) states that Council has the aspiration to grow the population to 100,000 by 2050, with a significant shift to smaller households, with one or two bedroom households expected to represent 76 per cent of all new households over the next 15 years. It states:

Given the land use constraints and decreasing household size, urban renewal and housing intensification will play a key role to diversify housing choice, accommodate growth and maximise access to infrastructure and services

Clause 02.03-6 states rural residential development is a popular lifestyle choice accommodated in the LDRZ in urban areas and RLZ in rural areas. There are emerging amenity concerns with rural living options, relating to animal husbandry, forestry operations and intensive agriculture. It states:

Planning for rural residential development seeks to:

- Support rural living and associated land use that does not compromise agricultural productivity.
- Avoid impeding the long term urban growth of settlements.

The Rural framework plan in Clause 02.04 identifies a number of 'Future RLZ investigation areas' including in areas around Toongabbie.

### **Settlement planning and growth management**

The Planning Policy Framework provides clear guidance for settlement planning and growth management. Relevant policy and strategies are shown in Table 5.

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**Table 5 Settlement planning and growth management policies and strategies**

Clause	Relevant strategies
Clause 11.01-1S (Settlement)	<p>Develop sustainable communities through a settlement framework offering convenient access to jobs, services, infrastructure and community facilities.</p> <p>Ensure regions and their settlements are planned in accordance with their relevant regional growth plan.</p> <p>Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.</p> <p>Create and reinforce settlement boundaries.</p> <p>Provide for growth in population and development of facilities and services across a regional or sub-regional network.</p> <p>Encourage a form and density of settlements that supports sustainable transport to reduce greenhouse gas emissions.</p> <p>Limit urban sprawl and direct growth into existing settlements.</p> <p>Promote and capitalise on opportunities for urban renewal and infill redevelopment.</p> <p>Develop compact urban areas that are based around existing or planned activity centres to maximise accessibility to facilities and services.</p> <p>Ensure retail, office-based employment, community facilities and services are concentrated in central locations.</p> <p>Ensure land that may be required for future urban expansion is not compromised.</p>
Clause 11.011R (Settlement – Gippsland)	<p>Support new urban growth fronts in regional centres where natural hazards and environmental risks can be avoided or managed.</p> <p>Support the continuing role of towns and small settlements in providing services to their districts, recognising their relationships and dependencies with larger towns.</p>
Clause 11.01-1L (Latrobe settlement patterns)	<p>Discourage the fragmentation of rural land adjoining township boundaries until land is required for long term (15 or more years) urban development...</p> <p>Manage growth in rural living precincts by discouraging further rezoning of land.</p>



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Clause	Relevant strategies
Clause 11.02-1S (Supply of urban land)	<p>Ensure the ongoing provision of land and supporting infrastructure to support sustainable urban development.</p> <p>Ensure that sufficient land is available to meet forecast demand.</p> <p>Plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur. Residential land supply will be considered on a municipal basis, rather than a town-by-town basis.</p> <p>Planning for urban growth should consider:</p> <ul style="list-style-type: none"> <li>- Opportunities for the consolidation, redevelopment and intensification of existing urban areas.</li> <li>- Neighbourhood character and landscape considerations.</li> <li>- The limits of land capability and natural hazards and environmental quality.</li> <li>- Service limitations and the costs of providing infrastructure.</li> </ul> <p>Monitor development trends and land supply and demand for housing and industry.</p> <p>Maintain access to productive natural resources and an adequate supply of well-located land for energy generation, infrastructure and industry.</p> <p>Restrict rural residential development that would compromise future development at higher densities.</p>
Clause 11.02-2S (Structure planning)	<p>Facilitate the preparation of a hierarchy of structure plans or precinct structure plans that:</p> <ul style="list-style-type: none"> <li>- Address the strategic and physical context of the location, including increased physical risks associated with climate change.</li> <li>- Provide the broad planning framework for an area as well as the more detailed planning requirements for neighbourhoods and precincts, where appropriate.</li> <li>- Provide for the development of sustainable and liveable urban areas in an integrated manner informed by the 17 United Nations Sustainable Development Goals as relevant.</li> <li>- Protect and enhance areas of natural and cultural significance.</li> <li>- Facilitate the logical and efficient provision of infrastructure.</li> <li>- Facilitate the use of existing infrastructure and services.</li> <li>- Incorporate integrated water management and urban greening.</li> </ul>

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Clause	Relevant strategies
Clause 11.02-3S (Sequencing of development)	<p>Define preferred development sequences in areas of growth to better coordinate infrastructure planning and funding.</p> <p>Ensure that new land is released in areas of growth in a timely fashion to facilitate coordinated and cost-efficient provision of local and regional infrastructure.</p> <p>Improve the coordination and timing of infrastructure and service delivery in areas of growth.</p> <p>Ensure that planning for water supply, sewerage and drainage works receives high priority in early planning for areas of growth.</p>
Clause 11.03-3S (Peri-urban areas)	Establish growth boundaries for peri-urban towns to avoid urban sprawl and protect agricultural land and environmental assets.

**Environmental risk and amenity**

The Planning Policy Framework provides policy guidance on environmental risks and amenity, stating that planning should:

- strengthen the resilience and safety of communities by adopting a best practice environmental management and risk management approach
- identify, prevent and minimise the risk of harm to the environment, human health, and amenity through:
  - land use and development compatibility
  - effective controls to prevent or mitigate significant impacts
- identify and manage the potential for the environment and environmental changes to impact on the economic, environmental or social wellbeing of society
- ensure development and risk mitigation does not detrimentally interfere with important natural processes
- prepare for and respond to the impacts of climate change.

Clause 13.01-1S (Natural hazards and climate change) includes the following strategies:

Respond to the risks associated with climate change in planning and management decision making processes.

Identify at risk areas using the best available data and climate change science.

Integrate strategic land use planning with emergency management decision making.

Direct population growth and development to low risk locations.

Develop adaptation response strategies for existing settlements in risk areas to accommodate change over time.

Ensure planning controls allow for risk mitigation and climate change adaptation strategies to be implemented.

Site and design development to minimise risk to life, health, property, the natural environment and community infrastructure from natural hazards.

**Bushfire**

Clause 13.02-1S (Bushfire planning) applies to all land within a designated BPA, subject to a BMO or proposed to be used or developed in a way that may create a bushfire hazard. The objective of the clause is to strengthen the resilience of communities to bushfire through risk-based planning that priorities the protection of human life.

Strategies relate to:

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- protection of human life
- bushfire hazard identification and assessment
- settlement planning
- areas of biodiversity conservation value
- use and development control in a BPA.

Regarding protection of human life, strategies include:

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.

Regarding settlement planning, strategies include:

- Directing population growth and development to low risk locations, being those locations assessed as having a radiant heat flux of less than 12.5 kilowatts/square metre under *AS 3959 - 2009 Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009).
- Ensuring the availability of, and safe access to, areas assessed as a BAL-Low rating under *AS 3959 - 2009 Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009) where human life can be better protected from the effects of bushfire.
- Ensuring the bushfire risk to existing and future residents, property and community infrastructure will not increase as a result of future land use and development.
- Achieving no net increase in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reduce bushfire risk overall.
- Assessing and addressing the bushfire hazard posed to the settlement and the likely bushfire behaviour it will produce at a landscape, settlement, local, neighbourhood and site scale, including the potential for neighbourhood-scale destruction.
- Assessing alternative low risk locations for settlement growth on a regional, municipal, settlement, local and neighbourhood basis.
- Not approving any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than a BAL-12.5 rating under *AS 3959-2009 Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009).

Local policies also relate to planning in the BMO and BPAs.

### Floodplain management

Clause 13.03-1S (Floodplain management) includes the following strategies:

Identify land affected by flooding, including land inundated by the 1 in 100 year flood event (1 per cent Annual Exceedance Probability) or as determined by the floodplain management authority in planning schemes.

Avoid intensifying the impact of flooding through inappropriately located use and development.

Plan for the cumulative impacts of use and development on flood behaviour.

### Agricultural land

Clause 14.01-1S (Protection of agricultural land) includes the objective to protect the state's agricultural base by preserving productive farmland.

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**Rural residential development**

## Clause 16.01-3S (Rural residential development)

Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.

Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.

Demonstrate need and identify locations for rural residential development through a housing and settlement strategy.

Ensure planning for rural residential development avoids or significantly reduces adverse economic, social and environmental impacts by:

- Minimising or avoiding property servicing costs carried by local and state governments.

Ensure land is not zoned for rural residential development if it will encroach on high quality productive agricultural land or adversely impact on waterways or other natural resources.

Discourage development of small lots in rural zones for residential use or other incompatible uses.

Encourage consolidation of existing isolated small lots in rural zones.

Ensure land is only zoned for rural residential development where it:

- Is located close to existing towns and urban centres, but not in areas that will be required for fully serviced urban development.
- Can be supplied with electricity, water and good quality road access.

## Clause 16.01-3L (Rural residential development) includes the following strategies:

Encourage rural living where there will be minimal negative environmental impact or conflict with commercial agriculture.

Support rural living where it will result in improved land management outcomes.

Encourage facilities and services required by rural residents to locate in existing townships.

Discourage rural living or low density residential use and development on the fringes of major towns where land is designated as a long-term urban growth corridor.

Support rural living in low bushfire risk locations or where bushfire risk can be reduced to an acceptable level.

**Gippsland Regional Growth Plan**

The Gippsland Regional Growth Plan (GRGP) provides broad direction for land use and development across the Gippsland region, as well as more detailed planning frameworks for key regional centres. The GRGP reinforces the recognition of Latrobe City as Gippsland's Regional City, consisting of Moe, Morwell, Traralgon and Churchill, highlighting its function as a collective urban system or networked city. It identifies the region's challenge of accommodating population growth and planning settlements and infrastructure in response to the impacts of climate change and increased risk of natural hazards including bushfire.

Council's submissions did not specifically address how the amendments are consistent with the GRGP, however it is noted that Amendment C127latr seeks to implement some of the strategic work undertaken for Amendment C105latr as it related to rural rezonings, which included consideration of the GRGP. The GRGP includes the following strategies:

Accommodate urban growth within Latrobe City as Gippsland's regional city, and in regional centres and sub-region networks of towns.

Land use strategies and structure plans to accommodate growth over the next 20 to 30 years.

Support new urban growth fronts in regional centres where natural risks can be avoided or managed.

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Manage settlement growth to limit impact on agricultural productivity, natural and earth resources and ecological values.

### Planning Scheme provisions

Implementing the MPS and the Planning Policy Framework is a purpose common to all zones and overlays.

Other purposes of the relevant zones and overlays are included in Table 6.

**Table 6** Purposes of Planning Scheme provisions

Planning provision	Purposes
Farming Zone	<p>To provide for the use of land for agriculture.</p> <p>To encourage the retention of productive agricultural land.</p> <p>To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.</p> <p>To encourage the retention of employment and population to support rural communities.</p> <p>To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.</p> <p>To provide for the use and development of land for the specific purposes identified in a schedule to this zone.</p>
Neighbourhood Residential Zone	<p>To recognise areas of predominantly single and double storey residential development.</p> <p>To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.</p> <p>To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.</p>
Neighbourhood Residential Zone - Schedule 4 (Regional suburbs)	<p>Neighbourhood character objectives</p> <p>To reinforce a spacious regional suburban character of existing and new neighbourhoods by providing generous front and side building setbacks and landscaped front setbacks with canopy trees.</p> <p>To minimise the prominence of buildings within the streetscape by setting back upper levels of buildings and siting garages and carports behind the front façade.</p> <p>To encourage walls on boundaries to be setback from the building façade to provide space for landscaping, building articulation and appearance of space between dwellings.</p>
Township Zone	<p>To provide for residential development and a range of commercial, industrial and other uses in small towns.</p> <p>To encourage development that respects the neighbourhood character of the area.</p> <p>To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.</p>

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Planning provision	Purposes
Rural Living Zone	<p>To provide for residential use in a rural environment.</p> <p>To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.</p> <p>To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.</p> <p>To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.</p>
Design and Development Overlay	To identify areas which are affected by specific requirements relating to the design and built form of new development.
Development Plan Overlay	<p>To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.</p> <p>To exempt an application from notice and review if a development plan has been prepared to the satisfaction of the responsible authority.</p>
Floodway Overlay	<p>To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.</p> <p>To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.</p> <p>To reflect any declarations under Division 4 of Part 10 of the <i>Water Act, 1989</i> if a declaration has been made.</p> <p>To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.</p> <p>To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.</p>
Land Subject to Inundation Overlay	<p>To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.</p> <p>To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.</p> <p>To minimise the potential flood risk to life, health and safety associated with development.</p> <p>To reflect a declaration under Division 4 of Part 10 of the <i>Water Act, 1989</i>.</p> <p>To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.</p> <p>To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.</p>

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**Planning Scheme Amendments****Amendment VC140**

Amendment VC140, gazetted on 12 December 2017, makes the Planning Policy Framework for bushfire clearer and more directive to enable a resilient response to settlement planning.

The explanatory report states it requires planning authorities to:

- Prioritise the protection of human life and the management of bushfire impact.
- Avoid any increase in the risk of bushfire to people, property and community infrastructure.
- Direct population growth and development to low risk locations and also to ensure safe access to areas where human life can be better protected.
- At a settlement level, achieve no net increase in bushfire risk, and where possible reduce bushfire risk overall.
- Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.
- Ensure that development has addressed relevant policies, satisfied performance measures or implemented bushfire protection measures.
- Consider bushfire risk in bushfire prone areas when assessing a planning permit application for specified uses and development such as accommodation, childcare and hospitals, etc.

**Amendment C105latr**

Amendment C105latr was gazetted on 21 November 2019. It implements land use planning strategies of Live Work Latrobe, and is based on the following strategies:

- Housing Strategy
- Rural Land Use Strategy
- Industrial and Employment Strategy.

Amendment VC140 came into effect part way through exhibition of Amendment C105latr, and Council resolved to defer implementation of the recommendations in the Rural Land Use Strategy relating to rezoning for rural living purposes to allow for greater consideration of the new requirements.

**Amendment C131latr**

Amendment C131latr seeks to implement the recommendations of the *West Gippsland Floodplain Management Strategy (2018-2027)* to update flood mapping that is informed by the *Latrobe River Flood Study (2015)* and the *Traralgon Flood Study (2016)*. At the time of the Hearing the exhibition of Amendment C131latr had closed, and submissions were yet to be considered by Council.

**Planning Practice and Advisory Notes**

The following provides a summary of key planning practice and guidance notes.

**PPN12: Applying the Flood Provisions in Planning Schemes**

PPN12 provides guidance on applying planning provisions for flood in the planning scheme to minimise risks to life, property and community infrastructure. It discusses the process for identification of flood hazards, correct drafting of schedules, and the preparation of background work such as local floodplain development plans by councils in consultation with catchment management authorities. It discusses the types of flooding and correct application of the various flood controls depending on the level of flood risk. PPN12 identifies that:

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...the LSIO is used for both urban and rural environments to identify land with a lower potential flood risk or as an interim measure, areas where accurate flood mapping to identify the floodway is yet to be carried out. The LSIO only requires a permit for buildings and works and does not prohibit either use or development.

...

The FO applies to mainstream flooding in both rural and urban areas. These areas convey active flood flows or store floodwater in a similar way to the UFZ, but with a lesser flood risk. The FO is suitable for areas where there is less need for control over land use, and the focus is more on control of development.

**PPN30: Potentially Contaminated Land**

PPN30 provides advice to planners and permit applicants on how to identify potentially contaminated land, levels of assessment appropriate to circumstance, and appropriate application of planning scheme planning provisions, or permit conditions at the application stage. PPN30 notes that the EAO can be used to ensure the requirements of the environmental audit system can be met at the permit application stage without preventing assessment and approval of a planning scheme amendment. PPN30 states:

A planning authority must also consider the Planning Policy Framework of the Victoria Planning Provisions, including clause 13.04-1S Contaminated and potentially contaminated land. Clause 13.04 -1S aims to ensure that contaminated and potentially contaminated land is or will be suitable for its intended future use and development, and that this land is used and developed safely.

**PPN37: Rural Residential Development**

PPN37 provides guidance when planning for rural residential use and development. It notes that the LDRZ is typically applied to rural residential land. PPN37 states that rural residential development requires special consideration because it can have environmental, social and economic costs that are significantly higher than those of standard residential development. It specifies that these considerations mean that the following broad questions should be answered in sequence:

- Strategy: Does rural residential development align with the overall strategic planning of the municipality?
- Housing need: How much rural residential development is required to provide appropriate housing diversity and choice to meet housing needs?
- Location: Where should new rural residential development take place?
- Subdivision and design: Is the new rural residential development subdivided and designed in an attractive setting offering high amenity and efficient infrastructure?

PPN37 notes that generally fine detailed subdivision and design matters can be considered as part of a permit application process.

**PPN42: Applying the rural zones**

PPN42 provides guidance on the strategic work required to apply rural zones. It explains the purposes and features of each zone.

The rural zones proposed as part of the Amendments include:

- FZ2, which is strongly focussed on protecting and promoting farming and agriculture.
- RLZ, which caters for residential use in a rural setting.



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**PPN64: Local Planning for bushfire protection**

PPN64 provides guidance about local planning for bushfire protection and assists councils to tailor the Local Planning Policy Framework in response to bushfire matters where necessary. It also provides guidance on how to prepare schedules to the BMO.

PPN64 notes that planning authorities need to address any relevant bushfire risk when preparing a planning scheme amendment. PPN64 outlines when it might be appropriate to use local planning policy to assist with decision making. It emphasises that local policy must not duplicate State policy. It suggests that local policy may be used most effectively to address bushfire issues spatially, and in identifying how bushfire affects particular locations. It is important to note that detailed planning guidelines for individual sites are not recommended for inclusion in planning policy.

**Planning Advisory Note 68: Bushfire State Planning Policy**

Planning Advisory note 68 clarifies the operation of the updated framework and strategies introduced by Amendment VC140, which updated policy in Clauses 10 and 13.05 in the State Planning Policy Framework to provide more directive strategies to manage bushfire risk in planning and decision making.

**DELWP Design Guidelines: Settlement Planning at the Bushfire Interface, February 2019**

The DELWP *Design Guidelines: Settlement Planning at the Bushfire Interface, February 2019* explain that planning policy places a strong emphasis on “*proactively planning to enhance the resilience of settlements to the impacts of bushfire and grassfire*”. The Bushfire Design Guidelines provide advice on how to prioritise protection of human life when planning for settlements. The document states:

Before these Guidelines are used a landscape assessment and strategic justification for site selection with regards to bushfire risk must be completed. Therefore, the use of these Guidelines assumes that the strategic and landscape considerations in Clause 13.02 have been fully satisfied in the first instance.

...

Clause 13.02 assists in identifying areas that are suitable for development, focusing on the strategic and landscape scale bushfire considerations including:

- The likely size and intensity of a bushfire and whether it may result in neighbourhood-scale destruction.
- The availability of alternative locations for settlement growth and new development.
- Access to enable people to move away from a bushfire and options for where people can get to safe areas during a bushfire.
- Emergency management responses to bushfire and structural fires.

The process for this assessment, including landscape classification, can be done using Clause 13.02 as a framework and the Permit Applications Bushfire Management Overlay – Technical Guide (page 9 – 19).

**DELWP Technical Guide: Planning Permit Applications Bushfire Management Overlay, 2017**

The DELWP *Technical Guide: Planning Permit Applications Bushfire Management Overlay, 2017* includes advice on preparing and assessing an application under the BMO, including how to assess bushfire hazard.

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## Appendix B Submitters to Amendment C126latr

No	Submitter
1	Wellington Shire Council
2	Glynn Evans
3	Department of Environment, Land, Water and Planning
4	Telstra
5	Natasha Sleep
6	Jillian Orr
7	Department of Transport
8	West Gippsland Catchment Management Authority
9	Glenys Harding
10	Country Fire Authority
11	EPA Victoria
12	Tinielle and Daniel Armstrong

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## Appendix C Submitters to Amendment C127latr

No	Submitter
1	Chantelle McGennissen
2	Rod Affleck
3	Wellington Shire Council
4	Glynn Evans
5	Glenn Morrison
6	Cardinia Shire Council
7	Telstra
8	Brenden Keene, Linda Keene
9	Vic Sabrinskas
10	Grahame Somerville, Sandi Somerville
11	Andrew Inger, Pam Inger
12	Jemma Sterrick
13	Department of Environment, Land, Water and Planning
14	Yvonne Lindsay
15	Stuart Strachan
16	Department of Transport
17	Leigh Morris
18	West Gippsland Catchment Management Authority
19	Tristan Stewart
20	Carly Jones, Tracey Clancy, Chris Clancy
21	Neil Burns
22	Chris King
23	Glenys Harding
24	Delburn Wind Farm Pty Ltd
25	EPA Victoria
26	Hancock Victorian Plantations
27	Country Fire Authority
28	Jason Nardone
29	Maria Pizzi
30	Tinielle Armstrong, Daniel Armstrong
31	Michael Van Berkel

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32	Holly Basher-Snow
33	Alisha Tainton
34	Tiarnah Nicola
35	Eva-Marie Burton
36	Anan Halengo
37	Andrew Tedesco
38	Amy Laming
39	Tess Hibbert
40	Jackie Stratford
41	Reginald Edward
42	Dr M.Y. Gali
43	Kym Horton
44	Michael Thomas Reid
45	Suellyn Perry-Bloink
46	Tracy Roberts

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## Appendix D Document list

No.	Date	Description	Presented by
1	20 Jul 2022	Directions Hearing notification letter	Planning Panels Victoria (PPV)
2	23 Aug	Draft Panel directions	PPV
3	25 Aug	Correspondence to Panel dated 24 Aug	Country Fire Authority (CFA)
4	1 Sep	Panel correspondence enclosing directions and v1 timetable	PPV
5	1 Sep	Request for extension to confirm expert witness	Hancock Victorian Plantations Pty Ltd (HVP)
6	16 Sep	Email to Millar Merrigan regarding its request to be heard	PPV
7	21 Sep	C126latr indexed library of documentation in response to direction 12 including: <ul style="list-style-type: none"> <li>a) 1.1 Exhibited Statutory Documents</li> <li>b) 1.2 Maps Exhibited</li> <li>c) 1.3 Clauses and Schedules</li> <li>d) 1.4 Background Documents</li> <li>e) 1.5 Toongabbie Structure Plan Background Reports</li> <li>f) 2.1 Post Exhibition Statutory Documents</li> <li>g) 2.2 Post Exhibition Maps</li> <li>h) 2.3 Post Exhibition Clauses and Schedules</li> <li>i) 2.4 Post Exhibition Background Documents</li> <li>j) 3.0 Council Report Attachments</li> <li>k) 4.0 Map of Submitters</li> <li>l) 5.0 Letter of Authorisation</li> <li>m) 6.0 Land Supply and Demand Analysis</li> <li>n) 7.0 Correspondence with Department of Transport</li> <li>o) 8.0 Maps and Itinerary</li> </ul>	Latrobe City Council (Council)
8	21 Sep	C127latr indexed library of documentation in response to direction 12 including: <ul style="list-style-type: none"> <li>a) 1.1 Exhibited Statutory Documents</li> <li>b) 1.2 Maps Exhibited</li> <li>c) 1.3 Clauses and Schedules</li> <li>d) 1.4 Background Documents</li> <li>e) 1.5 Draft Latrobe City Rural Living Strategy (2020)</li> <li>f) 2.1 Post Exhibition Statutory Documents</li> <li>g) 2.2 Post Exhibition Maps</li> <li>h) 2.3 Post Exhibition Clauses and Schedules</li> <li>i) 2.4 Background Documents</li> </ul>	Council

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No.	Date	Description	Presented by
		<ul style="list-style-type: none"> <li>j) 2.5 Rural Living Strategy 2022 – Post Exhibition</li> <li>k) 3.0 Council Report Attachments</li> <li>l) 4.0 Map of Submitters</li> <li>m) 5.0 Letter of Authorisation</li> <li>n) 6.0 Maps and Itinerary</li> </ul>	
9	27 Sep	Panel correspondence enclosing v2 timetable	PPV
10	27 Sep	Expert witness statement in bushfire from Mark Potter of Fire Risk Consultants	Council
11	3 Oct	Joint Statement of CFA and Council	Council
12	4 Oct	C126latr Part A Submission and attachments: <ul style="list-style-type: none"> <li>a) Attachment 1 Copy of Authorisation Letter</li> <li>b) Attachment 2 C126 Explanatory Report</li> <li>c) Attachment 3 Current Controls – Planning Zone and Overlay Maps</li> <li>d) Attachment 4 Copy of Submissions received (including withdrawal of submission #5) &amp; Summary of Submissions Table</li> <li>e) Attachment 5 Post Exhibition Amendment Documentation</li> <li>f) Attachment 6 Description of Post Exhibition changes Table</li> </ul>	Council
13	4 Oct	C127latr Part A Submission and attachments: <ul style="list-style-type: none"> <li>a) Attachment 1 Explanatory Report (exhibition version)</li> <li>b) Attachment 2 Latrobe City Housing Strategy 2019</li> <li>c) Attachment 3 Latrobe City Rural Land Use Strategy 2019</li> <li>d) Attachment 4 Assessment of matters relating to Bushfire Risk, Management and Planning (Latrobe City Council – November 2018)</li> <li>e) Attachment 5 EPA response letter to Direction 17. c) (iii) of Panel</li> <li>f) Attachment 6 CFA submission to Amendment C105 - Live Work Latrobe</li> <li>g) Attachment 7 CFA submission to the Planning Panel for Amendment C105</li> <li>h) Attachment 8 Collation of comments received during the bus tour consultation session</li> <li>i) Attachment 9 Information circulated during workshop and bus tour</li> <li>j) Attachment 10 Commentary on the project from Council's Manager Emergency Management</li> <li>k) Attachment 11 Final Report, Small Rural Lots Project,</li> </ul>	Council

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No.	Date	Description	Presented by
		Rural Councils Victoria / Municipal Association of Victoria (Spiire September 2012)	
		l) Attachment 12 Delburn Wind Farm Panel Report 7 February 2022	
		m) Attachment 13 Delburn Wind Farm Planning Permit PA2001063	
		n) Attachment 14 Delburn Wind Farm Planning Permit PA2001065	
		o) Attachment 15 Explanatory Report (post exhibition version)	
		p) Attachment 16 Summary of Submissions Table	
		q) Attachment 17 Summary of Submissions Requesting Rezoning	
		r) Attachment 18 Post exhibition changes table	
		s) Attachment 19 Proposed post exhibition amendment documents showing tracked changes	
		t) Attachment 20 Summary of MBRA's response to VAGO Report recommendations October 2020	
		u) Attachment 21 Bushfire Risk Rating Assessment, Toongabbie Proposed Rural Living Precincts (Bushfire Planning 24 October 2018)	
		v) Attachment 22 Bushfire Risk Rating Assessment, Churchill Proposed Rural Living Precincts (Bushfire Planning 24 October 2018)	
		w) Attachment 23 Bushfire Risk Rating Assessment, Moe South Proposed Rural Living Precincts (Bushfire Planning 24 October 2018)	
		x) Attachment 24 My Community Bushfire Mitigation Plan – Toongabbie	
		y) Attachment 25 Proposed Plan of Subdivision – S96A Application at Clarkes Road, Hazelwood North	
		z) Attachment 26 Bushfire Management Statement submitted with S96A Application at Clarkes Road, Hazelwood North	
		aa) Attachment 27 Defendable space plan submitted with S96A Application at Clarkes Road, Hazelwood North	
		bb) Attachment 28 Preliminary advice email sent to applicant in relation to S96A application at Clarkes Road, Hazelwood North	
		cc) Attachment 29 CFA response to Section 96A application at Clarkes Road, Hazelwood North	
14	5 Oct	21 Pincini Crt Boolara in relation to RLZ1 dwellings and Delburn Wind farm	Tristan Stewart

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No.	Date	Description	Presented by
15	5 Oct	21 Pincini Crt Boolarra location Latrobe Planning Scheme Map no 121	Tristan Stewart
16	5 Oct	Amendment C127 Tristan Stewart Original Submission	Tristan Stewart
17	5 Oct	Original Subdivision Plan 2003	Tristan Stewart
18	5 Oct	PK 45880 - Pincini Court, Boolarra - Notice of Recommendation (1)	Tristan Stewart
19	5 Oct	Possible rezoning scenario	Tristan Stewart
20	5 Oct	Section 32 Lot 21 Pincini Court Boolarra 2003	Tristan Stewart
21	6 Oct	C126latr Part B Submission and attachments:	Council
		a) Attachment 1 Toongabbie Structure Plan Background Reports - Infrastructure and Servicing Assessment 2020	
		b) Attachment 2 Ministerial Direction 1 August 2021 (MD1)	
		c) Attachment 3 Planning Practice Note 30 Potentially Contaminated Land July 2021 (PPN30)	
		d) Attachment 4 Various correspondence between Environment Protection Authority and Latrobe City Council	
		e) Attachment 5 Updated written advice from the Environment Protection Authority regarding Amendment C126latr –12 September 2022	
		f) Attachment 6 C126latr & C127latr Joint Statement Council and CFA	
		g) Attachment 7 Submission Response Table	
22	6 Oct	C127latr Part B Submission and attachments:	Council
		a) Attachment 1 Ordinary Council Meeting Minutes dated 4 July 2022	
		b) Attachment 2 Summary of Submissions Table and Council Responses	
		c) Attachment 3 Copy of all Submissions	
		d) Attachment 4 Summary of Submissions in Support, Satisfied by Post Exhibition Changes and Outstanding	
		e) Attachment 5 Post Exhibition Changes to Ordinance Table	
		f) Attachment 6 Draft Review of Municipal Bushfire Risk Assessment (Terramatrix, November 2021)	
		g) Attachment 7 Council's Position on Unresolved Issues in the CFA Joint Statement	
		h) Attachment 8 Correspondence re: 106 Tyers Walhalla Rd	
		i) Attachment 9 12 September 2022 Advice from EPA	



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No.	Date	Description	Presented by
		j) Attachment 10 Copies of all EPA Correspondence	
23	11 Oct	Delburn Wind Farm letter notifying not to be heard	Delburn Wind Farm Pty Ltd
24	11 Oct	CFA submission (Kevin Hazel)	CFA
25	11 Oct	C126 clauses combined	CFA
26	11 Oct	C127 clauses combined	CFA
27	12 Oct	Hancock Victorian Plantations submission	HVP
28	12 Oct	Geoffrey and Suzanne Somerville submission	Geoffrey and Suzanne Somerville
29	12 Oct	Screen shots from CFA submission during Hearing	CFA
30	12 Oct	665 & 745 Clarkes Road, Hazelwood North submission	submitters 31 - 45
31	12 Oct	Local Bushfire Considerations relating to proposed zones	submitters 31 - 45
32	12 Oct	Supporting Background Documents: <ul style="list-style-type: none"> <li>a) 21585 - Planning Report - Hazelwood North</li> <li>b) Cover letter to council - 181011</li> <li>c) Appendix 1a - 180907 title Vol 10509 Fol 871 tk</li> <li>d) Appendix 1b - 180907 title Vol 10509 Fol 870 tk</li> <li>e) Appendix 2 - 21585P1 V1 Site and Context</li> <li>f) Appendix 3 - 21585P2 V3 PPOS</li> <li>g) Appendix 4 - Streetscape Plan</li> <li>h) Appendix 5 - 21585 VR1 Vegetation Removal Plan</li> <li>i) Appendix 6a - 21585 BMP-Defendable Space</li> <li>j) Appendix 6b - 21585 Bushfire Management Statement</li> <li>k) Appendix 7 - Stormwater Management Plan</li> <li>l) Appendix 8 - 180906 Infrastructure Servicing Report</li> <li>m) Appendix 9 - Biodiversity Assessment Report V1 Final</li> <li>n) Appendix 10a - 180821 - Explanatory Report</li> <li>o) Appendix 10b - 180821 - Instruction Sheet</li> <li>p) Appendix 10c - latrobe100zn (Amended)</li> <li>q) Appendix 10d - latrobe101zn (Amended)</li> <li>r) Appendix 11 - Traffic Report – Final</li> <li>s) Appendix 12 – 17053 Hazelwood North Economic Analysis EE Report (13 September 2018) - Final</li> </ul>	submitters 31 - 45
33	13 Oct	Vic Sabrinskas (sub 9) Hearing submission	Vic Sabrinskas
34	13 Oct	Council Points of clarification c126latr Part 1 <ul style="list-style-type: none"> <li>a) Attachment 1 – WGCMA correspondence</li> <li>b) Attachment 2 - DELWP PCRZ advice</li> </ul>	Council

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No.	Date	Description	Presented by
		c) Attachment 3 – DELWP emails to Council d) Attachment 4 – DoT emails to Council	
35	13 Oct	Chris King (sub 22) Hearing submission by NBA Group	Chris King
36	13 Oct	RLZ Concept Plan on behalf of Chris King	Chris King
37	13 Oct	Stuart Strachan (sub 15) Hearing submission	Stuart Strachan
38	13 Oct	Council relevant documents	Council
39	13 Oct	Mark Potter submission reference C127	Council
40	14 Oct	Council Points of clarification c126latr Part 2 with attachments: e) DRZ FO Map Marked f) Council Health Dept advice regarding waste water c126latr g) GCMA LDRZ land assessment Stages 1 and 2	Council
41	14 Oct	Council 'without prejudice' clause 13.02 -1L changes	Council
42	14 Oct	Council 'without prejudice' clause 17.04 -1L changes	Council
43	14 Oct	Tristan Stewart submission	Tristan Stewart
44	16 Oct	Further material from Stuart Strachan: a) Explanatory notes on Clause 13.02-1L b) VBRC transcript mark up c) VBRC chapter 17 extract d) Clause 17.04-1L further changes e) Clause 13.02-1L further changes	Stuart Strachan
45	17 Oct	Panel correspondence regarding further Stuart Strachan material	PPV
46	18 Oct	Email from Council responding to further Stuart Strachan material, enclosing: a) Clause 17.04-1L comments to Stuart Strachan b) Clause 13.02-1L comments to Stuart Strachan c) Clause 13.02-1L comments to Stuart Strachan v2 d) Clause 13.02-1L final preferred version e) Clause 17.04-1L final preferred version	Council

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## Appendix E Amendment C127latr submissions requesting rezoning

Submissions	Council response
<p>Submitter 2</p> <p>Request the 9.8 hectare site at 1 Hill Street, Toongabbie be rezoned to RLZ from FZ.</p>	<p>No change proposed. Further subdivision in Toongabbie is proposed in the north east (located in the green bushfire area in the MBRA). Submission 2 does not provide adequate justification for the land in question to be reconsidered for rural rezoning, largely due to the bushfire risk identified</p>
<p>Submitter 5</p> <p>The property at 29 Hill Street, Toongabbie should be considered yellow/green fire risk in the MBRA and should be considered for rezoning.</p>	<p>No change proposed. Property has been assessed as Yellow – Red, therefore not appropriate for rezoning. Submission 5 does not provide adequate justification for the land to be reconsidered for future rural rezoning, largely due to the bushfire risk identified, nor have changes to the Bushfire Risk Map been justified.</p>
<p>Submitter 8</p> <p>Request for 145 Watsons Road, Moe to not be in the FZ due to existing lot sizes and inability to farm the land. Request for RLZ to be applied, and considers this would help reduce fire risk.</p>	<p>No change proposed. The site is only 7.59 hectares, and heavy vegetated. Submission 8 does not provide adequate justification for the land in question to be reconsidered for rural living rezoning, largely due to the bushfire risk identified, nor have changes to the Bushfire Risk Map been justified.</p>
<p>Submitter 9</p> <p>Request for the land at 45 Tambo Road, Moe South be zoned RLZ due to existing lot sizes and inability to farm the land. Considers this would help reduce fire risk.</p>	<p>No change proposed. The site is only 6.68 hectares, and heavy vegetated. Submission 9 does not provide adequate justification for the land in question to be reconsidered for rural living rezoning, largely due to the bushfire risk identified, nor have changes to the Risk Map been justified.</p>
<p>Submitter 10</p> <p>Request for the land at 320 Wirraway Street, Moe to be rezoned RLZ to be consistent with surrounding land, its proximity to Moe and large area of pasture. Concern about Deburn Windfarm and bushfire risk.</p>	<p>No change proposed. The land directly to the south is plantation, and the bushfire risk in the area is too high to introduce additional RLZ to the area. Submission 10 does not provide adequate justification for the land in question to be reconsidered for rural rezoning, largely due to the bushfire risk identified.</p>
<p>Submitters 11, 12, 14, 20, 31, 32, 33, 34, 35, 36, 37 (petition), 38, 39, 40, 41, 42, 43, 44, 45</p> <p>Hazelwood North – Precinct C should be considered for rezoning to RLZ. There is high demand for rural living lots due to proximity to regional towns. Bushfire risk should not be the only driver for rural living development. Development at Clarkes Road, Hazelwood North would like reduce bushfire risk of adjacent land.</p>	<p>No change proposed. The submissions do not provide adequate justification for the land in question to be reconsidered for rural living rezoning, largely due to the bushfire risk identified, nor have changes to the Bushfire Risk Map been justified. Ministerial Directions, Planning and Advisory Notes and State Planning Policy do not allow dwellings to be put in high bushfire risk areas to reduce the risks to existing dwellings. This would be counterproductive and prioritising the human life</p>

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	within an existing home over the human life of a household within a new development.
<p>Submitter 15</p> <p>Traralgon Creek/Road should be retained in FZ1 rather than FZ2. Rural living areas around Callignee and Loy Yang should be rezoned to reflect actual size/use.</p>	<p>No change proposed. The Traralgon Creek/Road area is clearly operating as a defacto rural living area, and the slope and vegetation cover of the land are not conducive to agricultural production. Application of FZ2 is justified.</p> <p>The areas around Callignee and Loy Yang were not identified for rural rezoning, particularly when giving consideration to bushfire planning policy and other strategic considerations.</p>
<p>Submitter 19</p> <p>Request for Lot 21 Pincini Court, Boolarra to be rezoned from FZ1 to RLZ.</p>	<p>The site is located within the red bushfire risk area in the MBRA. If the CFA was supportive of a correction zoning, Council would support including in RLZ as a post exhibition change.</p> <p>Council holds this view as rezoning would not increase the subdivision or development potential of the land beyond what would already be permissible with a planning permit. Further, the BMO and Clause 13.02 policy directions would need to be addressed and met for a dwelling to be established on the land, regardless of the underlying land zoning.</p>
<p>Submitter 21</p> <p>Request for 590 Traralgon- Maffra Road to be rezoned to RLZ, because it is not suitable for agriculture.</p>	<p>No change proposed. The Rural Living Strategy has recognised the potential for this land, and concluded that it would be an unwise use for this site and its surrounds to be RLZ. The site is identified for future investigation for LDRZ.</p>
<p>Submitter 22</p> <p>Request for 271 Haunted Hills Road, Newborough to be rezoned to RLZ. The site is future residential in the Moe-Newborough Town Structure Plan. The land is within close proximity to the town centre and is serviceable. It would complement land supply offering in Moe. The MBRA shows the land can comfortably be developed and with good design will be fully compliant with bushfire requirements.</p>	<p>No change proposed. Submission 22 does not provide adequate justification for the land in question to be reconsidered for rural living rezoning. It would see an underutilisation of land contrary to the direction of the Moe-Newborough Town Structure Plan and adequate justification against bushfire planning policy has not been provided.</p>
<p>Submitter 23</p> <p>Requests 215 Guyatts Road, Toongabbie be rezoned to RLZ.</p>	<p>No change proposed. Submission 23 does not provide adequate justification for the land in question to be reconsidered for rural rezoning, largely due to the bushfire risk identified, nor have changes to the Bushfire Risk Map been justified.</p>
<p>Submitter 28</p> <p>Request that Lot 2 on PS341052, Hazelwood Estate Road, Churchill be included in the RLZ. The site is not within a BMO or near plantations.</p>	<p>No change proposed. The site is not within the BMO and sits within a Green bushfire risk rating. However, bushfire risk is not the only consideration given to the rezoning of land. The land is wholly affected by</p>

## ATTACHMENT 4

Latrobe Planning Scheme Amendments C126latr and C127latr | Interim Panel Report | 15 December 2022

The MBRA is flawed.	the Environmental Significance Overlay, Schedule 1 – Urban Buffer which is a coal buffer ESO1, which makes the site unsuitable.
Submitter 29 Several properties in Koornalla should be considered for rezoning.	No change proposed. All three parcels are in a red bushfire risk area.
Submitter 30 Request 219 Afflecks Road, Toongabbie, not be rezoned from FZ to RLZ. This will impact on gun licences and will have other impacts on their rural lifestyle. The area is not well serviced in terms of roads, drainage and greater population will place greater demands on town services.	No change proposed. The Toongabbie Town Structure Plan is being implemented as part of Amendment C126, and has assessed and identified the needs for Toongabbie in relation to land use and services. The site is appropriate for RLZ.

**Agenda Item: 8.2**

**Agenda Item: Development of Land with Eleven (11) Dwellings at 1 Meredith Street, Traralgon**

**Sponsor: General Manager, Regional City Planning and Assets**

**Proposed Resolution:**

**That Council:**

- 1. Decides to issue a Notice of Decision to Grant a Permit for the development of land with eleven (11) dwellings at 1 Meredith Street, Traralgon (Lot 1 Title Plan 809069) with the following conditions:**

**Endorsed Plans Conditions:**

- 1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**

**Development Conditions:**

- 2. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.**
- 3. Once building works have commenced, they must be completed to the satisfaction of the Responsible Authority.**
- 4. Upon completion of the development/works, the land must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.**
- 5. Construction works on the land must be carried out in a manner that does not result in damage to existing Council assets and does not cause detriment to adjoining owners and occupiers, to the satisfaction of the Responsible Authority.**
- 6. The exterior colour and cladding of the buildings must be of a non-reflective nature to the satisfaction of the Responsible Authority..**

**Landscaping Conditions:**

- 7. Before the use starts or the occupancy of the development or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.**
- 8. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.**

**Engineering Conditions:**

- 9. Before the commencement of any development works hereby permitted, where any drain must be constructed as part of this development on adjacent lands on separate titles, a drainage**

easement shall be created for the drain on the abutting land, created in favour of Latrobe City Council to the satisfaction of the Responsible Authority.

10. Before the commencement of any works hereby permitted, a site drainage plan, including levels or contours of the land and all hydraulic computations, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The drainage plan must be prepared in accordance with the requirements of Latrobe City Council's Design Guidelines and must provide for the following:
  - a) How the land including all buildings, open space and paved areas will be drained for a 20% AEP storm event.
  - b) An underground pipe drainage system conveying stormwater to the legal point of discharge and connecting into the proposed stormwater drainage outfall as previously approved by Latrobe City Council.
  - c) Where overland flows from the development will discharge onto adjacent land and not to a watercourse or Latrobe City Council managed drainage system, the plan must provide details (including on-site detention) to ensure all stormwater discharge from the land is limited to pre-development flows for all storm events up to and including the 1% AEP storm event and to ensure there are no adverse effects on flooding either upstream or downstream of any development on the land.

The drainage plan must not alter the pre-development characteristics including depth and spread of flows, for the discharge of stormwater into adjacent lands for all storm events up to and including the 1% AEP storm event unless the written agreement is provided from the owners of the adjacent downstream property accepting the concentration of stormwater discharge across their land.
  - d) Must clearly indicate that the drainage outfall works will become Council's responsibility after the maintenance period following construction.
11. Before the commencement of any site drainage works for the development hereby permitted, the permit operator must provide the Responsible Authority with a copy of the written consent of the West Gippsland Catchment Management Authority to the proposed outfall drainage works, for the discharge of stormwater from the development to the Traralgon Creek
12. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Responsible Authority.
13. Before an Occupancy Permit is issued for the first of the dwellings hereby permitted, or by such later date as is approved by the

Responsible Authority in writing, the following works must be completed in accordance with the endorsed plans and to the satisfaction of the Responsible Authority including all necessary permits being obtained and inspections undertaken:

- a) All drainage works must be completed to the satisfaction of the Responsible Authority, in accordance with the site drainage plans approved by Latrobe City Council for the development.
  - b) A new vehicle crossing must be constructed, in accordance with the endorsed plans, at right angles to the road and must comply with the vehicle crossing standards set out in Latrobe City Council's Standard Drawing LCC 307.
  - c) Areas for vehicle access within the land must be constructed in accordance with plans endorsed by the Responsible Authority and be surfaced in accordance with the endorsed plans and drained in accordance with the approved site drainage plan.
  - d) Installation of public lighting in accordance with Australian Standard AS1158, along all new vehicle accessways.
14. Before an Occupancy Permit is issued for the first of the dwellings hereby permitted, or by such later date as is approved by the Responsible Authority in writing, an amended waste management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the report will then form part of the permit. The report is to draw from the Waste Management Plan – 1 Meredith Street, Traralgon by LID Consulting (May 2016) and must address the following:
- a) To show how waste collection from this site can be satisfactorily managed in accordance with the coroner's directions regarding reversing waste collection vehicles, to ensure the safety of pedestrians, particularly children, while a waste collection vehicle is turning around within the development.
15. Where any drainage works are to become the responsibility of Latrobe City Council at the expiry of the maintenance period for the works, the operator of this permit must prior to the issue of a certificate of practical completion for the drainage works, submit for assessment CCTV results for the full length of all storm water drainage pipes for which Latrobe City Council will become responsible. The CCTV work is to be performed by an independent specialist contractor at the permit operator's cost. The submitted information is to be to the satisfaction of the Responsible Authority.
16. Where any drainage works are to become the responsibility of Latrobe City Council, before an Occupancy Permit is issued for the first of the dwellings hereby permitted, the operator of this permit must pay to Latrobe City Council:



- a) For all works to become the responsibility of Latrobe City Council at the expiry of the maintenance period, an engineering plan checking fee of an amount equivalent to 0.75% of the estimated cost of constructing the works proposed on the engineering plans,
  - b) For all works to become the responsibility of Latrobe City Council at the expiry of the maintenance period, an amount equivalent to 2.5% of the estimated cost of constructing the works which are subject to supervision.
17. Before an Occupancy Permit is issued for the first of the dwellings hereby permitted, where any drainage works are to become the responsibility of Latrobe City Council at the expiry of the maintenance period for the works, the operator of this permit must provide to the satisfaction of the Responsible Authority:
- a) Final as-built plans for all works to become the responsibility of Latrobe City Council at the expiry of the maintenance period, in an electronic format complying with A-Spec requirements, levelled to the Australian Height Datum and coordinated to the Map Grid of Australia (MGA94).
  - b) Final as-built plans in an electronic DWG format, for all works to become the responsibility of Latrobe City Council at the expiry of the maintenance period.
18. All drainage works to become the responsibility of Latrobe City Council at the expiry of the maintenance period, shall be maintained by the operator of this permit for a period of not less than three (3) months from the date of practical completion of the works. At the completion of this maintenance period to the satisfaction of the Responsible Authority, a Defects Liability Period of not less than nine (9) months shall then apply to the works. Any defects occurring during the defects period shall be rectified by the operator of this permit to the satisfaction of the Responsible Authority. At the completion of this Defects Liability period to the satisfaction of the Responsible Authority, a Final Completion certificate for the works will be issued.

**Expiry of Permit:**

19. This permit will expire if one of the following circumstances applies:
- a) the development is not started within two years of the date of this permit; or
  - b) the development is not completed within four years of the date of this permit.

In accordance with section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

## Executive Summary:

The proposal will provide eleven (11) dwellings on the 3,560m<sup>2</sup> vacant lot, with associated carparking (15 car parking spaces), waste collection and access provided at 1 Meredith Street, Traralgon. The proposal is largely unchanged from that approved under previous planning permit 2014/147 issued by VCAT.

The subject land is within a Residential Growth Zone – Schedule 2 (RGZ2) and is not affected by any overlay. It is identified as being within a ‘Substantial Change Area’ in the Traralgon Housing Framework Plan of Clause 16.01-1L of the Latrobe Planning Scheme (the Scheme), which implements Council’s Housing Strategy through Amendment C105 – Live Work Latrobe. The subject land consists of one vacant lot and has a land area of 3560m<sup>2</sup>.

Following advertising, seven objections were received to the application. The previous permit application (2014/147) attracted thirteen objections, largely expressing similar concerns to those of the current objections, and which were considered at VCAT. The issues of concern are as follows:

- Sufficient onsite carparking
- Waste removal
- Proposed new crossover and removal of Telstra pit
- Noise, access and disruption during the construction of units
- Fire safety
- Site drainage
- Neighbouring outlook

The subject land is considered to be suitable for the proposed development due to the site context and the design response. It is demonstrated that the road network can accommodate additional traffic generated by the proposal, without detrimentally impacting on the amenity of the neighbourhood.

Having considered the proposal against the relevant provisions of Scheme, including the relevant planning policy, the RGZ2 and the particular provisions of Car Parking (Clause 52.06); Two or more dwellings on a lot (Clause 55); and Stormwater Management in Urban Development (Clause 53.18), it is considered that the proposal:

- Provides adequate justification for the development of eleven dwellings on a lot;
- Is largely unchanged from that approved under previous planning permit 2014/147, but with a few amendments to more efficiently meet the requirements of the zone and the standards of Clause 55; and
- Is consistent with the purpose of the Residential Growth Zone, Schedule 2 and state and local planning policy.

It is therefore recommended that a Notice of Decision to Grant a Permit be issued.

## **Background:**

### *Summary*

Land: 1 Meredith Street, Traralgon, known as Lot 1 on Title Plan 809069

Proponent: Zwerlein Constructions Pty Ltd C/- Latrobe Valley Drafting

Zoning: Residential Growth Zone, Schedule 2 (RGZ2)

Overlay N/A

A Planning Permit is required for the development of 11 dwellings on a lot in the RGZ2 in accordance with Clause 32.08-6 of the Scheme.

### *Proposal*

The application is for the development of 11 dwellings on a lot.

### General

A copy of the proposed plans can be viewed at Attachment 1 of this report. It is noted that these plans have been amended over the life of the permit application in response to officer requests.

### Buildings

The development of 11 dwellings comprises nine dwellings of two bedrooms and two dwellings of three bedrooms. All dwellings are single storey, pitched roofs and are a mixture of face and rendered brickwork with roof tiles and aluminium windows in shades of grey, as illustrated on the site elevations. The accessway and front gardens of each dwelling are communal property, however each dwelling has its own secluded private open space. The site coverage is 1,496m<sup>2</sup>, which is 42% of the site with a site permeability of 1,314m<sup>2</sup> being 37% of the site. All dwellings are oriented to make appropriate use of solar energy where practicable and ensure that no existing rooftop solar energy systems on adjacent land are impacted.

As the street frontage is only 9.7m, the proposed driveway exceeds 40% of the street frontage but is considered that permitting this variation to Clause 55.03-9 is a safe and practical approach and meets Council's requirement for a passing area that is 6.1m wide and 7m long inside the property boundary to service more than 10 dwellings (11 dwellings are proposed).

The average setback of the two abutting lots is 6 metres, and the proposed front dwelling is setback 7.2m from the front street, complying with the Scheme. All dwelling entrances are visible from the street or internal access way providing safety and security for residents, along with adequate lighting and appropriate landscaping to permit surveillance. The application includes the landscape design.

All side and rear walls are setback at least 1 metre from the boundary, and all the proposed buildings are offset at least 3 metres from existing habitable room windows in neighbouring development. The application is supported by overshadowing and overlooking plans that demonstrate no negative amenity impacts on neighbouring properties.

**Subject Land:**

The subject land is located at 1 Meredith Street, Traralgon. It is legally identified in Certificate of Title Volume 11197 Folio 729 as Lot 1 on Title Plan 809069. There are no easements, encumbrances, restrictive covenants, caveats or Sections 173 agreements registered on title.

The subject land is located at the junction of Meredith Street and Coates Street, north of Shakespeare Street. The subject land has a frontage of approximately 9.7 metres to Meredith Street, and a total site area of 3,560m<sup>2</sup>. Topographically the property is reasonably flat. The subject land is currently vacant and does not contain any significant vegetation. Access to the land is currently provided from Meredith Street.

Aerial image of the subject land and its immediate surrounds is provided in Figure 1 below.



*Figure 1: Aerial map of 1 Meredith Street, Traralgon (marked with pin), proposed vehicle crossover (marked with arrow) and surrounding area.*

The land in the surrounding area consists of sites with the Residential Growth Zone, Schedule 2, many developed with units; and sites within the Neighbourhood Residential Zone, Schedule 1 (NRZ1), many developed with single dwellings.

The Traralgon Creek Reserve is located to the east and provides passive and active open space.

The details of the immediate adjoining sites are as follows:

**Surrounding Land Use:**

- North: Large multi-dwelling development of single storey brick veneer units.
- South: To the south are six allotments which are each developed with a single dwelling. Five of these lots are located in the RGZ2 and one in the NRZ1.
- East: Three dwellings on a lot in the RGZ2.
- West: Single dwelling on a lot in the RGZ2.

*History of Application*

This application has resulted from the expiry of planning permit 2014/197. Permit 2014/197 was decided at the 11 June 2015 Council Meeting. The Officer recommendation was for approval, however, Council resolved to refuse the application. The Permit Applicant appealed Council's decision at VCAT, where the Tribunal overturned Council's decision and ordered Council to issue a permit on 26 February 2016. Since approval, the permit holder has not acted on the permit and it has therefore expired, necessitating reapplying for the current permit application.

The current application was received on 28 March 2022. Two additional requests for information were made, resulting in amended plans, a Traffic Impact and Parking Demand Assessment and Cultural Heritage Management Plan being submitted.

The new development is a close replica of the original design with only slight changes that include:

- A third visitor carpark relocated to the rear of the site.
- Minor cosmetic and accessibility changes to the dwellings including relocating downpipes and new level entry and enlarged entry doors to units.
- Some landscaping changes to improve amenity.

**Reasons for Proposed Resolution:**

The proposal is considered to be:

- Consistent with the strategic direction of the Municipal Planning Strategy and Planning Policy Framework relating to multiple dwellings on a lot in a residential area; in particular, Council's Housing Strategy and Housing Framework Plans as implemented by Amendment C105 – Live Work Latrobe.
- Consistent with the 'Purpose' and 'Decision Guidelines' of the Residential Growth Zone – Schedule 2;
- Consistent with Clause 65 (Decision Guidelines); and
- The objection(s) received have been considered against the provisions of the Latrobe Planning Scheme and the relevant planning concerns have been assessed. The objections do not form planning grounds on which the application should be refused.

## **Issues:**

### *Strategy Implications*

#### Council Plan 2021-2025 – Connected

*‘Facilitate appropriate urban growth, industry diversification, liveability and connectivity throughout Latrobe City.’*

The use and development of the subject land for eleven dwellings provides infill development in an area identified for medium density growth. This proposal is responsive to the Scheme and the Traralgon Housing Framework Plan. Urban growth in this location benefits from existing services, infrastructure, public transport and open space networks.

### *Health Implications*

Providing medium density housing in infill locations that have access to public transport and are within walkable distances to Primary Activity Centres has positive health and wellbeing outcomes for residents.

### *Communication*

#### Notification:

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning & Environment Act 1987* (the Act). Notices were sent to all adjoining and adjacent landowners and occupiers, and site notices were displayed on the site frontage for 14 days.

At the time of writing this report there were seven objections to the permit application.

A copy of the objections can be viewed at Attachment 2 of this report. The following issues were raised in the objections:

- Insufficient onsite carparking
- Waste removal
- Proposed new crossover and removal of Telstra pit
- Noise, access and disruption during the construction of units
- Fire safety
- Site drainage
- Neighbouring outlook

#### External:

There were no referral requirements under Section 55 of the Act, nor was it necessary to provide any Section 52(1)(d) notifications to servicing authorities.

Internal:

The application was referred internally to Council's:

- Engineering Development team: There was no objection to the application, subject to specified conditions being included on any permit issued.
- Strategic Planning team: There was no objection to the application. Support from a planning policy perspective is provided for this type of development in this location, acknowledging the site is in a Substantial Change Area, with excellent access to public transport, community infrastructure and services.

*Details of Community Consultation following Notification:*

Seven objections were received. The applicant was given the opportunity to respond to these objections. Each objector was sent a response outlining both the officer and the applicant's response, and the next steps.

Objections have been maintained, therefore requiring a decision by Council.

*Financial Implications*

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT). It is considered possible that this application will be appealed to VCAT. The anticipated time required for a Council Officer to prepare a VCAT submission and collate all relevant documentation is 7 business days with an additional two days required to attend and present at the appeal, totalling 9 business days. This equates to a financial cost in the order of \$4,000. This cost would be far greater if a consultant is required to attend on Council's behalf and would likely be in the range of \$10,000.

**RISK ASSESMENT**

RISK	RISK RATING	TREATMENT
<b>REPUTATIONAL RISK AND FINANCIAL RISK</b> Community displeasure in Council supporting an application against which objections have been lodged.	<b>Medium</b> <i>Possible x Minor</i>	Enforcement of permit conditions and endorsement of plans that are consistent with the provisions of the Planning Scheme and its associated policies, including Council's Housing Strategy (Live Work Latrobe) and the precedent set by the previous VCAT decision for the site.

RISK	RISK RATING	TREATMENT
<p>REPUTATIONAL RISK AND FINANCIAL RISK</p> <p>Supporting the application and the objectors will seeking review at VCAT.</p>	<p><b>High</b></p> <p><i>Likely x Moderate</i></p>	<p>Decide on application in line with the precedent of the previous VCAT decision for the site and defend Council's decision at any future VCAT hearing if required.</p>

*Legal and Compliance*

### **Latrobe Planning Scheme**

#### **Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF)**

The relevant direction and policy contained in the MPS and PPF of the Latrobe Planning Scheme have been considered as part of the assessment of this application.

#### Relevant Planning Policies

Clause 11.02-1S	Supply of urban land
Clause 11.01-1R	Settlement – Gippsland
Clause 11.01-L	Traralgon
Clause 15.01-1S	Urban Design
Clause 15.01-5S	Cultural Identity and Neighbourhood Character
Clause 15.01-5L	Neighbourhood Character
Clause 15.02-1S	Energy and resource efficiency
Clause 15.02-1L	Energy and resource efficiency
Clause 16.01-1S	Housing supply
Clause 16.01-1L	Housing supply

The relevant direction and policy contained in the MPS and PPF of the Latrobe Planning Scheme have been considered as part of the assessment of this application and the proposal has been found to be generally consistent with policy.

### **Zoning**

#### **Residential Growth Zone, Schedule 2 – Clause 32.07**

The purpose of the RGZ2 is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide housing at increased densities in buildings up to and including four storey buildings.*



- *To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.*
- *To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.*
- *To ensure residential development achieves design objectives specified in a schedule to this zone.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

Schedule 2 prescribes the design objectives to be achieved for the area identified as 'Compact Living with Special Character'. The design objectives are:

- *To provide for a compact urban form that retains a garden appearance and wide streetscape, whilst enabling increased housing density and diversity that is sympathetic to identified heritage values.*
- *To ensure that the design and siting of new buildings does not dominate the streetscape or compromise identified heritage character.*
- *To ensure upper levels of buildings are set back to minimise dominance within the streetscape.*
- *To ensure that the design of vehicle access points and car parking support a safe, accessible and walkable neighbourhood.*

Pursuant to Clause 32.07-5 of the Scheme, a permit is required to construct two or more dwellings on the lot.

Pursuant to Clause 32.07-11 of the Scheme, the application requirement for to construct two or more dwellings on the lot must be accompanied by a written statement which explains how the proposal responds to the decision guidelines at 32.07-13, including an assessment of Clause 55 of the Scheme. This information was provided as part of the application documents.

The proposal is consistent with the decision guidelines at Clause 32.07-5 of the Scheme for the following reasons:

- The subject site is mostly hidden from view from surrounding streets as all surrounding lots are developed, and the proposed 11 dwellings are single-storey.
- The proposal features a design using similar building materials and roof styles of the existing neighbourhood.
- The development proposes to upgrade the existing crossover which provides access to Meredith Street and each dwelling has its own single or double garage.

Clause 2.0 of Schedule 2 to the Residential Growth Zone provides the following alternate ResCode requirements:

- Standard B13 Landscaping requiring one canopy tree per 25m<sup>2</sup> within front setback garden area, which is shown on the landscaping plan.
- Standard A20 and B32 Front fence height should be a maximum of 1.2 metres and as no front fence is proposed, this complies.

## Overlay

No overlays affect the subject site.

## Particular Provisions

### Clause 52.06 Car Parking:

Clause 52.06-1 requires that prior to a new use commencing, the carparking spaces required under Clause 52.06-5 must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the authority.

The standard carparking requirements are:

- To each one or two-bedroom dwelling - one undercover car space.
- To each three-bedroom dwelling - two car spaces with one of these spaces to be undercover.
- 1 car space for visitors for every 5 dwellings for development of 5 or more dwellings.

A carparking assessment is provided in the application and the carparking requirements as detailed in the application are:

Land Use	Given Rate from Latrobe Planning Scheme	Car Parking Requirement
Dwelling	1 to each one or two bedroom dwelling, plus	9 two-bedroom dwellings each have 1 car space <b>COMPLIANT</b>
	2 to each three or more bedroom dwelling, plus	2 three-bedroom dwellings have two car spaces <b>COMPLIANT</b>
	1 for visitors every 5 dwellings	For 11 dwellings 2.1 spaces required rounded down to 2 and 2 spaces provided <b>COMPLIANT</b>

Furthermore, a Traffic Impact and Parking Demand Assessment was requested by the Officer and has been provided and reviewed, with the assessment by Council's Engineering Development Team concluding that:

- *"It is expected that the development will generate up to 110 vehicle movements per day in the abutting streets, Meredith and Coates.*
- *2013 records indicate a 5 day average of 90 vehicles a day in these streets.*

- *Both streets are classified as Access Places under the Latrobe Planning Scheme, which have a maximum indicative traffic volume of 300 to 1000 vehicles per day.*

*Therefore, although the plans show traffic volumes along these streets would significantly increase, the expected total traffic volumes would be lower than the nominal maximums considered appropriate for these streets”.*

#### Clause 55 Two or More Dwellings on a Lot:

Clause 55 applies to an application to construct two or more dwellings on a lot in the Residential Growth Zone. All of Clause 55 except Clause 55.07-1 to 55.07-19 (inclusive) apply to this application. An application must meet all the objectives of this clause that apply and should meet all the standards of this clause.

A detailed assessment of the development has been undertaken with the Clause and can be viewed at Attachment 3 of this Report.

#### Clause 53.18 Stormwater Management in Urban Development

The purpose of the clause is:

- *To ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.*

This clause applies to an application under a provision of a zone to subdivide land, construct a building, or construct or carry out works, other than the specified exemptions included under the clause. The clause applies to the application and the exemptions do not apply to the application.

Stormwater management objectives for buildings and works under the clause are as follows:

- *To encourage stormwater management that maximises the retention and reuse of stormwater.*
- *To encourage development that reduces the impact of stormwater on the drainage system and filters sediment and waste from stormwater prior to discharge from the site.*
- *To encourage stormwater management that contributes to cooling, local habitat improvements and provision of attractive and enjoyable spaces.*
- *To ensure that industrial and commercial chemical pollutants and other toxicants do not enter the stormwater system.*

A drainage design will be undertaken by a qualified civil engineer for approved development to ensure surface drainage and stormwater discharge is suitably managed within this development. This design will require approval by Council’s Engineering Team and a condition will be included, should a permit be issued.

### **Decision Guidelines** (Clause 65):

Clause 65.01 sets out the decision guidelines to be considered before deciding on an application or approve a plan.

The Permit Application meets the relevant objectives and strategies stipulated in the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF) relating to the development of more than two dwellings on a lot in the RGZ2.

The proposal will satisfy the purpose and decision guidelines of the RGZ2 as the development will contribute to the diversity of dwellings in a well-serviced location.

The proposal has been located in an area identified for medium density housing, as encouraged by the Traralgon Housing Framework Plan.

The proposal will constitute good and orderly planning of the area.

### **Incorporated Documents** (Clause 81):

- *Australian Standard AS/NZS 2890.1:2004, Parking Facilities – Off-street car parking* (Standards Australia, 2004)
- *Design Vehicles and Turning Path Templates* (Publication AP – 34/95, Austroads, 1995)

### **Background Documents** (Clause 72.08)

- *Infrastructure Design Manual* (Local Government Infrastructure Design Association, 2019)
- *Latrobe City Council Urban Design Guidelines* (Hansen Pty Ltd in association with Latrobe City Council, May 2020 and March 2021)
- *Live Work Latrobe Housing Strategy* (Latrobe City Council, MacroPlan Dimasi, RMCG and Planisphere, May 2019)

Of note, the Latrobe City Urban Design Guidelines provide guidance relating to units within the Residential Growth Zone, Schedule 2. This proposal avoids and mitigates all the undesirable characteristic typical of unit developments including high site coverage and impermeability; multiple crossovers from one street, informal car parking and storage within front setback and amenity impacts to side residential abuttal.

*Other considerations:*

### Cultural Heritage Management Plan (CHMP)

A CHMP is required in accordance with Part 3 Division 2 of the Aboriginal Heritage Regulations 2018, and in response to officer request has been provided. There are no matters in the CHMP that require addressing for this development.

## VCAT Precedence

This application has resulted from the expiry of a planning permit. Permit 2014/147 was decided at the 11 June 2015 Council Meeting. The Officer recommendation was for approval, however, Council resolved to refuse the permit application.

The Permit Applicant appealed Council's decision at VCAT, where the Tribunal overturned Council's decision and ordered Council to issue a permit on 26 February 2016. Since the issue of the approval, the permit holder has not acted on the permit and it has since expired, necessitating reapplying for the current permit application.

The Tribunal has established principles to determine how a proposal responds to a previous decision. Relevant factors to consider when reviewing an application that is similar to a proposal that has been the subject of previous findings are:

- a) significant changes in the application itself;
- b) changes in the circumstances of the land and its surrounds;
- c) changes in planning policy; and/or
- d) changes in the interpretation of the facts or law relevant to the Tribunal's consideration.

Since the Tribunal findings, the land has been rezoned from General Residential Zone to Residential Growth Zone and identified in the Traralgon Housing Framework Plan for intensification. This change provides increased planned policy support for the proposal.

The previous planning permit issued can be viewed at Attachment 4 to this report and the relevant VCAT decision is identified as a supporting document at the end of this report.

### *Community Implications*

The application received seven (7) submissions in the form of objections – refer to map of objector locations at Attachment 5 to this report. The issues raised, and response are detailed below:

Concern raised	Response
Onsite carparking	The Traffic Impact and Parking Demand Assessment supplied by Auswide Consulting has assessed the site and development and the impact it will have on the surrounding dwellings and street areas. Given the site's close proximity to public transport, the number of car parking spaces supplied to dwellings and visitors it has been confirmed that the proposed development meets the requirements and will not impact the existing off street parking to Meredith and Coates Streets.

Concern raised	Response
Waste removal	A waste management plan has been provided demonstrating turning path for waste collection vehicle, and bin collection areas providing an acceptable solution to the storage and collection for waste to the units. Should a permit issue, the waste management plan will be endorsed.
Proposed new crossover	<p>The proposed new crossover for this development will be 7 metres at the widest point of the splay, and 6.1m wide at the access driveway providing ample room for two cars to pass at the same time entering and exiting the site. There will be no modification of the existing crossover at 5 Meredith Street and it will not hamper the existing crossover for this property.</p> <p>It is expected that the development will generate a total of up to 110 vehicle movements per day in the abutting streets, Meredith Street and Coates Street. Both streets are classified as Minor Access Streets which under Council's Design Guidelines have a nominal capacity of 500 vehicle movements per day. The only traffic counts we have are for Meredith Street in 2013, with a 5-day average vehicle count of 90 vehicles per day. Both streets are six metres or less in width with no hard standing areas along the verge, which means that under clause 56.06-8 of the Planning Scheme they would be considered Access Places. Under the scheme requirements, an access place has a maximum indicative traffic volume of 300 to 1000 vehicles per day. The lesser of these values probably applies due to the lack of hard stand areas. Therefore, although traffic volumes along these streets would significantly increase, the expected total traffic volumes would be lower than the nominal maximums considered appropriate for these streets.</p>
Removal of Telstra pit	Telstra has consented to the relocation of the Telstra pit and have the skills and knowledge to relocate this pit in a timely manner to avoid delays.

Concern raised	Response
Construction of units – noise, access, disruption, etc.	<p>The proposed construction of this development will be undertaken by a Licensed and registered builder that will be required to comply with the EPA Civil Construction, Building and Demolition Guide to reducing noise pollution while under construction. This will include restricting work and vehicle movements to normal working hours throughout weekdays, advising neighbours of noisy activities and scheduling noisy activities to less sensitive times where possible. It is common practice for Council to include standard conditions on planning permits requiring these practices to minimise impact on amenity and enabling enforcement action to be taken if necessary. These conditions form part of the draft conditions recommended for a Notice of Decision to grant a Planning Permit.</p> <p>With regard to access, Meredith and Coates Street are both two-way access roads enabling the movement of larger vehicles.</p>
Fire safety	The new development meets both planning regulations as well as the National Construction Code requirements for separation between buildings in the case of fire.
Site drainage	A drainage design will be undertaken by a qualified civil engineer for approved development to ensure surface drainage and stormwater discharge is suitably managed within this development. This design will require approval by Council's Engineering Team and a condition will be included, should a permit be issued.
Neighbouring outlook	Any neighbouring properties facing this development will not be impacted by glare off any building materials as they will be matt finish and of a dark colour palette. All boundary fences will be 1.8m high and will privatise all neighbouring properties from the proposed development. Additional retaining/barriers where the floor level is greater than 0.8 metres above ground level at the boundary, are to provided in order to meet with the relevant (Rescode) standards. This is typical in a residential area, with typical outlooks to fences and roofs proposed as a result of the development.
Development and planning submission	The proposed development will be marketed to new homeowners looking for small two and three bedroom dwellings. The current application is a close replica of the original design submitted in 2014, and found by VCAT to be an acceptable development.

## *Environmental Implications*

There are no negative environmental impacts that would result should the recommendation for approval be adopted.

## *Other*

Council has the following options in regard to this application:

1. Issue a Notice of Decision to Grant a Permit; or
2. Issue a Notice of Decision to Refuse to Grant a Planning Permit.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.


## **Declaration of Interests:**

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

## **Supporting Documents:**


Phoenix 9403 Pty Ltd v LaTrobe CC [2016] VCAT 275 926 February 2016) - [http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2016/275.html?context=1;query=latrobe%20city%20council;mask\\_path=au/cases/vic/VCAT](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2016/275.html?context=1;query=latrobe%20city%20council;mask_path=au/cases/vic/VCAT)

## **Attachments**

↓1.  Attachment 1 - 2022/94 - Plans - 1 Meredith Street, Traralgon

2. Attachment 2 - 2022/94 - Objections - 1 Meredith Street, Traralgon (Published Separately)

*This attachment is designated as confidential under subsection (f) of the definition of confidential information contained in section 3(1) of the Local Government Act 2020, as it relates to personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs. Personal Information.*

↓3.  Attachment 3 - 2022/94 - Clause 55 Assesment - 1 Meredith Street, Traralgon

↓4.  Attachment 4 - VCAT permit 2014/47 - 1 Meredith Street, Traralgon

5. Attachment 5 - Map of Objectors (Published Separately)

*This attachment is designated as confidential under subsection (f) of the definition of confidential information contained in section 3(1) of the Local Government Act 2020, as it relates to personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs. Personal details of objectors to a proposed development.*



## 8.2

### Development of Land with Eleven (11) Dwellings at 1 Meredith Street, Traralgon

1	Attachment 1 - 2022/94 - Plans - 1 Meredith Street, Traralgon .....	284
3	Attachment 3 - 2022/94 - Clause 55 Assesment - 1 Meredith Street, Traralgon .....	308
4	Attachment 4 - VCAT permit 2014/47 - 1 Meredith Street, Traralgon .....	340

LEGEND	
	EXISTING VEGETATION TO REMAIN
	EXISTING VEGETATION TO BE REMOVED
	ELEMENTS TO BE DEMOLISHED
	SEWER MAIN
	NBN U/G CABLE
	GAS MAIN
	WATER MAIN
	ELECTRICITY OVERHEAD LINE
	PIT
	FENCE

DEMOLITION NOTES
ALL BUILDINGS HAVE BEEN DEMOLISHED. SITE IS CLEAR.
Asbestos audits to be undertaken prior to demolition and any asbestos materials to be removed by licensed removalist and a clearance certificate must be issued
All buildings are to be disconnected from services prior to demolition as per services plans & DBYD
All vegetation within the extension area is to be removed completely. Any soft or loose soil that does not respond to compaction should be excavated to achieve a firm working base (engineer designed footing system may be required)

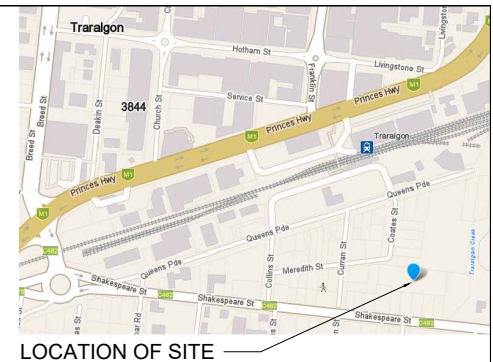
SURVEY NOTES
SURVEY PROVIDED BY OTHERS

WIND RATING
N1

BAL RATING
BAL LOW



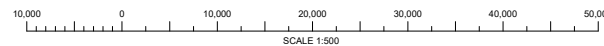
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P2	FOR PLANNING	E.K	03/08/2022
P1	FOR PLANNING	E.K	22/03/2022

**FOR PLANNING**

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 DATE: 07/03/2022  
 CHECKED: S.ABBOTT  
 SHEET No: 1 OF 23

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 A2 SIZE SHEET

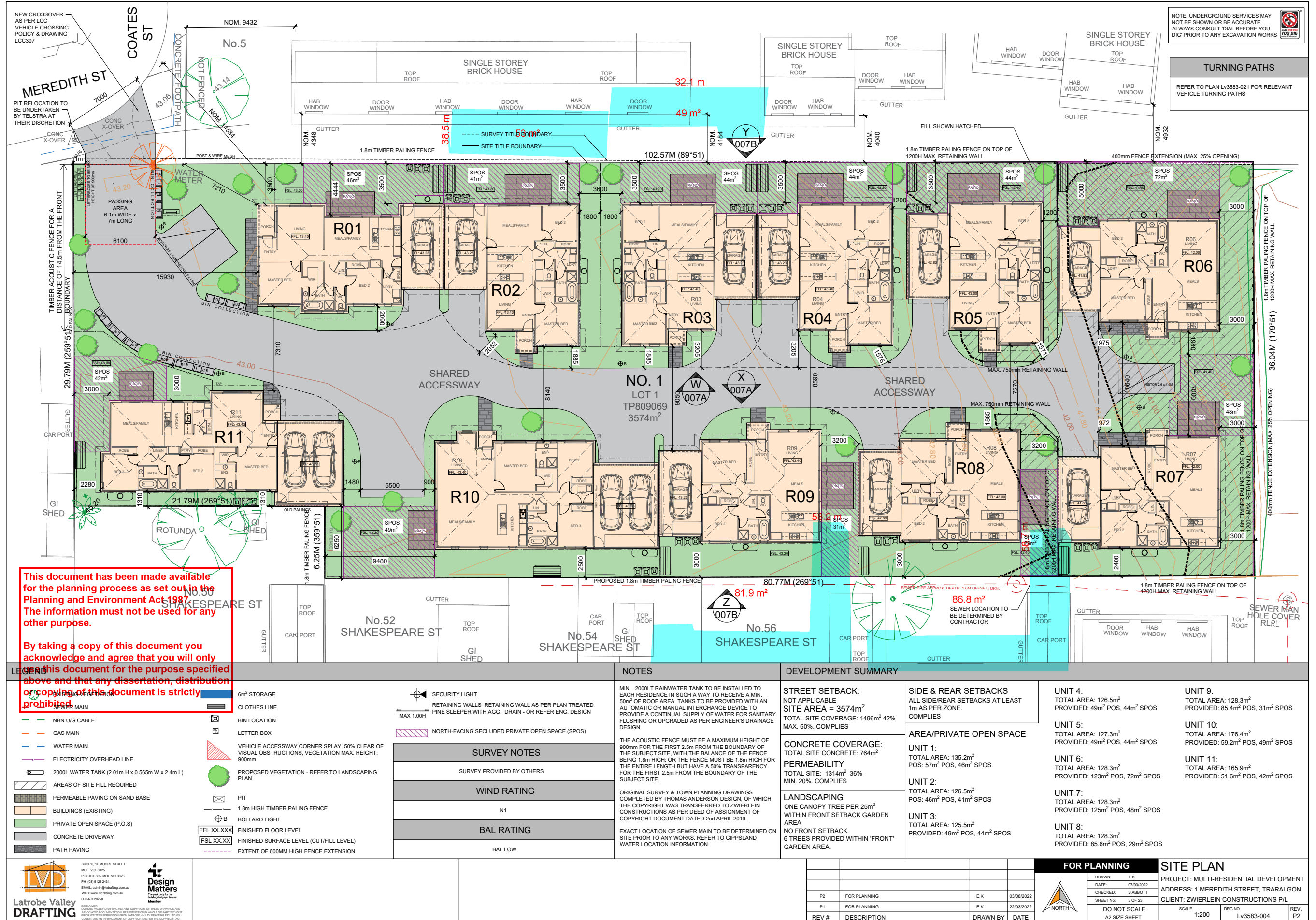
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PROJECT: MULTI-RESIDENTIAL DEVELOPMENT  
 ADDRESS: 1 MEREDITH STREET, TRARALGON  
 CLIENT: ZWIERLEIN CONSTRUCTIONS P/L

SCALE: 1:500  
 DRG. NO.: LV3583-003A  
 REV: P2



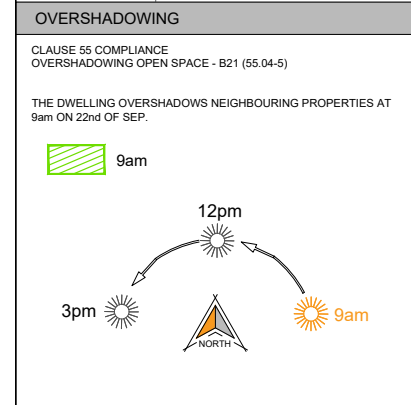
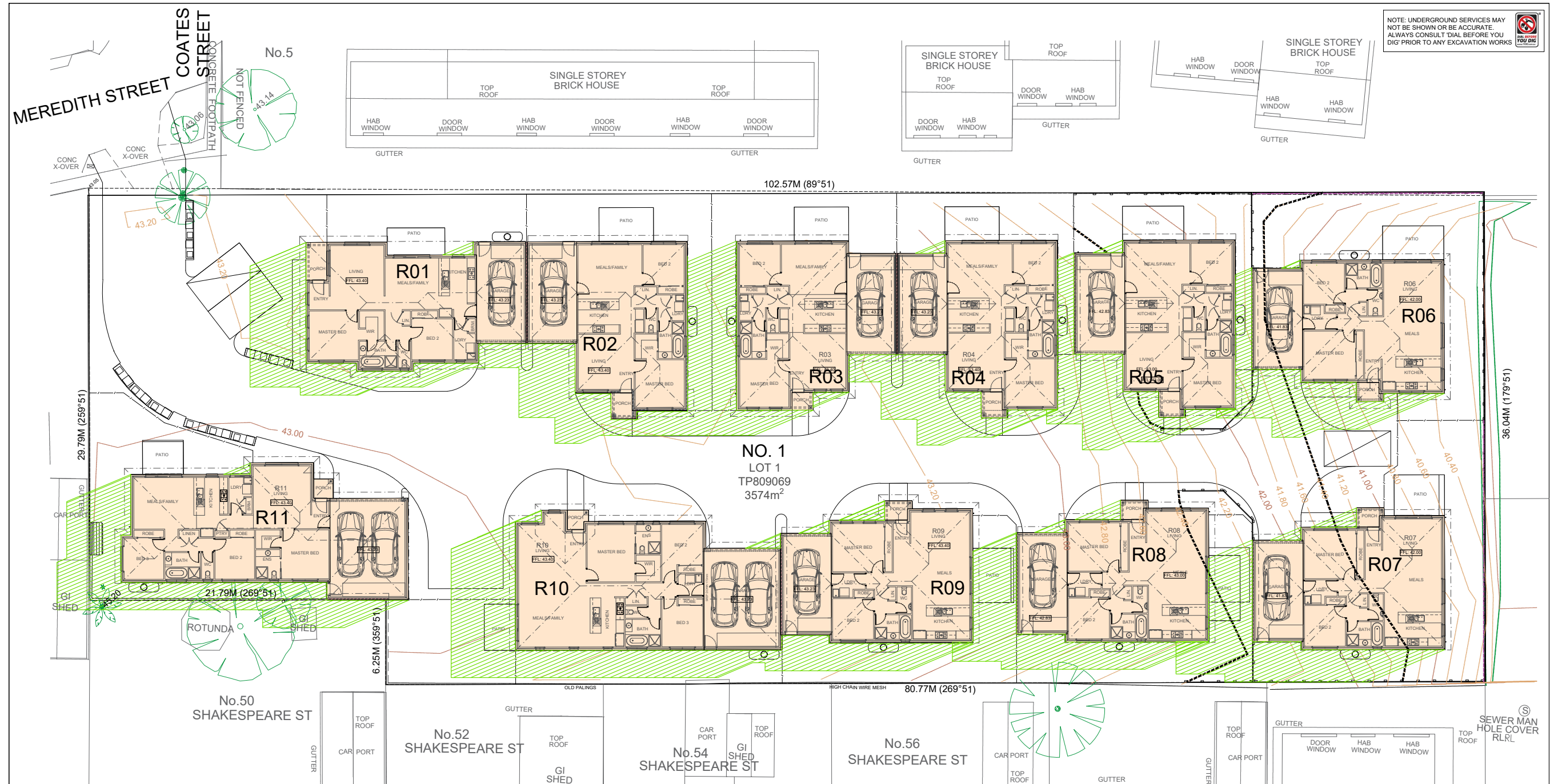




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The Architects for the Latrobe Valley  
Member

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P1	FOR PLANNING	E.K	22/03/2022

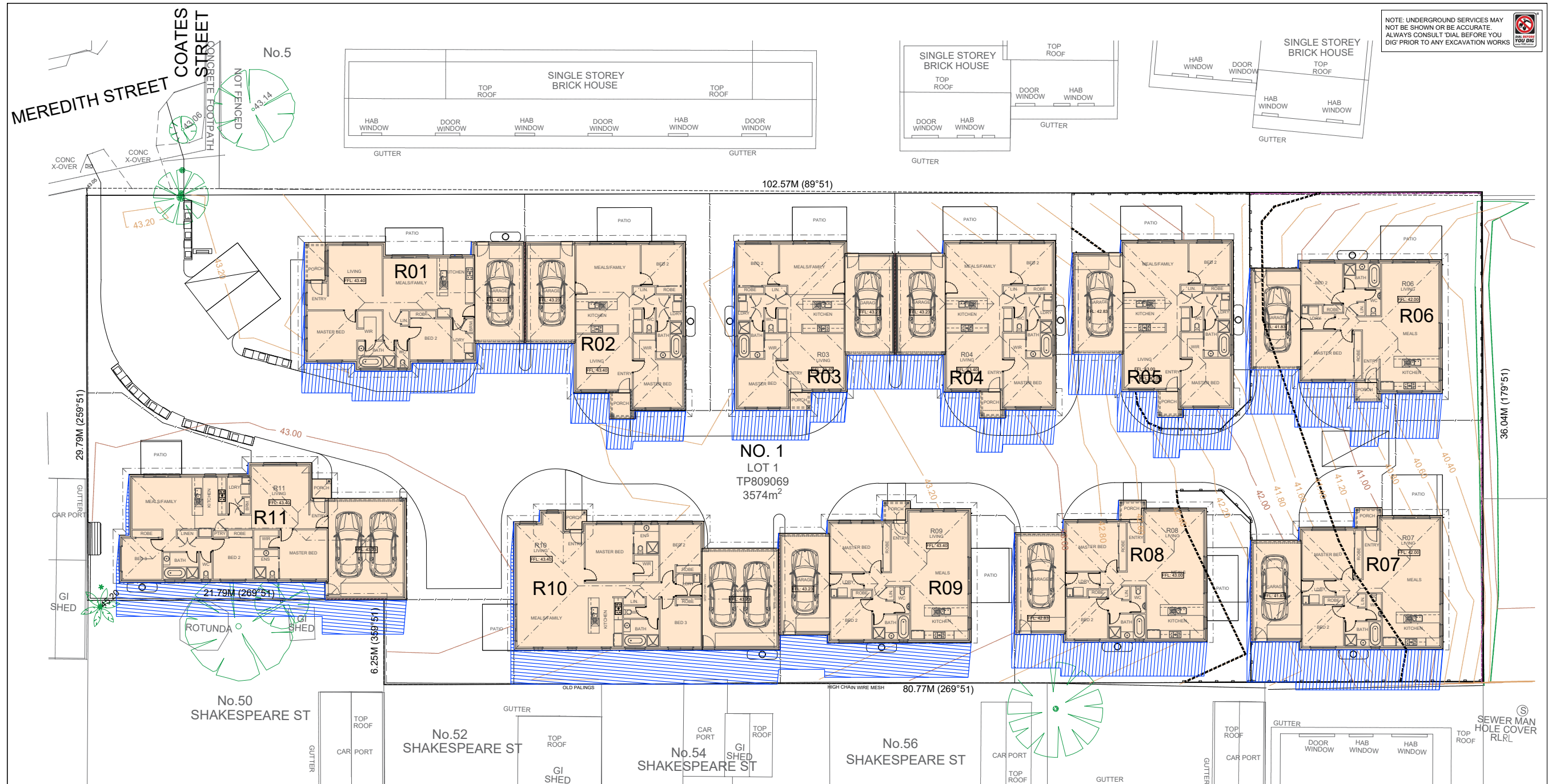
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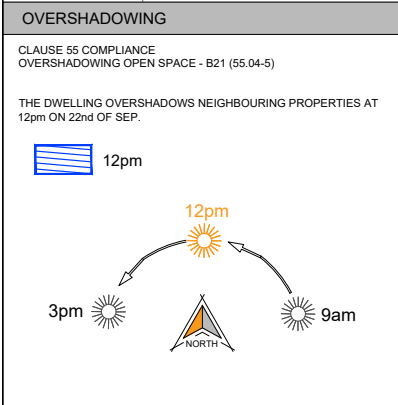
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ADDRESS: 1 MEREDITH STREET, TRARALGON  
CLIENT: ZWIERLEIN CONSTRUCTIONS P/L

SCALE: 1:200  
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REV: P2



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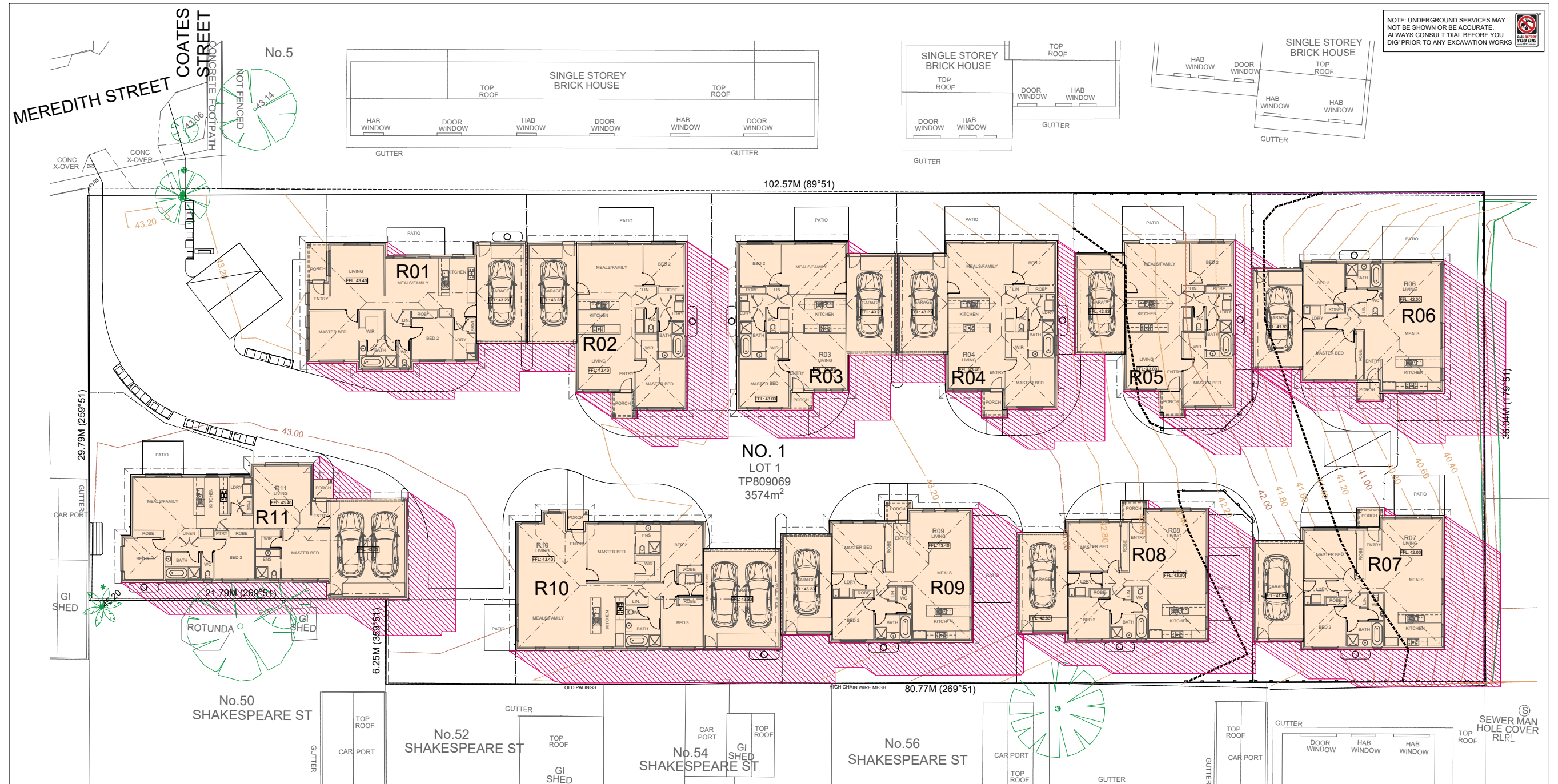
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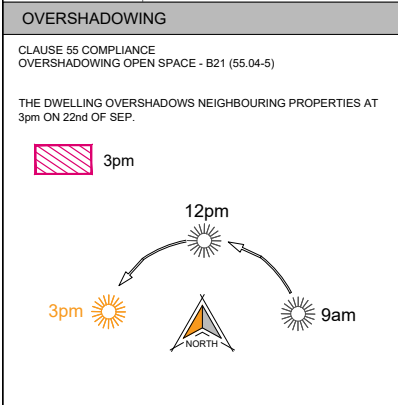
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FOR PLANNING				OVERSHADOWING 12pm	
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P1	FOR PLANNING	E.K	22/03/2022	ADDRESS: 1 MEREDITH STREET, TRARALGON	
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P1	FOR PLANNING	E.K	22/03/2022

**FOR PLANNING**

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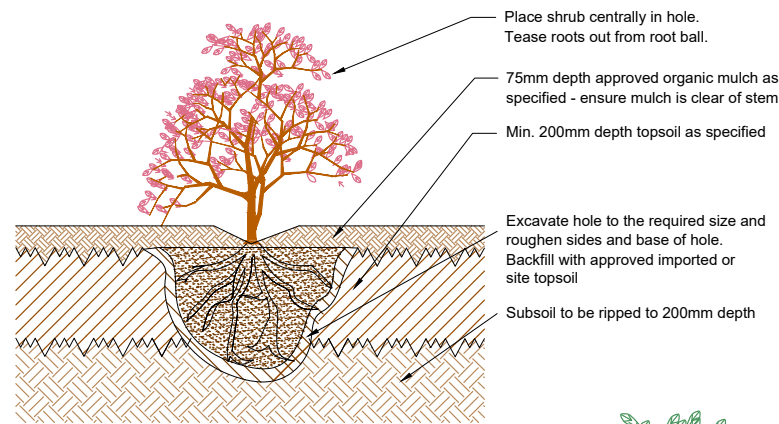
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ADDRESS: 1 MEREDITH STREET, TRARALGON  
CLIENT: ZWIERLEIN CONSTRUCTIONS P/L

SCALE: 1:200  
DRG. NO: LV3583-005C  
REV: P2









Typical shrub planting detail

Section detail

Note: Strong central leading trunk to be evident at time of planting

3 Stakes tied to tree as indicated. Stakes must not damage root ball. Install ties 1/3 height of tree with enough slack to permit trunk movement in wind

Place tree centrally in hole. Tease roots out from root ball. Ensure soil covers top of root ball without covering the trunk fare.

Mound dug-out site soil in a ring around outer edge of rootball to form a watering bowl. Cover with 75mm depth approved organic mulch. ensure mulch is clear of stem.

Prepare base of pit with nutrient additives if specified. Base of hole to be no deeper than the height of the root ball and 2 to 3 times the width of root ball. Slope sides of planting holes, and roughen soil interface. Back fill with approved imported or site soil.

Compact soil beside and under rootball to stabilise tree rootball in ground.

Rip subgrade to 200mm depth.



Typical advanced tree planting detail (3 stakes)

**WARNING**

**BEWARE OF UNDERGROUND SERVICES**

Note that the location shown of existing underground services is indicated only and may not be accurate at the time of landscape works. No guarantee is given that all existing services are shown. Determination of the exact position and extent of underground services is the responsibility of the contractor and is to be confirmed prior to commencement of work.

**GENERAL NOTES:**

1. Before commencement of works it is the responsibility of the landscape contractor to contact 'Dial before you dig' (ph: 1100) for information on services in the area shown on the plan.
2. The contractor shall verify the location and depth of all services prior to commencing on site.
3. The contractor shall be liable for any damage to services during landscaping works.
4. The contractor shall verify the location of any existing trees shown to be retained and protect them during works.
5. All trees shall be planted in locations show on the plan.
6. Any change to plant species must have the approval of the landscape architect.
7. Trees shall be planted no less than the following distances from landscape elements:
  - Footpaths - 1.2m
  - Driveways and crossings - 3.0m
  - stormwater and sewerage pits - 2.0m
  - Intersections - 10.00m
  - Service crossings - 2.0m
  - Kerb and channel - 2.0m
  - Street lights - 4.0m
8. Construction certification for all structural elements is to be provided prior to practical completion being granted.
9. The contractor shall protect all existing structures and pavements within and adjacent to the site for the duration of the works and make good any damage done.

**LANDSCAPE SPECIFICATION**

**Plant material:**

Plant shall have large healthy root systems, with no evidence of root curl, restriction or damage. Be vigorous, well established, free from disease and pests, of good form consistent with the species or variety, and are hardened off, not soil or forced, and suitable for planting in the natural climatic conditions prevailing at the site. Trees shall be multi-stemmed and have a single leading shoot.

**Plant installation:**

Refer to tree and shrub planting details for planting method. Plant plants in locations indicated on the plan. Where planting locations are not shown arrange planting in a grid pattern at the spacing noted in the planting schedule.

**Soil improvement**

Subsoil is to be tested to determine ameliorants to be added if required to promote vigorous and healthy growth of planted material.

**Imported topsoil material**

Supply and install imported topsoil to all garden beds. Soil is to comply with the following.

- Total Salts: less than 1000ppm
- Drainage rate: 50-100 mm/hr
- Organic matter: 5-20% (preference for composted materials)

**Nutrient levels**

- . Phosphate
- . Postassium
- . Calcium
- . Magnesium
- . C.E.C.
- . Sodium % C.E.C.

**Bulk Density**

**Moisture %**

Free from:

- . Perennial weeds, their roots, bulbs and rhizomes;
- . Extraneous materials including bricks, glass, concrete or any other material deleterious to plant growth or the installation operators;
- . Rocks and stone greater than 5mm in diameter, and than 3% stone by dry weight;
- . Heavy metal contaminants as specified for EPAV (1991) clean fill requirements;
- . Organic material greater than 20mm in length. Composted materials are preferred;
- . Any imported topsoil samples shall be submitted for approval by the Superintendent 14 days prior to delivery . Topsoil raised to the standard of the appropriate type by the use of additives may be used subject to compliance with the relevant test criteria;

**Mulch material**

Mulch shall be applied to all garden beds and around all planted trees within scope of works. Use mulch, which is free of deleterious and extraneous matter such as soil, weeds and sticks.

**Soil installation**

Place 200mm topsoil on the prepared subsoil. Spread and grade evenly, making the necessary allowances so that the required finished levels and contours may be achieved after light compaction.

Grassed areas shall be finished flush with adjacent hard surfaces such as kerbs, paths and mowing strips. Finished level of topsoil is at least 125mm below weepholes in buildings to allow for 75mm mulch cover and 50mm clearance of plants.

Prevent excess compaction caused by constructional plant. Compact lightly with a roller weighing between 200-220kg per metre length. Compact uniformly in 150mm layers.

Avoid differential subsidence and produce a finished topsoil surface which is at design levels; smooth and free from stones or lumps of soil; grade to drain freely, without ponding, to catchment points; graded evenly into adjoining ground surfaces; and ready for planting.

Dispose of surplus topsoil as directed by the superintendent.

**Mulch installation**

Mulch to be Organic Mulch from composted green waste. Place mulch to the required depth, refer to landscape plan, generally 75mm, clear of plant stems, and rake to an even surface flush with the surrounding finished levels.

Requirement: Spread and roll mulch so that after settling, or after rolling it is smooth and evenly graded between design surface levels; flush with adjacent finish levels; of the required depths; and sloped towards the base of plant stems in plantation beds, but not contact with stem. Place mulch in mass planted areas after the preparation of the planting bed but before planting and all other work. In smaller areas, place after the preparation of the planting bed, planting and all other work. Where mulching is done before planting, avoid mixing of mulch and soils - no mulch is to be buried, or soil left on top of the mulch.

**Grassing:**

Install lawn where nominated on the drawings to repair damage to the existing lawn nature strips. Finish and level soil surface as specified. Seed mix to be a general non-irrigated parkland and nature strip blend, comprising of the following species (or other approved by council)

- . 60% dwarf tall fescue-drought tolerant cultivars
- . 20% perennial rye-drought tolerant cultivars
- . 10% sheep's fescue
- . 10% hard fescue

**Irrigation:**

An in-ground irrigation system is to be supplied to all landscaped areas

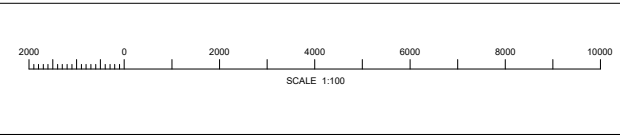
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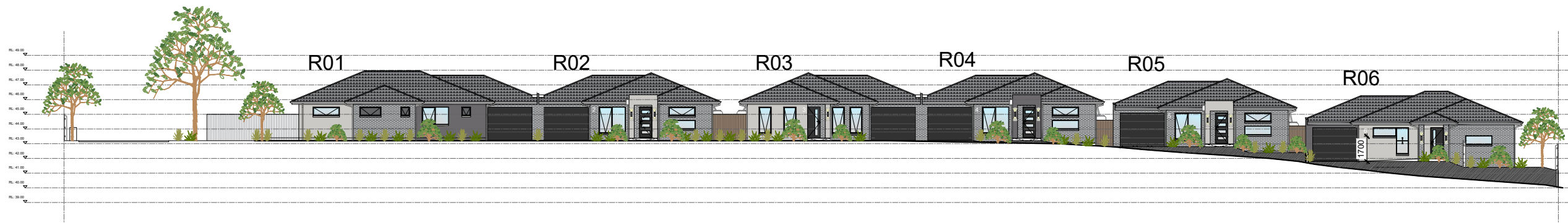
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FOR PLANNING		LANDSCAPE DETAILS	
DRAWN	E.K	PROJECT:	MULTI-RESIDENTIAL DEVELOPMENT
DATE:	07/03/2022	ADDRESS:	1 MEREDITH STREET, TRARALGON
CHECKED:	S.ABBOTT	CLIENT:	ZWIERLEIN CONSTRUCTIONS P/L
SHEET No:	8 OF 23	SCALE	1:100
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A2 SIZE SHEET		REV.	P2

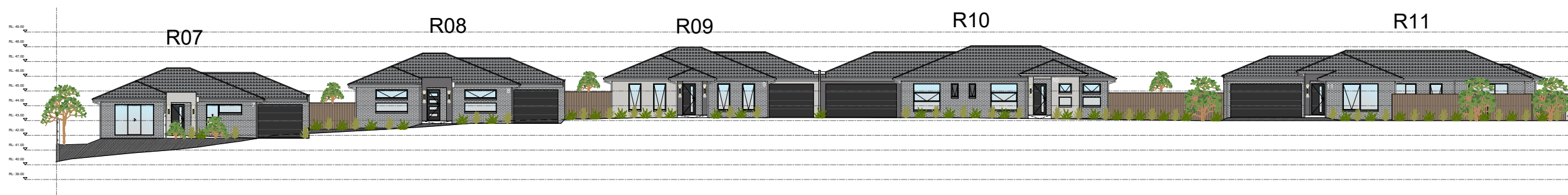
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COLOUR/MATERIAL SCHEDULE	
ROOF: TILES GUTTERS/FASCIA/DOWNPIPES: SELECTED LYSAGHT PRODUCTS COLOUR: COLORBOND MONUMENT	
PANEL LIFT DOORS & FRONT DOORS COLOUR: COLORBOND MONUMENT	
FACE BRICKWORK AUSTRAL METALIX BRONZE OR SIMILAR	
RENDERED BRICKWORK COLOUR #1 COLOUR: DULUX MONK	
RENDERED BRICKWORK COLOUR #2 COLOUR: DULUX DIESKAU	
WINDOWS - ALUMINIUM COLOUR: SILVER/GREY/ANODISED	



SOUTH SITE ELEVATION (DRIVEWAY)



NORTH SITE ELEVATION (DRIVEWAY)

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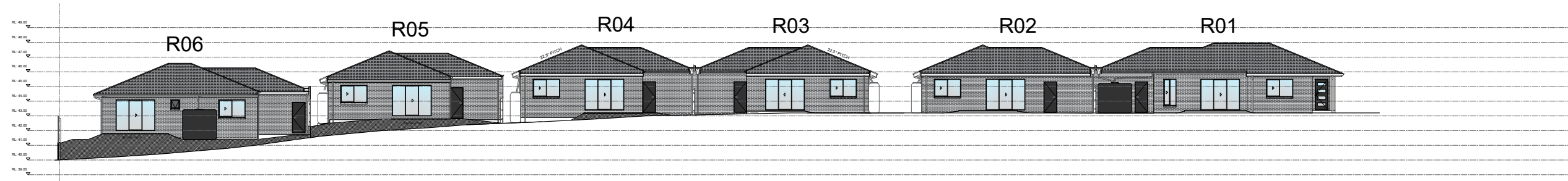
FOR PLANNING				SITE ELEVATIONS			
REV #	DESCRIPTION	DRAWN BY	DATE	SCALE	DRG. NO.	REV.	
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				A2 SIZE SHEET			



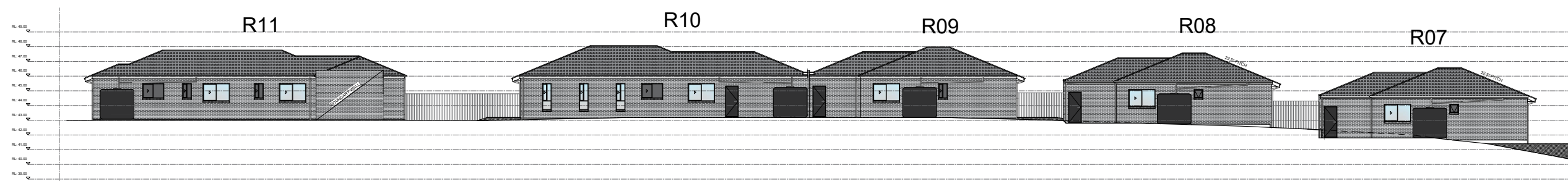
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COLOUR/MATERIAL SCHEDULE	
ROOF: TILES GUTTERS/FASCIA/DOWNPIPES: SELECTED LYSAGHT PRODUCTS COLOUR: COLORBOND MONUMENT	
PANEL LIFT DOORS & FRONT DOORS COLOUR: COLORBOND MONUMENT	
FACE BRICKWORK AUSTRAL METALIX BRONZE OR SIMILAR	
RENDERED BRICKWORK COLOUR #1 COLOUR: DULUX MONK	
RENDERED BRICKWORK COLOUR #2 COLOUR: DULUX DIESKAU	
WINDOWS - ALUMINIUM COLOUR: SILVER/GREY/ANODISED	



NORTH SITE ELEVATION (REAR YARDS)



SOUTH SITE ELEVATION (REAR YARDS)

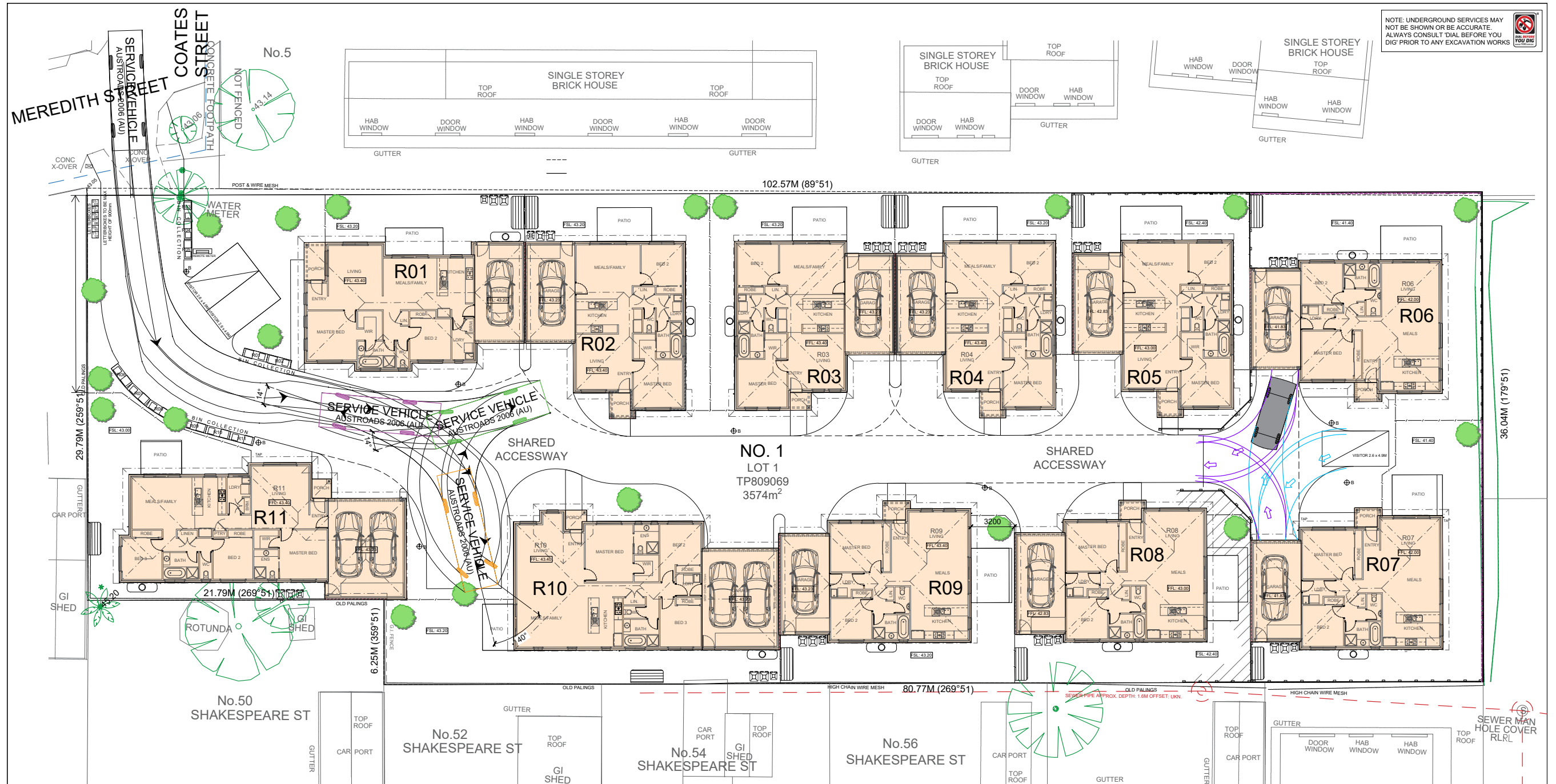
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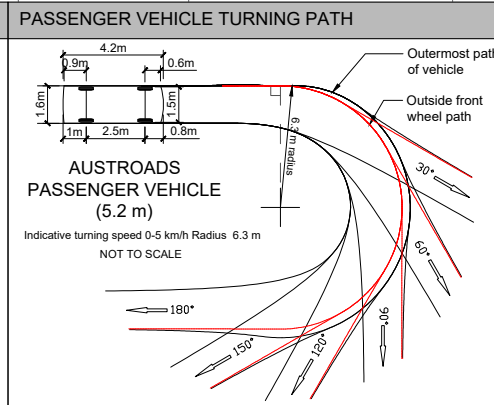
FOR PLANNING				SITE ELEVATIONS			
REV #	DESCRIPTION	DRAWN BY	DATE	SCALE	DRG. NO.	REV.	
P1	FOR PLANNING	E.K	22/03/2022	1:200	LV3583-007B	P2	
				DO NOT SCALE			
				A2 SIZE SHEET			



NOTE: UNDERGROUND SERVICES MAY NOT BE SHOWN OR BE ACCURATE. ALWAYS CONSULT DIAL BEFORE YOU DIG PRIOR TO ANY EXCAVATION WORKS.

**LEGEND**

	EXISTING VEGETATION		6m² STORAGE		SECURITY LIGHT
	SEWER MAIN		CLOTHES LINE		RETAINING WALLS RETAINING WALL AS PER PLAN TREATED PINE SLEEPER WITH AGG. DRAIN - OR REFER ENG. DESIGN
	NBN U/G CABLE		BIN LOCATION		CAR FORWARD TURNING PATH AS PER AUSTRROADS 5.2m PASSENGER VEHICLE 4.0m INNER RADIUS, 6.3m OUTER RADIUS
	GAS MAIN		LETTER BOX		CAR REVERSING PATH AS PER AUSTRROADS 5.2m PASSENGER VEHICLE 4.0m INNER RADIUS, 6.3m OUTER RADIUS
	WATER MAIN		VEHICLE ACCESSWAY CORNER SPAY, 50% CLEAR OF VISUAL OBSTRUCTIONS, VEGETATION MAX. HEIGHT: 900mm		
	ELECTRICITY OVERHEAD LINE		PROPOSED VEGETATION - REFER TO LANDSCAPING PLAN		
	2000L WATER TANK (2.01m H x 0.565m W x 2.4m L)		PIT		
	AREAS OF SITE FILL REQUIRED		1.8m HIGH TIMBER PALING FENCE		
	PERMEABLE PAVING ON SAND BASE		BOLLARD LIGHT		
	BUILDINGS (EXISTING)		FINISHED FLOOR LEVEL		
	PRIVATE OPEN SPACE (P.O.S)		FINISHED SURFACE LEVEL (CUT/FILL LEVEL)		
	CONCRETE DRIVEWAY		EXTENT OF 600MM HIGH FENCE EXTENSION		
	PATH PAVING				

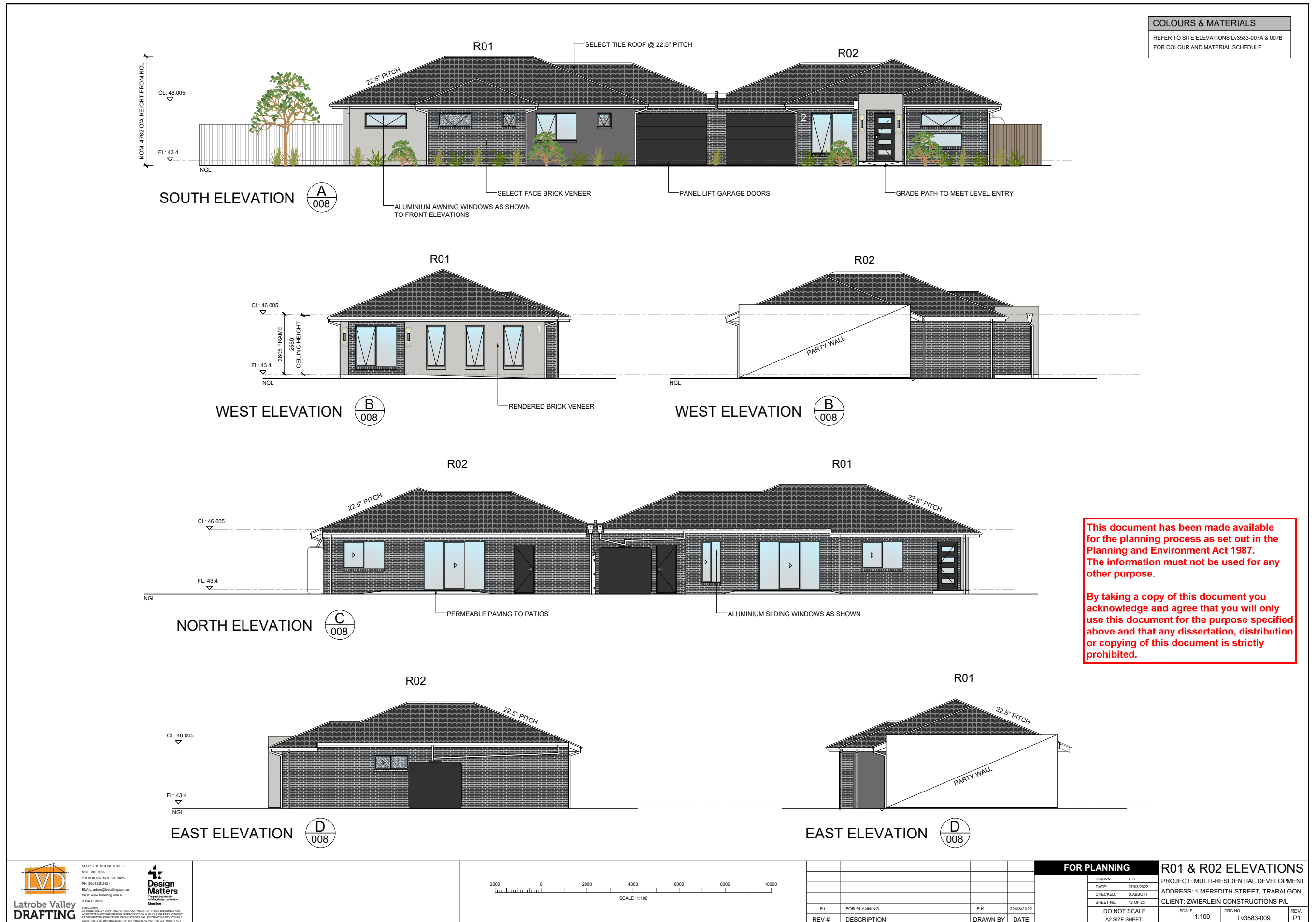


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		<p>PROJECT: MULTI-RESIDENTIAL DEVELOPMENT ADDRESS: 1 MEREDITH STREET, TRARALGON CLIENT: ZWIERLEIN CONSTRUCTIONS P/L</p>	<p>SCALE: 1:200 DRG. NO.: LV3583-0020</p>	<p>DATE: 22/03/2022 DRAWN BY: E.K.</p>	<p>DATE: 07/03/2022 CHECKED: S.ABBOTT SHEET No.: 23 OF 23</p>





**COLOURS & MATERIALS**  
 REFER TO SITE ELEVATIONS LV3583-007A & 007B  
 FOR COLOUR AND MATERIAL SCHEDULE

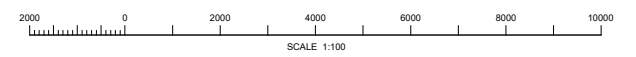
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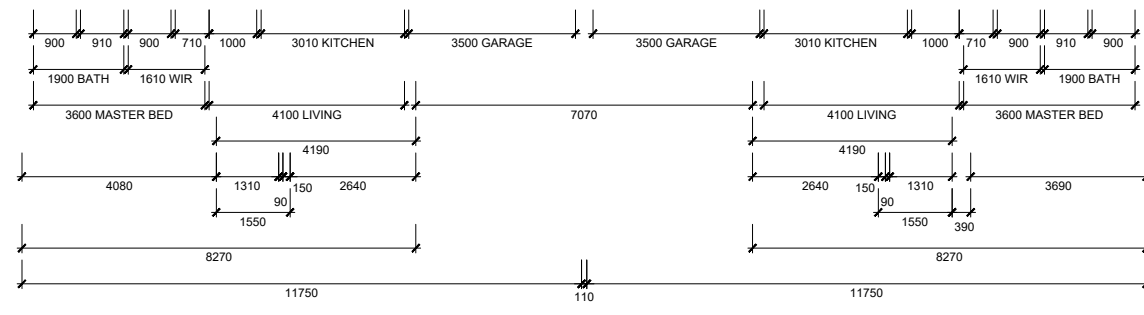
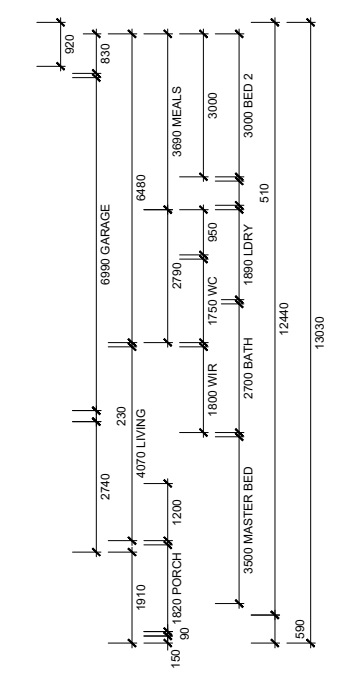
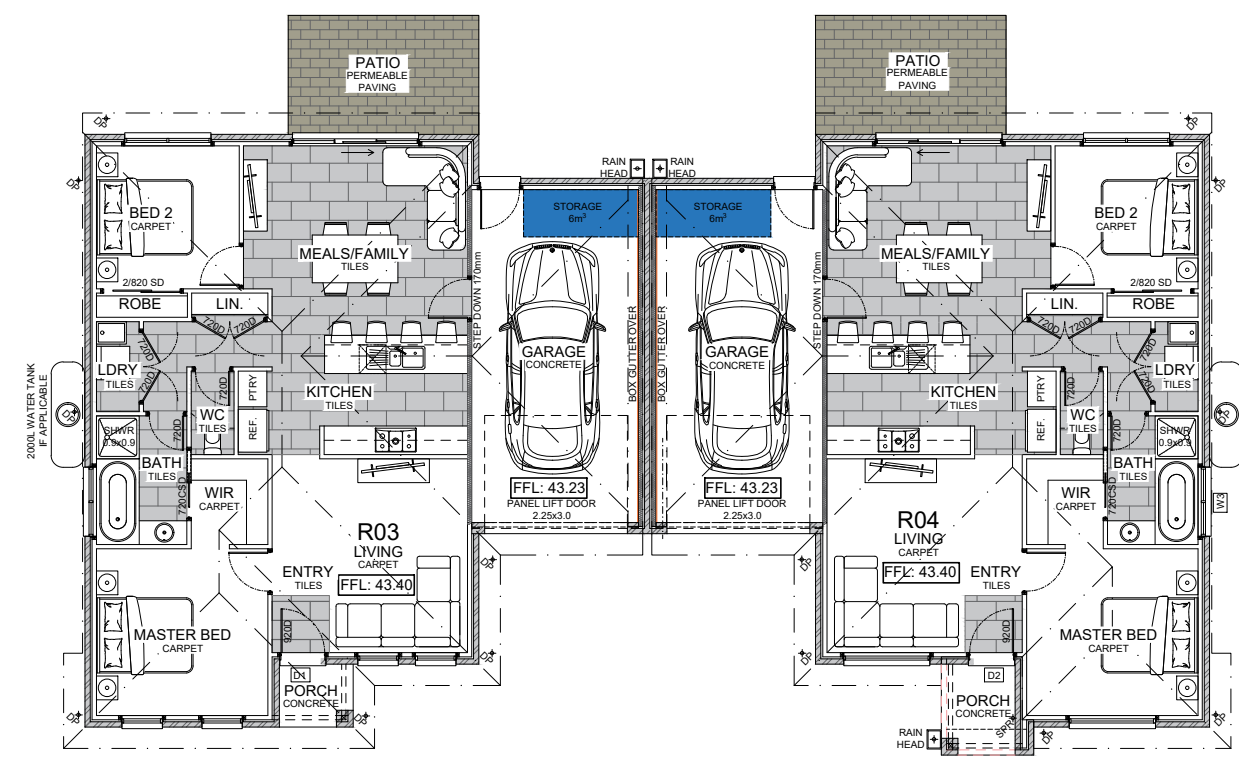
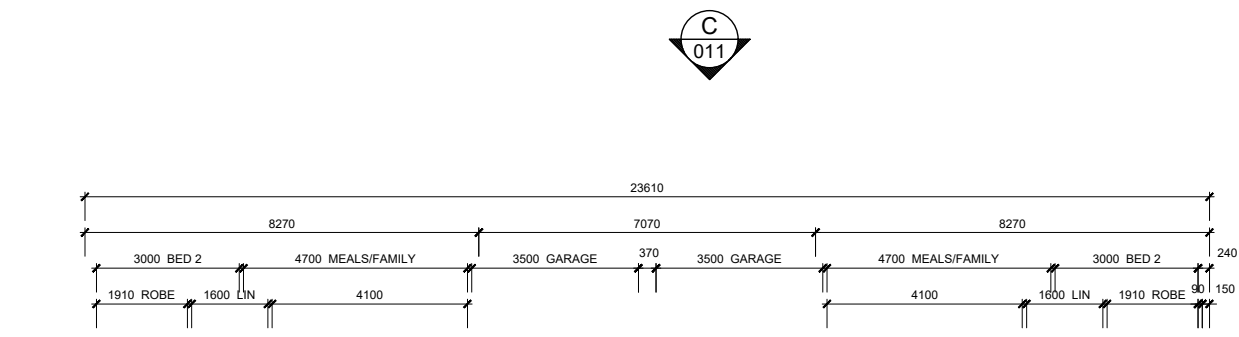
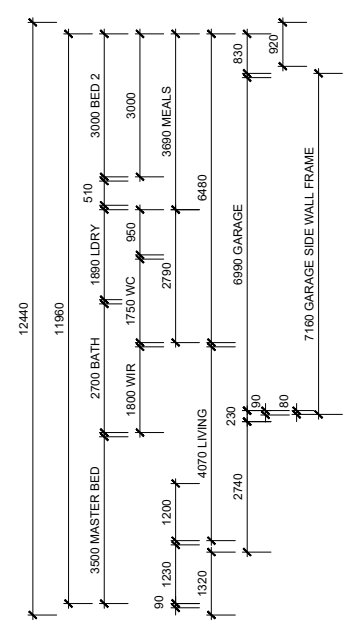
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REV #	DESCRIPTION	DRAWN BY	DATE
P1	FOR PLANNING	E.K	22/03/2022

FOR PLANNING		R01 & R02 ELEVATIONS	
DRAWN	E.K	PROJECT: MULTI-RESIDENTIAL DEVELOPMENT	
DATE	07/03/2022	ADDRESS: 1 MEREDITH STREET, TRARALGON	
CHECKED	S.ABBOTT	CLIENT: ZWIERLEIN CONSTRUCTIONS P/L	
SHEET No.	12 OF 23	SCALE	DRG. NO.
DO NOT SCALE	1:100	Lv3583-009	REV. P1
A2 SIZE SHEET			

AREA ANALYSIS	
UNIT 3 LIVING AREA	96.2m <sup>2</sup>
UNIT 3 PORCH AREA	2.1m <sup>2</sup>
UNIT 3 GARAGE AREA	27.1m <sup>2</sup>
UNIT 3 TOTAL	125.5m <sup>2</sup>
UNIT 4 LIVING AREA	96.2m <sup>2</sup>
UNIT 4 PORCH AREA	3.2m <sup>2</sup>
UNIT 4 GARAGE AREA	27.1m <sup>2</sup>
UNIT 4 TOTAL	126.5m <sup>2</sup>
TOTAL FOOTPRINT	252m <sup>2</sup> 27.1sq
TYPICAL CONSTRUCTION	
FRAME:	90mm THICKNESS
CLADDING:	FACE BRICK VENEER, RENDERED BRICK VENEER
EAVES:	600mm EAVES FROM FRAME
DOORS:	2040x820 U.N.O
LEGEND	
	STORAGE AREA, MIN. 6m <sup>2</sup>



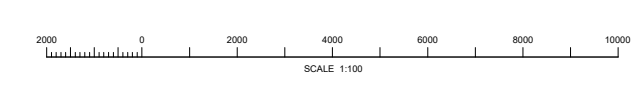
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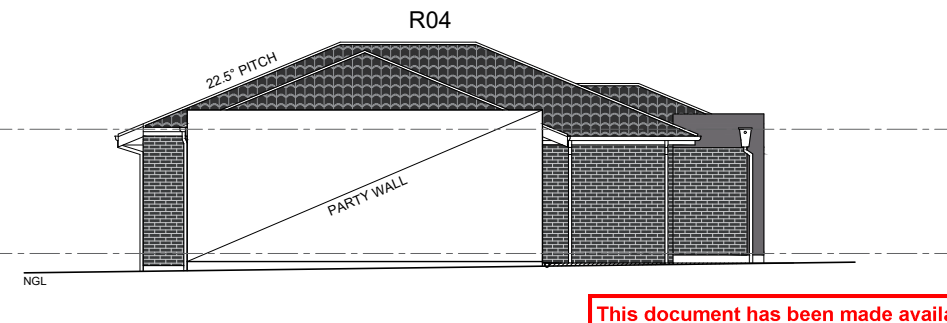
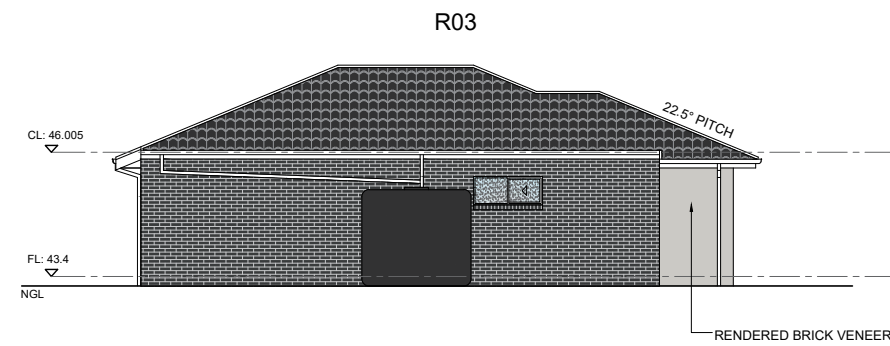
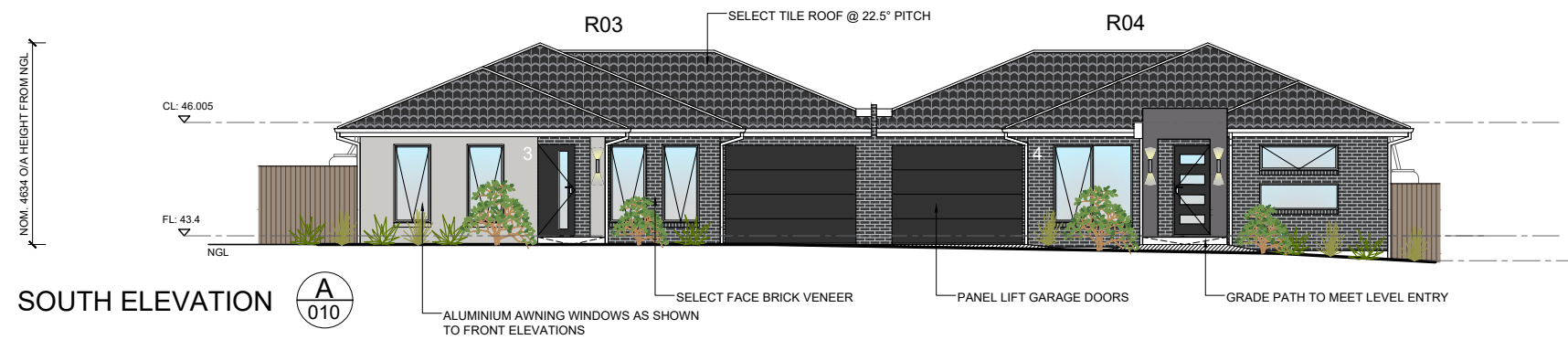
**FOR PLANNING**

**R03 & R04 FLOOR PLAN**

PROJECT: MULTI-RESIDENTIAL DEVELOPMENT  
 ADDRESS: 1 MEREDITH STREET, TRARALGON  
 CLIENT: ZWIERLEIN CONSTRUCTIONS P/L

SCALE: 1:100  
 DRG. NO: LV3583-010  
 REV: P1

**COLOURS & MATERIALS**  
 REFER TO SITE ELEVATIONS LV3583-007A & 007B  
 FOR COLOUR AND MATERIAL SCHEDULE

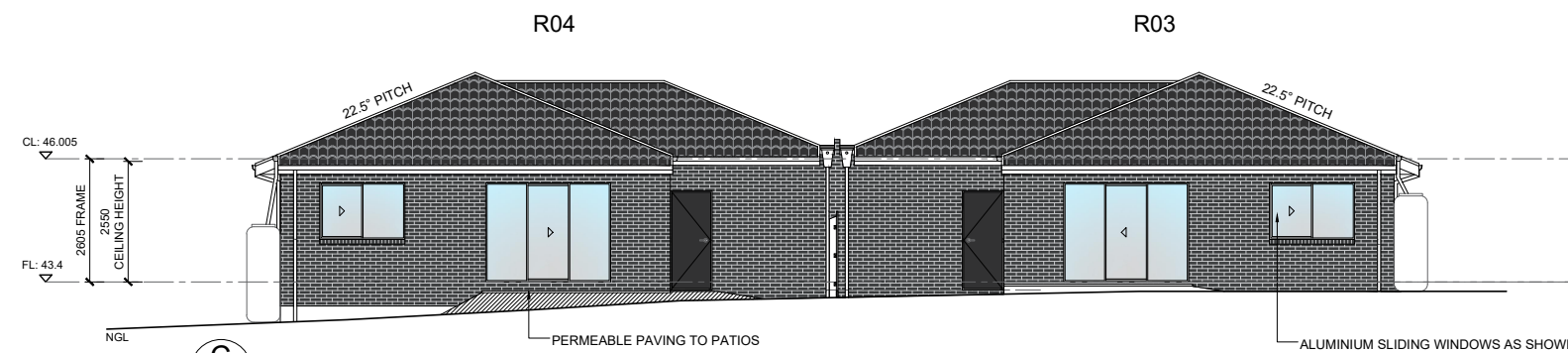


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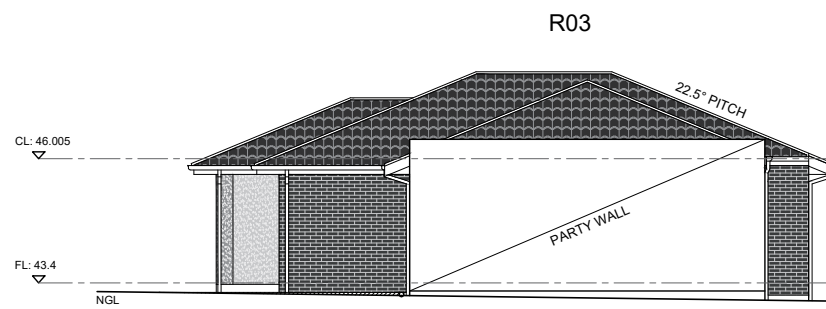
WEST ELEVATION (B) 010

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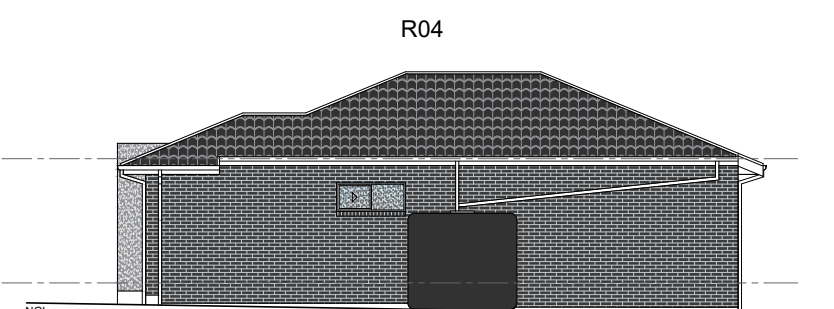
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NORTH ELEVATION (C) 010



EAST ELEVATION (D) 010

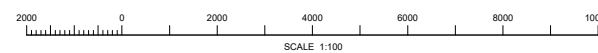


EAST ELEVATION (D) 010

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REV #	DESCRIPTION	DRAWN BY	DATE
P1	FOR PLANNING	E.K	22/03/2022

FOR PLANNING	
DRAWN	E.K
DATE	07/03/2022
CHECKED	S.ABBOTT
SHEET No.	14 OF 23
DO NOT SCALE	
A2 SIZE SHEET	

R03 & R04 ELEVATIONS			
PROJECT: MULTI-RESIDENTIAL DEVELOPMENT			
ADDRESS: 1 MEREDITH STREET, TRARALGON			
CLIENT: ZWIERLEIN CONSTRUCTIONS P/L			
SCALE	DRG. NO.	REV.	
1:100	LV3583-011	P1	

AREA ANALYSIS	
UNIT 5 LIVING AREA	96.2m <sup>2</sup>
UNIT 5 PORCH AREA	3.2m <sup>2</sup>
UNIT 5 GARAGE AREA	27.9m <sup>2</sup>
UNIT 5 TOTAL	127.3m <sup>2</sup>
UNIT 6 LIVING AREA	97.8m <sup>2</sup>
UNIT 6 PORCH AREA	2.6m <sup>2</sup>
UNIT 6 GARAGE AREA	27.9m <sup>2</sup>
UNIT 6 TOTAL	128.3m <sup>2</sup>

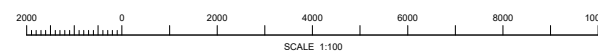
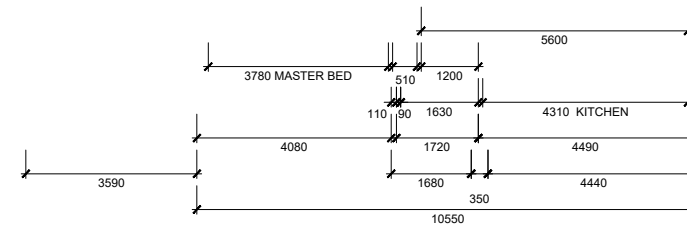
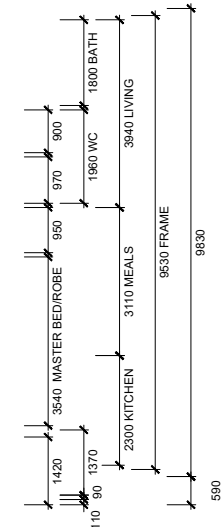
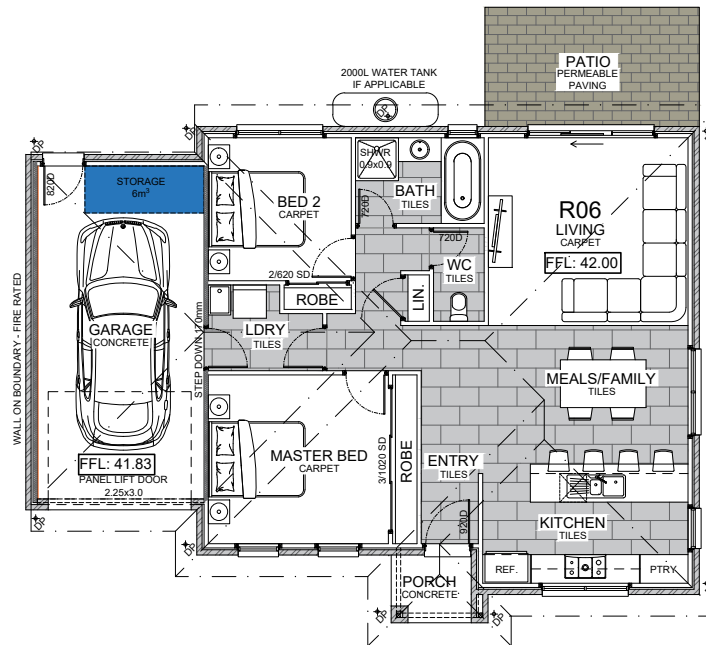
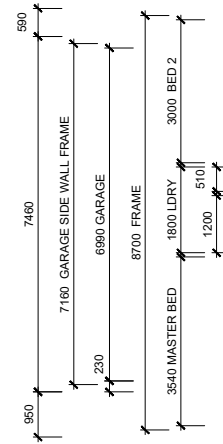
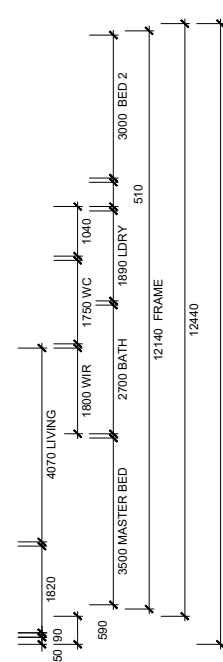
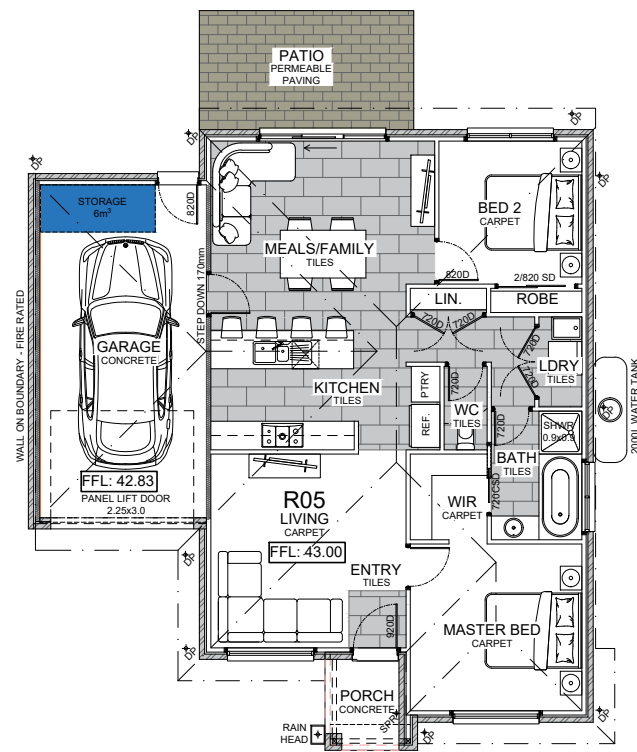
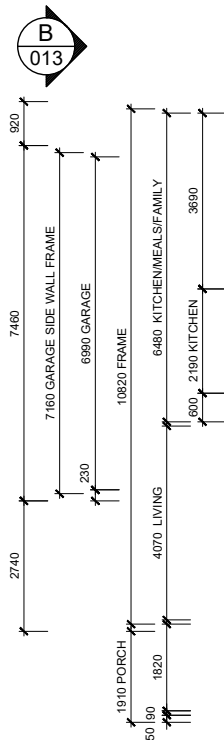
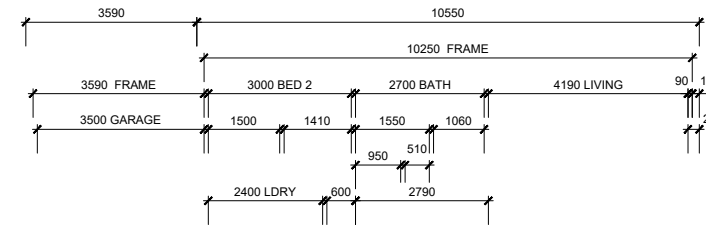
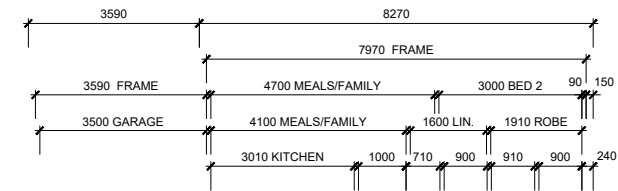
TYPICAL CONSTRUCTION	
FRAME:	90mm THICKNESS
CLADDING:	FACE BRICK VENEER, RENDERED BRICK VENEER
EAVES:	600mm EAVES FROM FRAME
DOORS:	2040x820 U.N.O

LEGEND	
	STORAGE AREA, MIN. 6m <sup>2</sup>

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REV #	DESCRIPTION	DRAWN BY	DATE
P1	FOR PLANNING	E.K	22/03/2022

**FOR PLANNING**

DRAWN: E.K  
 DATE: 07/03/2022  
 CHECKED: S.ABBOTT  
 SHEET No: 15 OF 23

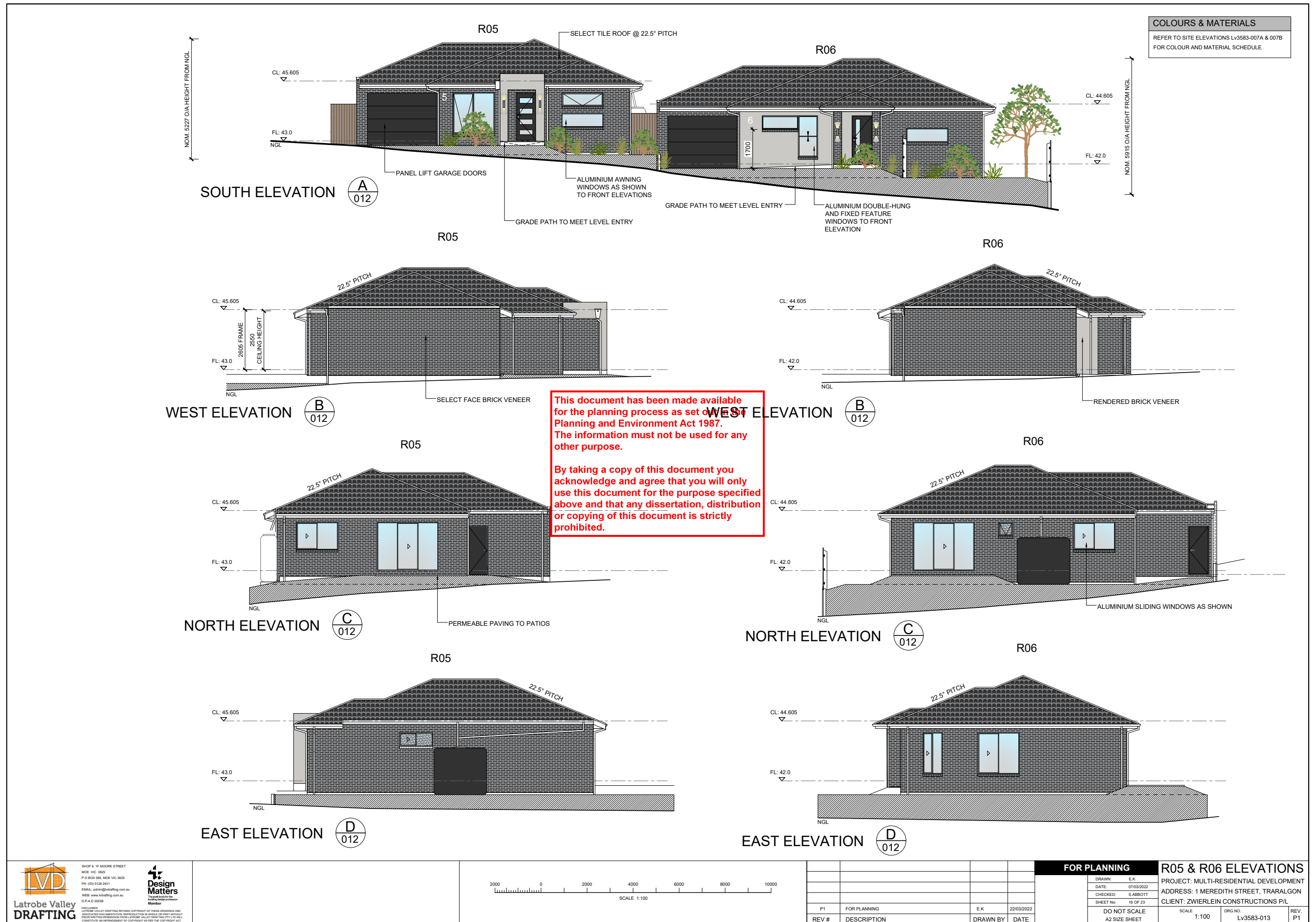
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**R05 & R06 FLOOR PLAN**

PROJECT: MULTI-RESIDENTIAL DEVELOPMENT  
 ADDRESS: 1 MEREDITH STREET, TRARALGON  
 CLIENT: ZWIERLEIN CONSTRUCTIONS P/L

SCALE: 1:100  
 DRG. NO: LV3583-012  
 REV: P1

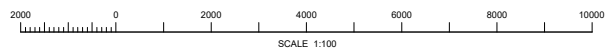




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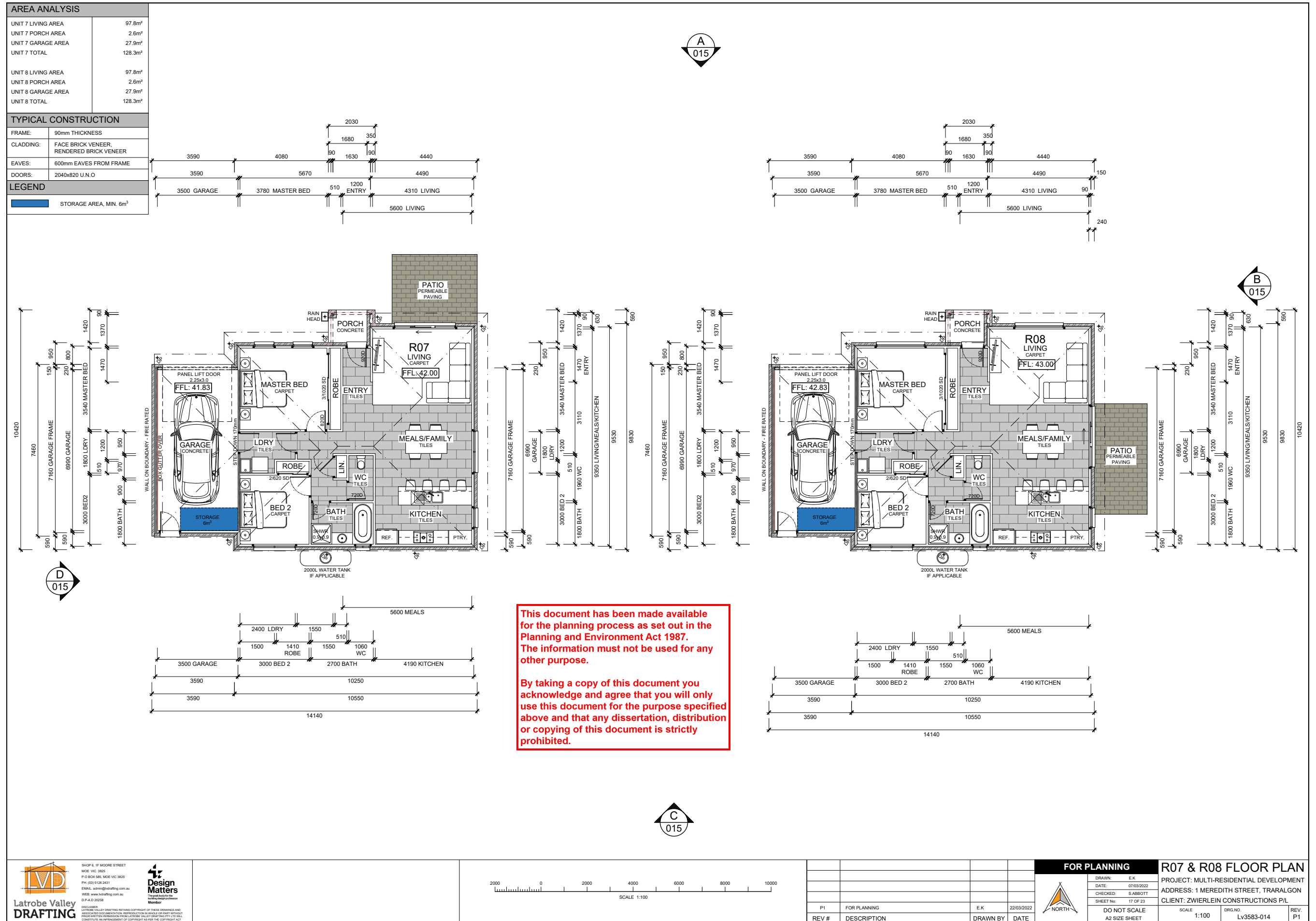
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REV #	DESCRIPTION	DRAWN BY	DATE
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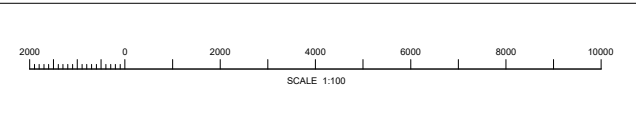
FOR PLANNING	
DRAWN	E.K
DATE	07/03/2022
CHECKED	S.ABBOTT
SHEET No.	16 OF 23
DO NOT SCALE	
A2 SIZE SHEET	

R05 & R06 ELEVATIONS			
PROJECT: MULTI-RESIDENTIAL DEVELOPMENT			
ADDRESS: 1 MEREDITH STREET, TRARALGON			
CLIENT: ZWIERLEIN CONSTRUCTIONS P/L			
SCALE	DRG. NO.	REV.	
1:100	LV3583-013	P1	



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REV #	DESCRIPTION	DRAWN BY	DATE
P1	FOR PLANNING	E.K	22/03/2022

**FOR PLANNING**

DRAWN: E.K  
 DATE: 07/03/2022  
 CHECKED: S.ABBOTT  
 SHEET No: 17 OF 23

DO NOT SCALE  
 A2 SIZE SHEET

**R07 & R08 FLOOR PLAN**

PROJECT: MULTI-RESIDENTIAL DEVELOPMENT  
 ADDRESS: 1 MEREDITH STREET, TRARALGON  
 CLIENT: ZWIERLEIN CONSTRUCTIONS P/L

SCALE: 1:100  
 DRG. NO: LV3583-014  
 REV: P1

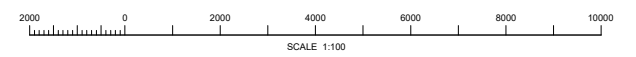


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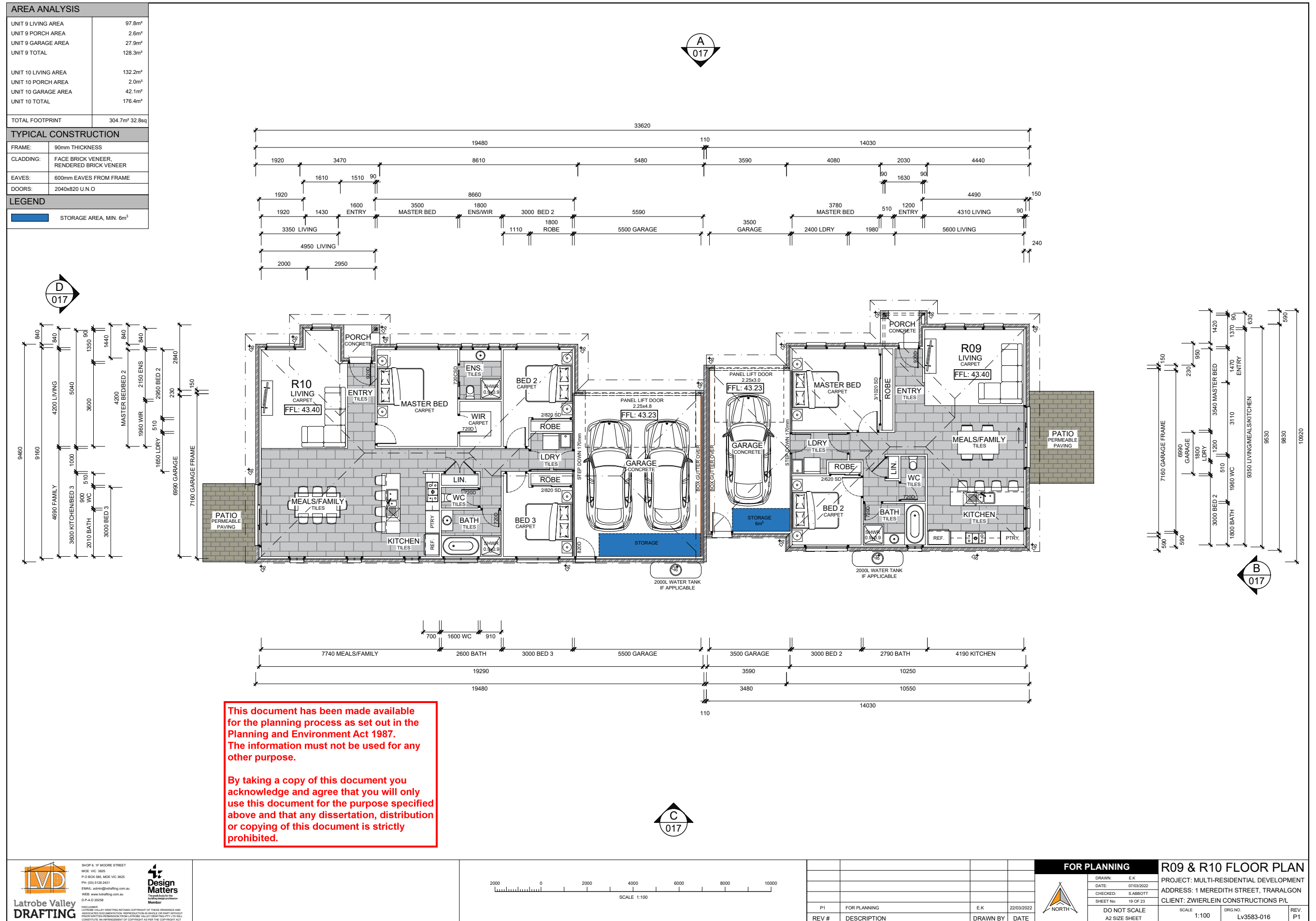
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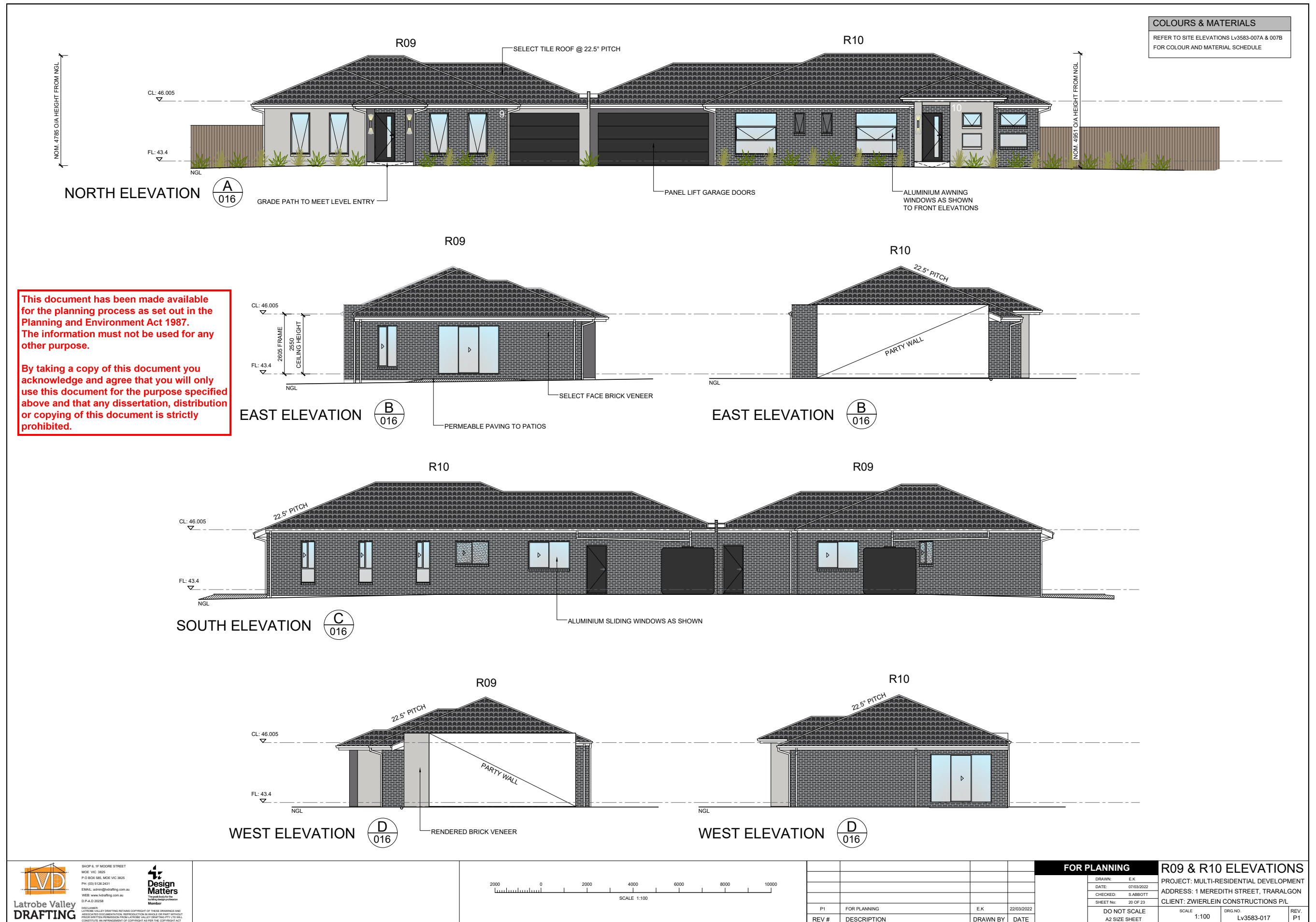


REV #	DESCRIPTION	DRAWN BY	DATE
P1	FOR PLANNING	E.K	22/03/2022

FOR PLANNING		R07 & R08 ELEVATIONS	
DRAWN	E.K	PROJECT: MULTI-RESIDENTIAL DEVELOPMENT	
DATE	07/03/2022	ADDRESS: 1 MEREDITH STREET, TRARALGON	
CHECKED	S.ABBOTT	CLIENT: ZWIERLEIN CONSTRUCTIONS P/L	
SHEET No.	18 OF 23	SCALE	DRG. NO.
DO NOT SCALE	A2 SIZE SHEET	1:100	L3583-015
			REV. P1







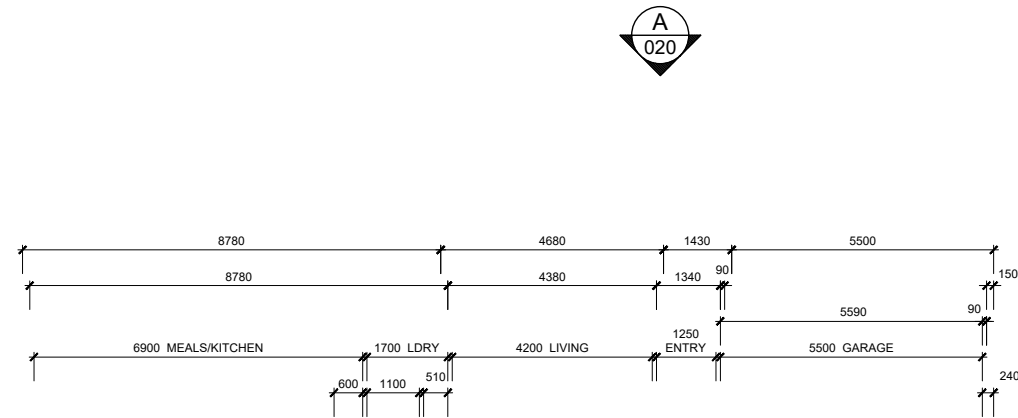
AREA ANALYSIS	
UNIT 11 LIVING AREA	120.7m <sup>2</sup>
UNIT 11 PORCH AREA	2.1m <sup>2</sup>
UNIT 11 GARAGE AREA	43.1m <sup>2</sup>
UNIT 11 TOTAL	165.9m <sup>2</sup>

TYPICAL CONSTRUCTION	
FRAME:	90mm THICKNESS
CLADDING:	FACE BRICK VENEER, RENDERED BRICK VENEER
EAVES:	600mm EAVES FROM FRAME
DOORS:	2040x820 U.N.O

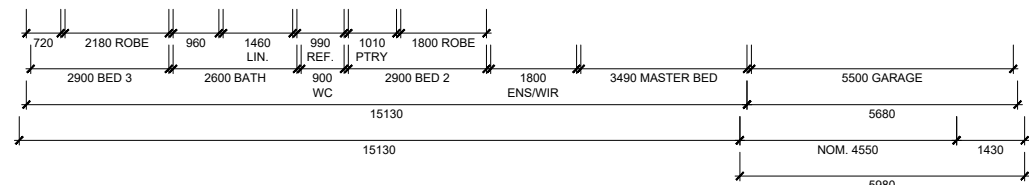
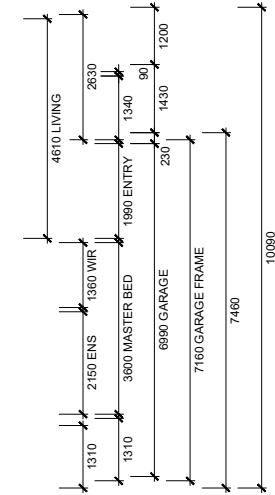
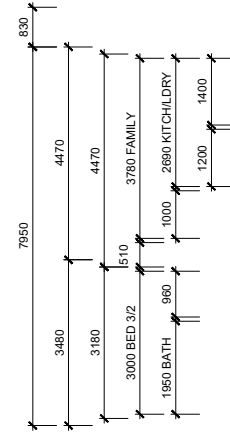
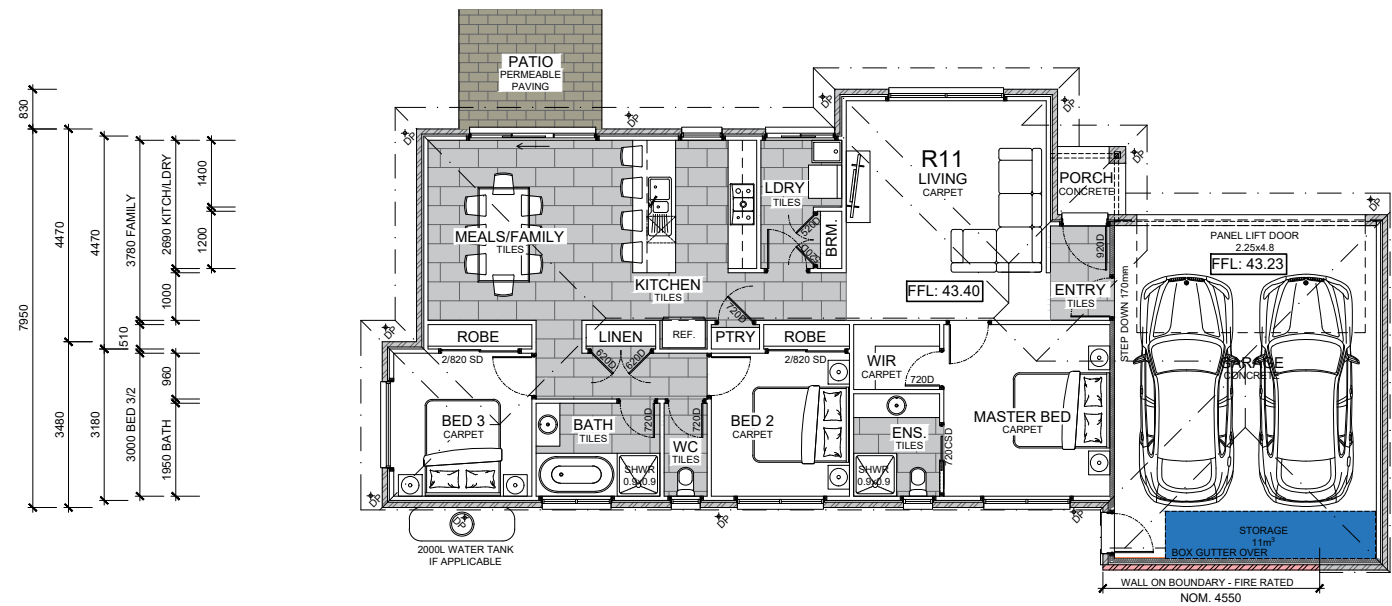
  

LEGEND	
	STORAGE AREA, MIN. 6m <sup>2</sup>



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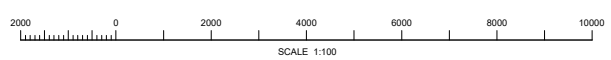
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REV #	DESCRIPTION	DRAWN BY	DATE
P1	FOR PLANNING	E.K	22/03/2022

**FOR PLANNING**

DRAWN: E.K  
DATE: 07/03/2022  
CHECKED: S.ABBOTT  
SHEET No: 21 OF 23

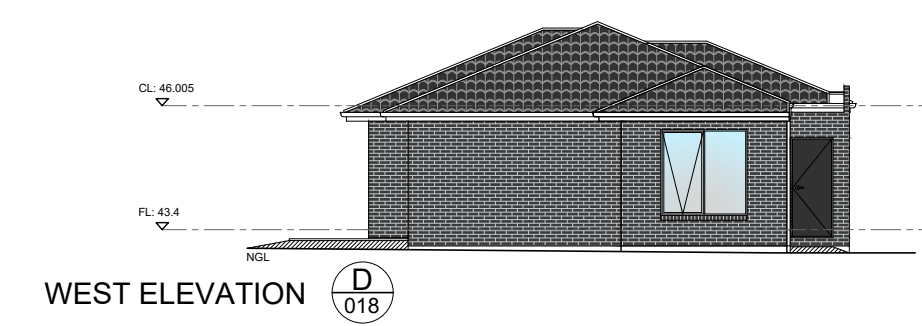
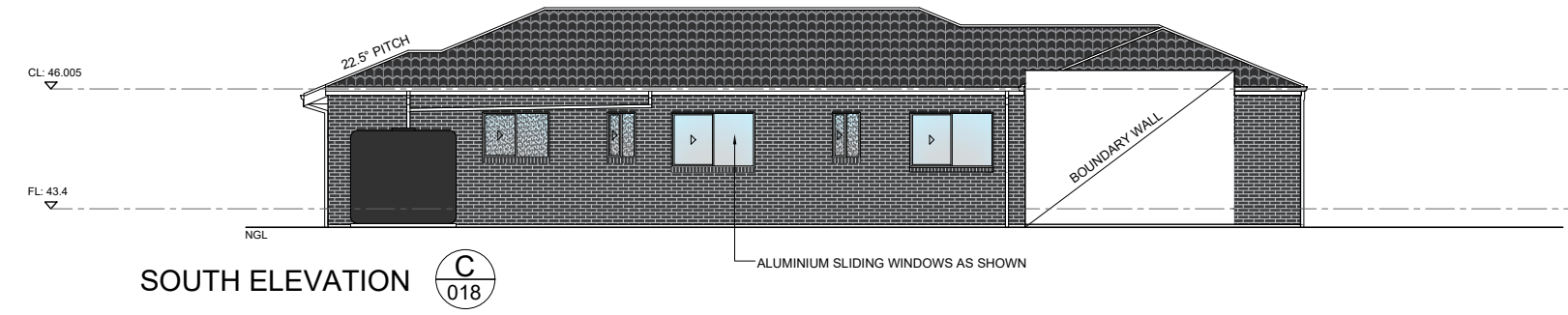
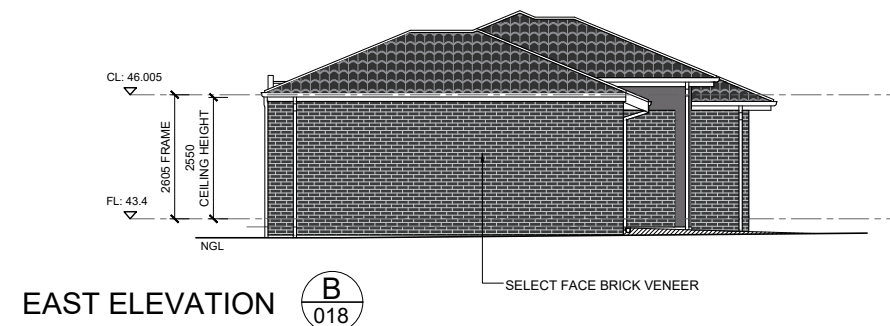
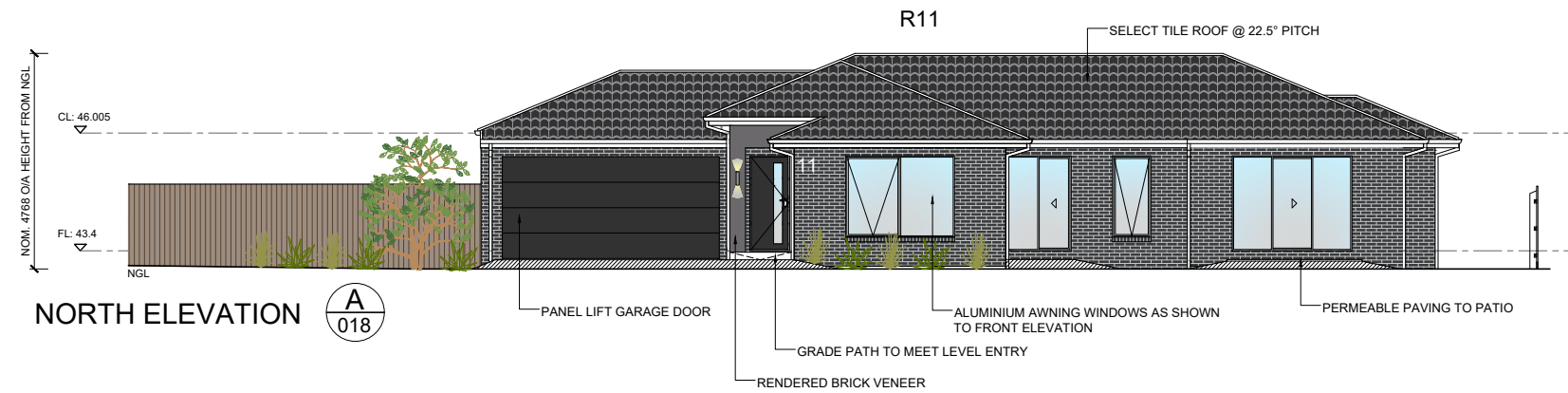
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**R11 FLOOR PLAN**

PROJECT: MULTI-RESIDENTIAL DEVELOPMENT  
ADDRESS: 1 MEREDITH STREET, TRARALGON  
CLIENT: ZWIERLEIN CONSTRUCTIONS P/L

SCALE: 1:100  
DRG. NO: LV3583-018  
REV: P1

**COLOURS & MATERIALS**  
 REFER TO SITE ELEVATIONS LV3583-007A & 007B  
 FOR COLOUR AND MATERIAL SCHEDULE



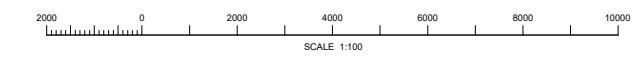
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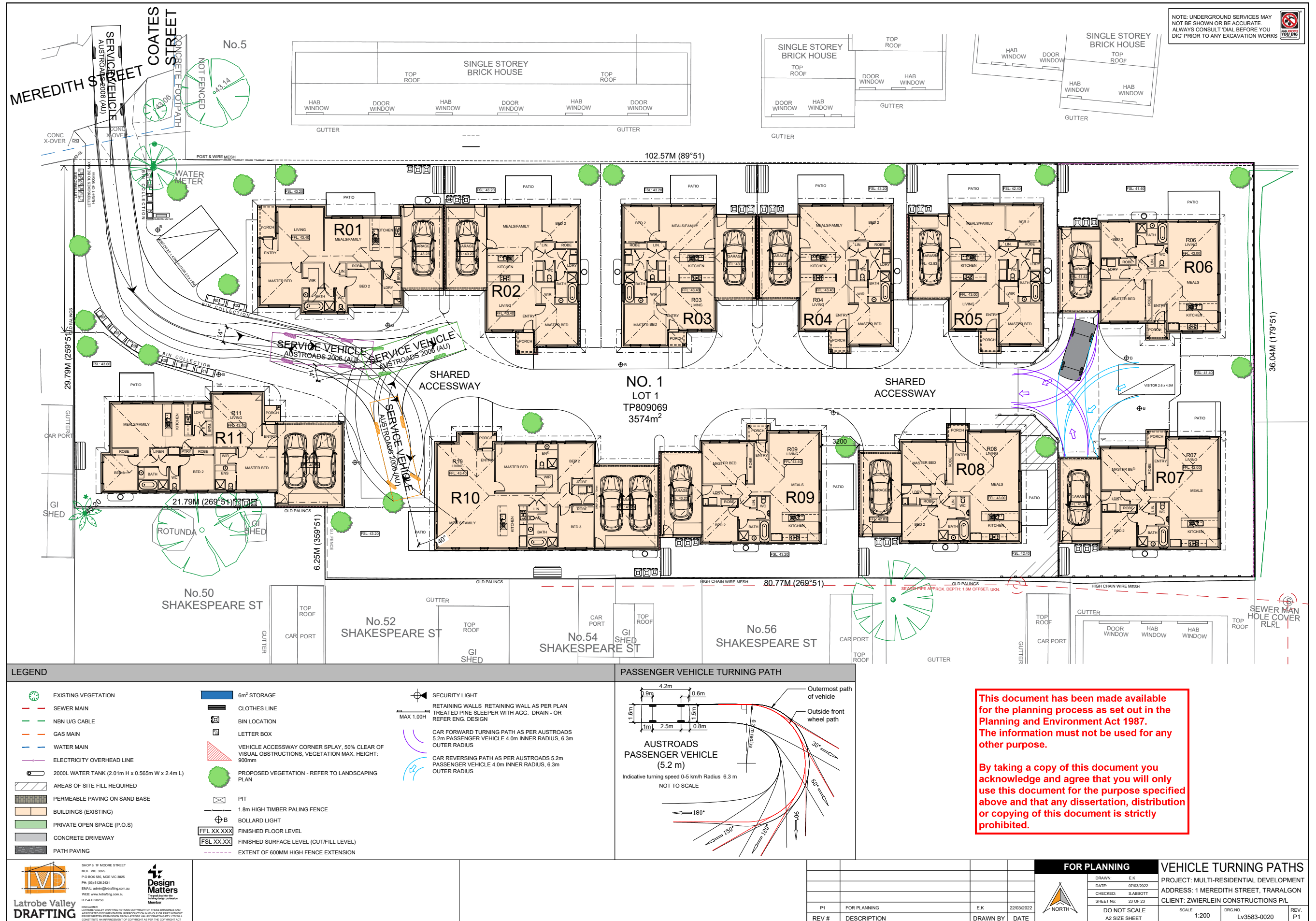
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REV #	DESCRIPTION	DRAWN BY	DATE
P1	FOR PLANNING	E.K	22/03/2022

FOR PLANNING		R11 ELEVATIONS	
DRAWN	E.K	PROJECT: MULTI-RESIDENTIAL DEVELOPMENT	
DATE	07/03/2022	ADDRESS: 1 MEREDITH STREET, TRARALGON	
CHECKED	S.ABBOTT	CLIENT: ZWIERLEIN CONSTRUCTIONS P/L	
SHEET No:	22 OF 23	SCALE	DRG. NO.
DO NOT SCALE	1:100	Lv3583-019	REV. P1
A2 SIZE SHEET			





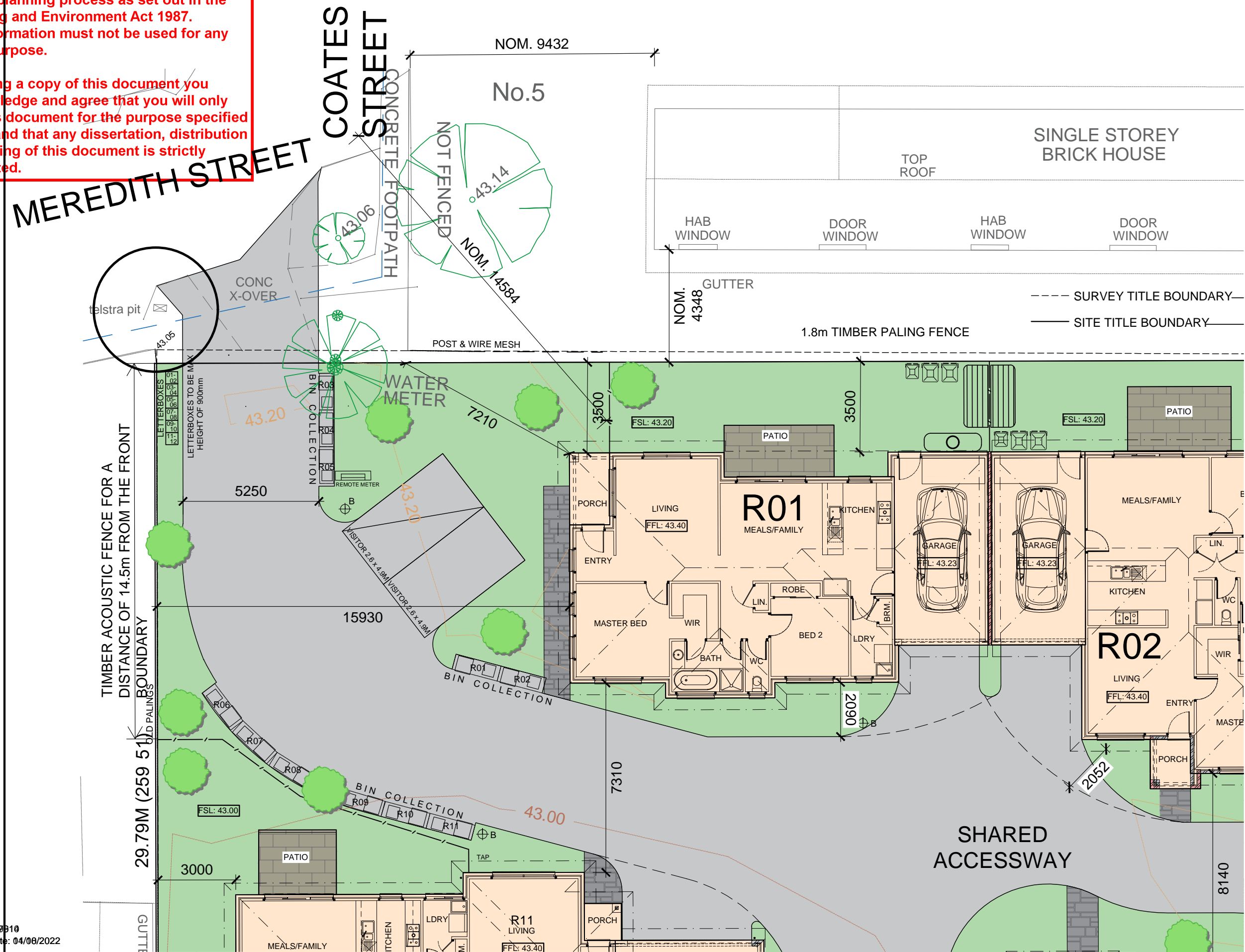
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**Clause 55 – Rescode Assessment**

Property address:1 Meredith Street, TRARALGON

Application number:2022/94

Date of assessment:

Officer:Nick Torcasio

**Please note: The responses should detail how the proposal meets the relevant objective and standards with a brief written explanation rather than stating it ‘complies’ or ‘refer to plan’. Where a proposal does not meet the standard, justification must be provided describing why a variation to the standard is appropriate in this instance.**

		Does it meet the objective? Is a variation of the standard required? Is further information required?
<p><b>Clause 55.02-1</b></p> <p><b>Neighbourhood character objectives</b></p> <p>To ensure that the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>To ensure that the design responds to the features of the site and the surrounding area.</p>	<p><b>Standard B1</b></p> <p>The design response must be appropriate to the neighbourhood and the site.</p> <p>The proposed design must respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	<p><b>Complies</b></p> <p>The site is within an established residential area and close to a wide range of local and regional commercial / community infrastructure services and public transport networks.</p> <p>There is no identified neighbourhood character in the area, however the proposed dwellings are all single storey and of a traditional design with brickwork elevations and pitched roofs in keeping with surrounding dwellings, which includes some newer dwellings abutting the east boundary. The site slopes down to the east and so the development will be built in to take account of the changing topography.</p>

		<p>The site is located within a Substantial Change Area adjoining a Heritage area, on the Traralgon Housing Framework Plan, with the Traralgon Railway Residential Precinct located due west and north. The proposal abuts the rear of one significant dwelling to the south, but the location of the to the rear, combined with adequate setbacks and single storey scale of the development will not detract from this dwelling and therefore it's heritage significance, particularly from the Shakespeare frontage of this dwelling. All other adjoining properties are not contained within the Heritage Precinct These factors also ensure the proposal will have minimal impact on the Heritage Precinct overall.</p> <p>Multi-unit development abuts the north boundary. As such, the development is considered to accord with the preferred character of the area as set out under the Residential Growth zone and the Substantial Change Area.</p>
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<p><b>Clause 55.02-2</b></p> <p><b>Residential policy objectives</b></p> <p>To ensure that residential development is provided in accordance with any policy for housing in the Municipal Planning Strategy and the Planning Policy Framework.</p> <p>To support medium densities in areas where development can take advantage of public transport and community infrastructure and services.</p>	<p><b>Standard B2</b></p> <p>An application must be accompanied by a written statement to the satisfaction of the responsible authority that describes how the development is consistent with any relevant policy for housing in the Municipal Planning Strategy and the Planning Policy Framework.</p>	<p><b>Complies</b></p> <p>Both the Planning Policy Framework and the Municipal Strategic Statement encourage infill development within urban areas to prevent urban sprawl. In addition, they seek to improve housing affordability and diversity. The site is within a Substantial Change Area on the Traralgon Framework Plan (clause 16.01-1L which encourages multi-level residential development in the form of low scale apartments, townhouses, shop tops and units. The development of smaller housing types, particularly one and two bedroom dwellings are encourage.</p> <p>This application proposes 11 single storey dwellings – 9 x 2 bedroom and 2 x 3 bedroom dwellings, in a developed residential area but within close walking distance to public transport and schools and not overly far from Traralgon’s activity centre. There is public open space immediately to the east of the application site. It is therefore considered that the proposal is consistent with both state and local planning policies, with the level and</p>
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		type of development supported in Substantial Change Areas.
<p><b>Clause 55.02-3</b></p> <p><b>Dwelling diversity objective</b></p> <p>To encourage a range of dwelling sizes and types in developments of ten or more dwellings.</p>	<p><b>Standard B3</b></p> <p>Developments of ten or more dwellings should provide a range of dwelling sizes and types, including:</p> <ul style="list-style-type: none"> <li>▪ Dwellings with a different number of bedrooms.</li> <li>▪ At least one dwelling that contains a kitchen, bath or shower, and a toilet and wash basin at ground floor level.</li> </ul>	<p><b>Complies</b></p> <p>The development of 11 dwellings provides 9 dwellings of 2 bedrooms and 2 dwellings of 3 bedrooms. All dwellings are single storey.</p>
<p><b>Clause 55.02-4</b></p> <p><b>Infrastructure objectives</b></p> <p>To ensure development is provided with appropriate utility services and infrastructure.</p>	<p><b>Standard B4</b></p> <p>Development should be connected to reticulated services, including reticulated sewerage, drainage, electricity and gas, if available.</p>	<p><b>Complies</b></p> <p>The applicant has advised that all dwellings will be connected to reticulated services. The proposal is located within an existing residential area near the</p>

<p>To ensure development does not unreasonably overload the capacity of utility services and infrastructure.</p>	<p>Development should not unreasonably exceed the capacity of utility services and infrastructure, including reticulated services and roads.</p> <p>In areas where utility services or infrastructure have little or no spare capacity, developments should provide for the upgrading of or mitigation of the impact on services or infrastructure.</p>	<p>centre of Traralgon, that is fully serviced. The proposal.</p> <p>It is not expected that the proposed development will exceed the capacity of existing services and infrastructure in the area.</p>
<p><b>Clause 55.02-5</b></p> <p><b>Integration with the street objectives</b></p> <p>To integrate the layout of development with the street.</p>	<p><b>Standard B5</b></p> <p>Developments should provide adequate vehicle and pedestrian links that maintain or enhance local accessibility.</p> <p>Development should be oriented to front existing and proposed streets.</p> <p>High fencing in front of dwellings should be avoided if practicable.</p> <p>Development next to existing public open space should be laid out to complement the open space.</p>	<p><b>Complies</b></p> <p>The subject land is so located that it has a limited frontage to Meredith street. However, it is laid out so as to provide a vehicle and pedestrian link to the site from Meredith Street which maintains and enhances local accessibility. The proposed eleven dwellings are orientated to promote the observation of the street and the internal accessway which is central to all dwellings. No front fencing is proposed.</p>

<p><b>Clause 55.03-1</b></p> <p><b>Street setback objective</b></p> <p>To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	<p><b>Standard B6</b></p> <p>Walls of buildings should be set back from streets the distance specified in Table B1.</p> <p>Porches, pergolas and verandahs that are less than 3.6 metres high and eaves may encroach not more than 2.5 metres into the setbacks of this standard.</p> <p><b>Residential Growth Zone 1, 3 &amp; 4:</b></p> <p>3 metres</p> <p>Porches, pergolas and verandah that are less than 3.6 metres high and eaves may encroach not more than 2.5 metres into the setback of this standard</p> <p><b>Neighbourhood Residential Zone 2 &amp; 3</b></p> <p>7.5 metres</p> <p>Porches, pergolas and verandahs that are less than 3.6 metres high and eaves may encroach not more than 2.5 metres into the setbacks of this standard.</p>	<p><b>Complies</b></p> <p>The required street setback in the RGZ2 in this instance is the average of the abutting dwelling setbacks or 9 metres, whichever is the lesser. It should be noted that the subject land is not standard in that it has minimal front street frontage and is bounded on almost all four sides by adjacent properties.</p> <p>The two adjoining existing buildings are set back 2.7 metres from Meredith Street and 9.7 metres from Coates Street, resulting in an average setback of 6.2 metres.</p> <p>The nearest of the proposed dwellings to the frontage is setback 7.2m – measured from the corner of Meredith and Coates Street, where the subject land meets the front boundary of the lot to the north. The standard is met.</p>
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<p><b>Clause 55.03-2</b></p> <p><b>Building height objectives</b></p> <p>To ensure that the height of buildings respects the existing or preferred neighbourhood character.</p>	<p><b>Standard B7</b></p> <p>The maximum building height should not exceed the maximum height specified in the zone, schedule to the zone or an overlay that applies to the land.</p> <p>If no maximum height is specified in the zone, schedule to the zone or an overlay, the maximum building height should not exceed 9 metres, unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the maximum building height should not exceed 10 metres.</p> <p>Changes of building height between existing buildings and new buildings should be graduated.</p>	<p><b>Complies</b></p> <p>The maximum building height for the RGZ2 is 13.5 metres. (The site has a slope of approx. 1.7 degrees across the length)</p> <p>The maximum building height of the proposed development is a maximum of 7.08 metres from the lowest ground level to the top of the dwelling at the uppermost point of the site. Each dwelling is generally 4.9 metres in height.</p> <p>The site slope ensures the graduation of height across the site.</p> <p>The standard is met.</p>
<p><b>Clause 55.03-3</b></p>	<p><b>Standard B8</b></p>	<p><b>Complies</b></p>



<p><b>Site coverage objective</b></p> <p>To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site.</p>	<p>The site area covered by buildings should not exceed 60 percent.</p> <p><b>Neighbourhood Residential Zone 2 &amp; 3</b> 30 percent</p> <p><b>Neighbourhood Residential Zone 4</b> 50 percent</p>	<p>The proposed development has an overall site coverage of <math>1496\text{m}^2 = 42\%</math> site coverage, which complies with the maximum 60% site coverage requirement.</p> <p>The standard is met.</p>
<p><b>Clause 55.03-4</b></p> <p><b>Permeability objectives</b></p> <p>To reduce the impact of increased stormwater run-off on the drainage system.</p> <p>To facilitate on-site stormwater infiltration.</p>	<p><b>Standard B9</b></p> <p>At least 20 percent of the site should not be covered by impervious surfaces.</p> <p><b>Neighbourhood Residential Zone 2 &amp; 3</b> 50 percent</p>	<p><b>Complies</b></p> <p>The area of permeable surfaces across the proposed development is approx.. <math>1324\text{m}^2 = 37\%</math> of the site. This is greater than the minimum 20% required.</p> <p>The standard is met.</p>
<p><b>Clause 55.03-5</b></p> <p><b>Energy efficiency objectives</b></p> <p>To achieve and protect energy efficient dwellings and residential buildings.</p> <p>To ensure the orientation and layout of development reduce fossil fuel</p>	<p><b>Standard B10</b></p> <p>Buildings should be:</p> <ul style="list-style-type: none"> <li>▪ Oriented to make appropriate use of solar energy.</li> <li>▪ Sited and designed to ensure that the energy efficiency of existing</li> </ul>	<p><b>Complies.</b></p> <p>The proposed dwellings are oriented to make appropriate use of solar energy within the constraints of the site. All living areas of the proposed dwellings are orientated to the north.</p> <p>All dwellings have private open space that wholly or partly has access to the north. Solar access to</p>

<p>energy use and make appropriate use of daylight and solar energy.</p>	<p>dwellings on adjoining lots is not unreasonably reduced.</p> <ul style="list-style-type: none"> <li>▪ Sited and designed to ensure that the performance of existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Neighbourhood Residential Zone or Township Zone are not unreasonably reduced. The existing rooftop solar energy system must exist at the date the application is lodged.</li> </ul> <p>Living areas and private open space should be located on the north side of the development, if practicable.</p> <p>Developments should be designed so that solar access to north-facing windows is maximised.</p>	<p>north-facing windows is maximised where practicable.</p>
<p><b>Clause 55.03-6</b> <b>Open space objective</b> To integrate the layout of development with any public and</p>	<p><b>Standard B11</b> If any public or communal open space is provided on site, it should:</p>	<p><b>Complies</b> The accessway, associated gardens and front gardens of each dwelling are proposed for communal property. As such, the area is fronted</p>

communal open space provided in or adjacent to the development.	<ul style="list-style-type: none"> <li>▪ Be substantially fronted by dwellings, where appropriate.</li> <li>▪ Provide outlook for as many dwellings as practicable.</li> <li>▪ Be designed to protect any natural features on the site.</li> <li>▪ Be accessible and useable.</li> </ul>	by all dwellings, which outlook across this area. It is easily accessible via direct vehicle and pedestrian access .
<p><b>Clause 55.03-7</b></p> <p><b>Safety objective</b></p> <p>To ensure the layout of development provides for the safety and security of residents and property.</p>	<p><b>Standard B12</b></p> <p>Entrances to dwellings and residential buildings should not be obscured or isolated from the street and internal accessways.</p> <p>Planting which creates unsafe spaces along streets and accessways should be avoided.</p> <p>Developments should be designed to provide good lighting, visibility and surveillance of car parks and internal accessways.</p> <p>Private spaces within developments should be protected from</p>	<p><b>Complies</b></p> <p>Entrances to each dwelling are clear and obvious to the street and common accessway and have been designed to enable supervision by residents of these areas. All planting near the entrances is proposed to be low-moderate height.</p> <p>Adequate lighting is proposed to be provided to ensure visibility and surveillance of the internal accessway and car spaces.</p> <p>Each dwelling is provided with its own secure (fenced) private open space area that is not traversed by residents of other dwellings.</p>

	inappropriate use as public thoroughfares.	
<p><b>Clause 55.03-8</b></p> <p><b>Landscaping objectives</b></p> <p>To encourage development that respects the landscape character of the neighbourhood.</p> <p>To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance.</p> <p>To provide appropriate landscaping.</p> <p>To encourage the retention of mature vegetation on the site.</p>	<p><b>Standard B13</b></p> <p>The landscape layout and design should:</p> <ul style="list-style-type: none"> <li>▪ Protect any predominant landscape features of the neighbourhood.</li> <li>▪ Take into account the soil type and drainage patterns of the site.</li> <li>▪ Allow for intended vegetation growth and structural protection of buildings.</li> <li>▪ In locations of habitat importance, maintain existing habitat and provide for new habitat for plants and animals.</li> <li>▪ Provide a safe, attractive and functional environment for residents.</li> </ul> <p><b>Residential Growth Zone 1 – 4</b></p> <p>One canopy tree per 25 square metres within front setback garden area</p>	<p><b>Complies.</b></p> <p>The proposal has included a landscaping plan which details the number, species and size of all proposed plantings. The type of vegetation and location of proposed planting is considered to be adequate and appropriate, providing variety and interest, and will assist in providing new habitats for fauna. Consideration has been given to the size and layout of plantings to ensure resident safety.</p> <p>11 canopy trees are provided across the communal open space/garden areas and dwelling frontages.</p>

	<p><b>General Residential Zone 1, 2 3 &amp; 4</b></p> <p>One canopy tree in front setback with no less than 50% planted or grassed landscape area</p> <p><b>Neighbourhood Residential Zone 3</b></p> <p>One canopy tree in front setback</p> <p><b>Neighbourhood Residential Zone 4</b></p> <p>One canopy tree in front setback garden area per dwelling facing the street</p>	
<p><b>Clause 55.03-9</b></p> <p><b>Access objectives</b></p> <p>To ensure vehicle access to and from a development is safe, manageable and convenient.</p> <p>To ensure the number and design of vehicle crossovers respects the neighbourhood character.</p>	<p><b>Standard B14</b></p> <p>Accessways should:</p> <ul style="list-style-type: none"> <li>▪ Be designed to allow convenient, safe and efficient vehicle movements and connections within the development and to the street network.</li> <li>▪ Be designed to ensure vehicles can exit a development in a forwards direction if the access</li> </ul>	<p><b>Variation required – acceptable</b></p> <p>The proposal includes the provision of a shared accessway/driveway from Meredith Street extending towards the east boundary, and central to all proposed dwellings.</p> <p>Submitted plans show that a service vehicle can turn within the site and exit the site in a forwards motion. The accessway is 6.1 metres wide at the frontage which extends for a distance of 7 metres due south, before turning east. An internal radius</p>

	<p>way serves five or more car spaces, three or more dwellings, or connects to a road in a Road Zone.</p> <ul style="list-style-type: none"> <li>▪ Be at least 3 metres wide.</li> <li>▪ Have an internal radius of at least 4 metres at changes of direction.</li> <li>▪ Provide a passing area at the entrance that is at least 5 metres wide and 7 metres long   the access way serves ten or more spaces and connects to a road in a Road Zone.</li> </ul> <p>The width of accessways or car spaces should not exceed:</p> <ul style="list-style-type: none"> <li>▪ 33 per cent of the street frontage, or</li> <li>▪ if the width of the street frontage is less than 20 metres, 40 per cent of the street frontage.</li> </ul> <p>No more than one single-width crossover should be provided for each dwelling fronting a street.</p> <p>The location of crossovers should maximise the retention of on-street car parking spaces.</p>	<p>of more than 4 metres at several points to allow for internal turning of vehicles. The minimum width is approx. 3.5 metres</p> <p>The site has a frontage of 9.79 metres due to the design and siting of the lot. Therefore the accessway width at this point, of 6.1 metres exceeds the requirement of a maximum of 40% of the site frontage for accessways. However, this is considered acceptable, due to these constraints of the site. As the proposal meets with all of the other standards, and only one vehicle crossover is proposed, it is considered the objective has been met.</p>
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	<p>The number of access points to a road in a Road Zone should be minimised.</p> <p>Developments must provide for access for service, emergency and delivery vehicles.</p>	
<p><b>Clause 55.03-10</b></p> <p><b>Parking location objectives</b></p> <p>To provide convenient parking for resident and visitor vehicles.</p> <p>To avoid parking and traffic difficulties in the development and the neighbourhood.</p> <p>To protect residents from vehicular noise within developments.</p>	<p><b>Standard B15</b></p> <p>Car parking facilities should:</p> <ul style="list-style-type: none"> <li>▪ Be reasonably close and convenient to dwellings and residential buildings.</li> <li>▪ Be secure.</li> <li>▪ Be designed to allow safe and efficient movements within the development.</li> <li>▪ Be well ventilated if enclosed.</li> </ul> <p>Large parking areas should be broken up with trees, buildings or different surface treatments.</p> <p>Shared accessways or car parks of other dwellings and residential buildings should be located at least 1.5 metres from the windows of</p>	<p><b>Complies.</b></p> <p>All two bedroom dwellings have a single attached garage and the two 3 bedroom dwelling have double attached garages. All garages have internal access to the dwelling it is associated with.</p> <p>Two open visitor spaces are provided off the main accessway near the frontage, surrounded by landscaping.</p> <p>All habitable windows are either located more than 1.5m away from the shared accessway or have a sill height of more than 1.4m above the accessway.</p>

	habitable rooms. This setback may be reduced to 1 metre where there is a fence at least 1.5 metres high or where window sills are at least 1.4 metres above the accessway.	
<p><b>Clause 55.04-1</b></p> <p><b>Side and rear setbacks objective</b></p> <p>To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</p>	<p><b>Standard B17</b></p> <p>A new building not on or within 200mm of a boundary should be set back from side or rear boundaries:</p> <ul style="list-style-type: none"> <li>▪ At least the distance specified in a schedule to the zone, or</li> <li>▪ If no distance is specified in a schedule to the zone, 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.</li> </ul> <p>Sunblinds, verandahs, porches, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may</p>	<p><b>Complies.</b></p> <p>The subject land is within the RGZ3 which has a required setback of 1 metre from the rear and side boundaries. The minimum setback from side and rear boundaries ranges from 1.310 m (Unit 11) to 5 metres (Unit 6). Most other units have setbacks of approx. 3 metres.</p> <p>The standard is met.</p>



	<p>encroach not more than 0.5 metres into the setbacks of this standard.</p> <p>Landings having an area of not more than 2 square metres and less than 1 metre high, stairways, ramps, pergolas, shade sails and carports may encroach into the setbacks of this standard.</p> <p><b>General Residential Zone 1 &amp; 3</b></p> <p>A new building not on or within 200mm of <b>one side boundary should be set back from that side boundary at least 1.5 metres</b> plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres</p> <p><b>Neighbourhood Residential Zone 2</b></p> <p>A new building not on or within 200mm of <b>a side boundary should be set back from that side boundary at least 2 metres</b> plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1</p>	
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	<p>metre for every metre of height over 6.9 metres</p> <p><b>Neighbourhood Residential Zone 3</b></p> <p>A new building not on or within 200mm of a <b>side boundary should be set back from that side boundary at least 3 metres</b> plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres</p> <p><b>Neighbourhood Residential Zone 4</b></p> <p>A new building not on or within 200mm of a <b>side boundary should be set back from that side boundary at least 1.5 metres</b> plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres</p>	
<b>Clause 55.04-2</b>	<b>Standard B18</b>	Complies

<p><b>Walls on boundaries objective</b></p> <p>To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</p>	<p>A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of lot should not abut the boundary:</p> <ul style="list-style-type: none"> <li>▪ For a length of more than the distance specified in a schedule to the zone; or</li> <li>▪ If no distance is specified in a schedule to the zone, for a length of more than: <ul style="list-style-type: none"> <li>○ 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot, or</li> <li>○ Where there are existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot, the length of the existing or simultaneously constructed walls or carports, whichever is the greater.</li> </ul> </li> </ul>	<p>Only Unit 11 has a wall on a boundary, and for a distance of approx. 5.8m which is less than the maximum distance of 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot.</p> <p>The standard is met.</p>
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	<p>A new wall or carport may fully abut a side or rear boundary where slope and retaining walls or fences would result in the effective height of the wall or carport being less than 2 metres on the abutting property boundary.</p> <p>A building on a boundary includes a building set back up to 200mm from a boundary.</p>	
<p><b>Clause 55.04-3</b> <b>Daylight to windows objective</b> To allow adequate daylight into existing habitable room windows.</p>	<p><b>Standard B19</b> Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The calculation of the area may include land on the abutting lot.  Walls or carports more than 3 metres in height opposite an existing habitable room window should be set back from the window at least 50 per</p>	<p><b>Complies</b> All existing habitable room windows on abutting lots are sufficiently setback from the subject site boundaries – with the minimum setback being approx. 4 metres. Therefore the proposed development will not impact on daylight to existing habitable room windows.</p>

	<p>cent of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the existing window.</p> <p>Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window.</p>	
<p><b>Clause 55.04-4</b></p> <p><b>North facing windows objective</b></p> <p>To allow adequate solar access to existing north-facing habitable room windows.</p>	<p><b>Standard B20</b></p> <p>If a north-facing habitable room window of an existing dwelling is within 3 metres of a boundary on an abutting lot, a building should be setback from the boundary 1 metre, plus 0.6 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres, for a distance of 3 metres from the edge of each side of the window. A north-facing window is a window with an</p>	<p><b>Complies</b></p> <p>There are no north facing habitable room windows on abutting lots which are within 3 metres of the boundaries of the subject site. The closest north facing window off an existing dwelling is setback 4 metres from the south boundary of the site.</p>

	axis perpendicular to its surface oriented north 20 degrees west to north 30 degrees east.	
<p><b>Clause 55.04-5</b> <b>Overshadowing open space objective</b></p> <p>To ensure buildings do not significantly overshadow existing secluded private open space.</p>	<p><b>Standard B21</b></p> <p>Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.</p> <p>If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.</p>	<p><b>Complies.</b></p> <p>The submitted shadow diagrams show that there will be no unacceptable loss of access to sunlight for any existing dwellings</p>
<p><b>Clause 55.04-6</b> <b>Overlooking objective</b></p>	<p><b>Standard B22</b></p> <p>A habitable room window, balcony, terrace, deck or patio should be</p>	<p><b>Complies</b></p> <p>Boundary fencing is proposed to be 1.8 metres in height, with 400mm height extensions where</p>

<p>To limit views into existing secluded private open space and habitable room windows.</p>	<p>located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.</p> <p>A habitable room window, balcony, terrace, deck or patio with a direct view into a habitable room window of existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio should be either:</p> <ul style="list-style-type: none"> <li>▪ Offset a minimum of 1.5 metres from the edge of one window to the edge of the other.</li> <li>▪ Have sill heights of at least 1.7 metres above floor level.</li> </ul>	<p>(annotated on submitted plans) near units 6 and 7, in order to prevent overlooking to the east abutting lots.</p>
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	<ul style="list-style-type: none"><li>▪ Have fixed, obscure glazing in any part of the window below 1.7 metre above floor</li><li>▪ level.</li><li>▪ Have permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent.</li></ul> <p>Obscure glazing in any part of the window below 1.7 metres above floor level may be openable provided that there are no direct views as specified in this standard.</p> <p>Screens used to obscure a view should be:</p> <ul style="list-style-type: none"><li>▪ Perforated panels or trellis with a maximum of 25 per cent openings or solid translucent panels.</li><li>▪ Permanent, fixed and durable.</li><li>▪ Designed and coloured to blend in with the development.</li></ul> <p>This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.8 metres high</p>	
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	and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8 metres above ground level at the boundary.	
<p><b>Clause 55.04-7</b></p> <p><b>Internal views objective</b></p> <p>To limit views into the secluded private open space and habitable room windows of dwellings and residential buildings within a development.</p>	<p><b>Standard B23</b></p> <p>Windows and balconies should be designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower-level dwelling or residential building directly below and within the same development.</p>	<p><b>Complies</b></p> <p>The proposed development has been designed to prevent direct views into the secluded private open space of each dwelling, through the use of 1.8 metre high timber paling fences to delineate and screen each secluded private open space area.</p>
<p><b>Clause 55.04-8</b></p> <p><b>Noise impacts objective</b></p> <p>To contain noise sources in developments that may affect existing dwellings.</p> <p>To protect residents from external noise.</p>	<p><b>Standard B24</b></p> <p>Noise sources, such as mechanical plant, should not be located near bedrooms of immediately adjacent existing dwellings.</p> <p>Noise sensitive rooms and secluded private open spaces of new dwellings and residential buildings should take account of noise sources on immediately adjacent properties.</p>	<p><b>Complies.</b></p> <p>The proposed dwellings are located within an existing established residential area and noise sources are residential and not a relevant consideration.</p> <p>The proposal includes the provision of a timber acoustic fence along the west boundary for a distance of 14.5m from the frontage to assist in alleviating potential vehicle noise at the entryway, on the abutting dwelling to the west.</p>

	Dwellings and residential buildings close to busy roads, railway lines or industry should be designed to limit noise levels in habitable rooms.	
<p><b>Clause 55.05-1</b></p> <p><b>Accessibility objective</b></p> <p>To encourage the consideration of the needs of people with limited mobility in the design of developments.</p>	<p><b>Standard B25</b></p> <p>The dwelling entries of the ground floor of dwellings and residential buildings should be accessible or able to be easily made accessible to people with limited mobility.</p>	<p><b>Complies.</b></p> <p>The entries of all dwellings are accessible to people with limited mobility. Entry porches are level with the floor level of the dwelling (30mm step down, to enable door to be fitted with threshold ramp where applicable) and paths are to be graded to meet the porch level where practicable. All dwellings have internal connections to the attached garage with a 1700mm step down. A single step entry is considered to still be accessible to most people with limited ability.</p>
<p><b>Clause 55.05-2</b></p> <p><b>Dwelling entry objective</b></p> <p>To provide each dwelling or residential building with its own sense of identity.</p>	<p><b>Standard B26</b></p> <p>Entries to dwellings and residential buildings should:</p> <ul style="list-style-type: none"> <li>▪ Be visible and easily identifiable from streets and other public areas.</li> </ul>	<p><b>Complies.</b></p> <p>The development has been designed so that the front entry of each dwelling is easily identifiable and accessible from the internal drive and public areas.. Front porches, verandahs or other transitional spaces are provided at entries for pedestrian protection and are designed to complement the</p>

	<ul style="list-style-type: none"> <li>▪ Provide shelter, a sense of personal address and a transitional space around the entry.</li> </ul>	scale and form of the dwellings. Changes in design or colours of these entry points aid in providing a sense of personal address.
<p><b>Clause 55.05-3</b></p> <p><b>Daylight to new windows objective</b></p> <p>To allow adequate daylight into new habitable room windows.</p>	<p><b>Standard B27</b></p> <p>A window in a habitable room should be located to face:</p> <ul style="list-style-type: none"> <li>▪ An outdoor space clear to the sky or a light court with a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, not including land on an abutting lot, or</li> <li>▪ A verandah provided it is open for at least one third of its perimeter, or</li> <li>▪ A carport provided it has two or more open sides and is open for at least one third of its perimeter.</li> </ul>	<p><b>Complies</b></p> <p>The habitable room windows for all proposed dwellings will achieve a minimum of 1 metre clear to the sky and 3 m<sup>2</sup> light court.</p>
<p><b>Clause 55.05-4</b></p> <p><b>Private open space objective</b></p>	<p><b>Standard B28</b></p> <p>A dwelling or residential building should have private open space of an</p>	<p><b>Complies.</b></p> <p>All proposed dwellings achieve the minimum private open space requirement of 40 m<sup>2</sup></p>

<p>To provide adequate private open space for the reasonable recreation and service needs of residents.</p>	<p>area and dimensions specified in the schedule to the zone.</p> <p>If no area or dimensions are specified in the schedule to the zone, a dwelling or residential building should have private open space consisting of:</p> <ul style="list-style-type: none"> <li>▪ An area of 40 square metres, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room, or</li> <li>▪ A balcony of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room, or</li> <li>▪ A roof-top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room.</li> </ul>	<p>All proposed dwellings achieve the minimum secluded private open space requirement of 25 m<sup>2</sup> with a minimum 3 metre width provided at the rear an/or side.</p>
<p><b>Clause 55.05-5</b></p>		

<p><b>Solar Access to Open Space</b></p> <p>To allow solar access into the secluded private open space of new dwellings and residential buildings.</p>	<p><b>Standard B29</b></p> <p>The private open space should be located on the north side of the dwelling or residential building, if appropriate.</p> <p>The southern boundary of secluded private open space should be set back from any wall on the north of the space at least (2+0.9h) metres, where 'h' is the height of the wall.</p>	<p><b>Complies.</b></p> <p>All proposed dwellings have private open space that is located on the north side of the dwellings where practicable, or are open to the north.</p> <p>Southern boundaries of SPOS are sufficiently setback due to the setbacks of the dwellings from site boundaries at the very least.</p>
<p><b>Clause 55.05-6</b></p> <p><b>Storage</b></p> <p>To provide adequate storage facilities for each dwelling.</p>	<p><b>Standard B30</b></p> <p>Each dwelling should have convenient access to at least 6 cubic metres of externally accessible, secure storage space.</p>	<p><b>Complies.</b></p> <p>Each dwelling has at least 6m<sup>3</sup> of storage space within the garage that is secure and externally accessible.</p>
<p><b>Clause 55.06-1</b></p> <p><b>Design Detail</b></p> <p>To encourage design detail that respects the existing or preferred neighbourhood character.</p>	<p><b>Standard B31</b></p> <p>The design of buildings, including:</p> <ul style="list-style-type: none"> <li>▪ Façade articulation and detailing,</li> <li>▪ Window and door proportions,</li> <li>▪ Roof form, and</li> <li>▪ Verandahs, eaves and parapets,</li> </ul>	<p><b>Complies</b></p> <p>The designs on the dwellings respect the existing neighbourhood character in terms of hipped roofs, window and door proportions and eaves that match other dwellings in the area, and several parapets to porches that match some of the modern dwellings</p>

	<p>should respect the existing or preferred neighbourhood character.</p> <p>Garages and carports should be visually compatible with the development and the existing or preferred neighbourhood character.</p>	<p>in the area. Garages are setback from the front wall of the dwellings to ensure they do not dominate the façade. The proposal provides a mixture of materials, colours and form to the roofs, garage doors, face brickwork, rendered brickwork and window frames. All of the above components contribute to appropriate façade articulation.</p>
<p><b>Clause 55.06-2</b></p> <p><b>Front Fences</b></p> <p>To encourage front fence design that respects the existing or preferred neighbourhood character.</p>	<p><b>Standard B32</b></p> <p>The design of front fences should complement the design of the dwelling or residential building and any front fences on adjoining properties.</p> <p>A front fence within 3 metres of a street should not exceed:</p> <ul style="list-style-type: none"> <li>▪ Streets in a Road Zone, Category 1: 2 metres.</li> <li>▪ Other streets: 1.5 metres.</li> </ul> <p><b>Residential Growth Zone 1 - 4</b> 1.2 metres</p> <p><b>General Residential Zone 1, 2 &amp; 4</b> 1.2 metres</p> <p><b>Neighbourhood Residential Zone 2 &amp; 3</b></p>	<p><b>N/A</b></p> <p>No front fencing is proposed.</p>

	1.2 metres	
<p><b>Clause 55.06-3</b></p> <p><b>Common Property</b></p> <p>To ensure that communal open space, car parking, access areas and site facilities are practical, attractive and easily maintained.</p> <p>To avoid future management difficulties in areas of common ownership.</p>	<p><b>Standard B33</b></p> <p>Development should clearly delineate public, communal and private areas.</p> <p>Common property, where provided, should be functional and capable of efficient management.</p>	<p><b>Complies</b></p> <p>The timber paling fences, and the accessway and path locations delineate the communal and private areas. The communal areas (landscaped front garden areas, accessway and gardens along the accessway) are designed to be managed efficiently. A body corporate will be required to administer control over these common areas.</p>
<p><b>Clause 55.06-4</b></p> <p><b>Site Services</b></p> <p>To ensure that site services can be installed and easily maintained.</p> <p>To ensure that site facilities are accessible, adequate and attractive.</p>	<p><b>Standard B34</b></p> <p>The design and layout of dwellings and residential buildings should provide sufficient space (including easements where required) and facilities for services to be installed and maintained efficiently and economically.</p> <p>Bin and recycling enclosures, mailboxes and other site facilities should be adequate in size, durable,</p>	<p><b>Complies</b></p> <p>Sufficient space is provided for the installation of services where required, including in the common space (accessway) and along the north and south boundary fence, in the rear yards of each dwelling.</p> <p>Spaces are provided near the frontage along the accessway for placement of bins when collection is due, with sufficient space to the rear of each dwelling for their usual storage. Each dwelling has a clothesline to the rear or side, behind fences. All</p>

	<p>waterproof and blend in with the development.</p> <p>Bin and recycling enclosures should be located for convenient access by residents.</p> <p>Mailboxes should be provided and located for convenient access as required by Australia Post.</p>	<p>mailboxes are located along the west edge of the driveway near the frontage</p> <p>The proposal has provided a waste management plan which has been assessed by Councils Engineering Team. While generally acceptable, it will be a permit requirement that it be updated to address how waste collection from this site can be satisfactorily managed in accordance with the coroner's directions regarding reversing waste collection vehicles, to ensure the safety of pedestrians, particularly children, while a waste collection vehicle is turning around within the development.</p>
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**Clause 55 Objectives    NEIGHBOURHOOD AND SITE DESCRIPTION AND DESIGN RESPONSE**

Planning and Environment Regulations 2015  
S.R No. 33/2015

## FORM 4

Section 63 &amp; 86

**PLANNING PERMIT**

Permit No.: 2014/147  
Planning Scheme: Latrobe Planning Scheme  
Responsible Authority: Latrobe City Council

ADDRESS OF THE LAND: 1 Meredith Street, TRARALGON  
DESCRIPTION: L 1 TP 809069

THE PERMIT ALLOWS: Development of 11 Dwellings, in accordance with the endorsed plan(s)

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

**Amended Plans:**

1. Prior to the commencement of any works hereby permitted, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted but modified to show:
  - a) Relocation of the letter boxes for all dwellings to the western side of the proposed access way. Letter boxes shall be a maximum height of 900mm.
  - b) Relocation of the bin collection areas for dwellings 3-5 to the eastern side of the access way.
  - c) Provision of a 1.8m high timber acoustic fence along the western boundary of the site for a distance of 14.5m from the front boundary of the site. The acoustic fence must be a maximum height of 900mm for the first 2.5m from the boundary of the subject site, with the balance of the fence being 1.8m high; or the fence must be 1.8m high for its entire length but have a 50% transparency for the first 2.5m from the boundary of the subject site.
  - d) A landscaping plan to show
    - i. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant;

Date Issued: 26 February 2016

  
Signature for the Responsible Authority

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- ii. Landscaping and planting within all open areas of the site.
- e) The location and layout of the vehicle crossing to access the subject site shall be shown to comply with the layout of Latrobe City Council's vehicle crossing standard and at the property line, the crossing must be located a minimum of one metre from the side boundaries of the property.
- f) A Waste Management Plan must be provided to the satisfaction of the Responsible Authority.

**Engineering Conditions:**

- 2. Before the commencement of any works hereby permitted, a site drainage plan, including levels or contours of the land and all hydraulic computations, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The drainage plan must be prepared in accordance with the requirements of Latrobe City Council's Design Guidelines and must provide for the following:
  - a) How the land including all buildings, open space and paved areas will be drained for a 1 in 5 year ARI storm event.
  - b) An underground pipe drainage system conveying stormwater to the legal point of discharge.
  - c) The provision of stormwater detention within the site and prior to the point of discharge into Latrobe City Council's drainage system. The stormwater detention system must be designed to ensure that stormwater discharges arising from the proposed development of the land are restricted to pre-development flow rates. The rate of pre-development stormwater discharge shall be calculated using a co-efficient of run-off of 0.4.
  - d) A copy of the written consent of the West Gippsland Catchment Management Authority to the proposed works for the discharge of stormwater from the development to the Traralgon Creek.

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3. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Responsible Authority.
4. Before an Occupancy Permit is issued for the dwellings hereby permitted, the operator of this permit must complete the following works to the satisfaction of the Responsible Authority including all necessary permits being obtained and inspections undertaken:
  - a) All drainage works must be constructed in accordance with the approved site drainage plan.
  - b) The construction of all on-site stormwater detention works in accordance with the site drainage plan approved by the Responsible Authority.
  - c) A new vehicle crossing must be constructed, in accordance with the endorsed plans, at right angles to the road and must comply with the vehicle crossing standards set out in Latrobe City Council's Standard Drawing LCC 307.
  - d) The areas shown on the endorsed plans for vehicle access within the property must be constructed in accordance with the endorsed plans and be surfaced with concrete, reinforced concrete, brick paving or hot mix asphalt and drained in accordance with the approved site drainage plan.
  - e) Installation of public lighting in accordance with Australian Standard AS1158, along all new vehicle accessways.

**Development Conditions:**

5. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Date Issued: 26 February 2016



Signature for the Responsible Authority

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6. Once building works have commenced they must be completed to the satisfaction of the Responsible Authority.
7. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
8. Upon completion of the works, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.
9. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
10. The exterior colour and cladding of the building(s) must be of a non-reflective nature to the satisfaction of the Responsible Authority.
11. Before an Occupancy Permit is issued for the dwellings hereby permitted, the timber acoustic fencing along the western boundary of the site must be fully constructed and thereafter maintained for the duration of the development.

**Gippsland Water Conditions:**

12. The operator of this permit must comply with the following requirements from the Gippsland Water:
  - a) Provide an internal water and sewer service layout plan showing how the proposed units will be serviced prior to the commencement of any building works associated with the development. The plan must detail the proposed Fire Service requirements, water meter locations, sewer connections points and combined drain location.

**Expiry of Permit:**

13. This permit will expire if one of the following circumstances applies:

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- a) The development is not started within two years of the date of this permit; or  
b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of expiry of permit. An extension of time to complete the development or a stage of the development may be requested if—

- the request for an extension of time is made within 12 months after the permit expires; and
- the development or stage started lawfully before the permit expired.

**Note 1.** This permit does not authorize the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

**Note 2.** Unless exempted by Latrobe City Council, an Asset Protection Permit must be obtained prior to the commencement of any proposed building works, as defined by Latrobe City Council's Local Law No. 3. Latrobe City Council's Asset Protection Officer must be notified in writing at least 7 days prior to the building works commencing or prior to the delivery of materials/equipment to the site.

**Note 3.** A Latrobe City Stormwater Connection Permit must be obtained prior to the connection of all new stormwater drainage into Latrobe City Council's stormwater drainage system. All new stormwater drainage connections must be inspected by Latrobe City Council's Asset Protection Officer before any backfilling of the connection is undertaken.

Date Issued: 26 February 2016



Signature for the Responsible Authority

Page 5 of 7

Planning and Environment Regulations 2015  
S.R No. 33/2015

## FORM 4

Section 63 &amp; 86

**PLANNING PERMIT**

Permit No.: 2014/147  
Planning Scheme: Latrobe Planning Scheme  
Responsible Authority: Latrobe City Council

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**Note 4.** A Latrobe City Vehicle Crossing Permit must be obtained prior to the commencement of the construction of all new vehicle crossings and for the upgrading, alteration or removal of existing vehicle crossings. The relevant fees, charges and conditions of the Vehicle Crossing Permit will apply to all vehicle crossing works. It is a requirement that all vehicle crossing works be inspected by Latrobe City Council's Asset Protection Officer.

**Note 5.** For a quotation relating to sewerage and water costs and requirements, please contact Property Connections on (03) 5177 4648.

END CONDITIONS

Date Issued: 26 February 2016



Signature for the Responsible Authority

Page 6 of 7



**IMPORTANT INFORMATION ABOUT THIS NOTICE****WHAT HAS BEEN DECIDED?**

The Responsible Authority has issued a permit.

(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the *Planning and Environment Act 1987*.)

**CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?**

The responsible authority may amend this permit under Division 1A of Part 4 of the *Planning and Environment Act 1987*.

**WHEN DOES A PERMIT BEGIN?**

A permit operates:

- ❖ from the date specified in the permit, or
- ❖ if no date is specified, from:
  - i. the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal, or
  - ii. the date on which it was issued, in any other case.

**WHEN DOES A PERMIT EXPIRE?**

1. A permit for the development of land expires if:
  - ❖ the development or any stage of it does not start within the time specified in the permit, or
  - ❖ the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
  - ❖ the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.
2. A permit for the use of land expires if:
  - ❖ the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit, or
  - ❖ the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if:
  - ❖ the development or any stage of it does not start within the time specified in the permit; or
  - ❖ the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
  - ❖ the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development, or
  - ❖ the use is discontinued for a period of two years
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains a different provision:
  - ❖ the use or development of any stage is to be taken to have started when the plan is certified; and
  - ❖ the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

**WHAT ABOUT REVIEWS?**

- ❖ The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal where, in which case no right of review exists.
- ❖ An application for review must be lodged within 60 days after the permit was issued, unless a Notice of Decision to Grant a Permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- ❖ An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- ❖ An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- ❖ An application for review must state the grounds upon which it is based.
- ❖ A copy of an application for review must also be served on the Responsible Authority.
- ❖ Details about applications for review and the fees payable can be obtained from VCAT.



**Agenda Item:** 8.3  
**Agenda Item:** Use and Development of Land with a Dwelling at Jumbuk Road, Yinnar South  
**Sponsor:** General Manager, Regional City Planning and Assets

**Proposed Resolution:**

**That Council decides to issue a Notice of Decision to refuse to grant a Permit, for the use and development of land with a dwelling at L3 PS 062251 Jumbuk Road, Yinnar South, on the following grounds:**

- 1. The proposal fails to meet the provisions of the Planning Policy Framework, in particular 'Clause 14.01-1S- Protection of agricultural land, policy at Clause 14.01-1L and the purpose of the Farming Zone as the proposal will result in the loss of productive agricultural land and will contribute to a proliferation of dwellings on productive agricultural land.**
- 2. The proposal is inconsistent with the purpose and decision guidelines of the Farming Zone in the Latrobe Planning Scheme as it will permanently remove any future potential for the land to be consolidated into surrounding agricultural land to increase land holdings to enhance commercial agriculture.**
- 3. The proposal does not provide adequate justification for requiring a dwelling on the subject site relating to the agricultural use of the land, particularly as an adjoining site with a dwelling is owned by the owners of the subject site.**
- 4. The proposal is a repeat application as a similar proposal on the land had previously been refused by Council.**

**Executive Summary:**

The permit application proposes the use and development of land for a single dwelling in the Farming Zone – Schedule 1 (FZ1) on the land at Jumbuk Road, Yinnar South.

The permit application seeks to justify the need for a dwelling in this zone with the contention that it is required to facilitate and somewhat expand the existing calf-rearing enterprise currently undertaken on the land.

Having considered the proposal against the relevant provisions of the Latrobe Planning Scheme (Scheme), including the relevant planning policy, the FZ1 and the productive capacity of the land, it is considered that the proposal:

- Does not provide adequate justification for requiring a dwelling within the Farming Zone Schedule 1 (FZ1), noting that the proposed agricultural use of the land does not require a dwelling.
- Is inconsistent with the purpose of the Farming Zone and local policy at Clause 14.01-1L.
- Would permanently remove any future potential for the land to be consolidated into surrounding agricultural land zoned FZ1.

- Would result in a dwelling constructed within a proposed extreme bushfire risk area, as proposed by Planning Scheme Amendment C127 (Bushfire & Rural Rezonings).

It is also noted that the proposal is a repeat application – as a similar proposal on the land has previously been refused by Council.

It is therefore recommended that a Notice of Decision to Refuse to Grant a Permit be issued.

Council previously considered a report regarding this matter at its meeting held on Monday, 6 February 2023 where an alternate resolution was adopted deferring consideration of this planning application until the next meeting.

## **Background:**

### *Summary*

Land: Jumbuk Road, Yinnar South, known as Lot 3 on Plan of Subdivision 062251

Proponent: EnProve Ag & Environment

Zoning: Farming Zone – Schedule 1 (FZ1)

Overlay Bushfire Management Overlay (BMO)  
State Resource Overlay – Schedule 1 (SRO1)

The permit triggers for the Permit Application are as follows:

- A Planning Permit is required to use land for a dwelling on a lot less than 100 hectares in accordance with Clause 35.07-1 of the Latrobe Planning Scheme (Scheme) under the FZ1.
- A Planning Permit is required to construct a building or construct or carry out works associated with a use in Section 2 of Clause 35.07-1 in accordance with Clause 35.07-4 of the Scheme under the FZ1.

### *Proposal*

The application is for the use and development of land for a single dwelling in the FZ1.

### Dwelling

- The dwelling would have a minimum setback of 189 metres from Jumbuk Road, 180 metres from the east site boundary, and 164 metres from the west boundary.
- The proposed dwelling would be centrally located in the north half of the site.
- The proposed dwelling would be single storey, consisting of a front verandah, open plan living/dining/kitchen, master bedroom with ensuite, two other bedrooms, bath, WC, laundry, and a side and rear verandah.
- The materials of the walls of the dwelling would be weatherboard and the roof will have a pitch form with colorbond covering.
- The maximum dwelling height would be 5.4 metres.

## General

- Vehicle access to the site would be from a crossing to the west of the site frontage that will connect to an internal accessway. The submitted plans indicate a new vehicle crossing from Jumbuk Road and indicate that the new crossing would be located 50 metres west from an existing vehicle crossing.
- An effluent field would be provided to the north of the dwelling site and an existing shed on the site to be retained is to the south of the dwelling.

## Animal Production (No permit required)

The applicant advised that:

- The site currently contains nine paddocks, two new sheds, a fully developed stock water network, new stockyards and 20 Angus mothers for breeding.
- A dwelling is required to increase the productive capacity and number of Angus breeding cattle on the farm to a higher sustained level. That siting a dwelling on the property means that the property can be confidently improved, knowing that those improvements can be effectively utilised to increase production value.
- A resident means that stock, particularly young calves, can be monitored for health and welfare and regularly rotated through the paddocks to ensure maximum feed utilisation.

Based on the submitted Farm Management Plan, it is estimated that after the initial development period, the agricultural return from the cattle produced on the property is expected to be \$60,000 a year in cattle sales. Additionally, the breeding stock asset value is expected to increase to near \$100,000.

The applicant formed the view that a dwelling on a farm is more than a place where people reside. It has an essential and ancillary purpose as a farm office, administrative centre, meeting room, first aid shed, animal pharmacy, security, and biosecurity checkpoint, tearoom, toilet block and monitoring post for 24 hours a day 365 days a year business.

The applicant calculated that a 21.5-hectare lot will have an effective grazing area of about 20 hectares. The Meat and Livestock Association Stocking Rate Calculator suggests a productive capacity of 32 mothers and calves at the property capacity.

A copy of the application documents and plans can be viewed at Attachment 1 of this report.

### *Subject Land:*

The subject land is located on the south side of Jumbuk Road, approximately 435 metres east of the intersection with Middle Creek Road, in Yinnar South. The site is irregular in shape with the configuration of two irregular rectangles, in a north-south alignment, joined at the edge. The south boundary of the site has an abuttal to Pages Road.

The subject land has a frontage of approximately 407 metres to Jumbuk Road, a secondary frontage of 265 metres to Pages Road and a total site area of approximately 21.5 hectares.

Topographically, the subject land has gentle undulation with a steeper bank through the middle of the property. The property rises from the southwest to the northeast with an elevation change of approximately 30 metres.

The subject land does not contain any significant vegetation, although it contains scattered patches of remnant and native vegetation across the land. There is a designated, channelised waterline at the southern end of the site.

The land is currently used for animal rearing and contains infrastructure relating to the use, consisting of two dams and two farm sheds – with the land being primarily for pasture.

Access to the land is currently provided from Jumbuk Road, as well as via Pages Road, through an adjoining property; no. 55 Pages Road, owned by the landowner’s father, and which also contains a dwelling.

The subject land is described on Certificate of Title Volume 08514 Folio 078 as Lot 3 on LP 62251. The title document shows an easement for road and drainage at the northern boundary. There are no other encumbrances, such as restrictive covenants, caveats or sections 173 agreements, that are registered on title as affecting the subject land.

Aerial image of the subject land and its immediate surrounds:



*Surrounding Land Use:*

The sites in the surrounding area consist of sites within a Farming Zone, many of which are developed with dwellings and smaller developed lots with a Rural Living Zone, many of which also contain dwellings.

The surrounding area has been subdivided into smaller rural lots over time, with the neighbouring westerly property subdivided in 1974 into four lots, according to Council records.

The details of the immediate adjoining sites are as follows:

- North: Jumbuk Road, on the opposite side are sites within a Farming Zone of varying sizes, ranging from 2 hectares to 9 hectares, some of which are developed with dwellings.
- East: To the east are sites of varying sizes within a Farming Zone and Rural Living Zone.
- South: Pages Road runs parallel to the south site boundary. On the opposite side is a site within a Rural Living Zone with an area of 2 hectares developed with a dwelling and another site with an area of approximately 60 hectares within a Farming Zone and contains a dwelling.
- West: To the west are sites of varying sizes within a Rural Living. The lot sizes range from 2.24 hectares to 4 hectares. Each of the lots contains a dwelling.

### **Reasons for Proposed Resolution:**

The proposal is considered to be:

- Inconsistent with the strategic direction of the Municipal Planning Strategy and Planning Policy Framework;
- Inconsistent with the 'Purpose' and 'Decision Guidelines' of the FZ1;
- Inconsistent with Clause 65 (Decision Guidelines); and
- Inconsistent with Council's Rural Land Use Strategy, as implemented by Amendment C105 to the Scheme.

### **Issues:**

#### *Strategy Implications*

#### Council Plan 2021-2025 – Connected

*'Facilitate appropriate urban growth, industry diversification, liveability and connectivity throughout Latrobe City.'*

The use and development of the subject land for a dwelling would result in inappropriate urban expansion into productive agricultural land with no foreseeable value added to protecting and enhancing agricultural activities on the land.

#### *Health Implications*

Health impacts including those from offsite amenity impacts have been considered and are discussed later in this report.

#### *Communication*

#### Notification:

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning & Environment Act 1987* (Act). Notices were sent to all adjoining and adjacent landowners and occupiers, and site notices were displayed on the site frontage for 14 days.

At the time of writing this report there were no objections to the permit application.

### External:

The permit application was referred to Agriculture Victoria (AgVic) under Section 52(1)(d) of the Act. AgVic noted in their response that there are sufficient grounds for refusal of the permit application by virtue of:

- The assumptions made in the Farm Management Plan as to the carrying capacity for Grazing animal production for 32 cow and calves on the subject land would not appear to be sustainably achievable.
- Animal production requires regular supervision to ensure animal health and welfare but can be carried out without the requirement for a dwelling.
- The proposed pasture improvements can be carried out without the requirement for a dwelling.
- The dwelling on the subject land will permanently remove any future potential for the land to be consolidated into surrounding agricultural land zoned Farming Zone.
- The proposal does not appear to effectively establish a domestic building envelope to minimise the domestic use impact on the land and, ensure maximising and maintaining the use of the land for agriculture.

### Internal:

The application was referred internally to Council's:

- Engineering Development team. There was no objection to the application, subject to specified conditions to be included in any permit issued.
- Health team. There was no objection to the application, subject to specified conditions to be included in any permit issued.
- Strategic Planning team. Strategic Planning objected to the permit application, citing that the proposal does not provide adequate justification for requiring a dwelling within the FZ1 and is inconsistent with the purpose of the Farming Zone and local policy at Clause 14.01-1L.

### *Financial Implications*

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT). It is considered possible that this application will be appealed to VCAT. The anticipated time required for a Council Officer to prepare a VCAT submission and collate all relevant documentation is 7 business days with an additional two days required to attend and present at the appeal, totalling 9 business days. This equates to a financial cost in the order of \$4,000. This cost would be far greater if a consultant is required to attend on Council's behalf and would likely be in the range of \$10,000.

## RISK ANALYSIS

Identified risk	Risk likelihood*	Controls to manage risk
<p><b>Reputational Risk</b></p> <p>Supporting an application which is inconsistent with the Latrobe Planning Scheme and Council's Rural Land Use Strategy, and which contradicts recent decisions made by the Tribunal.</p>	<p><b>Low</b></p> <p><i>Possible x Moderate</i></p>	<p>The proposal has been considered against the Latrobe Planning Scheme and it is considered to be inconsistent with the relevant provisions and should therefore be refused.</p>
<p><b>Reputational Risk &amp; Financial Risk</b></p> <p>Not supporting the application and the applicant seeking review of the decision at VCAT.</p>	<p><b>Medium</b></p> <p><i>Possible x Moderate</i></p>	<p>To manage and limit the potential risk, the recommendation has been considered against the requirements of the Rural Living Zone, Planning Policy Framework and Municipal Planning Strategy. The recommendation to refuse is considered to be consistent with VCAT precedent.</p>

### *Legal and Compliance*

#### **Latrobe Planning Scheme**

##### **State Planning Policy Framework:**

##### ***Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF)***

The relevant direction and policy contained in the MPS and PPF of the Latrobe Planning Scheme have been considered as part of the assessment of this application.

A list of relevant clauses and a response to each can be viewed at Attachment 2 to this report.

State and Local Planning Policy emphasises the need to protect productive agricultural land from loss due to permanent changes in land use, in large part by limiting the development of dwellings and non-agricultural uses in specified rural areas (Clause 14.01-1S, Clause 14.01-1L and Clause 14.01-2S).

#### ***Zoning***

##### **Clause 35.07 Farming Zone – Schedule 1 (FZ1)**

The intent of the FZ1 is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*



- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

Schedule 1 to Clause 35.07 prescribes that if the lot is under 100 hectares, a planning permit is required to use the land for a dwelling.

Pursuant to Clause 35.07-5 of the Scheme, the application requirement for a dwelling within the FZ must be accompanied by a written statement which explains how the proposed dwelling responds to the decision guidelines at Clause 35.07-6 of the Scheme. This information was provided as part of the application documents in the form of a Farm Management Plan (FMP).

The proposal is not consistent with the decision guidelines at Clause 35.07-6 of the Scheme for the following reasons:

- It will result in the further proliferation of dwellings on productive agricultural land and will prevent future consolidation of the land with the adjoining lots.
- While the applicant advised that the proposed dwelling would enhance agricultural production on the land, the proposed pasture improvements can be carried out without the requirement for a dwelling.
- Agriculture Victoria advised that the assumptions made in the Farm Management Plan as to the carrying capacity for Grazing animal production for 32 cow and calves on the subject land would not be sustainably achievable. In this regard, any farm on the land will still be substantially a hobby farm.
- While the proposed dwelling may support the proposed agricultural enterprise on the land, it will do very little to enhance it as it will permanently remove part of the land from agriculture.
- The dwelling is proposed on a lower point of the land, away from ridgelines and hill tops. However, the proposal does not appear to effectively establish a domestic building envelope to minimise the domestic use impact on the land and, ensure maximising and maintaining the use of the land for agriculture. Without the establishment of a domestic building envelope, there is a risk of further loss to available productive land over time.

#### Response to other issues under the Farming Zone provisions

There are two key issues that require consideration under the Farming Zone. The first is whether a dwelling is appropriate having regard to the zoning and the character of the area. The second issue is whether a dwelling is reasonably required as part of the proposed Angus cattle breeding to occur on the land.



The application needs to emphasise the relationship between a dwelling and an intensive agricultural activity which requires significant monitoring on site, to the extent that a dwelling is required. Historically, beef farming is an activity which can successfully occur without 24/7 supervision, including planning around birthing times (due dates) to ensure a farmer is present to monitor for health and welfare. For a head of 32 cattle, this number is largely self-sufficient to remain independently on the land, with occasional visits including rotating through paddocks.

Additionally, the question is raised as to why the landowner cannot reside in the adjoining property (that they own) at 55 Pages Road, Yinnar which contains a dwelling and would allow for immediate expansion of the subject farm with the requested increased supervision, without contributing to the proliferation of dwellings within the FZ1.

Of interest, the supplied farm management plan (from page 21) details that the landowner also owns 50 acres of farming land at Nuttalls Road, Yinnar, which is roughly eight minutes' drive to the west of the subject site. This additional property contains scattered vegetation, two dams and an agricultural shed.

With the landowner and their family holding at least three rural properties in the surrounding area (at least one containing a dwelling), it is not clear why the subject site cannot remain without a dwelling on it and continue being used for angus breeding and grazing.

### ***Overlay(s)***

#### **Clause 44.06 Bushfire Management Overlay (BMO)**

The subject land contains a portion of BMO to the north and east, however the proposed dwelling is located outside of this area. Subsequently, consideration of this Clause is not warranted.

#### **Clause 44.07 State Resource Overlay – Schedule 1 (SRO1)**

The overlay seeks to ensure the medium to long term extraction and use of coal for power generation.

The application is for a single dwelling and any proposal related to accommodation where the total number of people to be accommodated does not exceed 100, is exempt from referral requirements under this Clause. Subsequently, consideration of this Clause is not warranted.

### ***Particular Provisions***

#### **Clause 52.06 Car Parking:**

Clause 52.06-1 requires that prior to a new use commencing, or the floor area of an existing use is increased, the car parking spaces required under Clause 52.06-5 must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the responsible authority.

The standard car parking requirement for a three-bedroom dwelling is two car spaces, with one of the spaces to be under cover. Whilst no covered car spaces are provided, there are ample spaces for car parking on the site, which is satisfactory.

**Decision Guidelines (Clause 65):**

Clause 65.01 sets out the decision guidelines to be considered before deciding on an application or approve a plan.

The Permit Application fails to meet the relevant objectives and strategies stipulated in the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF) relating to the loss of productive agricultural land and contributing to a proliferation of dwellings on agricultural land in the FZ1.

The proposal will not satisfy the purpose and decision guidelines of the FZ1 as the proposed dwelling will contribute to proliferation of dwellings on productive rural land. The proposed dwelling on the subject land will permanently remove any future potential for the land to be consolidated into surrounding agricultural land.

The proposal will not constitute good and orderly planning of the area.

**Incorporated Documents (Clause 72.04):**

*Building in bushfire-prone areas – CSIRO & Standards Australia (SAA HB36-1993), May 1993.*

**Background Documents (Clause 72.08):**

*Live Work Latrobe Rural Land Use Strategy (Latrobe City Council, MacroPlan Dimasi, RMCG and Planisphere, 2019).*

Council has undertaken extensive work in relation to a Rural Land Use Strategy, which has relevantly identified areas of productive agriculture.

Live Work Latrobe identifies locations where commercial scale agriculture, including intensive agriculture, can be sustained and protected as the primary land use in the future by protecting such areas from encroachment and fragmentation.

The Rural Land Use Strategy seeks to provide clear direction to Council and the community regarding locations where productive agricultural land is located, should be protected and commercial agriculture is to be the primary land use. It recommends that the Farming Zone schedules be tailored to identify areas of productive agricultural land and areas where commercial scale agriculture should be protected from fragmentation and residential encroachment.

Schedule 1 to the Farming Zone is for commercial agriculture to encourage the consolidation of rural land and provide for the incremental growth of farming enterprises. The proposal will not be consistent with the objective.

Evidenced through the application of this policy (as introduced in this form through Amendment C105), there may be support for accommodation and small-scale activities within the FZ2 as contrasted to the FZ1 where reverse is the case.

The Rural Land Use Strategy will further support the decision of the Tribunal to refuse the application.

## ***Other Considerations:***

### VCAT Precedence

Proposals for the use and development of dwellings on smaller lots in the Farming Zone are not uncommon and have been before VCAT in a multitude of instances. As such, some relevant decisions and discussions have been identified.

The particulars of these VCAT decisions have been detailed at Attachment 3 to this report.

### Whether the proposal is a repeat application

Planning Permit 2011/187 for a dwelling on the subject site was refused following a Council resolution at the 2 September 2011 meeting. The proposal indicated that a dwelling was required in association with cattle and goat farming on the land.

The current proposal is to a large extent like the refused application, with the only change being the type of agricultural use to be conducted in association with the dwelling, and the zoning of the land from the Farming Zone to the FZ1. Goat farming was proposed in the refused application and Angus beef farming is proposed in the current application.

The Tribunal has established principles to determine how a proposal responds to a previous decision. Relevant factors to consider when reviewing an application that is similar to a proposal that has been the subject of previous findings are:

- a) significant changes in the application itself;
- b) changes in the circumstances of the land and its surrounds;
- c) changes in planning policy; and/or
- d) changes in the interpretation of the facts or law relevant to the Tribunal's consideration.

The zoning of the land has changed. Since the refusal of the application, the requirements of the Scheme had not made it easier to allow a dwelling on land within a Farming Zone. It is noted that Amendment C105 to the Scheme and the Rural Land Use Strategy increased the minimum lot size for an as of right dwelling on Farming Zone, Schedule 1 zoned land from 80 hectares to 100 hectares. Associated local policy specific to consideration of dwellings in the FZ1 was also incorporated into the Latrobe Planning Scheme.

### *Community Implications*

There were no submissions, neither in support nor objecting, to the permit application following public notification.

### *Environmental Implications*

There are no negative environmental impacts that would/might result should the recommendation for refusal be adopted. Rather, the land would remain clear for use for agricultural production activities and not disposed for urban expansion.

### *Consultation*

No further consultation outside of legislated requirements.

### *Other*

Council has the following options in regard to this application:

1. Issue a Notice of Decision to Grant a Permit; or
2. Issue a Notice of Decision to Refuse to Grant a Permit.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.




### **Declaration of Interests:**

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

### **Supporting Documents:**

Nil

### **Attachments**

1.  Attachment 1 - Use and Development Plans
2.  Attachment 2 - Relevant Policy and Assessment
3.  Attachment 3 - Relevant VCAT case summary

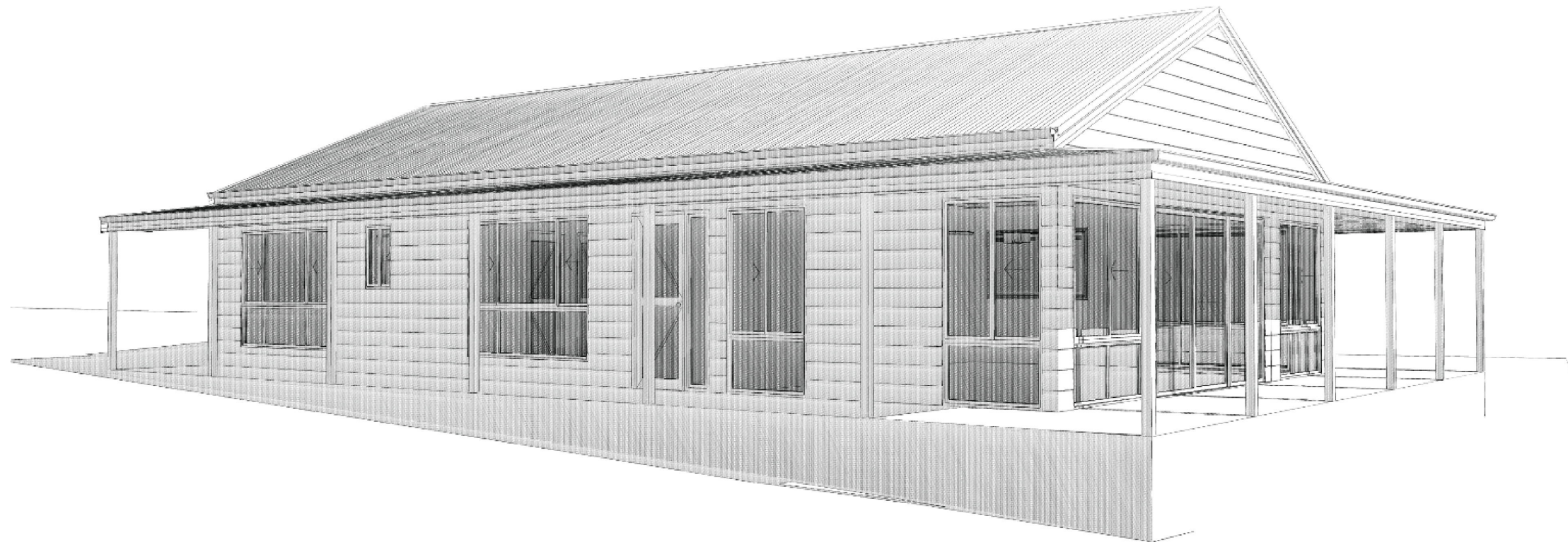
## **8.3**

### **Use and Development of Land with a Dwelling at Jumbuk Road, Yinnar South**

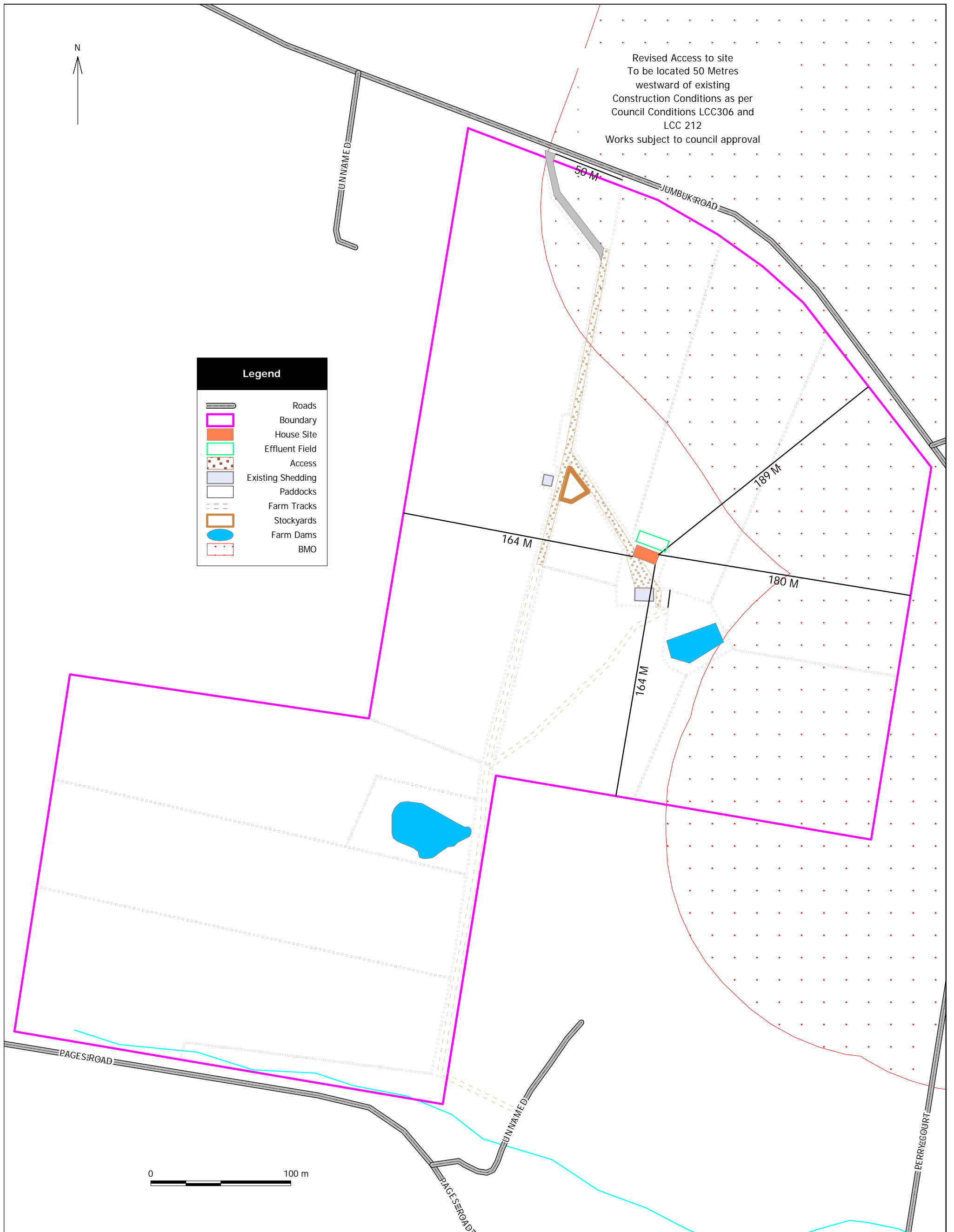
<b>1</b>	<b>Attachment 1 - Use and Development Plans .....</b>	<b>360</b>
<b>2</b>	<b>Attachment 2 - Relevant Policy and Assessment .....</b>	<b>374</b>
<b>3</b>	<b>Attachment 3 - Relevant VCAT case summary .....</b>	<b>387</b>

# proposed new dwelling

@ Lot 3 Jumbuck Rd  
Yinnar South



LEGEND:	REVISION:			BUILDER:	OWNER BUILDER	PROJECT:	Proposed new dwelling
	DATE	REV No.	DESCRIPTION				@ lot 3 Jumbuck Rd
	13/02/19	-	ISSUED FOR CONSTRUCTION				Yinnar South



# Lot 3 LP 62251 Jumbuk Rd Yinnar South Dwelling Separations / BMO

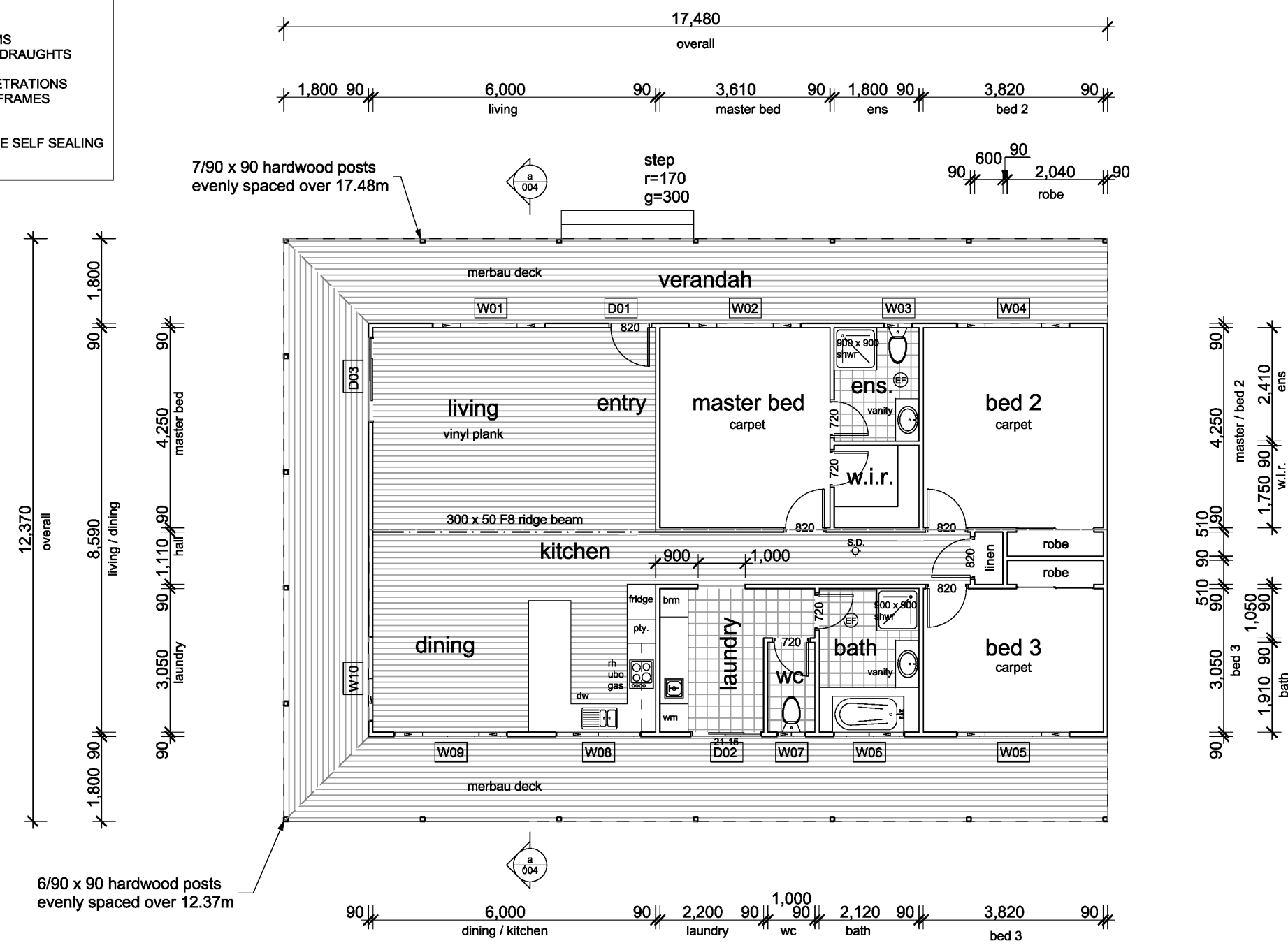
Mercator  
Lon: 146°22'04" E  
Lat: 38°20'56" S  
Printed at: 5/08/2022







NOTE:  
 ALL DOORS TO UTILITY ROOMS  
 ARE TO BE SEALED AGAINST DRAUGHTS  
 ALL GAPS AROUND PRE PENETRATIONS  
 & AROUND WINDOWS DOOR FRAMES  
 ARE TO BE SEALED  
 ALL EXHAUST FANS ARE TO BE SELF SEALING

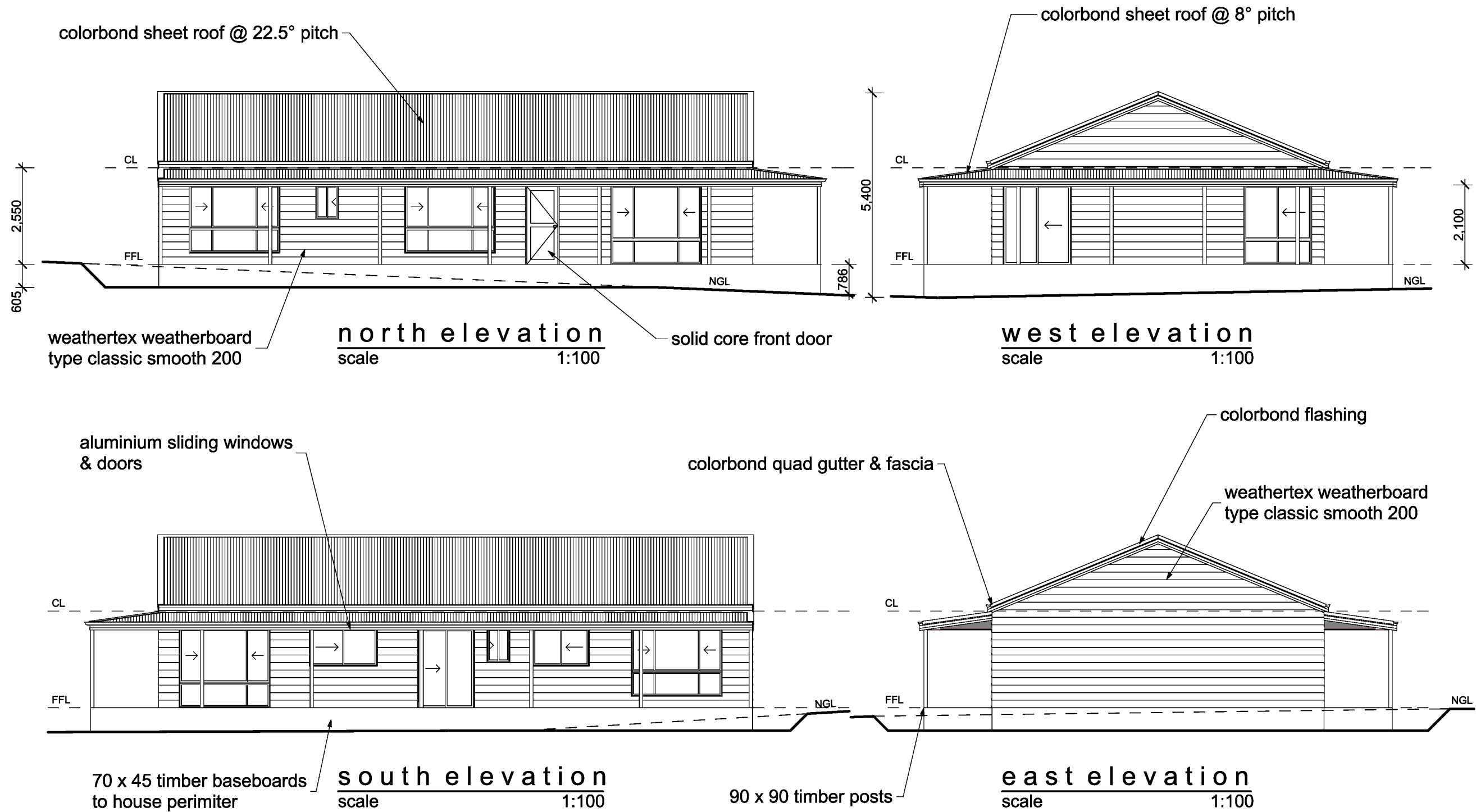


building areas:

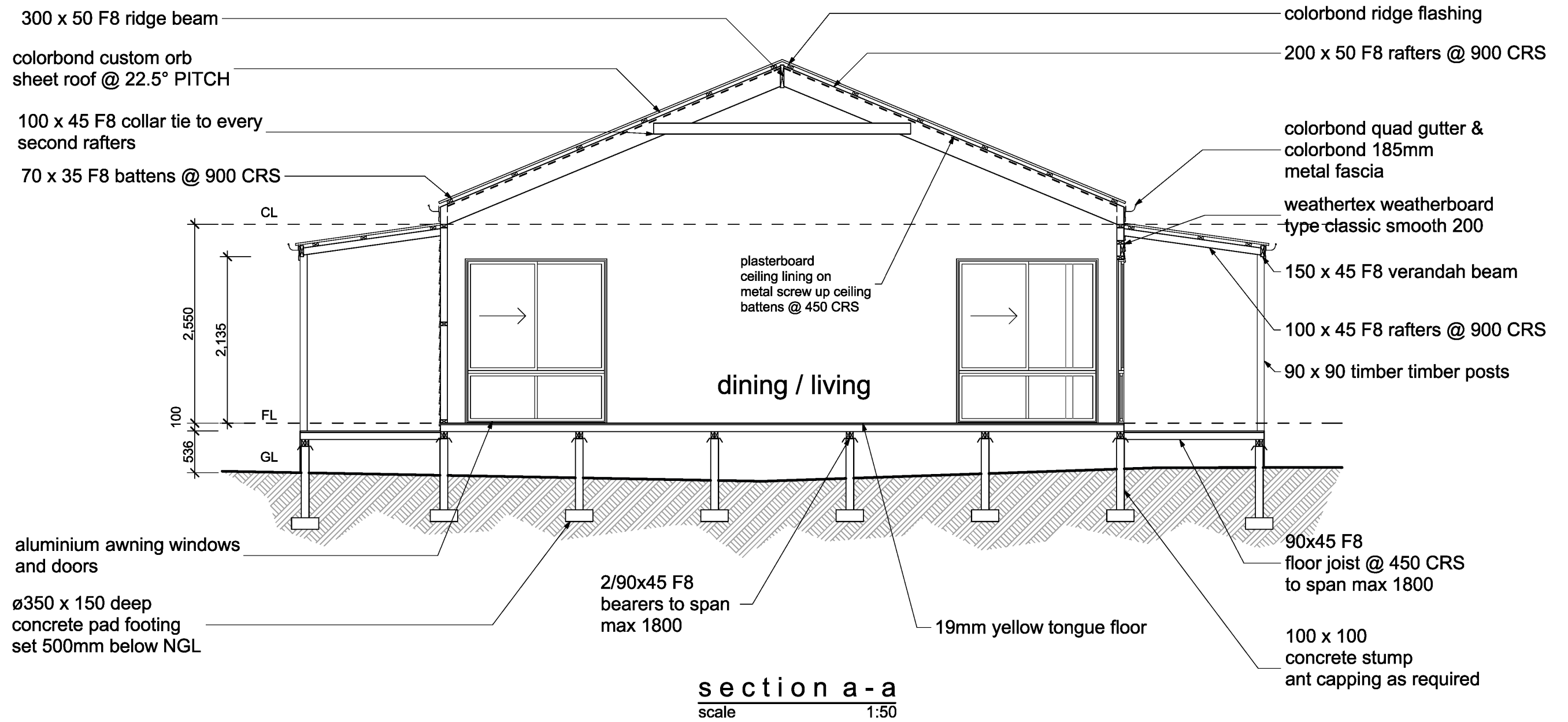
living -	137.51m <sup>2</sup>	14.73sq
verandah -	78.71m <sup>2</sup>	8.43sq
total -	216.22m <sup>2</sup>	23.16sq

**floor plan**  
 scale 1:100

<p><b>LEGEND:</b></p> <ul style="list-style-type: none"> <li><span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> NEW 90mm STUD WALLS</li> <li><span style="display: inline-block; width: 10px; height: 10px; border: 1px solid black; margin-right: 5px;"></span> SMOKE DETECTOR</li> <li><span style="display: inline-block; width: 10px; height: 10px; border: 1px solid black; border-radius: 50%; margin-right: 5px;"></span> EXHAUST FAN</li> </ul>	<p><b>REVISION:</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>DATE</th> <th>REV No.</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>13/02/19</td> <td>-</td> <td>ISSUED FOR CONSTRUCTION</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	DATE	REV No.	DESCRIPTION	13/02/19	-	ISSUED FOR CONSTRUCTION							<p><b>BUILDER:</b></p> <p style="text-align: center; font-size: 1.2em;"><b>OWNER BUILDER</b></p>	<p><b>PROJECT:</b></p> <p>Proposed new dwelling  <span style="background-color: black; color: black;">[REDACTED]</span>                  @ lot 3 Jumbuck Rd                  Yinnar South</p>
DATE	REV No.	DESCRIPTION													
13/02/19	-	ISSUED FOR CONSTRUCTION													



LEGEND:	REVISION:			BUILDER:	PROJECT:
	DATE	REV No.	DESCRIPTION		
	13/02/19	-	ISSUED FOR CONSTRUCTION		
				OWNER BUILDER	@ lot 3 Jumbuck Rd Yinnar South



LEGEND:	REVISION:			BUILDER:  <b>OWNER BUILDER</b>	PROJECT: Proposed new dwelling @ lot 3 Jumbuck Rd Yinnar South
	DATE	REV No.	DESCRIPTION		
	13/02/19	-	ISSUED FOR CONSTRUCTION		

### CONCRETE NOTES

**FOUNDATIONS**

F1. Footings have been designed for an allowable bearing pressure of 200 KPa for pad footings and 300 KPa for deep pier footings. The Builder shall obtain approval of the foundation material before placing concrete.

**CONCRETE**

C1. All workmanship and materials shall be in accordance with AS 3600-2009.

C2. Concrete quality:

**FOOTINGS/SLABS**

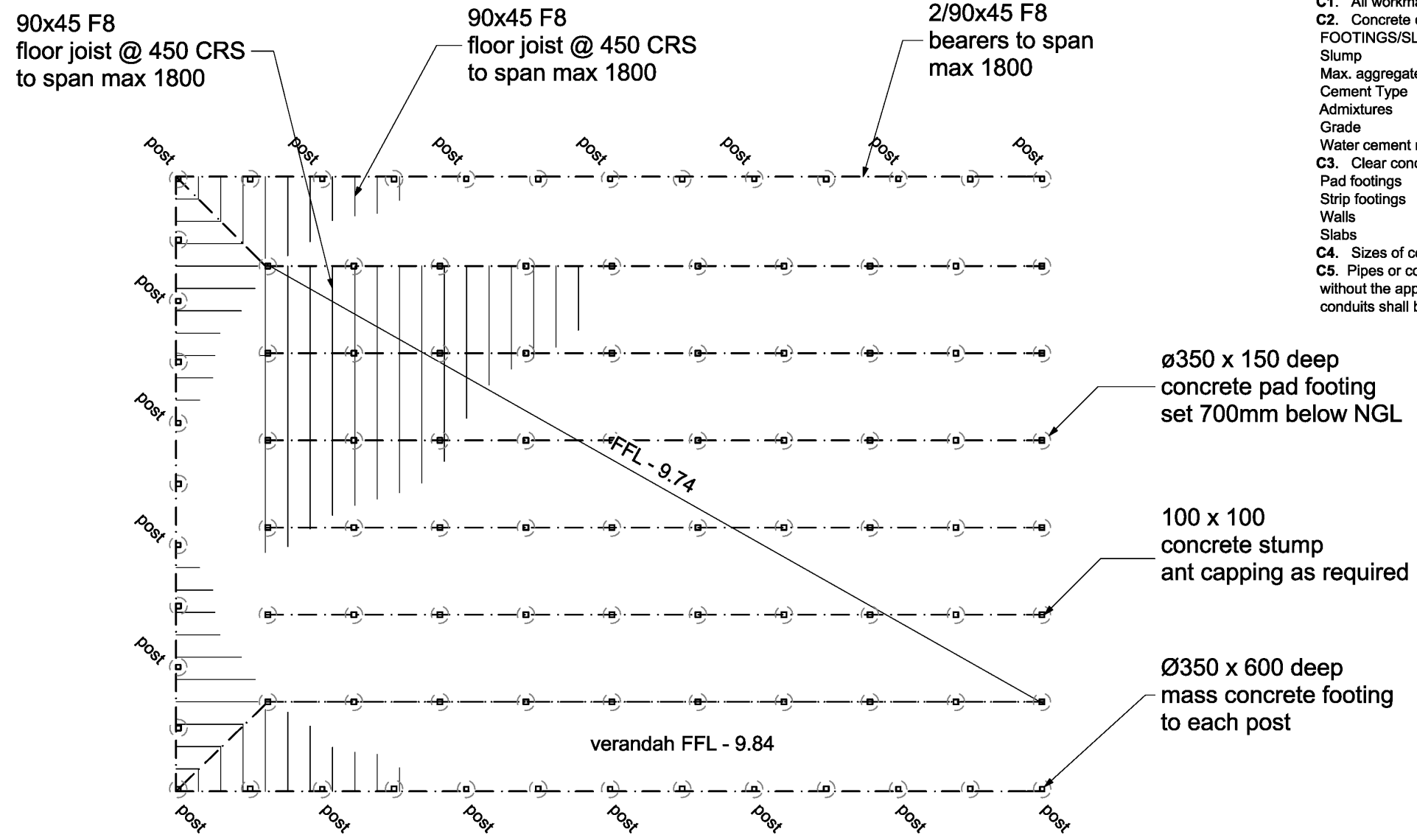
Slump	80 +/- 20
Max. aggregate size	25
Cement Type	A
Admixtures	nil
Grade	N25
Water cement ratio (max.)	0.60

C3. Clear concrete cover to reinforcement shall be as follows unless otherwise shown:

Pad footings	65 mm
Strip footings	65 mm
Walls	40 mm
Slabs	25 mm

C4. Sizes of concrete elements do not include thickness of applied finishes.

C5. Pipes or conduits shall not be placed within the concrete cover to reinforcement without the approval of the Engineer. The concrete cover to embedded pipes or conduits shall be a minimum of 20mm.



stump plan  
scale 1:100

LEGEND:	REVISION:			BUILDER:	PROJECT:
	DATE	REV No.	DESCRIPTION		
	13/02/19	-	ISSUED FOR CONSTRUCTION		
				OWNER BUILDER	@ lot 3 Jumbuck Rd Yinnar South

**TIMBER FRAMING REQUIREMENTS**

<b>Walls</b>	
Top & Bottom Plates	2 (No) 90 x 35 F17 Top plates to be tied down at 900 crs in accordance with AS 1684
Bottom Plates	1 (No) 90 x 45 F17
Wall Studs	90 x 35 F17 studs @ 450 crs Jamb studs to suit windows
Noggings	1-row (min) to suit wall lining
<b>Floors</b>	
Bearers	90 x 45 F17 to span max 1800
Joists	90 x 45 F17 @ 450 CRS
<b>Roof</b>	
Verandah Beam	140 x 45 F17
Rafters	240 x 35 @ 900 CRS
Ceiling Joists	240 x 45 @ 900 CRS
Collar Tie	140 x 45 @ every second rafters

**INSULATION REQUIREMENTS**

Ceiling insulation to be R3.5 batts thru-out. (275 thick or approved equivalent)

External walls (as minimum) to be insulated with R2.5 batts plus antiglare wrap / 10mm min vertical spacing battens prior to fitting external cladding

Door and window to be fitted with weather strips & seals

**WINDOW SCHEDULE**

MARK No	WINDOW SIZE		DESCRIPTION	LOCATION ROOM	GLAZING Clear/Obscure Glass Single/Double Glazed	LINTEL SIZE
	Height	Width				
W1	2100	2400	Aluminium Sliding	Lounge	Clear / Single	170 x 45 F8
W2	1800	2400	Aluminium Sliding	Master Bed	Clear / Single	170 x 45 F8
W3	900	600	Aluminium Sliding	Ensuite	Obscure / Single	90 x 45 F8
W4	1800	2400	Aluminium Sliding	Bed 2	Clear / Single	170 x 45 F8
W5	1800	2400	Aluminium Sliding	Bed 3	Clear / Single	170 x 45 F8
W6	1000	1500	Aluminium Sliding	Bath	Obscure / Single	170 x 45 F8
W7	900	600	Aluminium Sliding	WC	Obscure / Single	90 x 45 F8
W8	1000	1800	Aluminium Sliding	Kitchen	Clear / Single	170 x 45 F8
W9	2100	2400	Aluminium Sliding	Dining	Clear / Single	170 x 45 F8
W10	2100	1800	Aluminium Sliding	Dining	Clear / Single	170 x 45 F8
D1	2100	820	Entry Door	Living	Solid Core	90 x 45 F8
D2	2100	1500	Sliding Glass Door	Laundry	Clear / Single	170 x 45 F8
D3	2100	1800	Sliding Glass Door	Living	Clear / Single	170 x 45 F8

**NOTES :-**

- 1/ All windows to be aluminium type frames. (Unless Otherwise Noted - U.O.N.)
- 2/ All opening sashes to be supplied and fitted with Fly-wire screens
- 3/ All windows to have reveals & trims to suit 90 thick External Timber Walls with external cladding & linings as noted and detailed - U.O.N.

<b>LEGEND:</b>	<b>REVISION:</b>			<b>BUILDER:</b>  <b>OWNER BUILDER</b>		<b>PROJECT:</b>
	DATE	REV No.	DESCRIPTION			Proposed new dwelling
	13/02/19	-	ISSUED FOR CONSTRUCTION			@ lot 3 Jumbuck Rd
						Yinnar South



## Site Photos:

Image 1: Looking south over the farm property from Jumbuk Road



Image 2: Jumbuk Road frontage

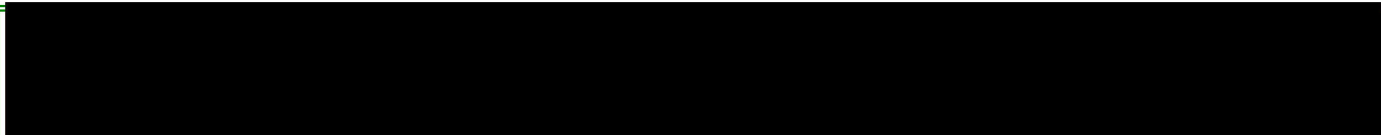




Image 3: Looking north from Pages Road over the rear of the site



Image 4: Pages Road frontage and the waterway, which seems to terminate on the site.





Images 5 & 6: looking northeast over the property from Pages Road





Images 7 & 8: Top paddocks and dwelling site marked

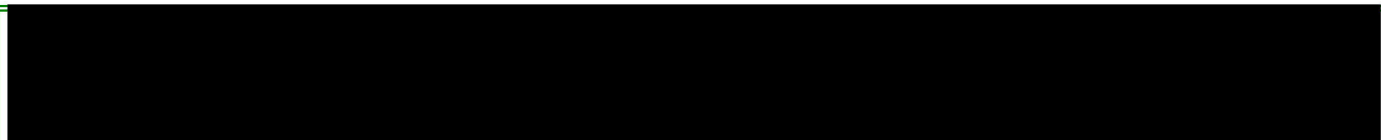




Image 9: Angus breeding herd to be increased as part of the proposal.



Image 10: Main supply dam





Images 11 & 12: The property is generally clear of weeds, but there is blackberry and couch incursion from the water line and road reserves.



## **Attachment 2**

### **Relevant Policy**

The following policy contained within the Municipal Planning Strategy (MPS) and planning Policy Framework (PPF) of the Latrobe Planning Scheme is relevant to the consideration of this permit application:

- Clause 02.03-4 – Natural resource management
- Clause 02.03-6 – Housing (rural residential development)
- Clause 12.01-1S – Protection of biodiversity
- Clause 12.01-1L – Protection of biodiversity
- Clause 14.01-1S – Protection of agricultural land
- Clause 14.01-1L (Protection of agricultural land)
- Clause 14.01-1L – Dwelling in the Farming Zone Schedule 1
- Clause 14.01-2S – Sustainable agricultural land use
- Clause 15.01-6S – Design for rural areas
- Clause 16.01-3S – Rural residential development
- Clause 16.01-3L - Rural residential development

### **Assessment against relevant policy**

An assessment against each relevant policy is detailed below:

#### **Clause 02.03-4 – Natural resource management**

Most rural areas in Latrobe contain high quality agricultural land that supports dairy farming, broadacre farming and forestry.

There are some rural areas that are highly fragmented. These areas provide opportunities for rural residential living, tourism, niche rural industry and small-scale farming.

The Rural Framework Plan in Clause 02.04 illustrates the intent of rural use in Latrobe.

Planning for agriculture seeks to:

- Enhance the viability of agricultural activity.
- Retain large lots and discourage the establishment of sensitive or non-agricultural related land uses on high quality agricultural land (Farming Zone Schedule 1) to retain its productive viability.
- Facilitate non-agricultural related use and development that respect settlement patterns, landscape, amenity and environmental values and adjacent land uses in highly fragmented rural areas (Farming Zone Schedule 2).

Response:

The subject land is classified to be within a Productive Agricultural Area where most lots are suitable for use for commercial farming or have realistic potential to be used for horticulture, livestock grazing or other forms of productive agriculture.

Agriculture Victoria considers that the proposal's justification for a dwelling in the Farming Zone is contrary to the strategic objectives of the area as it is possible to conduct the agricultural enterprise on the land without the need for a dwelling.

While animal production requires regular supervision to ensure animal health and welfare but can be carried out without the requirement for a dwelling.

**Clause 02.03-6 – Housing (rural residential development)**

Residential use of land in a rural setting is a popular lifestyle choice and it is accommodated in the Low Density Residential Zone in urban areas and in the Rural Living Zone in rural areas.

An emerging issue with rural living options relates to resident amenity concerns with animal husbandry, forestry operations and intensive agricultural pursuits.

Planning for rural residential development seeks to:

- Support rural living and associated land use that does not compromise agricultural productivity.
- Avoid impeding the long-term urban growth of settlements.

Response:

Whilst the subject site is within a Farming Zone (Schedule 1), parts of the surrounding area, in both Rural Living Zone and Farming Zone have the character of a rural living area, characterised by dwellings on lots of varying lot sizes.

The proposed dwelling will be partly respectful of the rural residential character of the area and may not compromise any agricultural activity on the land or on the surrounding sites.

However, continual use of land in Farming Zone for rural residential use will continue to increase the values of agricultural land to the detriment of agricultural production. Approving dwellings on land within the Farming Zone would make it difficult for farmers to compete with rural residential dwellers relating to the values of rural land.

The development and continued use of a dwelling in the Farming Zone should only be permitted on the basis that the dwelling is reasonably required for the operation of the agricultural activity conducted on the land.

A dwelling on the subject land will permanently remove any future potential of the subject land to be consolidated into surrounding agricultural land in the Farming Zone.

The proposal does not appear to effectively establish a domestic building envelope to minimise the domestic use impact on the land and, ensure maximising and maintaining the use of the land for agriculture. Without the establishment of a domestic building envelope there is a risk of further loss to available productive land over time.

#### **Clause 12.01-1S – Protection of biodiversity**

The objective is to protect and enhance Victoria's biodiversity. Relevant strategies are as follows:

Strategically plan for the protection and conservation of Victoria's important areas of biodiversity.

Ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity, including consideration of:

- Cumulative impacts.
- Fragmentation of habitat.
- The spread of pest plants, animals and pathogens into natural ecosystems.
- Avoid impacts of land use and development on important areas of biodiversity.

#### **Clause 12.01-1L – Protection of biodiversity**

Strategies include:

- Adopt the precautionary principle where there are threats of environmental damage, such as damage or destruction of habitat.
- Protect habitats that contain indigenous flora and fauna, particularly where those species are threatened.
- Retain native vegetation on roadsides, waterways and public and private land to facilitate healthy habitats to improve biodiversity.

#### Response

The proposal will not have a detrimental impact on the biodiversity of the area as no significant vegetation removal will be required to facilitate the proposed dwelling.

#### **Clause 12.05-2S – Landscapes**

The objective is:

- To protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.

Strategies include:



- Ensure significant landscape areas such as forests, the bays and coastlines are protected.
- Recognise the natural landscape for its aesthetic value and as a fully functioning system.
- Ensure important natural features are protected and enhanced.

#### Response

The proposal will not have a detrimental impact on the rural landscape character of the area.

#### **Clause 13.02-1S – 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

- *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.*
- *Not approving development where a landowner or proponent has not satisfactorily demonstrated that the relevant policies have been addressed, performance measures satisfied or bushfire protection measures can be adequately implemented.*

#### **Clause 14.01-1S – Protection of agricultural land**

##### Objective

*To protect the state's agricultural base by preserving productive farmland.*

##### Strategies

- *Identify areas of productive agricultural land, including land for primary production and intensive agriculture.*
- *Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.*
- *Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.*

- *Protect productive farmland that is of strategic significance in the local or regional context.*
- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
- *Prevent inappropriately dispersed urban activities in rural areas.*
- *Protect strategically important agricultural and primary production land from incompatible uses.*
- *Limit new housing development in rural areas by:*
  - *Directing housing growth into existing settlements.*
  - *Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.*
  - *Encouraging consolidation of existing isolated small lots in rural zones.*
- *Identify areas of productive agricultural land by consulting with the Department of Economic Development, Jobs, Transport and Resources and using available information.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
  - *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
  - *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
  - *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
  - *The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*
  - *Land capability.*
- *Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.*
- *Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.*
- *Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.*

#### **Clause 14.01-1L (Protection of agricultural land)**

Relevant strategies include:

- Discourage non-agricultural uses from locating or developing in a manner that will inhibit the expansion of farming uses.
- Ensure the siting of a building does not compromise the operation of nearby commercial agricultural enterprises, including its impacts on noise, odour, sight lines and infrastructure and livestock movements.



### Response

- The assumptions made in the Farm Management Plan as to the carrying capacity for Grazing animal production for 32 cow and calves on the subject land would not appear to be sustainably achievable.
- Animal production requires regular supervision to ensure animal health and welfare but can be carried out without the requirement for a dwelling.
- The proposed pasture improvements can be carried out without the requirement for a dwelling.
- The dwelling on the subject land will permanently remove any future potential for the land to be consolidated into surrounding agricultural land zoned Farming Zone.
- The proposal does not appear to effectively establish a domestic building envelope to minimise the domestic use impact on the land and, ensure maximising and maintaining the use of the land for agriculture.

### **Clause 14.01-1L – Dwelling in the Farming Zone Schedule 1**

This policy applies to an application for a dwelling in the Farming Zone Schedule 1.

The strategies are as follows:

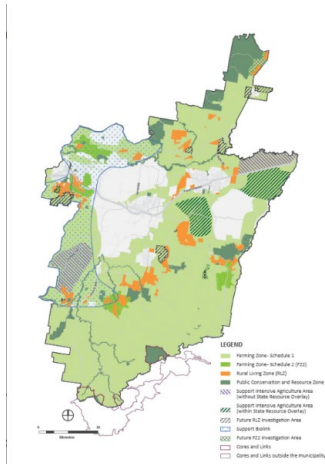
- *Discourage dwellings not associated with the agricultural use of the land.*
- *Where there is an existing dwelling, discourage more than one dwelling unless the additional dwelling is required for the permanent operation, supervision or care of the agricultural use and is located on the same lot as the existing dwelling and the agricultural use.*

Consider as relevant:

- *A section 173 agreement under the Act to prevent the future excision of the dwelling from the parent lot.*
- *Discouraging dwellings on lots less than 100 hectares in the intensive agricultural precincts as shown in the Rural Framework Plan in Clause 02.04, unless the dwelling is required in association with an agricultural use of the land.*

### Response

The subject land is not within an intensive agricultural precinct. Clause 02.04 *Strategic Framework Plans* contains the Rural Framework Plan for Latrobe, and the subject site is not within one of these locations.



Rural Framework Plan (Source: Latrobe Planning Scheme, Clause 02.04)



The subject site (in red) with the nearest intensive agriculture site in the hatched area to the west (source: Latrobe City Intramaps, 2022)

‘A section 173 agreement under the Act to prevent the future excision of the dwelling from the parent lot.’

If a permit were to be granted for a dwelling, a Section 173 Agreement should be applied to the title to prohibit excising the dwelling from the land.

Clause 14.01-1L lists the *Live Work Latrobe Rural Land Use Strategy (2019)* as a policy document. The report mapped agricultural productivity from section 3.4 (page 26 onwards).



Description of various agriculture productivity classes.

The proposal is inconsistent with the purpose of the Farming Zone and local policy at Clause 14.01-1L as the land is productive agricultural land and the proposal will not guarantee the use of the land for agriculture. It will prevent the consolidation of the subject site with the surrounding sites to enhance agricultural production.

#### **Clause 14.01-2S – Sustainable agricultural land use**

Objective

*To encourage sustainable agricultural land use.*

Strategies

- *Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.*
- *Support the development of innovative and sustainable approaches to agricultural and associated rural land use practices.*
- *Support adaptation of the agricultural sector to respond to the potential risks arising from climate change.*
- *Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing.*
- *Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.*
- *Support agricultural investment through the protection and enhancement of appropriate infrastructure.*
- *Facilitate ongoing productivity and investment in high value agriculture.*
- *Facilitate the establishment and expansion of cattle feedlots, pig farms, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.*
- *Ensure that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.*

Response

The subject land is zoned Farming Zone 1 (FZ1), which has been applied to rural areas suitable for commercial agriculture under Planning Scheme Amendment C105. The Latrobe Rural Land Use Strategy under C105 has specifically identified areas for productive agriculture as envisaged by this clause, with added protections through policy and the zone schedule for such areas.

#### **Clause 15.01-6S – Design for rural areas**

Objective

*To ensure development respects valued areas or rural character.*

#### Strategies

- *Ensure that the siting, scale and appearance of development protects and enhances rural character.*
- *Protect the visual amenity of valued rural landscapes and character areas along township approaches and sensitive tourist routes by ensuring new development is sympathetically located.*
- *Site and design development to minimise visual impacts on surrounding natural scenery and landscape features including ridgelines, hill tops, waterways, lakes and wetlands.*

#### Response:

The proposed dwelling will be modest and will be respectful of the rural character of the area.

The dwelling is sited on a relatively level and cleared part of the site where the construction will require no vegetation removal. The proposed dwelling will be single storey to ensure minimal impact to the streetscape and the adjoining sites.

The scale of the dwelling is typical residential sized dwelling on a rural residential sized block, therefore the built form on the site is not expected to result in a dominating-built form feature, nor will the proposal create a bulky built form.

The proposed dwelling will not alter the landscape and scenic qualities of this rural/bushland environment. The landscape quality offered by this agricultural property will be maintained.

However, the proposal does not appear to effectively establish a domestic building envelope to minimise the domestic use impact on the land and, ensure maximising and maintaining the use of the land for agriculture. Without the establishment of a domestic building envelop there is a risk of further loss to available productive land over time.

#### **Clause 16.01-3S – Rural residential development**

##### Objective

*To identify land suitable for rural residential development.*

##### Strategies

- *Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.*
- *Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.*
- *Demonstrate need and identify locations for rural residential development through a housing and settlement strategy.*

- *Ensure planning for rural residential development avoids or significantly reduces adverse economic, social and environmental impacts by:*
  - *Maintaining the long-term sustainable use and management of existing natural resource attributes in activities including agricultural production, water, mineral and energy resources.*
  - *Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.*
  - *Minimising or avoiding property servicing costs carried by local and state governments.*
  - *Maintaining an adequate buffer distance between rural residential development and animal production.*
- *Ensure land is not zoned for rural residential development if it will encroach on high quality productive agricultural land or adversely impact on waterways or other natural resources.*
- *Discourage development of small lots in rural zones for residential use or other incompatible uses.*
- *Encourage consolidation of existing isolated small lots in rural zones.*
- *Ensure land is only zoned for rural residential development where it:*
  - *Is located close to existing towns and urban centres, but not in areas that will be required for fully serviced urban development.*
  - *Can be supplied with electricity, water and good quality road access.*

#### **Clause 16.01-3L (Rural residential development)**

Strategies are as follows:

- Encourage rural living where there will be minimal negative environmental impact or conflict with commercial agriculture.
- Support rural living where it will result in improved land management outcomes.
- Encourage facilities and services required by rural residents to locate in existing townships.
- Discourage rural living or low density residential use and development on the fringes of major towns where land is designated as a long-term urban growth corridor.
- Discourage domestic animal husbandry and racing dog husbandry in rural living areas.
- Discourage rural living on existing timber haulage routes to avoid road safety and amenity issues.
- Support rural living in low bushfire risk locations or where bushfire risk can be reduced to an acceptable level.

#### Response

Clause 16.01-3S discourages development of small lots in rural zones for residential use and encourages consolidation of existing isolated small lots in rural zones. Clause 02.3-4 aims to protect the agricultural resource and notes the subject land as one of the areas well suited for commercial farming.

The proposal is required to provide for a dwelling that is required to sustain a proposed agricultural enterprise, which is the breeding of Angus cattle on the land.

The applicant advised that the proposal would enhance agricultural productivity in the site as the proposed dwelling will be directly associated with a productive agricultural activity and will not have any detrimental impact on the area of the land that will be available for productive agriculture.

The proposal's justification for a dwelling in the Farming Zone is contrary to the purpose of the zone and the strategic objectives of the Scheme relating to residential development in rural areas.

Whilst animal production requires regular supervision to ensure animal health and welfare, it could be carried out without the requirement for a dwelling. The proposed pasture improvements could also be carried out without the requirement for a dwelling on the land.

The development of dwellings in rural areas has been integral to the development of the Council as evidenced by the development in the surrounding area, but in more recent times there have been increasing pressures for residential development of rural land, primarily for rural lifestyle rather than for farming purposes. The increasing pressures for land for rural lifestyle purposes has the potential to significantly impact on the way agricultural land is used in the Council, particularly in regard to the continuation of broadacre farming and its contribution to the economy of the Council. The increasing number of dwellings in agricultural areas is having a detrimental impact on agricultural production and the rural economy.

The proposal will not achieve the following, which are important considerations in granting a permit for a dwelling on productive agricultural land:

- Limit new housing development in rural areas
- Discourage development of isolated small lots in the rural zones from use for single dwellings, or other incompatible uses.
- The proposal will diminish the possibility of consolidation of existing isolated small lots in rural zones.
- Avoid loss of areas of strategic significance (agricultural land)
- Protect productive farmland which is of strategic significance in the local or regional context.
- Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.



Policies relating to agriculture and rural residential development seek to ensure that the value of agricultural land is not adversely affected by development and the impact of continuing agricultural production. Development of smaller lots for rural lifestyle affects land values. In this regard, the potential for continuity in agricultural production diminishes as land values are influenced by the value potential owners are prepared to pay for a rural lifestyle. This diminishes the ability of farmers to acquire more land and expand their enterprises.

### **Attachment 3 – Relevant VCAT case summary**

#### **Groves v Latrobe SC [2015] VCAT 891**

In Groves v Latrobe SC [2015] VCAT 891 (19 June 2015), the Tribunal confirmed the decision of the responsible and refused an application for a dwelling on a land area of 10.03 hectares in Yinnar South. The following comments of Member Templar are relevant to the current application:

2. *This planning scheme contains extensive policy and provision directing the need to protect high quality agriculture land and ensuring that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture. The scheme also has policy to ensure the use and development of land in identified coal resource areas protects coal resource development.*
3. *The fundamental test by which this application needs to be assessed is that of whether net community benefit and sustainable development is achieved, as set out in Clause 10.04 of the Latrobe Planning Scheme.*
4. *For reasons below I find there are potential significant adverse impacts to the sustainable management of this land that outweigh the potential benefits that may result from the proposal, when tested against the extensive policies and provisions of the Latrobe Planning scheme. These policies and provisions weigh heavily against proposals that may result in the loss quality agricultural land to a use that cannot confidently demonstrate sustainable farming, or may impact on the long term need to use coal resource under the land. I therefore find that net community benefit is not achieved. I will affirm the decision of Council. No permit is granted.*

#### **Smout v Macedon Ranges SC [2021] VCAT 453**

In the Tribunal decision of Smout v Macedon Ranges SC [2021] VCAT 453 (10 May 2021), the Tribunal found in relation to a proposed dwelling on a small lot in the Farming Zone:

28. *I note that the objective of Clause 14.01-1S is 'To protect the state's agricultural base by preserving productive farmland'.*
29. *The Applicant has persuaded me that this lot is not productive farmland due to the extent of surface and sub-surface rock.*
30. *I note that the strategies to achieve this objective include to 'Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.'*

31. *In this case, I am satisfied that the removal of this non-productive farmland is not economically important.*
32. *Another strategy is to 'Limit new housing development in rural areas by:*
- *Directing housing growth into existing settlements.*
  - *Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.*
  - *Encouraging consolidation of existing isolated small lots in rural zones.*
33. *Due to this site's location, I am satisfied that it is not an 'isolated small lot'. I accept that, unlike the dwellings within the wedge of the Springfield settlement, it is not in the Rural Living Zone. However, I have described that the actual pattern of settlement includes several dwellings directly opposite this wedge, and that this dwelling fills a gap in this existing settlement pattern.*
34. *I also consider that its use for a dwelling is compatible with its surrounds. It is directly opposite small lots used for residential purposes and it is adjacent to the dwelling of the adjoining farm. The balance of existing residential and agricultural uses will not be significantly altered if this site is used for a dwelling.*
35. *Separately, I do not see this site as a candidate for consolidation with adjacent farming land due to its poor productive capacity.*

While this of course relates to a site within the Macedon Ranges municipality, the findings of the Tribunal in taking into account locational and site-specific characteristics is relevant to this application. The subject site considered by the Tribunal was small and exhibited poor agricultural qualities. Unlike the subject site that has been identified to be suitable for commercial farming as found in the Latrobe Rural Land Use Strategy supporting Planning Scheme Amendment C105; reflective of the zoning of the land as FZ1. Unlike in the decision, the proposal has the potential to impact productive agricultural land.

#### **Sharkey v Moyne SC [2018] VCAT 685**

In Sharkey v Moyne SC [2018] VCAT 685 (11 May 2018), the Member Templar refused an application for a dwelling on a lot of approximately 7.36 hectares in a Farming Zone and commented as follows:

23. *The establishment of dwellings on small lots in the Farming Zone has the potential to cumulatively impact on agricultural production, with the prospect of such dwellings essentially establishing 'hobby farms'. This is not casting judgement on permit applicants, but does recognise that over time, properties change hands, and the use of land then has the potential to become distant from the original purpose and also negatively impact on*

*agricultural production and operations. Therefore, the agricultural productivity of land has the very real potential to be adversely affected. The Scheme seeks to ensure that this does not occur, with the inclusion of clear policy at the State and Local level, as well as the Purpose and Decision guidelines of the Farming Zone.*

*24. The Farming Zone specifically seeks to address the proliferation of dwellings and I find that the approval of a dwelling on this land, would add to what I find is an emerging 'rural residential' enclave in this area and this does not meet the Purpose of the Farming Zone. This is not what the Scheme seeks as an outcome.*

### **Rea v Moyne SC (2017) VCAT 1453**

In Rea v Moyne SC (2017) VCAT 1453, Member Carew set aside the decision of the responsible authority by refusing a dwelling on a lot of 36 hectares within a Farming Zone and made the following observations in paragraph 20 of the decision as follows:

*20. While the review site is a large allotment, I am not persuaded that the use of the land as proposed is sufficient to ensure that the land is not at risk of conversion to non-agricultural use or rural lifestyle ('hobby farm') property. I am not persuaded that the proposed dwelling will further the objectives of State and Local Planning Policy or the purposes of the Farming Zone because:*

- A significant portion of this allotment is covered by remnant native vegetation which reduces the area available to farm to well below the minimum lot size (about 23 ha).*
- I am not persuaded that the rearing of 20-30 steers with some hay production as set out in the Farm Management Plan constitutes a significant agricultural use which would require the presence of an on-site manager.*
- The proposal will introduce a new residential neighbour adjacent to larger farming operations. This may result in constraints to future expansion of these operations. Dwelling approvals on smaller lots can create lifestyle properties which inflate the value of rural land and make it more expensive for larger farms to acquire.*
- There are many lots close to but under the 40ha limit in this area and the absence of a dwelling does not prevent agricultural use of this land.*

*24. The Farming Zone specifically seeks to address the proliferation of dwellings and I find that the approval of a dwelling on this land, would add to what I find is an emerging 'rural residential' enclave in this area and this does not meet the Purpose of the Farming Zone. This is not what the Scheme seeks as an outcome.*

**Lenehan v Moyne SC (2015) VCAT 118**

In *Lenehan v Moyne SC (2015) VCAT 118*, the Tribunal set aside the decision of the responsible and refused an application for a dwelling on a land area of 10.48 hectares. The following comments of Member Wilson are relevant to the current application:

- 11. There was no dispute that the review site is high quality agricultural land. The development of the land for a dwelling, driveway and outbuilding will result in the loss of part of that land for agricultural use, an outcome not supported by policy. Whilst I accept there is potential to support agricultural use of the land with resident occupiers, I consider a dwelling on the review site is not essential to support for the limited extent of agricultural activity proposed. Furthermore, the absence of a dwelling does not prevent agricultural use of the land.*
- 12. Both levels of policy identify the potential for the demand for rural lifestyle living to fragment productive agricultural land. There is strong direction in both the SPPF and the LPPF to discourage use of small rural lots for dwellings that might be used for rural living. I have concerns about the relatively modest extent of agricultural activities proposed on the 10ha property that may signal a land use that is primarily residential rather than agriculture. This is not an outcome supported by policy and has the potential to contribute to increased land values and give rise to land use conflicts, both of which can impact negatively on agricultural production.*
- 19. The granting of a permit for a dwelling on a 10ha property in an area with high agriculture value and where there are multiple lots less than 40ha has the potential to result to a proliferation of dwellings in the area with an adverse impact on the use of land for agriculture. I acknowledge there are already a significant number of dwellings on lots less than 40 ha in the nearby area, especially to the east of the review site but do not see this as a reason for approving another dwelling on a lot less than 40ha. Rather it emphasizes that a concentration of dwellings limits the availability of productive land and the opportunities for expansion of adjoining and nearby agricultural uses.*
- 20. Although I accept that the applicants for permit have experience and interest in agriculture, a planning permit relates to the land which can change ownership. The Farm Management Plan shows a relatively low intensity of activity and there can be no guarantee that it prevents future owners using the land primarily as a rural residential property with negligible enhancement of agricultural production. Rural residential use can result in amenity expectations that adversely affect the operation and expansion of adjoining and nearby agricultural uses. This is a concern reflected in the purpose of the*

*Farming Zone that includes ensuring non-agricultural uses, including dwellings, do not adversely affect use of land for agriculture.*

**Kennedy v Baw Baw SC [2022] VCAT 787**

In Kennedy v Baw Baw SC [2022] VCAT 787, the Tribunal considered the justification of a dwelling on a 3.9-hectare property in the Farming Zone. In this matter Member Wickramasinghe stated the following:

*52. The scale of the agricultural is said to be more akin to a hobby farm and as such any dwelling would perform the function of supporting a rural lifestyle rather than being a necessity in the operation of a commercially viable business.*

*53. I am not persuaded the use of the land for a dwelling on a 3.9 hectare site is consistent with the provisions of the FZ and is necessary having regard to the nature of the farming use. The decision guidelines of the FZ require consideration of whether the dwelling will result in loss or fragmentation of productive agricultural land and the potential for the proposal to lead to a concentration or proliferation of dwellings.*

# **CORPORATE ITEMS FOR DECISION**

## 9. CORPORATE ITEMS FOR DECISION

Item Number 9.1

06 March 2023

Organisational Performance

# 2022/23 MID YEAR BUDGET REVIEW

## PURPOSE

To present the full year forecast financial position following the mid-year budget review and propose four projects and a reserve account be funded from the identified surplus position.

## EXECUTIVE SUMMARY

- A mid-year review is undertaken each year to compare how the organisation is tracking against the adopted budget and consider the need/requirement to prepare a revised budget.
- In accordance with Section 95 of the *Local Government Act 2020*, as Council is not intending to make a variation to the declared rates or charges, undertake any new borrowings not already included the budget or make a change to the budget that the Council considers should be the subject of community engagement, a revised budget is not required to be prepared.
- The review indicates the full year forecast position is expected to exceed the adopted budget position, with a forecast surplus position of \$3.9M (on a cash budget basis).
- Officers recommend projects totalling \$1,262,000 (including creation of a capital works balance sheet reserve of \$850,000) are funded from the mid-year surplus position.

## OFFICER'S RECOMMENDATION

**That Council note the mid-year budget review and approve the allocation of funding to the following projects and reserves.**

- 1. Traralgon Court House – Toilet Construction Works \$150,000**
- 2. Duncan Cameron Reserve – Cricket Nets Replacement \$150,000**
- 3. Newman Park – Soft Fall Rubber Surface Replacement \$62,000**
- 4. Apex Park Moe – Changing Places Toilet Construction \$50,000**
- 5. Capital Works Reserve \$850,000**



## BACKGROUND

Throughout December and January of each financial year council officers undertake a detailed examination of all operating income and expenditure budget items, year to date actual income/expenditure and forecast income/expenditure for the financial year. The review is undertaken in collaboration with all teams across the organisation. The focus of the review is to identify permanent differences between year-to-date results and forecast income/expenditure against the Adopted Budget, and determine whether there is a requirement to prepare a revised budget in accordance with the requirements of the *Local Government Act 2020* (the Act).

The Act requires that a revised budget is required if Council intends to make a variation to the declared rates or charges or undertake to borrow funds that have not been previously approved in the budget or wish to make a change to the budget that Council considers should be the subject of community engagement.

## ANALYSIS

Following the review of all areas, a budget surplus of \$3.9M has been forecast. This surplus is largely a result of \$1.3M of additional Grants Commission funding, and \$2.8M increased return on investments mainly associated with rising interest rates and higher levels of cash holdings linked to prior year carry forward projects. The forecast surplus is detailed in Income Allocation Statement at Attachment 1.

In accordance with Section 95 of the Act, there is no requirement for a revised budget as none of the three criteria identified in the Act exist.

Officers recommend projects totalling \$412,000 are funded from the mid-year surplus position, along with the allocation of \$850,000 to a Capital Works Reserve for future capital needs. This leaves an unallocated net forecast cash surplus of \$2.6M. The four proposed projects relate to additional funding needs for existing projects to deliver full project scope or safety works.

The proposed projects are listed below.

	<b>\$'000s</b>
<b>Mid-Year Forecast Surplus 2022/23</b>	<b>3,900</b>
<b>Less Proposed allocations</b>	
Traralgon Court House – Toilet Construction Works – Additional Budget Requirement	150
Duncan Cameron Reserve - Cricket Nets Replacement – Additional Budget Requirement	150
Newman Park Traralgon – Soft Fall Rubber Surface Replacement	62
Apex Park Moe – Changing Places Toilet – Additional Budget Requirement	50
<i>Sub-Total</i>	<b>412</b>

	<b>\$'000s</b>
Less allocation to Capital Works Reserve	850
<b>Total Proposed allocations</b>	<b>1,262</b>
<b>Net Forecast Surplus 2022/23</b>	<b>2,638</b>

#### RISK ASSESSMENT

RISK	RISK RATING	TREATMENT
<b>COMPLIANCE</b> Compliance with Local Government Act	<b>Low</b> <i>Rare x Insignificant</i>	Council is meeting legislative requirements through the CEO declaring that a revised budget is not necessary.
<b>SERVICE DELIVERY</b> Community is not provided with enhanced services	<b>Low</b> <i>Unlikely x Minor</i>	Council prioritises projects to ensure best community outcomes
<b>FINANCIAL</b> Council is unable to achieve forecast position	<b>Low</b> <i>Unlikely x Minor</i>	There is always a risk of unforeseen circumstances (e.g. natural disaster, supply chain issues) contingency is provided through conservative allocation of the forecast result.
<b>COMPLIANCE</b> Compliance with Local Government Act	<b>Low</b> <i>Rare x Insignificant</i>	Council is meeting legislative requirements through the CEO declaring that a revised budget is not required.

#### CONSULTATION

The development of the mid-year forecast position was based on collaborative consultation across the organisation to identify permanent budget differences and projects that could be considered for funding as part of the mid-year process.

#### COMMUNICATION

There are no communication and public relations implications associated with this report.

DECLARATIONS OF INTEREST

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.


## APPENDIX 1 IMPACT ASSESSMENT

### **Financial**

This report relates to the forecast surplus resulting from the mid-year review, the proposed allocations are within the identified forecast surplus, therefore there are no financial implications associated with the report.

Careful consideration has been applied when arriving at the forecast surplus position, noting that this is a forecast and future unforeseen items may impact on the final year end result, therefore a level of financial conservatism has been applied

### **Attachments**

[↓](#) 1.  Attachment 1 - Income Allocation Statement

# 9.1

## 2022/23 Mid Year Budget Review

1	Attachment 1 - Income Allocation Statement.....	399
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<b>Latrobe City Council</b>							
<b>Income Allocation Statement</b>							
	22/23 Mid year forecast	22/23 Adopted Budget	Variance		22/23 Mid year forecast	22/23 Adjusted Budget *	Variance
	\$'000	\$'000	\$'000		\$'000	\$'000	\$'000
<b>Income</b>							
Rates and charges	89,055	88,619	436		89,055	88,619	436
Statutory fees & fines	2,823	2,710	113		2,823	2,710	113
User fees	10,612	10,712	(99)		10,612	10,712	(99)
Grants - Operating	23,752	24,462	(711)		23,752	15,405	8,347
Grants - Capital	29,621	5,300	24,321		29,621	17,365	12,256
Contributions - Monetary	169	90	79		169	90	79
Other income	4,979	3,589	1,390		4,979	3,817	1,162
<b>Total income</b>	<b>161,011</b>	<b>135,483</b>	<b>25,528</b>		<b>161,011</b>	<b>138,718</b>	<b>22,292</b>
<b>Expenses</b>							
Employee costs	(61,389)	(59,255)	(2,133)		(61,389)	(61,800)	412
Materials and services	(41,818)	(33,709)	(8,109)		(41,818)	(42,170)	352
Utilities	(3,917)	(4,629)	711		(3,917)	(4,129)	211
Other Expenditure	(5,532)	(4,316)	(1,215)		(5,532)	(4,884)	(648)
<b>Total expenses</b>	<b>(112,656)</b>	<b>(101,909)</b>	<b>(10,747)</b>		<b>(112,656)</b>	<b>(112,983)</b>	<b>327</b>
<b>Funds Available</b>	<b>48,355</b>	<b>33,574</b>	<b>14,781</b>		<b>48,355</b>	<b>25,735</b>	<b>22,620</b>
<b>Other Income / (Expenses)</b>							
Capital Works expenditure	(73,308)	(40,061)	(33,247)		(73,308)	(64,179)	(9,129)
Landfill Construction/Rehabilitation	(5,870)	(2,185)	(3,685)		(5,870)	(5,779)	(91)
Priority Projects	-	-	-		-	-	-
Land Disposals	-	-	-		-	-	-
Land Acquisitions	-	-	-		-	-	-
New Borrowings	7,800	7,800	-		7,800	7,800	-
Debt Servicing Principal	(3,277)	(3,151)	(126)		(3,277)	(3,151)	(126)
Borrowing Costs	(325)	(448)	123		(325)	(421)	96
Transfer from / (to) reserve	27,486	4,221	23,264		27,486	40,395	(12,910)
Interest Income	3,040	250	2,790		3,040	250	2,790
<b>Total Other Income/(Expense)</b>	<b>(44,454)</b>	<b>(33,574)</b>	<b>(10,880)</b>		<b>(44,454)</b>	<b>(25,084)</b>	<b>(19,370)</b>
<b>Surplus / (deficit)</b>	<b>3,900</b>	<b>(0)</b>	<b>3,900</b>		<b>3,900</b>	<b>651</b>	<b>3,250</b>

\* Adjusted budget is Adopted Budget adjusted for carry forward projects and additional VGGC funding

# BUSINESS RECOGNITION AWARD PROGRAM

## PURPOSE

To respond to the Council resolution from the November 2022 Council meeting to receive a report in relation to establishing a small to mid-sized business recognition award program.

## EXECUTIVE SUMMARY

- Small business plays a vital role in driving the Latrobe City economy representing 95% (approximately 4,560) of all business in the municipality. Recognising the value small business have in the community is an important role for Council.
- Council currently supports the Federation University Gippsland Business Awards by sponsoring the New Business Category and spends approximately \$4300 on this sponsorship. These awards are professionally and rigorously conducted using independent expert assessors. They hold great value for the business community based on feedback from businesses and media the coverage.
- The newly formed Latrobe City Business Chamber is expected to run a “Peoples’ Choice Business Awards” that used to be run by the Latrobe City Business and Tourism Association. Council has budgeted for these awards with an annual \$6,000 contribution.
- Supporting these two business awards is a cost-effective option for Council. Organising and presenting business awards events is very costly and resource heavy for organisations. Sponsoring other, long-standing awards that are run by other organisations, is a more economical way to achieve the desired outcomes.
- There is currently no publicly available definitive dataset from which to gather the information to assess the proposed criteria for the awards recognising 10, 20, 40 and 50 years continuous operation, being a local independent business, employing fewer than 20 for small businesses and 50 for mid-sized businesses.
- The research needed to identify and recognise milestone businesses and the necessary administration of such a rewards program would require one full time officer, and additional funding to run the program eg marketing, awards, which is not budgeted for.

## OFFICER’S RECOMMENDATION

### That Council:

- 1. Continue to allocate funding to sponsor the Federation University Gippsland Business Awards, New Business Category on an annual basis; and**
- 2. Note officers will continue to work with the Latrobe City Business Chamber in the planning for “Peoples’ Choice Business Awards” in Latrobe City.**

## BACKGROUND

A resolution was adopted at the November Council meeting as follows:

*That Council receive a report at a future meeting in relation to the establishment of an annual Latrobe City Small to Mid-Size Business Recognition Award program based around the following criteria:*

- 1. That these awards would recognise the milestones of 10, 20, 40 and 50+ years of successful business operation within Latrobe City.*
- 2. That the definition of a small business would be one with less than 20 employees and a mid-size business no more than 100 employees.*
- 3. Businesses that are identified must not be owned or managed by a larger corporation.*
- 4. That franchises or chain restaurants are not eligible for these awards.*
- 5. That publicity of these awards would be aimed at demonstrating that Latrobe City provides an economy in which small and mid-sized business enterprises grow.*
- 6. That the awards would be granted based upon the years of business operation achieved, and not via a nomination process, in order to honour the silent, yet proven, pillars of the community.*

## ANALYSIS

Recognising good local small businesses is a part of the Council's small business and transition programs. Supporting the local business community ensures that the City is an attractive place to live, work, play and invest.

Council is already supporting other business award programs. Council currently sponsors the Federation University Gippsland Business Awards, New Business Category. Through the work done previously, a new chamber of commerce has been encouraged and supported by the Council. It is known as the Latrobe City Business Chamber and the Council officers are working with the new Chamber to ensure that they host a Latrobe City People's Choice Awards. Both of these award programs achieve the desired outcome of recognising good local small businesses.

Running Small Business Awards takes considerable time and costs a significant amount of money that is not currently budgeted. The proposed approach to support businesses will add significant extra work and the value of the proposed years of service recognition has not been consulted with the business community to understand if it will be valued.

There is no one definitive public dataset that captures the start date of local businesses, which means that it will be necessary to research all local small and mid-sized businesses in the region to ascertain when they began, or a call will need to be made for local small businesses to self-nominate to try to build the database of businesses. Either way, this is a time-consuming exercise with approximately 4560 small businesses in the municipality and the Business and Industry Team does not have the current resources or budget to support the proposed approach.

Ongoing funding would for the proposed approach detailed in the resolution would need to be considered through the budget process.



Officers currently have no data to support whether the introduction of a years of service recognition award program in Latrobe City would be of benefit or value to businesses. Obtaining this data would require Officers to undertake a full engagement with the businesses community to seek their feedback.

The most cost-effective way to demonstrate Council’s support for local small and mid-sized businesses, other than the Council’s small business program, is to continue to sponsor and support the business awards that are run by other organisations.

**RISK ASSESSMENT**

RISK	RISK RATING	TREATMENT
<p><b>SERVICE DELIVERY</b> A dataset of the business length of operation does not currently exist.  Additional staff resources will be required.</p>	<p><b>High</b> <i>Almost Certain x Moderate</i></p>	<p>Employ a dedicated officer to identify qualifying businesses and to develop a recognition program that is meaningful for the local business community.  Provide budget for the officer to enable to work to be undertaken.</p>
<p><b>FINANCIAL</b>  There are currently no financial resources to support the program</p>	<p><b>High</b> <i>Almost Certain x Moderate</i></p>	<p>Allocated funding for an officer to manage the awards and funding to support the program</p>
<p><b>STRATEGIC</b>  Reputational risks if businesses are included that don’t qualify, or that are missed when they do qualify.</p>	<p><b>High</b> <i>Almost Certain x Moderate</i></p>	<p>Develop a dataset that contains the start dates of local businesses, qualifying businesses will be missed, and non-qualifying businesses will be included.  Preparation of a communications plan advising business of the awards program.</p>

**CONSULTATION**

The Regional City Strategy and Transition Team has extensive experience with business award programs. The Team continues to work with the Chamber of Commerce to support the delivery of the People’s Choice Business Award.

**COMMUNICATION**

There was no need for wider communication in the preparation of this report.

DECLARATIONS OF INTEREST

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

## APPENDIX 1 IMPACT ASSESSMENT

### **Social**

The business community currently has avenues available to it for recognising its value and contributions to community.

### **Cultural**

There is no impact on Cultural aspects of the City.

### **Health**

There is no impact on health outcomes in the City

### **Environmental**

There is no impact on the local environment.

### **Economic**

The Business and Industry Development Team has an extensive program planned to support and develop the local business community.

### **Financial**

Establishing awards would have an unbudgeted financial implication. The establishment and operating of awards would require staff resourcing and operating budget. This is expected to be greater than \$130,000 per annum.

### **Attachments**

Nil

# COUNCIL POLICY REVIEW - BUILDING OVER EASEMENTS POLICY, BUILDING APPLICATION FEE REFUND POLICY, WAIVER OF BUILDING PERMIT APPLICATION FEES POLICY & DEMOLITION WORKS POLICY

## PURPOSE

To present the updated Building Over Easements Policy, Building Application Fee Refund Policy, Waiver of Building Permit Application Fees Policy and Demolition Works Policy for review and endorsement by Council.

## EXECUTIVE SUMMARY

- These four policies were previously adopted by Council in March and June 2018.
- These policies have been reformatted to reflect current policy templates, including changes to divisional names, officer titles, officer names and to reflect current legislation. *See attachment 1 - 4*
- The only major change is the rewriting of one paragraph in section 4 of the Building Over Easement Policy. The reference to 'an agreement under section 173 of the Planning and Environment Act 1987' has been replaced by the term an 'Agreement'. This will allow a number of other agreement options including those imposed by the Building Appeals Board, a Magistrate, VCAT or other such entity. It also allows a level of consistency between Planning and Building teams in the preparation, review and registration of agreements.

## OFFICER'S RECOMMENDATION

### That Council:

- 1. Adopts the below named policies:**
  - a. Building Over Easements Policy;**
  - b. Building Application Fee Refund Policy;**
  - c. Waiver of Building Permit Application Fees Policy; and**
  - d. Demolition Works Policy.**
- 2. Notes that with the adoption of the above-named policies, that any previous versions are revoked, and**
- 3. Makes the above-named policies available on Council's website and available for inspection at all Council Service Centres.**

## BACKGROUND

### *Building over Easement Policy*

This policy is designed to protect Councils' assets within an easement which is owned by Council and to also protect the interest of the subject property owner. It describes how Council's delegated officer will consider applications to build over an easement.

Council received 37 applications under Regulation 130, Building Regulations 2018, to construct a building or structure over an easement in the 2022 calendar year. Of these, 23 were approved.

The major change for this policy is the rewriting of one paragraph in section 4 of this Policy. The reference to 'an agreement under section 173 of the Planning and Environment Act 1987' has been replaced by the term an 'Agreement'.

This will allow a number of other agreement options including those imposed by the Building Appeals Board, a magistrate, VCAT or other such entity. It also allows a level of consistency between Planning and Building teams in the preparation, review and registration of agreements.

### *Building Application Fee Refund Policy*

The Municipal Building Surveyor receives large volumes of applications with associated fees for various statutory and discretionary building related functions. On occasions these applications are withdrawn or refused and the applicant requests the return of fees paid. The municipal building surveyor must determine the amount, if any, to be returned.

Consistency in the application processes is important and this policy provides guidance to the delegated officer in the application of Councils processes.

### *Waiver of Building Application Fees Policy*

With a view to support community-based infrastructure projects, Latrobe City Council may receive applications for Council issued building permits or refund of fees where not-for-profit clubs, organisations, community group or charitable organisations undertake building works on Council controlled land or facilities and have incurred fees charged by a private building surveyor.

This policy provides the delegated officer with the guidelines for assessment of these requests.

Council received one application under this policy in the 2022 calendar year, this application was approved.

As the majority of these projects are now managed internally, there has been a significant reduction in the payment of fees to a private building surveyor by community-based club or not-for-profit organisation.

### *Demolition Works Policy*

Latrobe City receives formal requests under Section 29A *Building Act 1993*, to demolish a building or structure or alter its façade. The building, structure or façade may have historic value or warrant protection under the provisions of Latrobe City Council's Planning Scheme.

Council received 81 applications under this policy in the 2022 calendar year, 80 of which were approved.

**ANALYSIS**

It is best practice to review policies endorsed by Council on a regular basis to ensure that they are relevant, reflect contemporary practice, reference current legislation and meet community expectation.

**RISK ASSESSMENT**

RISK	RISK RATING	TREATMENT
<b>COMPLIANCE</b> Policies are required to fulfil statutory obligations and provide clarity to Officers.	<b>Low</b> <i>Unlikely x Minor</i>	Policies reviewed on a scheduled basis to reflect contemporary practices, relevant legislation and community expectations.
<b>FINANCIAL</b> Outdated policies may leave Council exposed to financial risk	<b>Low</b> <i>Unlikely x Minor</i>	Policies reviewed on a scheduled basis to reflect contemporary practices and relevant legislation.

**CONSULTATION**

Revised policies have been reviewed by internal Council teams for clarity, consistency and relevant to operational procedures.

**COMMUNICATION**

The adopted Building Over Easements Policy, Building Application Fee Refund Policy, Waiver of Building Permit Fees Policy and Demolition Works Policy will be communicated to staff and Councillors. These policies will also be made available to the community on Council’s website and all Service Centres.

**DECLARATIONS OF INTEREST**

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

## APPENDIX 1 IMPACT ASSESSMENT

### **Social**

Nil

### **Cultural**

Nil

### **Health**

Nil

### **Environmental**

Nil





### **Economic**

Nil

### **Financial**

There are not adverse financial implications for Council as a result of the endorsement of the updated policies.

### **Attachments**

1.  Building Over Easements Policy
2.  Building Application Refund Policy
3.  Waiver of Building Permit Application Fees
4.  Demolition Works Policy

# 9.3

## **Council Policy Review - Building Over Easements Policy, Building Application Fee Refund Policy, Waiver of Building Permit Application Fees Policy & Demolition Works Policy**

<b>1</b>	<b>Building Over Easements Policy .....</b>	<b>410</b>
<b>2</b>	<b>Building Application Refund Policy .....</b>	<b>415</b>
<b>3</b>	<b>Waiver of Building Permit Application Fees.....</b>	<b>420</b>
<b>4</b>	<b>Demolition Works Policy.....</b>	<b>427</b>





# Building Over Easements Policy

Version 3

Approval Date: 6 November 2023

Review Date: March 2027



## Building Over Easement Policy

### DOCUMENT CONTROL

Responsible GM	Georgia Hills	
Division	Community Health & Wellbeing	
Last Updated (who & when)	Municipal Building Surveyor – Chris Watson	2023
DOCUMENT HISTORY		
Authority	Date	Description of change
Council	February 2011	Revised Policy 11 POL-4
Council	January 2018	Policy Reviewed and Reformatted
Council	5 March 2018	Adopted by Council
Council	14 May 2021	Policy Reviewed and Reformatted
Council	31 January 2023	Policy Reviewed
Council	6 March 2023	Adopted by Council
References	Refer to Section 8 and 9 of this policy	
Next Review Date	March 2027	
Published on website	Yes	
Document Reference No	1655510	

**WARNING - uncontrolled when printed.**

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Responsible Division	Community Health & Wellbeing	Approved Date	6 March 2023	Review Date	March 2027
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## Building Over Easement Policy

### 1. Background

Latrobe City receives formal requests under Regulation 130, Building Regulations 2018, to construct a building or structure over an easement that is vested in the interests of Council. Council's delegated officer must decide these requests within 14 days of receipt of all information.

Decision making should be transparent, equitable and fair and the building over easements policy will guide Council's delegated officer in the appropriate decision.

Consistency in the application processes is important and the building over easements policy will provide guidance to our delegated officer in the application of our processes.

### 2. Objectives

The policy has been established to protect public drainage infrastructure networks and drainage pathways.

### 3. Scope

This policy is designed to protect Latrobe City assets in easements vested in Council and the interest of the subject property owner. It describes how Council's delegated officer will decide applications to building over an easement. In special circumstances, Latrobe City may conditionally approve an application to build over such easements.

### 4. Principles of Management

Applications to build over an easement that is vested in Council must be in writing pursuant to the requirements of the building regulations. The applicant must submit a consent and report form with the associated design documents, site plans, titles application fees and the like.

Applications to build over an easement will be assessed against the likely impact of the proposed development including:

- The size and depth of the stormwater drain and the width of easement required to maintain/replace the drain,
- Future needs to augment or enlarge the drain,
- Impact of the development on access to other parts of the easement, and
- Agreement from other parties with a legal entitlement to the use of the easement, (eg. Other lot owners and service authorities such as Gippsland Water).

Approval to build over an existing Council asset in an easement or an easement that is not currently used but may be required for future drainage will be refused to

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## Building Over Easement Policy

protect existing public and future infrastructure and allow for the maintenance of drains, future drainage construction, or to ensure the non-obstruction of a flood path.

Approval to build within the easement but not within 300 mm of an existing pipe but not normally over an existing pipe, may be approved subject to the landowner entering into an agreement to indemnify Council. The agreement will be recorded in Council's corporate property system CI Anywhere, will require the owner to dismantle all or part of the building if access is required to that section of the easement reserve and protects Council against damages to the building from drainage assets. Any fee for drafting an agreement will be payable by the applicant and in accordance with Council's annual fees and charges schedule.

Where in the particular circumstance, an easement that is vested in the Council is not in use and in the opinion of the Manager City Assets, it appears likely it will never be used, the Agreement may be negated.

### 5. Accountability and Responsibility

Accountability and responsibility for this policy is outlined below.

#### 5.1. Council

- Responsibility to ensure this Policy is consistent with Latrobe City Council Strategic Direction and other Latrobe City Council Policies
- Responsibility for the decision to approve this Policy by Council Resolution

#### 5.2. Chief Executive Officer

- Overall responsibility for compliance with this policy
- Overall responsibility for enforcing accountability
- Overall responsibility for providing resources
- Overall responsibility for performance monitoring

#### 5.3. General Manager

- Responsibility for compliance with this policy
- Responsibility for enforcing accountability
- Responsibility for providing resources
- Responsibility for performance monitoring

#### 5.4. Manager

- Develop frameworks and procedures in compliance with this policy
- Enforce responsibilities to achieve compliance with frameworks and procedures
- Provide appropriate resources for the execution of the frameworks and procedures

#### 5.5. Employees, Contractors and Volunteers

- Participate where required in the development of frameworks and procedures in compliance with this policy.

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## Building Over Easement Policy

- Comply with frameworks and procedures developed to achieve compliance with this policy.

### 6. Evaluation and Review

This policy will be reviewed on request of Council, in the event of significant changes to legislation applicable to the subject matter of the policy or, in any other case, during each Council term (generally four years).

### 7. Definitions

- **Easements** are reserved land, within a title, that have been set aside for the exclusive use of an authority or authorities and commonly contain drainage, sewage, gas, power, telecommunications and similar infrastructure. Almost all easements are created when the land was originally subdivided and are shown on the property title.
- **Agreement** includes deeds of agreement, agreements pursuant to section 173 of Planning and Environment Act 1987, Section 163 Building Act 1993 and agreements that Council is directed to enter into with the property owner by the Building Appeals Board, Victorian Civil and Administrative Tribunal, a Magistrate or the like.
- **Building** includes structure, temporary building, temporary structure and any part of a building or structure. Building Act 1993 Section 3.

### 8. Related Documents

- Annually adopted fees and charges schedule
- Application for Consent and Report
- Generic Section 173 Agreement

### 9. Reference Resources

- Building Act 1993
- Planning and Environment Act 1987
- Building Regulations 2018
- National Construction Code (Building Code of Australia) produced by Australian Building Codes Board
- Building Practice Note BP-11: Report and Consent issued by the Victorian Building Authority

### 10. Appendices

None specified.

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# Building Application Fee Refund Policy

Version 3

Approval Date: 6 March 2023

Review Date: March 2027



## Application Fee Refund Policy

### DOCUMENT CONTROL

Responsible GM	Georgia Hills	
Division	Community Health and Wellbeing	
Last Updated (who & when)	Municipal Building Surveyor – Chris Watson	2023
DOCUMENT HISTORY		
Authority	Date	Description of change
Council	February 2011	Revised Policy 11 POL-3
Council	January 2018	Policy Reviewed and Reformatted
Council	5 March 2018	Adopted by Council
Council	14 May 2021	Policy Reviewed and Reformatted
Council	31 January 2023	Policy Reviewed
Council	6 March 2023	Adopted by Council
References	Refer to Section 8 and 9 of this policy	
Next Review Date	March 2027	
Published on website	Yes	
Document Reference No	1655506	

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## Application Fee Refund Policy

### 1. Background

On behalf of Latrobe City, the municipal building surveyor receives large volumes of applications with associated fees for various statutory and discretionary building related functions. On occasions these applications are withdrawn or refused and the applicant requests the return of fees paid. The municipal building surveyor must determine the amount, if any, to be returned.

Decision making should be consistent, transparent, equitable and fair and the application fee refund policy will guide the municipal building surveyor in the appropriate decision.

### 2. Objectives

The policy has been established to facilitate a fair and equitable portion of fees to an applicant where applications are withdrawn.

### 3. Scope

The aim of this Policy is to calculate the amount of refund payable with respect to an application, when a request is received in writing to withdraw that application.

### 4. Principles of Management

4.1 An application or building permit to carry out building work within the municipal can be withdrawn by a request in writing to the municipal building surveyor from either the applicant or the subject property owner. The refund will be calculated as follows:

- 4.1.1 If the application fee has been received but not processed and no written correspondence has been circulated - 75% of application fees excluding GST (if applicable) are refundable.
- 4.1.2 If the application fee has been received, the application processed and written correspondence has been circulated but no formal written decision has been issued - 50% of application fees excluding GST (if applicable) are refundable.
- 4.1.3 If an application (other than a building permit) has been decided and written correspondence issued – no refund is payable.
- 4.1.4 If a building permit has been issued and no work has commenced on the proposed construction - 25% of the application fees excluding GST, lodgement fees, property information fees, statutory levies (if applicable) and other disbursements are refundable.
- 4.1.5 If a building permit has been issued and work has commenced on the proposed construction - no refund is payable.

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## Application Fee Refund Policy

4.2 If an application is refused - no refund is payable.

**Note:** The applicant or the subject property owner shall be given the opportunity to withdraw a building permit application prior to the application being refused.

### 5. Accountability and Responsibility

Accountability and responsibility for this policy is outlined below.

#### 5.1. Council

- Responsibility to ensure this Policy is consistent with Latrobe City Council Strategic Direction and other Latrobe City Council Policies
- Responsibility for the decision to approve this Policy by Council Resolution

#### 5.2. Chief Executive Officer

- Overall responsibility for compliance with this policy
- Overall responsibility for enforcing accountability
- Overall responsibility for providing resources
- Overall responsibility for performance monitoring

#### 5.3. General Manager

- Responsibility for compliance with this policy
- Responsibility for enforcing accountability
- Responsibility for providing resources
- Responsibility for performance monitoring

#### 5.4. Manager

- Develop frameworks and procedures in compliance with this policy
- Enforce responsibilities to achieve compliance with frameworks and procedures
- Provide appropriate resources for the execution of the frameworks and procedures

#### 5.5. Employees, Contractors and Volunteers

- Participate where required in the development of frameworks and procedures in compliance with this policy.
- Comply with frameworks and procedures developed to achieve compliance with this policy.

### 6. Evaluation and Review

This policy will be reviewed on request of Council, in the event of significant changes to legislation applicable to the subject matter of the policy or, in any other case, during each Council term (generally four years).

### 7. Definitions

An application includes a building permit application, report and consent application, temporary siting approval, section 173 agreements, property information request,

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## Application Fee Refund Policy

building file information request, swimming pool or spa registration application and similar fees and charges.

### 8. Related Documents

- Annually adopted fees and charges schedule

### 9. Reference Resources

- Building Act 1993
- Building Regulations 2018
- Planning and Environment Act 1987

### 10. Appendices

- None

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# Waiver of Building Permit Application Fees Policy

Version 2

Approval Date: 6 March 2023

Review Date: March 2027



## Waiver of Building Permit Application Fees Policy

### DOCUMENT CONTROL

Responsible GM	Georgia Hills	
Division	Community Health and Wellbeing	
Last Updated (who & when)	Municipal Building Surveyor – Chris Watson	2023
DOCUMENT HISTORY		
Authority	Date	Description of change
Council	1 June 2018	Adopted by Council
Council	31 January 2023	Policy Reviewed and Reformatted
Council	6 March 2023	Adopted by Council
References	Refer to Section 8 and 9 of this policy	
Next Review Date	March 2027	
Published on website	Yes	
Document Reference No	1853833	

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## Waiver of Building Permit Application Fees Policy

### 1. Background

With a view to support community based infrastructure projects, Latrobe City Council may receive applications for Council issued building permits or refund of fees where not-for-profit clubs, organisations, community group or charitable organisations undertake building works on Council controlled land or facilities and have incurred fees charged by a private building surveyor.

### 2. Objectives

The purpose of this policy is to provide clear direction to Council Officers when managing applications from not-for-profit clubs, organisations, community group or charitable organisations who are undertaking building works on Council controlled land or facilities, to issue a building permit or reimburse fees charged by a private building surveyor.

### 3. Scope

The policy applies to fees relating to building permits lodged with Latrobe City Council pursuant to the Building Act 1993 (the Act) for approved projects on Council controlled land or facilities by not-for-profit clubs/organisations.

### 4. Principles of Management

Council will:

- Ensure that the decision making will be transparent, equitable and fair
- Have regard to its obligation under the *Competition and Consumer Act 2010* to ensure that no detriment is imposed to other service providers in the private sector
- Continue to charge statutory fees as required (see clause 8)

The following sets out the circumstances in which Council will exercise its discretion to reimburse building permit fees for approved projects on Council controlled land or facilities by not-for-profit clubs/organisations.

#### Eligibility Criteria

Council will exempt not-for-profit clubs, organisations, and community groups or charitable organisations from paying statutory and non-statutory charges when all of the following requirements are met:

- The approved project is on Council owned or Council controlled land
- The owner/applicant is a not-for-profit club, organisation, community group or charitable organisation and is in effective control of the subject land
- A request to reimburse building permit fees is made in writing to the Municipal Building Surveyor and sets out the community benefit that will be achieved from the development

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## Waiver of Building Permit Application Fees Policy

### Reimbursements of building permit fees

In order for an owner/applicant to be provided with a reimbursement in line with this policy, the owner/applicant is required to apply in writing to the Municipal Building Surveyor outlining their compliance with this policy. The request can be provided either with an application for a permit or within 3 months of the initial building permit issue date. If fees have already been paid, a receipt of payment must accompany the application or request to reimburse those fees. If the owner/applicant seeks to gain written advice in relation to the reimbursement of fees prior to an application being made to Council, the correspondence outlining the request sought must be accompanied by details of the proposed building permit the applicant intends to make.

The decision to reimburse fees will be made by Manager Safe Communities following a recommendation by the Municipal Building Surveyor and will be based on the project scope. The reimbursement of fees permitted by Council must be recorded in line with Council's records management practices.

Reimbursement will be made by EFT if payment has already been made. Should the reimbursement claim be submitted simultaneously to the building permit application or prior to the issue of the building permit, the reimbursement amount may be deducted from the total fees payable for the building permit service.

### Services and reimbursement values

The Municipal Building Surveyor may issue building permits and waive all fees payable to Council. This service will only be offered to not-for-profit clubs, organisations, community group or charitable organisations who are undertaking building works on Council controlled land or facilities with a 'value of works' of up to \$10,000.

Reimburse building permit disbursements payable to Council, disregarding the 'value of works' and where a reasonable benefit to the community is demonstrated. The building permit may be issued by a private or municipal building surveyor but must be to not-for-profit clubs, organisations, community group or charitable organisations who are undertaking building works on Council controlled land or facilities.

For properties owned or managed by Latrobe City Council where the project has been professionally design and documented by registered building practitioners, construction supervised by Council employees and the permit issued by the Municipal Building Surveyor, a discount of 50% of the scheduled building permit fee.

The General Manager – Community Health and Wellbeing.

may determine the appropriate amount to be reimbursed for major construction projects with a 'value of works' exceeding \$1 million. The permit must be issued by the Municipal Building Surveyor to not-for-profit clubs,

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## Waiver of Building Permit Application Fees Policy

organisations, community groups or charitable organisations who are undertaking building works on Council controlled land or facilities and a significant benefit to the community is demonstrated.

### 5. Accountability and Responsibility

Accountability and responsibility for this policy is outlined below.

#### 5.1. Council

- Responsibility to ensure this Policy is consistent with Latrobe City Council Strategic Direction and other Latrobe City Council Policy
- Responsibility for the decision to approve this Policy by Council Resolution

#### 5.2. Chief Executive Officer

- Overall responsibility for compliance with this policy
- Overall responsibility for enforcing accountability
- Overall responsibility for providing resources
- Overall responsibility for performance monitoring

#### 5.3. General Manager

- Responsibility for compliance with this policy
- Responsibility for enforcing accountability
- Responsibility for providing resources
- Responsibility for performance monitoring

#### 5.4. Manager

- Develop frameworks and procedures in compliance with this policy
- Enforce responsibilities to achieve compliance with frameworks and procedures
- Provide appropriate resources for the execution of the frameworks and procedures

#### 5.5. Employees, Contractors and Volunteers

- Participate where required in the development of frameworks and procedures in compliance with this policy.
- Comply with frameworks and procedures developed to achieve compliance with this policy.

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## Waiver of Building Permit Application Fees Policy

### 6. Evaluation and Review

This policy will be reviewed on request of Council, in the event of significant changes to legislation applicable to the subject matter of the policy or, in any other case, during each Council term (generally four years). However, a review will be undertaken within one year of implementation of this policy to determine its cost to Council and its effectiveness in relation to the offset of costs with the reimbursement of building permit fees.

### 7. Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

### 8. Definitions

**Building permit fees** – Fees are calculated on commercial rates to deliver the service of assessing the application, issuing the building permit, carrying out of mandatory inspections, completing any necessary enforcement and issuing the certificate of final inspection and are inclusive of GST. Fees vary depending on the complexity of the project, quality of documentation and proven capacity to construct the works. A schedule of fees must be determined by the Council in accordance with the *Local Government Act 1989 for permits issued by the municipal building surveyor*.

**Building Permit Disbursements** – Statutory fees that are payable in addition to the building permit fee to various authorities including Council. These include but are not limited to:

- Building permit levy, Victorian Building Authority (VBA) calculated at 0.128/value of building work. It should be noted that the actual 'cost of works' for community groups is significantly less than the 'value of works' as portions of free labour and donated materials provide significant savings for the club
- Statutory lodgement fee (Council) currently \$125.80 for all projects
- Property information fee (Council) currently \$48.75
- Consent and report – demolition fee (Council) currently \$87.90
- Consent and report – siting fees (Council) currently \$300.00
- Consent and report – stormwater drainage fee (Council) currently \$87.90

**Not-for-profit organisation, community group or charitable organisation** – an incorporated body, cooperative or association that provides a service to the

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## Waiver of Building Permit Application Fees Policy

community and does not operate to make a profit and furthermore, does not include clubs with gaming machines on their premises.

**Council controlled land** – Land that is owned or managed by Council for the benefit of the community.

**Value of works** – The total commercial value of labour and materials determined in accordance with Section 205I of the Building Act 1993. This includes the full value of any volunteer labour and donated or subsidised materials.

### 9. Related Documents

Nil.

### 10. Reference Resources

*Building Act 1993*

*Building Regulations 2018*

*Local Government Act 1989*

*Competition and Consumer Act 2010*

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# Demolition Works Policy

Version 2

Approval Date: 6 March 2023

Review Date: March 2027



## Demolition Works Policy

### DOCUMENT CONTROL

Responsible GM	Georgia Hills	
Division	Community Health and Wellbeing	
Last Updated (who & when)	Municipal Building Surveyor – Chris Watson	2023
DOCUMENT HISTORY		
Authority	Date	Description of change
Council	February 2011	Revised Policy 11 POL-4
Council	January 2018	Policy reviewed and reformatted
Council	5 March 2018	Adopted by Council
Council	14 May 2021	Policy reviewed and reformatted
Council	31 January 2023	Policy Reviewed
Council	6 March 2023	Adopted by Council
References	Refer to Section 8 and 9 of this policy	
Next Review Date	March 2027	
Published on website	No	
Document Reference No	1655508	

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## Demolition Works Policy

### 1. Background

Latrobe City receives formal requests under Section 29A, Building Act 1993, to demolish a building or structure or alter its façade. That building, structure or façade may have historic value or warrant protection under the provisions of Latrobe City Council's Planning Scheme. Council's delegated officer must decide these requests within 14 days of receipt of all information.

Decision making should be transparent, equitable and fair and the demolition works policy will guide Council's delegated officer in the appropriate decision.

Consistency in the application processes is important and the demolition works policy will provide guidance to our delegated officer in the application of our processes.

### 2. Objectives

The policy has been established to protect buildings and structures that may offer historical value.

### 3. Scope

Latrobe City has developed the Demolition Works Policy as an overarching strategy to ensure that full consideration is given to the heritage value of an identified building within the municipality prior to the issuing of any building or demolition permit. The aim of this policy is to protect the cultural and historical heritage of the municipality as presented either visually or through association in respect to buildings. The policy will apply to all buildings or parts thereof throughout Latrobe City.

### 4. Principles of Management

#### Policy Implementation - Building Permits

All applications for building permits will be scrutinised to determine if a building is to be substantially demolished or its façade will be significantly altered within the confines of section 29A of the Building Act 1993. Where the demolition or alteration of a façade is identified, the building will be cross referenced against any relevant heritage study, planning scheme and/or heritage overlay.

All applications for report and consent to demolish or to alter a building's façade pursuant to section 29A of the Building Act 1993 will be cross referenced against any relevant heritage study (including places that are identified in the study that require further research), planning scheme and/or heritage overlay.

Should the building not be identified within a relevant heritage study, planning scheme or heritage overlay, consent shall be granted to carry out the works.

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## Demolition Works Policy

Should the building be identified in the planning scheme or heritage overlay, consent shall be refused and the applicant must make application for a planning permit to undertake the works.

Should the building be identified in the current heritage study or in the opinion of the Municipal Building Surveyor should be included in a heritage study, a referral shall be made to the Coordinator Statutory Planning to assess the heritage value of the building and the resultant proposed works. The Coordinator Statutory Planning may determine the proposed demolition of the building or alterations to the façade are inconsequential and authorise that consent be granted or that the building in its current status has significant heritage value and determine that the application be suspended.

If an application is suspended, the Manager Regional City Planning and Assets must recommend to the CEO to immediately make application to the Minister for Planning under Section 20 of the Planning and Environment Act 1987 for an interim heritage overlay amendment or a permanent heritage overlay amendment where the building is considered to be of state or regional significance.

### Policy Implementation - Planning Permits

In any areas of the municipality where there are heritage studies being undertaken or where they have been completed, any planning application that has a part of the proposed development, any proposed demolition, are to be checked against the heritage study to establish whether the building is included. This arrangement will apply until the relevant heritage overlay to the Planning Scheme is in place. In addition, all such planning applications must be reported to the Coordinator Statutory Planning for a decision.

## 5. Accountability and Responsibility

Accountability and responsibility for this policy is outlined below.

### 5.1. Council

- Responsibility to ensure this Policy is consistent with Latrobe City Council Strategic Direction and other Latrobe City Council Policies
- Responsibility for the decision to approve this Policy by Council Resolution

### 5.2. Chief Executive Officer

- Overall responsibility for compliance with this policy
- Overall responsibility for enforcing accountability
- Overall responsibility for providing resources
- Overall responsibility for performance monitoring

### 5.3. General Manager

- Responsibility for compliance with this policy
- Responsibility for enforcing accountability
- Responsibility for providing resources

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## Demolition Works Policy

- Responsibility for performance monitoring
- 5.4. Manager
- Develop frameworks and procedures in compliance with this policy
  - Enforce responsibilities to achieve compliance with frameworks and procedures
  - Provide appropriate resources for the execution of the frameworks and procedures
- 5.5. Employees, Contractors and Volunteers
- Participate where required in the development of frameworks and procedures in compliance with this policy.
  - Comply with frameworks and procedures developed to achieve compliance with this policy.

### 6. Evaluation and Review

This policy will be reviewed on request of Council, in the event of significant changes to legislation applicable to the subject matter of the policy or, in any other case, during each Council term (generally four years).

### 7. Definitions

None specified.

### 8. Related Documents

- Application for Demolition Report and Consent

### 9. Reference Resources

- Building Act 1993
- Planning and Environment Act 1987
- Building Practice Note DE-01 issued by the Victorian Building Authority
- Ministers Guideline MG-09 issued by Rob Hulls, Minister for Planning
- Latrobe City Planning Scheme

### 10. Appendices

None specified.

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# AUDIT AND RISK COMMITTEE MATTERS

## PURPOSE

This report seeks to adopt:

- a) A process to fill an upcoming external independent member vacancy on the Audit and Risk Committee;
- b) A process required to appoint an Audit and Risk Committee Chairperson; and
- c) A correction to the Audit and Risk Committee Charter.

## EXECUTIVE SUMMARY

### Membership

- This report proposes seeking a new external independent member (member) of the Audit and Risk Committee (the Committee) through a public advertisement.
- One of the members terms, Ms Beverly Excell, also appointed as Chairperson, expires in August 2023.
- Members may be reappointed for multiple terms at Council's discretion but may not exceed a membership of more than nine consecutive years in total. As Ms Excell has been on the committee since 2014 (Chairperson since May 2016), they cannot be re-appointed.
- In accordance with the Committee Charter (the Charter), members will be selected after having invited applications by public advertisement.

### Chairperson

- The Charter requires that one of the three external independent members be appointed by Council as Chairperson.
- Officers propose through the public advertisement process, candidates can indicate interest in the member role and/or chairperson role.
- Current members may express an interest in the chairperson role if they wish.

### Audit and Risk Committee Charter

- Due to administrative oversight, the Charter recently adopted by Council omitted earlier adopted provisions relating to annual remuneration increases.
- As other Committee matters are returning to Council for decision, it is proposed to formally correct this at this time.

## OFFICER'S RECOMMENDATION

### **That Council:**

- 1. Thank the Audit and Risk Committee Chairperson, Ms Beverly Excell for her dedicated service of nine years noting her maximum term under the Charter has been reached;**
- 2. Endorse the commencement of advertising for an external independent member of the Audit and Risk Committee with the option to nominate as Chairperson for a three year term;**

- 3. Adopt the Audit and Risk Committee Charter March 2023 and publishes it on the Council's website; and**
- 4. Rescinds earlier adopted versions of the Audit and Risk Committee Charter.**



## BACKGROUND

A copy of the draft Charter for adoption is at Attachment 1.

## ANALYSIS

Renewing membership of the audit and risk committee aligns with the Council's commitment to good governance and legislative compliance.

## RISK ASSESSMENT

RISK	RISK RATING	TREATMENT
<b>COMPLIANCE</b> Legislative non compliance in process	<b>Medium</b> <i>Possible x Moderate</i>	The proposed approach aligns with our legislative obligations.
<b>SERVICE DELIVERY</b> The process does not attract suitable candidates	<b>Low</b> <i>Unlikely x Minor</i>	The market for independent members of audit committee is strong and the organisation will ensure the positions are widely advertised.
<b>FINANCIAL</b>	Nil	
<b>STRATEGIC</b> Adverse reaction by members to the process	<b>Low</b> <i>Unlikely x Minor</i>	Communication has occurred with the current member who is fully aware their term is expiring, and the approach will be communicated with the committee before the next committee meeting.

## CONSULTATION

Discussions have occurred with the Audit and Risk Committee.

## COMMUNICATION

The independent member position with option to be selected chairperson would be advertised through relevant sector channels and on the open market.

## DECLARATIONS OF INTEREST

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

## APPENDIX 1 IMPACT ASSESSMENT

### **Social**

Not applicable.

### **Cultural**

Not applicable.

### **Health**

Not applicable.

### **Environmental**

Not applicable.

### **Economic**

Not applicable.

### **Financial**

There are minor costs related to advertising the vacant position and this is covered by the current budget.

The likely impact on budget due to remuneration increases is marginal and is built into future budgets as previously adopted.

### **Attachments**

[↓1.](#)  Audit and Risk Committee Charter March 2023

# 9.4

## Audit and Risk Committee Matters

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# Audit and Risk Committee Charter



Adopted 06 March 2023



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  4. Authority

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  5. Composition
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    - Councillor Members
    - Other Attendees
    - Resignations
    - Role of the Chairperson

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  6. Meeting Procedures
    - General requirements
    - Meeting agendas
    - Quorum
    - Voting
    - Meeting Minutes

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  - Planning
  7. Duties and Responsibilities of the Committee
    - Financial Reporting
    - Internal control
    - Risk management
    - Fraud Prevention Systems and Controls
    - Business Continuity
    - Internal audit
    - External audit
    - Compliance

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  8. Reporting
    - Performance Evaluation

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  9. Other responsibilities and requirements
    - Professional Fees for External Independent Members
    - Management Responsibilities

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  - APPENDIX A: Committee Member Regulatory Obligations



## 1. Establishment of the Committee

- 1.1. The Audit and Risk Committee is formally established under Section 53 of the *Local Government Act 2020* (Act).
- 1.2. The membership of this Committee and this Charter will be adopted by resolution of Latrobe City Council at a Council Meeting.

## 2. Definitions

- 2.1. Throughout this document, the following terms are defined as:

Act	The <i>Local Government Act 2020</i>
Auditor General	The Victorian State Auditor General; Department; Office; or representative
CEO	The Chief Executive Officer for Latrobe City Council
Committee	The Audit and Risk Committee
Committee Members	The appointed members of the Audit and Risk Committee
Council	The Latrobe City Council
Council Officers	All staff of Latrobe City Council, excluding the CEO of Latrobe City Council
Councillors	The nine elected officials of Latrobe City Council
External Auditor	The auditor appointed by the Auditor General
Internal Auditor	The auditor appointed by Latrobe City Council
Management	The CEO, General Managers, and Managers of Latrobe City Council
VAGO	Victorian Auditor-General's Office



### 3. Purpose

- 3.1. The Audit and Risk Committee's purpose is to support Council in discharging its oversight responsibilities related to financial and performance reporting, risk management, fraud prevention systems and control, maintenance of a sound internal control environment, assurance activities including internal and external audit and Council's performance with regard to compliance with its policies and legislative and regulatory requirements. It acts in this capacity by monitoring, reviewing, endorsing and advising on the above matters as set out in this Charter. This Charter has been developed in accordance with Section 54 of the Act.

### 4. Authority

- 4.1. The Committee is directly responsible to Council for discharging its responsibilities as set out in this Charter. The Committee has no delegated authority from Council unless specifically provided by Council from time to time and any such authority shall be temporary and may only relate to specific matters as directed by Council. The Committee has no executive authority and no delegated financial responsibilities, and is therefore independent of Management.
- 4.2. The Committee has the authority to:
- Endorse key documents and reports that must be approved by Council, including annual financial reports, annual performance statements, new or revised policies and other documents that assist in maintaining a strong internal control environment;
  - Approve internal and external audit plans, including internal audit plans with an outlook of greater than one year (subject to management confirming the proposed plan is within the annual budget);
  - Provide advice and make recommendations to Council on matters within its areas of responsibility;
  - Retain counsel of relevant independent experts where it considers that is necessary in order to execute its responsibilities, subject to prior agreement with the CEO;
  - Seek any relevant information it requires from Council, Council Officers (who are expected to co-operate with the Committee's requests) and external parties;
  - Meet with Council Officers, internal and external auditors and other parties as required to discharge its responsibilities.



- 4.3. The Committee will, through the CEO, have access to appropriate management support to enable it to discharge its responsibilities effectively.
- 4.4. The Chairperson has no executive authority on behalf of Council but can be consulted as required, as a sounding board by the CEO or relevant General Manager on matters that arise regarding audit, risk management or governance related issues.

## 5. Composition

- 5.1. The Council will appoint as members of the Committee:
  - 5.1.1. two Councillors and one alternate; and
  - 5.1.2. three (3) external independent members, one of whom will be appointed by Council as Chairperson of the Committee.
- 5.2. The external independent members of the Committee:
  - 5.2.1 will be selected from the broader community after Council having invited applications by public advertisement;
  - 5.2.2 must collectively have:
    - 5.2.2.1 expertise in financial management and risk management; and
    - 5.2.2.2 experience in public sector management;
  - 5.2.3 must consist of at least one member with significant financial expertise with preference given to formal financial management or business qualifications; and
  - 5.2.4 must be reasonably familiar with public sector operations, including reporting requirements, financial management systems and controls, risk management and corporate governance.
- 5.3. Council employees cannot be members of the Committee.

### External Independent Members

- 5.4. Membership shall expire upon completion of a term of appointment or via a resolution of Council.
- 5.5. External independent members shall be appointed by a resolution of Council stipulating a term of one, two or three years to ensure that appointments to the Committee are staggered.





- 5.6. Members may be reappointed for multiple terms at Council's discretion but may not exceed a membership of more than nine consecutive years in total. A Member who has served a membership of nine years in total cannot be reappointed to the Committee at any future time.

#### Councillor Members

- 5.7. Councillor members, including the alternate member, will be appointed to the Committee by Council annually or where otherwise required if a vacancy arises.
- 5.8. Where a Councillor member does not have the requisite expertise upon initial appointment, financial literacy should be attained within a reasonable period of time after his or her appointment and Council resources will be made available for this purpose.

#### Other Attendees

- 5.9. Where no Councillor member (including the alternate member) is able to attend a meeting, the Mayor may appoint an additional alternate Councillor member, preferably a Councillor who has previously been a member of the Committee, who may attend and act on behalf of the nominated Councillor Members in order to achieve a quorum of members present, on a meeting by meeting basis.
- 5.10. Non-delegated Councillors shall be invited to attend meetings but are not members of the Audit and Risk Committee and therefore do not have any entitlement to vote.
- 5.11. The CEO will facilitate the meetings of the Committee and, in consultation with the Chairperson of the Committee, invite Council Officers, auditors or others to attend meetings to provide pertinent information, as necessary.

#### Resignations

- 5.12. Any resignation from a member of the Committee is to be submitted in writing to the Chief Executive Officer, Latrobe City Council, PO Box 264, Morwell VIC 3840.

#### Appointment and Role of the Chairperson

- 5.13. The Chairperson will be appointed by Council resolution and must be an external independent member of the Committee.
- 5.14. If the Chairperson is unable to attend a meeting, the members in attendance at the meeting will appoint a Chairperson for that meeting from among the attending external independent members.
- 5.15. The Chairperson will carry out the following responsibilities:



- 5.15.1. Promote effective communications between the Committee, Council, the CEO, Council officers and the external auditors
- 5.15.2. Ensure that meetings of the Committee:
  - 5.15.2.1. run smoothly
  - 5.15.2.2. that the views of all Committee members are heard
  - 5.15.2.3. that adequate time is allowed for discussion of each issue and
  - 5.15.2.4. that the agenda and meeting papers properly reflect proceedings.
- 5.15.3. Participate in the selection process of the internal auditor as required.

## 6. Meeting Procedures

### General Requirements

- 6.1. The Committee will meet at least four times per year, with authority to convene additional meetings, as circumstances require.
- 6.2. Committee members and the internal and external auditors can request the Chairperson to convene additional meetings if they feel that is justified to address unexpected matters that may have arisen and cannot be held over to the next scheduled meeting.
- 6.3. A schedule of meetings will be developed annually and agreed by members.
- 6.4. All Committee members are expected to attend each meeting in person (or may through teleconference/video conference only if exceptional circumstances apply).
- 6.5. Meetings will follow standard meeting procedures as established in any applicable guidance material available and outlined in this Charter, and in the event of any uncertainty, as determined by the Chairperson.
- 6.6. All recommendations, proposals and advice must be directed through the Chairperson.

### Meeting agendas

- 6.7. Meeting agendas will be prepared and provided at least one week in advance to members, along with appropriate briefing materials.

### Quorum

- 6.8. The quorum for a meeting of committee members will be a majority, with a minimum of 2 external and 1 Councillor members.



- 6.9. If at any Committee meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting shall be deemed adjourned to either a later time on the same day, or rescheduled to another day.

#### Replacement of a Member

- 6.10. A member who misses two consecutive meetings without a formal apology may at the discretion of Council have their term of office revoked.
- 6.11. A member who does not attend three meetings in any twelve month period may at the discretion of Council have their term of office revoked.
- 6.12. Where Council proposes to revoke the term of office of a member of the Committee under clause 6.10 or 6.11, it must give four weeks written notice to the member of its intention to do so and provide that member with the opportunity to be heard if that member so requests.

#### Voting

- 6.13. There will be no official voting process, although all members shall have equal voting rights. Majority and minority opinions will be reflected in Committee minutes.

#### Meeting Minutes

- 6.14. A Council Officer appointed by the CEO shall take the minutes of each Committee meeting.
- 6.15. The minutes shall include a record of those present, apologies for absence, adoption of previous minutes and a list of adopted actions and resolutions of the Committee.
- 6.16. Minutes will be drafted and circulated to all Committee members and attendees within 14 days and ratified at the following meeting.
- 6.17. The minutes shall be stored in the Council corporate filing system.

#### Planning

- 6.18. In accordance with section 54(3) of the Act the Committee will develop an annual work program that includes the timing of reporting for all of the duties and responsibilities outlined in this Charter

## **7. Duties and Responsibilities of the Committee**

The duties and responsibilities of the Committee include:



## **7.1. Financial Reporting**

- 7.1.1. At least annually review significant accounting and external reporting issues, including complex or unusual transactions, transactions and balances in areas where judgment is required, changes to accounting policies, recent accounting, professional and regulatory pronouncements and legislative changes, and understand their effect on the annual financial report and the audit thereof;
- 7.1.2. Receive assurance that Council has at least annually reviewed changes to the Local Government Performance Reporting Framework and understand the impact of those changes on Council's performance indicators;
- 7.1.3. Review the annual financial report and annual performance statement and consider whether they are complete, consistent with information known to Committee members, reflect appropriate accounting treatments and adequately disclose Council's financial performance and position;
- 7.1.4. Review with Management and the external auditors the results of the annual financial audit, including any difficulties encountered by the auditors and how they were resolved;
- 7.1.5. Recommend the adoption of the annual financial report and annual performance statement to Council; and
- 7.1.6. Review the appropriateness of the format and content of periodic management financial reports and performance statements to Council as required.

## **7.2. Internal control**

- 7.2.1. Review the adequacy and effectiveness of key policies, systems and controls for providing a sound internal control environment. This should be done on a rotational basis over a three to four year period;
- 7.2.2. Determine whether systems and controls are reviewed regularly and updated where required;
- 7.2.3. Monitor significant changes to systems and controls to assess whether those changes significantly impact Council's risk profile;
- 7.2.4. Ensure that a programme is in place to test compliance with systems and controls;
- 7.2.5. Assess whether the control environment is consistent with Council's overarching governance principles in accordance with section 9(2) of the Act.



### **7.3. Risk management**

- 7.3.1. Review annually the effectiveness of Council's risk management framework, Council's risk appetite statement and the degree of alignment with Council's risk profile;
- 7.3.2. Review Council's risk profile and the changes occurring in the profile from meeting to meeting;
- 7.3.3. Review Council's treatment plans for significant risks, including the timeliness of mitigating actions and progress against those plans;
- 7.3.4. Review the insurance programme annually prior to renewal; and

### **7.4. Fraud Prevention Systems and Controls**

- 7.4.1. Review Council's Fraud Prevention policies and controls, including the Fraud Control Plan and fraud awareness programmes at least every two years;
- 7.4.2. Receive reports from Management about actual or suspected instances of fraud or corruption including analysis of the underlying control failures and action taken to address each event; and
- 7.4.3. Review reports by Management about the actions taken by Council to report such matters to the appropriate integrity bodies.

### **7.5. Business Continuity**

- 7.5.1. Monitor processes and practices to ensure effective business continuity plans are in place and reviewed annually, including whether business continuity and disaster recovery plans have been periodically updated and tested.

### **7.6. Internal audit**

- 7.6.1. Review the Internal Audit Charter regularly to determine that it provides an appropriate functional and organisational framework to enable Council's internal audit function to operate effectively and without limitations;
- 7.6.2. Review and approve the three year strategic internal audit plan, the annual internal audit plan and any significant changes to them;
- 7.6.3. Review progress on delivery of annual internal audit plan;
- 7.6.4. Review and approve proposed scopes for each review in the annual internal audit plan;
- 7.6.5. Review reports on internal audit reviews, including recommendations for improvement arising from those reviews;
- 7.6.6. Meet with the leader of the internal audit function at least annually in the absence of Management to discuss any matters that the Committee or the internal auditor believes should be discussed privately;



- 7.6.7. Monitor action by Management on internal audit findings and recommendations including timeliness of Management responses;
- 7.6.8. Review the effectiveness of the internal audit function and ensure that it has appropriate authority within Council and has no unjustified limitations on its work;
- 7.6.9. Ensure that the Committee is aware of and appropriately represented with regard to any proposed changes to the appointment of the internal audit service provider, including being appropriately briefed on the need for any proposed change;
- 7.6.10. Review the performance of the internal auditor annually and, if necessary, recommend to Council the termination of the internal audit contractor.

### **7.7. External audit**

- 7.7.1. Annually review and note the external audit scope and plan proposed by the external auditor;
- 7.7.2. Discuss with the external auditor any audit issues encountered in the normal course of audit work, including any restriction on scope of work or access to information;
- 7.7.3. Ensure that significant findings and recommendations made by the external auditor, and Management's responses to them, are appropriate and are acted upon in a timely manner;
- 7.7.4. Consider the findings and recommendations of any relevant performance audits undertaken by VAGO and monitor Council's responses to them; and
- 7.7.5. Meet with the external auditor at least annually in the absence of Management to discuss any matters that the Committee or the external auditor believes should be discussed privately.

### **7.8. Compliance**

- 7.8.1. Review the systems and processes implemented by Council for monitoring compliance with relevant legislation and regulations and the results of Management's follow up of any instances of non-compliance;
- 7.8.2. Review the processes for communicating Council's Employee Code of Conduct to employees and contractors and for monitoring compliance with the Code;
- 7.8.3. Obtain briefings on any significant compliance matters;
- 7.8.4. Receive, review and make a recommendation to Council or the CEO in relation to any written submission provided to the Committee by a Councillor, whether or not that Councillor is a member of the Committee, that relates to any failure or suspected failure:

- 7.8.4.1 to comply with Council policy and procedures;

- 7.8.4.2 in Council's financial reporting;



7.8.4.3 in Council's risk management or fraud prevention; or

7.8.4.4 with Council's internal and external audit functions; and

7.8.5. Receive reports from Management on the findings of any examinations by regulatory or integrity agencies (whether related to investigations at Council or other agencies), such as the Ombudsman, IBAC, Victoria Government Inspectorate, etc. and monitor Council's responses.

## 8. Reporting

- 8.1. The Committee may report to Council on any matter of significance as determined by the Committee.
- 8.2. The Committee will report regularly to Council about Committee activities, issues, and related recommendations by providing the minutes to Council at the first available opportunity after clearance by the Committee Chairperson following each Committee meeting.
- 8.3. The Chairperson will prepare a report to Council through the CEO on the Committee's activities twice per annum. One of these reports will be prepared after the meeting at which the annual financial report and the annual performance statement have been considered and recommended to Council for adoption, such report indicating how the Committee has discharged its responsibilities as set out in this Charter for the previous year.
- 8.4. Monitor, through clauses 7.6.6 and 7.7.6 that open communication between the internal auditor, the external auditors, and the Council occurs.
- 8.5. Consider the findings and recommendations of relevant Performance Audits undertaken by VAGO and to ensure the council implements relevant recommendations.
- 8.6. The Committee Charter and details of its members will be published on Council's website.
- 8.7. Council's Annual Report will contain information on the makeup of the Committee, number of meetings held and attended by Committee members, audit processes, details of any remuneration paid to independent members during the reporting period and a summary of work completed by the Internal and External Auditor during the year.

### Performance Evaluation

- 8.8. The Committee shall undertake a process to evaluate its performance annually and report the outcomes of the evaluation process to Council through the CEO, including recommendations for any opportunities for improvement.
- 8.9. The evaluation will include feedback from both Committee members and senior officers who have regular interactions with the Committee.





## 9. Other responsibilities and requirements

- 9.1. The Committee shall perform other activities related to this Charter as requested by the Council.
- 9.2. The Committee shall review and assess the adequacy of the Charter every two years or earlier if necessary and submit requests to Council through the CEO for revisions and improvements for approval.
- 9.3. Committee members are expected to be aware of their obligations under Section 53 of the Act. These obligations relate to misuse of position as a member of the Committee (Section 123), maintaining the confidentiality of confidential information (Section 125) and conflicts of interest (Sections 126 to 131). Details about these obligations are included in Appendix A to this Charter.

### Professional Fees for External Independent Members

- 9.4. External independent members receive payment as set by the Council.
- 9.5. Remuneration is set at \$1,500 per meeting for the Chairperson and \$1,000 per meeting for the other external members.
- 9.6. The remuneration is subject to annual review by the CEO in line with values not exceeding the determination relating to the public sector made by the Victorian Independent Remuneration Tribunal.

### Management Responsibility

- 9.7. It is the responsibility of the Management to:
  - 9.7.1. keep the Committee informed regarding financial reporting, regulatory compliance, risk management and risk exposures of the Council;
  - 9.7.2. keep the Committee informed of the findings of any examinations by regulatory agencies, and any auditor (internal or external) observations in order that the Committee may monitor the Management's response to these findings;
  - 9.7.3. provide a comprehensive induction for all newly appointed Committee members including all necessary and relevant information regarding the Committee's responsibilities and the Council's operations and background to enable them to understand the Council and their duties and responsibilities.

## 10. Document Control

<b>Author:</b> Louise Van der Velden	<b>Owner:</b> General Manager Regional City Strategy & Transition	<b>ECM Document Number:</b>
<b>Approved Date:</b> 06 March 2023	<b>Approved By:</b> Council	<b>Next Review By:</b> February 2025





## Appendix A Committee Member Regulatory Obligations

### Guidance to Members

LGA Section	LGA Requirement
<b>Misuse of Position</b>	
123(1)	A Committee member must not intentionally misuse their position to: <ol style="list-style-type: none"> <li>a) Gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or</li> <li>b) Cause, or attempt to cause, detriment to the Council or another person</li> </ol>
123(3)	Circumstances involving misuse of a position by a member of the Committee include: <ol style="list-style-type: none"> <li>a) Making improper use of information acquired as a result of being a member of the Committee; or</li> <li>b) Disclosing information that is confidential information; or</li> <li>c) Directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or</li> <li>d) Exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform; or</li> <li>e) Using public funds or resources in a manner that is improper or unauthorised; or</li> <li>f) Participating in a decision on a matter in which the member has a conflict of interest.</li> </ol>
<b>Confidential Information (as defined at section 3)</b>	
125	A member of the Committee must not intentionally or recklessly disclose information that the member knows, or should reasonably know, is confidential information. There are some exemptions to this requirement, the key one being that if the information disclosed by the member has been determined by Council to be publicly available.
<b>Conflicts of Interest</b>	
126	A member of the Committee has a conflict of interest if the member has: <ol style="list-style-type: none"> <li>a) A general conflict of interest as described in Section 127; or</li> <li>b) A material conflict of interest as described in Section 128.</li> </ol>
127	A member of the Committee has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the members private interests could result in that member acting in a manner that is contrary to their public duty as a member of the Committee.
128	A member of the Committee has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.



***Please Note***

*The above guidance is not verbatim from the Act and does not include all details as explained in Part 6, Division 1 of the Act. For a full understanding of the requirements of the Act in relation to the matters summarised above, members are expected to make themselves fully aware of the requirements of the Act.*

# AUTHORISATION OF A COUNCIL OFFICER UNDER THE PLANNING & ENVIRONMENT ACT 1987

## PURPOSE

To seek authorisation of Paul Callaghan, Planning Compliance Officer, Statutory Planning under section 147(4) of the *Planning and Environment Act 1987* and section 313 of the *Local Government Act 2020*.

## EXECUTIVE SUMMARY

- Council utilises Instruments of Appointment and Authorisation to identify specific officer's incumbent in roles and, in turn, appoint the officer to be authorised officers for the administration and enforcement of legislation under applicable Acts.
- By authorising Paul Callaghan, the officer will be able to perform their duties with respect to the planning powers and functions of the Council

## OFFICER'S RECOMMENDATION

**That Council, in the exercise of the powers conferred by section 147(4) of the Planning and Environment Act 1987, resolves that:**

- 1. Paul Callaghan be appointed and authorised as set out in the instrument;**
- 2. The instrument comes into force immediately after the common seal of Council is affixed to the instrument and remains in force until Council determines to vary or revoke it; and**
- 3. The instrument be sealed.**

## BACKGROUND

Only a handful of Acts and Regulations require specific roles within an organisation to be identified to undertake a specific function. There are often clauses within Acts or Regulations that state an “authorised officer” can undertake a specific function and therefore the authorised officer needs to be identified by role and officer name.

Section 147(4) of the *Planning and Environment Act 1987* provides for the following:

*Any reference in this Act to an Authorised officer of a responsible authority or of the Department is a reference to an officer or employee of the authority or employee of the Department whom the authority or the Secretary to the Department (as the case requires) authorises in writing generally or in a particular case to carry out the duty or function or to exercise the power in connection with which the expression is used.*

Section 313 of the *Local Government Act 2020* provides for the following:

- (1) *The Secretary, a Council or a person authorised by the Council either generally or in a particular case may institute proceedings in the corporate name of the Council for—*
  - (a) *the recovery of any municipal rates, service charges, special purpose charges, fees or other money due to the Council under any Act, regulation or local law; or*
  - (b) *the enforcement of any provision of any Act, regulation or local law for which the Council is responsible; or*
  - (c) *the recovery of any penalty or surcharge in relation to any offence under any Act, regulation or local law the enforcement of which is the responsibility of the Council; or*
  - (d) *any other purpose specified by the Council.*
- (2) *A Chief Executive Officer or person authorised by the Council either generally or in a particular case may represent the Council in all respects as though the Chief Executive Officer or person authorised by the Council was the party concerned in any proceedings in which the Council is a party or has an interest.*
- (3) *Proceedings for a summary offence under this Act may be commenced within the period of 3 years after the commission of the alleged offence.*

## ANALYSIS

Section 147(4) of the *Planning and Environment Act 1987* and section 313 of the *Local Government Act 2020* specifically require that the appointment of an authorised officer must come from Council.

## RISK ASSESSMENT

RISK	RISK RATING	TREATMENT
COMPLIANCE Officers not authorised by Council; officers will be unable to adequately perform their duties	<b>Medium</b> <i>Possible x Minor</i>	Authorisation of Planning Officer

RISK	RISK RATING	TREATMENT
SERVICE DELIVERY Delays in processing decisions on planning applications.	<b>Low</b> <i>Possible x Minor</i>	Authorisation of Planning Officer
FINANCIAL Cost of lost economic benefit within team's budget	<b>Medium</b> <i>Possible x Minor</i>	Authorisation of Planning Officer
STRATEGIC Risk that developers will become frustrated with delays and appeal to the Victorian Civil and Administrative Tribunal.	<b>Medium</b> <i>Likely x Moderate</i>	Authorisation of Planning Officer

#### CONSULTATION

Not Applicable

#### COMMUNICATION

Not Applicable

#### DECLARATIONS OF INTEREST

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

## APPENDIX 1 IMPACT ASSESSMENT

### **Social**

Nil

### **Cultural**

Nil

### **Health**

Nil

### **Environmental**

Nil

### **Economic**

The authorisation of officers allows Council to enable infrastructure supporting private and public investment.

### **Financial**

The authorisation of the officer ensures that the officer is able to perform duties that they are required to undertake as part of their role.

### **Attachments**

[↓1.](#)  S11A Instrument of Delegation & Authorisation - Paul Callaghan

# 9.5

## Authorisation of a Council Officer under the Planning & Environment Act 1987

- 1 S11A Instrument of Delegation & Authorisation - Paul Callaghan ..... 457

Maddocks Delegations and Authorisations

*S11A Instrument of Appointment and Authorisation (Planning and  
Environment Act 1987)*



**Latrobe City Council**

**Instrument of Appointment and Authorisation**  
***(Planning and Environment Act 1987 only)***

**March 2023**

**Paul Callaghan**

**Planning Compliance Officer**





Maddocks

**Instrument of Appointment and Authorisation  
(Planning and Environment Act 1987)**

In this instrument "**officer**" means -

**Paul Callaghan**

**By this instrument of appointment and authorisation Latrobe City Council -**

1. under s 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under s 313 of the *Local Government Act 2020* authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

**It is declared that** this instrument -

- comes into force immediately upon its execution;
- remains in force until varied or revoked.
- is automatically revoked upon the officer referred to in this instrument ceasing employment with the Council

This instrument is authorised by a resolution of the Council on the third of 23 May 2022.

The Common Seal of LATROBE CITY COUNCIL  
was affixed in accordance with Local Law No. 1  
this            day of March 2023 in the presence of:

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*Steven Piasente – Chief Executive Officer*

# **URGENT BUSINESS**

**10. URGENT BUSINESS**

Nil

# **REPORTS FOR NOTING**

## 11. REPORTS FOR NOTING

Item Number 11.1 06 March 2023

Community Health and Wellbeing

# INCREASING VOLUNTEERISM IN LATROBE CITY

## PURPOSE

To provide the information requested from the Council meeting held on Monday, 5 September 2022 in respect of the contribution volunteers make to the Latrobe City community, the issues facing volunteer recruitment and retention and the options for Council to promote and support volunteering in Latrobe City.

## EXECUTIVE SUMMARY

- There are currently 29 Latrobe City Council committees that utilise a total of 215 volunteers. Across the 29 committees, there is an estimated combined total of 15,839 hours spent on volunteering each year, equating to a value of \$691,298 per annum. The Volunteering Victoria Volunteer Replacement Cost Calculator was used to calculate the annual costing for volunteers and was based on the figure of \$44.06 per hour.
- Volunteering rates have decreased over the last three years as a result of the pandemic, ongoing health concerns, the changing demographic of volunteers and lifestyle changes post COVID-19 lockdowns. This continues a longer-term trend and is evident across Victoria.
- Volunteering Australia are in the process of developing a National Strategy for Volunteering to be launched in February 2023. This strategy will provide further guidance for a reimagined future of volunteering.
- A Federally funded program by the Department of Social Services has awarded Gippsport the consortia lead to increase volunteerism in Gippsland and focus on breaking down barriers faced by identified priority groups: People with a disability, Indigenous People and Newly Arrived Migrants across the Gippsland region.
- Officers have considered the results of the research and have commenced planning the delivery of a volunteering expo and Communications Plan to highlight volunteering opportunities.
- The proposed promotion of volunteering through a volunteering expo and a Communications Plan aligns with the Council Plan objective to increase volunteering rates across the municipality.
- The Communications Plan will involve story-telling and showcasing existing volunteering opportunities, while highlighting the positive impacts of volunteering for both the community and volunteers.
- Professional development for volunteer groups/organisations will be offered through the Community Groups Training program.

## OFFICER'S RECOMMENDATION

**That Council receives and notes the attached report on Volunteerism in Latrobe City**

## BACKGROUND

A resolution was adopted at the September Council meeting as follows:

*That Council receive a report on the contributions of community members to volunteer efforts which includes information on the value of the work of volunteers and community groups in our municipality and options around a communication strategy to bring large scale awareness of what volunteers contribute to the community and promote volunteerism.*

The attached *Volunteerism in Latrobe City Background Information* report further explores volunteering in Latrobe City, including contextual information regarding volunteering from State and Federal perspective along with opportunities for Council to promote volunteering in Latrobe.

## ANALYSIS

The pandemic has brought widespread changes to the volunteer sector. These include: increased health and safety concerns and requirements, a shift in lifestyle priorities, including retirement of long-standing volunteers, and people choosing not to take on as many commitments as previously. As a result of these changes, there has been a decrease in volunteers across all sectors. Volunteers are now generally looking for more informal roles that allow them to volunteer for a few hours at a time, rather than a weekly or ongoing commitment, requiring creativity and flexibility in the way that people are able to volunteer.

Barriers cited to volunteering in the past three years include COVID-19 concerns, vaccination requirements and the burden of facilitating mandatory requirements such as Working with Children Checks, Police Checks, professional development, etc. In 2019, 78.9% of the volunteering population was made up by over 65-year olds. This demographic is in the high-risk category for COVID-19, which has impacted their ability and willingness to return to volunteering roles.

Volunteering Australia are currently in the process of developing a National Strategy for Volunteering to be launched in February 2023. The Strategy aims to increase public awareness and lift the profile of volunteering nationwide, including the use of storytelling to highlight the positive impacts and diversity of roles that can be undertaken by volunteers.

The requested report focuses on volunteering broadly, with the extensive range of volunteers across the municipality the data for this cohort isn't available. Officers collected the data on its existing committees. There are currently 29 Latrobe City Council Committees that utilise a total of 215 volunteers. Across the 29 committees, there is an estimated combined total of 15,839 hours spent on volunteering each year, equating to a value of \$691,298 per annum.

The number of hours spent on volunteering each year varies according to the needs of the individual committee and the duties that each position entails. Duties performed by volunteers include attending meetings, reading reports, assessing awards, planning and implementing events and assisting with maintaining land and council property, amongst a variety of other duties.

## RISK ASSESSMENT

RISK	RISK RATING	TREATMENT
<b>COMPLIANCE</b> Volunteers are not adequately trained to safely perform the duties of their assigned roles.	<b>High</b> <i>Possible x Moderate</i>	Officers to provide volunteer groups/organisations with learning and development to support their induction and training processes for volunteers.
<b>SERVICE DELIVERY</b> Failure to deliver services due to lack of volunteers.	<b>High</b> <i>Possible x Moderate</i>	Officers will support community groups/organisations with recruitment and retention strategies and link volunteers to community groups with vacancies.
<b>FINANCIAL</b> Volunteer roles will need to be replaced by paid employees due to lack of volunteer availability.	<b>High</b> <i>Possible x Moderate</i>	Communications plan and volunteer expo will aim to assist with building the profile of volunteering and recruiting volunteers across a variety of sectors.

## CONSULTATION

Council Officers who manage volunteers provided statistical and anecdotal data for the development of this report. Volunteering Victoria and Volunteering Australia's reports provided further background information regarding the current situation in respect of volunteering across Victoria and Australia. GippSport's Volunteer Coordinator was also consulted; however, this role is relatively new and further consultation will be required in the future.

## COMMUNICATION

A Communications Plan will be developed to ensure strong advertising and communications are provided to the public regarding opportunities to increase volunteerism within the Municipality. This will include:

- Advertising in the Latrobe Valley Express.
- Advertising on local radio.
- Advertising on social media channels.
- Promotional flyers.
- A dedicated webpage on the Latrobe City Council website.

DECLARATIONS OF INTEREST

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.



## APPENDIX 1 IMPACT ASSESSMENT

### **Social**

Volunteering has a variety of positive social impacts including: relationship building, capacity strengthening, enhanced skill development and building stronger ties to community.

### **Cultural**

This report considers cultural factors such as creating diversity in the opportunities and information available for people to volunteer. Promotional materials can be made available in a range of languages and formats to suit the needs of people from diverse backgrounds.

### **Health**

Volunteering provides opportunities for community members to increase physical and mental health outcomes through active participation, socialisation and community involvement.

### **Environmental**

Volunteers have a positive impact on the Latrobe City environment through contributing to the maintenance of Council Bushland Reserves and Rail Trails.

### **Economic**



Volunteering provides economic benefits to the community and organisation by reducing the costs of paid labour.

### **Financial**

Across the 29 committees, there is an estimated combined total of 15,839 hours spent on volunteering each year, equating to a value of \$691,298 per annum.

The volunteering expo will be funded through the Active and Liveable Communities Business as Usual (BAU) Budget, including staffing, planning and delivery costs.

### **Attachments**

- ↓1.  Volunteerism in Latrobe City Background Information
- ↓2.  Latrobe City Council Committees - Volunteer Hours

# 11.1

## Increasing Volunteerism in Latrobe City

- 1 Volunteerism in Latrobe City Background Information ..... 468
- 2 Latrobe City Council Committees - Volunteer Hours ..... 473

# Volunteerism in Latrobe City

## Introduction

In 2015, Volunteering Australia defined volunteering as 'time willingly given for the common good and without financial gain'. Volunteering provides a variety of economic, environmental, social, cultural, health and wellbeing benefits for the community, organisations, clubs and volunteers. The purpose of this report is to inform Council of the contribution of volunteers to the Latrobe City community and identify the issues facing volunteer recruitment and retention. The report provides a range of options for Council to promote and support volunteering in Latrobe City.

## Latrobe City Council volunteers

There are currently 29 Latrobe City Council committees that utilise a total of 215 volunteers. The number of hours spent on volunteering each year varies according to the needs of the individual committee and the duties that each position entails. Across the 29 committees, there is an estimated combined total of 15,839 hours spent on volunteering each year, equating to a value of \$691,298 per annum. Duties performed by volunteers include attending meetings, reading reports, assessing awards, planning and implementing events and assisting with maintaining land and Council property, amongst a variety of other duties.

## Economic Impact of volunteering

The Volunteering Victoria Volunteer Replacement Cost Calculator was used to calculate the annual costing for volunteers across Latrobe City Council committees and was based on the figure of \$44.06 per hour. The replacement cost of a volunteer is calculated using the average hourly part-time wage of a person of their age in their State of residence, plus 15% employer on-costs (inclusive of superannuation, payroll tax and administration expenses).

During 2019, the value of volunteering to Victoria was \$58.1 billion dollars per annum. Included in this figure was \$19.4 billion that volunteers contribute to labour and \$8.2 billion to Victoria's Gross State Product. These amounts represent a net investment return of \$3.70 for every dollar invested in volunteering. To demonstrate the enormity of the volunteering sector, when compared to other sectors it is almost half the size of the private sector and more than one and a half times greater than the Victorian government sector.

Volunteering also comes at a cost for volunteers, costing individuals approximately \$1,700 in out-of-pocket expenses a year in addition to the cost of them donating their time. Organisations who utilise volunteers are generally only reimbursing volunteers one dollar out of every eight dollars spent on volunteering. This equates to an additional \$6.70 per hour that volunteers are donating after reimbursements in addition to their time.

## State of volunteering

Volunteering Australia are currently in the process of developing a National Strategy for Volunteering, to be launched in February 2023. The strategy aims to increase public awareness and lift the profile of volunteering nationwide, including the use of storytelling to highlight the positive impacts and diversity of roles that can be undertaken by volunteers.

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## Volunteerism in Latrobe City | Page 2

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In 2019, there were 2.3 million (or 42.1%) of people over the age of 15 who volunteered in Victoria, including formally with organisations and informally without an affiliation to a specific organisation. On average, Victorian volunteers contributed 223.9 hours per year or 4.3 hours per week.

According to the Volunteering Victoria, State of Volunteering in Victoria 2020 report, in 2020 the top five groups of volunteers represented in Volunteer-Involving Organisations (VIOs) were:

- Over 65s (78.9 per cent).
- People with disability (31.5 per cent).
- Migrants or culturally diverse people (30.2 per cent).
- Under 18s (13.6 per cent).
- People from Aboriginal backgrounds (9.1 per cent).

Over-65s made up 78.9 per cent of our volunteers in 2019. As noted by the Commissioner for Senior Victorians, the proportion of Victorians aged over 60 is predicted to increase from one-fifth of the population in 2016 to one-quarter in 2056. This presents an enormous opportunity for volunteering and has potential to increase social and economic capital.

In 2021, the Federal Government announced a targeted Volunteer Management Activity (VMA) program to be delivered by volunteering peak bodies in each state/territory. Through consultation with the volunteering community, Volunteering Victoria created a new operating model which involved providing funding through a partnership arrangement with organisations within each of the state's eight emergency management regions. GippsSport were awarded the role of consortium lead for the Gippsland region through a four-year grant, with an aim to provide support for Volunteer Involving Organisations (VIOs) in all areas of volunteering, not exclusive to the sporting community. The primary focus of the funding is to remove barriers to volunteering faced by three identified priority cohorts: First Nations peoples, people with disabilities and newly arrived migrants. The program aims to increase opportunities for social and economic participation in the community through volunteering, increasing diversity of volunteers, improving access to information and supports for volunteers.

The Hands Up Latrobe project was funded by the Latrobe Health Assembly in 2019 to focus on the development and coordination of volunteering activities in the Latrobe Valley municipality. The project aimed to create opportunities and resources to assist with the capacity building for community groups, while assisting them to adapt their engagement with volunteers to meet their changing needs and expectations. Through this project a toolkit was created to assist community groups and organisations with resources such as setting up volunteer policies, recruitment, retainment and management volunteers. Although this project has since ceased, the resources are still readily available for groups to access online.

**Impact of COVID-19 on Volunteering**

The COVID-19 pandemic has led to a number of challenges for the volunteering community, but has also enhanced compassion, connection and support to the most vulnerable community members in new and innovative ways. During this time, new opportunities for volunteering have been created while also highlighting that the future of volunteering has changed including the way in which volunteers are seeking recognition, value and support.

According to a State of Volunteering report, there was a 50.2% decline in volunteering participation and 64.1% reduction in volunteering hours at the start of the pandemic. Global research has shown similar declines to the Victorian experience. The ever-changing environment now requires volunteers to be flexible and transition to new ways of service delivery and engagement, while also impacting the most vulnerable cohorts who have been afraid to return due to the risk to their health. Re-engaging volunteers will therefore require reassurance that volunteers will be provided with a working environment that addresses and mitigates the risk of COVID-19 where possible. Volunteering rates decreased for organisations during extended lockdowns which were also met by hesitance to re-engage and fear of individual health concerns around contracting COVID-19.

The pandemic has brought changes to the volunteering sector, requiring creativity and flexibility in the way that people are able to volunteer. This includes providing opportunities for people to volunteer in a virtual capacity rather than face-to-face and low or non-contact roles. Volunteers also require support ensuring that their personal health and wellbeing needs are being met.

**Challenges Facing Volunteering**

The challenges associated with recruiting and retaining volunteers was a common theme seen across the regional consultations held by Volunteering Victoria in 2019 and 2020 for the State of Volunteering in Victoria 2020 report. During the consultations, stakeholders cited ongoing tension between volunteering and paid work. Although not new, there is growing concern that the boundaries between the work done by volunteers and what should be completed by paid employees is becoming more and more blurred.

Consultations by Volunteering Victoria identified the following challenges experienced by volunteers:

- Lack of flexibility and accessibility to volunteering.
- Barriers to locating opportunities to volunteer in roles that are suitable to their interests and experience.
- Administrative burdens for volunteering organisations to effectively manage volunteers.
- Uncertainty about funding.
- Limited options that cater for a variety of interests and motivations.
- Minimal recognition for informal volunteers.
- Varying perspectives of understanding of the role of volunteers.

Latrobe City Council Officers and GippSport have heard similar challenges in recruiting and retaining volunteers within the municipality which can be attributed to:

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## Volunteerism in Latrobe City | Page 4

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- Council's process for paperwork such as Working with Children Checks, Police Checks, professional development requirements and other paperwork.
- Volunteers are predominantly over 65 – these volunteers are still concerned by COVID-19.
- Lack of job specific training.
- Inability to commit to the amount of work required, would prefer to turn up on the day of an event and help without responsibility.
- Shortage of young people willing to volunteer.
- Age demographic of volunteers is largely near or above retirement age with minimal younger people becoming interested.
- Many of the community groups made up of volunteers aged 70+ who want to finish up but can't as the younger generation aren't taking on volunteer work.
- People are happy to volunteer their time for a one-off (i.e. two hours on a stall at a community event), but not commit to a committee or group that meets regularly through the year.

### Victorian Volunteering Strategy

To ensure long term sustainability and success of volunteering, there needs to be strategic investment in both internal and external stakeholders. In the past, strategic investment has not been a priority in volunteering which inhibits growth, recruitment and retainment of volunteers. The value of volunteering also needs to be considered to ensure that planning is reflective of the workload that is undertaken by volunteers while assisting to identify and eliminate duplication, maintain best practice and enhance collaboration opportunities.

The Victorian Volunteer Strategy 2022-2027 outlines five goals to increase and support volunteering, with plans to revise the goals in 2024 in the lead up to the 2026 Commonwealth Games. These goals include:

- **Goal one:** Making volunteering inclusive and accessible.
- **Goal two:** Making volunteering flexible and easier.
- **Goal three:** Supporting volunteers to be resilient, supported and empowered.
- **Goal four:** Creating volunteering connections and pathways.
- **Goal five:** Ensuring volunteering is recognised and celebrated.

Through the Volunteering Australia National Strategy consultations, seven main themes arose that describe the hopes for volunteering into the future. These include an environment that is:

1. Inclusive, intersectional and responsive.
2. Empowering.
3. Flexible.
4. Accessible.
5. Connecting.
6. Recognised and valued.
7. Collaborative.

In response to the COVID-19 pandemic, formal volunteering now requires a more flexible approach to respond to the changes people have experienced as a result of the pandemic.

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## Volunteerism in Latrobe City | Page 5

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Volunteers need to feel empowered, respected and valued equal to paid employees, while providing support and structures to ensure that their time within the organisation is positive. When these experiences are no longer positive, there needs to be systems in place to support volunteers and make changes where possible to ensure retention of the volunteer.

The Victorian Volunteer Strategy will aim to enhance and support volunteering activities, volunteer relationships and support systems. This is further supported by the We Volunteer portal, recently launched by Volunteering Victoria which provides an opportunity for people looking to volunteer to be matched to organisations who require the services that they are able to provide. Furthermore, restoring and expanding volunteering numbers will be critical as the state heads into the 2026 Commonwealth Games. During the 2006 Games there were in excess of 15,000 volunteers who contributed to the successful running of the event.

### **Options for Council to support volunteering**

There is currently no single point of management for volunteers within Council. Council volunteers are instead managed by individual departments as part of the administration of Council committees. Council also continues to support community groups and volunteer capacity building through a dedicated Community Groups Innovation role. Council supports groups through the running of the Community Groups Workshops program, Community Groups Newsletter and the Grants program. Furthermore, we recognise things have changed since COVID-19 and therefore will be reviewing the Community Groups Workshops program to ensure we continue to provide a strong program and meet the needs of community groups moving forward. Through this process, we will look at benchmarking against other Councils, collaborate with local organisations like GippSport and engage local groups. Council would benefit from utilising resources from Volunteering Australia, Volunteering Victoria and Gippsport as direction for future works in the management of volunteers. The Volunteering Australia National Strategy will be able to guide planning as we work towards a reimagined future of volunteering.

Opportunities for Council to promote volunteering in Latrobe include:

- Undertake a media campaign promoting volunteering and the supports available to volunteers and organisations.
- Highlight and celebrate the work of volunteers during Volunteering Week in May 2023.
- Plan and implement a volunteering expo to highlight the variety of volunteering roles available within the municipality while matching volunteers to volunteering organisations.
- Streamline Council processes for the recruitment of volunteers.
- Continuing to utilise Community Groups Training Workshops to build the capacity of volunteers and organisations involving volunteers.

### Latrobe City Council Committee Volunteer Information 2022

Committee	Councillors	No. committee members	Total volunteer hours p/a	Cost (\$44.06 p/h)	Comments	
Morwell Centenary Rose Garden Community Asset Committee	Cr Lund Middlemiss (Alternate)	Cr	10	6,867	\$302,560.02	1,716.75 hours per quarter
Mathison Park Community Asset Committee	Cr Ferguson		9	1,760	\$77,545.60	440 hours per quarter
Edward Hunter Heritage Bush Reserve Committee of Management	Cr Gibson Law	Cr	7	1700	\$74,902.00	The estimated total annual volunteer hours are typically 1600 to 1700 Workhours per year minimum
Traralgon Railway Reservoir Conservation Reserve Community Asset Committee	Cr Clancey Cr Howe Harriman	Cr	3	1,280	\$56,396.80	320 hours per quarter
Crinigan Bushland Reserve Committee of Management	Cr Middlemiss		4	700	\$30,842	
Latrobe City Youth Council	All Councillors		7	560	\$24,673.60	2 x 2 hours meetings per month = 280 hours + additional events = 280 hours
South Ward Community Disaster Recovery Committee	Cr Ferguson		7	459	\$20,223.54	2 hours per monthly meeting (no January) + 3-5 hours per month
Valley Collective			11	385	\$16,963.10	Monthly meetings 1.5 hours x 10 months + 20 hours each
George Bates Reserve Community Asset Committee	Cr Lund Middlemiss	Cr	4	360	\$15,861.60	90 hours per quarter
Traralgon Community Recovery Committee			8	320	\$14,099.20	2 hours per monthly meeting (no meeting in January) + 15 hours per month
Braiakaulung Advisory Committee	Cr O'Callaghan Cr Gibson		15	180	\$7,930.80	2 hours every two months
Positive Ageing Community Engagement Group			10	180	\$7,930.80	4 meetings per year x 1.5 hours + 10 hours for admin etc.
Callignee and Traralgon South Sporting Facilities Community Asset Committee	Cr Howe		3	145	\$6,388.70	In season = 120 hours, off season = 25 hours
Latrobe Regional Airport Board (Latrobe Regional Airport Community Asset Committee)	Cr Middlemiss Cr Howe (Alternate)		6	108	\$4,758.48	1.5 hour meetings x 12



Committee	Councillors	No. committee members	Total volunteer hours p/a	Cost (\$44.06 p/h)	Comments
Baillie Reserve Tyers Community Asset Committee	Cr Howe Cr Harriman (Alternate)	5	96	\$4,229.76	24 hours per quarter
Ollereton Avenue Bushland Reserve Committee of Management	Cr Gibson Law	3	80	\$3,524.80	Meetings/minutes/reports = 60 hours, on-site activities = 20 hours
Latrobe City Community Safety Advisory Committee	Cr Howe Law	10	80	\$3,524.80	Usually only 3 or 4 in attendance.
Latrobe Tourism and Major Events Advisory Committee	Cr Gibson Harriman Howe	6	72	\$3,172.32	6 meetings per year x 2 hours
Access and Inclusion Community Engagement Group		9	54	\$2,379.24	4 meetings per year x 1.5 hours
Cultural Diversity Advisory Committee	Cr Clancey Howe	11	198	\$2,178	2 hours x 4 (meeting) + 10 hours for admin
Moe Rail Project (Stage 2) Project Reference Group	Cr Gibson Law	4	48	\$2,114.88	Meet monthly (most times) for 1 hour. This PRG will cease to exist when the project is complete
Australia Day Advisory Committee	Cr Clancey Cr Howe	7	38.5	\$1,696.31	3 meetings per year x 1.5 hours. Annual debrief/setup, awards assessment, pre-event catch up. The pre-reading for the awards, assessment + 1 hour.
Latrobe Regional Gallery Advisory Committee	Cr Clancey Lund	6	36	\$1,586.16	4 x 90 minute meetings
Traralgon Recreation Reserve and Showgrounds Advisory Committee	Cr Howe Harriman (Alternate)	18	36	\$1,586.16	Council maintains this venue. Bi-annually 2 hours
Lake Narracan Advisory Committee	Cr Gibson Law	7	35	\$1,542.10	5 members from user groups and 2 members from the community. 5 Meetings per year, 1 hour each.
Moe Southside Community Precinct Advisory Committee	Cr Gibson Law	9	18	\$793.08	Council maintains this venue. Bi-annually 2 hours
Victory Park Precinct Advisory Committee	Cr Clancey Harriman	8	16	\$704.96	Council maintains this venue. Bi-annually 2 hours
Hyland Highway Municipal Landfill Consultative Committee	Cr Harriman Howe	5	15	\$660.90	Bi-annual meetings for 1-1.5 hours
Animal Welfare Advisory Committee	Cr Gibson O'Callaghan Cr Lund (Alternate)	3	12	\$528.72	Meets four times per year for one hour each time

Committee	Councillors	No. committee members	Total volunteer hours p/a	Cost (\$44.06 p/h)	Comments
		Total volunteers	Total hours	Total value	
		215	15,839	\$691,298.43	

# REVIEW OF DOG ATTACK PROCESSES

## PURPOSE

To respond to the motion adopted at the Council Meeting held on Monday, 5 September 2022 in respect of council responses to dog attacks.

## EXECUTIVE SUMMARY

- Council protocols in responding to allegations of dog attack are governed by the provisions of the *Domestic Animal Act 1994 (DAA)* and powers delegated by the Chief Executive Officer to Authorised Officers from the *Local Government Act 2020 (LGA)*. These are underpinned by the principle of natural justice.
- Section 81 of the *DAA* states that Authorised Officers may seize a dog if the owner of the dog has been found guilty of committing an offence under Section 28, 28(a) and 29 of the *DAA* or the Authorised Officer reasonably suspects an offence has been committed.
- Following a comprehensive review of current practices, including benchmarking with eight Councils, a procedure manual has been formalised and adopted by staff as a tool to guide best practice when managing reports of dog attacks. The powers referenced above have been imbedded in the revised procedure manual.
- Reports of dog attacks have reduced from 190 in 2020 to 99 in 2022.
- The registration status of a dog has minimal bearing on the decision to seize a dog involved in an attack, however, is considered along with all aspects of each incident in determining an outcome.
- The 2022/2023 adopted fees and charges schedule, including infringements, provides for approx. \$1000 in costs to the dog owner for the return of a seized dog.
- Local Laws staff completed Trauma Informed Interview training on 29 November 2022 and will complete refresher modules as part of their annual training program.

## OFFICER'S RECOMMENDATION

**That Council notes the actions taken by Officers to address the points raised in the motion adopted on Monday, 5 September 2022 regarding responses to dog attacks.**

## BACKGROUND

Council adopted a motion at its meeting held on Monday, 5 September 2022 requesting a report be provided to Council addressing:

- the options available for the seizure of dogs following a reported dog attack;
- how reported dog attacks are managed;
- how fees and charges could be modified to a cost recovery model; and
- options for response protocols to be modified noting the traumatic effect an attack can have on a member of the community.

## ANALYSIS

To address the multi-faceted nature of the Notice of Motion and the complexities inherent in the responses, subheadings have been created for ease of understanding.

### **The Legal Context**

Authorised Officers can only act within the provisions of the *DAA* and delegated powers from the Chief Executive Officer under the *LGA 2020*. Further, the Local Law is subordinate to legislation, accordingly there is no capacity for a Local Law to be created that provides increased powers in respect of any aspect of the process that is governed by legislation.

The Local Laws leadership team and Manager Safe Communities completed a review of the legislative frameworks, current practices and benchmarked this against practices in eight municipalities. This work has resulted in the development of a ***Best Practice Guide for the Management and Investigation of Dog Attacks*** for staff.

### **Registration of dogs**

The registration status of a dog is noted however it is not a point of high priority in the investigation of the incident itself. Unregistered animals reported to be involved in an attack and at large, are more likely to be impounded as its owners' property may be unknown. In addition, an infringement can be issued to the owner of \$370 in respect of the unregistered status along with other infringements that may apply.

### **Location of incident**

The location of the incident is also relevant in investigating allegations of dog attack. If the victim, whether a person or animal, is trespassing on private property, Officers would not seize the dog as trespassing is a defence for the attack under Section 29 (9) of the *DAA*.

### **Penalties and cost recovery**

The 2022/2023 adopted Council Fees and Charges, including infringements, allows for approximately \$1000 in costs to be charged to the attacking animal's owner for the return of a seized dog (in the event it can be returned). If the dog is euthanised, infringements of up to \$740 can be issued to the owner if the attacking dog was at large (up to \$370) and unregistered (\$370).

A review of the fees and charges schedule to consider full cost recovery has been undertaken. This is complex given a portion of animal registration fees is used to cover the costs to Councils associated with the provision of animal management staff and operation of the pound facility.

Options to apply an hourly charge for the time taken to investigate an attack have been considered as well as a set fee. Both provide challenges given the varied impact of investigations on work time, which can range from a few calls to investigations spanning months.

Officers recommend no change to the adopted Council Fees and Charges.

### **Trauma Response Training**

Officers from the Local Laws team completed Trauma Informed Interview training on 29 November 2022 provided by Joshua Hall, Master of Clinical Psychology. Refresher modules will be completed as part of their annual training program.

The training contained information on responding to traumatic events, the impacts of traumatic events on members of the community and officers, supporting victims of violence to cope with the process of the provision of evidence, the effects of trauma on memory and reliving trauma as evidence is gathered.

### **Community Education Plan**

Its recognised that a critical part of the prevention of dog attacks is an effective communication program. A Community Education Plan will be developed and rolled out over the next 12 months to inform our community on their roles and responsibilities in relation to responsible pet ownership and Council's role in response to reports of attacks.

This will include information on the following:

- Councils' role in the management of reported attacks
- Responsible pet ownership
- Preventing dog attacks and keeping your dog securely confined to your property
- How to manage your dog if it displays aggressive behaviours
- What to do if you or your dog is involved in an attack
- How to report an attack
- What to expect in relation investigations and follow up
- Penalties for owners of dogs that attack
- Definitions of menacing and dangerous dogs

## RISK ASSESSMENT

RISK	RISK RATING	TREATMENT
<p><b>COMPLIANCE</b> Officers not adhering to their legislative obligations or making decisions outside of their authorisation.</p>	<p><b>Low</b> <i>Unlikely x Minor</i></p>	<p>Authorised Officers must adhere to a strict set of guiding principles and legislation when determining the course of action to be taken when investigating dog attack matters.</p> <p>These principles and best practice standards have now been formalised in a procedure for ease of reference and oversight by the Team Leader Animal Management.</p>
<p><b>SERVICE DELIVERY</b> Not meeting community expectations regarding appropriate response to reported dog attacks</p>	<p><b>Medium</b> <i>Possible x Moderate</i></p>	<p>Formalising the procedure and ensuring staff are trained to reference the procedure, as well as documenting all steps and assessments taken within Council's document management system will provide evidence to inform conversations with affected members of the community. This will assist the community to understand what can and cannot be achieved within an Authorised Officers delegation.</p>
<p><b>STRATEGIC</b> There is potential for damage to the Council's reputation if the management of dog attacks is played out in the public arena without endorsed procedures are in place.</p>	<p><b>Medium</b> <i>Possible x Moderate</i></p>	<p>As above.</p>

## CONSULTATION

Benchmarking was undertaken with Animal Management teams to inform the revised procedure from:

- City of Casey
- City of Ballarat
- Maribyrnong City Council
- Merri Bek Council
- Whitehorse Council
- Whittlesea Council
- Bass Coast Council
- South Gippsland Shire Council

The revised procedure is consistent with the practice of Authorised Officers from the benchmarked municipalities. The procedures are implemented based on the outcome of a dynamic risk assessment of each situation based on officer safety, community safety, likelihood of reoffending and seriousness of the attack.

## COMMUNICATION

No external communication was undertaken, outside of the benchmarking process.

## DECLARATIONS OF INTEREST

Officers preparing this report have declared they do not have a conflict of interest in this matter under the provisions of the *Local Government Act 2020*.

## APPENDIX 1 IMPACT ASSESSMENT

### **Social**

Nil

### **Cultural**

Nil

### **Health**

The health benefits to owners of domestic animals are well established. However, there can be significant emotional, financial and health impacts in instances of dog attacks for victims, witnesses and owners.

The revised procedure and officer training will support victims to be better supported and informed about the processes involved in an investigation of a dog attack.

### **Environmental**

Nil

### **Economic**

Nil

### **Financial**

Nil

### **Attachments**

Nil



**12. QUESTIONS ON NOTICE**

Nil reports

# **NOTICES OF MOTION**

**13. NOTICES OF MOTION**

Nil

# ITEMS FOR TABLING

**14. ITEMS FOR TABLING**

Nil reports

## **15. ACKNOWLEDGEMENTS**

*Councillors may raise any formal acknowledgements that need to be made at this time, including congratulatory or condolences.*

**MEETING CLOSED TO  
THE PUBLIC TO  
CONSIDER  
CONFIDENTIAL  
INFORMATION**

**16. MEETING CLOSED TO THE PUBLIC TO CONSIDER CONFIDENTIAL INFORMATION**

Section 66 of the *Local Government Act 2020* enables Council to close the meeting to the public to consider *confidential information* as defined in that Act.

**Proposed Resolution:**

**That Council pursuant to section 66(1) and 66(2)(a) of the *Local Government Act 2020* (the Act) close the Council Meeting to the public to consider the following items containing confidential information as defined in section 3(1) of the Act:**

- 16.1 Planning for Commonwealth Games Athletes Village**  
This item is confidential as it contains Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released (section 3(1)(a)). This ground applies because The consultation process is currently underway and this information will be prejudicial to council's position.