

# Government Land Standing Advisory Committee

## Tranche 30 Report

### Grenville Street, Daylesford

15 December 2021

## Contents

<b>About this report</b> .....	<b>2</b>
<b>1 Summary and recommendation</b> .....	<b>3</b>
1.1 The site.....	3
1.2 Issues raised in submissions .....	3
1.3 Committee conclusion .....	4
1.4 Recommendations .....	4
1.5 Process summary.....	5
1.6 Process issues.....	6
<b>2 Site constraints and opportunities</b> .....	<b>7</b>
2.1 Planning context .....	7
2.2 Constraints and opportunities .....	7
<b>3 Issues with the proposed changes</b> .....	<b>9</b>
3.1 What zone is suitable? .....	9
3.2 Other issues.....	10
<b>Appendix A: About the Government Land Standing Advisory Committee</b> .....	<b>12</b>
<b>Appendix B: List of Submitters</b> .....	<b>13</b>
<b>Appendix C: Document list</b> .....	<b>15</b>

## List of Tables

Table 1:	Existing and proposed controls.....	4
Table 2:	Proposal summary.....	5
Table 3:	Exhibited planning scheme changes .....	5
Table 4:	Committee process .....	5

## List of Figures

Figure 1:	Site location.....	3
Figure 2:	Current zoning .....	7
Figure 3:	Proposed zoning .....	7

## List of Abbreviations

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DELWP	Department of Environment, Land, Water and Planning
DTF	Department of Treasury and Finance
ESO1	Environmental Significance Overlay - Schedule 1
ESO2	Environmental Significance Overlay - Schedule 2
GRZ1	General Residential Zone – Schedule 1
GLSAC	Government Land Standing Advisory Committee
HO	Heritage Overlay
NRZ1	Neighbourhood Residential Zone – Schedule 1

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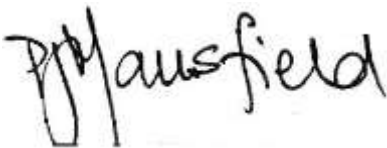
## About this report

On 8 March 2021, the Minister for Planning referred the land between 70 and 72 Grenville Street, Daylesford to the Government Land Standing Advisory Committee as Tranche 30.

This is the report under section 151 of the *Planning and Environment Act 1987* of the Government Land Standing Advisory Committee for Grenville Street, Daylesford.



Annabel Paul, Chair



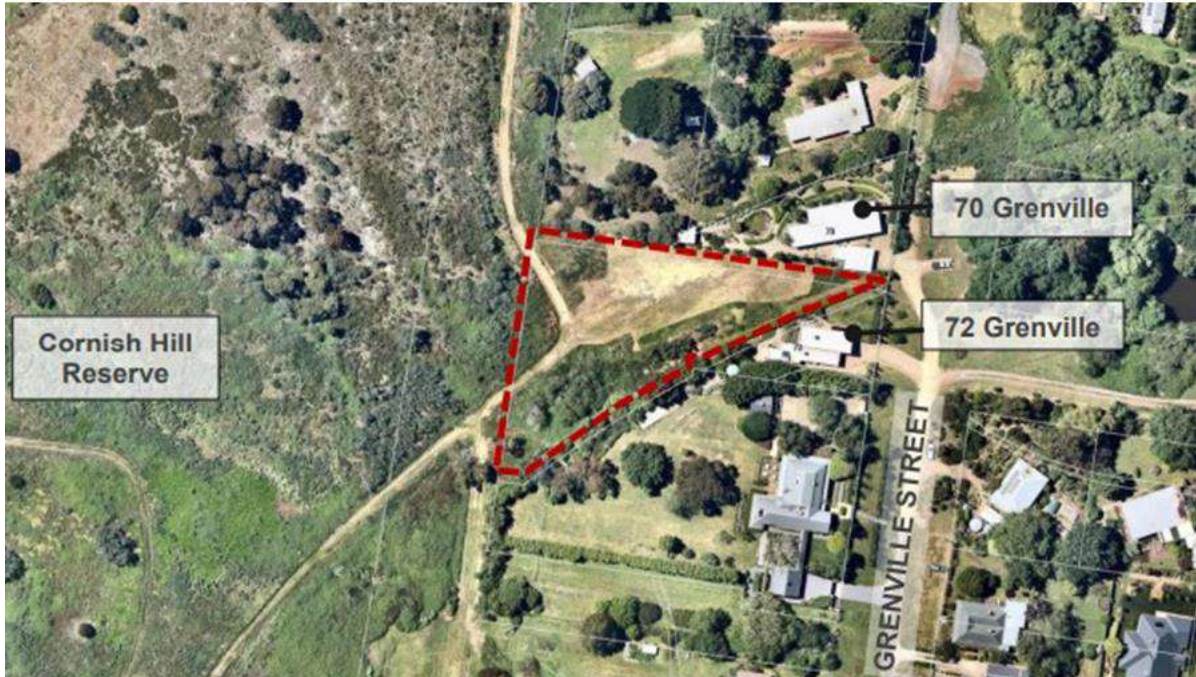
Prue Mansfield, Member

15 December 2021

# 1 Summary and recommendation

## 1.1 The site

Figure 1: Site location, source Urbis Planning report



The subject site is 0.3498 hectares located between 70 and 72 Grenville Street, Daylesford, formally referred to as Crown Allotment 7B, Section 18C, Parish of Wombat. It is an irregular shaped parcel of land that was formerly used as part of a railway reserve. The subject site is currently vacant with the western part of the site traversed by part of the Lerderderg Track and 4WD track. The subject site contains some existing vegetation.

## 1.2 Issues raised in submissions

The Committee considered all written submissions as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Committee has been assisted by the information provided to it as well as its observations from an inspection of the subject site.

Issues raised in submissions related to:

- the loss of a section of the Lerderderg Track, being the south-eastern leg of the Great Dividing Trail Network
- the loss of the subject site as a walking / 4WD track connecting Daylesford to Jubilee Lake and Cornish Hill
- the loss of the land for walkers, bushwalkers, cyclists, birdwatchers, dog walkers, children's play and orienteering groups
- the sale of land being limited to adjoining landowners only given no road frontage
- lack of consultation with local residents early in the process
- potential bushfire risk with use of part of the subject site as a fire access track and the proximity to Cornish Hill

- consideration of Aboriginal Cultural Heritage Sensitivity and lack of consent from the Dja Wurrung people
- historic significance of the former raised rail embankment built for the Daylesford steam train between 1877-1953
- impact on vegetation and wildlife
- loss of public open space
- the need for further strategic planning, such as consideration in the context of the Daylesford/Hepburn Springs Structure Plan
- inconsistency with Amendment C80hepb that proposes to rezone the General Residential Zone Schedule 1 (GRZ1) land in Daylesford to the Neighbourhood Residential Zone (NRZ).

### 1.3 Committee conclusion

The owner of the subject site proposes to rezone the subject site from the Public Park and Recreation Zone (PPRZ) to the General Residential Zone Schedule 1 (GRZ1). The Committee agrees that this is an appropriate zone if the land is to be sold. The Committee notes however that if the surrounding land is rezoned to the Neighbourhood Residential Zone (NRZ) through Amendment C80hepb, then the subject site should also be included in the NRZ.

There is to be no change to the existing overlays, being the:

- Environmental Significance Overlay, Schedule 1 (ESO1) – Proclaimed Catchment Protection
- Environmental Significance Overlay, Schedule 2 (ESO2) – Mineral Springs and Ground Water Protection
- Heritage Overlay (HO898) – Cornish Hill Mining Precinct, Daylesford.

The proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the *Ministerial Direction on The Form and Content of Planning Schemes*.

**Table 1:** Existing and proposed controls

Current planning scheme controls	Exhibited planning scheme	Advisory Committee recommendation
Public Park and Recreation Zone	GRZ1	GRZ1
ESO1	Retain	Retain
ESO2	Retain	Retain
Heritage Overlay (HO898)	Retain	Retain

### 1.4 Recommendations

The Committee recommends that a planning scheme amendment be prepared and approved for Grenville Street, Daylesford subject to the following recommendations:

- 1. Excise the Lerderderg Track from the subject site and retain this in the Public Park and Recreation Zone.**

2. **Rezone the remainder of the subject site to:**
  - a) **the General Residential Zone Schedule 1, or**
  - b) **the Neighbourhood Residential Zone if surrounding land is rezoned to the Neighbourhood Residential Zone through Amendment C80hepb.**

## 1.5 Process summary

The following tables set out the details of the process for this matter.

Table 2: **Proposal summary**

Proposal summary	
<b>Tranche</b>	30
<b>Site address</b>	CA7B, Sec18C, Parish of Wombat, (described as the land between 70 and 72 Grenville Street, Daylesford)
<b>Previous use</b>	Railway reserve, open space, part walking track
<b>Site owner</b>	Department of Environment, Land, Water and Planning
<b>Council</b>	Hepburn Shire Council
<b>The Amendment</b>	Hepburn Planning Scheme Amendment C78hepb
<b>Exhibition</b>	30 August to 11 October 2021
<b>Submissions</b>	49

Table 3: **Exhibited planning scheme changes**

Existing controls	Exhibited changes
Public Park and Recreation Zone	General Residential Zone 1
Environmental Significance Overlay (ESO1) Schedule 1 – Proclaimed Catchment Protection	Retain
Environmental Significance Overlay (ESO1) Schedule 1 – Proclaimed Catchment Protection	Retain
Heritage Overlay Schedule 898(HO898) Cornish Hill Mining Precinct, Daylesford	Retain

Table 4: **Committee process**

Committee process	
<b>Members</b>	Annabel Paul (Chair) and Prue Mansfield
<b>Information session</b>	14 September 2021, by video conference
<b>Hearing</b>	17 November 2021, by video conference
<b>Site inspections</b>	Member Mansfield, unaccompanied, 17 September 2021

## Committee process

**Appearances** Department of Treasury and Finance, represented by Kerrie Scott  
Meyer Eidelson (submission 33)  
Hepburn Shire Council, represented by Caroline Reisacher, Strategic Planner

**Date of this Report** 15 15 December 2021

## 1.6 Process issues

### (i) Site owner and boundary

The subject site is owned by the Department of Environment, Land, Water and Planning. It is located on the west side of Grenville Street, approximately 20 metres north of the intersection with McAdam Street East. The subject site is of an irregular wedge shape, and was part of a former rail reserve. It is accessible only from the walking track on the western side. This track is also used by emergency services vehicles. The subject site boundaries are indicated in Figure 1.

### (ii) Public open space

The western portion of the subject site contains part of the Lerderberg Track. The original proposal included the rezoning and sale of the whole site. Following exhibition, the site owner advised that the portion of the subject site containing the track, with an appropriate curtilage, would be excised from the subject site and retained in public ownership, for the long term use by the community. The Department of Treasury and Finance (DTF), acting for the site owner, confirmed this in writing to the Committee on 8 October 2021.

### (iii) Hearing process

The Committee wrote to all submitters on 22 October 2021 advising that a Directions Hearing was not required given the limited number of parties requesting to be heard and scope of matters raised in submissions. It also notified submitters at this point of the site owner's intention to excise the portion of the subject site containing the track. The Committee provided parties to the Hearing with time to provide written comments on its draft Directions before issuing final Directions and a Hearing Timetable.

The Hearing was conducted on 17 November 2021 with time allocated for DTF to present its submission and make a right of reply; and for the four submitters who had requested to be heard. At the Hearing, only one submitter, Mr Edelstein made an appearance.

## 2 Site constraints and opportunities

### 2.1 Planning context

Figures 2 and 3 show the current and proposed zonings.

Figure 2: Current zoning



Figure 3: Proposed zoning (as exhibited)



### 2.2 Constraints and opportunities

#### (i) History of the site

The railway reserve was part of the Daylesford-Ballarat (North Creswick) railway line, which opened in 1887 and closed in 1953. This section of the railway reserve has since been disused, with residential development occurring in patches along the former reserve.

In more recent years, a walking trail has developed on the western portion of the subject site. Improvements to the trail have been made over time. The trail is now clearly defined and includes signage about 100 metres beyond the subject site to the south.

#### (ii) Current site conditions

The subject site contains introduced grasses and a few shrubs.

The western portion of the subject site contains part of the Lerderderg Track. This goes from Bacchus Marsh to Daylesford and then connects with the Great Dividing Trail from Ballarat to Bendigo. The track enters the subject site crossing over from the boundary of the adjoining reserve. At the time of site inspection (September 2021) the land was wet, with drainage seeming to come down the slope from 72 Grenville Street.

#### (iii) Interface with surrounds

The subject site is in a residential area where some properties have been established for many decades, some have been more recently developed, and others are still vacant. It is immediately bounded by fully developed properties at 70 and 72 Grenville Street, the backyard of 74 Grenville Street, and a yet to be developed block at 68A Grenville Street.

#### (iv) Access

The subject site does not have access from Grenville Street or any other formed street. Land to the immediate west is an unconstructed extension of Stanhope Street (the location of Lerderderg Track). Emergency vehicles also use this 4WD-only track when necessary. Hepburn Shire Council



(Council) advised the Committee that the topography of the unmade section of Stanhope Street, with steep falls to both the west and the north to connect with the constructed section of Stanhope Street, means it is unlikely the road would ever be constructed.

On this basis, the subject site is landlocked and sale opportunities are therefore limited to adjoining property owners.

## 3 Issues with the proposed changes

### 3.1 What zone is suitable?

#### Submissions

DTF submitted that the subject site, excluding the track, must be rezoned in order to remove the existing Public Use Zone, given that the land had been determined as surplus. It submitted that the subject site should be rezoned to the same zone as the surrounding residential land, that is currently the GRZ1. In response to submissions, DTF advised that the Lerderderg Track would be excised and would remain in the PPRZ.

DTF acknowledged that Amendment C80hepb had been adopted by Council that proposes to rezone surrounding residential land from the GRZ1 to the NRZ. At the time of writing this report, Amendment C80hepb was with the Minister for Planning for his decision. DTF noted that the Panel that considered Amendment C80hepb has recommended that the rezoning of the surrounding land to NRZ be abandoned until a Settlement Strategy for the Shire had been completed.

DTF submitted that regardless of the outcome of Amendment C80hepb, the subject site should be rezoned, with the zoning being changed to the NRZ if Amendment C80hepb is approved.

DTF advised that the Lerderderg Track would remain in the PPRZ, however noted that the exact dimensions could only be established once the Surveyor General has undertaken the necessary work to establish appropriate boundaries.

Council submitted that it did not support this amendment on the basis that further strategic planning work should be undertaken to determine the best planning outcome for the community. Council considered the rezoning to be 'ad hoc' and did not properly consider the Daylesford / Hepburn Springs Structure Planning that was due to commence. It stated that the Amendment lacked strategic justification and would not result in a positive net community benefit.

Council noted that there was only four neighbouring properties that could be offered the sale of the land, and noted that some of these had objected to the rezoning. They stated that there was no guarantee that a subdivision proposal to amalgamate the land into a neighbouring property would be supported and that it could not occur if the zonings were different (in this case potentially GRZ and NRZ).

The CFA submitted that it did not object to rezoning the land from the PPRZ to the GRZ1 or any other residential zone, subject to incorporating an appropriate bushfire response. It recommended that the fire access track, either be:

- Removed from the area to be rezoned; or
- Realigned to be located entirely in the Cornish Hill Reserve located immediately to the west of the site; or
- Retained in its current alignment and rezoned as part of the amendment. This option would require an appropriate policy or site based mechanism to ensure that the fire access track is managed and maintained into the future i.e. new easement or section 173 agreement. Given the current government owned land status, it is considered reasonable to accept an undertaking that the appropriate mechanism would be put in place after the rezoning of the land and prior to the future sale of the land.

Mr Eidelson submitted that the subject site in the current public zoning had substantial community benefit, and was well used. He considered the land had natural and cultural significance that was

of greater value than being sold as part of a surrounding lot for an outbuilding or additional dwelling.

Most other submitters considered that the subject site still had value as public open space and therefore objected to rezoning for residential purposes.

### **Discussion**

The Terms of Reference for the Government Land Standing Advisory Committee is clear that the Committee cannot consider whether or not it was appropriate to declare the land surplus. The Committee can only consider the application for a public zone if requested by:

- the Minister for Planning in a referral, or
- A Victorian Government department or agency where a public land zone is needed for identified current or future service delivery purpose.

The subject site was offered to all government departments, agencies, local government and Commonwealth Government for 60 days (1 February to 1 April 2018) known as a ‘first right of refusal’. No interest in the subject site was made and therefore it was declared surplus.

The Committee disagrees with Council that further strategic work is required before this rezoning should proceed. The Amendment relates to a single parcel of land that will no longer remain in public ownership, and therefore requires a different zone. Therefore the only logical zone is that of surrounding residential land.

While future structure planning may provide changes to the broader planning strategy for the Daylesford/Hepburn Springs area, the subject site should be treated in the same way as adjoining privately owned land at that time.

The Committee is satisfied that the subject site should be rezoned to the surrounding residential zone, that is currently the GRZ1. The Committee however agrees with DTF that if surrounding residential land is rezoned to the NRZ through Amendment C80hepb before this Amendment being gazetted, then the subject site should also be included in the NRZ.

### **Recommendation**

The Committee recommends that Hepburn Planning Scheme Amendment C78hepb be approved to:

- 1. Excise the Lerderderg Track from the subject site and retain this in the Public Park and Recreation Zone.**
- 2. Rezone the remainder of the subject site to:**
  - a) the General Residential Zone Schedule 1, or**
  - b) the Neighbourhood Residential Zone if surrounding land is rezoned to the Neighbourhood Residential Zone through Amendment C80hepb.**

## **3.2 Other issues**

### **Submissions**

The key issues raised in submissions related to the use of part of the land as a walking and 4WD track, and use as fire access. This included the significance of the Lerderderg Track as part of the Great Diving Trail Network. Council highlighted the popularity of the track for both residents and visitors and considered it should be protected.

The CFA raised concerns that there had been limited assessment of bushfire risk and that the Amendment did not explicitly address the policy at Clause 13.02-1S that includes fire-prone areas. The CFA submitted that the surrounding landscape, particularly to the west and south-west is at very high risk of bushfire, and considered that any new development on the subject site is likely to need a minimum setback of 31 metres from any bushfire hazard to the west (with the exception of a non-habitable outbuilding) and that vegetation be managed with the defensible space requirements. The CFA submitted that bushfire considerations should not be deferred until a later stage and should be considered at the rezoning stage.

Council submitted that the fire access track was significant and provided valuable access for firefighters and considered it unfeasible to relocate the track given the steep topography.

Mr Eidelson highlighted the considerable natural values of Cornish Hill for a range of flora and habitat for fauna, including threatened species. He highlighted that over the past 30 years, the Cornish Hill Reserve had been regenerated with significant planting to restore it back to an indigenous landscape. He considered these values far outweighed the value of the land for a single family.

### **Discussion and conclusion**

The confirmation by DTF that the site owner would excise the Lerderderg Track from the land to be rezoned and sold, and retain the track in public ownership directly responded to the main issue raised by submitters. This is clearly a highly valued part of the track used by 4WD vehicles in and around Cornish Hill. The excision will allow for the ongoing use of this track for walking and 4WD access, including access by the CFA. The Committee considers that this is a good outcome that appropriately recognises that the Lerderderg Track has ongoing public value, however allows the balance of the subject site to be rezoned and sold.

In relation to bushfire matters, as the rezoning relates to a single lot that will only be offered for sale to adjoining landowners, the Committee is comfortable with detailed bushfire considerations being dealt with at the development application stage. The subject site is not within a Bushfire Management Overlay and the likely setback from the west nominated by the CFA is capable of being accommodated, in the event it is required. The rezoning will not necessarily result in an additional dwelling, and may only be used as part of an adjoining property's backyard, or to accommodate an out-building.

The Committee cannot consider issues raised by Mr Eidelson in relation to the value of the subject site as a broader part of the Cornish Hill Reserve. The decision to sell the subject site is outside the scope of the Committee's Terms of Reference. In answer to questions from the Committee, Mr Eidelson agreed that the subject site wasn't suitable for planting large trees such as Ironbarks, given the proximity to established housing and the limited size of the land.

## Appendix A: About the Government Land Standing Advisory Committee

The Government Land Planning Service is a 2015 initiative to deliver changes to planning provisions or correct planning scheme anomalies for land owned by the Victorian Government. The Government Land Standing Advisory Committee (the Committee) was initially appointed under Part 7, section 151 of the *Planning and Environment Act 1987* in July 2015.

A revised Terms of Reference for the Committee was approved in April 2018.

The Committee currently consists of:

- Chair: Lester Townsend
- Deputy Chairs: Lisa Kendal, Mandy Elliott, Trevor McCullough and Annabel Paul
- Members: Elissa Bell, Meredith Gibbs, Jonathan Halaliku, Prue Mansfield, Elizabeth McIntosh, Cazz Redding and Lynn Sweeney.

The Committee is assisted by Chris Brennan, Project Officer in Planning Panels Victoria.

The Committee's Terms of Reference state that the purpose of the Advisory Committee is to:

- a. advise the Minister for Planning on the suitability of new changes to planning provisions for land owned, proposed to be acquired or to land required to facilitate the delivery of priority projects by the Victorian Government, and
- b. provide a timely, transparent and consultative process to facilitate proposed changes to land owned or proposed to be acquired; or to support delivery of priority projects by the Victorian Government.

The Advisory Committee must produce a written report for the Minister for Planning providing:

- a. an assessment of the appropriateness of any changes of planning provisions in the context of the relevant planning scheme and State and Local Planning Policy Frameworks,
- b. consideration of whether the proposed planning provisions make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes,
- c. an assessment of whether planning scheme amendments could be prepared and adopted for each proposal, including the recommended planning provisions,
- d. an assessment of submissions to the Advisory Committee,
- e. any other relevant matters raised during the hearing(s),
- f. a list of persons who made submissions considered by the Advisory Committee,
- g. a list of persons consulted or heard,
- h. endorsement by the Chair or the Deputy Chair.

## Appendix B: List of Submitters

No.	Submitter
1	Anna Irwin-Schutze
2	Justin Mitchell
3	Teresa Mary Castley
4	Matthew Phelan
5	Janet Mullenger-Barnard
6	Rebecca Smith
7	Michelle Clifford
8	Gina Lyons
9	Maia Irell
10	Gayle Osborne
11	David Martinelli
12	Stephan Schutze
13	Tania Petrini
14	Geoff Kerins
15	Jeffrey Madden
16	Barbara Lesleigh Smith
17	Megan Fletcher
18	Per Bernard
19	Helen Cox
20	Brendan Murray
21	Melissa Hider
22	Fiona Kay Robson
23	Scott MacLean, Friends of Cornish Hill
24	Margret Jean Lockwood
25	Roger Brailsford
26	Keith Ryding
27	Marguerita Hamilton
28	Cathlin Mcdiarnid
29	Fiona Shackleton
30	Joe Eidelson
31	Eve Francis
32	Julie Nixom

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33	Meyer Eidelson
34	Amanda Palmer
35	Natasha Morgan
36	Vasko Drogriski
37	Edward Butler, Cornish Hill Committee of Management
38	Ian Chennell, Eureka Orienteers Inc
39	Jean-Marc Dupré
40	Bonnie Stevens
41	Eugene Yang
42	Zoran Drogriski
43	Janet Quilty
44	Susan Jane Charlewood
45	Penelope Lewisohn
46	Colin George
47	Ian James Scott, Cornish Hill Committee of Management
48	Hepburn Shire Council
49	Country Fire Authority

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## Appendix C: Document list

No.	Date	Description	Provided by
1	28/09/2021	Committee letter to Department of Treasury and Finance and Hepburn Shire Council seeking further information	Planning Panels Victoria (PPV)
2	08/10/2021	Letter from Department of Treasury and Finance regarding Lerderderg Track	Department of Treasury and Finance (DTF)
3	22/10/2021	Committee letter enclosing draft Directions	PPV
4	03/11/2021	DTF comments on draft Directions	DTF
5	08/11/2021	Final Committee Directions	PPV
6	11/11/2021	Letter from DTF regarding consent from Traditional Owners	DTF
7	15/11/2021	Response from Hepburn Shire Council to Committee Directions	Hepburn Shire Council
8	16/11/2021	DTF submission	DTF