

Presentation

Macedon Ranges Protection Advisory Committee Hearings

6 May, 2016
MRSC Offices, Gisborne

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1 INTRODUCTION

The Association expresses its appreciation to the Minister for Planning, and the Committee, for the opportunity to meet with the Advisory Committee on February 10 this year.

1.1 About MRRA

Macedon Ranges Residents' Association is a voluntary, non-party political community group, established in 1995. Our website was included in the National Archives of Australia, and State Library of Victoria catalogue, in 2009.

The Association provides a support and information service to residents through direct contact, our email network, letters to local papers, Facebook (500 likes), and by networking and 'cross-pollinating' with other community groups.

Since March 8, 2016 the Association has presented at panel hearings for six planning scheme amendments: C98, C100, and C99, C103 and C105 (Structure Plans for Woodend, Riddells Creek and Kyneton respectively), and Amendment C110 (rural living).

In the past, we were objectors at Macedon Ranges' panel hearings for the major amendments C84 (Settlement Strategy and MSS, approved September, 2015), and C92 (Macedon Restructure overlay, abandoned by the Minister for Planning, September, 2015).

As a Shire resident in 1996-97 I was a community representative on Council's New Format Planning Scheme Review committee, and the inaugural 1998 Natural Environment Strategy committee. I presented to panel hearings for the new format planning scheme (1998), Amendment C8 (Residential and Industrial Land Review – abandoned by the Minister for Planning, 2004), and Amendment C21/C48 (Rural Land Review – approved February, 2006).

1.2 Macedon Ranges Protection Process

The Association made a brief submission to the Issues Paper, a major concern with which was the resounding lack of community engagement at local level, errors in the Paper - and inclusion of Council's deficient Localised Planning Statement competing with Statement of Planning Policy No. 8 as a basis for legislation to protect Macedon Ranges.

Association members discussed today's presentation at a recent meeting and it was agreed that I advise the Committee that our members, and others in this community, are offended by firstly, the LPS's inclusion in the Issues Paper and secondly, by having to fight for what we were promised: legislation based on Statement of Planning Policy No. 8.

The Association has worked with previous Councils, but not this one, towards which there is almost universal community distrust and dislike, and a comprehensive lack of confidence. It is a Council that will lie – to its community, to governments, to anyone - in pursuit and defence of its own narrow interests. There is acute community awareness of how far this Council will go to get its own way. In our view, this Council is part of the problem, not the solution, in Macedon Ranges. The community is determined to get a better Council, and a new CEO, at the end of this year.

We wish to present some history around what is happening here, before addressing other matters.

2 MACEDON RANGES STRATEGIC PLANNING

2.1 New Format Planning Scheme (2000)

With the adoption of the new format planning scheme in 2000, the Shire lost its prescriptive planning controls, including tenement controls. The new scheme, a 'best-fit' translation, was found to be significantly deficient. 157 recommendations, most to be done 'before adoption', were intended to produce an interim scheme which would suffice while strategic work was done.

With a planner as CEO between 2003 and 2008, the Shire began to progress necessary strategic work - Rural Land Review, Gisborne ODP, heritage overlays, and the State-funded Planning for a Sustainable Future project, all aimed at improving policy and controls to better protect the area's State significant values, within the VPP system. With regard to the loss of tenement controls, the Advisory Committee commented:

*"Panel agrees with Council's assessment (most appropriate interim measure would be to apply strict environment management criteria to be satisfied by applicant) and notes an application would be assessed on its merits. It was noted tenement controls in the existing scheme do not apply in exhibited scheme. Implications of this change should be addressed as part of the recommended rural review."*¹

2.2 Rural Land Review 2002: Amendment C21/C48

The Rural Land Review produced Amendment C21 in 2003, (known as C48 after introduction of the new State rural zones). The Review identified three strategic rural land use areas: Agricultural Landscapes, Environmental Living, and Rural Living (Figure 1). These were supported by rural land use principles, and six rural land policies: 22.15 Rural Living; 22.16 Southern Catchments; 22.17 Living Forests; 22.18 Cobaw Biolink; 22.19 Northern Catchments, and 22.20 Agricultural Landscapes. These policies generally addressed multiple issues, including landscape, conservation, catchments, agriculture, housing and character:

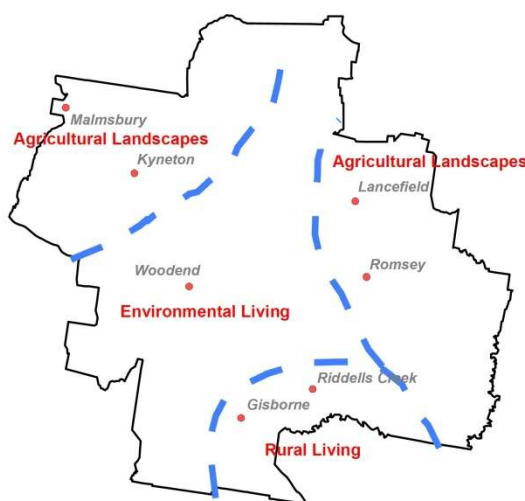


Figure 1 The Rural Land Review's Rural Land Strategy

C21 introduced prescriptive policy provisions particularly for dwellings in agricultural and catchment areas, off-set by support for 8ha rural living in a discrete area in the south of the Shire, between Gisborne and Riddells Creek.

Although supportive of the broad strategic direction for that area,² the C21 Panel criticised lack of analysis underpinning the amendment's rural living elements, and considered not supporting them.

¹ Page 198, New Format Planning Scheme Panel Report, March 1999

² 7.7.3 page 79, C21 Panel Report

The Panel concluded there remained a clear need for the type of comprehensive Shire-wide rural living strategy previously recommended by the new format planning scheme Advisory Committee.

3.8 Panel Findings

“The Shire’s rural areas present a range of complex and often competing issues that are not capable of easy resolution. Large areas of the Shire are in open water catchments, there are significant areas of important remnant vegetation, the Shire has a diverse and highly valued range of landscape characteristics, agriculture is a continuing and important element of the local economy and substantial areas are highly susceptible to land degradation.

These issues are exacerbated by the competing interests and expectations of landowners and the continuing pressure for residential development in rural areas. If these issues are not well managed, then the important characteristics and resources that make such a significant contribution to the Shire’s identity will continue to be damaged. This is not just a local issue because the Shire’s water catchments, habitats and recreational features are of state significance.

In order to address these issues, the Shire needs a comprehensive and considered framework that seeks to protect and enhance the positive characteristics and features that are under threat. This means that some of the practices of the past must stop, landowners cannot expect to have an unfettered right to subdivide and develop, and Council must be prepared to make difficult decisions in support of its planning objectives.

In developing its understanding of the issues that affect the Shire’s rural areas the Panel has formed a number of overarching conclusions:³

- *The protection of water quality should be the primary planning consideration in the Shire’s water catchments;*
- *The Shire’s agricultural sector, although arguably not of great significance in the state context, is important locally and should be protected;*
- *Strategies for protecting agriculture should be flexible enough to allow for emerging agricultural trends;*
- *Important areas of remnant vegetation should not only be preserved but also augmented and enhanced;*
- *The Shire’s rural landscapes are key features that need to be protected.*

A recurring theme in the Panel’s consideration of these issues has been the extent to which residential development has occurred in the Shire’s rural areas in recent years. This level of development cannot continue without causing significant and irreparable damage to the fabric of the rural areas and the many features that are valued by the community. To reverse this trend will be difficult, given that the pressure for this type of development will continue to grow.”

3 CURRENT STRATEGIC PLANNING

3.1 MRSC: “Existing Scheme Is Sufficient Protection”

It is not a surprise that Council is content with the current scheme. Since 2008, much thought, time and effort has gone into weakening environmental and rural land policy to allow growth and economic development a more prominent – if not primary - policy role. The shift began with C84, and culminates in C110. The Localised Planning Statement is the jewel in the crown; the vehicle that at last gets rid of Statement of Planning Policy No. 8.

³ Page 25, C21 Panel Report, February 2004

3.2 About Amendment C84

3.2.1 C84 Basis

Council adopted its Settlement Strategy in July 2011, and moved it forward to an amendment.

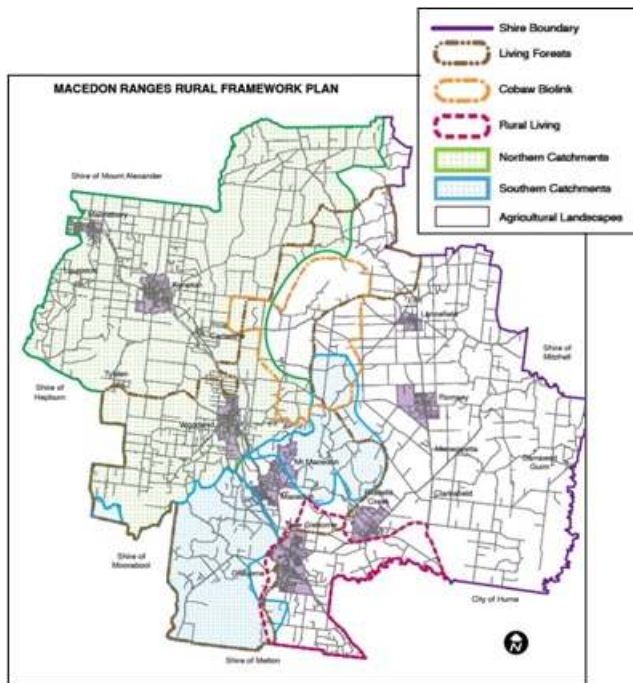
The C84 amendment Council adopted at the end of October 2011 wasn't just a 'settlement strategy' amendment. Without notice, additional to the Settlement Strategy, C84 became a supposedly 'policy-neutral' rewrite of the MSS as well, based on a 2005/2008 MSS Review, and a reworked 2008 draft amendment, C62 (which the Minister for Planning declined to exhibit in 2010). C84 also introduced some 20 new reference documents (which increased as the amendment progressed). By exhibition, C84 was further transformed by inclusion of SPPF-theme reformatting. Subject of an interim panel report, C84 was an amendment of constant change. The final document approved by the Minister in September 2015 was version 13 or 14.

3.2.1 C84 Rural Policies

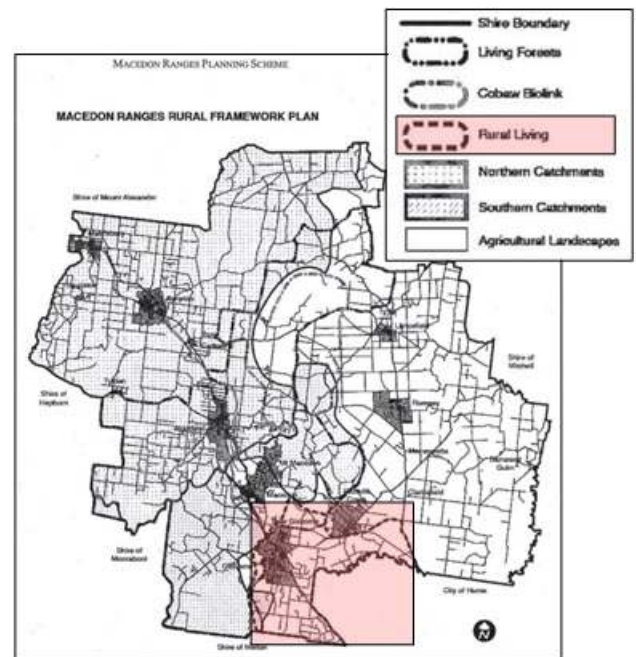
C84 deleted 20 local policies, including the rural land policies inserted in 2006 by C21/C48. Some parts of the policies were transferred to an MSS theme, or themes, or were moved to overlays as decision guidelines. The integrity, specific application and content of the rural policies was lost.

3.2.2 C84 Deletion of C21/C48 Rural Living Policy Area

Somewhere between Council's adoption of C84 to send to panel in March 2012, and the C84 Directions hearing in May, 2012, the Rural Living policy area inserted by C21/C48 was deleted. It simply disappeared (**Figure 2**).

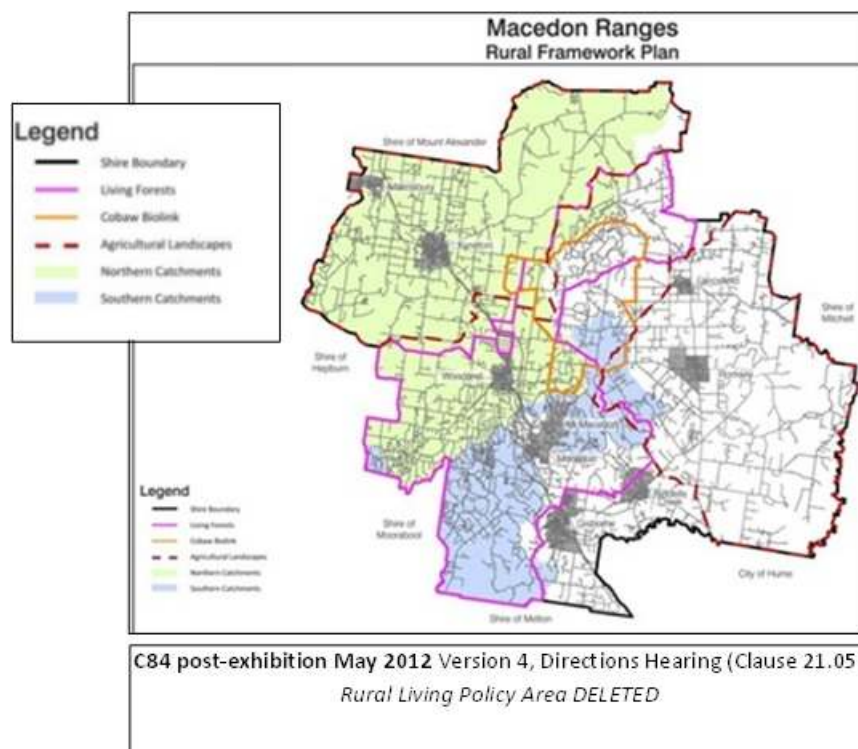


C84 Exhibited 2011 (Clause 21.05)



C84 post-exhibition March 2012 (Clause 21.05)

adopted by Council to send to Panel

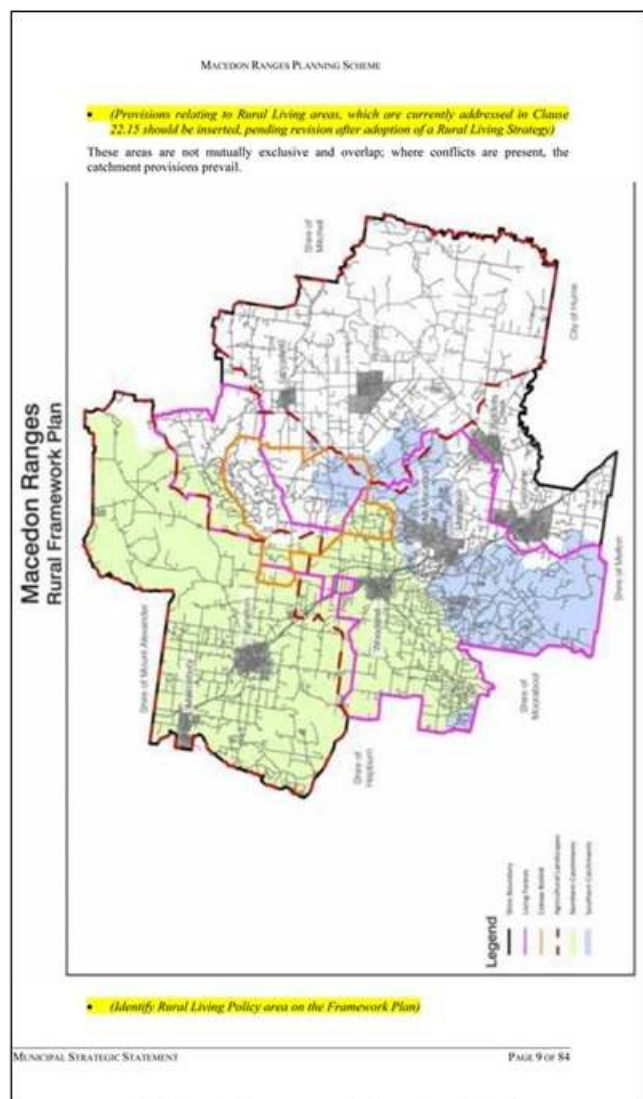


C84 post-exhibition May 2012 Version 4, Directions Hearing (Clause 21.05)
Rural Living Policy Area DELETED

Figure 2 (Top left) Exhibited C84 and (Top right) C84 adopted for panel with the Rural Living policy area.
(Below) May 2012 Directions hearing version – Rural Living policy area gone.

3.2.3 Council's Response to Panel's Rural Living Zone Recommendations

The C84 panel's final report (April 2014) provided a complete MSS, which made recommendations to re-instate the Rural Living policy area, and policy, pending adoption of a Rural living Strategy (below left). These were deleted from the C84 document presented to Council for adoption (below right) (Figure 3).



C84 Panel Recommendations April 2014:

Clause 21.03-3 Strategic Framework Plans (page 9 of 84)

Provisions relating to Rural Living areas, which are currently addressed in Clause 22.15 should be inserted, pending revision after adoption of a Rural Living Strategy.

Identify Rural Living Policy area on the Framework Map

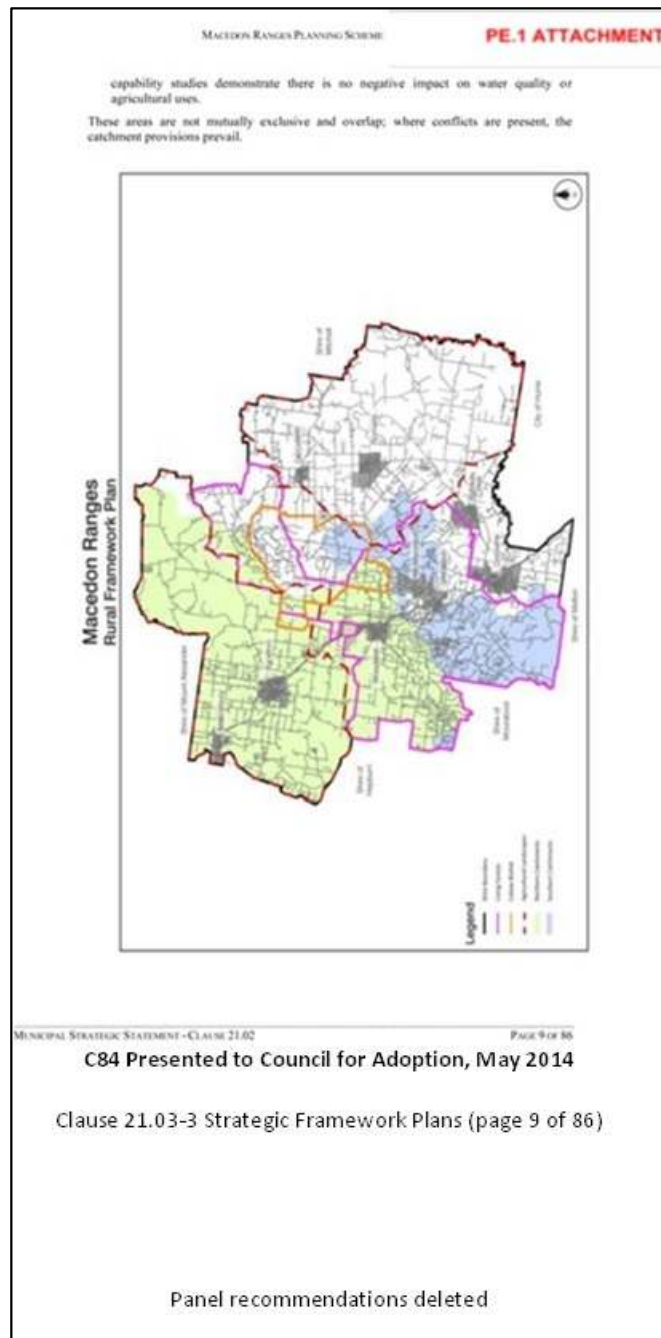


Figure 3 Recommendations in C84 panel final report at Clause 21.03-3 (left), and Council's response (right).⁴

⁴ C84 Final Panel Report, 7 April, 2014: MSS Recommendations

3.2.1 Council Response to C84 Panel's Clause 21.09-2 recommendation

The panel also made a recommendation at Clause 21.09-2 Rural Residential (Housing), to reinstate existing rural policies for Rural Living/rural residential, pending adoption of a Rural Living Strategy. Council declined, saying it preferred to add policy *after* adoption of a Rural Living Strategy (Figure 4). Amendment C110 makes these policy changes.

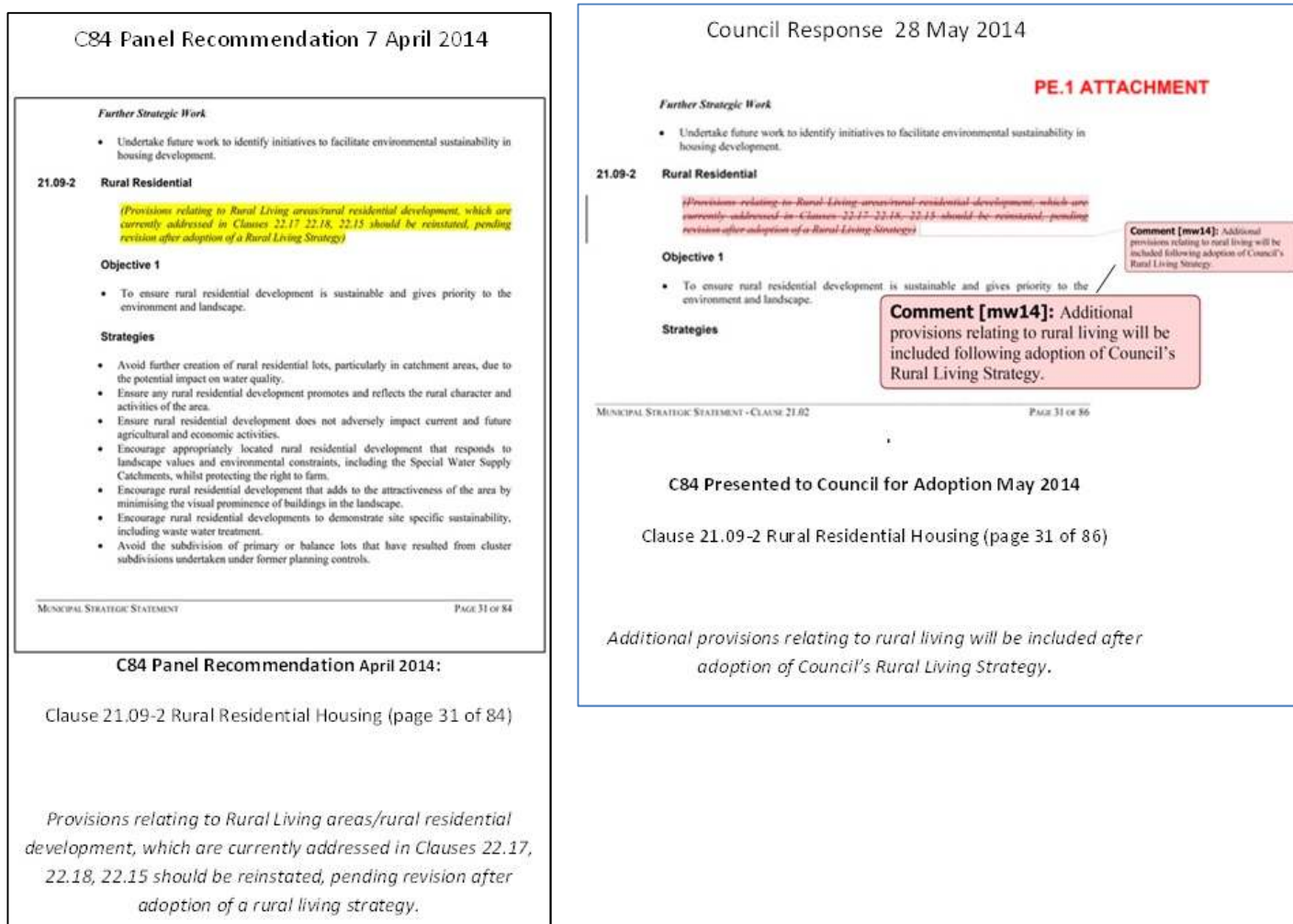


Figure 4 Recommendations in C84 panel final report at Clause 21.09-2 (left), and Council's response (right).⁵

⁵ C84 Final Panel Report, 7 April, 2014: MSS Recommendations

3.2.1 Misrepresentation of Council Response to Panel Recommendations

Below are Council's July 2014 Shire Life newsletter (left) announcing Council adopted all C84 panel recommendations and revised wording, and September 2014 newsletter (right) clarifying that Council adopted the (MSS) amendment document attached to the Panel's report. Neither statement is correct. The September notice also advises other changes were sought after adoption.

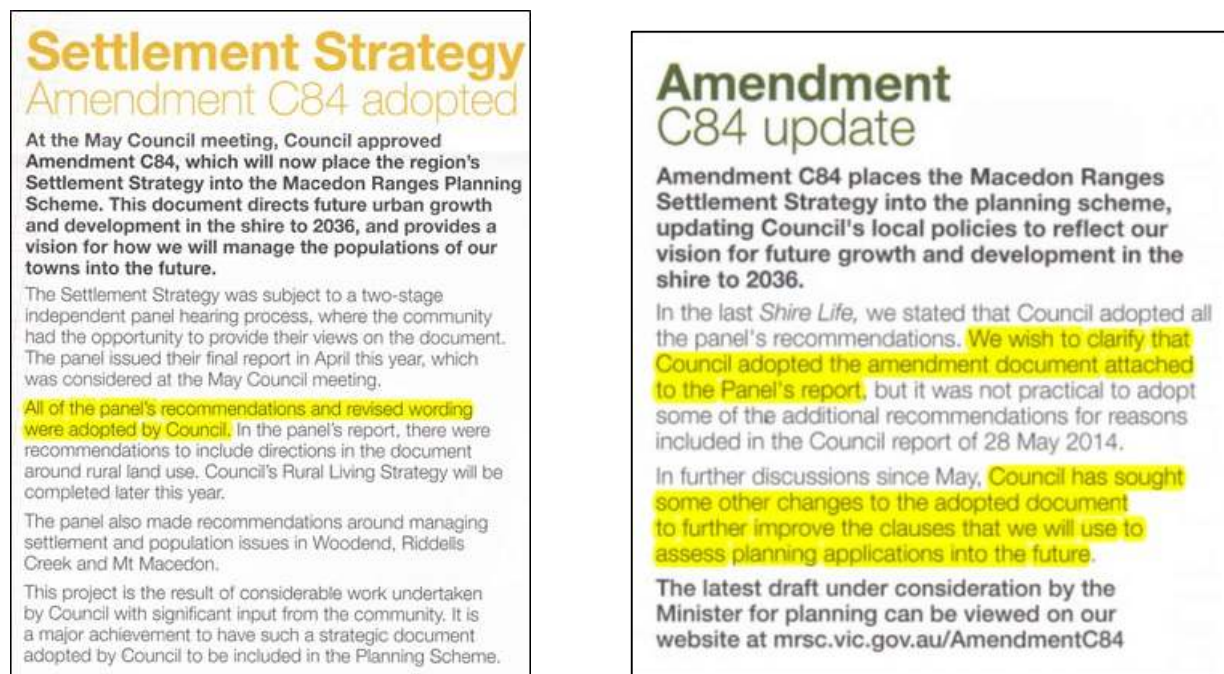


Figure 5 Council's July 2014 Shire Life newsletter (left) and September 2014 newsletter (right)

3.2.2 C21/C48 Rural Land Principles

With the rural policies and their strategic basis gone, C84 moved the C21/C48 Rural Land Use principles into the "vision" for the Shire at Clause 21.03-2 (Table 1). Differences are shown in bold.

Table 1 The Shire's former Rural Land Use Principles transferred by C84 into the Shire's Vision

	Amendment C21/C48: (Former) Clause 21.07-3 Sustainable Rural Land Use Management: Rural Land Use Principles	C84 21.03-2 Land Use Vision
	<i>Application: These principles apply across the Shire, and Council will apply these principles when making decisions about planning permits and planning scheme amendments.</i>	<i>Application: Development and land use planning will be guided by the following vision:</i>
1	The Shire will remain a rural shire with a number of villages and their communities set within an attractive and productive rural environment, which includes a healthy natural resource base, soil based agricultural activity, native flora and fauna and dispersed rural dwellings.	The Shire remains predominantly rural , with a hierarchy of settlements set in an attractive and productive rural environment.
2	Agriculture is an important part of the character and economy of the Shire, and will be maintained and supported , especially on the high quality soils in the east of the Shire and in the north of the Shire where there has been less land fragmentation.	Agriculture remains an important part of the character and economy of the Shire, especially the high quality soils in the east of the Shire and in the north of the Shire where there has been less land fragmentation. Effective land management is a key priority.

3	<p>Protection of water quality, especially potable water supply, is fundamental.</p> <p>Open potable water supply catchments must be managed to ensure water quality is not compromised.</p> <p>Development will be minimized in potable water supply catchments.</p>	<p>Protection of water quality, especially potable water supply, is fundamental.</p> <p>Land use and development, particularly un-serviced development in open water supply catchments, is minimised and managed to ensure water quality is not compromised.</p>
4	<p>Native vegetation is vital for the environmental health of the Shire and is a significant component in the Shire's character.</p> <p>Council will protect native vegetation and will strive for a gain of native vegetation in the Shire.</p>	<p>Native vegetation is retained and enhanced, balanced with fire protection considerations. Native vegetation is vital for the environmental health of the Shire and is a significant component of the Shire's character.</p>
5	<p>The landscapes of the Shire are highly valued by residents and visitors.</p> <p>Development that compromises the nature and character of the rural landscapes of the Shire will not be supported</p>	<p>Development complements the nature and character of the rural landscapes of the Shire.</p> <p>Landscapes in particular the landscapes around Mount Macedon and Woodend, are highly valued by residents and visitors and facilitate tourism which plays a key economic role in the Shire.</p>
6	-	<p>Development occurs in an orderly and sustainable manner, maintaining clear distinctions and separations between settlements.</p> <p>A diverse range of residential and commercial opportunities are provided in appropriate locations, including appropriately zoned and serviced land to meet the needs of the Shire's changing demographic.</p> <p>Growth is generally directed to the transport corridors, in-line with infrastructure provision and cognisant of constraints.</p>
7	-	<p>Economic growth is encouraged to deliver jobs and reduce escape expenditure. This occurs in appropriate locations within the settlement boundaries apart from agriculture based business.</p>
8	<p>Rural residential development in its various forms is an important part of the lifestyle of the shire and provides for population growth.</p> <p>There is already considerable supply offering a range of lifestyle opportunities. Creation of additional rural residential lots is likely to compromise the above principles.</p> <p>Development of existing rural lots for residential purposes must promote the above principles.</p>	<p>Since the Shire has a considerable supply of rural residential land, further creation of such lots will be restricted.</p> <p>Development of existing lots for rural residential purposes recognises the importance of surrounding agricultural land and protects water supply, native vegetation and landscape characteristics. <i>DELETED BY C110 and replaced by:</i></p> <p>Rural living areas will be planned to achieve a finite supply up to 2045 in well serviced areas with good internal connectivity and integration with external road and path networks.</p>

3.2.3 **C84 Weakened Southern Rural Buffer Clause**

The C84 document approved in September 2015 included changes from the document adopted by Council in 2014, including significant change to long-standing policy for maintaining a non-urban buffer between metropolitan Melbourne and Mount Macedon.

*Macedon Ranges: an **ENDANGERED** environment*

C84 Adopted by Council 28 May 2014: Clause 21.02-1 Settlement, Key Issues and Influences⁶

Maintenance of a non-urban buffer at the edge of the Melbourne metropolitan area requires the continuation of sparsely settled rural zoned land between metropolitan Melbourne and towns in the South of the Shire.

C84 Approved September 2015: Clause 21.02-1 Settlement, Key Issues and Influences

Preference for the maintenance [sic] of a non urban buffer at the edge of the Melbourne metropolitan area.

3.2.4 Policy Change In A Policy-Neutral “Translation”

The Amendment C84 Interim Panel Report⁷ found:

*“use of weaker language in Amendment C84 does introduce a substantial shift in policy relating to rural areas and the protection of environmental values.”*⁸

*“...the Panel agrees with submissions that the MSS’s emphasis on tourism may be exaggerated relative to other elements of the local economy, is at times misplaced and the wording has shifted the emphasis away from the importance of protecting significant landscape, ecological values and resources such as water but to their own inherent value.”*⁹

3.2.5 “Natural Resources” Missing From Approved C84 at 21.02-4 Key Issues and Influences.

This was included in the document adopted by Council in May, 2014, but not the approved C84.

“The key issues and influences on **NATURAL RESOURCE MANAGEMENT** include:

- *Management of the rural areas to preserve the amenity and condition of the environs.*
- *The need to maintain the health of the natural resource base, including high quality agricultural soils, to allow continuation of current activities.*
- *The broader benefits from the continued agricultural activity beyond economics.*
- *There are competing demands for alternative uses on productive agricultural land.*
- *Inappropriate subdivision and rural living development, is the major cause of fragmentation and loss of high quality agricultural land.*
- *Technological changes in agricultural may lead to greater variety in rural uses and their viability. Climate change also poses challenges for the agricultural sector.*
- *Pest plants and animals reduce agricultural productivity, compete with native flora and fauna and degrade landscapes.*
- *Land uses and development in the Shire’s extensive open potable water catchments need careful planning to maintain and improve water quality and quantity.”*

The Association submits that Amendment C84, in essence, stripped Amendment C21/C48 from the Macedon Ranges planning scheme. It also shows evidence of ‘accelerated’ support for economic development in areas with tourism, recreation or environmental attractions, and is missing some important natural resource management issues relating to rural land, and subdivision and rural living development.

⁶ Page 4 of 84, C84 final panel report, April, 2014.

⁷ September, 2012

⁸ Page 79, C84 interim panel report, September, 2012

⁹ Page 75 C84 interim panel report, September, 2012

3.3 Strategic Drivers In Macedon Ranges

Drivers for the shift from Statement of Planning Policy No. 8 as a strategic basis, to growth and economic development in C84, emerged at the Directions hearing in May 2012, when the revised amendment included the following:

“Clause 21.10-2 Tourism: Specific Implementation

- *Implement the Economic Development Strategy and implement the Macedon Ranges Tourism Strategy, Macedon Ranges Equine Strategy and the Macedon Ranges Visitor Accommodation Opportunities Study.”*

None were exhibited with Amendment C84. In fact, the Equine Strategy was only adopted by Council the same night it moved C84 forward to panel. The C84 panel expressed concern about the Equine Strategy in particular being insufficiently tested to be “implemented” through the planning scheme, and downgraded all except the Economic Development Strategy to reference documents.

The Equine Strategy and Tourism Strategy Plan openly identify planning as a “barrier” to their industries, and with Council’s 2013 Agribusiness Plan, are the drivers of strategic planning in Macedon Ranges.

“Barriers” in the **Equine Strategy** and **Tourism Strategy Plan** are almost identical:

- Farming and Rural Conservation Zones don’t cater for their interests, too restrictive.
- Planning provisions should be reviewed to provide for each industry.
- Equine – investigate introduction of lower minimum lot sizes for subdivision and use of the land for a dwelling in the Farming Zone, and consider rural living opportunities.
- Tourism - rezone to allow tourism development in rural areas; review rural zones to encourage accommodation and tourism product development.
- Both specify the Rural Activity Zone as their preferred option, or Special Use Zone / Comprehensive Development Zone.
- The Tourism Industry Strategy says, *“Macedon Ranges Shire Council will take the lead in removing constraints to well- planned tourism development and investment that fits with the region’s tourism priorities and its local character.”* Strategy 39 says: *“Undertake a planning study to provide for adequate zoned land for tourism development in the townships and rural areas of the Shire.”*¹⁰

The **Agribusiness Strategy** is much more ambiguous, saying:

“As a peri-urban region, the Macedon Ranges is well along the pathway of transitioning from a predominantly rural, broadacre primary production based place to a more mixed agribusiness landscape overlapping with more diverse and dense residential development.”

Which will be news to most residents. The document seems to be saying subdivision of rural land, removed / reduced permit requirements for dwellings, and increased rural housing and small lots to reduce the land price of ‘buying into’ Macedon Ranges.

Council notified 1,454 landholders in Rural Living, Rural Conservation and Farming Zones of its Agribusiness Survey. 190 responded; 17 attended a later workshop; and the exhibited Strategy attracted 12 submissions, including one from MRRA and one from someone at Council.

¹⁰ Page 39 Strategic Direction 6: Remove barriers to Growth and Investment in the Tourism Sector.

“The Peri-Urban Challenge”: “In summary, a cultural shift has seen a growing desire for rural lifestyle living for some and for others (particularly young families) peri-urban living is seen as a better alternative to outer metropolitan suburbs. These trends have driven land price increases in places like Macedon Ranges.”¹¹

The direction these documents are going in is quite alarming in a place as sensitive as Macedon Ranges, but is nevertheless reflected in Council's current and proposed strategic planning program. Primacy is being given to substantial change to rural land, expanding business and population growth into a *de facto* peri-urban growth area, and changing the planning scheme to suit some interests / business priorities.

3.3.1 Application of Strategies/Plan

Special Use Zones are already rolling out.

- Amendment C105 seeks Special Use for an equine precinct which includes accommodation, hotel and motel;
- Amendment C100 includes rezoning the town's Commercial 2 zone to Special Use (includes Accommodation);
- An imminent proposal for a Special Use Zone across the Mount Macedon town centre correlates with the Tourism Industry Plan's promotion of “a high quality boutique hotel of 4.5-5 star standard... resort boutique retail and food and beverage opportunities”¹² page 19 Tourism Industry Strategy Plan 2011 – 2016 (June 2011)

A review of rural zones, including application of the **Rural Activity Zone**, is already on Council's short-term strategic work agenda.

4 AMENDMENT C110

As processes to again protect this area with legislation progress, C110 proposes the very outcomes policy and legislation seek to avoid: damage to State significant non-renewable resources and values: *significant landscapes, natural features, high quality soils, and drinking water catchments*.

4.1 Previous Panel Recommendations For A Macedon Ranges Rural Living Strategy

Both the new format planning scheme panel, and C21 panel, made recommendations for what needed to be done to underpin a Rural Living Strategy in the Shire. These recommendations are shown in Table 2, along with the basis for Council's “*In The Rural Living Zone*” document, which underpins Amendment C110.

¹¹ Page 11, Macedon Ranges Agribusiness Strategy 2013

¹²

Table 2 Previous Panel Recommendations For Rural Living Strategy

New Format Planning Scheme 1999	Amendment C21 / C48 Rural Land Review 2004	In The Rural Living Zone 2015: Strategic Basis
After Adoption		
4.2 Recommendation 2: “Within 12 months of adoption prepare a <i>Strategic review of rural and rural living areas addressing</i>	Recommendation (#13): That Council undertake a Shire-wide rural living strategy that includes detailed analysis and consideration of:	
<ul style="list-style-type: none"> Land capability, Protection of productive and commercially sustainable farms, Farm restructuring, Existing fragmentation of land, Environmental constraints, Availability of infrastructure and services, Demand and supply of land, Landscape objectives, Guidelines for development, Tenement controls, and Opportunities and constraints for rural living.” 	<ul style="list-style-type: none"> Land capability; Landscape features; Impacts on water catchments; Supply and demand for land (including land subject to and suitable for the Low Density Residential Zones); Appropriate lot sizes; The suitability of existing RLZ schedules and their current application; The most appropriate treatment for de facto rural living areas that are not subject to the RLZ; The urban growth boundary issues raised in Melbourne 2030, and Town boundary and density issues raised in the Amendment C8 process. 	<ul style="list-style-type: none"> Market demand Anecdotal evidence from real estate agents Macedon Ranges Equine Strategy 2012 Macedon Ranges Agribusiness Strategy, 2013.

4.1.1 2008 Draft Rural Living Strategy

A draft Rural Living Strategy, which responded to the C21 panel’s recommendations, was adopted for exhibition by Council in September 2008. It was not heard of again.

4.1.2 C110 MSS Policy Changes

Amendment C110 makes some substantial, significant policy changes in the MSS. Instead of being measured against existing policy, the amendment deletes it.

21.02-8 Key Issues and Influences: Community Development and Infrastructure Deleted

~~“Rural Living development places added pressure on the secondary road network and community services.”~~

Clause 21.03-2 Land Use Vision Deleted

~~“Since the Shire has a considerable supply of rural residential land, further creation of such lots is restricted. Development of existing lots for rural residential purposes recognises the importance of surrounding agricultural land and protects water supply, native vegetation and landscape characteristics.”~~

Macedon Ranges: an **ENDANGERED environment**

Replaced with:

“Rural living areas will be planned to achieve a finite supply up to 2045 in well serviced areas with good internal connectivity and integration with external road and path networks.”

Clause 21.04 Settlement Added

“In the Rural Living Zone Strategic Direction” report informs the overall direction for rural living areas in the Shire to 2045. Key strategic directions provide for 30 years of finite supply across the Shire. Based on recent demand patterns, a 30 year supply has the potential for development of approximately 1,000 lots across the Shire. These consist of both existing vacant lots and the creation of additional lots close to the Shire’s District and Large District towns.

Clause 21.09-2 Rural Residential (Housing) Deleted

Strategy 1.1

~~Avoid further creation of rural residential lots, particularly in catchment areas, due to the potential impact on water quality.~~

Strategy 1.7

~~Avoid the subdivision of primary or balance lots that have resulted from cluster subdivisions undertaken under former planning controls.~~

Clause 21.09-2 Rural Residential

Exercise of Discretion Deleted

~~Not support an application of the primary or balance lot where an agreement for cluster subdivision has previously been made. The responsible authority will take the view that previous rights have been exercised.~~

Other Actions of Council Added

Monitor the release of small lots over a 3-5 year period from gazettal of amendment C110 to ascertain the demand for smaller lots and whether further supply needs to be delivered to the market in appropriate locations. Any locations considered for future changes should be determined by the strategic consideration set out in the In the Rural Living Zone – Strategic Directions report September 2015.

Council advised the C110 panel that although SPPF Clause 11.02 doesn’t identify a requirement for rural living or rural residential land supply to be maintained, and although creating a 30 year supply is twice State policy minimum residential land supply requirements, C110 was a “do it once, do it right” scenario. **The Association submits** the above statement being added to the MSS by Amendment C110 says C110 is just the beginning...

4.2 Other Concerns With C110

4.2.1 Inadequate Investigations and Studies

Late, unexhibited flora and fauna, and fire, reports that only address selective areas.

4.2.2 Loss of Rural Buffers

C110 puts rural living development in the 'rural buffer' area along the Shire's boundary, contrary to State policy at Clause 11.12.05 *"Maintain non-urban breaks between settlements"* and Statement of Planning Policy No. 8:

"There is a need to retain a buffer zone of predominantly rural land-uses between any concentrated urban development at Sunbury and the major recreational and scenic attractions, water catchments and forest resources of the Macedon Range."

There are also implications for Green Wedges on the other side of our Shire boundary.

4.2.3 Subdivision of Primary Lots

Amendment C110 removes Design and Development overlays (DDO13) prohibiting further subdivision from large primary lots in the Gisborne area, including the Jacksons Creek escarpment. Council proposes to additionally remove Section 173 Agreements from other primary lots in this area.

Amendment C110 deletes MSS policy and Exercise of Discretion to avoid/not support further subdivision of these lots. The *"In The Rural Living Zone"* document at page 17 says, *"The removal of DDO13 and where possible the cancellation of Section 173 agreements may allow for the creation of opportunities for more appropriately sized rural living lots."*

4.2.4 C110 Application of DPOs

DPOs are proposed over hundreds of hectares of rural land.

- a) Exemptions are proposed in schedules for construction of dwellings and outbuildings on existing allotments before a development plan is approved.

4.2.5 C110 Affects Nationally Significant Landscapes

Macedon Ranges Cultural Heritage and Landscape Study¹³ which assessed heritage and landscape values for rural land and townships in the central and southern parts of the Shire, concluded:

*"The landscape encompassed within the [former] Shires of Gisborne, Romsey and Newham/Woodend is critical in the contemporary character of Australia."*¹⁴

*"The special qualities of this landscape have been recognised for more than one hundred years."*¹⁵

The Study's findings for landscape units for the land around Gisborne, and between Gisborne and Riddells Creek, (shown in **Figure 6**) are provided below.

¹³ TBA Planners / Trevor Budge & Associates in conjunction with Graeme Butler & Ass., Francine Gilfedder & Ass., Dr. Chris McConville & Ass., Juliet Ramsay, Gini Lee, Steven Matthews. 1994

¹⁴ Volume 2, Environmental History, pages 2 and 3. TBA Planners / Trevor Budge & Associates in conjunction with Graeme Butler & Ass., Francine Gilfedder & Ass., Dr. Chris McConville & Ass., Juliet Ramsay, Gini Lee, Steven Matthews.

¹⁵ Statement of Significance, Volume 2, Environmental History, Statement of Significance, pages 2 and 3. TBA Planners / Trevor Budge & Associates in conjunction with Graeme Butler & Ass., Francine Gilfedder & Ass., Dr. Chris McConville & Ass., Juliet Ramsay, Gini Lee, Steven Matthews.

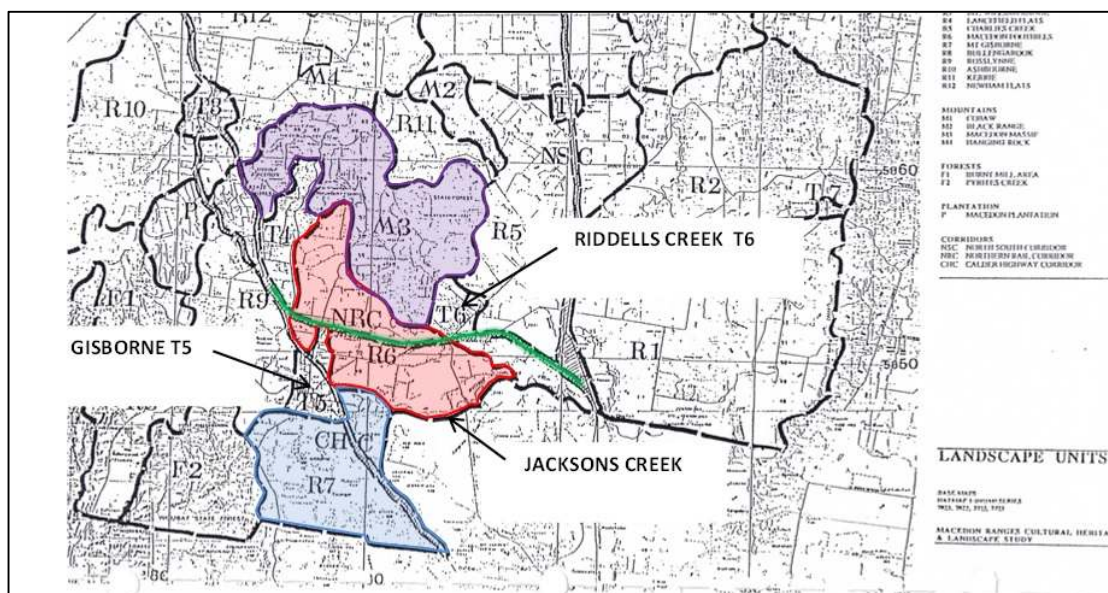


Figure 6 Landscape units in areas affected by C110 changes
(Macedon Ranges Cultural Heritage and Landscape Study)¹⁶

- **R7** The **Mount Gisborne** landscape unit¹⁷ is of local and typical/representative significance, and includes two geological features – Mount Gisborne and Mount Aitken – which are of State significance. The Study says:

“The Calder Highway sweeps the traveller into the open landscape of the Mt. Gisborne area with Mount Macedon being a destination feature... the abrupt plunging landform of the Macedon River creek gorge promotes sensation of surprise and fascination when met for the first time.”¹⁸

- **NRC** The **Northwest Rail Corridor** landscape unit¹⁹ is a landscape of State significance.
- **R6** The **Macedon Foothills** landscape unit²⁰ is of State / Regional significance, and includes lands from Mount Macedon south to the Calder Highway (including the northern side of Jacksons Creek gorge), and east to Riddells Creek. Mount Macedon is a dominant presence. *This unit includes the land between Gisborne and Riddells Creek C110 proposes for intensified rural living and new development at Kilmore Road on the Jacksons Creek escarpment.*
- **M3** The **Macedon Massif** landscape unit²¹ is a landscape of State significance. *Although not directly impacted by C110, the proposed development will clutter the important open landscapes that allow sweeping views to the Range from road, and rail.*

¹⁶ Macedon Ranges Cultural Heritage and Landscape Study, Landscape Unit Map, Volume 3, Landscape Units

¹⁷ Macedon Ranges Cultural Heritage and Landscape Study: Rankings – page 9 App 2, Vol 2; Landscape Unit – page 41, Volume 2.

¹⁸ Macedon Ranges Cultural Heritage and Landscape Study: Vol. 3, Landscape Units and Heritage Precincts, Page 42.

¹⁹ Macedon Ranges Cultural Heritage and Landscape Study: Rankings – page 9 App 2, Vol 2; Landscape Unit – page 111, Volume 2.

²⁰ Macedon Ranges Cultural Heritage and Landscape Study: Rankings – page 9 App 2, Vol 2; Landscape Unit – page 34, Volume 2.

²¹ Macedon Ranges Cultural Heritage and Landscape Study: Rankings – page 9 App 2, Vol 2; Landscape Unit – page 82, Volume 2.



The Cultural Heritage and Landscape Study says:

“One of the most important findings to arise from the study is the importance of the area as a national asset. The area has been recognized at the State level through Statement of Planning Policy No. 8 (the emphasis of the policy being on the area’s importance for water catchment, nature conservation and recreation).

*The region does however provide a significant collection of heritage buildings and gardens which may be unique in Australia’s history, therefore signifying the relevance of a statement of national and state significance.”*²² [emphasis added]

*“Of the thirty landscape units identified in the study, the landscape units which collectively are Mt. Macedon are of national significance.”*²³

*“The Calder Highway and the Bendigo–Melbourne railway line are significant at a State level...”*²⁴

²² Page 37, Volume 1, Macedon Ranges Cultural Heritage and Landscape Study, 1994.

²³ Page 7, Volume 1, Macedon Ranges Cultural Heritage and Landscape Study, 1994.

²⁴ Transport Corridors Page 49, Volume 1, Macedon Ranges Cultural Heritage and Landscape Study, 1994.

5 WHY IS GROWTH A THREAT?

Council's submission to the Advisory Committee asks, "Why is growth a threat?"

Our response is "Why is too much growth never enough?"

The three former Shires within the SPP8 policy area (Gisborne, Romsey, and Newham and Woodend) have already grown from 8,000 persons in 1971 to 32,000 persons in 2011.

Towns now spilling out into their rural surrounds signals growth has become unsustainable in terms of giving priority to protection of water catchments, rural land and rural character, environmental values and landscapes.

5.1 Macedon Ranges Settlement Strategy

Macedon Ranges Settlement Strategy identified areas for growth (and no growth), and set 2006 (existing) and 2036 (recommended) settlement populations and hierarchies.

The Settlement Strategy distributed 90% of 2008 Victoria In Future population projections across the Shire, saying ²⁵ that its recommendations:

"align with the aim of developing sustainable communities: directing growth towards strategically identified locations, building on existing infrastructure; and protecting the values and natural amenity considered unique to the Macedon Ranges Shire."

The Strategy included all Rural Living zoned land within each town's Study Area, and:

- a) Did not include medium density development in land supply except at Kyneton.
- b) Did not include Rural Living zone land supply (where available under existing planning scheme controls) for towns within Special Water Supply Catchments.
- c) Assumed *no growth* in the Shire's rural balance and smaller settlements from 2006 out to 2036. ²⁶

The Strategy found that while likely to undermine the sustainable future of the Shire, there was sufficient existing zoned land to accommodate full 2008 VIF population estimates, and that settlements in the Shire (except Riddells Creek) already had available zoned land to realise these population projections.

"It is recommended each town does not exceed the recommended population levels since these levels reflect the overall analysis of infrastructure capacity and environmental and other constraints." ²⁷

The Association submits that the level and location of growth being promoted by Council exceeds and conflicts with that in the Settlement Strategy. In essence, Council is ignoring its adopted Settlement Strategy.

5.1.1 Gisborne

The Settlement Strategy found Gisborne had a 2006 Study Area (Figure 8) population of 8,900 people, projected to grow by 5,800 to 14,700 in 2036, with 2,200 lots required to accommodate growth (low end supply of 3,320 lots available in existing residentially zoned land – i.e. 1,100 lots more than needed). Unconstrained high end land supply: 4,180 lots. ²⁸

²⁵ at page 5

²⁶ Methodology for residential land supply assessment is provided at Appendix 4 page 1, Macedon Ranges Settlement Strategy.

²⁷ Page 2, Executive Summary, Macedon Ranges Settlement Strategy, 2011

²⁸ Table 1, Recommended population projections, Page 3, Macedon Ranges Settlement Strategy, 2011

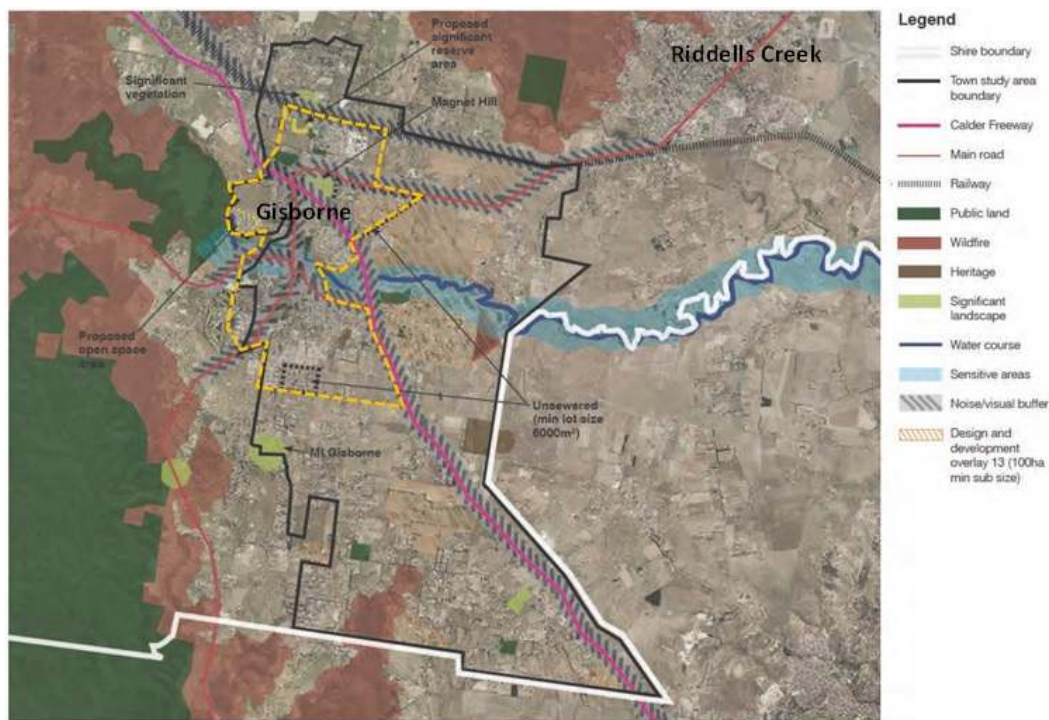


Figure 8 Gisborne town boundary (yellow) and Settlement Strategy Study Area ²⁹ (black) hugging the Shire's boundary from the south almost to Riddells Creek.

The Settlement Strategy says of Gisborne: ³⁰

“The existing zoning of Gisborne provides substantial potential for residential growth. Additional opportunities for urban development are identified in the Gisborne ODP. Any change to Rural Living will be considered as part of the Rural Living Strategy.”

And:

“... it is recommended Gisborne could accommodate a population of approximately 14,700 in 2036. This represents the population anticipated by the Gisborne ODP, plus the population of the surrounding rural living land. As there is an estimated existing land supply for approximately 17,000 people in Gisborne, there may be potential for controls in the future to restrict growth above the recommended population.” ³¹ [emphasis added]

Almost all of the Gisborne Study Area is affected by C110 through reduced minimum subdivision, deletion of DDO13 and reduction of the land size permit trigger for dwellings in RLZ1.

C110 Changes to Clause 21.13-1, Overview:

“The population of Gisborne and New Gisborne is expected to grow from some 6,400 persons in 2006 to approximately 12,070 people in 2031 (Gisborne ODP). This growth, coupled with a decreasing household size and an ageing population, creates the need for approximately 2,130 additional dwellings by 2031.

This includes land in the Rural Living areas surrounding the township, concentrated in the south and east, where approximately 180 new lots are proposed to achieve demand projections to 2045.

²⁹ Page 31, Macedon Ranges Settlement Strategy, 2011

³⁰ Page 29, Opportunities for Development, Macedon Ranges Settlement Strategy, 2011.

³¹ Page 29, Recommended Outcome, Macedon Ranges Settlement Strategy, 2011.

Neither the Gisborne-New Gisborne ODP nor the Settlement Strategy identify a need for these additional rural living lots.

5.1.2 Romsey

The Settlement Strategy found Romsey had a 2006 population of 4,100, projected to grow by 1,900 to 6,000 in 2036. 760 lots were required, and 760 lots (low end supply) are available inside the town.³² The Settlement Strategy says of Romsey:³³

“A key physical constraint to growth in Romsey is the need to preserve the rich agricultural soils surrounding the town. ...indicative assessments indicate the footprint of Romsey should not be extended. Since the precautionary approach must be adopted, the population Romsey is expected to accommodate should be limited to the current carrying capacity of the land.”

This is ignored in Amendment C110. Added by Councillors at adoption of the “In The Rural Living Zone” document, 65ha of RLZ1 (40ha) zoned land north of Romsey was added to C110 for conversion to RLZ2 (2ha).

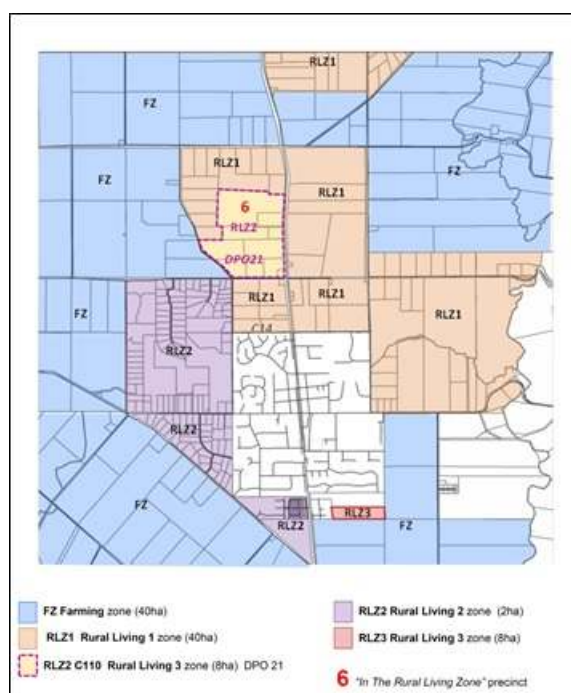


Figure 9 Land north of Romsey (“6”) belatedly added to Amendment C110: 65ha converted to Rural Living 2ha

C110 Clause 21.13-4 Overview

Romsey is approximately 63 kilometres north-west of the Melbourne CBD. The population of Romsey in 2011 was 4,412 (Australian Bureau of Statistics “Romsey, Vic (SSC)”, 2011 Census QuickStats). Romsey is the largest district town in the east of the municipality and is expected to grow to the lower end of a large district town by 2036 with an expected population of 6,000 (Macedon Ranges Settlement Strategy, 2011).”

“Rural Living areas surround the township and provide a diverse range of lot sizes where new opportunities to create 30-40 small lots is supported in the medium to long term.”

³² Table 1, Recommended population projections, Page 3, Macedon Ranges Settlement Strategy, 2011

³³ Page 64, Constraints on development, Macedon Ranges Settlement Strategy, 2011.

5.1.3 Kyneton

The Settlement Strategy identified Kyneton as having a 2006 population of 5,700 people, projected to grow by 2,900 to 8,600 in 2036, with 1,310 lots required, and available (low end supply), to accommodate growth (high end supply (including RLZ zoned land) of 2,210 lots).³⁴ Figure 10 shows the town boundary (red), the Kyneton Study Area boundary (white), and the ring of existing rural living zoned land around the town.



Figure 10 Kyneton town boundary (red) and the Settlement Strategy's Study Area (white), showing the extent of existing RLZ zoned land around the town.

The Settlement Strategy says of Kyneton:³⁵

"The principal impediment to developing Kyneton to the level forecast through the application of the VIF figures, (i.e. 8,900) is the level of historical demand. The low projection of growth (6,000 reflects the magnitude of growth Kyneton has experienced over the past 15 years – just 10 people per annum

The Settlement Strategy and the Structure Plan (respectively) found for Kyneton:

*"No further land is expected to be required to be rezoned for residential purposes out to 2036."*³⁶

*"Kyneton currently has sufficient supply of residentially zoned land to accommodate the projected population and lot requirements to 2036."*³⁷

Amendments C99 and C110 ignore this. Substantial expansion is proposed (Figure 11 and Table 3).

³⁴ Table 1, Recommended population projections, Page 3, Macedon Ranges Settlement Strategy, 2011

³⁵ Page 6, Appendix 3, Population Growth Scenarios, Macedon Ranges Settlement Strategy, 2011

³⁶ Page 35, Macedon Ranges Settlement Strategy

³⁷ 2.0, Land Supply Analysis, Kyneton Structure Plan

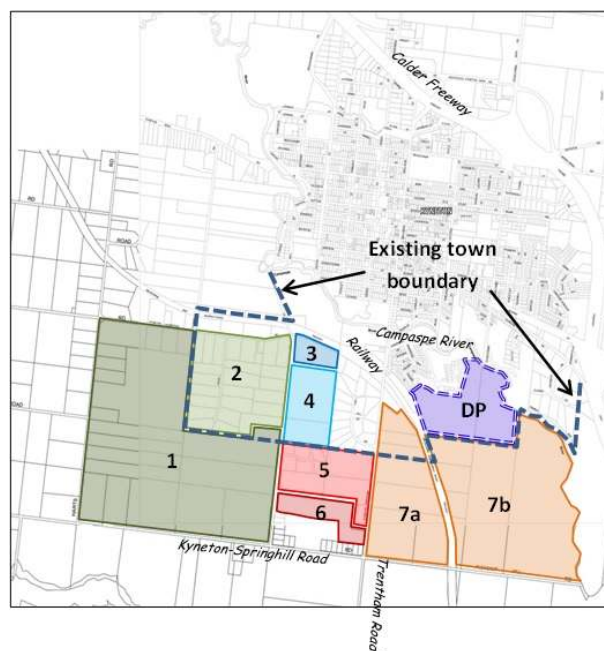


Table 3 Growth Proposed In Kyneton (additional to township infill)

Kyneton Proposed New Development Areas		
1	Amendment C110	200ha rezone Farming (40ha) to RLZ2 (2ha)
2	Amendment C110	65ha rezone RLZ5 (8ha) to RLZ2 (2ha)
3	Farming Zone (40ha)	8ha
4	Low Density Residential zone	24ha vacant
5	Farming Zone (40ha)	34.5ha "potential future low density residential area" - KSP
6	Amendment C102	13ha rezone Farming (40ha) to LDRZ (0.35ha average). 33 lots.
7	Amendment C99	7a = C99 "investigate for long-term growth" 62ha
	Future residential growth areas	7b = C99 "medium term growth area" 119ha

Overall, new development areas (1, 2, 5, 6, 7) total almost 495ha (4.95 km²), which is almost 69% of the area counted as the Kyneton Urban Centre in the 2011 census.

Additionally the purple "DP" area relates to a +40ha, 18 stage Development Plan (by Tomkinson), approved by Council last December. 18 Stages, 341 lots ranging from 240m² to +800m² "premium" lots.

C110 changes at Clause 21.13-2, Overview:

"In addition to established rural living areas the potential for 100 additional lots is available in south Kyneton to meet future demand for rural living."

These lots are achieved by C110 rezoning of 200ha of Farming (40ha) and 65ha of RLZ5 (8ha) zoned land to RLZ2 (2ha), added to C110 by Councillors at adoption of the "In The Rural Living Zone" document.

Kyneton already has 1,800ha of rural living zoned land, including over 1,500ha of RLZ2 (2ha).

5.1.4 Riddells Creek

The Settlement Strategy assigned Riddells Creek full 2036 VIF population projections.³⁸ Riddells Creek Study Area (Figure 12) had a 2006 population of 3,500, growing by 2,600 to 6,100 people in 2036. 920 lots are needed to accommodate growth; 520 (low end supply) lots are available (upper end lot supply: 1,350).³⁹

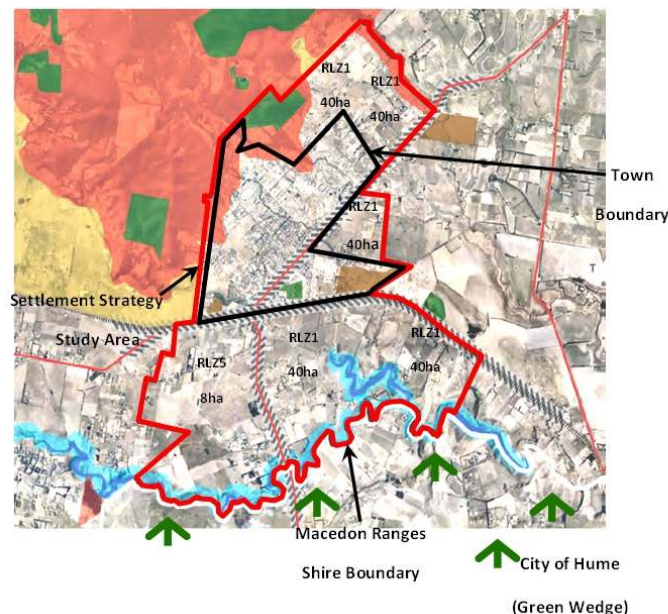


Figure 12 Riddells Creek town boundary (black), and Settlement Strategy Study Area (red) which includes land affected by Amendment C110

Although Rural Living zoned land was included in land supply, Amendment C100 puts all of the 2036 Study Area population growth (+2,600) into the town, which results in a need for 57ha more land in the town. Amendment C100 proposes an additional 250ha of Urban Growth zoned land (130ha of which was added by Councillors).

At the same time, Amendment C110 is proposing to put new development and additional population in the Rural Living zone component of the Riddells Creek Study Area, by reducing minimum RLZ subdivision size.

³⁸ VIF population projection for the Shire split amongst towns based upon existing proportion of Shire population

³⁹ Table 1, Recommended population projections, Page 3, Macedon Ranges Settlement Strategy, 2011

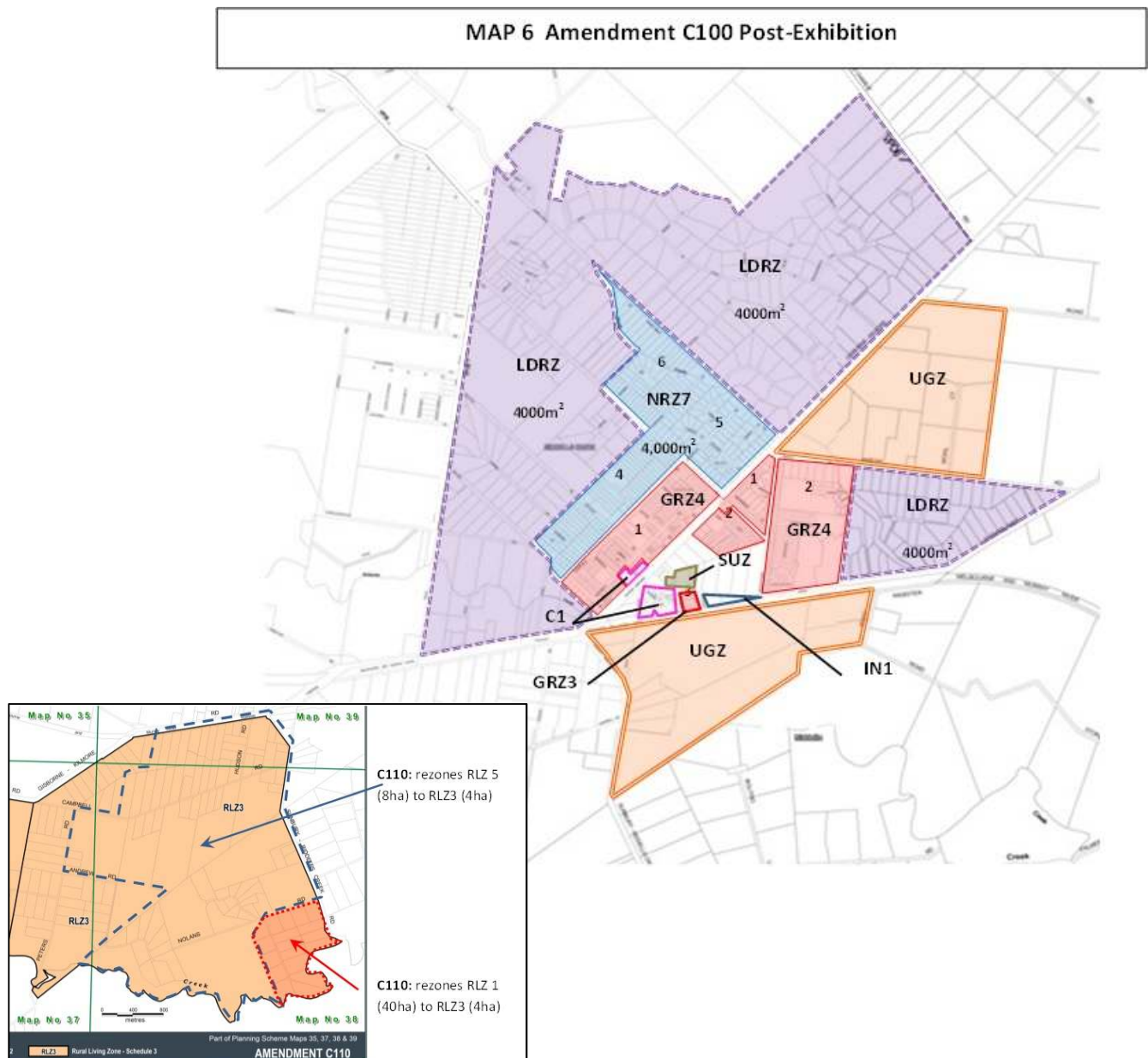


Figure 13 C100 proposed 250ha of UGZ, and C110 proposed changes to RLZ subdivision minimums within the Riddells Creek Settlement Strategy Study Area.

1	C100 Garden Setting character precinct	4	C100 Rural Bushland A character precinct
2	C100 Modern Residential character precinct	5	C100 Rural Bushland B character precinct
3	C100 Town Centre Residential character precinct	6	C100 Rural Bushland C character precinct
	General Residential Zone 3 & 4		Urban Growth Zone
	Neighbourhood Residential Zone 7		Low Density Residential Zone 2,000 – 4,000m ²
	Commercial 1 zone		Commercial 2 zone
	Industrial 1 zone		

C110 Clause 21.13-5, Overview:

Given the existing railway infrastructure, community infrastructure and proximity to Gisborne and Sunbury, Riddells Creek and its surrounding area could accommodate a population of some 6,000 by 2036. Supply estimates indicate potential capacity for approximately 4,900 people on existing residentially zoned land – further urban land will be required (Source: Macedon Ranges Settlement Strategy 2011).

This includes land in the Rural Living areas to the west of the township where approximately 90 new lots are proposed to achieve demand projections to 2045.

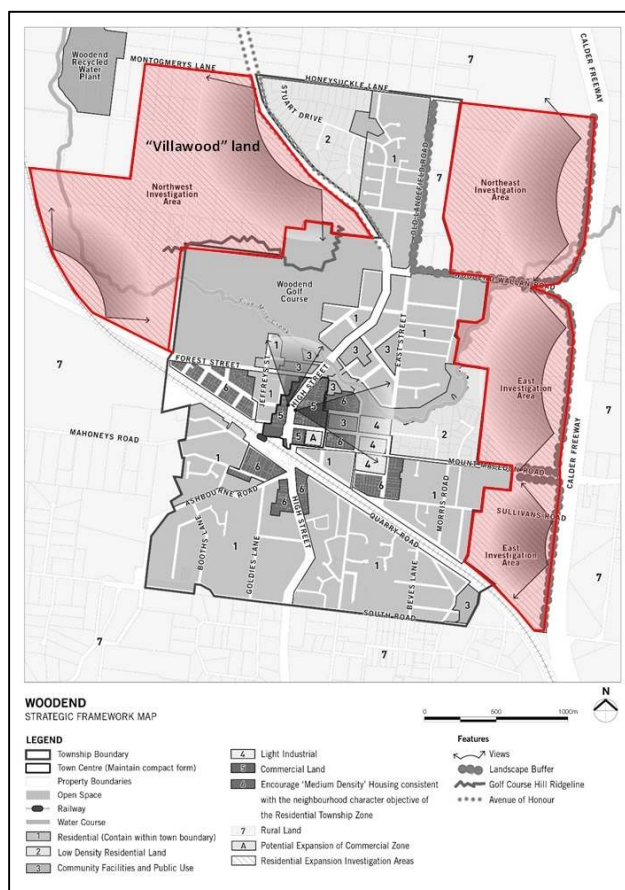
5.1.5 Woodend

Figure 14 C98 Woodend Strategic Framework Map showing some 480ha of future growth “Investigation Areas”

Even though the Settlement Strategy found Woodend’s ‘low-end’ lot supply could accommodate growth out to 2036,⁴⁰ and no further greenfield land was required out to 2036⁴¹, Amendment C98 provides for some 480ha of “Investigation Areas”, and fails to include the Woodend Structure Plan’s recommendation that if more land is needed, investigate land to the east first.

⁴⁰ At 85% take-up and based on 1,000 m² lots, Appendix 4, page 19, Macedon Ranges Settlement Strategy 2011

⁴¹ Page 70, Macedon Ranges Settlement Strategy 2011

6 TOWN STRUCTURE PLANS

Implementation of Town Structure Plans is poor, particularly in Kyneton and Riddells Creek. Characteristics include:

- Council reliance upon State policy and zone headers instead of new schedule requirements and guidelines in response to new policy.
- Failure to provide associated controls, including DDOs and other overlays recommended in Structure Plans.
- Neither adopted Structure Plans nor Neighbourhood Character Studies are included as reference documents for Riddells Creek and Kyneton.
- Council-produced “Neighbourhood Character Profiles”, prepared after adoption of Structure Plan and unexhibited until amendment, replace Neighbourhood Character Studies and neighbourhood character precincts at Riddells Creek and Kyneton.
- Kyneton town boundary is changed after adoption of Structure Plan, although not supported in the Plan.
- Most Structure Plan recommendations for action i.e. Protect, Avoid, Maintain, are converted to should protect, should avoid, should maintain.
- Almost all Structure Plan recommendations for “investigation” or “review” are fast-tracked to “facilitate”, “support” or “do”:

For example: The Kyneton Structure said nominate an area south of the railway line as an ‘Investigation Area’ for medium to long term growth. The C99 Explanatory Report ⁴² said investigation were sufficiently along to identify medium growth areas. When MRRA questioned what investigation had occurred, Council responded (in writing),

“The timing “medium term growth area” and “long term growth area” reflects the likely timing for development of these areas based on the planning and investigations undertaken by the relevant landowners.” [emphasis added]

- Amendment C103, the contaminated former pool site in Kyneton. Proposed GRZ1 in C103, but Amendment C99 includes the land within the Village East neighbourhood character precinct which is the GRZ5 zone. Urban design requirements are in a letter from the Shire’s CEO which is to be attached to the Contract of Sale.

7 PANEL RECOMMENDATIONS NOT DONE

While Council puts resources and time into reviewing rural land to apply the Rural Activity Zone, running C110, and running ‘housekeeping’ amendments (C74, C89, C109) that change/delete heritage overlays (including from Bolobek and Mulguthrie), and make site specific rezonings often in response to landowner requests, the following new format planning scheme panel recommendations remain undone:

⁴² At (2) Implementation, C99 Explanatory Report

New Format Planning Scheme:	
	4.1 Before Adoption
Recommendation 4	<i>“ESO3: apply to all land identified as Class 1 in CLPR mapping of agricultural land.”</i> ⁴³
	4.2 After Adoption ⁴⁴
	<i>Within 24 months of adoption prepare a</i>
Recommendation 3:	<i>Rural character (Natural and Cultural Landscapes) Study for the area of the Shire not contained within the Macedon Ranges Cultural Heritage and Landscape Study</i> <i>Remnant Indigenous Vegetation Study</i>
4.	Include missing heritage overlays
Recommendation 12:	<i>Council review its landscape policies based on the Macedon Ranges Cultural Heritage and Landscape Study (1994) to reassess the application of the SLO and provide objectives and guidelines for future evaluation.</i>
Recommendation 15	<i>Areas of likely development, known to be subject to overland flow and the potential for drainage problems, be investigated and Special Building Overlays be applied by way of a future amendment and that such action take place prior to any subdivision.</i>
Recommendation 21:	<i>The [geomorphological] sites identified in the Rosengren report be considered for inclusion in the SLO.</i>
Minister for Planning, John Thwaites, upon approving the new format scheme in 2000, advised:	<i>“Provisions for Land Subject to Inundation overlays have been included. Overlay provisions relating to salinity, floodways, erosion (other than at Malmsbury) and good quality agricultural land have all been excluded at this stage, pending the introduction of the latest mapping information by later amendments.”</i> [emphasis added]

⁴³ Recommendations: Before Adoption, page 239, Macedon Ranges New Format Planning Scheme, Panel Report, March 1999.

⁴⁴ Recommendations: After Adoption, pages 247 to 250, Macedon Ranges New Format Planning Scheme, Panel Report, March 1999.

8 LOCALISED PLANNING STATEMENT

Council's submission⁴⁵ claims the LPS is suitable for inclusion in the SPPF – in Botswana perhaps, but not here.

Association members met with Fi Cotter prior to Council's production of the LPS.

The LPS emasculated SPP8 policy, then applied the remains to a tiny area in the middle of the Shire, leaving towns, rural land and the Shire's southern boundary at the mercy of Council's replacement "policy" applied everywhere else.

The Association's view is the LPS is clearly intended to get rid of SPP8, and replace it with the same economic development and growth priorities seen in Council's strategic planning program. Not acceptable under any circumstances.

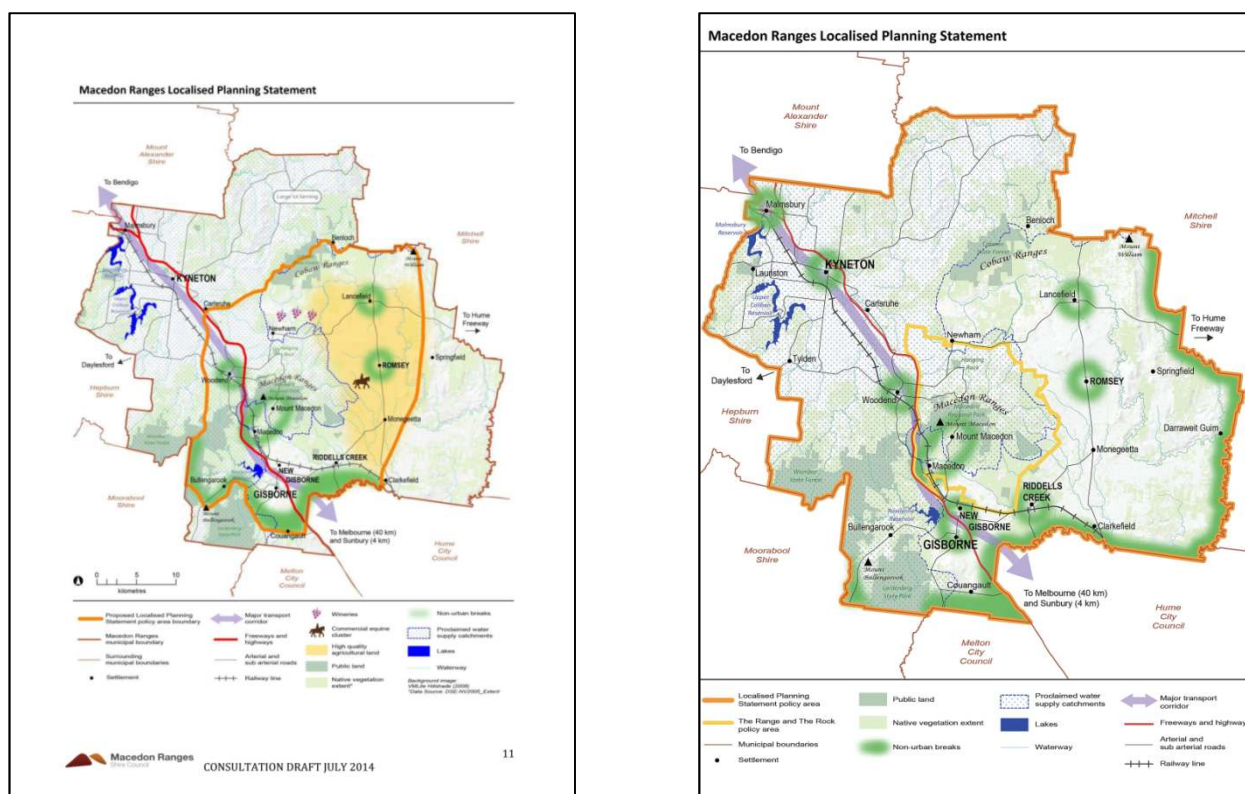


Figure 15 (Left) the SPP8 policy area. (Right) the "Range & Rock" policy area.

9 SUPPORT FOR PROTECTION AND SPP8

The Association has campaigned for 15 years for SPP8 to be re-instated as State policy, and has met with every Planning Minister since 1999 (plus a variety of opposition shadow ministers).

⁴⁵ Paragraph 47

Council says SPP8 is 40 years old and should not be included as it stands in any new legislation or policy provision. The 'age' factor is one we hear regularly from those who wish to be rid of it. The Magna Carta is older, but that doesn't mean it's not still relevant.

We have compiled some examples of support for protection of Macedon Ranges and of Statement of Planning Policy No. 8.

9.1.1 1976 Minister Hayes

Then Minister for Planning, Geoffrey Hayes, who approved Statement of Planning Policy No. 8 in 1975, laid out the challenge in a speech given in 1976: ⁴⁶

"It is worth considering for a moment the type of area and type of problem that the policy deals with.

"...we must constantly remind ourselves of these values and what it will cost us if we fail to plan and manage these valuable resources properly."

9.1.2 1999 New Format Planning Panel

Discussion: ⁴⁷

"The reasons for the policy remain relevant and the State section of the Scheme recognises the need to protect important environmental values. However absence of reference to the policy in SPPF implies specific planning objectives and provisions of the policy are now considered issues for the local section.

"Panel believes endorsement of SPP8 at a State level should be maintained through referencing in Clause 14.02-03 because:

- *1. The area is identified as an asset of importance at a state level, and*
- *2. The relationship of the policy area to the metropolitan area, which is an important source of pressures on this sensitive area in terms of urban expansion, residential development for commuters and recreational use, is unchanged."*

Other Recommendations – Recommendation 5:

"Endorsement of SPP8 at a State level should be maintained through referencing in Clause 14.02-3 of the SPPF. This is because the area is identified as an asset of importance at a state level and the relationship of the policy area to the metropolitan area, which is an important source of pressures on this sensitive area in terms of urban expansion, residential development for commuters and recreational use, is unchanged."

9.1.3 1999 Labor Party Policy

"Labor will: adopt a stronger environmental planning practice and put the protection of the natural and urban environment at the forefront of decision making. Labor will protect Melbourne's green belts and sensitive areas such as the Dandenongs, Macedon Ranges and Mornington Peninsula..."

⁴⁶ Speech by Hon GP Hayes, MP, Minister for Planning, "Proceedings of a Seminar to Discuss the Statement of Planning Policy for the area held on Saturday, 1st May 1976 at Braemar College, Woodend."

⁴⁷ Page 19, New Format Planning Scheme Panel Report, March 1999

9.1.4 1999 Minister Thwaites Letter to MRRA

“I support your suggestion that the Policy should form part of the State Planning Policy Framework and will pursue this with our Planning Reform Group in Melbourne.”

9.1.5 2000 Minister’s letter of approval of new format planning scheme, 9 June, 2000

“The new Planning Scheme includes the provisions of Statement of Planning Policy No. 8 as part of the Local Planning Policy Framework. The policy and research documents are listed as Reference Documents in the Planning Scheme as recommended by the Panel Advisory Committee.

The Principles contained in the Statement have been maintained and Council and the Victorian Civil and Administrative Tribunal must consider both the State and Local Policy Framework, when making decisions on discretionary matters in the Planning Scheme.”

9.1.6 2002 Melbourne 2030

Green Wedges Appendix 1: Green Wedge attributes –

Existing Policy Features: *Areas identified at State level as off-limits to urban development, for example, Mornington Peninsula, Yarra Valley, Dandenong Ranges, Macedon Ranges*

9.1.7 2002 Rural Land Review 2002

Community ideas paper (ie summary of ideas presented in 40 completed papers)

All but one advised that the thing they valued most about the Shire and where they lived in the Shire were the rural characteristics including the rural environment and atmosphere, landscapes, peace and tranquility, open space, forests, country lifestyle, small country communities, waterways, small villages and farms.

The majority of respondents wish to retain the rural character of the Shire;

Subdivision and housing development is seen by the community as the greatest threat to the character and environment of the rural part of the Shire

The majority of respondents wish to protect the native vegetation, waterways, landscapes, and geological features of the Shire

The majority of respondents support the continuation of soil based agriculture especially in the areas of high quality soils

Rural residential development is recognised by the majority of respondents as an important land use in the Shire. Importantly though a significant number recognised the risks associated with the continuation of such development and did not support further rural residential development

9.1.8 2004 Amendment C21/C48

“PP No. 8 was released in 1975 by the then Town and Country Planning Board and applies to approximately 80% of the municipality. The adoption of PP No. 8 recognised the significance and attributes of the area and it provides a strategic basis for its protection as a water catchment and as a

location of state importance for leisure activities and nature conservation.⁴⁸ The Panel considers that the amendment is generally consistent with PP No. 8...

9.1.9 **2004 Macedon Ranges Shire Council motion:**⁴⁹

“Moved Cr. Guthrie, seconded Cr. Petrovich:

- *That Council request the State Government to act with urgency to provide the level of State Protection that was previously applied to the Macedon Ranges and in keeping with the protection provided to the Yarra Ranges and Mornington Peninsula.*
- *That interim protection be applied immediately to protect the Macedon Ranges prior to the completion of that permanent State Protection*

Carried unanimously.”

9.1.10 **2005 Minister for Planning, Rob Hulls: media release “No Macedon Metropolis”**⁵⁰

“One of the key priorities of this government is to ensure urban development is kept out of areas of environmental significance and the government’s commitment to initiatives such as urban growth boundaries and the protection of green wedges demonstrates that regions such as the Macedon Ranges are off-limits to intensive development.”

9.1.11 **2006 Planning for a Sustainable Future Project**

“Council must establish clear visions and demonstrate strong leadership to build on the Shire’s considerable natural and social assets, and to avoid long term continued fragmentation and diminution of those assets.”⁵¹

9.1.12 **2006 Liberal Party Policy - McHarg and Macedon Ranges**

“Establish an overarching Macedon and McHarg Ranges Regional Planning Strategy to protect the region’s unique landscape and heritage values from inappropriate development.”

“Restore the Statement of Planning Policy No. 8 (SPP8) planning framework as State policy for Macedon Ranges, which would give added strength to the protection of the area’s rural and natural character and elevate this policy from local to State based planning provisions.”

9.1.13 **2009 VCAT Rozen decision**

The 2009 VCAT “Rozen” decision provides an example of Statement of Planning Policy No. 8 being put into practice. It related to an application for multiple houses in a water catchment. After a refusal by Council,

⁴⁸ Page 46, C21 Panel Report February 2004

⁴⁹ Item 6, Urgent and other business, Minutes, Macedon Ranges Shire Council meeting, 24 July 2004.

⁵⁰ 29 April, 2005

⁵¹ Page 8

VCAT approved the application, Western Water took it to the Supreme Court and won. This is the post-Supreme Court VCAT decision.

Paragraph 27

The LPPF contains numerous references to the significance of water resources within the Macedon Ranges⁵². Two extracts from the LPPF illustrate the significance of water resources and the need to protect them.

Paragraph 28

“The local planning policy, Macedon Ranges and Surrounds, in clause 22.01 states in the policy basis: The policy is directed primarily to the planning and management necessary for the conservation and utilisation of the policy area both as a water catchment for urban and local supply and as a location of State, metropolitan and local importance for leisure activities and nature conservation.”

Paragraph 29

“Specifically, it is policy that:

Protection and utilisation of the resources of the policy area for water supply, tourism and recreation, and nature conservation must be the primary concern.

Where appropriate, due account must be given to the value of the area for forestry and agriculture.

All development in proclaimed water catchment areas and in elevated areas must be strictly limited and regulated to protect water quality, and maintain or enhance natural systems and landscape character.

Planning for recreation and leisure must be directed predominantly towards activities, which require natural or semi-natural surroundings and must be integrated with planning for water catchment management and nature conservation so as to minimise conflicts.”

Paragraph 30

Major influencing factors include:

The unacceptable detriment to the valuable landscape, recreation, water and nature conservation resources, which would ensue if all subdivided land in the policy area were to be developed for residential purposes – and the need to develop equitable policies to avoid that result.⁵³

Paragraph 33

“We agree with the [C21] panel’s conclusion that the protection of water quality should be the primary planning consideration in the water catchments. We consider that the wealth of planning policy and planning control objectives in the planning scheme lead to this conclusion. Whilst planning must always involve a balancing of conflicting objectives, we have no hesitation in finding that in respect of the Shire’s open potable water supply catchments, net community benefit and sustainable development require protection of water quality to be the primary planning consideration. This primacy is explicitly stated in clause 22.01, which states it is policy that:

Protection and utilisation of the resources of the policy area for water supply ... must be the primary concern.”

⁵² Clause 21.03 – Water Quality; Clause 21.07–3 – Sustainable Rural Land Management – Rural Living, Environmental Living and Agricultural Landscapes; Clause 22.01 – Macedon Ranges and Surrounds; Clause 22.03 – Catchment Management and Water Quality Protection; Clause 22.19 – Northern Catchments

⁵³ Page 9 of 39, VCAT Reference No. P86/2006 Rozen v Macedon Ranges SC. Members: H. Gibson, P. O’Leary, G. David 23 December 2009

Paragraph 34

*“It is unusual for a planning scheme to have a local planning policy that states so specifically what the primary concern for planning for an area must be. Too often there is insufficient guidance in planning schemes as to the relative weight to be placed on various, and sometimes conflicting, objectives. There can be no such doubt in the present case.”*⁵⁴

9.1.14 2010 Liberal Party Policy – Localised Planning Statement

A Liberal Nationals Coalition Government will:

Establish localised planning statements for a number of key areas around Victoria.

These new Statements of Planning Policy will apply to:

- *The Mornington Peninsula;*
- *The Yarra Valley;*
- *The Macedon Ranges; and*
- *The Bellarine Peninsula.*

A Liberal Nationals Coalition Government reaffirms its support for the retention of Statement of Planning Policy number 8 that currently exists in the Macedon Ranges but which is being repeatedly undermined by the Labor Government.

9.1.15 2012 C84 Panel

*“Since it was adopted in 1975, SPP8 has been a strong, consistent influence on planning in Macedon Ranges. The LPPF⁹ recognises SPP8 as a central plank of policy underpinning the planning of much of the municipality, namely that the ‘Protection and utilisation of the resources of the policy area for water supply, tourism and recreation, and nature conservation must be the primary concern.’ The importance of this policy has been recognised by various Panels.”*⁵⁵

9.1.16 2014 C92 Panel

References Statement of Planning Policy No. 8⁵⁶ “Origins of current restructure provisions”

SPP8 identified a number of major influencing factors giving rise to the policy. They include:

3.9 The extensive and indiscriminate past subdivision of the Policy Area.

9.1.17 2014 Current Labor Government Policy**NEIGHBOURHOODS****Macedon Ranges**

Inappropriate development risks destroying the area. Labor will legislate to protect this iconic and historic region – promoting jobs by protecting the natural beauty of the Ranges and preserving its environmental and rural values.

⁵⁴ Page 11 of 39, VCAT Reference No. P86/2006Rozen v Macedon Ranges SC. Members: H. Gibson, P. O’Leary, G. David 23 December 2009

⁵⁵ Page 10 of 99, Interim Report, C84 Panel, 28 September, 2012

⁵⁶ Page 1 of 52, Amendment C92 Panel Report, 28 January 2014

9.1.18 Loddon Mallee South Regional Growth Plan 2014 [RGP]

The Plan recognises:

“Pressure for urban and rural residential development in areas of high amenity or natural value, such as the Macedon Ranges, presents a challenge for land use planning...”⁵⁷

And has the following requirement:

“Minimise the impacts of land use change and development on areas with significant environmental assets.”⁵⁸

The Association submits SPP8 remains relevant. It is of interest that the main opponents of legislation and protective policy and planning controls are Macedon Ranges Council, developers and others who appear to stand to gain by the actions Council is taking.

10 WHAT, WHERE AND WHY

The Association has previously provided information to the Committee about its expectations from this process, and we stand by that advice. We have some more comments.

10.1.1 Statement of Planning Policy No. 8 is about:

- a) The land. It sets down what is needed – without fear or favour – to nurture, conserve and protect the land and non-renewable, fragile resources.
- b) The public interest. It aims to protect resources that are of public interest, benefit or enjoyment.
- c) Accountability and transparency. Everyone knows what can, and can't be done.
- d) Certainty. Community Wellbeing.

10.1.2 Growth

- a) Fundamental issue that must be urgently resolved.

10.1.3 Keep / Provide

- a) Protection of natural resources, ecology and landscapes to remain the primary concern.
- b) Protect rural land from residential conversion and further fragmentation
- c) Controls over use as well as development
- d) Exclude what is damaging.
- e) Prioritise Land management and capability
- f) Maintain capacity for agriculture
- g) Protection of water catchments

⁵⁷ Loddon Mallee South Regional Growth Plan, 12 Environment and heritage Page 32

⁵⁸ Future Directions at Principle 6, Protect and enhance our natural and built environment, Loddon Mallee South Regional Growth Plan, page 19

- h) Lack of genuine consultation – Council is only consulting ‘stakeholders’
- i) Reinstate a culture of protection
- j) Co-ordination – policy applies to everyone

10.1.4 What else does SPP8 need?

- a) Tenement controls to all rural land
- b) Policy to not support subdivision of primary lots or resubdivision
- c) Rural buffers along entire metro boundary

10.1.5 Accountability and Corruption

- a) With the lines firmly drawn in this Shire between those who can have everything, and those who are not to be involved, perceptions of snouts in the trough are inescapable.
- b) It is time to get the speculators with the ear of Council out of town hall and out of Macedon Ranges.
- c) Future reviews and amendments will all be aimed at peeling more away from the scheme,
- d) Reports of developers / real estate agents knocking on doors from South Gisborne to Riddells Creek in 2011. Also in Green Wedges. Who knew what, when?

10.1.6 Immediate Action

- a) Interim use and development controls.
- b) Statement of intent for the area, and role of the area.
- c) Remove Macedon Ranges from the list of peri-urban Shires – rename it a special policy area.
- d) Suspension of Council’s planning powers, and investigation of planning in the Shire.
- e) No further planning scheme amendments until ‘protection’ instruments are in place.
- f) Recommendation that Amendment C110 be abandoned.

10.1.7 Interpretations

- g) SPP8 Interpretation that as not rescinded, SPP8 remains State policy under Interpretation of Legislation Act.
- h) Land Use Determinations

10.1.8 Accountability

- a) 17 18 19 There needs to be an authority which holds both State government and Council to account for every decision made. Oversight, transparency and authority is what is missing. Statutory – yes. A prescriptive planning scheme instead of the current open-to-interpretationinterp
- b) 20 Oversight by a Minister would be an improvement but not necessarily free of political interference. Parliament, as well.
- c) Comes down to five people or 4 if one of them is the mayor.
- d) Oversight of amendments, no quality control.

10.2 VPPs

Vulnerability to generic changes at State level.
Planning system / inability to implement 'protective' policy
Not specific to the land applied to.

10.2.1 Zones

- a) More mixed use in residential and commercial zones – former schemes (Kyneton and Romsey) included default prohibited innominate use provisions.
- b) Rural Living – changed default minimum subdivision size (8ha to 2ha) and loss of requirement for Section 173 agreement for primary / secondary lot subdivisions.
- c) Rural Conservation and Farming Zones – loss of default prohibited innominate, link between hotels, restaurants, etc. and agricultural use deleted.
- d) Low Density Residential minimum lot size halved

10.2.1 Overlays

- a) Only address development. Memorandums of Understanding – only address some development

11 CHECKS AND BALANCES

We hear arguments are being put that there are examples of 'successful' planning outcomes that 'prove' the planning system in Macedon Ranges works, it 'balances' out.

It didn't 'balance' out for residents who:

- Can't afford to go to VCAT.
- Took a 37 lot subdivision on 4ha in Ashbourne Road Woodend to VCAT, and lost.
- Spent \$35,000 trying to get a better outcome for the Riddells Creek supermarket, and lost.
- Were physically assaulted by a developer after objecting to a development.
- Had their amenity ruined by a trucking business being allowed next door.
- Aren't notified of amendments to permits and development plans.
- Live near Wheelie Waste in Woodend when Council allows the rubbish collecting firm to let its odours and noise pervade the neighbourhood, then renew the permit for another 2 years.
- Live near Tylden Quarry when Council allows operations to start an hour earlier in the morning.
- Weren't consulted on a 341 lot development plan in Kyneton, because there had been consultation some years earlier on another plan, and the developer invited some people to a meeting.
- Live next to the Mount Macedon pub.
- Were intimidated over objecting to the Gisborne Call Centre, then lost at VCAT even though Council couldn't produce an approved development plan.
- Took a 300 unit retirement resort on a floodplain to VCAT, and lost.
- Macedon. Residents won but at \$15,000 cost and pro bono representation.

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*Macedon Ranges: an **ENDANGERED** environment*

Issues previously submitted

12 RESPONSES SOUGHT FROM THE PROTECTION PROCESS

These are the Association's expectations of the protection process, based on its speech at a Community Forum in Gisborne attended by the Minister for Planning last November.

- Provide an enduring legacy of strong legislation and State policy settings that take Statement of Planning Policy No. 8 forward.
 - 1) Retain Statement of Planning Policy No. 8 as the basis for legislation (as committed to by the government):
 - Basis for strategic planning in the Shire for 40 years.
 - Policy is specific to Macedon Ranges.
 - Policy principles remain relevant. The difficulty has been implementation.
 - Upheld by VCAT and panels over time, most recently Amendment C84 panel (2013).
 - 2) Make the policy 'safe': above personal interests, politics, and governments of the day.
 - 3) Ensure legislation and policy apply to whole-of-government.
- Recognise Macedon Ranges Shire has its own identity, strengths, constraints and needs, and is different to Melbourne, Sunbury and neighbouring areas.
 - a) Retain and protect the southern 'rural buffer' with the metropolitan area, and extend it eastwards to Darraweit Guim.
- Emphasise why protection is needed, and re-align government thinking and decision-making with a 'protection' culture.
- Recognise the services a protected Macedon Ranges provides to Melbourne's population: *proximity, breathing spaces and recreation places*.
- Recognise that the contrast between our natural environment and Melbourne is what drives tourism.
- Protect the entire Shire as the "surrounds" of the Macedon Ranges:
 - a) Former Shires of Gisborne, Romsey and Newham and Woodend applied the same zones, provisions and policy that implemented Statement of Planning Policy No.8 both inside and outside the SPP8 policy area.
 - 4) The former Shire of Kyneton applied SPP8 to its landscape protection areas and overlays.
- Make protection of natural resources, environment, landscapes and rural character THE priority for all decisions.
- Provide certainty about what can and cannot be done, and how it will be done, in this area, including "must" and "must not" planning controls.
 - a) Provide a strong planning regime, including development *and* use controls specific to Macedon Ranges' needs, with the weight and direction to be consistently implemented and effective.
 - 5) Make the policy spatially integrated rather than thematic. Multiple issues need to be addressed concurrently, with clarity about priorities.
 - 6) Complete the Macedon Ranges planning scheme.

- 7) Set a program for future environmental studies and State government funding that does not impede implementation of protection.
- Regulate and cap population growth. *Towns spilling into rural land, urbanisation of rural areas and intensifying rural living signal a failure to understand and protect non-renewable resources.*
 - a) As a starting point, think “what would happen if all population growth and development stopped right now”, and what would the benefits and disbenefits be?
 - 8) What is the sustainable population capacity of Macedon Ranges? Are we already there?
 - 9) Address the conflicting objectives of protection, and on-going growth and economic development.
- Identify our towns as integral to the ‘bigger picture’, stop their suburbanisation and make existing town boundaries permanent.
- Defend water catchments and rural areas with tenement controls and use and development restrictions; set high subdivision sizes and require parliamentary approval to reduce them.
- Build on existing rural strengths by promoting nature-based tourism and recreation, local produce, and reduced food miles.
 - a) Resolve: What economic development is compatible with Statement of Planning Policy No. 8?
 - b) Resolve: Recreation v commercial tourism. What is compatible with Statement of Planning Policy No. 8?
- Recognise the inter-generational benefits and sustainability of protecting natural resources.
- Re-empower this community by making it an equal partner in all decision-making.

13 IMPLEMENTATION: *How responses might be implemented*

13.1 Can the protection needed be achieved within the existing VPP framework?

Yarra Ranges (Clause 53 and 57) and the Green Wedges (Clause 57) have specific controls to implement legislation for those areas.

Specific zones were provided for Green Wedges (Green Wedge, Green Wedge A and Rural Conservation).

Clause 53 (Yarra Ranges) says where there is a conflict, Clause 53 schedule provisions prevail over other parts of that planning scheme.

While there is merit in these systems, fragilities include:

These Clauses and zones apply to rural land. Macedon Ranges needs protection for towns, and open water catchments, as well.

Green Wedge zones are vulnerable to being compromised by State government change.

13.2 The South Australian ‘Barossa’ Model

Provides almost site-specific controls, specific to the region, and sub-regions.

13.3 Does Macedon Ranges Need A ‘Regional Authority’?