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EXECUTIVE SUMMARY

This planning report has been prepared by Urbis on behalf of Intrapac Projects in support of a s96A combined planning scheme amendment, subdivision and works application associated with Lot 3, on PS403716 at Holloway Road, Wonga Park for:

- Rezoning of the site from Rural Living Zone Schedule 1 to part Neighbourhood Residential Zone and part Urban Floodway Zone

- Subdivision into 48 residential lots and one lot comprising a wetland and public space

- Works associated with the creation of a wetland, flood storage and a sediment pond

The subject site (Lot 3, on PS403716) is a 10.2 hectare site located in Holloway Road in Wonga Park within the Rural Living Zone. The land is considered to have residual zoning which has remained despite the rezoning and development of the surrounding land which is now established residential area within the Neighbourhood Residential Zone. The site remains undeveloped, is heavily vegetated in parts and comprises a portion of the Brushy Creek.

It is proposed to subdivide a north-eastern portion of the site closest to Regency Rise and Meadowbank Avenue for 48 residential lots to accommodate future conventional density residential development. Given the proximity to the Brushy Creek, the subdivision is accompanied by a proposal to install a wetland, flood storage and sediment pond to manage flood risk and stormwater quality. The design for these has been prepared in consultation with Yarra Valley Water and Melbourne Water.

The proposed subdivision and works require planning permission under the following provisions:

**Subdivision:**
- Clause 32.09-2 – (Neighbourhood Residential Zone - Subdivision)
- Clause 42.01-2 (Environmental Significance Overlay)
- Clause 44.04-2 (Land Subject to Inundation Overlay)

**Works:**
- Clause 42.01-2 (Environmental Significance Overlay)
- Clause 44.04-1 (Land Subject to Inundation Overlay)
- Clause 53.01-1 (Upper Yarra Ranges and Dandenong Ranges Region Provisions)

**Vegetation removal:**
- Clause 42.01-2 (Environmental Significance Overlay)

**Native Vegetation removal:**
- Clause 52.17-2 (Native Vegetation)

This report provides an outline of the relevant policies of the Yarra Valley Planning Scheme and relevant strategic documents and assesses the proposal against these. The report concludes that the proposal demonstrates a high level of consistency with the relevant policies and documents and represents an excellent opportunity to:

- Facilitate additional housing stock within an established residential area in an appropriate manner
- Improve stormwater quality for the Brushy Creek
- Establish a management arrangement for this portion of the Brushy Creek environs and the onsite native vegetation which is currently affected by weeds
- Protect this part of the Brushy Creek from future development which could affect flood risk to the broader area.
- Provide land which may be used for new public infrastructure such as a shared walking/cycling path
INTRODUCTION

Urbis acts on behalf of Intrapac Projects in relation to Lot 3, PS403716 which is a 10.2 hectare site located on Holloway Road in Wonga Park. This report forms part of a combined planning scheme amendment and planning permit application to facilitate subdivision of the land into 48 residential lots, plus one lot comprising the Brushy Creek environs which would be owned by Council. It is proposed that Melbourne Water would manage the Brushy Creek, its banks and a new wetland with associated drainage infrastructure and that Council would manage the remaining open space. The planning scheme amendment seeks to rezone the currently Rural Living Zoned site as follows:

- 3.186 hectares of the land to Neighbourhood Residential – Schedule 1
- 7.030 hectares to Urban Floodway Zone

This application under s96A of the Planning and Environment Act is required in order to facilitate lot sizes smaller than those allowed under the Rural Living Zone, in the context of the site’s inclusion within the Urban Growth Boundary and also to help to protect the Brushy Creek Floodplain.

This subdivision presents a unique opportunity within Yarra Ranges Shire Council to add to housing stock in the shire as it is acknowledged in the planning scheme and responds positively to the relevant strategic documents.
1. CONTEXT

1.1. THE SITE

The subject site is a vacant, irregular shaped lot which is located on the northern side of Holloway Road. The site is actually separated from Holloway Road by a 32 metre wide easement. The site also has a frontage to Meadowbank Avenue of approximately 40 metres.

The site has an area of 10.2 hectares and is largely level except for the north-eastern corner which slopes upward to the north-east by 13 metres across a length of approximately 225 metres. Brushy Creek runs through the site from the north-west to the south and native vegetation has been identified at the site by Brett Lane & Associates. Details are provided in the Flora and Fauna Assessment dated March 2016 accompanying this application.

Site interfaces:
- The site adjoins an area of developed Neighbourhood Residential Zone to the north and west
- The site adjoins an area of Special Use Zone – Schedule 4 which is occupied by a school to the east
- To the south, across Holloway Road, is a parcel of land zoned Public Use Zone – Schedule 1 which is for service and utilities
- To the south-west across Holloway Road is a residential area

Four easements shown as E-4, E-8, E-9, and E-13 are included on the current plan of subdivision as relating to the subject site which is Lot 3. The easements relate to drainage, floodway and sewerage.

1.2. LOCAL CONTEXT

The site is located in Wonga Park, which is near the western boundary of Yarra Ranges Shire. It is located a short distance to the west of the Chirnside Park Shopping Centre and is close to Maroondah Golf Park, Hughes Park, Griff Hunt Reserve and Oxley Christian College.

The immediate area is a residential neighbourhood which is generally of conventional density and the Neighbourhood Residential Zone has been applied to the majority of the surrounding area. The streets are generally cul-de-sacs extending from a grid-like street layout and there are also some curvilinear streets.

The area is heavily vegetated but is in the more urbanised part of Yarra Ranges Shire. The natural landscape contributes strongly to the local character of the area.

1.3. STRATEGIC CONTEXT

Yarra Ranges Shire Council is located approximately 30km east of the Melbourne CBD.

At present, the subject site is located in a landscape buffer area according to the Upper Yarra Ranges and Dandenong Ranges Regional Strategy Plan. The buffer area is located between two established residential areas and adjoins some public use and special use zones. As the landscape buffer area already comprises a number of residential lots of conventional sizes and the site has residential lots on two sides, arguably, the buffer is no longer required and is anachronism from earlier revisions of the regional strategy plan which possibly should have been previously removed. Additionally, the site is located within the urban growth boundary and for this reason, the site should be considered as part of the township area.

The site is not located within an activity centre, but is conveniently located to take advantage of the Chirnside Park Shopping Centre and several primary and secondary schools.

The area is serviced by several bus routes including the 671 and 672 routes which connect Croydon Railway Station with Chirnside Park Shopping Centre. Nine bus services operate from Chirnside Park Shopping Centre.
Council has a walking and cycling strategy called Pedestrian and Bicycle Plan which was prepared in January 2005. The vision for the strategy is:

*To create a safe and sustainable pedestrian and bicycle network that provides for a wide range of users, provides local and regional connections for communities and increases tourism opportunities within the Shire.*

Improvements to the walking and cycling network are considered to have positive health, social and economic benefits. The footpath network in Yarra Ranges Shire is considered to currently have gaps which should be addressed. The strategy encourages Council to consider walking and cycling issues and requirements in all land development and park and recreation master plans. It also encourages Council to ensure that all new pathways link into the proposed path network. This suggests that Council supports the provision of new footpaths in developments which connect to the existing network and that Council is looking for opportunities to introduce new walking and cycling links.

### 1.4. BACKGROUND

A combined rezoning and subdivision application was lodged in 2006 but was refused at a Council meeting on 25 July 2006 due to Council’s concerns regarding vegetation loss. This was despite offsets being met onsite and approval to progress exhibition approved by the Department of Sustainability and Environment. Council was also concerned that the proposed works would conflict with Melbourne Water’s management processes despite Melbourne Water’s support for the proposal. The residential subdivision area was 4.02ha.

A combined rezoning and subdivision application was lodged in 2009. Due to the previous concerns, the residential subdivision area was reduced to 3.29ha and the drainage reserve area was increased in area. This process resulted in further changes in 2011 but the proposal was unsuccessful.

Since 2011, the circumstances surrounding the management of Brushy Creek in terms of the proposed wetlands and a new sediment pond have been discussed with Melbourne Water and considerable work has been undertaken to design an appropriate system to address the implications of the subdivision and to improve the overall stormwater management situation for the health of the Brushy Creek. Additionally, the proposed residential subdivision area is now even further reduced (to 3.186 hectares). In relation to onsite vegetation (and native vegetation), a considerable amount of native vegetation is to be preserved and
protected as part of a management plan for the land outside the residential subdivision. Please refer to the flora and fauna assessment prepared by Brett Lane and Associates. It is considered that this third approach to subdivision and rezoning of the site addresses all relevant considerations and will facilitate an outcome that is not only acceptable but is an improvement of the site in terms of vegetation and stormwater management for the long term.
2. **EXISTING PLANNING CONTROLS**

2.1. **EXISTING ZONING**

The site is currently zoned Rural Living Zone. Schedule 1 to the Rural Living Zone includes a minimum lot size of 1 hectare and an average minimum lot size across subdivisions of 2 hectares. The purpose of the zone is:

- To implement the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential use in a rural environment.
- To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.
- To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

It is considered that this zone is no longer appropriate considering that:

- The site is mostly surrounded by Neighbourhood Residential Zone and conventional lot sizes;
- Only part of the site is proposed for residential development, and;
- The proposed subdivision seeks to put in place management requirements to ensure the protection of Brushy Creek and a considerable area of native vegetation.

2.2. **EXISTING OVERLAYS**

The site is partially affected by Schedule 1 to the Environmental Significance Overlay and is also affected by the Land Subject to Inundation Overlay. It is not proposed to remove the overlays from the site.

2.2.1. **Clause 42.01 – Environmental Significance Overlay**

The purpose of the Environmental Significance Overlay is:

- To implement the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

A permit is required to:

- Construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.
- Construct a fence if specified in a schedule to this overlay.
- Construct bicycle pathways and trails.
- Subdivide land. This does not apply if a schedule to this overlay specifically states that a permit is not required.
- Remove, destroy or lop any vegetation, including dead vegetation.
The decision guidelines are:

- The Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.
- The need to remove, destroy or lop vegetation to create defendable space to reduce the risk of bushfire to life and property.
- Any other matters specified in a schedule to this overlay.

Schedule 1 to this overlay relates to identified sites of botanical and zoological significance. The statement of environmental significance is:

*The Shire contains extensive areas of remnant bushland which are an intrinsic part of the Shire’s unique landscape and environmental character.*

*Sites of botanical and zoological significance also play an important role in contributing to the ecological processes and biodiversity of the region by forming core habitat areas within a complex network of wildlife corridors along roadsides and watercourses. Development within and around these sites needs to be appropriately managed to ensure the long term protection and sustainability of these ecological processes.*

*These sites have been identified following detailed assessment of their botanical and zoological significance in studies carried out as part of previous reviews of the Regional Strategy Plan and planning schemes in the Shire.*

*The reference codes (eg B1 and Z1) shown on the planning scheme map for these sites correspond with the list of sites at Clause 6.0 of this schedule. This list describes the sites and has a cross-reference to the Regional Strategy Plan.*

The environmental objective to be achieved is:

- Ensure the long term protection of the wildlife habitat and other conservation values of sites of botanical and zoological significance.
- Recognise the importance of sites of botanical and zoological significance as core habitat areas.
- Ensure that the habitat value of the sites is not diminished by the incremental removal of remnant vegetation or inappropriate development.
- Protect the natural resources and maintain the ecological processes and genetic diversity of the region.
- Ensure that any new development is sensitively designed and sited to reinforce the existing environmental characteristics of the area.

2.2.2. Clause 44.04 – Land Subject to Inundation Overlay

The purpose of the Land Subject to inundation Overlay is:

- To implement the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
• To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

• To ensure that development maintains or improves river and wetland health, waterway protection and floodplain health.

A permit is required for buildings and works and for subdivision. The responsible authority must consider:

• The Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

• Any local floodplain development plan.

• Any comments from the relevant floodplain management authority.

• The existing use and development of the land.

• Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.

• The susceptibility of the development to flooding and flood damage.

• The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include:
  – The frequency, duration, extent, depth and velocity of flooding of the site and accessway.
  – The flood warning time available.
  – The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.

• The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.

• The effect of the development on river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance.

The schedule to the Land Subject to Inundation Overlay establishes permit exemptions for particular buildings and works applications and the necessary application requirements.
3. **PROPOSED PLANNING SCHEME AMENDMENT**

3.1. **AMENDMENT OVERVIEW**

The proposed planning scheme amendment involves the following changes to the Yarra Ranges Planning Scheme:

- Rezone a 3.186 hectare portion of the site from Rural Living Zone to Neighbourhood Residential Zone – Schedule 1 (existing schedule used for surrounding land).
- Rezone the remaining 7.030 hectares from Rural Living Zone to Urban Floodway Zone.

3.2. **PROPOSED ZONES**

3.2.1. **Neighbourhood Residential Zone**

Planning Practice Note 78 states that the Neighbourhood Residential Zone restricts housing growth in areas identified for urban preservation. The practice note also states that the zone will be used in areas where single dwellings prevail and change is not identified such as areas of recognised neighbourhood character or environmental or landscape significance. The zone is considered appropriate for areas where there are single dwellings and dual occupancies. The zone has a mandatory 8 metre height limit which can only be altered by approval from the Minister for Planning. Based on the test set out by Table 2 of Practice Note 78, the Neighbourhood Residential Zone is considered to be an appropriate fit for the land proposed to be subdivided for residential use. Please refer to Appendix E for this assessment.

3.2.2. **Urban Flood Zone**

Planning Practice Note 12 states that:

> The UFZ is a restrictive provision that prohibits most uses and development. It is designed to be applied to urban environments where there is a high potential flood risk and only low intensity uses and development (such as recreation) are suitable. In contrast, the LSIO is used for both urban and rural environments to identify land with a lower potential flood risk or as an interim measure, areas where accurate flood mapping to identify the floodway is yet to be carried out. The LSIO only requires a permit for buildings and works and does not prohibit either use or development.

The practice note states that the ‘Design Flood Event’ which is generally considered to be a 100 year flood event is usually the basis for determining the flood prone area. This needs to be identified in order to introduce flood provisions into the planning scheme.
4. PROPOSED SUBDIVISION, WORKS AND VEGETATION REMOVAL

The proposed subdivision involves dividing the 10.22 hectare lot into 48 residential lots and one lot which is to be handed over to Council. The proposed residential subdivision area is 3.186 hectares in area and the proposed lots range in size from 302 square metres to 980 square metres with an average lot size of 484 square metres. Vehicle access is proposed from Meadowbank Avenue, forming a T-intersection approximately 30 metres east of Paula Way. An internal loop road will provide access to the residential lots.

The remaining lot to be handed over to Council will be 7.030 hectares in size. This will be encumbered land involving a wetlands and sediment pond and some land suitable for passive recreation.

The non-residential lot is to comprise of the following, for which approval is sought for works:

• Wetlands of 5,500 square metres which will treat flows from the creek
• A sediment pond to treat the proposed development
• Excavation of 5,500 cubic metres to mitigate loss of flood storage due to the proposed residential subdivision.

It is envisaged that Council would own the non-residential land and that the management of the land would be divided between Council and Melbourne Water using a management plan. The Brushy Creek and banks will be managed by Melbourne Water along with the wetland and the remaining non-residential land will be managed by Council. Discussions with Melbourne Water have advanced and it is expected that Melbourne Water will formally advise as to its interest in the new wetlands.

The subdivision design has sought to balance the considerations of creating new residential lots and preserving native vegetation. Flood mitigation and treatment of flows through the creek have been a priority for the design. The residential lots will be located at the highest part of the site and a 20 metre buffer area where vegetation will be managed has been included for bushfire prevention. The remaining land is to be used for wetlands and flood mitigation. The potential for a shared path through the site has also been considered should Council wish to construct one in the future. An alignment has been prepared by the engineers which crosses the river and would enable the site to be connected to Council’s bicycle network.

The Flora and Fauna report contemplate a path (in separate calculations). Work conducted by Reeds Consulting has allowed engineers to determine that the non-residential land will be appropriately accessible by maintenance vehicles.

The proposed subdivision has an approved Cultural Heritage Management Plan which is currently being updated to include the wetlands and excavation for flood storage.

The proposal also seeks to remove vegetation and native vegetation to facilitate the proposed subdivision and wetlands. The proposed vegetation removal has been mapped and assessed by Brett Lane and Associates and the necessary offsets have been calculated. Please refer to the accompanying flora and fauna report for full details.
5. **PLANNING POLICY CONTEXT**

The planning policy context for assessment of the Amendment and Permit proposal is summarised below.

5.1. **PLANNING POLICY FRAMEWORK**

5.1.1. **Clause 11.02 – Managing Growth**

This policy seeks to ensure that a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses. Strategies for achieving this include:

*Planning for urban growth should consider:*

- Opportunities for the consolidation, redevelopment and intensification of existing urban areas.
- Neighbourhood character and landscape considerations.
- The limits of land capability and natural hazards and environmental quality.
- Service limitations and the costs of providing infrastructure.

5.1.2. **Clause 11.04-5 – Environment and Water**

This policy seeks to protect natural assets and better plan our water, energy and waste management systems to create a sustainable city. Strategies to assist in achieving this are:

- Protect and restore natural habitats in urban and non-urban areas.
- Improve noise and air quality to improve human and environmental health.
- Integrate whole of water cycle management to deliver sustainable and resilient urban development.

5.1.3. **Clause 12.01 – Biodiversity**

Clause 12.01-1S – Biodiversity seeks to assist the protection and conservation of biodiversity including important habitat for fauna. Decision making is to take into account the impacts of land use and development on high value biodiversity.

Clause 12.01-2S - Native Vegetation Management seeks to ensure no net loss in the contribution made by native vegetation from the permitted clearing of native vegetation. Where native vegetation is to be removed, an equivalent offset must be provided.

5.1.4. **Clause 12.05– Significant Environments and Landscapes**

Clause 12.05-2S seeks to protect landscapes and significant open spaces. Specifically, the policy supports the improvement of open space linkages and the protection of key features of the lateral landscape.

5.1.5. **Clause 13.02– Bushfire**

Clause 13.02 seeks to assist to strengthen community resilience to bushfire. The overarching strategies are:

- Prioritise the protection of human life over other policy considerations.
- Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.
- Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process.
Settlement planning strategies include:

- **Ensuring** the bush fire risk to existing and future residents, property and community infrastructure will not increase as a result of future land use and development.
- **Achieving no net increase** in risk to existing and future residents, property and community infrastructure, through the implementation of bushfire protection measures and where possible reducing bushfire risk overall.
- **Assessing and addressing** the bushfire hazard posed to the settlement and the likely bushfire behaviour it will produce at a landscape, settlement, local, neighbourhood and site scale, including the potential for neighbourhood-scale destruction.
- **Assessing alternative low risk locations** for settlement growth on a regional, municipal, settlement, local and neighbourhood basis.
- **Not approving** any strategic planning document, local planning policy, or planning scheme amendment that will result in the introduction or intensification of development in an area that has, or will on completion have, more than a BAL-12.5 rating under AS3959-2009 Construction of Buildings in Bushfire-prone Areas (StandardsAustralia, 2009).

In bushfire prone areas, the Clause requires that when assessing a planning permit application for subdivision of land for more than 10 lots, the following must be considered:

- **Consider the risk of bushfire to people, property and community infrastructure.**
- **Require the implementation of appropriate bushfire protection measures** to address the identified bushfire risk. Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts

### 5.1.6. Clause 14.02 – Water

Seeks to assist the protection and restoration of catchments, waterways, water bodies, groundwater and the marine environment. Strategies for achieving this include:

- **Retain natural drainage corridors** with vegetated buffer zones at least 30m wide along each side of a waterway to maintain the natural drainage function, stream habitat and wildlife corridors and landscape values, to minimise erosion of stream banks and verges and to reduce polluted surface runoff from adjacent land uses.
- **Undertake measures** to minimise the quantity and retard the flow of stormwater runoff from developed areas.
- **Encourage measures** to filter sediment and wastes from stormwater prior to its discharge into waterways, including the preservation of floodplain or other land for wetlands and retention basins.
- **Ensure that works at or near waterways** provide for the protection and enhancement of the environmental qualities of waterways and their instream uses.
- **Ensure land use and development proposals** minimise nutrient contributions to waterways and water bodies and the potential for the development of algal blooms.

### 5.1.7. Clause 15 – Built Environment and Heritage

Clause 15 supports development that is responsive to its landscape, built form and cultural context and that contributes to the social, cultural, economic and environmental wellbeing of communities. The quality of urban design and architecture is a priority of this policy, which states that developments should:

- **Are enjoyable, engaging and comfortable to be in.**
- **Accommodate people of all abilities, ages and cultures.**
- **Contribute positively to local character and sense of place.**
• Reflect the particular characteristics and cultural identity of the community.
• Enhance the function, amenity and safety of the public realm.

In relation to subdivision design, the policy seeks to ensure that subdivisions are attractive, walkable, cyclable, diverse and sustainable. Strategies for achieving this are focused on providing a range of lot sizes, creating a range of open spaces, providing connectivity and including environmentally sustainable features in the design.

Clause 15.03-2S – Aboriginal Cultural Heritage seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance. Permit approvals are to align with the recommendations of a Cultural Heritage Management Plan.

5.1.8. Clause 16 – Housing

The housing policy contained in the PPF has the following purpose:

• Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure.
• Planning should ensure the long term sustainability of new housing, including access to services, walkability to activity centres, public transport, schools and open space. Planning for housing should include providing land for affordable housing.

This policy encourages that planning ensures an appropriate amount and range of housing types to meet the needs of the community. New housing is encouraged to be located with good access to services and transport.

Specifically, Clause 16.01-2S encourages that in planning for housing:

Ensure an adequate supply of redevelopment opportunities within the established urban areas to reduce the pressure for fringe development.

5.1.9. Clause 16.01- 4S-3S – Housing Affordability and Housing Diversity

These policies aim to provide a diversity of housing in defined locations that cater for different households and which are close to jobs and services. The strategies for achieving this are:

• Improve housing affordability.
• Increase the supply of well-located affordable housing.
• Facilitate the delivery of social housing by identifying surplus government land suitable for housing.
• Ensure housing stock matches changing demand by widening housing choice.
• Facilitate diverse housing that offers choice and meets changing household needs.
• Encourage the development of well-designed medium-density housing.
• Support opportunities for a range of income groups to choose housing in well-serviced locations.
• Ensure planning for growth areas provides for a mix of housing types through a variety of lot sizes, including higher housing densities in and around activity centres.

5.1.10. Clause 18 – Transport

This policy encourages that access to all possible modes of transport is considered in urban development. It is encouraged that new development takes advantage of existing available transport modes, particularly public transport and that safe convenient and direct pedestrian and cycling access is provided to activity centres, transport interchanges and other strategic redevelopment sites.
5.1.11. Clause 19.02-6R – Open Space – Metropolitan Melbourne

This policy seeks to assist in creating an integrated metropolitan open space network and to provide for the long term management of public open space.

Strategies for achieving this include:

Ensure that open space networks:

- Develop a network of local open spaces that are accessible and of high-quality and include opportunities for new local open spaces through planning for urban redevelopment projects.
- Ensure major open space corridors are protected and enhanced.
- Develop open space networks in growth areas and in the surrounding region of Metropolitan Melbourne, where existing open space is limited and demand is growing.
- Create continuous open space links and trails.
- Provide long term planning protection to meet demand for future open space along the Plenty Gorge parklands, Yarra Valley parklands, Cardinia Creek parklands, Heatherton/Dingley ‘Sandbelt’ parklands and Dandenong Valley parklands.
- Protect the metropolitan water's edge parklands from intrusion and encroachment of development that impacts on open space and their natural landscape setting.
- Continue development of the lower Yarra River as a focus for sport, entertainment and leisure.
- Support establishing community gardens and productive streetscapes.

5.1.12. Clause 19.03– Development Infrastructure

This policy seeks to ensure that sewerage is provided for at the time of subdivision, or that lots are capable of adequately treating and retaining all domestic wastewater. The policy also encourages the use of runoff to reduce the impact of stormwater on bays and catchments and the minimisation of waste production.

5.2. LOCAL PLANNING POLICY FRAMEWORK

5.2.1. Municipal Strategic Statement

Clause 21.01 – Introduction refers to the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan. The strategy plan was prepared to protect the special features and character of the region. The strategy supports urban containment to ensure conservation of natural resources and the amenity of residents and visitors. The strategy supports the retention and addition of open space along the Yarra and its main tributaries.

Clause 21.02 - Municipal Profile estimates a population of 145,000 residents with 70 per cent in the urban areas and the remaining in rural communities. The profile states that 68 per cent of the land in the municipality is Crown Land, 30 per cent is in private ownership and 2 per cent is managed by Council.

Clause 21.03 – Vision refers to Vision 2020- Community Plan which provides a strategic framework for the municipality. The vision is:

The Shire of Yarra Ranges will be a vibrant and dynamic Shire based on strong local communities living in a place of great natural beauty. Our world class Shire will be sustained by a strong local economy and a rich social fabric that is consistent with and support its environmental values.

The shire’s high quality environmental setting and landscape backdrop of the Dandenong Ranges and Yarra Valley are considered to enhance the overall appeal and attractiveness of the shire. The designations of ‘metropolitan’, ‘foothills’, ‘rural towns’ and ‘rural / green wedge’ are to be used to guide use and development
to the most appropriate and sustainable locations. The subject site is located within or just outside a ‘metropolitan’ area.

Clause 21.04 – Land Use lists the key issues for various land uses including residential use. The key issues for residential land use are considered to be:

- Providing greater housing choice to meet present and future community needs.
- Diversifying housing stock; existing stock is largely 3-4 bedroom detached.
- Facilitating affordable housing options in sustainable locations.
- Ensuring housing is adaptable to the needs of residents as they age and located in areas which minimise risk to older residents.
- Ensuring higher density residential development occurs in identified consolidation areas to maximise investment in facilities and services and employment opportunities.
- Regulating infill residential development in incremental and least changes areas to ensure it preserves and enhances the character of the established residential areas.
- Managing the demand for residential development in scenic, bushland and rural environments to minimise the associated impact on the environment, landscape and agricultural practices.
- Minimising residential development in areas subject to environmental constraints such as fire and landslip.
- Avoiding high infrastructure costs incurred in areas unsuitable for urban development due to environmental risks.

The subject site could be considered as being part of the incremental change area as it is located surrounded by Neighbourhood Residential Zone and the area has no Design and Development Overlay restricting built form further than the Neighbourhood Residential Zone.

Clause 21.08 – Subdivision – Objectives, Strategies and Implementation provides guidance in relation to subdivision applications. The relevant objectives are:

- Objective 1 - Subdivision in Residential Areas: Provide a range of lot sizes in appropriate locations to meet the needs of a diverse range of household types.
- Objective 2 – Subdivision Design: Promote subdivision that is functional and enhances the existing neighbourhood character.
- Objective 3 – Subdivision Rural Living Areas (Rural Living Zone and Green Wedge A Zone): Protect the landscape and environmental features of the area and provide a range of lifestyle choices for residents of the Shire.

Clause 21.07 – Landscape - Objectives, Strategies and Implementation provides guidance for applications in relation to preserving the attractive landscapes of the shire.

Clause 21.09 – Environment - Objectives, Strategies and Implementation provides guidance for applications in relation to preserving the areas of environmental sensitivity. The relevant objectives are:

Clause 21.09-1 Biodiversity:

- Objective 1 – Areas of Environmental Significance: To protect and conserve the environmental characteristics of the Shire which are of local, regional, state and national significance.
- Objective 2 – Vegetation: Permission for the removal of vegetation is required under the provisions of Clause 53 and 52.17 of this planning scheme as well as under the ESO and SLO. To protect and enhance the Shire’s rich biodiversity.
- Objective 3 – Catchment: To ensure land use and development is assessed in the context of its potential effect on the wider catchment.
Clause 21.09-2 – Environmental Hazards:

- **Objective 1** – To ensure that the use of land and development takes account of physical development constraints such as flood, fire and landslip and to control development in these areas.

The implementation of the strategies towards this objective include:

- Applying an Urban Floodway Zone to sites in urban areas where the potential for development is severely constrained by the risk of flooding.

Clause 21.09-3 – Sustainability:

- **Objective 1** – Sustainable Building Design: To ensure that the use of land, the construction of buildings and the carrying out of works are of a type, scale and design which do not adversely impact on the natural environment and take account of physical development constraints.

Clause 21.11 – Community Infrastructure – Objectives, Strategies and Implementation includes 2 objectives in relation to community infrastructure which are:

- **Objective 1** – Community Services: To improve access to a well-planned range of Shire-based community services that meet the current and future needs of residents.

- **Objective 2** – Recreation and Cultural Facilities: To establish a network of recreational, leisure and cultural facilities and programs which reflect the natural and environmental attributes of the Shire.

Clause 22.05 – Vegetation Protection applies to proposals which apply to remove native vegetation. The objectives of the policy are:

- Recognise the importance of remnant vegetation in providing wildlife habitat and corridors for wildlife movement, as a source of genetic diversity, as a place for recreation and as an important feature of the special landscape character of the Shire.

- Ensure that consideration is given to the effect of the removal of vegetation when assessing proposals to use and develop land.

- Protect and enhance the long term viability of all remnant vegetation, whether in a bushland, rural, green wedge or urban environment, especially if the vegetation is generally undisturbed.

- Ensure the conservation of remnant vegetation to sustain and enhance natural ecosystems for both plants and animals.

- Ensure that agricultural and land management practices protect and provide for the long term maintenance of remnant vegetation.

- Ensure that the clearing of remnant vegetation will not have any adverse effect on landscape values, wildlife habitat and wildlife corridors or lead to land degradation through soil erosion or loss of water quality.

- Protect and maintain vegetation communities and species of botanical significance, ensuring none are unnecessarily removed, threatened or destroyed.

- Conserve and protect the habitat of native fauna, especially species which are threatened or endangered.

- Recognise the importance of riparian vegetation to the protection of water quality within streams and wetlands and to the wildlife habitat values of these areas.

- Recognise the values of roadside vegetation and other linear reserves for retaining native vegetation, particularly if it is indigenous to the area within which it is growing, and maintaining and enhancing their value as movement corridors for wildlife.

- Recognise the landscape importance of mature plantings of exotic trees in rural, green wedge or farming areas and in the urban built environment and the contribution that the vegetation makes in defining the character of the area.

- Recognise the importance of vegetation in assisting soil stability in areas of high landslip risk and ensure that the effects of vegetation removal in these areas are kept to a minimum.
• Promote re-vegetation with native species, that are indigenous to the area within which they are to be used, as a means to increase and enhance areas of remnant bushland in the Shire and to assist in the sound management of land.

• Recognise that there is sufficient cleared land within the rural and green wedge areas of the Shire to provide for future agricultural, including farming, activities.

5.3. ZONE

5.3.1. Clause 35.03 - Rural Living Zone

The purpose of the Rural Living Zone is:

• To implement the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

• To provide for residential use in a rural environment.

• To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.

• To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.

• To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

The use of dwelling is as-of-right under the provisions of the Rural Living Zone subject to several conditions. Subdivision requires a permit under the provisions of the Rural Living Zone. Schedule 1 to the zone states that the maximum average lot yield is one lot per 2 hectares and the minimum lot size is 1 hectare.

5.3.2. Clause 32.09 – Neighbourhood Residential Zone

The purpose of the Neighbourhood Residential Zone is:

• To implement the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

• To recognise areas of predominantly single and double storey residential development.

• To limit opportunities for increased residential development.

• To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.

• To implement neighbourhood character policy and adopted neighbourhood character guidelines.

• To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The use of dwelling is as-of-right under the provisions of the Neighbourhood Residential Zone. Subdivision requires a permit under the provisions of the Neighbourhood Residential Zone. Under Schedule 1 to the Neighbourhood Residential Zone, there is no minimum lot size specified. Schedule 1 specifies a mandatory maximum building height of 9 metres.

5.4. OVERLAYS

The existing overlays are not proposed to be removed. These are described at Section 2.
5.5. PARTICULAR PROVISIONS

Clause 52.01 – Public Open Space Contribution and Subdivision requires that for proposals to subdivide land, in most cases, a public open space contribution must be made. No specific amount is listed in the schedule to the clause. No Development Plan Contributions Overlay applies to the site.

Clause 52.17 – Native Vegetation – requires a planning permit to remove, destroy or lop native vegetation. The purpose of the policy is:

- To ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:
  - Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.
  - Minimise impacts on Victoria's biodiversity from the removal of native vegetation.
  - Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.
- To manage native vegetation to minimise land and water degradation.
- To manage native vegetation near buildings to reduce the threat to life and property from bushfire.

Clause 53 – Upper Yarra Valley and Dandenong Ranges Region seeks to provide guidance for applications in relation to implementing the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan. The clause includes permit requirements for buildings and works and vegetation removal. The clause states that permits including for subdivision must meet the requirements of the schedule to the clause. The schedule to the clause aims to:

- Contain urban development to a level compatible with conservation of the Region’s rich environmental features and with its high standards of amenity.
- Define, in a positive manner, boundaries and principles upon which containment is to be handled, including specific policies which deal with the transition between the Region and metropolitan Melbourne.
- Establish policies to promote a sustainable community in economic, social and environmental terms.
- Ensure that rural land in the Region is protected and maintained for agricultural and rural activities and that rural landscapes are protected and maintained.
- Achieve a balance between protection of natural environmental values and amenity, while developing a comprehensive economic and social infrastructure to adequately meet the current and future needs of residents and visitors.

The schedule to the clause states that a permit is required for works within 10 metres of the bank of a waterway within the Rural Living Zone.

The schedule states that vegetation removal does not require permission under the clause for land within the Neighbourhood Residential Zone.

Clause 56 – Residential Subdivision sets out clear objectives and standards for the residential subdivision of land. An assessment of the proposed subdivision against the requirements of Clause 56 is set out at Appendix D. The purpose of the policy is:

- To implement the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To create liveable and sustainable neighbourhoods and urban places with character and identity.
- To achieve residential subdivision outcomes that appropriately respond to the site and its context for:
  - Metropolitan Melbourne growth areas.
  - Infill sites within established residential areas.
Regional cities and towns.

- To ensure residential subdivision design appropriately provides for:
  - Policy implementation.
  - Liveable and sustainable communities.
  - Residential lot design.
  - Urban landscape.
  - Access and mobility management.
  - Integrated water management.
  - Site management.
  - Utilities.

5.6. GENERAL PROVISIONS

Clause 65 – Decision Guidelines includes the following guidelines that must be considered in the assessment of subdivision applications:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of any body corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.
Clause 67 – Applications Under Section 96 of the Act provides for permit exemptions for classes of land use which would otherwise be applied for under s96 of the Act. This application is not exempt. The policy states that:

_in accordance with Section 52(1)(c) of the Act, notice of an application to remove, destroy or lop native vegetation under Clause 52.17 of this scheme must be given to the Secretary to the Department administering the Flora and Fauna Guarantee Act 1988._

_This does not apply if the application is of a kind which must be referred to the Secretary under Section 55 of the Act._

5.7. **RELEVANT STRATEGIC DOCUMENTS**

The following strategic documents are of relevance to the application.

5.7.1. **Plan Melbourne**

Plan Melbourne is the metropolitan planning strategy for Melbourne. The strategy seeks to guide sustainable planning under the following themes:

- Jobs and Investment
- Housing choice and affordability
- A more connected Melbourne
- Liveable communities
- Environment and water

Under these themes, directions and initiatives are established. The plan states that in the eastern subregion of Melbourne, there is a need to provide between 80,000 and 110,000 new dwellings to meet projected population growth by the year 2031.

Relevant directions of Plan Melbourne include:

- Direction 2.1 of the strategy seeks to understand and plan for expected housing needs.
- Direction 5.2 seeks to protect and restore natural habitats in urban and non-urban areas.
- Direction 5.5 seeks to integrate whole-of-water-cycle management to deliver sustainable and resilient urban development.

5.7.2. **Vision 2020 By Design (May 2008)**

This document prepared by Yarra Ranges Shire provides guidance mainly in relation to character types and building design, but does touch on subdivision in relation to appropriate locations and preserving important landscapes. The document states that:

_“The broad landscape character of the Shire can be diminished by the intrusion of new residential or industrial subdivisions which are characteristic of metropolitan fringe areas. The visual distinctiveness of existing towns and villages is a strong feature of the Shire. The particular characteristics of each locality should be reinforced when new development occurs on the edges of towns and villages so that these local characteristics are retained and emphasised. Interfaces with surrounding non-urban landscapes should be designed as an integral part of the pattern of growth” (Volume III, pp. 23)._ 

The key directions considered to determine the sustainable future of Yarra Ranges Shire are:

- Sense of Place
- Protection of Environments
- Design Quality
• Sustainable Urban Form
• Sustainable Building Design

The document places the subject site within a rural landscape area which is surrounded by a residential area and an industrial area.

5.7.3. Shire of Yarra Ranges Housing Strategy (May 2009)

Council's housing strategy is the shire’s long term plan for managing future housing growth to ensure the community’s needs are met into the future. The strategy acknowledges that the population of the shire at the time was 145,000 and that the shire is experiencing population and demographic changes. It is considered that 93.9 per cent of households are in separate houses, which is higher than the Victorian average of 77.5 per cent and that household sizes are expected to decline, as the household types of lone person and couples without children households emerge as popular types. It is considered that the availability of land for housing in the shire is significantly limited by the urban growth boundary and therefore, it is considered that if the shire is to meet some of the demand for new housing, that this will need to be accommodated within existing residential areas.

Map 2 of the strategy shows the Chirnside Park area which takes in the subject site. The site is shown as being located adjacent to an existing residential area which identified for restricted change. No guidance is provided for the subject site.

5.7.4. Upper Yarra Valley & Dandenong Ranges Regional Strategy Plan (Amendment No. 121)

The primary aim of the strategy plan is to ensure that the special character and features of the region are protected in the context of land use and development. The strategy plan is considered to provide a link between the broad state policies and the local policies and includes a requirement that the Minister must not approve a scheme amendment which is inconsistent with the Regional Strategy Plan.

The strategy considers that the region is important for the following reasons:

“The Region is important to Melbourne and Victoria because it provides water, agricultural and forest products, scenic landscapes, plant and animal communities, and an extensive range of recreational and tourism opportunities. The majority of the Region’s 135,000 population value living within its scenic and bushland environment.

“The Region supplies about 80 per cent of Melbourne’s domestic water requirements, mostly from closed forest catchments in the upper reaches of the Yarra River and its tributaries.” (pp4).

Additionally, the region’s contribution to Victoria’s flowers and turf growing industries and the growing of fruit, vegetables, cattle grazing and dairy production are considerable.

In relation to the strategy plan, the subject site is located within a landscape living buffer, which is surrounded by a township area and a Rural 1 area. The landscape living areas are considered to either already be used for residential and hobby farming activities or to provide a buffer between urban areas and rural land. Low density residential land use is preferred for these areas. For landscape living buffer areas, average lot sizes of 2 hectares are preferred with a minimum lot size of 1 hectare and a maximum lot size of 3 hectares. Interestingly, the landscape living buffer area that covers the subject site already includes residential lots that are of conventional sizes and not with a minimum of 1 hectare or average minimum sizes of 2 hectares.
The land to the north and south-west of the site are part of township areas according to the strategy plan. These areas are considered to be urban in character. The township policy states that township policy areas include all land shown in the Yarra Ranges Planning Scheme as being within the urban growth boundary. The subject site is located within the urban growth boundary but is not currently identified within the strategy plan as being within a township policy area. Arguably, the strategy plan should be amended to show the site as being within the township policy area. Within township policy areas, subdivision must be carried out in a manner whereby:

- **Each lot created will contain a development envelope which: wholly contains a slope less than 20%; is not affected by a floodplain management area, and can reasonably and safely be used for controlled and limited development, taking into account the risk of land instability.**

- **Each lot created is able to be connected to reticulated sewerage facilities, or where reticulated sewerage is not available, is capable of accommodating a satisfactory method of wastewater treatment and effluent disposal, which will ensure that the effluent can be contained within the curtilage of the lot (in compliance with requirements of the relevant State Environment Protection Policy).**

- **Significant natural features, such as watercourses, fern gullies, rock outcrops and remnant native vegetation, will be protected in the design and development of any subdivision.**

- **A satisfactory program for the preservation and planting of native vegetation is incorporated in any new subdivision proposal, to ensure that development is not detrimental to the landscape character of the area.**

- **The subdivision is carried out in a manner which protects residential neighbourhoods from through or heavy vehicular traffic.**

- **The provision of electricity, telephone or other telecommunication lines, for both reticulation within the area to be subdivided and for the supply to each lot, must, be underground, as a condition of subdivision.**
6. PLANNING CONSIDERATIONS – PLANNING SCHEME AMENDMENT

The proposed planning scheme amendment has been considered in the context of the provisions of the Strategic Assessment Guidelines established by the Department of Environment, Land, Water and Planning which consider the relevant clauses of the State and Local Planning Policy Frameworks. The proposal responds positively to the relevant considerations as examined in the following sections. The proposed rezoning has also been considered in the context of the criteria established by Practice Note 78 in relation to applying the residential zones and Practice Note 12 in relation to applying the Urban Floodway Zone.

6.1. STRATEGIC ASSESSMENT GUIDELINES ASSESSMENT

Following is an assessment of the proposed planning scheme amendment against the Strategic Assessment Guidelines:

6.1.1. Why is an amendment required?

The amendment is required in order to facilitate a 48 lot residential subdivision within an established urban environment and protect the Brushy Creek floodplain. The site is currently zoned Rural Living Zone, which restricts the opportunity to subdivide the site in a manner consistent with the surrounding urban context and policy in relation to residential development. The introduction of the Urban Floodway Zone is intended to help protect the Brushy Creek Floodplain from further development.

6.1.2. Does the amendment implement the objectives of planning and any environmental social and economic effects?

The proposed planning scheme amendment responds to the objectives of planning in Victoria by consolidating residential land and protecting natural resources. The amendment achieves this by creating appropriately zoned land for future residential development within an established residential area and by rezoning an area for the purpose of conserving the natural resource of the Brushy Creek. This responds to the objective of providing for the fair, orderly, economic and sustainable use and development of land. The rezoning of the area surrounding the Brushy Creek will also help to secure a pleasant, efficient and safe living environment for nearby residents as it will help to manage flood risk.

It is considered that the proposed amendment will have a positive environmental benefit for the following reasons:

• Maintaining floodplain functioning through the site;
• Enhancing water quality through the construction of 5,700 square metres of wetlands in the south-west section of the site, to treat flows from the creek;
• Protecting and enhancing biodiversity values through creation and retention of key habitat areas;
• Enhancing environmental values of the site through vegetation removal and appropriate offsets, along with rehabilitation of existing vegetation through an extensive weed control and revegetation program; and;
• Improving the appearance of a current degraded landscape for the benefit of the local community and future residents of the subdivision.

It is considered that the proposed amendment and subdivision proposal will have positive economic impacts, including facilitating the construction of a new residential subdivision to support the housing industry and new rateable properties for the Shire of Yarra Ranges, along with a substantial land transfer (accompanied by a ten-year maintenance agreement).

Having regard to the social effects of the proposal, the following amendment will enable a subdivision which will facilitate 48 dwellings of varying sizes, in a location that is well-connected and in an area with a growing population within the Urban Growth Boundary. Further, it provides a more formal open space associated with...
the residential subdivision, along with the rehabilitated natural open space of the reserve area, which includes pedestrian and bicycle links.

6.1.3. Does the amendment address relevant bushfire risk?

The proposed planning scheme amendment and permit address bushfire risk in accordance with the requirements of Clause 13.02 of the PPF, specifically through provision of defendable space setbacks within the subdivision design, to enable compliance with BAL 12.5 for all future dwellings.

A Bushfire Hazard Assessment for the proposal has been prepared by Brett Lane & Associates Pty Ltd, the objectives of which were to:

- Identify bushfire hazards in the form of classified vegetation in the vicinity of the proposed subdivision and determine Bushfire Attack Levels according to the Australian Standard AS3959-2009 – Construction of Buildings in bushfire prone areas; and
- Ensure that the proposal mitigates the risk to life and property from bushfire to an acceptable level, consistent with protection measures approved in Victoria by the Country Fire Authority and adopted into all planning schemes.

To meet the requirements of Clause 13.02, both a Bushfire Hazard Site Assessment and a Bushfire Hazard Landscape Assessment have been carried out. The subdivision plan and landscape plan incorporate the recommendations of these assessments.

6.1.4. Does the amendment comply with all the relevant Minister’s directions?

The amendment complies with the requirements of Minister’s Direction No.9 Metropolitan Strategy. The proposed planning scheme amendment and planning permit application seek to consolidate the existing urban area though a residential subdivision located within the Urban Growth Boundary, and with lot size and layout that provides for housing choice and respects the site and surrounding context.

The requirements of Minister’s Direction No.11 Strategic Assessment of Amendments have been taken into account in the preparation of this amendment.

6.1.5. Does the amendment support or implement the PPF?

In relation to the Planning Policy Framework (PPF) the proposed planning scheme amendment responds as follows:

- The amendment is in accordance with Clauses 11, 12, 14 and 16 as it will provide for a mix of lot sizes, open space linkages and improvements to the public open space along water ways.

- The amendment will contribute to the key objectives of this Clause by providing improved floodplain functioning; enhanced water quality; protection and enhancement of biodiversity values; creation of active and passive recreational opportunities; improved appearance of a current degraded landscape for the benefit of the local community and future residents of the subdivision; and incorporating a pattern of subdivision that provides for appropriate solar access.

- The proposed amendment achieves the objectives of Clause 12 which seek to preserve biodiversity and environmental values, plants and trees considered to be established or significant will generally be retained on the site. The amendment involves vegetation management to protect the residential subdivision from bushfire risk and the relevant native vegetation offsets have been calculated which takes into account the subdivision area and vegetation management. Further, the subdivision will provide for a residential development that is well-designed and creates connections between future residents and the site features, including view lines, creek habitats and native vegetation.

- In response to Clause 13, the proposed amendment would zone the land subject to flooding as Urban Floodway Zone, thereby preventing inappropriate future development within the Brushy Creek catchment.

- The amendment is consistent with the purpose of Clause 15, which seeks to ensure that all new land use and development appropriately responds to its landscape, valued built form and cultural context. The logical zoning for this site is Neighbourhood Residential Zone (Schedule 1) and Urban Floodway Zone due to the site’s location within an existing residential area and its environmental characteristics. Additionally, the amendment will facilitate the orderly development of urban areas. The proposal will
assist to consolidate an existing urban area thorough subdivision of the site within the Urban Growth Boundary.

- The location of the proposed residential zoning near existing services including public transport and other linkages is consistent with Clause 18.

- This proposed subdivision provides adequate infrastructure provision for the site with good access and integration with the surrounding road and bus network complying with the directions of Clause 19.

The subject site is one of the only parcels of land within the Urban Growth Boundary that remains in a Rural Living Zone. The site is mostly surrounded by Neighbourhood Residential Zone and it is therefore considered that the proposed amendment will not undermine the overall objectives of the Regional Strategy Plan (RSP).

6.1.6. Does the amendment support or implement the LPPF?

The proposal is consistent with the following clauses of the Local Planning Policy Framework:

- Clause 21.01 identifies the Upper Yarra Valley and Regional Strategy Plan 1996 (Regional Strategy Plan) identified above. The Strategy requires protection of vegetation and preservation of environmental values.

- Clause 21.04, which supports infill in sustainable locations.

- Clause 21.05, which supports consolidation of townships

- Clause 21.08 which seeks to ensure that subdivision responds to existing physical, environmental and visual characteristics of the site and surrounding area.

The proposed Planning Scheme Amendment responds to these clauses by creating new infill development within an established residential area while balancing environmental considerations. The area proposed to be rezoned to Neighbourhood Residential Zone was identified by considering the onsite native vegetation and seeking to retain the majority of it. The majority of the site is to be rezoned to Urban Floodway Zone which will assist to preserve the remaining native vegetation from further residential development. A flora and fauna assessment has also established the appropriate native vegetation offsets associated with the subdivision. For these reasons, it is considered that the proposed rezoning supports the relevant clauses of the Local Planning Policy Framework.

The environmental, economic and social impacts have been discussed at Section 6.1.2 of this report. The assessment concludes that the impacts will be beneficial and will assist in implementing the LPPF.

6.1.7. Does the amendment make proper use of the VPPs?

The proposed rezoning of the land to Neighbourhood Residential Zone and Urban Floodway Zone is an appropriate use of the Victoria Planning Provisions given the intention for the land to be subdivided in a similar manner to the surrounding land and in response to the presence of the creek and related factors affecting the site. The intended future use and development are consistent with Planning Practice Note 78 (Applying the Residential Zones) and Planning Practice Note 12 in relation to the Urban Floodway Zone.

The site meets 4 of the 6 relevant criteria of Practice Note 78 for applying the Neighbourhood Residential Zone due to the site’s position within an established conventional density neighbourhood and the physical characteristics of the site such as onsite vegetation and the Brushy Creek. The presence of the Environmental Significance Overlay further supports the application of the Neighbourhood Residential Zone which is a criteria of Practice Note 78. Please refer to Appendix E – Assessment against criteria of Practice Note 78.

In relation to the application of the Urban Floodway Zone, while a Land Subject to Inundation Overlay already affects part of the site, further restriction is considered appropriate, given the proximity to the creek. It is therefore considered that the remaining land should be located within a zone which prohibits residential use. Practice Note 12 states that the Urban Floodway Zone is to be used in situations where the risk of flooding is high and only low intensity uses and development are suitable. In the context of the future residential subdivision at the north-eastern corner of the site, the remaining land closer to the Brushy Creek is considered to fit this description.
6.1.8. How does the amendment address the views of any relevant agency?

The proposal has support from Melbourne Water and DELWP with regards to works within the floodplain area, waterway management, creation of the wetland area and removal of vegetation.

6.1.9. Does the amendment address the requirements of the Transport Integration Act 2010?

The proposed rezoning and development of 3.2 hectares of land for residential purposes, which will facilitate approximately 48 dwellings is considered to have minimal impact on existing transport infrastructure and networks. It is considered this amendment satisfactorily addresses the Transport Integration Act 2010.

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

The consideration and implementation of the proposed amendment is not anticipated to have any significant impact upon Council resources.

6.2. CULTURAL HERITAGE

A Cultural Heritage Management Plan (CHMP) has been approved for the residential subdivision. However, it is currently being updated to take into account the creation of the wetland and sediment pond and the potential for a bicycle path to be created through the site in the future.
7. PLANNING CONSIDERATIONS – PROPOSED SUBDIVISION AND WORKS

The proposed subdivision has been considered against the standards of Clause 56 and the relevant policies of the Yarra Ranges Planning Scheme. The key considerations for the proposed subdivision are considered to be:

- The appropriateness of the scale and design of the proposed subdivision in the context of the MSS and Neighbourhood Residential Zone
- Appropriateness of the proposed subdivision in the context of the Environmental Significance Overlay and Land Subject to Inundation Overlay
- Traffic considerations
- Vegetation and native vegetation removal
- Buildings and works for stormwater treatment, catchment management and flood mitigation
- Bushfire risk
- Easements

Many of these considerations are addressed by the Clause 56 Assessment provided at Appendix D. A summary of these considerations is provided below:


The proposed subdivision responds positively to the objectives and application requirements of the MSS and the proposed zone for the site, the Neighbourhood Residential Zone. Specifically, the proposed subdivision is supported by Clause 21.04 – Land Use and Clause 21.08 – Subdivision Objectives, Strategies and Implementation, by introducing a range of lot sizes to provide greater housing choice. Additionally, the subdivision responds to Clause 21.08 through a functional layout which will contribute to and enhance the neighbourhood character. This is achieved through a subdivision layout which is compatible with the adjoining residential areas in terms of lot site and landscaping opportunities. The proposed lot sizes are between 302 and 980 square metres. Additionally, the potential use of the non-residential land by Council could result in new bicycle infrastructure for example. The subdivision layout and lot sizes also aligns with the Neighbourhood Residential Zone objective of recognising areas of predominantly single and double storey residential development.

The proposed layout encourages development for a range of single dwelling sizes of a scale that is consistent with the zone objective of limiting opportunities for increased residential development and will support the objectives of managing neighbourhood character, heritage and landscape considerations. The proposed lot sizes are considered to be comparable with the surrounding subdivision pattern and are therefore considered to be compatible with the proposed Neighbourhood Residential Zone.

The proposed subdivision demonstrates a high level of compliance with the standards of Clause 56. A full response to this is provided at Appendix D and is supported by the traffic report prepared by Cardno dated 1 June 2016. In summary, the proposed subdivision provides the following response to the Clause 56 standards:

- The proposed subdivision will contribute to meeting housing needs in an established area;
- The proposed lot sizes will integrate well within the existing subdivision pattern in the area due to their compatible size;
- The proposed lots are of a size that can facilitate quality residential development in terms of solar orientation, access, private open space and car parking;
The subdivision involves the removal of weeds and a management plan which will ensure the ongoing maintenance of the non-residential component of the site;

The design and associated wetlands and sediment pond will address flooding issues and help to improve stormwater quality;

The subdivision design, involving a loop road will facilitate a slow traffic environment. Traffic volumes are expected to be appropriate in the context of their design;

The lots will be connected to reticulated potable water and sewerage, and;

The non-residential component of the subdivision will create public space which could facilitate a new bicycle link in the future.

7.2. APPROPRIATENESS OF THE PROPOSED SUBDIVISION IN THE CONTEXT OF THE ENVIRONMENTAL SIGNIFICANCE OVERLAY AND LAND SUBJECT TO INUNDATION OVERLAY

The subject site is located partially within an area affected by the Environmental Significance Overlay and the Land Subject to Inundation Overlay. The proposed subdivision responds appropriately to the objectives of these overlays. In relation to the Environmental Significance Overlay, the affected part of the site is located within area B27 in relation to botanical significance, which is referenced in the Upper Yarra Ranges and Dandenong Ranges Regional Strategy Plan as an "isolated remnant of wetland vegetation surrounded by pasture". The site is also noted for zoological significance. A full site description in relation to this is provided at Section 5 of the Flora and Fauna report prepared by Brett Lane and Associates. Generally, the site is considered to have been used for some form of agriculture in the past and that current management is limited to bushfire mitigation around the periphery. The site is also surrounded mostly by residential development. The most distinctive feature of the site is the Brushy Creek and flood plain consisting of swamps. To the east and north of the Brushy Creek is modified riparian woodland. Weeds are also present in various areas. The flora and fauna report also describes the habitat provided at the site.

The proposed residential subdivision is to be located away from the Brushy Creek to protect biodiversity values in and adjacent to the creek. Weeds are to be removed and managed throughout the site. This is considered to address the decision guidelines of the Environmental Significance Overlay and the application requirements of Schedule 1 to the Environmental Significance Overlay.

The proposal is also considered to respond appropriately to the decision guidelines of the Land Subject to Inundation Overlay as the proposal is accompanied by works to create a wetland and additional flood storage. Discussions between the applicant’s consultants and Yarra Valley Water and Melbourne Water have informed the proposed design. In relation to water quality, the subdivision is also accompanied by a proposal to construct a sediment pond to treat flows from the residential subdivision.

7.3. TRAFFIC CONSIDERATIONS

The proposed roads and access are considered to meet the objectives and relevant standards of Clause 56. Specifically, the proposed internal road has been designed as a loop road with a road reserve width of 15 metres. This will facilitate carriageway widths of 6.7 metres and verges of 5.15 metres including footpaths of 1.5 metres. The subdivision is therefore considered to meet the requirements of the CFA. The type of road is considered to be an Access Place and the projected volumes for the subdivision are between 360-480 vehicles per day which is within the recommended limit for Access Places as specified at Clause 56. This will also ensure that the traffic environment along Meadowbank Avenue will not be noticeably impacted by the proposed subdivision and future residential development. The traffic report recommends that crossovers are back-to-back to maximise the amount of on street car parking. The proposed plan shows back-to-back crossovers where practical.

7.4. VEGETATION AND NATIVE VEGETATION REMOVAL

A planning permit is required under Clause 42.01-2 - Environmental Significance Overlay for vegetation removal and under Clause 52.17 for native vegetation removal. Clause 53.01-1 (Upper Yarra Ranges and Dandenong Ranges Region Provisions) also requires a permit for vegetation removal. However, there is an exemption for sites within the Neighbourhood Residential Zone.
Environmental Significance Overlay Schedule 1 – Sites of Botanical and Zoological Significance aims to protect sites as core habitat areas. The schedule references the Shire’s extensive areas of remnant bushland as an intrinsic part of the unique landscape and environmental character. The key objectives of the schedule relate to the habitat provided by vegetation and remnant vegetation. Clause 21.09 – Environment Objectives, Strategies and Implementation and Clause 22.05 – Vegetation Protection are relevant to proposals to remove native vegetation. These provide locally relevant expressions of the policies of Clause 11.04-5 – Environment and Water and Clause 12.01 – Biodiversity from the Planning Policy Framework.

The Brett Lane and Associates Habitat Hectare Assessment recorded 139 plant species. Of these, 61 were indigenous (44 per cent) and the remaining species were introduced or non-indigenous. Several weeds were also found to be dominating the understorey vegetation and several high threat weeds were found further upslope. The proposed subdivision and associated works will involve the removal of 3.342 hectares of native vegetation from remnant patches. The Flora and Fauna Report prepared by Brett Lane and Associates dated March 2016 recommends post-construction weed control from the outer residential subdivision boundary (43 metres to the likely residential building envelopes) to reduce bushfire risk to the proposed residential subdivision. The proposed subdivision minimises the amount of native vegetation removal by confining the subdivision area to the north-eastern corner of the site.

Brett Lane and Associates has outlined the approach to offsetting the native vegetation removal. The report also includes offset calculations (separately) for native vegetation removal in the hypothetical situation where a shared path is constructed at the site. The calculated offset requirement for the proposed native vegetation removal (not including a shared path) is 1.186 general biodiversity equivalence units with a minimum strategic biodiversity score of 0.496 in the Port Phillip and Westernport Catchment Management Authority. The proposal was assessed under the moderate risk assessment pathway. If Council constructs a shared path, the offset increases to approximately 1.190 general biodiversity equivalence units.

As the proposal only seeks to subdivide land furthest from the creek for residential development and involves weed removal and a management plan for the balance of the site, the proposed subdivision is consistent with the relevant strategies of Clause 21.09, offset requirements of Clause 52.17, the key objectives of Schedule 1 to the Environmental Significance Overlay, the policy at Clause 11.04-5 – Environment and Water, Clause 12.01 – Biodiversity and Clause 22.05 – Vegetation Protection which seek to protect vegetation, native vegetation and natural habitats. This is also considered to address the decision guidelines of Clause 52.17-5 in relation to applications considered under the moderate risk-based pathway. Additionally, the planning scheme amendment will put in place an Urban Floodway Zone which will safeguard the banks of the creek from future development. This will prevent the incremental loss of remnant vegetation, protect and rehabilitate habitats and controls weeds at the site and for this reason, respond directly to the strategies associated with Objectives 1 and 2 of Clause 21.09-1. The assessment prepared by Brett Lane and Associates concludes that the development footprint will not have a proportional impact on any rare or threatened species which further confirms the appropriateness of the subdivision and associated vegetation removal.

Full details relating to the proposed vegetation removal are provided in the report prepared by Brett Lane and Associates March 2016. It is considered that the proposal represents a net ecological gain in relation to the management of the remaining native vegetation. Specifically, the native vegetation will be managed and weeds will be removed and controlled which will significantly improve the ecological value of the vegetation onsite.

7.5. **BUILDINGS AND WORKS FOR STORMWATER TREATMENT, CATCHMENT MANAGEMENT AND FLOOD MITIGATION**

A planning permit is required for buildings and works under Clause 42.01-2 Environmental Significance Overlay, Clause 44.04 – Land Subject to Inundation Overlay, and Clause 53 – Upper Yarra Valley and Dandenong Ranges Region requires a permit for works within 10 metres of the bank of a waterway within the Rural Living Zone (which is the current zoning of the site).

Given the presence of the Brushy Creek through the centre of the site and the site’s topography, the site is affected by the Land Subject to Inundation Overlay. In this context, it is considered necessary to provide for alternative flood storage to offset the lost capacity from proposed subdivision in the north-east portion of the site and to treat flows from the subdivision before they reach the creek. It is also considered appropriate to ensure that the subdivision does not have a negative effect on the water quality of the surrounding catchment. The proposed subdivision includes a new wetland to the south of Brushy Creek to treat flows...
from the creek. Additionally, a sediment pond is proposed to be created to treat flows from the proposed subdivision before they reach the creek. Please refer to the Engineering Plan prepared by Reeds Consulting. The proposed system will facilitate an improvement to the current situation in relation to drainage and stormwater treatment.

Reeds Consulting has mapped the site and proposed subdivision in relation to 1 in 100 year flooding and designed an appropriate scenario to address flooding and catchment protection. Melbourne Water and Yarra Valley Water have been engaged to identify whether there is a need for a wetland at the site. An appropriate arrangement in relation to this is being discussed with Melbourne Water. The proposal for a wetland and sediment pond is expected to be supported by Melbourne Water given the engagement to date. The proposed wetland, flood storage and sediment pond will address flood risk to the proposed residential subdivision and surrounding area and will assist to treat flows through the creek and from the subdivision to improve or maintain stormwater quality. For this reason, the proposal is considered to address the considerations set out by the Land Subject to Inundation Overlay and Objective 1 of Clause 21.09-2 – Environmental Hazards. Clause 53 does not provide decision guidelines or objectives in relation to stormwater, flooding and catchment management.

7.6. BUSHFIRE RISK

The subject site is not affected by a Bushfire Management Overlay, but it is located within a bushfire prone area. In response, a Bushfire Hazard Assessment for the proposal has been prepared by Brett Lane & Associates Pty Ltd, which includes a Bushfire Hazard Site Assessment and a Bushfire Hazard Landscape Assessment.

The Assessment recommends that a defendable space setback be provided to the south and west corresponding to the adoption of a BAL-12.5 construction rating for all new dwellings. Defendable space will be provided to a distance of 57 metres according to Table 2.4.2 of AS 3959-2009 and will be achieved in the following ways:

- A 14-metre-wide road reserve has been placed along the southern boundary of the development;
- A number of lots on the southern side of the subdivision, adjacent to this road, will have a 5-metre building exclusion zone, secured through a Section 173 agreement on title;
- A further 38 metres of vegetation will be modified in the adjacent open space area up to Brushy Creek and managed according to defendable space management requirements.

7.7. CLAUSE 56 ASSESSMENT

The proposed subdivision responds positively to all relevant objectives of Clause 56 and meets the majority of the standards. Please refer to Appendix D for a full response to the objectives and standards.

7.8. AMENDMENT TO THE UPPER YARRA VALLEY & DANDENONG RANGES REGIONAL STRATEGY PLAN (NO. 121)

The Upper Yarra Valley & Dandenong Ranges Regional Strategy Plan currently shows the site as being located within a Landscape Living Buffer area. For these areas, the strategy specifies minimum lot size of 1 hectare. Based on the site's context within the urban growth boundary and as it is surrounded by an area of Neighbourhood Residential Zone and several lots which are also within the Landscape Living Buffer area and are smaller than 1 hectare, it is considered to be appropriate that the strategy is amended to enable smaller lot sizes on this site, those nearby which already do not comply with the strategy and those which are located within the urban growth boundary.

The current categorisation of areas within the strategy is considered to be an anachronism from before the more recent changes to the urban growth boundary and after some of the subdivisions in the area. Corrections to the maps would not compromise the purpose or function of the strategy plan. For these reasons, it is considered appropriate to correct the categorisation of some of the land in the area within the Upper Yarra Valley & Dandenong Ranges Regional Strategy Plan. This could be included in this planning scheme amendment or could be approached as part of a separate initiative by Council.
8. CONCLUSION

This combined planning scheme amendment, buildings and works and subdivision application demonstrates a high level of consistency with the relevant provisions of the Yarra Ranges Planning Scheme, the aims of the Yarra Ranges and Dandenong Ranges Regional Strategy Plan and provides a compelling response to the objectives for planning in Victoria. Broadly, the proposed subdivision is appropriate within its physical, strategic and statutory contexts which are based on a conventional density subdivision pattern and neighbourhood character consisting of detached single and double storey dwellings. Importantly, the proposal responds to the Regional Strategy Plan and local policies by facilitating additional housing stock within an established residential area.

The proposed works to accompany the proposed subdivision (new wetlands and sediment pond) have been designed to address the site’s unique physical characteristics, involving the Brushy Creek environs, site topography and onsite vegetation. These works address potential flood risk for the surrounding residential areas and will ensure that stormwater quality is appropriately managed. The subdivision and wetlands have also been appropriately considered in terms of the necessary native vegetation removal offsets and it has been concluded that the proposal will not have a noticeable impact on native habitats.

Additionally, the proposal presents a unique opportunity for new pedestrian and cycling infrastructure which could take the form of for example, a new shared path connection through the site, crossing the Brushy Creek. Although not proposed as part of the works associated with this request, the applicant has conducted investigations into the provision of such infrastructure on behalf of Council in terms of a suitable alignment and native vegetation offsets and it is considered to be a viable option should Council wish to utilise the land in this way.

Overall, the proposed combined planning scheme amendment, subdivision, works and vegetation removal application together with a management plan for the ongoing management of the non-residential land will improve the current conditions of the site in terms of water quality and weed control. For the reasons explored in this report, the request is considered to be worthy of support and an excellent opportunity for Council and the wider community.
DISCLAIMER

This report is dated 8 November 2016 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd’s (Urbis) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Intrapac Projects Pty Ltd (Instructing Party) for the purpose of s96A planning application (Purpose) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.
APPENDIX A  CERTIFICATE OF TITLE
Register Search Statement - Volume 10386 Folio 482

LAND DESCRIPTION
----------------
Lot 3 on Plan of Subdivision 403716J.

PARENT TITLES:
Volume 10005 Folio 513 to Volume 10005 Folio 514
Created by instrument PS403716J 09/06/1998

REGISTERED PROPRIETOR
---------------------
Estate Fee Simple
Sole Proprietor
ASHLYN SPRINGS PTY LTD of UNIT 1701 582 ST KILDA ROAD MELBOURNE VIC 3004
X362104L 13/03/2001

ENCUMBRANCES, CAVEATS AND NOTICES
---------------------------------
Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION
----------------
SEE PS403716J FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS
-----------------------------
NIL

END OF REGISTER SEARCH STATEMENT------------------------

Additional information: (not part of the Register Search Statement)

Street Address: HOLLOWAY ROAD WONGA PARK VIC 3115

DOCUMENT END
TRANSFER OF LAND
Section 45 Transfer of Land Act 1958

Lodged by:  
Name: DAVID KOMPSA RE
Phone: .........................................................
Ref.: .........................................................
Customer Code: 1078D

The transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed and subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer.

Land: (volume and folio reference)
Volume 10386 Folio 482

Estate and Interest: (e.g. “all my estate in fee simple”)
All its estate in fee simple

Consideration: $550,000.00

Transferor: (full name)
ERICON PTY LTD ACN: 004 627 043.

Transferee: (full name and address including postcode)
ASHLYN SPRINGS PTY LTD ACN: 093 240 352
Unit 508, 582 St. Kilda Road, Melbourne 3004.

Directing Party: (full name)

Dated: 14TH DECEMBER 2000

Execution and attestation:

THE Common Seal of
ERICON PTY. LTD.
ACN: 004 627 043
was affixed in the presence of authorised persons:

Director: ........................................
Full Name: ABRAHAM HARRY SHAPIRO
38/16 Macarthur Road, Main Beach
Usual Address: PO Box 4217

Director: ........................................
Full Name: LORNA EUNICE SHAPIRO
38/16 Macarthur Road, Main Beach
Usual Address: PO Box 4217

Approval No. 571987L

ORDER TO REGISTER
Please register and issue title to

Signed Cust. Code:  

STAMP DUTY USE ONLY
Original Transfer of Land
Stated with $28,660.00
Tax: 968833 09-MAR-2001
Stamp Duty Victoria, EYFO

THE BACK OF THIS FORM MUST NOT BE USED
ANNEXURE PAGE
Transfer of Land Act 1958

This is page \( \checkmark \) of Approved Form dated between the parties

ERICON PTY. LTD. to ASHLYN SPRINGS PTY. LTD.
Signatures of the parties

Panel Heading

Executed by ASHLYN SPRINGS PTY. LTD. ACN 093 240 352 by being signed by those persons authorised to sign for the Company

Director
Full name: Gerald Anthony Kellar
Usual address: Unit 508, 582 St. Kilda Road, Melbourne, 3004.

Director
Full name: Allan Bernard Rutman
Usual address: 119 Eskdale Road, Caulfield, 3162.

1. If there is insufficient space to accommodate the required information in a panel of the Approved Form insert the words “See Annexure Page 2” (or as the case may be) and enter all the information on the Annexure Page under the appropriate panel heading. THE BACK OF THE ANNEXURE PAGE IS NOT TO BE USED.

2. If multiple copies of a mortgage are lodged, original Annexure Pages must be attached to each.

3. The Annexure Pages must be properly identified and signed by the parties to the Approved Form to which it is annexed.

4. All pages must be attached together by being stapled in the top left corner.
PLAN OF SUBDIVISION

Stage No. LTO use only Edition 2 Plan Number
/ EDITION 2 PS 403716J

Location of Land
Parish: WARRANDYTE
Township: —
Section: —
Crown Allotment: —
Crown Section 13 (PART)

LTO base record: CHART 52
Title References: C/T Vol.10005 Fol. 513
& Vol.10005 Fol. 514
Last Plan Reference: LP 11118 LOTS 1 & 2 (PART)
Postal Address: 2-8 Brushy Park Road
(Wong Park) WONG PARK

AGM Co-ordinates: E 349 600 Zone 55
N 819 100 Zone 55

Vesting of Roads or Reserves
Identifier Council/Body/Person NIL NIL

Council Certification and Endorsement
Council Name: Shire of Yarra Ranges
Ref: G125
1. This Plan is certified under Section 6 of the Subdivision Act 1988
2. This plan is certified under section 117(1) of the Subdivision Act 1988
   Date of original certification under section 6
   Date: / / 98
3. This is a statement of compliance issued under section 21 of the
   Subdivision Act 1988

OPEN SPACE
(a) A requirement for public open space under Section 18 Subdivision
   Act 1988 has not been made.
(b) The requirement has been satisfied
(4) The requirement is to be satisfied in Stage
   Council delegate
   Council seal
   Date: / / 98

Re-certified under section 117(1) of the Subdivision Act 1988
Council delegate
Council seal
Date: / / 98

Notations
Depth Limitations: Nil
Staging: This is not a staged subdivision
Planning permit No. PE 96/811
Survey: This plan is based on survey
(To be completed where applicable)
This survey has been connected to permanent marks no is
in Proclaimed Survey Area no

Easement Information
Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

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LTO use only
Statement of compliance/Exemption Statement
Received ☑

Date: 27/5/98

LTO use only
PLAN REGISTERED
TIME: 9:00 DATE: 9/6/98

Assistant Registrar of Titles

Sheet 1 of 2 Sheets

MAHON & MAHON PTY LTD
LAND SURVEYSORS & URBAN PLANNERS
26 CUMMELL STREET, CALLEDLE 3122
P.O. BOX 2949 CALLEDLE 3122 PHONE (03) 9523 7111 FAX (03) 9523 7390

LICENSED SURVEYOR (PRINT): JAMES PATRICK GLEESON

SIGNATURE .... DATE .... REF 89-09-07/2 VERSION: 8

ACN 610 402 218

DATE / / COUNCIL DELEGATE SIGNATURE

Original sheet size A3
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WARNING: THE IMAGE OF THIS DOCUMENT OF THE REGISTER HAS BEEN DIGITALLY AMENDED. NO FURTHER AMENDMENTS ARE TO BE MADE TO THE ORIGINAL DOCUMENT OF THE REGISTER.
APPENDIX B  PROPOSED PLAN OF SUBDIVISION
For Cross Section Details, refer to Typical Cross Section Plan.

This plan has been prepared for review and comment only and should not be used for any other purpose without the written consent of Reeds Consulting PTY LTD. The plan is subject to survey, title and easement verification, engineering design, approval from council and all other relevant authorities. Landscaping, footpaths, driveway crossovers and nature strips are indicative only and subject to change. No reliance should be placed on the information on this plan for detailed design or for any financial dealings involving the land.

The Subject Site is comprised of one Certificate of Title, being Lot 3 on PS 403716J. Dimension shown have been derived from the Title and not survey dimensions.

This plan has been prepared for review and comment only and should not be used for any other purpose without the written consent of Reeds Consulting PTY LTD. The plan is subject to survey, title and easement verification, engineering design, approval from council and all other relevant authorities. Landscaping, footpaths, driveway crossovers and nature strips are indicative only and subject to change. No reliance should be placed on the information on this plan for detailed design or for any financial dealings involving the land.

The Subject Site is comprised of one Certificate of Title, being Lot 3 on PS 403716J. Dimension shown have been derived from the Title and not survey dimensions.

For Cross Section Details, refer to Typical Cross Section Plan.
APPENDIX C  PROPOSED ZONING
This plan has been prepared for review and comment only and should not be used for any other purpose without the written consent of Reeds Consulting PTY LTD. The plan is subject to survey, title and easement verification, engineering design, approval from council and all other relevant authorities. No reliance should be placed on the information on this plan for detailed design or for any financial dealings involving the land.

The Subject Site is comprised of one Certificate of Title, being Lot 3 on PS 403716J. (Vol.10386, Fol.482)

NOTATIONS

- SUBJECT SITE (10.22ha)
- PROPOSED NEIGHBOURHOOD RESIDENTIAL ZONE (3.186ha)
- PROPOSED URBAN FLOODWAY ZONE (7.030ha)
APPENDIX D  CLAUSE 56 ASSESSMENT
ASSESSMENT AGAINST THE OBJECTIVES AND STANDARDS OF CLAUSE 56

Standard C1 – Policy Implementation

The proposal responds positively to Standard C1 of Clause 56 as follows:

The proposed rezoning and subdivision will facilitate infill residential development and the proposed wetlands will ensure that the creek is properly considered and integrated into a whole of water cycle management arrangement. For these reasons, the proposal supports Council’s Housing Strategy which encourages infill development within the urban growth boundary and also supports the following directions of Plan Melbourne:

- Direction 2.1 of the strategy seeks to understand and plan for expected housing needs.
- Direction 5.2 seeks to protect and restore natural habitats in urban and non-urban areas.
- Direction 5.5 seeks to integrate whole-of-water-cycle management to deliver sustainable and resilient urban development.

The proposal is also considered to appropriately address the aims of the Upper Yarra Valley and Dandenong Ranges Strategy Plan by appropriately designing the proposed lots to integrate with the surrounding subdivision pattern and by thoroughly considering the nearby creek in the design. The scenic bushland environment will also benefit from weed removal and ongoing maintenance of the creek environs due to the management plan associated with the subdivision which further responds to the Strategy Plan.

Standard C5 – Built Environment

The proposed rezoning and residential subdivision will facilitate a built form outcome that is consistent with the surrounding Neighbourhood Residential Zone land and the predominantly single dwelling development in the area. The proposed subdivision layout also appropriately responds to its context near a creek in a Land Subject to Inundation Overlay in terms of mitigating potential flooding using a wetland and sediment pond. A landscape design will enable the proposed subdivision to integrate with and contribute to the character of the area.

Standard C7 – Lot Diversity and Distribution

The proposed lots are considered to be appropriate within the context of the surrounding subdivision pattern and surrounding Neighbourhood Residential Zoned land. The lot sizes range from 302 to 980 square metres and provide for an appropriate setback from the creek which will preserve much of the native vegetation on the site. For these reasons, the proposed rezoning and subdivision respond well to the relevant objectives of Clause 21.08 – Subdivision Objectives, Strategies and Implementation:

- Objective 1 - Subdivision in Residential Areas: Provide a range of lot sizes in appropriate locations to meet the needs of a diverse range of household types.
- Objective 2 – Subdivision Design: Promote subdivision that is functional and enhances the existing neighbourhood character.

Appendix D Clause 56
Objective 3 – Subdivision Rural Living Areas (Rural Living Zone and Green Wedge A Zone):
Protect the landscape and environmental features of the area and provide a range of lifestyle choices for residents of the Shire.

Standard C8 – Lot area and building envelopes
The proposed lots are generous in size (ranging between 302 and 980 square metres) and can therefore appropriately accommodate buildings with good access to sunlight, private open space, access, car parking and servicing. Building envelopes are not proposed.

Standard C9 – Solar orientation of lots
The lots are considered to be oriented to achieve good solar access.

Standard C10 – Street orientation
All lots are positioned to front onto streets and only one of the proposed 48 lots has a direct side boundary to public open space. Visibility and passive surveillance of the streets and open spaces will therefore be appropriately provided.

Standard C11 – Common area
There are no common areas to be owned by a body corporate. The roads and non-residential land are to be handed over to Council.

Standard C12 – Integrated urban landscape
The subdivision has been designed to provide for sufficient space for attractive locally responsive street planting and nature strips. A landscape plan can be prepared to follow this application.

Standard C13 – Public open space provision
The subdivision will create public space and wetlands of 7.030 hectares. The land is heavily vegetated, so cannot be considered open space. It is envisaged that with this land, Council could introduce a bike track to connect to the existing bicycle network. Recommendations have been made by Brett Lane and Associates regarding weed removal and revegetation in the Flora and Fauna Report prepared in March 2016. This is with the understanding that the part of the land outside the residential subdivision will be Council land and used as public space. Providing this space and the potential for a bike track is considered to address this standard.

Standard C14 - Integrated mobility
Not applicable to this category of subdivision.

Standard C15 – Walking and cycling network
The subdivision will connect to the surrounding footpaths and roads to ensure that new residents are able to walk and cycle to and from the subdivision. The public space outside of the residential part of
The subdivision will enable a cycling or shared path to be created if considered necessary by Council. This will provide a connection through from Meadowbank Avenue to Holloway Road.

**Standard C16 – Public Transport network**
Not applicable to this category of subdivision.

**Standard C17 – Neighbourhood street network**
The proposed roads will be neighbourhood streets which will not need to connect to arterial roads. The speed environment will be that of a residential neighbourhood and the layout, with only one entry point will not encourage through traffic. Therefore, traffic into the subdivision is likely to be limited to residents and visitors. As the subdivision involves a loop road rather than cul de sacs, access out of the subdivision will be possible without reversing. The layout of the roads will also facilitate appropriate solar orientation of lots and will integrate well with the surrounding neighbourhood character and identity.

**Standard C18 – Walking and cycling network detail**
Footpaths will be located on both sides of the road and will connect to the footpaths on Meadowbank Avenue. The new roads will connect with the existing road network. New public transport stops will not be necessary due to the size and location of the subdivision.

**Standard C19 – Public transport network detail**
The subdivision will not require any public transport infrastructure.

**Standard C20 – Neighbourhood street network detail**
The traffic report prepared by Cardno characterises the proposed internal roads as an Access Place. For this category of road, the proposed roads are considered to be designed appropriately. Expected traffic volumes are expected to be between 360 and 480 vehicles per day and the 15 metre road reserve will facilitate appropriately sized carriageways and verges with footpaths and landscaping. This may not be able to meet Standard C20. However, the report prepared by Cardno confirms that the proposed subdivision will meet the requirements of the CFA.

**Standard C21 – Lot Access**
The report prepared by Cardno recommends that back-to-back crossovers are used to maximise the amount of on street car parking. As mentioned previously, traffic volumes are appropriate for this type of road and meet the standard as set out in Table C1. An adequate carriageway width, footpaths and kerbing can be accommodated.

**Standard C22 – Drinking Water Supply**
An efficient and cost-effective drinking water supply will be connected to the site using the surrounding infrastructure.
Standard C23 – Reused and Recycled Water
Recycled water may be provided as part of the proposed subdivision.

Standard C24 – Waste Water Management
The subdivision will be connected to the existing neighbourhood reticulated sewerage system.

Standard C25 – Urban Run-off Management
A stormwater treatment system will be provided for the subdivision in the form of a sediment pond located near the banks of Brushy Creek. The pond is being designed and will be managed in accordance with the requirements of Melbourne Water and Yarra Valley Water to treat runoff from the subdivision.

Standard C26 – Site Management
It is proposed to provide the details of site management as a condition of permit.

Standard C27 – Shared Trenching
Reticulated services for water, gas, electricity and telecommunications will be provided in shared trenching where possible.

Standard C28 – Electricity, Telecommunications and Gas
The residential lots will each be provided with electricity and gas and will be connected to a telecommunications system. These will be provided to the satisfaction of the relevant authorities.

Standard C29 – Fire Hydrants
Fire hydrants will be provided as required for convenient access by fire fighters and to the satisfaction of the CFA.

Standard C30 – Public Lighting
Public lighting is to be provided for safety of pedestrians, cyclists and drivers and will be designed to Australian Standards.
APPENDIX E

ASSESSMENT AGAINST CRITERIA OF PRACTICE NOTE 78 – APPLYING THE RESIDENTIAL ZONES
ASSESSMENT AGAINST CRITERIA OF PRACTICE NOTE 78 – APPLYING THE RESIDENTIAL ZONES

The following criteria established in Practice Note 78 for applying the residential zones are relevant to the proposed rezoning to Neighbourhood Residential Zone. The site and context meet the criteria for Neighbourhood Residential Zone in 4 of 4 instances for the relevant criteria.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Applicable to Neighbourhood Residential Zone (low levels of residential change)</th>
<th>Criteria achieved?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Strategic</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Adopted housing and development strategy (not required for conversion only to GRZ)</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Character</td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>Level of development activity</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(existing and desired)</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Character</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Retention of identified</td>
<td></td>
</tr>
<tr>
<td></td>
<td>neighbourhood character (such as</td>
<td></td>
</tr>
<tr>
<td></td>
<td>evidenced through HO, NCO, DDO,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>significant intactness)</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Character</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Heritage areas which impose</td>
<td></td>
</tr>
<tr>
<td></td>
<td>significant constraints on increased</td>
<td></td>
</tr>
<tr>
<td></td>
<td>housing development</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Character</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Existing landscape or environmental</td>
<td></td>
</tr>
<tr>
<td></td>
<td>character/constraints (evidenced</td>
<td></td>
</tr>
<tr>
<td></td>
<td>through SLO, ESO, local policy)</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Constraints</td>
<td>High</td>
</tr>
<tr>
<td></td>
<td>Risk associated with known hazard</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(evidenced through BMO, LSIO or</td>
<td></td>
</tr>
</tbody>
</table>

Appendix E Practice Note 78
The proposed rezoning of the north-eastern portion of the site to Neighbourhood Residential Zone is consistent with the purposes of the zone. The purpose, likely application and principles associated with rezoning to Neighbourhood Residential Zone are:

**Purpose**
Restricts housing growth in areas identified for urban preservation.

**Likely application**
In areas where single dwellings prevail and change is not identified, such as areas of recognised neighbourhood character, heritage environmental or landscape significance.

**Principles in applying zones**
- Areas with a neighbourhood character that is sought to be retained
- Areas where more than 80% of lots currently accommodate detached dwellings
- Areas with Neighbourhood Character Overlays
- Residential areas with Heritage Overlays (such as larger heritage precincts, rather than individually recognised heritage sites)
- Areas of identified environmental or landscape significance.
- Areas which may not have good supporting transport infrastructure or other infrastructure, facilities and services and are not likely to be improved in the medium to longer term

The proposed rezoning to Neighbourhood Residential Zone is appropriate given that the character of the surrounding residential areas consists of predominantly single and double storey detached dwellings. The subject land is considered to be suitable for a similar type of development.

Additionally, the site is affected by an Environmental Significance Overlay relating to botanical and zoological significance and is also affected by the Land Subject to Inundation Overlay in relation to potential flooding from the Brushy Creek. For this reason, it is considered appropriate to limit development density to preserve onsite vegetation and to ensure that development does not unreasonably increase flood risk to residential areas.

| EMO for fire, flood and landslip or other constraints identified through EPA hazard buffers or similar | 4/6 criteria met |