

EPA Reference: 5010314

7 February 2020

Jack Wiltshire
Strategic Planner
MACEDON RANGES SHIRE COUNCIL
129 Mollison ST
KYNETON VIC 3444

Dear Jack,

RE: PLANNING SCHEME AMENDMENT C126

Thank you for your correspondence relating to the above planning scheme amendment, initially received via email on 11 December 2019.

In addition to the initial email, EPA received and has reviewed the following:

- Macedon Ranges Amendment C126 Draft Explanatory Report
- Email dated 16 December 2019 from Judy Wignell, Manager Property and Procurement, Western Water ; and
- Letter dated 6 January 2020 prepared by Country Fire Authority (CFA).

Ministerial Direction 19

There has been recent recognition of the preventative value of EPA's early involvement in strategic land use planning. This is reflected in Ministerial Direction 19, which requires planning authorities to seek early advice from EPA when undertaking strategic planning processes that may result in significant impacts on the environment, amenity and human health due to pollution and waste.

It is in this context that EPA provides the comments below.

Our Understanding of the Proposal

EPA understands the amendment includes the proposal to rezone land within the municipality for the purpose of correcting errors and anomalies. This includes, of relevance to EPA, :

- 12 Stawell Street, Romsey from Public Use Zone 1 (PUZ1) to General Residential Zone (GRZ);
- 40 Smith Street, Macedon from Public Use Zone 6 to Low Density Residential Zone (LDRZ).

The amendment also includes a number of zoning corrections relating to private land and land owned/ managed by Coliban Water, makes changes to the application of the Design and Development Overlay, Environmental Significance Overlay, Heritage Overlay and Vegetation Protection Overlay and makes relevant ordinance changes.

Request for Advice

EPA understands Council is specifically seeking guidance on the potential contamination of 12 Stawell Street, Romsey and 40 Smith Street, Macedon and how this may affect the proposed rezoning.

40 Smith St, Macedon

EPA notes Western Water's records indicate the site had a brick office building and pipe/fittings storage area. It was used by the Macedon Water Board following purchase from the Public Transport Corporation in 1989. It was then leased for a number of years as a doctor's surgery prior to sale in 1998. An extract to the Requisitions on Title and enquiries made on the site was also provided via email which includes consideration of the land under the *Environment Protection Act 1970* to which Western Water advised the Vendor's response was 'not to the Vendor's knowledge'.

Based on the information provided, the site appears to have a low potential for contamination as per the General Practice Note – Potentially Contaminated Land (DSE, 2005) (PPN30). With the proposed zone to be LDRZ which would allow for sensitive uses, it appears that this site is in risk Category C which indicates that no further assessment is required however the General duty under Section 12(2)(b) and Section 60(1)(a)(iii) of the *Planning and Environment Act 1987* still applies.

12 Stawell St, Romsey

After a review of the supplied documents, it is understood that the site was used by the CFA. The historical use of the site was predominately administrative, with some storage of chemicals. The storage of chemicals is classified as a medium risk for potential contamination as per the PPN30.

With the proposed zone to be General Residential Zone which would allow for sensitive uses, it appears that this site is in risk Category B and therefore the appropriate level of assessment is an Environmental Site Assessment (ESA), to determine if an audit is warranted.

Please be aware that unlike audits, ESA's are not regulated by EPA and can vary in quality. While EPA is not able to provide a full technical review of ESA reports, or attest to the quality of any individual ESA, the following advice may assist the planning authority in managing ESA requirements.

It is reasonable to expect the following from an ESA:

- Under policy, the purpose of the ESA is to advise the planning authority on whether or not an audit is required, therefore a clear conclusion on this point must be provided.
- It is reasonable to expect a statement of compliance with recognised national standards for environmental site assessments, these being the Preliminary Site Investigation process outlined in the National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

Policy applicable to ESA

PPN30 also provides guidance for planning authorities on expectations and review options for planning authorities in managing environmental site assessment requirements.

Managing ESA where no audit is required

If a site assessment recommends that no audit is required, the planning authority may consider the following steps to provide assurance in the validity of this conclusion:

- Seek further advice from the consultant who wrote the report, where the rationale for this view is not well set out in the report.
- Require an independent peer review as per the guidance in the PPN30. EPA publication 1702 provides guidance on engaging a suitably qualified professional.
- Approach EPA with specific questions regarding technical aspects or interpretation of policy.

All other sites to be rezoned

EPA notes many of the other sites to be rezoned are council owned and managed bushland or conservation reserves however, some land is used as public open space and recreation.

Council should note that the remaining sites to be rezoned to Public Park and Recreation Zone and Public Conservation and Resource Zone allows uses including informal outdoor recreation sites which may be considered sensitive in the context of human health and wellbeing, local amenity and aesthetic enjoyment in accordance with EPA Publication 1518, Recommended separation distances for industrial residual air emissions, 2013.

Whilst EPA notes the amendment is intended to correct anomalies and not support further development, Council should consider the above in proceeding with the amendment.

EPA also reminds Council to additionally consider potential contamination for the remainder of sites. Land used for open space still may require a site assessment if the historical land use is identified as having a high potential for contamination in accordance with the PPN30.

Recommendation

On the basis of our assessment, it is EPA's view that an ESA should be completed for 12 Stawell St, Romsey in order to determine whether an audit is required, prior to rezoning occurring.

It is EPA's preference and consistent with Ministerial Direction 1 to have the assessment done as early as possible in the planning process.

EPA is of the view that carrying out an ESA prior to rezoning is preferable as it allows the planning authority to have relevant information about the condition of the site to inform decisions as to the nature and location of

future suitable land uses. It also enables the planning authority to implement any necessary planning controls into the amendment.

If our preliminary assessment is not aligned with your view of the environmental risk, or if the proposal is amended, please contact Kaylee Thompson on 1300 EPA VIC (1300 372 842) or at stratplan@epa.vic.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Trisha Brice', with a stylized, cursive script.

Trisha Brice
Planning Team Lead (Strategic)
Major Projects and Planning Unit
EPA Victoria