

7. BUSINESS PAPER

PLANNING, DESIGN AND DEVELOPMENT

7.1 Amendment C177 - Restructure Overlay Correction: Consideration of submissions and referral to Planning Panel

SUMMARY

At the Ordinary Council Meeting of 11 December 2018 Council resolved to prepare and exhibit Planning Scheme Amendment C177 – Restructure Overlay Correction.

Amendment C177 implements recent work on the Restructure Overlay, to review controls and improve the fairness of this Overlay for landowners. The Amendment was exhibited from the 14 November 2019 to 14 January 2020 with 22 submissions received. Generally, submissions requested to modify the restructure maps (in the Incorporated Document) to align with existing ownership patterns; or to completely remove properties from the Restructure Overlay. This report provides the details of submissions received to the Amendment during public consultation.

Council must consider each submission. In the case of submissions seeking to change the Amendment, Council must either change the amendment as requested or refer the submission to a planning panel. Council also has the option to abandon the amendment or any part of it affected by a submission.

In response to the submissions, some changes to the exhibited Amendment are recommended as outlined in this report. However, given some submissions cannot be resolved it is recommended that Council refer Amendment C177 and submissions to an independent Planning Panel appointed by the Minister for Planning. The contents of this report will provide the basis for Council's submission to the Planning Panel.

Moved: Cr Child
Seconded: Cr McAllister

That Council

1. *Consider the submissions made in response to the exhibition of Planning Scheme Amendment C177.*
2. *Having considered the submissions, request the Minister for Planning to appoint an independent Planning Panel under section 23 of the Planning and Environment Act 1987 to consider the submissions.*
3. *Write to all submitters advising them of Council's decision to refer submissions to a panel and continue to work with submitters to clarify and resolve outstanding issues where possible.*
4. *Present a submission generally in accordance with the position outlined in this report and appendices, at the Panel Hearing.*

The motion was Carried unanimously.

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No. of Pages – 8

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RESPONSIBLE OFFICER Director Planning Design & Development

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Amendment C177 implements recent work on the Restructure Overlay, to review controls and improve the fairness of this Overlay for landowners. The Amendment was exhibited from the 14 November 2019 to 14 January 2020 with 22 submissions received. Generally, submissions requested to modify the restructure maps (in the Incorporated Document) to align with existing ownership patterns; or to completely remove properties from the Restructure Overlay. This report provides the details of submissions received to the Amendment during public consultation.

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In response to the submissions, some changes to the exhibited Amendment are recommended as outlined in this report. However, given some submissions cannot be resolved it is recommended that Council refer Amendment C177 and submissions to an independent Planning Panel appointed by the Minister for Planning. The contents of this report will provide the basis for Council's submission to the Planning Panel.

RECOMMENDATION

That Council

1. ***Consider the submissions made in response to the exhibition of Planning Scheme Amendment C177.***
2. ***Having considered the submissions, request the Minister for Planning to appoint an independent Planning Panel under section 23 of the Planning and Environment Act 1987 to consider the submissions.***
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4. ***Present a submission generally in accordance with the position outlined in this report and appendices, at the Panel Hearing.***

DISCLOSURE OF CONFLICTS OF INTEREST

The author of this report does not have a conflict of interest.

PROPOSAL

Planning Scheme Amendment C177 – Restructure Overlay Correction has been exhibited. Amendment C177 corrects the Restructure Overlay in response to identified redundancies and anomalies and improves the Restructure Overlay's fairness on landowners. Broadly, Amendment C177 includes the following components:

- Allowing planning permit applications for small extensions to existing dwellings and to construct or extend other buildings (for example a shed or carport) where title boundaries are inconsistent with the restructure maps in the Incorporated Document Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council
- Removing land in the Restructure Overlay where the Overlay is redundant
- Correcting the Restructure Overlay where it is inaccurate or unclear and correcting zoning anomalies where land has been found to be in the wrong zone
- Making changes to the Schedule to Clause 45.05 (Restructure Overlay), the Schedule to Clause 72.03 (Maps comprising part of this Scheme), the Schedule to Clause 72.04 (Table of documents Incorporated in this Scheme) and the *Incorporated Document Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council*, to enable the above.

Amendment C177 avoids making changes to the Restructure Overlay where its removal would result in the potential for additional dwellings to be constructed, other than where anomalies have been identified.

Following the consideration of submissions, it is recommended Council refer the Amendment and submissions to an independent Planning Panel appointed by the Minister for Planning.

Attachment 1 contains the exhibited Explanatory Report for Amendment C177. A report containing individual responses to submissions received and recommended changes is at Attachment 2. Attachment 3 contains a summary list of recommended changes to Amendment C177.

BACKGROUND

Restructure Overlay

The Restructure Overlay is applied to land in Yarra Ranges categorised as 'old and inappropriate subdivisions'. In the past, as early as the 1920s, some land in Yarra Ranges was subdivided without adequate knowledge of issues such as topography, bushfire risk, significant vegetation and erosion. Consequently, some areas had a development potential beyond what the land could accommodate if each lot contained a dwelling.

To ensure the future development of these areas avoided causing detriment, a series of restructure maps were created illustrating how to consolidate lots into more suitable conditions for the development of single dwellings. By creating larger lots, issues such as absorbing waste on site (septic systems), landslip and siting dwellings to reduce fire risk could be addressed. Restructure maps/controls were part of earlier planning schemes applied in the area before the creation of the Yarra Ranges Planning Scheme. Some restructure controls also appear in the *Upper Yarra and Dandenong Regional Strategy Plan (RSP)*.

With the first Yarra Ranges Planning Scheme in July 2000 and standardised planning controls in Victoria, these restructure maps were translated into the Restructure Overlay and associated maps. Each Restructure Overlay gives effect to a restructure map, identifying how lots within each subdivision must be reconfigured to allow for the construction of a dwelling. In many cases this means several lots must be consolidated into one. In the absence of lot consolidation, the Overlay prohibits any extensions to dwellings or out buildings.

Planning controls under the Restructure Overlay

The Restructure Overlay requires:

- A planning permit to subdivide land. The configuration of lots must be in accordance with a restructure map that is incorporated into the Restructure Overlay. Some minor modifications can be permitted to the layout providing no additional lots or subdivision potential is created. The applicant must demonstrate that all wastewater can be treated and retained on site
- A planning permit to construct or extend a dwelling or other building. No permit can be issued unless the lots are in accordance with the Restructure Plan. This means that where dwellings exist on lots not restructured, there is no ability to extend or add out buildings.

The Restructure Overlay is a planning tool intended for ongoing review. Once land has been consolidated in accordance with the layout required, the Restructure Overlay achieves its purpose and generally can be removed from the land. As such, Amendment C177 will remove almost 1500 sites from the Restructure Overlay.

Amendment C177 exhibition

Amendment C177 was exhibited from 14 November 2019 to 14 January 2020, pursuant to the statutory notification requirements under the *Planning and Environment Act 1987*. Notice was published in the *Government Gazette* on 14 November 2019 and 12 November 2019 editions of the *Lilydale and Yarra Valley Leader*, *Mountain Views Mail*, *Upper Yarra Mail*, *Ranges Trader Mail* and *Mount Evelyn Mail*. Written notice was sent by mail to all landowners in the Restructure Overlay, totalling 2455 letters. In addition, information was available from Council's website.

Four parties took the opportunity to meet with a planner and more than 150 calls were received regarding the Amendment. A total of 22 submissions were received, of which one was late. Of the 19 submissions seeking changes to Amendment C177, seven contain changes that can be supported and the remaining 12 request changes that cannot be accommodated. South East Water made a submission that had no objection to the amendment.

STRATEGIC LINKS

Council Plan 2017-21

Amendment C177 supports the following strategic objectives from the Council Plan 2017-21:

- Quality Infrastructure and Liveable Places
- Protected and Enhanced Natural Environment.

The Amendment facilitates subdivision provisions which protect the natural environment by ensuring development is within the capability of the land. A more detailed strategic analysis of the Amendment is included in the Explanatory Report Attachment 1.

CONSULTATION

This report considers the outcomes of the public exhibition of Amendment C177, which took place from 14 November 2019 to 14 January 2020 and was pursuant to the statutory notification requirements under the *Planning and Environment Act 1987*. A full summary of submissions is included as Attachment 2. Details of submissions are discussed in Key Issues.

After considering submissions Council has the option to either change the amendment in the manner requested, refer submissions to a Planning Panel for a third party assessment and recommendation, or abandon the amendment or part of the amendment. Under the requirements of the *Planning and Environment Act 1987* Council is required to refer unresolved submissions to an independent Planning Panel.

The submissions have been assessed and some remain unresolved. Accordingly it is recommended that the submissions be referred to an independent Planning Panel for consideration. Changes are also recommended to the Amendment, which are discussed further in this report.

FINANCIAL IMPLICATIONS

Amendment C177 can be accommodated in the Strategic Planning 2019/20 operational budget.

KEY ISSUES

Issues raised in submissions

A summary of submissions is presented below; individual responses to submissions are available in Attachment 2.

1. Restructure maps should be modified to remove consolidation requirements

There was concern about the Restructure Overlay being overly restrictive and continuing to prevent the construction of dwellings on vacant land, which is required to be consolidated with adjoining land, or the replacement or extension of existing dwellings in the Restructure Overlay.

Response:

There is no strategic support for removing restructure maps where consolidation has not occurred. No change is recommended to Amendment C177.

Amendment C177 maintains the long-standing policy of the Yarra Ranges Planning Scheme and RSP preventing additional dwellings from being built in a Restructure Overlay. Modifying the Restructure Overlay in the manner requested by submitters is contrary to the intent to limit development in identified old and inappropriate subdivisions. Under Section 46F of the *Planning and Environment Act 1987*, the Minister for Planning cannot approve an amendment that is inconsistent with the RSP.

Amendment C177 proposes to overcome some of the restrictions imposed by the Restructure Overlay by allowing planning permit applications for small extensions to existing dwellings and to construct or extend other buildings (for example a shed or carport) where title boundaries are inconsistent with maps in the Incorporated Document.

Recommended changes: No change to Amendment C177.

2. Restructure maps should be modified to vary consolidation requirements

Some submitters requested variations to restructure maps in the Incorporated Document to reflect existing patterns of ownership rather than requiring the consolidation of lots in the configuration specified on restructure maps.

Response:

Amendment C177 does not propose any changes to lot configurations specified on restructure maps except for situations where they have been found to be inaccurate or unclear.

Under Clause 45.05 (Restructure Overlay) of the Yarra Ranges Planning Scheme, minor modifications to the lot configurations shown on restructure maps may be permitted. Applicants must demonstrate all wastewater can be treated and retained on site, among other relevant requirements.

There is no strategic support for the requested change to Amendment C177. Should submitters wish to re-subdivide lots in a configuration varying from the lot layout shown in the Restructure Overlay, they can, together with owners of adjoining land, apply for a planning permit to achieve this. However, any realignment would need to ensure no further subdivision opportunities were created and no net increase in the amount of dwellings allowed in the Restructure Overlay area. Applying for a planning permit is not contingent on Amendment C177.

Recommended changes: No change to Amendment C177.

3. Changes to Incorporated Document ordinance

Two submissions believe changing the wording in the Incorporated Document from “dwelling entitlements allowed by the Restructure Plan” to “potential dwellings allowed by the Restructure Plan” is detrimental.

Response:

The phrase ‘dwelling entitlements’ implies that land owners who consolidate their titles in accordance with a restructure map can then construct a dwelling without the need for a planning permit assessment. However, land in the Restructure Overlay is typically highly constrained and subject to a number of restrictive controls such as the Bushfire Management Overlay and Erosion Management Overlay, which proposals also need to satisfy. Additionally, dwellings are a discretionary use in many zones. Therefore, the change in wording acknowledges a planning permit to construct a dwelling could *still* be required, even if the Restructure is satisfied.

Recommended changes: No change to Amendment C177.

4. Compensation and property values

Some submissions raised that landowners should be compensated for lots unsuitable for development, or a buyback scheme should be introduced to purchase these lots because they cannot be developed under the Restructure Overlay.

Response:

Planning compensation is only available for land being acquired for public use and is denoted for compulsory acquisition. The process for land acquisition is set out in the *Land Acquisition and Compensation Act 1986*. The Restructure Overlay does not attract this type of compensation.

The State Government has previously indicated it is not willing to purchase land in the Ben Cairn Estate.

While Council appreciates landowners offering to sell properties for market value, it will not acquire any property that does not hold strategic value for the community.

Recommended changes: No change to Amendment C177.

Summary of recommended changes to Amendment C177 following exhibition

The exhibition of Amendment C177 raised some issues resulting in recommended changes for presentation to a Planning Panel as part of Council’s submission. In summary, these changes include:

- Removing the Restructure Overlay from some specific sites because lots have either been consolidated in accordance with the Restructure Overlay or re-subdivided in a manner that satisfies the Restructure Overlay
- Removing the Restructure Overlay from the land because lots have been developed in accordance with the Restructure Overlay’s requirements

- Changing the name of some Restructure Overlays in the schedule to Clause 45.05 (Restructure Overlay) and Incorporated Document to make it easier to identify the location of land in the Restructure Overlay and making minor mapping changes.

Responses to individual submissions and recommended changes are in Attachment 2 and a summary list of recommended changes is in Attachment 3.

Recommended changes: Modify Amendment C177 consistent with the recommendations listed in Attachment 3.

Environmental Impacts

Removing lots from the Restructure Overlay will not have any adverse environmental effects. Planning permit applications to extend dwellings and other outbuildings in the Restructure Overlay does not exempt consideration of other Overlays which require permits for the removal of vegetation and protect landscape and the environment.

Achieving restructures and consolidating titles will deliver lots which have capacity to upgrade and replace old septic systems, which will improve the environmental quality of local streams and watercourses.

Social Impacts

Removing redundant controls and allowing planning permit applications to extend existing dwellings and construct or extend other buildings will reduce confusion for members of the public regarding the future use and development of affected land. The original intent of the Restructure Overlay to protect human safety and minimise risk has been preserved in the changes proposed.

Economic Impacts

The proposed changes to the Restructure Overlay will make it possible for owners of existing dwellings to apply for a planning permit to extend existing dwellings and construct or extend other buildings as intended by Clause 45.05 (Restructure Overlay) of the Yarra Ranges Planning Scheme. Commercial agricultural or horticultural operators will be able to appropriately change and develop their properties as required.

Risk Assessment




There is no increased risk associated with Amendment C177. Amendment C177 will not create additional development opportunities on land which has been identified as having environmental risk (such as in landslip or fire risk areas).

CONCLUSION

Council has prepared Planning Scheme Amendment C177, which makes corrections to the Restructure Overlay. Amendment C177 was exhibited and 22 submissions were received. Given the concerns addressed in submissions, it is recommended that Council request the Minister for Planning appoint a Planning Panel to review the submissions and Amendment C177.

Council's submission to the Panel will be based on the recommendations contained in this report.

ATTACHMENTS

- 1 Amendment C177 - Exhibited Explanatory Report [↓](#) 
- 2 Amendment C177- Responses to individual submissions [↓](#) 
- 3 Amendment C177 - Summary list of recommended changes [↓](#) 

Planning and Environment Act 1987

**YARRA RANGES PLANNING SCHEME
AMENDMENT C177YRAN
EXPLANATORY REPORT**

Who is the planning authority?

This amendment has been prepared by the Yarra Ranges Council, which is the planning authority for this amendment.

Land affected by the Amendment

The Amendment applies to the following properties:

- 12-14, 16, 18, and 20 Torry Hill Road, Upwey;
- 32 Dunstan Crescent, Tremont;
- 1 Mount Dandenong Tourist Road, Tremont;
- Lot CA80D6 in Blacksands Road, Three Bridges; and
- all land in Yarra Ranges Council affected by the Restructure Overlay.

What the amendment does

The amendment proposes to remove land mapped in the Restructure Overlay, amend the schedule to Clause 45.05 (Restructure Overlay), amend the related Incorporated Document and its title in Clause 72.04.

Specifically, the proposed amendment:

1. Deletes the Restructure Overlay from properties where it does not serve the purpose of consolidation, is anomalous or the intended purpose has been satisfied, as explained in the report exhibited with the Amendment.
2. Amends the Incorporated Document titled "Restructure Plan for Old and Inappropriate Subdivisions in the Yarra Ranges Council, December 2015" to:
 - a. Add an objective;
 - b. Amend the permit requirements for dwellings and other buildings; and
 - c. Amend and delete Restructure Maps to delete land from the Restructure Overlay, move land from one Restructure Map to another, show closed roads, remove special requirements, and amend lot boundaries in a way that will not allow any further dwellings or subdivision potential; and
3. Rezones Lot CA80D6 in Blacksands Road, Three Bridges from a Green Wedge Zone Schedule 5 to a Public Conservation and Resource Zone to correct an error.
4. Aligns the zone boundaries of the Public Conservation and Resource Zone and the Green Wedge A Zone Schedule 1 to property boundaries to correct an anomaly at 32 Dunstan Crescent, Tremont and 1 Mount Dandenong Tourist Road, Tremont.
5. Aligns the zone boundaries of the Public Conservation and Resource Zone and the Low Density Residential Zone with property boundaries to correct anomalies at 12-14, 16, 18, and 20 Torry Hill Road, Upwey.
6. Make consequential changes to the Schedule to Clause 45.05 (Restructure Overlay), the Schedule to Clause 72.03 (Maps comprising the Planning Scheme), and the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme).

Strategic assessment of the Amendment

Why is the Amendment required?

The amendment is required to update the Restructure Overlay. Generally, the amendment rationalises and corrects the Planning Scheme, reducing regulatory burden for the end users of the Planning Scheme.

The Restructure Overlay in Yarra Ranges is a translation of restructure controls applied in the four former Shires of Lillydale, Sherbrooke, Healesville and Upper Yarra, prior to Council amalgamations and the creation of Yarra Ranges Council. The associated Restructure Overlay plans, showing the way land can be subdivided and developed for dwellings, were mostly created in the late 1970s and 1980s and were influenced by property ownership at that time.

Given the length of time since their creation, it is now proposed to modify the Restructure Overlay to make it less restrictive for minor matters such as extensions to existing dwellings and extensions or construction of non-habitable outbuildings and agricultural buildings. These concessions acknowledge that homes affected by the Restructure Overlay may now be 40 years old and require some additions or outbuildings which are currently prohibited. The Bushfire Management Overlay and the Erosion Management Overlay did not exist when the Restructure Overlay was applied but will continue to apply to any extensions or relevant outbuildings.

The proposed Amendment does not allow for the construction of any additional dwellings or creation of any new lots.

It is also intended to delete or realign the Restructure Overlay in cases where it has been found to be anomalous or unclear. The changes proposed will improve the fairness, accuracy and transparency of the planning scheme.

How does the Amendment implement the objectives of planning in Victoria?

The amendment will help to implement the following objectives of planning in Victoria. In particular, it will:

- *Provide for the fair, orderly and economic use and development of land.*
The amendment will achieve this by rationalising and clarifying the Restructure Overlay, and removing redundant land, ensuring the Restructure Overlay does not continue to apply where it is no longer required.
- *Secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
The amendment will achieve this by maintaining the Restructure Overlay on land identify old and inappropriate subdivisions which are to be restructured.
- *Facilitate appropriate development.*
The removal of redundant land from the Restructure Overlay will allow appropriate development to proceed, subject to all parts of the Yarra Ranges Planning Scheme.

How does the Amendment address any environmental, social and economic effects?

The amendment will have no adverse environmental or social effects as it does not relate to a specific development proposal/s and it will not create additional dwelling entitlements.

It will enable property owners to apply for a planning permit for the extension of a dwelling on a non-conforming restructure lot, provided it is restricted to less than 50% of the existing dwelling's gross floor area.

The removal of the Restructure Overlay controls will remove unnecessary permit related costs for owners and occupiers in the future and remove permits which add no value to the objectives of the Restructure Overlay.

Does the Amendment address relevant bushfire risk?

The purpose of the Restructure Overlay is to encourage lot consolidation and reduce the number of dwellings. The Restructure Overlay was applied for a variety of reasons which can include: bushfire risk, lack of infrastructure or environmental hazards such as landslip. Bushfire and landslip risk are now identified through specific overlays, which are applied in addition to the Restructure Overlay, and will not be removed by this amendment.

The amendment does not change any policy or controls relating to managing or mitigating bushfire hazards. Importantly, the amendment will not allow for the creation of additional lots or construction of additional dwellings.

Generally, the amendment rationalises and corrects the Planning Scheme, reducing regulatory burden for matters unrelated to the Bushfire Management Overlay, and therefore will not increase bushfire risk.

One of the proposed changes allows permit applications for extensions to existing dwellings or the construction of outbuildings to be considered in instances where title boundaries do not conform to restructure layout plans. These provisions have been modelled on, and are consistent with, those in the Bushfire Management Overlay. No extensions greater than 50% of the dwelling are allowed, keeping the number of dwellings static and preventing major renovation/extensions.

A potential increase in other buildings, such as garages and outbuildings, will not result in an increased risk to life as these are not habitable buildings.

In determining these permit applications the Responsible Authority will have regard to Clause 13.02-1S (Bushfire planning), Clause 45.05 (Restructure Overlay), and Clause 65.01 (Approval of an Application or Plan), each of which require an assessment of bushfire risk to be undertaken prior to any decision being made. In accordance with this, planning decisions will not increase bushfire risk to life, property, or community infrastructure.

The actions proposed by the Amendment to mitigate bushfire risk are consistent with Clause 13.02-1S (Bushfire Planning), which prevents the approval of a 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 AS 3959-2009 Construction of Buildings in Bushfire-prone Areas (Standards Australia, 2009).

These actions are also consistent with Clause 71.02-3 (Integrated Decision Making), which states in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.

The proposal will be referred to the Country Fire Authority for comment.

Does the Amendment comply with the requirements of any Minister's Direction applicable to the amendment?

Ministerial Direction – The Form and Content of Planning Schemes

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes.

Ministerial Direction No. 9 Metropolitan Planning Strategy

The Amendment is affected by Ministerial Direction No. 9 – Metropolitan Strategy under Section 12 of the *Planning and Environment Act 1987*. Plan Melbourne is the adopted Metropolitan Strategy for the Melbourne region and Yarra Ranges Council.

The amendment is consistent with Plan Melbourne Direction 4.5: Plan for Melbourne's green wedges and peri-urban areas, which contains policy seeking to avoid development in locations where there is risk to life, property, the natural environment and infrastructure from natural hazards such as bushfire and flooding.

Ministerial Direction No. 11 - Strategic Assessments of Amendments

The requirements of Ministerial Direction No. 11 - Strategic Assessment of Amendments have been considered in the preparation of Amendment C177 and form the basis of this Explanatory Report.

Ministerial Direction No. 17 Localised Planning Statements

The Yarra Ranges Localised Planning Statement applies to all land in Yarra Ranges Council. Below is a response to relevant policy statements:

- *Ensure development areas are not subject to environmental or other development constraints.*
The removal of the Restructure Overlay from some land that has met its intent will not lead to increased dwelling development or subdivision potential. Hence, these will not become 'development areas' as a result of this Amendment.
- *Subdivision in all rural areas must conform to the subdivision provisions of the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan.*
As above, the Amendment will not affect subdivision provisions or capacity.
- *Limit the extent of residential development within the green wedge areas on the Mount Dandenong Ridge (Areas within the Green Wedge Zones).*
The Amendment will not lead to potential for additional dwellings.

- *Implement the restructure of land holdings where inappropriate subdivision has occurred without regard to environmental, servicing or landscape considerations.*
The Amendment seeks to clarify and rationalise the Restructure Overlay. It will continue to apply and guide the restructure of land holdings where relevant.
- *Ensure environmental risks are considered in planning decisions.*
The Amendment will allow planning applications for some development that was formerly prohibited, such as extension of dwellings where the lot configuration does not match the Restructure Overlay requirements. In these cases, planning assessments will consider all relevant parts of the Planning Scheme relating to environmental risks, as well as the views of any relevant public agency.

How does the Amendment support or implement the State Planning Policy Framework and any adopted State policy?

The proposed amendment is consistent with the following State policies in the Planning Policy Framework:

- 11.01-1R Green Wedges – Metropolitan Melbourne: The amendment considers as relevant the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan.
- 11.03-5S Distinctive Areas and Landscapes: The amendment considers as relevant the Yarra Ranges Localised Planning Statement.
- 12.05-1S Environmentally sensitive areas: The amendment does not facilitate development that would diminish the environmental conservation or recreational values of the Upper Yarra Valley and Dandenong Ranges. It will only facilitate smaller scale development.
- 12.05-2S Landscapes: The amendment will retain zones and overlays which seek to ensure that development does not detract from the natural qualities of significant landscape areas. The Restructure Overlay will continue to apply in areas identified to be consolidated.
- 13.02-1S Bushfire planning: The amendment will not result in the introduction or inappropriate intensification of development in areas that are in the Bushfire Management Overlay or identified within a designated bushfire prone area.
- 13.03-1S Floodplain management: The amendment will ensure development will continue to avoid intensifying the impact of flooding through inappropriately located use and development by maintaining the Restructure Overlay on land which requires consolidation. The amendment maintains the Land Subject to Inundation or Special Building Overlay on sites at risk of flooding.
- 13.04-2S Erosion and landslip: The amendment will maintain planning provisions that prevent inappropriate development in unstable areas prone to erosion. The Erosion Management Overlay will continue to be applied to areas identified subject to erosion or instability.
- 14.01-1S Protection of agricultural land: The amendment will contribute to protecting strategically important agricultural and primary production land from incompatible uses by continuing to require the consolidation of land in identified old and inappropriate subdivisions.
- 16.01-5S Rural residential development: The amendment will contribute to managing development in rural areas in order to protect agriculture, and avoid inappropriate rural residential development by continuing to require the consolidation of land in identified old and inappropriate subdivisions.

How does the Amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

The amendment will contribute to implementing the following aspects of the Local Planning Policy Framework:

- 21.04-1 Residential, Objective 4 Green Wedge Residential: The amendment supports policy providing for residential use that: reinforces the rural and landscape character of the rural areas, does not lead to the loss of productive agricultural land, maintains the existing low density of residential development in the rural areas, and protects the rural character and environmental and visual qualities of the surrounding area.
- 21.04-3 Agriculture – Objectives, Strategies, Policy and Implementation, Objective 1 Agriculture: Retaining appropriate consolidation requirements for land in the Restructure Overlay supports strategies to maintain and strengthen the agricultural role of the municipality.

- 21.07 Landscape – Objectives, Strategies and Implementation: Objective 1 Scenic Landscapes: The amendment implements strategies to retain and protect the scenic landscapes, rural and green wedge character and special environmental features of the municipality and prevent the further fragmentation of rural and green wedge landholdings in non-urban areas.
- 21.08 Subdivision – Objectives, Strategies and Implementation, Objective 5 - Old and Inappropriate Subdivision: The amendment implements policy to minimise the adverse environmental effects and other community servicing difficulties resulting from residential development in old and inappropriate subdivisions in rural and green wedge areas. It will do so by maintaining a program to restructure old and inappropriate subdivisions to create a more sustainable density of development and restrict development on vacant lots not suitable for a dwelling.
- 21.09-1 Biodiversity – Objective 1, Areas of Environmental Significance: The amendment implements policy seeking to ensure that the use of the land, 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.
- 21.09-2 Environmental Hazards: The amendment implements policy seeking 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 areas affected by the Restructure Overlay.

Is the amendment consistent with the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan?

Section 46F of the *Planning and Environment Act 1987* requires that any amendment to the Yarra Ranges Planning Scheme must be consistent with the *Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan* (RSP). Regarding the Restructure Overlay, the RSP's purpose was "to ensure that potentially serious environmental and social impacts resulting from inappropriate subdivision development are overcome."

Amendment C177 is entirely consistent with the RSP. It makes administrative changes to the Overlay. It will have no effect on further subdivision nor does it change any subdivision provisions. In instances where the Overlay is being removed, it is due to:

- the restructure being completed
- no restructure required (i.e. single lot identified in Restructure Overlay maps) and
- no further subdivision being possible.

The Restructure Overlay, like a Development Plan Overlay, requires certain planning outcomes (in this case lot consolidation). Once these have been achieved, the purpose of the Overlay has been met. Provided the outcome cannot be compromised by future planning applications, the control has achieved its desired outcome and it can be removed as redundant. This does not make it inconsistent with the RSP which only identified areas to be considered for restructure. The RSP does not apply any planning controls.

In its letter to Council officers DELWP specifically asked Council to address the following points:

- *Review the proposed changes to RO105 as the land is within a Special Study Area of the Regional Strategy Plan. DELWP officers consider this part of the amendment to be inconsistent with the RSP. Should Council proceed with the removal of RO, justification for an amendment to the RSP would be required.*

Response: RO105 – The change is to remove the RO from Lot 80F which is a single lot – and is not required to be restructured with any other lots. There is no potential for lot 80 F to be further subdivided, so there is no reason this would be inconsistent with the Regional Strategy Plan or require an amendment. As per the technical report, RO105 was previously reviewed by a Planning Panel for the New Format Planning Scheme and recommended some land be removed from the Overlay. Removing single lots from the Restructure Overlay does not change any subdivision provisions and is consistent with the RSP.

- *Review those groups of small lots (usually 4.0 hectares or less) proposed to be removed from the RO (particularly where consolidation was not required or achieved) to ensure their removal would not conflict with policy in Chapter 11.03.*

Response: Chapter 11.03 of the Regional Strategy Plan outlines a work program for the continued application of the Restructure Overlay which has been progressively implemented (and updated) in the 40 years since the RSP was completed. As noted earlier in this report, the Restructure Overlay in Yarra Ranges Planning Scheme is the amalgamation of earlier controls contained in the four Council areas that became Yarra Ranges Council. The restructure controls were undoubtedly influenced by the Regional Strategy Plan's Special Study Areas – thus being in the same location. A change to the Overlay, once the restructure has been completed, does not make this amendment inconsistent with the RSP.

Does the Amendment make proper use of the Victoria Planning Provisions?

The Amendment will result in planning scheme zones that better reflect the land tenure and land use planning objectives for the land. The Amendment makes appropriate use of the Victoria Planning Provisions through the implementation of zones and overlays to appropriately guide use and development of the relevant land. The purpose of the Restructure Overlay is "to identify old and inappropriate subdivisions which are to be restructured." Therefore, once lots have been consolidated in accordance with a restructure plan, the Restructure Overlay has served its purpose and can be removed from the land. As stated above, rural zones and overlays in the Yarra Ranges Planning Scheme effectively restrict the further subdivision of specific sites and manage possible environmental impacts or impacts to landscape character. Amendment C177 will not affect the ongoing application of these zones and overlays.

How does the Amendment address the views of any relevant agency?

The prescribed government agencies will be notified of the Amendment and will be given an opportunity to make submissions about the Amendment.

Does the Amendment address relevant requirements of the Transport Integration Act 2010?

The Amendment seeks to remove redundancies from the Restructure Overlay and clarify its operation, including closed roads. Restructure controls have applied to closed roads in the Restructure Overlay since the late 1970s and 1980s, with many of these closed roads subsequently consolidated into private land over time.

In addition, the land parcels affected by the Amendment are widely dispersed throughout the municipality and are generally of a smaller scale. In this way, the impact on the road network is negligible.

Therefore, the amendment will not impact the relevant requirements of the *Transport Integration Act 2010*, in particular the need for the transport system to provide for the effective integration of transport and land use.

Resource and administrative costs

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

The amendment will have a positive effect on resource and administrative costs as it is removing redundant planning controls from the Planning Scheme and in doing so, reducing planning permits which have no value add. The amendment will reduce administrative costs for Council.

Where you may inspect this Amendment

The Amendment is available for public inspection, free of charge, during office hours at the following Yarra Ranges Community Link Centres:

- Lilydale – 15 Anderson Street, Lilydale
- Monbulk – 21 Main Road, Monbulk
- Healesville – 110 River Street, Healesville
- Upwey – 40 Main Street, Upwey
- Yarra Junction – 2442-2444 Warburton Hwy, Yarra Junction

The Monbulk, Healesville, Upwey and Yarra Junction Community Links are open from 9.00am to 5.00pm Monday to Friday.

The Lilydale Community Link is open from 8.30am to 5.00pm Monday to Friday and from 9.00am to 12 midday on Saturday.

The Amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection and Yarra Ranges Council website at www.yarraranges.vic.gov.au by searching "Amendment C177."

Submissions

Any person who may be affected by the Amendment may make a submission to the planning authority. Submissions about the Amendment must be received by 14 January 2020.

A submission must be sent to Strategic Planning, Yarra Ranges Council, PO Box 105 Lilydale VIC 3140.

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- Directions hearing: week commencing 6 April 2020
- Panel hearing: week commencing 4 May 2020



Yarra Ranges Planning Scheme
Amendment C177 –
Restructure Overlay Correction

Responses to submissions and
recommended changes following
public exhibition

April 2020

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1.0 Introduction

Amendment C177 implements work on the Restructure Overlay, which continues to review controls and improve the fairness of this Overlay for landowners.

Amendment C177 was exhibited between 14 November 2019 to 14 January 2020, pursuant to the *Planning and Environment Act 1987*, and as a result a total of 22 submissions were received. Some submissions raised issues that add to the understanding of the history of subdivision and development in the affected areas, and can be addressed by making reasonable changes to C177. Thirteen submissions request changes that are not supported.

As many of the submissions refer in detail to specific land areas, this report has been prepared to explain the submissions, with maps, and the reasons informing responses to submissions. This report should be read in conjunction with the report considered by Council at its 14 April 2020 meeting titled *Amendment C177 – Restructure Overlay Correction: Consideration of submissions*.

2.0 Analysis of submissions

2.1 Submissions from agencies

Submission 8: South East Water

South East Water did not have an objection to Amendment C177.

Response to submission

South East Water's position is noted.

2.2 Submissions that can be resolved

Submissions 2 and 9: 31 and 29 Lyrebird Avenue, East Warburton respectively (RO99)

Summary

The owners of these properties request the Restructure Overlay be removed from their land. These lots have previously been re-subdivided, in a different form to the lot layout required by Restructure Overlay – Schedule 99 (RO99), but in a way that satisfies the intent of RO99. The reason for the variation from the RO99 layout was to provide a vehicle access to 29 Lyrebird Avenue. In Yarra Ranges, the Restructure Overlay allows for re-subdivision of this type to occur. The existing lot layout is therefore considered to achieve the Restructure Overlay and limit development potential appropriately, meaning the Restructure Overlay can be removed from these properties, as the submissions request.

Submitter comments

Both submissions advise the narrow strip of land forming part of 29 Lyrebird Avenue provides access to the property (refer Figure 1). Consolidating the lots as per Figures 2 and

3 would remove the only access to 29 Lyrebird Avenue, rendering it landlocked. The steep and heavily vegetated terrain and two watercourses flowing through the property limit other access options. However, RO99 requires part of 29 and part of 31 Lyrebird Avenue, East Warburton to be consolidated into one title, as shown by Figure 2. Amendment C177 does not propose to change this requirement, as shown by Figure 3.

Response to submissions

Following from the submissions, further investigation by officers reveals:

- Both lots are in the Green Wedge Zone – Schedule 5 (GWZ5) and are unable to be subdivided into smaller lots or accommodate further dwellings. Therefore, the Restructure Overlay objective to limit development potential has been achieved.
- A resubdivision was registered in 1995 to create Lot 2\PS346061, known as 29 Lyrebird Avenue. Consequently, a single parcel of land was created consolidating the narrow strip providing access off Lyrebird Drive with the balance of the site. Similarly, a resubdivision was registered in 1991 to create Lot 1\PS310744, known as 31 Lyrebird Avenue. This resubdivision created a single parcel comprising the land required to be consolidated as per RO99, minus the access to 29 Lyrebird Avenue and some land to the east not included in RO99. Figure 3 shows the current lot layout created by these re-subdivisions.

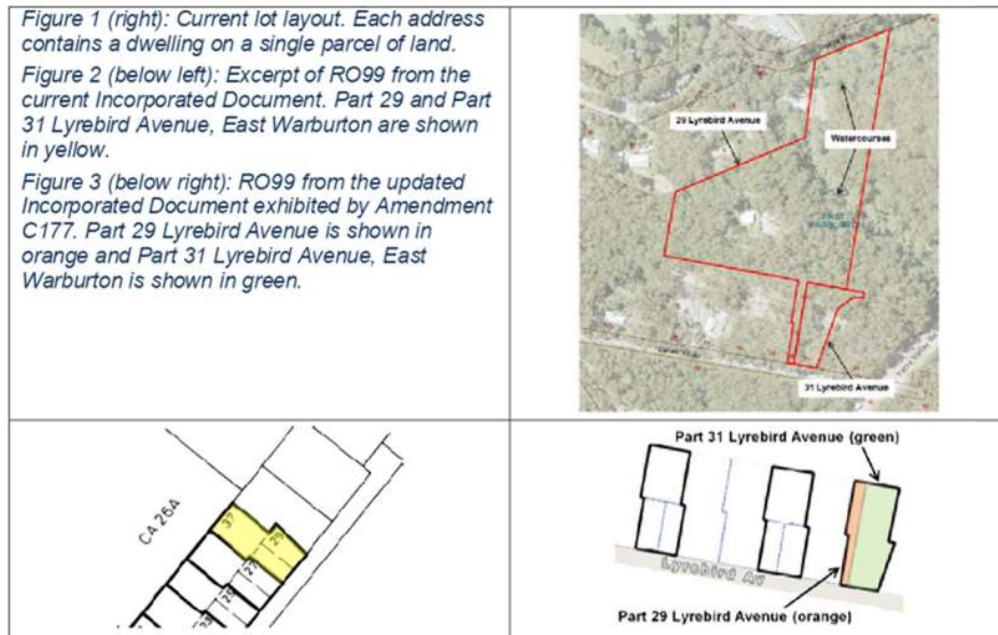
The Restructure Overlay permits boundary realignments and re-subdivisions resulting in landownership patterns that vary from the layout shown in the Incorporated Document under appropriate circumstances, and states:

...a permit may be granted to allow land to be subdivided in a form which varies from the boundaries shown on a restructure map, only where the variation from the restructure map is minor and will not increase the number of potential dwellings allowed by the Restructure Plan.

In this instance, the variation from the boundaries shown on RO99 facilitates access to the dwelling on 29 Lyrebird Avenue. The re-subdivision of 29 and 31 Lyrebird Avenue has not increased the number of potential dwellings allowed by the Restructure Plan. As such, the variation satisfies the intent of the Restructure Overlay.

Recommendation

Modify Amendment C177 to remove RO99 from 29 and 31 Lyrebird Avenue, East Warburton and make consequential changes to the Incorporated Document.



Submission 6: 5 Blackmore Street, Chum Creek (RO116)

Summary

Submitter 6 requests three properties in Restructure Overlay – Schedule 116 (RO116) be removed from the Restructure Overlay, as shown in Figures 1 to 3 below. The reason is that RO116 has a limit of three dwellings to be constructed across these three lots, which has occurred, therefore satisfying RO116. The suggestion is considered a reasonable change that can be accommodated.

Submitter comments

This submission seeks to remove 3 Blackmore Street, 5 Blackmore Street and 5 Chaffer Street from the Restructure Overlay because the three lots forming the restructure lot each contain a dwelling, as is currently permitted under RO116.

Response to submission

Further investigation by officers reveals each lot is in the Rural Conservation Zone – Schedule 1 (RCZ1) and contains a dwelling and outbuildings, as shown in Figure 1. These lots form a single restructure lot in the existing Incorporated Document. However, rather than requiring the three lots to be consolidated into one title, as is commonly required under the Restructure Overlay, three dwellings may be constructed across the restructure lot, as shown in Figure 2.

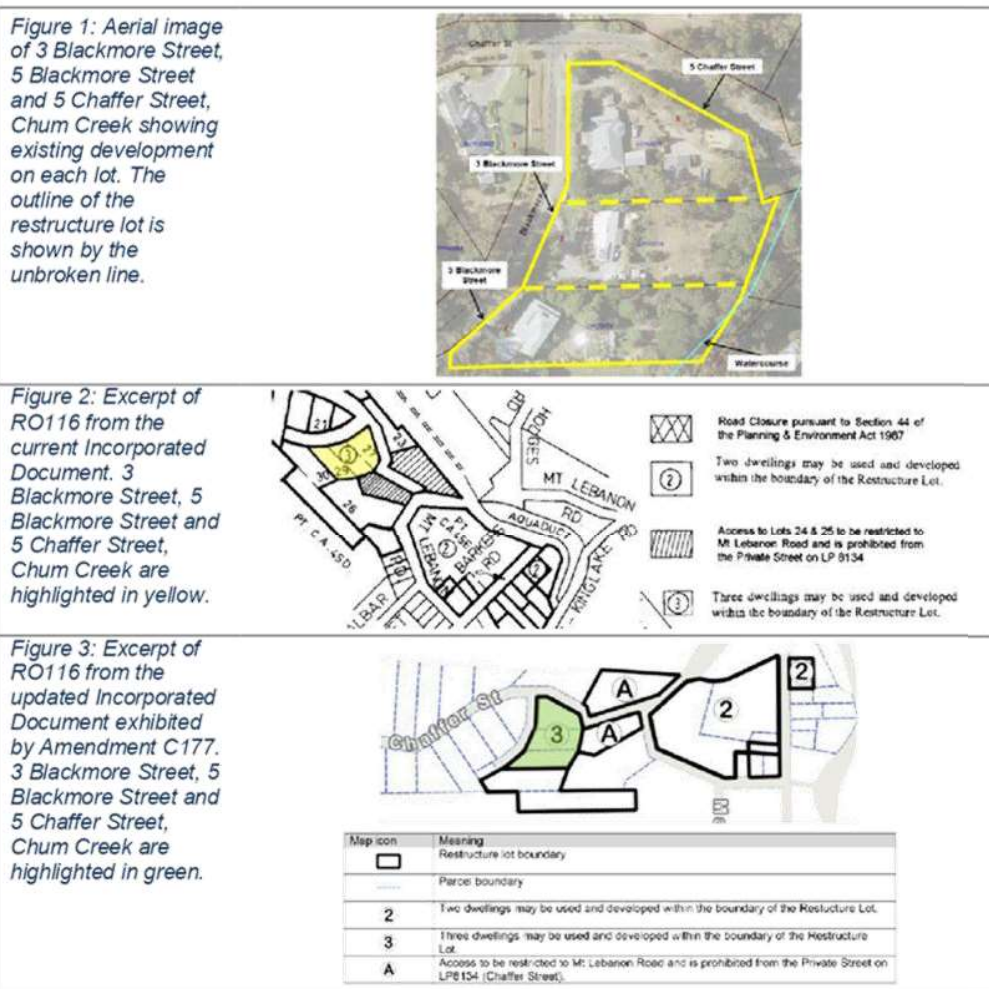
The rationale for this requirement relates to how the former Shire of Healesville approached the implementation of restructure planning controls through the 'Management Plan Zone (MPZ)' and the 'Deferred Development Zone' (DDZ). The MPZ created a management plan

to direct appropriate future development, with a range of information as guidance. This information still appears in the current Incorporated Document, even though in some cases like this one, development has now occurred in a way that satisfies the relevant requirements.

As each lot contains one dwelling, the intent of RO116 to restrict development to no more than three dwellings on the restructure lot has been satisfied. The RCZ restricts the development potential of the three lots without the need for RO116. No more than one dwelling is allowed on a lot in the RCZ and the lots are too small to be subdivided under the provisions of the zone.

Recommendation

Modify Amendment C177 to remove RO116 from 3 Blackmore Street, 5 Blackmore Street and 5 Chaffer Street, Chum Creek and make consequential changes to the exhibited Incorporated Document.



Submission 16: 2 Maskell Street, Selby (RO47)**Submitter comments**

Submitter 16 requests Restructure Overlay – Schedule 47 (RO47) be removed from 2 Maskell Street, Selby. Submitter 16 has recently consolidated the two lots comprising 2 Maskell Street into one title (application number SC2019/25/0). The Plan of Consolidation was registered on 31 January 2020.

Response to submission

Consolidating the lots satisfies the requirements of RO47.

Recommendation

Modify Amendment C177 to remove RO47 from 2 Maskell Street, Selby and make consequential changes to the exhibited Incorporated Document.

Submission 19: 18 Titania Crescent, Ferny Creek (RO10)**Summary**

A re-subdivision of two properties in Restructure Overlay – Schedule 10 (RO10) has occurred, which varied the lot layout shown in RO10, but achieved the Restructure Overlay's intent. Such an outcome is permitted by the Restructure Overlay. Therefore, this land can be removed from the Restructure Overlay.

Submitter comments

Submitter 19 submits RO10 be removed from 18 Titania Crescent, Ferny Creek because:

- The site previously comprised of Lots 2 and 3 on Plan of Subdivision 068559 and is now contained within a single lot (i.e. Lot 2 on Plan of Subdivision 509377P) of 1.495 hectares. In turn, consolidating these lots has satisfied the intent of RO10.
- Part of Lot 3 on Plan of Subdivision 068559 was transferred to and consolidated with Lot 22 on Plan of Subdivision 011205 and is now known as Lot 1 on Plan of Subdivision 509377P. This single lot is addressed as 5 Johnston Parade, Ferny Creek, with a site area of 2,768sqm. This re-subdivision was approved by Yarra Ranges Council through Planning Permit YR-2003/256 and also satisfies RO10.

Figure 1 shows the consolidation requirement in the current Incorporated Document and Figure 2 shows this requirement being maintained in the exhibited Incorporated Document.

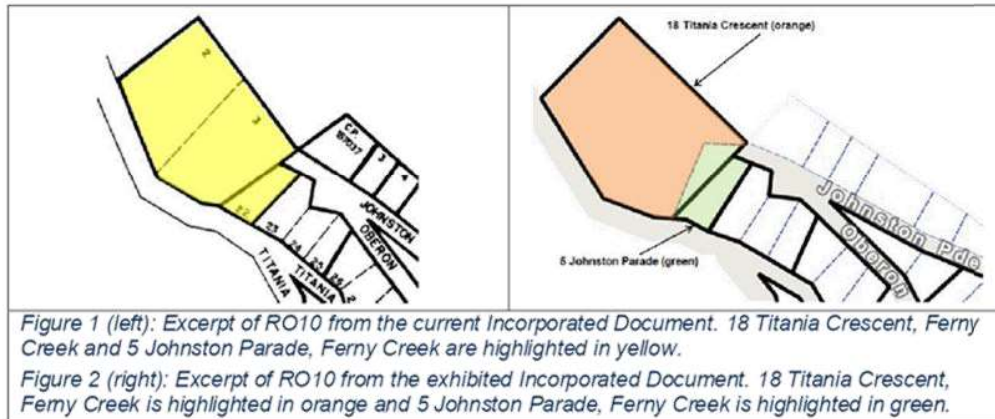
Response to submission

The Restructure Overlay permits boundary realignments and re-subdivisions resulting in landownership patterns that vary from the layout shown in the Incorporated Document.

The previous consolidation and subdivision of lots to create 5 Johnston Parade (1\PS509377) and 18 Titania Crescent (2\PS509377) are consistent with the intent of RO10.

Recommendation

Modify Amendment C177 to remove RO10 from 18 Titania Crescent, Ferny Creek and 5 Johnston Parade, Ferny Creek and make consequential changes to the exhibited Incorporated Document.



Submission 21: 137 Barak Drive, Launching Place (RO93)

Summary

Land in this area has had longstanding vehicle access issues. The owner of 137 Barak Drive, Launching Place seeks to have a section of road (Earle Street) closed so it can be purchased and consolidated with their property. This is consistent with Restructure Overlay – Schedule 93 (RO93). RO93 also requires a carriageway easement to be created through the section this owner wishes to close and purchase, for the benefit of 135 Barak Drive to access their property. It is considered the carriageway easement is no longer needed because:

- The two title areas formerly comprising 135 Barak Drive have been consolidated, and access exists from Barak Drive.
- Although the owner of 135 Barak Drive requires occasional access to the rear section of that block through 137 Barak Drive for land maintenance, separate arrangements are being made for that to occur as explained below.
- The carriageway easement has never been accepted by owners of adjoining land, through which a revised access arrangement would need to pass.

Submitter comments

Submitter 21 owns 137 Barak Drive, Launching Place and requests the following notation on the Incorporated Document be removed from RO93:

A carriageway easement is to be provided to benefit the owner/resident of 135 Barak Drive, Launching Place (PC377202) in gaining access to Corbetts Road via an existing carriageway easement through 139 Barak Drive, Launching Place and 50 Corbetts Road, Launching Place.

Submitter 21 is requesting this change because the conditions of a road discontinuance on Earle Street supported by Council at its 22 October 2019 Ordinary Meeting would no longer require the easement. Submitter 21 also believes retaining the notation will create ambiguity around access arrangements for properties in this area and that establishing a carriageway easement would also restrict how they could develop their land.

Response to submission

The notation on the Incorporated Document exhibited by Amendment C177 was carried over from the current Incorporated Document.

Consultation with Council's Property department confirms the change requested by Submitter 21 to remove the proposed easement from RO93 can be accommodated. The proposed easement is now redundant as 135 Barak Drive has been consolidated into one title (permit number SC2017/11/0) and the discontinued road reserve is being transferred to 137 Barak Drive. Consistent with Council's resolution of 22 October 2020 supporting the road discontinuance, the owners of 137 and 135 Barak Drive are going to enter into an occasional use agreement for maintenance.

Broadly, Amendment C177 does not change how the Restructure Overlay operates on the three lots forming 15 Earle Street. The Restructure Overlay would still require the three lots to be consolidated into one title before a planning permit could be granted to construct a dwelling or outbuilding. However, planning permission is also subject to meeting other requirements including access and bushfire provisions.

Recommendation

Modify Amendment C177 to remove the requirement under RO93 for a new carriageway easement to be established on 137 Barak Drive, Launching Place and make consequential changes to the Incorporated Document and Yarra Ranges Planning Scheme.

Submission 22: 7 Golden Perch Avenue, East Warburton (RO90)

Submitter comments

Submitter 22 requests Restructure Overlay – Schedule 90 (RO90) be removed from 7 Golden Perch Avenue, East Warburton. Submitter 22 has recently consolidated the two lots comprising 7 Golden Perch Avenue into one title (application number SC2020/2/0). The Plan of Consolidation PC378402H was registered on 10 February 2020.

Response to submission

Consolidating the lots satisfies RO90.

Recommendation

Modify Amendment C177 to remove RO90 from 7 Golden Perch Avenue, East Warburton and make consequential changes to the exhibited Incorporated Document.

2.3 Submissions not supported

Submission 1: 1854 Warburton-Woods Point Road, McMahons Creek (RO91)

Submitter comments

Submitter 1 objects to Amendment C177 because the Restructure Overlay restricts development and growth of settlements in Yarra Ranges, in particular Reefton and McMahons Creek. Consequently, Submitter 1 suggests the application of the Restructure Overlay has resulted in a lack of investment in these areas. Submitter 1 views Amendment C177 will add additional restrictions and also queries the legality of the original application of the Restructure Overlay.

Response to submission

Amendment C177 proposes to remove approximately 1400 properties including this site from the Restructure Overlay. It is a 'tidy up' of the Restructure Overlay, intending to reduce its size and ease the burden on landowners generally.

Amendment C177 maintains long-standing policy preventing the number of additional dwellings that could be built in the Restructure Overlay, which has its origins in the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan. Submission 1 suggests that the Restructure Overlay should be removed outright from this area of the Upper Yarra Valley and should never have been applied. There is no strategic support for this proposed change to Amendment C177.

Recommendation

No change to Amendment C177.

Submission 3: 50 Hillcrest Road, Don Valley (RO81)

Matters raised

Submitter 3 raises a number of matters relating to their land in the Ben Cairn Estate – Restructure Overlay – Schedule 81 (RO81), including:

- Compensation and introduction of a buyback scheme.
- Previous engineering reports identifying that the block can be developed subject to drainage work.
- Queries about what Amendment C177 proposes for dwellings in the Ben Cairn Estate and whether this means that properties will be compulsorily acquired.
- Queries about enforcement matters.

Response to submission

RO81, known as the Ben Cairn Estate, has had highly restrictive planning controls in place preventing further development for many years. This is due to a range of issues including bushfire and landslip risk. Amendment C177 is intended as a relatively simple exercise to

'tidy up' and rationalise the Restructure Overlay. There are no changes proposed in Amendment C177 to RO81, with the exception of the changes proposed for small extensions to existing dwellings, as it is considered that resolution of the issues facing land owners in the Ben Cairn Estate requires targeted and specific work by Council. This work has been attempted in the past, and will continue.

Investigations will not necessarily result in any changes to the current planning controls. These controls have been in place for many years on the basis that the Ben Cairn Estate was an old and inappropriate subdivision and that it was unsuitable for development. Any further investigations may confirm this situation.

It is acknowledged that a 1979 report about geological stability of the Ben Cairn Estate identifies 50 Hillcrest Road amongst a group of parcels that could be built on subject to drainage work. However, various investigations have identified the land is subject to a range of environmental hazards preventing the construction of additional dwellings.

Amendment C177 proposes to allow planning permit applications for minor extensions to existing dwellings and to construct or extend other buildings (for example a shed or carport) where title boundaries are inconsistent with maps in the Incorporated Document, including for dwellings in the Ben Cairn Estate. Should owners of dwellings in the Ben Cairn Estate wish to extend their dwelling on land they do not own, they will need to first purchase this land.

The State Government has indicated in the past it is not willing to purchase the land.

Enforcement matters can be referred to Council's Development Compliance and Prosecutions team.

Recommendation

No change to Amendment C177.

Submission 4: 214-216 Olinda-Monbulk Road, Monbulk (RO16)

Submitter comments

Submitter 4 requests the exhibited restructure map for Restructure Overlay – Schedule 16 (RO16) be modified to reflect existing patterns of ownership for 212 and 214-216 Olinda-Monbulk Road, Monbulk. Submitter 4 owns 214-216 Olinda-Monbulk Road and does not wish to reduce the size of their lot.

Response to submission

RO16 requires the single parcel of land at 212 Olinda-Monbulk Road to be consolidated with part of 214-216 Olinda-Monbulk Road. The remaining parts of 214-216 Olinda-Monbulk Road are to be consolidated into one title. Amendment C177 maintains the consolidation requirements applying to these lots. Figure 1 shows the consolidation requirement in the current Incorporated Document. Figure 2 shows the exhibited Incorporated Document maintaining this requirement and also shows the variation sought by Submitter 4.

Amendment C177 does not propose changes to existing consolidation requirements, unless they have been found to be inaccurate or unclear. In this instance, the consolidation requirements applying to the land are clear.

Under Clause 45.05 (Restructure Overlay) of the Yarra Ranges Planning Scheme, minor modifications to the lot configurations shown on restructure maps may be permitted, provided this does not create the potential for additional dwellings in the Restructure Overlay. In considering this, Council must be satisfied the change is appropriate, with particular regard for the decision guidelines in Clause 45.05 (Restructure Overlay) of the Yarra Ranges Planning Scheme and in the Incorporated Document (Part 3). There must be satisfaction that all wastewater can be appropriately treated and retained on site, among other issues.

There is no strategic support for the requested change to Amendment C177. Should submitters wish to resubdivide lots in a configuration varying from the lot layout shown in the Restructure Overlay, they can together with owners of adjoining land apply for a planning permit to achieve this. Applying for a planning permit is not contingent on Amendment C177. Information that may assist in such an application would include:

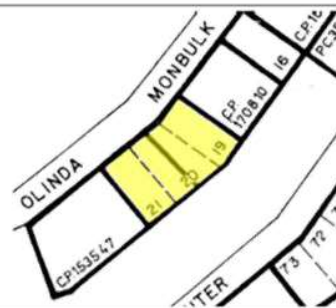
- A land assessment report demonstrating that the lot is capable of treating and retaining all wastewater to Council's satisfaction.
- A bushfire assessment for 212 Olinda-Monbulk Road, demonstrating if needed, a new dwelling could be built on this block with appropriate spatial separation from bushfire threat, and other relevant matters for bushfire safety including vehicle access.
- An engineering assessment of the vehicle access to 212 Olinda-Monbulk Road, and whether the lot layout shown in RO16 may enable an improved access arrangement.
- An expert geotechnical engineering assessment of siting considerations for a new dwelling at 212 Olinda-Monbulk Road, and whether the lot layout shown in RO16 may enable an improved siting arrangement in comparison to the existing dwelling.

Recommendation

No change to Amendment C177 – refer to Planning Panel.

Prior to a Panel hearing, communicate to Submitter 4 the information needed to support a planning permit application for resubdivision.

Figure 1 : Excerpt of RO16 from the current Incorporated Document. 212 Olinda-Monbulk Road and 214-212 Olinda-Monbulk Road are highlighted in yellow.





Submission 5: 5 and 7 Colehurst Avenue, Sassafras (RO4)

Submitter comments

Submitter 5 requests the exhibited restructure map for Restructure Overlay – Schedule 4 (RO4) be modified to reflect existing patterns of ownership for 5 and 7 Colehurst Crescent, Sassafras. Submitter 5 owns 5 Colehurst Crescent.

Response to submission

RO4 requires nine parcels of land at 5 and 7 Colehurst Crescent to be consolidated into three parcels of land. Figure 1 shows the consolidation requirement in the current Incorporated Document. Figure 2 shows the exhibited Incorporated Document maintaining this requirement and also shows the variation sought by Submitter 5.

Amendment C177 does not propose changes to existing consolidation requirements, unless they have been found to be inaccurate or unclear. In this instance, the consolidation requirements applying to the land are clear.

Under Clause 45.05 (Restructure Overlay) of the Yarra Ranges Planning Scheme, minor modifications to the lot configurations shown on restructure maps may be permitted, provided this does not create the potential for additional dwellings in the Restructure Overlay. Applicants must demonstrate all wastewater can be treated and retained on site, and any other requirements having regard for the decision guidelines in Clause 45.05 (Restructure Overlay) and in the Incorporated Document (Part 3). However, in addition to the Restructure Overlay, the Erosion Management Overlay, Bushfire Management Overlay and Significant Landscape Overlay - Schedule 9 also apply to the site.

There is no strategic support for the requested change to Amendment C177. Should the submitter wish to achieve a resubdivision in coordination with the adjoining property, which varies from the lot layout shown in the Restructure Overlay, this is achievable through a planning permit process and is not contingent on Amendment C177. Information that may assist in such an application would include:

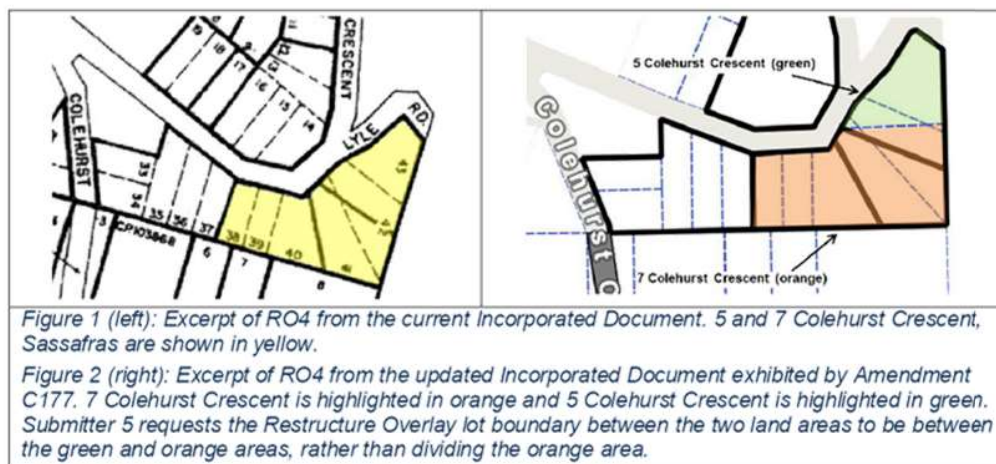
- A land assessment report demonstrating that the lot is capable of treating and retaining all wastewater to Council's satisfaction.

- A bushfire assessment for 5 Colehurst Crescent demonstrating that if needed, a new dwelling could be built on this block with appropriate spatial separation from bushfire threat.
- An expert geotechnical engineering assessment of siting considerations for a new dwelling at 5 Colehurst Crescent, and whether the lot layout shown in RO4 may enable an improved siting arrangement in comparison to the existing dwelling.

Recommendation:

No change to Amendment C177 – refer to Planning Panel.

Prior to a Panel hearing, communicate to Submitter 5 the information needed to support a planning permit application for resubdivision.



Submission 7: 416 Mt Dandenong Tourist Road, Sassafra (RO4)

Submitter comments

Submitter 7 raises concerns about the equity of the Restructure Overlay in relation to 416 Mt Dandenong Tourist Road, Sassafra due to the Restructure Overlay limiting the market in which to sell the property. Submitter 7 also raises concerns about the property valuation and rates paid on the property.

Submitter 7 suggests that Council should purchase the land. If this is not possible, Submitter 7 requests Restructure Overlay – Schedule 4 (RO4) be modified to remove the requirement for the two lots be consolidated with adjoining land. If this change can be accommodated, Submitter 7 would be willing to consolidate 416 Mt Dandenong Tourist Road into one title.

Response to submission

RO4 requires the northern lot of 416 Mt Dandenong Tourist Road to be consolidated with 414 Mt Dandenong Tourist Road and the southern lot to be consolidated with 5 Guilfoyle Drive. It is acknowledged the impact of this means that a dwelling cannot be constructed on 416 Mt Dandenong Tourist Road. There is currently no dwelling on it. Figure 1 shows the

consolidation requirement in the current Incorporated Document. Figure 2 shows the exhibited Incorporated Document maintaining this requirement and also shows the variation sought by Submitter 7.

Amendment C177 does not propose changes to existing consolidation requirements or the removal of land from the Restructure Overlay that would lead to the potential for additional dwellings or subdivision opportunities. In this instance, the suggested change in Submission 7 that the current two Restructure Overlay lots should be changed to three Restructure Overlay lots, would enable three dwellings in this area rather than two.

There is no strategic support for the requested change to Amendment C177. The additional dwelling potential proposed contradicts the objectives of the Restructure Overlay and the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan (RSP), which seeks to avoid any additional dwelling development in the Dandenong Ranges (Section 3.01). Under Section 46F of the *Planning and Environment Act 1987*, the Minister for Planning cannot approve an amendment that is inconsistent with the RSP.

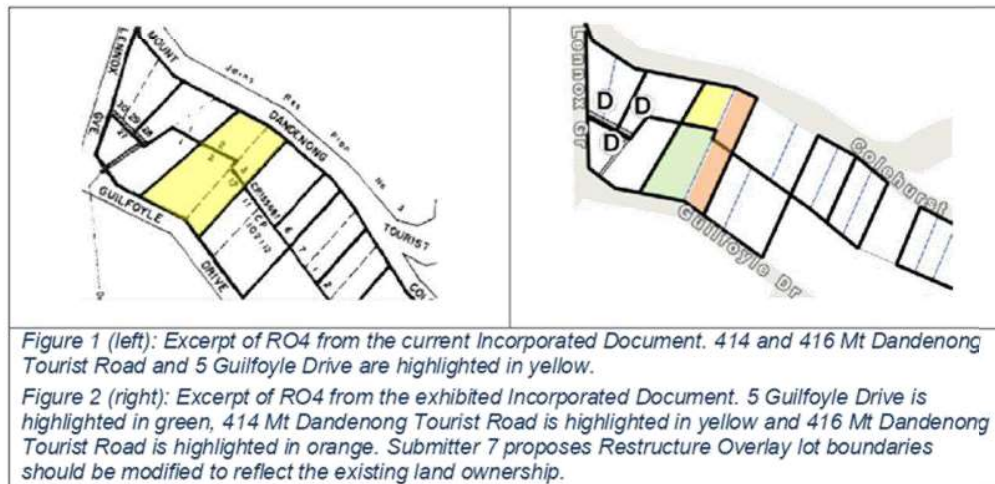
Amendment C177 maintains long-standing policy maintaining the number of dwellings that can be built in the Restructure Overlay. Modifying the Restructure Overlay in the manner requested by Submitter 7 would be contrary to the Restructure Overlay's intent to limit development in identified old and inappropriate subdivisions.

In addition to the Restructure Overlay, the Erosion Management Overlay, Bushfire Management Overlay and Significant Landscape Overlay - Schedule 9 also apply to the site. The presence of these additional overlays indicates other requirements apply to the land which may prevent the construction of a dwelling.

While Council appreciates landowners offering to sell properties for market value, it will not acquire any property that does not hold strategic value for the community.

Recommendation

No change to Amendment C177.



Submission 10: 110 Mt Dandenong Tourist Road, Tremont (RO9)**Matters raised:**

Submitter 10 requests the exhibited restructure map for Restructure Overlay – Schedule 9 (RO9) be modified to reflect existing patterns of ownership for 110 and 114 Mt Dandenong Tourist Road, Tremont. Submitter 10 suggests the lots comprising 110 and 114 Mt Dandenong Tourist Road have been consolidated to satisfy the intent of the Restructure Overlay and should therefore be removed from the Restructure Overlay.

Response to submission:

RO9 requires the single parcel of land at 110 Mt Dandenong Tourist Road to be consolidated with part of 114 Mt Dandenong Tourist Road. The remaining parts of 114 Mt Dandenong Tourist Road are to be consolidated into one title. Both addresses contain a dwelling. Figure 1 shows the consolidation requirement in the current Incorporated Document. Figure 2 shows the exhibited Incorporated Document maintaining this requirement and also shows the variation sought by Submitter 10.

While the two lots comprising 114 Mt Dandenong Tourist Road are in common ownership, they have not been consolidated into one title and remain known as 5\LP7535 and 6\LP7535. Therefore, the Restructure Overlay has not been satisfied.

Amendment C177 does not propose changes to existing consolidation requirements, unless they have been found to be inaccurate or unclear. In this instance, the consolidation requirements applying to the land are clear.

Under Clause 45.05 (Restructure Overlay) of the Yarra Ranges Planning Scheme, minor modifications to the lot configurations shown on restructure maps may be permitted. Applicants must demonstrate all wastewater can be treated and retained on site, among other relevant requirements. However, in addition to the Restructure Overlay, the Erosion Management Overlay, Bushfire Management Overlay and Significant Landscape Overlay - Schedule 9 also apply to the site.

There is no strategic support for the requested change to Amendment C177. Should submitters wish to resubdivide lots in a configuration varying from the lot layout shown in the Restructure Overlay, they can together with owners of adjoining land apply for a planning permit to achieve this. Applying for a planning permit is not contingent on Amendment C177. Information that may assist in such an application would include:

- A land assessment report demonstrating that the lot is capable of treating and retaining all wastewater to Council's satisfaction.
- A bushfire assessment for 110 Mt Dandenong Tourist Road demonstrating that if needed, a new dwelling could be built on this block with appropriate spatial separation from bushfire threat, and other relevant matters for bushfire safety including vehicle access.
- An engineering assessment of the vehicle access to 110 Mt Dandenong Tourist Road, and whether the lot layout shown in RO9 may enable an improved access arrangement.

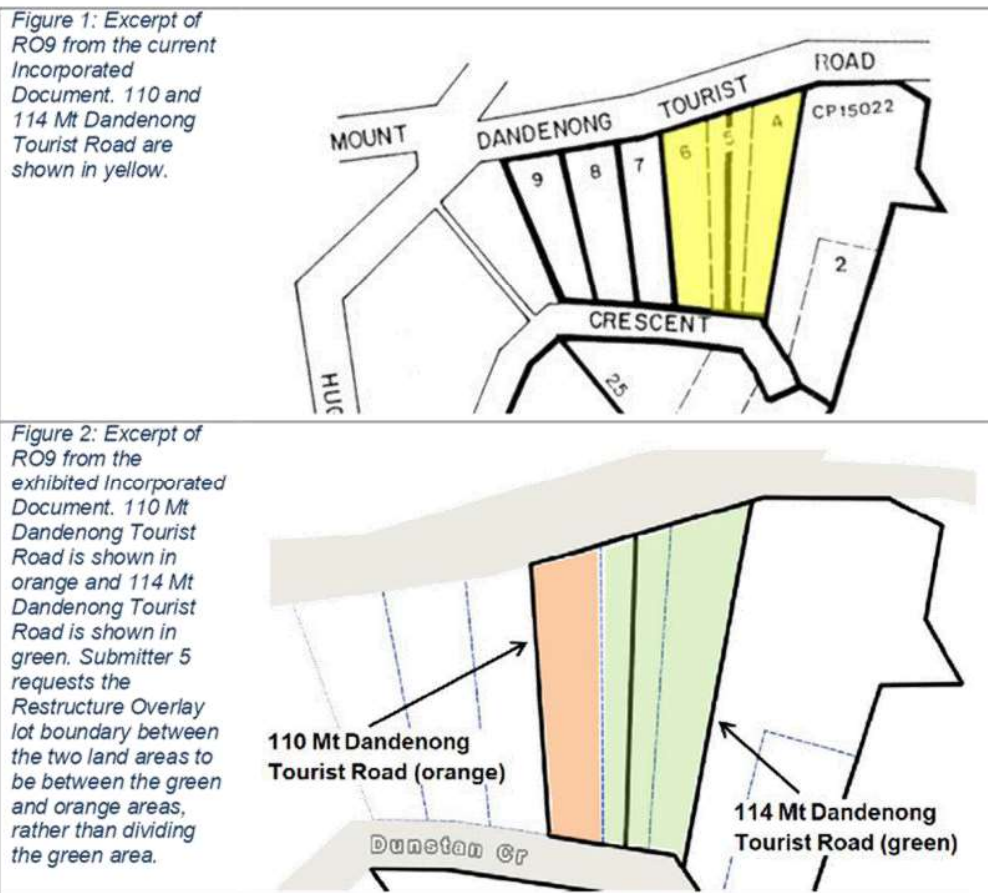
- An expert geotechnical engineering assessment of siting considerations for a new dwelling at 110 Mt Dandenong Tourist Road and whether the lot layout shown in RO9 may enable an improved siting arrangement in comparison to the existing dwellings.

It is noted that Amendment C177 proposes to allow planning permit applications for minor extensions to existing dwellings and to construct or extend other buildings (for example a shed or carport) where title boundaries are inconsistent with maps in the Incorporated Document, as is the case in this instance. In this way, Amendment C177 seeks to overcome some of the restrictions imposed by the Restructure Overlay by enabling landowners such as Submitter 10 to make such planning permit applications.

Recommendation

No change to Amendment C177 – refer to Planning Panel.

Prior to a Panel hearing, communicate to Submitter 10 the information needed to support a resubdivision application.



Submission 11: 7-9 Hazford Street, Healesville (RO108)**Matters raised:**

Submitter 11 requests that Restructure Overlay – Schedule 108 be removed from 7-9 Hazford Street, Healesville, as they wish to construct a second dwelling. Submitter 11 also states that the Restructure Overlay reduces the value of their property.

Response to submission:

RO108 requires the two parcels of land at 7-9 Hazford Street to be consolidated into one title. Figure 1 shows the consolidation requirement in the current Incorporated Document. Figure 2 shows the exhibited Incorporated Document maintaining this requirement and also shows the variation sought by Submitter 11.

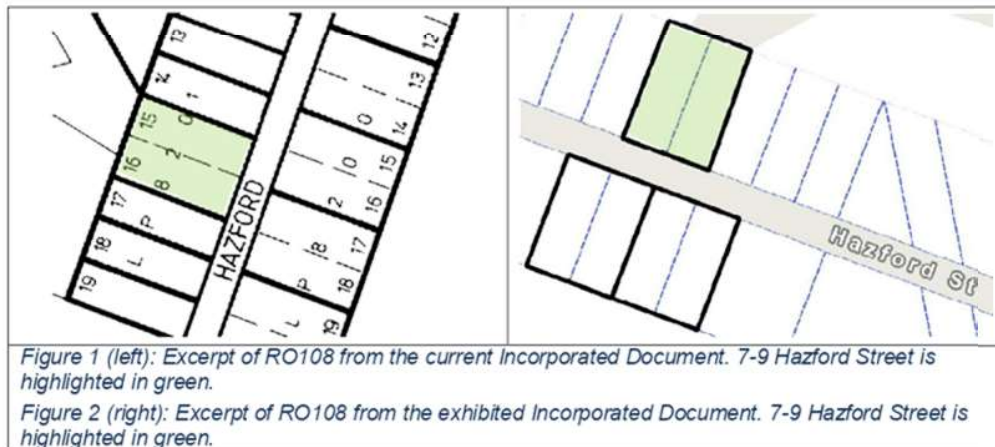
Amendment C177 does not propose changes to existing consolidation requirements or the removal of land from the Restructure Overlay that would lead to the potential for additional dwellings or subdivision opportunities. In instances where the Restructure Overlay is being removed, it is due to the restructure being completed, no restructure being required (i.e. single lot identified in Restructure Overlay maps) and no further subdivision being possible. There is no strategic support for the change to C177 requested by Submitter 11.

Amendment C177 maintains long-standing policy preventing additional dwellings that can be built in the Restructure Overlay. Modifying the Restructure Overlay in the manner requested by Submitter 11 would be contrary to the Restructure Overlay's intent to limit development in identified old and inappropriate subdivisions.

Property value is an issue beyond the scope of Amendment C177. Property values are determined by many factors, including location, streetscape and amenity, current economic conditions, as well as planning controls.

Recommendation:

No change to Amendment C177.



Submission 14: 9 Maskell Street, Selby (RO47)

Submitter comments

Submitter 14 requests Restructure Overlay – Schedule 47 (RO47) be removed from the vacant lot at 9 Maskell Street, Selby as they wish to construct a dwelling.

Submitter 14 states that the inclusion of 9 Maskell Street in RO47 is an anomaly and as such should be removed from the Restructure Overlay. They also suggest most of the reasons for implementing RO47 have been resolved, including availability of reticulated sewerage, sealed roads, drainage, reticulated water, power, in addition to access to community services and emergency services.

Submitter 14 has unsuccessfully attempted to sell 9 Maskell Street to adjoining landowners. Submitter 14 refers to a presentation they made to Council in 2007 requesting permission to construct a dwelling on the lot. At this meeting it was acknowledged that issues relating to the Restructure Overlay needed to be resolved.

As the property value in the rate notice reflects the value of the site as a vacant lot in an old and inappropriate subdivision, Submitter 14 suggests the implementation of the Restructure Overlay has resulted in reduced property values.

Response to submission

Under RO47 the vacant lot at 9 Maskell Street, Selby is required to be consolidated with 11 Maskell Street, Selby, which contains a dwelling. Figure 1 shows the consolidation requirement in the current Incorporated Document. Figure 2 shows the exhibited Incorporated Document maintaining this requirement and also shows the variation sought by Submitter 14. The Restructure Overlay prohibits the construction of a new dwelling on 9 Maskell Street, Selby.

Amendment C177 does not propose changes to existing consolidation requirements or the removal of land from the Restructure Overlay that would lead to the potential for additional dwellings or subdivision opportunities. In instances where the Restructure Overlay is being removed, it is due to the restructure being completed, no restructure being required (i.e. single lot identified in Restructure Overlay maps) and no further subdivision being possible. Neither circumstance applies in this instance.

There is no strategic support for the requested change to Amendment C177. The additional dwelling potential proposed contradicts the objectives of the Restructure Overlay and the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan (RSP), which seeks to avoid any additional dwelling development in the Dandenong Ranges (Section 3.01). Under Section 46F of the *Planning and Environment Act 1987*, the Minister for Planning cannot approve an amendment that is inconsistent with the RSP.

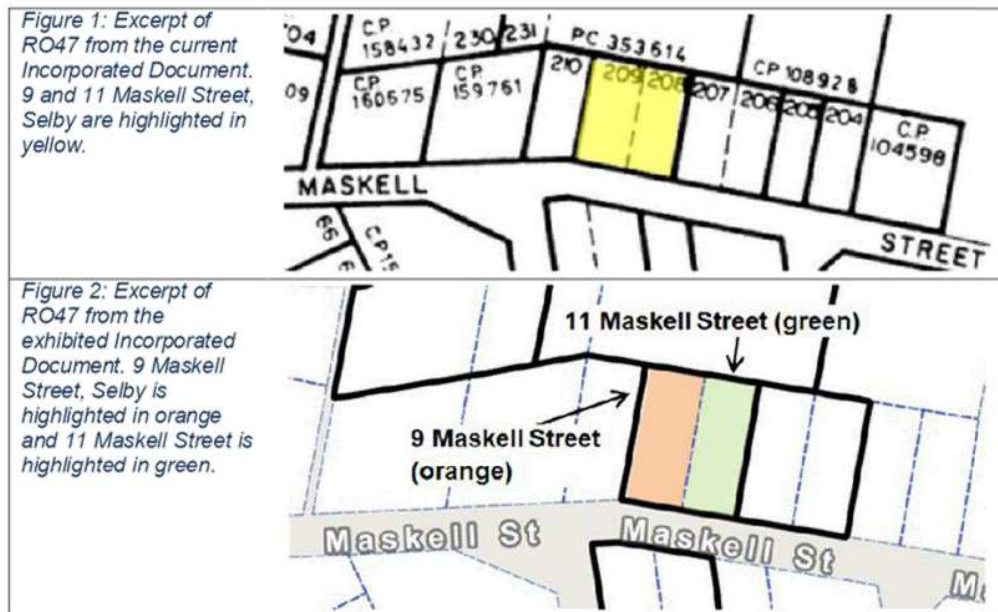
Amendment C177 maintains long-standing policy preventing additional dwellings that can be built in the Restructure Overlay. Modifying the Restructure Overlay in the manner requested by Submitter 11 would be contrary to the Restructure Overlay's intent to limit development in identified old and inappropriate subdivisions.

In addition to the Restructure Overlay, the Erosion Management Overlay, Bushfire Management Overlay and Significant Landscape Overlay - Schedule 21 also apply to the site. The presence of these additional overlays indicates other requirements apply to the land which may prevent the construction of a dwelling.

Property value is an issue beyond the scope of Amendment C177. Property values are determined by many factors, including location, streetscape and amenity, current economic conditions, as well as planning controls.

Recommendation

No change to Amendment C177.



Submission 15: 4 Eve Street, Don Valley (RO81)

Submitter comments

Submitter 15 requests the consolidation requirements under Restructure Overlay – Schedule 81 (RO81) applying to 4 Eve Street, Don Valley be removed.

Response to submission

Amendment C177 does not propose changes to existing consolidation requirements or the removal of land from the Restructure Overlay that would lead to the potential for additional dwellings or subdivision opportunities. In instances where the Restructure Overlay is being removed, it is due to the restructure being completed, no restructure being required (i.e. single lot identified in Restructure Overlay maps) and no further subdivision being possible. Neither circumstance applies in this instance.

There is no strategic support for the requested change to Amendment C177. The additional dwelling potential proposed contradicts the objectives of the Restructure Overlay and the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan (RSP), which seeks to avoid any additional dwelling development in the Dandenong Ranges (Section 3.01). Under Section 46F of the *Planning and Environment Act 1987*, the Minister for Planning cannot approve an amendment that is inconsistent with the RSP.

However, Amendment C177 proposes to allow planning permit applications for minor extensions to existing dwellings and to construct or extend other buildings (for example a shed or carport) where title boundaries are inconsistent with maps in the Incorporated Document, as is the case in this instance. In this way, Amendment C177 seeks to overcome some of the restrictions imposed by the Restructure Overlay by enabling landowners such as Submitter 15 to make such planning permit applications.

Recommendation

No change to Amendment C177.

Submission 17: 11 Sandells Road, Tecoma (RO42)

Submitter comments

Submitter 17 requests a variation to the consolidation requirements under Restructure Overlay – Schedule 47 applying to their property at Lots 19 and 20 of 11 Sandells Road, Tecoma, and their neighbour's property at Lots 11 and 21 of 7 Sandells Road, Tecoma.

Submitter 17 wishes to change the consolidation requirements so Lots 19 and 20 form one restructure lot without requiring the owners of 7 Sandells Road to consolidate their lots. Submitter 17 quotes advice from Council dated 17 April 2002 supporting a similar proposal and the following advice from Council dated 5 May 2011 supporting a proposal subject to the owner of 7 Sandells Road:

- Providing Council with written consent to the proposed variation.
- Undertaking the consolidation of Lots 11 and 21, which form 7 Sandells Road.

Information supplied with the submission suggests the owner of 7 Sandells Road does not wish to consolidate their lots into one title.

Response to submission

Submitter 17's concerns and ongoing correspondence with Council is acknowledged.

The change requested would change the Restructure Overlay as it applies to this land, so that the one current restructure lots shown in Figures 1 ad 2 are replaced by two restructure lots, meaning that the number of potential dwellings is increased by one.

Amendment C177 does not propose changes to existing consolidation requirements or the removal of land from the Restructure Overlay that would lead to the potential for additional dwellings or subdivision opportunities. In instances where the Restructure Overlay is being removed, it is due to the restructure being completed, no restructure being required (i.e.

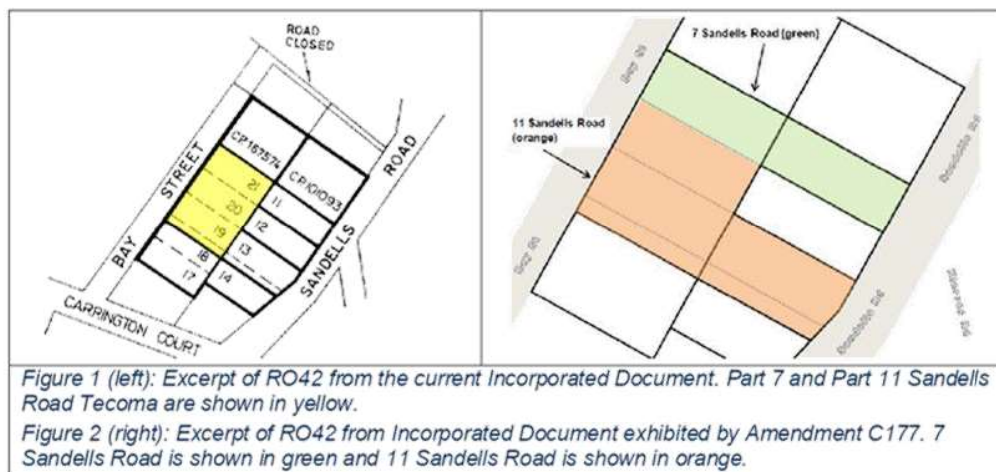
single lot identified in Restructure Overlay maps) and no further subdivision being possible. Neither circumstance applies in this instance.

There is no strategic support for the requested change to Amendment C177. The additional dwelling potential proposed contradicts the objectives of the Restructure Overlay and the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan (RSP), which seeks to avoid any additional dwelling development in the Dandenong Ranges (Section 3.01). Under Section 46F of the *Planning and Environment Act 1987*, the Minister for Planning cannot approve an amendment that is inconsistent with the RSP.

Amendment C177 maintains long-standing policy preventing additional dwellings that can be built in the Restructure Overlay. Modifying the Restructure Overlay in the manner requested by Submitter 17 would be contrary to the Restructure Overlay's intent to limit development in identified old and inappropriate subdivisions. In addition to the Restructure Overlay, the Erosion Management Overlay, Bushfire Management Overlay and Significant Landscape Overlay - Schedule 22 also apply to the site.

Recommendation

No change to Amendment C177.



Submission 18: 195 Belgrave–Gembrook Road, Selby (RO79)

Summary

Submitter 18, who owns the entire land area shown in Figures 1 to 3 below, has previously approached Council about a concept to develop the site with an altered configuration of lots to achieve the same number of dwellings. Council officers have indicated a planning application can be made for this, subject to relevant information being provided.

Submitter 18 is requesting Amendment C177 to be changed to show their preferred lot layout for Restructure Overlay – Schedule 79 (RO79). The altered layout proposal will require analysis, including a range of reports and information to be provided.

As opposed to other submissions seeking changes to restructure lot boundaries, in this case there are no issues to be resolved between different land owners, as there is only one land owner. Due to the detailed nature of the proposal, it is considered this is best addressed by a planning permit application.

Submitter 18 also raises other matters, as explained below.

Submitter comments

Submitter 18 requests a change to how the Restructure Overlay – Schedule 79 (RO79) applies to 195 Belgrave-Gembrook Road, Selby. The landowner is currently finalising the road closure and transfer of ownership of the private roads within the RO79 Restructure Map in conjunction with Council. Figure 1 shows the restructure map from the current Incorporated Document, which is maintained by Amendment C177.

Submitter 18 is seeking a change to the boundary of the restructure lots and location of building envelopes in RO79. Two alternative options are proposed for Council's consideration at Figures 2 and 3, the key difference being the size of the western and south-eastern lots. These proposals are supported by a Bushfire Management Statement and Landslip Assessment.

Figure 2 shows Submitter 18's preferred option. This option would avoid the need to apply for a resubdivision application to create the boundary defined by the 'Row of Poplars' currently shown on RO79 and proposed to remain under Amendment C177. Instead, a simpler Plan of Consolidation process using existing title boundaries could be followed, as typically required for consolidation of existing allotments in the Restructure Overlay.

Submitter 18's second option would result in the south-eastern lot being smaller than shown on RO79, maintaining the western lot's suitability for agricultural or horticultural uses.

In addition, Submitter 18 requests the lot alignment at the intersection of Donaldson Crescent and Grantulla Road be modified to accord with existing title boundary alignments. Submitter 18 also suggests that building envelopes in the current Incorporated Document are being removed by Amendment C177.

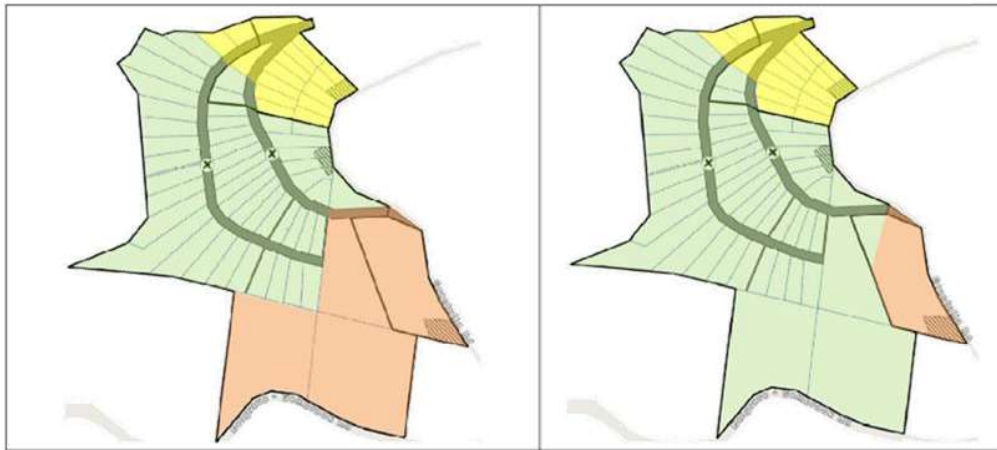
Submitter 18 considers the change proposed by Amendment C177 in the wording of the Incorporated Document from "dwelling entitlements allowed by the Restructure Plan" to "potential dwellings allowed by the Restructure Plan" to be detrimental.

Submitter 18 expresses concern landowners were not directly notified of this amendment.

Response to submission

RO79 requires all lots and private roads at 195 Belgrave-Gembrook Road, Selby to be consolidated into three lots, with each lot specifying a building envelope.

While it is appreciated Submitter 18 wishes to reflect a varied restructure lot layout in the Incorporated Document, this can be addressed independently from Amendment C177 by applying for a planning permit. The Restructure Overlay at Clause 45.05 of the Yarra Ranges Planning Scheme permits boundary realignments and re-subdivisions resulting in landownership patterns that vary from the layout shown in the Incorporated Document



Submission 20: 14 Titania Crescent, Tremont (RO10)

Summary

Submitter 20 claims the lot layout shown in the current Restructure Overlay – Schedule 10 (RO10) plan is an error and suggests an improved layout to reflect property boundaries. The suggested layout does not allow for any further development or subdivision than currently permitted.

In order to justify this proposed change to Amendment C177, further information is required on the implications of the layout change, having regard for the decision guidelines of the Restructure Overlay and the Incorporated Document. The suggested information needed is documented below.

Submitter 10 also expresses other concerns, as explained below.

Submitter comments

Submitter 20 represents the owner of 14 Titania Crescent, Tremont and requests a modification to Amendment C177 to how the Restructure Overlay – Schedule 10 (RO10) applies to the following properties:

- 2 Titania Terrace, Tremont (single lot of 1420 square metres with a fire-damaged dwelling).
- 10 Titania Crescent (two lots in common ownership with a total area of 3118 square metres developed with a dwelling).
- 12 Titania Crescent, Tremont (single vacant lot of 1103 square metres).
- 14 Titania Crescent, Tremont (single vacant lot of 1362 square metres).

Figure 1 shows the restructure lot layout in the current Incorporated Document, which is maintained by Amendment C177. Under RO10 2 Titania Terrace, 14 Titania Crescent and the eastern part of 12 Titania Crescent are required to be consolidated into one title. RO10 also requires the western part of 12 Titania Crescent and the two lots forming 10 Titania Crescent to be consolidated into one title.

Submitter 20 suggests the original RO10 layout likely adopted an easement alignment bisecting 12 Titania Crescent in error, in turn limiting the opportunity to achieve the consolidation envisaged by RO10. Submitter 20 also suggests the owner of the fire damaged dwelling at 2 Titania Crescent has not been able to rebuild their dwelling due to the consolidation requirements of RO10.

Therefore, Submitter 20 proposes an alternative restructure lot layout requiring 2 Titania Terrace, 12 Titania Crescent and 14 Titania Crescent to be consolidated into one title and the two lots forming 10 Titania Crescent to be consolidated into one title. This alternative proposal is claimed to achieve the outcome envisaged by RO10 of two dwellings being constructed on two consolidated lots.

Submitter 20 considers the proposed change in the Incorporated Document ordinance from "dwelling entitlements allowed by the Restructure Plan" to "potential dwellings allowed by the Restructure Plan" to be detrimental. According to Submitter 20 the phrase "dwelling entitlement" was deliberately applied in the current Incorporated Document to guarantee a dwelling could be constructed on a consolidated lot. In this way, the wording compensated landowners for the reduction in densities allowed in the subdivisions subject to the Restructure Overlay.

Response to submission

Figure 1 shows the consolidation requirement in the current Incorporated Document for the properties listed above in RO10. Figure 2 shows the exhibited Incorporated Document maintaining this requirement and also shows the variation sought by Submitter 20.

Amendment C177 does not propose changes to existing consolidation requirements, unless they have been found to be inaccurate or unclear. In this instance, the consolidation requirements applying to the land are clear.

Under Clause 45.05 (Restructure Overlay) of the Yarra Ranges Planning Scheme, minor modifications to the lot configurations shown on restructure maps may be permitted. Applicants must demonstrate all wastewater can be treated and retained on site, among other requirements. However, in addition to the Restructure Overlay, the Erosion Management Overlay (EMO), Bushfire Management Overlay (BMO) and Significant Landscape Overlay - Schedule 9 (SLO9) also apply to the site. Therefore, the presence of the Restructure Overlay combined with other planning controls suggests further information is required to determine if RO16 could be modified as requested by Submitter 10.

There are other examples of the Restructure Overlay requiring land to be consolidated in a manner departing from title boundaries. This does not necessarily mean that restructure maps have been drafted in error.

Amendment C177 proposes to replace a reference in the Incorporated Document from "dwelling entitlements allowed by the Restructure Plan" to a more cautiously worded "potential dwellings allowed by the Restructure Plan." The phrase 'dwelling entitlements' implies that land owners who consolidate their titles in accordance with a restructure map can then construct a dwelling as of right, which is not necessarily the case, given that other planning controls apply which may prevent a dwelling being approved.

Land in the Restructure Overlay is typically highly constrained and subject to a number of restrictive controls such as the BMO and EMO, both of which apply to the subject sites. The proposed wording change will help to clarify that title consolidation is not a vehicle to bypass all other planning scheme requirements, but simply a way to satisfy the requirements of the Restructure Overlay amongst other parts of the Planning Scheme. In this way, the proposed wording change acknowledges a planning permit application to construct a dwelling could be required under different provisions of the Yarra Ranges Planning Scheme.

There is no strategic support for the requested change to Amendment C177. Should submitters wish to resubdivide lots in a configuration varying from the lot layout shown in the Restructure Overlay, they can together with owners of adjoining land apply for a planning permit to achieve this. Applying for a planning permit is not contingent on Amendment C177. Information that may assist in such an application would include:

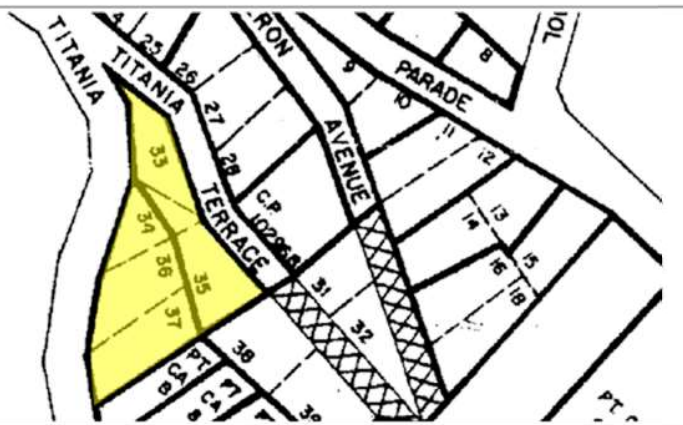
- A land assessment report demonstrating that the lot is capable of treating and retaining all wastewater to Council's satisfaction.
- A bushfire assessment for 10 Titania Crescent, demonstrating that if needed, a new dwelling could be built on this block with appropriate spatial separation from bushfire threat, and other relevant matters for bushfire safety including vehicle access.
- An engineering assessment of the vehicle access to 10 Titania Crescent and whether the lot layout shown in RO10 may enable an improved access arrangement.
- An expert geotechnical engineering assessment of siting considerations for a new dwelling at 10 Titania Crescent and whether the lot layout shown in RO10 may enable an improved siting arrangement in comparison to the existing dwelling.
- A report on the drainage arrangement for the entire land area, with direction on whether this may be compromised by the submitter's preferred restructure lot layout.

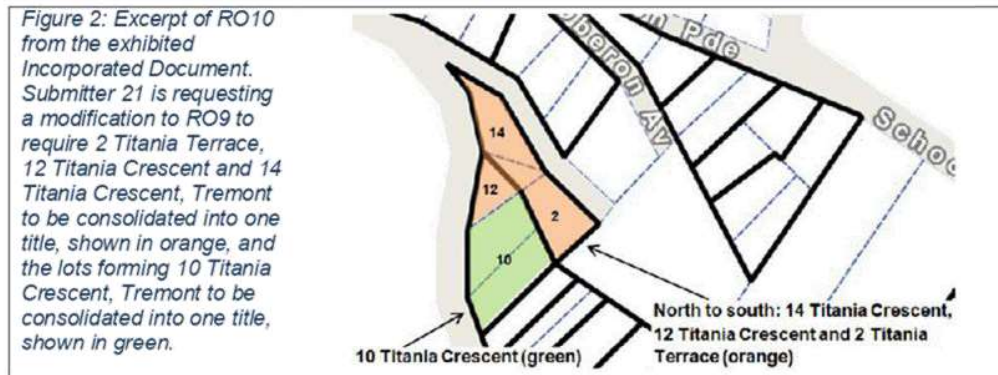
Recommendation:

No change to Amendment C177.

In the lead-up to a Panel hearing, communicate to Submitter 20 the information needed to support a resubdivision application.

Figure 1: Excerpt of RO10 from the current Incorporated Document. 2 Titania Terrace, 10 Titania Crescent, 12 Titania Crescent and 14 Titania Crescent, Tremont are highlighted in yellow.





2.4 Submissions in support of Amendment C177

Submission 12: 7 Carrington Court, Tecoma (RO37)

Submitter comments

Submitter 12 supports Amendment C177 as it will recognise the historic consolidation of lots comprising 7 Carrington Court, Tecoma and allow them to apply for a planning permit to construct a dwelling. Restructure Overlay – Schedule 37 (RO37) applies to the land. Figure 1 shows the current lot configuration and Figure 2 shows the lot configuration proposed by Amendment C177.

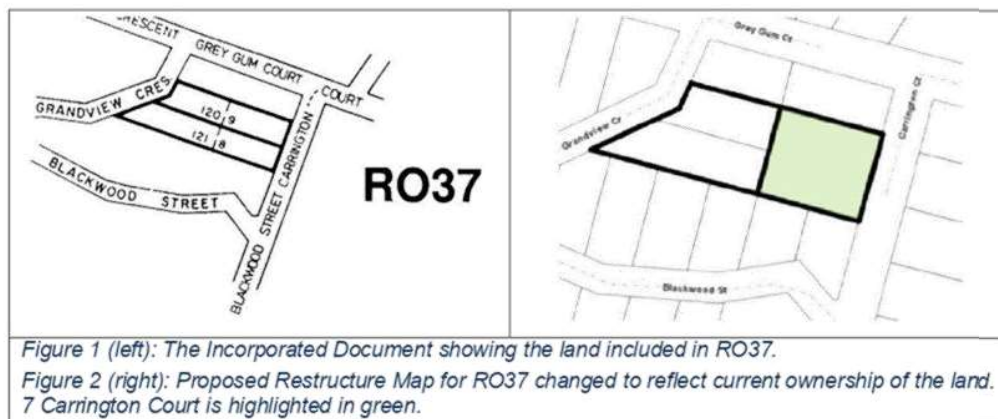
Response to submission:

Support for Amendment C177 is noted.

It is noted that a planning permit is required to construct a dwelling on 7 Carrington Court, pursuant to the relevant policy and requirements in the Yarra Ranges Planning Scheme.

Recommendation:

No change required – support for Amendment C177 is noted.



Submission 13: 9 Grandeur Drive, East Warburton (RO100)**Submitter comments**

Submitter 13 supports Amendment C177. They would consider consolidating the two vacant lots comprising 9 Grandeur Drive, East Warburton into one title so they could construct a dwelling. Restructure Overlay – Schedule 100 (RO100) applies to the land.

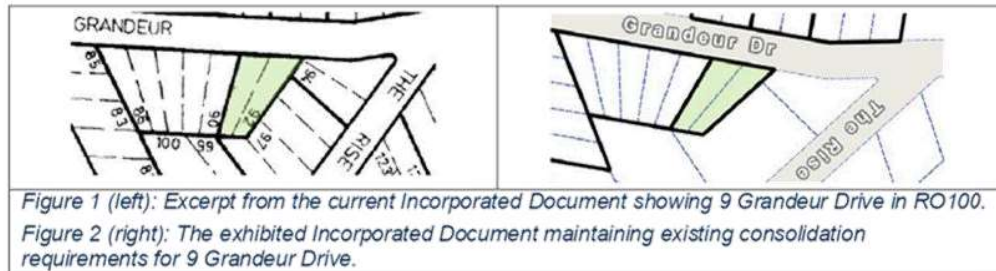
Response to submission:

Support for Amendment C177 is noted.

It is noted that a planning permit is required to construct a dwelling on 9 Grandeur Drive, East Warburton pursuant to the relevant policy and requirements in the Yarra Ranges Planning Scheme.

Recommendation:

No change required – support for Amendment C177 is noted.

**3.0 Other changes in response to enquiries**

Further investigations have been undertaken in response to the large number of telephone and email enquiries received during the exhibition period, resulting in additional recommended changes to Amendment C177, as described below.

3.1 Lots that have previously been consolidated or re-subdivided to meet the intent of the Restructure Overlay

Below are list of properties that can be removed from the Restructure Overlay because they have either been consolidated or re-subdivided to meet the Restructure Overlay's intent:

Land description	Restructure Overlay and zone	Details of consolidation or resubdivision
8 and 8A Colehurst Crescent, Sassafras	RO4 GWAZ1	These lots have been consolidated into two single titles in an arrangement that slightly differs from RO4. Refer to PS332377X registered on 15 May 1994.
22 Johns Road, Selby	RO44 GWAZ1	Refer to PC378407 registered on 16 October 2019.

54 Arbor Avenue, Belgrave	RO45 GWAZ1	Refer to PC375875 registered on 9 February 2017.
21 and 21A Maskells Hill Road, Selby	RO46 GWAZ1	Refer to PC376824Q registered on 23 March 2018 and PC377511H registered on 1 March 2018.
82 and 86 Olinda-Monbulk Road, Olinda	RO66 GWZ2	These lots have been consolidated into two single titles in an arrangement that differs from RO66. Refer to PS344121 registered on 7 December 1995.
262 and 270 Big Pats Creek Road, Big Pats Creek	RO88 RCZ3	RO88 requires the former road reserve to be consolidated into 262 Big Pats Creek Road, however has instead been consolidated into 270 Big Pats Creek Road to create PC356507, registered on 15 May 1995.
7 Whitegum Drive, East Warburton	RO90 GWZ5	Refer to PC373547G registered on 13 April 2017.
11 Whitegum Drive, East Warburton	RO90 GWZ5	Refer to PC378402H registered on 10 February 2020.
22-24 Wilkilla Road, Mount Evelyn	RO123 GWAZ1	Refer to PC373593Y registered on 16 August 2018.

Recommendation:

Modify Amendment C177 to remove the following properties from the Restructure Overlay and make consequential changes to the Incorporated Document:

- 8 Colehurst Crescent, Sassafras (RO4)
- 8A Colehurst Crescent, Sassafras (RO4)
- 22 Johns Road, Selby (RO44)
- 54 Arbor Avenue, Belgrave (RO45)
- 21 Maskells Hill Road, Selby (RO46)
- 21A Maskells Hill Road, Selby (RO46)
- 82 Olinda-Monbulk Road, Olinda (RO66)
- 86 Olinda-Monbulk Road, Olinda (RO66)
- 262 Big Pats Creek Road, Big Pats Creek (RO88)
- 270 Big Pats Creek Road, Big Pats Creek (RO88)
- 7 Whitegum Drive, East Warburton (RO90)
- 11 Whitegum Drive, East Warburton (RO90)
- 22-24 Wilkilla Road, Mount Evelyn (RO123).

3.2 Lots that meet other requirements

Some restructure maps permit more than one dwelling on a restructure lot, however do not require individual lots within the restructure lot to be consolidated into one title.

Each of the properties below comprises a single dwelling on a lot, which satisfies the intent of the Restructure Overlay. The Rural Conservation Zone (RCZ) applies to these lots land and restricts their development potential without the need for the Restructure Overlay. No more than one dwelling is allowed on a lot in the RCZ and these lots are too small to be subdivided under the provisions of the zone. Therefore, these properties can be removed from the Restructure Overlay.

Land description	Restructure Overlay and zone	Reason for removal from the Restructure Overlay
28 and 30 Dorothy Street, Healesville	RO112 RCZ1	Two dwellings have been developed within the boundary of the restructure lot, consistent with the requirements of RO112.
1 and 9 Barkers Road and 8 Mt Lebanon Road, Chum Creek	RO116 RCZ1	Two dwellings have been developed within the boundary of the restructure lot at 9 Barkers Road and 8 Mt Lebanon Road, consistent with the requirements of RO116. 1 and 9 Barkers Road were resubdivided to increase the lot area of 1 Barkers Road, which is also developed with a dwelling. Refer to PS501649A registered on 9/12/2002.
12 and 14 Barkers Road, Chum Creek	RO116 RCZ1	Two dwellings have been developed within the boundary of the restructure lot, consistent with the requirements of RO116.

Recommendation:

Modify Amendment C177 to remove the following properties from the Restructure Overlay and make consequential changes to the exhibited Incorporated Document:

- 28 Dorothy Street, Healesville (RO112)
- 30 Dorothy Street, Healesville (RO112)
- 1 Barkers Road, Chum Creek (RO116)
- 9 Barkers Road, Chum Creek (RO116)
- 8 Mt Lebanon Road, Chum Creek (RO116)
- 12 Barkers Road, Chum Creek (RO116)
- 14 Barkers Road, Chum Creek (RO116).

3.3 Modified restructure map names and other mapping changes**Recommendation:**

To make it easier to identify the location of Restructure Overlays, the following restructure maps in the Incorporated Document are recommended to be renamed:

- RO35: Rename from Burwood Highway, Upwey to Royal Street, Upwey.
- RO83: Rename from Douglas Avenue, Warburton to Old Warburton Road, Warburton.
- RO88: Rename from Big Pats Creek Road, Starvation Creek to Big Pats Creek Road, Big Pats Creek.
- RO101: Rename from Fishermans Drive, Armstrong Creek to Fisherman Drive, Reefton.

The restructure map in the Incorporated Document for Restructure Overlay – Schedule 26 is recommended to be modified to accord with title boundaries at 1351 and 1353 Burwood Highway, Upper Ferntree Gully.

Yarra Ranges Planning Scheme Amendment C177 – Restructure Overlay Correction: Summary of recommended changes following public exhibition

Introduction

The following is a summary list of recommended changes following the public exhibition of Amendment C177 – Restructure Overlay Correction.

Reasons outlining why changes are recommended and a response to each submission received to Amendment C177 is contained in the report *Yarra Ranges Planning Scheme Amendment C177 – Restructure Overlay Correction: Recommendations in response to submissions received during exhibition, April 2020*.

1. Supported changes in response to submissions received to Amendment C177

Modify Amendment C177 and the Incorporated Document to:

- a. Remove RO99 from 29 and 31 Lyrebird Avenue, East Warburton.
- b. Remove RO116 from 3 Blackmore Street, 5 Blackmore Street and 5 Chaffer Street, Chum Creek.
- c. Remove RO47 from 2 Maskell Street, Selby.
- d. Remove RO10 from 18 Titania Crescent and 5 Johnston Parade, Ferny Creek
- e. Remove RO90 from 7 Golden Perch Avenue, East Warburton.
- f. Remove the requirement under RO93 for a new carriageway easement to be established on 137 Barak Drive, Launching Place.
- g. Realign the boundary of RO79 to accord with title boundaries and require this land to form part of the smaller south-eastern restructure lot.

2. Recommended changes – lots that have previously been consolidated or resubdivided to meet the intent of the Restructure Overlay

Modify Amendment C177 to remove the following properties from the Restructure Overlay and make consequential changes to the Incorporated Document:

- a. 8 Colehurst Crescent, Sassafras (RO4).
- b. 8A Colehurst Crescent, Sassafras (RO4).
- c. 22 Johns Road, Selby (RO44).
- d. 54 Arbor Avenue, Belgrave (RO45).
- e. 21 Maskells Hill Road, Selby (RO46).
- f. 21A Maskells Hill Road, Selby (RO46).
- g. 82 Olinda-Monbulk Road, Olinda (RO66).
- h. 86 Olinda-Monbulk Road, Olinda (RO66).
- i. 262 Big Pats Creek Road, Big Pats Creek (RO88).
- j. 270 Big Pats Creek Road, Big Pats Creek (RO88).
- k. 7 Whitegum Drive, East Warburton (RO90).
- l. 11 Whitegum Drive, East Warburton (RO90).
- m. 22-24 Wilkilla Road, Mount Evelyn (RO123).

3. Recommended changes – lots that meet other requirements

Modify Amendment C177 to remove the following properties from the Restructure Overlay and make consequential changes to the exhibited Incorporated Document:

- a. 28 Dorothy Street, Healesville (RO112).
- b. 30 Dorothy Street, Healesville (RO112).
- c. 1 Barkers Road, Chum Creek (RO116).
- d. 9 Barkers Road, Chum Creek (RO116).
- e. 8 Mt Lebanon Road, Chum Creek (RO116).
- f. 12 Barkers Road, Chum Creek (RO116).
- g. 14 Barkers Road, Chum Creek (RO116).

4. Recommended changes – modified restructure map names

Modify Amendment C177 to rename the following restructure maps in the Incorporated Document and make consequential changes to the schedule to Clause 45.05 (Restructure Overlay) of the Yarra Ranges Planning Scheme:

- a. RO35: Rename from Burwood Highway, Upwey to Royal Street, Upwey.
- b. RO83: Rename from Douglas Avenue, Warburton to Old Warburton Road, Warburton.
- c. RO88: Rename from Big Pats Creek Road, Starvation Creek to Big Pats Creek Road, Big Pats Creek.
- d. RO101: Rename from Fishermans Drive, Armstrong Creek to Fisherman Drive, Reefton.

5. Recommended changes – other mapping changes

Modify Amendment C177 so the restructure map in the Incorporated Document for RO26 to accords with title boundaries at 1351 and 1353 Burwood Highway, Upper Ferntree Gully.