



# Agenda

## Scheduled Council Meeting

Tuesday 18 March 2025  
to be held at 2:00 PM

Robinvale Community Arts Centre  
37 Robin Street Robinvale. VIC 3549

### Public Access

Open to the public and live streaming from  
Council's website: [www.swanhill.vic.gov.au](http://www.swanhill.vic.gov.au)



## Governance Rules

A copy of Swan Hill Rural City Council's governance rules can be found at  
<https://www.swanhill.vic.gov.au/about/overview/policies/governance-rules-2020/>

## Executive Leadership Team

Scott Barber, Chief Executive Officer

Bruce Myers, Director of Community and Cultural Services

Michelle Grainger, Director of Development and Planning

Bhan Pratap, Director of Corporate Services

Leah Johnston, Director of Infrastructure

## Swan Hill Elected Members

**Cr Stuart King**

0437 967 531

[stuart.king@swanhill.vic.gov.au](mailto:stuart.king@swanhill.vic.gov.au)**Cr Terry Jennings**

0429 449 578

[terry.jennings@swanhill.vic.gov.au](mailto:terry.jennings@swanhill.vic.gov.au)**Cr Les McPhee**

0427 319 394

[les.mcphee@swanhill.vic.gov.au](mailto:les.mcphee@swanhill.vic.gov.au)**Cr Hugh Broad**

0408 250 683

[hugh.broad@swanhill.vic.gov.au](mailto:hugh.broad@swanhill.vic.gov.au)**Cr Peta Thornton**

0417 219 229

[peta.thornton@swanhill.vic.gov.au](mailto:peta.thornton@swanhill.vic.gov.au)**Cr Lindsay Rogers**

0499 720 035

[lindsay.rogers@swanhill.vic.gov.au](mailto:lindsay.rogers@swanhill.vic.gov.au)**Cr Philip Englefield**

0429 079 650

[philip.inglefield@swanhill.vic.gov.au](mailto:philip.inglefield@swanhill.vic.gov.au)

## Vision Statement

Built on strong foundations that embrace our rich History and natural environment, our region will be a place of progressions and possibility. We are a community that is happy, healthy and harmonious - we are empowered, we are respectful and we are proud.

## Our Mission

We will lead, advocate, partner and provide efficient services and opportunities for growth and the wellbeing of our community, environment and economy.

## Our Values

Council values our residents and community and will be responsive to their needs. In pursuing our objectives, we believe in, and are committed to, the following values:

**Community engagement** - We will ensure that our communities are consulted, listened to and informed.

**Leadership** - We will be at the centre of our community and by actively engaging our community we will form the collective view on strategic issues and will then express our views through strong advocacy and action.

**Fairness** - We will value and embrace the diversity of our community and ensure that all people are treated equally.

**Accountability**- We will be transparent and efficient in our activities and we will always value feedback.

**Trust** - We will act with integrity and earn the community's trust by being a reliable partner in delivering services, projects and providing facilities.



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## 1 Procedural Matters

### 1.1 Welcome

### 1.2 Acknowledgement Of Country

*“Swan Hill Rural City Council acknowledges the traditional custodians of the land on which we meet, and pays its respects to their elders, past and present.”*

### 1.3 Opening Declaration

*“We beseech you Lord, that we may be granted wisdom, understanding and sincerity of purpose, in the decisions we are called on to make for the welfare of the people of the Rural City of Swan Hill.”*

Or

“We, the Councillors of Swan Hill Rural City Council, declare that we will undertake the duties of the office of Councillor, in the best interests of our community, and faithfully, and impartially, carry out the functions, powers, authorities and discretions vested in us, to the best of our skill and judgement.”

### 1.4 Apologies / Leaves of Absence

None when the Agenda was distributed.

### 1.5 Directors / Officers Present

### 1.6 Confirmation of Minutes

#### 1.6.1 Confirmation of Minutes

**Recommendation/s**

**That the minutes of the Scheduled Council Meeting held on Tuesday 18 February 2025 be confirmed.**

### 1.7 Disclosures of Conflict of Interest

### 1.8 Joint Letters and Reading of Petitions

#### 1.8.1 Wood Wood, request for town speed limit be reduced

**Responsible Officer:** Chief Executive Officer

**Declarations of Interest:**

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

**Summary**

On 3 March 2025, Council received correspondence from James Harris on behalf of the Wood Wood community, raising concerns about the town's speed limit (attached).

Residents are requesting a reduction of the speed limit throughout Wood Wood from 80 km/h to 60 km/h, citing safety concerns for both pedestrians and motorists. Their concerns have been heightened following a serious crash at the end of 2024, and they believe that lowering the speed limit would help prevent future incidents.

The community is asking Swan Hill Rural City Council to advocate on their behalf by petitioning VicRoads for this speed limit reduction.

The submitted document includes 53 names, signatures, and corresponding suburbs/postcodes.

**Attachments:** 1. Petition Wood Wood [1.8.1.1 - 3 pages]

**Recommendation/s****That Council:**

1. **Receive the petition, and**
2. **Write to VicRoads on behalf of the community to request that the speed limit throughout the town of Wood Wood be reduced to 60kmph.**





# PETITION TO REDUCE SPEED LIMIT IN WOOD WOOD

## PETITION

To the Swan Hill Council:

We the undersigned are concerned residents who would like the speed limit throughout the town of Wood Wood reduced from 80kmph to 60kmph. This is important to keep the safety of pedestrians and motorists alike.

Following a serious crash at the end of 2024 we believe reducing the speed limit will reduce the possibility of reoccurrence.

We request Swan Hill Council to represent the community in petitioning Vic Roads to reduce the speed limit.

	NAME (please print)	SUBURB/POST CODE	SIGNATURE
1	SHEREE STEVENS	3596 Woodwood	<i>[Signature]</i>
2	JAMES HARRIS	3596 Woodwood	<i>[Signature]</i>
3	Ayden Stevens	3596 woodwood	<i>[Signature]</i>
4	memphis Stevens	3596 woodwood	Memphis S.
5	Brendan Rogers	3596 Wood Wood	<i>[Signature]</i>
6	Tim ALGIE	NVAQ	<i>[Signature]</i>
7	Matt Jennings	WOOD WOOD	<i>[Signature]</i>
8	Jackie Winters	wood wood	<i>[Signature]</i>
9	ELAINE Gillick	wood wood	<i>[Signature]</i>
10	GAEH BENNETT	Swan Hill	<i>[Signature]</i>
11	KERRIE HOLLAND	WOOD WOOD	<i>[Signature]</i>
12	ROB BAKE	wood wood	<i>[Signature]</i>
13	Lindsay Polkinghore	Nyah	<i>[Signature]</i>
14	May Hearn	Nyah	<i>[Signature]</i>
15	Loreto Kennedy	wood wood	<i>[Signature]</i>
16	Steve Mammone	wood wood	<i>[Signature]</i>
17	Joire Holland	Mildura	<i>[Signature]</i>
18	Marianne De Maiz	wood wood	<i>[Signature]</i>
19	Sam De Maiz	wood wood	<i>[Signature]</i>
20	Alicia Jean Moore	Wood Wood	<i>[Signature]</i>

## PETITION TO REDUCE SPEED LIMIT IN WOOD WOOD

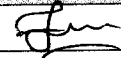
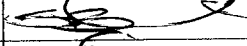
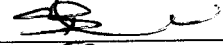
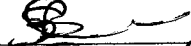
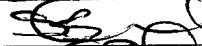


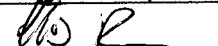

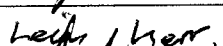


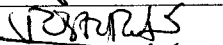

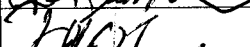
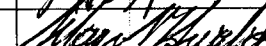
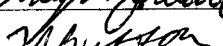
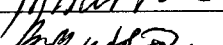
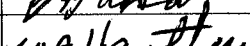

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We the undersigned are concerned residents who would like the speed limit throughout the town of Wood Wood reduced from 80kmph to 60kmph. This is important to keep the safety of pedestrians and motorists alike.

Following a serious crash at the end of 2024 we believe reducing the speed limit will reduce the possibility of reoccurrence.

We request Swan Hill Council to represent the community in petitioning Vic Roads to reduce the speed limit.

	NAME (please print)	SUBURB/POST CODE	SIGNATURE
1	Josh Moss	3500	
2	STEVE BLANCHFORD	3596	
3	ANETTE BLANCHFORD	3596	
4	TAMLEN BLANCHFORD	3596	
5	SUMNER BLANCHFORD	3596	
6	BOB BLANCHFORD	3596	
7	Juandre Kopp	3595	
8	CHRIS PEARCE	3594	
9	PAUL MORILLO	3500	
10	Leigh Kerr	PIANGIL	
11	Matt Algie	3596	
12	Lararo De Costa Monie	3596	
13	Schneider de Costa Pinto	3596	
14	John Fothergill	3596	
15	JOE MCNEIL	3596	
16	WYATNE McDONALD	3596	
17	THELMA BUTTON	3596	
18	BRIAN BUTTON	3596	
19	Bill Howerton	3596	
20	AARON HENDERSON	3596	

## PETITION TO REDUCE SPEED LIMIT IN WOOD WOOD

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We request Swan Hill Council to represent the community in petitioning Vic Roads to reduce the speed limit.

	NAME (please print)	SUBURB/POST CODE	SIGNATURE
1	Paul Beas	3596	P. Beas
2	Lesley Wright	3596	Lesley Wright
3	K. Gillick	3596	K. Gillick
4	PK Miller	3597	PK Miller
5	Ben Behnamann	3596	Ben Behnamann
6	Tom Vernon	3596	Tom Vernon
7	Lisa James	3586	Lisa James
8	John Sheehan	3586	John Sheehan
9	Hugh Kennedy	3594	Hugh Kennedy
10	LIONEL TORNEY	3594	L. Torney
11	Joan Torney	3594	J. H. Torney
12	Simon Cray	3597	Simon Cray
13	Daniel Gadsby	3594	D. Gadsby
14			
15			
16			
17			
18			
19			
20			

## 1.9 Public Questions Time

**You can access the form Public Question Time form from:**

<https://forms.swanhill.vic.gov.au/council-meeting-public-question-time/>

### **Please note**

- Only ONE question per form submission.
- Submission must be received no later than 10:00am on the day prior to the meeting.
- A time is set aside for public questions during a Council meeting at which time each question will be read after the Chairman has looked at its contents and determined that the question is appropriate.
- Statements and opinions are not permitted during question time and will not be read to the meeting.
- The Chairman may disallow any question. This may be because the question is repetitive of a question already asked, objectionable, irrelevant, raises an issue of a confidential nature or is asked to embarrass a Councillor or Council officer. The Chairman will provide reasons where a question is disallowed. Questions considered to be inappropriate will be made available to Councillors on request.
- The Chairman will nominate the appropriate Councillor or Council officer to answer the question or elect to answer it himself/herself.
- No debate or discussion of the questions or answers is permitted.
- The Chairman may elect to take a question on notice in which case a written response will generally be provided within 10 working days.
- A summary of the text of the question and the response will be recorded in the minutes of the Council meeting.

### **Who can use this form**

- Any community member

### **While completing this form, we will request**

- Your contact details (including your name, address, phone and email)
- Your question

It will take about 5 minutes to complete this form.

### **After you submit this form**

- We will send you an email receipt to confirm we have received your submission

### **What happens with your information?**

The information requested in this form is collected by Swan Hill Rural City Council to assist us in responding to your question.



Your name, suburb and question may be read out at the Council meeting and will be recorded in the Council meeting minutes but will not be used for any other purpose unless required by law.

We will handle any personal information you provide on this form in accordance with the Privacy and Data Protection Act 2014. We record this information on our customer databases and make it available to relevant Council staff in line with our Privacy Statement.

You can access your personal information by contacting our Privacy Officer.

## 1.10 Open Forum

Please see below “Governance Rules 2023 – Section 7 referring to Open Forum” which outlines the rules and procedure of open forum.

### **7. Community questions and submissions**

#### **7.1. Open Forum and Questions Of Council Time To Be Held**

- (1) The Council will hold Open Forum and Questions of Council Time for up to 30 minutes duration at the beginning of each Scheduled Meeting to allow public submissions and questions of Council. Extension of time may be granted by resolution of Council.
- (2) Open Forum is an opportunity for the general public to present to Council on a matter listed on the Agenda or any other matter.
- (3) Questions of Council are an opportunity for the general public to submit a question prior to the Scheduled Meeting and receive a response from Council in the Questions of Council time.
- (4) Council meetings are recorded and broadcasted to the public; this includes community questions and submissions.

#### **Open forum and questions of council guidelines**

**7.2.** Questions of Council time and Open Forum will not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 66 (1) of the Act.

**7.3.** Submissions as part of Open Forum and Questions of Council may be on any matter except if it:

- (a) is considered malicious, defamatory, indecent, abusive, offensive, irrelevant, trivial, or objectionable in language or substance;
- (b) relates to confidential information as defined under the Act;
- (c) relates to the personal hardship of any resident or ratepayer; or
- (d) relates to any other matter which the Council considers would prejudice the Council or any person;
- (e) If a person has submitted more than 2 questions to a meeting, the third and further questions may, at the discretion of the Chairperson be deferred until all other person who have asked a question have had their questions asked and answered and not be asked if the time allotted for public question time has expired.

**7.4.** Where the Mayor does not accept a question, the submitter is to be informed of the reason or reasons for which their question was not accepted.

**7.5.** The Mayor reserves the right to cease a submission as part of Open Forum if they deem the submission inappropriate.

**7.6.** Where possible Copies of all questions allowed by the Mayor will be provided in writing to all Councillors.

- 7.7. A submission or question submitted in writing by a member of the public, which has been disallowed by the Mayor will be provided to any Councillor on request.

**Open forum**

- 7.8. For any member of the public who wishes to be heard at Open Forum they must give prior notice:
- (a) in written form;
  - (b) contain the name, address and email or contact telephone number of the person to be heard;
  - (c) by online request <https://www.swanhill.vic.gov.au/>;
  - (d) in a letter to the Chief Executive Office, 45 Splatt Street, Swan Hill, Vic 3585; or
  - (e) in an email [council@swanhill.vic.gov.au](mailto:council@swanhill.vic.gov.au); or
  - (f) hand delivery to the Council's Office, 45 Splatt Street, Swan Hill or 72 Herbert Street, Robinvale.
- 7.9. It is preferable for any group or association that wishes to be heard at Open Forum to nominate a spokesperson for an issue upon which the group or association may wish to be heard.

**Open Forum Procedure****7.10. Public addressing the Meeting**

- (1) Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chairperson whenever called on to do so.
  - (2) Council may suspend standing orders to hear from a community member or representative of an organisation, on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.
- 7.11. The Chair will allocate a maximum of 3 minutes to each person who wishes to address Council.
- 7.12. The Chair will first invite any person who has given prior notice to present to Council.
- 7.13. The Chair will then invite members of the gallery who would like to present to Council.
- 7.14. The Chair has the discretion to alter the order of persons to be heard.
- 7.15. The person in addressing the Council:
- (a) must confine their address to the 3-minute allocation of time;
  - (b) shall extend due courtesy and respect to the Council and the processes under which it operates; and
  - (c) shall take direction from the Chair whenever called upon to do;
  - (d) There will be no discussion or debate with the attendees to Open Forum however Councillors may ask questions of clarification of the attendee;
  - (e) Standing Orders do not need to be suspended to allow discussion for the purposes of clarification.

## 2 Officer Reports for Decision

### 2.1 Strategic Review of the Swan Hill Regional Livestock Exchange

**Directorate:** Infrastructure  
**File Number:** Records  
**Purpose:** For Decision

#### Council Plan Strategy Addressed

**4. Leadership** - We will ensure accountable leadership, advocacy and transparent decision making.

##### 4.1 Excellent management and administration

4.1.1 Well managed resources for a sustainable future

4.1.2 Provide robust governance and effective leadership

4.1.3 Sound, sustainable:

- Financial management • Excellence in service delivery • Strategic planning

**4. Leadership** - We will ensure accountable leadership, advocacy and transparent decision making.

##### 4.2 Transparent communication and engagement

4.2.1 Effective and authentic engagement with our community

4.2.2 Visible presence in our community

#### Current Strategic Documents

No strategic documents applicable.

#### Declarations of Interest

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

#### Summary

Council engaged the consultant, Outcross Agri Services, to undertake a strategic review of the Swan Hill Regional Livestock Exchange (SHRLE). This review is now complete for Council's consideration and direction. A copy of the strategic review is shown in Attachment 1.

#### Discussion

The SHRLE site encompasses 8 hectares, located along Karinie Street, Swan Hill and is currently zoned PUZ1 – Public Use Zone, Service & Utility.

The Swan Hill region is a strong agricultural area with a long history of beef, sheep and dairy cattle grazing and has a large catchment area for the SHRLE.



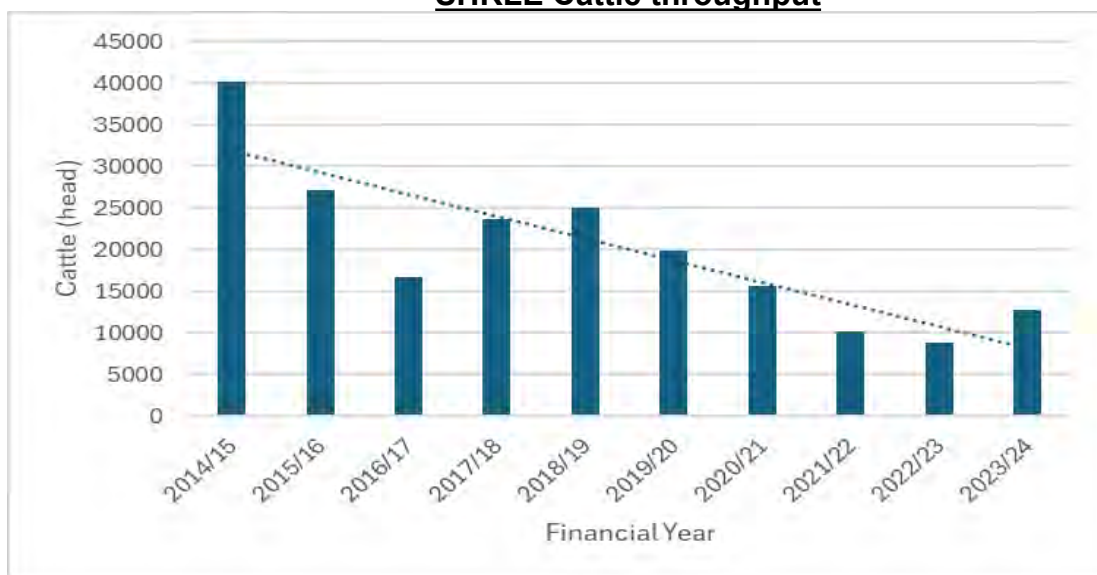
This review has identified significant changes in the trends in the saleyards sector and marketing options for livestock which Council needs to consider. Various marketing options include direct sales, online auctions and sales directly to feedlots and abattoirs.

Over the last 20 years, there has also been the consolidation of saleyards and privatisation within the industry. Interestingly, across Australia;

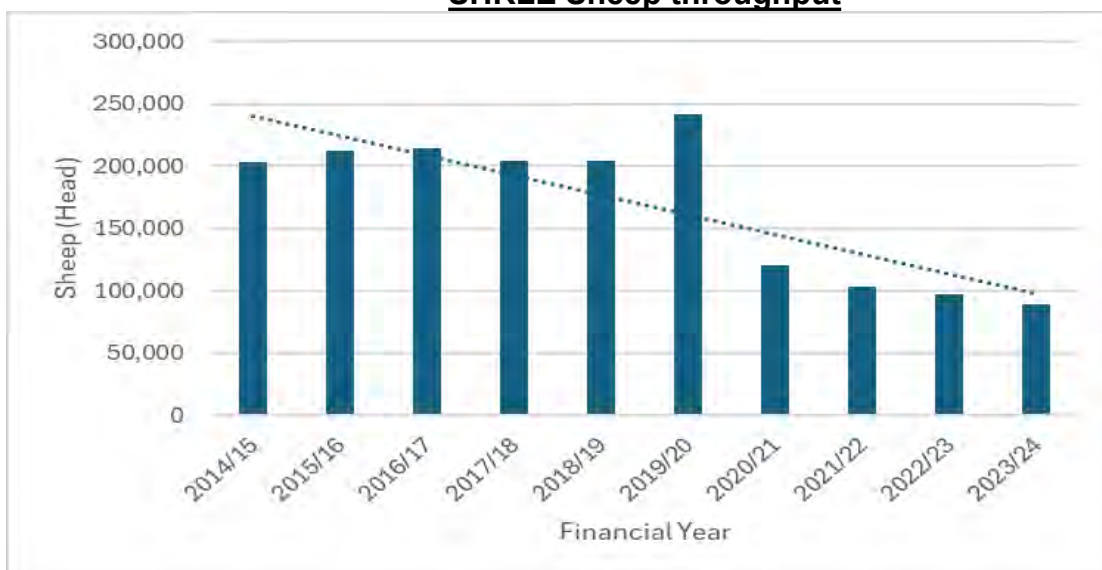
- 75 years ago there were 300 saleyards
- 25 years ago, this had more than halved to only 125 saleyards
- Currently there are less than 100 commercial saleyards operating regularly; and
- it is projected there will be less than 50 regional sites by 2030.

The current SHRLE throughput shows a significant decline over a 10-year timeframe for both cattle and sheep:

#### **SHRLE Cattle throughput**



#### **SHRLE Sheep throughput**



#### **Other Saleyards**

The SHRLE has several other significant saleyards in proximity of Swan Hill, being:

<b>Location</b>	<b>Distance to Swan Hill (km)</b>	<b>Comments</b>
<i>Shepparton</i>	227	Largest nearby yard with 8.3% of cattle throughput in Victoria, 1.1% of sheep. Agents advise that Shepparton provides stronger markets for heavier export stock classes. It is noted that this yard has been recently leased, and the City of Greater Shepparton is interested in closing their existing site if an alternative was to be built in the region.
<i>Echuca</i>	162	Considered to be a good location and has the potential to grow on the existing site.
<i>Finley</i>	210	Current feedback is that this yard will likely close.
<i>Deniliquin</i>	150	Sheep only yard.
<i>Ouyen</i>	129	Sheep only yard.

### **Infrastructure**

Whilst the SHRLE yards are considered relatively modern, there are significant design flaws which have been identified as part of the review. The main issues include the lack of buyer walkways and the unused drafting facilities.

More broadly, the infrastructure is generally adequate for the current throughput, but additional capacity would be required to handle large sales, which is a pre-requisite for financial viability.

### **Ownership and Management Options**

The review has considered a range of options for ownership and management. Whilst it is suggested that most saleyards will be privately owned in the future, management can be by private entities or local government. Local government can manage saleyards successfully, however due to the high risks associated with this industry, Councils generally use a third party to either lease or manage the site, or to facilitate and manage the sales on the site.

However, the two main trends have been the consolidation of facilities and privatisation.

The various options explored in the review include:

- Council owned and operated
- Council owned, privately managed
- Lease
- Sale to a private company
- Closure
- A regional facility

### **Consultation**

The development of the strategic review included the following consultation methods to ensure that stakeholder's input was considered:

- Council staff involved with the livestock exchange
- Livestock agents
- Transporters
- Buyers
- Abattoirs
- Survey which was released to the public on the 21 November 2024 and closed on the 6 December 2024 which was advertised on Councils website and social media. A copy of the survey is shown in Attachment 2.
- Consultant also visited the yards on the 28 November 2024 to directly talk with stakeholders and encouraged the completion of the survey.
- Fliers with the survey QR code were given to businesses on Karinie Street and surrounds
- A total of 73 responses were received. Of the surveys completed, 16.44% were agents, 26.03% were community members, 30.14% were vendors, 21.92% were purchases, 2.74% were Council employees, 1.37% were transporters and 1.37% were contractors.

Now that the independent strategic review has been completed, it is recommended that the document be publicly advertised to allow the broader community opportunity to provide feedback. As the content will challenge traditional practices, it is likely that there will be community concern.

It is important that it is made very clear that **no decision has been made by Council**, however this is the first step in understanding the feasibility of the yards and to be fully transparent about any ongoing investment by Council and community.

It is recommended that the document be placed on Councils Lets Talk page, with a frequently asked question section, which again explains the process and that no decision about the future of the yards has been made.

It is also noted that the consultant Outcross Agri Services is considered an expert in this industry, particularly in terms of technology, design, operation and processes. Having had extensive experience in the industry, the question has been raised by the Saleyards Advisory Committee around whether they have a conflict of interest. Outcross Agri Services has advised that they do not believe that they have any actual, potential or perceived conflicts of interest regarding this review and have signed off on this matter as part of their tender submission. This is a very specialised sector, and it is believed that this consultant, who has been a part of many strategic reviews of saleyards, was best placed to provide independent advice.

### **Financial Implications**

The strategic review has undertaken a comprehensive analysis of the financial position of the yards.

In summary, the SHRLE has incurred financial losses over a long period of time. Over the last 4 years alone, this has totalled losses of \$837,244.

It has indicated that a throughput of 100,000 cattle or 500,000 sheep is required to be viable and there is no apparent pathway for this to occur.

Council would need to consider what level of subsidisation is acceptable to continue to manage the livestock exchange under the current management regime.

### **Social Implications**

The SHRLE has serviced the region for livestock marketing since 1938. It has been an essential community asset with regular sales for over 80 years and is considered to make a social contribution to those that use the facility and the local community. Bringing in our farmers from the region improves social connection and it is believed to have mental health benefits for those that would otherwise have limited reason to come to the township and meet with peers.

If Council was to consider a different ownership or management option for the SHRLE, it would be important to consider how to continue to support the industry with any impacts of such a change.

Other potential social issues that can arise from the use of the livestock exchange and impact on residents include smell, dust, noise and traffic congestion.

### **Economic Implications**

SpendMapp data has been obtained to consider the economic benefit of the operation of the Saleyards to the broader benefits of the community. Over a 5-month period, the total daily spend shows consistent spending on a Monday, Tuesday, Wednesday, Thursday and more spending on a Friday. It does not seem to correlate that there is additional spending in the township on sale days, but rather more spending at the end of a week, being on a Friday – regardless of whether the sale occurred on the Thursday or not.

As previously mentioned, the 8 hectares is currently zoned PUZ1 – Public Use Zone, Service & Utility. This location along Karinie Street is considered to also be valuable industrial or commercial land and could add further value to the community being utilised as industrial/commercial land and will be considered further as an option under the industrial land review.

### **Environmental Implications**

The effluent and stormwater systems are in good working order and not an issue at the site.

### **Risk Management Implications**

There is significant risk in the operations of a livestock exchange. The current sale process has a range of risks including:

- the use of paint to identify vendors and buyers and the application of the paint is dangerous
- excessive dust, which is reported to have a negative impact on the health of agents and staff when drafting
- unreliable lighting – however works have been undertaken recently to rectify lighting concerns



- Drafting process presents an OHS risk, as there is no separation of humans and cattle, gates swing the wrong way which creates drafting errors and increased risk
- Concrete pens which create animal welfare concerns
- Full compliance with animal welfare requirements

Council also notes the SHRLE biosecurity risks associated with transporting stock into one location, sharing trucks and yards and disposal of deceased livestock. In 2022 Councils were warned by Agriculture Victoria to manage risks associated with Foot and Mouth Disease (FMD) and Lumpy Skin Disease (LSD). The risks increased with FMD and LSD detected in Indonesia in May and March 2022 respectively. Relevant Councils were briefed and prepared readiness plans.

Other risks associated with the development of this strategic review, will be community concerns and perceptions that Council will close the SHRLE. Releasing this document to the public may result in dissatisfaction with Council.

It is also noted that Council has also had a lot of challenges associated with staffing matters, including the sourcing of suitable staff and conflict between Council staff and stakeholders using the SHRLE facilities, which creates risk. It is a high stress environment on a sale day, and this can result in tensions and frustration, exposing Council to work safe risks.

**Attachments:** 1. Strategic Review of the Swan Hill Livestock Exchange Report VBRZ Fi M 3 X 02 U Veb 1 S\_0 p Q redacte [2.1.1 - 36 pages]

### **Options**

1. To undertake further strategic work around the feasibility of the Swan Hill Regional Livestock Exchange
2. To release the report to the broader community around the feasibility of the Swan Hill Regional Livestock Exchange and seek community feedback
3. To do nothing further and continue to operate the Swan Hill Regional Livestock Exchange

### **Recommendation/s**

**That Council release the report to the broader community around the feasibility of the Swan Hill Regional Livestock Exchange and seek community feedback for consideration.**

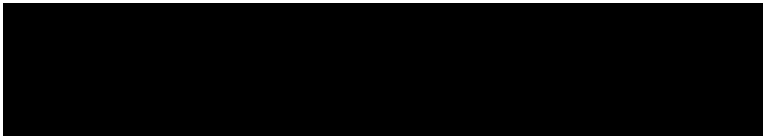


**Strategic Review of the  
Swan Hill Regional Livestock Exchange  
for the Swan Hill Rural City Council**

**28/01/2025**

*Prepared by:  
Tom Newsome  
Managing Director, Outcross Agri-Services Pty Ltd*

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## INDUSTRY TERMINOLOGY DEFINITIONS

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Term	Description
SHRLE	Swan Hill Regional Livestock Exchange
Adult Equivalent	Cattle range in weight and size so we need to be able to standardise the measurement to a standard animal. An adult equivalent is a term that standardises cattle to a 450Kg, non-lactating animal and is used widely in the grazing sector. In a saleyard setting it allows us to standardise pen density and capacity of the yards to manage Animal welfare.
Trade cattle	Lighter animals (usually less than 550Kg) that are destined for the domestic market (supermarkets and butchers) or will be sold to re-stockers or feedlots
Export cattle	Heavier animals and lighter cows that are destined for export markets such as the USA (cows) or Japan (heavy steers and bullocks)
NVD	National Vendor Declaration is a statutory declaration, providing important biosecurity information about the cattle sold from each Vendor
Vendor	The entity selling the cattle
Processor	Meatworks buyer
Livestock Agent	The marketing business that represents the seller. Also referred to as Agencies or Agents
90CL	90% chemical lean- Cow beef where 90% of the meat is muscle and 10% fat.

## EXECUTIVE SUMMARY

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Outcross has completed a review of the Swan Hill Regional Livestock Exchange (SHRLE) on behalf of Swan Hill Rural City Council (SHRCC). The review included the:

1. Background and context and Industry trends;
2. Operational review;
3. Infrastructure review;
4. Financial review;
5. Options for current site
6. Options to rebuild
7. Marketing options for livestock

## FINDINGS

### Background

The saleyard sector has been a pillar of livestock marketing in Australia for over 150 years. Most towns have had a municipal saleyard through the 20<sup>th</sup> century to cater for the sale of livestock in agriculturally based, local economies.

The Swan Hill Regional Livestock Exchange (SHRLE) is typical of the saleyards that have serviced rural communities. The current saleyard was built in 1938 and has provided a community asset to the region with regular sales ever since.

### Industry Trends

There is an ongoing trend for consolidation within the saleyards sector, with smaller unviable sites closing and larger sites expanding. This is due to the ongoing efficiencies of transport and the requirement of the market to be able to provide sufficient livestock to enable commercial competition and efficiency in freight.

This trend has been experienced over the red meat industry more broadly with the amount of farm businesses decreasing and the average land size increasing.

### Operations

SHRLE operates under a traditional model, including ring selling of cattle. Ring selling is slow and is not generally supported by professional buyers and Agents due to the time taken to complete the sale process. In addition, selling store cattle through a ring selling system is difficult as buyers cannot easily see which lots are coming up and what is available through the sale.

This view was supported by the responses in the Stakeholder survey, where 12.33% of total respondents rated the operations as poor and 52% of total respondents rated the operations as just satisfactory. This percentage is significantly higher for the Agents and Purchasers, with 16.7% of Agents rating the operations as poor and 75% just satisfactory. Of the Buyers 25% rated the operations as poor and 37.5% just satisfactory. Of the written feedback received from Agents & Buyers the overarching majority made comment to the inefficiencies of the sale process and listed this as one of the main disincentives for Buyers attending the sales.

### **Infrastructure**

SHRLE is a relatively modern saleyard, catering for both sheep and cattle.

The sheep section is old, but functional. The selling pens are adequate and the site is equipped with scanning equipment to comply with the National Livestock Identification System. Loading and unloading facilities are also adequate, enabling safe movement and transit of stock.

The cattle section is well maintained and appears to have had significant investment in recent years. There are two main unloading facilities, which are adequate.

Stock are scanned for NLIS compliance on entry into the facility, which assists to identify missing NLIS devices and allows management to transfer tags into the facility prior to the sale.

The dedicated draft is located away from the unloading ramps, which contributes to the Agents preference for lane drafting.

Loading, drafting, selling and storage facilities are compliant with industry standards.

### **Financial**

The SHRLE is not financially viable. In the financial year to June 30, 2024 the SHRLE incurred an operating loss of \$323,789.

There is no foreseeable pathway to the facility becoming viable, due to vastly inadequate throughput. Discounted Cash Flow analysis indicates that the SHRLE will not be viable into the future, due to the impact of low throughput.

SHRLE has consistently made a loss over the past ten years, with a total accrued loss is \$837,244 over the past 4 years.

SHRCC must decide if it will continue to invest in the site, knowing there is no clear pathway for the site to be financially viable.

### **Options for the current site**

SHRCC can repurpose, lease or sell the site. The location of the site in an industrial area within town indicates that the site has a significant value that could be realised by SHRCC.

Leasing the facility would minimise losses incurred by the SHRCC. The most likely proponent to lease the facility would be the existing Agents Association. This model works at other sites such as Armidale in NSW. Commercial entities that specialise in saleyards management are unlikely to be interested in leasing the SHRLE due to the poor financial viability of the site.

### **Rebuilding the SHRLE**

Should SHRCC decide to close the SHRLE and sell the site, it must then decide whether to rebuild the facility on a greenfield site.



We recommend that SHRCC does not rebuild, as there is no clear pathway toward financial viability at a new site, due to the low throughput.

**Marketing Options for Livestock**

There are several options that are available for marketing livestock from the Swan Hill district, if the SHRLE closes.

1. Surrounding saleyards including Echuca, Shepparton and Finley (Cattle) and Ouyen, Deniliquin and Bendigo (Sheep).
2. Online (Auctions Plus, Herd Online)
3. Direct to Feedlot
4. Direct to slaughter

**OWNERSHIP AND MANAGEMENT RECOMMENDATIONS**

The ownership and management of the facility depends on Councils appetite for risk and financial support for the facility.

SHRCC ratepayers are currently subsidising the facility to a significant extent. As such, to choose to maintain the status quo, is to accept that ratepayers will continue to subsidise the facility. SHRCC may choose to sell or lease the existing site.

Due to the poor financial prospects of the business, we expect that a private operator would be unlikely to purchase or lease the facility for the purpose of operating livestock sales. The only entity that may consider leasing the facility would be the current Livestock Agents operating at the site.

We recommend that SHRCC approach Agents to lease the facility.

If a suitable lease arrangement cannot be negotiated, we recommend closing the facility.

## 1. INTRODUCTION

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Outcross Agri-Services Pty Ltd (Outcross) has been engaged by the Swan Hill Rural City Council to provide an expert opinion and consultation services with respect to the Swan Hill Regional Livestock Exchange. Outcross is a leading service provider, providing skilled personnel, asset management, consulting and technology to the Australian saleyard sector.

The scope of services in the SHRCC request for quotation included the following:

1. Assess community opinions and concerns regarding the necessity and current location of the Swan Hill Regional Livestock Exchange.
2. Explore potential business models for the saleyards, including options for selling or leasing the facilities to private entities.
3. Evaluate the feasibility of relocating the saleyards to an alternative site within the Swan Hill Municipality. Consider the implications of such a move for repurposing the current site for industrial or other uses.
4. Identify and assess both short-term and long-term capital expenditures required to maintain and upgrade the existing saleyards, ensuring they continue to be managed effectively.
5. Examine current livestock throughput levels and evaluate the sustainability of the saleyards operations in the context of industry demands and environmental considerations.
6. Analyse current industry trends to determine the viability of the saleyards, including factors affecting their long-term relevance and success.

Outcross has completed the review, including:

- Stakeholder consultation
- Research of Industry trends
- Analysis of Competition in the market
- Options for Saleyard business models
- Financial analysis of identified scenarios
- Recommendations for strategic direction

The following Outcross staff have visited the site to undertake the strategic review.

- Tom Newsome (Managing Director) undertook a site inspection on 30 October, 2024

During the site visit Outcross observed the sale process, including pre-sale preparation on Wednesday evening and the sale process on Thursday. The site visit enabled Outcross to understand the site, infrastructure, process and people.

- Katie Barnett (Consultant) completed the Stakeholder consultation on 28 November, 2024

Interviews were undertaken with a range of stakeholders, including livestock agents, Council staff, transporters, and buyers. In addition, an online survey was available for community consultation.

A list of the stakeholders consulted is at [Attachment A](#).

## 2. BACKGROUND, CONTEXT AND INDUSTRY TRENDS

---

### BACKGROUND

The Swan Hill Regional Livestock Exchange (SHRLE) is in Swan Hill, in north-western Victoria. This region is a strong agricultural area with a history of beef, sheep and dairy cattle grazing. The SHRLE site encompasses 8 hectares, located within the town of Swan Hill.<sup>6</sup> The site is zoned PUZ1 – Public Use Zone, Service & Utility.

The SHRLE was constructed on the current site in 1938.

### CONTEXT

The cattle sector is a significant industry in Australia, contributing \$23.3 billion to rural communities in FY 2023.<sup>1</sup> This represents approximately 30% of total agricultural output.<sup>3</sup> According to the Australian Bureau of Statistics, there were 29.9 million cattle in Australia<sup>1</sup> in June, 2023, including 27.1 million beef cattle and 2.1 million dairy cattle. While Australia accounts for just 1.5% of the world's cattle population. We are the fourth largest beef exporter, behind Brazil, India and the USA.

Queensland is the largest state for beef cattle production with 13.2 million head, approximately 47% of the national herd. Victoria has 2.9 million cattle<sup>4</sup>, 10% of the national herd<sup>1</sup>, down from 3.6 million cattle in September, 2022<sup>2</sup>.

Each year, approximately 30% of the national cattle herd are sold, equating to approximately 10 million head.

- Saleyards are critical to livestock marketing, accounting for around 4,021,957 cattle and 14,504,131 sheep in FY2024<sup>12</sup> (40%).
- Freight is a key contributing factor to the success of the saleyards as a marketing option. Many small consignments are moved into saleyards facilities, are purchased and combined into larger lines and trucked to buyer destinations.
- The national throughput of cattle and sheep sold through saleyards increased by 12.7% and 13.6% respectively in FY2024.
- In Victoria, cattle throughput increased by 26.5% in FY 2024 to 966,286 head and sheep throughput increased by 14.8% to 4,499,085 head<sup>12</sup>.

### THE MARKET

Buyers for livestock are representing organisations within the supply chain for beef, lamb or mutton. The markets are typically divided into domestic and export destinations. Domestic markets are dominated by supermarkets and butchers that supply meat products to Australian consumers. Export markets are international destinations that are across the Globe, with the largest markets including USA, Japan and China. Each market requires a range of products that are derived from various livestock classes. For example, the USA hamburger trade requires lean Australian cow beef (90CL) that is mixed with excess fat from American feedlot cattle to make meat patties.

## COMPETITION

Saleyards account for the marketing of approximately 40% of livestock sales annually.

Marketing options for livestock that compete with saleyards include:

- Direct sales: sale of livestock directly between a livestock owner and a buyer.
- Other marketing options include online through AuctionsPlus, a privately owned online auction system. Auctions Plus accounted for 573,000 head of Livestock sales in FY2023 (5.7%).
- Significant numbers of cattle are also marketed directly to feedlots and abattoirs. Direct transactions are usually done as an agreement between the buyer and seller and may or may not involve an agent. By deduction, we have estimated that direct sales account for 6 million head of cattle annually (54%).

## INDUSTRY TRENDS

The Swan Hill region is a strong agricultural area with a history of sheep and cattle grazing. There remains a strong livestock industry with 744,525 head of cattle in Northern Victoria<sup>3</sup> and 375,039 head in the region on the NSW side of the Murray River<sup>3</sup>. Therefore, the catchment for the SHRLE encompasses over 1 million cattle.

Some stakeholders reported that enterprise change has influenced the livestock numbers in the district, while others consider that there is similar livestock population density to the long-term average.

Saleyards play a vital role in the marketing, consolidation and logistics of moving livestock around Australia. There are two significant trends in the saleyard sector: privatisation and consolidation.

### Privatisation

The privatisation of Australian saleyards has been a significant trend over the past 20 years, since the establishment of a new saleyard at Carcoar in NSW. Three smaller, ageing facilities were replaced by a new, state of the art facility with capacity to handle large sales and room to cater for the requirements of modern Livestock marketing and transit logistics.

Other privately owned, leased or managed sites include:

- Queensland: Murgon, Longreach, Sarina, Biggenden, Silverdale, Beaudesert, Toogoolawah, Harristown, Mareeba, Gracemere
- NSW: Casino, Kempsey, Armidale, Camden, Nowra, Tamworth, Singleton, Inverell, Yass
- VIC: Mortlake, Leongatha, Barnawartha, Ballarat, Camperdown

### Consolidation

The consolidation of saleyards has continued over history. This is driven by freight logistics, larger trucks, better roads and the requirements of stakeholders, particularly buyers, for a critical mass of stock to compete on when they attend a sale.

The freight logistics is a key benefit of large saleyards over online sales and small saleyards. This element will enable large scale saleyards to continue to thrive into the future.

Seventy-five years ago, there was approximately 300 saleyards across Australia, mostly small scale and servicing many small communities.

Twenty-five years ago, there was approximately 125 saleyards still operating. Most remained small, catering for less than 2000 head one time capacity. There were more significant saleyards that could handle over 5,000 cattle or 50,000 sheep, with the top 20 saleyards growing to be regional centres. This increased scale of the regional centres had already closed many smaller saleyards due to efficiency gains.

Currently there are less than 100 commercial saleyards operating regularly in Australia. Current trends suggest that this will be closer to 50 regional sites by 2030. Saleyard operators will make a choice between closure and expansion.

Diversification may assist some saleyards to be more competitive, where fixed costs can be spread over a larger business, or infrastructure can be used to a greater extent.

**SUMMARY:**

- Saleyards play a vital role in the marketing, consolidation and logistics of moving livestock around Australia.

There are two significant trends in the saleyard sector: privatisation and consolidation, which result in fewer, larger saleyards.

- Saleyard operators will make a choice between closure and expansion.

### 3. OPERATIONAL REVIEW

The SHRLE is operated in a traditional manner, with outdated sale processes which could be improved by embracing best practice technology and procedures. The requirement for all stock to be sold through the ring inhibits the option to run regular store sales.

#### THROUGHPUT

Figure 1 & 2 show a declining throughput of cattle and sheep over a 10-year time frame through the Swan Hill Regional Livestock Exchange.

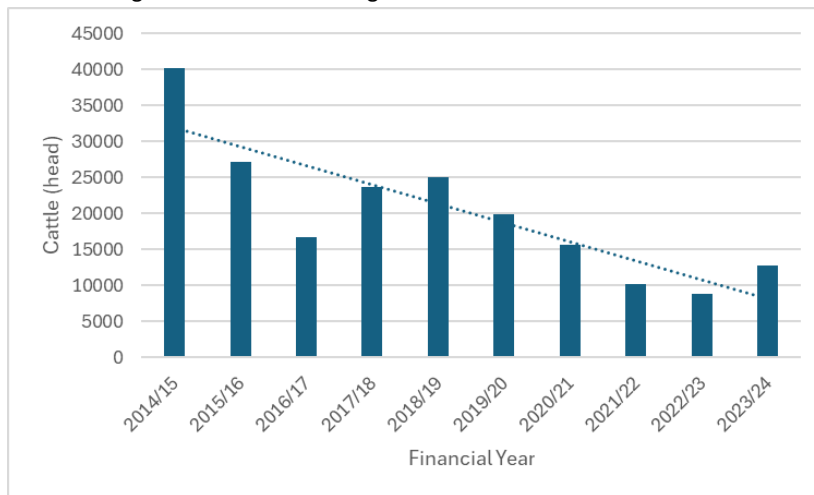


Figure 1. 10-year throughput of cattle at the SHRLE

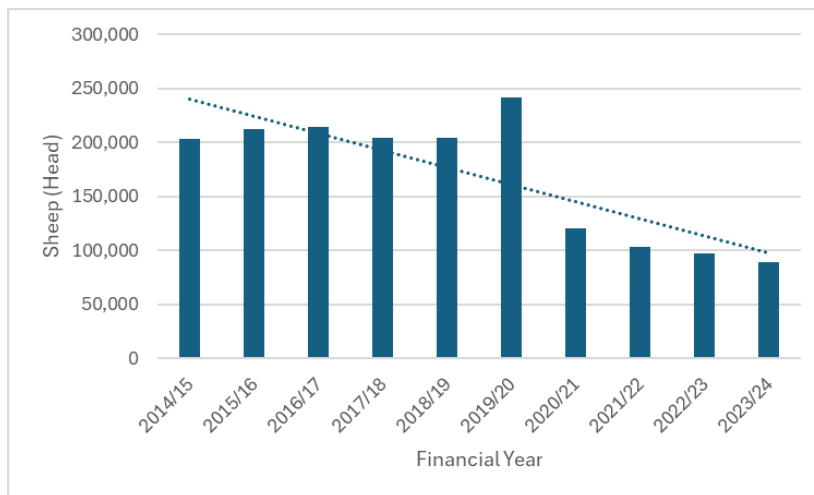


Figure 2. 10-year throughput of sheep at the SHRLE



The table below shows the throughput of cattle and sheep in the saleyards surrounding Swan Hill in the 2023 and 2024 financial years<sup>10</sup>.

Table 1. Throughput of surrounding saleyards

	FY 2023	FY 2024	Distance from Swan Hill (km)
<b>Swan Hill</b>	8,802 cattle and 97,187 sheep	12,762 cattle and 89,146 sheep	
<b>Echuca</b>	29,978 cattle	35,800 cattle	162
<b>Shepparton</b>	65,607 cattle and 41,191 sheep	71,674 cattle and 73,708 sheep	227
<b>Deniliquin</b>	208,901 sheep	207,313 sheep	150
<b>Bendigo</b>	889,943 sheep	1,155,661 sheep	195
<b>Finley</b>	7,395 cattle and 61,420 sheep	11,812 cattle and 48,365 sheep	210
<b>Euroa</b>	15,859 cattle	21,368 cattle	270
<b>Ouyen</b>	158,075 sheep	134,820 sheep	129
<b>Total</b>	127,641 cattle and 1,298,642 sheep	153,416 cattle and 1,574,193 sheep	

The combined total throughput for the Northern region of Victoria and Swan Hill increased from 127,646 cattle and 1,298,642 in FY 2023<sup>5</sup> to 153,416 cattle and 1,574,193 sheep in FY2024<sup>10</sup>. Much of the increase is due to seasonal conditions and should not be seen as a long-term trend.

Figure 3 shows the proximity of the surrounding saleyards, relative to the SHRLE. The yellow markers indicate a sheep only saleyard, blue markers indicate a saleyard that sells both cattle and sheep. The red marker is the SHRLE.

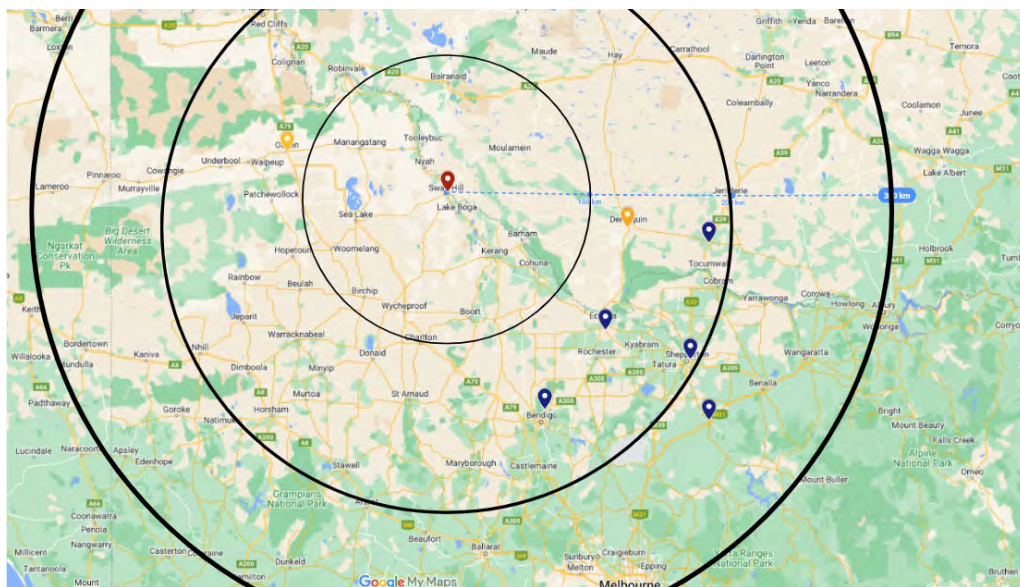


Figure 3. Proximity of the surrounding saleyards, relative to the SHRLE

## COMPETITIVE ENVIRONMENT

There are several competing options that reduce throughput at SHRLE. These include:

- online selling;
- direct sales; and
- other saleyards at Shepparton, Echuca, Ouyen, Kyneton and Finley.

### Online selling

Agents advise that AuctionsPlus is the most significant online system used. AuctionsPlus is used intermittently in Northern Victoria, mostly for store stock purchased by other graziers. Meatworks buyers do not generally use online platforms for direct purchases, preferring to buy direct from producers or through saleyards.

### Direct sales

Direct sales to abattoirs are a significant pathway for slaughter animals. Most slaughter cattle are sold directly from graziers to abattoirs, with or without an agent involved in the deal. Traditionally smaller lots would be sold through a saleyard and buyers would make up bigger loads at the saleyard.

### Other Saleyards

There are three significant saleyards in proximity of Swan Hill, including Shepparton (227km), Echuca (162km) and Finley (210km). Deniliquin is a sheep only saleyard, located 150km to the north-east of Swan Hill.

Shepparton is the largest competing saleyard with 8.3% of cattle throughput in Victoria, but just 1.1% of sheep throughput. Agents report that Shepparton provide stronger markets for heavier export stock classes (bulls, bullocks and cows).

The Greater Shepparton City Council has recently leased the saleyard facility. The lease documents indicate that the Council would be interested in closing the existing site if an alternative was to be built in the region. The existing Shepparton site is in an industrial estate in the middle of town.

### SWOT analysis

The SHRLE is characterised with strengths and weaknesses as shown in Table 2 below. The relative strengths and weaknesses create corresponding opportunities and threats.

If SHRCC are able to build on the strengths and resolve the weaknesses, threats will be negated and opportunities realised.

Table 2. SHRLE SWOT Analysis

SHRLE	STRENGTHS	WEAKNESSES
	<ul style="list-style-type: none"> <li>• Good access, parking, office and canteen facilities.</li> <li>• Relatively modern selling complex.</li> </ul>	<ul style="list-style-type: none"> <li>• Capacity constraints</li> <li>• Ring selling of cattle is slow.</li> <li>• Outdated process</li> </ul>
	OPPORTUNITIES	THREATS
	<b>Increase throughput and viability by:</b> <ul style="list-style-type: none"> <li>• Selling weekly</li> <li>• Negotiating for agents business</li> <li>• Investing in infrastructure</li> <li>• Changing sale process</li> </ul>	<ul style="list-style-type: none"> <li>• Occupation health and safety compliance</li> <li>• Animal welfare compliance</li> <li>• Competing sites take the opportunity to invest in infrastructure</li> <li>• Financial viability</li> </ul>

The competing saleyards are Shepparton, Finley and Echuca. An outline of the Competitor strengths and weaknesses is below in Table 3.

Table 3. Shepparton, Finley and Echuca SWOT Analysis.

	Strengths	Weaknesses
<b>Shepparton</b>	<ul style="list-style-type: none"> <li>• Throughput is more than double that of Swan Hill.</li> <li>• Buyers report that additional export numbers lead to an improved market through extra competition.</li> <li>• Pen selling is faster and enables buyers to attend the market and then move on with their day</li> <li>• Caters for sheep and cattle</li> <li>• Valuable land asset</li> </ul>	<ul style="list-style-type: none"> <li>• Old facility that is poorly located in the centre of town</li> <li>• No room for expansion</li> <li>• Shepparton has reached its used by date and needs replacing and moving out of town.</li> </ul>
<b>Echuca</b>	<ul style="list-style-type: none"> <li>• Location</li> <li>• Potential to grow on existing site</li> </ul>	<ul style="list-style-type: none"> <li>• Small yardings</li> </ul>
<b>Finley</b>	<ul style="list-style-type: none"> <li>• Currently sells fortnightly</li> </ul>	<ul style="list-style-type: none"> <li>• Small saleyard. Buyers say that Finley will likely close.</li> </ul>

## PERFORMANCE FACTORS

Saleyard performance is assessed by the following factors:

- competitive fee structures;
- efficient sale processes; and
- compliance with OH&S and animal welfare requirements.

### Fees

The 2024/25 fees are shown in Table 4.

Table 4. SHRLE Fees 2024/25

Fee Type	Stock Type (Sheep/Cattle)	Comments	2024/25 unit fees (inc GST)
<b>Out of Hours Call Out</b>	Both	Charged for any services required outside of normal working hours – feed/stock removal etc	\$104
<b>No Sale / Passed In</b>	Sheep	Per Head, per day in holding pens – stock removed from sale	\$1.15
<b>No Sale / Passed In</b>	Cattle	Per Head, per day in holding pens – stock removed from sale	\$5.90
<b>Cattle Weigh Fee</b>	Cattle	Per lot during sale. Cattle sold in prime market	\$3.60
<b>Sheep Yard / Sighted</b>	Sheep	Per head, per day. Stock at the yards but not sold through the yard – <i>Private Use</i>	\$5.80
<b>Cattle Yard / Sighted</b>	Cattle	Per head, per day. Stock at the yards but not sold through the yard – <i>Private Use</i>	\$11.60
<b>Private Weigh</b>	Cattle	Per head. Occurs when weighed but not a part of a scheduled sale	\$7.60

<b>Yard Stock Sold</b>	Sheep	For sheep sold through the yards on sale days	1.10%
<b>Yard Stock Sold</b>	Cattle	For cattle sold through the yards on sale days	1.20%
<b>Truck Wash</b>		Per minute	\$0.85
<b>Truck Wash Key</b>		Per Key	\$46.00
<b>Stock Removal</b>	Sheep	Stock destroyed & disposed of from yards. Presented to yards in condition deemed not fit for sale	\$82.50
<b>Stock Removal</b>	Cattle	Stock destroyed & disposed of from yards. Presented to yards in condition deemed not fit for sale	\$275.50
<b>Stock Feeding</b>	Cattle & Sheep	Post Sale and Stock not sold through yards. Per bale fed out – staff & machinery resource only. Agent to supply feed	\$58.00
<b>NLIS Cattle Tag</b>	Cattle	Faulty/Non-reader tag	\$5.80
<b>NLIS Cattle Tag</b>	Cattle	Untagged Cattle	\$15.75
<b>NLIS Sheep Tag</b>	Sheep	Untagged Sheep or not tagged in accordance with NLIS requirements	\$5.80

The Fees at SHRLE are comparable to other equivalent saleyards in Victoria when we consider the median total cost to sell livestock through SHRLE. Fees are difficult to compare directly as yards vary the fee structure. SHRLE collect most yard dues through a percentage of the gross sale amount, whereas most other sites charge a flat yard fee for small and large stock.

The cattle fees per head have fluctuated over the last 10-years, showing a general trend of an increase in cost per head as seen in figure 4. Exposure to a declining market for stock is shown from 2022 – 2024.

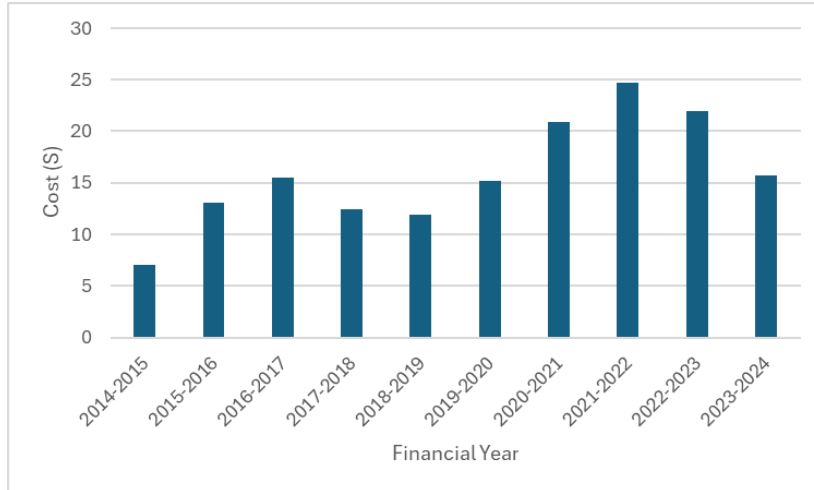


Figure 4. Cattle Fees per head over the last 10 years at the SHRLE<sup>11</sup>

A similar trend was seen over the last 10-years in the sheep costs per head, however the fluctuations weren't as large (Figure 5).

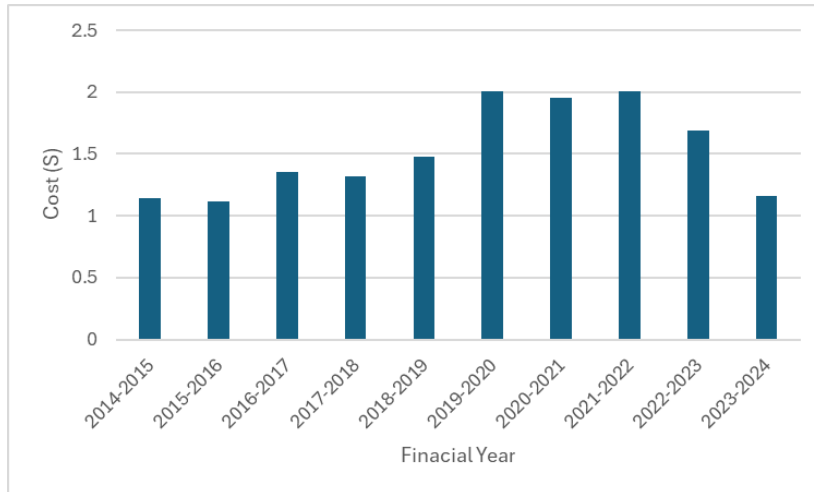


Figure 5. Sheep Fees per head over the last 10 years at the SHRLE<sup>11</sup>.

An increase in costs per head isn't dissimilar to other equivalent Saleyards, due to an increasing number of overheads.



### Sale process

Efficiency, as measured by the speed and accuracy of the sale, is poor relative to the standards set by leading saleyards. The SHRLE sale process uses ring selling, which is inherently slow. This results in multiple sale lots being kept in a single selling pen. In addition, ring selling reduces competition, as the weight is known and buyers cannot compete if it is outside their instructions. In contrast, in a pen selling system, buyers estimate the weight and will compete on cattle that are around the limits of the required weight range. Wagga Wagga is the only top 20 saleyard (by throughput) that has a ring selling methodology.

All other leading sites sell all stock in the pens and post-sale weigh cattle for prime sales. Pen selling is achievable at SHRLE. Selling through the pen in small sale lots allows buyers to both assess the cattle and have access to weights. This promotes competition and provides an excellent market for stock. The benefits of pen selling are that the sale is faster and agents and buyers can finish their saleyard commitments early and attend to their other business commitments.

### Sale frequency

The frequency of sales at a site is important to the viability of a selling centre. Centres that offer only fortnightly sales usually close as the infrequent sale is usually a step towards closure.

We recommend that SHRLE include a monthly store sale to increase throughput and improve viability.

### Labour

Most labour on site is provided by agencies, with SHRCC providing 2-3 staff on sale days.

Painting of vendor numbers and buyer paint adds further cost, labour and exposure to OHS risk. This is generally an unnecessary process and has been discontinued in most saleyards as technology has superseded paint for identification purposes.

### Compliance with OHS

The following key safety risks were identified on site.

**Paint:** There is excessive use of paint on site to identify vendors and buyers. As there are no dedicated facilities available, it presents an OHS risk for agents and their staff in the application of the paint.

**Dust:** Some stakeholders reported that dust is a major issue and has a negative impact on the health of agents and staff when drafting. Dust suppression with sprinklers is required. The current irrigation system needs to be replaced, including higher capacity pumps.

**Lights:** Lights are unreliable, and agents are drafting in low light at times when the lights go out at night. The reliability of the lighting system needs to be addressed.

**Drafting:** Despite having a dedicated draft system, cattle are drafted for sale in the cattle lanes. This presents an OHS risk as there is no separation of humans from cattle. In addition, the facility is not designed for lane drafting which presents further risk. The gates used for drafting are swung the wrong way to regulate the flow of livestock, leading to drafting errors and increased OHS risks.

**Concrete pens:**

The concrete pens present an OHS and animal welfare risk due to the hard surface.

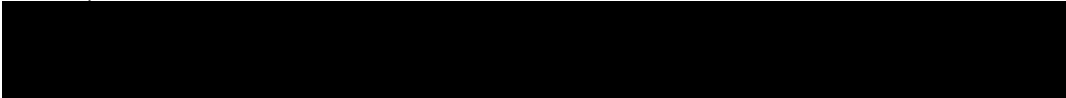
**Compliance with Animal Welfare**

The key aspects of animal welfare are adhered to at the SHRLE:

- Animals have access to water during their time on site;
- Pen density allows for animals to rest and stand and have access to water; and
- Livestock are handled with care and avoidance of excess force.
- Availability of shade
- Access to water

The following animal welfare requirements are not adhered to:

- Animals standing on hard surfaces, particularly heavy bulls that are stored on the concrete, pen; and



*Sheep standing in shade provided by trees, with access to water.*

## BEST PRACTICE

An outline of the SHRLE sale process compared to best practice is provided below. The implication of failing to meet industry standards include:

- Buyers do not attend site, leading to a deteriorating market
- Agents and Vendors seek alternative marketing options for their stock.
- The saleyard operator and stakeholders operate with increased risks (OHS, employment, animal welfare, market) which may lead to withdrawal from the market.

### Pre-sale process

	SHRLE PROCESS	BEST PRACTICE
<b>Curfew</b>	Gates are locked at: -Sheep 10:30am on day of sale -Cattle 7:00pm on Wednesdays prior to sale day	Standard curfew is 12 hours prior to the start of a prime sale.
<b>NVD Entry</b>		NVD should be entered into the software prior to animals being drafted. This can occur at: <ul style="list-style-type: none"> <li>• Gatehouse</li> <li>• Unloading Ramp</li> <li>• Office</li> </ul>
<b>Vendor Number</b>	The vendor number is painted on each animal to identify which vendor each beast belongs to. This process is unnecessary, expensive and dangerous as agents are painting cattle in the pens and risk being kicked or injured.	Vendor number should be assigned prior to drafting at either: <ul style="list-style-type: none"> <li>• NVD entry in order of arrival; or</li> <li>• Pre-sale as assigned by Agents</li> </ul> Vendor paint should not be used. Modern tablet systems removes the need to paint the vendor number on Cattle. Lots are simply drafted, penned and recorded, using tablet data entry.
<b>Unloading</b>	Cattle are unloaded and counted off trucks by agents.	Cattle should be unloaded and counted off trucks. The receival count should be entered into the software as the basis for the correct count for each vendor consignment.
<b>Drafting</b>	Cattle are drafted in lanes by agents.	There should have a dedicated, safe facility available. Drafting should be managed by agents. The agent sale run will be established with a correct lineup of

		cattle that are drafted from best to worst based on breed, type and value.
<b>Booking</b>	Lots are currently not entered into the system until the lots are weighed.	Booking the sale lots into the software should happen following the drafting process. Ideally sale lots will be booked the night before a sale to allow for pre-sale scanning and balancing sale lots.
<b>Pre-sale reports</b>	Pre-sale reports include: Pre-sale catalogue (summary of NVD information, used to identify Cattle that can be purchased, based on health and traceability status).	Pre-sale reports include: <ul style="list-style-type: none"> <li>• Pre-sale catalogue</li> <li>• NVD – Sale lot discrepancy</li> <li>• Penning sheet</li> <li>• Selling sheets</li> </ul>

**Sale process**

	<b>SHRLE PROCESS</b>	<b>BEST PRACTICE</b>
<b>Process</b>	SHRLE sell cattle in a combination of export and trade runs.	Sell in export and trade runs or a similar combination.
<b>Running sheets</b>	A running sheet is a written record, showing the order of the sale. Cattle must be sold in the correct order from the running sheet. This puts significant pressure on the drafting process to ensure that the exact sale order is retained, and data entry is accurate.	Pre-sale booking, pen scanning and lot recognition enables: <ul style="list-style-type: none"> <li>• Out of order weighing for the export run,</li> <li>• Out of order selling for the trade run,</li> <li>• Faster trade selling as all lot information is pre-entered,</li> <li>• Only record buyer and weight at weighing, and</li> <li>• Removes need for running sheets.</li> </ul>
<b>Selling</b>	The cattle are sold by c/kg in the ring and weighed over the weighbridge prior to the selling ring. This includes bulls, cows, heavy steers and heavy heifers.	Pen selling is the best system for selling cattle as buyers prefer to be able to buy the stock quickly and do not require weights to assist their buying decisions.

## Post-sale process

	SHRLE PROCESS	BEST PRACTICE
<b>Delivery</b>	Cattle are delivered to vacant selling pens due to a lack of dedicated holding pens for receivals, feeding and delivery.	Cattle would be delivered to a combination of dedicated holding pens with soft flooring and access to ramps.
<b>Buyer paint</b>	A large majority of cattle are painted to identify buyers. This is an outdated practice that requires three staff and the additional expense of paint.	NLIS technology allows for cattle to be delivered without using any paint to identify the buyer.  Buyer paint should not be used.
<b>Load out</b>		The site has reasonable load out facilities. Unloading dumps are best practice.  The buyer pens should be identified by posting the completed Drovers report on the delivery board.  There needs to be access for staff to walk up the outside of the race when loading.
<b>Concrete Yards</b>		Heavy cattle must be held in dirt yards with an even surface.
<b>Holding Yards</b>	The current holding yards are reasonably well constructed and frequently used.	Dedicated holding pens enable cattle to be held in large lines where cattle can be fed or trucked while the sale is underway.
<b>Spelling and feeding facilities</b>	There is currently reasonable spelling or feeding facilities on site.	Holding yards should also have feeding facilities that enable stock to be stored from other areas.
<b>Loading Ramps</b>	There is currently only one double loading ramp.	As a facility reaches a viable throughput level, multiple loading ramps are required.
<b>Holding capacity</b>	The SHRLE lacks the capacity to correctly handle larger lines of cattle at all stages of the sale.	While facilities are acceptable for the current throughput, additional investment is required for the facility to be viable.

There is no realistic prospect that the SHRLE can reach current thresholds for viability. Excluding debt, saleyards generally require over 50,000 cattle or 200,000 sheep annually to break even,

without debt. Commercial operators will seek close to double those figures to commit to a commercial investment.

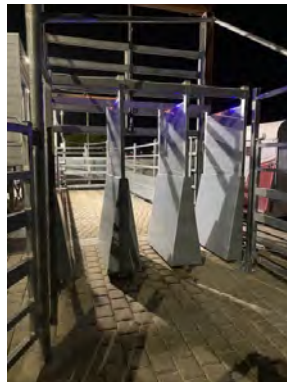


*Cattle are weighed over a registered weighbridge prior to the selling ring*

## TECHNOLOGY

The SHRLE Site is running Agrinous software to manage their sales. This is a cloud-based management system. Management is happy with the product and it achieves the requirements for sale management.

Other key technology includes the NLIS scanners, which are Aleis panel readers and a single scale weighbridge.



*Fixed panel readers are used to scan NLIS devices into sale lots on entry to the selling ring*



### STAFFING

The SHRLE is operated with a small number of staff, under the site Manager.

Staffing the SHRLE is challenging, although most casual staff are supplied by the Agents.

Stakeholder feedback is complimentary regarding the service that is provided by Council staff. 56% of survey participants rated the ownership as satisfactory/excellent, 64% rated the management as satisfactory/excellent.

Contractors could provide staffing resource relief for any tasks required at SHRLE.

#### SUMMARY:

- The North Central region of Victoria has significant numbers of cattle sold. In financial year 2023, this totalled 127,646 cattle.<sup>5</sup>
- SHRLE faces competition from other yards, online selling and direct selling. The major competitor, Shepparton, has indicated they would consider closing the yard if an alternative

- Technology used at SHRLE is adequate with improvements suggested to reach best practice.
- Staffing is well regarded by stakeholders.

## 4. INFRASTRUCTURE REVIEW

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### Current infrastructure

The SHRLE is a reasonably modern saleyard facility, with significant potential. However, there are several key design flaws that impact operations and investment is required for the site to reach its potential. In addition, while the current management is doing a good job in maintaining the facility, there remains several significant issues that must be addressed including:

- There is no buyer walkways that would enable OHS compliance for store sales
- The drafting facilities are not used

### Site and Location

The site is located in an industrial area within town.

- The site includes an area of 8 hectares.
- Access to the site is off Karinie St, a major street that allows for safe, efficient entry and exit for the site.
- The bitumen hard stand provides good parking facilities for both livestock trucks and cars.
- The traffic management plan allows for movement of trucks and separation from the general public and smaller vehicles.
- The office facilities for livestock agents and Council staff provide a good place to conduct business. Amenities and the canteen ensure a comfortable environment for stakeholders.

### Effluent and Stormwater

The effluent and stormwater systems at SHRLE are in good working order and not an issue with the site.

## SELLING COMPLEX

### Loading ramps

Stakeholder feedback has identified that additional facilities are required for unloading trailers into the sheep yards.

The cattle selling complex provides adequate unloading and loading facilities.

### Gates

Gates are generally compliant, however, the current cattle drafting method requires gates to be swung from the other side to control flow.

### Selling pens

The selling pens are compliant for the needs of the cattle section.

There are insufficient selling pens to hold sales over 500 head on a regular basis.

**Bull selling pens**

Stakeholder engagement has suggested that the bull selling pens were constructed in the wrong place, which has impacted the flow of the sale.

**Buyer walkways**

There are no buyer walkways that would assist in enabling store sales.

**Crush facilities**

There are adequate crush facilities for mouthing, retagging and processing stock.

**SUMMARY:**

- The SHRLE saleyard facility has adequate infrastructure for the current throughput. Recent improvements have assisted in the flow of livestock.
- The facility is adequate for additional sales, but would need additional capacity to handle larger sale in excess of 1000 head, that are a pre requisite for financial viability.
- Improvements are suggested to the selling complex.

## 5. FINANCIAL ANALYSIS

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We have completed a high-level Benefit Cost Analysis (BCA) through a Discounted Cash Flow (DCF) model.

This approach allows the comparison of investment returns over time for a given upfront investment.

Key components that impact the modelling include:

- Inflation- We have assumed 3% long term inflation
- Interest rates- We have assumed 6%
- Discount rate- The risk-free rate of return available from an alternate investment, used for comparison with the actual return from an investment. We have assumed 3.97%, based on the 10-year government bond rate.
- Internal rate of return (IRR) is the metric used to measure profitability. It must be higher than the discount rate to provide a positive Net Present Value. The IRR is a key output of a DCF analysis, given calculated income, expenditure, terms of an investment, debt levels, loan repayments and discount rates.
- Net present value (NPV)- The value of future income and expenditure, if it was realised today. The NPV must be positive for an investment to be financially viable.

## RESULTS

The financial modelling strongly indicates that the likelihood of the SHRLE becoming a viable business into the future is very low.

The SHRLE incurred a loss of \$323,789 in the 2024 financial year. The SHRLE has incurred a loss for the past 4 years for a total loss of \$837,244.

Table 5: Financial results for SHRLE

Financial Year	Loss
2024	-\$323,789
2023	-\$229,817
2022	-\$197,482
2021	-\$86,156
Total	-\$837,244

We further analysed the financial position of the SHRLE through a high-level discounted cash flow analysis.

We assumed:

- a discount rate of 3.97%, based on the 10 Year Government bond rate.
- Nil net debt
- 10 year horizon

The results are shown in table 6 below.

Table 6: Discounted Cash Flow

10 Year Forecast	Discounted Cash Flow results
Cumulative Net Loss	\$3,711,881
Net Present Value (Net Profit)	-\$3,076,312
10 Yr Cumulative Debt	\$4,698,431

The results indicate that the SHRLE will accumulate significant debt from continuing losses incurred over the next 10 years. The nominal debt figure is expected to be almost \$4,698,431. This comprises of cumulative net losses of \$3,711,881 which have a net present value of \$3,076,312 in today's terms. In addition, we have assumed that the debt will incur an interest rate of 6% per annum.

## 6. OPTIONS FOR THE SHRLE

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There are several options available to the SHRCC for the future strategic direction of the SHRLE.

1. Status Quo
2. Status Quo plus diversified income
3. Lease of the site
4. Close the existing site and rebuild out of town
5. Close the existing site and do not rebuild

### 1. Status Quo

The Status Quo is an option, depending on SHRCC attitude towards supporting the business of the SHRLE. If SHRCC choose to continue to provide financial support for the business, the debt is likely to be \$4,968,431 over 10 years. The declining profitability over the past 4 years has no real prospect of recovery to a viable financial position into the future.

### 2. Status Quo plus diversified income

There are some options for diversified income for the existing business.

#### a. Monthly store sale

Stakeholders have identified that there is potential to utilise the facility more than it is currently being used for fortnightly prime sales. One option is to hold a monthly store cattle sale. If this sale was able to attract 500 head per sale, it would add a further 6,000 head throughput to the site over 12 months. While this is a significant uplift, it would not resolve the financial burden to Council. In addition, there are OHS risks associated with pen selling that would need to be addressed as there are no dedicated buyer walkways to maintain separation between the public and cattle.

#### b. Spelling facilities

Stakeholders have identified that the feeding facilities could be utilised for spelling cattle. This service is available at present but is not widely used.

### 3. Lease of the site

The site could be leased by the Agents Association. This option is discussed further in section 7.

### 4. Close the existing site and rebuild out of town

Council may choose to close the existing site due to urban encroachment that has now made the SHRLE site inappropriate for a saleyard.

If this view is adopted, the options to consider are whether to rebuild the facility at a more appropriate site out of town.

The performance of the business in terms of throughput do not justify rebuilding a saleyard to replace the existing facility.

Our recommendation is that if Council choose not to provide financial support for the existing facility, that a new facility should not be built, as it will certainly require ongoing financial support and will likely have a significant debt associated with the build.

## 7. OWNERSHIP AND MANAGEMENT OPTIONS

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### Ownership

Ownership of the facility on an ongoing basis could be retained by local government or sold to a private entity.

While most local government saleyards are not financially viable, they do offer benefits to the local community, through:

- attraction of stakeholders to town to support other businesses and community
- employment of direct staff and support for businesses to employ additional staff
- providing a facility for local cattle businesses to transact livestock

Our expectation is that most saleyards will be privately owned into the future.

- Private operators are willing to invest in saleyard facilities that offer commercial returns on investment.
- Private operators are more prepared than the public sector to accept the significant risks associated with operation of a saleyard facility. Key risks include occupational health and safety and animal welfare.

### Management

The facility can be managed by private entities or local government. There are many saleyards that are owned and successfully managed by local government. Other Councils choose to engage a third-party management company to either lease or manage the site, or to facilitate and manage sales on the site. This ensures that a livestock selling facility will remain in the district, mitigates the risk for local government and improves the opportunity for federal and state government funding.

Private operators can employ specialist, full time staff and distribute the staff time across multiple saleyard sites. These companies inevitably gain an advantage with sale management skills as they are working full time in the saleyard sector, across many sites.

### Privatisation

The two main trends in the saleyard sector have been identified as consolidation of facilities and privatisation.

If Council were to adopt a strategy of privatisation, collaboration with agents would be required to attract a private manager or owner. Given the financial losses incurred, the only genuine option for private management or lease is if the local Agencies were interested in operating the site. Other private operators are unlikely to be interested in the current business.

Private Operators across Australia include:



- Individual Livestock Agents (Hindmarsh (Nowra and Camden), Hayes (Silverdale, Sarina, Nebo), Prostock (Mt Compass), Biggenden Livestock, Shepherdson and Boyd (Toogoolawah), Kennedys (Macksville), Kempsey Stock and Land, Bower and Livermore (Maitland)
- Livestock Agents Associations (Armidale, Dubbo)
- RLX- servicing 10 sites
- Outcross Agri-Services- servicing 30 sites
- Individual local operators (Blackall)

**Option 1: Council owned and operated.**

The traditional saleyard model remains the most common. We estimate that there are over 70 operating saleyards that use this model including Echuca, Bendigo and Horsham locally and large sites such as Wagga, Roma, Dalby, Hamilton, Mt Gambier, Naracoorte and Gunnedah.

*Benefits:*

- Councils can ensure that publicly owned livestock selling facilities are available for rural ratepayers.
- Sales bring people to town, who then support local businesses.
- Council can choose to limit fees for the benefit of stakeholders. This usually means a loss is incurred which must be subsidised by ratepayers.

*Constraints:*

- Councils incur risks in operating livestock sales, including:
  - Financial: Most Council operated saleyards are unviable
  - Safety: Saleyards are inherently dangerous places, due to:
    - Handling animals that may not be safe
    - Humans and animals are difficult to separate.
    - Fatigue management
    - Ageing infrastructure that may fail, causing injury
  - Animal Welfare: Real and perceived risk of poor animal welfare outcomes
  - Reputational: Risks can have reputational consequences
  - Legislative: Increasing risk due to legislation
  - Compliance: Compliance continues to be more onerous each year

**Option 2: Council owned, privately managed.**

Ownership is retained by local government and the sites are managed by private companies or leased to a private operator.

This model is common in the local area with Finley and Deniliquin being managed by Scanclear, a private saleyard operator. Dubbo, NSW is managed by Council, but sales are run independently by Agents. Yea, Casterton, Gundagai, Cooma, Tumut are managed by Council, with sales managed by Outcross Agri-Services.

*Benefits:*

The benefits of local government ownership include:

- Access to Government funding for capital works

**Option 3: Lease**

Leasing the facility is a viable option for Council.

*Benefits:*

- Ratepayers are assured that Council remains committed to a selling centre in the area
- Council mitigates the risk associated with operating the facility
- Facility can be operated according to best practice
- Federal and State Government funding can be accessed for capital works.
- Council can achieve a better financial outcome. This often enables Council to realise a profit on the business unit, where a loss was previously incurred.
- Saleyards operations are often improved as the site is run by a specialist management company.
- As discussed, a lease to the local Agents is the most likely viable option.

Shepparton has been leased to RLX. Casino, in Northern NSW is leased by Outcross Agri-Services, but ownership is retained by Council. Armidale, NSW is leased by Agents.

The existing throughput of livestock at SHRLE does not represent an attractive opportunity for a private operator. However, if SHRCC was interested in working with a private company to grow the business to its potential, it is likely that the private sector would not be interested. The estimated lease fees attainable are estimated to be nominal for the existing site and business.

Leasing the site to Agents would achieve a continuation of saleyard services in the area, without the associated financial, OHS and animal welfare risks.

**Option 4: Sale to a private company**

Ideally, if Council chose not to invest, it could sell the site to a private company that would seek to operate the site.

There are many privately run saleyards across Australia. Most are owned and operated by single livestock agents. Others are funded and operated by investment companies such as RLX, who operate 10 regional livestock exchange sites.

The potential value would be in the vicinity of \$1-2 million, based on land value, rather than the value of the current business.

**Option 5: Closure**

The Council may choose to close the site on the basis that it is not financially viable. This would potentially be an option if there was a regional centre built close by that could effectively service the industry into the future.

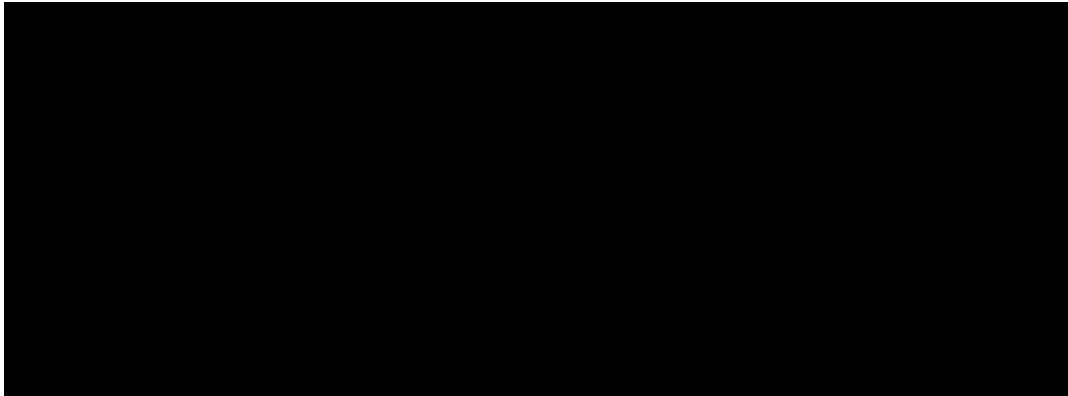
In choosing this option, Council would need to consider the direct and indirect value of the saleyards business to the town<sup>10</sup>. While stakeholders have stated that the value of the saleyards to the broader business community is significant, there is no demonstrated support for this view.

**Option 6: A Regional Facility**

Swan Hill is unlikely to become a regional selling centre site for northern Victoria.

The cost associated with building a regional saleyard facility at Swan Hill needs to be independently costed. Based on other similar projects, Outcross Agri-Services estimates that the cost to increase Swan Hill to a capacity of 5,000 head adult equivalent (450kg steer) to be considered a regional centre would be approximately \$25 million.

A regional facility at Swan Hill would be viable if the Agencies supported the project, promoting a combined throughput of approximately 100,000 cattle. This is highly unlikely as all other saleyards in north-western Victoria would have to close and there are more central locations that would be better suited to a regional facility.



**10. CONCLUSION**

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The viability of the SHRLE depends on scale, as measured by throughput of livestock. Council needs to achieve a throughput of 100,000 cattle or 500,000 sheep to be commercially viable. There is no apparent pathway to viability for the current business. This remains the case for the existing site or a potential new site if the saleyard was moved out of town.

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## APPENDIX A: STAKEHOLDERS CONSULTED

There are a range of stakeholders that provide services to the SHRLE and contribute to the Livestock selling process. These include:

- **Swan Hill Rural City Council (SHRCC)** is the owner and operator of the SHRLE facility. As such SHRCC is a vital stakeholder as the facility requires ongoing Council support to remain viable and to provide the Livestock marketing service to the ratepayers.
- **Livestock Agents** are the professional sales team that represent their client's (Vendors) cattle in the sales process, which is vital to an open cry auction system.
- **Transporters** are the trucking companies that transport the Livestock to and from the SHRLE. Usually, smaller body trucks will deliver the stock to SHRLE and larger semi-trailers and B Doubles will transport stock to the buyers.
- **Buyers** include farmers, feedlots, butchers and abattoirs that purchase the stock. Export buyers are usually abattoirs that will slaughter the animals, mostly for export destinations such as the USA or Japan. Export cattle include heavy steers and heifers, cows and bulls. Trade buyers include farmers that purchase the stock with the intention of adding weight and value to the animals before resale to a feedlot or abattoir. Other trade buyers include butchers that buy Cattle to slaughter for the domestic Australian market.

The following stakeholders were consulted:

Name	Position	Entity
<b>Leah Johnston</b>	Director, Infrastructure	Swan Hill Rural City Council
<b>Rebecca Herman</b>	Saleyard Manager	Swan Hill Rural City Council
<b>Mark Robertson</b>	Roads and Projects Engineer	Swan Hill Rural City Council
<b>Matt Rowlands</b>	Livestock Agent	Elders, Swan Hill
<b>Darren Mirtschin</b>	Livestock Agent	BR&C
<b>Jason Pickering</b>	Livestock Agent	Nutrien Ag Solutions
<b>Danny Saunders</b>	Abattoir	Woodward Foods

A Stakeholder Survey was released to the public on the 21/11/2024 and closed on the 06/12/2024. The survey was advertised through the Swan Hill Regional Council website and social media. Katie Barnett (Outcross Consultant) visited the SHRLE on the 28/11/2024. She spoke to Stakeholders at the SHRLE and got them to fill out the survey. Fliers with the survey QR code were given to businesses on Karinie st and surrounds to display. The surveys were submitted anonymously so that the results could be analysed in a non-biased manner.

A total of 73 responses were received. Of the surveys completed 16.44% were Agents, 26.03% community members, 30.14% vendors, 21.92% purchasers, 2.74% Council Employees, 1.37% transporter and 1.37% contractors.



## 2.2 Swan Hill Regional Community Sports Hub - Funding Opportunities

**Directorate:** Development and Planning

**File Number:** S11-27-13

**Purpose:** For Discussion

### Council Plan Strategy Addressed

**1. Liveability** - We will be a healthy, connected and growing community supported by a range of infrastructure and services.

#### **1.1 A modern municipality: Vibrant, connected and resilient**

1.1.1 Attractive urban areas and regional townships

1.1.2 Ensure adequate provision of a variety of safe and secure housing

1.1.3 Excellent transport links to allow ease of movement

**1. Liveability** - We will be a healthy, connected and growing community supported by a range of infrastructure and services.

#### **1.2 Careful and responsible management of our environment for a sustainable future**

1.2.1 Engage, empower and mobilise communities to prepare for, adapt to and mitigate the effects of a changing climate

1.2.2 Accessible open spaces, healthy rivers and lakes

### Current Strategic Documents

10 Year Major Project Plan

### Declarations of Interest

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

### Summary

A Federal funding opportunity is available for the Swan Hill Regional Community Sports Hub project. This funding falls under Stream 2 of the Regional Precincts and Partnerships Program (RPPP), a program for which Council successfully secured funding for a Swan Hill CBD precinct planning project, through Stream 1.

The Project will deliver a fit for purpose, accessible, multipurpose Regional Community Sports Hub that supports existing user groups while also expanding opportunities for broader community activation.

**Proposed Total Budget - \$7,963,000**

**Council 10 Year Major Projects Plan 25/26 - \$1,135,000**  
**Funding Request - \$6,828,000**

The building will house approximately 800m<sup>2</sup> of floor space over two levels and include features such as commercial catering facilities, 200m<sup>2</sup> of social function space, a theatrette with audio-visual (AV) technology, a people lift, change facilities, meeting rooms, broadcast and streaming room, offices and storage.

Council is partnering with industry (Belgravia Leisure), community groups (Agricultural and Pastoral Show Society) and peak sporting bodies (Central Rivers AFL & Netball League), to deliver an innovative community use facility that reflects a city that is strengthening and growing in maturity.

The need for a sophisticated centre that provides service capacity for various sports administration functions along with broader community social and wellbeing needs, overarchingly invests in the liveability of the Swan Hill. The various zones and technology delivery within this shared space ensure a significant asset will be occupied consistently and constantly, representing strong investment value.

The project has progressed to a detailed design stage which has successfully attracted financial support through the planning stream of the Local Community Sports Infrastructure fund. Although a State contribution, this investment from Sport and Recreation Victoria highlights the project's importance and positions it among their upcoming shovel-ready initiatives.

The project features in the draft Swan Hill Showgrounds Sport and Recreation Precinct Masterplan which is currently on exhibition for community comment. Although the Masterplan has not been formally adopted, the detailed design of the building will attract further community consultation and will be flexible enough to cater for feedback from the plan.

### **Consultation**

The draft Swan Hill Showgrounds Sport and Recreation Precinct Masterplan and the Recreation Reserves Masterplan 2018 reference the Sports Hub project. The draft Masterplan has been developed with input from an Advisory Committee and stakeholder groups.

The draft Masterplan is currently open for community comment through 'Lets Talk' and is on exhibition in Council reception and the foyer of the Swan Hill Aquatic and Recreation Centre.

The Swan Hill Football Netball Club developed plans for a new pavilion in 2020 and a funding submission was made through the Federal Governments withdrawn, round 6 of the Building Better Regions program.

### **Financial Implications**

The Swan Hill Regional Community Sports Hub, if successful through the RPPP program, will be a \$7,930,000 investment into the Region.



The contribution from Council is \$1,135,000 which has been allocated in the 10 Year Major Projects plan in year 1 (2025/26).

The request from the Federal Government's Regional Precincts and Partnerships Program is \$6,828,000.

### **Social Implications**

The health benefits based on 50% engagement by Swan Hill residents and the activity of the members from the two major sporting clubs equates to a \$12,183,290 potential savings to the health system.

An active lifestyle leads to health and wellbeing benefits, reducing the cost to public and private health sectors. Sports participation promotes a sense of wellbeing and belonging that contributes to the social fabric and connectedness of our communities.

### **Economic Implications**

The Economic Contribution Potential for the Regional Community Sports Hub has been proposed at \$480,180 per annum generating two full time equivalent roles and 3-4 part time jobs.

### **Environmental Implications**

Architectural design management principles with a focus on responsible environmental design will be implemented.

### **Risk Management Implications**

There is low risk in applying for funding based on design and allocation of funds in the major projects plan.

### **Attachments**

1. Swan Hill Regional Sporting Hub – Concept Design
2. Area Schedule Floor Space Sports Hub

### **Options**

1. That Council agrees to proceed with an application to the Federal Government's Regional Precincts and Partnerships Program for the value of \$6,828,000 for the Swan Hill Regional Community Sports Hub project.
2. That Council take no further action at this stage.

### **Recommendation**

**That Council proceeds with an application to the Federal Government's Regional Precincts and Partnerships Program seeking a grant for the value of \$6,828,000 for the Swan Hill Regional Community Sports Hub.**

**Haskell**



## SWAN HILL REGIONAL SPORTING HUB



# CONTENTS

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## INTRODUCTION

EXISTING CONDITIONS  
BACKGROUND  
KEY TEAM MEMBERS  
DESIGN PHILOSOPHY AND OBJECTIVES  
DESIGN BRIEF

## ARCHITECTURAL

## COST PLAN

## GEOTECHNICAL REPORT

## EXISTING DOCUMENTATION

## APPENDIX A - GOVERNANCE REPORT

# INTRODUCTION

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# EXISTING CONDITIONS

## AERIAL PHOTOGRAPHS OF EXISTING SITE - PROPOSED AREA FOR NEW SPORTS & RECREATION FACILITY AT SWAN HILL SHOWGROUNDS



# EXISTING CONDITIONS

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## EXTERNAL PHOTOGRAPHS OF EXISTING SITE - PROPOSED AREA FOR SWAN HILL SPORTING PAVILION

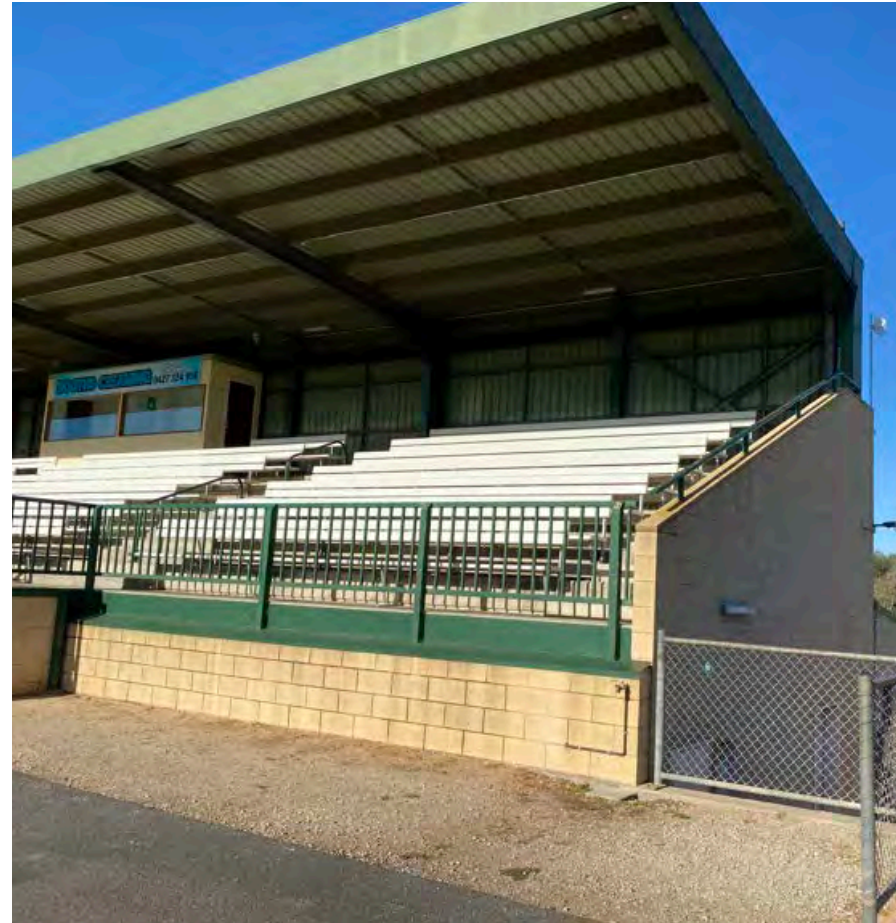




# EXISTING CONDITIONS

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## PHOTOGRAPHS OF EXISTING GRANDSTAND



# BACKGROUND

## BACKGROUND

The proposed sporting pavilion exists as part of the wider masterplan for the Swan Hill Showgrounds site. The site is Swan Hill's premier sporting facility positioned in the heart of Swan Hill. It is understood that a wide range of stakeholders will frequent the new pavilion.

The wider precinct contains facilities for the following stakeholders -

- Swan Hill Football Netball Club
- Swan Hill Agricultural Show Society
- Swan Hill Aquatic & Recreation Facility
- Various agricultural structures to facilitate show activities
- Training facilities for local volunteers from the Swan Hill Fire Brigade (CFA)
- Cricket nets for the Swan Hill Cricket Club

The proposed stand-alone sporting pavilion will be designed to provide connectivity to the following-

- Existing assets and facilities
- Existing car park
- Internal road networks
- Recently upgraded change-room facilities within the Grandstand
- Cricket nets
- New electronic scoreboard (clear line of sight required)





# KEY TEAM MEMBERS

---

## CLIENT

Swan Hill Rural City Council  
Dione Heppell (Project Manager)  
Grant Jones

## ARCHITECT

Haskell Architects  
Daniel Haskell (Managing Director)  
Kieran Bast (Associate)  
Reece Julian (Senior Project Architect)  
Yuanming He (Graduate of Architecture)

## FACILITY GOVERNANCE MODELLING

Otium Planning Group  
Kate Maddock (Managing Director)

## QUANTITY SURVEYOR

Cost Group  
Murray Baker (Director)

## GEOTECHNICAL ENGINEER

Civil Test Pty Ltd  
Preeti Kummari (Geotechnical Engineer)

## LAND SURVEYOR

Northern Land Solutions

# DESIGN PHILOSOPHY AND OBJECTIVES

## KEY OBJECTIVES FOR THE PROJECT ARE;

- To provide a key piece of recreational infrastructure accessible by multiple stakeholder groups
- To provide a facility in line with AFL guidelines
- To provide a facility which improves both participant and spectator amenity on the site
- To ensure the varied use is considered for the show period
- To ensure that Council's sustainability objectives for the facility are met
- To provide a facility which considers practicality through its design and then use



# DESIGN BRIEF

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## PROJECT REQUIREMENTS

The aim of the new development is to enable the Swan Hill Showgrounds to become a regional sporting precinct for north-west Victoria, attracting regional and state level activities and events.

The new sporting pavilion is to be designed to provide connectivity to existing assets and facilities at the Swan Hill Showgrounds. The project requirements are as follows -

- The preferred location for the building is west of the sporting ground, north of the existing Grandstand.
- It is expected that the new building will cover a GFA of approximately 1000m<sup>2</sup> and incorporate at least a ground and first floor.
- The sporting pavilion will be stand-alone
- A link is required between the new building and existing grandstand pavilion by way of a shared roof / breezeway / connecting corridor

## BRIEF

The proposed multi-level facility will include the following -

Upper Level:

- Function spaces seating 150-200 people
- Viewing balcony
- Fully functioning commercial kitchen
- Bar and canteen facilities
- Toilet facilities
- All accessible access

Ground Level:

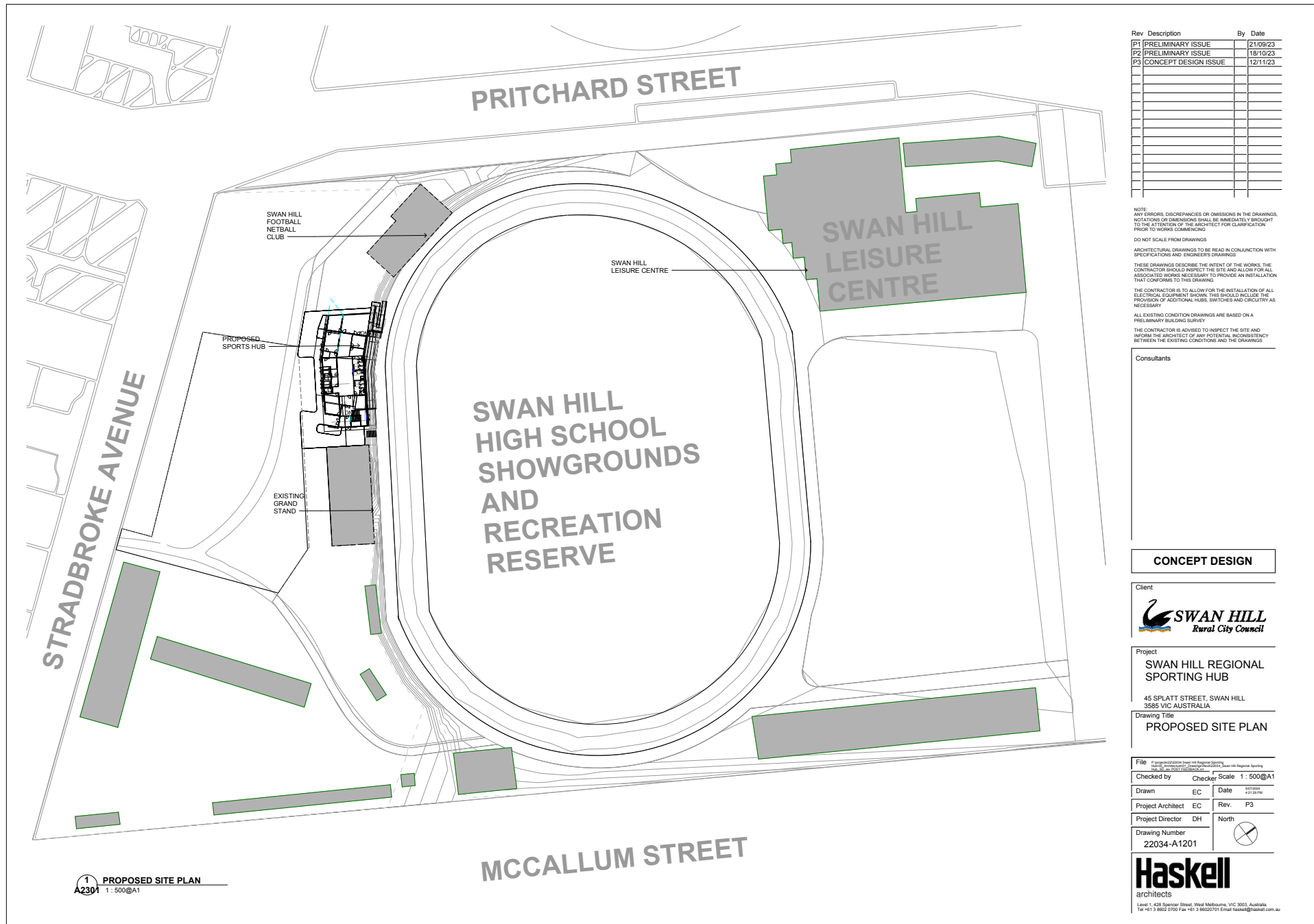
- Offices (3-4)
- Meeting space / multi-purpose communal area / gym / rehabilitation / recovery zone
- Equipment / storage facilities
- Toilet facilities with internal and external access
- Changerooms
- External ramp access to upper level

# ARCHITECTURAL

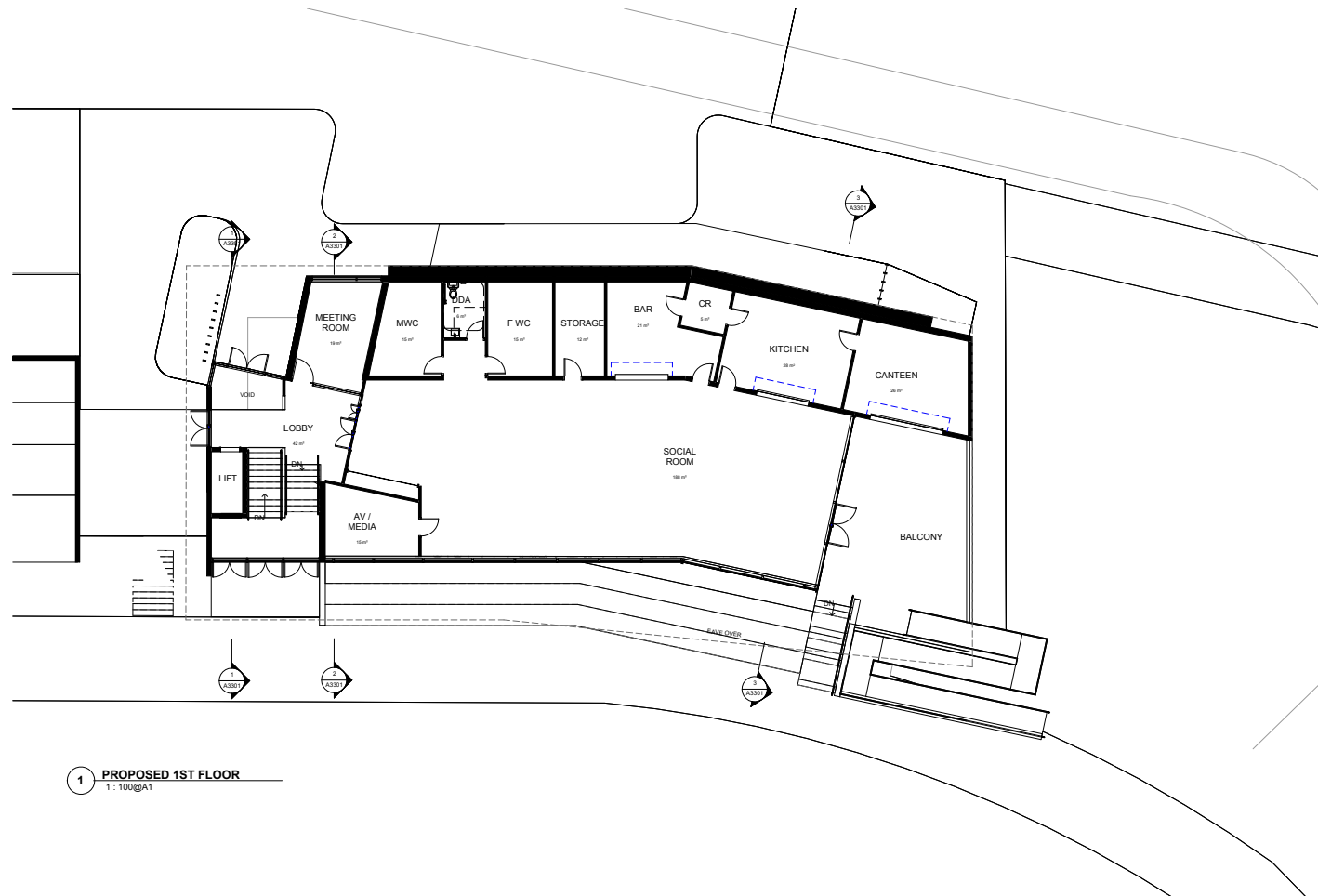
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**DO NOT SCALE FROM DRAWINGS**

ARCHITECTURAL DRAWINGS TO BE READ IN CONJUNCTION WITH SPECIFICATIONS AND ENGINEERING DRAWINGS.

THESE DRAWINGS DESCRIBE THE INTENT OF THE WORKS. THE CONTRACTOR SHOULD INSPECT THE SITE AND ALLOW FOR ALL ASSOCIATED WORKS NECESSARY TO PROVIDE AN INSTALLATION THAT CONFORMS TO THE FOLLOWING:

THE CONTRACTOR IS TO ALLOW FOR THE INSTALLATION OF ALL ELECTRICAL EQUIPMENT SHOWN THIS SHOULD INCLUDE THE PROVISION OF ADDITIONAL HUBS, SWITCHES AND CIRCUITRY AS NECESSARY

ALL EXISTING CONDITION DRAWINGS ARE BASED ON A PRELIMINARY BUILDING SURVEY

THE CONTRACTOR IS ADVISED TO INSPECT THE SITE AND INFORM THE ARCHITECT OF ANY POTENTIAL INCONSISTENCY BETWEEN THE EXISTING DRAWINGS AND THE DRAWINGS.

Consultants
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## CONCEPT DESIGN

Client




Project

SWAN HILL REGIONAL  
SPORTING HUB

45 SPLATT STREET, SWAN HILL  
3585 VIC AUSTRALIA

Drawing Title

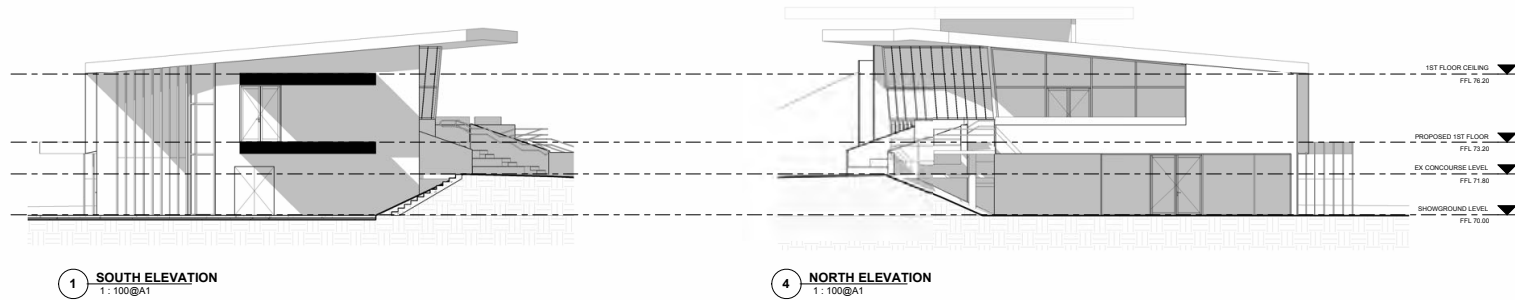
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<b>Project Architect</b> EC	<b>Rev.</b> P3	North 
<b>Project Director</b> DH		
<b>Drawing Number</b> 22034-A1303		

**Haskell**  
architects

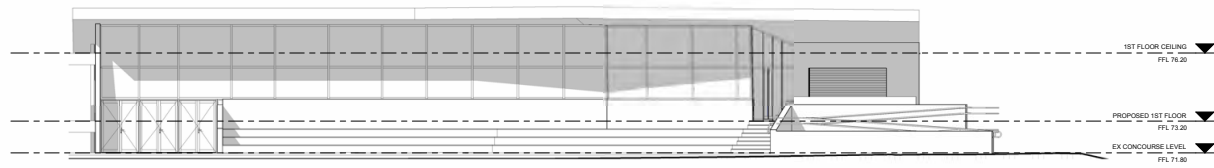
Level 1, 428 Spencer Street, West Melbourne, VIC 3003, Australia  
Tel +61 3 8602 0700 Fax +61 3 8602 0701 Email [haskell@haskell.com.au](mailto:haskell@haskell.com.au)





**1 SOUTH ELEVATION**  
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**4 NORTH ELEVATION**  
1 : 100@A1



**2 EAST ELEVATION**  
1 : 100@A1



**3 WEST ELEVATION**  
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Consultants

## CONCEPT DESIGN

Client



Project

SWAN HILL REGIONAL  
SPORTING HUB

45 SPLATT STREET, SWAN HILL  
3585 VIC AUSTRALIA

Drawing Title

## PROPOSED ELEVATIONS

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Project Director	DH	North	
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PRIOR TO WORKS COMMENCING

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BETWEEN THE EXISTING CONDITIONS AND THE DRAWINGS

Consultants
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## CONCEPT DESIGN

Client



Project
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SWAN HILL REGIONAL  
SPORTING HUB

45 SPLATT STREET, SWAN HILL  
3585 VIC AUSTRALIA

Drawing Title  
**PERSPECTIVES**

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Project Director	DH	North	
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ARTIST IMPRESSION ONLY

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## Consultants

## CONCEPT DESIGN

Client




Project
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SWAN HILL REGIONAL  
SPORTING HUB

45 SPLATT STREET, SWAN HILL  
3585 VIC AUSTRALIA

Drawing Title  
**PERSPECTIVES**

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Project Director	DH	North	
Drawing Number			
22034-A8001			

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ARTIST IMPRESSION ONLY

*Swan Hill Regional Community Sports Hub*

Area Schedule - Subject to confirmation \*

<b>Ground Floor</b>	<b>m2</b>
Lobby	13
Store	29
Amphitheatre	47
WC	3
WC	3
DDA WC	6
WC	3
WC	3
Change Room	102
Amenities	18
ACC WC/SHR	12
Amenities	16
Community	70
Utility	12
Meeting	18
<b>Ground Floor's Approx. Area</b>	<b>355</b>
<b>Level 1</b>	<b>m2</b>
Lobby	42
Meeting Room	19
MWC	15
DDA	6
F WC	15
Storage	12
Bar	21
CR	5
Kitchen	28
AV/Media	15
Social Room	188
Canteen	26
Balcony	53
<b>Level 1's Approx's Area</b>	<b>445</b>
<b>Total Approx Area</b>	<b>800</b>

Note: areas and as a guide to be adjusted to be fit for purpose



## 2.3 Planning Application - 5332 Murray Valley H'wy Swan Hill - Subdivision of Land (6 Lots) in the Farming Zone

**Directorate:** Development and Planning  
**File Number:** **PLN2024062**  
**Purpose:** For Discussion

### EXECUTIVE SUMMARY

<b>Application Number:</b>	PLN2024062
<b>Proposal:</b>	Subdivision of Land (6 Lots) in the Farming Zone, Land Subject to Inundation Overlay and Environmental Significance Overlay (Schedule 1) Overlay
<b>Applicant's Name:</b>	Roy Costa Planning & Development
<b>Address:</b>	5332 Murray Valley Highway SWAN HILL Lot 2 on Plan of Subdivision 802148V
<b>Land Size:</b>	120.98ha
<b>Site Features:</b>	Agricultural land and some agricultural buildings
<b>Zoning:</b>	Farming Zone (Schedule)
<b>Overlays:</b>	<ul style="list-style-type: none"> <li>• Land Subject to Inundation Overlay (Schedule)</li> <li>• Environmental Significance Overlay (Schedule 1)</li> <li>• Specific Controls Overlay (Schedule 1)</li> </ul>
<b>Referral Authorities:</b>	<ul style="list-style-type: none"> <li>• Gas Networks Victoria</li> <li>• Goulburn Murray Water</li> <li>• Lower Murray Water</li> <li>• North Central Catchment Management Authority</li> <li>• Powercor Australia</li> <li>• Department of Transport and Planning</li> </ul>
<b>Why is a Permit Required?</b>	<ul style="list-style-type: none"> <li>• 35.07-3 - Farming Zone - Subdivision</li> <li>• 44.04-3 - Land Subject to Inundation Overlay – Subdivision</li> <li>• 42.01-2 - Environmental Significance Overlay</li> </ul>
<b>Lodgement date:</b>	04 August 2024

**Declarations of Interest:**

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

**Summary:**

This is an application for a 6 lot subdivision in the Farming Zone that seeks to create lots meeting the minimum lot size of 20 hectares but does not provide adequate justification that there will be an agricultural benefit.

It is considered the proposal is contrary to the Farming zone purpose and is inconsistent with the planning policy objectives.

Key issues to be considered relate to the impact of the proposal on agricultural land and its fragmentation and the need for the proposed subdivision to facilitate or enhance the existing agricultural operation. The application has been assessed against the Swan Hill Planning Scheme and is considered an inappropriate outcome.

**Key Points / Issues:**

The subject site has an area of 120.98 hectares and is irregular in shape. The land is used for agricultural purposes and comprises several agricultural buildings. The subject site has a frontage to the Murray Valley Highway to the west and the Little Murray River to the east. Maher Road abuts part of the land to the south.

The surrounding area is generally used for agricultural purposes with land surrounding the site generally within the Farming Zone.

The application proposes subdivision of the land into 6 lots with each allotment to be over 20ha in area resulting in an "as of right dwelling" on each lot. The application does not contain adequate details on how the subdivision will create a better farming outcome as a farm management plan has not been provided.

**Policy Impacts:**

The proposed subdivision is considered contrary to the following provisions of Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF) of the Swan Hill Planning Scheme:

Municipal Planning Strategy*Clause 02-03-4 Natural resource management*

This clause is based around the need to preserve and protect the valuable agricultural and horticultural land within the municipality, particularly from the impacts of additional dwellings or small lot subdivisions in farming areas. The clause also recognises that significant fragmentation has already occurred, particularly in high value irrigated areas close to the Murray River. The policy states the following in relation to subdivision and dwellings in Farming Zone:

*“Dwellings and small lot subdivision in the rural areas that are not associated with agricultural activities could potentially undermine the viability of the rural sector. This could occur through land use conflict, loss of productive agricultural land, use of infrastructure and water that could otherwise be used for agricultural production, and inflated land values that exceed agricultural value. Housing for lifestyle purposes in rural areas also has the potential to create demand for community and physical infrastructure that may be more appropriately located in dedicated rural living areas.”*

In order to manage the natural resources in the Rural City, Council will:

- *Protect horticultural and dryland agriculture because it is fundamental for economic growth.*

It is considered the proposal is contrary to Clause 02.03-4 (Natural Resource Management) of the Municipal Planning Strategy in relation to the protection of agricultural land and discouraging subdivision in rural areas that undermines the productive agricultural base of the Swan Hill Rural City Council.

#### Planning Policy Framework (PPF):

##### *Clause 13.03-1S – Floodplain Management*

*‘To assist the protection of:*

- *Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows.*
- *The natural flood carrying capacity of rivers, streams and floodways.*
- *The flood storage function of floodplains and waterways.*
- *Floodplain areas of environmental significance or of importance to river, wetland or coastal health.’*

##### *Clause 14.01-1S – Protection of agricultural land*

*‘To protect the state’s agricultural base by preserving productive farmland’*

##### *Relevant Strategies*

- *Identify areas of productive agricultural land, including land for primary production and intensive agriculture.*
- *Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.*
- *Avoid permanent removal of productive agricultural land from the state’s agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.*
- *Protect productive farmland that is of strategic significance in the local or regional context.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
  - *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*



- *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
- *Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.*

#### *Clause 14.01-1L – Agriculture*

*‘To discourage small lot subdivision that prejudices surrounding agricultural activities.’*

#### *Relevant Strategies*

- *Discourage subdivisions that will impact on significant farm infrastructure.*
- *Discourage small lot subdivision to meet personal and financial circumstances.*
- *Discourage non-agricultural use and development in all rural areas other than those that support agriculture.*

#### *Clause 16.01-3S – Rural Residential Development*

*‘To identify land suitable for rural residential development.’*

#### *Relevant Strategies*

- *Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.*
- *Ensure planning for rural residential development avoids or significantly reduces adverse economic, social and environmental impacts by:*
  - *Maintaining the long-term sustainable use and management of existing natural resource attributes in activities including agricultural production, water, mineral and energy resources.*
  - *Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.*
  - *Minimising or avoiding property servicing costs carried by local and state governments.*
  - *Maintaining an adequate buffer distance between rural residential development and animal production.*
- *Ensure land is not zoned for rural residential development if it will encroach on high quality productive agricultural land or adversely impact on waterways or other natural resources.*
- *Discourage development of small lots in rural zones for residential use or other incompatible uses.*
- *Encourage consolidation of existing isolated small lots in rural zones.*

#### Assessment

The proposal will not result in protection of productive farmland and will not result in sustainable agricultural land use due to the inappropriate fragmentation which will compromise the long-term capacity of the land to be used for agriculture.

It is considered that the subdivision is not appropriate, particularly given the proposed size of the lots, although meeting the minimum lot size, and would result in fragmentation of land. The outcome would result in “as of right” dwelling on each lot

created. It is There has been no demonstrated need for the subdivision either to facilitate an existing agricultural use or to enhance possible future agricultural uses.

Planning policy at Clause 16.01-3S has been put in place to guide where rural-residential type development should occur. Given the creation of six lots with “as of right” dwelling entitlements under Farming Zone without any agricultural justification, it is likely that the outcome might serve to encourage the sort of rural-residential sprawl which the Planning Policy Framework is trying to avoid.

It is also the intent of the Planning Policy Framework to encourage consolidation of existing rural settlements rather than facilitate dispersed and isolated development. The associated strategies are intended to protect land for agriculture and ensure that housing development is limited to that which is required to improve agricultural production.

The proposal therefore is inconsistent with the vision for the municipality and fails to demonstrate it will facilitate or enhance the ongoing primary use of the land for agriculture. Furthermore, as discussed above, there is no information accompanying the application to justify how the subdivision will result in:

- The continuation or enhancement of the agricultural use of the land;
- Better facilitation agricultural uses; or
- Protecting the future agricultural potential of the subject land and surrounding land.

### Farming Zone

The purpose of the Farming Zone is to provide land for agriculture, retain productive agricultural land and to ensure non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

The decision guidelines of the zone seek to implement the purposes and for the reasons which will be outlined below it is considered that the subdivision of the land fails to satisfactorily address the decision guidelines and is therefore contrary to the stated purposes of the Zone.

In relation to the provisions of the Farming Zone the major concerns are:

- the proposal will fragment existing productive agricultural land;
- the proposal will result in the loss of productive land; and
- the proposal will potentially remove land from agriculture and limit the expansion and operation of adjoining agricultural land.

The information accompanied with the application has not demonstrated that the proposal will facilitate or enhance agricultural uses or to protect the future agricultural potential of the subject land and surrounding land.

It is considered that the proposal would limit the expansion and operation of adjoining and nearby agricultural uses and is not reasonably required to support and enhance agricultural production.

Balancing the policy demands to protect agriculture and having the planning scheme setting a minimum lot size of 20 hectares is the challenge faced by this proposal

Keeping the land in one farming unit provides the best assurance that the subject land continues to provide for agriculture long term as supported by the purpose of the Farming Zone.

### Flooding

Clause 13.03-1S relates to the protection of life from flooding. The proposal will have detrimental effect on the natural flood carrying capacity of nearby waterways and any damage from flooding will not be minimal as it will result in the obstruction for the passage of floodwater by having additional development.

The application was referred to the North Central CMA (NCCMA) the relevant flood management authority who has objected to the grant of the permit for the following reasons:

- *The proposal is not consistent with the objectives of Clause 13.03-1S (Floodplain Management). The proposal will increase the risk to life and property from flood hazard. The relevant strategy is to avoid intensifying the impact of flooding through inappropriately located use and development.*
- *The proposal is not consistent with the purpose of the Land Subject to Inundation Overlay (LSIO). Specifically, the proposal increases the potential flood risk to life, health and safety associated with the development and does not minimise flood damage and respond to the flood hazard.*
- *The incremental long-term effects of such subdivisions. While a single development may not cause a significant change, the cumulative effect of several similar subdivisions may be substantial.*
- *The proposal is not consistent with the decision guidelines in the Victorian Planning Provisions Practice Note 11 'Applying for a Planning Permit Under the Flood Provisions', in that:*
  - *It is likely to result in danger to the life, health and safety of the occupants due to flooding on the site.*
  - *It relies on low-level access to and from the site.*
  - *It is likely to increase the burden on emergency services and the risk to emergency personnel.*
  - *It is likely to increase the amount of flood damage to public or private assets.*

### Relevant Case Law

Whilst each planning decision is based on its merits it is of value for Council to be aware of VCAT decisions which provide relevant commentary to assist how similar decisions have been reached.

In *Niven v Greater Bendigo CC* [2023] VCAT 1133, Senior Member Potts while refusing an application for a two lot subdivision of a 177.75-hectare lot in the Farming Zone made following comments:

*"...Identifies fragmentation of agricultural land by subdivision as potentially disruptive to agricultural land use because ongoing agricultural production depends, in part, upon maintaining a mass of productive land, which excludes concentrations of residential type uses that have the potential to restrict normal agricultural practices. Therefore,*

*strategically as a valuable and finite resource, agricultural land should be protected from fragmentation and encroachment by competing uses and sustainable growth of agriculture can be supported by protecting such uses from incompatible land use and avoid amenity impacts on sensitive uses. “*

Senior Member further commented:

*“...When considering subdivision of agricultural land, consider amongst other matters:*

- Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
- Compatibility between the proposed or likely development and the existing use of the surrounding land.*

*For the reasons given above, I conclude that the decision of the responsible authority should be affirmed, no permit is to be granted.”*

In a *Stewart v Alpine SC* [2009] VCAT 1559, Member Naylor made following remarks in relation to consolidation and fragmentation of farming land for an application to subdivide seven existing lots into five lots varying in size from 1 hectare to 130 hectares (in two parts):

*“I agree with the Council that the proposed lots do create a level of fragmentation that is contrary to the objectives of the Subdivision in Rural Areas local planning policy... submitted the Council would support the house lot excision in lot 4 and the area of lot 1, but I am not persuaded that either of these lots, individually, are a good planning outcome. Rather, I am of the opinion the approach taken by ... client of reviewing the subdivision and/or consolidation of the lots that make up this land holding in totality is the right one. The strong planning policy support for the retention of rural land in units capable of sustaining rural activities; and not threatening or reducing the agricultural capability of land through subdivision needs to be considered in determining what a suitable subdivision of this land should be. Any future subdivision needs to be justified having regards to all of the objectives and policy requirements of the Subdivision in Rural Areas local planning policy. For these reasons, I will affirm the Council’s decision and order that no permit be granted.”*

In *Plenty Investments Pty Ltd v Macedon Ranges SC* [2016] VCAT 864, Member Harty emphasised the importance of farm management plan for a Staged subdivision of land (384.7ha) into seven (7) lots ranging from 40 to 77 hectares where no farm plan was provided by commenting:

*“Under the FZ, the statewide standard minimum lot size of 40ha has been used primarily because it represents a size that is sufficiently versatile to be used for a variety of common agricultural pursuits and in a manner that does not degrade the*

*condition of the land. When subdivisions are proposed for lots that are intended to be used for some form of agricultural production and smaller than the parent lot yet around the 40ha lot size, such proposals are accompanied by whole farm plans or land management plans that details the nature of how the land is to be farmed and managed.*

Member Harty made further comments in relation to the requirement of farm management plan for such applications:

*“The other issue relates to the timing of producing a whole farm plan/land management plan. No such plan formed part of what was presented to me as information that would demonstrate the ongoing primary use of the land for productive sustainable agriculture as an outcome of the proposed subdivision. Both Mr Phillips and Mr Morris suggested and sought a requirement for such by way of permit conditions on any permit that might be granted....*

*...Given the above, I am unable to make considerations as to how well the proposed lots would result in sustainable or more efficient land management. I find this is a failure of the proposal and strikes as an element that indicates the proposal fails to satisfy the policy objective.”*

In VCAT decision of Member Graeme David (Gibson v. Bass Coast SC [2015] VCAT 857) when considering the potential impact to agricultural expansion of existing proximate farms or bona fide farmers wishing to relocate. Member David stated that:

*“I accept that the creation of smaller lots of 40 ha on which dwellings are permitted as of right will increase the value of the land. This can render it more difficult for bona fide farmers wishing to relocate or expand their holdings, where the land is also attractive to other potential non-farming purchasers. Where agriculture is out competed due to land prices, this can contribute to ‘death by a thousand cuts’ to the local or regional scale and efficiency of agriculture.”*

Senior Member Byard in Greg Chalmers Pty Ltd v Greater Geelong CC [2007] VCAT 292 made following comments in relation to fragmentation of rural land as a result of subdivision:

*“Generally speaking, the more rural land is fragmented into smaller pieces the less useful and useable it is for farming purposes. It has long been recognised in rural planning, indeed for decades that fragmentation of rural land, with or without a proliferation of non-farm rural houses not required for farming purposes are a very serious threat to the continued usefulness and useability of farming land. Fiddly bits of land are less useful, particularly if of an appropriate shape and location, than larger areas. The whole trend of farming practice has been to increase areas required for farming enterprises whilst there has been continuing pressure to cut land up into smaller amounts to exploit its residential value. Good town and country planning looks*

*for residential uses to be located in or on the edge of towns, or at least in areas planned for that purpose, rather than spread over rural zoned areas.”*

**Consultation:**

The application was not advertised pursuant to Section 52(1A) of the Planning and Environment Act 1987 which states the following:

*“The responsible authority may refuse an application and, if it does so, it does not have to comply with notice requirements under Section 52.”*

**Financial Implications:**

N/A

**Social Implications:**

N/A

**Economic Implications:**

The loss of valuable farming land will impact upon the agricultural production outputs of the municipality. The continued creation of smaller farming lots raises property values making farming less attractive.

**Environmental Implications:**

N/A

**Risk Management Implications**

The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the Municipal Planning Strategy, the Planning Policy Framework, the purpose and decision guidelines of the zone and any of the other decision guidelines in Clause 65.

Just because you can apply for a planning permit does not mean that a permit should or will be issued.

**Conclusion:**

The proposal will create six lots with an “as of right dwelling” use under the zone which may limit the ability for agriculture to be facilitated in the context of the wider area and does not support the general principle to support the consolidation and enhancement of agricultural land.



It is considered that this proposal does not demonstrate that the subdivision is reasonably required to facilitate or enhance agricultural uses or to protect the future agricultural potential of the subject land and surrounding land.





The protection of Farming Zone land is of paramount importance to the policy contained within the planning scheme. It is considered that this application does not justify a need for subdivision. The application is another rural subdivision inadequately justified in accordance with the Swan Hill Planning Scheme.

### **Recommendation/s**

#### **That Council:**

**Issues a Notice of Decision to Refuse to Grant a Permit for the Subdivision of Land (6 Lots) in the Farming Zone, Land Subject to Inundation Overlay and Environmental Significance Overlay (Schedule 1) at Lot 2 on Plan of Subdivision 802148V known as 5332 Murray Valley Highway SWAN HILL on the following grounds:**

- 1. The proposal is contrary to the protection of agricultural land in accordance with Clause 02.03-4 (Natural Resource Management) of the Municipal Planning Strategy, Clause 14.01-1S (Protection of Agricultural Land) of the Planning Policy Framework and Clause 14.01-1L (Agriculture) of the Planning Policy Framework. The policies seek to discourage subdivision that prejudices agricultural activities.**
- 2. The proposal is inconsistent with the objectives of Clause 13.03-1S (Floodplain Management) as it will increase the risk to life and property from flood hazard. The proposal is not consistent with the purpose of the Land Subject to Inundation Overlay as it will result in increase to the potential flood risk**
- 3. The proposal is contrary to the purposes and decision guidelines of the Farming Zone as it will fragment farming land thereby adversely affecting the adjoining and nearby land uses for agriculture.**


 <p>SWAN HILL Rural City Council</p> <p>Planning Enquiries Phone: (03) 5032 0322 Web: <a href="http://www.swanhill.vic.gov.au">www.swanhill.vic.gov.au</a></p>	<b>Office Use Only</b>	
	VicSmart:	<b>No</b>
	Specify class of VicSmart application:	
	Application No:	Date Lodged:
<h2 style="text-align: center;">Application for Planning Permit</h2> <p>If you need help to complete this form, read <a href="#">How to complete the Application for Planning Permit form</a>.</p> <p> Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the <i>Planning and Environment Act 1987</i>. If you have any concerns, please contact Council's planning department.</p> <p> Questions marked with an asterisk (*) are mandatory and must be completed.</p> <p> If the space provided on the form is insufficient, attach a separate sheet.</p>		

### Application type

Is this a VicSmart Application?\*

No

If yes, please specify which VicSmart class or classes:

 If the application falls into one of the classes listed under Clause 92 or the schedule to Clause 94, it is a VicSmart application

### Pre-application meeting

Has there been a pre-application meeting with a Council planning officer?

False

If 'yes', with whom?:

Date:

day / month / year

### The Land

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address\*

Unit No:

St. No:


St. Name: **MURRAY VALLEY HIGHWAY**

Suburb/Locality: **SWAN HILL**

Postcode: **3585**

Formal Land Description\*

Complete either A or B

 This information can be found on the certificate of title.

**A**

Lot No: **2**

☐ Lodged Plan

☐ Title Plan

☐ Plan of Subdivision

No: **PS802148V**

**OR**

**B**

Crown Allotment No:


Section No:

Parish/Township Name:

If this application relates to more than one address, please attach details.



## The Proposal

 You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.

**① For what use, development or other matter do you require a permit?\***

6 Lot Subdivision



Provide additional information on the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

**① Estimated cost of development for which the permit is required\***

Cost \$0.00



You may be required to verify this estimate  
Insert '0' if no development is proposed

Insert '0' if no development is proposed (eg. change of use, subdivision, removal of covenant, liquor licence)

## Existing Conditions

**Describe how the land is used and developed now\***

Eg. vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Agriculture



Provide a plan of the existing conditions. Photos are also helpful.

## Title Information

**Encumbrances on title\***

If you need help about the title, read: [How to complete the Application for Planning Permit form](#)

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- ☐ Yes. (if 'yes' contact Council for advice on how to proceed before continuing with this application.)
- ☐ No
- ☐ Not applicable (no such encumbrance applies).



Provide a full, current copy of the title for each individual parcel of land forming the subject site.  
(The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments' eg restrictive covenants.)

---

## Applicant and Owner Details ①

Provide details of the applicant and the owner of the land.

### Applicant \*

The person who wants the permit

*Please provide at least one contact phone number \**

The information contained in this document has been redacted as defined in the Privacy & Data Protection Act 2014 and is provided for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By entering this Internet site you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination or distribution of this information is strictly prohibited. If you have any questions, please contact Council's Privacy Officer on 5036 2333.

### Owner \*

The person or organisation who owns the land

*Where the owner is different from the applicant, provide the details of that person or organisation.*

---

## Information Requirements

Is the required information provided?

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist.

- ☐ Yes
- ☐ No

## Declaration ⓘ

This form must be signed by the applicant\*

⚠ Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit

I declare that I am the applicant; and that all the information in this application is true and correct and the owner (if not myself) has been notified of the permit application.

Signature:  
Roy Costa  
Roy Costa Planning & Development

Date: 4 August 2024

day / month / year

## Checklist ⓘ

Have you:

☐ Filled in the form completely?

☐ Paid or included the application fee?

⚠ Most applications require a fee to be paid.  
Contact Council to determine the appropriate fee.



Provided all necessary supporting information and document?

☐ A full and current copy of the information for each individual parcel of land forming the subject site.

☐ A plan of existing conditions.

☐ Plans showing the layout and details of the proposal.

☐ Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.

☐ If required, a description of the likely effect of the proposal (eg traffic, noise, environmental impacts).

## Lodgement ⓘ

Lodge the completed and signed form and all documents with:

Swan Hill Rural City Council  
45 Splatt Street,  
Swan Hill VIC 3585  
Telephone: (03) 5036 2352

**Contact information:**

Telephone: (03) 5036 2352

Email: [planning@swanhill.vic.gov.au](mailto:planning@swanhill.vic.gov.au)



**ROY COSTA PLANNING & DEVELOPMENT**

164 Eighth Street Mildura  
PO Box 2925 Mildura 3502  
Phone (03) 50210031 Email: admin@roycosta.com.au

Our Ref: 24-062  
Your Ref:

30 July 2024

Planning Department  
Swan Hill Rural City Council  
PO Box 488  
SWAN HILL VIC 3585

Dear Sir/Madam,

**PLANNING APPLICATION  
6 LOT SUBDIVISION  
LOT 2 PS 802148V MURRAY VALLEY HIGHWAY SWAN HILL**

Enclosed, please find a planning application lodged on behalf of the owner, proposing the creation of a 6 Lot Subdivision of the above property.

The site is 120.98ha in area and used for agricultural purposes.

This proposal is seeking to subdivide the land into 6 allotments; with each allotment to be over 20ha in area.

Each allotment is to front Maher Road; with proposed Lots 1 to have a frontage of 189.12 metres, Lot 2 to have a frontage of over 182.81 metres, Lots 3-5 to have a frontage of 288 metres each and Lot 6 to have a frontage of 83 metres.

The land is located within a gazetted irrigation district.

The proposal is delineated on the plans associated with this application.

**SWAN HILL PLANNING SCHEME**

In accordance with the Swan Hill Planning Scheme, the subject land is zoned Farming Zone (FZ).

The subject land is also located within Environmental Significance Overlay 1 (ESO1), Land Subject to Inundation Overlay (LSIO) and Specific Controls Overlay 1 (SCO1).

The proposal complies with the Swan Hill Planning Scheme as detailed below.

PLANNING INSTITUTE AUSTRALIA – REGISTERED PLANNER (RPIA)

Rokar Pty. Ltd. ACN 087 497 685 Trading As Roy Costa Planning & Development



## **MUNICIPAL PLANNING STRATEGY**

Within these provisions they refer to agriculture being one of the main drivers of the economy of the municipality.

This proposal is supporting the economy of the region by subdividing the land into allotments of greater than 20 hectares in area, which is the minimum lot size stipulated within the Schedule to the Farming Zone.

Therefore, the future production of each allotment is protected as each lot proposed meets the requirements of the schedule to the Farming Zone.

At Clause 02.03-4 NATURAL RESOURCE MANAGEMENT it states that in order to manage the natural resources in the Rural City, Council will:

- Protect horticultural and dryland agriculture because it is fundamental for economic growth.
- Discourage small lot subdivision in rural areas that undermines the productive agricultural base of the Rural City.
- Discourage dwellings in rural areas that are not related to agriculture.
- Discourage land uses in the Farming Zone that are not directly related to agriculture, or that have an adverse impact on agricultural opportunities.
- Support rural industry so long as it is associated with a rural activity.
- Direct rural industries to locations where the impact on agricultural land and off-site effects are minimised, and where good road access is available.
- Encourage the proper siting and design of intensive animal production to protect residential amenity and environmental quality.

In respect to the above, this proposed 6 Lot Subdivision meets these provisions by:

- Protecting the future use of each lot proposed as each allotment will be greater than the minimum 20ha stipulated in the Schedule to the Farming Zone within the Swan Hill Planning Scheme.
- Given all allotments will be greater than the minimum 20 hectare requirement, the proposed subdivision will not undermine the productive agricultural base of the Rural City.
- The proposed location of the boundaries between all allotments will ensure each allotment is created as orderly shaped allotments.
- This proposed subdivision will not create fragmentation and will not have any significant implications for agriculture; and in fact, is supporting agriculture by creating allotments of greater than 20 hectares in area to be continued for agricultural production.

This in turn will support the future economy of the municipality and overall region.

## **PLANNING POLICY FRAMEWORK**

### **14.01-1S PROTECTION OF AGRICULTURAL LAND**

The objective of this policy is:

‘To protect the state’s agricultural base by preserving productive farmland.’

Within the strategies it refers to avoiding permanent removal of productive agricultural land from the state’s agricultural base, protecting productive agricultural land, preventing inappropriate dispersed urban activities, protect strategically important agriculture from incompatible uses, direct housing into existing settlements, discourage development of isolated small lots in the rural zones from use for dwellings or other incompatible uses and encourage consolidation of small lots in rural zones.

In addition to the above, within the strategies of this clause it states that in considering a proposal to use, subdivide or develop agricultural land, consider the:

- Desirability and impacts of removing the land from primary production, given its agricultural productivity.
- Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
- Compatibility between the proposed or likely development and the existing use of the surrounding land.
- The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
- Land capability.

The provisions also refer to avoiding the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land and give the priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.

This proposed 6 lot subdivision meets these provisions by way of the following:

- The minimum lot size requirement of 20 hectares is being met for each allotment.
- The proposal is creating 6 allotments that can be used for agricultural pursuits, which will support the ongoing productive use of the land, which in turn will support the agricultural economy of the region.
- The existing uses of the land and existing character of the area will not be changed by this subdivision.
- The production capacity of the overall land will not be reduced, as it will remain the same; however, will be continued on 6 allotments; which will create diversity of agricultural pursuits on each proposed lot.
- Each proposed lot will be greater than the minimum 20ha area stipulated within the Schedule to the Farming Zone.
- There will be no adverse impacts on the continuation of the agricultural production on adjacent land.

- No development is proposed as part of this application; therefore, the existing development will remain the same, thus, compatible with the surrounding land.
- The long term productive agricultural land on each lot will not be diminished by this subdivision as over 20ha of production will be continued on each lot.

#### **14.01-1L      AGRICULTURE**

This policy refers to all land within the Farming Zone.

In respect to subdivision, the Objective states:

‘To discourage small lot subdivisions that prejudices surrounding agricultural activities.’

The Strategies state:

- Discourage ‘small lot’ subdivision unless the balance lot is at least the minimum lot size specified in the zone.
- Discourage small lot subdivision to meet personal and financial circumstances.
- Prevent small lot subdivision to create lots for ‘rural lifestyle’ purposes.
- Encourage any excised lot to be of a manageable size that maintains sufficient land on the balance lot to support agricultural activity.
- Require the excision of a dwelling to be via the re-subdivision of existing lots so that the number of lots is not increased.
- Discourage the creation of long, narrow lots, axe handle, lots or island-style lots.
- Discourage subdivisions that will impact on significant farm infrastructure.
- Discourage further subdivision (by any method) of land where a dwelling has already been excised from the land.
- Discourage the excision of a dwelling if it is required for the carrying out of agricultural activities on the land.
- Ensure the excision dwelling is habitable and has existing use rights under Clause 63.
- Encourage a beneficial agricultural outcome for the land.
- Consolidate land in the same ownership if consolidation would facilitate the productive use of land.

As can be seen above, these provisions refer to small lot subdivisions.

This application is not for a small lot subdivision or dwelling excision.

In addition, in respect to the above strategies, this proposed subdivision is seen to meet these provisions by way of the following:

- The proposed area of each lot will be over 20ha, which is greater than the 20ha minimum lot size.



- The intention of the subdivision is to create allotments of greater than 20ha in area for continued agricultural pursuits.
- The proposed lots will not be long, narrow lots, axe handle lots or island-style lots.
- The subdivision will not impact on significant farm infrastructure in any way.

**14.01-2S SUSTAINABLE AGRICULTURAL LAND USE**

**14.01-2R AGRICULTURAL PRODUCTIVITY – LODDON MALLEE NORTH**

**14.01-2L SUSTAINABLE AGRICULTURA LAND USE**

In respect to these policies, as detailed in 14.01-1L above, the end result of this subdivision will create agricultural allotments to be continued into the future.

In addition, each lot will be over 20ha in area, for agricultural production.

**FARMING ZONE PROVISIONS**

**Clause 35.07 PURPOSE**

The subdivision of the dwelling meets the Municipal Planning Strategy and Planning Policy Framework as stated above.

The proposal will not affect the use of the surrounding land.

The proposal will not adversely affect the continued operation of the land for agriculture as each lot will be greater than 20ha in area.

The main purpose for the proposal is to enable the continuation of the valuable agricultural land for agricultural pursuits upon lots greater than 20ha in area.

The intentions of these provisions are to protect valuable agricultural land, which this application is seeking to achieve as detailed above.

**Clause 35.07-1 TABLE OF USES**

There are no uses proposed as part of this application.

**Clause 35.07-2 USE OF LAND FOR A DWELLING**

There is no dwelling proposed as part of this application.

**Clause 35.07-3 SUBDIVISION**

A permit is required for this proposed subdivision.

This proposed subdivision meets these provisions by way of each proposed lot being greater than the 20 hectare minimum lot size specified in the schedule to the Farming Zone.

**Clause 35.07-6 DECISION GUIDELINES**

The proposal meets the Municipal Planning Strategy and Planning Policy Framework as detailed above.

No Regional Catchment Strategy applies to the land.

The productive capacity of the land will remain sustainable as each lot proposed will be greater than 20 hectares in area.

There is no development proposed as part of this application; and all infrastructure required to operate agriculture upon each lot proposed is available.

The proposal will not limit the operation of the agricultural production upon the land or nearby properties.

There is no adverse environmental issue that would be created by this proposal.

No flora and fauna issues exist to the site.

No waterways exist near the site that would be affected by the proposed proposal.

The proposal will not have negative impacts on services within the area; with no changes to the services required to create this subdivision.

**OVERLAY PROVISIONS**

The subject land is located within Environmental Significance Overlay 1 (ESO1), Land Subject to Inundation Overlay (LSIO) and Specific Controls Overlay 1 (SCO1).

This proposed subdivision will not affect any provisions relating to these overlays.

No development is proposed, and no vegetation is required to be removed.

Therefore, the land will remain the same except in 6 allotments rather than 1 allotment.

As stated above the proposal meets the Municipal Planning Strategy and Planning Policy Framework of the Swan Hill Planning Scheme.

## **CONCLUSION**

In summary, the proposed subdivision of Lot 2 PS 802148V Murray Valley Highway Swan Hill into 6 allotments complies with all relevant provisions of the Swan Hill Planning Scheme, in particular, the Municipal Planning Strategy and Planning Policy Framework.

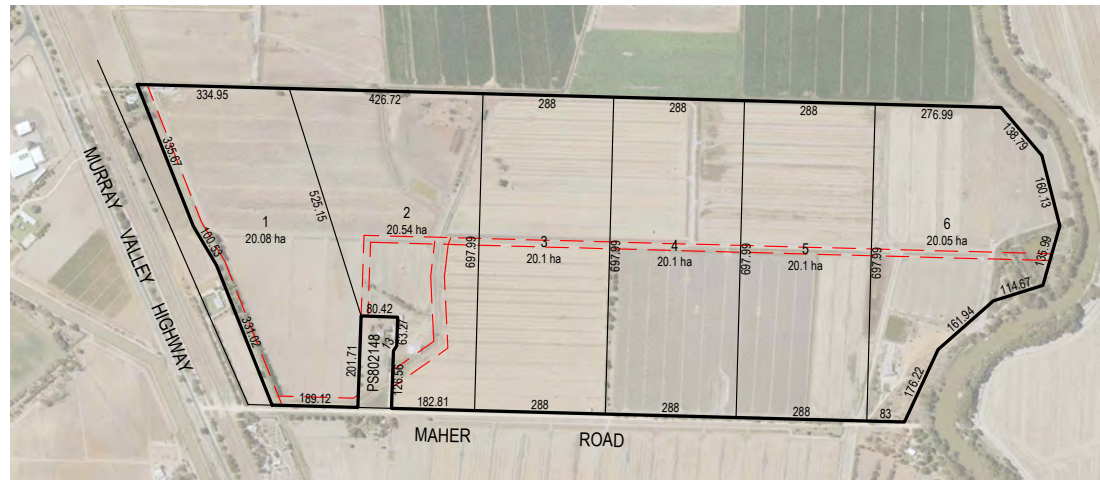
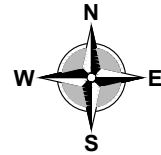
Given all the above-mentioned, we now request Council support this application as proposed.

If you have any queries in relation to the above, please contact Mr. Roy Costa from our office who will be pleased to assist.

Yours sincerely,

*Roy Costa*

ROY COSTA RPIA  
ROY COSTA PLANNING & DEVELOPMENT



**Proposed Plan of Division  
Allotment 2 in PS802148  
Parish of Castle Donnington  
in the area named  
SWAN HILL**



1:10000

Vide Title for disposition of Easements

**\*\*Not to be used for detailed engineering design.\*\***

Dimensions and areas are subject to survey.

© ALEXANDER & SYMONDS PTY. LTD.

Original Sheet Size A3

**Ben Shepherd**

LICENSED SURVEYOR

REF: 24V0041	
DWG NO.: 24V0041PROP1 REV A	
REVISION: A	43 MAHER ROAD
DEL 22.07.2024	SWAN HILL

Alexander & Symonds Pty Ltd  
177 Walnut Avenue Mildura,  
Victoria 3500  
ABN 93007 753 988

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PLAN OF SUBDIVISION		EDITION 1	PS802148V	
<b>LOCATION OF LAND</b>  PARISH: CASTLE DONNINGTON TOWNSHIP: SECTION: A CROWN ALLOTMENT: 20B, 20C CROWN PORTION: TITLE REFERENCE: VOL. 9455 FOL. 268, VOL. 10486 FOL. 499  LAST PLAN REFERENCE: LOT 2 LP135423, LOT 2 PS417957G POSTAL ADDRESS: 43 MAHER ROAD, SWAN HILL VIC 3585 (at time of subdivision) & 5332 MURRAY VALLEY HIGHWAY, SWAN HILL VIC 3585  MGA CO-ORDINATES: E: 734 381      ZONE: 54 (of approx centre of land      N: 6 080 717      GDA 94 in plan)		Council Name: Swan Hill Rural City Council  Council Reference Number: PS802148 Planning Permit Reference: 2017/85 SPEAR Reference Number: S107287A  Certification  This plan is certified under section 6 of the Subdivision Act 1988  Statement of Compliance  This is a statement of compliance issued under section 21 of the Subdivision Act 1988  Public Open Space  A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made  Digitally signed by: Coenraad Stefanus Jakobus Louw for Swan Hill Rural City Council on 17/11/2017		
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON	WATERWAY NOTATION: LOT 2 IN THIS PLAN MAY ABUT CROWN LAND THAT MAY BE SUBJECT TO A CROWN LICENSE TO USE		
NOTATIONS				
DEPTH LIMITATION: 15.24m				
SURVEY: This plan is based on survey. Lot 1 is the result of this survey. Area of Lot 2 has been obtained by deduction from title. STAGING: This is not a staged subdivision. Planning Permit No.  This survey has been connected to permanent marks No(s).  In Proclaimed Survey Area No.				
EASEMENT INFORMATION				
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-6	WATER SUPPLY & DRAINAGE	SEE DIAG	C/E B95414	S.R. & W.S.C.
E-2	WATER SUPPLY	3	THIS PLAN	LOT 2 ON THIS PLAN
E-3	DRAINAGE	15	LP 118946	LOTS ON LP118946
E-4 & E-5	DRAINAGE	15	THIS PLAN	LOT 1 ON THIS PLAN
E-6 & E-7	WATER CHANNEL & CARRIAGEWAY (SEE INSTRUMENT)	SEE DIAG	C/E 1001753	VOL. 3625 FOL. 864 VOL. 3625 FOL. 865 (BAL) AS OF 13/06/1921
E-1, E-2, E-5	WATER SUPPLY	SEE DIAG	C/E 1933663 C/E 1933664	VOL. 4444 FOL. 634 VOL. 4582 FOL. 312. VOL. 4624 FOL. 611
E-1, E-2, E-7 E-5	WATER SUPPLY	SEE DIAG	TR 2203760	VOL. 5073 FOL. 506, VOL. 5073 FOL. 507
 <b>NORTHERN LAND SOLUTIONS</b> LICENSED SURVEYORS, PLANNERS, LAND DEVELOPMENT CONSULTANTS P.O. BOX 1054 SWAN HILL, VIC. 3585 P: 03 50 33 00 35 F: 03 50 33 00 36 M: 0409015326 EMAIL: wes@northernlandsolutions.com.au WEB: www.northernlandsolutions.com.au		SURVEYORS FILE REF: 17 1915		ORIGINAL SHEET SIZE: A3
		Digitally signed by: Wesley John Pye (Northern Land Solutions), Surveyor's Plan Version (2), 03/10/2017, SPEAR Ref: S107287A		SHEET 1 OF 2
		PLAN REGISTERED TIME: 10:10 am DATE: 18/05/2018 Ian D Thomson Assistant Registrar of Titles		

Amended by: Wesley John Pye, 14/05/2018.







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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

**REGISTER SEARCH STATEMENT (Title Search) Transfer of  
Land Act 1958**

Page 1 of 1

VOLUME 11981 FOLIO 952

Security no : 124116731771T  
Produced 18/07/2024 02:04 PM

**LAND DESCRIPTION**

Lot 2 on Plan of Subdivision 802148V.  
PARENT TITLES :  
Volume 09455 Folio 268 Volume 10486 Folio 499  
Created by instrument PS802148V 18/05/2018

**REGISTERED PROPRIETOR**

The information contained in this document has been redacted as defined in the Privacy & Data Protection Act 2014 and is provided for the purpose of the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose. By entering this Internet site you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination or distribution of this information is strictly prohibited. If you have any questions, please contact Council's Privacy Officer on 5036 2333.

**ENCUMBRANCES, CAVEATS AND NOTICES**

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

**DIAGRAM LOCATION**

SEE PS802148V FOR FURTHER DETAILS AND BOUNDARIES

**ACTIVITY IN THE LAST 125 DAYS**

NIL

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

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

See MI312922D for WATER FRONTAGE LICENCE details

**ADMINISTRATIVE NOTICES**

NIL

eCT Control 16165A AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
Effective from 18/05/2018

DOCUMENT END

REF: PLN2024062

15 August 2024



Roy Costa  
Roy Costa Planning & Development  
PO Box 2925  
MILDURA VIC 3502

Dear Sir/Madam

PLANNING PERMIT NO. PLN2024062  
SUBDIVISION OF LAND (6 LOTS) IN THE FARMING ZONE ON LAND AFFECTED  
BY THE LAND SUBJECT TO INUNDATION AND ENVIRONMENTAL  
SIGNIFICANCE (SCHEDULE 1) OVERLAYS.  
LOT:2 PS:802148  
5332 MURRAY VALLEY HIGHWAY SWAN HILL VIC 3585

Thank you for submitting the above planning application for a proposed six lot subdivision. Upon preliminary review of the application, I regret to inform you the application will not be supported as submitted.

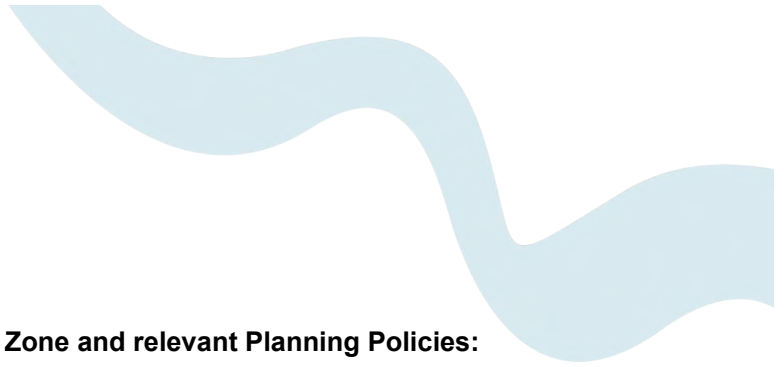
Council is prepared to offer you the option to withdraw your application. As a gesture of goodwill, Council would like to propose a partial refund of the application fee (75%), should you choose to withdraw the application.

Should you wish to proceed with the application, the following information is requested to be submitted:

**Agricultural Assessment (Farm Management Plan):**

- A detailed Farm Management Plan assessing the agricultural viability of the land, including existing land use, the impact of the proposed subdivision on current and future agricultural operations, and existing infrastructure.
- Detail how the proposal provides an agricultural benefit.

45 Splatt St (PO Box 488) SWAN HILL VIC 3585  
Ph: 03 5036 2333 | [council@swanhill.vic.gov.au](mailto:council@swanhill.vic.gov.au)  
[swanhill.vic.gov.au](http://swanhill.vic.gov.au) | ABN 97435620016



**Compliance with the Farming Zone and relevant Planning Policies:**

- A more detailed written submission detailing how the proposed subdivision complies with the relevant provisions of the Farming Zone and the applicable planning policies. Include an explanation of how the proposal aligns with the objectives of the zone, particularly in relation to maintaining agricultural productivity and why creating six (6) smaller lots in the Farming Zone provides a benefit to agriculture, acknowledging each lot would have a dwelling benefit in accordance with the Farming Zone. It is noted the requirements of the applicable Overlays may trigger a planning permit for any future dwellings on the land.
- Provide comment on the previous dwelling excision (via boundary realignment) approved by Planning Permit 2017/85 and whether the purpose of the previous subdivision has any relationship with the proposed 6 lot subdivision.

**Environmental Considerations:**

- An environmental impact assessment that addresses the potential impacts on native vegetation, waterways, and any other significant environmental features.

**Access and Infrastructure:**

- Detailed plans and descriptions of existing and proposed access crossovers/roads, including any necessary upgrades.

If you are wishing to proceed with the application, please submit a response to the above matters to allow further assessment of the application within 60 days (**14 October 2024**) from the date of this letter.

Should you require any further information, please contact the Planning Department on 50362333 or [planning@swanhill.vic.gov.au](mailto:planning@swanhill.vic.gov.au).

Yours sincerely

**WARRICK FISHER  
PLANNING TEAM LEADER**



**ROY COSTA PLANNING & DEVELOPMENT**

164 Eighth Street Mildura  
PO Box 2925 Mildura 3502  
Phone (03) 50210031 Email: admin@roycosta.com.au

Our Ref: 24-062  
Your Ref: PLN2024062

3 October 2024

Planning Department  
Swan Hill Rural City Council  
PO Box 488  
SWAN HILL VIC 3585

Dear Sir/Madam,

**PLANNING APPLICATION PLN2024062  
6 LOT SUBDIVISION  
LOT 2 PS 802148V MURRAY VALLEY HIGHWAY SWAN HILL**

We refer to your letter dated 15 August 2024 requesting further information in respect to the above planning application.

We wish to advise the following:

- The proposed subdivision is to create allotments greater than the minimum lot size of 20 hectares as stipulated within the Schedule to the Farming Zone for all land which is within a gazetted irrigation district or where a water use licence has been issued and applied to land for horticultural purposes.
- As the proposed lots meet the minimum lot size, a farm management plan is not seen required.

The minimum lot size of 20ha is stipulated within the Farming Zone of the Swan Hill Planning scheme for a reason; in particular that this is a suitable size allotment for horticultural production.

It should be noted that all relevant agricultural provisions within the Swan Hill Planning Scheme stipulate and support the creation of 20ha allotments within the irrigated district of the municipality.

- In addition, it must be considered that the minimum 20ha allotment was determined by the Swan Hill Rural Land Use Strategy September 2016 (RLUS), being a reference document to the Swan Hill Planning Scheme and RLUS is reference within the agricultural policies of the Swan Hill Planning Scheme.
- At page 68 of the RLUS it details the minimum lot size determined by Council for the Farming Zone should be tailored to suit the farming practices and productivity of the land; and refers to horticultural enterprises being generally significantly smaller in land area than broadacre enterprises.

PLANNING INSTITUTE AUSTRALIA – REGISTERED PLANNER (RPIA)

Rokar Pty. Ltd. ABN 86 087 497 685 Trading As Roy Costa Planning & Development



The document continues to state that the minimum lot size schedule needs to be tailored to reflect land use outcomes and local circumstances.

The analysis of agriculture identified categories of farmed land that suit the Farming Zone and determined that Farming Zone Schedule 2 – Gazetted irrigation districts and recommended minimum lot size of 20ha, which Council adopted.

- Furthermore, within the RLUS local policy basis stipulate the purpose of this policy is to ensure subdivision is consistent with the minimum lot size schedule.
- The proposed subdivision will provide an agricultural benefit by providing 6 allotments of minimum lot size for purchase of persons seeking to develop horticultural production on a 20ha allotment.

It should be noted that this proposed subdivision gives opportunity for horticultural farmers to enter the horticultural industry upon an allotment of adequate size; and also, existing horticultural farmers to enlarge their holdings.

It should be noted that the horticultural economic benefit to this particular area and region will be enormous by this subdivision as once each allotment is developed for horticultural production; each lot could generate approximately \$120,000.00 per hectare, being 2.4million per property.

In addition, the creation of job employment will also be of a major benefit to the district.

- In respect to the how the proposed 6 Lot Subdivision meets the provisions of the Swan Hill Planning Scheme, this has been detailed in the original submission lodged with the application and the above detailed information.

In addition, it should be noted that the agricultural policies and schedule to the Farming Zone that specifies the minimum lot size and minimum lot size for a dwelling in the Farming Zone were determined by Council in accordance with the RLUS.

- The purpose of the previous subdivision has no relationship to this proposed 6 Lot Subdivision.
- As stated in the original submission there is no impact on any native vegetation, waterways, or other significant environmental features.
- Rural access crossovers/roads will be provided to each lot to the satisfaction of the Responsible Authority.

Given the above, we now request Council to further process the application and issue the planning permit accordingly.

If you have any queries in relation to the above, please contact Mr. Roy Costa from our office who will be pleased to assist.

Yours sincerely,

*Roy Costa*

ROY COSTA RPIA  
ROY COSTA PLANNING & DEVELOPMENT



NCCMA Ref: NCCMA-F-2025-00176  
Council Ref: PLN2024062  
Date: 21 February 2025

Muhammad Salman  
Graduate Planner  
Swan Hill Rural City Council  
Po Box 488,  
Swan Hill Vic 3585

Dear Muhammad

**Planning Permit Application No: PLN2024062**  
**Development Description:** Six lot subdivision in Farming Zone  
**Street Address:** 5332 Murray Valley Highway Swan Hill Vic 3585  
**Applicant:** Roy Costa, Roy Costa Planning and Development

Thank you for your referral under Section 55 of the *Planning and Environment Act, 1987* dated 19 February 2025, and received by North Central Catchment Management Authority (CMA) on 19 February 2025, regarding the above matter.

North Central CMA, pursuant to *Section 56 of the Planning and Environment Act 1987*, **objects** to the granting of a permit on the following grounds:

**1. The proposal is not consistent with the objectives of the Victoria Planning Policy (VPP) 13.03-1S – Floodplain Management.**

*The proposal will increase the risk to life and property from flood hazard. The relevant strategy is to avoid intensifying the impact of flooding through inappropriately located use and development.*

*The policy specifies that consideration should be given to any floodplain management manual or guideline of policy and practice, or catchment management, river health, wetland or floodplain management strategy adopted by the relevant responsible floodplain management authority.*

*Guidelines for Development in Flood Affected Areas were released by the Department of Energy, Environment and Climate Action (DEECA) in 2019. These guidelines were adopted by North Central CMA's Board of Directors on 4 July 2019.*

*These guidelines specify the safety criteria for subdivision of land. In agricultural land, the maximum depth of flooding for which subdivision is supported is 0.5 metres. The depth of flooding over the access to Lots 2 to 6 ranges between 0.6 to 1.5 metres.*

*North Central CMA acknowledges that the property was afforded protection by an earthen levee along the Little Murray River in the 2022 flood events. However, it must be noted that this levee is currently in very poor condition and there is no formal management arrangements for ongoing management and maintenance of these levees.*

*In addition, Policy 17C of the Victorian Floodplain Management Strategy, 2016 states that where there is flood mitigation infrastructure that is not being formally managed the relevant Municipal Planning Scheme must not assume that the infrastructure will provide flood protection. Therefore, North Central CMA maintains that given the poor condition and*

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f @ t





*unmanaged nature of the levee it must be assumed that the levee is not present in the assessment of flood risk and associated decision making.*

2. ***The proposal is not consistent with the purpose of the Land Subject to Inundation Overlay (LSIO).*** Specifically the proposal increases the potential flood risk to life, health and safety associated with the development, and does not minimise flood damage and respond to the flood hazard.
3. ***The proposal is not consistent with the decision guidelines in the Victorian Planning Provisions Practice Note 11 'Applying for a Planning Permit Under the Flood Provisions', in that:***
  - a. *It is likely to result in danger to the life, health and safety of the occupants due to flooding on the site.*
  - b. *It relies on low-level access to and from the site.*
  - c. *It is likely to increase the burden on emergency services and the risk to emergency personnel.*
  - d. *It is likely to increase the amount of flood damage to public or private assets.*
4. ***The incremental long-term effects of such subdivisions. While a single development may not cause a significant change, the cumulative effect of several similar subdivisions may be substantial.***

#### **Advice to Applicant / Council**

North Central CMA advises that in the event of a 1% AEP flood event it is likely that the property will be subject to inundation from Little Murray River. The applicable 1% AEP flood level for the property is 68.9 metres Australian Height Datum.

Land level information available at the North Central CMA indicates that the above flood level would result in flood depths on the property ranging from 0 to 1.9 metres across the site. Approximately 80% of the site is inundated to a depth greater than 0.5 metres.

North Central CMA advises that this property is be afforded protection by an earthen levee from flood events up to an equivalent of 2% AEP (50 year ARI) flood event. The condition of these works is known to be very poor and there is no formal arrangement for the management of these works. Therefore, it must be assumed in decision making that the levees are not present.

Should you have any queries, please do not hesitate to contact me on **(03) 5440 1896**.

To assist the CMA in handling any enquiries and the supply of further information, please ensure you quote **NCCMA-F-2025-00176** in your correspondence.

Yours sincerely

Camille White

**Manager Floodplain**

Cc: Roy Costa, Roy Costa Planning and Development

*Information contained in this correspondence is subject to the definitions and disclaimers attached.*







*Attached: Definitions and Disclaimers*

### **Definitions and Disclaimers**

1. The area referred to in this letter as the 'proposed development location' is the land parcel(s) that, according to the Authority's assessment, represent(s) the location identified by the applicant. The identification of the 'proposed development location' on the Authority's GIS has been done in good faith and in accordance with the information given to the Authority by the applicant(s) and/or local government authority.
2. While every endeavour has been made by the Authority to identify the proposed development location on its GIS using VicMap Parcel and Address data, the Authority accepts no responsibility for or makes no warranty with regard to the accuracy or naming of this proposed development location according to its official land title description.
3. **AEP** as Annual Exceedance Probability – is the likelihood of occurrence of a flood of given size or larger occurring in any one year. AEP is expressed as a percentage (%) risk and may be expressed as the reciprocal of ARI (Average Recurrence Interval).  
  
Please note that the 1% probability flood is not the probable maximum flood (PMF). There is always a possibility that a flood larger in height and extent than the 1% probability flood may occur in the future.
4. **ARI** as Average Recurrence Interval - is the likelihood of occurrence, expressed in terms of the long-term average number of years, between flood events as large as or larger than the design flood event. For example, floods with a discharge as large as or larger than the 100-year ARI flood will occur on average once every 100 years.
5. **AHD** as Australian Height Datum - is the adopted national height datum that generally relates to height above mean sea level. Elevation is in metres.
6. No warranty is made as to the accuracy or liability of any studies, estimates, calculations, opinions, conclusions, recommendations (which may change without notice) or other information contained in this letter and, to the maximum extent permitted by law, the Authority disclaims all liability and responsibility for any direct or indirect loss or damage which may be suffered by any recipient or other person through relying on anything contained in or omitted from this letter.
7. This letter has been prepared for the sole use by the party to whom it is addressed and no responsibility is accepted by the Authority with regard to any third party use for the whole or any part of its contents. Neither the whole nor any part of this letter or any reference thereto may be included in any document, circular or statement without the Authority's written approval of the form and context in which it will appear.
8. The flood information provided represents the best estimates based on currently available information. This information is subject to change as new information becomes available and as further studies are carried out.

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## 2.4 Planning Application - 82 New Britain Road Robinvale - Use and Development of Rural Worker Accommodation in the Farming Zone

**Directorate:** Development and Planning

**File Number:** PLN2023063

**Purpose:** For Discussion

### EXECUTIVE SUMMARY

<b>Application Number:</b>	PLN2023063
<b>Proposal:</b>	Use and Development of the Land for Rural Worker Accommodation in Farming Zone
<b>Applicant's Name:</b>	Roy Costa Planning and Development
<b>Address:</b>	82 New Britain Road, Robinvale Lot 1 on Title Plan 613421
<b>Land Size:</b>	2.08 Hectares
<b>Site Features:</b>	Agricultural land comprising one dwelling and associated infrastructure
<b>Zoning:</b>	Farming Zone (FZ)
<b>Overlays:</b>	Nil
<b>Referral Authorities:</b>	Environment Protection Authority (EPA) Internal Engineering Department Internal Health Department
<b>Why is a Permit Required?</b>	Clause 35.07-1 Section 2 Use – Rural Worker Accommodation Clause 35.07-4 Buildings and Works associated with a Section 2 Use
<b>Lodgement date:</b>	07 August 2023

### Declarations of Interest:

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

**Summary:**

The purpose of this report is to recommend Council to form a position for the VCAT appeal for a planning permit for the use and development of the land for rural worker accommodation at 82 New Britain Road, Robinvale.

The application was submitted to the Council on 07 August 2023. The applicant lodged an appeal with VCAT for a failure to determine as the Council was unable to make the decision within the prescribed 60-day time set by the Planning & Environment Act 1987.

A Compulsory Conference was held by VCAT on 13 February 2025, where the officers indicated to the Tribunal that officers do not have the delegation to settle the matter on Councils behalf and the matter needs to go to the Council for a position on what would be its decision as part of the VCAT hearing on the application.

This report provides an outline of the proposal, a planning assessment and a recommendation for Council to present to VCAT. The next VCAT hearing for the full merits appeal is listed for 22, 23 and 24 April.

**Key Points / Issues:**

The subject land is located 4.5km south-west of the Robinvale main activity area and on the northern side of New Britain Road, Robinvale. The site comprises an existing dwelling with associated outbuildings that are located in the western corner of the land. The site is rectangular in shape having a total site area of 2.08ha. The site comprises thick and mature vegetation within the western half of the property where the existing dwelling and associated infrastructure is located. There is also mature vegetation along the boundaries of the land which act as a screening. The vegetation screen along the southern boundary only extends till the existing infrastructure on the land.

The surrounding land comprises intensive horticultural land uses. There are a few allotments in the area that are developed with dwellings and have been excised from the agricultural operations. The land is within an area with strong agricultural character.

The application proposes use and development of the land for rural worker accommodation. The proposed rural worker accommodation will consist of 4 accommodation buildings comprising 20 beds and 8 bathrooms in each accommodation building. The overall facility will accommodate 80 workers at full capacity. It will also include a car park for 34 cars and an open field for recreation which will also act as a stormwater retention basin.

The application does not contain sufficient details regarding wastewater management and no farm or business management plan has been provided to justify the need for such a large-scale accommodation use.

**Policy Impacts:**

The proposal will be contrary to the following critical provisions within the Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF) of the Swan Hill Planning Scheme:

Municipal Planning Strategy (MPS):*Clause 02.03-4 Natural Resource Management*

This clause emphasises the need to protect valuable agricultural and horticultural land within the municipality, particularly considering significant fragmentation already occurring, especially in irrigated areas. The conversion of agricultural land into accommodation use will reduce the land availability for productive farming and will undermine the overall viability of the agricultural sector in the region.

To manage the natural resources in the Swan Hill Rural City, Council will:

- *Protect horticultural and dryland agriculture because it is fundamental for economic growth.*
- *Discourage land uses in the Farming Zone that are not related to agriculture, or that have an adverse impact on agricultural opportunities.*

The land is already removed from agricultural production. It is acknowledged that there is a need for rural worker accommodation, however the scale and intensity of this use and development is considered excessive for the site.

Planning Policy Framework (PPF):*Clause 14.01-1S Protection of Agricultural Land*

*‘To protect the state’s agricultural base by preserving productive farmland.’*

*Relevant Strategies*

- *Identify areas of productive agricultural land, including land for primary production and intensive agriculture.*
- *Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.*
- *Avoid permanent removal of productive agricultural land from the state’s agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.*
- *Protect productive farmland that is of strategic significance in the local or regional context.*
- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
- *Protect strategically important agricultural and primary production land from incompatible uses.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
  - *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*

- *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
- *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
- *Land capability.*
- *Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.*

Whilst it is acknowledged that a rural worker accommodation use has been proposed to provide for farm workers, no details have been provided in relation to how the proposed use will contribute to the agricultural sector.

Requests for further information have not been responded to. This is a substantial development seeking to house 80 workers and Council sought to get further information to address the proposed use.

Furthermore, the proposal does not adequately consider the impacts on adjacent agricultural land, especially in terms of impacting on the ongoing use of the land for intensive horticulture and how land use conflict can be managed. The compatibility of the development with the surrounding agriculture uses is of concern and the potential off-site effects, such as wastewater management, have not been sufficiently addressed.

#### *Clause 14.01-1L Agriculture*

##### *Objective 1*

*‘To avoid land use conflicts between agricultural and non-agricultural land uses.’*

##### *Relevant Strategies*

- *Discourage non-agricultural use and development in all rural areas other than those that support agriculture.*
- *Separate agricultural and non-agricultural uses by using landscape buffers, orientation, and siting of buildings.*
- *Consider the effect of the proposed use and development on the amenity of adjacent land.*

The proposal will result in the introduction of a non-agricultural use in a rural area primarily dedicated to intensive horticulture, it may lead to the creation of land use conflicts. The proposal does not include sufficient buffers or siting measures to separate the accommodation from surrounding agricultural land, which will have impact on the viability of adjacent agricultural uses.

##### *Objective 3*

*‘To discourage new dwellings that undermine the productive agricultural base of the municipality.’*

##### *Relevant Strategies*

- *Discourage any new dwelling unless it has a relationship with and is required to directly support the continuing operation of an existing rural use conducted on the land.*
- *Ensure that the agricultural use has been established on the land prior to the construction of a dwelling.*
- *Discourage any new dwelling that will have an adverse impact on other rural land uses on the land, adjoining land and general area.*

Although the above objective relates to new dwellings, however it is relevant to the current proposal as it is seeking to introduce an accommodation use like a dwelling use therefore resulting in permanent land use change.

The use could have an adverse impact on surrounding agricultural land uses by introducing non-agricultural development into a predominantly farming area. This land use change will limit the ability for agriculture to be facilitated in the context of the wider area and does not support the general principle to support the consolidation and enhancement of rural land.

The proposal does not include a business management plan to demonstrate the justification for the use. The applicant in the written submission stated that the proposal will provide for the accommodation to the workers working in the area however no detailed justification or plan has been provided to justify this.

#### Farming Zone (FZ)

The purpose of the Farming Zone is to provide land for agriculture, retain productive agricultural land and to ensure non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

The Farming Zone sets out the following relevant decision guidelines in relation to the proposal:

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *Any integrated land management plan prepared for the site.*
- *Whether Rural worker accommodation is necessary having regard to:*
  - *The nature and scale of the agricultural use.*
  - *The accessibility to residential areas and existing accommodation, and the remoteness of the location.*
- *The duration of the use of the land for Rural worker accommodation.*

In assessing this application, the key consideration is the appropriateness of the rural worker accommodation use in the zone and the requirement of a business or operational management plan to support the accommodation of 80 workers. As discussed above the applicant has not provided any business management plan which could have justified the proposed use within the context of the area.



The proposal will not be able to meet the decision guidelines specifically relating to rural worker accommodation use as no information has been provided in relation to the scale and nature of agricultural uses for which the accommodation is required. The site is only 4.5km south-west from the Robinvale township which means it is not remote. No information has been provided in relation to the duration of the use of the land for rural worker accommodation.

The development lacks sufficient details regarding wastewater management and treatment on site, which could have adverse impacts on soil and water quality. Clause 35.07-2 of the Swan Hill Planning Scheme outlines the necessary requirements needed to be met to comply with the accommodation use on the land which state:

*“Each dwelling, small second dwelling or rural worker accommodation must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system”.*

Insufficient information has been provided by the applicant in relation to wastewater management. A referral to Council’s Public Health & Regulatory Services Unit has raised concerns that the application is an overdevelopment for the site in terms of wastewater management and that the land is of inadequate size to maintain and operate an appropriate wastewater management system.

The submitted Land Capability Assessment (LCA) does not show setbacks of the proposed buildings from potential wastewater disposal fields or the setbacks of the wastewater fields from the boundaries of the land.

All wastewater systems over 5000 litres per day (l/d) are deemed commercial and are to be permitted by the EPA. The LCA shows three wastewater systems, across four accommodation buildings. The calculations allow for 27 people per septic tank, meaning all three septic tanks would need to be connected to the four buildings of 20 people each. This allowed for 4050 l/d per septic tank, which keeps the septic tanks under the 5000 l/d commercial permit required.

The proposal to have 3 septic tanks serve 4 accommodation buildings and ensure connection to one or more system raises management concerns. It may be difficult if not impossible to accurately and effectively occur across the three wastewater systems and would result in one or more of the wastewater systems likely exceeding the 5000 l/d.

As such there would be preference to have a minimum of four wastewater systems would to ensure each system remains under the 5000L per day. However, the land size does not allow for this number of wastewater systems and disposal fields to fit on the land.

The LCA also does not show an area for a reserve (secondary) wastewater field. This area should be equal to the primary wastewater disposal field and is required in case of the system being overused and/or failed. There is no space on the land for this to occur.



To reach this conclusion the Public Health & Regulatory Services Unit has mapped the required setback distances from the proposed accommodation buildings and boundary which concludes that the wastewater field will not be able to fit on the land to support the 80 bed accommodation proposal.

The proposal represents an overdevelopment of the site by proposing 80 rural workers on site. When assessing the accommodation proposal regard should be given to:

- 6400 m<sup>2</sup> of site is not available as it currently comprises the existing dwelling, sheds, gardens and access on western portion of the site. This reduces the overall site area for the accommodation development to 14,000 m<sup>2</sup>.
- Of the 14,000 m<sup>2</sup> it is estimated that at least 50% of this space will be developed to support the rural worker accommodation consisting of buildings, car parking areas, wastewater treatment and effluent fields (2500 m<sup>2</sup> of buildings, 1600 m<sup>2</sup> of car parking, 1400 m<sup>2</sup> of wastewater treatment and 1600 m<sup>2</sup> of drainage retention – equalling 7100 m<sup>2</sup> or approximately 50% site coverage)
- The plantations of non-native trees along the northern and eastern boundaries are likely to be removed or minimised to allow for wastewater treatment, which are setback 1.5 metres from the boundary. Removal of the existing trees removes a buffer between the vines and the accommodation.

**Consultation:****Advertising**

The application was not advertised by Council as the applicant lodged a VCAT appeal for a failure to determine the application. The applicant carried out the advertising at the direction of VCAT. As far as Council is aware no objections were lodged.

**Financial Implications:**

Each party to an appeal at VCAT generally cover their own costs. Council has representation at this hearing, which is standard practice.

**Social Implications:**

There is a clear need for rural worker accommodation to support horticulture in Robinvale.

Balancing the intensity of the land use, amenity expectations and minimising land use conflict are matters that need consideration.

**Economic Implications:**

Supporting the continued production and growth of agriculture are objectives in Councils adopted Economic Development Strategy 2024-2030.

**Environmental Implications:**

The proposal raises significant concerns regarding wastewater management systems. The lack of detailed wastewater management system represents a risk of contamination to surrounding soil and water resources, potentially degrading water quality and impacting agricultural activities in the area which if not appropriately managed could impact those living in the rural worker accommodation.

### **Risk Management Implications:**

The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the Municipal Planning Strategy, the Planning Policy Framework, the purpose and decision guidelines of the zone and any of the other decision guidelines in Clause 65.

### **Conclusion:**

Council has been directed by VCAT to lodge its statement of grounds which Council will be relying upon at the final hearing of the proceeding by no later than 12 noon on 19 March 2025. It is also required to table draft conditions prior to the hearing, this is standard practice at VCAT.

The basis for recommending refusal of the application is two-fold – there is inadequate information to support wastewater disposal on the site and this is a critical decision guideline for rural worker accommodation in the Farming zone. Secondly the intensity of land use is considered out of character and the proposal lacks analysis and justification for an 80-person rural worker accommodation development and how the use can be managed to minimise land use conflict.

It is recommended that Council advise VCAT that it would not support the proposal and would have refused for the reasons outlined.

- Attachments:**
1. Applicants Report [2.4.1 - 7 pages]
  2. Land Capability Assessment Report [2.4.2 - 31 pages]
  3. Plans [2.4.3 - 4 pages]
  4. Title Plan [2.4.4 - 2 pages]
  5. Title [2.4.5 - 1 page]
  6. VCAT Order [2.4.6 - 3 pages]

### **Recommendation/s**

1. That Council advises VCAT that it determines that had it decided the application for Rural Worker Accommodation (80 persons) at Lot 1 on Title Plan 613421, 82 New Britain Road, Robinvale, it would have refused the application on the following grounds: The proposal will be contrary to Clause 14.01-1L (Agriculture) of the Swan Hill Planning Scheme as it will result in creation of a conflict between existing agricultural uses in the area by introducing an accommodation (sensitive) use.
2. The proposal will be contrary to the purpose and decision guidelines of Clause 35.07 (Farming Zone) of the Swan Hill Planning Scheme as it will be unable to provide for an agricultural use. The extent of buildings and works is inappropriate in this sensitive setting.

3. **The proposal will be contrary to Clause 35.07-2 (Farming Zone) of the Swan Hill Planning Scheme as inadequate information has been provided to demonstrate that wastewater generated from the use on site can be accommodated on site in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system.**
4. **The proposal is contrary to Clause 65 (Decision Guidelines) of the Swan Hill Planning Scheme as it will not result in orderly planning.**



**ROY COSTA PLANNING & DEVELOPMENT**

164 Eighth Street Mildura  
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Our Ref: 22-130  
Your Ref:

1 August 2023

Planning Department  
Swan Hill Rural City Council  
PO Box 488  
SWAN HILL VIC 3585

Dear Sir/Madam,

**PLANNING APPLICATION  
USE & DEVELOPMENT OF RURAL WORKER ACCOMMODATION  
82 NEW BRITAIN ROAD ROBINVALE**

Enclosed, please find a planning application lodged on behalf of our clients seeking approval for Use & Development of Rural Worker Accommodation upon land situated at 82 (Lot 1 TP 613421U) New Britain Road Robinvale.

The subject land is located on the north-eastern bend of New Britain Road and south-eastern corner from Milne Bay Road.

The site is 2.09 hectares in area and currently contains a dwelling and sheds.

It should be noted that based on the historical aerial imaging, large trees have existed around the perimeter of the site for well in excess of 15 years; with the land not used for horticultural production in this time.

The proposal is as follows:

- Erect a four complex development, with each complex containing 20 single bedrooms, communal covered table and cooking facilities, amenities, washing machine and dryers and communal area for pool table, table tennis and relaxing area.
- Construct a small convenience store onsite with outdoors tables and chairs to provide the convenience goods needed by the occupants of the accommodation facility such as milk, bread, etc.
- Construct an area for on-site car parking and bus parking.
- Establish a public open space area (fully grassed), with a bbq area and shade trees for the occupants of the facility to use for recreational purposes such as walking, sports etc.
- Use the existing dwelling for a manager to manage the facility.

PLANNING INSTITUTE AUSTRALIA – REGISTERED PLANNER (RPIA)

Rokar Pty. Ltd. ACN 087 497 685 Trading As Roy Costa Planning & Development



- Provide stormwater and wastewater discharge areas on-site.

The overall development is delineated on the plans associated with this application.

Furthermore, stormwater drainage design and land capability assessment are included within this application.

It should be noted that these facilities are seeking to provide accommodation for workers of the surrounding horticultural industry during the harvest period.

These facilities are urgently required as it is difficult to attract workers to the Robinvale District to work upon horticultural properties, particularly with the shortage of accommodation premises available.

In addition, as can be seen by this proposal a large parcel of land is needed to provide the facilities, which is seen to be most suited within the horticultural area, for which the occupants will be working upon the horticultural properties.

As can be seen by the proposal, all necessary facilities will be provided for the occupants to enjoy their stay including convenience shopping items needs and recreational areas.

These facilities have been designed so that the occupants do not feel isolated; and have all needs available to them, in particular general shopping facilities.

Buses will be provided to take the workers to and from the properties they will be working upon within the surrounding area.

## **SWAN HILL PLANNING SCHEME**

In accordance with the Swan Hill Planning Scheme, the subject land is zoned Farming Zone (FZ).

Within the Land Use Terms at 73.03 of the Swan Hill Planning Scheme, the definition of Rural Worker Accommodation is:

"Land used to accommodate a person engaged in agricultural production, away from their normal place of residence."

The proposal complies with the Swan Hill Planning Scheme as detailed below.

It should be noted that in accordance with the Table of Uses associated with the Farming Zone, a planning permit is not required for Rural Worker Accommodation if the following conditions are met:

- **The number of persons accommodated at any time must not be more than 10.**
- **Must be used in conjunction with Agriculture on the same land or contiguous land in the same ownership.**
- **Must be used exclusively for accommodating workers engaged on the same land or contiguous land in the same ownership.**
- Must be the only accommodation other than a dwelling on the same land or contiguous land in the same ownership.
- Must be on the same lot as an existing dwelling.



- The lot must be at least the area specified in a schedule to this zone for which no permit is required to use land for a dwelling. If no area is specified, the lot must be at least 40 hectares.
- Must meet the requirements of Clause 35.07-2.
- Must be located more than one kilometre from the nearest title boundary of land subject to:
  - A permit for a wind energy facility; or
  - An application for a permit for a wind energy facility; or
  - An incorporated document approving a wind energy facility; or
  - A proposed wind energy facility for which an action has been taken under section 8(1), 8(2), 8(3) or 8(4) of the Environment Effects Act 1978.
- Must be located more than 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the Mineral resources (Sustainable Development) Act 1990.

As this proposed development does not meet the highlighted conditions above, this planning permit is required for the Rural Workers Accommodation.

The proposal is required to meet the provisions of the Purpose & Vision and Planning Policy Framework.

## **MUNICIPAL PLANNING STRATEGY**

### **02.01        CONTEXT**

Within this context it states that:

- Agriculture and manufacturing drive the economy with a gross regional product of 1.18 billion.
- Agriculture accounts for almost 16 per cent of the region's total economic output, with more than 40 products grown commercially in the municipality.
- Irrigated farming accounts for over 11 per cent of economic output.
- More than 18 per cent of jobs are directly related to agriculture.

The above details the importance of agriculture to the region.

Therefore, it is especially important for the region to provide the necessary accommodation to attract rural workers to the district to undertake the work required to enable the irrigation production to operate and produce for the local and overseas markets.

Table grape production is a very intense operation and without workers can not produce; thus, the whole rural economy of the region is affected.

This proposal will provide enhanced accommodation facilities within the actual horticultural production area; to attract the necessary workers required for the table grape industry.

**02.02 VISION****Economic growth**

This vision seeks to encourage new business development, provide support for business expansion and continuously seek to help existing businesses to prosper.

As detailed in 02.01 above, this proposed development will provide the accommodation facilities to attract the workers specifically required to operate the production within the table grape industry.

**02.03-4 NATURAL RESOURCE MANAGEMENT**

These provisions refer to the rural land use issues, and in order for Council to manage the natural resources in the Rural City, Council will:

- Protect horticultural and dryland agriculture because it is fundamental for economic growth.
- Discourage small lot subdivision in rural areas that undermines the productive agricultural base of the Rural City.
- Discourage dwellings in rural areas that are not related to agriculture.
- Discourage land uses in the Farming Zone that are not directly related to agriculture, or that have an adverse impact on agricultural opportunities.
- Support rural industry so long as it is associated with a rural activity.
- Direct rural industries to locations where the impact on agricultural land and off-site effects are minimised, and where good road access is available.
- Encourage the proper siting and design of intensive animal production to protect residential amenity and environmental quality.

In respect to these provisions we submit the following:

- This proposed development is intrinsically linked to the surrounding horticultural industry.
- This proposal is providing the urgently needed accommodation to attract workers within the horticultural industry of the municipality that is not available.
- Without rural workers, the horticultural industry is unable to operate their production that supports the region's rural economy.
- The development is to be located upon land that is not used for horticultural use.
- The development will undermine the productive base of the municipality; is directly related to agriculture; and will not have an adverse impact on agricultural opportunities.
- The development has been designed so that all services are provided for the persons using the accommodation and convenience goods are provided within the convenience store, recreational facilities are provided; and persons do not feel isolated.



- Given the size of the proposed development, this allotment is suitable due to the land not used for horticultural use; and has not been used for many years; and will provide the workers required to operate the important existing table grape production within the surrounding area; that is important to the rural economy of the municipality.

## **02.03-6 ECONOMIC DEVELOPMENT**

These provisions state that irrigated farming accounts for 11 per cent of the economic output of the over \$1 billion region's economic output.

Therefore, support for the industry in providing the required accommodation facilities to attract the necessary number of workers to enable the table grape production needs to occur.

This development is specifically seeking to provide the accommodation facilities, of a high standard, which will support the production of table grapes within the surrounding area.

## **PLANNING POLICY FRAMEWORK**

**14.01-1S PROTECTION OF AGRICULTURAL LAND**

**14.01-1L AGRICULTURE**

**14.01-2S SUSTAINABLE AGRICULTURAL LAND USE**

**14.01-2R AGRICULTURAL PRODUCTIVITY – LODDON MALLEE NORTH**

**14.01-2L SUSTAINABLE AGRICULTURAL LAND USE**

These provisions refer to protecting the state's agricultural base, including intensive agriculture; and ensure the economic importance of agriculture is protected.

As detailed throughout this submission, these facilities are important in providing the accommodation needed to attract workers for the harvesting operating practices associated with the surrounding table grape industry.

The land is not used for horticultural production and has not been used for such purpose for many years.

There has been increasing pressure in finding and maintaining employees within the district during the harvest period of the table grape industry.

This development is seeking to provide the accommodation facilities with associated services to attract the needed workers to support the horticultural industry that is particularly important to the economy of the region.

Without workers, the table grape industry cannot operate.

It should be noted that the overall development is not proising permanent buildings; therefore, the development is not a permanent change in land use.

The development is not providing inappropriate dispersed urban activities in rural areas as the development is intrinsically linked to the surrounding horticultural industry as previously detailed.

The proposed development is compatible with the surrounding area as the persons that will be utilising the facility will be working within the surrounding area; and it is during the harvest period; therefore, the accommodation is not for permanent occupation or for persons not engaged in the horticultural industry.

The proposal meets the agricultural policy in that it is providing a facility that will support agriculture; and it should be noted that the facility is only proposed for the horticultural industry.

This proposal is a genuine farming enterprise that will support the horticultural industry.

This development will provide for the workers needed in the horticultural industry to support this important food bowl for domestic and international exports.

One particular strategy is to CO-LOCATE ACCOMMODATION OF SEASONAL WORKERS WITH EXISTING FARM DEVELOPMENT AND INFRASTRUCTURE.

This proposed development is meeting this exact strategy.

These provisions also encourage seasonal worker housing.

## **FARMING ZONE PROVISIONS**

### **Clause 35.07**

#### **PURPOSE**

The rural worker accommodation meets the Municipal Planning Strategy and Planning Policy Framework as stated above.

The facilities will not affect the use of the surrounding land.

The intentions of these provisions are to protect valuable agricultural land; and as previously detailed the proposed facilities will support the horticultural development of the surrounding area.

The accommodation has a direct link to the surrounding table grape production.

These facilities ensure that the surrounding horticultural plantations are operated in the most efficient and effective manner.

### **Clause 35.07-6**

#### **DECISION GUIDELINES**

The proposal meets the Municipal Planning Strategy and Planning Policy Framework as detailed above.

No Regional Catchment Strategy applies to the land.

The rural workers accommodation does not adversely affect the surrounding properties.

No flora and fauna issues exist to the site.

No waterways exist near the site that would be affected by this proposal.

The facilities will not have negative impacts on services within the area; with adequate services existing.

No traffic management measures are required for this proposal.

### **OVERLAY PROVISIONS**

No overlays affect the subject land.

### **CONCLUSION**

In summary, the rural workers accommodation complies with all relevant provisions of the Swan Hill Planning Scheme, in particular, the Municipal Planning Strategy and Planning Policy Framework.

Given all the above-mentioned, we now request Council to grant a planning permit for the use and development of rural workers accommodation at 82 (Lot 1 TP 613421U) New Britain Road Robinvale.

If you have any queries in relation to the above, please contact Mr. Roy Costa from our office who will be pleased to assist.

Yours sincerely,

*Roy Costa*

ROY COSTA RPIA

ROY COSTA PLANNING & DEVELOPMENT



## LAND CAPABILITY ASSESSMENT

**Inland Ref: 23027-B**

9 February 2024

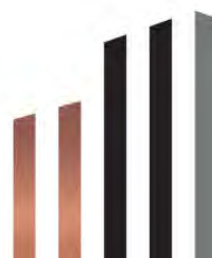
**CLIENT:** MH2 Engineering & Architectural Services

**SITE:** LOT 1 TP613421, No.82 New Britain Road,  
ROBINVALE, NSW

**DWELLING DESIGNER:** MH2 Engineering & Architectural Services

### CIVIL + STRUCTURAL ENGINEERING SOLUTIONS

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## 1.0 INTRODUCTION

Inland Consultants Pty. Ltd. was commissioned by MH2 Engineering & Architectural to undertake a Land Capability Assessment (LCA) for proposed farm accommodation (80 people). The existing allotment comprises of an area of 20,878m<sup>2</sup> at No.82 Lot 1 TP613421 New Britain Road, Robinvale, Victoria

The tests are to: -

1. Ascertain the suitability of using wastewater treatment plant system for sewerage disposal within the site.
2. Ascertain the most appropriate form of effluent disposal and the sizes and type required.

The site is located amongst existing farming land with the proposed cabins located on slightly low lying allotment. The proposed site has an existing dwelling and shed located to the west end of the site. The proposed accommodation is cleared with established trees adjacent to the boundary.

The soil description is Reddish Brown Clay Loam to a depth below 1200mm, with a moisture content of approximately 8 - 10%.

Investigation of the site land and soil was carried out to obtain design loading rate (DLR) for a representative value of the soil indicative permeability and it is emphasised that this result is dependent upon the site conditions encountered during the investigation.

## 1.1 LOCALITY PLAN

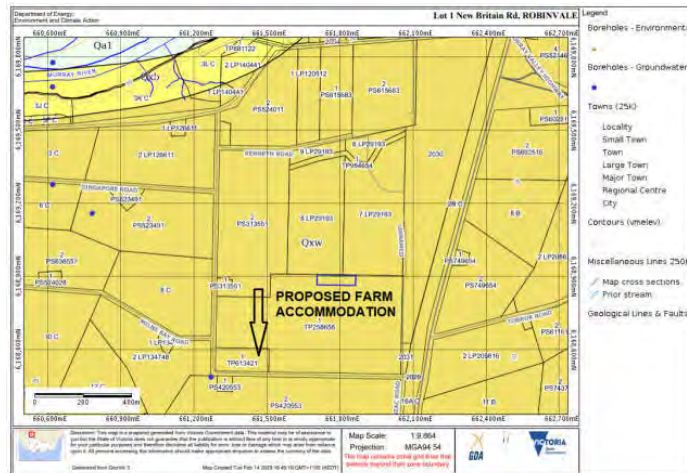


Figure 1 - Site locality - Geology : Qxw - Woorinceen Formation  
Refer Victorian State government : [www.energyandresources.vic.gov.au](http://www.energyandresources.vic.gov.au)

## 2.0 LAND AND SOIL ASSESSMENT METHOD

The land characteristics and soil investigation was carried out on 4<sup>th</sup> February 2023 in warm weather conditions.

Initially a 2.5m deep soil profile was taken with a drill rig where a 50mm diameter soil core was taken on the site and is located as shown in Appendix A.

The existing soil conditions were approximately 8-10% moisture content. No ground water table was encountered.

The soil description is, Reddish Brown Clay Loam to a depth of 1200mm.

The site and soil evaluation procedure was carried out in accordance with the the guidelines for environmental management "Code of Practice Onsite Wastewater Management - Publication 891.4", July 2016.



## 2.1 FIELD ASSESSED PERMEABILITY

An investigation on the soil profile was assessed in-situ and permeability of a soil can be measured using a constant head permeameter. The Australian Standard AS/NZS 1547:2012 describes the use of the Talsma-Hallam constant head well permeameter to determine the permeability of a soil. The constant head test method was conducted in three (3) locations across the site (see plan, Figure 2).

The rate of loss of water from the permeameter reservoir (Q) in cm<sup>3</sup>/min is calculated from the data collated on site. The values of Q, H (depth of water in the test hole) are entered in the following equation from which the permeability/hydraulic conductivity of the soil (K<sub>sat</sub>) is calculated.

$$K_{sat} = \frac{4.4Q \left[ 0.5 \sinh^{-1} \left( \frac{H}{2r} \right) - \sqrt{\left\{ \left( \frac{r}{H} \right)^2 + 0.25} \right\} + \frac{r}{H}} \right]}{2\pi H^2}$$

Where :

- K<sub>sat</sub> = saturated hydraulic conductivity of the soil in cm/min
- 4.4 = correction factor for a systematic under-estimate of soil permeability in the mathematical derivation of the equation
- Q = rate of loss of water in the test hole in cm
- r = radius of the test hole in cm

**Table 5**

CONSTANT HEAD PERMEABILITY	
Rate of loss of water from reservoir (Q)	59.3 cm <sup>3</sup> /min
Saturated hydraulic conductivity (K <sub>sat</sub> )	0.0118 cm /min
Indicative permeability (K <sub>sat</sub> )	0.17 m/day

Note : The results in Table 5 above are based on average readings taken from the test holes.

The corresponding K<sub>sat</sub> value of **0.12 - 0.5m/day** in Table 9 Appendix A Onsite Wastewater Management-Code of Practice is category **4a – moderately structured Clay Loam**. Therefore a maximum Design Loading Rate (DLR) of **12mm/day** has been adopted for Secondary Treated effluent.

### 3.0 RESULTS SUMMARY

#### 3.1 Interpretation

The soil structure was identified as **weakly structured clay loam**.

From site investigation, the indicative permeability is **0.17 m/day**, the long-term effluent infiltration rate is for the trench base area.

From Table 9, the maximum indicative permeability is **0.12 - 0.50 m/day**, for the long-term effluent infiltration rate is for the trench base area.

For **secondary treated effluent discharging to absorption trench**, we recommend the interpolated design loading rate (DIR) **12.0 mm/day** from Table 9. (See Appendix A)

*Where applicable*, for secondary treated effluent discharging to a "Wick Trench & Bed", the recommended design loading rate (DLR) **20 mm/day** from Table 9 of Victorian EPA "Code of Practice Onsite Wastewater Management - Publication 891.3", February 2013. (See Appendix A)

The capability rating of an on-site effluent treatment is "**three or fair**" for criteria A to H.

These results indicate that the most economical method of disposal will be achieved by discharging treated effluent to self-supporting arched trench or surface irrigation - see attached typical details in Appendix D.

### 3.2 Treatment system

The code indicates that for a **Farm Accommodation (80 employees maximum)**, sewage treatment plant capacity of 4050 litres per day (150 litres/person/day domestic with laundry wastewater) is required where all waste water enters the system.

*The estimated wastewater flow is comprised of;*

- a. *Amenities facilitates with in-house laundry for 27 farm tenants, therefore equating to*  
 $150 \text{ L/person/day} \times 27 = 4050 \text{ L/day / treatment system}$

Therefore, for **80 people**, the total wastewater shall be  $3 \times 4050 = 12,150 \text{ L/day}$ . Subject to detailed design of the wastewater treatment plant system, a single treatment plant could be adopted to treat the maximum flow rate. The wastewater disposal could be discharge to the 3 separate disposal fields (refer to site plan).

Therefore, for each disposal field, the nominal daily total flow rate in this case is **4050** litres per day (conservative) for **farm accommodation with in-house laundry** without organic produce waste disposal unit. **The in-house laundry waste is estimated at 50 l/person/day.**

The proposed Taylex secondary treatment plant shall discharge to arched disposal trench located toward the rear of the site. This disposal area shall not be used anymore, with the proposed treated wastewater directed to the new proposed "Wick Trench & Bed system" located at the front of the site (refer to site plan appendix A).

The proposed wastewater secondary treatment plant is:

- **Owner Selected** secondary treatment wastewater system
- The current Certificate of approval AWTs, in accordance with E.P.A Victoria (attached appendix D) that collects, treats, disinfects with chlorine contact and irrigates the domestic wastewater.
- a system that treats secondary wastewater to 20/30 standard

The current Certificate of approval is included in Appendix A of this report.

The owner/occupier shall understand and become educated of how the installation and maintenance shall be carried out in accordance with the manufacturers specifications.

The owner / occupier shall understand and become educated of the E.P.A certificate of Approval to ensure the long term performance of the secondary treatment system is achieved and maintained for the life of the system operation.

### 3.3 Wastewater disposal method

The wastewater disposal method shall be applied to land using an approved land application method designed and constructed in accordance with the guidelines for environmental management "Code of Practice Onsite Wastewater Management - Publication 891.4", July 2016

The main disposal method shall be to the "***Wick Trench and Bed land application system***". The Wick trench and bed system is intended to be suitable for use in clay soils for primary and secondary treated effluent.

**Therefore each disposal field (3 in total) shall comprise** of a wick trench and bed to be adopting is a **0.60m** wide Wick Trench with self-supporting arched form trench with a joined **1.0m** wide bed at least to one side, the required length of trench/bed is :- **203.0 metres** (minimum).

The Wick Trench and Bed System installation procedures are provided in Appendix D.

- The Wick Trench and Bed System must be installed on flat land. Where the available land is not flat, the land must be terraced to provide a flat platform.
- The trench must have uniform depth to provide uniform performance along its length.
- For effective gravity flow from the septic tank to the Wick Trench the surface level of the Wick Trench must be at least 150mm below the invert of the septic tank outlet (e.g. where the tank outlet invert is 400mm below the top of the tank, the ground level of the Wick Trench must be at least 550mm lower). On sites where it is not possible to have a 550mm height difference between the septic tank outlet invert and the Wick Trench, a suitably-sized distribution pump must be used.

The Wick Trench and Bed is a series of trenches with adjacent evapo-transpiration (EVT) beds that are underlain and joined by a layer of geotextile. The EVT bed may be installed on either side of the trench.

The surface of the combined trench and EVT bed, which is approximately three times the width of a conventional trench, is planted with herbaceous vegetation to maximise the wicking effect over the large surface area.

The geotextile acts as the 'wick' to continuously draw liquid upwards through the capillary action. Plant roots and leaves, the sun and the wind act as 'pumps' to draw the liquid upwards out of the soil and into the atmosphere.

This may be achieved by locating trenches in series or parallel.

Refer to the attached example in Appendix D.

All stormwater outlets and any other irrigation system should not discharge on, or allow water to gravitate to the proposed wastewater disposal trenches.

### 3.4 Alternative - Traditional Disposal Bed - Self-Supporting Arch Trench

The code indicates that for a **Farm Accommodation (27 employees maximum)**, septic capacity of 4500 litres per day (nominal) is required where all waste water enters the system. The nominal daily flow rate in this case is **4050** litres per day (conservative) for a **farm accommodation** without a food waste disposal unit.

Therefore each disposal field (3 in total), the traditional septic disposal would require a significantly greater disposal area. The traditional trench method would be to adopting a **2.0m** wide self-supporting arched trench, the required length of trench is :- **169.0 metres** (minimum).

The total for all **three (3) disposal fields** would be **2.0m wide x 507m long (minimum)**

This may be achieved by locating trenches in series or parallel.

Refer to the attached example in Appendix C & D.

All stormwater outlets and any other irrigation system should not discharge on, or allow water to gravitate to the proposed wastewater disposal trenches.

#### 4.0 RECOMMENDATIONS

1. For **each** of the *farm amenities systems*, wastes (excluding a food waste disposal unit) a sewage treatment plant with a nominal capacity of 4500 litres shall be used.
2. For **each** of the *farm amenities "secondary treated"* effluent systems, and based on the site conditions at the date of the report, a **Wick Trench and Bed System** comprising of a **0.60m** wide Wick Trench with self-supporting arched form trench with a joined **1.0m** wide bed (**total width 1.6m wide**), at least to one side, the required length of trench/bed is :- **203.0 metres long** (minimum).

The combined total for all **three (3) disposal fields** would be **609m long**.

3. The Wick Trench and Bed System installation procedures are provided Sydney Catchment Authority's manual Designing and Installing On-Site Wastewater Systems (SCA 2012) (included in appendix D) and meet the approval of the Environmental Health Officer of the relevant municipal authority - refer to typical details attached in appendix D.

The disposal system may experience some peak loading difficulties. Good care of what is discharged into the system and regular maintenance would allow adequate performance.

4. The owner shall ensure the service agent / service plumber submits the following documents to could:
  - a) quarterly treatment and irrigation system inspection and maintenance report, and
  - b) annual laboratory analytical test reports on NATA laboratory letterhead.

Failure to ensure the wastewater treatment system is performing at the required standard may cause substandard wastewater disposal, spot loading irrigation.

All plumbing upstream of the wastewater treatment system is to conform to AS3500 National Plumbing and Drainage Code.

5. We recommend the pre-commissioning procedures (appendix C) are carried out in consultation with the owner and council health inspectors.
6. Upon assessment of the sites septic percolation capacity in conjunction with the Land Capability Assessment criteria, it can be seen that the site is deemed to be able to adequately have ***farm accommodation*** located on the site in accordance with the guidelines for environmental management the guidelines for environmental management "Code of Practice Onsite Wastewater Management - Publication 891.4", July 2016 ".

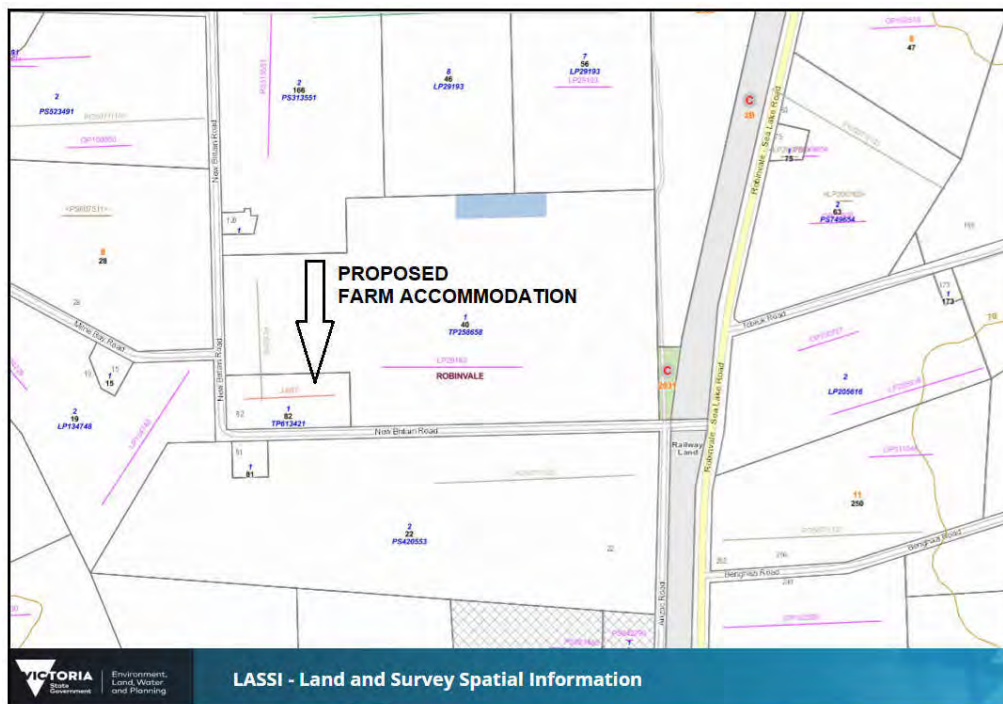
The development designer / builder / Owners, current and future, shall ensure that development of the site is conducted in accordance with our report recommendations.

L.A. Dimasi,  
M.I.E. Aust., CPENG,  
**INLAND CONSULTANTS PTY. LTD.**



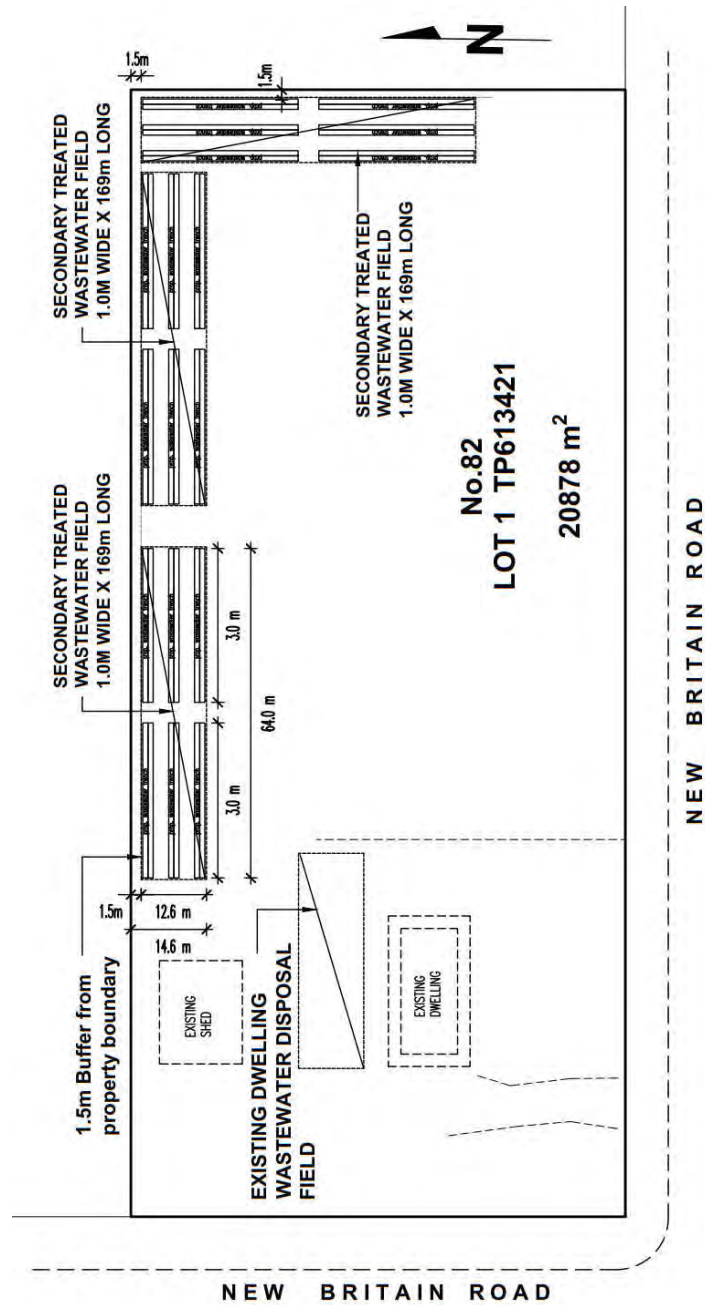
**APPENDIX A**  
**RESULTS**

## LOCALITY SITE PLAN



PAGE A3

SITE PLAN



PAGE A4

## Victorian Land Capability Assessment Framework

### Absorption Transpiration Bed Sizing

#### FORMULA FOR "TRANSPIRATION BED" SIZING

$$L = Q / [ DLR \times W ]$$

From Appendix L, AS / NZS 1547:2012

Where :

Units

L = Length of WICK Trench & Bed

m

Total "BED" bed length required

Q = Daily Design Flow Rate

L / day

Based on design rates for wastewater treatment plants Table 2 in the Code of Practice for Small Wastewater Treatment Plants

W = Width of "bed"

m

Based on fixed 4.0m total width of bed

DLR = Design Loading Rate

mm/day

Based on recommended design loading rates for Beds from Table L1 in the AS / NZS 1547:2012 - On-site domestic wastewater management

F = Factor of **1**

Arch trench refer to a plastic self-supporting arch 410mm wide x 1.5m long

#### INPUT DATA

Design Wastewater Flow

Q

=

**4,050**

L / day

Design Loading Rate

DLR

=

**20**

mm/day

Trench basal area required

A

=

**20.0**

m<sup>2</sup>

Selected trench or bed width

W

=

**1**

m

Wick Trench / Bed total width

#### OUTPUT

Required " Wick" trench or bed length

L

=

**202.5**

m

## Trench Bed Sizing

## Victorian Land Capability Assessment Framework

**Trench & Bed Sizing****FORMULA FOR TRENCH AND BED SIZING**

<b>L = Q/DLR x W</b>			From AS/NZS 1547:2012
<b>Where:</b>	Units		
L = Trench or bed length	m		Total trench or bed length required
Q = Design Wastewater Flow	L/day		Based on maximum potential occupancy and derived from Table 4 in the EPA Code of Practice (2016)
DLR = Design Loading Rate	mm/day		Based on soil texture class/permeability and derived from Table 9 in the EPA Code of Practice (2016)
W = Trench or bed width	m		As selected by designer/installer

**INPUT DATA**

Design Wastewater Flow	Q	4050	L/day	Based on maximum potential occupancy and derived from Table 4 in the EPA Code of Practice (2016)
Design Loading Rate	DLR	12.0	mm/day	Based on soil texture class/permeability and derived from Table 9 in the EPA Code of Practice (2016)
Trench basal area required	B	337.5	m <sup>2</sup>	
Selected trench or bed width	W	2.0	m	As selected by designer/installer

**OUTPUT**

Required trench or bed length	L	168.8	m
-------------------------------	---	-------	---

**CELLS**

	Please enter data in blue cells
XX	Red cells are automatically populated by the spreadsheet
XX	Data in yellow cells is calculated by the spreadsheet, DO NOT ALTER THESE CELLS

Inland Consultants P/L

Land Capability Assessment E.P.A. - Publication 746

**Inland Job No.:** 23027

**Site Address :**

No.82, Lot 1 LP613421, New Britain Road, Robinvale

Land Features						Site Rating	Recommended Environment Risk Management Plan
General Characteristics	Very Good (1)	Good (2)	Fair (3)	Poor (4)	Very Poor (5)	Fair 3	The site has a Light Clay soil and good surface drainage. Apply Gypsum annually to disposal field for soil drainage improvement.
A. Site Drainage/Runoff	Very Slow	Slow	Moderate	Rapid	Very Rapid	1	Monitor stormwater runoff to ensure above ground over flow remains on site.
B. Flood/Inundation Potential (yearly return exceedance)	Never		<1 in 100	<1 in 30	>1 in 20	3	Site is not near a flood prone area.
C. Slope (%)	0-2	2-8	8-12	12-20	>20	1	Natural and gradual falls exist on site
D. Landslip	Not Present		-	-	Present or Past Failure	1	Area has no obvious landslip conditions.
E. Seasonal Water Table Depth (m) (including perched water tables)	>5	2.5-5	2.5-2.0	2.0-1.5	<1.5	2	Water table is in excess of 2.5m over entire site. We recommend the depth of ground water table where it is less than 2.5m below base of realm be monitored by residents.
F. Rainfall (mm/yr)	<450	450-650	650-750	750-1000	>1000	1	N/A
G. Pan Evaporation (mm/yr)	>1500	1250-1500	1000-1250	-	<1000	1	N/A
<b>Soil Profile Characteristics</b>							
H. Structure*	High	Moderate	Weak	Massive	Single Grained	3	N/A
I. Profile Depth*	>2 m	1.5-2 m	-	1.0-1.5 m	<1 m	1	N/A
J. Sodicity* ESP%	<3	-	6-8	8-14	>14	1	N/A
K. Shrinkage*	Low <4%	Moderate 4-12%	High 12-20%	Very High >20%	-	2	N/A
J. Indicative Permeability (m/day)	0.5 - 1.0	1.0 - 1.5 0.3 - 0.5	1.5 - 3.0 0.12 - 0.3	- 0.06 - 0.12	>3.0 <0.06	3	Monitor realm drain and surrounding area to ensure effluent is not surfacing outside of boundaries.
L. Stoniness (%)	<10		10-20		>20	1	N/A
M. Emerson Test* (dispersion/slaking)	4, 6, 8	5	7	2, 3	1	(Class 4) 1	Monitor realm drain to ensure effluent is not clogging system
N. Salinity* (dS/m)	<0.3	0.3-0.8	0.8-2	2-4	>4	1	N/A

\* relevant to soil layer(s) associated with trench location

**APPENDIX B**  
**OWNERS CARE & OBLIGATIONS**



**B1 OWNERS CARE AND OPERATION GUIDELINES**

- < Restrict the use of germicides (strong detergents, disinfectants, acidic toilet cleaners, nappy sanitisers, bleaches and so on) in the household, as they will kill the bacteria which make the septic work.
- < Use soapy water to clean toilets and other fixtures.
- < Use only detergents which have low alkaline salts and chlorine levels. Dishwashers are not recommended with septic systems.
- < Use of proprietary or chemical additives is not recommended at any time for septic systems (except for lime used as outlined above).
- < Do not flush sanitary napkins or disposable nappies down the system. Minimise the amounts of oil and fat flushed into the system.
- < Use a sink strainer to restrict food scraps entering system. Do not use garbage disposal units.
- < Do not leave taps running for long periods of time.
- < Reduce odours by flushing one cup of garden lime down the toilet each day. Odours may be experienced after installation or after addition of large quantity of germicide.
- < Fill tank with water to reduce odours on start up or after desludging tanks. They should not be washed or disinfected after desludging.
- < Avoid disturbing soil over disposal area by not planting crops such as vegetables.
- < Inspect the system every year.
- < Clean the tank out at least every three years.

## **B2 PLANTS AND MAINTENANCE**

If distribution pipes of effluent trenches and transpiration beds are constructed as recommended (with small shrubs over the lines and larger shrubs between lines) they should not be experience root blockage.

Contact your local garden nursery for water tolerant plants or refer to gardening books such as "Grow What Where" by the Australian Plant Study Group, Viking O'Neill (Penguin Books 1990) or "Gardening with Australian Plants", Roger Elliot (Lothian Publishing Co. 1990).

Care should be taken when locating large plants. Ensure they do not shade the disposal area. Avoid placing trees which may damage the underground system near the disposal area. See Section B3.0, below.

### B3 PLANTS AND GRASSES FOR TRANSPIRATION

(Reproduced from Code of Practice, Septic Tanks)

Distribution pipes of effluent absorption-transpiration systems are not generally subject to root blockage if constructed as recommended.

The following list, although not exhaustive, is included as a guide to species that have been found from experience to be satisfactory.

#### Botanical Names

Phragmites australis  
Canna x generalis

Acacia howittii  
Callistemon citrinus  
Callistemon marcopunctatus  
Leptospermum lanigerum  
Melaleuca desussata

Melaleuca ericifolia  
Melaleuca halmaturum  
Tamarix juniperina  
Eleocharis acuta

#### Common Names

Cann Lily  
Calla Lily  
Ginger Lily  
Sticky Wattle  
Crimson Bottlebrush  
Scarlet Bottlebrush  
Wooley Tea-Tree  
Cross Honey Myrtle

Swamp Paperbark  
Salt Paperbark  
Flowering Tamarisk  
Cannas  
Common Spike-Rush  
Buffalo/kikuyu  
Geranium  
Hydrangeas  
Tall wheat grass  
Strawberry Clover  
White Clover  
Perennial Rye  
Bougainvillea

Note:-Care should be taken when locating trees, to ensure they do not shade the system unless they draw water from it.

#### B4 TREE PLANTING NEAR DISPOSAL FIELDS AND DRAINS

Bushes, shrubs and trees should generally not be permitted to grow directly over absorption trenches or sand filters - to minimise problems should the systems need to be dug up for maintenance.

Where trees are near drainage lines, difficulties with roots entering the drain can be anticipated.

Plants listed below should not be planted near drains (within 8m) because of risk of pipe blockage.

##### Botanical Names

Eucalyptus Carnaldulensis  
Eucalyptus Citriodora  
Fraxinus Raywoodi  
Eucalyptus Cladocalyx  
Platanus - all species.  
Populus nigra etc.  
Salix babylonica etc.

##### Common Names

River Red Gum  
Lemon Scented Gum  
Claret Ash  
Sugar Gum  
Plane Tree  
Poplar  
Weeping Willow

The following plants are generally satisfactory for planting to within 2m of any drain or drainage area.

##### Botanical name

Acacia longifolia  
Callistemon viminalis  
Callistemon lilacinus  
Eucalyptus preissiani  
Viminaria juncea

##### Common Name

Sallow Wattle  
Weeping Bottlebrush  
Lilac Bottlebrush  
Bell-fruit Mallee  
Native Broom

**APPENDIX C**  
**TYPICAL CONSTRUCTION DETAILS**



## C1 SITE LAYOUT

### C1.1 Minimum set-back distances - New South Wales Catchments

Ensure that minimum set-back details are greater than, as follows.

- (a) 6m on the low side of any building or the high side of any allotment.
- (b) 4m on the high side of any adjacent allotment.
- (c) 1.5m on level or low side of any adjacent allotment.
- (d) 3m from any water supply pipe, gas pipe, stormwater drain or other similar service lines which is not part of the system or from tree canopies.
- (e) 8m on the high side of any building.
- (f) 6m from a swimming pool or children grassed playground.
- (g) 15m from any cutting or escarpment at which the effluent is likely to emerge.
- (h) 15m from any underground water tank, bore or well which is less than 20m deep and used for domestic supply.
- (i) 60m to any surface waters.
- (j) 100m to any surface waters within a special water supply catchment area declared under the *Catchment and Land Protection Act 1994*.
- (k) 200m upslope of a domestic supply channel.
- (l) 300m from a domestic supply reservoir.



## C1.2 Typical Site Layout

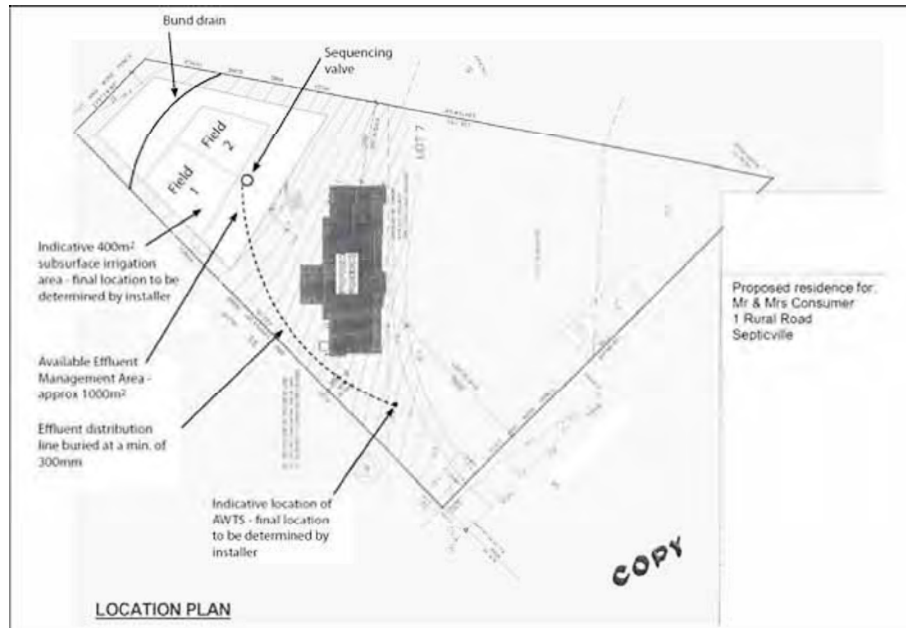
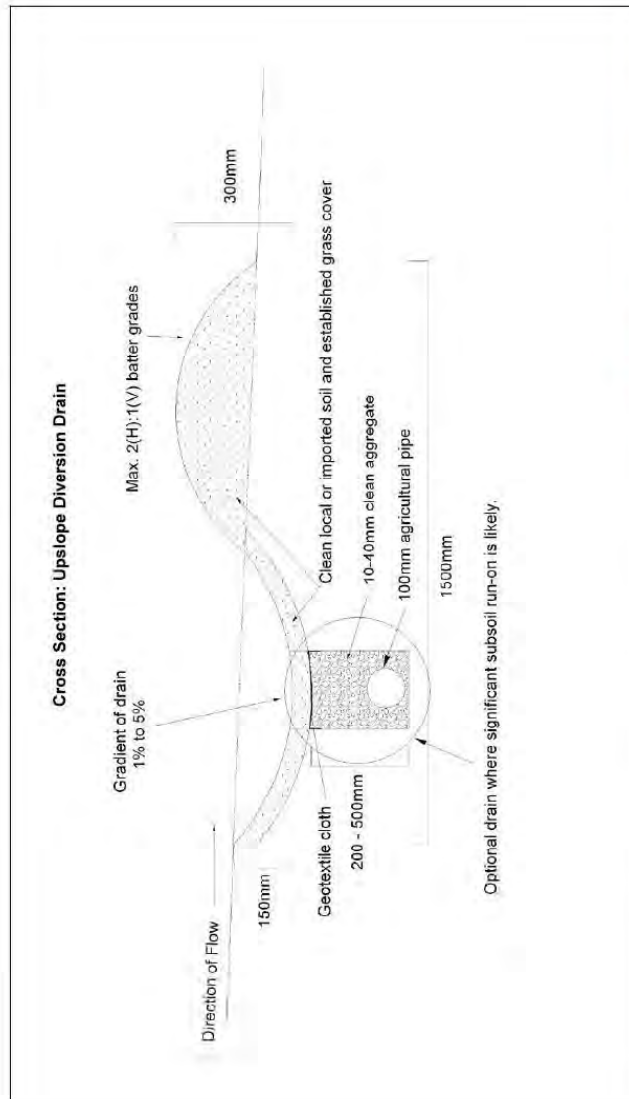


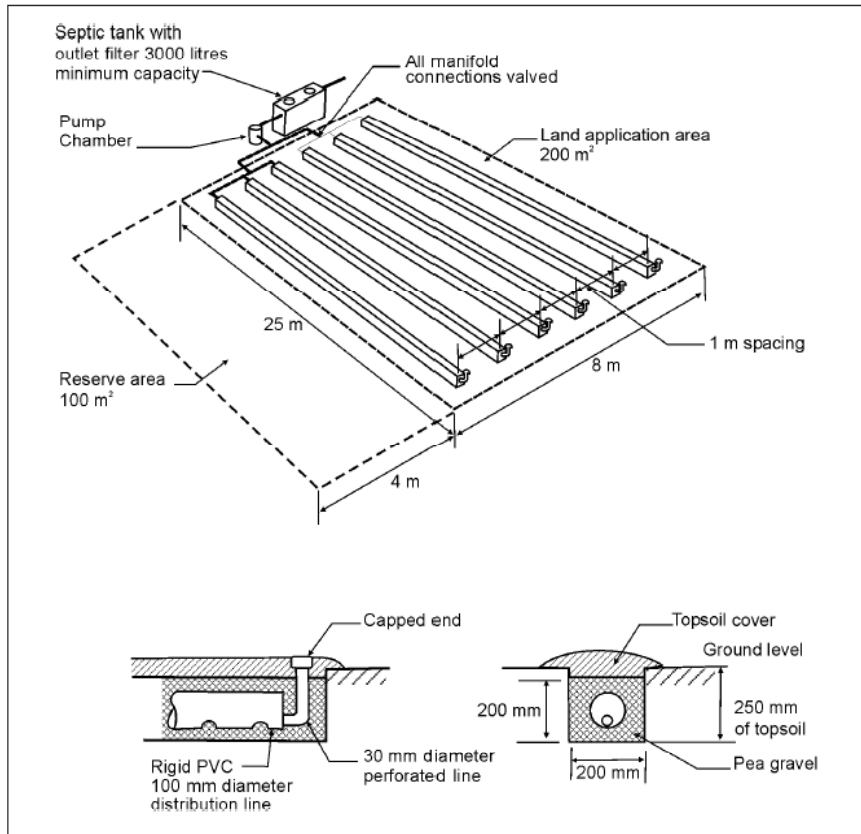
Fig C1. Example of the layout of an AWTs and irrigation field

### C1.3 Typical Upslope Diversion Drain



## C2 TYPICAL TRENCH LAYOUT :

### SHALLOW SUBSURFACE LPED IRRIGATION - EXAMPLE



#### NOTES:

- 1 Example system sized for 700 L/d and DIR of 3.5 mm/d in soil Category 3 (see Table M1).
- 2 Preferred dosing method is by a 6-way automatic sequencing valve.
- 3 Good quality topsoil to 250 mm depth is required.
- 4 Flexible 100 mm diameter corrugated drainage line can be used in place of rigid PVC.
- 5 Distribution aggregate of 10 mm to 15 mm size can be used in place of pea gravel.

**FIGURE M3 SHALLOW SUBSURFACE LPED IRRIGATION – EXAMPLE SYSTEM**

### **C3 PRE-COMMISSIONING TESTS**

#### **C1.1 Drip irrigation**

A pre-commissioning test shall be carried out after all on-site components including the pump have been installed, but prior to covering the effluent dripper system (see also 6.2.5 AS/NZS 1547:2012). As a minimum the test shall take the following steps:

- (a) Fill the pump chamber to 'pump-on' level with water;
- (b) Start the pump;
- (c) Check the effluent drip emitter system to ensure water flows uniformly from all emitters and that all flushing valves and other fittings are operating correctly;
- (d) Record time taken to pump from 'pump-on' level to the 'pump-off' level – desirably approximately 3 minutes;
- (e) Follow pump manufacturer's recommendations for commissioning pump;
- (f) Check pumping main to ensure there are no leaks and the air release valve is functioning; and
- (g) Check that the high-water-level alarm operates.

#### **C11.2 LPED irrigation**

The pre-commissioning test shall be carried out as in L10 for pump distribution to trenches and beds.

### **C12 COMMISSIONING**

The on-site system shall be inspected, checked and commissioned according to 6.2.5 of AS/NZS 1547:2012.

### **C13 MARKING**

The presence of buried pipes shall:

- (a) Be indicated, for example, using underground marking tape to AS/NZS 2648.1; or
- (b) Be indicated by signage, prominently displayed with the words: 'Sewage effluent pipework installed below. DO NOT DIG.'

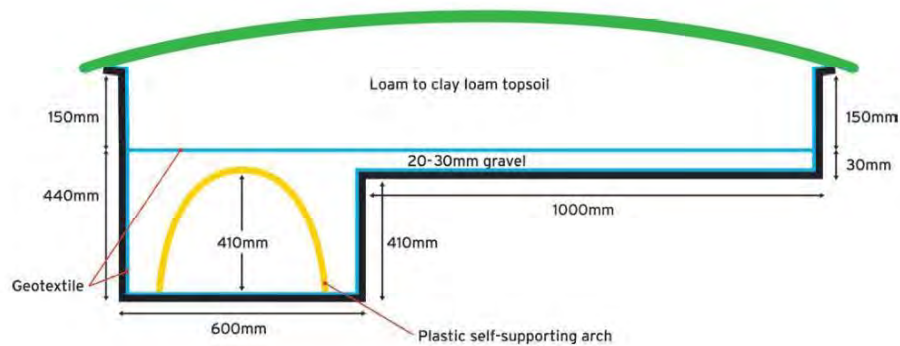
### **C14 REPORTING**

An installation and commissioning report shall be produced to include the 'as-built' details of all key system components following installation, the results of construction inspections and the commissioning process. This report shall be provided to the property owner of the on-site system and, if required, to the regulatory authority (see 6.2.5.4).

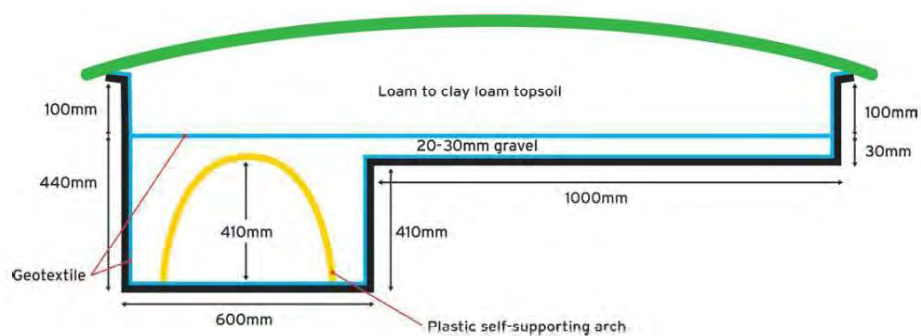
## APPENDIX D 1.1

## WICK TRENCH & BED SYSTEM

Wick Trench & Bed System  
For primary treated effluent



For secondary treated effluent



APPENDIX D 1.2

TRADITIONAL SELF-SUPPORTING ARCH TRENCH

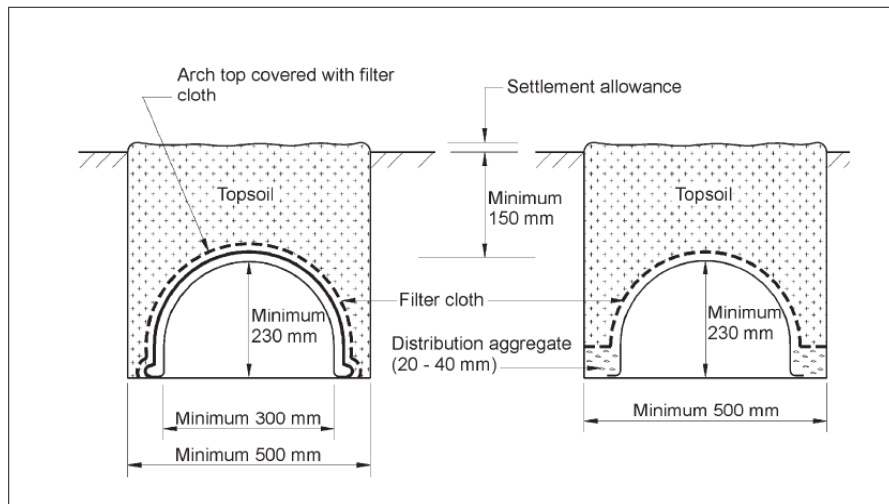
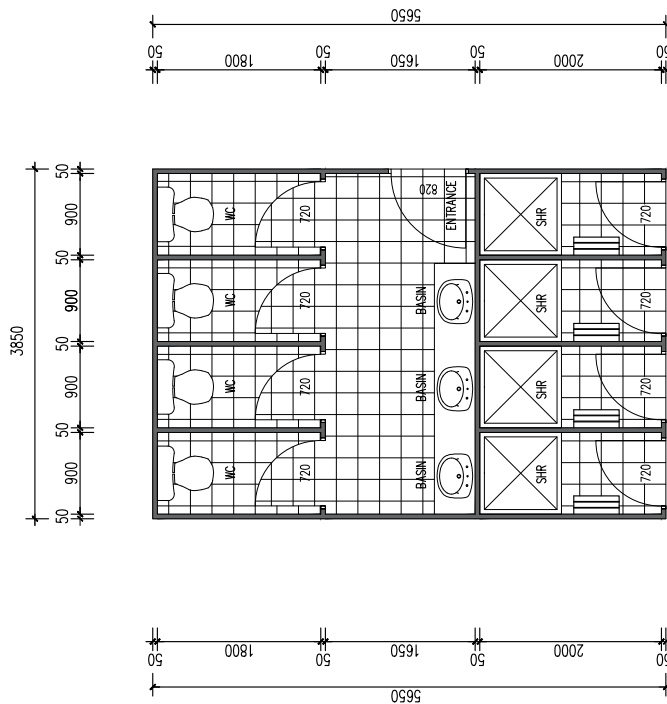
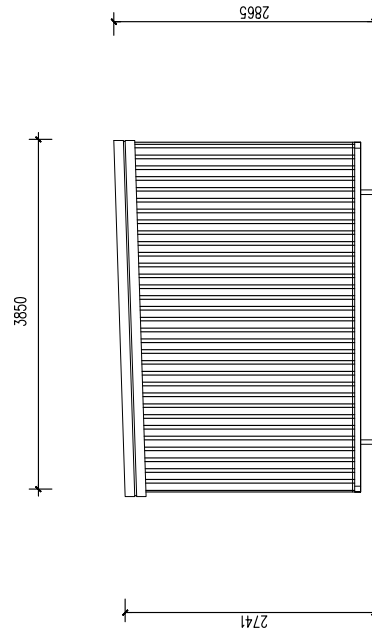
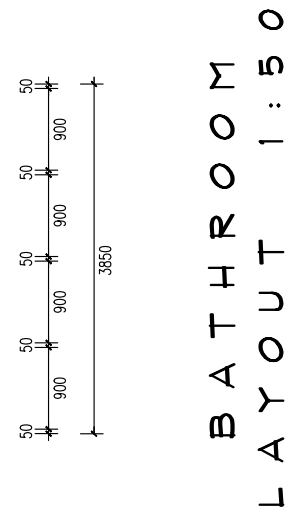


FIGURE L2 SELF-SUPPORTING ARCH TRENCH

**ISSUED: 12th FEB 2024**



BATHROOM  
ELEVATION 1:50

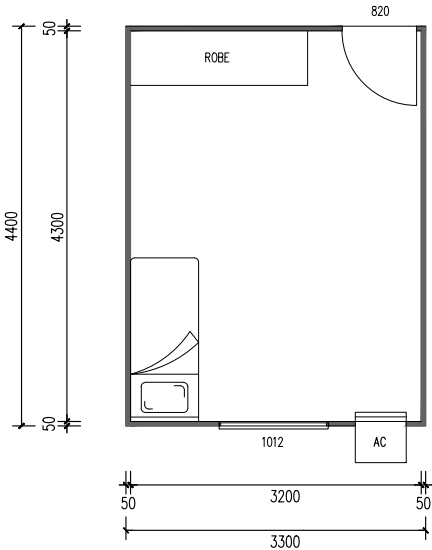


SHEET NO: 1 OF 4	DRG NO: MH2 2023-017
PROJECT: PROPOSED WORKER ACCOMMODATION	
CLIENT: COSTA	
ADDRESS: NEW BRITAIN ROAD ROBINVALE	
SCALE: AS SHOWN	DATE: DEC 23

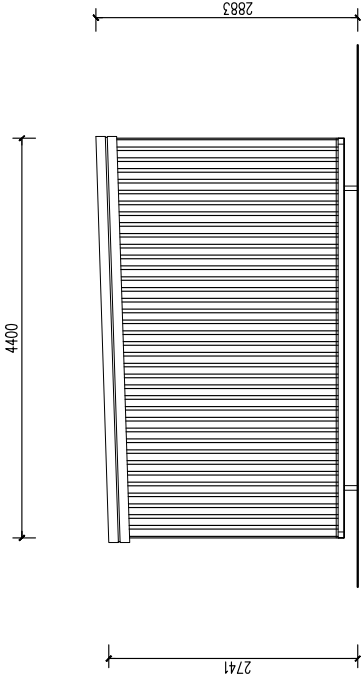




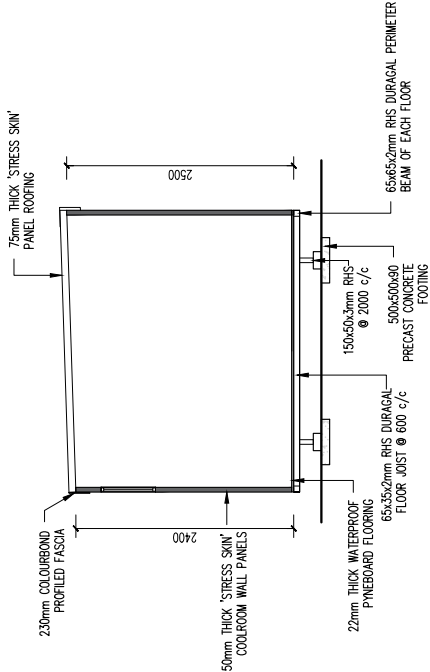
ISSUED: 12th FEB 2024



BEDROOM  
LAYOUT 1 : 50



BEDROOM  
ELEVATION 1 : 50



BEDROOM  
SECTION 1 : 50

2

mh

ENGINEERING & ARCHITECTURAL SERVICES

SHEET NO: 2 OF 4

DRG NO: MH2 2023-017

PROJECT:

PROPOSED WORKER ACCOMMODATION

CLIENT:

COSTA

ADDRESS:

NEW BRITAIN ROAD ROBINVALE

SCALE:

AS SHOWN

DATE:

DEC 23

mark@mh2.com.au

0438 210 139

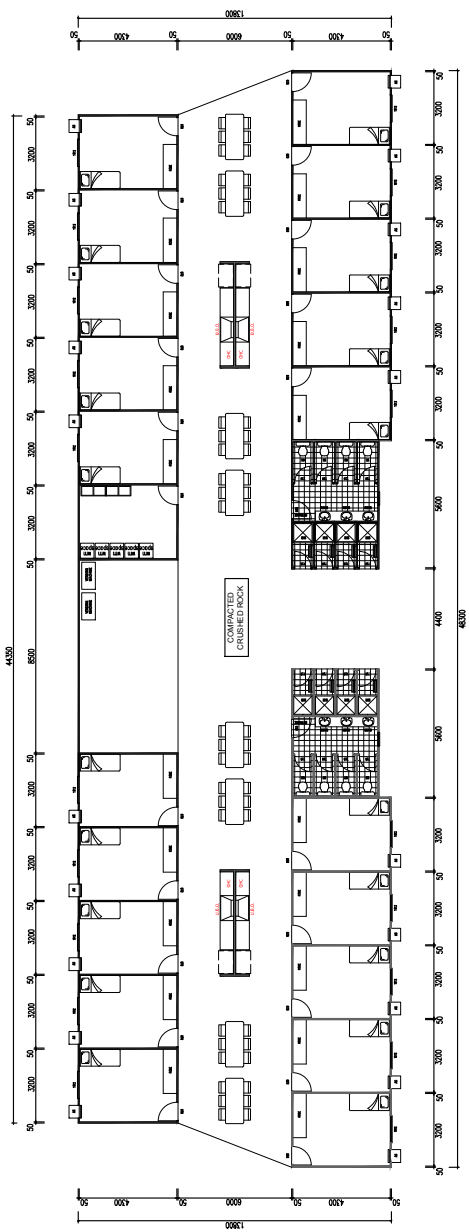
mick@mh2.com.au

0427 237 668

No.136-138 Langtree Ave, Mildura, VIC 3500

ABN: 43 634 027 464 DP No: AD 26770

ISSUED: 12th FEB 2024



W O R K E R   A C C O M M O D A T I O N   1 : 2 0 0

SHEET NO: 3 OF 4

DRG NO: MH2 2023-017

PROJECT:

PROPOSED WORKER ACCOMMODATION

CLIENT:

COSTA

ADDRESS:

NEW BRITAIN ROAD ROBINVALE

SCALE:

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DATE:

DEC 23

ENGINEERING & ARCHITECTURAL SERVICES

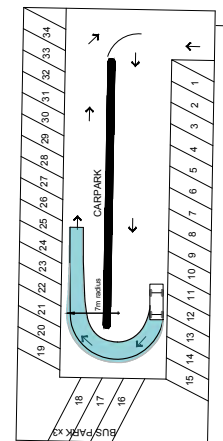
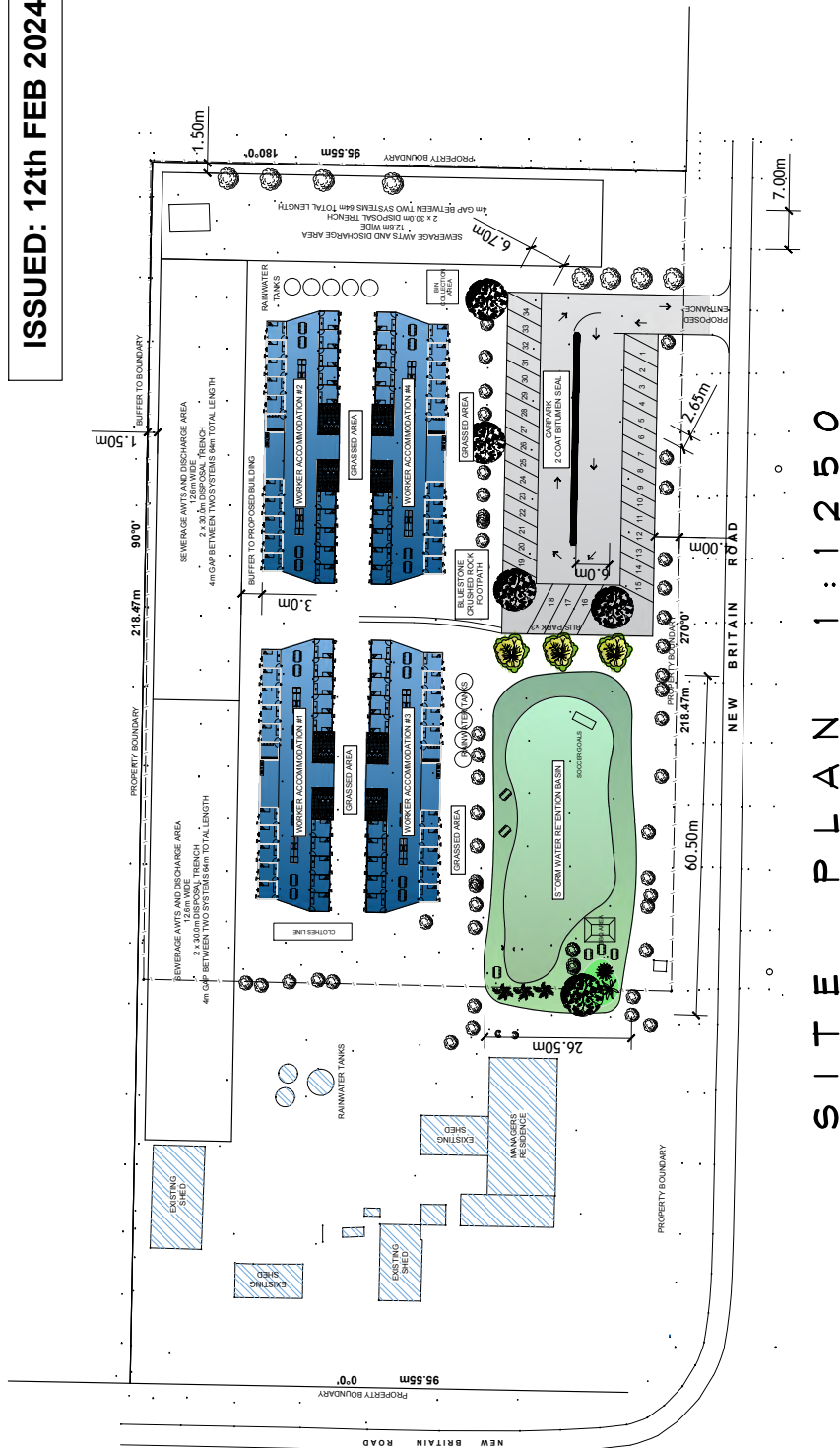
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No.136-138 Langtree Ave, Mildura, VIC 3500

ABN: 43 634 027 464   DP No: AD 26770

**ISSUED: 12th FEB 2024**



# SEEN PART 1: 125



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mark@mh2.com.au    mick@mh2.com.au  
0438 210 139        0427 237 668  
No.136-138 Langtree Ave, Mildura, VIC 3500  
ABN: 43 634 027 464    DP No: AD 26770

SHEET NO.: 4 OF 4	DRG NO.: MH2 2023-017
PROJECT: PROPOSED WORKER ACCOMMODATION	
CLIENT: COSTA	
ADDRESS: NEW BRITAIN ROAD ROBINVALE	
SCALE: AS SHOWN	DATE: DEC 24



# Imaged Document Cover Sheet

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<b>TITLE PLAN</b>		<b>EDITION 1</b>	<b>TP 613421U</b>						
<b>Location of Land</b>  Parish: BUMBANG Township: Section: C Crown Allotment: 2A(PT) Crown Portion:  Last Plan Reference: LP29193 Derived From: VOL 8118 FOL 928 Depth Limitation: NIL		<b>Notations</b>      ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN							
<b>Description of Land / Easement Information</b>  A WATER SUPPLY EASEMENT APPURTENANT TO THE WITHIN LAND HAS BEEN CREATED BY INSTRUMENT N467138R		THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT COMPILED: 25/08/2000 VERIFIED: A.D.							
<table border="1" style="margin: 0 auto; width: 80%;"> <tr> <th colspan="2" style="text-align: center;">TABLE OF PARCEL IDENTIFIERS</th> </tr> <tr> <td colspan="2" style="font-size: small;">WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962</td> </tr> <tr> <td colspan="2" style="font-size: small;">PARCEL 1 = LOT 11 (PT) ON LP29193</td> </tr> </table>				TABLE OF PARCEL IDENTIFIERS		WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962		PARCEL 1 = LOT 11 (PT) ON LP29193	
TABLE OF PARCEL IDENTIFIERS									
WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962									
PARCEL 1 = LOT 11 (PT) ON LP29193									
LENGTHS ARE IN LINKS	Metres = 0.3048 x Feet Metres = 0.201168 x Links	Sheet 1 of 1 sheets							



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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

**REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958**

Page 1 of 1

VOLUME 08118 FOLIO 928

Security no : 124108150972Y  
Produced 07/08/2023 12:56 PM

**LAND DESCRIPTION**

Lot 1 on Title Plan 613421U (formerly known as part of Lot 11 on Plan of Subdivision 029193).  
PARENT TITLE Volume 06609 Folio 740  
Created by instrument 2634793 09/04/1954

**REGISTERED PROPRIETOR**

Estate Fee Simple  
Joint Proprietors  
MAI PHUOC THANH LE of 17 SYMON CRESCENT THOMASTOWN VIC 3074  
CHARDON LU of 69 GARDENIA ROAD THOMASTOWN VIC 3074  
AU636582G 30/07/2021

**ENCUMBRANCES, CAVEATS AND NOTICES**

MORTGAGE AU636583E 30/07/2021  
NATIONAL AUSTRALIA BANK LTD

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

**DIAGRAM LOCATION**

SEE TP613421U FOR FURTHER DETAILS AND BOUNDARIES

**ACTIVITY IN THE LAST 125 DAYS**

NIL

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

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

Street Address: 82 NEW BRITAIN ROAD ROBINVALE VIC 3549

**ADMINISTRATIVE NOTICES**

NIL

eCT Control 16089P NATIONAL AUSTRALIA BANK LTD  
Effective from 30/07/2021

DOCUMENT END

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P855/2024  
PERMIT APPLICATION NO. PLN2023063

**JOINT APPLICANT** Mai Phuoc Thanh Le & Chardon Lu  
**RESPONSIBLE AUTHORITY** Swan Hill Rural City Council  
**SUBJECT LAND** 82 New Britain Road  
ROBINVALE VIC 3549  
**HEARING TYPE** Compulsory conference  
**DATE OF HEARING** 13 February 2025  
**DATE OF ORDER** 13 February 2025

### ORDER

- 1 The details set out in the Tribunal's order dated 30 September 2024 are **changed**.
- 2 The compulsory conference conducted on 13 February 2025 is adjourned to an Administrative Mention on 21 March 2025
- 3 The proceeding is listed for a hearing as detailed below.  
If there is any change to these details, the Tribunal will notify you.

Standard Cases Hearing	
Date and time	22, 23 & 24 April 2025 10.00am – 4.30pm
Conduct	In Person
Place	VCAT Melbourne, 55 King Street, MELBOURNE VIC 3000

Details of the location of the hearing will be published on the Tribunal's website, under 'Upcoming Hearings' on the afternoon of the day prior to the hearing – [www.vcat.vic.gov.au/upcoming-hearings](http://www.vcat.vic.gov.au/upcoming-hearings)

### Statement of Grounds

- 4 **By no later than 12 noon on 19 March 2025** the Responsible Authority must give the applicant for review a Statement of Grounds it proposes to rely upon at the final hearing of this proceeding.

### Administrative mention

- 5 The proceeding is listed for administrative mention on **21 March 2025**. **By no later than 12 noon on that date**, the applicant for review must advise the Tribunal (and give the other parties a copy at the same time) in writing:  
(a) whether the matter is resolved or is proceeding to a hearing;





- (b) if the matter is resolved, the orders sought by consent;
- (c) whether the applicant for review intends to circulate amended plans to seek to have those plans substituted for the application plans at the hearing, or
- (d) whether the applicant for review intends to withdraw the application
- (e) whether any other procedural orders are required; and
- (f) whether a further practice day hearing or administrative mention is requested.

No attendance is necessary.

- 6 Any party may request that the administrative mention be converted to a practice day hearing. The relevant form is available at the Tribunal's website – [www.vcat.vic.gov.au/documents/forms/practice-day-request-form](http://www.vcat.vic.gov.au/documents/forms/practice-day-request-form)

#### **Providing submissions and associated material before the hearing**

- 7 No later than **5 business days** before the hearing, the parties must provide an electronic copy of their submissions and associated material (such as supporting documentation, case law and photographs) to the Tribunal and all parties. The Tribunal requests that the submitted material be provided in a single PDF, if feasible. The copy for the Tribunal must be sent to [admin@courts.vic.gov.au](mailto:admin@courts.vic.gov.au)

#### **Witness material**

- 8 All expert evidence must be filed and served in accordance with the Tribunal's Practice Note – PNVCAT2 Expert Evidence.

#### **Draft conditions for hearing**

- 9 No later than **5 business days** before the hearing, the responsible authority must give the Tribunal and all parties a draft of the conditions to which the permit should be subject.

The draft conditions must be provided to the Tribunal in electronic Word format and must be sent to [admin@courts.vic.gov.au](mailto:admin@courts.vic.gov.au)

#### **Variation of PNPE9 – amendment of permit application and plans**

- 10 If the permit applicant makes an application to amend the permit application by substituting new plans for the permit application plans then, VCAT Practice Note – PNPE9 *Amendment of Planning Permit Applications and Plans* is varied as follows:
  - (a) Table 2 of clause 14 of PNPE9 is replaced by the table at Appendix A.
  - (b) The timeframes in column 3 of Table 1 are varied as follows:
    - i **Notice given in person or by email:** must be delivered or sent by email to the recipients by **no later than 4pm on 21 March 2025.**



- 11 The permit applicant must provide the responsible authority with a copy of the plans and/or other material in electronic PDF form.

Nicholas Hadjigeorgiou  
**Member**

### APPEARANCES

For applicant	Roy Costa, Town Planner Roy Costa Planning and Development
For responsible authority	Tom Buchan, Town Planner, Song Bowden Planning, assisted by R Muley, A Sadiq and M Salmon, Town Planers

### APPENDIX A

Varied Table 2: Information to be provided to various categories of people

1.	2. People to be given documents	Documents to be given				
		3. Cover letter	4. PNPE9 Form A	5. Statement of changes	6. Amended application / plans	7. Supporting material
14.1	Responsible authority	✓	✓	✓	✓	✓



## 2.5 Planning Application - 110 Madang Road Robinvale - Subdivision of land into 2 lots (to excise 2 Dwellings on a lot) in the Farming Zone

**Directorate:** Development and Planning  
**File Number:** PLN2024068  
**Purpose:** For Discussion

### EXECUTIVE SUMMARY

<b>Application Number:</b>	PLN2024068
<b>Proposal:</b>	Subdivision of Land into Two (2) lots (Excision of Two Dwellings) in the Farming Zone
<b>Applicant's Name:</b>	Roy Costa Planning & Development
<b>Address:</b>	110 Madang Road, Robinvale Crown Allotment 30, Section E, Parish of Bumbang
<b>Land Size:</b>	10.42 Hectares
<b>Site Features:</b>	Agricultural land comprising two dwellings with associated infrastructure.
<b>Zoning:</b>	Farming Zone (Schedule)
<b>Overlays:</b>	Nil
<b>Referral Authorities:</b>	Nil
<b>Why is a Permit Required?</b>	Clause 35.07-3 – Subdivision
<b>Lodgement date:</b>	23 August 2024
<b>Relevant VCAT Decisions:</b>	Englefield v Swan Hill Rural CC [2024] VCAT 652 – Appeal Dismissed on the same property.

### Declarations of Interest:

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

### Summary:

This is an application for a two-lot subdivision that seeks to excise a small lot from the balance of the title to contain the two existing dwellings at 110 Madang Road, Robinvale. The land is in the Farming Zone.

The proposal is not in keeping with the purposes of the zone and is inconsistent with the objectives of planning policy. The information submitted with the application does not reasonably demonstrate the need for the subdivision to operate agricultural uses.

Key issues to be considered relate to the impact of the proposal on the agricultural land and the need for the proposed subdivision to facilitate or enhance the existing agricultural operation. The application has been assessed against the Swan Hill Planning Scheme and is considered an inappropriate outcome.

**Key Points / Issues:**

The subject land is located on the southern side of Madang Road, Robinvale, approximately 8.5km south of Robinvale. The site is used for horticultural purposes and comprises two dwellings and outbuildings that are located in the north-west corner of the land. Land within the immediate area of the subject site is used primarily for intensive horticultural purposes. The site comprises an irregular shaped parcel having a total site area of 10.42ha.

Surrounding land comprises intensive horticultural land uses growing a mix of wine and table grapes and development like the subject land. There are dwellings on many of the surrounding allotments and many have been excised from the horticultural allotments creating many residential allotments in the Farming Zone.

The application proposes subdivision of the land into two lots (excision of two dwellings). Lot 1 will have an area of 1.219 hectares and will accommodate the two existing dwellings and associated outbuildings. Lot 2 will have an area of 9.201 hectares being the balance lot and will contain the existing vineyard.

The subdivision will enable each lot to be separately disposed of. The application does not contain adequate detail on how the subdivision will create a better farming outcome. The proposal represents a major shift from the existing horticultural use on the site to a horticultural lot and a residential lot that has no direct relationship with a farming use.

A similar planning permit application was previously refused by Council at its Scheduled Council Meeting on 21 November 2023. The applicant had lodged an appeal with VCAT to seek review of the Council's decision. The appeal was dismissed by VCAT as the applicant wanted to adjourn the hearing until a decision was made on this current application.

**Policy Impacts:**

The proposed subdivision is contrary to the following critical provisions of Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF) of the Swan Hill Planning Scheme:

**Municipal Planning Strategy (MPS):*****Clause 02-03-4 Natural resource management***

This clause is based around the need to preserve and protect the valuable agricultural and horticultural land within the municipality, particularly from the impacts of additional dwellings or small lot subdivisions in farming areas. The clause also recognises that significant fragmentation has already occurred, particularly in high value irrigated areas close to the Murray River.

In order to manage the natural resources in the Rural City, Council will:

- *Protect horticultural and dryland agriculture because it is fundamental for economic growth.*
- *Discourage small lot subdivision in rural areas that undermines the productive agricultural base of the Rural City.*

It is considered the proposal is contrary to Clause 02.03-4 (Natural Resource Management) of the Municipal Planning Strategy in relation to the protection of agricultural land and discouraging small lot subdivision in rural areas that undermines the productive agricultural base.

Planning Policy Framework (PPF):

*Clause 14.01-1S – Protection of agricultural land*

*‘To protect the state’s agricultural base by preserving productive farmland’*

*Relevant Strategies*

- *Identify areas of productive agricultural land, including land for primary production and intensive agriculture.*
- *Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.*
- *Avoid permanent removal of productive agricultural land from the state’s agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.*
- *Protect productive farmland that is of strategic significance in the local or regional context.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
  - *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
  - *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
  - *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
  - *The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*
  - *Land capability.*
- *Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.*

*Clause 14.01-1L – Agriculture*

*‘To discourage small lot subdivision that prejudices surrounding agricultural activities’*

## Assessment

Strategy	Response
Discourage 'small lot' subdivision unless the balance lot is at least the minimum lot size specified in the zone.	<b>Does not comply</b>  Both proposed lots are less than the 20ha minimum lot size specified in the zone.
Discourage small lot subdivision to meet personal and financial circumstances.	<b>Does not comply</b>  The application as submitted demonstrates the subdivision is required to meet personal and financial circumstances as the applicant is seeking to continue living in one of the existing dwellings but wants to sell the vineyard, while the prospective purchaser is wanting to purchase the vineyard but does not require the dwellings and associated buildings.
Prevent small lot subdivision to create lots for 'rural lifestyle' purposes.	<b>Does not comply</b>  The proposal will create a lot for 'rural lifestyle' purposes as the existing owner intends to continue to reside in his dwelling and not be associated with the rural use of the land. There is no indication of the proposed use of the second dwelling.  The size of proposed Lot 1 demonstrates the lot will not have an associated farming use.
Encourage any excised lot to be of a manageable size that maintains sufficient land on the balance lot to support agricultural activity.	<b>Does not comply</b>  The application was not supported by a farm management plan to demonstrate the viability of the existing vineyard. Information was requested from the applicant for the provision of farm management plan to demonstrate the need for the subdivision. The applicant did not provide any farm management to justify the proposal. In addition to this the excised lot will include some productive agricultural land which will result in the removal of this productive agricultural land permanently. -However, an increased small lot size has been proposed different to the previous subdivision proposal that seeks to provide a separation between the intensive horticultural use and the dwellings to limit land use conflict.
Require the excision of a dwelling to be via the re-subdivision of existing lots	<b>Does not comply</b>

so that the number of lots is not increased.	The subdivision is not being undertaken via the re-subdivision of existing lots.
Discourage the creation of long, narrow lots, 'axe handle' lots or island-style lots.	<b>Does not comply</b>  Lot 1 will be in the form of a battle axe lot. It is recognised that the shape of the land aims to ensure the garden and recreational uses of the site continue to be associated with the dwellings.
Discourage subdivisions that will impact on significant farm infrastructure.	<b>Does not comply</b>  There is no information provided in the application to determine if the subdivision will impact on the existing farm infrastructure or if it will enhance the existing agricultural operation. As discussed above a small portion of the vineyard will be removed on the excised lot to provide a nominal separation between the intensive horticultural use and the dwellings. This provides the major difference between the previous and current proposals. It does however marginally reduce the viability of the farming land. The applicant was requested to provide the farm management plan (standard requirement for such applications) and to the date no such plan has been provided.
Discourage further subdivision (by any method) of land where a dwelling has already been excised from the land.	<b>Not Applicable</b>  No previous dwelling has been excised from the land.
Discourage the excision of a dwelling if it is required for the carrying out of agricultural activities on the land.	<b>Does not comply</b>  It has been stated in the application that the dwellings are no longer required for the horticultural activity on the land.  Although, this is the current circumstance, history of the land provides evidence that the dwellings have been required for the existing horticultural land use and this does not mean it will not be required again in the future. The proposal will remove the potential for the dwellings to be used in association with the horticultural use of the land in the future.
Ensure the excision dwelling is habitable and has existing use rights under Clause 63.	<b>Complies</b>



Encourage a beneficial agricultural outcome for the land.	<p><b>Does not comply</b></p> <p>It is considered that the proposal does not provide a beneficial agricultural outcome. The application was not supported by a farm management plan that could demonstrate a beneficial outcome.</p> <p>Given the limited information provided with the application, there is no factual comment that can be made to whether there is beneficial outcome as a result of the subdivision.</p>
Consolidate land in the same ownership if consolidation would facilitate the productive use of land.	<p><b>Not applicable</b></p>

It is considered that the subdivision is not appropriate given the proposed size of the lots and would result in fragmentation of land. The proposal has not demonstrated that the agricultural outcome after the subdivision would improve on the existing agricultural use and management of the land. The proposal does not demonstrate a nexus between agricultural land use and the necessity for the subdivision.

### Farming Zone

Planning policies seek to support and enhance agricultural pursuits by ensuring future development does not result in the permanent removal of productive agricultural land or inhibit the continuation and development of existing agricultural uses. These objectives are reiterated in the purpose of the Farming Zone.

The purpose of the Farming Zone is to provide land for agriculture, retain productive agricultural land and to ensure non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

The decision guidelines of the zone seek to implement the purposes of the zone and for the reasons which will be outlined below it is considered that the subdivision of the land fails to satisfactorily address the decision guidelines and is therefore contrary to the stated purposes of the zone.

Keeping the land in one farming unit provides the best assurance that the subject land continues to provide for agriculture long term as supported by the purpose of the Farming Zone.

The proposal does not adequately address the provisions of the Farming Zone and it is seen that:

- It will fragment existing productive agricultural land.
- It will result in the loss of productive land.
- It will potentially remove land from agriculture.

For the reasons discussed above, the proposal would incrementally fragment the agricultural landscape character; lead to a concentration or proliferation of dwellings in the area and as a consequence it has potential to introduce land use conflict where there are different amenity expectations.

### Relevant Case Laws

In considering this application, a review of VCAT decisions for similar cases has occurred.

In *Davoli v Swan Hill*, a case at 124 Lae Road, Robinvale, RCC [2023] VCAT 1257, Senior Member Sibonis while refusing a two-lot subdivision (dwelling excision) on a 10.42 hectares property where the land is used for horticulture (vineyard) (similar to current proposal) stated:

*“...I agree with the Council that the proposal is designed to meet personal and financial circumstances of the applicants and is not consistent with policy that discourages small-lot subdivisions which are proposed for such reasons.*

*The establishment of rural lifestyle lots in farming areas is discouraged by policy. These can give rise to land use conflict associated with noise, dust and spray drift and, while there are numerous examples of these in the locality, this is not justification for further such outcomes.”*

Senior Member Sibonis further commented:

*“...An additional excised lot containing a dwelling will incrementally add to the development of a cluster of these lots and contribute to further introduction of non-agricultural uses into this area. This is an outcome which can further undermine agricultural activities, and introduce, entrench or exacerbate land use conflict. It is discouraged by policy.*

*In the circumstances of this application, there is insufficient justification for a departure from the clear and consistent policies in the Planning Scheme which seek to protect (and prevent the fragmentation of) productive agricultural land, and which discourage small-lot excisions and the creation of rural lifestyle lots in farming zones.*

*For these reasons, the Council’s decision is affirmed. No permit is granted.”*

In *Zappia v Swan Hill RC* [2008] VCAT 1446, Senior Member Baird made following comments while refusing a two-lot subdivision (dwelling excision) on a 7.445 hectares property (similar to current proposal):

*“..., it is clear that excisions in the irrigation district are discouraged by the Scheme to avoid land use conflicts and to protect the productive and economic resource that is so vital to the municipality. The policies ... seek to avoid the creation of rural lifestyle lots in these areas. I agree with the Council that one outcome of this proposal would be to create such a lot. Even though the house is used in a manner that is separate from the vineyard today, I do not consider that justifies the proposed excision that would formalise and entrench that outcome compared with the potential for the current situation to change so that the dwelling returns to being associated with agriculture on-site.*

*The Applicant relies on the proposal enabling the sale and ongoing use of the vineyard because, if a permit is denied, removal of the vines will result. Excision or subdivision does not guarantee the continued operation of the vineyard by a future owner as there may be many reasons why the land may, or may not, continue in its current use. Examples might be water availability or market conditions. Even if the vines are removed, the land remains capable of replanting or being put to another agricultural use in the long term. I do not consider the proposal secures a long term beneficial outcome to justify a rural living lot that conflicts with the Scheme's strategies.*

*I also do not accept Mr Costa's submission that conflicts between the rural lifestyle lot and surrounding horticultural activities will not occur because the current residents are to remain. There is no guarantee that the existing residents will stay even though that may be their current intent. Personal circumstances can change meaning the existing owners move on. The suggestion that a Section 173 agreement can protect against land use conflict if the owners departed the dwelling or sold the land is wrong. This type of agreement would acknowledge the presence of the dwelling in a horticultural district but does not prevent complaints being made direct to another landowner/operator or to the Council. Nor does it preclude legal or civil actions. The acknowledgement that may carry some weight in some types of proceedings but cannot prevent nuisance and complaints."*

Overall, subdivisions (dwelling excisions) on rural allotments of this nature can have detrimental effects on the future operation of farming land if the subdivision does not have a direct relationship with the farming activity on the land. It is essential to ensure that any decision to approve a dwelling excision, that there is a beneficial farming outcome. In this instance, it is considered the current owner wishes to reside in one of the excised dwellings.

**Consultation:**

The application was not advertised pursuant to Section 52(1A) of the Planning and Environment Act 1987 which states the following:

*"The responsible authority may refuse an application and, if it does so, it does not have to comply with notice requirements under Section 52."*

**Financial Implications:**

N/A

**Social Implications:**

N/A

**Economic Implications:**

N/A

**Environmental Implications:**

N/A

**Risk Management Implications:**

N/A

**Conclusion:**

Council made a decision on a similar proposed subdivision, (excision of dwellings) on this land on 21 November, 2023. The size of the excised lot to be created has increased in size from 0.84 to 1.2 ha to improve amenity protection. However, the proposal has not provided satisfactory justification of improved agricultural outcomes. As such, the changes are not significant enough to justify an alternative recommendation to that provided for the last proposal on a merits assessment.

The protection of Farming Zone land is of paramount importance to the policy contained within the planning scheme and to the local and wider community. It is considered that this application does not justify a need for subdivision. The proposal is another rural subdivision inadequately justified in accordance with the Swan Hill Planning Scheme.

- Attachments:**
1. Council Meeting 21 November 2023\_110 Madang [2.5.1 - 35 pages]
  2. VCAT Dismissal\_110 Madang [2.5.2 - 5 pages]
  3. Proposed Plan\_110 Madang [2.5.3 - 1 page]
  4. Application Documents\_110 Madang [2.5.4 - 72 pages]
  5. RFI Correspondence\_110 Madang [2.5.5 - 13 pages]

**Recommendation/s****That Council:**

**Issues a Notice of Decision to Refuse to Grant a Planning Permit for the Subdivision of Land into Two (2) lots (Excision of Two Dwellings) in the Farming Zone at Crown Allotment 30, Section E, Parish of Bumbang known as 110 Madang Road, Robinvale on the following grounds:**

1. The proposal is contrary to Clause 02.03-4 (Natural Resource Management) in relation to the protection of agricultural land and discouraging small lot subdivision in rural areas that undermines the productive agricultural base of the Swan Hill Rural City Council.
2. The proposal is contrary to Clause 14.01 (Agriculture) of the Planning Policy Framework for the following reasons:
  - a. It will result in inappropriate fragmentation of rural land
  - b. Does not consolidate existing isolated small lots in rural zones
  - c. Small lot subdivision is discouraged for personal and financial circumstances, and for rural lifestyle purposes
  - d. Small lot subdivisions are discouraged unless the balance lot is at least the minimum lot size specified in the zone (20ha), which the proposal does not meet.

- 3. The proposal is contrary to the Farming Zone's purpose and decision guidelines in the protection and retention of productive agricultural land.**



## 2.6 Planning Application - 110 Madang Road Robinvale - Dwelling Excision in the Farming Zone

**Directorate:** Development and Planning  
**File Number:** PLN2023057  
**Purpose:** For Decision

### EXECUTIVE SUMMARY

<b>Application Number:</b>	PLN2023057
<b>Proposal:</b>	2-Lot Subdivision (Excision of 2 Dwellings) in the Farming Zone
<b>Applicant's Name:</b>	Roy Costa Planning & Development
<b>Address:</b>	110 Madang Road Robinvale
<b>Land Size:</b>	10.42 ha
<b>Zoning:</b>	Farming Zone
<b>Overlays:</b>	N/A
<b>Referral Authorities:</b>	Lower Murray Water & Council's Engineering Department
<b>Why is a Permit Required?</b>	Subdivision of land
<b>Lodgement date:</b>	14/07/2023
<b>Relevant SHRCC VCAT Decisions</b>	Refer Officers Report

### Declarations of Interest:

Council Officers affirm that no general or material conflicts need to be declared in relation to the matter of this report.

### Recommendation

#### That Council:

**Refuse to grant a planning permit for the Subdivision of Land (2 Lots) in the Farming Zone at 110 Madang Road Robinvale for the following reasons:**



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1. The proposal is contrary to Clause 02.03-4 (Natural Resource Management) of the Municipal Planning Strategy in relation to the protection of agricultural land and discouraging small lot subdivision in rural areas that undermines the productive agricultural base of the Swan Hill Rural City Council.
2. The proposal is contrary to Clause 14.01 (Agriculture) of the Planning Policy Framework for the following reasons:
  - a. It will result in inappropriate fragmentation of rural land
  - b. Does not consolidate existing isolated small lots in rural zones
  - c. Small lot subdivision is discouraged for personal and financial circumstances, and for rural lifestyle purposes
  - d. Small lot subdivisions are discouraged unless the balance lot is at least the minimum lot size specified in the zone (20ha), which the proposal does not meet.
3. The proposal is contrary to the Farming Zone's purpose and decision guidelines in the protection and retention of productive agricultural land.
4. The proposal will set a precedent for similar Farming Zone land within the municipality that would contradict the purpose and decision guidelines of the Farming Zone and threaten the productive agricultural base of the Swan Hill Rural City Council.
5. The applicant has not provided adequate evidence of the existing dwellings having existing use rights in accordance with Clause 63 of the Swan Hill Planning Scheme.

A comprehensive assessment of the proposal against the relevant provisions of the Swan Hill Planning Scheme is contained in the attached officer report.

**Key Points / Issues:**

- The application proposes a 2-Lot Subdivision (Excision of 2 Dwellings) in the Farming Zone of an existing lot of 10.42 hectares.
- Proposed Lot 1: 0.845 hectares and proposed to accommodate the existing dwelling/s and associated outbuildings, whilst proposed Lot 2: 9.575 hectares being the balance lot and contains the existing vineyard.





MINUTES - Scheduled Council Meeting - 21 November 2023



Figure 1 – Aerial image of subject land



Figure 2 – Aerial image of surrounding area



## MINUTES - Scheduled Council Meeting - 21 November 2023

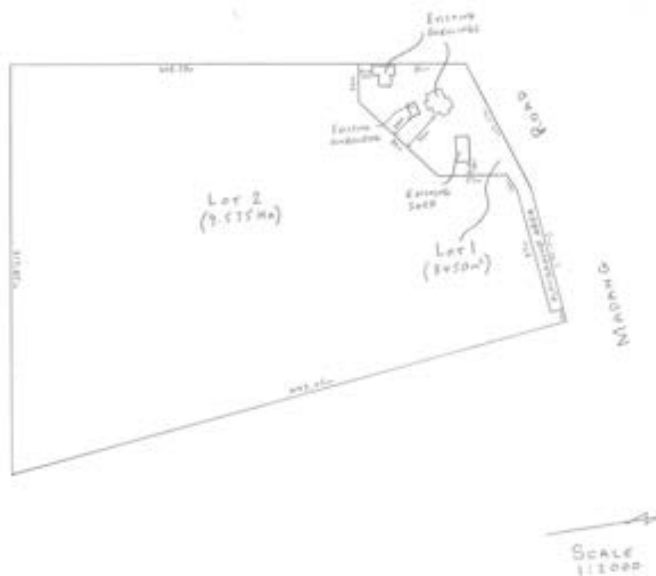


Figure 3 – Proposed Subdivision

- The application may be made in accordance with Clause 35.07-3 of the Farming Zone as it provides the ability to submit a planning application for a subdivision to create a lot for an existing dwelling and the subdivision must be a 2-lot subdivision. This does not mean that because a permit can be submitted for an application, a permit will be granted. The application must be assessed against the relevant planning policy, MPS, purpose and decision guidelines of the zone, and other relevant sections of the Swan Hill Planning Scheme.
- Any application submitted to Council for assessment must also contain adequate information to enable a decision to be made. It is considered the application as submitted did not contain adequate information to justify the proposal.
- Dwelling excisions on rural allotments of this nature can have detrimental effects on the future operation of farming land if the subdivision does not have a direct relationship with the farming activity on the land.
- It is unfortunate there have been many dwelling excisions allowed in the Farming Zone across the municipality creating residential allotments in the Farming Zone. This can cause 'right to farm' issues, unnecessary land use conflicts and loss of agricultural land. Allowing excisions of dwellings on farming lots creates residential areas within the Farming Zone that slowly over time creates a greater loss of agricultural land. The poor planning outcomes of previous decisions should not be a consideration of whether to approve the current application.
- The application was presented to a Council Assembly meeting which gave the applicant and owner an opportunity to address Councillors on the application. The owner addressed Councillors advising that he and his family wish to continue to reside in one of the dwellings to be excised and not operate the horticultural use of the land. This creates a residential use of the existing



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dwelling within a farming area that planning policy strongly discourages as the dwelling will have no link to any farming use. The excised dwelling lot is also too small for any sustainable and productive farming use. This removes the land from any future agricultural production.

- The subdivision will enable each lot to be separately disposed of. The application does not contain adequate detail on how the subdivision will create a better farming outcome. The proposal represents a major shift from the existing horticultural use on the site to a horticultural lot and a residential lot that has no direct relationship with a farming use.
- The applicant has suggested the inclusion of a S.173 Agreement on the balance lot to prevent the construction of a dwelling on this allotment. The imposition of a limiting agreement is not a panacea for a poor decision.
- There are many VCAT decisions within the Swan Hill Rural City Council municipality for similar Farming Zone subdivision applications that do not support this type of subdivision. The VCAT decisions are discussed in more detail in the attached Planning Department delegation report.

### Policy Impacts:

The proposed subdivision is contrary to the following critical Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF) of the Swan Hill Planning Scheme:

#### Municipal Planning Strategy (MPS):

The proposal is contrary to the following:

- Clause 02-03-4 Natural resource management

This Clause seeks to protect the protection of agricultural land and discourages small lot subdivision in rural areas that undermines the productive agricultural base of the Swan Hill Rural City Council.

#### Planning Policy Framework (PPF):

The proposal is contrary to the following:

- Clause 14.01-1S – Protection of agricultural land
- Clause 14.01-1L – Agriculture

The proposal is contrary to Clause 14.01 (Agriculture) of the PPF for the following reasons:

1. It will result in inappropriate fragmentation of rural land.
2. Does not consolidate existing isolated small lots in rural zones.
3. Small lot subdivision is discouraged for personal and financial circumstances, and for rural lifestyle purposes.



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4. Small lot subdivision is discouraged unless the balance lot is at least the minimum lot size specified in the zone (20ha), which the proposal does not meet.

The attached officer report provides further specific details on how the proposal is contrary to the MPS and PPF.

**Consultation:**

Advertising

The application was not advertised.

Referrals

Application was referred to Lower Murray Water and Council's Engineering Department, both approving the application subject to conditions.

**Financial Implications:** N/A

**Social Implications:** N/A

**Economic Implications:** N/A

**Environmental Implications:** N/A

**Risk Management Implications:** N/A

**Conclusion:**

This application is contrary to the MPS, PPF and the Farming Zone as outlined in this report and the attached officer report from the Planning Department.

The proposal is another rural subdivision inadequately justified in accordance with the Swan Hill Planning Scheme and does not provide an agricultural benefit.

As mentioned in this report, it is unfortunate there have been many dwelling excisions allowed in the Farming Zone across the municipality over many years that have created residential allotments in the Farming Zone. VCAT decisions within the municipality have determined this type of rural subdivision is inappropriate.

Should this application be approved by Council, it will continue to set a precedent that Council considers this type of rural subdivision is appropriate, contrary to the Swan Hill Planning Scheme and VCAT decisions for similar applications.

**Options:**

1. Council issues a Notice of Decision to Refuse to Grant a Planning Permit



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2. Council issues a Planning Permit subject to the conditions outlined in the attachment.

- Attachments:**
1. Proposed- Plan [2.6.1 - 1 page]
  2. Applicant Submission [2.6.2 - 7 pages]
  3. Officers Report [2.6.3 - 16 pages]
  4. Proposed Planning Conditions [2.6.4 - 3 pages]

**CM 2023/86 Motion**

**MOVED Cr McKay**

**That Council issues a Planning Permit subject to the conditions outlined in the attachment.**

**SECONDED Cr Young**

**The Motion was put and LOST 3 / 4**

Cr McKay called for a division

**For:** Cr Kelly, Cr McKay and Cr Young

**Against:** Cr King, Cr McPhee, Cr Jeffery and Cr Moar

**CM 2023/87 Motion**

**MOVED Cr McPhee**

**That Council:**

**Refuse to grant a planning permit for the Subdivision of Land (2 Lots) in the Farming Zone at 110 Madang Road Robinvale for the following reasons:**

1. The proposal is contrary to Clause 02.03-4 (Natural Resource Management) of the Municipal Planning Strategy in relation to the protection of agricultural land and discouraging small lot subdivision in rural areas that undermines the productive agricultural base of the Swan Hill Rural City Council.
2. The proposal is contrary to Clause 14.01 (Agriculture) of the Planning Policy Framework for the following reasons:
  - a. It will result in inappropriate fragmentation of rural land
  - b. Does not consolidate existing isolated small lots in rural zones
  - c. Small lot subdivision is discouraged for personal and financial circumstances, and for rural lifestyle purposes
  - d. Small lot subdivisions are discouraged unless the balance lot is at least the minimum lot size specified in the zone (20ha), which the proposal does not meet.
3. The proposal is contrary to the Farming Zone's purpose and decision guidelines in the protection and retention of productive agricultural land.
4. The proposal will set a precedent for similar Farming Zone land within the municipality that would contradict the purpose and decision guidelines



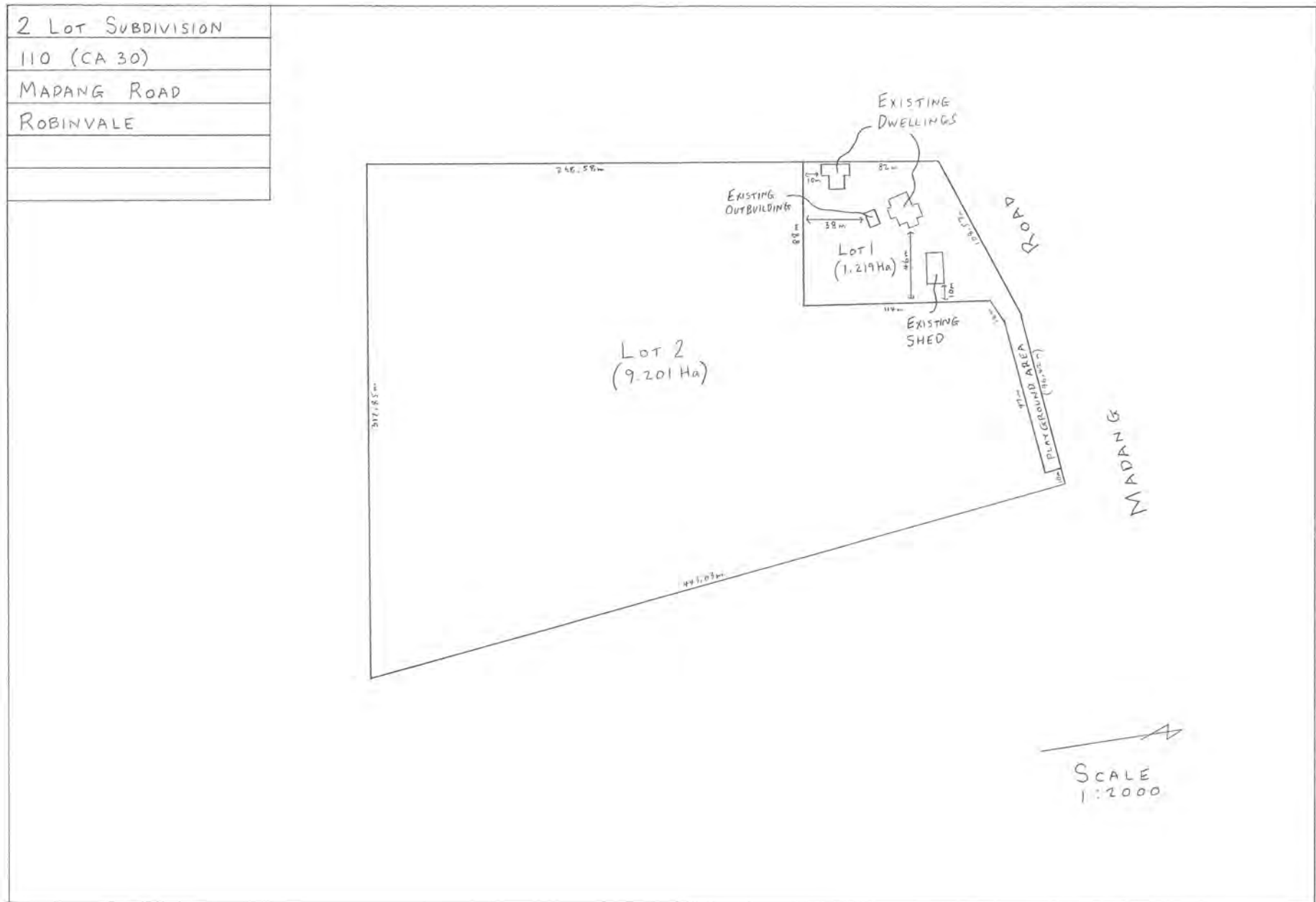
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of the Farming Zone and threaten the productive agricultural base of the Swan Hill Rural City Council.

5. The applicant has not provided adequate evidence of the existing dwellings having existing use rights in accordance with Clause 63 of the Swan Hill Planning Scheme.

**SECONDED Cr Jeffery**

**The Motion was put and CARRIED 4 / 3**





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**ROY COSTA PLANNING & DEVELOPMENT**

164 Eighth Street Mildura  
PO Box 2925 Mildura 3502  
Phone (03) 50210031 Email: admin@roycosta.com.au

Our Ref: 23-071  
Your Ref:

11 July 2023

Planning Department  
Swan Hill Rural City Council  
PO Box 488  
SWAN HILL VIC 3585

Dear Sir/Madam,

**PLANNING APPLICATION  
2 LOT SUBDIVISION  
110 MADANG ROAD ROBINVALE**

Enclosed, please find a planning application lodged on behalf of the owner, proposing the creation of a 2 Lot Subdivision of the above property.

The site is 10.42ha in area, with dwellings, shed, outbuilding, and vineyard existing upon the site.

This application is seeking to subdivide the dwellings, shed, outbuilding and playground from the remainder of the land.

The dwelling allotment is to be 8450m<sup>2</sup> in area, with the balance of the land to be 9.575ha in area.

The subdivision is proposed as the owner has a prospective purchaser for the vineyard to continue the horticultural production upon the site; however, the purchaser does not require the dwellings, shed or outbuilding.

The prospective purchaser does not require any future dwelling upon proposed Lot 2; therefore, we request Council place a condition upon the permit requiring a Section 173 Agreement ensuring that no further dwellings will be constructed upon either lot created by this subdivision.

Therefore, the dwelling and other buildings are not required in association with the operation of the horticultural production upon the land.

The boundaries of the subdivision are proposed as such will create an allotment that will locate the dwellings, shed and outbuilding upon an allotment that is not associated with the horticultural production, not interfere, or effect the infrastructure associated with the horticultural production on the land, provide an orderly shaped allotment and buffer between the dwelling and horticultural allotment.

PLANNING INSTITUTE AUSTRALIA – REGISTERED PLANNER (RPIA)

Rokal Pty. Ltd. ACN 087 497 685 Trading As Roy Costa Planning & Development



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In addition, a playground area has been established in association with the dwelling along the frontage of Madang Road, which the owner is seeking to keep with the dwelling allotment.

Please note that should Council not support the retention of the playground area with the dwelling allotment, Council may place a condition upon the permit requiring amended plans locating the playground area with the horticultural allotment, being Lot 2.

The proposed subdivision will require a small area of vines to be removed, however such will enable an appropriate buffer area to be established between the dwelling and boundaries of the dwelling lot to the horticultural lot.

The area of vines to be removed will only be approximately 1000m<sup>2</sup>, which is only 1.03% of the overall horticultural production of the site.

The proposed subdivision will not change the use of the land or create any additional dwelling opportunities for the overall property; it will place existing uses on separate titles as existing and enable the horticultural holding to be owned and operated by a new owner to enlarge their horticultural holdings.

As the prospective purchaser, who is within the vicinity of the site, is not abutting the site, a re-alignment of boundaries is not an option; and given is in the vicinity has existing packing sheds and machinery to operate the horticultural allotment.

The maintaining of over 9ha of vineyard production will continue supporting the overall economy of the region.

The proposed subdivision will enable this valuable horticultural producing property to continue of a size to support the economic viability of the region and horticultural industry.

The intention of the Swan Hill Planning Scheme provisions in respect to Horticulture is to ensure the continuation of valuable horticultural production land, which this subdivision will achieve.

The subdivision meets the scheme's strategic directions relating to horticultural production.

The proposed subdivision is seen to meet all the relevant requirements of the Swan Hill Planning Scheme.

It should be noted that in respect to the surrounding area the proposed subdivision is suitable due to the following:

- The subdivision will not change the character of the area.
- The dwelling allotment will not affect the future operations of abutting horticultural properties in any way; with a Section 173 Agreement to be entered into in respect to the dwelling acknowledging farm/horticultural uses within the area.
- The owners have agreed to enter into a Section 173 Agreement prohibiting the use and development of a dwelling upon proposed Lot 2 of this subdivision.

### **SWAN HILL PLANNING SCHEME**

In accordance with the Swan Hill Planning Scheme, the subject land is zoned Farming Zone (FZ).

The proposal complies with the Swan Hill Planning Scheme as detailed below.

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**PURPOSE AND VISION**

Within these provisions they refer to agriculture being one of the main drivers of the economy of the municipality.

This proposal is supporting the economy of the region by locating the main horticultural production of the land onto one title, to be continued into the future and prohibiting the use and development of a dwelling upon the horticultural allotment.

Therefore, the future production of proposed Lot 2 is protected.

In respect to the strategic directions, particularly at Clause 02.03-4 Natural Resource Management, this proposed 2 Lot Subdivision meets these provisions by:

- Protecting the future use of proposed Lot 2 for horticultural production.
- Promoting and encouraging expansion of horticultural enterprises by creating a horticultural allotment able to be purchased by a surrounding horticultural business to expand their existing horticultural holding/s.
- The location of the boundaries will protect the horticultural production upon proposed Lot 2 from any conflicting land uses; and will only require the removal of a very minimal area of existing plantings, being only 1.03%.
- This proposed subdivision will not create fragmentation and will not have any significant implication for horticultural production; and in fact, is supporting such by creating an allotment to be continued for horticultural production.
- The proposed Lot 2 is being sold for continued horticultural production, thus enabling expansion of an existing horticultural enterprise within the surrounding area; thus, providing the sale price of the horticultural allotment at an appropriate level and not at an inflated land value.
- The proposed subdivision will not undermine the productive agricultural base of the Rural City.
- The subdivision is subdividing a dwelling that is not required by the prospective purchaser to continue the horticultural production upon proposed Lot 2, and enable the horticultural production upon the site to be located upon one title and sold for continued horticultural production; that in turn will support the future economy of the municipality and overall region.

**PLANNING POLICY FRAMEWORK**

**14.01-1S PROTECTION OF AGRICULTURAL LAND**

This policy seeks to protect the state's agricultural base by preserving productive farmland.

This proposed subdivision is seen to meet these provisions by:

- Creating a lot specifically for the preservation of the continued productive horticultural use of the land; and in addition, not enabling any future dwelling to be constructed upon the horticultural allotment.

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- The subdivision will locate the existing uses upon separate titles, but not change the character of the area or uses or enable any additional non agricultural uses to be constructed on the land, particularly dwellings.
- These provisions refer to limiting new housing in rural areas.

As stated above, with the proposed appropriate conditions upon the permit, no additional housing will be permitted on any allotment created by this subdivision.

- The proposed subdivision is seen to have a positive impact on the continuation of productive horticulture on the land by creating a lot specifically for the continuation of horticultural production that will not be able to erect a dwelling upon it and be able to be purchased at an appropriate land value and therefore be viable as one of these strategies specifically states needs to be considered.
- The subdivision will not diminish the long-term productive capacity of the land.

**14.01-1L AGRICULTURE**

This policy refers to all land within the Farming Zone.

This subdivision will not create land use conflicts as the owners will remain within the dwelling and a Section 173 Agreement will be entered into that the residents acknowledge that the dwelling is located within a horticultural production area.

Adequate distance is to be provided between the main dwelling and horticultural boundary to enable the establishment of a buffer plantation.

As there is no development proposed by this application, no non agricultural uses are proposed within this horticultural area.

These provisions also discourage new dwellings that undermine the productive agricultural base of the municipality.

The end result of this subdivision will place a condition upon the permit that will ensure no further dwellings are constructed upon either allotment created by this subdivision.

Our clients also consent to the Section 173 Agreement including that each allotment created by this subdivision may not be further subdivided so as to increase the number of allotments of each lot.

In respect to small lot subdivisions, we submit the following:

- Even though these provisions discourage small lot subdivisions where the balance lot is less than the minimum lot size specified in the zone; this subdivision should be supported due to:
  - The end result is the same as if the balance lot were greater than 20ha in area in that the balance lot will remain specifically for horticultural production and no dwelling can be built upon the allotment.
  - The creation of Lot 2 will enable a horticultural grower within the immediate area to enlarge their holding to be viable into the future.
  - Many horticultural growers seeking to expand their holdings do not require the existing dwellings upon the properties they are seeking to purchase; and the purchase price with the dwelling inflates such price that the property.



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- These provisions encourage any excised lot to be of a manageable size that maintains sufficient land on the balance lot to support agricultural activity; and as stated throughout this submission this subdivision will maintain the productivity of the balance lot, which will only be reduced by 1.03% of production capacity.
- As previously stated, a re-subdivision of allotments is not possible.
- The subdivision will not adversely impact on the horticultural infrastructure.
- These provisions discourage dwelling excisions if the dwelling is required for the carrying out of the agricultural activities on the land; and as previously stated the dwelling is not required nor is the shed for the continued horticultural production upon Lot 2 as the prospective purchaser has their own packing shed and machinery to continue the production upon proposed Lot 2.
- The subdivision is beneficial agricultural outcome for the land as detailed throughout this submission.
- The dwelling allotment is less than 2ha in area.
- Our clients consent to a Section 173 Agreement preventing the construction of a dwelling on the residual lot, being Lot 2 and preventing further subdivision of each lot so as to increase the number of allotments.

**14.01-2S SUSTAINABLE AGRICULTURAL LAND USE**

**14.01-2R AGRICULTURAL PRODUCTIVITY – LODDON MALLEE NORTH**

**14.01-2L SUSTAINABLE AGRICULTURA LAND USE**

In respect to these policies, as detailed in 14.01-1L above, the end result of this subdivision is encouraging the sustainable horticultural use of proposed Lot 2 to be continued into the future.

**FARMING ZONE PROVISIONS**

**Clause 35.07 PURPOSE**

The subdivision meets the Purpose & Vision and Planning Policy Framework as stated above.

The subdivision will not affect the use of the surrounding land.

The proposed subdivision will not adversely affect the continued operation of the land for horticulture as the balance of the land will remain greater than 9ha in area.

The main purpose for the subdivision is to enable the continuation of the valuable horticultural production upon the site.

The intentions of these provisions are to protect valuable agricultural land, which this application is seeking to achieve as detailed above.

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**Clause 35.07-1 TABLE OF USES**

There are no uses proposed as part of this application.

**Clause 35.07-2 USE OF LAND FOR A DWELLING**

There is no dwelling proposed as part of this application.

**Clause 35.07-3 SUBDIVISION**

A permit is required for this proposed subdivision.

This proposed subdivision meets these provisions by way of the following:

1. The subdivision is to create a lot for an existing dwelling.
2. The subdivision is a two lot subdivision.

**Clause 35.07-6 DECISION GUIDELINES**

The proposal meets the Purpose & Vision and Planning Policy Framework as detailed above.

No Regional Catchment Strategy applies to the land.

The productive capacity of the land will remain sustainable as the horticultural allotment will remain well over 9ha in area.

There is no development proposed as part of this subdivision application; and all infrastructure required to operate the horticulture upon the land will not be affected by this subdivision.

The subdivision will not limit the operation of the horticultural production upon the land or nearby properties.

There is no adverse environmental issue that would be created by this subdivision.

No flora and fauna issues exist to the site.

No waterways exist near the site that would be affected by the proposed subdivision.

The subdivision will not have negative impacts on services within the area; with adequate services existing for the dwelling.

**OVERLAY PROVISIONS**

No overlays affect the subject land.

**CONCLUSION**

In summary, the proposed subdivision complies with all relevant provisions of the Swan Hill Planning Scheme, in particular, the Purpose & Vision and Planning Policy Framework.

Given all the above-mentioned, we now request Council support this application as proposed.

If you have any queries in relation to the above, please contact Mr. Roy Costa from our office who will be pleased to assist.

Yours sincerely,

*Roy Costa*

ROY COSTA RPIA  
ROY COSTA PLANNING & DEVELOPMENT



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## Planning Assessment Report Delegate Report

### Application Details

<b>Application Number:</b>	PLN2023057	<b>Planner:</b>	Warrick Fisher
<b>Application Description:</b>	2-Lot Subdivision (Excision of 2 Dwellings) in the Farming Zone		
<b>Application Received:</b>	14 July 2023		
<b>Land / Address:</b>	110 Madang Road, Robinvale 3549 Crown Allotment 30, Section E, Parish of Bumbang		
<b>MPS:</b>	Clause 02.03-4		
<b>PPF:</b>	Clause 14.01		
<b>Zoning:</b>	Clause 35.07 Farming Zone (FZ)		
<b>Overlays:</b>	Nil		
<b>Land Use Terms:</b>	Subdivision		
<b>Under what clause(s) is a permit required?</b>	Clause 35.07-3 – Subdivision		
<b>Restrictive covenants on title?</b>	Nil		
<b>Current Use &amp; Development:</b>	Single lot, 2 dwellings and outbuildings, horticulture		
<b>Is a Cultural Heritage Management Plan Required?</b>	No		
<b>Relevant SHRCC VCAT Decisions</b>	<ol style="list-style-type: none"> <li><b>Davoli v Swan Hill RCC [2023] VCAT P819/2023 (27 October 2023)</b> 124 Lae Road, Robinvale <b>Permit applicant: Roy Costa Planning &amp; Development</b> Verbal decision by VCAT</li> <li><b>Zappia v Swan Hill RC [2008] VCAT 1446 (16 July 2008)</b> 3 Timor Road, Robinvale <b>Permit applicant: Roy Costa Planning &amp; Development</b> <a href="https://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2008/1446.html?context=1;query=swan%20hill;mask_path=au/cases/vic/VCAT">https://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2008/1446.html?context=1;query=swan%20hill;mask_path=au/cases/vic/VCAT</a></li> <li><b>Burns v Swan Hill RCC [2023] VCAT 1184 (25 October 2023)</b> 5 Little Murray Weir Road, Castle Donnington <b>Permit applicant: Roy Costa Planning &amp; Development</b> <a href="https://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2023/1184.html?context=1;query=burns%20v%20swan%20hill;mask_path=au/cases/vic/VCAT">https://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2023/1184.html?context=1;query=burns%20v%20swan%20hill;mask_path=au/cases/vic/VCAT</a></li> </ol>		

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**Subject Site & Locality**

The subject land is located on the southern side of Madang Road, Robinvale, approximately 8.5km south of the Robinvale CAD.

The site is used for horticultural purposes, with 2 dwellings and outbuildings that are located to the north-west corner of the land. The applicant has submitted on the plan the land contains 2 dwellings to be excised.

Land within the immediate area of the subject site is used primarily for intensive horticultural purposes.

The site comprises an irregular shaped parcel having a total site area of 10.42ha.

The site has 214.99m of frontage to Madang Road which is a sealed road.



Figure 1: Existing Plan of Subdivision (Crown Allotment 30, Sec 8, Parish of Bumbang)

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Figure 2: Aerial image of subject land (Source: VicPlan)

The surrounding land comprises intensive horticultural land uses and development similar to the subject land. There are dwellings on many of the surrounding allotments and many have been excised from the horticultural allotments creating many residential allotments in the Farming Zone.

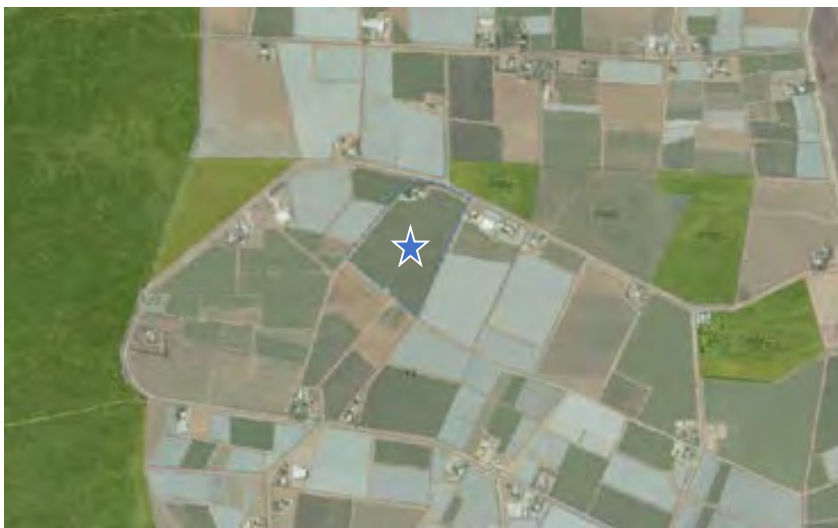


Figure 3: Aerial image of surrounding area

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**Proposal**

The application proposes a 2-Lot Subdivision (Excision of 2 Dwellings) in the Farming Zone of an existing lot of 10.42 hectares. The subdivision proposes the creation of an allotment for the existing dwellings. The subdivision is detailed as:

1. Proposed Lot 1: 0.845 hectares and proposed to accommodate the existing dwelling/s and associated outbuildings.
2. Proposed Lot 2: 9.575 hectares being the balance lot and contains the existing vineyard.

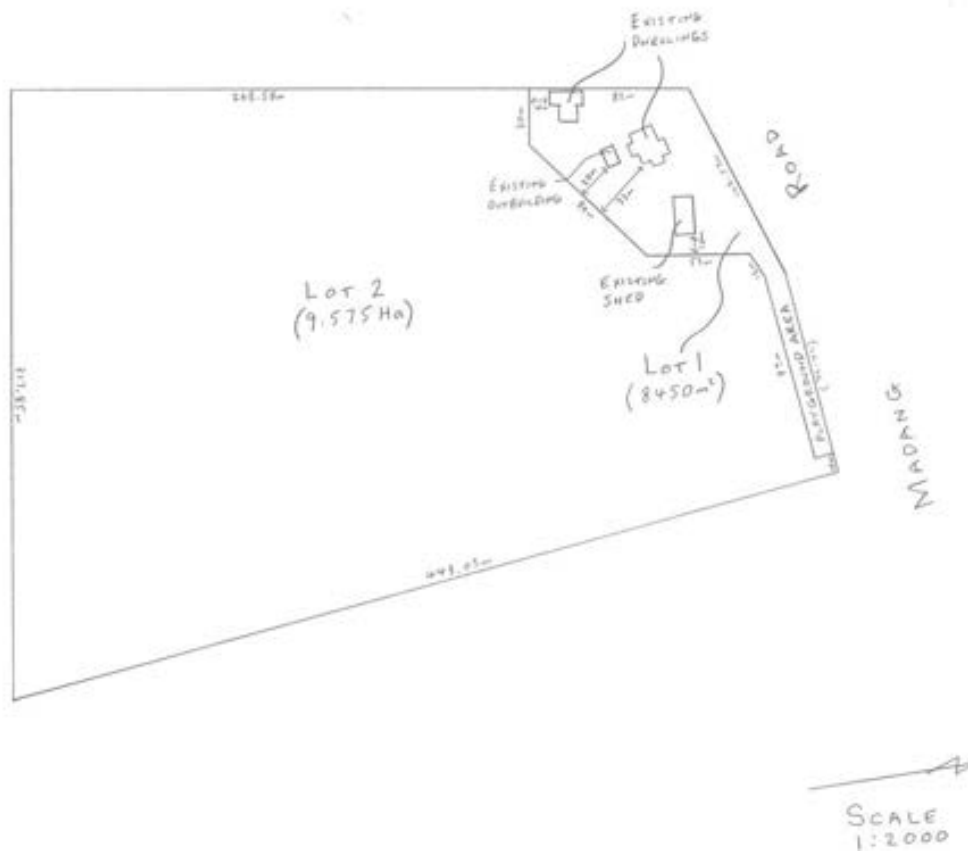


Figure 4: Proposed plan of subdivision submitted with the application.

The application contained the following information/documents:

1. Application form
2. Copy of Certificate of Title and Title Plan
3. Proposed hand drawn plan of subdivision
4. Brief written planning report
5. A cultural heritage planning assessment.

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The application documentation described the purpose of the subdivision is for the current owner to sell proposed Lot 2 (vineyard balance lot) to a prospective purchaser and the purchaser does not require the dwellings, shed or outbuildings. The application does not include any information regarding consolidating the land with the prospective purchaser's land or where the prospective purchaser has other horticultural land.

The application also advises the proposed subdivision will require a small area of vines to be removed (approximately 1000m<sup>2</sup> of vines).

The land is within the Robinvale Irrigation District.

### Permit Application History

Below is a review of the permit application history:

- The application was submitted to Council on 14/07/2023.
- The proposal is almost identical to a recent VCAT decision that upheld Council's decision to refuse the application for a 2 lot subdivision (dwelling excision) in the Farming Zone at 124 Lae Road, Robinvale (*P819/2023 Davoli v Swan Hill RCC 2023*)

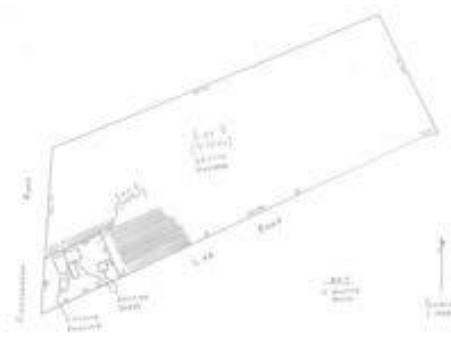


Figure 5: Proposed plan of subdivision refused by VCAT for 124 Lae Road, Robinvale

- The application was not advertised as it was regarded from the outset by officers that the proposal was unable to be supported. In such instances it is sound planning practice to not put the applicant to further expenditure through additional stages that involves additional costs.
- There was no request for further information.
- The application was not required to be referred under Section 55 of the Act.
- Internal advice was requested to the Engineering Department and the application was also referred to Lower Murray Water under Section 52 for comment. No objections were received.
- Letter was sent to applicant on 15/08/2023 advising the application would be recommended for refusal by the Planning Department and listed the reasons for refusal. The letter also offered a 75% refund of application fees should the application be withdrawn by the applicant. On the same day the applicant responded requesting the application be put before a Council meeting for a decision by Councillors.
- A second letter was sent to the applicant on 24/08/2023 advising the application will be recommended for refusal and will be included in the next available Councillor Assembly briefing session. The offer to withdraw the application was again proposed to the applicant. A response was received from the applicant on 25/08/2023 advising the applicant position remains and advised they wish to be heard before Councillors prior to a determination being made by Councillors.

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**Site History**

There is no site history relevant to this proposal.

**Restrictive Covenant / Section 173 Agreement**

Nil

**Public Notification**

The application was not advertised as it was regarded from the outset by officers that the proposal was unable to be supported. In such instances it is sound planning practice to not put the applicant to further expenditure through additional stages that involves additional costs.

**Cultural Heritage Management Plan**

Not required.

**Referrals**

There are no referral authorities specified in the planning scheme for an application of this type.

The application was referred to Lower Murray Water and Council's Engineering Department for comment in accordance with Section 52 of the Act. Both had no objection subject to conditions.

Lower Murray Water:

- 4 conditions and 4 permit notes relating to water and drainage services to the land and meet LMW requirements for easements.

Council's Engineering Department:

- 1 condition relating to ensuring stormwater remains within each lot.

**Municipal Planning Strategy (MPS)**

**Clause 02-03-4 Natural resource management**

This clause is based around the need to preserve and protect the valuable agricultural and horticultural land within the municipality, particularly from the impacts of additional dwellings or small lot subdivisions in farming areas. The clause also recognises that significant fragmentation has already occurred, particularly in high value irrigated areas close to the Murray River.

The clause goes on to include the following statements:

*In order to manage the natural resources in the Rural City, Council will:*

- **Protect horticultural and dryland agriculture because it is fundamental for economic growth.**
- **Discourage small lot subdivision in rural areas that undermines the productive agricultural base of the Rural City.**
- **Discourage dwellings in rural areas that are not related to agriculture.**
- *Discourage land uses in the Farming Zone that are not directly related to agriculture, or that have an adverse impact on agricultural opportunities.*
- *Support rural industry so long as it is associated with a rural activity.*
- *Direct rural industries to locations where the impact on agricultural land and off-site effects are minimised, and where good road access is available.*
- *Encourage the proper siting and design of intensive animal production to protect residential amenity and environmental quality.*

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It is considered the proposal is contrary to Clause 02.03-4 (Natural Resource Management) of the Municipal Planning Strategy in relation to the protection of agricultural land and discouraging small lot subdivision in rural areas that undermines the productive agricultural base of the Swan Hill Rural City Council.

**Planning Policy Framework (PPF)**

The proposal is contrary to the following clauses in Clause 14.01 of the PPF:

- Clause 14.01-1S – Protection of agricultural land
- Clause 14.01-1L – Agriculture

The proposal is contrary to Clause 14.01 (Agriculture) of the PPF for the following reasons:

1. It will result in inappropriate fragmentation of rural land.
2. Does not consolidate existing isolated small lots in rural zones.
3. Small lot subdivision is discouraged for personal and financial circumstances, and for rural lifestyle purposes.
4. Small lot subdivision is discouraged unless the balance lot is at least the minimum lot size specified in the zone (20ha), which the proposal does not meet.

The above sections of the PPF are further detailed below and note Clause 14.01-1L provides detailed policy regarding small lot subdivisions.

**Clause 14.01 – Agriculture**

**Clause 14.01-1S Protection of agricultural land**

**Objective**

*'To protect the state's agricultural base by preserving productive farmland'.*

**Strategies**

- Identify areas of productive agricultural land, including land for primary production and intensive agriculture.
- Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.
- Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.
- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.
- Prevent inappropriately dispersed urban activities in rural areas.
- Protect strategically important agricultural and primary production land from incompatible uses.
- Limit new housing development in rural areas by:
  - Directing housing growth into existing settlements.
  - Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
  - Encouraging consolidation of existing isolated small lots in rural zones.
- In considering a proposal to use, subdivide or develop agricultural land, consider the:
  - Desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
  - Compatibility between the proposed or likely development and the existing use of the surrounding land.
  - The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
  - Land capability.
- Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.



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Clause 14.01-1L Agriculture

Objective

*'To discourage small lot subdivision that prejudices surrounding agricultural activities'.*

Strategies

Strategy	Response
Discourage 'small lot' subdivision unless the balance lot is at least the minimum lot size specified in the zone.	<b>X Strategy NOT MET</b> Both proposed lots are less than then 20ha minimum lot size specified in the zone.
<i>Discourage small lot subdivision to meet personal and financial circumstances.</i>	<b>X Strategy NOT MET</b> The application as submitted demonstrates the subdivision is required to meet personal and financial circumstances as the applicant is seeking to continue living in one of the existing dwellings but wants to sell the vineyard, while the prospective purchaser is wanting to purchase the vineyard but does not require the dwellings and associated buildings.
<i>Prevent small lot subdivision to create lots for 'rural lifestyle' purposes.</i>	<b>X Strategy NOT MET</b> The proposal clearly creates a lot for 'rural lifestyle' purposes as the existing owner intends to continue to reside in his dwelling and not be associated with the rural use of the land. There is no indication of the proposed use of the second dwelling. The size of proposed Lot 1 clearly demonstrates the lot will not have an associated farming use.
<i>Encourage any excised lot to be of a manageable size that maintains sufficient land on the balance lot to support agricultural activity.</i>	<b>X Strategy NOT MET</b> It is unsure if the existing horticultural activity is viable. The application was not supported by a farm management plan to demonstrate the viability of the existing vineyard.
<i>Require the excision of a dwelling to be via the re-subdivision of existing lots so that the number of lots is not increased.</i>	<b>X Strategy NOT MET</b> The subdivision is not being undertaken via the re-subdivision of existing lots. The application is for a 2 lot subdivision of an existing allotment.
<i>Discourage the creation of long, narrow lots, 'axe handle' lots or island-style lots.</i>	<b>Strategy MET</b>
<i>Discourage subdivisions that will impact on significant farm infrastructure.</i>	<b>? Insufficient information provided</b> There is no information provided in the application determine if the subdivision will impact on farm infrastructure. It is known 1000m <sup>2</sup> of existing vineyard will be removed for the subdivision, reducing the viability of the farming land.
<i>Discourage further subdivision (by any method) of land where a dwelling has already been excised from the land.</i>	<b>Strategy MET</b> No previous dwelling has been excised from the land.
<i>Discourage the excision of a dwelling if it is required for the carrying out of agricultural activities on the land.</i>	<b>X Strategy NOT MET</b> It has been stated in the application the dwellings are no longer required for the horticultural activity on the land. Although, this is the current circumstance, history of the land provides evidence the dwellings have been required for the existing horticultural land use and this does not mean it will not be required again in the future. The proposal

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	will remove the potential for the dwellings to be used in association with the horticultural use of the land in the future.
<i>Ensure the excision dwelling is habitable and has existing use rights under Clause 63.</i>	<b>X Strategy NOT MET</b> No information was provided to determine if the existing dwellings on the land have existing use rights in accordance with Clause 63.
<i>Encourage a beneficial agricultural outcome for the land.</i>	<b>X Strategy NOT MET</b> The proposal does not provide a beneficial agricultural outcome and no evidence has been provided. The application was not supported by a farm management plan that could demonstrate a beneficial outcome. Given the limited information provided with the application, there is no factual comment that can be made to whether there is beneficial outcome as a result of the subdivision.
<i>Consolidate land in the same ownership if consolidation would facilitate the productive use of land.</i>	<b>N/A</b>
<i>Whether there is a need for an agreement under Section 173 of the Act that specifies that the land may not be further subdivided (except in accordance with the minimum lot size in the zone).</i>	<b>COMMENT:</b> The applicant has suggested the inclusion of a Section 173 Agreement on the balance lot to prevent the construction of a dwelling on this allotment.  Should a permit be granted, it is considered a Section 173 Agreement would be required to ensure no further dwellings are constructed on the balance lot and the land is not further subdivided by any means unless via consolidation.

The assessment of the strategies outlined in Clause 14.01-1L demonstrates the proposal is contrary to policy for small lot subdivision.

On balance, the proposal as submitted does not adequately justify the proposal.

## Zoning

### Clause 35.07 Farming Zone

#### Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

#### Clause 35.07-3 Subdivision

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

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- **The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.**
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

The Schedule to the Farming Zone stipulates the **minimum subdivision area is 20ha** of all land which is in a gazetted irrigation district or where a water use licence has been issued and applied to land for horticultural production purposes. This proposal is contrary to this requirement as both lots are below 20ha. In fact, the balance lot is proposed to be only 9.575ha.

It is acknowledged a permit may be granted to create a smaller lot in accordance with Clause 35.07-3, but the creation of the smaller lot/s must be assessed against the relevant planning policy, Municipal Planning Strategy (MPS) and decision guidelines of the Swan Hill Planning Scheme.

It is considered the proposal is contrary to not only the purpose and decision guidelines of the Farming Zone, the application fails to be supported by planning policy and the MPS as previously detailed in this report.

#### Overlays

Nil

#### Particular Provisions

##### Clause 65 Decision guidelines

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

##### Clause 65.02 Approval of an application to subdivide land

In accordance with Clause 65.02, before deciding on an application to subdivide land, the Responsible Authority must also consider, as appropriate:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

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### Assessment

This application is for a 2 lot subdivision (excision of 2 dwellings) in the Farming Zone and is strongly discouraged by the Swan Hill Planning Scheme.

The application may be made in accordance with Clause 35.07-3 of the Farming Zone as it provides the ability to submit a planning application for a subdivision to create a lot for an existing dwelling and the subdivision must be a two lot subdivision. This does not mean that because a permit can be submitted for an application, a permit will be granted. The application must be assessed against the relevant planning policy, MPS, purpose and decision guidelines of the zone, and other relevant sections of the Swan Hill Planning Scheme.

Any application submitted to Council for assessment must also contain adequate information to enable a decision to be made. It is considered the application as submitted did not contain adequate information to justify the proposal. The application was not supported by a farm management plan demonstrating how the subdivision will benefit the future farming use of the land. Comments were made about a farmer in the area is potentially purchasing the horticultural balance lot, but this has not been substantiated in the application.

Dwelling excisions on rural allotments of this nature can have detrimental effects on the future operation of farming land if the subdivision does not have a direct relationship with the farming activity on the land. It is essential to ensure that any decision to approve a dwelling excision, that there is a beneficial farming outcome. In this instance, it is considered the current owner wishes to reside in one of the excised dwellings and there is no guarantee the current owner will not sell the excised dwelling lot to someone else in the future that wishes to use the dwelling as a rural lifestyle lot, which will potentially create land use conflicts with the existing farming use of the land.

It is unfortunate there have been a large number of dwelling excisions allowed in the Farming Zone across the municipality creating residential allotments in the Farming Zone. This can cause 'right to farm' issues, unnecessary land use conflicts and loss of agricultural land. Allowing excisions of dwellings on farming lots creates residential areas within the Farming Zone that slowly over time creates a greater loss of agricultural land. The poor planning outcomes of previous decisions should not be a consideration of whether to approve the current application.

The application was presented to a Council Assembly meeting which gave the applicant and owner an opportunity to address Councillors on the application. The owner addressed Councillors advising that he and his family wish to continue to reside in one of the dwellings to be excised and not operate the horticultural use of the land. This ultimately creates a residential use of the existing dwellings within a farming area that planning policy strongly discourages as the dwellings will have no link to any farming use. The excised dwellings lot is also too small for any sustainable and productive farming use. This ultimately removes the land from any future agricultural production.

The subdivision will enable each lot to be separately disposed of. The application does not contain adequate detail on how the subdivision will create a better farming outcome. If approved, the subdivision would be difficult to reverse in the future. There is potential for future consolidation of the land with adjoining land to create larger farming lot sizes, but this is not part of the application submitted to Council and cannot be considered in the assessment of the application. The proposal ultimately represents a major shift from the existing horticultural use on the site to a horticultural lot and a residential lot that has no direct relationship with a farming use.

The applicant has suggested the inclusion of a Section 173 Agreement on the balance lot to prevent the construction of a dwelling on this allotment. This is considered appropriate should a permit be granted. The agreement would also include no further subdivision by any means with the exception of consolidation.

There are many VCAT decisions within the Swan Hill Rural City Council municipality for similar Farming Zone subdivision applications that do not support this type of subdivision. Many of the decisions are recent and the recommendation contained within this report is consistent with the relevant VCAT decisions. The VCAT decisions are discussed in more detail in the next section of this report.

Accordingly the recommendation is to refuse to issue a permit in this instance subject to the reasons outlined at the end of this report.

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Swan Hill Rural City Council VCAT Decisions

The assessment of this planning application is consistent with recent VCAT decisions within the Swan Hill municipality and are detailed below. **The VCAT decisions reinforce the recommendations from Council's Planning Department are consistent with the Swan Hill Planning Scheme and relevant VCAT decisions.**

1. **Davoli v Swan Hill RCC [2023] VCAT P819/2023 (27 October 2023)**

124 Lae Road, Robinvale (almost identical to current application)

Permit applicant: Roy Costa Planning & Development

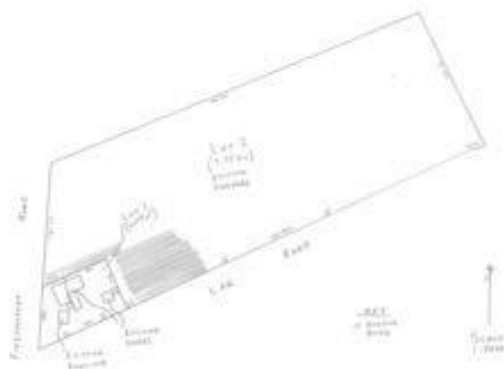
**COUNCIL DECISION UPHELD AND REFUSED BY VCAT**

The Order of this VCAT decision was given orally by VCAT Senior Member Bill Sibonis on 27 October 2023.

This decision of Council to refuse the application was upheld by VCAT and the Order dated 27 October 2023 stated:

- a. *'In application P819/2023 the decision of the responsible authority is affirmed*
- b. *In planning permit application PLN2023048 no permit is granted.'*

This application was almost identical to the current application. The proposal was for a 2 lot subdivision (dwelling excision) in the Farming Zone. The subdivision proposed a dwelling lot (proposed Lot 1) of 0.6699 hectares and a balance lot of 9.75 hectares.



This land is only 7.1km (by road) from the land subject to the current application.



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2. **Zappia v Swan Hill RC [2008] VCAT 1446 (16 July 2008)**

3 Timor Road, Robinvale

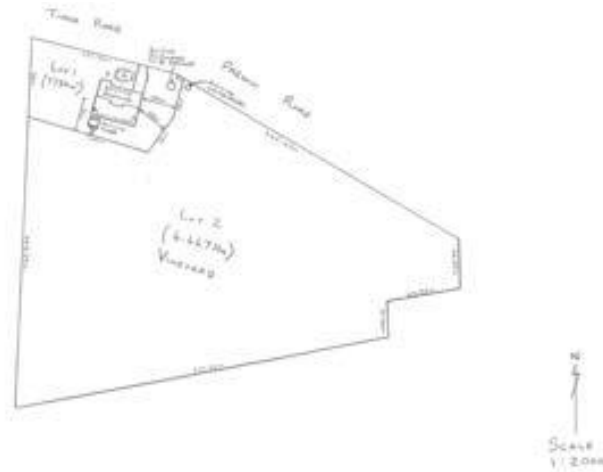
**Permit applicant: Roy Costa Planning & Development**

**COUNCIL DECISION UPHELD AND REFUSED BY VCAT**

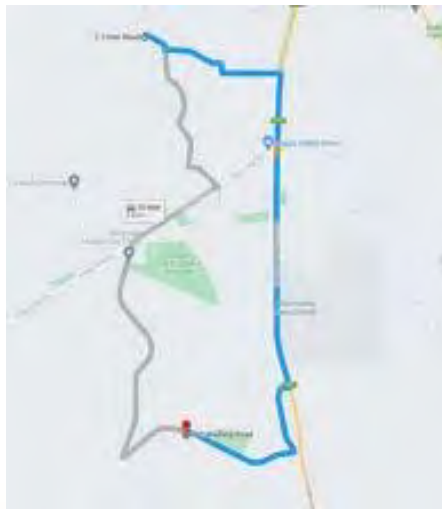
This decision of Council to refuse the application was upheld by VCAT Senior Member Margaret Baird and the Order dated 16 July 2008 stated:

- a. *'The decision of the Responsible Authority in permit application no. 07/169 is affirmed. A permit is not granted and no permit is to be issued.'*

This application was almost identical to the current application. The proposal was for a 2 lot subdivision (dwelling excision) in the Farming Zone. The subdivision proposed a dwelling lot (proposed Lot 1) of 0.7784 hectares and a balance lot of 6.667 hectares. This decision was made by VCAT in 2008.



This land is only 8.8km (by road) from the land subject to the current application.



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3. **Burns v Swan Hill RCC [2023] VCAT 1184 (25 October 2023)**

5 Little Murray Weir, Castle Donnington

**Permit applicant: Roy Costa Planning & Development**

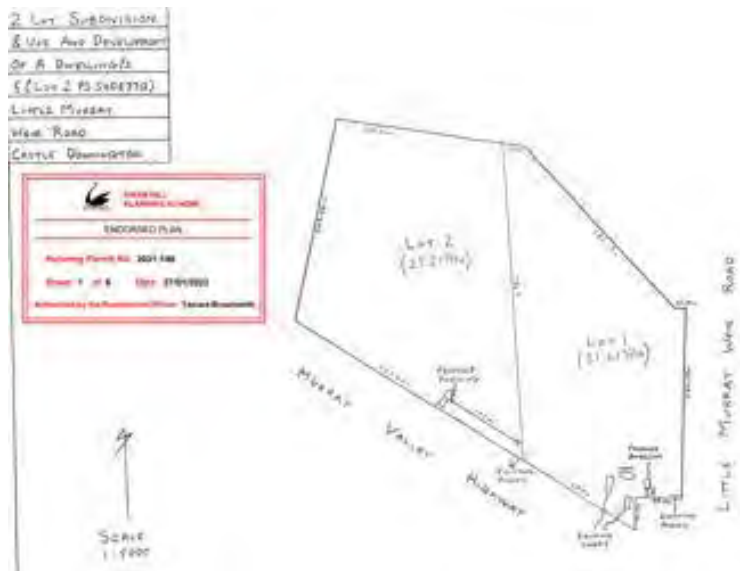
**COUNCIL DECISION UPHELD AND REFUSED BY VCAT**

This decision of Council to refuse the application was upheld by VCAT Member Christopher Harty and the Order dated 25 October 2023 stated:

- a. 'In application P914/2023 the decision of the responsible authority is affirmed
- b. Planning permit 2021-146-2 must not be amended.'

Council originally approved a 2 lot subdivision and development of dwellings on each lot and alteration of access to a Transport Zone 2 road (Department of Transport). This was issued under delegation.

The original approved subdivision is shown below. The subdivision met the requirement of the 20 hectare minimum lot size in the Farming Zone for subdivision in an irrigated area. As the land is also in the Land Subject to Inundation Overlay (LSIO), the application was also approved for a dwelling on each lot as a permit is required only for 'development' in the LSIO. The use of a dwelling does not require a permit on a lot in the Farming Zone on a lot 20 hectares or greater.





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The applicant then applied to Council to amend the application on 05 May 2023 to amend Condition 4 that reads:

4. *Prior to certification of the Plan of Subdivision, the owner/s of the lot/s must enter into an agreement with the Responsible Authority and (name of other authority or person if relevant) in accordance with Section 173 of the Planning and Environment Act 1987. The agreement must provide for:*

- a. *The lots created by the subdivision approved by Planning Permit No. 2021-146 cannot be further subdivided, by any means, to create lots below the minimum lot size of the applicable zone at the time.*

*Prior to a Statement of Compliance being issued:*

- a. *Application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the same Act.*  
b. *The owner/s must pay all costs (including Council's costs) associated with the preparation, execution, registration and (if later sought) cancellation of the Section 173 Agreement.*

VCAT made comment in the Order the intention of deleting condition 4 would allow an application to made for re-subdivision and boundary realignment that could reduce one of the lots to an area less than the minimum lot size under the Farming Zone. This is a scenario Council seeks to avoid and prevent inconsistency with the strategy under Clause 14.01-1S of avoiding subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.

VCAT found:

38. *I find the condition reasonable and regard it as a safeguard to limit lots that will contain a dwelling from being created below the minimum lot size under the FZ as it relates to irrigated areas and the minimum 20 hectares lot size for these areas.*  
39. *I am of the view that, despite Condition 4(a) acting to limit the discretion available under the FZ with respect to dwelling excisions and boundary re-alignments, it supports policy and the purposes of the FZ under the planning scheme, as it relates to irrigation areas and this locality.*  
40. *I accept that the limitation of the condition on the ability to undertake future land swaps, whether to facilitate changes to farming or for the flexibility of agricultural production, is a decision that flows from the changes made to the planning scheme. It is a tangible aspiration for protecting productive agricultural land.*  
41. *In addition, I note that the land has been the subject to a past house lot excision and note a strategy under Clause 14.01-1L that discourages further subdivision (by any method) of land where a dwelling has already been excised from the land. This further reinforces my view that Condition 4(a) should not be amended as sought by the applicants.*

For the reasons above, Council's decision to refuse the application to amend the permit to delete Condition 4 was upheld by VCAT and no amendment was granted.

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**Recommendation**

That Planning Permit Application Number **PLN2023057** be determined pursuant to Section 65 of the *Planning and Environment Act 1987* by issuing Notice of Decision to Refuse a planning permit for **2-Lot Subdivision (Excision of 2 Dwellings) in the Farming Zone on 110 Madang Road, Robinvale 3549** subject to the following grounds:

1. The proposal is contrary to Clause 02.03-4 (Natural Resource Management) of the Municipal Planning Strategy in relation to the protection of agricultural land and discouraging small lot subdivision in rural areas that undermines the productive agricultural base of the Swan Hill Rural City Council.
2. The proposal is contrary to Clause 14.01 (Agriculture) of the Planning Policy Framework for the following reasons:
  - a) It will result in inappropriate fragmentation of rural land
  - b) Does not consolidate existing isolated small lots in rural zones.
  - c) Small lot subdivision is discouraged for personal and financial circumstances, and for rural lifestyle purposes.
  - d) Small lot subdivision is discouraged unless the balance lot is at least the minimum lot size specified in the zone (20ha), which the proposal does not meet.
3. The proposal is contrary to the purpose and decision guidelines of the Farming Zone in relation to the protection and retention of productive agricultural land.
4. The proposal will set a precedent for similar Farming Zone land within the municipality that would contradict the purpose and decision guidelines of the Farming Zone and threaten the productive agricultural base of the Swan Hill Rural City Council.
5. The applicant has not provided adequate evidence of the existing dwellings having existing use rights in accordance with Clause 63 of the Swan Hill Planning Scheme.

Report prepared by:



Warrick Fisher  
Planning Team Leader  
**Date:** 13 November 2023

Peer Reviewed by:



Kate Jewell  
Development Manager  
**Date:** 14 November 2023

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**PROPOSED PLANNING CONDITIONS**

**Application No:** PLN2023057  
**Address:** 110 Madang Road Robinvale VIC 3549  
**Proposal Description:** 2-Lot Subdivision (Excision of 2 Dwellings) in the Farming Zone

**Plans**

1. The layout of the subdivision must not be altered from the layout on the approved and endorsed plans without the written consent of the Responsible Authority.

**Services**

2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas (where it is proposed to be connected) services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.

**Easements**

3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

**Certification of Plan**

4. The plan of subdivision submitted for Certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

**Statement of Compliance**

5. Before the Statement of Compliance is issued under the Subdivision Act 1988, all planning conditions and all other requirements of the Responsible Authority and the relevant referral authorities must be completed or satisfactorily provided for, to the satisfaction of the Responsible Authority and the relevant referral authorities.

**Rural Stormwater**

6. Before the Statement of Compliance is issued under the Subdivision Act 1988, the permit holder must ensure that stormwater runoff from both lots approved by this subdivision can be retained within the boundaries of each lot to the satisfaction of the Responsible Authority.

**Section 173 Agreement**

7. Before the Statement of Compliance is issued under the Subdivision Act 1988, the owner must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987. The agreement must provide for the following:
  - a) No further subdivision by any means with the exception of consolidation.

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- b) No dwelling is permitted on proposed Lot 2.
- c) The owner of Lot 1 acknowledges and accepts the possibility of nuisance from agricultural activities on adjacent and near land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.

The owner of the land must pay all of the Responsible Authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

**Lower Murray Water Conditions**

- 8. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to Lower Murray Water pursuant to Section 8 of that Act.
- 9. The requirements of Lower Murray Water must be met, regarding the provision of water supply and drainage services to the land, including payment of all associated costs prior to the Corporation agreeing to the issue of a Statement of Compliance.
- 10. The holder of this permit or authorised agent must meet Lower Murray Water's requirements regarding easements in favour of the Lower Murray Urban and Rural Water Corporation prior to the submission of any plan of subdivision for Certification.
- 11. The applicant or owner must lodge a Rural Subdivision Application and complete any requirements necessary to amend the Victorian Water Register and conditions listed by Lower Murray Water related to irrigation and drainage pursuant to Section 11 of the Water Act 1989.

**Permit Expiry**

- 12. This permit as it relates to development (subdivision) will expire if one of the following circumstances applies:
  - a) The plan of subdivision has not been certified under the Subdivision Act 1988 within 2 years of the issued date of this permit.
  - b) A statement of compliance is not issued within 5 years of the date of certification.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

**PERMIT NOTES:**

**Lower Murray Water notes:**

- a. The land is located outside the Corporation's Urban Water District and is not available.

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- b. The land is located outside the Corporation's Sewerage District and is not available.

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

**PLANNING AND ENVIRONMENT LIST**

VCAT REFERENCE NO. P1586/2023  
PERMIT APPLICATION NO. PLN2023057

**CATCHWORDS**

<b>APPLICANT</b>	Phillip Anthony Englefield
<b>RESPONSIBLE AUTHORITY</b>	Swan Hill Rural City Council
<b>REFERRAL AUTHORITY</b>	Lower Murray Urban and Rural Water
<b>SUBJECT LAND</b>	110 Madang Road ROBINVALE VIC 3549
<b>HEARING TYPE</b>	Practice Day Hearing
<b>DATE OF HEARING</b>	12 July 2024
<b>DATE OF ORDER</b>	15 July 2024
<b>CITATION</b>	Englefield v Swan Hill Rural CC [2024] VCAT 652

**ORDER**

- 1 The request by the applicant for a six month adjournment of the scheduled main hearing on 30 July 2024 is refused.
- 2 In the situation where the applicant has indicated that he has no interest in advancing the original proposal that Council relied upon in issuing its Notice of Refusal to Grant a Permit and there have been no new plans lodged for Council/VCAT to consider, the scheduled main hearing on 30 July 2024 is vacated.
- 3 With reliance upon the two above orders and my Reasons set out below, this proceeding is summarily dismissed pursuant to Section 75 of the *Victorian Civil and Administrative Tribunal Act 1998* (Vic).

Philip Martin  
**Senior Member**



**APPEARANCES**

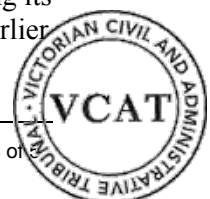
For applicant	R Costa, Roy Costa Planning and Development
For responsible authority	D Song, SongBowden Planning Pty Ltd
For referral authority	No appearance





## REASONS

- 1 In relation to the subject land at 110 Madang Road in Robinvale, this proceeding involves a planning permit application for a two lot subdivision (excision of two dwellings). Council does not support same and has issued a Notice of Refusal to Grant a Permit (NOR). The applicant has sought a Tribunal planning merits review of the NOR, which in practice has involved a scheduled compulsory conference (CC) which has already occurred and a forthcoming main hearing (MH) on 30 July 2024.
- 2 The offering to the parties of a CC is the Tribunal in particular giving the permit applicant the opportunity to take the initiative at the CC to 'think outside the box' and discuss different possibilities to seek to resolve the planning dispute. For example, it is common for permit applicants at CCs to prepare and table 'without prejudice plans' or offer certain design concessions, to explore if this can 'resolve the impasse'.
- 3 I understand that in practice, here the permit applicant took a fairly passive position into the CC – certainly there were no follow-up steps or 'exploring of design changes' coming out of the CC process. Hence I understand that coming out of the CC, the parties remained a long way apart with their positions on the proposal.
- 4 Two further developments were that:
  - The applicant sought a six month adjournment of the MH and a Practice Day Hearing (PDH) was scheduled for 12 July 2024 to deal with this.
  - The applicant and Council I understand met on 10 July 2024 to review where the proposal was up to. However I understand that no settlement came out of this meeting and essentially the status quo remains between the parties.
- 5 As the presiding member at the PDH, I heard submissions from Mr Song for Council and from Mr Costa for the applicant.
- 6 On the one hand, Mr Song confirmed that Council still has major reservations about the proposal and that the meeting on 10 July 2024 has not changed that.
- 7 On the other, Mr Costa indicated that his client is now considering meaningful changes to the proposal, where Mr Costa is seeking a six month adjournment of the MH for such changes to be pursued. He expressed hope that such changes might result in a consent position between the parties at a later stage.
- 8 Turning to my own findings, there seems four possible outcomes in play here, as follows.
- 9 First, does the applicant still have any interest in the scheduled MH going ahead on the basis of the earlier plans that Council relied upon, in issuing its NOR? Alternatively, has the 'debate moved on', so as to make these earlier plans now effectively redundant?



- 10 I put this question to Mr Costa and he confirmed that his client has no interest in still pursuing and relying upon the ‘NOR plans’. So it is self-evident that there is no point in the scheduled MH going ahead.
- 11 Second, there was a discussion about whether it is fair and reasonable for the scheduled main hearing to be adjourned for another six months or so, as the applicant proposes. Near the end of the discussion, I confirmed that I did not see any reasonable case for such a ‘six month adjournment’.
- 12 In other words, even if Council supports such a long adjournment (which it does here):
  - There is still an inherent question as to ‘what is reasonable in all the circumstances’?
  - The Tribunal has its own expectations as to how planning merits review hearings need to be run at the Tribunal and how parties need to conduct themselves along the way.
- 13 It is just not ‘how the Tribunal does its business’ for the Tribunal to allow parties a MH adjournment for as long as six months, simply to allow a party to go away and have a think about how it might amend its planning permit application and then have a chat to Council about this. That is the whole point of the CC process – the CC was there as an opportunity for the applicant to be a bit creative and discuss with Council how the proposal might be varied so as to try to ‘reach middle ground’ and settle the proceeding. In the circumstances here, it would appear the applicant did not take up that opportunity.
- 14 At the very end of the Tribunal discussion, I indicated that I would be reserving my decision on the third and fourth possible outcomes, which are:
  - Whether to remit the proposal back to Council (which the applicant supports but which Council opposes).
  - Alternatively, to summarily dismiss this proceeding pursuant to Section 75 of the *Victorian Civil and Administrative Review Tribunal Act 1998* (Vic) (VCAT Act). This was strongly opposed by Mr Costa. Council did not particularly lobby for this outcome but did not actively oppose it either.
- 15 In terms of the ‘summary dismissal’ option, the main principles and points to consider are helpfully clarified in the leading case of *Axicom Pty Ltd v Melton CC* (Red Dot) [2020] VCAT 190. Some main points made by DP Dwyer in this decision are that for a proceeding to be summarily dismissed, the proceeding must be “obviously unsustainable in fact or in law, can on no reasonable view justify relief, or must be bound to fail”. DP Dwyer similarly states that it must be very clear that the proceeding is “absolutely hopeless”.
- 16 Another possible grounds for ‘summary dismissal’ is that the proposal is fatally ‘misconceived’ or ‘lacking in substance’.



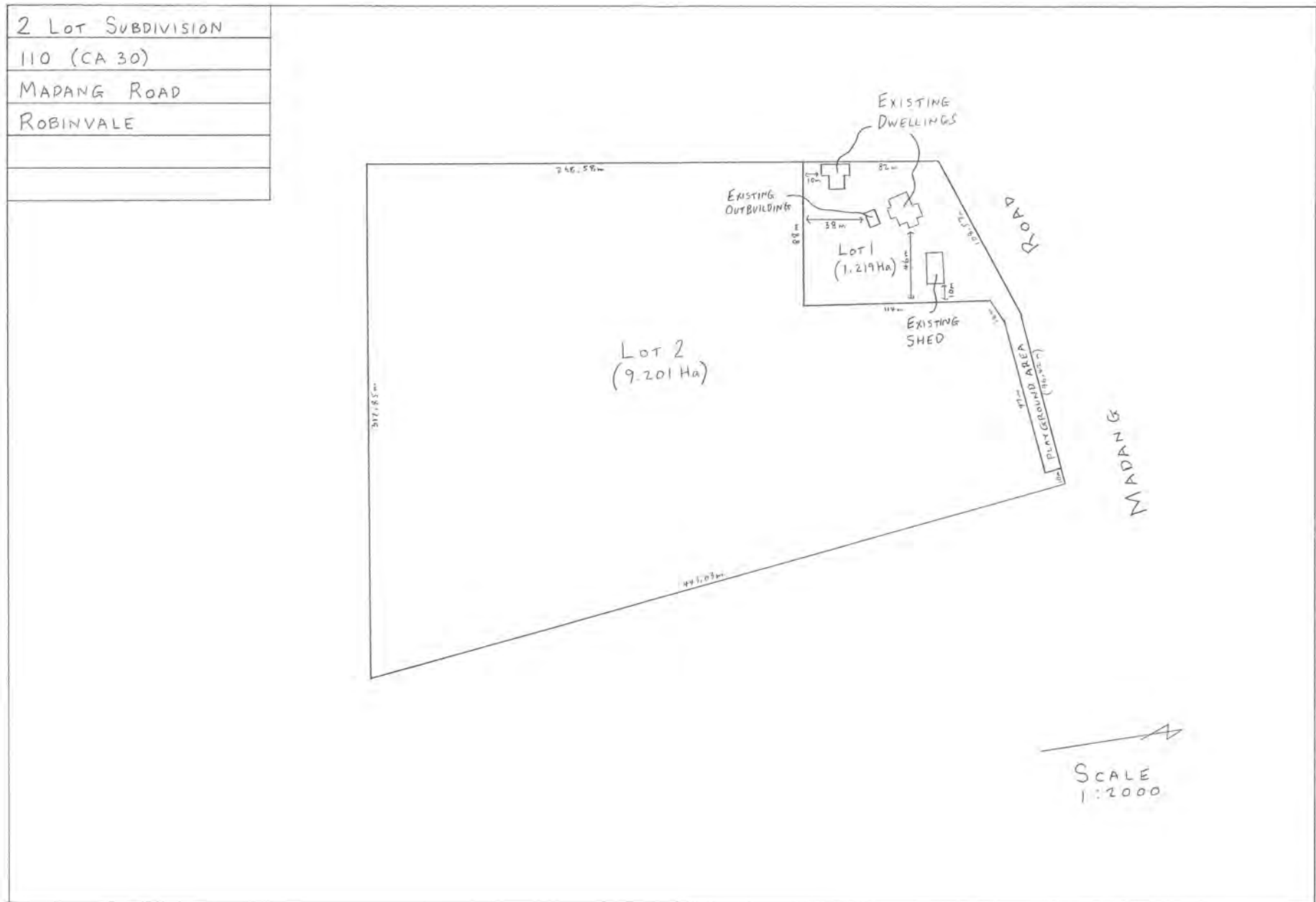
- 17 For the following reasons, my finding is that it is fair and reasonable that this proceeding be summarily dismissed pursuant to Section 75 of the VCAT Act.
- 18 It is clear from Mr Costa's presentation to me at the PDH that the applicant has effectively 'left behind' the 'NOR plans' and now only wishes to actively pursue some form of revised proposal. Furthermore, Mr Song emphasised to me at the PDH that Council's understanding is that any such revised proposal would not be 'tinkering around the edges' but a significantly different proposal.
- 19 Also the applicant had the chance to explore at the CC some form of revised proposal, but did not take this up. The Tribunal does not run CCs 'just for the fun of it' – there are resourcing implications for the Tribunal in offering a CC to the parties and the parties need to take this situation seriously.
- 20 In addition, I find that it is a fatally 'misconceived' situation and this Application for Review is fatally 'lacking substance' where the permit application has lodged its appeal to VCAT on the basis of the earlier plans which Council relied upon in issuing its NOR, yet the indications are that the applicant in the run up to the MH wishes to in practice 'change horses' and pursue a noticeably different form of proposal that might require fresh public advertising<sup>1</sup>. This sounds and feels very much like a 'start again' situation. If it is a 'start again' type of situation, it seems very fair to ask the question why this dispute should remain at the Tribunal and I am not seeing any real reasons to justify this.
- 21 In summary then, for the reasons set out above, this proceeding is summarily dismissed pursuant to Section 75 of the VCAT Act. It follows that there is no need for me to consider the 'remittal' option.





Philip Martin  
**Senior Member**

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<sup>1</sup> During the PDH hearing, when this was discussed, Mr Costa did not deny in itself the possibility that the anticipated changes to the proposal might require fresh public advertising.






 <p>SWAN HILL Rural City Council</p> <p>Planning Enquiries Phone: (03) 5032 0322 Web: <a href="http://www.swanhill.vic.gov.au">www.swanhill.vic.gov.au</a></p>	<b>Office Use Only</b>	
	VicSmart:	<b>No</b>
	Specify class of VicSmart application:	
	Application No:	Date Lodged:
<h2 style="text-align: center;">Application for Planning Permit</h2> <p>If you need help to complete this form, read <a href="#">How to complete the Application for Planning Permit form</a>.</p> <p> Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the <i>Planning and Environment Act 1987</i>. If you have any concerns, please contact Council's planning department.</p> <p> Questions marked with an asterisk (*) are mandatory and must be completed.</p> <p> If the space provided on the form is insufficient, attach a separate sheet.</p>		

### Application type

Is this a VicSmart Application?\*

No

If yes, please specify which VicSmart class or classes:

 If the application falls into one of the classes listed under Clause 92 or the schedule to Clause 94, it is a VicSmart application

### Pre-application meeting

Has there been a pre-application meeting with a Council planning officer?

False

If 'yes', with whom?:

Date:

day / month / year

## The Land

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address\*

Unit No:

St. No: **110**


St. Name: **MADANG ROAD**

Suburb/Locality: **ROBINVALE**

Postcode: **3549**

Formal Land Description\*

Complete either A or B

 This information can be found on the certificate of title.

**A**

Lot No:

☐

Lodged Plan

☐

Title Plan

☐

Plan of Subdivision

No:

**OR**

**B**


Crown Allotment No:

Section No:

Parish/Township Name:

If this application relates to more than one address, please attach details.

## The Proposal

 You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.

**① For what use, development or other matter do you require a permit?\***

2 Lot Subdivision



Provide additional information on the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

**① Estimated cost of development for which the permit is required\***

Cost \$0.00



You may be required to verify this estimate  
Insert '0' if no development is proposed

Insert '0' if no development is proposed (eg. change of use, subdivision, removal of covenant, liquor licence)

## Existing Conditions

**Describe how the land is used and developed now\***

Eg. vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Dwellings, Shed, Outbuilding and Horticulture



Provide a plan of the existing conditions. Photos are also helpful.

## Title Information

**Encumbrances on title\***

If you need help about the title, read: [How to complete the Application for Planning Permit form](#)

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- ☐ Yes. (if 'yes' contact Council for advice on how to proceed before continuing with this application.)
- ☐ No
- ☐ Not applicable (no such encumbrance applies).



Provide a full, current copy of the title for each individual parcel of land forming the subject site.  
(The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments' eg restrictive covenants.)

## Applicant and Owner Details ①

Provide details of the applicant and the owner of the land.

### Applicant \*

The person who wants the permit

Please provide at least one contact phone number \*

### Owner \*

The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organisation.

Name:		
Title:	First Name: <b>Roy</b>	Surname: <b>Costa</b>
Organisation (if applicable): <b>Roy Costa Planning &amp; Development</b>		
Postal Address		If it is a PO Box, enter the details here:
Unit No:	St. No: <b>PO Box 2925</b>	St. Name:
Suburb/Locality: <b>Mildura</b>		State: <b>VIC</b> Postcode: <b>3502</b>
<b>Contact Information</b>		
Business Phone: <b>5021 0031</b>		Email: <b>admin@roycosta.com.au</b>
Mobile Phone:		Fax:
Name:		
Title: <b>Mr.</b>	First Name: <b>Phillip</b>	Surname: <b>Englefield</b>
Organisation (if applicable):		
Postal Address		If it is a PO Box, enter the details here:
Unit No.:	St. No.:	St. Name: <b>PO Box 1010</b>
Suburb/Locality: <b>Robinvale</b>		State: <b>Vic</b> Postcode: <b>3549</b>
Owner's Signature (optional):		Date:
		day / month / year

## Information Requirements

Is the required information provided?

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist.

- ☒ Yes
- ☐ No



## Declaration ⓘ

This form must be signed by the applicant\*

⚠ Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit

I declare that I am the applicant; and that all the information in this application is true and correct and the owner (if not myself) has been notified of the permit application.

Signature:  
Roy Costa  
Roy Costa Planning & Development

Date: 16 August 2024

day / month / year

## Checklist ⓘ

Have you:

☐ Filled in the form completely?

☐ Paid or included the application fee?

⚠ Most applications require a fee to be paid.  
Contact Council to determine the appropriate fee.



Provided all necessary supporting information and document?

☐ A full and current copy of the information for each individual parcel of land forming the subject site.

☐ A plan of existing conditions.

☐ Plans showing the layout and details of the proposal.

☐ Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.

☐ If required, a description of the likely effect of the proposal (eg traffic, noise, environmental impacts).

## Lodgement ⓘ

Lodge the completed and signed form and all documents with:

Swan Hill Rural City Council  
45 Splatt Street,  
Swan Hill VIC 3585  
Telephone: (03) 5036 2352

**Contact information:**

Telephone: (03) 5036 2352

Email: [planning@swanhill.vic.gov.au](mailto:planning@swanhill.vic.gov.au)

1 of 20



Floorplan

**\$920,000**



1 Kokoda Court, Robinvale,  
Vic 3549

 5  2  4  1.13 ha | House

Sales history on [property.com.au](https://property.com.au) 

Looking to buy a place like this?

Domain

Log in

< Sold in Robinvale

Home > Sold > VIC > Robinvale > Free Standing Houses > 4-Bedrooms > 156 Madang Road, Robinvale VIC 3549

↑ Share

☆ Save



Photos 27

Floorplan 1

Video

Virtual Tour

Sold by private treaty 26 Oct 2023

**SOLD - \$450,000**

156 Madang Road, Robinvale VIC 3549

🚗 4

🏠 1

🚗 2

📏 3,000m<sup>2</sup>

House

Property Features

\* Unverified feature ⓘ

Heating\*

unloan

Calculate your borrowing power  
and know your potential instantly with Unloan

Ci

nbn

nbn® Fixed Wireless (FW) is available in this property

What does this mean? ⓘ

Disclaimer

Property Description

Charming Character Home in Lifestyle Location

Positioned perfectly for peace and quiet, this much loved family home offers an exceptional opportunity for a plethora of buyers wishing to secure a quality home.

Page: 227 | 319

ATT: 2.5.4



**\$850,000 - \$875,000**



146 Darwin Road, Robinvale,  
Vic 3549

4 2 2 4.65 ha | Other



Price guide details

Home Loan Calculator





**\$780,000 - \$850,000**



62 Gona Road, Robinvale,  
Vic 3549

 4  2  4  5,390 m<sup>2</sup> | House

 Price guide details

Home Loan Calculator

ONE AGENCY  
MILDURA

656 Anzac Road, Robinvale, Vic 3549



THE SPACE YOU HAVE BEEN LONGING FOR

**\$380,000 - \$418,000**

4 1 4 House

0-3 Ha.

Nestled on nearly three-quarters of an acre, this charming farmhouse offers the tranquility and space you've been longing for. Situated just a 10-minute drive outside of Robinvale, this secluded oasis provides a retreat from the hustle and bustle.

With four bedrooms and one bathroom, this home offers ample space for comfortable living. Step outside to discover established gardens, creating a picturesque backdrop for outdoor enjoyment and relaxation.

For those with hobbies or in need of storage space, the property boasts ample shedding, perfect for tools, equipment, or recreational vehicles.

Experience year-round comfort with evaporative air-conditioning, a wood fire, and a split-system air-conditioner, ensuring ideal temperatures regardless of the season.

Escape the confines of city living and embrace the peace and quiet of rural life. Homes like this are a rare find - seize the opportunity to make it yours.

**Upcoming Inspections**

Fri 19 Jul 10:30 am-11:00 am

**One Agency Mildura - MILDURA**

129 Eighth Street, MILDURA, VIC 3500



**Bec Marciano**  
0449535077

realestate.com.au

Property ID: 144889020





Collie & Tierney

Lot 2 PS216987 Anzac Road, Robinvale, Vic 3549



#### ESTABLISHED WINEGRAPE VINEYARD - LOCATION IS KEY

**\$850,000**

Horticulture

- \*Rarely do quality vineyards come on to the market in the Robinvale region
- \*Comprising 13.34ha in total, this well presented property is planted to 0.65 Muscat Gordo and 11.88ha Cabernet Sauvignon & irrigated by Drip Irrigation with 111 ML AUL
- \*Excellent vineyard infrastructure based on two wire vertical trellis with water supplied by the pressurized Robinvale irrigation system
- \*This presents as an ideal opportunity to secure a good sized vineyard with healthy vines, ready to continue growing high quality winegrapes or purchase to redevelop to high demand table grape varieties

#### Upcoming Inspections

Inspect by appointment, contact agent.

#### Collie & Tierney - First National

67 Lime Avenue, MILDURA, VIC 3500



**Michael Pullen**  
0488046647





Lot 2 PS507823 Anzac Road, Robinvale, Vic 3549



### ESTABLISHED WINEGRAPE VINEYARD - LOCATION IS KEY

**\$850,000**

Horticulture

- \*Rarely do quality vineyards come on to the market in the Robinvale region
- \*Comprising 13.32ha in total, this well presented property has planted 6.7ha Shiraz, 3.3ha Riesling and 2.8ha Gordo and irrigated by Low level sprinklers with 110 ML AUL
- \*Excellent vineyard infrastructure based on two wire vertical trellis with water supplied by the pressurized Robinvale irrigation system
- \*This presents as an ideal opportunity to secure good sized vineyard with healthy vines, ready to continue growing high quality winegrapes or purchase to redevelop to high demand table grape varieties

### Upcoming Inspections

Inspect by appointment, contact agent.

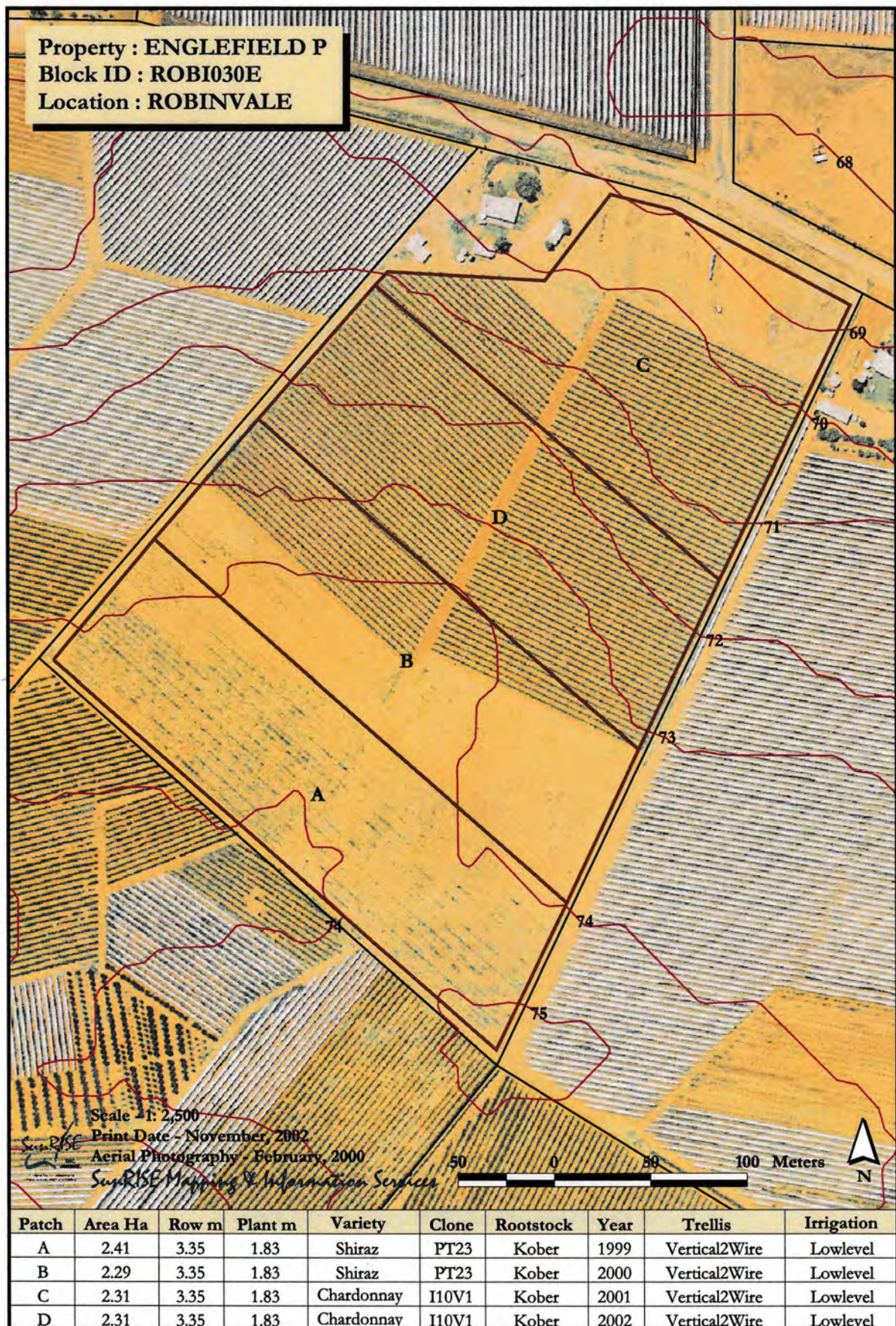
### Collie & Tierney - First National

67 Lime Avenue, MILDURA, VIC 3500



**Michael Pullen**  
0488046647

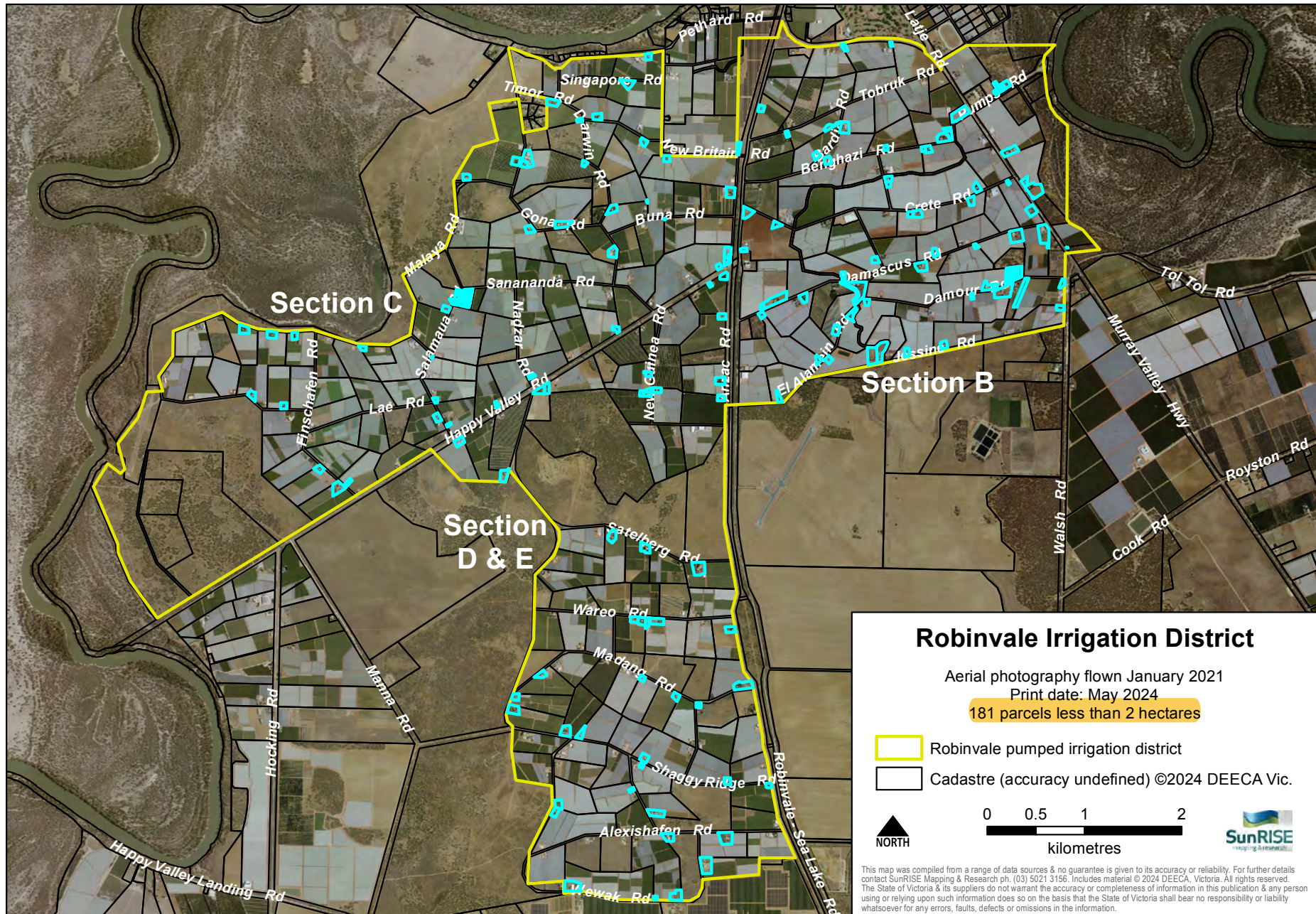














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**From:** Kaleb Sexton <[Kaleb.Sexton@lmw.vic.gov.au](mailto:Kaleb.Sexton@lmw.vic.gov.au)>  
**Sent:** Tuesday, 20 February 2024 12:53 PM  
**To:** [phillipenglefield1@bigpond.com](mailto:phillipenglefield1@bigpond.com)  
**Cc:** Vural Karakurt <[Vural.Karakurt@lmw.vic.gov.au](mailto:Vural.Karakurt@lmw.vic.gov.au)>; James Dewar <[James.Dewar@lmw.vic.gov.au](mailto:James.Dewar@lmw.vic.gov.au)>  
**Subject:** RE: Termination Fee Quotation

Hi Phillip,

Please see attached 'opportunity maps' which outline where delivery share may be transferred to from your property within the Robinvale Irrigation District.

**Please note, transferring delivery share will negate the payment of termination fees (excluding Water Register application fees).**

**The Robinvale irrigation district is a highly utilised district. Whilst it is likely that another property or properties would be willing to accept transfer of your delivery share, due to the fully utilised capacity it is extremely unlikely that delivery share would ever be available to transfer back to your property and drying off would likely be permanent.**

Should you have any questions please feel free to give me a call on 0438 335 059.

Thankyou.

---

**From:** Owen Russell <[Owen.Russell@lmw.vic.gov.au](mailto:Owen.Russell@lmw.vic.gov.au)>

**Sent:** Tuesday, 10 October 2023 9:08 AM

**To:** [phillipenglefield1@bigpond.com](mailto:phillipenglefield1@bigpond.com)

**Subject:** Robinvale family count

Hi Phil there are 89 families that own properties in Robinvale Irrigation District

This could be less due to some properties being held in company names that could be owned by the same people.

Cheers

Owen

Owen Russell

Manager Community and Communications

**Lower Murray Water**

**P:** 03 5051 3491

**M:** 0475 178 111

**E:** [Owen.Russell@lmw.vic.gov.au](mailto:Owen.Russell@lmw.vic.gov.au)

16 February 2024



PAC: 44144  
MERIT: 187158

PA & AT ENGLEFIELD PTY LTD  
PO BOX 1010  
ROBINVALE VIC 3549

Dear Customer

**Termination Fee Quotation**

**Property: Damour Road Robinvale Victoria 3549  
CA 30 Sec E Par Bumbang Vol 10314 Fol 762**

We acknowledge receipt of your Notice of Intention to Terminate the Delivery Shares (DS) to the above property in the 2023-24 water year.

Termination fees relate to the cessation of access to irrigation infrastructure and the consequent obligation to pay irrigation or drainage Delivery Share charges. The termination fee is not based on the volume of water you own or sell but the level of your property's defined access to Lower Murray Water's (LMW's) delivery or drainage infrastructure.

You have the option to terminate the irrigation or drainage defined level of access (Delivery Share) to your property in full or in part, tailoring your property's service access to the LMW network depending on your needs. The termination fee is calculated proportionately, with ongoing charges only payable on any portion elected not to be terminated.

In accordance with the Water Charge (Termination Fees) Rules 2009, which have been made under the Water Act 2007 (Commonwealth), LMW is required to obtain a notice in writing from property owners before accepting any payment for termination fees. The year in which the completed notice of intention is received, is used for the purposes of calculating the termination fees. You may choose not to proceed with termination of Delivery Share once you have received a termination fee quotation, with no obligation.

Based on your submitted Notice of Intention to Terminate, the total termination fee figure is **\$112,154.64**. This is comprised of the following:

- 10.3 Delivery Share units being terminated within the Robinvale Irrigation District
- Delivery Share Fee (irrigation) of \$994.44 per Delivery Share, multiplied by 10
- Property Drainage Fee (irrigation) of \$94.44 per Delivery Share, multiplied by 10



**Mildura (Head Office)**  
741-759 Fourteenth Street  
Mildura Victoria 3500  
PO Box 1438  
Mildura Victoria 3502

**Swan Hill (Area Office)**  
73 Beveridge Street  
Swan Hill Victoria 3585  
PO Box 1447  
Swan Hill Victoria 3585

**Kerang (Area Office)**  
56 Wellington Street  
Kerang Victoria 3579  
PO Box 547  
Kerang Victoria 3579

**Call Centre**  
(incl. 24 Hour Faults & Emergencies)  
1800 808 830  
E [contactus@lmw.vic.gov.au](mailto:contactus@lmw.vic.gov.au)  
ABN 18 475 808 826

[lmw.vic.gov.au](http://lmw.vic.gov.au)





This termination fee does not include:

- An excision fee of \$1,121 which applies to remove this land from the irrigation district if you are terminating in full and changing the land's use.
- The cost of removal of irrigation infrastructure. Although not compulsory to do so, if you would like your outlet removed, please contact LMW for a cost estimate.

At the time of writing, your property has the following entitlements/commodities which may be tradeable:

- 469.8 ML of Water Share associated with the property, as recorded on the Victorian Water Register. Your allocation bank account ABA026831 currently has 436.9 ML of tradable allocation.
- The Water Use licence WUL024552 has 86.1 ML of Annual Use Limit (AUL) associated with it. Before you cancel your licence you may wish to investigate the sale/transfer of AUL to another irrigator before it is surrendered on the cancellation of your licence. Your property is situated in the low impact zone for salinity management.
- 57.5 Delivery Share units. These may be tradeable, and this may be worth you investigating prior to terminating.

A water broker may be able to assist you in trading the above commodities as market prices and demand vary. LMW can assist you in understanding your options and can provide a map to identify potential Delivery Share trade opportunities if you are interested in this option.

As a part of your termination process, 10.3 Delivery Share units are required to be cancelled, with this recorded on the Victorian Water Register via completion of the relevant forms. If the property has a mortgage registered on it, consent from the lender is required to cancel the Delivery Share.

It is important to understand that termination fees are payable **in full** upon cancellation of your Delivery Share. Ongoing quarterly Delivery Share charges continue to apply to the land until termination fees are paid. Upon payment of the termination fees, no further ongoing Delivery Share charges will be applicable (unless only partially terminated).

Once paid, the termination fees are **non-refundable** and any future application for a rural connection on this property will be subject to the rules and fees at that time.

**In order for this termination to proceed, a separation of holdings is required. It is important to note that once a termination has occurred the property will have limited access to a water supply. It is unlikely that future access could be granted and consideration should be given to the valuation of the property without water supply.**

The termination calculations provided are in accordance with the Water Charge (Termination Fees) Rules 2009. For further information on termination fees the Australian Competition and Consumer Commission (ACCC) have produced comprehensive guides about these rules which are available from the ACCC's website – [www.accc.gov.au](http://www.accc.gov.au) The ACCC are the appointed enforcers of the Rules ensuring that LMW comply and adhere to the Rules.

If you wish to proceed with this termination please contact our Rural Customer Team on (03) 5051 3400 or [applications@lmw.vic.gov.au](mailto:applications@lmw.vic.gov.au) who will provide you payment details and the applicable forms to terminate delivery share in the Victorian water register.

If you have any questions in relation to the information provided, please feel free to contact me on 1800 808 830.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kaleb', with a long horizontal stroke extending to the right.

**KALEB SEXTON**  
**SENIOR MANAGER CUSTOMER OPERATIONS**



**LOWER MURRAY URBAN & RURAL WATER CORPORATION  
TERMINATION INFORMATION STATEMENT**

PA & AT ENGLEFIELD PTY LTD  
PO BOX 1010  
ROBINVALE VIC 3549

Date of Issue: 16/02/2024  
Property Reference: 44144  
Request Reference: 187158

**THIS TERMINATION FEE INFORMATION STATEMENT IS VALUD FOR THE PERIOD**  
1/07/2023 TO 30/06/2024

**Property Address:** DAMOUR ROAD ROBINVALE VIC 3549

**Irrigation District:** Robinvale Irrigation District

This termination information statement is current at the time of publication.  
If you wish to proceed with termination more than six months after the date you notified Lower Murray Water of your intention to terminate some or all of your delivery rights, the general termination fee may be calculated on the basis of the schedule of charges in effect on the termination date, and may therefore be higher than the amount specified below.

**Termination Fee Summary:**

Termination Fees:	\$	112,154.64
Other Fees:	\$	-
less Discounts:	\$	-
<b>TOTAL PAYABLE:</b>	<b>\$</b>	<b>112,154.64</b>

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10.3 Delivery Shares	@ 10 x Delivery Share Fee	\$	102,427.32
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10.3 Drainage Shares	@ 10 x Drainage Share Fee	\$	9,727.32
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Lower Murray Water may allow the trade of your water delivery rights. Please contact our Rural Customer Team on 1800 808 830 to discuss the opportunities available for trade.

The general termination fee quoted in this termination information statement is valid for 6 months from the date of issue or to the period end date listed above and is based on Lower Murray Urban and Rural Water Corporation's Schedule of charges which is available at:

<https://www.lmw.vic.gov.au/billing-and-charges/charges-and-tariffs/rural-tariffs-and-charges/>

Build with confidence!



2 February 2024

The Manager  
Development Services  
Swan Hill Rural City Council  
45 Splatt Street  
Swan Hill, VIC 3585

Dear Sir/Madam

**RE: Dwelling Excision at 110 Madang Road Robinvale VIC 3549**

I refer to the above and your recent request for me to carry out an inspection of the property to confirm that the building located at the land subject to the proposed dwelling excision is a Class 1a building as defined by the current Building Code of Australia.

I wish to advise that an inspection of the property was carried out on 31<sup>st</sup> of January 2024 and as a result I can now confirm that the building (dwelling) located at the property is a Class 1a building as defined by the Building Code of Australia 2022. Please note that the property also contained associated class 10a buildings (shedding), that appear to be used in association with the dwelling or the land, however these buildings were not subject to further investigation.

The above is a determination of building classification only and in no way verifies compliance with current or previous corresponding planning or building legislation.

I trust the above information is adequate for your requirements, however if you require further information please do not hesitate to contact me.

Yours faithfully,

A handwritten signature in blue ink, appearing to read "Timothy Anderson".

Timothy Anderson

Registered Building Practitioner  
Building Surveyor Unlimited BS-U 29378  
Accredited Certifier BDC 1769  
MAIBS



Address  
67 Lime Avenue,  
Mildura VIC 3500  
PO Box 378  
Mildura VIC 3502

Contact  
P (03) 5021 2200  
F (03) 5021 1213  
E coltie@ctfnre.com.au  
W ctfnre.com.au

## Collie & Tierney

Mr Phillip Englefield  
PO Box 1010  
Robinvale 3549

January 15, 2024

Dear Mr Englefield

I refer to our recent conversation regarding property values in the Robinvale/Euston area and changes that have occurred over recent years for farmers in the region.

In my opinion the necessity of a dwelling located on a vineyard with a single title has reduced dramatically over the past few years, particularly for a buyer wanting to purchase a grape property, for the following reasons.

Vineyards have increased in size as neighbours buy property's next to or close as possible to their original property. The buyers do not see value in a dwelling because they are only interested in land that is income producing. An additional dwelling located on a vineyard is viewed as unwanted and an additional cost to service and maintain.

The recent introduction of vineyard contractors for harvest and general vineyard management means that vineyard owners no longer employ their own harvest labour and general seasonal workers. This negates the need for vineyard owners to manage a large workforce throughout the year and provide accommodation for employees. Employing contract staff is much more desirable to farmers in the Robinvale/Euston area.

Further, it is my opinion that a winegrape property cleared of undesirable and uncontracted vines is worth significantly more cleared of vines and vineyard infrastructure.

Regards

A handwritten signature in black ink, appearing to be 'MP' followed by a long horizontal line.

A business card for Michael Pullen, a Rural Property Consultant at First National Real Estate, Collie &amp; Tierney. The card features a photo of Michael Pullen on the left. The text on the card includes: 'Michael Pullen', 'Rural Property Consultant', 'M 0488 046 647', 'NATIONAL AWARD WINNING OFFICE', 'P (03) 5023 9913', 'F (03) 5021 1213', 'E mpullen@ctfnre.com.au', 'W ctfnre.com.au', and the First National Real Estate logo. There is also a small circular logo in the bottom right corner.

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[illegible]



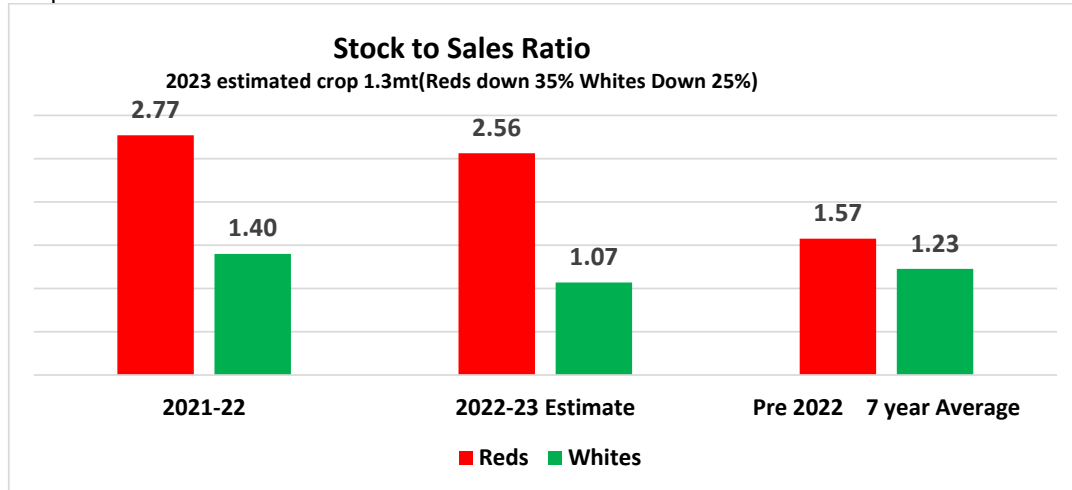


## 2024 Demand Projections

### Red wine oversupply problems.

Despite the lower crop level, it is projected that Red grape intake in 2023 will not be low enough to reduce the red wine stock levels to a comfortable ratio (Graph 1). Unfortunately, this will mean that winemakers will probably be restricting intake of red grapes in 2024.

Graph 1



The reductions will be predominantly in three major varieties of Shiraz, Cabernet and Merlot. While in the previous year there has been an increase in exports of about 2% in volume for these varieties there has been a 554% increase in the volume sold below \$0.75/L. This price indicates that prices for grapes that are required for 2024 will be at or below those offered in 2023.

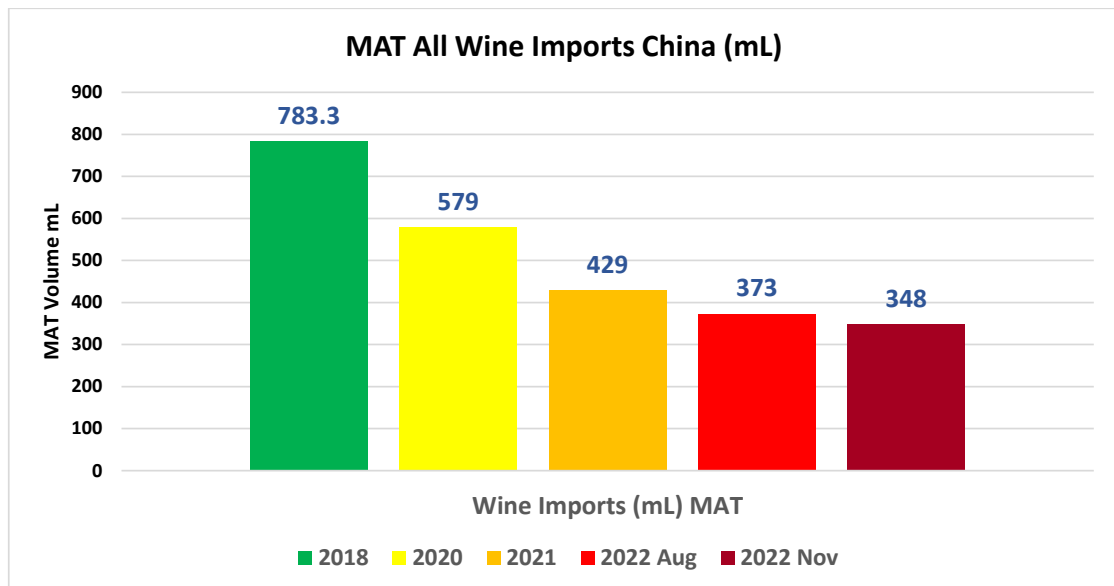
Indications are that the above three red varieties will need to reduce by about 250,000t to bring them back into balance where they will receive a viable price.

**If you didn't have a market for some of your red grapes in 2023 there is a high probability you will NOT sell them in the near future.**



### Is China the answer?

As you can see from the table below since February 2018 total imports of wine into China have steadily reduced to 348mL/year as at November 2022.



**If we can manage to get back to the 21% of total current wine imports into China it will mean that we may be able to sell about 70mL of wine (90,000t). This is well below the 2018 volume of 168mL (250,000t) that we exported to China in 2018.**

### Change to White Varieties

While it appears that whites are a bit short a return to average tonnes will bring it back into balance quickly. Any increases in volume may well push it into an oversupply and reduce opportunities for wine companies to push for higher wine prices thus higher grape prices. There is a suggestion that some red varieties in oversupply be changed to white varieties, however there is a risk that this will create an oversupply situation for the whites. Currently white plantings are in balance and it will not take a large increase in volume to put them in oversupply and consequently lower prices.



Growers need to be wary of wine companies requesting change from red to white as they have a history of getting it wrong.

### **World Wine Consumption**

Unfortunately, world wine consumption is also declining due to a number of factors. Total world wine consumption is down by about 1000mL (1.4mt since 2018)

### **Wine Sourcing**

Due to oversupply and wine discounting in previous years “Brand Australia” does not have the power to demand a premium in the commercial sector. This lack of brand power is allowing customers to source wine from the cheapest source country. This has meant that Australian commercial wine has gone from something which commands a small premium to having to compete with the rest of the world as a commodity where the lowest price gets the contract.

### **Where to**

It is clear that there needs to be a readjustment to the whole industry. As in 2009/2010 there is an oversupply of fruit in what can be described as “commercial”. A viable sustainable industry tonnage for growers is in the 1.4-1.5 million tonne range with the fruit being split evenly between red and white. This will mean a reduction of about 250,000t of reds, and whites remaining stable.

There also is a need for the industry to adopt a more adaptable approach to wine products and alcohol trends. While this may not suit winemakers as they are focused on traditional products it will be necessary for growers to survive. This may include NOLO products, cans, fruit infused wine or any other product which is wine based. We must be more consumer orientated and produce what they require not what we think is a good product.

We cannot continue to do the same thing as we always have or we will not have a sustainable business for growers.



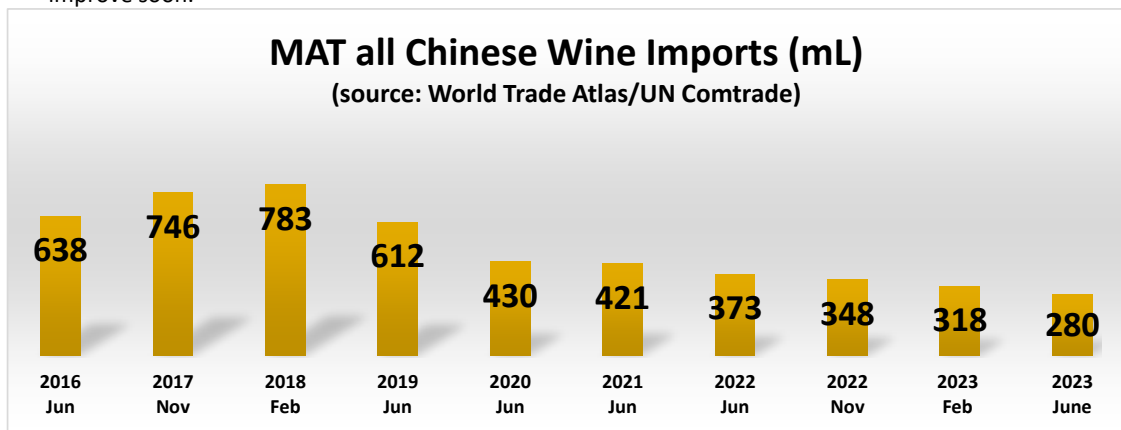
## Resumption of Exports to China: will it be the answer to our red oversupply problem if it happens?

There is a strong belief expressed by some in the wine industry that the tariffs imposed on Australian wine will follow barley and be lifted in the near future – possibly by the end of 2023. This is creating an expectation among some growers that trade will immediately resume and bring the red grape supply back into balance.

The facts (presented below) do not support this. While it may help a little **it will not** be enough to make a difference to the current oversupply of red wine and increase demand (and hence prices) for the major varieties of red grapes. Any growers who are choosing to ‘hang on’ and wait for this to happen, rather than making the difficult decision to exit the industry based on the current situation, would be advised to think again.

### The evidence

1. There has never been a duty on Australian unpackaged wine entering China; however it is extremely difficult to get it into China. Despite there being no duty, Australian unpackaged wine has decreased in volume from 44mL (23% of total China bulk imports) in 2018 to 1.4mL (1.4%) in 2022.
2. At its peak in 2018, total Chinese wine imports from all sources were 783mL/year (approx. 1.1 million tonnes grape equivalent). As the graph below shows, since February 2018 total imports of wine into China from all countries have steadily reduced to 280mL/year (approx. 395,000t grape equivalent) as of June 2023. Given the current economic situation in China, this is not expected to improve soon.

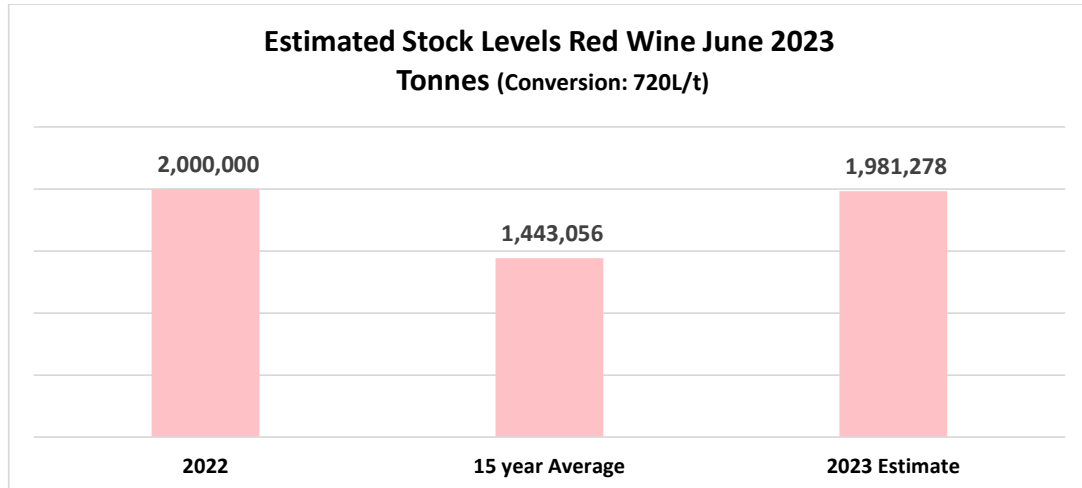


3. Australian wine exports to China were at about 168 million Litres (mL) per year (approx. 235,000t grapes equivalent) during the peak period, of which 95% was red. Shiraz and Cabernet represented 75% of red exports. At that time Australian wine represented about 22% of China’s total imports by volume. If the tariffs were removed, then even if we can get back to 22% of China’s total imports, this would only mean exports of about 61mL to China (80,000tonnes equivalent)

**Inland Wine Regions Alliance:** Phone +61 (0) 417844029      P.O Box 345 Barmera S.A. 5345  
Email: [jim\\_caddy@bigpond.com](mailto:jim_caddy@bigpond.com)



4. Meanwhile any increase in imports to China would be likely to result in a reduction in wine into Hong Kong to correspond with this. Taking this into account, the total increased sales could be about 60,000t equivalent. While that will be a help, we currently have about 10 times that volume in excess stock.



If you are considering putting your grapes into a 'hold' mode hoping that the situation in China will improve in the near future, you need to reassess as all the signs are that we have a longer term, more structural over-supply problem, and China will not be the solution as it was previously. There is no indications of increased prices or demand for the near future.

If you did not sell your fruit in 2023 the indications are that it will not be sold in 2024.

**Inland Wine Regions Alliance:** Phone +61 (0) 417844029      P.O Box 345 Barmera S.A. 5345  
Email: [jim\\_caddy@bigpond.com](mailto:jim_caddy@bigpond.com)



*Helping committed clients achieve  
and maintain financial security.*

T 03 5021 1968 F 03 5022 0429 E milduraadmin@mulcahy.com.au

Office 135-139 Tenth Street Mildura VIC 3500

Postal PO Box 5086 Mildura VIC 3502

3 July 2024

164- 166 Bromley Road, Robinvale VIC 3549

To Whom it may concern.

Without the cost of doing a full business plan here is a small example of the economic activity created by Wine Grapes compared to Table Grapes. **Table Grapes demonstrate a clear benefit over Wine Grapes to the local agricultural area of Robinvale and the region more broadly.**

Wine Grapes.

Reds @ 20 Ton Ha sale price \$300 per Ton = \$6000 per Ha

Whites @ 30 Ton Ha price \$400 per Ton = \$12000 per Ha

9.6 Ha planted half Red/white = total economic activity generated \$86,400.00

Table Grapes

Red or White @ \$45 per box sale price

1235 vines per Ha production at 2.5 boxes per vine = \$138,937.50 per Ha

9.6 Ha planted = Total economic activity generated \$1,333,800.00

These figures are not a representation of profitability as Table Grape production cost are many multiples the cost of producing Wine Grapes. The economic activity generated by Table Grapes is **clearly a benefit to the local agricultural area.** It is also clear that modern Table Grape production like all board scale agriculture requires economies of scale. This is only achievable by farm acquisition within the local area, so that the production base can be expanded while being able to use existing centralised processing facilities and other associated assets.

Regards

A handwritten signature in black ink, appearing to read 'Larry Timpano', with a stylized flourish at the end.

Larry Timpano CPA  
Senior Accountant

Accounting • Agribusiness • Bookkeeping • Financial Planning • Legal • Loans & Finance • Marketing



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25 June 2024

164- 166 Bromley Road, Robinvale VIC 3549

To Whom It May Concern,

It is self-evident that being able to purchase a property within the Robinvale Pumped District without the burden of capital being expended on unwanted infrastructure (Dwellings and out buildings), is a benefit for the agriculture pursuits of a buyer looking to expand their enterprise. And by extension is a clear benefit to the broader economic, agricultural and social Robinvale region.

There is no doubt that having to expend Capital on the purchase of unwanted infrastructure, is an impediment to farm expansion and a constraint to overall agricultural activity.

Agriculture is no longer a life style choice. Agriculture has to run as efficiently as possible including the maximisation of returns on capital. Capital expended on nonproductive assets is a huge drag on the rest of the business, that then has to carry the non-productive capital expenditure.

Directing 100% of the capital required to purchase and redevelop a property, is a benefit to the direct buyer. Without doubt the flow on effects to the Robinvale community and the Region in general is a **clear benefit to agriculture.**

Regards

Larry Timpano CPA  
Senior Accountant

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## Collie & Tierney

Mr Phillip Englefield  
PO Box 1010  
Robinvale 3549

January 15, 2024

Dear Mr Englefield

I refer to our recent conversation regarding property values in the Robinvale/Euston area and changes that have occurred over recent years for farmers in the region.

In my opinion the necessity of a dwelling located on a vineyard with a single title has reduced dramatically over the past few years, particularly for a buyer wanting to purchase a grape property, for the following reasons.

Vineyards have increased in size as neighbours buy property's next to or close as possible to their original property. The buyers do not see value in a dwelling because they are only interested in land that is income producing. An additional dwelling located on a vineyard is viewed as unwanted and an additional cost to service and maintain.

The recent introduction of vineyard contractors for harvest and general vineyard management means that vineyard owners no longer employ their own harvest labour and general seasonal workers. This negates the need for vineyard owners to manage a large workforce throughout the year and provide accommodation for employees. Employing contract staff is much more desirable to farmers in the Robinvale/Euston area.

Further, it is my opinion that a winegrape property cleared of undesirable and uncontracted vines is worth significantly more cleared of vines and vineyard infrastructure.

Regards

	<b>Michael Pullen</b>	<b>NATIONAL AWARD WINNING OFFICE</b>
	Rural Property Consultant M 0488 046 647	P (03) 5023 9913 F (03) 5021 1213 E <a href="mailto:mpullen@ctfnre.com.au">mpullen@ctfnre.com.au</a> W <a href="http://ctfnre.com.au">ctfnre.com.au</a>
 <b>firstnational</b> REAL ESTATE   Collie & Tierney		

**Information on the Robinvale Irrigation district as it stands today, and how it operates.**

The Robinvale Irrigation District comprises 246 approximately 10 ha Blocks, 236 of these are table grape blocks, four are dried off, with the six remaining wine grape properties belonging to my wife and I. As we exit farming wine grapes; due to the unsustainability of the global wine industry, our Blocks will be sold and converted to high value table grapes.

Originally there were 246 owners of these blocks, all allocated to returned servicemen from the second world war. Each block was a stand-alone economic unit. As it stands today, there are now only 89 owner entities, evidenced by Lower Murray Water data, a substantial number of which are companies. Myself and a couple of other growers have got together and have identified approximately 40 Families that own the entire 247 blocks.

There are 62 blocks comprising Section E of the Robinvale Irrigation District where we live. Two dried off, four wine grape properties and 56 table grape properties. There are eleven identifiable families that own all of these blocks and operate out of a central location.

These families operate on average six blocks, from one, or at most two operational facilities. This is done as the required infrastructure can cost several million dollars to establish, meaning operating each block on site is not viable. We have instances for example where growers from B Section own Blocks in E Section and transport the picked grapes to their packing sheds. These are family operations which do not employ farm managers, they mostly use Labour hire contractors to supply their seasonal workforce as they do not want to be setting aside the management time required to find and service employees. Generally, accommodation is not provided for any employees as the contractor provides housing services, predominantly located in the Robinvale township.

Where accommodation is provided, using the Pacific Islander program for example, designated areas at the main operational hub are being set aside with infrastructure such as dongers and communal kitchens, laundry etc to comply with the programs required housing standards. Opposed to capital invested into an unrequired dwelling, the infrastructure built for the purpose of providing worker accommodation is a Tax depreciation item, written off at 30% diminishing in a depreciation pool. This is a substantially more viable investment option as it allows for purpose-built accommodation in desired locations to be built which satisfy current regulations and requirements.

It is now virtually impossible to buy into the Robinvale Irrigation district due to the high land values. Blocks are now only sold to established growers within the district. If you were from outside of Robinvale and of a mind to get into irrigated horticulture, Mildura or Swan Hill areas offer opportunities to purchase irrigatable land at prices well below land prices in Robinvale. What is in fact now happening, Robinvale families are buying land, particularly in Coomealla and around Mildura to further expand their enterprises. This is a direct result of the high land cost and lack of supply in Robinvale, forcing them to look elsewhere.

When I was a member of LMW's customer advisory committee in the early 2000s, there were 110 ownership entities. As mentioned previously we are now at 89 entities with approximately 40 identifiable family owners. The only future for Robinvale is further consolidation, so less owners with greater numbers of holdings. By the time another 20 to 30 years goes by we could be down to twenty families.

LMW also advise that there are 168 domestic tapings in the Robinvale irrigation District. 16 are in Cloverdale, with Table grapes on three sides. So, there are approximately 152 excised dwellings, a number approaching 62% of the 246 Blocks, highlighting the normality of excisions within the district similar to that of our proposal.

In Section E of the Robinvale Irrigation district where we are located there are 31 excisions, 26 within 1.5km of 110 Madang Road.

The Robinvale pumped district as a whole has approximately 152 excisions which occurred over roughly 40 years. The area is far better off socially and economically for the occurrence of these excisions.

The historically closely settled 247 10 Ha properties all with a residence have maintained the areas character since inception by have these excisions.

Continuing the practice of families living within the Robinvale Irrigation District, raising children, contributing to the community, occasionally selling and new people moving in who bring fresh ideas and approaches to the overall social and economic landscape. Living and working and contributing to all the social and economic benefits home ownership brings to the Robinvale community at large.

Fundamentally the excisions of the original houses have been a significant net benefit to the Robinvale community off setting the decline that could have occurred due to farm expansion which does not require excess housing or other nonproductive infrastructure.

The social experiment has been running for over 40 years and has proved to be an outstanding success and a living demonstration of the social and economic benefits for all that can be realised when small lot subdivisions occur within a farming zone.

Overall, the current composition of the Robinvale Irrigation District operates with a harmonious relationship between farming business and residential owners. There is no civil war between residential owners and farming enterprises and there never has been.

See supporting advice from Collie and Tierney re how Robinvale Table grapes operate.

#### **Our history**

We have contributed to the number of excisions within the district. As we expanded our wine grape enterprise over the years, we have targeted blocks that either already had a house excised off as this reduced the price expectation for the seller or we paid the asking price and then proceeded to subdivide off the existing house and then returned the capital to our business that was then able to be allocated to generation an economic agricultural return. A clear benefit to us as buyers and a clear benefit to the broader Robinvale region in increased economic activity generated by the freed-up capital from the excised house sale.

This model is not unique to us, as mentioned the number of average blocks per enterprise in the Robinvale Pump District is approximately six 10 Ha Blocks. Table grapes are as with the vast majority of modern farming enterprises expanding on an ongoing basis, chasing economies of scale to achieve the productivity gains required to stay competitive in both the domestic and international market place.

As we demonstrated within our enterprise the practice of **not having capital tied up in unproductive non-farm assets is a clear and unequivocal benefit to agriculture.**

110 Madang Rd is the only property of the six (we had eight) properties that we own that still has a residence located on the title. It is clear from discussions with potential buyers that they do not want to be straddled with the cost of purchasing an unwanted residence or deal with the uncertainty of being able to subdivide the property after paying a premium imbedded in the purchase price. Less complicated to go elsewhere which they are doing as mentioned previously moving mostly either to Coomealla or Mildura thus Robinvale loses out on the potential large increase in economic activity that will be generated by sale and conversion to table Grapes.

### Financial Implications

Significant positive outcomes for agriculture and the municipality as the excision will demonstrably reduce the price of the actual productive land. Thus, allowing freed up Capital for redevelopment to, and the production of Table Grapes. This will provide a **significant and clear economic benefit** for Robinvale and the municipality' agricultural output.

### Economic implications

Significant reduction to the cost of already very expensive agricultural land by excising the dwelling has a **clear economic benefit for agriculture** and the municipality's economy. There are no negative economic impacts with this excision. Has clear benefit for any potential purchaser as they will only be expending capital on actual productive land.

### Housing

As is the case everywhere, housing in Robinvale is severely limited and expensive, with no acceptable rural residential areas available for us to purchase. Both Alison and I have lived our entire lives outside of Townships and have no intention of living in the Robinvale Township.

Living options outside of townships are a recognised and legitimate area of provision for Councils. Rural Living options in Robinvale have not been able to be developed despite the 2016 RLUS identifying the need for such in Robinvale. So, eight years after a clear need was identified by Council no action has been forthcoming.

As a result, we will be forced to leave the area of which Alison and I were both born into and have contributed our entire lives to. We will have to relocate elsewhere to a destination yet to be decided. Except to say that it will be outside of the SHRCC.

### Social Implications

There will be significant community loss of human capital for the Robinvale Community, as both Alison and I have been long term contributors to the social fabric of the local area. For example, Alison is currently volunteering at the Community Opp Shop, and I have had a long involvement with Murray Valley Wine Growers, representing wine grape growers in our region.

We have had involvement with and contributed to numerous organisations over the years including the Robinvale football netball club, the Robinvale netball association St Marys school council, table tennis etc, and have helped at numerous events such as the Robinvale 80 ski Race.

As time becomes available it is our intention to do more volunteering which will hopefully provide added benefit to the local community.

### Environmental Implications

The dwelling at 110 Madang Rd has been planted to a significant stand of predominately native vegetation. A haven for native fauna within E Section, comprising several varieties of Gum, Banksia, Emu Bush, Wattle, and Native Frangipani among the plantings.

We have also established what we believe to be a significant carbon sink resulting from the substantive vegetation, meaning the dwelling is contributing to reducing our carbon footprint.

Given the inclination of prospective purchasers who neglect to care for unwanted dwellings attached to farming land, the result leads to the destruction of the habitat in an effort to decrease maintenance costs.

Alison has also developed a substantial playground that was initially for the use of our children and has become a place of joy for our expanding number of grandchildren. Going out into the fresh air to play and exercise rather than endless hours on electronic devices. The playground area is also an area for reflection and relaxation hopeful improving everybody's wellbeing.

#### **Wine Industry V Table grapes.**

The world's peak consumption of wine occurred in 2008 and has been in decline by just under 2% year on year ever since then. Australia exports in excess of 60% of its national crush (Ave 1.85 million Tons) into this declining market. The Australian wine industry needs to undergo a restructure to better match production to profitable sales outcomes, this number is estimated at between 1.3 and 1.4 million tonnes.

The reengagement with China while positive news is not expected to be the panacea as demonstrated by the latest (see attached) ABARES and Wine Australia reports. So, until production falls to profitable sales levels the industry will continue to suffer from poor economic outcomes.

Table Grapes while also in some form of transition can and do still provide good economic outcomes. From a regional point of view Table Grapes far outstrip economic activity generated by wine grapes. And while not an indication of profitability the gross turnover sample provided clearly demonstrates the huge disparity and therefore benefit to the region when Table grapes are produced in comparison to wine grapes.

See gross turnover example provided by MulCahy & Co Senior Accountant Larry Timpano.

It is inevitable that when our properties sell, they will be converted to Table Grapes. The lowest price possible paid to redevelop a property the more likely a successful outcome will be achieved. Any potential purchaser will already be burdened with very high redevelopment cost to convert to Table grapes.

**Hence the ambition to only have to expend capital on land that is productive, not on unwanted infrastructure such as dwellings or unsuitable sheds etc.**

See provided capital expended explanation from MulCahy & Co Senior Accountant Larry Timpano.

See provide advice from Collie and Tierney Real Estate in support of same.

The 2016 RLUS states:

"There are limited circumstances when small lot subdivision involving excision of an existing dwelling can be a legitimate requirement of farming. In SHRCC, excision of a lot with existing dwelling provides a mechanism to promote farm expansion and restructuring, particularly within older irrigation areas and divest land of unwanted infrastructure."

### **Land use conflicts**

As demonstrated by the lived experience of the Robinvale Irrigation District there is very little to no land use conflicts between the residential owners and the farmers within the Robinvale District. As explained, there are as many people living within the Robinvale Irrigation District as when it was first constructed there are still approximately 247 houses setting on approximately 247 10 Ha farming allotments.

The modern day difference is that 152 of those dwellings no longer have an association with the farming enterprise they abut.

The Robinvale Irrigation District has always had spray carts being used at various times of the day and night as Downey and powdery Mildew were well established by the inception of the RID. These mildews require spraying on a two week rotation, at least, to keep them under control.

Machine harvesting was first introduced into the Robinvale Irrigation district in the mid 1970s and reached its peak in the early 2000s when there were considerable plantings of wine grapes in Robinvale. Wine grapes are mostly harvested at night and required substantial truck and implement movement to transport the 2.5 Ton bins to the wineries in Mildura mostly for delivery any time between midnight and usually midday.

Because of the massive conversion of wine grapes to table grapes over the past 20 years to the point now where we have the only six wine grape properties left it is fair to say the nights are as quiet as they have been for many a long year.

The Robinvale Irrigation district has demonstrated over many, many years a capacity to co-exist. Having farmers farm and rural residents enjoy the amenity of living in a rural environment and all it has to offer.

The 2016 RLUS states :

#### **“Is housing development on small rural lots for rural lifestyle purposes causing rural land use conflict?”**

Housing development on small rural lots for lifestyle purposes does not appear to be causing rural land use conflict. Interviewees felt that there was sufficient available land for rural lifestyle purposes to meet current demand.”

And

#### **“Are there locations where land use conflict is impacting agriculture!”**

Land use conflict is primarily associated with conflicting management practices between different agricultural industries e.g. spray drift from broad acre cropping onto sensitive crops such as grape vines or from conventional produce onto organic produce:”

For example, spray drift 24D damage is a regular and ongoing problem. Just ask the vegetable growers in Lake Boga what happened this last spring.

I was Murray Valley Wines Growers representative on the national committee set up to get an emergency MRL up before the entire Australian Wine Industry was shut down due to 24D contamination in wine including contamination of numerous back Vintages. **Please note the wine industry does not use 24D.**

### **Drying Off Option**

This option is a straightforward dry assessment of what is the best financial outcome for the benefit of our family.

As per the attached real estate adds of for sale or sold properties in recent times in the Robinvale District

### **Recent Sales**

1 Kokoda Court sold 18 December 23 for \$920,000.00 1.13 Ha

156 Madang Rd sold October 23 \$450,000.00 0.30 Ha

### **Current Total for sale Rural Properties including the entire Robinvale area.**

146 Darwin Rd for sale \$850,000.00 to \$875,000.00 4.65 Ha

62 Gona Rd for sale \$780,000.00 to \$850,000.00 0.539 Ha

656 ANZAC Rd for sale \$380,000.00 to \$418,000.00 0.30 Ha

We have two 13.3 Ha wine grape properties for sale on ANZAC road for the past 14 Months. We recently received an offer of \$600,000.00 each. This equates to \$45,112.00 per Ha. 110 Madang Rd is 10.42 Ha.

Some simple maths  $10.42 \times \$45,112.00 \text{ per Ha} = \$470,067.00$  equivalent sale price for 110 Madang Rd if we were to accept that offer.

Our house at 110 Madang Rd is a better house than the recently sold 156 Madang Rd by a considerable margin. So, we would apply say \$550,000.00 to the sale price for our house arriving at \$1,020,067.04 for the house and property. The equivalent to \$97895.10 per Ha

No purchaser will pay that price for 110 Madang Rd. The house would need to be seriously discounted to maybe \$150,000.00 making a sale price of \$600,000.00 for 10.42 Ha. This equates to \$57581.57 per Ha. This is a \$12,469.47 per Ha premium on the ANZAC Rd properties recent offer.

We would then need to have someone prepared to pay approximately \$600,000.00 for 110 Madang Rd, dwelling and all. Then we would have to purchase another property, the only option that we would consider is 146 Darwin Rd 4.65 Ha at say \$850,000.00. So, we would possibly be \$250,000.00 worse off.

As has been clearly demonstrated we would be financially far better off drying off 110 Madang Rd, staying until a time of our choice then selling as a 10.42 Ha Rural lifestyle property to someone who has horses or motorbikes or just likes the idea of living on a rural lifestyle property.



### **Economic impact of drying off**

What about the economic impact to the Robinvale agricultural and economic outcomes. Ten years dried off will generate \$0.00 of agriculture economic activity for the region, providing zero benefit to agriculture or the municipality.

Ten years of potential Table grapes sales at \$1,333,800,.00 year one, with 2.5% growth = \$14,943,071.00 in agricultural economic activity. A clear benefit to agriculture in the municipality.

It can be clearly demonstrated that as an option, drying off is financially and from a life choice much better for us as a fall back. It has also been demonstrated that drying off has a significant impact and is clearly not a benefit to agriculture or the municipality.

I have now had two representatives of the SHRCC planning department say effectively that if we dry off 110 Madang Rd they do not care about that outcome. How this sits with the SHRCC MPS and PPF regarding the protection of valuable land is a mystery to me. It would appear that the application of these guidelines is only of interest when used to disallow planning permit applications. What this does demonstrate I think is that the supposed protection of valuable land not a real thing. It is just pulled out when it suits.

Let me be clear as stated at the beginning of the thought processes around drying off as an option for us. It is solely based on what is the best outcome for our family. The broader community has already demonstrated that they have no interest in our wellbeing, in fact it has been clearly demonstrated to us by the SHRCC that if we are to suffer for the community then so be it.

### **Right to Farm**

We felt that we need to make this point as it comes up a lot in planning reports generated by the SHRCC planning department.

There is no such thing in the state of Victoria.

Farmers do not have a right to farm. That implies that farmers enjoy some special privilege denied the rest of us. Farmers have an obligation to carry out their operations within the bounds of the law of the land and community exaptation. In other words, they need to behave themselves. Spray drift is illegal no matter where it occurs. Excessive noise beyond what should be expected within an area is not acceptable. Dust is a consequence of living in Australia.

### **Area for two lot subdivision**

See attached photos and sunrise mapping aerial photo from February 2000. The area east of the sheds and house on the north of the property was never planted to vines and was considered out ground. It was only after the expense of installing a pressurised underground irrigation system based around R10 sprinklers on an 18.4 m by 3.6 m grid was this able to be irrigated. There was approximately 1.29 Ha in the house and out ground.

The area planted prior to 2000 was flood irrigated, still in the original configuration when E section was established in the late 1950s.

There will be no net loss of productive agricultural land when compared to when 110 Madang Road was first established.

### Conclusion

As spoken to earlier it is without doubt that the excision of dwellings within the Robinvale Irrigation District has a **clear benefit to agriculture** by freeing up expensive capital for either purchase or development by prospective buyers looking to expand their holdings.

And a clear benefit to the social fabric of Robinvale by being able to maintain the Irrigation Districts essential being from when it was first been developed for Returned Services settlement. A living breathing example of agriculture and rural living to not only being able to peacefully cohabitate, but to also thrive.

As has been demonstrated there are well defined grounds to grant a permit for a two-lot subdivision at 110 Madang Road as it would achieve a **clear benefit for agriculture** in the region and also provide good social and economic outcomes for the Robinvale Pumped District.

Thanks

Phillip Englefield

# Annexure A - Response to Decision Guidelines of the Farming Zone

Category	Criteria	Planning Response / Assessment
General Issues	The Municipal Planning Strategy and the Planning Policy Framework.	The State and Local Planning Policy Framework (MPS and PPF) are addressed within the planning report.
	Any Regional Catchment Strategy and associated plan applying to the land.	The Mallee Regional Catchment Strategy 2021-2027 applies to the Land and consistent with the existing land use identifies the relevant area as being for irrigated agriculture.
	The capability of the land to accommodate the proposed use or development, including the disposal of effluent.	The lots currently are (and will be) serviced by way of water, electricity and telecommunications and can be appropriately drained.
	How the use or development relates to sustainable land management.	The proposal will not result in any detriment to the Land as it reflects existing use.
	Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.	Many properties are developed with dwellings and used for agricultural (including horticultural) purposes. The proposal is in keeping with the current and emerging future pattern of use and development in the area and is pre-existing.
	How the use and development makes use of existing infrastructure and services.	The proposal will utilise existing services and does not contemplate any new infrastructure with all existing infrastructure required for the horticultural use proposed to be retained on the Balance Lot / Lot 2.
Agricultural Issues	Whether the use or development will support and enhance agricultural production.	The proposal will have no negative impact on agricultural production by excising that part of the Land (being the residential dwelling on Lot 1) which is not required for the agricultural production.
	Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.	The proposal will not adversely affect soil quality and will not remove productive agricultural land from production.
	The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.	The proposal will not impact the adjacent landowners / landholdings ongoing ability to use their land for agricultural (horticultural) purposes.
	The capacity of the site to sustain the agricultural use.	The larger of the lots created by the subdivision (Balance Lot / Lot 2) will continue in its agricultural (horticulture) operation, albeit new table grape production.
	The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.	The larger of the two lots created by the subdivision will maintain access to water and infrastructure relating to agricultural enterprise.
	Any integrated land management plan prepared for the site.	There is no integrated land management plan for the site.
	Whether Rural worker accommodation is necessary having regard to the nature and scale of the agricultural use, the accessibility to residential areas and existing accommodation, and the remoteness of the location, the duration of the use of the land for Rural worker accommodation.	Table grape growers utilise contractors to provide the seasonal farm workers. Therefore, no on-site accommodation is required.
Accommodation Issues	Whether the dwelling will result in the loss or fragmentation of productive agricultural land.	The dwelling on Lot 1 (proposed to be excised) will not result in the loss or fragmentation of productive agricultural land.
	Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.	Not applicable (no new dwellings are proposed and both existing dwellings have coexisted harmoniously in an intensive agricultural setting in excess of 20 years)

	Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.	Not applicable.
	The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.	
	The potential for accommodation to be adversely affected by noise and shadow flicker impacts if it is located within one kilometre from the nearest title boundary of land subject to a wind energy facility, or an application for a permit for a wind energy facility, or an incorporated document approving a wind energy facility, or a proposed wind energy facility for which an action has been taken under section 8(1), 8(2), 8(3) or 8(4) of the <i>Environment Effects Act 1978</i> .	
	The potential for accommodation to be adversely affected by vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .	
	The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.	
Environmental Issues	The impact of the use or development on the flora and fauna on the site and its surrounds.	The application is for subdivision and is not considered to produce any adverse impact on the land or environment.  No native vegetation removal is proposed to be removed.
	The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.	
	The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.	
		No on-site disposal of effluent is proposed.
Design and Siting Issues	The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.	Not applicable (no new building/s are proposed and the subdivision layout is intended to preserve and maximise the surrounding productive agricultural land).
	The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.	
	The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.	
	The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.	Not applicable (no new buildings proposed, and existing utilities are already available to the existing dwellings).
	Whether the use and development will require traffic management measures.	Not applicable (traffic management measures will not be required).
	The need to locate and design buildings used for accommodation to avoid or reduce noise and shadow flicker impacts from the operation of a wind energy facility if it is located within one kilometre from the nearest title boundary of land subject to: a wind energy facility, or an application for a permit for a wind energy facility, or an incorporated document approving a wind energy facility, or a proposed wind energy facility for which an action has been taken under section 8(1), 8(2), 8(3) or 8(4) of the <i>Environment Effects Act 1978</i> .	Not applicable.

	<p>The need to locate and design buildings used for accommodation to avoid or reduce the impact from vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p>	
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**Annexure B – Clause 65.01 (Approval of an Application or Plan) Assessment / Response**

Decision Guideline	Planning Response / Assessment
The matters set out in section 60 of the Act	Response provided by way of report submissions (Response to MPS and PPF).
Any significant effects the environment, including the contamination of land, may have on the use or development.	
The Municipal Planning Strategy and the Planning Policy Framework.	
The purpose of the zone, overlay or other provision.	
Any matter required to be considered in the zone, overlay or other provision.	
The orderly planning of the area.	This proposal represents an orderly and practical planning response, creating a subdivision layout that is consistent with the existing lawful use of the land.
The effect on the environment, human health and amenity of the area.	The proposed lot sizes and setbacks will ensure there is no measurable effects on the amenity of the area.
The proximity of the land to any public land.	Bannerton North Recreation Reserve located approximately 250 metres (north of this site) will not be impacted by the proposal.
Factors likely to cause or contribute to land degradation, salinity or reduce water quality.	Not applicable (proposal will formalise existing dwelling arrangements and will not cause or contribute to land degradation, salinity or reduce water quality).
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.	The proposal will not impact (and will maintain) current drainage arrangements / infrastructure.
The extent and character of native vegetation and the likelihood of its destruction.	No removal of native vegetation or other significant vegetation will be required to facilitate the subdivision or continued operation of the existing agricultural enterprise.
Whether native vegetation is to be or can be protected, planted or allowed to regenerate.	
The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.	The site is not mapped (in the Planning Scheme) as been prone to flooding or erosion or fire hazard.
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.	Not applicable.
The impact the use or development will have on the current and future development and operation of the transport system.	

**Annexure C – Clause 65.02 (Approval of an Application or Plan) – Planning Response / Assessment**

Decision Guideline	Planning Response / Assessment
The suitability of the land for subdivision.	There are no physical, economic or infrastructure deficiencies that make the site unsuitable for the proposed subdivision.  Based on the present occupation of the land the proposed subdivision boundaries (as best as possible) provide practical and logical boundaries and ensure the existing dwelling is retained within an appropriate and usable site context. The subdivision layout provides key farm infrastructure is retained within the appropriate rural lot.
The existing use and possible future development of the land and nearby land.	It is expected that the majority of the site and surrounding area will continue to be used primarily for agricultural purposes.  Given the restrictions on allotment size imposed by the Farming Zone, it is not anticipated that there will be any noticeable change to current land use on the land or nearby land . The continued use of the area for agriculture is strongly supported planning policies for the area.
The availability of subdivided land in the locality, and the need for the creation of further lots.	The subdivision will provide for one additional rural living lot in an area where there is a limited dwelling presence by excising an existing lawful dwelling.  The ongoing viability and sustainability of existing farm operations revolve around their capacity to expand and to improve economies of scale. The excision of the dwelling will assist this.
The effect of development on the use or development of other land which has a common means of drainage.	No additional drainage infrastructure is needed to facilitate the subdivision. Existing drainage infrastructure is unaffected by the subdivision.
The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.	The proposed lot boundaries have been designed with regard to the effective occupation of the dwellings and to retain its site context.  No removal of native vegetation or other significant vegetation will be required to facilitate the subdivision.
The density of the proposed development.	Not applicable (subdivision will not change the existing dwelling density).
The area and dimensions of each lot in the subdivision.	The subdivision boundary has been configured around the existing occupation of the dwelling on proposed Lot 1 and has a relatively uniform shape. The Balance Lot / Lot 2 is still capable of (and will be) utilised for agricultural (horticulture) production.  The subdivision does not create any areas within the agricultural enterprise that are difficult to access with farm machinery or otherwise difficult to manage. The area of the Balance Lot / Lot 2 is considered to be a reasonable size to be utilised as an existing agricultural enterprise in its own right or in conjunction with nearby land.
The layout of roads having regard to their function and relationship to existing roads.	Not applicable (no new roads proposed).
The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.	Not applicable (pedestrian movements not affected / relevant).
The provision and location of reserves for public open space and other community facilities.	Not applicable (reserves for public open space are not required in rural subdivisions).
The staging of the subdivision.	Not applicable (staged subdivision not proposed).



The design and siting of buildings having regard to safety and the risk of spread of fire.	The continued use of the land for their present purposes will not increase risk. The surrounding agricultural uses are a low fire risk. .
The provision of off-street parking.	This issue is not considered relevant in the case of subdivisions in a Farming Zone. All the proposed lots are more than adequate in size to accommodate off-street parking.
The provision and location of common property.	Not applicable (no common property is proposed)
The functions of any owners corporation.	Not applicable (no owners corporation is proposed)
The availability and provision of utility services, including water, sewerage, drainage, electricity, and, where the subdivision is not a residential subdivision, gas.	Required utility services are already available to both lots.
If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sillage within the boundaries of each lot.	Not applicable (land is capable of appropriate drainage / effluent disposal).
Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.	Not applicable (no practical opportunity to protect significant remnant vegetation as part of the subdivision).
The impact the development will have on the current and future development and operation of the transport system.	Not applicable (proposal will not have an impact on the current or future development or operation of the transport system).

**TOWN PLANNING REPORT**  
**110 MADANG ROAD, ROBINVALE**

**INTRODUCTION**

1. This planning report is made on behalf of Phillip Englefield (**Owner**) in support of a planning permit application which seeks permission for a two (2) lot subdivision of land at 110 Madang Road, Robinvale (**Land**) which is located within the Farming Zone (**Permit Application**).
2. This planning report provides an assessment of the proposed subdivision having regard to the relevant provisions of the Swan Hill Planning Scheme (**Planning Scheme**).

**SUMMARY**

3. The permit application concerns the appropriate subdivision of land in the Farming Zone.
4. The Land is occupied by two (2) lawful dwellings (and associated sheds / outbuildings) which were constructed more than 15 years ago; which are not required for the horticultural lot (Lot 2) and not suitable to be converted for table grape use (cool rooms, etc.)
5. The Balance Lot/Lot 2 is farmed by the Owner (and his family) as part of a broader agricultural (horticulture) enterprise with wine grape vines and associated machinery stored in sheds and outbuildings on the Land and surrounding properties.

**PROPOSAL / PERMIT APPLICATION**

6. The Permit Application seeks permission for a two (2) lot subdivision of the Land which would excise the existing dwellings and sheds and outbuildings. The proposed subdivision would create:
  - 6.1. Lot 1 (1.219 ha) comprising:
    - Dwellings and associated outbuildings and sheds;
  - 6.2. Balance Lot / Lot 2 (9.201 ha) comprising:
    - The balance of land used for farming / horticultural purposes;
7. Relevantly, for the present purposes, the Planning Scheme provides discretion to grant a permit to create smaller lots if:

*The subdivision is to create a lot for an existing dwelling. The subdivision must be a two-lot subdivision.*

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8. The proposal meets the criteria for an exercise of discretion to grant a permit to create a smaller lot in the FZ.
9. The State and local planning elements of the Planning Policy Framework provide that subdivision in the rural zones (such as the Farming Zone) is generally discouraged. However, the proposed subdivision is not contrary to policy and will not produce any adverse outcome in respect of farming policy. To ensure this outcome is maintained the permit applicant invites permit conditions and a section 173 agreement.
10. In summary:
  - 10.1. The subdivision is of type which is expressly contemplated by the Planning Scheme as being acceptable in the Farming Zone;
  - 10.2. Minimal land is lost to agricultural use – the impact is effectively neutral in terms of land put to agricultural purposes.
  - 10.3. The subdivision of the Land formalises the current and historical use of the Land and will neither fragment the productive agricultural land or impact on surrounding agricultural activities – the impact is entirely neutral;
  - 10.4. The Permit Application, structured with appropriate conditions and additional mechanisms (including a s173 agreement) will ultimately:
    - a) Enhance and optimise the productive agricultural use of the relevant part of the Land;
    - b) Preserve the status quo with respect to the use and development of the Land (including restrictions on further subdivision and / or dwellings);
    - c) Acknowledges that the Land is located in the Farming Zone and subject to amenity impacts as a result of the same.

## **BACKGROUND / SITE & SURROUNDS**

### **The Land and Surrounds**

11. The Land is part of the land described in Certificate of Title Volume 10314 Folio 762 (CA 30 on Title Plan 71168W) and has a street address of 110 Madang Road Robinvale.

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**Figure 1: Aerial Image – 110 Madang Road Robinvale**

12. The Land can be described as follows:
- 12.1. The Land is located on Madang Road Robinvale approximately 8km south of Robinvale town centre;
  - 12.2. The Land is an irregular square shape, approximately 10.42ha in size and generally flat;
  - 12.3. The Land was purchased by the Owner in 1999 and has subsequently been used for wine grape (horticultural) purposes.
  - 12.4. The Land is occupied by the following buildings:
    - a) One main Dwelling which is occupied by the Owner and his family and proposed to be excised from the broader productive agricultural (horticulture) land;
    - b) A second small dwelling which is occupied by family members which also to be located upon the excised lot;
    - c) Sheds (which are proposed to be located upon the excised lot), including:
      - A small shed which is used in conjunction with the use of dwellings;
      - A larger shed which is used in conjunction with the agricultural (horticulture) operations; which is not suitable to be converted for table grape production purposes.

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- 12.5. For convenience, the layout of the buildings on the Land is shown on the annotated aerial *below*.



**Figure 2: Aerial Image – 110 Madang Road Robinvale – building layout**

13. In terms of surrounds:
- 13.1. The land to the immediate east south and west consists of horticultural properties and rural dwellings;
  - 13.2. A number of excised dwellings exist along Madang Road, Shaggy Ridge Road and Wareo Road within the surrounding area of the subject site;
  - 13.3. On the opposite side of Madang Road to the north of the subject site exists horticultural land;
  - 13.4. With land to the north-east consisting of the Bannerton North Recreation Reserve.

## **ZONING & OVERLAYS**

### **Zoning**

14. The Land is located within the Farming Zone (**FZ**) and is not subject to any overlays.

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**Permit Triggers (FZ)**

15. A permit is required pursuant following Planning Scheme zoning (FZ) triggers.

Permit Trigger	Requirements
<b>Zones</b>	
Clause 35.07-3 (FZ)	<p><i>A permit is required to subdivide land.</i></p> <p><u><i>Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.</i></u></p> <p><i>A permit may be granted to create smaller lots if any of the following apply:</i></p> <ul style="list-style-type: none"> <li><i><u>The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.</u></i></li> <li><i>The subdivision is the re-subdivision of existing lots and the number of lots is not increased.</i></li> <li><i>The subdivision is by a public authority or utility service provider to create a lot for a utility installation</i></li> </ul>

[Emphasis added]

16. Clause 1.0 (Subdivision and other requirements) of the schedule to the FZ provides:

Permit Trigger	Land	Area/Dimensions/Distance
<i>Minimum subdivision area (hectares)</i>	<i>All land which is within a gazetted irrigation district or <u>where a water use licence has been issued and applied to land for horticultural production purposes.</u></i>	<i>20 hectares</i>

[Emphasis added]

17. The Land is located within a gazetted irrigation district and accordingly under the Schedule to the FZ, a minimum lot size of 20 hectares applies to any subdivision of the Land; unless point 15 above applies.

**PLANNING POLICY**

18. The proposal must be considered in the context of the relevant policy (with a particular focus on agricultural policy) and the broader policy matrix, including:

18.1. Municipal Planning Strategy (**MPS**); and

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## 18.2. Planning Policy Framework (PPF).

**Municipal Planning Strategy (MPS)**

19. Clause 02.01 (Context) which provides the demographic and economic context of Swan Hill, highlighting its extensive area and population trends (including the aging population and population loss) in rural areas. The clause also notes the significant role of agriculture as a driving force of the local economy, accounting for a significant (approximately 16%) of the region's economic output.
20. Clause 02.02 (Vision) which outlines vision for land use and development, emphasising economic growth, community enrichment, infrastructure enhancement, and environmental protection. It highlights initiatives for supporting business development, enhancing community health and cultural opportunities, maintaining effective public infrastructure, and implementing environmentally sustainable policies.
21. Clause 02.03-1 (Settlement) which describes the development and growth objectives for Swan Hill and surrounds, with a focus on managing and directing growth within the municipality. Robinvale, mentioned specifically and relevant to the current planning proposal, is recognized as playing a similar (albeit smaller) role in the northern parts of the municipality, with recent population increases due to developments in irrigated horticulture.
22. Clause 02.03-4 (Natural Resource Management) which identifies the need to preserve and protect the valuable agricultural and horticultural land within the municipality with a particular focus on additional dwellings and small lot subdivisions.
23. Clause 02.03-6 (Economic development) outlines the economic development strategy for the region emphasizing the importance of agriculture, which significantly contributes to the region's economy. Key points include promoting value-added agricultural production and enhancing infrastructure to support growth sectors like health care, industrial development, and tourism.

**Proposal Response to the MPS**

24. The proposal aligns well with MPS direction and objectives. By formalising the current land use arrangement (excising a residential dwelling from the Balance Lot / Lot 2, being that part of the land which is not used in conjunction with the agricultural enterprise), the proposal:
  - 24.1. Preserves agricultural productivity (Clause 02.03-4) in a manner which is consistent with the demographic and economic context (Clauses 02.01, 02.03-1 and 02.03-6)
  - 24.2. Resonates with the vision for economic growth and community enrichment (Clause 02.02) by providing for residential and agricultural uses in a way that enhances community structure without compromising the agricultural output that constitutes a significant portion of the region's economy; and



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- 24.3. Manages and directs growth in a way that respects existing uses, ensuring that developments support the broader strategic aims of sustainable agricultural practices and economic development within the municipality, particularly in terms of enhancing infrastructure and supporting sectors critical to local growth (Clause 02.03-4).

#### **Planning Policy Framework (PPF)**

25. Clause 11.01-1S (Settlement) which aims to facilitate sustainable growth and development across Victoria by fostering a network of well-integrated, accessible settlements capable of adapting to changing environments. It supports developing sustainable communities, promoting infrastructural development, and enhancing connectivity.
26. Clause 13.07-1S (Land use compatibility) which aims to ensure that land use is compatible with adjoining and nearby land uses to protect community amenities, human health, and safety. It emphasizes strategic placement of new developments in order to minimise potential off-site amenity impacts.
27. Clauses 14.01-1S (Protection of Agricultural Land) and 14.01-1L (Agriculture) which seeks to restrict use and development of land in rural areas by preserving productive agricultural land and discouraging the use and development of land in the rural zones from incompatible uses.
28. Clauses 14.01-2S and 14.01-2L (Sustainable agricultural land use) which emphasise the importance of sustainable agricultural practices, management of agricultural activities to preserve natural resources, support innovative farming practices, and adapt to climate change risks. These clauses also promote the diversification and value-adding of agricultural production and processing, encouraging investment in high-value agriculture and the restructuring of underutilized irrigation lands into viable agricultural units. They focus on maintaining lot sizes suitable for broadacre / horticultural agriculture and optimising water use.

#### **Relevant PPF Objectives, Strategies and Decision Guidelines**

##### Clause 11.01-1S (Settlement)

29. Includes the objective:
- To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.*
30. Relevant strategies include to:
- a) Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.
  - b) Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:

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- i. Building on strengths and capabilities of each region across Victoria to respond sustainably to population growth and changing environments.
- ii. Developing settlements that will support resilient communities and their ability to adapt and change.
- iii. Balancing strategic objectives to achieve improved land use and development outcomes at a regional, catchment and local level.
- iv. Preserving and protecting features of rural land and natural resources and features to enhance their contribution to settlements and landscapes.

Clause 13.05-1S (Noise management)

31. Includes the objective:

*To assist the management of noise effects on sensitive land uses.*

32. Relevant strategies include to:

- a) Ensure that development is not prejudiced, and community amenity and human health is not adversely impacted by noise emissions.
- b) Minimise the impact on human health from noise exposure to occupants of sensitive land uses (residential use, child care centre, school, education centre, residential aged care centre or hospital) near the transport system and other noise emission sources through suitable building siting and design (including orientation and internal layout), urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Clause 13.07-1S (Land use compatibility)

33. Includes the objective:

*To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.*

34. Relevant strategies include to:

- a) Ensure that use or development of land is compatible with adjoining or nearby land uses.
- b) Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.

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- c) Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
- d) Protect commercial, industrial and other employment generating uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.

Clause 14.01-1S Protection of Agricultural Land

35. Includes the objective:

*To protect the state's agricultural base by preserving productive farmland.*

36. Relevant strategies include to:

- a) Limit new housing development in rural areas by:
  - i. Directing housing growth into existing settlements.
  - ii. Discouraging development of isolated small lots in the rural zones for dwellings or other incompatible uses.
  - iii. Encouraging consolidation of existing isolated small lots in rural zones.
- b) In considering a proposal to use, subdivide or develop agricultural land, consider the:
  - i. Desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - ii. Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
  - iii. Compatibility between the proposed or likely development and the existing use of the surrounding land.
  - iv. Land capability.

Clause 14.01-1L – Agriculture

37. Includes the objective:

*To avoid land use conflicts between agricultural and non-agricultural uses.*

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38. Relevant strategies (to achieve this objective) include to:
- a) Discourage non-agricultural use and development in all rural areas other than those that support agriculture.
39. Includes the objective:
- To discourage small lot subdivision that prejudices surrounding agricultural activities.*
40. Relevant strategies (to achieve this objective) include to:
- a) Encourage any excised lot to be of a manageable size that maintains sufficient land on the balance lot to support agricultural activity.
  - b) Discourage the excision of a dwelling if it is required for the carrying out of agricultural activities on the land.
  - c) Ensure the excision dwelling is habitable and has existing use rights under Clause 63.
  - d) Encourage a beneficial agricultural outcome for the land.
41. Relevant policy guidelines, including:
- a) Discouraging applications that propose an area greater than 2 ha for a dwelling lot;
  - b) Whether there is a need for an agreement under Section 173 of the Act that:
    - i. Prevents the subdivision of any new house erected after 30 September 2016.
    - ii. Prevents the construction of a dwelling on any residual lot created.
    - iii. Prevents further subdivision of any lot so as to create another lot for an existing or future dwelling.

Clause 14.01-2S (Sustainable agricultural land use)

42. Includes the objective:
- To encourage sustainable agricultural land use.*
43. Relevant strategies include to:
- a) Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.
  - b) Encourage diversification and value adding of agricultural through effective agricultural production and processing, rural industry and farm related retailing.

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- c) Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.

Clause 14.01-2L (Sustainable agricultural land use)

- 44. Includes the objective:

*To encourage broadacre agricultural use.*

- 45. Relevant strategies (to achieve this objective) include:

- a) Maintain lots in sizes suited to broadacre agriculture

- 46. Includes the objective:

*To facilitate opportunities for horticultural development.*

- 47. Relevant strategies (to achieve this objective) include:

- a) Maintain lots in sizes suited to horticulture and other intensive irrigated agriculture.
- b) Retain land identified as good-quality land for horticulture outside of the Nyah township.

**Farming Zone**

- 48. In addition to implementing the Municipal Planning Strategy and Planning Policy Framework, the purpose of the FZ is as follows:

*To provide for the use of land for agriculture.*

*To encourage the retention of productive agricultural land.*

*To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*

*To encourage the retention of employment and population to support rural communities.*

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

*To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

- 49. The Decision Guidelines at Clause 35.07-6 cover a range of matters including agricultural issues and the impacts from non-agricultural uses. This includes whether the use or development will support and enhance agricultural production and the capacity of the site to sustain the agricultural use.

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50. An assessment of the proposal against the decision guidelines of the FZ is provided at **Annexure A** to this report and addressed in the planning assessment in this report.

#### GENERAL PROVISIONS

51. The following general provisions of the Planning Scheme are relevant to the Permit Application:
- 51.1. Clause 65.01 (Approval of an Application or Plan); and
  - 51.2. Clause 65.02 (Approval of an Application to Subdivide Land).
52. An assessment of the proposal against the decision guidelines of Clause 65 is provided at **Annexure B (Clause 65.01)** and **Annexure C (Clause 65.02)** and addressed in the planning assessment in this report.

#### PLANNING ASSESSMENT

##### The Interpretation and Application of Policy / Decision Guidelines

53. Inevitably within State and Local policies, there are competing objectives about what is and is not to be achieved on the Land and surrounds. Several overarching principles apply to the application of planning policy as it applies to the Land, including:
- 53.1. The application of the policy must be read in light of the proposed use and development;
  - 53.2. Policy is not prohibitive in nature and must be applied flexibly and intelligently;<sup>1</sup> and
  - 53.3. A balanced and integrated approach must be adopted resolving inconsistencies in accordance with net community benefit to achieve an acceptable planning outcome.<sup>2</sup>
54. In this case the starting position is that existing dwelling uses already persist *lawfully* on the Land. No new dwelling use is proposed and the only change proposed is cadastral in nature. Policies that seek to avoid new dwellings or the proliferation of dwellings or the removal of land from production have no operation in respect of the permit application.
55. Agriculture policy is included in both the State and Local Planning Policy. The protection of agricultural land is referenced in the policy and FZ provisions. The proper approach for assessing the suitability of the proposal is to distil what outcomes the Planning Scheme is

<sup>1</sup> See e.g. *SMA Projects Pty Ltd v Port Phillip CC* [1999] VCAT 1312 where Member Liston (as he then was) stated that policies are guidelines and not fixed rules.

<sup>2</sup> See e.g. *Rozen & Anor v Macedon Ranges Shire Council & Anor* [2010] VSC 583 (14 December 2010) in which the Court found that the test the Planning Scheme requires to be applied is one of acceptable and not ideal outcomes.

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seeking to achieve for the Land (and surrounds) and then assess what outcomes the proposal will yield against relevant objectives / strategies.

56. The FZ (and relevant policy) has an overarching theme to protect productive farmland and to prevent the fragmentation of rural land through inappropriate small lot subdivision and preventing the development of dwellings for rural lifestyle purposes.
57. However, that is not to say that FZ is a zone where small lot subdivisions are not contemplated in appropriate circumstances. If it were then discretion to grant a permit would not exist.
58. The proposal will not create an adverse precedent or operate against the realisation of agricultural policy to the extent that the Permit Application:
  - 58.1. Seeks permission for a form / type of subdivision which is expressly contemplated as being permissible in the FZ;
  - 58.2. When viewed objectively, will not compromise the objectives of the Planning Scheme, in circumstances where:
    - a) The proposed subdivision simply reflects and formalises the existing (and historical) lawful use of the Land;
    - b) The subdivision will not lead to the fragmentation of productive agricultural land nor impact on surrounding agricultural activities / operations;
    - c) The subdivision will improve and augment the viability of productive agricultural land, facilitating an outcome which is consistent with and advances the objectives of State & Local (agricultural) policy and the FZ.

59. We address each of these matters **below**.

#### **Subdivision in the FZ**

60. While the FZ establishes a minimum lot size, it appropriately provides for exceptions for subdivisions that fall below this threshold. In many cases, small lot subdivisions can (and do) proceed in such areas, provided that appropriate measures are taken to ensure that the subdivision does not (and will not) lead to the unjustified loss of productive agricultural land.
61. Within the FZ, controls over use and development are primarily directed at the protection and promotion of agricultural activities / land.
62. The logic behind an allowance for discretionary approval for certain types of small lot subdivision is grounded in practicality and recognising that certain proposals, strategically positioned, and reflect existing residential and agricultural needs.



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- 63. In the present case, the proposal for subdivision is aligned with enhancing the Land's (and broader surrounds) agricultural use. By excising the Lot 1 dwelling, which does not and is not required to support the agricultural operation, the subdivision will ultimately promote a more consolidated, undisturbed, and efficient use of the Balance Lot / Lot 2 for agricultural purposes.
- 64. The proposal represents the flexibility / discretion afforded in the FZ by facilitating small lot subdivision with supports both residential and farming needs without compromising the agricultural potential of the area.

**Formalising the Existing / Historical Lawful Use of the Land**

- 65. This proposal will not introduce any new development into the FZ but rather reflect the practical situation on the ground, where dwellings exist: primarily for residential purposes (Lot 1) and the Balance Lot (Lot 2) supporting and integrated with the farming / horticulture operations.
- 66. To this extent, the proposed subdivision is neutral to relevant policy objectives by formalising (rather than altering) the existing and historical use of the Land.
- 67. The considered lot configuration ensures that there will be minimal reduction in productive agricultural land in circumstances where:
  - 67.1. Lot 1 comprises land (and dwellings / sheds) which is not required for the agricultural operations on the Land once converted to table grape production; and
  - 67.2. The Balance Lot / Lot 2 comprises the productive agricultural land which will have the wine grapes removed and replaced with new table grape production (horticulture) pursuits.

**Fragmentation of Productive Agricultural Land**

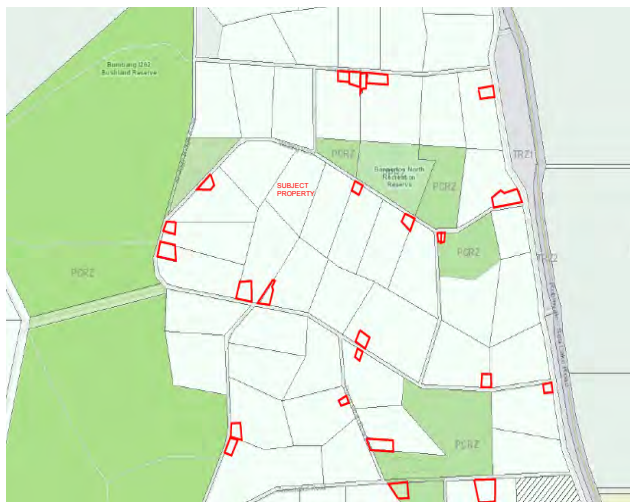
- 68. While it is true that dwellings and subdivision can fragment agricultural land, this subdivision will not fragment the agricultural land (much less the productive agricultural land) because the land is already developed with a dwelling. The proposed excision will not compromise the use on the balance lot because a dwelling will not be able to be built upon Lot 2, meaning there is no risk of consequential reductions in productive area on the Land into the future.
- 69. The Land at 10.42 hectares is small when compared to ordinary horticultural enterprises. The minimum area for an as-of-right dwelling (under the Planning Scheme) in the area is 20ha. This size disparity underscores the limited independent agricultural viability of the Land and why it is farmed as a joint agricultural enterprise with other properties owned by the owner of the subject land. This subdivision does not change the limited capacity for the land to be used individually for farming purposes and it is entirely consistent with the use of the balance lot as part of the integrated farming enterprise which includes other lots.

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70. The presence of a dwelling in the FZ, is sometimes said to artificially inflate land values to a degree that makes it unviable / cost prohibitive for nearby farmers to purchase / lease that land and expand their agricultural activities.
71. Any concerns regarding that land which is proposed to be removed from primary production are tempered by the site specific context. The structure of the Land (which is farmed as part of a collective agricultural operation spanning multiple properties) is such that those parts of the Land which are presently farmed (being the Balance Lot / Lot 2) will continue to operate for the same purpose.
72. The subdivision facilitates and the existing productive horticultural operation, reflects the existing lawful use of the dwelling on the excised lot.

**Impacts on and from surrounding land / agricultural uses**

73. In general, residents living within the FZ, and rural zones generally (such as the Owner) understand and appreciate that doing so comes an understanding of amenity (for example, impacts from dust, noise, odour) as a result of living proximate to agricultural activities.
74. Surrounding farming enterprises are located on allotments less than 20 hectares and have been developed with dwellings which have subsequently been excised from the farming enterprise. That is the context. Farming will continue and has not (nor will it be) compromised by the proposed subdivision.
75. The following excisions in the area are identified **below**, noting that the area continues to be actively farmed.



**Figure 3: VicPlan – Dwelling Excisions (Happy Valley and Robinvale Region)**

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76. The proposed subdivision would not be incompatible with surrounding land use and / or detract from agricultural land in circumstances where:
- 76.1. The productive agricultural land (being the Balance Lot / Lot 2), post-subdivision, will continue in its farming pursuits into new table grape production, reinforcing the area's agricultural character without adverse influence or disruption to surrounding agricultural activities / uses;
  - 76.2. The new productive agricultural land, table grape production to be established upon the Balance Lot / Lot 2 does not require and will not require the Lot 1 land and those dwellings and sheds proposed to be excised;
  - 76.3. The dwellings have coexisted harmoniously within an intensive agricultural setting in excess of 20 years.

**Section 173 Agreement / Commitment to Future Farming**

77. Noting that it is not a mandatory to stringently follow policy guidelines, relevant policy guidelines (including those which refer to a requirement for a section 173 agreement)<sup>3</sup> ought to be considered when assessing subdivision proposals, including a s173 which provides for the following matters:
- 77.1. No further subdivision of the Land;
  - 77.2. No further dwelling(s) may be constructed on Lot 1 or the Balance Lot / Lot 2; and
  - 77.3. Acknowledges the Land is in the FZ and its proximity to surrounding agricultural land uses may from time to time be subject to certain amenity impacts.
78. The permit application is put on the basis that a section 173 agreement is an appropriate requirement to be the subject of a condition of planning permit.
79. There are no negative impacts of a section 173 agreement being imposed on the excised lot.
80. Section 173 agreements may not be appropriate as a means of justifying an otherwise inappropriate land use arrangement. However, in this instance where the land use arrangement is already on foot a section 173 agreement is appropriate and it will provide new occupants of the excised land with appropriate notice of surrounding farming uses (albeit this is obvious upon inspection of the Land).

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<sup>3</sup> See Clause 14.01-1L (Agriculture) Policy Guidelines; Paragraph [42] of this Planning Report.

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## Other Matters

### Background Documents (Swan Hill Rural Land Use Strategy)

81. The *Swan Hill Rural Land Use Strategy* (RMCG, 2016) (***Swan Hill RLUS***) is referenced in Clause 72.08 (Background Documents) of the Planning Scheme, the MPS (Clause 02.03-4), and the PPF agricultural policy (Clauses 14.01-1L and 14.01-2L).
82. The *Swan Hill RLUS* emphasises the importance of preventing fragmentation and the loss of productive agricultural land, aligning with broader agricultural policies. However, it is important to understand that it functions as a guiding document rather than a strict regulatory framework.
83. Therefore, the *Swan Hill RLUS* does not explicitly prohibit the type of subdivision proposed here. Instead, it highlights preferred outcomes and considerations. This subdivision proposal, which aims to formalise an existing use without affecting the land's agricultural productivity, aligns with the strategy's objectives by maintaining agricultural continuity and permitting reasonable land use adjustments.

### **Previous Tribunal decisions**

84. The proper approach to the application of policy is to focus on the objectives of the policy and to ascertain whether or not that objective will be furthered or compromised by the proposal.
85. In *McNaughton v Surf Coast SC* [2016] VCAT 2107 (13 December 2016) (***McNaughton***) the Tribunal made this observation in respect of a strongly worded policy which sought to “avoid any development within the viewshed”.<sup>4</sup>
86. In that decision, the Tribunal relevantly provided:

33. In *SMA Projects I* also quoted extensively from *Final Report, New Format Planning Schemes* by Senior Panel Member Helen Gibson (now Deputy President Gibson of this Tribunal), part of which was relied on by Mr Morris in his submissions in this case:

*The panels see the solution in concentrating on the objectives of the policy, rather than on the words of the policy that “encourage” or “discourage” certain uses. If it is these provisions that are concentrated on, then local policies will act as de facto zones and the flexibility that the planning reforms have introduced by way of the new zones will be lost. Instead, it must constantly be asked, **irrespective of whether it is stated that a use is “encouraged” or “discouraged”, what will the outcome be? Will it further the objectives of the policy or will it be contrary to them? If it will do neither (in other words, it is policy neutral), then it must be asked, why not allow the use? There may be other policy or amenity reasons why it should not be***

<sup>4</sup> *McNaughton v Surf Coast SC* [2016] VCAT 2107 at [31].

- 18 -

**allowed. But if there are not, the intent of the reforms is to allow it to proceed, notwithstanding the policy may specifically provide that it is a use to be “discouraged”. (Mr Morris ’s emphasis)**

34. *At one point in the decision I said, policy must be applied in an intelligent and flexible way having regard to the entire strategic and policy framework, I think this is a simple summation of the correct approach, an approach now advocated by the planning scheme itself at clause 10.04:*

*Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.*

87. When applied to the present facts it is clear that the proposal reflects the existing lawful use of the Land and accordingly it is a neutral outcome in respect of agricultural policy.
88. In undertaking this planning assessment, we have also considered Tribunal authority for similar proposals (specifically, subdivision dwelling excisions in the FZ).
89. The decision of *Zreikia v Greater Geelong CC* [\[2015\] VCAT 788](#) (*Zreikia*), concerned an application for a two (2) lot subdivision in the FZ which excised a dwelling lot (1.6ha) from agricultural / farming balance lot (13.9ha) which the relevant responsible authority refused for similar reasons to those in the present context.
90. While acknowledging the importance of assessing proposals on a case-by-case basis and clear differences in the municipal character and landscapes of Swan Hill and Greater Geelong, we consider this decision provides valuable insight on those matters deemed relevant by the Tribunal when assessing a similar subdivision proposal in the FZ.
91. In determining to set aside the decision of the relevant responsible authority and grant a permit, the Tribunal in *Zreikia* provided useful commentary with respect to subdivisions (below the minimum lot size) excising a dwelling in the FZ, including:
  - 91.1. That certain subdivision proposals (when considered on their respective merits) can serve to further the purpose of the FZ:

16. *...the proposed subdivision further the purposes of the Farming Zone and I agree with this assessment for the following reasons:*

- *The current layout will not be altered with the existing dwelling captured by the smaller lot and the farming portion of the land contained within the larger lot to the rear.*

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- *Even if the existing dwelling, which is dilapidated, were to be demolished and a new dwelling built, the proposed subdivision would maintain the status quo insofar as the use of the site for one dwelling will not increase.*
- *As is currently laid out, the site is not overly viable for productive farming, due to the small size, at 15.5 hectares, in conjunction with the inclusion of a dwelling on site. By removing the dwelling from the farming land, this makes the farming land much more cost effective.*

...

91.2. The positive impacts that the subdivision excising a dwelling lot from the balance lot (comprising farming / agricultural land) can have on the relevant land and surrounds, which the Tribunal evaluated having regard to the following categories:

a) General issues:

- *As noted previously, the proposal responds well to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The land is able to accommodate the proposed subdivision with no greater impost on the land by way of use or development, including the disposal of effluent.*

...

- *The use of the site will be maintained with the dwelling occupying a small portion of the site and the farming land to the larger lot being retained. This is compatible with adjoining and nearby farm.... uses.*

...

b) Agricultural issues and the impacts from non-agricultural issues:

- *The subdivision may well enhance agricultural production in that the land will be more cost effective, and as such, more likely to be utilised for farming. The land will be more cost effective due to the excision of the dwelling lot which would decrease the price of the land.*
- *The subdivision will have no impact on soil quality. However, the smaller lot will be permanently removed land from agricultural*

- 20 -

*production. That being said, the land is not currently used for agricultural production and is lain fallow.*

- There is limited, and appropriately minimised, increases in potential for the use of the dwelling to limit the operation and expansion of adjoining and nearby agricultural uses. However, this is essentially an existing condition that will be maintained. The remainder of the land will be far more able to sustain agricultural production, and on balance, this results in a better outcome for the land as a whole, in line with the purposes of the Farming Zone.*
- The excision of the dwelling from the farming land increases the capacity of the site to sustain the agricultural use, due to the increased cost effectiveness.*
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure will not be impacted upon.*

...

c) Dwelling issues:

- The excision of the dwelling will result in the loss or fragmentation of land that is not productive agricultural land.*
- The maintenance of the status quo with regard to the number of dwellings on the land limits the effect of agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- Similarly, maintenance of the status quo with regard to the number of dwellings on the land limits the effect of the subdivision on the operation and expansion of adjoining and nearby agricultural uses.*

...

d) Environmental issues:

- There will be no impact of the proposed two lot subdivision on the natural physical features and resources of the area, in particular on soil and water quality.*
- Similarly, there will be no impact on the flora and fauna on the site and its surrounds.*



- 21 -

- *Biodiversity of the area will not be unreasonably impacted upon.*
- *The subdivision will not impact on nutrient loads on waterways and native vegetation.*

91.3. The utility of a s173 agreement as a mechanism to secure the ongoing agricultural production / use of the Land:

- *The two lot subdivision promotes the primacy of the use of the land for farming purposes. This will be furthered through the inclusion of a restriction on Lot 2 that requires a Section 173 Agreement to be entered into that prohibits the construction of a dwelling on Lot 2 for the duration that it is located within an agricultural zone. This will ensure that the land remains used for farming, which is more in line with the purposes of the zone and the sustainable use of the site.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area has been appropriately limited through the inclusion of a Section 173 Agreement prohibiting a dwelling on Lot 2 (as noted above).*
- *The subdivision does not generate an increased burden on infrastructure and services. This is especially the case given the prohibition of a dwelling being constructed on the larger farming lot.*

92. *Zreikia* highlights the importance of site-specific context. In determining to grant a permit for the subdivision, the Tribunal took into account factors such as the use and character of the surrounding area, existing land use and potential future use of the land once subdivided.

93. While decisions of the Tribunal turn on particular facts, the decision making of that Tribunal provides a use framework for the Council. *Zreikia*, makes it clear that subdivisions (including that which is contemplated in the Application) are appropriate where:

93.1. The Land can accommodate the proposed subdivision with no greater impost by way of use or development;

93.2. The subdivision (and excision of the dwelling) will not only preserve but will enhance the use of productive farming land;

93.3. That excised dwelling and sheds are not required in connection with the new agricultural activity of table grape production to be established upon the balance lot/Lot 2 (a status quo that would be maintained and could be further secured by way of s173 agreement).

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**CONCLUSION**

- 94. The appropriate application of planning policy requires that the established agricultural policy is applied to the facts of the matter.
- 95. A review of such policy indicates that the primary objective or outcome the Planning Scheme is seeking to achieve for the Land is to protect and minimise disruption to agriculture as a consequence of use or development, particularly with respect to productive agricultural land.
- 96. To this extent, the proposal / Permit Application:
  - 96.1. Represents a faithful interpretation of relevant planning policy which is consistent with objectives and strategies within the Planning Scheme;
  - 96.2. Provides an acceptable response to concerns regarding fragmentation and the protection / preservation of productive agricultural land in the FZ;
  - 96.3. Achieves an orderly planning outcome under the Planning Scheme;
- 97. For all of the reasons outlined above, which have been discussed throughout this report, it is respectfully submitted that the permission sought in this application should be supported.



**ROY COSTA PLANNING & DEVELOPMENT**

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Our Ref: 24-081  
Your Ref:

14 August 2024

Planning Department  
Swan Hill Rural City Council  
PO Box 488  
SWAN HILL VIC 3585

Dear Sir/Madam,

**PLANNING APPLICATION  
2 LOT SUBDIVISION  
110 MADANG ROAD ROBINVALE**

Enclosed, please find a planning application lodged on behalf of the owner, proposing the creation of a 2 Lot Subdivision of the above property.

The site is 10.42ha in area, with dwellings, shed, outbuilding, and vineyard existing upon the site.

This application is seeking to subdivide the dwellings, shed, outbuilding and playground from the remainder of the land.

The dwelling lot is to be 1.219ha in area, with the balance lot to be 9.201ha in area.

**COUNCIL MEETING 10 JULY 2024**

On 10 July 2024 a meeting was held at the Swan Hill Rural City Council (SRCC) offices with Michelle Grainger & Awais Sadiq from SRCC, Phillip Englefield, owner of the land, and Roy Costa from our office in respect to this application.

At the meeting matters were discussed in respect to the proposed excision of the land associated with Planning Application PLN2023057.

The matters that were discussed included enlarging the proposed dwelling allotment to provide additional area between the existing main dwelling and proposed new boundary of the dwelling lot to the horticultural lot for additional buffer area.

This was recommended by Michelle Grainger at the meeting.

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In addition, Council Officers requested further justification of the proposed excision of the dwelling; in particular reference to the relevant agricultural clauses of the Swan Hill Planning Scheme, and Phillip Englefield's history and knowledge of the land, wine grape industry and previous experiences with excisions of other dwellings on other properties owned by Mr Englefield.

This fresh application has considered all matters discussed at the meeting and is now lodged with Council for determination.

#### **VCAT REFERENCE NO. P1586/2023**

Planning Application PLN2023057 was subject to a VCAT Proceeding, being P1586/2023.

Prior to the scheduled hearing proceeding on 30 July 2024, an application to adjourn the hearing for 6 months was lodged with VCAT.

The request was made to enable further discussions/dealings with Council to determine whether a resolution could be reached on an alternate subdivision proposal.

A Practice Day Hearing was conducted on 12 July 2024, with VCAT issuing an Order on 15 July 2024.

VCAT determined to dismiss the appeal on the basis that the proposed plans lodged with Planning Application PLN2023057 were no longer pursued by the applicant.

Therefore, this new application is lodged with Council.

#### **JUSTIFICATION OF PROPOSED 2 LOT SUBDIVISION**

Detailed submissions and associated documents are attached to this submission in support of this application.

This includes a thorough assessment of the Swan Hill Planning Scheme provisions, in particular:

- The relevant agricultural provisions of the Municipal Planning Strategy (MPS);
- The relevant agricultural provisions of the Planning Policy Framework (PPF); and
- The relevant provisions of the decision guidelines of the Farming Zone of the Swan Hill Planning Scheme.

In addition, attached is a submission from Phillip Englefield justifying support for this proposed excision of the dwelling upon his property, including relevant supporting documentation.

#### **CONCLUSION**

In summary, the proposed 2 Lot Subdivision upon land situated at 110 Madang Road Robinvale is seen to meet all the relevant provisions of the Swan Hill Planning Scheme, in particular, the Municipal Planning Strategy and Planning Policy Framework.

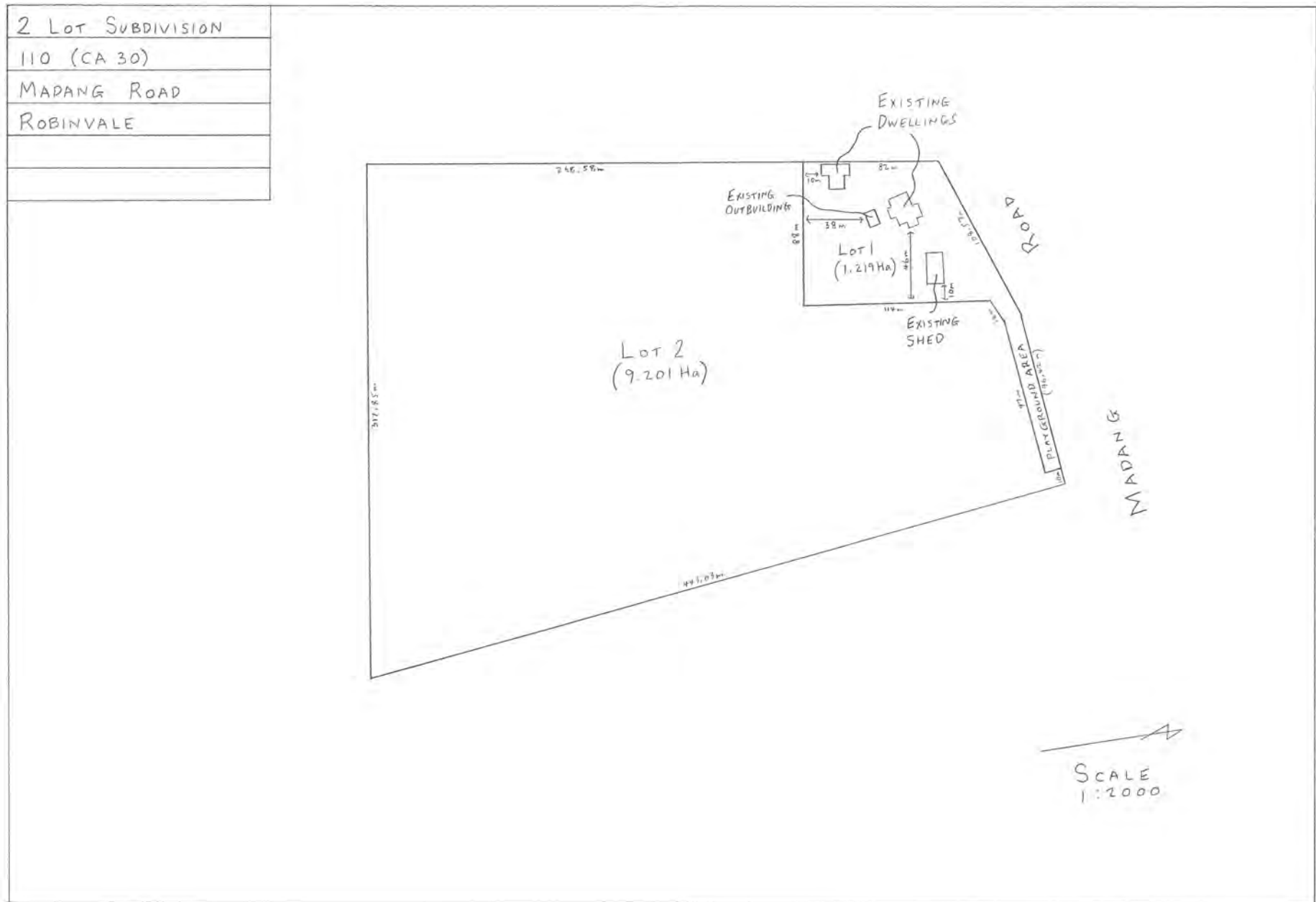
Given all the above-mentioned, we now request Council support this application as proposed.

If you have any queries in relation to the above, please contact Mr. Roy Costa from our office who will be pleased to assist.

Yours sincerely,

*Roy Costa*

ROY COSTA RPIA  
ROY COSTA PLANNING & DEVELOPMENT



REF: PLN2024068

11 September 2024



Roy Costa  
Roy Costa Planning & Development  
PO Box 2925  
MILDURA VIC 3502

Dear Sir/Madam

PLANNING PERMIT NO. PLN2024068  
SUBDIVISION OF LAND (2 LOTS) IN THE FARMING ZONE  
CA: 30 SEC: E PARISH OF BUMBANG  
110 MADANG ROAD ROBINVALE VIC 3549

I refer to the above planning permit application. Before your application can be considered further, the following additional information is required:

1. **Previous Planning Application PLN2023057**  
Provide a clear explanation on how the current application for planning permit is materially different to previous planning application PLN2023057 on the same land. This is required to understand for the assessment of the current application
2. **Full surveyed plan of subdivision**  
Provide professionally drawn subdivision plan prepared by a qualified surveyor.
3. **Agricultural Assessment (Farm Management Plan):**  
A detailed Farm Management Plan outlining (but not limited to); the address, owner details, business description, existing and proposed agricultural use, expansion, improvement, income, expenditure, market research, staging, infrastructure, management and any other relevant information to support the proposal. A farm management plan should also assess the agricultural viability of the land, including existing land use, and the impact of the proposed subdivision on current and future agricultural operations.
4. **Compliance with the Farming Zone and Planning Policies**

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2

11/09/2024

A more detailed planning report detailing how creating a small lot in the Farming Zone provides a benefit to agriculture. Creating a small allotment for a dwelling in the Farming Zone with no associated farming use is not considered a benefit to agriculture and is strongly discouraged by the Swan Hill Planning Scheme.

The above information must be submitted within 90 days (10/12/2024) of the date of this letter, unless a prior written request is made for additional time. Your application will then be further assessed upon receipt of the required information.

Please note if this application requires referral, further information may be required by the Referral Authority. You will be notified as soon as possible if additional information is required.

If the above information is not submitted by the due date and no written request for additional time has been received, the application will lapse.

If you require any further clarification, please do not hesitate to contact Council's Planning Department on (03) 5036 2352 or via email to [planning@swanhill.vic.gov.au](mailto:planning@swanhill.vic.gov.au)

Yours sincerely



**WARRICK FISHER**  
**PLANNING TEAM LEADER**





**ROY COSTA PLANNING & DEVELOPMENT**

164 Eighth Street Mildura  
PO Box 2925 Mildura 3502  
Phone (03) 50210031 Email: admin@roycosta.com.au

Our Ref: 24-081  
Your Ref: PLN2024068

8 October 2024

Planning Department  
Swan Hill Rural City Council  
PO Box 488  
SWAN HILL VIC 3585

Dear Sir/Madam,

**PLANNING APPLICATION PLN2024068  
2 LOT SUBDIVISION  
110 MADANG ROAD ROBINVALE**

We refer to your letter dated 11 September 2024 requesting further information in respect to the above planning application.

We hereby submit the following in response to Council further information request:

- **PREVIOUS PLANNING APPLICATION PLN2023057**

This application is materially different to the previous application PLN2023057 by way of the following:

- Proposed Lot 1 (Dwelling Lot) has been enlarged to provide an increased buffer area between the dwelling and horticultural boundary.

It should be noted that this was recommended by Michelle Grainger of Council at the meeting held 10 July 2024.

- Further justification has been submitted, including history of the site and family in the horticultural sector, and reasoning how subdivision will enable land to be continued for horticultural production rather than the option of 'Drying Off' the property, therefore there would be no horticultural production from the site now and into the future.

This would have an adverse economic effect on the site and municipality.

- There is a full detailed submission in support of the application and how the proposed excision meets all relevant agricultural provisions of the Swan Hill Planning Scheme.
- In addition, it must be noted that within the VCAT Order (P1586/2023) dated 15 July 2024 for the previous planning application, it was presented that the proposal was to be amended following our meeting with Council held 10 July 2024.

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The Tribunal noted that the amended proposal is noticeably different to the previous application and the applicant wishes to actively pursue a revised proposal.

- Therefore, this fresh application is now lodged with Council.

- **FULL SURVEYED PLAN OF SUBDIVISION**

This is not required for a planning application.

The proposed plan of subdivision is to scale and dimensioned.

Council is able place a condition upon the permit that such survey plan must be submitted and approved by Council prior to certification of the plan of subdivision.

- **AGRICULTURAL ASSESSMENT (FARM MANAGEMENT PLAN)**

A full agricultural assessment has been undertaken and submitted with the application.

Within the 'information on the Robinvale Irrigation district as it stands today, and how it operates' attachment lodged with the application details history of the Robinvale Irrigation District, the Englefield Family history, financial, social and economic implications of this proposed subdivision and income generation of the property relating to drying off compared to winegrape and table grape production.

Furthermore, at the meeting held with Council on 10 July 2024, our client Mr Englefield presented to Council a copy of documentation from Mulcahy & Co specifically relating to reduced sale price and wine grape vs table grape production.

Michelle Grainger advised Mr Englefield that this documentation was sufficient and that a specific Farm Management Plan was not required to be submitted.

- **COMPLIANCE WITH THE FARMING ZONE AND PLANNING POLICIES**

A complete planning report and annexure has been submitted with the application detailing how this proposed excision meets all relevant provisions of the Swan Hill Planning Scheme.

We now request Council further process this application and issue a planning permit accordingly.

If you have any queries in relation to the above, please contact Mr. Roy Costa from our office who will be pleased to assist.

Yours sincerely,

*Roy Costa*

ROY COSTA RPIA  
ROY COSTA PLANNING & DEVELOPMENT

REF: PLN2024068

11 November 2024



Roy Costa  
Roy Costa Planning & Development  
PO Box 2925  
MILDURA VIC 3502

Dear Sir/Madam

PLANNING PERMIT NO. PLN2024068  
SUBDIVISION OF LAND (2 LOTS) IN THE FARMING ZONE  
CA: 30 SEC: E PARISH OF BUMBANG  
110 MADANG ROAD ROBINVALE VIC 3549

I refer to your letter dated 8 October 2024 responding to Council's request for further information and advise the response is not satisfactory and has not provided all the required information.

To enable the application to proceed, the following information/documentation is required to be submitted:

1. Full surveyed plan of subdivision. Provide professionally drawn subdivision plan prepared by a qualified surveyor.
2. Agricultural Assessment (Farm Management Plan). A detailed Farm Management Plan outlining (but not limited to); the address, owner details, business description, existing and proposed agricultural use, expansion, improvement, income, expenditure, market research, staging, infrastructure, management and any other relevant information to support the proposal. A farm management plan should also assess the agricultural viability of the land, including existing land use, and the impact of the proposed subdivision on current and future agricultural operations.

The above information must be submitted by 10/12/2024 which is the date of the original request for further information, unless a prior written request is made for additional time. Your application will then be further assessed upon receipt of the required information.

Please note if this application requires referral, further information may be required by the Referral Authority. You will be notified as soon as possible if additional information is required.

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If the above information is not submitted by the due date and no written request for additional time has been received, the application will lapse.

If you require any further clarification, please do not hesitate to contact Council's Planning Department on (03) 5036 2352 or via email to [planning@swanhill.vic.gov.au](mailto:planning@swanhill.vic.gov.au).

Yours sincerely

**WARRICK FISHER**  
**PLANNING TEAM LEADER**



**ROY COSTA PLANNING & DEVELOPMENT**

164 Eighth Street Mildura  
PO Box 2925 Mildura 3502  
Phone (03) 50210031 Email: admin@roycosta.com.au

Our Ref: 24-081  
Your Ref: PLN2024068

3 December 2024

Warrick Fisher  
Planning Department  
Swan Hill Rural City Council  
PO Box 488  
SWAN HILL VIC 3585

Dear Warrick,

**PLANNING APPLICATION PLN2024068  
2 LOT SUBDIVISION  
110 MADANG ROAD ROBINVALE**

We refer to your letter dated 11 November 2024 advising that our previous response is not satisfactory.

We hereby advise Council that we believe the information provided has attended to Council's further information request.

In addition, in respect to the additional information requested in your correspondence we advise the following:

1. A full survey plan is not required to be submitted in conjunction with a planning application.

The plan submitted to Council is accurate and to scale; therefore, can be considered by Council.

It should be noted that similar plans have always been accepted as a subdivision plan at VCAT Proceedings.

2. In relation to an Agricultural Assessment (Farm Management Plan), we advise that within the documents lodged in association with the planning application detail the background information of the Robinvale District, Sale prices of land, Table Grape production vs Wine Grape production and Accountant information on cash flow.

Given the above, Swan Hill Council has adequate information to assess this planning application; and the documentation lodged with the application details why Council should support the application and issue a planning permit accordingly.

We now request Council to further process the application.

PLANNING INSTITUTE AUSTRALIA – REGISTERED PLANNER (RPIA)

Rokar Pty. Ltd. ABN 86 087 497 685 Trading As Roy Costa Planning & Development





If you have any queries in relation to the above, please contact Mr. Roy Costa from our office who will be pleased to assist.

Yours sincerely,

*Roy Costa*

ROY COSTA RPIA

ROY COSTA PLANNING & DEVELOPMENT

REF: PLN2024068

16 January 2025



Roy Costa  
Roy Costa Planning & Development  
PO Box 2925  
MILDURA VIC 3502

Dear Sir/Madam

PLANNING PERMIT NO. PLN2024068  
SUBDIVISION OF LAND (2 LOTS) IN THE FARMING ZONE  
CA: 30 SEC: E PARISH OF BUMBANG  
110 MADANG ROAD ROBINVALE VIC 3549

I refer to the above planning application and our recent request for further information.

The information submitted on 06 December 2024 does not satisfactorily respond to the request for further information. The following further information is required:

1. **Full surveyed plan of subdivision**

Provide professionally drawn subdivision plan prepared by a qualified surveyor.

2. **Agricultural Assessment (Farm Management Plan):**

A detailed Farm Management Plan outlining (but not limited to); the address, owner details, business description, existing and proposed agricultural use, expansion, improvement, income, expenditure, market research, staging, infrastructure, management and any other relevant information to support the proposal. A farm management plan should also assess the agricultural viability of the land, including existing land use, and the impact of the proposed subdivision on current and future agricultural operations.

Please submit a response to the above matters to allow assessment of the application to proceed by 10 February 2025.

If you require any further clarification, please do not hesitate to contact Council's Planning Department on (03) 5036 2352 or via email to [planning@swanhill.vic.gov.au](mailto:planning@swanhill.vic.gov.au)

Yours sincerely

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**WARRICK FISHER**  
**PLANNING TEAM LEADER**



**ROY COSTA PLANNING & DEVELOPMENT**

164 Eighth Street Mildura  
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Our Ref: 24-081  
Your Ref: PLN2024068

20 January 2025

Warrick Fisher  
Planning Department  
Swan Hill Rural City Council  
PO Box 488  
SWAN HILL VIC 3585

Dear Warrick,

**PLANNING APPLICATION PLN2024068  
2 LOT SUBDIVISION  
110 MADANG ROAD ROBINVALE**

We refer to your letter dated 16 January 2025 advising that our previous information submitted does not satisfactorily respond to Council's requested information.

We hereby advise the following:

- The information previously provided does respond to Council's requested information.
- A full surveyed plan of subdivision is not required to be provided for a planning application.

Many similar applications with similar plans have been lodged and accepted by Councils and VCAT.

- The documents lodged with the application have addressed the farm management practices and economic impacts of this proposal.

It should be noted that our client has sought quotes for the information requested by Council, with such costs being over \$15,000.00.

The information already supplied to Council does address the relevant provisions of the Swan Hill Planning Scheme, plans drawn to scale delineating the subdivision proposal and farm management practices and economic impacts of the subdivision.

Therefore, we now request Council to determine the application with the documentation lodged with the application.

It should be noted that should Council not agree with the documentation lodged with the application, does not mean that the documentation is unsatisfactory.

PLANNING INSTITUTE AUSTRALIA – REGISTERED PLANNER (RPIA)

Rokar Pty. Ltd. ABN 86 087 497 685 Trading As Roy Costa Planning & Development



Our position on the application is that the documentation lodged with the application addresses all relevant provisions of the Swan Hill Planning Scheme; and details justification for Council to support the application and issue a planning permit accordingly.

Given the above, we now request Council further process the application accordingly.

If you have any queries in relation to the above, please contact Mr. Roy Costa from our office who will be pleased to assist.

Yours sincerely,

*Roy Costa*

ROY COSTA RPIA  
ROY COSTA PLANNING & DEVELOPMENT

## 3 Officer Report for Noting

### 3.1 Quarterly Major Projects Progress Updates - December 2024

**Directorate:** Corporate Services  
**File Number:** S15-28-16  
**Purpose:** For Discussion  
Information Only

#### Council Plan Strategy Addressed

**4. Leadership** - We will ensure accountable leadership, advocacy and transparent decision making.

##### **4.1 Excellent management and administration**

4.1.1 Well managed resources for a sustainable future

4.1.2 Provide robust governance and effective leadership

4.1.3 Sound, sustainable:

- Financial management • Excellence in service delivery • Strategic planning

#### Current Strategic Documents

10 Year Major Project Plan

#### Declarations of Interest

Council Officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

#### Summary

This report provides an update on the status of major projects managed by various teams across the Swan Hill Rural City Council, focusing on those considered large, specialized, or challenging.

#### Discussion

In the second quarter of this financial year, substantial progress has been made on multiple projects. Few of the major achievements are listed below

1. **Art Gallery Redevelopment** – Permits obtained, demolition complete and few slab sections poured.
2. **Swan Hill Tourism & Cultural Hub** - Obtained confirmation from Heritage Victoria regarding fulfilment of conditions prior to start of building construction, along with building permit being issued by the relevant building surveyor.

3. **Robinvale Workers Accommodation** project kicked off with progress of detailed design for building works, and multiple enquiries associated with the project, sent out prior to Christmas break.
4. **Centenary Park Playground** – A contract has been finalised for earthwork & concrete, which is a crucial component for this project. A cultural heritage induction was done for all contractors involved in groundbreaking activities in early December. Site work started in December.
5. **Jennings Road Reconstruction** – Site work complete.
6. **New Britain Road Reconstruction** – Site work complete.
7. **Revitalising Nyah West Shopping Precinct** – Site works complete.
8. **Swan Hill Early Years Services Consultation** – Project team has completed all planned consultations.

For specific details on completed and ongoing projects, please refer to Appendix 1.

As of 31 December 2024, Council Officers are managing projects more than \$30 million, which is planned for delivery within next twelve to eighteen months.

### **Consultation**

Consultations done with project managers prior to drafting this report.

### **Financial Implications**

Nil.

### **Social Implications**

Nil.

### **Economic Implications**

Nil.

### **Environmental Implications**

Nil.

### **Risk Management Implications**

Nil

**Attachments:** 1. CM MPP Monthly Report Dec 2024 (1) [3.1.1 - 2 pages]



### **Options**

1. That Council notes the progress made on major projects between September and December 2024.

### **Recommendation/s**

**That Council notes the progress made on major projects between September and December 2024**

## Major Projects Progress Update – December 2024

Major Projects Progress (MPP) - Quarterly Report - Ending 31 December 2024					
Location	Project Title	Overall Project Status	Work completed %	Project status as at 31 December 2024	Forecasted completion date*
Swan Hill	Swan Hill Outdoor Pool Starter Blocks	On Budget, On Schedule, Agreed Scope	0%	Purchase order released for starter blocks and site contractor. Works to start in Winter 2025 after pool shutdown.	May-25
Swan Hill	SH Tourism and Cultural Hub @ Pioneer Settlement - Design & Construction	On budget, behind schedule, Agreed scope	5%	Works started in Dec 2024 after obtaining all required permits and consents.  Contractor has fully mobilised and cleared the site for starting the building works.	Dec-25
Robinvale	Robinvale Workers Accommodation	On Budget, On Schedule, Agreed Scope	Design - 50% Demolition - 0% Construction - 0%	Detailed design for building works in progress.  Enquiries out for below listed 1. Demolition and site clearance 2. Consultant for civil works	TBC
Swan Hill	SH Art Gallery Redevelopment - Design & Construction	On Budget, On Schedule, Agreed Scope	15%	Demolition, screw piling complete, some slab sections have been poured.	Nov-25
Lake Boga	LRCIP3 - Lake Boga Southern Entrance Beautification Project	On budget, behind schedule, Agreed scope	90%	Council officers working with authority to withdraw water from the lake.  Pumps, pipes and sprinklers in place ready for commissioning.	Mar-25
Robinvale	Ronald Street Housing, Lots 5 to 8	On Budget, On Schedule, Agreed Scope	85%	Occupancy Certificates obtained.	Jan-25
Nyah	Nyah Community Centre Renewal	On budget, behind schedule, Agreed scope	0%	Tender evaluation is underway following multiple attempts to engage a suitable builder.	TBC
Swan Hill	Jennings Road Reconstruction	On Budget, On Schedule, Agreed Scope	100%	Site works complete.	Dec-24
Robinvale	New Britain Road Reconstruction	On Budget, On Schedule, Agreed Scope	100%	Site works complete.	Dec-24
Robinvale	Robinvale Centenary Park Playground	On budget, Behind schedule, Agreed scope	Construction - 5%	Cultural Heritage Induction done for contractors on 2/12/2024. Earthworks started on site.	Mar-25
Robinvale	Robinvale Skate & Nature Play Shade Implementation	On Budget, On Schedule, Agreed Scope	0%	Building permit obtained.	Feb-25
Swan Hill	Milloo Street Boat Mooring Platform - <b>Design only</b>	On Budget, On Schedule, Agreed Scope	95%	The design consultant is currently working on obtaining the permits from multiple authorities across Victoria and NSW.	Mar-25
Swan Hill	Long Street Reconstruction	On Budget, On Schedule, Agreed Scope	90%	Sealing works are complete and the road was open to public late December. Defect rectification under progress.	Jan-25
Robinvale	Robinvale Caravan Park Bank Protection - <b>Design Only</b>	On Budget, On Schedule, Agreed Scope	50%	Preliminary design obtained and being reviewed.	Feb-25
Multiple Towns	Connectivity Enhancement Project	On Budget, On Schedule, Agreed Scope	0%	<b>Component 1</b> (kerb & Channel at Adams Street, Stradbroke Avenue, Footpath at Coronation Avenue): Works awarded to local contractor.  <b>Component 2 and 3</b> (footpaths at Manangatang, Ultima, Woorinen South): Contracts awarded for Ultima. Manangatang & Woorinen to be taken up in next FY in line with budget.	Mar-25
Woorinen South	Station Street Reconstruction	On Budget, On Schedule, Agreed Scope	0%	Contract signed. Works to start early Jan 2025.	Feb-25
Robinvale	Centenary Park Public Toilet	On Budget, On Schedule, Agreed Scope	0%	Project Manager working with sponsor to finalise the requirements.	TBC

Major Projects Progress Update – December 2024

Major Projects Progress (MPP) - Quarterly Report - Ending 31 December 2024					
Location	Project Title	Overall Project Status	Work completed %	Project status as at 31 December 2024	Forecasted completion date*
Swan Hill	McCallum Street Public Toilet Renewal	On Budget, On Schedule, Agreed Scope	0%	Project Manager working with sponsor to finalise the requirements.	TBC
Nyah West	Revitalising Nyah West Shopping Precinct	On Budget, On Schedule, Agreed Scope	100%	Site works complete.	Oct-24
Swan Hill	Tower Hill Stage 15	On Budget, Behind Schedule, Agreed Scope	80%	<b>Stage 15</b> Major construction works complete.  <b>To complete:</b> Electrical – Audit of electrical services, obtain statement of compliance, Title registration.  <b>Public Open Space (POS)</b> <b>Completed:</b> Concept design, Community consultation, Detailed design <b>To complete:</b> Tender, Construction of POS;	TBC
Swan Hill	Swan Hill Early Years Services Consultation	On Budget, On Schedule, Agreed Scope	100%	Community consultation complete.	
	Integrated Platform as a Service – iPaaS	On Budget, On Schedule, Agreed Scope	55%	The platform set up is completed. Council officer is working with the technology partner to set up the connections into the different endpoints for integration work to commence.	Apr-25
Ultima	Ultima Compost Facility Establishment	On Budget, Behind Schedule, Agreed Scope	90%	The building of the shed was completed in December, and is ready for the Stage 2 solar panels to go up.	Mar-25
*Subject to weather conditions and any other unforeseen delays					

## 4 Decisions Which Need Action / Ratification

### 4.1 Sign and Seal

**Directorate:** Chief Executive Officer  
**File Number:** S16-05-01  
**Purpose:** For Noting

#### Declarations of Interest:

Council officers affirm that no general or material conflicts need to be declared in relation to the subject of this report.

#### Summary

The following documents and agreements have been signed and sealed by the Councillors and the Chief Executive Officer on the respective dates. Those actions require the ratification of the Council.

#### Discussion

During any month Council is required to sign and seal a range of documents arising from decisions made on a previous occasion(s). Examples include sale of land, entering into funding arrangements for Council programs etc.

As the decision to enter into these agreements has already been made, these documents are signed and sealed when received, with Council ratifying the signing and sealing at the next Council meeting.

The following documents were signed and sealed since the last Council meeting:

No.	Document Type	Document Description	Date signed/ sealed
1179	173 Agreement (PLN2024051) Condition 14 – 174-178 Karinie Street, Swan Hill. Subdivision of land (4 lots)	Between Swan Hill Rural City Council and Briar Superannuation fund PTY LTD.	
1180	Contract Variation – Regional Airports Program Round 2 (RAP11000010) - Patient Transfer Facility)	Between Swan Hill Rural City Council and Commonwealth of Australia (Department of Industry, Science and Resources)	

Note: A Section 173 Agreement is typically a contract between the Council and a landowner that places use or development restrictions on the land.

They are intended to ensure compliance with conditions contained in permits granted by the Council and are often used in subdivision matters. These agreements refer to Section 173 of the Planning and Environment Act 1987.

### **Consultation**

Council authorise the signing and sealing of the above documents.

### **Recommendation/s**

**That Council notes the actions of signing and sealing the documents under delegation as scheduled.**

## 4.2 Councillor Briefings - Record of Attendance and Agenda Items

**Directorate:** Chief Executive Officer  
**File Number:** S15-05-06  
**Purpose:** For Noting

### Declarations of Interest:

Council officers affirm that no general or material conflicts need to be declared in relation to the matter of this report.

### Summary

The following report provides attendance details of Councillor Assemblies on a monthly basis.

### Discussion

Whilst Minutes have not been recorded, Agenda items and those in attendance are reported and presented to Council.

An assembly of Councillors is defined as a meeting that is planned or scheduled and where the matters being considered that are intended or likely to be the subject of a Council decision.

No formal decisions can be made at an assembly but rather direction can be given that is likely to lead to a formal decision of Council.

Details of the most recent assemblies of Council are attached.

### Council Plan Strategy Addressed

**4. Leadership** - We will ensure accountable leadership, advocacy and transparent decision making.

4.1 Excellent management and administration

4.1.1 Well managed resources for a sustainable future

4.1.2 Provide robust governance and effective leadership

4.1.3 Sound, sustainable:

• Financial management • Excellence in service delivery • Strategic planning

### Current Strategic documents

No strategic documents applicable.

### Key Legislation

There is no key legislation applicable

**Attachments:** 1. COUNCILLOR ASSEMBLIES ATTENDANCE AND AGENDA  
March [4.2.1 - 3 pages]

### **Options**

Council Assemblies are reported to ensure good governance and transparency.

### **Recommendation**

**That Council note the contents of the report.**



**COUNCILLOR BRIEFING ATTENDANCE AND AGENDA**

**25 February 2025 at 9.00am, Swan Hill Town Hall – Council Chambers**

**AGENDA ITEMS**

- Presentation on Draft Budget
- Audit and Risk Committee - Membership Renewal
- Revenue & Rating Plan
- Council Plan

**ADDITIONAL ITEMS DISCUSSED**

- Nil

**ATTENDANCE**

**Councillors**

- Cr Les McPhee
- Cr Stuart King
- Cr Philip Englefield
- Cr Hugh Board
- Cr Terry Jennings
- Cr Lindsay Rogers
- Cr Peta Thornton

**Apologies / Leave of Absence**

- Nil

**OFFICERS**

- Scott Barber, Chief Executive Officer
- Bruce Myers, Director Community and Cultural Services
- Leah Johnston, Director Infrastructure
- Bhan Pratap, Director Corporate Services
- Michelle Grainger, Director Development and Planning
- Ash Free, Finance Manager

**Other**

AEC – Rating and Revenue Plan consultants

**CONFLICT OF INTEREST**

- Nil

**COUNCILLOR BRIEFING ATTENDANCE AND AGENDA**

**4 March 2025 at 1.00pm, Swan Hill Town Hall – Council Chambers**

## **AGENDA ITEMS**

- Discussion on Budget
- Swan Hill Regional Livestock Exchange Report
- Potential sale of land
- 110 Madang Road - Refusal of a 2-lot subdivision in the Farming Zone
- 5332 Murray Valley Highway
- Ministerial Guidelines Update
- Waste Projects Update - Ag Plastics Baler and Compost Facility
- Swan Hill Regional Community Sports Hub - Funding Opportunities

## **ADDITIONAL ITEMS DISCUSSED**

- Nil

## **ATTENDANCE**

### **Councillors**

- Cr Les McPhee
- Cr Stuart King
- Cr Philip Englefield
- Cr Hugh Board
- Cr Terry Jennings
- Cr Lindsay Rogers
- Cr Peta Thornton

## **Apologies / Leave of Absence**

- Nil

## **OFFICERS**

- Scott Barber, Chief Executive Officer
- Bruce Myers, Director Community and Cultural Services
- Leah Johnston, Director Infrastructure
- Bhan Pratap, Director Corporate Services
- Michelle Grainger, Director Development and Planning
- Ash Free, Finance Manager
- Awais Sadiq, Development Manager
- Peter Ross, Engineering & Strategic Projects Manager
- Ron Gibbs, Strategic Waste Coordinator
- Dione Heppell, Liveability and Project Development Coordinator
- Dennis Hovenden, Manager Economic & Community Development
- Nathan Keighran, Economic Development Coordinator
- Domonic Johnson, Operations Manager
- Helen Morris, Organisational Development Manager
- Dennis Hovenden, Manager Economic & Community Development
- Dione Heppell, Liveability and Project Development Coordinator

## **Other**

Tom Newsome – Outcross  
Roy Costa and Phil Englefield – Planning consultant  
Roy Costa and Lindsay Rogers – Planning consultant

## **CONFLICT OF INTEREST**

- Phil Englefield - 110 Madang Road - Refusal of a 2-lot subdivision in the Farming Zone
- Lindsay Rogers - 5332 Murray Valley Highway

## **COUNCILLOR BRIEFING ATTENDANCE AND AGENDA**

**11 March 2025 at 1.00pm, Swan Hill Town Hall – Council Chambers**

## **AGENDA ITEMS**

- Revenue and Rating Plan – intro scope of works (online)
- 82 New Britain Road
- Quarterly MPP updates for December 2024
- Sport and Rec Funding Proposal

- Drainage Strategy Update
- Early Years
- Youth services

**ADDITIONAL ITEMS DISCUSSED**

- Nil

**ATTENDANCE**

**Councillors**

- Cr Les McPhee
- Cr Stuart King
- Cr Philip Englefield
- Cr Hugh Board
- Cr Terry Jennings
- Cr Lindsay Rogers
- Cr Peta Thornton

**Apologies / Leave of Absence**

- Nil

**OFFICERS**

- Scott Barber, Chief Executive Officer
- Leah Johnston, Director Infrastructure
- Bhan Pratap, Director Corporate Services
- Michelle Grainger, Director Development and Planning
- Ash Free, Finance Manager
- Azam Suleman, Manager - Project Management Office
- Awais Sadiq, Development Manager
- Peter Ross, Engineering & Strategic Projects Manager
- Jan McEwan and Staff, Family Youth and Children's Services Manager
- Will Burns and Staff, Youth Support Coordinator

**Other**

AEC – Rating and Revenue Plan consultants  
Rachael Williams (Local Logic Place)  
WMS Consultants – Catherine Walker and Alyssa Jones

**CONFLICT OF INTEREST**

- Nil

## 5 Notices of Motion

## 6 Foreshadowed Items

## 7 Urgent Items Not Included In Agenda

## 8 To Consider and Order on Councillor Reports

## 9 In-Camera Items

### RECOMMENDATION

That, in accordance with sections 66(1) and 66(2)(a) of the *Local Government Act 2020*, the meeting be closed to members of the public for the consideration of the following confidential items:

### Audit and Risk Committee - Membership Renewal

**CONFIDENTIAL ITEM** *This item is to be considered at an In Camera meeting in accordance with Section 3(1) (f) of the Local Government Act 2020, on the grounds that the item concerns personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.*

## 10 Close of Meeting