

**Macedon Ranges Planning Scheme Amendment C154macr
1 Wills Street Malmsbury**

Panel Report

Planning and Environment Act 1987

2 September 2024

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 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 may also recommend to the Minister that a permit that applies to the adopted Amendment be granted. The Minister may grant or refuse the permit subject to certain restrictions. [sections 96G and 96I of the PE Act]

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 Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Macedon Ranges Planning Scheme Amendment C154macr

1 Wills Street Malmsbury

2 September 2024



Sarah Carlisle, Chair

Contents

	Page
Executive summary	6
1 Introduction	8
1.1 The Amendment	8
1.2 The site.....	8
1.3 The permit application	9
1.4 The issues	12
1.5 Procedural issues and limitations	12
1.6 The Panel’s approach	13
2 General strategic issues	14
2.1 Planning context.....	14
2.2 Strategic justification	15
2.3 Conclusions and recommendation.....	19
3 Residential land supply	20
3.1 The issue.....	20
3.2 Evidence and submissions.....	20
3.3 Discussion.....	21
3.4 Conclusions	22
4 Agriculture	23
4.1 The issue.....	23
4.2 Evidence and submissions.....	23
4.3 Discussion.....	24
4.4 Conclusion.....	25
5 Other issues	26
5.1 Heritage.....	26
5.2 Neighbourhood character and setbacks.....	28
5.3 Stormwater and drainage issues	31
5.4 Traffic	32
5.5 Servicing the land	33
6 The planning permit	35
Appendix A Planning context	37
A:1 Planning policy framework.....	37
A:2 Other relevant planning strategies and policies	41
A:3 Planning scheme provisions	42
A:4 Ministerial Directions, Planning Practice Notes and guides	43
Appendix B Document list	44
Appendix C Panel preferred version of the permit	45

List of Tables

	Page
Table 1	Roads surrounding the site..... 9
Table 2	Planning context..... 14

List of Figures

	Page
Figure 1	Subject land within the Malmsbury town boundary 8
Figure 2	Zoning within the Malmsbury township and surrounds..... 10
Figure 3	Extent of the HO148..... 11
Figure 4	Indicative subdivision layout 12
Figure 5	Extent of HO148 in the Heritage Study compared to the New Format Planning Scheme working documents 26
Figure 6	Malmsbury Framework Plan 38

Glossary and abbreviations

Council	Macedon Ranges Shire Council
DEECA	Department of Energy, Environment and Climate Change
DELWP	Department of Environment, Land, Water and Planning (former)
DTP	Department of Transport and Planning
Heritage Study	Shire of Kyneton Conservation (Heritage) Study 1990
MPS	Municipal Planning Strategy
MRRA	Macedon Ranges Residents Association
NRZ	Neighbourhood Residential Zone
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Macedon Ranges Planning Scheme
PPN01	Planning Practice Note 1 – Applying the Heritage Overlay
Settlement Strategy	Macedon Ranges Settlement Strategy 2011
Small Towns Study	Macedon Ranges Small Towns Study 2006

Overview

Amendment summary

The Amendment	Macedon Ranges Planning Scheme Amendment C154macr
Permit application	PLN/2022/198
Common name	1 Wills Street Malmsbury
Brief description	Combined planning scheme amendment and planning permit application to facilitate the subdivision of the subject land into nine residential lots of around 2,000 square metres
Subject land	1 Wills Street Malmsbury and parts of the adjacent road reserves
The Proponents	Deborah Barton and Steven Waldron
Planning Authority	Macedon Ranges Shire Council
Authorisation	16 June 2023, with conditions
Exhibition	26 February to 1 April 2024
Submissions	Number of Submissions referred: 6 <ul style="list-style-type: none"> - Macedon Ranges Residents Association (MRRA) - Terry Gilbert - Kate and Rob McCarthy - Adrian Gauci - Department of Transport and Planning (not opposed) - Proponents (support)

Panel process

The Panel	Sarah Carlisle, Chair
Directions Hearing	Online, 15 July 2024
Panel Hearing	Planning Panels Victoria, 12 and 13 August 2024
Site inspections	Unaccompanied, 8 August 2024
Parties to the Hearing	<p>Council: Daniel Hall, Strategic Planner and Leanne Khan, Coordinator Strategic Planning</p> <p>Proponents: Patrick Doyle, TP Legal who called evidence from:</p> <ul style="list-style-type: none"> - Cliff Dillon of Cadeema Environmental (agricultural) - Chris McNeill of Ethos Urban (economics and land supply) <p>MRRA: Christine Pruneau, Secretary</p> <p>Terry Gilbert</p>
Citation	Macedon Ranges PSA C154macr [2024] PPV
Date of this report	2 September 2024

Executive summary

Third party review and independent scrutiny of strategic planning decisions play a crucial role in our planning system, and generally benefit the system greatly. This was not so in relation to Macedon Ranges Planning Scheme Amendment C154macr (the Amendment).

The Amendment seeks to facilitate the subdivision of land at 1 Wills Street Malmsbury into nine large residential lots of around 2,000 square metres. The Amendment is accompanied by a permit application for the subdivision. The draft permit conditions require (among other things) the lots to be connected to reticulated services, including sewerage.

The site, currently in the Farming Zone, is located on the periphery of Malmsbury close to its eastern edge. It has been located within the township boundary for 24 years.

Key issues raised in submissions included:

- strategic justification, including:
 - concerns over the loss of agricultural land
 - lack of justification for the rezoning based on land supply
- the removal of the Heritage Overlay
- impacts on cultural and rural landscapes, and community cohesion and quality of life
- impacts on neighbourhood character, including concerns with the proposed development standards that would apply under the proposed Neighbourhood Residential Zone Schedule 13 (NRZ13)
- stormwater management
- traffic and traffic safety
- challenges in servicing the land.

While only 5 objecting submissions were received, the submissions were not able to be resolved, and Council was required under section 23 of the *Planning and Environment Act 1987* to refer the submissions to a panel.

The submissions objecting to the Amendment and permit on strategic grounds were entirely without merit. The strategic role of the site was determined 24 years ago, when it was included within the township boundary. It was determined at that point that the land's future use would be for urban purposes. Farming Zoned land is not necessarily agricultural land, and the land is patently unsuitable for agriculture. Submissions raising concerns over the loss of agricultural land misunderstood the intent of policy that seeks to protect agricultural land.

The Amendment and permit application do not need to be justified on the basis of an inadequate or constrained supply of residential land. The policy framework requires planning authorities to ensure a supply of residential land in their municipalities of *at least* 15 years. The 15-year supply target is not intended to operate as a cap or ceiling. Nothing in the policy framework discourages a planning authority from seeking to ensure a supply of more than 15 years, or to ensure an adequate supply on a township basis rather than a municipal wide basis.

The proposed development poses no threat to the valued landscapes and special characteristics of the Macedon Ranges, or Malmsbury's role in the settlement hierarchy as a small town. Nor does it pose any threat to the heritage values of the Malmsbury Precinct or the character of Malmsbury as a small rural town. That said, removing the site from the Heritage Overlay as part of this Amendment does not represent orderly planning. While the net may have been cast too wide

when HO148 was introduced into the Planning Scheme, a more comprehensive assessment of the whole Precinct is required before sites are removed.

Submissions that raised concerns about drainage, traffic and servicing were largely about existing conditions that have nothing to do with the proposed development. To the extent that submissions asserted the proposed development would create problems or make existing problems worse, they provided no information or evidentiary basis to substantiate their concerns.

The only issue in dispute between Council and the Proponents was in relation to condition 1(b) of the proposed permit, relating to setbacks of the future dwellings. The Panel agrees with the Proponents that condition 1(b) is not required to avoid uniform built form along the site's street frontages and to achieve the desired neighbourhood character for the area.

It is unfortunate that Council was compelled to refer unsubstantiated submissions that lacked any strategic merit to a panel simply because they were unresolved. It is equally unfortunate that the Proponents felt compelled to incur the cost of obtaining expert evidence to answer these submissions, and to support what is patently obvious from the long-standing policy settings for the land – that this land should be repurposed for urban purposes.

Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1. Adopt Amendment C154macr to the Macedon Ranges Planning Scheme as exhibited, subject to the specific recommendations in this report.**
- 2. Grant permit application PLN/2022/198 for the subdivision of the land into nine lots subject to the Panel's recommended conditions in Appendix C.**
- 3. Retain the Heritage Overlay on the site.**
- 4. Delete condition 1(b) from draft Permit PLN/2022/198 as shown in Panel's recommended conditions in Appendix C.**

1 Introduction

1.1 The Amendment

The purpose of the Amendment is to facilitate residential subdivision of the land at 1 Wills Street Malmsbury (the site). Specifically, the Amendment proposes to:

- rezone the site and parts of the surrounding road reserves from Farming Zone to Neighbourhood Residential Zone and apply a new Schedule 13 (NRZ13) to the land
- delete the Heritage Overlay (HO148) from the land.

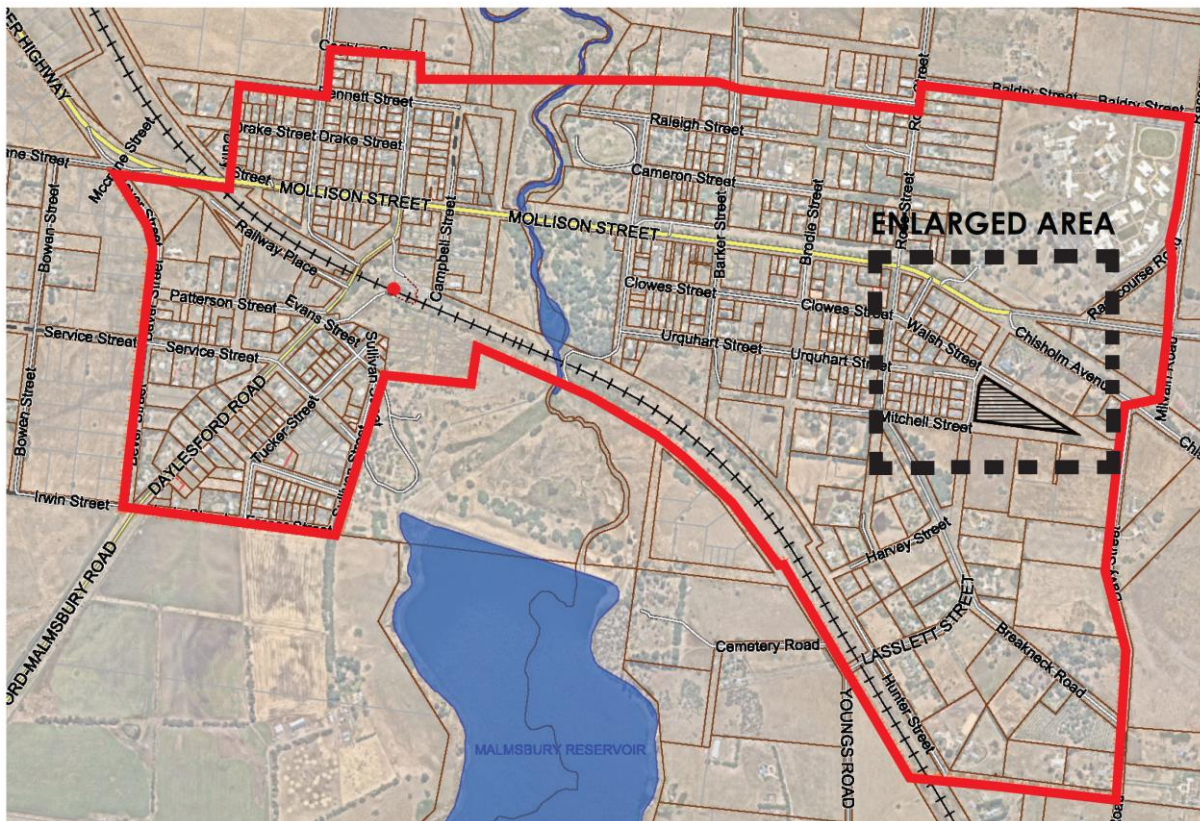
The NRZ13 introduces:

- new neighbourhood character objectives
- a minimum subdivision area of 2,000 square metres
- variations to the requirements of the following clauses in the Macedon Ranges Planning Scheme (Planning Scheme):
 - Clause 54 (One dwelling on a lot or a small second dwelling on a lot)
 - Clause 55 (Two or more dwellings on a lot and residential buildings).

1.2 The site

The site is hatched in Figure 1. It sits within the Malmsbury town boundary, which is shown in red in Figure 1.

Figure 1 Subject land within the Malmsbury town boundary



Source: Document 2

The site is around 1.85 hectares. It has frontages to Wills Street, Walsh Street and Mitchell Street. The status of these roads is summarised in Table 1, and their existing and proposed extents are shown in the indicative proposed subdivision layout in Figure 4 below.

Table 1 Roads surrounding the site

Road	Current condition	Proposed as part of the development
Wills Street	Made (unsealed) along the length of the site's western boundary	No change
Walsh Street	Made (unsealed) for part of the site's northern frontage	Extended to a court bowl to allow access to the lots that will front Walsh Street
Mitchell Street	Unmade along the site's southern frontage	Extended from the Wills Street intersection to a court bowl to allow access to the lots that will front Mitchell Street

Figure 2 below provides context in relation to the zoning of the site and surrounding land. The site is surrounded by:

- Farming Zone to the northeast
- General Residential Zone to the west and northwest, which has largely been subdivided into standard density residential lots
- Rural Living Zone to the south, with lower density, larger lots.

The site is located around 800 metres from the commercial centre of Malmsbury.

The site is covered by the Heritage Overlay (HO148). HO148 applies to the Malmsbury Precinct, as shown in Figure 3 below. The site is also covered by the Environmental Significance Overlay Schedule 4, which protects the Eppalock Special Water Supply Catchment. The Erosion Management Overlay applies to land surrounding the site, but not the site itself.

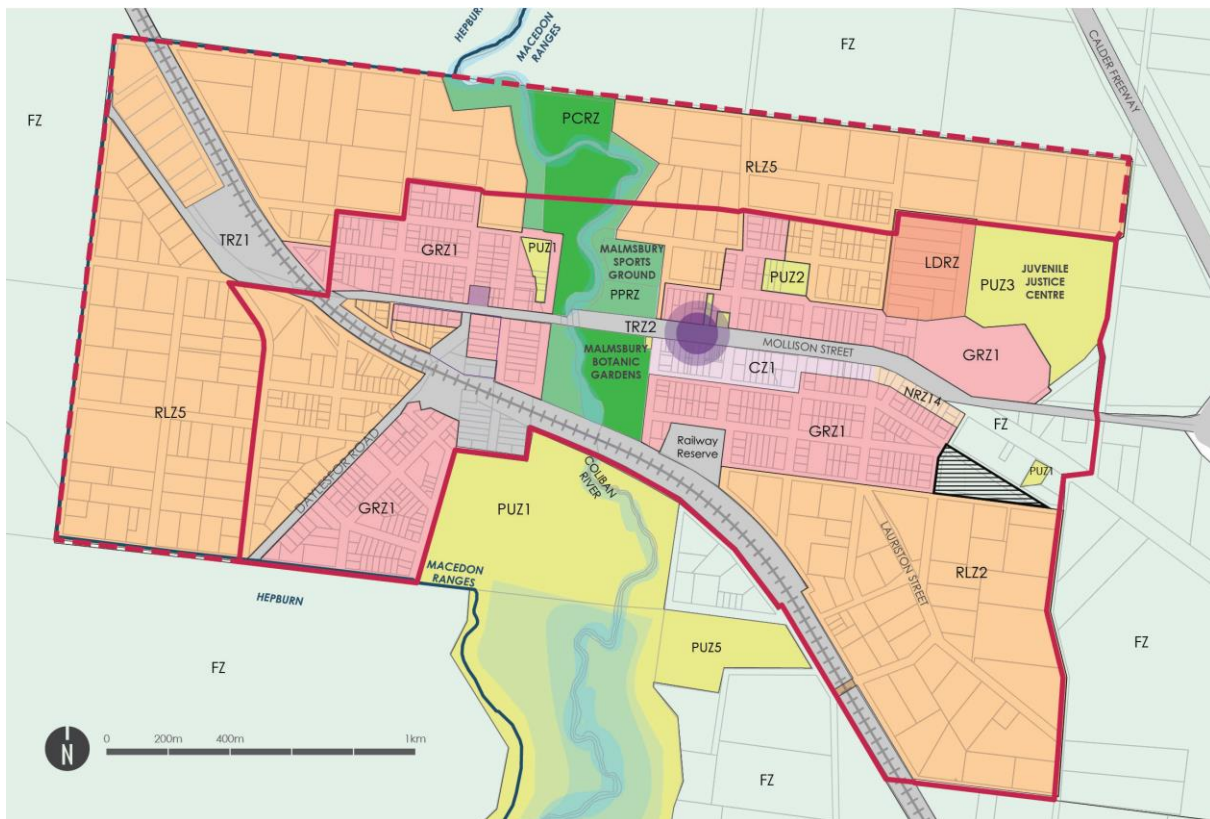
1.3 The permit application

















The planning permit application seeks approval for the subdivision of the site into nine lots ranging in size from 2,000 to 2,182 square metres. An indicative layout of the subdivision, including indicative building envelopes, is shown in Figure 4.

The setbacks shown in Figure 4 meet the minimum setbacks required under the proposed NRZ13, namely:

- 12 metre front setbacks
- 5 metre side and rear setbacks.

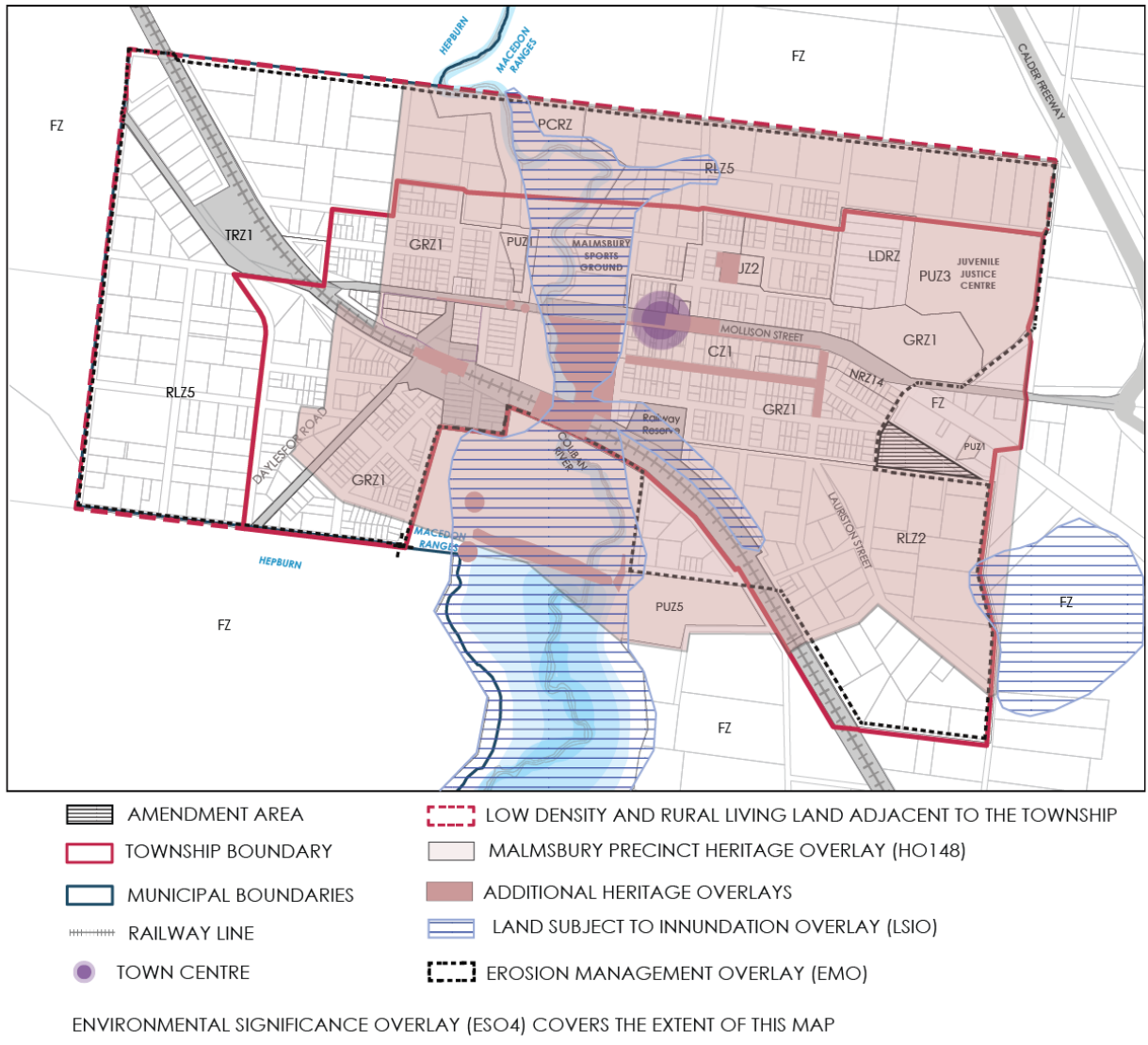
Figure 2 Zoning within the Malmesbury township and surrounds



- | | |
|---|--|
|  AMENDMENT AREA |  LOW DENSITY AND RURAL LIVING LAND ADJACENT TO THE TOWNSHIP |
|  TOWNSHIP BOUNDARY |  GENERAL RESIDENTIAL ZONE 1 (GRZ1) |
|  MUNICIPAL BOUNDARIES |  LOW DENSITY RESIDENTIAL ZONE (LDRZ) |
|  RAILWAY LINE |  NEIGHBOURHOOD RESIDENTIAL ZONE 14 (NRZ14) |
|  FARMING ZONE (FZ) |  PUBLIC USE ZONE (PUZ) |
|  TOWN CENTRE |  PUBLIC PARK AND RECREATION ZONE (PPRZ) |
|  COMMERCIAL ZONE |  PUBLIC CONSERVATION AND RECREATION ZONE (PCRZ) |
|  RURAL LIVING ZONE (RLZ) |  TRANSPORT ZONE (TRZ) |

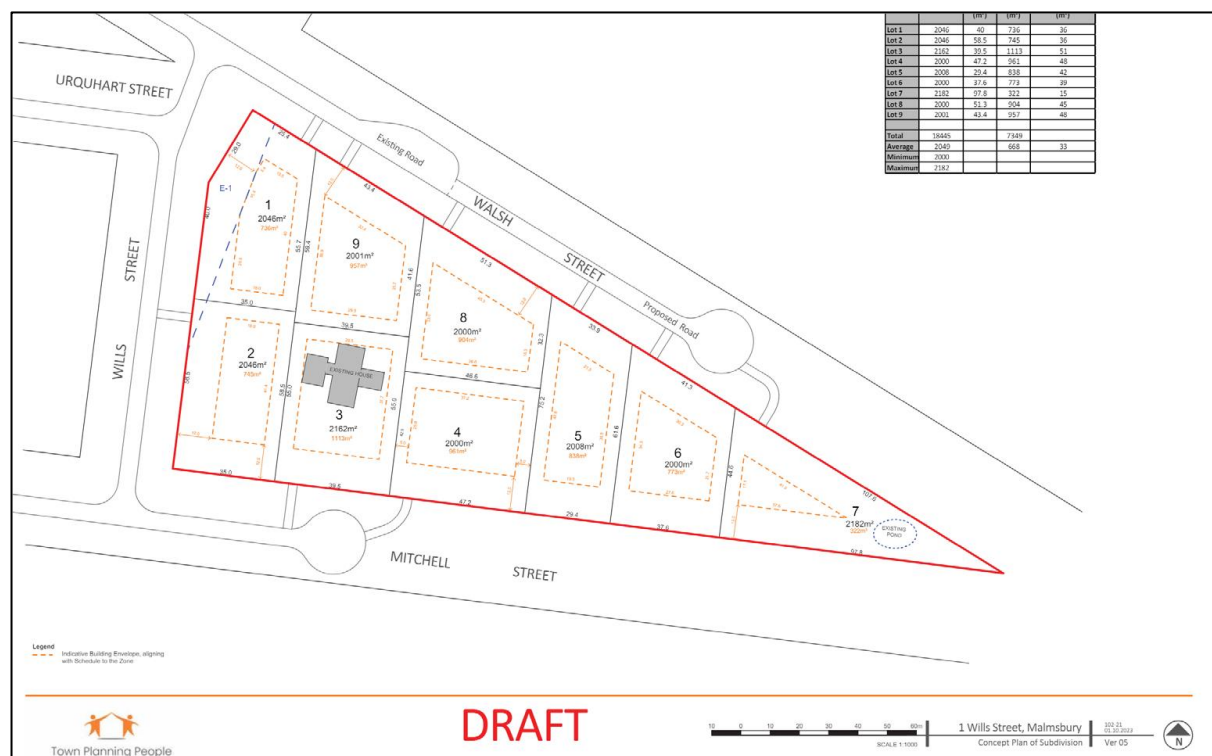
Source: Document 2

Figure 3 **Extent of the HO148**



Source: Document 3

Figure 4 Indicative subdivision layout



Source: Document 3

1.4 The issues

Key issues raised in submissions were:

- strategic justification, including:
 - concerns over the loss of agricultural land
 - lack of justification for the rezoning based on land supply
- the removal of the Heritage Overlay
- impacts on cultural and rural landscapes, and community cohesion and quality of life
- impacts on neighbourhood character, including concerns with the proposed development standards that would apply under the NRZ13
- stormwater management
- traffic and traffic safety
- challenges in servicing the land.

The Proponents supported the Amendment and proposed permit, save for condition 1(b).

1.5 Procedural issues and limitations

The submission of the Macedon Ranges Residents Association (MRRA) (S3) raised concerns in relation to what it described as “unannounced policy changes” associated with Amendment C150macr, and in relation to the protection of green wedges. These are outside the scope of the matters before the Panel, and have not been considered.

Submission 6 was received by Council after Council had considered the five submissions received within the prescribed notice period. Council accepted the late submission and referred it to the Panel.

The Proponents queried whether Submission 6 was properly before the Panel, given it had not been considered at Council's 12 June 2024 meeting. Council submitted that while it had not been considered formally by Council, it has been considered by Council officers who had delegated authority to consider the submission and refer it to the Panel.

The issue is largely moot. Submission 6 does not object to the Amendment or draft permit, or seek any changes. It raises issues that relate to existing drainage and traffic conditions in Johnson Street. It does not raise any concerns in relation to the proposed development, or suggest that the proposed development may exacerbate the existing issues in Johnson Street. Accordingly, the submission is not relevant to the matters before the Panel and has not been considered further.

1.6 The Panel's approach

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from its site visit, and submissions, evidence and other material presented to it during the Hearing. All material has been considered even though not all material is specifically referred to in this Report.

This Report deals with the issues under the following headings:

- General strategic issues
- Residential land supply
- Agriculture
- Other issues
- The planning permit.

2 General strategic issues

2.1 Planning context

This chapter identifies the relevant planning context. Appendix A summarises the key directions of the relevant provisions and policies.

Table 2 Planning context

	Relevant references
Victorian planning objectives	Section 4 of the PE Act
Municipal Planning Strategy	Clause 2.03-1 (Settlement)
Planning Policy Framework	Clause 11 (Settlement), in particular: <ul style="list-style-type: none"> - Clause 11.01-1L (Malmsbury) - Clause 11.02-1S (Supply of Urban Land) - Clause 11.03-5S (Distinctive Areas and Landscapes)
	Clause 12 (Environmental and Landscape Values), in particular: <ul style="list-style-type: none"> - Clause 12.05-1S (Landscapes) - Clause 12.05-2L (Landscapes – Macedon Ranges)
	Clause 13 (Environmental Risks and Amenity), in particular: <ul style="list-style-type: none"> - Clause 13.02-1S (Bushfire planning)
	Clause 14 (Natural Resource Management), in particular: <ul style="list-style-type: none"> - Clause 14.01-1S (Agriculture) - Clause 14.01-1L (Protection of agricultural land – Macedon Ranges)
	Clause 15 (Built environment and Heritage), in particular: <ul style="list-style-type: none"> - Clause 15.01-5L (Neighbourhood character – Macedon Ranges township) - Clause 15.03-1S (Heritage conservation)
	Clause 16 (Housing), in particular: <ul style="list-style-type: none"> - Clause 16.01-1S (Housing supply)
Other planning strategies and policies	<ul style="list-style-type: none"> - Victoria’s Housing Statement 2024-2034 - Macedon Ranges Statement of Planning Policy 2019 - Loddon Malley South Regional Growth Plan - Macedon Ranges Settlement Strategy 2011 (the Settlement Strategy) - Macedon Ranges Small Towns Study 2006 (the Small Towns Study) - Malmsbury Urban Design Framework 2003 - Kyneton Heritage Study 1990
Planning scheme provisions	<ul style="list-style-type: none"> - Farming Zone - Neighbourhood Residential Zone - Heritage Overlay
Ministerial directions	Ministerial Direction 11 (Strategic Assessment of Amendments)

	Relevant references
Planning practice notes	Planning Practice Note 1 – Applying the Heritage Overlay Planning Practice Note 43 – Understanding neighbourhood character Planning Practice Note 46 – Strategic Assessment Guidelines Planning Practice Note 91 – Using the Residential Zones

2.2 Strategic justification

(i) Evidence and submissions

Council provided a balanced and comprehensive analysis of the Amendment’s consistency with planning policy in its Part A submission. The more pertinent points are summarised below.

Housing and settlement policy

Council submitted the Amendment responds to housing and settlement policy in:

- Clause 11.01-1L (Malmsbury) by:
 - managing growth within the township boundary of Malmsbury
 - protecting and enhancing Malmsbury’s identified values and attributes through the NRZ13, which will ensure any development of the site is appropriate to its location at the periphery of Malmsbury
- Clause 16.01-1S (Housing supply) by facilitating residential development within the township boundary and providing development-ready housing opportunities for Malmsbury.

Council noted the Amendment proposes to facilitate a supply of residential lots that will be connected to reticulated sewer services, which is appropriate given the town’s location within a special water catchment area. It submitted:

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.

Council submitted the Amendment:

- responds to the vision and objectives contained in the Settlement Strategy by supporting additional regional residential development within the township boundary with connections to appropriate infrastructure
- respects Malmsbury’s role within the settlement hierarchy as a small town (between 500 and 2,000 people)
- is consistent with the overall vision for Malsbury in the Small Towns Study by providing for residential development that:
 - does not adversely impact the environmental or cultural heritage assets of the town
 - respects the broader rural landscape and character of the area.

Agricultural land

Council submitted:

Council seeks to protect its agricultural land from inappropriate development. This includes avoiding residential development pressures on agricultural land by containing residential development within town boundaries.

It submitted the Amendment supports Clauses 14.01-1S and 14.01-1L as:

- the land is within the township boundary, and has been since 2000
- the land is developed with a single dwelling and has limited agricultural opportunities due to its location, size and shape
- given the size and location of the land and the surrounding residential uses, there is limited to no opportunity for land consolidation for agricultural purposes
- the change in use will not impact nearby productive agricultural uses given the setbacks required under the NRZ13 and the adjoining residential land uses.

Whether the site is suitable for agricultural use is addressed in detail in Chapter 4.

Special characteristics and values of the Macedon Ranges and Malmsbury

Council submitted the Amendment responds to policy that seeks to protect the special characteristics and values of the area in:

- Objective 8 in the Statement of Planning Policy, as it facilitates development within the township boundary that respects the township's character, surrounding rural landscapes and defined settlement hierarchy
- Clause 11.03-5S (Distinctive Areas and Landscapes) through the NRZ13, which recognises the importance of the Shire's distinctive areas and landscapes and protecting valued attributes in the locality through setbacks, site coverage and landscaping requirements (among others)
- Clause 12.05-1S (Landscapes), by seeking to provide a development opportunity within an existing settlement and away from areas with identified landscape values
- Clause 12.05-2L (Landscapes – Macedon Ranges), by avoiding adverse development outcomes along roadsides and near prominent landscape features, and avoiding impacts on vegetation
- Clause 15.01-5L (Neighbourhood character – Macedon Ranges township), by providing for larger lots on the periphery of the township which will include generous setbacks, provision of canopy trees and space for landscaping
- Clause 15.03-1S (Heritage conservation), by providing for residential development that does not impact on any identified natural heritage, cultural heritage or heritage places (heritage is discussed in more detail in Chapter 5.1)
- the Malmsbury Urban Design Framework by providing a continuation of the exotic street tree avenue plantings in the adjacent precinct.

Bushfire planning

Council submitted the Amendment supports Clause 13.02-1S (Bushfire planning) by ensuring an appropriate design response to the surrounding risk and hazards, including the requirement (under the proposed permit conditions) for a section 173 Agreement that requires defensible space to be provided and maintained around future dwellings. Council noted the Country Fire Authority supports the Amendment.

Other perspectives

Some submitters felt the Amendment was not orderly planning, and was an 'ad hoc' change to the planning controls prompted by a request from the landowner rather than a proper comprehensive strategic planning exercise. Others considered that the rezoning was contrary to policies that seek to protect agricultural land. One submission raised concerns about community cohesion and quality of life.

MARRA submitted the Amendment is:

- contrary to settlement policy and strategy including the Settlement Strategy, the Small Towns Study and the Malmsbury Urban Design Framework
- contrary to policies for the protection of agricultural land
- contrary to policies that seek to protect the highly valued rural landscapes and special character of the Shire and its small towns.

It did not clearly articulate what it was about the Amendment or the proposed permit application that offended these policies, other than general statements to the effect that it is contrary to policy to rezone Farming Zoned land. This issue is addressed in more detail in Chapter 4.

The Proponents adopted Council's submissions on the strategic justification for the Amendment, and further submitted:

- the Amendment reduces pressure for approval of dwellings outside the township, on rural land that may be used for agriculture, or that may be subject to other values, sensitivities or risks
- there is a plethora of policy support for consolidation of residential uses within existing and planned urban areas, rather than succumbing to pressure for dwellings (and residential subdivisions) in rural areas.

(ii) Discussion

The Panel has assessed the Amendment 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. It considers the Amendment has a sound strategic basis, and achieves an appropriate balance of the competing policy objectives, including facilitating housing in appropriate locations, respecting the Shire's settlement hierarchy, protecting high value agricultural land, and protecting the special and valued characteristics of the Shire.

Clause 11.02-1S seeks to encourage a 15-year supply of residential land, and Clause 16.01-1S seeks to encourage a supply of appropriate housing in appropriate locations, including within township boundaries in rural and regional areas. Clause 2.03-1 outlines a hierarchy of settlements in the Macedon Ranges which seek to accommodate forecast growth in the Shire. Malmsbury is identified as a small town, and is described as:

... a local service centre for township residents and community in the surrounding agricultural area with a rural village character. Given the level of existing services and infrastructure, as well as the low historical demand, Malmsbury is expected to retain its role as a small town. There is sufficient land available in Malmsbury to accommodate limited growth within the township boundary and surrounding area.

Clause 2.03-1 expressly supports limited infill development in smaller settlements and within township boundaries, provided they retain their existing role, size, services and character.

The assertion that the Amendment constitutes an 'ad hoc' rezoning has no basis. The site has been located within the township boundary since 2000. For 24 years, the policy framework has envisaged an urban future for this land. As the Proponents put it, it is not a question of 'if' this land should be rezoned for urban purposes, but rather 'when'. The strategic work supporting the future redevelopment of the site for urban purposes was undertaken some time ago, is reflected in the Settlement Strategy and has been consistently reflected in the Planning Scheme since 2000. The policy framework has long contemplated an urban future for the site – there is nothing 'ad hoc' about this Amendment.

MRRRA provided a detailed chronology of the township boundary (Document 11), which indicated that:

- the township did not have a boundary before the introduction of the New Format Planning Scheme in 2000

- while a township boundary was introduced in 2000 (and the site was within the township boundary), the site was:
 - not shown within the study area for Malmsbury in the Settlement Strategy
 - remained in the Farming Zone through Amendment C84 (the Rural Land Strategy, approved in 2006) and Amendment C150 (the policy neutral transition of the Planning Scheme's policy framework, approved in August 2023).

This chronology is of limited (if any) relevance to the matters before the Panel. The Amendment needs to be assessed against the current policy framework – not against historic background documents or past decisions about rezoning (or not rezoning) Farming Zone land within the township boundary.

In any event, the Amendment is consistent with the Settlement Strategy and the Small Towns Study, for the reasons set out above. The fact that the site sits outside the study area identified in the Settlement Strategy is of no significance. The site is within the township boundary as shown in the Settlement Strategy and (more to the point) the Framework Plan currently contained in Clause 11.01-1L of the Planning Scheme.

While the policy framework directs the bulk of the Shire's growth to the larger towns, this does not mean no growth should be expected in the Shire's small towns. This modest increase in the supply of residential land is entirely consistent with settlement policy in the Planning Scheme, and Malmsbury's role in the settlement hierarchy as a small town with a population of up to 2,000 people.

The Amendment will facilitate a supply of residential land within Malmsbury that is well located close to services and transport links, and able to be connected to reticulated services. By providing for larger scale residential lots at the township's eastern periphery, it is a logical extension of existing development, and provides an appropriate transition:

- from the standard density residential lots west of Wills Street to the lower density rural residential development envisaged to the south (within the township boundary)
- from the township to the agricultural land to the east (located outside the township boundary).

The policy framework emphasises the need to protect the Shire's distinctive areas and landscapes and valued attributes. The Panel is satisfied the Amendment achieves this by directing growth to within a defined township boundary, which will relieve pressure on inappropriate residential development on rural land between the townships. By providing for larger sized lots at the periphery of the township, the Amendment respects the character of Malmsbury and provides an appropriate transition to the rural area to the east of the town.

The assertion that the Amendment will erode community cohesion and quality of life is without foundation. This modest increase in residential land supply will provide an opportunity for more residents to settle in the town, supporting the town's community facilities and services. If, on the other hand, the Shire's small towns are 'locked down' with no opportunity for growth and change as some submitters seem to suggest, there is a significant risk that these small towns will stagnate or slowly die.

There are other strategic considerations that need to be taken into account in assessing the Amendment:

- policies about residential land supply
- policies that seek to protect agricultural land
- policies that seek to protect the heritage and neighbourhood character of the Shire's townships.

For the reasons set out in Chapters 3, 4, 5.1 and 5.2, the Panel finds that the Amendment is consistent with those policies.

2.3 Conclusions and recommendation

For the reasons set out in this report, the Panel concludes that the Amendment is well founded and strategically justified, and should be supported. It is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes.

The Panel recommends:

Adopt Amendment C154macr to the Macedon Ranges Planning Scheme as exhibited, subject to the specific recommendations in this Report.

3 Residential land supply

3.1 The issue

The issue is whether the Amendment and permit application are consistent with policy in relation to residential land supply.

3.2 Evidence and submissions

Some submitters sought to rely heavily on the fact that the Settlement Strategy and Small Towns Study indicate rezoning land for residential purposes is not required to meet the future housing needs of Malmsbury (at least to 2036, which is the timeframe of the Settlement Strategy). They said this meant the Amendment was not strategically justified.

Council acknowledged this, but submitted that the review and supply of land is an ongoing task, not a 'set and forget' task. Council noted the Settlement Strategy is now 13 years old, and Malmsbury has grown since that time consistent with its identified role as a small town.

Council noted that Clause 11.02-1S encourages planning authorities to maintain *at least* a 15-year supply of urban land within each municipality. While other towns within the municipality will provide a healthy supply of residential land, that does not preclude ensuring Malmsbury has an appropriate supply in line with demand. Relying on supply and demand assessments prepared for the Proponents by Ethos Urban (Documents 5 and 6(c)), Council submitted:

Previous forecasts contained within the Settlement Strategy 2011 are considered inadequate to current demand [and] without additional residential supply, Malmsbury will not have sufficient residential zoned land by 2036. The Amendment provides a small increase to the land supply and [is] therefore not at odds with existing policy.

The Proponents submitted land supply and demand is the key consideration informing when rezoning within the township boundary is appropriate. Relying on the residential land supply evidence of Mr McNeill, they submitted there is sufficient demand for residential land to justify the rezoning at this time.

According to Mr McNeill's evidence, the Victorian Government's Urban Development Program (2022 Report) considered land supply at a municipal level, and estimated a then current supply of residential land across the municipality of between 9 and 14 years.

Mr McNeill undertook a more fine-grained analysis of the likely demand for future dwellings in Malmsbury, against the theoretical and practical supply of residential land in the town. He concluded that the supply of an additional nine residential lots within the township boundary as proposed by the Amendment is consistent with land supply policy.

Mr McNeill estimated a demand for between 6 and 11 new dwellings in Malmsbury each year, based on:

- the "*relatively strong*" recent population growth in Malmsbury (2.3 to 2.7 percent per year since 2016)
- the "*relatively conservative*" population growth in Malmsbury forecast by id. forecast (1.1 percent growth in to 2036)
- vacant lot sales and dwelling construction trends from 2015 to date.

He analysed the theoretical supply of vacant lots in Malmsbury based on aerial imagery. He counted 282 vacant lots, 187 of which are within the township boundary.¹ He emphasised that this represents a very much theoretical supply, and many of these lots are unlikely to come to market. Many are not currently accessible by road, and many will not have a willing vendor. Mr McNeill concluded:

Accordingly, the theoretical supply is not representative of the practical supply which is almost impossible to estimate.

Mr McNeill noted that as of July 2024, only 12 vacant residential lots are for sale in Malmsbury, leading him to conclude that given the ongoing demand of between 6 and 11 lots per year, Malmsbury “*can be described as a relatively constrained market at present*”.

MRRRA submitted the Settlement Strategy found that the effective supply of residential land in Malmsbury was sufficient to accommodate 1,200 persons to 2036 (against a projected population of 900) without any rezoning of land within the township. It submitted Clause 11.02-1S requires an assessment of land supply on a municipal basis, not a town-by-town basis. When assessed on a municipal basis, Macedon Ranges has considerable available or proposed land supply. MRRRA pointed to recent strategic planning work for other Macedon Ranges townships which demonstrated a significant supply of residential land across the municipality.

3.3 Discussion

As discussed in Chapter 2, the policy framework strongly supports a residential use for the site given its location within the township boundary. If the land is otherwise suitable for residential use, that should be the end of the matter. Contrary to MRRRA’s submission, it is not necessary to demonstrate an undersupply of residential land in either Malmsbury or in the municipality more broadly to justify rezoning land within a township boundary for residential purposes.

That said, the Panel is satisfied on the basis of Mr McNeill’s evidence that there is a demand for residential land in Malmsbury, and that the current practical supply of land is relatively constrained.

The Panel asked Mr McNeill how his analysis should be considered in the context of the Settlement Strategy’s assessment that there is more than sufficient residential land to accommodate the town’s projected growth to 2036. He responded that the Settlement Strategy is outdated, and the supply analysis in the Strategy was very much theoretical and did not consider practical constraints on supply. Council also noted that the Strategy is now 13 years old, and its forecasts of supply are inadequate to meet current and future demand.

The evidence does not definitively demonstrate *how* constrained the market in Malmsbury is. Nor does it demonstrate that there is insufficient land in Malmsbury to meet likely future demand, to 15 years or beyond. However, that is not necessary to justify the Amendment. The policy framework requires Council to maintain *at least* a 15-year supply. It does not prevent or discourage a greater supply being maintained.

The Panel is mindful that Clause 11.02-1S requires an assessment of land supply on a municipal basis, not a town by town basis. According to Mr McNeill’s evidence the Urban Development Program 2022 Report estimates residential land supply in the municipality of between 9 and 14 years, suggesting more supply may be needed to achieve the target of at least a 15-year supply.

¹ The other 95 vacant lots are within the low density residential areas to the north and west of the township, shown by the dashed red line in Figure 2.

Even if the Urban Development Program 2022 Report is inaccurate (or outdated), and the municipality has a 15-year supply of residential land (for example, because supply was increased by the more recent strategic work referred to in the MRRRA submission), this would not mean the Amendment is unjustified. To suggest otherwise is a misunderstanding of the policy directions in Clause 11.02-1S.

3.4 Conclusions

The Panel concludes:

- The Amendment and permit application do not need to be justified on the basis of an inadequate or constrained supply of residential land in either Malmsbury or the municipality more broadly.
- That said, the Panel is satisfied on the basis of the evidence that Malmsbury is a relatively constrained market, and there is demand for more residentially zoned land to accommodate future growth projections.

4 Agriculture

4.1 The issue

The issue is whether the Amendment and permit application are consistent with policy in relation to the protection of agricultural land.

4.2 Evidence and submissions

Several submissions raised concerns for the loss of agricultural land and how this would adversely impact on the agricultural character of Malmsbury and its surrounds. MRRA submitted the Amendment is not consistent with protecting agricultural land within 100 kilometres of Melbourne's CBD.

Council submitted the Amendment is consistent with the objectives and strategies in Clause 14.01-1S (Agriculture) and Clause 14.01-1L (Protection of agricultural land – Macedon Ranges) by directing residential development to locations within township boundaries, relieving pressure on dwellings in agricultural areas. It noted:

- the site currently has a rural residential function, making it unlikely the land will be repurposed for agricultural use
- adjoining land to the north (zoned Farming Zone), west (zoned General Residential Zone) and south (zoned Rural Living Zone) is zoned and/or used for residential purposes, so the capacity for any land consolidation for agricultural purposes is highly unlikely given the cost for rural residential land close to services
- agriculture uses in the surrounds of Malmsbury generally include dryland cropping, animal husbandry, horse husbandry or hobby farm purposes, which could not take place on a parcel the size of the subject land
- the capital improvement costs required to facilitate a higher intensity agricultural use are likely prohibitive.

Council submitted the rural character of the area will be maintained through:

- the continued application of the Farming Zone off Chisholm Avenue (to the northeast of the site) and the Rural Living Zone off Lauriston Street (to the south of the site)
- the setback of the site from main transport links and key view corridors
- the landscaping, setback and fencing requirements under the NRZ13.

The Proponents submitted the Amendment and permit application are not inconsistent with policies that seek to protect agricultural land:

The Land is not used for agriculture, has not been used for agriculture for many years, and it is most unlikely to be used for productive agriculture in future (regardless of the fate of the Amendment)...

While the Proponents acknowledge various planning policies and objectives in favour of protecting agricultural land for agricultural purposes, it would be simplistic and misguided to suggest that those policies militate against the Amendment, given the nature and location of the Land.

Mr Dillon gave agricultural evidence for the Proponents. He assessed the suitability of the site for agricultural use, based on:

- current and historic site conditions and land uses of the site and surrounding areas
- soil characteristics (including laboratory testing of soil samples)
- requirements for viable agricultural production.

He concluded the site has low agricultural utility and is not suitable for agricultural production because of a range of factors, including:

- unfavourable physical and chemical characteristics of the soil
- the limited size, awkward shapes and location of those parts of the site with better quality spoils that have the potential to support agricultural production
- incompatible neighbouring land zoning and use (largely residential).

In terms of soil characteristics, much of the soil on the site has low pH levels and low soil nutrition. Large areas of the site have reactive clay soils or large proportions of rock in the soil. Some areas are poorly drained due to soil profile and topography. Those areas on the site that are suitable for agricultural production in terms of soil characteristics are small and not contiguous, and not sufficiently sized to support viable agricultural production.

Other factors include:

- a lack of onsite access to water
- poor quality vegetation on the site that is unsuitable for even low intensity stock grazing
- a lack of suitable infrastructure such as access, fencing and infrastructure for stock shelter and handling
- the size of the land does not allow for the economies of scale needed for viable agricultural production.

Mr Dillon pointed out that if the current use of the site is maintained, or if it is converted to agricultural use (which would not be viable in the long term), there is a risk of increased adverse environmental and amenity effects in the surrounding area due to feral animals, weeds and bushfire risk.

He concluded that the site has no real prospect of making a significant contribution from agricultural production to the local, regional or state economy, and the proposed change in land use (to a more intensive residential use compared to the current single residence) would not adversely impact the agricultural productivity of the surrounding region.

4.3 Discussion

Policy for the protection of agricultural land is directed at identifying and protecting high value productive agricultural land that contributes to rural and regional economies. Just because a particular parcel of land is in the Farming Zone does not mean it attracts the protection of these policies.

The Panel is satisfied on the basis of Mr Dillon's evidence that there is no prospect that this land has any capacity to contribute to the productive agricultural land in the Malmsbury area, or make any significant economic contribution from agricultural use. It is not agricultural land which Clause 14 seeks to protect. Rezoning the land for residential development is in no way inconsistent with policy that seeks to protect agricultural land.

If the site ever was high value agricultural land, it is no longer. Quite apart from the condition of the soils on the land, the size of the land and its surrounding land uses and zoning make it unsuitable for agricultural use. This is reflected in the policy settings for the land (and has been for over two decades).

It is unfortunate that the Proponents felt compelled to obtain evidence to answer submissions that lack any strategic merit, and to support what is obvious from the long standing policy settings for the land – that this land is destined for redevelopment for urban purposes.

4.4 Conclusion

The Panel concludes:

- The Amendment and permit application are not inconsistent with policy for the protection of agricultural land.

5 Other issues

5.1 Heritage

(i) The issue

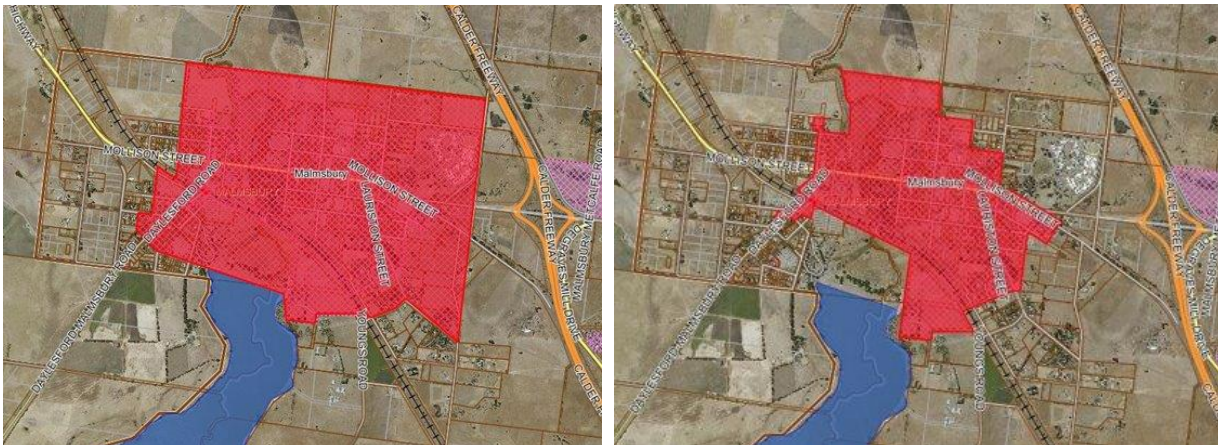
The issue is whether the removal of the Heritage Overlay would unacceptably impact the heritage values of the Malmsbury Precinct (HO148).

(ii) Background

Council explained that the extent of HO148 is based on the 'Malmsbury Conservation Area' as identified in the *Shire of Kyneton Conservation (Heritage) Study 1990* (Heritage Study), shown in the left hand image in Figure 5. The Panel understands a Heritage Overlay applied to this extent under the old Kyneton and Newham Planning Scheme, before the New Format Planning Scheme was introduced in 2000.

Council submitted the intent when preparing the New Format Planning Scheme was to apply the Heritage Overlay to a reduced extent, shown in the right hand image in Figure 5. The reduced extent excludes the site. Notwithstanding the intent, the New Format Planning Scheme applied the HO148 to the original extent of the Malmsbury Conservation Area, not the reduced extent.

Figure 5 Extent of HO148 in the Heritage Study compared to the New Format Planning Scheme working documents



Source: Document 9

According to MRRA, the Panel and Advisory Committee considering the New Format Planning Scheme recommended that:

- before adoption, heritage sites that were not previously subject to heritage controls ('newly identified heritage sites') be excluded from the overlay unless the owner consented to inclusion
- after adoption, newly identified heritage sites where consent was not obtained be included in the overlay in the first amendment after the New Format Planning Scheme was adopted.

The Panel has given this history little weight. Whether the current extent of HO148 was intended, or whether it was a 'mistake', is immaterial. What is relevant is the extent of the HO148 precinct as reflected in the current Planning Scheme. That includes the site.

(iii) Evidence and submissions

Council submitted it was appropriate to remove the Heritage Overlay from the site. It submitted the Heritage Study did not identify the site as having any particular heritage significance of its own, and a recent assessment undertaken by Council's heritage planner in accordance with Planning Practice Note 1 – Applying the Heritage Overlay (PPN01) concluded there is little or no visible heritage in the streetscape or immediate area of the site that would meet current requirements for heritage protection.

Council acknowledged that heritage assets protected by HO148, such as street tree plantings, have contributed to defining the broader character of Malmsbury. However, the broad extent of HO148 (which includes several areas that have no heritage value) means the overlay acts more as a character control rather than a tool for protecting heritage. Council submitted this is not consistent with current planning practice.

Further, Council submitted:

- the NRZ13 provides a continuation of the 'character intent' of HO148
- any future development on the site in line with the requirements of the NRZ13 and permit conditions would not impact the heritage significance of those parts of the township covered by HO148 that have heritage value (noting these are some distance from the site)
- the removal of HO148 will streamline the planning process by avoiding unnecessary regulatory burden associated with triggering a permit where it is not justified.

The Proponents submitted there is nothing on the site which makes any contribution to the town's character or heritage, evident from an inspection of the site and confirmed by an assessment of the site undertaken by heritage architect Mr Jim Gardner of GJM Heritage (Document 7(d)). Mr Gardner's opinion concluded:

Having inspected the subject land and the surrounding area and reviewed the history of the site and Malmsbury more broadly, it is my opinion that the property known as 1 Wills Street does not demonstrate historic heritage values at the local level and therefore does not warrant inclusion on the Schedule to the Heritage Overlay.

None of the heritage values of HO148 – Malmsbury Precinct are, in my opinion, evident on the subject land and this property does not make a meaningful contribution to the Heritage Overlay precinct. My historical research and on-site investigations did not identify any other elements on the subject land that may have historic heritage values.

MARRA submitted there is strong support in strategic documents for the enhancement and protection of rural landscapes within the town and its eastern town gateway. It submitted removing the overlay from the site would create a gap in the HO148, and would set a precedent for its reduction or removal from other sites. It submitted strategic studies are needed to remove the overlay, and this work has not been done.

(iv) Discussion

The Panel accepts that:

- heritage assessments have been undertaken of the site in accordance with PPN01 both by Council's heritage planner (Appendix A to Document 6) and by Mr Gardner (Document 7(d))
- on the basis of those assessments, the site has no intrinsic heritage value of its own, and is unlikely to contribute to the heritage significance of the Malmsbury Precinct
- the site is located some distance from the nearest places of heritage value within the Precinct
- development on the site is highly unlikely to impact on the heritage values of the Precinct.

On that basis, the Panel is satisfied there is no heritage reason not to support the proposed redevelopment of the site. Further, there may be no reason to support the continued application of the Heritage Overlay to the site.

However, the Panel does not support the removal of the Heritage Overlay from the site as part of this Amendment. It would leave an awkward gap in the Precinct, and it does not represent orderly planning to remove or ‘punch holes’ in the overlay on a piecemeal basis as redevelopment proposals are put forward. Any refinements to HO148 should be undertaken on the basis of a more thorough and comprehensive review of the whole precinct.

(v) Conclusions and recommendations

The Panel concludes:

- The proposed redevelopment poses no threat to the heritage values of the Malmsbury Precinct, and there are no heritage grounds on which the Permit Application should not be supported.
- It does not represent orderly planning to remove the site from the Heritage Overlay as part of this Amendment. A more comprehensive assessment of the whole Precinct is required before adjustments are to be made to HO148.

The Panel recommends:

Retain the Heritage Overlay on the site.

5.2 Neighbourhood character and setbacks

(i) The issues

The issues are:

- whether the Amendment and the proposed development are consistent with policy that seeks to protect and respect the neighbourhood character of the area
- whether the setbacks required under condition 1(b) of the draft permit are justified.

(ii) Background

The Proponents oppose condition 1(b) of the draft permit, which requires certain setbacks to be provided. The condition requires the application plan to be amended to provide building envelopes for each lot that include:

- (b)(i) A minimum street setback of 12 metres from any street that a lot abuts to the front, side or rear.
- (b)(ii) A minimum side and rear setback of 5 metres to any adjoining lots.
- (b)(iii) Variable front setbacks of between 12 and 15 metres for each lot to avoid a continuous building line.

The application plan is extracted in Figure 4 in Chapter 1.3 with the exhibited setbacks identified by dashed lines in orange.

(iii) Evidence and submissions

Neighbourhood character policy

Council submitted the character of the surrounding area features larger lots, generous setbacks and prominent street tree plantings. It submitted policy supports larger lots, significant landscaping and generous setbacks, which are reflected in the provisions of the NRZ13 and the draft permit conditions. Further:

- the Malmsbury Urban Design Framework does not identify nearby features that contribute to neighbourhood character except a windrow avenue feature on Lauriston Road to the south
- the site is well set back from this road and would not impact on the windrow
- the Amendment and permit encourage the planting of street trees and trees on private property that will build on the established character of the neighbourhood
- the site is not within any significant view corridors identified in the Urban Design Framework (these are primarily along the Coliban River and Calder Highway), and is well set back from these areas.

MARRA raised several concerns in relation to the impact on the neighbourhood character of Malmsbury, including:

- the Amendment does not limit future residential development to what it described as *“more typically ‘rural’ single storey development”*
- the Amendment does not address new planning controls which allow for small second dwellings on a lot without a permit, which has potential to *“double the intensity of the proposed development”*
- the NRZ13 Schedule does not include specific requirements for private open space to be provided.

MARRA’s concerns in relation to broader landscape character are addressed in Chapter 2.

The Proponents essentially adopted Council’s submissions in relation to neighbourhood character issues, except in relation to front setbacks which are discussed below.

Setbacks

Council submitted that condition 1(b) and the NRZ13 *“work together to encourage development that best represents the preferred future character for this area”*. It submitted that relying on NRZ13 alone limits the potential to achieve this character. It submitted:

- the greatest influence on character is the interface between a lot and the surrounding road reserves
- variability in street setback is a consistent feature in existing areas of Malmsbury
- Council is seeking to avoid a repetition of what it described as the *“uniform built form outcomes to the east of Wills Street”*
- it supports a reduced street setback of 12 metres in the NRZ13 (15 metres was originally proposed) only if considered in combination with condition 1(b)(iii) requiring varied front setbacks
- the condition is necessary to provide a more informal street character that respects the characteristics of the township fringe.

The Proponents submitted conditions 1(b)(i) and (ii) are redundant, as the application plan already shows street setbacks of 12 metres and side and rear setbacks of 5 metres. They opposed condition 1(b)(iii) more strongly, submitting it is unwarranted and unreasonable.

The Proponents did not oppose the concept of building envelopes, or the requirement that building envelopes be secured through a section 173 agreement (condition 7 on the draft permit). However, they did oppose more generous front setbacks than those required under the NRZ13. They submitted:

- the NRZ13 represents *“a relatively comprehensive and tailored planning instrument, to guide the form of development of the proposed lots”*

- condition 1(b)(iii) threatens to introduce inconsistency with the NRZ13, which is undesirable and without proper basis
- the setbacks proposed in the NRZ13 are discretionary, and condition 1(b)(iii) effectively introduces more restrictive mandatory setbacks.

The Proponents submitted that any concern about excessive uniformity in appearance is not well founded because:

- the proposed lots would be subdivided and then developed separately by purchasers
- different purchasers will inevitably have different needs and preferences in terms of dwelling style
- those differences will be reflected in the presentation of each dwelling to the street
- the siting of dwellings within the exhibited building envelopes would leave generous space within each envelope for landscaping, which conditions 3 to 6 ensure will be generous and contribute to avoiding uniform development
- given the size of the proposed lots, there is *“no rational basis for concerns as to excessive uniformity of development, from a streetscape perspective”*.

(iv) Discussion

Neighbourhood character policy

Local policy in Clause 15.01-5L outlines an existing and desired character in Malmsbury, and it is important that both the Amendment and the proposed development respect that character. Relevant strategies in Clause 15.01-5L include:

- encouraging landscaping including canopy trees as a feature of all residential development in Malmsbury
- protecting the landscape and built form characteristics and qualities of residential areas in Malmsbury by promoting the theme of a rural village
- ensuring development on the periphery of the town is semi-rural residential with larger lots, significant landscaping and generous setbacks.

The proposal meets these policy objectives. The requirements in the NRZ13 and the proposed permit conditions will ensure a semi-rural residential style development with larger lots, generous setbacks and generous landscaping. Canopy trees will be provided in street plantings and on-site landscaping, consistent with the neighbourhood character sought under Clause 15.01-5L. The NRZ13 contains minimum garden area requirements which, together with the setback and site coverage requirements under the Schedule, will ensure sufficient private open space is provided.

There is no basis for MRRA’s assertion that development must be single storey to achieve a rural character, and no strategic justification for seeking to impose a single storey height limit on the site. No other parts of Malmsbury (including the heritage ‘core’) are subject to such a restriction.

The new provisions that allow small second dwellings cannot be excluded by local planning controls, and any suggestion that small second dwelling should not be allowed would be contrary to state policy. There is no basis to MRRA’s assertion that these provisions will *“double the intensity”* of the development – small second dwellings cannot be more than 65 square metres and (if developed) will take up only a very small proportion of each lot.

Setbacks

The Panel understands Council's concerns to avoid uniform built form along the site's street frontages and ensure a varied setback that is consistent with the character of Malmsbury. It also appreciates that once the subdivision is approved, there will be no further permit applications required under the NRZ13 to construct the dwellings, so the subdivision permit effectively represents Council's only opportunity to control front setbacks.

The Panel does not consider that condition 1(b)(iii) is necessary to achieve a non-uniform presentation of built form to the streets surrounding the site. As the Proponents pointed out, the dwellings will be built by separate purchasers according to their own designs and needs, and the risk of uniform built form along the street frontages is minimal. Even if front setbacks were uniform, they are generous (at 12 metres), with generous separation between dwellings (a minimum of 10 metres). This, combined with the landscaping requirements in conditions 3 to 6, results in a very low risk of the built form outcomes that Council seeks to avoid.

The Panel agrees with the Proponents that conditions 1(b)(i) and (ii) are redundant as the application plan already shows these setbacks.

(v) Conclusion and recommendation

The Panel concludes:

- Condition 1(b) is not required to avoid uniform built form along the site's street frontages and to achieve the desired neighbourhood character for the area.

The Panel recommends:

Delete condition 1(b) from draft Permit PLN/2022/198 as shown in Panel's recommended conditions in Appendix C.

5.3 Stormwater and drainage issues

(i) The issue

The issue is whether the proposed development could result in unacceptable stormwater or drainage impacts.

(ii) Evidence and submissions

Submitter 4 raised concerns that the proposal does not provide enough detail on how stormwater runoff will be managed. The submission alluded to a natural watercourse running across the road reserve (presumably of Walsh Street), and stated that the documents do not address the potential impacts of eight new dwellings and potential outbuildings (presumably on the watercourse).

Council responded that the permit application had been referred to Council's drainage engineers, who were satisfied that the conditions of the draft permit outline sufficient stormwater management requirements. The permit requires engineering plans detailing the stormwater drainage system design to be prepared and submitted to Council's satisfaction before subdivision works start. The system must be designed to provide for runoff from upstream catchments and include any downstream works necessary to manage flows from the subdivision. The development cannot be completed unless the conditions of the permit have been met.

The Proponents adopted Council's submissions in relation to stormwater and drainage issues.

(iii) Discussion

The stormwater and drainage conditions proposed on the draft permit are standard conditions on a subdivision permit, and no information or evidence was brought to the Panel's attention to suggest that the conditions are inappropriate, incapable of being met, or that anything more is required.

For completeness, the Panel notes that an informal depression crosses the site from Walsh Street that appears to act as a drainage line in heavy rain. There is no evidence of a watercourse running through the site or the road reserve of Walsh Street.

(iv) Conclusion

The Panel concludes:

- The proposed development does not raise any concerns in terms of managing stormwater runoff or drainage.

5.4 Traffic**(i) The issue**

The issue is whether the proposed development could result in unacceptable traffic impacts.

(ii) Evidence and submissions

Submission 4 referred to the extension to Walsh Street, and stated the documents do not provide enough detail for the submitter to be comfortable with the proposal as presented. It is not clear what the concerns are in relation to Walsh Street.

The Proponents responded that there is no basis for doubt or concern in relation to the construction of Walsh Street within the existing road reserve, nor its ability to service the proposed lots. The Proponents relied on the reports of O'Brien Traffic supporting the permit application. They tabled a letter from O'Brien Traffic (Document 7(e)) that summarised O'Brien Traffic's earlier conclusions and responded to submissions. The letter concluded:

Overall, it is anticipated that the traffic generated by the proposed development would have negligible impact on the safety and operation of the Ross Street/Mollison Street intersection, the Johnson Street/Mollison Street intersection, Mollison Street and the surrounding road network

Key points made by O'Brien Traffic in response to submissions were:

- While some traffic generated by the proposed development may travel along Johnson Street, due the scale of the proposed development (9 residential lots), it would be unreasonable to expect the applicant to seal Johnson Street (to the extent that was suggested in submissions).
- The current design of the intersection of Johnson Street and Walsh Street is considered appropriate for the traffic volumes expected to use the intersection both currently and post-development.
- To the extent that there are concerns with the existing intersection of Johnson and Walsh Streets:
 - it is Council's responsibility to maintain sight distances at the intersection
 - the level of traffic to be generated by the proposed development does not justify a requirement that the Proponents upgrade the intersection.

(iii) Discussion

Submissions on traffic issues were general in nature and did not identify any clear concerns associated with the proposed development (as opposed to existing conditions), or request any changes to the Amendment or draft permit conditions. The Panel is satisfied that traffic issues have been considered by both Council and the Proponents (through O'Brien Traffic), and no concerns have been identified. There is no traffic reason not to support the proposed development.

(iv) Conclusion

The Panel concludes:

- The proposed development does not raise any concerns in terms of traffic or traffic safety impacts.

5.5 Servicing the land

(i) The issue

The issue is whether the site can be serviced.

(ii) Evidence and submissions

MARRA submitted its main concern is with the provision of reticulated sewerage. It submitted the site's location within a Special Water Supply Catchment "*points to a need for higher certainty on this point than has been provided*". It submitted the application material does not demonstrate guaranteed connection viability or potential costs. It submitted there are difficulties in some parts of Malmsbury with providing sewerage services, and referred to at least two occasions when an approved subdivision in the Shire has not been capable of connecting to sewerage, resulting in effluent being diverted to a pit in the roadside and pumped and shipped out by truck. No details were provided as to where these subdivisions are located, or why they were not able to be connected to reticulated sewerage services.

Submission 4 queried how reticulated services could be delivered to the site due to the presence of a rock reef.

In response, the Proponents submitted there is no basis to doubt the ability to connect the site to all usual reticulated services in the usual ways.

(iii) Discussion

No material was put before the Panel to substantiate the claims from MARRA and Submitter 4 that there may be difficulties connecting to reticulated services. Council's engineers have reviewed the proposed development, and expressed no concerns. The permit application was referred to servicing authorities (including both Coliban Water and Goulburn Murray Water), who have required conditions on the permit in relation to the provision of reticulated water and sewerage services, electricity and telecommunications services to each lot. If the conditions cannot be complied with, the plan of subdivision will not be certified and the development will not be able to proceed.

(iv) Conclusion

The Panel concludes:

- There is nothing before the Panel to suggest that services have not been properly considered, or that there will be any difficulty in connecting the lots to all required utility services including reticulated sewerage.

6 The planning permit

(i) Discussion

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider, as appropriate:

- the Planning Policy Framework
- the purpose of the zone, overlay or other provision
- the orderly planning of the area
- the effect on the amenity of the area
- factors likely to cause or contribute to land degradation, salinity or reduce water quality
- the extent and character of native vegetation, the likelihood of its destruction, and whether it can be protected, planted or allowed to regenerate
- the degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

Other matters to be considered include:

- objections
- comments and decisions of referral authorities
- other matters a Responsible Authority must and may take into account under section 60 of the PE Act, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- adopted government policy.

The Panel has had regard to all of the above considerations, and sees no impediment to the grant of the permit. The development is entirely consistent with the policy framework and adopted government policy for the reasons discussed in Chapters 2, 3 and 4. The provision of lots able to be connected to services including reticulated sewerage represents orderly planning. The development will have minimal if any impact on the character or amenity of the area, and no impacts on native vegetation. There is no flood risk associated with the development, and fire risk is addressed by the permit conditions sought by the Country Fire Authority. The objections to the grant of the permit were unsubstantiated and provided no basis for their claims that the development would present risks to the area (including through stormwater or traffic), or would impact the amenity or character of the area. All referral authorities support the grant of the permit, and their conditions have been incorporated into the draft permit.

The Panel has reviewed and rationalised the proposed permit conditions to provide clarity, avoid unnecessary repetition, remove references that are not relevant (for example shared paths), and provide greater consistency with the drafting guidance in Writing Planning Permits (DTP, May 2023). This includes some minor drafting changes to the conditions of Coliban Water and Goulburn Murray Water. As these agencies are determining referral authorities for the permit application, Council may wish to check that the redrafted conditions are acceptable to those agencies before issuing the permit.

(ii) Recommendation

The Panel recommends:

Grant permit application PLN/2022/198 for the subdivision of the land into nine lots subject to the Panel's recommended conditions in Appendix C.

Appendix A Planning context

A:1 Planning policy framework

The Panel has summarised relevant clauses in the Planning Policy Framework below.

Victorian planning objectives

The State policy objectives set out in section 4 of the PE Act include:

- to provide for the fair, orderly, economic, and sustainable use, and development of land (section 4(1)(a))
- to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity (section 4(1)(b))
- to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria (section 4(1)(c))
- 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 (section 4(1)(d))
- to facilitate development in accordance with the above objectives (section 4(1)(f))
- to balance the present and future interests of all Victorians (section 4(1)(g)).

Clause 2 (Municipal Planning Strategy)

Malmsbury is identified as a Small Town at Clause 2.03-1 (Settlement) of the Municipal Planning Strategy. The Strategic Direction for Settlement in Small Towns is to:

... support limited infill development in smaller settlements, but retain their existing role, size, services and character.

Clause 2.03-1 specifically references Malmsbury as:

A local service centre for township residents and community in the surrounding agricultural area with a rural village character. Given the level of existing services and infrastructure, as well as the low historical demand, Malmsbury is expected to retain its role as a small town. There is sufficient land available in Malmsbury to accommodate limited growth within the township boundary and surrounding area.

The strategic direction for Malmsbury is:

Provide for the orderly development of Malmsbury having regard to the constraints of the area.

Clause 11 (Settlement)

Clause 11.01-1R (Settlement - Loddon Mallee South) does not directly reference Malmsbury. It identifies:

- Bendigo is the local regional city that provides services and employment to a hinterland area which includes Malmsbury
- Kyneton has capacity for growth as an employment and services hub that reinforces the network of communities in the region.

Clause 11.01-1L (Malmsbury) includes a Framework Plan for Malmsbury, which is extracted in This does not mean the land should not be rezoned and developed for residential purposes. Strategies in Clause 11.01-1L (Malmsbury) include:

- Restrict development to within the town boundary. Facilitate residential development on the periphery of the town within the township boundary, featuring larger lots, significant landscaping and generous setbacks.

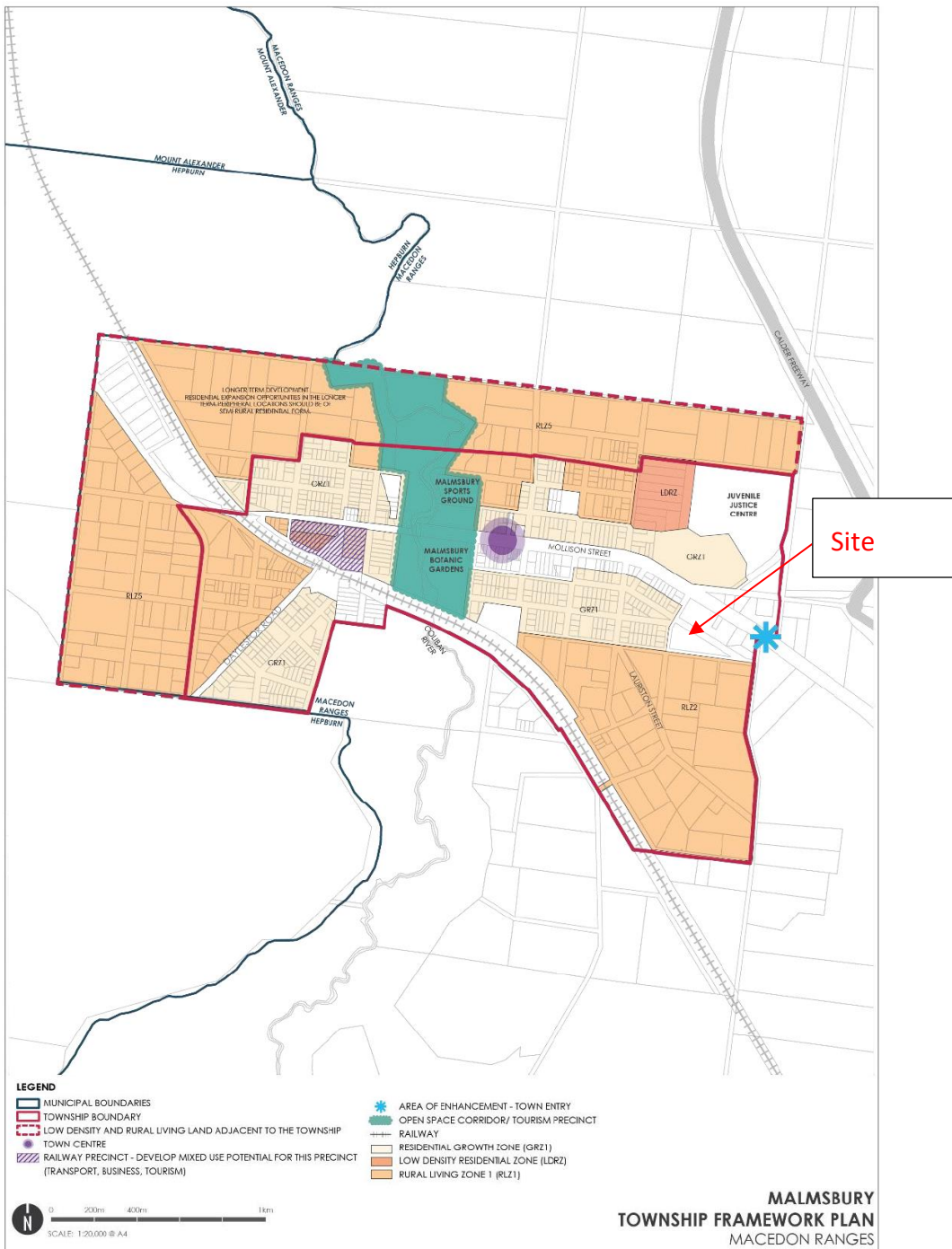
Figure 6The Framework Plan (Figure 6) does not identify a particular land use for the site. It sits outside the areas identified for:

- residential growth
- low density residential
- rural living

This does not mean the land should not be rezoned and developed for residential purposes. Strategies in Clause 11.01-1L (Malsbury) include:

- Restrict development to within the town boundary. Facilitate residential development on the periphery of the town within the township boundary, featuring larger lots, significant landscaping and generous setbacks.

Figure 6 Malsbury Framework Plan



Source: Clause 11.01-1L (Malsbury) of the Planning Scheme with the Panel’s annotation

Clause 11.02-1S (Supply of Urban Land) includes as a strategy:

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.

Planning policy indicates sufficient land exists within the township boundary and surrounding area to accommodate limited growth.

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.

Clause 12 (Environmental and Landscape Values)

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.

Clause 12.05-2L (Landscapes – Macedon Ranges) contains a number of strategies seeking to protect the landscape of the Shire, 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.
- Protect significant exotic and native vegetation as a fundamental component of the Shire's character and landscape.

Clause 13 (Environmental Risks and Amenity)

Clause 13.02-1S (Bushfire planning) applies to any planning decisions relating to land within a designated bushfire prone area (which applies to the land), 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, including:

- directing population growth and development to low risk locations
- reducing vulnerability of communities to bushfire through the consideration of bushfire risk in decision making.

Clause 14 (Natural Resource Management)

Clause 14.01-1S (Agriculture) seeks to protect the State's agricultural base by preserving productive farmland. Strategies 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.
- 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.
- 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.
- 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.

Local strategies in Clause 14.01-1L (Protection of agricultural land – Macedon Ranges) include:

- Ensure use and development of agricultural land relates to the ongoing productive use of the land for agricultural purposes.
- 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.

Clause 15 (Built environment and Heritage)

Clause 15.01-5L (Neighbourhood character – Macedon Ranges township) 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.

Clause 15.03-1S (Heritage conservation) seeks to ensure the conservation of places of heritage significance. Strategies include identifying, conserving and enhancing areas and items of heritage significance and ensuring development outcomes respond to and respect heritage assets.

Clause 16 (Housing)

Clause 16.01-1S (Housing supply) seeks to facilitate well-located, integrated and diverse housing that meets community needs. It includes strategies to encourage a supply of appropriate quantity and quality of housing in appropriate locations, including within township boundaries in rural and regional areas.

A:2 Other relevant planning strategies and policies**Victoria's Housing Statement**

Victoria's Housing Statement 2024-2034 is a state government policy that aims to encourage and guide the construction of 800,000 homes in Victoria between 2024 and 2034, to address housing supply and affordability issues.

Amendment VC253 was introduced into the Victoria Planning Provisions and all planning schemes in May 2024, to implement Victoria's Housing Statement by making it easier to build a small second dwelling.

Macedon Ranges Statement of Planning Policy

Under section 46AZC(2) of the PE Act a planning authority must not prepare an amendment to a declared area planning scheme (of which the Macedon Ranges Planning Scheme is one) that is inconsistent with a Statement of Planning Policy for that declared area.

The Macedon Ranges Statement of Planning Policy was gazetted on 12 December 2019.

Objective 8 of the Statement of Planning Policy 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.

Macedon Ranges Council Plan 2021 - 2031

Strategic Objective 1 – Connecting Communities in the Council Plan outlines the strategic priority to:

Integrate land-use planning and revitalise and protect the identity and character of the Shire.

Loddon Mallee South Regional Growth Plan

The Loddon Mallee South Regional Growth Plan provides broad direction for land use and development across the Loddon Mallee South region, as well as more detailed planning frameworks for the key regional centres. The Plan identifies Malmsbury as a township within close proximity to the key regional centre of Bendigo and being located on key rail and freeway networks, but does not provide specific directions for the future growth and development of Malmsbury.

Macedon Ranges Settlement Strategy

The Macedon Ranges Settlement Strategy 2011 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 is expected to remain a small town (defined as having a population between 500 and 2,000 people).

The Strategy recommended that Malmsbury should grow to around 900 people by 2036. It acknowledged there was sufficient land within the existing township to achieve a larger population (around 1,200), but the recommendation of 900 people by 2036 reflected constraints in services and infrastructure and historical low demand.

Macedon Ranges Small Towns Study

The Study, adopted by Council in July 2006, provides future planning policies and structure plans for the ten small towns in Macedon Ranges Shire. The Study is listed as a background document under Clause 72.08 of the Planning Scheme. Recommendations in the Study informed the vision and objectives of the Macedon Ranges Settlement Strategy 2011.

Malmsbury Urban Design Framework

An Urban Design Framework dated March 2003 was prepared for Malmsbury by KLM Gerner and others in anticipation of the proposed freeway bypass. The Urban Design Framework proposed a vision for the town to guide future planning recommendations. The site sits just outside the precincts identified in the Urban Design Framework. It encourages (among other things) exotic street tree avenue plantings in the precinct adjacent to the site.

Kyneton Heritage Study

The Shire of Kyneton Conservation (Heritage) Study was undertaken in 1990 for the former Shire of Kyneton, identifying individual elements, sites and areas of heritage value. The heritage study provided recommendations which formed the basis for Heritage Overlays in the Planning Scheme, including HO148.

A:3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

Zones

The land is in the Farming Zone, the purposes of which are:

- 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.

The Amendment proposes to rezone the land to Neighbourhood Residential Zone, the purposes of which are:

- To recognise areas of predominantly single and double storey residential development.
- To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Overlays

The land is subject to the Heritage Overlay, the purposes of which are:

- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.

- To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

The land is subject to the Environmental Significant Overlay Schedule 4. The purposes of the Overlay are:

- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Schedule 4 states:

1.0 Statement of Environmental Significance

...

Development of land in the catchment must:

- Support the long-term protection of the natural resources and environmental systems.
- Encourage the implementation of measures to minimise detrimental impacts on the quality and quantity of water within the catchment while avoiding an increase in bushfire risk.

2.0 Environmental objective to be achieved

To ensure development protects, restores and enhances natural resources and environmental systems and minimises detrimental impacts on the quality and quantity of water in the catchment.

The Environmental Significant Overlay Schedule 4 does not require a permit for the construction of dwellings on the lots once the land has been subdivided.

A:4 Ministerial Directions, Planning Practice Notes and guides

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018. That discussion is not repeated here.

Planning Practice Notes

Relevant Planning Practice Notes include:

- Planning Practice Note 1 – Applying the Heritage Overlay, which provides guidance on applying the Heritage Overlay including the criteria required to meet the threshold of local heritage significance
- Planning Practice Note 43 – Understanding neighbourhood character, which provides guidance on meeting the neighbourhood character objectives and standards when preparing or assessing a planning application
- Planning Practice Note 46 – Strategic Assessment Guidelines
- Planning Practice Note 91 – Using the Residential Zones, which provides guidance on using the residential zones to implement strategic work for housing and neighbourhood character.

Practitioner's Guide

A Practitioner's Guide to Victorian Planning Schemes Version 1.5, April 2022 (Practitioner's Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the Victorian Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

Appendix B Document list

No.	Date	Description	Provided by
1	15 Jul 24	Panel Directions and Timetable	Planning Panels Victoria (PPV)
2	16 Jul 24	Plans showing location of the subject land within the Malmsbury town boundary	Council
3	29 Jul 24	Council Part A submission including attachments: <ul style="list-style-type: none"> a. exhibited Amendment documentation b. letter of authorisation with conditions c. additional conditions of Goulburn Murray Water d. submissions received in response to exhibition e. strategic policy documents f. supporting document (not exhibited) 	Council
4	5 Aug 24	Expert report of Cliff Dillon – Agricultural Utility Assessment	Proponents
5	5 Aug 24	Expert report of Chirs McNeill – Residential Land Supply and Demand Assessment	Proponents
6	8 Aug 24	Council Part B submission including attachments: <ul style="list-style-type: none"> a. draft planning permit – final version b. submissions received in response to exhibition (repeat of Document 3(d)) c. Malmsbury Residential Assessment, C McNeill Ethos Urban dated 13 June 2019 	Council
7	8 Aug 24	Proponents' submission including attachments: <ul style="list-style-type: none"> a. Local policy for Malmsbury (Clause 21.13-9 of the Macedon Ranges Planning Scheme) as introduced by Amendment C84 (gazetted version) b. Local policy for Malmsbury (Clause 21.13-9) as introduced by Amendment C84 (exhibited version) c. Panel Report for Amendment C84, 7 April 2014 d. Letter of Jim Gard'ner, GJM Heritage, dated 17 July 2024 e. Letter of O'Brien Traffic, dated 31 July 2024 	Proponents
8	8 Aug 24	Panel presentation	MRRA
9	12 Aug 24	Panel presentation	Council
10	12 Aug 24	Clause 22.02-10 (Malmsbury) of the Macedon Ranges Planning Scheme as at 8 June 2000 (introduction of the New Format Planning Scheme)	Proponents
11	12 Aug 24	Chronology of town boundary	MRRA
12	14 Aug 24	Proponents' response to MRRA chronology of town boundary	Proponents

Appendix C Panel preferred version of the permit

[Track added](#)

~~Track deleted~~

Council to check before granting the permit

Panel note

FORM 9

Section 96J

PLANNING PERMIT GRANTED UNDER SECTION 96I OF THE PLANNING AND ENVIRONMENT ACT 1987

PERMIT NUMBER:	PLN/2022/198
PLANNING SCHEME:	Macedon Ranges Planning Scheme
RESPONSIBLE AUTHORITY:	Macedon Ranges Shire Council
ADDRESS OF THE LAND:	Crown Allotment 1, Section 24A, Parish of Lauriston, 1 Wills Street, Malmsbury
THE PERMIT ALLOWS:	Subdivision of the land into nine (9) lots

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Amended plans

- 1 Before the plan of subdivision is certified under the *Subdivision Act 1988*, amended plans ~~to the satisfaction of the responsible authority~~ must be ~~submitted to and~~ approved ~~and endorsed~~ by the responsible authority. ~~When approved, the plans will be endorsed and will then form part of this permit.~~ The plans must be generally in accordance with the plans submitted with the application, but modified to show:
 - a) A typical cross-section of the roads providing access to the lots within the subdivision including driveways and carparking provision.
 - ~~b) An amended building envelope plan for each lot. The building envelope plan must include:

 - ~~i) A minimum street setback of 12 metres from any street that a lot abuts to the front, side or rear.~~
 - ~~ii) A minimum side and rear setback of 5 metres to any adjoining lots.~~~~

~~iii Variable front setbacks of between 12 and 15 metres for each lot to avoid a continuous building line.~~

- c) All changes required by the Country Fire Authority condition **32**.
- 2 The layout of the subdivision ~~allowed by this permit and shown on the plans endorsed to accompany the permit~~ must not be ~~amended~~ altered from the layout shown on the approved and endorsed plans without the prior written consent of the responsible authority.

Landscape masterplan

- 3 Before the plan of subdivision is certified under the *Subdivision Act 1988*, a digital copy of a landscape masterplan ~~to the satisfaction of the responsible authority~~ must be ~~submitted to and~~ approved and endorsed by the responsible authority. The landscape masterplan must be developed in conjunction with the functional layout plan required under condition 12 and prepared by a suitably qualified and experienced landscape designer. The plan must be drawn to scale and show:
- a) The provision of ~~canopy trees incorporating~~ locally indigenous canopy trees within the lots including a minimum of two (2) trees within front setbacks of each lot and one (1) canopy tree within the secondary street setback for Lots 1, 2, 5, 6 and 7 (all inclusive) to achieve semi-rural residential character.
 - b) The location of all new street tree planting within all road reserves and new ~~upgraded~~ roads/streets associated with the subdivision. A minimum of one tree per lot or every 12 metres, whichever is the lesser, must be provided.
 - c) A street tree species selection that ties in with the existing surrounding character and includes tree species of a size at maturity suitable for the road reserve widths ~~at maturity~~ and a mix of native and exotic species to the satisfaction of the responsible authority.
 - d) The topography and existing features, including contours of the subject land and road reserves.
 - e) The location of any existing trees within the site, ~~the~~ or the adjacent road reserves, ~~adjacent to the proposed road upgrades, and~~ including any trees that overhang the site from adjoining land.
 - f) Details of tree protection zones for all trees to be retained.
 - g) An irrigation system.
 - h) Any trees proposed for removal from the site clearly designated.

Detailed landscape plan

- 4 Before the statement of compliance is issued for the subdivision under the *Subdivision Act 1988*, a digital copy of a detailed landscape plan ~~to the satisfaction of the responsible authority~~ must be ~~submitted to and~~ approved and endorsed by the responsible authority. The detailed landscape plan must be prepared by a suitably qualified and experienced landscape designer, be generally in accordance with the endorsed landscape masterplan and show details of the streetscape plantings. The plan is

to be overlaid on the approved engineering plans [required under condition 13](#) to ensure coordination with services and other infrastructure. ~~When approved, the plan will be endorsed and form part of this permit.~~ The plan must include:

- ~~a) The provision of canopy trees incorporating locally indigenous trees within the lots and including a minimum of two (2) trees within front setbacks of each lot and one (1) canopy tree within the secondary street setback for Lots 1, 2, 5, 6 and 7 (all inclusive) to achieve a semi-rural residential character.~~
- ~~b) The street tree species selection to tie in with the existing surrounding character and be a mix of native and indigenous species to the approval of the responsible authority.~~
- ~~c) Typical cross sections for each street type, dimensioning tree locations and services offsets.~~
- d) A plant schedule for proposed tree species showing minimum supply size of 45 litres and a height of 1.6 metres.
- e) An advanced tree planting detail for proposed tree species showing a minimum of 26 litre Greenwell water saver and three (3) hardwood stakes or Tree Coach® system.
- f) A maintenance schedule and projected costs in addition to the landscape plan.
- g) The following notations:
 - i Tree planting is to occur between April and September to maximise establishment and survival.
 - ii Tree locations shown on the plan are a guide only and may require adjustment to coordinate with final service locations, Powercor requirements, and ‘as constructed’ infrastructure.
 - iii Street tree locations are to be set out and approved on the site by the responsible authority before installation.
 - iv It is the responsibility of the contractor to confirm the location of all underground services before any excavation works start.

Landscape completion

- 5 The landscaping works within the road reserve shown on the [approved endorsed](#) landscape plan must be ~~carried out and~~ completed to the satisfaction of the responsible authority before the issue of the statement of compliance under the *Subdivision Act 1988* or any other time agreed in writing by the responsible authority.

Landscape maintenance

- 6 At all times the landscaping shown on the approved landscape plan must be maintained (including the replacement of any dead, diseased or damaged plants) to the satisfaction of the responsible authority.

Section 173 agreement

- 7 Before the plan of subdivision is certified under the *Subdivision Act 1988*, the owner/s of the lots must enter into an agreement with the responsible authority in accordance with section 173 of the *Planning and Environment Act 1987*. The agreement must provide for [the following](#):
- a) All buildings (dwellings, outbuildings) ~~and excluding fences~~ must be located entirely within the building envelopes shown on the endorsed plans forming part of Planning Permit PLN/2022/198. [This does not apply to fences.](#)
 - b) The ~~front, side and rear~~ boundaries of each lot must only be fenced with post and wire rural style or similar visually permeable fencing ~~construction~~ to the satisfaction of the responsible authority.
 - c) A minimum ~~of a~~ 3,000 litre rainwater tank [must be provided on](#) ~~for~~ each lot with a connection to supply water for toilet flushing and outdoor usage to the satisfaction of the responsible authority.
- 8 Before the statement of compliance is issued under the *Subdivision Act 1988*:
- a) An application must be made to the Registrar of Titles to register the section 173 agreement on the title to the land under section 181 of the ~~same~~ [Planning and Environment Act 1987](#).
 - b) The owner/s must pay all costs (including the responsible authority's costs) associated with the preparation, execution, registration and ~~(if later sought)~~ cancellation of the section 173 agreement.

Open space contribution

- 9 Before the statement of compliance is issued for the ~~approved~~ subdivision under the *Subdivision Act 1988*, the owner must pay to the responsible authority a 5 per cent open space contribution in respect to all of the land in the subdivision in accordance with the Schedule to Clause 53.01 of the Macedon Ranges Planning Scheme.

Amenity

- 10 Measures must be undertaken to minimise any loss of amenity to the neighbourhood associated with subdivision works caused by dust, noise, the transport of material to and from the land, and the deposit of mud and debris on public roads and the road reserve adjacent to the subject land, to the satisfaction of the responsible authority.

Mandatory subdivision conditions

Panel note: The substance of condition 11 is captured by condition 12. Renumber conditions

~~11 The owner of the land must enter into an agreement with:~~

- ~~a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and~~

~~b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.~~

12 Before the statement of compliance ~~for any stage of the subdivision~~ is issued for the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:

- a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Functional layout plan

Panel note: conditions 13(c) - (e) are captured by conditions 3 and/or 4. Renumber

13 Before the plan of subdivision is certified under the *Subdivision Act 1988*, a functional layout plan for the subdivision must be ~~prepared and submitted to the satisfaction of~~ approved and endorsed by the responsible authority. ~~When approved the functional layout plan will be endorsed and will then form part of the permit.~~ The plan must be drawn at a scale of 1:500 and an electronic copy (pdf) must also be provided. The plan must include the following:

- a) A fully dimensioned subdivision layout, including lot areas, lot numbers, open space areas, and widths of street reservations.
- b) The topography and existing features, including contours of the subject land and any affected adjacent land.
- ~~c) An identification by survey of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land.~~
- ~~d) Details of tree protection zones for all trees to be retained on the site.~~
- e) ~~Any trees proposed for removal from the site (including dead trees) clearly designated.~~
- f) Typical cross-sections for each street **type**, dimensioning individual elements and services offsets.
- g) Road intersections with interim and/or ultimate treatments.
- h) A table of offsets for all utility services and street trees.
- i) The location and alignment of kerbs, and footpaths, ~~and shared paths.~~

- j) The proposed ~~minor~~ drainage network and any land required for maintenance access.
- k) The ~~major~~ drainage system, including the ~~retarding basin and/or~~ piped elements showing preliminary sizing.
- l) Overland flow paths (100-year average occurrence interval) to indicate how excess runoff will safely be conveyed to its destination.
- m) A drainage outfall system ~~(both interim and ultimate)~~, indicating legal point of discharge and any access requirements for construction and maintenance.
- n) ~~The preliminary location of reserves for electrical kiosks.~~
- o) Works external to the subdivision, including both interim and ultimate access requirements.
- p) Road splays on all corner lots.

Engineering plans

- 14 Before the subdivision works start, engineering plans must be ~~prepared and submitted to the satisfaction of~~ approved and endorsed by the responsible authority. The engineering plans will not be considered until the functional layout plan and landscape masterplan has have been approved by the responsible authority ~~and the landscape plan has been submitted to the responsible authority~~, the plan of subdivision has been lodged for certification with the responsible authority and the locations of ~~other relevant authority~~ services have been provided to the satisfaction of the responsible authority. The plans must include:
- a) All necessary computations and supporting design documentation for any structure, civil and drainage infrastructure, and a geotechnical investigation report.
 - b) Details of works consistent with the approved functional layout plan, ~~submitted~~ landscape ~~plan~~ masterplan and lodged plan of subdivision.
 - c) Details of any cut and fill earthworks including retaining walls.
 - ~~d) Any traffic management or traffic calming devices.~~
 - e) Driveway links designed to provide one (1) visitor space per lot ~~served~~.
 - f) Underground drains incorporating features to prevent litter, sediments, and oils from entering the drainage system and/or cut-off drains to intercept stormwater runoff from adjoining properties.
 - g) Pavements with kerb and channel, to dimensions generally in accordance with the approved functional layout plan, ~~including traffic management devices~~.
 - h) Underground stormwater drainage to each lot in the subdivision within each lot's own boundaries.
 - i) Water-sensitive urban design measures.
 - j) Maintenance ~~management~~ plan for all water sensitive urban design infrastructure.

- k) Provision for all services and conduits (underground) including alignments and offsets.
- l) Provision of public street lighting and underground electricity supply within all streets and reserves.
- m) A new crossover for each lot. Each crossover must be a minimum of 10 metres from any intersection, 1 metre from any power pole, sign or service pit and a minimum of 3 metres from any street tree.
- ~~n) Vehicle exclusion measures within reserves while maintaining maintenance vehicle access.~~
- ~~o) Lot boundary fencing adjoining all reserves other than road reserves.~~
- p) Temporary turnaround areas ~~within the site~~ for waste collection vehicles at the ~~temporary~~ dead end of any road.
- q) ~~Traffic control measures including~~ street name signs.
- ~~r) The location of separate signage and line marking identifying the road layout, proposed signs, line marking, raised reflective pavement markers and a sign schedule.~~
- s) Survey details of the ~~canopy~~ trunk location and size of canopy trees to be retained and associated tree protection zones.
- t) Permanent survey marks, levelled to the Australian Height Datum and coordinated to the Australian Map Grid.
- u) Splays at all intersections, to suit the road functions.
- 15 Before the statement of compliance is issued under the *Subdivision Act 1988*, all works shown on the approved engineering plans must be constructed or carried out to the satisfaction of the responsible authority.
- 16 Before any works start, engineering plans detailing the stormwater drainage ~~are to be prepared and submitted to~~ system must be approved and endorsed by the responsible authority ~~for approval~~. The ~~subdivision is to be provided with a~~ drainage system design must meet the following requirements to the satisfaction of the responsible authority ~~that includes:~~
- a) ~~The provision of a~~ A legal point of discharge must be provided for the whole subdivision approved by the responsible authority and any other statutory authority from which approval must be received for the discharge of drainage.
- b) ~~Stormwater d~~Details of the pipe alignment from the proposed development to the designated outfall must be provided.
- c) An onsite, underground stormwater detention system must be provided to reduce the post-developed 10 per cent annual exceedance probability discharge to the pre-developed 20 per cent annual exceedance probability discharge.
- d) Stormwater runoff from all buildings, tanks and paved areas must ~~draining~~ to a legal point of discharge.

- e) All drainage courses or outfall drainage lines to the legal point of discharge, ~~and~~ which pass through lands other than ~~those within the boundaries of the subdivision~~ the proposed lots must be, constructed at no cost to the responsible authority.
- f) All drainage courses located within lots must be contained within expressed drainage easements.
- g) The flow paths of a 1 per cent annual exceedance probability and the subdivision must be designed such that no private property is inundated.
- h) ~~A~~ The drainage system must ~~that~~ provides for runoff from the upstream catchments and includes any downstream works necessary to manage flows from the subdivision to meet the requirements of this condition.
- i) ~~A~~ The design of the drainage system must satisfy ~~that satisfies~~ the objectives of the *Urban Stormwater – Best Practice Environmental Management Guidelines* (Victorian Stormwater Committee, 1999).

Site management plan

- 17 At least 14 days before works start, a site management plan ~~to the satisfaction of the responsible authority~~ must be ~~submitted to and~~ approved and endorsed by the responsible authority. The plan must contain the following:
- a) Name and contact details of the appointed civil contractor and superintendent.
 - b) An existing condition survey of all existing assets including assets on private properties.
 - c) A construction management plan.
 - d) A traffic management plan.
 - e) An environmental management plan.
 - f) Occupational health & safety and job safety analysis plans.
 - g) A copy of the issued asset protection permit.
 - h) A copy of the approved engineering plans.
- All works must be carried out generally in accordance with measures set out in the above documents approved by the responsible authority.
- 18 Before the statement of compliance is issued under the *Subdivision Act 1988*, land on each lot to be used for a dwelling must be filled and compacted in accordance with Australian Standard AS3798:2007. The results of the soil tests must be submitted to and be to the satisfaction of the responsible authority.
- 19 Before the statement of compliance is issued under the *Subdivision Act 1988*, the following ‘as-constructed’ documentation for road ~~and~~ drainage ~~and public open space~~ assets must be ~~submitted to and to the satisfaction of~~ approved by the responsible authority:
- a) As-constructed drawings in hardcopy A3 format that include all alterations made during construction.

- b) As-constructed drawings in AutoCAD (2000) and Acrobat pdf formats that include all alterations made during construction.
 - c) Asset information in digital format and in the form of a schedule of quantities.
- 20 ~~No~~ Polluted and/or sediment laden runoff must not ~~is to~~ be discharged directly or indirectly into drains or watercourses. Soil erosion control measures must be employed throughout the subdivision works to the satisfaction of the responsible authority.

Construction management plan

- 21 Before ~~the subdivision works~~ starts, a construction management plan must be submitted to the satisfaction of approved and endorsed by the responsible authority. The plan must show:
- a) Measures to control erosion and sediment and sediment laden water runoff including the design details of structures.
 - b) Dust control measures.
 - c) Where any construction wastes, equipment, machinery and/or earth is to be stored/stockpiled during construction.
 - d) Where access to the site for construction vehicle traffic will occur.
 - e) The location and details of a sign to be erected at the entrance(s) of the site advising contractors that they are entering a 'sensitive site' with prescribed tree protection zones and fences.
 - f) The location of any temporary buildings or yards.
 - g) The construction operating hours.
 - h) The name and contact details of the site supervisor.
- 22 Control measures in accordance with the approved site construction management plan must be employed throughout the construction of the works to the satisfaction of the responsible authority. The responsible authority must be kept informed in writing of any departures from the site construction management plan. If in the opinion of the responsible authority the departure from the approved plan is significant then an amended plan must be submitted to and approved by the responsible authority. The approved measures must be carried out continually and completed to the satisfaction of the responsible authority.
- 23 Polluted ~~drainage~~ stormwater runoff generated during construction must be treated and/or absorbed on the lot from which it emanates to the satisfaction of the responsible authority. Polluted drainage must not be discharged beyond the boundaries of the lot from which it emanates or into a watercourse or easement drain.

~~Reticulated sewerage~~

- ~~24 Before the statement of compliance is issued under the Subdivision Act 1988, each lot must be connected to reticulated sewerage to the satisfaction of the responsible authority.~~

Decommissioning the existing septic system

- 25 Before the statement of compliance is issued under the *Subdivision Act 1988*, a licenced plumber must decommission the existing septic tank on the property in a safe manner and remove the effluent absorption trenches. Remediation works must be undertaken to ensure the land is safe to build on.

Referral authority conditions – Coliban Water

- 26 The owner must provide reticulated water and sewerage services to each of the lots within the subdivision and comply with any requirements arising from any effect of the proposed development on Coliban Water assets. Services are to be provided in accordance with ~~Coliban Water~~ the specifications and requirements of the relevant water authority.
- ~~27 Reticulated sewer and water mains extensions must be provided in accordance with Coliban Water's developer installed works process to service the lots within the subdivision.~~
- 28 Water main linkups on Walsh Street and at the intersection of Wills-Urquhart Street must be provided under by the developer ~~installed works process~~ to secure the supply of water to the development.
- 29 All Coliban Water assets within the subdivision, both existing and proposed, must be protected by an easement in favour of the Coliban Region Water Corporation.
- 30 If sewer servicing of each of the lots ~~created~~ is to be by pressure sewer rather than ~~provision of traditional~~ gravity sewer, ~~then new customer contributions for pressure sewer must be provided for each lot connected to the reticulated infrastructure. The contributions are to be provided by the~~ developer must provide customer contributions that funding ~~for~~ the supply, installation, and ongoing maintenance requirements by Coliban Water for the property assets on each lot including tank, pump, and control box. The contributions may be higher for larger lots where additional works are required. The supply and installation must be completed by Coliban Water approved contractors after an application to connect is received.
- 31 Before the ~~issue of a~~ statement of compliance is issued under the *Subdivision Act 1988* for any stage of the subdivision, the owner of the land must make payment to Coliban Water of the new customer contributions.

Referral authority conditions – Goulburn - Murray Water

Panel note: The GMW conditions have been relocated to sit with the Coliban Water conditions. Changes to text have been tracked

- 32 Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
- 33 All works within the subdivision must be done in accordance with EPA Publication 1834 Civil Construction-, Building and Demolition Guide (November 2020).
- ~~34 Each lot must be provided with connection to the reticulated sewerage system in accordance with the requirements of the relevant urban water authority.~~

- 35 ~~Prior to~~ Before the Statement of Compliance ~~being~~ is issued under the *Subdivision Act 1988*, the existing dwelling on proposed Lot 3 must be connected to the reticulated sewerage system and any existing onsite wastewater systems must be decommissioned in accordance with condition 25 to the satisfaction of council's Environmental Health Department.
- 36 All stormwater discharged from the site must meet the urban run-off objectives and Standard C25 as specified in Clause 56.07-4 of the Victorian Planning Provisions. ~~All infrastructure and works to manage stormwater must be in accordance with the requirements of the Responsible Authority.~~

Referral authority conditions – Country Fire Authority

- 37 Before the plan of subdivision is certified under the *Subdivision Act 1988*, the plan must be amended to show:
- a) The identification of 19 metre setbacks at all aspects for the purposes of defensible space, to ensure future development is exposed to radiant heat exposure of no greater than 12.5 kilowatts per square metre.
 - b) The location of building envelopes on all lots that require vegetation to be managed for the purposes of defensible space.
- 38 Before the statement of compliance is issued under the *Subdivision Act 1988*, the owner must enter into an agreement with the responsible authority under section 173 of the *Planning and Environment Act 1987*. The agreement must show the vegetation contained within the areas identified as defensible space in condition ~~32a)~~ 37(a), which are to be managed as follows:
- i. Grass must be short cropped and maintained during the declared fire danger period.
 - ii. All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
 - iii. Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
 - iv. Plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building.
 - v. Shrubs must not be located under the canopy of trees.
 - vi. Individual and clumps of shrubs must not exceed 5 square metres in area and must be separated by at least 5 metres.
 - vii. Trees must not overhang or touch any elements of the building.
 - viii. The canopy of trees must be separated by at least 2 metres.
 - ix. There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

- 39 Before the statement of compliance is issued under the *Subdivision Act 1988*, above or below ground operable hydrants must be provided to the satisfaction of the Country Fire Authority. The hydrants must be:
- a) A maximum distance of 120 metres from the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) and no more than 200 metres apart. These distances must be measured around the lot boundaries.
 - b) Identified with marker posts and road reflectors to the satisfaction of the Country Fire Authority.
- 40 Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width. The roads must have:
- a) An average grade of no more than 1 in 7 (14.4 per cent - 8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent - 11.3 degrees) for no more than 50 metres. Dips must have no more than a 1 in 8 (12 per cent - 7.1 degree) entry and exit angle.
 - b) Curves with a minimum inner radius of 10 metres.
 - c) A minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metre on each side and 4 metres above the access way.
- 41 If roads are more than 60 metres in length from the nearest intersection, then the roads must have a turning circle with a minimum radius of 8 metres (including roll-over kerbs if they are provided). T or Y head roads of dimensions to the satisfaction of the Country Fire Authority may be used as alternatives.

Referral authority conditions – Powercor

- 42 The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the distributor in accordance with Section 8 of that Act.
- 43 The applicant must provide an electricity supply to all lots in the subdivision in accordance with the distributor's requirements and standards.
- 44 The applicant must ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules.
- 45 The applicant must establish easements on the subdivision, for all existing distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.

Expiry of permit

- 46 This permit will expire if one of the following circumstances applies:
- a) The plan of subdivision is not certified within two years of the date of this permit.
 - b) The plan of subdivision is not registered at Land Registry Services within five years of the certification of the subdivision.

The responsible authority may extend the time if a request is made in writing before the permit expires or within six months afterwards.

USEFUL INFORMATION:**Engineering Notes**

1. In accordance with section 17 of the *Subdivision Act 1988*, works required to be undertaken as part of the subdivision must not start until the plan of subdivision has been certified and the engineering plans approved by the responsible authority.

Powercor Notes

2. Extension, augmentation or rearrangement of the distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant (see condition [38-43](#)).
3. Where electrical works are required to achieve Victorian Service and Installation Rules compliance, a registered electrical contractor must be engaged to undertake such works (see condition [39-44](#)).
4. Existing easements may need to be amended to meet the distributor's requirements (see condition [40-45](#)).
5. Easements required by the distributor are to be specified on the subdivision and show the purpose, origin and the 'in favour of party' (see condition [40-45](#)) as follows:

Easement reference	Purpose	Width (metres)	Origin	Land benefited / in favour of party
	Power line		Section 88 - <i>Electricity Industry Act</i> 2000	Powercor Australia Ltd

6.