

Macedon Ranges Planning Scheme Review

Macedon Ranges Shire Council





GTP Quality System			
Project Manager:	MG	Checked By:	JG
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EXECUTIVE SUMMARY

Macedon Ranges Shire Council is required to review the Macedon Ranges Planning Scheme every four years. Monitoring, auditing and reporting of the Planning Scheme is now a mandatory requirement under the *Planning and Environment Act 1987*.

This Macedon Ranges Planning Scheme Review has been prepared in accordance with Department of Environment, Land, Water and Planning (DELWP) Planning Practice Note 32: Review of Planning Schemes (June 2015). This review provides Council with:

- An overview of the performance of the Macedon Ranges Planning Scheme;
- An understanding of what State and local policy changes have occurred since the last review;

The review report contains key sections across several chapters that address the Shire's strategic context, consultation undertaken as part of this review, an audit of the planning scheme's performance and a program for future work and implementation.

This review has confirmed that new important State and local strategic priorities have emerged since the last review. Of particular relevance, the introduction of the Statement of Planning Policy for the Macedon Ranges and its declaration as a distinctive area and landscape under the *Planning and Environment Act 1987* will mean that the planning scheme will require changes at the local level to be consistent.

To remain contemporary, Council will need to update its planning scheme and undertake strategic work to address gaps apparent since the last review.

The importance of maintaining a contemporary planning scheme should not be underestimated. The Macedon Ranges Planning Scheme is an important tool in giving effect to Council strategies across the spectrum, where their objectives and policies seek to influence land use and development within the Shire.

This report makes specific recommendations relating to all aspects of the Macedon Ranges Planning Scheme.



CONSOLIDATED RECOMMENDATIONS

The specific recommendations arising as part of this review are that Council:

Clauses / Reference	Recommendation
Planning Scheme Review Report	
<i>Planning and Environment Act 1987</i>	<ol style="list-style-type: none">1. Adopt this report as the review required pursuant to section 12B (1) of the Planning and Environment Act 1987.2. Forward the report to the Minister for Planning as required by section 12B (5) of the Planning & Environment Act 1987.
Local Planning Policy Framework (Planning Policy Framework)	
Clause 21.01 Municipal Profile	<ol style="list-style-type: none">3. Update the content with Clause 21.01 as part of the transition to the PPF and MPS.
Clause 21.02 Key Issues and Influences	<ol style="list-style-type: none">4. Update key issues and influences to ensure they are still relevant based on consultation that supported the preparation of the SPP, and the consultation that has informed this planning scheme review.5. Review 21.02-3 Environmental Risk with regards to bushfire risk in light of changes to State level policy.6. Address the protection of industrial land and associated industrial activities, noting the need to maintain appropriate separation distances and could be strengthened to ensure that required buffer distances are protected.
Clause 21.03 Vision – Strategic Framework Plan	<ol style="list-style-type: none">7. Update Clause 21.03 to reflect current Council Plan.8. Consider the inclusion of significant industrial sites and critical infrastructure on the plans to identify sites where separation distances will be required.9. Revise the two framework plans at Clause 21.03 to provide greater clarity and consistency with the Ministerial Direction on the Form and Content of Planning Schemes.



	<p>10. Review Clause 21.03 in light of the recommendation of this Planning Scheme Review report and other recent work completed by Council.</p>
Clause 21.04 Settlement	<p>11. Update Clause 21.04 to be consistent with the PPF with regards to bushfire risk.</p> <p>12. As part of the translation to the PPF, references to further strategic work should be included in the schedule to Clause 74.02.</p> <p>13. As part of the translation to the PPF, consider reviewing the wording of strategies 1.2 and 1.3.</p> <p>14. As part of the translation to the PPF, 'reference documents' within the MSS should be included in the schedule to Clause 74.08 (Background Documents). This list of documents should be reviewed before being incorporated into this schedule. Where background documents are out of date or unavailable they should be deleted.</p> <p>15. Review population growth and the release of land for development regularly to assist with monitoring the impacts of settlement planning.</p>
Clause 21.05 Environment and Landscape Values	<p>16. Update Clause 21.05 to be consistent with the PPF with regards to bushfire risk.</p> <p>17. Review all dot points listed under specific implementation within this clause.</p> <p>18. Areas referred to in the MSS should be defined or mapped.</p> <p>19. Provide greater recognition of</p>
Clause 21.06 Environmental Risks	<p>20. Update Clause 21.06 to be consistent with the PPF with regards to bushfire risk.</p> <p>21. Consider investigating the need to apply the SMO in Macedon Ranges.</p> <p>22. Consider investigating the need to apply the EMO in Macedon Ranges.</p> <p>23. Review current flood mapping giving consideration to applying appropriate planning controls to area known to be susceptible to flood risk.</p>



Clause 21.07 Natural Resource Management	<p>24. Remove all references to the Macedon Ranges Equine Strategy 2012.</p> <p>25. Review references to 'further strategic work' as part of the implementation of the 'In the Farming Zone Strategy'.</p> <p>26. As part of the translation to the PPF, text under 'Specific implementation' appears to be a combination of application requirements and decisions guidelines and should be re-drafted accordingly.</p> <p>27. Update Clause 21.06 to be consistent with the PPF with regards to bushfire risk.</p> <p>28. Provide greater recognition of the Domestic Wastewater Management Plan 2013 and the importance for management of domestic wastewater systems.</p>
Clause 21.08 Built Environment and Heritage	<p>29. Consider developing local policy to address environmental sustainable development and stormwater management.</p> <p>30. Continue to implement the Macedon Ranges Heritage Study and applying the Heritage Overlay where appropriate</p>
Clause 21.09 Housing	<p>31. As part of the translation to the PPF, review specific implementation and further strategic work and consolidate 'exercise of discretion' and 'policy guidelines' under decision guidelines.</p>
Clause 21.10 Economic Development and Tourism	<p>32. Update economic and demographic data.</p>
Clause 21.11 Transport	<p>33. Revise the map at Clause 21.11 to provide greater clarity and consistency with the Ministerial Direction on the Form and Content of Planning Schemes.</p> <p>34. As part of the translation to the PPF, consider whether the 'criteria' would be better placed within an appropriate zone or overlay schedule.</p>



	<p>35. Consider the need to investigate the population requirements necessary to achieve extensions to public transport networks and improve frequency.</p> <p>36. Investigate the requirements for additional or improved path networks in the Shire.</p>
Clause 21.12 Community Development and Infrastructure	<p>37. Review the list of reference documents to ensure they are relevant and up to date.</p>
Clause 21.13 Local Areas and Small Settlements	<p>38. As part of the translation to the PPF review Clause 21.13 with a view to removing any duplication of policies.</p> <p>39. Revise the maps at Clause 21.13 to provide greater clarity and consistency with the Ministerial Direction on the Form and Content of Planning Schemes.</p>
Clause 22.01 Macedon Ranges and Surrounds	<p>40. Liaise with DELWP about the role of Clause 22.01 and the Statement of Planning Policy for the Macedon Ranges.</p>
Clause 22.02 Dams	<p>41. Confirm the availability and the currency of the Reference Documents in Clause 22.02.</p>
Clause 22.03 Intensive Animal Husbandry	<p>42. Review the implications of Amendment VC150 with a view to revising Clause 22.03</p> <p>43. Review reference documents to confirm their relevance and availability.</p>
Clause 22.04 Gaming	<p>44. Consider revising the schedule to Clause 52.28 to include application requirements and decision guidelines currently included in Clause 22.04.</p>
Clause 22.05 Battle Axe Lot	<p>45. Consider reviewing the need for hard surface construction in semi-rural context.</p>



	46. Consider reviewing the effectiveness of this policy to determine if there are aspects of this policy that could apply to commercial land in town centres.
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Zones	
Low Density Residential Zone	<p>47. Review the application of the LDRZ and give consideration to whether some land could be more appropriately rezoned to NRZ.</p>
Township Zone	<p>48. Update the TZ schedule to be consistent with the Ministerial Direction.</p> <p>49. Consider including Neighbourhood character objectives and Decision guidelines in the schedule to the TZ.</p> <p>50. As part of the Small Towns Study, consider the appropriateness of the application of the TZ to townships and whether other zones or revised schedules would be more appropriate.</p>
General Residential Zone	<p>51. Update the GRZ schedule to be consistent with the Ministerial Direction.</p> <p>52. Consider including Neighbourhood character objectives and Decision guidelines in the schedule to the GRZ.</p> <p>53. As part of the Small Towns Study, consider the appropriateness of the application of the GRZ to townships and whether other zones or revised schedules would be appropriate.</p>
Neighbourhood Residential Zone	<p>54. Revise the Neighbourhood character objectives in NRZ8 to be consistent with the Ministerial Direction.</p> <p>55. Revise the following aspects of NRZ1: objectives (to better align with the purpose of the zone), side and rear setbacks.</p>
Rural Zones	<p>56. Consider any amendments required to implement the 'In the Farming Zone' Strategy, once it is completed.</p> <p>57. As part of the 'In the Farming Zone' Strategy, ensure any map included in a policy or local schedule is legible.</p> <p>58. Consider any amendments required to implement the Biodiversity Strategy.</p> <p>59. Consider expanding the use of the VicSmart process for minor applications in Rural Zones.</p>



Rural Conservation Zone	60. Correct an administrative error within the RCZ schedules, where the maximum floor area is located in the column 'land'. This should be moved to the column titled 'area/dimensions/number'.
Public Land Zones	61. Update the PUZ, PPRZ and PCRZ schedules to be consistent with the Ministerial Direction.
Public Use Zone	62. Audit all land in the PUZ to ensure it is correctly designated. 63. Work with DELWP to progress a zoning anomalies amendment to correct zoning errors.
Special Use Zone	64. Update the SUZ schedules to be consistent with the Ministerial Direction.
Overlays	
Environmental Significance Overlay	65. Delete ESO2 from the Macedon Ranges Planning Scheme (as the Monegetta Piggery no longer exists). 66. Update ESO1, ESO3, ESO4, ESO5, ESO6 and ESO7 to be consistent with the Ministerial Direction. 67. Consider whether ESO4 and ESO5 should be redrafted so as not to refer to land uses. 68. Update references to government departments and documents.
Vegetation Protection Overlay	69. In-line with the recommendations from the Macedon Ranges Protection Advisory Committee Final Report July 2016 review of the current application of VPOs to assess whether they are 'providing adequate protection of the Shire's significant vegetation, with particular consideration given to whether listed grassland communities within the Shire should be afforded protection'. 70. Review the VPO schedules to consider opportunities to increase permit exemptions, where appropriate (i.e. by nominating species and/or trunk or height size for permit triggers). 71. Update VPO8 and VPO9 to be consistent with the Ministerial Direction. 72. Implement the findings of the Biodiversity Strategy.



Significant Landscape Overlay	<p>73. Update SLO1 and SLO2 to be consistent with the Ministerial Direction.</p> <p>74. In-line with the recommendations from the Macedon Ranges Protection Advisory Committee Final Report July 2016 review the geographic application of the SLO1, with a view to extending the geographic application of the SLO1.</p>
Heritage Overlay	<p>75. Update Schedule to the HO to be consistent with the Ministerial Direction.</p> <p>76. Prepare a local practice note that explains how an Incorporated Plan works in conjunction with the provisions of Clause 43.01-1.</p>
Design and Development Overlay	<p>77. Update all DDO schedules to be consistent with the Ministerial Direction.</p> <p>78. Review DDO1, DDO11, DDO16 and DDO17 as part of the Gisborne Structure Plan process.</p> <p>79. Review the application of DDO2 to land and consider whether the ordinance requires redrafting.</p> <p>80. Review whether DDO7 can be rationalised from rural living areas.</p> <p>81. Review the application of DDO12.</p>
Development Plan Overlay	<p>82. Update all DPO schedules to be consistent with the Ministerial Direction.</p> <p>83. Revise all DPO maps to provide greater clarity and consistency with the Ministerial Direction on the Form and Content of Planning Schemes.</p>
Erosion Management Overlay	<p>84. Update the EMO schedule to be consistent with the Ministerial Direction and best practice for erosion management.</p> <p>85. Review the extent of the EMO.</p>
Land Subject to Inundation Overlay	<p>86. Update the LSIO schedule to be consistent with the Ministerial Direction.</p> <p>87. Review the current extent of the LSIO.</p>



Bushfire Management Overlay	88. Update the schedules to the BMO to ensure consistency with State provisions and to reflect the Ministerial Direction on the Form and Content of Planning Schemes.
Public Acquisition Overlay	89. Remove all references to the PAO.
Environmental Audit Overlay	90. Review the application of the EAO and confirm the extent of its application.
Restructure Overlay	91. Review the <i>Macedon Ranges Shire Restructure Area Plans</i> and the <i>Ladye Place Restructure Plan</i> and confirm their relevance and the extent of their application. 92. Update the format of the RO to be consistent with the Ministerial Direction.
Development Contributions Plan Overlay	93. Update the DCPO schedules to be consistent with the Ministerial Direction.
Airport Environs Overlay	94. Update the AEO2 schedule to be consistent with the Ministerial Direction.
Particular and General Provisions	
Clause 51.01	95. Review the schedule to Clause 51.01, giving consideration to the application of the Specific Controls Overlay to these sites.
Clause 52.02	96. Update the schedule to Clause 52.02 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
Clause 52.05	97. Update the schedule to Clause 52.05 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
Clause 52.16	98. Update the schedule to Clause 52.16 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
Clause 52.17	99. Update the schedule to Clause 52.17 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.



	This should include discussions with DELWP to determine how to secure the ongoing application of the 'Utility installation code of practice'.
Clause 52.27	100. Update the schedule to Clause 52.27 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
Clause 52.28	101. Update the schedule to Clause 52.28 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes. 102. Consider revising the schedule to Clause 52.28 to include application requirements and decision guidelines currently included in Clause 22.04.
Clause 53.01	103. Ensure contributions for open space match the current open space strategy.
Clause 59.15	104. Consider broadening the use of VicSmart through local provisions.
Clause 66.04	105. Review the list of referrals at the schedule to Clause 66.04 and confirm that this list is complete and up to date.
Clause 66.06	106. Update the schedule to Clause 66.06 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
Clause 72.03	107. Correct the schedule to Clause 72.03 to ensure it refers to the Macedon Ranges Planning Scheme.
Clause 72.04	108. Update the schedule to Clause 72.04 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes. 109. Review the list of documents at the schedule to Clause 72.04 and confirm that this list is complete and up to date. 110. Consider listing the three sites contained within the <i>Special Sites Incorporated Document</i> separately for clarity. 111. Ensure all incorporated documents are available in accordance with Planning Practice Note 74. 112. Consider reviewing the schedule to Clause 72.04 to group incorporated documents and listing the relevant Amendment that introduced the document.



Clause 72.08	<p>113. Review current reference documents to determine their suitability for inclusion within this schedule in line with the relevant practice note.</p>
Strategic Work Program	
Further Strategic work	<p>114. Commission a new Heritage Strategy to provide updated direction beyond the 2018 time horizon of the current strategy.</p> <p>115. Commission a Small Towns Study to provide strategic direction for towns such as Newham, Clarkefield and Tylden.</p> <p>116. Commission an Economic Development Strategy.</p> <p>117. Finalise the 'In the Farming Zone Strategy' and implement relevant actions through changes to the planning scheme.</p> <p>118. Ensure the 'In the Farming Zone Strategy' takes account of the implications of Amendment VC150.</p> <p>119. Finalise the Landscape Assessment Study for the Macedon Ranges and implement relevant actions through changes to the planning scheme.</p> <p>120. Implement relevant actions of the Biodiversity Strategy through changes to the planning scheme.</p> <p>121. Finalise the Visitor Economy Strategy and implement relevant actions through changes to the planning scheme.</p>
Process	
	<p>122. When preparing planning scheme amendments, Council should have regard to relevant practice notes on the role of incorporated and reference documents.</p> <p>123. As part of its regular practice, Council should consider the regular review and preparation of anomalies amendments (i.e. on an annual basis).</p> <p>124. Council should ensure that its administration and processing of planning scheme amendments is consistent with the requirements of the <i>Planning and Environment Act 1987</i>, particularly where the</p>



	amendment is combined with a planning permit application under section 96A of the Act.
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1. INTRODUCTION

PURPOSE OF THIS REPORT

This Planning Scheme Review Report has been prepared to provide an overview of the performance of the Macedon Ranges Planning Scheme since its last formal planning scheme review report in 2008. This report has been prepared in accordance Planning Practice Note 32: *Review of Planning Schemes* (June 2015) and the *Continuous Improvement Review Kit for planning and responsible authorities* (February 2006). This planning scheme review includes:

- A review of state and local planning policy and strategies, including State Government reform since the last planning scheme review;
- A review of relevant VCAT decisions and planning panel reports;
- Consideration of consultation with key stakeholders, including Council staff, community groups, Councillors and government agencies and authorities;
- A detailed review and audit of the local provisions of the Macedon Ranges Planning Scheme, including Schedules to Zones, Overlays, Particular Provisions and General Provisions;
- A review of strategic planning work undertaken by Council in the inter-review period; and
- Recommendations to Council relating to the performance of the Planning Scheme.

THE MACEDON RANGES PLANNING SCHEME REVIEW

Section 12B of the *Planning and Environment Act 1987* requires Council to regularly review its planning scheme. Section 12B(a) of the Act states that a planning authority must review its planning scheme:

- *no later than one year after each date by which it is required to approve a Council Plan under section 125 of the Local Government Act 1989; or*
- *within such longer period as is determined by the Minister.*

The most recent Council Plan was adopted on 21 June 2017. This Planning Scheme Review commenced in February 2018. Section 12B(3) sets out that the objective of the review is to enhance the effectiveness and the efficiency of the planning scheme in achieving:

- *the objectives of planning in Victoria; and*
- *the objectives of the planning framework established by this Act.*

Section 12B(4) states that a review must evaluate the planning scheme to ensure that it:



- *is consistent in form and content with the directions or guidelines issued by the Minister under section 7;*
- *sets out effectively the policy objectives for use and development of land in the area to which the planning scheme applies; and*
- *Makes effective use of State provisions and local provisions to give effect to State and local planning policy objectives.*

Once finalised and adopted by Council, this Planning Scheme Review Report will constitute the Planning Scheme Review of the Macedon Ranges Planning Scheme as required under Section 12B of the *Planning and Environment Act 1987*.

This planning scheme review has been informed by extensive consultation with Councillors, agencies, Council Officers and key stakeholders.

THE REVIEW PROCESS

The Macedon Ranges Planning Scheme Review commenced in February 2018. Key stages of the Planning Scheme Review have included:

- A review of the local content of the Macedon Ranges Planning Scheme;
- A thematic review of VCAT and Panel decisions since the last review;
- A desktop review of strategic work commenced and/or completed by Council since the last review;
- Development of an Issues and Options Paper to provide a basis for consultation and engagement;
- Consultation on the Issues and Options, including:
 - Workshops with Council Planners and other Council Departments;
 - Councillor briefings;
 - Meetings with the Community Reference Group;
 - Online survey;
 - Community drop in sessions;
 - Discussions with key stakeholders.



2. CONTEXT

MACEDON RANGES PLANNING SCHEME

The Macedon Ranges Planning Scheme commenced on 8 June 2000. At the time, the content of the Macedon Ranges Planning Scheme comprised:

- The Municipal Strategic Statement;
- 16 local policies;
- 15 zones, with 21 schedules in total; and
- 13 overlays, with 45 schedules in total.

The Macedon Ranges Planning Scheme also includes several incorporated documents and background documents¹.

2008 PLANNING SCHEME REVIEW

A review of the Local Planning Policy Framework (LPPF), comprising the Municipal Strategic Statement (MSS) and Local Planning Policies, was most recently completed in 2008. The Review was based on extensive consultation with the community and other government stakeholders. The Review produced two final outputs including:

- *Report for the Review of the Macedon Ranges Planning Scheme, April 2008*; and
- *Report of the Expert Review of Planning Policy – Macedon Ranges Planning Scheme, August 2008* prepared by Planning Panels Victoria.

Generally, the review concluded that there is no need for a major rethink of the strategic direction of the MSS as it has generally withstood scrutiny. Nevertheless, it was noted that there were some policy gaps (such as social and community wellbeing and urban development) or open to misinterpretation (such as dwellings on small rural lots within water supply catchments). The review noted that the MSS discusses issues that cannot be influenced by the planning scheme as no permit is needed (for example exotic trees in Woodend).

One of the key outcomes was the identification of a significant amount of strategic work required to improve the Planning Scheme. In 2008 the list of further strategic work required² was:

- *Outline Development Plans for Kyneton and Romsey.*
- *Implementation of the Gisborne / New Gisborne Outline Development Plan.*

¹ Prior to Amendment VC148, background documents were known as reference documents.

² Macedon Ranges Shire Council Report for the Review of the Planning Scheme, April 2008 page 57



- *Rural Living Strategy.*
- *Review of the Natural Environment Strategy.*
- *Continuation of vegetation mapping project, including ground truthing and developing suitable overlay controls.*
- *Heritage Review and implementation of heritage precincts / overlays into the planning scheme.*
- *Outline Development Plans for Riddells Creek and Woodend.*
- *Implementation of the recommendations of the Small Town Study including undertaking Township Centre studies for Lancefield, Mount Macedon and Macedon.*
- *Urban Design Frameworks for Kyneton and Gisborne and investigation of the potential to undertake similar projects for remaining large towns.*
- *Planning for a Sustainable Future Project.*
- *Water Quality Study and implement into the planning scheme.*
- *Tourism Strategy Plan.*
- *Industrial Land and Economic Development Strategies.*
- *Investigation of the development of an Indigenous Cultural Heritage Study.*
- *Priority actions out of Outline Development Plans (DCPs, Facility Planning, Structure Planning, policy development, Urban Design Frameworks, Parking Precinct Plans etc.*
- *Consideration of the need for additional Local Planning Policies addressing:*
 - *Industrial design and development;*
 - *Animal training and boarding;*
 - *Stormwater management including water sensitive urban design in commercial and industrial areas; and*
 - *Environmentally sustainable development.*

Much of this strategic work has been completed (settlement planning and planning for Rural Living) or progressed (the Draft Biodiversity Strategy). Strategic work that has not been completed in the inter-review period includes:

- Continuation of vegetation mapping project, including ground truthing and developing suitable planning controls. This work forms part of the implementation of Council's Biodiversity Strategy.
- Implementation of the recommendations of the Small Towns Study including undertaking Township Centre Studies for Lancefield, Mount Macedon and Macedon. A framework for



each of these towns has been provided by the Settlement Strategy, adopted by Council in 2011 and subsequently forms part of Clause 21.13.

- Consideration of the need for additional Local Planning Policies addressing:
 - Animal training and boarding. This work was not progressed by Council. Some of this may be addressed by State Government changes as a result of the Animal Industries Advisory Committee and subsequent changes to planning schemes;
 - Stormwater management including water sensitive urban design in commercial and industrial areas. Progressive planning scheme amendments have introduced new policy content regarding stormwater (see, for instance, Clause 21.13), however Council staff have identified a need for greater policy emphasis; and
 - Environmentally sustainable development. The need for this policy is not actively identified by Council officers, noting that much of the development in the Shire is for single dwellings, which often do not require planning approval.

CHANGES TO THE MACEDON RANGES PLANNING SCHEME

Council has completed a significant body of strategic work since 2008, and there have been numerous changes to state and local planning policies. Between January 2008 and end September 2018 there were 146 amendments to the Macedon Ranges Planning Scheme. The majority (93) of these were 'VC' amendments which are changes to all planning schemes across Victoria – initiated by the State Government. Significant VC amendments have included:

- Revised and new zones for residential, rural, industrial and commercial zones;
- The introduction of the Loddon Mallee South Regional Growth Plan and Plan Melbourne;
- New Bushfire protection provisions;
- Changes to biodiversity and native vegetation policy and controls;
- Restructuring of the Victoria Planning Provisions (VPPs) including the introduction of the new Planning Policy Framework (PPF).

Section 3 provides detailed analysis of significant changes to State Government planning policy over the last ten years.

Since January 2008 five 'GC' (group of councils) amendments, and 48 'C' (local council) amendments have been approved. Significant local amendments that have sought to implement Council policy include:

- C033: *Macedon Ranges Shire Council Stage One Heritage Review.*



- C064: *Macedon Ranges Gaming Policy Framework.*
- C066 and C080: *Romsey Outline Development Plan, Romsey Residential Character Study, Romsey Residential Character Study Design Guidelines and Romsey Development Contributions Plan.*
- C067: *Gisborne Outline Development Plan and New Gisborne Development Plan.*
- C084: *Settlement Strategy and Small Towns Study.*
- C087: *Gisborne Development Contributions Plan.*
- C099, C103 and C105: *Kyneton Town Structure Plan.*
- C100: *Riddells Creek Structure Plan.*
- C098 and C107: *Woodend Town Structure Plan & Neighbourhood Character Study.*
- C110: *In the Rural Living Zone.*
- C114: *Macedon Urban Design Guidelines.*

CURRENT AMENDMENTS

At the time of this review report, Council has advised the status of amendments which are currently in progress:

- C117: *Lancefield Development Plan Overlay* – awaiting Panel report.
- C118: *Gisborne, New Gisborne and Kyneton Heritage Overlays* – adopted by Council, to be submitted to the Minister for Gazettal.
- C125: *Heritage Overlay for 59 Victoria Street, Macedon* – on exhibition.
- C126: *Errors and Anomalies* – yet to seek authorisation.
- C127: *Implementation of the Woodend, Lancefield, Macedon and Mt Macedon Heritage Study* – yet to seek authorisation.
- C129: *Gisborne Business Park Development Plan* – yet to seek authorisation.

Section 4 provides detailed analysis of the local strategic context and strategic work completed by Council in the last 10 years.



3. STATE STRATEGIC CONTEXT

Continuous Improvement Review Kit requirement:

Document the strategic work that has been completed or carried out since the approval of the scheme and any additional work required to strengthen the strategic direction of the planning scheme.

OVERVIEW

Since the last review of the Macedon Ranges Planning Scheme in 2008 there have been considerable changes to planning legislation and policy at the state level. Significant changes to the *Planning and Environment Act 1987*, the Victoria Planning Provisions (and associated practice notes and Ministerial Directions), and State Government policy are discussed below. In summary changes since 2008 include:

- Changes to the *Planning and Environment Act 1987*;
- The introduction of a fast-tracked planning permit process for low risk applications (VicSmart);
- New Ministerial Directions on the Planning Scheme Amendment Process (Ministerial Direction 15) and a revised Ministerial Direction on The Form and Content of Planning Schemes;
- The introduction of the *Loddon Mallee South Regional Growth Plan* (May 2014) and *Plan Melbourne 2017-2050: Metropolitan Planning Strategy*;
- A new PPF that replaced the former State Planning Policy Framework; (SPPF)
- Reformed residential, rural, industrial and commercial zones;
- The release of *Planning for sustainable animal industries* (October 2016) - the Victorian Government's response to the Advisory Committee Report;
- A review of the local development contributions system;
- Changes to biodiversity and native vegetation policy and controls, and the introduction of a revised Native Vegetation Framework; and
- Bushfire protection provisions, as well as inclusion of new areas mapped to be contained within the Bushfire Management Overlay (BMO) and changes to bushfire management policy and controls.

State Government reform of the planning system is continuing as a part of the Smart Planning program. The implications of Smart Planning reform will continue to have implications for the Macedon Ranges Scheme and may result in the need for consequential local planning scheme amendments.

p.25



The following provides a key summary of these changes.

MACEDON RANGES STATEMENT OF PLANNING POLICY

Statement of Planning Policy No. 8 was adopted as State planning policy in 1975 and has provided the basis of strategic planning across much of Macedon Ranges since its adoption.

This statement of planning policy recognises the environmental and landscape significance of the Macedon Ranges and surrounds. It sets out a strategic planning policy context to ensure the values of the area are protected and enhanced. The statement of planning policy recognises the need for planning to comprehensively address the following themes: flora and fauna values; landscape protection; nature conservation; vegetation values; fire hazard; agriculture; population growth and water resources management.

When the *Town and Country Planning Act 1961* was repealed, statements of planning policy lost their legislative force. Regardless, Statement of Planning Policy No. 8 is reflected in Clause 22.01 (Macedon Ranges and surrounds) of the Macedon Ranges Planning Scheme and continues to guide the exercise of discretion.

The Planning Policy Framework recognises Macedon Ranges as one of four distinctive areas in the State, warranting a Statement of Planning Policy (formerly referred to as a 'Localised Planning Statement'). Macedon Ranges Shire Council prepared a draft Localised Planning Statement in conjunction with the then Department of Transport, Planning and Local Infrastructure. Council conducted extensive community consultation and adopted the draft Localised Planning Statement on 24 September 2014. The draft never proceeded past this point to be formally adopted (by State Government) or included in the Victoria Planning Provisions.

The Macedon Ranges Protection Advisory Committee was appointed by the Minister for Planning to provide advice on an appropriate policy to support changes to the legislative framework to achieve protection for the Macedon Ranges. The Terms of Reference required the Committee to:

...provide advice on an appropriate policy to achieve protection of the significant values, attributes and character of the Macedon Ranges and support changes to the legislative framework. The Advisory Committee will also report on potential legislative options and statutory arrangements available to implement the final policy.³

The Committee considered (in its report to the Minister for Planning) that:

a revised Macedon Ranges Localised Planning Statement, together with the existing Local Planning Policy Framework in the Macedon Ranges Planning Scheme, will better reflect the principles of SPP8. A revised LPS will address current gaps in the

³ *Macedon Ranges Protection Advisory Committee Final Report July 2016 (page 1)*



policy framework, and will provide more effective protection than the current planning and policy framework.

The Committee considers that the revised policy framework must discourage the encroachment of inappropriate development into the Shire's rural areas. Accordingly, the revised LPS must clearly identify settlement boundaries within which urban development and rural living must be confined. The Committee has found that there is a substantial amount of policy and strategic work that has been done and is available to assist in defining clear settlement boundaries.

...

The Committee concludes that this protection should be supplemented by legislation which prevents the settlement boundaries identified in the revised Localised Planning Statement from being altered without Parliament's approval.⁴

The Macedon Ranges was declared a distinctive area and landscape under Part 3AAB – Distinctive areas and landscapes, Section 46AO of the *Planning and Environment Act 1987* on 16 August, 2018. It is the first place to be declared a distinctive area and landscape. The Gazette Notice (G33, 16 August 2018) outlines the attributes qualifying the declared area as a distinctive area and landscape and the threats of significant land use change of the declared area.

Under the legislation, each distinctive area and landscape is required to have a Statement of Planning Policy. The 2018 draft Statement of Planning Policy was developed by DELWP with input from Macedon Ranges Shire Council. The Victorian Government conducted community consultation from late 2017 to early 2018. On 13 September 2018 Macedon Ranges Shire Council formally received the SPP from the State Government.

The Macedon Ranges Statement of Planning Policy provides a framework to:

ensure the outstanding landscapes, layers of settlement history, impressive landforms, and diverse natural environment of the Macedon Ranges are protected and conserved and continue to be of special significance to the people of Victoria. It celebrates the inexorable links between Country and Aboriginal Victorians.⁵

The Macedon Ranges Statement of Planning Policy includes ten 'policy domains'. It identifies objectives and strategies to protect and conserve the area's distinctive attributes. With regards to settlement planning the policy defines long term settlement boundaries that cannot be altered without Parliamentary approval.⁶

⁴ *Macedon Ranges Protection Advisory Committee Final Report July 2016 (page 4)*

⁵ *Macedon Ranges Statement of Planning Policy DELWP 2018 (page 6)*

⁶ *Long-term settlement boundaries will be determined for Gisborne and Romsey as part of the review of the Gisborne/New Gisborne Framework Plan and Romsey Structure Plan that form part of clause 21.13 – Local Areas and Small Settlements of the Macedon Ranges Planning Scheme. See Macedon Ranges Statement of Planning Policy DELWP 2018 (page 38)*



Approval of a Statement of Planning Policy is required from the Victorian Government, and once approved it cannot be amended without State Government approval. Additionally, Ministerial Direction No. 17 requires a discussion of how a planning scheme amendment implements the adopted Planning Policy Statement to be included in the explanatory report.

Council considered the Statement of Planning Policy at its ordinary meeting of 13 September 2018. At that meeting, it resolved to seek changes to the Statement prior to its adoption by the State Government. It also resolved that DELWP prepare Ministerial Guidelines in partnership with Council to guide public entities about their responsibilities under the Statement of Planning Policy: The State Government is yet to respond to the Council's to adopt the Statement of Planning Policy and incorporate it within the PPF.

PLANNING AND ENVIRONMENT ACT

The *Planning and Environment Amendment (General) Act 2013* came into operation on 28 October 2013. The key reforms in the 'Amendment Act' include:

- Making it mandatory for the Responsible Authority and the Planning Authority to take account of the social effects and economic effects of the use or development of the land when preparing an amendment to a planning scheme and when issuing planning permits;
- Providing for two types of referral authority that will be set out in planning schemes being a determining referral authority who has the power to require a permit application to be refused or for certain conditions to be included in a permit; and a recommending referral authority who may comment on an application;
- Providing for a Planning Application Committee to work with councils to deliver better local planning decisions;
- Providing for reporting to the Minister by planning authorities, responsible authorities and referral authorities to improve the transparency of the planning system;
- Improving the processes for amending planning schemes and assessing planning permit applications by reducing delays and speeding up information exchange;
- Improving the decision-making process at the Victorian Civil and Administrative Tribunal;
- Improving the operation of planning agreements by expanding the options for amending and ending legal agreements;
- Amending the *Subdivision Act 1988* in relation to public open space and include consequential minor changes to the *Subdivision Act 1988* and the *Local Government Act 1989*;
- Ensuring that if a planning scheme specifies the level of public open space contribution in Clause 52.01, there is no power to vary or reduce it in the event that section 18(1A) applies;



- Confirming the right of the proponent to be heard at a panel hearing (without the need to make a submission to the amendment under review); and
- Giving Planning Panels the option of holding 'Directions Panels' whereby a number of Directions Hearings are conducted on the one day.

The mandatory provision to consider social and economic issues is particularly important as previously there was only a requirement to consider significant environmental matters with discretion for Council as to whether social and economic effects were to be considered.

A further amendment to the *Planning and Environment Act 1987* came into effect on 12 October 2015, which amended Section 60 and Section 84B to require responsible authorities and VCAT to have regard to the number of objectors in considering whether a use or development may have a significant social effect.

PLANNING POLICY FRAMEWORK (PPF)

Amendment VC148 was gazetted on 31 July 2018. The amendment introduced changes to the VPPs and all planning schemes arising from the Victorian Government's Smart Planning program. One of the most significant structural changes was the replacement of the former SPPF with a new PPF. In the future the PPF will, in conjunction with a new Municipal Planning Strategy (MPS), replace the Local Planning Policy Framework (LPPF). The PPF will enable all policy content in planning schemes to be merged into a single policy source⁷. For now, the LPPF has been retained at Clause 21 and 22 of the Macedon Ranges Planning Scheme. Transitional provisions at Clause 23.01 identify that the LPPF forms part of the PPF and must be considered where a provision of the scheme requires a consideration of the PPF.

When the LPPF is translated into the new PPF, a new MPS must also be introduced. Unlike the current MSS the MPS will *support* the PPF rather than being part of it. According to the Planning Advisory Note 71 the MPS will be:

*a succinct expression of the overarching strategic policy directions of a municipality. It will provide for the planning scheme's policy foundation, based on the municipality's location and regional context, history, assets, strengths, key attributes and influences.*⁸

The form and content of the MPS is set out in the Ministerial Direction - The Form and Content of Planning Schemes. The Direction includes a restriction that the MPS cannot exceed 5,000 words exclusive of maps.

⁷ Amendment VC148 Planning Advisory Note 71 (July 2018)

⁸ Amendment VC148 Planning Advisory Note 71 (July 2018)



The State Government has indicated that it will provide assistance to planning authorities to translate the LPPF content into the PPF and MPS format.

REGIONAL PLANS

LODDON MALLEE SOUTH REGIONAL GROWTH PLAN

In May 2014, the State published the *Loddon Mallee South Regional Growth Plan*, one of eight regional growth plans. The regional growth plans, together with *Plan Melbourne 2017-2050: Metropolitan Planning Strategy*, provide strategic land use plans for all of Victoria.

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

The plan identifies:

“...where future growth is promoted and supported in the region. It identifies environmental, economic, community and infrastructure resources of regional importance that should be preserved, maintained or developed. It also outlines key planning considerations, such as natural hazards that may influence growth, and seeks to guide future land use planning to ensure the region continues to thrive.”

The Plan is centered around eight principles to achieve the vision for the region. The principles are:

- Principle 1. Manage our population growth and settlements;
- Principle 2. Strengthen our communities, especially in our small towns;
- Principle 3. Strengthen and diversify our economy;
- Principle 4. Improve our infrastructure;
- Principle 5. Improve education and training outcomes;
- Principle 6. Protect and enhance our natural and built environment;
- Principle 7. Ensure our food, water and energy security; and
- Principle 8. Collaborate to achieve our region's goals.

Amendment VC106 (approved on 30 May 2014) amended all planning schemes to recognise Plan Melbourne and Victoria's regional growth plans. The *Loddon Mallee South Regional Growth Plan* forms the basis for several regional objectives and strategies throughout the PPF. In considering the policy objectives and strategies for the Loddon Mallee South region, planning must consider (as relevant), the *Loddon Mallee South Regional Growth Plan*.



PLAN MELBOURNE 2017-2050: METROPOLITAN PLANNING STRATEGY

The 'refresh' of Plan Melbourne, *Plan Melbourne 2017-2050: Metropolitan Planning Strategy* ('Plan Melbourne') was released in March 2017. Amendment VC134 (approved on 31 March 2017) amended all planning schemes to introduce the new Metropolitan Planning Strategy and made corresponding updates to the SPPF.

Plan Melbourne is a long-term plan to accommodate Melbourne's future growth in population and employment. It includes nine principles to achieve the vision for Melbourne to continue to be a global city of opportunity and choice. It is based around seven 'outcomes'. Of relevance to Macedon Ranges is outcome four: '*Melbourne is a distinctive and liveable city with quality design and amenity*'. The relevant direction under this outcome is:

- *Direction 4.5 Plan for Melbourne's green wedges and peri-urban areas.*
 - *Policy 4.5.2 Protect and enhance valued attributes of distinctive areas and landscapes.*

This policy statement acknowledges the distinctiveness of areas such as the Macedon Ranges. It acknowledges the need to prepare Localised Planning Statements to appropriately plan for these distinctive areas, including by identifying their valued attributes. The Statement of Planning Policy for the Macedon Ranges arises out of this policy direction.

Outcome seven: '*Regional Victoria is Productive, Sustainable and Supports Jobs and Economic Growth*' is also of relevance for Macedon Ranges' context. The two directions, and associated policies to support the delivery of outcome seven are:

- *Direction 7.1 Invest in regional Victoria to support housing and economic growth.*
 - *Policy 7.1.1 Stimulate employment and growth in regional cities.*
 - *Policy 7.1.2 Support planning for growing towns in peri-urban areas.*
- *Direction 7.2 Improve connections between cities and regions.*
 - *Policy 7.2.1 Improve transport and digital connectivity for regional Victoria.*
 - *Policy 7.2.2 Strengthen transport links on national networks for the movement of commodities.*

Plan Melbourne is accompanied by a separate five-year implementation plan that sets out how *Plan Melbourne* will be delivered, with particular focus on the short-term actions essential for successful implementation.



MINISTERIAL DIRECTIONS

PLANNING SCHEME AMENDMENT PROCESS (MINISTERIAL DIRECTION NUMBER 15)

In October 2013, Ministerial Direction Number 15 (The Planning Scheme Amendment Process) came into effect. This Direction imposes a suite of deadlines on the time available to complete the steps in the planning scheme amendment process.

Under section 12(2) of the *Planning and Environment Act 1987*, Council (as the planning authority) must have regard to the Minister's directions when preparing a planning scheme amendment. The Direction sets out a series of timeframes which the planning authority, Planning Panels Victoria and the Minister must comply with in regards to the various steps of the planning scheme amendment process.

The Minister may grant an exemption from the need to comply with one or more of the requirements of the Direction.

MINISTERIAL DIRECTION ON THE FORM AND CONTENT OF PLANNING SCHEMES

This Direction applies to the form and content of all planning schemes and all planning scheme amendments. Planning Schemes, and planning scheme amendments must be prepared and presented in accordance with the style guide set out in Direction and written in plain English. The Direction was most recently updated on 30 July 2018 includes the relevant clauses and format for the new MPS and all other changes made as a result of Amendment VC148.

REFORMED ZONES (RESIDENTIAL, INDUSTRIAL, COMMERCIAL AND RURAL)

In 2013, the State Government reformed the Industrial, Commercial, Rural and Residential zones. This outcome of this reform was released in a series of stages:

- March 2013: three new Residential Zones were released to replace the former residential 1, 2 and 3 zones. The residential zones have been reformed since their release in 2013, including the introduction of a garden area requirement.
- July 2013: changes were made to the Industrial Zones, and two new Commercial Zones were introduced (replacing the five former business zones).
- September 2013: changes were made to the Rural Zones.
- November 2013: new Practice Notes were released explaining the reformed zones, and how certain applications will be assessed.



REFORMED RESIDENTIAL ZONES

In March 2013, the State Government released three new residential zones to replace the former Residential 1, 2 and 3 zones. The new zones were:

- Residential Growth Zone (RGZ);
- General Residential Zone (GRZ); and
- Neighbourhood Residential Zone (NRZ);

Reformed residential zones were introduced to the VPPS by Amendment VC104 on 22 August 2013. Councils had until 30 June 2014 to apply the new residential zones. Amendment GC8 (approved on 13 June 2014) replaced the Residential 1 Zone with the GRZ in the Central Goldfields, Gannawarra, Macedon Ranges, Mildura and Mount Alexander Planning Schemes.

Since 2014 the current Government has reviewed the residential zones and introduced reformed residential zones on 27 March 2017 (via Amendment VC110). The key changes were:

- Updating the purpose of each zone to better reflect the level of change anticipated within each zone.
- Increasing the mandatory maximum building height for residential development in the Neighbourhood Residential Zone (NRZ) from 8 metres to 9 metres and introducing a mandatory 2 storey height limit.
- Removing the restriction on the number of dwellings that can be built on a lot in the NRZ.
- Increasing the discretionary height limit of 9 metres for residential development in the General Residential Zone (GRZ) to a mandatory maximum of 11 metres and introducing a mandatory maximum 3 storey height limit.
- Introducing a mandatory garden area requirement in the NRZ and GRZ. The mandatory minimum garden area is to be between 25-35 percent of the allotment, on all lots above 400 square metres (except where precinct structure plans apply).
- The accompanying changes to the schedules to all three zones means that Councils are no longer able to nominate a building height in the schedule that is lower than the height specified in the zone.

Following introduction of the reformed residential zones (via Amendment VC110) further changes were made to the residential zones on 15 May 2018 (via Amendment VC143). These changes included:

- Changes to the definition and operation of the minimum garden area requirement - including clarifying exemptions in the NRZ and GRZ;



- Amending the GRZ to enable an area to be exempt from the minimum garden area requirement through a schedule to the zone; and
- Introducing permit requirements for certain commercial land uses in the RGZ.

COMMERCIAL AND INDUSTRIAL ZONES

On 15 July 2013, the State Government implemented new commercial zones and revised Industrial zones via Amendment VC100. As a result of these changes the former Business 1, 2 and 5 zones were merged into the new Commercial 1 Zone (C1Z) and the former Business 3 and 4 zones were merged into the new Commercial 2 Zone (C2Z). The new commercial zones provide greater flexibility by allowing for a wider range of uses than the former business zones, and there is a much more limited scope for the application of floor space restrictions.

Outside of metropolitan Melbourne the main change to the Industrial Zones was the removal of the default floor space area restriction for an office in the Industrial 1 Zone, Industrial 2 Zone and Industrial 3 Zone.

On 11 September 2018 the State Government released Unlocking Enterprise in a Changing Economy⁹. One of the mechanisms to assist the implementation of this report is the introduction of a new commercial zone, the Commercial 3 Zone, which preferences enterprise use and development, over competing land uses.

RURAL ZONES

On 5 September 2013, the State Government implemented revised Rural Zones via Amendment VC103. Key features of this reform included:

- Making most agricultural uses 'as of right' in most zones;
- Removing permit requirements for farming related development such as netting and crop support structures;
- Allowing for the sale of farm produce without the need for a planning permit and removing restrictions on the sale of processed produce;
- Reducing or removing permit limitations in the Farming Zone and Rural Conservation Zone relating to tourism uses;
- Increasing the permit exemption threshold for altering or extending a building;
- Removing the limitation to subdivide a lot after an initial subdivision has been approved in all rural zones; and

⁹ See: <https://www.planning.vic.gov.au/policy-and-strategy/unlocking-the-economy>



- Reducing the default minimum lot size in the Rural Living Zone from eight hectares to two hectares.

The approval of Amendment VC150 on 21 September 2018 has made changes to the Rural Zones in response to the recommendations of the 2015 Animal Industries Advisory Committee. This is considered in further detail below.

UPDATED PRACTICE NOTES

In November 2013, the State Government released six new Practice Notes aimed at explaining the reformed zones, and how certain applications will be assessed. Five of the six practice notes have been subsequently updated; and the State Government are in the process of developing a new practice note for the application of residential zones. The six new practice notes were:

- Practice Note 15 - Assessing an Application for One or More Dwellings in a Residential Zone. This practice note was last updated in January 2018.
- Practice Note 16 - Making a Planning Application for One or More Dwellings in a Residential Zone. This practice note was last updated in January 2018.
- Practice Note 37 - Rural Residential Development. This practice note was last updated in June 2015.
- Practice Note 42 - Applying the Rural Zones. This practice note was last updated in June 2015.
- Practice Note 62 - Green Wedge Planning Provisions. This practice note was last updated in June 2015.
- Practice Note 78 - Applying the Residential Zones. This practice note was removed after the introduction of revised residential zones on 27 March 2017 by Amendment VC110. A new practice note will be prepared to explain the operation of the new residential zones.¹⁰

ANIMAL INDUSTRIES REFORM

In September 2018, the State Government released changes to the planning framework to support the growth of animal industries. Changes to the VPPs include new land use definitions and planning controls for animal industries. A new land use term 'animal production' is included in the VPPs, which refers to 'land use for the keeping and breeding of poultry and mammals (other than rodents) for the production of eggs, fibre, meat, milk and other animal products'. This term distinguishes between animals kept or bred for non-production purposes, such as keeping horses for recreation. The current terms for extensive

¹⁰ <https://www.planning.vic.gov.au/publications/planning-practice-notes>



and intensive animal husbandry are replaced with grazing animal production and intensive animal husbandry.

In September 2015, the Minister for Regional Development and the Minister for Planning announced the appointment of an advisory committee to examine how the planning system can better support Victorian farmers and agriculture. The Animal Industries Advisory Committee received 146 submissions and heard from 43 submitters at public hearings. It delivered its report to the Minister for Planning on 29 April 2016. Its report acknowledged that the planning controls over intensive animal industries had 'let down' rural communities, with poorly-run or poorly-sited operations causing significant environmental or amenity impacts.

DEVELOPMENT CONTRIBUTIONS

In May 2012, the Minister for Planning announced the Government's preferred framework for development contribution plans which outlined a new system of standard levies that can be selected and applied to different development settings. The new system provides Councils with a set of standard development contribution levies for different development settings based around five infrastructure categories:

- Community facilities;
- Open Space facilities;
- Transport infrastructure;
- Drainage infrastructure; and
- Public land.

The Minister for Planning appointed an Advisory Committee to provide advice on the framework for the new development contributions system and on the establishment of the standard levies. Council made a detailed submission to the Committee. The Advisory Committee reported in December 2012 and May 2013. In May 2014, the Minister for Planning announced the introduction of Standard Levies for development contributions in priority growth locations, the implementation of a new Infrastructure Contribution Plan and a streamlined approval process.

The Standard Levies were available for use from 1 July 2015 and will be able to be applied in identified metropolitan and non-metropolitan growth locations. The Minister for Planning introduced a new system for Infrastructure Contributions Plans (ICP) effective from 27 October 2016. This system replaces the former Development Contributions Plan. The new system is based on standard levies that are pre-set for different development settings and land uses to fund the provision of essential infrastructure to support new or growing communities.



From 27 October 2016 the ICP system applies to metropolitan greenfield growth areas. Metropolitan greenfield growth areas are the first of three identified development settings in the new system, with regional growth areas and strategic development areas to be added later¹¹. As at October 2018 regional growth areas were yet to be added.

The *Planning and Environment Amendment (Public Land Contributions) Act 2018* commenced on 2 July 2018. It made the following changes in relation to the levy:

- For new DCPs – it aligns the maximum levy amount with the change made by the 2016 Order (from \$900 to \$1150), and provides for the automatic annual indexation of the maximum levy amount; and
- For existing approved DCPs – it provides for the annual indexation of the levy amount provided for under the relevant DCP (payable dwelling amount).

NATIVE VEGETATION REFORM

There have been two important amendments to the native vegetation provisions in the inter-review period.

Most recently, on 12 December 2017, Amendment VC138 made changes to the native vegetation clearing regulations to implement the *Protecting Victoria's Environment – Biodiversity 2037*. The changes sought to:

- Strengthen the provisions by enabling a broader range of native ecological values and for site specific assessment information to be considered in planning and decision making;
- Better account for the environmental value of large scattered trees, endangered vegetation types and sensitive wetlands and coastal areas in decision making;
- Make the system fairer, by allowing some site based information to supplement mapped information, and ensuring the information used in the regulations better reflects the vegetation on the ground; and
- Improve monitoring and reporting on the implementation of the regulations.

Previously, on 20 December 2013, Amendment VC105 made changes to the Victoria Planning Provisions to seek a 'not net loss' approach rather than the previous 'net gain' approach. A risk based assessment pathway process was introduced, which sought to streamline applications for a low-risk based pathway.

¹¹ <https://www.planning.vic.gov.au/policy-and-strategy/planning-reform/infrastructure-contributions-reform>



REFORM OF BUSHFIRE CONTROLS

On 3 October 2017, Amendment GC13 introduced updated BMO mapping across Victoria. The Amendment was part of the Victorian Government's commitment to implement all of the recommendations of the 2009 Bushfire Royal Commission. The schedules to the BMO were introduced to streamline the planning permit process for applicants in relatively low risk locations by pre-setting bushfire protection measures and not requiring referral of applications to the relevant fire authority if all of the requirements in the schedule are met.

Amendment VC140 gazetted in December 2017 made changes to the State planning policy for bushfire, to enable a resilient response to settlement planning for bushfires. The following policy initiatives are relevant:

- Prioritise the protection of human life and the management of bushfire impact;
- Avoid any increase in the risk of bushfire to people, property and community infrastructure;
- Direct population growth and development to low risk locations and also to ensure safe access to areas where human life can be better protected.

On 31 July 2014, the State government announced significant changes to Victoria's bushfire planning regulations (via Amendment VC109), aimed at providing greater certainty to residents and landowners in bushfire designated areas. Key features of the reforms include:

- Allowing private bushfire bunkers as an alternative safety measure, where there may be increased bushfire safety risks that need additional consideration;
- Allowing vegetation clearance to achieve defensible space. The cleared area around a home is vital to protecting the home's occupants. Vegetation clearance obligations ('defensible space') would be limited to the title boundary of the relevant property;
- Ensuring the assessment of bushfire risk is consistent with the Australian Standard;
- Allowing more sensible bushfire safety measures in new master-planned estates; and
- Allowing homes to be built on 'infill' lots surrounded by other dwellings. Where a dwelling is allowed, it will be able to be built with a fair and equitable bushfire response.

SMART PLANNING PROGRAM

The Smart Planning Program is a State Government initiative aimed at modernising the Victorian Planning System. According to the State Government the 'rules reform' part of Smart Planning will:

- *Address inconsistent and contradictory planning controls;*
- *Make planning regulation easier to understand and interpret;*



- *Lead to more effective and consistent decision making;*
- *Reduce compliance and processing costs; and*
- *Reduce assessment times for some planning permit applications.¹²*

Amendments VC142 (approved 16 January 2018) and VC148 (approved 31 July 2018) have delivered a suite of changes to the planning system.

Amendment VC142 included:

- The removal or relocation of some administrative requirements;
- Revised land use terms and the removal of out-of-date references; and
- The removal of redundant or excessive provisions and permit requirements for 'low impact' matters.

Amendment VC148 included numerous structural changes to the VPPs. At a strategic level these included:

- A new integrated PPF (discussed above);
- Improvements to the structure and operation of specific clauses; and
- A simpler VPP structure with VicSmart built in (see below).

Other changes included changes to the following zones and overlays to enable local schedules to specify additional matters (including purposes, objectives, application requirements or decision guidelines):

- Clause 37.03 (Urban Floodway Zone);
- Clause 42.01 (Environmental Significance Overlay);
- Clause 42.02 (Vegetation Protection Overlay);
- Clause 42.03 (Significant Landscape Overlay);
- Clause 43.01 (Heritage Overlay)¹³;
- Clause 43.02 (Design and Development Overlay);
- Clause 43.04 (Development Plan Overlay);
- Clause 44.01 (Erosion Management Overlay);
- Clause 44.02 (Salinity Management Overlay);
- Clause 44.03 (Floodway Overlay);

¹² <https://www.planning.vic.gov.au/policy-and-strategy/planning-reform/smart-planning-program/rules>

¹³ Amendment VC148 also amended Clause 43.01 (Heritage Overlay) to require the schedule to the overlay to specify a statement of significance for each heritage place included in the schedule.



- Clause 44.04 (Land Subject to Inundation Overlay);
- Clause 44.05 (Special Building Overlay; and
- Clause 52.28 (Gaming).

The Ministerial Direction on the Form and Content of Planning Schemes was also updated to reflect these changes. Any planning scheme amendment that seeks to change or introduce these clauses will need to be drafted accordingly. Amendment VC148 also introduced a new Specific Controls Overlay (SCO) at Clause 45.12, which can be used to apply specific controls designed to achieve a particular purpose in extraordinary circumstances.

Other changes as a result of Amendment VC148 included:

- Amending the advertising signs provisions replacing the term 'advertising signs' with 'signs' throughout the VPPs, and changes to the structure of Clause 52.05 (Signs) and sign definitions;
- The removal of some permit triggers in the Industrial 1 and 3 zones;
- Deletion of Clause 52.12 (Service station), Clause 52.13 (Car wash) and Clause 52.14 (Motor vehicle, boat or caravan sales); and
- Amending Clause 52.06 (Car parking) to provide that a planning permit is not required under Clause 52.06-3 to reduce the car parking requirement for a new use in an existing building in the C1Z, C2Z and Activity Centre Zone for up to 10 car parking spaces (subject to specific conditions).

There are two Advisory Notes that accompanied the release of VC148. *Advisory Note 71: Amendment VC148* provides information about the PPF introduced by Amendment VC148, while *AN72: Amendment VC148 - Victoria Planning Provisions (VPP) and planning schemes* provides information about changes to the VPP and planning schemes introduced by Amendment VC148.

It is clear that the Smart Planning Reform program will have implications for the future form and content of the Macedon Ranges Planning Scheme. Most significantly when Council translates the LPPF into the new PPF, it must introduce an MPS. Unlike the current MSS, the MPS will support the PPF rather than being part of it. According to the Planning Advisory Note 71, the MPS will be:

*a succinct expression of the overarching strategic policy directions of a municipality. It will provide for the planning scheme's policy foundation, based on the municipality's location and regional context, history, assets, strengths, key attributes and influences.*¹⁴

¹⁴ *Advisory Note 71: Amendment VC148 (July 2018)*



The form and content of the MPS is set out in the Ministerial Direction - The Form and Content of Planning Schemes.

According to the State Government Smart Planning website: *information on Stage 3 of the program, including the translation of local planning policies into the integrated Planning Policy Framework, is coming soon*¹⁵.

VICSMART

The *Planning and Environment Amendment (VicSmart Planning Assessment) Act 2012* was enacted in September 2012 to allow a new streamlined permit process to be set up in planning schemes for straightforward, low impact development proposals.

VicSmart is a simple and fast permit process for straightforward, low-impact planning applications. It was introduced into all Victorian planning schemes by VC114 in September 2014. Key features include:

- A 10-day permit process;
- Pre-set information required to be submitted with an application;
- The Chief Executive Officer (or a delegate) decides the application;
- No consideration of PPF (unless specifically nominated); and
- Applications are exempt from third party notice and review requirements (however applicants have a right of review to VCAT if there is disagreement about whether the decision guidelines have been met).

In March and July 2017, the VicSmart program was extended by Amendments VC135 and VC137. These amendments provide opportunities to expand the use of these provisions in Macedon Ranges.

Amendment VC135 extended the ability to apply for a permit under VicSmart provisions in rural areas (up to \$500,000 in agricultural settings and \$250,000 in more sensitive areas), as well as for small scale buildings and works in selected overlays, advertising signs, car parking and subdivision applications. Amendment VC137 introduced new VicSmart classes for a single storey extension to a single dwelling (where specific design criteria are met) and buildings and works up to \$100,000 in residential zones (not associated with a dwelling).

In summary VicSmart can be used to apply for:

- Minor subdivision;
- Minor buildings and works in most zones and overlays;

¹⁵ <https://www.planning.vic.gov.au/policy-and-strategy/planning-reform/smart-planning-program/rules>



- More extensive buildings and works in the commercial and industrial zones (up to \$500,000 in the commercial zones and \$1,000,000 in the industrial zones);
- More extensive buildings and works in the rural zones;
- A range of applications for minor works under the Heritage Overlay and Special Building Overlay;
- Tree removal and lopping;
- Small advertising signs; and
- Car parking and loading bay waivers.

In 2016/17 4,866 VicSmart applications were lodged across Victoria, this represented a 24 percent increase from 2015/16. In 2016/17 VicSmart applications represented approximately 8.7 percent of all permits lodged across Victoria.¹⁶

One of the ways Amendment VC148 (approved on 31 July 2018) simplified the VPP structure was through the integration of VicSmart into applicable zones, overlays and particular provisions.

CONCLUSIONS ON STATE CONTEXT

There have been extensive changes at the state level since the last review. These changes will have profound implications for the Macedon Ranges Planning Scheme. Collectively the changes arising from: a new Statement of Planning Policy; new and reformed zones; native vegetation management; and bushfire management will all have an impact the Macedon Ranges Planning Scheme.

The ongoing Smart Planning Reform will have significant implications on both the structure and content of the Macedon Ranges Planning Scheme. For example, when Council translates the LPPF into the new PPF, it must introduce a MPS and unlike the current MSS the MPS will support the PPF rather than being part of it.

The preparation of the new PPF and translation of the Macedon Ranges Planning Scheme into the new format planning scheme will provide an appropriate opportunity for Council to consider the changes identified in State policy and what type of response to its local content is appropriate.

The matters identified in this section are addressed thematically in later sections of this report that consider the efficiency and effectiveness of the local provisions of the Scheme.

¹⁶Source: *Planning Permit Activity in Victoria 2016/17 for all planning schemes in Victoria*.
<https://www.planning.vic.gov.au/resource-library/planning-permit-activity-in-victoria/planning-permit-activity-annual-report-2016-17>



4. LOCAL STRATEGIC CONTEXT

Continuous Improvement Review Kit requirement:

Document the strategic work that has been completed or carried out since the approval of the scheme and any additional work required to strengthen the strategic direction of the planning scheme.

INTRODUCTION

This section documents strategic work completed by Macedon Ranges Shire Council since the last Planning Scheme review. It informs recommendations relating to the implementation (via changes to the Planning Scheme) of relevant local policies and strategies relating to land use and development. As outlined above there have been numerous amendments over the last ten years that have sought to implement Council policy, particularly in relation to settlement planning.

This review does not consider these studies, policy frameworks, development plans, reviews and plans in any further detail in this section as changes to the planning scheme have already been approved.

COUNCIL PLAN - 2017-2027

The Council Plan was adopted on 21 June 2017. The vision of the Council Plan is:

In partnership with the community, protect and enhance life across the Macedon Ranges.

The Council Plan establishes three key themes of liveability, efficiency and sustainability. The Council Plan identifies five key priorities:

- Promoting health and wellbeing;
- Protecting the natural environment;
- Improving the built environment;
- Enhancing the social and economic environment; and
- Delivering strong and reliable government.

Several strategies have been identified, of particular relevance to this review, including:

- Implement best practice conservation management techniques to protect biodiversity and manage threats;
- Preserve the landscape quality of vistas;
- Enhance and protect agricultural land;



- Progress construction of primary pedestrian and cycling networks for each town;
- Implement ecologically sustainable development principles for improved environmental performance in new developments;
- Increase the opportunities for people to work locally;
- Enhance the economic impact of tourism in a way that is consistent with Council's planning and environmental objectives; and
- Support appropriately designed diverse housing types.

The Council Plan incorporates the Municipal Public Health and Wellbeing Plan in recognition of Council's role in improving community health and wellbeing.

MACEDON RANGES ECONOMIC DEVELOPMENT STRATEGY THE WAY FORWARD 2009-2019

The *Macedon Ranges Economic Development Strategy The Way Forward 2009-2019* (the 'Economic Development Strategy') was adopted by Council on 23 September 2009. It aims to ensure local, sustainable job creation with consideration to community values and environmental concerns.

The Strategy identifies a range of actions around the following key themes:

- Provincial Victoria marketing;
- Business attraction and retention;
- Education and training;
- Promote and support local enterprise and entrepreneurship;
- Infrastructure.

The Strategy identifies the following opportunities for the Macedon Ranges economy:

- An attractive environment in which to live, work and do business;
- Village life with unique vibrant and creative cultures;
- Good transport linkages and access to major port and airport;
- Land appropriate for agricultural purposes;
- Viticulture and complimentary industries;
- Sustainable tourism development;
- Encouraging more of a buy local culture;
- Proactive business development and attraction activities;



- Equine industry;
- Better maximise the strengths of economic activity i.e., tourism, environmental and cultural strengths; and
- Encourage higher levels of new business investment to compliment community cultures.

TOURISM INDUSTRY STRATEGIC PLAN 2011

The Tourism Industry Strategic Plan was adopted by Council on 22 June 2011. It recognises tourism is a key industry in Macedon Ranges Shire, accounting for 16.6% of all jobs. The Shire received an estimated 1 million visitors in 2009 with direct tourism-related expenditure of \$175 per annum. The Plan identifies there are a number of gaps in accommodation provided and opportunities to further develop spa and wellbeing businesses and natural mineral springs at Kyneton. Other opportunities relate to improve cycling infrastructure and special events.

The Plan develops six strategic directions, of relevance to this review are the following strategies that support those directions:

- Strategy 7: Encourage extended retail and hospitality opening hours to coincide with events and festivals and public holidays.
- Strategy 14: Investigate opportunities to leverage heritage buildings for tourism purposes e.g. art galleries and food experiences.
- Strategy 17: Maximise potential to develop educational tourism opportunities from existing product strengths leveraging local experts in their field (e.g. wine appreciation, cooking, art classes).
- Strategy 37: Maintain and enhance key streetscapes (e.g. Piper St, Kyneton and High St, Lancefield) to preserve neighbourhood integrity, tourism appeal and heritage value.
- Strategy 39: Undertake a planning study to provide for adequate zoned land for tourism development in the townships and rural areas of the Shire.

Council is in the process of a developing a Visitor Economy Strategy, which is to be released later in 2018.

VISITOR ACCOMMODATION OPPORTUNITY STUDY 2010

The Visitor Accommodation Opportunity Study outlines the constraints to tourism development and a detailed analysis of the visitor market. Of relevance to this review, the study identifies actions to broaden accommodation and development in the Shire, including:

- Review the rural zones and identify changes to encourage accommodation and tourism, such as the use of Rural Activity Zone for tourism development.



- Where appropriate rezone Farming Zone or Rural Conservation Zone land to support tourism uses.
- Review the supply of commercial sites within key town centres.
- Identify areas on the periphery of townships that may be suited to tourism development, which may be zoned Rural Activity Zone.

AGRIBUSINESS PLAN 2013-2018

The Agribusiness Plan was adopted by Council on 26 June 2013. It identifies the challenges and opportunities facing the agricultural industry. The Plan recognises and promotes the industry's contribution to the local economy and community.

The Plan identifies four key themes for Council to assist the agribusiness industry to overcome the its challenges, as follows:

- Lack of effective engagement causing miscommunication between industry, government and community.
- Changing industry profile requiring new strategic support and planning.
- Gaps in essential information impeding product expansion/ diversification and risking long-term food/ fibre output.
- Global market pressures, product chain processes and profit margins are driving need to find economies of scale and support niche market opportunities.

MACEDON RANGES HERITAGE STRATEGY 2014-2018

The *Macedon Ranges Heritage Strategy 2014-2018* (the 'Heritage Strategy') was adopted by Council on 25 June 2014. It establishes Council's approach to the management of heritage within the Shire.

The aims of the Macedon Ranges Shire Heritage Strategy are to:

- Improve information, coordination and collaboration within Council on heritage issues;
- Improve conservation management and restoration of Council heritage buildings;
- Assist and guide property owners of heritage places;
- Ensure adequate protection is applied to sites of heritage significance in the Shire;
- Improve clarity and consistency of Council decision-making for building applications in heritage areas and streets;
- Enhance civic pride and sense of place; and



- Enhance understanding of important indigenous landscapes, migration routes, food gathering sites and family stories connected to the Macedon Ranges landscape.

The Heritage Strategy provides Council with an action plan of heritage related projects to be undertaken between 2014 and 2018. Action are arranged under the four Heritage Victoria themes: knowing; protecting; supporting; and communicating and promoting. Relevant actions include:

- Investigate the heritage potential of roadsides and reserves within the Shire.*
- Review Council's Heritage Tree Listing with the National Trust's tree list to ensure they are consistent.
- Introduce Heritage Overlays (HOs) to additional identified places, including significant trees.*
- Correct anomalies in heritage overlay maps and schedules.
- Introduce town structure plans and character studies that ensure growth and development do not negatively impact towns' historic character and lifestyle.
- Apply appropriate overlays as required to established and new urban areas to ensure built heritage is protected.
- Apply appropriate overlays, as required to rural areas to protect natural heritage features and historic landscapes.
- Review precinct and heritage places in Malmsbury.*
- Review previous heritage studies and strategies to identify and collate outstanding actions from previous work.*
- Identify gaps in previous heritage studies and strategies and prioritise the need for new and additional heritage studies.*
- Identify amenity and character elements and ensure these are reflected in Council policies and strategies.*
- Develop a tree protection policy requiring the protection of significant trees and the payment of valuations and penalties where trees are destroyed or compromised.*

** At the time the Heritage Strategy was adopted actions with a * next to them required a funding allocation and were required to be referred to Council's future budget considerations and/or external funding sources.*

The action plan outlined in the Strategy provides action items to the end of 2018. It is timely to review and update the Heritage Strategy at the end of this time period.

Recommendation: Commission a new Heritage Strategy to provide updated direction beyond the 2018 time horizon of the current Heritage Strategy.

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CLIMATE CHANGE AND ADAPTATION REPORT

The Climate Change Action Plan was adopted on 28 June 2017 and seeks to identify how Council will reduce emissions from its own activities to minimise its impact on climate change. It also outlines how Council will influence key stakeholders and support the community in reducing emissions.

Council made a commitment to reduce greenhouse emissions from its operations by 25% by June 2021 from the baseline year of 2014-2015. The Plan focuses on the actions that reduce green house gas emissions, including actions that reduce energy consumptions through behaviour change or energy efficiency, or that reduce reliance on coal fired power through use of renewable energy sources.

The Report identifies:

“the main causes of climate risk for the Planning and Environment directorate is reduced average rainfall, increased average temperature, fire and extreme events. The key impacts are on tourism visitation, vulnerability to bushfire and housing, new pest plant and animal incursions, amenity and heritage trees.

The early adaptation actions include greater collaboration with the Country Fire Authority (CFA), Catchment Management Authorities (CMAs) and tourism agencies, as well as improving internal and external communication. The key plans to assist adaptation are the Health and Wellbeing Plan and Heatwave Plan.”

It includes a series of Adaptation Actions which are relevant to this review, including:

- Ensure that low-income energy efficient housing options are included in new developments.
- Municipal Strategic Statement - Consider the impact of climate change in the MSS and LPPF to account for more frequent and severe extreme events.
- Review the Housing Strategy to explicitly consider the impacts of climate change, particularly increased frequency and severity of bushfire on existing and future rural residential development.

DOMESTIC WASTE WATER MANAGEMENT PLAN 2013

The Domestic Wastewater Management Plan (DWMP) was adopted by Council on 18 December 2013. It provides useful analysis to understand the various aspects of wastewater, its treatment and impacts for the Shire. The DWMP includes a number of management actions which need to be implemented to improve the effectiveness of domestic wastewater management system within Council to protect public and environmental health.

All actions in this plan sit outside the Planning Scheme.



OPEN SPACE STRATEGY 2013

The Macedon Ranges Open Space Strategy was adopted by Council on 18 December 2013. It aims to provide direction to Council for the planning and provision of open space within the Shire in an ongoing manner over the next ten or more years. Nine issues were identified as the as the key issues for open space to be addressed:

- Protection and promotion of visitor experiences, cultural heritage, environmental quality and character;
- Encourage a range of social and physical activity opportunities and experiences in open space;
- Encourage the development of off-road trail circuits;
- Increasing the sustainability of sports facilities;
- Managing visitor demand in areas of environmental significance;
- Engaging residents, community groups and other partners in open space;
- Dependence on sites not in Council ownership or reserved for open space;
- Planning for future open space provision and management; and
- Prioritising works and enhancing affordability.

A series of directions have been established to respond to these issues, most relevantly:

- 2.1.6 Continue to consider and where possible protect views and ridgelines from development, and promote the volcanic peaks and views from them, and other landscape features.
- 2.7.1 Seek ways to minimise the damage to valuable open space elements through works in road reserves by State agencies and authorities (such as roads and utilities).
- 2.7.2 Work closely with agencies and authorities to identify significant avenues of trees and prepare clear guidelines and specifications for contractors.
- 2.7.3 Utilise Heritage Overlays where possible to protect significant trees.
- 2.7.4 Protect areas of significant roadside vegetation and provide signage where appropriate on these sites to promote their value to the community.
- 2.8.1 Adopt the planning framework and classifications set out in this Open Space Strategy.
- 2.8.2 Incorporate the new Open Space Strategy into the Macedon Ranges Planning Scheme, to ensure key outcomes are achieved through development.



- 2.8.3 Use open space development contributions to meet the priority needs of new residents provide diversity, and at a standard that Council can practically, cost-effectively and consistently deliver and/or maintain.
- 2.8.4 Ensure open space contributions are taken from net developable land and do not include areas given as public land for other purposes.

KYNETON AIRFIELD MASTERPLAN

In September 2014, Council adopted the *Kyneton Airfield Economics Opportunities Analysis* and resolved to: 'develop a master plan for the Kyneton Airfield and surrounds including all relevant overlays and zoning requirements.' Following on from this analysis a draft master plan was completed in August 2016, which sets out proposed future directions for the facility. These include the extension of the main north-south runway, additional hangars, short-term pilot accommodation, and an aircraft museum.

Before the master plan is finalised and exhibited for community input Council will prepare an operations plan and noise assessment to identify the potential impacts of the proposed future directions in the master plan. Once this work is completed Council will review, and finalise the draft master plan. The documents will be subject to community consultation and, if adopted by Council, a Planning Scheme Amendment process will be initiated that includes rezoning the facility to a SUZ and applying revised Design and Development Overlay (DDO) and Airport Environs Overlays (EAO).

MACEDON RANGES EARLY YEARS PLAN 2016 – 2020

The Early Years Plan was adopted by Council on 22 June 2016. It establishes a framework for enhancing and supporting the health and wellbeing of children, aged from birth to eight years old and their families. Council is committed to advocating, planning and facilitating for the delivery of early years services that are accessible, affordable and responsive to the needs of children and their families. The plan establishes four key themes:

- Learning and development;
- Active and healthy lifestyles;
- Health and social support;
- Enabling environments.

Of relevance to this review, the following actions identify the Strategic Planning unit as having shared responsibility for six actions including:

- Participate in Place Making Forums across Council to ensure children's and families' needs are considered.



- Ensure infrastructure including footpaths is progressively improved to meet the needs of families.
- Continue to advocate for improvements to public and community transport options including the specific needs of children and families when using public transport.
- Participate in consultations, forums and other opportunities to influence improved public transport including for the specific needs of older people in the shire.
- Continue to review the availability, quality and suitability of existing infrastructure in light of projected population growth and service needs.
- Continue to seek funding to support necessary facility upgrades/new facilities.

The Plan recognises the population of people aged between birth and eight years old is expected to grow by 2,221 by 2036. The majority of growth in the birth to eight years old cohort is likely to occur in the Gisborne District.

MACEDON RANGES POSITIVE AGEING PLAN 2016-2020

The Positive Ageing Plan was adopted by Council on 22 June 2016 and establishes a framework for Council to support older people to grow and develop as individuals and achieve a sense of purpose and meaning in their lives. The four key themes are:

- Purpose, meaning, learning and growth;
- Active and healthy lifestyles;
- Health and social support;
- Enabling environments.

The Plan establishes the number of people aged 65 years and over is projected to grow at 2.8% per annum to 2036, this will result in an additional 5,559 people across the Shire. This will increase the percentage of the population 65 years and older, from 16.5% to 20.4% of the total population of the municipality. The population growth in the 65 years and over will be greatest in the Gisborne District, followed by Kyneton and Woodend.

Of relevance to this review, the following actions identify the Strategic Planning unit as having shared responsibility for three actions including:

- Comply with requirements for maintaining membership of the WHO Global Network of Age-friendly communities.
- Continue to advocate for improvements to public and community transport options including the specific needs of older people.
- Participate in consultations, forums and other opportunities to influence improved public transport including for the specific needs of older people in the shire.

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MACEDON RANGES VISITOR ECONOMY IMPACT STUDY 2017

The Study provides an overview of the visitor economy impact in Macedon Ranges. In 2016, the Macedon Ranges attracted 1.67 million visitors, with over 1 million daytrip visitors and 654,000 overnight visitors. The Woodend – Macedon Ranges region attracted the largest number of daytrip visitors within the municipality. Kyneton, Malmsbury and Woodend attracted the highest numbers of overnight visitors.

Visitor expenditure in Macedon Ranges in 2016 was \$273 million, a 56% increase in visitor expenditure calculated in 2009. Overall the economic impact of the visitor economy in Macedon Ranges is estimated at \$456 million in regional output and 2,355 jobs.

CONCLUSIONS ON LOCAL STRATEGIC CONTEXT

Council has completed a significant amount of strategic work since the last review of the Scheme. The strategic work highlights Council's priorities in the number of economic development strategies and studies, which focus on the development of the tourism industry in Macedon Ranges. Social development strategies for Early Years and Positive Ageing highlight the demographic trends and need to support particular age groups. Other Council strategies provide direction of specific matters such as the Heritage Strategy, Open Space Strategy, Kyneton Airfield Masterplan, Climate Change and Adaptation Report. These strategies assist in identifying priorities for the Review, including the following:

- Providing a supportive environment for business;
- Supporting the tourism industry;
- Responding to the challenges for the agribusiness industry;
- Managing heritage assets;
- Minimising impacts of greenhouse gas emissions and facilitating climate change adaptation;
- Planning and providing open space; and
- Responding to the changing demographics of the Shire.

In that context, there is a need to ensure that the planning scheme considers opportunities to incorporate these directions within the MSS and, where relevant, form the basis of a strategic work program.

- Strengthen Clause 21.10 Economic Development and Tourism to provide greater emphasis on providing local, sustainable job creation in line with the Macedon Ranges Economic Development Strategy The Way Forward 2009-2019.



- Further develop Clause 21.07-1 Agriculture to promote agribusiness and the contribution it makes to the local economy and community in accordance with the recommendations of the Agribusiness Plan 2013-2018.
- Investigate opportunities to further support visitor accommodation and determine if there is a shortage and where and how visitor accommodation should be supported.
- Consider opportunities for alternative rural zonings, having regard to the findings of the 'In the Farming Zone Strategy', once completed.
- Investigate opportunities to further promote heritage assets for tourism opportunities and improve heritage conservation management as supported by the Macedon Ranges Heritage Strategy 2014-2018.
- Recognise the impact of climate change in the MSS, and consider more frequent and serve extreme weather events in accordance with the Climate Change and Adaptation Report.
- Provide greater recognition of the Domestic Wastewater Management Plan 2013 and the importance for management of domestic waste water systems.
- Explore opportunities to further support the health and wellbeing of children and older people in Clause 21.12 Community Development and Infrastructure, in accordance with the Macedon Ranges Early Years Plan and Positive Ageing Strategy.
- Consider exploring the need for specific land use planning policies on festivals and events.



5. REVIEW OF VCAT DECISIONS AND PLANNING PANEL REPORTS

An important part of any Planning Scheme Review is to analyse the outcomes of planning permit decisions made by VCAT and planning reports from Planning Panels. There are a range of important lessons that can be learned from these review forums that have occurred during the planning scheme review period. Both VCAT and Planning Panels Victoria read and understand the policy context 'at arm's length'. Their understanding of local planning policy within the Macedon Ranges Planning Scheme provides an independent assessment of the policy settings in terms of their *clarity and intent*.

This section of the review includes an overview of key Planning Panel reports and recommendations and relevant VCAT decisions since the last planning scheme review. Given the last review was completed ten years ago this section has a focus on more recent decisions and has had regard to relevant changes in policy at the State and local levels in the inter-review period.

REVIEW OF PLANNING PANEL REPORTS AND RECOMMENDATIONS

It is evident that Council has undertaken a series of incremental changes to the Macedon Ranges Planning Scheme in the last 10 years. However, these amendments have done little to 'freshen' or modernise the structure of the LPPF, with a view to simplifying the scheme by reducing duplication and removing out of date content.

Since the last planning scheme review 26¹⁷ local (or 'C') planning scheme amendments were referred to a Planning Panel for consideration. All of these amendments were approved (most with changes from the exhibited version) with the exception of Amendment C092¹⁸. The planning panel for Amendment C092 recommended that the amendment be abandoned and the Minister for Planning refused the amendment.

Of all the amendments considered by a planning panel in the past 10 years, two amendments were approved without changes (and these both related to site specific rezonings). Many planning scheme amendments across Victoria that seek to change the planning scheme provisions are approved with changes as a result of the exhibition process or changes to policy at a local or state level. However, it is noteworthy that only two planning panels in the

¹⁷ Two panel hearings considered multiple amendments (C066 and C080 were heard together, as were amendments C099, C103 and C105). This resulted in a total of 23 panel hearings. One panel hearing (C084) issued an interim and final panel report, meaning there were 24 panel reports issued during this time.

¹⁸ Amendment C092 sought to replace Incorporated Document Macedon Ranges Shire Restructure Area Plans, 1999 with Macedon Ranges Shire Restructure Area Plans, 1999 (Revised 2014). The proposed amendment (as exhibited) would have removed restrictions in the Macedon township on 13 lots that would have allowed the potential for 17 additional dwelling lots and to clarify restrictions affecting two properties.



past 10 years have recommended approval to proposed planning scheme amendments without changes.

Since the last review 25 local amendments were approved without being considered by a planning panel. The Minister for Planning was the Planning Authority for half (12) of these amendments. Two of these amendments related to the introduction of interim heritage controls and another two extended the expiry date of interim controls.

In some of the Panel reports for these amendments, the Panels have identified areas where further strategic work is required by Council or made commentary on current Council practices and strategies that are relevant to this review. These are discussed in detail below under the relevant thematic headings.

As at October 2018 there are no amendments waiting approval, or due to be considered by a planning panel.

SETTLEMENT PLANNING

Since 2012 amendments relating to settlement planning have been implemented in an incremental manner. Amendments that have implemented important strategic work relating to settlements include¹⁹:

- C066 and C080: *Romsey Outline Development Plan, Romsey Residential Character Study, Romsey Residential Character Study Design Guidelines and Romsey Development Contributions Plan.*
Approved 25 October 2012
- C067: *Gisborne Outline Development Plan and New Gisborne Development Plan.*
Approved 13 September 2012 (part 1) and 11 April 2013 (part 2)
- C087: *Gisborne Development Contributions Plan.*
Approved 25 July 2013
- C099, C103 and C105: *Kyneton Town Structure Plan.*
Approved 15 June 2017
- C100: *Riddells Creek Structure Plan.*
Approved 15 June 2017
- C098: *Woodend Town Structure Plan & Neighbourhood Character Study.*
Approved 15 June 2017

¹⁹ Amendment C114 (approved 21-Dec-17) sought to implement the Macedon Urban Design Guidelines. This amendment was not the subject of a panel hearing. Proposed Amendment C115 (which sought to implement the Mount Macedon Urban Design Guidelines 2016) was abandoned on 22-Mar-17



One of the challenges is that while these amendments have been focused on a specific local area collectively they have not ‘refreshed’ overarching policies relating to settlement planning. This was done via amendment C084 (approved 10 September 2015), which sought to implement the 2011 *Settlement Strategy*, the 2006 *Small Towns Study* and recommendations from the 2008 *Report of expert review of planning policy*. While that amendment was gazetted relatively recently, the strategic work that underpins it is dated (in the case of the Small Towns Study).

AMENDMENT C084

Amendment C084 introduced a new MSS that reflected the format changes introduced since the preparation of the new format Planning Scheme in 2000 and reorganised the LPPF by locating strategic policy in the MSS while limiting the use of local policies to guide issues that need to be considered in relation to planning permits.

The Interim Report by the Panel considering Amendment C84 was released in September 2012. This report included a discussion on the need to protect water quality in Special Water Supply Catchments (SWSCs). It said:

The Panel appreciates that, while the fundamental objective to protect the quality of potable water supplies is rarely challenged, the constraint on development in SWSCs has been contentious.

Planning Practice notes, together with recent decisions by VCAT and the Supreme Court, have reaffirmed the importance of ensuring the cumulative impact of development proposals does not compromise the quality of potable water. The Panel considers that the Macedon Ranges MSS should explicitly implement clear policy directions and legal decisions to ensure that cumulative adverse impacts of development in SWSCs are recognised and avoided. This constrains uses that may impact on water quality and the Panel considers there is a basis to concerns expressed by Western Water and the MRRA relating to support for economic development, such as tourism developments, in SWSCs. The support in the MSS for tourism development in rural areas should be subject to explicit qualifications relating to unsewered areas of SWSCs.²⁰

The panel had concerns regarding a post-exhibition change at Clause 21.10, which introduced a statement to ‘Implement the Economic Development Strategy and implement the Macedon Ranges Tourism Strategy, Macedon Ranges Equine Strategy and the Macedon Ranges Visitor Accommodation Opportunities Study’, on the basis that:

The Panel is concerned that this provision, which has not been subject to exhibition or scrutiny, represents a significant policy shift with implications for rural areas

²⁰ *Interim Panel Report Macedon Ranges Planning Scheme Amendment C84 28 September 2012 (Page 99)*



generally and SWSCs in particular. The Panel has recommended that this provision should be deleted.

Relevantly the Panel report for Amendment C084 included a discussion on the use of reference documents (see section 5.2.4 Reference Documents).

A reference document merely points the reader to background or supporting information that will assist in understanding the basis for the MSS. It has no statutory status and is not a substitute for appropriate policy content in the scheme itself. Specific planning requirements should be extracted from a reference document and included in the scheme in an appropriate way²¹.

In the interim panel report for Amendment C084, the planning panel believed there were various instances where this principle was undermined in the amendment and it noted:

- *The Small Towns Study 2006 is included as a reference document but its status is also elevated by 21.04-2 which states 'Ensure new development is consistent with the town structure plans provided in the Small Towns Study 2006'.*
- *Clause 21.04 includes strategies 'Ensure the location, form ... is consistent with the town structure plan provided as the map to this Clause and other reference documents'*
- *Clause 21.10 includes 'Implement the Economic Development Strategy and implement the Macedon Ranges Tourism Strategy, Macedon Ranges Equine Strategy and the Macedon Ranges Visitor Accommodation Opportunities Study'; and*
- *Clause 21.13 includes 'Ensure new development and streetscape improvements is consistent with the Malmsbury Urban Design Framework' (UDF) and 'Ensure development within the town centre is consistent with the general strategic directions set out in Riddells Creek Town Centre Structure Plan 1991' (although these documents are not included as reference documents).²²*

The panel went on to say that this raises three issues:

1. *The elevation of the status of documents that are external to the Planning Scheme lacks transparency; as noted earlier, the structure plans associated with the Small Town Study were not exhibited;*
2. *It is good practice to minimise the need to refer to an external documents by extracting content that establishes the basis for planning decisions and include it in the Scheme; and*
3. *The potential for inconsistency creates ambiguity and fertile ground for dispute. For example, some town structure plans in the Small Towns Study*

²¹ PN04: Writing a Municipal Strategic Statement, September 2010

²² Interim Panel Report Macedon Ranges Planning Scheme Amendment C84 28 September 2012 (page 98)



*do not align with the intent expressed in the Settlement Strategy. Similarly, the Panel does not have a copy of the 1991 Riddells Creek Town Centre Structure Plan and is unable to form a view on how it relates to current expectations about the development of this part to the town.*²³

The Panel's comment in relation to the role of reference documents and the weight they are to be afforded has implications for the drafting of planning scheme provisions that Council should have regard to.

Council should be conscious of the weight given to reference documents (now referred to as background documents) and ensure that the appropriate level of detail required to guide discretion in decision-making is included within the planning scheme, rather than in within the reference documents.

Recommendation: When preparing planning scheme amendments, Council should have regard to relevant practice notes on the role of incorporated and reference documents.

AMENDMENTS C066 AND C080

Amendments C066 and C080 (both approved 25 October 2012) implemented the Romsey Outline Development Plan, Romsey Residential Character Study, Romsey Residential Character Study Design Guidelines and Romsey Development Contributions Plan.

Planning Panels Victoria accepted Council's request that Amendments C066 and C080 be heard together given the close relationship of the two amendments, C066 sought to implement policy changes, while C080 sought the application of the DCPO in Romsey.

While the Panel had some concerns about the process of developing the Romsey Outline Development Plan, the Panel considered that:

*"..the strategic underpinnings of the Amendment are sound and should provide a clear and logical framework for the growth and development of Romsey".*²⁴

The panel noted that most submissions were matters of detail, rather than substance.

From a structural perspective the planning panel supported the approach of inserting place specific policies within the MSS, rather than a local planning policy.

In its discussion on the (former) Business 1 Zone (B1Z), and the current supply of B1Z land in Romsey, the panel provided commentary on land supply and choice (in the context of a smaller township):

²³ Interim Panel Report Macedon Ranges Planning Scheme Amendment C84 28 September 2012 (page 98-9)

²⁴ Macedon Ranges Planning Scheme Amendments C66 and C80 Romsey Outline Development Plan Panel Report 15 February 2012 (page 1)



“...it is the Panel’s view that a 15 year supply horizon is an inappropriate aspiration. The nature of the different types of development in smaller country towns is generally sporadic, which make the identification of trends for the purposes of future planning difficult. Even more important in smaller towns is the need for choice in land available for development because if the supply is held in one ownership, its future development is dependent on that person releasing the land. Development opportunities can be lost if for whatever reason that landowner decides not to release the land. Consequently it is often necessary to oversupply (i.e. provide in excess of 15 years) in order to provide options for potential developers.”²⁵

Council took a ‘belts and braces’ approach to the drafting of DPO9 to implement the Outline Development Plan (in response to unsatisfactory development outcomes in Gisborne from less prescriptive controls), on this matter the Planning Panel was of the view that:

“Council has taken what could be regarded as an unorthodox approach to the future development of land to which DPO9 applies by essentially undertaking the preparation of the Development Plan itself as part of the amendment process to re-zone the land. The generally accepted practice is for the developer to undertake the preparation of the Development Plan in accordance with the requirements of a DPO as a consequence of an amendment.”²⁶

AMENDMENT C067

Amendment C067 (approved 31 September 2012, part 1 and 11 April 2013, part 2) implemented the Gisborne Outline Development Plan and New Gisborne Development Plan. The Planning Panel supported the Amendment:

“... and commends Council for preparing the amendment and the Gisborne/New Gisborne Outline Development Plan on which it is based.

...The Panel has made various recommendations that are intended to improve the performance of the proposed planning scheme provisions. These recommendations generally support Council’s planning strategies that are included in the amendment and derived from the ODP.”²⁷

Specifically, the panel did not support the proposed DCP, or the application of the UGZ.

On the proposed DCP the panel had concerns about:

²⁵ Macedon Ranges Planning Scheme Amendments C66 and C80 Romsey Outline Development Plan Panel Report 15 February 2012 (pages 28-9)

²⁶ Macedon Ranges Planning Scheme Amendments C66 and C80 Romsey Outline Development Plan Panel Report 15 February 2012 (page 38)

²⁷ Macedon Ranges Planning Scheme Amendment C67 Panel report September 2010 (page 85)



“Council’s approach to its proposed DCP and the implications of that approach for Amendment C67. This is particularly so in relation to the UGZ that is intended to delay development until the DCP is in place.

... In the Panel’s view, placing a moratorium on residential development within growth areas until a DCP is in place is unreasonable.

... The Panel believes that the draft DCP should have been revised in conjunction with the preparation of the current ODP and both documents should have been implemented through Amendment C67. It makes no sense to the Panel that these matters have been dealt with separately.

In the absence of this having been done, the Panel is not prepared to support the application of the UGZ as a ‘holding’ mechanism within Amendment C67. Council needs to finalise the DCP and initiate the implementation amendment as a matter of urgency.”²⁸

Since amendment C067 was approved amendment C087 (approved on 25 July 2013) applied the DCPO to Gisborne.

On the application of the UGZ:

The Panel has concerns about the proposed use of the UGZ in Gisborne... the Panel does not support the use of the UGZ as a mechanism to defer the development of land in order that Council can implement a DCP.

... the Panel does not agree that the planning issues at New Gisborne and south Gisborne are that complex that they warrant the UGZ and a PSP rather than the R1Z and DPO. This is particularly so of south Gisborne which is a relatively unconstrained, large site in a single ownership.”²⁹

Amendment C067 was approved, without the application of the UGZ. At the time, the UGZ was not applied in any setting in the state beyond metropolitan Melbourne.

AMENDMENTS C099, C103 AND C105

Amendments C099, C103 and C105 (approved 15 June 2017) all relate to land in, and around Kyneton, and support the implementation of the Kyneton Town Structure Plan and neighbourhood character work for Kyneton. These three amendments were all considered at the same panel hearing.

²⁸ *Macedon Ranges Planning Scheme Amendment C67 Panel report September 2010 (pages 28-9)*

²⁹ *Macedon Ranges Planning Scheme Amendment C67 Panel report September 2010 (page 31)*



“The Panel generally support[ed] the Amendments and the various revisions proposed by Council following its consideration of submissions and the further information that became available during the Panel process.”³⁰

However, the panel raised specific concerns about land supply and the proposed application of the NRZ to greenfield land:

On land supply:

“The Panel does not agree with Council’s proposition that there is more than 15 years land supply on a municipal basis and that this satisfies policy requirements for a 15 year land supply.

The assessment provided by Council after the Hearing was rudimentary and failed to adequately support this proposition. The Panel’s understanding of the figures presented is that there is somewhere between 9 and 23 years supply depending on which analysis of the various ranges of figures one adopts.”³¹

This comment is in contrast to Amendment C067 (Gisborne) where the panel was satisfied that the land supply available (in Gisborne) under the amendment was consistent with state policy.³²

On the application of the NRZ to Greenfield land:

Council has submitted that it is seeking to maintain a ‘low density, spacious character’ for the land in Ripplebrook Way, and considers that the NRZ is the most appropriate tool for achieving this.³³

“... In contrast, the Panel considers the GRZ represents a more suitable zone for the land. The purpose of the GRZ allows ‘moderate housing growth’ which is consistent with the greenfield nature of the land.

However, the Panel did accept that:

“... further policy guidance, and explicit direction in the DPO1, will be required to ensure the preferred ‘low density, spacious character’ outcome is achieved.”³⁴

AMENDMENT C100

Amendment C100 (approved 15 June 2017) sought to implement the Riddells Creek Structure Plan.

³⁰ Panel Report Macedon Ranges Planning Scheme Amendments C99, C103 and C105 Kyneton Structure Plan 1 July 2016 (page 1)

³¹ Panel Report Macedon Ranges Planning Scheme Amendments C99, C103 and C105 Kyneton Structure Plan 1 July 2016 (page 1)

³² Macedon Ranges Planning Scheme Amendment C67 Panel report September 2010 (page 37)

³³ Macedon Ranges Planning Scheme Amendment C67 Panel report September 2010 (page 41)

³⁴ Macedon Ranges Planning Scheme Amendment C67 Panel report September 2010 (page 42)



The panel report made a number of observations about the relationship between the Structure Plan and the Settlement Strategy and expressed concerns about the lack of a single robust population projection for Riddells Creek.

The Panel agrees with Council that existing policies anticipate the continuing growth of Riddells Creek and notes that there is policy support for growth to achieve district town status and, in the longer term, large district town status.

While this needs to be reconciled with other policies relating to character, landscape and the environment, it is clear that Riddells Creek has been identified for growth and that planning should seek to facilitate and support that growth. This is consistent with the Panel's reading of the Settlement Strategy, the Structure Plan and the MSS.

The Panel also believes that the 'district town' designation does not denote an absolute or maximum level of population that might be accommodated within the town. It represents the role and size of the town at some point in time and it is conceivable that it will grow beyond that level in the longer term.³⁵

...it is of concern to the Panel, given the work undertaken as part of the development of the Settlement Strategy and the Structure Plan that a single robust population projection has not been developed and accepted as the basis for the future planning and growth of the township. Like all projections, it would be subject to revision over time but it would provide a common starting point for the planning authority, the community and developers.

Regardless of which projection is adopted, it is clear to the Panel that the current supply of residential land is limited and there is a need for additional residential land to meet the growth of the town.

Rezoning both areas to the UGZ is the first step in meeting this demand. However, the Panel is aware that Precinct Structure Plans will need to be prepared, exhibited and approved before this land can be developed. Consequently, it will be some time before this land is available to the market³⁶.

Unlike the panel report that considered Amendment C67 which opposed the use of the UGZ (as a means of implementing the Gisborne/New Gisborne Outline Development Plan) the C100 Panel was satisfied that the circumstances of the respective areas and Amendments are quite different, and there is now broader use and understanding of the UGZ, including its use in regional areas.

The Panel is satisfied that the UGZ is an appropriate zone for the two growth precincts. The UGZ protects the land for future development and provides the

³⁵ Macedon Ranges Planning Scheme Amendment C100 Panel report 21 June 2016 (Page 21)

³⁶ Macedon Ranges Planning Scheme Amendment C100 Panel report 21 June 2016 (Page 24)



mechanism for detailed planning to occur through the development of PSPs. Once prepared, the PSP will need to be incorporated into the planning scheme through the planning scheme amendment process that will provide a formal opportunity for community and stakeholder involvement.

Applying the UGZ does not infer that these areas will be immediately available for development - extensive analysis and planning will be necessary before any lots could be created and put on the market. In this interim period, the UGZ provides a widely accepted mechanism to protect the land for future development.³⁷

AMENDMENT C098

Amendment C098 (approved 15 June 2017) sought to implement the *Woodend Town Structure Plan & Neighbourhood Character Study*. The Panel generally accepted that the Amendment implements the key elements of the Structure Plan. Overall the panel was satisfied that the Amendment generally supports and is consistent with the broader policy context, subject to 18 recommendations relating to detailed elements of the Amendment. However, during the panel hearing number of issues relating to land supply were raised.

In the context of the Amendment, the Panel believes that the relevant issue is the extent to which the implementation tools (particularly the NRZ and schedules) are an unreasonable or a necessary constraint on development and the extent to which they are necessary to “respect” Woodend’s “character, valued landscape features and tourism role”.³⁸

The Panel does not agree with Council’s proposition that even if there is less than 15 years supply in Woodend, there is more than 15 years supply on a municipal basis and that this satisfies policy requirements for a 15 year land supply. The assessment provided by Council after the Hearing was rudimentary and failed to adequately support this proposition.

On balance, the Panel does not believe that the uncertainty about the practical level of supply is a reason to abandon or modify the residential elements of the Amendment, particularly the NRZ and the schedules that are perceived as a constraint on development.

Nor does it believe that it is a reason to bring forward the rezoning of additional land beyond the rezonings exhibited in the Amendment.³⁹

In response to these concerns,

³⁷ *Macedon Ranges Planning Scheme Amendment C100 Panel report 21 June 2016 (Page 29-30)*

³⁸ *Macedon Ranges Planning Scheme Amendment C98 Panel Report 21 June 2016 (page 23-4)*

³⁹ *Macedon Ranges Planning Scheme Amendment C98 Panel Report 21 June 2016 (page 24)*



Panel believes Council should institute a regular process that monitors population growth, residential land supply and demand on a municipal and town-by-town basis. This information would be of interest to a range of stakeholders and would provide Council with a basis for managing various housing issues. It would also provide a safeguard against land supply levels dropping to levels that lead to market distortions, particularly in relation to price and choice.

A regular process that monitors population growth, residential land supply and demand on a municipal *and* town-by-town basis would support future settlement planning across the municipality. In response to these findings, the Council has commissioned a Land Supply and Demand Analysis and that work will inform future strategic directions.

Amendment C107 (approved 16 June 2017) rezoned 1.2 hectares of land in Woodend from the General Residential Zone 1 to the Commercial 1 Zone. There was a submission to this amendment on the basis that it was not strategically justified and that it did not meet the intent of the *Woodend Structure Plan* (2014). The *Woodend Structure Plan* was the subject of Amendment C98. Council brought forward amendment C107 because of the threat of an appeal to the expiry of a planning permit for a medium-density development on part of the subject land. The Panel was satisfied that the Amendment is consistent with the intent of the Structure Plan, and the panel

agrees with Council's submission that there is limited risk associated with rezoning the subject land to the Commercial 1 Zone in advance of Amendment C98. Council has demonstrated a strategic justification for the rezoning based on its consultation and economic analysis as declared through the Woodend Structure Plan. Through this process, and detailed community consultation, there has been little objection or commentary on the proposed extension of the Commercial 1 Zone as exhibited in Amendment C107.⁴⁰

HERITAGE

Amendment C033 (approved on 5 April 2012) introduced the Heritage Overlay over three precincts in parts of the Romsey, Woodend and Lancefield town centres and to 11 individual properties.

Authorisation was conditional on the correction of errors in the HO schedule, the inclusion of a contributory place in the Heritage Review Citation Report, and clarification of the status of the *Guidelines for the Assessment of Heritage Planning Applications*. Following confirmation that the conditions of authorisation had been met the Panel believed the amendment was strategically justified and complied with the relevant practice note.

⁴⁰ *Macedon Ranges Planning Scheme Amendment C107 Panel Report 22 February 2016 (page 1)*



The panel supported Council's proposal to apply the Incorporated Plan Overlay that identifies contributory and non-contributory buildings in the three precincts and provides exemptions for minor buildings and works. The Panel recommended that: *Council prepare a local practice note that explains how the Incorporated Plan works in conjunction with the provisions of Clause 43.01-1⁴¹*

ADMINISTRATIVE OR 'TIDY UP AMENDMENTS'

Most councils occasionally undertake corrective amendments to their respective planning schemes. Amendment C109 (approved 8 December 2016) was the third such amendment that the Macedon Ranges Shire has undertaken to its planning scheme. The amendment sought to correct 117 errors or anomalies in the planning scheme ordinance and maps that affect 264 individual land parcels. The proposed changes varied in scale and significance.

Twelve submissions were received; five were objecting submissions, and Council resolved three of the objecting submissions. The remaining three objections were considered by the Planning Panel. The issues raised were:

- *The nature of some changes go beyond correcting anomalies and errors.*
- *Further work requests.*
- *Bolinda (Change 1) and Lauriston (Change 8) community halls.*
- *Change 9 – Romsey Primary School.*
- *Mount Macedon Road at Hesket (Changes 14 - 19) and Romsey Road at Springfield (Changes 20 - 24).*
- *Change 29 – Romsey business estate.*
- *Change 108 – 9 to 13 William Street, Romsey.*
- *'Mulguthrie' (Change 109) and 'Dumbarton' (Change 110) estates.*
- *Change 111 – Bolobek Lakes estate at Macedon.*
- *The mapping of the Upper Coliban Reservoir.*
- *Other post exhibition changes.⁴²*

During the amendment process Council re-notified landowners and adjoining neighbours of two of the four post exhibition changes. This additional notice (in addition to the exhibition of the Amendment) provided the Panel with confidence that:

⁴¹ *Macedon Ranges Planning Scheme Amendment C33 Panel Report 31 May 2011 (page 33)*

⁴² *Panel Report Macedon Ranges Planning Scheme Amendment C109 Corrections of errors, anomalies and minor changes 11 July 2016 (page 7)*



“... landowners that may have been affected have had the opportunity to participate in the Panel process. The Panel does agree that some of the proposed changes do vary in scale and significance however this should not require them to be considered under a separate amendment.”⁴³

The Panel generally supported the Council position and subject to recommending five relatively minor changes recommended that the amendment be adopted.

As the amendment sought to correct 117 errors or anomalies (affecting 264 individual land parcels) the administration of this amendment was quite complex. This may have been avoided by completing tidy up amendments on a more regular basis, or with a narrower scope of issues.

Since the last review changes to the *Planning and Environment Act 1987* allow for some administrative amendments to be completed under s.20(A) of the Act as ‘prescribed amendments’.⁴⁴

Recommendation: As part of its regular practice, Council should consider the regular review and preparation of anomalies amendments (i.e. on an annual basis).

COMBINED AMENDMENT / PERMITS

In the last ten years three planning panels have considered combined amendment / permits to the Macedon Ranges Planning Scheme.

- C082 (approved 15 August 2013)
- C102 (approved 16 February 2017)
- C096 (approved 14 January 2016)

The three panel reports each concluded that these amendments were strategically justified. The range of issues considered in each of these panel reports were related to site specific issues (in particular for Amendment C082 where the site had a long and complex planning history).

⁴³ Panel Report Macedon Ranges Planning Scheme Amendment C109 Corrections of errors, anomalies and minor changes 11 July 2016 (page 1)

⁴⁴ For the purposes of section 20A(1) of the Act, the prescribed classes of amendment include:

- an amendment to correct an obvious or technical error in the Victoria Planning Provisions or a planning scheme;
- an amendment to delete a reference to an incorporated document or a reference document in the Victoria Planning Provisions or a planning scheme if that document has expired or the reference is redundant;
- an amendment to the schedule to the Heritage Overlay in a planning scheme to delete a reference to a heritage place being included on the Victorian Heritage Register under the Heritage Act 1995 if the heritage place is not on that Register;
- an amendment to a planning scheme to include land in the Road Zone if that land has been declared a freeway or an arterial road under the Road Management Act 2004
- an amendment to a planning scheme to delete an Environmental Audit Overlay from land if a certificate of environmental audit has been issued for that land in accordance with Part IXD of the Environment Protection Act 1970



In relation to Amendment C082 the panel noted a procedural issue and:

... requested Council address the lack of reference to the Planning Permit in the Council resolution sending the matter to Panel. The Panel's concern is that no authorisation has been given for the Planning Permit to be referred to the Panel for consideration. At the hearing, Council advised that this was an oversight.

As combined planning amendment / permits are a relatively rare and unusual process (three in 10 years) it would be beneficial for Council officers to familiarise themselves with the relevant sections of the Act prior to seeking authorisation for any combined amendment/permits in the future.

Recommendation: Council should ensure that its administration and processing of planning scheme amendments is consistent with the requirements of the *Planning and Environment Act 1987* particularly where the amendment is combined with a planning permit application under section 96A of the Act.

SITE SPECIFIC REZONINGS

During the review period Planning Panels considered several amendments for site specific rezonings. Some of these were progressed on an individual site basis (with some also being combined amendment and permits – see above), and others packaged into an omnibus amendment.

Amendment C047 (approved 8 May 2008) was described in the Planning Panel report as: a 'catchall' or 'omnibus' amendment with a number of elements or components. The amendment was in part a response to applications from a number of land owners for specific re-zonings of individual properties. The amendment proposed seven separate components. The planning panel report considered each component separately.

Following exhibition of the amendment Council resolved to abandon one component due to an unfavourable Panel report received for amendment C040 (abandoned in April 2006). The Panel recommended that a further three components be abandoned, two for lack of strategic justification, and for a third site as:

"...the land is now in private ownership, it is... no longer appropriate that it be included in a Public Use Zone. However there is a lack of strategic justification or a detailed study of the land which justifies the particular new zoning proposed."⁴⁵

For these three elements the panel recommended that any further rezoning proposals not be considered until the Woodend Outline Development Plan (or similar strategic investigation) is completed.

⁴⁵ *Macedon Ranges Planning Scheme Amendment C47 Panel Report February 2007 (page 34)*



The proposed changes to the extent of the Heritage Overlay were supported *in part* and recommended to be dealt with as part of Stage 1 of the Council's Heritage Review (which was the subject of a separate amendment).

Ultimately only two components were supported by the Planning Panel and recommended for adoption. The panel concluded:

"In light of the Panel's view that all elements of this Amendment with the exception of three very minor components - which can be viewed as administrative corrections or 'house keeping' changes - should be refused or deferred."⁴⁶

This suggests that for rezoning requests made by private landowners Council needs to ensure there is sufficient strategic justification prior to commencing the amendment process. Similar to Amendment C019, we question the efficiency of packaging up so many changes to the planning scheme into a single amendment request.

INDUSTRIAL DESIGN GUIDELINES

Amendment C071 (approved 16 August 2012) sought to implement the *Design Guidelines for Industrial Development, 2011*. The Panel recommended that the amendment be adopted (subject to changes). The panel was satisfied that:

"... the amendment, and specifically the Guidelines, are strategically justified and are intended to address a demonstrated deficiency in the Macedon Ranges Planning Scheme. The Panel also notes that the development of the Guidelines has involved extensive consultation, initially in relation to the draft Guidelines and subsequently the amendment."⁴⁷

RESTRUCTURE OVERLAY

Amendment C092 sought to replace Incorporated Document Macedon Ranges Shire Restructure Area Plans, 1999 with Macedon Ranges Shire Restructure Area Plans, 1999 (Revised 2014). The proposed amendment (as exhibited) would have removed restrictions in the Macedon township on 13 lots that would have allowed the potential for 17 additional dwelling lots and to clarify restrictions affecting two properties.

Panel concluded view on this issue is that no proper strategic fire analysis has been presented which would support this Amendment."⁴⁸

The Panel notes also the recommendations of the interim report by the Panel considering Amendment C84 about the need for development of separate structure

⁴⁶ *Macedon Ranges Planning Scheme Amendment C47 Panel Report February 2007 (page 43)*

⁴⁷ *Macedon Ranges Planning Scheme Amendment C71 panel report – 2 March 2012 (page7)*

⁴⁸ *Panel Report Macedon Ranges Planning Scheme Amendment C92 Changes to Restructure Overlays 28 January 2014 (page 36)*



plans for Macedon and Mount Macedon for the new MSS – both towns having been identified for a no growth future⁴⁹.

...

The Panel agrees that the Amendment should not have proceeded to exhibition in the current form.

...

This is not a case of a finding based on the balancing of strongly competing considerations both for and against an amendment. The arguments in favour of this Amendment are in the Panel's view considerably less substantial than those against.

The matter which the Panel regards as the most significant is the extreme bushfire hazard of the township area and the apparent absence of prior consideration of strategic fire issues⁵⁰.

Ultimately the planning panel for Amendment C092 recommended that the amendment be abandoned and the Minister for Planning refused the amendment.

RURAL LIVING

Amendment C110 (part 1 approved 27 April 2017, and part 2 abandoned 26 October 2017) implemented the *'In the Rural Living Zone Strategy'*. The key objective of the Strategy is to deliver a long-term sustainable supply of Rural Living lots. There were 125 submissions which raised issues relating to:

- the methodology and process;
- consistency with policy;
- environmental issues;
- additional requests for rezoning or reduction in minimum lot sizes;
- infrastructure;
- planning provisions; and
- specific issues for Kyneton and Romsey.

The Panel considered the Amendment strategically justified *in part*. The panel:

"...considers the proposal to rezone land south of Kyneton from the Farming Zone to the Rural Living Zone appears premature and is not supported by the Panel.

⁴⁹ Panel Report Macedon Ranges Planning Scheme Amendment C92 Changes to Restructure Overlays 28 January 2014 (page 38)

⁵⁰ Panel Report Macedon Ranges Planning Scheme Amendment C92 Changes to Restructure Overlays 28 January 2014 (page 46)



The Panel considers the area at Kyneton requires further work to justify rezoning given the location of the land within a water supply catchment and the constraints on the land from low lying areas and poor soil capability to accommodate development and associated impacts on lot yields.

Also, the Panel is not convinced that the proposed change north of Romsey represents orderly planning given its location within areas of high quality agricultural land, part of the non-urban break between Romsey and Lancefield, visually sensitive landscapes and difficulties with landowner willingness to achieve integrated development.

The Panel conclude[d] Amendment C110 should be adopted in part...⁵¹

With regards to land supply Council's submission to the panel was clear that the intention to provide a finite supply of 30 years was appropriate and was designed to "...do it once and do it properly". Council did not intend to provide a rolling supply over time or to review the supply for 10 years or more. The Panel were not supportive of this approach.

While it acknowledges that Council stated that the Amendment was to be a definitive 'line in the sand' and that no further amendments would be considered regarding the provision of RLZ land, the Panel considers this is not a sustainable approach...⁵²

The panel commented on Council's decision to refer submissions for the rezoning of land outside the area covered by the amendment.

The Panel wishes to express its disappointment that Council, in referring submissions for the rezoning of land outside that covered by the exhibited Amendment, has created a level of submitter expectation that the Panel will be able to actively consider their requests to include their land in the Amendment. This is particularly unfortunate given that Council argued so strongly at the Hearing that the inclusion of such requests would represent a transformation of the Amendment and are thus to be avoided. It also expressed its objections to the Panel recommending further notification of affected parties to enable the consideration of additional land being included in the Amendment.⁵³

The planning panel stated that the amendment should not jeopardise: *...potential for future urban growth on township boundaries, which appears to be Council's reluctance to include some of the suggested sites in the Amendment.*⁵⁴

⁵¹ Panel Report Macedon Ranges Planning Scheme Amendment C110 Rural Living Zones 17 June 2016 (pages 1-2)

⁵² Panel Report Macedon Ranges Planning Scheme Amendment C110 Rural Living Zones 17 June 2016 (pages 105)

⁵³ Panel Report Macedon Ranges Planning Scheme Amendment C110 Rural Living Zones 17 June 2016 (pages 104)

⁵⁴ Panel Report Macedon Ranges Planning Scheme Amendment C110 Rural Living Zones 17 June 2016 (pages 105)



The Amendment C110 Panel report includes a discussion about the appropriate long-term extent of the RLZ. As part of this discussion, the Panel considered the following issue relevant to the strategic justification of the Amendment:

On the one hand, the Amendment proposes to open up significant areas of the already high proportion of land in the Shire in the RLZ for more intensive development. Other areas however, where the purpose of the RLZ and the preferred lot size are potentially not well aligned to the purposes of the RLZ, remain unexamined. The strategic approach to the areas for intensification does not appear to be balanced by similar strength of purpose for those areas where intensification is clearly not intended or appropriate.⁵⁵

The Panel concluded that there would be substantial merit in reviewing these areas.

The Amendment C110 Panel suggested that there remains a need to review: *the role of rural living opportunities outside the RLZ as well as the appropriate future role and zoning of RLZ areas that are not included in the change areas⁵⁶.*

In part, Council has committed to undertaking this work as part of its *In the Farming Zone Strategy*, which forms part of its current strategic work program.

REVIEW OF VCAT DECISIONS

There have been 241 decisions by the Victorian Civil and Administrative Tribunal (VCAT) since the last review of the Macedon Ranges Planning Scheme in March 2008. The number of decisions involving Macedon Ranges Council has varied greatly over the last 10 years. Table 1 **Error! Reference source not found.** provides the breakdown of the number of VCAT decisions involving Macedon Ranges Shire Council.

Table 1 Number of VCAT Decisions involving Macedon Ranges Shire Council

Year	Number of VCAT Decisions
2008	27
2009	48
2010	16
2011	21
2012	15

⁵⁵ *Macedon Ranges Planning Scheme Amendment C110 Panel Report, 17 June 2016 page 45*

⁵⁶ *Macedon Ranges Planning Scheme Amendment C110 Panel Report, 17 June 2016 page 40*



2013	28
2014	13
2015	15
2016	22
2017	16
2018 (to 30 September)	20
TOTAL	240

Table 2 Summary of recent VCAT appeals

Nature of Appeals	Appeals in 2016	Appeals in 2017	Appeals in 2018
Commercial	2	2	2
Rural dwellings (including extensions)	3	4	5
Rural subdivision (includes Rural Living Zone)	3	0	0
Residential subdivision	7	2	6
Residential development	6	2	5
Agriculture use and development	1	4	0
Quarry	0	2	0
Telecommunication Facility			1
TOTAL	22	16	18⁵⁷

⁵⁷ One decision was deferred and no detail has been provided regarding the nature of the appeal, this has not been included



The Victorian Civil and Administrative Tribunal (VCAT) has made 241 decisions involving Macedon Ranges Council since the last review of the planning scheme in 2008. The number of decisions each year involving Macedon Ranges Council has varied greatly over the last 10 years.

The focus of this review is the policy matters which relate to the performance of the Macedon Ranges Planning Scheme which are apparent in the decisions. While some site-specific matters provide a context to decision making, these aspects have no significant bearing on the performance of the Macedon Ranges Planning Scheme.

THE NATURE OF THE VCAT DECISIONS

In 2016, Macedon Ranges Council had 13 appeals under Section 77 of The Act. Of these, seven (54%) were granted a permit by the Tribunal. There were also three appeals under Section 149 of the Act seeking a declaration. Three appeals were made under Section 80 for review of conditions on permits and four appeals under Section 82 of The Act were applications for review by objectors⁵⁸.

In 2017, Macedon Ranges Council held eight appeals under Section 77 of The Act. Of these, four were granted a permit by the Tribunal. There were two appeals under Section 79 of the Act when Council failed to make a decision on the application, in which Council indicated it would have refused the applications, one refusal was supported by the tribunal. Five appeals were made against Macedon Ranges Shire under Section 82 of The Act and one Appeal under Section 80 of The Act.

The majority of the appeals (15) involving Macedon Ranges Council has been made under Section 77 of The Act in 2018. Of these, ten of the applications were granted approval by the Tribunal. One appeal under Section 149 sought a declaration, one appeal under Section 114 of The Act for an enforcement order and Section 81 of the Act relating to extension of time and one application under Section 79 of the Act.

This review of VCAT decisions has identified four key themes as follows:

- Dwellings in the Farming Zone;
- Dwellings in environmentally sensitive areas;
- Residential development; and
- Water quality.

⁵⁸ Some of the appeals were made under numerous provisions of the Act



DWELLINGS IN THE FARMING ZONE

The Macedon Ranges Planning Scheme contains a requirement for dwellings in agricultural areas to establish a nexus between the agricultural enterprises and the use of the land for a dwelling. Specifically, the Farming Zone contains several objectives to encourage the retention of productive agricultural land, and ensure that non-agricultural uses, including dwellings, do not adversely affect the use of the land for agriculture. Clause 21.07 seeks to protect agricultural land and ensure that new development relates to the ongoing, productive use of the land for agriculture. The consideration of this policy requirement, along with the provisions of the Farming Zone, have been heavily contested in applications before the Tribunal. In the cases that have come before the Tribunal, there have been instances where permits have been granted for dwellings (against Council's refusal to grant a permit) and cases where the Council's refusal to grant a permit have been upheld.

Core to the consideration of these matters has been the nature of the agricultural activities which is necessary to support a dwelling on the land.

In *Dinning v Macedon Ranges SC* [2018] VCAT 490 (12 April 2018) the Tribunal set aside the decision of the Macedon Ranges Shire and directed a permit be granted for use and development of the land for a dwelling and outbuilding. The applicant sought to transfer and expand an ex-racehorse refuge and training facility from the neighbouring property. The Tribunal found the key matter for the decision is whether it is appropriate to permit a dwelling in the Farming Zone.

Ultimately the Tribunal accepted the applicant's position and found for the need of the dwelling on the site to support the business enterprise. Importantly the Tribunal identified:

... the proposed ex-racehorse refuge and training facility is an as-of-right agricultural use...the proposed dwelling can be justified as needed to support agriculture on the site...

The Tribunal did not support Council's position that the proposed ex-racehorse refuge and training facility was contrary to the purpose of the Farming Zone. If Council wishes to discourage equine activities in the Farming Zone a change would be required to the VPPs.

In the decision of *Seyit v Macedon Ranges SC* [2017] VCAT 1210 (7 August 2017) the Tribunal affirmed the decision of the Council and directed that no permit be issued for the use and development of the land for a dwelling. The applicant submitted that the site could sustain 200 goats, and that full-time, on property, care was required to properly manage the goats to ensure their ongoing welfare.

The Tribunal considered the proposal failed to demonstrate the need for a dwelling as an ancillary component to the productive agricultural use and the dwelling was not necessary to support the proposed goat business. The Tribunal acknowledged:



Essentially, in relation to the subject site the planning scheme is heavily weighted against the loss of productive agricultural land and only supports the construction of a dwelling in limited circumstances where it can be clearly and comprehensively demonstrated that the dwelling is necessary to enhance agricultural production.

The Tribunal made a similar decision in *Pulis v Macedon Ranges SC* [2012] VCAT 1457 (26 September 2012), where the Tribunal supported Council's decision and directed no permit be issued for the use and development of the land for a dwelling.

The Tribunal identified the two primary issues of the application presented an unacceptable risk to water quality through the intensification of residential land use and onsite disposal of wastewater and that unless there is a reasonable nexus with the agriculture enterprises proposed for the land it will fragment agricultural land by extending rural living into farming land.

The Tribunal found:

...the Farm Management Plan submitted with the application is light on substance, those activities that are identified as being necessary to support the breeding herd do not carry any imperative for a 24 hour presence on the site. Indeed many of the activities are seasonal rather than daily requirements and are consistent with general stock grazing and farmland management. Apart from the need to monitor cattle in late stages of pregnancy other aspects of breeding management appear to have no imperative for an ongoing 24 hour presence.

The scale of the agricultural enterprise is small. As the Council helpfully and concisely puts it, the dwelling '...will not support a substantial agricultural use but will simply be occupied by someone who runs a small scale agricultural enterprise'. The dwelling is not a use that will be secondary to or ancillary to the use. Rather it is a use of the land that in many ways will have equal if not more dominance over the agricultural use, being the primary place of residence for people who only undertake agricultural pursuits on a part time basis. In other aspects, the dwelling will convert the land into defacto residential land.

In *Morabito v Macedon Ranges SC* [2018] VCAT 1313 (27 August 2018), the Tribunal supported Council's decision and directed no permit be issued for the use and development of the land for a dwelling. The Tribunal provided the following commentary around the issue of rural lifestyle development in the Farming Zone.

There has been considerable debate in planning over many years as to the gap between the rural lifestyle dream and the reality of living on a relatively large rural property. The dreams are often not implemented.

The actual experience is often the following. The dwelling is constructed and the young family arrive. The time and energy of the family is necessarily dedicated to



maintaining the family income through paid employment off the farm, usually in Melbourne. Weekends and spare time are taken up with family, social and sporting events, and general maintenance of the property. Parents spend a lot of their time driving children to a range of activities in local towns.

The outcome is often that the plans for sustainable living and local production are scaled down or deferred to other times due to limited time, energy and financial resources. The outcome is that a smaller agricultural property has been removed from agriculture and is used for residential purposes.

These decisions illustrate the importance of the assessment of the proposed agricultural operation including the scale and intensity of the operation, and whether agricultural activities are likely to remain the primary use of the land with an accompanying residential use. These expectations could be made clearer in the planning scheme in order to facilitate a more consistent approach to decision-making for dwellings in farming areas. These are matters which should be considered by Council as part of the *In the Farming Zone Strategy*, which is a current project in Council's strategic work program.

ENVIRONMENTAL SIGNIFICANCE OVERLAY – SCHEDULE 2

Environmental Significance Overlay – Schedule 2 'Monegetta Piggery' (ESO2) applies to land around the Monegetta Piggery and recognises that a piggery is a substantial intensive agricultural land use that can have adverse amenity impacts. It seeks to manage land uses within the buffer of the piggery.

However, the piggery has subsequently closed.

In *Banon v Macedon Ranges SC* [2017] VCAT 1530 (21 September 2017) the Tribunal commented on the operation of the Environmental Significance Overlay Schedule 2 (ESO2). The Tribunal found that the condition requiring a Section 173 Agreement to be imposed on the title of the subject land to warn future owners of the land that it is located within ESO2 to be misconceived and invalid, given that the piggery was no longer operational. The Tribunal concluded the intent and purpose of the ESO2 had no relevance and remarked:

It is not for the Council to protect future owners from something that does not exist. Any future owner is required to do their own due diligence and would be made aware through a Section 32 Statement of the overlay and its provisions.

The Tribunal's decision in this regard highlights the need to consider whether it is timely to remove ESO2 from the planning scheme.

DWELLINGS IN ENVIRONMENTALLY SENSITIVE AREAS

The rural framework for 'Living forests' contained in Clause 21.03 seeks to limit residential development on existing lots where positive environmental outcomes are achieved and



existing vegetation will not be compromised by requirements for dwelling sites, fire protection buffers and other associated infrastructure. There are tensions when considering the extent to which positive environmental outcomes can be achieved through the development of a dwelling on site.

In *Barclay v Macedon Ranges SC* [2017] VCAT 422 (31 March 2017) the Tribunal affirmed the decision of the Macedon Ranges Shire and directed that no permit be issued for the use and development of the land for a dwelling, outbuilding and associated earthworks and vegetation removal.

The key issues identified by the Tribunal were whether the proposal provided a positive environmental outcome, whether the vegetation loss and impact on biodiversity was acceptable, whether the bushfire risk was acceptable and would the neighbouring business, a Scout Camp, be unreasonably impacted.

The Tribunal described the context of the application as follows:

It is fair to say that the policy context does not encourage dwellings within the Living Forest areas but does not prevent consideration provided a positive environmental outcome is achieved. This is reflected in the suite of fairly restrictive planning controls that apply to the land...

I find that these controls reflect the significant constraints that apply to this land in terms of its environmental and landscape values and bushfire risk. They identify a site where any development must be very carefully considered."

Ultimately the Tribunal found:

The proposal is for a dwelling that would essentially be for rural lifestyle or rural living purposes, a land use which is not encouraged within the Rural Conservation Zone and which is directed towards the townships and areas specifically zoned for this use such as the east side of Royal Parade where the land is zoned Low Density Residential. I find that the proposal is not consistent with the purposes of the Rural Conservation Zone.

This decision considered the challenge of addressing the balancing objectives of providing environmental management on a site and permitting residential development.

This decision also highlighted some operating concerns with the Restructure Overlay and restructure plans. There is nothing in the overlay that says that there must only be one dwelling per restructure lot or that a dwelling cannot be considered on a lot greater than 20ha prior to being restructured. Ambiguity in the provision and incorporated document should be clarified.

In *Elmekdessy v Macedon Ranges SC* [2018] VCAT 283 (1 March 2018) the Tribunal set aside the decision of the Council and directed that a planning permit be issued for the use



of the land for a replacement dwelling in the Rural Conservation Zone. The key issues identified by the Tribunal include on the siting of the dwelling, removal of vegetation to protect human life, impact on biodiversity, water catchments and compliance with the Restructure Overlay. The Tribunal found:

The scheme sets out the particular measures in clause 52.47 that are necessary to make a dwelling safe. The measures in the scheme have to mean something and be given weight. They have to be applied because the responsible authority and the Tribunal on review have to apply the scheme as we find it. It is the applicable law.

There would be considerable confusion and uncertainty if applicants achieve the performance measures in the scheme, but permit applications are refused because decision makers think they are ineffective. That would mean that the measures in the scheme have no meaning and are irrelevant to the decision making process. Decisions would become ad hoc and inconsistent and the community could not use and develop land with any certainty.

I agree with the parties there is an obvious tension in the applicable planning policy framework. It requires that human life is paramount over all other policies and a use and/or development must be made safe from the inevitable bushfire. Vegetation has to be removed to make the review site safe.

The Tribunal did not support the Council's position that the proposal does not preserve and enhance an environmentally sensitive area. Regardless of the extensive planning controls which apply to the site, the Tribunal supported the replacement dwelling and the evidence by the applicant that the site made no significant contribution to Victoria's biodiversity and that the bushfire requirements could be met.

In *National Australia Bank Ltd v Macedon Ranges SC* [2016] VCAT 455 (24 March 2016), the Tribunal affirmed the decision of the Macedon Ranges Shire and directed that no permit be issued for the use and development of the land for a dwelling in the Rural Conservation Zone Schedule 4.

The Tribunal found:

In this context, I consider that the introduction of residential built form, even a relatively conventional single storey dwelling, into this setting would not be consistent with planning policy and the natural setting. Even though it would be possible to select muted exterior colours, the built form of any dwelling is one that will be visually juxtaposed against the natural setting.

While components such as fencing, landscaping and certain outbuildings may not expressly require planning permission, in this edge of township context (and having regard to similar development nearby on both sides of the escarpment), they are likely to flow from any permission granted for residential use of the land. In my



opinion, these works would have the capacity to increase the visual fragmentation of the land compared with its natural surrounds.

This VCAT decision highlights two operational issues in the Macedon Ranges Planning Scheme. The first is that there is little benefit from applying a Development Contribution Plan Overlay to a Rural Conservation Zone which generally discourages development. The second is that the Tribunal highlights the need for improved legibility with the Restructure Plans and associated documents to provide greater clarity as to their intentions.

RESIDENTIAL DEVELOPMENT

Most appeals that have been before the Tribunal relate to the subdivision of land or medium density development in residential areas. In almost all circumstances, the appeals sought to appeal Council's decision to refuse the application, under Section 77 of the Act.

In *Hill v Macedon Ranges SC* [2015] VCAT 161 (23 February 2015) the Tribunal articulated the tensions between urban consolidation and neighbourhood character policy within the Macedon Ranges Planning Scheme for a proposal for two dwellings at the rear of an existing dwelling in Gisborne. The Tribunal found:

...it is an aim of the State Planning Policy Framework to promote urban consolidation. The proposal is consistent with the State Planning Policy that promote the consolidation of existing urban areas for the efficient use of existing infrastructure and services. (Clause 11, 15, 16 and 18)

...The location of higher density development needs to be tempered against the need to protect and enhance neighbourhood character.

The development reflects the predominant characteristics of the neighbourhood, those being provision of dwellings with good side and rear setbacks and generous frontages. The development of the site with two new (three dwellings in total) is not overly dense. In these ways, the proposal represents an appropriate response to local policy requirements, along with state policy requirements.

The Tribunal did not support Council's position regarding the proposal impact on neighbourhood character and the design response. The Tribunal recommended if Council wishes to ensure that medium density residential development is strongly discouraged, a stronger statutory response is required such as a Neighbourhood Character Overlay or Design and Development Overlay.

The Tribunal made a similar decision in *Becbroshel Pty Ltd v Macedon Ranges SC* [2018] VCAT 308 (2 March 2018), which the applicant sought to appeal the Council's decision to refuse an application for a three lot subdivision in Malmsbury. The Tribunal did not support Council's position that replication of the existing subdivision pattern was appropriate. The Tribunal remarked:



If maintaining or achieving lot sizes of 1,000 square metres in Malmsbury is so important in order to protect heritage values and respect neighbourhood character (to the extent of outweighing all other considerations), then specific controls need to be included in the Planning Scheme.

In *Murphy v Macedon Ranges SC* [2018] VCAT 840 (1 June 2018) the Tribunal considered an application for a two lot subdivision in the Low Density Residential Zone. The key issues of this review are the flood risk and whether the proposed subdivision and building envelope is an appropriate response to the character of the area. The Tribunal remarked:

If maintaining the current lot size of surrounding lots is the goal for development in this area, it would be helpful if there are additional planning controls to express this intention such a minimum lot size in the schedule to the zone, or a Design and Development Overlay, or Neighbourhood Character Overlay, which set out the intended development scenario for the land.

A key issue for a number of the decisions under review relates to the whether a design provides an appropriate response to the neighbourhood character of an area and the accompanying provisions in the planning scheme. In *Saint George Property Holdings PL v Macedon Ranges SC (Corrected)* [2018] VCAT 859 (4 June 2018), there was debate about the expectations for development in the townships. The Tribunal found:

The objectives of the DDO17 calls for a protection and enhancement of the established semi-rural and village feel of the place. The zoning of the land calls for a design that respects the character of the area. The township of Gisborne has a village feel. However, it is not as easy to associate the current character of the immediate area as semi-rural. The land is clearly suburban and located on the edge of the commercial centre of Gisborne.

WATER QUALITY

The Macedon Ranges Planning Scheme seeks to regulate activities within catchment areas to protect water quality. The need to limit dwelling densities within catchments has been supported by the Tribunal that has considered applications for development within catchment areas. The most significant of these decisions is *Rozen v Macedon Ranges SC* (includes Summary) (Red Dot) [2009] VCAT 2746. The application sought permission for four dwellings within the Campaspe River Special Water Supply Catchment Areas. It was initially heard by the Tribunal in 2007, who granted a permit for four dwellings on four lots. This decision was overturned by the Supreme Court on that basis that the Tribunal had misstated and misapplied the precautionary principle. The case returned to the Tribunal for consideration of the environmental risk, who noted:

In our view, any risk to human health must be regarded as serious. We consider this is implicit in the terms of the Safe Drinking Water Act 2003 and the Australian Drinking



Water Guidelines. Therefore, when considering development in open potable water supply catchment areas, risk to human health is highly relevant and, because of its serious nature, must be given priority over other planning objectives. This priority is recognised in the planning policy context of the planning scheme.

...

The Macedon Ranges Planning Scheme is full of references to the need to protect water resources in open, potable water catchments and the need to limit development to achieve this objective. As time goes on, development within the catchments will reach a critical point where it will be necessary to say no to further development if this objective is to have any meaning.

These conclusions were further supported in *Kapiris v Macedon Ranges SC* (includes Summary) (Red Dot) [2012] VCAT 1969 (28 December 2012). The Tribunal found:

*[...] We accept the evidence that if the quite sophisticated waste water treatment system is installed, operated and fully maintained it would function satisfactorily, meet regulatory standards and would not result in a risk of contamination to surface and ground water. However as noted in *Rozen* the real risk associated with waste water treatment systems is that they do not always function as designed, whether because of system breakdown or because of inadequate ongoing management, including proper use of treatment chemicals.*

In *Pulis v Macedon Ranges SC* [2012] VCAT 1457 (26 September 2012) the Tribunal highlighted the importance of water protection policies as follows:

It is true that the Guideline is just that, a guideline. As such it does not form a mandatory rule and as per Mr Monaghan's references to various texts on administrative law, this guideline is a form of policy guidance that is to take into account the context of this application. Similarly in statutory terminology, the density guideline is not mandatory, the density of one dwelling 'should' rather than 'must' be no greater than one dwelling.

That said, I reject the implied notion that the Catchment Guidelines are mere 'informal policy'. Nor is it a general or abstract guideline. The purposes of this guideline are clear and by way of 60(1A)(g) of the Planning and Environment Act 1987 it has the force of a policy adopted by the Minister for Planning.

...Thus I find that the combination of the zoning, strategic planning policy and the state and local planning policies weigh against allowing a land use on the site that presents a risk to water quality. The Catchment Guideline provides added emphasis to the need to be more vigilant to the cumulative risk to potable water quality, however incrementally small that risk may be, in accord with the precautionary principles, as set out under this guideline.



These decisions demonstrate that the current policies within the Macedon Ranges contain clear support for water quality protection. The importance of ensuring the cumulative impact of development proposals does not compromise the quality of potable water is contained in Clause 21.07 and ESOs which seeks to reinforce the importance of limiting development which poses a risk to catchments.

SUMMARY

There are a range of important lessons that can be learned from these review forums that have occurred during the planning scheme review period. With regards to the review of planning panel reports there are several themes that emerged.

The first is timely progression of planning scheme amendments. There are numerous examples where the strategic work providing the strategic justification for the amendment is over five years old before the amendment is approved. In some cases, this has been partly as a result of a decision to re-notify owners and occupiers (typically after the consideration of submissions). There are also examples of amendments being approved in part or 'split' recognising that some aspects of the amendment require further work.

Secondly, with regards to settlement a number of planning panels have included discussion on the need for consistent and reliable monitoring of population growth. A regular process that monitors population growth, residential land supply and demand on a municipal *and* town-by-town basis would undoubtedly support future settlement planning across the municipality.

While the majority of appeals relate to residential development and subdivision, there has been a variety in the nature of the VCAT appeals and decisions involving Council. Some of the consistent themes raised by VCAT include:

- Demonstration of need for a dwelling in the Farming Zone;
- Need for development to provide a positive environmental outcome in sensitive environments;
- Ability of the design to respond to the neighbourhood character; and
- Ongoing challenge to limit dwelling densities within catchments.

Having regard these findings, there are a number of recommendations which follow on for consideration or further strategic work.

The number of appeals under Section 77 of The Act, which were granted a permit by the Tribunal relating to residential development and subdivision indicates the planning policy especially regarding neighbourhood character is not consistent with the expectations of Council.



There are opportunities to further define the expectations in relation to the nature and intensity of agricultural activities required to support dwellings on the land in the planning scheme, to provide a more consistent approach to decision making for dwellings in farming areas.

Specific recommendations include:

- Delete ESO2 as the Monegetta Piggery no longer exists.
- Review the Incorporated Documents relating to the Clause 45.05 Restructure Overlay to remove ambiguity and provide greater clarity with regard to the requirements.
- Provide greater consistency in relation to bushfire protection policy, and prioritisation given to human life, in line with State policy.
- Review the application of the Development Contribution Plan Overlay in the Rural Conservation Zone.
- Undertake further strategic work to determine prioritise for housing diversity and neighbourhood character, particularly in relation to DDO17.
- Review the application of the LSIO.



6. CONSULTATIONS – PLANNING ISSUES

Continuous Improvement Review Kit requirement:

Outline the consultation process and its outcomes

PURPOSE OF CONSULTATION

Consultation is an important part of the monitoring and review process to understand the community's expectation, how they perceive the planning scheme and how it can be improved.

This review has been undertaken with extensive consultation with a range of stakeholders, including internal Council staff, Councillors, referral authorities and government agencies, a Community Reference Group and the Macedon Ranges community more broadly (via a community survey and 'drop-in' sessions).

The consultation as part of this review has focussed on:

- What are the key issues to be addressed in the Planning Scheme Review having regard to the current performance of the Planning Scheme? And
- What are the possible options or solutions that could be explored to address these issues?

The *Macedon Ranges Planning Scheme Review: Consultation Report September 2018* provides extensive detail of the responses received from the community consultation and stakeholder engagement. This chapter of the Planning Scheme Review Report provides a summary of the consultation program and matters relevant to the review.

CONSULTATION PROCESS

There are no prescribed formal consultation processes associated with the performance review of the Planning Scheme Review under the provisions of the *Planning and Environment Act 1987*. However, the consultation process was developed in conjunction with Council officers and was implemented with their involvement and assistance. The consultation process involvement consultation with a Community Reference Group, an online survey, drop-in sessions and discussion with key stakeholders.

In August 2018, the Macedon Ranges Shire Council and Glossop Town Planning released an Issues and Options Paper on the key issues and options for the Planning Scheme Review. To address the issues raised, feedback was sought around the key themes:

- Environment;
- Rural land;



- Settlement;
- Culture and Heritage;
- Tourism; and
- Transport.

ONLINE SURVEY

The online survey contained a series of open and closed ended questions. Submitters were invited to rate how important the key themes were for the Planning Scheme Review and how well the Planning Scheme provides direction on the key themes.

Submitters could provide information within the survey format and could attach further comments.

DROP-IN SESSIONS

In August 2018, drop-in sessions were held at the Kyneton Mechanics Institute and Gisborne Administrative Centre. The purpose of the sessions was to enable residents to provide feedback in person and discuss the key issues associated with the review.

Three people attended the Kyneton session and 12 attended the Gisborne session.

KEY STAKEHOLDER DISCUSSIONS

Council officers and consultants from Glossop Town Planning met with the Community Reference Group and regular users of the Planning Scheme to discuss the Planning Scheme Review. Council's planning officers were engaged in a detailed workshop, which audited the local provisions of the Scheme and provided an opportunity to look at emerging issues.

Discussions were held with regular users of the Planning Scheme including: planning consultants who work regularly in the Shire, referral authorities, other Internal Council Departments, Economic Development, Engineering, Strategic Planning, Sports and Recreation and Environment.

COMMUNITY REFERENCE GROUP

In October 2017, residents were invited to express their interest in joining a new Community Reference Group to provide important input into council's review of the Macedon Ranges Planning Scheme. Subsequently, Council appointed ten members to the Community Reference Group for the Planning Scheme Review.

In September 2017 Council adopted Terms of Reference for a Community Reference Group to assist with and inform the review.



The purpose of the Community Reference Group is to provide input into the Planning Scheme Review in identifying key issues and providing feedback on draft documentation at key stages of the project.

CONSULTATION OUTCOMES

In response to the community consultation and stakeholder engagement a total of 22 submissions were received from individuals and organisations. Of these, 13 submissions were from community members, 8 were from government departments and agencies and 1 submission was from a community association. Verbal comments were also provided at the workshops and community drop-in sessions.

A total of 41 responses were received to the online survey. All respondents to the online survey live in the Shire, with 43.24% of respondents owning a business in the Shire and 54.05% working in the Shire.

The online survey also asked participants whether they have read parts of the Macedon Ranges Planning Scheme ('the Planning Scheme'). Most respondents have read parts of the Planning Scheme when preparing a planning permit application. Table 1 shows the reasons why respondents read parts of the Planning Scheme.

Table 3 Why Respondents Read the Planning Scheme

51.61%	Making a planning permit application
32.26%	Making a submission to a planning permit application
29.03%	Making a submission to a strategic planning project
16.13%	Have not read the Planning Scheme
32.26%	Other

KEY ISSUES

The following section provides an overview of the key planning issues that were raised during consultation. This section does not attempt to identify every conceivable issue. Rather, it seeks to cover the key planning issues relating to the Planning Scheme raised during consultation. The issues have been grouped by the key themes that are set out within the Macedon Ranges Planning Scheme and in turned formed the themes of the Issues and Options Paper that provided the basis for consultation and discussions with the community.



ENVIRONMENT

Over half of respondents (59.26%) felt that the Macedon Ranges Planning Scheme provides direction on the Environment 'Moderately Well' or 'Quite Well'. Only 25.92% of respondents indicated the Planning Scheme provides direction on the Environment 'Not At All Well' or 'Slightly Well'.

Some submissions expressed concern over the perceived lack of priority given to the protection of the environment over development. The language used in the Planning Scheme in relation to the environment was criticised for being weak, favouring development and offering inadequate protection for the environmental assets.

Several submissions raised the need to balance development with environmental protection. One submission stated:

That natural beauty of the environment and proximity to Melbourne [makes] Macedon Ranges increasingly attractive for urban and rural development. Balancing development with environmental protection and preserving significance and highly valued characteristics of each town as a key issue.

Some submissions included narratives of planning decisions, where native vegetation was permitted to be removed and development allowed. Concerns were expressed regarding the removal of vegetation which provides habitat for fauna.

WATER QUALITY

Coliban Water recognised the limited capacity of the Planning Scheme to consider the enhancement of catchments and waterway health. Some submissions identified opportunities for better use of the Shire's water storage areas to provide for swimming, non-motorised watercraft and fishing.

BIODIVERSITY

Some submissions, including that of the National Trust, supported the recommendation of the Macedon Ranges Protection Advisory Committee Final Report (27 July 2016) to review the application of Vegetation Protection Overlays to '...assess whether they are providing adequate protection of the Shire's significant vegetation...'. Other submissions recommended reviewing the planning controls relating to the protection of significant native vegetation on private land and habitat for fauna. The National Trust suggested developing a Significant Tree Register to offer greater protection to significant trees.

Melbourne Water's submission identified a current project reviewing the Environmental Significance Overlays for waterways in the Macedon Ranges.

BUSHFIRE



In relation to bushfire risk, several submissions expressed concern about the weight given to bushfire risk. The Planning Scheme was criticised for not recognising the extreme bushfire risk at a landscape level. Concern was also raised in relation to the risks confronting tourists during bushfire events.

The Department of Environment, Land, Water and Planning (DELWP) recommended a review of Clause 21.06-3 Bushfire in relation to the recent changes to State planning policies on bushfire.

The CFA expressed an interest in further involvement in the strategic planning process.

FLOODING

Some submissions (including that from Melbourne Water) raised concerns about development having been approved in a floodplain, without any regard to the flooding issues. Submissions noted that in some cases, the floodplain was not been identified in the Planning Scheme. A review of the current Land Subject to Inundation Overlay and areas known to be in a floodplain or subject to poor drainage but not mapped was recommended

EROSION

Some submissions including DELWP recommended the schedule to the Erosion Management Overlay be reviewed.

SALINITY

Several submissions including DELWP recommended a review of the need to apply the Salinity Management Overlay.

CLIMATE CHANGE

Some submissions, including DELWP and the National Trust support the further consideration of policies in relation to climate change and environmentally sustainable design.

RURAL LAND

There was a diversity of views expressed in the online survey about how the Planning Scheme should address Rural Land. A third of respondents indicated the Planning Scheme provides direction on Rural Land 'Not At All Well'. A further 22.22% of respondents indicated that the issue is covered 'Quite Well' in the Planning Scheme.

Some submissions argued for the protection and retention of rural land for farming purposes, including by discouraging residential development and further subdivision of rural land. Several submissions felt that restrictions on subdivision are too severe. These submissions



raised concerns regarding the number of small land holdings in the Farming Zone, which are insufficient to support commercial farming activities. One submission stated:

...historically subdivision has actually been permitted and there are therefore smaller lots that, by their very nature, mean that agricultural activity needs to be more intensive or alternate income producing activities must be identified to be economically sustainable.

Some submissions called for the Planning Scheme to be updated to reflect current farming practices. It was argued that farming businesses need to supplement their income with other revenue sources such as tourism and accommodation. Concern was expressed over the interpretation of the land use term 'place of assembly' and the need for extensive requirements to obtain a planning permit for a single event.

Some submissions sought greater consideration to be given to 'buffers' between farming land and residential land. Preserving road side vegetation to provide a barrier to residential development was encouraged.

Several submissions commented on the need to respond to the Distinctive Areas and Landscapes Bill 2017. Questions were raised about how the Planning Scheme will recognise the importance of the Shire and highlighted the need to safeguard its unique natural features.

Some submissions sought further support in the Planning Scheme for the development of the equine industry and considered that it makes a positive contribution to the Shire's rural areas.

SETTLEMENT

RESIDENTIAL

Many respondents (48.5%) to the online survey indicated the Planning Scheme provides direction in relation to Settlement 'Moderately Well' or 'Quite Well'.

Many submissions said that their primary concern was over the Shire's growing population, and the impact that new development has on towns. This was expanded to include the impact of new development on the character of the existing settlements and impact on the environment. Specific concern was raised in relation to development in Gisborne, Woodend, Kyneton and Riddells Creek. Several submissions highlighted the importance of settlement boundaries and minimum lot sizes. One submission summarised this issue as follows:

...suburban housing estates are changing our towns into generic copies of each other, with no reflection of the unique country towns they once were.

Some submissions expressed concern that attached dwellings or apartment style development are inappropriate in an area like the Macedon Ranges and felt that new housing should attempt to fit in to the rural town character.



Some submissions including DELWP support the review of the future role of Clarkefield.

COMMERCIAL AND INDUSTRIAL LAND

Some submissions challenged the need to create local employment opportunities. It was suggested that Macedon Ranges should support small and home-based businesses. This focus on home based business supports the need to review the telecommunication facilities in the Shire.

Some submissions criticised the need to reduce 'escape expenditure'. In that view, the Shire's accessibility to Melbourne provides residents with a greater choice and wider range of goods.

Some submissions raised concern over the industrial design guidelines, and the lack of flexibility especially about minimum subdivision areas. It was suggested that the needs of industry are diversifying which is resulting in the need for greater diversity of industrial land.

The EPA raised concern over the encroachment of residential development into industrial areas, especially the need to maintain and protect adequate separation distances. There are several closed landfills throughout the Shire, where their use and development would require specific consideration due to the potential for landfill gas risk as well as contamination of land and ground water.

CULTURE AND HERITAGE

Nearly a third of respondents (29.63%) to the online survey indicated the Planning Scheme addresses Culture and Heritage 'Quite Well'.

Several submissions emphasised the importance of protecting heritage buildings, significant landscapes and other features. Consideration should also be given to development proposed close to heritage buildings. These submissions felt that development must be undertaken in harmony to the historical buildings and surrounding neighbourhood character.

Some submissions raised the issue of completing and implementing heritage studies. The National Trust noted the current Macedon Ranges Heritage Study 2014-2018 will be out of date soon and support the development of a new strategy.

TOURISM

Respondents (44.45%) indicated the Planning Scheme deals with the issue of Tourism 'Not At All Well' or 'Slightly Well'. On the other hand, a third of respondents indicated the Planning Scheme provides direction in relation to Tourism 'Quite Well'.



There was a diversity of views expressed in relation to Tourism. Some submissions expressed concern regarding the promotion of Tourism in the Shire, highlighting the impact on the amenity of the area and environment. Increasing number of tourists, managing the amenity impacts on neighbours, tourist behaviour and car parking were identified as a concern.

Other submissions took a different stance, saying that the Planning Scheme should support tourism and recognise it as a valuable contributor to the economy of the Shire. It was argued that the total value of the tourism economy has been under-estimated. One submission said:

Local businesses, which contribute to creating this lifestyle, will not be economically sustainable without the income provided by visitors to the region. The infrastructure, services and activities demanded of the Shire will not be able to be funded without contribution of rate-paying businesses.

Some submissions sought recognition that festivals and events are enjoyed by members of the community and contribute to the overall lifestyle being enjoyed in the Shire.

Some submissions highlighted the shortage of accommodation to support major events, such as concerts at Hanging Rock and recommended that the Planning Scheme should support options for temporary accommodation.

TRANSPORT

Less than a quarter of respondents (22.22%) indicated the Planning Scheme provides direction on Transport either 'Not at All Well' or 'Slightly Well'.

Some submissions expressed concern regarding infrastructure keeping up with the rate of development. In particular, the need for the delivery of infrastructure to match development.

Some submissions recognised the Planning Scheme focuses on roads and sought greater consideration be given to footpaths, especially footpaths outside townships.

Transport for Victoria has identified the existing road network in some settlements is at or near to capacity, with limited alternative road transport options available.

IMPORTANCE OF KEY THEMES

Respondents to the online survey were asked to rate how important each of the key themes were for the Macedon Ranges Planning Scheme. Figure 1 shows the Environment received the highest percentage of respondents who indicated it 'Very Important' to the Planning Scheme. Settlement and Rural Land received equal number of respondents who indicated it was 'Very Important'. Transport, Tourism and Culture and Heritage received lowest number of respondents who indicated it was 'Very Important' to the Planning Scheme.

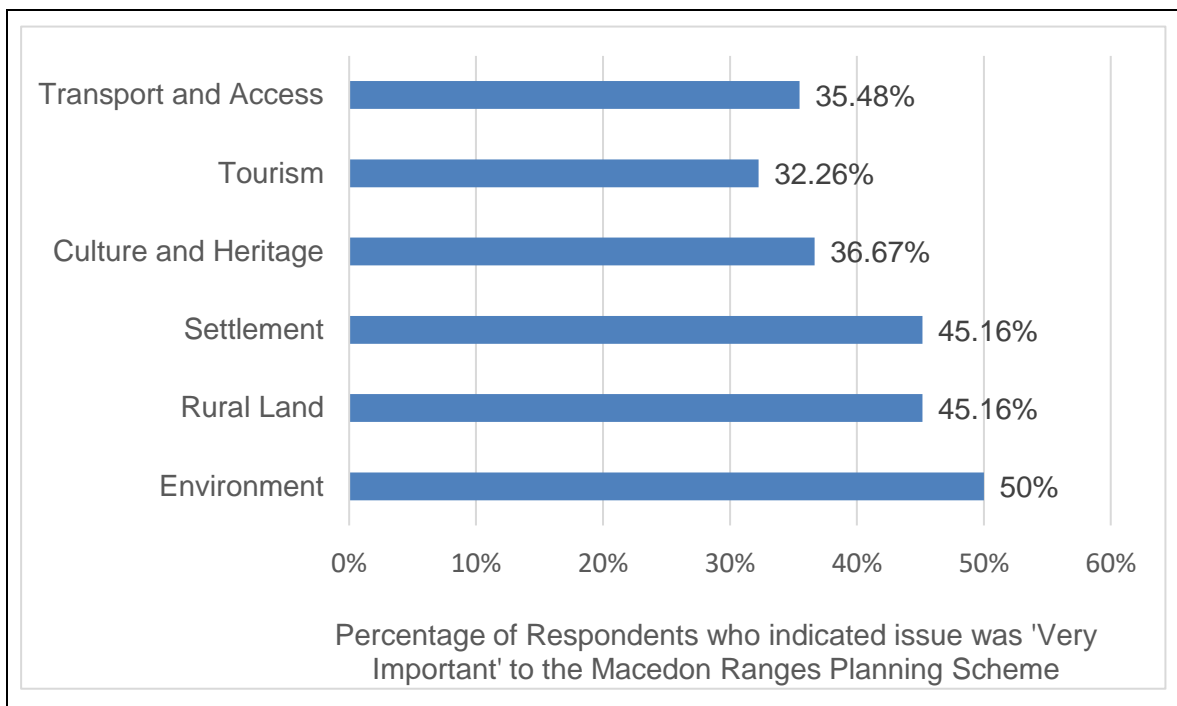


Figure 1 Percentage of Respondents Who Indicated the each key themes is 'Very Important' for the Macedon Ranges Planning Scheme

CONCLUSIONS ON CONSULTATION

These results and opinions expressed in this report reflect a number of people who live and have an interest in the planning for the Macedon Ranges Shire.

The consultation process comprised of an online survey, drop-in sessions (attended by 15 people) and discussion with key stakeholders. Written submissions were also sought and a total of 22 submissions were received from individuals and organisations. A total of 41 responses were received to the online survey.

Overarching key themes from consultation include the following:

- Perceived lack of priority given to the protection of the environment over development and the need to balance development with environmental protection.
- The impact increasing development has on the character of the existing towns.
- The need to protect rural land for farming purposes and the need to enable greater diversity of activities to support farming operations.
- The importance of protecting heritage buildings, significant landscapes and features in the Shire.



- Concern over the promotion of tourism and the impact on the environment and the amenity of the areas versus the need to support tourism as a valuable contribution to the economy.

The consultation undertaken identified a diverse and extensive range of issues for consideration as part of the as part of the Planning Scheme Review. Some matters raised that are outside the scope of this review will be passed on to the relevant Council Departments for consideration.



7. SIGNIFICANT PLANNING ISSUES

Continuous Improvement Review Kit requirement:

Identify the major planning issues facing the municipality.

PLANNING ISSUES

This section provides an overview of the major planning issues identified in sections two to six. In summary the major planning issues are:

- Managing growth in Macedon Ranges while conserving and enhancing significant environmental, landscape and cultural features.
- Supporting the tourism industry while managing the impact on the environment and the amenity of the area.
- Supporting employment and business opportunities within the Shire.
- The desirability of the rural living environment, and how to manage issues relating to native vegetation, water, bushfire, erosion, flooding and provision of services and infrastructure.
- Preserving many of the high valued built form characteristics of settlement and townships, especially those experiencing population growth and development.
- The adequacy of planning policies to protect native vegetation, biodiversity and significant landscapes in the Shire.
- The adequacy of the planning scheme in managing use and development within Special Water Catchments.
- The tensions between protecting rural land for farming purposes while enabling a greater diversity of rural activities.
- Climate change mitigation and adaptation.
- The adequacy of public transport provision, particularly in areas that are not along the railway corridor.



8. HOW THE PLANNING SCHEME IMPLEMENTS STATE PLANNING POLICY

Continuous Improvement Review Kit requirement:

Demonstrate how the Municipal Strategic Statement (“the MSS”) implements State Planning Policy

INTRODUCTION

The recent approval of Amendment VC148 means that the PPF will, in conjunction with a new MPS, replace the LPPF, including the MSS.

As a result, this section of the review considers and provides specific recommendation on the relevant content with the LPPF, while recommendations with regards to structure (and the translation of the LPPF into the PPF and an MPS) are general in nature as DELWP is yet to provide guidance on this translation.

This section of the Review has been informed by discussions with Council officers, Councillors and community engagement.

PLANNING POLICY FRAMEWORK

The PPF is comprised of the following sections:

- Clause 11 - Settlement – including 11.01-1R (Settlement - Loddon Mallee South);
- Clause 12 - Environmental and landscape values;
- Clause 13 - Environmental risks and amenity;
- Clause 14 - Natural resource management;
- Clause 15 - Built Environment and heritage;
- Clause 16 - Housing;
- Clause 17 - Economic development;
- Clause 18 - Transport – including Clause 18.04-1R (Melbourne Airport); and
- Clause 19 - Infrastructure.

THE MUNICIPAL PLANNING STRATEGY (MPS)

The purpose of the (current) MSS is to establish the strategic framework for the municipality. The MSS should also support and implement state planning policy.⁵⁹ One of the most

⁵⁹ *Planning Practice Note 4: Writing a Municipal Strategic Statement (June 2015)*



significant structural changes as a result of the approval of Amendment VC148 was the replacement of the former State Planning Policy Framework with a new PPF.

In future the PPF will, in conjunction with a new MPS, replace the LPPF including the MSS. When Council translates the LPPF into the new PPF, it must introduce an MPS. As a result, significant changes to the structure of local content will be required.

Unlike the current MSS the MPS will *support* the PPF rather than being part of it. According to the Planning Advisory Note 71 the MPS will be:

*a succinct expression of the overarching strategic policy directions of a municipality. It will provide for the planning scheme's policy foundation, based on the municipality's location and regional context, history, assets, strengths, key attributes and influences.*⁶⁰

The form and content of the MPS is set out in the Ministerial Direction - The Form and Content of Planning Schemes. An MPS is expected to include the following sections:

- Context;
- A vision;
- Strategic directions; and
- Strategic Framework plan(s)

The Direction also includes a restriction that the MPS cannot exceed 5,000 words (exclusive of maps and plans). We suggest that the need to write a new MPS provides an opportunity to review and restructure local content that adheres to best practice principles, including:

- Providing a clear and consistent narrative in plain English;
- Ensuring that terms that have a bearing on the exercise of discretion are clearly defined;
- Ensuring each strategy appropriately implements the objective it relates to;
- Reducing reliance on local policies through a broader application of zone and overlay controls; and
- Utilising maps and plans to convey relevant objectives and strategies (this should include updating older maps to ensure that the maps are clear and readable, with different categories easily distinguishable).
- Clearly articulating where, or when particular policies apply.

⁶⁰ Amendment VC148 Planning Advisory Note 71 (July 2018)



MUNICIPAL STRATEGIC STATEMENT (MSS)

Planning Practice Note No. 4 Writing a Municipal Strategic Statement (September 2013) outlines the role of the MSS. The MSS establishes the strategic framework for the municipality and should also support and implement state planning policy. Together the PPF and MSS provide the strategic basis for the application of zones, overlays and other provisions in the Macedon Ranges Planning Scheme.

In terms of content there is some repetition throughout the LPPF particularly within the MSS. Each clause has an overview section which repeats or expands on the contextual material in the Municipal Profile at Clause 21.01 and/or Key issues at Clause 21.02. Some of the overviews are long and do not necessarily contribute to the administration of the Scheme.

At present there is an inconsistent structure within the MSS, with some clauses having an overview, while others have an overview and issues. The inclusion of decision guidelines, application requirements, exercise of discretion and policy guidelines varies between clauses. Some of this content could be better included within relevant overlay schedules, and possibly the PPF when Council translates the MSS and local policies to the MPS and PPF.

This section includes a review of the content of the Macedon Ranges MSS.

Clause 21.01 – Municipal Profile

Clause 21.01 provides an overview of the municipality. It discusses the Shire's regional context, its historical settlement pattern and provides a profile of the community. Currently the clause is not used in decision making however it will provide an important basis for the MPS, which will need to provide for the planning scheme's policy foundation, based on 'the municipality's location and regional context, history, assets, strengths, key attributes and influences'.

While the demographic data in this clause is out of date, writing the MPS will provide an opportunity to provide more contemporary data which reflects recent estimates on population and community profile.

Recommendation: Update the content within Clause 21.01 as part of the transition to the PPF and MPS.

Clause 21.02 – Key Issues and Influences

Clause 21.02 outlines the key influences on land use and development planning throughout the municipality. The key influences are grouped under the key themes of:

- Settlement;



- Environment and Landscape Values;
- Environmental Risk;
- Built Environment and Heritage;
- Housing;
- Economic Development;
- Transport; and
- Community Development and Infrastructure.

Following the Vision (Clause 21.03), the MSS at clauses 21.04 to 21.12 provides greater detail on each theme in turn.

Similar to Clause 21.01, while the demographic data in this clause is out of date writing the MPS will provide an opportunity to use more contemporary data. A number of the key issues and influences have recently been explored in great detail through the preparation of the Macedon Ranges SPP. The consultation that supported the preparation of the SPP, along with the consultation that has informed this planning scheme review should provide a rich evidence base to identify the contemporary key issues and influences within the context of the Macedon Ranges Planning Scheme.

The EPA has recommended this policy be revised to specifically address the protection of industrial land and associated industrial activities, including the need to maintain appropriate separation distances from sensitive land uses. This direction could be strengthened to ensure that required buffer distances are protected for industrial activities, as well as for critical infrastructure such as wastewater treatment plants.

Recommendations:

Update key issues and influences to ensure they are still relevant based on consultation that supported the preparation of the SPP, and the consultation that has informed this planning scheme review.

Review 21.02-3 Environmental Risk with regards to bushfire risk in light of changes to State level policy.

Address the protection of industrial land and associated industrial activities, including the need to maintain appropriate separation distances could be strengthened to ensure that required buffer distances are protected.⁶¹

⁶¹ Refer to submission from the EPA



Clause 21.03 – Vision - Strategic Framework Plan

Clause 21.03 establishes the vision for the municipality providing the overall land use framework for the Macedon Ranges. This clause has a particularly heavy emphasis on settlement and rural land issues – at the expense of other issues, such as economic development, community development and infrastructure.

Specific comments raised during staff consultations included:

- It references the previous Council Plan and needs to be updated with current demographics;
- It should be updated to reflect the outcomes of Amendment C110; and
- The two plans in this clause should be revised to provide greater clarity.

There are some inconsistencies as to how this clause has been drafted, for example the *Macedon Ranges Rural Land Review* and *In the Rural Living Zone* are listed as reference documents, however the various settlement strategies are not.

This clause is likely to form the basis of the MPS which should include ‘a succinct expression of the overarching strategic policy directions of a municipality’. Given the 5,000 word limit for the MPS, we suggest that the use of maps and plans to convey relevant objectives and strategies will be critical.

The EPA recommended the inclusion of significant industrial sites on this plan to clearly identify those sites where separation distances will be required. There are currently three sites within the municipality licensed to allow the discharge of emissions or waste to the environment, resulting in the need for separation distances.

Recommendations:

Update Clause 21.03 to reflect current Council Plan.

Consider the inclusion of significant industrial sites on the plans to identify sites where separation distances will be required.⁶²

Revise the two framework plans at Clause 21.03 to provide greater clarity and consistency with the Ministerial Direction on the Form and Content of Planning Schemes.⁶³

⁶² Refer to submission from the EPA

⁶³ Paragraph 13. Unless specified otherwise any requirement to describe land may use a map or maps to describe areas of land. The maps must be described as ‘Map number to the Schedule to Clause number’. Map codes must only contain the schedule number and not additional alphabetical, numerical or other characters.

Paragraph 14. Any image in a planning scheme ordinance including a map must meet all of the following requirements:

a) The image cropped and sized to fit the available space on the page with a maximum file size of 3000 kilobytes and 300 pixels per inch (ppi)



Review Clause 21.03 in light of the recommendation of this Planning Scheme Review report and other recent work completed by Council

Clause 21.04 - Settlement

Overall, this clause works well and provides appropriate guidance for land use and development within each settlement in the Shire. However, the clause is lengthy and contains many statements which do not assist the exercise of discretion.

There is a need to review population growth and the release of land for development, to regularly assist on housing affordability and diversity, infrastructure provision and land supply and demand.

Consultations identified that:

- There is a need to ensure consistency within the PPF with regards to bushfire risk;
- Strategy 1.2 and 1.3 could be reworded for improved clarity; and
- The list of reference documents needs to be reviewed.

Further Strategic Work

- Determine the appropriate role of Clarkefield within the Macedon Ranges settlement hierarchy. – Not yet commenced.
- Investigate the appropriateness of rezoning land at Newham – Not yet commenced.

Recommendations:

Update Clause 21.04 to be consistent with the PPF with regards to bushfire risk.

As part of the translation to the PPF, references to further strategic work should be included in the schedule to Clause 74.02.

As part of the translation to the PPF, consider reviewing the wording of strategies 1.2 and 1.3.

As part of the translation to the PPF, 'reference documents' within the MSS should be included in the schedule to Clause 74.08 (Background Documents). This list of documents should be reviewed before being incorporated into this schedule. Where background documents are out of date or unavailable they should be deleted.

Review population growth and the release of land for development regularly to assist

b) Be the only image on a horizontal line (i.e no images side by side or use of multiple images or layered images to make one single image)

c) Have a title, reference number and border

d) The image title written as text outside of the image

e) Include a legend and source, where applicable

f) Include a north arrow and scale, where applicable.

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with monitoring the impacts of settlement planning.

Clause 21.05 – Environment and Landscape Values

This clause provides direction for native vegetation, biodiversity and significant landscapes. There is a lack of logical order to this clause, and the layout of the various sub clauses varies.

Consultations with Council staff identified that:

- There is a need to review objectives against the relevant clause in the PPF;
- The dot points under 'specific implementation' should be reviewed, as many of these items do not align appropriately as implementation mechanisms.
- There are a number of objectives that refer to areas that are either not mapped or poorly defined (for example 'major hills and ridges' and 'sites of geological significance')

Further Strategic Work

- Develop a plan to create a conservation reserve for the Shone/Schulz land in Riddells Creek - Not yet commenced.
- Prepare and implement roadside vegetation management plans for Macedon/Mount Macedon – Currently been undertaken.
- Prepare and implement a long-term plan to underground power for Macedon/Mount Macedon – Not yet commenced.
- Prepare and implement land management conservation guidelines for properties in environmental significance areas – Not yet commenced.
- Undertake a landscape assessment of the Shire, which includes a review of the application of the Significant Landscape Overlay and schedules – Currently being undertaken.

Recommendations:

Update Clause 21.05 to be consistent with the PPF with regards to bushfire risk.

Review all dot points listed under specific implementation within this clause.

Areas referred to in the MSS should be defined or mapped.



Clause 21.06 Environmental Risks

Clause 21.06 provides policy on contamination, bushfire and flooding risks. There are a number of objectives and strategies that repeat much of the content of the PPF. The translation of clause 21.06 to the PPF is likely to result in removal of redundant objectives and strategies.

However, consultation and submissions from state government agencies and departments revealed gaps relating to specific local content including:

- At Clause 21.06-4 Flooding, the mapping associated with strategy 1.3 *require development to appropriately respond to flood mapping* has not been completed.
- There is a reference to applying the Salinity Management Overlay (SMO), yet this overlay is not currently applied in the Macedon Ranges Planning Scheme. There is also a reference in the clause to “areas of salinity” in the Shire, but no mapping or text which provides an understanding of where these areas are.
- The need to review Clause 21.06-3 in accordance with the PPF.

Further Strategic Work

- Undertake studies to further identify areas subject to flooding and areas subject to poor drainage and prepare revised planning controls as needed - Not yet commenced.

Recommendations:

Update Clause 21.06 to be consistent with the PPF with regards to bushfire risk.

Consider investigating the need to apply the SMO in Macedon Ranges.

Consider investigating the need to apply the EMO in Macedon Ranges.

Review current flood mapping giving consideration to applying appropriate planning controls to area known to be susceptible to flood risk.

Clause 21.07 – Natural Resource Management

Clause 21.07 addresses Agriculture, Sustainable rural land management and Water. This Clause is broadly consistent with the content in clause 14 in the PPF (Natural Resource Management). As part of the translation to the PPF this clause would benefit from being restructured for greater clarity as to what is an application requirement and a decision guideline.

Consultations with Council staff identified that:

- Clause 21.07-1 (Agriculture), including the overview is regularly used to assess development applications;



- There is a need to remove references to the Equine Strategy, as the strategy is out of date.

Clause 21.07-3 (Water) would benefit from greater clarity on the relationship between this clause and settlement planning as some settlements are within special water supply catchments.

Text under 'Specific implementation' appears to be a combination of application requirements and decision guidelines and should be re-drafted accordingly. This clause may benefit more broadly from decision guidelines. Additionally, some strategies in this clause appear to include application requirements (for example strategy 2.2).

Further Strategic Work

- Undertake further work to understand productive farm sizes in Macedon Ranges Shire - Currently being undertaken.
- Undertake further work to provide appropriate planning provisions to support the equine industry in the Shire. – Completed (SUZ7).
- Investigate the location of high quality agricultural land in partnership with Department of Environment and Primary Industries – Currently being undertaken.

Recommendations:

Remove all references to the *Macedon Ranges Equine Strategy 2012*.

Review references to 'further strategic work' as part of the implementation of the 'In the Farming Zone Strategy'.

As part of the translation to the PPF, text under 'Specific implementation' appears to be a combination of application requirements and decisions guidelines and should be re-drafted accordingly.

Update Clause 21.06 to be consistent with the PPF with regards to bushfire risk.

Provide greater recognition of the Domestic Wastewater Management Plan 2013 and the importance for management of domestic wastewater systems.

Clause 21.08 – Built Environment and Heritage

Clause 21.08 addresses Heritage, conservation, Aboriginal cultural heritage and Built environment.

Clause 21.08-3 Built environment could be expanded to better address local policy aspirations relating to environmentally sustainable development and stormwater management.



Further Strategic Work

- Prepare and implement a Macedon Ranges Shire Heritage Strategy, which identifies a program of heritage studies and reviews as relevant - Ongoing.

Recommendations:

Consider developing local policy to address environmental sustainable development and stormwater management.

Continue to implement the Macedon Ranges Heritage Study and the Heritage Overlay where appropriate

Clause 21.09 – Housing

Clause 21.09 distinguishes between housing in towns and rural residential.

Further Strategic Work

- Undertake future work to identify initiatives to facilitate environmental sustainability in housing development. Not yet commenced.
- Implement a system for monitoring residential land supply and demand within the small towns, district towns, large district towns and regional centre included in the settlement hierarchy at Clause 21.04, as well as on a municipal basis – Currently underway.
- Identify and implement appropriate planning controls to protect visually significant landscapes in the Rural Living Zone – Ongoing, as part of the Significant Landscape Assessment.

Recommendation: As part of the translation to the PPF, review specific implementation and further strategic work and consolidate ‘exercise of discretion’ and ‘policy guidelines’ under decision guidelines.

Clause 21.10 Economic Development and Tourism

Clause addresses Commercial and Industry, Tourism and Retail and Services.

Consultation revealed:

- Some stakeholders identified concerns with the workability of the Design Guidelines for Industrial and Commercial Development which were viewed as a burden on applicants, potentially constraining development opportunities.
- There is a lack of guidance within Clause 21.10 (and the Scheme more broadly) regarding appropriate locations for tourism accommodation uses.
- There are perceived barriers to tourism development within the Shire.



- The direction for economic development does not reflect the role of towns and is 'light on' in guiding what types of activity are appropriate in each area. This is an identified strategic gap that could be reviewed. This is discussed later in this review report.

Recommendation: Update economic and demographic data.

Clause 21.11 Transport

Clause 21.11 addressed integrated transport.

Further Strategic Work

- Undertake work to understand the requirement for additional or improved path networks in the Shire – Underway – Missing Links program.

Recommendations:

Revise the map at Clause 21.11 to provide greater clarity and consistency with the Ministerial Direction on the Form and Content of Planning Schemes.

As part of the translation to the PPF, consider whether the 'criteria' would be better placed within an appropriate zone or overlay schedule.

Consider the need to investigate the population requirements necessary to achieve extensions to public transport networks and improved frequency.

Investigate the requirements for additional or improved path networks in the Shire.

Clause 21.12 – Community Development and Infrastructure

Clause 21.12 addresses community development, development infrastructure and rural infrastructure.

Further Strategic Work

- Develop and implement development contributions plans for new developments to pay for the provision of community infrastructure – Ongoing.
- Develop and implement development contributions plans for urban areas as required – Ongoing.
- Review and update asset management in line with population projections – Ongoing.

Recommendations:

Review the list of reference document to ensure they are relevant and up to date.



Clause 21.13 Local Areas and Small Settlements

Clause 21.13 provides specific directions for many of the Shire's settlements.

Much of the content for each settlement has been updated periodically as the Settlement Strategy and town-based structure plans have been implemented by planning scheme amendments. While the objectives and strategies provide good guidance for the larger settlements, there is an absence of contemporary policy for small settlements. This could be remedied by Council undertaking further strategic work for a Small Towns Study or similar piece of strategic work. Further discussion is provided in later chapters of this report.

Recommendations:

As part of the translation to the PPF review Clause 21.13 with a view to removing any duplication of policies.

Revise the maps at Clause 21.13 to provide greater clarity and consistency with the Ministerial Direction on the Form and Content of Planning Schemes.

LOCAL PLANNING POLICIES

This section provides a commentary on the Local Planning Policies contained at Clause 22 of the Macedon Ranges Planning Scheme. The Planning Scheme contains six Local Planning Policies:

- Clause 22.01 Macedon Ranges and Surrounds;
- Clause 22.02 Dams;
- Clause 22.03 Intensive Animal Husbandry;
- Clause 22.04 Gaming;
- Clause 22.05 Battle Axe Lot; and
- Clause 22.06 Design of Industrial and Commercial Development.

In some instances, it may be more appropriate to better utilise other tools (such as zone and overlay schedules) within the VPPs to achieve the desired outcome.

In general terms, there is an inconsistent approach to the format and structure of local policies. Most policies do not include Decision Guidelines, some include 'criteria' in place of decision guidelines. There is scope to provide a more consistent structure to local planning policies.

The following specific comments arising from consultation and review are made about individual local policies.

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Clause 22.01 Macedon Ranges and Surrounds

This local policy applies to:

the Macedon Ranges and their surrounds as indicated on the plan marked "Macedon Ranges" and referred to in this policy as the policy area. This Policy is a restatement of "Statement of Planning Policy No. 8 – Macedon Ranges and Surrounds" as approved by the Victorian Government in 1975.

The policy is directed primarily to the planning and management necessary for the conservation and utilisation of the policy area both as a water catchment for urban and local supply and as a location of State, metropolitan and local importance for leisure activities and nature conservation.

It is recognised that the State Government will be releasing a Statement of Planning Policy for the Macedon Ranges in the near future. Liaison with DELWP will be required in order to understand the future role of Clause 22.01 within the PPF structure and having regard to the Statement of Planning Policy.

Recommendation: Liaise with DELWP about the role of Clause 22.01 and the Statement of Planning Policy for the Macedon Ranges.

Clause 22.02 Dams

Recommendation: Confirm the availability and the currency of the Reference Documents in Clause 22.02.

Clause 22.03 Intensive Animal Husbandry

This policy is not derived from an objective or strategy within the MSS, where the only reference to 'intensive animal husbandry' is under 'specific implementation measures (Clause 21.07):

Apply Clause 22.03 (Intensive animal husbandry) local planning policy when considering applications for intensive animal husbandry to ensure developments are suitably located, and will not have a negative impact on the environment.

It is unclear if there is any need for this policy, notwithstanding that it does provide a mechanism for discretion in decision-making for other industries that are uncommon within the Shire. This policy should be reviewed in light of VC150, to give regard to terminology changes, including animal production.

Recommendations:

Review the implications of Amendment VC150 with a view to revising Clause 22.03

Review reference document to confirm their relevance and availability.

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Clause 22.04 Gaming

Recommendation: Consider revising the schedule to Clause 52.28 to include application requirements and decision guidelines currently included in Clause 22.04.

Clause 22.05 Battle Axe Lot

Recommendation: Consider reviewing the need for hard surface construction in semi-rural context.

Clause 22.06 Design of Industrial and Commercial Development.

The policy relies upon content from the Incorporated Document: Design Guidelines for Industrial and Commercial Development. Ideally, the key policy statements should be included in the policy.

Recommendation: Consider reviewing the effectiveness of this policy to determine if there are aspects of this policy that could apply to commercial land in town centres.

POLICY GAPS

The analysis undertaken by the consultants and consultation held as part of this review has also identified that there are some significant strategic policy gaps in the Local Planning Policy Framework. At a high level, these policy gaps relate to:

- Small towns – while the Small Towns Study is a reference document in the MSS and has guided policy for smaller towns, the policy is over 12 years old. There is a need to provide contemporary guidance for these towns, in light of recent State and regional policies and changes in the physical characteristics of these towns;
- Economic development – consultation highlighted that the guidance in relation to economic development (and particularly tourism) is relatively broad and does not particularly assist decision-makers or applicants in understanding what type of economic activity is appropriate in certain parts of the municipality. There is recognition that this issue is further compounded by the application of zones in some rural areas; and
- Heritage – there is a need to commission a new Heritage Study, to provide guidance beyond the lifespan of the current strategy.

Addressing these gaps will require Council to undertake further strategic work to understand the policy context and the issue that needs to be addressed. This is addressed later in this report.



CONCLUSION

Overall, the analysis reveals that the content of the Macedon Ranges Planning Scheme (including the MSS) is generally consistent with the objectives and strategies contained within the SPPF. There is a very strong correlation between some State and local themes. In terms of translating the MSS Clauses 21.04 through 21.12 into the PPF (and MPS) the eight themes within the MSS are broadly consistent with the PPF themes:

- Clause 11 – Settlement;
- Clause 12 – Environmental and landscape values;
- Clause 13 - Environmental risks;
- Clause 14 – Natural resource management;
- Clause 15 – Built environment and heritage;
- Clause 16 – Housing;
- Clause 17 – Economic development;
- Clause 18 – Transport; and
- Clause 19 – Infrastructure.

The broader emphasis within the MSS on *Community Development* and Infrastructure, as opposed to just Infrastructure is consistent with many other Planning Schemes.

The translation of local content into the PPF provides Macedon Ranges Shire Council with an opportunity to reduce repetition; ensure the planning scheme is contemporary; and make the best use of the appropriate zone and overlay schedules. It will also provide an opportunity to address gaps in local content.



9. THE EFFECTIVENESS OF ZONES AND SCHEDULES

Continuous Improvement Review Kit requirement:

Audit the application and performance of the Zones in the scheme; and investigate whether or not the Schedules in the scheme have been appropriately applied.

AUDIT OF ZONES AND SCHEDULES

There are eighteen zones in the Macedon Ranges Planning Scheme (where applicable the number of schedules is shown in brackets):

- Low Density Residential Zone (1);
- Township Zone (1);
- General Residential Zone (1);
- Neighbourhood Residential Zone (12);
- Industrial 1 Zone
- Industrial 2 Zone;
- Industrial 3 Zone;
- Commercial 1 Zone;
- Commercial 2 Zone;
- Rural Living Zone (5);
- Rural Conservation Zone (4);
- Farming Zone;
- Public Use Zone;
- Public Park and Recreation Zone;
- Public Conservation and Resource Zone;
- Road Zone;
- Special Use Zone (6); and
- Urban Growth Zone.

These schedules vary in complexity from standard 'default' provisions to quite complex provisions.



REVIEW OF ZONE SELECTION AND SCHEDULES

The 2008 Planning Scheme Review did not include a detailed audit of the application and performance of the zones and whether schedules to the overlays had been appropriately applied.

The introduction of the Ministerial Direction on the Form and Content of Planning Schemes in May 2017 (most recently updated 30 July 2018) will have significant implications for the form and content of zone schedules within the Macedon Ranges Planning Scheme. It is apparent that many zone schedules will require some degree of change to conform with the requirements of the updated Ministerial Direction. In terms of structure there is no opportunity to deviate from the template.

RESIDENTIAL ZONES

The Residential zones applied in the Macedon Ranges Planning Scheme are:

- Low Density Residential Zone (LDRZ);
- Township Zone (TZ);
- General Residential Zone (GRZ); and
- Neighbourhood Residential Zone (NRZ) (including 12 schedules).

The review of these zones and consultation has highlighted that:

- Including multiple schedules to the NRZ there are in effect 15 residential zones;
- The Schedules to the TZ and GRZ contain no local variations, while each of the 12 schedules to the NRZ vary the requirements of Clauses 54 and 55;
- DELWP has recommended that Council review the use of the GRZ in small towns and whether some land would be more appropriately zoned as NRZ. This should be examined as part of the Small Towns Study further strategic work identified as part of this review;
- There is only one TZ schedule. The Ministerial Direction on the Form and Content of Planning Schemes allows multiple TZ schedules to be applied. Council could consider whether it would be more appropriate to apply different TZ schedules to different townships. This should be examined as part of the Small Towns Study further strategic work identified as part of this review; and
- There is no policy basis for the application of the LDRZ.

Recommendations:

Review the application of the LDRZ and give consideration to whether some land could be more appropriately rezoned to NRZ.



Update the TZ schedule to be consistent with the Ministerial Direction.

As part of the Small Towns Study, consider the appropriateness of the application of the TZ and GRZ to townships and whether other zones or revised schedules would be appropriate.

Consider including Neighbourhood character objectives and Decision guidelines in the schedule to the TZ.

Update the GRZ schedule to be consistent with the Ministerial Direction.

Consider including Neighbourhood character objectives and Decision guidelines in the schedule to the GRZ.

Revise the Neighbourhood character objectives NRZ8 to be consistent with the Ministerial Direction

Revise the following aspects of NRZ1: objectives (to better align with the purpose of the zone), side and rear setbacks.

INDUSTRIAL AND COMMERCIAL ZONES

The Macedon Ranges Planning Scheme applies the Industrial 1, 2 and 3 zones; and the Commercial 1 and 2 Zone. The review of these zones has highlighted that:

- The Schedules to the Industrial Zones and the C1Z contain no local variations.
- There is no local policy guiding use applications in the C1Z – specifically residential uses. It would be appropriate for future township structure plans to provide guidance on this issue.

RURAL ZONES

The Rural zones applied in the Macedon Ranges Planning Scheme are:

- Rural Living Zone RLZ (five schedules);
- Rural Conservation Zone RCZ (four schedules); and
- Farming Zone FZ (the schedule includes two subdivision minimums).

The review of these zones has highlighted that:

- The planning scheme lacks guidance for houses on small lots in the Rural Living Zone;
- There is a complex relationship between the RLZ and DPOs;
- The FZ applies broadly across the Shire (and is currently under review);
- The map in the Schedule to the FZ outlines 100ha minimum subdivision areas, but is illegible because of its scale and cadastral boundaries;



- The RCZ applies to some of the declared water catchments (in line with the relevant practice note) but not all; and
- The 'In the Farming Zone' review that Council is undertaking will review the appropriateness of the Farming and Rural Conservation zones throughout the Shire.

Recommendations:

Consider any amendments required to implement the 'In the Farming Zone' Strategy, once it is completed.

As part of the 'In the Farming Zone' Strategy ensure any map included in a policy or local schedule is legible.

Consider any amendments required to implement the *Biodiversity Strategy*, once it is completed.

Correct an administrative error within the RCZ Schedules, where the maximum floor area is located in the column 'land' this should be moved over to the column titled 'area/dimensions/number'.

Consider expanding the use of the VicSmart process for minor applications in Rural Zones.

PUBLIC LAND ZONES

The Public suite of zones within the Macedon Ranges Planning Scheme includes the Public Use Zone (PUZ), Public Park and Recreation Zone (PPRZ) and the Public Conservation and Resource Zone (PCRZ).

Consultation with DELWP has highlighted that there are several parcels of land within the Macedon Ranges Shire that are incorrectly zoned (8 parcels of privately owned land and 102 parcels of publicly owned land). It is recommended that Council and DELWP progress an amendment to resolve zoning anomalies.

Recommendations:

Audit all land in the PUZ to ensure it is correctly designated.

Work with DELWP to progress a zoning anomalies amendment to correct zoning errors.

Update the PUZ, PPRZ and PCRZ schedules to be consistent with the Ministerial Direction.

SPECIAL USE ZONES

The Special Use suite of zones, as applied in Macedon Ranges Planning Scheme has six schedules, including:

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- Schedule 1 – Private Schools
- Schedule 2 – Racecourses
- Schedule 3 – Private Golf Courses
- Schedule 4 – Private Hospital
- Schedule 5 – Riddells Creek Health, Education and Community Precinct
- Schedule 6 – Horse Training and Equine Services Precinct

The review of these zones highlighted that:

- The schedules apply sub-clauses inconsistently and require review, having regard to the Ministerial Direction on the Form and Content of Planning Schemes. As part of this review, Council should ensure that land use terms align with terms that are defined in the State sections of the scheme.

Recommendation: Update the SUZ schedules to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.

URBAN GROWTH ZONE (UGZ)

The UGZ applies to a section of land in Riddells Creek. As there is no schedule to this zone, and no precinct structure plan applies the Part A provisions of this zone (Clauses 37.07-1 to 37.07-8) apply.

CONCLUSIONS REGARDING THE ZONES AND SCHEDULES

This review has highlighted that some of the zones and schedules in the Planning Scheme require some level of review to achieve consistency with the Ministerial Direction on the Form and Content of Planning Schemes. There is also scope for greater use of zone schedules, in particular residential zones.



10. THE EFFECTIVENESS OF THE OVERLAYS AND SCHEDULES

Continuous Improvement Review Kit requirement:

Audit the application and performance of the Overlays in the scheme; and investigate whether or not the Schedules in the scheme have been appropriately applied.

AUDIT OF OVERLAYS AND SCHEDULES

There are 13 overlays in the Macedon Ranges Planning Scheme (where applicable the number of schedules are shown in brackets):

- Environmental Significance Overlay (7);
- Vegetation Protection Overlay (9);
- Significant Landscape Overlay (2);
- Heritage Overlay (1);
- Design and Development Overlay (25);
- Development Plan Overlay (19);
- Erosion Management Overlay (1);
- Land Subject to Inundation Overlay;
- Bushfire Management Overlay (2);
- Airport Environs Overlay;
- Environmental Audit Overlay;
- Restructure Overlay (1); and
- Development Contributions Plan Overlay (2).

REVIEW OF OVERLAY SELECTION AND SCHEDULE

The 2008 Planning Scheme Review did not include a detailed audit of the application and performance of the overlays and whether schedules to the overlays had been appropriately applied.

The introduction of the Ministerial Direction on the Form and Content of Planning Schemes in May 2017 (most recently updated 30 July 2018) will have significant implications for the form and content of overlay schedules within the Macedon Ranges Planning Scheme. It is apparent that almost all overlay schedules will require some degree of change to conform with the requirements of the updated Ministerial Direction.

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Many of the overlay schedules do not conform with the revised format and will need to be 'translated' into the new structure, as there is no opportunity to deviate from the template. In a content sense, the objectives within each schedule will need to be closely reviewed, tightened and rationalised, as there are various limitations for the number of objectives that are permissible within the new Ministerial Direction.

In this context, there is a broad opportunity for Council to pursue 'red tape reduction' as few of the overlay schedules provide any meaningful permit exemption provisions, meaning that, in many cases, most buildings and works require a planning permit. This has led to a perception both within the Council and the community that many of the controls are cumbersome. This is particularly the case given that some land is affected by multiple environmental and land overlays, a design and built form overlay and one or many land management overlays.

ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

This overlay has seven schedules as follows:

- Schedule 1 – Lancefield North.
- Schedule 2 – Monegetta Piggery.
- Schedule 3 – Mineral Springs, Kyneton.
- Schedule 4 – Eppalock Proclaimed Catchment.
- Schedule 5 – Other Water Supply Catchments.
- Schedule 6 – Calder Buffer Zone, Woodend.
- Schedule 7 – Wastewater Treatment Facilities.

All of the ESO schedules need to be updated to be consistent with the Ministerial Direction on the Form and Content. At present there is a particular challenge associated with this as the Ministerial Direction only allows for *one* objective to be achieved in the schedule to an ESO.

Within the decision guidelines ESO3 refers to former Government departments and documents that may have been superseded.

Schedules 4 and 5 to the ESO refer to uses. The C084 panel report queried whether references to 'use' in the schedules are technically correct as discretion under the ESO relates to development and does not extend to use⁶⁴.

⁶⁴ See: *Interim Panel Report Macedon Ranges Planning Scheme Amendment C84 28 September 2012 (Page 99)*



Recommendations:

Delete ESO2 from the Macedon Ranges Planning Scheme (as the Monegetta Piggery no longer exists)

Update ESO1, ESO3, ESO4, ESO5, ESO6 and ESO7 to be consistent with the Ministerial Direction.

Consider whether ESO4 and ESO5 should be redrafted so as not to refer to uses.

Update references to government departments and documents.

VEGETATION PROTECTION OVERLAY (VPO)

This overlay has nine schedules as follows:

- Schedule 1 – Black Gum Areas.
- Schedule 2 – Roadside Vegetation.
- Schedule 3 – Native Grassland Areas.
- Schedule 4 – Karlsruhe Cemetery.
- Schedule 5 – Narrow-leaved Peppermint Gums.
- Schedule 6 – Wildlife Corridors.
- Schedule 7 – Yarra Gums.
- Schedule 8 – Cobaw Biolink.
- Schedule 9 – Living Forest.

There is scope to increase permit exemptions so as to 'de-clutter' the system. For instance, there may be opportunity to confine the VPO schedule to nominated species or to the height or trunk size of specified vegetation. For example under VPO5 a permit is required to remove, destroy or lop *any vegetation* (with some minor exemptions), yet in VPO7 a permit is required to remove, destroy or lop any remnant *Yarra Gum vegetation* (with the same exemptions as VPO5).

We are unclear why VPO8 and VPO9 include a section on the referral of applications. The inclusion of this section is inconsistent with the Ministerial Direction on the Form and Content of Planning Schemes and will need to be deleted.

Council has progressed a review of VPO schedules to meet the recommendations of the *Macedon Ranges Protection Advisory Committee Final Report* as part of its adopted Biodiversity Strategy. There is a need to implement the findings of this review.



Recommendations:

In-line with the recommendations from the *Macedon Ranges Protection Advisory Committee Final Report July 2016* review of the current application of VPOs to assess whether they are ‘providing adequate protection of the Shire’s significant vegetation, with particular consideration given to whether listed grassland communities within the Shire should be afforded protection’.

Review the VPO schedules to consider opportunities to increase permit exemptions, where appropriate (i.e. by nominating species and/or trunk or height size for permit triggers).

Update VPO8 and VPO9 to be consistent with the Ministerial Direction.

Implement the findings of the Biodiversity Strategy.

SIGNIFICANT LANDSCAPE OVERLAY (SLO)

This overlay has two Schedules as follows:

- Schedule 1 – Mountain Ranges and Features.
- Schedule 2 – Ridges and Escarpments.

SLO1 and SLO 2 do not contain permit triggers for the removal of vegetation.

Recommendations:

Update SLO1 and SLO2 to be consistent with the Ministerial Direction.

In-line with the recommendations from the *Macedon Ranges Protection Advisory Committee Final Report July 2016* review the geographic application of the SLO1, with a view to extending the geographic application of the SLO1.

HERITAGE OVERLAY

This Schedule was recently updated with the gazettal of Amendment C123. There is a need to commission a new Heritage Strategy to provide updated direction beyond the time horizon of the existing strategy.

Recommendations:

Update Schedule to the HO to be consistent with the Ministerial Direction.

Prepare a local practice note that explains how an Incorporated Plan works in conjunction with the provisions of Clause 43.01-1.



DESIGN AND DEVELOPMENT OVERLAY (DDO)

This overlay has twenty-five schedules as follows:

- Schedule 1 – Sunnyacres, Gisborne.
- Schedule 2 – Kyneton Airfield.
- Schedule 3 – Frith Road and Skyline Drive, Gisborne.
- Schedule 4 – New Gisborne Along Kilmore Road.
- Schedule 5 – Emmaline Vale, Gisborne.
- Schedule 6 – Lancefield Golf Course – Residential Precinct.
- Schedule 7 – Rural Living Areas.
- Schedule 8 – Chessy Park Estate, Gisborne.
- Schedule 9 – Gisborne Rise Estate, Gisborne.
- Schedule 10 – Carinya Drive and Wyralla Crescent Area, Gisborne.
- Schedule 11 – Howey Street, Gisborne.
- Schedule 12 – Noise Attenuation Measure along the Calder Freeway between Kyneton and Faraday.
- Schedule 13 – Primary Lots.
- Schedule 14 – Kyneton Hospital Emergency Medical Services Helicopter Flight Path Protection (Inner Area).
- Schedule 15 – Kyneton Hospital Emergency Medical Services Helicopter Flight Path Protection (Outer Area).
- Schedule 16 – Station Road, New Gisborne.
- Schedule 17 – Gisborne Town Residential Centre.
- Schedule 18 – Romsey Township Character.
- Schedule 19 – Romsey South Business Industrial Park.
- Schedule 21 – Frith Road, Gisborne.
- Schedule 22 – Shirley Park Estate, Mount Macedon Road, Woodend.
- Schedule 23 – Woodend Town Centre.
- Schedule 24 – Riddells Creek Town Centre.
- Schedule 25 – Former Kyneton Pool, 2-8 Maxwell Street, Kyneton.
- Schedule 26 – Macedon Village Commercial Centre.

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As a result of changes to the Ministerial Direction on the Form and Content every schedule to the DDO will need to be updated. For some schedules a particular challenge will be the Direction only allows a maximum of five objectives to be included in the schedule to the DDO. As part of this process consider whether the content within DDO9 could be placed within the relevant zone schedule.

Some specific comments identified in consultation included:

- The building setbacks in DDO1 do not align with setbacks that are included in agreements on title within the Sunnycres estate. There is an opportunity to rationalise the building setbacks in this control (on the basis that the agreements on title include the set building envelope requirements) and this should be considered as part of the Gisborne Structure Plan process.
- DDO2 is to apply to the Kyneton Airfield's runway approach. Staff consultation highlighted that the control is not operating efficiently, partly due to its mapping. It is apparent that the control is mapped to align with the Airport Environs Overlay and may not cover the full flight path approach. There is also a need to review its ordinance.
- The Panel for Amendment C110 highlighted a need to review DDO5 to the Emmaline Vale estate, along with the accompanying zone. Council has reviewed the subdivision controls in light of the Panel's findings and does not propose any change to the schedule.
- There was a view expressed in staff consultation that DDO7 did not add value to the permit process for rural living areas and that this control could be deleted.
- DDO11, DDO16, DDO17 require review and could be audited as part of the Gisborne Structure Plan process.
- DDO12 applies to areas adjacent to the Calder Freeway in Malmsbury. Staff consultation highlighted that the application of this control could be reviewed and potentially rationalised.

Recommendations:

Update all DDO schedules to be consistent with the Ministerial Direction.

Review the extent of DDO2 and confirm it has been applied to the appropriate area.

Review DDO1, DDO11, DDO16 and DDO17 as part of the Gisborne Structure Plan process.

Review the application of DDO2 to land and consider whether the ordinance requires redrafting.

Review whether DDO7 can be rationalised from rural living areas.

Review the application of DDO12.



DEVELOPMENT PLAN OVERLAY (DPO)

This overlay has nineteen schedules as follows:

- Schedule 1 – Kyneton South Residential Development Area.
- Schedule 2 – New Gisborne along Kilmore Road.
- Schedule 3 – Land Bounded by Robertson, Prince, Hamilton and Goode Street, Gisborne.
- Schedule 4 – Gisborne Residential Areas.
- Schedule 5 – Bolinda Park.
- Schedule 7 – Bushland Living Area.
- Schedule 8 – Romsey Golf Course.
- Schedule 9 – Romsey Residential Greenfield.
- Schedule 10 – Clarkefield.
- Schedule 11 – Booths Lane, Woodend and Blackmore Road, Woodend.
- Schedule 12 – Sandy Creek Road, Riddells Creek.
- Schedule 13 – Romsey South Business/Industrial Park.
- Schedule 14 – Residential Development in Romsey.
- Schedule 15 – Business Development in Pohlman Street, Romsey.
- Schedule 16 – New Gisborne Growth Area.
- Schedule 17 – Wedge and Ebdon Street, Kyneton – Former Industrial Zone Area.
- Schedule 18 – Bennett Road, Gisborne, Rural Living Area.
- Schedule 19 – Kilmore Road, Gisborne, Rural Living Area.
- Schedule 20 – Campbell Road, Riddells Creek, Rural Living Area.

As a result of changes to the Ministerial Direction on the Form and Content every schedule to the DPO will need to be updated. Given the age and varied nature of the DPO schedules this could be particularly challenging. We note that while the Direction allow for up to five objectives to be included it does not allow the inclusion of decision guidelines.

We recommend that the quality of images be improved where included within a DPO schedule (for example DPO2 New Gisborne along Kilmore Road Concept Plan).

Recommendations:

Update all DPO schedules to be consistent with the Ministerial Direction.



Revise all DPO maps to provide greater clarity and consistency with the Ministerial Direction on the Form and Content of Planning Schemes.

EROSION MANAGEMENT OVERLAY (EMO)

The EMO has one schedule which applies to the Malmsbury Township. It only includes application requirements and does not provide detail of the risk or how to manage it.

During consultation, DELWP identified that it may also be timely to review whether the extent of the EMO is appropriate.

Recommendations:

Update the EMO schedule to be consistent with the Ministerial Direction and best practice for Erosion Management

Review the extent of the EMO

LAND SUBJECT TO INUNDATION OVERLAY (LSIO)

The LSIO has one schedule which outlines where a permit is not required to construct or carry out works including a fence and roadworks. There is a need to review the extent of the LSIO. Council will need to advocate for the relevant regional drainage authorities to progress flood mapping to inform future planning scheme amendments.

Recommendations:

Update the LSIO schedule to be consistent with the Ministerial Direction.

Advocate the regional drainage authorities to progress updated flood modelling.

BUSHFIRE MANAGEMENT OVERLAY (BMO)

This overlay has two schedules as follows:

- Schedule 1 – Mount Macedon, Macedon, Woodend BAL-12.5 Areas.
- Schedule 2 – Macedon, Mount Macedon BAL-29 Areas.

Consultation with DELWP highlighted that minor edits are required to these schedules to reflect a restructuring and changes in language following recent VC amendments, as well as to ensure consistency with the Ministerial Direction.

Recommendation: Update the schedules to the BMO to ensure consistency with State provisions and to reflect the Ministerial Direction on the Form and Content of Planning Schemes.



PUBLIC ACQUISITION OVERLAY (PAO)

While there are references to the PAO, in the ordinance it is not applied in the Macedon Ranges Planning Scheme.

Recommendation: Remove all references to the PAO.

AIRPORT ENVIRONS OVERLAY (AEO)

The AEO has one schedule. Schedule 2 to the Airport Environs Overlay requires applications for specific uses to be referred to the airport owner under Section 55 of the Act. AEO2 applies to the Kyneton Airfield.

Minor changes are required to the schedule to ensure that it complies with the Ministerial Direction.

Update the AEO2 schedule to be consistent with the Ministerial Direction.

ENVIRONMENTAL AUDIT OVERLAY (EAO)

The EAO is applied to several parcels of land in New Gisborne, Gisborne, Romsey, Kyneton, Woodend, Woodend North, Lancefield and Bullengarook.

EPA recommend a stocktake of contaminated land to inform the application of the Environmental Audit Overlay, particularly areas which are transitioning to sensitive uses.

Recommendation: Review the application of the EAO and confirm the extent of its application.

RESTRUCTURE OVERLAY (RO)

This overlay has one schedule with 13 map references, RO1-RO13.

Restructure plans of RO1 to RO12 Areas are contained in the *Macedon Ranges Shire Restructure Area Plans* (Macedon Ranges Shire Council, 1999). The Restructure Plan for RO13 is contained in the *Ladye Place Restructure Plan*.

Recommendations:

Review the *Macedon Ranges Shire Restructure Area Plans* and the *Ladye Place Restructure Plan* and confirm their relevance and the extent of their application.

Update the format of the RO to be consistent with the Ministerial Direction.



DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (DCPO)

This overlay has two schedules as follows:

- Schedule 1 – Romsey Development Contributions Plan.
- Schedule 2 – Gisborne Development Contributions Plan.

There is a need to update both schedules to ensure consistency with the Ministerial Direction.

Update the DCPO schedules to be consistent with the Ministerial Direction.

CONCLUSIONS REGARDING THE OVERLAYS AND SCHEDULES

This review has highlighted that the majority of the overlay schedules require some level of review to achieve consistency with the Ministerial Direction on the Form and Content of Planning Schemes. This provides an opportunity to also review the content with many of the schedules to confirm they remain necessary and are contemporary. The list of all background documents should be reviewed and confirmed for ongoing relevance and currency.



11. THE EFFECTIVENESS OF SPECIFIC PROVISIONS AND INCORPORATED DOCUMENTS

Continuous Improvement Review Kit requirement:

Audit the application and performance of the Specific Provisions in the scheme; and investigate whether or not the Schedules in the scheme have been appropriately applied.

AUDIT OF SPECIFIC PROVISIONS AND SCHEDULES

There are a number of opportunities in Clauses 51.01 through 74.02 of the Macedon Ranges Planning Scheme for Council to specify local variations or agencies. Table 4, below provides a summary of the clauses that can be varied locally and how they are applied in Macedon Ranges.

The introduction of the Ministerial Direction on the Form and Content of Planning Schemes in May 2017 (most recently updated 30 July 2018) combined with the approval of amendment VC148 will have significant implications for the form and content of many local schedules. In terms of structure many schedules will need to be 'translated' into the new structure. Some of these changes are structural; others may require changes to content. In some instances, this may offer opportunities for the inclusion of additional local content. However, there is no opportunity to deviate from the template and there are some schedules that currently do not conform with the revised format.

Our review includes recommendations on which schedules will need to be updated to align with the Ministerial Direction.

Table 4 Schedules to Clause 51.01 through 74.02 of the Macedon Ranges Planning Scheme

Clause	Schedule Requirements	Comments and Recommendations
51.01 Specific Sites and Exclusions	The Schedule specifies site specific controls for five sites.	As part of amendment VC148 Clause 45.12 (Specific Controls Overlay SCO) was introduced to the VPPs. Recommendation: review the schedule to Clause 51.01 giving consideration to the application of the SCO to these sites.



Clause	Schedule Requirements	Comments and Recommendations
52.02 Easements, Restrictions and Reserves	None Specified.	<p>The subheading needs to include the words 'Easements, Restrictions and Reserves' to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.</p> <p>Recommendation: Update the schedule to Clause 52.02 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.</p>
52.05 Signs	None Specified	<p>The subheading needs to remove the word 'Advertising' to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.</p> <p>Recommendation: Update the schedule to Clause 52.05 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.</p>
52.12 Bushfire Protection Exemptions	None Specified.	<p>Consistent with the Ministerial Direction on the Form and Content of Planning Schemes.</p>
52.16 Native Vegetation Precinct Plan	None Specified.	<p>The subheading needs to include the words 'Native Vegetation Precinct Plan' to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.</p> <p>Recommendation: Update the schedule to Clause 52.16 to be consistent with the Ministerial</p>



Clause	Schedule Requirements	Comments and Recommendations
		Direction on the Form and Content of Planning Schemes.
52.17 Native Vegetation	Two areas are listed in the schedule.	Recommendation: Update the schedule to Clause 52.17 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes. This should include discussions with DELWP to determine how to secure the ongoing application of 'Utility installation code of practice'.⁶⁵
52.27 Licensed Premises	None Specified.	Recommendation: Update the schedule to Clause 52.27 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
52.28 Gaming	Prohibition of gaming machines in: Gisborne Village and Gisborne Central shopping centres; and all strip shopping centres.	Recommendation: Update the schedule to Clause 52.28 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes. Recommendation: Consider revising the schedule to Clause 52.28 to include application requirements and decision guidelines currently included in Clause 22.04.

⁶⁵ There is a reference in the PAO in the schedule to 52.1 this should also be updated in line with the recommendation above relating to the PAO



Clause	Schedule Requirements	Comments and Recommendations
52.32 Wind Energy Facility	Prohibition of Wind energy facilities to all land.	Consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
52.33 Post Boxes and Dry Stone Walls	Permit requirement for dry stone walls applies to land.	Consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
53.01 Public Open Space Contribution and Subdivision	Five percent contribution for all land.	Consistent with the Ministerial Direction on the Form and Content of Planning Schemes. Recommendation: Ensure contributions match the current open space strategy.
53.06 Live Music and Entertainment Noise	None Specified.	Consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
53.15 Statement of Underlying Provisions	None Specified.	Consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
59.15 Local Vicsmart Applications	None Specified.	Consistent with the Ministerial Direction on the Form and Content of Planning Schemes. Recommendation: Consider broadening the use of Vicsmart through local provisions.
59.16 Information Requirements and Decision Guidelines for Local Vicsmart Applications	None Specified.	Consistent with the Ministerial Direction on the Form and Content of Planning Schemes.



Clause	Schedule Requirements	Comments and Recommendations
66.04 Referral of Permit Applications Under Local Provisions	Provides for the referral of permit applications under clauses from nine overlay schedules. All are determining authorities.	Consistent with the Ministerial Direction on the Form and Content of Planning Schemes. Recommendation: Review the list of referrals at the schedule to Clause 66.04 and confirm that this list is complete and up to date.
66.06 Notice of Permit Applications Under Local Provisions	None Specified.	Recommendation: Update the schedule to Clause 66.06 to be consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
72.01 Responsible Authority for this Planning Scheme		Consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
72.02 What Area is Covered by this Planning Scheme?		Consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
72.03 What does this Planning Scheme Consist of?		Consistent with the Ministerial Direction on the Form and Content of Planning Schemes. The schedule erroneously contains the schedule for the Greater Bendigo Planning Scheme. Recommendation: Correct the schedule to Clause 72.03 to ensure it refers to the Macedon Ranges Planning Scheme
72.04 Documents Incorporated in this Planning Scheme		Recommendation: Update the schedule to Clause 72.04 to be consistent with the Ministerial



Clause	Schedule Requirements	Comments and Recommendations
		Direction on the Form and Content of Planning Schemes. Recommendation: Review the list of documents at the schedule to Clause 72.04 and confirm that this list is complete and up to date.
72.05 When did this Planning Scheme Begin?		Consistent with the Ministerial Direction on the Form and Content of Planning Schemes.
72.08 Background Documents	None specified	Consistent with the Ministerial Direction on the Form and Content of Planning Schemes. Recommendation: Review current reference documents to determine their suitability for inclusion within this schedule in line with the relevant practice note.
74.01 Application of Zones, Overlays and Provisions	Insert a general explanation of the relationship between the Municipal Planning Strategy, the objectives and strategies in Clauses 11 to 19 and the controls on the use and development of land in the planning scheme.	Clause 74.01 will be relevant and should be populated when the LPPF is translated into the PPF and MPS.
74.02 Further Strategic Work	Insert the planning authority's approach to further strategic work.	Clause 74.02 will be relevant and should be populated when the LPPF is translated into the PPF and MPS.

While Council has taken the opportunity to include local content in many of these schedules, there remains significant opportunity to use these schedules. This includes the use of broadening the use of Vicsmart through local provisions.



INCORPORATED DOCUMENTS

There are 16 Incorporated Documents listed in the Schedule to Clause 72.04 of the Macedon Ranges Planning Scheme. These are:

- Australian Standard AS2021-2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, Standards Australia Limited, 2015
- Design Guidelines for Industrial & Commercial Development for the Macedon Ranges Shire, June 2012
- Fibre Optic Project, Integrated Approval Requirements, December 2002
- Gisborne Development Contributions Plan, April 2013
- Goulburn-Murray Water Native Vegetation Code of Practice, February 2011
- Hospital Emergency Medical Services - Helicopter Flight Path Protection Areas Incorporated Document, June 2017
- Kyneton Racecourse Masterplan, Kyneton and Hanging Rock Racing Club and NMIT, February 2011
- Ladye Place Restructure Plan, July 2013
- Lancefield, Romsey and Woodend Town Centre Heritage Precincts Planning Permit Exemptions, July 2011
- Macedon Ranges Shire Restructure Area Plans, 1999
- Powerline Bushfire Safety Program - Native Vegetation Removal Code of Practice, August 2016
- Rail Gauge Standardisation Project, Integrated Approval Requirements, December 2002
- Regional Fast Rail Project, Integrated Approval Requirements, December 2002
- Romsey Development Contributions Plan, July 2012
- Shirley Park (98-100 Romsey Road Woodend) Heritage Place Planning Permit Exemption, July 2011
- Significant Trees: 1141 Three Chain Road, Cobaw, August 2014
- Special Sites Incorporated Document, 2000

Planning Practice Note 74 (PPN74): Availability of planning documents (July 2016) provides guidance on making planning documents available under the *Planning and Environment Act 1987*. Public access to incorporated (and background) documents promotes a transparent and accountable planning system that encourages informed public participation.



As part of Amendment VC148, Clause 45.12 (Specific Controls Overlay) was introduced to the VPPs. The Purpose of the SCO is:

To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.

Land affected by this overlay may be used or developed in accordance with a specific control contained in the incorporated document corresponding to the notation on the planning scheme map (as specified in the schedule to this overlay).

As a result, the *Special Sites Incorporated Document*, 2000 should be reviewed, giving consideration to the application of the SCO to these sites.

Recommendations:

Review the list of Incorporated Documents to confirm that the schedule to Clause 72.04 is complete up to date.

Review the *Ladye Place Restructure Plan* and *Macedon Ranges Shire Restructure Area Plans* to ensure they are current and reflect the application of the RO.

Consider listing the three sites contained within the *Special Sites Incorporated Document* separately for clarity.⁶⁶

Ensure all Incorporated documents are available in accordance with PPN74.

Consider reviewing the schedule to Clause 72.04 to group incorporated documents and listing the relevant Amendment that introduced the document (refer to the Schedule to 72.04 in the Mornington Peninsula Planning Scheme as an example).

CONCLUSIONS REGARDING SPECIFIC PROVISIONS AND INCORPORATED DOCUMENTS

This review has highlighted that the majority of the schedules to specific provisions require some level of review to achieve consistency with the Ministerial Direction on the Form and Content of Planning Schemes. Beyond the need to comply with this Direction changes to specific provisions and the use of incorporated and background documents (as a result of changes to the VPPs and new Planning Practice Notes) has provided considerable scope for more local content to be included in this section of the planning scheme, such as:

- The application of the new SCO;
- The ability to include application requirements and decision guidelines currently included in Clause 22.04 in Clause 52.28; and
- A consolidated list of background documents in the schedule to clause 72.08.

⁶⁶ This would be preferable should Council seek to apply the SCO to these sites.



12. FURTHER STRATEGIC WORK PROGRAM

Continuous Improvement Review Kit requirement:

Document the strategic work that has been completed or carried out since the approval of the scheme and any additional work required to strengthen the strategic direction of the planning scheme.

This part of the Review Report responds to this requirement and addresses the 'Strategic Work' program which Council is doing as part of the on-going maintenance of the existing planning scheme. Macedon Ranges Shire Council are currently working on a number of strategic projects that will inform changes to the planning scheme. These are summarised below.

HERITAGE STRATEGY

The Macedon Ranges Heritage Strategy had action plan items through to 2018. There is a need to commission a new Heritage Strategy to provide updated guidance beyond the 2018 time horizon of the current strategy.

Recommendation: Commission a new Heritage Strategy to provide updated direction beyond the 2018 time horizon of the current Heritage Strategy.

SMALL TOWNS STUDY

Clause 21.13 of the Macedon Ranges Planning Scheme provides guidance on local areas and small settlements. Much of the policy direction for the smaller settlements is based upon strategic work undertaken as part of the *Small Towns Study*, completed in 2006. The policy direction for these areas has not been substantially updated since and the role and direction for these towns is changing, given State and regional policies, along with their physical contexts.

Consultation also identified a need to resolve the role for towns like Clarkefield, Tylden and Newham, given existing policy directions.

It is timely for Council to commission a Small Towns Study to provide contemporary directions for the Shire's smaller townships and settlements and address the existing policy gaps within the Municipal Strategic Statement.

Recommendation: Commission a Small Towns Study to provide strategic direction for towns such as Newham, Clarkefield and Tylden.



ECONOMIC DEVELOPMENT STRATEGY

Council adopted its current Economic Development Strategy in 2009 and it contains actions and strategies to guide the Shire's economic development to 2019.

Council has commenced the process of commissioning a new Economic Development Strategy to provide guidance from 2019-2029. This review has identified a need for the Strategy to provide contemporary and specific guidance for the types of economic development to be facilitated in particular parts of the Shire and to provide recommendations required to the planning scheme to facilitate this activity.

Recommendation: Commission an Economic Development Strategy.

DRAFT IN THE FARMING ZONE STRATEGY

Council has recently commenced the development of a draft *In the Farming Zone Strategy*. The strategy will identify and seek to address existing and emerging rural land use planning issues and opportunities. The strategy will focus *only* on land in the Farming Zone.

The aims of the Farming Zone Strategy project are to:

- Develop a vision, role and purpose for rural land within the Farming Zone;
- Identify the values and features of land within the Farming Zone to be protected and enhanced such as productive agricultural land, biodiversity and water supply catchments;
- Identify key opportunities and constraints for rural land use and development; and
- Articulate how the vision will be implemented through the planning scheme providing a framework for clear and consistent decision making.

Council engaged the services of RMCG Consultants to assist with the preparation of the *In the Farming Zone Strategy*. To assist with the development of the draft strategy Council hosted an online community survey, and a survey was sent to all landowners within the Farming Zone. These surveys are now closed, and Council is preparing a draft strategy for community consultation. The scope of this strategy has been broadened to consider land within the Rural Conservation Zone.

Recommendations:

Finalise the 'In the Farming Zone Strategy' and implement relevant actions through changes to the planning scheme.

Ensure the 'In the Farming Zone Strategy' takes account of the implications of Amendment VC150



REVIEW OF LAND IN THE RURAL CONSERVATION ZONE

Council has broadened the scope of its commissioned 'In the Farming Zone Strategy' will inform a future review of land in the Rural Conservation Zone.. This follows consultation with the Department (and this review team) that suggested that this review occur.

DRAFT LANDSCAPE ASSESSMENT STUDY FOR THE MACEDON RANGES

The Landscape Assessment Study for the Macedon Ranges will review significant views and vistas across the shire from publicly accessible locations, focusing on the visual qualities of these landscapes. The study includes all land within the shire, excluding land within settlements. Implementation of the study will include changes to the planning scheme to better manage areas of landscape character and significance.

Preliminary community consultation occurred in early 2018 and Council is currently preparing a draft Landscape Assessment Study.

Recommendation: Finalise the Landscape Assessment Study for the Macedon Ranges and implement relevant actions through changes to the planning scheme.

BIODIVERSITY STRATEGY

Council has adopted its Biodiversity Strategy to protect and enhance ecological values across the Shire. The outcomes of the Strategy recommend changes to the planning scheme along with priority actions for community engagement, on-ground works and monitoring of change.

Recommendation: Implement relevant actions from the Biodiversity Strategy through changes to the planning scheme.

VISITOR ECONOMY STRATEGY

Council is in the process of a developing a visitor economy strategy which is to be released later in 2018. This report should also consider opportunities to further support visitor accommodation.

Recommendation: Finalise the Visitor Economy Strategy and implement relevant actions through changes to the planning scheme.