



**Macedon
Ranges**
Shire Council

Macedon Ranges Planning Scheme Amendment C154macr and Planning Permit Application PLN/2022/198

Planning Panels Submission – Part A

29 July 2024

Contents

A. INTRODUCTION	3
B. PANEL DIRECTIONS INDEX	3
C. BACKGROUND	4
5. The proponent.	4
6. The Planning Authority	4
7. Land affected by the combined Amendment and Permit	4
8. Surrounding Context	5
9. Key features of the Amendment	6
10. Key features of the Permit	7
11. Chronology of Events	8
D. STRATEGIC CONTEXT AND ASSESSMENT	9
12. Strategic basis	9
14. Relevant strategic documents	9
15. Macedon Ranges Planning Scheme	12
16. Ministerial directions and planning practice notes.	21
17. Recent approved amendments that may impact on the Amendment.	21
E. AUTHORISATION	21
18. Conditions of authorisation	21
F. EXHIBITION PROCESS	24
19. Consultation and engagement	24
G. SUBMISSIONS	25
21. Submission themes	25
23. Submission summary	26
H. Conclusion	28
I. List of Attachments	28

Figures

Figure 1. Amendment and Permit site	4
Figure 2. Surrounding context - zoning	5
Figure 3. Surrounding context - overlays	6
Figure 4. Excerpt of NRZ13 - Malmsbury Township East	7
Figure 5. Excerpt of Plan of Subdivision	7
Figure 6. Notice catchment - Lots	25

A. INTRODUCTION

1. This submission to Planning Panels Victoria (Panel) is made on behalf of Macedon Ranges Shire Council (Council), for Combined Planning Scheme Amendment C154 and Planning Permit Application PLN/2022/198. From this point forward, this submission will refer to both matters as (the Amendment) unless otherwise specified.
2. This Part A submission addresses the following:
 - 2.1. Response to Panel Directions index
 - 2.2. Background to the Amendment including chronology of events
 - 2.3. Strategic context and assessment
 - 2.4. Conditions of authorisation
 - 2.5. Exhibition process
 - 2.6. Submissions.

B. PANEL DIRECTIONS INDEX

3. The index below outlines the location of Council response to the Direction circulated by Panel on 16 July 2024.
 - 3.1. **Direction 6**
 - (a) - Section 8 - Key features of the Amendment
 - (b)
 - (i) Sections:
 - 13.2 – Victoria’s Housing Statement 2024-2034
 - 13.4 – The Macedon Ranges Settlement Strategy, 2011
 - 14.2 – Clause 11.01-1S (Settlement)
 - 14.5 – Clause 11.01-1L (Settlement - Malmsbury)
 - 14.39 – Clause 16.01-1S (Housing supply)
 - (ii) Sections:
 - 13.11 – Kyneton Heritage Study 1991
 - 14.37 – Clause 15.03-1S – (Heritage conservation)
 - 14.38 – Clause 15.03-2S – (Aboriginal cultural heritage)
 - (c) Section 17 – Conditions of authorisation
 - (d) Section 16 – Recently approved amendments
 - (e) Section 21– Key issues outlined in submissions...
 - (f) Section H

C. BACKGROUND

4. The proponent.

- 4.1. The Amendment is a combined planning scheme amendment and permit application and has been made at the request of the landowners, Deborah Barton and Steven Waldron, represented by planning consultancy Town Planning People.

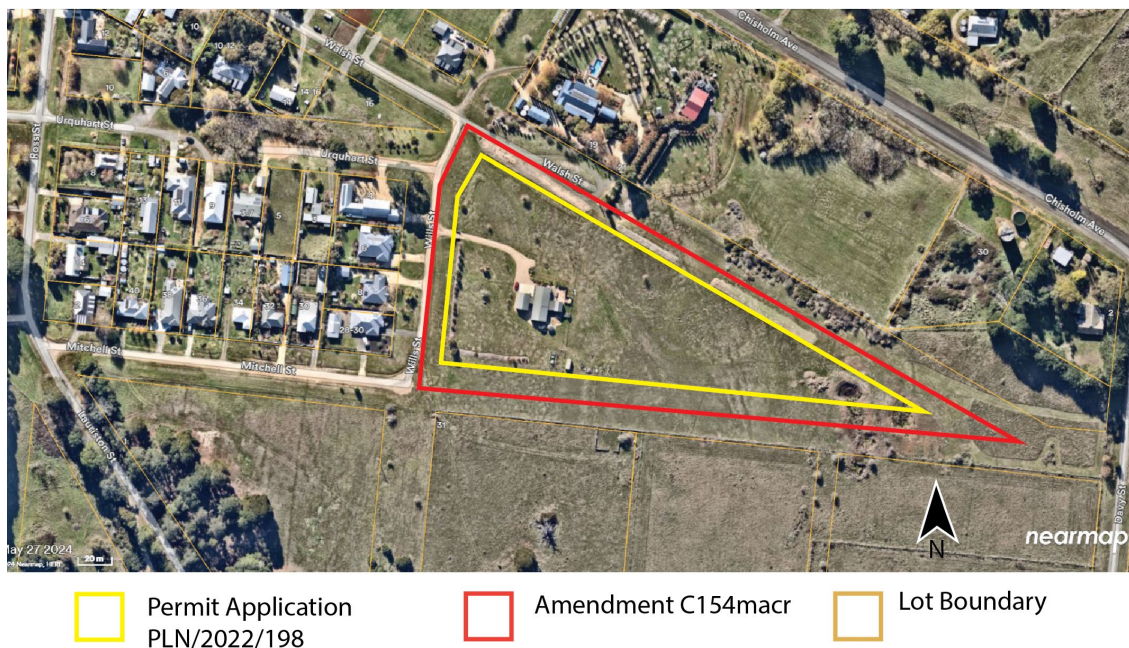
5. The Planning Authority

- 5.1. Macedon Ranges Shire Council is the planning authority for the Amendment.

6. Land affected by the combined Amendment and Permit

- 6.1. The Amendment applies to land located at 1 Wills Street, Malmsbury, and parts of the road reserves of Wills Street, Walsh Street and Mitchell Street in Malmsbury.
- 6.2. The Permit applies to land located at 1 Wills Street Malmsbury and described as Crown Allotment 1 Section 24A Township of Malmsbury, Parish of Lauriston.

Figure 1 Amendment and Permit site



7. Surrounding Context

- 7.1. The triangular site is approximately 18,500 square metres and located approximately 800 metres from the commercial centre of Malmsbury.
- 7.2. The site is bounded by and has frontages to Wills Street (west), Walsh Street (north) and Mitchell Street (south) road reserves and is located within the identified Malmsbury township boundary.
- 7.3. The site is zoned Farming Zone and is covered by Heritage Overlay HO148 and Environmental Significance Overlay – Schedule 4.
- 7.4. Land surrounding the site includes Farming Zone (FZ) to the north, Public Use Zone – Service & Utility (PUZ1) to the north-east, Rural Living Zone – Schedule 2 (RLZ2) to the south and General Residential Zone – Schedule 1 (GRZ1) to the north-west and west. See Figure 2.
- 7.5. The Erosion Management Overlay (EMO) applies to land surrounding the subject site, but not to the site itself.

As Illustrated in *Figures 2 and 3*

Figure 2 Surrounding Context - Zoning

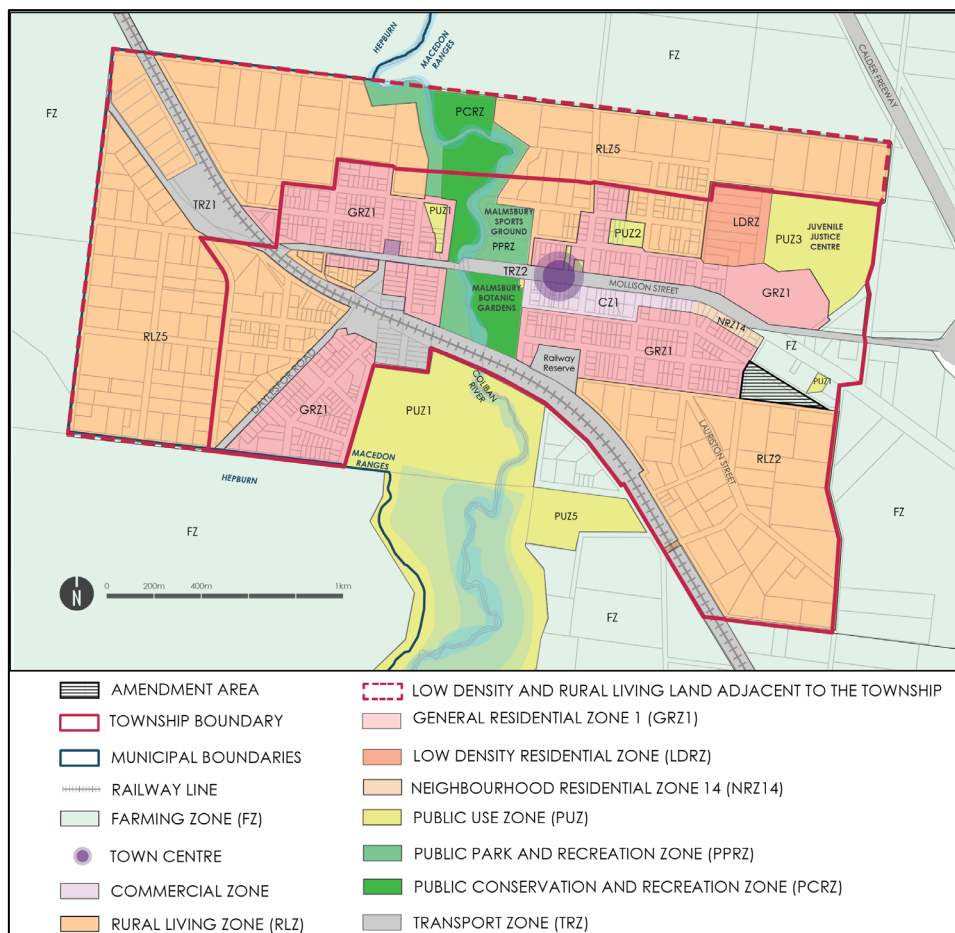
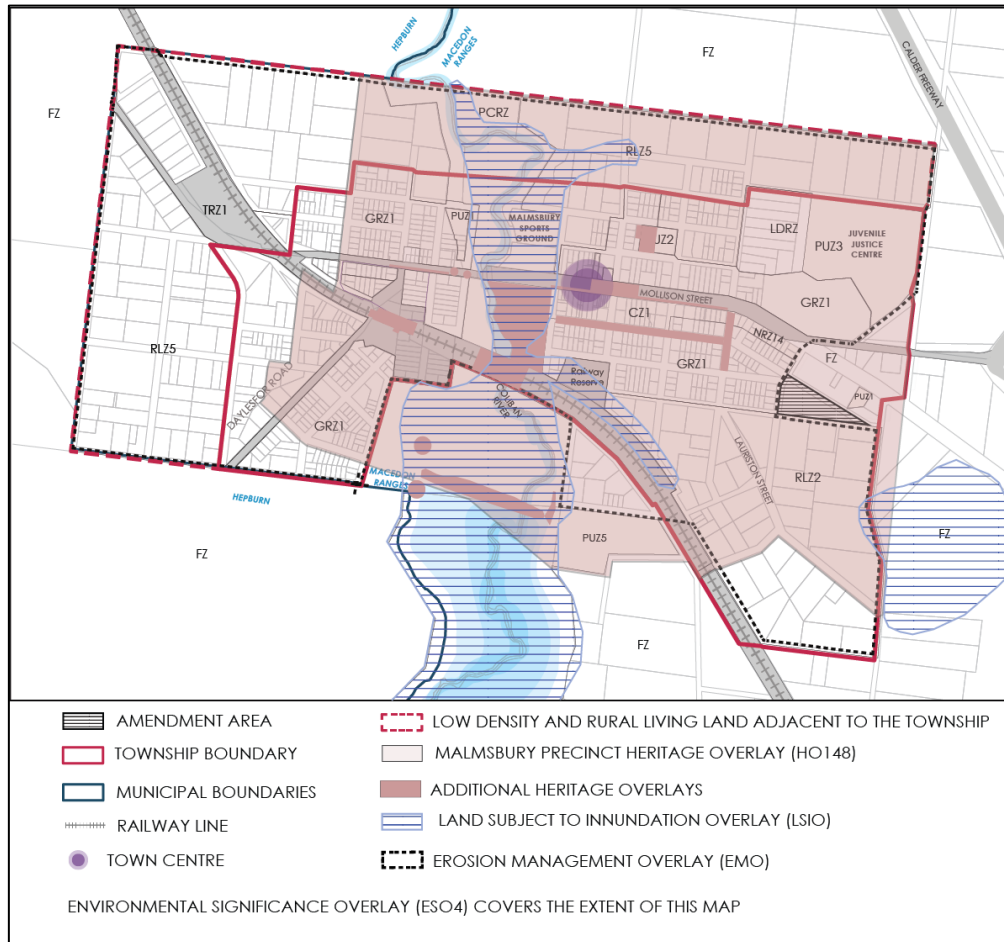


Figure 3 Surrounding Context - Overlays



8. Key features of the Amendment

- 8.1. The Amendment proposes to:
- 8.2. Rezone the site as identified above from FZ to the Neighbourhood Residential Zone – Schedule 13 (NRZ13) as shown on Planning Scheme Map No. 5
- 8.3. Insert a new Schedule 13 to Clause 32.09 (NRZ13 – Malmsbury Township East) into the Macedon Ranges Planning Scheme that introduces new neighbourhood character objectives, a minimum subdivision area of 2,000 square metres, and variations to the requirements of Clause 54 and Clause 55 and relevant standards as outlined in Figure 4.
- 8.4. Delete Heritage Overlay HO148 from land at 1 Wills Street, Malmsbury as shown on Planning Scheme Map No. 5HO.

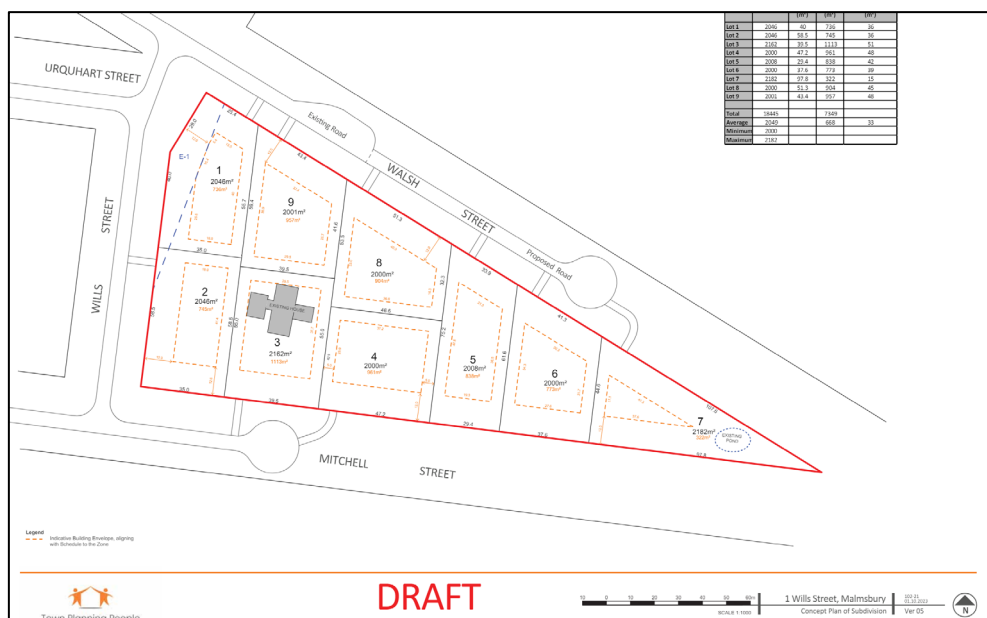
Figure 4 Excerpt of NRZ13 - Malmesbury Township East

3.0 Proposed C154macr	Requirements of Clause 54 and Clause 55	
	Standard	Requirement
Minimum street setback	A3 and B6	Walls of buildings should be set back from streets 12 metres, including lots abutting multiple streets
Site coverage	A5 and B8	The site area covered by buildings should not exceed 20 per cent
Permeability	A6 and B9	The site area covered by pervious surfaces should be at least 50 per cent
Landscaping	B13	In addition to the requirements of B13, development should provide for at least two canopy trees within the front setback Where the site is a corner or abuts multiple streets, at least one canopy tree should be provided within the secondary street setback
Side and rear setbacks	A10 and B17	A new building not on or within 200mm of a boundary should be set back from side or rear boundaries at least 5 metres 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 For any lot abutting multiple streets, the minimum street setback provision applies
Walls on boundaries	A11 and B18	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 any side or rear boundary of a lot should not abut the boundary for a length of no more than 0 metres
Private open space	A17	None specified
	B28	None specified
Front fence height	A20 and B32	None specified

9. Key features of the Permit

- 9.1. The Permit seeks approval for: The subdivision of land at 1 Wills Street, Malmesbury into nine lots ranging in size from 2,000 to 2,182 square metres in accordance with the proposed NRZ13 and proposed plan of subdivision as shown in Figure 5.

Figure 5 Excerpt from Plan of Subdivision



- 9.2. All exhibited documentation is provided at Attachment 1

10. Chronology of Events

Formulation

- 10.1. On 22 November 2019 Council received an application under Section 96A of the *Planning and Environment Act 1987* for 1 Wills Street Malmsbury.
- 10.2. On 12 October 2022 the Planning Delegated Committee resolved to seek authorisation from the Minister for Planning to prepare Amendment C154macr.
- 10.3. On 21 December 2022 the Department of Environment, Land, Water and Planning (now Department of Transport and Planning) requested further information to be included in the Amendment's explanatory report.
- 10.4. On 16 June 2023 the Amendment was authorised subject to five conditions.
- 10.5. On 24 August 2023 Amendment C150macr was gazetted which replaced the Local Planning Policy Framework of the Macedon Ranges Planning Scheme with a new Municipal Planning Strategy and revised local policies to align to the Planning Policy Framework.
- 10.6. On 2 October 2023 Council received a revised building envelope plan with revised setbacks.
- 10.7. On 10 October 2023 Council received advice from the Country Fire Authority (CFA) which requested a revision of the supporting bushfire assessment and for the Amendment's explanatory report to reflect the revision (see letter).
- 10.8. On 8 December 2023 the CFA provided a letter of support for the Amendment and Permit subject to the inclusion of four additional permit conditions.

Exhibition.

- 10.9. Council submitted the formal request to exhibit the Amendment on 7 February 2024 and on 19 February 2024 received approval for exhibition – noting all conditions of authorisation had been met.
- 10.10. Amendment and Permit were exhibited for a period of five weeks from Monday 26 February 2024 to Monday 1 April 2024.

Post exhibition.

- 10.11. On 8 May 2024 a Council Planning Delegated Committee heard from submitter 4, and the proponent of the Amendment represented by Town Planning People.
- 10.12. On 14 May 2024 Council officers met with submitter 4 onsite to discuss concerns contained in their submission.
- 10.13. On 24 May 2024 Council accepted a late submission (submitter 5) from the proponent of the Amendment.
- 10.14. On 12 June 2024 a Council Planning Delegated Committee resolved to refer submissions to an independent Planning Panel and notify all submitters of Council's decision.
- 10.15. On 12 June Council was made aware of an additional late submission (submission 6) and accepted the submission.
- 10.16. On 13 June 2024 Council notified all submitters to the Amendment of Council's decision to appoint a Planning Panel.

- 10.17. On 19 June 2024 Council formally requested that the Minister for Planning appoint a Planning Panel in accordance with Part 8 of the *Planning and Environment Act 1987*.
- 10.18. On 27 July 2024 Council was made aware that advice submitted in support of the Amendment containing conditions by Goulburn Murray Water on 23 August 2023, were not contained in the exhibited conditions document. See attachment.

Planning Panel

- 10.19. On 15 July 2024 Planning Panels Victoria conducted an online Directions Hearing.
- 10.20. On 22 July 2024 Council circulated material to Panel and in accordance with Panel Direction 5.

D. STRATEGIC CONTEXT AND ASSESSMENT

11. Strategic basis

- 11.1. This section provides an overview of the Amendment's strategic basis, supplementing the detail set out in the exhibited explanatory report.

12. The Planning and Environment Act 1987 (P&E Act)

- 12.1. The proposed amendment will implement the following objectives of planning in Victoria under section 4(1) of the P&E Act:
- (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.
 - (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
 - (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e).
 - (g) to balance the present and future interests of all Victorians.

13. Relevant strategic documents

13.1. Plan Melbourne 2017- 2050

Plan Melbourne is a current metropolitan planning strategy that defines the future shape of the city and state over a 35-year time horizon. Both Plan Melbourne 2017-2050: Metropolitan Planning Strategy (Department of Environment, Land, Water and Planning, 2017), and Plan Melbourne 2017-2050: Addendum 2019 (Department of Environment, Land, Water and Planning,

2019) are background document at Clause 11.01-1S of the Macedon Ranges Planning Scheme.

13.2. Victoria's Housing Statement 2024-2034

Victoria's Housing Statement 2024-2034 is a Victorian State government policy document that aims to encourage and guide the construction of 800,000 homes in Victoria between 2024 and 2034 to address issues of housing supply and affordability. Subsequently, Amendment VC253 was introduced into the Victoria Planning Provisions (VPP) and all planning schemes in May 2024. Amendment VC253 introduces a new land use term and siting, design and amenity requirements for small second dwellings and to implement Victorias Housing Statement by making it easier to build a small second dwelling.

13.3. Loddon Mallee South Regional Growth Plan

The Loddon Mallee South Regional Growth Plan is the strategic land use plan for the region to guide growth and change for the next 30 years. The plan covers the local government areas of the Central Goldfields Shire, the City of Greater Bendigo, Loddon Shire, Macedon Ranges Shire and Mount Alexander Shire. It is one of eight regional growth plans prepared for the state of Victoria.

The plan is largely silent on Malmsbury but it is identified as a township within close proximity to the Bendigo hinterland and being located on key rail and freeway networks.

13.4. The Macedon Ranges Settlement Strategy, 2011

The Macedon Ranges Settlement Strategy is an integrated long-term policy document used to plan and manage the growth and development of the Shire until 2036. It outlines that Malmsbury was expected to remain within the designation of a small town. A small town was defined as having a population between 500 – 2000 people. The strategy recommended that Malmsbury's population should grow to around 900 people by 2036.

13.5. The strategy acknowledged there was sufficient land within the existing township to achieve a larger population of around 1200 people but constraints in services, infrastructure and historical low demand resulted in the strategy making a recommendation of 900 people by 2036.

13.6. Response – The Amendment responds to the vision and objectives contained in the policies at points 14.1, 14.2, 14.3 and 14.4 by supporting additional regional residential development within the Malmsbury township boundary and includes the appropriate reticulated sewer, water and stormwater infrastructure. It also respects Malmsbury's role within the settlement hierarchy as a small town.

13.7. Macedon Ranges Small Towns Study (July 2006)

The report provides future planning policies and structure plans for the ten nominated small towns in Macedon Ranges Shire and was adopted by Council on 26 July 2006. Recommendations contained in the Study informed the vision

and objectives of the Macedon Ranges Settlement Strategy 2011. It is listed as a background document under Clause 72.08 schedule 1 of the Macedon Ranges Planning Scheme.

- 13.8. **Response** – The Amendment is consistent with the overall vision for Malsbury by providing residential development that does not adversely impact the environmental or cultural heritage assets of the town and respects the broader rural landscape and character of the area.

Council notes that the Small Towns Study recommends that rezoning of land for residential purposes is not required to meet the future housing needs of Malmsbury. Council's response to this point is provided in Council's Part B submission.

- 13.9. **Malmsbury Urban Design Framework (KLM Gerner et al, March 2003)**
An Urban Design Framework was prepared for Malmsbury in 2003 in anticipation of the proposed freeway bypass. The UDF proposed a vision for the town to guide future planning recommendations.

- 13.10. **Response** – Although the Amendment sits outside the identified precincts, it appropriately responds to the vision for the area adjacent to the site by providing a continuation of the exotic street tree avenue plantings.

- 13.11. **Kyneton Heritage Study 1991**
The Shire of Kyneton Conservation (Heritage) Study was undertaken in 1990 for the former Shire of Kyneton identifying individual elements, sites and conservation areas of heritage value. The heritage study provided recommendations which formed the basis for a number of Heritage Overlays contained in the Macedon Ranges Planning Scheme – specifically Heritage Overlay HO148.

- 13.12. **Response** – The Amendment does not impact on the heritage features of Malmsbury. Council's response to the Heritage Overlay HO148 is contained in Council's Part B submission.

- 13.13. **Macedon Ranges Statement of Planning Policy (SoPP)**
Under section 46AZC(2) of the Planning and Environment Act 1987 a responsible public entity which is a planning authority must not prepare an amendment to a declared area planning scheme that is inconsistent with a Statement of Planning Policy for that declared area. The Macedon Ranges Statement of Planning Policy (SPP) was approved on 10 December 2019 and gazetted on 12 December 2019.

- 13.14. **Response** – The Amendment aligns with Objective 8 of the SPP which seeks:

“To plan and manage growth of settlements in the declared area consistent with protection of the area’s significant landscapes, protection of catchments,

biodiversity, ecological and environmental values, and consistent with the unique character, role and function of each settlement”.

The Amendment facilitates development within the township boundary that respects the townships’ character, surrounding rural landscapes and defined settlement hierarchy.

13.15. Macedon Ranges Council Plan 2021 - 2031 (Year Three 2023/24 and Year Four 2024/25)

The Strategic Objective 1 – Connecting Communities outlines the strategic priority to “Integrate land-use planning and revitalise and protect the identity and character of the shire”.

- 13.16. Response –** The character of the surrounding area features larger lots, generous setbacks and prominent street tree plantings. The provisions included in the proposed NRZ13 as well as the draft permit conditions encourage development that is consistent with the current and future preferred character.

14. Macedon Ranges Planning Scheme

- 14.1.** The Amendment is consistent with, and implements, a range of objectives and strategies of the Planning Policy Framework as set out below.
- 14.2.** Clause 11.01-1S (Settlement) seeks to facilitate sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements. Underlying strategies include ensuring regions and settlements are developed in accordance with relevant regional growth plans, reinforce settlement boundaries provide for growth.
- 14.3.** Clause 11.01-1S also seeks the delivery 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.
 - 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.
- 14.4. Clause 11.01-1R (Settlement - Loddon Mallee South) does not directly reference Malmsbury Township itself. It does identify that Bendigo acts as the local regional city that provides services and employment to a hinterland area. It identifies that Kyneton has capacity for growth as an employment and services hub that reinforces the network of communities in the region. Malmsbury is identified within the Loddon Mallee South Regional Growth Plan as a town and rural centre just south of the Bendigo hinterland area but also within 100km of central Melbourne.
- 14.5. Clause 11.01-1L (Settlement - Malmsbury) outlines the policy applies to land within the town boundary and the Low Density and Rural Living areas adjacent to the township boundary. Its strategies seek to restrict development to within the town boundary while facilitating residential development on the periphery of the town within the township boundary, featuring larger lots, significant landscaping and generous setbacks.
- 14.6. Clause 11.02-1S (Supply of urban land) outlines the need to ensure a sufficient supply of land to be available for residential, commercial, retail, industrial, recreational, institutional and other community uses. Applicable strategies include the need to ensuring the ongoing provision of land and supporting infrastructure to support sustainable development and ensuring sufficient land is available to meet forecasted demand. It should also be noted the projected population growth over at least a 15 year period is considered on a municipal basis, rather than a town-by-town basis.
- 14.7. **Response** – The Amendment is seeking a contribution to a sufficient supply of land within Malmsbury for residential uses, which considers the area's character and supporting infrastructure. A response to land supply is further detailed in Council's Part B submission.
- 14.8. Clause 11.03-3S (Peri-urban areas) seeks to manage growth in peri-urban areas to protect and enhance their identified valued attributes. Applicable strategies include providing for development in established settlements that have capacity for growth, establishing growth boundaries for peri-urban towns and enhancing the character, identity, attractiveness and amenity of peri-urban towns.
- 14.9. **Response** – The Amendment is seeking to manage growth within the township boundary of Malmsbury. It is seeking to protect and enhance Malmsbury's identified values and attributes via the NRZ13 and ensuring that any

development of the site is appropriate to its location at the periphery of Malmsbury.

- 14.10. Clause 11.03-5S (Distinctive Areas and Landscapes) seeks:
To recognise the importance of distinctive areas and landscapes to the people of Victoria and protect and enhance the valued attributes of identified or declared distinctive areas and landscapes.
- 14.11. **Response** – The Amendment seeks to recognise the importance of the Macedon Ranges distinctive areas and landscapes and protecting valued attributes in the locality through the use of the NRZ13.
- 14.12. Clause 12.01-2S (Native Vegetation Management) seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.
- Response** – The Amendment does contribute to a net loss to biodiversity as there is no proposed removal of any native vegetation. It is considered that the proposed inclusion of additional native and non-native vegetation can provide an opportunity to improve biodiversity outcomes.
- 14.13. Clause 12.03-1S (River and riparian corridors, waterways, lakes, wetlands and billabongs) seeks to protect and enhance systems including river and riparian corridors, waterways, lakes, wetlands and billabongs.
- 14.14. **Response** – The Amendment is avoiding development of the existing dam on the land and any ecological values via a building envelope. The wider catchment will be protected via appropriate conditions on the permit to connect to reticulated services and encouraging landscaping of future residential lots.
- 14.15. Clause 12.05-1S (Environmentally sensitive areas) seeks to protect and conserve environmentally sensitive areas. The applicable strategy includes protecting the environmentally sensitive areas with significant recreational value from development which includes the Macedon Ranges.
- 14.16. **Response** – The Amendment would achieve protecting the sensitive area around the Macedon Ranges as the development is located within the Malmsbury township area so that development would not diminish the identified values.
- 14.17. Clause 12.05-2S (Landscapes) seeks to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments. Applicable strategies include:
- *Ensure significant landscape areas such as forests, the bays and coastlines are protected.*
 - *Ensure development does not detract from the natural qualities of significant landscape areas.*

- *Improve the landscape qualities, open space linkages and environmental performance in significant landscapes and open spaces, including green wedges, conservation areas and non-urban areas.*
- *Recognise the natural landscape for its aesthetic value and as a fully functioning system.*
- *Ensure important natural features are protected and enhanced.*

14.18. Response – The Amendment is seeking to provide development opportunity within an existing settlement and away from any identified areas of identified landscapes or open space. This is consistent with the findings of the Malmsbury Urban Design Framework.

14.19. Clause 12.05-2L does not have an overriding objective but contains a number of strategies seeking to protect the landscape of the Macedon Ranges Shire. These include strategies such as:

- Discourage the siting and construction of new buildings close to prominent ridgelines and landscape features.
- Protect the character of visually sensitive areas such as roadsides, rail corridors and watercourses.
- Protecting significant exotic and native vegetation as a fundamental component of the shire's character and landscape.

14.20. Response – The Amendment supports the protection of significant landscape areas and avoids adverse development outcomes along roadsides, away from prominent landscape features and impacting on vegetation. The NRZ13 will ensure appropriate design outcomes.

14.21. Clause 13.02-1S (Bushfire planning) applies to any planning decisions made under the *Planning and Environment Act 1987* to land within a designated bushfire prone area, subject to the Bushfire Management Overlay or proposed to be used or developed in a way that may create a bushfire hazard. It seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that priorities the protection of human life.

14.22. This includes the prioritising the protection of human life over all other policy considerations, directing population growth and development to low risk locations and reducing vulnerability of communities to bushfire through the consideration of bushfire risk in decision making.

14.23. Response – The Amendment has considered bushfire risk which is outlined within the explanatory report and is supported by analysis undertaken by Phoenix Wildfire Management (*see Attachment 1*). The land is identified as being within a designated bushfire prone area but not subject to a Bushfire Management Overlay. The Amendment is considered appropriate due to the design response to the surrounding risk and hazards. Of note is the requirement via Section 173 Agreement of providing a 19-metre defendable space from unmanaged or grazed grassland to ensure a radiant heat flux of less than 12.5

kilowatts per square metre under the AS3959-2018 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2018). It is also noted the Country Fire Authority support the Amendment subject to 5 conditions which have been included in the permit.

- 14.24. Clause 13.04-1S (Contaminated and potentially contaminated land) seeks to ensure that contaminated and potentially contaminated land is used and developed safely.
- 14.25. **Response** – Investigations by Council determined the previous land uses on the site, which has included limited grazing and rural living. Further research was undertaken in line with Planning Practice Note 30 Potentially Contaminated Land (July 2021) and it was considered no further action on the matter is required.
- 14.26. Clause 14.01-1S (Agriculture) seeks to protect the state's agricultural base by preserving productive farmland. The clause outlines a number of strategies to employ to achieve this objective. These include:
- 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 Energy, Environment and Climate Action 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.

14.27. Clause 14.01-1L (Protection of agricultural land – Macedon Ranges) has a number of strategies relating to the protection of agricultural land that include:

- Ensure use and development of agricultural land relates to the ongoing productive use of the land for agricultural purposes.
- Discourage the creation of additional lots in the Northern Catchments and Agricultural Landscapes areas (as identified on the Rural Framework Plan in Clause 02.04) to maintain agricultural productivity.
- Ensure development, including dwellings, relates to agricultural production and is consistent with the capability of the land.
- Discourage the fragmentation of agricultural land that would reduce farm sizes to a point where they are no longer productive.
- Ensure any use of the land for residential activity is secondary or ancillary to the primary agricultural use of the land.
- Locate dwellings or outbuildings on poorer quality land where it will not compromise efficient agricultural use of the land.
- Protect high quality and highly adaptable agricultural land for agricultural use by encouraging land use management that restores fragile soil.

- 14.28. **Response** – The Amendment is considered to be in accordance with the above clauses for the reasons that the land is within the township boundary and is currently developed with a single dwelling that has limited agricultural opportunities due to its location, size and shape. The site is also limited in its ability to impact on adjoining productive farm usage given the listed setbacks and the adjoining residential land uses. The land is located within the existing Malmsbury township and is not an exercise in rezoning additional land outside of the township boundary. It is therefore considered the outcomes of rezoning the land to residential use while increasing the number of lots and dwellings does not greatly diminish agricultural outcomes in the Macedon Ranges Shire.
- 14.29. Clause 14.02-1S (Catchment planning and management) outlines the need to assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment. It contains a number of strategies related to protecting water catchments.
- 14.30. Clause 14.02-1L (Catchment planning and management – Macedon Ranges) sets out the local policy context regarding catchment protection. Strategies include promoting the development of reticulated sewerage systems for towns within the special water supply catchment, discouraging development on un-sewered land and discouraging development that adversely impacts on water quality.
- 14.31. **Response** – It is considered the amendment will not adversely impact on the local water supply catchment such as the Malmsbury Reservoir or the wider Eppalock Special Water Supply catchment. The proposed subdivision would have numerous conditions regarding drainage and connection to reticulated sewerage systems. Coliban Water and Goulburn-Murray Water have furthermore reviewed and offered no objection to the proposal subject to conditions.
- 14.32. Clause 15.01-3S (Subdivision design) seeks to ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods. It sets out a range of subdivision strategies including creating urban places with a strong sense of place that are functional, safe and attractive. It also includes the need to ensuring the design of the subdivision achieves an attractive, safe, accessible neighbourhood.
- 14.33. **Response** – The proposed subdivision design results in appropriate lot dimensions and sizes that allow for generous building envelopes that provide space between dwellings and landscaping opportunities. The design allows for a future neighbourhood that provides visual continuation of established residential areas to the west of the site.

14.34. Clause 15.01-5S (Neighbourhood Character) seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place. It includes:

- Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.
- Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.
- Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:
 - Pattern of local urban structure and subdivision.
 - Underlying natural landscape character and significant vegetation.
 - Neighbourhood character values and built form that reflect community identity.

14.35. Clause 15.01-5L (Neighbourhood character – Macedon Ranges township) outlines the local context in the Macedon Ranges. It also sets out strategies for Malmsbury which include:

- Incorporate landscaping including the provision of canopy trees as a feature of all residential development in Malmsbury.
- Protect the landscape and built form characteristics and qualities of residential areas in Malmsbury by promoting the theme of a rural village.
- Ensure development on the periphery of the town within the township boundary is of a semi-rural residential form with larger lots, significant landscaping and generous setbacks.
- Ensure development adjoining and facing the botanic gardens reflects the garden's heritage characteristics and maintains its prominence in the area.

14.36. **Response** – The Amendment appropriately responds to the state and local policy regarding neighbourhood character. Of particular note, the Amendment seeks lots of a large size on the periphery of the township which will include generous setbacks, provision of canopy trees and space for landscaping. It will also provide for canopy trees within the adjoining road reserves. It will also reflect residential development to the west and appropriately respond to the rural living land to the south of the site in the provision of larger lot sizes.

14.37. Clause 15.03-1S - Heritage conservation seeks to ensure the conservation of places of heritage significance. This clause outlines strategies to employ to identify, conserve and enhance areas and items of heritage significance and ensure that development outcomes respond to and respect heritage assets of cultural, natural and built heritage value.

14.38. Clause 15.03-2S – To ensure the protection and conservation of places of Aboriginal cultural heritage significance.

14.39. **Response to** Clauses 15.03-1S and 15.03-1S –The Amendment seeks to provide for residential development that Council considers to not impact on any identified natural heritage, cultural heritage or heritage places. Although the site is covered by HO148, no items of heritage significance or areas of cultural sensitivity are identified on or adjacent to the site. Council considers that the proposal does not impact the preservation of heritage values and cultural heritage in the broader area. This point is further detailed in Council’s Part B submission.

14.40. Clause 16.01-1S (Housing supply) seeks to facilitate well-located, integrated and diverse housing that meets community needs. It includes numerous strategies include a supply of appropriate quantity and quality of housing.

14.41. **Response –** The Amendment seeks to facilitate residential rezoning and subdivision, which is well-located within the town boundary and provides development-ready housing opportunities for Malmsbury.

Some existing areas of residential zoned land within Malmsbury are constrained in providing sewerage service infrastructure connections appropriate to being within a special water catchment area. The Amendment provides lots that would facilitate additional housing supply connected to reticulated sewerage in the town.

Council acknowledges that there is already residential zoned land in Malmsbury, but the ability to connect the nine lots to services in this instance differs from some existing lots, where service connections are not immediately available and potentially cost-prohibitive for individual lots to achieve.

14.42. Clause 18.02-4S (Roads) seeks to facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure.

14.43. **Response –**The Amendment does this by facilitating a subdivision that supports an efficient and safe road network. A traffic and transport assessment report (*see Attachment 1*) submitted in as part of the Amendment application identifies that the subdivision will not adversely affect the existing road network, which is capable of accommodating a minor increase in vehicular traffic. The proposed extensions to Walsh and Mitchell Streets will be constructed in accordance with conditions outlined in the draft permit - see CFA conditions and to the appropriate/relevant Australian standards.

14.44. Clause 19.03-2S (Infrastructure design and provision) seeks to provide timely, efficient and cost-effective development infrastructure that meets the needs of the community.

- 14.45. **Response** – It is considered the by providing development infrastructure and services to the new subdivision via conditions on the draft permit. The relevant authorities have been consulted and issued applicable conditions. It is not considered there are any constraints in infrastructure that would result in this amendment not progressing.

15. Ministerial directions and planning practice notes.

- 15.1. The proposed amendment has also been prepared having regard to the relevant Ministerial directions and planning practice notes, which included:
- Ministerial Direction No. 1 – Potentially Contaminated Land
 - Ministerial Direction No. 11 – Strategic Assessment of Amendments
 - Ministerial Direction No. 15 – Form and Content of Planning Schemes
 - Planning Practice Note 91 – Using the Residential Zones.
 - Planning Practice Note 43 – Understanding neighbourhood character

16. Recent approved amendments that may impact on the Amendment.

- 16.1. Amendment C150macr: Amendment C150macr was gazetted on the 24 August 2023. C150macr replaced the Local Planning Policy Framework of the Macedon Ranges Planning Scheme with a new Municipal Planning Strategy at Clause 02, local policies within the Planning Policy Framework at Clauses 11 to 19 and selected particular provisions and operational provisions consistent with changes to the Victoria Planning Provisions introduced by Amendment VC148 and the Ministerial Direction on Form and Content of Planning Schemes.
- 16.2. Amendment C157macr: Amendment C157macr was gazetted on 20 June 2024. Amendment C157macr rezoned 12 parcels of land situated at 9-25 (part of), 31, 33, and 35 Mollison Street in Malmsbury from Commercial 2 Zone (CZ2) to the Neighbourhood Residential Zone (NRZ14).

It is not expected the Amendment C157macr has any tangible impact on Amendment C154. The sites are not connected and are both residential zoning based albeit both located in Malmsbury. The amendments would both support residential land supply in Malmsbury. It is not expected either or together the amendments would overwhelm the infrastructure in Malmsbury.

E. AUTHORISATION

17. Conditions of authorisation

- 17.1. Under delegation from the Minister for Planning and in accordance with section 8A of the *Planning and Environment Act 1987*, Robert Rorke, (Manager, Loddon Mallee Planning Services) authorised Council to prepare the Amendment subject to five conditions - *See Attachment 2*.

- 17.2. In summary – Council satisfied all authorisation conditions on 19 Feb 2024 in which DTP confirmed Council can proceed with the exhibition of the Amendment and Permit as outlined in *Attachment 2*.
- 17.3. Conditions of authorisation and Council’s response are outlined below.
- 17.4. **Condition 1** - That the draft explanatory report be amended to:
- Clarify that the land affected by the amendment includes parts of the road reserves of Wills, Walsh and Mitchell Streets and that the amendment proposes to rezone parts of these road reserves from the Farming Zone to the Neighbourhood Residential Zone, Schedule 13 (NRZ13) as well.
 - Reword why the amendment required as suggested in the draft explanatory report so that the text links to existing local policy and population and considers residential land supply in Malmsbury.
 - Explain how the proposed amendment is consistent with Clause 13.02-1S (Bushfire planning). Please see the suggested edits in the draft explanatory report.
 - Strengthen the content to explain how the combined amendment/permit complies with the strategic considerations of the Minister’s Direction No. 11 Strategic Assessment of Amendments. Please see the suggested edits in the draft explanatory report.
 - Further summarise how the amendment supports or implements state, regional and local planning policies. Please see suggested edits in the draft explanatory report.
- 17.5. **Response to condition 1** – Council made all the required changes to the draft explanatory report in accordance with condition as well as further changes requested by the department. DTP was satisfied with the changes as outlined in correspondence contained in *Attachment 2*.
- 17.6. **Condition 2** – That Planning Scheme Map Nos. 5 and 5HO be prepared and submitted for review before the amendment is submitted for exhibition and that Planning Scheme Map No. 5 rezone land adjoining 1 Wills Street forming part of the road reserves of Wills, Walsh and Mitchell Street to NRZ13.
- 17.7. **Response to condition 2** – Council made the required changes to Planning Scheme Map Nos. 5 and 5HO in line with the requirements of condition two. DTP was satisfied that Council met condition two.
- 17.8. **Condition 3** – That the draft Schedule 13 to Clause 32.09 (NRZ13) be amended to clarify the intent of the objectives, delete the objective relating to the style of fencing given the NRZ cannot control the style of fencing just the height and to

make other edits to the variations and maximum building height as outlined in the draft NRZ13.

- 17.9. **Response to condition 3** Council made all the required changes to NRZ13 in accordance with condition three and worked closely with DTP to resolve further terminology issues relating to minimum street setback requirements. DTP was satisfied with the changes.
- 17.10. **Condition 4** – That the draft permit be amended to be consistent with the updated Writing for Planning Permits (DTP, May 2023) and as described in Attachment 1 and track changed on the draft permit.
- 17.11. **Response to condition 4** Council made all the required changes to the permit in accordance with condition four as well as additional changes requested by the DTP. The final permit document was submitted to DTP on 20 Feb 2024 following confirmation from DTP that Council has met the requirements of condition four.
- 17.12. **Condition 5** – That the proposed combined amendment/permit be exhibited after all relevant referral agencies have been consulted about the draft permit and the conditions have been amended to reflect any advice received. See *Attachment 3* for conditions.
- 17.13. **Response to condition 5** – Council notified All relevant referral agencies in line condition five. See table below for Councils response to advice received.

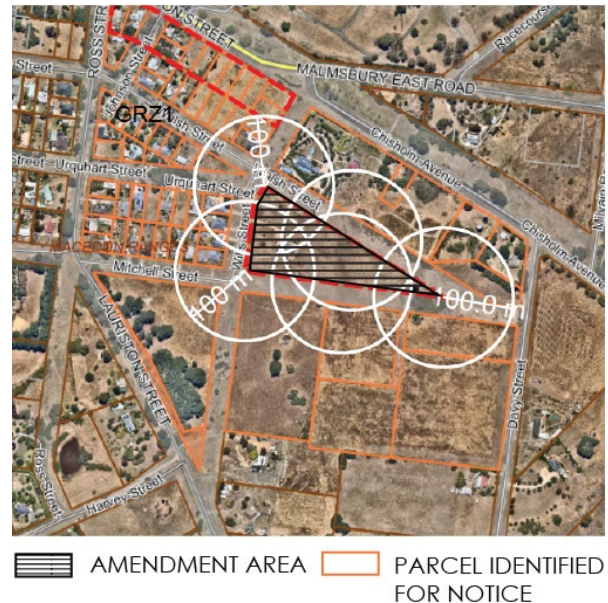
Agency / Organisation	Position	Council Response
Coliban Water	Provided Conditions	Conditions included
Goulburn-Murray Water	Provided Conditions	Conditions to be included* <i>Note section 11.9</i>
EPA	No objection	Noted
Ausnet Gas	No objection	Noted
Powercor	Provided Conditions	Conditions included
North Central Catchment Management Authority NCCMA	No objection	Noted
Country Fire Authority	Provided Conditions	Conditions included

F. EXHIBITION PROCESS

18. Consultation and engagement

- 18.1. The Amendment and Permit were exhibited from 26 February to 1 April 2024, and notice was given in accordance with section 96C of the Planning and Environment Act 1987 – this included:
- publication on Council's website
 - publication in the Victorian Government Gazette
 - publication in the local newspaper – Midland Express
 - installation of two signs containing notice information on site
 - direct notice to all owners and occupiers that may be materially affected
 - notice to all referral authorities relevant to the Amendment and Permit
 - notice to the Dja Dja Wurrung Clans Aboriginal Corporation
 - notice to all prescribed Ministers.
- 18.2. All supporting Amendment and Permit documents, including Q and A documents, were made available via Council's website and in hard copy at Council's administration offices in Kyneton and Gisborne.
- 18.3. Direct notice was provided to owners and occupiers, totalling 61, that Council deemed as materially affected based on a 100m buffer area *See Figure 6*. Included in the hard copy notice packaged was:
- a notice letter for of the Amendment and Permit
 - the C154macr Amendment Explanatory Report
 - the draft planning permit conditions and application form.
- 18.4. The community were given the opportunity to make enquiries about the Amendment and Permit with council officers via face-to-face meetings, direct phone calls, and writing to or emailing Council's Strategic Planning Team.

- 18.5. Submitters to the Amendment and Permit were invited to present their submission to the Planning Delegated Committee (submitters) meeting of 8 May 2024.



F. SUBMISSIONS

19. Submissions received

Figure 6 Notice Catchment -

- 19.1. A total of six submissions were received in response to the public exhibition of the Amendment and Permit. *See Attachment 4*
- 19.2. Of the submissions received, one was in support (does not object) and five were opposed to the Amendment and Permit or parts thereof.
- 19.3. Submitter no. 6 was considered a late submission, and due to an administrative error was overlooked until 12 June 2024 – subsequently the submission was accepted and referred to Panel for consideration.

20. Submission themes

21. Key issues outlined in submissions made against the Amendment and Permit are grouped into the following themes:

- 21.1. Strategic justification
- 21.2. The rezoning (loss) of agricultural land.
- 21.3. Land supply.
- 21.4. Small second dwelling.
- 21.5. The removal of Heritage Overlay HO148.
- 21.6. Planning permit conditions – 1b.
- 21.7. Storm water management and broader flooding issues.
- 21.8. Infrastructure strain and service issues.
- 21.9. Broader planning control issues.

21.10. Traffic numbers and traffic safety concerns.

- 21.10.1. Amendment C150macr.
- 21.10.2. Building height limitations.
- 21.10.3. Soil profile.

22. Submission summary

22.1. By way of high-level summary, the following table describes the main issues raised in submissions against the Amendment.

Issue	Submission No.
Strategic justification Concerned that the Amendment lacks strategic justification and does not meet the requirements of the Planning and Environment Act regarding 'proper or orderly planning'. Concerned that the Amendment (rezoning) is being made at the landowner's request rather than in response to specific policy direction.	3
Rezoning (loss) of agricultural land Submitters are concerned that rezoning agricultural land for residential purposes would compromise agricultural viability and food security and have a detrimental effect on the environment. Further, submitters suggest that the Amendment is not consistent or compatible with state policy requirements for protecting agricultural land within 100km of Melbourne's CBD as outlined in the Action Plan for Green Wedges and Melbourne's Agricultural Land. Concerned that the loss of agricultural land will on the identity, intrinsic values and character of Malmsbury. Concerned the loss of agricultural land (rural character) and encouraging "transient populations" will negatively impact quality of life and a sense of belonging.	1,3
Land supply The submitter is concerned that the rezoning of additional land for residential purposes is at odds with the recommendations regarding land supply contained in the Council's Small Towns Study 2006 and that there is sufficient residential zoned land to meet 10 years of land supply needs.	3
	3

Issue	Submission No.
Small second dwelling controls The submitter is concerned that the Amendment does not address any possible housing intensification as a result of the recent introduction of the Victorian Government's small second dwelling policy. The submitter is concerned that the proposed nine lots could increase to 18 dwellings under this policy.	
The removal of the Heritage Overlay 148 Submitters are concerned that the proposed removal of the H0148 will detrimentally impact the heritage assets of Malmsbury and set an "ugly" precedent that will encourage unchecked development. Further, a submitter suggests that the removal of H0148 is "ad hoc" and should require greater strategic justification for its removal (as much as was required with its introduction).	1, 3
Planning permit conditions – 1b The submitter requests that Council omit Condition 1b, stating that the condition is undesirable and unnecessary and further that the variations to Clauses 54 and 55 proposed in NRZ13 are sufficient in softening the appearance of uniformity and continuous building line along the front setback. Further, the submitter makes the point that the building envelopes submitted (and exhibited) comply with the proposed requirements of NRZ13, and the inclusion of permit condition 1b introduces inconsistency with NRZ13.	5
Storm water management and broader flooding issues. A submitter is concerned that the proposal does not provide enough detail on how stormwater water (runoff) will be appropriately managed - with specific concern for its impact any future road along Walsh Street. A submitter is concerned about the flooding that occurs along Johnson Street, Malmsbury, with heavy rainfall.	4, 6
Infrastructure strain and service issues The submitter questions how the development will be able to provide the service infrastructure due to the challenging geology of the area.	1, 4

Issue	Submission No.
The proposal would lead to congestion, a reduction in public amenities, strains of existing infrastructure and therefore cause increased social inequalities and eroding the quality of life for residents.	
Increased traffic and traffic safety concerns. The submitter raised safety concerns regarding vehicle sight lines at the junction of Johnson and Walsh Street due to vegetation growth. Currently the submitter manages the vegetation at this location. The submitter proposes traffic signage should be installed to assist safety.	6
Broader planning concerns Amendment C150 A submitter is concerned with changes to the Macedon Ranges Planning Scheme associated with Amendment C150. The submitter is concerned that the changes were unannounced and questions the translation's neutrality. The submitter also highlights that several clauses cited in justifying the Amendment are no longer present in the current scheme. Building height limitations The submitter is concerned with the absence of limitations within the planning scheme regarding building height – specifically limiting building height to a single storey only. Soil Profile Concern the basalt rocks that subject the site being unsuitable for agriculture would also make it unsuitable for building residential development.	3

G. Conclusion

This concludes Council's Part A submission. A response to submission and overall position on the Amendment will be provided in Council's Part B Submission.

H. List of Attachments

- 22.2. Attachment 1 – Exhibited Amendment Document
- 22.3. Attachment 2 – Authorisation Conditions and Approval
- 22.4. Attachment 3 – Referral Authority Conditions
- 22.5. Attachment 4 – Submissions – Redacted
- 22.6. Folder 5 – Strategic Policy Documents
- 22.7. Folder 6 – Supporting Document – Not exhibited