

# Planning Report

200 Shaws Road, Ballan

August 2016



## EXECUTIVE SUMMARY

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SMEC has been engaged by the Barwon Region Water Corporation (Barwon Water) to prepare a strategic town planning assessment to outline and provide justification for the proposed rezoning of part of the Bostock Reservoir site at 200 Shaws Road, Ballan. The relevant planning scheme is that of Moorabool Shire.

The purpose of the proposed Amendment is to rezone the subject site, which is defined by the red boundary in Figure 1 below, from the Public Use Zone 1 - Service and Utility (PUZ1) to the Special Use Zone (SUZ) with a schedule to enable tourism uses.

The land subject to the rezoning comprises approximately 52ha. The site is now surplus to Barwon Water's operational needs and this Amendment is made to support its disposal.

SMEC has undertaken detailed inspections of the site and the surrounding area, and has reviewed the Moorabool Planning Scheme, Council's strategic documents, technical reports and has consulted with Council to form the basis of this application.

In preparing this report, SMEC has considered the following key elements:

- The condition of the site and its context;
- The State and Local Planning Policy Frameworks;
- Relevant strategies;
- The social, environmental and economic effects of the proposed rezoning.

The amendment request is based on a number of technical assessments that confirm and demonstrate that tourism is essential for the ongoing economic stability of Ballan and the Moorabool municipality. This provides the necessary impetus for applying the Special Use Zone to the subject land.

The amendment will support and implement the SPPF and LPPF by facilitating the redevelopment of a surplus site that is located near to Ballan. The site is in a single ownership, has limited constraints and is of an appropriate scale to enable a tourism based use that can make a meaningful contribution to the areas tourism industry and economy.

Having regard to the detailed strategic justification outlined in this report, it is respectfully requested that the Planning Authority consider this amendment request and include the land in the Special Use Zone.

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## 1 INTRODUCTION

SMEC acts on behalf of Barwon Regional Water Corporation (Barwon Water) and has been engaged to prepare and lodge a planning scheme amendment application to rezone land at 200 (Lot 1 TP618674 and part of Lot 1 TP389608) Shaws Road, Ballan (subject site).

The proposed amendment seeks to:

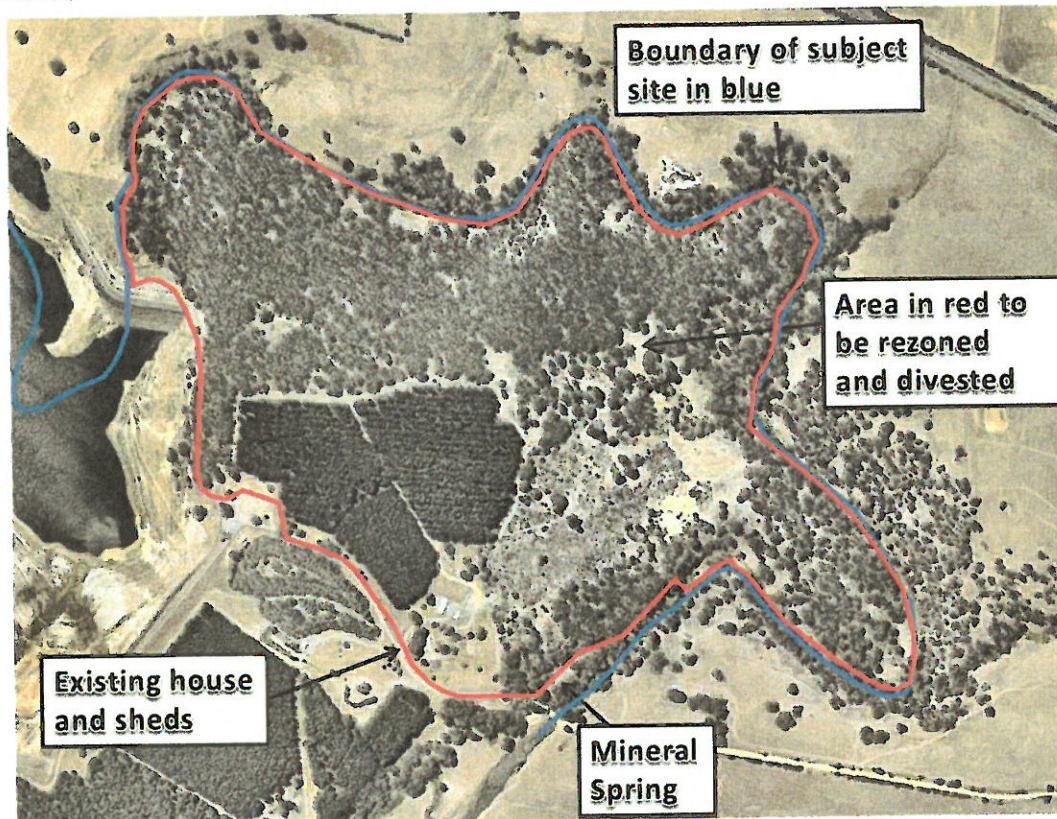
- Rezone part of the subject from the current Public Use Zone 1 - Service and Utility (PUZ1) to the Special Use Zone (SUZ) with a schedule for tourism uses; and
- Amend Planning Scheme Map 25 to facilitate the above zoning change.

### 1.1 Background

#### 1.1.1 Proposal

Barwon Water owns the land at 200 Shaws Road and currently operates part of the site for a water storage basin (Bostock Reservoir). Barwon Water has identified approximately 52ha as being surplus to their storage basin operations that can be divested. The surplus part is located in the north-eastern part of the site and is demarked in **Figure 1** below with a red boundary.

The application of the SUZ to the subject site is proposed to allow the use of the land for tourism associated uses, which is supported by the Tourism Potential report prepared by Essential Economics (March 2016) in support of the amendment (provided as part of this application). The report finds that the site is suitable for several uses including a mineral spa and wellness retreat (there is a natural spring at the site that could possibly be used) and adventure training camp (for schools or adults).



**Figure 1:** The subject site showing the boundary of the area to be rezoned

### 1.1.2 Amendment

#### Rezoning

The current zoning of the property is PUZ1, and the EMO1, DDO2 and WMO apply.

This amendment seeks to:

- Rezone the land surplus to Barwon Water operational requirements to SUZ to allow for tourism-related land use opportunities.

The remaining land within the subject site is to remain in the PUZ1 for the ongoing use as service and utility by Barwon Water. No change is proposed to the current overlays.

#### Subdivision

A concurrent subdivision is proposed to realign the southern boundary of Lot 1 TP618674 to form the subject site. The boundary is to be realigned to the north side of the existing internal access road, allowing the ongoing access of the public use zoned land further west (Bostock Reservoir) by Barwon Water, via Shaws Road.

The proposed subdivision is exempt from the need of a planning permit pursuant to Clause 62.04. Under this Clause it is stated that:

*'any requirement in this scheme relating to the subdivision of land does not apply to... ..a subdivision which realigns the common boundary between two lots if all the land is in one non-urban zone, the re-subdivision does not allow the number of dwellings the whole of the land could be used for under this scheme to increase, and any of the following apply:... ..any lot that is reduced in area meets the minimum lot area and minimum dimensions (if any) specified for the zone. This does not apply if the area of the smaller lot is limited by a provision of this scheme, or by a condition of a planning permit'.*

There are no minimum planning scheme lot areas or dimensions applicable to the subject site, therefore meeting these requirements. Further, the realignment of this boundary within the PUZ will not allow additional dwelling numbers to be developed on the land. It is considered that the proposed subdivision meets the exemptions and therefore no planning permit is required.

## 1.2 Project Appreciation

Barwon Water Corporation are seeking to dispose part of their property located at 200 Shaws Road, Ballan via public tender. A rezoning is sought to enable this disposal to occur. Given that the land is no longer required for service and utility uses, the current zoning is too restrictive to enable non-public land uses to occur. *Victorian Government Land Transactions Policy and Guidelines 2016* also states that 'an agency must not offer land for sale where the land is zoned for public purpose'. Therefore, in order for the site to be disposed of, a new zone will need to be introduced.

This project therefore involves an amendment request to Moorabool Shire Council.

## 1.3 Methodology

Our approach in preparing this amendment request has involved the following tasks:

- Analyse the context of the site and the surrounding area;
- Examine the technical reports prepared for the site and meet with the relevant experts to gain a thorough understanding of the site condition and implications for future use options;
- Review the objectives and strategies of the State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement;
- Outline the deficiencies of the existing planning framework for the site and the surrounding area, and outline the benefits of the proposed planning framework;
- Review and assess the appropriate land zoning for the site;
- Review and address the social, environmental and economic impacts of the proposed rezoning;

- Seek to address the objectives of the relevant State Government agencies.

We believe that this methodology is sufficiently exhaustive to ensure that all key aspects for consideration are assessed.

#### **1.4 Consultation**

A pre-application meeting was held on 4 April 2016 with Andrew Goodsell (Manager, Strategic and Sustainable Development), Lisa Gervasoni (Strategic Planning Coordinator) and Peter Forbes (Manager, Economic Development and Marketing) from Council.

We understood from the meeting that Council's preliminary view was that a Special Use Zone supporting tourism development has merit for the site, though a formal rezoning request will need to be considered.

Despite showing without prejudice support for the proposal, Council advised that they did not currently have the capacity to undertake a planning scheme amendment application in the conceivable future. Options including the fast track government land rezoning process was discussed along with the possibility of Barwon Water acting as the Planning Authority.

## 2 SITE AND CONTEXT DESCRIPTION

### 2.1 Parcel Details

The subject site (the land to be rezoned and divested) forms part of 200 Shaws Road, Ballan and comprises two lots, as illustrated below. Certificate of Title details are provided as part of this application.



No.	Address	Land Description
1	200 Shaws Road	Lot 1 on Title Plan 618674
2	200 Shaws Road	Lot 1 on Title Plan 389608

#### 2.1.1 Covenants and Agreements on Title

There are no Covenants or Agreements that have been registered on title.

### 2.2 Subject Site

The subject site is located north of Shaws Road and is predominantly bounded by the Moorabool River (East Branch) to the north and the east, Shaws Road and internal access roads to the south, and the Bostock Reservoir to the west. Figure 2 illustrates the part of the subject that this is proposed to be rezoned and divested.

The majority of the site is vacant land that is heavily treed within the central, northern and eastern parts. A large grouping of pine species is located in the central southern part of the subject site, while other vegetated areas comprise predominantly of native species. There are a number of informal access tracks within the subject site used for accessing the property.

There is a central elevated ridge that slopes from a high point in the western part of the site down to flatter ground in the south-east. It is the flatter area that forms an appropriate location for the future establishment of buildings associated with a tourism use. This area is also conveniently located to Shaws Road and is where the existing dwelling and sheds are situated.

Just beyond the southern boundary of the site is a natural mineral spring that is indicated on **Figure 1** and shown on the photos below.

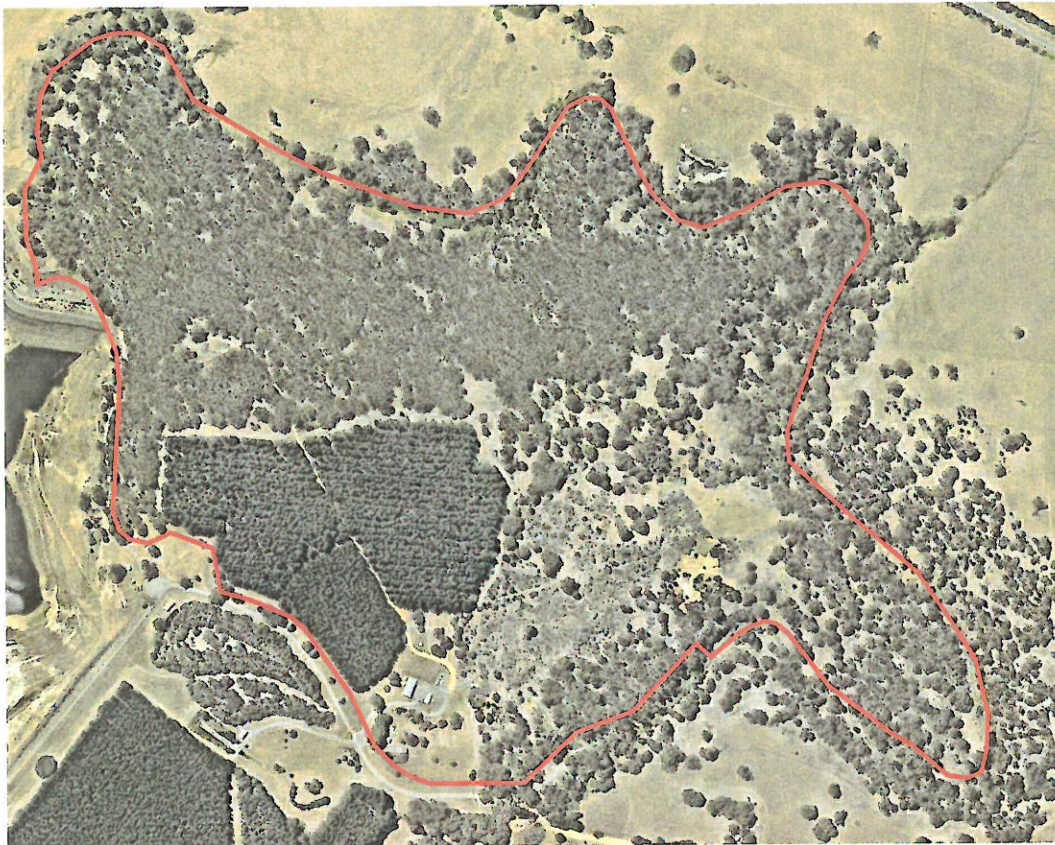


Figure 2: Subject Site

□ SITE







**Figure 3:** Site Photos (TL: Mineral Spring – TR: Mineral Spring – ML: vacant vegetated areas – MR: informal internal access roads within pine vegetation – BL: existing surplus Barwon Water assets – BR: Bostock Reservoir public grounds)

### 2.3 Surrounding Area

The subject site is located approximately 3.5km south-west of the Ballan Town Centre and approximately 90km north-west of the Melbourne CBD. The surrounding area is primarily agricultural in nature. However, there are several forested areas and water bodies including the Moorabool River and Bostock Reservoir.

The Ballan Township is the major population and service centre for the region. It services a wide catchment area and provides a range of community and commercial services.

### 2.4 Site Investigations by Specialist Consultancies

#### 2.4.1 Tourism Potential

A Tourism Potential Assessment was undertaken by Essential Economics in March 2016 to investigate the tourism potential of the subject site. The following summary of findings is provided regarding the subject site:

- The Bostock Reservoir site has a number of attributes that make it attractive to a tourism development, which include:
  - Is close to metropolitan Melbourne;
  - Has hilly and interesting terrain;
  - Is relatively secluded;

- Has access to a natural spring;
- Is sufficiently large to accommodate a long-term masterplan, possibly incorporating several tourism concepts.
- A number of challenges to developing a tourism attraction at the site also needs to be considered, including:
  - Despite its location adjacent to a substantial water body, the reservoir cannot be incorporated into activities, nor can the visual amenity potentially offered by the reservoir be relied upon. In all, the reservoir is not a significant advantage; in fact, it may be a disadvantage;
  - Similarly, the existing pine plantation provides no clear tourism attraction, yet occupies about one-third of the area earmarked for potential development;
  - A lack of local complementary attractions/ infrastructure in Ballan and the Shire in general means tourism facility at Bostock Reservoir will need to be a destination in its own right.
- None of these challenges are considered insurmountable for future tourism opportunities.
- Three tourism-related options for the site are put forward for further consideration:
  - A Mineral Spa and Well-being Retreat;
  - A School Adventure Camp;
  - An Adult Adventure & Training Camp.

The Tourism Potential Assessment undertaken by Essential Economics is provided as part of this application.

#### 2.4.2 Cultural Heritage

A Cultural Heritage Due Diligence Assessment was undertaken by Dr Tim Stone in June 2016 to identify any cultural heritages to be addressed prior to this amendment. The following information is provided regarding the subject site:

- No Aboriginal and/or historic sites are located on the subject site;
- The closest Aboriginal sites are located more than 1.5km from the subject site;
- A site assessment did not reveal any Aboriginal or historic archaeological traces or values;
- The mineral spring is associated with built structures of historical interest, however these are located outside the subject site.

The following recommendations were made by Dr Tim Stone:

- The surplus Barwon Water land at the end of Shaws Road may be rezoned from PUZ to SUZ without any further Aboriginal or historic cultural heritage investigation. A CHMP is not required beforehand;
- Development after rezoning may proceed in accordance with the *Aboriginal Heritage Act 2006*, the *Aboriginal Heritage Regulations 2007* and the *Heritage Act 1995*. Depending on the nature of the development, a CHMP or detailed historical assessment may be required beforehand;
- In the unlikely event that items of Aboriginal or historic cultural heritage are uncovered while using the subject land, all activity within 50 m of the find should cease and the party making the find must contact the Heritage Advisor, AV or Heritage Victoria for advice. It is an offence under the relevant heritage legislation to disturb or destroy relics without written authorization.

The Cultural Heritage Due Diligence Assessment undertaken by Dr Stone is provided as part of this application.

#### 2.4.3 Bushfire Risk

A Bushfire Risk Assessment was undertaken by Practical Ecology in July 2016. The following conclusion is provided regarding the subject site:

*Rezoning the site and developing it for tourism and potential accommodation is viable but considerations have to be made regarding the preparation of the site, design and management of the proposed use to address the significant risk to an acceptable level.*

The further preparations discussed included the forming of a second access to the site that could be used in the event of an emergency. The report includes a plan that shows the potential use of an access track that leads from the western boundary of the site to Old Melbourne Road located to the north.

Further conclusions that form the assessment that bushfire risk can be mitigated appropriately include:

- The Bushfire risk is from limited directions and potential bushfire behaviour while significant is not extreme;
- The presence of a large body of water provides a barrier from bushfire entering the site from the west further limiting potential fire runs;
- Defendable space can be easily attained against bushfire approaching from the south-west. There are already large sections of managed terrain on Shaws Road entering the site which can be expanded if needed;
- There are several nearby urban areas where refuge can be sought if evacuation is required;
- The large section of public forest south-west of the site is under the Landscape Fire Management Zone (see section 4.2) and has been recently subject to planned burns, which indicates the fuel loads in this area can be managed, reducing the risk of intense fire approaching the site from this area;
- In the event of bushfire or severe bushfire conditions, the vegetation and topography of the site necessitate evacuation. The current single access road on the eastern side is suitable for evacuation purposes as it will likely allow for travel away from the area of risk. However, if necessary the Barwon Water access track that provides travel to the west of the site (shown as access track on Map 2) could be utilised for emergency access and extended to join the Old Melbourne Road north of the site.

The Bushfire Risk Assessment undertaken is provided as part of this application.

#### **2.4.4 Ecology**

An Ecological Assessment was under by SMEC in November 2015 to identify and assess the vegetation communities and condition across the site. The following provides a summary of the assessments regarding the subject site:

- The project area has a diverse range of remnant native vegetation and fauna habitat, including hollow-bearing trees, logs, rocky slopes and semi-permanent pools.
- Animal pest species, such as rabbits and foxes, and introduced weed species such as blackberry, serrated tussock and St John's wort were identified throughout the site.
- No endangered ecological communities were identified during the site survey, nor are considered likely to occur.
- Habitat loss from vegetation clearance would have a direct and adverse impact on fauna habitat; however, the proposed future development area is of low natural value and is of relatively low fauna habitat quality.
- A referral to the Commonwealth or Victorian Government under Federal or State environmental legislation is unlikely to be required, as no EPBC or State listed flora and fauna were identified during the preliminary site assessment, are likely to be present or would be adversely affected by future development.
- Habitat for the Commonwealth and State-listed growling grass frog was identified along the Moorabool River; however, the 20 m buffer zone considered in early development plans would help minimise adverse development effects.
- A permit is required to remove, destroy or lop native vegetation under Clause 52.17 of the planning provision under the *Planning and Environment Act*, within all Victorian planning schemes. If any

native vegetation requires removal, a Biodiversity Assessment Report obtained from the Native Vegetation Information Management System would need to be prepared, as part of the Permitted Clearing of Native Vegetation – Biodiversity Assessment Guidelines.

Recommendations of the Ecological Assessment include:

- Undertake low-impact development only within the proposed development area. This will conserve the area's natural values while promoting tourism and allowing recreation to continue.
- Undertake a European and Indigenous heritage assessment to determine the location and significance of any sites that may be present.
- Undertake a bushfire risk assessment to determine the asset protection zones, and building construction and safety requirements for any future development.
- Undertake a preliminary site assessment for sources of contamination.
- Undertake a more detailed flora and fauna assessment, including targeting the growling grass frog, once development has been planned, as part of a more detailed impact assessment.
- Establishing a minimum 20 m buffer zone along both sides of the Moorabool River to minimise disturbance.
- Establish a minimum 20 m buffer zone from the developed area to the adjacent native forest.
- Work with the surrounding landowners to prevent cattle accessing the native forest and Moorabool River environments.
- Control weeds and pests in the development area and carpark, and along any tracks that are used in the native forest.
- Ensure the Ballan Mineral Springs Reserve area does not become degraded.
- Ensure the water quality in the Moorabool River does not decline following the development.

The Ecological Assessment undertaken by SMEC is provided as part of this application.

#### **2.4.5 Land Contamination**

A Preliminary Environmental Site Assessment was undertaken by Tonkin + Taylor in July 2016. The following summary of findings is provided regarding the subject site:

- Aerial images indicate the site has remained in relatively the same state from as early as 1965, with the only significant alterations in the southern portion of the site around the current maintenance depot.
- A pine plantation was established in the southern area of the site prior to 1965, and has been expanded in this area and to the south of the site.
- An area of incinerated vegetation was identified in the north eastern section of the property. The stained and odorous soils at this location constitutes an aesthetic impact and would need to be removed to restore this beneficial use.
- Based on the findings from the preliminary investigation undertaken, T+T did not identify any areas of significant contamination that would preclude the use of the site for tourism activities.

The Environmental Site Assessment undertaken by T + T is provided as part of this application.

### 3 PLANNING SCHEME AMENDMENT

The proposed amendment seeks to:

- Rezone part of the subject from the current Public Use Zone 1 - Service and Utility (PUZ1) to the Special Use Zone (SUZ) with a schedule for tourism uses; and
- Amend Planning Scheme Map 25 to facilitate the above zoning change.

A full set of rezoning maps are provided as part of this application. However, Figure 4 shows that the proposed zoning of the land to the Special use Zone (site is located to the east of the PUZ area).

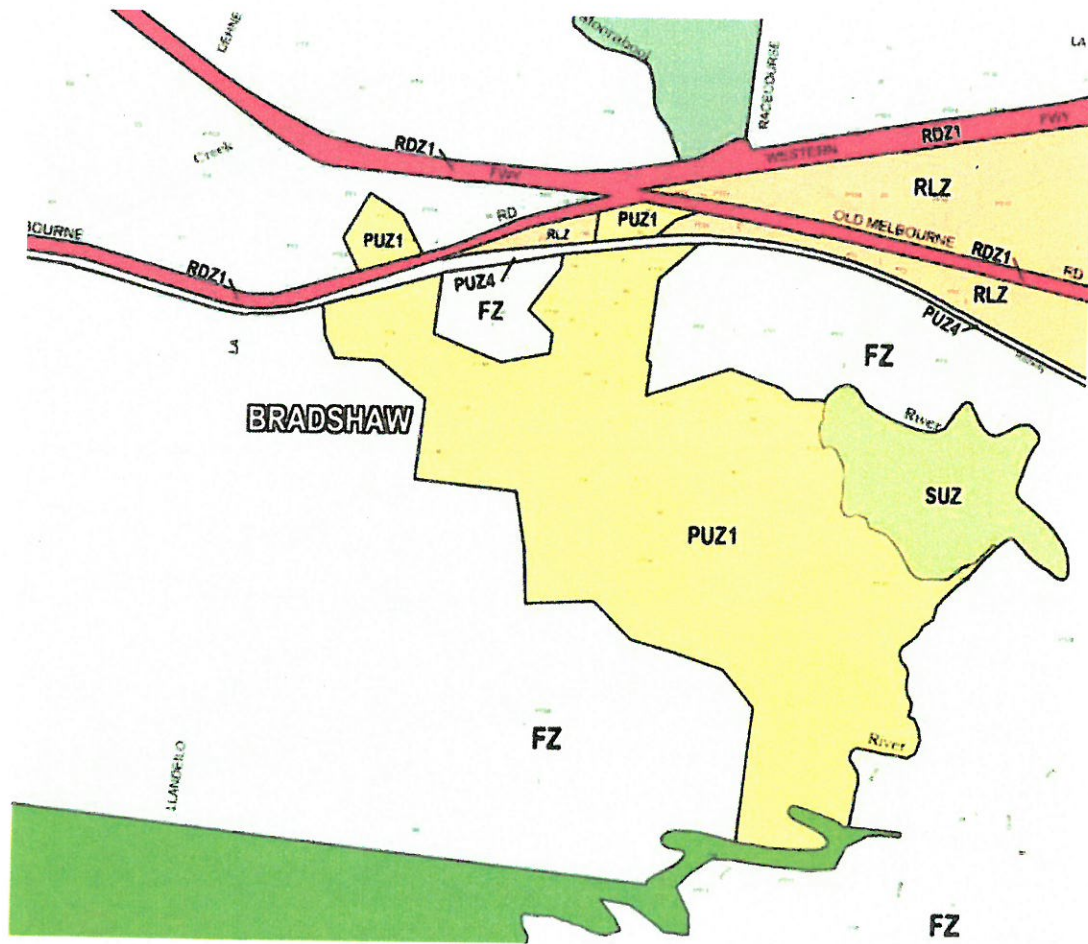


Figure 4: Amended Zoning Maps

## 4 EXISTING PLANNING FRAMEWORK

This section outlines the planning controls and policies of the Moorabool Planning Scheme that are relevant to this proposal.

### 4.1 Existing Zone

The subject site is located in the **Public Use Zone 1 – Service and Utility (PUZ1)**. The purposes of the PUZ are:

- *To recognise public land use for public utility and community services and facilities.*
- *To provide for associated uses that are consistent with the intent of the public land reservation or purpose.*



Figure 5: Zoning Map

Under the Public Use Zone, an application for a permit by a person other than the relevant public land manager must be accompanied by the written consent of the public land manager, indicating that the public land manager consents generally or conditionally either:

- *To the application for a permit being made; or*
- *To the application or a permit being made and to the proposed use and development.*

## 4.2 Existing Overlays

The subject site is subject to the following overlays pursuant to the Moorabool Planning Scheme:

- Environmental Significance Overlay Schedule 1 (ESO1);
- Design and Development Overlay Schedule 2 (DDO2); and
- Wildfire Management Overlay (BMO).

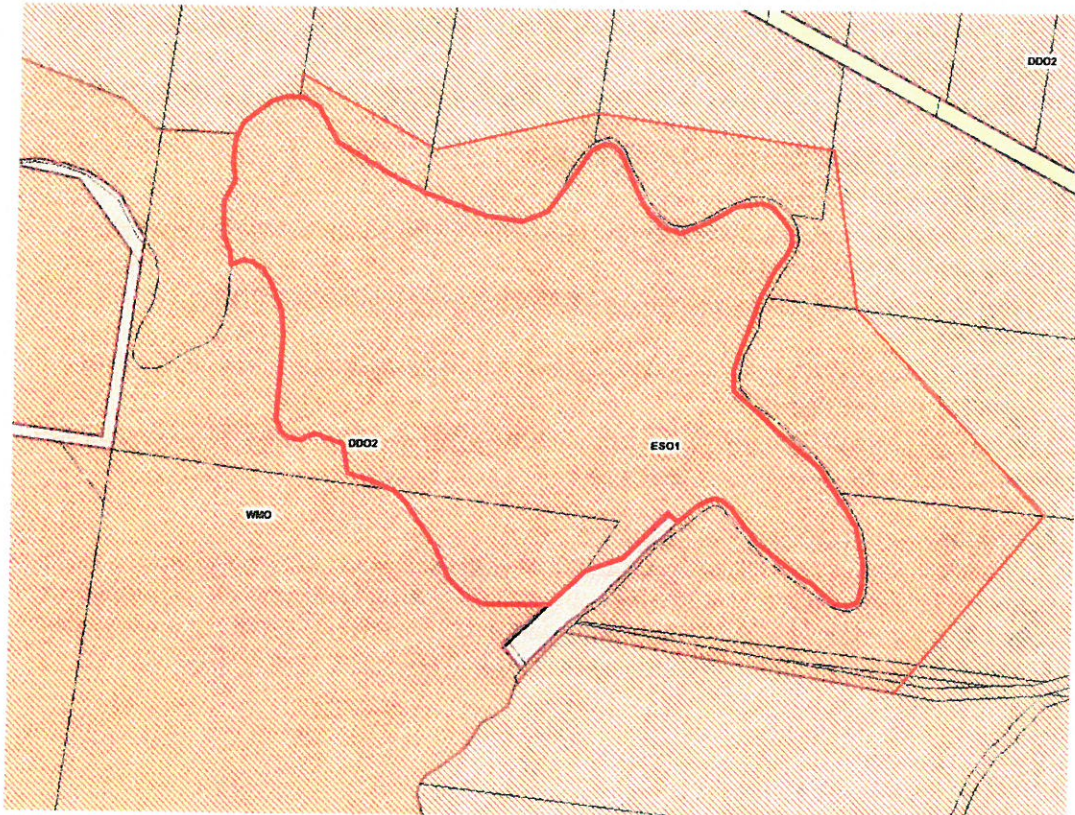


Figure 6: Overlay Map

□ SITE

### 4.2.1 Environmental Significance Overlay Schedule 1 (ESO1)

The purposes of the ESO are:

- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Schedule 1 of the ESO relates specifically to 'Proclaimed Water Catchment Areas'.

Environmental objectives to be achieved are:

- To protect the quality and quantity of water produced within proclaimed water catchments.
- To provide for appropriate development of land within proclaimed water catchments.

It is noted that an application under Schedule 1 of the ESO must be referred to the relevant water authority under Section 55 of the Act, pursuant to Clause 66.04.

### 4.2.2 Design and Development Overlay Schedule 2 (DDO2)

The purpose of the DDO is:

- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*

Schedule 2 of the DDO relates specifically to 'Visual Amenity and Building Design'.

Design objectives to be achieved are:

- *To enhance visual amenity in rural, township and vegetated areas of the Moorabool Shire.*
- *To encourage the use of external cladding, such as non-reflective materials for building construction.*
- *To discourage the use of materials, such as reflective cladding for building construction, which could have a detrimental effect on amenity.*

It is noted that an application under Schedule 2 of the DDO is exempt from notice and advertising.

#### **4.2.3 Wildfire Management Overlay (BMO)**

The purposes of the BMO are:

- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

It is noted that an application under the BMO must be referred to the relevant fire authority under Section 55 of the Act, pursuant to Clause 66.03.

#### **4.3 Planning Framework Problems**

The land located at 200 Shaws Road proposed to be divested is zoned PUZ1. Given that the land is no longer required for its original purpose for water utility and services, the zoning is too restrictive to enable non-public land uses to occur. The amendment seeks to enable the sale and use of the land for non-public purposes by introducing the SUZ to accommodate tourism-based land uses.



## 5 PROPOSED PLANNING FRAMEWORK

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### 5.1 Proposed Zoning Changes

As previously discussed, the current Public Use Zone applied to the subject site is no longer appropriate given that this land is considered surplus to Barwon Water's needs and is to be divested.

#### 5.1.1 Applying the SUZ

The Special Use Zone (SUZ) is now proposed to be applied to part of 200 Shaws Road, which is currently zoned PUZ. The purpose of the SUZ is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To recognise or provide for the use and development of land for specific purposes as identified in a schedule in this zone.*

Planning Practice Note 3 – Applying the Special Use Zone - is relevant to this amendment request. The Practice Note states that the SUZ can be considered when either:

- An appropriate combination of the other available zones, overlays and local policies cannot give effect to the desired objectives or requirements.
- The site adjoins more than one zone and the strategic intent of the site, if it was to be redeveloped, is not known and it is therefore not possible to determine which zone is appropriate.

The Farming Zone (FZ) and the Public Conservation and Resource Zone are neighbouring zones and the Rural Living Zone (RLZ) is located close by. None of these provide an appropriate planning framework for the site to be used for tourism based uses. Further, these zones facilitate uses that would be inappropriate for the subject site.

The typical application of the SUZ is to land recognised for exceptional land use and development purposes for reasons specific to their respective subject sites, whilst simultaneously being sited appropriately to respect and protect the amenity of adjacent existing land use and development. The zone supports the future use and development of land for tourism purposes, which is not specifically supported through pre-existing zoning controls within the Moorabool Planning Scheme.

Benefits of applying the SUZ to the 200 Shaws Road property include:

- Allowing the appropriate future use and development of land to support the tourism opportunities presented by the site;
- Generating strategic value add opportunities to presently underutilised land for tourism purposes which respond to current market conditions.

### 5.2 Overlays

It is noted that no changes are proposed to the overlays which are applicable to the subject land.

## 6 MINISTERIAL DIRECTIONS

The amendment complies with applicable Minister’s Directions. The amendment is consistent with the Minister’s Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act, which directs that planning schemes may only include land in a Public Use Zone if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council. As the land will be released/on sold by Barwon Water, it is appropriate to remove the PUZ to the land where proposed.

### 6.1 Ministerial Direction No.1

The purpose of Ministerial Direction 1 (Potentially Contaminated Land) is to ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly adversely affected by any contamination.

Table 1 of the Potentially Contaminated Land Practice Note (below) lists the type of land uses that may have potential for contaminating land. Utility depots are listed in the medium potential category (noting that shedding on the site could be considered as a utility depot as it houses water storage related infrastructure). The assessment matrix in the Practice Note indicates that including the land within the SUZ would result in a ‘C’ score for addressing potential contamination. Rezoning forested or ‘open space’ land to a SUZ similarly results in a ‘C’ score (open space land is in the low potential category).

As noted in the key to the matrix, a ‘C’ score requires General Duty of Care under Section 12(2) (b) and Section 60(1) (a) (iii) of the *Planning and Environment Act 1987*.

PROPOSED LAND-USE	POTENTIAL FOR CONTAMINATION (as indicated in Table 1)		
	High	Medium	Low
<b>Sensitive Uses</b>			
Child care centre, preschool or primary school	A	B	C
Dwellings, residential buildings etc	A	B	C
<b>Other Uses</b>			
Open space	B	C	C
Agriculture	B	C	C
Retail or office	B	C	C
Industry or warehouse	B	C	C

- A. *Require an environmental audit as required by Ministerial Direction No. 1 or the Environmental Audit Overlay when a planning scheme amendment or planning permit application would allow a sensitive use to establish on potentially contaminated land*  
*An environmental audit is also strongly recommended by the SEPP where a planning permit application would allow a sensitive use to be established on land with 'high potential' for contamination.*
- B. *Require a site assessment from a suitably qualified environmental professional if insufficient information is available to determine if an audit is appropriate. If advised that an audit is not required, default to C.*
- C. *(General duty under Section 12(2)(b) and Section 60(1)(a)(iii) of the Planning and Environment Act 1987)*

## **6.2 Ministerial Direction No.11**

Ministerial Direction No.11 (Strategic Assessment of Amendments) is the relevant Minister's Direction with regard to the proposed amendment. Section 7 of this report outlines the proposed amendment's compliance with the Strategic Assessment Guidelines. The amendment documents also comply with the Ministerial Direction on the Form and Content of Planning Schemes.

## **6.3 Fast Track Government Land Service**

We have reviewed the Fast Track Government Land Service (FTGL) website. We consider Stream 'B' to be the most appropriate if the FTGLS process is engaged. 'B' utilises the Government Land Standing Advisory Committee (GLSAC) and 'C' is the standard amendment process. Both of 'B' and 'C' provide for strategic land changes and allow for public exhibition. Stream 'A' is to facilitate amendments under Section 20(4) that return land to a zone consistent with surrounding land (this is not what we propose and so is not appropriate).

The first step in the FTGLS process is to complete a request form for a Preliminary Assessment Report (PAR) and supply a Surplus Statement form. The purpose of the PAR is to receive advice on the appropriate planning scheme amendment pathway, timing and fees. The PAR needs to be accompanied by a planning report (this is being the report required), titles and supporting reports (ie. economic, bushfire, heritage, environmental and ecology). The planning proposal may then be reviewed by GLSAC if Stream 'B' is recommended by DELWP, however other pathways may also be recommended (Stream 'A' or 'C').

## 7 JUSTIFICATION

### 7.1 Why is the Amendment required?

Barwon Water continually reviews its property assets in order to identify land that is surplus to its current and future operational needs.

The subject site has been declared as being surplus to Barwon Water's operating requirements and is therefore required to be disposed. The *Victorian Government Land Transactions Policy and Guidelines 2016* states that 'an agency must not offer land for sale where the land is zoned for a public purpose'. Given that the land is currently zoned Public Use Zone Schedule 1 (Service and Utility), it must therefore be rezoned prior to disposal. The amendment requests this rezoning.

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

The amendment implements the objectives of planning in Victoria as set out in Section 4(1) of the *Planning & Environment Act 1987* by:

- Providing for the fair, orderly, economic and sustainable use and development of the land  
The amendment implements this objective by applying appropriate zones to enable the site to be used to its full potential. The amendment will enable the orderly provision of tourism based uses on the surplus part of the land, without compromising the remaining part for continued public water utilities use.
- Protecting natural and man-made resources, ecological processes and genetic diversity  
The amendment will not impact significant flora and fauna habitats or ecological processes. While significant environmental attributes are present at the site and in the surrounding area, the amendment proposes to rezone land that is sufficient in size to ensure that new uses and development are appropriately separated from land with high environmental values.  
Once sold, the surplus land will predictably be subject to a greater level of land management as imposed by planning permit requirements. This should result in protection and enhancement of the natural attributes of the land, including vegetation and the Moorabool River Environment.
- Securing a pleasant, efficient, safe working, living and recreational environment  
The amendment will facilitate Barwon Water to provide public utilities more efficiently. Divesting surplus land will allow Barwon Water to consolidate operations at the site and remain focused on water service provision rather than managing land that is surplus to its requirements.  
The land to be divested will provide employment opportunities in a safe, pleasant and appropriate environment. Tourism based uses may create an environment for recreation that is both pleasant and safe.
- Conserving and enhancing places of historic interest and cultural value  
The subject site has not been identified as having sites of recorded historical interest and cultural value. There is a natural spring to the south of the site that will not be impacted by the amendment. The establishment of future development and uses can be regulated by planning permit conditions that will further ensure that impacts do not occur.
- Protecting and enabling the orderly provision and coordination of public utilities and other facilities  
The amendment will facilitate improved provision of public utilities consistent to the planning scheme controls and policy objectives. As discussed previously, the amendment will allow Barwon Water to divest surplus land and focus on providing public water utility provision which is its core business rather than managing surplus land that includes forest and river environs.

- Facilitating development in accordance with the above objectives  
Development is not proposed as part of the amendment.
- Balancing the present and future needs of all Victorians  
The amendment will ensure that the planning controls are sufficiently appropriate to support potential future land uses. Appropriate zoning regimes assist with the future needs of Victorians.

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

#### Environmental Effects

The amendment will not result in unacceptable environmental, social or economic impacts. The site is located within the Environmental Significance Overlay (ESO1), and while altered for service provision uses, has recognised environmental values (refer to ecological report). The ESO1 relates to the *Proclaimed Water Catchment Areas*, providing an important natural resource for water provision which is considered '*essential to the health of all communities that rely on water for domestic and stock supply*'.

The proposed amendment would not adversely affect or constrain these values, as it proposes to introduce a zoning regime that is responsive to the site's existing conditions and attributes and facilitate its appropriate use. The amendment will apply the Special Use Zone to facilitate its land use and development opportunities for tourism purposes this is supported by State and local planning policy. Future issued permits would presumably control development and use and require the protection and enhancement of the natural environment.

#### Potential Contamination

A Preliminary Environmental Site Assessment was undertaken for the subject site by Tonkin + Taylor (July 2016). A key finding of the assessment was that no areas of significant contamination were located on the site that would preclude use for tourism activities. Please refer to the full report provided as part of this application.

#### Social Impact

The rezoning of the land is considered to pose a positive social impact to Ballan and the Municipality through providing additional employment and economic opportunities. While a development at the site is not proposed, rezoning the land will facilitate the eventual redevelopment of the property. Inclusion of the land within a Special Use Zone will mean that all new buildings and uses will require a planning permit. This will provide Council with the ability to control development at the site to ensure that it is respectful of social ideals.

In terms of introducing new uses and development to the land, it is expected that tourism based uses will not impact the safety and amenity of the local community. Given that there are agricultural and residential properties surrounding the site, respect for their ongoing amenity and ability to farm will be a consideration for any new planning proposal. The site location will not preclude appropriate protection of neighbouring land uses.

#### Economic Benefits

The proposed amendment seeks to facilitate additional supply of land that can be used for tourism based uses, which will have a positive impact on the economy of Ballan and the surrounding region. Clause 21.04 (Economic Development Employment) of the planning scheme states that '*residents are employed in a diverse range of industries that are characterised by a rural environment and proximity to urban centres*'. The locational attributes of the subject site is consistent with this statement being assessable to the urban areas of Ballan.

The clause also states that '*tourism is a growing industry and important economic driver that presents opportunities for economic development and diversification of the local economy and*

workforce'. The proposal is consistent with the objectives to facilitate development of the tourism sector by protecting the natural environment, promote tourism based industries and strengthen tourism links with surrounding municipalities.

'Growing Moorabool' was developed by Council and SGS Economics in April 2006 and was then further amended in 2012. The strategic document's aim is to *identify and seek innovative ways to encourage new investment opportunities and employment growth within targeted sectors of the Moorabool Shire economy.*

Section 3.4.4 (Building a Tourism Offer) of 'Growing Moorabool' provides an overarching strategy for tourism development within the municipality. Characterising the industry currently as 'relatively undeveloped', it states that (while not having iconic tourist areas) the attractive rural landscape of the Shire support increased tourism opportunities. The rationale behind the development of the local tourism industry provides 'scope for employing a substantial number of local people' and helps to 'forge a broader based identity for Moorabool.

The planning scheme amendment is wholly consistent with the ideals of the strategy though drawing on the unique attributes of the site to provide a planning framework that can assist the enhancement and growth of the tourism industry. This will conceivably have appreciable economic benefits to the municipality.

#### **7.4 Does the Amendment address relevant bushfire risk?**

The subject site is included in the Bushfire Management Overlay (BMO). The amendment does not propose to remove this overlay and therefore any future development and uses will be subject to this control. As previously noted, the site contains areas of forest as well as cleared open areas.

To support the amendment request and provide analysis regarding bushfire risk to future potential tourism uses, an assessment was provided by Practical Ecology (June 2016) (provided as part of this application). As previously noted, the assessment acknowledges that there is bushfire threat, though goes on to conclude that this threat can be managed as follows:

*Rezoning the site and developing it for tourism and potential accommodation is viable but considerations have to be made regarding the preparation of the site, design and management of the proposed use to address the significant risk to an acceptable level.*

Further conclusions that form the assessment that bushfire risk can be mitigated appropriately include:

- The Bushfire risk is from limited directions and potential bushfire behaviour while significant is not extreme;
- The presence of a large body of water provides a barrier from bushfire entering the site from the west further limiting potential fire runs;
- Defendable space can be easily attained against bushfire approaching from the south-west. There are already large sections of managed terrain on Shaws Road entering the site which can be expanded if needed;
- There are several nearby urban areas where refuge can be sought if evacuation is required;
- The large section of public forest south-west of the site is under the Landscape Fire Management Zone (see section 4.2) and has been recently subject to planned burns, which indicates the fuel loads in this area can be managed, reducing the risk of intense fire approaching the site from this area;
- In the event of bushfire or severe bushfire conditions, the vegetation and topography of the site necessitate evacuation. The current single access road on the eastern side is suitable for evacuation purposes as it will likely allow for travel away from the area of risk. However, if necessary the Barwon Water access track that provides travel to the west of the site (shown as access track on Map 2) could be utilised for emergency access and extended to join the Old Melbourne Road north of the site (Barwon Water have confirmed that this track could be utilised for this purpose).

Based on the assessments undertaken, it is clear that the amendment does appropriately address Bushfire Risk and that future tourism use can occur with appropriate protection methods.

The amendment will not facilitate an unacceptable risk to human life and is consistent with State Policy in this regard (particular reference is given to clause 13.05-1 – Bushfire Planning Strategies and Principles).

### **7.5 Does the Amendment comply with the requirements of any Minister’s Direction applicable to the amendment?**

The amendment complies with all applicable Minister’s Directions. The amendment is consistent with the Minister’s Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act, which directs that planning schemes may only include land in a Public Use Zone if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council. As the land will be released/on sold by Barwon Water, it is appropriate to remove the PUZ to the land as proposed.

#### Ministerial Direction 11

Ministerial Direction No.11 (Strategic Assessment of Amendments) is the relevant Minister’s Direction with regard to the proposed amendment. This section of the report outlines the proposed amendment’s compliance with the Strategic Assessment Guidelines. The amendment documents also comply with the Ministerial Direction on the Form and Content of Planning Schemes.

#### Ministerial Direction 1

Also relevant is Ministerial Direction 1 (Potentially Contaminated Land). The purpose of the Direction is ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly adversely affected by any contamination.

As previously noted the Preliminary Environmental Site assessment undertaken by Tonkin + Taylor (July 2016) found that no areas of significant contamination were located on the site that would preclude use for tourism activities.

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

The amendment will achieve an appropriate balance between the various needs and expectation of society in terms of their economic, environmental and social well-being. Provision for additional tourism based uses will provide employment opportunities and will promote sustainable economic growth within Ballan and the municipality. This will not occur at the unreasonable expense of the environment and social ideals including the right to amenity.

A summary of the amendment’s compliance with the State Planning Policy Framework is provided as follows:

- Clause 11.06-2 A Diversified Economy, by supporting development of the region’s tourism sector and build on iconic tourism precincts as regional drawcards.
- Clause 11.06-7 Environmental Assets, by improving environmental outcomes and supporting economic development by capitalising on the region’s environmental assets, and minimising impacts from development on water catchments.
- Clause 11.06-9 Cultural Heritage and Landscapes, by recognising the importance of cultural heritage and landscapes as economic and community assets.
- Clause 12.01-1 Protection of Biodiversity, by assisting the protection and conservation of Victoria’s biodiversity, including important habitat for Victoria’s flora and fauna and other strategically valuable biodiversity sites.
- Clause 12.05-1 River Corridors, by ensuring strategic planning and land management for all river corridors protects their environmental, cultural and landscape values.

- Clause 13.03-1 Use of Contaminated and Potentially Contaminated Land, by ensuring that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.
- Clause 13.05-1 Bushfire Planning Strategies and Principles, by addressing bushfire threat and helping to strengthening community resilience to bushfire.
- Clause 14.02-1 Catchment Planning and Management, by assisting the protection of catchments, waterways, water bodies, groundwater and the marine environment.
- Clause 14.02-3 Water Conservation, by ensuring that water resources are managed in a sustainable way.
- Clause 15.03-2 Aboriginal Cultural Heritage, by ensuring the protection and conservation of places of Aboriginal cultural heritage significance (noting there are none identified at the subject site).
- Clause 17.03-1 Facilitating Tourism, by encouraging tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination.
- Clause 19.03-2 Water Supply, Sewerage and Drainage, by planning for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.

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

A summary of the amendment's compliance with the Local Planning Policy Framework is provided as follows:

- Clauses 21.02-2 Non-Urban Landscapes, by maintaining and enhancing the natural environment and the Shire's rural identity and character.
- Clause 21.02-3 Water and Catchment Management, by protecting the quality and quantity of water within the Moorabool Shire.
- Clause 21.02-4 Biodiversity, by positively enhancing biodiversity in the Moorabool Shire.
- Clause 21.02-5 Wildfire, by minimising the risk of wildfire.
- Clause 21.04-3 Commerce, by reinforcing Ballan's role as a regional centre for employment and tourism services.
- Clause 21.04-5 Local Employment, by supporting the development and facilitation of increased local employment opportunities, and facilitating development of the tourism sector by protecting the natural environment, heritage and town character.
- Clause 21.06-2 Enhance and Preserve Cultural Heritage, by preserving and enhancing places of heritage significance, including those of historical, aesthetic and social value.

### **7.8 Does the Amendment make proper use of the Victoria Planning Provisions?**

The amendment makes proper use of the Victoria Planning Provisions, applying a relevant zone consistent with the future land use and development opportunities, environmental considerations and the maintaining overlay controls that will serve to regulate future development and land uses.

The amendment is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* which directs that planning schemes may only include land in a Public Use Zone if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council.

The amendment is consistent to Planning Practice Note 3 – Applying the Special Use Zone and meets the tests that are required to inform whether application of this zone is appropriate. The zone



supports the future use and development of the subject site for tourism purposes, which is not specifically supported through neighbouring or pre-existing zoning controls within the Moorabool Planning Scheme.

The retention of remaining Barwon Water land within the Public Use Zone 1 is also consistent with *Planning Practice Note No.2 – Public Land Zones*.

The amendment is also consistent with the newly introduced Fast Track Government Land (FTGL) Service, which seeks to facilitate the orderly management of government or publically owned land, including the rezoning and on selling of surplus land holdings in accordance with the zoning and overlay controls applicable to the local area and future use and development.

## **7.9 How does the Amendment address the views of any relevant agency?**

This amendment has been prepared in consultation with affected agencies. The amendment will incorporate, where appropriate, the views and requirements of other relevant agencies.

### Moorabool Shire

The Moorabool Shire has been consulted throughout the preparation of this amendment request and is supportive of Barwon Water with this amendment. Consultation with Council has included a pre-application meeting held with relevant Council officers on 4 April 2016 with Andrew Goodsell (Manager, Strategic and Sustainable Development), Lisa Gervasoni (Strategic Planning Coordinator) and Peter Forbes (Manager, Economic Development and Marketing) from Council.

We understand from the meeting that Council's preliminary view was that a Special Use Zone supporting tourism development has merit for the site, though a formal rezoning request will need to be considered.

### Department of Environment, Land, Water and Planning (DELWP)

The Department will provide strategic and statutory input into the amendment process and its merits. DELWP's role will be to authorise exhibition of the amendment and to make recommendations to the Minister for Planning on whether the amendment should be approved.

### Corangamite Catchment Management Authority (CCMA)

The views of the Corangamite Catchment Management Authority (CCMA) will be considered during the amendment process due to the subject site being affected by the Environmental Significance Overlay Schedule 1 (ESO1), which will require their involvement and consideration.

### Country Fire Authority

The views of the Country Fire Authority will be considered during the amendment process due to the requirements of Practice Note 11 'Strategic Assessment Guidelines', specifically Question 3, and the site being affected by the Bushfire Management Overlay (BMO).

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

The amendment will not create a significant impact on the existing transport system as defined by Section 3 of the *Transport Integration Act 2010*. Appreciable increases in private vehicle traffic volumes will not adversely affect the current road conditions or amenity of the local area as a result of the amendment.

There are no requirements of the *Transport Integration Act* that apply to this amendment.

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

It is expected that the new planning scheme provisions will have a limited impact on the resource and administrative costs. Government resources will be required to assess and implement the

amendment. However, the resource and administrative costs will not be in excess of the costs typically associated with planning scheme amendments.

## 8 CONCLUSION

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### 8.1 Conclusion

Barwon Water have engaged SMEC Australia Pty Ltd (SMEC) to provide a strategic town planning assessment to support a request to:

- Rezone part of the subject from the current Public Use Zone 1 - Service and Utility (PUZ1) to the Special Use Zone (SUZ) with a schedule for tourism uses;
- Amend Planning Scheme Map 25 to facilitate the above zoning change.

SMEC has undertaken detailed inspections of the site and the surrounding area, as well as a documentation review of the technical reports prepared for the site and the Moorabool Shire to form the basis of this assessment.

Our review has found that:

- The amendment request is based on a number of technical assessments that confirm and demonstrate the need for additional tourism land within the Moorabool Municipality and the appropriateness of applying the Special use Zone to the subject land;
- The amendment will support and implement the SPPF and LPPF by applying the orderly and appropriate zoning and overlay controls to land based on its current use and ongoing management requirements;
- The amendment will have positive economic benefits for Ballan and the wide Municipality through providing a planning framework that can assist in furthering the tourism industry and providing additional employment opportunities;
- The amendment will not have any negative environmental or social impacts and will result in a net community benefit.

### 8.2 Request

Having regard to the detailed strategic justification outlined in this report and discussions with Council's Strategic Planning Officers, it is respectfully requested that the Planning Authority consider this proposed amendment to rezone the subject site to the Special Use Zone.

## **APPENDIX A STATE AND LOCAL PLANNING POLICY**

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## APPENDIX A STATE AND LOCAL PLANNING POLICY

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This section outlines the planning controls and policies of the Moorabool Planning Scheme that are relevant to this proposal.

### 1.1 State Planning Policy Framework (SPPF)

The following clauses of the SPPF are considered relevant to the proposal:

**Clause 11.06-2 'A diversified economy'** seeks to strengthen the region's economy so that it is more diversified and resilient.

**Clause 11.06-3 'Regional links'** seeks to capitalise on the region's close links with other regions and cities.

**Clause 11.06-7 'Environmental assets'** seeks to manage, protect and enhance the region's land, soil, water and biodiversity.

**Clause 11.06-9 'Cultural heritage and landscapes'** seeks to recognise the importance of cultural heritage and landscapes as economic and community assets.

**Clause 12.01-1 'Protection of biodiversity'** seeks to assist the protection and conservation of Victoria's biodiversity, including important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites.

**Clause 13.03-1 'Use of contaminated and potentially contaminated land'** seeks to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

**Clause 13.05-1 'Bushfire planning strategies and principles'** seeks to assist to strengthen community resilience to bushfire.

**Clause 14.02-1 'Catchment planning and management'** seeks to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.

**Clause 14.02-3 'Water conservation'** seeks to ensure that water resources are managed in a sustainable way.

**Clause 15.03-2 'Aboriginal cultural heritage'** seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.

**Clause 17.01-1 'Business'** seeks to encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

**Clause 17.03-1 'Facilitating tourism'** seeks to encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination.

**Clause 19.03-2 'Water supply, sewerage and drainage'** seeks to plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.

### 1.2 Local Planning Policy Framework (LPPF)

The following clauses of the LPPF, including the Municipal Strategic Statement, are considered relevant to the proposal:

**Clause 21.02-1 'Non Urban Landscapes'** seeks to maintain and enhance the natural environment and the Shire's rural identity and character.

**Clause 21.02-3 'Water and Catchment Management'** seeks to protect the quality and quantity of water within the Moorabool Shire.

**Clause 21.02-4 'Biodiversity'** seeks to positively enhance biodiversity in the Moorabool Shire.

**Clause 21.02-5 'Wildfire'** seeks to minimise risk of wildfire damage.

**Clause 21.04-3 'Commerce'** seeks to reinforce Bacchus Marsh and Ballan's role as regional centres for employment, shopping, tourism, industry, business, and cultural services.

**Clause 21.04-5 'Local Employment'** seeks to support the development and facilitation of increased local employment opportunities in order to strengthen the local economy.

**Clause 21.05-6 'Water Supply'** seeks to secure long-term water supplies for urban and agricultural use.

**Clause 21.06-2 'Enhance and Preserve Cultural Heritage'** seeks to preserve, promote, and enhance places of heritage significant including those of historical, aesthetic, architectural, scientific and/or social value.

**Clause 21.11 'Reference Documents'** including *Growing Moorabool, Economic Development Strategy (2006)* which seeks to identify and seek innovative ways to encourage new investment opportunities and employment growth within targeted sectors of the Moorabool Shire economy.

**Clause 22.02 'Special Water Supply Catchments'** seeks to protect the quality and quantity of water produced within proclaimed water catchments, and to provide for the appropriate use and development of land within proclaimed water catchments.

### **1.3 Strategic Planning Policy**

#### **1.3.1 'Growing Moorabool' Economic Development Strategy and Action Plan**

'Growing Moorabool' was developed by Council and SGS Economics in April 2006, further amended in 2012, and seeks to identify and seek innovative ways to encourage new investment opportunities and employment growth within targeted sectors of the Moorabool Shire economy.

The purposes of the document are:

- To articulate an economic vision for economic development in the Shire on behalf of the Moorabool Shire community which broadly correlates with community expectations and which can be partly inculcated into the Moorabool Council Plan and Municipal Strategic Statement.
- To establish the 'game plan' for which Council can act as a catalyst or facilitator in attracting desirable investment to the Shire and generate employment growth.
- To reduce the current level of retail expenditure lost from Moorabool commercial activity centres to other competing centres.
- To build upon previous strategic work undertaken by the Shire and produce an integrated action plan for encouraging new investment and employment in the Shire.

Section 3.4.4 'Building a Tourism Offer' provides an overarching strategy for tourism development within the municipality, specifying the industry currently as 'relatively undeveloped' it states that (while not having iconic tourist areas) the attractive rural landscape of the Shire support increased tourism opportunities. The rationale behind the development of the local tourism industry provides 'scope for employing a substantial number of local people' and helps to 'forge a broader based identity for Moorabool.

The Ballan Township, through the consultation process, was said to provide strong representation and enthusiasm, suggesting that a proactive response to economic development in the local area is in accordance with the current behaviours and actions of residents and the community. Increased economic development in the local area would result in further confidence in the future prospects of the town, the development of enterprise and the creation of local employment, an overall increased attractiveness of the town to new residents and increased population support for the provision of higher order goods and services.

## DOCUMENT / REPORT CONTROL FORM

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