

10.5 Combined Planning Scheme Amendment and Planning Permit Application under Section 96A of the *Planning and Environment Act 1987 - 28* and Part 63 Yarragon-Leongatha Road, Yarragon.

Senior Strategic Planner

Directorate: Strategic and Community Planning

Attachments:

- 1. Attachment 1A - Planning Report*
- 2. Attachment 1B - Stormwater Assessment*
- 3. Attachment 1C - Traffic Impact Assessment*
- 4. Attachment 1D - Habitat Hectares Assessment and Offset Requirement REDACTED*
- 5. Attachment 1E - Native Vegetation Assessment Addendum Report REDACTED*
- 6. Attachment 1F - Field Inspection into Potential Warragul Burrowing Crayfish*
- 7. Attachment 1G - Residential Assessment Report*
- 8. Attachment 1H - Residential Development Net Community Benefit Assessment*
- 9. Attachment 1I - Site Investigation into contamination*
- 10. Attachment 1J - Plan of Subdivision - Version 4*
- 11. Attachment 1K - Proposed Conceptual Masterplan*
- 12. Attachment 1L - Street cross sections*
- 13. Attachment 1M - Housing Design Guidelines*
- 14. Attachment 2A - Deloraine Homestead Statement of Significance*
- 15. Attachment 2B - Proposed Heritage Overlay Map*
- 16. Attachment 2C - Neighbourhood*

Residential Zone

17. *Attachment 2D - Proposed Zoning Map*
18. *Attachment 2E - Draft Schedule 12 to the Design and Development Overlay*

PURPOSE

To present to Council the proposed combined Planning Scheme Amendment and Planning Permit applied for under Section 96A of the *Planning and Environment Act 1987* and seek approval to request Authorisation from the Minister for Planning to prepare and exhibit the amendment.

RECOMMENDATION

That Council:

1. Agree to consider Permit Application PInSA000000003 provided at Attachment 1 concurrently with the preparation of Amendment C145, having received a request pursuant to Section 96A of the *Planning and Environment Act 1987*;
2. Authorise officers to seek authorisation from the Minister for Planning to prepare Amendment C145 to the Baw Baw Planning Scheme and exhibit it with Permit Application PInSA000000003, in accordance with Section 8A of the *Planning and Environment Act 1987*;
3. Authorise officers to prepare Amendment C145 to the Baw Baw Planning Scheme to:
 - a) rezone the land at 28 and Part 63 Yarragon-Leongatha Road, Yarragon from Farming Zone to Neighbourhood Residential Zone, Schedule 1 of the Baw Baw Planning Scheme;
 - b) apply the Design and Development Overlay to the entirety of the subject site; and
 - c) apply the Heritage Overlay to "Deloraine" Part 63 Yarragon-Leongatha Road, Yarragon; andgenerally in accordance with the documentation provided at Attachment 2, subject to Ministerial Authorisation;
4. Authorise officers to prepare a proposed permit for Planning Permit Application PInSA000000003 for a staged, multi-lot subdivision and removal of native vegetation at 28 and Part 63 Yarragon-Leongatha Road, Yarragon; and
5. Authorise officers to place combined Amendment C145 and Permit Application PInSA000000003 (including the proposed permit) on exhibition in accordance with the requirements of section 96C of the *Planning and Environment Act 1987*.

KEY ISSUES

Background

On 9 April 2020, Council received a combined Planning Scheme Amendment and Planning Permit Application under Section 96(1)(a) of the *Planning and Environment Act 1987*. The application was submitted by the proponent Millar Merrigan, acting on behalf of their client (the developer).

The request proposed to rezone land at 28 and Part 63 Yarragon-Leongatha Road for the purpose of developing a 304 multi-lot residential subdivision, a superlot earmarked for an aged care facility or lifestyle village and associated infrastructure. The request was based on the potential for future rezoning and development identified under the 'Yarragon Structure Plan', incorporated into the Baw Baw Planning Scheme (the Scheme) by amendment C104 and as detailed under Clause 21.04-6 of the Scheme.

The development component of the request has matured since submission, addressing significant local flooding issues, bushfire concerns, potential ecological interference, and heritage matters. This has resulted in a final concept subdivision masterplan and draft planning permit that has been reviewed by not only the multi-disciplinary team at council, but also external stakeholders and other relevant authorities.

The staged, multi-lot subdivision is proposed to be 304 lots with an average size of 792 square metres plus one superlot. The future purpose for the superlot has not been confirmed, only potential "hoped for" uses like an aged care facility or a lifestyle village. Whether this eventuates or a future proposal to subdivide the superlot into residential lots has been considered by Council officers and it has been demonstrated by the developer that this lot could be subdivided in an orderly manner.

Overview

It is acknowledged that the application is based in good faith on a high potential for urban expansion to the east of the Yarragon township, as identified in Clause 21.04-6 - 'Yarragon Structure Plan' of the Baw Baw Planning Scheme. The structure plan provides clear guidance to future development of the township and surrounding area and is informed by overarching strategic documents the 'Baw Baw Settlement Management Plan, 2013' (SMP) and 'Yarragon Drainage Strategy, 2013' (the Drainage Strategy).

The SMP was adopted by Council 28 August 2013 and continues to provide important frameworks for population growth and character preservation within the municipality. Most prominent outcomes of the SMP and relevant to this proposal are those guidelines that inform the Yarragon structure plan providing growth directives and density expectations and the requirement for a localised drainage strategy.

The Drainage Strategy is an extensive piece of work based on scientific hydraulic modelling of flood prone areas in and around Yarragon. Local residents have long

identified flooding issues and reasons are evident in modelling outlined in the Drainage Strategy. Several of these issues may be resolved however, through the development of two large drainage retarding basins and associated infrastructure proposed through the development. This is considered to be a benefit for the township and surrounds and will also contribute to high quality green urban spaces for residents of Yarragon.

Preservation of the rural character of the township has been noted as being an important component of any future development and was a major consideration of the layout and density and resulted in the choice of zoning and the inclusion of a Design and Development Overlay, which will guide home builders and other developers to provide a spacious and low-scale residential extension to Yarragon.

Bushfire concerns have been considered by both the Country Fire Authority and council officers and the subdivision masterplan has been adjusted for best practice outcomes.

A biodiversity report has been submitted with the application to identify any significant flora and fauna on the site. A further field inspection to assess Burrowing Crayfish Habitat was also completed by a local ecologist. These reports are included as attachments to this report.

Homestead "Deloraine" and its ancillary outbuildings located on 63 Yarragon-Leongatha Road have been identified as having significant heritage value by the developer and confirmed through assessment by a heritage expert. It has been established that the homestead will be preserved by way of a Heritage Overlay, and this aspect has been included in the proposal. The homestead will be restored and will fulfil a purpose suitable for a residential zone.

A draft planning permit has been prepared in collaboration with relevant internal disciplines and government authorities and external agencies that are key stakeholders. Permit conditions were supplied as if the proposal were administered through normal procedures.

Proposed Planning Scheme controls

Neighbourhood Residential Zone

Ultimately, the planning scheme amendment will expand the urban area of Yarragon and increase residential land available for development. The Neighbourhood Residential zoning of the land at 28 and Part 63 Yarragon-Leongatha Road has been selected for its conservative nature in terms of development density and maximum allowable building heights. For example, the amendment was initially proposed to rezone the land to the General Residential Zone, and this would allow for a building height limit of 11 metres or three storeys compared to the Neighbourhood Residential Zone which allows for a maximum building height of

nine metres or two storeys.

The intention of applying the Neighbourhood Residential Zone is to ensure that the proposal and associated residential development is respectful of the preferred character of Yarragon as a rural town with established characteristics that are valued. Council officers in consultation with DELWP and the developers have identified the Neighbourhood Residential Zone as being the better fit to protect the rural character of the township. This is also the reason that a Design and Development Overlay is proposed to blanket the entire subject site.

Heritage Overlay

The second part of the amendment is the protection of the homestead “Deloraine” and its ancillary outbuildings, and as noted previously in this report the tool used will be the Heritage Overlay. Accompanying the inclusion into the Schedule to the Heritage Overlay is a Statement of Significance, which assists future planners in its preservation.

Design and Development Overlay

As noted above a schedule to the Design and Development Overlay (DDO) will be applied to the site through the proposal. One of the objectives of the schedule will be to ensure that development remains in keeping with the character of the existing Yarragon township, maintaining its rural character. The DDO schedule will include site coverage and setback requirements that will require planning approval for proposed developments if the requirements are not met.

Supporting Documentation

The proposal was submitted with various supporting specialist documents that investigate and report on the different components of the project. These include:

- Traffic Impact Assessment;
- Yarragon Economic Impact Assessment;
- Stormwater Assessment;
- Environmental Impact Assessment;
- Native Vegetation Assessment;
- Field inspection into potential for Warragul Burrowing Crayfish;
- Yarragon Residential Assessment - Net Community Benefits;
- Town Planning Report and Strategic Justification;
- Site inspection into Potential Contamination.

Whilst the Yarragon Structure Plan identifies the area as future ‘General Residential Zone’ it is considered that the accompanying specialist reports provide adequate strategic justification for the proposal. The SMP requires a detailed review and modelling of the associated servicing costs and infrastructure which has been

provided by the application.

Estate Design Guidelines

The proponent has drafted estate design guidelines that will include further requirements for the development of dwellings within the estate. The design guidelines include requirements relating to front facades, building materials, roofs, houses on corner lots etc.

TRIPLEBOTTOMLINE IMPLICATIONS

Financial Impact

To date \$3191.10 has been spent on heritage advice and formal reports that inform a Statement of Significance for inclusion of the homestead "Deloraine" into a Schedule to the Heritage Overlay.

Further financial impact of this amendment including the cost of the fees payable to the Department of Environment, Land, Water and Planning will also be incurred by the developer.

The possibility of an additional planning Panel fee exists and following exhibition of the amendment it may be decided that external representation at the Panel is needed.

Environmental Impact

The combined planning scheme amendment and planning permit allowing for a multi-lot subdivision will have a major impact on stormwater and overland flow in the localised area. This aspect is particularly important to manage and reduce or negate any impact on the neighbouring farmland and established township. To address this issue, two significant drainage retarding basins are incorporated into the subdivision layout and these have been calculated to high engineering standards.

Five native trees will be lost either due to poor health or location to proposed accessways and they will be offset in accordance with DELWP requirements. In addition to any financial offset arranged between the proponent and DELWP, it is considered that appropriate streetscaping will go a long way to physically off-setting those losses. Streetscaping is acknowledged from a planning perspective to be an important character-building component of any township and it is also acknowledged that this has been specifically noted by Councillors and residents. To that end, approved streetscaping will complement existing and established streetscaping by way of similar tree selection and mature canopy cover.

Community Impact

An additional 304 homes for future families within the township of Yarragon will initially alter the current community dynamic and impact traffic; however, an increase in residents will also improve the attractiveness of Yarragon as a place to invest for business and social services within the municipality and this will drive micro-economic prosperity and support social cohesion which has a larger flow on effect

throughout the wider community.

While community groups like Yarragon Business Association have been consulted with in early campaigns by the developer and its proponent, wider community consultation will be required through the Planning Scheme Amendment process following authorisation from the Minister.

If required meetings can be organised either online or in person in accordance with full COVID-19 requirements.

CONSULTATION

As noted above the amendment will be exhibited through the amendment process following authorisation from the Minister. Exhibition of the Amendment must be undertaken in accordance with Section 19 of the *Planning and Environment Act 1987*.

Following exhibition of the amendment a further report will be presented to Council noting and detailing the submissions that have been received.

It is noted that the exhibition of the Amendment will be undertaken in accordance with the *Planning and Environment Act 1987* but it is also anticipated that it would include at least one Drop-In session subject to the prevailing COVID-19 restrictions.

COUNCIL PLAN/LEGAL/POLICY IMPACT

Council Plan

This proposed Amendment to the Baw Baw Planning Scheme assists with the achievement of the key strategic objective as set out in the Council Plan 2017-2021:

Strategic Objective 1: *Vibrant communities*

- Managing Baw Baw Shire's growth and development with consideration of the Shire's rural character.

Charter of Human Rights and Responsibilities

This proposed amendment has been reviewed under the Charter of Human Rights and Responsibilities and is considered compatible.

Legal

The Planning Scheme Amendment process must be undertaken in accordance with the requirements of the *Planning and Environment Act 1987*.

Policy Impacts

The amendment is fully supported by numerous State and Local planning policies. It is considered that the proposed amendment will not not impact any other policies.

Conflict of Interest Declaration

No officer involved in the preparation of this report has a disclosable interest.

OPTIONS FOR CONSIDERATION

Council has the following options:

1. Authorise officers to progress the combined planning scheme amendment and planning permit application as follows:

Agrees to consider Permit Application PInSA000000003 provided at Attachment 1 concurrently with the preparation of Amendment C145, having received a request pursuant to section 96A of the Planning and Environment Act 1987;

Authorises officers to seek authorisation from the Minister for Planning to prepare Amendment C145 to the Baw Baw Planning Scheme and exhibit it with Permit Application PInSA000000003, in accordance with section 8A of the Planning and Environment Act 1987;

Authorises officers to prepare Amendment C145 to the Baw Baw Planning Scheme to:

- a) rezone the land at 28 and Part 63 Yarragon-Leongatha Road, Yarragon from Farming Zone to Neighbourhood Residential Zone, Schedule 1 of the Baw Baw Planning Scheme;
 - b) apply the Design and Development Overlay to the entirety of the subject site; and
 - c) apply the Heritage Overlay to "Deloraine" Part 63 Yarragon-Leongatha Road, Yarragon;
- generally in accordance with the documentation provided at Attachment 2, subject to Ministerial Authorisation;

Authorises officers to prepare a proposed permit for Permit Application PInSA000000003 for a staged, multi-lot subdivision and removal of native vegetation at 63 Yarragon-Leongatha Road, Yarragon; and

Authorises officers to place combined Amendment C145 and Permit Application PInSA000000003 (including the proposed permit) on exhibition in accordance with the requirements of section 96C of the Planning and Environment Act 1987.

2. Abandon preparation of the combined planning scheme amendment and planning permit application.

It is the officers' recommendation is to pursue Option 1 to advance preparation of the combined planning scheme amendment.

OVERARCHING GOVERNANCE PRINCIPLES

Pursuant to Section 9(1) of the *Local Government Act 2020* (the Act), A Council must in the performance of its role give effect to the overarching governance principles.

Section 9(2) of the Act outlines the overarching governance principles as:

- Council decisions are to be made and actions taken in accordance with the relevant law;
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- The municipal community is to be engaged in strategic planning and strategic decision making;
- Innovation and continuous improvement is to be pursued;
- Collaboration with other Councils and Governments and statutory bodies is to be sought;
- The ongoing financial viability of the Council is to be ensured;
- Regional, state and national plans and policies are to be taken into account in making strategic planning and decision making;
- The transparency of Council decisions, actions and information is to be ensured.

Pursuant to Section 9(3) of the Act, in giving effect to the overarching governance principles, Council must take into account the following supporting principles:

- The community engagement principles (Community Engagement Policy);
- The public transparency principles (Public Transparency Policy);
- The strategic planning principles;
- The financial management principles; and,
- The service performance principles.